

A regular meeting of the Board of Supervisors of Albemarle County, Virginia, was held on September 8, 2010, at 6:00 p.m., Lane Auditorium, County Office Building, McIntire Road, Charlottesville, Virginia.

PRESENT: Mr. Kenneth C. Boyd, Mr. Lindsay G. Dorrier, Jr., Ms. Ann Mallek, Mr. Dennis S. Rooker, Mr. Duane E. Snow and Mr. Rodney S. Thomas.

ABSENT: None.

OFFICERS PRESENT: County Executive, Robert W. Tucker, Jr., County Attorney, Larry W. Davis, Acting Deputy Clerk, Diane Mullins, and Director of Planning, V. Wayne Cilimberg, Mark Graham.

Agenda Item No. 1. The meeting was called to order at 6:00 p.m., by the Chair, Ms. Mallek.

Agenda Item No. 2. Pledge of Allegiance.
Agenda Item No. 3. Moment of Silence.

Agenda Item 4. Recognitions:

Item No. 4a. Proclamation recognizing October 2010 as Domestic Violence Awareness Month.

Ms. Mallek read the following proclamation and presented to Ms. Tina Krall, Chair of the Board for the Shelter for Help in Emergency:

Domestic Violence Awareness Month Proclamation

WHEREAS, violence against women, children, and men continues to become more prevalent as a social problem in our society; and

WHEREAS, the problems of domestic violence are not confined to any group or groups of people but cross all economic, racial and societal barriers, and are supported by societal indifference; and

WHEREAS, the crime of domestic violence violates an individual's privacy, dignity, security, and humanity, due to systematic use of physical, emotional, sexual, psychological and economic control and/or abuse, with the impact of this crime being wide-ranging; and

WHEREAS, in our quest to impose sanctions on those who break the law by perpetrating violence, we must also meet the needs of victims of domestic violence who often suffer grave physical, psychological and financial losses; and

WHEREAS, it is victims of domestic violence themselves who have been in the forefront of efforts to bring peace and equality to the home; and

WHEREAS, no one person, organization, agency or community can eliminate domestic violence on their own—we must work together to educate our entire population about what can be done to prevent such violence, support victims/survivors and their families, and increase support for agencies providing services to those community members; and

WHEREAS, the Shelter for Help in Emergency has led the way in the County of Albemarle in addressing domestic violence by providing 24-hour hotline services to victims/survivors and their families, offering support and information, and empowering survivors to chart their own course for healing; and

WHEREAS, the Shelter for Help in Emergency commemorates its 31st year of providing unparalleled services to women, children and men who have been victimized by domestic violence;

NOW THEREFORE, BE IT RESOLVED, in recognition of the important work being done by the Shelter for Help in Emergency, that I, Ann H. Mallek, Chair of the County of Albemarle Board of Supervisors, do hereby proclaim the month of **October 2010** as **DOMESTIC VIOLENCE AWARENESS MONTH**, and urge all citizens to actively participate in the scheduled activities and programs sponsored by the Shelter for Help in Emergency, and to work toward the elimination of personal and institutional violence against women, children and men.

Ms. Crawl thanked the Board for their recognition. She said that they hold a candlelight vigil in Jackson Park every October, as well as other community events.

Item No. 4b. Proclamation recognizing September 2010 as National Preparedness Month.

Ms. Mallek read the following proclamation and presented to Mr. Tom Hanson, Executive Director of the Emergency Communications Center:

National Preparedness Month

WHEREAS, “**National Preparedness Month**” creates an important opportunity for every resident of Albemarle County to prepare their homes, businesses, and communities for any type of emergency from natural disasters to potential terrorist attacks; and

WHEREAS, investing in the preparedness of ourselves, our families, businesses, and communities can reduce fatalities and economic devastation in our communities and in our nation; and

WHEREAS, the Federal Emergency Management Agency’s *Ready* Campaign, Citizen Corps and other federal, state, local, private, and volunteer agencies are working to increase public activities in preparing for emergencies and to educate individuals on how to take action; and

WHEREAS, emergency preparedness is the responsibility of every citizen of Albemarle County and all citizens are urged to make preparedness a priority and work together, as a team, to ensure that individuals, families, and communities are prepared for disasters and emergencies of any type; and

WHEREAS, all citizens of Albemarle County are encouraged to participate in citizen preparedness activities and asked to review the *Ready* campaign’s Web sites at ready.gov or listo.gov (in Spanish) and become more prepared;

NOW, THEREFORE, BE IT RESOLVED that the Albemarle County Board of Supervisors hereby proclaims

September, 2010

as

National Preparedness Month

and encourages all citizens and businesses to develop their own emergency preparedness plan, and work together toward creating a more prepared society.

Mr. Hanson said he is present with Ms. Richardson, of the ECC, representing Ms. Marge Thomas, the Emergency Management Coordinator for the region, who could not be present. Mr. Hanson said that public awareness is their number one objective. He noted that 30-50 citizens have signed up for a CERT preparedness eight-week training class that begins September 9. They teach the citizens how to better prepare themselves and their neighbors in the event of a major disaster. He added that over 600 citizens have been through the program, and there is no charge for the class.

Ms. Krall thanked Board members for the proclamation. She expressed gratitude to the Board for assisting the Shelter in encouraging the community to be aware of domestic violence which affects many families. She then mentioned the many events the Shelter has planned for October and invited everyone to attend the Candle Light Vigil held annually in Jackson Park in remembrance of those individuals who have been affected by domestic violence.

Agenda Item No. 5. From the Board: Matters Not Listed on the Agenda.

Ms. Mallek announced that the Board is pleased to announce the appointment of Assistant County Executive, Mr. Tom Foley, to succeed Mr. Bob Tucker as County Executive for Albemarle County effective immediately upon Mr. Tucker’s retirement on December 31, 2010.

Ms. Mallek said that the Board has been aware of Mr. Tucker’s retirement decision for quite some time and has been seriously considering and evaluating the best option for filling this critical position. Board members have had the opportunity to observe Mr. Foley in a variety of situations dealing with a broad range of critical issues for a number of years and have complete confidence in his skills and abilities to serve as County Executive.

Mr. Foley has 21 years of local government experience including 19 years as either a County Administrator or Assistant County Executive; this includes 11 years as Assistant County Executive for Albemarle County where he has supervised all functions except human services and eight years as an administrator in two other Virginia counties. He is a credentialed manager with the International City/County Management Association.

The Board has identified many strong advantages that Mr. Foley’s appointment brings to the County. He has demonstrated exceptional performance and leadership by spearheading major organizational initiatives including developing a Five Year Financial Plan process, improving strategic planning and performance management, leading the replacement of the County’s automated Financial Management System and the consolidation of three departments into the Department of Community Development. He has also established good working relationships with regional partners like the City of Charlottesville and the University of Virginia. The appointment provides stability and continuity of

leadership during challenging economic times and allows for a smooth and seamless transition with no familiarization period or learning curve required.

Ms. Mallek said the Board emphasizes that this was not a quick decision but rather was arrived at after careful and thorough consideration of a number of different options, including a search for external candidates. Ultimately the Board's familiarity with and confidence in Mr. Foley's skills and abilities as demonstrated consistently over time made his selection the best choice for the organization and the community. In the Board's opinion, the best test of what a person can do is what they have done and Mr. Foley's long tenure with the County has provided an opportunity to assess his actual performance that is not possible with other potential candidates.

Ms. Mallek said that in announcing this appointment, the Board wants to express its very sincere appreciation for Mr. Tucker's outstanding leadership and guidance during his very successful 21 years as the County Executive. The Board also thanks Mr. Tucker for his effort and attention in succession planning and ensuring that they have such a qualified and experienced successor to advance into the position of County Executive and offers congratulations to Mr. Foley on his appointment.

Mr. Foley thanked the Board for their vote of confidence and said he looks forward to working with them on their agenda and the challenges they face. He also thanked Mr. Tucker for his support in this process and during the past 11 years. He realizes that he would not be standing here without Mr. Tucker's guidance and the leadership he provided to this organization. Mr. Foley said he is confident in the County's leadership team and the Leadership Council. He again thanked the Board for their support and said he looks forward to serving the Board and citizens as the next County Executive.

Mr. Rooker then **moved** to adopt the following resolution to appoint and set compensation and benefits for the County Executive as of January 1, 2011. Mr. Boyd **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

AYES: Ms. Mallek, Mr. Rooker, Mr. Snow, Mr. Thomas, Mr. Boyd and Mr. Dorrier.

NAYS: None.

**RESOLUTION TO APPOINT AND SET
COMPENSATION & BENEFITS FOR
THE COUNTY EXECUTIVE**

WHEREAS, the County of Albemarle operates under the County Executive Form of Government; and

WHEREAS, the Board of Supervisors appoints the County Executive to serve at its pleasure and determines the compensation and benefits to be paid to the County Executive for the performance of his duties and responsibilities.

NOW, THEREFORE, BE IT RESOLVED that the Albemarle County Board of Supervisors hereby appoints Thomas C. Foley to be County Executive effective January 1, 2011 to serve at its pleasure, and sets his fiscal year compensation and benefits as follows:

- 1) Annual salary of \$ 165,000.
- 2) Annual vehicle allowance of \$6,000.
- 3) Annual deferred Compensation paid by the County in the amount of \$16,500.
- 4) Annual leave equivalent to that of a County employee with twenty one (21) years of consecutive employment with the County.
- 5) Such other benefits provided to all County employees in the Personnel Policy & Procedures Manual.
- 6) In the event of Board termination or resignation at the request of the Board, the continuation of salary and health insurance benefits for six months on a monthly basis beginning the next month after the date of separation from employment.

Mr. Snow reported that he had attending a focus group on the Chesapeake Bay and the Clean Water Act, where they discussed total maximum daily load. He said that there would be a lot of cost involved and asked if the County had looked into what it would take in terms of staff in order to implement these measures.

Mr. Tucker responded that there isn't a definitive answer yet, but Community Development and Engineering staffs are evaluating it and a presentation to the Board would be forthcoming.

Mr. Snow asked if there would be an update as to what the County was doing for emergency preparedness.

Mr. Tucker replied that the County has a document that must be followed as a guide, and it is updated annually. He said that Ms. Marge Thomas of the Emergency Communications Center could provide the Board with an overview in the near future.

Mr. Snow said that would be a good idea.

Mr. Rooker noted that there is a joint City/County/University notebook on emergency preparedness, and perhaps it should be shared with Mr. Snow and Mr. Thomas.

Mr. Boyd said that he had suggested a town hall meeting on emergency preparedness several years ago, and Ms. Marge Thomas did an excellent job hosting one that was held at Burley Middle School.

Mr. Rooker stated that he and Ms. Mallek took a tour recently of the postal facility on Airport Road – which has now been abandoned by the Postal Service – and it is a 73,000 square foot building being offered for sale for \$9.0 million. He said that Mr. Rod Gentry, Ms. Barbara Hutchinson, the broker, and several USPS representatives were on the tour. Mr. Rooker noted that the building is built like a bunker, with 17 loading docks, a climate-control computer room and high speed lines throughout. The ceiling height is at least 27 feet. It could be used for many different potential light industrial uses. He said that reports have implied that there aren't many buildings suitable for light industrial, and hopefully a buyer will be able to use the building. Mr. Rooker said that there is probably about 50,000 square feet of open space with high ceilings, about 10,000 square feet of office space and then additional employee facilities and storage area.

Mr. Thomas reported that there was a sound test today at the Quarry, with State officials present, and it came in within the limits of allowable noise levels. He said that there have been a few noise complaints in the area.

Ms. Mallek said that the phone calls have started to come in.

Mr. Rooker stated that he had received one with the caller raising the issue of the potential impact on the dam from the blasting.

Mr. Thomas responded that there is a seismograph used for every blast, with no measurable effect yet. He also stated that the Quarry operators are going to change their method of explosion because it was extremely loud on the second blasting. He added that they are very adaptive and responsive.

Ms. Mallek said that on Saturday, September 11, 2010, at 8:30 a.m., the Jefferson Country Fire and Rescue Association – which is comprised of Albemarle and Charlottesville firefighters and emergency rescue personnel – would be holding a memorial service commemorating 9/11.

Ms. Mallek said that the Virginia Department of Forestry is sponsoring a sign-up period for the "Forest to Faucet" program, for people who own land in the South Fork Rivanna River Reservoir and meet certain eligibility requirements. Ms. Mallek said that forest conservation, protection of the watershed and the development of ways to trade the qualities of natural infrastructure are part of this Forestry project. She noted that there is reimbursement to landowners for all planting costs - \$200 per acre for pine and \$600 per acre for hardwood trees, paid in a one-time payment based upon the value over 20 years. Ms. Mallek indicated that timber harvest assistance is also provided as well as pre-harvest planting and riparian buffer tax credit matches. She said that the Department of Forestry website or Mr. David Powell at the Department of Forestry has more information.

Ms. Mallek reported that the Artisan Center of Virginia has announced a studio school at Piedmont Virginia Community College – a school for people who are interested in making their career as crafters. She said that the program is open to all crafters in Virginia and is an outgrowth of the Artisan Trail project, which links rural artisans and rural economy with customers all around the world. Ms. Mallek added that the classes will begin in January, 2011.

Agenda Item No. 6. From the Public: Matters Not Listed for Public Hearing on the Agenda.

Ms. Leslie Middleton, Executive Director of the Rivanna River Basin Commission and a resident of Charlottesville, said that the Commission's primary focus has been to implement the stormwater grant received from the EPA in 2009. This grant has provided substantial funding for each member locality to help install stormwater best management practices that improve infiltration and water quality. She said that these are demonstration projects that help localities lead by example, and represent the kind of BMPs necessary in order to meet the stormwater regulations now under revision by the State. These practices will also help achieve the pollution reductions to improve both local water quality and achieve Chesapeake Bay cleanup goals. She stated that the Commission is providing \$107,000 toward the construction of the stormwater wetlands to treat runoff from development anticipated in downtown Crozet – as well as installing educational signage and will be monitoring the BMP for effectiveness once it gets built. They expect to transfer funds within the next two months.

Ms. Middleton said they are also working with the Thomas Jefferson Soil and Water Conservation District and Planning District Commission, as well as other partners, on a regional pilot project for the Chesapeake Bay TMDL that includes all of Planning District 10. She said that this project seeks to identify the most effective way to implement Bay cleanup goals at the local level, by starting by providing a voice for local governments and other affected stakeholders. Because the Bay cleanup process is extremely complex and will affect everyone, Ms. Middleton said, the Commission is offering to provide a short informational presentation on the Bay TMDL to the Board during October. She stated that the pilot project team would be sharing what they learned during this project with the Board in November before results are

forwarded to the State and the EPA. Ms. Middleton then offered to come before the Board with a quarterly update from the Commission as a regular part of their agenda.

Ms. Mallek said that one of the early phases of the TMDL process is establishing where the gaps in funding are so localities can apply for help.

Ms. Middleton responded that a significant part of the Bay TMDL Watershed Implementation Plan includes a separate public comment period, which will go through November 11, 2010 for the Virginia plan – which supports the Bay TMDL – and through November 8, 2010 for the actual EPA TMDL. She noted that part of the watershed implementation plan is for localities to develop a gap analysis of the resources needed to implement clean water – not just for the Bay but for local waters too. They hope that this is an opportunity to bring focus to local water quality.

Mr. Dorrier commented that approximately 70 percent of the Rivanna Basin is in the County which puts a primary responsibility on the County.

Mr. Rooker commented that he would like to have a report in October and periodic updates.

Mr. Brad Williams, Assistant State Forester for the Virginia Department of Forestry, said that the DOF Headquarters is located at 900 Natural Resources Drive – off of Ray C. Hunt Drive off of Fontaine Avenue; their mechanics complex is located off of George Deane Drive, further down Fontaine Avenue across Route 29. Mr. Williams said that their once-intact property was dissected by Route 29 and must be accessed in two different locations. He stated that among the DOF's primary goals are to protect citizens, their property, and forest resources from wildfire and conserve the forest base. To do this, they need unencumbered access to both their headquarters and their mechanic's complex. He said that the DOF location is behind the Fontaine Research Park, and the agency is concerned that any continued development of the Park must take into consideration their access to both facilities. The DOF's access also includes smaller pickup trucks, fire trucks and large firefighting equipment which include bus-size incident command vehicles and 18-wheel transports that carry bulldozer-like firefighting plows. Mr. Williams added that the public also needs to be able to easily access the headquarters, which houses the administrative functions for the Department of Forestry, the Central Regional Forestry Office, the Albemarle County Forestry Office, and collocation for the DOF and U.S. Forest Service Incident Command Center Wildfire Control Center. He stated that the headquarters building also houses offices for at least nine separate state agencies – including the State Police. All these agencies serve the public and use the headquarters building for meetings, trainings and numerous other public events. Mr. Williams said that for these reasons they need clear and unencumbered access to their facilities. His greatest concern is that in the plans he has seen put forth, consideration has not been given to the functions of the Virginia State agencies and the DOF, and some of the plans for Ray C. Hunt Road simply disappear. The addition of any plans that increase traffic to their facility would be undesirable for their activities. He urged the Board to work with the DOF. The DOF supports a vibrant local economy but it must interfere with their ability to perform their mission for the health and safety of all citizens of Virginia, not just the few who use Fontaine Research Park.

Mr. Rooker pointed out that there is a public hearing on the Fontaine expansion later in the evening. He hopes that the concerns raised will be addressed by the applicant.

Mr. Matthew Semanik, President of Blue Ridge Rotaract Club, a Rotary-sponsored service club for young men and women ages 18 to 30, said they will be hosting a Cornhole Tournament at McGrady's Irish Pub to benefit Camp Holiday Trails on September 18, 2010, from 2:00 p.m. until 5:00 p.m.

Agenda Item No. 7. Consent Agenda. Mr. Rooker **moved** to approve the Consent Agenda. Mr. Snow **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

AYES: Ms. Mallek, Mr. Rooker, Mr. Snow, Mr. Thomas, Mr. Boyd and Mr. Dorrier.

NAYS: None.

Item No. 7.1. ~~Approval of Minutes:~~ **(Removed from agenda)**

Item No. 7.2. Housing Choice Voucher Program Annual Plan.

The executive summary states that following an April 7, 2010 public hearing, the Board approved the submission of the County's 5-Year Plan for the administration of the Housing Choice Voucher Program and authorized the County Executive to execute the required Public Housing Agency Certification of Compliance as well as Civil Rights Certification. Staff submitted these documents to the Department of Housing and Urban Development ("HUD") following the Board's action.

On August 3, 2010, HUD notified the Office of Housing that the County's 5-Year Plan for the Housing Choice Voucher Program was approved but indicated that the Plan did not include a certificate of compliance with the Violence Against Women (VAWA) as required by the Department of Justice Reauthorization Act of 2005. HUD staff recommended that the County submit a written certification to document its timely compliance with this requirement. The attached certification statement (Attachment A) has been reviewed and approved by HUD staff.

Albemarle County, as a qualified public housing agency for the Housing Choice Voucher Program, is required to submit 5-year plans for HUD approval. The Civil Rights and VAWA Certifications are required to be submitted annually.

Staff recommends that the Board authorize the County Executive to submit the attached VAWA compliance certification to HUD. In addition, staff recommends that the Board authorize the County Executive to sign both the Civil Rights Certification and VAWA Certification each year during the term of the 5-Year plan, provided there are no significant amendments or modifications to the Plan during its applicable term.

By the above-recorded vote, the Board authorized the County Executive to submit the VAWA compliance certification to HUD, and authorized the County Executive to sign both the Civil Rights Certification and VAWA Certification each year during the term of the 5-Year plan, provided there are no significant amendments or modifications to the Plan during its applicable term.

**Violence Against Women Act (VAWA)
Annual Certification and Board Resolution**

Acting on behalf of the County Board of Supervisors as its County Executive, I approve the submission of this annual certification for the County's administration of the Housing Choice Voucher Program making the following certification to the Department of Housing and Urban Development (HUD) in connection with the implementation of the Plan:

Albemarle County certifies that it carries out the Housing Choice Voucher Program (HCV) in conformity with the Violence Against Women and Department of Justice Reauthorization Act of 2005 (VAWA) and further certifies that the County uses required language found in the amended HAP Contract and Tenancy Addendum as described in PIH Notice 2007-5.

Item No. 7.3. Community Development Block Grant for Oak Hill Sewer Service.

The executive summary states that in June 2010 Albemarle County received a \$712,500 allocation from the Community Development Block Grant (CDBG) Program to support the installation of sewer lines to serve 57 dwelling units in the Oak Hill subdivision. The use of CDBG funds is considered a "federal action" which requires that the local governing body receiving the funds comply with a number of regulations. Some of the requirements are general and have already been implemented by the County in previous years; however, some requirements, as outlined below, are project-specific and require further action by the Board.

The project-specific CDBG requirements for this grant include:

Local Business and Employment Plan – The County must approve a plan to designate the project area boundaries for the purpose of utilizing, to the greatest extent possible, businesses and lower-income residents located in the project area to carry out the CDBG-funded activities. The proposed Plan (Attachment A) designates the entire County as the project area and requires that the public be notified of this through publication of an advertisement in The Daily Progress.

Residential Anti-Displacement and Relocation Assistance Plan Certification – This certification (Attachment B) states that the County will notify the public and advise the state in the event that a CDBG-funded activity will result in demolition or conversion of residential units. Furthermore, should displacement occur, the County and/or the development owners will provide relocation assistance in accordance with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. The proposed Oak Hill project will not involve demolition or conversion of residential units which result in displacement.

Fair Housing Certification – This certification (Attachment C) states that the County will take at least one action annually to affirmatively further fair housing. The action must be approved by the Virginia Department of Housing and Community Development (VDHCD).

There are no budget impacts associated with the adoption of these items. The cost of the required Local Business and Employment Plan advertisement is a CDBG grant-eligible expenditure, which is reimbursable upon the execution of the CDBG contract.

Staff recommends that the Board 1) approve the Local Business and Employment Plan; 2) authorize the County Executive to execute the Residential Anti-Displacement and Relocation Assistance Plan Certification; and 3) authorize the County Executive to execute the Fair Housing Certification.

By the above-recorded vote, the Board approved the Local Business and Employment Plan; authorized the County Executive to execute the Residential Anti-Displacement and Relocation Assistance Plan Certification; and authorized the County Executive to execute the Fair Housing Certification:

Local Business and Employment Plan

1. The *County of Albemarle* designates as its Local (Section 3) County Business and Employment Project Area the County of Albemarle.

2. The *County of Albemarle*, its contractors, and designated third parties shall in utilizing Community Improvement Grant (CIG) funds utilize businesses and lower income residents of the Local (Section 3) County in carrying out all activities, to the greatest extent feasible.
3. In awarding contracts for construction, non-construction, materials, and supplies the *County of Albemarle*, its contractors, and designated third parties shall take the following steps to utilize businesses which are located in or owned in substantial part by persons residing in the Local (Section 3) County are:
 - (a) The *County of Albemarle* shall identify the contracts required to conduct the CIG activities.
 - (b) The *County of Albemarle* shall identify through various and appropriate sources including: The Daily Progress the business concerns within the Local (Section 3) County which are likely to provide construction contracts, non-construction contracts, materials, and services which will be utilized in the activities funded through the CIG.
 - (c) The identified contractors and suppliers shall be included on bid lists used to obtain bids, quotes or proposals for work or procurement contracts which utilize CIG funds.
 - (d) To the greatest extent feasible the identified business and any other project area business concerns shall be utilized in activities which are funded with CIGs.
4. The *County of Albemarle* and its contractors and subcontractors shall take the following steps to encourage the hiring of lower income persons residing in the Local (Section 3) County:
 - (a) The *County of Albemarle* in consultation with its contractors (including design professionals) shall ascertain the types and number of positions for both trainees and employees which are likely to be used to conduct CIG activities.
 - (b) The *County of Albemarle* shall advertise through the following sources The Daily Progress the availability of such positions with the information on how to apply.
 - (c) The *County of Albemarle*, its contractors, and subcontractors shall be required to maintain a record of inquiries and applications by project area residents who respond to advertisements, and shall maintain a record of the status of such inquires and applications.
 - (d) To the greatest extent feasible, the *County of Albemarle*, its contractors, and subcontractors shall hire lower income project area residents in filling training and employment positions necessary for implementing activities funded by CIGs.
5. In order to document compliance with the above affirmative actions and Section 3 of the *Housing and Community Development Act of 1968*, the *County of Albemarle* shall keep, and obtain from its contractors and subcontractors, *Registers of Contractors, Subcontractors and Suppliers* and *Registers of Assigned Employees* for all activities funded by CIGs. Such listings shall be completed and shall be verified by site visits and employee interviews, crosschecking of payroll reports and invoices, and through audits if necessary.

Residential Anti-Displacement and Relocation Assistance Plan Certification

The County Of Albemarle will replace all occupied and vacant occupiable low/moderate-income dwelling units demolished or converted to a use other than as low/moderate income dwelling unit as a direct result of activities assisted with funds provided under the Housing and Community Development Act of 1974, as amended. All replacement housing will be provided within three (3) years of the commencement of the demolition or rehabilitation relating to conversion.

Before obligating or expending funds that will directly result in such demolition or conversion, the County Of Albemarle will make public and advise the state that it is undertaking such an activity and will submit to the state, in writing, information that identifies:

- (1) A description of the proposed assisted activity;
- (2) The general location on a map and approximate number of dwelling units by size (number of bedrooms) that will be demolished or converted to a use other than as low/moderate-income dwelling units as a direct result of the assisted activity;
- (3) A time schedule for the commencement and completion of the demolition or conversion;
- (4) The general location on a map and approximate number of dwelling units by size (number of bedrooms) that will be provided as replacement dwelling units;
- (5) The source of funding and a time schedule for the provision of replacement dwelling units;
- (6) The basis for concluding that each replacement dwelling unit will remain a low/moderate-income dwelling unit for at least 10 years from the date of initial occupancy; and
- (7) Information demonstrating that any proposed replacement of dwelling units with smaller dwelling units is consistent with the housing needs of low- and moderate- income households in the jurisdiction.

The County Of Albemarle will provide relocation assistance to each low/moderate – income household displaced by the demolition of housing or by the direct result of assisted activities. Such assistance shall be

that provided under Section 104 (d) of the Housing and Community Development Act of 1974, as amended, or the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended.

The County Of Albemarle's FY10 project includes the following activities which will not result in demolition of any residential structures or displacement of residents:

Installation of approximately 5000 feet of sewer line and appurtenances to include service laterals to dwelling units.

The County Of Albemarle will work with the grant management staff, engineers, project area residents, and the Department of Housing and Community Development to insure that any changes in project activities do not cause any displacement from or conversion of occupiable structures.

In all cases, an occupiable structure will be defined as a dwelling that meets local building codes or a dwelling that can be rehabilitated to meet code for \$25,000 or less.

**Fair Housing Certification
Compliance with Title VIII of the Civil Rights Act of 1968**

Whereas, the *County of Albemarle* has been offered and intends to accept federal funds authorized under the Housing and Community Development Act of 1974, as amended, and

Whereas, recipients of funding under the Act are required to take action to affirmatively further fair housing;

Now, Therefore, Be It Resolved, that the *County of Albemarle* agrees to take at least one action to affirmatively further fair housing each grant year, during the life of its project funded with Community Development Block Grant funds. The action taken will be selected from a list provided by the Virginia Department of Housing and Community Development.

Agenda Item No. 8. **PUBLIC HEARING:** Proposed issuance of general obligation school bonds of Albemarle County in the estimated maximum principal amount of \$7,830,000. The purpose of the proposed bonds is to finance capital projects for public schools. Interested persons may appear at such time and place and present their views. (*Advertised in the Daily Progress on August 23 and August 30, 2010.*)

Mr. Tucker summarized the executive summary which had been forwarded to Board members. The FY 2010/11 Capital Improvement Budget was approved with the intent to issue approximately \$7,830,000 in bonds through the Virginia Public School Authority (VPSA) for the following projects:

Crozet Elementary School Improvements	\$395,000
Greer Elementary School Addition/Renovations	\$80,000
Gymnasium HVAC & Lighting Replacement	\$1,171,632
School Maintenance Projects	\$6,183,368
Total	\$7,830,000

A Resolution authorizing the application to VPSA was adopted by the School Board on August 12, 2010. The attached Resolution would authorize the issuance of the bonds not to exceed \$7,830,000 and the sale of the bonds to VPSA, and would approve as to form the Bond Sale Agreement details relating to the bonds. A public hearing is required to be held by the Board prior to the Board's approval of the Resolution.

After the public hearing the Board may adopt the attached Resolution if it decides to proceed with the issuance of the bonds.

The FY 2010/11 CIP and Debt Service budgets anticipated the issuance of \$7,830,000 in bonds for the above referenced projects.

Mr. Tucker said after the public hearing, staff recommends approval of the attached Resolution to authorize the issuance of bonds in the maximum principal amount of \$7,830,000 to finance certain capital improvements for the County's public schools. He added that this is basically a reimbursement for work that has already been accomplished, and about \$500,000 was saved because the project was bid before the bond was sought.

Mr. Rooker said that this was covered by the press earlier in the week and there seems to be a little confusion in that this is a spending decision – but these improvements have long been planned to be funded by bonds.

At this time, the Chair opened the public hearing. Since no one came forward to speak, the public hearing was closed.

Mr. Rooker **moved** for approval of the resolution to authorize the issuance of bonds in the maximum principal amount of \$7,830,000 to finance certain capital improvements for the County's public schools. Ms. Mallek **seconded** the motion.

Roll was called and the motion carried by the following recorded vote:

AYES: Ms. Mallek, Mr. Rooker, Mr. Snow, Mr. Thomas, Mr. Boyd and Mr. Dorrier.

NAYS: None.

RESOLUTION AUTHORIZING THE ISSUANCE OF NOT TO EXCEED \$7,830,000 GENERAL OBLIGATION SCHOOL BONDS OF THE COUNTY OF ALBEMARLE, VIRGINIA, TO BE SOLD IN ONE OR MORE SERIES, TO THE VIRGINIA PUBLIC SCHOOL AUTHORITY AND PROVIDING FOR THE FORM AND DETAILS THEREOF

WHEREAS, the Board of Supervisors (the "Board") of the County of Albemarle, Virginia (the "County"), has determined that it is necessary and expedient to borrow an amount not to exceed \$7,830,000 and to issue its general obligation school bonds for the purpose of financing certain capital projects for school purposes; and

WHEREAS, the Board has been informed that on September 9, 2010, the Virginia Public School Authority's ("VPSA") Board of Commissioners intends to approve a series resolution authorizing the issuance under its 1997 Resolution of one or more series of bonds (the "VPSA Resolution"), the proceeds of which will be loaned to Virginia localities in connection with its Fall pool financing program (the "Fall Pool");

WHEREAS, the VPSA Resolution will permit the issuance of one or more series of taxable bonds, the proceeds of which will be used to purchase "Build America Bonds" issued pursuant to Section 54AA of the Internal Revenue Code of 1986, as amended (the "Code"), by Virginia Localities participating in the Fall Pool, upon the request of one or more Virginia localities;

WHEREAS, the County held a public hearing, duly noticed, on September 8, 2010, on the issuance of the Bonds (as defined below) in accordance with the requirements of Section 15.2-2606, Code of Virginia 1950, as amended (the "Virginia Code"); and

WHEREAS, the School Board of the County has, by resolution, requested the Board to authorize the issuance of the Bonds (as hereinafter defined) and consented to the issuance of the Bonds; and

WHEREAS, the Bond Sale Agreement (as defined below) shall indicate that \$7,830,000 is the amount of proceeds requested (the "Proceeds Requested") from the VPSA in connection with the sale of the Bonds; and

WHEREAS, VPSA's objective is to pay the County a purchase price for the Bonds which, in VPSA's judgment, reflects the Bonds' market value (the "VPSA Purchase Price Objective"), taking into consideration such factors as the amortization schedule the County has requested for the Bonds relative to the amortization schedules requested by other localities, the purchase price to be received by VPSA for its bonds and other market conditions relating to the sale of VPSA's bonds; and

WHEREAS, such factors may result in the Bonds having a purchase price other than par and consequently (i) the County may have to issue a principal amount of Bonds that is greater than or less than the Proceeds Requested in order to receive an amount of proceeds that is substantially equal to the Proceeds Requested, or (ii) if the maximum authorized principal amount of the Bonds set forth in section 1 below does not exceed the Proceeds Requested by at least the amount of any discount, the purchase price to be paid to the County, given the VPSA Purchase Price Objective and market conditions, will be less than the Proceeds Requested; and

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF ALBEMARLE, VIRGINIA:

1. Authorization of Bonds and Use of Proceeds. The Board hereby determines that it is advisable to contract a debt and issue and sell its general obligation school bonds in one or more series in an aggregate principal amount not to exceed \$7,830,000 (the "Bonds") for the purpose of financing certain capital projects for school purposes including, without limitation, the projects as described in Exhibit B. The Chairman of the Board and the County Executive (each, a "Delegate") are hereby authorized to approve the issuance of one or more series of Bonds, including the issuance of a series of Bonds the interest on which is not includable in gross income for Federal income tax purposes ("Tax-Exempt Bonds") and the issuance of a series of "Build America Bonds" as described in Section 54AA of the Code ("Build America Bonds"), to make any elections required under the Code and to designate a portion of such Bonds as Build America Bonds under the Code, if the Delegate determines, in consultation with VPSA, that it is in the best interest of the County to do so. The Board hereby authorizes the issuance and sale of the Bonds in the form and upon the terms established pursuant to this Resolution.

2. Sale of the Bonds. It is determined to be in the best interest of the County to accept the offer of VPSA to purchase from the County, and to sell to VPSA, the Bonds at a price, determined by VPSA to be fair and accepted by a Delegate that is substantially equal to the Proceeds Requested, except that the Bonds may be sold for a purchase price not lower than 95% of the Proceeds Requested if issuing the Bonds in the maximum principal amount authorized by Section 1 of this Resolution is insufficient, given the VPSA Purchase Price Objective and market conditions, to generate an amount of proceeds substantially equal to the Proceeds Requested. Each Delegate is hereby authorized and directed to enter into one or more Bond Sale Agreements, dated as of October 8, 2010, with VPSA providing for the sale of the Bonds to VPSA. The agreements shall be in substantially the forms submitted to the Board at this meeting, which form is hereby approved (the "Bond Sale Agreement"), with such completions omissions, insertions and changes not inconsistent with this Resolution as may be approved by the Delegate executing such agreement.

3. Details of the Bonds. The Bonds shall be dated the date of issuance and delivery of the Bonds; shall be designated "General Obligation School Bonds, Series 2010A-1 (Tax-Exempt)" and "General Obligation School Bonds, Series 2010A-2 (Federally Taxable – Build America Bonds)" (if designated as Build America Bonds) or such other designation as the Delegate shall determine; shall bear interest from the date of delivery thereof payable semi-annually on each January 15 and July 15 beginning July 15, 2011 (each an "Interest Payment Date"), at the rates established in accordance with Section 4 of this Resolution; and shall mature on July 15 in the years (each a "Principal Payment Date") and in the amounts acceptable to a Delegate (the "Principal Installments"), subject to the provisions of Section 4 of this Resolution.

4. Interest Rates and Principal Installments. A Delegate is hereby authorized and directed to accept the interest rates on the Bonds established by VPSA, provided that each interest rate shall be five one-hundredths of one percent (0.05%) over the interest rate to be paid by VPSA for the corresponding principal payment date of the bonds to be issued by VPSA (the "VPSA Bonds"), a portion of the proceeds of which will be used to purchase the Bonds, and provided further that the true interest cost of the Bonds does not exceed five and fifty one-hundredths percent (5.50%) per annum in the case of Tax-Exempt Bonds or seven and fifty one-hundredths percent (7.50%) per annum in the case of Build America Bonds. The Interest Payment Dates and the Principal Installments are subject to change at the request of VPSA. A Delegate is hereby authorized and directed to accept changes in the Interest Payment Dates and the Principal Installments at the request of VPSA, provided that the aggregate principal amount of the Bonds shall not exceed the maximum principal amount authorized by this Resolution. The execution and delivery of the Bonds as described in Section 8 hereof shall conclusively evidence such interest rates established by VPSA and the Interest Payment Dates and the Principal Installments requested by VPSA as having been so accepted by the Delegate as authorized by this Resolution.

5. Form of the Bonds. The Bonds shall be initially in the form of single, temporary typewritten bonds substantially in the form attached hereto as Exhibit A with such revisions as are necessary in the case of the issuance of a series of Build America Bonds.

6. Payment; Paying Agent and Bond Registrar. The following provisions shall apply to the Bonds:

(a) For as long as VPSA is the registered owner of the Bonds, all payments of principal, premium, if any, and interest on the Bonds shall be made in immediately available funds to VPSA at, or before 11:00 a.m. on the applicable Interest Payment Date, Principal Payment Date or date fixed for prepayment or redemption, or if such date is not a business day for Virginia banks or for the Commonwealth of Virginia, then at or before 11:00 a.m. on the business day next succeeding such Interest Payment Date, Principal Payment Date or date fixed for prepayment or redemption.

(b) All overdue payments of principal and, to the extent permitted by law, interest shall bear interest at the applicable interest rate or rates on the Bonds.

(c) U.S. Bank, National Association, Richmond, Virginia, is designated as Bond Registrar and Paying Agent for the Bonds. The County may, in its sole discretion, replace at any time the Bond Registrar with another qualified bank or trust company as successor Bond Registrar. The County shall give prompt written notice to VPSA of the appointment of any successor Bond Registrar and Paying Agent for the Bonds.

7. Prepayment or Redemption.

(a) *Tax-Exempt Bonds.* The Principal Installments of the Tax-Exempt Bonds held by VPSA coming due on or before July 15, 2020, and the definitive bonds for which the Tax-Exempt Bonds held by VPSA may be exchanged that mature on or before July 15, 2020, are not subject to prepayment or redemption prior to their stated maturities. The Principal Installments of the Tax-Exempt Bonds held by VPSA coming due after July 15, 2020, and the definitive bonds for which the Tax-Exempt Bonds held by VPSA may be exchanged that mature after July 15, 2020, are subject to prepayment or redemption at the option of the County prior to their stated maturities in whole or in part, on any date on or after July 15, 2020, upon payment of the prepayment or redemption prices (expressed as percentages of Principal Installments to be prepaid or the principal amount of the Bonds to be redeemed) set forth below plus accrued interest to the date set for prepayment or redemption:

<u>Dates</u>	<u>Prices</u>
July 15, 2020 through July 14, 2021	101%
July 15, 2021 through July 14, 2022	100½
July 15, 2022 and thereafter	100

Provided, however, that the Principal Installments of the Tax-Exempt Bonds shall not be subject to prepayment or redemption prior to their stated maturities as described above without first obtaining the written consent of the registered owner of the Tax-Exempt Bonds. Notice of any such prepayment or redemption shall be given by the Bond Registrar to the registered owner by registered mail not more than ninety (90) and not less than sixty (60) days before the date fixed for prepayment or redemption.

(b) *Build America Bonds.* The Board hereby delegates to a Delegate, either of whom may act, the authority, subject to the limitations contained herein, to determine the redemption provisions, including the redemption dates, of the Principal Installments of any Build America Bonds. Based on financial market considerations, the Principal Installments of the Build America Bonds may (i)(A) contain the option to be redeemed at a redemption price not to exceed 101% of the principal amount of the bonds to be redeemed, and/or (B) have a "make whole redemption" price and (ii) upon the occurrence of an "Extraordinary Event" be optionally redeemed on any business day. The Principal Installments of the Build America Bonds which are subject to such redemption may be redeemed, before their respective maturities on any date not earlier than

the redemption date, determined as set forth above, in whole or in part, upon payment of the redemption price, determined as set forth above, plus accrued interest to the redemption date.

An "Extraordinary Event" will have occurred if a material adverse change has occurred to Section 54AA or Section 6431 of the Code (as such Sections were added by Section 1531 of the American Recovery and Reinvestment Act of 2009, pertaining to Build America Bonds) pursuant to which the County's 35% cash subsidy payment (the "Federal Subsidy") from the United States Treasury is reduced or eliminated.

Provided, however, that the Principal Installments of the Build America Bonds shall not be subject to prepayment or redemption prior to their stated maturities as described above without first obtaining the written consent of the registered owner of the Bonds to be issued as Build America Bonds. Notice of any such prepayment or redemption shall be given by the Bond Registrar to the registered owner by registered mail not more than ninety (90) and not less than sixty (60) days before the date fixed for prepayment or redemption.

8. Execution of the Bonds. The Chairman and Vice Chairman of the Board (either of whom may act) and the Clerk and any Deputy Clerk of the Board (either of whom may act) are authorized and directed to execute and deliver the Bonds and to affix the seal of the County thereto.

9. Pledge of Full Faith and Credit. For the prompt payment of the principal of, premium, if any, and the interest on the Bonds as the same shall become due, the full faith and credit of the County are hereby irrevocably pledged, and in each year while any of the Bonds shall be outstanding there shall be levied and collected in accordance with law an annual ad valorem tax upon all taxable property in the County subject to local taxation sufficient in amount to provide for the payment of the principal of and premium, if any, and the interest on the Bonds as such principal, premium, if any, and interest shall become due, which tax shall be without limitation as to rate or amount and in addition to all other taxes authorized to be levied in the County to the extent other funds of the County are not lawfully available and appropriated for such purpose.

10. Use of Proceeds Certificate and Certificate as to Arbitrage. The Chairman of the Board, the County Executive and such other officer or officers of the County as either may designate are hereby authorized and directed to execute a Certificate as to Arbitrage and a Use of Proceeds Certificate each setting forth the expected use and investment of the proceeds of the Bonds and containing such covenants as may be necessary in order to show compliance with the provisions of the Internal Revenue Code of 1986, as amended (the "Code"), and applicable regulations relating to the exclusion from gross income of interest on the Tax-Exempt Bonds and on the corresponding VPSA Bonds or the qualification of any Build America Bonds to qualify as "Build America Bonds" under the Code. The Board covenants on behalf of the County that (i) the proceeds from the issuance and sale of the Bonds will be invested and expended as set forth in such Certificate as to Arbitrage and such Use of Proceeds Certificate and that the County shall comply with the other covenants and representations contained therein and (ii) the County shall comply with the provisions of the Code so that (i) interest on any Tax-Exempt Bonds and on the corresponding VPSA Bonds will remain excludable from gross income for Federal income tax purposes and (ii) any Build America Bonds shall not fail to qualify as "Build America Bonds" under the Code.

11. State Non-Arbitrage Program; Proceeds Agreement. The Board hereby determines that it is in the best interests of the County to authorize and direct the County Director of Finance to participate in the State Non-Arbitrage Program in connection with the Bonds. The Chairman of the Board, the County Executive and such officer or officers of the County as either may designate are hereby authorized and directed to execute and deliver a Proceeds Agreement with respect to the deposit and investment of proceeds of the Bonds by and among the County, the other participants in the sale of the VPSA Bonds, VPSA, the investment manager and the depository, in such form as may be approved by the officer executing such Proceeds Agreement.

12. Continuing Disclosure Agreement. The Chairman of the Board, the County Executive and such other officer or officers of the County as either may designate are hereby authorized and directed to execute a Continuing Disclosure Agreement, as set forth in Appendix F to the Bond Sale Agreement, setting forth the reports and notices to be filed by the County and containing such covenants as may be necessary in order to show compliance with the provisions of the Securities and Exchange Commission Rule 15c2-12, under the Securities Exchange Act of 1934, as amended, and directed to make all filings required by Section 3 of the Bond Sale Agreement should the County be determined by VPSA to be a MOP (as defined in the Bond Sale Agreement).

13. Filing of Resolution. The appropriate officers or agents of the County are hereby authorized and directed to cause a certified copy of this Resolution to be filed with the Circuit Court of the County.

14. Further Actions. The members of the Board and all officers, employees and agents of the County are hereby authorized to take such action as they or any one of them may consider necessary or desirable in connection with the issuance and sale of the Bonds and any such action previously taken is hereby ratified and confirmed.

15. Request to VPSA. By its delivery of a copy this Resolution to VPSA, the County hereby requests that VPSA issue a series of taxable bonds under the VPSA Resolution.

16. Filing of 8038-CP The County recognizes that in order to receive the Federal Subsidy for any Build America Bonds, it must file, or cause to be filed, a Form 8038-CP with the Internal Revenue Service not less than 45 days and not more than 90 days prior to each Interest Payment Date, as provided in Notice 2009-26 issued by the Internal Revenue Service, so long as filing such form is a condition to receipt of the Federal Subsidy on each Interest Payment Date.

17. Effective Date. This Resolution shall take effect immediately.

Agenda Item No. 9. **PUBLIC HEARING: PROJECT: SP-2010-00008. The Canine Clipper Dog Grooming and Boarding (Sign #9).**

PROPOSED: Special Use Permit to allow a commercial kennel.

ZONING CATEGORY/GENERAL USAGE: RA Rural Areas - agricultural, forestal, and fishery uses; residential density (0.5 unit/acre in development lots).

SECTION: 10.2.2.17 Commercial kennel.

COMPREHENSIVE PLAN LAND USE/DENSITY: Rural Areas - preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources/ density (.5 unit/acre in development lots).

ENTRANCE CORRIDOR: No.

LOCATION: 5120 Burnley Station Road, approx. one mile west of Stony Point Road (20N) junction. **TAX MAP/PARCEL:** 03500000000500.

MAGISTERIAL DISTRICT: Rivanna.

(Advertised in the Daily Progress on August 23 and August 30, 2010.)

Mr. Cilimberg addressed the Board, stating that the request is for a day camp and dog grooming service, as well as overnight dog accommodations. He stated that the applicant was unaware that a special use permit was required for the business, and has been operating at this location for 13 years. After an anonymous complaint was received, the special use permit application was made to relieve the zoning violation. Mr. Cilimberg reported that the grooming business operates daily, 9:00 a.m. to 5:00 p.m., and the applicant conducts approximately 20 percent of the pick-ups and drop-offs, and is requesting that a maximum of 20 dogs per day be allowed on the property. For the kennel business, he said, the overnight stays, pick-ups and drop-offs occur only at specified times and the applicant carries out approximately 40 percent of the traffic pertaining to that activity – and a maximum of 10 dogs is being requested for overnight boarding.

Mr. Cilimberg said that the area is primarily wooded with large lots, zoned for single-family residential. There is a conservation easement to the east of the property as well as stream buffers adjacent to the property. The plan that the applicant provided for the activities occurring there, include a map showing an entrance that is gated, a contiguous wood-post and wire-mesh fence enclosing the main house, front yard, children's play yard, garage, two dog yards, and board kennel and grooming station. The day camp and boarding dogs are only allowed in the yards located to the northwest and south of the kennel.

He stated that staff identified favorable factors as the distance of the nearest residence – which is 400 feet from the kennel, and the fact that the subject property is surrounded by wooded areas. In addition, the applicant transports approximately 40 percent of the dogs for the dog boarding business and 20 percent of the dogs for the grooming business; therefore, any adverse impact on traffic would be negligible.

Mr. Cilimberg said that an unfavorable factor was that two of the provisions in the ordinance regarding noise and the building itself did not meet the criteria of the ordinance and would require waivers – but staff felt the waivers were appropriate and were granted by the Planning Commission. The Board does not need to take action on the waiver requests. He stated that the recommendation is for approval, with eight conditions that came out of the Commission – including some modifications to better clarify operating times and transportation of animals. The proposed eighth condition would not be necessary any longer as the Commission waived the two sections of the Zoning Ordinance after their action on the special use permit.

The Chair then opened the public hearing.

Ms. Mallek mentioned that the Board had received many letters of support for the special use permit.

Ms. Christine Larson said that she lives in the home 400 feet from Canine Dog Clipper, and she is here to support the special use permit. She stated that she has no disruption of her life from traffic or the dogs, with only occasional barking similar to what is heard in other neighborhoods.

Mr. Boyd asked if the applicant, Ms. Amy Peloquin, was present and if she felt that the conditions were acceptable.

Ms. Peloquin indicated that they were.

There being no other public comments, the public hearing was closed.

Mr. Boyd **moved** to approve SP-2010-0008 subject to the seven conditions recommended by the Planning Commission and staff. Mr. Snow **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

AYES: Ms. Mallek, Mr. Rooker, Mr. Snow, Mr. Thomas, Mr. Boyd and Mr. Dorrier.

NAYS: None.

(The conditions of approval are set out in full below:)

1. Development of the use shall be in accord with the conceptual plan titled "The Canine Clipper Composite Plan", prepared by the applicant and dated April 15, 2010 (hereafter, the "Conceptual Plan"), as determined by the Director of Planning and the Zoning Administrator. To be in accord

with the Conceptual Plan, the development shall reflect the following major elements within the development essential to the design of the development:

- Kennel yard and house yard within fenced area
- Entrance gate
- Three structures: kennel, residence, and garage
- Fence circumscribing the entire site, including the three structures and the kennel yard, house yard, and front yard

as shown on the Conceptual Plan. Minor modifications to the Plan which do not conflict with the elements above may be made to ensure compliance with the Zoning Ordinance;

2. The number of dogs attending the Canine Clipper Dog Grooming and Boarding business during the day shall not exceed, in the aggregate for both the grooming and boarding activities, twenty (20) at any one time (does not include personal pets owned by the applicant);
3. The number of dogs attending the overnight boarding business shall not exceed ten (10) (not including personal pets owned by the applicant), or one dog per run, at any one time;
4. Dogs boarding overnight shall be kept inside between the hours of 10:00 PM and 6:00 AM, except for occasional supervised trips outside;
5. The hours of operation for the Canine Clipper Dog Grooming and Boarding business shall not begin earlier than 9:00 A.M. and shall end not later than 9:00 P.M., each day;
6. The number of customer trips generated for the dog grooming business shall not exceed eight (8) trips per day; and
7. All outdoor lighting shall be only full cut-off fixtures and shielded to reflect light away from all abutting properties. A lighting plan limiting light levels at all property lines to no greater than 0.3 foot candles shall be submitted to the Zoning Administrator or their designee for approval.

(Note: Mr. Cilimberg said the next two agenda items would be heard concurrently.)

Agenda Item No. 10. **PUBLIC HEARING: PROJECT: SP-2010-00006. Baugh Auto Body (Sign #8).**

PROPOSED: Special Use Permit to renovate existing building for auto body shop; no residential units proposed.

ZONING CATEGORY/GENERAL USAGE: LI - Light Industrial - industrial, office, and limited commercial uses (no residential use). SECTION: 27.2.2 (11) Body Shops.

COMPREHENSIVE PLAN LAND USE/DENSITY: Industrial Service -- warehousing, light industry, heavy industry, research, office uses, regional scale research, limited production and marketing activities, supporting commercial, lodging and conference facilities, and residential (6.01-34 units/acre) in the Community of Piney Mountain.

ENTRANCE CORRIDOR: Yes.

LOCATION: 4257 Seminole Trail (US 29), just north of the North Fork of the Rivanna River on the east side of US 29, directly opposite the intersection of Camelot Drive and US 29.

TAX MAP/PARCEL: 32-5B.

MAGISTERIAL DISTRICT: Rivanna.

(Advertised in the Daily Progress on August 23 and August 30, 2010.)

Agenda Item No. 11. **PUBLIC HEARING: PROJECT: SP-2010-00011. Baugh Rental Car Outdoor Storage (Sign #8).**

PROPOSED: Special Use Permit for outdoor storage of rental cars in association with a proposed auto body shop.

ZONING CATEGORY/GENERAL USAGE: Light Industrial (LI) - industrial, office, and limited commercial uses (no residential use); Entrance Corridor (EC) - overlay to protect properties of historic, architectural or cultural significance from visual impacts of development along routes of tourist access.

SECTION: 30.6.3.2.b Outdoor storage, display and/or sales in the Entrance Corridors.

COMPREHENSIVE PLAN LAND USE/DENSITY: Industrial Service -- warehousing, light industry, heavy industry, research, office uses, regional scale research, limited production and marketing activities, supporting commercial, lodging and conference facilities, and residential (6.01-34 units/acre) in the Community of Piney Mountain.

ENTRANCE CORRIDOR: Yes.

LOCATION: 4257 Seminole Trail (US 29), just north of the North Fork of the Rivanna River on the east side of US 29, directly opposite the intersection of Camelot Drive and US 29.

TAX MAP/PARCEL: 32-5B.

MAGISTERIAL DISTRICT: Rivanna.

(Advertised in the Daily Progress on August 23 and August 30, 2010.)

Mr. Cilimberg said that the property is site of the old Badger-Powhatan Building, located on Route 29 North just north of the North Fork Rivanna River. Mr. Cilimberg stated that the area is designated in the Comp Plan for industrial service and is zoned Light Industrial. He presented a picture of the basic site, noting the location of the building. He stated that there is an existing industrial building on the site that is being divided into two separate units. One of the buildings has been turned into condos to allow for a separate area on the west side, along with parking to the outside of the building. Mr. Cilimberg noted the entrance from Route 29 and the proposed location for cars and parking, including temporary storage for vehicles being repaired.

He stated that the building and the request will preserve the industrial character of the area and will enable reuse of the industrial building, while providing a convenient service to businesses and residents of the area. Mr. Cilimberg said that the Architectural Review Board had no objections to the

outdoor storage as long as the recommended conditions of approval are included, and they do not anticipate any detrimental impact to the Entrance Corridor. He stated that neither of the special permits in staff's analysis were found to have unfavorable factors. The Planning Commission recommended approval of each special use permit with a total of 12 conditions – including two conditions added after the Commission hearing to address concerns about lighting and the possibility of damaged vehicles being stored outside.

Mr. Snow commented that he was concerned about leaking fluids, but after reading the Planning Commission minutes and the applicant's materials, he was impressed with the way the site is kept clean and free of leaking materials.

Mr. Boyd asked if there will only be two condominiums.

Mr. Cilimberg replied "yes"; and he is not sure about the status of the other side. He added that in visiting the site today, he noticed some activity on the east side in the outside area.

Mr. Rooker mentioned a letter from Mr. Larry McElwain to the Commission expressing concern about the environmental aspects, as the site plan seems to indicate that the balance of the property will remain paved in a manner designed to channel all rainwater runoff into a single storm drain that empties unchecked into the River. He stated that Mr. McElwain also said that the applicant will be washing vehicles onsite, which will add to the pollutant discharge into the River. Mr. Rooker asked if staff is comfortable that those issues have been adequately dealt with.

Mr. Cilimberg explained that the applicant has indicated there is no plan to wash cars on the site, but if they do they are subject to DEQ regulations. He also said that the concern regarding leaking fluids from damaged fluids have been addressed through Condition #12, which states that "no damaged vehicles awaiting repair shall be outside the building for longer than 48 hours, and no damaged vehicles leaking fluids shall be stored outside." Mr. Cilimberg commented that this would be self-enforcing, but a lot of conditions are that way.

Mr. Rooker asked if there is treatment of the water leaving the site.

Mr. Cilimberg responded that there is not a drain on the parking lot area that is part of the special use permit, but the water would apparently be sheet flow on the south end of the parking lot. He said that the applicant's engineer has not completed their analysis regarding the drain, but staff was able to locate one pipe on the south side down closer to the River that appears to be carrying roof drainage discharge. Mr. Cilimberg stated that it appears that the parking lot on the west side would drain toward the banks, where there is material in place to stop erosion. He thinks that any kind of discharge from vehicles that have occurred has been carried through rainwater runoff over washing the parking lot. He said that there is a drop-inlet on the north side, near where the rental cars will be, and the pipe is pointed eastward but was unable to be tracked. Mr. Cilimberg stated that this does not involve any increased impervious surface, so County Engineers have determined that the best way to deal with it is to leave it alone. The existing parking areas will remain as is but there will be some landscaping and fencing which will be addressed as part of the site plan. No additional measures will be needed for stormwater. He added that prior to zoning clearance, a certified engineers report is required – and that must address impacts to water quality under the County's performance standards. Mr. Cilimberg noted that Section 14.8 is a certified engineer's report submittal requirement that is provided to the County Engineer before zoning clearance is issued, and that addresses emissions and discharge to land, air or water for liquid, solid, or gaseous effluent and electrical impulses and noise under normal operations. In addition, the County Engineer will also review the specifications of treatment methods and mechanisms used to control emissions and discharge, and make comment and recommendation prior to final Commission action on the site development plan.

Mr. Rooker said that this is a good use of the property, but he wants to ensure that there is diligence exercised to make sure that the runoff from the property is treated in a way that does not impair the River. If this were a new facility the County might require some internal filtration system on the property to make certain that that takes place. He stated that the applicant's brochure talks about how environmentally friendly they are, and hopefully their Engineer will work with the County staff to make sure the River is protected.

Mr. Cilimberg noted that the most obvious measure to deal with this type of runoff would probably have to be underground detention, which might be cost prohibitive in this case considering the existing conditions. He said that he also suggested a possible condition, if necessary, requiring the certified engineer's report to show proof of compliance with all applicable State and Federal agencies regulating activities. Mr. Cilimberg stated that the proof of compliance is not expressly included in the certified engineer report submittal requirement. He added that staff is not aware of any outside activities that would fall under that kind of requirement, but staff did not want to presume something that might in fact be applicable, so that's why it was written that way.

At this time the Chair opened the public hearing and the applicant was invited to comment.

Mr. Gerry Baugh, the applicant, said that everything his business does is inside the building and there are no leaking fluids on the outside that could run to the River. He stated that the building is 352-foot long, so most operations take place inside, and any cars that are towed in would not be allowed outside at his present business – which has operated in Henrico County since 1982. Mr. Ball said that there have never been any complaints, and tow companies won't drop a vehicle off in the middle of the night because they want to get paid on the spot. He feels fairly certain no one will drop a car off outside in

the middle of the night. Also, that is not allowed because he would not have any way to protect the car or the individual's property. In the event of an accident, any fluid leaking has already occurred before the car is towed away. This has not been an issue for him because it hasn't been one in his current business. He reiterated that all business is conducted inside the building. Even if an individual comes to his shop for an estimate to do some work, that estimate is written inside the building. He added that he made the decision not to wash cars at the facility, as there is a car wash about a mile from the property and it takes about two minutes to get there. They have a number of options at the business because not all cars are washed. They use waterless products that conserve water to clean a number of the cars. Mr. Baugh also indicated that he has hired several environmental consultants to assist with his application and planning, and they are present tonight - Speaker Pollard from Christian & Barton law firm; Doug Baum from B&C Services, and Randy Hooker with Engineer Design.

Mr. Pollard said that the Commission has already examined the issues brought forth tonight and has recommended approval. He stated that the concern about leaking fluids from vehicles is not really a practical problem, and any leaking vehicles would be brought into the building – not left outside. In addition, a condition was added by the Commission that prohibits storing leaking cars outside. Mr. Pollard said that the drainage on the site splits between south and north – with the south parking lot area flowing southwesterly, and no storm drain in that area. He noted that anything stored in that area would be a normal car and not a leaking vehicle. The north parking lot area would be for employee and rental car parking so there would be no damaged vehicles stored there. Mr. Pollard added that there is a storm drain in that area, but there is no operational impacts expected that would flow towards that area. He added that car washing would not take place on the site. With all the operations being conducted inside, there's really no opportunity for any impacts to occur on the outside that would impact the stormwater or the runoff on the site. He then compared the project to the stormwater impacts coming off of Route 29 – where there are 38,000 cars passing per day. Mr. Pollard said they are comfortable with the issues and do not expect any problems. He asked the Board to approve the special permit.

Mr. Rooker said that the special use permit runs with the property, not this business, and noted that there is nothing in the conditions pertaining to washing cars outside. If there's no condition dealing with it, it doesn't mean they can't do it.

Mr. Pollard responded that he understands the point, but Mr. Baugh does not plan to conduct car washing on the site.

Mr. Rooker asked if he would be willing to add a condition to the special permit that stipulates there would be no outdoor car washing and that all operations will be conducted inside. The argument here as to why there could not be an environmental issue on the site is because all the work would be conducted inside.

Mr. Pollard replied that the only hesitation is that if there is some new car wash technology that allows for washing outside without a runoff effect, the applicant may wish to do that. He then suggested a condition that states "no car washing would be allowed except as authorized under a State permit or other permits required by State or Federal law."

Mr. Rooker asked if he would also agree to a condition that states all operations would be conducted inside.

Mr. Baugh stated that condition 12 indicates that "no damaged vehicles awaiting repair shall be outside the building for longer than 48 hours and no damaged vehicles leaking fluids shall be stored outside," which was addressed by the Planning Commission.

Ms. Mallek stated that the Board is simply trying to codify what the applicant would like to do. She suggested adding a condition #13 that states that operations will occur inside the building.

Mr. Baugh said he was comfortable with that condition. Mr. Pollard added that storing some of the cars outside theoretically is part of the operation.

Mr. Rooker said that is understood.

Mr. Boyd asked Mr. Baugh if this was his first operation in Albemarle County and how many people he plans to employ here.

Mr. Baugh replied that this is his first business in Albemarle and they plan to employ about 25 people. He added that this is a family business and he intends to be a good business partner and a good community partner. He has been in this business since he was 15 years of age, his oldest daughter works with him and does his father. He added that he is under a mandate from the insurance companies he does business with that all of these guidelines are followed, and each year he has to fill out an affidavit that the business is in compliance with the regulations. Mr. Baugh emphasized that this type business has changed tremendously. They no longer have any liquid waste – only about seven to 15 pounds month; everything is recycled into a hardened material that is picked up monthly by a disposal company. Their carbon footprint has been almost reduced to nothing. He added that tow companies charge them a significant fee for hazardous cleanup from scenes so most of that is already taken care of. Also, they are in the business of repairing cars.

Mr. Boyd asked if the people hired would be local.

Mr. Baugh responded that residents would have an opportunity to apply, and he hopes there is enough of a pool here to be able to hire locally.

Mr. Boyd noted that CATEC has a training program for auto-body work.

Mr. Baugh added that he has a lot of people working for him now that make a very good living.

Mr. Larry McElwain said that he has been practicing law in the community for 35 years but is appearing tonight as a private citizen. He has represented many developers in the past and promotes pro-growth, but he promotes responsible growth. If it were not for that fact that this facility is proposed to located on the edge of the River, he would not have been present at this meeting. He said that he is very familiar with the particular stretch of the River where this business will be located, as he has walked and fished it for many years. Mr. McElwain stated that he was there when Badger-Powhatan was operating, and he watched the effluvia enter the River – as well as observing the River getting cleaned up. To him it is a very special section of the River. Mr. McElwain said that it is unrealistic to think that there would be no toxins coming off of the storage lot, and the cars will be put right at the head of the River. There will be oil, gas and toxins, and the cars will leak. He emphasized that it would have been really easy to address this problem. All you've got to do is dig a ditch, a normal detention pond, and service it. Mr. McElwain added that the runoff could be handled the same way – through a filtration system or a ditch filled with soil. It is not expensive and it works as a fail-safe. Anybody can paint a pretty picture here. That's not what Board members are here to address. They are here to address the inevitable worst-case scenario, and what the Board is doing if it passes this is setting the stage for toxins to leak back into that River – and that's inevitable under the proposal here tonight. He said that the fact that Route 29 goes across there should be used as a reason to address the runoff, not the other way around. He thinks the Board's job is to protect the citizens from this sort of thing, and he thinks the protection comes quite easily – it's just that this applicant has chosen not to address it.

Mr. Brent Hall, of Hall's Auto Body, said that his business is one-half mile up the highway from the proposed business. Mr. Hall said that he has no problem with the application, but he does have concerns about the water. He pointed out that when he applied for his special use permit 15 years ago, the County made him put in filtration systems and they are not on the water. That was not a requirement of DEQ, but of the County. Mr. Hall stated that if the County made him do that, the applicant also needs to do the same. Everyone has to wash cars. He asked how a muddy or damaged car is repaired without washing it first. He said that while most fluids leak at the site of the accident, there is no way that a mechanic can work on a car that has fluid or mud on it. He added that he would not let his kids swim in unfiltered water coming out. Once it goes through all the filters, it's fine.

Mr. Boyd asked if Mr. Hall had applied for a rezoning when he started his business.

Mr. Hall replied that it was not; it was a special permit in the HI district. He added that he had to put in biofilters, drains, etc. Cars are going to have to be washed. Maybe he's got a different procedure, but he knows no other way but to wash cars. He knows of no other way but to wash cars and all the other shops have to do it. Everybody else has filter systems.

The applicant's representative, Mr. Pollard, again addressed the Board. Mr. Pollard said that given the restrictions that are being imposed, they are having a hard time seeing how any toxins that would run off are going to be any worse than what you'd see in a typical office parking lot if everything is inside. Mr. Pollard stated that the use of detention ponds and filtration systems are not practical or required on this site and the purpose of having everything inside is to eliminate this issue.

Ms. Mallek asked if there were floor drains inside the building, to help melted snow run off. She asked where it goes.

Mr. Pollard replied that there are no floor drains inside the building; the water would be mopped up.

Mr. Baugh clarified that a lot of that is already off the vehicle when it arrives, or it is mopped up when it comes into the building. He said that ice is not normally removed from the car in the parking lot, as there could be damage trying to remove it outside when it is cold weather. There could potentially scratch the car if snow or ice is attempted to be removed outside in the cold. They bring the cars inside and let the heat melt it. All the cleaning that they do with these cars, the rags that we use, all the absorbents, goes into a barrel and are picked up and collected by Safety-Clean at the end of the month as hazardous waste. They do not throw any of those things away. Mr. Baugh again stated that they use a lot of waterless wash materials, and if there is debris under the car a mechanic will pull dirt and grass away from the vehicle, or use a brush. He just does not find that as a problem in his operation.

Mr. Dorrier asked if the storage yard would be filled with cars that are damaged and leaking.

Mr. Baugh responded that that is not necessarily the case. He reiterated that the plan is to put the cars into the building. He said that he has room inside the building to handle these types of repairs, and he doesn't make any money when the cars are sitting in a lot. They are also under mandate from insurance companies to do the repair within a specified period of time.

Mr. Dorrier asked if he agrees to prevent and control all runoff from his property.

Mr. Baugh responded that he does.

Mr. Pollard commented that he's not sure what that would entail, in terms of controlling all runoff from the property. Mr. Pollard asked what the nature of the concern being addressed if all the work is being done inside and there is no leaking vehicles allowed to be stored outside.

Mr. Rooker said a lot could leak out of a vehicle in 48 hours.

Mr. Pollard said if they had leaking vehicles on the lot, this would be a much different discussion.

Ms. Mallek pointed out that the conditions stipulate that leaking vehicles must go inside the building immediately, with dry ones getting to stay outside for two days.

Mr. Thomas commented that the whole issue is the river and asked what has changed since the Halls built their body shop in requirements for storm retention or water runoff that does not affect this property.

Mr. Cilimberg replied that Halls was a new development so it was dealt with in a completely different manner. This is an existing condition and site, and is dealt with in a different manner.

Mr. Rooker said that the Halls facility was also based on their type of operation. He stated that as a condition of this site plan approval, staff should make certain that the runoff on that section of the property that drains toward the River is being handled in a way that minimizes any impact.

Mr. Cilimberg responded that the certified engineer's report requirement would address that, and it is in the ordinance now without a condition – but he suggested a condition to reaffirm that.

Mr. Rooker agreed that doing so made it visible to the applicant and everybody else.

Mr. Cilimberg noted that in speaking with DEQ, they have indicated that their regulations cover process wastewater – including car-washing and a paint booth.

Mr. Davis said that the Board has indicated they want two additional conditions – that “all vehicle repair operations shall be performed inside the building”, and that “no outside washing of vehicles shall be permitted unless approved by the County Engineer after a finding that the washing operation does not generate offsite runoff”.

Mr. Boyd asked Mr. Baugh if he agrees with those added conditions. Mr. Baugh indicated his agreement.

Mr. Rooker commented that this strikes a reasonable balance. He added that this is a nice adaptive reuse of a property that was a problem for a long time. He thinks the business will provide a good service and employment for the citizens. He also thinks it is important that the extra steps need to be taken to provide the River.

Mr. Thomas agreed.

Mr. Rooker added that the County welcomes the business to the community.

Mr. Snow said that he is satisfied with the conditions as presented.

There being no further public comment, the public hearing was closed and the matter was placed before the Board.

Mr. Boyd **moved** to approve SP-2010-00006 and SP-2010-00011 subject to the 15 conditions as presented and modified during this discussion. Ms. Mallek **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

AYES: Ms. Mallek, Mr. Rooker, Mr. Snow, Mr. Thomas, Mr. Boyd and Mr. Dorrier.

NAYS: None.

Mr. Thomas asked the applicant to do everything he can to protect the water in the River.

(The conditions of approval are set out in full below:)

1. Development of the use shall be in general accord with the conceptual plan entitled, “Baugh Auto Body II, Special Use Permit Plan,” prepared by Engineering Design Associates, and dated May 25, 2010 (hereinafter, the “Special Use Permit Plan”), as determined by the Director of Planning and the Zoning Administrator. To be in conformity with the plan, development shall reflect the following major elements within the development essential to the design of the development:
 - location of parking areas
 - relation of buildings and parking to the streetas shown on the Special Use Permit Plan, except that the landscaping and fencing location and design may be modified to meet the requirements of the Architectural Review Board (ARB). Minor modifications to the plan that do not conflict with the elements above may be made to ensure compliance with the Zoning Ordinance;
2. The rental of passenger vehicles under SP 2010-00011 is permitted as an accessory use associated with SP 2010-00006, Baugh Auto Body Shop;
3. Rental cars available on the site may only be rented to customers of the auto body shop;

4. The hours of operation for the auto body shop and accessory rental car use shall not begin before 6:00 a.m. on Monday and shall not end later than 6:00 p.m. on the next Saturday;
5. The US 29 frontage and the perimeters of parking areas shall be improved with landscaping to meet the Entrance Corridor guidelines. The landscaping shall be shown on a plan, to be approved with the site plan amendment. The plan shall include identification of existing trees and shrubs on the site, although trees and shrubs in the heavily wooded area on the south side of the parcel need not be individually identified;
6. The design of the screening fence shall be subject to ARB approval. The fence shall be supplemented with landscaping, which shall be subject to ARB approval. Sufficient area for planting shall be provided, as determined by the ARB;
7. A planting island shall be added at the west end of the rental car parking row with plants as determined by the ARB. The island and planting shall be shown on a plan, to be approved with the site plan amendment;
8. Vehicles shall not be elevated anywhere on the parcel outside of the building;
9. Rental vehicles shall be parked only in the area indicated for rental car parking shown on the Special Use Permit Plan. Rental car parking shall be only in designated striped parking spaces, as identified on this plan. No parking shall occur in travelways. No sign identifying the rental car use shall be visible from offsite locations;
10. No chain link, barbed wire, razor wire, or other similar fencing or attachments other than that existing on the site on September 8, 2010, shall be installed on this parcel;
11. Existing site and exterior building lighting shall be brought into conformance with Section 4.17 of the Zoning Ordinance;
12. No damaged vehicle awaiting repair shall be outside the building for longer than 48 hours, and no damaged vehicle leaking fluids shall be stored outside;
13. Prior to issuance of a zoning compliance clearance, a certified engineer's report as required by section 4.14.8 of the Zoning Ordinance, to also include proof of compliance with all applicable Federal and State agencies regulating activities, shall be submitted and approved by the County Engineer;
14. All vehicle repair operations shall be performed inside the building; and
15. No outside washing of vehicles shall be permitted unless approved by the County Engineer after a finding that the washing operation does not generate off-site run-off.

(NonAgenda. The Board took a brief recess at 7:31 p.m., and then reconvened at 7:41 p.m.)

(Note: Mr. Cilimberg said Agenda Items No. 12, 13, 14, 15, 16 and 17 would all be covered together.)

Agenda Item No. 12. **PUBLIC HEARING: PROJECT: ZMA-2007-00013. Fontaine Research Park Expansion (Signs #34&35).**

PROPOSED: Rezone approximately 54 acres from CO Commercial Office - offices, supporting commercial and service uses; and residential use by special use permit (15 units/ acre) to PDMC Planned Development Mixed Commercial - large-scale commercial uses; and residential by special use permit (15 units/ acre) to allow for an increase from 565,000 square feet to 875,000 square feet of office, laboratories, medical or pharmaceutical, research & development activities, hospitals, and supporting commercial space permitted in the research park. Three parking garages are proposed. No residential units are proposed. The following Special Use Permits are in conjunction with this rezoning: SP200700055, SP200900010, SP200900011, SP200900013, and SP200900014.

PROFFERS: Yes.

EXISTING COMPREHENSIVE PLAN LAND USE/DENSITY: Office Service - office uses, regional scale research, limited production and marketing activities, supporting commercial, lodging and conference facilities, and residential (6.01-34 units/acre).

ENTRANCE CORRIDOR: Yes.

LOCATION: Adjacent to the intersection of Ray C. Hunt Drive and Fontaine Avenue in Neighborhood Six. **TAX MAP/PARCEL:** TM 76, Parcels 17B, 17BW, 17BX, 17B1, 17B2, 17B3, 17B4, 17B5, 17B6, 17B7, 17BB, 17BA, 17B8, and 17B9.

MAGISTERIAL DISTRICT: Samuel Miller.

(Advertised in the Daily Progress on August 23 and August 30, 2010.)

Agenda Item No. 13. **PUBLIC HEARING: PROJECT: SP-2007-00055. Fontaine Research Park - Parking Structures (Signs #34&35).**

PROPOSED: Parking Structures in Planned Development - Mixed Commercial Zoning District. This SP is in conjunction with ZMA2007-00013.

ZONING CATEGORY/GENERAL USAGE: PDMC Planned Development -Mixed Commercial - large scale commercial uses; and residential use by special use permit (15 units/acre).

SECTION: 23.2.2.4 Parking Structures.

COMPREHENSIVE PLAN LAND USE/DENSITY: Office Service - office uses, regional scale research, limited production and marketing activities, supporting commercial, lodging and conference facilities, and residential (6.01-34 units/acre) in Neighborhood 6.

ENTRANCE CORRIDOR: Yes.

LOCATION: Adjacent to the intersection of Ray C. Hunt Drive and Fontaine Avenue.

TAX MAP/PARCEL: TM 76, Parcels 17B, 17BW, 17BX, 17B1, 17B2, 17B3, 17B4, 17B5, 17B6, 17B7, 17BB, 17BA, 17B8, and 17B9.

MAGISTERIAL DISTRICT: Samuel Miller.
(Advertised in the Daily Progress on August 23 and August 30, 2010.)

Agenda Item No. 14. **PUBLIC HEARING: PROJECT: SP-2009-00010. Fontaine Research Park - Research & Development Activities (Signs #34&35).**

PROPOSED: Research and development activities in Planned Development - Mixed Commercial Zoning District. This SP is in conjunction with ZMA2007-00013.
ZONING CATEGORY/GENERAL USAGE: PDMC Planned Development -Mixed Commercial - large scale commercial uses; and residential use by special use permit (15 units/acre).
SECTION: 23.2.2.12 Research and development activities.
COMPREHENSIVE PLAN LAND USE/DENSITY: Office Service - office uses, regional scale research, limited production and marketing activities, supporting commercial, lodging and conference facilities, and residential (6.01-34 units/acre) in Neighborhood 6.
ENTRANCE CORRIDOR: Yes.
LOCATION: Adjacent to the intersection of Ray C. Hunt Drive and Fontaine Avenue.
TAX MAP/PARCEL: TM 76, Parcels 17B, 17BW, 17BX, 17B1,17B2, 17B3, 17B4, 17B5, 17B6, 17B7, 17BB, 17BA, 17B8, and 17B9.
MAGISTERIAL DISTRICT: Samuel Miller.
(Advertised in the Daily Progress on August 23 and August 30, 2010.)

Agenda Item No. 15. **PUBLIC HEARING: PROJECT: SP-2009-00011. Fontaine Research Park - Laboratories, Medical or Pharmaceutical (Signs #34&35).**

PROPOSED: Laboratories, medical or pharmaceutical in Planned Development - Mixed Commercial Zoning District. This SP is in conjunction with ZMA2007-00013.
ZONING CATEGORY/GENERAL USAGE: PDMC Planned Development -Mixed Commercial - large scale commercial uses; and residential use by special use permit (15 units/ acre).
SECTION: 23.2.2.13 Laboratories, medical or pharmaceutical.
COMPREHENSIVE PLAN LAND USE/DENSITY: Office Service - office uses, regional scale research, limited production and marketing activities, supporting commercial, lodging and conference facilities, and residential (6.01-34 units/acre) in Neighborhood 6.
ENTRANCE CORRIDOR: Yes.
LOCATION: Adjacent to the intersection of Ray C. Hunt Drive and Fontaine Avenue.
TAX MAP/PARCEL: TM 76, Parcels 17B, 17BW, 17BX, 17B1,17B2, 17B3, 17B4, 17B5, 17B6, 17B7, 17BB, 17BA, 17B8, and 17B9.
MAGISTERIAL DISTRICT: Samuel Miller.
(Advertised in the Daily Progress on August 23 and August 30, 2010.)

Agenda Item No. 16. **PUBLIC HEARING: PROJECT: SP-2009-00013. Fontaine Research Park - Hospitals (Signs #34&35).**

PROPOSED: Hospitals in Planned Development - Mixed Commercial Zoning District. This SP is in conjunction with ZMA200700013.
ZONING CATEGORY/GENERAL USAGE: PDMC Planned Development -Mixed Commercial - large scale commercial uses; and residential use by special use permit (15 units/acre). **SECTION:** 23.2.2.1 Hospitals.
COMPREHENSIVE PLAN LAND USE/DENSITY: Office Service - office uses, regional scale research, limited production and marketing activities, supporting commercial, lodging and conference facilities, and residential (6.01-34 units/acre) in Neighborhood 6.
ENTRANCE CORRIDOR: Yes.
LOCATION: Adjacent to the intersection of Ray C. Hunt Drive and Fontaine Avenue.
TAX MAP/PARCEL: TM 76, Parcels 17B, 17BW, 17BX, 17B1,17B2, 17B3, 17B4, 17B5, 17B6, 17B7, 17BB, 17BA, 17B8, and 17B9.
MAGISTERIAL DISTRICT: Samuel Miller.
(Advertised in the Daily Progress on August 23 and August 30, 2010.)

Agenda Item No. 17. **PUBLIC HEARING: PROJECT: SP-2009-00014. Fontaine Research Park - Supporting Commercial Uses (Signs #34&35).**

PROPOSED: Supporting commercial uses in Planned Development - Mixed Commercial Zoning District. This SP is in conjunction with ZMA200700013.
ZONING CATEGORY/GENERAL USAGE: PDMC Planned Development -Mixed Commercial - large scale commercial uses; and residential use by special use permit (15 units/acre).
SECTION: 23.2.2.11 supporting commercial uses.
COMPREHENSIVE PLAN LAND USE/DENSITY: Office Service - office uses, regional scale research, limited production and marketing activities, supporting commercial, lodging and conference facilities, and residential (6.01-34 units/acre) in Neighborhood 6.
ENTRANCE CORRIDOR: Yes.
LOCATION: Adjacent to the intersection of Ray C. Hunt Drive and Fontaine Avenue.
TAX MAP/PARCEL: TM 76, Parcels 17B, 17BW, 17BX, 17B1,17B2, 17B3, 17B4, 17B5, 17B6, 17B7, 17BB, 17BA, 17B8, and 17B9.
MAGISTERIAL DISTRICT: Samuel Miller.
(Advertised in the Daily Progress on August 23 and August 30, 2010.)

Mr. Cilimberg noted that there is also a modification of height regulations covered with this application. He reported that the property is 54 acres that would increase from the current allowance of 565,000 square feet to 875,000 square feet. There are five associated special use permits with the ZMA application. He presented a copy of the Application Plan for infill and further development of the existing site. Mr. Cilimberg presented a map showing Fontaine Avenue, the existing entrance at Ray C. Hunt Drive, continuing through Natural Resources Drive. He added that the issue expressed by the Forestry Department concerned access from the front of the site through the property to the rear. The issue with the Forestry Department was brought to staff's attention after the Planning Commission's public hearing. When that occurred staff asked the Foundation to meet with the Forestry Department to address the issues. He emphasized that this plan does not fix the location precisely of the road alignment or building envelopes, as the process allows for some variations of road location to take care of the necessary radius for curves, etc. Mr. Cilimberg stated that there are proffered commitments for improvements at the entrance to Fontaine Research Park and on Route 29 at the interchange to help address traffic impacts generated from the expansion.

Mr. Cilimberg stated that the rezoning and special use permits are consistent with the Land Use Plan and will provide the Research Park with an opportunity expand – thus providing expanded health services and jobs in the community. He said that staff has noted concern for a combination of a potential Sunset/Fontaine connector and possibility of only minimal supporting commercial use when the original analysis was undertaken. The Planning Commission recommends construction and funding commitments to the Sunset/Fontaine connector and a condition allowing a higher cap for supporting commercial uses – which have now been provided through a proffer and a condition.

Mr. Cilimberg stated that the recommendations are for approval of the ZMA with proffers dated August 25, 2010, approval of the five special use permits – two of which have conditions, and approval of modification of height regulations that also has a condition. He said that the four special use permit conditions pertain to the hospital, and with the supporting commercial uses – which allows a maximum of up to five percent of the square footage in the park for supporting commercial. Mr. Cilimberg noted that the height regulation modification specifies that buildings over 35 feet in height would have a 10-foot step back in the height over 35 feet.

Ms. Mallek commented on the large amount of square footage for additional supporting commercial uses.

Mr. Cilimberg indicated that there are a lot of employees there who would utilize those services.

Mr. Rooker said that in circumstances such as this there is difficulty getting retail to come in until there is a certain nexus of population present. He personally would like to see them get to a point where they had 30,000 or 40,000 [square feet] of retail scattered around that was useable by the employees and could be supported, but he thinks it will be unlikely that that occurs.

Mr. Boyd asked if this is less than what is ultimately planned for this site.

Mr. Cilimberg explained that the applicant was originally looking at up to 700,000 square feet of expansion, but the issues are the offsite transportation improvements that would be necessitated by a development that size – as they would be much more significant. He added that they may come back for additional square footage once there is a better idea of what will happen with the Sunset/Fontaine connector, along with other possible improvements for transportation in that area. Mr. Cilimberg noted that staff is undertaking a new analysis of the general southern area to determine what transportation improvements are practical and can accommodate more of an “ultimate build-out” situation.

Mr. Boyd asked why a phased plan wasn't considered similar to what has been done at North Pointe and the North Fork Research Park.

Mr. Cilimberg responded that the improvements to be added beyond 300,000 square feet had not been identified at the time of application, and there was no basis beyond improvements that had been identified associated with the 300,000 square feet of added space.

Mr. Snow indicated that he has received several emails from constituents who live on Buckingham Circle, expressing concern about getting out onto the highway and being able to access their area via crosswalks.

Mr. Cilimberg explained that the improvements for this project are the options of “1A and 1B,” which were identified by VDOT through the traffic study conducted by the applicant to address the transportation impacts of the extra square footage. He said that it deals with, for example, the turning movements at the intersection of the southbound exit ramp off of the Route 29 Bypass onto Fontaine as well as the northbound ramp going onto the bypass from Fontaine, signalization at that intersection, and additional turning lanes.

Mr. Snow asked how people living west of that interchange would get through the intersection if they are trying to walk or ride a bike.

Mr. Cilimberg responded that a proffer as part of the townhomes approved for the end of Fontaine Avenue stipulates that a pedestrian facility would be built to connect the existing one along Fontaine. He stated that this was a prior commitment, but it has never occurred because that development has never occurred. Mr. Cilimberg reported that there is a new rezoning proposal from the Health Services

Foundation for that property, and with that project the pedestrian issues and additional transportation improvements would be addressed.

Mr. Rooker asked if there was a pedestrian feature on the light at Ray C. Hunt Drive, as Mr. Snow had inquired.

Mr. Cilimberg replied that he is not aware of whether there is a crosswalk or activated pedestrian signal there.

Mr. Thomas said that there is a crosswalk on that corner.

Mr. Rooker said perhaps a pedestrian feature could be added to the light to allow them to cross over safely.

Mr. Cilimberg pointed out that the big challenge for Buckingham Circle is getting to that point from their side of the interchange, which is why the proffer was put in for Fontaine Townhomes. He said that biking or walking to the existing path along Fontaine that goes across the frontage of the Fontaine Research Park is the real challenge.

Mr. Rooker asked if there is any reason why that pedestrian feature can't be built as a part of a rezoning for a different use.

Mr. Cilimberg responded that at this point it is not proffered. The applicant could make that proffer but it could not be acted upon tonight.

Mr. Boyd said he knows that for the long term there is more density planned for the area. Given the expense to the applicant and the County citizens, and the economy, it would make sense to handle everything one time as opposed to extending the time and dealing with proffers in future phases.

Mr. Cilimberg explained that the additional traffic study, which would not be a cost to the applicant, would consider the southern area – and the applicant is apparently waiting for the outcome of that study.

Mr. Boyd said that it is a cost to the taxpayer for that study; he is not just concerned about the applicant's costs.

Mr. Rooker stated that it may be ten years before anything is done in that area anyway.

Mr. Cilimberg commented that in projects where that kind of information can be brought out of the analysis, staff makes an attempt to do that.

At this time the Chair opened the public hearing and asked the applicant to come forward.

Ms. Valerie Long, representing the University of Virginia Foundation, addressed the Board. Also present representing staff on the Foundation was Mr. Tim Rose and Mr. Fred Missel, Mr. Leonard Sandridge. She noted that the Research Park is owned by three separate entities – the Foundation owns two-thirds of the area, the University of Virginia owns one-third and UVA Health Services Foundation owns another small piece. She presented a map showing the location of the existing buildings and Natural Resources Drive, as well as the site for the proposed expansion. Ms. Long said that the applicant has spoken with Mr. Williams and has tried to reassure him that the University would not be cutting off access to Natural Resources Drive, adding that they have a legal right of access easement there. She stated that the Foundation and University also want to ensure that their large trucks and vehicles can be accommodated safely, and it is possible that the road leading to Natural Resources Drive might need to be relocated from its existing location. The Foundation will work with the Department of Forestry to make certain that it is designed in a way to accommodate traffic to Natural Resources Drive and other State property.

Mr. Rooker asked if there is a reason the road is in a particular location.

Ms. Long said she did not know. She reiterated that the Foundation has no interest, desire or need to cut off that access. They also have a shared interest in ensuring the large vehicles can use the road safely.

Ms. Long then presented the proposed application plan, noting areas designated for parking – some of which could be structured, with other areas just surface parking. She pointed out the conceptual building locations, noting that they wouldn't all be used with the 310,000 square feet. Ms. Long added that this is a well thought out plan that will continue to use the land in an efficient manner consistent with the goals of the Comprehensive Plan for compact urban development in the designated growth areas, continuing to be a pedestrian-oriented plan with elegant, attractive buildings that maintain standards in terms of landscaping and overall site planning.

Ms. Long said that the 2004 Area B Study – a joint study with the City, County, and U.Va. which identified locations for the proposed connector road – came up with five alternatives and recommended "Alternative 4," which was along the eastern edge of the Research Park. She stated that U.Va. and the Foundation have stated publicly that they would accommodate the connector road in that location, whenever it is ready to be built. She added that the Thomas Jefferson Planning District Commission will be looking at the connector road location and it is possible that they might find an offsite location. Ms. Long said that even if an offsite road location were chosen, the final proffers in this application include

some language that stipulates that the Foundation will contribute funds toward construction of the road. It would not be the cost of the full construction of the road because once they exceed the next 310,000 square feet and reach the limits of this plan, 825,000 square feet. She noted that if the 825,000 square feet limit were reached, there will be a second entrance needed for the Research Park, and the Planning Commission agreed that U.Va. would contribute funds to any offsite road that is equal to the portion of the connector road that the University would not have to build. Ms. Long added that the second entrance would essentially overlap with a path and would be shared with a connector road in that location. The Foundation has said that the cost savings incurred by having the road offsite would be reflected in not having to build from the end of their second entrance to the railroad, so they would contribute the cost of the road in that location.

Mr. Boyd asked if the roads would be dedicated to VDOT or private.

Ms. Long responded that before it becomes a connector road, it would likely be a private road – as the other roads in the Research Park are; after connection it would be dedicated into the State road system. She clarified that one of the alternatives contemplated in the Area B Study was the option of using Natural Resources Drive as the connector road, and having it cut through the corner of the Research Park and come out through the main entrance of Ray C. Hunt Drive. Ms. Long said that another option was to have the road come through the middle of the Research Park and share that entrance – but the University has indicated those are not viable options as they are wholly inconsistent with the way the Park has been developed and dedicated to health care uses – with green space and pedestrian options being a major component – and concerns about failure at that traffic intersection should only one entrance be used.

Mr. Snow restated his earlier question regarding how people living west of that interchange would get through the intersection if they are trying to walk or ride a bike.

Ms. Long presented an exhibit pertaining to the proffers for intended traffic improvements, adding that one includes the installation of a traffic signal at the southbound lane to help regulate traffic to make it easier for someone coming west from Buckingham Circle to make it through the intersection. In terms of pedestrians, they had not contemplated installing a pedestrian signal on the light. They can design the light so that it can function with future pedestrian crosswalks or paths, adding that there are no sidewalk currently in that area.

Mr. Thomas asked if VDOT controls the lights and the crosswalks for pedestrians to get across.

Ms. Long replied that they do because it is in the right of way, but the University would be installing a light and providing measures to improve traffic flow – such as adding a second left-turn lane.

Ms. Mallek asked if there is an order for planned building improvements yet.

Ms. Long responded that it is still in flux and depends on tenant interest, University needs, etc. She confirmed that the special use permit for the hospital is just a carry-over, with the same four conditions that have been in place for many years.

Mr. Rooker asked what the current occupancy percentage is in the Park.

Ms. Long said she believes the Park is at full buildout; the current limit of 565 is effectively there.

Mr. Missel indicated that to his knowledge the buildings are full.

At this time, the Chair asked if there were other public comments. Since no one came forward to speak, the public hearing was closed, and the matter placed before the Board.

Mr. Davis suggested that, after the Board completes its discussions and if there are no objections, the Board makes three motions – one to approve the ZMA, one to approve all of the special use permits, and one to approve a modification to Section 21.4 for height requirements.

Mr. Rooker commented that this is a well thought-out plan, and the Commission, staff and applicant have done a good job working together on the project. It is good to see the buildings virtually 100 percent occupied. He said that this plan would allow for some vertical growth as well as outward expansion.

Mr. Snow **moved** to approve ZMA-2007-0013 subject to proffers dated August 25, 2010. Ms. Mallek **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

AYES: Ms. Mallek, Mr. Rooker, Mr. Snow, Mr. Thomas, Mr. Boyd and Mr. Dorrier.

NAYS: None.

(The proffers are set out in full below:)

PROFFER STATEMENT
FONTAINE RESEARCH PARK

Date: August 25, 2010

ZMA #: ZMA-2007-013 FONTAINE RESEARCH PARK

Tax Map and Parcel Numbers: 76-17B, 76-17BA, 76-17BB, 76-17B(1), 76-17B(2), 76-17B(3), 76-17B(4), 76-17B(5), 76-17B(6), 76-17B(7), 76-17B(8), 76-17B(9), 76-17B(X), and 76-17B(W).

53.52 Acres to be rezoned from Commercial Office (CO) to
Planned Development Mixed Commercial (PD-MC)

Pursuant to Section 18-33.3 of the Albemarle County, Virginia Code (the "Code"), and consistent with the Water Protection Ordinance, or "Ordinance" (Chapter 17 of the code) the Owners (as defined below), or their duly authorized agents, hereby voluntarily proffer the conditions listed below which shall be applied to the above-referenced parcels. The proffers contained herein amend, restate and supersede all previous proffers pertaining to the above-referenced parcels. Any previous proffers applicable to such parcels have either: i) been fully satisfied, ii) are no longer applicable, or iii) have been incorporated in their entirety into these proffers. These conditions are proffered as part of the requested zoning (ZMA 2007-013) and it is agreed that: 1) the rezoning itself gives rise to the need for the conditions; 2) such conditions have a reasonable relation to the rezoning request; and 3) all such conditions are in conformity with the Albemarle County Comprehensive Plan.

The Applicant of ZMA 2007-013 is the University of Virginia Foundation (the "Applicant"), successor to the University of Virginia Real Estate Foundation, which is successor to UREF Research Parks, Inc. The owners of parcels of land within the Fontaine Research Park include the University of Virginia Foundation, the University of Virginia Health Services Foundation, and the Rector and Visitors of the University of Virginia (collectively, the "Owners").

1. Proffer number 1 from ZMA 2000-04 has been satisfied.
2. The Application Development Plan prepared by Dewberry & Davis LLC, dated May 3, 2010 and attached hereto as Exhibit D-1 shall serve as the Application Plan required by the County Zoning Ordinance (the "Application Plan"). The Application Plan replaces in its entirety all previously proffered plans and exhibits.
3. Proffer number 3 from ZMA 2000-04 has been satisfied.
4. The University of Virginia Foundation has constructed a pedestrian system within the Research Park, in conformance with the system shown on the Application Plan for improvements completed as of the date of this Proffer Statement. Future buildings within the Research Park shall include the construction of a pedestrian system in conformity with the Application Plan. Specific features for conformity shall include pedestrian connection from buildings to other buildings, parking areas and amenity areas, and shall be completed at the time that such buildings are completed.
5. Total development on the site shall not exceed 875,000 square feet of gross floor area.
6. The University of Virginia Foundation shall maintain the existing landscaped planting area along Fontaine Avenue. The width of the existing planting area shall not be reduced. Any portion of the planting area disturbed by permitted construction shall be replaced upon completion of construction of the permitted improvement, or as otherwise permitted by the County's Director of Community Development or his/her designee. The installation of a pedestrian path and/or stairs through the planting area may be approved by the County's Director of Community Development or his/her designee. Replacement planting to compensate for any disturbed planting area shall be subject to approval of the County's Director of Community Development or his/her designee.
7. Strict architectural and landscape architectural guidelines and restrictions shall continue to govern the design and construction of all buildings and parcel specific site development. Such architectural guidelines and restrictions shall be applied and enforced in accordance with the Declaration of Protective Covenants and Restrictions for the Fontaine Research Park, dated January 20, 1993, and recorded at the Clerk's Office of the Circuit Court of the County of Albemarle, Virginia, in Deed Book 1286, page 604.
8. Intentionally Omitted.
9. Proffer 9 from ZMA 2000-04 has been satisfied.
10. The University of Virginia Foundation has adopted an updated Transportation Demand Management Plan (TDM) for the Fontaine Research Park (such plan is dated October 2008), and shall continue to implement the TDM for the Research Park. The TDM incorporates traffic reduction amenities (such as pedestrian access as depicted on the Application Plan), facilitating employer traffic reduction measures and promotion of educational programs.
11. In satisfaction of proffer 11 from ZMA 2004-010, the University of Virginia Foundation has constructed at its expense a bus shelter located in the Research Park that is maintained by the Owners under a common maintenance agreement.
12. Transportation Improvements. Prior to the issuance of a certificate of occupancy that would authorize the aggregate gross floor area within the Fontaine Research Park to exceed 565,000 square feet, the University of Virginia Foundation shall engineer, design and construct the following road improvements pursuant to road plans approved by the Virginia Department of Transportation ("VDOT") and the Albemarle County Department of Community Development, as applicable, and such improvements shall be bonded according to County requirements. Such improvements are depicted generally on the exhibit entitled

"Fontaine Research Park, Albemarle County, Virginia" prepared by Kimley-Horn and Associates, Inc., and attached hereto as Exhibit A.

A. Fontaine Avenue/U.S. Route 29 Bypass Southbound Ramps Intersection:

1. Install a traffic signal and construct additional lanes at the Fontaine Avenue/U.S. Route 29 Bypass Southbound Ramps intersection according to one of the two options below to be approved by VDOT at the time of signal design and construction.

a. Construct an additional westbound lane on Fontaine Avenue from the northwestern corner of the northbound ramps intersection to the southbound ramps intersection to provide a shared through and left-turn lane. Restripe the existing westbound lane as an exclusive left-turn lane to provide dual left-turn movements onto the southbound ramp. Both lanes will provide full-width storage between the northbound and southbound ramps intersections. Widen the southbound on-ramp to receive dual left-turns, and add a merge section to reduce the two lanes to one lane. Reconstruct the pavement between the northbound and southbound ramps and under the bridge. Install a traffic signal to operate with split-phasing and interconnect with other study area traffic signals (*these improvements are depicted on Figure 1A of Exhibit A*); OR

b. Construct an exclusive left-turn lane on the westbound approach by modifying the existing median to provide back-to-back left-turn lanes with the eastbound left-turn lane at the U.S. Route 29 Bypass Northbound Ramps intersection. Construct an additional westbound lane on Fontaine Avenue from the northwestern corner of the northbound ramps intersection to the southbound ramps intersection to provide an exclusive westbound through lane. Restripe the existing westbound lane as an exclusive left-turn lane to provide dual left-turn movements onto the southbound ramp with the addition of the new left-turn lane. Widen the southbound on-ramp to receive dual left-turns, and add a merge section to reduce the two lanes to one lane. Reconstruct the pavement between the northbound and southbound ramps and under the bridge. Install a traffic signal to operate with standard left-turn phasing and interconnect with other study area traffic signals (*these improvements are depicted on Figure 1B of Exhibit A*).

B. Fontaine Avenue/U.S. Route 29 Bypass Northbound Ramps Intersection

1. Re-stripe the westbound approach to provide one exclusive through lane and one shared through and right-turn lane. This will require widening the westbound lanes between the northbound and southbound ramps and under the bridge to two (2) lanes as noted above.

C. Fontaine Avenue/Ray C. Hunt Drive Intersection

1. Extend the northbound right-turn lane southward, to the Ray C. Hunt Drive/Ray C. Hunt Drive intersection to the south.

2. Extend the outside westbound through lane on Fontaine Avenue to a point that is 350' east of the intersection.

13. Prior to the issuance of a certificate of occupancy that would authorize the aggregate gross floor area within the Fontaine Research Park to exceed 565,000 square feet, the Owner shall design and construct approximately 200 feet of sidewalk meeting or exceeding the applicable minimum VDOT standards and located on the south side of Fontaine Avenue in the section between Stribling Avenue Extended and extending east to the City of Charlottesville boundary thereby completing the sidewalk construction of the vacant sidewalk area between two existing adjacent sidewalks.

14. Sunset Avenue/Fontaine Avenue Connector Road.

A. Future expansion of the Fontaine Research Park beyond the 875,000 square feet of gross floor area permitted by ZMA 2007-013 will likely require a second entrance into the Fontaine Research Park. This entrance would be generally located in the area shown as "Area Reserved for Future Secondary Entrance/Future Connector Road Alignment" on the Application Plan, and would be constructed to manage Research Park related traffic (the "Future Secondary Entrance Segment").

B. If the Sunset Avenue/Fontaine Avenue Connector Road, which provides the connection between Sunset Avenue and Fontaine Avenue, (the "Connector Road") is to be constructed in the approximate alignment identified as "Alternative 4" in the report entitled "Southern Urban Area B Final Report" dated September 10, 2004, the Owner shall design and construct at its expense the segment of the Connector Road within Fontaine Research Park in the general location shown on the Application Plan as "Area Reserved for Future Secondary Entrance/Future Connector Road Alignment" (which would include the Future Secondary Entrance Segment), beginning at the point where the Connector Road would intersect with Fontaine Avenue, and extending south to the point within Fontaine Research Park where it would intersect with the foot of a bridge across, or tunnel under, the railroad tracks (the "UVAF Segment"), as follows:

1. Design and construction standards: The UVAF Segment shall be designed and constructed to the same design and construction standards approved by VDOT for the segment of the Connector Road not within the Fontaine Research Park.

2. Timing of commencement and completion of construction: The Owner shall commence construction of the UVAF Segment to the standards in paragraph 14(B)(1) when construction of the Connector Road, in its entirety, including any bridge or tunnel necessary for completion thereof, not within the Fontaine Research Park, has commenced. Completion of construction shall be concurrent with completion of the remainder of the Connector Road in its entirety, unless the completion date for the UVAF Segment is extended in writing by the Director of the Department of Community Development.

3. Upgrading: Prior to the Owner's obligation to commence the design and construction of the UVAF Segment as provided in paragraph 14(B)(2), the Owner may construct an entrance from Fontaine Avenue and/or a travelway within the UVAF Segment to standards approved by the County but which may not satisfy the standards in paragraph 14(B)(1); provided that such an entrance and/or travelway within the UVAF Segment shall be replaced, reconstructed or upgraded (collectively, "upgrading") to the design and construction standards in paragraph 14(B)(1) and the upgrading shall be completed by the deadline established in paragraph 14(B)(2).

C. In the event that the Connector Road is to be constructed in an off-site location outside of the boundaries of the Fontaine Research Park, the Owner shall contribute funds toward the design and construction of the Connector Road that are equivalent to that which the Owner would have spent to construct the portion of the UVAF Segment that is not part of the Future Secondary Entrance Segment. The value of the portion of the UVAF Segment that is not part of the Future Secondary Entrance Segment shall be determined based on a reasonable cost estimate by a licensed engineer and/or construction cost estimator agreed upon by the Owner and the County. The reasonable cost estimate shall be based on Conceptual Drawings showing typical cross section and terrain, prepared by the Owner at its expense and approved by the County Engineer.

UNIVERSITY OF VIRGINIA FOUNDATION on behalf of itself, THE UNIVERSITY OF VIRGINIA HEALTH SERVICES FOUNDATION and THE RECTOR AND VISITORS OF THE UNIVERSITY OF VIRGINIA

By: _____
Tim R. Rose, Chief Executive Officer

Mr. Snow **moved** to approve SP-2007-055, SP-2009-010, SP-2009-011, SP-2009-013 subject to four conditions, and SP-2009-014 subject to one condition, as recommended by staff and the Planning Commission. Ms. Mallek **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

AYES: Ms. Mallek, Mr. Rooker, Mr. Snow, Mr. Thomas, Mr. Boyd and Mr. Dorrier.
NAYS: None.

(The conditions of approval for SP-2009-013 are set out in full below:)

1. The hospital use shall be limited to sixty (60) beds;
2. The use shall not commence until such time as appropriate state and federal approvals have been obtained;
3. Site plan shall not be signed until fire official approval has been obtained; and
4. The use shall be for inpatient medical rehabilitation and shall not provide emergency services.

(The condition of approval for SP-2009-014 is set out in full below:)

1. The supporting commercial uses shall be limited to a maximum of five (5) percent of the square footage allowed in the park. There is no minimum amount required.

Mr. Snow **moved** to approve the Modification of Section 21.4 – Height Regulations, of the Zoning Ordinance which shall allow buildings up to ninety (90) feet in height. Buildings located on Natural Resources Drive that are over thirty-five (35) feet in height shall have (1) one- ten (10) foot step back. This modification shall apply to buildings as shown on the application plan prepared by the University of Virginia Foundation and Dewberry & Davis LLC, dated May 3, 2010. The set back shown on the application plan, prepared by the University of Virginia Foundation and Dewberry & Davis LLC, dated May 3, 2010 shall apply regardless of the building heights. (If the building is located in the entrance corridor or can be seen from the entrance corridor it will be subject to the approval of the ARB or the Design Planner.) Ms. Mallek **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

AYES: Ms. Mallek, Mr. Rooker, Mr. Snow, Mr. Thomas, Mr. Boyd and Mr. Dorrier.
NAYS: None.

Agenda Item No. 18. From the Board: Matters Not Listed on the Agenda.

Mr. Tucker announced that Chief John Miller would be retiring on September 30, 2010. He recommended that the Board appoint Captain John Parent as acting Chief of Police effective October 1, 2010 until a permanent Chief is appointed.

Mr. Rooker **moved** to appoint Captain John Parent as acting Chief of Police effective October 1, 2010¹ until a permanent chief is appointed. Ms. Mallek **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

AYES: Ms. Mallek, Mr. Rooker, Mr. Snow, Mr. Thomas, Mr. Boyd and Mr. Dorrier.

NAYS: None.

Mr. Tucker mentioned the tentative Water Supply meeting being discussed for September 21, 2010. Since the meeting has not been confirmed what the Board should do since its next regularly scheduled meeting is October 6, 2010.

Mr. Davis said that if the Board does not adjourn to a specific time and place today, it would have to call a special meeting.

Ms. Mullins commented that it is her understanding the meeting is tentatively scheduled for 3:00 p.m., in Room A of the County Office Building on 5th Street.

Mr. Davis suggested the Board adjourn to that date and time. If the meeting does not occur, the Clerk would post a cancellation notice.

Agenda Item No. 19. Adjourn.

Mr. Boyd **moved** to adjourn until September 21, 2010 at 3:00 p.m. in Room A in the County Office Building – 5th Street. Mr. Rooker **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

AYES: Ms. Mallek, Mr. Rooker, Mr. Snow, Mr. Thomas, Mr. Boyd and Mr. Dorrier.

NAYS: None.

Mr. Thomas asked if there would be a time limit for that meeting.

Mr. Rooker said that he had understood it to be two hours.

Mr. Tucker commented that it would adjourn by 6:00 p.m. at the latest.

Mr. Boyd stated that the only reason for the meeting would be if the City wishes to propose some alternative to the already-approved Water Supply Plan.

Ms. Mallek noted that they would be voting on that at a City Council meeting on September 20th.

Mr. Tucker added that if Council does not take action or defer action on the Water Supply Plan, then there would be no need to meet.

There being no further business, the meeting adjourned at 8:22 p.m.

Chairman

Approved by Board
Date: 12/01/2010
Initials: EWJ