

A regular meeting of the Board of Supervisors of Albemarle County, Virginia, was held on February 6, 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 9:00 a.m., by the Chair, Ms. Mallek.

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

Agenda Item No. 4. Adoption of Final Agenda.

Ms. Mallek said that she has one change to the agenda after Board members offered their additions.

Mr. Rooker said he would like for the Board to have a discussion of the Long-Range Transportation Plan. Ms. Mallek noted it has been included at the end of the agenda under "Matters from the Board".

Ms. Mallek said then said she has a special motion she wanted to make, but it would require suspension of the Board's Rules of Procedure in order to make the motion.

Motion was then offered by Ms. Mallek, **seconded** by Mr. Dumler, to suspend the Board's Rules of Procedure. Roll was called and the motion carried by the following recorded vote:

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

Ms. Mallek said that the Board of Supervisors has no authority to remove someone from office who has been properly elected by the voters. However, the Board may condemn the inappropriate behavior of a Board member who violates the values of the Board and is unbecoming for a member of this Board. She said that Mr. Dumler has admitted guilt and has pled guilty to a serious crime that no one on this Board condones.

Motion was then offered by Ms. Mallek, that the Albemarle County Board of Supervisors censure Mr. Dumler for his inappropriate conduct that resulted in his conviction of a misdemeanor. She stated that the purpose of the censure is to affirm, on the record, the Board's disapproval of his behavior and to admonish him for the discredit his actions have brought to this Board. The motion was **seconded** by Mr. Rooker.

Mr. Snow said that before the Board votes on the matter, he has an additional statement: "I have been serving on this Board for a little over three years. I have never wanted my actions or votes to be governed by politics. My record will show that I have done that. With that said, it is wrong to have a convicted sexual molester of women sitting on this Board. It sends the wrong message to the youth and law-abiding citizens of this County. I strongly believe it is a slap in the face to the victims who had the courage to come forth, knowing that they themselves will be subject to verbal attacks. Mr. Dumler's continued presence on this Board of Supervisors will be a constant reminder to our wives, mothers, daughters, and to ourselves of the sexual abuse that was inflicted upon these women. It also allows our sons to believe that this type of sexual behavior is tolerated. Are there two sets of standards – one for those holding office and one for those who do not? No. For this reason I would ask the Board to set aside politics and to support a resolution asking Mr. Dumler to resign his seat on the Albemarle County Board of Supervisors."

Ms. Mallek said the Board needs to consider the measures separately.

Roll was then called and the motion to censure Mr. Dumler carried by the following recorded vote:

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

Motion was offered by Mr. Snow, **seconded** by Mr. Thomas, to request Mr. Dumler to resign his seat on the Albemarle County Board of Supervisors. Roll was called and the motion carried by the following recorded vote:

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

Mr. Rooker stated that Mr. Snow's statement was heartfelt, but there have been a lot of factual inaccuracies thrown around here. Mr. Rooker said that Mr. Dumler pled guilty to one misdemeanor, but no one knows exactly what happened because there was never any under oath testimony taken, nor did the matter even go to a preliminary hearing. He also pointed out that the southern part of Albemarle County is currently represented by a Delegate elected in 2011 who has four misdemeanor convictions, a DUI and a restraining order issued against him. Mr. Rooker said he has never heard those things raised by anyone on this Board as a problem with his being a Republican nominee and him being elected down there with 53% of the vote.

Mr. Rooker said that the voters decided for themselves whether that was a disqualification, and in this case the voters will decide whether or not Mr. Dumler is qualified for office based upon his entire background – which would include this misdemeanor conviction. He stated that the motion to censure was totally appropriate because it is within the Board's power to censure a member, not to remove him. He stated that he will vote against the motion.

Mr. Thomas stated that Mr. Snow's motion was not to remove Mr. Dumler, but to request that he resign. Mr. Thomas said that he also has a hard time with a Board member serving jail time, adding that while the charge is a misdemeanor, Mr. Dumler did admit to the problems.

Mr. Snow commented that he was sorry this has come down along party lines.

Ms. Mallek explained that the reason she voted no is because there is a process stipulated in the law that the Board is interrupting by this action.

Mr. Thomas said that it is up to the voters of the Scottsville District.

Ms. Mallek said that was her point – it is up to the voters of the Scottsville District.

The Board then accepted the final agenda.

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

Mr. Rooker distributed copies of a portion of the Kiplinger Letter, which addresses anticipated government and private industry actions. He referred to an item in the handout about cell towers that says to "expect more widespread mobile phone service and fewer dropped calls once AT&T and other mobile carriers employ a slew of new, small cell towers." He said that the article states that "such structures have less range than big towers that dominate the landscape now, but they will make it possible for more mobile phones to use the available spectrum, and they will greatly increase the capacity of LTE networks and 4G wireless service." Mr. Rooker said that the article states that over the next five years, small cell towers will carry one-third of mobile traffic. He stated that the County will be looking at their cell tower ordinance, and he wants the Board to keep in mind that there are a lot of things happening technically that can make preserving aesthetics and having good cell service coincide.

Mr. Snow commented that that was good news.

Ms. Mallek reported that The Big Read event is coming up, whereby many people in the community try to read the same book at the same time and have discussions about it. She said that the kickoff event is February 23 at 2:00 p.m., at the Downtown Mall free speech monument, and the book this year is *The Joy Luck Club* by Amy Tan. She noted that there are activities in all of the libraries and around the area during the month of March to support The Big Read.

Agenda Item No. 6. Recognitions:

Item No. 6a. GFOA Award, Leslie Beauregard.

Ms. Leslie Beauregard, Director of Budget and Performance Management with the City of Charlottesville, addressed the Board. Ms. Beauregard said that she is here on behalf of the Government Finance Officers Association to present the "Distinguished Budget Presentation" Award to Albemarle County, which has been promoting the preparation of high-quality budget documents since 1984. She said that the purpose of the program is to encourage and assist governments to prepare excellent budget documents for the benefits of citizens and other parties with a vital interest in a government's finances. During the 28 years this program has operated it has gained widespread recognition as the premier indicator of excellence in governmental budget reporting. To earn this award, Albemarle County had to substantially conform to the program's demanding criteria, and such a record reflects the professionalism and commitment of numerous individuals, as well as many hours of hard work. It also reflects a high degree of dedication and leadership.

Ms. Beauregard said that the County has won the award several times, and this award is for the fiscal period beginning July 1, 2012. She said that the GFOA hopes that this award to Albemarle County

will serve as an example and encourage others to strive for the same high standards in their own budget documents. Ms. Beauregard said that it is her privilege, on behalf of the GFOA, to present Albemarle County with this distinguished budget presentation award. Ms. Mallek thanked Ms. Beauregard.

Ms. Lori Allshouse, Director of the Office of Management and Budget, thanked Ms. Beauregard for honoring OMB for the award. She then recognized her staff: Ms. Lindsay Harris, Ms. Laura Vinzant, Mr. Andy Bowman, and the department's intern from UVA, Mr. Michael McLean, for their work on the budget. Ms. Allshouse said that these staff members are hardworking, dedicated to Albemarle County, detail oriented, know how to get the big picture and know how to ask the right critical questions of departments and others. Ms. Allshouse stated that this is the group that got this award.

Mr. Foley said that Ms. Allshouse deserves a lot of credit for her leadership.

Item No. 6b. Monticello – 25th Anniversary as a UNESCO World Heritage Site, Ann Taylor.

Ms. Mallek read and presented the following recognition to Ms. Ann Taylor and Ms. Leslie Green Bowman:

RECOGNITION

WHEREAS, in December, 2012, Monticello celebrated the 25th Anniversary of its inscription on the United Nations Educational, Scientific and Cultural Organization (UNESCO) World Heritage List, becoming recognized in 1987 along with the University of Virginia's Academical Village, the Great Wall of China and the Acropolis in Athens, as 'World Heritage Sites;' and

WHEREAS, Monticello is the only U.S. presidential and private home on the UNESCO World Heritage List and symbolizes how Jefferson took Enlightenment ideals about the rights of man and crafted them into a new nation introducing self-government, liberty and human equality, fostering world-changing ideas which have given hope and inspiration to people everywhere; and

WHEREAS, Monticello is a national and international cultural, educational, and historical centerpiece that provides a lens for scholars and visitors to view the beginnings of the American republic; and

WHEREAS, Monticello anchors our community's tourism industry, serving as a compelling destination for more than 27 million visitors since it was opened as a public attraction in 1924 and attracting more than 440,000 visitors every year since 1979; and

WHEREAS, Monticello focuses significant energy and expertise on its national and international educational mission serving more than 78,000 school-age children each year in addition to hosting over 220 scholars through a program of residential fellowships and travel grants at the Robert H. Smith International Center for Jefferson Studies; and

WHEREAS, staff at Monticello and the Thomas Jefferson Foundation work not only to steward the historical significance of Thomas Jefferson and his home at Monticello but also actively engage in shaping a vibrant and future for our local community through programs like the Heritage Harvest Festival and a broad variety of cultural outreach activities;

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors expresses its sincere appreciation for the critically important role that Monticello and the Thomas Jefferson Foundation play in the well-being of our community and its worldwide attraction as an educational, cultural and historic destination and congratulates Monticello on its 25th anniversary as a UNESCO World Heritage Site.

Signed and sealed this 6th day of February 2013.

Ms. Leslie Bowman said that she and her colleague, Ms. Taylor, are enormously grateful for the recognition. She said that Thomas Jefferson loved Monticello and stated, "There is no quarter of the globe so desirable as America, no county in Virginia equal to Albemarle."

She stated that over the last 90 years, they have pursued relentlessly a mission of preservation and education, and, of late, seeks to advance Jefferson's ideas by engaging a global audience in a dialogue. Ms. Bowman said that they have partnered with U.Va., Morven, the College of William & Mary, Monticello, Montpelier, and Ash-Lawn Highland to devise the "Presidential Precinct." She explained that this is a shared, collaborative effort to unite three founders' homes, two of the nation's top public universities, and a constellation of scholarly institutions together to offer resources to citizens and leaders of democracy around the world. They think of themselves as the Silicon Valley of American ideas and thinkers about democracy," she said, starting with Jefferson Madison and Monroe. All of the partners in the precinct understand the power of place. Ms. Bowman said that the partners envision that the precinct will become a physical as well as digital destination for dialogue, critical thinking and collaborative problem solving. Their current focus is to promote Virginia, Central Virginia and the precinct partners for international visitors interested in the study of nation-building, democracy, and the development of a civil society.

She said that in partnership with the U.S. State Department, they piloted their first program in December and welcomed 10 senior diplomats from the Executive Committee of the Community of Democracies. Since then they hosted two additional delegations of civil society leaders from over 35

countries who were here to study civil society and the building of a republic with democratic foundations. Ms. Bowman reported that the precinct is applying now to the Department of State for recognition as a national council for international visitors, so it will meet formal U.S. guidelines.

She reported that in partnership with the City, County, Montpelier and Ash-Lawn, they will partner on the President's Passport – an innovative tourism/marketing program launched last year. She expressed thanks to the Charlottesville Albemarle Convention and Visitors Bureau as a full partner in the program. In addition, they received more than \$50,000 in marketing support from the Virginia Tourism Corporation. Ms. Bowman said that this initiative encourages visitors to plan a weekend vacation in the Charlottesville/Albemarle area, inviting them to explore tourist sites, cultural opportunities, and learn about all that is offered here. She stated that they have registered over 7,000 members and they have created a vital partnership between more than 55 travel partners in the area, such as hotels, historic sites, wineries, art galleries, shops, restaurants, local stores, and Amtrak. Ms. Bowman stated that on President's Day of 2013 they will re-launch the President's Passport with a special sweepstakes that will bring more attention to the area. She noted that the passport is expanding and evolving.

Ms. Bowman again thanked the Board for this recognition.

Agenda Item No. 7. Board Discussion on Police Firing Range.

Mr. Snow said that the police firing range has been a major target of discussion by the community, especially in the Yancey area, in the last few months. Mr. Snow stated that the entire Board constantly listens to what is being said and is constantly working behind the scenes rather than just shooting from the hip.

Mr. Snow reported that in January, about five minutes before the Board meeting started, he received a phone call from a man who offered significant monetary support if the board were to go with an inside, covered range. He said that once he heard that, he felt it was a "game-changer" because the County did not have the money to look at the Scottsville tire plant prior to that offer. Mr. Snow stated that he and Mr. Dumler went down and looked at the site and were very impressed with the interior space and what could be done there. Since then other options have become available. He stated that he proposes that the Board postpone the February 13th public hearing on this issue scheduled to provide an opportunity for the Board to flesh out the other options and how they might work. The Board will then come back in April and have staff present the findings. Mr. Snow said that at that point the Board could schedule another public hearing well in advance so that the public has ample notice.

Mr. Rooker said that he supports canceling the February 13th public hearing because the posture of the proposed firing range has completely changed. Mr. Rooker said that the citizen engagement on this issue has been tremendous. He stated that much like the chloramines issue, he and other Board members have been educated largely by citizens. He added that there has been a very intelligent and engaged citizenry that has pointed out some flaws in the current proposal that needs to be addressed. Mr. Rooker said that he hopes they start out with a goal and work backward from it. The goal is to obtain better and more frequent firing and other training for County police officers. He emphasized that the question is not can they make some use of the Keene Landfill, but is this is the goal, what is the most efficient way of obtaining that goal in a way that does not impose unreasonable or unbearable consequences on a significant part of the citizenry. Mr. Rooker said that he thinks the County can do that, and he thinks there may be ways that are less expensive than pursuing the Keene Landfill.

Mr. Snow said that toward the end of this discussion he would like to make a motion for a resolution to take an open range at the Keene Landfill off the agenda completely.

Mr. Rooker said that he would support that, and would suggest appointing a committee with citizens and a Board member along with a Commission member. He added that a number of citizens have brought forward options that have been researched quite well, and it would be helpful to have some citizen input into this decision at the beginning. Mr. Rooker said he would support Mr. Snow's motion to take the Keene Landfill off the table, but would also make a motion to appoint a committee. The committee needs to include a balance of representation from the community.

Ms. Mallek said that a committee already exists that has been working with the Police Department, but staff could come back with a formal recommendation for its composition. She stated that she was thinking about taking the option of an open range off the table but leaving the Keene Landfill open for investigation purposes until the Board knows the true cost of building an enclosed range for the study process. Ms. Mallek asked Mr. Snow if he was referring to removing Keene altogether from consideration, or just to the open range process. Mr. Snow responded that he was talking mainly about the open range part of it.

Mr. Foley explained that staff is working on fleshing out use of the Keene Landfill as one of the options for a fully enclosed range. If the Board does not want to include that option, staff needs to know as soon as possible.

Mr. Rooker said he would support leaving that option on the table, but not an opening firing range at Keene.

Mr. Boyd agreed and pointed out that the Keene site is just one option being considered. He added that there are several other options being considered. Mr. Foley agreed that there are several viable options that staff needs to do more research on.

Mr. Snow then **moved** to cancel the February 13, 2013 public hearing on the Police Firing Range proposal at the Keene Landfill site, to direct staff to bring forward information on funding for an enclosed firing range, to direct staff to bring forward information on additional sites for a firing range, and to direct that the Keene Landfill site only be considered further as a site for an enclosed firing range. Mr. Dumler **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

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

Mr. Rooker then **moved** to direct staff to prepare a recommendation for a proposed committee to consider options for firearms training for County police officers. 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, Mr. Thomas and Mr. Boyd.
NAYS: None.

Mr. Boyd commented that if people who have signed up to speak on the issue just discussed and would like to leave rather than wait, that would be perfectly acceptable. He added that he did not want to discourage people from speaking either.

Agenda Item No. 8. From the Public: Matters Not Listed for Public Hearing on the Agenda.

Mr. Chris Winter, a resident of 417B Woodhaven Court, said that his understanding of "virtue" is what has brought him before the Board today. He stated that it is an irresponsible idea that character does not matter in the vetting of candidates for public office. Mr. Winter said he was a member of the political party that espoused that idea 20 years ago and was immediately put on guard by such ridiculous and dangerous thinking. Most of the country's preeminent founders – such as John Adams and George Washington – led the country exemplifying truth and honesty, and other traits that fall under "virtuous life and good character." Mr. Winter said they based the success of the country's liberty on a virtuous public. Moral breakdown in those holding public office is best dealt with when the offender resigns their power, for the good of the republic. This sets an example of humility, penance, and fair play. Mr. Winter said that he cannot accept anything less due to his personal commitment to his family and my country. He encouraged the Board to "nip this in the bud" and hold its values high, and show Albemarle County the same character and true leadership that guided their ancestors under Washington and Adams. Moral relativism is a sham in the context of remaining free.

Mr. Dan Gritsco, of the Scottsville Town Council, said that the Council recently held a meeting to address the firing range issue. He mentioned a resolution in the Board's packets that incorporated comments from residents as well as the communities from Keene, Esmont and Scottsville. The Council feels that they have a vested interest in this issue because of the proximity to the Keene site. Also, as mentioned in the Council's resolution, they have a possible opportunity to have an aspect of the County's firing range located in the town. He then read the proposed resolution where the Town Council expressed its unanimous support of consideration of a fully enclosed, environmentally neutral firing range in the Town of Scottsville.

Ms. Cyndra Van Clief said that the proposed firing range is "one big barge." She stated that the Board can continue to change its course, but the citizens of southern Albemarle, strengthened with strong research, strong facts and strong resolve, will continue to help push the barge towards an appropriate destination. She mentioned the short story "The Lottery" by Shirley Jackson in which a modern community has retained an unwarranted belief that it must hold a lottery in which one resident is stoned to death at the beginning of the growing season to ensure a good harvest. She said that the saddest part of the story is that no one had to be sacrificed. Ms. Van Clief said that no farmer, grandmother, teacher or school child needs to be sacrificed for the firing range in southern Albemarle.

Ms. Nancy Arllen, a resident of 920 Irish Road, located outside of Scottsville, said she was present to speak for Ms. Sarah Donnelly. Ms. Arleen thanked the Board for its reconsideration of the Keene firing range.

Ms. Arllen said that she is profoundly disappointed in Mr. Dumler. When the residents needed Mr. Dumler's leadership and support, he was not there for them. She said that she hopes Mr. Dumler will respond to the citizenry and do the honorable thing. She reiterated that she is personally disappointed in Mr. Dumler.

Mr. Eric Arllen, a resident of 920 Irish Road, thanked the Board for taking at least part of the Keene Landfill plan off the table for the police firing range. He then encouraged the Board to "get the ball across the goal line." Mr. Arllen said if the Board goes into the landfill it may be opening a can of worms, and there is no way of knowing what will be found. He encouraged the Board to pay attention when there is significant citizen involvement.

Ms. Ellie Thomas, speaking on behalf of Virginia Cooperative Extension and the Master Gardner Program, said she was present to thank the Board for its funding and provide an update on upcoming

events in 2013. Ms. Thomas said that the Extension Office brings the resources of Virginia's land grant universities – Virginia Tech and Virginia State University – to the people of the Commonwealth. She said that understanding that “knowledge is power,” they place that power in the hands of Virginians and help them learn how to use it to improve the quality of their lives. She stated that each spring, the Master Gardner Program trains 22 new volunteer educators to serve Charlottesville and Albemarle. These Master Gardner volunteers will participate in 30 different projects that protect water quality and natural resources, provide lifelong learning opportunities about home gardening and horticulture, and promote a healthy lifestyle in the community. She said that every year master gardener volunteers answer hundreds of gardening questions through calls and emails, and people who come to the horticulture help desk at the Extension Office. Ms. Thomas stated that they also take the service into the community at farmers markets and other major events. This year they will serve the Charlottesville City Market to help the public be environmental stewards through gardening – as well as continuing outreach at various farmers' markets throughout the area. Ms. Thomas said that this year they will teach classes and workshops to children and adults, including at-risk populations, host a spring lecture series on gardening that is open to the public, start a new after-school gardening program for 3rd and 4th graders at an elementary school, and will reach out to the growing Latino population in the area. She stated that they serve about 6,000 people through their diverse horticulture education projects. Ms. Thomas again thanked the Board for its funding support.

Dr. Bill Tunner, a resident of Esmont, thanked the Board for reconsidering the proposed training facility at the Keene Landfill. Dr. Tunner stated that a brief review of objections to a multi-phase training complex at Keene is appropriate at this time. The unlined 40-year-old landfill is a toxic threat if disturbed; “a potential Love Canal” that invites a Superfund cleanup paid for by the County. He added that the toxic noise pollution affecting nearby schools would be intolerable. Poorly remediated lead can poison local wells in the Scottsville water supply. Dr. Tunner stated that the financial cost to create a properly covered facility on this property with a high water table, adjacent wetlands and no infrastructure is far greater than that of a better suited location in the County. He said that a longstanding multi-generational neighborhood and surrounding rural areas with livestock need to be respected and protected. The value of these homes and farms would be reduced by 30 to 40% if the planned project were to proceed.

Dr. Tunner said that the growing number of those opposing any first responder training facility at Keene now exceeds 1,500 County residents, including the Albemarle County Medical Society. He suggested that the County build a covered, first-class facility like the public-private Colonial Shooting Academy in Richmond, which includes a tactical training center.

Mr. Peter Way said that he has been a resident of the Scottsville District for over 50 years and honorably served on the Board for 10 years. Mr. Way said he was here regretfully today. He appreciates the Board's censure vote and Mr. Snow's action. He stated that people are elected to the Board for various reasons, i.e., positions on issues, personality and decorum, and most importantly for their judgment – especially judging right from wrong. Mr. Way said that in that regard, Mr. Dumler has tragically failed. Two members of the Board do not feel he should resign while others do. He said that the Board members have said Mr. Dumler has lost his credibility and he agrees with that. In fact, it brings Mr. Dumler's credibility to the people of the Scottsville District and the County into question – and even throughout the Commonwealth. Mr. Way said that he believes the Board's reputation has been seriously damaged and he believes that Mr. Dumler has lost the wonderful opportunity to be a role model for the youth and children of the Scottsville District. Mr. Way said that he hopes Mr. Dumler will do the honorable thing and resign from the Board in the best interest of the Board and the people of Albemarle County. He said that he hopes that Mr. Dumler will have some life changes and have a good life in another capacity.

Mr. Way said that he understands that there are petitions being circulated and he hopes the individuals are successful in their efforts.

Mr. Forrest Marshall said that he lives on Argyle Farm at 2356 Scottsville Road. He said that he seconds everything Mr. Way said. Mr. Marshall said he also talked to Mr. Lindsey Dorrier and between the three of them they represent approximately 40 years on the Board of Supervisors. Mr. Marshall stated that he is disappointed in Ms. Mallek and Mr. Rooker in not supporting the other members of the Board in getting rid of Mr. Dumler. He said that he personally demands that Mr. Dumler leave the Board; it is a slap in the face to him as a former Board member and has compromised the decisions of every other Board member. He said that neither he nor his predecessors were in jail when they served on the Board, and they did a lot of good for the County.

He added that it is his understanding that Mr. Dumler does not even own property in Albemarle County and if he does, he would like to know where that property is located. Mr. Marshall said he would also like to know what Mr. Dumler's purpose is for wanting to serve under these conditions. It is totally, totally disrespectful to citizens of Albemarle County as well as other members of this Board. The County is at the lowest point of his political morality that he has ever seen. Mr. Marshall stated that if Mr. Dumler does not step down, he opens himself up to blackmail and future claims from other victims that will lead to serving some serious jail time. He added that he thinks the smart thing for Mr. Dumler to do is just get off the Board right now.

Mr. David Hickle thanked each Board member for their service to the County.

Ms. Jan Karen addressed the Board, stating that she lives at Esmont Farm on Esmont Farm Road. Ms. Karen said that she is speaking today from her heart. The word "Supervisor" has profound meaning – as each Board member is in effect watching over them and seeking their best interests. She said that she believes that Board members have a tremendous responsibility and privilege. She emphasized that the people in the Keene vicinity "are not a food stamp community," but are a "proud historic neighborhood" with many properties listed on the National Register and dating to the 18th Century. Ms. Karen said they are an historic district, and a hardworking family oriented community with a true love of rural beauty. She thanked the Board for choosing to allow this proud part of the County to go unmolested by any form of firing range – open or closed, or any other of the ills proposed for this site. She also thanked Board members for their willingness to hear the many voices and to listen to their heartfelt concerns.

Ms. Laurel Davis said that it seems her birthday wish has been granted by the Board's turnaround on the decision on the firing range. She said that this is as it should be that the residents be allowed to keep their peace.

Ms. Helen Paranzino said that she and her husband came to Albemarle County because of all the wonderful things it offers them such as cultural and medical needs. She said that they chose the rural southern end of Albemarle County because of the quiet, the peace and the beauty. She thanked the Board for its decision not to put an open range facility at Keene, and hopes it will strongly consider the tire plant in Scottsville.

Ms. Debra Kara said that she owns a 90-acre farm on Irish Road in Esmont. The backyard of her property adjoins the site at Keene. She said that she is very grateful for the Board's decision on the firing range today and is appreciative of the idea of having citizens join the group to consider alternatives. This has been a very, very tough six months for them, but it has been an amazing experience to see a community pull together, when many of them did not know each other, across all party lines. She emphasized that they have been able to come together and work out their differences, but have rallied always for the same goal – to protect and preserve why they all love and cherish where they live, with its agricultural and rural way of life. Ms. Kara said that she thinks that they all share the view that they want to preserve their way of life. It is why they move and live here. The residents do not want to see their County become completely commercialized and lose that beauty that it has.

Ms. Kara also thanked Police Chief Sellers for opening a dialogue with the residents, for continuing that dialogue, and for allowing the residents to meet with him and express their concerns. That open dialogue has been very beneficial to everyone.

Mr. Dennis Paranzino said that he and his wife live at Shirland Farm, 1.1 miles from the proposed police firing range. Along with over 1,500 neighbors they also oppose a firing range at Keene. Mr. Paranzino said that they are very pleased with the Board's decision. They believe that taking a fresh look at the alternatives is the proper course of action. He stated that the residents believe that the Keene site is unsuitable for any type of firing range. The residents recognize how difficult it is to change course and are grateful to the Board for listening and for taking action.

Mr. Charles Winkler, a City resident, asked the Board to pause in its official agenda for a moment and consider the meaning and demands of the word "honor" as it fulfills its duty to all citizens. Mr. Winkler stated that the signators of the Declaration of Independence pledged their sacred honor as they fought to free citizens from tyranny and create the system of government embodied here today. They were men of honor." He said that Webster's says that honor is "a keen sense of ethical conduct or integrity," and synonyms include honesty, integrity, rectitude and uprightness – and antonyms include "baseness, dishonor and lowness."

Mr. Winkler stated that he served for 30 years as a civilian member of the United States Army's Judge Advocate General Corps, which expects its officers to be "men and women of honor." He asked the Board to carefully consider what "sacred honor, ethical conduct, ethical and moral choices, integrity, duty, gallantry, good moral standing and character" mean to them as elected representatives and what they mean to the community at large.

Mr. D.G. Van Clief, a resident of the Esmont community, said that he has been a frequent speaker against the proposed firing range in Keene. He said it is very nice to be able to thank the Board instead of speaking only in opposition to plans. He also thanked Mayor Grove of Scottsville and the Scottsville Town Council for their work, and for passing the resolution as presented to the Board.

Mr. Van Clief also thanked Colonel Sellers and his officers for reaching out to the citizens in the community, as those have been very productive dialogues. He also thanked the Board members for listening to the residents. Mr. Van Clief said the residents have offered to help with alternatives, and hopes the County will find them as true to their word as they have been in opposition.

Mr. Joe Gieck, a voter from the Scottsville District, said that he agrees with Forrest Marshall and Peter Way in their admonishment of Mr. Dumler. He said that he appreciates the work the Board does.

He added that the message the censure sends is huge, but it is what voters expect – accountability, integrity, responsibility and trust. Mr. Gieck called on Mr. Dumler to resign his position because without that it is a distraction and dishonor to the Board of Supervisors.

Ms. Barbara West expressed thanks to the Board for its decision not to proceed with an open air firing range at Keene. She asked Board members to remember what “rural means.” She emphasized that rural does not mean concentrated populations of people or industries creating noise or generating a lot of traffic. Any Keene firing range with its subsequent four phases is diametrically opposed to everything that rural stands for. Ms. West encouraged the Board to please choose to maintain the beautiful and unequalled rural atmosphere that has been preserved to date.

Ms. West said that people from all over the world seek out this rural area for its unrivaled beauty, wildlife and tranquility. Rural areas provide the organic produce, meats, milk, cheese and dairy area markets sell and residents enjoy. She asked the Board to help preserve these rural areas. A firing range does not fit at Keene in any way, shape or form. She asked the Board to consider options that do fit, such as the Scottsville Tire Plant.

Mr. Thomas Polder said that he came to the Board meeting to oppose the firing range in Keene but instead applauds the Board for its quick decision on the matter. He thanked the Board members for their decision.

Mr. Jerome Beazley thanked the Board for taking the open firing range off the table. He said that the residents believe that when the Board fully evaluates the disadvantages of locating a firing range on the Keene site, it will guide them to finding a more acceptable solution to meet the County police needs. He stated that the Board has an opportunity to save the County millions of dollars in unnecessary infrastructure, particularly the significant road, storm water management and drainage costs necessary to build a new building at the Keene site. Mr. Beazley said that these costs are not necessarily associated with building an indoor range at any appropriate site within a development area, and building a range within those parameters – such as retrofitting an empty manufacturing facility – would provide a significant economic boost to the area, as well as jobs for maintenance and operations, and for local businesses. He encouraged the Board to pursue a public-private partnership for the firing range and provide public opportunities to use the range. Such a partnership will help the Board realize additional cost savings at a time the County is so pressed to fund its many infrastructure needs. Mr. Beazley said that to minimize infrastructure costs, the Scottsville Tire Plant will help reduce costs and will be the only private facility of this nature within 50 miles. He again thanked the Board for its work and for its decision.

Ms. Paula Beazley thanked the Board for its vote to eliminate consideration of an outdoor firing range at Keene and for its responsiveness to Save Rural Albemarle. She thanked the Board for its courage and leadership in making this decision. Ms. Beazley stated that as the Board considers alternative sites in the coming months, she asked that it consider how inappropriate the Keene Landfill site is. The Keene site sits in the heart of southern rural Albemarle accessed by a rural rustic road with a bridge holding no more than three tons, zoned as rural, with a historic black community, Yancey Elementary School, and preserved conservation lands on one side with large cattle farms on the other side. She said that at the base is a medical clinic, a proposed future inter-generational facility, and an ag-forestral district, as well as a 50-year old riding club, two other communities, Masonic lodges and churches. Ms. Beazley emphasized that it is part of the Southern Albemarle Historic District, and these are sleepy little communities that have existed in many cases for more than 100 years. She said that this is rural land that Board members are charged with preserving and protecting. This is not an industrial or development area with accompanying noise and traffic. A firing range does not belong in this location. She thanked the Board and added that the residents look forward to working with the County in the coming months to bring this to a positive resolution.

Mr. Thomas Donnelly, a resident of Forsyth Road in Esmont, said that he and his wife live on a farm that has been in their family for over 100 years. He said that he hopes the Board actions today will help him and his wife realize their dream of staying there and being with family over the years.

Mr. Charles Battig addressed the Board, stating that the reason Board members are placed on a dais is because the people respect them, their honor, and their place above them symbolically. Mr. Battig said that along with that goes an inherent assumption of a certain level of intellectual integrity, intelligence and moral character. He stated that sometimes they disagree, and all politicians are not perfect, but the specific nature of what Mr. Dumler has confessed to is in a particular category and is not the same as speeding in a car. Mr. Battig said that he anticipates that women will be somewhat embarrassed to be seeing someone convicted of a crime facing them up on a raised platform at every meeting. He stated that earlier generations gave on the basis of honor and self-sacrifice, and this is what the people expect. Mr. Battig said that perhaps Mr. Dumler missed those lessons as part of a younger generation, but it is not too late to do the right thing, step down, and not smile his way through all these discussions.

Ms. Pat Napoleon said that she is a County taxpayer and served as a teacher for 30 years in Albemarle County Schools. She said that she occupied a position of trust in caring for innocent minor children on a daily basis. She said that her teaching career began when she was barely out of her teens,

but she knew if she ever betrayed their trust she would be asked to leave her position. Board members are supposed to be role models. Ms. Napoleon stated that a vile and hurtful act has occurred in the community. Mr. Dumler has admitted guilt before the court in violating a woman's body and no one held a gun to his head pressing him to admit guilt. Now Mr. Dumler has been ordered to jail. She said that just because someone is allowed to remain on the Board does not make it okay nor does it mean that everyone will be safe if someone is cleared in a psychological evaluation. As a Board member one must be trusted in being alone with people and in entering any public building – including schools. In this situation, there is too much baggage. There are too many distractions and also too much history. Ms. Napoleon said that she is also tired of viewing a smile as there is nothing to smile about. She said that Mr. Dumler needs to do the right thing in tendering his resignation as soon as possible.

Ms. Diane Weber said that Mr. Dumler needs to do what is honorable and step down as a Supervisor. Ms. Weber said that the individuals elected to office should be worthy of their elevation and should reflect the best in everyone. She stated that their moral qualities signal to everyone else what is acceptable behavior. She asked if Mr. Dumler is the example they wish to set for children and young people. Mr. Dumler's continued presence on the Board sends the message that getting yourself elected as a Supervisor gives a free pass to commit sexual battery, to willfully harm other human beings and there are no public repercussions. Ms. Weber emphasized that the people who are missing today are Mr. Dumler's victims, who seem to have gone by the wayside and are merely an interference and inconvenience in the path of Mr. Dumler's political career. She said that convicted sexual offenders have no place in Albemarle County politics, and she hopes Mr. Dumler does the right thing and steps down.

Ms. Weber thanked the Supervisors who voted to ask Mr. Dumler for his resignation. She also thanked Mr. Way and Mr. Marshall for their solid show of support, and to Mr. Dorrier for adding to that support.

Ms. Emalie Hedberg said that she does not want Mr. Dumler to sit on the Board or represent her. She is a resident of the Scottsville District. This man has disgraced himself and the office he holds, and the fact that he does not plan to step down shows the people who voted for him that he no longer respects the position he holds on this Board. Mr. Dumler is thumbing his nose on everyone and to the backers who trusted in him. She stated that the message being sent here to college and high school students is that it is okay to break the law and to be convicted and still hold an elected position. Ms. Hedberg asked if the Board does not have a code of ethics that states once convicted of a crime, a member can no longer serve on the Board. She said that all the Board members should be ashamed if Mr. Dumler is allowed to serve out his term. She asked where is Board members moral code to allow such blatant disrespect to continue. Ms. Hedberg said that Mr. Dumler has proven he has no moral compass because he was arrested and convicted of an immoral act. She reiterated her position of not wanting Mr. Dumler to represent her on the Board.

Ms. Mary Agnes Johnson, a resident of White Diamond Lane, on Scotland Farm in Esmont, said she was present to express her gratitude for considering the unintended consequences of the Board's decision on the firing range. Ms. Johnson said the citizens have been energized in order to protect what they hold dear. In terms of the Keene Landfill facility, she explained that there is a very unique difficulty at the intersection of Routes 6 and 626. When there is a car traveling west on Route 6 and someone turns right on 626 the driver cannot see that person due to the location of the terrain.

Ms. Rachael Clarke, a resident of Esmont, thanked the Board for reconsidering the location of the firing range.

Ms. Delores Rogers, a resident of 777 James River Road, said that Totier Creek runs right past her property. She originally came to the meeting to yell at Board members regarding the outdoor range, but now she would like to thank them, particularly Mr. Dumler for all of his work to bring the indoor facility in Scottsville to the attention of the Board. Even in the worst of times, Mr. Dumler continues to work for his district.

Ms. Rogers stated that, they, as a nation has a long history of flawed politicians and flawed leaders. If they begin to remove everyone who disabused or took women for granted they would not have a Declaration of Independence. She mentioned Thomas Jefferson's affections for his best friend's wife, and his relationship with Sally Hemmings. People love their politicians, but they are flawed. People get disappointed in the politicians, but they carry on. Ms. Rogers said that if "you want a lap dog you need to buy one", otherwise if you do not live in the Scottsville District, you need not bother with telling the residents who can represent them. She encouraged those who have spoken against Mr. Dumler to be outraged at the fact that after 40 years there is still no Equal Rights Amendment for women. If you want to be outraged about something, be outraged for that.

Ms. Rogers thanked the Board for protecting the Totier Creek, and to keep up the good work.

Mr. John Eichenberger thanked the Board for its decision regarding the open range. As a professional engineer with over 20 years of experience, he said that he remains concerned about the suitability of the Keene site for any construction. He said that the NRCS has rated the onsite soils as a poor source of construction material that are prone to erosion and unsuitable for embankment

construction. Mr. Eichenberger stated that the NRCS has also classified these soils as acidic silt loams with a high runoff potential, as lead is soluble in acidic conditions. This means that lead particulates introduced into the environment during range operations will readily dissolve and be mobilized by storm water. This will impact adjoining wetlands and perennial streams that serve as the Scottsville water supply. He said that any design to locate a firing range adjacent to the closed Keene Landfill will require significant soil excavation, and he is concerned that this will affect the integrity of the closed landfill and create groundwater seeps along the down-gradient toe of the landfill. Mr. Eichenberger said that this could affect the closure status of the landfill under the open dump criteria of the DEQ solid waste regulations. Mr. Eichenberger said that he has direct experience as an engineer working for a municipality that has been cited for violating the MS4 permit as a result of having uncontrolled seeps at a closed, unlined landfill. Any construction in the vicinity of the Keene Landfill could have significant regulatory implications and costs for Albemarle County under the DEQ solid waste regulations and the state MS4 permit. He said that the Keene site is a poor location for any structure, much less a firing range. For those reasons he encouraged the Board to construct a safe, fully-enclosed facility at a suitable location or act in a fiscally responsible manner and use existing local facilities.

Mr. Morgan Butler, on behalf of the Southern Environmental Law Center, said that he would like some clarification on the critical slopes review cost estimate item on the Board's Consent Agenda. He explained that when this item was presented to the Board in November, it was made clear that the changes would only apply within the development areas, and the special exception process would be retained for critical slopes requests outside of the development areas in the rural areas. There is a statement in the staff report that "the disturbance of critical slopes in the rural areas will continue to be allowed only by special exception." He said that when he read the staff report with the cost estimate the night before it was a little bit confusing as there were some conflicting statements about where it would apply. There are other statements such as applications for special exceptions to allow critical slope waivers will no longer be presented to the Board which has an even broader meaning. The report also indicates that the cost savings are estimated to be roughly \$25,000-\$30,000 per year, meanwhile the cost of critical slopes has been between \$25,000-\$55,000. He asked for clarification on those items.

Mr. Chuck Boldt said he was present to object to the special use permit granted to New Hope Church. A site plan has now been submitted that confirms the concerns the residents have been raising. Mr. Boldt said that several changes the residents thought would be incorporated have not been made, and the church continues to demonstrate its unwillingness to be a good neighbor. He said that what the Board has approved is not consistent with what has been submitted. There is more clearing that results in greater visibility from Route 29 and Dickerson Road, less buffer on all sides because of more tree removal, areas of critical slopes that have been expanded and are not representative of the full extent of the critical slope on which they based a waiver. Mr. Boldt stated that storm water retention basins are now more than they were originally, and the proposed entrance as submitted promotes congestion at the Dickerson Road intersection.

Mr. Boldt said the residents have experienced a County staff who will not keep the Supervisor or residents informed in a timely manner, who will not meet with VDOT on this project to confirm that the Church's representation of the entrance options were not correct, is not enforcing the intent of the critical slope rules, is interpreting the 100-foot stream buffer in a way that promotes the very thing you don't want – which is continued stream degradation, not improvement. Mr. Boldt stated that he is before the Board to request that it insert itself into the process, and that staff not be allowed to approve the plan without Board oversight. This is a unique place, and Board actions have an ability to impact positively or negatively that place.

Ms. Carole Thorpe, a resident of 1318 Oak Tree Lane in the County, a 17 year County resident and a son who is a student at Albemarle High School, said that she is before the Board today with outrage that there is an admitted sex offender sitting on the dais, representing the County. Ms. Thorpe said that Mr. Dumler may have been elected by the residents of Scottsville, but he represents everyone in the County. Mr. Dumler has brought tremendous shame, and he has gone through the process and admitted his guilt. She said that she was offended that Ms. Mallek voted against censuring Mr. Dumler.

Ms. Mallek interrupted her comments to clarify that she made the motion and indeed voted to censure Mr. Dumler.

Mr. Rooker pointed out that it was a unanimous vote.

Ms. Thorpe said that she would call on the people of Scottsville to move forward with a petition, but appeals to Mr. Dumler to do the right thing on his own accord and resign.

Mr. Earl Smith, a resident of 5166 Viewmont West Drive, in the County, said that he rarely sees the County consider anything that makes money for the County. He encouraged the Board to look at other indoor firing ranges. Mr. Smith said that you must buy the ammo from an indoor range if it is opened up to the public which is a business transaction that could help offset the costs of a police facility – along with charges for training.

Mr. Smith also said that he has been asked by many of his friends about a recall for Christopher Dumler. He said that the State Board of Elections helped him draft the petition – which requires 372 to recall a vote. He personally has already collected almost the required number of signatures. Mr. Smith

said he is not affiliated with any group, but is a man of action that has to do with right and wrong. He stated that his goal is to collect 1,500 signatures.

Mr. Vic Pena, a County resident and taxpayer, said that he is a retired Army colonel and former brigade commander in which he had numerous officers. Mr. Pena stated that there is a Uniform Code of Military Justice, and within that code – Article 133 – there is a provision that allows prosecution for conduct unbecoming of an officer. He would have hauled Mr. Dumler up for charges.

Mr. Pena said that it was his initial intent to support his friends in Scottsville opposing the firing range in Keene, because it is too small to be an outdoor range due to the caliber of weapons to be used. He stated that the range as it is proposed has an inherent risk of errant rounds and ricocheting rounds. He asked what is the Board's price point for risk?

Mr. Harold Pillar, a resident of Scottsville, said that he would like the Board to consider more options than the option of location for the firing range. He asked whether the County needs a firing range at all, whether it needs an actual firing range or a virtual firing range, and whether there may be some private training options for a fee. Mr. Pillar said he thinks it should be studied by staff and not just the police department, with people who know how to make decisions logically.

Ms. Audrey Welborn, a resident of the Jack Jouett District for 42 years, said she has been following Board activities and local government most of those years. She does not feel people should be excusing bad behavior by pointing out other bad behavior of other officials, as it does nothing to improve the overall quality and character of Albemarle County. Ms. Welborn said that although she is not a resident of Scottsville, every decision and every vote that a Board member makes impacts everyone in the County. She believes that everyone does have a responsibility to speak up. She stated that she supports the censure vote, Mr. Snow's resolution and asked that Mr. Dumler step down from the Board.

Ms. Sally Thomas said that this is indeed a low point for the Board of Supervisors when threats are hurled at a member of the sitting Board by former members. She said that the threat of a shooting range brought together the community of Scottsville, and the charge of sexual battery and a misdemeanor conviction could bring together a contemplative body – or, its members can duplicate schoolyard tactics of piling on one kid. Ms. Thomas stated that a misdemeanor by one member is not nearly as bad a black eye as the hypocrisy of wanting to rid the Board of a member who votes differently on important issues. It is hypocrisy to hope this issue will distract the public from more public missteps of this Board. Ms. Thomas said that Mr. Dumler asked his friends not to speak today, and she is not here in that capacity. But like former and current Board members, she speaks as one who feels fiercely defensive of the honor of the Board of Supervisors. She stated that her definition of honor is that hypocrisy is "a lasting black eye."

Ms. Thomas said that everyone needs to pull together, for the good of the County.

Ms. Cynthia Neff, a County resident, said that she is reminded of the saying that "he who is without sin should cast the first stone". Very few have managed to get through their youth without being stupid. Ms. Neff said that this has been a difficult time for the community and for Mr. Dumler. She said that she does not believe that they would necessarily be having this conversation today if Mr. Dumler was a wealthier man. Mr. Dumler has spent more on his legal defense than he earned in 2012. It takes a lot of money to get treated fairly by the judicial system. Mr. Dumler had to accept a plea deal because he could not afford to continue to fight this case and while that does not change what he pled to, he pled to a misdemeanor because that was offered to him, so they could all make this go away. Ms. Neff said that none of these people were in that room, and people are making quotes and accusations that are not even true, based solely on the little bit published in newspapers and the media. She stated that while she feels Mr. Snow's comments were very heartfelt, the fact that almost everybody is speaking against Mr. Dumler is Republican makes it a little tough for her to believe that there is not a bit of political opportunism here. Ms. Neff said that there is an opportunity here to come together and make this work. She appreciates all the work the Board is doing. She also noted the great turnout for the Keene firing range.

Mr. John Chavan, a County taxpayer, said Board members serve mostly out of goodwill. Mr. Chavan emphasized the need for a police training facility, and encouraged people to give the Board breathing room when it is trying to do its job.

Mr. Chavan said he met Mr. Dumler numerous times and always thought of him as a good guy. However, if he were in church and his pastor was convicted of certain offenses, he would not want him preaching to him. He stated that Mr. Dumler has a second chance by way of a felony reduced to a misdemeanor, but he should not represent the citizens of the County. He wants a Board that he can respect when he comes before it.

Mr. Ray Hummiston said that he lives next door to Castle Hill Cidery in Keswick. He is not present to try to get them shut down, but there is no one who can promise the residents that the plan there is going to work. The Board is sort of betting with the resident's money, and he does not think it is their responsibility. He asked why the Board could not just allow this use with one event and see what

happens. There are also safety and economic issues associated with this use. Mr. Hummiston said there is an economic imbalance with the cidery, but also a big compliance issue as the owners have not done what they were supposed to along the way. He added that he does not know why this is not about the residents' rights too. The residents have just as much right to enjoy their livelihoods as the cidery does to promote a business. He stated that the process is not about earning privileges, it is about conforming to what is in place right now. There needs to be more certainty before moving forward.

NonAgenda. At 10:56 a.m., the Board recessed and then reconvened at 11:08 a.m.

Agenda Item No. 9. Consent Agenda. **Motion** was offered by Mr. Boyd, **seconded** by Mr. Thomas, to approve Items 9.1 (as read) through 9.9 on the consent agenda, to pull Item 9.10, for further discussion, and to accept the remaining items as information. (**Note:** Discussion on individual items are included with that agenda item.) Roll was called and the motion carried by the following recorded vote:

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

Item No. 9.1. Approval of Minutes: November 7, December 12, and 13(A), 2012.

Mr. Dumler had read his portion of the minutes of November 7, 2012, page 1-26 (ending at Item #10), and found them to be in order.

Mr. Snow had read his portion of the minutes of November 7, 2012, pages 26 (beginning with Item #10) – 50 (ending at Item #18), and found them to be in order.

Mr. Thomas had read his portion of the minutes of November 7, 2012, pages 50 (beginning with Item #18) – end, and found them to be in order.

Ms. Mallek had read the minutes of December 12, 2012, and found them to be in order with the exception of one typographical error.

Mr. Rooker had read the minutes of December 13, 2012, and found them to be in order with the exception of some typographical errors.

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

Item No. 9.2. Authorize County Executive to sign leases with Jefferson-Madison Regional Library.

The executive summary states that the Jefferson-Madison Regional Library (JMRL) provides library services for Albemarle, Greene, Louisa and Nelson counties, and the City of Charlottesville. Each locality is required to provide its branch facilities at no cost to JMRL. Under past practices, localities did not have formal leases or use agreements for these branch libraries. However, Section 7 of the new Regional Library Agreement, which became effective on January 1, 2013, now requires such leases.

With the input of JMRL administration, County staff drafted leases for the Scottsville, Northside and Crozet branch libraries, which are owned or leased by Albemarle County, detailing the areas of responsibility of JMRL and the County. These agreements have been approved by the JMRL Board, and are attached (Attachments A-D).

Under the proposed leases for the Crozet and Scottsville libraries, JMRL would continue to be responsible for the operational responsibilities of the County-owned branch libraries for the remainder of the current fiscal year (through June 30, 2013). Beginning on July 1, 2013, Albemarle County's General Services Department would assume the responsibilities of building maintenance, utilities, grounds care, the preventive maintenance of the mechanical systems, the repairs and cyclical maintenance of the physical building, and solid waste and custodial services at these branches. General Services would also be responsible for monitoring utility use (except telephone) and coordinating payments. In addition, all CIP responsibilities would be transferred to General Services, and would be managed through the CIP budget process. The associated County costs would be funded through the General Services operating and CIP budgets and would be reviewed by the Board each year during the budget process. JMRL would purchase and maintain all furniture and office equipment needed to conduct everyday business, along with any needed IT support.

Under the proposed sublease for the Northside library, which the County leases from the Rio Associates Limited Partnership and subleases to JMRL, JMRL would continue to maintain the Northside branch library as it does currently. This allows for maintenance costs to be shared between the County and the City as a shared operating cost for that joint facility.

The initial term of the leases would be for six months (January 1-June 30, 2013). Thereafter, the terms would be one-year increments and would coincide with Albemarle County's fiscal year. Each lease could be terminated by either party with a ninety (90) day notice, with the exception of the lease for the current Crozet Library, which could be terminated with a thirty (30) day notice.

The Library Board reviewed and approved the proposed leases at its January 28, 2013 meeting. The County Attorney's Office has also reviewed and approved the proposed leases for proper form and content.

Except for the increase in operating and maintenance expenses anticipated for the new Crozet Library, there should not be a significant impact on the budget. The budgeted maintenance and utility funds for the Scottsville and Crozet libraries will be transferred from the JMRL annual budget to the General Services budget. The estimated maintenance and utility costs for FY 14 have been submitted to OMB and are included in the FY 14 budgets to be considered by the Board. It is believed that the County can achieve efficiencies in maintaining the Crozet and Scottsville libraries.

Staff recommends that the Board approve the leases with JMRL for the Scottsville, Northside and Crozet branch libraries, and authorize the County Executive to execute the leases.

By the above-recorded vote, the Board approved the leases with JMRL for the Scottsville, Northside and Crozet branch libraries, and authorized the County Executive to execute the leases:

LEASE AGREEMENT – SCOTTSVILLE BRANCH LIBRARY

THIS LEASE AGREEMENT is made as of January 1, 2013 by and between the COUNTY OF ALBEMARLE, VIRGINIA (hereinafter, the "County") and the JEFFERSON-MADISON REGIONAL LIBRARY (hereinafter, the "Library").

ARTICLE I. PREMISES AND IMPROVEMENTS

Section 1.1. In consideration of and subject to the covenants herein set forth and pursuant to Section 7 of the Agreement for Jefferson-Madison Regional Library, to which the County is a party, the County hereby leases to the Library the premises described on Exhibit A attached hereto and made a part hereof together with any and all improvements thereon (the "Premises"). The Premises shall be provided for use by the Library at no cost to it.

ARTICLE II. TITLE: QUIET ENJOYMENT

Section 2.1. So long as the Library is not in default hereunder, the Library shall have peaceful and quiet enjoyment, use and possession of the Premises without hindrance on the part of the County or anyone claiming by, through, or under the County.

ARTICLE III. TERM

Section 3.1. Commencement and Expiration. The term of this Lease shall commence on January 1, 2013 (the "Date of Commencement") and shall expire June 30, 2013. All references to the "term" of this Lease shall, unless the context indicates a different meaning, be deemed to be a reference to the term described herein.

Section 3.2. Renewal. Subsequent to the initial term, this Lease shall be renewed automatically for subsequent one-year terms, to coincide with the County's July 1-June 30 fiscal year, unless and until terminated in accordance with Section 3.3 below.

Section 3.3. Termination. This Lease and the Library's occupancy of the Premises may be terminated by either party upon ninety (90) days advance written notice to the other party. In no event shall termination of this Lease alone be construed as a withdrawal from a regional library system pursuant to *Virginia Code* § 42.1-42.

ARTICLE IV. UTILITIES AND SERVICES

Section 4.1. Initial Term. During the initial term of this Lease, the Library shall independently arrange and provide for all items and services, at a level reasonably necessary for the proper use and enjoyment of the Premises, including: Telephone, Custodial Services, Furniture & Appliances, Routine repairs to non-mechanical systems (i.e. work orders), IT Services, Solid Waste Services, Electric, Water, Sewer, Preventive Maintenance to all Mechanical Systems, Cyclical Maintenance, (i.e. exterior window cleaning, annual carpet cleaning, wall painting), Snow & Ice control, Landscaping, Facility Assessment, Capital Improvements, and Alarms. During this initial term, the County shall independently arrange and provide only major structural repairs, at no direct cost to the Library. Except as otherwise provided in the current Agreement for Jefferson-Madison Regional Library, all such Library-provided items and/or services shall be "local costs" thereunder.

Section 4.2 Subsequent Term(s). During any subsequent term(s) of this Lease, the following items and services shall be provided and maintained at a level reasonably necessary for the proper use and enjoyment of the Premises, pursuant to the table below. The County shall provide all items and services identified below as "County" at no direct cost to the Library, at a reasonable level of service determined by the County. The Library shall independently arrange and provide for all items and services identified below as "Library." Except as otherwise provided in the current Agreement for Jefferson-Madison Regional Library, all Library-provided items and/or services shall be "local costs" thereunder.

Service/Expense		
	County Provided	Library Provided
Telephone		L
Custodial Services	C	
Furniture & Appliances		L
Routine repairs to non-mechanical systems (i.e. work orders)	C	
IT Services		L
Solid Waste Services	C	
Electric, Water, Sewer	C	
Parking Lot Lights, Fixtures	C	
Parking Lot & Sidewalk Repairs	C	
Preventive Maintenance to all Mechanical Systems	C	
Cyclical Maintenance, (i.e. exterior window cleaning, annual carpet cleaning, wall painting)	C	
Snow & Ice control	C	
Landscaping	C	
Facility Assessment	C	
Capital Improvements	C	
Elevators	N/A	
Alarms	C	
Sprinkler Systems	N/A	
Major Structural Repairs	C	

ARTICLE V. USE OF PROPERTY

Section 5.1. Permitted Use. The Library shall have use of the Premises for a public library.

Section 5.2. Good Repair. The Library shall keep in good repair and shall take good care of the Premises and fixtures therein located and, at the expiration or earlier termination or cancellation of this Lease, shall surrender the Premises and fixtures in as good condition as at the time of delivery, subject to reasonable wear and tear. In the event of the County's withdrawal from the Agreement for Jefferson-Madison Regional Library, disposition of personal property not affixed to the Premises shall be in accordance with Section 10 of said Agreement. Any failure to keep the Premises in good repair shall be considered a default of this Lease and shall be grounds for termination thereof.

ARTICLE VI. ALTERATIONS, IMPROVEMENTS, AND FIXTURES

Section 6.1. The Library may, from time to time, make or cause to be made any interior non-structural alterations, additions or improvements which do not damage or alter the Premises, provided that the County's consent shall have first been obtained in writing, and provided that the Library shall obtain all required governmental permits for such alterations, additions or improvements.

Section 6.2. The Library may, from time to time, make interior structural alterations, additions or improvements, only with the County's prior written consent to plans and specifications therefor. Any such interior structural alterations, additions or improvements shall become the County's property.

ARTICLE VII. INSURANCE

Section 7.1. The County shall, during the term of this Lease, maintain in force general public liability insurance and property insurance on the Property in an amount equivalent to coverage for its other public buildings and facilities or such greater amounts deemed necessary, and shall name the Library as an additional named insured. The Library shall maintain in force an insurance policy providing contents coverage for all Library materials, fixtures, and equipment in such amounts as shall be adequate to insure replacement coverage for such items.

ARTICLE VIII. MISCELLANEOUS

Section 8.1. Notices. Any notice, demand, request or other instrument which may be, or are required to be given under this Lease, shall be in writing and delivered in person or by United States certified mail, postage prepaid, and shall be addressed:

- (a) if to the County, at
 County of Albemarle
 Attn: County Executive

County Executive's Office
401 McIntire Road
Charlottesville, Virginia 22902
or at such other address as the County may designate by written notice;

(b) if to the Library, at
Jefferson-Madison Regional Library
Attn: Regional Library Director
201 East Market Street
Charlottesville, Virginia 22902
or at such other address as the Library shall designate by written notice.

Section 8.2. Annual Appropriations. The County's obligations under this Lease are subject to annual appropriations by the Board of Supervisors of Albemarle County, Virginia.

IN WITNESS WHEREOF, the parties hereto have executed this instrument as of the day and year first above written.

EXHIBIT A

DESCRIPTION OF PREMISES

All that certain tract or parcel of land situate, lying and being at 330 Bird Street, Scottsville, Virginia, (hereinafter "the Premises") on that certain plat by R.O. Snow, C.L.S. entitled "Plat Showing Survey of 0.496 Acres, the Property of the Albemarle County School Board, Located in the Town of Scottsville at the Intersection of Page and Bird Streets, Albemarle County, Virginia" (the "Plat"), dated March 19, 1981 and recorded in the Clerk's Office of the Circuit Court of Albemarle County, Virginia in Deed Book 725, page 209. Reference is made to the plat for a more particular description of the location of the described lands.

SUB-LEASE AGREEMENT

THIS SUBLEASE AGREEMENT is made as of January 1, 2013 by and between the COUNTY OF ALBEMARLE, VIRGINIA (hereinafter, the "County") and the JEFFERSON-MADISON REGIONAL LIBRARY (hereinafter, the "Library").

ARTICLE I. PREMISES AND IMPROVEMENTS

Section 1.1. In consideration of and subject to the covenants herein set forth and pursuant to Section 7 of the Agreement for Jefferson-Madison Regional Library, to which the County is a party, the County hereby subleases to the Library the premises described on Exhibit A attached hereto and made a part hereof together with any and all improvements thereon (the "Premises"). The Premises shall be provided for use by the Library and be funded as a Charlottesville-Albemarle cost.

ARTICLE II. TITLE: QUIET ENJOYMENT

Section 2.1. So long as the Library is not in default hereunder, the Library shall have peaceful and quiet enjoyment, use and possession of the Premises without hindrance on the part of the County or anyone claiming by, through, or under the County. The Library's possession and enjoyment of the Premises shall be subject and subordinate to that certain Shopping Center Lease Agreement between the County and Rio Associates Limited Partnership, dated January 31, 1991, as modified and extended November 1, 2004, and as further modified and extended on October 1, 2009 (the "Prime Lease"). In no event shall any obligation be imposed hereunder that would conflict with the terms of the Prime Lease. In the event of any conflict between the Prime Lease and this Sublease, the Prime Lease shall control.

ARTICLE III. TERM

Section 3.1. Commencement and Expiration. The term of this Sublease shall commence on January 1, 2013 (the "Date of Commencement") and shall expire October 31, 2014. All references to the "term" of this Sublease shall, unless the context indicates a different meaning, be deemed to be a reference to the term described herein. In the event that the Prime Lease terminates prior to October 31, 2014, this Sublease Agreement shall automatically terminate upon such termination or cancellation of the Prime Lease, and all obligations hereunder of the parties hereto shall be extinguished.

Section 3.2. Renewal. This Sublease may be renewed for an additional period as may be mutually agreed by the County and the Library. If renewal is not agreed upon by the County and the Library, this Sublease shall expire upon expiration of the initial term.

Section 3.3. Termination. This Sublease and the Library's occupancy of the Premises may be terminated by the County upon ninety (90) days advance written notice to the Library. In no event shall termination of this Sublease alone be construed as a withdrawal from a regional library system pursuant to *Virginia Code* § 42.1-42.

ARTICLE IV. UTILITIES AND SERVICES

Section 4.1. The Library shall independently arrange and provide for all items and services reasonably necessary for the proper use and enjoyment of the Premises, including: Telephone, Custodial Services,

Furniture & Appliances, Routine repairs to non-mechanical systems (i.e. work orders), IT Services, Solid Waste Services, Electric, Water, Sewer, Preventive Maintenance to all Mechanical Systems, Cyclical Maintenance, (i.e. exterior window cleaning, annual carpet cleaning, wall painting), and Alarms. Except as otherwise provided in the current Agreement for Jefferson-Madison Regional Library, all such Library-provided items and/or services shall be "Charlottesville-Albemarle costs" thereunder.

ARTICLE V. USE OF PROPERTY

Section 5.1. Permitted Use. The Library shall have use of the Premises for a public library.

Section 5.2. Good Repair. The Library shall keep in good repair and shall take good care of the Premises and fixtures therein located and, at the expiration or earlier termination or cancellation of this Sublease, shall surrender the Premises and fixtures in as good condition as at the time of delivery, subject to reasonable wear and tear. In the event of the County's withdrawal from the Agreement for Jefferson-Madison Regional Library, disposition of personal property not affixed to the Premises shall be in accordance with Section 10 of said Agreement. All injury to the Premises or fixtures caused by moving any property of the Library, its agents, employees, independent contractors, licensees, invitees, or visitors, as well as any other damage due to the neglect of the Premises and/or fixtures located therein, may be repaired by the County at the expense of the Library and such costs of repair shall become due and payable upon delivery of a statement of such costs by the County to the Library. All repairs performed by the County shall be at a time and in a manner so as not to unreasonably interfere with the Library's normal business operations. Any failure to keep the Premises in good repair shall be considered a default of this Sublease and shall be grounds for termination thereof.

ARTICLE VI. ALTERATIONS, IMPROVEMENTS, AND FIXTURES

Section 6.1. The Library may, from time to time, make or cause to be made any interior non-structural alterations, additions or improvements which do not damage or alter the Premises, provided that the County's consent shall have first been obtained in writing, and provided that the Library shall obtain all required governmental permits for such alterations, additions or improvements.

Section 6.2. The Library may, from time to time, make interior structural alterations, additions or improvements, only with the County's prior written consent to plans and specifications therefor. Upon the expiration or sooner termination of this Sublease, the County shall have the option (exercisable upon sixty (60) days notice to the Library except in the case of a termination of this Sublease due to a default by the Library, in which case no such notice shall be required) to require the Library to remove at the Library's sole cost and expense any and all improvements made by the Library to the Premises or to elect to keep such improvement as the County's property. In the event the Library is required to remove any improvements, (i) the Library shall be responsible for the repair of all damage caused by the installation or removal thereof, and (ii) if the Library fails to properly remove such improvements or provide for the repair of the Premises, the County may perform the same at the Library's cost and expense.

ARTICLE VII. INSURANCE

Section 7.1. The County shall, during the term of this Sublease, maintain in force general public liability insurance and property insurance on the Property in an amount equivalent to coverage for its other public buildings and facilities or such greater amounts deemed necessary, and shall name the Library as an additional named insured. The cost of this insurance may be included in the adopted budget of the Library. The Library shall maintain in force an insurance policy providing contents coverage for all Library materials, fixtures, and equipment in such amounts as shall be adequate to insure replacement coverage for such items.

ARTICLE VIII. MISCELLANEOUS

Section 8.1. Notices. Any notice, demand, request or other instrument which may be, or are required to be given under this Sublease, shall be in writing and delivered in person or by United States certified mail, postage prepaid, and shall be addressed:

- (c) if to the County, at
County of Albemarle
Attn: County Executive
County Executive's Office
401 McIntire Road
Charlottesville, Virginia 22902
or at such other address as the County may designate by written notice;
- (d) if to the Library, at
Jefferson-Madison Regional Library
Attn: Regional Library Director
201 East Market Street
Charlottesville, Virginia 22902
or at such other address as the Library shall designate by written notice.

Section 8.2. Annual Appropriations. The County's obligations under this Sublease are subject to annual appropriations by the Board of Supervisors of Albemarle County, Virginia.

IN WITNESS WHEREOF, the parties hereto have executed this instrument as of the day and year first above written.

EXHIBIT A

DESCRIPTION OF PREMISES

All that certain space measuring approximately 114.5 feet in width and approximately 136 feet in length, containing a gross leasable area of approximately 15,572 square feet, together with improvements to be provided by Rio Associates Limited Partnership, outlined and shown as "Albemarle County Library" on that certain plan of Albemarle Square Shopping Center, Albemarle County Virginia, dated July 25, 1989.

LEASE AGREEMENT – CROZET BRANCH LIBRARY

THIS LEASE AGREEMENT is made as of January 1, 2013 by and between the COUNTY OF ALBEMARLE, VIRGINIA (hereinafter, the "County") and the JEFFERSON-MADISON REGIONAL LIBRARY (hereinafter, the "Library").

ARTICLE I. PREMISES AND IMPROVEMENTS

Section 1.1. In consideration of and subject to the covenants herein set forth and pursuant to Section 7 of the Agreement for Jefferson-Madison Regional Library, to which the County is a party, the County hereby leases to the Library the premises described on Exhibit A attached hereto and made a part hereof together with any and all improvements thereon (the "Premises"). The Premises shall be provided for use by the Library at no cost to it.

ARTICLE II. TITLE: QUIET ENJOYMENT

Section 2.1. So long as the Library is not in default hereunder, the Library shall have peaceful and quiet enjoyment, use and possession of the Premises without hindrance on the part of the County or anyone claiming by, through, or under the County.

ARTICLE III. TERM

Section 3.1. Commencement and Expiration. The term of this Lease shall commence on January 1, 2013 (the "Date of Commencement") and shall expire June 30, 2013. All references to the "term" of this Lease shall, unless the context indicates a different meaning, be deemed to be a reference to the term described herein.

Section 3.2. Renewal. Subsequent to the initial term, this Lease shall be renewed automatically for subsequent one-month terms, unless and until terminated in accordance with Section 3.3 below.

Section 3.3. Termination. This Lease and the Library's occupancy of the Premises may be terminated by either party upon thirty (30) days advance written notice to the other party. In no event shall termination of this Lease alone be construed as a withdrawal from a regional library system pursuant to *Virginia Code* § 42.1-42.

ARTICLE IV. UTILITIES AND SERVICES

Section 4.1. Initial Term. During the initial term of this Lease, the Library shall independently arrange and provide for all items and services, at a level reasonably necessary for the proper use and enjoyment of the Premises, including: Telephone, Custodial Services, Furniture & Appliances, Routine repairs to non-mechanical systems (i.e. work orders), IT Services, Solid Waste Services, Electric, Water, Sewer, Preventive Maintenance to all Mechanical Systems, Cyclical Maintenance, (i.e. exterior window cleaning, annual carpet cleaning, wall painting), Snow & Ice control, Landscaping, Facility Assessment, Capital Improvements, and Alarms. During this initial term, the County shall independently arrange and provide only major structural repairs, at no direct cost to the Library. Except as otherwise provided in the current Agreement for Jefferson-Madison Regional Library, all such Library-provided items and/or services shall be "local costs" thereunder.

Section 4.2 Subsequent Term(s). During any subsequent term(s) of this Lease, The following items and services shall be provided and maintained at a level reasonably necessary for the proper use and enjoyment of the Premises, pursuant to the table below. The County shall provide all items and services identified below as "County" at no direct cost to the Library, at a reasonable level of service determined by the County. The Library shall independently arrange and provide for all items and services identified below as "Library." Except as otherwise provided in the current Agreement for Jefferson-Madison Regional Library, all Library-provided items and/or services shall be "local costs" thereunder.

Service/Expense		
	County Provided	Library Provided
Telephone		L
Custodial Services	C	
Furniture & Appliances		L
Routine repairs to non-mechanical systems (i.e. work orders)	C	
IT Services		L

Solid Waste Services	C	
Electric, Water, Sewer	C	
Parking Lot Lights, Fixtures	C	
Parking Lot & Sidewalk Repairs	C	
Preventive Maintenance to all Mechanical Systems	C	
Cyclical Maintenance, (i.e. exterior window cleaning, annual carpet cleaning, wall painting)	C	
Snow & Ice control	C	
Landscaping	C	
Facility Assessment	C	
Capital Improvements	C	
Elevators	N/A	
Alarms	C	
Sprinkler Systems	N/A	
Major Structural Repairs	C	

ARTICLE V. USE OF PROPERTY

Section 5.1. Permitted Use. The Library shall have use of the Premises for a public library.

Section 5.2. Good Repair. The Library shall keep in good repair and shall take good care of the Premises and fixtures therein located and, at the expiration or earlier termination or cancellation of this Lease, shall surrender the Premises and fixtures in as good condition as at the time of delivery, subject to reasonable wear and tear. In the event of the County's withdrawal from the Agreement for Jefferson-Madison Regional Library, disposition of personal property not affixed to the Premises shall be in accordance with Section 10 of said Agreement. Any failure to keep the Premises in good repair shall be considered a default of this Lease and shall be grounds for termination thereof.

ARTICLE VI. ALTERATIONS, IMPROVEMENTS, AND FIXTURES

Section 6.1. The Library may, from time to time, make or cause to be made any interior non-structural alterations, additions or improvements which do not damage or alter the Premises, provided that the County's consent shall have first been obtained in writing, and provided that the Library shall obtain all required governmental permits for such alterations, additions or improvements.

Section 6.2. The Library may, from time to time, make interior structural alterations, additions or improvements, only with the County's prior written consent to plans and specifications therefor. Any such interior structural alterations, additions or improvements shall become the County's property.

ARTICLE VII. INSURANCE

Section 7.1. The County shall, during the term of this Lease, maintain in force general public liability insurance and property insurance on the Property in an amount equivalent to coverage for its other public buildings and facilities or such greater amounts deemed necessary, and shall name the Library as an additional named insured. The Library shall maintain in force an insurance policy providing contents coverage for all Library materials, fixtures, and equipment in such amounts as shall be adequate to insure replacement coverage for such items.

ARTICLE VIII. MISCELLANEOUS

Section 8.1. Notices. Any notice, demand, request or other instrument which may be, or are required to be given under this Lease, shall be in writing and delivered in person or by United States certified mail, postage prepaid, and shall be addressed:

- (e) if to the County, at
County of Albemarle
Attn: County Executive
County Executive's Office
401 McIntire Road
Charlottesville, Virginia 22902
or at such other address as the County may designate by written notice;
- (f) if to the Library, at
Jefferson-Madison Regional Library
Attn: Regional Library Director
201 East Market Street
Charlottesville, Virginia 22902
or at such other address as the Library shall designate by written notice.

Section 8.2. Annual Appropriations. The County's obligations under this Lease are subject to annual appropriations by the Board of Supervisors of Albemarle County, Virginia.

IN WITNESS WHEREOF, the parties hereto have executed this instrument as of the day and year first above written.

EXHIBIT A

DESCRIPTION OF PREMISES

PARCEL A

BEGINNING at a point at the intersection of State Routes 810 and 240 being an iron set 25 feet S.E. of the centerline of State Route 810 and 25 feet S.W. of the centerline of State Route 240; thence S64° 24' 07" E, 68.85 feet to an iron set; thence S61° 10' 21" E, 47.36 feet to an iron set; thence S52° 10' 52" E, 46.39 feet to an iron set; thence S45° 10' 06" E, 48.68 feet to an iron set; thence S63° 11' 15" E, 24.17 feet to an iron set; thence S00° 28' 18" E, 14.92 feet to an iron set; thence S41° 44' 58" E, 11.26 feet to an iron set; thence with a curve to the left having a radius of 342.91 feet for an arc distance of 35.84 feet, the chord of which bears S46° 08' 45" E, 35.82 feet to an iron set being the point of intersection of Route 240 and the new right-of-way boundary line for The Chesapeake and Ohio Railway Company; thence with the new right-of-way line N70° 16' 19" W, 46.02 feet to an iron set; thence with a curve to the right having a radius of 2,657.71 feet and an arc distance of 243.00 feet, the chord of which bears N61° 38' 20" W, 242.91 feet to an iron set 25 feet from the centerline of State Route 810; thence N32° 07' 31" E, 51.33 feet to the POINT OF BEGINNING, a tract of land containing 0.283 of an acre, more or less.

PARCEL B

BEGINNING at a point at the intersection of State Routes 810 and 240 being an iron set 25 feet S.E. of the centerline of State Route 810 and 25 feet S.W. of the centerline of State Route 240; thence N32° 07' 31" E, 1.45 feet to a point on the edge of the pavement on State Route 240 and then with the edge of pavement the following courses; thence with a curve to the right having a radius of 35 feet and an arc distance of 7.12 feet, the chord of which bears S87° 10' 37" E, 7.11 feet to a point; thence with another curve to the right having a radius of 325.10 feet and an arc distance of 161.63 feet, the chord of which bears S62° 44' 18" E, 159.97 feet to a point; thence S45° 10' 06" E, 55.39 feet to a point; thence S41° 44' 58" E, 37.82 feet to a point; thence with a curve to the left having a radius of 328.41 feet and an arc distance of 80.30 feet, the chord of which bears S50° 09' 22" E, 80.10 feet to a point; thence leaving the edge of pavement N70° 16' 19" W, 49.13 feet to an iron set; thence with a curve to the right having a radius of 342.91 feet and an arc distance of 35.84 feet, the chord of which bears N46° 08' 45" W, 35.82 feet to an iron set; thence N41° 44' 58" W, 11.26 feet to an iron set; thence N00° 28' 18" W, 14.92 feet to an iron set; thence N63° 11' 15" W, 24.17 feet to an iron set; thence N45° 10' 06" W, 48.68 feet to an iron set; thence N52° 10' 52" W, 46.39 feet to an iron set; thence N61° 10' 21" W, 47.36 feet to an iron set; thence N64° 24' 07" W 68.85 feet to the POINT OF BEGINNING, a tract of land containing 0.086 acre, more or less.

BEING the same property acquired by the County from The Chesapeake and Ohio Railway by deed dated June 23, 1983, and recorded among the Land Records of Albemarle County, Virginia, in Deed Book 778, page 650.

TOGETHER with the buildings and improvements thereupon erected, made or being, and all and every of the rights, alleys, ways, waters, privileges, appurtenances and advantages to the same belonging, or in any way appertaining.

LEASE AGREEMENT – CROZET BRANCH LIBRARY

THIS LEASE AGREEMENT is made as of July 1, 2013 by and between the COUNTY OF ALBEMARLE, VIRGINIA (hereinafter, the "County") and the JEFFERSON-MADISON REGIONAL LIBRARY (hereinafter, the "Library").

ARTICLE I. PREMISES AND IMPROVEMENTS

Section 1.1. In consideration of and subject to the covenants herein set forth and pursuant to Section 7 of the Agreement for Jefferson-Madison Regional Library, to which the County is a party, the County hereby leases to the Library the premises described on Exhibit A attached hereto and made a part hereof together with any and all improvements thereon (the "Premises"). The Premises shall be provided for use by the Library at no cost to it.

ARTICLE II. TITLE: QUIET ENJOYMENT

Section 2.1. So long as the Library is not in default hereunder, the Library shall have peaceful and quiet enjoyment, use and possession of the Premises without hindrance on the part of the County or anyone claiming by, through, or under the County.

ARTICLE III. TERM

Section 3.1. Commencement and Expiration. The term of this Lease shall commence upon the issuance of the Certificate of Occupancy for the Premises (the "Date of Commencement") and shall expire

June 30, 2014. All references to the “term” of this Lease shall, unless the context indicates a different meaning, be deemed to be a reference to the term described herein.

Section 3.2. Renewal. Subsequent to the initial term, this Lease shall be renewed automatically for subsequent one-year terms, to coincide with the County's July 1-June 30 fiscal year, unless and until terminated in accordance with Section 3.3 below.

Section 3.3. Termination. This Lease and the Library's occupancy of the Premises may be terminated by either party upon ninety (90) days advance written notice to the other party. In no event shall termination of this Lease alone be construed as a withdrawal from a regional library system pursuant to *Virginia Code* § 42.1-42.

ARTICLE IV. UTILITIES AND SERVICES

Section 4.1. The following items and services shall be provided and maintained at a level reasonably necessary for the proper use and enjoyment of the Premises, pursuant to the table below. The County shall provide all items and services identified below as “County” at no direct cost to the Library, at a reasonable level of service determined by the County. The Library shall independently arrange and provide for all items and services identified below as “Library.” Except as otherwise provided in the current Agreement for Jefferson-Madison Regional Library, all Library-provided items and/or services shall be “local costs” thereunder.

Service/Expense		
	County Provided	Library Provided
Telephone		L
Custodial Services	C	
Furniture & Appliances		L
Routine repairs to non-mechanical systems (i.e. work orders)	C	
IT Services		L
Solid Waste Services	C	
Electric, Water, Sewer	C	
Parking Lot Lights, Fixtures	C	
Parking Lot & Sidewalk Repairs	C	
Preventive Maintenance to all Mechanical Systems	C	
Cyclical Maintenance, (i.e. exterior window cleaning, annual carpet cleaning, wall painting)	C	
Snow & Ice control	C	
Landscaping	C	
Facility Assessment	C	
Capital Improvements	C	
Elevators	C	
Alarms	C	
Sprinkler Systems	C	

ARTICLE V. USE OF PROPERTY

Section 5.1. Permitted Use. The Library shall have use of the Premises for a public library.

Section 5.2. Good Repair. The Library shall keep in good repair and shall take good care of the Premises and fixtures therein located and, at the expiration or earlier termination or cancellation of this Lease, shall surrender the Premises and fixtures in as good condition as at the time of delivery, subject to reasonable wear and tear. In the event of the County's withdrawal from the Agreement for Jefferson-Madison Regional Library, disposition of personal property not affixed to the Premises shall be in accordance with Section 10 of said Agreement. Any failure to keep the Premises in good repair shall be considered a default of this Lease and shall be grounds for termination thereof.

Section 5.3. Parking. The Library shall be entitled to non-exclusive use of parking spaces in the County parking lot adjacent to the Crozet Branch and access between said parking lot and the leased Premises.

Section 5.4. Elevator. The County shall retain access to the interior elevator, as necessary to maintain an accessible route between the adjacent parking lot and the Lower Level of the building beneath the leased Premises. Such elevator access shall not unreasonably interfere with the Library's operations.

ARTICLE VI. ALTERATIONS, IMPROVEMENTS, AND FIXTURES

Section 6.1. The Library may, from time to time, make or cause to be made any interior non-structural alterations, additions or improvements which do not damage or alter the Premises, provided that the County's consent shall have first been obtained in writing, and provided that the Library shall obtain all required governmental permits for such alterations, additions or improvements.

Section 6.2. The Library may, from time to time, make interior structural alterations, additions or improvements, only with the County's prior written consent to plans and specifications therefor. Any such interior structural alterations, additions or improvements shall become the County's property.

ARTICLE VII. INSURANCE

Section 7.1. The County shall, during the term of this Lease, maintain in force general public liability insurance and property insurance on the Property in an amount equivalent to coverage for its other public buildings and facilities or such greater amounts deemed necessary, and shall name the Library as an additional named insured. The Library shall maintain in force an insurance policy providing contents coverage for all Library materials, fixtures, and equipment in such amounts as shall be adequate to insure replacement coverage for such items.

ARTICLE VIII. MISCELLANEOUS

Section 8.1. Notices. Any notice, demand, request or other instrument which may be, or are required to be given under this Lease, shall be in writing and delivered in person or by United States certified mail, postage prepaid, and shall be addressed:

(g) if to the County, at
County of Albemarle
Attn: County Executive
County Executive's Office
401 McIntire Road
Charlottesville, Virginia 22902
or at such other address as the County may designate by written notice;

(h) if to the Library, at
Jefferson-Madison Regional Library
Attn: Regional Library Director
201 East Market Street
Charlottesville, Virginia 22902
or at such other address as the Library shall designate by written notice.

Section 8.2. Annual Appropriations. The County's obligations under this Lease are subject to annual appropriations by the Board of Supervisors of Albemarle County, Virginia.

IN WITNESS WHEREOF, the parties hereto have executed this instrument as of the day and year first above written.

EXHIBIT A

DESCRIPTION OF PREMISES

All that certain space containing approximately 17,489 square feet, more or less, outlined and shown as the "Upper Level" on that certain plan of Crozet Library, Albemarle County, Virginia, last revised January 30, 2012. Said Premises is a portion of Albemarle County Parcel 056A2-01-00-01800, located at 2020 Library Avenue, Crozet, Virginia.

Item No. 9.3. Resolution to Appoint Shawn Maddox as Assistant Fire Marshal.

The executive summary states that the Albemarle County Code § 6-111 establishes the Office of the Fire Marshal pursuant to Virginia Code § 27-30. County Code § 6-111 provides that the Fire Marshal shall be authorized to exercise all of the powers authorized by Title 27, Chapter 3 of the Virginia Code. County Code §§ 6-200 et. seq. provide that the Fire Marshal shall fulfill the duties of the Albemarle County Fire Official as established in Title 27 of the Virginia Code and the Virginia Statewide Fire Code.

Virginia Code § 27-36 provides that the Board may appoint one or more assistants who, in the absence of the Fire Marshal, shall have the powers and perform the duties of the Fire Marshal.

Shawn Maddox has been hired to fill an Assistant Fire Marshal vacancy within the Albemarle County Fire Marshal's Office. He previously worked as the Fire Marshal for the City of Staunton, Virginia. In that position, he performed all of the duties required of the position of Fire Marshal for over five years. His duties in Albemarle County will include similar functions, including inspector, investigator, public educator and fire prevention officer duties. Shawn Maddox has completed all of the training required to be an Assistant Fire Marshal, but has not completed the basic law enforcement training required by Virginia Code § 27-34.2:1 and the Virginia Fire Marshal Academy to exercise police powers.

The appointment of Shawn Maddox as Assistant Fire Marshal is necessary in order for him to fulfill the duties and responsibilities of the Fire Marshal's Office. Adoption of the attached Resolution (Attachment A) to appoint Shawn Maddox as an Assistant Fire Marshal would authorize him to fulfill the duties and responsibilities of the Fire Marshal's Office, but not to exercise police powers.

Upon Shawn Maddox's successful completion of the police powers training, staff will request the Board to adopt a Resolution authorizing Shawn Maddox to exercise police powers.

This action will have no impact on the County budget.

Staff recommends that the Board adopt the attached Resolution appointing Shawn Maddox as an Albemarle County Assistant Fire Marshal without police powers.

By the above-recorded vote, the Board adopted the following Resolution appointing Shawn Maddox as an Albemarle County Assistant Fire Marshal without police powers:

**RESOLUTION TO APPOINT SHAWN MADDOX
AS AN ASSISTANT FIRE MARSHAL**

WHEREAS, Virginia Code § 27-30 provides that the governing body of a county may appoint a fire marshal and Albemarle County Code § 6-111 establishes the Office of the Fire Marshal; and

WHEREAS, Albemarle County Code §§ 6-200 recognize the Fire Marshal as Albemarle County's Fire Official for the duties and responsibilities as established by Title 27 of the Virginia Code, the Virginia Statewide Fire Code, and the Albemarle County Code; and

WHEREAS, Virginia Code § 27-34.2:1 provides that the governing body of a county may authorize the fire marshal to have the same police powers as a sheriff, police officer or law-enforcement officer upon completion of the training discussed in such section; and

WHEREAS, Virginia Code § 27-36 provides that the governing body of a county may appoint one or more assistants, who, in the absence of the fire marshal, shall have the powers and perform the duties of the fire marshal; and

WHEREAS, notwithstanding that Shawn Maddox has not taken the training required to exercise police powers, the appointment of him as an Assistant Fire Marshal without police powers will promote the efficient and effective operation of the Albemarle County Department of Fire and Rescue.

NOW, THEREFORE, BE IT RESOLVED, that the Albemarle County Board of Supervisors hereby appoints Shawn Maddox as an Assistant Fire Marshal as authorized in Virginia Code §27-36 and Albemarle County Code § 6-111, but without police powers authorized in Virginia Code § 27-34.2:1.

Item No. 9.4. SDP-2012-00067. Houchens/Verizon Britts Tier II Personal Wireless Facility.

The executive summary states that the only planning/zoning history for this parcel is the administrative approval for the mobile home located on the property. There are no existing Personal Wireless Service Facilities on this parcel or adjoining parcels. The proposed lease area for the PWSF under review is located on the edge of a heavily wooded mountainside in a rural setting of large lot, single family dwellings and farms.

This is a proposal to install a Tier II personal wireless service treetop facility with associated ground equipment. Tier II tower reviews were previously approved by the Planning Commission and now must be approved as special exceptions by the BOS. The standard staff report for tower reviews is attached (Attachment I) and provides a more detailed analysis of this proposal. This proposal also includes a waiver request to disturb critical slopes. Staff has identified the following regarding this proposal:

Factors favorable to this PWSF request:

1. The monopole is located so that it is only visible for a short duration from sections of Route 29 South directly across and just north and south of the site. From locations north and south of the site, the balloon was seen through trees. From locations across from the site, the balloon was seen above trees but with a significant wooded mountainside backdrop.
2. The proposed ground equipment is not expected to be visible from nearby roadways and properties.

Factors unfavorable to this PWSF request:

1. None identified.

Factors favorable to this Critical Slope Waiver request:

1. The amount of total disturbance is limited.
2. Proper slope construction, control of drainage, and vegetative stabilization should prevent any movement of soil.

3. Proper stabilization and maintenance can help long term stability. No septic effluent concerns.
4. Approval of the critical slopes waiver would better serve public welfare than strict application of the regulations.
5. Minimal loss of aesthetic resource is expected.

Factors unfavorable to this Critical Slope Waiver request:

The disturbance of critical slopes is to a larger system of critical slopes.

No budget impact.

Staff recommends approval for the following:

- Monopole 10' above the reference tree
- Critical slopes waiver
- Tier II Facility with recommended condition of approval

By the above-recorded vote, the Board approved the special exception for a monopole ten (10) feet above the reference tree, approved modification of Section 5.1.40(d)(6) to allow a waiver to disturb critical slopes, and approved SDP-2012-00067 subject to the following condition.

1. Development and use shall be in general accord with the conceptual plan titled "Britts Mountain Installation of Monopole, Compound and Operation of Antennas and Base Station Equipment in a Raw Land Lease Area (Houchens property)" prepared by Justin Yoon latest revision date 1/4/13 (hereafter "Conceptual Plan"), as determined by the Director of Planning and the Zoning Administrator. To be in general accord with the Conceptual Plan, development and use shall reflect the following major elements within the development essential to the design of the development, as shown on the Conceptual Plan:
 - a. Height
 - b. Mounting type
 - c. Antenna type
 - d. Number of antenna
 - e. Distance above reference tree
 - f. Color
 - g. Location of ground equipment and monopole

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

Item No. 9.5. Ordinance to Adopt and Approve an Addendum to the January 20, 1984 Agreement By and Among the County of Albemarle, Virginia, the City of Charlottesville, Virginia and the Rector and Visitors of the University of Virginia for the Funding and Operation of the Emergency Communications Center. The Addendum would revise the funding formula for allocating the ECC's operating and capital improvement costs. (*Advertised in the Daily Progress on January 21 and January 28, 2013.*)

The executive summary states 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.

On January 9, 2013, ECC Executive Director Tom Hanson provided an overview of the ECC operations and the proposed Addendum #2 to the Agreement (Attachment C) to the Board, and the Board authorized a Notice of Intent to adopt the attached Ordinance (Attachment D) to adopt the Addendum.

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 Addendum requires the approval of the governing bodies of the County, City, and University. The City Council is scheduled to consider the approval of Addendum #2 on 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.

Staff modified Addendum #2 following the Board meeting on January 9, 2013 to add paragraph 1(c). Staff and ECC Executive Director Tom Hanson determined that the 800 MHz System should not be subject to the proposed revised funding formula. The funding formula for the 800 MHz System was

established by an Agreement dated June 27, 2003 between the County, the City and the University, which allocated the costs for that system based on the number of radios used by each Participant, as well as other third party users. The current funding formula for the 800 MHz System is based on actual use, is easily managed, and allows for the efficient billing of third party users of that system.

Virginia Code § 15.2-1300 requires that localities approve joint exercise of powers agreements by ordinance. A public hearing is not required. Notice of Intent to adopt this Ordinance was duly advertised as required by Virginia Code

§ 15.2-1427. The County Attorney has approved the attached ordinance to adopt the Addendum (Attachment D) and has approved the proposed Addendum #2 (Attachment C) 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 adopt the attached Ordinance (Attachment D) to adopt the Addendum #2 to the Agreement (Attachment C).

By the above-recorded vote, the Board adopted the following Ordinance to adopt the Addendum #2 to the Agreement:

ORDINANCE NO. 13-A(1)

**AN ORDINANCE TO ADOPT AND APPROVE AN ADDENDUM
TO THE JANUARY 20, 1984 AGREEMENT BY AND AMONG
THE COUNTY OF ALBEMARLE, VIRGINIA,
THE CITY OF CHARLOTTESVILLE, VIRGINIA AND
THE RECTOR AND VISITORS OF THE UNIVERSITY OF VIRGINIA
FOR THE FUNDING AND OPERATION OF
THE EMERGENCY COMMUNICATIONS CENTER**

WHEREAS, the County, the City and the University have jointly funded and undertaken the operation of a joint dispatch center for the purpose of performing direct dispatching functions for County, City and University law enforcement personnel pursuant to a joint exercise of powers Agreement dated January 20, 1984; and

WHEREAS, this Board desires to amend the January 20, 1984 Agreement to revise the funding formula to be simpler and more equitable.

NOW, THEREFORE, BE IT ORDAINED THAT the Addendum #2 to Agreement Dated January 20, 1984 by and among the County of Albemarle, Virginia, the City of Charlottesville, Virginia and the Rector and Visitors of the University of Virginia pertaining to the joint funding and operation of the Emergency Communications Center, attached hereto and incorporated herein, is hereby approved, and that the County Executive is hereby authorized to execute Agreement Addendum #2 on behalf of the County of Albemarle.

This ordinance shall be effective immediately.

**ADDENDUM #2 TO AGREEMENT DATED JANUARY 20, 1984
BY AND AMONG THE COUNTY OF ALBEMARLE, VIRGINIA,
THE CITY OF CHARLOTTESVILLE, VIRGINIA, AND
THE RECTOR AND VISITORS OF THE UNIVERSITY OF VIRGINIA**

This Addendum #2, dated January 1, 2013, to the Agreement dated January 20, 1984, and first amended October 10, 2002, by and among the COUNTY OF ALBEMARLE, VIRGINIA, the CITY OF CHARLOTTESVILLE, VIRGINIA, and the RECTOR and VISITORS of THE UNIVERSITY OF VIRGINIA (collectively referred to as the "Participants").

The Participants agree to the following modifications to the Agreement:

1. Section IV ("Allocation of Costs") is deleted and replaced with the following paragraphs:

a. Operating Costs. Beginning with the fiscal year commencing July 1, 2013, the Management Board shall submit the annual budget request for the Center to each Participant by January 15th of each year in a format generally in accordance with the Uniform Financial Reporting System of the Auditor of Public Accounts for the Commonwealth of Virginia. Operating costs will be allocated among the Participants in direct proportion to their respective shares of the percentage of the numbers of calls for service received by the Center. In preparing for the budget for each year, the Management Board shall obtain the actual number of calls received by the Center for the immediately preceding 12 month period of October 1 through September 30. The Management Board shall use such actual call numbers to recompute the allocation formula for each next ensuing fiscal year. The recomputation shall be made as soon after January 1 as possible to make accurate figures available to the Participants for their annual budget. A hypothetical example of the Funding Formula calculated under this section if it had applied to fiscal year 2012-2013 is attached hereto as Exhibit A.

The budget shares for the Participants under the formula calculated under this section are set forth on Exhibit B attached hereto.

b. Capital Improvements Costs. Non-recurring capital items for the Center shall be submitted to each Participant as part of its Capital Improvement Plan (CIP). Capital items include (i) land acquisition, and construction of new facilities; (ii) renovations or additions to existing facilities; (iii) major studies such as facility or systems assessments, engineering or feasibility studies related to facility or system needs; and (iv) equipment requirements. Funding for capital items shall be subject to approval by the Participants. The cost for capital items for the Center shall be allocated among the Participants according to their percentage of actual calls to the Center as determined in section IV(a) above for the fiscal year such capital items are approved by a Participant; provided, however, that each Participant's percentage of cost for a capital item shall not be recomputed each year, but shall remain constant for such capital item. By way of example, the Computer Aided Dispatch System (CADS) is a capital item. The cost allocation of the CADS project is based on the cost allocation among the Participants in effect at the time that project was approved by the Participants and shall remain constant throughout such project, notwithstanding the recalculation of allocations for operating costs pursuant to section IV(a) above.

c. 800 MHz System. Notwithstanding paragraphs a and b above, the capital and operational cost allocation of the 800 MHz Public Safety Project (the 800 MHz System) was established by an Agreement dated June 27, 2003 among the Participants, with the cost allocation based on the number of radios used in the 800 MHz System by the Participants and certain third party users. The capital cost allocation of the 800 MHz System shall remain fixed pursuant to the terms of the Agreement dated June 27, 2003. The operational cost of the 800 MHz System shall continue to be recomputed each year allocating the cost to the Participants equal to the percentage of the number of radios used by each Participant in the 800 MHz System. Unless otherwise agreed to, the capital and operational cost for any communications system which replaces the 800 MHz System will also be allocated among the Participants equal to the percentage of the number of radios used by each Participant in such replacement system.

d. Fund Balance. The Center may retain a year-end fund balance not to exceed twenty-five percent (25%) of the Center's total annual operating budget. The Management Board will, after each fiscal year audit, return to each Participant its share of any carryover funds in excess of those amounts necessary to fund the reserve fund. The return of such funds to each Participant will be prorated using the allocation formula calculated pursuant to section IV(a) above for such fiscal year. In lieu of returning such funds, the Management Board may formally request alternative uses for such carryover funds, subject to the approval of the Participants.

2. Except as amended hereby, the Agreement remains in full force and effect and the Participants hereby ratify and confirm the provisions, terms and conditions set forth in the Agreement and any amendments or addenda thereto.

Exhibit A

Proposed Funding Formula

	County	City	UVA	Totals
PD/Fire/EMS Calls	69,826	53,008	21,296	144,130
Percentage	48.45%	36.78%	14.77%	100.00%
	69,826	53,008	21,296	144,130
Percentage	48.45%	36.78%	14.77%	
FY 13 Budget	\$5,326,614			
Minus Internal 800 MHz Public Safety*	\$500,863			
Minus 800 MHz Outside Agencies**	\$271,011			
Total	\$4,554,740			
Total multiplied by % above	\$2,206,772	\$1,675,233	\$672,735	
Internal 800 MHz Public Safety*	\$288,107	\$122,841	\$89,915	
Minus Other Revenue	\$240,189	\$182,335	\$73,222	\$495,746
Total Owed per locality	\$2,254,690	\$1,615,739	\$689,428	

* Internal public safety agencies include:

Albemarle County Public Safety (37.33%)	\$288,107
City of Charlottesville Public Safety (15.91%)	\$122,841
University of Virginia Public Safety (11.65%)	\$89,915
	\$500,863 ***

* Outside agencies include (billed individually):

Albemarle County Schools (11.03%)	\$85,166
City of Charlottesville Public Works (3.98%)	\$30,710
City of Charlottesville Schools (2.09%)	\$16,147
City of Charlottesville Transit (2.30%)	\$17,730
UVA Transit (2.91%)	\$22,479
Charlottesville-Albemarle Regional Airport	\$16,463
Albemarle -Charlottesville Regional Jail (6.23%)	\$48,123

Rivanna Water & Sewer Authority (2.30%)	\$17,730
Alcohol, Tobacco & Firearms (0.17%)	\$1,266
Albemarle County Service Authority (1.97%)	\$15,197
	<u>\$271,011 ***</u>

*** These would be billed separately as part of the 800 MHz infrastructure budget
 The public safety agencies for each jurisdiction would be included in the
 localities portion of the regular budget.

Exhibit B

**CHARLOTTESVILLE-UVA-ALBEMARLE COUNTY
 EMERGENCY COMMUNICATIONS CENTER BUDGET SHARES**

FISCAL YEAR 2012-2013

Description	Cost Center	Albemarle	Charlottesville	UVA	Others	TOTAL
Operations	31040	\$744,421 48.45%	\$565,114 36.78%	\$226,937 14.77%	\$0 0.00%	\$1,536,472
Admin	31041	\$706,479 48.45%	\$536,312 36.78%	\$215,370 14.77%	\$0 0.00%	\$1,458,161
Telecom. 911	31042	\$113,858 48.45%	\$86,433 36.78%	\$34,710 14.77%	\$0 0.00%	\$235,000
EMD	31043	\$159,680 48.45%	\$121,218 36.78%	\$48,678 14.77%	\$0 0.00%	\$329,576
Emergency Services	31045	\$70,487 48.45%	\$53,509 36.78%	\$21,488 14.77%	\$0 0.00%	\$145,485
PS Technology	31046	\$111,391 48.45%	\$84,561 36.78%	\$33,958 14.77%	\$0 0.00%	\$229,909
Co.Fire Com.	31047	\$148,612 48.45%	\$112,816 36.78%	\$45,304 14.77%	\$0 0.00%	\$306,733
800 MHz	31048	\$288,107 37.33%	\$122,841 15.91%	\$89,915 11.65%	\$271,011 35.11%	\$771,874
City Fire	31049	\$151,844 48.45%	\$115,270 36.78%	\$46,290 14.77%	\$0	\$313,404
Total Budget Share		\$2,494,879	\$1,798,074	\$762,650	\$271,011	\$5,326,614
Revenues		-\$240,189	-\$182,335	-\$73,222	\$0	-\$495,746
Total Due		\$2,254,690	\$1,615,739	\$689,428	\$271,011	\$4,830,868

Other Outside Revenues
 29,000 (Interest)
 10,500 (OES Grant)
 453,600 (Wireless Fund)
 2,646 (FBI)

\$495,746.00 Total Other Outside Revenues

Total Shares Due FY- 2012-2013
Albemarle County - \$2,254,690
City of Charlottesville - \$1,615,739
University of Virginia - \$689,428
800 MHz Infrastructure Others - \$271,011

Item No. 9.6. Resolution to accept road(s) in Fray's Mill Subdivision into the State Secondary Road System.

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

The Board of County Supervisors of Albemarle County, Virginia, in regular meeting on the 6th day of February 2013, adopted the following resolution:

RESOLUTION

WHEREAS, the street(s) in **Fray's Mill Subdivision**, as described on the attached Additions Form AM-4.3 dated **February 6, 2013**, fully incorporated herein by reference, is shown on plats recorded in the Clerk's Office of the Circuit Court of Albemarle County, Virginia; and

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

NOW, THEREFORE, BE IT RESOLVED, that the Albemarle Board of County Supervisors requests the Virginia Department of Transportation to add the street(s) in **Fray's Mill**, as described on the attached Additions Form AM-4.3 dated **February 6, 2013**, to the secondary system of state highways, pursuant to §33.1-229, Code of Virginia, and the Department's Subdivision Street Requirements; and

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

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

* * * * *

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

- 1) **Millhouse Drive (State Route 1048)** from the intersection of Route 641 to the cul-de-sac, as shown on plat recorded in the office the Clerk of Circuit Court of Albemarle County in Deed Book 4130, page 586, with a 50-foot right-of-way width, for a length of 0.18 miles.

Total Mileage – 0.18

Item No. 9.7. FY 2013 Budget Amendment and Appropriations.

The executive summary states that the 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 \$1,400,436.20. A budget amendment public hearing is not required because the amount of the cumulative appropriations does not exceed one percent of the currently adopted budget.

This request involves the approval of nine (9) FY 2013 appropriations as follows:

- One (1) appropriation (#2013062) totaling \$2,785.00 for donations to the Department of Fire and Rescue;
- One (1) appropriation (#2013064) totaling \$80,127.46 for the ACE program from the Farmland Preservation's Local Purchase of Development Rights (PDR) Program Grant;
- One (1) appropriation (#2013065) totaling \$5,500,000.00 for a transfer from the FY12 General Fund balance to the FY13 Capital Improvement Program Funds. This appropriation increases the budget \$500,000.00 due to the reduction of use of capital fund balance by \$5,000,000.00;
- One (1) appropriation (#2013066) totaling \$880,800.00 for the Revenue and Taxation component of Access Albemarle. This appropriation increases the budget \$692,945.47; the remaining \$187,054.53 are from currently appropriated funds;
- One (1) appropriation (#2013067) totaling \$38,583.27 for reimbursed and recovered costs received by the Police Department;
- One (1) appropriation (#2013068) totaling \$35,995.00 for a grant awarded by the Department of Criminal Justice Services to the Police Department. This appropriation includes a local match of \$4,000.00 provided from the County's appropriated Grants Leveraging Fund;
- One (1) appropriation (#2013069) totaling \$292,506 for the purchase of an ambulance and related equipment to serve the Seminole Trail/Rio Road area of the County. This appropriation will not increase the total budget because the funding will be re-appropriated from the balance of current apparatus funding;
- One (1) appropriation (#2013070) totaling \$50,000.00 for school division grants; and
- One (1) appropriation (#2013071) totaling \$25,929 for training and professional development for various departments. This appropriation will not increase the total budget because the funding will be re-appropriated from the Training Pool funding.

Staff recommends approval of appropriations #2013062, #2013064, #2013065, #2013066, #2013067, #2013068, #2013069, #2013070, and #2013071.

Appropriation #2013062			\$2,785.00
Source:	Donations	\$	2,785.00

This request is to appropriate \$2,785.00 in donations received by the Fire and Rescue Department (FR) for the cost of necessary cable system upgrades at Monticello and Hollymead Fire and Rescue stations. In

1998 a Special Revenue Fund account was established for donations received by FR. Periodically, these funds are requested for appropriation by the Board of Supervisors to help fund needed items for the Department.

Appropriation #2013064 **\$80,127.46**

Source: State Revenue \$ 80,127.46

This request is to appropriate \$80,127.46 from a 2012 Virginia Department of Agriculture and Consumer Services Grant to reimburse the County for a portion of the cost of an ACE easement. The total cost of the easement was \$207,038.00. Although the Grant can reimburse up to 50% of the purchase price of a qualifying easement, or \$103,519 for this easement, the remaining 2012 Grant balance available to the County was only \$80,127.46.

Appropriation #2013065 **\$500,000.00**

Source: General Fund fund bal. \$5,500,000.00
General Gov't CIP Fund fund bal. (\$4,150,000.00)
School CIP Fund fund bal. (\$850,000.00)

This request is to appropriate \$5,500,000.00 of FY 12 General Fund excess revenues over expenditures to the Capital Improvement Program funds for "pay as you go" capital projects. The General Fund will budget the transfer of \$5,500,000.00 in revenues to the Capital Improvement Program. In the Capital Improvement Program funds, \$5,000,000 of these revenues will be budgeted for pay- as-you-go projects, which will reduce the use of Capital Program fund balance.

This transfer will be placed in the following Capital Improvement Program funds, based on the percentage of pay-as-you-go projects included in each fund. The transfer will be appropriated as follows:

- School CIP Fund: \$1,054,284.00
- General Government CIP Fund: \$4,436,929.00
- Stormwater CIP Fund: \$8,787.00

As part of the FY 13 Adopted Budget, \$500,000 of this amount had previously been budgeted for pay-as-you-go projects in the Capital Improvement Program funds. This appropriation will result in a net increase in the overall County budget of \$500,000.00.

Appropriation #2013066 **\$ 692,945.47**

Source: Miscellaneous Revenue \$ 250,000.00
General Gov't CIP Fund fund bal. \$ 442,945.47

As described in the *Access Albemarle: Revenue and Taxation System Executive Summary*, also on the Board's February 6 agenda, this request is to appropriate \$250,000.00 in general fund miscellaneous revenue and \$442,945.47 in general government CIP fund balance, and to re-allocate \$187,054.53, which is the balance of the Access Albemarle project funding, for a total net appropriation of \$692,945.47. This funding will support the Revenue and Taxation component of the Access Albemarle Program. The total capital project budget is \$880,000.00. The Revenue and Taxation System Replacement will transition existing revenue and taxation functions from the County's main frame to a new system for Real Estate and Personal Property Taxes, Business Taxes & Licenses, Pet, Hunting and Fishing Licenses and Payment Receipt Processing. The project will begin upon appropriation of this funding and is anticipated to be completed in 12 to 15 months.

Appropriation #2013067 **\$38,583.27**

Source: Local Revenue (recovered costs, non-tax revenue) \$ 38,583.27

This request is to appropriate \$38,583.27 to the Police Department; \$37,627.27 from the Charlotte, North Carolina Police Department for overtime associated with Albemarle County officers assisting with the 2012 Democratic National Convention and \$956.00 from e-cycle for recycling old cell phones.

Appropriation #2013068 **\$35,995.00**

Source: Federal Revenue \$ 35,995.00
Transfer from Grants Leveraging Fund \$ 4,000.00

This request is to appropriate a grant (# 13-A2720JB10) awarded by the Department of Criminal Justice Services to the Police Department in the amount of \$35,995.00 and to re-appropriate a local match of \$4,000.00 from the Grants Leveraging Fund, for a total grant award of \$39,995.00. Because the local match is re-appropriated, the total County Budget will only increase by \$35,995.00. The purpose of this grant is to develop a comprehensive community gang assessment process that results in a comprehensive, collaborative, and actionable strategic plan for the local Gang Reduction through Active Community Engagement (GRACE) Coalition. The goal of the project is organize the community toward gang prevention, intervention, and suppression. Resource and staff support will be contributed by members of the local Safe Schools and Healthy Students Program. This funding provides for consulting services to develop the assessment and to work with the Coalition to develop a knowledge-based understanding of the situation and an actionable strategic plan.

Appropriation #2013069

\$0.00*

*This appropriation will not increase the total budget

Source:

This request is to re-appropriate \$292,506.00; \$146,253.00 from the unspent balance of the CARS Ambulance #1 project and \$146,253.00 from the unspent balance of CARS Ambulance #2 project, to support the purchase of an ambulance and related equipment to serve the Seminole Trail/Rio Road area of the County. A new ambulance cost approximately \$290,000, including equipment.

This re-appropriation will not increase the total budget.

Appropriation #2013070

\$50,000.00

Source: Miscellaneous Grants \$ 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 of \$50,000.00 for the School Division's anticipated grants. The School Division has exceeded this amount in grants received and anticipates that there will be a number of additional grants awarded throughout the year. This request is to appropriate an additional \$50,000.00 in grant funding. Funds will not be expended until grants are awarded.

Appropriation #2013071

\$0.00*

*This appropriation will not increase the total budget

Source: Training Pool \$ 25,929.00

This request is to re-appropriate \$25,929.00 from the Training Pool funding to various departments for training opportunities. The Board approved funding for training in the amount of \$83,807.00 in the FY 13 budget in support of its strategic objective to expand opportunities for training and professional development. After this appropriation, \$31,550.00 will remain in the training pool. This re-appropriation will not increase the total County budget.

By the above-recorded vote, the Board approved the following appropriations #2013062, #2013064, #2013065, #2013066, #2013067, #2013068, #2013069, #2013070, and #2013071:

APP#	ACCOUNT	AMOUNT	DESCRIPTION
2013062	4-1000-32015-432010-580015-1003	2,785.00	Donations-Misc
2013062	3-1000-51000-351000-512008-9999	2,785.00	Trs. From Contribution Fund
2013062	4-8405-93010-493010-930009-9999	2,785.00	Trs to General Fund
2013062	3-8405-51000-318000-181114-9999	2,785.00	Contributions
2013064	3-9010-24000-324000-240767-1007	80,127.46	VA DEPT OF AG & CONSUMER
2013064	4-9010-81010-481020-580409-1240	80,127.46	CONSERV. EASEMENTS-A.C.E.
2013065	3-1000-51000-351000-510100-9999	5,500,000.00	App GF Fund Balance
2013065	4-1000-93010-493010-930010-9999	4,436,929.00	TRS GF SUP&EXP SAV Gen Govt CIP
2013065	4-1000-93010-493010-930202-9999	1,054,284.00	TRS GF SUP&EXP SAV Stormw CIP
2013065	4-1000-93010-493010-930004-9999	8,787.00	TRS GF SUP&EXP SAV Sch CIP
2013065	3-9010-51000-351000-510103-9999	4,150,000.00	TRS FR GF SUP&EXP SAVINGS Gen Govt CIP
2013065	3-9010-51000-351000-510100-9999	-4,150,000.00	App Gen Govt CIP Fund Balance
2013066	3-1000-18000-318000-189900-1001	250,000.00	Misc. Revenue
2013066	4-1000-12210-412200-110000-1001	80,900.00	Regular Salaries
2013066	4-1000-12210-412200-120000-1001	14,680.00	OT Wages
2013066	4-1000-12210-412200-130000-1001	14,500.00	PT Wages
2013066	4-1000-12210-412200-210000-1001	8,420.00	FICA
2013066	4-1000-12210-412200-301210-1001	49,250.00	Contract Services
2013066	4-1000-12210-412200-301260-1001	520.00	Catering
2013066	4-1000-12210-412200-332115-1001	900.00	Maint. Contract - Software
2013066	4-1000-12210-412200-800710-1001	22,000.00	Data Processing Software
2013066	4-1000-12210-412200-999999-1001	-376,679.20	Contingency Funds
2013066	4-1000-93010-493010-930027-9999	435,509.20	One-Time Tr to CIP
2013066	3-9010-51000-351000-512074-9999	435,509.20	One-Time Tr from GF
2013066	3-9010-51000-351000-510100-9999	442,945.47	Approp Use of Fund Balance
2013066	4-9010-12210-412200-120000-1160	-2,463.17	OT Wages
2013066	4-9010-12210-412200-130000-1160	-9,026.40	PT Wages
2013066	4-9010-12210-412200-210000-1160	-1,694.00	FICA
2013066	4-9010-12210-412200-301210-1160	2,400.00	Contract Services
2013066	4-9010-12210-412200-312105-1160	16,352.95	Consulting Services
2013066	4-9010-12210-412200-580000-1160	-814.20	Misc. Expenses
2013066	4-9010-12210-412200-800700-1160	-6,300.51	ADP Equipment
2013066	4-9010-12142-412140-301201-1150	37,500.00	Contract Services
2013066	4-9010-12142-412140-312701-1150	336,500.00	Data Processing Consultants
2013066	4-9010-12142-412140-540301-1150	456,000.00	Lease/Rent Software
2013066	4-9010-12142-412140-550100-1150	20,000.00	Training
2013066	4-9010-12142-412140-600100-1150	15,000.00	Office Supplies
2013066	4-9010-12142-412140-800700-1150	15,000.00	ADP Equipment
2013067	3-1000-15000-315000-150207-1003	956.00	Sale of Surplus Goods
2013067	3-1000-19000-319000-190207-1001	37,627.27	City Share
2013067	4-1000-31013-431010-120000-1003	37,627.27	Overtime
2013067	4-1000-31013-431010-520300-1003	956.00	Telecommunications
2013068	4-1000-99900-499000-999974-9999	-4,000.00	Grants Leveraging Fund
2013068	4-1000-93010-493010-930227-9999	4,000.00	Transfer to fund 1597
2013068	3-1597-33000-333000-330412-1003	35,995.00	Federal Revnue: DCJS - JABG
2013068	3-1597-51000-351000-512004-9999	4,000.00	Transfer From - Grant Leveraging Fund

2013068	4-1597-31013-431010-312105-1003	39,995.00	consulting service
2013069	4-9010-32030-432030-950350-3140	-146,253.00	CARS - AMBULANCE #1
2013069	4-9010-32030-432030-950351-3140	-146,253.00	CARS - AMBULANCE #2
2013069	4-9010-32010-432010-950362-3140	292,506.00	System Ambulance
2013071	4-1000-93010-493010-930230-9999	519.00	Transfer to OFD
2013071	4-1000-81021-481020-550100-1008	6,853.00	CDD Training
2013071	4-1000-32012-432010-550100-1003	4,920.00	FR Training
2013071	4-1000-53011-453010-550100-1005	13,000.00	DSS Training
2013071	4-1000-99900-499000-999984-9999	-25,292.00	Training Pool
2013071	4-1925-43100-443100-550100-1004	519.00	OFD Training
2013071	3-1925-51000-351000-512004-9999	519.00	Tr from GF
2013065	3-9000-69000-351000-510103-6599	850,000.00	TRS FR GF SUP&EXP SAVINGS Sch CIP
2013065	3-9000-69000-351000-510100-6599	-850,000.00	App Sch CIP Fund Balance
2013070	3-3104-63104-318000-189960-6599	50,000.00	Misc Grants
2013070	4-3104-63104-461000-601300-6599	50,000.00	Reserve - Grants
TOTAL		13,686,498.80	

Item No. 9.8. ACE; Virginia Department of Agriculture and Consumer Services grant for easement acquisition.

The executive summary states that the Virginia Department of Agriculture and Consumer Services' ("VDACS") Office of Farmland Preservation has awarded a grant in the amount of \$160,715.64 to the County under a program established by the 2007 General Assembly to provide funds for the preservation of working farms and forest lands.

The County was awarded similar grants of \$110,952.46 in 2012, \$55,290.31 in 2011, \$93,932.19 in 2010, \$49,900.00 in 2009 and \$403,219.75 in 2008. The 2012 General Assembly appropriated \$1.2 million for this grant program statewide, and Albemarle County is one of nine localities to receive a grant this year, and one of only seven to receive the full amount requested.

VDACS has requested that the County enter into an Intergovernmental Agreement (the "Agreement") (Attachment A) as a condition for receiving this grant. While the County has yet to identify the specific easement(s) to which it would apply these funds, it intends to apply them toward the acquisition of the next qualifying easement. It is anticipated that this grant can be used for an application in the next pool of applications we receive this year. This grant can be used to reimburse or partially reimburse any qualifying purchase for up to two years from the date of the Agreement. The key provisions of the Agreement are summarized below.

1. The Agreement would obligate VDACS to set aside the grant amount in a restricted account and reimburse the County for its eligible costs for the purchase of conservation easement(s). The County's funds would be restricted exclusively for the County's qualifying costs for a period of up to two years.
2. The Agreement would restrict conversion or diversion of a subject property from open-space use, unless the conversion or diversion satisfied the requirements of the Open Space Land Act. Conversion or diversion of land is permitted under the Open-Space Land Act in limited circumstances upon the concurrence of the County and the Public Recreational Facilities Authority and upon the placement of substitute land of equal or greater value and quality under an open-space easement. The Agreement would entitle VDACS to reimbursement of its pro rata share of the market value of the easement if conversion or diversion ever occurred.
3. In exchange for VDACS's grant commitment, the Agreement would obligate the County to:
 - appropriate matching funds equal to the grant amount for the purchase of a subject easement,
 - apply the grant funds to the purchase of the easement,
 - provide VDACS with annual progress reports (while the grant Agreement is in force) describing the County's efforts to obtain easements on other working farms, and its programs for public outreach, stewardship and monitoring, and measuring the effectiveness of the County's efforts to bring working farms under easement,
 - maintain sufficient title insurance for the subject easement(s) (which is already a standard County practice),
 - allow VDACS the opportunity to review easement instruments and the title insurance policy prior to closing,
 - provide VDACS copies of the recorded easement instrument after closing,
 - provide notice to VDACS if the County receives an application to convert or divert a subject easement from its permitted easement uses, and
 - enforce the terms and conditions of the deed of easement.

Staff has reviewed the terms of this year's proposed Intergovernmental Agreement between VDACS and the County and finds its terms acceptable. The Agreement has been reviewed and approved by the County Attorney's Office.

The County's execution of the Intergovernmental Agreement would allow the County to receive \$160,715.64 in State funding to apply to the ACE program. In order for the County to receive these funds,

it must appropriate matching funds of \$160,715.64. That local match is available through funds already appropriated for ACE purposes in FY 13.

Staff recommends that the Board authorize the County Executive to execute the Agreement (Attachment A) on behalf of the County, provided that it is first approved as to form and content by the County Attorney.

(Discussion: Mr. Boyd asked if the matching funds required the County to put up any funds.

Ms. Mallek said the County has been funding the amount needed to get the match all along.

Mr. Davis stated that there is some existing money to meet the match. The requirements are the same as they have been for the last several years. He added that there is matching funding available in the current budget for the program, so there is no additional money required.

Ms. Mallek noted that there is money in the program because a landowner who was in the application process changed his mind, so the funding that was set aside for him is available in the budget.)

By the above-recorded vote, the Board authorized the County Executive to execute the the following Agreement on behalf of the County, provided that it is first approved as to form and content by the County Attorney:

INTERGOVERNMENTAL AGREEMENT
Between
Virginia Department of Agriculture and Consumer Services
and
Albemarle County

This INTERGOVERNMENTAL AGREEMENT is entered into this 31st day of December, 2012, in the City of Richmond, Virginia, between the Virginia Department of Agriculture and Consumer Services ("VDACS") and Albemarle County (collectively, "the parties") to provide mutually advantageous terms for cooperation between VDACS and Albemarle County to implement VDACS' contribution of funds in support of Albemarle County's purchase of agricultural conservation easements.

WHEREAS, the General Assembly, by Chapter 3 of the 2012 Special Session I Acts of Assembly, has appropriated \$1,200,000 in the fiscal year ending June 30, 2013 to VDACS for the continuation of a state fund to match local government purchase of development rights program funds for the preservation of working farms and forest lands; and,

WHEREAS, § 3.2-201 of the Code of Virginia authorizes VDACS' Office of Farmland Preservation to develop methods and sources of revenue for allocating funds to localities to purchase agricultural conservation easements, and to distribute these funds to localities under policies, procedures, and guidelines developed by VDACS' Office of Farmland Preservation; and,

WHEREAS, for all purposes of this INTERGOVERNMENTAL AGREEMENT, the term "agricultural conservation easement" shall mean a negative easement in gross that has the primary conservation purpose of preserving working farm and/or forest land; and,

WHEREAS, the Albemarle County Board of Supervisors has enacted an ordinance or passed a resolution that: authorizes, in accordance with Title 10.1, Chapter 17 of the Code of Virginia ("the Open-Space Land Act") and other applicable law, Albemarle County to purchase agricultural conservation easements from landowners (each hereinafter called "Grantor"); sets forth a clear, consistent, and equitable administrative process governing such purchases; and outlines the goals and purposes of Albemarle County's farmland preservation program; and,

WHEREAS, Albemarle County has agreed to maintain a public outreach program designed to educate various stakeholders in Albemarle County—including farmers, landowners, public officials, and the non-farming public—about Albemarle County's initiatives to preserve working farms and forest lands; and,

WHEREAS, Albemarle County has agreed to establish a transparent and replicable process for valuation of agricultural conservation easements; and,

WHEREAS, the purchase of agricultural conservation easements is one component of Albemarle County's broader farmland preservation program; and,

WHEREAS, Albemarle County has agreed to use a deed of easement that is sufficiently flexible to allow for future agricultural production in purchases of agricultural conservation easements for which Albemarle County uses funds contributed to it by VDACS; and,

WHEREAS, Albemarle County has agreed that any agricultural conservation easement purchased as per the terms of this INTERGOVERNMENTAL AGREEMENT shall meet the definition of "real estate devoted to agricultural use", "real estate devoted to horticultural use" or "real estate devoted to forest use" as established in § 58.1-3230 of the Code of Virginia; and,

WHEREAS, Albemarle County has agreed to establish a clear strategy for monitoring and enforcing the terms of the agricultural conservation easements that Albemarle County purchases; and,

WHEREAS, Albemarle County has agreed to establish a process that Albemarle County will use to evaluate the effectiveness of its farmland preservation program, including a protocol for making changes to Albemarle County's agricultural conservation efforts based on such evaluations; and,

WHEREAS, VDACS, in reliance on the veracity of the foregoing recitals, certifies Albemarle County is eligible to receive contributions of funds from VDACS in reimbursement for certain costs Albemarle County actually incurs in the course of purchasing agricultural conservation easements; and,

WHEREAS, Albemarle County, and the agents and employees of Albemarle County, in the performance of this INTERGOVERNMENTAL AGREEMENT, are acting on behalf of Albemarle County, and not as officers or employees or agents of the Commonwealth of Virginia;

NOW, THEREFORE, VDACS and Albemarle County agree their respective responsibilities, pursuant to this INTERGOVERNMENTAL AGREEMENT, shall be defined as follows:

1. VDACS Responsibilities

- a. VDACS shall, within thirty (30) days of the date of execution of this INTERGOVERNMENTAL AGREEMENT, restrict \$160,715.64 (hereinafter "the allocation amount") in an account, from which VDACS shall withdraw funds only to pay contributions of funds that Albemarle County is eligible to receive pursuant to this INTERGOVERNMENTAL AGREEMENT, except that upon the expiration of two (2) years from the date of this INTERGOVERNMENTAL AGREEMENT, or immediately upon Albemarle County's failure to perform any of its obligations under the terms of this INTERGOVERNMENTAL AGREEMENT, VDACS shall have the right to withdraw any funds then remaining in such account and the right to redirect those funds to other localities that VDACS certifies as being eligible to receive matching funds and that enter into an intergovernmental agreement with VDACS to govern the distribution of matching funds for the purchase of agricultural conservation easements. The allocation amount from this and any prior INTERGOVERNMENTAL AGREEMENT shall not be considered to be a grant as that term is used in paragraph 1(b) of this INTERGOVERNMENTAL AGREEMENT.
- b. Upon Albemarle County or any agent acting on behalf of Albemarle County's recordation of a deed evidencing Albemarle County's purchase of an agricultural conservation easement in the circuit court of the city or county where the Grantor's land is located and Albemarle County's submission to VDACS of a completed claim for reimbursement, on a form prescribed by VDACS, together with the supporting documentation required under paragraph 2(e) of this INTERGOVERNMENTAL AGREEMENT, VDACS shall reimburse Albemarle County fifty percent (50%) of the reimbursable costs that Albemarle County actually incurred in the course of purchasing that agricultural conservation easement, limited to that portion of the allocation amount remaining in the account maintained by VDACS pursuant to paragraph 1(a) of this INTERGOVERNMENTAL AGREEMENT. The following shall not be considered to be reimbursable costs that Albemarle County actually incurred and shall be subtracted from the total amount of reimbursable costs considered for reimbursement by VDACS in connection with any particular agricultural conservation easement transaction: grants made by the United States of America, the Virginia Department of Agriculture and Consumer Services (VDACS), the Virginia Department of Conservation and Recreation (DCR), the Virginia Outdoors Foundation (VOF), or any other governmental agency or political subdivision of the Commonwealth of Virginia; payments made by any other funding sources either directly to the landowner or to reimburse Albemarle County; or in-kind donations or contributions. VDACS may make alternative arrangements for the distribution of funds pursuant to this INTERGOVERNMENTAL AGREEMENT, provided Albemarle County presents a written request for such alternative arrangement to the Commissioner of VDACS or the Commissioner of VDACS's designated agent (referred collectively hereinafter as "the Grant Manager") prior to incurring any expense for which Albemarle County seeks a distribution of funds under the proposed alternative arrangement.

For purposes of this INTERGOVERNMENTAL AGREEMENT, "reimbursable costs" include:

1. The purchase price of the agricultural conservation easement actually incurred by Albemarle County, at present value, including any portion that Albemarle County will pay over time pursuant to an installment purchase agreement;
2. The cost of title insurance actually incurred by Albemarle County;
3. The cost actually incurred by Albemarle County of any appraisal of the land by a licensed real estate appraiser upon which Albemarle County purchases an agricultural conservation easement;
4. The cost actually incurred by Albemarle County of any survey of the physical boundaries of the land by a licensed land surveyor upon which Albemarle County purchases an agricultural conservation easement, including the cost of producing a baseline report of the conditions existing on the land at the time of the conveyance of the agricultural conservation easement;
5. Reasonable attorney fees actually incurred by Albemarle County associated with the purchase of an agricultural conservation easement, where reasonable

attorney fees include those fees associated with outside counsel required for the completion of the easement, but do not include fees related to county or city attorneys serving as staff and who are paid regular salary in the county's or city's employ;

6. The cost actually incurred by Albemarle County of issuing public hearing notices associated with Albemarle County's purchase of an agricultural conservation easement that Albemarle County is required by law to issue; and
 7. Any recordation fees actually incurred by Albemarle County that Albemarle County is required to pay pursuant to the laws of the Commonwealth of Virginia.
- c. VDACS shall only be responsible for reimbursing Albemarle County under paragraph 1(b) of this INTERGOVERNMENTAL AGREEMENT for reimbursable costs that Albemarle County actually incurs in the course of purchasing an agricultural conservation easement when Albemarle County or any agent acting on behalf of Albemarle County acquires, by such purchase, a deed of easement that, at a minimum, provides:
1. The primary conservation purpose of the easement conveyed by the deed of easement is the conservation of the land in perpetuity for working farm and/or forestal uses.
 2. The Grantor and Albemarle County agree that the land subject to the agricultural conservation easement shall not be converted or diverted, as the Open-Space Land Act employs those terms, until and unless the Grant Manager, with the concurrence of Albemarle County or an assignee of Albemarle County's interest in the agricultural conservation easement, certifies that such conversion or diversion satisfies the requirements of the Open-Space Land Act.
 3. The Grantor and Albemarle County agree that, in the event of an extinguishment of the restrictions of the agricultural conservation easement that results in the receipt of monetary proceeds by Albemarle County or an assignee of Albemarle County's interest in an agricultural conservation easement in compensation for the loss of such property interest, VDACS shall be entitled to a share of those proceeds proportional to VDACS' contribution toward the total reimbursable cost of acquiring the agricultural conservation easement as evidenced by the completed claim for reimbursement required under paragraph 1(b) of this INTERGOVERNMENTAL AGREEMENT.
 4. If the Grantor conveys the agricultural conservation easement for less than its fair market value, the Grantor and Albemarle County mutually acknowledge that approval of the terms of this Deed of Easement by VDACS and/or its legal counsel does not constitute a warranty or other representation as to the Grantor's qualification for any exemption, deduction, or credit against the Grantor's liability for the payment of any taxes under any provision of federal or state law.
 5. All mortgagors and other holders of liens on the property subject to the restrictions contained in the deed of easement have subordinated their respective liens to the restrictions of the deed of easement acquired by Albemarle County. All such mortgagors and other holders of liens shall manifest their assent to the easement's priority over their respective liens by endorsing the deed of easement.
 6. A baseline report documenting the conditions existing on the land at the time of the conveyance of the agricultural conservation easement is incorporated into the deed of easement by reference.

2. Albemarle County Responsibilities

- a. Albemarle County shall, within thirty (30) days of the date of execution of this INTERGOVERNMENTAL AGREEMENT, have available local funds greater than or equal to the allocation amount for the purpose of purchasing agricultural conservation easements.
- b. Albemarle County shall use matching funds that VDACS contributes to Albemarle County, pursuant to this INTERGOVERNMENTAL AGREEMENT, only for the purpose of purchasing agricultural conservation easements that are perpetual and that have the primary conservation purpose of preserving working farm and/or forest lands.
- c. Within one (1) year from the date of this INTERGOVERNMENTAL AGREEMENT, and for each subsequent year in which the INTERGOVERNMENTAL AGREEMENT or a subsequent agreement is in force, Albemarle County shall submit to VDACS a progress report that:
 1. describes any properties that Albemarle County has identified as prospects for Albemarle County's purchase of agricultural conservation easements and the

- status of any negotiations for the purchase of such agricultural conservation easements;
2. estimates the timeframes within which Albemarle County will execute contracts for any such purchases, close on such purchases, and request reimbursement of reimbursable costs for those purchases from VDACS;
 3. describes the measures Albemarle County has undertaken to develop and/or maintain a public outreach program designed to educate various stakeholders in Albemarle County's community—including farmers, landowners, public officials, and the non-farming public—about Albemarle County's agricultural conservation easement program and other initiatives to preserve working agricultural land;
 4. describes the measures Albemarle County has undertaken to develop and/or maintain a formal plan for stewardship and monitoring of the working agricultural land on which Albemarle County acquires agricultural conservation easements; and
 5. describes the measures Albemarle County has undertaken to develop and/or maintain a process that Albemarle County will use to evaluate the effectiveness of its program, including a protocol for making changes to Albemarle County's agricultural conservation efforts based on such evaluations.
- d. For any purchase of agricultural conservation easements for which Albemarle County requests reimbursement from VDACS pursuant to this INTERGOVERNMENTAL AGREEMENT, Albemarle County shall obtain a policy of title insurance on its purchased interest that covers at least an amount equal to the amount for which Albemarle County requests reimbursement from VDACS.
- e. Prior to closing on a purchase of an agricultural conservation easement for which Albemarle County requests reimbursement from VDACS pursuant to this INTERGOVERNMENTAL AGREEMENT, Albemarle County shall submit, for review and approval by VDACS and its legal counsel, the following documentation:
1. a written agreement setting forth, in the manner prescribed by Albemarle County's ordinance or resolution governing its program to acquire agricultural conservation easements, the terms of Albemarle County's purchase of the agricultural conservation easement, including the purchase price;
 2. a written confirmation from the Albemarle County Commissioner of Revenue or Director of Finance, or the Albemarle County Commissioner of Revenue's or Director of Finance's designated agent that the property/ properties to be encumbered by the agricultural conservation easement meet the definition of "real estate devoted to agricultural use", "real estate devoted to horticultural use" or "real estate devoted to forest use" as established in § 58.1-3230 of the Code of Virginia;
 3. a written description of the agricultural, environmental and social characteristics of the property/properties to be encumbered by the agricultural conservation easement;
 4. any installment purchase agreement;
 5. the deed of easement that the Grantor will deliver to Albemarle County at closing, including all exhibits, attachments, and/or addenda;
 6. a title insurance commitment for a policy to insure the easement interest under contract indicating an amount of coverage at least equal to the amount of funds for which Albemarle County requests reimbursement from VDACS; and
 7. an itemized list of all reimbursable costs that Albemarle County has or will, up to the time of closing, incur in the course of purchasing the agricultural conservation easement.

Albemarle County shall make whatever changes to the proposed deed of easement and/or the installment purchase agreement, where applicable, that VDACS and/or its legal counsel deem necessary to ensure compliance with applicable state law and the requirements and purposes of this INTERGOVERNMENTAL AGREEMENT.

Albemarle County may fulfill its obligation under this paragraph by submitting accurate and complete copies of all documents enumerated in this paragraph, provided that Albemarle County shall deliver or make available the original documents to VDACS for review at VDACS' request.

- f. Together with any claim for reimbursement pursuant to this INTERGOVERNMENTAL AGREEMENT that Albemarle County submits to VDACS, Albemarle County shall also submit the following supporting documentation:
 1. a copy of the recorded deed of easement that VDACS and/or its legal counsel approved prior to closing, showing the locality, deed book, and page of recordation, and including all exhibits, attachments, and/or addenda;
 2. copies of invoices, bills of sale, and cancelled checks evidencing Albemarle County's incursion of reimbursable costs in the course of purchasing the agricultural conservation easement;
 3. a copy of any executed installment purchase agreement related to the purchase, which shall indicate the purchase price; and
 4. a copy of any deed of trust related to the purchase.
- g. Albemarle County shall provide the Grant Manager immediate written notice of Albemarle County's receipt of any application or proposal for the conversion or diversion of the use of any land upon which Albemarle County or its assignee, where applicable, holds an agricultural conservation easement, for the purchase of which VDACS contributed funds pursuant to this INTERGOVERNMENTAL AGREEMENT.
- h. Albemarle County, or any assignee of Albemarle County's interest in an agricultural conservation easement for which Albemarle County receives a contribution from VDACS pursuant to this INTERGOVERNMENTAL AGREEMENT shall at all times enforce the terms of that easement. Albemarle County shall provide the Grant Manager immediate written notice of any actions, whether at law, in equity, or otherwise, taken by locality to enforce the terms of the easement or to abate, prevent, or enjoin any violation thereof by any party. Any failure by Albemarle County or such assignee to perform its enforcement responsibility shall constitute a breach of this INTERGOVERNMENTAL AGREEMENT, for which VDACS shall have a remedy by way of a civil action for specific performance of that enforcement responsibility; or, VDACS shall have the right and authority, at its option, to demand and receive from Albemarle County a portion of the full market value of the agricultural conservation easement at the time of the breach in proportion to VDACS' contribution toward the total reimbursable cost of acquiring the agricultural conservation easement as evidenced by the completed claim for reimbursement required under paragraph 1(b) of this INTERGOVERNMENTAL AGREEMENT.
- i. For any purchase of an agricultural conservation easement for which Albemarle County requests reimbursement from VDACS pursuant to this INTERGOVERNMENTAL AGREEMENT, Albemarle County shall derive its valuation of the agricultural conservation easement according to the valuation methods prescribed by ordinance or resolution.

3. Merger and Supersedure of Prior Agreement

The parties agree that terms of any INTERGOVERNMENTAL AGREEMENT previously entered into between the parties to govern VDACS' distribution of funds to Albemarle County in support of Albemarle County's purchase of agricultural conservation easements shall be merged into the instant INTERGOVERNMENTAL AGREEMENT, the latter of which shall supersede all former INTERGOVERNMENTAL AGREEMENTS to the extent that there are any inconsistencies between the terms of these INTERGOVERNMENTAL AGREEMENTS. Notwithstanding the language of this paragraph, VDACS shall be required to restrict the allocation amount(s) provided in paragraph 1(a) of any prior agreement(s) in addition to the current allocation amount, but shall only be required to restrict any prior allocation amount(s) until the expiration of two (2) years from the date of execution of the prior agreement(s).

4. Recertification

This INTERGOVERNMENTAL AGREEMENT pertains exclusively to VDACS' contribution of funds that the General Assembly has appropriated to VDACS through the fiscal year ending June 30, 2013. VDACS shall not contribute other funds in the future to Albemarle County except upon VDACS' recertification of Albemarle County's eligibility to receive such funds. VDACS may establish and communicate to Albemarle County certain benchmarks of program development that VDACS will impose upon Albemarle County as preconditions to Albemarle County's recertification for future contributions.

5. Governing Law

This INTERGOVERNMENTAL AGREEMENT is governed by and shall be interpreted in accordance with the laws of the Commonwealth of Virginia. In all actions undertaken pursuant to this INTERGOVERNMENTAL AGREEMENT, preferred venue shall be in the City of Richmond, Virginia, at the option of VDACS.

6. Assignment

Albemarle County shall not assign this INTERGOVERNMENTAL AGREEMENT, either in whole or in part, or any interest in an agricultural conservation easement for the purchase of which VDACS contributes funds pursuant to this INTERGOVERNMENTAL AGREEMENT, without the prior, written approval of the Grant Manager.

7. Modifications

The parties shall not amend this INTERGOVERNMENTAL AGREEMENT, except by their mutual, written consent.

8. Severability

In the event that any provision of this INTERGOVERNMENTAL AGREEMENT is unenforceable or held to be unenforceable, then the parties agree that all other provisions of this INTERGOVERNMENTAL AGREEMENT have force and effect and shall not be affected thereby.

(The rest of this page is intentionally left blank. Signatures manifesting the parties' mutual assent to the terms contained in this INTERGOVERNMENTAL AGREEMENT appear on the next page.)

In witness, whereof, the parties hereto have executed this INTERGOVERNMENTAL AGREEMENT as of the day and year first written above.

Item No. 9.9. Resolution to Approve Travel Reimbursement Policy for Board of Supervisors' Members.

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

**RESOLUTION TO APPROVE TRAVEL REIMBURSEMENT
POLICY FOR BOARD OF SUPERVISORS MEMBERS**

WHEREAS, the Board of Supervisors may grant to its members any or all of the fringe benefits in the manner and form as such benefits are provided for County employees pursuant to § 15.2-1414.3 of the Code of Virginia; and

WHEREAS, the Board of Supervisors finds that a policy to establish uniform standards and procedures for travel reimbursement will serve the purpose of allowing Board members to travel on official County business and assure the prudent use of County funds.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of Albemarle County, Virginia hereby adopts the Travel Reimbursement Policy for Board of Supervisors Members, as attached hereto and incorporated herein.

**Travel Reimbursement Policy for Board of Supervisors Members
of Albemarle County, Virginia**

The purpose of this policy is to establish uniform standards and procedures that allow Board members to travel for official County business purposes consistent with the prudent use of County funds.

I. Scope

- A. Board members may be reimbursed for the following routine travel expenses, provided there are available funds:
 - 1. Mileage for travel by personal vehicle or other travel costs to scheduled Board meetings and Board committee meetings for committees to which a Board member is appointed, from home or work, if a work day, which is not part of routine personal travel;
 - 2. Mileage for travel by personal vehicle or other travel costs to events reasonably necessary to prepare for matters scheduled for consideration on the Board's agenda which is not part of routine personal travel (i.e., site visits, informational meetings); and
 - 3. Parades and other community gatherings not advertised as Supervisor's town hall meetings to discuss County business. Travel to use the COB office between other personal travel or meetings, shall not be covered.
- B. Board members may be reimbursed for the following educational conference travel expenses, provided there are available funds:

1. All necessary, actual and reasonable meal, travel and lodging costs (including gratuity and excluding alcohol) of attending regional, statewide or national meetings at which the Board member represents the County, as approved by the Board; and
 2. All necessary, actual and reasonable meal, and travel (including gratuity and excluding alcohol) of attending legislative or congressional hearings relating to official County business.
- C. Board members will not be reimbursed for the following travel expenses:
1. Travel to events which are political in nature (i.e., campaigning or partisan events);
 2. Personal expenses incurred during travel; or
 3. Other travel which is not part of the statutory governmental duties of the Board of Supervisors that are not provided for in Sections A or B.

II. Procedures

- A. This policy will be applied and overseen in the following manner:
1. Reimbursement requests shall be made in writing on forms provided by the Clerk of the Board and shall itemize the date, number of miles of travel expenses and purpose of the meeting. Mileage for use of a personal vehicle shall be reimbursed at the County's authorized car mileage reimbursement rate. Other reimbursements shall be for the amount of costs expended and shall be documented by receipts for actual amounts paid.
 2. The Clerk, or her/his designee, will review all travel reimbursement requests prior to reimbursement. No payment will be made for incomplete submissions or information.
 3. When all allocated funds for Board reimbursements have been expended, there will be no further reimbursement for that fiscal year unless the Board appropriates additional funding.
 4. This policy shall be distributed to each member of the Board upon taking office or upon any changes to the policy.

Item No. 9.10. ZTA 2012-0012 - Critical Slopes; cost of revising critical slopes regulations.

The executive summary states that on November 7, 2012, staff presented a proposal to amend the critical slopes regulations to the Board. As part of developing new regulations, staff proposed a robust public process. The Board expressed concern that the cost to the County in developing and administering the new regulations may be excessive when compared to the benefit of reviewing critical slopes disturbances on a case by case basis under the existing regulations. This report provides a cost-benefit analysis of the proposed regulations.

The Board requested that staff demonstrate how a revision to the critical slopes regulations would:

- Save the County money
- Save applicants money
- Save the Board review time
- Save time in the review process

In order to determine the benefits to the County in terms of cost, staff first calculated the expected cost of amending the critical slopes regulations. At the November 7 meeting, staff recommended the following steps to amend the critical slopes regulations:

- Meet with the Board-appointed Citizen Advisory Councils for the various neighborhoods for input. These meetings are expected to occur in March, 2013.
- Hold Open Houses after providing mailed notice to the affected property owners in the Development Areas. It is expected that multiple Open Houses will be required. The Open Houses are expected to be held during the second quarter of 2013.
- Hold a work session with the Planning Commission to review the public input received at the Open Houses and to determine if the proposed zoning text amendment (ZTA) is ready to be scheduled for public hearings. This work session is expected to occur in the early part of the third quarter of 2013.

Staff estimates that the cost would be \$25,000 to \$35,000 based on the timeline and resources required for these steps. This cost includes staff's costs to map the critical slopes within the Development Areas. Of course, the amount of staff time required to process the zoning map amendment and zoning text amendment will depend on the amount of landowner opposition or disagreement with the maps.

Some members of the Board expressed concern regarding the perceived complexity of the proposed regulations. After the Open Houses are completed, staff will develop an outline of the proposed regulations and, if the Board requests, will present the outline to the Board for consideration before the Planning Commission work session.

How will amending the critical slopes regulations save the County money?

Based on the fee study the County undertook in 2004, which determined the County's cost to review zoning and subdivision applications, and adjusting for inflation, staff estimates that the County's cost to review a critical slopes waiver request under the current regulations is \$1,900 per request. Because the current fee for a critical slopes waiver request is \$425, the County absorbs the \$1475 shortfall with each application. In 2011 and 2012, only 16 critical slopes waiver requests were submitted each year. In these years, when the numbers of requests were at historic lows, the County's shortfall each year was \$23,600. The table below provides some perspective on the number of estimated critical slopes waiver requests over the past eight years.

	2005	2006	2007	2008	2009	2010	2011	2012
SDP/SUB Applications	536	549	568	516	279	258	233	229
# of waivers based on 2012 experience (7% of applications)	38	38	40	36	20	18	16	16
Estimated unrecovered cost	\$56,050	\$56,050	\$59,000	\$53,100	\$29,500	\$26,550	\$23,600	\$23,600

The proposed critical slopes regulations outlined by staff at the November 7 work session will create two categories of critical slopes – Preserved and Managed.

Preserved slopes would not be allowed to be disturbed except in certain specific circumstances. These exemptions will be identified when the draft regulations are developed. The current regulations have provisions for exempt activities on critical slopes. Reviews to determine if activities are exempt currently occur and involve very limited staff resources.

Managed slopes would be allowed to be disturbed only if performance standards are satisfied. The review of the disturbance of Managed slopes will be the same as what currently occurs for all grading activities. The standards for disturbing Managed slopes will incorporate specific design criteria similar to the Erosion and Sediment Control regulations in the Water Protection Ordinance, which the County already has experience in reviewing and enforcing. Staff does not anticipate any significant increase in workload or review time to insure that the performance standards are satisfied. As the proposed regulations are developed, staff will further analyze this issue. If any costs are associated with the review of Managed slopes which are greater than the cost for review of any other grading activity, staff will inform the Board and recommend an appropriate fee. However, at this point, staff is confident that any costs would be less than the existing \$425 fee for reviewing requests to disturb critical slopes. Exemptions for disturbing Managed slopes would be developed. Staff is exploring appropriate legislative and administrative solutions in those cases where critical slopes boundaries or designations as Preserved or Managed are disputed or when the regulations impose a hardship on the owner of an individual parcel. Staff anticipates that these remedies would rarely, if ever, be required.

The proposed review process means that the unrecovered cost for the review of a critical slopes disturbance would be reduced to zero. Therefore, the expected return on investment is approximately one year based on the recent annual historically low numbers of requests, and approximately six months based on historic averages.

How will amending the critical slopes regulations save the applicants money?

Under the proposed regulations, applicants will not have to pay a fee for the review of a critical slopes disturbance. This is a direct savings to the applicant. No application for the disturbance of Managed slopes will be required. Under the current regulations, applicants incur not only a \$425 fee, but also a cost due to the resources that must be devoted to preparing the request and justification for the disturbance of critical slopes. The applicant will not be required to review or respond to a staff report for a critical slopes waiver and will not have to attend a Board meeting. These are all direct cost savings to the applicant. Indirect cost savings to the applicant include certainty in the development process. Applicants will know which portions of their property may be developed and what measures will need to be undertaken to develop the site. County staff has been told by developers that removing uncertainty is a cost savings to them.

How will amending the critical slopes regulations save the Board review time?

Applications for special exceptions to allow critical slopes waivers will no longer be presented to the Board. This eliminates the time and cost associated with placing items on the Board's agenda, even on the consent agenda. This also reduces the burden on the County Attorney's Office, the County Executive's Office and the Clerk of the Board. All of these entities are involved in preparing and scheduling consent agenda items.

How will amending the critical slopes regulations save time in the review process?

By eliminating the need for critical slopes waivers, review times will be reduced. The applicant will not have to spend time preparing a request and justification. Staff will not have to process waiver requests. Review time for the County Attorney's office, the County Executive's Office and the Clerk of the Board would be eliminated. Projects will be approved administratively without having to wait for a Board meeting for action to be taken on the waiver. This will also allow site plans to be approved in less time.

Staff also believes that the new regulations will result in intangible benefits to the community, such as more predictable development patterns, a more attractive community and improved protection of resources.

Staff anticipates that the cost to review the disturbance of Managed critical slopes will be no greater than to review the disturbance of any non-critical slopes. This means that the County's unrecovered costs for reviewing requests for critical slopes disturbance under the proposed regulations would be reduced to zero. Therefore, staff anticipates that the proposed regulations will have a positive budget impact, even if some applicants having lands in the Preserved area seek legislative or administrative relief.

Staff recommends that the Board direct staff to proceed with the ZTA to amend the critical slope regulations as outlined by staff, including a Board work session on the outline of the proposed regulations before the Planning Commission work session, unless staff is directed otherwise.

(Discussion: Ms. Mallek pulled this item for discussion at the end of the meeting.)

Item No. 9.11. FY 13 General Fund Second Quarter Report and Revised FY 13 Revenue Projections Report, **was received for information:**

The attached Quarterly Financial Report (Attachment A) provides information regarding the County's FY 13 General Fund performance as of December 31, 2012. The Revised Financial Projections Report (Attachments B through D) includes projected General Fund revenues and expenditures for FY 13.

The Quarterly Financial Report (QFR) reflects year-to-date (YTD) data through December 31, 2012, the end of the second quarter of FY 13. The data in the attached QFR is organized in a way that is consistent with Exhibit 12 of the County's Comprehensive Annual Financial Report (CAFR). Most line item titles in the QFR match the line item titles in the CAFR.

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

Additionally, the QFR includes corresponding data from FY 12 so that the current fiscal year's financial data can be compared easily to that of the previous fiscal year. An important feature of this report is that data is provided for a point in time (December 31, 2012) and is compared to data from the same point in time for the prior fiscal year (December 31, 2011). Anomalies and similarities between fiscal years become readily apparent using this comparison method.

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

Highlights of the attached reports include:

Revenues – YTD Actual

YTD total revenues in the second quarter of FY 13 totaled \$98,571,081, compared to \$96,998,820 in the second quarter of FY 12. In percentage terms, FY 13 YTD Actual revenues, as a percentage of FY 13 Revised Budget revenues, stood at 43.86% compared to 44.47% in FY 12. This result represents an essentially neutral trend for revenues.

Revenue streams performed fairly consistently through the second quarter of FY 13 compared with the same quarter of FY 12. There were just three significant year-to-year variances in revenues. These three streams included Local

Revenues: Miscellaneous; Intergovernmental: Contributions from Other Entities; and Intergovernmental: Revenue from Federal Government. The variance in Miscellaneous revenue reflects a one-time payment to the County of \$250,000. The variance in Contributions from Other Entities, as well as the variance in Revenue from the Federal Government, reflects the timing of when these transfers were made in both fiscal years. For additional information about revenue variances, please see the analysis page in the QFR.

Expenditures – YTD Actual

YTD total expenditures in the second quarter of FY 13 totaled \$79,167,049, compared to \$49,731,647 in the second quarter of FY 12. This significant variance is due principally to the fact that, in the first half of FY 13, there was a \$25,026,575 transfer to the Schools Division whereas, due to a delay in the transfer in the previous year, the corresponding amount in the first quarter of FY 12 was \$0. Seven other expenditure items had significant variances from the previous year. These items included Public Safety: Fire & Rescue; Public Safety: City Fire Contract; Public Works: Facilities Development; Human Development: Social Services; Education: Transfer to School CIP; Education: Transfer to Schools Debt Service; and Transfers, Contingencies, and Refunds: Transfer Accounts.

The variance in Fire & Rescue expenditures reflects a major salary reclassification that took place in the Spring of 2012. These costs would not have been included in the first half of FY 12, but have been included in the first half of FY 13. The FY 13 budget also includes three new positions at Pantops. The variance in Facilities Development expenditures reflects the fact that, in FY 12, the entire Facilities Development function was budgeted as part of the General Fund, and that this function was moved to a

separate fund in FY 13. The amount remaining in the General Fund in FY 13 represents just the general government portion of Facilities Development expenditures. In the case of each of the remaining expenditure streams, the variance reflects the timing of when the transfer or contribution was made in both fiscal years. For additional information about expenditure variances, please see the analysis page in the QFR.

Year-end Projections

The Revised Financial Projections Report indicates that, by June 30, 2013, estimated revenues will exceed appropriated revenues by roughly \$1.750 million, whereas expenditures are projected to be approximately \$1.112 million below the appropriated budget. This difference between appropriated expenditures and projected expenditures is due primarily to savings associated with salary lapse and insurance. Excess revenues and expenditures savings are projected to result in a net of \$2.861 million additional fund balance by the end of FY 13.

In addition to the attached reports, the Board directed staff to provide a quarterly update of any FY 13 budget transfers administratively approved by the County Executive as authorized by the Board on August 1, 2012.

During this quarter, the County Executive approved three administrative transfers totaling \$30,885. Two transfers, one in the amount of \$19,150 and the other in the amount of \$7,815, were made to transfer funds from the Local Government's training pool to various departments for approved training expenses. The third transfer in the amount of \$3,920 was made to correct previous appropriations that were associated with the transfer of the Organizational Development Manager position from the Human Resources Department to the County Executive's Office. Funding that was moved to the County Executive's Office for staff development and telecommunications was transferred back to the Human Resources Department and funding for cross-departmental organizational development activities was moved from the Human Resources Department budget to the County Executive's budget.

Revenue and expenditure data contained in the QFR reflects the state of the County's budget-to-actual FY 13 financial performance as of December 31, 2012. Year-end projections are subject to change based on the result of actual collections and expenditures through June 30, 2013.

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

Item No. 9.12. County Grants Application Report, ***was received for information:***

GRANT REPORT ACTIVITY THROUGH January 15, 2012

The following grants were awarded since November 2012.

SOURCE	GRANT NAME	AMOUNT	MATCH	DEPARTMENT	PURPOSE
Virginia Dept. of Emergency Management	FY 2012 Emergency Management Performance Grant Federal	\$10,232	\$10,232 ECC Staffing Budget	ECC	Funds support implementing and maintaining the Local Emergency Management Plan
Dept of Criminal Justice Services (DCJS)	Juvenile Accountability Block Grant Federal	\$35,995	\$4000 County Grant Matching Fund	Police/Schools	To develop a risk and needs assessment relating to gang involvement in our locality toward increased family and community involvement in gang prevention and intervention.
Virginia Dept. of Agriculture and Consumer Services	Farmland Preservation State	\$160,715.64	\$160,715.64 Appropriations to ACE Program	Community Development	Matching funds for purchase of easements under the ACE Program
Federal Emergency Management Agency (FEMA)	Assistance to Firefighters Grant (AFG) Federal	\$107,565	\$26,891 \$23,391 County Grant Matching Fund \$3,500 F&R Department Budget	Fire & Rescue	To provide firefighting training to volunteers and instructor and hazmat training to personnel.

Applications were made for the following grants:

There were no grant applications made during this period.

Item No. 9.13. FY 2013 Second Quarter Cash and Non-Cash Proffer Report, ***was received for information.***

The executive summary states that in 2007, the Board directed staff to provide a quarterly report on the status of cash proffers. Since that time, the report has been expanded to also include updates on non-cash proffers. The Board received the last quarterly proffer report on November 7, 2012, which included information on cash proffer revenue and expenditures and non-cash proffers for July through September, 2012. This report includes all proffer activity (both cash and non-cash) for the second quarter

of FY 2013 (October-December 2012). The next quarterly report will be on the Board's May 1, 2013 agenda.

Proffers Activity for Fiscal Year 2013 Second Quarter (October-December, 2012)

- A. **New Proffered Revenue:** ZMA201000011-Estes Park was approved. This rezoning revised the cash proffer for capital improvement projects and revised the application plan. The proffer change added a cash proffer amount for single family detached units. Prior to the amendment, the proffer called for the per-unit cash contribution to be based on single family attached units only. This could potentially increase the amount of proffer revenue to be received from \$754,000 to as much as \$1,145,713, depending on the mix of attached and/or detached units developed.
- B. **Total Proffered Revenue:** The total proffered revenue is \$43,232,742.20. This reflects annual adjustments to anticipated proffer revenue (not received yet obligated) from proffers in which annual adjustments were proffered.
- C. **2nd Quarter Cash Revenue:** The County received a total of \$21,851.62 from existing cash proffers during this quarter from the following developments:

Development	Amount	Intended Purpose
Old Trail	\$4,000.00	CIP-Crozet Schools/Parks
Wickham Pond	\$6,451.62	CIP-Crozet
Liberty Hall	\$6,400.00	CIP-Crozet
Belvedere	\$5,000.00	Affordable Housing
TOTAL	\$21,851.62	

A correction was made during this quarter to move \$12,903 from Wickham Pond II to the Wickham Pond fund.

D. 2nd Quarter Expenditures:

Development	Amount	Interest	Purpose
Stillfried Lane	\$78,000.00	\$5,379.00	Ivy Fire Station
Old Trail Village	\$24,000.00	\$16.44	Crozet Elementary School ADA Entrance Ramp
TOTAL	\$102,000.00	\$5,395.44	

Current Available Funds: As of December 30, 2012, the available proffered cash on-hand is \$2,120,974.13 (including interest earnings on proffer revenue received). Some of these funds were proffered for specific projects while others may be used for general projects within the CIP.

Of the available proffered cash on-hand, \$1,122,620.64 is currently appropriated (See Attachment A for details). The net cash balance is \$998,353.49. Attachment B provides information on how the net cash may be used for future appropriations.

Cash proffers are a valuable source of revenue to address the impacts from development and they support the funding of important County projects which would otherwise be funded through general tax revenue. Using cash proffer funding for current or planned FY13–FY17 CIP projects builds capacity in the CIP by freeing up funding for other projects. In addition, non-cash proffers provide improvements that might otherwise need to be funded by general tax revenue.

Community Development Department and Office of Management and Budget staff monitor proffer funds on an on-going basis to ensure that associated projects not currently in the CIP move forward and to ensure that funding is appropriated to projects before any proffer deadlines.

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

Item No. 9.14. Copy of Albemarle County Service Authority Comprehensive Annual Financial Report for Fiscal Year Ended June 30, 2012, **was received for information.**

Item No. 9.15. VDOT – Culpeper District, *Monthly Report for Albemarle County, February, 2013*, **was received for information.**

There were no special issues addressed in the report.

Item No. 9.16. Access Albemarle: Revenue and Taxation System, **was received for information.**

The executive summary states that in recent months, staff has completed the implementation of major components of the "Access Albemarle" financial enterprise software system, including purchasing, accounts payable, general ledger/accounting, payroll and human resources modules. In consultation with Microsoft and its implementation partner, Avastone, local government and school staff worked together for several years to bring about this very significant operating systems improvement. Today, as a result of these efforts, the County has the essential components of a dynamic, sophisticated software program that enhances the County's reporting and monitoring capabilities, improves business processes, and will accommodate the demands of the County's increasingly complex local government and school operations.

Staff is now ready to proceed with the final component of the Access Albemarle systems integration involving the purchase and implementation of a revenue, taxation and accounts receivable module.

After careful evaluation of various options, the County's appointed "Process Owners Committee" directed staff to proceed with the engagement of an outside vendor for the acquisition and implementation of the Revenue and Taxation module. Accordingly, in August, 2012, an RFP was issued to which three qualified firms responded. After the Selection Committee reviewed the three proposals, interviewed two firms and checked references, PCI emerged as the top-ranked provider, and the County issued an Intent to Award to PCI. PCI's Revenue and Taxation system has been successfully installed in 20 Virginia localities, including Stafford, Henrico, and Franklin counties, among others.

This final installation will conclude the "Access Albemarle" project at a total net cost of just over \$4.2 million. This final estimated cost is well within our original cost estimate and compares very favorably to installations at other localities and institutions around the State of similar size. In summary, the system includes: General Ledger/Financial Management System, Procurement and Accounts Payable, Fixed Assets, Miscellaneous Billings and Receivables Management, integration of the Financial Management System (FMS) with Enterprise Reporting, Payroll, Human Resources and now Revenue and Taxation.

An appropriation request to fund this Revenue and Taxation software system will be presented to the Board for approval as part of the FY 13 Appropriation request on February 6, 2013. If the Board approves the appropriation on February 6, implementation of the software will commence immediately and will be substantially completed by the end of the 2013 calendar year.

The total cost of the Revenue and Taxation component, including software acquisition, implementation, training and contract labor, is estimated at \$880,000. Funds proposed to support this effort are derived from a number of sources, including remaining set aside "Albemarle Access" funds and IT salary lapse from prior years, savings from prior and future obligations for Microsoft support which will not be required as well as reductions in maintenance cost on the main frame system, and other miscellaneous revenues. \$125,000 of these funds and allocations have been closed to fund balance and transferred to the CIP fund at year end as part of excess fund balance. Accordingly, a separate appropriation request will be presented to the Board for approval as part of the February 6, 2013, FY 13 Appropriation Executive Summary to reallocate \$187,054.53 from the Access Albemarle fund balance, \$250,000 in miscellaneous revenue and the remaining \$442,945.47 from the CIP fund.

The purpose of this Executive Summary is to update the Board on the status of the Revenue and Taxation module. Staff recommends that the Board support the immediate implementation of the Revenue and Taxation module by approving the associated appropriation request included in the February 6, 2013 FY 13 Appropriation Executive Summary.

Agenda Item No. 10. **Public Hearing: SP-2012-00013. Kenridge (Sign #48&49).**

PROPOSED: Amendment to SP2009-06 to change the approved conditions. Modification to conditions to allow changes to the exterior building materials. Approved uses remain unchanged.

ZONING CATEGORY/GENERAL USAGE: CO Commercial Office - offices, supporting commercial and service uses; and residential use by special use permit (15 units/acre).

SECTION: 23.2.2(9) R-15 residential-15 units/acre.

ENTRANCE CORRIDOR: Yes.

COMPREHENSIVE PLAN LAND USE/DENSITY: Office Service - office uses, regional scale research, limited production and marketing activities, supporting commercial, lodging and conference facilities, and residential (6.01-34 units/acre) and Rural Areas - preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources/ density (.5 unit/acre in development lots) in Neighborhood 7.

LOCATION: North side of Ivy Road (Route 250 West across from Birdwood Golf Course).

Approximately 1/2 mile west of the intersection of Ivy Road and the 29/250 By-pass.

TAX MAP/PARCELS: 60K/A1, A2, B1, B2, B3, 60K/1-47, 49-61.

MAGISTERIAL DISTRICT: Samuel Miller.

(Advertised in the Daily Progress on January 21 and January 28, 2013.)

Mr. Brent Nelson, Planner, stated that Kenridge is located on the north side of Ivy Road, Route 250 West, across from the Birdwood Golf Course, approximately one-half mile west of the intersection of Ivy and the Route 29/250 Bypass. He said that the Kenridge development consists of single-family attached and detached residences, an original manor house that remains as a single-family residence, and an original Carriage House providing office use onsite. Mr. Nelson said that the development is currently under construction with a number of attached residences completed. He said that in 1980 the property was zoned commercial office and was the location of the national headquarters for Kappa Sigma fraternity and a nonprofit foundation. On October 5, 2005, he said, the Board approved SP-2004-00052, Kenridge with 17 conditions. On September 9, 2009, the Board approved SP-2009-0006, Kenridge with 17 conditions; this was a request to modify the plan approved with a previous SP to show a revised location for the access road and parking surfacing of the office building and to eliminate one of the single-family attached units.

He reported that the purpose of this request is to amend Condition #9 of SP-2009-0006 regarding required exterior building materials and roof forms to better define "allowable exterior materials" while simultaneously keeping with the original intent of the conditions, and to address violations of the design conditions that have occurred on a number of structures. Mr. Nelson said that the applicant has constructed portions of the rear elevations of lots 19, 30, 31 and 32 with white composite siding instead of

brick as required by the existing condition. He stated that the applicant is now requesting approval of this condition as an exception for those lots to address this violation of the current conditions. He presented a photo of the white siding on the rear of the residence on Lot 19, and a photo showing the white siding of the three residences on lots 30, 31 and 32. Mr. Nelson also presented a diagram of the lot layout plan for the development showing Route 250, Ivy Road, the manor house and cottage – noting the proximity of the lots in question.

Mr. Nelson said that the applicant has constructed gable ends on various residences above the full return with white composite siding instead of brick as required by the existing condition, and he is now requesting a modification allowing this on existing and future attached residences. He then presented a photo of the side of the residence on Lot 27 showing the white siding above the full return, and the side of the residence on Lot 1 also showing the white siding above the full return. Mr. Nelson stated that the applicant has constructed sun rooms, box or bay windows, front entry ways and dormers on residences with white composite siding instead of brick as required by the existing condition. He said that the applicant is now requesting a modification allowing this condition on existing and future attached and detached residences, and he presented a photo showing white siding on the dormers and the front entry way on the unit located along the rear of the development. Mr. Nelson presented a photo showing white siding on the rear sunroom of a unit along the eastern boundary of the development. The applicant has constructed intersecting hip roof forms in various locations throughout Kenridge and is requesting a modification allowing both primary and intersecting hip roof forms on existing and future residences. He presented a photo showing an intersecting hip roof form on a unit located along the rear of the boundary.

Mr. Nelson stated that the applicant is requesting the removal of painted brick as an exterior material on any structure other than the existing manor house and carriage house. He said that for single-family detached structures, the applicant is requesting that the condition continue to require red brick for the exterior from the ground to the roof line, and to revise to not allow painted brick with the exceptions being sun rooms, bay or box windows, front entry way, and dormers may consist of red brick and/or composite siding.

He said that staff opinion is that the proposed condition to Condition #9 does not have any negative visual impact to adjacent properties and does not conflict with the intent of the original condition “providing consistent building appearance and keeping with the entrance corridor and historic buildings located onsite.” Mr. Nelson also stated that it does not conflict with any goals, recommendations or design guidelines of the Comprehensive Plan.

He stated that staff finds the following factors favorable to this request: the factors supporting approval of the original special use permit have not change; and the requested modification to Condition #9 is expected to have limited visual impact to surrounding properties. Mr. Nelson said that staff finds no factors unfavorable to this request. Staff recommends approval of SP-2012-00013 with amended Condition #9 as proposed by the applicant and included in the list of 17 conditions.

Mr. Thomas asked for clarification of surrounding properties. Mr. Nelson said that there is Farmington on one side and Boxwood on another side. In addition, the railroad runs along the northern boundary and on the other side of that is the Farmington golf course and Farmington Heights.

Ms. Mallek said that the original intent was to tone this down so it wouldn't stick out monstrosly, and she wondered if they were in effect granting permission to make big masses of three-story, white walls. Mr. Nelson said that is not in the proposed conditions. He said that the main goal in working with the applicant is to ensure that the amended condition is written in as clear a form as possible to avoid any future misinterpretations of what could be constructed.

Mr. Rooker commented that it seems the largest things that could be white were sunrooms, which would typically be in the back. Ms. Mallek said those will be right in the neighbors' face, and it is a very exposed back line.

Ms. Mallek asked how this came to pass to begin with, as there were brick walls required. Mr. Nelson responded that a nearby property owner called in a violation and brought it to the County's attention.

Ms. Mallek asked about the inspector who was going to see footings, as he should have seen that it was different from the beginning. Mr. Nelson responded that the inspector did not note those discrepancies.

Mr. Cilimberg said that one item regarding roof heights came before the Planning Commission.

Mr. Nelson explained that in the Commission's staff report, Conditions #16 and #17 were mistakenly left out. Staff informed the Commission of the error during the presentation, and all 17 conditions were correctly included in the Planning Commission's recommendation of approval.

He said that prior to the Commission's review of the proposal, staff and the applicant were contacted by the resident owner of the adjacent parcel to the west with a request for height restrictions on certain units yet to be built in Kenridge – including lots 49 through 60 along the western boundary, and lots 37 through 43 located behind the manor house. As noted in the Commission's action letter of December 21, 2012, he said, the recommendation of approval included an expectation that the height limit concern would be addressed by the applicant through an additional condition. He said that in lieu of an 18th condition, a private agreement was reached between the developers and adjacent owners – Mr. and Mrs.

Richard Hewitt and Mr. and Mrs. L. F. Payne. Staff believes this private agreement adequately addresses the Commission's expectation.

Ms. Mallek asked for confirmation that the condition would run with the land. Mr. Nelson responded that it is not a condition; it is a private agreement.

Mr. Cilimberg noted that a condition would have been very difficult to enforce, so this is the agreement reached with the neighbors. He said that this pertained more to rooflines and relationships, and trying to define that in a condition would be difficult.

Mr. Dumler commented that the only recourse in the event of a violation would be a private one for the individuals who signed the agreement, and there is no way for the Board to enforce it.

Mr. Rooker said that whether it runs with the land is contingent on how they wrote the agreement, and whether the agreement was recorded.

Mr. Nelson stated that he was finished his presentation. Ms. Mallek asked if Board members had questions.

Mr. Rooker asked if there was some difficulty in building sunrooms out of brick – other than cost – and wondered why they would have white sunrooms on the back of buildings. Mr. Nelson suggested the applicant respond to that question.

At this time, the Chair opened the public hearing.

Mr. Rob Cummings, with Kirk Hughes and Associates, landscaping and surveying, addressed the Board. Mr. Cummings stated that they are presenting a proposed amendment to Condition #9 of the existing special use permit 2009-0006, which primarily refers to exterior materials and roof shapes for detached and attached homes in Kenridge being "red brick or white painted brick with gables roofs." He said that when tasked to look at the condition and how to better define it, he used existing structures as a guide to understand the intent of the original SP. Mr. Cummings stated that in looking at the first approved units comprised of lots 1-4, the exterior features used then are still being used today – red brick with white siding. He said that some modifications have evolved over time, consisting of hip roofs over garages, bay and box windows, brick and siding for entryways, but overall pretty much the same. Mr. Cummings said that what was important at the project's inception was that the houses that could be seen from Route 250 did not clash with the manor house. He stated that once you come over the hill to areas B and C, you see that the original SP noted they could be red brick or all painted white brick – but that has not been the case.

Mr. Cummings said that over time the architectural interpretation may appear to have changed a little bit, and with that questions have arisen. He stated that the applicants felt that amending the condition to better define the exterior materials will help remove the vagueness of the original condition and permit future construction to closely conform to existing units. Mr. Cummings thanked Planning staff for its continued assistance and support. He then asked the Board to approve the request to amend condition #9.

Mr. Rooker asked if there had only been one complaint against the development, and whether the nature of that complaint pertained to the building height. Mr. Nelson responded that it had to do with the white siding on the rear of Unit 19 along the rear of the property, as it was visible to the person making the complaint from his property in Farmington Heights – and that person had participated in the original review of Kenridge.

Mr. Cummings said that when the white siding was realized, Mr. Sam Craig of Craig Builders immediately planted trees to help with the screening, and those trees are growing well.

Mr. Rooker asked if the white siding is on the sunroom or on the side of the building. Mr. Cummings explained that the white siding, on the Lot 19 home, is on the sunroom, as well as on the second story and up to the roofline.

Mr. Rooker asked if there would be a problem with not using siding on the sunrooms. Mr. Cummings responded that this would be a structural question, and Mr. Craig could answer that question.

Mr. Rooker said that one alternative would be painting it a less obtrusive color than white.

Mr. Sam Craig said that they could certainly do it in brick, but under the original conditions they could have had brick and painted it white. He stated that from across the tracks at Farmington Heights you cannot differentiate as to whether this is painted brick or siding. Mr. Craig said that no one really intended the white. The bays can certainly be done with brick, but they like to soften the harshness of all brick with some siding. He said that this is the reason the siding was done, not necessarily for cost savings, and they, along with staff, forgot the condition was there.

Ms. Mallek asked if they anticipated units that were all white, as that is where the visibility from a long distance takes over and becomes overpowering. Mr. Craig responded that they do not intend to make any of the homes all white.

Mr. Rooker said that he was satisfied with that.

Mr. Boyd commented that he likes the contrast with the white as opposed to all brick.

Mr. Thomas said that on Birdwood Golf Course in Ednam, all of their sunrooms are white, with the houses being brick.

Mr. Craig said it has been a long time since he's seen those, but his recollection is that there is a lot siding there.

Mr. Nelson said that as part of the applicant's amendment to condition #9, they would be removing the ability to paint brick on future buildings.

Mr. Rooker commented that that's a significant visibility help.

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

Mr. Snow then **moved** to approve SP-2012-00013 subject to the 17 conditions as presented. Mr. Rooker **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

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

NAYS: None.

(The conditions of approval are set out below:)

1. The approved final site plan shall be in general accord with the revised Conceptual Plan prepared by Collins Engineering, revision date August 25, 2009 ("Conceptual Plan") (See Attachment). Parking for the office use shall be limited to the area and number of spaces shown on the Conceptual Plan. If additional parking is required for the office use, an amendment of this special permit shall be required;
2. There shall be a minimum front yard of two hundred seventy-five (275) feet between the southernmost structure (the "Main House") and the property line adjacent to Route 250 as shown on the Conceptual Plan; side and rear yards shall be as shown on the Conceptual Plan;
3. All streets on the property connecting to adjacent properties as shown on the Conceptual Plan shall be constructed by the applicant to an urban section with the intent that such streets on the property connecting to adjacent properties will be built to a standard consistent with the connecting street on the White Gables property. All streets and pedestrian accesses shall be constructed to a standard acceptable to the County Engineer in accordance with the highlighted sections of Attachment A, revised and dated August 30, 2005 and initialed as CTG;
4. The connecting road extending from the former ITT property (Tax Map 60, Parcel 28) and across the Kenridge property to its entrance at Ivy Road, as shown on the Conceptual Plan, shall be established as a private street in conjunction with the final subdivision plat or site plan. As a condition of final subdivision plat or site plan approval, the applicant shall grant all easements deemed necessary by the Director of Community Development to assure the public's right to use the connecting road for purposes of ingress to and egress from Tax Map 60, Parcel 28;
5. The applicant shall comply with all requirements of the VDOT related to design and construction of the entrance to the property, as shown on the Conceptual Plan, and shall pay its pro rata share of the cost for signalization of this infrastructure contributed by traffic from the development as follows:
 - a. Prior to the issuance of a building permit, the applicant shall place funds in escrow or provide other security ("security") acceptable to the County in an amount equal to its pro rata share of the cost of the signal which amount shall be calculated by the Director of Community Development in the year in which the security is provided. The security shall continue so that it is available to pay for the cost of the signal until ten (10) years after the date of approval of this special use permit; security provided that is not in an interest-bearing account shall be annually renewed, and the amount of the security shall be adjusted each year according to the consumer price index, as determined by the Director of Community Development; and
 - b. If, at any time until ten (10) years after the date of approval of this special use permit, VDOT authorizes in writing the installation of the signal, and VDOT and the County's Engineer approve the signal's installation before the applicant has obtained a building permit, the County may demand payment of the applicant's pro rata share of the cost of the traffic signal, and the applicant shall pay its pro rata share of the cost to the County within thirty (30) days of that demand.
6. Screening adjacent to the railroad right-of-way and along the west and east sides of the project shall be provided and maintained as depicted on the Conceptual Diagram of Perimeter Screen and Privacy Planting, dated May 12, 2005, by Charles J. Stick, attached as Attachment B. The continuous evergreen trees noted as Leyland Cypress Hedge along the north, east and west sides of the project shall be installed at ten (10) feet to twelve (12) feet in height after lot grading but prior to issuance of a building permit for any dwelling unit construction. The Leyland Cypress Hedge also shall be planted on eight (8) foot centers. Underground irrigation shall be provided for all the planting areas. Screening deemed acceptable to the Director of Community Development shall be provided adjacent to the railroad to mitigate the impact of this development on adjacent property and the impact of the railroad on this development;
7. Prior to any alteration or demolition of any building, a reconnaissance level documentation to include black and white photographs and a brief architectural description shall be provided to the satisfaction of the County's Historic Preservation Planner;
8. Regardless of the ownership of the open space and amenities, they shall be made available for use by all residential and commercial units in the development;
9. As shown on exhibit "Kenridge Amendment to SP 200900006 Condition #9", prepared by Kirk Hughes & Associates, latest revision date October 19, 2012:

- I. For all attached single family buildings, future, existing or the reconstruction thereof, consisting of Lots 1 through 60 and lying within Zones A, B, and C (See Attachment "C") the following apply:
 - a. Front facing exteriors shall consist of gable and/or hip roofs with red brick to the roof line. (See Attachments E-1 and E-2)
 - b. Side facing exteriors shall consist of gable and/or hip roofs with red brick to the full eave return and/or roof line (See Attachment E-2). As an alternative to red brick, white composite siding is permissible above said full eave return to the roof line.
 - c. Rear facing exteriors shall be red brick from the ground floor to the roof line except as follows (See Attachment E-3):
 - i. Lot 19 shall be red brick from the ground floor to the first floor. White composite siding is permitted from the first floor to the roof line.
 - ii. Lots 30, 31, and 32 shall be red brick from the ground floor to the second floor. White composite siding is permitted from the second floor to the roof line.
- II. The exteriors of all detached residences for Lots 61 through 65 shall be red brick from ground to the roof line. The Cottage as indicated on Attachment "C", Zone B shall be white painted brick.
- III. Sunrooms, bay or box windows, front entryways and dormers are permissible non-brick features and may consist of red brick and/or white composite siding or the combination thereof. Front entryways are defined as that portion of the building within the covered porch area facing the street. (See Attachments E-1, E-2, and E-3)
- IV. The exterior of the Manor House and Cottage (See Attachment "C") shall be white painted brick.
- V. Exterior materials for all buildings within Zone A, (See Attachment "C") shall be reviewed and approved by the Architectural Review Board and by the Director of Planning or their designee before the issuance of a building permit.
10. Exterior roof surfaces shall be constructed of either copper or synthetic slate;
11. The new villa and town home units shall include garden improvements, generally as depicted on the Front Garden Diagram, dated August 24, 2005, by Charles J. Stick, Landscape Architect (See Attachment D). Maintenance of these areas shall be provided for and required by the Homeowner's Association which shall be set forth in the Covenants for this development. The decorative walls, steps and walks shall be constructed of either brick or stone;
12. To ensure the retention of the majority of the existing trees in the two hundred seventy-five (275) foot front yard setback described in Condition 2 (located between the main house and the Route 250 West Entrance Corridor), the applicant shall submit for review and approval by the County's Design Planner a tree conservation plan prepared by a state certified arborist that meets the requirements of Section 32.7.9.4 of the Zoning Ordinance. This plan shall be required for all erosion and sediment control plans, site plans, and subdivision plats;
13. The site wall immediately adjacent to Route 250 West shall be included on all drawings that include its context. All grading, road alignments, turning lanes, and other improvements shall be adjusted to insure that impacts to the wall only include closing the existing entrance and adding a single entrance. Notes shall be included on the grading, site plans and subdivision plats that state: "The existing site wall shall remain. Disturbance shall be limited to the closure of the existing entrance and the opening of the proposed entrance into the site." Any changes to the wall shall be minimal and articulated to blend with the character of the existing wall to the satisfaction of the Architectural Review Board. Prior to the issuance of any building permits in the final block, the stone pillars shall be replaced at the new entrance from Route 250; and
14. The design of all single family detached residences, including but not limited to colors, roofing, siding and foundation material selections, shall be coordinated with the Architectural Review Board-approved designs of the attached residential units, as determined by the Design Planner;
15. The owner agrees to voluntarily contribute a sum of three thousand dollars (\$3,000) cash per new dwelling unit to the County for funding affordable housing programs [including the Housing Trust Fund]. The cash contribution shall be paid at the time of the issuance of the Building Permit for such new unit. The acceptance of this special use permit by the owner shall obligate the owner to make this contribution;
16. Pedestrian access deemed acceptable by the Director of Community Development shall be provided to the Manor Home and Carriage House; and
17. With the exception of the entrance road, all streets within the development shall conform to the neighborhood model matrix deemed appropriate by the Director of Community Development.

Agenda Item No. 11. **Public Hearing: SP-2012-00023. Faith Christian Center International (Sign #67).**

PROPOSAL: Amendment of SP200700029 to increase day care attendance from 50 to 120.

ZONING: RA -- Rural Areas: agricultural, forestal, and fishery uses; residential density (0.5 unit/acre).

SECTION: 10.2.2.7, Day care, child care or nursery facility (reference 5.1.06).

ENTRANCE CORRIDOR: Yes.

COMPREHENSIVE PLAN: Rural Areas - preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources/density (0.5 unit/acre). **LOCATION:** 2184 Richmond Rd.

TAX MAP/PARCEL: 078000000047A0.

MAGISTERIAL DISTRICT: Scottsville.

(Advertised in the Daily Progress on January 21 and January 28, 2013.)

Mr. Scott Clark, Planner, said that this is a special use permit amendment request to amend an original approval of SP-2007-00029, which allowed for the daycare number of 50 to increase to 120. He reported that the property is located on Route 250 in Shadwell, across from Shadwell Estates, near the I-64 interchange. He presented an aerial photo of the site location – which was a trailer park and is now being converted to a church use, although it is not yet built or in operation. Mr. Clark explained that in 2010 the Board approved a 399-seat church on the site and within that building, daycare for up to 50 children. He said that the current proposal would increase the number from 50 to 120 and would not create any other physical changes onsite. There are no changes proposed to the original conceptual plan for the use. Mr. Clark confirmed that the building size does not increase with the proposal.

Mr. Clark reported that the major issue identified by staff is the potential for increased traffic and impacts on traffic safety. The VDOT has requested that the applicants prepare a traffic study internally instead of for the increased use – which they did. The analysis also showed that stacking in the new left turn lane would be minimal even during peak periods, one car or less. He said that VDOT felt that with the already-planned turn lane improvements as approved with the conceptual plan for the church in 2010, along with some recent changes made to traffic light timing at the US 250/I-64 interchange, its concerns were addressed in terms of traffic safety and the ability for people to safely turn in and out of the site.

Mr. Dumler asked what improvements were recommended as part of the conceptual plan. Mr. Clark responded said it included extension of the left turn lane, and the taper would be built out of the existing median area. To the east of the site the applicants will need to make a right-turn taper into the site. He also stated that the latest analysis shows the applicants will not need to widen the bridge.

Mr. Clark said that favorable factors include that the increased enrollment can be accommodated with no additional facilities on the site beyond what is already approved. VDOT has found that the proposed road improvements on the original conceptual plan are sufficient to accommodate the increased use. He said that staff did not find any unfavorable factors. Mr. Clark said that on January 8, 2013, the Planning Commission voted 4-2 to recommend approval, with conditions that just change the original conditions. He noted that the Commissioners who voted against the request felt that despite VDOT's analysis, they felt it was an unsafe situation due to the heavy traffic loads on Route 250.

Mr. Clark then reviewed the following changes to the conditions:

1. Development of the use shall be in **general** accord with the conceptual plan titled "Faith Christian Center International Special Use Permit – Concept Plan" prepared by Brian P. Smith Civil Engineering, Inc., and dated May 13, 2010 (hereafter "Conceptual Plan"), as determined by the Director of Planning and the Zoning Administrator. To be in **general** accord with the Conceptual Plan, development shall reflect the following major elements within the development essential to the design of the development:
 - building orientation
 - building mass, shape, and height;
 - location of buildings and structures
 - turn lane design;
 - location of parking areas;
 - relation of buildings and parking to the street.Minor modifications to the plan which do not conflict with the elements above may be made to ensure compliance with the Zoning Ordinance;
2. The maximum number of children shall not exceed **one hundred twenty (120)** or the number of students as approved by the Health Department or the Department of Social Services, whichever is less;
3. Side and rear setbacks shall meet commercial setback standards, as set forth in Section 21.7 of the Albemarle Zoning Ordinance, of fifty (50) feet for structures (excluding signs) and twenty (20) feet for parking lots and loading spaces adjacent to residential uses or residentially zoned properties;
4. All outdoor lighting shall be only full cut-off fixtures and shielded to reflect light away from all abutting properties. A lighting plan limiting light levels at all property lines to no greater than 0.3 foot candles shall be submitted to the Zoning Administrator or their designee for approval shall be required prior to approval of the final site plan;
5. Health Department approval of well and/or septic systems shall be required prior to approval of the final site plan;
6. The area labeled "Re-planting Area" on the Conceptual Plan shall be replanted according to "Restoration/Establishment Table A" in Appendix D of the "Riparian Buffers Modification & Mitigation Manual," published by the Virginia Department of Conservation & Recreation's Chesapeake Bay Local Assistance program. This area shall be replanted with species listed in the brochure titled "Native Plants for Conservation, Restoration, and Landscaping: Piedmont Plateau," published by the Virginia Department of Conservation and Recreation;
7. The hours of operation for the day care shall not begin earlier than 7:00 A.M. and shall end not later than 6:00 P.M., each day, Monday through Friday, provided that occasional day care-related events may occur after 6:00 P.M.; and
8. ~~If the use, structure, or activity for which this special use permit is issued is not commenced by September 1, 2014, the permit shall be deemed abandoned and the authority granted thereunder shall thereupon terminate.~~

Mr. Clark added that deletion of Condition #8 removes the time allowed for construction on the site to allow the applicants two years from the approval of the SP amendment.

Ms. Mallek asked if staff had any information on the phasing of the plans. She asked if the applicants were planning to build the Sunday School building first and use it for the daycare. Mr. Clark

responded that it is all one structure, at least how it's shown on the conceptual plan, as a multi-story building with daycare on the lower level.

Mr. Dumler asked if Condition #8 was removed by the applicant or if it was a Planning Commission suggestion. Mr. Clark replied that the issue was something that arose just before the Commission meeting to clarify the actual expiration date.

Mr. Cilimberg pointed out that if the condition remains, the applicant would actually have less time to get started than they would under the ordinance allowance.

Ms. Mallek pointed out that they are effectively extending it by a couple of years, based up on their original permit. Mr. Cilimberg noted that it would be two years from this day.

Mr. Rooker said he does not have a problem with it.

Mr. Mallek asked for clarification that VDOT was not concerned about 100 people coming out at rush hour with people driving 55 mph and trying to turn left to go east across traffic to get out of the site. Mr. Clark responded that VDOT agreed with the applicant's analysis.

Mr. Snow stated that at rush hour you are not moving 55 mph.

The Chair then opened the public hearing.

Mr. Wayne Frye, Senior Pastor of Faith Christian Center International, said that they are asking for the amendment because they have a full-time preschool academy that runs Monday through Friday from 7:00 a.m. to 6:00 p.m. He said that the reason for the increase is that during the time they have been working on the project, they have increased and surpassed the original number of children approved in their current facility. Mr. Frye stated that they want to take advantage of the space afforded in the new facility, as the current facility has 78 students with a peak of 86 students. They are well past 50 students already and they do not want to have to down size when going to more space. He confirmed that the lower level of the building will be the school portion, with the upper level being the church, offices, and administrative areas. Mr. Frye also mentioned that they are no longer required to extend the culvert over the creek and can do a taper right beyond the creek into the property. There will not be any structural change to the bridge.

Mr. Rooker asked if everyone arrives at the same time at the center for the daycare. Mr. Frye responded that they have a three-hour window in which parents can drop off children from 7:00 a.m. to 10:00 a.m., so they are not all coming at the same time – and they can pick up at anytime in the day or afternoon.

Mr. Dumler said he assumed that was built into the traffic analysis. Mr. Frye confirmed that it was.

Ms. Mallek commented that that makes a big difference.

Mr. Frye added that Mr. Brian Smith is also present to respond to any technical questions.

Ms. Judith Sommer addressed the Board, stating that she lives in Keswick and drives past the site when she goes into town or back home. Ms. Sommer said she does not know enough about the project to comment on that particular roadway, but if you are on the north side and want to turn left to go east during the afternoon hours – 3:00 p.m. to 6:00 p.m. – it is next to impossible to make a left turn. She stated that she usually turns right and finds a place to turn around, and another possibility is a center turn lane in parts of Route 250. It is not a very safe situation. Ms. Sommer said she does not have an opinion on the project, but just wants the Board to consider the road configuration.

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

Ms. Mallek asked if there are changes being made to the median and if there would be a barricade of some sort where the old directional separation existed, to keep the westbound people on the right side and not run into the left turn people. She said it is a limited space there, so the hash-marked area will be a left turn lane for people going east into the property.

Mr. Clark pointed out a line on the diagram that is the edge of the median for the westbound lane, and pointed out the edge of a new turn lane and turn taper lane. He stated that the turn lane will be 200 feet in what is now the median.

Mr. Rooker commented that it is a significant stacking distance, and it seems to him that the safety issue will be coming out taking a left to go east on Route 250.

Mr. Clark said that the applicant has pointed out in the past that the majority of their traffic will be coming from the City, so there will be relatively few morning left-turn people.

Mr. Rooker stated that VDOT has reviewed this and has determined that the improvements are adequate to address what they see as safety conditions based upon the expected traffic counts.

Mr. Dumler said that it is obvious there could be some traffic issues with this, but the VDOT report took into account that the facility will have tiered arrival and departure times. He commented that this facility is providing a critical community need, and it sounds as though the church is doing good things.

Mr. Dumler **moved** to approve SP-2012-00023 with the seven conditions as outlined in the staff report. Mr. Snow **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

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

NAYS: None.

(The conditions of approval are set out below:)

1. Development of the use shall be in general accord with the conceptual plan titled "Faith Christian Center International Special Use Permit – Concept Plan" prepared by Brian P. Smith Civil Engineering, Inc., and dated May 13, 2010 (hereafter "Conceptual Plan"), as determined by the Director of Planning and the Zoning Administrator. To be in general accord with the Conceptual Plan, development shall reflect the following major elements within the development essential to the design of the development:
 - building orientation
 - building mass, shape, and height;
 - location of buildings and structures
 - turn lane design;
 - location of parking areas;
 - relation of buildings and parking to the street.Minor modifications to the plan which do not conflict with the elements above may be made to ensure compliance with the Zoning Ordinance;
2. The maximum number of children shall not exceed one hundred twenty (120) or the number of students as approved by the Health Department or the Department of Social Services, whichever is less;
3. Side and rear setbacks shall meet commercial setback standards, as set forth in Section 21.7 of the Albemarle Zoning Ordinance, of fifty (50) feet for structures (excluding signs) and twenty (20) feet for parking lots and loading spaces adjacent to residential uses or residentially zoned properties;
4. All outdoor lighting shall be only full cut-off fixtures and shielded to reflect light away from all abutting properties. A lighting plan limiting light levels at all property lines to no greater than 0.3 foot candles shall be submitted to the Zoning Administrator or their designee for approval shall be required prior to approval of the final site plan;
5. Health Department approval of well and/or septic systems shall be required prior to approval of the final site plan;
6. The area labeled "Re-planting Area" on the Conceptual Plan shall be replanted according to "Restoration/Establishment Table A" in Appendix D of the "Riparian Buffers Modification & Mitigation Manual," published by the Virginia Department of Conservation & Recreation's Chesapeake Bay Local Assistance program. This area shall be replanted with species listed in the brochure titled "Native Plants for Conservation, Restoration, and Landscaping: Piedmont Plateau," published by the Virginia Department of Conservation and Recreation; and
7. The hours of operation for the day care shall not begin earlier than 7:00 A.M. and shall end not later than 6:00 P.M., each day, Monday through Friday, provided that occasional day care-related events may occur after 6:00 P.M.

(The Board then took up Item 13.)

Agenda Item No. 13. FY 2011-2012 Comprehensive Annual Financial Report (CAFR), David Foley.

Mr. David Foley, an Auditor with Robinson, Farmer & Cox Associates, said he will be presenting the Comprehensive Year End Financial Report for the year ending June 30, 2012. Mr. Foley thanked Ms. Betty Burrell and all County staff for their hard work in preparation for completing the audit, as the process requires a lot of advanced preparation. He stated that for the first time ever, the CAFR was prepared by the County's Finance staff, which speaks very highly of the County's Finance Department and the strength of that department. Mr. Foley said that it is not very common throughout the state that a locality prepares the CAFER, and he commended the staff on taking this big step.

Mr. Foley reported that his firm met on January 10, 2013 with the Audit Committee to go through the audit. He explained that the CAFR has four sections – introduction, financial, statistics, and compliance. He said that the last page of the introductory section contains the "Excellence in Financial Reporting Certificate" the County received for its June 30, 2011 CAFR. This year's CAFR has also been submitted to GFOA – which will likely again merit recognition.

Mr. Foley noted the Independent Auditor's Report, in which they state that the financial statements are the responsibility of management and that they performed the audit in accordance with generally accepted auditing standards. He said this is also where they issue their opinion of the County's financial statements. They have issued an unqualified opinion on the County's financial statements. Mr. Foley stated that in accordance with government auditing standards they have issued reports on the County's internal control over financial reporting and reports on compliance with major federal programs. Both reports are also clean with no significant efficiency or material weaknesses in the County's internal control over financial reporting. He said they also noted no weaknesses in the County's compliance over its

major federal programs, and no items that needed to be reported in a management letter this year. He stated that overall this was a very clean audit.

Mr. Foley reported that the County's general fund ended June 30, 2012 with a fund balance of \$39.8 million, and total governmental funds ended with a fund balance of \$71.8 million. He stated that the County's general fund balance increased by \$7.8 million during the year, which is a very significant increase. Mr. Foley noted that the County's increase in tax revenue collection percentage is partly what led to the increase in fund balance. He added that overall it was a very good year financially for the County.

Mr. Rooker asked about the impact of unfunded pension liabilities, as that will be reflected in the balance sheet at some point. The numbers are pretty large.

Mr. Foley explained that there is GASB-68 that has just been issued and will become effective for the FY15 audit. That changes how they have to account for the County's pension plan. He said that as long as the County makes its required annual contribution, it does not have to recognize the liability for any unfunded pension liability. Mr. Foley said that the County's unfunded actuarial accrued liability as of June 30, 2011 is \$37.2 million for pension, which is currently not reported on financial statements but will have to be shown under the new GASB provisions.

Mr. Rooker noted that the \$37.2 million does not include teachers, and next year they will be added into that number – which will likely add another \$100+ million of unfunded pension liabilities and give the County a negative net worth.

Mr. Boyd said that it has always been there; it has just been carried by the state. Mr. Foley confirmed that it has always been there; it has just never been required to be reported on the financial statements.

Mr. Rooker said that he asked if there were a legal obligation of the County to pay off that liability if everything folded. The question is how it becomes a recognizable liability if there is no legal obligation to pay something, but for accounting purposes, that appears to be the case. He added that starting in 2015, it is probably going to show a negative net worth which should improve somewhat because the County has increased the contribution rate.

Mr. Foley emphasized that this affects every locality throughout the U.S., not just Albemarle County. All localities will take a hit to their net assets, so bonding companies will be taking that into consideration.

Mr. Tom Foley then recognized the County's Finance staff: Ms. Burrell, Ms. Tammy Critizer, Ms. Ann Murray and Mr. Ed Koonce.

Mr. Rooker **moved** to accept the FY 2011-2012 Comprehensive Annual Financial Report (CAFR) as presented. Mr. Dumler **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

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

NAYS: None.

Agenda Item No. 12. **PROJECT: SP-2011-00002. Castle Hill Cider (Signs #30&32). (Deferred from January 16, 2013)**

Mr. V. Wayne Cilimberg, Director of Planning, reported that the Board requested at the conclusion of its public hearing and discussion the previous month that staff provide conditions reflecting the discussion with the applicant regarding potential changes, substantively to address sound management and traffic management. The conditions would be applied to the requested special use permit activities but also any farm winery event, wedding, wedding reception or other event allowed by right. He stated that the conditions before the Board reflect that intent. A lot of what is before the Board is for clarity and enforcement purposes, except conditions four and six which are the conditions that substantively are to address sound and traffic management and the application of those conditions to by-right activities.

Ms. Mallek asked if he would go down the list to review which conditions have been modified, to give the Board a chance to ask questions.

Mr. Cilimberg then reviewed the following recommended conditions:

1. Development of the use shall be in general accord with the Conceptual Plan entitled "Special Use Permit for Castle Hill Cider," labeled "Index Title: CP1," prepared by Dominion Engineering, and dated 8/28/12, as determined by the Director of Planning and the Zoning Administrator.

To be in general accord with the plan, development shall reflect the following central features essential to the design of the development:

- Location of the structure (labeled "Event Barn") used for the events
- Location of the entrance and exit (labeled "New Entrance Road" and "Existing Entrance")

- Location of parking
- Location of "Event Vicinity"

Minor variations from the Conceptual Plan which do not conflict with the central features above may be made to ensure compliance with the Zoning Ordinance.

2. Up to 8 single-day farm winery events, weddings or wedding receptions (hereinafter, collectively, "these events") for more than 200 persons may be held per calendar year, with a maximum total daily attendance of 350 persons. Attendance at these events shall be by prior reservation, ticket sales, or invitation only.
3. One single-day farm winery event for 351 to 1,000 persons (hereinafter, "this event") may be held per 12-month period or calendar year.
 - a. This event shall not be held without written approval from the Virginia Department of Transportation of a traffic-management plan for the intersection Virginia Route 231 and Turkey Sag Road. This plan shall require, and the permittee shall provide, police officers or other trained personnel approved by the Virginia Department of Transportation to be at the intersection of Virginia Route 231 and Turkey Sag Road to direct arriving and departing traffic if this event's attendance may exceed 500 persons based on reservations received or tickets sold. This approval shall be submitted to the Zoning Administrator no less than three (3) weeks before the scheduled date for this event.
 - b. The permittee shall obtain approval of a zoning clearance by the Zoning Administrator prior to holding this event. The permittee shall apply for the zoning clearance no less than three (3) weeks prior to the date of the event. Approval of the zoning clearance will be contingent upon the Zoning Administrator determining that all conditions of this special use permit have been satisfied.
 - c. Admission to this event shall only be by prior reservation or ticket purchase.
4. Before commencing any event permitted under Conditions 2 and 3 above or any farm winery event, wedding, wedding reception, or other event allowed by-right under County Code § 18-5.1.25(b)(2), (10) or (11) (hereinafter, collectively, "event subject to this condition") at which there is amplified sound, the permittee shall submit, and thereafter comply with, a sound management plan which has been prepared by a ~~licensed acoustical engineer~~ acoustical consultant and approved by the Zoning Administrator. This plan shall include a plan for monitoring amplified sound levels at the property lines of the site and for immediately adjusting amplification equipment to reduce sound levels to no more than the allowed maximum provided in this condition. As part of the implementation of this plan, no event subject to this condition shall commence before the screened openings on the northeast side of the Event Barn are replaced with glass panels approved by the licensed acoustical engineer. Sound levels at the property lines of the site shall not exceed an average of 52 decibels (dBA) for any five-minute period, or a more restrictive applicable maximum sound level established in the Albemarle County Code. At any event subject to this condition, the sound at the source of the amplified music shall not exceed 95 decibels (dBA) and the volume shall be monitored by an on-site sound meter. The sound limit for any band shall be limited by contract to not exceed 95 decibels (dBA). The glass panels on the openings of the Event Barn shall remain closed while amplified sounds are produced.
5. Outdoor amplification systems shall not use amplifiers with more than 200 watts RMS output, and shall not be used after 6:00 p.m. All other amplified sound systems shall be contained within the Event Barn.
6. At any event permitted under Conditions 2 and 3 above or any farm winery event, wedding, wedding reception, or other event allowed by-right under County Code § 18-5.1.25(b)(2), (10) or (11), traffic-management personnel shall be on site at the exit to direct traffic eastward to Virginia Route 231. These personnel shall be in addition to the traffic-management personnel required under Condition 3(a) above. All departing traffic shall be directed to go eastward on Turkey Sag Road, except for those vehicles whose occupants reside westward on Turkey Sag Road.
7. The permittee shall provide prior notification of each event permitted under Conditions 2 and 3 above to all owners of properties that contain dwellings within one-half mile of the Event Barn and to the Zoning Administrator. A notification letter shall be sent by mail at least 14 days before each event. The letter shall include:
 - a. The date, starting and ending times, and expected number of attendees for the event.
 - b. A telephone number at which the permittee may be contacted during the event.
 - c. The County's zoning complaint hotline telephone number (434-296-5834) and identify it as such.
8. No parking for any event permitted under Conditions 2 and 3 above shall be permitted within 200 feet of any stream.

9. Any new outdoor lighting shall be only full cut-off fixtures and shielded to reflect light away from all abutting properties. A lighting plan limiting light levels at all property lines to no greater than 0.3 foot candles shall be submitted to the Zoning Administrator or her designee for approval.
10. SP 2011-00002 shall be valid until December 31, 2014.

Mr. Cilimberg said that condition #1 includes standard language for a condition with a conceptual plan, which was shown to the Board at the last meeting.

Mr. Cilimberg said that the reference condition #4 was changed from "licensed acoustical engineer" to "acoustical consultant," based on the existence of one, and that person would consult with the applicant on the sound management.

Mr. Rooker asked if there is any standard for acoustical consultant.

Ms. Mallek said that is also her concern. She added that there are no acoustical engineers on staff to be able to evaluate the information provided. Mr. Cilimberg said that there is not a "licensed acoustical engineer" as a position available, so the request is to change to "acoustical consultant."

Mr. Cilimberg added that there was an 11th condition that the Board did not see regarding installation of air conditioning. The applicant brought forward that condition yesterday so there will be no question that once the doors are closed that they will be able to cool the events building. He added that at the prior discussion, the applicants agreed to enclose the building.

Mr. Scott Clark noted that the County Building Official indicated that if the Board does intend to approve something with this condition included, the term "rated cooling capacity" should probably be changed to "cooling load design."

Ms. Mallek asked where it was stipulated that any changes would apply to every event held there, not just the big ones. Mr. Dumler said it is spelled out in Condition #6.

Ms. Mallek said that Condition #6 relates to onsite traffic management, and she is interested in finding out about other provisions such as the doors being closed. Mr. Cilimberg said that Condition #4 covers those.

Mr. Nelson pointed out that the last sentence addresses Ms. Mallek's question regarding the doors remaining closed.

Ms. Mallek asked for some clarification as to how the Board should look at this based upon the issues discussed and the fact that the permit has no end date.

Mr. Rooker responded that it is only valid until December 31, 2014, which is actually less than two years. He said that it seems to him that "the proof is in the pudding," and right now the community does not like what is going on. Noise seems to be the primary concern. If the County does nothing, the status quo continues. He said that the property can have 60 decibels of noise until 10:00 p.m., and 55 decibels beyond that. Mr. Rooker said that this SP is geared toward ensuring that the applicants does not exceed what they have agreed to, which is a reduced decibel limit of 52, day or night. That is what the applicants have to achieve, and these things are mechanisms for getting there.

Mr. Snow said that one of the key components is to ensure the cooling system is properly designed for the building. He said that he is glad to see that it has been added because the room is affected by humidity as well as heat. He said that he thinks having a proper cooling system added to this adds a lot to the credibility of this actually working to keep the sound down.

Mr. Dumler commented that the County has a noise ordinance that is difficult to enforce as it is now. He asked how the County is going to know if there is a 200-watt RMS system, or if the doors are open or shut. He asked how the County is going to be able to practically enforce the conditions. He added that the noise ordinance has proven that the County is not in a position to always enforce its own conditions and ordinances.

Mr. Thomas commented that the conditions would be enforced the same way all other conditions are enforced.

Ms. Mallek said the County basically relies on the goodwill of citizens to do it right and self-police.

Mr. Rooker said the County has a complaint-driven ordinance, so when someone thinks there is a violation they call in. In my mind, there is nothing that is perfect here. He stated that he does not like the fact that the County has converted large parts of the rural area into "event factories," and while he would be willing to look at that issue overall it is subject to the limitations the State imposes. Mr. Rooker said that the problems of enforcement exist today, and the question is whether or not they are better off with a lower standard. He stated that this applicant already holds events.

Mr. Snow commented that the applicant also is able to have unlimited events.

Mr. Rooker reiterated that the applicant can have unlimited events with 200 people, and that limitation is almost impossible to enforce. He said that the problems of noise violation and determining whether or not they are violating the standard are there whether or not this application is approved.

Mr. Dumler said that the question is whether or not the Board is putting the cart before the horse by going down a slippery slope, because the Board has not discussed whether or not this is a problem it can solve. He said that the Board is talking about opening up a door with a set of conditions that the County may never be able to enforce, and he thinks that is a little dangerous.

Ms. Mallek expressed concern that other wineries will come forward with similar proposals.

Mr. Rooker asked if the wineries would be willing to live with the 52-decibel standard.

Ms. Mallek said that some people have solved the noise issue, and some people have solved the traffic issue, but the County is going somewhere where it does not really know what the consequences are except for the residents' hope that through this permission the applicants will comply on what they should be doing all the time. There seems to be universal concern about upping the ante and allowing all of these 350-people, which will end up being more events, to happen.

Mr. Boyd asked if you play the music louder for 350 people than you do to 200. There are successful indoor facilities – such as the King Family Vineyard building. He said that glass panels can be effective in limiting noise, and it will make a bad situation better if the board moves forward with the SP. Mr. Boyd said that the applicant plans to self-monitor with some sort of device, and while the neighbors probably are not trusting of that at this point, the reason he is going to go to that expense is to ensure he is staying in compliance.

Ms. Mallek said that everyone is self-monitoring now. One of the many mistakes she made a few years ago now with the audible sound criteria in the noise ordinance is that the number is way too high and does not provide the protection to neighbors as hoped. She stated that someone mentioned the possibility of a performance bond to put the responsibility for success on the operators of this instead of always on the neighbors, and she would like to discuss that possibility along with the cost of the monitoring being borne by the event-holder instead of the County always having to pay overtime.

Mr. Rooker said that language in condition #4 states that “the plan shall include a plan for monitoring amplified sound levels at the property lines of the site, and for immediately adjusting amplification equipment to reduce sound levels to no more than the allowed maximum provided in the condition”. It seems to him that gives staff some ability to determine what kind of monitoring system is put in place at these property lines, which is something that the Board has never required anybody else to do.

Ms. Mallek asked if staff would then monitor the data sent by the applicant in order to establish some baseline. Mr. Dumler said that the language in the condition says is that the applicant will submit a plan as to how they would do it, but it does not establish any ongoing monitoring.

Mr. Rooker said that he reads it as requiring the applicant to have it in place, but perhaps the Board needs to be more explicit in the condition.

Ms. Mallek said that perhaps it could state “and will result in...” instead of just being a nice idea.

Mr. Clark clarified that the condition does state that “volume shall be monitored by an onsite sound meter.”

Mr. Thomas commented that it would be extremely expensive to have the data sent onto the County for monitoring purposes, and there is no system in the County to read the signal.

Ms. Mallek clarified that it would be a report printed out and sent to staff.

Mr. Rooker said he envisions that the meter would have sound levels recorded by time, so you could go back at any time and call up that information to determine whether there has been a violation.

Mr. Thomas noted that the dBA meter can print out a tape with that information.

Ms. Mallek said that the meter would have to be calibrated at the appropriate levels and a certificate to show that it happened.

Mr. Davis pointed out that condition #4 has specific language that says “the permittee shall submit and thereafter comply with a sound management plan”.

Mr. Rooker commented that staff would have to approve the plan. Mr. Davis responded that that is correct.

Ms. Mallek commented that there is no staff training available to evaluate all of this, and there needs to be a fee collected to get this data analyzed. She added that someone mentioned a “200 watts RMS system,” and one of the acoustical engineers commented that those do not even exist anymore, as one snare drum is 95 decibels at its source point. There are a million different answers to the same question and the County is not prepared to decide if any of these things are valid.

Mr. Rooker emphasized that the County has a standard now – 60 dBA daytime, 55 dBA nighttime – and the question is whether the Board improve the situation or allow a worse situation to continue by not putting measures like this in place. It seems that Ms. Mallek is picking apart the measures. He stated that the question to him is whether the 52-decibel standard, which would apply to every event the applicant has, along with the requirement to have traffic people at every event, which they are not required to have now, puts everyone out there in a better situation than they are in today. Mr. Rooker noted that there are a lot of counties around the State that have no regulations at all in this regard. He also stated that this has a time limit, and he would never consider voting for it without that because the complaint seems to be the fact that neighbors do not feel the applicant will follow through – and once the sound barriers are implemented, the applicant will have about 18 months. If it works, perhaps everybody is in a better situation than they are currently by just saying “no”.

Mr. Boyd agreed, and added that no one knows whether this will create a perfect situation, but it will create a situation that is better than what exists today.

Ms. Mallek said that will not be the case with the traffic issue.

Mr. Dumler said that it includes the huge caveat that this stuff is actually enforced. The Board’s recent discussions about the noise ordinance have shown that the County does not have any teeth. He said that his concern is that the County will not have enforcement with this application either, yet will be in a situation where the Board granted additional privileges – but no way of ameliorating the problem.

Mr. Rooker commented that people do not like what is there now, and that started the complaint. He said that when the decibels were measured at the property lines, one time they complied and one time they were off by two or three decibels. He thinks that doing nothing seems to leave everybody in the circumstance they are in right now.

Mr. Dumler said that is absent the Board fixing the noise ordinance which it should be doing.

Mr. Rooker said he would consider doing that, but he does not see how the Board can improve the current situation by not trying this for a year and a half and having the investments made in sound control. In 18 months if they do not work, the special permit expires.

Mr. Snow asked if there will be a representative of the owner monitoring the situation during the events. Mr. Boyd responded that they have people there.

Mr. David Paulson confirmed that there will be at least one person onsite for that purpose, and with the need to do the exiting there will be two people – one person in the venue, and one person directing the traffic outward to Route 231. He also said they will put a permanent meter at the loudest point on the property line. They would like to have the County come out and meet with the acoustical consultant, do all the measurements, figure out what the peak sound point is, and install a permanent meter.

Mr. Dumler asked if he objected to including the installation of the meter as a condition of the permit. Mr. Paulson responded that he would not, and it is within his plan. They want to do this for their purposes as much as to ensure compliance. He added that the system will be wired in such a way that the onsite person could be looking at it to see if they are remaining in compliance. Mr. Paulson said that the acoustical consultant has said that if they stick to the 95 dBA with the enclosure and the doors closed, they will not exceed the limit.

Ms. Mallek asked if he would have his own onsite person who would be the regulator of the sound level, and not turn it over to the visiting sound people to run it. Mr. Paulson said they will always have a staff member onsite who will have the authority to lower the sound level.

Mr. Boyd asked if that limit will be put into their contract. Mr. Paulson responded “yes”. The contract now reads that if the individual does not comply with requests to turn down the sound they can forfeit their security deposit.

Mr. Snow said he was satisfied with the conditions.

Mr. Boyd asked if the conditions needed to be modified to add the sound meter. Mr. Davis explained that the condition now states that “the plan shall include a plan for monitoring amplified sounds at the property line.” That plan must be approved by the Zoning Administrator.

Mr. Cilimberg said that there is a reference made to the onsite sound meter, and that is connected to the 95-decibel volume.

Mr. Rooker said they were talking about something connected to the 52-decibel limit at the property line. He suggested the language say “The plan shall include a plan which includes one or more permanent sound meters that provide time-dated sound history...”

Mr. Thomas asked if there needs to be a sound meter inside if there is one outside at the property line.

Ms. Mallek responded that they have to have both, otherwise they cannot regulate the band if they do not have it indoors when it gets above 95 decibels.

Mr. Davis suggested that the condition could be amended to state, “This plan shall include a plan

for monitoring amplified sound levels at the property lines of the site, including one or more permanent sound meters,..."

Mr. Rooker said the Board wants the sound meters to include some historic record of levels.

Mr. Davis suggested, "... one or more sound meters recording the sound levels."

Mr. Rooker added, "...to provide a time and date record of the sound levels."

Mr. Boyd asked if that type of equipment existed.

Mr. Paulson said that his acoustical engineer has provided a host of information about these types of products to measure and record sound levels over a long period of time, and those measuring sound at the source are very standard.

Mr. Rooker said that someone in the public mentioned the "notice provision," in condition #7 suggesting that they remove the language pertaining to "all owners of properties that contain dwellings" and just say "...within one-half mile of the event." He said that this would eliminate the interpretation that the dwellings themselves had to be within one-half mile of the barn, as that would exclude a lot of people from receiving the notice.

Mr. Clark stated that the Planning Commission had recommended notifying properties within 1,000 feet of the boundary of the property to which the SP applies. In that case it would be 12 parcels that include 26 dwellings; whereas the applicant's proposal of one-half mile from the barn would lead to the notification of eight dwellings on six parcels. He said that Ms. Mallek had asked how many dwellings were within one mile of the barn, and that number would be 62 dwellings on 44 parcels.

Ms. Mallek commented that the sound certainly travels that far.

Mr. Rooker commented that this condition is primarily a traffic condition.

Ms. Mallek said she thinks the condition has to be about notifying people when an event is going to happen so that they are aware.

Mr. Rooker noted that the condition is "for each event permitted under conditions 2 and 3," so it applies to those conditions.

Ms. Mallek said that all of the conditions should apply to all events that are there. She does not think the Board can have some conditions apply to only the big events and everything else does not apply.

Mr. Rooker said that the idea of the condition is to address events that might have increased traffic, so all the neighbors would be put on notice. To his knowledge the County does not require every location to notify everybody every time they have an event.

Mr. Dumler stated that the County also does not require them to have glass doors. The idea here is to have the applicant make everything better by granting them special permission to do a few larger events, and if a notice provision is one of those things he would support mandating it for all of the events.

Ms. Mallek noted that it was a solution found by other wineries with noise issues, to ensure that neighbors who might be affected were notified.

Mr. Rooker asked if that requirement was in place elsewhere.

Ms. Mallek responded that in the other cases they were doing it to be good neighbors, and that has not seemed to have happened in this case.

Mr. Thomas asked why the applicants have to go any further with restrictions than the 52 decibel limit if they are complying with that.

Mr. Rooker said it is primarily a traffic issue, to notify people in the area that there might be somewhat more traffic than the standard event.

Mr. Dumler said if the Board contemplating traffic problems existing with by-right events, he does not see the problem of also mandating a notice procedure to inform people of those potential traffic problems.

Mr. Rooker said he does not object to that, but the traffic management plan is a significant benefit to have for every event as required in condition #6. The applicants could send out a schedule of events.

Mr. Snow asked how that would have to be sent out – registered letter, or email.

Mr. Clark said that the condition stipulates that "a notification letter shall be sent by mail at least 14 days before each event."

Mr. Snow asked why it could not be done by email.

Ms. Mallek said that not everyone has email, and suggested both methods for those who provide

email.

Mr. Clark stated that the applicant can always get address information from the County website, but they may have trouble keeping up a current list of email addresses – which is not at all public.

Mr. Rooker said that typically you want some proof of receipt.

Ms. Mallek said that email actually has more of a paper trail, as letters can be lost and claimed to not have been received.

Mr. Boyd asked if the Board had settled on the conditions yet.

Ms. Mallek said that no one seemed to pick up on her suggestion for a performance bond, but in effect the improvements being required are a performance bond – and if the applicants do not comply, the bond will be called because the extra events will cease.

Mr. Davis said that the only two conditions he understands the Board to want to change are condition #4 with the addition of language “The plan shall include a plan for monitoring amplified sound levels at the property lines of the site,” and at that point one adding, “including one or more permanent sound meters providing a date and time record of the sound...” He said that for condition #7, the Board agreed that the condition should delete the words “that contain dwellings” so that the condition requires prior notification to all owners of property within one-half mile of the event barn.”

Mr. Dumler said that the language should also include “...under events permitted under condition #2 and #3, or any other event allowed by right under County Code.”

Mr. Davis asked if it was agreed to.

Mr. Boyd asked if it was legal to require that.

Mr. Dumler said it could be stipulated under condition #6.

Mr. Rooker said he would be willing to go with that because the applicants can send out a letter with a schedule of events for three or six months or another specified timeframe, and offer residents the option of signing up for email notices.

Mr. Boyd asked if all the events were booked that far in advance.

Mr. Paulson said that generally speaking, they are. He added that in his opinion that is an unrealistic and unfair requirement that goes well beyond what anybody else has to do for the by-right events. He said that the intent was to notify the neighbors for increased traffic for events over 200 people. The other traffic plan is simply upon exit, vehicles are directed right toward Route 231 off of Turkey Sag Road.

Mr. Rooker said that given the fact that events are scheduled far in advance, he does not see an issue with sending out to the 30 or so addresses a schedule of events – whatever size they are – over the next few months. It also gives people some idea that there is going to be an event going on, whether it has 290 people or 199, and if they have concerns about what might be going on traffic-wise, they will know. He stated that sending out a list of events is the same burden as notifying them of one event. He supports Mr. Dumler’s suggestion.

Mr. Thomas said he is having a problem with it because it singles these applicants out and asking more of them than what is being asked of other people.

Mr. Rooker said that the applicants are asking for something different than what is allowed as a matter of right. The question is what the conditions are under which the County might allow that for a limited period of time to see whether or not it works. He said that the notice might be something that the neighbors are interested in, but it is not burdensome because it could cover the next three months or so. Since they schedule in advance and they know what the events are going to be, why not let people know.

Mr. Thomas asked Mr. Paulson what he would do for an event that popped up two weeks prior to the time, such as when they are filling in an empty weekend.

Mr. Paulson responded that he does not have a major objection if there is a way to do it online, as he would prefer not to send out 36 letters at 40 times a year.

Mr. Rooker said what he is suggesting is sending out a notice for events scheduled over a period of time.

Mr. Dumler commented that even a monthly letter would be about \$300 per year.

Mr. Davis said that if there is consensus to add all the other by-right events, they would just track the language from condition #6 to condition #7, so that it would say “conditions #2 and #3 above, or any farm winery event – wedding, wedding reception, or other event allowed by right under County Code Section 18-5.1.25(b)(2), 10 or 11....”

Mr. Boyd said he would like to make a motion.

Ms. Mallek asked if the Board would consider doing two motions – one for the large event, and one for the small one – because she feels very differently about those two issues and would like to vote for one of them.

Mr. Rooker said that if Mr. Boyd makes a general motion and it passes, it becomes irrelevant.

Mr. Dumler commented that he understands that if all of the conditions are adhered to and followed, the situation will be better for a lot of the neighbors now, but he does not have the requisite level of confidence right now that they will be. He said that there are a lot of moving parts with this and things are hard to enforce, and the County is putting the cart before the horse by doing this and potentially going down a slippery slope before it addresses the noise ordinance issues. He would support a special permit for one large agri-tourism event, similar to what is in place for King Family Vineyards. He does plan to vote against the request.

Ms. Mallek said that while huge progress has been made on some of the conditions, she is still very concerned about the spillover. She believes there are other applications waiting to come in, if this application is approved. She said that she thinks that the Board is not representing the rural area residents by doing this. She added that she will also not vote in favor of the application.

Mr. Rooker responded that he is not convinced others will come in and offer to do everything that this applicant is going to have to do.

Mr. Boyd commented that there are an awful lot of conditions placed on this application.

Ms. Mallek said they are going to apply for higher numbers.

Mr. Thomas asked why not wait until the applications come in and see what happens.

Mr. Rooker said there are already some approvals for larger events, and he is convinced that with everything included here the circumstances at Castle Hill will be better with this approval. The applicants have 18 months to make their investment and they have a big incentive to make it work because at the end of that 18-month period, the permit expires, and it has to be renewed or not renewed. He added that he will support the application.

Mr. Boyd then **moved** to approve SP-2011-0002 with the 11 conditions as modified by the County Attorney referring to conditions #4 and #7, and the modification to condition #10 referring to “cooling load design.” Mr. Snow **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

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

NAYS: Mr. Dumler and Ms. Mallek.

Ms. Mallek said she hopes Board members are right and this does solve the problem. She would like to be wrong on her position.

Mr. Rooker said if the Board members are not right, it won't get renewed. He also said that the input from public since this process started has resulted in substantial improvements to the conditions put on the special permit, and hopefully it will improve the situation, and if it doesn't, it has a time limit.

(The conditions of approval are set out below:)

1. Development of the use shall be in general accord with the Conceptual Plan entitled “Special Use Permit for Castle Hill Cider,” labeled “Index Title: CP1,” prepared by Dominion Engineering, and dated 8/28/12, as determined by the Director of Planning and the Zoning Administrator. To be in general accord with the plan, development shall reflect the following central features essential to the design of the development:
 - o Location of the structure (labeled “Event Barn”) used for the events;
 - o Location of the entrance and exit (labeled “New Entrance Road” and “Existing Entrance”);
 - o Location of parking;
 - o Location of “Event Vicinity.”Minor variations from the Conceptual Plan which do not conflict with the central features above may be made to ensure compliance with the Zoning Ordinance.
2. Up to eight (8) single-day farm winery events, weddings or wedding receptions (hereinafter, collectively, “these events”) for more than two hundred (200) persons may be held per calendar year, with a maximum total daily attendance of three hundred fifty (350) persons. Attendance at these events shall be by prior reservation, ticket sales, or invitation only.
3. One (1) single-day farm winery event for three hundred fifty-one (351) to one thousand (1,000) persons (hereinafter, “this event”) may be held per twelve (12)-month period or calendar year:
 - a. This event shall not be held without written approval from the Virginia Department of Transportation of a traffic-management plan for the intersection Virginia Route 231 and Turkey Sag Road. This plan shall require, and the permittee shall provide, police officers or other trained personnel approved by the Virginia Department of Transportation to be at the intersection of Virginia Route 231 and Turkey Sag Road to direct arriving and departing traffic if this event's attendance may exceed five hundred (500) persons based on reservations

- received or tickets sold. This approval shall be submitted to the Zoning Administrator no less than three (3) weeks before the scheduled date for this event.
- b. The permittee shall obtain approval of a zoning clearance by the Zoning Administrator prior to holding this event. The permittee shall apply for the zoning clearance no less than three (3) weeks prior to the date of the event. Approval of the zoning clearance will be contingent upon the Zoning Administrator determining that all conditions of this special use permit have been satisfied.
 - c. Admission to this event shall only be by prior reservation or ticket purchase.
4. Before commencing any event permitted under Conditions 2 and 3 above or any farm winery event, wedding, wedding reception, or other event allowed by-right under County Code § 18-5.1.25(b)(2), (10) or (11) (hereinafter, collectively, "event subject to this condition") at which there is amplified sound, the permittee shall submit, and thereafter comply with, a sound management plan which has been prepared by an acoustical consultant and approved by the Zoning Administrator. This plan shall include a plan for monitoring amplified sound levels at the property lines of the site, including one or more permanent sound meters providing a date and time record of the sound, and for immediately adjusting amplification equipment to reduce sound levels to no more than the allowed maximum provided in this condition. As part of the implementation of this plan, no event subject to this condition shall commence before the screened openings on the northeast side of the Event Barn are replaced with glass panels approved by the acoustical consultant. Sound levels at the property lines of the site shall not exceed an average of fifty-two (52) decibels (dBA) for any five (5)-minute period, or a more restrictive applicable maximum sound level established in the Albemarle County Code. At any event subject to this condition, the sound at the source of the amplified music shall not exceed ninety-five (95) decibels (dBA) and the volume shall be monitored by an on-site sound meter. The sound limit for any band shall be limited by contract to not exceed ninety-five (95) decibels (dBA). The glass panels on the openings of the Event Barn shall remain closed while amplified sounds are produced.
 5. Outdoor amplification systems shall not use amplifiers with more than two hundred (200) watts RMS output, and shall not be used after 6:00 p.m. All other amplified sound systems shall be contained within the Event Barn.
 6. At any event permitted under Conditions 2 and 3 above or any farm winery event, wedding, wedding reception, or other event allowed by-right under County Code § 18-5.1.25(b)(2), (10) or (11), traffic-management personnel shall be on site at the exit to direct traffic eastward to Virginia Route 231. These personnel shall be in addition to the traffic-management personnel required under Condition 3(a) above. All departing traffic shall be directed to go eastward on Turkey Sag Road, except for those vehicles whose occupants reside westward on Turkey Sag Road.
 7. The permittee shall provide prior notification of each event permitted under Conditions 2 and 3 above or for any farm winery event, wedding, wedding reception, or other event allowed by-right under County Code § 18-5.1.25(b)(2), (10) or (11), to all owners of properties within one-half (1/2) mile of the Event Barn and to the Zoning Administrator. A notification letter shall be sent by mail at least fourteen (14) days before each event. The letter shall include:
 - a. The date, starting and ending times, and expected number of attendees for the event.
 - b. A telephone number at which the permittee may be contacted during the event.
 - c. The County's zoning complaint hotline telephone number (434-296-5834) and identify it as such.
 8. No parking for any event permitted under Conditions 2 and 3 above shall be permitted within two hundred (200) feet of any stream.
 9. Any new outdoor lighting shall be only full cut-off fixtures and shielded to reflect light away from all abutting properties. A lighting plan limiting light levels at all property lines to no greater than 0.3 foot candles shall be submitted to the Zoning Administrator or her designee for approval.
 10. In order to ensure the Event Barn doors remain closed while amplified sound is being produced within it during any event permitted under Conditions 2 and 3 above or any farm winery event, wedding, wedding reception, or other event allowed by-right under County Code § 18-5.1.25(b)(2), (10) or (11), the permittee shall install and maintain an air conditioning system in the Event Barn, together with fans, insulation, and other measures (hereinafter, collectively, the "system"). The system shall be subject to approval by the Zoning Administrator, who shall approve it if she determines that the system's cooling load design is adequate to serve the Event Barn.
 11. SP 2011-00002 shall be valid until December 31, 2014.

Agenda Item No. 14. ~~Access Albemarle: Revenue and Taxation System.~~ **(Moved to consent agenda)**

Agenda Item No. 15. Community Development Work Program.

Due to the hour, this item was moved to the afternoon portion of the meeting.

Agenda Item No. 16. Closed Meeting.

At 12:58 p.m., Mr. Dumler **moved** that the Board go into a closed meeting pursuant to Section 2.2-3.711(A) of the Code of Virginia under Subsection (1) to consider appointments to boards, committees and commissions in which there are pending vacancies or requests for reappointments and to consider the appointment of an Assistant County Executive; and other Subsection (7) to consult with legal counsel and staff regarding specific legal matters requiring legal advice related to the negotiation of an agreement for implementing a cooperative cost recovery program for emergency service transports. 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, Mr. Thomas and Mr. Boyd.
NAYS: None.

Agenda Item No. 17. Certify Closed Meeting.

Mr. Dumler **moved** that the Board certified 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. Dumler, Ms. Mallek, Mr. Snow, Mr. Thomas and Mr. Boyd.
NAYS: None.
ABSENT: Mr. Rooker

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

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

- **appoint** Ms. Marcia Joseph to the Architectural Review Board, to fill the unexpired term of Paul Wright, to expire on November 14, 2014.
- **reappoint** Mr. Vernon Jones as White Hall District representative, to the Economic Development Authority, with said term to expire on January 19, 2017.
- **appoint** Ms. Tammie Moses as Jack Jouett District representative, to the Equalization Board, with said term to expire December 31, 2013.
- **appoint** Mr. Gary Grant to the Jefferson Area Board for Aging Advisory Council, to fill the unexpired term of Naomi Ryan, to expire on May 31, 2013.
- **appoint** Ms. Kirsten Miles to the Jefferson Area Disability Service Board, to fill the unexpired term of Susan Jacobson, to expire on June 30, 2013.
- **appoint** Ms. Kimberly Swanson to the Places 29 Community Advisory Council, with said term to expire on January 31, 2016.
- recommended the **reappointment** of Mr. Michael Gaffney as Chairman and Joint City/County representative to the Rivanna Solid Waste Authority and the Rivanna Water and Sewer Authority, with said term to expire on December 31, 2014.
- **appoint** Mr. William Hines to the Rivanna Solid Waste Authority Citizens Advisory Committee, with said term December 31, 2014.

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

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

(Note: Mr. Rooker returned to the meeting at 2:34 p.m.)

Agenda Item No. 19. Board-to-Board, *Monthly Communications Report from School Board, School Board Chairman.*

Mr. Steve Koleszar, Chair of the School Board, said that four Supervisors attended the School Board's strategic planning kickoff the previous Monday night. He said that he is hopeful that the process will allow for public input and provide a sense of vision for what the schools need to accomplish over the next five to ten years. He stated that the schools have been moving forward with "Design 2015," which is creating an internal grant program where teachers and principals can come together as a group and propose various projects that will help transform learning for the whole school. He explained that in the past the internal grant program has been more geared to individual teachers. Mr. Koleszar explained that the purpose of making the requirement of groups and teams of people working together is because the School Board is really trying to transform learning in the entire division – going from "pockets of excellence" to really transform the whole school division. Mr. Koleszar emphasized that the whole vision of 21st Century learning is more about communication, collaboration, critical thinking and creativity than it was in the past – "Preparing our kids for their future and not for our past."

Ms. Mallek commented that the strategic planning meeting was great fun, and there was a large diversity of ages and interests and everything else. She said that they poked fun at the old-fashioned curriculum too, as that's always a concern.

Mr. Koleszar said that they emphasize the basic skills that students used to learn – how to work with people, how to communicate. He stated that technology is great, but it is the ability to relate and interact with people, whether online or face to face, that is the real critical skill that students will need.

Ms. Mallek said that used to be provided somewhere other than school and now it must be taught in school.

Mr. Koleszar commented that high school used to be geared to teach people to work on a factory floor and that doesn't exist anymore.

Mr. Snow said that the meeting was well-organized and fun.

Mr. Rooker said that he found it interesting that the tables all came up with a lot of the same thoughts and ideas.

Mr. Koleszar commented that the School Board would be having five meetings at all the middle schools where they are opening it up to the public and putting out a lot of advertising, and those would be more nuts and bolts oriented and less visionary.

Mr. Koleszar stated that he would be coming back with the budget, and said that in this year's budget the School Board has done some re-categorizing – with funds going to exactly where they will be spent rather than to the Department of Instruction – so hopefully the budget will be more transparent.

Agenda Item No. 20. Economic Vitality Action Plan Quarterly Update.

The following executive summary was forwarded to Board members:

The Board adopted an Economic Vitality Action Plan ("Plan") on August 4, 2010 following extensive public discussion and review. That plan established a schedule for staff to provide quarterly reports to the Board on staff's progress and activities related to the Plan. Staff will present the first quarterly report (October-December, 2012) of the Plan's third year of implementation at this meeting.

Highlights of Progress on the Plan during the last quarter:

Objective 1 - Improve Business Climate and Image

- Continued involvement with state partners, including co-hosting Virginia Economic Developers Association (VEDA) 2013 Spring Conference with City of Charlottesville and serving on existing business retention and expansion task force for Virginia Economic Development Partners (VEDP).
- Provided update on first two years of the Vitality Action Plan to the Chamber of Commerce Board of Directors.
- Participating in the Piedmont Council of the Arts (PCA) Cultural Plan.
- Conducted Board of Supervisors/Economic Development Authority joint work session which focused on the new Economic Development Authority fee arrangement and funding priorities for FY 14.

Objective 2 - Simplify and Create Certainty - Continued regulatory reform

- Adopted the legislative review process improvements ZTA, which will go into effect on April 1, 2013.
- Implemented the ministerial review process improvements ZTA on January 1, 2013.
- Continued offering drop-in opportunities twice each month for individuals to meet with economic development staff.
- Made presentation to the Central Virginia Business Owners group.
- Successfully implemented the priority track review process for target industry project that met applicant time constraints.

Objective 3 - Support Quality Job Opportunities

- Developing approaches to support identified target industry clusters, including holding the second meeting of the newly established Biotech Council.
- Working with community partners to plan a VA Bio (Virginia Biotech) educational symposium to focus on developing workforce and career opportunities in the local life sciences industry.
- Supporting entrepreneurial opportunities through involvement in Community Investment Collaborative and Start Up Weekend Edu (Education).
- Serving on Community Advisory Board for the Monticello High School Health and Sciences Academy.
- Made 51 Albemarle Business First calls, with specific concentration on target industries.

Objective 4 - Expand Industrial Land Options

- Scheduled a Board public hearing on zoning text amendments to modernize uses in industrial and commercial areas in March, 2013.
- Considering comprehensive voluntary rezoning for LI land uses following the adoption of the zoning text amendments.
- Tentatively scheduled a Planning Commission public hearing on complete Comprehensive Plan update, including additional LI land designations, on March 5, 2013.

Objective 5 - Promote Rural Economy/Tourism

- Co-sponsored first local Agribusiness Marketing Conference with the Chamber of Commerce, which "sold out" at 60 attendees.
- Launched second year of the Monticello Artisans Trail.
- Worked with regional partners to establish the Lewis & Clark Eastern Legacy Trail.

- Working with Monticello Wine Trail businesses to plan the 2013 Wine Festival and Monticello Cup wine competition.
- Finalized the new brand for the Charlottesville Albemarle Convention and Visitors Bureau, scheduled for launch on February 27, 2013.

Data reporting

As stated in the Plan, it is critical that the County regularly monitor and assess the economy and the local business climate in order to proactively and effectively promote economic vitality. The most recent quarterly data is included in Attachment A.

Progress on Strategic Plan Goal 3 -

Recognizing that the Economic Vitality Action Plan is a three year plan that will conclude in September, 2013, the Board included an objective in its 2013-2017 Strategic Plan goal regarding economic vitality as follows:

- **Goal 3 – Promote Economic Vitality**
Objective 2 – Establish a fully functioning economic development program for the County.

The economic vitality goal team has researched a variety of localities in Virginia to assess how their programs operate and what services they offer. In addition, staff has researched basic best practices as determined by the Virginia Economic Development Partnership (VEDP) to understand what those practices recommend regarding the mission, objectives and operations of an effective local government economic development function. Based on this research, as well as existing County policies and the major elements of the Economic Vitality Action Plan, the goal team has developed a draft approach to establishing an economic development program that is outlined in Attachment B. Program comparison information from selected benchmark counties is provided in Attachment C to give insight into the level of resources and types of incentives being dedicated to economic development in localities across the state.

Staff is sharing this preliminary material with the Board to solicit initial feedback and guidance regarding the parameters for establishing a fully functioning economic development program as called for in the Board's Strategic Plan. Staff recommends that a roundtable involving community stakeholders be scheduled to solicit feedback on this issue prior to any final direction being provided by the Board. Timing of this initial discussion with the Board will allow consideration of any recommendations that may have a resource implication to be incorporated into the upcoming budget discussions for FY 14.

There is no immediate budget impact associated with this item. Because the adopted Economic Vitality Action Plan will conclude in September, 2013, staff intends to include a placeholder amount to support the establishment of the economic development program in the FY 14 budget for the Board's further discussion during the upcoming budget process.

Staff recommends that the Board provide general reaction and guidance regarding the draft Economic Development Function Outline (Attachment B) and direct staff to schedule a roundtable discussion with community stakeholders.

Ms. Lee Catlin addressed the Board, stating that this is the first quarterly report for the third year of the plan. Ms. Catlin explained that they would quickly review highlights of the five goals, the economic indicator data, and the strategic plan goal relating to economic vitality.

She reported that regarding the first goal of the plan, "Improving business climate and image," the County will be partnering with the City to host the Virginia Economic Developers Association 2013 Spring Conference, has been serving on the existing Business Retention and Expansion Task Force that the Virginia Economic Development Partners have set up statewide, and has been involved with the Piedmont Council of the Arts strategic plan. Ms. Catlin mentioned that the PCA project is underway to look at how a number of things can be done – including the economic potential of the arts and culture community.

Mr. Thomas commented that the planning process is exciting, and a great way for the CACVB, Chamber of Commerce to all come together.

Ms. Catlin reported that there had been a lot of activity around the second goal, "Simplifying and creating certainty," with ministerial review process improvements implemented as of January 1; the Board also adopted legislative review process improvements to be in place April 1. She stated that the ministerial process is going well so far, and the County has had a successful priority track review process for Siemens – one of the target industry projects – and was able to meet applicant timeframes and deadlines.

Ms. Catlin reported that with the third goal, "Supporting quality job opportunities," the County is working with the State Virginia Bio Organization and partners in the local biotech industry – UVA and others – to hold a Biotech Educational Symposium in May, in cooperation with the Virginia Bio's 25th gala, which will provide a forum to develop workforce opportunities and career path type activities in the local life sciences industry.

Ms. Mallek asked to whom it would be aimed. Ms. Catlin responded that it would be aimed at local government, legislators, industry representatives, and educators from elementary through college – a career path continuum.

Ms. Catlin stated that Susan Stimart continues to do a great job with Albemarle Business First, the County's business outreach program, and in the last quarter she was able to make contact with 51 businesses.

She reported that regarding the fourth goal, "Expanding industrial land options," there would be a Board public hearing on the zoning text amendments that relate to increasing flexibility of industrial land categories. Ms. Catlin stated the Comp Plan update continues to move through the Planning Commission with the hope they will have their large public hearing in March then move on to the Board.

Ms. Catlin said with the fifth goal, "Supporting agricultural business," the County held its first agri-business marketing conference, which was very well attended – sold out at 60 attendees – and was a great opportunity to take small business and starting business, agricultural and food producers, and get them connected with resources that will hopefully help them grow their businesses. She stated that staff is working on the second annual Monticello Wine Trail wine festival, and they are looking to expand that program from one day to an entire week, with symposiums and other events to build up attendance.

Ms. Catlin noted that in looking at the ABC wine sale taxable liters for wineries, there was a 27% increase locally in the last quarter of this year versus last; the cidery number also went up significantly.

Ms. Mallek asked what time of year will the festival series be held. Ms. Catlin stated that the Monticello Wine Festival itself is on April 13, and two nights before that there would be a wine competition event held at the Paramount for the best winemakers in the region.

Mr. Thomas commented that that was during the time of the Dogwood Festival.

Ms. Mallek noted that events would be held out in the country and not just downtown.

Ms. Catlin clarified that events will be held at the wineries as well.

Mr. Steve Allshouse addressed the Board, stating that he would speak about three topics of interest to the County's economy: tax revenues that reflect the state of the economy, unemployment rates and employment numbers, and the housing market. He presented a graph of sales tax revenue from the last several years, noting that the County had gotten beyond the slight decline from 2011 – having lost a major retailer to the City that year, but gaining a new major retailer in a similar industry in 2012. Mr. Allshouse said that the Board would likely see the number continue to increase in 2013 with the completion of a major retail project in the County.

He reported that there was a decline in food and beverage tax revenue in 2010, an increase in 2011, and a decrease in 2012 – reflecting in part the loss of a very high volume restaurant on the 29 North corridor to the City. Mr. Allshouse emphasized that there are several new restaurants open, a major project being completed, and he anticipates that the deficit will more than be made up for in the next year.

Regarding transient occupancy tax revenue, the County saw that rise during the recession due perhaps to people taking local vacations, and climbed again in 2012. He stated that with the construction of a major hotel slated to open in the next several quarters, the numbers would rise again in 2013 – probably to above the 2010 level.

Mr. Allshouse reported that the unemployment rate for the last quarter is below 5%, and at the national level 5% would be considered full employment. He said that the natural rate of unemployment in the County is closer to 3.5%, based on historical data through recessions and growth period. He added that the figures reflect people who are looking for work actively and do not account for those who might have dropped out of the labor force during the recession. Mr. Allshouse reported that the number of jobs in the County dropped during the recession, but is now moving up again and was anticipated to continue increasing.

Regarding the housing market, Mr. Allshouse stated that he looks at the number of months' supply of unsold inventory, meaning the number of months it would take to sell off all of the inventory that is for sale officially in the Multiple Listing Service – not including "for sale by owner" properties. He said that in looking at that information, he sees a positive trend going forward. Mr. Allshouse stated that after the homebuyer tax credit expired in 2010, there was a rise in the inventory numbers, suggesting that there would be increased downward pressure on home prices – but the inventory numbers have come down since, and are trending toward what most analysts say is an equilibrium level of about six months. He emphasized that these numbers bring cause for optimism, and both the condo and townhouse markets appear to be in equilibrium with the single-family attached market approaching equilibrium. Mr. Allshouse noted that nationally there is a shortage of supply, which bodes well for house price appreciation in the future.

Mr. Allshouse summarized his report by stating that the County's economy is growing at a moderate pace; the tax revenue data is mixed, although there is cause to believe those numbers will improve in the next year or so; the unemployment rate has nudged down recently, with the total number of jobs increasing slightly; and there has been a slight increase in the number of business licenses over the previous year. He said that the single family detached residential market continues to improve. Mr. Allshouse noted that residential construction and commercial construction have both dropped, but that's to be expected as there are a number of major projects reaching completion.

Mr. Allshouse stated that he would be cautiously optimistic about the state of the economy going forward. He explained that he does the revenue forecasting for the County and he is seeing things get a little bit better, which will feed into revenue streams in the coming years.

Mr. Foley stated that “cautiously optimistic” is a phrase that will be used when the Board starts going over the budget – which is good news compared to three years ago.

Ms. Mallek commented that that is good news and better than the alternative.

Ms. Catlin reported that staff would also address some activity related to the Board’s strategic plan goal related to economic vitality. She said that the Economic Vitality Action Plan is a three-year plan that will conclude in September 2013, and staff has included an objective in the strategic plan goal related to establishing a fully functioning economic development program for the County. Ms. Catlin said that staff has only recently had the direction and guidance working towards the plan.

She explained that there is a goal team which has been actively researching a variety of localities in Virginia to understand how their programs operate and what services they offer, and in addition staff has been looking at “basic best practices” as determined by DEP and others to understand what those practices recommend as far as mission, objectives and operations of an effective local government economic development function. Based on this research, Ms. Catlin said, in combination with existing County policies and guiding documents like the Com Plan, staff has developed a very preliminary draft approach to establishing an economic development program to be reviewed with the Board at this meeting. She emphasized that staff is not asking for any kind of decision at this point in time, as these are just some preliminary ideas that have been gathered and put together.

Ms. Catlin said that staff really wants to solicit initial reaction and guidance regarding how they move forward with establishing a fully functioning economic development program as called for in the strategic plan. Ms. Catlin said that staff recommends convening discussions with community stakeholders to get feedback before any kind of decision or recommendation was brought to the Board.

Ms. Catlin stated that staff is not starting from a blank slate when it comes to establishing an economic development program, as there are guiding policies and structures and parameters already to help define how that function should operate, starting with the vision statement as presented that talks about a thriving County that’s anchored by a strong economy. She said that the County also has a Comprehensive Plan economic development policy that lays out a lot of guidance about how economic development should function in the County, and the Economic Vitality Action Plan preamble – which addresses what kinds of things should happen with economic development and references a sustainable pathway for the long-term health of our local economy. Ms. Catlin said that the last resource is the Target Industry Study, which talks about direction and guidance regarding economic development and how it should be approached in Albemarle County.

With those guiding documents in place, she said, staff tried to move forward with what they felt were draft efforts to identify what some defining elements might be that would be important to establish the broad outlines of an economic development function. Ms. Catlin said that most economic development programs have a mission, something that specifies what they are trying to accomplish, and the group has put together some draft language for consideration: To foster and encourage responsible economic development activities that maintain the County’s competitive position and result in job creation and career employment opportunities, increased tax base, and an improved quality of life for citizens while respecting Albemarle County’s natural resources and unique character.

Ms. Catlin said that the group also felt there should be some guiding principles in place to provide parameters as to how the economic development program would move forward. She stated that the group addressed the idea of economic diversity, as there has been much discussion about focusing on a broad range of job opportunities at all skill levels and the opportunity for advancement. Ms. Catlin noted that other parameters include respect for heritage and environment and promoting the quality of life that embraces the County’s heritage, preserves the environment, and effectively manages and protects resources based on the guidance provided by the Comp Plan. She said that organizational collaboration – close partnerships with local, regional and state entities – is prioritized to help the County achieve its goals. Ms. Catlin noted that entrepreneurship is a very important element in the community related to economic development, and the County wants to encourage, value and support those efforts. She said that organic growth is something that has been very important to staff. She emphasized that building value from within by supporting the businesses and assets that are already present and have been contributors to the community, as well as building awareness of local opportunities to ensure career and economic development opportunities that have the potential to keep young people in the community. Ms. Catlin said that the goals recognize and support the strength of the local educational institutions and promote lifelong learning opportunities, leveraging intellectual capital that enhances expansion of business interests. She stated that the objectives also support a social infrastructure that encourages business offerings recognizing family, educational and cultural needs, and helps people be successful and productive employees.

Ms. Catlin said that once the overarching framework, mission and guiding principles are in place, the focus shifts to what elements of the program need to be emphasized. She stated that business retention and expansion are the heart of successful economic development – promoting, retaining and helping the profitable growth of existing businesses. Ms. Catlin said that the elements addressed are underway to some extent based on the goals and objectives of the action plan, and the summary before them describes where things are currently as well as possible future directions in those areas.

She reported that new business startups is another area that needs to be a component of an economic development program, and the County should ensure that it is creating an environment that's conducive to the startup and growth of new business ventures. Ms. Catlin emphasized that there are many opportunities with UVA to help prospective entrepreneurs and investors, to help new ventures grow. She reported that the primary leadership for business attraction and generation activities lies with the County's regional partner TJPED and at the state level with the Virginia Economic Development partnership. She said that there is a role for the County to be well-prepared to respond to inquiries of interest referred by state and regional partners, as well as direct inquiries, and to participate as appropriate in marketing initiatives that align with target industries. She stated that there is some level of business attraction that staff thinks needs to be considered and discussed as part of an economic development program. Ms. Catlin stated that in the area of workforce development everyone is very aware of the importance of cultivating a skilled and motivated labor force to ensure that economic development can be supported in the County.

She said that agri-tourism is a target industry, but also rises to the level of being its own effort because of the County's heritage and emergence as a major local producer. Ms. Catlin stated that staff wants to make sure that the County is putting forward efforts to enhance the agricultural sector, while making sure that those economic development opportunities don't harm the essential nature and the important natural resources of rural Albemarle.

Ms. Catlin reported that the County has instituted a fee arrangement that would be generating some level of ongoing funding for economic development by the EDA. So there would be a need now to develop, implement and monitor EDA funding initiatives and make sure the Board is working very closely with the authority to ensure activities are aligned.

Mr. Thomas asked Ms. Catlin to elaborate on "workforce development." Ms. Catlin explained that workforce development means ensuring that the County is supporting the kinds of activities that are building expertise and knowledge across a variety of skill levels, such as with CATEC. She said that staff looks at the four target industries identified and start to build workforce pipelines to fill those kinds of businesses at all skill levels. Ms. Catlin said that in looking at industries such as biotech and manufacturing, there is quite a spectrum of job possibilities but the County must pay attention to ensure there are systems in place to create the workers that will meet the job needs.

Mr. Rooker said that the Health Academy at Monticello is a great example of that.

Mr. Snow commented that the preparation for NGIC has also been helpful.

Ms. Catlin noted that what staff hears most frequently from businesses is that their major constraint is workforce and talent availability.

Mr. Thomas stated that in visiting some of the schools in his district, the principals have emphasized CATEC and educating kids that aren't going to go to college, which interested him considerably.

Ms. Catlin said that several of the advanced manufacturing facilities have a great need for associates degrees and people who have technical skills right out of high schools.

Mr. Rooker stated that there is a plant in Danville currently looking for machinists, jobs that pay over \$50,000 a year, and they can't find enough in the area so are expanding their search.

Mr. Rooker said that one thing that came out of the recent town hall meeting is the need for people who can still do basic services, such as auto mechanics, plumbers, food preparation, etc. He said that while a lot of jobs are a constant target to keep up with technology, those jobs are going to be there.

Ms. Catlin stated that a lot of companies would love to get those coming through high school into an apprenticeship or internship, to move right into skilled labor.

Ms. Mallek commented that Valerie Palamountain at PVCC has been a huge asset in that regard, but her department still needs the extra help in identifying the needs businesses have – and that's where Ms. Stimart has been so helpful.

Ms. Catlin stated that the Board's report also shows the results of research done by staff into economic development programs at benchmark communities in Virginia, to show the kinds of resources that are being put to work to encourage economic vitality in other communities – and in some cases, they are competing for the same kinds of target industries as Albemarle. She said that in a few instances, they have similar attributes and amenities to the County – proximity to a major university, good quality of life, etc. Ms. Catlin stated that staff would like to discuss the current competitive environment and where the biggest capacity challenges would be if the Board did want to move in a more proactive direction.

She explained that the primary area of focus in staff's mind is anchoring existing businesses, and there is an identified list of about 1,500 companies they should be connecting with that have a priority impact on the County. Ms. Catlin said that even with Ms. Stimart at a very ambitious rate of 200 a year, it would take a while to connect with all of those businesses – and if any they contact need assistance or resources that generates a lot of activity. She said that the County has seen recent major expansions of very valuable local companies that had to find new locations because of business growth and new jobs – such as Worldstrides, CFA, Microaire, and Hemoshear. Ms. Catlin said that all of those were able to stay within the larger community, and it is important to understand they could have gone somewhere else, and

the fact they are being courted by other communities that would love to have them locate there. She stated that staff feels like it is really important that the County is connected to and on the front end of those kinds of discussions, so that staff can make sure they're leveraging people to stay here as much as possible.

Ms. Catlin said that another area of capacity challenge is with implementing the target market study, and there were four target markets identified as being very important to the County – biotech, agribusiness, IT, and defense. She said that while biotech and agribusinesses had received much support and attention, there is concern about defense because of the challenges that sector faces – such as a looming potential BRAC action that would consolidate DOD operations. She said that staff wants to make sure that our community is a winner in that process and that takes time, energy and focus.

Ms. Catlin said that a few years ago, the County went through a brewery selection process, which was a very attractive industry and it was a \$108 million brewery employing 90 people – right in the target market hotspot. She stated that the company started their search just east of the Rockies, then narrowed it down to the Northeast, the Southeast, and the Mid-Atlantic region, then to seven states, then considered 170 communities with four levels of screening criteria. Ms. Catlin explained that it went from 170 down to 60 to 38; and then from 18 and down to nine. She said that Albemarle was “still alive” at that point, and responded to an RFP, then had a day-long visit including utility representatives, other manufacturers, cultural groups, workforce training, etc. She stated that the challenge with this project was that the County didn't have the site that was ideal for them, so the company chose another site.

Ms. Catlin emphasized that if the County wants to be able to effectively be in the game and be able to work with these kinds of prospects, there's a lot of energy and focus and attention that needs to go into making sure that you're putting forth a quality presentation and a quality response for our community.

Mr. Thomas asked if water supply had been a factor in the company's decision. Ms. Catlin confirmed that it was.

Ms. Catlin said that the company loved this community. She stated that you have to be able to make a very good, professional, effective case quickly on a dime for someone looking at that many communities.

Mr. Rooker asked how much economic incentives played into the decision. Ms. Catlin responded that in some cases incentives play a big role. She said that Virginia has a bit of an advantage such as being a good state for business, having a good reputation, low taxes and its right-to-work structure. So there are reasons why the County doesn't have to be big time in the incentive game like every other state but sometimes it is a factor.

Mr. Rooker commented that in the long run those incentives have proven not to be profitable for the community or the state in the long run.

Ms. Mallek commented that in this case it was topography which is something you can't change even when you have to do all that work in order to get them to the site to figure out if the topography will work.

Ms. Catlin said that the last area of challenge is in leveraging resources and partnerships. She noted that there is a group in the Shenandoah Valley that is putting together the Rockbridge Cultural Center – an \$11 million regional artisan and cultural center slated to open in 2014. She stated that the project is a public-private partnership and the group had to apply for grants, was involved in a three-year study with officials around the state and regionally. Ms. Catlin said that the idea is if you want to have some of these kinds of complex projects, which bring a lot of benefit to a community, there is a level of effort and sophistication and complexity that comes with being able to really take advantage of the state's grant programs. She added that it takes resources and energy to understand those and be able to put something in place to bring those opportunities into a community.

Ms. Catlin concluded by stating staff is looking for Board guidance, and recommends going to a stakeholder discussion to gauge input and reaction. She stated that at this point staff is anticipating that the budget will have a placeholder in the event the Board wants to consider putting resources toward economic development in the coming year. Knowing that the Economic Vitality Action Plan ends in September and then there is a whole fiscal year before another budget, the Board would have another opportunity to talk about it if they desired to do so.

Mr. Foley pointed out that staff looked at 11 different localities, eight of which are very close matches, and there is only one out of that 11 that has less than four staff. He said that this isn't all about staff, but it's about resources to get in the game.

Mr. Thomas mentioned that Loudoun County has 18 staff.

Mr. Foley said that that's not a great comparative to Albemarle, but eight localities are – and most of them have four or more staff. He stated that the one that does not have four staff has three, which is twice the number of staff as Albemarle with just Ms. Stimart and Ms. Catlin, who is also the County's communications person. He said that staff is starting this conversation about what it means to the Board to establish a fully functioning economic development program. Mr. Foley said that staff has completely overcome the image issue within the community and with the state, and the County has become very active regionally. He added that staff is getting ready to unveil a whole new name for our region, which has been done as a partnership and will put the County on the map to outside folks as well as those in the

state. Mr. Foley stated that what it takes to get in the game, and what the game is for Albemarle would be different perhaps than other counties – and that has been worked into goals and mission – but the question is whether the Board is going to take a step more towards target industries and being able to respond.

He mentioned that staff worked extremely hard on the brewery proposal, and that type of situation happens numerous times in localities throughout a given year. Mr. Foley said that as the County is more successful regionally, staff has got to be prepared to respond to those leads that come in, in a way to get the best foot out there. He stated that it is not always about incentives, as things like offering a top-notch education really make the bigger difference. He said that the County has got to be prepared to respond and put the best food forward. He noted that this is a capacity issue, and it has to do with where the Board wants to go. He added that Fauquier County has six staff working in economic development.

Mr. Rooker asked if Fauquier County's tourism coordinator would be comparable to the tourism bureau in Albemarle. Mr. Foley responded that there are some resources at the tourism bureau in Albemarle that would be comparable to the things going on there. He stated that most of the offices don't have a focus on tourism but there are a few that does.

Ms. Mallek said that there is a big gap for the small business person to be able to take advantage of what the CACVB offers. She said that there is a huge learning curb outside of the CACVBs skill set and if the County had someone working directly on "rural" they could provide that bridge and the County would get a lot more bang for its buck.

Mr. Foley said that County staff has been very engaged in tourism in partnership with CACVB.

Mr. Foley said that staff put a place holder in the budget that could be used to address whatever the Board decides to do. He said that leaving the item out when this plan ends in August really didn't fit with what the Board has told them what they wanted to do and defining that a little better is the reason for the discussion.

Mr. Rooker asked Mr. Foley if he meant by place holder the potential to add a person. Mr. Foley responded that that would be an option as maybe a half a year position or to be put toward something else like marketing. He said that staff is certainly at capacity for the level that they are doing now, and maybe a little beyond that and that can't go on that way forever.

Mr. Rooker said it would be helpful to have a recommendation from staff as to how specific new resources would be deployed. Mr. Foley said prior to doing that, staff wants to engage with the community and get some broad direction from the Board.

Ms. Catlin said she wanted to make sure there was nothing the Board was uncomfortable with prior to staff seeking input from the community.

Mr. Snow commented that it looks like the next step would be moving forward to the community input stage.

Mr. Rooker asked about health services being a complementary industry instead of a main industry.

Ms. Catlin explained that health sciences and arts, entertainment and media were the two other complementary targets identified.

Mr. Rooker asked what the difference was between target and complementary target. Ms. Catlin explained that the complementary targets were things that the County had natural advantages in, and while it might not be the primary focus of efforts. The County should not fail to take advantage of the opportunities it has with the health care attributes that are in the community as well as arts, entertainment and media. She said that for a lot of the things the County does it would probably make sense to roll those into the target industries because it makes sense for Albemarle.

Agenda Item No. 21. Quarterly Capital Projects Status Report, February 2013.

Mr. Trevor Henry addressed the Board, stating that this was the first comprehensive report to the Board on capital project status. He stated that the report stems from multiple discussions had over the past year through the CIP process and with individual project status meetings. He said that he hopes this will establish a formal means and method of regular reporting. He stated that the report covers activity through the previous quarter – calendar year 2012, 4th Quarter. Mr. Henry noted that the scope of the report is limited to the projects that the Office of Facilities Development is involved with, and there are apparatus purchases and other smaller, maintenance type projects that are not included. He said that he hoped the Board would provide feedback on the information provided and make suggestions as to what they need to have a good status update on projects. Mr. Henry reported that he would be highlighting some key ongoing projects in his presentation today, and the report itself summarizes projects completed over the past year. He said that the project managers from OFD were present at the meeting to answer any questions.

Mr. Henry said that the Crozet Library project was underway, on schedule, and on budget – with substantial completion slated for mid-July. He said that staff is working with the library personnel to anticipate occupancy in August, and they are working on when they will actually open their doors. Mr.

Henry reported that there is an issue with a fiber-line conflict on Crozet Avenue resulting from the VDoT work at Jarman's Gap, but fortunately the County was able to provide the information needed as far as location of storm water, and there was some field direction between VDoT and Century Link as they installed the line. He noted that staff has been working that issue for three or four months, and VDoT is taking responsibility for the fix – with reimbursement to the County through their Jarman's Gap funding. Mr. Henry stated that there has been much discussion about how the lower level of the library is used, and what has prevented staff from going out for an RFP to solicit interest are the ADA restrictions, as the design of the library is such that the access must be through the main part of the library and the elevator. He said that the library is in agreement to allow the use during operating hours and will control it at all times, but the issue is what to do in the off hours. Mr. Henry said that staff has done significant brainstorming on this issue with Community Development and Engineering, as well as county legal staff, and the solution will likely be to make a small change order that will modify the sidewalk and install a series of ramps and platforms to get under the 5% grade requirement. He said that VDoT agrees with that concept and there seems to be agreement within the County, so if it goes forward there would be no restriction on who might be able to use the space.

Ms. Mallek asked if the 5% grade is on Crozet Avenue. Mr. Henry explained that the location of the 5% grade is on Library Avenue from the parking lot down, which is well in excess of 5%, and once you get to Crozet Avenue, it is fully compliant.

He also mentioned that Friends of the Library fundraising seems to be going well, and they will be responsible for purchasing of furniture, fixtures and equipment.

Mr. Henry said that elements of the streetscape project have been completed, along with the construction of Library Avenue and the adjacent alley. He explained that Jack Kelsey was before the Board in October to get approval of a Dominion agreement that allowed staff to proceed with the project. He said that all utility easements have been acquired. He stated that staff has given notice to proceed through November to all the utilities, and their ramping up time has taken longer than hoped, but this month they would start the relocation effort. Mr. Henry stated that the impact to residents would likely be in the March timeframe as those utilities are connected. He said that the next step would be final certification of all the easements being required to VDoT, and they are down to just a few. Mr. Henry said that this project has required working with 20 different property owners – some of whom have multiple properties, and some of the properties having multiple owners. He said that the 20 property owners had to grant 20 deeds of dedication, and additionally there are 49 easements which are either utility, temporary construction, or drainage easements. Mr. Henry stated that there have been many lessons learned on this kind of project, but they are nearing the end.

He pointed out the intersection of two properties with Library Avenue on which the County has been trying to resolve an entrance agreement for several years, and now after four or five months of working with VDoT, they have agreed to put in a "T" intersection. Mr. Henry said that there are two landholders who still need to sign, but they are nearing approval. He also stated that there was another easement approved and signed, but there was a time restriction on the temporary construction easement so the property owner must go back and approve it. Mr. Henry explained that once the County gets the final easements recorded, staff would send the certification to VDoT, the drawings follow, they get approval, and they go to bid.

Ms. Mallek said that a question had come up about the width between Tabor Street and the railroad trestle, and asked if there were trees within the median. She said that the question was regarding the full operating width of the road in case the fire engines need to stop in front of the Blue Goose and open their doors, and as long as there aren't any trees in the median they can drop over it if necessary. Mr. Henry responded that there would not be trees in the median.

Mr. Henry stated that the Crozet north sidewalk contains two components – a Safe Routes to School grant that covers the crosswalk and a sidewalk on the west side of Crozet Avenue from the elementary school to Ballard Drive, and that piece is close to going to bid. Mr. Henry said that the County has all easements acquired, the design is done, and as soon as VDoT approval is granted it will go out to bid. He said that the other section, the south section, is a revenue-sharing funded project with the design finished and work underway on a few easements needed in order to kick that off. He stated that construction should begin later in the calendar year.

Mr. Henry reported that Ivy Fire Station is proceeding on budget and on schedule, and the County anticipates turning it over to the fire department in April – and they would do two or three months of shakedown operations, with funding July 1 to fully fund the station and have their apparatus ready. He noted that there is a little bit of a glitch on an adjacent property related to an acquisition and an easement that would be resolved and should not impact the project.

Mr. Henry reported that the Seminole Trail Fire Department project is past 65% design, the design review took place about a week and a half ago, the site plan has been submitted, and the project is on track for a May bid window with about one year of construction. He said that the budget on that is currently tracking above what is appropriated by about \$115,000, but County staff is working with the station and the architects to help bring down some cost drivers; thus far, they have been able to take it down from about a \$600,000 or \$700,000 overrun. Mr. Henry added that they are hoping to bring it in on budget by the time they get to final drawings, which might be impacted also by the phasing of the project. He explained that fire station is required to stay operational, and in order to do that they may have to put volunteers and career staff in trailers for a short time to save construction time.

Mr. Thomas asked if they were already in the old firehouse with bunks. Mr. Henry responded that they were.

Ms. Mallek explained that part of the transition time between tearing out the old building would involve the trailers.

Mr. Henry clarified that there are two parts – an addition project and a full renovation of the existing facility. He said that the quickest way to do the project would be to get everybody out and take it down all at once. With the addition and renovation done simultaneously, but they will try to work around that a little bit to minimize the time they are out of the building. Mr. Henry noted that staff put the engineering work on hold a few weeks ago and tried to stop spending any more money until this meeting, so the site plan will get pulled and they will need to regroup and come back with a plan.

Mr. Henry reported that Belvedere Phase I is a performance bond project and was pulled from a developer several years ago in 2009-10, and sat dormant for a while in anticipation for the developer and bank to work things out. He said that there were a few years when Mark Graham said that the County is the developer of last resort when it comes to this. Mr. Henry explained that the project has been broken into two phases: Belvedere Boulevard, running from Rio to the Fairview Swim Club; and the rest of the project – sidewalk, streets and storm water. He noted that over a year ago, about a month into road improvements, VDOT and County inspectors identified concerns about the base and the construction of that base, so they ended up stopping the project. Mr. Henry said the County hired some testers to go in and analyze the project, as did VDOT, and the conclusion was that the original construction wasn't to spec, and it's at a level of concern that requires basically the road to be completely redone. He said that the County doesn't have the budget within that performance bond to do that. He stated that staff has been in discussions with the owner and developer, and his contractors, the asphalt company, etc., and have looked at a dozen different things with VDOT to get the project within in budget – and they're still in that process.

Mr. Thomas said that his understanding was that there was an effort to try to combine the monies that was in the different bonds, and that couldn't be done. Mr. Henry responded that staff originally felt that that was the solution but you have to stay within the scope of each bond. He said that staff feels that they can stay within the bond budget on the remaining phase and the design has been completed and reviewed by the County – with bidding likely to take place this quarter. Mr. Henry said that this piece is where most of the single-family residences are located, and it should be resolved this spring.

Mr. Thomas asked if that had been communicated to the residents of Belvedere. Mr. Henry responded that it has been communicated out, but he wasn't sure how recently and he would check with Mr. Jack Kelsey.

Ms. Mallek asked if the Boulevard was from Fairview into the neighborhood. Mr. Henry replied that it was.

Ms. Mallek said that she heard from one of the firemen that with people parking on both sides of the road in the Boulevard section, they can't get the engine in there, which is the same problem that happened at Old Trail. She said that until the road was taken into the state system they were not able to get compliance with the people between the traffic circles to stop parking on the road.

Mr. Rooker noted that they still don't allow people to park on the road.

Ms. Mallek agreed and said that once the state was able to enforce it, it went away. She said that she would not want to wait for an extreme incident to get to that point with Belvedere.

Mr. Snow said that the Senior Center is concerned about being able to park on both sides of the street in that area.

Ms. Mallek said that was a wider section.

Mr. Henry confirmed that the main drag is a wider section of road and the site plan for Belvedere includes parking so there will need to be adjustments to the Boulevard to allow parallel parking. He said OFD is working with the County Attorney's office, and the Mile Road going into Belvedere is getting more use with the multi-family complex, the Senior Center, etc.

Mr. Thomas commented that there are 236 apartments in there.

Ms. Mallek noted that 500 swimmers also access that road.

Mr. Henry reported that the last project to discuss was the Lewis & Clark Exploratory Center, and the County is a pass-through for an \$800,000 enhancement grant, and as part of that there is some project oversight – with Mr. Kelsey overseeing that process. He said that project construction stopped last spring due to the cash flow, as the sequencing of the reimbursement to paying the contractor was out of sequence so the contractors left. Mr. Henry said it was negotiated over the summer and they eventually returned, with the project now back underway despite some recent weather delays. He stated that staff anticipates a March to April timeframe for substantial completion, and the Lewis & Clark funding will be required to finish the work through the VDOT grant payout.

Mr. Rooker asked who the contracting party was. Mr. Henry responded that the Lewis & Clark nonprofit is managing the project and has hired a construction manager from Barton Mallow to help. He added that there are still some funding challenges with this project.

Ms. Mallek mentioned that they hit rock, which was a monstrous change to their cost and timeframe.

Mr. Foley noted that there are some uncertainties in the final funding, but the County is working with the City in case there is a shortfall – but hopefully fundraising will take care of those issues.

Mr. Henry mentioned some of the CIP sidewalk projects – South Pantops Drive, State Farm Boulevard – stating that the projects are ready to go to bid, with some temporary construction easements needed that should happen this quarter. He said that Fontaine and Hollymead are smaller-scoped projects, but they are expected to be designed and constructed this year.

Mr. Henry said that the County brick enhancement is nearly done, and the bid opening for waterproofing of the front steps is tomorrow; the County courthouse ADA ramp is nearly done as well. He referenced a list of school projects in the queue for summer work and said there are some bigger projects planned, pending approval of the CIP budget.

Mr. Henry said that the information in his report comes from the County's SharePoint site, which is the method used to do team collaboration and management. He stated that the Office of Facilities Development is on the cusp of turning on the surface layer of that for public view, at least for key projects, and they are working with Information Technology and the County Executive's office to ensure the information is controlled and appropriate for that use. Mr. Henry said that in the future, it may be possible for staff to report from SharePoint rather than printing out a lengthy staff report.

He stated that as an action item from the fall, there is a question about the change order process. He said that the question was the volume of change orders, and the amount of change orders required for County Executive signature. Mr. Henry clarified that it is 25% cumulative on a contract or \$50,000, whichever is exceeded. He said that staff went back into calendar year 2012 and found they had nine change orders that met that threshold, and three of them exceeded \$50,000, with two of those also exceeding the 25% threshold. Mr. Henry noted that the highest was \$180,000 for Grimm and Parker, which was restoring some work from when the project had been put on hold, and ultimately it was not a huge net change.

Ms. Mallek said that when that was decided, staff warned the Board that restarting it would cost. Mr. Foley said that example was one staff had a lot of conversation about with the Board.

Mr. Henry stated that the other project with a fairly significant change order was the one related to the brick ties, as the County discovered that the exterior walls weren't in great condition and had some urgent work to do. He said that staff was able to handle that through email with Mr. Foley and the Board, and fortunately the County had more appropriation within the project to cover it.

Ms. Mallek asked if it would be possible for the Board to have a walkthrough on the SharePoint system, so they can come up to speed and find any glitches. Mr. Henry responded that they certainly could do that, or host a training session.

Mr. Foley said that the report the Board received on the CIP is very thorough, and complete in terms of the money being spent, the change order activity and the schedule. He stated that this is the best the County has ever had. Mr. Foley said that Trevor and his staff have done a fantastic job, and getting that out so the public can take a look at it is a piece of this too.

Mr. Rooker said that he felt the level of detail in this report was just right, and complimented Mr. Henry for a well-done report.

Agenda Item No. 22. **Work Session:** Courts Study.

The following executive summary was forwarded to Board members:

At its January 5, 2011 meeting, the Board authorized staff to proceed with issuance of a Request for Proposal (RFP) to engage an Architectural/Engineering (A/E) firm to perform a limited, Phase I study to assist the County in determining its next step in addressing the space needs for the courts. An RFP was issued in February 2011 seeking qualified firms or individuals to conduct a needs assessment and develop renovation and/or new building options for the provision of court facilities, to include the Circuit, General District and Juvenile and Domestic Relations Courts. PSA-Dewberry Architects was selected to perform the study due to their courts expertise and experience in conducting a thorough and detailed analysis process. The purpose of this executive summary and work session is to present the results of the study and to seek input from the Board on the preferred courts development option.

The scope of the PSA-Dewberry study was to:

- Assess the County's long term needs for the General District and Circuit Court operations (2030+)
- Analyze three courts development options as follows:
 - Downtown Option (renovation of existing courts and development of Levy site);

- Split Location Option (Circuit Court downtown, General District Court at McIntire location);
- County Complex Option (new courts complex on County site).
- Develop “order of magnitude” cost estimates for each option.

The full PSA-Dewberry report is attached (Attachment A). Section 4 of the report details each option studied by the consultants, including scope, design concept, pros/cons, and conceptual square foot cost estimates.

Staff and the consultants had multiple meetings to review the County’s population growth, caseload growth assumptions, and the resultant programming information that led to the option development. The options were reviewed for design concepts, projected costs, and overall effectiveness in addressing court needs and operations. After receiving the report, staff considered the complexities associated with relocating the Circuit Court to a County location, including the requirement of a referendum, among other issues, which led to the conclusion that the County Complex Option is perhaps less feasible and not recommended. Staff also discounted the Split Location Option wherein the General District Court would be relocated to the McIntire location due to limitations of future expansion needs in the 2030+ horizon and higher initial construction cost to include shell space for limited growth.

Based on all factors considered, staff recommends Board consideration of either the Downtown Option or a modified Split Location Option involving the relocation of the General District Court to County-owned property at Mill Creek Drive. Notable differences between these options include costs of construction, parking, short-term and long-term capacity issues and operational impacts. Staff will review these differences in more detail at the work session. As regards operational impacts, staff met with the Circuit Court and General District Court judges, the Commonwealth’s Attorney and the Sheriff. All three groups believe that separation of the General District Court will create process and potential staffing inefficiencies, scheduling concerns and perhaps some level of confusion to the public. Staff recognizes that further study to quantify operational impacts will be necessary; however, such impacts must be weighed carefully against the likely premium costs of building downtown, the lack of convenient parking and the risk of eventually outgrowing the more restricted building capacity of a downtown location. In addition, split court operations exist in a number of other localities in Virginia. Attachment B provides a list of Commonwealth court districts and highlights those areas with split operations.

Staff will outline the various options during the work session, including more detailed discussion of the cost differences, operational implications and comments from court users.

The total budget impact is dependent upon which option the Board chooses to pursue. Early estimates, based on conceptual level drawings, suggest that the Split Location Option would cost approximately \$39 million (\$41 million less an estimated \$2 million from the sale of Levy). The Board has indicated a preference for convenient parking in any scenario, therefore, if we include an allowance of \$3 million for a parking solution downtown (assuming we can find one), and in this way create two scenarios that are comparable, then the cost difference between the Split Location Option and the Downtown Option is at least \$5 million and as much as \$15 million depending on the extent of the initial buildout.

Staff is not making a formal recommendation at this time, but is presenting the consultant’s report and seeking Board feedback on the merits of the two options primarily being considered: to remain downtown or to renovate the Circuit Court in Court Square and relocate the General District Court to the Mill Creek Site. Staff requests that the Board identify any additional analysis it requires as soon as possible to allow staff to provide the final analysis and recommendation to the Board in May, 2013 so this project can be included in the CIP process and a final determination can be made regarding the sale or future use of the Levy building site.

Mr. Bill Letteri, Assistant County Executive, addressed the Board, stating that the need to renovate and expand the courts has been an important topic of discussion for several years now, and in 2001 the County entered into a joint study with the City to look more broadly at all courts. Out of that study, he said, they proceeded with overhauling the Juvenile & Domestic Relations Court and have since completed that project. He said that now the County is turning attention to its own Circuit and District Court operations, and about a year ago the Board approved moving forward with an RFP to engage a consultant in this case – PSW Architects, who are experts in court design and study. Mr. Letteri stated that staff has been working to fully understand the long-term space needs for General District and Circuit Court operations. He said that staff also wanted the consultants to analyze – given those needs – what are the various options for consideration whether it be downtown or elsewhere and given those options, what the cost estimates are for each.

He emphasized that there has been a very collaborative effort between staff and consultants over the past several months, and they have looked at County population growth issues and assumptions – which are extremely important as future needs are considered. Mr. Letteri said they looked at caseload trends and assumptions, which are important because they don’t always coincide with population growth. He stated that staff and consultants have looked at case load activity and how it translates into space needs for the courts; security and operational issues, working with various court users; and parking and storage issues, some of which the Board had already considered. Mr. Letteri said that it has not been an exhaustive study at this point, just an attempt to understand the critical issues going into making decisions about various options at a broad level.

Mr. Letteri reported that based on the study and work done thus far staff feels that there are two viable options on which to proceed. He said that the first option would be remaining downtown, expanding into the Levy opera facility for General District Court operations. Once that is complete, he said, they would go back into the Circuit Court building to renovate that to expand court operations. Mr. Letteri stated that the other concept is moving the General District Court to a County-owned site at Mill Creek, so that would require a brand new courts facility for General District Court operations and go back later to renovate the existing County courthouse to accommodate expanded Circuit Court operations – which will be referred to as the split operation. He said that there are a number of issues but also a number of advantages, and there are pros and cons with each option. He emphasized that no decision is required today. Staff is trying to garner feedback from the Board so when they go to the next level it is clear where to focus and what issues to study.

Mr. Henry reported that PSA Dewberry is the consultant that Albemarle brought in for the court project, and the work has been underway for about 18 months. He said that Dewberry comes with a great resume, and is a regional firm with a strong background in court operations, master planning, design and construction. Mr. Henry stated that Dewberry has done projects nationwide and has just completed design of the federal courthouse in Rockford, Illinois, and the Chatham County Courthouse in Savannah. He introduced the team from Dewberry: Jim Beight, the principal in charge and lead designer; Meg Bower, the project manager and programmer; Dave Puckett of local architects FPW; and judicial facility planner Chang Ming from the National Center for State Courts. Mr. Henry said that the report in the Board's materials covers the phase of the process that analyzes current conditions, the current operating state, issues and concerns, and a forecasting methodology that is germane to their discussion of options. He stated that the consultants also developed a program – Courtsense – which defines the architectural program needed to meet future court needs. Mr. Henry noted that the final part of the report includes a review of options, with three specifically considered then reduced to two.

Ms. Meg Bower addressed the Board, stating that she would focus on some of the key decisions made thus far. She explained that in looking at space related to a court, the space is comprised of more than a courtroom, with a variety of ancillary spaces surrounding the court itself – helping to maintain security, circulation and functionality. Ms. Bower said that the County has courtrooms, not court sets, which mean there is a courtroom with no vestibule, chambers that may or may not be attached to the courtroom, no adjacent holding cells, and jury deliberation not immediately adjacent to the courtroom. Perhaps in a separate part of the building which means the jurors may need to transit through public circulation to get to the jury deliberation room. She stated that with planning and designing courtrooms today, they talk about the unit as a court set, with public areas such a waiting area or lobby with seating, a sound lock vestibule to keep the noise in public areas from getting into the courtroom, victim/witness or attorney conference rooms near the entrance to the courtroom, the courtroom itself, and secure areas behind that which are not accessible to the general public. A jury deliberation room which is usually as close to the courtroom as possible with dedicated restrooms and attached judge's chambers. She explained that in modern courthouses judges typically move through secure circulation to get into the courtroom by accessing a different path of travel than the public, and holding cells for anyone who might be in custody. She said there also might be equipment storage or evidence storage for trials lasting more than one day.

Ms. Bower reported that the forecasting methodology was done by the National Center for State Courts, building on previous studies that had been done and using nationally accepted methodologies for forecasting court caseload based on new filings coming in per year. She said they looked at the historic and projected County population, historical filings, and other forecasts of caseloads from previous studies. She said that the national center developed three methodologies: the linear regression, which takes a historical pattern and makes some assumptions that continue it out into the future. Ms. Bower noted that this is based solely on caseload, but there are debates in the court forecasting world about how valid it is to use populations, but her firm always liked to do a ratio to population to find out what it shows. She said that the National Center did a ratio to County population, and to County plus City; they also did a more traditional statistical analysis that maps a more complicated mathematical formula onto the shape of the historical line – and it came out with an exponential smoothing or dynamic regression approach.

Ms. Bower presented the resulting case forecasts for the Circuit Court, noting the historical data as showing some up and down fluctuation but a fairly consistent upward trend. She added that the forecast for the most part follows that line, and said that the forecasts' final projected points at the year 2030 are bunched tightly because they were all fairly similar. Ms. Bower emphasized that each of the forecasts had a certain agreement with the rest of the forecasts. She said that the output given by the forecasts showed that the low forecast projected 2,761 new filings, with the high forecast being 3,019 – for a difference of only about 250 filings. Ms. Bower mentioned that there is a difference in what this means in the Circuit Court as far as courtroom time, and what it will mean in the General District Court in terms of courtroom time. She stated that Circuit Court cases tend to take up more time per case, so 250 means more courtroom time than it would mean if it was a General District case such as small claims or traffic.

Ms. Bower presented statistics for growth in General District. She stated that there is a lot more fluctuation and a very different future picture depending on how much historical data is used – with a difference in modeling of about 18,000 cases.

Mr. Rooker asked Ms. Bower is she knew what percentage of the cases presented were traffic cases. Ms. Bower responded that they looked at it but she doesn't know the figure right off hand.

Ms. Bower reported that their review committee came back with three questions about sensitivity analysis, asking the firm to look beyond the 2030 time window of the study to ensure it lasted beyond that. The questions were: of how many court sets would be needed in 2040 and beyond; when would another

court set be needed; and what if the population grew to 150,000 citizens. She presented a slide covering that information, stating that their forecast of caseload yielded a projection of between 1.51 and 1.65 judicial full-time equivalencies, which they rounded up to two court sets. Ms. Bower said that in using the sensitivity analysis, there would be 1.87, which still rounds up to 2.0. She stated that in answer to the second question, it was predicted that another court set would be needed perhaps in 2070 if all of the assumptions hold true. In response to the third question, she said that their analysis found that there would be 1.81 court sets needed in 2030 if the population grew to 150,000.

Ms. Bower emphasized that with the Circuit Court, they found it was a fairly sound forecast, and felt very comfortable in advising that the Board plan for two circuit court sets, which should last unless something major changes.

She stated that General District Court was a bit of a different story – 1.61 to 2.31 – so it could be rounded up to 2.0 or 3.0. Ms. Bower said her firm met with the group, talked about it, and looked at the sensitivity analysis, then determined that in carrying out to 2040 they would round up to 3.0. She said that in looking when the County would need another judicial full-time equivalent, it was 2060. Ms. Bower said that if the County grew to 150,000 citizens, they would also round up to 3.0, so the committee decided to plan for three General District Court sets.

Mr. Rooker asked who comprised the committee. Mr. Henry responded that the committee included Tom Foley, Bill Letteri, Bryan Elliott, Larry Davis and himself.

Mr. Rooker asked if there were interviews with the Judges, Commonwealth's Attorney, etc. Mr. Henry responded that in the initial phase, that is where the team started. He said that were documents provided as part of the study for background, and then there were interviews with key stakeholders.

Mr. Foley clarified that the answer is "yes" at the beginning and "yes" at the end.

Mr. Rooker asked Mr. Foley if at the end meant as in now. Mr. Foley clarified that there had also been input from them over the last few weeks.

Ms. Bower added that all the information the stakeholders provided was transferred into a space program.

Mr. Henry said staff had done some follow-up with Mr. Letteri, the Judges, Commonwealth's Attorney, and Sheriff's office, but there is more work that needs to be done.

Mr. Henry explained that the committee narrowed down the three options to the two they felt had merit to move forward. He said that the reason for not choosing the option of moving all of the court functions to a Greenfield site is because of the challenge of moving the County seat through referendum. He said that the Board could still consider that option, but the committee felt it was a pretty high hurdle to get over. He stated that the committee also looked at a split option of having the General District Court at McIntire, but they felt there were some limits as to how much build out could be done, and constructing the facility on the Lane baseball field would probably meet some heavy resistance. Mr. Henry reported that the two viable options were thus reduced to the stay downtown option or a split option with Circuit Court downtown and General District out to the Greenfield site.

Mr. Henry stated that the downtown option allows for expansion in the existing historic courthouse to meet the needs of the Circuit Court – the two court sets as addressed by Ms. Bower. He said that it allows for the best phasing of the project by moving the Commonwealth's Attorney into the renovated Levy Opera House, and an addition involving a complete demolition of what's there now with a new construction addition. He said that what has been done by consultants is really a maximum capacity that the site could hold, which is why there is a range of costs. Mr. Henry said that if the County were to build it out beyond 2030, the analysis done shows some extra capacity for courtrooms and judge chambers that would allow an expansion of the courts beyond the scope of the study and projections. He pointed out that this is just a conceptual plan, and there are other things that staff could do from a configuration of this site and the buildings to allow an even more phased approach. Mr. Henry said that the costs when compared to the split option are relatively the same, minus parking and disposition of the Levy building.

Mr. Rooker asked Mr. Henry what he meant by disposition of the Levy building. Mr. Henry explained that if the Board went with the split option there may potentially be some sales proceeds from that facility.

Mr. Rooker commented that in effect you would be building out additional space not needed now, but if the staff waited until beyond 2030 it would be impossible to do it then – or extremely expensive. Mr. Henry responded that it would not be impossible, but acknowledged that it would be more expensive to do it in a phased approach. He said that there may be some options such as acquiring adjacent property.

Mr. Foley stated that all of those would require addition of another cost component, so to make them comparable, staff had to assume they could have as much long-term space downtown as they could at Mill Creek, so they had to essentially add another floor.

Mr. Foley emphasized that in looking at a period from 2012 to 2030, by the time construction is finished there is only a 14-year period – and staff did not want to proceed in a way that is too short-sighted. He also said that the architects cautioned about projecting too far out because you can't predict the future, and this is why they pushed it out to 2040 with a discussion about what timeframe to consider.

Mr. Rooker asked if the extra space is potentially leasable – is it practically feasible to use the building's upper floor. Mr. Letteri responded that it would be on the third level, so it would be difficult for a commercial operation, especially with the security concerns they would have.

Mr. Henry said that that's the reason the downtown option shows a cost range – with the lower end of cost reflecting build out necessary in 2030 and the higher number reflecting build out to 2040.

Mr. Henry reported that the Mill Creek split option would have the same cost assumptions, with a new construction project south of the Monticello Fire Station. He said that under this scenario it is envisioned that the sheriff's office would locate to this facility; the Commonwealth's Attorney could potentially move into that vacated space. He stated that some of that work would have to be analyzed and studied to see if the fit would work. Mr. Henry added that the cost analysis used the projected needs for the 2030 timeframe, meaning two large court sets and one medium.

Mr. Henry said that staff has reviewed the plans with the Judges, Sheriff, and Commonwealth's Attorney over the last few weeks, and there is a strong preference to remain downtown. He said that the committee has done some research around the state for commonality, and 7 of the 118 have what would be considered a split operation, with distance between buildings ½ mile or more – or not walkable.

Mr. Rooker said that the City of Falls Church has the same distance that Albemarle would have, about 5.5 miles, and asked if there is any information on the history of that split court situation and any functional issues. Mr. Letteri responded that that's one of the things staff proposed to look at in more detail.

Mr. Jim Beight, of Dewberry, stated that his firm is working with Falls Church currently, as they are facing similar issues in terms of space shortages for courts and administration. He said that the District Court there was set up as a convenience to that City's populous, but their courts are really based in the Arlington County Courthouse. Mr. Beight said that once per week, they will hold traffic court in the City in the chamber space where the City holds their meetings – just as a convenience to the local populous. He said the best way to describe is that they backed into it.

Mr. Rooker said that Falls Church has a General District Court in both locations. Mr. Beight confirmed that they have the potential of being able to hold court in both locations, but the primary courthouse is the Arlington County facility.

Mr. Foley said that staff's next step would be to find out how the seven localities with split courts overcame any obstacles, if the Board still feels it is a viable option. He said that the committee would work more with the Judges and Commonwealth's Attorney to talk about those obstacles and whether there are viable solutions.

Ms. Mallek said that it would be important to ask whether judges routinely operate in both circuit and general district, or if they are attached to one or the other. Mr. Foley responded that they work in one or the other, although sometimes General District might back up City/County.

Mr. Letteri said that the Commonwealth's Attorney serves both.

Mr. Henry commented that the primary concerns raised about the operations were splitting the resources amongst several locations, and the ability for the Commonwealth's Attorney and Sheriff to schedule their dockets and be dynamic in that scheduling. He added that there is also some concern about state funding for an additional Judge, and there is a study underway currently as to how the state is resourced and what the caseloads are.

Mr. Thomas asked what the considerations would be for attorneys that have to come to the courthouses. Mr. Henry replied that that's an additional impact, with the other concern being support services.

Mr. Boyd asked how much expense and disruption to the courts is being considered if the downtown remodeling option is selected, with all the construction and shifting going on. Mr. Henry responded that the sequencing is reflected in the cost estimates, and would include starting the Levy project first. Renovating to move the Commonwealth's Attorney out, building the court sets in the addition – which would allow General District to move out, and then renovating the historic court sets. He said that there may be a way to phase it in so it would incrementally cost less, and if it is the split option the new construction project would have to be done first.

Mr. Boyd commented that there may be structural problems with the renovation of the old buildings, noting the wall collapse during the J&DR court renovation. He said that it appears to him that it's going to be an awful lot more difficult to do.

Mr. Henry said he had asked that same question to the consultant several times, and they brought in an expert cost estimator to account for that higher risk level. He said that even then, anytime you are in the situation with an historic renovation and an addition that is a concern that may have additional liabilities.

Mr. Rooker pointed out that the Circuit Court building is going to be renovated either way, so the Levy building is the concern.

Mr. Letteri said that what mitigates a little bit of the premium cost is the fact that with Levy, there is a substantial portion being taken down and rebuilt with new. He said that the only real portion of what would be rebuilt or renovated would be the opera house itself.

Mr. Snow asked what the parking situation would be downtown if both courts were kept there, noting that he saw a mention of a parking garage. Mr. Letteri responded that it's a question the committee struggled with, and the approach in the study provides an allowance of \$3 million for a parking deck or some solution for parking. He emphasized that the challenge is that they don't know how it would be accomplished, and an onsite parking deck would be challenging if not impossible. Mr. Letteri said that he also didn't know where a deck would be built in the immediate area of the court, if it would even be approved by the City. He stated that there is capacity now in the City's deck, so getting a new one built would be a challenge.

Ms. Mallek asked where that information is coming from, as she has experienced no vacancy in the parking lot or on the street when she is downtown for small claims court. Mr. Letteri responded that the City is reporting some capacity in both Water Street and Market Street decks.

Mr. Foley said that when you put them together there is capacity, but there is a question as to whether that's convenient to the court.

Mr. Rooker expressed concern about the distance from the Water Street Parking Garage to the courts, especially for people with mobility issues.

Mr. Snow asked if one court was taken out of town to the Greenfield site how it might help with downtown parking. Mr. Letteri explained that the General District Court operation is the high-volume court, so the parking concerns downtown would be mitigated.

Mr. Boyd said that it may be even more because the Clerk's office, Commonwealth's Attorney's office, and Sheriff's office would also move.

Mr. Henry said the Sheriff might relocate, but the Commonwealth's Attorney would likely stay downtown.

Mr. Foley noted that they'd have to accommodate some offices for the Constitutional Officers in both places, some place for them to work out.

Mr. Dumler commented that there are some key stakeholders present, and he would like to hear from them before they need to leave the meeting.

Mr. Henry said that they were at the point in the presentation for Board questions from the consultants or others.

Mr. Foley said that staff provided some information in the executive summary that the range was between a \$5-15 million difference. He said that the \$5 million was the parking deck to be built downtown – which they're not even certain they can build – and \$2 million from Levy proceeds. He stated that building the third floor would bump the difference up to \$15 million. Mr. Foley asked staff if they had factored in the cost of purchasing Levy from the City in the high-end figure.

Mr. Henry responded that they had not.

Mr. Foley said that if the County wanted the Levy building, they would have to buy the City out and that cost would have to be added in as a factor. He said that the cost was added to the savings on the low end but was not added on the high end – if they stayed downtown.

Ms. Mallek asked for comments from stakeholders.

Judge Cheryl Higgins addressed the Board, stating that the General District and Circuit Court judges do not switch benches – but they do share resources. She said that is a huge concern to her as a Circuit Court judge. Judge Higgins explained that the two courts share interpreters, as there are frequently Spanish interpreters used in proceedings, which is vital in terms of waiver of self-incrimination and the right of habeas corpus. She said that now she can call the General District Court since they operate five days per week and ask for a Spanish interpreter because it's within walking distance and doesn't delay the docket. Judge Higgins said there is also the basic convenience of the court system and the cases heard between the two courts, adding that if the defendant or the Commonwealth doesn't like the ruling on a bond hearing, it can be appealed – meaning that the entire case is heard in front of the Circuit Court. She stated that when you have courts within walking distance, people will call and ask if the Judge can hear the case. Judge Higgins said that witnesses only have to come one time, as they are moved from one court and she can go ahead and hear the case – with no additional issue of having to transport a defendant out and back.

She read from her docket that day's cases, stating that she had back-to-back cases all day. She emphasized that they are trying very hard to run the docket as efficiently as possible. Judge Higgins said that some of the cases involve time because of the serious victim impacts, the sentencing guidelines, and the time the cases take. She presented examples of cases from her court, emphasizing that they are not the routine traffic cases where you hear something and you make a decision. Judge Higgins stated that if she has to make room for a bond hearing, it's very easy to work it in if she can do it very quickly – but if she has to figure out where all the parties are and when they will arrive, that becomes "hugely

problematic.” She said that this was also an issue in the event of unforeseeable emergencies, and if the Commonwealth’s Attorney is within walking distance they can easily resolve the issue. Judge Higgins reiterated that both courts operate during the same time and lawyers going back and forth between the courts. She added that there have been times when she has been able to coordinate schedules well with Judge Barkley.

Judge Higgins said that she understands the mathematical formula for judges needed in the future, but she sincerely questions whether the General Assembly will actually fund those positions. She stated that Judge Barkley has been on the bench for 23 years, and even with his caseload they have one General District Court judge. Judge Higgins also said there is some question as to what will happen with Judge Morton’s position when he retires. She said that she finds it highly unlikely that they’re going to have two other General District Court judges appointed in the next 20 years. Judge Higgins stated that she is afraid that the County will be spending money on a courtroom that literally would not have a judge to use. She added that Circuit Court is much the same, with just one judge, and she does not anticipate getting a second one.

Judge Higgins said that with the facilities that she has now, it does work. She explained that the Circuit Court has designated judges and room for them if they need it. She said that they are making changes to where they put the jury – so there are other considerations in terms of the actual operation of the court that she hopes the Board will consider significantly. Judge Higgins also encouraged the Board to proceed with the committee’s recommendation to get community input, as she is concerned about having the best court possible, but other people may not share her views. Judge Higgins also indicated that she had a letter from the Public Defender’s office about their views, and before money is spent on more studies, the community’s perspective should be heard.

Mr. Rooker asked if she had any thoughts on the parking issue, as it seems to be one of the biggest differentials.

Judge Higgins responded that she has a designated parking space, so for her it’s not an issue – but it is an issue downtown – parking is an issue. She said that she does not know how big the parking lot is here at the County Office Building but is wondering what the distance between the back of the parking lot to the County Office Building and from the Market Street Parking Garage to the Courthouse. She reiterated that she does not have to walk it but does acknowledge that it is a problem.

Ms. Mallek asked if Judge Higgins had received excuses from those appearing in court that they were late because they couldn’t find parking spaces.

Judge Higgins responded that she does not receive those complaints, as the reasons people give for being late usually involve memory and not parking.

Mr. Rooker mentioned that a lot of attorneys were located downtown, so they’re walking to court. So they would have to drive out to Mill Creek so there would be a need for more parking if the court were moved there.

Mr. Dumler said that he has had days when he had cases in both General District and Circuit Court, and he was able to go back and forth.

Mr. Rooker asked Mr. Dumler if he parked in the Market Street Garage.

Mr. Dumler replied that usually he finds street parking.

Ms. Denise Lunsford, Commonwealth’s Attorney, addressed the Board, stating that she has noticed fewer concerns about parking and complaints about finding a place to park, but often someone will come into Albemarle General District Court when they’re supposed to be in City, or vice-versa. Ms. Lunsford said that it is very easy to just direct them to the right location, so they are only a few minutes late. She stated that one of the things that Mr. Hingley said in his letter to Mr. Letteri, and what Lloyd Snook, President of the Bar Association emailed to her today is the desire to be involved in decisions made about a facility they will use. Ms. Lunsford said that there had been some consulting with court staff early on in the course of the court study, but that contact just sort of fell off. She stated that stakeholders had received an update from Mr. Letteri the previous week, along with a copy of the court study – which was dated September – but only provided recently on request, despite having asked several times before.

Ms. Lunsford said that there were a lot of questions that were being asked of Trevor and the consultants that they don’t have the answer to. She said that the people who use the building have a lot more information than either Trevor or the professionals do with respect to the courthouse – specifically as it relates to how the building is used. Ms. Lunsford said that the personnel that work in the courthouse, as well as members of the bar and members of the public, would appreciate being included in the process before a decision is made in the summer of 2013 about what’s going to happen. She said that courts staffs sort of feel like they’ve been left out of the process to a large extent. She mentioned that there was mention at today’s meeting of relocating her office to the current Sheriff’s Department, should the General District Court be moved to Mill Creek and that’s not in the report presented to them last week. Ms. Lunsford said that where her office is located is pretty important to her, and where the Sheriff’s office is located is pretty important to him. She said that the issue of how court staff splits their time was raised at the meeting with Mr. Letteri, and she suggested that someone come spend a week with them, as that is the only way staff is going to know how they actually work.

Ms. Lunsford provided some recent examples of how the courts are structured. She stated that on the previous Monday the Circuit Court had docket, which meant there were 30 officers that had to testify before the grand jury, and there were seven jurors there along with about 100 citizens and attorneys there to schedule their cases. She said that at 9:00 a.m., she had a case in General District Court in Albemarle County and she as the – Commonwealth's Attorney – had to be the one to handle that, and also had to handle the Circuit Court docket call. Ms. Lunsford stated that she was no more than five minutes late to docket call because Judge Barkley knew she had docket call – so he took her first and allowed her to go next door to the Circuit Court. She noted that the same thing happens on a Tuesday afternoon when the General District Court has traffic docket, and part of it has to do with specialization in the Commonwealth's Attorney's office to have things run more efficiently. Ms. Lunsford mentioned that her deputy, Darby Lowe, handles Juvenile Court cases – with detention hearings taking place at 1:30 p.m., conflicting somewhat with the General District Court's traffic docket held on that afternoon. She said that Ms. Lowe can be in two places at one time by organizing or coordinating with Judge Barkley and asking him [if he can] call an officer's case that does not involve the Commonwealth, for a few minutes while she literally runs across the street to Juvenile Court – which they won't be able to do if they are physically separated.

Ms. Lunsford said that the stakeholders would like to have input on the issues of jury rooms, whether Judges Chambers need to be soundproof, and other logistical items, and talk about what expense is really needed. She stated that the Commonwealth's Attorney's office had been dealing with the issue of judgeships for years, and even in the day when the state had money the County didn't get an additional judge – so that would be even less likely now. Ms. Lunsford said that the overriding concern is that stakeholders be consulted; that they be informed; that they be included in the process; and that they not be advised at the last minute that the Board is making a determination tonight when they haven't had any input. She added that she has spoken with other Commonwealth's Attorneys across the state who have gotten new courtrooms or courthouses and by and large the Commonwealth's Attorneys, the Courts and Sheriff's are not consulted. She stated that one of the concerns the Commonwealth's Attorneys expressed was related to them not being consulted. She said that they would go into a bright shiny new courtroom, and find that it was totally unworkable based on how court typically proceeded because they had never been consulted. Ms. Lunsford said that change orders had to be submitted, with things torn out and redone. She said that they feel like they can actually save money if they're consulted in the process.

Mr. Rooker said that one thing he is hearing is that the caseload doesn't necessarily yield more judges. It's not the way it has gone in the past, and so it's not reality. He said that one of the things that need to be considered is the extent to which the County is planning for space based upon a linear progression of some kind that may not actually be needed, simply because they will not get the judges or the additions to the Commonwealth's Attorney's office.

Mr. Dumler said that the Commonwealth's Attorney's office has a certain number of FTEs recommended by the Comp Board and asked Ms. Lunsford how much funding she should get under the formulas based on felony sentencing events, etc. Ms. Lunsford responded that her office has nine now, but she should have at least one additional attorney according to the staffing standards. She noted that it had been unfilled for several years.

Mr. Rooker commented that the item she mentioned about change orders is an appropriate comment. By making certain the County is including people pretty heavily in what it is they are planning to build, he said that the Board may find that they can save money.

Mr. Snow said that in listening to stakeholders talk, he is wondering how soon the County actually needs the court system overhaul.

Mr. Rooker said that the question is how acute the need is today for additional space. Ms. Lunsford responded that there is a need for additional Circuit Court rooms, because there are many days when they have two judges and sometimes three. She said that there is only one Judge who is full time in Albemarle County – and because of the caseload, the County can often get additional substitute judges. She said that right now all the Circuit Court has in terms of an additional courtroom is one upstairs courtroom, and there have been a lot of days when the Judge had three courts running – two criminal courts and one civil court, the latter of which meets in judge's chambers. Ms. Lunsford pointed out that the little courtroom upstairs is not handicapped accessible. She added that the County can't get a substitute General District Court judge and run two courtrooms because they don't have the space.

Mr. Rooker asked about consideration of an addition on the existing Circuit Court building to add a relatively small amount of space to take care of the next five or ten years. Ms. Lunsford responded that Judge Higgins has made efforts with the County over the course of the past three years to do some things like adding a small courtroom outside the General District courtroom that can be used to accommodate hearings or smaller group needs. She stated that there are situations where there are two jury trials scheduled for the same time – they can do that now, but to have a jury trial in the upstairs courtroom is not realistic.

Mr. Foley said that in spite of the issues staff stills need to work on, staff nor court staff nor the consultants would be in a position of saying, "we don't need to do something." He stated that staff did listen to the input from stakeholders, and they would be more involved going forward with the design process depending on Board direction. Mr. Foley said that their assumptions include the possibility that there will not be an additional judge, so they kept the minimum number as a scenario of just needing one more courtroom. He said that everybody would agree that they need more space, which would be that \$5 million difference.

Ms. Lunsford agreed, but emphasized that there is a convenience factor and a reality factor that exists in being in this courtroom and in this courthouse and in this location downtown. She said this was the case not just for her, but also for the Sheriff, the defense attorneys, the Public Defender's office, and for other attorneys.

Mr. Snow asked Ms. Lunsford how she would feel about a complete court area built on the south side of town with both courts, parking and everything all in one complex. Ms. Lunsford responded that from a personal standpoint, she would not like that, but moreover there is a referendum required to move the County seat – and there would likely be a lot of opposition to moving the Circuit Court from a lot of people in the area. She said that the Henrico County Court Complex has everything in one place, but she has had difficulty finding a place to park there, and it takes her longer to walk into that complex than it would take someone to walk from downtown up to the courthouses. Ms. Lunsford added that there is a huge emotional attachment to courthouse, and it has very little to do with Thomas Jefferson and more to do with the history of the building and the people who have practiced there.

Mr. Foley clarified that in considering all of the comments heard today, staff thinks a minimum cost difference of downtown versus Mill Creek is \$5 million – assuming they build a parking garage, which is not a certainty yet. He said that if the Board is comfortable with not providing the same level of convenient parking as could be accomplished with Mill Creek, the cost difference would probably be just the \$2 million to buy the City out in order to stay downtown.

Mr. Rooker said that the space proposal that the Board is considering may be too aggressive. Mr. Foley responded only if they go to the \$15 million difference.

Mr. Rooker said that the question is whether there is a more modest proposal, perhaps one that just adds two courtrooms.

Mr. Snow commented that there are safety issues that also need to be addressed.

Mr. Foley said that the consultants may be the best to comment on that.

Mr. Letteri stated that the \$5 million assumes that the County does phase the downtown court operation.

Mr. Foley said that the consultants have done a very thorough evaluation of the downtown possibilities, and they could probably indicate whether it's realistic to add onto the existing historic facility.

Ms. Lunsford stated that she had a conversation with Judge Higgins recently about security issues, and safety is more of a concern in theory than in reality. She explained that she had a long conversation with one of the Sheriff's deputies shortly after she took office because Mr. Jim Camblos had bulletproof glass with reflective shielding, and she removed the shielding but left the glass up so she could see what was outside. Ms. Lunsford stated that any person who wanted to kill her could simply do so when she stepped outside. She emphasized that safety is a concern to the Judge, but more from the domestic docket than the criminal docket. She said that if someone really wants to bring harm to someone who works in this system, they can catch her at ACAC or at the Starbucks much more easily than they can catch her in her office.

Ms. Mallek said that there are also safety concerns with plaintiffs and defendants, especially when there are domestic violence issues. Ms. Lunsford responded that it can be addressed with the number of bailiffs, but there is rarely a situation where the victim isn't in the same courtroom as the defendant because of the right to confront your accuser.

Mr. Foley stated that the security issue is one staff and the committee should do more work on in terms of education about why the consultants have provided the opinions they have.

Ms. Mallek commented that the Board has heard a lot of questions that they didn't know to ask before about intermediate steps for downtown, including adding a courtroom that either Circuit or General District could use when they have two trials running concurrently.

Mr. Beight stated that regarding the appointment of a judge, they were using a full-time equivalent person, and although there may not be two Circuit Court judges residing in the courthouse, they already operate two courts. He said that what is driving the forecast is the operations of the facility and what they should have versus what they are make shifting with right now. Mr. Beight stated that his firm takes the security measures very seriously and there can be tremendous provisions made to the existing building that would improve its security, and clearly a brand new building would be optimal.

Mr. Rooker said that just after the Oklahoma City bombing, the country spent billions and billions of dollars on securing federal facilities – including social security hearing buildings, which no one in their right mind would blow up. He said that the initial reaction is always to jump, and if you want to get someone, you don't have to get them inside that secure building. Mr. Rooker noted that the actual incidences of courthouse violence are very low, and you can spend a whole lot of money for very little net gain if you're not careful.

Mr. Beight said that the other issue raised was the possibility of expanding the existing courthouse, and that is very limited, although there is potential for some expansion to the rear of the historic courthouse. He stated that any aggressive opportunity to make the complex on the court site much bigger than it is, is probably unrealistic and would meet pretty stiff opposition.

Mr. Rooker responded that there would be opposition to just about any plan.

Mr. Foley said there may not be much opposition to going across the street into the Levy building, tearing it down and renovating it, while evaluating the current site. He stated that General District Court can move across the street at a cost of \$5 million with convenient parking and buying out the City. He said the range that staff provided completely considered the concerns the Board heard today from [Ms. Lunsford] and the Judge. He added that if they can't quite accomplish the parking, the difference would not be as great.

Ms. Mallek suggested using a shuttle bus from various remote parking places to the courts. She said that they could do a lot of that for a million bucks, even for a really long number of years, to help people who can't get around easily.

Mr. Foley said that the parking is probably the most helpful thing the Board could provide input on at this point.

Mr. Rooker stated that after hearing the input from court officials today and discussing this with people in the legal community, he feels that staying downtown – if it can be done reasonably – is the best option. He said that there is something brought to the community by the historic presence of the courthouses downtown, and while he wanted more parking his concerns are lessened the more he hears input on it. He said that he is very strongly leaning toward a downtown option assuming they could buy the City out at a reasonable price. Mr. Rooker said that what he is hearing is that “state of the art” may not necessarily be what is required in order for the people who are actually doing the job to do it well.

Mr. Foley said that he wouldn't ask the consultants to comment today on the comparison of local courts as far as the minimum level of security, but they would likely say that the County doesn't have to be state of the art but does need to invest some money.

Mr. Snow stated that that's why it's important to spend some time with Ms. Lunsford and Judge Higgins.

Mr. Foley pointed out that staff has worked with them for a few days, but more needs to be done.

Mr. Snow said that originally he was in favor of separating the two courts, but after testimony today he feels it should be done downtown with parking addressed as possible.

Mr. Foley stated that he would like to think there's an opportunity to work with the City on parking.

Ms. Mallek commented that the Board needs a lot more information about how the City can get help them to stay downtown.

Mr. Foley said that he is hearing that a parking structure downtown may not be an absolute, but they are still looking for a solution in order to stay downtown.

Mr. Thomas said that no matter what is decided, parking will be needed.

Ms. Mallek asked if the County would have to buy the City out of the Levy property.

Mr. Foley responded that the County owns half of it, so they would have to get all of it, and that would be part of the discussions with the City.

Mr. Foley stated that staff would be bringing this back to the Board over the next few months with some more analysis and input.

Revisiting item 9.10, Mr. Mark Graham, Director of Community Development, reported that he and Mr. Bill Fritz had gone back and checked on Morgan Butler's question regarding critical slopes, and upon clarification the numbers are smaller and the return on investment is going to 17-24 months before a break-even point is reached. He said that this would not change anything with how the rural areas are administered. He explained that the reason it's an expensive process is because similarly to the ministerial changes, staff will have worked through all the issues and resolved them – which will take a lot more time. Mr. Graham said that a public process takes a lot more time and effort, but at the end of the day everyone is a lot happier with the product they get as a result of that.

Ms. Mallek noted that the money that's being talked about is the unreimbursed by fee, County staff expense to do this.

Mr. Graham agreed and pointed out that the cost presented is the County's cost and doesn't represent the potential savings by the development community. He stated that one of the things staff is looking at is this has a potential for significant savings for the development community and a benefit to the environmental community. Mr. Graham said that both groups have wanted more certainty with critical slopes and that is what staff is trying to build into the process.

(The Board then went back to Agenda Item No. 15)

Agenda Item No. 15. Community Development Work Program.

The following executive summary was forwarded to Board members:

Each year, the Community Development Department provides the Board and the public a summary of major projects, progress on initiatives, and achievements, as well as an overview of workload measures and a synopsis of proposed projects to be undertaken by the Department over the following 12 to 18 months. The purpose of this Board work session is to review the Community Development Department's activities in 2012 and request the Board's direction on priorities for 2013. The Board approved the 2012 work program priorities on May 2, 2012. Although the work program is typically reviewed in February each year, there was a delay in 2012 to determine whether to include the reprioritization of the Comprehensive Plan update. A copy of the approved 2012 work program is provided as Attachment A.

2012 Development Activity

A five year history of departmental workload measures is provided as Attachment B. The history shows that workload and development activity have slowly trended upward since 2009. In this same period, Community Development has continued to improve in its key performance measures without any staffing increase. While the workload is still less than that seen prior to 2009, the first graph in Attachment B shows that staffing levels were reduced over the period of 2007 to 2009 and have not increased since then. As shown in the bottom graphs for each program, starting on the second page of Attachment B, the number of applications per staff member frequently exceeds those seen during the height of the building boom in 2007. Community Development's ability to maintain performance measures with this increased workload is attributed to ongoing efforts to improve development review processes and improved staff retention. In particular, the ability to recruit and retain highly qualified staff has been critical to this success. However, the workload increase is difficult to sustain and increasingly limits the staff time that is available for work program priorities.

2012 Work Program Review

The 2012 Community Development work program was established following Board discussions in May, 2012 with the following priorities:

1. Comprehensive Plan Update – Staff planned to present a draft of the Comprehensive Plan to the Board in the first quarter of 2013. The draft Plan is currently being reviewed by the Planning Commission and staff anticipates the draft Plan will be presented to the Board in the second quarter of 2013.
2. Stormwater Management – State mandated program changes are required as a result of the Chesapeake Bay Total Maximum Daily Load (TMDL). The changes must be adopted before July 1, 2014 and are required to be approved by the State prior to implementation. Staff planned to present amendments to the Board in the second quarter of 2013. Staff recommends the amendment process start in the second quarter of 2013 with staff providing the Board a review of the State requirements and local options.
3. Economic Vitality Action Plan –
 - a. Industrial Uses Phase 3 (Broaden allowed uses) – The Board held a work session on the draft ZTA on December 5, 2012. A public hearing is scheduled on March 13, 2013.
 - b. Industrial Uses Phase 4 (Land use changes based on the updated Comprehensive Plan) – Potential land use changes based on the updated Comprehensive Plan are anticipated to begin in 2014.
 - c. Ministerial Process Changes (Site Plans/Subdivisions) – The site plan ministerial process ZTA was adopted in October, 2012 to be effective in January, 2013. The process changes to the Subdivision Ordinance were deferred to evaluate the site plan process changes. Staff anticipates the subdivision processes STA to begin in the second quarter of 2013.
 - d. Legislative Process Changes (Rezoning/Special Use Permits) – The ZTA was adopted in December, 2012 to be effective in April, 2013.
4. Critical Slopes Modifications – This was reviewed with the Board in the fourth quarter of 2012 with a recommendation for public input process prior to Board consideration. The Board requested additional information from staff regarding the costs and time anticipated to be saved by the County and the developer with revised regulations due to the expense of developing a new process. Staff is providing that analysis in a separate executive summary on February 6, 2013.
5. Wireless Policy and Ordinance Changes – The study has been completed. Phase 1 of the changes will be presented to the Board in the second quarter of 2013. Phase 2 will be presented to the Board in the fourth quarter of 2013.
6. Transient Lodging/B&B's in the Rural Areas – The ZTA was adopted in June, 2012.
7. Inoperable Motor Vehicles – This was deferred to 2013 to allow proposed legislation to expand the County's authority to remove inoperable vehicles to be introduced to the 2013 General Assembly.
8. Noise – The text amendments are still pending while alternative solutions are investigated.
9. Rural Areas Churches – The priority and schedule for this ZTA will be considered with the Comprehensive Plan implementation.

10. Zoning Ordinance Recodification – This will be a major task. Work is underway, but resources are limited for this initiative.

2013 Work Program

Community Development's work program for policy-related matters is typically driven by two factors. First, priority is given to allocating available staff resources to address the plan reviews and permit inspections, which is the department's core function. Once mandated needs are met, all policy-related work program initiatives are staffed/addressed based on available resources and the initiatives' respective priorities. Second, the amount of public participation affects resource demands and capacity to undertake initiatives. Public participation is essential for quality products and public trust, but is also time consuming and resource intensive. Staff attempts to designate the amount of public participation based on the nature of the initiative, with a more extensive process used for potentially controversial decisions.

Staff's recommended 2013 Work Program is provided as Attachment C. In drafting the proposed work program, staff has prioritized initiatives based on: 1) mandates, 2) existing County policy, 3) ongoing efforts, and 4) Board direction on new initiatives. Staff's prioritization reflects previous Board input and ongoing priorities that it had previously established and is more fully described below:

1. Comprehensive Plan Update – Staff anticipates that this will be presented to the Board in the second quarter of 2013 and that Board review will take six months.
2. Stormwater Management – State-mandated program changes are required as a result of the TMDL. The changes must be adopted before July 1, 2014 and are required to be approved by the State prior to implementation. Staff now anticipates this will start in the second quarter of 2013 with staff providing the Board a review of the State requirements and local options.
3. Economic Vitality Action Plan –
 - a. Industrial Uses Phase 3 (Broaden allowed uses) – The Board held a work session on this ZTA on December 5, 2012 and a public hearing is scheduled for March 13, 2013.
 - b. Industrial Uses Phase 4 (Land use changes based on the updated Comprehensive Plan) – Staff anticipates beginning this process in 2014 upon completion of the Comprehensive Plan update.
 - c. Ministerial Process Changes (Site plans/Subdivisions) – Process changes to the Subdivision Ordinance are anticipated to be presented to the Board in the third quarter of 2013.
4. Critical Slopes Modifications – This was reviewed with the Board in the fourth quarter of 2012 with a recommendation for public input process prior to Board consideration. The Board requested additional information from staff regarding the costs and time anticipated to be saved by the County and the developer with revised regulations due to the expense of developing a new process. Staff is providing that analysis in a separate executive summary on February 6, 2013.
5. Wireless Policy and Ordinance Changes –
 - a. Phase 1 to be presented to the Board in the second quarter of 2013.
 - b. Phase 2 to be presented to the Board in the fourth quarter of 2013.
6. Inoperable Motor Vehicles – Resources are limited for this initiative; staff anticipates this ZTA will be presented to the Board in 2013 if the 2013 General Assembly adopts the County's proposed legislation to expand the County's authority.
7. Noise – Resources are limited for this initiative; A Board work session is tentatively scheduled for March or April, 2013 to set direction.
8. Rural Areas Churches (Remove special use permit requirement for most situations) – Resource are limited for this initiative; prioritize as part of Comprehensive Plan update.
9. Zoning Ordinance Recodification – Resources are limited for this initiative; work is underway.

New Initiatives – The following are proposed initiatives to be added to the work program.

10. Dam Break Inundation Zone - State mandated program requires changes to the Zoning and Subdivision Ordinances. State law was adopted in 2008, but the mapping of dam break inundation zones for State review has been slowly coming.
11. Off-site Signs, Special Use Permit requirements (Simplify process for signs with commercial centers and clarify the circumstances when off-site may be permitted) – Work is underway.
12. Zoning and Water Protection Ordinance Fees – The regular biennial review of fees has been delayed due to process changes

The work program is intended to rely on available staff resources. With the exception of additional public hearing costs, no budget impact is anticipated. This analysis does not consider any "soft" costs (e.g. public confidence in County processes).

Staff recommends that the Board review the proposed 2013 Work Program (Attachment C) and concur with its program phasing and prioritization.

Mr. Graham reported that the goals for the work program update include reviewing progress with the current program, reviewing availability for next year, and setting the priorities and establishing the work program that balances those resources and priorities.

He stated that the Comprehensive Plan update is a little behind schedule because of some delays last year with deciding how to move forward. Mr. Graham said that the Planning Commission is planning to bring it to public hearing in the near future – and it will be in the Board's hands in the second quarter of this year.

Mr. Graham reported that storm water management has been delayed at the state level because they were supposed to provide guidance on how to implement the program, but that's been considerably delayed, as much as six to nine months. He added that the state hasn't shifted the end date line, only compacted the locality's time, and there is legislation in the General Assembly currently to delay the implementation by one year.

Mr. Davis said that the bill had been killed.

Mr. Graham said that staff would start the storm water management process by talking to the Board about what's in the proposed changes. Ensuring they understand it, and laying out a process for implementation – with the goal of having it in place by July 2014. He stated that the industrial uses issue would be back before the Board in March, and consideration of additional land use changes would be prioritized as part of the Comp Plan update when the Board sets its strategies. Mr. Graham said that the ministerial process for the site plans is adopted and implemented. He stated that the legislative process was adopted and staff is in the process now of setting up implementation beginning April 1. He stated that the wireless policy is in phase one, basic changes, to get into compliance with federal law. Mr. Graham noted that the roundtable has already taken place and staff is looking to draft an ordinance and have a work session with the Board in March. He said that was on schedule to be completed in the second quarter.

Mr. Rooker referenced the materials he had presented on smaller-sized technology.

Mr. Graham responded that staff was aware of that information, and is also waiting to hear what the FCC is doing as far as an "open wireless policy," to provide bandwidth to anybody who wants to use it. Pushing pilot programs like the one in Kansas to a national level to encourage more innovation.

Mr. Rooker emphasized that stuff is getting smaller, generally, not larger, yet the Board gets presentations where they hear the opposite.

Mr. Graham said that would be a very important part of the discussion with the phase two on the wireless – what policy decisions need to be considered.

Mr. Graham reported that the transient lodging item was adopted and implemented and encountered no problems. He stated that the noise ordinance and possible changes were up for discussion with the Board at this meeting.

Mr. Graham said that the rural area churches item was deferred until the Comp Plan update is in place.

Mr. Boyd said that he has received repeated complaints from a constituent regarding loud music being played by his neighbor. Mr. Boyd explained that the police responded to the complaint and the matter went to court, and the defendant claimed that the loud rap music being played was part of a training process for training horses.

Ms. Mallek said that this is done to help desensitize the horses to loud noise.

Mr. Boyd stated that the Judge ruled that the ordinance was written in such a way that that was an agricultural use, so he could not stop the neighbor from stopping the loud music.

Mr. Davis said that that's an example where under the zoning ordinance and the nuisance ordinance, there is an exemption currently for noise associated with agricultural uses. He stated that this is an example of how complicated it is to try to define what is agricultural and what's not. He said that the case was made that the use was agricultural because it helped train the horses.

Ms. Mallek said that having a commercial agricultural operation should be part of how you qualify for an exemption.

Mr. Davis stated that the testimony was that they were actually training the horses and this was part of the activity, and that's what was presented in court.

Ms. Amelia McCulley, Zoning Administrator, confirmed that it was a musicality aspect of dressage.

Mr. Davis said that his office in conjunction with the Zoning Administrator's office is looking at ordinances, as it's been a few years since they did the comprehensive rewrite because of the Supreme Court case that took away the reasonable person standard. He stated that a lot of localities have struggled with this, and using decibels or audibility doesn't work very well from an enforcement standpoint. Mr. Davis said that staff is struggling trying to make it work because that's the tools they have to work with. He stated that there are now some additional tools that may be available, such as the enabling authority to do civil prosecutions of noise. He said that staff would be coming back to the Board with some options based on experiences in the County and in other localities, along with some corrections to inconsistencies between the nuisance ordinance and zoning ordinance noise provisions. Mr. Davis emphasized that it is complicated, but they are working to address the problem.

Mr. Boyd said that his constituent is in an untenable situation, and he would be going out to their property to hear firsthand what's going on. Mr. Davis responded that they can pursue private civil remedies, but there's not a County ordinance in place because of the agricultural exemption.

Ms. Mallek asked if they could still pursue legal remedies even with agriculture. Mr. Davis responded that they would have to pursue it as a nuisance.

Mr. Foley said that staff is hearing from the Board that this is a priority.

Mr. Graham said that staff needs a placeholder for this item. He emphasized that the urgency of this item is going to have to be weighed by the Board against all the other priorities. He said that Community Development has more things on their list than they have staff to do them.

Mr. Foley said that Mr. Davis would provide a good overview of what's out there and what the options might be. Then staff would have to address the issue as to whether it moves to Community Development to get the ordinance drafted.

Ms. McCulley noted that staff has had a lot of lessons learned from the process with Castle Hill, and they'd like to see it through and incorporate some improvements into the ordinance. Such as nighttime hours where the music ceases, preplanning to show you can meet the maximum sound levels at the property line before you establish the use.

Mr. Boyd asked for clarification that there is no limit to the amount of decibels someone can have music playing at, if they say it is somehow associated with an agricultural activity. Mr. Davis responded that under the current ordinance that is correct, but there may be a private action that can address that.

Ms. Mallek asked if the County was allowed to distinguish in the agricultural provision between things like tractor noise and loud rap music. Mr. Davis responded "yes".

Ms. Mallek said that that's what they need to do. Mr. Davis said that's what he was looking into.

Mr. Boyd noted that the training of the horses started after a dispute between these two neighbors over something else.

Mr. Graham stated that he wanted to summarize the major points of the work program update: they're continuing a gradual upward trend in development activity, and current activity is now back to a normal level of activity when compared to historical trends, and it is a different growth pattern than what the County is used to seeing. He stated that the workload is really stretching the staff capacity, and he is watching for signals such as drop in quality, increase in review times, and an increase in complaints – but he is not seeing signs of that yet. Mr. Graham said that when resources are assigned to keep up with the increasing workload, there are fewer resources to dedicate to all of the initiatives in the work plan. He noted that he is concerned with the potential increased pressure for staff retention, as the job market is improving for planners and engineers. Mr. Graham stated that the reason Community Development has been able to keep up with quality and timeliness of reviews is the fact that retention has dramatically improved, and there are well-trained people who know their jobs well and are very good at them.

Mr. Graham reported that for 2013 priorities, there are legal mandates including County ordinance enforcement, conservation easement monitoring, storm water management, the Comp Plan update, and a new state mandate on dam break inundation. He explained that the owners of large dams are now required to map out an inundation zone to chart the impact on downstream property should the dam break, and localities are required by law to collect that information and use it in their development review. Mr. Graham said that the state has a fund by which they can do a cost share with the dam owner to upgrade and put safety improvements in, and the priority would be dams over 25 feet high or more than 50 acre feet of storage.

Mr. Dumler said that the Mint Creek Dam in Scottsville was a source of a lot of headaches for the town.

Ms. Mallek said that there was a code red for the Twin Lakes Dam in Greene County, and a lot of people were prepared to evacuate.

Mr. Graham stated that those were great examples of what the state is worried about, and it's something that should have been looked at a long time ago as part of floodplain management. He said there were lots of liability questions that he wasn't sure had ever been addressed.

Mr. Graham reported that other work program initiatives include ongoing support for the County's committees and boards, the wireless policy, industrial land use policy, critical slopes, and rural area churches. He stated that the other items already under consideration were noise, along with fee updates which are revisited every two years. Mr. Graham mentioned that there is proposed legislation at the General Assembly that would allow localities to better regulate inoperative vehicles.

Mr. Davis confirmed it was moving forward.

Mr. Graham said that the Zoning Ordinance re-codification will make the ordinance easier to read and easier to use for everyone, and staff is going to work hard to get it going.

He said that the ARB is working on updating their design guidelines, which then must come to the Board for approval. Mr. Graham said that staff would also like to see the offsite sign issue brought forward.

Mr. Foley asked if one-time money could help on the codification issue. Mr. Graham said it could, but much of that involved attorneys' time and he wasn't sure if it would help to have outside legal help.

Mr. Foley commented that the codification is long overdue, and as a budget consideration staff may bring something forward to the Board.

Ms. Mallek said that she has been concerned for the last few years about not having enough staff, and now that things are starting to pick up. It is important for staff to be frank about the need for assistance.

Mr. Graham acknowledged that there will be challenges moving forward although he doesn't see the cracks yet. He said that they have taken it just about as far as they can go with the workload. He pointed out that fee adjustments to keep up with the cost of inflation may be enough to look at additional staff, and currently with building inspectors the County is somewhere between 98% - 100% in fee recovery, so they may need to consider an additional inspector.

Mr. Graham said that his notation "resource limited" on several items does not mean staff can't get them done. He said it means that he doesn't have confidence that they currently have the resources needed to get them done in the next year.

Mr. Rooker said that some of the items were fairly complicated, such as the noise ordinance, but he wondered if some of the items like inoperable vehicles would be more straightforward.

Ms. McCulley confirmed that it is pretty clear-cut, and they have some plans and a draft ordinance. So they are ready to go with something that distinguishes the smaller lots that can't accommodate inoperative vehicles from the larger acreage in the rural areas.

Ms. Mallek said she hopes they are not totally excluding the rural area from that consideration, as she is aware of properties with multiple disabled vehicles. Mr. Davis commented that that's an enforcement problem.

Mr. Dumler said that in 2012, the work plan had storm water management under "other initiatives" with no staff time allocated to it and asked if the ordinance recommendations that originated from the joint meeting after the big summer storm would be moving forward.

Mr. Graham responded that staff wants to look at how that can be incorporated with the storm water management changes they have to do anyhow. He said that this is a great opportunity to address that while cleaning up some of the sections in the existing ordinance.

Mr. Dumler also asked about the Master Plans and Comp Plan update, and stated that he wanted some additional clarification on the Southern Urban Area, as Ms. Elaine Echols had described the process as a "mini master plan update."

Mr. Cilimberg responded that it is in the master planning schedule, but staff is running into the issue of having to do five-year reviews for the next three years for all of the existing master plans. So they must find a way to fit the Southern and Western Urban Areas into their master plans. He said that staff is anticipating having a council created after the Comp Plan is finished so that they can help in identifying the next steps in a true master plan, but that is down the road a bit.

Mr. Graham noted that that's the idea of having a placeholder there.

Mr. Dumler commented that those meetings have been very well attended.

Mr. Cilimberg said that they also need to find a name for the southern and western neighborhoods.

Ms. Mallek said that when the Board adopted the fee updates a few years ago, she recalled that they didn't adopt all of the adjustments.

Mr. Davis confirmed that the Board did end up adopting them all, but a few items were delayed.

Ms. Mallek said that they agreed on reduced cost recovery levels from where they started.

Mr. Graham confirmed and added that they set a policy that it would be in place two years with the Board re-reviewing it.

Agenda Item No. 23. From the Board: Committee Reports and Matters Not Listed on the Agenda.

Item No. 23a. Noise Ordinance, Ken Boyd.

Item No. 23b. Long Range Transportation Plan, Dennis Rooker.

Mr. Rooker said that the plan was discussed by the MPO in September, and they talked about the projects to be included for study. He said that among those was the Route 29 boulevard concept, an extension of the Western Bypass, the widening of Route 250/29, the widening of Route 250 at Pantops, Berkmar and the Eastern Connector. He said that of those projects, only two have ever been discussed by this Board and basically approved for further study – Berkmar and the Eastern Connector. Mr. Rooker stated that before the projects go forward for study as the list of projects for the Long-Range Transportation Plan, he would like to ensure that the Board considers the projects for their priority status. Mr. Snow agreed.

Mr. Rooker said he would like for staff to put it on an agenda for a future meeting.

Mr. Snow said that Stephen William's response to that when it was brought up was that it was something the MPO had to send back right away for an immediate answer.

Ms. Mallek stated that the MPO had at least six weeks before the deadline, and she feels that the Board has been shut out.

Mr. Rooker said that it's alarming to him to see that the plan is moving forward without any discussion of the projects.

Mr. Thomas commented that it didn't happen intentionally. Mr. Rooker said that he knew that.

Mr. Foley stated that a full consideration of the issues is coming to the Board as part of the Comp Plan discussion.

Mr. Cilimberg noted that the Long-Range Transportation Plan recommendations are referenced in the Comp Plan update work, and there could also be separate presentations.

Mr. Rooker said that the idea of Route 29 being a boulevard is contradictory to the \$100 million spent widening that road, with another \$30+ million to widen another section of it, and now they are talking about narrowing it.

Ms. Mallek asked why this was getting adopted if it is a nonstarter. Mr. Snow responded that it's not adopted.

Ms. Mallek said it was adopted at the meeting two weeks ago and came to the planning district the next day. Mr. Snow said that they were not involved in it.

Mr. Rooker stated that before this gets too much further along, the Board can give it some consideration.

Ms. Mallek commented that since there is no large public meeting series as there had been in the past, this Board is all there is as far as the overall huge public input, and they need to not miss that opportunity.

Mr. Rooker said that he and Mr. Thomas had recently attended a presentation from In-Sync, the traffic light synchronization company, and the estimate for Route 29 is about \$35,000 per intersection. He said they were very confident in their discussion that they could substantially improve traffic flow in the corridor, taking into consideration the main side streets, with an installation time of a few months. Mr. Rooker stated that the Board included the item in their application for revenue sharing.

Mr. Thomas said that he was impressed with In-Sync's presentation, and he thinks this would help with the lights on 29 that back up traffic.

Mr. Rooker noted that the cost for the entire corridor would be less than \$1 million.

Mr. Thomas said that the Places 29 council talked about slowing the traffic down.

Mr. Rooker said that regardless of what's done on 29 there would still be a lot of traffic through the corridor. He said that the thought of slowing down 10 lanes of traffic to 35 mph was kind of ridiculous to him.

Ms. Mallek said that the fact that it got into the report at the MPO because of one neighborhood group without having a full discussion at the Board level, is "a big concern."

Mr. Rooker said that the only other item he had was the resolution regarding drones.

Mr. Foley said that it is scheduled for the March agenda.

Ms. Mallek said Chief Sellers would be bringing forth information on that.

Ms. Mallek also stated that she wanted Mr. Graham to check the comments regarding New Hope Church and site plan discrepancies.

Mr. Graham said he was made aware of that. He stated that the site plan was just submitted on Monday so it has not been picked up by the planners yet. He explained that staff looks at what was approved in the SP, what the ordinance requirements are. He said that one of the difficult discussions is that staff does not exercise discretionary reviews – so if it complies, it gets approved, and if it doesn't comply it does not get approved.

Ms. Mallek asked if staff was allowed to take the intent of what the Boards approval was based upon – if they didn't write it down clearly enough in the conditions. Mr. Graham explained that staff looks at the special use permit conditions and then applies that against the zoning ordinance and the water protection ordinance.

Ms. Mallek said that if Mr. Bolt is correct, there is a new area of critical slopes that was not on the original map.

Ms. Mallek announced that she has had several community meetings about the section beyond end state maintenance of the Browns Gap Turnpike, and neighbors would be meeting with VDoT and Shenandoah Park representatives the following week to explore what can be done there.

Mr. Davis said he would like to talk with Ms. Mallek before that meeting because there was "extensive litigation" back in the early 1990s on this issue.

Agenda Item No. 24. From the County Executive: Report on Matters Not Listed on the Agenda.

Item No. 24a. Update on status of solid waste.

Mr. Foley said that the solid waste continuing discussion is scheduled for the March 6 agenda, and two major things were going on with that. He stated that the County is currently working with the RSWA on a lease agreement for the property that they would lease in order to run its own operation, put out to bid. Mr. Foley said that Rivanna's board would ultimately be considering that at their end of February meeting, so the County would know the cost of a lease there. He said that the second piece is development of an RFP, which will define the level of services, and that would be brought to the Board on March 6 so they can provide input before it is put out to bid. Mr. Foley said that staff would also provide a schedule at that time. He explained that there would not be a new service in place for the County until after the end of this calendar year, and that was being done in coordination with Rivanna.

Ms. Mallek said that one concern citizens have raised is that whatever is transferred from Ivy needs to go somewhere where percentages of it can be recycled. Instead of having it 100% dumped in a landfill.

Mr. Boyd said that RSWA is doing that now, and stipulating that may limit it to one person who can bid.

Ms. Mallek said that there is more than one firm recycling things.

Mr. Rooker said that he would like more information about how that impacts cost. He said that the County is trying to develop an RFP that would provide comparable services to what they received from RSWA so that there is an apples-to-apples comparison.

Mr. Foley addressed Ms. Mallek and Mr. Rooker's concerns and said that they would be vetted through the RFP process and once there is an "apples-to-apples" comparison then additional services could be considered.

Mr. Foley stated that staff has been through an extensive process in filling the position of Assistant County Executive, which has been open for about six weeks. He explained that the position oversees the public safety, human services, parks and rec, and community development, departments and functions. He said that after extensive process with leadership council members and community and partner representatives in the interview process staff is recommending the appointment of Mr. Doug Walker as the next Assistant County Executive. Mr. Foley stated that Mr. Walker has over 20 years of local government experience as either a City Manager, County Manager or Assistant Deputy County Manager. He said that Mr. Walker brings extensive experience and has been through an extensive vetting process and he feels very confident that he's going to do a great job for the County going forward. He stated that Mr. Walker is prepared to start April 1.

Mr. Foley made the recommendation that Doug Walker be appointed the next Assistant County Executive for Community Services.

Mr. Rooker **moved** to appoint Mr. Doug Walker as the Assistant County Executive for Community Services. 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, Mr. Thomas and Mr. Boyd.
NAYS: None.

Mr. Foley said that staff will be issuing a press release announcing Mr. Walker's appointment.

Mr. Rooker asked if the Board needed to take formal action on canceling the February 13 meeting.

Ms. Mallek replied yes.

Mr. Boyd **moved** to cancel the Board's scheduled February 13, 2013 meeting. 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, Mr. Thomas and Mr. Boyd.
NAYS: None.

Mr. Morris stated that the Board needed to take action on Item 9.10 from the Consent Agenda.

Ms. Mallek **moved** to approve Item 9.10 on the Consent Agenda, to direct staff to proceed with the ZTA to amend the critical slope regulations as outlined by staff, including a Board work session on the outline of the proposed regulations before the Planning Commission work session. Mr. Dumler **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

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

Agenda Item No. 25. Adjourn.

At 6:09 p.m., Ms. Mallek **moved** to adjourn the meeting to February 22, 2013 at 11:30 a.m. in Room 241 of the County Building for the County Executive's budget presentation. Mr. Rooker **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

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

Chairman

Approved by Board
Date: 05/01/2013
Initials: EWJ