

A regular meeting of the Board of Supervisors of Albemarle County, Virginia, was held on January 9, 2013, 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 and Mr. Rodney S. Thomas.

ABSENT: None.

OFFICERS PRESENT: County Executive, Thomas C. Foley, County Attorney, Larry W. Davis, Clerk, Ella W. Jordan, and Senior Deputy Clerk, Travis O. Morris.

Agenda Item No. 1. The meeting was called to order at 9:03 a.m., by the County Executive, Mr. Foley. Mr. Foley commented that this is the Board of Supervisors' organizational meeting for calendar year 2013.

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

Agenda Item No. 4. Adoption of Final Agenda. **Moved down to Item 9c.**

Agenda Item No. 5. Election of Chairman.

Mr. Foley assumed the position of Chairman for purposes of electing the Chair. He stated that before opening the floor for nominations for Chair, he will go over the process. He noted that there is no need for a second to a nomination. He said that multiple nominations can be made. After the nominations are closed, he will call for a vote in the order of the nominations. Mr. Foley stated that once a majority vote is made for a Chair, that person will then take over the meeting and move onto election of the Vice Chair. He said that if a majority is not achieved, the current Chair will continue to serve in that capacity. Mr. Foley then opened the floor for nominations for Chair.

Mr. Boyd said that in keeping with the Board's longstanding tradition of this particular Board and many prior Boards, he would offer **motion** to nominate Mr. Duane Snow as Chairman for Calendar Year 2013.

Mr. Foley asked for any other nominations.

Mr. Rooker stated that before the Board votes, he has a couple of comments. He stated that this is pretty much a re-run of last year in the sense that he, Ms. Mallek and Mr. Dumler would be willing to support Mr. Snow if the other Supervisors would allow them to have one representative on the MPO. They view that there are three positions that are desired here. It is certainly reasonable that one of them have one of those positions. He said that with the other Board members' support of appointing one of the three of them to the MPO, he would support the motion. Without that support, he will not support the motion because he does not think it is reasonable or fair that they insist on maintaining all three desired positions that the Board participates in.

Mr. Boyd disagreed, stating that in his time on the Board this position has never been politicized. The Board has never made the Chair a political issue or jockeyed for different positions based on who served as Chair. It has been a tradition that the Board has followed for many years that it takes the most senior person who has not served as Chair.

Mr. Rooker said that Mr. Boyd is politicizing it by insisting that their side have all three of the desired positions, and generally in the past Board members have been willing to share committee positions.

Mr. Boyd asked how long Mr. Rooker served on the MPO. Mr. Rooker responded that he served on the MPO for as long as no one else wanted the position.

Mr. Boyd stated that he asked for Mr. Rooker to be replaced many times over the years.

Mr. Rooker noted that other people served as Chair during that time, including Mr. Boyd.

Mr. Boyd reiterated that the Board is setting a precedent here that it has never set before.

Mr. Foley asked if there were any other nominations. Since there were none forthcoming, he closed the nominations and asked the Clerk to call the roll.

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

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

Mr. Foley said that a majority vote for Mr. Snow to serve as Chair for 2013 failed, and asked if there were any other nominations for Chair.

Mr. Boyd offered **motion** to nominate Mr. Rodney Thomas as Chairman for Calendar Year 2013.

Hearing no other nominations, Mr. Foley closed the nominations and asked the Clerk to call roll.

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

AYES: Mr. Boyd, Mr. Snow and Mr. Thomas.

NAYS: Mr. Dumler, Ms. Mallek and Mr. Rooker.

Mr. Foley stated that a majority vote for Mr. Thomas to serve as Chair for 2013 failed, and asked if there were any other nominations for Chair.

Mr. Boyd then offered **motion** to nominate Mr. Dennis Rooker as Chairman for Calendar Year 2013.

Hearing no other nominations, Mr. Foley closed the nominations and asked the Clerk to call roll.

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

AYES: Mr. Boyd, Mr. Snow and Mr. Thomas.

NAYS: Mr. Dumler, Ms. Mallek (prefaced her vote by stating that he has indicated that he does not want to serve as Chair) and Mr. Rooker.

Mr. Boyd said that this whole exercise is just a travesty of injustice that is being created by Mr. Rooker, who has a personal interest in a road going by his house. It just bothers the heck out of him that the Board is going through this process and it is going to have yet another year with an unelected Chair.

Mr. Rooker commented that the Board has an elected Chair, a person who was previously elected Chair. It just so happens that the Board is unable to obtain a majority to elect a different chair. He stated that he resents the issue Mr. Boyd raised because it is not over that. Mr. Rooker clarified that the issue is that for four or five years certain Board members have asked to have one person from their side of the aisle to be on the MPO, and the other side has refused to allow that. He does not want to be that person to serve on the MPO; he would be support Mr. Dumler or Ms. Mallek. He said that he would be happy to support Mr. Snow for Chair if there is a reasonable sharing of that committee. He added that whoever serves on the MPO has to vote the will of the Board on any transportation project that comes up.

Mr. Snow said that Mr. Rooker served on the MPO for about 10 years. He asked if there were any people from the other side of the "aisle" who served. He added that during that time there were other Democrats serving on the MPO at the same time as Mr. Rooker.

Ms. Mallek pointed out that the difference is that the Board had a unanimous view of what the policy would be.

Mr. Snow said that there is a group trying to stop the Western Bypass, and that is the bottom line.

Mr. Rooker emphasized that this is not about trying to stop the bypass. This is about having representation on a transportation board for people who may have a somewhat different view of transportation than that of Mr. Snow and Mr. Thomas on a number of issues. He said that the Board, for the most part, unanimously, for over 20 years, voted a particular way on a project, and then all of a sudden at midnight, that position is hijacked with a single vote. Mr. Rooker stated that there was never a vote to support the project; it was a vote to remove opposition to a Western Bypass. He said that he does not like the way they took liberty with that to move forward with a project that never had Board support, but there are other issues on the MPO that other Supervisors would like to have participation in. Sometimes the views are a little bit different.

Mr. Snow commented that that is for another discussion.

Mr. Foley said that at this point he will like to turn the chairmanship over to Ms. Mallek since there is a failure to get a majority for a new Chair. He added that the Board can continue its debate.

Mr. Thomas mentioned that when he came onto the Board three years earlier, he was told that he had to vote for Ms. Mallek because it was a customary procedure to move the vice-chair up to chairman.

Mr. Boyd stated that that's been the policy for many years.

Mr. Rooker said that if there would be a reasonable sharing of other roles, he would accept that.

Mr. Boyd asked Mr. Rooker to give an example of when this has ever been done before, when there has been a jockeying for a particular committee appointment that the Chair has been held hostage for. He knows that this is being created by Mr. Rooker personally. Mr. Boyd added that Mr. Rooker has managed to get two other people to go along with him. The Board has a lot of other appointments to make which it will deal with when it goes into closed meeting. He added that Mr. Rooker would still be on the MPO today if it had not been for a majority of people prying him off of it.

Mr. Rooker reiterated that there are three positions at stake here, and what Mr. Boyd is saying is that they have to have all three of them.

Mr. Boyd asked what precedent he was setting personally here, along with two other people.

Ms. Mallek stated that the precedent set was the midnight vote without proper process, and she still maintains that it is a great concern.

Mr. Thomas said the vote was done properly.

Ms. Mallek said that is the accountability piece that needs to be maintained, and why things should be done with public input, as the processes are laid out. That is what gives citizens confidence in local government, and it was certainly not done appropriately.

Mr. Boyd said that this process is not being done appropriately either. It is absolutely inappropriate what they are doing.

Mr. Rooker responded that that was Mr. Boyd's opinion.

Mr. Boyd said it has been the opinion of all boards prior to this one. It has never happened before.

Mr. Rooker commented that several issues have happened that were unprecedented.

Mr. Boyd responded that that is because Mr. Rooker's side of the aisle, as he calls it has always got its way. When they did not get their way, all of the sudden it is not fair and it is not right anymore.

Mr. Rooker clarified that he is saying that Mr. Boyd wants all three positions for himself, Mr. Snow and Mr. Thomas. They think that one of those positions should be held by one of them.

Mr. Boyd stated that in the past, their side of the aisle has held all three of those positions.

Mr. Mallek noted that when the Board had a huge majority in favor of a project, that was when there were more people representing one side on the MPO. The Board needs to recognize now that it is split.

Mr. Boyd said that the chair has no priority over anyone else; it is just one vote, and they are just using it as a bargaining tool.

Ms. Mallek stated that Mr. Snow has been involved in all of the agenda-setting meetings, so it is a great team approach. She asked Mr. Snow about a month ago if he was willing to swap with her in order to forego all of what has taken place this morning, and he indicated he wanted to stay where he was. She added that that was Mr. Snow's choice.

There was no further discussion.

Agenda Item No. 6. Election of Vice-Chairman.

Motion was offered by Ms. Mallek to nominate Mr. Snow for Vice-Chair for Calendar Year 2013. Mr. Boyd **seconded** the nomination.

Hearing no other nominations for Vice-Chair, Ms. Mallek closed the nominations, and asked the Clerk to call the roll. Roll was called and the motion carried by the following recorded vote:

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

Agenda Item No. 7. Appointment of Clerk and Senior Deputy Clerk.

Motion was offered by Mr. Rooker to appoint Ms. Ella Jordan as Clerk of the Board of Supervisors and Mr. Travis Morris as Senior Deputy Clerk for Calendar Year 2013. Ms. Mallek **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

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

Agenda Item No. 8. Board 2013 Calendar:

Item No. 8a. Set Meeting Times, Dates and Places for Calendar Year 2013.

Motion was offered by Mr. Rooker to set the meeting times, dates and places for Calendar Year 2012 as follows: first Wednesday of the month at 9:00 a.m., second Wednesday of the month at 6:00 p.m., with meetings to be held in the County Office Building on McIntire Road; and to set the meeting dates for **January 2014** for: January 8 – 9:00 a.m., and January 15 – 6:00 p.m. Mr. Snow **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

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

Item No. 8b. Set Dates for Hearing Zoning Text Amendments Requested by Citizens.

Motion was offered by Mr. Rooker to set the dates for hearing zoning text amendment hearings from citizens as follows: September 11 and December 11, 2013 and March 13, and June 12, 2014. Mr. Snow **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

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

Agenda Item No. 9. Adoption of Rules of Procedures/Policies:

Item No. 9a. Rules of Procedure.

Mr. Boyd proposed a change to include term limits on the chairmanship, with that person serving two years and then passing the role on to the next senior person. He said that since it is important that these rules be adopted today so that the Board can move forward, if there is consensus, he suggests that the change be brought back for discussion at a later meeting.

Mr. Davis said that the Board should have some specific language to adopt. Depending on how much of the prior practice the Board wants to incorporate into its rules there is a need for some wordsmithing. He agreed with Mr. Boyd that the Board should adopt the rules today so that it can have Rules of Procedures in which to operate for this meeting. If there is consensus on changing the rules to address term limits for the Chair, he can bring back language at the next meeting or the first meeting in February.

Ms. Mallek suggested that the Board take this up at the end of the meeting to decide on the next step.

Motion was then offered by Mr. Rooker to adopt the Board's Rules of Procedures, as presented. Mr. Snow **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

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

RULES OF PROCEDURE ALBEMARLE BOARD OF COUNTY SUPERVISORS

These rules of procedure are designed and adopted for the benefit and convenience of the Albemarle County Board of Supervisors. Their purpose is to help the Board conduct its affairs in a timely and efficient manner. They incorporate the general principles of parliamentary procedure found in *Robert's Rules of Order's Procedure in Small Boards* and applicable Virginia laws. The rules of procedure do not create substantive rights for third parties or participants in proceedings before the Board. Further, the Board reserves the right to suspend or amend the rules of procedure whenever a majority of the Board decides to do so. The failure of the Board to strictly comply with the rules of procedure shall not invalidate any action of the Board.

A. *Officers*

1. *Chairman.* The Board at its annual meeting shall elect a Chairman who, if present, shall preside at such meeting and at all other meetings during the year for which elected. In addition to being presiding officer, the Chairman shall be the head official for all the Board's official functions and for ceremonial purposes. He shall have a vote but no veto. (Virginia Code §§ 15.2-1422 and 15.2-1423)
2. *Vice-Chairman.* The Board at its annual meeting shall also elect a Vice-Chairman, who, if present, shall preside at meetings in the absence of the Chairman and shall discharge the duties of the Chairman during his absence or disability. (Virginia Code § 15.2-1422)
3. *Term of Office.* The Chairman and Vice-Chairman shall be elected for one-year terms; but either or both may be re-elected for one or more additional terms. (Virginia Code § 15.2-1422)
4. *Absence of Chairman and Vice-Chairman.* If the Chairman and Vice Chairman are absent from any meeting, a present member shall be chosen to act as Chairman.

B. *Clerk and Deputy Clerks*

The Board at its annual meeting shall designate a Clerk and one or more Deputy Clerks who shall serve at the pleasure of the Board. The duties of the Clerk shall be those set forth in Virginia Code § 15.2-1539 and such additional duties set forth in resolutions of the Board as adopted from time to time. (Virginia Code § 15.2-1416)

C. *Meetings*

1. *Annual Meeting.* The first meeting in January held after the newly elected members of the Board shall have qualified, and the first meeting held in January of each succeeding year, shall be known as the annual meeting. At such annual meeting, the Board shall establish the days, times, and places for regular meetings of the Board for that year. (Virginia Code § 15.2-1416)
2. *Regular Meetings.* The Board shall meet in regular session on such day or days as has been established at the annual meeting. The Board may subsequently establish different days, times, or places for such regular meetings by passing a resolution to that effect in accord with Virginia Code § 15.2-1416. If any day established as a regular meeting day falls on a legal holiday, the meeting scheduled for that day shall be held on the next regular business day without action of any kind by the Board. (Virginia Code § 15.2-1416)

If the Chairman (or Vice Chairman, if the Chairman is unable to act) finds and declares that weather or other conditions are such that it is hazardous for Board members to attend a regular meeting, such meeting shall be continued to the next regular meeting date. Such finding shall be communicated to the members of the Board and to the press as promptly as possible. All hearings and other matters previously advertised shall be conducted at the continued meeting and no further advertisement shall be required. (Virginia Code § 15.2-1416)

Regular meetings, without further public notice, may be adjourned from day to day or from time to time or from place to place, not beyond the time fixed for the next regular meeting, until the business of the Board is complete. (Virginia Code § 15.2-1416)

3. *Special Meetings.* The Board may hold special meetings as it deems necessary at such times and places as it deems convenient. A special meeting may be adjourned from time to time as the Board finds necessary and convenient. (Virginia Code § 15.2-1417)

A special meeting shall be held when called by the Chairman or requested by two or more members of the Board. The call or request shall be made to the Clerk of the Board and shall specify the matters to be considered at the meeting. Upon receipt of such call or request, the Clerk, after consultation with the Chairman, shall immediately notify each member of the Board, the County Executive, and the County Attorney. The notice shall be in writing and delivered to the person or to his place of residence or business, or if requested by a member of the Board, by electronic mail or facsimile. The notice shall state the time and place of the meeting and shall specify the matters to be considered. No matter not specified in the notice shall be considered at such meeting unless all members are present. The notice may be waived if all members are present at the special meeting or if all members sign a waiver for the notice. (Virginia Code § 15.2-1418) The Clerk shall notify the general news media of the time and place of such special meeting and the matters to be considered.

D. *Order of Business*

1. *Agenda.* The Clerk of the Board shall establish the agenda for all meetings in consultation with the Chairman. The first two items on the agenda for each regular meeting of the Board shall be the Pledge of Allegiance and a moment for silent meditation.

a. At regular meetings of the Board, the order of business shall generally be as follows:

1. Call to Order.
2. Pledge of Allegiance.
3. Moment of Silence.
4. Adoption of Final Agenda.
5. Brief Announcements by Board Members.
6. Recognitions.
7. From the Public: Matters Not Listed for Public Hearing on the Agenda.
8. Consent Agenda.
9. General Business (To include Public Hearings, Presentations, Work Sessions, Appointments, and other Action Items).
10. From the Board: Committee Reports and Matters Not Listed on the Agenda.
11. Adjourn.

A Closed Meeting shall be held whenever necessary. Generally, a Closed Meeting will be scheduled at the midpoint of the agenda at day Board meetings and at the end of the agenda prior to adjournment at evening Board meetings.

b. The above order of business may be modified by the Clerk of the Board to facilitate the business of the Board.

2. *Adoption of Final Agenda.* The first order of business for a regular meeting of the Board shall be to adopt a final agenda for that meeting. The Board may modify the order of business as part of the adoption of the final agenda. In addition, any Board member may propose to add additional items to the agenda presented by the Clerk for action if notice of that item has been given in writing or by email to all Board members, the Clerk, and the County Executive

by 5:00 p.m. two days before the date of the meeting. Any such item shall be added to the end of the agenda for discussion or action unless a majority of the members of the Board agree to consider the item earlier on the agenda. The final agenda shall be adopted by a majority vote of the members of the Board. No matter for action not included on the final agenda shall be considered at that meeting.

3. *Consent Agenda.* The "Consent Agenda" shall be used for matters that do not require discussion or comment and are anticipated to have the unanimous approval of the Board. There shall be no discussion or comment on Consent Agenda matters. Any Board member may remove an item from the Consent Agenda. Any item removed from the Consent shall be moved to a specific time or to the end of the meeting agenda for further discussion or action. A matter requiring only brief comment or discussion may be considered immediately after the approval of the Consent Agenda.
4. *From the Board: Committee Reports and Matters Not Listed on the Agenda.* "From the Board: Committee Reports and Matters Not Listed on the Agenda" shall be the last order of business for a regular meeting of the Board unless a majority of the members of the Board agree to consider the item earlier on the agenda. It shall be limited to matters that are not substantial enough to be considered as additional agenda items to be added to the final agenda. Such matters are not matters to be acted upon by the Board at that meeting. Routine committee reports and information updates by Board members shall be presented under this agenda item.
5. *Public Comment.* The procedures for receiving comment from the public for matters not on the agenda shall be at the discretion of the Board. Unless otherwise decided, individuals will be allowed a three-minute time limit in which to speak during the time set aside on the agenda for "From the Public: Matters Not Listed for Public Hearing on the Agenda".
6. *Zoning Public Hearings.* Zoning applications advertised for public hearing shall be on the agenda for public hearing on the advertised date unless the applicant submits a signed written deferral request to the Clerk of the Board no later than noon on Wednesday of the week prior to the scheduled public hearing. The first request for a deferral will be granted administratively by the Clerk. The Board will be notified of the deferral in the next Board package and the deferral will be announced at the earliest possible Board meeting to alert the public of the deferral. Any request received later than the Wednesday deadline and any subsequent request for a deferral for the same application previously deferred will be granted only at the discretion of the Board by a majority vote. The deferral shall not be granted unless the Board determines that the reason for the deferral justifies the likely inconvenience to the public caused by the deferral. The staff will make every effort to alert the public when a deferral is granted.

It is the Board's preference that a public hearing for a zoning matter should not be advertised until all of the final materials for a zoning application have been received by the County and are available for public review. To achieve this preference, applicants should provide final plans, final codes of development, final proffers, and any other documents deemed necessary by the Director of Community Development, to the County no later than two business days prior to the County's deadline for submitting the public hearing advertisement to the newspaper. Staff will advise applicants of this date by including it in annual schedules for applications and by providing each applicant a minimum of two weeks advance notice of the deadline.

If the applicant does not submit the required materials by this date, the public hearing shall not be advertised unless the applicant demonstrates to the satisfaction of the Director of Community Development that good cause exists for the public hearing to be advertised. If not advertised, a new public hearing date will be scheduled. If the public hearing is held without final materials being available for review throughout the advertisement period due to a late submittal of documents, or because substantial revisions or amendments are made to the submitted materials after the public hearing has been advertised, it will be the policy of the Board to either defer action and schedule a second public hearing that provides this opportunity to the public or to deny the application, unless the Board finds that the deferral would not be in the public interest or not forward the purposes of this policy.

Final signed proffers shall be submitted to the County no later than nine calendar days prior to the date of the advertised public hearing. This policy is not intended to prevent changes from being made to proffers resulting from comments received from the public or from Board members at the public hearing.

E. *Quorum*

A majority of the members of the Board shall constitute a quorum for any meeting of the Board. If during a meeting less than a majority of the Board remains present, no action can be taken except to adjourn the meeting. If prior to adjournment the quorum is again established, the meeting shall continue. (Virginia Code § 15.2-1415)

A majority of the members of the Board present at the time and place established for any regular or special meeting shall constitute a quorum for the purpose of adjourning such meeting from day to day or from time to time, but not beyond the time fixed for the next regular meeting.

F. *Voting Procedures*

1. *Approval by Motion.* Unless otherwise provided, decisions of the Board shall be made by approval of a majority of the members present and voting on a motion properly made by a member and seconded by another member. Any motion that is not seconded shall not be further considered. The vote on the motion shall be by a voice vote. The Clerk shall record the name of each member voting and how he voted on the motion. If any member abstains from voting on any motion, he shall state his abstention. The abstention will be announced by the Chairman and recorded by the Clerk. A tie vote shall defeat the motion voted upon. A tie vote on a motion to approve shall be deemed a denial of the matter being proposed for approval. (Article VII, § 7, Virginia Constitution)
2. *Special Voting Requirements.* A recorded affirmative vote of a majority of all elected members of the Board shall be required to approve an ordinance or resolution (1) appropriating money exceeding the sum of \$500; (2) imposing taxes; or (3) authorizing the borrowing of money. (Virginia Code § 15.2-1428)
3. *Public Hearings.* The Board shall not decide any matter before the Board requiring a public hearing until the public hearing has been held. The Board may, however, at its discretion, defer or continue the holding of a public hearing or consideration of such matter. The procedures for receiving comment from the applicant and the public for public hearings shall be at the discretion of the Board. Unless otherwise decided, the applicant shall be permitted no more than ten minutes to present its application. Following the applicant's presentation, any member of the public shall be permitted no more than three minutes to present public comment. Speakers are limited to one appearance at any public hearing. Following the public comments, the applicant shall be permitted no more than five minutes for a rebuttal presentation.
4. *Motion to Amend.* A motion to amend a motion before the Board, properly seconded, shall be discussed and voted by the Board before any vote is taken on the original motion unless the motion to amend is accepted by both the members making and seconding the original motion. If the motion to amend is approved, the amended motion is then before the Board for its consideration. If the motion to amend is not approved, the original motion is again before the Board for its consideration.
5. *Previous Question.* Discussion of any motion may be terminated by any member moving the "previous question". Upon a proper second, the Chairman shall call for a vote on the motion of the previous question. If approved by a majority of those voting, the Chairman shall immediately call for a vote on the original motion under consideration. A motion of the previous question shall not be subject to debate and shall take precedence over any other matter.
6. *Motion to Reconsider.* Any decision made by the Board may be reconsidered if a motion to reconsider is made at the same meeting or an adjourned meeting held on the same day at which the matter was decided. The motion to reconsider may be made by any member of the Board. Upon a proper second, the motion may be discussed and voted. The effect of the motion to reconsider, if approved, shall be to place the matter for discussion in the exact position it occupied before it was voted upon.
7. *Motion to Rescind.* Any decision made by the Board, except for zoning map amendments, special use permit decisions, and ordinances, (these exceptions shall only be subject to reconsideration as provided above) may be rescinded by a majority vote of all elected members of the Board. The motion to rescind may be made by any member of the Board. Upon a proper second, the motion may be discussed and voted. The effect of the motion to rescind, if approved, is to nullify the previous decision of the Board. Zoning map amendments, special use permit decisions and ordinances may be rescinded or repealed only upon meeting all the legal requirements necessary for taking action on such matters as if it were a new matter before the Board for consideration.

G. *Amendment of Rules of Procedure*

These Rules of Procedure may be amended by a majority vote of the Board at the next regular meeting following a regular meeting at which notice of the motion to amend is given.

H. *Suspension of Rules of Procedure*

These Rules of Procedure may be suspended by the majority vote of the Board members present and voting. The motion to suspend a rule may be made by any member of the Board. Upon a proper second, the motion may be discussed and voted. The effect of the motion to suspend a rule, if approved, is to make that rule inapplicable to the matter before the Board. Provided, however, approval of a motion to suspend the rule shall not permit the Board to act in violation of a requirement mandated by the Code of Virginia, the Constitution of Virginia, or any other applicable law.

- I. Necessary rules of procedure not covered by these Rules of Procedures shall be governed by *Robert's Rules of Order Procedure in Small Boards*.

(Adopted 2-15-73; Amended and/or Readopted 9-5-74, 9-18-75; 2-19-76; 1-3-77; 1-4-78; 1-3-79; 1-2-80; 1-7-81; 1-6-82; 1-5-83; 1-3-84; 1-2-85; 1-3-86; 1-7-87; 1-6-88; 1-4-89; 1-2-90; 1-2-91; 1-2-92; 1-6-93; 1-5-94; 1-4-95; 1-3-96; 1-2-97; 1-7-98; 1-6-99; 1-5-2000; 1-3-2001; 1-9-2002; 1-8-2003; 1-7-2004; 1-5-2005; 1-4-2006; 1-3-2007; 1-9-2008; 1-7-2009; 1-6-2010; 1-5-2011; 1-4-2012; 1-9-2013).

Item No. 9b. Boards and Commissions Policy.

Mr. Boyd stated that there is nothing in this policy that says it needs to be balanced out between different sides of the aisle or between the chairmanship.

Mr. Rooker said there is nothing in the rules either that prevents Board members from generally agreeing to share posts on committees. He also stated that the Western Bypass does not go by his house. In fact, Mr. Thomas' house is actually closer to existing Route 29 than his house would be to the Bypass.

Mr. Boyd asked why Mr. Rooker felt the need to disclose a conflict if that was the case. Mr. Rooker responded that it was out of an abundance of caution. Second, he and his wife own a one-fourteenth interest in a lot in common with other people in the Roslyn Ridge neighborhood that does adjoin the bypass. The interest share in it could arguably be worth more than \$10,000 although he does not know that it is.

Motion was then offered by Ms. Mallek to approve the Boards and Commissions Policy as presented. Mr. Rooker **seconded** the motion. Roll was called and the motion **failed** by the following recorded vote:

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

NAYS: Mr. Boyd, Mr. Snow and Mr. Thomas.

Ms. Mallek suggested that the Board bring this matter up at the end of the day for further discussion.

Mr. Rooker agreed.

Mr. Snow said that he does not see the point in continuing the discussion because it will be the same conversation all over again. He does not see any need to continue the discussion until opinions change on the Board.

Mr. Rooker asked Mr. Snow what it is that he does not like about the current Boards and Commissions policy.

Mr. Boyd said he does not like what just happened with the chairmanship.

Mr. Rooker asked what that has to do with the Boards and Commissions policy. Mr. Boyd responded that they are trying to disrupt the way that the policies and procedures have been done for a long time. He thinks that maybe they "the other side" should give them a little disruption of their own. If this is the way they want to play this game with 3:3 ties through another year of an unelected chair, then he thinks this is going to be a problem for a long time.

Mr. Rooker said that there is a process that the existing chair remains if they are unable to obtain a majority for change. That is actually state law. He stated that there are 3:3 votes on issues throughout the year, and in that case the motion does not pass.

Mr. Boyd stated that the Board has a default chair based on state law, and now the Board has no policy for Boards and Commissions because it is all tied into the concept of sharing the positions.

Mr. Rooker said there are three positions that people have expressed an interest in serving on above all the other boards and commissions. The previous Chair remains elected again this term. He suggested that if Mr. Boyd has changes in the Boards and Commissions Policy, he should propose them – rather than just saying he will not vote for the policy.

Mr. Boyd said that similar to the Board's Rules of Procedures, this policy can be brought back to the Board at another time with some proposed changes.

Mr. Rooker asked if the existing procedures would remain in place, in lieu of approving a new policy. Mr. Davis responded that legally "no"; they would not. He added that there is no legal requirement to have rules and procedures for making appointments, so now the Board will do appointments on a case-by-case basis.

Mr. Rooker commented that the Board has well thought out procedures for boards and commissions. The procedures provide good guidelines. If there are some specific changes that anyone thinks should be made, he asked that they be brought forward. If not, he said that the Board should have procedures for that part of its duties.

Ms. Mallek suggested that the Board see if anyone wants to reconsider the procedures during the afternoon portion of the meeting.

Agenda Item No. 9c. Adoption of Final Agenda.

Ms. Mallek asked if there were any other items from Board members for discussion or action at the end of the day.

Mr. Thomas said that he would like for the Supervisors to have a detailed discussion on adding a seventh Supervisor for the purpose of breaking tie votes. He said that it is his feeling that the public is not getting its money's worth when there is a tie vote.

Ms. Mallek and Mr. Rooker said they were agreeable with adding that item to the agenda for discussion.

Mr. Boyd said that he would like to discuss what policy or procedure is in place for how lines drawn on master plans are becoming a guideline for land use decisions in the Planning Department. He does not know how that can be changed other than through an amendment to the Comprehensive Plan. He added that the case to which he is referring is a situation where a line was drawn on a map for a road, which has created a perceived problem that could prevent the individual from selling their property.

Ms. Mallek said she thought this situation on Pantops had already been taken care of.

Mr. Boyd said that in the short term it has been, but for the future he does not know of any other way to modify a master plan other than an amendment to the Comprehensive Plan.

Board members agreed to discuss the subject at the end of the day.

Mr. Dumler said that he has a scheduling question. In December the Board discussed adding a public hearing to the February 13th meeting to discuss the firing range. It is his understanding that there are some applicants who would have had public hearings fall on that meeting date. Because of the possible length of the firing range public hearing, staff may be holding the date open for that item only. He asked if there is Board consensus to go ahead and hold those public hearings so as not to penalize the applicants who are following County procedures.

Ms. Mallek said the Board could also start its meeting at 5:30 p.m. She also added that she has no problem with scheduling an additional meeting in February, if it is necessary.

Mr. Foley stated that when a situation like this arises, staff usually checks with the applicants. He added that staff would not have just put an applicant off without some discussion.

Ms. Mallek asked staff to get back with the Board at the end of the day.

Mr. Thomas said that he would like to add a discussion on CAT Rio Road/Route 11.

Mr. Rooker said it would be helpful to talk generally about the status of proposed changes to the transit system, and at what point the Board would be able to have input.

Ms. Mallek stated that the Board needs to discuss whether it is still holding fast to the cost-neutral, as that is the reason the planners made the choice they did.

Ms. Mallek said she would like some clarification on what is required for petitions for street lights along Route 20.

Ms. Mallek said she would also like further clarification on the process for truck restrictions on Earlysville Road.

Ms. Mallek asked when the Board would discuss the list of funding items to send to the CACVB, especially a jurisdictional assessment for the Journey Through Hallowed Ground.

Ms. Mallek asked for a briefing from Mr. Davis on how the law that was passed last year about off-site use of stormwater facilities affects Woodbrook Lagoon.

Mr. Foley noted that VDOT would be at the meeting later, and perhaps Black Cat Road could be discussed then along with Earlysville Road. Ms. Mallek commented that she is more interested in talking about the County's process.

Agenda Item No. 10. Brief Announcements by Board Members.

Mr. Thomas said that the Planning and Zoning Departments are still monitoring the decibel levels at Rockydale Quarry. The levels have consistently been in compliance with the County's noise ordinance.

He stated that there will soon be a report for the Board to discuss what has transpired.

Ms. Mallek asked if this was done with the new meters put at the property lines and down in the hole at the swale. Mr. Thomas said he does not think the meters have been installed. He added that more testing needs to be done.

Mr. Rooker commented that one of the issues raised with Rockydale Quarry, and also a concern with people regarding the firing range, is that while a sound might meet decibel level limits, when it is unexpected and sporadic it is a lot more disconcerting than it implies when looking at these decibel scales.

Ms. Mallek said that maybe 55 decibels is not the right number, and maybe it should be lower.

Mr. Thomas said that the decibel levels from 50 to 59 are really not that different. He added that his interpretation is this is like there is someone sitting there "and they are waiting for their tooth to start hurting." The people are already tensed up in anticipation of hearing the noise, so they are going to hear it even more – and it is continuous.

Ms. Mallek stated that people who work outside are most affected.

Mr. Rooker said it is the same as having a barking dog nearby when you are trying to sleep.

Mr. Foley said the question is whether there are other ways to set standards beyond the decibel standards. The issue is the continuous nature of the noise. Staff could do some research to see if there is some other approach that might better address the concerns Board members are hearing.

Mr. Thomas said he would like to clarify what control the Department of Mines, Minerals and Energy has over what the County is controlling.

Ms. Mallek responded that the DMME has no other control; they are in charge of blasting and the County is in charge of the sound.

Mr. Foley stated that staff could check with other localities as to approaches that are not strictly based on decibel levels, such as frequency.

Board members agreed that that would be worth looking into.

Ms. Mallek announced that on January 28, 2013, the Albemarle County Agribusiness Marketing Conference will be held in the County Office Building. The conference is designed for farmers of vineyards, crops and livestock, consumers, producers, marketers, restaurateurs, and caterers. She said the event is cosponsored by the Chamber of Commerce, and there are two panels planned. Ms. Mallek noted that Ms. Susan Stimart is the point of contact for information.

Ms. Mallek reported that Mr. John Bailey, who worked for VDOT for 45 years in this area and was a major mainstay in road operations, passed away at the end of December. Mr. Bailey was a major mainstay in the County's road operations and was instrumental in the timely replacement of the Advance Mills Bridge.

Agenda Item No. 11. From the Public: Matters Not Listed for Public Hearing on the Agenda.

Ms. Cathryn Kloetzli, of the Virginia Cooperative Extension, said she was present to thank the Board for its continuous funding and support for the Extension Service. Ms. Kloetzli said that the handout before the Board talks about economic sustainability. Extension Services does this by keeping local food safe by helping businesses minimize contaminants so consumer confidence is retained. She reported that Extension Services supports economic sustainability by expanding agricultural markets, supporting job training and resource amplification, and expanding the ag market. Ms. Kloetzli said that there are a lot of rules and regulations that VDACS places on agricultural products, so Extension Services help people get to market through programs such as gap training for farmers – which is a certification that will soon become mandatory due to FDA regulations. She reported that they also hold "serve safe" courses for people who work in restaurants and other food handlers. Ms. Kloetzli said that the handout includes some figures on the numbers served and some photos of their work.

Ms. Laurel Davis said that she was present to speak on behalf of the people of Esmont who have "humble home places," those who are the closest to the proposed firing range site and who will be most impacted should the plan go forward. Ms. Davis said that she feels there is a "mesmerizing aspect" for Board members, and they do not really connect to what they were doing and who they were impacting. She also believes that Board members do not know who they are, and that somehow that makes it easier for them to cavalierly raising their hands and subsequently destroy the quality of their lives thus robbing them of the value of the little that they have. She stated that of Esmont's 1,500 people, 9.1% are single mothers raising children, 15% are seniors, 31% are children, 26% earn less than \$25,000 per year, and 37% are African American – making this area the poorest and blackest part of the County. Ms. Davis said that making a decision to put an open firing range so close to the residents there is all the more horrifying, and frankly despicable. She then presented photos and information on residents of the area, many of the

elderly. She asked the Board to reconsider its position on this destructive plan that will rob the residents of their peace and the value of the little that they have.

Ms. Mallek said she would like to add an additional item for discussion at the end of the meeting. She asked for an update on funding changes to the proposed firing range.

Ms. Sophia Davis, a resident of Esmont Road, addressed the Board and asked why Board members were betraying the residents. The Board members are supposed to be acting in the residents' best interest, and they are doing a stinky job of it. She said that she does not believe she can learn with the sound of gunshots in the background. She urged the Board to consider the students at Scottsville and Yancey Elementary Schools. She asked why Board members are destroying the peace the students have. She asked the Board to not support this location for a firing range. She added that she loves her house and property and does not want it to be invaded by noise and possibly stray bullets. She said that her fear and anger is shared by many of her neighbors.

Mr. Doug McAdams said that while light is returning after the Winter Solstice, there is still "an incredibly dark and foreboding cloud" that hangs over Southern Albemarle that is the police firing range. Mr. McAdams asked how this project could have advanced so far, given the community's enlightenment concerning environmental matters. He stated that in the hall outside the Auditorium, there is a vision statement that references a county that "honors its rural heritage, scenic beauty, and natural and historic resources" while fostering attractive and vibrant communities." Mr. McAdams said that the County's mission is to "enhance the well-being and quality of life for all citizens through the provision of the highest level of public service consistent with the prudent use of public funds." He urged the Board to not be intimidated by a uniform or the temporary camaraderie among those pushing hard for this huge mistake in planning. Mr. McAdams said that if Chief Sellers' "legacy" is allowed to continue as planned, it would become the greatest infringement on personal property rights and personal health and safety for the citizens of Southern Albemarle in almost 150 years. He said that the Board must do what is right, decent and just, and suspend further funding for this project as it is currently planned. It is not too late to find a rationale alternative.

Mr. John Eichenberger addressed the Board, stating that as a registered professional engineer and certified industrial hygienist with over 20 years of experience in the fields of environmental and civil engineering, he is concerned that the proposed police firing range do not adequately protect human health and the environment. The current budget proposals do not reflect the true costs to construct and operate a safe firing range. He said that the sound levels at the range will be as high as 86 decibels, which violates Chapter 18 of the County Code, which establishes maximum noise levels of 60 and 55 decibels. Mr. Eichenberger said that it would also expose the most vulnerable of the population, including the elderly, medical patients, infants and children to the well-documented health effects of excessive noise. He stated that the current design does not incorporate sound abatement measures to safeguard the public, and does not incorporate measures to protect the public and environment from lead exposure. Mr. Eichenberger emphasized that the Keene site has acidic soils, steep slopes and a high runoff potential – and these conditions can cause significant lead soil leaching. He said that the use of low-cost soil berms instead of a more effective bullet-collection system will worsen lead leaching at the Keene site, and the failure to prevent this will adversely affect the residents, perennial streams, wetlands, and groundwater downstream of the site. He emphasized that the County has failed to consider the true cost to maintain the range into the future, and he is confident that the annual maintenance and lead mitigation costs will far exceed the \$12,000 per year and \$47,000 in year four that is currently being allocated. Mr. Eichenberger urged the Board to either allocate sufficient funds to construct a safe, fully enclosed range, relocate the range to a more appropriate location, or preferably – use existing local facilities instead of building a poorly designed and inadequate facility.

Ms. Joyce Walker said that she has lived at 4135 Piney Mountain Road for 35 years. She said that she is present today because she loves the area and wants to preserve and protect it. She said that with what is occurring around her home, this area is being threatened. Ms. Walker stated that she and her neighbors appreciate the wildlife, the woodlands, the streams and the beauty of Piney Mountain. She explained that her neighbor, Mr. Chuck Bolt, met with the New Hope Community Church engineer – Mr. Blackwell – along with Ms. Mallek, VDOT, and a Planning Commissioner regarding the church. Ms. Walker said that the existing church plan threatens their peaceful environment and their way of life on Piney Mountain, and the plan will decrease property values. She thanked the Board for letting her express her concerns and hopes they will reconsider the permit for the church.

Mr. Chuck Bolt, a resident of 5260 Piney Mountain Road, said he was present to speak about the Board's previous approval of the special use permit for New Hope Church which is located on lands adjacent to his property. He and his neighbors have tried since the Commission's meeting to have their concerns addressed. Ms. Mallek has seen firsthand the neighbors concerns and she has admitted that the plans should not have been approved. Mr. Bolt said that their efforts to mitigate the impacts have not been supported by County staff, nor has County staff seen fit to address the shortcomings in their review. He said that a lack of involvement and communication has been unacceptable to them. The last time he spoke he was not sure what to ask for because he believed they could work out a resolution without County involvement. He said that he no longer believes that is possible without some kind of intervention or oversight and reapproval by the Board. Mr. Bolt stated that the County staff has deferred to the Board

so it is appropriate that it should become involved to ensure that Board directions are followed. Mr. Bolt said he was present to ask the Board to not allow construction to start until the conditions for approval outlined in the letter dated July 31, 2012 are met. He said that neighbors do not feel that the staff review will be sufficient to ensure compliance or reflect their interest in preserving the rural character of their property. Staff actions to date have demonstrated their failure in this regard. He asked that the Board insert itself in this matter.

Mr. Jeff Werner, of the Piedmont Environment Council, said that the Esmont community feels very threatened regarding the shooting range, and he is troubled that some of the Board members have dismissed those concerns. He said that the concerns are very real, and cannot be dismissed. He asked if any single Board member purchase a property next to an outdoor shooting range. Mr. Werner emphasized that information from around the country shows that there is a reduction in property values adjacent to these types of facilities. He is hearing concerns from landowners and potential landowners that these activities are causing a change in land values. He said Board members need to listen, and spend the extra money, if necessary, to protect the entire community's interest.

Mr. Richard Sipes, a resident of the southern part of the County, said he is opposed to the firing range. He is concerned about a process he witnessed earlier in the meeting where one Board member accused another of acting on personal interests – but if Mr. Rooker owns property there, so do his constituents – and he is standing up for them. He said that that is something everyone on the Board could learn. Mr. Sipes asked what the Board considers “a few people” in opposition to the firing range. He then added that Chief Sellers opposed a firing range located 1.5 miles from his house in Stafford that was being built by a fellow law enforcement agency because he said it would decrease his property values. He asked how Chief Seller could be such a hypocrite and how the Board could allow such hypocrisy. He asked how the Board could destroy \$100 million in property values, yet have one employee said it was not good for him. That is not right.

Mr. Paul Fox, a resident of Forest Lakes said that about a year ago he moved here from Cincinnati. He came to the meeting today to see how County works. As a person with almost 20 years experience on elected and representative boards, he was appalled at the earlier proceedings in the meeting. He added that this is the reason why so many people have lost faith in this process. He urged Board members to find a way to work together so that the citizens can have real representation.

Mr. Harold Pillar said that if he were an individual seeking to build a firing range, it would probably get turned down – any place in the County. He said that it would be too much noise for the public to shoot, but somehow not for police. He asked Board members to put their head back on their shoulder and think about this. There are other places this can be done more safely, and with more integrity.

Agenda Item No. 12. Consent Agenda. **Motion** was offered by Mr. Rooker to approve Items 12.1 (as read) through 12.6 on the Consent Agenda, and to accept the remaining items for information. Mr. Snow **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

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

Item No. 12.1. Approval of Minutes: November 8, November 14 and November 28, 2012.

Mr. Boyd asked that his minutes of November 8, 2012 be pulled and carried forward to the next meeting.

Ms. Mallek asked that her minutes of November 14, 2012 be pulled and carried forward to the next meeting.

Mr. Rooker had read his minutes of November 28, 2012 and found them to be in order.

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

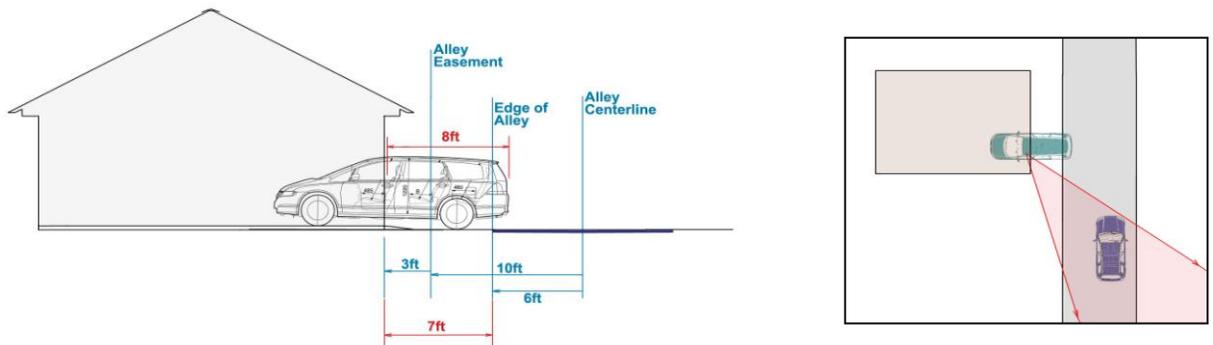
Item No. 12.2. Cascadia - Special exception to waive overlot grading plan standards for driveways.

The executive summary stated that the Cascadia rezoning was approved in August 2006 with five proffers. Proffer 5 required an overlot grading plan and Proffer 5(G) provides that “the driveway grading shall provide an area in front of the proposed garage, or an area proposed for vehicle parking where no garage is proposed, that is not less than eighteen (18) feet in length.” Proffer 5(J) allows any requirement of Proffer 5 to be waived. The applicant has requested that the minimum length standards for driveways be waived as shown on the current preliminary site plan (Attachment B). Under current procedures, these standards may be waived by special exception approved by the Board. The applicant's original request is provided in Attachment A.

In evaluating this request, Proffer 5(J) provides that the Board should “consider whether the alternative proposed by the Owner satisfies the purpose of the requirement to be waived to at least an equivalent degree.” Staff has concluded that the purpose for the minimum length (and maximum grade) standards for driveways in Proffer 5(G) is to ensure safe and convenient access. The standards provide adequate sight distance for vehicles exiting garages and appropriate sight lines for vehicles entering and exiting garages. Staff’s analysis focuses on this purpose.

Reduction in Driveway Length

The applicant has requested approval to reduce the minimum length of driveways in front of garages to 3 feet, as measured from the property line, right-of-way line, or alley easement line. Staff has evaluated the minimum length of a driveway that is necessary in order to provide safe sight distance for vehicles exiting garages, and has concluded that the safe minimum length is 7 feet from the edge of the pavement of the road or alley. Driveways shorter than 7 feet would require the vehicle to partially back into the alley, more than might otherwise occur in a by-right situation, and potentially before the driver could see oncoming vehicles or pedestrians. The following illustrations depict staff’s sight distance concern:



Illustrations 1 and 2: Driveways shorter than 7 feet from the edge of the alley or street would not provide sight distance until part of the vehicle was in the alley.

Therefore, staff supports a reduction in minimum driveway length to 7 feet, measured from the edge of the pavement rather than from the property line, right-of-way line, or boundary of the alley easement. This special exception does not affect the minimum setback for the garage. The Cascadia Code of Development establishes different minimum setbacks in different circumstances. For example, for an accessory garage backing up to an alley, the minimum setback is 3 feet from the garage to the rear property line abutting an alley right-of-way in which the pavement is up to 14 feet wide.

Proffer 5(G) also provides standards for driveway grades, and while the request has not mentioned grades, Condition 2 is recommended to establish a clear, enforceable standard, as has been done with the similar special exception for Old Trail Block 13.

Parking in Driveways

As part of its review of the applicant’s request, staff has discovered that the plans show large portions of sidewalk blocked by vehicles if driveway length is reduced as requested. This design is not functional for pedestrians and staff recommends Condition 3 to address this issue. Finally, the plans show that portions of some driveways will be within public rights of way. Perpendicular parking within public rights of way, including those segments of driveways within public rights of way, is not acceptable to VDOT. Staff recommends Condition 4 to address this issue.

Staff recommends approval of the special exception subject to the following conditions:

1. Driveways shall be at least seven (7) feet in length, measured from the edge of pavement of the alley or street to the garage.
2. Driveway grades shall be 8% or less. The grade transition on the driveway shall not exceed 10%.
3. Vehicles parked in driveways shall not block the sidewalk.
4. No vehicles shall be parked within the segment of a driveway that is within a public right of way.

By the above-recorded vote, the Board approved the special exception subject to the following four conditions, as recommended by staff:

1. Driveways shall be at least seven (7) feet in length, measured from the edge of pavement of the alley or street to the garage.
2. Driveway grades shall be eight (8) percent or less. The grade transition on the driveway shall not exceed ten (10) percent.
3. Vehicles parked in driveways shall not block the sidewalk.
4. No vehicles shall be parked within the segment of a driveway that is within a public right of way.

Item No. 12.3. Road name change of Shoppers World Court to Twentyninth Place Court.

The executive summary states that pursuant to Part I, Section 6 (e) of the Albemarle County Road Naming and Property Numbering Manual, road name change requests shall be forwarded to the Board for approval upon validation of the following:

That the landowners of more than fifty (50) percent of the parcels served by the road have signed

a petition in favor of a common road name, and that the proposed road name is otherwise consistent with the road name guidelines set forth in the Manual.

The landowners of the property served by Shoppers World Court have submitted a request to change the road name of Shoppers World Court to Twentyninth Place Court (Attachment A). Adjacent property owners have signed letters agreeing to the new road name (Attachment B). Staff finds the request to be consistent with Part I, Section 6 (e) of the Albemarle County Road Naming and Property Numbering Manual.

There is no anticipated budget impact. The landowners will be responsible for the costs associated with new signage.

Staff recommends that the Board approve changing the road name of Shoppers World Court to Twentyninth Place Court and authorize staff to implement the change.

By the above-recorded vote, the Board approved changing the road name of Shoppers World Court to Twentyninth Place Court and authorized staff to implement the change.

Item No. 12.4. 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 increase to the FY 13 budget due to the appropriations itemized below is \$97,452.00. 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 three (4) FY 2013 appropriations as follows:

- One (1) appropriation (#2013058) totaling \$50,000.00 for School Division donations;
- One (1) appropriation (#2013059) totaling \$22,552.00 for the Offender Aid and Restoration Drug Court officer;
- One (1) appropriation (#2013060) totaling \$12,918.00 for Police overtime and related FICA costs to assist the Game Warden in providing additional services during hunting season. This funding is provided from the Reserve for Contingencies and will not increase the total budget;
- One (1) appropriation (#2013061) totaling \$24,900.00 to reappropriate funding to complete the Parks and Recreation Department's online reservation system project.

Staff recommends approval of appropriations #2013058, #2013059, #2013060 and #2013061.

Appropriation #2013058	\$50,000.00
Source:	Local Revenue (Donations) \$ 50,000.00

At the July 11, 2012 Board meeting, the Board approved streamlining the appropriation process for anticipated FY 12/13 School Fund revenue for grants, donations, and School Activity Funds. On August 1, 2012, the Board approved an initial appropriation that included \$17,500.00 in anticipated donations. On September 9, 2012, an additional \$50,000.00 was appropriated for a total of \$67,500.00. The School Division has already exceeded this amount in donations and anticipates that there will be a number of donations throughout the school year. This request is to appropriate an additional \$50,000.00 in donations. Funds will not be expended until the revenues are received.

Appropriation #2013059	\$22,552.00
Source:	Federal Revenue \$ 22,552.00

This request is to appropriate \$22,552.00 in federal grant revenues for a part-time auxiliary deputy officer to work under the direction of the Albemarle County Sheriff's Office to assist with the administration and monitoring of Offender Aid and Restoration's (OAR) Drug Court cases. Data from other Virginia communities with such an arrangement indicates that the ongoing presence of an officer for program participants yields positive outcomes. These expenses include part-time wages and vehicle fuel, maintenance and repair costs and will be funded through federal grant revenues received from OAR. The Board first approved an appropriation for this program in FY 10/11 at its January 12, 2011 meeting and the program has been ongoing. The grant is awarded based on the calendar year, so the new funds will be available on January 1, 2013. This appropriation will allow this program to continue in the current fiscal year.

Appropriation #2013060	\$0.00*
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*This appropriation will not increase the total budget

Source:	Reserve from Contingencies \$ 12,918.00
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On October 10, 2012, the Board agreed to appropriate \$12,000 in funding for overtime costs associated with

assistance provided to the Game Warden during hunting season. (This appropriation request also includes \$918.00 in related FICA costs.)

It was anticipated that this overtime funding would be provided to the Sheriff's Office, however, based on discussions between the County Executive, the Sheriff, the Game Warden and the Albemarle County Police Department, it was jointly determined that the overtime funding could be most effectively utilized by the Police Department. The Police Department has been actively involved in this effort and will be compiling a final report at the conclusion of the hunting season regarding the results of their enhanced enforcement efforts.

This funding is provided from the Reserve for Contingencies and will not increase the total budget.

Appropriation #2013061 **\$24,900.00**
 Source: General Fund Balance \$ 24,900.00

This request is to appropriate \$24,900.00 from the General Fund fund balance to complete the Parks and Recreation Department's online reservation system project. Funding for this project was appropriated in FY 11/12, however, this amount was unexpended at the end of the fiscal year. This request is to move the funding forward into FY 12/13 so the project can be completed.

By the above-recorded vote, the Board approved appropriations #2013058, #2013059, #2013060 and #2013061, as set out below:

APPROPRIATION SUMMARY			
APP#	ACCOUNT	AMOUNT	DESCRIPTION
2013058	3-2000-62000-318100-181109-6599	50,000.00	Donations
2013058	4-2000-62101-461101-601300-6599	50,000.00	Reserve - Donations & Activity Funds
2013059	3-1000-33000-333000-330240-1002	22,552.00	OAR-DOJ-DRUG COURT PROG
2013059	4-1000-21078-421070-130000-1002	18,720.00	Part time wages
2013059	4-1000-21078-421070-210000-1002	1,432.00	FICA
2013059	4-1000-21078-421070-580000-1002	600.00	Misc
2013059	4-1000-21078-421070-600800-1002	1,200.00	Vehicle & Equip Fuel
2013059	4-1000-21078-421070-600900-1002	600.00	Vehicle & Equip Repairs
2013060	4-1000-31013-431010-120010-1003	12,000.00	Hunting OT
2013060	4-1000-31013-431010-210000-1003	918.00	FICA
2013060	4-1000-99900-499000-999990-9999	-12,918.00	Reserve for Contingencies
2013061	3-1000-51000-351000-510100-9999	24,900.00	App Fund Balance
2013061	4-1000-71011-471010-800716-1007	24,900.00	Online registration system
TOTAL		194,904.00	

Item No. 12.5. Region Ten Line of Credit Request.

The executive summary states that Region Ten Community Services Board ("Region Ten") was established by the City of Charlottesville and the Counties of Albemarle, Greene, Fluvanna, Louisa and Nelson to provide mental health, intellectual disability and substance abuse services to the residents of the member localities. Region Ten receives 60% of its funding from Medicaid reimbursement payments, which drops significantly during the summer with the loss of school-based services, resulting in a decreased cash flow during the summer and early fall months. Region Ten also receives funding from the member localities, and has relied on the County and the City for advance local appropriation funding to address its cash flow issues in the past.

Virginia Code § 37.2-504.A.11 provides that community services boards (CSBs) may apply for and accept loans as authorized by the governing body of each city or county that established it. Region Ten has expressed in a letter to the County (Attachment A) that it wishes to establish a line of credit for purposes of cash flow management and for the payment of operational expenses. It is requesting that the Board adopt the attached Resolution (Attachment B) to authorize it to apply for and accept such a loan. The Resolution authorizes Region Ten to apply for and accept a loan or line of credit in an amount up to \$2,000,000. Such a line of credit would be limited to not create a legally enforceable obligation extending more than one year beyond the date on which the obligation is incurred and would not constitute a debt, pledge, obligation or guarantee on the part of the member localities.

The County Attorney has reviewed the Resolution as to form and content. The Counties of Greene, Nelson, Fluvanna and Louisa have adopted like resolutions, and the City is expected to consider a like resolution at its January 7, 2013 meeting.

There is no budget impact to the County related to authorizing Region Ten to apply for and accept the proposed line of credit. The County will continue to fund Region Ten as it has in previous years.

Staff recommends that the Board adopt the attached Resolution (Attachment B) authorizing the Region Ten Community Services Board to apply for and accept a line of credit subject to the terms and conditions of the Resolution.

By the above-recorded vote, the Board adopted the following Resolution authorizing the Region Ten Community Services Board to apply for and accept a line of credit subject to the terms and conditions of the Resolution:

**A RESOLUTION
AUTHORIZING REGION TEN COMMUNITY SERVICES BOARD
TO APPLY FOR AND ACCEPT LOANS**

WHEREAS, Region Ten Community Services Board ("Region Ten") was established by the City of Charlottesville and the Counties of Albemarle, Fluvanna Greene, Louisa and Nelson (the "Localities") as required by § 37.2-500 *et seq.* of the Code of Virginia, 1950, as amended, to provide mental health, intellectual disability and substance abuse services to the residents of the Localities; and

WHEREAS, the services provided by Region Ten are more particularly described in an annual Performance Contract with the Virginia Department of Mental Health, Mental Retardation & Substance Abuse Services, which is subject to review and approval by the Board of Supervisors of Albemarle County (the "County"); and

WHEREAS, the County will make quarterly payments to Region Ten for the provision of comprehensive services and for the County's drug treatment program, and Region Ten will also receive reimbursement funding from the Commonwealth of Virginia, the federal government and other Localities; and

WHEREAS, in order to pay operational expenses Region Ten has previously relied on loans and other financing obtained through Region Ten Community Services Board, Inc. ("Region Ten, Inc."), the private nonprofit corporation formed to assist Region Ten in the fulfillment of its mission; and

WHEREAS, Region Ten now wishes to obtain a loan or other financing in its own name for purposes of cash flow management and for the payment of operational expenses; and

WHEREAS, § 37.2-504.A.11. of the Code of Virginia, 1950, as amended, requires that community services boards may "apply for and accept loans as authorized by the governing body of each city or county that established it" and Region Ten seeks the County's authorization solely to meet that statutory requirement; and

WHEREAS, Region Ten is seeking authorization from the governing body of each Locality to apply for and accept a loan or line of credit in an amount up to \$2,000,000 that creates no legally enforceable obligation extending one year beyond the date on which the obligation is incurred (the "Line of Credit"); and

WHEREAS, Region Ten and the Localities understand and agree that the obligations under the Line of Credit are not to constitute a debt or pledge of the full faith and credit of the Localities and shall not impose any liability on the Localities, nor is the requested authorization a guarantee on the part of the Localities of the Line of Credit.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors for the County of Albemarle, Virginia that the Board of Supervisors hereby authorizes Region Ten Community Services Board to apply for and accept a line of credit consistent with §§ 15.2-2629 or 15.2-2630 of the Code of Virginia or a loan otherwise structured so as not to constitute "debt" subject to Article VII, § 10(b) of the Constitution of Virginia in an amount up to \$2,000,000 and such authorization shall include the right to renew such lines of credit or obtain new lines of credit provided such renewals or new lines of credit do not exceed \$2,000,000 in the aggregate and are subject to the terms and conditions of this resolution; and

BE IT FURTHER RESOLVED that the authorization of the Line of Credit will not constitute an endorsement to any lender of the creditworthiness of Region Ten nor will it be a guarantee of the Line of Credit. Furthermore, the County shall not be obligated to pay nor to guarantee any debt incurred by Region Ten as a result of the Line of Credit applied for and accepted by Region Ten, nor any interest or other costs associated therewith. Accordingly, no debt of Region Ten and no loans shall constitute a debt or pledge of the faith and credit of the County or any of the other Localities, and the taxing power of the County or any of the other Localities shall not be pledged thereto. The substance and effect of this paragraph shall be expressly set forth in the loan documents for any loan or line of credit obtained by Region Ten so as to ensure that the lending institution clearly understands this relationship of the County and the other Localities to the obligation; and

BE IT FURTHER RESOLVED that the authorization provided for in the foregoing resolutions is subject to like authorization being received from the governing bodies of the other Localities.

Item No. 12.6. Regional Joint Resolution of Support for the Proposed Eastward Continuation & Extension of the Lewis & Clark National Historic Trail.

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

**Regional Joint Resolution of Support
for the Proposed Eastward Continuation & Extension of the
Lewis & Clark National Historic Trail**

WHEREAS, the **Lewis and Clark National Historic Trail** was officially established by U.S Congress in 1978;

WHEREAS, the National Historic Trail extends west of the Mississippi River and across the United States in commemoration of the Meriwether Lewis and William Clark Expedition of 1803 to 1806;

WHEREAS, the National Park Service has been directed by Congress to conduct a special resource study to assess the suitability and feasibility of an extension of the Lewis & Clark National Historic Trail east of the Mississippi River, adding sites and overland routes followed by Meriwether Lewis and William Clark, whether independently or together, prior to and following the expedition;

WHEREAS, the National Park Service is considering a Virginia historic trail segment in a region consisting of Albemarle, Augusta, Botetourt, and Rockbridge Counties;

WHEREAS, the connection to Lewis & Clark to the four counties had historical significance to the westward expansion and development of the United States and to both the personal and professional lives of the two explorers, members of their expedition, and Native American Chief Sheheke and his family;

WHEREAS, the historical connection of Lewis and Clark to the counties of Albemarle, Augusta, Botetourt, and Rockbridge is well documented;

WHEREAS, the Clark, Lewis, and Meriwether families were among the first to settle the region of central Virginia that now encompasses Albemarle, Goochland, and Caroline counties and several members of these families helped initiate America's westward expansion, including George Rogers Clark, William Clark, Meriwether Lewis, and Reuben Lewis, who traveled west with his brother and served as a liaison among the Indian tribes;

WHEREAS, the original log house that was the boyhood home of Meriwether Lewis was built early in the 1760s on the nearly 2000 acres that make up plantation known as Locust Hill in Albemarle County;

WHEREAS, Albemarle County was home to Thomas Jefferson, who as newly elected president in 1801 invited Meriwether Lewis to become his private secretary and aide-de-camp and it was during his service as private secretary to Jefferson that Meriwether Lewis and the president prepared for the journey west and formed the Corps of Discovery; and

WHEREAS, the proposed eastward extension of the Lewis and Clark National Historic Trail would greatly enhance the opportunity to showcase the famous explorers' connection to and related history of Albemarle County, as well as potentially increase visitors with positive impact on the county's tourism industry;

NOW, THEREFORE, BE IT RESOLVED, that the Albemarle County Board of Supervisors, in cooperation with adjacent and regional localities similarly impacted by the historic efforts of the Lewis and Clark Expedition, fully supports and endorses the continuation and extension of the Lewis and Clark National Historic Trail to all appropriate venues associated with or visited by the two explorers in the four counties both before and after the great expedition that occurred between 1803 and 1806.

Item No. 12.7. Board-to-Board, January 2013, *A Monthly Report from the Albemarle County School Board to the Albemarle County Board of Supervisors*, **was received for information**.

NonAgenda. In reference to the comments from Mr. Fox, Mr. Rooker said he would invite him to attend other Board meetings during the coming year. He believes that Mr. Fox will see that this Board quite often works very well together. What took place at the beginning of this meeting is not generally indicative of what is seen with respect to the Board's activities.

Mr. Snow concurred with Mr. Rooker's comments.

Agenda Item No. 13. Albemarle County Service Authority Quarterly Update, Gary O'Connell, Executive Director.

Mr. O'Connell summarized the following memorandum which was provided to the Board:

1. Strategic Plan- We are underway with a major update to our Strategic Plan. We recently completed the 2009-2012 Strategic Plan, completing over 80 action items including a new rate model that incentivizes water conservation, "growth paying for growth" with fees for new development, new technology applications, \$40 million in utility system capital improvements, new management initiatives, community water education programs, and others.

Our new Strategic Plan will focus on the 20-year future for the ACSA and our customers, with a 3-5 year action plan. We have invited into the process all of our Board, our 70 employees, our 17,512 customers, and a variety of community leaders. We have a web survey available to be completed by visiting our website at www.serviceauthority.org; or via phone at (434) 244-4341. We have a community leader ("Stakeholder") meeting planned for January 16. We will complete the plan for Board adoption in late March. We

invite your participation, you will be hearing from us.

2. Financial Trends- We recently presented our annual financial report and thought sharing a couple trends that we see might be useful to you:
 - a. ACSA is entirely self-supporting from monthly customer water and sewer bills, connection fees and charges; no County taxpayer funding is made to the ACSA
 - b. The ACSA added 305 new connections last year (ten year average is 371 per year)
 - c. Rate model built to "smooth" rate increases planned by RWSA, \$201 million over 5 years for major capital projects, much wastewater related.
 - d. ACSA reads 217,029 meters annually
 - e. 11,925 service orders were processed
 - f. Maintain 341 miles of water lines, 248 miles of sewer lines to serve our customers
 - g. Maintain 2,230 fire hydrants in our system
 - h. Maintain 11 water pumping stations, 11 sewer pumping stations and 9 water storage tanks
3. North Fork Regional Pump Station- New \$10 million regional sewer and two new pump stations (North Fork and Camelot) have been completed and are in operation.
4. Western Ridge/Foxchase Interconnect- New water line being designed for Crozet area to connect these two lines for system redundancy for emergency back-up and looping in the system for improved circulation and water quality.
5. Key West Water Main Replacement- New water lines to replace old well system lines. The design is at 90% completion.
6. St. George Avenue/Buck Road Water Line Replacement- Design complete. In process of acquiring 71 private property easements for construction.
7. Ashcroft Water System Improvements- Bids received under budget. Work will begin in early 2013.
8. Glenmore Water Tank- Awaiting County Board approvals (since this will be on the East Rivanna Fire Station site, shared in ownership with Albemarle County) to next conduct a community meeting in late February.
9. Hardware Street- Water line extension in Scottsville to connect the downtown with a second feed from the water tank.
10. Crozet Water Line Replacement- This is a replacement project of about a mile of badly pitted and deteriorating water pipes. Recent community meeting conducted. The design is at 50%.
11. Buckingham Circle Water Line Replacement- Replacing new water lines, old well system lines failing. Project nearly complete with the tie in for services to our customers.
12. Sewer System Rehabilitation- Continuing major program to rehabilitate old deteriorating sewer lines and manholes. Biscuit Run, Meadowcreek and recently Woodbrook sewer drainage basins have been completed.
13. Oak Hill Sewer- New sewer system project to serve 54 new customers who had failing private septic systems. We appreciate the Albemarle County Housing Office assistance with CDBG funding for much of the cost of this project.
14. Hollymead Water Line Replacement- We are using in-house ACSA construction crews to replace failing water lines in Hollymead, street by street. We recently completed Redwing Lane and are working at Robin Lane presently.
15. Ivy Road/Flordon Water Interconnect- New project in design to interconnect these two system lines to provide an alternate feed and improve fire flows and water quality in the western part of our system. This includes an upgrade at the Ednam Pump Station.
16. Greenfields Court/Berkmar Water Extension- New water line replacement in association with the new still house water pump station.
17. FY 2014 Budget- Proposed Budget and Rates will be presented to the ACSA Board at their March meeting, with a scheduled late June public hearing and adoption.
18. 2014 Anniversary- The ACSA turns 50 in 2014.

In terms of the new rate model, Mr. O'Connell said that the ACSA carefully considered the model in comparison to other systems statewide and nationally. The model carefully reflects the ability for the Authority's water and sewer system to handle the capacity for new development in a way that is fair to developers but also does not shift the burden onto current ratepayers.

Mr. O'Connell noted that the ACSA also looked at this Board's strategic plan to ensure it is in alignment with where County government is going. Mr. O'Connell said that the ACSA Board members have been encouraged to call the Supervisors to get their opinions. At his next quarterly update, the Authority should have completed its strategic plan and he hopes to be able to share it with Board members.

Mr. O'Connell stated that the Authority ended the year in a very positive position, which is the opposite of what many localities nationally are experiencing – with declining water usage, and major cutbacks in service and capital projects. He stated that the Authority's average per capita use has been declining and continues to decline slightly with people continuing to conserve, and without new customers the Authority would be in a pretty precarious financial position. Mr. O'Connell said that billed water use is down two percent over the previous year, even with new customers. He reported that the ACSA serves over 17,500 households – or about 65,000 residents – including the urban area of Albemarle, Crozet and Scottsville. The Authority owns a lot of facilities and structures. He said that there is some confusion between what ACSA does and what RWSA does, so he explains to customers that the ACSA is the retailer for Albemarle County.

Mr. Rooker asked about the odor issues with the North Fork pump site. Mr. O'Connell explained that the Authority has a temporary fix to that by using a special additive. A detailed evaluation is currently underway to look at a permanent solution. He said that it is obviously not what the Authority wanted to have happen, but ACSA staff jumped on it quickly and worked with the residents, and he thinks they have gotten a handle on it. Mr. O'Connell commented that a lot of high technology goes into operating these systems.

In terms of the water line projects, Mr. O'Connell said that there are a number of old well systems that the ACSA took over as the public water supplier because the lines are worn out and leaky.

Mr. O'Connell said the Authority explored sewer with Buckingham Circle project, but there was not sufficient resident interest. He noted they were far enough in the design of the water line project so that in the future they can address septic problems as necessary. The Authority is also in the process of finalizing the easements.

Mr. Dumler asked what County approvals are currently in the works, specifically the Glenmore tank project. Mr. O'Connell responded that there is an agreement between the ACSA, County government, and East Rivanna about the value. It is probably going to take between one and two years to go through the process and be in a position to construct the tank on that site.

Mr. Davis clarified that the nature of the agreement is for the County and the East Rivanna Volunteer Fire Department to grant an easement to the Service Authority which requires a public hearing by the Board for approval of the disposition of property. He said that the public hearing on the granting of that easement is scheduled for January 16th. The easement area is defined with an appraisal made for the value of the property. Mr. Davis added that there is an agreement with East Rivanna about how those proceeds would be used. All of that information will be laid out for the Board next week in what would be the final Board approval necessary for the project.

Mr. O'Connell said that the ACSA wants to make sure before it goes forward with the community that it has a site to which everyone is in agreement.

Mr. Dumler asked that he be notified when the community meeting is scheduled. Mr. O'Connell responded that he would.

Mr. O'Connell added that the elevated tank design was not popular with anyone, so they moved to a ground-level tank. The Authority will present images to the community on the proposed design.

Ms. Mallek asked if an elevated tank functions by gravity when the power is out. Mr. O'Connell responded that typically it does, but in a lot of cases they have to pump up to it. In this particular project, he said, there is enough pressure in the line to feed the tank.

Mr. Rooker asked what happens on the sewer side when power is out. Mr. O'Connell said that most of the Authority's pump stations have onsite generators that automatically switch over, but some do not and have portable generators. Mr. O'Connell stated that from an emergency planning standpoint, the Authority is looking at providing emergency backup to every pump station. If they are not able to get a generator on site, there is the risk of not being able to pump the water or keep the sewer moving. He added that the first thing maintenance crews do when preparing for storms is to check all the chainsaws, as those are the first tools used.

Mr. Boyd stated that there are a tremendous number of capital projects going on both at RWSA and ACSA, and asked if ACSA has any self-imposed debt ceiling. Mr. O'Connell responded that there is a financial policy regarding the level of debt carried, but with the exception of the pump station the ACSA has no debt. The ACSA capital program is funded primarily on a cash basis. They are fortunate to be in a position not to have to issue a lot of debt.

Ms. Mallek noted that this is because the ACSA made the choice to have the rates be banking money all the time, and not raiding that pot for other uses. Mr. O'Connell said that the ACSA adheres to a 10-year planning cycle to set money aside so it can keep the rates level. He added that it is a very good financial plan because of that.

Ms. Mallek asked if a neighborhood has a private that failed would buy in the same way as a new hookup for an established neighborhood. Mr. O'Connell responded that the neighborhood would buy in with a connection fee for the hookup. For example, that was one of the issues with Buckingham Circle and the sewer as people felt their septic fields were satisfactory.

Ms. Mallek asked if there is testing available to get the reality of the failing septic system issue. Mr. O'Connell responded that it is different for each neighborhood. In Buckingham Circle a number of people have already changed out their own septic. Oak Hill was a different situation in that the sewer was on top of the group and it was more of a money issue, so the CDBG funds allowed for that project to be done.

Ms. Mallek said that she appreciates the work being done on Crozet Avenue. Mr. O'Connell stated that they think there is a storm drainage issue that may be coming into one of those lines, and ACSA staff may need to work with County staff on that. Ms. Mallek commented that the time to do it is now, during the streetscape project.

Ms. Mallek said that in response to Mr. Bill Kittrell's survey, she emphasized that irrigation water should be "Tier Four" from the first drop because 15% of water is used in the summertime, when there is already a shortage for irrigation – and that is way above what she considers reasonable.

Mr. O'Connell said that most homes using irrigation automatically go into the third or fourth tier. Ms. Mallek commented that people are getting costs below wholesale for the first 1,500 gallon, which is a really good thing, but to give irrigation people the same break seems unfair.

Mr. Rooker said that what Mr. O'Connell was saying is that in most cases, people who have irrigation end up paying in the higher tier, and the irrigation water often drives them into the higher tier and the higher marginal rate.

Mr. O'Connell stated that ACSA has had lots of debate about irrigation and different approaches, and some things have been grandfathered from the past – with new meters handled differently.

Mr. Rooker commented that he is pleased with the approach the ACSA is taking with water lost to line leakage, as that cost is often assumed by consumers. Mr. O'Connell responded that the ACSA has taken "the financial view" in addressing that, but emphasized that "if your toilet is not working right, you better get it fixed." He added that if customers get those issues fixed quickly, they get a discount on their bill, and most customers have responded positively to that.

Agenda Item No. 14. Rivanna Water and Sewer Authority Quarterly Update, Tom Frederick, Executive Director.

Mr. Frederick summarized the following comments that were forwarded to Board members in a memorandum:

1. Disinfection Byproducts: Following the unanimous decision at the joint meeting of the "four boards" on July 25, 2012, the RWSA Board has authorized and staff has moved forward with engineering services related to improving the RWSA-operated water treatment plants to incorporate some form of granular activated carbon (GAC) technology as the means of continuous assurance of compliance with the upcoming Stage 2 disinfection byproduct regulations for drinking water. Staff has also completed an application and now been granted a 2-year extension by the Virginia Department of Health for the Urban System's effective date that Stage 2 goes into effect. The first four-quarter period under Stage 2 for the Urban System will now not begin until October 2014.

Pilot plants have been set up at all Urban water plants to collect data on GAC performance. As this data is analyzed we will be asking our engineering consultant to analyze several "Hybrid GAC" alternatives, leading to a decision by the RWSA Board later in 2013 on a type of "Hybrid" or "Full-Scale" GAC. Full Scale GAC would provide GAC treatment to all water pumped to the City and ACSA distribution systems, maximizing outstanding quality and significantly exceeding Stage 2 requirements, but at the greatest cost. "Hybrid" options reduce costs by scaling back GAC treatment through blending, seasonal only operation, or even "moth balling" GAC equipment when source water organic content is low. As the Hybrid analysis comes forward, opportunity for public comment will be provided and I anticipate RWSA Board members may seek guidance from elected officials in rendering a decision.

2. Capital Improvement Program: Staff is completing the annual update of RWSA's Five-Year Capital Improvement Program for introduction to the Board of Directors on January 22. This year's CIP will recognize 12 projects that have recently been completed and are being retired from the CIP, including the Moores Creek WWTP major upgrade and the wet weather expansion of the pump station between the Moores Creek Interceptor and WWTP. These projects have modernized our infrastructure and made possible further "green" improvements to water quality, particularly regarding reduction of nitrogen and phosphorus in the Rivanna and James Rivers and minimization of wet weather overflows.

After many years of neglected aging infrastructure, RWSA has developed and implemented in recent years an aggressive program of capital improvements which has

better positioned RWSA to meet (and in some cases exceed) today's expectations both from its customers and the regulatory agencies. Several of these projects have been driven by more stringent state and federal regulations, particularly in wastewater effluent quality, water treatment, and dam safety. We are very fortunate that our Finance staff has managed several successful bond refundings in recent years, including the latest this past summer, enabling significant accomplishments with modest annual increases in our wholesale rates, while also enabling the funding of Board decisions to select for our WTPs and the Rivanna Pump Station what were not the least cost alternatives but were championed by vocal citizens.

As the highest priority needs have now been funding, we are now turning our attention to the next tier of priorities, generally smaller projects needed for long-term sustainability and reducing the overall size of the CIP compared to what we have seen in the last couple of years. Increased expenditures for new or modified projects this year is estimated at \$24.7 million, of which \$13.6 million or 55% represents the single Board decision to take "chloramines off the table" and replace it with GAC. The GAC budget is currently a placeholder based on building GAC at 75% of WTP capacities, the level at which we expect regulated disinfection byproducts in the water would be comparable with levels that chloramines would have achieved. If the Board ends up deciding on a smaller "Hybrid" the GAC budget can be reduced accordingly.

3. Wastewater Consent Order Update: Through a collaborative effort led by RWSA and including the City and ACSA, a master plan for the sewer transmission system was developed between 2006 and 2010 which was very well received by Virginia DEQ and became the basis for an executed Consent Order between each entity and DEQ in 2010 with the common goal of minimizing wet weather sewer overflows. RWSA has now completed all of the eleven project milestones in that Order, on time and within budget. Three of the milestones set further milestones approved by DEQ, with two projects remaining and in progress: the replacement of the Rivanna Pump Station, and the replacement of the Schenks Branch Interceptor. The latter is being coordinated with the City's McIntire Road Extended and 250 Interchange projects, to minimize public inconvenience and cost, as the "real estate" required by the sewer and roadway projects overlap.
4. Cost Share Agreements: The City and ACSA have recently agreed and are in the process of negotiating cost share agreements for several ongoing or completed RWSA CIP projects, as recently reported by *Charlottesville Tomorrow* and *The Daily Progress*. The most significant of these projects is the Rivanna Pump Station, but there are several other projects, covering both water and wastewater, where RWSA project implementation has moved faster than an agreement between ACSA and the City on how to share the costs. Once a "comprehensive" agreement is reached a "true-up" for expenses that have already occurred will be necessary. RWSA staff is not participating in ACSA/City negotiations except when requested by either party to provide background or technical information. We learned recently that some effort is being made in these discussions to identify broader objective criteria upon which future cost sharing decisions could be made more efficiently with much less political effort. We strongly encourage such an approach, and there are technical resources available from organizations such as the American Water Works Association regarding how this goal can be achieved. Compared to other communities I have served in the past, this community spends far more political and economic capital negotiating cost share agreements.
5. Solid Waste Services: As both the City and County are aware, "regionalism" in solid waste services has not worked well in this community since the Ivy Landfill closed to municipal solid waste in 1998 and construction debris in 2001. RSWA was forced for years to charge above market tipping fees at Ivy to select customers in order to fund free public service programs, and both the City and County chose not to enforce a requirement of the 1990 Organizational Agreement to deliver all of the solid waste generated within the localities to RSWA. As a result, much of the tonnage that once went to the Ivy transfer station now goes to privately owned and operated facilities beyond Albemarle County. Two years ago the City withdrew funding for an Ivy transfer station and the County contracted with RSWA to keep it open. Recently the County has expressed it wishes to withdraw funding effective July 1, but it also wants to keep a scaled down convenience center open to provide several specific services. The County's own consultant provided cost estimates showing these specific services cannot be expected to be provided at Ivy solely based on expected revenues at the present tipping fees. Of particular note, in the consultant's estimate 83% of the expected revenues from existing tipping fees from a scaled-down convenience center would need to fund solely the outsourced private sector costs of off-site transportation and disposition of received solid waste. The remaining 17% is significantly inadequate to have to finance all of the on-site costs. Increasing tipping fees is mentioned by the consultant but there is no analysis (and such an analysis would be very complex to accurately perform) to what extent fee increases would reduce tonnage.

RWSA staff has provided a preliminary annual budget of estimated expenses and revenues that include administrative overhead allocations which the County's consultant notably omitted from its analysis. RSWA's expenses are well below the County

consultant's estimate, but do not "break even". However, we estimate the County funding support for convenience center options would be less than maintaining a transfer station.

On December 18 the RSWA Board approved offering the two budget options on terms that the County would need to commit to continue to fund any deficits, and also mentioned that the Board would seriously consider a request from the Board of Supervisors to raise tipping fees provided the County accepts the risk on both sides (up or down) of such decision. The Board also voted 4-3 that the RSWA should not be the agency to implement privatization on behalf of the County if that is the County's preference, but RSWA would negotiate a site lease to the County to allow the County to enter its own private contract.

The RSWA Board also asked for further planning level estimates on the impact of RSWA or RWSA operating McIntire recycling and Ivy Landfill remediation without the support of staff now cross-trained to work in these areas when not filling needs for the Ivy transfer station or operations. Staff hopes to have a preliminary planning level estimate the week of January 7.

Finally, it is important to note that the current solid waste issues are a progression of long-standing differences between localities on the need or purpose for a regional entity, and not the failure of staff to effectively and efficiently implement what it was asked to perform with poor and outdated infrastructure. Whatever choices the County makes, the RSWA employees deserve commendation from elected officials.

Mr. Frederick said that the RWSA Board has approved a risk reduction plan, developed in conjunction with its consultant that will allow RWSA to substitute ferric sulfate as a coagulant and/or feed-powered activated carbon if necessary to meet Stage 2 requirements while they are still building the granular activated carbon. Mr. Frederick stated that it was RWSA's initiative to do that, but it turned out to be very important to the VDH in order to comply with their deadlines.

Ms. Mallek asked how ferric sulfate works. Ms. Frederick responded that it operates similar to alum. He added that it settles out with the material that it takes out of the water. In technical terms it is a coagulant flocculant. It takes the stuff that is in the source water (largely mud) and pulls the particles together. It removes the electrical charges so that they will clunk together and settle out in the tank so as to not remain in the water.

Mr. Snow asked if there is an updated cost on the activated charcoal system. Mr. Frederick responded that the study phase cost for 100% treatment of the water with GAC is \$18.3 million. The RWSA Board is very interested in looking at hybrid options – but that may mean that not all of the water is treated with GAC all the time, as long as it complies with regulations. There are some cheaper options available for that. He said that this will be vetted as a public item, with the issue being how much the RWSA wants to use GAC with the goal of achieving the best quality water possible.

Ms. Mallek commented that the structural improvements planned to keep the water moving will also reduce the need for GAC. Mr. Frederick replied that improvements can be made at point where the operation of the water distribution system can be managed to reduce the age of the water from the time it leaves the treatment plant to the time it enters the tap in the home. He said that for a time this community did not spend a lot of time and effort on this, but there is a lot more momentum for it now, and that is a good thing.

Mr. Rooker commented that none of the hybrid options being considered for the GAC contemplates the use of chloramines. Mr. Frederick agreed. He added that in meeting with the citizens who oppose chloramines, they said the thing they fear most is that the chloramines would somehow "slip back on the table at midnight one night," but he assured them that is not the case.

Ms. Mallek said that there was still interest in using some of the Route 250 bypass right of way for improvements north of the river. Mr. Frederick responded that the RWSA is talking with VDOT, but is not taking a position on whether or not a roadway should be built. If the project proceeds, it makes sense to take advantage of the fact that the community is moving it forward by obtaining easements parallel to that proposed road right of way in some form that allows the RWSA to build a future finished waterline to link the South Fork and North Fork plants and is vital to the future of Places 29 development. He also said that the corridor forms part of what will be a future source water pipeline connecting the South Fork Rivanna Reservoir and the Ragged Mountain Reservoir.

Mr. Frederick added that the RWSA will encourage VDOT to work together and talk to property owners just once in acquiring easements, but thus far VDOT has not agreed to that and it would help to have the Supervisors' influence on that matter. RWSA has to pay for its' easement, but he would like for them to work together. He does not think it is a good idea to have two different people going to the same property owners.

Ms. Mallek commented that she had thought RWSA's pipe would be in VDOT's easement, but apparently that is not true. Mr. Frederick said that most transportation departments have a policy that limited access highways do not include utilities as parallel – only cutting across – so the next best thing is to be right on the edge of VDOT's right of way.

Mr. Rooker noted that VDOT has acquired a substantial amount of right of way that is to the south of the South Fork already. Mr. Frederick responded that where VDOT is not acquiring right of way, the RWSA might have to provide its own agent – but where there is a joint need to contact a property owner, the RWSA is pushing to work together.

Mr. Rooker mentioned that at one point Mr. Frederick said that assuming that project did not go forward, the use of that right of way might not be the most advantageous route for the pipeline – between the two reservoirs – and asked if he still felt that way. Mr. Frederick responded that it is still his professional recommendation that if the road project is not built, the RWSA should go back and look at the properties, and how they are affecting the properties in acquiring the corridor – and pick the one that best fits the circumstances.

Mr. Frederick reiterated that an inordinate amount of time is spent on negotiating cost sharing agreements. While RWSA does not participate in the discussions with the City and ACSA, it does make itself available for questions from either party on technical and/or financial issues. He has heard that the two parties have had some conversation of possibly finding a formula that could apply to future projects so as not to go through this process every time. Mr. Frederick said, in his opinion, that is an extremely good idea and he would support it. Mr. Rooker said that the reason that occurs is because there is no pre-approved formula in place, but also because Virginia has independent cities and counties – so with only one jurisdiction ultimately the people in the jurisdiction are going to pay the cost.

Mr. Frederick added that he will be present for the Board's discussion on solid waste on January 16th.

Ms. Mallek asked where things stand on the dredging RFP, and whether there is a deadline for the company to wrap up before something is reopened. Mr. Frederick responded that the RWSA is finalizing a packet to go out to the bidder, laying out what is wanted in a detailed phased proposal and the negotiating terms for a contract. He said that the RWSA Board has authorized this action, so at the staff level they are working on the details of getting that out. He noted that if Ryan Marine is still interested, they will submit a detailed proposal this spring. Mr. Frederick noted that staff has authorization from the Rivanna Board to use that to negotiate and determine terms of a contract, subject to Rivanna Board approval.

Mr. Snow asked for an update on the dam. Mr. Frederick responded that according to the contractor they are two to three weeks behind schedule, but overall the contractor is in good shape. He stated that it is complex work, and the biggest work activity currently is the grout curtain, which involves drilling a lot of holes in the ground and filling them up with grout injected under pressure so it also seeps into cracks in the rock to build a solid foundation. Mr. Frederick said that all of the reservoir area to the 30-foot level is cleared, and all the footprint area for the dam is also cleared. By spring when the grout curtain is finished, he said, the earthen lifts for the new dam will be built and if the weather cooperates that should go fairly quickly. He noted that the soil has to have the right moisture content and cannot be too wet. The existing reservoirs are expected to be full through the end of April – but the worry is what is going to happen in May, June and July.

Ms. Mallek commented that the streams are in terrible shape and have not recovered since 2002. Mr. Frederick said that the stream flows are down and very much below normal, but not as low as they were in January 2002.

Agenda Item No. 15. Update on FY13-17 Strategic Plan, Louise Wyatt.

The executive summary forwarded to Board members state that the Board of Supervisors has formally engaged in the County's strategic planning efforts since 2001. The Board provided direction and guidance for the development of the FY13-17 Strategic Plan during a strategic planning retreat held on June 30, 2011. After additional discussion at subsequent Board meetings, the Board gave final approval of seven goals and associated objectives at its May 2, 2012 meeting.

Implementation of the FY13-17 Strategic Plan began on July 1, 2012. During the past six months, staff has focused on creating solid action plans for years one and two and on designating priority items. Over seventy employees have been involved in this process, working together on seven cross-departmental goal teams. The attachment highlights the progress that has been made towards the seven Strategic Plan goals during the past six months.

The Board will continue to receive formal biannual updates on the FY13-17 Strategic Plan in January and at the annual strategic planning retreat in late summer. Staff is still in the process of finalizing appropriate Key Performance Indicators (KPIs) for each goal and will incorporate KPIs into future updates.

The objectives and strategies of FY13-17 Strategic Plan will continue to change in response to evolving needs of the community and the organization, while remaining focused on the seven goals. At the Board's next strategic planning retreat this summer, staff will seek guidance on Strategic Plan actions and priority items for years three through five.

The FY13-17 Strategic Plan provides direction for the County's Five-Year Financial Plan and annual budget processes.

Staff recommends that the Board review the attached biannual update and continue to provide direction for the County's FY 13-17 Strategic Plan.

Ms. Louise Wyatt, Organizational Development Manager, said that she would provide a brief update on the County's Strategic Plan. The process for this plan started at the Board's 2011 retreat, in which it challenged itself to envision what Albemarle might look like in the year 2040. As a result of that discussion, she said, several broad goals emerged and after subsequent discussion in May of 2012, the Board adopted the final Strategic Plan with seven goals and several associated objectives. She said that work started on the plan on July 1, 2012. The report before the Board details the progress made over the past six months and some of the immediate next steps.

Ms. Wyatt said that staff is focused in the immediate actions for years one and two. Staff anticipates asking the Board for clear direction on the three to five-year planning horizon at its upcoming summer retreat. She stated that much of this work is not new, so there are many existing performance indicators and metrics that align closely with a lot of the goals. Ms. Wyatt said that staff's plan at the moment is to continue reviewing existing key indicators and metrics for appropriateness, and to bring the metrics forward for consideration at the retreat. She stated that staff remains focused on the plan, and several items will be coming forth for Board review in the near term. Ms. Wyatt said that as the Board starts the upcoming budgeting process, it will see that the Strategic Plan has strongly influenced the budgeting plan. She encouraged Board members to direct any feedback or questions on process to her, and if they have goal-specific questions they can be directed to the "goal champions" – Bill Letteri, Lori Allshouse, Lee Catlin, and herself.

Ms. Mallek asked if there have been lessons learned from the process regarding Crozet Park, and asked how the process went. Mr. Foley responded that it would fall under the "citizen ownership" goal #6, and it is a good issue to raise as to incorporating that into other projects.

Ms. Mallek mentioned that parent groups at the various schools in the area are organizing to raise funds to improve security at the schools, so the Board needs to be prepared for more citizen involvement.

Mr. Rooker said that at a pre-meeting he had with Police Chief Sellers and the Chair of the Police Advisory Committee regarding the school security issue, they ascertained the need to have a unified, organized approach if they are going to look at enhancing security at the schools so it is not done on an ad-hoc basis.

Ms. Mallek stated that the structures of the buildings are very different, with some having wide entries and some having a single glass wall. She added that the School Board is working on this as well.

Mr. Rooker said there needs to be good coordination with how additional money is allocated to ensure the schools are addressed on an equal basis.

Mr. Foley mentioned that the schools have a committee that is getting underway to consider this, and the police are also involved.

Mr. Foley said that this is the first six months of the five-year plan, so staff did not want to dump a bunch of new things in it. By the summer retreat the staff will have a much fuller picture of things that have been accomplished and what priorities should be set for the last three to five years.

Ms. Mallek commented that with the goal of improving emergency response times, and perhaps a more positive way to express that would be "maintaining excellent response times" because the statistics are good and there is investment being made now to more broadly distribute services. She said that she wants to remove any implied substandard delivery as they have been harping on that during every review.

Mr. Foley pointed out that the performance in urban areas is not up to standards that have been set, and that is the reason this plan is focused on improvement. He emphasized that that's why the County is putting the EMS service at Pantops and implementing an Ivy station. The rural area response – particularly in fire – is meeting the average standard. Mr. Foley stated that the things the Board approved recently focus on meeting the standards that are not currently being met.

Recess. At 11:05 a.m., the Board recessed, and then reconvened at 11:19 a.m.

Agenda Item No. 16. Amendment to the ECC Joint Exercise of Powers Agreement, Tom Hansen.

The executive summary forward to Board members state that the City of Charlottesville, the County of Albemarle and the University of Virginia have cooperated for many years in the joint operation and management of the region's combined Emergency Communications Center ("ECC") pursuant to a joint exercise of powers Agreement dated January 20, 1984 (Attachment A). The centralized dispatching facility provides service for the three respective law enforcement agencies, fire agencies, and emergency medical services, as well as the "911" emergency telephone service. The local Office of Emergency Management is also included in the ECC operations. The history of how the ECC has been funded is provided in Attachment E. Tom Hanson, Executive Director of the ECC will provide an overview of the ECC operations and the proposed amendment at Wednesday's meeting.

The ECC Management Board directed its Executive Director to work with budget representatives of the three jurisdictions to develop a revised funding formula that would be an up to date and more easily managed budget process, and would be more equitable to all parties. The proposed Addendum #2 (Attachment C), establishes a revised funding formula for operating and capital improvement (CIP) costs that is based on actual calls for service. CIP costs would be fixed by project based on the year the CIP project is approved, and would not be recomputed each year. In addition, it establishes a maximum year-end fund balance not to exceed 25% of the ECC's total annual operating budget. It would be effective beginning in FY 14.

The ECC Management Board approved Addendum #2 on September 12, 2012 at its regular board meeting after an opportunity for public comment was provided. The City Council is scheduled to consider Addendum #2 on January 21 and February 4, 2013, and the Rector and Visitors of the University of Virginia is scheduled to consider Addendum #2 on February 21 or 22, 2013. The Addendum requires the approval of the governing bodies of the County, City, and University. Virginia Code § 15.2-1300 requires that localities approve joint exercise of powers agreements by ordinance. A public hearing is not required. The County Attorney has reviewed the proposed Addendum #2 and has approved it as to form.

If approved, the proposed Addendum #2 will provide a more equitable, simplified and comprehensive funding formula based on system usage. If the proposed funding formula had been applicable for FY 13, the County, being the biggest user of the system, would have paid approximately \$56,893 more (1.17% increase) in the current fiscal year.

Staff recommends that the Board authorize a Notice of Intent to adopt the attached Ordinance to approve Addendum #2 to the joint exercise of powers Agreement for the Emergency Communications Center (Attachment D) for the Board's February 6, 2013 meeting.

Mr. Hansen said that he was before the Board to discuss an amendment to the operational agreement between the City, County and University for the ECC Management Board and specifically the current funding formula used within the jurisdictions. He said that there have also been some questions on the respective roles for each partner, so he will provide a refresher on that as well.

Mr. Hansen reported that the ECC was established in 1984 as a joint dispatch center between the City, County and University. It specifically started out as a law enforcement communications center with the three police departments. He said that the agreement was established at that time for a management board to oversee the operation of the "joint dispatch center." The agreement initially had eight members – with two added a few years ago through an addendum. Mr. Hansen stated that currently Mr. Foley sits as Chairman, but the County representative can assign a designee. The Management Board currently consists of the County Executive, City Manager, Exec. Vice President and C.O.O. for UVA, Albemarle Police Chief, Charlottesville Police Chief, UVA Police Chief, Albemarle Fire Chief, Charlottesville Fire Chief, additional University representative, and Jefferson Country Fire/Rescue Association.

He said that the ECC has 50 staff members, with 40 being communications officers, four IT staffers, and six administrative personnel. Mr. Hansen stated that the employees work 12-hour shifts, and the platoons work two days, two nights, with two power shift platoons to establish staffing around the clock and adjust depending on demand.

Mr. Hansen reported that the services provided include 911-call answering, law enforcement dispatch for the three police agencies, fire/EMS dispatch, emergency management, planning and training, CERT, public awareness, and exercise of the emergency operations done twice per year.

Mr. Hansen explained that the initial funding formula established in 1984 was based on law enforcement calls for service, the population of the jurisdictions, and the crime rate index. Those three pieces of criteria were used in a formula that gave the percentage based on the number of calls. He said that criteria worked up until the late 80s, but then the Center took on additional work that was basically EMS dispatching. Also entwined in this was the law that had to do with funding for 911 which was initially handled at the local level. The funding for 911 was through a telephone bill surcharge where the money came directly to the jurisdictions. A few years ago, the state took over that and the money goes to the state.

Ms. Mallek asked if any of that money comes back to localities. Mr. Hansen responded that some of it comes back to the County. It is now part of the "greater communications tax," which establishes a 75% surcharge across the state - \$3.00 for Albemarle. He said that when ECC took on EMS dispatching, it had to create a budget that separated out that money into surchargeable and non-surchargeable and then using the funding formula.

Mr. Rooker asked if a comparison has been done between the new formula and the old income pursuant to the \$3.00 charge. Mr. Davis responded that staff looked at that issue about a year after implementation, and it was based on a formula of what revenues were per locality from the various telecommunications taxes compared to all the other jurisdictions. He said that the initial year the County broke even, but since then it has gone up along with statewide revenue. It is hard to know if the County is getting its fair share based on the formula.

Mr. Rooker commented that the revenue comes into General Government and there is no real tie between the two at the moment. Mr. Davis responded not any more. There were specific categories that the E911 fee could pay for, and it was limited to certain operational aspects, but when the law changed the money was replaced with the telecommunications pass-through that goes into the General Fund.

Mr. Hansen reported that as ECC services expanded, the funding formulas became a little more complex. The formula was based on the number of EMS calls in the City or the County by an allocation of strict percentages. Mr. Hansen said that the E911 system was funded within the budget by taking the number of landline telephones in the City or County, and whoever had the largest percentage was allocated as such. He stated that prior to moving to the new facility, they did everything by hand on paper cards – so the question became how to pay for technology. Mr. Hansen said that the ECC Management Board agreed to split the cost with a 40/40/20 split on any technology, with the County and City paying 40% each and the University paying 20%. He stated that the 800 MHz radio system created another cost center, but it is funded strictly based on the number of radios in the system. Mr. Hansen said that when emergency management functions were moved to the ECC, that was funded with the same funding formula as the law enforcement agencies. He stated that when ECC took over fire dispatching, initially the City paid 100% of its part of it and the County paid 100% of its part.

Mr. Hansen stated that ECC currently has nine cost centers and six funding formulas, including the original funding formula. The ECC Management Board asked him to work with representatives of the three jurisdictions to come up with a single formula to fund the operation that would be fair and equitable with the jurisdictions. He said that Ms. Leslie Beauregard, Director of Budget & Management, City of Charlottesville, Ms. Lori Allshouse, Director of Budget & Management, Albemarle County, and Ms. Melissa Clarke, Director of Capital & Administrative Budgets, University of Virginia, worked with him to go through the process and bring something forth to the Management Board. Mr. Hansen stated that at its last meeting, the Management Board approved basically a funding formula that would consolidate the six formulas into one. The formula is based on total system usage, with UVA becoming a full financial partner. He mentioned that there are three cost centers that UVA has never financed any part of – EMS, fire, and the 911 system. UVA agreed under this new formula that it would fund its' part of that. Mr. Hansen stated that this brings UVA in as a full financial partner and formalizes a "lock-in of participant costs for major capital projects." He noted that the capital project costs will be based on whatever the percentage is at the time the project starts with the exception of the 800 MHz system, which is based on usage.

Mr. Foley said that it also allows for the schools and some of the other agencies to pay for their share of radios.

Mr. Hansen stated that this also puts an end-of-year cap on the ECC fund balance of 25% of operating budget, and outside revenues offset budget based on participant percentage. He added that ECC gets funds from a wireless surcharge managed by the state. Annually he applies to the state for these funds based on a formula and then they are used as an off-set based on the percentages. Mr. Hansen said that he knows for that through 2017, the funds are significant, and then in 2017 the state has the ability to go back and readjust the amount of funds. The total amount for the next year is approximately \$580,000.

Ms. Mallek said that the 25% cap on fund balance seems to be an enormous amount of money, and asked how it fluctuates during a year. Mr. Hansen responded that from time to time there is funding needed for capital projects – such as the CAD system – and that comes from the fund balance account. He said that the projects are funded through that and are approved by the Management Board. They are projected over five years. He added that it is easier to do that than to come back to each jurisdiction.

Mr. Snow commented that it makes sense when there are three different agencies involved.

Mr. Rooker asked how much is in the fund. Mr. Hansen responded that it is approximately \$1.8 million.

Mr. Foley noted that the major capital projects will still go through the three jurisdiction's CIPs, but the run of the mill items can go through the ECC's in-house committee.

Mr. Hansen reported that in FY13-14, if the jurisdictions approve the formula, the County's percentage will be 48% of the total share – and the variables influence any percentage increase based on calls for service, or a change in contracts. Outside revenues also can affect the County's share.

Mr. Rooker asked if the numbers have been run to determine how this affects the County's budget and how it compares to last year. Mr. Foley responded that the calculation shows that in the current fiscal year, the County would have paid 1.17% more under this formula. He noted that it is based on calls for service, which is the most objective approach, so if the City has more calls it would shift to them. Mr. Foley stated that this ordinance does require advertisement for adoption although it does not require a public hearing.

Mr. Boyd asked if the ECC is considered an authority, an agency, or some other structure. Mr. Davis explained that the ECC operates under a "joint exercise of powers agreement," which is provided for in the State Code to allow localities to do together what they could otherwise do separately. He said that the statute says you can form that if you establish an agreement that is adopted by ordinance by each locality, and by the University through resolution. Mr. Davis stated that the statute specifically provides that this type of entity can have a management board that can provide oversight to it, but technically the County is the fiscal agent for the ECC. The ECC employees are County employees, with operations under the umbrella of the County being the administrative agent for the University and the City to provide this joint exercise of powers over this type of activity. He said that it is kind of a unique structure, but is not a separate political entity. It is an arm of the County that is being exercised on behalf of the three jurisdictions.

Mr. Boyd asked if there is some compensation provided for that role. Mr. Hansen responded that 2% of the ECC budget comes back to the County. Mr. Davis said that 2% is intended to cover both the administrative and the legal costs. He added that his office provides legal representation to the ECC.

Mr. Boyd asked if that percentage was adequate. Mr. Foley said it applies in similar situations where the City may be fiscal agent. It is a number that has worked over time.

Mr. Hansen said this request is on City Council's next agenda, and they have to follow the same process as the County. The University will not vote on this until sometime in February.

Mr. Davis said that there is no legal requirement for a public hearing. This type of ordinance requires a notice of intent to adopt the ordinance to be published in the newspaper.

Board members stated that they were fine with the recommended procedure as presented.

Mr. Hansen mentioned that the ECC stays on top of grants, and is known for pursuing all sources it can. He stated that things have changed with the 800 MHz project. With the old system, the ECC was able to secure a \$6 million grant which they applied for that as a jurisdiction. Now the state has created "communications regions." Mr. Hansen explained that the Charlottesville area ECC is now in "Region Three," which runs from Halifax to here and includes 22 jurisdictions. He stated that the new policy mandates that grants must be applied for regionally. The local ECC is trying to use the City and the County as a "region." It means that they must have regional participation or they are not allowed to apply for the grant. He said that for the 2016 budget year, they are also trying to establish where they need to make application and what grants they need to pursue at that point, as right now is far too early. Mr. Hansen further explained that the ECCs apply by region, then the region picks the top grants, those are brought forth to the state, and the state then compares the grants against grants from all seven regions. He said that the ECC would then go before the State Board and makes its case for funding.

Ms. Mallek asked if the ECC would have to get the blessing from everyone from here to Halifax. Mr. Hansen responded "yes". He added that there have been some regional grants that are good for the entire region, but they could not get anyone from within the region to act as fiscal agent. Albemarle has stepped up twice and managed regional grants for the entire region because they were something they should be doing. Hopefully with this change, the other participants in this region will "start playing a little better."

Ms. Mallek said that with smaller communities, it may be difficult to have the manpower to move forward.

Mr. Rooker asked if the time spent on these grants are compensated. Mr. Hansen responded "no".

Mr. Foley stated that the County is looking into whether it can pursue a charge-off for administrative fees, which is being considered with all grants.

Mr. Rooker asked if they have to go through the region for homeland security grants also. Mr. Hansen responded "yes", anything that has to do with communications.

Ms. Mallek asked if the JCFRA representative on the Management Board is a volunteer chief. Mr. Hansen confirmed that it is Chief Hall, and their membership elects them.

Motion was then offered by Mr. Rooker to authorize a Notice of Intent to adopt the proposed Ordinance to approve Addendum #2 to the joint exercise of powers Agreement for the Emergency Communications Center for the Board's February 6, 2013 meeting. Ms. Mallek **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

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

NAYS: None.

Agenda Item No. 17. Ordinance to Amend the Open Burning Provisions in Chapter 6, Fire Protection, of the County Code.

The executive summary forwarded to Board members state that a public hearing was held on November 14, 2012 on an ordinance to prohibit the open burning of household refuse. After the public hearing, the Board determined that it was in favor of adopting the ordinance and directed staff to submit the proposed ordinance to the Air Pollution Control Board for its approval before presenting the proposed ordinance to the Board for final consideration and adoption.

The proposed ordinance:

1. prohibits the open burning of household waste throughout the County; and
2. updates the definitions in Section 6-403 to be consistent with the definitions set forth in the applicable sections of the Virginia Administrative Code.

Additional background information regarding the ordinance is included in the attached July 11, 2012 executive summary (Attachment B).

Should the Board adopt the proposed ordinance, staff expects only a minor increase of 10-20 hours of Court time annually if the County continues to follow a complaint-driven model, and believes this is manageable within current budget and staffing.

Staff recommends that the Board adopt the attached ordinance (Attachment C) to amend the open burning provisions of the County Code.

Mr. Davis reported that this ordinance previously came before the Board in November, and staff had explained that the process was that it had to be approved by the State Air Pollution Control Board before final adoption. He distributed a copy of the approval letter from the Air Pollution Control Board, and under their regulations it could receive administrative approval by their staff. Mr. Davis said that Mr. Paler has responded affirmatively, approving the proposed changes in the County's ordinance. He stated that the essence of the ordinance was to prohibit the open burning of household waste throughout the County as well as to update the definitions to be consistent with the applicable sections of the Virginia Administrative Code. Mr. Davis said that no additional public hearing is required on this matter since it was held previously. This matter is before the Board today for action per the proposed ordinance in the Board's packets.

He stated that Ms. Mallek had asked him some questions about wording of the ordinance. The questions can be addressed, although they cannot be considered in this ordinance today because they were not advertised. Mr. Davis explained that there are a few provisions within the context of this ordinance that address the distance that must be maintained for an open fire from a residence or structure, and it currently says it has to be with permission of the building occupant to have that distance reduced below 300 feet. That language is consistent with the model ordinance. In order to require a written concurrence, it would require an amendment to the ordinance and require approval from the Air Pollution Control Board. He stated that for burns that require permitting, the County does require by practice that the permissions be given in writing. It is not currently required in the yard trimming burning – where the 300 foot distance is maintained. Mr. Davis said that from a practical standpoint, typically the person who is complaining is the adjacent property owner so it is pretty obvious they have not given consent.

Mr. Howard Lagomarsino explained that at the new reservoir site there were a number of complaints about burning of land-clearing debris, so they went to a different process that injected air, and it burned hotter with less smoke. He said that the complaints died down, so there are processes that can be done to limit production of smoke. Mr. Lagomarsino said that digging a pit and adding air from the bottom provides a much cleaner burn.

Ms. Mallek asked if when someone is doing a brush pile on their garden, there is a requirement to contact the local fire department to look at it and see that it is within their means to manage. Mr. Lagomarsino said there is no oversight for an individual who wants to burn a pile of brush, but if someone does land-clearing, the permit is required.

Mr. Snow said that it is based on square footage of burn area. Mr. Lagomarsino responded that it is not based on that, it is based on land clearing. For example, if there is a resident on Thomas Jefferson Parkway who cleared land to develop a riding area for dressage, that would have kicked in a requirement for a permit if they burned. Mr. Lagomarsino said that cleanup of yard and storm debris is a priority because it can lead to fires, and the process allows those burns to happen so that people can take care of their property without additional government oversight.

Mr. Davis stated that you can burn leaves provided you can maintain a separation of more than 300 feet from your neighbor's property structures.

Mr. Lagomarsino said that if it is closer than 300 feet, they must get permission from the neighbor and if they do not, they can call the fire department to handle it.

Ms. Mallek said that there are many other options for disposing of debris, such as grinding, and the fact that all this burning is allowed is not good from her perspective. She added that calling the fire department is after the fact. That is why she supports the written permission.

Mr. Rooker responded that it is all on the back end unless there is a permit required. There is no pre-advanced notification either way.

Mr. Thomas said he thinks it forces neighbors to communicate.

Mr. Davis stated that the issue before the Board is a recommendation to adopt the ordinance as reflected in Attachment C, which would implement what the Board previously considered. If the Board wants an initiative to further address the issue of notice, staff will have to bring back a proposal on that.

Ms. Mallek suggested that the Board see how this goes. She said that she is eager to adopt what is before the Board.

Motion was then offered by Mr. Snow to adopt the proposed ordinance to amend the open burning provisions of the County Code. Ms. Mallek **seconded** the motion.

Mr. Boyd stated that he will vote against this, as he did previously. He is certainly in favor of quality air, but he thinks this is taking a "sledgehammer to kill a fly."

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

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

NAYS: Mr. Boyd and Mr. Thomas.

(The adopted ordinance is set out below:)

ORDINANCE NO. 13-6(1)

AN ORDINANCE TO AMEND CHAPTER 6, FIRE PROTECTION, ARTICLE IV, BURNING OF BRUSH, ETC., OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA

BE IT ORDAINED By the Board of Supervisors of the County of Albemarle, Virginia, that Chapter 6, Fire Protection, Article IV, Burning of Brush, etc., is hereby amended and reordained as follows:

By Amending:

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

Chapter 6. Fire Protection

Article IV. Burning of Brush, etc.

Sec. 6-403 Definitions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 6-404 Prohibitions on open burning.

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

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

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

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

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

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

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

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

Sec. 6-406 Permissible open burning.

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

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

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

1. all reasonable effort shall be made to minimize the amount of material burned, with the number and size of the debris piles approved by the fire official;
2. the material to be burned shall consist of brush, stumps and similar debris waste and shall not include demolition material;

3. the burning shall be at least 500 feet from an occupied building unless the occupants have given prior permission, other than a building located on the property on which the burning is conducted;
4. the burning shall be conducted at the greatest distance practicable from highways and air fields;
5. the burning shall be attended at all times and conducted to ensure the best possible combustion with a minimum of smoke being produced;
6. the burning shall not be allowed to smolder beyond the minimum period of time necessary for the destruction of the materials; and
7. the burning shall be conducted only when the prevailing winds are away from any city, town or built-up area.

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

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

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

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

Sec. 6-407 Permits.

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

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

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

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

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

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

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

Agenda Item No. 18. Closed Meeting.

At 12:01 p.m., Mr. Dumler offered a **motion** that the Board go 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 request for reappointments; under subsection (7) to consult with and be briefed by legal counsel and staff regarding the Restore-N-Station litigation because a public discussion would adversely affect the litigating posture of the County; and under subsection (7) to consult with and be briefed by legal counsel and staff regarding specific legal matters requiring the provision of legal advice related to the negotiation of a regional public safety agreement. Mr. Boyd **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

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

Agenda Item No. 19. Certify Closed Meeting.

At 1:43 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. Ms. Mallek **seconded** the motion.

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

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

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

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

- **reappoint** Mr. Ross Stevens to the ACE Appraisal Review Committee, with said term to expire December 31, 2013.
- **reappoint** Mr. Frederick Missel to the Architectural Review Board, with said term to expire November 14, 2016.
- **reappoint** Mr. Steve Sellers to the James River Alcohol Safety Action Program, with said term to expire January 1, 2016.
- **reappoint** Mr. Charles Newton, Mr. Lloyd Wood, Mr. Hawkins Dale, Ms. Heather Stokes, Mr. Henry Weinschenk, Mr. Peter Skoro and Mr. Robert Short to the Places 29 Community Advisory Council, with said terms to expire January 31, 2016.
- **reappoint** Mr. Steve Elliott to the Thomas Jefferson Emergency Medical Service Council, with said term to expire January 1, 2016.

Ms. Mallek **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

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

Agenda Item No. 21. Industrial Hemp Presentation, James D. Politis, Chairman of Board, Montgomery County.

Ms. Mallek stated that the presentation would be given by Chairman of the Montgomery County Board of Supervisors Jim Politis. She also thanked him for the packets of information.

Mr. Politis stated that he has been working on this project for about three years, and has made significant headway in the few months – with Ms. Mallek encouraging it through their VACo alliance. He said that when they had their vote at the end of the VACo meetings, 84 out of 85 voting counties voted to support the measure as part of the legislative priority list. Mr. Politis stated that the person who did not vote for it did not vote against that specifically, he voted against the whole package.

Mr. Politis said that he lived in Albemarle County from 1966 – 1970 and worked on a horse farm on Route 20 South, and his favorite haunt was Spudnuts. He stated that he is pushing the industrial hemp initiative because “it covers every area of the economy,” from agricultural to manufacturing to research and development, to sales and marketing – and there is no other agricultural product that can make 25,000 other products. Mr. Politis stated that a year and a half ago he announced to his region that they could create 10,000 jobs in southern Virginia, and a lot of people questioned him about that – but he was able to support his assertion with facts, acknowledging that it would take a lot of work. Mr. Politis said that a number of products can be made from industrial hemp: biofuels, biomass for fuel, food products, clothing, and much more.

He reported that industrial hemp was widely cultivated in Europe in the mid-16th Century for food and for fiber, and its original use in North America is attributed to the puritans in New England, who applied the fiber to the production of cloth and household fabric. He stated that strong demands for cordage and sailcloth in North America during the mid-19th Century peaked U.S. production, and WWII prompted the U.S. to finance production for seed and fiber. In 1943, he reported, production decreased from 12,450 tons of processed fiber on 30,000 acres to 4,950 tons 11,000 acres. He explained that in WWII the U.S. was getting all their fiber from Asia, and the supply lines were cut by the war. Mr. Politis said that one of the main uses for hemp back in that time was rigging for ships and canvas – and most of the covered wagons that traveled west probably used hemp because it was the most durable fiber, lasting about five times longer than cotton and more readily available.

Mr. Politis reported that hemp differs vastly from marijuana because of THC content, with marijuana cultivars containing about 3-15% THC and industrial hemp containing less than 3/10 of 1%. He said that the figure is internationally recognized, and there are 30+ countries in the world that grow industrial hemp legally. Mr. Politis stated that the U.S. purchases 50% of all hemp product that is made, because it can't be grown here. He said that it is about a \$450 million industry today, and is very cost effective and environmentally friendly – taking very little pesticide or insecticide. Mr. Politis said that it grows quickly, and you can get a crop up in about 70 days. He stated that one acre of hemp can produce annually four times the amount of paper as an acre of forest that takes 20 years to go; one acre of hemp absorbs five times the amount of carbon dioxide as the same acre of forest.

Mr. Politis reported that China produces about 40% of hemp fiber, and in the last few years they have been trying to move their cotton to less rich soils and turn some of the cotton fields into hemp fields. He said that China is going from about 50,000 acres to 1 million acres of hemp, and that will likely be competition for the United States. Mr. Politis stated that there is a company in Salisbury, Maryland, that makes hemp inserts for diapers that is highly hypo-allergenic. He noted that U.S. banknotes were once made with hemp, and in Europe they still are. Mr. Politis referenced a list of products that had been previously given to the Board as part of a packet of information distributed the week prior. He said that hemp can be used in auto interiors, and a manufacturer is building a hemp car in Canada currently that will run on hemp fuel. Mr. Politis stated that in the U.S., 2% of cars run on diesel – in Europe that number is 60% - and hemp and peanut oil are the two preferred fuel sources for conversion from diesel. He reported that one acre of hemp can generate 300 gallons of oil that can be used for biofuel, and said that economic development from hemp is growing at a rate of 10% per year.

Mr. Politis said that the objective here is to change the law by taking one species of cannabis and remove it from the Controlled Substance Act, emphasizing that hemp is not the same thing as marijuana and it is only illegal to grow cannabis without a permit – which the DEA will not issue. He stated that the initiative attempts to remove this particular strain from the Controlled Substance Act and let the states regulate it, taking away control from the federal government. Mr. Politis presented expired House and Senate bills, noting that Senator Wyden of Oregon is expected to reintroduce the Senate Bill, which was first introduced last year. He said that the Senate Bill mirrors the House Bill, HR1831 which was introduced by Ron Paul. Mr. Politis noted that the new chairman of the Judiciary Committee is Bob Goodlatte, who is also on the Ag Committee. He said that all of the Delegates that he has talked to so far are in support of it and that there are policies in the National Farm Bureau and in the National Farmers Union that states this is something that needs to be done.

He stated that he would like to get a resolution from this Board and from as many other boards as possible, so he can have that support when he takes the initiative to Washington. Mr. Politis emphasized that Martinsville and Danville have some of the highest unemployment rates in the country, because this type of production – furniture and textile – has been taken away. He emphasized that they are not looking for any government funding, as this should be done through entrepreneurship.

Ms. Mallek asked if hemp was an annual crop or perennial. Mr. Politis responded that it is an annual crop.

Ms. Mallek asked if it used customary agricultural machinery. Mr. Politis replied that it did for the most part, but there may need to be some modification of equipment, including the piece that breaks the fiber from the hurd. He explained the biology of the hemp plant, noting that there are three parts to its structure: the fiber, the hurd or woody core, and the seed. Mr. Politis said that the seed oil is used for fuel, food and cosmetics; the hurd can be used as a building material that actually makes for negative carbon homes.

Mr. Snow asked if you could get more than one crop per year. Mr. Politis responded that you can get two crops if the ground temperature does not drop below 50 degrees.

Mr. Boyd said that there is obviously another side to the story, and asked why it is illegal to grow industrial hemp now. Mr. Politis responded that he is not a conspiracy theorist, but when big corporations

got into competing products they demonized the crop in 1937 with the Marijuana Tax Act. He said that Randolph Hearst invested in a huge pulp forest for his papers, and hemp was a competitor; Dupont had nylon and synthetic fabrics that were competitors. Mr. Politis said that at a point they were cheaper to produce, but technology has grown to the point that the crop would not be non-competitive today.

Mr. Politis reviewed the request to the 113th Congress and presented a sample resolution that was passed by Montgomery County, which mirrors some of the 2001 and 1999 state resolutions that passed in Virginia.

Mr. Rooker said that he would like the resolution to come back to the Board after Mr. Davis has a chance to work on it, adding that this has been going on for years, and it should have been done a long time ago. He commended Mr. Politis for spending so much time promoting it around the state, adding that the Virginia Farm Bureau supports it along with 84 out of 85 VACo counties. Mr. Rooker said that hemp is a \$430 million market today, and 50% of the world's production is used in the U.S. while farmers are not allowed to take advantage of the economics of it. He said that it is something that should be remedied.

Mr. Boyd said that he would also like for the drafted resolution to come back before them.

Mr. Snow asked if there was additional research that could be done on this, stating that he didn't know enough about it to ask the right questions. Mr. Foley said that staff could add it to the February 6 agenda.

Mr. Davis asked Mr. Politis to provide him with the current House resolution number. Mr. Politis agreed to provide it when it became available from the House of Delegates.

Mr. Boyd commented that it is the Federal law has to be changed. Ms. Mallek responded yes, and said that the action is to request that the General Assembly ask Congress to make the change.

Mr. Snow asked where the main opposition was coming from. Mr. Politis responded, Drug Enforcement. He explained that he had a meeting in Christiansburg, the only locality to vote him down. A DEA agent was present and stated that hemp was marijuana, and that is incorrect. Mr. Politis stated that Christiansburg is going to reconsider the issue now that they have more information, but law enforcement continues to be "the big hiccup." He added that Morgan Griffith has written a letter to the Department of Justice in an attempt to get an appointment to explain how this can be done without interfering with law enforcement, as it is done in Canada – with a farmer on 6,000 acres being the one of the largest suppliers to the U.S. He said that there are ways to do it and we have just got to open our eyes and open our minds a little bit.

Agenda Item No. 22. VDoT Quarterly Report, Joel DeNunzio.

Mr. Joel DeNunzio addressed the Board, stating that this is the first quarterly update of 2013. He asked if Board members would like for him meet with them individually and ride the roads in their district. Mr. DeNunzio said that VDoT has several projects that are moving forward, including several rural/gravel road projects.

He reported that in February, there would be three Route 53 safety projects advertised – the two curved sections just passed the Monticello entrance and down a bit further at the entrance to the farm there – widening the inside of the curves and opening up the site distances. Mr. DeNunzio said another project that VDoT has for that corridor is improvements for the intersection of Route 20 and Route 53, and the Route 708 dry bridge replacement in May. He stated that at the end of the year VDoT plans to advertise for Route 53 and Route 729. Mr. DeNunzio said that everything else in the preliminary report for engineering is coming on next year.

Mr. DeNunzio reported that the Barracks Farm Road speed safety study is underway, and they have collected data on it with review currently underway by the regional traffic engineer. He said that traffic engineers have reviewed Route 250 and Tillman Road for a safety study noting that safety studies were done in 2005 and in 2010, and in 2005 they had added a number of safety measures. He said that the most recent request was to do a warrant study for a signal, and that Tillman Road does not have near the traffic needed to warrant a signal – so at this time the engineers are recommending no further action at the intersection.

Mr. Snow asked if there is any way to do some traffic calming such as painted lines as you approach the intersection because it definitely is a problem. He said that someone had recently lost their life there and a lot of people ask about that intersection. Mr. DeNunzio said that he would request that it be re-reviewed. He explained that engineers reviewed the items that were in place in 2005 and did see a great improvement. He stated that he was aware of the fatality and would ask for a re-review of the safety measures. Adding that if there is a speeding problem then traffic calming is something that they could consider.

Mr. DeNunzio reported that Route 1493, Franklin Drive, has been reduced to 25 mph after a completed speed study. Mr. DeNunzio said that the Board had requested a review of the U-turn movement conflicts with the Route 250 and Route 20 intersection, and the initial recommendation was to restrict the right-turn movement and not have right turns on red, along with changing the phasing of the signal for the southbound Route 20. He stated that there was a separate phase for the U-turns and right turns, which would take care of the conflicts, but the concern with limiting the U-turns there is that there

are businesses along the Route 250 corridor that need access. He said that engineers are looking at solutions on the Route 20 approach, but they are still under review.

Mr. Boyd asked about the northbound traffic coming out of Pantops Drive, as they were going to look into making the right-hand turn lane a through lane. Mr. DeNunzio responded that the study was complete and that was the recommendation, so that would be implemented. He said that the rightmost left turn lane is a combined left turn lane and through movement, and the idea is to make those exclusive lefts with the right lane a right turn lane and through movement – removing some of the traffic out of the left-turning movements.

Mr. Snow said that he did not hear a response about those headed eastbound making that U-turn. Mr. DeNunzio explained that engineers were considering changing the phasing of that signal to not have the right turn lane have a green arrow at the same time the dual lefts and U-turn movement has a green arrow. He said they were concerned about what implications it would have to congestion at the intersection, but the initial review indicated it would not have a level of service problem and more work needs to be done before making that change.

Mr. DeNunzio reported that there was concern about through trucks going under the railroad bridge on Polo Grounds Road, and VDOT put signs up on the Route 29 North and South approaches as well as Proffit Road, and the intersection of Route 20 with Polo Grounds Road recommending that trucks do not use that route for a through lane.

Mr. Boyd asked if the signs would solve the problem with the length of the vehicles, because there is also a concern with long trailers. He said that the problem that he has been written about is that people get to the one lane railroad trestle and because of the curvature they get stuck. Mr. DeNunzio replied that the intention of the signs is that trucks not use the route.

Mr. DeNunzio also reported that VDOT is recommending the installation of “School Zone” signs 150 feet past the intersection of Old Trail and Route 250, and they will coordinate with the existing flashing lights.

Ms. Mallek asked if the existing speed limit on Old Trail Drive would be sufficient enough to protect the school pedestrians getting to and from school in the mornings and afternoons. Mr. DeNunzio explained that the concern that was given is that as you exit off of Old Trail Drive you never see the flashing “School Zone” signs.

Mr. Boyd asked about the school crossing signs in Forest Lakes at Powell Creek and Ashwood Boulevard. Mr. DeNunzio responded that it was just approved, and they may not have been installed yet – with VDOT approving the plan and the School Board paying for the installation and contracting it out.

Mr. Snow thanked Mr. DeNunzio for getting the line of sight cleared off on Route 6 at Porter’s Road, and asked about the status of School Zone signs and calming lines in that area for Yancey Elementary School.

Mr. DeNunzio asked Mr. Snow if he was referring to their discussion on gentle rumble strip to minimize noise.

Ms. Mallek said that no one has complained of the noise for the ones on Rhea’s Ford Road.

Mr. Snow said that the gentle rumble strips would really help a lot in the Yancey area. He also complimented Mr. DeNunzio for the work he and Jack Kelsey have done, especially the improved communication over the last month.

Mr. Boyd asked about the status of the bridge at Black Cat Road and the process involved there. Mr. Jack Kelsey, with the Office of Facilities Development, explained that he and Mr. DeNunzio have both done inspections along the roadway for physical characteristics such as sight distance and shoulder width, looking at the traffic data prior to the weight reduction and the traffic figures after implementation – as well as accident figures provided by VDOT. He said that after reviewing all factors there is enough there to provide some reasonable support for through-truck restrictions, and now it should go to the next step with property owners. Mr. Kelsey stated that it is important to document the support of the people along the roadway, and they would then do some research on other stakeholders such as businesses using that road for their trucks.

Mr. Boyd offered to do the petition process. Mr. Kelsey agreed that would be acceptable.

Mr. Foley said that once the County did the initial assessment, the Board member was intended to be the liaison with the community – so that process can go forward now.

Mr. Boyd asked if staff could send him the community requirements to proceed with the process. Mr. Kelsey stated that he has also contacted Brian Arnold, who is the project manager for the bridge project, and VDOT has already had a public comment period on the bridge. He said that that he wanted to obtain a copy of the summary report from the public hearing.

Mr. Davis said that the determination made by Mr. DeNunzio and Mr. Kelsey was that it had to be classified as a "rural collector," and they have determined that it is so it has met that threshold. He stated that the petition is now required, and the process requires a notice and public hearing by the Board and a resolution adopted by the Board to the Department of Highways, along with a transcript of the public hearing process and the resolution. He said that Transportation Board can then accept or reject the request with the recommendation of staff. He said that there is still a significant process that's involved in this to go forward, and the key in the past has always been to identify a reasonable alternative for the trucks to travel – so staff will have to come forward with a clear recommendation as to what the alternative is, in order for it to receive serious consideration.

Mr. Boyd asked staff to let him know what needed to be done and he would be glad to set up a town hall meeting where he and Mr. Kelsey could both explain to citizens what needed to be done.

Mr. Rooker said that it seems as if a reasonable alternative could be fairly quickly established.

Mr. Boyd stated that the concern was the design of the bridge – because the community said that if they can't get it designated as no through truck area, then they would want to make the bridge smaller and include a number of design alterations to hold down the truck traffic.

Mr. Rooker said that if the requirement is that there be an alternative route for trucks, then it could be determined quickly.

Mr. Kelsey said that in looking at earlier traffic data, 1% of the traffic was semi-trailers, and since the weight reduction was put on the bridge the last traffic count was 0% with a reduction also in the number of dual-axle trucks. He stated that if trucks are not using that section of road, then they've found an alternative route somewhere.

Mr. Davis said that the alternative route needs to be identified.

Ms. Mallek asked if new research needed to be done on Earlysville Road. Mr. Kelsey responded that he has the files and they are in the queue to be looked at.

Mr. Foley said that Black Cat is at the top of the list, and staff is working through the other items in OFD

Ms. Mallek said that many of those variables such as housing density have not changed, and she would move forward with petitions over the next two months because it seems more sensible that if hearings are going to be done then they should be done together.

Ms. Mallek also asked for an update on the extension of Brown's Gap Turnpike. Mr. DeNunzio said that he had spoken with the superintendent there, noting that VDoT is using all the equipment they have and did not rent any – with two people grading to get the rutting out, using millings that were stockpiled close to that area. He said that he would be reviewing the road in the next few days to determine whether they would continue with the culvert replacement or not.

Ms. Mallek asked if the millings are already in place – is it a common occurrence for gravel roads. She said that her concern is if there are fines and it rains then they are just going to pick up and go right into one of the scenic rivers.

Mr. DeNunzio responded that there are not many fines there so there are mostly aggregates that are milled and clumped together. He explained that they are grading them as part of the stone and that there are fines in the stone, noting that it is mixed with gradient stone to get rid of some of the rutting. He said that he is going to go and review the road, to determine which direction to proceed.

Ms. Mallek asked what how much money is estimated in the budget for this project. Mr. DeNunzio replied that the grading project has been about \$8,000.

Ms. Mallek asked if Mr. DeNunzio has had a chance to learn about the history of the maintenance side of the Browns Gap Turnpike and whether or not VDoT would discontinue maintenance.

Mr. DeNunzio reported that discontinuance of maintenance there would mean that the road would continue to be a public right of way, with the County having responsibility for maintenance. He said that discontinuance is initiated at the Board's request to VDoT, and the CTB organizes a public hearing for adjacent property if requested, then makes the decision as to whether or not to discontinue maintenance. He said that with abandonment, the Board takes action on the public hearing process, and the road would no longer be a public right of way.

Mr. Rooker said that abandonment seems to be a better approach, because otherwise the County assumes responsibility for maintenance.

Ms. Mallek said that the County would not be required to maintain it and would balance that with other priorities, adding that it is an "old historic path" that has lots of sentimental value for the long-time residents of that area. Ms. Mallek said that the current owners of the farm are feeling "under siege" by people who use the track in the middle of the night for spotlighting and other undesirable activities. She said that she had tried to keep the road open only during the day for hikers and horseback riders, but the response from landowners was to go to the Governor – who directed Mr. DeNunzio to do this work. Ms.

Mallek said that this work is not in the six year plan nor is it in the budget, so the state basically usurped our money and did this with it. She said that it is a concern and she is trying to get resolution on where it is going. She noted that the job done just six months ago is "completely falling apart" because VDOT has used a slurry material that doesn't hold up when water hits it, and it ends up running into the river.

Mr. DeNunzio said that he would look into the situation.

Mr. Rooker mentioned that he has a constituent who travels Route 29 frequently, and there is a flashing sign when approaching NGIC's intersection. He said that the constituent recommends that it be changed so the light only flashes to warn that the red light has changed, which is typical at other intersections, because it is a much more effective warning than having it flash all the time.

Mr. DeNunzio said that if a conduit is already there for the lines then it seems to be a fairly easy change to make but he would have to look more into it.

Mr. Rooker stated that the same constituent had a question about signs for through trucks on Polo Grounds Road, and asked if the sign says "no through trucks" or "no trucks." Mr. DeNunzio said the sign is 6'x3' and reads: "Truckers: Polo Grounds Road not recommended for through trucks".

Mr. Boyd said that he travels that route a lot and what happens is once you get down there with a truck that is too tall or too long it's a real problem to turn around and you get stuck.

Mr. DeNunzio said that he hopes the signs address a lot of those issues which is much easier than actually restricting truck traffic.

Ms. Mallek suggested that a similar step be taken on Earlysville Road in the meantime, since the corner at Horseshoe Farm is impossible to navigate with a tandem trailer without the back end being on the wrong side of the road.

Mr. Thomas suggested straightening the curve out.

Ms. Mallek said the topography was not conducive to that.

Mr. Boyd asked about the status of Brock's Mill and whether the survey had been done. Mr. DeNunzio responded that several months ago, he and Mr. Kelsey scoped out what was needed for the survey, and the County is in the process now of acquiring a surveyor to prepare the plats.

Board members thanked Mr. DeNunzio for the report.

Agenda Item No. 23. JAUNT'S FY12 Annual Report, Donna Shaunessy.

Ms. Donna Shaunessy addressed the Board and thanked them for all the support they have shown over the years. She said that each of the four appointed JAUNT Board members brings a whole different set of experience and skills to the organization. Ms. Shaunessy reported that Charlottesville had the most transportation usage in the beginning, but Albemarle leads the counties, and the City has begun to trend downward. She said that JAUNT operates with people making reservations, and last year they handled over 70,000 calls for reservations and dispatched over 147,000 calls. Ms. Shaunessy reported that JAUNT's operating revenues were \$5.5 million, with the bulk coming from local governments and Albemarle leads in that as well. She said that JAUNT's expenses last year totaled \$6.3 million, and operations made up the bulk of that.

Ms. Shaunessy reported that urban demand response is the biggest piece of JAUNT's budget and is mandated to comply with federal regulations for provision of complimentary para-transit if you have a fixed bus route. She noted that that's also where the bulk of the growth is, and as the urban part of the County grows there are more options for people with disabilities, seniors, and other barriers to riding the CAT route. Ms. Shaunessy said that JAUNT is trying to encourage people to ride the regular rural routes so they can hold demand response ridership down, as it is far more efficient to have numerous people ride the bus at one time. She reported that Medicaid comprises about 45% of JAUNT service, and it pays directly for people to ride the buses – primarily traveling to doctor's appointments but some to supported employment. Ms. Shaunessy said that they help with summer camp travel for children's programs, and the "miscellaneous" category has grown over the last year because of short-term shuttles and short-term summer programs as well as work release programs for the jail. She stated that this year JAUNT is charging \$51 an hour, a significant portion of what they do.

Mr. Rooker asked who paid the fees for the work release program. Ms. Shaunessy responded that the Jail does, but they take the money from the prisoners' earnings.

She also said that JAUNT does the service that comes from Culpeper and Madison, picking up riders along 29 North, and that has been expanded from two days to three days per week. She stated that the service is funded by a federal grant and has been very popular, providing some additional options for northern Albemarle riders. Ms. Shaunessy stated that both Wintergreen and the Shenandoah National Park fund service to get people to work, and they are mostly seasonal positions with riders comprised primarily of International Rescue Committee citizens. She stated that there are some "amazing stories" of

people succeeding in those jobs and becoming independent because of the transit provided to them early on.

Mr. Snow asked how JAUNT makes reservations and communicates with those who do not speak English. Ms. Shaunessy responded that they have a language line and if people call in they can be tapped into a special program that translates 25 languages, but the IRC has also been very helpful with the translations. She noted that the service to places like Wintergreen is so locked down, the IRC makes the arrangements and there have rarely been any issues. She said that the people who have made it this far are really survivors and even if they are not fluent in English, they really know how to get their point across.

Ms. Shaunessy reported that JAUNT won the "Green Leader Award" in the Chamber of Commerce's Better Business Challenge for building a rain garden in the bottom of the JAUNT parking lot, which keeps their runoff from impacting Moore's Creek and solved a sinkhole problem. She stated that JAUNT recently got all of its commuter routes listed in Google Transit, which allows people to enter their starting point and destination information and then provides an itinerary of which buses they will need to get on, including transfers.

Ms. Shaunessy reported that for 2013 they raised all the fares in the rural area by \$1, and while they had feared it might decrease ridership it has actually increased by about 7%. She stated that JAUNT also started charging .50 cents for JABA center patrons to ride. She said that on July 1, 2012 they began running a shuttle between Woods Edge senior housing project and Fashion Square Mall, which provides an option other than traversing a difficult hill to catch the CAT bus. Ms. Shaunessy noted that one day a week the bus goes to Walmart, and one day a week it goes to the mall.

Ms. Shaunessy stated that through a federal grant and a JABA local match, JAUNT was able to start a new route between Crozet and Charlottesville in late November. She said that the 8:00 and 10:00 a.m. routes were so crowded they added a 9:00 a.m. route and a 2:00 p.m. return route. She said that Mountainside Senior Living residents are allowed to ride for free at 9 and 2, and that route has been very popular – with no cost to the County.

Ms. Shaunessy reported that JAUNT got a new parking lot surface, with special materials that will mean there is a no net increase runoff and will also give some credit in the City's upcoming utility fees for permeable surfaces.

Ms. Shaunessy stated that JAUNT had created a nonprofit six years ago and this year they kicked off the "Jeans for JAUNT" program, where agency personnel get to wear jeans if they donate \$1. She said that some of the social services agencies in the rural area have been very supportive, and the fundraiser contributes to the rider scholarship program. She noted that last year JAUNT gave away about 1,000 trips to people who wouldn't otherwise be able to travel.

Ms. Mallek commented that she is always impressed with the upkeep on the vans, and the mechanics are skilled and helpful. She said that think people have a real sense of safety when they're riding JAUNT's buses.

Mr. Thomas asked if a route was planned for the Senior Center once it moves to Belvedere. Ms. Shaunessy replied that JAUNT is not at this point, and stated that they tried to participate with the Senior Center when they were looking at property to encourage them to locate near a bus line. She said that a recent survey indicated that there is not a huge number of people using CAT to get to the Senior Center, adding that someone would have to pay for a fixed route.

Mr. Rooker asked if the County's budget takes into account the increased ridership. Mr. Foley responded that staff is in the budget process currently, and he is certain that Ms. Shaunessy reflected the increase in JAUNT's budget request.

Mr. Rooker mentioned that the County ridership last year went from 100,000 to 115,000 – and 85% of those riders are disabled. He asked what definition of disability JAUNT used for its ridership.

Ms. Shaunessy said that there are two definitions: in the City, the disability must be such that you couldn't always ride the CAT route – such as people with intermittent multiple sclerosis symptoms or who are cold-weather sensitive; in the rural areas, the definition is that they must have a mobility impairment. She stated that they have an application that comes to the JAUNT office for approval, and most of them aren't questionable except for things like learning disabilities.

Ms. Mallek commented that she has neighbors in the rural area with developmental disabilities who could not get their driver's licenses but can hold down jobs, and the JAUNT service has enabled them to get to work, be productive, and feel like they are part of society.

Ms. Shaunessy said that JAUNT takes a lot of people to Worksource, Breadworks, UVA and many area grocery stores. She stated that in the long run it is good for the economy because people can contribute to society and are not fully dependent on government assistance.

Agenda Item No. 25. From the County Executive: Report on Matters Not Listed on the Agenda.

Mr. Thomas said he would like to discuss adding a seventh Supervisor.

Mr. Foley explained that because of the County Executive form of government there are some really unique situations here, and Mr. Davis would provide detail on that – but staff would like to know if there is consensus to go to the next level of research.

Mr. Davis reported that he went back to 1934, the year Albemarle County became organized under the County Executive form of government, and since that time there have been six members on the Board. He said that he also did a quick survey of the top 14 populated counties in Virginia, and seven of them have five board members; four have seven board members; and there are eight, nine and ten member boards. Mr. Davis stated that under the County Executive form of government in Prince William County, they have eight Board members – seven district supervisors and an at-large chair.

Mr. Davis explained that in all 14 jurisdictions, all chairs are appointed by the Board except for three localities – Prince William, Loudoun by special legislation, and Fairfax; those chairmen are all elected as an at-large member. Under the County Executive form of government, he said, there are very specific provisions for how you can have supervisors. He said that localities may have between three and nine supervisors, either all by district or all at large – but they could have an at-large supervisor; however, by statute that person must be elected chairman of the Board. Mr. Davis explained that to do that, the Board must petition the Circuit Court by resolution to request a referendum on that question. He said that they could only go to the at-large chairman upon approval of the County voters by referendum. He said that the timeline for that would be, by statute, after the Board petitions it would be presented at the next general election – the soonest being November 2013. If the voters approved it, Mr. Davis stated, it's an irrevocable option and the Board is required to implement the elected at-large chairman, which could occur in November 2015 with the chair becoming effective January 1, 2016. He said that the option would have no impact on the School Board, which is required by law to have at least one member from each election district, and a different rule applies to them for an at-large member.

Mr. Davis stated that another option would be to have a seventh election district, which would require a redistricting of the entire county so each district would have equalized population. He said the 2011 Census data would have to be used, going back through the same process done in 2011 to constitute redistricting of the County. He stated that for that to be effective for November 2013, the Board would have to complete the process by March so it could go to the Justice Department for approval and be in place prior to the May or early June deadline for candidates to run for the 2013 elections in the County by district. He said that that is a pretty aggressive schedule to accomplish. Mr. Davis said that the next possibility would be doing it at a later time, to be effective for the November 2015 election, and the seventh member would take their seat January 1, 2016.

Ms. Mallek asked if a referendum would have to happen to that to take place. Mr. Davis responded that no referendum would be required for that.

Mr. Davis explained that it would impact the School Board. He said that the School Board would have to add a member for that district which would give them eight members unless the Board decided to eliminate the at-large position on the School Board. Mr. Davis summarized that there are basically two options, both having a long process and neither being effective until 2016. He said that the at-large member can only be advanced after an approved referendum by county voters and would be required to be chairman; the other alternative is to create a seventh election district that would require a redistricting of the entire County, approval by the Justice Department, and then implemented in the next odd election year.

Mr. Foley said that it could technically be achieved sooner, but it is a very extreme timeline.

Mr. Davis stated that it would definitely be an extreme timeline to get that done within the next 60 days.

Mr. Rooker asked if the at-large member would have a four-year term. Mr. Davis confirmed that they would.

Mr. Boyd asked Mr. Davis if he pursued the option of going to a five-member board, as they did in Fluvanna. Mr. Davis explained that Arlington, Chesterfield, Fauquier, Henrico, James City, Roanoke and York County have five members. He said that he worked in James City with five members, and a lot of people say that is the optimum board size.

Mr. Boyd said that he is kind of curious because it seems that Fluvanna did it fairly easy. Mr. Davis said that Fluvanna had a board member who decided not to run for reelection, so they basically did a complete redistricting and eliminated that seat.

Mr. Foley commented that it was not quite that easy. Mr. Davis emphasized that the process for eliminating a seat would be the same process for adding a seventh seat – going through a complete redistricting process, equalizing the districts, going through the Justice Department, and implementing it in the next odd election year.

Ms. Mallek said that in addition to the population, the distances in Albemarle are much greater than those in Fluvanna – and she is 52 miles from one end of her district to the other. She said that that would be a lot of travel.

Mr. Foley said that Fluvanna redistricted right after the Census, when they had to redistrict anyway.

Mr. Davis stated that this issue came up in 2000 when the League of Women Voters brought it forth; the Board at that time discussed it but decided not to move forward. He said that it was raised again in 2011, but there wasn't anyone who really advocated it and it didn't get much traction. Mr. Davis stated that the most efficient approach would be to look at it during the next redistricting process. Going through that process twice is a little painful in a 10-year period.

Mr. Rooker said that it might be helpful to get a copy of the minutes from 2000 when the Board discussed this to see what was said about it. Mr. Davis responded that he doesn't recall a large discussion about it, but there should be some information on it.

Ms. Mallek said that people have raised this issue because they find the 3-3 tie being a "no" to be obstructive, but she looks at it from the other perspective – when the majority shifts to one side of an issue that is a sign that the Board is finding the middle ground somewhere. She added that she is not sure a seventh person would necessarily solve the problem of deadlock.

Mr. Thomas agreed and said that he had been thinking about it and just wanted to hear what the Board had to say adding that he hears from the public occasionally about the tie votes but it is not drastic.

Mr. Rooker stated that the Board has had very few tie votes in recent memory, as most of the votes are unanimous or 5-1, or 4-2.

Mr. Boyd said that after hearing from Mr. Davis, he is not sure he is interested in taking up staff time to pursue this at this point.

Ms. Mallek said that she agreed with Mr. Boyd.

Mr. Rooker said that if the Board were deadlocked repeatedly on land use issues, it might be a bigger problem to address immediately, but there have not been that many decisions like that.

Mr. Davis pointed out that since 1934 the Boards have found a way to deal with it. He said that the Board did have a "tiebreaker" for a number of years and went away from that because it was an unelected member making important decisions.

Board members agreed by consensus not to proceed with restructuring the Board at this time.

Mr. Thomas reported that CAT's route on Rio Road goes into Greenbrier but does not proceed all the way up Rio Road, and he would like for it to.

Mr. Benish explained that the City has contracted with a consultant to do the study to provide for efficiencies and improvements for service in the City. He mentioned that one of the parameters of the study was that recommended improvements be "revenue-neutral," so that is guiding the types of decisions being made for the changes in the routes. By revenue neutral the City is assuming the same cost contributions from the County. He explained that when the City looks at the new routes they are looking at the routes and addressing what shifts in efficiencies are gained by some of the changes in the other routes – trying to come out in the end with the same dollar amount contributed – the same amount funding from the City, County and the other sources that fund CAT. He stated that he and Andy Sorrell are advisors to a committee that is providing the County's input. He said that the scope of the study was done in such a way that it did not include any direct discussions with the Board of Supervisors, and they are kind of being conduit for the Board. Mr. Benish said that he and Mr. Sorrell have provided insight through that process on what they would like to see in the way of improvements, and CAT is working with its consultant to look at those proposed changes.

He stated that staff has spoken with Lance Stewart, acting manager of CAT, and they have been talking to the consultant about possible changes to their Route 11 to better address what the County has asked for – which is greater service on Rio Road. Mr. Benish said that the consultants have not finalized that work yet, but outlined in an email some general concepts they are considering, and they seem to be focusing on providing service along John Warner Parkway – which still will not address all of the needs along Rio Road in the County. He stated that County staff has asked for some cost estimates for other alternatives to Route 11 that would provide for further service along greater distances on Rio Road, and the cost for a route that went exclusively on Rio. Mr. Benish said that Mr. Stewart is aware of what the County is requesting, and they are taking comments and trying to address them.

Mr. Benish reported that at the public meeting in December, he understood CAT to indicate that they hoped to bring it back to City Council in March. He said that CAT would then come back and address the public comments heard at that meeting and from Council. Mr. Benish stated that they are working on Route 11 to try to address the County's needs, in a revenue-neutral manner, but they are not sure they can do that and address all the expectations they heard from the community – so County staff has asked what their cost implications would be for enhanced service in the area.

Ms. Mallek said that it is very important for Treesdale where there are affordable housing residents who need to get to work and would benefit from less financial burden for their travel.

Mr. Boyd said that in Pantops CAT is considering cutting out Wilton Farms because there is no ridership there, which bothered him at first. He said that the County needs to get some feel for what ridership would be at Treesdale before they start planning a route that goes by there. He said that he is not opposed to it if there is a need.

Ms. Mallek asked where the Wilton Farms bus went after the pickup there. Mr. Boyd responded that it goes up around Pantops, near Martha Jefferson Hospital, and then into town.

Mr. Benish stated that it goes up High Street to downtown, and is a pretty extensive route.

Mr. Rooker said that the City is now considering bringing a route through Greenbrier, but they had one before that they discontinued due to lack of ridership.

Mr. Benish commented that the consultant and the CAT staff are very aware of the County's goals, and the revenue-neutrality of the study is governing this along with the desire in the City to adjust their service to address certain areas. He said that it is just a tough balance, particularly with the road system that's out there, there's not a real good gridded pattern that you can kind of go in and get a little bit of Rio Road. You've got to pick one end or the other and then backtrack or go all the way up.

Ms. Mallek said that the Senior Center and the people in Beveledere, which is a very high density area, should be included.

Mr. Benish said that staff has received comments from residents of Treesdale and Stonehenge and the Senior Center has also expressed interest in the service. He said that there were some citizens at the meeting held at City Space before the City Council meeting, speaking specifically for the service – so it seems to be some community interest in the service.

Ms. Mallek said that Mr. Boyd had mentioned master plans and guidelines earlier in the meeting.

Mr. Boyd said that there was a situation in Pantops where there was a road drawn in a particular area that caused some confusion and angst with a landowner because the plan showed it going through a big portion of his property. He also stated that the Worrell representatives were not particularly happy with some of the placements on the map, and he didn't know what the process was for getting that changed in the event they are unfunded items that aren't in the five-year plan. Mr. Boyd asked if there was a process in place by which the Board can do cleanup, without going through a Comprehensive Plan Amendment process.

Mr. Cilimberg responded that the master plans are part of the Comp Plan, and currently in the review and update of the plan staff is trying to work on some of those cleanups because it will be a chance to do that. He said the staffs are going to discuss a few of those at the Master Planning Council's annual meeting the following week. He stated that what the Board has in their Comp Plan requires that the Planning Commission make a recommendation after a public hearing and that the Board holds a public hearing to act on those changes. Mr. Cilimberg said that that has happened in several ways outside of the CPA review cycle over the years, as they've had application opportunities for citizen requests twice a year, and either the Board or Commission have instituted through resolutions of intent some amendments. He stated that Albemarle is one of the few counties in Virginia that actually has a citizen application process, and normally what counties do is either have their Board or Commission initiate review of a potential change and have staff analyze it then the Commission would hold a hearing and make a recommendation to the Board. Mr. Cilimberg said that the Board can do that at any time, but staff is trying to catch some of those things now while they are in that CPA process, adding that staff has spoken with the landowner about that particular road location and has talked with the Pantops Advisory Council about the potential of removing it as part of the Comp Plan.

Mr. Boyd commented that people don't understand the process until something comes up that they want to do with their property, and that might not be a Comp Plan time of year. He asked if there was some way the Board could advertise to the public that if there are property owners who own Master Plan property and they don't like some particular aspect of it they can bring it forward during the Comp Plan updating period.

Mr. Cilimberg responded that that is one of the reasons the County had the councils, because they were felt to be the connection to the citizens that could identify those types of issues and bring them up. He said that the councils can bring issues forth or mention to staff what they've heard from property owners. He said that is the most effective way – but sending out notices to all property owners in all master planned areas would be "fairly intensive" and would probably require a fair amount of staff time to answer questions from people.

Mr. Boyd asked how they get the word out to landowners, if they used the advisory council process. He said that there are some landowners on the Pantops Advisory Council, but they have never come in to discuss particular elements on the plan based on property owners' input.

Mr. Cilimberg responded that the most opportune time to deal with that is when they are doing reviews of the particular master plans, such as how it was done in Crozet. He said that Pantops would be undertaken right after the Comp Plan review, because the plan there has been in place for about five years.

Mr. Boyd noted that the Pantops area is becoming an employment center with Martha Jefferson and State Farm, and the timing of that might work well for him to hold another meeting with the landowners in that area – many of whom are commercial landowners.

Mr. Davis said that Comp Plan designations do not impact by-right development and those landowners can proceed as they wish, perhaps with staff providing them input as to Comp Plan items that are hoping to be accommodated.

Mr. Boyd commented that the landowner in Pantops who has had some issues has a lease agreement that calls for the property owner to be at risk for anything that goes wrong, and that makes the landowner very nervous when he's got a road planned to go through.

Mr. Cilimberg explained that during a site plan process, staff might request that the landowner consider incorporating a road, and that was an early discussion with this project – which gave the landowner the impression that the road was required – which is not something the County can do.

Ms. Mallek said that the landowner certainly gave her that impression.

Mr. Rooker said that there was a lot of misunderstanding there because the landowner didn't know what the circumstances were.

Mr. Cilimberg stated that in addition to requesting those things, there have been several cases based on the public road system where VDOT might dictate the location of an entrance that would be where a road could ultimately be extended. He said that staff simply warns an applicant that might happen, but the County could not get them to build a road and reserve right of way for a road.

Mr. Boyd asked if there was a situation similar to this with Colonial Auto where there was a road drawn through their property. Mr. Cilimberg stated that it was removed from the Places29 Comp Plan.

Mr. Rooker commented that most landowners are attuned to the master planning process going on and in that case it actually came up and the road was removed from the plan.

Mr. Boyd asked if it was a Comp Plan amendment. Mr. Benish responded that it was taken care of with Places 29.

Ms. Mallek commented that outside of a Comp Plan situation if something comes up, there would be a Planning Commission/BOS hearing process that the Board could initiate.

Mr. Cilimberg explained that the Board could initiate review of a particular element on the master plan, or the Commission could initiative it, and it could also be a public application – which would have to follow the twice a year system. He said that staff would like to coordinate with the master planning councils because some things are “hot button issues.” Mr. Cilimberg suggested that if a Board member gets an inquiry from a landowner, they should contact staff about it. He said some landowners want to ensure that future road placement is not hanging over them regarding their property, and that is why it was suggested that the particular road section at Pantops be removed if the master planning council felt it was not a necessary element of the road system.

Mr. Boyd said he would get in touch with staff about the particular landowner at Pantops.

Agenda Item No. 9b. Boards and Commissions Policy – revisited

Mr. Boyd said that he did not want to discuss it anymore.

Mr. Rooker said that he would like to discuss it. He said that the policy exists to inform the public on how the Board goes about appointing people to commissions, and focuses on the process and timeframe for magisterial and at-large appointments. He asked if the intent of not approving this was to say that the Board is no longer going to have a statement as to what people have to do in order to apply for a board or commission appointment, and what the process would be in considering their application.

Mr. Boyd responded that he did not want to have the discussion today.

Mr. Rooker then **moved** for adoption of the Boards and Commissions Policy as presented. He added that it would be almost a disgrace not to have something that informs the public of the process.

Mr. Davis stated that the motion should be to reconsider, since the motion to approve was defeated earlier in the meeting.

Mr. Rooker **moved** to reconsider the previous action on the Boards and Commissions Policy. Ms. Mallek **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

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

NAYS: Mr. Boyd.

Mr. Rooker then **moved** for adoption of the Boards and Commissions Policy as presented. Ms. Mallek **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

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

**ALBEMARLE COUNTY BOARD OF SUPERVISORS
POLICY FOR BOARDS AND COMMISSIONS**

A. CREATION OF NEW BOARDS AND COMMISSIONS

1. On an annual basis the list of active boards and commissions will be purged of all bodies not required by Federal, State, County or other regulations, which have not met at least once during the prior twelve-month period.

2. Whenever possible and appropriate, the functions and activities of boards and commissions will be combined, rather than encouraging the creation of new bodies.

3. Any newly created task force or ad hoc committee which is intended to serve for a limited time period may be comprised of magisterial or at-large members at the discretion of the Board of Supervisors. The appointment process shall follow that adopted in Section B for other magisterial and/or at-large positions.

B. APPOINTMENTS TO BOARDS AND COMMISSIONS

1. All appointments to boards and commissions based upon magisterial district boundaries will be made by the members of the Board of Supervisors. At the discretion of the supervisor of that district, magisterial positions may be advertised and selected applicants may be interviewed for the position.

2. Prior to each day Board meeting, the Clerk will provide the Board a list of expired terms and vacancies that will occur within the next sixty days. The Board will then advise the Clerk which vacancies to advertise.

3. In an effort to reach as many citizens as possible, notice of boards and commissions with appointment positions available may be published through available venues, such as, but not limited to, the County's website, A-mail, public service announcements and local newspapers. Interested citizens will be provided a brief description of the duties and functions of each board, length of term of the appointment, frequency of meetings, and qualifications necessary to fill the position. An explanation of the appointment process for both magisterial and at-large appointments will also be sent to all applicants.

4. All interested applicants will have a minimum of thirty days from the date of the first notice to complete and return to the Clerk of the Board of Supervisors a detailed application, with the understanding that such application may be released to the public, if requested. No applications will be accepted if they are postmarked after the advertised deadline, however, the Board, at its discretion, may extend the deadline.

5. Once the deadline for accepting applications is reached, the Clerk will distribute all applications received to the members of the Board of Supervisors prior to the day meeting for their review. For magisterial appointments, the Clerk will forward applications as they are received to the supervisor of that district who will then recommend his/her appointment.

6. From the pool of qualified candidates, the Board of Supervisors, at their discretion, may make an appointment without conducting an interview, or may select applicants to interview for the vacant positions. The Clerk will then schedule interviews with applicants to be held during the next day meeting. For magisterial appointments, the decision to interview selected candidates will be determined by the supervisor of that district.

7. All efforts will be made to interview selected applicants and make appointments within ninety days after the application deadline. For designated agency appointments to boards and commissions, the agency will be asked to recommend a person for appointment by the Board of Supervisors.

8. All vacancies will be filled as they occur.

9. All incumbents will be allowed to serve on a board or commission without his/her position being readvertised unless, based on attendance and performance, the chairman of the body or a member of the Board of Supervisors requests the Board of Supervisors to do otherwise.

10. As a condition to assuming office all citizen members of boards and commissions shall file a real estate disclosure form as set forth in the State and Local Government Conflict of Interests Act and thereafter shall file such form annually on or before January 15.

11. If a member of a board or commission does not participate in at least fifty percent of a board's or commission's meetings, the chairman of the body may request the Board of Supervisors terminate the appointment and refill it during the next scheduled advertising period.

C. ADOPTION

This policy shall be reviewed and readopted by the Board of Supervisors in January.

(Amended and/or Readopted 01-07-98; 02-12-2005; 01-04-2006; 01-03-2007; 01-09-2008; 01-07-2009; 01-06-2010; 01-05-2011; 01-04-2012; 01-09-2013)

Ms. Mallek said that she would like to know what the process is for a citizen petition for streetlights at Clover Lawn to help with the safety of people crossing there. Mr. Rooker noted that the last time he pursued it the cost was about \$250,000.

Mr. Snow said that Larry Jackson with APCo stated that they would put up the lights if the County would pay the electric bill.

Mr. Dumler noted that there is a policy whereby the County only has to pay 50% of the bill.

Ms. Mallek said that at the location she speaking on there is a little bit of VDOT work that has to be done on the landing to make it handicapped and wheelchair accessible.

Mr. Foley said that there is a detailed written policy for this process.

Mr. Benish mentioned that the Board had contemplated using revenue-sharing money for more comprehensive improvements along that area for streetlights, crosswalks, sidewalks, and possibly a Cory Farm connection – staff was looking at it from a bigger perspective and if funding is granted a more comprehensive project could be done to the whole area.

Ms. Mallek asked if the petition is needed if that is the case. Mr. Benish said that it would have to be reassessed but he is not sure because it would then become a capital project.

Mr. Foley said that if it is an urban development project, it's a capital project – but if it's citizens just wanting a street light, there is a separate process for that – it sounds like it is more of a capital project that staff is pursuing.

Mr. Snow asked if Dominion has a policy to where they would install the light if the County requests it at no charge. Mr. Foley said that he would distribute the policy out to the Board, as he is unsure whether the electric company will pay the entire capital cost or split it with the County.

Mr. Foley asked Mr. Snow if he had a project that he wanted staff to follow up on relating to street lights.

Mr. Snow responded that he and Mr. Jackson talked about streetlights in one area in Esmont, as there is a street with seven or eight lights but that needs to be extended. He said that Larry Jackson had said all he needed to do was give the go ahead and APCo would put the lights in, with the County then picking up the power bill.

Mr. Foley asked Mr. Snow the name of the road and said that staff would follow up on it. Mr. Snow said that it was Porter's Road, but he would have to double check.

Mr. Foley noted that this is where General Services picks up the work from Community Development, so he would follow up with George Shadman.

Mr. Rooker said that one of the reasons for the petition was to make sure that people really wanted it, because a lot of people don't want a light on outside of their house all night – whereas others might want them for safety reasons.

Regarding the issue of offsite storm water, Ms. Mallek said that she was told it was fine for a local developer to invest in a lower cost storm water offset in Appomattox County instead of buying into the Woodbrook Lagoon because of the adjacency question, and when she was trying to get the adjacency question addressed for legislative change VACo said no.

Mr. Davis explained that based on the statute, if there are available credits within the hydraulic unit code area or the adjacent area – and if those credits aren't available they must use credits that are available within the tributary area of the County. He said that you could not use credits from outside the tributary area,

Ms. Mallek asked why the Northtown Center is not buying into the Woodbrook Lagoon, and how is that allowed to happen instead of countering the investment the County has made for that purpose. Mr. Davis said that he didn't know why the Northtown Center is not buying into the Woodbrook Lagoon. He said that it would be a state decision made by the VSMP Authority, which regulates those credits, but it should be a criteria that they would impose.

Ms. Mallek asked Mr. Davis to look into it because that may not know about the County's stormwater lagoon.

Mr. Davis said that he would consult with Mark Graham on the issue.

Mr. Cilimberg added that Mr. Graham was aware of it, and it was handled through the state. He said that it did raise some questions as to how the credit could be received in Appomattox, and the adjacency to the basin was the determining factor.

Mr. Davis reiterated that if there are no credits within the hydraulic unit code area or adjacent area, then the tributary area would be the next step.

Ms. Mallek commented that it sounds like a legislative solution is needed to "say if there is anything available in the locality that has to be used," not palming things off and allowing people to spend their money somewhere else.

Mr. Davis said that you don't have the closest one or the one in Albemarle County as long as the areas have credits available.

Mr. Boyd reported that since their meeting with legislators, he has been working with the Local Election Board and Rob Bell to try to get a resolution on the split precinct situation in Free Bridge. He said that he isn't sure if their proposal would be accepted because of the 1% rule – but it is in the works.

Mr. Davis clarified that the ideal size for a House district is 80,010 people, and the rules that the state has imposed upon themselves is that they don't want more than a 1% deviation in the size of those districts – so it would be 80,800 – and both the 57th and 58th are already above the average, so there is very little leeway between them. He said that when the Electoral Board met about this last Friday, their primary concern was that the subdivision of Key West not be further divided and if possible unified so they would be within the same precinct and within the same House district. Mr. Davis stated that the only option that accomplishes that exceeds the 1% rule.

Mr. Boyd said that he has met with the Key West Homeowners Association and they would like to be put back into the same magisterial district so they only have one representative and can put the neighborhood back together again.

Ms. Mallek asked how it would impact other districts. Mr. Davis responded that it doesn't affect any other districts.

Mr. Boyd said it would all be in his district.

Mr. Davis explained that it would require the Board to change a precinct line, so there are certain people in Key West who would have to vote at a different polling place than they currently vote today if they were unified.

Ms. Mallek asked if it would take half of the neighborhood out of the 57th and put it into the 58th district. Mr. Davis said that the entire neighborhood would end up in the 58th district under the proposal.

Mr. Boyd said that the homeowners association said they didn't like the idea of moving to Stony Point to do the voting, but they felt it was more important to have the same unified representatives in the House of Delegates. He added that the Free Bridge precinct would likely have to be split in the future anyway as it is getting pretty full and the area continues to grow.

Mr. Davis said that the precincts are supposed to be limited to 5,000 people and the Free Bridge precinct is in the high 4,000 range. He stated that staff looked at this issue when they did the redistricting and felt it would not be a problem logistically within the next five-year period, but would be in the next round of redistricting. Mr. Davis added that the County is being told by General Assembly members that they are going to hold solid to the 1% rule, so he doesn't know if the proposal will get any traction. He said that the Electoral Board has written a letter to the Delegates and to the committees stating that of the four options they considered, this would be the only one they would support – otherwise they would support a no option.

Mr. Boyd stated that he didn't know if the proposal would go through because it exceeds the 1%, adding that there is an omnibus bill in the General Assembly this year to address split precincts statewide.

Mr. Davis clarified that the bill introduced does not include the fix for the 57th and 58th districts, but it could be amended.

Mr. Rooker asked if the 5,000 that was mentioned state law. Mr. Davis said that the 5,000 rule is state law when you create a new precinct, and you can creep above it with actual population over a 10-year period, but the next time you create a precinct you must be below the 5,000 number.

Mr. Boyd said that the problem is Stony Point is really low – it's in the 2,000 range and people have complained about Free Bridge, and the last Presidential election was the first time he had ever had to wait in line there.

Mr. Snow asked about the situation with New Hope Baptist Church, as several speakers had mentioned problems there.

Ms. Mallek explained that it had been difficult, and there was a large contingent of citizens who were present for the site review meeting. She said that they went to the Planning Commission but there

was no information as to when it was coming to the Board, and the impression they got was that they would be notified as to when that would happen – and they were not. Ms. Mallek said that the item came before the Board in July and no one came to the hearing.

Mr. Rooker said that a number of people spoke at the Planning Commission meeting.

Ms. Mallek stated that several Commissioners emphasized that this is in the boonies. She said that it may be near Route 29 but when you get back off the road where the people live they are up in the hills. She said the Board is dealing with having a long conjoined property with a lot of activity and hundreds of cars and lots of people with no perceived boundaries. Ms. Mallek said that most of the efforts over the summer has been working on the site plan to bring back plantings but and the sticking point right now is the grading. She said that the Board had focused in their review on the buffers and ensuring protection of those.

Mr. Rooker asked if the initial issue was that they were going to have a soccer field, which was the thing people showed up to object to. Ms. Mallek said that people objected to the entrance on Dickerson Road as well.

Mr. Rooker stated that the reason a lot of people who spoke at the Commission meeting didn't show up at the Board meeting is that they had gotten what they had asked for, which was the elimination of soccer.

Ms. Mallek said that the plan for the soccer was withdrawn temporarily, but it is still lurking. She said that the original plan also was to have the entrance off of the private road, and the engineer had a real learning curve in working with the neighbors there. She said that there is a plan in the works now and the neighbors are upset because they have not been told what the plan is and are very concerned that it is going to fly through administratively and they won't get another look at it. Ms. Mallek stated that the original entrance was within about two car lengths of the stop sign where Dickerson takes a sharp left to go straight north just beyond G.E., and that was marginally within approval from VDoT because it was an exit and not an entrance. She noted that what happens is the tree clearing opens up the view of the whole property to everyone, rather than having any maintenance of the rural aspect that all of the other churches along that street have accomplished. Ms. Mallek added that the developer is at the 501-foot mark from Route 20 so they wouldn't have to comply with ARB provisions, and the angst is to ensure that people are aware of changes as they occur.

Mr. Cilimberg said that he had received Ms. Mallek's email, and she is correct that when it came to the Board there was no direct communication as to when that would happen because the staff person thought the issues surrounded the soccer fields – and they were being deferred. He stated that staff learned later that it dealt also with the entrance, and the soccer field SP has now been withdrawn so it is just down to the church application. Mr. Cilimberg stated that the special use permit has been approved, but the County has not received a site plan yet. He said that staff has communicated with the applicant that there is opportunity to relocate the entrance, and it does not have to be in the precise location shown on the SP. He said that it can be in general accord if it is moved down the road – with the general accord provision they can design it to be in a different location. Mr. Cilimberg said that currently staff has nothing under review for the church, but once they get a site plan it will be under the new site plan process – so there will be notification to all adjacent owners and a site review meeting.

He added that when staffs go to the site review meeting stage regarding legislative items – special use permits or rezonings – they don't have a Board of Supervisors date, just an estimated Planning Commission date. He explained that the process now requires that when the Commission takes its action, staff must get the information necessary back from the applicant before a Board hearing is advertised.

Ms. Mallek suggested that with the new process – staff should make sure that there is an email list developed for everyone who has showed an interest.

Mr. Cilimberg stated that staff is in the process of doing that.

Mr. Rooker said that the people who spoke seem to be under the misconception that the Board can somehow reverse or change the special use permit that's already been granted, and from what he understands this is not going to come back before the Board. The only thing left is approval of the site plan, and the applicant is not required to do anything other than meet the technical requirements of the site plan that also meets the special use permit requirements. He said that people need to understand that so they don't have false expectations.

Agenda Item No. 26. Adjourn to January 16, 2013, 4:00 p.m., Lane Auditorium.

At 4:39 p.m., Mr. Boyd **moved** that the Board adjourn to January 16, 2013 at 4:00 p.m. Mr. Rooker **seconded** the motion.

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

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

Chairman

Approved by Board

Date: 03/13/2013

Initials: EWJ
