

A regular meeting of the Board of Supervisors of Albemarle County, Virginia, was held on December 5, 2012, at 9:00 a.m., Lane Auditorium, County Office Building, McIntire Road, Charlottesville, Virginia.

PRESENT: Mr. Kenneth C. Boyd, Mr. Christopher J. Dumler, Ms. Ann Mallek, Mr. Dennis S. Rooker, Mr. Duane E. Snow (arrived at 9:15 a.m.), and Mr. Rodney S. Thomas.

ABSENT: None.

OFFICERS PRESENT: County Executive, Thomas C. Foley, County Attorney, Larry W. Davis, Director of Community Development, Mark Graham, Director of Planning, V. Wayne Cilimberg, Clerk, Ella W. Jordan, and Senior Deputy Clerk, Travis O. Morris.

Agenda Item No. 1. The meeting was called to order at 9:04 a.m., by the Chair, Ms. Mallek.

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

Agenda Item No. 4. Adoption of Final Agenda.

Ms. Mallek stated that she had one additional item – a resolution in support of rural post offices. Board members received a copy of a proposed resolution via email the previous week.

Mr. Dumler said that he would like to add for discussion - an outstanding proffer condition for Eagle's Landing apartment complex.

There being no other additions, the final agenda was accepted.

Agenda Item No. 5. Brief Announcements by Board Members.

Mr. Thomas announced that he will run for re-election for the Rio District Supervisor in November 2013. He said that he would like to see the Board continue supporting the Economic Vitality Action Plan and continue improving transportation. He said that he feels that this Board has done a lot of the right things. He also thanked the public for its support.

Mr. Rooker distributed some examples of installations of other adaptive control systems. The information provides a list of some of the locations where the systems have been installed along with the results obtained. He said that one of the issues raised by VDOT was whether or not the system could handle the number of intersections on Route 29 and the spacing. In looking at the examples, there is one with eight lights in a two-mile section and another with 15 in a 3.9-mile section. Mr. Rooker stated that in talking to the control systems company the previous day, they indicated they have several out now with over 30 intersections on them. The company was very confident that if the County were to install this system on existing Route 29, it could result in substantial traffic improvement.

Ms. Mallek noted that the Evans, Georgia project reduced peak hour travel time by 48 percent.

Mr. Rooker said that the Pantops item is #2 on the list.

Agenda Item No. 6. Recognitions:

Item No. 6a. Introduction of Deputy Police Chief, Ron Lantz.

Police Chief Steve Sellers announced that after an extensive nationwide search and selection process that included applicants from over 59 different localities, Mr. Ron Lance was selected for the position of Deputy Chief of Police. Colonel Sellers stated that Mr. Lance is retired from Fairfax County where he last commanded the Fair Oaks District station, and is a second-generation police officer with extensive experience in geo-policing and undercover operations. Chief Sellers said that Mr. Lance has served as Commander of the Internal Affairs Division and Commander of the Organized Crime and Narcotics Division, and held supervisory posts over the Neighborhood Patrol Unit, Motorcycle Squad, and a number of different patrol units and shifts. He said that Mr. Lance's strengths include a thorough knowledge of patrol operations and community outreach. Mr. Lance possesses an extensive knowledge of undercover investigations and problem-oriented policing as well as incident command. He said that Mr. Lance is a graduate of the FBI National Academy and the DEA Drug Commanders Academy. Mr. Lance replaces Mr. Shawn Schwertfeger, who retired from the ACPD to become the chief in Wheeling, WV earlier this year.

Board members and audience members welcomed Mr. Lance to the County.

Mr. Lance said that it is an honor to be here, adding that it is a beautiful County with an outstanding Police Department. He said that he is coming in at a good time, with Chief Sellers implementing geo-policing, and he is hoping to help out along those lines.

Item No. 6b. Muscular Dystrophy Association's Fill the Boot Drive, Liz Nixon.

Ms. Liz Nixon addressed the Board, thanking the Albemarle County Fire Department for its fifth year participating in the Muscular Dystrophy Association's "Fill the Boot" drive – with \$11,372 raised this year for a total of over \$52,000 for MDA. Ms. Nixon reported that one of the projects for MDA is a large research clinical project at UVA on myotonic muscular dystrophy, looking at molecular mechanisms that drive the disease and hopefully therapeutics to help cure it. She said that another recent study has helped increase the lifespan in boys with Duchene muscular dystrophy, using non-invasive mechanical ventilation, various steroids and inhibitors. Ms. Nixon stated that it has been confirmed that there is a link between ALS (Lou Gehrig's disease) and the NFL. Men who have ALS in the NFL are four times more likely to have more serious symptoms of the disease due to the increased number of concussions.

Ms. Nixon said that none of the fundraising work would be possible without the big-hearted firefighters and sponsors. She then presented plaques to Seth Grubb and Robbie Gilmer who led the efforts. She also recognized Ms. Kirsten Myers, the mother of a child with MD.

Ms. Myers stated that her daughter, Michelle, is now 16, and when she began working with Ms. Nixon she visited each of the fire stations in advance of the Fill the Boot campaign. During this time, her daughter learned to feel comfortable with public speaking. Ms. Myers said that one of the things her daughter heard in visiting the firefighters this year was how proud they were to have been able to watch her grow through the years. She stated that in the MD summer camp, supported by the firefighters, Michelle meets people who are like her and is no longer "the kid in the wheelchair." Ms. Myers said that because of the confidence gained in the campaign, Michelle has started a program for children who graduated from camp and no longer have that community. Ms. Myers stated that the group is the first of its kind in the nation, and they are now having monthly meetings for youth who are teens transitioning out of camp and graduating from camp. She said that it is because of the funds raised by the firefighters that they are able to have camp.

Mr. Grubb addressed the Board and thanked Albemarle County for allowing them to go out and collect these funds. He added that it is usually the highlight of the year standing out in the heat or the rain to collect money for MDA.

(Note: Mr. Snow arrived at the meeting at 9:15 a.m.)

Item No. 6c. Monticello Artisans Trail First Year.

Ms. Mallek said that the Board of Supervisors appreciates the opportunity today to celebrate the successful first year of the Monticello Artisans Trail Program and to express its appreciation to its partners in this program who have contributed so significantly to the Trail's success.

The Monticello Artisans Trail (MAT) is a regional pathway that connects over 100 destinations including craft artisan studios, galleries, agri-artisan farms, markets, local restaurants, lodging, and area points of interest in the two counties and the City of Charlottesville. The Trail was developed as a major tourism and economic development initiative for the area and to provide a significant boost to the small businesses that comprise the path. The Trail, which was launched in October, 2011, has already generated significant visibility and exposure for the trail sites, translating into opportunities for increased visitation and economic activity for these rural area businesses: 1) 60,000 map brochures and rack cards have been distributed at Virginia's Welcome Centers and through the 68 tourism marketing organizations located across Virginia; 2) the MAT website receive almost 10,000 visits per month; 3) during its first year, 33 stories appeared in print or online in outlets across the country for a total readership/viewership of over 70,459,178; and 4) the County hosted four hospitality familiarization day trips throughout the year taking a total of 150 travel writers and tourism/hospitality industry representative on experiential visits to trail sites.

Ms. Mallek said that it is important to note that in addition to this regional, statewide and national exposure, the MAT program focuses on building the business expertise of trail site participants. Regular workshops in hospitality training, business management and website development have been offered to boost the entrepreneurial skills and ensure quality experiences for trail visitors. Success of the trail has depended on a strong team of partners who have worked very cooperatively and very hard to handle all the many details of creating, launching and maintaining this very extensive program.

The Board would like to thank the following individuals: Sherri Smith – Artisans Center of Virginia; Kurt Burkhart and his team at the CACVB; Chris Engel – City of Charlottesville; Maureen Kelley - Nelson County; and the Artisan Trail Board members from Albemarle – Susan Stimart and Lee Catlin, and Community Development staff particularly Amelia McCulley and JT Newberry, who handled the transition of trail sites getting zoning clearances and developing the processes.

Ms. Smith thanked the Board for its recognition. Ms. Smith said that this is a program that is real time year-round. She said that although they have great statistics and information to share with the Board about the success of their first year, it is the online mechanisms that make it a strong program. It is also partnerships with entities like the Virginia Tourism Corporation and the Department of Housing and Community Development that are behind the initiative in broadening it across the state. Ms. Smith said

that what happens in the network strengthens what happens locally. Albemarle is the poster child and they hold the County up in the highest regard.

Ms. Smith stated that they recently launched a partnership with *Artizen Magazine*, an international online magazine based in Charlottesville. She said that they have created a Google mapping feature for the Artisan Trail, which should be launched within the next few days. Ms. Smith said that the executive management team for the trail is bringing on some of the trail site participants to advise them on what kind of activities should be done in the upcoming year.

Agenda Item No. 7. From the Public: Matters Not Listed for Public Hearing on the Agenda.

Mr. Douglas McAdams said that he is present to question the sanity of the planned gun range on the site of the old landfill in Keene. He said that he and his wife have lived in Esmont for the last 37.5 years, within a mile of the proposed site. The vast majority of people being impacted by the project were until very recently unaware that a gun range was planned. He said that this is a serious insult to those people. Mr. McAdams stated that the footprint of this gun range is huge, and will have high-powered guns going off simultaneously with hundreds of rounds per day. The sounds of explosions will reverberate across the quiet countryside, day in and day out. He said that he is amazed that this gun range has advanced so far in this day and age when the world cries out for quiet places unpolluted by many of the modern ways. Mr. McAdams said that the immense footprint of the range will surely alter the presence of wildlife in his area, and the sounds will carry well beyond the immediate surroundings of the property. He also said that the cost is astronomical in the millions of dollars. An officer does not require this type of facility to become familiar with a firearm; it is absurd. Mr. McAdams added that land values and assessments will drop. He added that he and his family and friends will do everything in their power to inform the taxpayers how their money is being spent. He said that an alternate plan is required.

Ms. Laurel Davis said that she is a private reading and dyslexia specialist who moved to Esmont 17 years ago from Spanish Harlem. Ms. Davis stated that she wanted to build a peaceful home place where she could raise a child surrounding by natural beauty. She said that her home is deeply precious to them – but it is now severely under threat. She said that Colonel Sellers has said that he wants to leave a legacy in this “most beautiful county in Virginia,” but the statement is a bit ironic. Ms. Davis stated that if the plan goes forward, the legacy he will leave will be one of polluting air, soil and water with one of the worst toxins known, and a legacy of “destroying livelihoods, of endangering children, of crashing the value of properties, and of ruining the peace and quality of their lives. Ms. Davis added that this will be this Board’s legacy as well. She said that her neighbor, who is a cancer survivor, has said that this is the worst thing to ever happen to him. The neighbors are all heartbroken and outraged. The manner in which this plan has been pursued has been particularly underhanded. The fear-mongering, misinformation and bad mouthing of the Police Department are reprehensible. Ms. Davis said that the Police Department notified only 13 contiguous landowners of the plan, and while that may uphold the letter of the law it does not uphold the spirit of it since thousands of people will be negatively impacted. She stated that sending 15 officers a day out of a combined force of 300 to train for 40 days a year will not impact the safety of the County. Ms. Davis said she spoke to Sgt. Reeves yesterday who informed her that County officers fired their guns once in the line of duty in criminal activities last year. In addition, the Board has been deceptive in its cynical abuse of the rustic roads program by swindling \$418,000 from State taxpayers to pay for the paving of Fortune Lane. There are far more treacherous gravel roads in the County.

Ms. Sarah Donnelly, a resident of Esmont, said that when the Keene Landfill opened in 1968 it got a permit from the Health Department – and any kind of waste was allowed. Ms. Donnelly said that over the course of 20 years, 40 acres of land were filled with unregulated waste in unlined trenches. She reported that the Department of Environmental Quality began regulating the landfill in 1988, but the leachate – a toxic soup that is supposed to be contained – was leaching out of the dump and contaminating groundwater. Ms. Donnelly stated that a letter from the DEQ dated February 4, 1993, speaks about the extent of the plumes of contamination in groundwater. Ten years later, a 2002 groundwater analysis revealed unacceptable levels of chloro-benzene, taluline, ethyl-benzene, diethylene chloride, cadmium, tri-chloro-ethylene, barium, chromium; these toxins and carcinogens – and many more – have been leaching into the groundwater for nearly 50 years. She said that preliminary data indicates higher than average rates of cancers in the surrounding areas, and now this Board wants to put lead on top of the landfill, along with constant gunfire. Ms. Donnelly said that the people of southern Albemarle should not be asked to absorb any more of the County’s mess.

Mr. Jay Roston said that the Board members are supposed to be representing the citizens’ best interests, and yet they would betray their constituents in this way. He said that in reading Ms. Mallek’s bio, one would think she cares about the environment and should know that there is no such thing as a clean, safe, and open firing range. Mr. Roston said that Ms. Mallek also does not like to hear gunshots near her home. He stated that all of the Board members have betrayed the public trust by prioritizing the desires and convenience of the Police Department over the health and well-being of the 10,000 men, women and children within a five-mile radius of this proposed facility. Mr. Roston said that the burden of this project is being placed squarely on the backs of the predominantly working class and African-American residents who live closest to this site. He stated that the Board is moving forward with a plan appropriates millions of taxpayer dollars while denying requests for schools, libraries and other urgent needs. Mr. Roston emphasized that the economy has changed significantly since this grand scheme was conceived in the mid-90s, and the glory days of flush local governments are gone. He said that it is grotesquely

irresponsible of the Board to allocate so much of the public funds to this facility. He urged the Board members to consider what kind of legacy they wanted to leave in this County.

Mr. Jerome Beazly addressed the Board, stating that he lives near the proposed firing range and the closed dump. He said that he adamantly opposes spending millions of dollars to build a facility that far exceeds the needs of police as defined by the crime rate requirements of the community. The residents are frustrated because it appears they are not being heard after appearing before this Board time and time again. Mr. Beazly encouraged the Board to consider this with empathy for the people who live there, and asked if they could feel compassion for thousands of homes within the shooting range – where the average per-capita income is less than \$20,000, and where children in nearby schools will be subject to over 1,000 rounds per day. He added that the area's top three realty firms indicate that property values in the area could decrease by about 35%. Throwing millions into this firing range could have unintended consequences that could haunt the Board and the County for years. Mr. Beazly said that if the Board used the factory in Scottsville, police could shoot year-round; it would provide economic vitality, and it would increase tax revenues. Mr. Beazly urged the Board to show good sense, compassion, and empathy and impose a moratorium until all options have been considered.

Mr. Leroy Thomas addressed the Board, stating that he lives approximately one mile from the proposed shooting range. He said that he retired to the County two years ago after working up north. He wanted to return to his home area to have a nice, peaceful resting place to relax. Mr. Thomas stated that he was on his land recently and said to himself that all the shooting "is going to be a ridiculous thing," and said that he opposes the project. He asked about the contamination of the water, because the streams flow into the James River, which flows into the Chesapeake Bay, which flows into the Atlantic Ocean. Mr. Thomas said his other concern is with the children attending Yancey Elementary, and the children yet to be born who might be affected by this contamination. He reiterated his opposition to the proposal and added that it is a ridiculous idea.

Mr. D. G. Van Clief said that he was also present to speak on the subject of the proposed firing range. Mr. Van Clief said Board members are now hearing a new level of concern, anxiety and opposition from what is obviously a growing group of people. Mr. Van Clief said that the net result of the lobbying citizens have yielded an "off-agenda vote" on November 7, 2012 to move the firing range training facility forward. He stated that there were directives to County staff to research noise mitigation and to further restrict the use to Albemarle County agencies only, but there has been no verification of this yet. Mr. Van Clief said that a lot of people did not know this was going on, and the Board will see a growing level of anger and anxiety. He questioned how the Board could vote last week to preserve the "tender" ears of Keswick neighbors from the sound of music and wineries, while unanimously voting to send an open firing range to the southern part of the County. The residents would like to see a site plan that protects them. He stated that residents will continue to work with Chief Sellers and the Board, but this Board will continue to see this community until there are assurances that their quality of life and their safety and health, and the value of their properties are preserved.

Mr. Lucian Jackson, a resident of Esmont, said that he was present to oppose the firing range. He asked the Board if they were aware that the firing range abuts 80 residences within one-half mile of the range – predominately African-American senior citizens who have retired and are looking for a quiet, peaceful domain. Mr. Jackson said that there are three African-American Baptist churches and Yancey Elementary School nearby. Students cannot learn with constant noise of shooting in the background. He noted that the four nearby churches have Bible meetings and other events there other than just on Sundays. Mr. Jackson asked the Board to look at the intangibles here – it is not good environmentally, it does not send a good message forward to the residents, and it shakes citizen confidence in the Board.

Mr. Jackson said the residents were excited when the Board approved striping of Route 715; and they were excited when the clearance was reduced at the intersection of Route 6 and Route 715; but just as they were feeling good, the Board dropped them. The African-American residents of Esmont feel slightly betrayed. He asked the Board to take another look at this proposal and think about the intangible values involved.

Mr. Charles Battig, County resident, presented the following resolution regarding individual property rights that he has already presented to the Board in written form. He then read the following portion of the proposed resolution: "The Board of Supervisors and any other officials engaged in creating planning programs for Albemarle County do hereby agree to the following policy statement: 1) that planning involves and affects regulation of private property rights and it is a legitimate function of duly elected government; 2) that individual property ownership constitutes an asset of unique value, and is the foundation of individual liberty for American citizens; 3) that the Albemarle Board of Supervisors voted unanimously September 12, 2012 to support the Virginia Eminent Domain constitutional amendment protecting private property rights; and 4) that approximately 75% of the citizens of the Commonwealth of Virginia have voted to ratify that same constitutional amendment. Recognizing that unique value, the governing bodies of Albemarle County agree that all citizens' private property rights shall be placed in the highest priority of consideration during the planning and zoning process. In the event that any part of the planning and zoning process or recommendations resulting from the process shall potentially negatively impact any property rights, property owners, or the value of their private property, those affected property owners shall be notified before the process, during the process, and, if it comes to the point where it is

necessary for a fair and partial taking, there shall be compensation for the deduction in private property value.”

Mr. Batting said that currently there is “no skin in the game” for any Board member or Planning Commission member who can sit here, pass a law and diminish the value of somebody's property, which is known as an uncompensated regulatory taking, and it should be corrected.

Mr. Michael Walker, a senior at Monticello High School, said that as part of his government class the students are required to study something – and his citizen action project group chose the Western Bypass project. Mr. Walker stated that through countless hours of research on the proposed Western Bypass plan and alternatives, his group has come here to ask why it is being built when there are alternative options that are cheaper and supposedly more efficient. He said that people say there are only a small percentage of citizens who are against the bypass, but in talking with his fellow peers all he hears people say is that they want to avoid Route 29 because of the traffic. Once people learned more about the bypass, everyone they asked said they would just rather take Route 29 because of its limited access points. Mr. Walker said that it is also their understanding that only a small portion of traffic would be relieved because only 10 percent of cars stay on Route 29 from Barracks Road to Hollymead. He asked why \$245 million would be spent on a plan that does not really fix the traffic problem.

Mr. Will Decker addressed the Board, stating that he is an Albemarle County student. He said that one of the more controversial topics in the community is who should fund the construction of sidewalks. Mr. Decker said that his study group came to the conclusion that the government should fund the sidewalks because they are on public property, and asking the homeowner to add to their costs is unfair because it is not a private sidewalk.

Mr. Michael Kadick, a resident of 6634 Porters Road in Esmont, said that he was present to speak in opposition to the placement of a firing range in Keene. If this plan is implemented, it would mean no more quiet yards, peaceful walks, or quiet churchyards. He said that students at Yancey and Scottsville elementary schools will hear the loud noise of gunfire on a regular basis, and horse farms and cattle farms will likely go away – as will the equestrian hunt. Mr. Kadick stated that some homes will become unsellable, and country stores will lose business. He said that the whole gun range process brings into question County governance.

Mr. Jeff Werner, of Piedmont Environmental Council, expressed PEC's concern about the shooting range. He said that the Board's decision is on a waiver request, and the PEC suggests that the information is incomplete. Mr. Werner said that the site is in a national and state registered historic district, and as such requires that State agencies be consulted – including the Department of Historic Resources. He stated that they are required to reveal what caliber ammunition is going to be used and what will be prohibited. Mr. Werner said that staff suggests that 165 acres of the range will be preserved open space and that the large expanse of existing tree buffer will be retained, but there is nothing stipulated as to how the open space will be permanently protected nor how the existing forest will be maintained. He noted that the information the Board has leaves no doubt that this is merely phase one of a much larger facility, and when expanded uses come it is uncertain what will happen to the preserved open space and to the forested buffer. Mr. Werner said that activity at the site has been described as “limited,” yet the April staff report indicated that the facility might be made available to other local governments, federal agencies and private companies. This site plan and waiver address only the shooting range phase. Mr. Werner encouraged the Board to admit that this is just the first phase and admit that the conditions presented in the waiver will last only until the facility is expanded. Since everyone knows that the Board wants to approve this facility, it is safe to assume that the Board will not oppose future expanded uses that come. He also asked for the cost benefit information promised relative to going to other facilities nearby. Mr. Werner said the Board needs to ask some questions on behalf of this community.

Agenda Item No. 8. Consent Agenda. Mr. Rooker **moved** to approve Items 8.1 through Item 8.10, to pull Item 8.6, and to accept the remaining items on the consent agenda. Ms. Mallek **seconded** the motion. (**Note:** Discussions on individual items are included with that agenda item. Mr. Thomas left the meeting at 10:03 a.m., during the discussion of Item 8.11) Roll was called and the motion carried by the following recorded vote:

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

Item No. 8.1. Approval of Minutes: October 3 and October 10, 2012.

Ms. Mallek had read her portion of the minutes of October 3, 2012, pages 47 (begin with Item #14) – end, and found them to be in order.

Mr. Thomas had read the minutes of October 10, 2012.

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

Item No. 8.2. FY2013 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 2013 appropriations itemized below is \$279,665.36. 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 four (4) FY 2013 appropriations as follows:

- One (1) appropriation (#2013054) totaling \$27,188.00 for the State Criminal Alien Assistance Program;
- One (1) appropriation (#2013055) totaling \$20,000.00 for two grants awarded by the Virginia Department of Motor Vehicles to the Sheriff's Department; and
- One (1) appropriation (#2013056) totaling \$210,477.36 for grants awarded to the Emergency Communication Center and project costs for the Computer Aided Dispatch system replacement project; and
- One (1) appropriation (#2013057) totaling \$22,000 for a due diligence study.

Staff recommends approval of appropriations #2013054, #2013055, #2013056, and #2013057.

Appropriation #2013054			\$27,188.00
Source:	Federal Revenue	\$	27,188.00

This request is to appropriate a \$27,188.00 reimbursement from the State Criminal Alien Assistance Program (SCAAP). SCAAP reimburses localities for compensation expenses incurred by correctional officers supervising aliens in local and regional jail facilities. Program revenues received from the state are appropriated from the locality's General Fund to the correctional facility (Albemarle Charlottesville Regional Jail) for qualifying expenses incurred.

Appropriation #2013055			\$20,000.00
Source:	Federal Revenue	\$	20,000.00
	Grants Leveraging Fund*		3,360.00
	Sheriff Department Matching Funds*		6,640.00

*The "Grants Leveraging Fund" and "Sheriff's Department Matching Funds" components of this appropriation will not increase the County Budget.

This request is to appropriate \$20,000.00 in federal revenue for two grants awarded by the Virginia Department of Motor Vehicles to the Sheriff's Department (Grant # SC-2013-53384-5099-20.600 - Selective Enforcement Speed; and Grant # K8-2013-53392-5107-20.601 - Selective Enforcement-Alcohol). These grants require matching funds totaling \$10,000.00, which is requested from a combination of the Grants Leveraging Fund and grant matching funds currently set aside in the Sheriff's Department budget, for a total grant award of \$30,000.00. The purpose of these grants is to assist in the purchase of one radar unit and four preliminary breath testing devices for use with DUI enforcement, as well as to fund approximately 400 hours of overtime for DUI and speed enforcement efforts.

Appropriation #2013056			\$210,477.36
Source:	Federal Revenue	\$	8,743.96
	ECC Fund Balance	\$	201,733.40

At its November 20, 2012 meeting, the Emergency Communication Center (ECC) Management Board approved the transfer of \$201,733.40 from the ECC fund balance account to pay for the consultant fees incurred in the development of a Request for Proposal for the purchase of a fully integrated Computer Aided Dispatch (CAD) System. The current CAD system is over 12 years old and in need of replacement. Additionally, the ECC requests appropriation of two grants:

- Re-appropriation of \$3,943.96 to provide equipment for the Community Emergency Response Team (CERT) program. The grant was originally appropriated by the Board of Supervisors in October 2010. Expenditures related to this grant will be 100% reimbursed with federal revenues; there is no local match.
- Appropriation of \$4,800 for a grant awarded to the ECC (CFDA #97.073 Homeland Security Grant) to provide training for CERT members. Expenditures related to this grant will be 100% reimbursed with federal revenues; there is no local match. The acceptance of this grant is a separate consent agenda item on the Board's December 5, 2012 consent agenda.

Appropriation #2013057

\$22,000.00

Source: Gen. Gov't. CIP Fund Balance \$ 22,000.00

This request is to appropriate \$22,000 of General Government CIP fund balance to support a due diligence study of a property of interest as discussed. The study will be completed by March 2013. Staff anticipates there will be project savings that will replenish this use of fund balance.

(Discussion: Mr. Rooker said that Appropriation 2013056 is for the transfer of \$201,733 for ECC to pay for consultant fees for an RFP for a computer-aided dispatch system. This seems to be an awful lot of money for a consultant. Mr. Boyd said he has the same concern. Mr. Rooker said that he would like to see the RFP, or at least some description of what that consultant will be expected to do – and what benefit will be derived from it.

Mr. Boyd said he also would like to know who comprises the ECC Management Board and who they are accountable to. He reiterated that \$201,000 for a consultant to do an RFP is a lot of money. He said that it also occurred to him that there should be a presentation on ECC and how they do their budget because it gets rolled into emergency services.

Mr. Foley stated that the Board gets the information annually, but staff will get the information on this matter.)

By the above-recorded vote, the Board approved appropriations #2013054, #2013055, #2013056, and #2013057.

APP#	ACCOUNT	AMOUNT	DESCRIPTION
2013054	3-1000-33000-333000-330085-1003	27,188.00	Federal Revenue - SCAAP
2013054	4-1000-33020-433020-700002-1003	27,188.00	Regional Jail
2013055	3-1502-33000-333000-330011-1002	9,680.00	Federal DMV Grants
2013055	3-1502-51000-351000-512004-9999	4,840.00	Transfer from General Fund
2013055	4-1502-21070-421070-120000-1002	7,431.00	Overtime
2013055	4-1502-21070-421070-210000-1002	569.00	FICA
2013055	4-1502-21070-421070-600800-1002	4,840.00	Vehicle Fuel
2013055	4-1502-21070-421070-800100-1002	1,680.00	Machinery & Equipment
2013055	3-1501-33000-333000-330011-1002	10,320.00	Federal DMV Grants
2013055	3-1501-51000-351000-512004-9999	5,160.00	Transfer from General Fund
2013055	4-1501-21070-421070-120000-1002	7,729.00	Overtime
2013055	4-1501-21070-421070-210000-1002	591.00	FICA
2013055	4-1501-21070-421070-600800-1002	5,160.00	Vehicle Fuel
2013055	4-1501-21070-421070-800311-1002	2,000.00	Radar Equipment
2013055	4-1000-21070-421070-999999-1002	-6,640.00	Sheriff Contingency Funds
2013055	4-1000-21070-421070-930200-1002	6,640.00	Transfer to DMV Grants
2013055	4-1000-99900-499000-999974-9999	-3,360.00	Grants Leveraging Fund
2013055	4-1000-93010-493010-930200-9999	3,360.00	Transfer to DMV Grants
2013056	3-4100-51000-351000-510100-9999	201,733.40	
2013056	4-4100-93010-493010-930225-9999	201,733.40	
2013056	3-4117-51000-351000-512035-9999	201,733.00	
2013056	4-4117-31061-435600-312700-1003	183,394.00	
2013056	4-4117-31061-435600-999999-1003	18,339.00	
2013056	3-4130-33000-333000-330219-9999	3,943.96	
2013056	4-4130-31066-435600-601315-1003	3,943.96	
2013056	3-4130-33000-333000-330222-9999	4,800.00	
2013056	4-4130-31070-435600-312712-1003	600.00	
2013056	4-4130-31070-435600-312717-1003	600.00	
2013056	4-4130-31070-435600-601108-1003	250.00	
2013056	4-4130-31070-435600-800100-1003	3,000.00	
2013056	4-4130-31070-435600-800712-1003	350.00	
2013057	3-9010-51000-351000-510100-9999	22,000.00	Approp Use of Fund Balance
2013057	4-9010-43100-443200-312350-9999	22,000.00	Study

Item No. 8.3. ZMA-2010-00013. Hollymead Town Center (A-2), Request to grant an additional extension of a request to amend the proffers.

The executive summary states that on February 8, 2011, the Planning Commission held a public hearing for the Hollymead Town Center, Area A-2 rezoning request. (See Attachment I, Staff Report, and Attachment II, Minutes) The Planning Commission, by a vote of 7:0, recommended approval of ZMA201000013 based on the following:

- Change the phasing plan to reduce the number of building permits from 30 to 25 as described in the staff report;
- Proffer #6 will remain as it is with the understanding that the applicant will add another pocket park within blocks B-1 or B-2 composed of approximately 5,500 square feet; and

- Proffer #2 for road improvements to be amended as recommended by staff for dedication and construction of road improvements upon demand of the County.

On April 15, 2011, the applicant requested an indefinite deferral of this ZMA before it was advertised for a Board of Supervisors' public hearing. (See Attachment III) On March 7, 2012, the applicant requested an extension of this indefinite deferral from the Director of Planning in accordance with Section 33.7 of the Zoning Ordinance:

"If the applicant requests that further processing or formal action on the petition be indefinitely deferred, the petition shall be deemed to have been voluntarily withdrawn by the petitioner if the commission or the board does not take action on the petition within twelve (12) months after the date the deferral was requested. Upon written request received by the director of planning and community development before the petition is deemed to be withdrawn, the director may grant one extension of the deferral period for a period determined to be reasonable, taking into consideration the size or nature of the proposed use, the complexity of the review, and the laws in effect at the time the request for extension is made."

An extension of the indefinite deferral was granted until December 31, 2012 to allow additional time for the applicant to determine how to address the Planning Commission's recommendations in light of the nature of the currently approved Hollymead Town Center A-2 and market conditions at that time. (See Attachment IV)

The applicant is requesting the Board of Supervisors further extend deferral of ZMA201000013. (See Attachment V) An extension of the deferral, if granted, should continue to be based on the particulars of the ZMA201000013 application and the applicant's efforts to address the Planning Commission's action on this ZMA. While the applicant has previously noted that they are considering a comprehensive review of the proffers for Hollymead Town Center (A-2), any substantive changes beyond those necessary to address the recommendations of the Planning Commission under ZMA201000013 would likely require additional staff and Planning Commission review and necessitate a new application.

In light of the Planning Commission's recommendation for ZMA201000013 and the time that has passed for the applicant to address the conditions of that recommendation, staff believes a reasonable extension of this deferral would be until April 15, 2013, which will be two (2) years since the original deferral for this ZMA. Staff recommends Board approval of the deferral extension request for ZMA201000013 Hollymead Town Center (A-2) until not later than April 15, 2013.

(Discussion: Mr. Rooker said that in the staff report summary it says the property has been graded but is undeveloped, and some steep slopes remain at the edges of the two vacant parcels. He asked if staff knows whether those areas have been stabilized. Mr. Graham confirmed that they have been.

Mr. Rooker said that, although it may not be applicable, but this is a request for an extension, among the factors mentioned as unfavorable is the reduction in the size of the pocket park and the fact that the dedication of construction of the remaining section of Meeting Street has not been proffered. He asked if the items have been reconciled at this point. Mr. Cilimberg responded that the pocket park is part of the rezoning so until that comes back it remains as is. In terms of the wording of the proffer for the dedication, it was intended to match what is in A-1 – but that also won't be changed until the applicant comes back before the Board for action. He said that there is wording in A-1 regarding dedication, and he understands that the County is getting the same language for A-2 so it would be consistent because it is in both areas.

Mr. Graham confirmed that is the case, adding that with Area C there is part of Meeting Street also, which is a different developer. He said that staff is trying to coordinate that with the developers.

Ms. Mallek said that she would like to pull the item until the end of the day. The main issue for her is the constant extension.

Mr. Cilimberg said that the extension in this case only applies to the developer addressing the particulars of the Commission's recommendation. The extension is only to April 15, 2013, which will require that the applicant resubmit fairly soon or it will come to public hearing before the Board for review and action, unless the request is withdrawn.

Mr. Davis said that this is not an extension for erosion measures; it is an application the developer is making to change the conditions on the rezoning. If the Board does not take any action it stays the same. It is the applicant's request; this is not initiated by the County.

Mr. Cilimberg said the proffers and application plan will stay as is until the Board makes a change. It does not affect any of the other sections of Hollymead – just A-2.

Mr. Rooker commented that if this were to be denied, the result would be that the applicant would have to go back and refile if he wants to amend. Mr. Davis confirmed that was the case. This is a procedural issue where the applicant filed a zoning application two years ago; County policy is to advance those so that they do not stay pending and stale. He said that Mr. Cilimberg has granted the one administrative extension that he could grant, and now the applicant is still not ready to go forward with that application. Mr. Davis stated that staff is recommending that the Board grant the applicant's request for the extension until April.

Ms. Mallek asked if the fees would cover the new advertising when the process is re-started. Mr. Cilimberg responded that this application came in before the fee policy was implemented.

Mr. Davis said that if the application is not submitted by April, the developer will have to submit a new one.

Mr. Rooker stated that he is satisfied with the answers staff has provided, and does not object to allowing the application to come back prior to April 15.

Ms. Mallek agreed.)

By the above-recorded vote, the Board approved of the deferral extension request for ZMA-2010-00013 - Hollymead Town Center (A-2) until not later than April 15, 2013.

Item No. 8.4. WPO-2011-00066. Ragged Mountain Dam – Request to extend deadline for installing permanent vegetation.

The executive summary states that County Code § 17-207(B)(2) requires that permanent vegetation be installed on all denuded areas within nine (9) months after the date the land disturbing activity commenced. County Code § 17-207(B)(3) allows the Program Authority to extend the deadline for up to six months and the Board of Supervisors to extend the deadline beyond that period.

The Erosion and Sediment Control Permit for the Ragged Mountain Dam project was originally issued on April 19, 2012. The nine month timeframe for this permit will expire in January 2013. The applicant has requested an additional fifteen (15) month extension. The applicant's extension request letter is attached (Attachment A).

The Board may grant an extension under County Code § 17-207(B)(3)(b) if it finds: (1) the additional time is necessary due to factors beyond the control of the owner; (2) the owner had made good faith efforts to comply with the time limit; and (3) the owner has plans to effectively control or has effectively controlled erosion and sedimentation on the property during the land disturbing activity. In granting an extension, the Board must set a new time limit and may impose other reasonable conditions.

This project is moving forward as anticipated. Due to the project's size, and the amount of fill and borrow areas on-site, it was never expected that this site could comply with the nine-month timeframe for permanent vegetation.

In considering an extension to the Erosion and Sediment Control Permit, Section 17-207(B)(3)(b) provides that the Board must make three findings. Those findings and staff's analysis of those findings are as follows:

(i) the additional time is necessary due to factors beyond the control of the owner;

The size of this project is such that it cannot be done in the nine month timeframe without considerably more resources than are feasible.

(ii) the owner had made good faith efforts to comply with the time limit; and

The owner's project schedule anticipated the work taking until March 2014 and the owner has demonstrated diligence in maintaining this schedule.

(iii) the owner has plans to effectively control or has effectively controlled erosion and sedimentation on the property during the land disturbing activity.

The owner has measures that effectively control erosion and sedimentation from leaving the property. This has not been an issue.

Based on the above analysis, staff concluded that the evidence supports all three findings if allowance is provided for the size of the project.

Section 17-207(B)(3)(b) provides that the Board is to place a time limit on an approved extension and may include reasonable conditions as part of granting the extension. Staff has no recommended conditions other than the time limit. The proposed timeline of fifteen (15) additional months is acceptable, however it ends in the winter months when permanent vegetation cannot be established. Additional time is necessary to extend the project deadline into a spring growing season.

The Water Protection Ordinance requires yearly renewal fees of \$100 per disturbed acre. This fee will cover the County's cost of administering this permit. No changes to funding or staff resources are anticipated as a result of this request.

Staff recommends approval of extending the deadline to May 1, 2014 for permanent vegetation to be installed on all denuded areas.

By the above-recorded vote, the Board approved extending the deadline to May 1, 2014 for permanent vegetation to be installed on all denuded areas.

Item No. 8.5. Turner Mountain Easement - Supplement to Deed of Easement for 3080 Turner Mountain Road.

The executive summary states that Parcel 05800-00-00-064A5 (the "Property"), a 47.235-acre parcel located at 3080 Turner Mountain Road (shown on Attachment A map), is subject to the terms of a 1992 Rural Preservation Development Deed, co-held by the County and the Albemarle County Public Recreational Facilities Authority (PRFA), which limits the Property to a single dwelling.

John F. Harris and Amy B. Harris acquired the Property by deed dated October 12, 2006. At the time of the purchase, the Property already housed a single dwelling. Shortly after their purchase of the Property, the Harrises began construction of a new dwelling. Though the Harrises did not demolish the then-existing dwelling, they removed its cooking facilities, making it no longer a "dwelling" under the County's Zoning Ordinance.

Notwithstanding the removal of cooking facilities from the former dwelling, the PRFA remained concerned over the continued presence of this second structure on the Property. To avert possible litigation by the PRFA, the County and the PRFA, as co-holders of the Rural Preservation Development Deed over the Property, engaged in discussions with the Harrises about how best to preserve the rural character of the Property, consistent with the terms of the Rural Preservation Development Deed. The parties have now voluntarily and tentatively agreed, subject to Board approval, to subject the Property to certain additional covenants and restrictions, as outlined in the attached Supplement to Deed of Easement (Attachment B).

The attached proposed Supplement to Deed of Easement contains the following basic terms:

1. The original dwelling house constructed on the Property in 1999 (the "Original Dwelling") shall remain as an accessory non-residential structure, limited to accessory use by the occupants of the new primary single family dwelling (the "New Dwelling").
2. The Original Dwelling shall not be equipped with a stove, range, or conventional oven.
3. The Original Dwelling shall not be extended or enlarged.
4. No additional structures other than the existing barn, small outbuildings or farm structures shall be built on the Property unless expressly provided for in the Deed or approved by the PRFA and County.
5. If the Original Dwelling is replaced or reconstructed, the replacement structure shall not exceed 2,500 square feet of floor space.
6. The Deed shall not impose any restrictions on the New Dwelling beyond those included in the original Easement, including any restrictions regarding the future replacement of or modifications to the New Dwelling.
7. All other terms and restrictions of the original Easement remain enforceable and in full force and effect.

Having already been signed by the Harrises and duly approved by the PRFA, this agreement is now ready for the Board's consideration.

This settlement is not expected to have a budget impact.

Staff recommends that the Board adopt the attached Resolution (Attachment C) to approve, and to authorize the County Executive to sign, in a form approved by the County Attorney, the Supplement to Deed of Easement over Parcel 05800-00-00-064A5 and any other necessary related documents.

(Discussion: Ms. Mallek said that it is not mentioned anywhere in the deed that Albemarle has to approve any of the changes; it sounds like the deed transfer would be between current owner and future owner.

Mr. Davis said that this will be a recorded document that is binding and of which the County is a party. This is part of an amendment to the existing easement restrictions. He confirmed that the County and the PFRA would have to approve any additional changes outside the scope of this.)

By the above-recorded vote, the Board adopted the following Resolution to approve, and to authorize the County Executive to sign, in a form approved by the County Attorney, the Supplement to Deed of Easement over Parcel 05800-00-00-064A5 and any other necessary related documents:

**RESOLUTION APPROVING AND ACCEPTING SUPPLEMENT TO DEED OF EASEMENT
ON PARCEL 05800-00-00-064A5**

WHEREAS, Parcel 05800-00-00-064A5 (the "Property"), a 47.235-acre parcel located at 3080 Turner Mountain Road, is subject to the terms of a 1992 Rural Preservation Development Deed, co-held by the County and the Albemarle County Public Recreational Facilities Authority (PRFA), which limits the Property to a single dwelling; and

WHEREAS, John F. Harris and Amy B. Harris acquired the Property by deed dated October 12, 2006;
and

WHEREAS, at the time of the Harrises' purchase, the Property already housed a single dwelling; and

WHEREAS, shortly after their purchase of the Property, the Harrises began construction of a new dwelling, and

WHEREAS, though the Harrises did not demolish the then-existing dwelling, they removed its cooking facilities, making it no longer a "dwelling" under the County's Zoning Ordinance; and

WHEREAS, notwithstanding the removal of cooking facilities from the former dwelling, the PRFA remained concerned over the continued presence of this second structure on the Property; and

WHEREAS, to avert possible litigation by the PRFA, the County and the PRFA, as co-holders of the Rural Preservation Development Deed over the Property, engaged in discussions with the Harrises about how best to preserve the rural character of the Property, consistent with the terms of said Rural Preservation Development Deed; and

WHEREAS, the parties have voluntarily and tentatively agreed, subject to Board's approval, to subject the Property to certain additional covenants and restrictions, as outlined in that certain Supplement to Deed of Easement over Parcel 05800-00-00-064A5.

NOW, THEREFORE, BE IT RESOLVED that the Albemarle County Board of Supervisors hereby approves and authorizes the County Executive to sign, in a form approved by the County Attorney, the Supplement to Deed of Easement over Parcel 05800-00-00-064A5 and any other necessary documents related thereto.

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

Tax Map and Parcel Number 05800-00-00-064A5

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

SUPPLEMENT TO DEED OF EASEMENT

THIS SUPPLEMENT TO DEED OF EASEMENT, made this ___th day of _____, 2012 (the "Effective Date"), between **JOHN F. HARRIS** and **AMY B. HARRIS**, husband and wife, Grantors, hereinafter collectively referred to as the "Grantors" and the **COUNTY OF ALBEMARLE, VIRGINIA**, a political subdivision of the Commonwealth of Virginia, hereinafter sometimes referred to as the "County," whose address is 401 McIntire Road, Charlottesville, Virginia, 22902, and the **ALBEMARLE COUNTY PUBLIC RECREATIONAL FACILITIES AUTHORITY**, a political subdivision of the Commonwealth of Virginia established pursuant to *Virginia Code* § 15.2-5600 *et seq.*, hereinafter sometimes referred to as the "PRFA," whose address is 401 McIntire Road, Charlottesville, Virginia, 22902; the County and the Albemarle County Public Recreational Facilities Authority are hereinafter collectively referred to as the "Grantees."

WITNESSETH

WHEREAS, the Grantors are the owners in fee simple of the real property located in Albemarle County described as follows (the "Property"):

All that certain lot or parcel of land, together with improvements thereon and rights, privileges and appurtenances thereto belonging, situated in the Samuel Miller Magisterial District, Albemarle County, Virginia, containing 47.325 acres, more or less, designated as Lot 5, Turner Mountain Wood II Subdivision, as shown and described on a plat by Gloeckner Engineering/Surveying Inc., dated October 21, 1999, and recorded in the Clerk's Office of the Circuit Court of Albemarle County, Virginia, in Deed Book 1871, page 453.

The Property is also identified in the County's tax maps as Tax Map and Parcel Number 05800-00-00-064A5, and is the same land acquired by the Grantors by a deed recorded in the land records of the Clerk's Office of the Circuit Court of the County of Albemarle, Virginia, in Deed Book 3306, pages 170-172.

WHEREAS, by Deed of Easement dated June 30, 1992, and recorded in Albemarle County Deed Book 1283, at page 62, Richard T. Selden, individually, and Richard T. Selden, Administrator C.T.A. of the Estate of Martha Mathiasen Selden, Deceased, predecessors in interest to the Grantors herein, conveyed to the Grantors herein a Rural Preservation Development Easement over real estate consisting of 82.299 acres (hereinafter, the "Easement");

WHEREAS, the Grantors are the owners of a parcel of land described in the Easement as "Lot 5 containing 47.325 acres" and shown as "Lot 5" on the subdivision plat attached to and recorded with the Easement, as described in more detail herein (the "Property");

WHEREAS, the parties hereto mutually desire to reaffirm the Easement as it relates to the Property, and to add thereto certain supplemental terms and conditions contained herein which shall apply only to the Property; and

NOW, THEREFORE, in consideration of the recitals and the mutual benefits, covenants and terms herein contained, and for other good and valuable consideration, the receipt of which is hereby acknowledged, the Grantors hereby grant and convey to the Grantees, their successors and assigns, with GENERAL WARRANTY AND ENGLISH COVENANTS OF TITLE, an open space easement in gross over the Property described above, restricting in perpetuity the use of the Property in the manner set forth herein:

1. The original dwelling house constructed in on the Property in 1999 (hereafter the "Original Dwelling") has been converted into "an accessory non-residential structure" and shall remain as an accessory non-residential structure. The use of the Original Dwelling shall be limited to use by the occupants of the new primary single family dwelling permitted by the County for occupancy in 2009 (hereafter the "New Dwelling") and to uses that are customary and accessory to the New Dwelling. Such customary and accessory uses may include such uses as a home office, art studio, music studio, sewing room, crafts room, play room, storage area, and other similar uses. The Original Dwelling may be used as a place for accessory sleeping accommodations for guests of the occupants of the New Dwelling. The Original Dwelling shall not be rented to third parties for any purpose or use at any time.

2. The Original Dwelling shall not be equipped with a stove, range, or conventional oven. The following items are permitted consistent with Albemarle County regulations for accessory non-residential structures: coffee pot, toaster oven, refrigerator and microwave oven or similar "quick heating" device similar to a microwave oven.

3. The Original Dwelling shall not be extended or enlarged.

4. No additional structures other than small (no more than 400 square feet) outbuildings or farm structures shall be built on the Property unless expressly provided for in this Deed or approved by the PRFA and County, and subject always to the provisions of Section 2(F) herein. Notwithstanding the terms of this paragraph, the parties agree that the Owners shall have the right to maintain and replace an existing barn containing approximately One Thousand Four Hundred Sixty-Four (1,464) square feet on the Property, provided that any replacement barn shall not exceed One Thousand Four Hundred Sixty-Four (1,464) square feet.

5. If the Original Dwelling is replaced or reconstructed, the replacement structure shall not exceed two thousand five hundred (2,500) square feet of floor space. The Original Dwelling shall be deemed to be replaced or reconstructed if the cost of the proposed replacement or reconstruction of the Original Dwelling exceeds fifty percent (50%) of the assessed value of the Original Dwelling at the time of the proposed replacement or reconstruction. In the event that such replacement or reconstruction is due to damage or destruction to the Original Dwelling, the assessed value used for such determination shall be the assessed value of the Original Dwelling immediately prior to such damage or destruction.

6. This Deed shall not impose any restrictions on the New Dwelling beyond those included in the Easement, including any restrictions regarding the future replacement of or modifications to the New Dwelling.

7. All other terms and restrictions of the Easement shall remain enforceable and in full force and effect.

Item No. 8.6. **SDP-2012-00053. Public Safety Training Facility (Albemarle County Firearms Range) (Phase I)**. Request for special exceptions to authorize parking areas and access aisles to have gravel rather than paved surfaces (County Code §18-4.12.15(a)), to authorize parking areas and access aisles to be constructed without curb and gutter (County Code §18-4.12.15(g)), to not require interior parking lot landscaping (County Code §18-2.7.9.7(b)), and to not require parking lot screening (County Code §18-32.7.9.8(c)(2)) at the proposed Albemarle County Firearms Range on Tax Map and Parcel Numbers 12100-00-00-05700 and 129-00-00-002A0. Located at the end of State Route 704 (Fortune Lane), approximately 1.4 miles south of the intersection of State Routes 704 (Fortune Lane) and 714 (Riding Club Road) in the Samuel Miller Magisterial District. *(Advertised in the Daily Progress on November 19 and November 26, 2012.)*

The executive summary states that on April 3, 2012, the Planning Commission found that the location, character and extent of the proposed Law Enforcement Firing Range Facility (Firearms Training Facility at Keene Landfill Site) is in substantial accord with the County's adopted Comprehensive Plan under Virginia Code § 15.2-2232.

On November 7, 2012, the Police Department and the Office of Facility Development (OFD) presented to the Board of Supervisors an extensive history and status update of the project. At the conclusion of the presentation, the Board reaffirmed its support of the project as proposed. The motion passed 5-0 (Mr. Dumler abstained).

On November 13, 2012, the Planning Commission (with Commissioners Smith and Dotson voting nay) approved the preliminary site plan with conditions to be addressed in the final site plan. The Commission also requested the applicant bring the final signed site plan back to the Planning Commission as a consent agenda item for informational purposes.

Section 4.12.15 of the Zoning Ordinance requires parking areas and drive access aisles to be paved and to contain curb and gutter. These standards may be waived by special exceptions approved by the Board. The applicant has submitted a special exception request and justification to waive these requirements. The applicant is proposing to construct a gravel parking lot and a gravel two way access aisle, with no curb or gutter on either. Staff has analyzed this request based on the provisions of the Zoning Ordinance and with consideration of the criteria that are set forth in Section 4.12.15 of the Ordinance, entitled "Minimum Design Requirements and Improvements for Parking Areas", specifically Section 4.12.15a (*Surface Material*) and 4.12.15g (*Curb and Gutter*). Staff's analysis is attached (Attachment A). Staff recommends approval of these special exceptions.

Section 32.7.9.7 of the Zoning Ordinance requires all development subject to site plan review to provide the required landscaping for parking lots consisting of five (5) spaces or more. Section 32.7.9.7(b) establishes requirements for interior parking lot landscaping. Section 32.7.9.8(c)2 establishes requirements for screening parking lots. These standards may be waived by special exceptions approved by the Board. The applicant has submitted a request and justification for the special exception request to waive these requirements. Staff has analyzed this request to address the provisions of the Zoning Ordinance and with consideration of the criteria that are set forth in Section 32.7.9.3 of the Zoning Ordinance. Staff's analysis is attached (Attachment A). Staff recommends approval of these special exceptions.

There is no budget impact to the County in reviewing and/or approving the special exceptions. The County would save some development costs as the applicant if the special exceptions are approved.

Staff recommends approval of the special exceptions to the minimum design standards of Section 4.12.15(a) (*Surface Material*) and 4.12.15(g) (*Curb and Gutter*) for the parking lot and two way access aisles based upon the analysis provided in the attached report (Attachment A). The parking lot and travel aisles will be gravel surfaced and constructed to a standard acceptable to the County Engineer.

Staff also recommends approval of the special exceptions to waive parking lot landscaping requirements of Section 32.7.9.7(b) (*Interior Parking Lot Landscaping*) and Section 32.7.9.8(c)2 (*Screening of Parking Lot*) based upon the analysis provided in the report.

(Discussion: Mr. Rooker asked that this item be pulled for further discussion at the end of the meeting.)

Item No. 8.7. Forest Lakes School Safety Improvements.

The executive summary states that the Forest Lakes Community Association petitioned the Virginia Department of Transportation (VDOT) for School Zone Speed Limit signs and End School Zone signs at the intersection of Ashwood Boulevard, Powell Creek Drive and Thornbridge Way. This intersection has a busy crosswalk that is located down the street from the Hollymead Elementary School, and students living in the surrounding neighborhoods cross at this intersection on their way to and from school. VDOT conducted a study of the intersection (Attachment A) and recommends that the Community Association complete additional work and that the County install flashing school zone speed limit and end school zone signs. The intersection is approximately 3/8 of a mile from the school and from existing flashing school zone signs (see attached MapQuest map; Attachment B).

The Community Association has performed and paid for the intersection improvement work to date (approximately \$25,000), which includes new asphalt paths, a new painted crosswalk, new detectable warning surfaces and curb ramps. VDOT will provide the flashing school zone speed limit and end school zone signs (a value of approximately \$1,000). The County is being requested to provide the poles and to install the signs. The schematic for the full proposed project is attached (Attachment C).

Bids were requested from four (4) contractors to provide the poles and install the signs. Two bids were received with a low bid of \$13,978.88.

The project cost, totaling \$15,478.88, includes \$13,978.88 for the contractor's work and \$1,500 for the OFD project management fee. If the Board approves the installation of the flashing school zone speed limit and end school zone signs, the \$15,478.88 required for the project could be funded from the "Places29" fund. Maintenance responsibilities of approximately \$200 per year will be funded and managed by the School Division.

Staff recommends that the Board approve the installation of the flashing school zone speed limit and end school zone signs for increased safety in the community and authorize the County Executive to sign the VDOT agreement for the installation and maintenance of the signs (Attachment D).

By the above-recorded vote, the Board approved the installation of the flashing school zone speed limit and end school zone signs for increased safety in the community and authorized the County Executive to sign the following VDOT agreement for the installation and maintenance of the signs:

AGREEMENT FOR THE INSTALLATION AND MAINTENANCE OF
TIME ACTUATED FLASHING SCHOOL SPEED LIMIT SIGNS
COUNTY OF ALBEMARLE
HOLLYMEAD ELEMENTARY SCHOOL
ROUTE 1670 LOCATION Ashwood Boulevard

WHEREAS, it is the desire of the **Board of Supervisors of the County of Albemarle, Virginia**, hereinafter referred to as BOARD, to enter into an agreement with the Virginia Department of Transportation, hereinafter referred to as DEPARTMENT, to install and maintain four (4) time actuated flashing school speed limit signs, hereinafter referred to as SIGNS, DEPARTMENT standard VR-6 lens size **30 X 72** inches, bearing the message **School Crossing Speed Limit 25 When Flashing** and indicating **25** MPH speed limit, at the following locations:

1. One each, flashing School Zone Speed Limit sign and End School Zone sign located 300 feet west of intersection of Ashwood Boulevard, Powell Creek Drive and Thornbridge Way.
2. One each, flashing School Zone Speed Limit sign and End School Zone sign located 300 feet east of intersection of Ashwood Boulevard, Powell Creek Drive and Thornbridge Way.

THEREFORE, it is mutually agreed between the BOARD and the DEPARTMENT that (1) all SIGNS shall conform to Section 46.2-873 of the Code of Virginia, as amended, in design, placement, and operation, (2) the BOARD will bear all costs in connection with the purchase, installation and maintenance of the signals, poles, conduits, cables, motors, relays, bulbs, and other parts and accessories necessary for proper and efficient operation of the SIGNS, plus the cost of electric current, (3) the DEPARTMENT will furnish to the BOARD, without cost, four (4) sign panels bearing the standard message and drilled to fit the signals installed, and (4) in the event the BOARD should fail to operate the signs in accordance with Section 46.2-873 of the Code of Virginia or maintain the signs to the satisfaction of the DEPARTMENT, the SIGNS will be removed by the DEPARTMENT at the expense of the BOARD.

Item No. 8.8. SDP-2012-00054. Old Trail Blocks 1 & 3C Preliminary Site Plan; SUB-2012 – Variations from Old Trail Village Code of Development (Variations #10 and #11).

The executive summary states that Old Trail Village development is located off of Route 250 West in Crozet. Old Trail Village was rezoned to Neighborhood Model District, with an associated application plan and Code of Development, in September 2005 (ZMA2004-024). Site Plans and Subdivisions for Blocks 1, 2, 3, 4, 11, 13, 14, and 23 have been previously approved or are currently under review, some are under construction or built. This application is for the rest of Blocks 1 and 3 that are currently undeveloped. The proposal includes 13 townhouse units, 13 apartment units (four affordable), one condominium unit, and 4,500 square feet of commercial space within Block 3C. In Block 1, six townhouse units, six apartment units, 27 condominium units (six affordable), and 24,500 square feet of commercial space are being proposed. The applicant is variations from the approved Old Trail Village Application Plan and Code of Development. **Staff is recommending approval of all of the variation requests.**

1. VARIATIONS FROM APPROVED PLANS, CODES, AND STANDARDS OF DEVELOPMENT

The proposed development will require two variations from the approved Application Plan and Code Development approved with the rezoning of the property. These variations are necessary before the preliminary site plan can be approved by staff. The applicant has submitted a request and justification for each variation, and these requests have been reviewed for Zoning and Planning aspects of the regulations. Section 8.5.5.3(a) authorizes the Director of Planning to grant variations from the approved application plat and/ or code of development. However, due to a recent State Supreme Court decision, these variations must now be approved by the Board of Supervisors as a Special Exception under Chapter 18 Section 31.8. **Staff is recommending approval of both variation requests.**

VARIATION #10:

The applicant submitted the following: Request a variation to allow a reduction in the total amount of non-residential square feet required for Block 3 of Old Trail. The Code of Development set a minimum amount of non-residential development in Block 3 of 10,000 square feet (sf). Currently, a pool for the development sits on approximately two acres of this Block, but only the building portions of the pool facility (2,500 sf) count toward the 10,000 sf requirement. With Phase 3C of this Block (which is the last phase of this block development) we are proposing some commercial and residential uses, but the proposed commercial sf is only 4,500 sf, bringing the total amount of square feet in the block to 7,000sf, which is short of the required 10,000sf.

Staff analysis of the variation request is provided below:

- 1) **The variation is consistent with the goals and objectives of the comprehensive plan.**
The revised square footage is consistent with the goals and objectives of the comprehensive plan while recognizing that additional non-residential square footage is being provided in other Blocks.
- 2) **The variation does not increase the approved development density or intensity of development.**
Density is not increased.
- 3) **The variation does not adversely affect the timing and phasing of development of any other development in the zoning district.**
The timing and phasing of the development is unaffected.
- 4) **The variation does not require a special use permit.**
A special use permit is not required.

5) The variation is in general accord with the purpose and intent of the approved rezoning application.

This variation is in general accord with the approved rezoning application by allowing the development to have flexibility to have both commercial and residential mixed-use blocks. The adjacent blocks are providing more than the minimum amount of non-residential square footage required.

VARIATION #10 RECOMMENDATION:

Staff recommends approval of the variation request #10 with the following condition.

- Provide an updated Density and Floor Area Range Table on page 26 of the Code of Development that states a minimum of 7,000sf for Block 3.

VARIATION #11:

The applicant submitted the following: Request for a variation in the streetscape design for Blocks 1 & 3. The Code of Development for Old Trail Village requires a six foot planting strip and five foot sidewalk along the streets adjacent to Block 3 and 12 foot sidewalks with street trees for the streets adjacent to Block 1. We are proposing a more attractive and urban streetscape which includes concrete sidewalks, tree planter boxes, and pavers to make up this section of the public space between the street and proposed development in these blocks. The street trees would be set in a planter box with the trees a minimum of three feet from the back of curb, as required by the Virginia Department of Transportation. The concrete sidewalk would be five feet wide along these streets and would be five feet back from the curb. The area between the concrete sidewalk and the curb would be a paver system to help create a more urban streetscape. Staff analysis of the variation request is provided below:

Staff analysis of the variation request is provided below:

1) The variation is consistent with the goals and objectives of the comprehensive plan.

The design is consistent with the goals and objectives of the comprehensive plan while recognizing the need for alternative pedestrian streetscapes.

2) The variation does not increase the approved development density or intensity of development.

Density is not increased.

3) The variation does not adversely affect the timing and phasing of development of any other development in the zoning district.

The timing and phasing of the development is unaffected.

4) The variation does not require a special use permit.

A special use permit is not required.

5) The variation is in general accord with the purpose and intent of the approved rezoning application.

The Code of Development required wider sidewalk in certain sections of Old Trail Village to accommodate bicycle travel. However, staff believes that having the bikes on the roads instead of on sidewalks provides a safer area for pedestrians walking in the Village Center, where shops and businesses are located. Staff finds that this variation is in general accord with the approved rezoning application while enhancing the streetscape design, as well as, maintaining the principles of the Neighborhood Model.

VARIATION #11 RECOMMENDATION:

Staff recommends approval of the variation request #11 as noted above, with the following conditions:

- Provide an updated Street Specifications Table on page 23 of the Code of Development indicating the change in planting strip width and sidewalk width adjacent to Blocks 1 and 3.

31.8 SPECIAL EXCEPTIONS

The board of supervisors reserves unto itself the authority to consider and act upon special exceptions as follows:

- a. Matters requiring a special exception. Notwithstanding any other section of this chapter:
 1. Any request for a waiver, modification, variation or substitution permitted by this chapter shall be considered and acted upon by the board.
 2. Any requirement for a decision by the planning commission required by this chapter shall be considered and acted upon by the board. For the purposes of this section, a decision by the planning commission does not include the consideration and action by the commission on a preliminary or final site plan under section 32 of this chapter or any action provided in section 32 enabled under Virginia Code § 15.2-2242(1).*
- b. Consideration and action. In acting upon a special exception, the board shall consider the factors, standards, criteria, and findings, however denominated, in the applicable sections of this chapter, provided that the board shall not be required to make specific findings in support of its decision.*

- c. *Conditions. In approving a special exception, the board may impose reasonable conditions to address any possible impacts of the special exception.*
- d. *Time for action. A request for a special exception shall be acted on by the board within ninety (90) days after the date of the request, or concurrently with a zoning map amendment, special use permit, or site plan appeal, whichever is longer.*
- e. *Request. Each request for a special exception shall be made as provided under the applicable section of this chapter.*

Staff recommends approval of variations #10 and #11, with conditions as recommended in this report.

(**Discussion:** Mr. Rooker said that the summary refers to bicycle traffic being on the road rather than on the sidewalk, and asked if there would be a bike lane on the road at that point. Mr. Cilimberg responded that he does not believe so, in this area.

Ms. Megan Yaniglos, Planner, stated that in this area and this section of the block there is internal traffic in the village center, so staff does not anticipate much bicycle traffic.

Mr. Cilimberg said that typically bicycle lanes have been provided in the higher volume, higher speed roads.

Ms. Mallek commented that it does not seem feasible that people will be riding bicycles around the sharp corners on the sidewalk because it is a confined block with parking in the center.

Mr. Rooker commented that there are sidewalks in a number of places around the County that are too narrow for two people to pass, and he hopes the County does not end up with sidewalks in this section of Old Trail where that is the case.

Ms. Mallek said that is a good point, but she has no problem with the request as presented.)

By the above-recorded vote, the Board approved variations #10 and #11 subject to the following conditions as recommended by staff:

VARIATION #10:

- Provide an updated Density and Floor Area Range Table on page 26 of the Code of Development that states a minimum of 7,000sf for Block 3.

VARIATION #11:

- Provide an updated Street Specifications Table on page 23 of the Code of Development indicating the change in planting strip width and sidewalk width adjacent to Blocks 1 and 3.

Item No. 8.9. SUB-2012-00103. Old Trail Block 14 – Preliminary Subdivision Plan-Variation from Old Trail Village Code of Development (Variation #12).

The executive summary states that Old Trail Village development is located off of Route 250 West in Crozet. Old Trail Village was rezoned to Neighborhood Model District, with an associated application plan and Code of Development, in September 2005 (ZMA2004-024). Site Plans and Subdivisions for Blocks 1, 2, 3, 4, 11, 13, 14, and 23 have been previously approved or are currently under review, some are under construction or built. This application is for Block 14 which is currently undeveloped. The proposal includes 20 single family lots. The applicant is requesting a variation from the approved Old Trail Village Application Plan and Code of Development. **Staff is recommending approval of the variation request.**

1. VARIATIONS FROM APPROVED PLANS, CODES, AND STANDARDS OF DEVELOPMENT

The proposed development will require two variations from the approved Application Plan and Code Development approved with the rezoning of the property. These variations are necessary before the preliminary site plan can be approved by staff. The applicant has submitted a request and justification for each variation, and these requests have been reviewed for Zoning and Planning aspects of the regulations. Section 8.5.5.3(a) authorizes the Director of Planning to grant variations from the approved application plat and/ or code of development. However, due to a recent State Supreme Court decision, these variations must now be approved by the Board of Supervisors as a Special Exception under Chapter 18 Section 31.8. **Staff is recommending approval of the variation request.**

VARIATION #12:

The applicant submitted the following: Request a variation to allow the mixed use setbacks rather than the single family setbacks for Block 14. If the block was to be developed as a mixed use block with non-residential uses, then these reduced setbacks could be used under the current approved Code of Development. However, at this time, no non-residential uses are proposed in this section, but we would like to reduce the setbacks for the proposed single family houses to the front, side, and rear setbacks to the mixed use setbacks. This will provide more flexibility in the house architecture, and allow for more variations in the house footprints to create a better streetscape and interior yards open space. Staff analysis of the variation request is provided below:

1. **The variation is consistent with the goals and objectives of the comprehensive plan.**
The revised square footage is consistent with the goals and objectives of the comprehensive plan. This block in the Crozet Master Plan allows for mixed use and a more dense development at 6-12 units/acre.
- 2) **The variation does not increase the approved development density or intensity of development.**
Density is not increased.
- 3) **The variation does not adversely affect the timing and phasing of development of any other development in the zoning district.**
The timing and phasing of the development is unaffected.
- 4) **The variation does not require a special use permit.**
A special use permit is not required.
- 5) **The variation is in general accord with the purpose and intent of the approved rezoning application.**
This variation is in general accord with the approved rezoning application by allowing the development to have a dense neighborhood model development. Allowing a reduction in setbacks for this block, which is near the town center will create a dense block that is more in line with the density located in the town center while allowing a different unit type for potential buyers.

VARIATION #12 RECOMMENDATION:

Staff recommends approval of the variation request #12 with the following condition.

- Provide an updated page 31, Table 7 that includes the revised setbacks for Block 14.

By the above-recorded vote, the Board approved variation request #12 subject to the following condition:

- Provide an updated page 31, Table 7 that includes the revised setbacks for Block 14.

Item No. 8.10. 2010 State Homeland Security Program Grant; Citizen Preparedness (CFDA #97.073) Resolution.

The executive summary states that the Virginia Department of Emergency Management (VDEM) has awarded a 2010 State Homeland Security Grant (CFDA # 97.073) in the amount of \$4,800.00 from the National Preparedness Directorate, US Department of Homeland Security to the regional Charlottesville-UVA-Albemarle County Emergency Management Office with the Emergency Communications Center (ECC). This grant will be used to purchase emergency equipment and conduct training for the Community Emergency Response Team (CERT).

The Charlottesville-UVA-Albemarle County Office of Emergency Management is the grant administrator for this State Homeland Security Grant. Because the County of Albemarle serves as the fiscal agent for the ECC, it is necessary for the Board of Supervisors to adopt the attached resolution authorizing the County Executive, the ECC Emergency Management Coordinator or the ECC Executive Director to execute all grant-in-aid documents required for implementation of this program in order for the Emergency Management Office of the ECC to obtain and administer the grant.

The County of Albemarle is the fiscal agent for this State Homeland Security Grant. The VDEM grant funding is 100 percent reimbursable with no additional funding required by the County. The costs will be reimbursed through the VDEM as expenditure and proof of payment documentation is submitted.

Staff recommends that the Board adopt the attached Resolution (Attachment A) authorizing the County Executive, the ECC Management Coordinator or the ECC Executive Director to execute all VDEM Grant documents necessary to obtain the 2010 State Homeland Security Grant.

By the above-recorded vote, the Board adopted the following Resolution authorizing the County Executive, the ECC Management Coordinator or the ECC Executive Director to execute all VDEM Grant documents necessary to obtain the 2010 State Homeland Security Grant:

Governing Body Resolution
State Homeland Security Program
Community Emergency Response Team
Emergency Equipment and Training Project
\$4,800.00

BE IT RESOLVED BY THE Board of Supervisors OF THE County of Albemarle, Virginia
(Governing Body) (Name of Applicant)

THAT the ECC Emergency Management Coordinator , OR the ECC Executive Director
(Name or Title of Authorized Agent) (Name or Title of Authorized Agent)
the County Executive,
(Name or Title of Authorized Agent)

is hereby authorized to execute for and on behalf of the named applicant, a public entity established under the laws of the State of Virginia, any actions necessary for the purpose of obtaining federal financial assistance provided by the federal Department of Homeland Security and sub-granted through the State of Virginia.

Item No. 8.11. FY 13 General Fund First Quarter Financial Report and Revised FY 13 Revenue Projection Report, ***was received for information.***

The executive summary states that the attached Quarterly Financial Report (Attachment A) provides information about the County's FY 13 General Fund performance as of September 30, 2012. The Revised Financial Projections Report (Attachments B through D) includes projected General Fund revenues and expenditures for FY 13.

The Quarterly Financial Report (QFR) reflects year-to-date (YTD) data through September 30, 2012, the end of the first quarter of FY 13. The data in the attached QFR is organized in a way that is consistent with Exhibit 12 of the County's Comprehensive Annual Financial Report (CAFR). Most line item titles in the QFR match the line item titles in the CAFR.

The columns in the QFR show FY 13 Adopted Budget revenues and expenditures, Revised Budget revenues and expenditures, as well as YTD actual revenues and expenditures. Each of these YTD figures subsequently is expressed as a percentage of the amount in the relevant line item of the FY 13 Revised Budget.

Additionally, the QFR includes corresponding data for FY 12 so that the current fiscal year's financial data can be compared easily to that of the previous fiscal year. An important feature of this report is that data is provided for a point in time (September 30, 2012) and is compared to data from the same point in time for the prior fiscal year (September 30, 2011). Anomalies and similarities between fiscal years become readily apparent using this comparison method.

The Revised Financial Projection Report (RFPR) provides a streamlined summary of forecasted revenues and expenditures. The columns of the table in the RFPR show FY 13 Adopted revenues and expenditures, appropriated revenues and expenditures, and revised revenue and expenditure projections. The last two columns of the table reveal the variances between revised projected revenues/expenditures and the corresponding appropriated revenues/expenditures. These variances are expressed in dollar terms in the second-to-last column and are shown in percentage terms in the last column.

Highlights of the attached reports include:

Revenues – YTD Actual

YTD total revenues in the first quarter of FY 13 totaled \$14,817,144, compared to \$13,387,187 in the first quarter of FY 12. In percentage terms, FY 13 YTD Actual revenues, as a percentage of FY 13 Revised Budget revenues, stood at 6.60% compared to 6.14% in FY 12. This result represents a slightly positive trend for revenues.

Revenue streams performed fairly consistently through the first quarter of FY 13 compared with the same quarter of FY 12. There was just one significant year-to-year variance in revenues (Intergovernmental Revenues: Transfers from Other Entities), and this variance reflects a timing difference of transfers between the two fiscal years. For additional information about revenue variances, please see the analysis page in the QFR.

Expenditures – YTD Actual

YTD total expenditures in the first quarter of FY 13 totaled \$58,548,682, compared to \$28,748,707 in the first quarter of FY 12. This significant variance is due principally to the fact that, in the first quarter of FY 13, there was a \$25,026,575 transfer to the Schools Division whereas, due to a delay in the transfer in the previous year, the corresponding amount in the first quarter of FY 12 was \$0. Five other expenditure items had significant variances from the previous year. These items were Public Safety – Regional Jail, Social Services, Transfer to School CIP, Transfer to Schools Debt Service, and Transfer Accounts. In all five of these cases, the variance reflects the timing of the transfer or payment.

Year-end Projections

The Revised Financial Projections Report indicates that, by June 30, 2013, estimated revenues will exceed appropriated revenues by \$0.950 million. Expenditures are estimated to equal the appropriated budget at this time. Through the first quarter, departmental expenditures were at 25% of budget and on pace to be fully expended. OMB closely monitors expenditures and will have additional information regarding potential departmental savings associated with vacancies and operational efficiencies as the year progresses. The net result for the first quarter is that, including net transfers, forecasted revenues are anticipated to exceed forecasted expenditures by \$0.950 million by the end of the fiscal year.

Revenue and expenditure data contained in the QFR reflects the state of the County's budget-to-actual FY 13 financial performance as of September 30, 2012. Year-end projections are subject to change based on the result of actual collections and expenditures through June 30, 2013.

These reports are for information only. Staff welcomes the Board's feedback regarding the content and presentation of these reports.

(Discussion: Mr. Boyd complimented Finance staff on this report. He likes the new format and thinks the CAFR is a great way for producing it. He said that he also appreciated the fact that the staff included budget analysis information in the report.

Mr. Boyd asked if the School Board produces a similar quarterly report and if the Board could get a copy of it, or if the County's Finance Department could do a report on the School budget.

Ms. Betty Burrell, Director of Finance, thanked Mr. Boyd for his kind remarks and said that staff is attempting to ensure that the Board has a good document as well as one that is easy for the public to read and understand. She stated that currently the County does not produce the Schools' quarterly reports, but it is something staff has been asked to consider. She does not expect that it will be in the next quarter or two, that the reports will be merged. She added that she will bring it to the School's attention that the Board would like to see something like that.

Mr. Boyd said that the CAFR report received on an annual basis includes the School system, and it would be nice to include them in it particularly in light of the discussion of surplus funds.

Mr. Foley stated that staff will be working on a format for that report and may ask for some feedback from the Board as far as what it would like to see.

Mr. Boyd said that he likes the way the budget analysis was done and he would like to see a similar report from the schools.

Ms. Burrell commented that Mr. Steve Allshouse is the author of the report.)

Item No. 8.12. Derecho (June 29, 2012) After Action Report, ***was received for information.***

The executive summary states that Albemarle County experienced significant community impacts resulting from the June 29, 2012 Derecho, a straight-line wind storm that caused widespread damage and issues across the entire state. Local impacts included major power outages, tree damage, road closures, water outages and two fatalities. The storm hit during a period of excessive heat, which raised the environmental hazard significantly as those vulnerable to high temperatures struggled without air conditioning. It took more than a week for power to be fully restored. A state emergency was declared and the emergency operations center operated from June 30 through July 9 to respond to community needs and move toward recovery.

The After Action Report (Attachment A) captures the main details of the incident, regional response efforts, and areas for improvement captured through a variety of debrief efforts with regional response partners. The Report is offered for informational purposes to inform the Board of the identified changes that will be pursued to improve our regional response capability.

There is no impact to the budget.

This summary is provided for information only and no action is required at this time.

(Discussion: Ms. Mallek said that the report showed a lot of good analysis. She asked when the Board might have another chance to discuss this including next steps. She added that she has a lot of comments to make.

Mr. Foley said that there was no specific plan to have further discussion of it, but if there are comments from the Board staff will gladly take them in and consider them. He said that if Ms. Mallek wants to schedule the item for the agenda staff could do that. Mr. Foley suggested that Board members forward him any comments or he can talk to them individually about the best way to proceed.)

Item No. 8.13. County Grant Application Report, ***was received for information.***

Pursuant to the County's Grants Policy and associated procedures, staff provides periodic reports to the Board on the County's application for and use of grants.

The attached Grants Report provides a brief description of two grant applications submitted by the County and five awards received between August 15, 2012 and November 15, 2012.

All grant funds are subject to appropriation by the Board prior to the expenditure of any funds awarded to the County.

The budget impact is noted in the summary of each grant.

This report is for information only.

The following grants were awarded since September 2012:

SOURCE	GRANT NAME	AMOUNT	MATCH	DEPARTMENT	PURPOSE
Virginia DMV	Highway Safety Grant Federal	\$38,675	\$2,203 Grant Leveraging Fund \$17,134 In kind Police Department	Police	Purchase 4 radar units and 6 breath testing devices; overtime pay for enforcement
Dept of Criminal Justice Services (DCJS)	Pre-trial Services	\$112,500	\$28,125 Central Va. Jail \$9,375 In-kind OAR	OAR	Pre-trial services for the Central VA Regional Jail
VA Dept. of Emergency Management	2012 State Homeland Security Program	\$6,072	None	ECC	Staffing for planning/organization to prevent, protect against, mitigate, respond to, and recover from acts of terrorism and other catastrophic events.
Virginia DMV	Highway Safety Grant	\$9,680	\$4,840 Sheriff's Department	Sheriff	Selective DUI Enforcement
Virginia DMV	Highway Safety Grant	\$10,320	\$1,800 Sheriff's Dept \$3,360 Grant Leveraging Fund	Sheriff	Selective Speed Enforcement

Applications were made for the following grants:

DCJS	Juvenile Accountability Block Grant Federal	\$66,667	\$8,333 Police Department and Grant Leveraging Fund	Police	To develop a risk and needs assessment relating to gang involvement in our locality and training for Police Officers on prevention and intervention relating to gangs toward increased family and community involvement in gang prevention and intervention.
Department of Conservation and Recreation	VA Land Conservation Foundation Grant Program State	\$51,750	\$51,750 ACE Program	Community Development	Purchase of qualifying ACE Easement

Item No. 8.14. Board-to-Board, December 2012, *A Monthly Report from the Albemarle County School Board to the Albemarle County Board of Supervisors*, **was received for information.**

Item No. 8.15. VDOT – Culpeper District, *Monthly Report for Albemarle County, December 2012*, **was received for information.**

Agenda Item No. 9. Public Hearing: SP-2012-00026. Ntelos Wireless at CV829 Keene "Flatwood Land Trust" - Tier III (Signs # 2&5).

PROPOSED: Special use permit request for a personal wireless service facility including a 134-foot steel monopole with flush-mount antennae consisting of three (3) panel antennas. The proposed ground equipment will be located on a 40X40 foot leased compound area. A 6' tall wooden privacy fence is also proposed to surround the base of the 40X40 compound. Access to the site is proposed through an access road off Scottsville Rd already approved under SP-2011-26 for an AT&T Tower.

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 Tier III personal wireless facilities.

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.

HISTORIC DISTRICT: YES.

LOCATION: At the northwest side of the intersection of Scottsville Road (Route 20), Esmont Road (Route 715), and Coles Rolling Road (Route 712).

TAX MAP/PARCEL: 11200-00-00-030G0.

MAGISTERIAL DISTRICT: Scottsville.

(Advertised in the Daily Progress on November 19 and November 26, 2012.)

Mr. David Benish, Chief of Planning, reported that the applicant found out just after the drafting of the staff report and before the Planning Commission meeting that the original reference tree has health issues; therefore, the applicant has to find another reference tree which requires a change in the application. He said that the new reference tree is a shorter tree, so the total height of the tower is 133.5 feet – the same 30 feet above the reference tree. There are no other changes to the staff report or to the application. (**Note:** Mr. Thomas returned at 10:07a.m.)

Mr. Benish said that this is a proposal to locate a 133.5-foot steel monopole flush mount antenna consisting of three panel arrays with ground equipment, which will be shielded with a privacy fence around it. He stated that the location of this tower is adjacent to one the Board approved earlier this year, SP 2011-00026, which was for a 114-foot tower that was also 30 feet above the reference tree. Mr. Benish

said that the location of this site is in the Keene area off of Route 20 South, which is an Entrance Corridor and state scenic byway.

He stated that the proposed facility would be located in a densely wooded area, approximately 412 feet from the nearest road – Route 20 – and it is located behind a rise in the topography of the site, which also helps to obscure the visibility. He said that the closest residence is approximately 1,500 feet from the structure, and the property is densely wooded. Mr. Benish presented an image of the frontage on Route 20, and said the facility would be difficult to see from the road. He said that staff traveled Route 20, Plank Road and Frye's Path to determine the visibility during the balloon test. The balloon was not visible from any of those points except for through the trees in a very brief instance when concentrating and looking through the trees. Mr. Benish said that there are property locations on the site plan if the Board needs to refer to them. The total height of the tower as mentioned is 133.5 feet – 30 feet above the new reference tree.

Mr. Benish reported that the staff has identified the following favorable factors: the facility will not be visible from the Virginia Byway or Route 20, and not visible for most of the surrounding area. He said that the Architectural Review Board staff has recommended approval based on the minimal visibility from Route 20 as an Entrance Corridor. Staff has found no significant unfavorable factors. Mr. Benish stated that the Planning Commissions recommends approval with the conditions as outlined, and the application plan has been corrected to show the new date.

At this time, the Chair opened the public hearing.

The applicant's representative, Mr. Preston Lloyd, an attorney with Williams Mullen, addressed the Board on behalf of Ntelos. He presented an aerial view of the site, noting that it is heavily wooded and pointing out that there are no immediate adjacent residences. Mr. Lloyd said that the Board has approved an adjacent site for AT&T, and due to the topography there is some difference in the height of the two facilities. He noted the location of the access road, which is some distance away from Route 20. The reason that this is a Tier III facility is because it is located within the Southern Albemarle Historic District – which covers most of the area adjacent to Route 20. The Board has had a number of sites like this one come before it this past year. Mr. Lloyd said that the visibility of this site is minimal, even with the leaves falling, and the 30 feet is justified because of the minimal visibility. He then presented a propagation map showing the Route 20 corridor, noting that Ntelos has been working diligently to bring the corridor up to standards that residents in the area have requested.

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

Mr. Benish pointed out that the motion for approval also needs to include approval of the one modification. Mr. Davis commented that the Board could make this in one motion.

Mr. Dumler stated that he recalled this site from the Board's last approval, and how he was struck with the height difference between the reference tree and the proposed tower – but it is not visible from Route 20, so this is an excellent parcel for this.

Mr. Dumler then offered **motion** to approve SP-2012-00026 subject to the two recommended conditions, and to approve the modification of Section 5.1.40 (d)(6) under the special exception criteria of Section 31.8 of the Zoning Ordinance to allow the facility to extend no more than 7 feet above the reference tree, to permit it to extend 30 feet above the reference tree. Mr. Snow **seconded** the motion.

Mr. Rooker said that he would support the application because the tower will not be visible from any place except one narrow spot, and then only briefly. He said that he thinks it is a good location in that regard.

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

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

NAYS: None.

(The conditions of approval are set out below:)

1. Development and use shall be in general accord with the conceptual plan titled "Keene (Flatwoods Land Trust) CV829" prepared by Brian V. Crutchfield., and dated 11-8-12 (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:

- Height
- Mounting type
- Antenna type
- Number of antennae
- Distance above reference tree
- Color
- 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. Entrance design and location must be approved by the Virginia Department of Transportation before construction of the access road for this use may commence.

(The special exception set out below:)

1. Modification of Section 5.1.40 (d)(6) under the special exception criteria of Section 31.8 of the Zoning Ordinance to allow the facility to extend no more than 7 feet above the reference tree, to permit it to extend 30 feet above the reference tree.

Agenda Item No. 10. **Public Hearing: SP-2012-00027. Verizon Wireless-Old Lynchburg, Tier III (Sign #53).**

PROPOSED: Request for modification of the existing Tier I installation to a Tier III Personal Wireless Service Facility to include (9) panel antennas.

ZONING CATEGORY/GENERAL USAGE: R-15 Residential - 15 units/acre.

ENTRANCE CORRIDOR OVERLAY DISTRICT to protect properties of historic, architectural, or cultural significance from visual impacts of development along routes of tourist access: Yes.

SECTION: 18.2.2.18.

COMPREHENSIVE PLAN LAND USE/DENSITY: Urban Density Residential – residential (6.01-34 units/acre); supporting uses such as religious institutions, schools, commercial, office, and service uses.

LOCATION: 925 Sunset Avenue, Ext.

TAX MAP/PARCEL: 07600000046C0.

MAGISTERIAL DISTRICT: Scottsville.

(Advertised in the Daily Progress on November 19 and November 26, 2012.)

Mr. Benish stated that this is a request for a modification of an existing tower to install new antennae for a total of nine antennae, and add an extension to an existing Dominion Resources transmission tower – which would raise the height of the facility from 112 to 122 feet. He reported that the property is located just south of I-64 and east of Sunset Avenue, and is adjacent to the Woodlands and Jefferson Ridge apartments, and I-64 is an Entrance Corridor. Mr. Benish said that the ARB staff has reviewed this request and determined that the impact to the Entrance Corridor would be minimal. Existing vegetation and tree cover in the area mitigates the impact from the additional height in the tower. He stated that the only place the tower is visible is on Sunset Avenue in the immediate location of the tower itself due to the opening for the easement and the visibility of the whole tower. Mr. Benish said that the tower itself creates as much impact as the antennae and its additions.

Mr. Rooker said that the property is surrounded by a number of residential uses, and asked if they would not be able to see the tower. Mr. Benish responded that they could see the top of the tower to some extent, but it is mitigated because of the topography and the angles of view. The tower is most visible driving along Sunset Avenue and heading eastbound near that road's crossing with I-64.

Mr. Benish presented the site plan and noted the location of the existing tower. The corridor for the transmission line creates an opening for visual impact of the whole transmission line and tower system. He said that this relocation is due in part to Virginia Dominion Power change in policy, where it no longer allow for antennae to be located within the range of the wires – they must be above all the lines on the towers. Mr. Benish stated that the Board recently approved a modification for a transmission tower in the Colthurst area along Barracks Road with the same situation. As the new antennae are added, the applicant must replace the existing ones. He reiterated that the antennae have to be located above the highest lines on the transmission towers.

Mr. Rooker asked if Verizon is also changing the kinds of antennae it is using. Mr. Benish responded that in this particular case, the type of mounting proposed is a platform mounting as opposed to a flush-type mounting. The reason in this case is because it lowers the required height. On the Colthurst facility, he said, the applicant used more of a flush-mounted system, and the height increase was about 20 feet. Mr. Benish stated that the platform reduces the total height, and the applicant will include an explanation of that in their presentation. He said that the reduced height would be preferable in this area given the angles of visibility and proximity to I-64.

Mr. Benish then presented an image of the proposed tower, noting that it is a much wider system than typical but it is about one-half the height for not being flush-mounted.

Mr. Benish stated that there are several waivers related to this request pertaining to the reference tree and tree height, tree conservation plan, and antenna size, as well as the flush-mounting requirement. He said that staff recommends approval of the special use permit and the waivers.

Ms. Mallek asked if the reason for these waivers is because of the electric transmission pole the antennae is sitting on. Mr. Benish said that is the reason, and said there is also a waiver for pole color so it can be the same shade as the existing tower.

Mr. Rooker stated that he would like the ARB to look at this issue in general. All of the comments the Board receives on tower requests are from ARB staff and it would be a good idea to have the last 10

or so recommendations to go before the ARB in a work session, so they understand what the recommendations are and indicate whether or not they agree with the direction staff has been taking.

Mr. Snow said that he thought the full ARB had weighed in on this particular issue, as noted in the minutes. Mr. Benish stated that with the more questionable applications, Ms. Margaret Maliszewski will run them by either the Chairman or the full ARB to make sure they are in general agreement. He said that his recollection is that she did run this recommendation by the full ARB.

Mr. Rooker said that on page four of the staff report it says "ARB staff has reviewed this request for modification," not the full board.

Mr. Snow said he was trying to find the Commission minutes because it seems to him that someone asked that question specifically.

Mr. Rooker said he saw the same thing, but it was not clear in the minutes. When he looked back in the staff report it said that ARB staff had looked at it. He said that without regard to this particular application, he thinks it would be a good idea to make sure that the ARB as a full body is developing some understanding of the recommendations being made – and if it wants to set some guidelines for staff, it do so.

Mr. Benish stated that Ms. Claudette Grant indicated that the ARB, as a full board, did not review this application. He added that when the ARB staff person does take it to the board for feedback the staff report will still indicate that it is the "ARB staff person's recommendation" because the ARB does not take formal action. He clarified that this particular application did not go in any form to the ARB.

Mr. Rooker commented that that's unfortunate because there are some unusual variations being requested with this application.

At this time, Ms. Mallek opened the public hearing.

Ms. Lori Schweller, of LeClair Ryan, addressed the Board, on behalf of Verizon Wireless. She stated that this application is part of Verizon's upgrade to 4G in the County. The Board recently saw a change to a Dominion Power's tower on Garth Road where Verizon requested a 20-foot extension. Ms. Schweller said that the site was many hundreds of feet from the road, so Verizon was able to stick with a flush-mounted profile and do a higher extension. By doing that Verizon has two sets of antennae; in one set they place the LTE 4G technology, and the other two technologies – cell and PCS – are placed in the other set. Ms. Schweller explained that antennae must be placed separately either vertically or horizontally, and there is a degradation in service to doing it this way. She said Verizon prefers to do a full array and have them separated horizontally because they can dedicate individual antennas to each technology to give clearer service and more capacity for transmitting calls and data. Also, if any of the antennae were to go out there would be 360 coverage. Ms. Schweller said that in this case the reason Verizon is requesting a flush-mounted antenna is because it is much closer to I-64 than the other site was to Garth Road. Verizon, therefore, did not want to request a 20-foot extension to put two sets of flush-mount antennae.

Ms. Schweller said that doing just a 10-foot extension, which brings the tower to the same height as the original height at Garth Road allows Verizon to do in one single array all of the technologies needed at this site.

Mr. Rooker asked what the propagation area achieved would be with this tower. Ms. Schweller responded that Verizon does not produce propagation maps because they are not required in Albemarle County, but it is intended to serve the I-64 corridor and a number of homes in this area. She noted that there are more than 10 residential communities in the area.

Mr. Rooker said he assumes that when a company is looking at a site and what it is going to do with it, they would develop some propagation concept as to what it is intending to accomplish there and how that fits into the system. He added that it would be helpful for the Board to see that when the applications come forth to get an idea of what area would be served with the new towers. On the public benefit side is the service itself that is being provided to the public. Mr. Rooker said it is important to understand the extent of the public benefit that is being achieved by a particular tower.

Ms. Schweller responded that they do those routinely in other areas, and those analyses are certainly made and could be provided.

Ms. Mallek noted that one was provided in the previous application.

Mr. Snow agreed with Mr. Rooker that it would be nice to have that as part of all tower applications.

Ms. Schweller said that they could provide that information.

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

Mr. Dumler offered motion to **approve** SP-2012-00027 subject to the one recommended condition, and to approve modifications for Sections 5.1.40(c)(3),(c)(4),(c)(5),(d)(5),(d)(6) and (d)(7) under the special exception criteria of Section 31.8. Ms. Mallek **seconded** the motion.

Mr. Rooker said that he will vote in favor of this but normally would not support a proposal with this type of antennae array. He added that there is somewhat of a unique circumstance here in that when you look at the location of the antenna on existing power lines the visual difference will not be significant. He stated that he agrees with ARB staff in this case that the County is better off having a shorter, broader array than a taller flush-mounted array.

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

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

(The condition of approval is set out below:)

1. Development and use shall be in general accord with what is described in the applicant's request and site plans, entitled "Old Lynchburg Road LTE (4G) Upgrade," with a final submittal date of 9/10/12 (hereafter "Enlarged Site Plan"), as determined by the Director of Planning and Zoning Administrator. To be in general accord with the Enlarged Site Plan, development and use shall reflect the following major elements within the development essential to the design of the development, as shown on the Enlarged Site Plan:

- Height
- Mounting height
- Antenna type
- Number of antenna
- Color
- 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.

Special exception for the modifications:

1. Section 5.1.40(c)(3)-no antenna to project more than 12 inches from a structure.
2. Section 5.1.40(c)(4)-tree conservation plan to be submitted prior to building permit.
3. Section 5.1.40(c)(5)-installation, operation and maintenance, to be in accordance with tree conservation plan.
4. Section 5.1.40(d)(5)-maximum size of base and diameter of tower.
5. Section 5.1.40(d)(6)-height of the structure in relation to the reference tree.
6. Section 5.1.40(d)(7)-color of pole with all attached equipment.

Agenda Item No. 11. **Public Hearing: 11-03() – Agricultural and Forestal Districts.**

Ordinance to amend Division 2, Districts, of Article II, Districts of Statewide Significance, of Chapter 3, Agricultural and Forestal Districts, of the Albemarle County Code, to add lands to certain districts and to make corrections to certain district ordinances to identify all those tax map parcels within the districts, as specified below:

- a. **AFD-2012-00006. Carter's Bridge AFD – Addition.** The proposed ordinance would amend Section 3-210, Carter's Bridge Agricultural and Forestal District, to identify TMPs 113-11G3, 114-67H1 and 114-67I (part) as being in the district (these parcels were created from parcels already in the district), and to add TMPs 112-16J and 112-16K to the district.
- b. **AFD-2012-00007. Blue Run AFD – District Review.** The proposed ordinance would amend Section 3-208, Blue Run Agricultural and Forestal District, to continue the district for all parcels identified in the ordinance, to set the next district review deadline date of December 5, 2022, and to remove any parcels for which a request for withdrawal is received before the Board acts on the proposed ordinance.

(Advertised in the Daily Progress on November 19 and November 26, 2012.)

Mr. Benish reported that he would review both additions in one public hearing.

Mr. Davis commented that there is one ordinance before the Board that addresses both applications.

Mr. Benish explained that Carter's Bridge Ag/Forestal District was created in 1988 and currently includes 85 parcels totaling 8,626 acres. The district is located in southeastern Albemarle County in the Carter's Bridge/Blenheim/Woodridge area, and is on a 10-year review cycle. He said that the proposal is to include two parcels under consideration for addition, located on Frye's Path (Route 627) north of Keene. Mr. Benish presented an aerial view of the two parcels, stating that there is one house located on them. On October 23, 2012, he said, the Planning Commission recommended approval and on October 1, 2012, the Ag/Forestal Committee recommended approval. Mr. Benish said that the recommended changes related to this district also include an update of all parcels that have changed within the district, which is typically done whenever there are additions to a district.

Mr. Benish reported that the Blue Run Ag/Forestal District is before the Board because the Code of Virginia requires periodic review of ag/forestal districts. The purpose of the review is to determine

whether the district should be continued. He said that the Commission and Ag/Forestral Committee can provide recommendations to the Board as to whether the districts should be terminated, modified or continued. Mr. Benish stated that the district was established in 1986 and currently has 40 parcels and 4,200 acres, and was last reviewed in 2002. With this review, he said, there have been no requests for withdrawals. He noted that the district is located in the northeast corner of the County between the Burnley and Cash's Corner area. He then presented a map showing the location of the parcels within the district. Mr. Benish stated that the Planning Commission and Ag/Forestral Committee have both recommended renewal of the district.

Mr. Benish stated that the staff and Commission are recommending approval of the districts and the addition to the Carter's Bridge District.

Mr. Thomas commented that this was the smallest agenda the Ag/Forestral Committee has had since he's served on it, and the items were very straightforward. He added that he enjoys serving on the Committee.

At this time, the Chair opened the public hearing. Since no one came forward to speak, the Chair closed the public hearing and the matter was placed before the Board.

Mr. Davis clarified that the motion is to adopt the proposed ordinance to continue the Blue Run AFD and approve the additions to the Carter's Bridge AFD.

Mr. Boyd then offered **motion** to adopt the ordinance 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. Dumler, Ms. Mallek, Mr. Rooker and Mr. Snow.

NAYS: None.

ORDINANCE NO. 12-03(2)

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 3, AGRICULTURAL AND FORESTAL DISTRICTS, ARTICLE II, DISTRICTS OF STATEWIDE SIGNIFICANCE, DIVISION 2, DISTRICTS, 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 II, Districts of Statewide Significance, Division 2, Districts, of the Code of the County of Albemarle, Virginia, is hereby amended and reordained as follows:

By Amending:

3-208 Blue Run Agricultural and Forestal District

3-210 Carter's Bridge Agricultural and Forestal District

CHAPTER 3. AGRICULTURAL AND FORESTAL DISTRICTS DIVISION 2. DISTRICTS

Sec. 3-208 Blue Run Agricultural and Forestal District.

The district known as the "Blue Run Agricultural and Forestal District" consists of the following described properties: Tax map 22, parcel 10; tax map 35, parcels 22, 23, 24A, 26, 26B, 26B1, 26C, 26D, 28A, 29, 31, 32A, 41A, 41E, 43; tax map 36, parcels 6A, 9, 20; tax map 49, parcels 4A1, 4A5, 24, 24A, 24B; tax map 50, parcels 5, 5B, 32A, 41A, 41Q, 42A, 42A1, 43, 45B, 47, 47A, 47B; tax map 51, parcels 13, 14. This district, created on June 18, 1986 for not more than 8 years, since amended at its last review on December 5, 2012 to continue for not more than 10 years, shall next be reviewed prior to December 5, 2022.

(5-11-94; 7-13-94; 4-12-95; Code 1988, § 2.1-4(d); Ord. 98-A(1), 8-5-98; Ord. 01-3(3), 8-8-01; Ord. 02-3(3), 7-10-02; Ord. 09-3(4), 12-2-09; Ord. 10-3(3), 12-1-10; Ord. 11-3(2), 7-6-11; Ord. 11-3(4), 12-7-11)

Sec. 3-210 Carter's Bridge Agricultural and Forestal District.

The district known as the "Carter's Bridge Agricultural and Forestal District" consists of the following described properties: Tax map 101, parcels 55A, 60; tax map 102, parcels 17A, 17B, 17B1, 17C, 17D, 18, 19, 19A, 19C, 20B; tax map 111, parcel 48; tax map 112, parcels 1, 3, 15, 15A, 16E, 16E1, 16E2, 16F2, 16J, 16K, 18H, 19E, 19F, 20, 21, 33A, 37D; tax map 113, parcels 1, 1A, 6A, 11A, 11F, 11F1, 11F2, 11F3, 11G, 11G1, 11G2, 11G3, 11H, 11I, 11J, 11K; tax map 114, parcels 2, 25A, 30, 31B, 31C, 31D, 51, 55, 56, 57, 57C, 57D, 67C, 67D, 67E, 67F, 67G, 67H, 67H1, 67I(part), 68, 69, 70; tax map 115, parcel 10; tax map 122, parcels 4, 4A, 6, 7, 8, 9, 10, 12, 12D, 12E, 12N, 33, 33A, 36; tax map 123, parcel 13B; tax map 124, parcel 11; tax map 130, parcel 19B. This district, created on April 20, 1988 for not more than 10 years and last reviewed on July 9, 2008, shall next be reviewed prior to July 9, 2018.

(Code 1988, § 2.1-4(j); Ord. 98-A(1), 8-5-98; Ord. 98-3(1), 9-9-98; Ord. 99-3(2), 2-10-99; Ord. 99-3(4), 5-12-99; Ord. 08-3(1), 7-9-08; Ord. 09-3(4), 12-2-09)

Agenda Item No. 12. **Public Hearing: ZTA-2012-00006. Legislative Review Process Improvements.** Amend Secs. 1.7, Official zoning map, 3.1, Definitions, 4.8.1, Determinations concerning unspecified uses, 4.15.5, Signs authorized by special use permit, 10.5.2, Where permitted by special use permit, 20.1, Intent, where permitted, 20.2, Application, 30.1.2, Application, 30.5.5, Permitted uses by right and special permit, 31.1, Designation of zoning administrator, authority, 34.4, Application for variances, 35.1, Fees; and repeal Secs. 1.9, Application for land use permit; payment of delinquent taxes, 8.5.1, Applications and documents to be submitted, 8.5.2, Preapplication conferences, 8.5.3, Review and recommendation by the planning commission, 8.5.4, Review and action by the board of supervisors; effect of approval, 8.6, Amendments to planned development districts, 20A.3, Application requirements; required documents and information, 20A.4, Application plans, 31.6, Special use permits, 31.6.1, Reserved to board of supervisors, 31.6.2, Application, 31.6.3, Conditions, 31.6.4, Revocation, 31.8, Special exceptions, and 33 (and its subsections), Amendments; and adding Secs. 33.1, Purpose and intent, 33.2, Uniform requirements for the initiation of zoning text amendments and zoning map amendments, 33.3, Uniform procedures for zoning text amendments and county-initiated zoning map amendments, 33.4, Uniform procedures for owner-initiated zoning map amendments and special use permits, 33.5, Uniform procedures for special exceptions, 33.6, Zoning text amendments and zoning map amendments; relevant factors to be considered; effect of approval, 33.7, Owner-initiated zoning map amendments; authority to accept proffers, 33.8, Special use permits; relevant factors to be considered; conditions; revocation, 33.9, Special exceptions; relevant factors to be considered; conditions; of Chapter 18, Zoning, of the Albemarle County Code. This ordinance would amend the regulations pertaining to the zoning map and its interpretation (1.7); relocate the obligation to pay delinquent taxes as a condition of applying for a land use permit but amend and update that obligation (from 1.9 to 33.4 and 34.4); add definitions (3.1); update cross-references to related sections (4.8.1, 4.15.5, 10.5.2, 20.1, 20.2, 30.1.2, 30.5.5); relocate and amend the application requirements, procedures and relevant considerations for planned developments (from 8.5.1 through 8.5.4 and 8.6), the neighborhood model district (from 20A.3 and 20A.4), special use permits (from 31.6.1 through 31.6.4) and special exceptions (from 31.8), to section 33 and its subsections; add express authority for the zoning administrator to administer and enforce proffers and to keep and make available a conditional zoning index (31.1), and allow application fees for zoning map amendments and special use permits to be paid when the application is determined to be complete instead of at the time the application is first submitted (35.1). In repealing the existing regulations for zoning map and zoning text amendments in Sec. 33(current 33.0 through 33.10), this ordinance would consolidate all legislative zoning actions of the board of supervisors in new subsections in Sec. 33 applicable to zoning map amendments, zoning text amendments, special use permits and special exceptions and these subsections would pertain to purpose and intent (33.1), uniform requirements for the initiation of zoning text amendments and zoning map amendments (33.2), uniform procedures for zoning text amendments and county-initiated zoning map amendments (33.3), uniform procedures for owner-initiated zoning map amendments and special use permits (33.4), uniform procedures for special exceptions (33.5), relevant factors to be considered for zoning text amendments and zoning map amendments and the effect of approval (33.6), authority to accept proffers in conjunction with owner-initiated zoning map amendments (33.7), relevant factors to be considered for special use permits and authority to impose conditions and revoke permit (33.8), and relevant factors to be considered for special exceptions and authority to impose conditions (33.9).

(Advertised in the Daily Progress on November 19 and November 26, 2012.)

The following executive summary was forwarded to Board members:

During the work of the Board appointed Development Review Task Force which delivered its recommendations in May of 2007, several primary interests of applicants, staff and decision makers, and the public regarding process were evident:

- Applicants want clarity in what is expected of them, consistency in review and reasonable predictability.
- Staff wants applications that contain the information necessary to provide a complete and comprehensive review from the beginning.
- The public wants to be informed as to project proposals and relevant County policies.
- All parties want reliability in the decision-making timeframe.

More than two years ago, in adopting its Economic Vitality Action Plan, the Board of Supervisors asked that recommended changes for legislative applications (e.g. rezoning, special use permits) be presented with the objective of simplifying and creating certainty in the development review process. Staff subsequently identified initiatives intended to help reduce time and cost which the Board concurred with on September 1, 2010:

- Codify expectations as application requirements.
- Codify the requirement for a pre-application conference.
- Formalize a community meeting process.
- By policy, avoid indefinite deferrals.

On August 3, 2011, following a joint work session with the Planning Commission and Architectural Review Board, the Board endorsed pursuing legislative process amendments to accomplish these initiatives as follows:

- A pre-application meeting is to be **required** prior to application submittal
- A pre-application form is to be completed by the applicant and submitted before scheduling the pre-application meeting
- Staff completes a pre-application comment form and provides it to the applicant within a specified number of days of the pre-app meeting
- The application submittal form will address expectations, including those based on the staff pre-application comment form
- Fee is not paid with submittal – applications are to be reviewed for completeness before acceptance
- Applicant is to be notified within a specified number of 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
- 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

On November 29, 2011, the Planning Commission adopted a resolution of intent (Attachment A) for the legislative process zoning text amendments reflecting this Board direction provided at the August joint work session. On May 15, 2012, the Planning Commission held a work session on draft amendments and directed staff to schedule a public hearing with updated ordinance language after conducting public outreach to obtain comments from the development community. A roundtable was held on June 20, 2012 which was attended by approximately 18 people. (See Summary, Attachment B)

On August 21, 2012, the Planning Commission held a public hearing on this zoning text amendment. The Planning Commission deferred action until October 23, 2012 with direction to staff to address and respond to the comments raised by the public and Commissioners, as noted in the discussion section below.

On October 23, 2012, the Planning Commission recommended approval (Attachment C) of ZT201200006.

Staff believes the proposed amendments provided in Attachment D reflect the legislative process changes presented by staff and endorsed by the Board of Supervisors on August 3, 2011. The following matters in bold were raised by the Commission during their review of this ZTA. Staff's response follows each:

- **Define purpose and intent for and further describe the pre-app meeting and the community meeting.** Section 33.4 a. of the proposed zoning text amendment (Attachment D) authorizes the requirement for a pre-app meeting and provides both the purposes for the meeting and the factors to consider in requiring the meeting. The pre-application process is intended to provide the potential applicant and staff a common understanding of the proposed project, provide feedback to the applicant as to a project's consistency with the Comprehensive Plan, other relevant policies and ordinance provisions, broadly identify potential issues that may need to be addressed by the applicant and confirm the information that will need to be submitted with the actual application for staff to undertake a full and comprehensive initial review of the project. Particularly for larger and/or more complex projects, it is anticipated that this pre-app process will result in applications that provide for a much more substantive initial 46 day staff review than has been occurring and, subsequently, reduce the iterations of re-submittals. This pre-app process also provides an opportunity to address a Development Review Task Force recommendation, endorsed by the Board of Supervisors on May 2, 2007, for a two phase zoning map amendment process in which the initial phase is focused on a project's "big picture" considerations and issues.

Section 33.4 j. of the proposed zoning text amendment (Attachment D) authorizes the requirement for a community meeting and provides the purposes for the meeting, factors to consider in requiring the meeting, promulgation of guidelines for a meeting and when an applicant's consent for a meeting is required. The community meeting has consistently been encouraged by staff for many projects and has proven to be invaluable on projects such as Biscuit Run. It is intended to provide the public an opportunity to receive information about a project proposal and the applicable County policies, regulations and review process. There is not an expectation that the applicant will revise their proposal based on public questions and comments, but the applicant can certainly do so at their discretion. While it is anticipated that this meeting would occur during the

first review period after application submittal, the applicant may choose to hold such a meeting before the application is made and a subsequent meeting after application may be determined to be unnecessary.

In its recommendation of approval of this ZTA, the Commission requested that these purposes of the pre-app meeting and community meeting be further detailed in the ordinance language. Additional language has been added to Sections 33.4 a. and 33.4 j. (see Attachment D).

- **Work with the definitions on density to make sure they do not change what we currently allow.** Upon further consideration, the County Attorney has advised that further research into judicial decisions regarding density is advisable and that no changes should be made at this time.
- **Address what kind of supporting mechanisms the county needs to develop to make sure the public and the applicants are able to understand the pre app process.** Staff has further outlined the process concepts in Attachment F, including assistance to applicants in determining what is necessary and timelines. More specific standard operating procedures will need to be developed and guidance for this process posted on the Department webpage. It is for this reason that staff is recommending an implementation date for these ordinance changes of April 1, 2013.
- **Further address the numbers of days before the PC meeting that signs are posted.** Section 33.4 m.2.a. of the proposed zoning text amendment (Attachment D) requires posting of the sign at least 21 days before the Planning Commission's public hearing. However, Section 33.4 j.3., guidelines for community meetings, authorizes the director of planning to include the requirement for posting before community meetings are held.
- **Elaborate on the role of the work session.** Work sessions, for the benefit of the applicant and completely at their discretion, provide an opportunity to present project proposals to the Planning Commission and/or Board of Supervisors with staff analysis of major issues, seek direction from the Commission and/or Board on their expectations in response to those issues and provide the applicant, staff and Commission and/or Board the benefit of public comment. There are two alternative processes for work sessions, both of which have been practiced over the last several years. One is the pre-application work session with the Planning Commission which, consistent with Development Review Task Force recommendation for a two phase zoning map amendment process, is focused on a project's "big picture" considerations and issues, occurs before an application is made with the County and has no fee. The level of review is similar to that of a Comprehensive Plan compliance review for public projects and provides policy level guidance to potential applicants. The second process, more frequently used, occurs after an application is made and is typically held with the Commission at the end of the initial 46 day staff review and/or with the Board after Commission action. It is more particular to the more significant project proposals and associated issues.

In its recommendation of approval of this ZTA, the Commission requested that these purposes of the work session be further detailed in the ordinance language. Additional language has been added to Sections 33.4 i. (see Attachment D).

- **Hold small business roundtable meeting.** Staff invited 18 small business and one time applicants from over the last two years to a meeting on October 8th. Only one applicant attended, but provided very honest and valuable input regarding experiences with our current process and recommendations for improvement. They particularly focused on the extreme importance of getting a clear understanding of the potential issues they might face with their proposal and guidance as to what information will be important to submit as it can carry considerable weight in deciding whether to invest time and money in a project. Of particular concern is making an application and then having new issues arise during its review. The importance of internal staff communication regarding all potential issues was stressed. In addition to the meeting, staff also received one written communication from an invitee expressing a positive experience in the review process, but concerns about the guidance through the procedures necessary to establish the use after Board approval.
- **Further clarify the intent to make application plans a requirement only for PUDs and further clarify the requirements for plans of development.** Section 33.4 b.2. of the proposed zoning text amendment (Attachment D), which pertains generally to zoning map amendments and special use permits, stipulates that the supplemental information noted in Section 33.4 c. may be required and notes factors to be considered by the director of planning in making the determination. Section 33.4 b.3., which pertains only to amendments to establish planned development districts, stipulates that all supplemental information noted in Section 33.4 c. is required. Section 33.4 c. also differentiates between the content for conceptual plans, which may be required for zoning map amendments for conventional districts and special use permits, and the content for application plans, which is required for amendments for planned development districts.

- **Elaborate on the role of the ARB in the process.** Staff of the ARB have and would continue to review and provide comment on legislative reviews in the Entrance Corridor. As with all reviewers, the role of ARB staff review is advisory. The ARB can be consulted by staff or the applicant, or request review of a project, but once again any comments they provide are advisory. An applicant is under no obligation to have a project appear before the ARB in the legislative process, but can request to do so if they so choose.

In addition to addressing the August 3, 2011 expectations of the Board of Supervisors, staff believes the proposed amendments provided in Attachment D address the Planning Commission's expectations in recommending approval of these amendments and are consistent with the following relevant goals in making changes in the legislative review process:

- Create a value-added process for both the applicant and staff keeping in mind that time is money for both parties.
- Provide clear expectations – it will be the responsibility of staff to tell the applicant what is required in an application and the applicant is responsible for providing it.
- 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's responsibility to provide it.
- Get decisions made – avoid deferrals. Provided applicable criteria and expectations are met, the project has the best chance for approval and should have a clear path to a Board decision; should there not be full agreement as to applicable criteria and expectations, the project should be scheduled for public hearing.

Staff and the Planning Commission recommend that following its public hearing the Board of Supervisors adopt ZTA201200006 (Attachment D) with an effective date of April 1, 2013.

Mr. Greg Kamptner, Deputy County Attorney, distributed to the Board a proposed revised ordinance.

Mr. Cilimberg said the Board is aware of the history of these changes along with what they recently adopted for the County's site plan and subdivision process. This change applies to zoning map amendments, special use permits, zoning text amendments, and special exception language. He stated that the changes involve a fair amount of reordering and clarifying, but there are some substantive aspects representing what the intent has been in looking at changes to the ordinance provisions for the review of projects. Mr. Cilimberg said that the revisions reflect some of the expectations from the Development Review Task Force work, including efforts to shorten approval times and costs, avoid unnecessary regulations, maintain opportunities for public involvement, and maintain community quality. He stated that the primary interest identified by staff in working with this ordinance provision is that applicants want clarity, consistency, and reasonable predictability when they are making application; staff wants the information necessary to provide comprehensive review from the beginning; the public wants to be informed; and all want reliable decision-making timeframes.

Mr. Cilimberg said that the relevant goals staff has recognized include creating a process that is value-added, having clear expectations, reducing the iterations of resubmittals, and get decisions made. In September 2010, he said, the Board concurred with staff on the idea of codifying expectations, requiring pre-application conferences, providing a community meeting process, and maintaining dates for public hearings. He stated that staff's follow-up has been fairly extensive. Staff has reviewed some of this before with the Board including the fact that staff met with some peer localities and gathered some common themes from them as far as what has been important as they have looked at their processes.

Mr. Cilimberg said there have been a number of different meetings along the way. In June, 2012 the County held a roundtable with general development interests, consultants, community interests – and in that meeting, participants spoke to the mandatory pre-app forms and meetings, and expressed concern about the possibility of that extending timeframes for review. He said that there was also concern that there be staff present who could answer the questions raised, and there was concern raised that in prior pre-app meetings over the years the staff was not able to answer all questions. Mr. Cilimberg added that knowing more about what is being discussed is very important to being able to answer the questions. He said that there was also concern that community meetings could extend time, and there were questions raised as to how they would be conducted, how the public would be contacted, and the burden that might be placed on applicants and staff. He said that deferrals were raised as a concern, not knowing when items might come back for decision, and there was also a question as to whether the review schedules might be modified or provide some flexibility so that simpler projects could be acted upon more quickly.

Mr. Cilimberg said that it was suggested that small project and business-type applicants, those who do not use a consultant, be consulted. One out of 18 applicants notified attended a roundtable held for that purpose. He said that they also discussed revisiting fees, which is planned for 2013 as expected with the fee amendments the Board addressed in 2011. Mr. Cilimberg said there was also a question about application plans and their requirement. He said that the one attendee who attended the roundtable in October stressed the need to understand what the expectations would be before making application because it might influence what they apply for or whether they decide to move forward with a project. Mr. Cilimberg said that consistency of comment during staff review was also raised, as it has been in prior discussions about the County's process.

Mr. Cilimberg stated that all of these items were taken up by the Planning Commission and were factored into the recommendations the Board is receiving. He said that the basic provisions are what the

Board saw in 2010 and 2011 when staff came to it with concepts regarding a codification of requiring pre-application meetings and comment responses to the applicant within 10 days, that the application should address those comments, and that the fee would only be paid after acceptance of the application. Mr. Cilimberg stated that if there is a rejection of an application, there could be reapplication and staff would provide a checklist of what was not provided so an applicant would know what needs to be addressed if they reapply. He said that it includes the community meeting requirement and notes that work sessions can occur, but are voluntary and are at the discretion of the applicant. Mr. Cilimberg said that the pre-app meetings will focus on the big picture and a common understanding of the proposed project. Staff wants to be able to provide feedback regarding consistency with County policies and ordinance provisions, to identify potential issues, and to confirm through response the necessary submittal information. He noted that there is discretion to waive the pre-app meeting based on certain considerations that the ordinance spells out, and there will be projects that will not likely need the pre-app meetings – such as a tower project that is fairly standard.

Mr. Thomas asked who would make that decision. Mr. Cilimberg responded that it is in the ordinance that the Director of Planning would make that decision.

Mr. Rooker asked for the list of considerations. Mr. Cilimberg said that on page 22 of the proposed ordinance there is the pre-application meeting information, including the purposes for meeting, and specific factors to consider in requiring the meeting.

For the community meeting facet, he said, that is an informational meeting for the public whereby the project proposal can be noted, the applicable County policies, regulations and review process can be conveyed by staff, and any questions of the public can be asked and answered. He said that it is the applicant's discretion to revise their proposal based on what they hear at these meetings, and the applicant could choose to hold a meeting before making application. Mr. Cilimberg said this might preclude the need for a public meeting after application is made. He stated that the work session provision is also at the applicant's discretion, and gives them an opportunity to present the proposal and solicit input from staff, the Commission, and sometimes the Board. Staff provides an analysis, guidance is provided from the Commission or Board on their expectations. Mr. Cilimberg said this also includes public comment opportunity, and an applicant can request this even before making application for the big picture considerations and issues, and some general policy level guidance. There is no fee for these work sessions which are similar to a compliance with the Comprehensive Plan review by the Commission. He added that after making application, an applicant can ask for a work session rather than go directly to public hearing to focus on some of the more significant elements of the project and issues; staff would also provide a report for that.

Mr. Cilimberg stated that staff is hoping to provide a value-added process, provide clearer expectations, and hopefully reduce iterations of re-submittal, and get decisions made by the Commission and Board more efficiently. He said that the recommendation of staff and the Planning Commission is approval of the Zoning Text Amendment. Staff requests that the revisions be effective April 1, 2013 to allow for further development of the processes that enact the ordinance and offer a chance for staff to communicate the changes to the applicant community. He noted that staff had a similar approach for the ministerial process, which will take effect on January 1, 2013.

Mr. Davis said that in the handout today and Mr. Kamptner's replacement page, there were two changes made for purposes of clarifying and ensuring the County is consistent with state law. He stated that one change addresses the situation of extension of applications. Staff added a provision that gives ordinance attention to that issue – which was previously done only by practice. Mr. Davis said this would stipulate that if an application that has already been granted an extension by the Planning Director wants to be further extended, the applicant needs to make an application to the Board, and the Board then has the opportunity to extend it one time based on its discretion. He said that it puts a finite process to an application procedure that otherwise could be indefinite, which is the policy the Board wanted to address. Mr. Davis stated that the replacement page 32 addresses a change in the State law regarding how amendments to proffers can be processed, which creates a streamlined process in certain circumstances. Currently an amendment to a proffer had to go to the Commission and Board for public hearing, but now the process can be streamlined into just a Board hearing. If it does not change the density or the use, then the Board can also decide that no public hearing is required.

Mr. Rooker said the Board would still need to act on it. Mr. Davis said that is correct; it would still have to be advertised and come before the Board for action.

Mr. Rooker said the only difference he sees is that it could go on a Consent Agenda. Mr. Davis said it could be, but it would still require a consideration by the Board to do that. When a certain application is made, a request could be made that the Board not hold a public hearing if it does not address use or density and could also short-line the procedure so it would only go before the Board. He stated that the ordinance would also allow the Board, at its discretion, to refer it to the Commission for a full public hearing, and it also allows the Board to require a public hearing before the Board before any action is taken. It would be the Board's decision on a case-by-case basis.

Mr. Rooker stated that this eliminates the Planning Commission hearing on amendments to proffers unless it is referred by the Board to the Commission. He said that he really does not understand how that saves anything, as the Board has to act on a proposal to not have a public hearing, which has to be scheduled.

Mr. Davis said he thinks the Board is still going to want staff to receive an application, and have staff provide an analysis and review. If staff feels it is a minor technical amendment it could be brought to

the Board and not go through the Commission process. He said it would allow for some time saving, but it still is a process that requires staff to receive an application and review it, and provide the Board with a recommendation as to what the process would be – and based on that, the Board could either streamline it or go through the entire process.

Mr. Rooker said the first part of this says that the rule will be that amendments to proffers do not go to the Planning Commission unless the Board takes an action to send it to the Commission. He said he does not understand how the Board would ever get to the situation where it would take an action to decide not to have a public hearing. He asked how the Board would waive a public hearing; it would have to take an action to waive the hearing, and that takes time.

Ms. Mallek commented that it has to be scheduled on an agenda.

Mr. Cilimberg said there have been occasions when the Board has asked for projects to be expedited. The Board could decide in expediting a project if it does not involve use or density to waive the requirement of the hearing – and it would come directly to the Board without going to the Commission. The Planning Commission not being involved is probably the more significant aspect of shortening the timeframe.

Mr. Rooker said the proposal states the proffer amendments would not go to the Commission, and it seems strange that the Board would take up the time to consider that.

Mr. Davis explained that this language complies with the change the General Assembly made to the legislation. He does not disagree with Mr. Rooker in that it probably will not save a tremendous amount of time except in rare circumstances, but the State Code does now provide that proffers can be amended without review by the Commission. He said that what is recommended in this ordinance still is a process where the Board controls the procedure if their public hearing is going to be waived.

Mr. Rooker said that he has no problem with the Planning Commission part of this, but the last part of it seems to be a time-taker rather than a time-saver.

Mr. Cilimberg stated that this does not pertain to projects that are changing use, adding that something like the Lodge at Old Trail would not fall under this because of the use change.

Mr. Boyd asked how this would apply to something like the Hollymead proposal, which is being driven partially by change in use. He said that he is trying to figure out how practically this will help the Board. Mr. Cilimberg responded that under State law a change in use through an amendment does not qualify for the expedited process of not going to the Commission. He said that in the case of Hollymead Town Center the use was not the issue, it was how they needed to develop for that use. It was more of a design issue, it also kicked in the unit number of commercial versus residential, and it had to do with the proffer change regarding dedication for the road.

Mr. Rooker said the answer to Mr. Boyd's question is "yes, it would qualify under this," because the whole issue of use and density only applies to the last sentence not to the truncated process that is set out for all proffer amendments. He stated that there are no proffer amendments that are required to go before the Planning Commission for a hearing, unless the Board decides to send them there because the issues need to be further developed.

Mr. Davis explained that the General Assembly removed the legal requirement for Planning Commission review and recommendation for an application that is simply to amend a proffer – that action can be taken solely by the Board after a public hearing.

Mr. Rooker said that would apply to the Hollymead Town Center proffer or any other proffer.

Mr. Boyd said he was thinking more about the Code of Development.

Mr. Davis said that is different. When a Code of Development is changed that is not a change in a proffer, it is a change in the zoning map amendment, and this would not be subject to that. This is only relating to amendments to proffers. He said that the General Assembly waived the Commission review provision, and also in the applications for amended proffers where use or density are not affected the Board may choose to waive its public hearing requirement. The Board has the right to refer to the Commission in any instance it feels the request should be heard by the Commission, and, again, it is a Board decision whether to waive the public hearing. Mr. Davis stated that this brings the County into compliance with a law that local governments did not generally ask for, but now they have it so they are trying to incorporate it into the Zoning Ordinance.

Ms. Mallek said if an applicant said he did not want to build a street, would it qualify for this. Mr. Davis said that if an applicant proffered to build a street but no longer wanted to build it, and it did not affect use and density, the Board could approve that proffer amendment without a public hearing.

Ms. Mallek commented that that was hideous, and asked what the Board could do about it.

Mr. Rooker stated that he cannot imagine this being used, because if people show up for a public hearing it seems unreasonable that the Board would entertain a motion not to have the public hearing that they have shown up to speak on. The Board has to vote to waive the public hearing, so it would have had to have taken an action. In his mind, the whole thing actually takes more time than simply having the public hearing and letting three or four people speak or whatever, and acting on the matter.

Mr. Davis agreed, but said the exception would be having staff during its review process bring it before the Board for that decision earlier than what it otherwise would have been scheduled.

Mr. Cilimberg responded that he thinks that would be the most likely case. It will either be that the applicant has made an application and wants to waive the public hearing requirement because there is no change in use or density; or staff sees that the item is not significant and thus not warranting a public hearing, so asks the Board to waive it.

Mr. Rooker said there is no difference in the advertising requirement and no difference in the time it takes to the Board; the only difference is whether the Board would take an action to not have a public hearing, and the only time it would do that would be if no one was there to speak.

Ms. Mallek asked if the advertisement has to happen regardless. Mr. Cilimberg explained that if the Board waives the public hearing in advance of receiving the item, there will be no public hearing advertisement.

Ms. Mallek said that confirms her concern that no one would know the developer has decided not to build a street, for example, until it is too late.

Mr. Davis said there would be no public hearing notice, but there would still have to be notice to adjacent property owners under Section 15.2-2204. Mr. Cilimberg said it would be similar to what staff does with site plans.

Mr. Rooker asked if this was mandatory.

Ms. Mallek asked if the last sentence needed to be included to comply with the State. There are a lot of people who might be an adjacent owner who would be interested or aggrieved by a change.

Mr. Boyd asked for clarification that the cost and requirements for advertising a public hearing is the same as advertising a Board meeting.

Mr. Davis explained that the Section 15.2-2204 requirements are still applicable, so the advertising for the public hearing, if it were waived, would not be necessary, but the notice to adjacent property owners would still be required.

Mr. Cilimberg said there would still be a sign up sheet at the meeting.

Ms. Mallek said this does not cut it from her perspective, citing the public reaction to the Keene range as an example because the County did not have the sense to do a broader-based advertising of that project.

Mr. Rooker asked if it was stipulated by State law. Mr. Davis responded that it is.

Ms. Mallek asked if the Board could add a sentence that it will advertise a public hearing to notify everyone if it is considering something like this.

Mr. Davis said that the way staff has addressed this accomplishes that because it has to come to the Board for action before it can be waived.

Mr. Cilimberg said that if the Board does not decide earlier to waive the hearing requirement in advance of the meeting in which it were to make a decision, then nothing is changing in terms of the requirement for an advertisement for a public hearing before it. The only change is it would not be going to the Planning Commission before coming to the Board.

Mr. Rooker commented that if staff is saying this is required by State law, he will stop asking questions. Mr. Davis responded that it is the process required by State law.

Ms. Mallek said she wants to ensure that there is a sentence in the advertisement mentioning that the Board is considering allowing an applicant to not do something, like have a road built.

Mr. Cilimberg stated that where it may not expedite the project or allow for an earlier decision would be if the project comes to the Board in a public hearing and the Board decides it wants to refer it to the Commission. In that case, it is actually going to take longer for the application to get decided on because the Board would be deciding a month or so in the process that it is not comfortable acting on something until the Commission hears it first. The Board would be creating a longer path at that point.

Mr. Thomas said the planners would be able to give the applicant that knowledge at the pre-application meeting. Mr. Cilimberg said that is part of what staff wants to accomplish with the pre-application process. If the applicant, in making an application, says it is not a use or density and they want to ask the Board to waive the public hearing requirement, staff will bring it to the Board.

Ms. Mallek said it is the applicant's choice and consequences if it blows up in their face.

Mr. Davis said that to have that process available is required by State law, but it is up to the Board whether or not they do it.

Mr. Thomas said it should be up to the applicant whether they want to have a pre-app meeting; it should not be a requirement.

Ms. Mallek stated that the whole basis of the information-providing process is that pre-app meeting. A common complaint of applicants is that they are well into the process when they find out they have to do something then they feel that it is staff's fault. She said that the fee for the pre-app meeting is deducted from fees later on.

Mr. Cilimberg responded that there is no fee for the pre-app meeting. This is really codifying the concept the Board discussed in 2010 and 2011 and indicated staff should move forward with. He said that the Commission wanted to ensure there were specific factors to be considered to allow the Director to waive the requirement. There will be cases where a formal pre-app will not be necessary. Mr. Cilimberg added that all applicants come through what would be considered "exploratory" or "informational" meetings, and staff will be able to determine then whether or not a formal pre-app is necessary. He emphasized that it is a factor of the nature of the project as to whether that review is needed, because developers of projects with potential significant impacts and design requirements need to know what staff requires to have the necessary review in the first round. He added that part of this is investing more up front both as applicant and as staff at no fee cost to have a more efficient review after application is made; which is the real intent.

Mr. Thomas said he thinks it should be voluntary for the applicant, and he also supports continuing the advanced work sessions.

Mr. Rooker mentioned that the ordinance embodies a process discussed before and follows direction provided regarding the pre-app meeting, work sessions, etc. The general approach that the staff has taken here, after long debate, discussion and input, is the best approach to streamline the process but still provide the public input the Board is looking to get, and actually lessen the amount of time that staff has to spend in going back and forth with applicants after an application is filed.

The Chair opened the public hearing for comments.

Mr. Neil Williamson, of the Free Enterprise Forum, said that this has been a long, well-thought out conversation – at least two years – and it actually dates back to two or three committees that date back five or six years. There are a lot of good improvements here. There is a lot that is being asked of the applicant, and there is a lot that is going to be asked of the County. He emphasized that Albemarle needs to have high-level staff at the pre-application meetings to answer questions, and community members deserve to have high-level staff who know what the laws are and what can be done by right in a rezoning so people can understand the elements that are going on. Mr. Williamson stated that there will be additional staff time required, and whether that is more than the current back and forth remains to be seen. He applauded the process, although he wishes that it was shorter, but he also thinks that this will be for the benefit of all a better process.

Mr. Jeff Werner, of the Piedmont Environmental Council, said he agrees with Mr. Williamson. He was a builder for 10 years and having a predictable, reliable system is most important – not necessarily that it has to be a shortened system. Mr. Werner emphasized that the public input is critical, and a perfunctory public meeting offsite does not replace a public hearing that occurs in this room. He added that meeting with people is one thing, but having them come in for Planning Commission and Board deliberation is critical. He added that the Board is hearing a lot of concern from the community because they are informed. He asked that the Board keep that in mind when it discusses a project that people are able to come to the meeting and speak. It is great to have the applicant go out and talk to the community, but the application needs to come back into this room and go through the steps. It is important to people get their thoughts heard.

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

Mr. Rooker offered **motion** to adopt Ordinance No. 12-18(7) in the form presented at the meeting today, to be effective April 1, 2013. Ms. Mallek **seconded** the motion.

Mr. Thomas said that he did support this moving forward, but he does worry about the applicants being required to have a pre-app meeting.

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

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

ORDINANCE NO. 12-18(7)

AN ORDINANCE TO AMEND CHAPTER 18, ZONING, ARTICLE I, GENERAL PROVISIONS, 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 I, General Provisions, Article II, Basic Regulations, Article III, District Regulations, and Article IV, Procedure, are hereby amended and reordained as follows:

By Amending:

Sec. 3.1 Definitions
Sec. 4.8.1 Determinations concerning unspecified uses
Sec. 4.15.5 Signs authorized by special use permit
Sec. 10.5.2 Where permitted by special use permit
Sec. 20.1 Intent, where permitted
Sec. 20.2 Application
Sec. 30.1.2 Application
Sec. 31.1 Designation of zoning administrator, authority
Sec. 34.4 Application for variances
Sec. 35.1 Fees

By Amending and Renaming:

	Old	New
Sec. 1.7	Official zoning map	Zoning map
Sec. 30.5.5	Permitted uses by right and special permit	Permitted uses by right and by special use permit

By Repealing:

Sec. 1.9 Application for land use permit; payment of delinquent taxes
Sec. 8.5.1 Applications and documents to be submitted
Sec. 8.5.2 Preapplication conferences
Sec. 8.5.3 Review and recommendation by the planning commission
Sec. 8.5.4 Review and action by the board of supervisors; effect of approval
Sec. 8.6 Amendments to planned development districts
Sec. 20A.3 Application requirements; required documents and information
Sec. 20A.4 Application plans

Sec. 31.6 Special use permits
Sec. 31.6.1 Reserved to board of supervisors
Sec. 31.6.2 Application
Sec. 31.6.3 Conditions
Sec. 31.6.4 Revocation
Sec. 31.8 Special exceptions
Sec. 33.0 Amendments
Sec. 33.1 Statement of purpose and intent
Sec. 33.2 Initiation of amendments
Sec. 33.2.1 Property owner petition
Sec. 33.2.2 Untitled
Sec. 33.2.3 Untitled
Sec. 33.3 Proffer of conditions
Sec. 33.3.1 Effect of conditions
Sec. 33.3.2 Zoning map notation
Sec. 33.3.3 Authority of zoning administrator
Sec. 33.4 Public hearing -- notice
Sec. 33.5 Report by planning commission to board of supervisors after hearing
Sec. 33.6 Limitation on filing new petition after original denial
Sec. 33.7 Withdrawal of petitions
Sec. 33.8 Posting of property
Sec. 33.8.1 Posting of property – planning commission hearing
Sec. 33.8.2 Validation of prior notice requirement (Amended 6- 19-96)
Sec. 33.8.3 Maintenance and removal of signs
Sec. 33.9 Matters to be considered in reviewing proposed amendments
Sec. 33.10 Schedule of review

Sec. 33.10.1 Untitled
Sec. 33.10.2 Untitled

By Adding:

Sec. 33.1 Purpose and intent
Sec. 33.2 Uniform requirements for the initiation of zoning text amendments and zoning map amendments
Sec. 33.3 Uniform procedures for zoning text amendments and county-initiated zoning map amendments
Sec. 33.4 Uniform procedures for owner-initiated zoning map amendments and special use permits
Sec. 33.5 Uniform procedures for special exceptions
Sec. 33.6 Zoning text amendments and zoning map amendments; relevant factors to be considered; effect of approval
Sec. 33.7 Owner-initiated zoning map amendments; authority to accept proffers
Sec. 33.8 Special use permits; relevant factors to be considered; conditions; revocation
Sec. 33.9 Special exceptions; relevant factors to be considered; conditions

Chapter 18. Zoning

Article I. General Provisions

Sec. 1.7 Zoning map

The zoning map is identified, and shall be interpreted, as follows:

- a. *Zoning map identified.* The zoning map is composed of the several maps and digital source files, and all dimensions, symbols, notations, and designations shown on the maps and in the digital source files, is maintained by the department of community development, and is incorporated by reference as part of this chapter. The zoning map is the digital form of the zoning map adopted on December 10, 1980, as amended by all zoning map amendments after that date. The zoning map also may exist in an analog zoning map book.
- b. *Zoning map establishes the location and boundaries of districts.* The location and boundaries of the districts created by this chapter are hereby established as shown on the zoning map. The zoning map also includes symbols that represent the existence of conditions, including proffers, attaching to the zoning of a parcel on the zoning map.
- c. *Interpretation.* The zoning map shall be interpreted as follows:
 1. *District lines follow lot lines and center lines; boundary designated.* The district boundaries shown on the zoning map are intended to follow the lot lines and the center lines of streets or alleys as they existed on December 10, 1980 and as hereafter amended; provided that where a district boundary obviously does not follow any such line, and is not depicted on an approved subdivision plat or site plan or described by dimensions or other means, the district boundary shall be determined by measurement using a scale.
 2. *Waterways, roads, streets, highways, railroads, and other rights-of-way; boundary not designated.* All waterways, alleys, roads, streets, highways, railroads, and other rights-of-way (collectively, "features"), if not otherwise specifically designated and if not part of a parcel abutting the feature, shall be deemed to be in the same district as the immediately abutting parcels, and the departing boundary lines from those abutting parcels shall be deemed to extend to the centerline of the feature. If the center line of a feature serves as a parcel boundary, the zoning of the feature, if not otherwise specifically designated, shall be deemed to be the same as that of the parcel to which it is a part.
 3. *Areas not otherwise designated.* The intent of this chapter is to have the entire unincorporated territory of the county within a district. Except for those features identified in subsection (c)(2), any area shown on the zoning map having a white background shall be deemed to be in the rural areas (RA) district.
 4. *Inconsistencies.* If there is an inconsistency between any information shown on the zoning map and any decision made by the board of supervisors or an interpretation of the zoning map made by the board of zoning appeals after December 10, 1980, then the decision of the board of supervisors or the interpretation of the board of zoning appeals shall govern.
- d. *Alterations and amendments.* The zoning map shall not be altered or amended in any way except in compliance with the procedures and standards established by this chapter for a zoning map amendment.

State law reference – Va. Code §§ 15.2-2285(A), 15.2-2286(A)(7), 15.2-2300.

Sec. 3.1 Definitions

...

Digital source file: The media type and format to which an analog or digital source material is encoded, and the file is used to produce a digital derivative.

...

Owner: The owner or owners of the fee simple interest of real property.

...

Special exception: An exception to the general regulations in any particular district pertaining to the size, height, area, bulk or location of structures or the areas and dimensions of land, water, and air space to be occupied by buildings, structures, and uses, and of courts, yards, and other open spaces to be left unoccupied by uses and structures, that is not permitted in any particular district except by a special exception granted under this chapter.

...

Special use permit. A permit for a special use that is not permitted in a particular district except by a special use permit granted under this chapter.

...

Zoning map amendment. An amendment to the zoning map, which may include changing the boundaries of one or more districts or the district classification of one or more parcels; also sometimes referred to as a "rezoning."

...

Zoning text amendment. An amendment to the regulations of this chapter, which may include amending, changing or supplementing the regulations.

State law reference – Va. Code § 15.2-2286(A)(4).

Article II. Basic Regulations

Sec. 4.8.1 Determinations concerning unspecified uses

Uses other than those specified in district regulations as permitted by right or accessory uses may be added to a district on application by an owner if the commission and board of supervisors find:

- a. That there is no clear intent to exclude such uses; and
- b. That the proposed use is appropriate within the district and would have no more adverse effects on other uses within the district, or on uses in adjoining districts, than would uses of the same general character permitted in the district.

In such cases, the board of supervisors shall proceed to amend the ordinance in accord with the provisions of section 33.

State law reference – Va. Code § 15.2-2286(A)(4).

Sec. 4.15.5 Signs authorized by special use permit

Except as provided in subsection (d), electric message signs, off-site signs, and signs in public rights-of-way may be authorized only by special use permit, as provided herein:

...

- c. *Procedure and administration.* The application procedure, the findings and conditions to be applied by the board of zoning appeals when considering an application for a special use permit, and the authority to revoke such a permit, shall be as provided in section 33 of this chapter. In addition to the foregoing:
 1. For an off-site sign, the board of zoning appeals shall also find that the issuance of a special use permit is necessary because an on-site sign would be ineffective to communicate its message off-site because of topography or vegetation.
 2. For an electric message sign, the board of zoning appeals shall also find that the sign complies with all applicable state laws for such signs.
 3. A permit number for each special use permit issued for an off-site sign shall be affixed to the sign in a conspicuous place.

...

State law reference – Va. Code §§ 15.2-2280, 15.2-2286.

Article III. District Regulations

Sec. 10.5.2 Where permitted by special use permit

- 10.5.2.1 The board of supervisors may authorize the issuance of a special use permit for more lots than the total number permitted under section 10.3.1 and section 10.3.2; provided that no such permit shall be issued for property within the boundaries for the watershed of any public drinking water supply impoundment, and further provided that no such permit shall be issued to allow more development lots within a proposed rural preservation development than that permitted by right under section 10.3.3.3(b). (Added 11-8-89; Amended 5-5-04 effective 7-1-04)

The board of supervisors shall determine that such division is compatible with the neighborhood as set forth in section 33.8 of this chapter with reference to the goals and

objectives of the comprehensive plan relating to rural areas including the type of division proposed and specifically, as to this section only, with reference to the following:
(Amended 11-8-89)

...

State law reference – Va. Code §§ 15.2-2280, 15.2-2286.

Sec. 20.1 Intent, where permitted

PUD districts may hereafter be established by amendment to the zoning map in accordance with the provisions set forth generally for planned development districts in sections 8 and 33 and with densities and uses in locations in accordance with recommendations of the comprehensive plan. As described by the comprehensive plan, PUD districts are intended to serve as neighborhoods or mini-neighborhoods within designated communities and the urban area. Additionally, PUD districts may be appropriate where the establishment of a "new village" or the nucleus of a future community exists and where the PUD development would not preclude achievement of the county's objectives for the urban area, communities and villages.

In order to encourage the community function, appropriate commercial and industrial uses are provided in addition to a variety of residential uses. It is intended that commercial and industrial development be limited to a scale appropriate to the support of the residential uses within the PUD; provided that additional commercial and industrial activity may be permitted upon a finding that the area in which the PUD is to be located is not adequately served by such use.

It is intended that these regulations provide flexibility in residential development by providing for a mix of residential uses with appropriate nonresidential uses, alternative forms of housing, flexibility in internal relationships of design elements and, in appropriate cases, increases in gross residential densities over that provided in conventional districts.

State law reference – Va. Code §§ 15.2-2280, 15.2-2286.

Sec. 20.2 Application

Notwithstanding the requirements and provisions of section 8, planned development districts, generally, where certain planned community districts have been established and have been developed or received final site development plan approval prior to the adoption of this ordinance, such districts shall be considered to have been established as PUD districts under this ordinance and shall be so designated on the zoning map.

State law reference – Va. Code §§ 15.2-2280, 15.2-2286.

Sec. 30.1.2 Application

Overlay districts and amendments thereof shall be established in accordance with the provisions of section 33 of this chapter.

State law reference – Va. Code § 15.2-2286(A)(4).

Sec. 30.5.5 Permitted uses by right and by special use permit

...

30.5.5.2 Within the immediate environs of any stream designated in section 30.5.2, no person shall commence any use involving the construction of any structure, the cutting of any living tree over six (6) inches caliper measured at six (6) inches above ground level, or the grading or other like physical alterations of the immediate environs of such stream except as follows: (Amended 9-9-92)

...

d. The following uses by special use permit only:

...

6. Bridges, causeways and other similar structures designed for pedestrian and/or vehicular access; provided that the board of supervisors shall find, by clear and convincing evidence, in addition to the factors to be considered under section 33.8, that:

...

Article IV. Procedure

Sec. 31.1 Designation of zoning administrator, authority

The office of zoning administrator is hereby established, subject to the following:

- a. *Authority.* The zoning administrator shall have all necessary authority on behalf of the board of supervisors to administer and enforce this chapter. This authority includes, but is not limited to:
 1. Interpreting this chapter and the official zoning map;
 2. Administering this chapter by making determinations and decisions on any matters arising under this chapter, including but not limited to, how a building, structure or use should be classified, whether a use is permitted within a particular district, whether a proposed building or structure complies with setback, height, bulk and other requirements, whether a building, structure, use or lot is nonconforming, and whether a lot meets minimum lot size requirements.
 3. Ordering in writing the remedying of any use or structure determined to be in violation of this chapter;
 4. Insuring compliance with this chapter, bringing legal action, including an action for injunction, abatement, civil penalties or other appropriate action or proceeding subject to appeal as provided by Virginia Code § 15.2-2311 and this chapter;
 5. In specific cases, making findings of fact and, with concurrence of the county attorney, conclusions of law regarding determinations of rights under Virginia Code §§ 15.2-2307 and 15.2-2311(C);
 6. Enforcing the provisions of this chapter regulating the number of persons permitted to occupy a single-family residential dwelling unit, provided such enforcement is in compliance with applicable local, state and federal fair housing laws;
 7. Making decisions and determinations as to whether a pending site plan, subdivision plat, building permit application or any other application subject to review and approval by the county or the program authority complies with this chapter;
 8. Administering and enforcing proffers accepted in conjunction with zoning map amendments, including: (i) ordering in writing the remedying of any noncompliance with the proffers; (ii) insuring compliance with the proffers by bringing legal action, including an action for injunction, abatement, or other appropriate action or proceeding; and (iii) requiring a guarantee in the form of a surety bond, letter of credit, cash deposit, or another form of guarantee determined to be acceptable by the county attorney, in an amount sufficient for and conditioned upon the construction of any physical improvements required by the proffers, or a contract for the construction of the improvements and the contractor's guarantee, in like amount and so conditioned, which guarantee shall be reduced or released by the zoning administrator, upon the submission of satisfactory evidence that construction of the improvements has been completed in whole or in part; and
 9. Keeping and making available for public inspection a conditional zoning index. The index shall provide ready access to the proffers accepted in conjunction with a zoning map amendment and the regulations provided for in a particular district or zone. The index also shall provide ready access to all proffered cash payments and expenditures disclosure reports prepared by the board of supervisors pursuant to Virginia Code § 15.2-2303.2. The zoning administrator shall update the index annually and no later than November 30 of each year.
- b. *Absence of specific authority not a limitation.* The specific authority expressly granted to the zoning administrator in other sections of this chapter shall not be construed to be a limitation on the authority of the zoning administrator to administer and enforce those sections where specific authority is not expressed.

State law reference – Va. Code §§ 15.2-2286(A)(4), (14), 15.2-2299, 15.2-2300.

Sec. 33 Zoning Text Amendments, Zoning Map Amendments, Special Use Permits and Special Exceptions

Sec. 33.1 Purpose and intent

The purpose and intent of section 33 is to establish the procedural and substantive requirements and criteria for considering and acting on zoning text amendments, zoning map amendments, special use permits, except for those delegated by this chapter to the board of zoning appeals, and special exceptions.

State law reference – Va. Code §§ 15.2-2285, 15.2-2286(A)(3), (4), (7), 15.2-2303.

Sec. 33.2 Uniform requirements for the initiation of zoning text amendments and zoning map amendments

The board of supervisors may amend, supplement, or change the zoning regulations, district boundaries, or classifications of property whenever the public necessity, convenience, general welfare, or good zoning practice requires. The initiation of this process shall be as follows:

- a. *Initiation of a zoning text amendment.* Any zoning text amendment shall be initiated: (i) by resolution of the board of supervisors; or (ii) by motion or resolution of the commission. Any county officer or any other person may request that the board of supervisors or the commission initiate a zoning text amendment. The board of supervisors shall consider an owner-requested zoning text amendment at specified intervals of three (3) months on dates established by resolution of the board in January each year.
- b. *Initiation of a zoning map amendment.* Any proposed zoning map amendment shall be initiated: (i) by resolution of the board of supervisors; (ii) by motion or resolution of the commission; or (iii) by application of the owner, contract purchaser with the owner's written consent, or the owner's agent therefor (collectively, the "owner") of the parcel(s) that is the subject of the proposed zoning map amendment ("owner-initiated application").
 1. *Required signatures on owner-initiated application.* Each owner-initiated application for a zoning map amendment shall be signed by the owner of each parcel that is the subject of the proposed zoning map amendment, provided that:
 - a. *Amendments to existing proffers.* An owner whose parcel is subject to proffers may apply to amend the proffers applicable solely to the owner's parcel, provided that written notice of the application is provided to the owners of other parcels subject to the same proffers under Virginia Code §§ 15.2-2204(H) and 15.2-2302. However, the signatures of the owners of the other parcels subject to the same proffers shall not be required
 - b. *Amendments to planned developments.* An owner within an existing planned development may apply for a zoning map amendment, and the signatures of any other owners within the planned development is required only if the amendment could result in or require: (i) a change in use, density or intensity on that parcel; (ii) a change to any regulation in a code of development that would apply to that parcel; (iii) a change to an owner's express obligation under a regulation in a code of development; or (iv) a change to the application plan that would apply to that parcel.
 2. *Documentation.* The director of planning may require the applicant to submit documentation establishing ownership of any parcel and the authority of the signatory to sign the application on behalf of the owner.

State law reference – Va. Code §§ 15.2-2285, 15.2-2286(A) (4), (7), 15.2-2302.

Sec. 33.3 Uniform procedures for zoning text amendments and county-initiated zoning map amendments

Each zoning text amendment and each county-initiated zoning map amendment shall be subject to the following:

- a. *Determining completeness of the application for zoning map amendment; rejecting incomplete applications.* An application that provides all of the information required by the director of planning shall be determined to be complete and be accepted for review and decision.
- b. *Worksessions and community meetings.* The director of planning is authorized to schedule worksessions before the board of supervisors, the commission, and the architectural review board, if applicable, and community meetings, as he determines to be appropriate.
- c. *Public hearings.* Before the board of supervisors acts on a zoning text amendment or a zoning map amendment, the commission shall hold at least one public hearing before making its recommendation to the board on each application. The board also shall hold at least one public hearing before acting on the zoning text amendment or zoning map amendment.
- d. *Notice of public hearings.* Notice of public hearings shall be provided as follows:
 1. *Published and mailed notice.* Notice of the public hearing before the commission and the board of supervisors on an application shall be provided as required by Virginia Code § 15.2-2204 and Virginia Code § 15.2-2285(C).
 2. *Posted notice.* Notice of the public hearing before the commission and the board of supervisors on each application for a zoning map amendment shall be posted as provided in section 33.4(m)(2) to the extent those provisions are applicable in the context of the application.
- e. *Time for decision.* Decisions shall be made within the following periods:
 1. *By the commission.* Once an application is determined to be complete as provided in subsection (a), it shall be acted on by the commission within ninety (90) days following the

first meeting of the commission after it was referred to the commission, according to the schedule established and administered by the director of planning. The failure of the commission to make a recommendation on the application within the ninety (90) day period shall be deemed to be a recommendation of approval, unless the commission extends the ninety (90) day period.

2. *By the board of supervisors.* An application shall be acted on by the board of supervisors within a reasonable period as may be necessary not to exceed twelve (12) months following the first meeting of the commission after it was referred to the commission, according to the schedule established and administered by the director of planning, unless the board extends the twelve (12) month period.
 3. *Referral.* The board of supervisors may refer an application to the commission after the commission has made a recommendation or the application has been deemed to be recommended for approval, provided that further action by the commission and action by the board is within the twelve (12) month period provided in subsection (e)(2), unless the twelve (12) month period is extended.
- f. *Judicial review.* Any action contesting a decision of the board of supervisors under this section shall be as provided in Virginia Code § 15.2-2285(F).

State law reference – Va. Code §§ 15.2-2204, 15.2-2285, 15.2-2286(A) (4), (7).

Sec. 33.4 Uniform procedures for owner-initiated zoning map amendments and special use permits

Each application for an owner-initiated zoning map amendment or special use permit, except for those delegated by this chapter to the board of zoning appeals under section 4.15.5, shall be subject to the following:

- a. *Pre-application meeting.* A pre-application meeting shall be held with each prospective applicant (the “applicant”), and the applicant shall complete and submit information on county-provided forms before submitting an application (collectively, the “pre-application meeting”), subject to the following:
 1. *Purposes for a meeting.* The purposes for a pre-application meeting are to: (i) provide the applicant and the county a common understanding of the proposed project; (ii) inform the applicant about the proposed project’s consistency with the comprehensive plan, other relevant policies, and county regulations; (iii) broadly identify the planning, zoning and other issues raised by the application that need to be addressed by the applicant; (iv) inform the applicant about the applicable procedure; and (v) allow the director to identify the information the applicant must submit with the application, including the supplemental information delineated in subsection (c). Receiving the relevant supplemental information will allow the application to be comprehensively and efficiently reviewed.
 2. *Factors to consider in requiring meeting.* A pre-application meeting shall be held unless the director, in his discretion, decides that the meeting would not achieve the purposes for the meeting upon considering the following: (i) whether the proposed use, the proposed density, the proposed scale and potential impacts, the proposed district, and other considerations he determines to be relevant under sound zoning principles do not warrant a pre-application meeting; (ii) whether the supplemental information delineated in subsection (c) can be identified without the meeting; (iii) whether the application would be one of a recurring nature for which the required information and the issues raised are well-established for the proposed application; and (iv) whether the application raises any complex issues that create the need for the meeting.
- b. *Applications.* Each application shall be composed of a completed county-provided application form and supplemental information (collectively, the “application”) required to review and act on the application.
 1. *Application forms.* The director of planning is authorized to establish appropriate application forms for zoning map amendments and special use permits. The application form shall delineate the supplemental information required to be provided, as set forth in subsection (b)(2).
 2. *When supplemental information may be required; establish or amend conventional districts; amend planned development districts; obtain or amend special use permits.* For each application for a zoning map amendment to establish or amend a conventional district, to amend a planned development district, and for each application to obtain or amend a special use permit, the director of planning may require some or all of the supplemental information delineated in subsection (c) to be submitted with each application. In determining what supplemental information must be submitted, the director shall consider the proposed use, the proposed density, the proposed district, and other considerations he determines to be relevant under sound zoning principles.

3. *When supplemental information required; establish planned development districts.* Each application to establish a planned development district shall submit all of the supplemental information delineated in subsection (c).
- c. *Elements of the supplemental information.* The supplemental information is the following:
1. *Project proposal.* A narrative of the project proposal, including its public need or benefit; an application to establish a neighborhood model district shall include a statement describing how the proposed district satisfies the intent of this chapter and if one or more characteristics of the neighborhood model delineated in section 20A.1 are missing from an application, the applicant shall justify why any characteristics cannot or should not be provided.
 2. *Comprehensive plan.* A narrative of the proposed project's consistency with the comprehensive plan, including the land use plan and the master plan for the applicable development area; an application to establish a neighborhood model district also shall include a narrative as to the project's consistency with the neighborhood model.
 3. *Impacts on public facilities and infrastructure.* A narrative of the proposed project's impacts on public facilities and public infrastructure.
 4. *Impacts on environmental features.* A narrative of the proposed project's impacts on environmental features.
 5. *Proposed proffers to address impacts.* A narrative of the proffers proposed to address impacts from the proposed project.
 6. *Maps.* One or more maps showing the proposed project's regional context and existing natural and manmade physical conditions; if the project is to amend an existing planned development district and the proposed amendment would affect less area than the entire district, the applicant shall submit a map showing the entire existing planned development district and identifying any area to be added to or deleted from the district, or identifying the area to which the amended application plan, code of development, proffers or any special use permit or special exception would apply.
 7. *Conceptual plan for zoning map amendments for conventional districts and special use permits.* For an application for a zoning map amendment to establish a conventional district or a special use permit, a conceptual plan showing, as applicable: (i) the street network, including circulation within the project and connections to existing and proposed or planned streets within and outside of the project; (ii) typical cross-sections to show proportions, scale and streetscape/cross-sections/circulation; (iii) the general location of pedestrian and bicycle facilities; (iv) building envelopes; (v) parking envelopes; (vi) public spaces and amenities; (vii) areas to be designated as conservation and/or preservation areas; (viii) conceptual stormwater detention facility locations; and (ix) conceptual grading.
 8. *Application plan for zoning map amendments for planned development districts.* For an application to establish a planned development district or to amend an approved application plan for an existing planned development district, an application plan showing, as applicable: (i) the street network, including circulation within the project and connections to existing and proposed or planned streets within and outside of the project; (ii) typical cross-sections to show proportions, scale and streetscape/cross-sections/circulation; (iii) the general location of pedestrian and bicycle facilities; (iv) building envelopes; (v) parking envelopes; (vi) public spaces and amenities; (vii) areas to be designated as conservation and/or preservation areas; (viii) conceptual stormwater detention facility locations; (ix) conceptual grading; (x) a use table delineating use types, the number of dwelling units, non-residential square footage, building stories and/or heights, build-to lines, setbacks and yards, and other features; (xi) topography, using the county's geographic information system or better topographical information, and the source of the topographical information, supplemented where necessary by spot elevations and areas of the site where there are existing critical slopes; (xii) the general layout for water and sewer systems; (xiii) the location of central features or major elements within the project essential to the design of the project, such as major employment areas, parking areas and structures, civic areas, parks, open space, green spaces, amenities and recreation areas; (xiv) standards of development including proposed yards, open space characteristics, and any landscape or architectural characteristics related to scale, proportions, and massing at the edge of the district; (xv) a conceptual lot layout; and (xvi) if the application is to establish a neighborhood model district, the location of proposed green spaces and amenities as provided in section 20A.9.
 9. *Code of development in a proposed neighborhood model district.* An application to establish a neighborhood model district shall include a code of development satisfying the requirements of section 20A.5.
 10. *Parking and loading needs study in a proposed neighborhood model district.* An application to establish a neighborhood model district shall include a parking and loading needs study that demonstrates parking needs and requirements and includes strategies

for dealing with these needs and requirements, including phasing plans, parking alternatives as provided in section 4.12.8, and transportation demand management strategies as provided in section 4.12.12; provided that the applicant may elect to submit the parking and loading needs study in conjunction with the preliminary site plan for the development if it determines that the uses that may occupy the buildings are not sufficiently known at the time of the zoning map amendment.

11. *Stormwater management in a proposed neighborhood model district.* An application to establish a neighborhood model district shall include strategies for establishing shared stormwater management facilities, off-site stormwater management facilities, and the proposed phasing of the establishment of stormwater management facilities.
 12. *Traffic impact statement.* For zoning map amendments, a local traffic impact statement as required by Virginia Code § 15.2-2222.1 and 24 VAC 30-155-40.
 13. *Recorded plat or boundary survey.* The most recently recorded plat of the parcel(s) composing the proposed project, or a boundary survey if a portion of one or more parcels compose the proposed project, both of which shall include a metes and bounds description of the boundaries.
 14. *Ownership information.* Documents that verify the identity of all record title owners of the parcel(s) composing the proposed project and documents identifying the authorized signatories of the application, the proffer statement, if applicable, and all other related documents.
 15. *Contact person.* The name, address, telephone number and e-mail address of a single contact person for communications between the county and the applicant.
 16. *Other information.* Other special studies or documentation, if applicable, and any other information identified as necessary by the county on the pre-application comment form.
- d. *Payment of delinquent taxes.* The applicant shall provide satisfactory evidence that any delinquent real estate taxes, nuisance charges, stormwater management utility fees, and any other charges that constitute a lien on the subject property, that are owed to the county and have been properly assessed against the subject property, have been paid.
- e. *Filing the application; number of copies.* The owner, the owner's agent, or a contract purchaser with the owner's written consent (the "applicant") may file the application with the department of community development. The director of planning is authorized to establish for each class of application the number of collated copies of the application required to be filed.
- f. *Determining completeness of the application; rejecting incomplete applications.* An application that provides all of the required information shall be determined to be complete and be accepted for review and decision. An application omitting any required information shall be deemed to be incomplete and shall not be accepted.
1. *Timing of determination of completeness.* The director of planning shall determine whether an application is complete within ten (10) days after the application was received.
 2. *Procedure if application is incomplete.* The director of planning shall inform the applicant by letter explaining the reasons why the application was rejected as being incomplete. The letter shall be sent by first class mail, be personally delivered or, if consented to by the applicant in writing, by fax or email.
 3. *Effect if timely determination not made.* If the director of planning does not send or deliver the notice as provided in subsection (f)(2) within the ten (10) day period, the application shall be deemed to be complete, provided that the director may require the applicant to later provide the omitted information within a period specified by the director, and further provided that the director may reject the application as provided herein if the applicant fails to timely provide the omitted information.
 4. *Notice to other owners of application for zoning map amendment to amend existing proffers.* Within ten (10) days after an application for a zoning map amendment seeking to amend existing proffers is determined to be complete, written notice of the proposed amendment shall be provided to each owner subject to the same proffers as required by Virginia Code §§ 15.2-2204(H) and 15.2-2302.
- g. *Payment of fees.* When an application is determined to be complete, the applicant shall pay the fee required by section 35.1 before the application is further processed.
- h. *Resubmittal of application originally determined to be incomplete.* Within six (6) months after the date the letter that an application was rejected as being incomplete was mailed, faxed, emailed or delivered by the director of planning as provided in subsection (f)(2), the applicant may resubmit the application with all of the information required by subsections (b) and (c) for a new determination of completeness under subsection (f).

- i. *Worksessions.* For any application, the director of planning may schedule worksessions before the board of supervisors, the commission, and the architectural review board, if applicable, as he determines to be appropriate considering the nature of the approval requested, the acreage affected, the possible impacts that could result from an approved application, and any other factors deemed relevant upon applying sound zoning principles, subject to the following:
 1. *Purposes for a worksession.* The purposes for a worksession are to present the proposed project to the board or the commission with the department of community development's analysis of the major issues, seek direction from the board or commission on their expectations in addressing those issues, and to allow the board or commission to receive public comments.
 2. *When applicant's consent required.* The applicant's consent to a worksession shall be required if the worksession would extend the time for action by the commission or the board beyond the deadlines in subsection (n).
- j. *Community meetings.* A community meeting shall be held for each application, subject to the following:
 1. *Purposes for a meeting.* The purposes for a community meeting are to: (i) provide interested members of the public the opportunity to receive information about the proposed project, the applicable procedure, the policies of the comprehensive plan, other relevant policies, and regulations applicable to the proposed project; and (ii) to allow the public to ask questions about the proposed project.
 2. *Factors to consider in requiring meeting.* A community meeting shall be held unless the director, in his discretion, decides that the meeting would not achieve the purposes for the meeting upon considering the following: (i) whether the application would be likely to generate any public concerns because of the nature of the approval requested, the acreage affected, the proposed density, the proposed scale, and the potential impacts; (ii) any other factors deemed relevant upon applying sound zoning principles; and (iii) whether the applicant has already held one or more community meetings regarding the application so as to make a community meeting under this subsection unnecessary.
 3. *Guidelines.* The director of planning is authorized to establish written guidelines pertaining to which applications should have community meetings, when in the process community meetings should be conducted, and how a community meeting should be conducted including, but not limited to, how and to whom notice should be provided for community meetings, which notice may include posting signs at the site before the meeting, who should schedule and lead the meeting, the format of the meeting, and how the issues identified at the meeting should be documented.
 4. *When applicant's consent required.* The applicant's consent to a community meeting shall be required if the community meeting would extend the time for action by the commission or the board beyond the deadlines in subsection (n).
- k. *Review of staff comments.* Upon request by the applicant, the director of planning shall meet with the applicant to review comments to the application made by county staff.
- l. *Public hearings.* Before the board of supervisors acts on a zoning map amendment or a special use permit, the commission shall hold at least one public hearing before making its recommendation to the board on each application. The board shall hold at least one public hearing before approving an application.
- m. *Notice of public hearings.* Notice of public hearings shall be provided as follows:
 1. *Published and mailed notice.* Notice of the public hearing before the commission and the board of supervisors on an application shall be provided as required by Virginia Code § 15.2-2204; for zoning map amendments, as also provided by Virginia Code § 15.2-2285(C); and, for zoning map amendments seeking to amend an existing planned development district, written notice of the proposed amendment also shall be provided to the owner of each parcel within the planned development district and the substance of that notice shall be as required by Virginia Code § 15.2-2204(B), paragraph 1, regardless of the number of parcels affected.
 2. *Posted notice.* Notice of the public hearing before the commission and the board of supervisors on each application shall be posted, as follows:
 - a. *When sign must be posted.* The sign shall be posted by the zoning administrator at least twenty-one (21) days before the commission's public hearing on the application and shall remain posted until the board of supervisors has acted on the application or the application has been withdrawn.
 - b. *Where sign to be located.* The sign shall be erected within ten (10) feet of each boundary line of the parcel(s) that abuts a street and shall be so placed as to be clearly visible from the street. If more than one street abuts the parcel(s), then either: (i) a sign shall be erected in the same manner as above for each abutting street; or (ii) if the area of the parcel(s) to be used if the application was granted

is confined to a particular portion of the parcel(s), a sign erected in the same manner as above for the abutting street that is in closest proximity to, or would be impacted by, the proposed use. A sign need not be posted along Interstate 64 or along any abutting street if the sign would not be visible from that street. If no street abuts the parcel(s), then signs shall be erected in the same manner as above on at least two boundaries of the parcel(s) abutting land not owned by the applicant in locations that are most conspicuous to the public. The filing of the application shall be deemed to grant consent to the zoning administrator to enter the parcel(s) to erect the signs.

- c. *Content of sign.* Each sign shall state that the parcel(s) is subject to a public hearing and explain how to obtain additional information about the public hearing.
- d. *Maintaining the sign.* The applicant shall diligently protect each sign from vandalism and theft, maintain each sign in an erect position in its posted location, and ensure that each sign remains legible. The failure of an applicant to comply with these responsibilities may be cause for the commission or the board of supervisors to defer action on an application until there is reasonable compliance with this subsection.
- e. *Ownership of sign; violation for removing or tampering with sign.* Each sign is the property of the board of supervisors. It shall be unlawful for any person to remove or tamper with any sign, except the applicant performing maintenance required by this subsection or the zoning administrator.
- f. *Effect of failure to comply.* If the requirements of this subsection to post notice are not complied with:
 - 1. *Prior to action by board.* The board of supervisors may defer taking action on an application if it finds that the failure to comply with this subsection materially deprived the public of reasonable notice of the public hearing.
 - 2. *Action not invalid.* No action on an application shall be declared invalid solely because of the failure to post notice as required by this subsection.
- n. *Time for decision.* Each application shall be acted on as follows:
 - 1. *By the planning commission.* An application shall be acted on by the commission within ninety (90) days following the first meeting of the commission after it was referred to the commission, according to the schedule established and administered by the director of planning. The failure of the commission to make a recommendation on the application within the ninety (90) day period shall be deemed to be a recommendation of approval unless the applicant requests or consents to the ninety (90) day period being extended.
 - 2. *By the board of supervisors.* An application shall be acted on by the board of supervisors within a reasonable period as may be necessary not to exceed twelve (12) months following the first meeting of the commission after it was referred to the commission, according to the schedule established and administered by the director of planning, unless the applicant requests or consents to the twelve (12) month period being extended.
 - 3. *Tolling.* The period in which action is required by the commission or the board of supervisors shall be tolled during any period in which the applicant has requested that the review of the application be suspended or the public hearings or action thereon be deferred or continued.
 - 4. *Referral.* The board of supervisors may refer an application to the commission after the commission has made a recommendation or the application has been deemed to be recommended for approval, provided that further action by the commission and action by the board of supervisors is within twelve (12) months following the first meeting of the commission after it was referred to the commission, according to the schedule established and administered by the director of planning, unless the applicant requests or consents to the twelve (12) month period being extended.
- o. *Recommendation by commission.* The commission shall either recommend approval of the application as proposed, approval subject to changes being made prior to action by the board of supervisors, or disapproval. For any application for a zoning map amendment, the commission's recommendation also should include its recommendations on proposed proffers and, for any application to establish or amend a planned development district, its recommendations on the application plan, the standards of development, the code of development, and any special exception requested by the applicant under section 8.2. For any application for a special use permit, the commission's recommendation should include its recommendations on the proposed conditions.
- p. *Action by the board of supervisors.* The board of supervisors may either approve or deny the application, or defer action to allow changes to be made prior to final action by the board. In

approving an application for a zoning map amendment, the board may accept the proposed proffers as provided in section 33.7. In approving an application for a special use permit, the board may impose conditions as provided in section 33.8.

- q. *Intensification of use classification prohibited without additional notice and hearing.* No land may be zoned to a more intensive use classification than was contained in the public notice without an additional public hearing after notice is provided as required by Virginia Code §§ 15.2-2204 and 15.2-2285(C).
- r. *Withdrawal of application.* An application may be withdrawn, or be deemed to be withdrawn, as provided herein:
 - 1. *Request to withdraw by applicant.* An application may be withdrawn upon written request by the applicant. The written request must be received by the body considering the application prior to it beginning consideration of the matter on the meeting agenda. Upon receipt of the request for withdrawal, processing of the application shall cease without further action by the commission or the board of supervisors. An applicant may not submit an application that is substantially the same as the withdrawn application within one (1) year of the date of withdrawal unless the body considering the application at the time of withdrawal specifies that the time limitation shall not apply.
 - 2. *When application deemed withdrawn.* An application shall be deemed to have been voluntarily withdrawn if the applicant requested that further processing or formal action on the application be indefinitely deferred and the commission or the board of supervisors is not requested by the applicant to take action on the application within one (1) year after the date the deferral was requested. Upon written request received by the director of planning before the one (1) year period expires, the director may grant one extension of the deferral period for a period determined to be reasonable, taking into consideration the size or nature of the proposed use, the complexity of the review, and the laws in effect at the time the request for extension is made. Upon written request received by the clerk of the board of supervisors before the extension of the deferral period granted by the director expires, the board of supervisors may grant one additional extension of the deferral period determined to be reasonable, taking into consideration the size or nature of the proposed use, the complexity of the review, and the laws in effect at the time the request for extension is made. The timely receipt by the clerk of the extension request shall toll the expiration of the extended deferral period until the board acts on the request.
- s. *Resubmittal of similar denied application.* An applicant may not submit an application that is substantially the same as the denied application within one (1) year after the date of the denial.
- t. *Judicial review.* Any action contesting a decision of the board of supervisors under this section shall be as provided in Virginia Code § 15.2-2285(F).

State law reference – Va. Code §§ 15.2-2204, 15.2-2285, 15.2-2286(A)(3), (4), (7), (B).

Sec. 33.5 Uniform procedures for special exceptions

Each application for a special exception shall be subject to the following:

- a. *Matters requiring a special exception.* Notwithstanding any other section of this chapter:
 - 1. Any request for a waiver, modification, variation or substitution permitted by this chapter shall be considered and acted upon by the board of supervisors, provided that no special exception shall be required for the development and construction of residential dwellings at the use, height and density permitted by right in the applicable district as provided by Virginia Code § 15.2-2288.1.
 - 2. Any requirement for a decision by the commission required by this chapter shall be considered and acted upon by the board of supervisors. For the purposes of this section, a decision by the commission does not include the consideration and action by the commission on a preliminary or final site plan under section 32 of this chapter or any variation or exception provided in section 32.
- b. *Application.* Each application for a special exception shall be made as provided by, and include the information required by, the applicable section of this chapter authorizing the waiver, modification, variation or substitution. An application shall be deemed to be officially submitted when the applicant has submitted all of the required information as determined by the director of planning.
- c. *Public hearings.* Before the board of supervisors acts on a special exception that would increase by greater than fifty (50) percent the bulk or height of an existing or proposed building within one-half mile of an adjoining locality, the commission shall hold at least one public hearing before making its recommendation to the board on each application. The board shall hold at least one public hearing before approving an application.

- d. *Notice of public hearings.* Notice of public hearing before the commission and the board of supervisors on an application for which a public hearing is required under subsection (c) shall be provided as required by Virginia Code § 15.2-2204(C).
- e. *Time for decision.* Each application for a special exception shall be acted on by the board of supervisors within ninety (90) days following the first meeting of the commission after it was referred to the commission, according to the schedule established and administered by the director of planning, or concurrently with a zoning map amendment, special use permit, or site plan appeal, whichever is longer.
- f. *Recommendation by planning commission.* For those applications considered by the commission, the commission shall either recommend approval of the application as proposed, approval of the application with changes to be made prior to action on the application by the board of supervisors, or disapproval. The commission's recommendation should include its recommendations on the proposed conditions.
- g. *Action by the board of supervisors.* The board of supervisors may either approve the application, deny the application, or defer action to allow changes to be made prior to final action by the board. In approving the application, the board may impose conditions as provided in section 33.9.
- h. *Judicial review.* Any action contesting a decision of the board of supervisors under this section shall be as provided in Virginia Code § 15.2-2285(F).

State law reference – Va. Code § 15.2-2286(A)(3), 15.2-2288.1.

Sec. 33.6 Zoning text amendments and zoning map amendments; relevant factors to be considered; effect of approval

A zoning text amendment or a zoning map amendment shall be subject to the following:

- a. *Basis to act.* The board of supervisors may amend, supplement, or change the zoning regulations, district boundaries, or classifications of property whenever the public necessity, convenience, general welfare, or good zoning practice requires. The commission shall consider these bases when making a recommendation on an application.
- b. *Factors to be considered when acting.* The commission and the board of supervisors shall reasonably consider the following factors when they are reviewing and acting upon zoning text amendments and zoning map amendments: (i) the existing use and character of property; (ii) the comprehensive plan; (iii) the suitability of property for various uses; (iv) the trends of growth or change; (v) the current and future requirements of the community as to land for various purposes as determined by population and economic studies and other studies; (vi) the transportation requirements of the community; (vii) the requirements for airports, housing, schools, parks, playgrounds, recreation areas and other public services; (viii) the conservation of natural resources; (ix) the preservation of flood plains; (x) the protection of life and property from impounding structure failures; (xi) the preservation of agricultural and forestal land; (xii) the conservation of properties and their values; and (xiii) the encouragement of the most appropriate use of land throughout the county.
 - 1. *Additional factors to be considered when acting; application to establish planned development district.* In addition to the other factors relevant to the consideration of a zoning map amendment, the commission and the board of supervisors shall consider the following when reviewing an application to establish a planned development district: (i) whether the proposed planned development satisfies the purpose and intent of the planned development district; (ii) whether the area proposed to be rezoned is appropriate for a planned development under the comprehensive plan; and (iii) the relation of the proposed planned development to major roads, utilities, public facilities and services.
 - 2. *Additional factors to be considered when acting; application to amend existing planned development district.* In addition to the other factors relevant to the consideration of a zoning map amendment, including those in subsections (b) and (b)(1), the commission and the board of supervisors shall consider the following when reviewing an application to amend an existing planned development district: (i) whether the proposed amendment reduces, maintains or enhances the elements of a planned development set forth in section 8.3; and (ii) the extent to which the proposed amendment impacts the other parcels within the planned development district.
- c. *Effect of approval.* The board of supervisors' approval of a zoning map amendment shall constitute acceptance of the proffers and also, for any application to establish or amend a planned development district, approval of the application plan, all standards of development, the code of development, and any waivers or modifications it has approved by special exception as provided under section 8.2. The district designation, the accepted proffers, and, if applicable, the approved application plan, standards of development, and code of development, and, if applicable, the special exception shall be included as part of the zoning regulations applicable to parcel(s) that were the subject of the zoning map amendment.

State law reference – Va. Code §§ 15.2-2284, 15.2-2285, 15.2-2286(A)(7).

Sec. 33.7 Owner-initiated zoning map amendments; authority to accept proffers

The board of supervisors is authorized to accept proffers pursuant to Virginia Code § 15.2-2303 in conjunction with owner-initiated zoning map amendments as follows:

- a. *Purpose.* Proffers are conditions that are intended to provide for the protection of the community that are not generally applicable to land similarly zoned. Accordingly, proffers are reasonable conditions that are in addition to the regulations provided for the district under this chapter.
- b. *Form.* Proffers shall be in writing and in a form that is approved by the county attorney. The director of planning is authorized to provide applicants with a proffer statement form.
- c. *Timing of submittal.* Proffers, signed by the owner of all parcels subject to the zoning map amendment, shall be submitted to the department of community development prior to the public hearing before the board of supervisors on the proposed public hearing. The director of planning is authorized to establish written guidelines that require signed proffers to be submitted a reasonable period of time prior to the public hearing so as to allow the county and members of the public a reasonable period of time to review the proffers.
- d. *Amendments to proposed proffers after public hearing has begun.* The board of supervisors may accept, in its sole discretion, amended proffers once the public hearing on the zoning map amendment has begun if it concludes that the amended proffers do not materially affect the overall proposal. If amended proffers are submitted after the public hearing is closed, the board may accept, in its sole discretion, the amended proffers after holding another public hearing.
- e. *Effect of proffers once accepted.* Once proffered and accepted by the board of supervisors in conjunction with an approved zoning map amendment, the proffers shall continue in effect until a subsequent zoning map amendment changes the zoning of the parcel(s) subject to the proffers; provided that the proffers shall continue in effect if the subsequent zoning map amendment is part of a comprehensive implementation of a new or substantially revised zoning ordinance.
- f. *Subsequent amendments to proffers.* Once accepted by the board of supervisors in conjunction with an approved zoning map amendment, proffers may be amended by an owner-initiated zoning map amendment. An application to amend proffers shall be subject to the procedures under section 33.4, provided that a public hearing before the commission under section 33.4(l) and a recommendation from the commission under section 33.4(o) shall not be required unless the board refers the application to the commission for a public hearing and recommendation. The board shall act on the application within a reasonable time not to exceed twelve (12) months after the date it was determined to be complete by the director. Before the board acts on an application to amend proffers, it shall hold a public hearing. Notice of the public hearing shall be provided as required by sections 33.4(f)(4) and 33.4(m). In its sole discretion, the board may waive the requirement for a public hearing on an application to amend proffers if it concludes that the proposed amendments do not pertain to conditions affecting use or density.

State law reference – Va. Code §§ 15.2-2296, 15.2-2302, 15.2-2303.

Sec. 33.8 Special use permits; relevant factors to be considered; conditions; revocation

Special use permits shall be subject to the following:

- a. *Factors to be considered when acting.* The commission and the board of supervisors shall reasonably consider the following factors when they are reviewing and acting upon an application for a special use permit:
 1. *No substantial detriment.* The proposed special use will not be a substantial detriment to adjacent lots.
 2. *Character of district unchanged.* The character of the district will not be changed by the proposed special use.
 3. *Harmony.* The proposed special use will be in harmony with the purpose and intent of this chapter, with the uses permitted by right in the district, with the regulations provided in section 5 as applicable, and with the public health, safety and general welfare.
 4. *Consistency with comprehensive plan.* The use will be consistent with the comprehensive plan.
- b. *Conditions.* The commission may recommend, and the board of supervisors may impose, conditions upon the special use to address impacts arising from the use in order to protect the public health, safety or welfare. The conditions may pertain to, but are not limited to, the following:
 1. The prevention or minimization of smoke, dust, noise, traffic congestion, flood and/or other hazardous, deleterious or otherwise undesirable substances or conditions.
 2. The provision of adequate police and fire protection.
 3. The provision of adequate improvements pertaining to transportation, water, sewage, drainage, recreation, landscaping and/or screening or buffering.

4. The establishment of special requirements relating to building setbacks, front, side and rear yards, off-street parking, ingress and egress, hours of operation, outside storage of materials, duration and intensity of use, building heights, and other particular aspects of occupancy or use.
 5. The period by which the use must begin or the construction of any structure required for the use must commence.
 6. The materials and methods of construction or specific design features, provided such a condition for residential uses shall comply with subsection (c).
- c. *Conditions related to residential uses.* Any conditions imposed in connection with residential special use permits: (i) shall be consistent with the objective of providing affordable housing if the applicant proposes affordable housing; and (ii) shall consider the impact of the conditions on the affordability of housing where the conditions specify the materials and methods of construction or specific design features.
- d. *Conditions deemed to be essential and nonseverable.* Except as the board of supervisors may specify in a particular case, any condition imposed on a special use shall be deemed to be essential and nonseverable from the permit itself and any condition determined to be invalid, void or unlawful shall invalidate the special use permit.
- e. *Revocation for noncompliance with conditions.* A special use permit may be revoked by the board of supervisors after a public hearing if the board determines that there has not been compliance with the conditions of the permit. Notice of the public hearing shall be as provided in Virginia Code § 15.2-2204, provided that the written notice provided by the board of supervisors to the owners, their agents, or the occupants of abutting parcels and parcels immediately across the street from the parcel(s) subject to the special use permit, the board of supervisors may be given by first-class mail rather than by registered or certified mail.

State law reference – Va. Code §§ 15.2-2286(A)(3), 15.2-2309(7).

Sec. 33.9 Special exceptions; relevant factors to be considered; conditions

Special exceptions shall be subject to the following:

- a. *Factors to be considered when acting.* In acting upon a special exception, the board of supervisors shall consider the factors, standards, criteria, and findings, however denominated, in the applicable sections of this chapter, provided that the board shall not be required to make specific findings in support of its decision.
- b. *Conditions.* In approving a special exception, the board of supervisors may impose reasonable conditions to address any possible impacts of the special exception.

State law reference – Va. Code § 15.2-2286(A)(3).

Sec. 34.4 Application for variances

Any owner may apply for a variance. The application shall be made to the zoning administrator in accordance with the provisions of this section and with rules adopted by the board of zoning appeals. The application and accompanying maps, plans or other information shall be transmitted promptly to the secretary of the board of zoning appeals who shall place the matter on the docket to be acted on by the board of zoning appeals. No such variance shall be authorized except after notice and hearing is provided as required by Virginia Code § 15.2-2204. The owner shall provide satisfactory evidence that any delinquent real estate taxes, nuisance charges, stormwater management utility fees, and any other charges that constitute a lien on the subject property, that are owed to the county and have been properly assessed against the subject property, have been paid.

State law reference – Va. Code §§ 15.2-2286(B), 15.2-2309.

Sec. 35.1 Fees

Each applicant shall pay the following applicable fees, provided that neither the county nor the county school board shall be required to pay any fee if it is the applicant:

- a. Zoning text amendments: \$1000.00
- b. Zoning map amendments:
 1. Less than 50 acres; application and first resubmission: \$2500.00
 2. Less than 50 acres; each additional resubmission: \$1250.00
 3. 50 acres or greater; application and first resubmission: \$3500.00
 4. 50 acres or greater; each additional resubmission: \$1750.00
 5. Deferral of scheduled public hearing at applicant's request: \$180.00
- c. Special use permits:
 1. Additional lots under section 10.5.2.1, public utilities, day care center, home occupation Class B, to amend existing special use permit, or to extend existing special use permit; application and first resubmission: \$1000.00

2. Additional lots under section 10.5.2.1, public utilities, day care center, home occupation class B, to amend existing special use permit, or to extend existing special use permit; each additional resubmission: \$500.00
 3. Signs reviewed by the board of zoning appeals: See subsection 35.1(f)
 4. All other special use permits; application and first resubmission: \$2000.00
 5. All other special use permits; each additional resubmission: \$1000.00
 6. Deferral of scheduled public hearing at applicant's request: \$180.00
 7. Farmers' markets without an existing commercial entrance approved by the Virginia Department of Transportation or without existing and adequate parking - \$490.00
 8. Farmers' markets with an existing commercial entrance approved by the Virginia Department of Transportation and with existing and adequate parking - \$110.00
- d. Site plans:
1. Initial site plans: \$1200.00 plus \$15 per dwelling unit and \$0.015 per square foot of nonresidential structure; the fee paid for preapplication plans shall be applied to the fee for initial site plans
 2. Preapplication plans: \$500.00
 3. Final site plans: \$1500.00
 4. Exception to drawing of site plan under section 32.3.5(a): \$1500.00
 5. Site plan amendments under section 32.3.3(b): \$500.00 (minor); \$100.00 (letter of revision)
 6. Site plan amendments under section 32.3.3(b) (major): \$1500.00
 7. Appeals under section 32.4.2.6: \$240.00
 8. Reinstatement of review under sections 32.4.2.1(d) and 32.4.3.1(e): \$240.00
 9. Reinstatement of review under section 32.4.2.5(e): \$80.00
 10. Extension of period of validity: \$475.00
 11. Inspections pertaining to secured site plan improvements; per inspection: \$280.00
 12. Deferral of scheduled public meeting at applicant's request: \$180.00
- e. Certificates of appropriateness considered by the architectural review board ("ARB"):
1. For a site plan; per review by the ARB: \$1000.00
 2. For a building permit; per review by the ARB: \$590.00
 3. Amendment to approved certificate of appropriateness: \$225.00
- f. Matters considered by the board of zoning appeals:
1. Variances: \$500.00
 2. Appeals: \$240.00
 3. Special use permits for signs under section 4.15.5: \$500.00
- g. Matters considered by the zoning administrator or other officials:
1. Official determinations regarding compliance: \$185.00
 2. All other official determinations, including development rights: \$100.00
 3. Zoning clearance for tourist lodging: \$100.00
 4. Zoning clearance for a home occupation, class A, a major home occupation, or a minor home occupation: \$25.00
 5. Zoning clearance for temporary fundraising activity: No fee
 6. All other zoning clearances: \$50.00
 7. Sign permits under section 4.15.4; no ARB review required: \$25.00
 8. Sign permits under section 4.15.4; ARB review required: \$120.00
- h. Groundwater assessments:
1. Tier 1 assessment under section 17-401: \$50.00
 2. Tier 3 assessment under section 17-403: \$510.00
 3. Tier 4 assessment under section 17-404: \$1100.00
- i. Miscellaneous:
1. Change in name of development or change in name of street: \$80.00
 2. Relief from conditions of approval; modification or waiver of requirements: \$425.00
 3. Tier II personal wireless service facilities: \$1820.00
- j. Required notice:
1. Preparing and mailing or delivering up to fifty (50) notices: \$200.00, except for uses under sections 5.1.47 and 5.2A, for which there shall be no fee.
 2. Preparing and mailing or delivering, per notice more than fifty (50): \$1.00 plus the actual cost of first class postage.
 3. Published notice: cost based on a cost quote from the publisher, except for farmers' markets under section 35.1(c)(7) and (8) for which there shall be no fee.

The fee shall be in the form of cash or a check payable to the "County of Albemarle." An application presented without the required fee shall not be deemed to be submitted and shall not be processed, provided that for applications for zoning map amendments and special use permits, the fee shall be paid when the application is determined to be complete. If the zoning administrator determines after a fee has been paid that the review and approval to which the fee pertains is not required to establish the use or structure, the fee shall be refunded to the applicant in full.

(Amended 5- 5-82; 9-1-85; 7-1-87; 6-7-89; 12-11-91 to be effective 4-1-92; 7- 8-92; Ord. 10-18(7), adopted 8-4-10, effective 1-1-11; Ord. 11-18(1), 1-12-11; Ord. 11-18(7), 6-1-11; Ord. 12-18(6), adopted 10-3-12, effective 1-1-13)

State law reference – Va. Code §§ 15.2-2286(A)(6).

This ordinance shall be effective on and after April 1, 2013.

Agenda Item No. 13. **Public Hearing: Lease for Ivy Creek Natural Area.** Pursuant to *Virginia Code* § 15.2-1800(B), to consider the approval of a proposed Lease Agreement for the tenant house in the Ivy Creek Natural Area Park, located at 1780 Earlysville Road, Earlysville, VA 22936 (TMP 45-9). The property is jointly owned by the County of Albemarle and the City of Charlottesville. *(Advertised in the Daily Progress on November 26, 2012.)*

The following executive summary was forwarded to Board members:

The County and City jointly own a house at the Ivy Creek Natural Area (“ICNA”), which is leased to tenants at a reduced rent in exchange for their service as the property’s caretakers. The previous tenants moved out upon giving proper notice to terminate their lease. The County Parks and Recreation Department is responsible for securing new tenants when necessary and negotiating lease terms. New tenant leases are reviewed and approved by the Director of the County Parks & Recreation Department, the Park Superintendent and the County Attorney’s Office. The Department has advertised the vacancy and interviewed potential tenants.

Under the terms of the new proposed lease agreement, the new tenants would pay \$150 monthly rent to the County be responsible for the payment of all utility bills associated with their occupancy of the house and perform the following caretaker duties:

- Assure the park entrance gate is opened and closed at posted times and at special requests.
- Assist the public with information, as needed.
- Clean and stock restrooms and clean up and remove trash in the parking lot and open areas.
- In the absence of park personnel, perform emergency repair or maintenance of park facilities and grounds, to the extent possible, and contact park personnel.
- Mow and trim grass in the park, on grass trails and around tenant house, as outlined by the Park Superintendent.

The initial term of the lease would be one year, beginning December 15, 2012, followed by up to four additional one-year terms. The monthly rent for the initial year would be \$150 per month and could be adjusted to reflect any change in caretaker responsibilities. The attached proposed lease agreement (Attachment A) has been reviewed and approved by both the County and City Attorneys and signed by the tenants. Virginia Code § 15.2 – 1800(B) requires that the Board hold a public hearing prior to entering into this lease agreement. The Clerk of the Board has advertised the Notice of the public hearing in the local newspaper to give residents an opportunity to comment on the proposed lease. The Charlottesville City Council is scheduled to consider approval of the proposed lease agreement on December 3, 2012.

The approval of this lease agreement would generate \$1,800.00 in annual revenue. In addition, having the tenants perform the listed duties is much more cost efficient than having County employees perform these tasks.

After the public hearing, staff recommends that the Board authorize the County Executive to sign the attached proposed lease agreement (Attachment A).

Mr. Bob Crickenberger, Director of Parks and Recreation, said that Ivy Creek Natural Area is a jointly owned County and City park. There is a house on the property which is leased to tenants at a reduced rate in exchange for services as the property’s caretakers. He said that all leases, new leases, are reviewed and approved by himself, the Park Superintendent, Parks and Recreation staff, and the County Attorney’s office. Mr. Crickenberger said that under the terms of the proposed lease, the new tenants would be required to pay \$150 monthly rent and all the utilities, and performing the caretaking duties as outlined in the executive summary. He stated that there is a daily opening and closing of the Park, including any special events that may be occurring in the barn or at the education center, which is applicable 365 days.

Mr. Crickenberger said that the tenants are also responsible for daily cleaning and maintenance of the restrooms, daily removal of debris and trash in the parks and related areas, and to perform any emergency repairs and grounds maintenance. He stated that the rent for the initial year is \$150 per month but can be adjusted to reflect changes in the caretaker responsibilities. Mr. Crickenberger said that the proposed lease agreement has been reviewed and approved by both the County and City Attorneys. City Council approved the agreement on December 3. He reported that the lease agreement will result in revenues of \$1,800, and staff has determined that having tenants perform these tasks is much more cost efficient than having staff do them.

Mr. Crickenberger said that staff recommends that after the public hearing, the Board authorizes the County Executive to sign the lease agreement.

Mr. Boyd commented that the County is getting a pretty good deal given the level of responsibility on the tenants.

Mr. Snow asked if there has been a dollar figure put on the value of those services.

Mr. Crickenberger responded that the County is saving about \$10,000 and earning \$1,800 in revenue on top of that, with no benefits paid.

The Chair opened the public hearing. Since no one came forward to speak, the public hearing was closed, and the matter placed before the Board.

Mr. Rooker offered **motion** to authorize the County Executive to sign the proposed lease agreement. Ms. Mallek **seconded** the motion.

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

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

NAYS: None.

RESIDENTIAL LEASE AGREEMENT IVY CREEK NATURAL AREA

THIS LEASE AGREEMENT is made as of this 1st day of December, 2012; by and between County of Albemarle & City of Charlottesville (hereafter collectively, the "Landlord"), whose address is 401 McIntire Road, Charlottesville, Virginia 22902 (hereafter, the "County"); PO Box 911, Charlottesville, Virginia 22902 (hereafter, the "City") and Ashley Crosby and Katharine Cleveland (hereafter, the "Tenant").

1. **REAL PROPERTY AND TERM OF OCCUPANCY.** In consideration of the promises and covenants herein, Landlord hereby leases to Tenant that property located in the County of Albemarle, Virginia, and known as Ivy Creek Natural Area Park Tenant House together with the fixtures and personal property listed below, (the Premises) for the term of 1 (one) year(s) commencing at noon on December 15, 2012. Thereafter, unless otherwise terminated by either party, as provided herein, this Lease shall renew automatically for four (4) additional one-year terms.
2. **PERSONAL PROPERTY.** The following personal property is included in the Premises subject to this lease: Range oven, woodstove, and refrigerator.
3. **USE OF PREMISES.** The Premises will be used by Tenant as a private dwelling and for no other purpose. The Premises will be occupied by no persons other than persons who have signed this Lease as Tenant and such person's children under the age of 18.
4. **RENT.**
 - a. Tenant agrees to pay as rent the total sum of \$1,800.00 per year, due and payable in advance in monthly installments of \$150.00, except as follows: If the lease term begins on a day other than the first day of a calendar month, the first month's rent shall be \$75.00. If the lease term ends on a day other than the last day of a calendar month, the last month's rent shall be \$75.00. The first month's rent payment is due on December 15, 2012. The monthly installment of rent due for each month thereafter shall be due on the first day of each month. Rent shall be paid to County of Albemarle (landlord/agent) at Albemarle County Parks & Recreation, 401 McIntire Road, Charlottesville, Virginia 22902 (address) or at other such place as Landlord or Agent may from time to time designate in writing. If a monthly installment of rent is not received before the 6th day of the month, Tenant agrees to pay as additional rent a charge of late fee of \$10.00 for each month that the monthly installment of rent is not received by the 6th day of such month. The purpose of this late fee is to compensate Landlord for the expenses of processing such delinquent account. Rent payments will be applied first to all past due balances of rent and other charges owing under this Lease. The remaining portion if any of such rent payments will be applied to current rent. If there are two or more tenants, Landlord shall have the option of requiring that only one check, cashier's check or money order will be accepted for each monthly installment for rent.
 - b. As additional rent, the Tenant shall perform the following duties as long as either of them resides on the Property. The following duties may be modified as duties may be added or deleted by mutual written agreement between the County and City and the Tenant. Failure to perform the following duties on the part of the Tenant shall constitute a material breach by the Tenant under the Lease Agreement and shall entitle the Landlord to terminate this Lease or exercise any other remedy under this lease or available law. The Tenant shall:
 - i. Assure the park entrance gate is opened and closed per posted times and at special requests;
 - ii. Assist the public with information as needed;
 - iii. Clean and stock restrooms and clean up and remove trash in parking lot and open areas;
 - iv. In absence of park personnel, perform emergency repair or maintenance of park facilities and grounds, to the extent possible, and contact park personnel
 - v. Mow and trim grass in park and on grass trails and around tenant house as outlined by Park Superintendent;
 - c. The County and City reserve the right to agree to certain modifications pertaining to the foregoing tenant responsibilities during the term of the lease agreement. It is the intent of the

- County and City to delegate this responsibility to the Albemarle County Parks and Recreation Department, and its Director.
- d. The County and City further agree that, in the event tenant performs additional duties at the specific request of the County and City in connection with the property, or for any other reason in the sole discretion of the County and City, then an adjustment in the payment of rent under this lease agreement may be made, provided that any such modifications shall be effective only if in writing between the County, City and the tenant. It is the intent of the County and City to delegate this responsibility to the Albemarle County Parks and Recreation Department, and its Director.
 5. **BAD CHECKS.** Tenant agrees to pay as additional rent a charge of \$15.00 for each check returned for insufficient funds. This charge will be in addition to any late fee, which may be due. If any of Tenant's checks are returned to Landlord or Agent for insufficient funds, Landlord will have the option of requiring that further payments must be paid by cash, cashier's check, certified check, or money order.
 6. **SECURITY DEPOSIT.** Tenant agrees to pay the sum of \$150.00 as a security deposit. This sum will be due when this Lease is signed by Tenant. Prior to the termination or expiration of this Lease, if Landlord makes any deductions from the security deposit for charges arising under this Lease or by law, Tenant agrees to pay Landlord such sums as may be necessary to offset such deductions to replenish and maintain the security deposit in the amount set forth above. The security deposit will be held by Landlord to secure Tenant's full compliance with the terms of this Lease. Within 30 days after the termination of this Lease, Landlord may apply the security deposit and any interest required by law to the payment of any damages Landlord has suffered due to Tenant's failure to maintain the Premises, to surrender possession of the premises thoroughly cleaned and in good condition (reasonable wear and tear excepted), or to fully comply with the terms of this Lease, and any balance, if any, to unpaid rent. Landlord shall provide Tenant with an itemized accounting, in writing, showing all such deductions. Within this 30-day period, Landlord will give or mail to Tenant the security deposit, with any interest required by law and minus any deductions. To assist Landlord, Tenant shall give Landlord written notice of Tenant's new address before Tenant vacates the Premises. During the term of occupancy under this Lease, if Landlord determines that any deductions are to be made from the security deposit Landlord will give written notice to Tenant of such deduction within 30 days of the time Landlord determines that such deduction should be made. This provision applies only to deductions made 30 days or more before the termination of this Lease. Landlord will maintain itemized records of all security deposit deductions and these records may be inspected by Tenant, his authorized agent or attorney, during normal business hours. However, when two years has passed from the time a deduction was made, Landlord may destroy the record of that deduction. If Landlord sells or otherwise transfers all or any interest in the Premises during the term of this Lease, Tenant agrees that Landlord may transfer the security deposit, plus any interest required by law, to the purchaser who in such event shall be obligated to comply with the provisions of this section.
 7. **PARKING.** Tenant agrees to comply with such parking rules and regulations as Landlord may issue from time to time, and deliver to Tenant; provided that Tenant shall be given a reasonable opportunity to comply with any parking changes made during Tenant's term of occupancy under this Lease. Vehicles parked on or about the Premises in violation of such rules and regulations may be towed at the owner's expense.
 8. **PETS AND ADDITIONAL RESIDENTS.** The Tenant shall not be allowed to have pets or additional residents without Landlord's prior written consent, which may be withheld in the Landlord's sole discretion. If such permission is granted the tenant agrees to be responsible for all damages to the property and third parties (persons and property) caused by pets or additional residents. It is understood that if this approval is given that it may be rescinded in the event a problem develops related to a pet or an additional resident.
 9. **UTILITIES.** The Tenant is responsible for all utilities.
 10. **ALTERATIONS AND IMPROVEMENTS.** Tenant agrees that no alterations; installations, repairs or decoration (including painting, staining and applying other finishes) shall be done without Landlord's prior written consent. However, Landlord may require Tenant to return the Premises to its original condition when this Lease terminates or expires. In addition, Landlord may require that any change, alteration or improvement to the Premises will become a permanent part of the Premises which may not be removed upon the termination or expiration of this lease. Such changes or improvements will include, but not be limited to, locks, light fixtures, shutters, built-in shelves or bookcases, wall-to-wall carpeting, flowers and shrubs.
 11. **INSPECTIONS AND ACCESS.** Landlord may enter the Premises to make inspections, repairs, decorations, alterations or improvements, and to show the Premises to prospective tenants, purchasers, mortgagees, workers and contractors and shall have the right to erect or place "For Sale" or "For Rent" signs thereon. Except in case of emergency or when it is impractical to give notice, Landlord will give Tenant reasonable notice of Landlord's intent to enter and may enter the Premises only at reasonable times.
 12. **MOVE IN INSPECTION.** Within 5 days after Tenant takes possession of the Premises, Landlord agrees to provide Tenant with a list setting forth all of the defects and damages to the Premises, its equipment and appliances. The list shall be treated as correct unless Tenant objects to the list by written notice given to Landlord within five days after Tenant receives the list.

13. COVENANTS BY LANDLORD. Landlord covenants and agrees to maintain all electrical, plumbing, heating, ventilating, air conditioning and other facilities and appliances, including elevators, in good and safe working condition; and comply with applicable building and housing code requirements materially affecting health and safety. Landlord's failure to comply with the above requirements will not be grounds for Tenant's termination of this Lease unless Tenant has given Landlord written notice of the defective condition and Landlord has failed to remedy the condition within 21 days. However, Tenant may not terminate the Lease if Tenant, a member of Tenant's family or some other person on the Premises with Tenant's consent intentionally or negligently caused the defective condition. Such defective conditions will be repaired at Tenant's expense. Any termination by Tenant shall be made in accordance with the section of this Lease concerning breach by Landlord.
14. COVENANTS BY TENANT. Tenant covenants and agrees to keep the Premises clean and safe; use all electrical, plumbing, heating, ventilating and air-conditioning facilities and appliances in a reasonable manner; conduct himself or herself, and require guests to conduct themselves, in a manner that will not disturb Tenant's neighbors; and to take care not to intentionally or negligently destroy, damage or remove any part of the Premises, and that he or she will not permit any person to do so. The County and City reserve the right to request the Tenant to remove from the site any personal property that is inconsistent with the scenic natural beauty of the park (inoperable vehicles, appliances, etc.). The County and City reserve the right to request the Tenant to cease any activity that is inconsistent with the park or surrounding neighborhood. Tenant covenants and agrees to care for, maintain and repair the Premises, equipment, appliances and fixtures. Upon the expiration or termination of this Lease, Tenant agrees to deliver the Premises in good and clean condition, ordinary wear and tear excepted. Tenant agrees to pay the cost of all repairs and cleaning required by wear and tear beyond the ordinary. During the duration of this Lease, Tenant agrees to give Landlord prompt written notice of any defects in the Premises, its equipment, appliances and fixtures. If further damage occurs between the time Tenant learns that a defect exists and the time Landlord learns of such defect. Tenant will be liable for the costs of any repairs of such additional damage, which might have been avoided, had Tenant promptly notified Landlord of the defect. Tenant agrees to pay all costs resulting from the intentional or negligent destruction, damage or removal of any part of the Premises by Tenant or by any of Tenant's guests or other persons on the Premises with Tenant's consent. Tenant further agrees to release, indemnify, protect, defend and hold the County and City harmless from all liability, obligations, losses, claims, demands, damages, actions, suits, proceedings, costs and expenses, including attorney's fees, of any kind or nature whatsoever, whether suffered, made, instituted or asserted by any entity, party or person for any personal injury to or death of any person or persons and for any loss, damage or destruction of the Premises, arising out of, connected with, or resulting directly or indirectly from the negligent or intentional acts of Tenant, Tenant's guests or other persons on the Premises with the consent or permission of Tenant. The foregoing agreement to indemnify shall continue in full force and effect notwithstanding the termination of this Agreement. Tenant further agrees to release, indemnify, protect, defend and hold the County and City harmless from all liability, obligations, losses, claims, demands, damages, actions, suits, proceedings, costs and expenses, including attorney's fees, of any kind or nature whatsoever, whether suffered, made, instituted or asserted by any entity, party or person for any personal injury to or death of any person or persons and for any loss, damage or destruction of the Premises, arising out of, connected with, or resulting directly or indirectly from the negligent or intentional acts of Tenant, Tenant's guests or other persons on the Premises with the consent or permission of Tenant. The foregoing agreement to indemnify shall continue in full force and effect notwithstanding the termination of this Agreement.
15. TENANT TO CLEAN PREMISES WHEN LEASE ENDS. Upon the termination or expiration of this Lease, Tenant will remove all of Tenant's property from the Premises and deliver possession of the Premises, thoroughly clean and in good condition, reasonable wear and tear excepted, and in compliance with such reasonable conditions as may be set forth in Landlord's rules and regulations. Tenant's compliance with this section is necessary to insure that the Premises will be in good condition for the next tenants to whom Landlord leases the Premises. Tenant will be liable for any damages Landlord may suffer due to Tenant's failure to leave the Premises thoroughly clean and in good condition, reasonable wear and tear excepted.
16. MOVE OUT INSPECTION. Upon the termination or expiration of this Lease, Landlord will inspect the Premises to determine whether Tenant has properly maintained the Premises and has left Premises thoroughly cleaned and in good condition, reasonable wear and tear excepted. Grease accumulation and unreasonable marks, holes, nicks or other injury to walls, ceilings, floors or appliances will not be considered ordinary wear and tear. This inspection will be made to determine what portion of the security deposit will be returned to Tenant and whether Tenant may be liable for damages exceeding the amount of the security deposit. This inspection will be made with 72 hours after the termination of Tenant's occupancy of the Premises. For the purposes of this section, the termination of Tenant's occupancy of the Premises will not be deemed to have occurred until all or substantially all of Tenant's property has been removed from the Premises. Tenant will have the right to be present during this inspection, provided Tenant gives Landlord written notice of Tenant's desire to be present during the inspection. Upon receiving such notice, Landlord will notify Tenant of the time and date when the inspection will be made. However, Tenant's delay in notifying Landlord of Tenant's desire to attend the inspection will not require Landlord to delay making the inspection more than 72 hours after the termination of Tenant's occupancy. If Tenant attends the inspection, an itemized list of damages known to exist at the time of the inspection will be provided to Tenant by Landlord immediately upon the completion of the inspection.
17. ABANDONMENT OF PROPERTY. Any personal property Tenant leaves on the Premises after the termination or expiration of this Lease may be treated by Landlord as abandoned property. Landlord will prepare an itemized list of such property and may immediately remove the property from the

Premises and place it in storage for safekeeping for a period not less than one month from the date this Lease terminates and possession of the Premises is delivered to Landlord. Tenant may reclaim the property during this one-month period, provided that tenant pays the cost of its removal and storage. Upon expiration of the one-month period, Landlord will be free to dispose of the property as Landlord sees fit, provided written notice of Landlord's intent to dispose of the property is given to Tenant at least 10 days before such disposal occurs. This notice must be sent to Tenant's last known address, address correction requested. In addition, Landlord must keep the itemized list of Tenant's property for two years after Landlord disposes of that property. Any funds received by Landlord from the disposal of Tenant's property may be applied to Tenant's indebtedness to Landlord for unpaid rent or other damages, including charges for removing, storing and selling the property. Any remaining funds will be treated as security deposit.

18. **DAMAGE OR DESTRUCTION OF PREMISES.** If, through no fault or negligence of Tenant or Tenant's guest, fire or other cause destroys or damages the Premises to the extent that Tenant's enjoyment is substantially impaired, Tenant may immediately vacate the premises and within 14 days thereafter give written notice to Landlord of Tenant's intention to terminate this Lease. In such cases, the Lease will terminate as of the date of termination of Tenant's occupancy and Landlord will return Tenant's security deposit, any interest required by law, and prepaid rent covering the period after Tenant vacated the Premises - subject to any set off for charges or damages Tenant owes to Landlord. If, through no fault or negligence of Tenant or Tenant's guests, fire or other cause damages the Premises to the extent that Tenant's enjoyment is somewhat impaired, though not substantially impaired, Landlord will have a reasonable period of time in which to repair the Premises. Landlord's duty to repair will not arise until Tenant gives Landlord written notice of the damage to the Premises. If Landlord fails to repair the Premises within a reasonable period of time after having received written notice from Tenant, Tenant will be entitled to a reduction in rent for that period of time beginning 30 days after notice was given to Landlord and ending on the date Landlord successfully repairs the Premises. In any dispute concerning Tenant's right to terminate this Lease or receive a rent reduction, Tenant will be required to prove that the condition of the Premises justifies such relief.
19. **BODILY INJURY AND PROPERTY DAMAGE.** Landlord is not an insurer of Tenant's person or property. Except to the extent provided by law, Landlord will not be liable to Tenant for any bodily injury or property damage suffered by Tenant or Tenant's guest.
20. **RULES AND REGULATIONS.** Tenant agrees to comply with Landlord's reasonable and non-discriminatory rules and regulations which concern the use and occupancy of the Premises, which intend to promote the convenience, safety or welfare to tenants or preserve Landlord's property from abusive conduct. Landlord agrees to give Tenant reasonable notice of any new rules or regulations before enforcing such rules and regulations against Tenant.
21. **EARLY TERMINATION OF OCCUPANCY.** Tenant will not be released from liability for all rent and other charges due under this lease unless Landlord signs a written statement on which Landlord agrees to release tenant from such liability.
22. **EARLY TERMINATION OF LEASE BY MILITARY PERSONNEL.** If Tenant is a member of the United States armed forces and (i) receives orders for a permanent change of station to depart 50 miles or more (radius) from the Premises or (ii) is prematurely and involuntarily discharged or relieved from active duty with the United States armed forces, Tenant may terminate this Lease by serving on Landlord a written notice of termination. This notice must state the date when termination will be effective and that date shall not be less than 30 days after the date Landlord receives the notice. In addition, the termination date shall not be more than 60 days prior to the date of departure necessary for Tenant to comply with the official orders or any supplemental instructions for interim training or duty prior to the transfer. Tenant's written notice of termination must be accompanied by a copy of the official orders. If Tenant exercises this right to terminate this Lease, Tenant shall be obligated for rent prorated to the date of termination. Rent for the final month or portion thereof shall be due on the first day of such month. On account of Tenant's early termination of this Lease, Landlord may require Tenant to pay liquidated damages as follows:
 - a. If Tenant has completed less than 6 months of the tenancy under this Lease as of the effective date of termination, liquidated damages may be no greater than one-month's rent.
 - b. If Tenant has completed at least 6 months but less than 12 months of the tenancy under this Lease as of the effective date of termination, liquidated damages may be no greater than one half of one month's rent. Any amount owed; as liquidated damages by Tenant shall be due on the first day of the month in which the effective termination date occurs. This section shall not relieve Tenant of any other liabilities, which have accrued as of the date of termination.
23. **TERMINATION, RENEWAL OR EXTENSION OF LEASE.** This Lease will automatically terminate at the end of the lease term on the date on which Tenant's occupancy ends. In addition, Landlord may terminate this lease for any reason by giving at least thirty (30) days written notice to Tenant. The termination of this Lease will terminate Tenant's right to occupancy but it will not terminate any claims Tenant or Landlord may have arising out of events occurring during the Lease term or during any holdover by Tenant. No agreement renewing or extending this Lease will be effective unless that agreement is in writing and signed by Tenant and Landlord. If Tenant remains in possession of the Premises after the lease term is terminated or expires and Landlord consents to such holdover but does not enter into a written agreement extending this Lease or substituting a new written lease, Tenant shall have a month to month lease subject to termination by either party upon 30 days notice. The monthly rent during such holdover period shall be at the same rate as under this Lease or as otherwise agreed in writing.

24. **ASSIGNMENT OR SUBLET.** Tenant will not assign this Lease or sublet the Premises without Landlord's prior written consent, which will not be unreasonably withheld or delayed. Tenant agrees to pay Landlord a \$ N/A fee if Tenant assigns or sublets the Premises, or any part thereof. No assignment or sublet will release Tenant from continuing liability for the full performance of this Lease unless Landlord signs a written statement clearly releasing Tenant from such liability.
25. **BREACH BY TENANT.** If (a) Tenant fails to pay rent within five days after the date when due, (b) Tenant commits a material breach of this Lease, (c) Tenant denies Landlord's exercise of any rights under this Lease or arising by law, (d) legal proceedings are begun by or against Tenant to levy upon or dispose of Tenants leasehold interest in the Premises, or (e) the Premises is used by Tenant or others for any illegal purposes, Landlord will have the right to sue for rent and to enter and take possession through legal proceedings or, if the Premises is abandoned, to enter and take possession by any lawful means. In addition, Landlord will have the right to pursue all other remedies available, including a claim for damages. If Landlord pursues any such remedies (and regardless of whether such remedies are prosecuted to judgment), Tenant will be liable as follows:
- a. For all past due rent and other charges
 - b. For all additional rent (future rent) that would have accrued until the expiration of the term of occupancy under this Lease or until a new lease term begins, provided (i) that this will not affect Landlord's duty to minimize the damages by making reasonable efforts to enter into a new lease as soon as practical, and (ii) that if Landlord obtains a judgment for future rent, Landlord shall apply as a credit towards that judgment all funds received by Landlord as rent for the Premises for those months for which the judgment for future rent was awarded.
 - c. For all expenses Landlord may incur for cleaning, painting and repairing the Premises due to Tenant's failure to leave the Premises thoroughly clean and in good condition, reasonable wear and tear excepted;
 - d. For any court costs and reasonable attorneys fees incurred by Landlord (i) in collecting rent, other charges or damages, and (ii) in obtaining possession of the Premises;
 - e. For a collection fee equal to 25% of the judgment amount for rent, damages, court costs and attorneys fees. Tenant understands and agrees that this amount represents damages Landlord will be likely to incur in efforts to obtain a judgment against Tenant (including time and effort spent in case investigation, correspondence, filling suit, discussions with lawyers, case preparation and court attendance) and to collect such a judgment. If Tenant has breached the Lease by failing to pay rent when due, Landlord shall give a written notice to Tenant stating that the Lease will terminate within 5 days if the rent is not paid. If Tenant fails to pay the rent within that 5 day period, Landlord may terminate the Lease and proceed to obtain possession of the Premises by filing an unlawful detainer proceeding. In that proceeding, Landlord may pursue a claim for rent and other damages. In connection with breaches other than failure to pay rent, if a material noncompliance with this Lease exists or if there is a violation materially affecting health and safety, Landlord may serve Tenant with a written notice stating that acts or omissions constituting the breach and stating (i) that the Lease will terminate upon a date not less than 30 days after Tenant receives the notice unless the breach is remedied within 21 days, and (ii) that the lease will terminate as set forth in the notice. If the breach is remedial by repairs or the payment of damages and Tenant adequately remedies the breach within 21 days or such longer period of time as Landlord may allow, the Lease shall not terminate. On the other hand, if the breach is not remedial, Landlord's written notice to Tenant may state the acts and omissions constituting the breach and state that the lease will terminate upon a specific date, which date may not be less than 30 days after Tenant receives the notice.
26. **BREACH BY LANDLORD.** If Landlord (a) commits a material breach of this Lease, or (b) fails to a substantial extent to comply with any laws with which Landlord must comply and which materially affect Tenant's health and safety, Tenant may give written notice to Landlord identifying the acts and conditions on the Premises concerning Landlord's breach and stating that this lease will terminate upon a specific date (which must be 30 days or more from the date Landlord receives the notice) unless Landlord remedies the breach within 21 days. If Landlord remedies the breach within that 21 day period, this Lease will not be subject to termination by Tenant in that instance. Tenant will not have the right to terminate this Lease because of conditions caused by the intentional or negligent acts of Tenant or persons on the Premises with Tenant's consent.
27. **RENT WITHHOLDING.** Tenant may not withhold rent because of conditions on the Premises that Landlord is required to repair unless Tenant has given Landlord written notice of the condition and Landlord has failed to successfully repair the condition within a reasonable period of time. If Tenant withholds rent because Landlord has breached the Lease, Tenant must immediately give Landlord a second written notice of the breach and of any conditions of the Premises which Landlord is required to remedy or repair and must state that rent is being withheld for such reasons. If Landlord then sues Tenant for possession of the Premises or for withheld rent, Tenant must promptly pay the rent to the court, which will hold the rent until it decides what portion, if any, should be paid to Landlord. If conditions exist which Landlord is required to remedy and which creates a fire hazard or serious threat to the health or safety of Tenant, Tenant may file an action in a court of competent jurisdiction to terminate the Lease, to require Landlord to repair the Premises, or to obtain other relief. In such an action, Tenant may pay rent to the court to be held until Tenant's action is decided. If Tenant withholds rent or pays rent into court under this section and the court finds (a) that Tenant has acted in bad faith, (b) that Tenant, Tenant's family or guests have caused the conditions or have refused unreasonably to allow Landlord or Landlord's written notice of the condition, Tenant will be liable for Landlord's reasonable costs, including costs for time spent, court costs, any repair costs due to Tenant's violation of the Lease, and attorneys fees.

28. NOTICES. All notices in writing required or permitted by this Lease may be delivered in person, or sent by mail (postage prepaid) to Landlord, Tenant or Agent at such party's address, as set forth above or at such other address as a party may designate from time to time by notice given in accordance with the terms of this section.
29. HEADINGS. The headings of the sections of this Lease are inserted for convenience only and do not alter or amend the provisions that follow such headings.
30. GOVERNING LAW. This Lease is entered into and shall be construed under the laws of the State of Virginia.
31. SEVERABILITY. Any provision of this Lease which is prohibited by, or unlawful or unenforceable under, Virginia law shall be ineffective only to the extent of such prohibition without invalidating the remaining provisions of this Lease.
32. FAILURE TO ENFORCE LEASE NOT A WAIVER. Landlord's waiver of a breach by Tenant shall not be interpreted as a waiver of any subsequent breach or noncompliance, and this lease shall continue in full force and effect.
33. AMENDMENTS. This lease may not be amended or modified except by prior written consent of the Landlord. All amendments or modifications shall be in writing and signed by both parties.
34. ENTIRE AGREEMENT. This lease shall constitute the full and complete agreement between the parties, and no other writings or statements (other than amendments or modifications pursuant to Section 32) shall be of any consequence or have any legal effect.

Recess. At 11:24 a.m., the Board recessed and then reconvened at 11:34 a.m.

Agenda Item No. 14. Fire/Rescue Overtime.

The following executive summary was forwarded to Board members:

On September 5, 2012, the Board approved the County's acceptance of a Federal FEMA Safer Grant to provide nine Firefighter/Advanced Life Support (ALS) personnel. Analysis of the grant impacts revealed the need for an increase in overtime (OT) funds to accommodate the additional personnel. During discussion of this matter, the Board requested more information regarding the scope and magnitude of the amount of OT inherent in a Firefighter's schedule, as well as the history of OT use in the Fire/Rescue Department. The Board requested that staff provide information at a future meeting describing in detail the Department's OT budget, expenditures, and how it compared to that of Fire Rescue departments in similar localities.

In FY2012, the Department's OT expenditures totaled \$514,736; representing approximately 7.6% of its overall operating expenditures. As noted in Attachment A, fire/rescue OT costs have been trending in an upward fashion over the past six years. At first look, this may appear concerning; however, data reveals that this level is appropriate and consistent with peer jurisdictions especially when considering the fact that a certain amount of OT is more cost effective, efficient and preferable to hiring additional staff.

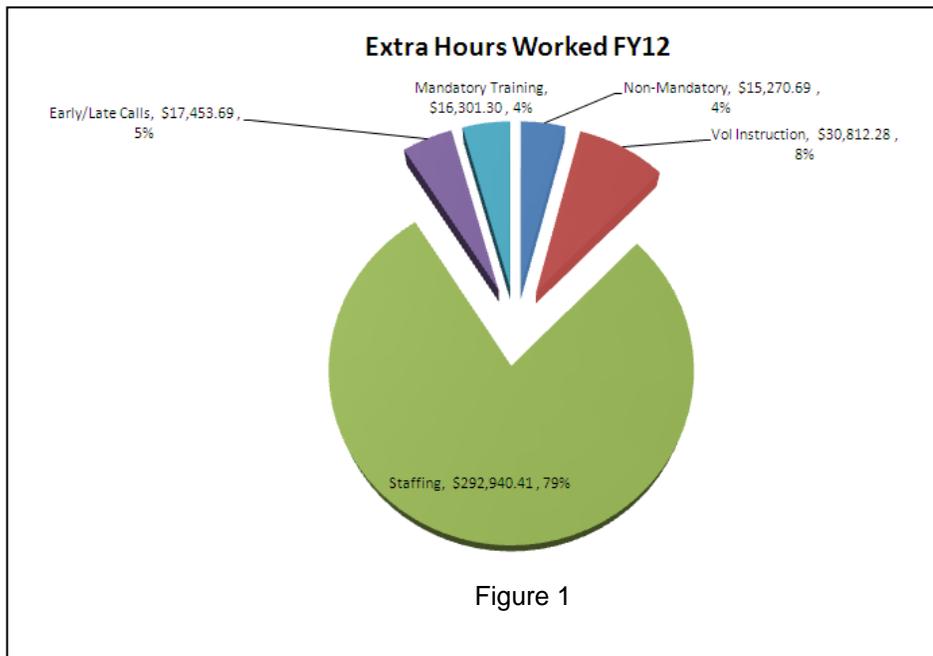
Several contributing factors have led to increased OT expenditures over the past six years for the Department. Key among the reasons is the addition of 17 Firefighter/ALS FTE's (East Rivanna Volunteer Fire Department daytime staffing and opening of the Hollymead Fire Station), Department staff turnover, and increased salaries for most personnel within the Department. Additionally, implementation of a Virginia employment law regarding "gap hours" requires pay at time and one half for certain hours where straight pay had been applied in the past.

Fire Rescue staff have taken a number of steps to ensure the most efficient and effective use of career staff, and thereby OT dollars. Staff restructured the shift schedule for operations personnel to achieve maximum efficiency, secured Board approval for the over-hire of two additional personnel, and eliminated OT where possible, such as a quarterly Captain's meeting now conducted online while meeting attendees are on regular duty. Other steps recently taken will help to ensure a well managed OT budget as well. The Board implemented the public safety reclassification in the spring of 2012 and just last month approved a public safety recruitment and retention program. Staff believes these steps will help with OT expenditures by reducing turnover and encouraging certification, which will allow maximum use of on-duty staff to fill minimum staffing roles.

Specific to the amount of OT built into a firefighter's position, it is important to recognize that staff assigned to the 24 hour shift (36 FTE's) work a 28 day FLSA work cycle and work an average of 56 regularly scheduled hours per week, or an average of 224 regularly scheduled hours per work cycle. The FLSA requires that all regularly scheduled hours worked above 212 hours per work cycle be paid at a time and one half rate. Therefore, on average there are 12 scheduled hours more than the FLSA maximum (212 hours) per work cycle for each FTE, which are required be compensated an additional half time to meet the time and one half rate requirement. This half time expenditure for regularly scheduled OT is paid out of Fire Rescue's OT budget. In FY12, FLSA OT pay made up 11% (\$50,000) of the Operations OT expenditures.

Fire Rescue Operations staff assigned to a 24 hour shift must work all County holidays, and those assigned to a day shift must work five of the twelve County holidays. Because of this, personnel are compensated comp time or pay for each holiday. For those who choose pay, the expenditure is paid out of Fire Rescue's OT budget. In FY12, Holiday pay made up 12% (\$58,000) of the Operations OT expenditures. Accordingly, because of the need for employees to work Holidays and adhere to FLSA pay requirements, there is a certain amount of OT that is inherent in their schedule and pay structure.

Extra hours pay includes what is typically understood as "OT hours", those hours worked beyond the normal shift. Although this type of "typical" activity (for example an emergency call occurring just prior to a crew going off duty) is a component of operations OT, it only accounted for \$17,000 in expenditures in FY12. The more significant OT results from minimum staffing requirements. Minimum staffing requirements accounted for \$293,000 in FY12. Minimum staffing is described as putting the right number of people having the right certification on each unit to provide the minimum level of service. For example, it takes three personnel to staff an ALS engine company. One of those personnel must be certified as an



officer, another must be certified as a driver, and one of the three must be an ALS provider. To maintain the right number of personnel with the right certifications frequently requires paying an individual OT. Other factors influencing extra hours include scheduling mandatory training and providing volunteer instruction (see figure 1).

Figure 1

Generally, a certain amount of OT is preferable to hiring additional staff; being more cost effective

and efficient. However, at some point it is not more cost-effective. Staff has completed a comparison of the Department's OT budget with the OT budgets of Departments in similar localities, and this research shows that the Department's OT per FTE is in line with other benchmark localities (see figure 2). Further, the County employs fewer career firefighters per one thousand in population and does so with the smallest budget per capita (see Attachment A).

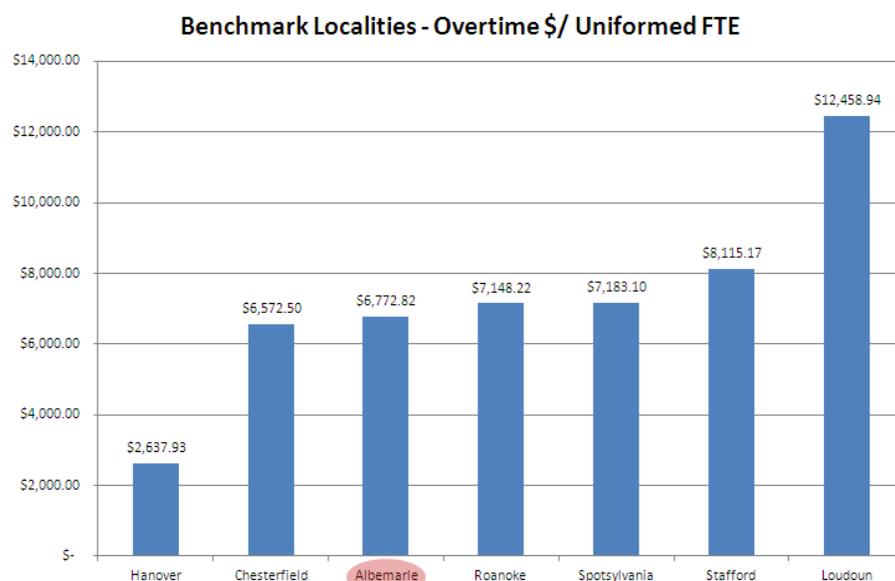


Figure 2

Staff offers the following conclusions: (1) OT expenditures cannot be eliminated due to FLSA requirements, holiday pay, and staffing to provide minimum service levels; (2) Current OT expenditures are in line with peer localities; and (3) OT is a reasonable expenditure and provides for cost effective and efficient operations at current service levels.

There is no budget impact at this time. Staff anticipates that the Fire Rescue OT budget will continue to trend upward over the next several years. Factors in that trend include salary increases (including the VRS increase), a full year of operations in both Pantops and Ivy, and additional staff as a

result of the FEMA Grant. Additionally, the Fire Rescue OT budget has been under funded in the past, so there will be funding necessary to “catch up” with historical actuals.

This item is for information only and no action is required at this time.

Chief John Oprandy said that he is before the Board to share additional information on fire and rescue overtime expenditures. Chief Oprandy said that the question is why is the fire rescue overtime trending up since 2007, and there are several reasons why that is the case. He explained that Fire and Rescue have added 17 total additional staff since 2007 – 12 for Hollymead Fire and Rescue engine company, and another five for East Rivanna’s engine company during the daytime. Chief Oprandy said they have had a number of staffing challenges over the year due to turnover and subsequent hiring of new personnel who are unreleased until they are trained and can be released. They have to be trained to the point that they get to release status – and they do not count toward minimum staffing until that happens. He stated that they have also had a number of injuries – and those people do “light duty” such as office tasks, with an average of 11 personnel per year in that situation. Chief Oprandy said that there has also been an increase in salaries over the same years, and higher overtime costs due to the Virginia law interpretation or “gap” pay which has meant that hours formerly considered normal are now considered overtime. He stated that there have been call load increases over the years, especially with late calls that come in near the end of shifts. When personnel do not leave at the end of their normal shift due to a call, it requires overtime pay. Another impact is that with minimal staffing, they must have certain specialties on board, i.e., an engine company must have a driver, officer, ALS certification, etc., with the personnel, and if they do not have that right combination of training, they must hire overtime to make sure the service is provided.

Mr. Rooker asked what the total number of paid staff is now. Chief Oprandy responded that there are 65 people now employed in operations.

Chief Oprandy said that with overtime trending up, the question is what has Fire and Rescue done to mitigate that. He reported that the Department has taken a number of steps to try to minimize overtime, including changing the schedules to ensure they are getting peak efficiency out of full-time employees so they cover as many hours as possible with regular duty as opposed to overtime. About two years ago, the Department changed the schedule in the field, and put together a crew that travels the County and “floats” to fill in for vacancies that occur during normal time off.

Chief Oprandy stated that the County was instrumental in putting together the Department’s ability to over-hire by two personnel, so that allows them to anticipate a vacancy and have somebody already in the training process so when there is a vacancy someone is ready more quickly – thus reducing overtime. The Department has also eliminated discretionary overtime. Any overtime where the task could be accomplished in the same way has been eliminated. An example is that they used to meet monthly with captains, bringing them all to one station to meet with them and discuss personnel issues, maintain some consistency among stations and shifts, which is now done through technology such as weekly webinars. Chief Oprandy also stated that implementation of the public safety reclassification will affect recruitment and retention, as well as pay for specialty certification and ability. He said that they will be able to train more people up to a certain level so that they are on duty during regular hours as opposed to having to hire a driver for overtime.

Chief Oprandy reported that there are three main components to Fire and Rescue overtime: holiday pay, extra hours, and Fair Labor Standards Act pay. He explained that personnel work an average of 224 hours each cycle, with 13 cycles per year, and their salaries are based on that average. Chief Oprandy said that the FLSA requires that any hours above 212 are compensated at time and a half, so the Department owes time and a half to anyone working the 12 hours that are in the red – which is 36 total personnel out of the 65 operational staff.

Mr. Thomas asked if that was federally required. Chief Oprandy responded that it was.

Chief Oprandy stated that the 212 hours inherent in the 28-day cycle is a federal mandate, and the gap pay is based on a Virginia law interpretation.

Mr. Rooker asked if the pay schedule has an option. Mr. Davis responded that there is an option but the 28-day cycle is the more favorable choice, otherwise the Department must have 40-hour work weeks so anything over that would be paid overtime. He explained that there is a provision in the FLSA that allows public safety personnel to have a longer pay cycle, and that actually saves money comparatively.

Chief Oprandy reported that Fire and Rescue personnel assigned to the 24-hour shift are required to work all County holidays, and day staff must work 5 of the 12 holidays – so for those they do not receive off, they can either get comp time to have a different day off or pay for that holiday. For those who choose the pay, it comes out of the overtime line within the budget.

Mr. Snow asked if holiday pay is at time and a half. Chief Oprandy responded, “no” that is at straight pay. He said that overtime is not necessarily time and a half, as the Department does pay some hours at straight pay out of that budget line item.

Chief Oprandy reported that the third component of the overtime pay is “extra hours,” which comprise the largest piece. He said that some situations requiring extra hours include emergency calls toward the end of the shift, obtaining required training such as ALS or driver operator training, use of

career staff operations personnel to provide instruction, minimum staffing requirements-ensuring apparatus is staffed to respond, and participation on committees or hiring process that are outside normal duty.

Ms. Mallek asked which of the items listed are paid at time and a half. Chief Oprandy stated that all of the hours would be time and a half, if they are extra hours above and beyond what is regularly scheduled. He reiterated that these hours are the bulk of their overtime.

Chief Oprandy said that for FY12, all overtime expenditures totaled just over \$500,000 – and of that, 94% was within Operations (\$480,000). He said that the remaining 6% was in the training division, prevention division, and administration. Chief Oprandy explained that the FLSA and holiday pay make up roughly 25% of the total overtime dollars, and the remaining 75% is in extra hours – which is the bulk of overtime expense. Just looking at extra hours, he said, 84% of those dollars are for providing minimum staffing or responding to late calls. He noted that staffing makes up over \$300,000 of that total, and for the remaining 16% - one-half of that is for the volunteer instruction at the training center, and the other one-half is the required training and other overtime.

Chief Oprandy said that the question becomes whether the overtime budget is reasonable. He stated that a certain amount of overtime is preferable to adding full-time staff. He said that it is more cost-effective and more efficient, but the issue is how to determine where that line is. Chief Oprandy said that the department took several lenses and compared Albemarle's operations to those in other localities. He said that with overtime dollars per uniformed FTE, when comparing to Chesterfield, Hanover, Roanoke, Spotsylvania, Stafford and Loudoun – Albemarle was in line with those localities, with Loudoun being significantly higher and Hanover being significantly lower. Chief Oprandy said they called Hanover and asked how they are providing a similar service for a lot less, and they reduce service instead of spending dollars on overtime. He stated that they will essentially "brown out" an engine company or station, so they would shut down a company if it is understaffed and draw personnel from another area. Chief Oprandy said that Albemarle does not drop its level of service, and ensures that all minimum staffing positions are filled.

Chief Oprandy said the Department also looked at efficient use of career staff, and Albemarle is the lowest among peer localities – not factoring in FEMA personnel or Ivy hires, which puts the County in between Stafford and Spotsylvania. He noted that both Stafford and Spotsylvania have a number of career staff proposed to be added currently, so that would need to be determined.

Ms. Mallek asked how Albemarle compares to these localities as far as the number of volunteers. Chief Oprandy responded that Albemarle has as similar number of volunteers as Hanover, but he does not have specific numbers in front of him.

He reported that the third comparative lens they used was overall budget efficiency. The Department's budget analyst talked with the other localities to try to determine what budget they had just for operations staff – but that did not include support for volunteers or other expenditures such as the City contract. He said that in that comparison, Albemarle is significantly lower than the other benchmark localities.

Chief Oprandy stated that given the comparison through those three lenses, they determined that because overtime is in line with other peer localities and the total budget is the lowest of those interviewed, and the FTEs per citizen was lowest among peer localities, the Department felt that was a good indication that it was not in left field in terms of the overtime expenditures to staff apparatus on a daily basis to provide the level of service that it is providing. He added that Albemarle seems to be in line with the overtime dollars spent by other localities. He said that there is no particular budget impact to be discussed but that he does want to mention that this will change significantly over time due to salary increases, VRS increases, a full year of Ivy operations, call volume increase, and the historical actuals experienced this year. Chief Oprandy noted that County support of the FEMA employees once that grant runs out also has not yet been determined. Staff will continue to monitor these items and continue to operate as efficiently as possible.

Ms. Mallek asked if the holiday pay is only for 11 and 12. Chief Oprandy responded that it is for day staff as well, and for five of the 12 holidays they do not put career staff in the stations. He said that volunteers cover some of the holidays, and they give career staff the day off – and with others, day staff is expected to work so they get the option of comp time or money for the holiday.

Ms. Mallek asked if the Department has considered calling in volunteers when one of the day guys is out, and also asked about using administrative staff. Chief Oprandy responded that they have attempted that, but they have actually added daytime staff because volunteers are not available even to cover just a few of those hours. He said that with the exception of an occasional vacancy, depending on volunteers on a regular basis has not been feasible. Chief Oprandy explained that administrative staff does not necessarily work in the office, a light duty person might do other non-field projects.

Mr. Foley noted that the 65 staff was operations in the field staff, not total staffing. Ms. Mallek confirmed that it is 19 personnel on top of the 65. Chief Oprandy said that was correct.

Mr. Rooker asked if the 11 people who became light duty are the total number during the year. Chief Oprandy responded that it is, but not all at once. He said that if there are things the staff members can do, the Department will use them in some capacity.

Mr. Rooker asked if there is a short-term disability policy. Mr. Davis responded that the County has worker's compensation for work-related duty and sick leave, but not a separate short-term disability policy.

Mr. Rooker asked if the County has a policy where if someone has an injury on or off the job, that person can come into the office and work at full pay for an indefinite period of time. Mr. Davis responded that it would not be for an indefinite period of time. He said that for someone who has an on-the-job injury, it is usually to the County's benefit to put them on light duty rather than to have worker's comp completely cover that claim. Mr. Davis said that someone who gets injured on their personal time and has exhausted their sick leave, it is possible to find light duty but the decision is made as to whether or not they can continue to do their work within a reasonable amount of time. Otherwise, a different employment decision would have to be made. Mr. Davis added that these personnel are valuable, trained people and are an asset, and the County does not want to lose them.

Mr. Foley said that it looks like a large number, and that is why the Department did comparisons with other localities. He stated that the cost per FTE is not necessarily going to go up, but every position has some overtime impacts that will drive the budget in total up over time.

Mr. Rooker asked about catching up with historical actuals. Chief Oprandy explained that the presentation goes over actual expenditures for FY12, but they were not budgeted \$500,000. At the end the Department came to the Board looking for an additional appropriation. He said that the reason that will go up is because it has not been budgeted to keep up with actual expenditures to date.

Mr. Davis said that there were factors such as the unexpected requirement to pick up the VRS amount in salary – and that was a 5% increase, with these employees' hourly wages having the hidden cost of having to pay them overtime based on that 5% increased cost. He added that that was one of those unanticipated consequences of the VRS decision by the General Assembly last year.

Mr. Rooker commented that it was a fairly poorly executed policy change.

Ms. Mallek commented that she learned a lot. Mr. Rooker added that the information was helpful.

Agenda Item No. 15. Strategic Prevention Fund – State Incentive Grant (SPF-SIG) Overview, Alexandra London-Gross.

The following executive summary was forwarded to Board members:

Albemarle County was one of thirteen jurisdictions in Virginia to receive funding for a Strategic Prevention Fund – State Incentive Grant (SPF-SIG). This program is one of the Substance Abuse and Mental Health Services Assistant's infrastructure grant programs. These grants support an array of activities to build a solid foundation for effective substance abuse services.

Virginia's priority is to reduce motor vehicle crashes (MVCs) involving alcohol-impaired drivers between the ages of 15 and 24. It aims to reduce the consumption patterns, including underage drinking and binge drinking, which lead to MVCs, instead of simply providing alternative transportation options. The planning phase was initiated in February 2012 and will run through January 2013. Implementation of strategies will occur from February 2013 to January 2014, with the potential for a second-year of continued funding.

Albemarle County has the sixth highest rate of alcohol-related MVC mortalities in the Commonwealth of Virginia. In 2011, eight percent (8%) of all MVCs were related to alcohol consumption. Of particular concern in this region is the high rate of alcohol-related MVCs among adolescents and young adults. A total of 195 alcohol-related MVCs occurred in Albemarle County between 2009 and 2011 among 15-24 year-olds. One hundred and forty-five (145) of these MVCs resulted in 92 injuries and seven fatalities. Of the 15-24 year olds involved in alcohol-related MVCs, the average age of the driver involved was 21 years. Most MVCs occurred among 21-24 year olds (59%) and among males (78%). These data indicate that males aged 21-24 years are most at risk for becoming involved in alcohol-related MVCs, with odds of being involved in a MVC of 1 in 100. One hundred and eighteen (118) of these MVCs involved Albemarle County residents (61%). September and November are the months with the highest rates of crashes during the three years (11% each). One-fourth of all crashes occurred on a Saturday (27%) and more than half of all crashes occurred between 8pm and 4am (65%). The greatest number of alcohol-related MVCs occurred on the Route 29 corridor, north of the City of Charlottesville (40%), with 25 alcohol-related MVCs (13%) occurring on Route 29 alone during the three-year period.

A needs assessment identified three key areas to address through interventions: law enforcement, community norms around alcohol consumption, and low perceived risk. Law Enforcement was selected as an intervening variable because of the low DUI arrests among drivers involved in alcohol-related MVCs. Community Norms were identified as a focus because of the perceptions about the widespread alcohol consumption occurring in Albemarle County. Specific concerns focused on the norm that adults frequently consume alcohol, often in public settings, and that this is a college town where drinking is inevitable. Additionally, there is a widespread norm that "everyone" has to drive for transportation and "everyone" consumes alcohol, leading to situations where adults must drive after consuming alcohol. Low Perceived Risk was selected as a focus because of the high rate of alcohol-related MVCs occurring among all age groups. Young adults report that even if their peers know the risks of driving under the influence, most believe nothing bad will happen to them. There is also a belief that underage young adults see less risk in driving home after a party than being caught drinking by the police.

Three strategies are proposed for second-year funding from Virginia state SPF-SIG funds: four sobriety checkpoints, sixteen law enforcement saturation patrols, and a community wide social norms campaign. Three social norms campaigns will be implemented: one campaign will coincide with sobriety checkpoints to provide positive norm-based messages to community members who pass through the checkpoint; a campaign will be placed in local restaurants to encourage the use of safe rides with a local taxi company or through designated drivers; and a third campaign will target the parents of high school students through media advertisements, primarily in print and radio sources.

SPF-SIG provides 100 percent funding for these activities; therefore, there is no local budget impact.

This summary is provided for information only and no action is required at this time.

Ms. Gretchen Ellis addressed the Board, introducing Alexander London-Gross, the Coordinator for the SPF-SIG, which is a grant the County received last winter to address the problem of alcohol-related motor vehicle crashes involving drivers ages 15-24. She said that Albemarle is one of 30 localities in the State that has a higher-than-average number of crashes comparatively in the state.

Ms. London-Gross reported that they collected data from 2009-2011 looking at the car crashes of that demographic. In Albemarle County there were 195 crashes compared to only seven in the City. She stated that they looked at where the crashes occurred, where people lived, their age, gender, if they were students, and other demographic data. Ms. London-Gross said that the majority (over three-quarters) of drivers involved in these crashes are males, and most of them are 21-24 year olds, with 21-year olds making up the largest percentage of any age group, and 17% are either high school or college students. She stated that about two-thirds of them live in Albemarle County, but about 30% do reside outside of the Charlottesville area and they are most likely students who are visiting friends that go to school here, shopping, for social events or passing through.

She reported that males age 21-24 have a 1 in 100 chance of being involved in a crash, which is huge, and averages locally were above State norms for all genders and ages.

Ms. London-Gross stated that most of the crashes occur in the fall, with 11% of crashes happening in November and most occurring on weekends – with 25% of all crashes occurring on Saturday, and most occurring from 8:00 p.m. to 4:00 a.m., and about 25% occurring between 2:00 a.m. and 4:00 a.m. She noted that 40% of crashes are occurring north of the City on Route 29 and the feeder roads branching off of it. Ms. London-Gross said that about 40% of those crashes on Route 29 are happening in October and November, which follows the overall trends of data collected. Contributing factors appear to include football weekends, homecoming and it is darker earlier in the evening.

Mr. Rooker asked if feeder roads include those roads that intersect with Route 29. Ms. London-Gross said that the feeder roads include Hydraulic, Rio, and every major intersection along Route 29. She then presented a map showing the urban ring and a cluster indicating the Route 29 section, adding that a large amount of the population actually lives in that area as well as driving it.

Mr. Snow commented that the County is definitely putting the rescue squad in the right place.

Ms. London-Gross said that one step in their process was collecting survey data on 18-24 year olds, looking at perceptions and alcohol-use patterns. She said that it was an anonymous online survey, and they had a fairly even distribution of males and females who took it. Ms. London-Gross stated that some of the interesting things she found included perception of law enforcement, as only 18% of respondents between 18-24 felt it was “very likely” that that would happen. She said that there needs to be education done to tell them it is not acceptable behavior and provide some sense of risk.

Mr. Rooker asked how many participants took the survey, and how they found out how to go online and take the survey. Ms. London-Gross responded that there were 192 participants. They did an intercept style where they went around with iPads to various community locations and asked people if they would be willing to take the survey.

She reported that there is a high level of acceptance of drinking in this community for people age 21 and older to get drunk, with over 80% of those surveyed feeling that was “an acceptable behavior” but they felt that underage consumption of alcohol was “less acceptable.” Ms. London-Gross said that over 60% of survey respondents felt that it was an acceptable behavior for 18-20 year olds to drink alcohol. She stated that there is a perception that when someone turns 18 it is okay to consume alcohol and become drunk.

Mr. Snow asked if they factored drug use into the equation. Ms. London-Gross responded that the grant only covered alcohol, so they could not ask any questions about drugs.

She reported that the survey asked about binge drinking – having five or more alcoholic drinks on one occasion for males, or four or more drinks for females – and they found that males were more likely to participate in binge drinking than females, which follows national statistics. Ms. London-Gross said that when they asked respondents if they had ever driven within two hours of consuming two or more drinks, there was a statistically different response rate with males more likely to drive – which is why there are more males becoming involved in these car crashes.

Ms. London-Gross reported that the grant team was given a list of evidence-based strategies to choose from. They looked at all collected data to identify the biggest contributing factors to the problem. She said that the biggest factor identified was perceived low risk of either being stopped by the police or being involved in a car crash, or being harmed by their alcohol consumption. Ms. London-Gross stated that they also felt it was important to look at the law enforcement side of the equation, to determine if there are enough police out on the roads, if there is enough being done to educate police about targeting drunk drivers, and if they are looking enough at this population. She said they also considered the social availability of alcohol and community norms, but most restaurants and bars in Albemarle County close by midnight on weekends – so most of the drinking is done in Charlottesville or at UVA, private parties, etc., and other events outside of their control. Ms. London-Gross stated that they are going to look at community norms as being that it is considered acceptable behavior for 21 year-olds to become drunk.

She reported that the target population for intervention is 18-24 year old males. Their initial plan was to work with parents of high school students to begin providing education to their child before they leave and go off to college, and begin making decisions about alcohol. Ms. London-Gross stated that unfortunately during the revisions of the strategic plan, VCU said they are not allowed to do that – so they can no longer move forward with that recommendation.

Ms. London-Gross reported that they are going to implement three other strategies over the next year, beginning in February. She said that one strategy will involve setting up five sobriety checkpoint locations in Albemarle County, with the police agreeing to do four over the next year. Ms. London-Gross said that every car that will pass through the checkpoint will get a brochure saying “thank you for making a good decision” to reinforce the positive behavior of a driver having their seatbelt and not being inebriated. She stated that the next strategy is use of saturation patrols, which is a way to apprehend drunk drivers in order to get them off the road before they become involved in a crash, and a way for the police to target specific areas where social activities are taking place. Ms. London-Gross said the County Police have agreed to do 16 saturation patrols throughout 2013.

She said that the last main component is a social norms campaign, and a lot of this has changed since she created the presentation. Ms. London-Gross explained that they will be working primarily with 18-24 year olds through a print and media campaign, distributing information on blood alcohol content – what it is and how to know what your BAC is as a way for people to plan. She added that they are working with Yellow Cab to try to promote safe rides home, either calling for a cab or using a smart phone to book a cab. Ms. London-Gross emphasized that this is a good alternative to get people used to the idea that there are other ways to get home, and that they do not have to be responsible for driving.

Mr. Thomas noted that the BAC cards are very popular with colleges; it is a very handy tool. Ms. London-Gross said that is correct, although they do not think that a lot of the college population is involved in these crashes.

Ms. London-Gross said they also are planning a print and media campaign. They are hoping to do some newspaper advertisements and work with the Charlottesville Radio group to promote awareness to say that this is not the norm and most people are not engaged in this type of behavior.

Ms. London-Gross said that the SPF-SIG strategic plan was officially submitted to VCU on November 30, and they are going through a round of revisions until the end of December. By the beginning of January they will know if the plan is approved and if they will have the approved budget for the following year. She said they will begin implementing strategies starting February 1, 2013, and that funding cycle will go through the end of January 2014.

Ms. Mallek said that she was shocked by some of the statistic presented.

Mr. Thomas asked if they could hand the BAC cards out in high schools. Ms. London-Gross responded that they probably could not go into high schools and hand them out. There is a fine line to walk between VCU’s requirements and what schools will allow. She added that if principals want the information in the schools, they will find a way to get it there.

Mr. Thomas said that UVA has had the BAC card in use for about 10 years, and now he has reprinted them for UCLA, Michigan, and all kinds of schools around the country. Mr. Thomas explained that the card includes information on weight, female versus male, and how much you can consume and how it will affect your blood alcohol content.

Ms. London-Gross said that Safe Schools Healthy Students is presenting next, and her grant program is doing a lot of work with them to try to get information into high schools through a different route.

Board members thanked Ms. London-Gross for the information.

Agenda Item No. 16. Update on Safe Schools Grant Program Progress, Gretchen Ellis.

The following executive summary was forwarded to Board members:

The Safe Schools/Healthy Students (SS/HS) Albemarle/Charlottesville Project receives its funding from the Federal Safe Schools/Healthy Students Initiative, a collaboration of the U.S. Departments of Education, Health and Human Services and Justice, that was formed to address rising concerns about youth violence, substance abuse and school safety. Working collaboratively with community partners and school

staff and administration, the project has drawn the County and City public school systems together to jointly address issues that affect students' ability to learn and succeed.

Four-year funding from the federal program began in 2009 and will end on June 30, 2013. The Federal SS/HS program is slowly being phased out and there are no options to reapply for federal support. Some carryover funds may allow discreet program elements to continue for a limited time after June, 2013. The Core Management Team of the local Albemarle/ Charlottesville project is working to identify funding priorities for continuation in the longer term. Community support will be sought to continue and build upon the progress and momentum of the last four years.

The purpose of this Executive Summary is to provide an overview of the Program's efforts and successes to-date, as well as possible options for the Program's continuation.

The data from the Albemarle/Charlottesville 2012 Spring School Climate survey was tabulated in June and thus far, demonstrates overwhelmingly positive outcomes. Project work to-date has helped make the following reductions possible:

- 26% reduction in the percentage of students (grades 6-12) reporting bullying
- 34% reduction in the percentage of students (grades 6-12) involved in a physical fight on school property in the past 12 months
- 24.9% reduction in the number of high school students reporting drinking alcohol in the past 30 days

Initiatives to Support School Safety and Decrease Violence

More than 11,000 students (grades 3-12) completed the annual Spring School Climate Survey in spring 2012. As suggested by the Safe Schools/Healthy Students Core Management Team (CMT), the middle and high school surveys were revised to eliminate questions dealing with threat assessments and added questions dealing with student perception of school climate. These additional questions were developed in a collaborative process that included student input from the Albemarle County High School Student Council.

In response to several community incidents of gang activity and a SS/HS-sponsored gang forum, the police chiefs of both the County and the City developed a local steering committee, the **Gang Reduction Achieved through Community Engagement (GRACE) Team**, and invited project staff to participate. A SS/HS staff member with former law enforcement experience has been tasked with the planning and implementation of a comprehensive gang model to serve the County and the City.

Currently sixteen Albemarle County Schools use the *Olweus Bullying Prevention Program* to combat bullying in schools. Two schools use *Second Step*, a program aimed at reducing violence by providing reinforcement for positive behavior and development of sound social and emotional skills in the middle school setting. Other schools use a combination of these and other evidence-based programs and strategies that integrate and build positive school climates. The three major County high schools are using student-led initiatives to address bullying prevention and other risky behaviors, including underage drinking and teen dating violence; creating messages that support positive student behavior and strengthen the school communities in general.

In response to a request from school counselors and administrators, SS/HS staff gathered information and expert advice about relational aggression among girls in the ACPS school communities. SS/HS staff formed a panel that included administrators, social workers, school counselors and mental health experts. The participants shared their perspectives on differences in gender bullying and offered ideas and strategies for addressing social issues between girls. This event has led to ongoing discussions, including a book study discussion group that will review: "Little Girls Can Be Mean: Four Steps to Bully-Proof Girls in the Early Grades."

Initiatives to Reduce Alcohol, Tobacco and Other Drug Use

SS/HS staff works to engage and involve high school students and community members in prevention efforts. The SS/HS Albemarle/Charlottesville site was awarded a Substance Abuse and Mental Health Services Administration Underage Drinking Town Hall grant and used the proceeds to hold a parent/teen underage drinking information and prevention event in the spring of 2012. The event was developed in partnership with the City Commonwealth's Attorney's Office, the UVA Teen Health Center, UVA's Gordy Center for Substance Abuse Prevention and the County and City police departments. After the event, high school student groups have continued to work with SS/HS project leaders to plan awareness events at football game tailgates, proms, homecoming, and other student gatherings throughout the school year.

Initiatives to Promote Positive Student Behavior

SS/HS staff and programming work on many fronts and grade levels to support safe and socially appropriate student behavior, strengthening the overall learning community and helping each individual student reach his or her fullest potential.

SS/HS staff continues to receive numerous reports of improved student behavior and classroom environment in schools implementing *Responsive Classroom (RC)*. RC is viewed as an effective classroom strategy and more than 300 school staff members have been trained in RC through SS/HS funding. In addition to funding initial training, SS/HS project leaders provide implementation and curriculum support with Community of Practice meetings. These monthly networking sessions have been held in many formats, including school site visits to look at classroom set up, facilitated discussions about particular components of RC strategy, and outside speakers who lead formal presentations about RC.

After reviewing the positive impacts and success that elementary school classrooms were experiencing with RC, two middle school administrators approached SS/HS staff to ask if similar programs could be investigated for students in grades 6-8. In June 2012, representatives from *Developmental Designs* provided a half-day information session to representatives from all of the area middle schools. *Developmental Designs* is a teaching strategy that provides the same integration of socio-emotional and academic learning that is the cornerstone of RC. Conversations with middle school administrators are ongoing and several schools continue to consider when and how they can incorporate this strategy into their school communities.

In response to heightened community concern about dating and relationship violence, the Sixteenth District Court Services Unit approached SS/HS staff to assist with court-ordered education on healthy relationships for students charged with partner/dating violence. *Safe Dates: an Adolescent Dating Abuse Prevention Curriculum*, a model program listed in the National Registry of Evidence-based Programs and Practices, was the evidence-based program chosen to empower change in attitudes and behaviors associated with dating abuse and violence. SS/HS staff worked in teams and individually with students to teach *Safe Dates* lessons and support improved relationship skills for court-supervised youth in the community.

Initiatives to Support In-School Mental Health Services

SS/HS funding makes mental health counseling services available in all Albemarle County and Charlottesville middle and high schools. To communicate the availability of these services more broadly, SS/HS staff created an informational brochure about Student Assistance Program for students, parents and school staff. SS/HS staff also provided continued education opportunities for school counselors and community mental health workers. These included a March 2012 panel discussion entitled "How Grief Affects Students" and an April 2012 discussion about "Relational Aggression in Girls." To support students and families whose lives are affected by abuse, SS/HS staff partnered with seven non-profit organizations to sponsor community events focused on Child Abuse Prevention in April 2012. A weekly newspaper co-sponsored a six page insert, which utilized a design created by the SS/HS Project Coordinator and included a calendar of events, community resources, advice on keeping children safe and safeguard tips for parents and caregivers. In response to recent community incidents, SS/HS staff collaborated with Dr. Peter Sheras, UVA, Region 10 and Albemarle County High School to sponsor a panel discussion on suicide prevention.

Collaboration and Community Partnership

SS/HS staff continues to work collaboratively with community partner groups and agencies to respond to community needs and events, and to raise awareness for student health and safety issues. Project staff members are routinely invited to present at local events, community days and parent engagement events to strengthen parent/school and student/school connections.

Community events and presentations have included:

- Bullying Prevention in the Promotion of a Positive School Climate, Virginia Bullying Prevention Conference, June 2012
- State Superintendents-Judges Committee Meeting, July 2012
- Virginia Olweus Bullying Prevention Networking and Technical Assistance Sessions, July and October 2012
- Albemarle County School Health Advisory Board
- Parent-Teacher Organization meetings at the elementary, middle and high school level
- YOUTH NEX Statewide School-Based Bullying Prevention Conference, June 2012

Finally, in recognition of the impact SS/HS work is having in the local community, the local project was awarded the Virginia Department of Health's "Innovative Violence Prevention Award" in June 2012. The award recognized the project as a catalyst for reductions in school-based physical fights, incidents of bullying, behavioral referrals of students and reported offenses since the grant award in 2009. The local SS/HS project has been cited as a successful model in several meetings and publications that are distributed by the Federal Safe Schools/Healthy Students initiative. Local project staff is routinely asked to share experience, program resources and expertise with other SS/HS project sites across the nation at meetings, webinars and conferences.

The National Safe Schools Center recently requested permission to include the Albemarle/Charlottesville Peer Support Survey and Cyber-bullying Summits as model bullying prevention tools/methodology on the stopbullying.gov website. The Albemarle/Charlottesville SS/HS Project was also included in the federally produced toolkits, "[Supportive School Discipline](#)" and "[Navigating Information Sharing](#)."

Beyond Federal Funding: What Happens After June 30, 2013

Federal funding for the Albemarle/Charlottesville SS/HS project ends on June 30, 2013. No re-application for funding is possible, but the project is eligible for a one year no-cost extension to finalize programming and clear the budget. The extension is an option offered to projects that have consistently met and exceeded the federal project's benchmarks and expectations and have carryover funds from the 4-year funding period. To sustain benefits to the community after the final federal funding is received in June 2014, the local SS/HS Project's CMT is identifying high priority initiatives for long-term sustainability and discussing ways that these elements could be supported through local funding. The goal is to focus on program components that have been successful in both the County and City public school systems and could continue to serve students and build stronger learning communities in both systems.

There is no budget impact associated with this Report.

Staff is not making a recommendation at this time. The purpose of this Executive Summary is to provide an overview of the Program's efforts and successes to-date and possible options for the Program's continuation.

Ms. Ellis stated that Ms. June Jenkins would be giving this program update. Ms. Ellis explained that this project has just entered its fourth year, and was funded at about \$6 million over the four-year period. She said that they are able to carry over some of the funds and thus will be able to keep many aspects of the program going for at least another year. Ms. Ellis said that the program has far exceeded anyone's expectations. They met every four-year benchmark set at three years. They are seeing a reduction in alcohol consumption and drug use among high school students, as well as decreases in violence.

Ms. June Jenkins said that all of the program funding comes from the departments of Education, Health and Human Services, and Justice – and they have provided tremendous support throughout the process.

Ms. Jenkins reported that there are five aspects they consider in Safe Schools, with the first being school safety and violence prevention – including training for restorative practices, bullying prevention, etc.; substance abuse – addressing alcohol, marijuana, tobacco; mental health supports – including mental health specialists placed in all middle and high schools in the City and County; an early childhood focus – including professional development for preschool teachers; and programs for student behavior – with strategies in training in classroom management.

Ms. Jenkins mentioned that the school climate survey involves uniform surveying of all City and County school children grades 3-12, and copies of those surveys are on their website. She noted that they typically survey about 11,000 kids every spring.

Ms. Jenkins reported that because they have made tremendous progress and have met most of their benchmarks, they have tried to be more responsive to community needs and not stay in that tight grant box. She said that their federal officers have really been pleased with the progress made, and so have allowed some flexibility – with a few new areas of focus added including a gang awareness piece. Ms. Jenkins mentioned that they are working with both police chiefs and a lot of community partners in the steering committee they have for gang awareness. She said they have had teachers who have asked for suicide prevention resources, especially since the recent Stony Point murder-suicide incident. Ms. Jenkins stated that they have responded to teen dating violence and have received referrals through the Court Service Unit of teens that have been charged with this, and the court officers really do not know what to do with these young people so Safe Schools has provided some resources there. She said that some of the school counselors have asked for help for students, especially young women, who are self-harming.

Ms. Jenkins emphasized that there are a lot of things going on in the community that are not considered to be a typical school responsibility, but if a child does not feel safe and cared for they are going to have less inclination to participate in their education, to be engaged, and to work to their potential.

She presented a graph showing progress with cigarette, alcohol and marijuana use reduction as demonstrated through the climate survey. Ms. Jenkins noted that these respondents were just the middle and high school students, and there has been a 25% reduction in student reported use of alcohol, a 26% reduction in physical fights in schools, and more than 2,000 unduplicated students in schools are receiving mental health services that this grant has funded. She said that the Safe Schools staff is six, but there are many other people who are working funded through the grant. Ms. Jenkins said that they contract through Region Ten for all the mental health counselors, and work with UVA to have post-doctoral students working as safe schools counselors. She stated that there are about 20 members comprising their core management team – representing different agencies such as police, social services, schools, and nonprofits. They try to bring everybody to the table that is focused on the students in the community. It is the good work that pulling people together and helping them not to duplicate what each other is doing. Ms. Jenkins said that Safe Schools provide a hub to ensure that these services are appropriately used.

Ms. Mallek commented that she taught for 15 years, and the responsive classroom is a guaranteed success when started early.

Mr. Rooker asked what the future is for this, as it is not funded beyond the current fiscal year. Ms. Jenkins said that the federal funds are finalized in June 2013, but since the program started a bit later in its inception year there will be some carry-over funds. She stated that they will be talking to the core management team about potential sustainability pieces that schools may decide to pick up. Ms. Jenkins said that the fifth year extension will provide some time to analyze which pieces are making the biggest differences, adding that there is no silver bullet and there is no one program that is going to fit in every one of the sites. She stated that the project leaders have 10 site assignments, and they know those schools and what will work in them.

Mr. Rooker said that the budget was about \$1.5 million per year, and asked how it would be allocated among personnel and other things. Ms. Jenkins responded that they have six full-time employees, and about one-quarter of the budget goes to personnel including the mental health specialists. She said that the remainder goes to training, data collection, evaluation, etc. – and Albemarle County as

fiscal agent gets a small percentage of that as well.

Mr. Rooker commented that they have spent a lot of time figuring out what works and what does not, so the question is what things could be continued so the County does not lose the value of this in the community. Ms. Jenkins responded that she has been an educator all of her working career and programs come and programs go, but if there is not a go-to person for the program the project gets put on a shelf. In her opinion, the accountability piece is critical. She knows that the school climate survey is very critical for the schools because they are using that data now in their school improvement plans. She said that Matt Hass is the go-to person from County schools on the core management team, and he is working along with City Schools Assistant Superintendent, Jim Henderson and Ms. Ellis. She stated that they are trying to filter this out right now. They have built capacity in a lot of the trainings – but staff turnovers and new staff coming in means the training component never goes away.

Ms. Ellis stated that the core management team is committed to retaining the important parts of Safe Schools. The Assistant Superintendents are interviewing all the principals to talk about what they think is most important in their schools. They are being pretty strategic; they are looking for other funding sources. She added that she thinks the school systems are likely to put part of this funding into their budgets for FY15, and in all likelihood Safe Schools may be coming back to the Board for funding when the money runs out because of the tremendous results that they are seeing.

Ms. Jenkins emphasized that the bulk of this program is prevention, and there is no way to put a monetary value on what they have prevented from happening. They do feel as though the majority of children are reporting that they feel safe in their schools because some of these awareness's have been brought to administrators and teachers. Ms. Jenkins said this has been the best job she has ever had, just because of the quality of people that they work with.

Mr. Foley said that one of the strategic plan's major objectives this year is to complete the assessment to determine how this should proceed.

Ms. Ellis commented that there is a group of students at Albemarle High School who put together an anti-bullying video that was submitted to a national contest, and it is one of seven finalists. She said that one of the amazing things that have come out of Safe Schools is seeing that kind of student leadership emerging at all schools – really invested, creative young people who want to make a difference for themselves and their peers.

Agenda Item No. 17. Charlottesville/Albemarle County Inter-City Leadership Visit (Austin Trip).

The following executive summary was forwarded to Board members:

This item was last discussed at the Board's October 3, 2012 meeting. At that time the Board took the following action regarding participation in the inter-city leadership visit to Austin, Texas described in Attachment A:

Mr. Boyd moved to send three people to the meeting in Austin, to be determined at a later date. Mr. Thomas seconded the motion. Roll was called and the motion carried by the following recorded vote:

AYES: Mr. Thomas, Mr. Boyd, Mr. Dumler and Ms. Mallek.

NAYS: Mr. Rooker and Mr. Snow.

This item has been placed on the agenda to (1) identify County representatives for the visit; and (2) at the request of Supervisor Mallek to clarify her previous vote.

Staff has spoken with Board members regarding participation in the trip to Austin and Supervisors Boyd and Thomas have indicated an interest in going. In addition, staff has contacted the City of Charlottesville and confirmed that they intend to participate. City Council has authorized sending two Council members and one staff member on the trip. The City staff representative participating in the trip will be the Economic Development Director.

In previous Board discussion, it was not determined whether one or more Board members would participate in the trip to Austin. That will need to be determined by the Board at Wednesday's meeting. Regarding County staff participation in the trip, we feel it is most appropriate to send either one or two staff members involved in our Economic Vitality Action Plan efforts, depending on the number of Board members who attend. The priorities outlined in the Action Plan are most closely aligned with the purposes of the trip as outlined in the itinerary for the visit to Austin included in Attachment A.

Based on the Board's previous action, the total budget impact is estimated at approximately \$4,650 or \$1,550 per person.

Staff is seeking direction regarding the Board Members and County staff who will represent Albemarle County on the Austin trip.

Mr. Foley said that this item was last discussed on October 3, and at that time the Board on a 4:2 vote moved to send three people to the intercity leadership visit to Austin, Texas. He stated that at the time there was not a decision about who would go, but since then there are at least two Board members interested in going. Staff has talked with the City and City Council is sending three City representatives as well – two Councilors and an economic development staff person. Mr. Foley said that the issue before the Board today is deciding who would go on the trip.

Ms. Mallek said that it was her mistake that allowed this to pass and move forward. She was supportive of a couple of staff people going on the trip. She asked if someone else would agree to support reconsidering the vote.

Mr. Davis explained that under the Board rules, there needs to be a motion to change the decision to send three people. There needs to be a motion to rescind the original action, and it would need a second and a majority vote. If the motion passes, the Board is free to revisit the issue. If the motion fails, the original position of the Board stands.

Ms. Mallek **moved** to rescind the original vote to send three people on the inter-city visit to Austin. Mr. Snow **seconded** the motion.

Mr. Thomas stated that he has been on several excursion trips seeking advice and examples of what other areas have done, and he was 100% pleased with what was garnered there. He said that he is in favor of doing this, whether he is the one who goes or not.

Mr. Boyd said he was not sure what the reconsideration is.

Ms. Mallek explained that what she wanted to do was to try to clarify her vote for two staff people to go, and that was not the way it was interpreted.

Mr. Davis said the decision of the Board was to send three people.

Mr. Rooker said this would just be a vote to put the Board back to square one, and then decide how many to send and who.

Mr. Dumler stated that he would like to have a discussion as to where everybody stands first, before going back to square one and moving forward again.

Ms. Mallek said that she thought she was supporting having two staff people going. She does not want to give the impression that Board members are just gallivanting off on a trip.

Mr. Boyd said that when he first heard about the trip he did not think it made much sense given the differences between this area and Austin, but after seeing the agenda and learning that two City Council members would participate, it was only logical that the Board reciprocate and do the same thing. Despite what people may say, he thinks it is a small investment in what he considers continuing education for Board members to see what other communities do. He added that an exchange of ideas with a community that has been successful would be a benefit, and would be as much of a benefit to a Supervisor as it is to a staff member.

Mr. Snow stated that the question for him is whether that information can be gathered through a webinar or from people who have already been to the area.

Mr. Boyd responded that you do not get the same free exchange of ideas that you get in a person-to-person visit, and the agenda indicates there are presentations from many different community members there. To him, that is the advantage.

Mr. Rooker noted that Austin is the 14th largest metropolitan area in the United States, and the SMSA has about 1.8 million people with the City of Austin itself having 800,000. He said that he does not see Austin as being very much like Albemarle at all. He added that he has friends who live in the area that he's talked to, and he does not think that Austin is a great model for this area. Mr. Rooker said that you can find out virtually anything to be discussed by reading and by going online. To him, a lot of times these things are just boondoggles where people go down and spend a few days and travel and go out to dinners and such. Mr. Rooker noted that there are a lot of people who do not really like the way Austin has developed and grown over the years, and it is a much different community than it was 15-20 years ago due to the massive population growth. He said that he is not convinced it is a good comparable or a place where they are going to really realize a whole lot on the investment. He agreed that it is not a huge investment, but he still does not support this.

Mr. Thomas asked where he would suggest they go. Mr. Rooker said they do not have to go anywhere, but Asheville, North Carolina is a more comparable locality. He said that VACo's conferences offers opportunities to talk with many other localities in the state, and there is a value in that. He said that he does not view this as being a great model for obtaining valuable information for this community due to the dissimilarities in the communities.

Ms. Mallek said that it may be appropriate for the City because the kinds of things they are looking at are the things that are going on in a rudimentary way in the City. She said that she has been trying to get some of the festivals to come out into the County for many years now. She believes that the County is going along to help pay the bill. She said that she just do not see the benefit coming to Albemarle for the kinds of things that are really the focus for the whole thing.

Mr. Thomas stated that the City is going and he is not sure how the County is going to be unified without participating. He added that the CACVB is a big integral part of what this thing is all about. He thinks that if the City is going to get educated, the County should also.

Ms. Mallek said the County should have control over the CACVB by its appointees, and the County can catch up with the City with no problem.

Mr. Dumler asked if she would support sending staff. Ms. Mallek responded that she would support sending staff members.

Mr. Boyd asked if there was value in the trip for staff, but not for Supervisors.

Mr. Snow said that he does not see any value at all, because what works for downtown Austin might have some value for downtown Charlottesville. He stated that the Board is doing some things already in the County, but the problem is having zoning that would allow 2,000 or 3,000 people for these events. He has to ask the question "are we going to learn about more events that we are going to have in the County that the County doesn't want?"

Mr. Rooker said that a good example of something already being done is the Artisan Trail.

Mr. Snow emphasized that they are doing everything they can in the County, with as many events as they can handle, and additional events are met with opposition for the roads and exactly what is going to happen on that site even on a one-time basis.

Mr. Boyd asked if he did not think the County might learn how to do it better. Mr. Rooker said that those are not public events, and the only question here is whether or not the County will allow it. It is a private, not public issue.

Mr. Boyd said that that's why Austin is proposing a public-private meeting.

Mr. Rooker suggested acting on the motion to decide whether or not to rescind the prior action, so they can revisit the item.

Ms. Mallek repeated her motion which was to rescind the previous vote of October 3rd.

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

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

NAYS: Mr. Boyd and Mr. Dumler.

Mr. Boyd asked if Mr. Thomas understood which way he was voting.

Mr. Thomas said he should have voted "no" and asked if he could change his vote.

Mr. Rooker said it does not matter, and Ms. Mallek said they were going to vote all over anyway.

Mr. Davis said that it did matter in terms of the decision.

Mr. Davis clarified that once a Board member votes, he cannot change his vote without the consent of the Board. If Mr. Thomas said he made the vote in error and the Board wants to consent to him changing his vote, it can do that, otherwise the vote stands as being passed 4:2.

Mr. Snow and Mr. Rooker said they have no problem with him changing his vote, if he made a mistake.

Mr. Thomas said it was his intent to vote against the motion.

Mr. Davis stated that the motion fails and the only matter currently before the Board is who will participate in the trip.

Mr. Thomas commented that there is a Board conflict with the date of the trip, as the budget public hearing is scheduled on February 27, 2013.

Mr. Foley commented that staff can work to reschedule that public hearing. Mr. Foley said that the original motion was to send three people, but it was never determined who would go. He stated that he has provided Board members with some information to help in the decision, but it is really up to them how to proceed.

Mr. Foley said that he came into the meeting with the understanding that two Board members were interested in going, but now Mr. Thomas may have a conflict – so if only one Board member goes that would mean two staff members. If it is two staff members, he recommends that economic development staff members go. He reiterated that Mr. Boyd has indicated he would like to go on the tip.

Mr. Rooker stated that if the Board is going to do it, he would like to have two staff members go as Board members will come and go and presentations on things the County might incorporate would be maximized with two staff members and one Board member.

Mr. Boyd said that he is not wed to going, so if there is interest in having three staff members go that would be fine with him.

Mr. Foley stated that he thinks it is important to have at least one Board member go because of the interaction with Council members, and the fact that some of the direction provided will need to come from elected officials. The exposure is probably helpful.

Mr. Rooker then offered **motion** that one Board member and two staff members go on the trip to Austin, Texas. Mr. Dumler **seconded** the motion.

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

AYES: Mr. Thomas, Mr. Boyd, Mr. Dumler, Ms. Mallek and Mr. Rooker.

NAYS: Mr. Snow.

Ms. Mallek then said that she wanted to change her vote to no.

Mr. Rooker said he was not a strong opponent of this, but since the decision has been made to move forward he wants to vote for the composition of the delegation.

Mr. Davis asked if the conclusion of that vote would be that the County Executive decides who would go.

Mr. Foley responded that he is strongly recommending that the two economic development staff members go – Ms. Lee Catlin and Ms. Susan Stimart. He added that the Board should clarify which Board member is going.

Mr. Rooker suggested that Mr. Boyd go.

Mr. Boyd stated that he is not wed to going, but other Board members indicated he was the likely choice due to his interest and their other obligations.

Mr. Boyd agreed to go as the Board representative.

Agenda Item No. 18. Closed Meeting.

At 12:54 p.m., Mr. Dumler offered **motion** that 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 boards, committees, and commissions in which there are pending vacancies or requests for reappointments; and under subsection (7) to consult with and be briefed by legal counsel and staff regarding the Redfields litigation because a public discussion would adversely affect the litigating posture of the County. Mr. Rooker **seconded** the motion.

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

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

NAYS: None.

Agenda Item No. 19. Certify Closed Meeting.

At 2:49 p.m., Mr. Dumler **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. Snow **seconded** the motion.

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

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

NAYS: None.

Agenda Item No. 20. Boards and Commissions: Vacancies/Appointments.

Motion was then offered by Mr. Snow to make the following appointments/reappointments:

- **reappoint** Mr. Jean Lorber to the ACE Appraisal Review Committee, with said term to expire December 31, 2013.
- **reappoint** Mr. Bruce Wardell to the Architectural Review Board, with said term to expire November 14, 2016.
- **reappoint** Mr. Kevin Quick as Scottsville District representative, Mr. William Rich as Rio District representative, Mr. John Lowry as Samuel Miller District representative and Ms. Virginia Gardner as White Hall District representative to the Equalization Board, with said terms to expire December 31, 2013.
- **reappoint** Mr. William Kehoe as joint City/County member to the Joint Airport Commission and Airport Authority, with said term to expire December 1, 2015.

- **appoint** Mr. John Post to the Joint Airport Commission, with said term to expire December 1, 2015.
- **reappoint** Ms. Julia Monteith as the UVA representative to the Planning Commission, with said term to expire December 31, 2013.
- **reappoint** Mr. Hamilton Moses, Mr. G. David Emmitt and Mr. William Lassetter to the Public Recreational Facilities Authority, with said terms to expire December 13, 2015.
- **appoint** Mr. Boyd to the Jail Authority to fill the remainder of Mr. Dumler's three year term to expire on December 31, 2015.
- **appoint** Mr. Rooker to the Police Department Citizens Advisory Committee
- **appoint** Mr. Dumler to the Fiscal Advisory Committee and the Rivanna River Basin Commission.

Ms. Mallek **seconded** the motion.

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

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

NAYS: None.

Agenda Item No. 21. **Presentation:** PVCC Annual Report, Frank Friedman.

Dr. Frank Friedman addressed the Board and noted the presence of Albemarle's representatives to the PVCC Board – Sean Moynihan, Donna Plaskett, Stephen Davis, and Debbie Goodman. Dr. Friedman said that they were a wonderful group on the board and commented the Board for their appointments.

Dr. Friedman reported that there are 5,700 students enrolled this semester in credit classes, which is leveling off after six years of explosive growth. He said that things are finally reaching a plateau, which is somewhat of an indication of the economy improving. He explained that this typically for community colleges in the state and nation. He said that community colleges enrollments fluctuate with the economy. When the economy goes bad their enrollment goes up. Dr. Friedman stated that the leveling off of enrollment might be a good sign of the economy. Dr. Friedman reported that Albemarle County residents comprise 39% of PVCC's enrollment, or 2,200 students, and 40% of students are over the age of 25. He said that 18% of Albemarle County's High Schools graduates from June 2012 enrolled in PVCC in the fall, which was 172 graduates. In spring and summer, he said, the number increases to 236 – meaning that 25% of graduates from County high schools show up at PVCC sometime in their first year after graduation.

Dr. Friedman reported that last fall there were just over 600 students in high schools taking dual enrollment courses from PVCC. He said that PVCC's rate of tuition students are receiving \$573,000 worth of free college education – and if they transfer those credits to a school like UVA or Virginia Tech, it's over \$1 million in value. He stated that with distance learning, PVCC is now at the point where 36% of students last year took one or more courses over the internet, and that included 1,004 Albemarle County residents.

Mr. Rooker asked Dr. Friedman if he knew the statistics on the rate of completion of online courses versus other courses.

Dr. Friedman replied that he does not have exact numbers but could estimate. He stated that PVCC studies online course completion very closely because they are concerned that the success rate in all classes will be comparable no matter what the mode of delivery. He said that PVCC generally has about 75% ABC grades in traditional courses and about 72% with distance learning – so it's a very small drop off. Dr. Friedman emphasized that when the PVCC first started distance learning 10 years ago, that gap was at least 10 percentage points. He confirmed that the cost for online credits is also the same, and one of the reasons students do well in online courses is because class size is limited – 35-40 – because staffs want a lot of interaction between professors and students. He said that PVCC does not make as much money, but students get a better education.

Mr. Rooker noted that with for-profit universities like University of Phoenix, the completion of online courses is really low.

Dr. Friedman said that the enrollment in some of those courses is hundreds or even a thousand. He said that PVCC's faculty is just as busy with a course like that, than if they are coming to class every day – because there is constant interaction on chat boards, discussion boards, emails, etc. He said that if you had to keep up with 500 students, you could not do it.

Dr. Friedman reported that PVCC has had two big developments this year, including the opening of a satellite site in Greene County, with fall semester being the first semester. He said that they had 221 enrollments in 14 classes, with 150 different individuals signing up for the classes. Dr. Friedman said it is a good start, but they'd like to see the 150 double over the next few years. He said that 16 enrollees live in Albemarle County. Dr. Friedman noted that the Greene County site is more convenient for northern Albemarle residents than PVCC's main campus.

Ms. Mallek noted that there are also students who come from Northern Virginia who might be closer to Germanna, because what PVCC offers is a better fit.

Dr. Friedman confirmed that that is the case, adding that by agreement among the community college system they are not allowed to recruit or advertise outside the service area. He explained that people learn about course offerings and enroll.

He reported that PVCC is opening up a location in Charlottesville at Jefferson School with classes beginning January 14. He said there are 14 sections ready to go, and there would be an open house on January 19 for the whole building. Dr. Friedman stated that PVCC has entered into an agreement with the YMCA, which is opening a childcare center within Jefferson School, so that students, faculty and staff will get a 20% discount over normal rates. He said that for the first time, the YMCA will have evening drop-off childcare at the same time PVCC has classes, at a rate of only \$5 an hour. Dr. Friedman stated that there are always people in the community saying they'd like to enroll but don't have childcare – now they can use that childcare whether they are students at Jefferson or on the main campus. Dr. Friedman reported that PVCC would open the Culinary Arts Associate Degree Program next fall, and there would be a 2,500 square foot teaching kitchen with \$481,000 of kitchen equipment. He added that for both the Greene and Jefferson sites, PVCC raised \$1 million of private giving.

Ms. Mallek asked if PVCC's kitchen would provide the food for JABA's café.

Dr. Friedman replied that JABA has its own kitchen. He explained that the two kitchens are adjoining, and they will share freezer and storage space. He said that they worked that all out in the planning so that scarce resources are maximized. Dr. Friedman said that the hope is that students will be able to work part-time in the JABA café and get intern opportunities – and the hope is also to be able to do catering for other tenants in the building when they hold special events.

Dr. Friedman reported that the General Assembly session starts soon, and PVCC has three major priorities, including salary increases for faculty and staff as they have not had a raise in five years. He said that the State Council for Higher Education has recommended a 4% increase next July 1 for all of higher education.

Mr. Rooker asked if PVCC's employees qualified for the annual bonuses to state employees. Dr. Friedman responded that PVCC's faculty and staff did qualify. He said that they had a 3% bonus last week and a 2% bonus either last year or the year before.

Dr. Friedman said that the State Council also recommended \$109 million of new money for all of higher education for next year, although it's scheduled for flat funding in this second year of the biennium.

Dr. Friedman said that the Council is also requesting \$14 million to help hire additional full-time faculty for community colleges. He explained that over the last six years PVCC has gone from 55% of courses being taught by full-time faculty to 42%, and they would like to start reversing that. He noted that it is going to take at least six years to recoup, and a \$14 million allocation would probably move that up 2-3%.

Dr. Friedman stated that the top building priority is building a "student success center," which would be a combination of a traditional student union and a new library. Dr. Friedman noted that all of PVCC's student support facilities are the same as they were in 1972, other than minor renovations. He said that students are seated everywhere because there is no study space, no gathering space, no space for clubs and activities. Dr. Friedman stated that the student success center is PVCC's number one priority. He said that they are putting in a request to the state, but are also looking into raising the money privately – perhaps even by leasing some of the land PVCC owns. He mentioned that the College owns a small 17-acre parcel that borders Avon Street and the Lakeside Apartments, and there has been some interest from developers in that land. Dr. Friedman said that that land has no real educational use for PVCC, so they are exploring the possibility of leasing that. He noted that the College has been working with Mr. Dumler and planning staff as to what steps would be next for doing that.

Ms. Mallek asked if it was the land down the back door from Dickinson. Dr. Friedman replied that it is the land that goes up the hill from the lake to Avon Street.

Dr. Friedman thanked the Board for being great supporters of PVCC over the years.

Mr. Rooker asked if the proposed library space would be an add-on to the existing building. Dr. Friedman responded that there is really no way to expand the existing library and to have two separate libraries from a staffing vantage point would drown them in terms of operations. He explained that the College would build a library in the new building, and then retrofit the old library back to classroom and laboratory space. He said that they are aiming for the main building to be primarily academic and office, with the student support functions all moving out and going into the student success center.

Ms. Mallek asked if the new building would be in the first parking lot on the left heading south. Dr. Friedman said that the master plan calls for it to be on the right, located after the new science building and a new parking lot.

Mr. Rooker asked how large the facility would be. Dr. Friedman responded that preliminary estimates take it to about 45,000 square feet, and depending on funding it could go bigger or smaller. Mr. Rooker estimated the cost at about \$10 million. Dr. Friedman said it would probably be more at the going construction rates.

Mr. Snow asked if it would be a two or three story building. Dr. Friedman responded that it would probably be two stories, with one floor being underground level and the top floor being at ground level. He

stated that it has worked really well for the science building, so they would probably do the same thing for the student center. He said that one floor would be devoted to the library and academic support, with one floor dedicated to student services – bookstore, food service, etc. traditionally found in a student union.

Ms. Mallek asked if the funding for the science building has been resolved. Dr. Friedman responded that nothing has changed with the outstanding gift over the past year or so. He explained that the \$1.2 million pledge from the Kluge/Moses foundation was available for construction or for programs if it was not needed for construction. He said that PVCC was able to cover some of the construction with state funding, and they've used some of the Kluge money for equipment and labs. Dr. Friedman said that they paid right on schedule every year for the first five years, so the College collected \$600,000 – but after their financial crisis, payments stopped completely. He stated that the Foundation board is looking into what kind of options they have at this point.

Agenda Item No. 22. **Discussion:** Proposed School Fund Balance Policy.

Mr. Foley reported that this is the School Division Fund Balance Policy, which was last discussed at the joint meeting between the Board and the School Board on November 8. He said that after much discussion the Supervisors requested that it be placed on a regular agenda prior to their next joint meeting – which will be held December 13.

Mr. Foley stated that it has been the practice of the County over the years to allow the school division to maintain an unrestricted fund balance above and beyond the general fund balance. He stated that the history of the fund balance amount is presented in Attachment A of the staff report – including the total fund balance amounts, what percentage of the total school budget it represented, and how much of the fund balance has been used over time. He said that one of the main reasons for establishing a policy around this because the Board was concerned about a lot of money sitting idle that really wasn't needed by the School Board.

Ms. Mallek pointed out that none of the attachments sent on this executive summary were live.

Mr. Rooker indicated that he did not get any attachments with his paper copies either.

Mr. Foley said that he would have the Clerk retrieve that information so it would be back before them in just a few minutes.

He explained that the information was in the original executive summary on November 8, and does indicate that in most of the years the fund balance was added to – the fund balance in 2006 was \$3.3 million, and in FY12 it was up to \$5.7 million. He stated that each year, the school system has come forward with their proposed budget and has projected to use the fund balance, but has not used the fund balance, and has actually added to it. Mr. Foley said the Board's concern was that there was a lot of money sitting idle that could otherwise go to capital projects, particularly for the schools and local government together.

Mr. Rooker pointed out that in the staff report it says, "Based on the FY2011-12 unaudited year-end school fund balance of \$8,221,783" and continues to say that with an alternative policy of 2% the maximum would be \$3,024,000 and that \$2.4 million would be transferred over if the policy were adopted. He asked how did it get from the \$8 million.

Ms. Mallek said that what is not shown is the amount that the schools actually used in the current year in their budget that was subtracted from the \$8.2 million.

Mr. Rooker asked if there was any indication if it was actually used or just projected to be used.

Mr. Foley presented a spreadsheet that the clerk distributed, and stated that there is a School Board-adopted policy and then the staff proposed an alternative to that in their review. He said that staff felt the School Board's policy was very complicated – difficult to implement, and ultimately resulted in very little going to capital.

Ms. Mallek said that at the Boards last discussion, Supervisors concluded that they were happy with the flat rate.

Mr. Snow and other Board members agreed.

Mr. Foley explained that the Schools' end of year balance, unaudited, was \$8.2 million. He said that the Board had approved the Schools' using some money out of that fund balance in the current year, so that would have to be removed from the \$8 million.

Mr. Boyd said that historically the Schools' have not used that money. He stated that they put it in their budget in years past, but they never use that money.

Mr. Foley stated that that is correct, and only on three occasions in the last eight years have the Schools' actually used some money – roughly \$100,000 two years and \$600,000 one year.

Mr. Rooker asked if that is in the chart that Supervisors are getting. Mr. Foley responded yes, and presented examples on what that total fund balance amount would be under the new formula. He explained that it is calculated by taking out the amount of the current year's appropriation of the fund

balance – which is the \$2.8 million, leaving \$5.4 million or 3.6%. Mr. Foley said that the Schools' budget this year is roughly \$151 million – so if 2% of the available fund balance is taken after this year's appropriation there is roughly \$3 million left – so the remainder would go to capital under the local government alternative. He presented figures for 2.5% and 3% also, noting that 2.5% would add \$750,000 to the school fund balance and takes it away from the capital transfer.

Mr. Foley noted that the Board had wanted to put a policy in place to set a ceiling on the fund balance because a lot of money was sitting idle. He said that the School Board put a proposal together but it became difficult to administer because they were trying to achieve multiple objectives. He said that the real decision for the Board is what cap they want to put on the fund balance so the rest can go to capital. Mr. Foley said that the history shows that a lot of money has been sitting idle for some time because there has been no ceiling. He explained that once the Board makes a decision on this, the first year the majority of the money that's been building up over the years will go to capital – and in the other years, the Schools will keep their fund balance at around 2%, with anything above that going to capital. He stated that it may give them incentive to spend their budget, but to the degree that there is excess, it goes over both for school capital projects and local government through a joint process where everyone decides how much money should go where.

Mr. Foley said that some School Board members have indicated that they are OK with the process, but think that the number should be higher than 2%. He noted that there would naturally be some salary lapse at the end of the year for an organization as large as the Schools, so it is a matter of the Board setting some kind of limit on it for them to use as a parameter about how they budget from that point going forward.

Mr. Snow commented that the Schools have done a terrific job in managing their expenses to help create these fund balances. He said that he sees their perspective that they'd like to keep the money since they've saved it. He said that transferring it to the CIP means they will still have access to it – but it goes to building schools and additions and other capital projects. He stated that what the Board does with the local government. Mr. Snow said that the Board has cut expenses, managed expenses to the best of their abilities, and end up with fund balances. He said that the Board takes the fund balances and puts it in the CIP where the whole system has access to getting projects done that need to be done. Mr. Snow added that with that, there is still a 10% contingency to fill in a shortfall if necessary, so moving the bulk of the money to the CIP aids everyone.

Mr. Boyd said that the 10% in reserves is partially for cash management, and that was increased for bond rating reasons. He stated that what bothers him about the school system's proposal is that it seems they're programming to use surplus dollars as part of their ongoing expenses. Mr. Boyd said that it seems like using one-time money as an ongoing source of funds for them, and local government would step in if there was an unexpected expense or shortfall in the schools without them having their own separate reserve accounts.

Mr. Rooker said the question is whether the County actually could step in, noting that the schools have a lawsuit pending related to one disabled student that may end up costing the system \$1 million per year in operating. He stated that if the fiscal cliff hits the state might decide to contract its contributions to schools this year, and if the schools find that their revenues are short they would typically go to their own reserves. Mr. Rooker said that these things can happen at times when the County is strapped and is struggling to make its own budget work.

Mr. Boyd asked Mr. Rooker if he wanted the County to raise its own reserves to compensate for that. Mr. Rooker said that that would be one strategy, but School Boards are elected and pass their own budget, and the question is whether it is wise for them to maintain a fund balance. He stated that the VCU study indicates that it is a wise thing for schools to do, and he agrees with that assessment. Mr. Rooker said that the only question in his mind is how much, noting that schools can't terminate contracts in the middle of the year.

Mr. Boyd commented that he is not disagreeing, but historically it has not happened.

Mr. Rooker said that historically the school divisions fund balance is probably more than it needs to be – which is the point of this discussion. To try to reduce it to a level that makes sense for their operations and financial soundness, while at the same time not leaving money that could be deployed into capital projects that benefit both schools and general government. He stated that he would be more inclined to go to the 2% level unless someone can explain why it should be higher and offer sound financial reasons.

Mr. Rooker added that along with that he'd like to accept school buses as a capital expenditure into the CIP, and the money that would move over would basically pay that expense. He noted that schools often will not replace buses when they have to cut expenses, which is a short-term budget fix but a bad long-term decision. Mr. Rooker added that the buses should be part of the capital plan and should be replaced on a schedule that makes sense. He emphasized that from a general accounting practices standpoint, buses are capital items.

Mr. Snow said that the problem he has is that the schools receive money from the state for school buses. Mr. Rooker responded that the County would get that under this deal.

Mr. Snow stated that the Board had discussed 2%, but they might as well say 3% because the buses amount to 1%. He said that in the past the schools have taken that out of their budget and still had money left over. He said that he wasn't sure they are comparing apples to apples here.

Mr. Rooker said that buses are capital items, and there's no reason to treat the County's vehicles differently than school vehicles. He said that any money the schools put into capital ends up helping to pay for those things.

Mr. Foley stated that the issue is the ongoing source of revenue to fund those.

Mr. Snow said that it belongs in the CIP, but some money should come in with it.

Mr. Rooker said that state money would come with it, and he is suggesting that the fund balance level be taken into consideration.

Mr. Foley said that what he is hearing is that it is a capital expense that should go into the CIP, and the question is whether any ongoing source of revenue comes with it. He said that Mr. Rooker is suggesting that some ongoing source should go with it, which is the amount that the state gives – which is about \$300,000. Mr. Foley noted that the total obligation is about \$1.5 million per year based on the Schools estimates, adding that the County would be short \$1.2 million. He said that whatever goes over in the first year could be taken care of under Mr. Rooker's plan. Mr. Foley emphasized that if that only takes care of it for one or two years, any other capital projects currently planned would have to come out to take on the obligation of the school buses beyond the one-time money use. He noted that staff would be presenting more information at their meeting next week on how this would play out, including several scenarios as to the impact of moving the bus obligation into the CIP.

Mr. Snow responded that if school buses are put into the CIP that frees up \$1 million or more for the Schools to use for other things in their budget.

Mr. Rooker said that it has not been \$1.5 million per year.

Mr. Foley said the impact would be about \$1 million a year and that would be the impact on the CIP in years three, four and five. He said that if there is no more revenue going in, then you'd have to take a million dollars out of some other projects.

Mr. Rooker stated that there is also the requirement that everything over the 2% balance be moved over, so there is an assumption the Schools are not going to run any surpluses that would enable money to be moved over from their fund balance at the end of the year – even though historically that took place even in years when they were going through tough times. He said that he does not accept that as an accurate financial projection, based on history. He stated that the CIP would be getting some money from the excess fund balance above 2%.

Mr. Foley responded that that is a decision that the Schools will make now that they have a ceiling. He said that they never had a ceiling before, so now the question is whether they would spend their money to make sure they still have 2% left at the end of the year. Mr. Foley said anything else over that the Schools would lose for operations, but there would be no guarantee that it be used to pay for school buses.

Ms. Mallek said that there could be a requirement that what school buses were purchased would be purchased from the \$300,000 from the state and whatever the transfer was from the fund balance that year up to a certain amount. So if there was only a \$400,000 transfer, they would get four school buses instead of 12 or whatever.

Mr. Dumler said that that is a really dangerous road to go down. Ms. Mallek responded that the schools have said they don't have an incentive to save.

Mr. Rooker said that if you put a cap on the fund balance the incentive issue is there with or without school buses, and the people he has spoken with on the School Board have not threatened that or even suggested it. He said that he assumes everybody will operate in good faith and proceed in terms of their operations and their budgeting pretty much as they have in the past. He stated that the School Board has an incentive to create as much money as possible for capital expenditures. He said that they have a list of school additions that are coming forward now.

Mr. Dumler stated that Schools have a lesser incentive – 100% of what they spend now will go to school operations, and only about 50-60% will come back to them from a capital transfer so there is some diminishment in incentive.

Mr. Rooker said that that would be there regardless of the cap, because it doesn't affect the amount transferred after the first year.

Mr. Foley said the original question was what the appropriate ceiling would be for this, and the second issue is how to handle replacement of school buses. He stated that this is a proposal to set a cap and then take on the obligation of the school buses in the CIP, with the understanding that the \$300,000 or whatever the state provides also has to be transferred to the CIP. Mr. Foley clarified that the real decision the Board is making is whether to take on the long-term obligation of funding those school buses once the capital money is used up. He said that Mr. Rooker has said that there will likely be some money above the 2% that will help with that obligation.

Mr. Foley suggested that the Board come to a decision about the fund balance cap, and then talk about the school bus obligation.

Mr. Boyd said that the Schools have already programmed into their budget to spend 2% of their surplus, and if this decision had been made last year their reserve would have been about \$3 million – 2% of \$150 million – and they've programmed to use it on recurring expenses. He said that he agrees that school buses need to be moved to the CIP, and the County should fund them – which is a whole separate discussion than what needs to be kept in reserves. He said that the Board cannot program in a surplus every year to cover \$1.5 million in buses, because he doesn't think it is going to happen that way.

Mr. Rooker said that he is not suggesting the County would get the entire \$1.5 million every year, but he does think there will be a number of years when there will be money coming over from schools to go into capital. He stated that the Board has to make a decision on both this and the buses, and it's reasonable to figure out both at the same time. Mr. Rooker said that he can justify a lower fund balance based upon the concept of moving school buses to capital, adding that the schools have used that as almost a reserve.

Mr. Boyd asked if the Board set the amount at 2% and basically said that 2% is \$3 million based on a \$150 million budget – then would it add an additional \$3 million to the \$2.7 million that is already in there? Or would the Board have that be the fund balance this year recognizing that those are one time funds that aren't suppose to be put towards ongoing operating expenses. Mr. Boyd added that if the school system uses all of that up then the Board would discuss what to do about surpluses for them next year – if the Schools use their \$2.7 million this year then they won't have a surplus next year.

Ms. Mallek said that the \$2.7 million is deducted from the \$8.2 million and the \$3 million is net.

Mr. Boyd said that he saying to fund the Schools balance at \$3 million which is 2% of \$150 million.

Mr. Foley stated that the Board has already approved a budget that relies \$2.7 million on fund balance.

Mr. Rooker stated that if the Schools don't use the fund balance this year, then \$2.79 million would come over to the CIP – with the 2% still being in their fund balance.

Mr. Boyd said that if the Board had made this decision last year then that's what they would be looking at for next year – the Schools would have a short fall of \$2.7 million in their budget.

Mr. Rooker pointed out that the Schools had to pick up a massive VRS expense this year, so the Board went along with them to use part of their fund balance to cover that. Mr. Rooker said if the \$2.79 million does not come over, then taking the \$900,000 out of their budget for school buses puts them in a position where in effect they're budgeting a deficit. He stated that taking over buses helps meet part of that deficit, moving it to capital. He said that he thinks that it is a reasonable thing to do, and it is better for the Schools not to base their budget on using fund balances year after year.

Mr. Foley said that the \$2.7 million was a high number and it was because of VRS, and the Schools made a commitment to take the first revenue growth and take care of that obligation. He said that typically the Schools have budgeted about \$1.8 million a year in use of fund balance, and the Schools indicated in their five-year financial plan that they needed to move away from using it as much – going down to about \$800,000 in years two, three, four and five.

Ms. Mallek noted that the lapse factor would help replace some of that amount if the Schools incurred a middle of the year expense.

Mr. Foley agreed, adding that the 2% or \$3 million could be used as much as they can replenish with salary lapse.

Mr. Snow noted that all Board members agree that school buses should be a part of CIP, and recommended the Board discuss the school fund balance cap.

Mr. Boyd said that he could support a 2% cap on fund balance for the school system, allowing them to keep the \$2.7 million this year with the additional 2%, but next year it goes back to the 2%. He said that if the Schools don't spend the money they have programmed to spend it rolls over to the CIP.

Mr. Foley said the only other issue out there is the ongoing obligation for the buses, and the County isn't going to know how much above 2% is going to go over to fund the CIP. He added that in years three, four and five the Board will have to figure out how to make up the million dollars.

Mr. Boyd stated that the buses should be discussed in the CIP the same way other County vehicles are, such as police cars and fire engines.

Mr. Foley explained that the way the process works is they have to wait on maintenance and replacement, so the buses will get done off the top before talking about other school capital projects.

Mr. Boyd asked why it had to be handled that way. Mr. Foley said that is the policy the Board has adopted.

Mr. Rooker said he does not know how that could be a policy when the buses haven't been in the CIP. Mr. Foley responded that it is a general category of maintenance and replacement, which buses are clearly going to be a part of.

Mr. Rooker said that vehicles are treated that way, but there are issues with the buses to get looked at and if they're in the CIP they will get a more thorough review by the entire committee. He said that there will be input from all sides.

Mr. Boyd stated that he would not be in favor of a policy that put buses above all else.

Mr. Rooker responded that the basis on which the investment on which school buses is made will be policy decisions made by the joint committee, and once that is approved the buses would generally be at the top of the list for replacement.

Mr. Dumler asked what kind of accounting requirements the School Board had to produce for accounting documents, such as GASBY standards.

Mr. Foley replied that the School Board has standards from the state as to how they have to report expenditures, adding that schools are a function of local government and the County isn't required to report the details of the school budget. He said that since the School Board is elected independently, the Board only has the ability to appropriate money in certain limited ways. Mr. Foley said that reporting is a whole different thing, and that's why local government wants to sit down with the schools and talk to them about the kind of information that might give the Board that transparency.

Mr. Dumler said that in a perfect world, the School Board would have a similar set of requirements and there would be complete transparency – so the School Board members would be accountable to voters every four years just as Board members are.

Mr. Boyd said that the reason he brought this up to begin with is that he is not seeing the schools report on where the budget is now, in terms of being behind or ahead, and he'd like to see that on a quarterly basis just as local government does.

Mr. Rooker said the Schools have the same kind of historic reporting requirements as local government, and the complaint has been that the Board sees budget to budget rather than budget to actual comparisons – without ongoing estimates the same way they do for general government.

Mr. Foley asked Mr. Rooker if he is looking for a projection of where they would be at the end of the year. Mr. Rooker said that the same type of report presented today would be helpful with respect to Schools.

Mr. Snow asked if the Board needed a motion on this matter. Mr. Foley said that they have a consensus, and it might be better to make the motion at the joint meeting with the School Board, along with the school bus issue.

Ms. Mallek encouraged Board members to try to figure out a way to look at the school buses when they're in the CIP and how there may be an incentive to save and an improvement on the transfer to put toward that purpose, so that it doesn't become another County government obligation without any substantial funds to go with it.

Mr. Foley said that he understood the Boards position, but said this will definitely have a real impact especially in the out years when there is not revenue projected from excess fund balance. He said that the CIP will have the shortage when staffs put that obligation into years three, four and five.

Mr. Rooker noted that the Board does not project much surplus coming from local government either, and the report today indicates they're up about a million dollars.

Mr. Foley said staff projects about \$1-2 million transferred from the fund balance to the CIP every year as an assumption, but he's not sure that could be done with the school amount. He said that that's going to be assuming something over 2% will be there every year, for planning purposes.

Mr. Rooker stated that everything is a projection, and the Board has generally moved more money over to capital from fund balance than projected – and had schools been participating, there would have been a substantial amount moved over from schools to capital. He stated that he does not know whether the past is indicative of the future or not, but if it is then Board should be O.K. with this.

Agenda Item No. 23. ZTA-2010-0004. Phase III – Industrial Uses.

The following executive summary was forwarded to Board members:

In 2009, the Board of Supervisors adopted an update of the Economic Development Policy that identified as a short-term priority to "Initiate zoning text amendments that further enable business and industrial uses of the appropriate zoning districts" (Objective II, Strategy 4). In August 2010, the Board adopted the revised Economic Vitality Action Plan which included direction to remove obstacles and expand options and flexibility for industrial land users through consideration of amendments to the zoning ordinance. Staff and the Planning Commission have since undertaken the following in developing changes to industrial use allowances with the objective of *modernizing regulations to provide greater flexibility for today's industrial uses while preserving the integrity of the industrial districts and accommodating target industries:*

- PC Work Session - December 21, 2010
- Roundtable regarding Industrial and Interstate Interchange Uses – November 11, 2011

- Resolution of Intent - November 29, 2011 (Attachment A)
- PC Work Session – January 31, 2012
- PC Work Session - May 15, 2012
- Roundtable with industrial and business interests – October 12, 2012
- PC Public Hearing – October 23, 2012

Following its October 23rd public hearing, the Planning Commission recommended approval of ZTA201000004 as presented with minor modifications to address terminology. The proposed amendments reflecting the Commission's action are attached. (Attachment B)

In consideration of the above-noted objective, staff was focused on several primary outcomes that could result from these amendments:

- Provide as much flexibility as possible to accommodate current and emerging industrial uses within acceptable standards.
- Provide attractive and affordable site options for the County's identified target industries.
- Protect our limited supply of industrial land from encroaching uses.
- Encourage the location of research and development/startup companies, including commercialization possibilities spinning out from the University of Virginia.
- Create appealing environments that blend live, work and play possibilities.

During the course of the above-noted meetings there were some important issues considered for which staff research, public input and Commission discussion contributed significantly to the proposed amendments:

- **Target industries and their typologies.** With the completion of the target industry study and the Board's acceptance of its recommendations for Albemarle County, it became important to understand how these targets can be accommodated under the County's zoning. Attachment B summarizes the target industry typologies and generally how they can be accommodated under the current proposed industrial use text amendments (Attachment C).
- **Categorization of industrial uses to allow for greater flexibility and easier zoning administration.** At the October 12th roundtable, questions were raised: as to the intuitiveness of generalized by right use categories in determining whether a potential use "fits"; if there is a "backstop" to prevent an unintended use being classified as by right; and are all prohibited uses listed? The table in Sec. 26.2 a. of the proposed ordinance (Attachment B) includes three broad categories of industrial uses – Manufacturing/Processing/Assembly/Fabrication/Recycling; Storage/Warehousing/Distribution/Transportation; and Laboratories/Research and Development/Experimental Testing – as well as other use categories that may be permitted in the industrial districts. If an industrial use is not otherwise specifically listed, it is permitted by right under one of the three broad categories of by right use. Specific uses that are listed in each district are indicated as not permitted, permitted by special exception, permitted by special use permit or permitted by right in that district. Furthermore, Sec. 26.2 c. list uses that are **prohibited** in an effort to avoid question in interpreting use allowances. The purpose in taking this approach is because it is virtually impossible to anticipate every potential industrial use. That has been problematic under the current ordinance provisions with the changing nature of industrial uses. Staff did extensive research of other localities to identify uses that should not be allowed by right or should be prohibited entirely and believes industrial uses other than those so listed will fall appropriately within the by right categories. It should be noted that all industrial uses are also subject to a certified engineer's report (Sec. 4.14.5) addressing the control of emissions, discharges and other by-products of the use.
- **Office uses in the industrial districts.** Current provisions allow any office uses in industrial districts by right. During Commission work sessions, at the October 12th roundtable and at the Commission's public hearing, different concerns have been raised regarding: the competition of basic office uses with industrial uses for industrial space in a rather restricted market; how some uses that are consistent with the target industry priorities of the county, most particularly bio-science and medical devices and information technology and defense/security, would be accommodated if office use in industrial districts is restricted; and that limitations on office use could deter the development of industrial buildings due to a reduced number of potential tenants/buyers. Susan Stimart, Economic Development Facilitator, has talked to commercial and industrial brokerage representatives about current office and industrial vacancy rates and possible "tensions" that could result between use of industrial properties for non-industrial purposes and maintaining the properties for "core" industrial uses. Her summary is attached. (See Attachment D) The Economic Vitality Action Plan stipulates the following as an action: **"Continue pursuing strategies to stop the conversion of properties zoned light industry (LI) to commercial, office and other uses that are not "core" industrial uses."** To address the different concerns raised, the ordinance proposes to:
 - Allow offices directly associated with any industrial use located in the City of Charlottesville and Albemarle County (called industrial offices) by-right with no restriction on industrially zoned land. [CURRENTLY ALLOWED BY-RIGHT]

- Allow supporting offices associated with an industrial use by right, not to exceed 25% of the gross floor area of a freestanding building or multiple buildings on an industrial site. Supporting offices exceeding 25% can be allowed by special exception. [CURRENTLY ALLOWED BY-RIGHT] Criteria to be considered with a special exception include the nature of the office as it relates to the industrial use and the intent of the industrial district.
- Allow independent offices with a gross floor area not exceeding 3,000 square feet by right. Independent offices exceeding 3,000 square feet can be allowed by special exception. [CURRENTLY ANY SIZE ALLOWED BY-RIGHT] Research of existing independent offices in the County's industrial districts indicates that 3,000 square feet is approximately the median size of such offices. Criteria to be considered with a special exception include the nature of the office as it relates to the intent of the industrial district.
- Include bio-science and medical devices and information technology and defense/security in the definition of the Laboratories/Research and Development/Experimental Testing use, thus avoiding any confusion over the by-right status of these uses.

See also Attachment E for a comparison of current and proposed allowances.

- **Other non-industrial uses in the industrial districts.** Some flexibility to accommodate other uses in industrial areas that may compliment or support industrial activities, or benefit due to their proximity to industrial uses, was considered. The ordinance proposes to:
 - Allow supporting commercial that serves individual or multiple industrial users within a development by right, not to exceed 25% of the gross floor area of a freestanding building or multiple buildings on an industrial site. Supporting commercial exceeding 25% can be allowed by special exception. [CURRENTLY ALLOWED BY-RIGHT UP TO 5%; ABOVE 5% WITH SPECIAL USE PERMIT] Criteria to be considered with a special exception include the nature of the commercial use as it relates to the industrial use and the intent of the industrial district.
 - Allow all other C-1, CO and HC uses by special use permit. These can include indoor athletic facilities, kennels, veterinary hospitals and motorcycle and off-road vehicle sales. [MOST NOT CURRENTLY ALLOWED] Criteria to be considered with a special use permit include convertibility, compatibility and potential to support industrial uses. At the October 12th roundtable, question was raised as to the allowance of certain uses in the industrial districts that may be considered of a commercial nature, most particularly auto towing, auto body shop and auto repair? It was noted that the ordinance proposes to allow auto towing and body shops by-right under Storage/Warehousing/Distribution/Transportation, whereas auto repair unrelated to a body shop would require a special use permit as a commercial use.
 - Allow subordinate retail sales of an industrial product at the place where it is manufactured by right, not to exceed 25% of the gross floor area of the primary use. Subordinate retail sales exceeding 25% can be allowed by special exception. [CURRENTLY ALLOWED BY-RIGHT UP TO 15%; ABOVE 15% WITH SPECIAL USE PERMIT] Criteria to be considered with a special exception include the nature and size of the product as it relates to the industrial use and the intent of the industrial district. At the October 12th roundtable, it was suggested that the limitation of subordinate retail sales of products produced by primary industrial use be allowed up to 49% of the gross floor area of that use. Currently a special use permit is required for over 15% and it is rarely requested. The 25% by right is considered a reasonable increase that keeps the use clearly subordinate and can be increased by special exception.
 - Allow multi-family residential by special use permit in the LI zoning district. [NOT CURRENTLY ALLOWED] Currently, one accessory on-site dwelling/sleeping quarter for owners and employees of the establishment is allowed. At the October 12th roundtable, it was suggested that allowance of residential uses within/close to industrial areas provides the opportunity for people to live in close proximity to their place of employment. Staff noted that proximity of all residential use types to employment centers is an important element of the County's land use component of the Comprehensive Plan, but staff did not consider housing types other than multi-family to be appropriate in an industrial setting.

See also Attachment E for a comparison of current and proposed allowances.

- **Industrial uses in commercial areas.** There was great interest expressed at the October 12th roundtable in allowing small scale industrial uses by right in commercial zoning districts, particularly for start-up type companies, especially in consideration of the availability of commercial space. While most such uses are not currently allowed, some by their nature and characteristics can be acceptable in commercial development. A tiered approach to allowing each of the broad categories of by right industrial use in each of the commercial zoning districts is proposed (see Attachment E) based on the "fit" of that industrial use in the particular commercial district. For by right allowances, a cap of 4,000 square feet is proposed which is consistent with the City of Charlottesville's allowances for similar circumstances. Criteria to be considered when a special use permit is required would focus on compatibility. Amendments to accomplish this are being handled through a separate zoning text amendment (ZTA201200013) which will go to public hearing with the Planning Commission on December 11th and come before the Board for public hearing along with this zoning text amendment on January 16, 2013.

- **Other.** At the October 12th roundtable, question was raised as to the meaning of by right, special exception and special use? Staff noted that by right uses are permitted without additional approval of the use by the Planning Commission or Board of Supervisors; special exceptions require Board approval of the use without public hearing, but with recommendation from the Planning Commission if the use is not recommended for allowance by staff; and special use permits require a public hearing and Board approval of the use after recommendation from the Planning Commission which also holds a public hearing. Concern was also raised at the roundtable that County parking allowances/requirements for industrial uses may not appropriately fit today's potential industrial uses. Staff noted that the Zoning Administrator can exercise discretion in applying parking standards based on the characteristics of the use and is not bound solely by the industrial parking standard.

In summary, the draft zoning text amendment includes the following:

- Provides definitions that allow for clear understanding and administration of the uses proposed in the industrial districts (Sec. 3.1).
- Further stipulates information necessary in a certified engineer's report based on the proposed uses (Sec. 4.14.5).
- Clarifies and adds supplementary regulations pertinent to certain proposed uses to address their potential on surrounding areas (Sec. 5.1).
- Authorizes the proposed uses within the planned development industrial park zoning district (Sec. 8.5.5.2).
- Stipulates the intent for industrial districts (Sec. 26.1).
- Delineates permitted and prohibited uses and structures (as discussed above), including a table of how both industrial and non-industrial uses are allowed (Sec. 26.2).
- Further clarifies structure height and setback (Sec. 26.3) and minimum yard (Sec. 26.4) allowances to be consistent with terminology used elsewhere in the ordinance.

Staff and the Planning Commission believe these proposed amendments strike a balance among different interests in accomplishing the objective of these changes and moving towards the primary outcomes.

This is provided for the Board's information, questions and further direction should any changes be desired. A public hearing is scheduled for January 16, 2013.

Mr. Cilimberg said that there is significant history related to this zoning text amendment, and at this point the Board is being informed of the recommendations. He said that the Board would have an opportunity to ask questions at the end of the presentation, and he would ask questions of the Board in terms of direction.

Mr. Cilimberg stated that approximately 2.5 years ago, the phase one industrial zoning text amendment was approved and that allowed for the heavy industrial uses permitted by-right to potentially be located in light industrial areas by special use permit. He said that that action was taken before the Board had gotten into the Economic Vitality Action Plan and its adoption later that year. A second phase adoption of the performance standards for industrial uses occurred about two years ago. Mr. Cilimberg noted that staffs had held a significant roundtable in the latter part of 2011 on industrial uses and interstate interchanges to get input on zoning considerations as well as Comprehensive Plan considerations, and phase three is about industrial uses. He explained that the Planning Commission held two work sessions and a public hearing in October, and as it was holding its work sessions the Board endorsed the target industries so that has been factored into these recommendations.

He reported that the objective was to modernize the regulations and provide greater flexibility in light of today's industrial uses, and in light of the target industries; preserving integrity for the industrial districts but also accommodating the target industries.

Mr. Cilimberg said that the new ordinance language in general moves to broad categories of by-right industrial uses, and specifically lists uses that are not by-right within those broad categories – so some of the uses would remain as special use permit uses in at least one of the industrial districts. He stated that it provides for the target industries that are of an industrial nature as well as those that are of an office nature, and it broadens other by-right uses and expands opportunities for blending industrial and commercial uses.

Mr. Cilimberg reported that he would focus on the primary use recommendations, but there were also a number of changes intended to address the form and order of things and to update terminology to deal with definitions. Further stipulating certified engineer report information, adding supplementary regulations, and classifying some of the structure height and setback allowances consistent with terminology used elsewhere in the ordinance. He said that in the use area, the broad categories were manufacturing, processing, assembly, fabrication and recycling – which would be by-right in all districts and would include agribusiness and food processing target industry. Mr. Cilimberg stated that the storage, warehousing, distribution and transportation use includes data center and agribusiness and food processing target industries; and the lab, research and development and experimental testing includes biosciences, medical devices, information technology and defense security target industries. He stated that those are the broad by-right categories, and said that there are within each category specific uses that are listed by special use permit. Mr. Cilimberg said that there was also an attempt during the work on this

ordinance to update the allowances for non-industrial uses in industrial districts based on requests that had been made, considerations for how effectively industrial areas are being used, and referenced a table summarizing the changes.

He stated that Board members had been contacted regarding concerns of potentially losing the office use as part of the industrial district. He added that staff took an approach initially that office uses were not generally consistent with the idea that industrial districts should be accommodating industry and had the potential of taking buildings and land that otherwise would be available for the industrial users themselves. Mr. Cilimberg stated that during the Planning Commission discussions, landowners and building owners raised concerns that they use office uses as a way to get their building started and they were concerned about not being able to accommodate any office uses. He said that there was also a concern that by making all offices a special use permit rather than by-right, staff were creating a nonconforming use for those offices – and there would have to be grandfathering provisions. Mr. Cilimberg said that with work from the Planning Commission, staff ended up dividing the office types down to “industrial offices,” which are basically those associated directly with the industry in the area such as a corporate office for an industry. He stated that supporting offices would be those providing supporting services, and staff worked with a 25% marker above which a special exception would be necessary for offices exceeding 25% of the gross floor area.

Mr. Rooker asked what the difference was between a special use permit and a special exception permit. Mr. Cilimberg responded that the amendments considered earlier that day had further clarified that, and the special exception is intended to deal with a process of staff review and a Board approval sometimes through consent agenda. He noted that in this case, the special exception would be for increases in the allowance of area for a particular use whereas special use permits are about the use themselves: allowing a use that otherwise is not by-right in the district.

Mr. Rooker asked if the Board would have to approve every special exception or if it was a staff function. Mr. Cilimberg replied that special exceptions require Board approval but not necessarily a public hearing to have it happen. He explained that the Board sees those now for waivers, modifications, and variations such as the ones considered this morning. He said the Board could anticipate those as they are as supported by staff that they could be handle as consent agenda items.

Mr. Rooker said that if the ordinance is adopted, someone could go into an industrial zoned area and get a special use permit to develop a shopping center. Mr. Cilimberg responded that that is potentially the case, as someone could apply for a retail use in an industrial district. He said that there have actually been a few commercial uses that have wanted to go in industrial space but can't right now. He said the special use permit allowance would allow that, noting that Mr. Dumler has a constituent that wants to go into the Shenandoah's Pride building. Mr. Cilimberg noted that it would fall under the special use permit review criteria that are set out in the ordinance and would require conditions if approved.

Mr. Rooker asked if there could be proffers with a special use permit. Mr. Davis replied that proffers are not necessary because the Board can impose conditions.

Mr. Rooker asked if conditions could be imposed such as doing road improvements and installing traffic lights, adding that Avon Center was zoned light industrial for years and never found the right user so they rezoned it and accepted proffers as to how the development would take place, including monetary and traffic considerations. He said that this would eliminate that process. People could in effect rezone property by going the special exception route.

Mr. Cilimberg said that what the Board would be dealing with under the special use permit route would be a public hearing requiring special use permit review criteria. He said that the starting point for that would be whether it's consistent with the Comprehensive Plan.

Mr. Rooker said that if the Comprehensive Plan contemplates zoning and the area is designated industrial but zoning allows a shopping center to go in without changing the zoning. He asked if that is implied in the Comprehensive Plan. Mr. Cilimberg responded that it is not. He said that the Comprehensive Plan is a guide for special use permit approvals regarding use.

Mr. Rooker asked if that meant granting a special use permit would be contrary to the Comprehensive Plan. Mr. Cilimberg responded that it could be, depending on the location.

Mr. Rooker asked what about the rezoning of Avon Street. Mr. Cilimberg responded that it depends on what the Comprehensive Plan has designated for it. As an example, in Places 29, there are a number of mixed-use areas where a commercial use next to an industrial use may be appropriate.

Mr. Rooker said the whole idea was to try to make certain there was enough light industrial land, and make certain that the industrial land zoned today is used for industrial purposes so that there is maximum use out of current zoned property, and consider rezoning where appropriate. He said that he does not know how else you could expand a potential available use property. He stated that this essentially takes the County down a road where more and more industrial land is used for other purposes. Mr. Rooker said that it seems to him that the Board is moving contrary to what the basic idea of this was in the first place.

Mr. Cilimberg stated that the staff report on how staff got to the recommendations might help him understand where they are now, and through Planning Commission work sessions staff ended up with three tiers of office use – with the final additional use being for doctor's offices going into an industrial setting. He said that there would be a special exception for that type of use rather than a special use

permit if the establishment exceeded 3,000 square feet. He said that staffs were trying from the beginning to actually move the office use from by-right to a special use permit criteria so that you knew what you were seeing in terms of offices that might be competing with industrial space.

Mr. Cilimberg noted that this is where the Commission ended with it based on input they had received. He explained that in the commercial area the second group of uses in industrial districts, the first two – subordinate retail and supporting commercial – already existed in the ordinance, but the commercial uses did not except for select ones. He emphasized that staff wasn't recommending the special use permit for commercial uses in the beginning, but because of some of the public's input in the interest of having those kinds of uses staffs felt a way to address that would be through special use permits. He said that the Planning Commission ultimately decided that it should be allowed without restriction. Mr. Cilimberg stated that staff addressed the issue because the public was raising it, and it evolved from a suggestion that a special use permit be required if it were up 25% of the space to now being stipulated that the space is not restricted in terms of what could apply for a special use permit.

Mr. Rooker said that he doesn't doubt that public input would be largely from people who hold industrial property, and their interest is to maintain maximum flexibility for using their property for whatever use they can to achieve the highest value if they want to develop or sell it. He said that sometimes that may be inconsistent with the goal of the County to maintain a good stock of industrial property.

Mr. Cilimberg said that staff's recommendations were intended in part to address that concern of not having enough industrial space and making sure they weren't creating competition for industrial space.

Ms. McCulley stated that it also came up in the context of the fact there is a lot of existing space that is laying vacant and if an owner can have an office occupant or tenant that provides a revenue stream for a while. She said that she does not anticipate that somebody would be encouraged to come in for a special use permit to develop a full-blown shopping center, and then if they did one of the key things staff would look at is impact on surrounding roadways. She said that if the traffic impact is such that the proposed use generates sufficient traffic to warrant additional improvements, then it should be addressed with the special use permit or not be approved.

Mr. Davis said that conditions do have limitations with a special use permit, whereas proffers can deal with offsite conditions. He stated that generally special use permits cannot address those unless the need for those is substantially generated by the use itself. Mr. Davis said that case law has typically limited that to turn lanes and features related to the use.

Mr. Rooker said that if he had owned the Avon property and had wanted to put a shopping center there under this rezoning, he would have gone in for a special use permit. Mr. Davis responded that it could be denied by the Board.

Mr. Rooker said that it could be denied, but a rezoning would be necessary in order to get the development with the kinds of proffers typically leveraged on rezoning property. He said that Stonefield, parts of Hollymead and all of Avon Center was industrial. He stated that if those would have been special use permits is a whole different ball game. He stated that the Board should be real cautious about losing the ability to getting proffers but also providing easier ways to basically convert the County's limited industrial property to other uses.

Mr. Cilimberg responded that one of the reasons staff suggested no more than 25% of space was for that specific purpose, so there was a limitation on how much of a site could develop commercially – if it were allowed at all. Mr. Rooker commented by-right. Mr. Cilimberg said that it was by special use permit.

Mr. Rooker asked if he was jumping from "Supporting Commercial" to "By-Right or SP Uses".

Mr. Cilimberg said that he is talking about commercial and explained that what Mr. Rooker was referring to was By-Right or SP uses that are in commercial districts. He said that most are not permitted now and the recommendation from the Planning Commission would be allowing them potentially by special use permit. He stated that when staff started the discussion of any allowance for them it was for up to 25% of gross floor area only.

Mr. Rooker asked if staff changed that. Mr. Cilimberg responded that the Planning Commission changed it.

Mr. Cilimberg said that staff have liberalized the first two – subordinate retail sales and supporting office – from their current allowance, because they support the functioning of the industrial complex.

Mr. Rooker said that the problem he has with supporting commercial is definition, as it is not really defined, or the way it is designed. He said that it would be very difficult to say that it wasn't anything – it seems that some of the definitions would have to be tightened up.

Mr. Cilimberg clarified that "supporting commercial" currently says "a retail use within an industrial district that is subordinate to and which primarily serves" and then lists the uses.

Mr. Rooker explained that it seemed a little too open ended. Mr. Cilimberg said that staff has discussed how to ensure that definitions are tightened up, and want to get the Board's input. He explained that what is before them now is the evolution of this measure.

Mr. Thomas asked if the intent was to make the property more versatile. Mr. Cilimberg replied that the first intent was to try to make industrial districts most available and open for potential industrial uses, although there are considerations for other uses that may complement the industrial use or might make them more capable of developing. He said that there often is a "blur" sometimes between what is industry and what is office, and what is commercial. He said that staff was trying to accommodate that. He added that the introduction of a multi-family residential was only to provide the possibility in a larger setting for residential near industrial and the characteristic of a building that might be complementary.

Ms. Mallek asked if multi-family was an on-site employee or manager. Mr. Cilimberg responded that that is already allowed. He explained that it would be an apartment building in an industrial park.

Ms. McCulley noted that what Ms. Mallek described was by-right.

Mr. Cilimberg noted that multi-family was in connection with thoughts raised during the University Research Park development that it would have been potentially beneficial in that area to have residential in the mix of uses because of the potentially large number of employees in that area.

Mr. Rooker said that the primary goal was to make certain that the Board made the best use of their current industrial property for industrial uses. He said that it is one thing to look at it in a PUD-type development and another to have a piece of industrial land that a developer decides to use for residential.

Mr. Cilimberg responded that if it were an industrial area in the Comp Plan that would be a starting point in the special use permit review to say that's not appropriate.

Ms. Mallek commented that it is much harder to do it that way though.

Mr. Rooker said that there is no ability to leverage affordable housing or proffers under this scenario.

Mr. Cilimberg said that the residential at North Pointe did have some special use permit stipulations but he does not recall the particulars.

Mr. Cilimberg stressed that staff started with this from the standpoint of trying to create mixed possibilities, and his questions to the Board are to get direction on next steps.

Ms. Mallek said that she is trying to understand it through examples, and the Comdial property with Roberts medical supply is a warehouse but also has a small counter for retail sales. She stated that that is a perfectly appropriate use, but to have a property that is basically an old industrial zoning that could come in and do a special permit, 25% might be 50,000 square feet without any ability for proffers, may not be.

Mr. Thomas asked what is Richard Hewett's building currently zoned. Ms. Mallek responded that it is light industrial.

Mr. Cilimberg said he has the allowance under his zoning for office uses as well as industrial uses.

Mr. Snow said the overall concept is great in terms of allowing more flexibility, but the Board needs to work out details to prevent an applicant from taking advantage of the wording that might have unintended consequences.

Ms. Mallek stated that she understands that staff has taken everyone's thoughts into consideration but it has stretched a little far. She said that a 3000 sq. ft. limit is pretty contained but something that is 25% of the whole property could be ten times that.

Mr. Rooker commented that this allows conversion of industrial property to highway commercial, commercial, C-1, multi-family residential by special use permit.

Mr. Cilimberg said that there is not a percentage of site or a maximum size.

Ms. Mallek commented that the Board would never see another rezoning issue.

Mr. Rooker stated that not only would the Board not see another rezoning but why would some anyone rezone when they can go to another site and not have to proffer anything, and get a special use permit.

Mr. Cilimberg said that he wanted to come back to the Board for guidance, noting that the Planning Commission would hold a public hearing the following week on industrial uses in commercial districts. He said that they are specifically addressing the target industry types, up to a certain size by-right and up to 4,000 square feet above that size by special exception except where the nature of the target industry would not be consistent with the intent of the district. In those cases, he said, the only opportunity to provide for the use would be by special use permit.

Mr. Rooker said that makes a lot of sense to him because it is target industry-oriented and allows for expansion of light industrial uses in the community because it opens up property zoned for other purposes. He said that that gets to the intent of what the Board is trying to accomplish with this.

Mr. Cilimberg stated that there are a variety of uses that the County must accommodate, and they have traditionally been in the ordinance, but there's not an introduction of new uses – just clarification of the existing uses. He said that staff also wanted to ensure identification of prohibited uses so in Zoning's review of a particular proposal they would be able to identify whether a use should not be located in any industrial district.

Mr. Cilimberg said that the desired outcomes were flexibility, options for target industries to protect industrial land from encroaching uses, to encourage research and development, and to create an environment that might blend live, work and play possibilities. He stated that his questions for the Board are whether the broad categories of by-right uses are appropriate, and whether they find them reasonable enough to move forward to public hearing.

Mr. Rooker said that generally he would agree, and asked if staff's list has picked up everything that the public should be notified about and have an opportunity to comment about.

Mr. Cilimberg responded that staff has paid special attention to ensuring that they have identified uses that could have a negative impact and should not be by-right in all districts. He said that Ms. McCulley's staff did a very good job in researching a number of localities around the country to see how they dealt with those uses. He said that this list covers those uses that would not be by-right in each one of the industrial districts under the manufacturing category.

Ms. McCulley said that some of these uses have new or upgraded supplementary regulations to address impacts from those uses.

Mr. Rooker said that it looks like a good list if staff has thought it through and looked at the County's prior use list and check with other communities.

Ms. McCulley said that staff has focused on environmental impact, water usage, traffic impact, volatility and other hazardous kinds of nature in the use.

Mr. Cilimberg added that they have also addressed noise, and have the list of prohibited uses.

Mr. Snow asked what "rendering plants" meant. Mr. Cilimberg explained that it was after slaughter house.

Ms. Mallek asked if staff looked at the list to determine if they needed to have import of big materials such as tanker trucks of chlorine and gas as far as resources that they are going to use in their process. Mr. Cilimberg stated that staff considered not only the product, but what is involved in getting to their product such as use of dangerous materials.

Mr. Boyd asked how the Comdial facility would be categorized, as it has a large variety of uses – mixed manufacturing, storage, retail, etc. Mr. Cilimberg responded that the building itself would not be categorized, and the zoning clearance would then determine if the use being proposed for that building fits within the allowances of the district whether it is by-right or needs a special use permit.

Ms. McCulley said that when an applicant goes to the site plan stage, they have a few of the primary anchor industrial tenants in mind, so staff is dealing with discussion of use at that time.

Mr. Boyd said that his concern is what process an applicant has to go through in order to make sure they can lease their space to a certain type of tenant.

Ms. Mallek said that using Comdial as an example, any of the categories could coexist there. Mr. Cilimberg replied yes and said that utilization of the space is where you could have different uses. He explained that sometimes a use will be requested for a particular industrial district and that use isn't specified in the ordinance, so the zoning administrator must determine whether it is even allowed. He said that now by having the categories, only the things listed as needing a special use permit would specifically go through a process that the Zoning Administrator would define for them as the special use permit process – otherwise they are going to be by-right.

Ms. McCulley said that in some ways it's easier – the applicant looks at the list and sees if it's called out separately, make sure it's not a prohibited use and otherwise it's allowed. She noted that today staff has specific use categories and they are 32 years old.

Mr. Cilimberg said that the next category they would focus on would be offices, and the office allowances – which are all by-right now – would be proposed to be tiered between what is by-right for industrial offices, those that support an industry, and independent offices. He said that there would be some limitations to the establishment's size in the case of an independent office, and if they were to exceed 3,000 square feet that would be a special exception. He said that is a somewhat higher bar than now exists, where it is by-right.

Mr. Rooker stated that he is not certain that he supports this, but he does not object to taking it forward to public hearing. He expressed concern that someone can build office buildings by-right on industrial property, and he thought one of the goals of this was to get away from that standing policy in order to preserve industrial property.

Ms. Mallek said that the possibility of having many 3,000 square aggregates completely wiped it out from her perspective.

Mr. Snow said that he thinks there needs to be some kind of cap.

Ms. Mallek added that otherwise the Board is not getting anywhere.

Mr. Cilimberg stated that a cap that has been discussed that did not get included would be 25% independent office maximum cap for the space that could be used.

Mr. Rooker said that the Board wants flexibility but does not want complete conversion.

Mr. Cilimberg noted that this would create for current industrial zoned properties and buildings a limitation that does not exist today for them.

Mr. Rooker said that existing buildings would be grandfathered.

Mr. Cilimberg said they are, except when they choose to expand their space.

Mr. Rooker asked if grandfathered buildings could be treated different with respects to an expansion. Explaining that there could be an existing building on an industrial property and allowed under current zoning could expand by a certain amount without violating the ordinance, with some kind of expansion potential without a rezoning – perhaps by special use permit.

Mr. Davis responded that the Board could do that, but currently under the ordinance nonconformities can be expanded by a certain amount by-right. He said that by grandfathering the use, they are making it a permitted use rather than a nonconforming use so all grandfathered buildings would have to meet the uniformity requirement for zoning.

Ms. McCulley said that the nonconformity is restricted in case of destruction and rebuilding.

Mr. Rooker stated that the Board does not want to prevent someone with an office building from making reasonable updates and additions to it, even if it would not necessarily be allowed under the new zoning regulations.

Mr. Davis said that the question is how much the Board would want to have an existing building be able to expand, rather than just continue to exist, if it is not otherwise permitted under the current ordinance.

Mr. Rooker asked if the Board could allow it by special use permit. Mr. Davis responded that it could.

Mr. Rooker said it made sense to him to approach it that way. He said that the Board does not want to approve by-right the ability for someone to build a million square feet of office buildings on a hundred-acre site because they already have a 3,000 square foot office building. He said that by doing it by special use permit where there are existing offices, at least there is some regulatory scrutiny as to what's being permitted by way of expansion.

Mr. Cilimberg said that would apply to existing office buildings only.

Mr. Davis clarified that what is being proposed is that any independent commercial office above 3,000 sq. ft. would require a special exception, and that would not be available unless it already existed. He said that staff's concern has been taking away that use in its entirety, as it has impacts on the property owner, and have struggled as to whether or not they've met all the legal criteria to do what the Board is proposing.

Mr. Rooker said that the Board seems to endorse "supporting uses" of office to industrial, retail on industrial sites to sell anything produced from the site, and a certain amount of office combined with industrial as long as it does not exceed the primary use. He said that there are existing uses already established, and the special use permit process for expansion is appropriate.

Mr. Cilimberg said that one approach could be to keep what they have in terms of square footage per establishment by right or by special exception up to a percentage of the total building size, and beyond that percentage of the total building size would be a special use permit. He said that could cover any existing building as well as a new building intending to be all offices.

Mr. Rooker asked if that was enforceable.

Ms. Mallek said it sounds like the County would be open to litigation immediately, if the Board denies one or approves one.

Mr. Rooker commented that it is a difficult one.

Mr. Cilimberg said the only other way to deal with existing offices differently is to call them out.

Mr. Cilimberg asked if the Board felt that any of the commercial uses other than subordinate retail sales of supporting commercial should be allowed at all. He said that right now staff is saying special use permit.

Ms. McCulley mentioned that there is a great deal of interest from commercial kennels, veterinary clinics and churches to go into existing industrial space that is warehouse-like in nature but has no tenant. She said that there's a great deal of interest in that, and staff has had to say no.

Ms. Mallek said that it is just not on the list right now.

Mr. Boyd asked what the opposition would be to that. Ms. McCulley said that is why staff is proposing this now.

Mr. Rooker commented that his issue was having people take an industrial piece of land and use it for commercial, adding that he does not know why churches would be considered commercial in the first place. He said that maybe they should be permitted to locate in vacant buildings in industrial areas.

Ms. Mallek said that the parking would already be available for churches as well.

Ms. McCulley responded that churches are definitely non-industrial and using an existing warehouse is a "nice fit on a temporary basis" especially for those churches that have not yet built their permanent buildings.

Mr. Cilimberg clarified that the intent is for existing buildings and beyond that there is not an allowance. He asked if the Board wanted to allow multi-family at all by special use permit, if it pertained to existing buildings.

Mr. Rooker said that he did not really like it because of the affordable housing and proffer issues.

Mr. Cilimberg clarified that staff would not move forward with multi-family as a residential use.

Mr. Snow stated that he knew of several landowners with LI land that has a business of selling material out of that building, and a lot of it is not selling. He said that the landowners want to take some of the material and use it to rehabilitate and have a little commercial service in the LI land. He explained that the idea in one particular case was to use spas and hot tubs that were not selling and have people bring in pets needing hydrotherapy.

Mr. Rooker said that if they are selling the spas, then that is retail.

Ms. McCulley said that there are no general retail uses allowed in industrial districts currently, nor is that proposed.

Mr. Snow said that they are an installation company, and they go out and install the spas. Ms. McCulley said that zoning could certainly look at that, adding that people are getting very creative in ways to make money. She said that staff is trying to be as flexible as they can.

Ms. Mallek stated that if veterinary clinics were allowed, it seems like hydrotherapy should be. Mr. Cilimberg said it would require a special use permit.

Mr. Boyd commented that he did not have any issue with this because there is no way the Board can be so specific in their rules and regulations that they can anticipate everything that will happen in the next 20 years.

Mr. Cilimberg clarified that the Board recognizes the investment that has already been made in buildings and would like to give the owner a chance to get a return on the investment.

Mr. Boyd agreed, and said that there has to be a way for the owner to come in and ask.

Mr. Davis asked if the Board's intent here was for "existing buildings" to be defined on those that existed the day the ordinance was adopted, or when a building is built for another purpose and then becomes vacant. He said that that becomes a real significant issue in this type of scheme.

Mr. Rooker said that the use Mr. Snow mentioned would be allowed under the proposed ordinance by special use permit.

Mr. Davis agreed, but said his concern was whether the use of existing buildings would pertain to those that exist today, or a building that is built tomorrow that becomes vacant.

Ms. Mallek added or never had a tenant.

Mr. Rooker asked why there were so many vacant buildings if there is not enough industrial property.

Mr. Cilimberg said that staff would take a shot at it, and confirmed with the Board that they are ready to move forward on January 16.

Ms. Mallek asked if Board members had any other comments on the commercial fit in the light industrial space.

Mr. Boyd asked how soon the Board would have the details on this before the public hearing so he would have time to talk to some constituents about it.

Mr. Cilimberg said that the amendment language is typically prepared and available at the time the public hearing is advertised, which is just over two weeks before the Board meeting.

Mr. Boyd asked if the staff report would also be available then. Mr. Cilimberg responded that he would likely have it done by then.

Mr. Foley said that staff wants to make sure it is complete before the Board gets it.

Mr. Davis stated that because of internal schedules, it would need to be done within the next 10 days.

Mr. Foley suggested pushing the public hearing back to give the Board extra time.

Mr. Boyd agreed that he would like to have more time.

Ms. Mallek agreed, adding that this is a "huge step forward" in progress with the issue.

Agenda Item No. 24. Five Year Financial Plan.

Ms. Lori Allshouse, Director of the Office of Management and Budget, addressed the Board, stating that they had held several meetings about the five-year plan and could finish it up at this meeting or at their December 12 meeting. She said she had presented materials to them on November 7, and the School Board presented their five-year plan materials on November 8. Ms. Allshouse stated that her desired outcome today is for them to approve the five-year financial plan, which is not the budget but does drive budget development.

She reported that the plan assumes some slow revenue growth, and there is minor growth at this point – from 1.3% to 3.3% in 2016 and staying at that level throughout the plan period. Ms. Allshouse said staff had shared a slide with the Board several times on the current assumption on projected real estate taxable assessed values. She said that the Assessor's office is working on the current year's assessment. She stated that this informs the numbers in the five-year plan, and staff still estimates that assessments would decline slightly in FY13 and FY14, bottoming out in FY15 and then improving in FY16 into the out years of the plan.

Ms. Allshouse reported that the expenditure side of the plan supports essential services for the government and is a balanced plan. She said that the plan adds 10 police officer positions over the next five years – one in the first year and a couple in the second, three in the third, and two in each of the out years. Ms. Allshouse stated that it does not meet all the needs of the Police Department but did keep up with where the County is now in relation to population. She said that there are two Bright Stars positions in the plan currently – one for Stony Point and one for Red Hill Elementary School – in FY14, and is in the budget because of the Safe Schools/Healthy Students grant that is expiring. Ms. Allshouse said that this assumption increases the current one position shared between two schools to two positions for those schools. She reported that the plan has three stormwater inspection positions in the plan to support the mandates coming to the County. She said that the plan has four Department of Social Services positions, but not until FY16 – and those are primarily eligibility workers and adult services workers; it provides support to the schools in accordance with County formula.

Ms. Allshouse said that staff acknowledges there is some financial uncertainty, and are maintaining a AAA-bond rating with this plan as well as maintaining reserves and including a tax rate increase of 0.7 cents in the third year. She stated that the plan continues to build a responsible organization focused on the future, and there is still some savings and restructuring built into the plan in FY14 with staff identifying about \$100,000 in savings through some type of restructuring and \$50,000 in both FY15 and FY16. Ms. Allshouse stated that the plan supports the County workforce with a 2% performance salary increase per year and establishes an intern fund using some one-time monies. She said that the plan embraces creativity and innovation and includes some enhanced EMS fees beginning in FY14, creates a stormwater district in FY15, and establishes an innovation fund using one-time monies.

Mr. Rooker asked how much revenue is expected from the stormwater district. Ms. Allshouse responded that it would support three additional workers and the current stormwater operation, which is \$258,000 per year.

Mr. Foley said the cost of the three workers would be about the same, which would total about \$400,000-\$500,000.

Ms. Mallek commented that it would be dependent on the service level chosen. Ms. Allshouse responded that it would be contingent on how it was set up.

Mr. Foley noted that it would not address the mandate because there is no capital going into stormwater, it just does inspections.

Ms. Allshouse reported that there has been work with volunteer organizations to increase some of the enhancement of EMS revenue, which is projected to be \$176,500 in the first year.

She said that in FY15 the County would establish the stormwater district, and it would support the existing stormwater operations – about \$258,000. She said that it would free up the general fund for some other uses.

Ms. Allshouse stated that the other revenue enhancement would be the tax rate increase of 0.7 cents, for a total of 76.9 cents, which would only be after a projected drop in assessed values of 2% over the first two years in the plan. She said that it would provide approximately \$600,000 additional for the school division, \$115,000 for capital and debt, and about \$385,000 for general government.

Ms. Allshouse said that she did some calculating on the impact of not doing the stormwater district or the tax increase, and stated that they would be unable to add the four DSS workers and the four police officer positions.

Mr. Snow said that the 0.7 would only kick in if there was a 2% drop over the first two years of the plan, and if it didn't drop they would not need the 0.7. Ms. Allshouse confirmed that the plan did build in those assumptions.

Mr. Rooker said that a 2% drop in revenue is about 1.5 cents on the tax rate, so the 0.7 cents recovers about 50% of the loss.

Mr. Snow asked if the 2% was an average that differed among properties. Ms. Allshouse responded that it was, based on the total assessed value of real estate.

Mr. Rooker commented that if there is a 2% drop and someone does not drop at all, then someone else must have dropped by 4% to make the average.

Mr. Foley stated that the Board had the same discussion last year which was the challenge.

Ms. Allshouse reported that the Schools' Five-year Financial Plan has several expenditure drivers including enrollment growth – which is predicted to increase each year; a 2% performance based pay increase, benefits cost increases; state or federal mandates similar to the County's; free and reduced lunch students; energy costs, and bus replacements. Ms. Allshouse said that revenue challenges for the schools include uncertainty of the local economy, the potential of changes in state funding, and the potential for federal reductions.

Ms. Allshouse stated that the Schools' watch list includes flexibility in learning requirements such as online courses, potential federal funding reductions, the ending of the Safe Schools grant, composite index impact, and capital needs.

Mr. Boyd commented that the "differential staffing" tied to the number of free and reduced lunch students is somewhat unique to Albemarle, and other schools around the state that don't have that differential are just as successful as Albemarle. He added that this is something the school system should consider if at some point they need to reduce their budget.

Ms. Allshouse said that it is an important point, and reminded the Board that the local government presents a balanced budget and according to the Schools Five-year Plan they currently do not have enough revenues for expenditures.

Mr. Boyd stated that it was a huge number that drives the teacher to student ratio much lower than a lot of other successful school systems in the state.

Mr. Foley noted that that is also being used in adjustments to capacity of school buildings, and is a pretty big factor both on the operating and capital side now.

Ms. Allshouse reported that general government also has service challenges associated with population growth and demand, as noted on the watch list, and staff shared some information on it at the last work session on some of the service demands out there for County departments. She said that the TMDL mandate is definitely a watch list item, along with funding capital needs, transportation funding, and reductions in state and federal funding.

Ms. Allshouse concluded by stating that staff has presented a balanced plan to the Board that acknowledges some financial uncertainty, continues to build on a responsive organization that is focused on the future, supports essential services to the fullest extent possible within existing revenues, embraces innovation to address strategic priorities, and helps guide FY14 budget development.

Mr. Foley said that as staff get into the one-year planning process staff takes a fresh look at revenues and sees how the assessments end up, and there is still uncertainty of federal and state funding sources.

Ms. Allshouse presented a slide on the tax for an average single-family residential parcel. She explained that an average single-family residential parcel is an average single-family, not an agricultural single-family with a parcel over 20 acres, and is classified as a suburban and urban single-family house. She also explained that staff used a mean to find the average, and the graph includes the 0.7 cent tax rate increase in calendar year 2015. She said that the tax on the average single-family residential parcel in 2008 was \$2,287; in 2018 it is projected to be \$2,297 or \$10 difference. Ms. Allshouse reported that the tax rate has changed over those years as well, at 0.742 for a few years between FY09-11, and 0.762 from FY12-14 and changing in FY15.

Ms. Mallek asked what the value each year is. Ms. Allshouse responded that it is close to \$300,000.

Mr. Foley said that this process attempts to give the Board a multi-year look based on the best available information and a set of assumptions, and part of the process is to gauge whether the Board is comfortable with the assumptions for the planning process. He stated that the assumptions include the establishment of a stormwater district and the need for more inspectors because the MS4 stormwater permit must be updated by July. Mr. Foley said that staff does need more information on what the mandates will be, but they do know it will lead to some more construction and retrofits.

Mr. Foley stated that staff has also focused on a commitment to looking at operations and reducing expenditures, restructuring where possible, being more efficient. He said that expenditures are down and staffing is down to the 2002 levels. Mr. Foley said that putting a tax increase into the third year of the plan was not an objective at the onset of the process, but staff felt the need to maintain core services and deal with some of the mandates and recognize staff as well as dealing with the police and social services workers. He emphasized that adding the 0.7 cents was a last resort, and if the Board is not comfortable with that they can establish as part of the process that Finance track revenue growth compared to what is in the plan and eliminate the tax increase as the first priority. He emphasized this is a planning process and there is a set of assumptions that the Board could tweak, adjust and add goals that would give staff direction on the five years.

Mr. Thomas asked if that 0.7 would remain in the revenue. Mr. Foley said that it was only for planning purposes.

Mr. Rooker stated that this is a planning document and the Board is not adopting a tax rate.

Mr. Thomas said that those things just get hung in there and stay there.

Ms. Mallek stated that they have not over the last five years.

Mr. Rooker said that under this scenario a homeowner with a \$300,000 house is paying in 2018 what he paid 10 years before that, and there is inflation during that time. He said that he does not think it is a bad deal for taxpayers if that is what ended up being the case. He added that the Board is not locked into this scenario, and if property values recover more quickly they won't need it.

Mr. Boyd stated that this is a planning document, but it is also a document filled with goals – and the Board's goals are to maintain a police force that is adequate, to close the gap between workloads in social services, to improve fire and rescue services, etc. He said that one of the goals the Board set a few years ago when implementing the Economic Vitality Plan was to increase revenues to the County without increasing taxes by having a better economy, and perhaps revenue projections could be tweaked up a bit.

Ms. Allshouse said that the document already accounts for some of that, with the meals tax already reflecting a 7% increase in FY14, and sales tax up 6% in this assumption.

Mr. Boyd stated that there could be some room to bump those up, even through personal property or BPOL taxes. He stated that to balance a five-year plan it could be based on higher revenues rather than just the expense side.

Ms. Mallek said that the real estate tax is practically flat, and she wants to ensure that people who look at the document see the possibilities depending on how things go.

Mr. Rooker stated that anyone who has seen the Board in action knows they do not take the prospect of raising taxes lightly.

Mr. Boyd emphasized that he did not want to start a five-year plan with the assumption of raising taxes.

Mr. Rooker said that there is not really an increase in taxes, it is just recovery of half of what is lost through real estate assessments.

Mr. Foley stated that staff has focused very intensely on this, and he has requested that they find another million here or there to avoid raising taxes. He said that the process is so thorough that he feels the plan represents the best work staff could do and have done in this plan and feels like it is a solid set of assumptions. He noted that it does not balance without some decisions about taking some staff out or leaving the rate where it is. Mr. Foley emphasized that the plan does factor in some growth, and staff is requesting that the Board provide direction on changing the plan one way or another.

Mr. Rooker said that staff has done an excellent job on this, and every year the Board makes a decision on tax rates and expenditures – so this does not preempt those decisions – it is a guidance tool and is well done.

Mr. Rooker then **moved** to approve the Five Year Financial Plan as presented by staff. Ms. Mallek **seconded** the motion, stating that it's honest and shows what the possibilities are going forward.

Mr. Boyd said there is no way he is underestimating the amount of effort staff has put into it, adding that he can't support it because he is not prepared to support a tax increase of any kind.

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

AYES: Mr. Dumler, Ms. Mallek, Mr. Rooker and Mr. Snow.

NAYS: Mr. Thomas and Mr. Boyd.

Mr. Rooker noted that it does not include a tax increase, it includes a rate increase to recoup half of the losses of appraised values.

Mr. Snow said it does not include a tax increase or a rate increase; it addresses possibilities for planning purposes.

Mr. Thomas stated that he remains concerned about the loss of net worth of all County residents.

Mr. Snow agreed, but said this was for planning purposes and he believes things would likely turn around.

Agenda Item No. 25. From the Board: Committee Reports and Matters Not Listed on the Agenda.

Ms. Mallek asked the Board about the rural post offices resolution she had distributed. The resolution is looking at local consequences only. She said that each magisterial district has local post offices that are the anchors of the rural communities.

Mr. Rooker noted that the resolution opposes the closing of small rural post offices – which operate at a profit. He said he would support it.

Mr. Boyd agreed.

Ms. Mallek offered **motion** to adopt the proposed resolution in support of rural post offices. Mr. Rooker **seconded** the motion.

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

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

NAYS: None.

RESOLUTION IN SUPPORT OF RURAL POST OFFICES

WHEREAS, the Constitution of the United States authorizes post offices including the one in Greenwood, Albemarle County, Virginia which operates efficiently and profitably; and

WHEREAS, the United States Postal Service (USPS) is planning to save operational funds to offset a deficit by implementing POSTPLAN (reduced hours of service) and D.U.O. (removal of vital functions); and

WHEREAS, the post office is often the only building in a small community which carries the community name; and

WHEREAS, users of small rural post offices which are closed will be obliged to travel many miles to obtain postal services; and

WHEREAS, mail delivery is already delayed in rural communities and will be further delayed by USPS plans to implement POSTPLAN and D.U.O.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors of Albemarle County Virginia supports the continued operation of small rural post offices which are providing essential services to our communities and opposes the closing of any of these post offices or any reduction of services in those post offices which operate at a profit, such as the Greenwood Post Office.

Mr. Dumler asked for the status of the Eagle's Landing homeowners association dedication of greenway, which was a condition left over from 2002.

Mr. Bill Fritz explained that it is not a proffer and not a condition on a special use permit, but was a voluntary offering of an easement for a greenway on a site plan. He said that staff has contacted a representative from Eagle's Landing. The note on the site plan states "an easement plat will be provided for the area to be dedicated to the County as greenway upon the County's request." Mr. Fritz said that staff met with the County Attorney's Office and determined that because the area runs parallel to a stream that is a defined boundary on a recorded plat, the greenway could be done by easement. He said that Eagle's Landing has not signed that easement and has raised some concerns. At this time Parks & Rec has no plans currently to build that trail. Mr. Fritz noted that the condition does not expire, so there has been concern that there is expectation that the County will build on it as soon as the easement is secured.

Ms. Mallek said that without the easement people cannot walk on the unimproved area. With the easement, people could walk on through it to the City from some of the County neighborhoods. Mr. Fritz said that potentially if Parks & Rec wanted to do that, but there could potentially be a liability with people crossing an area that does not have a trail on it.

Mr. Dumler said that he understands the concern about the public's expectation.

Mr. Fritz stated that staff could get the easement now or wait on it and get it when Parks & Rec is ready to construct the trail.

Mr. Dumler said that there is an opportunity now, especially since it is free, and PEC is also doing some trail building.

Mr. Thomas noted that the City is also doing some improvements on their side, and this could be in accordance with that.

Mr. Dumler said that is the case, and there is some City land on the south side of Moore's Creek also. He asked if it was possible to have Eagle's Landing dedicate it in fee simple to the County.

Mr. Fritz replied that they could dedicate it, and it would remove the issues of concern since the County would own it.

Ms. Mallek said she would be in favor of getting it while the County can. If staff does not move forward, it will forget about it and it could be another ten years before anything is done.

Mr. Greg Kamptner stated that he just spoken with Mr. Dan Mahon, and Parks & Rec is looking at this particular greenway easement again because the City has expressed an interest and concern about the portion that is proposed for dedication on the City side. He said that Mr. Mahon would meet with Mr. Bob Crickenberger and further explore whether they want to pursue this now. Mr. Kamptner clarified that there is a triangle piece that is on the City side of Moore's Creek.

Mr. Thomas said that the creek rerouted itself in 1969 after Hurricane Camille.

(Note: At this time the Board returned to Item 8.6 – Keene Training Facility from the consent agenda.)

Ms. Mallek noted that the waiver issue pertains to blacktop of roadways and landscaping, both of which she is fine with.

Mr. Rooker said he asked for it to be pulled for discussion. He has no problem with the paving issue which is that they do not have to have curb and gutter and asphalt in an area where it makes sense to have pervious surface. He said that the landscaping question relates to four acres of developed property, and whether the property is going to have another use. He explained that his question is whether it makes sense to waive landscaping requirements when there are four areas being developed. He does not know the area well enough to assess whether surrounding properties would benefit from landscaping. Mr. Rooker said he also does not know how this decision could impact future uses that may expand the area of use.

Mr. David Benish replied that when staff did the compliance with the Comp Plan review, they did it only for the firing range. Any other activities on the site will require another compliance with the Comp Plan review. That was a deliberate decision staff made in working with the County Executive's Office, police and staff. Other improvements that are not shown on that plan will require another compliance review before the Planning Commission; their action is then forwarded to the Board. He said that the Board would not have to take action then, but could if they desired, as it is a Planning Commission responsibility under State Code. In terms of the landscaping, part of the purpose is to address visibility issues, and to provide shade to reduce the heat effect of a pervious surface. He stated that with an unpaved surface there is less of the heat effect. Given the location of the parking area, staff felt it would provide limited visibility benefits and the shading benefits would also be mitigated by that gravel surface.

Mr. Davis emphasized that any additional future uses would be subject to additional site plan approval, and presumably the parking lot would be fair game in future site plans to upgrade the parking as well as landscaping requirements as necessary.

Mr. Rooker said that he was comfortable with that explanation, as future site plans would necessitate revisiting the landscaping issue.

Mr. Davis mentioned that the Board can always ask for additional screening and landscaping for this project since it is a County initiative.

Mr. Rooker said that there is a perception in the community that this project has gone forward without the kind of review that it should have had, and without the opportunity for public input and comment. He stated that the only public decision to be made was whether or not it complied with the Comprehensive Plan, and that was made by the Planning Commission. Mr. Rooker said that this is a situation where there is a use that has impacts beyond adjoining property owners, and information has dribbled out to the public, so he thinks it would be behoove the Board to hold a public hearing on this item to allow people to come before the Board to comment – instead of showing up at the beginning of each meeting. He stated that most of the complaints about the facility can be answered by police, and it would be helpful to have them present their information in a public setting. Mr. Rooker said that the Board does not have to advertise the meeting such that there would a decision made. The Board has already made several preliminary decisions. Ultimately the Board will have to make the decision to appropriate funding. He said that he thinks the County needs to attack the problem of what to him looks like a festering sore. He stated that he does not want to sit here for three hours any more than anyone else wants to, but it is important to allow the public an opportunity to address this at a single time.

Mr. Boyd stated that there have been town hall meetings in the neighborhood that have been attended by hundreds of people, and the public has also addressed the Board on this issue. Mr. Snow and the police have been to the meetings several times and he does not think it is ever going to be enough unless this Board changes its decision. He is not opposed to transparency.

Ms. Mallek said that the Board could use this as an opportunity to affirm that this is the right decision and the Board is moving forward at the end of the public hearing, if that was still their thought. Hopefully that would bring closure to the discussion.

Mr. Boyd said the Board already affirmed that after the Police Department made its presentation.

Ms. Mallek responded that it did not happen in the customary setting people are used to seeing.

Mr. Rooker said it would be advertised with an opportunity for the public to comment on that specific issue on an agenda, instead of coming in before a meeting. He said that Mr. Dumler and Mr. Snow have been holding meetings in that area, and perhaps they feel it is unnecessary to have a public hearing before the Board.

Mr. Snow responded that they have held two town meetings – one with 150 people there – and the main problem they have is that those who are vehemently against the range are against it at all costs. He said that even though facts are presented the information those people disseminate is not fact, and if a public hearing were held to get all these people that they are scaring in to hear the facts it may be beneficial. The facts are being presented through town hall meetings and numerous emails. Even with a public hearing, it will not change that particular group of people and they will fight it no matter what.

Mr. Rooker stated that the lead issue has never been answered to the public nor to him, and while the lack of complete information is not a basis for reversing the decision, all the information should come out before the public.

Mr. Snow said that he would rather err on the side of caution, and he supports having the hearing.

Mr. Thomas said that Mr. Rooker emphasized at previous meetings that the Board would do everything possible to ensure that the range is viable for the neighborhood, quieter and safer.

Mr. Snow said they have said it time and time again, but perhaps one more meeting – one that is well publicized – will get the point across.

Mr. Foley stated that last month staff went through an extensive review of the project, including environmental issues, and there is a communications plan in place. He said that the Board asked at the last meeting for staff to come up with some operating guidelines and to look further into mitigation of noise. He recommends that the Board let that happen and then have this meeting. Those things may help inform the public more about this.

Mr. Rooker cited concern about the Police Department being “vilified” by people publicly before the Board meetings, without opportunity for the police to respond to the complaints of the public. He said he thinks the Police Department has done a tremendous job of trying to go down and meet with people, making themselves available, etc. He thinks there is a real public trust issue here to be dealt with in terms of allowing a public forum, allowing the answers to all these questions to be provided publicly in a setting in front of the Board, and in front of the people who are interested.

Mr. Foley commented that it would be in a more formal setting.

Mr. John Parrant stated that a number of the individuals from earlier in the meeting the Police met with in January, yet they have come in and portrayed that the Police have not been communicating. He said that the Police have also met one on one with many individuals who have spoken. They have a website and an FAQ document that answers questions about things like lead. From the Police Department’s standpoint, he thinks they have done an adequate job of outreach; there is always a way to improve. Mr. Parrant stated that he does not want the project to get delayed any further. He reiterated that there is a certain group of individuals that simply do not want this project to happen no matter how the facts are explained.

Ms. Mallek said that a public meeting takes away the argument people might make that the County did not follow its’ own process.

Mr. Foley stated that the police have done much more than an adequate job with this, and continue to do so. They are also meeting with some community members on the guidelines for the firing range and some of the community members are participating in a process to help set parameters.

Mr. Trevor Henry, Director of the Office of Facilities Development, addressed the Board, stating that in November they went through a very thorough review of the project and the status that included public comment. The vote the Board made at the conclusion of that meeting enabled staff to continue with the design. He said that they are ready to submit the final site plan the following Monday, with the site plan completed by mid-February 2013 and then release for RFP. He is prepared to make the same presentation staff made in November 2012 at another public meeting.

Mr. Foley asked when the site plan would be considered. Mr. Benish responded that the preliminary site plan has already gone to the Planning Commission.

Ms. Mallek said that new information about the eyebrows was going to be included, and asked if it would be available by February 1. Mr. Henry responded that it would be available as staff is finishing up the final site plan.

Ms. Mallek said that if the Board is going to hold a public meeting, the first week of February would be a logical time.

Mr. Henry said they could wait until they get an approved site plan.

Mr. Foley said he is not sure they need to wait until then. The natural timeframe in February allows staff to get back to the Board with some of the particulars addressed. He said that Chief Sellers had indicated that they might even review the site plan with some constituents in the area.

Mr. Boyd cautioned that having a public hearing might open the Board up to criticism that the meeting is "just for show," and if they are going to hold the meeting they should bill it as a work session with public input.

Mr. Rooker and Ms. Mallek said that was a good idea.

Mr. Foley said that is a very important point, as the Board has made a decision on the project but still have an opportunity to receive input on specific matters that will make the project as good as possible.

Mr. Rooker noted that he asked a lot of questions about the project and made his decision based on the information provided, but the Board did request additional information on many of the items causing concern with the public currently. He said that he would like to make certain that the assumptions the Board made when it supported the project are accurate. He asked why not have it all where it is advertised, here. It may save three or four meetings if everyone can come here at one time and answer all the questions as best as they can be answered, deal with all the concerns, and make it clear that there is a rational basis for whatever decision the Board makes.

Mr. Foley said that can be done.

Mr. Snow said that he continues to hear that there has been nothing in writing about measures taken to mitigate the impacts of the project.

Mr. Foley stated that the operating guidelines would be available in writing at that point.

Mr. Davis pointed out that there will be a final approved site plan that will show what is required to be built, but if the Board wants to make changes the site plan will have to be amended.

Mr. Foley said that would be before the Commission for consent agenda approval. Mr. Benish said the Commission asked to see the final site plan, and Mr. Cilimberg has said they would put it on the consent agenda. Mr. Parrant said the plan is to resubmit on Monday.

Mr. Davis emphasized that the staff report indicates that this item would be informational, so the Commission would not be reviewing it.

Mr. Foley said he understood that, but wants to know when it would be finished to go onto the consent agenda. Mr. Henry said if it takes two rounds of review, it will be February or March.

Mr. Foley said staff will work on what remains to be done with this, and will put together a presentation to help narrow the gap of misunderstanding. He stated that he does not want this to be billed as a big decision point from the Board unless that is their intent.

Mr. Boyd suggested that it be billed as a work session to present and take input on the final site plan for the project.

Ms. Mallek added that they need to make sure the County is getting the best project that it can get.

Mr. Davis asked if it would be a work session or presentation on the final site plan. Mr. Boyd said presentation would be fine.

Mr. Foley said that staff feels it has enough to go on to move the meeting forward.

Mr. Snow asked if the Board could set a date today, as he is still receiving emails from people who say they are just hearing about the project for the first time. Mr. Foley stated that the Board could talk about it at its meetings next week, as staff needs to get together on the planning process.

Mr. Parrant said that they have a tentative meeting with the community scheduled for December 13th – including D.G. Van Clief and Bonnie Brewer – as they try to build a community contract and address some operational issues. They are working on forming a committee of citizens and others to address upcoming issues and work on solutions to operational issues.

Mr. Rooker stated that it is good to get all of that information out in front of the public. He added that this is a County project. He said that he thinks the Board needs to avoid any perception that the County is proceeding any differently than a private applicant might with respect to the use of property. He

thinks the project would require a rezoning if a private party wanted to do it, and therefore the Board should follow a process that is a little more in line with that process. He said that there was a finding by the Planning Commission on a split vote that the project was consistent with the Comprehensive Plan, and this Board has not had an opportunity for the public to get information and comment during the process.

Ms. Mallek said the first February meeting was on the 6th.

Mr. Foley responded that staff will move the process forward as quickly as possible.

Mr. Boyd noted that a public information session should be at a night meeting. Ms. Mallek said it could be held on February 13, 2013.

Mr. Rooker said the Board needs to provide an opportunity for there to be a presentation of all the updated information on this project, provide a Q&A format by providing answers to questions from the public, provide the most updated information on noise mitigation and environmental aspects of dealing with lead etc., and to allow the public to offer input.

At this time, Mr. Rooker offered **motion** to approve Item 8.6 to approve special exceptions to waive minimum design standards of Section 4.12.15(a)(surface material) and 4.12.15(g) (curb and gutter) for the parking lot and two way access aisles based upon the analysis provided in the report and to approve the special exceptions to waive parking lot landscaping and screening requirements of Section 32.7.9.7(b) (Interior Parking Lot Landscaping) and 32.7.9.8(c)(2)(Screening of Parking Lot) based upon the analysis provided in the report. Ms. Mallek **seconded** the motion.

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

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

NAYS: None.

Mr. Benish reported that the City is undertaking a study on transit services (CAT) to evaluate whether there is a more effective way to provide that service, along with providing some alternatives to the service. He said that the contract was structured in a way that did not involve the County for input, so he and Mr. Andrew Sorrell have been representatives on the advisory committee to work with CAT staff on the study. Mr. Benish said that the study has been scheduled for a public meeting on December 17, and that night the recommendations to date will be presented to City Council. He stated that the CAT staff has asked the County to provide input on what would be presented at the meeting, but they received the information too late to get it to the Board. He reiterated that the committee needs feedback before County staff can have it ready for the meeting on December 17. Mr. Benish said that Mr. Sorrell will be contacting Board members via email with a copy of the study and some draft improvements. Staff wanted to inform the Board that he and Mr. Sorrell have provided comments and to give the Board a status report. He asked that if Board members have any concerns to let him know. The committee would like the comments by tomorrow.

Mr. Thomas asked what the comments would be made from. Mr. Benish responded that the draft summary report along with maps would be provided to Board members. He added that there are not significant changes – other than expansion to the southern route through Southwood Mobile Home Park and some nearby apartments. They feel that they can make up efficiencies to do that, and although some of the charges have to still be determined, it does not appear the County will be charged for the additional services. They are proposing a new service going through Greenbrier Drive in the City and a portion of Rio Road to the Fashion Square Mall area, but it does not travel along John Werner Parkway or the full length of Rio Road. It cuts over on Greenbrier at Gasoline Alley. County staff has expressed that it would like to see more of that service on Rio Road, but is appreciative of the service.

Ms. Mallek asked if the service goes by Treesdale. Mr. Benish responded, “no”.

Mr. Benish added that the biggest change is to service on Pantops to focus more on the commercial area and less on the Wilton Farms area. He said that if the Board sees things that are non-starters, City staff would like to know. The City will be accepting comments until January 17, 2013. Mr. Benish apologized for the short timeframe.

Mr. Snow said his main concern is including some of the apartments. Mr. Benish said that this general has been a positive exercise overall in terms of service improvements.

Ms. Mallek asked if social services and veterans riders are still included. Mr. Benish responded that social services is included, but he did notice on the map the bus does not loop into the veterans center – and it does not appear that the veterans center at Pantops is being served. He said that is one correction or clarification to be made in this process.

Mr. Boyd said he hopes to meet with Mr. Benish tomorrow to go over the Pantops recommendations.

Agenda Item No. 26. From the County Executive: Report on Matters Not Listed on the Agenda.

There were none.

Agenda Item No. 27. Adjourn.

With no further business to come before the Board, the meeting was adjourned at 5:25 p.m.

Chairman

Approved by Board
Date: 04/10/2013
Initials: EWJ