

**ACTIONS**

**Board of Supervisors Meeting of November 14, 2012**

November 15, 2012

<u><b>AGENDA ITEM/ACTION</b></u>	<u><b>ASSIGNMENT</b></u>
<p>1. Call to Order.</p> <ul style="list-style-type: none"> <li>• Meeting was called to order at 4:43 p.m. by the Chair, Ms. Mallek. All BOS members were present (Mr. Dumler arrived during closed meeting). Also present were Tom Foley, Larry Davis and Travis Morris.</li> </ul>	
<p>2. Closed Meeting.</p> <p>At 4:43 p.m., the Board went into Closed Meeting pursuant to Section 2.2-3711(A) of the Code of Virginia under subsection (1) to consider appointments to the Albemarle-Charlottesville Regional Jail Authority and the Police Department Citizens Advisory Committee; and under subsection (7) to consult with legal counsel and staff regarding specific legal matters requiring legal advice relating to the negotiation of an agreement for implementing a cooperative cost recovery program for emergency service transports.</p>	
<p>3. Certify Closed Meeting.</p> <p>At 6:00 p.m., the Board reconvened into open meeting and certified the closed meeting.</p>	
<p>6. Adoption of Final Agenda.</p> <ul style="list-style-type: none"> <li>• <b>ADDED</b> VACo Conference report.</li> <li>• <b>ACCEPTED</b> final agenda.</li> </ul>	
<p>7. Brief Announcements by Board Members.</p> <p><u>Duane Snow:</u></p> <ul style="list-style-type: none"> <li>• Announced that the County received the VACo Go Green Award.</li> </ul> <p><u>Rodney Thomas:</u></p> <ul style="list-style-type: none"> <li>• Asked for Board members support in talking to Thelma Drake, Director, Virginia Department of Rail and Transportation about public transportation funding.</li> <li>• Gave report on the VACo Transportation Steering Committee meeting.</li> </ul> <p><u>Ann Mallek:</u></p> <ul style="list-style-type: none"> <li>• Announced that the VDoT public hearing for the Best Buy ramp 'U.S. 29 (Emmett Street)/ U.S. 250 Bypass Interchange' will be Tuesday, November 27, 2012 from 4:30 p.m., to 6:30 p.m., at the Holiday Inn on Emmett Street.</li> <li>• Announced that VADACS had completed its investigation of the spraying of herbicides in Sugar Hollow and found that there were no problems.</li> <li>• Announced that Virginia Ginger Bread Christmas is coming and that applications are due by December 5, 2012 and anyone interested can find more information at <a href="http://www.viriniagingerbreadchristmas.com/">http://www.viriniagingerbreadchristmas.com/</a>.</li> </ul>	
<p>8. Recognitions:</p> <p>a. 2011 Clean Farm Award, Dave Norford of Piedmont Manor in Albemarle County.</p> <ul style="list-style-type: none"> <li>• Chair read and presented resolution to</li> </ul>	(Attachment 1)

	<p>Dave Norford of Piedmont Manor.</p> <ul style="list-style-type: none"> <li>Mr. Irvin White presented Piedmont Manor with the 2011 Clean Farm Award.</li> </ul>	
9.	<p>From the Public: Matters Not Listed for Public Hearing on the Agenda.</p> <ul style="list-style-type: none"> <li><u>Art Beltrone</u> asked the Board to carefully review the minutes of the Planning Commission meeting on Castle Hill.</li> <li><u>Judith Sommer</u> presented a statement on Rural Agricultural Zoning in Albemarle County.</li> <li><u>Keith Hawkins</u> spoke on Castle Hill Cidery.</li> <li><u>Nancy Carpenter</u> spoke on public transportation and the lack of affordable housing in the County.</li> <li><u>Jeff Werner</u>, on behalf of the Piedmont Environmental Council, expressed opposition to the Planning Commissions' decision on the Police Firing Range site plan approval.</li> <li><u>Ron Mallory</u> spoke in opposition to the Open Burning Ordinance.</li> <li><u>Charles Battig</u> made a presentation entitled "Planning Away Private Property Rights, Part 2 'Natural Resources'".</li> </ul>	
10.2	<p>Road Improvement Priorities for Virginia's Working Draft FY 2012-2019 Six Year Improvements Program (SYIP) (<b>deferred from November 7, 2012</b>).</p> <ul style="list-style-type: none"> <li><b>PULLED</b> to discuss at the end of the agenda.</li> </ul>	
10.3	<p>Brownfield Assessment EPA Grant Application.</p> <ul style="list-style-type: none"> <li><b>SUPPORTED</b> the TJPDC's grant application and <b>AUTHORIZED</b> the Board Chair to sign a letter of support on behalf of the Board.</li> </ul>	<p><u>Clerk</u>: After Chair's signature forward letter to TJPDC.</p>
10.4	<p>Crozet Avenue North – "Safe Routes to School" Sidewalk and Crossing Improvements.</p> <ul style="list-style-type: none"> <li><b>APPROVED</b> right-of-way and easement purchase on property identified as TMP 56B-56 at the agreed price of \$3,179, and <b>AUTHORIZED</b> the County Executive to sign in a form approved by the County Attorney all documents necessary for the purchase of the property and the recordation of the Deed.</li> </ul>	<p><u>County Attorney</u>: Provide Clerk with fully executed copy of Deed. (Attachment 2)</p>
11.	<p><b><u>SP-2012-00024. Verizon Wireless Va. Dept. of Forestry "Buckingham Circle" Tier III Personal Wireless Service Facility (Signs #115&amp;116).</u></b></p> <ul style="list-style-type: none"> <li>By a vote of 4:2 (Rooker, Mallek), <b>APPROVED</b> SP-2012-00024 subject to the conditions as presented and <b>APPROVED</b> the special exceptions for modifications to Sections 5.1.40(c)(3),(d)(6) and (d)(7).</li> </ul>	<p><u>Clerk</u>: Set out conditions of approval. (Attachment 3)</p>
12.	<p><b><u>SP-2012-00025. Verizon Wireless – Piedmont College – Tier III PWSF (Sign #120).</u></b></p> <ul style="list-style-type: none"> <li>By a vote of 6:0, <b>APPROVED</b> SP-2012-00025 subject to the conditions as recommended and <b>APPROVED</b> the special exception for modification of Section 5.1.40(d)(6) to allow the facility at fourteen (14) feet above the tallest tree.</li> </ul>	<p><u>Clerk</u>: Set out condition of approval. (Attachment 4)</p>
13.	<p><b><u>SP-2011-00002. Castle Hill Cider; SP-2012-00018. Castle Hill Cider Pond &amp; SP-2012-00019. Castle Hill Cider Stream Crossing (Signs</u></b></p>	<p><u>Clerk</u>: Readvertise and schedule on agenda.</p>

<p><b>#30&amp;32).</b></p> <ul style="list-style-type: none"> <li>By a vote of 6:0, at the request of the applicant <b>DEFERRED</b> SP-2011-00002 to January 16, 2013 meeting.</li> </ul>	
<p>14. <b>Pb. Hrg: Ordinance to amend Open Burning.</b></p> <ul style="list-style-type: none"> <li>By a vote of 5:1 (Boyd), <b>SUPPORTED</b> the proposed amendment and <b>DIRECTED</b> staff to submit it to the Air Pollution Control Board for approval.</li> </ul>	<p><u>County Attorney:</u> Proceed as directed. (Attachment 5)</p>
<p>15. From the Board: Committee Reports and Matters Not Listed on the Agenda. <u>Duane Snow:</u></p> <ul style="list-style-type: none"> <li>Provided report on the VACo Annual Conference, and announced that devolution is off of the table.</li> <li>Provided report on VACo's session regarding broadband and asked staff to investigate the different areas where money is available to see if the money can be accessed.</li> <li>Provided update on VACorp's financial status.</li> </ul> <p><u>Ann Mallek:</u></p> <ul style="list-style-type: none"> <li>Expressed concerns about agricultural "entertainment" and whether production is becoming secondary to the entertainment. Asked if farm winery legislation has any interest in production or if the County has the ability to say that the use must have a greater production in the agricultural investment than in entertainment.</li> <li>Asked if the non-profit status of an organization can be readdressed if the business model of the organization changes.</li> <li>Consent Agenda Item 8.2, by a vote of 6:0 <b>APPROVED</b> the County's recommended priorities for FY 2014-2019 SYIP.</li> </ul>	<p><u>County Executive's office:</u> Proceed as directed.</p> <p><u>County Attorney:</u> Provide response.</p> <p><u>County Attorney:</u> Provide response.</p> <p><u>David Benish:</u> Proceed as approved. (Attachment 6)</p>
<p>16. From the County Executive: Report on Matters Not Listed on the Agenda.</p> <ul style="list-style-type: none"> <li>Announced that the Board has been forwarded an update on previous transportation issues.</li> </ul>	
<p>17. Adjourn to November 28, 2012, Room 241, 12:00 noon, Annual Legislative Luncheon.</p> <ul style="list-style-type: none"> <li>At 8:44 p.m., the Board adjourned until November 28, 2012.</li> </ul>	

ewj/tom

- Attachment 1 – Resolution recognizing Piedmont Manor
- Attachment 2 – Crozet Avenue North - Easement Purchase Deed
- Attachment 3 – Condition of Approval SP-2012-00024
- Attachment 4 – Condition of Approval SP-2012-00025
- Attachment 5 – Amended Open Burning Ordinance
- Attachment 6 – SYIP Priorities

**RESOLUTION**

**In Recognition of Piedmont Manor For  
Outstanding Farm Conservation Management Practices**

**WHEREAS**, the Thomas Jefferson Soil and Water Conservation District serves this community through programs and activities that enhance water quality of our surface and ground waters, while conserving and protecting our natural resources; and

**WHEREAS**, in cooperation with the Virginia Department of Conservation and Recreation, farmers who demonstrate outstanding management practices which conserve our precious natural resources are selected and recognized through the Clean Water Farm Award Program; and

**WHEREAS**, the Thomas Jefferson Soil and Water Conservation District selected Piedmont Manor as the Clean Water Farm Award Program recipient of Albemarle County for 2011;

**WHEREAS**, Piedmont Manor demonstrates a commitment to the conservation of the natural resources on its' farm through:

- establishing two wildlife plots totaling 3.5 acres and plans to plant warm season grasses in its riparian buffer areas;
- using natural fertilizer, spot spraying, and rotational grazing;
- completely fencing all the waterways on 600 acres of pasture;
- running a management intensive rotational grazing system with 25 paddocks and 20 automatic watering troughs;
- protecting 2.6 miles of stream, home to the endangered James Spiny mussel, and preserving 33 acres of riparian land; and
- managing 2,000 acres of woods on the western slope of the Southwestern Mountain range with both a forestry and wildlife plan.

**NOW, THEREFORE, BE IT RESOLVED** by the Albemarle County Board of Supervisors, that Piedmont Manor is hereby commended for its' commitment to protecting and enhancing waters that flow beyond farm boundaries and for the conservation ethic demonstrated through farm management practices.

Signed and sealed this 14<sup>th</sup> day of November, 2012.

This document was prepared by:  
Albemarle County Attorney  
County of Albemarle  
401 McIntire Road  
Charlottesville, Virginia 22902

Tax Map and Parcel Number 056B0-00-00-05600

This deed is exempt from taxation under *Virginia Code* § 58.1-811(A)(3) and from Clerk's fees under *Virginia Code* § 17.1-266.

**DEED OF DEDICATION**

**THIS DEED OF DEDICATION** is made this 18<sup>th</sup> day of October, 2012 by and between **AGNEW E. MORRIS, JR.** and **DELOIS S. MORRIS**, husband and wife, Grantors, and the **COUNTY OF ALBEMARLE, VIRGINIA**, a political subdivision of the Commonwealth of Virginia, Grantee.

**WITNESSETH:**

**WHEREAS**, the Grantors are the owners of that certain real property (hereinafter the "Property") located in Albemarle County, Virginia, more particularly described as that certain lot or parcel of land situated in the White Hall Magisterial District of the County of Albemarle, Virginia, designated as Lot 56, on the plat of Section One of Laurel Hills Subdivision recorded in the Clerk's Office of the Circuit Court of Albemarle County, Virginia in Deed Book 334, Page 195, also being the same property conveyed to the Grantors herein by deed of Frank H. Allen and Dallas A. Allen, husband and wife, recorded in said Clerk's Office in Deed Book 496, Page 529; and

**WHEREAS**, it is the desire and intent of the Grantors to dedicate, grant and convey the following portion of the Property in fee simple for public use, namely, a public right-of-way and other public purposes:

That certain real property shown and designated as "Permanent Right of Way Acquisition Area" to be dedicated to public use, shown on the plat of Lincoln Surveying, dated May 3, 2012, last revised October 2, 2012, entitled "Plat Showing Various Easements and a Permanent Right of Way Acquisition Area Across Tax Map 56B Parcel 56 Located on Ballard Drive White Hall District Albemarle County Virginia," a copy of which is attached hereto to be recorded with this deed (hereinafter, the "Right of Way" and the "Plat"). Reference is made to the Plat for a more particular description of the fee simple interest conveyed herein.

**WHEREAS**, it is the further desire and intent of the Grantors to dedicate, grant and convey a permanent drainage easement (hereinafter, the "Easement") over that certain real property shown and designated on the aforesaid Plat as "Permanent Drainage Easement" for public use in accordance with this Deed of Dedication.

**WHEREAS**, it is the desire and intent of the Grantors to dedicate, grant and convey all rights, title and interest in all ditches, pipes and other improvements and appurtenances within the Easement established for the purpose of conveying stormwater (hereinafter collectively referred to as the "Improvements," whether referring to existing Improvements or those to be established in the future by the Grantee), excluding building connection lines.

**WHEREAS**, the Grantee is willing to accept the Grantors' offers of dedication.

**NOW THEREFORE**, in consideration of the mutual promises, the Grantors hereby grant, convey, and dedicate for public use to the Grantee, its successors and assigns, with GENERAL WARRANTY and ENGLISH COVENANTS OF TITLE, the above-described Right of Way in fee simple.

**FURTHER**, pursuant to the consideration described herein, the Grantors do hereby grant, convey, and dedicate to public use with GENERAL WARRANTY and ENGLISH COVENANTS OF TITLE unto the Grantee, its successors and assigns, the Permanent Drainage Easement shown on the Plat and as referred to herein as the Easement.

**FURTHER**, pursuant to the consideration described herein, the Grantors do hereby grant, convey, and dedicate to public use the Improvements.

### **Temporary Construction Easements**

The Grantors also grant and convey to the Grantee the temporary construction easements shown on the aforesaid Plat as "Temporary Grading and Construction Easement," containing 0.012 and 0.011 acres, respectively, more or less, for use by the Grantee's contractor during construction of improvements. The improvements constructed within the Right of Way and Permanent Drainage Easement shall be the property of the Grantee.

The Grantee will use its best efforts to minimize all disruptions to Grantors' enjoyment of the Property. Grantee agrees to exercise its rights under these Easements in a manner which does not adversely impact the buildings and improvements situated on the Property, or the vehicular and pedestrian access of Grantors to the Property.

These Temporary Construction Easements shall terminate on the earlier of completion of construction; or abandonment of the Easements by Grantee.

### **Permanent Drainage Easement**

The Permanent Drainage Easement shall be subject to the following:

1. Right to construct, reconstruct, install, maintain, repair, change, alter and replace the Improvements. The Grantee shall have the right to construct, reconstruct, install, maintain, repair, change, alter, and replace present or future Improvements (hereinafter referred to as "inspecting, maintaining and operating" or derivations thereof) for the purposes of collecting storm water and transmitting it through and across the property, protecting property from flooding, protecting water quality, and otherwise controlling stormwater runoff.
2. Ownership of the Improvements. All Improvements within the Easement, whether they were installed by the Grantee or any predecessor in interest, shall be and remain the property of the Grantee.
3. Right of ingress and egress. The Grantee shall have the right and easement of ingress and egress over any lands of the Grantors adjacent to the Easement between any public or private roads and the Easement, to inspect, maintain and operate the Improvements.
4. Right to inspect, maintain and operate the Improvements. The Grantee may enter the Easement to inspect, maintain and operate the Improvements.
5. Right of Grantee to disturb and maintain the Easement premises. The Grantee shall have the right within the Easement to trim, cut or remove any trees, brush or shrubbery, remove fences, structures or other obstructions, and take other similar action reasonably necessary to provide adequate and fully functioning Improvements; provided, however, that the Grantee, at its own expense, shall restore as nearly as possible, the premises to their original condition. This restoration shall include the backfilling of trenches, the replacement of fences and shrubbery, the reseeding or resodding of lawns or pasture areas, and the repair or replacement of structures and other facilities located outside of the Easement that were damaged or destroyed by the Grantee. However, the Grantee shall not be required to repair or replace any structures, trees, or other facilities located within the Easement, but be required only to repair or replace groundcover within the Easement that was disturbed, damaged or removed as a result of installing or maintaining any of the Improvements. In addition, the Grantee shall remove from the Easement all trash and other debris resulting from the installation, maintenance or operation of an Improvement, and shall restore the surface thereof to its original condition as nearly as reasonably possible. Notwithstanding the foregoing, the Grantee shall not be required to repair or replace anything identified in this paragraph if to do so would be inconsistent with the proper maintenance or operation of the Improvements. In addition, neither the Grantee nor any other public agency, including

the Virginia Department of Transportation, shall be responsible for conducting routine maintenance as described in paragraph 6 except as expressly provided in this paragraph.

6. Right of Grantors to maintain the Easement premises. The Grantors shall have the right to perform routine maintenance of the Easement premises, including the removal of trash and landscaping debris, mowing and manicuring lawns and groundcovers, and making any other aesthetic improvements desired by the Grantors that are not inconsistent with the rights herein conveyed, and which do not adversely affect the proper operation of any Improvement. The right to maintain the Easement premises does not include the right to maintain the Improvements.
7. Temporary construction easement. The Grantee shall have a temporary construction easement on the lot on which the Easement is located in order to construct, install, maintain, repair, change, alter, or replace an Improvement. This temporary construction easement shall expire upon completion of the work.
8. Exclusivity; restrictions. The Easement conveyed herein is an exclusive easement. Neither the Grantors nor any person acting under the Grantors' express or implied consent shall modify, alter, reconstruct, interfere with, disturb or otherwise change in any way the land within the Easement or any Improvement located within the Easement; and further provided that such persons shall not construct or maintain any roadway, or erect any building, fence, retaining wall or other structure within the Easement.
9. Grantee's right to assign. The Grantee shall have the right to assign this Easement as its interests may require.
10. Binding effect. The Easement and the rights and obligations established herein shall run with the land in perpetuity, and shall be binding upon the Grantors, the Grantee, and their successors and assigns. All references herein to the "Grantors" and the "Grantee" include their respective successors and assigns. All references to the "Grantee," when exercising any right or obligation herein, includes the Grantee's officers, employees and agents.

**Consent of trustees and beneficiaries to subordinate liens.**

- a. By deed of trust dated November 19, 2003 and recorded November 24, 2003 in the Office of the Clerk of the Albemarle County Circuit Court in Deed Book 2644, page 700, the Grantors conveyed the subject Property to BB&T-VA Collateral Service Corporation, Trustee, to secure outstanding obligations owed to Branch Banking and Trust Company of Virginia, Beneficiary. Pursuant to the authorization of Branch Banking and Trust Company, successor by merger to the Beneficiary, as evidenced by its signature hereto, the Trustee joins in this deed to subordinate the lien of such deed of trust to the property interests conveyed hereby.
- b. By deed of trust dated March 30, 2009 and recorded April 16, 2009 in the Office of the Clerk of the Albemarle County Circuit Court in Deed Book 3719, page 490, the Grantors conveyed the subject Property to BB&T-VA Collateral Service Corporation, Trustee, to secure outstanding obligations owed to Branch Banking and Trust Company, Beneficiary. Pursuant to the authorization of the Beneficiary, as evidenced by its signature hereto, the Trustee joins in this deed to subordinate the lien of such deed of trust to the property interests conveyed hereby.

The Grantee, acting by and through its County Executive, duly authorized by resolution adopted by the Board of Supervisors of the County of Albemarle, Virginia, accepts the conveyance of this property pursuant to *Virginia Code* § 15.2-1803, as evidenced by the County Executive's signature hereto and the recordation of this Deed.

**SP-2012-00024. Verizon Wireless Va. Dept. of Forestry "Buckingham Circle" Tier III Personal Wireless Service Facility (Signs #115&#116).**

1. Development and use shall be in general accord with what is described in the applicant's request and site plans, entitled "Buckingham Circle Rawland Monopine," with a final zoning drawing submittal date of 9/25/12 (hereafter "Conceptual Plan"), as determined by the Director of Planning and Zoning Administrator. To be in general accord with the Conceptual Plan, development and use shall reflect the following major elements within the development essential to the design of the development, as shown on the Conceptual Plan:
  - a. Height
  - b. Mounting height
  - c. Antenna type
  - d. Number of antenna
  - e. Color
  - f. Location of ground equipment

Minor modifications to the plan which do not conflict with the elements above may be made to ensure compliance with the Zoning Ordinance.
2. The trunk of the tower shall be covered with branches to make the trunk not visible from any point on the property beyond the existing tree line, to the extent practicable.

**Special exceptions for modifications:**

1. Section 5.1.40(c)(3)-no antenna to project more than 12 inches from a structure (permits T-mounts)
2. Section 5.1.40(d)(6)-height of the structure in relation to the reference tree (permits top of monopine @ 47' taller than surrounding trees)
3. Section 5.1.40(d)(7)-request for equipment attached to the structure to be a color matching the structure (permits java brown trunk, antenna arrays and limbs with artificial green pine needles)



**SP-2012-00025. Verizon Wireless – Piedmont College – Tier III PWSF (Sign #120).**

1. Development and use shall be in general accord with the conceptual plan titled “Piedmont College Rawland Monopole (University of VA Real Estate Foundation Property) prepared by Justin Yoon latest revision date 9/25/12 (hereafter “Conceptual Plan”), as determined by the Director of Planning and the Zoning Administrator. To be in general accord with the Conceptual Plan, development and use shall reflect the following major elements within the development essential to the design of the development, as shown on the Conceptual Plan:
  - a. Height
  - b. Mounting type
  - c. Antenna type
  - d. Number of antenna
  - e. Distance above reference tree
  - f. Color
  - g. Location of ground equipment and monopole

Minor modifications to the plan which do not conflict with the elements above may be made to ensure compliance with the Zoning Ordinance.

**ORDINANCE NO. 12-6(1)**

AN ORDINANCE TO AMEND CHAPTER 6, FIRE PROTECTION, ARTICLE IV, BURNING OF BRUSH, ETC., 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 6, Fire Protection, Article IV, Burning of Brush, etc., is hereby amended and reordained as follows:

By Amending:

- Sec. 6-403 Definitions
- Sec. 6-404 Prohibitions on open burning
- Sec. 6-406 Permissible open burning
- Sec. 6-407 Permits

**Chapter 6. Fire Protection**

**Article IV. Burning of Brush, etc.**

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**Sec. 6-403 Definitions.**

For the purpose of this article and subsequent amendments or any orders issued by Albemarle County, the words or phrases shall have the meaning given them in this section.

(1) *Automobile graveyard.* The term “automobile graveyard” means any lot or place which is exposed to the weather and upon which more than five motor vehicles of any kind, incapable of being operated, and which it would not be economically practical to make operative, are placed, located or found.

(2) *Built-up area.* The term “built-up area” means any area with a substantial portion covered by industrial, commercial or residential buildings.

(3) *Clean burning waste.* The term “clean burning waste” means waste that is not prohibited to be burned under this ordinance and that consists of only (i) 100% wood waste, (ii) 100% clean lumber or clean wood, (iii) 100% yard waste, or (iv) 100% mixture of only any combination of wood waste, clean lumber, clean wood or yard waste.

(4) *Clean lumber.* The term “clean lumber” means wood or wood products that have been cut or shaped and includes wet, air-dried, and kiln-dried wood products. Clean lumber does not include wood products that have been painted, pigment-stained, or pressure-treated by compounds such as chromate copper arsenate, pentachlorophenol, and creosote.

(5) *Clean wood.* The term “clean wood” means uncontaminated natural or untreated wood. Clean wood includes, but is not limited to, byproducts of harvesting activities conducted for forest management or commercial logging, or mill residues consisting of bark, chips, edgings, sawdust, shavings or slabs. It does not include wood that has been treated, adulterated, or chemically changed in some way; treated with glues, binders or resins; or painted, stained or coated.

(6) *Commercial waste.* The term “commercial waste” means all solid waste generated by establishments engaged in business operations other than manufacturing or construction. This category includes, but is not limited to, waste resulting from the operation of stores, markets, office buildings, restaurants and shopping centers.

(7) *Construction waste.* The term “construction waste” means solid waste which is produced or generated during construction, remodeling, or repair of pavements, houses, commercial buildings and other structures. Construction waste consists of lumber, wire, sheetrock, broken brick, shingles, glass, pipes, concrete, and metal and plastics if the metal or plastics are a part of the materials of construction or empty containers for such materials. Paints, coatings, solvents, asbestos, any liquid, compressed gases or semi-liquids, and garbage are not construction wastes and the disposal of such materials shall be in accordance

with the regulations of the Virginia Waste Management Board.

(8) *Debris waste*. The term “debris waste” means wastes resulting from land clearing operations. Debris wastes include but are not limited to stumps, wood, brush, leaves, soil and road spoils.

(9) *Demolition waste*. The term “demolition waste” means that solid waste that is produced by the destruction of structures, or their foundations, or both, and includes the same materials as construction waste.

(10) *Garbage*. The term “garbage” means readily putrescible discarded materials composed of animal, vegetable or other organic matter.

(11) *Hazardous waste*. The term “hazardous waste” means a “hazardous waste” as described in 9 VAC 20-60 (Hazardous Waste Management Regulations).

(12) *Household waste*. The term “household waste” means any waste material, including garbage, trash and refuse derived from households. For purposes of this regulation, households include single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds and day-use recreation areas. Household wastes do not include sanitary waste in septic tanks (septage) that is regulated by other state agencies.

(13) *Industrial waste*. The term “industrial waste” means any solid waste generated by manufacturing or industrial process that is not a regulated hazardous waste. Such waste may include, but is not limited to waste resulting from the following manufacturing processes: electric power generation; fertilizer/agricultural chemicals; food and related products/byproducts; inorganic chemicals; iron and steel manufacturing; leather and leather products; nonferrous metals manufacturing/foundries; organic chemicals; plastics and resins manufacturing; pulp and paper industry; rubber and miscellaneous plastic products; stone, glass, clay and concrete products; textile manufacturing; transportation equipment; and water treatment. This term does not include mining waste or oil and gas waste.

(14) *Junk*. The term “junk” means old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, waste, or junked, dismantled, or wrecked automobiles, or parts thereof, iron, steel, and other old or scrap ferrous or nonferrous material.

(15) *Junkyard*. The term “junkyard” means an establishment or place of business which is maintained, operated, or used for storing, keeping, buying, or selling junk, or for the maintenance or operation of an automobile graveyard, and the term shall include garbage dumps and sanitary fills.

(16) *Landfill*. The term “landfill” means a sanitary landfill, an industrial waste landfill, or a construction/demolition/debris landfill. See Part 1 (9 VAC 20-81-10 et seq.) of 9 VAC 20-81 (Solid Waste Management Regulations) for further definitions of these terms.

(17) *Local landfill*. The term “local landfill” means any landfill located within the jurisdiction of a local government.

(18) *Open burning*. The term “open burning” means the combustion of solid waste without:

1. Control of combustion air to maintain adequate temperature for efficient combustion;
2. Containment of the combustion reaction in an enclosed device to produce sufficient residence time and mixing for complete combustion; and
3. Control of the combustion products’ emission.

(19) *Open pit incinerator*. The term “open pit incinerator” means a device used to burn waste for the primary purpose of reducing the volume by removing combustible matter. Such devices function by directing a curtain of air at an angle across the top of a trench or similarly enclosed space, thus reducing the amount of combustion by-products emitted into the atmosphere. The term also includes trench burners, air curtain destructors and over draft incinerators.

(20) *Refuse*. The term “refuse” means all solid waste products having the characteristics of solids rather than liquids and that are composed wholly or partially of materials such as garbage, trash, rubbish, litter, residues from clean up spoils or contamination or other discarded materials.

(21) *Salvage operation*. The term “salvage operation” means any operation consisting of a business, trade or industry participating in salvaging or reclaiming any product or material, such as, but not limited to, reprocessing of used motor oils, metals, chemicals, shipping containers or drums, and specifically including automobile graveyards and junkyards.

(22) *Sanitary landfill*. The term “sanitary landfill” means an engineered land burial facility for the disposal of household waste that is so located, designed, constructed, and operated to contain and isolate the waste so that it does not pose a substantial present or potential hazard to human health or the environment. A sanitary landfill also may receive other types of solid wastes, such as commercial solid waste, nonhazardous sludge, hazardous waste from conditionally exempt small quantity generators, construction, demolition, or debris waste and nonhazardous industrial solid waste. See Part I (9 VAC 20-81-10 et seq.) of 9 VAC 20-81 (Solid Waste Management Regulations) for further definitions of these terms.

(23) *Smoke*. The term “smoke” means small gas-borne particulate matter consisting mostly, but not exclusively, of carbon, ash and other material in concentrations sufficient to form a visible plume.

(24) *Special incineration device*. The term “special incineration device” means an open pit incinerator, conical or tepee burner, or any other device specifically designed to provide good combustion performance.

(25) *Wood waste*. The term “wood waste” means untreated wood and untreated wood products, including tree stumps (whole or chipped), trees, tree limbs (whole or chipped), bark, sawdust, chips, scraps, slabs, millings, and shavings. Wood waste does not include:

1. Grass, grass clippings, bushes, shrubs, and clippings from bushes and shrubs from residential, commercial/retail, institutional, or industrial sources as part of maintaining yards or other private or public lands.
2. Construction, renovation, or demolition wastes.
3. Clean lumber.

(26) *Yard waste*. The term “yard waste” means grass, grass clippings, bushes, shrubs, and clippings from bushes and shrubs that come from residential, commercial/retail, institutional, or industrial sources as part of maintaining yards or other private or public lands. Yard waste does not include (i) construction, renovation, and demolition wastes or (ii) clean wood.

(Code 1988, § 9-21.3; Ord. 98-A(1), 8-5-98)

#### **Sec. 6-404 Prohibitions on open burning.**

A. No owner or other person shall cause or permit open burning or the use of a special incineration device for disposal of refuse except as provided in this ordinance.

B. No owner or other person shall cause or permit open burning or the use of a special incineration device for disposal of rubber tires, asphaltic materials, crankcase oil impregnated wood or other rubber or petroleum based materials except when conducting bona fide fire fighting instruction at fire fighting training schools having permanent facilities.

C. No owner or other person shall cause or permit open burning or the use of a special incineration device for disposal of hazardous waste or containers for such materials.

D. No owner or other person shall cause or permit open burning or the use of a special incineration device for the purpose of a salvage operation or for the disposal of commercial/industrial waste.

E. No owner or other person shall cause or permit open burning or the use of a special incineration device for disposal of household waste or garbage.

F. Open burning or the use of special incineration devices permitted under the provisions of this ordinance does not exempt or excuse any owner or other person from the consequences, liability, damages or injuries which may result from such conduct; nor does it excuse or exempt any owner or other person from complying with other applicable laws, ordinances, regulations and orders of the governmental entities having jurisdiction, even though the open burning is conducted in compliance with this ordinance. In this regard special attention should be directed to § 10.1-1142 of the Forest Fire Law of Virginia, the regulations of the Virginia Waste Management Board, and the State Air Pollution Control Board's Regulations for the Control and Abatement of Air Pollution.

G. Upon declaration of an alert, warning or emergency stage of an air pollution episode as described in Part VII of the Regulations for the Control and Abatement of Air Pollution or when deemed advisable by the State Air Pollution Control Board to prevent a hazard to, or an unreasonable burden upon, public health or welfare, no owner or other person shall cause or permit open burning or use of a special incineration device; and any in process burning or use of special incineration devices shall be immediately terminated in the designated air quality control region.

(Code 1988, § 9-22; Ord. 98-A(1), 8-5-98)

**Sec. 6-406 Permissible open burning.**

A. Open burning is permitted for the disposal of leaves and tree, yard and garden trimmings located on the premises of private property, provided that the following conditions are met:

1. the burning takes place on the premises of the private property; and
2. the location of the burning is not less than 300 feet from any occupied building unless the occupants have given prior permission, other than a building located on the property on which the burning is conducted.

B. Open burning is permitted for disposal of debris waste resulting from property maintenance, from the development or modification of roads and highways, parking areas, railroad tracks, pipelines, power and communication lines, buildings or building areas, sanitary landfills, or any other clearing operations which may be approved by the fire official, provided that all of the following conditions are met:

1. all reasonable effort shall be made to minimize the amount of material burned, with the number and size of the debris piles approved by the fire official;
2. the material to be burned shall consist of brush, stumps and similar debris waste and shall not include demolition material;
3. the burning shall be at least 500 feet from an occupied building unless the occupants have given prior permission, other than a building located on the property on which the burning is conducted;
4. the burning shall be conducted at the greatest distance practicable from highways and air fields;
5. the burning shall be attended at all times and conducted to ensure the best possible combustion with a minimum of smoke being produced;
6. the burning shall not be allowed to smolder beyond the minimum period of time necessary for the destruction of the materials; and
7. the burning shall be conducted only when the prevailing winds are away from any city, town or built-up area.

C. Open burning is permitted for disposal of debris on the site of local landfills provided that the burning does not take place on land that has been filled and covered so as to present an underground fire hazard due to the presence of methane gas provided that all of the following conditions are met:

1. the burning shall take place on the premises of a local sanitary landfill which meets the provisions of the regulations of the Virginia Waste Management Board;
2. the burning shall be attended at all times;
3. the material to be burned shall consist only of brush, tree trimmings, yard and garden trimmings, clean burning construction waste, clean burning debris waste, or clean burning demolition waste;
4. all reasonable effort shall be made to minimize the amount of material that is burned;
5. no materials may be burned in violation of the regulations of the Virginia Waste Management Board or the State Air Pollution Control Board.

The exact site of the burning on a local landfill shall be established in coordination with the regional director and the fire official; no other site shall be used without the approval of these officials. The fire official shall be notified of the days during which the burning will occur.

(Code 1988, § 9-22.1; Ord. 98-A(1), 8-5-98)

#### **Sec. 6-407 Permits.**

A. When open burning of debris waste (section 6-406(B)) or open burning of debris on the site of a local landfill (section 6-406(C)) is to occur within Albemarle County, the person responsible for the burning shall obtain a permit from the fire official prior to the burning. Such a permit may be granted only after confirmation by the fire official that the burning can and will comply with the provisions of this ordinance and any other conditions which are deemed necessary to ensure that the burning will not endanger the public health and welfare or to ensure compliance with any applicable provisions of the State Air Pollution Control Board's Regulations for the Control and Abatement of Air Pollution. The permit may be issued for each occasion of burning or for a specific period of time deemed appropriate by fire official.

B. Prior to the initial installation (or reinstallation, in cases of relocation) and operation of special incineration devices, the person responsible for the burning shall obtain a permit from the fire official, such permits to be granted only after confirmation by the fire official that the burning can and will comply with the applicable provisions in Regulations for the Control and Abatement of Air Pollution and that any conditions are met which are deemed necessary by the fire official to ensure that the operation of the devices will not endanger the public health and welfare. Permits granted for the use of special incineration devices shall at a minimum contain the following conditions:

1. all reasonable effort shall be made to minimize the amount of material that is burned. Such efforts shall include, but are not limited to, the removal of pulpwood, sawlogs and firewood;
2. the material to be burned shall consist of brush, stumps and similar debris waste and shall not include demolition material;
3. the burning shall be at least 300 feet from any occupied building unless the occupants have given prior permission, other than a building located on the property on which the burning is conducted; burning shall be conducted at the greatest distance practicable from highways and air fields. If the fire official determines that it is necessary to protect public health and welfare, he may direct that any of the above cited distances be increased;
4. the burning shall be attended at all times and conducted to ensure the best possible combustion with a minimum of smoke being produced. Under no circumstances should the burning be allowed to smolder beyond the minimum period of time necessary for the destruction of the materials;
5. the burning shall be conducted only when the prevailing winds are away from any city, town or built-up area;

6. the use of special incineration devices shall be allowed only for the disposal of debris waste, clean burning construction waste, and clean burning demolition waste; and

7. permits issued under this paragraph shall be limited to a specific period of time deemed appropriate by the fire official.

C. An application for a permit under section 6-407(A) or 6-407(B) shall be accompanied by a processing fee as set forth in the fee schedule maintained by the fire official, as may be amended from time to time.

(Code 1988, § 9-24; Ord. 98-A(1), 8-5-98)

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**ALBEMARLE COUNTY RECOMMENDED PRIORITIES FOR FY 2014-2019 SYIP  
ADOPTED: November 14, 2012**

**I. MAJOR IMPROVEMENTS**

1. Improvements to Route 29 North Corridor:
  - a. Funding of 29H250 Phase II Study, Option B design recommendations, most particularly additional north and southbound lanes on Route 29 from the Hydraulic Road intersection to the Route 250 Bypass and an additional ramp lane from Route 29 southbound onto the Route 250 Bypass West; **Places 29 Priority project; Primary/Revenue Sharing/City funds – Partial funding commitment to design and construct.**
  - b. Construct Hillsdale Drive extension from Hydraulic Road to Greenbrier Drive; **Places 29 Priority project; Urban/Revenue Sharing/City funds/Private right of way donations – Designed and being funded to construct.**
  - c. Construct Berkmar Drive extension. **Places 29 Priority project; Portion being constructed in Hollymead Town Center; CIP funding – available for design only (no funding to construct).**
  - d. *Intersection improvements at the Route 29 - Polo Ground Rd. (east)/Rio Mills Rd. (west) intersection to address traffic back-ups on Polo Grounds Rd. Consider signalization improvements and/or construction of turn lanes on Polo Grounds Road; Board request – new project request/not funded.*
  - e. Deployment of an adaptive traffic control system or other equivalent signal synchronization enhancements to US 29, from the Charlottesville city limits to Hollymead.
2. Improve Route 250 East corridor as recommended in the Pantops and Village of Rivanna Master Plans (improvements to I-64 interchange, pedestrian crossings in Pantops, parallel roads, new bridge/crossing at Rivanna River and widening of Route 250 east from the I-64 interchange to Village of Rivanna). **[note: I-64 exit ramp improvements completed] Portions of parallel roads constructed in private projects; no additional funding to design or construct.**
3. Improvements in accord with the recommendations of the Crozet Master Plan:
  - a. Implement sidewalk plan (per Downtown Sidewalk and Parking Study and Crozet Master Plan); **CIP/Enhancement /Revenue Sharing funds – Crozet Ave. Streetscape project designed and funded to construct.**
  - b. Create bike lanes to and in downtown; **Secondary/Revenue Sharing funds – Jarman’s Gap Rd. complete; Library Ave. partially built.**
  - c. Construct Eastern Avenue, to include the Lickinghole Bridge and a railroad crossing; **Portion constructed in private project; location plan complete. No funding to design or construct.**
  - d. Construct un-built sections of Library Ave. east from Crozet Avenue to Hill Top St. **CIP funds – Portion constructed; No additional funding to design or construct.**
4. Widen Route 20 North from Route 250 to Elks Drive/Fontaine Drive intersection, including bike lanes and sidewalks. **No funding.**
5. Undertake improvements recommended in the Southern Urban Area B Study, including improvements to Fontaine Avenue and construction of Fontaine Avenue to Sunset Avenue connector road. **Proffer for a portion of Fontaine Ave. to Sunset Ave. Connector; No additional funding to design or construct.**
6. Widen Route 20 South from I-64 to Mill Creek Drive, including bike lanes and sidewalks. **No funding.**
7. Improve two intersections on Route 20 (Valley Street) in Scottsville: the Warren Street intersection and the Hardware Street intersection. **No funding.**



## II. TRANSIT IMPROVEMENTS

1. Regional Transit Authority - Funding to establish a regional transit authority to provide expanded transit service to Albemarle County and Charlottesville. **No funding.**
2. Expand Existing Service - Funding to expand existing transit service capacity for CAT, JAUNT and RideShare, including capital projects to enhance capital operations (such as bus pull-outs, shelters, etc.). **Limited funding in CIP for 2-4 bus stops/shelters.**
3. Funding for Transit Operational Costs - Fully fund the State's existing formula share of transit operating costs or provide fuel subsidies in the face of rapidly escalating fuel costs. **Services provided in County by CAT are County funded.**
4. Inter-City Rail - Maintain increased inter-city rail service initiated to Charlottesville/Albemarle County in 2009. **State funded through 2012.**
5. Provide new service to Avon Street/Urban Neighborhood 4 area. **No funding.**
6. Provide new service in the US 29 North corridor/Hollymead/Airport. **No funding.**

## III. SAFETY IMPROVEMENTS

1. Construction of pedestrian walkways and/or bikeways along primary roads in the County's Urban Neighborhoods and Development Areas as part of road widening/improvement projects. Absent major road improvements, the following are prioritized for pedestrian and/or bikeway improvement:
  - a. Route 240 in downtown Crozet; **Enhancement/Revenue Sharing funds – Crozet Ave. streetscape project designed and funded to construct.**
  - b. Pedestrian crossings at strategic locations on Rt 29 North; **No funding.**
  - c. Route 250 East in Pantops - complete existing sidewalk system through extension and connections; provide pedestrian crossings at strategic locations; **CIP funding – sidewalk sections recently completed on Route 250; crosswalks need to be designed/ installed.**
  - d. Route 250 West from the City limits to the 250 Bypass area; **No funding.**
  - e. Route 20 South from City limits to Mill Creek Drive extended. **No funding.**
  - f. **Route 250 West in Crozet (Cloverlawn/Blue Ridge Shopping Center/Cory Farms subdivision area). Limited funding available (County CIP).**
2. Intersection improvements on Route 250 West at: 1) Tilman Road; 2) Owensville Road; 3) Route 240 (at Mechums River Bridge). **Improvements to address traffic control, such as traffic light, round-about, or other such improvements. No funding.**
3. Full lane widths, paved shoulders and spot improvements on Route 22 and Route 231. **No funding.**
4. Traffic control improvements at the intersection of Route 250 West and Route 151 (**traffic light, round-about, or other such improvements**). **No funding.**

### FOR INFORMATION ONLY:

### OTHER APPROVED PROJECTS FULLY FUNDED IN THE STATE SIX YEAR IMPROVEMENT PLAN

- Rt. 250 Bypass, Construct Interchange with McIntire Road (Charlottesville)
- McIntire Road Extended, Construct 2 Lanes (Charlottesville)
- Route 29 Corridor Improvements, reconstruction with added capacity from Ashwood Boulevard to Town Center Drive
- Route 29 Western Bypass, New Construction
- Bridge Replacement, Route 250 over Little Ivy Creek
- Various spot and safety improvements--5 projects on Rt. 29, Rt. 53, Rt. 20, Rt. 250 (flashing lights, shoulder widening, signage and guardrail, turn lane improvements)