A regular meeting of the Board of Supervisors of Albemarle County, Virginia, was held on August 3, 2011, at 9:00 a.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, Thomas C. Foley, County Attorney, Larry W. Davis, Clerk, Ella W. Jordan, and Senior Deputy Clerk, Meagan Hoy.

Agenda Item No. 1. The meeting was called to order at 9:00 a.m., by the Chair, Ms. Mallek.

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

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Agenda Item No. 4. Adoption of Final Agenda.

Ms. Mallek said she had an item to discuss and would bring it up at the end of the agenda – next steps of getting details and final conditions for the MPO decision on the Route 29 Western Bypass. She said that she thinks the Board should have a full discussion about that and find ways that the Board can help to make sure that its citizens are being well looked after.

Ms. Mallek stated that she also had a request from the Virginia Association of Railway Supporters to have the County participate in installing directional signs to the railroad station, which are provided free to the County.

There were no other changes, and the agenda was accepted as proposed.

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Agenda Item 5. Recognitions.

Item No. 5a. Proclamation recognizing Women's Equality Day.

Ms. Mallek read the following proclamation and presented to Kobby Hoffman:

WHEREAS, this is the **91st Anniversary** of the Nineteenth Amendment to the U.S. Constitution giving women the right to vote in 1920; and

WHEREAS, in 1848, 163 years ago in Seneca Falls, the need was recognized and proclaimed, but after great effort there is still no reliable protection in the U.S. Constitution for women against sex discrimination in general; and

WHEREAS, in many other ways the tasks of providing equal opportunities to women and men, and the tasks of removing burdens which fall unjustly on women as compared with men remain uncompleted.

NOW, THEREFORE, BE IT RESOLVED,

that the Board of Supervisors of Albemarle County, Virginia, does hereby proclaim

August 26, 2011,
as
WOMEN'S EQUALITY DAY

in remembrance of all those women and men who have worked to develop a more equitable community, which acknowledges both the real similarities and the important differences between women and men, with liberty and justice for all.

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Item No. 5b. Proclamation recognizing The Better Business Challenge.

Ms. Mallek read the following proclamation:

Charlottesville Area Better Business Challenge Proclamation

WHEREAS, Albemarle County is recognized as an exceptionally beautiful and healthy community in which we live, work and play, rich in environmental resources and priceless assets such as the waterways farmlands, open spaces and mountain views, home to thriving businesses and having a high regard for life-long learning; and

WHEREAS, Albemarle County supports broader community economic vitality, fostered by cost-efficient operations that are not negatively impacted by rising energy costs; and

WHEREAS, Albemarle County is committed to sound, thoughtful environmental stewardship; understanding that in order to maintain the current quality of life we must take measures to operate businesses in a responsible and forward-looking manner; and

WHEREAS, Albemarle County supports the goal of lifelong learning, driving innovation and leadership in business; and

WHEREAS, Albemarle County now supports this community-wide collaboration between local governments, non-profit organizations (including churches and schools) and business organizations, including the Chamber of Commerce, called the Charlottesville Area Better Business Challenge with the goal of keeping Albemarle a vibrant and healthy community.

NOW, THEREFORE,

I, Ann Mallek, Chair, on behalf of the Albemarle County Board of Supervisors, do hereby proclaim the County's support for the Better Business Challenge, and call upon our business leaders to participate in the Challenge by enrolling before the September 15, 2011 deadline.

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Item No. 5c. SPQA Recognition for Social Services.

Ms. Mallek read the following announcement:

Albemarle County's Department of Social (ACDSS) has achieved the prestigious U.S. Senate Productivity and Quality Award for Virginia (SPQA) which recognizes commitment to performance excellence. SPQA is the Commonwealth's premier awards program for performance excellence. It provides an opportunity to compete with some of the best businesses and organizations in the state and provides for an independent evaluation by a select group of experts from business and government. The SPQA mission is to cultivate continuous performance improvement of Virginia's organizations resulting in positive economic impact for the Commonwealth.

The award represents significant effort and dedication on the part of the County's Social Services managers and staff, and reflects the County's commitment to organizational excellence as determined by a nationally recognized independent evaluation process.

The Department submitted an application following a comprehensive self-assessment in seven categories – Leadership, Strategic Planning, Customer Focus, Measurement, Analysis and Knowledge Management, Workforce Focus, Process Management and Results. The 2010 self-assessment was the Department's eighth – and is a part of the culture of the Department to continuously review and improve what they do. Over twenty staff participated in the self-assessment from all sectors of the Department.

The Department obtained this recognition during an unprecedented sustained rise in caseloads, indicating a strong commitment to continuously strive for efficient and effective public service, and Albemarle is the only DSS agency in the state to be recognized for this award.

The Department received the coveted site visit by an expert team of examiners comprised of examiners from private business and government services. The site visit lasted two days and included a visit to Greer Elementary School (to interview Family Support and Bright Stars staff) and interviews with line staff, supervisors and administrators.

This is the second SPQA award for ACDSS – the first one was in 2007.

On behalf of the Board of Supervisors, Ms. Mallek expressed how extremely proud they are of this designation. It reflects perseverance, dedication, and commitment to service. Sincere congratulations to the Department of Social Services. She then recognized those staff members in attendance and asked Director Kathy Ralston to come forward.

Ms. Ralston recognized the Social Services staff in attendance, stating that the award reflects their sustained commitment to the principles of a high-performance organization – continuous quality improvement, data-driven decision-making, team-based management, focus on results, etc. that are part of the SPQA framework, which is the same criteria that the Malcolm Baldridge Quality Award uses. She said that the challenging process itself is a statement of the Department's strong desire to provide high-quality public services to the residents of the County. Ms. Ralston stated that this is a great honor, and thanked the DSS staff.

Mr. Foley thanked all of the Social Services employees, as they are setting the example for the rest of the County departments as they move toward this recognition.

Mr. Rooker said that the Senate Productivity Quality Award is one that has both public and private operations competing. He said that it would be interesting to see how many organizations have one this award twice – as it really says a lot about the Social Services Department and the way they have operated.

Ms. Mallek stated that they are a very important part of local government, and their effort is greatly appreciated.

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NonAgenda. Ms. Mallek recognized participants in the Summer Reading Program at the Western Albemarle Crozet Library, with 605 kids signing up this year compared to 410 last year. She said the book total went from 9,500+ to 12,298 over the reading period, which underscores why this library is such a great community builder in the western half of the County.

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Agenda Item 6. From the Public: Matters Not Listed for Public Hearing on the Agenda.

Mr. Charles Battig, a County resident, addressed the Board, stating there was a discussion recently regarding the impact of environmental agents on children's health. He presented selected studies that used the Delphi Technique, which he described as being used by community organizers to control an unruly crowd and shape performance. He presented a peer-review paper using the technique to set the level of concern. Mr. Battig stated that the EPA is out of control trying to shut down coal plants over mercury, noting that U.S. power plants account for one-half of one percent of mercury emitted to North America – with the other 99.5% coming from natural and foreign sources. He said that China emits 400 tons of mercury from power plants, with the U.S. emitting 40 tons. Mr. Battig said that forest fires emit 40 tons, with cremation emitting 20 tons, and volcanoes, geysers and underwater ocean vents emitting 9,000-10,000 tons. He noted a major paper in the true science community by Roy Spencer, which points out the lack of knowledge about clouds and moisture on the climate and the effect of CO2. Mr. Battig stated that Charles Monet, who has used polar bears as an example of global warming, has been put under investigation for scientific misconduct. He also asked the Board what they thought of the U.S. Secretary of Transportation, Roy Hood's desire to force commercial licensing on all farm equipment. He further stated that the government is going after your children with climate propaganda.

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Mr. Morgan Butler, on behalf of the Southern Environmental Law Center, stated that an informed and vocal public is their greatest asset as a governing body and their best insurance against making bad decisions. Mr. Butler said that historically the County has gone to great lengths to empower the public's role in the decision-making process, but the process followed for reviving the Route 29 Bypass – beginning with the Board's late-night vote on June 8 and continuing up through the MPO public hearing last Wednesday – went in a very different direction. Mr. Butler stated that key information was routinely disclosed at the public hearings only after the public comment sessions had closed, and public comment was treated like something that had to just be gotten through before the latest information could be put on the table and discussed.

He said that at the MPO's July 14 meeting, it wasn't until after the public comment session had closed that an important draft letter from the MPO to the CTB discussing local priorities was made known and read aloud. Mr. Butler said it would have been very beneficial to get the public's input on that letter, but it was read to the public only after the comment session had closed – and the letter was finalized and sent to the CTB very soon after the MPO meeting so the public never had a real chance to provide input on it. He stated that at last week's MPO meeting, the all-important letter from the Transportation Secretary outlining his response to the MPO's requests was delivered at the very last minute and once again read to the public only after the public comment session had closed. Mr. Butler said that the fact that a majority of the MPO refused to defer a vote for a few weeks shows they had no interest in getting the public's input on that very important letter either. He stated that although there were public hearings, the fact that key information was disclosed only after the comment sections were closed shows clear disregard for the value of public input.

Mr. Butler said that this is not how you empower citizens and it is not a good recipe for decision making. He said that they hope it is not a new precedent either.

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Ms. Elly Tucker addressed the Board, stating that she is here on behalf of herself and Bill Tucker. She said that she has lived in Albemarle County for 35 years – with her husband living here for 45 years. Ms. Tucker said she is here to discuss the embarrassing actions of Supervisors Snow and Thomas at the MPO meeting of July 27. She stated that she took her 16-year-old son so he could observe local government in action, but what he saw was a complete breach of respect for the two-thirds of the public who had voiced their opinions opposing the 29 Western Bypass. Ms. Tucker said her son came away from that meeting disgusted by what he saw as an utter contempt of the good citizens of Albemarle County. She stated that her son asked her, "Mom, why do they not care at all what most of the people here are saying?"

Ms. Tucker commented that Mr. Snow and Mr. Thomas' rushing the vote that night showed a gross neglect of duty after being publicly rebuked by their constituents for their total lack of transparent – some would say sneaky and underhanded, behind-closed-doors political dealings during the infamous June 8th midnight vote. She also said that those Supervisors promised they would not vote in favor of the bypass unless they were guaranteed that this locality would have full funds for all of our required local road projects, but this "guarantee" came in the form of a letter from Transportation Secretary Connaughton, which was received just moments before the July 27th meeting began – with no one having a chance to read or digest the contents of the letter. Ms. Tucker stated that unless the two Supervisors were sure that the letter unequivocally stated that these projects would be fully funded, they had an obligation to take it back to the Board of Supervisors and their legal advisors for a full review. She said the City Councilors present felt compelled to review the letter further with their legal advisors and asked for this – but Supervisors Snow and Thomas thumbed their noses at City Councilors and their constituents. Ms. Tucker told Mr. Snow and Mr. Thomas that while they think this will be their Omni Hotel success story, it will instead surely be their Waterloo.

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Mr. Tony Vanderwalker, Chairman of the Piedmont Environmental Council, stated that the PEC has fought the bypass for 20+ years and they are gracious when they lose. Mr. Vanderwalker said that they feel that the Supervisors have given away the store by losing not only the bypass situation but improvements on Route 29 – effectively gutting the Places 29 program by only getting solid commitments on the bypass and the widening of Route 29. Secretary Connaughton's letter isn't much to stand on. He urged the Board to find solid, legal assurances for the projects that are going to directly affect traffic on Route 29 – other than the bypass and the widening. He said that otherwise the citizens will be left with a bypass, but none of the improvements that actually improve traffic flow.

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Ms. Cheri Kennedy-Early, a County resident, stated that she attended the MPO meetings, the BOS meetings, and Mr. Boyd's town hall and heard the majority of speakers say this bypass is not the road needed. She also said she went to the CTB meeting in Richmond and watched a local businessman whispering in the two Board members ears and pulling the puppet strings. Ms. Kennedy-Early emphasized that the two Supervisors listened to him and listened to Connaughton but did not listen to its citizens.

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Ms. Candace Smith, a local architect and County resident, said that she wonders if Mr. Snow and Mr. Thomas are trained as either engineers, architects, planning or zoning administrators, or attorneys. She said that all of those answers must be "yes" for them to vote without taking the letter back to the Board of Supervisors, having the County Attorney read it, and having the professionals review it – rather than acting independently. She said the MPO's responsibility is to act cooperatively and in collaboration with public input, technical data and inter-agency collaborations. She did not see any of that cooperation, she did not see any respect for the City's share of the members on the MPO, and she does not believe the two Board members have acted in the benefit and in the way the MPO is required to act. Ms. Smith said that when Mr. Snow was on the ARB he would say "well we talked about it at the meeting, what's the difference," but it was reiterated that if the words are not crafted carefully it means nothing. It is only the words on the paper trail that will make any difference as to what goes. She said that he admitted the County was blackmailed when they were told they could not get any roads unless they accepted the bypass, but he should have blackmailed right back and said there would be no bypass without roads being funded.

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Mr. Bill Jones said that he and his wife have lived in the County for 26 years and own property in both the Samuel Miller and White Hall Districts. Mr. Jones said he doesn't know all the politics involved, but obviously he is concerned that there is no teeth with the letter from the state. He stated he has been in business for many years and has learned that sometimes it is better to use it rather than lose it, and if there is a "gift of funding" for the bypass they should take it and run. Mr. Jones also said the studies have said that very few local residents go directly to Lynchburg or Washington, D.C., but he thinks a huge number of people would use the bypass – people coming from the University or Ivy or Crozet and wanting to get north – so the numbers are outdated and need to be revised.

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Mr. George Larie, a County resident, said that he is speaking for CATCO, which condemns the actions taken by the three members of the Charlottesville/Albemarle MPO on July 27 to approve construction funding for the bypass – and especially chastise Supervisors Snow and Thomas for their failure to represent citizens of the County, who have overwhelmingly rejected the project at numerous meetings. He said that at the beginning of the July 27 MPO meeting, the letter Mr. Snow and Mr. Thomas received from Secretary Connaughton was produced but only minutes before the meeting began, so members of the MPO, the Board of Supervisors and City Council – as well as citizens attending – could not have an opportunity to read it. Mr. Larie stated that the letter was purported to outline the deal made between Mr. Snow, Mr. Thomas and Secretary Connaughton regarding funding on other road priorities in the area as well as other key issues. Mr. Larie said that those Supervisors had promised the public at the July 13 Board meeting that they would not vote for the bypass unless a clear commitment from the state was given, but the Secretary's letter did not address all the County and City concerns – and did not offer a specific dollar amount or funding for local priority projects. He stated that CATCO deplores the process by which all this occurred, from the midnight vote of June 8 whereby four Board members suspended their own rules in order to revive the bypass without public comment, to the July 27 MPO meeting where County representatives denied repeated requests by City Council representatives to defer the vote until other Board and Council members – and their legal counsels – could read and evaluate the Secretary's letter. Mr. Larie said this represents our local government at its absolute worst.

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Mr. Milton Moore, a County resident, stated that the political process to revive the bypass started with the election of Governor McDonnell and ended last Wednesday at the MPO meeting. He said there were two main obstacles to overcome – the "no bypass" wording from the Board's records, which was done at the June 8 meeting when the Board's rules were suspended so that Mr. Dorrier could change his vote without public comment. Mr. Moore asked when the last time the Board's rules were suspended - he could not recall another time when this had been done. The Board meeting began at 6:05 p.m., that night, and the agenda was accepted at 6:08 with Mr. Dorrier arriving just a few minutes later. He asked if that was part of the plan. He stated that the next step was to replace Mr. Rooker on the MPO so there would be a 3-2 majority with Mr. Utterback. Mr. Moore said the next piece was the promises by Secretary Connaughton on April 4 to fund local projects in return for support of the bypass; next, his letter filled with the same promises – supposedly arriving just before last week's MPO meeting and arrogant denial of requests to delay the vote. Mr. Moore stated that they knew about the letter ahead of time, as Mr. Boyd

alluded to "$10 million in funding" as mentioned in the Secretary's letter during his Forest Lakes meeting the night before.

He emphasized that public comment often comes after the deal is done. A Freedom of Information Act document reveals that three VDOT officials met on June 16 with Mr. Sundra and when an environmental assessment was mentioned, Mr. Collin noted "we resisted and pointed out that an EA is not required by law and public involvement was not required and asked what the purpose of it is."

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Ms. Emerald Young, a County residents, stated that she is here to criticize Mr. Snow and Mr. Thomas for not deferring the MPO vote on the bypass and ignoring all of the public comment opposing the bypass. Ms. Young said they started the meeting with the Pledge of Allegiance, to uphold the vital functions of government, and when public comment was excluded they "acted subversively." She read a definition of subversive: "tending to or advocating the cause, the destruction of an established or legally constituted government." Ms. Young asked who would benefit from the bypass – the construction companies and the people who make money on the bonds that will pay for the bypass.

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Mr. John Pfaltz addressed the Board, stating that he lives on Rugby Road and strongly supports Ms. Mallek's suggestion that the Board as a whole talks to the MPO and decide where to go from here. He said he had a part in developing the 2035 long-range plan, and the bypass wasn't even considered – so the decisions were made without it on the horizon – and while he thinks it is the best thing that could happen to the transportation system, it changes a lot. Mr. Pfaltz said that the $5 million to build another lane at the Best Buy ramp to connect to the Route 250 bypass won't be needed if the bypass is built, and he would rather see that $5 million spent on transit and bike paths on the "old 29." He also stated that there was never any money for the Berkmar Bridge, and he sees some possibilities for the northern connector that would make the bridge unimportant but would make Berkmar Drive Extended up to North Grounds Research Park very, very important. Mr. Pfaltz encouraged the Board to look at the plan again and come up with some ideas.

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Mr. Max Evans addressed the Board, stating that he has lived here for over 40 years. Approximately 25 years ago the bypass was considered, and at that time he hiked the entire alignment. It is very clear to me that this is not a bypass. It runs parallel to the reservoir for over a mile and a half. It also runs parallel to Hydraulic Road for over a mile and a quarter, within hundreds of feet of that road. It clearly does not go around anything – it goes through. He stated that it is not a bypass also because it only has an access and egress point on it, and the southern interchange will remove over one and one-half miles of the existing Route 29 bypass and will cost over $75 million. Mr. Evans said that the northern interchange has never been designed, with just a conceptual plan presented at Mr. Boyd's meeting the other night – and when it was questioned the state said "well, this is just a concept; we'll work out the details on this later." He commented that officials have shown a lack of sensitivity to procedural processes, and a lack of understanding of what this road does.

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Ms. Mary Rice, a County resident for more than 20 years, stated that she has written to the Board about her feelings on this bypass, the vote that was taken and Mr. Thomas and Mr. Snow's representation on the MPO. It strikes her that there is no reason this cannot be revisited – as the conditions that were set for the bypass funding could be opened up again. She said that a lot of things have gone backwards with the process, with the Board suspending their procedures to make their initial vote, the public comment occurring after the vote, and then the public finding out about the Secretary's conditions after the public hearing. She said that she does not understand why the Board cannot address the conditions this afternoon. Ms. Rice stated that there has been lots of talk since the MPO about efficient use of government funds, and when considering all the work with Places 29 and Route 29 improvements, to think of entering into this bypass without full information on costs is such a bad idea. If costs overrun for the project and they do not get additional funding for well-established Route 29 improvements, the County would really be in bad shape.

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Ms. Tammy Moses, a County resident, said she is in total disgust, as this Board has let the community down. This Board has made deals, changed rules resulting in midnight votes – from Mr. Dorrier's sudden change of heart – without regard to public opinion. And from there, things have spiraled downward. Ms. Moses said the Board members sold the community to the CTB, who called us a hick town, but even "hicks" would not make the decisions the Board members have over the last few months. Board members personal opinion should have been set aside the day they took public oath. The oath Board members took is a binding contract to the public to be a servant to this community; the best for the community should come first. Ms. Moses stated that two-thirds of the people who spoke were against this bypass, and one-half of the one-third in support were from points south, which means 85% of this community was against this bypass. She said that Mr. Snow stated that he trusted Secretary Connaughton, and Mr. Thomas essentially followed along – ignoring the advice of the MPO Committee to postpone the decision until there was time to review the information. Mr. Thomas is in a leadership role on the MPO and as such should act in a manner fitting to be a leader. The citizens trusted both of these Board members to look out for them and look what happened. This community does not now have a legal leg to stand on for any of the initiatives determined to be important by the Board of Supervisors because those two members refused to defer action so the attorneys could take time to look over the deals. Their actions showed that they were unwilling to compromise and look at things objectively or do a cost benefit analysis, or do anything other than to carry out Secretary Connaughton's agenda.

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Mr. Dan Bieker, a resident of North Garden, stated that several Board members have indicated repeatedly that their support of the bypass was contingent upon funding for these other priority projects – and the bottom line is, that has not happened. Mr. Bieker said the Secretary of Transportation's letter says he will "recommend funding," but the CTB meeting in June did not approve funding for these other projects and there is no assurance that they will be. He said that the letter from Secretary Connaughton should and could have been read before the public comment at last week's MPO meeting, and he considers that to be a breach of public trust. Mr. Bieker stated that when it comes to transparency and integrity in local government, he thinks the citizens deserve better.

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Mr. Jeff Werner said that in his 12 years with the Piedmont Environmental Council he has heard a lot of things – including City Council's reversal on its position on the water supply, which made the Board ask why they were refusing to listen to facts. Mr. Werner said he began this year hoping that reason would prevail, but even with local residents overwhelmingly urging Board members to maintain ICLEI but they killed it because they didn't want the U.N. to take over the County. And yet Board members still scratch their heads when City Council wants to spend $30 million to dredge and get a fraction of the water they would get from a $30 million dam. Mr. Werner said that the Western Bypass came with its own selective set of facts, including the comment that it must be built because no one has come up with a better idea. He reminded the Board that earlier this year they voted 6-0 to adopt Places 29, but bypass proponents deserve credit for the build something mantra – drowning out the fact that VDOT studies did not support it. Mr. Werner stated that it was political pressure, not qualified analysis that got the bypass put ahead of local priorities. He said that the mantra paved over the fact that VDOT and this community had developed a series of improvements for Route 29, and last week's MPO vote shelved – if not scrapped – that work. Mr. Werner stated that in exchange the community will get a single, mega-million dollar half bypass. He said that the business community was determined to derail Places 29, arguing that the major commercial core must not be disrupted by major road improvements – and ironically, the Board has shelved Places 29 but has approved a quarter-billion of transportation improvements with not a single dime going to anything in the corridor. Mr. Werner stated that the PEC has long opposed the bypass but is not opposed to road construction or growth and development, adding that they support Places 29 and the Route 29/250 study. This Board needs to explain why they traded local priorities for a Lynchburg bypass and for what the NCBC wanted.

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Mr. Neil Williamson, President of the Free Enterprise Forum, said that he is disappointed at the personal attacks this morning. He appreciates all of the service from the Board members. He is also surprised at the call for citizens to come out and speak in opposition to the U.S. 29 Bypass as there have been ample public comment opportunities regarding the bypass over the last several weeks with the Board, the MPO and the CTB. Mr. Williamson said that the State has approved and appropriated $197 million for the bypass and $32.5 million to widen U.S. 29, which is significantly more money than was allocated as of June 1. This amount does not fully fund the region's transportation needs. He stated that the Secretary of Transportation has done everything in his power to request funding for other road projects, and citizens should remain engaged at the CTB level to secure that funding. Mr. Williamson said that the Board should endorse the MPO's long-range plan and move on. Otherwise, this community will be stuck repeating the same speeches, having the same arguments, and pitting neighbor against neighbor, again and again.

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Mr. Rooker encouraged citizens to attend the later part of this meeting, around 3:30 p.m., when this issue would be discussed further.

Mr. Foley clarified that the discussion would be prior to 3:30 p.m., or after 5:00 p.m., due to the joint meeting scheduled on the agenda.

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Agenda Item No. 7. Consent Agenda. **Motion** was offered by Mr. Snow to approve Items 7.1 through 7.5a on the Consent Agenda, and to accept the remaining items as information. Ms. Mallek **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

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

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Item No. 7.1. Approval of Minutes: December 1, 2010 and June 8, 2011.

Mr. Snow had read the minutes of December 1, 2010 and found them to be in order.

Mr. Thomas had read the minutes of June 8, 2011 and found them to be in order.

By the above-recorded vote, the Board approved the minutes as read.

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Item No 7.2. Resolutions for Rural Rustic Road Paving Projects – Rose Hill church Lane (Rt 762); Fortune Lane (Rt 704); Bluffton Road (Rt 672) and Happy Creek Road (Rt 608).

The executive summary states that on May 11, 2011, the Board recommended sections of Rose Hill Church Lane, Fortune Lane, Bluffton Road, and Happy Creek Road for paving under the Rural Rustic

Road program in the County's Six Year Secondary Road Priority List and VDOT's Six Year Secondary Road Construction Plan (Attachments A - D).

Rural rustic roads are paved at a width based on reduced and flexible standards that leave trees, vegetation, side slopes and open drainage abutting the roadway undisturbed to the maximum extent possible without compromising public safety. Rural rustic road standards allow a road to be paved within a 30' easement. In a traditional paving project, improvements are typically done within a 50' right of way. Rural rustic road paving projects are considerably less expensive to construct than traditional paving projects.

VDOT requires a resolution from the Board of Supervisors designating Rose Hill Church Lane, Fortune Lane, Blufton Road, and Happy Creek Road as Rural Rustic Roads and requesting that they be paved using Rural Rustic Road standards (Attachments D-G). Pursuant to the County's Rural Rustic Road Policy, adopted by the Board (Attachment I), staff will mail a letter to property owners along these road sections informing them of the paving project and that VDOT will pave the road using Rural Rustic Road standards instead of traditional paving standards. Provided no significant opposition is heard, VDOT will proceed with the projects.

These projects are included in the State's Six Year Improvement Program and are funded with state second road fund allocations.

Staff recommends the Board adopt the attached resolutions designating sections of Rose Hill Church Lane, Fortune Lane, Blufton Road, and Happy Creek Road as Rural Rustic Roads and requesting VDOT to hard surface these road segments as Rural Rustic Road paving projects (Attachments E – H).

By the above-recorded vote, the Board adopted the following resolutions designating sections of Rose Hill Church Lane, Fortune Lane, Blufton Road, and Happy Creek Road as Rural Rustic Roads and requesting VDOT to hard surface these road segments as Rural Rustic Road paving projects:

RESOLUTION

WHEREAS, Section 33.1-70.1 of the *Code of Virginia*, permits the improvement and hard surfacing of certain unpaved roads deemed to qualify for designation as a **Rural Rustic Road**; and

WHEREAS, any such road must be located in a low-density development area and have no more than 1500 vehicle trips per day; and

WHEREAS, the Board of Supervisors of Albemarle County, Virginia ("Board") desires to consider whether Route 762, Rose Hill Church Lane, From: Route 732 To: End of State Maintenance should be designated a Rural Rustic Road; and

WHEREAS, the Board is unaware of pending development that will significantly affect the existing traffic on this road; and

WHEREAS, the public has been made aware that this road may be paved with minimal improvements; and

WHEREAS, the Board believes that this road should be so designated due to its qualifying characteristics; and

WHEREAS, this road is in the Board's six-year plan for improvements to the secondary system of state highways.

NOW, THEREFORE, BE IT RESOLVED, the Board hereby designates this road a Rural Rustic Road, and requests that the District Administrator for the Virginia Department of Transportation concur in this designation; and

BE IT FURTHER RESOLVED, the Board requests that this road be hard surfaced and, to the fullest extent prudent, be improved within the existing right of way and ditch-lines to preserve as much as possible the adjacent trees, vegetation, side slopes, and rural rustic character along the road in their current state; and

BE IT FURTHER RESOLVED, that a certified copy of this resolution be forwarded to the District Administrator for the Virginia Department of Transportation.

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RESOLUTION

WHEREAS, Section 33.1-70.1 of the *Code of Virginia*, permits the improvement and hard surfacing of certain unpaved roads deemed to qualify for designation as a **Rural Rustic Road**; and

WHEREAS, any such road must be located in a low-density development area and have no more than 1500 vehicle trips per day; and

WHEREAS, the Board of Supervisors of Albemarle County, Virginia ("Board") desires to consider whether Route 704, Fortune Lane, From: Route 715 To: End of State Maintenance should be designated a Rural Rustic Road; and

WHEREAS, the Board is unaware of pending development that will significantly affect the existing traffic on this road; and

WHEREAS, the public has been made aware that this road may be paved with minimal improvements; and

WHEREAS, the Board believes that this road should be so designated due to its qualifying characteristics; and

WHEREAS, this road is in the Board's six-year plan for improvements to the secondary system of state highways.

NOW, THEREFORE, BE IT RESOLVED, the Board hereby designates this road a Rural Rustic Road, and requests that the District Administrator for the Virginia Department of Transportation concur in this designation; and

BE IT FURTHER RESOLVED, the Board requests that this road be hard surfaced and, to the fullest extent prudent, be improved within the existing right of way and ditch-lines to preserve as much as possible the adjacent trees, vegetation, side slopes, and rural rustic character along the road in their current state; and

BE IT FURTHER RESOLVED, that a certified copy of this resolution be forwarded to the District Administrator for the Virginia Department of Transportation.

———

RESOLUTION

WHEREAS, Section 33.1-70.1 of the *Code of Virginia*, permits the improvement and hard surfacing of certain unpaved roads deemed to qualify for designation as a **Rural Rustic Road**; and

WHEREAS, any such road must be located in a low-density development area and have no more than 1500 vehicle trips per day; and

WHEREAS, the Board of Supervisors of Albemarle County, Virginia ("Board") desires to consider whether Route 672, Blufton Road, From: Route 810 To: End of State Maintenance should be designated a Rural Rustic Road; and

WHEREAS, the Board is unaware of pending development that will significantly affect the existing traffic on this road; and

WHEREAS, the public has been made aware that this road may be paved with minimal improvements; and

WHEREAS, the Board believes that this road should be so designated due to its qualifying characteristics; and

WHEREAS, this road is in the Board's six-year plan for improvements to the secondary system of state highways.

NOW, THEREFORE, BE IT RESOLVED, the Board hereby designates this road a Rural Rustic Road, and requests that the District Administrator for the Virginia Department of Transportation concur in this designation; and

BE IT FURTHER RESOLVED, the Board requests that this road be hard surfaced and, to the fullest extent prudent, be improved within the existing right of way and ditch-lines to preserve as much as possible the adjacent trees, vegetation, side slopes, and rural rustic character along the road in their current state; and

BE IT FURTHER RESOLVED, that a certified copy of this resolution be forwarded to the District Administrator for the Virginia Department of Transportation.

———

RESOLUTION

WHEREAS, Section 33.1-70.1 of the *Code of Virginia*, permits the improvement and hard surfacing of certain unpaved roads deemed to qualify for designation as a **Rural Rustic Road**; and

WHEREAS, any such road must be located in a low-density development area and have no more than 1500 vehicle trips per day; and

WHEREAS, the Board of Supervisors of Albemarle County, Virginia ("Board") desires to consider whether Route 608, Happy Creek Road, From: Route 645 To: Route 646 should be designated a Rural Rustic Road; and

WHEREAS, the Board is unaware of pending development that will significantly affect the existing traffic on this road; and

WHEREAS, the public has been made aware that this road may be paved with minimal improvements; and

WHEREAS, the Board believes that this road should be so designated due to its qualifying characteristics; and

WHEREAS, this road is in the Board's six-year plan for improvements to the secondary system of state highways.

NOW, THEREFORE, BE IT RESOLVED, the Board hereby designates this road a Rural Rustic Road, and requests that the District Administrator for the Virginia Department of Transportation concur in this designation; and

BE IT FURTHER RESOLVED, the Board requests that this road be hard surfaced and, to the fullest extent prudent, be improved within the existing right of way and ditch-lines to preserve as much as possible the adjacent trees, vegetation, side slopes, and rural rustic character along the road in their current state; and

BE IT FURTHER RESOLVED, that a certified copy of this resolution be forwarded to the District Administrator for the Virginia Department of Transportation.

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Item No 7.3. FY 2011 Budget Amendment and Appropriations.

The executive summary states that Virginia Code § 15.2-2507 provides that any locality may amend its budget to adjust the aggregate amount to be appropriated during the fiscal year as shown in the currently adopted budget; provided, however, any such amendment which exceeds one percent of the total expenditures shown in the currently adopted budget must be accomplished by first publishing a notice of a meeting and holding a public hearing before amending the budget. The Code section applies to all County funds, i.e., General Fund, Capital Funds, E911, School Self-Sustaining, etc.

The total of the requested FY 2011 appropriations itemized below is $3,256.78. A budget amendment public hearing is not required because the amount of the cumulative appropriations does not exceed one percent of the currently adopted budget.

This request involves the approval of two (2) FY 2011 appropriations as follows:

- One (1) appropriation (#2011088) totaling $3,256.78 for school division donations and
- One (1) appropriation (#2011089) totaling a net amount of $0.00. This appropriation amends a previously approved appropriation, #2011087, of funding received from the Virginia Resources Authority to more accurately reflect both components of the revenue in the County's financial accounting system. $400,000.00 of the loan will be identified as "loan proceeds" and $400,000.00 in forgivable loan proceeds will be identified as "a grant." This appropriation does not increase the budget.

Staff recommends approval of the budget amendment in the amount of $3,256.78 and the approval of Appropriations #2011088 and #2011089.

****

Attachment A

Appropriation #2011088			**$ 3,256.78**
Revenue Source:	Donations:	$	3,256.78

This request is to appropriate a donation received by Henley Middle School in the amount of $2,580.00 from Henley's Parent and Teacher Support Organization. This contribution will be used to help fund the "After School At-Risk" program for the 2010-11 school year at Henley Middle School. Additionally, Henley's Parent and Teacher Support Organization provided a second donation in the amount of $946.78 to Henley Middle School, with a request that it be used to help fund the "Enrichment Time before 9" program for the month of May at Henley Middle School.

Appropriation #2011089		**$ 0.00**
	Revenue Source:	State Revenue (Grant)
	Loan Proceeds	($400,000.00)

This request is to amend Appropriation # 2011-087, which was approved on July 6, 2011, for loan proceeds from the Virginia Resources Authority, as the Department of Environmental Quality (DEQ's) financial agent, through the Virginia Clean Water Revolving Loan Fund (VCWRLF) Green Project Reserve. This will more accurately account for the two parts of the loan totaling $800,000.

The acceptance of this two-part loan, which includes a $400,000 Principal Repayment Loan and a $400,000 Principle Forgiveness Loan, was approved by the Board of Supervisors on June 1, 2011 as part of the Board's resolution to approve the structure and execution of various funding agreements with the Virginia Resources Authority to finance the costs of acquiring, designing and constructing stormwater management projects in the County.

This amendment will identify the $400,000 in Principle Forgiveness Loan portion of these proceeds as "a grant" in the County's financial accounting system.

By the above-recorded vote, the Board approved the FY 2011 budget amendment in the amount of $3,256.78 and approved Appropriations #2011088 and #2011089.

APP #2011-088
DATE 08/03/2011
BATCH NAME

COUNTY OF ALBEMARLE
APPROPRIATION

EXPLANATION: ***Appropriations from School Board meeting on June 23, 2011***

ACCOUNT NUMBER							
TYPE	**FUND**	**DEPT**	**FUNCTION**	**OBJECT**	**LOCATION**	**AMOUNT**	**DESCRIPTION**
3	2000	62000	318100	181109	6599	3256.78	Donations
4	2000	62252	461101	134100	6252	2396.66	Part Time - Teacher Aids
4	2000	62252	461101	160300	6252	879.50	Stipends-Instructional
4	2000	62252	461101	210000	6252	250.62	FICA
TOTAL						6783.56	

_____

APP #2011-089
DATE 07/06/2011
BATCH NAME

COUNTY OF ALBEMARLE
APPROPRIATION

EXPLANATION: Amendment to APP 2011-087 to include VRA-DEQ Grant/Revolving Grant

ACCOUNT NUMBER							
TYPE	**FUND**	**DEPT**	**FUNCTION**	**OBJECT**	**LOCATION**	**AMOUNT**	**DESCRIPTION**
3	9100	24000	324000	240052	1008	400,000.00	VRA-DEQ Grant/Revolving Fund
3	9100	49900	341000	410500	9999	(400,000.00)	Loan Proceeds
TOTAL						**0.00**	

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Item No 7.4. FY 2012 Budget Amendment and Appropriations.

The executive summary states that Virginia Code § 15.2-2507 provides that any locality may amend its budget to adjust the aggregate amount to be appropriated during the fiscal year as shown in the currently adopted budget; provided, however, any such amendment which exceeds one percent of the total expenditures shown in the currently adopted budget must be accomplished by first publishing a notice of a meeting and holding a public hearing before amending the budget. The Code section applies to all County funds, i.e., General Fund, Capital Funds, E911, School Self-Sustaining, etc.

The total of the requested FY 2012 appropriations itemized below is $660,428.46. A budget amendment public hearing is not required because the amount of the cumulative appropriations does not exceed one percent of the currently adopted budget.

This request involves the approval of nine (9) FY 2012 appropriations as follows:

- One (1) appropriation (#2012010) totaling $167,312.71 to the School Capital fund for various Maintenance/Replacement projects and technology upgrades at CATEC;
- One (1) appropriation (#2012011) totaling $116,453.75 for the ACE program from the Farmland Preservation's Local Purchase of Development Rights (PDR) Program; and
- One (1) appropriation (#2012012) totaling $100,000.00 to re-appropriate funding for the Grants Leveraging Fund;
- One (1) appropriation (#2012013) totaling $10,925.00 to re-appropriate reimbursable Emergency Management grants for the Emergency Communications Center (ECC);
- One (1) appropriation (#2012014) totaling $75,000.00 for a Department of Criminal Justice Services grant awarded to the Commission on Children and Families;
- One (1) appropriation (#2012015) totaling $74,947.00 for a Department of Criminal Justice Services grant awarded to Offender Aid and Restoration;
- One (1) appropriation (#2012016) totaling $40,790.00 for a Department of Criminal Justice Services grant awarded to the Police Department;
- One (1) appropriation (#2012017) totaling $0.00 to adjust the revenue sources supporting the Police Department's Victim Witness Program; and
- One (1) appropriation (#2012018) totaling $75,000.00 to re-appropriate funding for the Office of Housing's Community Development Fund, formerly titled the Community Development Loan Fund.

Staff recommends approval of the budget amendment in the amount of $660,428.46 and the approval of Appropriations #2012010, #2012011, #2012012, #2012013, #2012014, #2012015, #201216, #2012017 and #2012018.

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Attachment A

Appropriation #2012010 **$167,312.71**

Revenue Source:	School CIP Fund Balance (Funding from VDOT)	$	167,312.71

As approved by the School Board on June 9, 2011, this request is to appropriate $167,312.71 from the FY 2012 School CIP Fund Balance for School CIP projects. The revenue totaling $167,312.71 was originally received in FY 2011 from the Virginia Department of Transportation (VDOT) for the sale of land at CATEC due to the construction of the Meadow Creek Parkway.

The School Board is requesting the funding to be budgeted as follows: (a) $42,312.71 for CATEC technology upgrades as requested by CATEC's principal and (b) $125,000.00 to the School Maintenance account to offset anticipated overages for the Burley Elementary School Track project, the Albemarle High School Track and Tennis project, and three parking lot projects. Overages for these projects are primarily attributed to the increase in the cost of asphalt emulsion, polyvinyl chloride (PVC) piping, and gasoline.

Appropriation #2012011 **$116,453.75**

Revenue Source:	General Gov't CIP Fund Balance (State Matching Funds)	$	116,453.75

This request is to appropriate $116,453.75 to reimburse the County for fifty percent of the cost incurred for the purchase of an agricultural conservation easement. The purchase, through the County's Acquisition of Conservation Easements (ACE) program, totals $232,907.50.

The $116,453.75 currently included in the fund balance originated from the Local Purchase of Development Rights (PDR) Program Grant Matching Funds that were received in FY 2011 from the Virginia Department of Agriculture and Consumer Services, Office of Farmland Preservation.

Appropriation #2012012 **$100,000.00**

Revenue Source:	General Fund Fund Balance:	$	100,000.00

This request is to re-appropriate $100,000.00 for the Grants Leveraging Fund, established in October 2010 to make funds available to position the County to take advantage of potential grant opportunities that would benefit core operations. Potential use of the Fund will be in accordance with established guidelines and approved by the County Executive. All Grants Leveraging Fund appropriations will be approved by the Board. Because it has not yet been a full year since the County established this Fund, staff will continue to monitor its use, and will request that the Fund be reduced in future years if the funds are not being fully utilized.

Appropriation #2012013 **$10,925.00**

Revenue Source:	ECC Fund Balance: (State Grant Funding)	$	10,925.00

This request is to re-appropriate $10,925.00 in reimbursable Emergency Management grants for the Emergency Communications Center (ECC). These Virginia Department of Emergency Management (VDEM) grants were originally approved and appropriated in the FY 2011 budget at the Board of Supervisors meeting on June 8, 2011 and need to be re-appropriated for FY 2012 year. The purpose of these grants is to increase joint training and exercise opportunities between the community emergency sheltering partners in the Albemarle and Charlottesville jurisdictions. The sheltering partners include the Departments of Social Services, the Health Department, the Red Cross and the local office of Emergency Management.

Appropriation #2012014 **$75,000.00**

Revenue Source:	Federal Revenue:	$	71,250.00
	Local Revenue (Contribution from YMCA):	$	3,750.00

This request is to appropriate a renewal grant received from The Department of Criminal Justice Services (#12-B2141AD09) by the Commission on Children and Families in partnership with the Albemarle County Department of Social Services, Piedmont Family YMCA, Albemarle County Public Schools and the Broadus Memorial Baptist Church to operate an after-school program for students at Stony Point Elementary. The grant includes $71,250.00 in federal funds and $3,750.00 in matching funds from the YMCA for a total award of $75,000.00. There is no local match. The Commission on Children and Families expects to receive this grant for an additional year or through June 30, 2013. A Steering Committee has been formed and is charged with looking at ways to sustain this program after the grant is no longer received. Once appropriated, the County Executive will sign the necessary grant award and submit to the funding agency.

Appropriation #2012015 **$74,947.00**

Revenue Source:	Federal Revenue:	$	71,200.00
	Local Revenue (Contribution from CCJB):	$	3,747.00

This request is to appropriate a Department of Criminal Justice Services grant (#12-A2156AD09) that will be managed by Offender Aid and Restoration with the County of Albemarle as fiscal agent. The grant includes $71,200.00 in federal funds and $3,747.00 in matching funds that will be provided by the Community Criminal Justice Board (CCJB) for a total award of $74,947.00. The grant will support the Criminal Justice Planner position which provides training for Crisis Intervention Treatment (CIT) teams.

The goals of the project are to organize all participating CIT teams and programs (mental health and criminal justice) within the Commonwealth, to develop data and statistical collection documents and to use a software database system to collect and organize the required data mandated by the General Assembly enacted in Senate Bill #1294. Once appropriated, the County Executive will sign the necessary grant award and submit to the funding agency.

Appropriation #2012016		**$40,790.00**
Revenue Source:	Federal Revenue:	$ 40,790.00
	Grants Leveraging Fund:	$ 2,148.00

This request is to appropriate a Department of Criminal Justice Services (DCJS) $40,790.00 grant (#12-B2149AD09) provided to the Police Department. This grant requires a local match of $2,148.00 for a total appropriation of $42,938.00. The $2,148.00 local match is requested to be funded through the County's Grants Leveraging Fund. (The Grants Leveraging Fund's re-appropriation request is included above as Appropriation #2012012.)

The DCJS grant will continue to support the Police Department's efforts to improve evidence collection and management techniques and related technology for improving crime scene investigations, evidence collection and management, criminal case development, effective criminal prosecutions and public safety. Once the grant monies are appropriated, the County Executive will sign the necessary grant award and submit to the funding agency.

Appropriation #2012017		**$0.00**
Revenue Source:	Federal Revenue:	$ 1,657.00
	General Fund Fund Balance:	($ 1,657.00)

This request is to adjust the revenue sources supporting the Police Department's Victim Witness Program. The grant revenue to be received in FY 2012 from the Department of Criminal Justice Services for this program will be $1,657.00 greater than the amount included in the FY 2012 budget and appropriated on May 11, 2011. This additional federal grant revenue will reduce the amount of local support needed for this program by the same amount, resulting in no change in the total program or to the County's budget.

Appropriation #2012018		**$75,000.00**
Revenue Source:	General Fund Fund Balance:	$ 75,000.00

This request is to re-appropriate $75,000.00 which is the balance of funding that remains available in the Office of Housing's Community Development Fund, formally titled the Community Development Loan Fund.

This funding was approved in FY 2011 to be expended for energy-related improvements to the Meadowlands Apartments. The improvements include roofing and siding replacement and the installation of a solar array to heat water. The project will be undertaken by Jordan Development Corp. and the Piedmont Housing Alliance (PHA). PHA has recently submitted a revised budget for the project and has been successful in receiving all of the needed funding for the repairs listed above and is working with the state and outside agencies to obtain additional funding for window replacements. An agreement has been executed and the siding and roofing replacements is anticipated to start within the next month. The project will be completed in FY 2012.

By the above recorded vote, the Board approved the budget amendment in the amount of $660,428.46 and approved Appropriations #2012010, #2012011, #2012012, #2012013, #2012014, #2012015, #201216, #2012017 and #2012018.

							APP #	**2012-010**
							DATE	**08/03/2011**
							BATCH NAME	
COUNTY OF ALBEMARLE								
APPROPRIATION								
EXPLANATION:								
Sale of Land at CATEC to the Virginia Department of Transportation (VDOT)								
ACCOUNT NUMBER								
TYPE	**FUND**	**DEPT**	**FUNCTION**	**OBJECT**	**LOCATION**	**AMOUNT**	**DESCRIPTION**	
3	9000	69000	351000	510100	6599	167,312.71	Appropriation Fund Balance	
4	9000	69990	468100	800700	6305	42,312.71	CATEC Technology Upgrades	
4	9000	69980	466730	800949	6599	125,000.00	School Maintenance	
TOTAL						**334,625.42**		

							APP #	2012-011
							DATE	08/03/2011
							BATCH NAME	
COUNTY OF ALBEMARLE								
APPROPRIATION								
EXPLANATION:								
ACE Reibursement from VDACS Office of Farmland Preservation PDR Program - Thurman Property								
ACCOUNT NUMBER								
TYPE	FUND	DEPT	FUNCTION	OBJECT	LOCATION	AMOUNT	DESCRIPTION	
3	9010	51000	351000	510100	9999	$116,453.75	Appropriation F/B	
4	9010	81010	481020	580409	1240	$116,453.75	ACE	
TOTAL						232,907.50		

							APP #	2012012
							DATE	08/03/2011
							BATCH NAME	
COUNTY OF ALBEMARLE								
APPROPRIATION								
EXPLANATION:								
Grants Leveraging Fund								
ACCOUNT NUMBER								
TYPE	FUND	DEPT	FUNCTION	OBJECT	LOCATION	AMOUNT	DESCRIPTION	
3	1000	51000	351000	510100	9999	100,000.00	Appropriation from fund balance	
4	1000	99900	499000	999974	9999	100,000.00	GRANTS LEVERAGING	
TOTAL						200,000.00		

							APP #	2012-013
							DATE	08/03/2011
							BATCH NAME	
COUNTY OF ALBEMARLE								
APPROPRIATION								
EXPLANATION:								
ECC Grant Reappropriation								
ACCOUNT NUMBER								
TYPE	FUND	DEPT	FUNCTION	OBJECT	LOCATION	AMOUNT	DESCRIPTION	
3	4130	51000	351000	510100	9999	10,925.00	App - ECC Fund Balance	
4	4130	31067	435600	312500	1003	8,000.00	Prof Services Instruction	
4	4130	31067	435600	600000	1003	2,000.00	Materials and Supplies	
4	4130	31068	435600	601315	1003	925.00	Safety Equipment	
TOTAL						21,850.00		

APP #	**2012-014**
DATE	**08/03/2011**
BATCH NAME	

COUNTY OF ALBEMARLE
APPROPRIATION

EXPLANATION:
CCF Grant
DCJS Grant # 12-B2141AD09

ACCOUNT NUMBER							
TYPE	**FUND**	**DEPT**	**FUNCTION**	**OBJECT**	**LOCATION**	**AMOUNT**	**DESCRIPTION**
3	1585	33000	318110	330037	1005	71,250.00	Revenue - Department of Criminal Justice
3	1585	18110	333000	181325	1005	3,750.00	Revenue - Piedmont YMCA
4	1585	53162	453010	312210	1005	61,845.00	Consultant Fees
4	1585	53162	453010	550000	1005	620.00	Travel
4	1585	53162	453010	600260	1005	1,000.00	Food/Meals for Meetings
4	1585	53162	453010	580100	1005	500.00	NAEC Dues
4	1585	53162	453010	310000	1005	60.00	Criminal Record Checks (Professional Services)
4	1585	53162	453010	550100	1005	750.00	Paths Training
4	1585	53162	453010	520300	1005	565.00	Telecommunications
4	1585	53162	453010	601300	1005	4,001.00	School Supplies
4	1585	53162	453010	600100	1005	559.00	Office Supplies
4	1585	53162	453010	580000	1005	5,100.00	Miscellaneous Expenses
TOTAL						**150,000.00**	

APP #	**2012-015**
DATE	**08/03/2011**
BATCH NAME	

COUNTY OF ALBEMARLE
APPROPRIATION

EXPLANATION:
CIT Grant
DCJS Grant #12-A2156AD09

ACCOUNT NUMBER							
TYPE	**FUND**	**DEPT**	**FUNCTION**	**OBJECT**	**LOCATION**	**AMOUNT**	**DESCRIPTION**
3	1519	33000	333000	330400	1003	71,200.00	Federal Revenue (DCJS)
3	1519	18110	318000	181310	1003	3,747.00	Community Criminal Justic Bd
4	1519	29412	421090	566122	1003	74,947.00	Community Criminal Justic Bd
TOTAL						**149,894.00**	

APP #	**2012-016**
DATE	**08/03/2011**
BATCH NAME	

COUNTY OF ALBEMARLE
APPROPRIATION

EXPLANATION:
Police Grant from DCJS
Grant #12-B2149AD09

ACCOUNT NUMBER							
TYPE	**FUND**	**DEPT**	**FUNCTION**	**OBJECT**	**LOCATION**	**AMOUNT**	**DESCRIPTION**
3	1586	33000	333000	330412	1003	$40,790.00	DCJS Byrne JAG Categorical Aid Fed Byrne JAG
3	1586	51000	351000	512004	9999	$2,148.00	TRS FR Grant Leveraging Fund (General Fund)
4	1586	31013	431010	800100	1003	$35,454.00	Machinery and Equipment
4	1586	31013	431010	312210	1003	$4,499.00	contracted services-soundproofing
4	1586	31013	431010	312716	1003	$2,985.00	contracted services-software maintenance
4	1000	99900	499000	999974	9999	-$2,148.00	GRANTS LEVERAGING
4	1000	93010	493010	930200	9999	$2,148.00	Transfer to Fund 1586
TOTAL						**85,876.00**	

							APP #	2012-017
							DATE	08/03/2011
							BATCH NAME	
COUNTY OF ALBEMARLE								
APPROPRIATION								
EXPLANATION:								
Victim Witness Grant Adjustment								
ACCOUNT NUMBER								
TYPE	FUND	DEPT	FUNCTION	OBJECT	LOCATION	AMOUNT	DESCRIPTION	
3	1225	24000	324000	240500	9999	414.00	GRANT REVENUE-STATE	
3	1225	33000	333000	330001	9999	1,243.00	GRANT REVENUE-FEDERAL	
3	1225	51000	351000	512004	9999	(1,657.00)	Transfer from General Fund	
4	1000	31013	431010	930200	1003	(1,657.00)	Transfer to Victim Witness Fund	
3	1000	51000	351000	510100	9999	(1,657.00)	App - Fund Balance	
TOTAL						(3,314.00)		

							APP #	2012018
							DATE	08/03/2011
							BATCH NAME	
COUNTY OF ALBEMARLE								
APPROPRIATION								
EXPLANATION:								
Reappropriate Office of Housing's Community Development Loan Fund								
ACCOUNT NUMBER								
TYPE	FUND	DEPT	FUNCTION	OBJECT	LOCATION	AMOUNT	DESCRIPTION	
3	1000	51000	351000	510100	9999	75,000.00	Appropriation from fund balance	
4	1000	81030	481030	563150	1008	75,000.00	COMMUNITY DEVELOP LOAN FD	
TOTAL						150,000.00		

Item No 7.5. Resolution in Support of the Restoration of State Funding for Aid to Localities.

The executive summary states that the Commonwealth of Virginia has implemented $60 million in across-the-board funding cuts to cities and counties for mandated, essential, and high priority programs and services such as public education, health and human services, public safety and constitutional officers since FY 09. The reductions in state aid to local governments are not accompanied by any reductions in state-imposed mandates, standards and service requirements, nor do they provide any administrative flexibility for localities, thereby shifting the state costs to local taxpayers.

According to the Governor's website: http://www.governor.virginia.gov/, Virginia's 2011 Budget surplus is $311 million. This is the second consecutive year that the state has reported a budget surplus.

In light of the state's surpluses and the challenges localities face due to their dependence on real estate revenues, the Executive Director of Virginia Municipal League (VML) and the Executive Director of the Virginia Association of Counties (VACO) have requested that counties and cities across the state adopt a resolution supporting the restoration of the $60 million in state funding for aid to localities in each year of next year's Budget Bill.

The County has been informed by the state that it will receive $592,574 in state reductions in FY12. Under the Appropriation Act, localities are required to either elect to take reductions in particular state aid programs or to reimburse the state an amount determined by the state. The County has elected to take these reductions through a combination of program reductions and a reimbursement payment to the state.

In addition, the Albemarle/Charlottesville Regional Jail also received a reduction in state funding in the amount of $288,863 in FY 12.

The attached resolution (Attachment A) requests that the Governor submit a budget amendment to the 2012 session of the General Assembly to reverse the $60 million-a-year reduction for the current year (FY12) and to eliminate the aid to localities reduction in the budgets submitted for FY13 and FY14. It further requests that that the members of the General Assembly support a budget amendment to the 2012 session of the General Assembly to reverse the $60 million-a-year reduction for the current year and to eliminate the aid to localities reduction in the budgets submitted for FY13 and FY14.

The County's impact from the state's "Reductions in Aid to Localities" has been a cumulative loss of $2,133,602 in state funding for mandated and essential programs since FY 09.

Staff recommends that the Board adopt the attached Resolution in Support of the Restoration of State Funding for Aid to Localities.

By the above-recorded vote, the Board adopted the following resolution:

RESOLUTION IN SUPPORT OF RESTORATION OF STATE FUNDING FOR AID TO LOCALITIES

WHEREAS, financial assistance from the Commonwealth of Virginia for mandated and high priority programs, including public education, health and human services, public safety and constitutional officers, is $800 million less in FY12 than in FY09; and

WHEREAS, cities and counties must balance their budgets during a time in which future state assistance is unreliable, federal stimulus dollars are dwindling, and real estate assessments have not fully stabilized; and

WHEREAS, the Appropriation Act contains $60 million in across-the-board cuts to cities and counties for both FY11 and FY12, under which localities are required to either elect to take reductions in particular state aid programs, or to send the state a check for the amounts determined by the Department of Planning and Budget ("Local Aid to the State"); and

WHEREAS, the reductions are applied to essential services, including law enforcement, jail administration, foster care and child protection services, election administration and social services; and

WHEREAS, the County of Albemarle does not have the authority to unilaterally decide to discontinue providing services such as election administration or to refuse to house and care for state prisoners in local and regional jails; and

WHEREAS, the state budget cuts are not accompanied by any reductions in state-imposed mandates, standards and service requirements, nor do they provide any administrative flexibility for local agencies; and

WHEREAS, the County of Albemarle has elected to take the $592,574 in FY12reductions through a combination of program reductions and a reimbursement payment to the State; and

WHEREAS, the Albemarle/Charlottesville Regional Jail has also been impacted by the reductions in state funding and has been required to take a reduction of $288,863 in FY 12; and

WHEREAS, cities and counties will have provided the state with $220 million by the close of FY12 for this "Local Aid to the State" program; and

WHEREAS, specifically, Albemarle County has received a total of $ 2,133,602 in reductions in these particular state aid programs since FY 09.

WHEREAS, these reductions shift state costs to local taxpayers and artificially increases the amount of state surplus revenue; and

WHEREAS, state revenues have begun to recover and the state is expecting to have a revenue surplus of $311 million, the second consecutive year in a row of state surpluses; and

WHEREAS, the state should not shift its share of the costs for mandates and responsibilities to local governments.

NOW, THEREFORE, BE IT RESOLVED that the County of Albemarle Board of Supervisors asks Governor Bob McDonnell to submit a budget amendment to the 2012 session of the General Assembly to reverse the $60 million-a-year reduction for the current year, FY12, and to eliminate the aid to localities reduction in the budget submitted for FY13 and FY14; and

BE IT FURTHER RESOLVED that the members of the General Assembly support a budget amendment to the 2012 session of the General Assembly to reverse the $60 million-a-year reduction for the current year, FY12, and to eliminate the aid to localities reduction in the budget submitted for FY13 and FY14.

Item No 7.5a. Resolution to accept Fortune Park Road in Forest Lakes North, Commercial Area, into the State Secondary System of Highways.

At the request of the County Engineer, and by the above-recorded vote, the Board approved the following resolution:

RESOLUTION

WHEREAS, the street(s) in Forest Lakes North, Commercial Area, as described on the attached Additions Form AM-4.3 dated August 3, 2011, fully incorporated herein by reference, is shown on plats recorded in the Clerk's Office of the Circuit Court of Albemarle County, Virginia; and

WHEREAS, the Resident Engineer for the Virginia Department of Transportation has advised the Board that the street(s) meet the requirements established by the Subdivision Street Requirements of the Virginia Department of Transportation.

NOW, THEREFORE, BE IT RESOLVED, that the Albemarle Board of County Supervisors requests the Virginia Department of Transportation to add the street(s) in **Forest Lakes North, Commercial Area,** as described on the attached Additions Form AM-4.3 dated **August 3, 2011**, to the secondary system of state highways, pursuant to §33.1-229, Code of Virginia, and the Department's Subdivision Street Requirements; and

BE IT FURTHER RESOLVED that the Board guarantees a clear and unrestricted right-of-way, as described, exclusive of any necessary easements for cuts, fills and drainage as described on the recorded plats; and

FURTHER RESOLVED that a certified copy of this resolution be forwarded to the Resident Engineer for the Virginia Department of Transportation.

* * * * *

The road(s) described on Additions Form AM-4.3 is:

1) **Fortune Park Road (State Route 1754)** from the intersection of Route 1722 (Worth Crossing) to the west end of State maintenance, as shown on plat recorded in the office the Clerk of Circuit Court of Albemarle County in Deed Book 2464, pages 27-28, with a 50-foot right-of-way width, for a length of 0.06 miles.

Total Mileage – 0.06

Item No 7.6. FY 2011 4th Quarter Cash and Non-Cash Proffer Report, **was received for information.**

The executive summary states that Beginning in 2007, the Board directed staff to provide a quarterly update on the status of cash proffers. Since that time, the report has been expanded to also include updates on non-cash proffers that benefit the County and mitigate impacts of development. This report includes proffer activity (both cash and non-cash improvements) for the months of April through June 2011 (FY2011 4th quarter). The next quarterly proffer report will be on the Board's November 2nd agenda and will include the County's annual report to the State.

Cash Proffers April-June 2011 (4th Quarter Fiscal Year 2011)

Proffered: There were no rezoning requests approved this quarter that provided new cash proffers.

A. **Total Obligated Cash Proffers:** Since no new rezonings were approved during the 4th quarter that increased obligated cash proffers, the total obligated cash proffers remains the same as last quarter ($38,851,330).

B. **Revenue:** The County received a total of $91,127 from existing cash proffers during this quarter from the following developments:

Martha Jefferson Hospital	$60,527	Establish or enhance transit to the hospital
Belvedere	$5,000	Affordable Housing
Liberty Hall	$25,600	CIP projects in the Community of Crozet

C. **Total Interest Earnings:** The amount of interest earned during this quarter from collected cash proffers is not available. Interest earned in the attached table is through March 2011. Because of the Access Albemarle conversion process, interest has not yet been posted for the 4th quarter (April-June 2011).

D. **Expenditures:** There were no appropriations of proffer revenue during this quarter. On January 12, 2011, the Board appropriated contributions of proffer revenue ($111,385.21) to the Albemarle Housing Improvement Program (AHIP), Jordan Development/Piedmont Housing Alliance (PHA), and Habitat for Humanity, contingent upon the Office of Housing negotiating and executing agreements with each agency for the use of the funds. The Office of Housing reports that these agreements are in place and following is a summary of the status of work:

- AHIP utilized 100 percent of its funding to complete 12 housing rehabilitation projects.
- Habitat for Humanity has completed electrical repairs on 210 mobile homes in the Southwood Mobile Home Park representing completion of approximately two-thirds of this project.
- An agreement has been executed with Jordan Development for the Meadowlands Apartments and Jordan/PHA have received quotes for the roof and siding replacement. Funding for this work will be reappropriated into FY12 to allow for completion of this project.

E. **Current Available Funds:** As of June 30, the available cash proffer fund balance is $1,302,828. Some of these funds were proffered for specific projects while others may be used for general projects within the CIP. (See Attachment A)

Non Cash Proffers

Proffered: ZMA 2010-012-King Property was approved on April 20, 2011 to rezone 0.85 acres from RA, Rural Areas to LI, Light Industrial with proffers that prohibit certain LI uses on the property.

Affordable Housing Units: During this reporting quarter, Liberty Hall provided five (5) of the eight (8) for-sale affordable units which were proffered with this development.

Staff will continue to keep the Board informed on non-cash proffers, including Transportation, Affordable Housing, Parks, Fire Rescue, Schools, and other land dedications. Staff will also include the estimated cash value of satisfied non-cash proffers when reporting in future reports to the Board.

Cash proffers are a valuable source of revenue that supplements the funding of important County projects that would otherwise be funded by general tax revenue. In addition, non-cash proffers provide improvements that might otherwise need to be funded by general tax revenue. With elimination of positions in Community Development, a full time position is no longer devoted to proffers; instead, approximately one-half of a zoning planner's time is devoted to managing this program. While there has not been as many proffered rezonings approved recently, staff is still responsible for tracking existing proffers for already approved projects, including Old Trail Village, Belvedere, and more recently, The Shoppes at Stonefield (Albemarle Place).

This summary is provided for information on proffer activity and no action is required. Staff welcomes any comments for improvements from the Board that they may wish to see in the future.

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Item No 7.7. Update on the Status of Transitional Comprehensive Services Act Administrative Functions, **was received for information.**

The executive summary states that Based on the recommendations of the County's 2009 Resource Management Review Study ("RMRS") as well as a subsequent staff evaluation of the manner in which the City and County managed Comprehensive Services Act ("CSA") administrative support functions, the Board of Supervisors authorized the transfer of funding and responsibility for this service from the Commission on Children & Families (CCF) to the Albemarle County Department of Social Services on July 1, 2010.

On January 5, 2011 staff provided a report to the Board regarding the first six months of the new structure. The report outlined the transition process and included details regarding the ongoing management of vendor contracts, files and case records, the Community Policy Management Team (CPMT) website, CSA policies, the Family Assessment and Planning Team ("FAPT") scheduling docket and a communication strategy for all of the stakeholders. The report also addressed the RMRS study recommendation to reorganize the administration of CSA so that those managing the process had access to all County and City financial records and had an understanding of CSA and social service policy so that the system could be streamlined. This report also noted that the Charlottesville and Albemarle CPMTs planned to develop a formal feedback survey at the end of the first year of operation and report the findings back to the Board.

The purpose of this Executive Summary is to present to the Board the results of this survey for its review and information.

County staff developed a feedback survey for all CSA system stakeholders and deployed it in May 2011. The online survey was made available for two weeks and allowed respondents an opportunity to rate the functioning of several key areas of the Charlottesville and Albemarle CSA systems. Sixty-seven (67) professionals participated in the survey yielding a 64.4% response rate, which is considered an acceptable rate of completion for the survey. 55.9% or more respondents rated all areas of interaction between practitioners and those responsible for CSA Administration as having shown improvement since the transition. In terms of specific functional areas, respondents indicated that since the transition: 1) communication with CSA partner agencies has improved (65% of total), 2) access and reliability of CSA policy expertise is enhanced (86.9% of total), 3) efficiency of FAPT scheduling process is improved (83.3% of total), 4) CSA Coordinators are more accessible to answer questions and/or provide guidance (90% of total), 5) improved training on CSA related policies and procedures is provided (76.7% of total), 6) closer adherence to the Community Practice Model has been attained (65.5% of total), and 7) greater engagement of families in service planning occurs (55.9% of total).

In summary, overall feedback regarding the transition of the CSA Administration from CCF to the County's Department of Social Services in 2010 is positive. The increased capacity of the CSA Coordinators was noted throughout all feedback. Streamlining all aspects of the administrative process was also a highlight of the transition. Opportunities for continued improvement include expanded/more frequent communication with the CSA partner agencies and an increased emphasis on a "systems of care" approach incorporating the community practice model focus. The full report is provided as an attachment (Attachment A) including responses to open ended questions related to how well the system was working and what could be improved.

In FY2011-12, CSA administrators for both the City and County, including their respective CPMTs, will work in concert to continue to deliver quality and affordable services to youth in need including researching how other CPMTs work collaboratively in the state. The results of this research may lead to further efficiencies, to include the County and City CPMTs establishing a Consortium in order to jointly identify, discuss and create policies for community-wide services. Should the results of this research

require modifications to the Board's resolution authorizing and empowering the County CPMT, it will be brought forward for consideration.

Additional budget impacts to this program are not anticipated at this time beyond the operating cost savings realized by the County in its FY2011 budget ($25,600) due to transitioning CSA Administrative functions from CCF to the Albemarle County Department of Social Services. However, should additional state unfunded mandates be enacted and/or other events outside the control of the County occur, such as further reductions to state administrative funding for this program, the County may be faced with incurring additional costs to administer the provision of required CSA services.

This report is for information only. No action is required by the Board.

Item No 7.8. Update on NACO Prescription Drug Discount Card, **was received for information.**

The executive summary states that In January, 2011, Albemarle County launched a discount card program to help consumers cope with the high price of prescriptions. The County is making free prescription drug discount cards available under a program sponsored by the National Association of Counties (NACo) that offers average savings of 24 percent off the retail price of commonly prescribed drugs. The cards may be used by all County residents, regardless of age, income, or existing health coverage, and are accepted at 23 County pharmacies. A national network of more than 60,000 participating retail pharmacies also honor the NACo prescription discount card. This executive summary provides results for the first six months of the program.

County residents can visit www.caremark.com/naco to print an ID card and use it immediately at any participating pharmacy. Cards are also available at the Albemarle County Department of Social Services (ACDSS) at the County Office Building on 5th Street, the Thomas Jefferson Health District on Rose Hill Drive, and Martha Jefferson Hospital.

Overall program highlights:

- 1,411 counties currently participate in this program (almost half of the nation's counties)
- $404 Million saved
- 32.7 million prescriptions filled
- 25.1 % overall average savings

The following highlights reflect activity in Albemarle County related to the discount drug cards from January through June, 2011:

- 353 persons have participated in the program by filling at least one prescription using the discount card.
- The average price savings per prescription for this period is $13.24, or 18.7%.
- For 64% of the prescriptions filled, the discount drug card produced a lower price than any other discount available, including special purchase arrangements offered by individual pharmacies.
- Price savings achieved by the program have increased each month.

Because of the obvious positive benefits of the program, the County will continue to actively promote and support the NACO discount drug program.

There is no budget impact to this program.

This item is for information only. No action is required by the Board.

Item No 7.9. CIP projects by Magisterial District, **was received for information.**

Item No 7.10. Regional Planning Grant/Review of County Staff Work Program, **was received for information.**

Recent economic challenges, coupled with the availability of additional Federal, State and regional grant opportunities to support economic and job growth, environmental efforts and many community health and safety needs, raised the County's interest and involvement in competing for grants. While individual departments had varying experience with applying for and receiving grants, the County recognized a need to develop consistent, effective, and efficient procedures for use by departments and outside agencies to apply to grant opportunities. The following initiatives were implemented:

2009

- The County Executive created a Grants Team of County staff with experience in grant writing to develop procedures for and provide guidance to departments and agencies involved in grant application and administration.

- The Board of Supervisors authorized the County Executive or his designee to act on behalf of the County to execute grant applications or proposals along with any necessary certifications and supporting or related contracts or documents required to retain or accept a grant, provided that such documents are approved as to form and content by the County Attorney. (Attachment A)

- The County Executive and County Attorney approved County administrative policies regarding the application for and management of grants. (Attachment B)

- The County established an internal grant tracking process, and initiated training programs to enhance the County's ability to write, obtain and manage grants.

In September 2010 the Board approved the establishment of a "Grants Leveraging Fund" with an initial funding of up to $100,000 from the County's FY 09/10 year-end operational expenditure savings. Use of this fund is based upon a set of strict policies and guidelines so that the County's matching contributions would be provided to support core County priorities and grants that would provide an adequate return on investment.

In May 2011, Ron White, the Director of Housing, who has extensive background in grants management, took a leadership role in providing guidance and oversight to departments when they are considering the pursuit of a grant, providing assistance with County process for outside agencies for which the County is a fiscal agent, and for coordination and management of the County's grant management processes and procedures including the Grant Leveraging Fund in addition to his other duties.

In June 2011, Board members requested additional information on the County's Grant Approval Process and ways to ensure that Board members are better informed regarding the County's pursuit of Grant Opportunities.

There are several different types of grant opportunities pursued by the County. There are grants which are on-going and reliable sources of funding that support governmental services and therefore are included in the County's annual budget, such as the Victim Witness Grant and the Community Corrections grant. In addition, the Police Department has a history of success in obtaining Criminal Justice Department (DCJD) grants and continues to apply for and receive renewals of grants that have been awarded to the County and approved by the Board of Supervisors in past years. The County also serves as fiscal agent to other entities that receive grants such as the Emergency Communications Center (ECC) and the OAR/Jefferson Area Community Corrections Program. Other grant awards are periodically pursued by County departments after receiving approval to do so by the County Executive's Office.

Given current economic times, the County's ability to take advantage of grant opportunities, to leverage tax dollars, and to increase its ability to pursue outside funding for important County initiatives and to support core services continues to be of critical importance.

To be successful in receiving grant awards, it is important that the County has an efficient grants application process which provides the County with flexibility to enable the staff to be successful and meet the tight timelines associated with many grant offerings. At the same time, it is important that the Board of Supervisors be kept informed of grant initiatives and has the opportunity to provide input when requested by the County Executive on County grant applications that may obligate County to future requirements or may not support critical governmental programs and/or Board priorities.

The Board of Supervisors retains ultimate control over grants because it must appropriate all grant funds including matching funds as necessary prior to the expenditure of grant funding by the County.

The award of a grant to the County helps to fund critical services for citizens that would otherwise be funded by general tax revenue or not funded.

To ensure the County continues to have the flexibility to be competitive regarding grant opportunities, while ensuring the Board of Supervisors is informed of and approves the pursuit of certain grant opportunities, staff recommends:

- For the majority of grant opportunities including renewal grants, the Board reaffirm its May 2009 Resolution to authorized the County Executive or his designee to act on behalf of the County to execute grant applications or proposals along with any necessary certifications and supporting or related contracts or documents required to accept a grant, provided that such documents are approved as to form and content by the County Attorney. For those grants that may require on-going County resources after the grant has expired or that do not support critical government services and/or Board priorities, the County Executive will seek Board guidance prior to authorizing staff to submit an application; and

- On a periodic basis, the County Executive shall provide updates to the Board of Supervisors regarding grant applications that have been submitted by the County and status updates of grants received.

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Agenda Item No. 8. **PUBLIC HEARING: PROJECT: SP 2011-00003 Scottsville Elementary School/AT&T CV434 Tier III PWSF**.

PROPOSED: A seventy three (73) foot AT&T treetop monopole and associated ground equipment.
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 (48) which allows for Tier III personal wireless facilities in the RA Zoning District.
COMPREHENSIVE PLAN LAND USE/DENSITY: Rural Areas in Rural Area 4 - Preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources/ density (.5 unit/acre in development lots).
ENTRANCE CORRIDOR: YES.
LOCATION: Scottsville Elementary School- 7868 Scottsville Road [State Route 20].
TAX MAP/PARCEL: 13000-00-00-025P.
MAGISTERIAL DISTRICT: Scottsville.
(Advertised in the Daily Progress on July 18 and July 25, 2011.)

Ms. Megan Yaniglos, Senior Planner, stated that this is a proposal to install a 73-foot steel monopole, and associated equipment house and shelter on the Scottsville Elementary School property. She explained that this property is located within 250 feet of Route 20 – a Virginia Scenic Byway, which the open space plan identifies as an avoidance area. She stated that the property is also adjacent to properties that are located in the Southern Albemarle Rural Historic District, which is also an avoidance area. She presented maps showing the approximate location of the facility – which is in an open area, not in a wooded area that would mitigate its visibility. Ms. Yaniglos also presented maps of the broader surrounding area, and photographs of the balloon test that were conducted in March when the leaves were not out. She stated that another balloon test was conducted in June by the applicant, but staff could not attend.

Ms. Yaniglos presented photographs, including some taken just south of Fairview Lane on the east side of Route 20 from a property that is in the Southern Albemarle Rural Historic District, and one taken from a car traveling south on Route 20 that shows the balloon to be highly visible and directly in the driver's line of sight. She presented another photo that was taken at the church property just north of the school site, and one taken south of the site on another property within the historic district. Ms. Yaniglos also presented photo simulations that the applicant provided from the March balloon test, the first being of the equipment shelter and fence, with the plans including landscaping that will mitigate the bottom of the facility and additional screening provided by the applicant near the entrance of the school. She showed a side-by-side comparison of what the facility would look like when the leaves are out and during wintertime.

Ms. Yaniglos mentioned that the wireless policy was written to establish polices and guidelines and recommend standards and approaches to use in the review of personal wireless service facility applications. The policy states that Planning Commissioners, Supervisors and staff should follow this policy when evaluating personal wireless service applications. She said that the most important principle for siting personal wireless service facilities in Albemarle County is visibility, and the County should require that sufficient information be submitted with the application to measure its visibility – and the less it can be seen, the more likely it is to be approved. Ms. Yaniglos stated that personal wireless service facilities should not be located in avoidance areas and applications for personal wireless facilities in avoidance areas should be denied unless mitigated, sited, located and designed so as to minimize visibility. She said that visibility is a primary focus in the review of personal wireless service facilities, and facilities with limited visibility are encouraged. During the review of the application, she said, staff went through the policy as well as required sections of the ordinance and came to the conclusion that this site is located in an avoidance area – which is why this application is considered a Tier III facility and must be approved by the Board. Ms. Yaniglos explained that its location means it automatically gets reviewed as to its visibility and a higher standard than that of a Tier II treetop facility.

Ms. Yaniglos then presented information as to the sections of the ordinance that staff felt was not met with this application - Section 5.1-40(d)(2) as the facility was not sited to minimize its visibility from adjacent parcels and streets. She said that the balloon was seen from a number of areas, including property that is located in another avoidance area – the Southern Albemarle Rural Historic District. She also said that Section 5.1-40(d)(3) states that the facility shall not adversely impact resources identified in the County's open space plan. It is clear from the balloon test that the facility does not meet this requirement – not only for Route 20 but for the historic district. Ms. Yaniglos stated that staff found the site was not properly mitigated to minimize its visibility. The site is a part of a series of applications by AT&T along the Route 20 corridor, and staff recognizes that this facility is part of a larger need in the community of wireless service and coverage in that area where there is currently little to no service. She said that staff has found the health, safety and welfare of the larger community as its one and only favorable factor – but has found four unfavorable factors, including the two ordinance sections previously discussed, so staff recommends denial at this location. Should the Board choose to approve the application, she said, staff recommends the following condition for approval:

1. All work shall be done in general accord with what is described in the applicant's request and site construction plans, entitled “Scottsville Elementary School CV434”, with a final zoning drawing submittal date of 5/17/11.

Mr. Thomas asked if Albemarle County is the applicant. Mr. Yaniglos responded, “no”.

Mr. Rooker stated that AT&T has secured a lease site and has essentially become the applicant. He said that the original standard for location was seven feet above treetops, and then 10 feet was allowed in exceptional circumstances based upon a showing by the applicant – but it seems every application now starts out with 10 feet.

Mr. Bill Fritz, Chief of Current Development, explained that a lot of these sites only go to the Planning Commission, and if they go at 10 feet they have less interference from trees – and if it makes no difference, they will go for the greater height. He added that there are still a lot of seven-foot applications though.

Mr. Rooker said that this application has very little to mitigate its visibility, so the height makes it even worse.

Ms. Mallek commented that the pole is going to be something that is visible for a very long distance in both directions at all times of the year. She asked if the screening around the control features is only one-sided or if it is four-sided. Ms. Yaniglos responded that she thought it surrounded on all sides.

Mr. Rooker asked if the applicant had considered locating on the school building. Ms. Yaniglos responded that the applicant looked at a number of options, but that the landscaping goes around the site but not the full length of the fence.

Ms. Mallek also said that she would like the term “in general accord” in the condition to be replaced with something else, as there have been issues with that with other applications.

Mr. Dorrier asked for clarification of the difference between Tiers I, II and III. Mr. Fritz explained that a Tier I facility is an antenna that is attached to a conforming structure; a Tier II facility is a treetop facility that is seven or 10 feet taller than the tallest tree within 25 feet; and a Tier III facility is anything other than a Tier I or a Tier II facility. He said that what makes this a Tier III application is its location within an avoidance area – along a Scenic Byway and abutting a historic district. He added that if Route 20 was not a Scenic Highway, the facility would be a Tier II and would have gone to the Commission.

Mr. Thomas asked how important it is to have the service in that area. Mr. Fritz replied that that is not a factor used in staff’s decision-making; staff uses Code Section 5.140, which is focused on visibility. Staff does not look at how well the area is served, whether it is good or bad, etc.

Mr. Thomas said that area needs to come into the 21st Century, and he understood that the 10-foot level is related to the extra bands needed. Mr. Fritz responded that the higher you go, the lesser the terrain impact, but the antennas can shoot through the leaves – although it reduces the quality of the signal and the coverage area. The signal goes through but it is scattered.

Mr. Rooker stated that the seven-foot standard adopted was based on working with the industry to determine what would work well, and now the 10-foot standard seems to be the starting point. He said if the standard was 20 feet above the treetops, engineers would certainly come in and say it works better because it always works better if you go higher.

Mr. Thomas commented that he is thinking about the need people have for cell phone coverage.

Ms. Mallek said the applicant needs to find a site on the school property if this is the link for that service, as the damage to the scenic road is addressed through the ordinance.

Mr. Snow asked what the School’s opinion is on this. Mr. Greg Kamptner, Deputy County Attorney, responded that the School Division is still negotiating with AT&T on lease agreements for Scottsville Elementary and three other schools, but generally they support the idea and have directed staff to continue with negotiations.

Mr. Snow asked if the Schools have had a problem in getting messages out. Mr. Kamptner replied that it has been an issue, and the four schools under consideration are in areas where there is not coverage.

Mr. Rooker asked if that was for AT&T or for any provider.

Ms. Mallek pointed out that Verizon has good coverage in that area.

Mr. Kamptner said that the School Division equipment is AT&T-based.

Mr. Rooker stated that there are alternatives, and other carriers have found ways to provide signals in those areas without this kind of visibility factor.

Mr. Dorrier mentioned that the other schools are Yancey, Walton and Stony Point.

Mr. Kamptner said that two of the facilities are stand alone facilities, and two are rooftop.

Mr. Rooker stated that the rooftop placement seems to make the most sense.

The Chair opened the public hearing.

The applicant's representative, Valerie Long, addressed the Board.

Ms. Long stated that the three applications are all part of the same series. She noted that the Planning Commission recommended approval of this particular application by a vote of 6-1. She said the Schools actually asked for these applications, and AT&T has invested a significant amount of resources in AT&T technology throughout the County – including purchasing I-phones for School principals, administrative staff and the Superintendent. Ms. Long also said that the company has invested significant resources in GPS technology for all the County school bus systems, and the technology works very well at the schools that have AT&T coverage – but does not work at all at five schools in the County that have no AT&T coverage: Scottsville, Yancey, Walton, Stony Point and Meriweather Lewis. She stated that the School Division came back to AT&T and said they spent money on technology that does not work at those schools, which is why the company ended up with this application.

Ms. Long presented images of the most recently approved AT&T facility, which was just turned on near the intersection of Avon Extended and Route 20. She said that the company did not initially have plans to build out the Route 20 network to Scottsville, but has an application approved at the Ross property and the Cosner property – which is where the coverage was going to end. Ms. Long stated that when the schools came to AT&T and asked them to improve service, they decided to put a site at Walton, at Yancey and at Scottsville but realized a few more towers would allow coverage of the entire Route 20 corridor from Charlottesville to Scottsville. She said that the primary coverage objective for this application is the school, but AT&T realized they could provide greater coverage along the Route 20 corridor as well. Ms. Long noted that the schools, without coverage, cannot get real-time bus data from the GPS systems. Dr. Bruce Benson told her the schools had saved $1.5 million over the last two years by using the GPS data elsewhere in the system.

Ms. Long reported that there is not a lot of tree screening onsite, and AT&T's original preferred location was on the side in the trees but the School Division has long-term plans to expand the school into that area and has reserved backup drain fields there. She said the location they ended up choosing actually has better coverage, as the signal would extend down Route 20, with no tree removal or separate access road required. Ms. Long said a brown fence and significant landscaping would be included to shield the ground equipment and break up the view.

Mr. Snow asked if the screening goes all around the location. Ms. Long responded that the screening does not go all the way around the site but it is quite dense. She added that even in the winter someone would not be able to see the equipment cabinet from Route 20. She stated that the trees are both evergreen and deciduous, with the screening provided by the combination of the foliage and the elevation of the site.

Ms. Mallek said that there could be a condition for replanting if something happens to the trees.

Ms. Long pointed out that the ordinance prohibits the applicant from removing any trees from within either 100 or 200 feet of the facility unless it is specified in the application plan that a tree needs to be removed. She said that the height of the pole is directly tied to the height of the tallest tree within 25 feet of the pole, so if the tallest tree is damaged or destroyed the ordinance would require the height of the pole to be lowered so it is then no more than 10 feet above the top of whatever is now the tallest tree. Ms. Long emphasized that there is a built-in incentive to protect the reference tree as well as the other trees, adding that the ordinance requires a tree conservation plan and tree protection fencing. They must have an arborist come out and prepare a conservation plan to insure the health and safety of the trees.

Mr. Rooker asked if there is anything other than the tallest tree that requires replanting if the lower trees go down because of disease, etc.

Mr. Fritz responded that there is not, but any required plantings shown would have to be replaced in order to remain in substantial accord with the plan; existing plantings do not have to be replaced if they die. He said that Ms. Long is correct that the height of the tower is regulated by the height of the tree with a Tier II facility, with the pole height adjusting accordingly – but that is not the case with this particular application. Mr. Fritz stated that Tier III applications are approved with conditions and must remain in substantial accord with the plan, so any requirements for reducing height or removal if a tree falls would need to be added by the Board.

Mr. Rooker asked why the same kind of adjustment related to screening trees would not be required, as it would be for a Tier II. Mr. Davis responded that because the Board has the ability to attach conditions to the special use permit, it could be protected on a site-by-site basis.

Mr. Fritz stated that the Tier III is envisioned as a catch-all for everything other than a Tier I or Tier II, and if an applicant wanted to put up a site in the middle of a field there would be no relationship to a tree. Tier III applications do not have direct ties to trees. He emphasized that the reason this is a Tier III is because it is located in an avoidance area – Route 20, which is a scenic byway.

Mr. Rooker expressed concern that there is less protection than what is provided through the ordinance, because the burden is shifted to placing conditions.

Mr. Davis said that is not entirely true, as a Tier III facility must comply with a number of specified subsections for Tier II and sets those out in the ordinance, so they are automatically attached. He stated that out of the 13 conditions all but three or four of them are automatically included.

Mr. Rooker commented that there is an advantage to having the height of the tower adjusted to the tallest tree as a reference point, in the event a tree would come down. Also, if a tree grows, the applicant can adjust the height of the tower based on how tall the tree grows.

Ms. Long then presented part of the applicant's plan that showed the antenna panels to be flush-mounted, as required by the ordinance, with the only distance allowed between the panels and the pole itself being for the brackets to mount the antennas. She presented photos of the balloon test conducted in March with the staff, noting that the pole is visible through the bare trees in the winter months. She noted that the County's wireless policy was a compromise between the competing goals of having lots of tall towers with wonderful service and those with reduced visual impact. Ms. Long stated that the County came back and required shorter poles – up to 10 feet above the trees – as long as visibility is minimized, encouraging flush-mounting of panel antennas and brown poles. She said that nearly the entire southeastern quadrant of the County is the historic district, and when that designation was adopted three or four years ago it is nearly that entire area. Ms. Long stated that in order for AT&T to provide coverage in that region, there would need to be some sites in the historic district or very close to the district. She said that the scenic byway on top of that makes it extremely difficult to find a location, with signals dramatically dissipated by the leaves on the trees – which is why 10 feet is desired for effective coverage as three feet of height can make or break whether an antenna works.

Ms. Long stated that this ordinance is the most stringent in the country, and the applicant is working hard to provide service given the scenic byway and historic district locations. She believes that the wireless facility will blend in far better than the power line and telephone poles. She emphasized that if a new structure is located along a scenic byway or an Entrance Corridor it has to go through the ARB process and follow certain design guidelines.

Mr. Rooker emphasized that the ARB recommended that this not be approved.

Ms. Long said that her point is that the policy does not prohibit towers along scenic byways and in historic districts, but says that all towers throughout the County must meet design guidelines and visibility siting requirements – and the way to mitigate the visibility is to camouflage the pole, by making it brown, putting it in the trees, and flush-mounting the panel antenna. She then presented pictures depicting that only the very top of the pole would be visible in the summer, and no one has come forward with concerns about this application. Ms. Long stated that this pole would have far less visual impact on the scenic byway than the existing structures there, noting the location of an existing power line pole. She also presented a map of existing coverage and propagation map showing what the coverage would look like if the facility is approved and constructed, pointing out the level of service in buildings, in cars and outside. Ms. Long said that a site at Snow's Garden Center was just activated, which provides some coverage.

Ms. Mallek stated that the coverage issue is not one the Board is going to deal with, as their responsibility is looking at the ordinance.

Mr. Rooker asked if there was discussion with the school about locating on the building. Ms. Long responded that there was, but the school is very short and would not have provided enough coverage on Route 20 to ensure seamless coverage on the road. It could have worked for the school assuming the School Board would approve it, but will not work along Route 20.

Mr. Rooker stated that he doesn't understand that logic, as the school is not located that far back from the road and is on a higher elevation than the road. He said there are towers all around that are not right on the road that work. He would like to see a propagation signal as to how it might work on the building as opposed to where it is proposed. Mr. Rooker noted that Ms. Long has made a significant case for public benefit of locating this, but the ordinance states that towers in avoidance areas should not be approved unless there is significant mitigation – which staff has found was not provided in this case. To achieve that mitigation, he suggested having the tower sited on the building or reducing the tower's height to seven feet. Mr. Rooker emphasized that no one wants to stop this, but there are clear goals in the ordinance that need to be met. He said that the Board should not make an exception for County school property any more than someone siting a tower just to achieve revenue.

Ms. Long stated that the ordinance says to mitigate visibility by designing the pole in conformance with the design guidelines – and the brown pole is located next to trees or in the trees.

Mr. Rooker said that there is an issue with sky-lit poles.

Mr. Snow asked if the tower height is 73 feet.

Ms. Long confirmed that the height is 73 feet, which is 10 feet above the trees. She said that for a Tier II the standard is up to 10 feet, and the only reason this gets kicked into Tier III is because it is within 200 feet of a scenic byway. AT&T, otherwise, meets all the Tier II design criteria. Ms. Long stated that AT&T could have technically asked for whatever they wanted as a Tier III, even though it might be denied, but instead stuck with a Tier II – that is no more than 10 feet above.

Mr. Snow asked if this will provide 3G data. Ms. Long responded, "yes".

Mr. Charles Battig next addressed the Board, stating that he has significant experience with this on the West Coast – dealing with radio tower issues. Mr. Battig said he has no connections to AT&T, and as far as trees being more important than a person, that is a choice. He also said that schoolchildren's use of electronic devices is the way to go. He stated that it does not make much sense to limit height of just a few feet. Mr. Battig asked why a red balloon was being used, as it would obviously stand out more than the actual pole. It is unlikely that anyone driving down the road would notice the tower.

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

Mr. Davis stated that if the reference tree were removed, the applicant would be required to lower the tower – a condition that is incorporated into Tier IIIs by ordinance unless modified by the Board. He also said that there was reference to conditions recommended by staff, and those are all requirements of the ordinance that would automatically apply so there would be no legal reason to restate those as conditions of the special permit.

Mr. Rooker clarified that there is just one condition recommended for approval.

Mr. Dorrier said that his family property of 50 acres is just one-half mile from this site, and he has been down to the site for the balloon test. He stated that the school is a one-story short building, and it would not add any height to the monopole. Mr. Dorrier said that for safety reasons, he thinks this request should be approved. He noted that there was a fire that occurred at the school and it is his understanding there was no communication availability.

Mr. Rooker asked if the school doesn't have landline phones. Mr. Dorrier responded that they were trying to use cell phones.

Ms. Mallek commented that they were notifying parents, and it did not have anything to do with calling the Fire Department.

Mr. Dorrier stated that the fact that it is a brown monopole that is 10 feet above the highest tree, and part of a string of towers to provide coverage for the southern part of the County, leads him to approve it. He added that it is not as unsightly as the telephone and power poles.

Mr. Dorrier then **moved** to approve SP-2011-0003, Scottsville Elementary School/AT&T subject to the one condition as presented by staff. Mr. Boyd **seconded** the motion.

Mr. Boyd said that the positives far outweigh the negatives. He is also aware of the situation with the phones at the school. He thinks that the GPS system is also critical. He would like to know why the School system bought AT&T equipment and did not check out the fact that it did not allow for coverage for all of their schools. He stated that the schools have invested heavily in the AT&T system and this is an exception the Board should make. He said that he agrees with the Planning Commission and Mr. Dorrier in approving this request.

Ms. Mallek stated that she would like to see a condition added that if the natural screening for the cabinet and the fence goes away, the applicant be required to put plantings on the roadside of the box and fence.

Mr. Rooker agreed, stating that in many cases planting around the equipment is required but in this case if the natural screening disappears there is no stipulation to replace it. He said that this application is a real balance between the mitigation required to protect visibility and there is a significant public benefit to be derived from this system of towers. Mr. Rooker stated that he would have preferred seven feet over 10, as many previous towers have been approved, and it seems that an avoidance area is an appropriate place to mitigate the visibility by not going up the full 10 feet. If the Board is ever going to exercise some discretion and not allow it to go to the full height, this would be the place to do that.

Mr. Boyd said that he doesn't want to second guess the engineers as to the best coverage they can have in that area.

Ms. Mallek stated that of course they would have asked for the maximum height they could get, and she would have felt better had it been located at the school. She thinks the Board needs to be careful that it is not just making exceptions because it completely negates the setback requirements that they have. She added that this will impact the scenic byway, which brings in tourism dollars.

Mr. Rooker also said that pictures can be misleading, as perspective can be skewed depending on how the shots are taken, so the Board needs to listen to staff more carefully as the applicant has a vested interest in approval.

Mr. Boyd stated that when he is driving by a site, he is not looking up in the air at the towers – and no neighbors are complaining here. He supports the application including the condition recommended by Ms. Mallek.

Mr. Rooker responded that it is not often neighbors come in and complain about a cell tower, as no one lives particularly close to this site. The Board is protecting the general aesthetics of the community, not necessarily somebody that lives across the street.

Mr. Dorrier said that people would see the electric and phone lines before the monopole.

Mr. Rooker stated that he just wants the Board to be careful not to forget what the ordinance was for in the first place. He will support the request with Ms. Mallek's condition.

Mr. Dorrier asked what a vegetative screening requirement is.

Mr. Fritz pointed out that the Zoning Ordinance has a requirement for screening that is essentially a double-staggered row of evergreens planted 15 feet on center, or shrubs planted 10 feet on center.

Mr. Dorrier asked Ms. Long if AT&T agrees to that. Ms. Long responded that they have no problem with the concept proposed, but it would probably be better to align with Ms. Mallek's suggestion that the trees be replaced with vegetative screening should they ever be removed.

Mr. Fritz stated that Section 32.7-9.8(a) stipulates that standard of vegetation. Ms. Long said that is fine with the applicant, but she wants to make sure it is clear that nothing is required to be added at this time. The site meets that standard today.

Mr. Dorrier then moved to **amend** his motion to include the additional condition.

Mr. Fritz noted that condition one was changed from "general accord" to "substantial accord."

Mr. Dorrier agreed to **amend** his motion to include both amendments. Mr. Boyd **agreed** to amend his **second** of the motion.

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

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

(The conditions of approval are set out below:)

2. All work shall be done in substantial accord with what is described in the applicant's request and site construction plans, entitled "Scottsville Elementary School CV434", with a final zoning drawing submittal date of 5/17/11; and
3. Vegetative screening meeting the requirements of Section 32.7.9.8(a) must be maintained at all times between the facility and Route 20.

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Agenda Item No. 9. **PUBLIC HEARING: PROJECT: SP 2011-00007 Glendowner/Schmidt Property-AT&T Tier III PWSF**.

PROPOSED: An eighty (80) foot AT&T treetop monopole and associated ground equipment.
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 (48) which allows for Tier III personal wireless facilities in the RA Zoning District.
COMPREHENSIVE PLAN LAND USE/DENSITY: Rural Areas in Rural Area 4 - Preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources/ density (.5 unit/acre in development lots).
ENTRANCE CORRIDOR: YES.
LOCATION: 1108 Glendower Road (Route 713); the property is also adjacent to State Route 20 South.
TAX MAP/PARCEL: 12100-00-00-082H.
MAGISTERIAL DISTRICT: Scottsville.
(Advertised in the Daily Progress on July 18 and July 25, 2011.)

Ms. Yaniglos reported that this application is to install an 80-foot monopole and associated equipment on property located within 200 feet of Route 20, the Scenic Byway, and the Southern Albemarle Historic District. She presented an overview map noting its location, pointing out the entrance to the site. She also presented a photo simulation from the applicant of the view from Riding Club Lane and a view from Route 20. She noted that the tower has been sited to mitigate its visibility from Route 20. Ms. Yaniglos stated that staff found favorable factors for this application and recommends approval. She noted that she would change the language in the recommended condition of approval to "substantial accord."

Mr. Rooker commented that this is a much easier site to deal with.

The public hearing was opened.

Representing the applicant, Ms. Long said that this is a case where the applicant is asking for 10 feet above the trees. The pole is 10 feet above the tallest tree within 25 feet, but it is not taller than the trees next to the road. This site will not work as well because the trees around it are taller than those further away from the pole. She stated that there is the benefit of some elevation gain.

Mr. Rooker commented that he does not have any problem with the 10 feet in this location because of the screening, unlike the previous location they considered. He added that he does have a real problem with the Board approving higher towers in avoidance areas than they approve elsewhere.

Since no further public comment was offered, the Chair closed the public hearing.

Mr. Dorrier **moved** to approve SP-2011-00007 with one condition as amended. Mr. Rooker **seconded** the motion.

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

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

(The condition of approval is set out below:)

1. All work shall be done in substantial accord with what is described in the applicant's request and site construction plans, entitled "VA9023 Glendower Schmidt Property", with a final zoning drawing submittal date of 4/12/11.

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Agenda Item No. 10. **PUBLIC HEARING: SP-2011-00008. Fairview Catholic Diocese Property AT&T Tier III PWSF.**

PROPOSED: An eighty two (82) feet tall monopole with three flush mounted antennas and associated ground equipment within a sixty (60) foot by sixty (60) foot lease area.
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 (48) which allows for Tier III personal wireless facilities in the RA Zoning District.
COMPREHENSIVE PLAN LAND USE/DENSITY: Rural Area in Rural Area 4 – Preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources/ density (.5 unit/acre in development lots).
ENTRANCE CORRIDOR: YES.
LOCATION: 7240 Scottsville RD [State Route 20]. TAX MAP/PARCEL: 13000-00-00-002A0.
MAGISTERIAL DISTRICT: Scottsville.
(Advertised in the Daily Progress on July 18 and July 25, 2011.)

Mr. Fritz reported that this application was reviewed and recommended for approval by the Planning Commission. The site is the location of the St. George Church on Route 20, which is in an avoidance area for the scenic highway. He stated that this is a steel monopole painted brown and is a treetop facility 10 feet taller than the tallest tree within 25 feet. Staff found the visibility of the tower itself to be substantially mitigated – with no significant concerns.

Mr. Fritz referenced the photographs in the Board's packets, noting the limited visibility. He stated that staff concerns with this request is the base station equipment – which is in a fairly open area with limited screening opportunities between the facility and Route 20. He stated that the Planning Commission was able to support the application because it provided a link in the chain. He added that the 55 mph speed limit in this area and the presence of the train both will help mitigate visibility. Staff believes the facility will have minimal impact. Mr. Fritz said that staff, the ARB and the Planning Commission has all recommended approval.

Ms. Mallek asked if there are images of what the box and fence will look like. Mr. Fritz said that information was provided in the Board's packet of information. Mr. Fritz added that the applicant has proposed plantings and fencing.

Mr. Dorrier stated that the parishioners have stated they would make absolutely sure the proper plantings get done.

Mr. Fritz said they indicated such at the Planning Commission meeting.

The Chair opened the public hearing.

Representing the applicant, Ms. Long said that Clear Signal Towers is building this site for AT&T's antennas. She stated that the pictures provided were the same views, not simulations, with one taken in the winter and one taken in the summer.

Ms. Mallek said the Board was told the box was going to be further to the south.

Ms. Long presented an image showing the proposed landscaping, noting the equipment would be located behind the shrubs. She pointed out the area where the applicant would be adding screening. She added that the applicant engaged a professional landscape architect to design the landscaping plan. She stated that in the winter, things thin out considerably so the landscape row is intended to mitigate that.

No further public comment was offered, and the Chair closed the public hearing.

Mr. Dorrier **moved** for approval of SP-2011-0008 with the condition as modified. Mr. Snow **seconded** the motion.

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

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

(The condition of approval is set out below:)

1. The proposed personal wireless service facility must be developed in substantial accord with the plan prepared by Clear Signal Towers, LLC with a revised final drawing date of 4-17-2011, and a certified engineer's seal and signature dated 4-17-2011.

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NonAgenda. The Board took a recess at 11:19 a.m. and reconvened at 11:27 a.m.

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Agenda Item No. 11. **PUBLIC HEARING: ZTA-2010-00002. Industrial performance standards. PROPOSED:** To amend Secs. 4.14, Performance standards, 4.14.1, Noise, 4.14.2, Vibration, 4.14.2.1, Method of measurement, 4.14.2.2, Meaning of terms, 4.14.3,Glare, 4.14.7, Electrical interference, 4.14.8, Certified engineer's report, 26.7, Performance standards, 30.4.3, Permit required, 30.4.14, Performance standards, 31.5, Zoning clearance; repeal 4.14.4, Air pollution, 4.14.5, Water pollution, 4.14.6, Radioactivity, of Chapter 18, Zoning, of the Albemarle County Code. This ordinance would amend the industrial performance standards in Sec. 4.14 and its subsections (Secs. 4.14.1 through 4.14.8) pertaining to noise, vibration, glare, and the certified engineer's report, add a standard for heat to Sec. 4.14.3, repeal the performance standards for air pollution, water pollution and radioactivity, and reorganize Sec. 4.14 and its subsections. This ordinance also would amend Sec. 26.7 to cross-reference Sec. 4.14 and its subsections, amend Sec. 30.4.3 to require a zoning clearance prior starting a natural resource extraction activity, identify the information to be submitted, and provide for periodic review, amend Sec. 30.4.14 to revise the performance standards for natural resource extraction activities, and amend Sec. 31.5 to require a zoning clearance prior to starting a natural resource extraction activity and clarify certain agricultural activities that are not commercial or industrial for the purpose of determining whether a zoning clearance is required, and to require notice to the landowner of an application for a zoning clearance if the landowner is not the applicant. *Advertised in the Daily Progress on July 18 and July 25, 2011.)*

The following executive summary was forwarded to Board members:

As part of the County's Economic Vitality Plan, this zoning text amendment, along with others, will increase options for industrial land users. ZTA 2010-01, which the Board adopted on June 2, 2010, amended the Zoning Ordinance to allow uses that were permitted by-right in the Heavy Industry district to be permitted by special use permit in the Light Industry district. During its review of that ordinance, the Planning Commission expressed the need for effective performance standards. The attached proposed ordinance (Attachment A) amends the performance standards as described below.

The current performance standards address noise, vibration, glare, air pollution, water pollution, radioactivity and electrical disturbance. Prior to commencing a use of an industrial character, the applicant must submit an engineer's report to the County Engineer addressing these standards.

The Planning Commission held a work session on this zoning text amendment on August 17, 2010. On April 18, 2011, it held a public hearing on this matter; however, deferred action on it until May 24, 2011 primarily due to its concerns related to staff's recommendation to permit higher vibration levels. Because of the Planning Commission's concerns about the proposed higher maximum vibration levels and difficulties identified by staff to assess and justify the proposed vibration standards, staff no longer recommends that the maximum vibration levels be amended. However, the proposed ordinance would amend the procedures and requirements for measuring vibration. At the May 24th Planning Commission public hearing, the County Engineer also explained how the certified engineer's report is reviewed.

The proposed ordinance adds "heat" to the performance standards and adds new standards for glare from surfaces and processes. In addition, the proposed ordinance clarifies the requirement of a zoning clearance and the applicable performance standards for natural resource extraction activities.

The proposed ordinance also changes how compliance with several environmental impacts (*e.g.*, for air emissions, water discharges, radioactive materials and radiation materials, flammable, hazardous and explosive materials and the disposal of waste and spill containment) regulated by state or federal law as performance standards is handled. Instead of staff review, the proposed ordinance requires an industrial use to demonstrate compliance with the state or federal standards in a certified engineer's report. The proposed ordinance also amends the substantive and procedural requirements for certified engineers' reports and authorizes the County Engineer to accept documentation in lieu of a certified engineer's report for those industrial uses determined by the County Engineer to be low impact.

The final key element of the proposed ordinance amends the performance standards for natural resource extraction activities. The amendments would clarify the requirement for a zoning clearance, identify the activity specific information that must be submitted to support the zoning clearance and update the maximum sound level and methodology for measuring sound from blasting. The proposed 133 decibel standard is consistent with State law.

The Planning Commission recommended approval of the proposed ordinance. Since the Planning Commission action, staff recommends four additional minor revisions:

- Authorize the County Engineer to review the certified engineer's report and inform the zoning administrator of his decision, rather than merely make a recommendation to the zoning administrator (Section 4.14.5b)

- Authorize the County Engineer to determine when a document in lieu of a certified engineer's report may be accepted and give him the discretion to determine the appropriate form and content of the document, under the guidelines provided, and inform the zoning administrator of his decision (Section 4.14.5c)
- Codify the new Virginia Code requirement that the landowner of an application for a zoning clearance be notified if the landowner is not the applicant (Section 31.5(d));
- Make a minor revision to Section 4.14 to clarify the broader applicability of these performance standards (each use of an industrial character and each use to which the regulations are explicitly applicable).

To the extent that this zoning text amendment will clarify the process and requirements for applicants, staff anticipates that adoption of this ordinance will result in a saving of staff time.

Staff recommends that, after the public hearing, the Board adopt the proposed ordinance (Attachment A).

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Mr. J. T. Newberry, Code Enforcement Officer I, addressed the Board, stating that objective four of the Economic Vitality Action Plan calls for removing obstacles and expanding options for industrial land users. This is the second amendment in a multi-step process to achieve that goal and alleviate some of the challenges raised at yesterday's roundtable discussion. He stated that the next step in the process will be broadening the permitted uses currently allowed in the industrial districts. The first amendment took the by-right uses from the Heavy Industrial District and made them by special use permit in the Light Industrial District. Mr. Newberry explained that the purpose of this amendment is to ensure there are effective performance standards for expanding industrial uses, which is accomplished by amending the ordinance to codify current practices and clarify procedures – and update references to state and federal agencies.

He stated that performance standards apply to uses of an industrial character and are found in those districts as well as with home occupations, and allow some control and limiting of impacts generated by those uses – such as noise, vibration, water and air pollution, etc. Mr. Newberry said that substantively there are two areas being amended with this ZTA – glare and heat – with glare being expanded to include reflective glare from building surfaces as well as requiring processes producing intense glare to be conducted indoors.

Mr. Boyd asked for clarification of what "building glare" is. Mr. Newberry responded that it could be surface areas around the building, or could be from a metallic building that would interfere with neighboring properties – such as floodlights on industrial buildings that light up processes being done at night.

Mr. Boyd said he is trying to understand what the County is attempting to correct here.

Mr. Thomas said that it seems very broad to say "glare".

Mr. Rooker stated that this series of ordinances is allowing more intense industrial activity near residential areas, and it should be mitigated for people who live there.

Mr. Thomas agreed that is a good point, and wondered if the word "lighting" should be used instead of "glare."

Ms. Mallek said the term should be broad.

Mr. Rooker noted that there are already regulations that would apply to shield the lighting.

Mr. Davis pointed out that this regulation breaks out glare from lighting and glare from processes.

Mr. Newberry said that glare from those intense processes being amended would need to be conducted indoors. He stated that with the new provision for heat, any process that would produce temperature change at the abutting lot line would need to be conducted indoors. Mr. Newberry said that there is a provision that heat or heated air should be directed away from rural area or residential lots since they are moving closer to the property line. He then presented two slides noting the benefits for applicants, which pertain primarily to administrative aspects of the ordinance. The changes essentially codify current practices while making it clear to applicants what is expected of them when they bring forth an industrial use. Mr. Newberry stated that some of the changes are simply clarifying which uses Section 4.14 will apply to, codifying the new state code requirements for notice, clarifying the method of measurement for vibration standards or the method for measuring noise for blasting from a natural resource extraction activity.

Mr. Rooker noted that the biggest complaints have been from blasting and asked what this amendment would do.

Mr. Newberry explained that this amendment simply codifies what standards apply and establishes that the clearance process for a natural resource extraction use needs to meet all of the standards outlined in the performance standards – as it is currently not clear.

Mr. Rooker asked what the details are for that, such as the case where someone lives in a rural area and gets an extraction permit for a quarry. He asked what standards would apply to that activity.

Mr. Newberry responded that this is a good example of one of the few uses in the County that would require a full-blown certified engineer's report, which would require not only meeting County standards but all Division of Mines, Minerals and Energy standards. He said the County Engineer would review a full report and the proposed ordinance outlines all the elements of that, with zoning clearance issued before they commence that activity.

Ms. Amelia McCulley, Zoning Administrator, mentioned the Charlottesville Stone Quarry in the Rio Mills Road area, with DMME monitoring their blasting – with the County regulating the daily activity of the grinding of the stone that has been blasted. She said the County has conducted multiple sound tests and has required them to hire an engineer to conduct multiple sound tests; in each case, they are within maximum levels.

Mr. Dorrier asked for a definition of natural resource extraction.

Ms. McCulley read the ordinance definition as, "the process by which coal, petroleum, natural gas, soil, sand, gravel or other minerals is removed from any open pit, borings or any other underground workings and produced for sale, exchange or commercial use…" She added that it is a zoned area, with an overlay zone on the official zoning maps and on GIS mapping.

Mr. Dorrier asked if it would apply to the Luck Stone quarry operation. Ms. McCulley stated that Luck Stone and Martin Marietta, as well as all other quarries in the County, have natural resource extraction overlay zoning on them.

Ms. Mallek asked if the County has any information about how far Luck Stone is going to go, given that the mountain is disappearing. She asked if their zoning clearance would take that into account. Ms. McCulley said she has never dealt with their main operation. She thinks they may have predated zoning. She said she can find out from DMME what the plan is as to how much would be removed and how they will replane the property after they finish the activities.

Mr. Newberry noted that the zoning clearance process that would require a full-blown certified engineer's report is an anomaly when considering all the zoning clearances issued in the past five or six years – as the vast majority require a document in lieu of a certified engineer's report, so that the County Engineer has an opportunity to look at proposed uses that are of an industrial character but don't require the applicant to hire a certified engineer to go through every single aspect of potential impacts. He emphasized that the important thing about this amendment is it codifies and outlines exactly what is needed from the applicant in order to facilitate review of their proposal. The other major change is that it removes the Zoning Administrator from the engineering considerations of the approval process. Mr. Newberry added that this change will authorize the County Engineer to formally review it, approve it and move it on down the line. He stated that staff recommends approval of ZTA-2010-0002 as presented.

Mr. Rooker asked if someone needs a special use permit if they are trying to obtain approval for extraction activity in an overlay area.

Ms. McCulley responded that they would not need it just for extraction, but there are some special permit uses such as asphalt plant. Extraction is by-right under an overlay of natural resource extraction district. She added that Mr. Glenn Brooks, the County Engineer, is here to answer any questions about specifics regarding the performance review standards, but as far as uses go the Board has discretion to determine appropriate locations if they require a special use permit. Ms. McCulley noted that coal mining, deep mining, mining and milling of uranium, or oil extraction would require a special use permit as they are not allowed by right.

Mr. Dorrier asked if water would be covered under this. Ms. Mallek explained that for personal use, it would not be, but it would be for sale of water. Ms. McCulley commented that that is a special permit use.

The Chair opened the public hearing.

No public comment was offered and the Chair closed the public hearing, with the matter placed before the Board.

Mr. Rooker **moved** for approval of ZTA-2010-0002 as presented. Mr. Thomas **seconded** the motion.

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

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

(The adopted ordinance is set out in full below:)

ORDINANCE NO. 11-18(8)

AN ORDINANCE TO AMEND CHAPTER 18, ZONING, ARTICLE II, BASIC REGULATIONS, ARTICLE III, DISTRICT REGULATIONS, AND ARTICLE IV, PROCEDURE, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA

BE IT ORDAINED By the Board of Supervisors of the County of Albemarle, Virginia, that Chapter 18, Zoning, Article II, Basic Regulations, Article III, District Regulations, and Article IV, Procedure, are hereby amended and reordained as follows:

By Amending:

Sec. 4.14	Performance standards
Sec. 4.14.1	Noise
Sec. 4.14.2	Vibration
Sec. 4.14.3	Glare
Sec. 26.7	Performance standards
Sec. 30.4.3	Permit required
Sec. 30.4.14	Performance standards
Sec. 31.5	Zoning clearance

By Amending, Renumbering and Renaming (old section number first, followed by new section number, followed by heading):

Sec. 4.14.7	Sec. 4.14.4	Electrical disturbance
Sec. 4.14.8	Sec. 4.14.5	Certified engineer's report

By Amending and Incorporating the Substance into Another Section (old section number first, followed by section number in which substance incorporated):

Sec. 4.14.2.1	Sec. 4.14.2	Method of measurement
Sec. 4.14.2.2	Sec. 4.14.2	Meaning of terms

By Repealing:

Sec. 4.14.4	Air pollution
Sec. 4.14.5	Water pollution
Sec. 4.14.6	Radioactivity

Chapter 18. Zoning

Article II. Basic Regulations

Sec. 4.14 Performance standards

Each use of an industrial character as determined by the zoning administrator and each use to which section 4.14 is expressly applicable to that use (referred to collectively in sections 4.14.1 through 4.14.5 as a "use of an industrial character") shall be subject to the performance standards in this section through section 4.14.5.

Sec. 4.14.1 Noise

Sound generated from a use of an industrial character shall comply with section 4.18.

(§ 4.14-12-10-80; Ord. 00-18(3), 6-14-00)

Sec. 4.14.2 Vibration

Vibrations generated from a use of an industrial character shall be subject to the following:

a. *Method of measurement*. The vibration standards delineated in this section shall be measured as follows:

1. Measurements shall be made at or beyond the closest boundary line of an abutting lot and the zoning district boundary line closest to the source as provided below in a manner accepted by the county engineer.

2. Ground transmitted vibration shall be measured with a seismograph or complement of instruments capable of recording vibration displacement and frequency, particle velocity or acceleration simultaneously in three (3) mutually perpendicular directions. The term "vibration" means the periodic displacement or oscillation of the earth.

3. The maximum particle velocity shall be the maximum vector sum of the three (3) mutually perpendicular components recorded simultaneously. Particle velocity may be also expressed in a manner accepted by the county engineer, applying sound engineering principles.

b. *Standards*. The following standards apply, as measured in inches per second, for the maximum allowable peak velocity:

Type of vibration	At residential district boundaries	At other lot lines within district
Continuous	.00	.015
Impulsive (100 per minute or less)	.006	.030
Less than 8 pulses per 24 hours	.015	.075

Sec. 4.14.3 Glare and heat

Glare and heat generated from a use of an industrial character shall be subject to the following:

a. *Glare from lights, building surfaces or processes*. No direct or sky reflected glare, whether from flood lights, building surfaces or from high temperature processes such as, but not limited to, combustion~~,~~ or welding, so as to be visible beyond the lot line, shall be permitted except for signs, parking lot lighting and other lighting authorized by this chapter or required by any other applicable law. However, any operation that would adversely affect the navigation or control of aircraft shall comply with the current regulations of the Federal Aviation Administration.

b. *Intense glare from processes*. Any operation producing intense glare as determined by the zoning administrator shall be performed only within a completely enclosed building and in such a manner so as not to create a public nuisance or hazard to abutting parcels. An operation will be deemed to produce intense glare when it creates a sensation of extreme brightness within the visual field which causes squinting, discomfort or loss in visual performance and visibility in persons not suffering from light sensitivity (photophobia).

c. *Intense heat from processes*. Any operation producing the emission of heat which would cause a temperature increase of one degree Fahrenheit (1º F) or greater as measured at or beyond the closest boundary line of an abutting lot shall be performed only within a completely enclosed building and in such a manner so as not to create a public nuisance or hazard to abutting parcels. No heat or heated air shall be discharged such that a temperature increase of one degree Fahrenheit (1º F) or greater is measureable at or beyond the closest boundary line of an abutting lot. Vents, chimney stacks and other devices for emitting heat or heated air from a building shall be oriented away from abutting lots within the rural areas (RA) or any residential zoning district.

Sec. 4.14.4 Electrical disturbance

No electrical disturbance generated from a use of an industrial character shall adversely affect any activity, including the use of any machinery or equipment, on any other lot. Any electrical disturbance that would adversely affect the navigation or control of aircraft shall comply with the current regulations of the Federal Aviation Administration.

Sec. 4.14.5 Certified engineer's report

Prior to the issuance of a zoning clearance or approval of a final site plan, each prospective occupant of a use of an industrial character shall submit a certified engineer's report as follows, except as provided in section 4.14.5(c):

a. *Contents*. Each certified engineer's report shall include the following information unless the county engineer determines that any such information is not necessary:

1. *Nature of the operation*. A description of the proposed operation, including all machines, processes, and products.

2. *Emissions and discharges*. The identification of all by-products or wastes, stating the expected levels of emissions or discharges to land, air, and/or water of any liquid, solid or gas, and the emission of electrical impulses and sound under normal operations.

3. *Control of emissions and discharges*. Descriptions and specifications as to how emissions and discharges will be treated and the equipment and practices that will be used to control emissions and discharges.

4. *Other information*. Any state or federal permits, readings, measurements, plans or documentation necessary to demonstrate that the proposed use will comply with this chapter, other requirements of the Code and all applicable state and federal laws, including but not limited to those pertaining to the following:

(a) *Air emissions*. Air emissions subject to the applicable regulations of the State Air Pollution Control Board and the Virginia Department of Environmental Quality.

(b) *Water discharges*. Water discharges subject to the applicable regulations of the State Water Control Board and the Virginia Department of Environmental Quality.

(c) *Radioactive materials and radiation emissions*. Radioactive materials used in conjunction with, and radiation emissions from, a use that is subject to the applicable regulations of the State Board of Health and all applicable requirements arising from all agreements between the Commonwealth of Virginia and the United States of America, and any department or agency thereof, pertaining to radioactive materials or radiation emissions, and all interstate compacts pertaining to radioactive materials or radiation emissions to which the Commonwealth of Virginia is a party. Any radioactivity or radiation that would adversely affect the navigation or control of aircraft shall comply with the current regulations of the Federal Aviation Administration.

(d) *Flammable, hazardous and explosive materials*. Flammable, hazardous and explosive materials used in conjunction with a use shall comply with the applicable requirements of the county fire marshal and the Virginia Department of Environmental Quality.

(e) *Disposal of waste and spill containment*. The disposal of waste and the containment of spills in conjunction with a use shall comply with the applicable requirements of the county fire marshal.

b. *Review of report*. The certified engineer's report shall be reviewed by the county engineer, who shall inform the zoning administrator as to whether the proposed use complies with the performance standards in sections 4.14 through 4.14.5. If a site plan is required, the county engineer shall review the report and inform the commission or the agent prior to action on the preliminary site plan as to whether the proposed use complies with the performance standards in sections 4.14 through 4.14.5.

c. *Document in lieu of certified engineer's report*. In lieu of a certified engineer's report, the county engineer may allow a prospective occupant of a use of an industrial character to submit a document that describes the processes and activities of the proposed use and addresses the performance standards in sections 4.14 through 4.14.5. A document in lieu of a certified engineer's report: (i) is appropriate for those uses of an industrial character that are determined by the county engineer to be low impact; (ii) may be in the form of a letter, or in any other form acceptable to the county engineer, signed by the prospective occupant or its representative; and (iii) shall be reviewed by the county engineer, who shall inform the zoning administrator as to whether the proposed use complies with the performance standards in sections 4.14 through 4.14.5.

(Amended 9-9-92)

Article III. District Regulations

Sec. 26.7 Performance standards

The performance standards set forth in sections 4.14 through 4.14.5 shall apply.

Sec. 30.4.03 Requirements for zoning clearance

Each zoning clearance required by section 31.5(a)(5) shall be subject to the following:

a. *Information required to be submitted*. The operator of the natural resource extraction activity shall file the following as part of its application for a zoning clearance:

1. *Plan of proposed activity*. A plan of the proposed natural resource extraction activity, supported by all data deemed necessary by the zoning administrator to ensure compliance with the requirements of section 30.4. The plan may be a copy of the applicable plan of the proposed natural resources extraction activity authorized by the Virginia Department of Mines, Minerals and Energy under Title 45.1 of the Virginia Code. The zoning administrator may require that the state-approved plan be supported by all data deemed necessary to ensure compliance with the requirements of section 30.4.

2. *Evidence of compliance*. Evidence deemed sufficient by the zoning administrator to determine that that the operator has obtained all permits required by the Virginia Department of Mines, Minerals and Energy and the Virginia Department of Environmental Quality, and evidence that the operator has complied with all applicable requirements of Title 45.1 of the Virginia Code and the applicable regulations of the Virginia Department of Environmental Quality.

b. *Periodic review and termination of zoning clearance*. Each zoning clearance shall be subject to annual review by the zoning administrator. If any permit for a natural resource extraction activity issued by the Virginia Department of Mines, Minerals and Energy or the Virginia Department of Environmental Quality expires or is terminated as provided by law, the zoning clearance shall not be deemed to authorize any activity authorized by the expired or terminated state-issued permit,

(Amended 4-28-82)

Sec. 30.4.14 Performance standards

In addition to any other provision of law, the following performance standards shall apply to any use permitted by sections 30.4.02.1 or 30.4.02.2:

1. No blasting shall be permitted except in conjunction with a clearance required by sections 30.4.03 and 31.5(a)(5);

2. Ground vibration from surface blasting shall not exceed the limits set forth in 4 VAC 25-40-880, as measured in the manner set forth therein (Amended 6-14-00);

3. Air overpressure resulting from surface blasting shall not exceed 133 decibels measured at the closest boundary line of a lot abutting the NR district that is not within an NR district and is measured using the procedures provided in section 4.18.03. (Amended 6-14-00)

Article IV. Procedure

Sec. 31.5 Zoning clearance

The zoning administrator shall review requests for zoning clearances as follows:

a. *When required*. A zoning clearance shall be required in the following circumstances:

1. *New use*. Prior to establishing a new non-residential, other than an agricultural, use.

2. *Change or intensification of existing use*. Prior to changing or intensifying an existing non-residential, other than an agricultural, use.

3. *Change of occupant*. Prior to a new occupant taking possession of an existing non-residential, other than an agricultural, use.

4. *Specific buildings, structures or uses*. Prior to establishing any building, structure or use for which a zoning clearance is required under section 5.

5. *Commencement of extraction activity*. Prior to commencing any natural resource extraction activity within the natural resources overlay district.

b. *Approval*. If the proposed building, structure, improvements, and site, and the proposed use thereof, comply with this chapter, the zoning administrator shall issue the zoning clearance.

c. *Circumstance when zoning clearance shall not be issued.* The zoning administrator shall not issue a zoning clearance if, after review of any site, the zoning administrator determines that additional improvements are necessary to protect the public health or safety, regardless of whether the improvements are shown on the site plan. (Added 9-9-92; Amended 10-3-01) (§ 31.2.3.3, 9-9-92; Ord. 01-18(6), 10-3-01)

d. *Notice to the owner if the applicant is not the owner*. Within ten (10) days after receipt of a request for a zoning clearance by an applicant who is not the owner of the lot and/or structure to which the zoning clearance pertains, and prior to acting on the request, the zoning administrator or the applicant, at the zoning administrator's request, shall give written notice of the request to the owner. Written notice mailed to the owner's last known address as shown on the current real estate tax assessment records shall satisfy this notice requirement. If the zoning administrator requests that the applicant provide the written notice, the applicant shall provide satisfactory evidence to the zoning administrator that the notice has been given.

e. *Commercial and industrial uses defined*. For the purposes of this section 31.5, agriculture composed of horticulture, viticulture, silviculture or other gardening which may involve the tilling of soil for the raising of crops and the keeping of livestock and/or poultry is not a commercial or industrial use, and a home occupation is a commercial use. (Added 9-9-92; Amended 10-3-01)

f. *Effect of renumbering and renaming*. Any other section of this chapter that refers to section 31.2.3.2 or to a zoning compliance clearance shall be deemed to be a reference to section 31.5 or a zoning clearance.

(§ 31.2.3.2, 9-9-92; Ord. 01-18(6), 10-3-01)

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Agenda Item No. 12. **PUBLIC HEARING: Ordinance to amend Chapter 12, Regulated Enterprises, Article I, False Alarms, of the Albemarle County Code**. The proposed ordinance 1) re-organizes the article and adds defined terms related to false alarms; 2) requires alarm system users to register police alarm systems and to maintain their alarm systems in good working order; 3) prohibits automatic dialing devices which send prerecorded messages to 911; 4) establishes a schedule of progressively increasing service fees for responses to false alarms; and 5) continues to make knowingly activating a false alarm without just cause a criminal class 1 misdemeanor. (*Advertised in the Daily Progress on July 18 and July 25, 2011.)*

The executive summary provided to Board members states that Virginia Code §15.2-911 provides that any locality may, by ordinance, regulate the installation and maintenance of alarm systems operated by alarm company operators. In 1991, the County enacted a false alarm ordinance prohibiting intentionally activated false alarms that seek Albemarle County Police Department (ACPD) or Albemarle County Fire Rescue (ACFR) responses and establishing service fees for false alarm responses. In 2008, faced with budgetary restrictions and staffing shortages, public safety services began investigating ways to increase their efficiency in delivering emergency services to the community. False alarm responses were found to be a considerable drain on critical resources. Nationally, false alarm reduction programs have significantly reduced the staffing and financial burdens on public safety services. Staff believes that an updated and strengthened false alarm ordinance, in conjunction with an effective public educational campaign, would greatly reduce the number of false alarms and the resulting burdens on public safety resources.

Throughout the nation, localities regulate police and fire alarm systems by establishing service fees and other consequences for false alarms and requiring the registration of alarm systems. Within Virginia, Charlottesville, Louisa, Chesterfield, Henrico, Virginia Beach, Fairfax, Alexandria and Arlington, among other localities, have adopted false alarm ordinances. Under the County's existing false alarm ordinance, which has not been amended since 1991, the ACPD and ACFR may charge service fees for false alarms in limited circumstances. Currently, both departments lack the authority, however, to establish other measures that would help to reduce the number of false alarms and the burden on public safety resources, such as a progressive schedule of service fees, alarm system registration, and a requirement that alarm systems be maintained in good condition. In addition, the current ordinance also does not prohibit automatic dialing devices from sending pre-recorded messages to the 911 lines at the Charlottesville-U.Va.-Albemarle Emergency Communications Center ("ECC"). The City of Charlottesville, like many other localities, prohibits such pre-recorded messages from being automatically dialed to the ECC's 911 lines.

An examination of ACPD response data to alarm calls for service over a three-year period from 4/1/2008 to 4/1/2011 indicates:

- 6188 alarm calls were responded to during this period.
- 6048 were attributed to alarm malfunction or user error.
- 109 were considered to be weather-related, rather than false alarms.
- 31 were classified as justified alarm calls (actual emergency perceived).
- The average time spent on alarm responses was 29-30 minutes, from the dispatch of t he alarm to the ACPD officer clearing the incident.
- The average number of false alarms per year was 2016.
- The average percentage of alarms per year where an actual emergency was perceived was 0.5%.

During a one-year period (4/1/2010 to 4/1/2011), 734 of the total false alarms were found to be a third or subsequent false alarm from the same alarm system, with 19 calls being the most calls from one location. The proposed ordinance establishes progressive fees for any false alarms after two false alarms in a one-year period.

Under standard police and ECC protocol, two officers must be dispatched to the location of any alarm call. Because an average of 30 minutes is dedicated to each alarm response this translates to an estimated total of 6048 officer hours spent on alarm responses during the 2008-2011 period. Given that an average of ten police officers staff each patrol shift, one false alarm call consumes 1/5 of the total staff resources for an average of 30 minutes per call. In addition, the safety of ACPD officers and citizens is jeopardized by repeated false alarms at the same location. Police officers repeatedly responding to false alarms at the same location are less likely to anticipate actual criminal activity and, therefore, may be less prepared to respond to such activity.

Weather-related alarms accounted for a small percentage of the alarms during the three-year time period. However, according to a representative from the non-profit Security Industry Alarm Coalition (SIAC), "weather-related" alarms commonly arise from improper alarm maintenance or faulty alarm systems and should, therefore, be considered false alarms. Prevailing alarm industry standards dictate that an alarm should not be activated due to short-term power failure, wind or moisture associated with thunderstorms. An extended power outage or unusually violent storm that destroys property may activate a properly installed and functioning alarm system.

The Department of Fire and Rescue had 642 false alarms during the one-year period from 1/1/2010 to 1/1/2011. The false alarm count includes malfunctions of single smoke alarms found in residential dwellings and fire alarm systems found in larger commercial buildings. The equipment and personnel dispatched to a fire alarm depends on the type of alarm: residential fire alarm responses require one fire engine and one command vehicle (total of at least two firefighters, one company officer, and one chief officer); commercial fire alarm responses require one fire engine, one ladder truck, and one command vehicle (total of a least four firefighters, two company officers, and one chief officer).

Based on its recent history, ACFR has experienced a lower volume of false alarms and burden on resources than ACPD. Accordingly, the proposed ordinance differentiates between police and fire alarm systems by requiring that police alarm systems, but not fire alarm systems, be registered. Strengthening the false alarm ordinance will benefit Fire and Rescue by helping to ensure that false smoke and fire alarms do not become a significant problem and by creating an efficient structure for service fees and appeals.

Overview of Proposed Ordinance:

- §12-101: Definitions are expanded, including a comprehensive definition of "false alarm" which exempts any calls triggered by activities outside the control of the alarm system user, but recognizes that alarms caused by malfunction or owner activity are false alarms.

- §12-102: Alarm system users must register police alarm systems so that Police will have current contact information for alarm system users and keyholders, which enables faster incident clearing and better communication with alarm system users. Registration would be free and available through online access.

- §12-103: Alarm systems must be maintained in good working order to prevent repeated emergency responses for malfunctioning or poorly maintained systems. Malfunctioning alarm systems that generate repeated false alarms within short periods of time (2 within 24 hours or 8 within 4 days) may result in the suspension of agency responses to alarm calls or a notice to disconnect or disable the alarm system for a period of time.

- §12-104: A schedule of progressively increasing service fees for responses to false alarms is established. The first two false alarms within any 12-month period would result in no charges; the third and subsequent false alarms are charged, starting at $100 for the third false alarm.

- §12-105: Activating a false alarm knowingly and without just cause would continue to be a criminal class 1 misdemeanor violation under the ordinance.

- §12-106: Automatic dialing devices which send prerecorded messages to the 911 lines at the ECC are prohibited.

- §12-108: Citizens who have been assessed a service fee or received a notice to disconnect or disable an alarm system may appeal those decisions to the Police Chief/Designee or Fire and Rescue Chief/Designee and then to the County Executive/Designee.

One critical aspect of an effective false alarm reduction program is public education. In order to implement a successful public education program, staff recommends that the proposed ordinance take effect 90 days after adoption. This will allow the public safety agencies to educate the community about how to reduce the number of false alarms and register their police alarm systems. Public safety will also meet with representatives from the alarm industry in an effort to promote the registration of alarms and to ensure that industry standards for installation and maintenance of alarms are met. This coordinated effort will educate alarm users through media campaigns and educational materials that will be made available through links on the County website. Tips on reducing false alarms could also be sent to violators along with the bills for service fees.

The attached proposed ordinance (Attachment A), if adopted, is proposed to be effective on and after November 1, 2011.

There are several variables to consider when estimating the budget impact on public safety resources. Currently, ACPD employs one non-sworn staff member to administer the false alarm program on a part-time basis. Adoption of the proposed ordinance will increase the need for administrative resources in order to manage billing, alarm registration, and communications with alarm system users. The ACPD plans to utilize the services of a third-party administrator to provide alarm registration and billing software, as well as administrative support. Based on an initial review of the leading alarm system administration firms, it appears that the County would not need to pay any contractual fees up-front.

An effective ordinance will lower the costs currently incurred for emergency services personnel responding to false alarms. Additionally, an effective false alarm reduction program will increase efficiency in delivering public safety services. Fewer false alarms will allow emergency personnel to be more available for both true emergency calls and other agency initiatives.

Staff recommends that, after the public hearing, the Board adopt the attached ordinance (Attachment A), effective November 1, 2011.

Lieutenant Todd Hopwood addressed the Board, stating that the amendments are outlined in the Board's executive summary. He noted that the origin of this amendment included finding a way to improve efficiency of emergency services. He stated that false alarms have been known to be a drain on resources and a case study from Marietta, GA indicates that a false alarm reduction program incorporates having a good ordinance to back it up – with stricter standards imposed there that resulted in a significant

decrease in alarms from 2006-2009. Mr. Hopwood reported that the case study indicated that 99% of alarms responded to were actually false alarms, but after implementation in 2009 they showed a 65% reduction in alarm calls for service.

He stated that in a review of local data from a three year period, only one-half of one percent of alarm calls were actual emergencies with the rest being false alarms. Lieutenant Hopwood said that this is a significant drain on resources as there are two officers sent to respond to every alarm call of service, with 30 minutes average spent at each property. He said that as a patrol supervisor, he has 10 officers working the street so if two are responding to a false alarm he has lost 20% of his workforce to wasted time. Lieutenant Hopwood also stated that he had responded to many false alarms at Snow's Garden Center due to deer tripping alarms, but on one call there was a man hiding behind some tires – which illustrates the complacency that can set in when there are many false alarms.

He reported that staff developed this ordinance through a group of stakeholders including the County Attorney's office, the County Executive, Police Department, Fire Department, ECC centers, IT, etc., by researching ordinances from other agencies as well as examining fees charged and comparing best practices. Lieutenant Hopwood stated that this ordinance has some of the aspects of the model ordinance that the Virginia Chiefs of Police Association has recommended, including the progressive fines, with registration of alarms being of huge important so that law enforcement has someone to contact. He said that a small percentage of false alarms have been attributed to weather, and the Security Industries Alarm Coalition says that the systems should not be triggered just by thunderstorms but require broken windows due to hurricanes, etc. Lieutenant Hopwood said he hopes this ordinance will encourage people to update their alarms and get them to work properly. He added that the alarm industry has been very supportive of these changes and the ordinance.

Regarding implementation, Lieutenant Hopwood said they are looking to utilize their Public Information Officer and the County spokesperson and are recommending a minimum of 90 days after ordinance adoption to implement the program – with notification sent out through County channels, media outlets, letters sent out by alarm companies and through professional alarm associations. He stated that there are also pamphlets that can be sent out to the security system owners to try to reduce the number of false alarms. Lieutenant Hopwood summarized that staff recommends approval of the proposed changes to the false alarm ordinance.

Ms. Mallek asked who registers the alarm system with the Police – the company or the individual owner.

Lieutenant Hopwood responded that they are trying to set up management of the alarm program with a third-party vendor, but currently there is one staff member who handles it on a part-time basis. He stated that the registration can be done online or through the mail with the company the Police are contracting with. Most of the data coming from the alarms would be pulled directly from the computer-aided dispatching center at ECC. They are actually registering with the Police Department.

Mr. Rooker clarified that it would be the homeowner who registers, not the company. Lieutenant Hopwood responded that this is correct. He added that it is possible that the third-party vendor could work with the larger alarm companies to pull that data directly into their system.

Ms. Mallek commented that it seems the security system companies should be required to notify their customers of the new rules and the consequences of leaving things unrepaired. She asked how many are registered in the County.

Lieutenant Hopwood responded that he is not certain how many customers there are, but there are many vendors selling the systems.

Ms. Mallek asked if there was an alarm company fee and commented that it seems the taxpayers are basically supporting these companies.

Lieutenant Hopwood replied that he is not sure, but once a third-party vendor is contracted they will come in and set up the interface between the computer-aided dispatching/ECC and their software. He said that it won't cost the County anything to get started with this system, and the false alarm fees pay the third-party vendor.

Mr. Boyd asked if they had held a roundtable where security providers were invited in.

Lieutenant Hopwood responded that they did that later in the process, with the Security Industry Alarm Coalition and the Electronic Security Association of Virginia involved after the ordinance was ready to present to the Board. He stated that having spoken with them, the majority of professional alarm companies support this type of ordinance because it promotes upgrading and correcting the operation of equipment. They want to portray the image that they have the best alarm monitoring systems.

Mr. Rooker noted that when the model ordinance was crafted for the State, the industry had significant input. Lieutenant Hopwood confirmed that they did.

Mr. Snow asked if most of the false alarms came from homeowners or businesses.

Lieutenant Hopwood explained that they looked at the top 10 offenders for those who had more than three calls, and those in that category – up to 19 times in one year – were all businesses, but for overall calls the split is probably about 50/50. Storms are responsible for most of the home alarms.

Mr. Snow asked how the average number of calls per day. Lieutenant Hopwood responded that it is about five to six per day, for an average of about 2,016 false alarm calls per year.

Ms. Mallek commented that it is astonishing that of approximately 6,000 calls, only 31 were valid.

The Chair opened the public hearing.

Mr. Neil Williamson, of the Free Enterprise Forum, said that the Forum supports reducing the number of false alarms and appreciates the protection provided by Police. He said that one idea suggested here was having the alarm companies maintain the registration and forward it on, but the Free Enterprise Forum feels that puts an onerous burden on the company and might provide less adequate information. Mr. Williamson stated that the person paying a fee for the false alarm needs to be the contact and also opens up communication with the Police as to who is authorized for contact. If the fees and fines are to be put on the businesses and individuals, then the responsibility for such registration should also be on those individuals.

Mr. Rooker said this ordinance does not mandate that the security companies provide the registration information.

Mr. Davis stated it requires the alarm system user to register it and how they achieve that is up to them but they are responsible for it – and the person who would pay the fine.

No further public comment was offered and the Chair closed the public hearing, with the matter placed before the Board.

Mr. Rooker **moved** for approval of ZTA-2010-0002 as presented. Mr. Thomas **seconded** the motion.

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

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

Mr. Davis clarified that the ordinance has an effective date of November 1, 2011, which allows Police to roll out the public information service prior to the ordinance being in effect, and said the effective date is included in the ordinance itself.

(The adopted ordinance is set out in full below:)

ORDINANCE NO. 11-12(2)

AN ORDINANCE TO AMEND CHAPTER 12, REGULATED ENTERPRISES, ARTICLE I, FALSE ALARMS, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA

BE IT ORDAINED By the Board of Supervisors of the County of Albemarle, Virginia, that Chapter 12, Regulated Enterprises, Article I, False Alarms, is hereby amended and reordained as follows:

By Adding:
Sec. 12-100 Purpose
Sec. 12-102 Registration of alarm systems designed to seek a police response
Sec. 12-103 Maintenance of alarm systems required; disconnection of alarm systems
Sec. 12-106 Automatic dialing devices prohibited; penalty

By Amending and Reunumbering:

Sec. 12-100 False alarm; defined	**to Sec. 12-101 Definitions**
Sec. 12-101 False alarms prohibited; penalty	**to Sec. 12-104 False alarms prohibited; service fees**
Sec. 12-102 Intentional false alarms a criminal offense	**to Sec. 12-105 Deliberate false alarms a criminal offense**
Sec. 12-104 Administration	**to Sec. 12-107 Administration**
Sec. 12-105 Appeals	**to Sec. 12-108 Appeals**

By Repealing:
Sec. 12-103 Charges for false alarms

CHAPTER 12. REGULATED ENTERPRISES
ARTICLE I. FALSE ALARMS

Sec. 12-100 Purpose.

The board hereby finds that malfunctioning alarm systems, and the false alarms associated with them, constitute a hazard to public safety personnel and to the public in general. The regulation of alarm systems and false alarms is necessary to promote the health, safety and welfare of county citizens. False alerts of intrusions or robberies increase the county's public safety costs, divert public safety resources from other critical areas of work, and burden the Charlottesville-U.Va.-Albemarle Emergency Communications Center. In order to preserve the integrity and efficiency of the county's police and fire and rescue emergency services,

those who utilize automatic alarm systems must be required to maintain those systems in good working order and to promptly repair any defects which may cause those systems to trigger false alarms.

Sec. 12-101 Definitions.

For the purposes of this article and, unless otherwise required by the context, the following words and terms shall have the meanings respectively ascribed to them by this section:

Alarm system means an assembly of equipment and devices arranged to signal the presence of a hazard requiring urgent attention and to which a police or fire and rescue response is expected.

Alarm system user means: (1) any person or entity owning or leasing an alarm system; or (2) any person or entity owning or leasing the premises on which such alarm system is maintained. An "alarm system user" shall not include the United States, the Commonwealth of Virginia, or their respective agencies or political subdivisions.

Automatic dialing device means any device, system or equipment that automatically transmits over telephone lines, by direct connection or otherwise, a prerecorded voice message or coded signal indicating the existence of an emergency situation to which a police, fire, or emergency medical services response is expected.

Emergency communications center means the regional 911 center known as the Charlottesville-U.Va.-Albemarle Emergency Communications Center.

False alarm means an alarm that causes a police or fire and rescue response when there is no actual or threatened criminal activity, fire, or other emergency requiring an immediate police or fire and rescue response. False alarms shall include, but not be limited to: negligently or accidentally activated signals; signals which are the result of faulty, malfunctioning or improperly installed or maintained equipment; signals which are purposefully activated to summon a police or fire and rescue response in nonemergency situations; and alarms for which the actual cause is not determined. False alarms shall not include any alarms caused by failure of the equipment at the emergency communications center, or any alarms determined by the responding police or fire and rescue officer to have been triggered by criminal activity, activity unauthorized by the alarm system user, or activity outside the control of the alarm system user.

(Ord. of 4-17-91; Code 1988, § 2.2-1; Ord. 98-A(1), 8-5-98; § 12-100)

State law reference--Va. Code §15.2-911

Sec. 12-102 Registration of alarm systems designed to seek a police response.

A. *General Requirements.* Prior to installing, using or maintaining on any premises within the county an alarm system which is designed to seek a police response, an alarm system user shall register such alarm system by providing the following information, using forms provided by the county, to the chief of police or his designee:

1. The street address of the premises at which the alarm system is to be installed or used (the "premises"); the name, mailing address and telephone number of the owner and lessee, if any, of such premises; and the name and mailing address of an individual (alarm user or designee of the alarm user) to whom notices regarding the alarm system may be sent; and

2. The names, street addresses and telephone numbers of at least two (2) individuals who will have day-to-day responsibility for the premises and alarm system, who will be immediately available to be contacted in the event an alarm is activated, and who are authorized and able to deactivate the alarm system; and

3. A description of the specific type of alarm system, manufacturer's name, and the name and telephone number of the alarm company monitoring, responding to or maintaining the alarm system; and

4. If registering an alarm system that has been disconnected or disabled following a notice to disconnect or disabled issued pursuant to §12-103, documentation that the alarm system has been repaired or passed inspection by an individual or entity qualified to repair or inspect alarm systems.

B. *Changes in Alarm System Registration Information*. Whenever any registration information provided by an alarm system user pursuant to subsection A changes, the alarm system user shall provide correct, updated information to the chief of police or his designee within ten (10) business days of the change. When an individual or entity takes possession of premises equipped with an activated alarm system, the individual or entity must provide updated registration information within ten (10) business days of taking possession as required by subsection A.

C. *Failure to Register Alarm System.* Upon the first police response to an unregistered alarm system in response to a signal issued by the alarm system, the chief of police or his designee shall issue a written notice to the alarm system user that the alarm system must be registered. Upon the second police response caused by an unregistered alarm system, the alarm system user shall be assessed a service fee in the amount of $150. On the third or subsequent such response, the alarm system user shall be assessed a service fee in the amount of $300.

D. Registration of an alarm system shall not create a contract, duty or obligation, either express or implied, for police to respond. Any and all liability and consequential damage resulting from the failure to

respond to a notification from an alarm system is hereby disclaimed. By registering an alarm system, the alarm system user acknowledges that police responses may be based on factors such as the availability of responding units, staffing levels, priority of pending requests for services, weather conditions, traffic conditions and other emergency conditions.

Sec. 12-103 Maintenance of alarm systems required; disconnection of alarm systems.

A. *Maintenance of alarm systems.* Alarm system users shall maintain their alarm systems in good working order. Because alarm systems that generate multiple false alarms within a short period of time may be malfunctioning, the chief of police or his designee and the fire and rescue chief or his designee shall have the discretion to suspend responses to an alarm system after the second false alarm generated within a twenty-four (24) hour period; such suspension shall last for the remainder of the twenty-four hour period.

B. *Disconnection of alarm systems.* An alarm system user shall disconnect or disable any alarm system upon a written determination and notice by the chief of police or his designee or by the fire and rescue chief or his designee that the installation, use, operation and/or maintenance of the alarm system would constitute an unreasonable burden on police or fire and rescue resources. Any alarm system which generates eight (8) or more false alarms within any four (4) day period shall be deemed an unreasonable burden on police or fire and rescue resources. An alarm system user required to disconnect or disable an alarm system shall be entitled to register a new or repaired alarm system at any time in accordance with §12-102.

Sec. 12-104 False alarms prohibited; service fees.

A. *Prohibition.* No alarm system user or other person shall send or activate a false alarm that causes a police or fire-and rescue response where there is no actual or threatened crime, fire, or other emergency requiring an immediate police or fire and rescue response. Violations of this section shall result in the assessment of service fees as provided below.

B. *Service fee amounts.* Alarm system users shall pay a service fee for false alarms within thirty (30) days of billing. The service fee shall be assessed for each false alarm during any twelve (12) month period as follows:

1. First false alarm: No charge.
2. Second false alarm: No charge.
3. Third false alarm: $100.
4. Fourth false alarm: $150
5. Fifth false alarm: $200
6. Sixth and subsequent false alarms: $300

C. *Service fee assessments.* The county shall cause alarm system users to be billed for false alarms in accordance with the above schedule of service fees. All fees shall be paid within thirty (30) days of billing. Failure to pay a service fee within thirty (30) days of billing shall result in the assessment of a delinquent payment fee in an amount equal to the original fee and the initiation of civil action, as necessary, for the recovery of the unpaid fee.

(Ord. of 4-17-91; Code 1988, § 2.2-4; Ord. 98-A(1), 8-5-98, § 12-101)

State law reference--Va. Code § 15.2-911.

Sec. 12-105 Deliberate false alarms a criminal offense.

It shall be a class 1 misdemeanor for any person to knowingly and without just cause to activate an alarm system to summon a police or fire and rescue response where there is no actual or threatened criminal activity, fire, or other emergency that required an immediate police or fire and rescue response.

(Ord. of 4-17-91; Code 1988, § 2.2-2; Ord. 98-A(1), 8-5-98, § 12-102)

State law reference--Va. Code § 27-97; false alarms, §18.2-212, 18.2-461

Sec. 12-106 Automatic dialing devices prohibited; penalty.

No person or entity shall install, use, or maintain on any premises within the county any automatic dialing device which delivers, or causes to be delivered, any prerecorded voice message or coded signal to the emergency communications center or any department of the county. Violations of this section shall constitute a class 4 misdemeanor.

Sec. 12-107 Administration.

The chief of police, the fire and rescue chief, in coordination with the director of finance, shall have joint responsibility for administering this article under the supervision of the county executive.

(Ord. of 4-17-91; Code 1988, § 2.2-5; Ord. 98-A(1), 8-5-98, § 12-104)

Sec. 12-108 Appeals.

A. *Appeals for Alarms Requiring a Police Response.* Any fee imposed by the police department pursuant to this article or notice to disconnect or disable an alarm system may be appealed in writing to the chief of police, using forms provided by the police department, within ten (10) days of the date of notice of such fee or decision. Upon receipt of such appeal, the chief of police or his designee may grant relief from the fee or notice or affirm the fee or notice. Should the fee or notice be affirmed, the alarm system user may appeal the decision of the chief of police or his designee to the county executive by filing a written appeal within ten (10) days of the date of the decision. Upon receipt of such appeal, the county executive or his designee may grant relief from the fee or notice, or affirm the fee or notice. The decision of the county executive or his designee is final.

B. *Appeals for Alarms Requiring a Fire and Rescue Response.* Any fee imposed by the county department of fire and rescue pursuant to this article may be appealed in writing to the fire and rescue chief, using forms provided by the department, within ten (10) days of the date of notice of such fee. Upon receipt of such appeal, the chief or his designee may grant relief from the fee, or affirm the fee. Should the fee be affirmed, the alarm system user may appeal the decision of the chief or his designee to the county executive by filing a written appeal within ten (10) days of the date of the decision. Upon receipt of such appeal, the county executive or his designee may grant relief from the fee or affirm the fee. The decision of the county executive or his designee is final.

(Ord. of 4-17-91; Code 1988, § 2.2-6; Ord. 98-A(1), 8-5-98, § 12-105)

This ordinance will be effective on and after November 1, 2011.

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Agenda Item No. 13. **PUBLIC HEARING: Streamline AFD review process – Amend County Code. 11-03( ) – Agricultural and Forestal Districts. PROPOSED:** To add Sec. 3-104, Program administrator; amend Secs. 3-200, Minimum size and location of district, 3-201, Creation of district, 3-202, Effect of district creation, 3-203, Addition of land to district, 3-204, Review of district, continuation, modification or termination, 3-205, Withdrawal of land from district, and 3-300, Minimum size and location of district, of Chapter 3, Agricultural and Forestal Districts, of the Albemarle County Code. This ordinance would add Sec. 3-104 and amend Sec. 3-205 to add references to the director of planning, who shall administer the county's agricultural and forestal district (AFD) program; amend Secs. 3-200 and 3-300 to allow noncontiguous land to be included in an AFD under new criteria provided by State law; amend Secs. 3-201, 3-203 and 3-204 to establish new procedures and clarify existing procedures for the creation, addition of land to, and review, of an AFD, respectively; amend Sec. 3-202 to update cross-references to State law; and other make non-substantive corrections in those sections. *Advertised in the Daily Progress on July 18 and July 25, 2011.)*

The executive summary presented to the Board stated that pursuant to the provisions of the Agricultural and Forestal Districts Act (Virginia Code § 15.2-4300 *et seq*.), localities are authorized to establish agricultural and forestal districts ("AFDs"). Landowners voluntarily apply to have an AFD established or to add their land to an existing AFD.

Because state mandated procedures for creating and adding lands to AFDs were complicated and burdensome, the Board of Supervisors' made it a legislative priority in 2011 to request the General Assembly to amend the Agricultural and Forestal Districts Act. The primary purpose of this legislation was to clarify and simplify the procedures for creating and adding lands to AFDs. The General Assembly adopted this legislation and it became law effective July 1, 2011.

The proposed ordinance would clarify and simplify the procedural requirements for creating and adding land to an AFD in the County and reduces the number of published notices. Specifically, as authorized by the amended State enabling authority, the proposed ordinance would:

(1) reduce the number of published notices required during the application review process from 4 to 1 (published notice would be provided only when the Board considers an application and would no longer be provided at three prior steps in the review process)
(2) reduce the information required to be included in the notice mailed to adjacent landowners (would include only information that would be relevant to them;
(3) simplify and reorganize the procedures for creating and adding land to AFDs by eliminating unnecessary steps and reorganizing those steps in chronological order (an example of the unnecessary steps that would be eliminated are the requirements that an application be forwarded to the Board which, in turn, refers it to the Planning Commission which, in turn, refers it to the Advisory Committee). Under the proposed ordinance, the newly designated program administrator (the director of planning) would refer the application directly to the Advisory Committee so that the review may begin;
(4) allow more flexibility in the type of information required to be submitted with an application; and
(5) make other technical changes to bring the County's regulations into conformity with State law.

Had this ordinance been in place for the 2009 Fall Addition period, $7,135 of the $10,578 (67%) in newspaper publication costs would have been saved. In the 2010 Spring Addition period, $2,261 of the

$3,831 (59%) would have been saved, and in the 2011 Fall Addition period, $2,657 of the $3,912 (68%) would have been saved.

Should the Board adopt the proposed ordinance, staff anticipates saving approximately $5,000 each year in newspaper publications costs (65% of total current expenditures). The County will also realize savings in supplies and postage for the mailed notices to adjacent property owners. Finally, it is estimated that approximately 100 hours (0.05 FTE) of staff time will be saved based on recent experiences with applications which are processed two times per year.

Staff recommends that, after the public hearing, the Board adopt the attached ordinance (Attachment A).

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Mr. Cilimberg reported that this proposed ordinance is in response to changes in the State Code.

Mr. Greg Kamptner, Deputy County Attorney, reported that this arose from the validation proceeding the County went through in 2009. With the influx of applications for additions to ag/forestal districts staff recognized the burden of following the State-mandated procedures and thus suggested that this be a legislative priority in 2011. He said that staff worked with other localities in the TJPDC to craft the language and the General Assembly adopted the measure, which became effective July 1.

Mr. Kamptner stated that what is before the Board incorporates the changes to State law and addresses four key issues: reduces the number of public notices required from four to one, at the key point in the process; reduces the number of times information needs to be provided to adjoining landowners, which limits it to that that is most relevant and of interest to abutting landowners; simplifies and reorganizes procedures; and allows flexibility in the type of information that can be provided – with the Director of Planning having the authority to make that judgment. He also said that staff made some minor technical changes to ensure that the ordinance is consistent with existing State law. Staff recommends approval of the proposed ordinance.

The Chair opened the public hearing. No public comment was offered, the Chair closed the public hearing and the matter was placed before the Board.

Ms. Mallek **moved** for approval of the proposed ordinance as presented. Mr. Thomas **seconded** the motion.

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

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

Mr. Cilimberg noted that Mr. David Blount of TJPDC, Ms. Eryn Brennan of County staff, and Mr. Kamptner worked very hard to make this change happen and thanked them for their effort.

(The adopted ordinance is set out in full below:)

ORDINANCE NO. 11-03(3)

AN ORDINANCE TO AMEND CHAPTER 3, AGRICULTURAL AND FORESTAL DISTRICTS, ARTICLE I, GENERAL, ARTICLE II, DISTRICTS OF STATEWIDE SIGNIFICANCE, AND ARTICLE III, DISTRICTS OF LOCAL SIGNIFICANCE, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA

BE IT ORDAINED By the Board of Supervisors of the County of Albemarle, Virginia, that Chapter 3, Agricultural and Forestal Districts, Article I, General, Article II, Districts of Statewide Significance, and Article III, Districts of Local Significance, are hereby amended and reordained as follows:

By Amending:
Sec. 3-200 Minimum size and location of district
Sec. 3-201 Creation of district
Sec. 3-202 Effect of district creation
Sec. 3-203 Addition of land to district
Sec. 3-204 Review of district; continuation, modification or termination
Sec. 3-205 Withdrawal of land from district
Sec. 3-300 Minimum size and location of district

By Adding:
Sec. 3-104 Program administrator

Chapter 3. Agricultural and Forestal Districts

Article I. General

Sec. 3-104 Program administrator

The director of planning is hereby appointed the administrator of the county's agricultural and forestal district program.

State law reference--Va. Code § 15.2-4305.

Article II. Districts of Statewide Significance

Division 1. Procedure

Sec. 3-200 Minimum size and location of district.

Each agricultural and forestal district of statewide significance shall have a core of no less than two hundred (200) acres in one parcel or in contiguous parcels. A parcel not part of the core may be included in a district: (i) if the nearest boundary of the parcel is within one (1) mile of the boundary of the core; (ii) if it is contiguous to a parcel in the district, the nearest boundary of which is within one (1) mile of the core; or (iii) if the board of supervisors finds, in consultation with the advisory committee and the planning commission, that the parcel not part of the core within one (1) mile of the boundary of the core contains agriculturally and forestally significant land. The land included in a district may be located in more than one locality provided that the requirements of Virginia Code § 15.2-4305 for districts are satisfied.

(Ord. 98-A(1), 8-5-98)

State law reference--Va. Code § 15.2-4305.

Sec. 3-201 Creation of district.

Each agricultural and forestal district of statewide significance shall be created as provided herein:

A. *Application.* On or before one or more application dates each year set by the director of planning, any owner or owners of land may submit an application to the director for the creation of a district. The application shall be made on a form developed and provided by the director and shall be signed by each owner of the land proposed to be included in the district. Each submitted application shall be accompanied by: (i) maps or aerial photographs, or both as may be required by the director, that clearly show the boundaries of the proposed district, the boundaries of the parcels owned by each applicant, and any other features prescribed by the director; and (ii) the fee required by section 3-206.

B. *Receipt and referral of application.* Upon receipt of an application for a district, the director shall refer the application to the advisory committee.

C. *Advisory committee review.* Upon receipt of an application from the director, the advisory committee shall review the application and any proposed modifications and report its recommendations to the planning commission. The advisory committee shall apply the criteria in Virginia Code § 15.2-4306 in its review of each application.

D. *Planning commission review*. Upon receipt of the report of the advisory committee on an application, the planning commission shall: (i) provide the notice required by Virginia Code § 15.2-4307(1); (ii) hold a public hearing; and (iii) after the public hearing, report its recommendations to the board of supervisors. The planning commission shall apply the criteria in Virginia Code § 15.2-4306 in its review of each application. The planning commission's report shall include the potential effect of the district and any proposed modifications upon the county's planning policies and objectives.

E. *Hearing and action by board of supervisors.* After receiving the reports of the planning commission and the advisory committee, the board of supervisors shall hold a public hearing on the application. After a public hearing, the board of supervisors may by ordinance create a district as applied for or with any modifications it deems appropriate, as provided herein.

1. The ordinance shall be adopted pursuant to the conditions and procedures provided in Virginia Code § 15.2-4309.

2. The board of supervisors shall act to either adopt the ordinance creating the district, or reject the application, or any modification to it, within one hundred eighty (180) days after the application date set by the director under which the application was received.

(§ 2.1-2; 6-8-83, §§ 3, 4, 5; 12-16-87; 12-11-91; 7-1-92; Code 1988, § 2.1-2; Ord. 98-A(1), 8-5-98; Ord. 09-3(1), 6-10-09)

State law reference--Va. Code §§ 15.2-4303 through 15.2-4307 and 15.2-4309.

Sec. 3-202 Effect of district creation.

The land within an agricultural and forestal district of statewide significance shall be subject to the following upon the creation of the district:

A. *Prohibition of development to more intensive use*. As a condition to creation of the district, no parcel within the district shall be developed to a use more intensive than that existing on the date of creation of

the district, other than uses resulting in more intensive agricultural or forestal production, without the prior approval of the board of supervisors.

1. Except as provided in paragraph (2), a parcel shall be deemed to be developed to a more intensive use if:

(a) The proposed development would remove any portion of a parcel from agricultural or forestal production; or

(b) The proposed development would increase the population density or the level of activity on the parcel including, but not limited to, the rental of more than one dwelling unit on the parcel except as provided in paragraph (2)(e).

2. A parcel shall not be deemed to be developed to a more intensive use if:

(a) The proposed development is permitted by right in the rural areas (RA) zoning district;

(b) The proposed development is permitted by special use permit in the rural areas (RA) zoning district and the board of supervisors, in considering the application for a special use permit, determines that the development allowed by the permit is consistent with the purposes of this chapter;

(c) The proposed development is the proposed division of the parcel either by subdivision or rural division and the minimum lot size of such division is twenty-one (21) acres or greater;

(d) The proposed development is the proposed division of the parcel by family division; or

(e) The proposed development is the occupation of dwelling units on the parcel by members of the immediate family of any of the owners of such parcel or by bona fide farm employees, together with their respective families, if any.

B. *Applicability of comprehensive plan and zoning and subdivision ordinances*. The comprehensive plan and the zoning and subdivision ordinances shall apply within each district to the extent that the ordinances do not conflict with conditions of creation or continuation of the district, or the purposes of this chapter and Chapter 43 of Title 15.2 of the Virginia Code.

C. *Limitation on restricting or regulating certain agricultural and forestal farm activities*. The county shall not unreasonably restrict or regulate by ordinance farm structures or agricultural and forestal practices which are contrary to the purposes of this chapter and Chapter 43 of Title 15.2 of the Virginia Code unless such restriction or regulation is directly related to public health and safety. The county may regulate the processing or retail sales of agricultural or forestal products or structures therefor, in accordance with the comprehensive plan and any county ordinances.

D. *Consideration of district in taking certain actions.* The county shall consider the existence of a district and the purposes of this chapter and Chapter 43 of Title 15.2 of the Virginia Code in its comprehensive plan, ordinances, land use planning decisions, administrative decisions and procedures affecting parcels of land adjacent to the district.

E. *Availability of land use-value assessment.* Land within a district and used for agricultural or forestal production shall automatically qualify for an agricultural or forestal use-value assessment pursuant to Article 4 of Chapter 32 of Title 58.1 of the Virginia Code, if the requirements for such assessment contained therein are satisfied.

F. *Review of proposals by agencies of the Commonwealth, political subdivisions and public service corporations to acquire land in district.* Any proposal by an agency of the Commonwealth, any political subdivision, or any public service corporation to acquire land or any interest therein in a district of statewide significance subject to Virginia Code § 15.2-4313 shall be reviewed under that section and the board of supervisors shall have all of the rights and powers granted to it therein.

G. *Parcel created by division remains in district.* A parcel created from the permitted division of land within a district shall continue to be enrolled in the district.

(§ 2.1-3; 6-8-83, § 6; 4-13-88; Code 1988 § 2.1-3; Ord. 98-A(1), 8-5-98)

State law reference--Va. Code §§ 15.2-4312, 15.2-4313.

Sec. 3-203 Addition of land to district.

Land may be added to an agricultural and forestal district of statewide significance as provided herein:

A. *Application*. On or before one or more application dates each year set by the director of planning, any owner or owners of land may submit an application to the director to add one or more parcels to an existing agricultural and forestal district of statewide significance. The application shall be made on a form developed and provided by the director and shall be signed by each owner of the land proposed to be added to the district.

B. *Procedure*. The procedure for adding land to a district shall be the same procedure provided for the creation of adistrict in section 3-201(B) through (E).

(§ 2.1-2; 6-8-83, §§ 3 through 5; 12-16-87; 12-11-91; 7-1-92; Code 1988, § 2.1-2; Ord. 98-A(1), 8-5-98)

State law reference--Va. Code § 15.2-4310.

Sec. 3-204 Review of district; continuation, modification or termination.

Each agricultural and forestal district of statewide significance shall be reviewed as provided herein:

A. *Review period*. Each district shall be reviewed within the period set forth in the ordinance creating the district, which period shall not be less than four (4) years nor more than ten (10) years from the date of its creation, and shall thereafter be reviewed within each such subsequent period.

B. *Initiation of district review*. At least ninety (90) days before the expiration of the period of review of the district, the director of planning shall refer the district to the advisory committee for review.

C. *Advisory committee review.* Upon receipt of the referral of the district from the director, the advisory committee shall review the district, conduct a public meeting, and report to the planning commission its recommendations as to whether to terminate, modify or continue the district. Notice of the public meeting shall be provided to the owners of the land within the district as required by Virginia Code § 15.2-4311.

D. *Planning commission review*. Upon receipt of the report of the advisory committee on a district, the planning commission shall conduct a public hearing. The planning commission shall report to the board of supervisors its recommendations, together with the advisory committee's recommendations, as to whether to terminate, modify or continue the district.

E. *Hearing and action by board of supervisors.* After receiving the reports of the planning commission and the advisory committee, the board of supervisors shall hold a public hearing on the district. After the public hearing, the board of supervisors may terminate, modify or continue the district. If the board continues the district, it may impose conditions different from those imposed when the district was created or last reviewed. If the board terminates the district, the land within the former district shall be subject to the applicable provisions of Virginia Code § 15.2-4314.

F. *Effect of failure to complete review by review date*. A district shall not terminate by the failure of the board of supervisors to act pursuant to paragraph (E) by the district's review date.

(Ord. 98-A(1), 8-5-98; Ord. 09-3(1), 6-10-09)

State law reference--Va. Code § 15.2-4311.

Sec. 3-205 Withdrawal of land from district.

An owner of land within an agricultural and forestal district of statewide significance may request that his land be withdrawn from the district, as provided herein:

A. *Withdrawal by right by owner*. After the planning commission initiates the review of a district and before the board of supervisors acts to continue, modify or terminate the district, an owner of land may withdraw the land from the district by filing a written notice of withdrawal with the director of planning.

B. *Withdrawal by right by certain successors to deceased owner*. Within two years of the date of death of an owner of land within a district, any heir, devisee, surviving co-tenant or personal representative of a sole owner of any fee simple interest of land may, upon the inheritance or descent of such land, withdraw the land from the district by filing a written notice of withdrawal with the director and the department of finance.

C. *Withdrawal in discretion of board of supervisors.* At any time after the creation of a district, an owner of land may request the board of supervisors to withdraw all or part of the land from the district, as provided herein:

1. *Filing of written request*. The owner shall file a written request for withdrawal with thedirector. The request shall identify the owner of the land, identify the land or part thereof proposed to be withdrawn, state the reason for the request, and address the criteria for review set forth in paragraph (C)(2). The request shall be accompanied by the fee required in section 3-206.

2. *Criteria for review*. A request to withdraw land from a district may be approved only if the withdrawal satisfies all of the following criteria:

(a) The proposed new land use will not have a significant adverse impact on agricultural or forestal operations on land within the district;

(b) The proposed new land use is consistent with the comprehensive plan;

(c) The proposed land use is consistent with the public interest of the county in that it promotes the health, safety or general welfare of the county, rather than only the proprietary interest of the owner; and

(d) The proposed land use was not anticipated by the owner at the time the land was placed in the district, and there has been a change in circumstances since that time.

3. *Advisory committee review.* Upon receipt of a request to withdraw from the director, the advisory committee shall review the request and report to the planning commission its recommendations. In conducting its review, the committee shall evaluate the request as provided in paragraph (C)(2).

4. *Planning commission review*. Upon receipt of the report of the advisory committee on a request to withdraw, the planning commission shall conduct a public hearing and evaluate the request as provided in paragraph (C)(2). The planning commission shall report to the board of supervisors its recommendations, together with the advisory committee's recommendations.

5. *Hearing by board.* After receiving the reports of the planning commission and the advisory committee, the board of supervisors shall hold a public hearing on the request.

D. *Effect of withdrawal.* Land that is withdrawn from a district shall be subject to roll-back taxes as provided in Virginia Code § 58.1-3237, and subject to all local laws and ordinances otherwise prohibited from applying to land within a district, as provided in section 3-202(C). The withdrawal of land from a district shall not itself terminate the district.

(Ord. 98-A(1), 8-5-98; Ord. 09-3(1), 6-10-09)

State law reference--Virginia Code §§ 15.2-4307, 15.2-4314.

Article III. Districts of Local Significance

Division 1. Procedure

Sec. 3-300 Minimum size and location of district.

Each agricultural and forestal district of local significance shall have a core of no less than twenty-five (25) acres in one parcel or in contiguous parcels, provided that any noncontiguous parcel that is not part of the core may be included in a district if: (i) the nearest boundary of the noncontiguous parcel is within one-quarter mile of the core; and (ii) the noncontiguous parcel had previously been included in a district of local significance. The land included in a district shall be located entirely within Albemarle County.

(9-15-93; Code 1988, § 2.1.1-2; Ord. 98-A(1), 6-17-98)

State law reference--Va. Code § 15.2-4405.

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Due to the time, Ms. Mallek suggested that the Board take up Agenda Item No. 15.

Agenda Item No. 15. Jarman's Gap Road Closure for Construction.

Ms. Karen Kilby, VDoT Programming & Investment Management Director, stated that VDOT received a resolution in February to close Jarman's Gap Road for 60 days to install a pre-cast box culvert, but due to some unforeseen circumstances they were not able to close the road and get the box in within the June to August timeframe. She said that VDoT would like to close the road on August 15 and keep it closed for approximately 45-60 days, which would take it to October 15. Construction personnel will be working with Mr. Josh Davis and Mr. James Foley, School Transportation, on the detour for busses – taking traffic down Route 240 to Route 250 and back down Old Trail Road. She noted that Mr. Mauris Mackenzie, VDoT's Construction Manager for the project is also present to answer any questions.

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Mr. Rooker asked about the opening of Georgetown Road before school starts. Ms. Kilby said that VDoT has been in contact with the contractor and the contractor has an incentive clause in his contract to get the road open early.

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Mr. Snow reported that he has received a lot of emails regarding the roundabout proposed on Route 250 near Owensville Road.

Ms. Mallek said she has also received messages about it, which is odd because she has not seen that proposal on any long-range plans

Mr. Rooker said that it was considered seven or eight years ago and someone did a schematic drawing of it, and the staff may have some information on the history of it.

Ms. Kilby stated that she does not have much if any information on it, but staff might, and it is perhaps on a long-range plan for an improvement in that area.

Mr. Benish explained that in the County's primary list of improvements there are identified improvements at the intersections of both Tillman Road and Owensville Road, although it has not been determined that they will have roundabouts – but those items are far down on the list. He stated that there

was some minor design work by VDOT about six years ago to see if it was feasible to fit a roundabout concept there, and it was determined to be technically feasible but it is uncertain if it is practically feasible.

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Mr. Snow mentioned that Ms. Kilby would be leaving her job in October.

Ms. Kilby said that she would be retiring on October 1 and there is no replacement yet, but she would let them know if someone is hired in her position. She stated that she has enjoyed working with the County.

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Agenda Item No. 14. Rivanna Solid Waste Authority Funding Agreements for Solid Waste Services.

The executive summary presented to the Board stated that in October 2010, the Board reviewed options for solid waste services and how best to provide those services. Staff recommended that the County maintain the current levels of service and continue to have the Rivanna Solid Waste Authority ("RSWA") provide solid waste services for the County at the McIntire Recycling Center ("McIntire") and at the Ivy Materials Utilization Center ("Ivy").The Board concurred with this recommendation. This was followed by a December 2010 work session where the Board unanimously directed staff to develop draft agreements for services with RSWA and bring those agreements to the Board for consideration. The agreements were to include the following considerations:

1. Be based on the level of service agreed upon at the October work session,
2. Be an annual contract with provision for extension up to two years,
3. Assure services are provided to County residents and businesses without the County subsidizing services to others,
4. Specify the split of any shared costs with the City, and
5. Provide funding levels consistent with the County's FY 12 budget.

Staff now has a proposed agreement for RSWA to provide continuing services at Ivy as a County program and a separate proposed agreement for joint City/County funding for RSWA to provide recycling services at McIntire. (Attachment 1 – Ivy Agreement; Attachment 2 – McIntire Agreement)

1. As discussed in October 2010, the Board agreed to request RSWA to maintain the existing levels of service provided by RSWA to County residents. The City has requested to participate in the McIntire recycling services but not in the Ivy transfer station.

2. Staff notes that both agreements provide for services in FY 12, with an option to extend services for FY 13 and FY 14. The McIntire Agreement requires the County and City to make a written request prior to May 1st of each year to extend the agreement. The Ivy Agreement requires the County to make a written request prior to May 1, 2012 to extend the agreement for FY13 and a written request prior to January 1, 2013 to extend the agreement for FY 14. The January 1, 2013 date is prior to the anticipated approval of a County FY 14 budget, meaning the County will not have committed funding at that time. The agreements include a nonappropriation clause, which would need to be exercised if any budget does not include funding for these services. Staff proposes to address the FY14 extension issue for the Ivy Agreement by asking the Board to confirm in the fall of 2012 that FY 14 services should be included in the FY 14 proposed budget. That will not obligate the Board to approve this funding, but will give RSWA a reasonable assurance that is the County's intent.

3. RSWA has already addressed the request of the Board to not subsidize non-County users by setting a separate surcharge of $10 for non County residents that use the Ivy Facility. This amount was determined to be adequate to address any deficits caused by non-County users that would otherwise be funded by Albemarle County. The amount of this surcharge may be adjusted at the request of the County, however the RSWA will ultimately set the final amount.

4. The McIntire Agreement provides that the City and County jointly share costs for McIntire. The agreement requires the County to assume 70% of any annual operating deficit for this facility and the City to be responsible for 30% of such shortfalls. Staff finds this split matches previous survey results at McIntire. The cost of the Ivy Agreement is not split with the City because the City no longer requests these services.

5. The adopted FY12 RSWA budget is based on funding that fits within the County's adopted budget. The County budgeted $500,000 for the environmental deficit and $350,000 for funding the operational deficit at Ivy and McIntire. That is a total budgeted amount of $850,000. RSWA's budget assumes $435,550 for County environmental support and $409,360 for operational support, for a total of $844,910. This amount is $5,090 below the County's total budgeted amount. While the RSWA budget has a different split of costs than the County's budget, the total amount is less and this difference can be accommodated without a need for an additional appropriation. Two additional issues are noted. First, both agreements provide that cost overruns may have to be funded by the County. Staff notes that RSWA has not exceeded its budget for environmental or operational expenses in the last decade, indicating this is a low risk. If

this should occur, the County will need to decide whether to fund that additional expense or exercise the nonappropriation clause.

The budgets do not result in surplus funding that can be used for additional services, such as restoring the fluorescent bulb processing. Any increased services will require additional County funding. As part of the contract discussions and RSWA FY 12 budget preparation, staff asked RSWA to provide a cost estimate for restoring services associated with processing paint, batteries, and fluorescent light bulbs. RSWA provided those services prior to FY 11, but the service was ended due to funding constraints. RSWA estimates that it would cost approximately $90,000 to restore this service to residents. It is important to note that private disposal options are now available at no cost to taxpayers for batteries and compact fluorescent bulbs. While the paint service and disposal of other fluorescent bulbs is still not addressed, staff believes this is unavoidable without increased County funding.

Finally, staff notes the RSWA is undertaking a review of the Organizational Agreement. (Attachment 3) It is apparent that RSWA is not functioning as anticipated when this Organizational Agreement was adopted. Possible changes to this Organizational Agreement, or a failure to make certain changes, could prove challenging for the County in the future. It is possible that the County will need to find alternatives to RSWA providing these services. The County must consider whether it would be better served by providing its own services, similar to what the City has already done. Staff plans to bring this to the Board for consideration once RSWA's review of the Organizational Agreement has been completed.

The County has $350,000 budgeted in FY 12 to support RSWA operations and $500,000 to support the existing environmental agreement. Based on the draft agreements and RSWA's adopted budget for FY 12, County funding of the RSWA's operational deficit is budgeted at $409,360 and funding of the environmental deficit is budgeted at $435,550, a total of $844,910. The County's adopted budget is adequate to address these expenses, though it will require shifting of $59,360 in funding from environmental support to operations.

Staff recommends that the Board 1) authorize the County Executive to sign the attached agreements for funding of RSWA's Ivy and McIntire facilities, and 2) direct staff to prepare a review of how future services might be provided, following RSWA's consideration of the Organizational Agreement.

_____

Mr. Mark Graham, Director of Community Development, stated as a recap that the Board has previously discussed several points including that Albemarle is fairly unique compared to other localities in that there are a number of private entities that can provide solid waste services; the County continues to have demands that are not being met by those private enterprises; the RSWA has proven to provide cost-effective services for the County; and the County demands can be cost-effectively addressed by funding Rivanna services. From that, he said, the County decided to continue support of the Rivanna services at Ivy, to continue support of the McIntire Recycling Center with an assumption of City cost-sharing, and to consider changes to the RSWA Solid Waste Organizational agreement. Mr. Graham reported that was followed up in December 2010 with direction from the Board for staff to work with the RSWA staff to develop agreements for those services based on the level of service they agreed on in October – to issue an annual contract with the provision for extensions of up to two years, to assure that the services are provided to the County residences and businesses, and to specify the split of any shared costs with the City.

Mr. Graham said that the draft agreements are before the Board today and they do provide for continuation of existing services. He stated that it is an FY12 agreement with the provision of two additional years at the County's discretion, with a McIntire agreement that splits the cost there at 70% County and 30% City based on prior surveys of services used at the facility. Mr. Graham said that the Ivy agreement is for the County only and Rivanna has established a surcharge for non-county residents.

He stated that there is the possibility of additional services that are not currently funded. At Monday night's City Council meeting they asked about providing services such as restoring the processing of batteries, fluorescent bulbs and paints. Mr. Graham said that doing so would add approximately $63,000 to the County's costs each year, adding that batteries and compact fluorescent bulbs can be recycled for free at private locations such as Lowe's and Best Buy. He noted that the County has a service map of these locations on the General Services website.

Mr. Rooker asked if anyone takes paint. Mr. Graham responded that no one takes paint – which is an ongoing issue. Mr. Rooker asked what people do with paint. Mr. Graham said that the correct way to deal with paint is to take the lid off and let it dry, then put it in the trash with other solid waste. He added that Rivanna was putting paint on mulch to dry, and then dispose it as trash. He added that there are some specialty paints that are required to be treated as hazardous waste – which can be disposed of in the County-funded household hazardous waste day held once each year.

Mr. Graham said that Rivanna never provided the service of fluorescent bulb disposal for businesses, and expanding it to accommodate commercial waste could significantly increase the costs presented here. He added that there are private businesses that provide that service now, but it is somewhat costly – and regulations for proper disposal are not aggressively pursued.

Mr. Thomas stated that there is no identification method to determine where the substances come from, noting that he uses a company in Richmond that disposes of his ink cans and fluorescent bulbs. It is significantly expensive.

Mr. Rooker asked if Lowe's would take the bulbs from businesses as well as individuals. Mr. Graham responded that he did not know.

Mr. Graham said that the City also asked about restoring a second household hazardous waste day. In talking with RSWA the cost would be about $25,000 per year – with good participation both times of the year, but RSWA also believes that citizens are adapting to just the one event per year.

Mr. Graham reported that Rivanna held a retreat on August 1. There was a recognition by all the parties that the Rivanna organizational agreement needed to be amended to match existing operations. There are a number of sections that are not being well followed. He said that there are some questions for the City regarding their expectations of Rivanna, and after those are resolved the next step would be developing and presenting recommendations to the City and County on how the organizational agreement can be changed. Mr. Graham stated that the agreement currently binds the City and the County until 2030 and depending on the outcomes it may be determined that the County would be better served in providing its own services rather than through RSWA.

Mr. Graham concluded by stating there are three recommendations today: 1) to authorize the County Executive to sign the agreements as presented today; 2) to advise staff if there is interest in using the Board reserves to fund the additional services – the bulbs, battery and paint at $63,000 use per year and/or household hazardous waste at $25,000 per year; and 3) to direct staff to present the long-term service options with consideration of changes to the Rivanna organizational agreement.

Mr. Rooker asked if having the County provide the services under the second recommendation that are currently being offered free of charge by Lowe's would mean that the County would take the tubes. Mr. Graham responded that it would, with the long fluorescent tubes and paint removal being new services.

Ms. Mallek asked if those services could be incorporated into the hazardous waste day because paint was part of that day. Mr. Graham said paint can still be brought to the household hazardous waste day.

Ms. Mallek asked about the tubes on that day also. Mr. Graham responded that he would need to find that out from Rivanna.

Mr. Rooker said that he does not see the need to spend $63,000 a year to provide services that are largely being provided free of charge, adding that batteries should be recycled anyway – and there is a method to dispose of paint already by letting it dry.

Mr. Snow asked how long does it take for paint to dry out. Mr. Graham responded that it is a factor of humidity in the air. The lower the humidity the faster it dries, but it typically takes a couple of days.

Mr. Boyd said he agrees with Mr. Rooker's comments.

Ms. Mallek said that she would like to go forward with the second hazardous waste day, as it helps keeps people from dumping things on the side of the road.

Mr. Rooker asked Mr. Boyd for his thoughts on the second hazardous waste day. Mr. Boyd said he would be in favor of it, but his real concern is the City backing away from the structure of the Rivanna Authority.

Mr. Foley stated that staff would need to bring back some more information on that before the Board can move forward.

Mr. Boyd agreed, stating that no one is abiding by the agreement as it stands now. The agreement calls for everyone to take their trash to Ivy, but the City is not doing it.

Ms. Mallek said she would like to know if the dollars the County pays into Rivanna would be more effectively used by having a small County department that took those people and put them on County staff to do the job.

Mr. Graham emphasized that the County needs to wait until the City gets back to them, look at needed changes to the organizational agreement, and then all options can be considered as far as the best direction for the County.

Mr. Boyd **moved** to authorize the County Executive to sign the agreements for funding of RSWA's Ivy and McIntire facilities, as presented, and to reinstate the second household hazardous waste day.

Mr. Foley asked if the $25,000 cost should come out of the Board reserves.

Mr. Graham indicated that Monday night the City expressed an interest in the second day.

Mr. Davis noted that they took no action to fund it.

Mr. Graham stated that they wanted to see if there was County interest in funding it, so staff could get back with the City and Rivanna staff to come up with a better estimate.

Mr. Boyd **modified** his motion to authorize the County Executive to sign the agreements as presented.

Mr. Rooker **seconded** the motion.

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

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

Mr. Graham clarified that there may need to be an appropriation from the County for the second household waste day. He will also bring back an estimate for disposal of the fluorescent bulb tubes.

Mr. Snow asked who gets the $25,000. Mr. Graham responded that the RSWA is paid and they contract a hazardous waste processor who is responsible for collecting, packaging and disposal of the materials.

Mr. Snow asked if the County could not just take the batteries over to Lowe's and drop them off. Mr. Graham said that is a complicated question because once Rivanna takes ownership of the materials, he does not know that the County could do that even if Best Buy or Lowe's would take them.

Mr. Davis said that there are only a few facilities that take those kinds of things and they are under very strict regulations for disposal.

Mr. Graham commented that it is relatively expensive by volume, with only about 20 large drums collected, but it does assure that the material is being properly disposed of.

Mr. Rooker stated that the problem is not batteries and bulbs, but the material that nobody takes.

Ms. Mallek said that the Blue Moon Fund provided a grant to cover the electronics recycling at Crutchfield last year and ended up with about 40,000 pounds of old equipment.

Mr. Graham stated they had almost double their estimate of materials received.

Mr. Rooker said that *Dateline* did a show where they followed some of those trucks in California and found that they were being transported over to Asia just dumped into rivers.

(The agreements are set out in full below:)

IVY MATERIAL UTILIZATION CENTER PROGRAMS AGREEMENT

BETWEEN

THE COUNTY OF ALBEMARLE

AND

THE RIVANNA SOLID WASTE AUTHORITY

This **Ivy Material Utilization Center Programs Agreement** (this "Agreement") is made this ___day of _____, 2011 by and between the **County of Albemarle, Virginia** (the "County") and the **Rivanna Solid Waste Authority** (the "Authority", individually a "Party", and together referred to as the "Parties").

WHEREAS, on November 20, 1990, the City of Charlottesville (the "City") and the County entered into a certain Solid Waste Organizational Agreement (the "Organizational Agreement") for the purpose of forming the Authority to operate the Ivy Landfill (the "Landfill") and provide other waste management services for the City and County;

WHEREAS, the Landfill operated continuously from 1968 until the closure of Cell 2 in 2001; however the Authority continues to provide waste management services to the City and County and has continuing obligations with respect to the closure, remediation and monitoring of the Landfill;

WHEREAS, the Authority owns a transfer station at the Landfill site (the "Ivy Transfer Station") currently operated by the Authority, with transportation and disposal of the compacted waste provided by Waste Management, Inc. (formerly Atlantic Waste Disposal, Inc.) pursuant to a contract with the Authority (the "Waste Management Contract");

WHEREAS, in addition to the Ivy Transfer Station, the Authority provides other waste and recycling services at the Landfill site, commonly referred to as the "Ivy Material Utilization Center" (the "Ivy MUC").

WHEREAS, the City, the County, the Authority and the University of Virginia entered into a Memorandum of Understanding dated January 10, 2005 with respect to the sharing of costs related to the closure, remediation and monitoring of the Landfill (the "Environmental Expenses MOU");

WHEREAS, the City, the County and the Authority entered into a Local Government Support Agreement dated December 17, 2007, as amended by First Amendment to Local Government Support Agreement dated July 1, 2010, providing for the participation of the City and County in the costs of maintaining the operation of the McIntire Recycling Center and Paper Sort Facility (collectively the "Recycling Services") as well as the Ivy Transfer Station and Ivy MUC, which agreement expired on December 31, 2010;

WHEREAS, the City no longer desires to use or support the services offered by the Authority at the Ivy MUC;

WHEREAS, the County desires that the Authority continue the provision of services and operation of the Ivy MUC;

WHEREAS, the County and the Authority desire to enter into a new agreement to continue to provide for local government contributions to the Authority by the County to allow the Authority to cover the Authority's administration and operating expenses allocated to the services provided by the Authority at the Ivy MUC as defined herein and in the Authority's adopted budget over and above the revenues received under, and the costs covered by, the Environmental Expenses MOU, the Local Government Support Agreement for Recycling Services, and other revenues received by the Authority; and,

WHEREAS, the County, the City and the Authority are entering into a separate Local Government Support Agreement for Recycling Programs pursuant to which a separate portion of the Authority's Administration Services expenses (more particularly described in Paragraph 2 below) will be allocated (the "Recycling Programs LGSA").

NOW, THEREFORE, the Parties agree as follows:

1. **County Request for Continued Operation of the Ivy MUC**

Pursuant to Section 4.3 of Organizational Agreement, the County has determined the need for the continued operation of, and provision of services at, the Ivy MUC, and hereby directs the Authority to continue such operation and provide such services, subject to the terms and conditions set forth herein.

2. **County's Proportional Funding of Authority's Projected Annual Ivy MUC Operations Deficit**

If the Authority determines that despite all reasonable efforts to fund the operating and administrative expenses of the Ivy MUC from the tipping fees charged for use of the Ivy Transfer Station and other revenues projected (designated as the sum of Ivy Tipping Fees, Ivy MSW Tipping, Material Sales-Ivy, and Other Revenues in the Authority's operating budget) that an operating deficit will exist, it shall prepare and adopt a budget, including reasonable reserves, balanced by using revenue to be contributed by the County, notwithstanding anything contained in Section 4.3 of the Organizational Agreement to the contrary. The Ivy MUC expenses shall be the sum total of Ivy Operations and MSW-Ivy Transfer as well as fifty percent (50%) of the total Administration Services expenses of the Authority as shown in the operating budget of the Authority. The County agrees to fund that portion of the budget balanced by revenues to be contributed by the County as provided below. An example of the calculations required by this paragraph is set forth in Exhibit 1 attached hereto (which are based upon the tipping fees adopted by the Authority effective July 1, 2011 as set forth in Exhibit 2), and such calculations shall be made by the Authority in a manner consistent with the example in Exhibit 1. The percentage of Administration Services expenses set forth above assumes that an additional portion of the Authority's total Administration Services expenses will be allocated under the Recycling Programs LGSA, and therefore the parties hereto agree that this Agreement and the Authority's continuation of the Ivy Material Utilization Center programs with the level of the County's funding determined by such percentage is contingent upon entry by the County and the City into the Recycling Programs LGSA, and in the event of any extension of the term of this Agreement pursuant to Paragraph 6 below, upon an extension for the same period of the term of the Recycling Programs LGSA.

3. **Tipping Fees and Other Charges for Ivy MUC**

Tipping fees and other charges for the Ivy MUC adopted by the Authority effective July 1, 2011 for the Authority's fiscal year ending June 30, 2012 are attached hereto as Exhibit 2. The Authority shall consult with the County prior to proposing any change to the tipping fees or other charges for the Ivy MUC and shall, to the extent permitted by law and subject to the requirements of Virginia Code Section 15.2-5136, propose tipping fees and other charges for use of the Ivy MUC for adoption by the Authority's Board of Directors as requested by the County. The Ivy MUC expenses include equipment depreciation expenses which are allocated to a capital equipment repair and replacement reserve. The obligation of the County to pay for any capital expenditures for repair or replacement of equipment exceeding such reserves shall require the prior written approval of the County.

4. **Quarterly Payments**

If the Authority's proposed annual budget for the Ivy MUC is balanced by revenues to be contributed by the County, the County agrees to provide such revenues by payments to the Authority made quarterly on the first day of July, October, January, and April of such fiscal year of the Authority.

5. **Increase or Decrease in the Ivy Material Utilization Center Deficit**

Payments by the County to the Authority for any particular fiscal quarter shall be increased or decreased, as appropriate to take into account any extraordinary increases or reductions in Ivy MUC expenses and/or reductions or increases in revenue not anticipated by the adopted budget for such year upon the Authority's submission to the County of an amended budget approved by the Authority's Board of Directors at least 30 days prior to the due date of the next payment. Upon completion of the audited financial statements of the Authority for the prior fiscal year, the County's payments to the Authority shall be increased or decreased, as appropriate, to take into account increases or decreases in actual Ivy MUC expenses and/or reductions or increases in actual revenues from those anticipated by the adopted budget as shown by such financial statement; provided, however, that any such increase or decrease shall take into account any increase or decrease in payments for such year pursuant to the most recently adopted amended budget of the Authority for such year, if any. In the event the amount of the County's payments exceed the amount of revenues needed by the Authority pursuant to paragraph 2 above, the Authority shall remit such excess to the County, or in the event that the County extends this Agreement as provided in paragraph 6 below, the Authority may carry such excess over to the next fiscal year giving the County credit during such year for such excess.

6. **Term of Agreement**

This Agreement shall be effective upon execution and the County's financial participation requirements shall be retroactive to July 1, 2011 and shall continue for the Authority's fiscal year ending June 30, 2012. Subject to Paragraph 2 above, the term of this Agreement shall be extended for up to two (2) additional one (1) year terms upon the Authority's receipt of a written request by the County not later than May 1, 2012 for the first extended term and not later than January 1, 2013 for the second amended term.

7. **Solid Waste Organizational Agreement**

The Parties enter this Agreement notwithstanding any provisions in the Organizational Agreement conflicting with this Agreement, and agree that in the event of any such conflicting provisions, this Agreement shall control.

8. **Voluntary County Funding**

Nothing in this Agreement shall be construed as creating a claim, cause of action, or right of recovery against either the County by the Authority or by any creditor or claimant of the Authority. The Authority acknowledges that the County is not under any legal or equitable obligation to provide funding to the Authority, but that it has voluntarily chosen to do so for the sole reason of insuring the continuation of a certain level of solid waste disposal and recycling services being provided by the Authority at the Ivy MUC, and the County acknowledges that in the event such funding is not made available to the Authority, the Authority will necessarily have to curtail those services.

9. **Non-Appropriation**

This Agreement is subject to the approval, ratification, and annual appropriations by the Albemarle County Board of Supervisors of the necessary money to fund this Agreement for this and any succeeding fiscal years. Should the County fail to appropriate the necessary funding, it shall give prompt written notice to the Authority of such non-appropriation, and this Agreement shall automatically terminate without further notice by or to any Party.

10. **Amendment**

Any amendment to this Agreement must be made in writing and signed by the Authority and the County.

11. **Governing Law**

This Agreement shall be governed in all respects by the laws of the Commonwealth of Virginia.

12. **Notices**

Any notice, invoice, statement, instructions, or direction required or permitted by this Agreement shall be addressed as follows:

a. To the County: Office of the County Executive
401 McIntire Road
Charlottesville, VA 22902

b. To the Authority: Office of the Executive Director
Rivanna Solid Waste Authority
P.O. Box 979
Charlottesville, Virginia 22902-0979

or to such other address or addresses as shall at any time or from time to time be specified by any Party by written notice to the other Party.

13. **Integration Clause**

This Agreement, and any amendment or modification that may hereafter be agreed to in accordance with the provisions herein, constitutes the entire understanding between the Parties with respect to the matters addressed, and supersedes any and all prior understandings and agreements, oral or written, relating hereto, except for the Environmental Expenses MOU.

14. **Execution**

This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

WHEREAS these terms are agreeable to the County of Albemarle and the Rivanna Solid Waste Authority, and each Party offers its signature as of the date below.

THE COUNTY OF ALBEMARLE:

_____ _____
Thomas Foley Date
County Executive

RIVANNA SOLID WASTE AUTHORITY:

_____ _____
Thomas L. Frederick, Jr. Date
Executive Director

_____

LOCAL GOVERNMENT SUPPORT AGREEMENT FOR RECYCLING PROGRAMS

AMONG

THE CITY OF CHARLOTTESVILLE

THE COUNTY OF ALBEMARLE

AND

THE RIVANNA SOLID WASTE AUTHORITY

This **Local Government Support Agreement for Recycling Programs** (this "Agreement") is made this ___day of _____, 2011 by and among the **City of Charlottesville, Virginia** (the "City"), the **County of Albemarle, Virginia** (the "County") and the **Rivanna Solid Waste Authority** (the "Authority", individually, a "Party", and together referred to as the "Parties").

WHEREAS, on November 20, 1990, the City and the County entered into a certain Solid Waste Organizational Agreement (the "Organizational Agreement") for the purpose of forming the Authority to operate the Ivy Landfill (the "Landfill") and provide other waste management services for the City and County;

WHEREAS, the Landfill operated continuously from 1968 until the closure of Cell 2 in 2001; however the Authority continues to provide waste management services to the City and County and has continuing obligations with respect to the closure, remediation and monitoring of the Landfill;

WHEREAS, the Authority owns a transfer station at the Landfill site (the "Ivy Transfer Station") currently operated by the Authority, with transportation and disposal of the compacted waste provided by Waste Management, Inc. (formerly Atlantic Waste Disposal, Inc.) pursuant to a contract with the Authority (the "Waste Management Contract");

WHEREAS, in addition to the Ivy Transfer Station, the Authority provides other waste and recycling services at the Landfill site, commonly referred to as the "Ivy Material Utilization Center" (the "Ivy MUC").

WHEREAS, the City, the County, the Authority and the University of Virginia entered into a Memorandum of Understanding dated January 10, 2005 with respect to the sharing of costs related to the closure, remediation and monitoring of the Landfill (the "Environmental Expenses MOU");

WHEREAS, the City, the County and the Authority entered into a Local Government Support Agreement dated December 17, 2007, as amended by First Amendment to Local Government Support Agreement dated July 1, 2010, providing for the participation of the City and County in the costs of maintaining the operation of the McIntire Recycling Center and Paper Sort Facility (collectively the "Recycling Services") as well as the Ivy Transfer Station and Ivy MUC, which agreement expired on December, 31, 2010;

WHEREAS, the Parties desire to enter into a new Agreement to continue to provide for local government contributions to the Authority by the City and the County to allow the Authority to cover the Authority's administration and operating expenses allocated to recycling services provided at

the Authority's McIntire Recycling Center (the "MRC") over and above the revenues received under, and the costs covered by, the Environmental Expenses MOU and the other revenues received by the Authority; and,

WHEREAS, the County and the Authority are entering into a separate Local Government Support Agreement for Ivy Material Utilization Center Programs pursuant to which a separate portion of the Authority's Administration Services expenses (more particularly described in Paragraph 1 below) will be allocated (the "Ivy MUC Programs LGSA").

NOW, THEREFORE, the Parties agree as follows:

1. **City's and County's Proportional Funding of Authority's Projected Annual Recycling Operations Deficit**

If the Authority determines that despite all reasonable efforts to fund the operating and administrative expenses of the recycling services provided at the MRC from the sale of recyclable material collected at, and fees charged (if any) for the use of, the MRC that an operating deficit will exist, it shall prepare and adopt a budget, including reasonable reserves, balanced by using revenue to be contributed by the City and the County. For purposes of the budget for the Authority, the percentage of the City's portion of the revenue to be contributed shall be thirty percent (30%) and the County's portion of the revenue to be contributed shall be seventy percent (70%). The Administration Services expenses for the recycling services provided at the MRC shall be allocated as twenty percent (20%) of the total Administration Services expenses of the Authority. An example of the calculations required by this paragraph is set forth in Exhibit 1 attached hereto, and such calculations shall be made by the Authority in a manner consistent with the example in Exhibit 1. The percentage of Administration Services expenses set forth above assumes that an additional portion of the Authority's total Administration Services expenses will be allocated under the Ivy MUC Programs LGSA, and therefore the parties hereto agree that this Agreement and the Authority's continuation of the MRC recycling programs with the level of funding determined by such percentage is contingent upon entry by the County into the Ivy MUC Programs LGSA, and in the event of any extension of the term of this Agreement pursuant to Paragraph 4 below, upon an extension for the same period of the term of the Ivy MUC Programs LGSA.

2. **Quarterly Payments**

If the Authority's proposed annual budget for the operating and administrative expenses of the recycling services provided at the MRC is balanced by revenues to be contributed by the City and the County, the City and the County agree to provide such revenues by payments to the Authority made quarterly on the first day of July, October, January, and April of such fiscal year of the Authority, subject to the provisions of paragraphs 5 and 6 below.

3. **Increase or Decrease in the Recycling Operations Deficit**

Payments by the City and the County to the Authority for any particular fiscal quarter shall be increased or decreased, as appropriate to take into account any extraordinary increases or reductions in MRC recycling services operation and administrative expenses and/or reductions or increases in recycling revenues from the MRC not anticipated by the adopted budget for such year upon the Authority's submission of an amended budget approved by the Authority's Board of Directors to the City and the County at least 30 days prior to the due date of the next payment. Upon completion of the audited financial statements of the Authority for the prior fiscal year, the City's and County's payments to the Authority shall be increased or decreased, as appropriate, to take into account increases or decreases in actual MRC recycling services operation and administrative expenses and/or reductions or increases in actual MRC recycling revenues of the Authority from those anticipated by the adopted budget as shown by such financial statement, and such adjustments shall be determined by using the City's and County's percentages as set forth in paragraph 1 above; provided, however, that any such increase or decrease shall take into account any increase or decrease in payments for such year pursuant to the most recently adopted amended budget of the Authority for such year, if any. In the event the amount of local government support payments exceed amount of revenues needed by the Authority pursuant to paragraph 1 above, the Authority shall remit such excess to the City and County, or in the event that the City and County extend this Agreement as provided in paragraph 4 below, the Authority may carry such excess over to the next fiscal year giving the City and County credit during such year for such excess.

4. **Term of Agreement**

This Agreement shall be effective upon execution and the financial participation requirements shall be retroactive to July 1, 2011 and shall continue for the Authority's fiscal year ending June 30, 2012. Subject to Paragraph 1 above, the term of this Agreement shall be extended for up to two (2) additional one (1) year terms upon the Authority's receipt of a written request by both the City and County not later than May 1 of the current term or any extended term..

5. **Solid Waste Organizational Agreement**

The Parties enter this Agreement notwithstanding any provisions in the Organizational Agreement conflicting with this Agreement, and agree that in the event of any such conflicting provisions, this Agreement shall control.

6. **Voluntary City and County Funding**

Nothing in this Agreement shall be construed as creating a claim, cause of action, or right of recovery against either the City or the County by the Authority or by any creditor or claimant of the Authority. The Authority acknowledges that neither the City nor the County is under any legal or equitable obligation to provide funding to the Authority, but that each has voluntarily chosen to do so for the sole reason of insuring the continuation of a certain level of solid waste disposal and recycling services being provided by the Authority at the MRC, and the City and County each acknowledges that in the event such funding is not made available to the Authority, the Authority will necessarily have to curtail those services.

7. **Non-Appropriation**

This Agreement is subject to the approval, ratification, and annual appropriations by the Charlottesville City Council and the Albemarle County Board of Supervisors of the necessary money to fund this Agreement for this and any succeeding fiscal years. Should the City or the County fail to appropriate the necessary funding, it shall give prompt written notice to the Authority and the other party of such non-appropriation, and this Agreement shall automatically terminate without further notice by or to any Party.

8. **Amendment**

Any amendment to this Agreement must be made in writing and signed by the Parties.

9. **Governing Law**

This Agreement shall be governed in all respects by the laws of the Commonwealth of Virginia.

10. **Notices**

Any notice, invoice, statement, instructions, or direction required or permitted by this Agreement shall be addressed as follows:

a. To the City: Office of the City Manager
P.O. Box 911
Charlottesville, VA 22902

b. To the County: Office of the County Executive
401 McIntire Road
Charlottesville, VA 22902

c. To the Authority: Office of the Executive Director
Rivanna Solid Waste Authority
P.O. Box 979
Charlottesville, Virginia 22902-0979

or to such other address or addresses as shall at any time or from time to time be specified by any Party by written notice to the other Parties.

11. **Integration Clause**

This Agreement, and any amendment or modification that may hereafter be agreed to in accordance with the provisions herein, constitutes the entire understanding between the Parties with respect to the matters addressed, and supersedes any and all prior understandings and agreements, oral or written, relating hereto, except for the Environmental Expenses MOU.

12. **Execution**

This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

WHEREAS these terms are agreeable to the City of Charlottesville, the County of Albemarle and the Rivanna Solid Waste Authority, and each Party offers its signature as of the date below.

THE CITY OF CHARLOTTESVILLE:

_____ _____
Maurice Jones Date
City Manager

THE COUNTY OF ALBEMARLE:

_____ _____
Thomas Foley Date
County Executive

RIVANNA SOLID WASTE AUTHORITY:

_____ _____
Thomas L. Frederick, Jr. Date
Executive Director

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NonAgenda. Mr. Boyd stated that he had some questions about Item 7.10 (Regional Planning Grant/Review of County Staff Work Program) from the Consent Agenda, and would discuss them later in the meeting.

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Agenda Item No. 16. Closed Meeting.

At 12:44 p.m., a **motion** was offered by Mr. Thomas that the Board go into a closed meeting pursuant to Section 2.2-3.711.A of the Code of Virginia under Subsection (1) to consider appointments to boards, committees and commissions; and under Subsection (7) to consult with legal counsel and staff regarding pending litigation arising from appeals of real property assessments. Mr. Rooker **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

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

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Agenda Item No. 17. Certify Closed Meeting.

At 1:52 p.m., the Board reconvened into open meeting. Mr. Thomas **moved** that the Board certify by recorded vote that to the best of each Board member's knowledge, only public business matters lawfully exempted from the open meeting requirements of the Virginia Freedom of Information Act and identified in the motion authorizing the closed meeting were heard, discussed, or considered in the closed meeting. Mr. Boyd **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

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

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Agenda Item No. 18. Boards and Commissions: Vacancies/Appointments.

Motion was then offered by Mr. Snow to make the following appointment:

appoint Steven James to the Rivanna Solid Waste Authority Citizens Advisory Committee to fill an unexpired term that will expire on December 31, 2011.

Ms. Mallek **seconded** the motion.

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

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

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(Mr. Rooker arrived at 1:53 p.m.)

Agenda Item No. 19. Board to Board Update – Albemarle County Schools.

Mr. Harley Miles, Vice-Chair of the School Board, stated that Mr. Koleszar is out of town. He said that the Long-Range Planning Advisory Committee has recommended including about $85.7 million in the CIP over five years, which is about $40 million more than the School Board approved last year and almost $47 million more than the Board approved last year. Part of that is based on adding school bus replacement in the CIP as opposed to including it in the operating budget. Mr. Miles stated that the School Board asked the Committee to go back and look at the capacity formula which currently uses a 20 seat to 1 classroom formula to decide the capacity of school buildings – requesting a recalculation with 22 seats per classroom. He said that while the facilities themselves may have the capacity for more students the question is whether educational goals can be met with larger class sizes. Mr. Miles also stated that they also need to be mindful of how far students are transported to school if populations are shifted.

Mr. Miles reported that at the School Board retreat in June they established School Board/ Superintendent priorities for FY 2011-12. Staff is working on the priorities and the School Board will be having further discussion about key performance indicators to make sure schools are meeting their goals. The School Board is also looking at the School calendar. The Division issued several calendars to generate public comments on proposed FY 2012-13 schedules, which would be discussed next week at the School Board meeting. Mr. Miles stated that in his previous job he dealt with school calendar planning for 40 years and it is challenging, with no schedule ever liked by everyone.

He reported that they also had a reconsideration of learning/book challenge in County schools, whereby some citizens were concerned about a certain resource being used in the classroom. Mr. Miles stated that they presented written concerns to the Principal and Superintendent. The Superintendent felt it may have some merit – so it was sent to a review committee of educators and parents. He said that the Superintendent's recommendation is to remove the resource from the 6th grade resource list but continue to be in the library for individual students who wish to check it out. The Board will also look at that issue at its next meeting.

Mr. Miles stated that there has been a lot of discussion about cell tower placement at the schools and Scottsville and Yancey support it – but parents at Stony Point have concerns. He said that the School Health Advisory Board Committee (SHAB) has looked at the issue, but the World Health Organization came out with their position on the effects of radio frequencies on the brain – so the School Board advised the Committee to wait for that information. The SHAB stated that given all the other sources of radio frequency and electromagnetic frequency in today's world, and these include radio, television, pagers, cordless and cellular telephones, microwave ovens and Wi-Fi, the addition of RF and EMF from a monopole or roof-mounted cellular transmitter appears to be negligible. Nobody can say there's no effect, but the effect seems to be extremely negligible. He said that the School Board would be looking into this issue further as far as locating cellular towers on school grounds. The School Board has also asked AT&T to provide information on where else in the community they plan to locate towers so that the Board can see where the actual coverage will be. He added that there has been a false impression given that school busses would be lost without cell towers. All of the school busses are connected to the Division by walkie talkies, which are not affected by the cellular tower. Mr. Miles stated that all of those issues would be discussed at the School Board meeting next Thursday.

Ms. Mallek said she is glad the School Board is looking at the capacity issue. Having taught in everyone of the elementary schools, she said that there are some classrooms that are great for 12 children and some that can handle 30 children. She is glad they are looking at individual decisions, not just ages.

Mr. Miles added that it is important to understand that room capacity is different from class size.

Mr. Rooker stated that about eight to 10 years ago the Board received information at the beginning of the CIP discussions that a number of schools were over capacity, and it came out in the discussion that it was based on a change of how capacity was defined. He said that he has gotten different information from parents and the schools about over-capacity, and it would be helpful to know that there is some scientific objective approach used to define what it is as capital decisions are based on that information.

Mr. Foley noted that those are standards used in the CIP process by the Technical Review and Oversight Committee, so anytime there is a change it needs to be a part of that review process.

Mr. Boyd added that when he was on the School Board, capacity was changing due to situations such as adding computer labs. He also said that he hopes the School system is comparing County schools to peer groups in calculating capacity.

Mr. Miles responded that the Committee is looking at a variety of benchmarks like that. He added that this morning he attended an in-service session at U.Va. Medical Center on how to maximize use of facilities to promote the best learning environment. He said that capacity is not just about cramming as many kids as possible into a classroom, but also using lobby and common space effectively.

Agenda Item No. 20. Tourism Update/Priorities.

The executive summary presented to the Board stated that the County's Economic Vitality Action Plan includes the following objective regarding tourism:

"Work with stakeholders to promote agriculture, the local agricultural industry (at a scale compatible with the county's rural areas) and tourism as part of a comprehensive economic development program that recognizes the importance of the rural economy."

A complete update on activities related to this objective, several of which are included in the discussion section of this Executive Summary, will be provided to the Board in October as part of a complete report on the status of the first year of the Economic Vitality Action Plan. The focus of this agenda item is an overview of current and future initiatives of the Charlottesville Albemarle Convention and Visitors Bureau ("CACVB").

The CACVB Director will provide an update and will welcome any feedback or direction from the Board regarding these initiatives. The Board's appointees to the CACVB Board listed below have been invited to attend this discussion as well:

- Barbara Hutchinson, Charlottesville Albemarle Airport
- Greg McDonald, Michie Tavern
- Naresh Naran, Comfort Inn- Monticello

The Economic Vitality Action Plan objective mentioned above includes three objectives to be accomplished within the Plan's five year timeframe:

1. *ASSESS CURRENT PROGRAMS AND INVESTMENTS IN AGRICULTURE, LOCAL AGRICULTURAL INDUSTRY AND TOURISM* – Continue working with partners to evaluate strengths and weaknesses.

2. *EVALUATE AND REFINE GOALS AND OBJECTIVES FOR AGRICULTURE, LOCAL AGRICULTURAL INDUSTRY AND TOURISM* – Assure that policies, goals and objectives support current priority needs including consideration of areas such as cottage industries, heritage tourism, and agri-tourism.

3. *IDENTIFY TARGET AREAS TO MORE AGRESSIVELY PROMOTE IN SUPPORT OF AGRICULTURE, LOCAL AGRICULTURAL INDUSTRY AND TOURISM* – Build on existing assets and offerings to expand options for experiencing the beauty and heritage of the rural areas.

The following are major actions related to the above objectives:

- Albemarle County staff hosted a roundtable in March, 2011 to help County staff and elected officials understand the role of agritourism in promoting economic vitality for our community, to learn best practices from communities that are successfully creating a strong and positive agritourism presence,and to identify preliminary strategies to consider in supporting the County's agritourism industry as the County's Comprehensive Plan is being updated.

- Albemarle County co-sponsored the April 6th "Agri-tourism: It's More than a Farm Tour" conference in partnership with the Small Business Development Center with presentations from the VA Tourism Corporation, the VA Department of Agriculture & Consumer Services and the VA Cooperation Extension. The event drew over 45 participants, and topics included an overview of agri-tourism possibilities, legal liability issues with agri-tourism, strategies for marketing, and delivering exceptional customer service.

- Albemarle County partnered with the CACVB for a familiarization tour with the area's Certified Tourism Ambassadors (CTAs). The CTA Program is a groundbreaking, nationwide certification program that serves to increase tourism by training and inspiring front-line hospitality employees and volunteers to work together to turn every visitor encounter into a positive experience. For this one-day event, approximately 30 CTAs and County and CACVB staff traveled to six locations to learn more about the area's assets for the two new tourism programs: 1) "Stay Local, Play Local" and 2) the "Monticello Artisan Trail."

- Albemarle County staff joined the VA Department of Agriculture & Consumer Services' program for the VA Agricultural Development Officers (VADO) quarterly roundtable discussion of zoning practices to support agri-business and agri-tourism. VADO member Susan Stimart was joined by Zoning Administrator Amelia McCulley and Zoning Officer Jonathan (JT) Newberry to share the several recent County zoning text amendments targeting support to rural enterprise (farm stands, farm sales & farmer's markets; farm wineries; and home occupations in the rural areas). The VADO discussion also included signage provisions (VA Beach), equine regulations and planning (Isle of Wight), event regulation reform for equine facilities (Augusta), and an agricultural education facility (Pittsylvania).

- Albemarle County staff participated in the June 2011 Local Planning & Agritourism Symposium and partnered with the VA Cooperative Extension, VA Tech, VA Association of Counties and the Northern Neck Tourism Commission to discuss trends and explore issues relating to agritourism and local zoning ordinances, along with best practices for agritourism growth.

- Albemarle County teamed with the CACVB, Monticello and the Omni to host a press conference and to pursue other publicity initiatives to promote the annual Winebloggers Conference to be held July 22 – 24 in our community.

- The Monticello Artisan Trail program is still under development with artisan trail signage delivery and website registration continuing until the formal roll-out, which is expected in September. Roll-out activities will include another familiarization tour, a local CTA conference event, and VA Tourism Corporation promotions. Other related activities include seasonal craft promotions, small business education workshops, and ongoing Studio School curriculum at PVCC's Stultz Center.

There is no budget impact related to this item.

Staff recommends that the Board provide feedback regarding the County's progress towards achieving the tourism objective of the Economic Vitality Action Plan and the current and future initiatives of the CACVB.

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Ms. Lee Catlin, Assistant to the County Executive for Community and Business Partnerships, stated that there are several items today related to the Economic Vitality Action Plan. Activity and progress continues to move the Plan forward. The Action Plan contains an objective regarding tourism: "working with stakeholders to promote agriculture, the local agricultural industry at a scale compatible with the county's rural areas, and tourism as part of a comprehensive economic development program that recognizes the importance of the rural economy." She said that the Board's executive summary includes highlights of agri-tourism activities over the last year. In October staff plans to present to the Board a complete update on the first year of the Action Plan and they will be talking specifically about the fifth objective on tourism.

Ms. Catlin then welcomed Charlottesville Albemarle Convention and Visitors Bureau Board members: Barbara Hutchinson, Executive Director of the Charlottesville-Albemarle Airport; Greg MacDonald, Michie Tavern; Naresh Naran, The Comfort Inn - Monticello, and Chris Engel, of the City's Economic Development Office and Chairman of the CACVB this year.

Mr. Kurt Burkhart, Executive Director of the Charlottesville-Albemarle Convention & Visitors Bureau, thanked the Board members for inviting the CACVB to this meeting to present an overview of their programs and activities of the past year. Mr. Burkhart stated that tourism is a key economic driver for the County and the City, and the CVB is charged with actively promoting the area for visitors – including large groups or families seeking extended getaways. He explained that the CACVB receives a portion of the transient occupancy tax and uses their funding to administer the Downtown Visitors Center, open seven days as week, as well as the County satellite office in the County Building, along with executing key marketing initiatives and programs to increase overall awareness for the area as a destination and stimulate increased visitation. Mr. Burkhart said their full-time staff consists of five professionals, six part-time specialists and four summer interns – as well as an 11-member Board of Directors that meets every other month and sets policy for the CACVB with staff executing the direction given by the Board. He stated that five statutory seats provide representation by the County, City, Chamber of Commerce, University of Virginia and Thomas Jefferson Foundation – with the County and City having equal appointments to fill the remaining six seats.

Mr. Burkhart reported that tourism ranks as the first, second or third retail employer in nearly every state, according to the U.S. Travel Association. He said that money travels through visitors' spending – which ultimately supports jobs and sustains commerce – with much of it remaining here in the community. Mr. Burkhart stated that there was more than $412 million in collective direct spending by visitors coming to Albemarle County last year. Tourism supports over 2,800 jobs in Albemarle County with more than $49 million in salaries and wages that are spent in the community.

He said that the CACVB has worked hard to attract various conferences, and soliciting business throughout the Mid-Atlantic will continue to provide the group business that helps nourish the local economy. Mr. Burkhart stated that they recently hit a milestone with the 100th person to receive the designation of "certified tourism ambassador," a nationally recognized certification program that enhances customer service excellence. He noted that Susan Stimart earned her CTA early on when the program was first introduced, and the CACVB continues to offer this program through the Journey Through Hallowed Ground.

Mr. Burkhart reported that the Monticello Wine Trail, Brew Ridge Trail, Vintage – the PBS production that CACVB helped underwrite, and the soon to be opened Monticello Artisan Trail have all provided a lift for the area through the leveraging of partnership support. He said that "My Backyard Vacation – Stay Local/Play Local" began last year and was refreshed this year with a summer-long PSA campaign that includes weekly highlights on the Newsplex and WINA, promoting local fun spots and unique summertime offerings. Mr. Burkhart said this initiative is the continuation of a partnership between the County, the City and the CACVB. He added that agri-tourism is of growing importance in the area, and the CACVB has jumped in with both feet to support local business and other initiatives that promote agri-tourism. Mr. Burkhart stated that the CACVB has helped sponsored two SBDC agri-tourism workshops this year, provided grant support last year to promote the Grace Church Farm Tour, joined early on as a sponsor of the Monticello Artisan Trail, and supports the Chamber's Agribusiness Roundtable and the recently created PVCC Hospitality and Agribusiness Advisory Council. He said the CACVB also plans to launch a creative and fun promotion for the launch of the Monticello Artisans Trail by creating added awareness of this new product for both locals and visitors.

Mr. Burkhart said that the CACVB's local efforts to galvanize a working committee to delve into activities and events related to the Civil War, and to share stories about how this conflict impacted the community, has been extremely challenging. He stated that the State Civil War Sesquicentennial Commission tells the CACVB that essential in having a successful story to tell is the need for involvement by the African-American community. Soon an announcement will be made regarding a unique partnership project the CACVB has embarked on locally that hopefully will provide the traction needed to complete the loop thereby providing for an inclusive committee that can begin building momentum leading up to 2015. Mr. Burkhart stated that U.Va. would host the final Sesquicentennial signature conference in 2015, culminating the Commonwealth's activities.

He noted that the CACVB has an active year in engaging with the public through informational fulfillment and effective public relations. The media coverage is valued at $1 million – the value of stories written about Charlottesville directly attributable to the CACVB's media outreach, which essentially provides the CACVB and the region with free advertising.

Mr. Burkhart stated that Smith Travel Research shows for the fiscal year ending June 30, 2011, the average annual occupancy rate in the area was 66.7% with $105 as the average annual rate for hotel

rooms; compared to the previous year reported, he said, the area is up 3.5% in occupancy and 5.1% in revenue per available room. He emphasized that the CACVB employs all avenues to reach out to potential visitors, both leisure travelers and travel leaders, through traditional print, electronic marketing, and public relations. Mr. Burkhart said that the CACVB has realized expanded reach into key and traditional markets through partnership opportunities made available through the Virginia Tourism Corporation, which allows the CACVB to leverage its resources for maximum gain. He reported that the key travel trends favor what this area has to offer, as travel is a discretionary item in most household budgets, so when finding value-based offerings that provide appeal to the audiences, a destination as identified and marketed is key to initiating new and sustained consumer business. The markets being reached are in the primary and growth audience groups – with the Washington, D.C. metro area being the best market for inspiring travel to this area. Mr. Burkhart stated that tremendous growth lies in other cities and states within the Mid-Atlantic region, and the typically long planned summer vacation has given way to extended weekends that have become the new family norm. He said that the audiences are growing in their need for experiential travel, with baby boomers not going the way of their parents' generation.

Mr. Burkhart said that the CACVB's cornerstone is their website. The CACVB has created nine specific-interest consumer newsletters sent out monthly to individuals who have opted in to find out more about local accommodations, arts and culture, culinary and wine events, kids and family activities, seasonal festivals and special events, general communications, historical heritage, outdoor recreation and shopping. He stated they continue to build subscribers, with currently totals at 10,624, and their Facebook page has just under 900 friends – with social media taking on an increasingly important role. This Facebook page ranks fourth in the top domain referrals to their website. Mr. Burkhart said that the CACVB launched their new website site last July, and it has shown stellar results when compared to the former site – with a high percent of new visitors to charlottesville.org and the length of time visitors remain on the site – over four minutes.

He stated that last December CACVB rolled out their first touch-screen kiosk at the Monticello Visitors Center. Designed to fit in with the architectural setting, this added convenience for visitors provides real-time information directly from the CACVB website. Any changes they make to the CACVB;s website automatically updates at the kiosk. Mr. Burkhart said they are also looking into smart-phone accessibility upgrades. Some of the data captured from the kiosk shows where folks who took time to enter their home zip code are from. He then presented information on the location of users, with fairly even distribution east of the Mississippi but also notable usage from California.

Mr. Burkhart stated that the CACVB continues to keep its presence in tried and true traditional print publications such as the *Virginia Official Welcome Guide*, *AAA Guide*, the *Virginia Golf Guide* and Amtrak's in-service magazine *Arrive*. He said that the CACVB also takes advantage of other opportunities as they arise, especially when the Virginia Tourism Corporation creates a special offering on a cooperative basis that allows the CVB to buy down at reduced rates. Mr. Burkhart stated that the CACVB attended the American Bus Association Marketplace to promote the area to tour operators so they can receive new information to be added to group tour offerings for charter motor-coach travel. He said that the U.S. Travel Associations annual Pow Wow matches over 5,000 international buyers with U.S. destinations interested in the growth of inbound travel from overseas. Mr. Burkhart stated they saw tremendous interest from the U.K., Germany, Netherlands and Brazil and recently served as host to several bridge travel writers focusing on rail travel that resulted in stories on Monticello and the area wineries. He said that the Travel Media Showcase allows the CACVB to engage directly with travel writers and other journalists to pitch all things about the area.

Mr. Burkhart reported that nearly two weeks ago, the North American Wine Bloggers brought over 325 out-of-town guests, which translated into nearly 1,000 room nights and small group outings to area eateries, restaurants and retail shopping. He said that yesterday afternoon he met with a car club from upstate New York, who would be bringing 150 attendees here for a seven-day stay for their 2014 conference.

Mr. Burkhart stated that the area is served by both Amtrak and air service. This past year the CACVB lent support through a cooperative partnership with the Virginia Tourism Corporation and the Virginia Department of Rail and Public Transportation resulting in new Amtrak service to the area. He also said that the CACVB's support of CHO's DOT grant application to launch additional direct air service from Charlottesville to Chicago resulted in American Airlines inaugural flight there this past June.

Understanding current economic conditions and marketplace challenges, Mr. Burkhart said the CACVB has focused on, but not limited itself to five key priorities: 1) ramp-up sales effort to continue attracting groups to our area, increasing visitation; initiating proactive Search Engine Optimization & Search Marketing coupled with a strong social media presence; 3) increase awareness of our area through concerted public relations outreach; 4) continue building community bridges and strengthen local partnerships; 5) actively engaged with our elected officials, community and business leaders; and 6) strengthening partnership support for the County's Economic Vitality Plan. Mr. Burkhart said that keeping true to their mission, the CACVB believe that its first three priorities are key as they immediately increase direct economic impact to the area. The next two priorities provide the CACVB with ongoing opportunities to find synergies and create common engagements with local stakeholders. He said that he has already mentioned the County's Economic Vitality Plan and their support for the accompanying strategies.

Mr. Burkhart said that to keep the Board informed on an ongoing basis, he and the CACVB Chairman agree that regular updates in a short memo summary would be the best way to communicate activities to the Board in the future. He thanked the Board for allowing him to provide this update.

Ms. Mallek congratulated him for the successful Wine Bloggers Conference.

Mr. Burkhart stated that his entire staff worked hard to make that happen, with the CACVB bidding on the event, bringing it in, and delivering what they promised – with help from the Virginia Wine Board and the Virginia Tourism Corporation.

Mr. Rooker noted that he read a statistic showing that the Charlottesville/Albemarle area has more performing arts stages per capita than any other place in the country, and wondered if targeting that niche of consumers would be possible. Mr. Burkhart responded that has been a goal for him and with a new director of sales and marketing coming in he hopes that packages featuring those things would materialize.

Ms. Mallek asked if CACVB staff would be developing the packages. Mr. Burkhart said that the CACVB would alert hotels, activity vendors, and theatres that they want to offer a specific package – then a price point is set and a point of sale is agreed to, most likely through the hotel.

Ms. Catlin noted that the CACVB Board would soon be focusing on a strategic look ahead to promote tourism, with new ideas such as the packages mentioned.

Mr. Rooker stated that getting people to stay an extra night during a football weekend would be a lot of rooms and a lot of restaurant meals – or a night at the Paramount. It would be good if these events could be part of packages to get people to stay an extra night.

Ms. Mallek commented that she hopes the CACVB will consider ways to emphasize the County and the region, and not just the City – as that is what currently seems to be the focus. She added that bicycling has brought many people to this area, and perhaps that could be marketed along with the rural areas and the countryside.

Board members expressed their appreciation to the CACVB.

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Agenda Item No. 21. From the Board: Matters not Listed on the Agenda.

Mr. Thomas reported that the FEMS Board met last week but he was not able to attend because of the MPO, but they are going to meet again on August 16 to talk more about what is happening with the volunteer fire companies.

Ms. Mallek said that she has heard the policy discussions are beginning, with the implementation phase of the new ordinance.

Mr. Foley stated it is an extensive process for them to consider before it comes to the Board.

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In terms of Item 7.10 from the consent agenda, Mr. Boyd stated that he had trouble correlating the items attached to the executive summary. Attachment 1G is the Regional Sustainability Implementation Plan and Attachment II is updates to the Comprehensive Plan by category. He does not know how the Board will be participating in this process. He thought it was decided that staff would be coming back to the Board with specifics about things they would be working on. He agrees with the County's priorities but is having trouble meshing them with the Regional Plan.

Mr. Benish explained that Attachment II outlines the County's priorities in Categories 1, 2 and 3 that staff is spending the major of its time working on. The products within the livability grant identified in the Sustainability Implementation Plan (Attachment IG) is work that primarily the TJPDC staff is working on as a product. County staff will look at that product once it is adopted – in consideration of the County's Comp Plan update. That work is ongoing, primarily by the TJPDC staff. He said that once that is done and accepted by the PACC, there will be items for the County to consider as part of its Comp Plan update. Mr. Cilimberg pointed out that the 10% estimate of County staff time associated with the grant products is up front to make sure there are no "non-starters" to ensure that the TJPDC is working on those priorities. They did not want things coming out of these products to PACC and PACC-Tech that they (PACC and PACC-Tech) would not be able to endorse because they were inconsistent.

Mr. Boyd said he would like to see County staff bring forward information in the way that the Police did with the false fire alarms, so that the Board can give it their blessing. There are things in the Sustainability Accords that he does not see the benefit of nor does he think he can support. He would like to have the opportunity to review these things before staff does too much work or spends too much time on any of them. He provided the example of transit options, which were studied at length by numerous partners but seem to be addressed here again by TJPDC.

Mr. Rooker pointed out that he made the motion for that TJPDC transit committee to go dormant, as they had sought a legislative change to enable a referendum for citizens to determine whether they wanted to put more local money into transit and other transportation – but it didn't get through the General Assembly. Without that, it did not make sense to continue to meet for something that was not funded.

Mr. Boyd stated that he sees the same thing being defined and studied by this group.

Mr. Foley emphasized that the regional effort will develop some ideas and proposals, and County staff would work those into Comp Plan Amendments to go before the Board. There are not going to be any studies engaged beyond what is funded by the regional grant. Anything in the County's Comp Plan update will come from County staff and the Board. He said that staff will use the work that has been

developed regionally and pull out items they feel are appropriate and leave behind those that are not, but that will all come to the Board.

Mr. Boyd said that he does not want to have a lot of extensive work done if the items will not have traction with this Board.

Ms. Mallek asked where Mr. Boyd was looking, as she is not certain what items he is talking about and many of them have already been brought forth.

Mr. Boyd said that he is referring to Attachment IG. His objection to discussing transit is that there are not communities this size that have made it work without hundreds of millions of tax dollars.

Ms. Mallek said that keeping it in there allows for that vision to be maintained, whether it is funded now or not. She thinks that they should want to have it as a reference. Her understanding of the baseline work is to figure out where the community currently is and then benchmark that against other communities.

Mr. Benish explained that one of the purposes of the grant is for the TJPDC to look at prior studies and provide for common goals and objectives in the Comp Plan that meet efforts to implement the sustainability strategy – and transit has been one of those products that would provide for multi-modal opportunities and support for one of the components defined in a sustainable community. He emphasized that their work will be looking at prior information gathered, which may be found in certain regional plans but not in City or County plans, and helping form language and find funds for implementation. One of the products of this grant is to begin to set in motion within all of the plans a way to actually implement these measures. Mr. Benish stated that all that work will be done with TJPDC staff, with County staff looking at it and considering whether they want to add that language or not. The grant funding does not call for a very in-depth reanalysis of a regional transportation transit study.

Mr. Boyd said he just wants to make sure that County staff is concentrating on County priorities. Mr. Benish said that staff is trying to do the front-end work to make sure they are not going down a path that is a non-starter.

Mr. Cilimberg stated that ultimately as products begin moving up the chain, they will come to PACC-TECH – which has County representatives, to PACC – which has two Board members, and even at that point it is just a recommendation back to the County for consideration by the Planning Commission on Comp Plan work. He said that for items that are very transportation oriented, they would become part of the MPO's work on the long-range transportation plan. County staff will not be spending time on trying to develop a lot of new and different things that no one really has had a chance here to even think about.

Mr. Boyd commented that that makes sense.

Mr. Benish added that the PACC members would be reporting back to the Board as they see products, and the grant process is a very public process so as Board members have observations staff can try to answer questions along with TJPDC staff.

Mr. Rooker mentioned the GIS system on the City and County website, and perhaps this process might yield a common system whereby citizens can look at uniform digitized information. He thinks that would be a great end product.

Mr. Cilimberg stated that tomorrow PACC-TECH will be looking at a common land-use map, which would be more generally categorized based on current land use, to show how that kind of mapping work can be done.

Mr. Foley also noted that with Board service on several of these groups, there would be lots of check-in points through the MPO and through PACC. Ms. Mallek noted that the LCAPP report is coming to PACC in September.

Ms. Mallek said that having the community look at living within its means does not necessarily mean that each little component needs to be financially self-sufficient.

Mr. Boyd stated that yesterday several County representatives went to the business roundtable meeting and what is important to making the community economically sustainable is going to require the Board to concentrate on the beginning of that list that.

Ms. Mallek said that it also highlighted the values of the things that should be protected because that is the reason all of them came.

Mr. Rooker stated that from a broader perspective, the more that these items can be steered toward specific outcomes the better, and people will consider it to be a well-made investment.

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Ms. Mallek said that the Virginia Association of Railway Patrons requested that the County find places for signs to help direct people to the Amtrak station. Other communities have done the same. There is no cost to the County. She handed the information to Mr. Foley. Board members concurred with the request.

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Ms. Mallek said that the next item for discussion is how to help the MPO move towards something enforceable and secure for the community. She asked for suggestions from the Board members on the MPO. She added that she knows that everything is still in draft.

Mr. Thomas stated that he is personally satisfied with the letter he got. He does not think it will come to a point where you are going to have a guarantee - a blank check in your hand. When Secretary Connaughton tells you something, he is not the authorized check writer. He has not made a promise, but did say he would recommend it to CTB all these extra things that the Board asked for.

Ms. Mallek said that when the Board talked on June 8 and June 13 everybody was in agreement that there would not be support for the bypass without those other things. It was a package deal. She asked how the Board makes sure that the package actually happens without saying "we should not really give away the ranch now". The Board should make sure it gets that commitment from the CTB.

Mr. Thomas said he doesn't feel like they are giving the ranch away.

Mr. Rooker asked him to explain how what is in hand now assures the community that there will be funding for the Berkmar Extension.

Mr. Thomas said that Secretary Connaughton is going to recommend it to CTB, and you are not going to tell the CTB what to do.

Mr. Rooker stated that after the Board meeting where there was a lot of public input, Mr. Thomas and Mr. Snow said they would not support the bypass without a firm commitment for these other items. He said that he does not feel like the Board gave them a blank check to go out and vote in favor of something that never came back to this Board to look at and ultimately, he thinks if they had spoken with counsel they would have advised you that if you wanted to get something with some kind of firm commitment it needed to go beyond a letter of generality from the Secretary saying that next year he will recommend something. That is what they have right now. He said that they did the best they could do, but the TIP language should impose conditions upon the inclusion of the bypass for funding that would require the funding of other things that were brought before the Board for discussion on the night of June 13. Mr. Rooker presented the letter that Mr. Thomas and Mr. Snow handed out.

Mr. Snow said that if that letter is the original copy that Steve Williams did it was inaccurate.

Mr. Rooker said that is what Mr. Thomas handed out.

Mr. Snow stated he is not going to open this whole discussion up. He said that he is satisfied with the letter from Secretary Connaughton. The letter was made part of the resolution when the MPO sent it in.

Mr. Rooker said that he is not a big supporter of the bypass project. He noted that he has filed a Conflict of Interest Statement noting that he and his wife's seven percent interest in a lot in common with other neighbors that might be impacted by the bypass. He is presuming that this bypass will go forward, but it was only supposed to go forward based upon a commitment that things be done. He would like to see the minutes of what Mr. Snow just mentioned. He stated that this talks about full funding for Hillsdale Drive but there is no commitment to that funding, as Mr. Thomas says. Mr. Rooker said the SELC hired an engineer to analyze how the bypass bridge might work with Berkmar moving into it, and determined it would be very difficult to achieve that – and extremely expensive. In reference to Berkmar, he commented that the letter states: "I'm directing VDoT as part of the Route 29 Bypass design to include the conceptual design and layouts of Berkmar Bridge Extended including the river crossing to insure the bypass does not preclude the construction of Berkmar Drive Extended." During the Board meeting, they were talking about a commitment that would advance the Berkmar project, not something that would be done in a way that would not preclude it. Berkmar is a secondary road and at a minimum you need a commitment to build the infrastructure to connect those roads.

Mr. Thomas commented that construction was not asked for.

Mr. Rooker asked why construction was not requested.

Mr. Thomas stated that the MPO did not vote to do that, and conceptual design was the only thing in it.

Mr. Rooker said all this letter does is say that they will design a bypass bridge so that it does not prevent a Berkmar bridge from being built in the future. That does nothing to advance Berkmar as a project. He added that the Berkmar Bridge Extension Study, done in 2010 by the MPO, shows 2036 traffic projections and includes a build-to alternative of the extension with a new bridge. The scenario completely mitigates the impact of 20 years of population and employment growth in the MPO area. He also stated the 2035 build-to alternative results in a travel time of seven minutes from Lewis & Clark Drive to Rio Road, which is slightly less than the 2007 travel time. Mr. Rooker said that for the same segment, the Berkmar Drive Extended would have 20,198 average daily traffic with a level of service C; in other areas a level of service B and in others a level of service A. Here is a project that came through the MPO process, in the long range plan that everyone wanted funded, modeling shows it would carry 20,000 vehicles per day and would substantially improve the movement of traffic in the corridor, most of which was local. Mr. Rooker said that the impression Mr. Thomas and Mr. Snow gave most people at the Board meeting was they wouldn't support a vote for the bypass unless they obtained some commitment to advance that project.

Mr. Snow said he feels as though they got that commitment. He stated that in previous discussions of expanding the growth area, people came forward and said the infrastructure must be improved and Route 29 needed to be widened – but in the bypass hearings not one comment was made on the virtues of widening Route 29. He also wants these other projects, but widening Route 29 is not a small feat, plus they are also getting the bridge designed. The Berkmar Extension can be connected with proffers. He understands that Mr. Rooker is disagreeing with all of this; he is overlooking what the community is getting with the Route 29 widening, and instead focusing on things that are not nailed down. Mr. Snow commented that there have been two letters from Richmond that say they will widen Route 29 and build the bypass and everything else will proceed as funded. He said he asked for more specifics and individual items, which is in the letter that came at the last minute, which by the way he had nothing to do with. He said that he got the letter that he wanted, and that is why he is where he is at now.

Mr. Rooker pointed out that it is a letter that does not commit any money for Berkmar Extended.

Mr. Snow stated that the Secretary cannot fund this without CTB approval.

Mr. Rooker said that even if they take his recommendation, there is no money specified here for the Berkmar Bridge.

Mr. Boyd commented that the County had no commitment before.

Mr. Snow said that Mr. Rooker wants to stop this project at any cost; that is the bottom line.

Mr. Rooker explained that the bottom line is this is not a commitment to fund anything, even though Mr. Snow promised he would get that commitment.

Mr. Snow said that what is being said here is "what can we do to stop it." They are not recognizing what the widening of Route 29 would mean to the community. If they could slow the project down long enough to have that money recommitted somewhere else there would be a group of about 150 people that would be elated, but that is only .002% of the total County population.

Mr. Rooker stated that 11,000 people spoke out against this project, and Board members are still getting emails.

Mr. Snow commented that a lot of those are duplicates.

Mr. Rooker said he is assuming the project is going to go forward, so Mr. Snow's assumption is wrong. The night the four Board members voted to go forward with this project, he asked that they get the best deal for the community. He stated that the reason people did not like what had happened is because there is no legal commitment to fund anything else and he doesn't understand why they would not agree to put anything in the TIP amendment to ensure that. Mr. Rooker stated that Mr. Snow had commented on the importance of protecting schools, and it could be conditioned to include sound barriers to achieve that – but asked why that would not be conditioned.

Mr. Boyd asked Mr. Rooker if he thinks that VDOT is trying to hurt the children.

Mr. Rooker asked why that condition would be a problem.

Ms. Mallek said that the vote has been taken, and it would be totally acceptable to say in the TIP language that as soon as the CTB approves funding for these projects, the County's vote in favor of the bypass project would take effect. It changes the dynamic, and it is perceived as being something that is actually supporting our community. They are just trying to say very clearly and specifically what they need here because they are giving up a pretty big thing for the community based on the last 35 years or so. She does not understand why there is reluctance to do that. Also, Steve Williams can add these things to the draft he is working on. There may be a reason Mr. Connaughton has not talked to the CTB about all the other projects. Why not say if you really want the bypass that badly, this is what it will cost.

Mr. Boyd stated that the highest priority in the Route 29 master planning process was the expansion of Route 29 from Polo Grounds to Hollymead.

Mr. Rooker said that it was five projects, not prioritized but all deemed important, and Berkmar Extended was also included.

Mr. Boyd stated that now the County is getting $34 million to complete the project and fix Ashwood Boulevard. He does not know how they are saying the County is getting a bad deal.

Mr. Rooker commented that one of the CTB members, from Northern Virginia, said they needed to recognize that there needs to be a package here and he was very open to this community coming forth with a package – but you cannot get that if you do not ask. The CTB can always say no, but you have to ask.

Mr. Thomas said that when he and Mr. Snow went to Mr. Connaughton they asked for the widening of Route 29 and some help on the bridge, but it was Mr. Connaughton who suggested the bypass – with funding for the doables list.

Ms. Mallek said that the list was in Places 29.

Mr. Thomas stated that the widening of Route 29 was in that group, so he and Mr. Snow were adamant about putting that together so that the City would also not lose any money that was coming to them.

Mr. Rooker pointed out that all of this included Berkmar, as it was one of the two priorities in the County, and asked what happened to that project.

Mr. Thomas said that the question was put to the state if they would help with the bridge, but he would say that it was not really asked for.

Mr. Rooker asked why it was not asked for.

Mr. Thomas said at that time they were talking about the widening of Route 29. He stated that they left the meeting without getting to the other three projects until the media came out with questions about the funding, and Mayor Norris came out and said he was concerned about the bypass taking money away from City projects.

Ms. Mallek said they still need to have County things on the list. She said that it is important for the people the Supervisors represent to have clarification of what those things are, as a contingency. She stated that it is highly likely that Secretary Connaughton will live up to his agreement to ask for it, but it is also highly likely that the CTB will say no – which will be the end of the funding stream. Having taken so much money out of the pot for the bypass, she thinks it would be a long time before the County gets any extra money to finish their projects. That is why she thinks it is important that there be a promise from the CTB now.

Mr. Snow went down the list of projects, including the widening of Route 29 – which is done; the Best Buy ramp and lane – which was already paid for; a road for Berkmar – which had a proffer but not the bridge. He stated that they did not talk to the Secretary about building the road, but said they would like to have the bridge designed in such a way that when they have the proffers to build Berkmar Extension that they needed a bridge to connect to.

Ms. Mallek asked if the same one bridge would take care of the bypass and the Berkmar Bridge. In the letter Mr. Rooker was reading, it sounded like VDoT was talking about a second bridge.

Mr. Snow said he did not think that is what was intended.

Ms. Mallek stated that that needs to be clarified and it needs to be written down.

Mr. Snow and Mr. Thomas indicated they thought the term “joint use” covered the fact it was a bridge covering both uses. Mr. Thomas said he would talk to Mr. Williams about it.

Mr. Snow said that the fourth item was the Hillsdale Extension, which Secretary Connaughton recommended for $10 million to complete.

Ms. Mallek stated that it is not enough.

Mr. Rooker said the City was not satisfied with the wording because Senator Connaughton says the project needs $10 million and says he would recommend funding – but he does not say that would be the amount. He added that he does not understand why Mr. Thomas and Mr. Snow would not let the City go back and talk with their Council about the way they want to see things worded in the TIP amendment before it is passed. The City does not feel like they are protected from the language in this letter.

Mr. Mallek commented that she hopes the City is doing its homework and the Board do the same.

Mr. Rooker said it is all a moot point.

Ms. Mallek said that she does not think it is a moot point because she is hopeful this language will get incorporated on August 21st in what the MPO finally adopts. Ms. Mallek asked what is a better way to describe the remaining funding needed for Hillsdale Drive.

Mr. Rooker stated that counsel should be consulted as to how to clarify that funding allotment.

Ms. Mallek said she would feel more comfortable having the money up front.

Mr. Dorrier asked what the total amount for Hillsdale is.

Ms. Mallek confirmed it is around $29 million, with some expended on design. She would feel more comfortable if they had the full funding necessary to get it completed right away, not in five or ten years.

Mr. Thomas said the money is not going to be available until 2016.

Ms. Mallek said it won’t unless it is made a part of this.

Mr. Rooker said the City has had a location and design hearing, with 12,000 vehicles per day expected on the road and a cost varying depending on donating right of way. He stated that Mr. Chuck Rotgin may be moving away from his commitment to donate right of way. Mr. Rooker pointed out that the

heaviest traffic in the County is between Greenbrier and Rio Roads – 55,000 vehicles per day – which is where Hillsdale Drive would take traffic off of Route 29. "The traffic studies have shown that you need these local improvements for local Route 29 to work.

Ms. Mallek said that without that, she does not see a positive result for businesses and locals.

Mr. Boyd stated that the County is a lot closer today than they have been before in getting the transportation dollars.

Ms. Mallek agreed that that may be the case, but she would like to see it in writing.

Mr. Boyd said he would also like to see Proffitt Road expanded with a third lane and some sidewalks.

Ms. Mallek said she is of the philosophy that you should not decide not to ask because you think the answer might be no.

Mr. Boyd said he thinks they did ask.

Mr. Rooker commented that Mr. Thomas and Mr. Snow said they did not ask for Berkmar.

Mr. Thomas asked Ms. Mallek if she would put the language together if the Board agrees, so that he can take it to Secretary Connaughton.

Ms. Mallek stated that Mr. Davis should help, and then the language can be shared among the Board toward a resolution.

Mr. Thomas said he would like to see this Board vote on it.

Mr. Rooker stated that with respect to Berkmar, Mr. Dorrier had indicated on the night he changed his vote that "we got Berkmar," but the only commitment is the "bypass won't preclude it." He said that the state could commit to building Berkmar Extended, which would obviously be preferable, but a fallback position would be building Berkmar and a system into the bypass bridge to accommodate Berkmar going in and coming out with the north end to open up at such time as the road is built to the north. Otherwise you really preclude the road being built because it would cost more to come back later and tear up that bridge, and try to run Berkmar and VDoT would not do it. This is a secondary road and the County will never have the money for it unless it takes this opportunity to try to get the money.

Mr. Rooker said that Steve Williams' letter says that "Full funding of Berkmar Extended is an essential aspect of the Western Bypass project because it maintains access to both U.S. 29 and the Forest Lakes/Hollymead area. We have been told that it is possible to design a north end interchange for the Western Bypass that includes a connection to Berkmar Drive Extended. I'm not sure I believe that. Whether or not Berkmar can be connected to the Western Bypass, funding for Berkmar Extended all the way from Hilton Heights Road to Hollymead Town Center should be included in the six-year improvement program." He asked why not take this opportunity to get a meaningful part of the project funded.

Mr. Boyd said that VDoT would have to spend quite a bit of dollars on engineering design, and what the state is committing to do is figure that out. They also have to figure out how to take a 35 mph road and merge it in with 60 mph traffic for the length of the bridge and then split it off again. He stated that they have agreed to sit down and work with the County on something that would accommodate Berkmar Drive Extended. VDoT cannot even guarantee that it is possible to do.

Mr. Rooker said they could design and build the bridge as a part of building a bypass bridge. Mr. Boyd said that is what he thinks they are agreeing to do.

Mr. Rooker said they are not agreeing to build it. The commitment now is they won't preclude Berkmar from crossing the river by the bypass; that doesn't tell you that anything is being done to advance it.

Mr. Boyd asked where he was headed with this conversation.

Ms. Mallek **moved** to develop a specific list of projects that could be checked with legal counsel for incorporation in the MPO's final adoption of their changes to the TIP.

Mr. Boyd said that if this means drafting a letter to the Secretary or Commissioner to create a negotiating position, he could go along with that, but you are saying you are going to stop this thing.

Ms. Mallek stated that the TIP is a legal document, not a letter. She said that she is trying to make it most effective.

Mr. Boyd said that she should write up what she wants so that Mr. Thomas and Mr. Snow can take it to the Commissioner. He asked why make it a motion to put it in the TIP so that the bypass cannot be built until these objectives are met.

Ms. Mallek said that is how the County would get these other things.

Mr. Boyd said Mr. Rooker and Ms. Mallek are opposed to the bypass and so in my mind what they are doing is putting up a bunch of obstacles to make it impossible for the Secretary to agree to and then they have got it stopped. That is their real attempt to do here.

Mr. Rooker said they are supporters of the bypass and they do not care if they get these other projects so long as they get the bypass.

Ms. Mallek said that in her phone conversation with Mr. Utterback, he indicated it would be wise for the County to have an MOU or a very specific agreement on this. She said that Mr. Utterback stated it was perfectly legitimate to have a specific list of projects, and there is no reason to hide whether Board members are making the bypass contingent on them or not.

Mr. Boyd said the Board has already been down that road.

Mr. Snow suggested sending the MPO letter as its being drafted, with the Board drafting their own resolution stating that it has been passed based on the letter from Secretary Connaughton.

Mr. Rooker said that to give it some teeth, it needs to be stated in the TIP amendment that construction of the bypass will not start until these things are done.

Mr. Snow said he disagrees with that.

Mr. Boyd said that is not negotiating, it is my way or the highway.

Ms. Mallek said that is what VDoT is doing to the County, if you do not take the bypass, you won't get any money.

Mr. Snow stated that he offered a compromise, and the City could do the same thing.

Ms. Mallek said she would like to have the CTB commitment that it is in the budget. She is not saying all these other things have to be done first. If it is in the CTB budget, it would be much more meaningful than a letter from the Secretary saying he will ask for them to be done.

Mr. Rooker pointed out that the letter says the Secretary would ask to have it put in the budget next year. He said that he would like to ask counsel for the best way to approach this to give it teeth in the requirement that these things be funded.

Mr. Boyd asked if this Board could encumber a future CTB Board.

Mr. Rooker said he thinks they can say these other things can take place on the bypass but the construction should not start until funding is included in the Six Year Plan for these other things. If you are confident that you are going to get the funding, and they intend to give it, why would they be concerned about that.

Mr. Dorrier stated that they gave the funding 12 to 1 for the bypass and for the Route widening and they should give the funding for the other four things.

Mr. Thomas said that the CTB did not vote on the whole package that particular day.

Ms. Mallek clarified that the Board is just trying to describe the package in a non-confrontational clear way.

Mr. Thomas said he thinks they know what the package is.

Ms. Mallek said it could have been stated in the letter, but he was intentionally vague in his letter.

Mr. Foley stated that he isn't sure if Mr. Davis is in a position to comment on this from a legal perspective, because it is not clear what the proposal is.

Mr. Davis said that a letter or an MOU would simply create a moral obligation and not a legally binding obligation, because you cannot bind a future Secretary or a CTB to fund something. The only way that you can control it locally is by what is in the TIP, and the TIP with conditions can force funding decisions to be made if that project is to go forward. He said if the Board wants to move forward with this, they need consensus on whether there should be conditions in the TIP that must be met before the project can be funded with federal funds. If that is where the Board is, staff can draft those conditions to go into the TIP, but if that is not the position of the Board, then it has to be satisfied that it will have a letter or MOU that would create a moral obligation only.

Mr. Thomas commented that that would take things back to before the language opposing the bypass was changed.

Mr. Rooker explained to him that it would not, and would say that the MPO supports the project but only supports construction funding conditioned upon certain things taking place. At least you will have some assurance that the funding will go in and stay in the state's plans for the things that are conditions to approval. Right now you don't have anything that is binding.

Mr. Boyd stated that he would not be opposed to drafting those conditions and taking them to the Secretary. He suggested taking it to the Secretary and say this is what the Board is considering changing the language in the TIP to be, and see if they are committed. If they say fine, then the Board would know they are solidly behind what they agreed to do in the letter. He does not want to take it beyond the letter that they gave us. He does not think the Board can ask for the entire Berkmar Drive Extended. He does not think they can ask for anything more than to design a bridge that can facilitate both roads.

Mr. Rooker asked if they could at least get the ramp system built into the bridge so eventually a road can be hooked into that.

Mr. Thomas said that is what the original idea was, but it did not include ramps.

Mr. Snow said he thought that was what they were talking about and it is one item that needs to be cleaned up, and he can agree with it.

Mr. Rooker said he thinks the Board should also get input from the City on the language they think would be reasonable to assure the things they did not get assurance on. He added that there may not be a difference in what the Secretary's letter intended and what they want. This is a community – this is not just a couple of us. He added that they wanted the TIP language to be conditional on what they thought they were getting.

Mr. Thomas stated that Ms. Szakos wanted more of a guarantee.

Mr. Foley said if there is consensus to develop TIP conditions, it would probably be a good idea for himself and Mr. Davis to develop that and work with the Board – and perhaps the City.

Mr. Boyd said he has no problem with that, but thinks either Mr. Thomas or Mr. Snow needs to be a part of crafting that language.

Mr. Dorrier asked who the final authority is for the TIP. Ms. Mallek responded the MPO.

Mr. Snow agreed that it could serve as a resolution from the Board, but in terms of clearing up TIP so that it spells out what the Board expects on Berkmar Drive and some additional language for Hillsdale, it is ready to go and in his opinion it should not be held up to go back and forth.

Mr. Foley said it seems like it would be good to prepare a draft resolution for the Board to look at to make sure there are the votes to push it forward.

Mr. Thomas stated that he has a resolution from the MPO ready and he could bring it back.

Mr. Foley said there are some proposed additions to that that need to be clarified, and he would work with the Chair and Mr. Snow in the initial drafting of this – coordinating with the City Manager's office if necessary – with the idea this would come back to the Board at their first September meeting.

Ms. Mallek said if they need it by August 24, she would call a special meeting, and she is not intending to hold this up.

Mr. Davis stated that he is hearing two different things from Board members.

Mr. Rooker said that they are considering conditions to be worded so that they reflect the things the County expects to get, with inclusion in the TIP conditions to assure the community gets those items.

Mr. Thomas stated that he has a resolution ready to go and would run it by Mr. Davis.

Mr. Foley said it does not seem to include the language mentioned here tonight.

Mr. Rooker suggested having Mr. Davis, Mr. Snow and Ms. Mallek work together on the wording on conditions to provide some assurance as to what the community would get.

Mr. Foley clarified that the only way that could provide any assurance is if it were in the TIP as conditions, which means it would have to be proposed to the MPO for a vote.

Ms. Mallek noted that would be on August 24th.

Mr. Rooker said that the City's input would be needed also.

Ms. Mallek said that might help bring the community back together.

Mr. Foley stated that it probably couldn't happen until September, at which time the Board could consider adopting a position to forward to the MPO as inclusion of conditions in the TIP language.

Mr. Davis said the MPO would not act on this on August 24th.

Mr. Rooker stated that all that needs to happen is the MPO needs to meet before the CTB.

Mr. Foley said that September is more realistic for action by this Board.

Mr. Boyd asked if the MPO change to the TIP can't just be changed in September.

Mr. Foley said that the Board is just working on the conditions to be added, and he would coordinate with Steve Williams on this matter. If something has to be done earlier, he will contact the Board.

Mr. Thomas stated that he doesn't like to delay this anymore, but he would go along with what has been discussed.

Mr. Boyd said there is no move here to change that.

Mr. Foley stated that staff's understanding is the Board has decided to develop some other information before they support the TIP amendment – but if that's not clear and there is no majority, then there is no need for staff to spend time on this.

Mr. Boyd asked if the language could be changed in September after TIP changes it.

Ms. Mallek said that any Board can change the language in the TIP at any time.

Mr. Davis noted that the TIP would have to go through the public hearing process again to be amended.

Ms. Mallek commented that adding conditions to the same decision would not require another public hearing.

Mr. Davis said he thinks that needs to be clarified.

Mr. Rooker said it is not clear to him what was voted on, as he is not sure how the letter is being incorporated.

Mr. Foley stated that the Secretary's letter won't stand as an official position in the TIP, adding that there is no need to move forward with conditional language here without a majority of the Board.

Mr. Dorrier said that the last paragraph of the letter says that he's going to "depend on the local MPO to give him advice." He added that the County can rely on the last paragraph to get what it wants.

Mr. Boyd stated that his understanding was that the Board is working to clarify some gray areas.

Mr. Foley said that the language to address the bridge over the river as it relates to the bypass, the way Mr. Rooker described it, is very different from the language in the Secretary's letter. He stated that as long as that's the Board's intent, staff can move forward.

Ms. Mallek said that is what Mr. Snow said needed clarification because it is different from what he was told.

Mr. Thomas stated he would rather vote now to avoid any confusion.

Mr. Davis said that the vote would be to defer any final action on the TIP until the Board meets on September 7 to discuss it.

Mr. Rooker **moved** to direct their MPO members not to vote on a final TIP amendment until after the Board meets and discusses such amendment on September 7 at their next regular Board meeting. Ms. Mallek **seconded** the motion.

Mr. Snow said he does not want to close down any options.

Mr. Foley stated he could decide that on September 7 when it is before him.

Mr. Snow stated that things have a tendency to get turned around and mean different things and all of the sudden they get locked into a vote.

Mr. Rooker said that Mr. Thomas just said he thought the problem last time was the lack of a vote.

Mr. Boyd stated that he does not know what the impact would be at the state level.

Mr. Thomas expressed fear that Secretary Connaughton might just pull everything back, right off the bat.

Ms. Mallek said that the State has been waiting for this for 20 years and she doubts they are sitting there waiting for this.

Mr. Thomas commented that the community has been waiting on it for 20 years.

Mr. Snow said he does not know that the Board needs to take a vote on this.

Ms. Mallek said the MPO liaisons probably need official direction from the Board to do their next step.

Mr. Snow said they received that at a previous Board meeting.

Mr. Dorrier commented that this may tie the hands of the MPO.

Mr. Rooker stated that the Board's representatives on the MPO should represent the Board, and the Board should be able to give clear direction.

Mr. Davis said there is a motion and a second.

Mr. Boyd stated he will vote no on the motion because it ties the MPO hands and he thinks the Board can accomplish the same thing without this vote. He does not want to vote on tying the hands of the people who are negotiating this very intricate and difficult transportation opportunity.

Ms. Mallek said this would actually give them more power, if they have the whole community behind them.

Mr. Snow stated that he wants to proceed in good faith but does not want to make it a vote and lock things in.

Mr. Dorrier said this would prevent the MPO from doing anything at the August 24th meeting.

Mr. Rooker said the MPO does not meet until the third week in September.

Mr. Dorrier asked what happens if something comes up that they do not foresee.

Mr. Boyd, Mr. Thomas and Mr. Snow all said they shared that worry.

Mr. Rooker explained that there is no legally binding commitment now to these things.

Mr. Dorrier reiterated that this would tie the hands for further negotiations.

Ms. Mallek said they are supposed to be representing the entire Board.

Mr. Rooker said there are no further negotiations.

Mr. Dorrier said the Board needs to keep things open and it is not wise to tie the hands of their two representatives to the MPO. He stated that there needs to be a resolution specifically defining what the Board is asking for, what it wants and when they want it, how much it is going to cost, but to tie their hands right now without knowing all the details in the future they could reap the whirlwind.

Mr. Rooker stated that there would be an amendment to the TIP, and the current amendment binds the County, so the question is whether the County gets what it wants in the amendment or not.

Mr. Dorrier said that Mr. Thomas and Mr. Snow will withhold their votes to make sure the City is included.

Mr. Rooker said they did not do that. This Board needs to develop clear guidelines of what this Board expects to have in the conditions to the TIP in order for the TIP to be amended.

Mr. Dorrier said they are coming back in September to do that and there is no need to have a motion tying their hands right now. He trusts their judgment and thinks they will make wise decisions. They also need some flexibility.

Roll was then called and the motion **failed** by the following recorded vote:

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

Mr. Boyd said he is trusting that these two gentlemen will negotiate in good faith for the Board.

Mr. Foley stated that staff would still work to develop a position for September 7th that might amend any motion that happens in the meantime.

At 4:07 p.m., the Board took a recess.

Agenda Item No. 22. Joint Meeting with Planning Commission and Architectural Review Board.

At 4:13 p.m., the Chair called the Board of Supervisors back to order in Room 241.

PLANNING COMMISSION MEMBERS PRESENT: Mr. Don Franco, Mr. Thomas Loach, Mr. Calvin Morris, Mr. Russell Lafferty, Ms. Linda Porterfield and Mr. Duane Zobrist.

ABSENT: Ms. Julia Monteith and Mr. Edward Smith.

ARCHITECTURAL REVIEW BOARD MEMBERS PRESENT: Mr. William Daggett, Mr. Charles Lebo, and Mr. Bruce Wardell.

ABSENT: Mr. Fred Missel and Mr. Paul Wright.

Mr. Graham reported that this is a follow-up work session to those held with the Board last year in response to a Board action plan adopted in January 2010, with the primary goal being that the processes in the County do not make it unnecessarily difficult for development to move forward. He stated that one of the things discussed last year was clarifying their goal because while the County is trying to work on shortening approval times and get rid of unnecessary and burdensome regulations, there was also the goal of maintaining opportunities for public information and input – as well as maintaining community quality. There was a recognition that this is a balancing act. Mr. Graham said that today Mr. Fritz would talk about the subdivision and site plan processes, with questions taken after his presentations and some direction given from the Board; following that, the rezoning and special use permit (legislative) processes would be discussed by Mr. Cilimberg.

Item No. 22a. Community Development – Site Plan and Subdivision Review Process.

The executive summary presented to the Board stated that in January 2010, the Board adopted an Action Plan calling for staff to bring forward recommendations for "…reducing unnecessary and burdensome regulations and shortening approval times" related to the County's review and approval of site plans and subdivisions. On June 2, 2010, the Board heard a presentation on possible changes to the site plan and subdivision review processes and directed staff to continue to work on these issues. On September 7, 2010, a work session was held with the Architectural Review Board (ARB) and on September 14, 2010, a work session was held with the Planning Commission (PC). The minutes from those meetings are included as Attachments A and B to this Executive Summary. On July 28, 2010, a public roundtable was held and a summary of the comments received during this meeting is included as Attachment C.

Staff considered all of the comments received and considered how potential changes would advance the goals set out by the Board of Supervisors. It is staff's opinion that a number of changes can be made that will be relatively easy to implement and will slightly reduce review time without adversely impacting the quality of design. Below are the recommended changes to the review process along with a brief summary of the impact of the change:

1. *Preapplication submittal with review in 10 days to determine main issues and required waivers*
   This will allow applicants to quickly and easily identify major issues with a development proposal. This action should streamline the review process somewhat because formal applications, when made, will be more complete. This eliminates delays in the review process brought on by confusion over the request or lack of necessary information to review a proposal.

2. *Reduced plan content to the minimum necessary for review*
   Limited reduction in plan content may be possible for the preliminary plan. This will not reduce the review period but may reduce some burden on applicants. This change has minimal impact.

3. *Public notified of Site Review Meeting and asked to attend and provide comment*
   Notification to adjacent owners currently occurs. Re-evaluating when these meetings occur (day or evening) and stressing that these meetings are an opportunity to talk to the applicant and County staff may serve to improve public input and allow developers to respond to public comments.

4. *Establish clearer submittal requirements for the final site plan*
   The current ordinance and review process does not provide clear guidance for the final site plan approval process. Implementing this change will likely reduce the burden on the applicant and shorten the time required for final site plan approval.

5. *Establish that any comment not responded to within 6 months deems the project withdrawn*
   When revisions are received long after comments have been made considerable staff time is spent on re-familiarizing with the project. In addition, the project may need to essentially be re-reviewed in order to insure that no ordinance changes have occurred. In addition, only a minimal fee is required for re-activating a project. A process for applicants to request an extension to the 6 month time limit would be established. Implementing this change will allow staff to be more efficient in reviewing projects.

6. *Allow the issuance of grading permits with the approval of the initial (preliminary) site plan*
   This is consistent with the current practice for subdivisions and planned developments. Construction of streets within a subdivision may occur currently after the approval of the preliminary plat and the road plans. Grading within planned developments may occur after the approval of an erosion and sediment control plan that is consistent with the application plan. Implementing this change will shorten the total time required to build out a development.

Staff recommends that the above changes be implemented.

The changes listed above will serve to improve slightly the site plan and subdivision review process. Staff also has identified two options for changing the site plan and subdivision review process that retain the potential to have a greater reduction in review times. These options involve significant policy changes from current procedures:

Option 1: Agent approval instead of PC approval with no right for site plans or subdivision plats to be called up for review by the PC. ARB reviews projects in Entrance Corridor Districts prior to preliminary approval.

Option 2: Agent approval instead of PC approval with no right for site plans or subdivision plats to be called up for review by the PC. No ARB review of site design. ARB review limited to building, lighting and landscaping design.

Proposal	Pros	Cons	Staff/Budget Impacts
Agent approval instead of PC approval. ARB reviews projects in Entrance Corridor Districts prior to preliminary approval.	Allows projects not within Entrance Corridors to be processed administratively. Maintains public hearing process for some items. Maintains ability for design review. Allows for some reduction of review time for projects in EC.	PC review if waivers are involved. This will be minimized if waivers are codified or made administrative. Potentially reduces public input for non-EC projects. No reduction in review time for EC projects.	Slight increase in ARB workload due to switching of public input from PC to ARB, even though the issues are different. Reduction in PC workload. Time/budget savings of PC limited to the time spent preparing staff reports, attending public meetings and generating minutes.
Agent approval instead of PC approval. No ARB review of site design. ARB review limited to building, lighting and landscaping design.	Allows for reduced review times.	May result in reduction in quality of the built environment. Reduces the potential for public input. Standard-ized Entrance Corridor design criteria may result in "cookie cutter" style development. ARB review may be required if waivers to design standards are sought. If waiver requests become common-place no reduction, and possibly an increase in review times may occur.	ARB staff impacts - Some reduction in ARB staff workload due to elimination of requirement for review for site design. PC staff impacts - Time/budget savings limited to the time spent preparing staff reports, attending public meetings and generating minutes.

Staff opinion is that Option 1 will best serve the interests of the County, development community and the public. It will reduce review times for some projects significantly and will still allow design quality to be maintained.

The full budget impact cannot be determined until a text amendment is prepared. The proposed changes to the review process will likely reduce the impact on the budget. No adverse impact on the budget is anticipated.

Staff recommends the following changes to the site plan and subdivision review process:

1. Preapplication submittal with review in 10 days to determine main issues and required waivers.
2. Reduced plan content to minimum necessary for review.
3. Public notified of Site Review Meeting and asked to attend and provide comment.
4. Establish clearer submittal requirements for the final site plan.
5. Establish that any comment not responded to within 6 months deems the project withdrawn.
6. Allow the issuance of grading permits with the approval of the initial (preliminary site plan).
7. Agent approval instead of PC approval. ARB reviews projects in Entrance Corridor Districts prior to preliminary approval (Option 1).

Staff recommends that the Board consider the options identified by staff and provide guidance that will allow staff to prepare a resolution of intent necessary to initiate the necessary zoning and subdivision text amendments.

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Mr. Fritz reported that in June 2010 staff came to the Board with some recommendations, with guidance from them in the development of recommendations in this report: 1) clearly stating submittal requirements and require appropriate level of detail; 2) specify time frames/limits for reviews and approvals to ensure timely decisions; 3) allow more decisions to be handled administratively; eliminate multiple public hearings; and presumption of approval (approve to minimum standards). He said they also kept in mind time delays and the cause for any slowing down of the review process: 1) multiple resubmissions; failure to provide necessary corrections; 2) Certificate of Appropriateness (ARB); 3) Planning Commission approval of waivers or modifications; 4) Planning Commission review of plans; and 5) outside agencies (e.g. VDOT, ACSA, Health. Mr. Fritz stated that the County doesn't have much to do with addressing the outside agencies but did try to ensure that their review times are not extended.

He said that the key concepts used when staff was trying to determine whether they were doing the right thing in terms of recommendation: 1) predictable for applicants and citizens; 2) maintaining opportunity for public input; 3) maintaining quality development; and 4) reducing approval time.

With that in mind, Mr. Fritz stated, staff is recommending six proposals to be endorsed for the subdivision and site plan process – but there will not be substantial improvement in the review process timelines with these changes: 1) preapplication submittal with review in 10 days to determine main issues and required waivers. This would identify any information needed in order for the waiver to be reviewed. He said that in many cases applications are incomplete and there is a back and forth just getting the application ready to be reviewed, so this could help reduce review time as well as reducing confusion and the burden on the applicant as far as what to submit; 2) reducing plan content to the minimum necessary

for review. This does not significantly reduce review time, but it could reduce the burden on the applicant in terms of submittal. Staff does not see a lot of opportunities for reduction in plan content, but there may be some possibilities there; 3) public notification of Site Review Meeting and asked to attend and provide comment. He said that staff already does that but they looked at enhancing it in terms of when the meeting is held. He said they considered whether the timing of the meeting was the best and most appropriate time, noting that it is currently done on Thursdays at 10:00 a.m.; 4) establish clearer submittal requirements for final site plan. Currently the final site plan processes are not written out clearly in the ordinance or County policies – so clarifying that would help avoid confusion for the applicant and should improve staff efficiency, which may help reduce review timelines; 5) establish that any comment not responded to within six months deems the project withdrawn. That could have a potential impact on the review process because staff spends a lot of time refamiliarizing itself on old projects that come back. The public also loses track of the status of the project so this would help maintain public input and improve staff's efficiency – with extension processes built in; and 6) allow the issuance of grading permits with the approval of the initial or preliminary site plan. This would potentially shorten the overall time it takes for a development to occur – not necessarily what the review time would be.

Mr. Fritz said that staff has looked at the process from concept to actual occupancy of a building and is aware of issues there in terms of dealing with certificates of appropriateness, design guidelines, landscaping, etc. He stated that this work session will not get into that level of detail, but staff is proposing that a concept be formed with early grading permits – which is already done with two other types of developments. Mr. Fritz explained that with subdivision approval you can start road construction before your final subdivision is approved, and planned developments can be graded as long as it is consistent with the application plan approved with the planned development – staff is proposing to treat preliminary site plans the same way.

Ms. Mallek asked if this would only leave the final site plan process to be able to move forward.

Mr. Fritz responded that there would have to be some initial preliminary approval that would have had to occur, just as in a rezoning, without all the details worked out yet.

Mr. Loach asked if there would be no pending waivers on the site at that time.

Mr. Fritz explained that the concept staff has shared with the Board, Commission and ARB was that the preliminary approval would be granted with the stipulation that early grading could be done when specific things such as a landscape plan or waiver are accomplished.

Mr. Lafferty asked if this would include installation of utilities as part of the grading.

Mr. Fritz replied that it could potentially include stormwater and other utilities, which can be done now with road plans, but that is something to be finalized in the text amendment. He said that it is probable that some utilities could be done, but the work wouldn't be done to determine where lines and such would go or what size of pipe would be needed.

Mr. Rooker stated that there are some advantages to this approach, but also some risks to the applicant – noting that Albemarle Place does not have final site plan approval but is doing substantial grading and stormwater work. He said there is always the possibility they could never come to an agreement with respect to their final site plan, or final ARB approval for what they are trying to do, but they are making a substantial investment while those decisions are still pending. You are not necessarily doing the applicant a favor all the time by advancing grading.

Mr. Dorrier asked if Stonefield (formerly Albemarle Place) has the records and permits needed to do what they want.

Mr. Graham replied that they cannot even do the preliminary grading without some installation of storm utilities because once the ground is disturbed the drainage patterns are affected, and there must be some utilities put in just to make the site work.

Mr. Fritz mentioned that Branchlands was graded for a long time before the first buildings went in and some people were concerned that it sat graded but idle for a long time.

Mr. Fritz said that the proposals he mentioned are what staff recommends, but they also have two other options that are significant changes – both of them shifting approval of site plans or subdivisions from the Planning Commission, with the agent making that decision. Mr. Fritz noted that the Commission would still be involved with waivers and modifications, but staff recommends that over time more of those waivers and modifications have standards developed so that they are performance standards or administrative waivers. He said that the first option is agent approval only after ARB review occurs, with the second option being agent approval without ARB review. The ARB would not be involved in site design. The ARB would be involved in only the review of the site for the building design - lighting and the structure itself.

Mr. Lafferty asked if this is a different agent than the previous. Mr. Fritz responded that this would be him. Currently the agent approves the site plans and subdivisions after the Site Review Committee has approved it, with VDOT, the Health Department, the Service Authority and others as members of that Committee. He said that this shift would make the ARB like the Service Authority or VDOT whereby they will have to have reviewed the project before it gets preliminary approval, applying only to projects in the Entrance Corridor District. Option two, he said, would have no ARB involvement and would be done just

like it is now except there would not be an appeal process to the Commission for site plans and subdivisions. Mr. Fritz added that staff currently approves some now if they are not in the EC.

Ms. Mallek asked if there was an appeal process for those circumstances.

Mr. Fritz explained that a project can be appealed to the Planning Commission but there are a lot of projects that do not get appealed. He said if the Site Review Committee finds it meets the standards for preliminary approval, staff can approve it with whatever conditions must be satisfied for the final – and this new recommendation is that it be done in all cases, with no appeal process.

Mr. Zobrist pointed out that any member of the Planning Commission can call it up.

Mr. Fritz said that abutting property owners, the Planning Commission, the applicant, or staff can appeal it – but this would mean there would be no appeal process.

Mr. Boyd commented that the Planning Commission has no authority to do anything with it anyway.

Mr. Fritz responded that that's the primary reason staff is recommending this change, as there have been situations where people have appealed and it has to be approved by the Commission because it meets all the requirements of the Ordinance.

Ms. Mallek said she likes the idea of the ARB review being earlier.

Mr. Fritz said that option two simplifies the process and shortens review times, but also significantly reduces the role of the ARB – so in an effort to maintain quality, staff is recommending option one.

Ms. Porterfield said that her concern when she first saw this is that it removes people who have direct input from a magisterial district, as there are six people who are appointed to handle a district – and when this is moved to the ARB this is not really their purview. She asked if there had been no appeals in the past that could not have been overturned by the Planning Commission.

Mr. Fritz replied that he cannot think of a by-right project that has ever gone to the Commission on appeal that staff was recommending approval for, that the Commission could deny. He also said that some of those cases were appealed to the Board and they overturned the denial, but he cannot recall a time when the Planning Commission found a provision in the ordinance where an application was not meeting those requirements.

Ms. Porterfield asked what items would be considered for public hearings, and who the public hearing entity would be.

Mr. Fritz said that projects in the Entrance Corridor would be going to the ARB and would have a public hearing process, and other projects would only go to the Site Review Committee – not to the Planning Commission.

Ms. Porterfield responded that none of the people on the Site Review Committee are the people who have been appointed to look out for residents and businesses in the community.

Ms. Mallek said that before this would happen there would have to be a really careful set of guidelines and criteria, so the application is already meeting a high standard.

Mr. Rooker stated that site plan approval is statutory so an application only has to meet the requirements for that approval.

Mr. Fritz said at any time design criteria could be amended within the limits of the State Code.

Mr. Rooker noted that when he was on the Planning Commission, projects would be brought forward and because there was local input sometimes things would be changed at that level in responses to concerns. He said that while the Commission does not have discretion to deny an application, that is a point at which voluntary changes can be made. Mr. Rooker stated that it is up to the Commission as to what the value of that is.

Mr. Loach stated that it is often a double-edged sword as there is an expectation that cannot be met due to statutory requirements, but there are changes and agreements made in certain circumstances. The problem with the other issue with the site review only is that it is done mostly during the day so community access is limited.

Mr. Fritz said that part of this proposal is reevaluating when the site review meetings are held, and stressing that the meetings are the opportunity to talk to the applicant and County staff. He stated that there are members on that panel representing a certain area of expertise, with staff's role being protection of the community's interests at large. Staff would be trying to utilize these meetings much like the Commission meeting by facilitating conversations between abutting owners, nearby owners and the applicant, and talking through and doing the kinds of things the Commission does now. The ordinance is the same for the staff as it is for the Planning Commission. Staff is proposing that there be a revitalization of the site review meeting and a refocus of its purpose.

Mr. Loach said that the Planning Commission member for a certain district can be there for those meetings as well, and process-wise it may work out better.

Mr. Fritz reiterated that staff has not worked out the details of this but it is the concept.

Mr. Rooker noted that the site review meetings are not really public hearings, noting that often there is no public comment at ARB meetings.

Mr. Daggett stated that it is infrequent, but is invited at every meeting. The public is asked to comment on each and every project, and if they are there they do comment.

Mr. Rooker commented that option one seems to be a good option, if it does not just result in a shift from the Commission to the ARB.

Mr. Franco stated that most of the Commission items are related to land use, and typically their hands are tied because of zoning. He said his concern is that it expands the ARB's power or puts more gray area into the situation, as architectural standards could be endless in terms of what might be required of the applicant. He said part of question is what should be the role of the ARB.

Mr. Wardell reiterated that the ARB's jurisdiction is only the Entrance Corridors, so anything falling outside of that does not go to them.

Ms. Mallek said that the site plan level is often where the biggest decision is made that does affect the Entrance Corridor, so there is a role for the ARB there.

Mr. Franco stated that if the ARB's role is focusing on architecture, they may actually impact things such as building size and height.

Mr. Graham said that what Mr. Franco is getting at is the difference between option one or two, with option one maintaining the ARB's role for site layout and grading, and option two saying that performance standards would be adopted, thus removing that role.

Mr. Daggett responded that the ARB has discussed this among themselves as they are often challenged in terms of making anything out of the buildings that are presented, and Mr. Wardell has addressed this well in the past.

Mr. Wardell said there are times when the ARB is really just dressing up the back of buildings, and there is public concern of roads and intersections that are under their purview – but when they receive a site plan that does not promote the quality of public concerns the ARB is challenged with making the building palatable. He stated that the question is how to get expertise and input sooner in the process so the Commission and staff can benefit from that instead of having it there and "painting a mural on what you're given."

Mr. Lebo noted that the ARB has stated that they would rather be a resource than a hurdle.

Mr. Rooker said it has been a problem for years because by the time the ARB sees something, there is a site plan presented that is not amenable to doing their job.

Mr. Lebo mentioned that it happened with the Target store at Hollymead and with the Regal Cinema at Stonefield.

Mr. Wardell said it could be addressed through the composition of the site review committee so that representation could happen earlier. The committee could include someone from the Commission or ARB. He said that option one would have no design review if the project is not in the EC, and those that are would fall under the ARB's jurisdiction.

Ms. Porterfield stated that she does go to site review meetings, and it has not been a place where there is a tremendous amount of give and take – and often the applicant does not even come. It is not required that the applicant attend the meeting. Most of the time the staff's report comes out the day before the site review meeting and that is not enough time to expect the populous get to a meeting and especially if the meeting is at 10:00 a.m., in the morning. She emphasized that she does not want to see people in the County disenfranchised if they want to speak on an issue. There have been many applications at the Commission level that should probably have not been there, but they ended up with some compromise. At least it allows the public to talk. If the Board is going to appoint a Commission that is magisterial based, then their input should be used. Also people should be able to use and call their Commission member when they have a problem.

Mr. Loach commented that if the process changes so the meetings are moved to the evenings with better notification, perhaps the site plan would be a better venue than the Planning Commission's three minutes.

Ms. Porterfield said she doesn't have an issue with changing the process, but wants to ensure that the public has an opportunity to provide input. She has a problem with eliminating someone (Commissioner) that the people know about. The site review committee is not what the Commission does.

Mr. Franco stated that some decisions have to come out of the process, and part of what makes it work at the Commission level is guidance from decision makers.

Mr. Rooker added that they actually take a vote.

Mr. Franco said that confusion comes in at that point also, because the Commission is really just voting on the standards already in place.

Mr. Loach asked if it could be changed so that there is still a right to appeal.

Mr. Franco asked who would the appeal go to.

Mr. Fritz stated that staff went back and reviewed the concepts considered in June, one of which being approval if minimum standards are met. If it meets the standards for approval, the application would get approved. He said they were envisioning the site review meeting as an opportunity to have the applicant and concerned individuals try to negotiate – but if opponents do not like a project and it meets ordinance requirements, the project would be approved. Mr. Fritz noted that they were not looking at any appeal process, because it is a ministerial process and if it meets the requirements of the ordinance, it must be approved. There would not be an appeal process of an approval, but a denial or conditions the applicant wasn't in favor of could be appealed. He added that there are very few projects that have ever been appealed to the Planning Commission that were purely administrative and had no waivers associated with them. Mr. Fritz said that many of the items before the Commission have been dual appeals – with the site plan or subdivision appealed but also a waiver associated with it. He said if you backed out the administrative portion and kept just the waiver, it would still go to the Planning Commission – and it is a completely separate conversation as to how those waivers would be changed.

Mr. Rooker asked if there is some change made in the site plan at that level in order to gain approval of the waiver. Mr. Fritz responded that they are associated with the waiver and would have occurred regardless.

Mr. Rooker explained that if there is an application, for example, with three waivers and a pending site plan approval with a lot of public comment, sometimes the applicant will propose changes in the site plan after hearing community input. Mr. Fritz said that those opportunities would still exist under option one as long as the waivers existed because the agent could not approve it until the waivers had been approved because it would not meet the minimum requirements of the ordinance.

Ms. Porterfield stated that under that scenario, the ARB would only hear projects in the Entrance Corridor – so anything that is anywhere else would only be heard by the agent.

Mr. Fritz explained that if there was a project that involved no waivers and no modifications and was not within the EC district there would be a notification, then a site review meeting, and then administrative approval if it met the minimum requirements.

Mr. Franco noted that the site review meeting would provide the opportunity for the public to speak. Mr. Fritz responded, "yes".

Mr. Wardell said the vast majority of EC projects are relatively straightforward site plans and applications, with some being a little more complicated – and Ms. Margaret Maliszewski will often approve things administratively. He stated there is a second category where she will bring forth several questions to be answered by the applicant, with the third category being things she thinks the ARB should hear. Mr. Wardell said that there is essentially a judgment call to be made as to the input needed on issues, and those could go to the Planning Commission. The complicated issues with a lot of neighbor involvement would actually go to the Commission.

Mr. Franco responded that that doesn't work because the Planning Commission's role is less subjective with site plans, and once something has been rezoned it must be reviewed by specific existing standards.

Mr. Rooker commented that there were six recommendations made by staff before these options were considered, and asked if there is a consensus if those recommendations are worth doing – as he supports them as a good starting point. He said that he would support the first option for items in the ARB corridor because it makes sense, as right now they are having to deal with site plans that are virtually impossible for them to do their job. Mr. Rooker stated that eliminating that tension would save applicants time by eliminating the need to redesign their site to meet some ARB guidelines, which leaves the issue of what to do with things that are not in the corridor. He said that he is concerned about site review committee meetings at night, as it may create staff overtime in dealing with them. He is not sure that that is going to be a great approach. He thinks it narrows down to do you want to continue to allow call-ups on things that are not in the corridor.

Mr. Dorrier said that the issue of appeal needs to be addressed, as Ms. Porterfield's point about representation by district is an important one – as neighbors and the applicant need a way to have input. He stated that if a Commissioner called up a problematic site plan, people would leave feeling that the system is working for them – even if they lost.

Mr. Franco stated that most of the appeals he was considering were those the applicant was appealing. He thinks many times the Commission has been used as feedback on how they interpret a

provision when there is a hard disagreement between staff and the applicant – but once that decision is made whether it complies or not, he does not know that there should be an appeal process for the public.

Mr. Loach asked what impact this would have on Commission work sessions.

Mr. Fritz responded that the Commission can have a work session on any item they want to.

Mr. Rooker said they would not have a work session on an item they would not be seeing.

Mr. Franco stated that the pre-application meeting is the more appropriate time for the ARB to be present, as any constraints desired need to come early in the process.

Mr. Rooker noted that someone had recommended having an ARB member on the site review committee.

Mr. Daggett said that he said that he heard from all members of the ARB that they would be happy to join in and be a resource as an advisory body for projects outside of the corridor, without being an imposition on the applicant whereby they might be able to stimulate some conversation and get the applicant and neighbors together to think in a different way.

Mr. Franco stated that with the Hollymead Town Center, for example, design drove a lot of it – but he would want to have an agreement early on as to what level of mass grading would be acceptable, adding that Stonefield needed mass grading also.

Mr. Wardell asked if there is a bond requirement at the preliminary site grading level.

Mr. Franco responded that there is an erosion control plan that must be bonded.

Mr. Wardell said that the worst case scenario would be that stormwater runoff could be handled, but only site stabilization can be mandated.

Mr. Daggett stated that a project in the Entrance Corridor is different, as conditions could be imposed.

Ms. Porterfield noted that the big piece missing here is the rest of the County that is not on a corridor, so the opportunity for public comment would be lost. She does not know that the third recommendation would work unless a lot is changed in the process. She agreed that there would be a financial burden by having staff attend night meetings, suggesting that projects outside of the EC be appealed to the Planning Commission if necessary – with a subcommittee of the Commission to look at them, comprised of the Planner, the Commission member of that district, and two others. Ms. Porterfield said it could be done as a Consent Agenda item if the item should be moved up to a full hearing.

Mr. Franco responded that his concern is that gives the perception that the public has the ability to influence the decision.

Mr. Daggett stated that if it meets the letter of the law and there are no waivers or issues, then there is nothing that can be done other than approval. Mr. Fritz stated that that is correct.

Mr. Fritz noted that often people walk out of a meeting more frustrated than when they came in because they appealed an item, and there was nothing that could be done.

Ms. Mallek agreed, stating that public input without any use for it just makes people angry because they feel like they have wasted their time.

Ms. Porterfield said that a smaller group would be a nicer way to explain that from the Commission, and at least it gives them an ability to come and talk.

Mr. Loach commented that there are ways not to incur too much additional staff expense and said he agrees that providing an opportunity for the public to speak is important, expressing concern that the perception may be that government is making decisions without them.

Mr. Franco said if that is the goal then the first public contact should happen at the pre-application committee.

Mr. Loach agreed that the best way to engage the public is early in the process.

Ms. Mallek said that that's why developers who reach out to the neighborhood before a project even gets to the pre-application stage are way ahead of the game, offering a non-confrontational environment to get really good suggestions.

Mr. Franco noted that those meetings are not always non-confrontational.

Mr. Graham said this conversation is talking about increasing public input, but the development community may not perceive what is being discussed now as a significant improvement.

Mr. Franco stated that it may take something longer to get off the ground, but to at least have the constraints on the table ahead of time would be helpful – then an applicant can listen to the input and staff

can react to what is or isn't included. He said that it is a good idea to spend more time at the early phase of design, before a developer is too far into a project. He thinks they are prioritizing what the important [constraints] are.

Mr. Daggett commented that at that stage things are in the concept phase and you cannot legislate good design, but a group of people at the conceptual level can lend some point of view to a project that will positively impact it – including community concerns.

Mr. Wardell said that as a designer you are hoping to get some guidance from the ARB person, the engineer, the stormwater planner, the fire department, etc. – but the only designer ultimately is the applicant.

Mr. Franco said that the designers are putting their concerns on the table so they can be addressed, and having that all up front might be a better way to standardize the process.

Mr. Loach pointed out that the community has come a long way through master planning, and people can look around at the plan and know what to expect – so the more they know up front, the less likelihood for confrontation.

Mr. Franco agreed, but said that a lot of what was decided years ago has now tied hands at the site plan level. He emphasized that people need to understand that they need to be engaged at the Comp Plan level.

Mr. Zobrist commented that this process being recommended doesn't really simplify anything.

Mr. Graham responded that he does not see any improvements here that the development community would perceive as simplification.

Mr. Wardell said that if he went into the process and got feedback early, and knew there was not a possibility of running into the Commission or the ARB, that would be an improvement in his scenario.

Mr. Fritz stated that there is nothing to prevent someone from doing that now. The pre-application being considered here is a process whereby the applicant would submit and within 10 days fundamental issues identified with the project would be identified – things related to zoning, parking, waivers, ARB issues, etc. He does not even know if the County could require a public process. The staff is going to give them that information in 10 days so they can go and prepare their plan. He stated that if there is a requirement for public process, they will likely forego a pre-application process and file their application because the County has 60 days to act on it.

Mr. Wardell said they have been in other jurisdictions where a pre-application conference is required.

Mr. Fritz stated that it could be required now.

Mr. Zobrist said that if the objective is to speed up the process, the process itself needs to be examined because this process takes time and money.

Mr. Rooker noted that Mr. Graham had indicated that if these things were adopted with one of the two options, it would save time, and it would assure that similar quality measures in place.

Mr. Graham responded that these six steps would provide minimal improvements to the time; the options would improve time.

Mr. Rooker said that if a member of the Commission or ARB is on the site review committee, he thinks you create a whole lot more certainty early on in the process. He stated that he would be in favor of adopting option one, as all of the waivers are still going to come up to the Commission and most projects of significance have some waiver requirements attached to them. Mr. Rooker added that at some point it needs to be decided what the goal is and what should be taken forward.

Mr. Graham responded that the question is whether the Board of Supervisors agrees with the six recommendations, and whether option one is moved forward as staff is suggesting.

Mr. Rooker said that if an ARB member and Commission member is added it would be a better process than what exists now.

Mr. Franco agreed, stating that the time saving will be less back and forth between a developer and staff.

Mr. Daggett added that it is the certainty earlier that is almost more important than the time, because the time spent in the design process is where time is really lost.

Ms. Porterfield said that the items that come to the Planning Commission are not just all plain vanilla.

Mr. Rooker asked her how many times they have come up with no waiver, that they would not have come up anyway.

Ms. Porterfield responded that there have been at least a few in recent memory, but in the long run there were a couple of changes made by the applicant because they listened at that level. Ms. Porterfield said that another vehicle would be use of community councils, because that is who they are representing.

Mr. Loach asked if the percentage of applications appealed is so high that it is problematic, with no waiver involved.

Mr. Fritz responded that the number of appealed applications where there is no waiver is very low, which is why staff felt comfortable with option one.

Mr. Loach said that if the percentage is that low, then it should not be a problem to add some kind of appeal process.

Mr. Zobrist stated that even in 2006 and 2007 – at the peak of activity – there were very few site plans called up.

Mr. Thomas commented that he agrees with Mr. Rooker on the six recommendations, and asked what the issue would be with adding two more members to the site review committee.

Mr. Fritz replied that there would be no problem, as Commissioners come to those meetings now, but their role would need to be clarified. He said that the controversial projects are the ones that get appealed but staff does not know until it happens.

Mr. Wardell said that when public discontent arises with a project, the question is how to "poke the bear early." He stated that there is an assumption when things come before a board for review that the community has already had input, and good developers will do that anyway as a matter of course – but there are some jurisdictions where you know you will get hammered at every corner until the public input is allowed.

Mr. Loach stated that, to some degree, that is already happening, as some of the growth areas that are master planned have advisory boards – which tend to come forward early on with feedback they have received at the early stages. He added that at one time there was a planner assigned to each growth area, who was sensitive to the community and knew what their expectations were.

Mr. Wardell said that perhaps another box to check could be added that asks a developer if they have met with the neighborhood.

Ms. Mallek stated that the idea was discussed seven years ago on the Development Review Task Force as being a really important element.

Mr. Rooker asked how often execution on a site plan takes place as opposed to a rezoning, which already has a process to go to the Commission and the Board.

Mr. Franco responded that rezonings happen a lot more, with far fewer by-right site plans, with the biggest unknown usually being the ARB because it is very subjective.

Mr. Rooker commented that that's why it makes sense to have an ARB member on the site review committee, and if option one is adopted that prevents a conflict between a site plan and the ARB's view of it.

Mr. Boyd stated that he concurs with Mr. Rooker and Mr. Thomas, and suggested asking staff to move forward with the six recommendations and option one. There is still plenty of time for public input and further discussion. He added that he appreciates this discussion; it has been very helpful.

(**Consensus of the Board to move forward with the following six recommendations and to follow Option 1:**

Option 1:

Agent approval instead of PC approval with no right for site plans or subdivision plats to be called up for review by the PC. ARB reviews projects in Entrance Corridor Districts prior to preliminary approval.

Six Recommendations:

1. Pre-application submittal with review in 10 days to determine main issues and required waivers.
2. Reduced plan content to minimum necessary for review.
3. Public notified of Site Review Meeting and asked to attend and provide comment.
4. Establish clearer submittal requirements for the final site plan.
5. Establish that any comment not responded to within 6 months deems the project withdrawn.
6. Allow the issuance of grading permits with the approval of the initial (preliminary site plan).

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Item No. 22b. Community Development – Legislative Review Process.

The executive summary presented to the Board stated that On September 1, 2010, Mark Graham, Director of the Community Development Department, provided the Board an overview of the

variables affecting the quality and efficiency of the legislative review process for applications for re-zonings and special use permits, and requested direction on possible changes to the process (September 1, 2010 executive summary provided as Attachment A). Mr. Graham noted that the four variables to consider are 1) efficiency of the review process, 2) the number of review issues, 3) the extent of review to assure quality development, and 4) the number of decision-makers. Mr. Graham said that additional opportunities for change realistically could be found in two areas – review efficiency and delegating some review issues to the ministerial process. Mr. Graham identified the following changes to the legislative review process that would help reduce time and costs:

1. Codify expectations as application requirements.
2. Codify the requirement for a pre-application conference.
3. Formalize a community meeting process.
4. By policy, avoid indefinite deferrals.

In concurrence with Mr. Graham's conclusions, the Board directed staff to prepare a resolution of intent to initiate the zoning text amendment for the recommended process changes for consideration by the Board at a future meeting.

In preparation for the September 1, 2010 work session, staff consulted with several of Albemarle's peer counties that have similar expectations for re-zonings to evaluate their review processes. Staff visited Hanover and Fauquier Counties to gain further insight into the processes that they use. The common theme that staff found in both counties was a focus on pre-application preparation with prospective applicants, quality control for application acceptance and community awareness regarding application proposals. These findings further verified the approach Mr. Graham outlined on September 1st. With this in mind, staff believes the following are relevant goals in making changes (see Attachment B for flow chart of changes):

A. Create a value-added process for both the applicant and staff keeping in mind that time is money for both parties
B. Provide clear expectations – it will be the responsibility of staff to tell the applicant what is required in an application and the applicant should provide it
C. Reduce iterations of re-submittal – it will be the responsibility of staff to provide complete, clear and unchanging comments of what is required for a project to be acceptable and the applicant will provide it
D. Get decisions made – avoid deferrals. Provided applicable criteria and expectations are met then the matter is approved; should applicable criteria and expectations not be met then the matter should be denied

As such, staff recommends the following changes to the legislative review process:

A. A pre-application conference is to be **required** prior to application submittal
B. A pre-application form is to be completed by the applicant and submitted before scheduling the pre-application conference
C. Staff completes the pre-application comment form and provides it to the applicant within 7 days of submittal
    1. Includes checklist of information required for application submittal
    2. Includes requirement(s) for a plan of development, a traffic study and other special studies or documentation **if** determined to be applicable
D. The application form will address expectations, including those based on the staff pre-application comment form
E. Fee is not paid with submittal – applications are to be reviewed for completeness before acceptance
F. Applicant is to be notified within 7 days of acceptance/rejection
    1. **If the application is accepted:**
        a) The fee must be paid within 5 business days of the notice of acceptance to activate the review during that application submittal review period
        b) If the fee is not paid within 5 business days the review does not begin until the next submittal date after the fee is paid
    2. **If the application is rejected:**
        a) A checklist of missing information is provided by staff to the applicant
        b) The applicant is eligible to reapply with the required information as early as the following month's submittal date
        c) A new pre-application conference is not required, but a follow-up meeting with staff can be scheduled before re-applying if the applicant so desires
G. Community meetings:
    1. Would be applicant-sponsored and required after the application is submitted to provide public information about the project; community meetings must be held within 46 days of the application submittal date for which the fee is paid
    2. Staff attends the community meeting to observe and answer process and policy questions

Staff believes these changes will address the goals noted, particularly through clearer expectations up front leading to complete applications that will allow for a more substantive initial review by staff, thus reducing the number of re-submittals and deferrals due to lack of information.

Staff held a roundtable meeting with public interests on July 19th to provide an overview of the proposed changes and receive feedback. While attendance was rather small, the following were important comments and suggestions provided at the roundtable:

- There was support for a mandatory pre-application conference, but comments provided by staff to the applicant on the pre-application comment form should be valid until an application is made since the time that may be required to complete the information necessary for application submittal (e.g., a traffic study) could take several months.
- There was concern that the community meeting could be "one more hurdle" (another public hearing) for applicants. Those commenting requested more details on how the community meeting will be conducted and how notice will be provided. A suggested alternative was to allow flexibility for the applicant to hold the meeting when and how it feels it is most beneficial and to not make it mandatory.
- To the extent practical, standardize staff review time to determine whether an application is complete for all types of applications (re-zonings, special use permits, site plans, subdivision plats).

Staff is not yet proposing a resolution of intent to amend the zoning ordinance for two reasons: 1) it wants to confirm the Board's concurrence with these proposed changes through this scheduled worksession; and 2) Based on Board feedback, staff wants to tailor the resolution to only those changes that **must** be codified while allowing administrative policies to establish more detailed application expectations and review procedures where possible.

Staff's recommendation should reduce the County's overall cost for application reviews, though the differences are not anticipated to result in more than a 10% cost reduction in rezoning and special use permits. The majority of the cost remains in preparing materials for public hearings and changes resulting from public hearings. While staff may spend more time on a project **before** the application is accepted for review and without a fee being paid, time spent on review **after** the application/fee is accepted should be reduced, especially if this process is effective in reducing the number of re-submittals. Since the fees collected for applications and re-submittals only cover a portion of the actual County processing cost, the reduced review time is a cost savings to the County.

Staff recommends that the Board concur with the changes recommended in items A through G beginning at the bottom of page 1. Should the Board agree with these recommendations, staff will prepare a resolution of intent to initiate the necessary zoning text amendment for the recommended process changes for consideration by the Board on an upcoming consent agenda.

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Mr. Cilimberg stated that he would be discussing the legislative process, which is very different and depending on what staff has to work with – along with what an applicant knows is expected in the beginning. He said that in September 2010 the Board concurred with staff recommendations: 1) codifying expectations, 2) require pre-application conference, 3) provide a community meeting process, and 4) maintain dates for public hearings – avoiding indefinite referrals and a cycle of review and respond.

He stated that since then staff has consulted with comparable counties, particularly Fauquier and Hanover, and found that pre-application preparation with prospective applicants was highly emphasized – to make sure applicants understood what needed to be submitted and a true quality control mechanism for applications to be accepted, as well as community awareness regarding what the proposals are.

Mr. Cilimberg said staff had drafted recommendations that the Board reviewed, along with a roundtable meeting held in mid-July that was minimally attended but staff did provide an opportunity for that input. He stated that staff has established that the process should be value-added, as time is money for both applicants and the County, so whatever can be done to shorten the timeframe in the review process is encouraged. Mr. Cilimberg stated that they need to make sure there is a common understanding between applicants and County staff regarding expectations with the projects being submitted, which can vary from project to project. Staff's goal is to reduce iterations of re-submittal. Mr. Cilimberg said that there can be three or four re-submittals with just about any legislative review, and many times the first review after an application is made requires a resubmittal that is essentially a lot of material that staff needs to review from the beginning.

Ms. Mallek asked why an application would be accepted if it was incomplete.

Mr. Cilimberg responded that it was accepted under County provisions, which are rather minimal and need to be addressed. He said that ultimately the goal is to make a decision and avoid further deferrals with projects.

In the proposed process changes, Mr. Cilimberg stated that staff is recommending the following changes: 1) requiring a pre-application meeting; 2) pre-application form completed by applicant to schedule pre-application meeting; 3) staff pre-application comment form to applicant within seven days; 4) application addresses the items identified in the pre-application comment form; and 5) no fee submitted at time of application – applications QC'ed for acceptance. Mr. Cilimberg stated that staff would handle the quality control process, with notification back to applicants that the information is all there before they would have to pay a fee. He said if the application is accepted, the fee gets paid at that point; if it is not then staff provides specifics to the applicant. Mr. Cilimberg stated that staff has also built in the idea of mandatory community meetings, applicant-sponsored, required after submittal but possibly occurring

beforehand. He said that staff would attend those meetings but would not be there to answer questions about whether a project is good or bad – only to answer policy questions.

Mr. Cilimberg said that at the roundtable, attendees supported the pre-application conferences but emphasized that the comments need to be valid until the applicant can make the application. He cited an example of identifying the need for a transportation study, which requires scoping with staff and VDOT and retaining a professional to do that work and having that then submitted – which can take a number of months. Mr. Cilimberg said that applicants would not want staff comments to become invalid because of the time necessary to get the information together for submittal. He stated that there was concern that the community meeting might be one more hurdle, potentially another public hearing, and developers asked about flexibility and when and how those meetings might be conducted. There was also the suggestion that the meetings not be mandatory.

Mr. Rooker asked if Fauquier and Hanover require those meetings.

Mr. Cilimberg replied that Hanover does require community meetings and has made a commitment that their Board member and Planning Commissioner for the district of the proposed project will attend. He said that they were flexible in whether the meeting took place before or after application was made and have found that decision makers as well as the public have a better idea of what the project is all about before they are sitting in a public hearing considering the project. Mr. Cilimberg stated that they didn't elaborate on whether decisions were made more quickly, but found that their decision-makers as well as the public were more aware of the projects proposal and the issues associated with it – and how those were received by the community.

Mr. Rooker commented that it is always a problem when a Board or Commission member gets to a public hearing and has heard very little about a project – then a bunch of people show up with several different issues – so to be able to mold that early in the process makes sense.

Mr. Cilimberg said that there had been a comment about standardizing review time for all applications, so if there is a seven-day turnaround for pre-applications for legislative and a ten-day turnaround for ministerial the question of why there is a difference needs to be addressed. He said that staff's recommendations are for the Board's concurrence with the proposed process changes, which are really up-front types of changes that don't have to go through multiple iterations of resubmittal – including the mandatory community meeting and a standardized review time for all applications. Mr. Cilimberg stated that they would also want to build into this process change the length of time deemed reasonable to give applicants reliance on the pre-application comments so they know they are still valid for six months. He added that you cannot go out two years because things can change in plans or ordinances but there is a reasonable period of time that an applicant should have an expectation that they can make their application and rely on the comments they received in the pre-application process.

Mr. Cilimberg stated that a resolution of intent would be provided for the changes that must be codified. Staff would like to use the administrative policies as much as possible for detailing applicant expectations and review procedures as it would then not be necessary for them to go through subsequent zoning text amendments if only minor changes would be required. Staff will also further develop process details including how the community meetings will be conducted and how notice will be provided.

Ms. Mallek commented that with clear expectations and reducing re-submittals, that is based upon the intent of the applicant to actually step up and meet expectations – but there are applicants who really have no intent of meeting community goals.

Mr. Cilimberg said that staff hopes in part that this would be addressed through establishing what needs to be included in their application so at least the material is there to be reviewed, and by having the quality control of no fees until the application is accepted, it is hoped there would at least be a better start.

Ms. Mallek asked if there would be increased fees for re-submittals if they were based upon original questions, to deter applicants from doing a constant back and forth.

Mr. Cilimberg responded that the fee changes the Board adopted this year will help in that regard. After the first re-submittal, a fee is associated with the second and subsequent re-submittals.

Mr. Morris commented that he really likes the proposed process as it provides opportunities for the Board and the Commission to be involved in the early stages.

Mr. Boyd said it is not really much different from what happens today, as he often attends many developer meetings with the public.

Mr. Cilimberg stated that it is upping the ante on applicants and staff to get the front end in better shape.

Mr. Loach said that public comment can start with advisory committees, which represent a cross-section of the community already and have familiarity with these issues – as well as bringing their knowledge of the master plan and what is allowed.

Mr. Cilimberg stated that applicants will want as much help as they can get with holding community meetings and utilizing existing channels to bring those together.

Mr. Rooker, Mr. Boyd and Mr. Thomas said they see no reason for not going forward with these recommendations at this time.

(Consensus of the Board to concur with the following recommendations; that staff will prepare a resolution of intent to initiate the necessary zoning text amendment for the recommended process changes for consideration by the Board:

Community Development – Legislative Review Process

A. A pre-application conference is to be **required** prior to application submittal;
B. A pre-application form is to be completed by the applicant and submitted before scheduling the pre-application conference
C. Staff completes the pre-application comment form and provides it to the applicant within 7 days of submittal
    1. Includes checklist of information required for application submittal
    2. Includes requirement(s) for a plan of development, a traffic study and other special studies or documentation **if** determined to be applicable
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    2. Staff attends the community meeting to observe and answer process and policy questions

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Mr. Daggettl said that the ARB had asked him to articulate the issue of County projects coming to them late in the process, creating a time crunch because of other approvals and a construction schedule. The ARB has really been seen as just a hurdle to get over. He added that this has been the case with some of the school projects, and they hope that the County's own agencies that are approving buildings would be a real exemplary applicant and come through the process the same as everyone else does. He thinks that this new process will help a great deal.

Mr. Boyd suggested that Mr. Foley convey to Dr. Pam Moran in the School system an interest in following the rules for their capital projects.

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Agenda Item No. 21 (continued from previous): From the Board: Matters Not Listed on the Agenda.

(Note: At 5:55 p.m., Planning Commission and ARB members left the meeting, with Board of Supervisors members staying.)

In terms of the Board's previous discussion on the bypass, Mr. Foley stated that final action on the TIP has already been taken by the MPO and that action was conditioned on the letter from the Secretary that is now presented to the Board in resolution form. Any further amendment would require another public hearing. It would be considered a minor amendment to this action, which has already been finalized by the MPO, so they would have to have another public hearing – presumably it would be in mid-September prior to the CTB meeting on the 21st of September. He said that for what was discussed today to happen at all, another public hearing process on amending the TIP would be needed and approval from the MPO.

Mr. Foley clarified that the conditions would be that Hillsdale Drive and Belmont Bridge – items one and four – would be the two that the Secretary would be recommending in a future six year improvement plan. The Route 250 Bypass is in the 2012-2017 current plan. He said that project is already funded and is planning to go forward. Mr. Foley said that the issue on Berkmar is to direct VDOT to prepare a conceptual design for the project concurrent with the bypass design, which would mean it would occur with the bypass. He stated that the primary point here is it would require a minor amendment to the MPO's current TIP, which they approved on July 27, in order for the Board to amend the conditions presented.

Mr. Rooker clarified that this has already been adopted. Mr. Thomas said that the resolution has already been voted on.

Mr. Rooker stated it was a plain resolution that did not include these conditions, and the wording here from staff is a little more specific than what the Secretary's letter includes.

Mr. Foley said it mirrors what is in the letter, with language included that addresses the language related to the Berkmar Bridge and Berkmar Drive Extended. He noted that the Secretary's original letter does say the state would do conceptual designs.

Mr. Snow stated that the Board should do a resolution making it more succinct, with the City doing the same.

Mr. Foley noted that that would not amend the TIP, which is the only thing that makes it definite.

Mr. Snow said that it helps to put a moral obligation back on the State.

Mr. Rooker said that it has been adopted but it would be helpful to go through the process and amend the TIP if everyone is in agreement as to what the language should be. He said there is no reason to go through the process if everybody is saying they would go through the process but not change the language in the TIP, because that's the only thing with any teeth.

Mr. Foley stated that the CTB meets on September 21, and if the Board intends to have a hearing to further amend this there are advertising requirements.

Ms. Mallek clarified that this is an MPO meeting being mentioned here, not a Board meeting.

Mr. Foley confirmed that is the case.

Mr. Rooker said that most of these things are not changes in this year's TIP, but wouldn't come into play until 2013-18.

Mr. Foley stated that the only issue is Berkmar Drive Extended being concurrent, as it is in 2012-17.

Mr. Rooker said that is not in the state TIP at all, so whether it is done before or after that September meeting is not a huge deal as no money has been programmed in yet. He stated that he would rather get it right and suggested that the September CTB meeting is not any more vital than the October CTB meeting, as they have already amended their TIP to include funds for the bypass and the Route 29 widening. He thinks it is important to have time to look at it, get it right and get an agreement on it.

Mr. Boyd agreed.

Ms. Mallek stated that she would like to see how things can be moved along in the next few weeks.

Mr. Snow said he would still like the Board to send a resolution immediately.

Mr. Rooker stated that he wants to ensure that the City weighs in, and to have a reasonably deliberative process to arrive at some kind of proposed TIP amendment if everyone agrees. That speaks a whole lot more than trying to rush out a resolution that does not really have any teeth in it.

Mr. Boyd said that his understanding is to take time in the process and put some teeth into the existing resolution.

Mr. Rooker stated that he is going to argue more for Berkmar than what is here now, and fellow Board members may or may not agree. He thinks that otherwise, it will never be built.

Mr. Thomas disagreed.

Mr. Rooker said he understands Mr. Thomas. He added that he (Mr. Rooker) is just one person here.

Mr. Foley stated that staff would work with Mr. Snow and Ms. Mallek, coordinating with the City, to try to get a clear position and not rush it through to get it to the CTB by the 21st – so it would be on the Board's agenda for September 7.

Mr. Davis said that ultimately whether the TIP gets amended again would take a vote from the MPO to initiate that process.

Mr. Rooker said hopefully the County can come to some kind of agreement with the City.

Mr. Thomas commented that the City needs to come to an agreement on what they want to support.

It was the consensus of the Board to proceed in that fashion.

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Agenda Item No. 23 Adjourn.

There being no further business, the meeting was adjourned at 6:07 p.m.

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Chairman

Approved by Board
Date: 10/05/2011 Initials: EWJ