

A special meeting of the Board of Supervisors of Albemarle County, Virginia, was held on March 13, 2013, at 9:00 a.m., Lane Auditorium, County Office Building, McIntire Road, Charlottesville, Virginia. The meeting was adjourned from a special meeting held on March 11, 2013. (The purpose of this meeting was to allow the Board to consider all matters, other than SP-2012-00029, that were previously scheduled on the Board's March 6, 2013 agenda. The March 6, 2013 meeting was cancelled due to hazardous weather conditions.)

PRESENT: Mr. Kenneth C. Boyd, Mr. Christopher J. Dumler, Ms. Ann Mallek, Mr. Dennis S. Rooker, Mr. Duane E. Snow and Mr. Rodney S. Thomas.

ABSENT: None.

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

Agenda Item No. 1. The meeting was called to order at 9:03 a.m., by the Chair, Ms. Mallek.

Agenda Item No. 2. Consent Agenda. **Motion** was offered by Mr. Snow to approve Items 2.1 (as read) through Item 2.10, to pull Item 2.2 for discussion later in the meeting, and to accept the remaining items for information. Mr. Rooker **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

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

NAYS: None.

Item No. 2.1. Approval of Minutes: December 5, 2012 and January 9, 2013.

Ms. Mallek asked that her portion of the minutes of December 5, 2012 be pulled and moved to the next meeting.

Mr. Boyd had read his portion of the minutes of December 5, 2012, pages 50 (begin Item #13) – end, and found them to be in order.

Mr. Snow had read his portion of the minutes of January 9, 2013, pages 1-24 (end at Item #16), and found them to be in order.

Mr. Dumler had read his portion of the minutes of January 9, 2013, pages 24(begin at Item #16) – end, and found them to be in order.

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

Item No. 2.2. FY 2013 Budget Amendment and Appropriations.

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

The total increase to the FY 13 budget due to the appropriations itemized below is \$709,312.00. A budget amendment public hearing is not required because the amount of the cumulative appropriations does not exceed one percent of the currently adopted budget.

This request involves the approval of seven (7) FY 2013 appropriations as follows:

- One (1) appropriation (#2013063) to re-appropriate funding from previously appropriated Line of Duty Act contingency reserve to the Police and Fire Rescue Departments. This appropriation will not increase the County budget;
- One (1) appropriation (#2013072) totaling \$597,147.00 to appropriate funding related to service delivery changes for Emergency Medical Services;
- One (1) appropriation (#2013074) to re-appropriate funding to the Police and Fire Rescue Departments for recruitment and retention incentive programs from the previously appropriated Police and Fire Recruitment Initiatives Reserve and Reserve for Contingencies. This appropriation will not increase the County budget;
- One (1) appropriation (#2013075) totaling \$107,565.00 to appropriate a Federal Emergency Management Agency (FEMA) Assistance to Firefighters Grant (EMW-2012-FO-00667) awarded to the Fire Rescue Department;
- One (1) appropriation (#2013076) totaling \$700.00 for donations made to the Sheriff's Office; and
- One (1) appropriation (#2013077) totaling \$3,900.00 for a grant awarded to Offender Aid and Restoration (OAR).

Staff recommends approval of appropriations #2013063, #2013072, #2013074, #2013075, #2013076 and #2013077.

Appropriation #2013063 **\$0.00**

This appropriation will not increase the County Budget

Source:	Line of Duty Act Reserve	\$ 78,460.00
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This request is to re-appropriate \$78,460.00 from the Line of Duty Act Reserve fund included in the FY 13 Adopted Budget to the Police and Fire Rescue Departments, which includes \$15,325.00 for physicals for new fire rescue volunteers. The FY 13 Adopted Budget included this reserve for projected Line of Duty expenditures, which include the costs for previous claims. Because this funding is being provided from previously appropriated funding, this re- appropriation will not increase the total County budget.

Appropriation #2013072 **\$597,147.00**

Source:	General Fund Balance	\$ 13,147.00
	Reserve for Contingencies*	\$ 110,125.00
	Loan proceeds	\$ 519,750.00
	CIP Fund Balance	\$ 64,250.00

This request is to appropriate \$597,147.00 for expenditures related to changes in emergency medical services delivery, including:

- \$123,272.00 in operational expenses, including funding for 1) hiring and training three firefighters for the last quarter of FY 13 to provide a daytime Monday–Friday ambulance service at the Ivy Fire Station when it begins operating in FY 14; 2) operating costs for the ambulance at the Ivy Fire Station and daytime Monday-Friday “jump crews” at the Earlsville Volunteer Fire Department; and 3) associated costs directly related to the EMS Cost Recovery program. Staff requests that \$13,147 of these funds be provided from the General Fund Balance and \$110,125.00 from the Reserve for Contingencies fund. Because the funding from the Reserve for Contingencies fund is being provided from previously appropriated sources, that portion of the appropriation will not increase the total County budget. This action will leave approximately \$26,338 in the Reserve for Contingencies fund.
- \$519,750.00 in CIP loan proceeds and \$64,250.00 in General Government CIP Fund fund balance for the replacement of two apparatus and their related equipment. With the notification from Charlottesville Albemarle Rescue Squad (CARS) that it will no longer run calls in the County during daylight hours beginning on February 4, 2013, it is necessary to accelerate ambulance purchases so the County has apparatus to respond to the additional calls. The replacement of an ambulance and the related equipment for Monticello Fire Rescue and the Scottsville Volunteer Rescue Squad is estimated to cost \$288,750.00 each for a total of \$577,500.00. The ambulances were scheduled to be replaced in FY 14, but the purchase has been expedited to meet the change in service needs. The new ambulances are expected to be delivered six months after the order is placed, at which time the vehicles being replaced will remain in service. Approval of this request will reduce the number of apparatus purchases that will be included in Fire Rescue’s FY 14 CIP request. In addition, this appropriation request includes a request for \$6,500 in one-time CIP funding for the start-up cost for a toughbook, which is a durable computer that is utilized by Public Safety personnel in the field, and its installation at the Western Albemarle Rescue Squad (WARS). This is required for EMS Cost Recovery implementation at WARS.

Appropriation #2013074 **\$0.00**

This appropriation will not increase the County Budget

Source:	Reserve for Police and Fire Recruitment Initiatives	\$ 125,000.00
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This request is to re-appropriate \$125,000.00 to the Police and Fire Rescue Departments for the implementation of public safety recruitment and retention incentives that was approved as part of the FY 13 budget process. At its October 3, 2012 meeting, the Board was provided information regarding a program to provide education compensation to Police personnel and a career development program for Fire Rescue personnel. At that time, the cost to implement the program for the remainder of FY 13 was estimated to be \$93,000, including benefits costs. After the program was finalized and put in place, the actual cost to implement the program for the nine month period was estimated to be \$146,949.56 due to higher participation in the programs than had previously been anticipated.

This re-appropriation request adds \$57,638.20 to the Police Department budget and \$67,361.80 to the Fire Rescue budget for a total of \$125,000. The additional \$21,949.56 required for the FY 13 implementation will be provided by salary lapse savings in the Police Department’s budget. Because this funding is being provided from previously appropriated sources, this re-appropriation will not increase the total County budget. Salary increases associated with implementation will be an on-going cost and will be built into future annual budgets.

Appropriation #2013075 **\$107,565.00**

Source:	Federal Revenue	\$ 107,565.00
	Grants Leveraging Fund	\$ 23,391.00
	Match from Fire Rescue Budget	\$ 3,500.00

This request is to appropriate \$107,565.00 for a Federal Emergency Management Agency (FEMA) Assistance to Firefighters Grant (EMW-2012-FO-00667) awarded to the Fire Rescue Department. The grant requires a local match of \$26,891.00 for a total grant of \$134,456.00. This request is also to re-appropriate \$23,391.00 from the Grants Leveraging Fund and \$3,500.00 from the Fire Rescue budget for the \$26,891.00 match, which will not increase the total County budget.

This grant will provide training. The majority of the grant will fund instructors (internal through overtime and external through contracts) to train volunteers to the level of Firefighter 1 and Firefighter 2. A portion of the training will be directly for instructors to increase the number of available instructors in the Department, and the remainder of the grant will fund overtime related to the Department's obligations to the regional hazmat team and its need to send employees to hazmat training to attain Technician/Specialist level.

Appropriation #2013076			\$700.00
Source:	Donations	\$	700.00

This request is to appropriate \$700.00 in contributions that were received to support the Sheriff's volunteer reserve programs. These contributions will support the various reserve programs such as Project Lifesaver, TRIAD, Search and Rescue, child fingerprinting, and any other programs and activities that the Reserves are involved in within the community.

Appropriation #2013077			\$3,900.00
Source:	State Revenue	\$	3,900.00

This request is to appropriate \$3,900.00 for a grant (#13-A2734CG13) awarded by the Department of Criminal Justice Grant to Offender Aid and Restoration. This grant will provide training focused on the implementation of evidence based practices and policies in the community corrections programs.

(Discussion: Referring to Appropriation 2013072, Mr. Rooker said that when adding all of the items together the total is about \$642,000 instead of \$597,147. He stated that part of this is \$124,000 for operational expenses related to training for firefighters, and asked why that would not be paid for by the grant received specifically for training.

Mr. Foley suggested that staff look at those questions and bring back a response later in the meeting.)

Item No. 2.3. Resolution to accept road(s) in West Hall Subdivision into the State Secondary System of Highways.

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 13th day of March 2013, adopted the following resolution:

R E S O L U T I O N

WHEREAS, the street(s) in **West Hall Subdivision**, as described on the attached Additions Form AM-4.3 dated **March 13, 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 **West Hall**, as described on the attached Additions Form AM-4.3 dated **March 13, 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.

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

- 1) **Park Road (State Route 1204)** from Summerdean Road (Route 1901) southeast to Westhall Drive (1903), as shown on plat recorded in the office the Clerk of Circuit Court of Albemarle County in Deed Book 3125, pages 306-313, with a 50-foot right-of-way width, for a length of 0.05 miles.

- 2) **Park Road (State Route 1204)** from Westhall Drive (Route 1903) southeast to Nicolet Court (1904), as shown on plat recorded in the office the Clerk of Circuit Court of Albemarle County in Deed Book 3196, pages 41-48, with a 40-foot right-of-way width, for a length of 0.05 miles.
- 3) **Park Road (State Route 1204)** from Nicolet Court (1904) south of the cul-de-sac, as shown on plat recorded in the office the Clerk of Circuit Court of Albemarle County in Deed Book 3196, pages 41-48, with a 40-foot right-of-way width, for a length of 0.06 miles.
- 4) **Summerdean Road (State Route 1901)** from Brookwood Road (1900) south to Park Road (Route 1204), as shown on plat recorded in the office the Clerk of Circuit Court of Albemarle County in Deed Book 3125, pages 306-313, with a 53-foot right-of-way width, for a length of 0.07 miles.
- 5) **Park Road (State Route 1204)** from 0.22 miles east to Summerdean Road (Route 1901), as shown on plat recorded in the office the Clerk of Circuit Court of Albemarle County in Deed Book 3125, pages 306-313, with a 50-foot right-of-way width, for a length of 0.12 miles.
- 6) **Westhall Drive (State Route 1903)** from Park Road (Route 1204) west to end of cul-de-sac, as shown on plat recorded in the office the Clerk of Circuit Court of Albemarle County in Deed Book 3125, pages 306-313, with a 50-foot right-of-way width, for a length of 0.08 miles.
- 7) **Summerdean Road (State Route 1901)** from Brookwood Road (1900) north to Jonna Street (Route 1902), as shown on plat recorded in the office the Clerk of Circuit Court of Albemarle County in Deed Book 4077, pages 175-190, with a 53-foot right-of-way width, for a length of 0.10 miles.
- 8) **Joanna Street (State Route 1902)** from Summerdean Road (Route 1901) east to end of State maintenance, as shown on plat recorded in the office the Clerk of Circuit Court of Albemarle County in Deed Book 4077, pages 175-190, with a 55-foot right-of-way width, for a length of 0.05 miles.
- 9) **Westhall Drive (State Route 1903)** from Park Road (Route 1204) east to end of cul-de-sac, as shown on plat recorded in the office the Clerk of Circuit Court of Albemarle County in Deed Book 3125, pages 306-313, with a 50-foot right-of-way width, for a length of 0.03 miles.
- 10) **Nicolet Court (State Route 1904)** from Park Road (1204) southwest to end of the cul-de-sac, as shown on plat recorded in the office the Clerk of Circuit Court of Albemarle County in Deed Book 3196, pages 41-48, with a 40-foot right-of-way width, for a length of 0.07 miles.
- 11) **Joanna Street (State Route 1902)** from Summerdean Road (Route 1901) west to end of State maintenance, as shown on plat recorded in the office the Clerk of Circuit Court of Albemarle County in Deed Book 4077, pages 175-190, with a 55-foot right-of-way width, for a length of 0.05 miles.
- 12) **Brookwood Road (State Route 1900)** from 0.22 miles southeast of Route 1220 east to Summerdean Road (Route 1901), as shown on plat recorded in the office the Clerk of Circuit Court of Albemarle County in Deed Book 3125, pages 306-313, with a 55-foot right-of-way width, for a length of 0.15 miles.

Total Mileage – 0.88

Item No. 2.4. SDP-2011-00064. Senior Center – Belvedere Block 1, Preliminary Site Plan – Variations from Belvedere Code of Development.

The executive summary states that the Belvedere development is located off of Rio Road, just west of Dunlora. Belvedere was rezoned to Neighborhood Model District, with an associated application plan and Code of Development, in October 2005 (ZMA2004-00007). This application is for The Senior Center, which is proposed in Block 1. The proposal includes the creation of a maximum 60,000sf center, and associated outdoor amenities, to be built in phases. The applicant is requesting variations from the approved Belvedere Application Plan and Code of Development.

The proposed development will require three variations from the approved Application Plan and Code Development approved with the rezoning of the property. These variations are necessary before the site plan can be approved by staff. The applicant submitted a request and justification for each variation by letter dated July 18, 2012 (revisions dated November 7, 2012 and December 18, 2012), and these requests have been reviewed for Zoning, Engineering and Planning aspects of the regulations. Section 8.5.5.3(a) authorizes the Director of Planning to grant variations from the approved application plat and/ or code of development. However, due to a recent State Supreme Court decision, these variations must now be approved by the Board of Supervisors as a Special Exception under Chapter 18 Section 31.8. **Staff is recommending approval of all variation requests (#49, #50, and #51).**

VARIATION #49:

The applicant submitted the following request: To allow the maximum “Front build-to distance from street” for the building to vary from the distance of 5’ specified in Table 10 of Belvedere’s Code of Development (page 36) to be increased to 2’ beyond any existing utility easements that have been located along the road. Staff analysis of the variation request is provided below:

- 1) **The variation is consistent with the goals and objectives of the comprehensive plan.**
The design is consistent with the goals and objectives of the comprehensive plan while recognizing the practical engineering realities of this development (existing gas and utility easements located across the front of the site).
- 2) **The variation does not increase the approved development density or intensity of development.**
Density is not increased.
- 3) **The variation does not adversely affect the timing and phasing of development of any other development in the zoning district.**
The timing and phasing of the development is unaffected.
- 4) **The variation does not require a special use permit.**
A special use permit is not required.
- 5) **The variation is in general accord with the purpose and intent of the approved rezoning application.**
This variation is in general accord with the approved rezoning application by allowing the development to proceed as originally intended.

Staff recommends approval of the variation request #49 as described above, with the following conditions:

- Table 10 of the Belvedere Code of Development must be updated prior to Final Site Plan approval.

VARIATION #50:

The applicant submitted the following request: To allow a variation of building massing, interior parking access road and parking layout from that shown in the ZMA exhibits titled "Block 1 and 2 General Development Plan Exhibit 2B" and "Block 1 and 2 Potential Development Scenario Exhibit 4". The reasons for the variation request were presented as follows:

A single structure is required due to the nature of the use as well as patrons' needs (see exhibit titled "The Center at Belvedere – Site Plan"). The Senior Center will serve differently-abled individuals throughout the day. To split functions between buildings would be untenable from a programming and use standpoint. Having to travel from one building to another would likely dissuade patrons from attending programs, especially during cold or rainy weather. Staffing would also have to be increased if multiple buildings were required, increasing operating costs to a point of being infeasible. As evidenced in the design sketches produced to date, it is the Center's and design team's intention to articulate the building as multiple individual volumes, breaking-up the massing to read as multiple structures, as intended in the C.O.D.

Parking is to be shielded from Belvedere Boulevard by the building and by gardens and garden structures (such as a pergola). It is the design team's intention to place the building along Belvedere Boulevard and facing the stormwater pond so that vehicles on Belvedere Boulevard are presented with a welcoming structure with activities inside instead of a parking lot.

Ninety-degree parking will be utilized in lieu of the diagonal parking called for in the C.O.D. because it is much more efficient and because it is better suited to the aging patrons of the Senior Center. One-way drive aisles (as required for diagonal parking) can be confusing and dangerous for older drivers, creating hazards for pedestrians and drivers alike. Pedestrian paths within the parking lot will be wide (i.e. 5'-6') and well-shaded so as to provide a pedestrian- and elderly-friendly path from the furthest reaches of the parking lot to the building.

Staff analysis of the variation request is provided below:

- 1) **The variation is consistent with the goals and objectives of the comprehensive plan.**
The design is consistent with the goals and objectives of the comprehensive plan while recognizing the practical implications of designing well for a specific population. It achieves the goal of presenting a 'face' to the road and buffers parking from view, while also accommodating the targeted users of the site.
- 2) **The variation does not increase the approved development density or intensity of development.**
Density is not increased.
- 3) **The variation does not adversely affect the timing and phasing of development of any other development in the zoning district.**
The timing and phasing of the development is unaffected.
- 4) **The variation does not require a special use permit.**
A special use permit is not required.
- 5) **The variation is in general accord with the purpose and intent of the approved rezoning application.**
This variation is in general accord with the approved rezoning application by providing site elements that will create a human scale walk-able environment, while also buffering views of parking.

Staff recommends approval of the variation request #50 as noted above, with the following conditions:

- The 'Pergola and Garden' feature along Belvedere Boulevard, as shown on the exhibit, will be required in addition to all standard street tree, parking lot, and site plan landscape requirements.
- An updated description of Block 1 in the Belvedere Code of Development must be provided prior to Final Site Plan approval.

VARIATION #51:

The applicant submitted the following request: To allow on-street parking along both sides of the "Parkway Section" of Belvedere Boulevard within Block 1 and the addition of a sidewalk on the far side of the road from the Senior Center for pedestrian access to the parallel parking, which is a variation from both the ZMA and the approved "Belvedere BLVD – Phase 1 Road & Drainage Improvements" Site Plan (see section labeled "Belvedere Boulevard – 100' R/W Parkway Section" on sheet 6 of 23). Staff analysis of the variation request is provided below:

- 1) **The variation is consistent with the goals and objectives of the comprehensive plan.**
The design is consistent with the goals and objectives of the comprehensive plan by providing on-street parking to accommodate senior center special events, while also making it available for public use. If additional parking were proposed on-site it would not be available for other residents and visitors, and many other areas within Belvedere can benefit from this additional parking. The applicant acknowledges that should this portion of Belvedere Boulevard become a section of the Meadowcreek Parkway, the on-street parking will likely be removed.
- 2) **The variation does not increase the approved development density or intensity of development.**
Density is not increased.
- 3) **The variation does not adversely affect the timing and phasing of development of any other development in the zoning district.**
The timing and phasing of the development is unaffected.
- 4) **The variation does not require a special use permit.**
A special use permit is not required.
- 5) **The variation is in general accord with the purpose and intent of the approved rezoning application.**
This variation is in general accord with the approved rezoning application by providing additional public on-street parking, maintaining the existing multi-use path and bike lanes, and adding additional pedestrian connections.

Staff recommends approval of the variation request #51 as described above, with the following conditions:

- A minimum 9' paved parallel parking area must be provided on each side of the road section. Travel lanes will remain 12' in width, free of on-street parking. 5' striped bike lanes will be provided on both sides of the road section as indicated in the Code of Development. A minimum 6' planting strip is required between the road and the 8' multi-purpose trail, as previously approved. A 4' planting strip and 5' sidewalk must be provided on the opposite side of Belvedere Blvd for safety and pedestrian access.
- The full width of the multi-purpose trail must be within the Belvedere Blvd right-of-way. Either a boundary line adjustment or realignment of the road section will be required.
- As shown on the exhibit, bike lanes must be provided on both sides of Belvedere Blvd.
- Revised road plans must be approved by the County Engineer and VDOT. Work with the County Engineer to provide additional traffic calming measures to their satisfaction.
- A revised Water Protection Ordinance plan must be approved by Engineering.
- VDOT acceptance of Belvedere Boulevard
- An updated Table 8 showing the changes listed above (and variations #49 & #50) must be provided as part of an updated Code of Development and Application Plan reflecting all variations approved since February 2, 2010 (the latest Code revision date) comprehensively prior to Final Site Plan approval.

31.8 SPECIAL EXCEPTIONS

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

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

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

Staff recommends approval of variations #49, #50, and variation #51 with conditions as recommended in this report.

By the above-recorded vote, the Board approved Variations #49, #50 and #51 as recommended by staff and subject to the recommended conditions, as follows:

Variation #49

1. Table 10 of the Belvedere Code of Development must be updated prior to Final Site Plan approval.

Variation #50

1. The 'Pergola and Garden' feature along Belvedere Boulevard, as shown on the exhibit, will be required in addition to all standard street tree, parking lot, and site plan landscape requirements.
2. An updated description of Block 1 in the Belvedere Code of Development must be provided prior to Final Site Plan approval.

Variation #51

1. A minimum nine foot (9') paved parallel parking area must be provided on each side of the road section. Travel lanes will remain twelve feet (12') in width, free of on-street parking. Five feet (5') striped bikes lanes will be provided on both sides of the road section as indicated in the Code of Development. A minimum six feet (6') planting strip is required between the road and the 8' multi-purpose trail, as previously approved. A four foot (4') planting strip and five feet (5') sidewalk must be provided on the opposite side of Belvedere Blvd for safety and pedestrian access.
2. The full width of the multi-purpose trail must be within the Belvedere Blvd right-of-way. Either a boundary line adjustment or realignment of the road section will be required.
3. As shown on the exhibit, bike lanes must be provided on both sides of Belvedere Blvd.
4. Revised road plans must be approved by the County Engineer and VDOT. Work with the County Engineer to provide additional traffic calming measures to their satisfaction.
5. A revised Water Protection Ordinance plan must be approved by Engineering.
6. VDOT acceptance of Belvedere Boulevard.
7. An updated Table 8 showing the changes listed above (and variations #49 & #50) must be provided as part of an updated Code of Development and Application Plan reflecting all variations approved since February 2, 2010 (the latest Code revision date) comprehensively prior to Final Site Plan approval.

Item No. 2.5. Road name change of Proffit Crossing to Proffit Crossing Lane.

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

That the landowners of more than fifty percent (50%) of the parcels served by the road have signed a petition in favor of a common road name, and that the proposed road name is otherwise consistent with the road name guidelines set forth in the Manual.

The landowners of the properties served by Proffit Crossing have submitted a request to change the road name of Proffit Crossing to Proffit Crossing Lane (Attachment A). They express in their letter their concern that the abbreviated road type designator for Crossing (Xing) can be confusing. Staff has confirmed that this change meets the requirements of Section 6 (e) of the Albemarle County Road Naming and Property Numbering Manual.

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

Staff recommends that the Board approve changing the road name of Proffit Crossing to Proffit Crossing Lane and authorize staff to implement the change.

By the above-recorded vote, the Board approved changing the road name of Proffit Crossing to Proffit Crossing Lane and authorized staff to implement the change.

Item No. 2.6. To authorize County Executive to sign Albemarle County Service Authority easement for a public waterline extension across Darden Towe Park to serve the Lewis and Clark Exploratory Center.

The executive summary states that the Lewis and Clark Exploratory Center is being constructed within a leased area in the northeast portion of Darden Towe Park located on TMP 06200-00-00-02300, which is jointly owned by the County and the City. It will be an educational center for visitors of all ages, will commemorate the Lewis and Clark expedition, and will fulfill an important need in the community for outdoor education with an emphasis on history, transportation, and science. An easement is necessary

for the Albemarle County Service Authority (ACSA) to provide water to the Center as shown on the approved site development plan.

The approved site development plan for this project includes a public waterline extension from an existing waterline located along Stony Point Road (St Rte 20) westward to the Center. The easement is necessary for the ACSA to build and maintain the waterline extension. A copy of the proposed easement Plat is included as Attachment A.

Because the City of Charlottesville co-owns Darden Towe Park, the City must also approve this easement request.

There is no budget impact associated with granting this easement.

Staff recommends that the Board adopt the attached Resolution (Attachment B) approving the ACSA easement and authorizing the County Executive to sign, in a form approved by the County Attorney, the Deed of Easement on behalf of the County.

By the above-recorded vote, the Board adopted the following Resolution approving the ACSA easement and authorized the County Executive to sign, in a form approved by the County Attorney, the Deed of Easement on behalf of the County:

**RESOLUTION APPROVING DEED OF EASEMENT
BETWEEN THE COUNTY OF ALBEMARLE
AND THE ALBEMARLE COUNTY SERVICE AUTHORITY
FOR SERVICE TO THE LEWIS AND CLARK EXPLORATORY CENTER**

WHEREAS, the County of Albemarle and the City of Charlottesville jointly own Darden Towe Park (Parcel 06200-00-00-02300); and

WHEREAS, the County and City have leased a portion of Darden Towe Park for the construction and operation of the Lewis and Clark Exploratory Center; and

WHEREAS, an easement is necessary for the Albemarle County Service Authority to extend public water service to the Lewis and Clark Exploratory Center.

NOW, THEREFORE, BE IT RESOLVED that the Albemarle County Board of Supervisors hereby approves the granting of an easement to the Albemarle County Service Authority, and authorizes the County Executive to sign, in a form approved by the County Attorney, a Deed of Easement with the Albemarle County Service Authority for an easement over Parcel 06200-00-00-02300 in order to provide public water service to the Lewis and Clark Exploratory Center at Darden Towe Park.

Item No. 2.7. Resolution to approve the issuance of Economic Development Authority revenue refunding bonds in an amount not to exceed \$8,000,000.

The following letter was received from Mr. Elton Oliver, Secretary of the Economic Development Authority:

The Covenant School, Inc. (the "Borrower") has requested that the Economic Development Authority of Albemarle County, Virginia ("Authority"), assist the Borrower in refunding all or a portion of the outstanding principal amount of the Authority's Educational Facilities Revenue Bonds (The Covenant School, Inc.), Series 2001, originally issued April 26, 2001 to (1) finance or refinance the acquisition, construction and equipping of the upper school and other capital improvements at the Borrower's 26-acre campus on Hickory Street near the intersection of Oak Hill Drive and certain other capital improvements and additions located at the Borrower's campus on Hickory Street all in the County of Albemarle, Virginia (the "Project"), and (2) pay financing and issuance costs related thereto, by the issuance of its revenue bonds in an amount not to exceed \$8,000,000 ("Bonds").

As set forth in the resolution of the Authority attached hereto ("Resolution"), the Authority has agreed to issue its Bonds as requested. The Authority has conducted a public hearing on the proposed financing of the Project and has recommended that you approve the issuance of the Bonds as required by Section 147(f) of the Internal Revenue Code of 1986, as amended, and Section 15.2-4906 of the Code of Virginia of 1950, as amended.

Attached hereto is (1) a certificate evidencing the conduct of the public hearing and the action taken by the Authority, (2) the Fiscal Impact Statement required pursuant to Virginia Code Section 15.2-4907, and (3) the form of resolution suggested by counsel to evidence your approval.

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

**RESOLUTION
OF THE BOARD OF SUPERVISORS OF
THE COUNTY OF ALBEMARLE, VIRGINIA**

WHEREAS, the Economic Development Authority of Albemarle County, Virginia ("Authority"), has considered the application of The Covenant School, Inc. (the "Borrower") requesting the issuance of the Authority's revenue refunding bonds in an amount not to exceed \$8,000,000 ("Bonds") to assist in financing the refunding of all or a portion of the outstanding principal amount of the Authority's Educational Facilities Revenue Bonds (The Covenant School, Inc.), Series 2001 (the "Series 2001 Bonds"), originally issued April 26, 2001 to (1) finance or refinance the acquisition, construction and equipping of the upper school and other capital improvements at the Borrower's 26-acre campus on Hickory Street near the intersection of Oak Hill Drive and certain other capital improvements and additions located at the Borrower's campus on Hickory Street all in the County of Albemarle, Virginia (the "Project"), and (2) pay financing and issuance costs related thereto ("Project"), and has held a public hearing on March 5, 2013;

WHEREAS, Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code"), provides that the governmental unit having jurisdiction over the issuer of private activity bonds and over the area in which any facility financed with the proceeds of private activity bonds is located must approve the issuance of the bonds;

WHEREAS, the Authority issues its bonds on behalf of the County of Albemarle, Virginia ("County"); the Project is located in the County and the Board of Supervisors of the County of Albemarle, Virginia ("Board") constitutes the highest elected governmental unit of the County;

WHEREAS, the Authority has recommended that the Board approve the issuance of the Bonds; and

WHEREAS, a copy of the Authority's resolution approving the issuance of the Bonds, subject to the terms to be agreed upon, a certificate of the public hearing and a Fiscal Impact Statement have been filed with the Board.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE COUNTY OF ALBEMARLE, VIRGINIA:

1. The Board approves the issuance of the Bonds by the Authority for the benefit of the Borrower, as required by Section 147(f) of the Code and Section 15.2-4906 of the Code of Virginia of 1950, as amended ("Virginia Code") to permit the Authority to assist in the financing of the Project.

2. The approval of the issuance of the Bonds, as required by the Code, does not constitute an endorsement to a prospective purchaser of the Bonds of the creditworthiness of the Project, the Borrower or any other person. The Bonds shall provide that the Authority and the County, among others, shall not be obligated to pay the Bonds or the interest thereon or other costs incident thereto, and neither the faith or credit nor the taxing power of the Commonwealth of Virginia or the County shall be pledged thereto.

3. This resolution shall take effect immediately upon its adoption.

Item No. 2.8. SDP-2012-00071. Special Exception for Temporary Construction Yard.

The executive summary stated that as part of the Doms-Bremo electric transmission line rebuild project, Dominion Virginia Power (DVP) has been exploring various options for its temporary construction and materials laydown yard(s). Due to the nature of the project with all work taking place within a linear easement, DVP is unable to identify suitable areas along the easement for this purpose. DVP staff has studied nine other sites that would meet DVP's criteria, and the Ivy Material Utilization Center (MUC) property is the only site that meets the criteria and suits DVP's needs. Because County Code § 5.1.18 b. 2 requires such yards to be "within the same site where the construction project is located," the Rivanna Solid Waste Authority (RSWA) and DVP are requesting a special exception to waive this requirement so DVP can use a portion of RSWA's MUC property.

DVP has located the laydown areas in portions of the MUC property where there are no critical slopes and no stream buffers, and where no grading is required to use and access the area. These locations were chosen because the access to these locations is established and safe. The total number of vehicle trips expected over the weeks that the materials will be brought in is 230 (115 in and 115 out), and another 230 total over the 21-24 months that the construction project will be active. VDOT has stated it has no concerns with this small amount of traffic spread out over many months. Staff from Engineering, Planning, RSWA and VDOT have reviewed the proposal and expressed no objections to it as outlined in the application narrative (Attachment A). The property is zoned Rural Areas and a temporary construction yard is a permitted use in that district.

DVP will be leasing the laydown areas from the RSWA for a period of up to two years. The lease has not been finalized, but execution of it will result in some additional revenue to the RSWA without cost to the County.

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

1. The temporary construction yard for Dominion Virginia Power's Doods-Bremo Rebuild Project shall be located in those areas of Tax Map and Parcel Number 07300-00-00-02800 shown on the drawing titled "Doods-Bremo Rebuilt Project's Temporary Laydown Yard at Ivy Landfill," dated January 18, 2013 (Attachment B).
2. The temporary construction yard shall be used only for the storage of construction or development materials, supplies, equipment, and tools, and the on-site stockpiling and recycling of useable construction materials and other items of Dominion Virginia Power for its Doods-Bremo Rebuilt Project.
3. Because this special exception authorizes only the temporary construction yard to be located off-site from the construction project, the temporary construction yard shall comply with all other requirements of County Code § 18-5.1.18(b).
4. Any activities associated with the temporary construction yard shall be conducted during Ivy Material Utilization Center's hours of operation.

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

1. The temporary construction yard for Dominion Virginia Power's Doods-Bremo Rebuild Project shall be located in those areas of Tax Map and Parcel Number 07300-00-00-02800 shown on the drawing titled "Doods-Bremo Rebuilt Project's Temporary Laydown Yard at Ivy Landfill," dated January 18, 2013 (Attachment B).
2. The temporary construction yard shall be used only for the storage of construction or development materials, supplies, equipment, and tools, and the on-site stockpiling and recycling of useable construction materials and other items of Dominion Virginia Power for its Doods-Bremo Rebuilt Project.
3. Because this special exception authorizes only the temporary construction yard to be located off-site from the construction project, the temporary construction yard shall comply with all other requirements of County Code § 18-5.1.18(b).
4. Any activities associated with the temporary construction yard shall be conducted during Ivy Material Utilization Center's hours of operation.

Item No. 2.9. Bergen (Earlsville Forest) (Lot 166-Section 9B) - Special Exception for Setback Variation.

The executive summary states that Earlsville Forest is zoned PUD-Planned Unit Development. Setback and yard requirements for PUDs are established by the Board at the time of rezoning. On March 19, 1986, the Board of Supervisors approved ZMA 85-33, an amendment to ZMA 81-11-Earlsville Forest, to increase the number of lots permitted and establish setbacks for Section 9 (30'-Front, 25'-Sides, and 20'-Rear), along with a 30' building separation requirement. The plat for Section 9B (SUB 86-185) was approved on November 11, 1986 by the Planning Commission. The existing house on the applicant's parcel (Lot 168) was constructed in 1987. In 1993, a building permit and Certificate of Occupancy were issued for a sunroom addition on the back of the house. Recently, a physical survey of the property was done (Attachment A) and shows that the back corner of the sunroom is as close as 16.5' to the rear property line. The applicant is requesting a variation to the 20' rear setback/yard requirement.

The applicant has requested a variation to reduce the rear setback from 20' to 16.5', which is a 3.5' reduction. Section 8.5.5.3(a) authorizes the Director of Planning to grant variations from the approved standards of development, application plan and/ or code of development. However, due to a recent State Supreme Court decision, these variations must now be approved by the Board of Supervisors as a Special Exception under Chapter 18 Section 31.8. **Staff is recommending approval of this variation request.**

VARIATION

The applicant submitted the following request: To allow the minimum rear building setback to be decreased by 3.5 feet. Staff analysis of the variation request is provided below:

- 1) **The variation is consistent with the goals and objectives of the comprehensive plan.**
The design is consistent with the goals and objectives of the comprehensive plan.
- 2) **The variation does not increase the approved development density or intensity of development.**
Density is not increased and this variation will address an existing condition. The 30' building separation requirement will be maintained. The applicant provided a letter from the adjoining property owner (Lot 163) that they do not object to this request.
- 3) **The variation does not adversely affect the timing and phasing of development of any other development in the zoning district.**
The timing and phasing of the development is unaffected and Earlsville Forest is built-out.
- 4) **The variation does not require a special use permit.**
A special use permit is not required.
- 5) **The variation is in general accord with the purpose and intent of the approved rezoning application.**
This variation is in general accord with the approved rezoning application.

Staff recommends approval of this variation request, as outlined above, for a 3.5' reduction in rear yard/setback requirements for Lot 168.

By the above-recorded vote, the Board approved the special exception, as recommended by staff, to allow the requested variance to reduce the rear yard setback for Lot 168 from 20' to 16.5', which is a 3.5' reduction.

Item No. 2.10. Resolution Endorsing the Rail Preservation Application of Buckingham Branch Railroad Company.

The following letter dated February 27, 2013 was received from Mr. Claude Morris, Project Manager, Buckingham Branch Railroad Company:

Buckingham Branch Railroad leased 200 miles of track from CSX and commenced operations December 20, 2004. This operating lease was for track from Clifton Forge, Va., to Richmond, Va., including 9.9 miles known as the Orange Branch.

We are requesting a resolution from the County of Albemarle supporting Buckingham Branch Railroad's request for funds from the Virginia Department of Rail and Public Transportation Rail Preservation Fund. Buckingham Branch Railroad Company will provide the local matching funds and is not requesting funds from your locality.

Buckingham Branch Railroad Company has applied for a four year project to replace up to 12,000 linear feet of curve worn rail with 115 pound or heavier new or AREMA Class 1 relay rail. The project cost will include welding rail joints and other track materials directly associated with the project. Installation of the rail will be at various curved track locations between Railroad milepost 194 and 209. These milepost locations are between Ivy in Albemarle County and Waynesboro, Va.

The total budget for the curve rail improvements is \$800,000. The funding is requested to be distributed over four years. The project will focus on curved track within the specified milepost limits in most need of replacement. Funds requested may be distributed over one or more counties and municipalities.

A sample resolution is included and should be sent to Mr. Claude Morris at the address shown in the letterhead.

Buckingham Branch Railroad sincerely appreciates the support that you have given us during our years of operation in your locality. We look forward to continuing to serve your community in the future.

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

**RESOLUTION ENDORSING THE
RAIL PRESERVATION APPLICATION OF
BUCKINGHAM BRANCH RAILROAD COMPANY**

WHEREAS, the Buckingham Branch Railroad Company desires to file an application with the Virginia Department of Rail and Public Transportation for funding assistance for the North Mountain Subdivision Rail Improvements project, which will replace approximately 12,000 linear feet of curve worn rail between Milepost 194 and 209; and

WHEREAS, Buckingham Branch Railroad Company estimates that this project will cost \$800,000; and

WHEREAS, the General Assembly, through enactment of the Rail Preservation Program provides for funding for certain improvements and procurement of railways in the Commonwealth of Virginia; and

WHEREAS, the Buckingham Branch Railroad Company is an important element of Albemarle County's transportation system; and

WHEREAS, the Buckingham Branch Railroad Company is instrumental in the economic development of the area, provides relief to the highway system by transporting freight, and provides an alternate means of transportation of commodities; and

WHEREAS, the Albemarle County Board of Supervisors supports the project and the retention of the rail service; and

WHEREAS, the Commonwealth Transportation Board has established procedures for all allocation and distribution of the funds provided;

NOW, THEREFORE, BE IT RESOLVED that the Albemarle County Board of Supervisors does hereby request the Virginia Department of Rail and Public Transportation to give priority consideration to the North Mountain Subdivision Rail Improvements project proposed by the Buckingham Branch Railroad Company for inclusion in the projects funded in the Rail Preservation Program.

Item No. 2.11. County Grants Application Report, **was received for information.**

The following grants were awarded since January 15, 2013.

SOURCE	GRANT NAME	AMOUNT	MATCH	DEPARTMENT	PURPOSE
Virginia Dept. of Housing and Community Development	Community Development Block Grant Federal	\$700,000	\$160,000 \$30,000 from proffers \$130,000 appropriated support to AHIP	Housing	Rehabilitation of 25 to 30 owner-occupied homes in Orchard Acres Subdivision, Crozet
Dept. of Criminal Justice Services (DCJS)	CCCA/PSA Training Fund State	\$3,900	0	OAR	Training for OAR staff and volunteers

Applications were made for the following grants:

DCJS	Byrne Justice Assistance Grant Federal	\$64,601	\$7,179 County Grants Matching Funds	Police Dept.	Hire Crime Analyst to analyze and provide a range of information to support more informed planning, decision making and problem solving.
DCJS	One Time Equipment Grant	\$22,994	\$2,556 County Grant Matching Funds	Police Dept.	Purchase system for downloading recorded data from mobile devices. Purchase high intensity lights for new police rifles. Establish an online data management system for training records, online coursework, and accreditation records.
DCJS	One Time Equipment Grant	\$29,700	\$3,300 Existing Department Budget –Comp Board	Circuit Court	Purchase electronic civil and criminal records filing system called eLegal Case Pro.
DCJS	One Time Equipment Grant	\$3,246.65	\$360.74 Existing Department Budget	OAR	Purchase medical check-in touch screen kiosk for the Orange office. Purchase Sony Digital Voice Recorders and camcorder for training, skill building, and videotaping performance with clients.

Item No. 2.12. VDOT – Culpeper District, *Monthly Report for Albemarle County, March, 2013*, **was received for information.**

The following special issue was identified in the report:

Route 649 Proffit Road, Bridge over the North Fork Rivanna River- Work is tentatively scheduled for March 18-20 to remove storm debris from Route 649. The road will be closed for the duration of the work and a detour will be set up. VDOT will be communicating this work with schools and emergency services and will release public notices of the work.

Item No. 2.13. Board-to-Board, March 2013, *A Monthly Report from the Albemarle County School Board to the Albemarle County Board of Supervisors*, **was received for information.**

Agenda Item No. 3. To give notice of an intent to amend the Board’s Rules of Procedure to provide time limit for the initial “Matters from the Public” and to add another opportunity for “Matters from the Public” at the end of the agenda.

Ms. Mallek stated that this item is being considered to see if Board members want to make any changes to “Matters from the Public” in terms of its location on the agenda. She said that one idea that has been suggested is to do what some other communities do, such as having a fixed amount of time at the beginning of the day – with people who do not get a chance to speak coming back in the afternoon. Ms. Mallek stated that she feels the fairer way to approach this would be to have “Matters from the Public” heard in a certain time in the afternoon. She added that in the five years she has been on the Board she has seen applicants, attorneys and others scheduled to be on the agenda come and sit for a long expensive interval during an expanded time for matters from the public. She said that she wants the public to be able to talk to address the Board, but she wants to determine a better way to make it happen so there is more predictability for everyone involved.

Mr. Thomas said that he agrees that there should be a time limit at the beginning of the meeting, and then add a time for “Matters from the Public” at the end of the meeting so that the Board can stay on schedule during the meeting.

Mr. Boyd asked what would happen at night meetings, in case the meetings ran late. Ms. Mallek said the Board could have a different process for night meetings.

Mr. Boyd said that he cannot support not allowing the public to bring matters to the Board. Ms. Mallek said that is not what she is proposing and that statement should not be made.

Mr. Boyd said that now the public comes and knows they will be on the agenda by 9:00 a.m. in the morning, or at 6:00 p.m. in the evening.

Ms. Mallek stated that she is not in favor of the split time, because people would come to the meeting only to find out they have to come back later in the day. She said that the Board needs to either leave the current process alone or move the entire process to a set time in the afternoon.

Mr. Snow said that there are some hearings that need to be dealt with, hopefully on schedule, but there are also some things that can be easily moved. He suggested that the Board try to schedule the public hearings at a set time, and then schedule other agenda items at times such that they can be moved from the morning to the afternoon.

Mr. Rooker said that he does not have a strong feeling one way or another, but he does have a strong feeling that it should not be split. He said that only about 10% of the time there is a lengthy public comment period at the beginning of the meeting, and he does not know if it is worth changing the schedule for – but if so, he would be in favor of holding it after the public hearing items, perhaps after lunch. Mr. Rooker stated that in the evening it is more problematic, as the public may not know what time to come to the meeting.

Mr. Thomas said that the issue is whether it is more important to stay on schedule for people who have paid applications, or to stay on schedule for the public to speak. Ms. Mallek responded that the Board is trying to find a way to accommodate both by giving a set time later in the day.

Mr. Rooker said that the public also wants to speak on scheduled public hearing items, and some of the Board's lengthiest meetings have been on those matters – so it is no different for them to have to wait an hour and a half. He stated that there is no perfect solution, but perhaps moving the day meeting comments to some other time during the day where it can be scheduled with some reasonable certainty, but leave the night meetings alone.

Ms. Mallek asked Ms. Jordan if it would be possible to have a morning's worth of public hearings and presentations, and then have the open public comment in the early afternoon, perhaps scheduled at 1:30 p.m. Ms. Jordan responded that it is possible, but hard to predict.

Mr. Snow said it is just not predictable, and the Board may end up having to leave it just like it is. When the Board is aware that a lot of people are coming to a particular meeting, then it needs to try to adjust the schedule to build some flexibility into it.

Ms. Mallek said it is hard to know what those days are going to be.

Mr. Foley said that one suggestion was scheduling the public hearings first to get those done, so at least they won't be delayed, and then have public comment right after that – or leave the morning open and have the public hearings scheduled after lunch.

Mr. Snow said that he likes that idea. Ms. Mallek said that is perhaps a better idea.

Mr. Foley said that presentations might be pushed until after lunch under that scenario also.

Mr. Rooker commented that anytime there is something on the agenda that takes longer than expected it creates problems for things behind it. For example, there have been public hearing items scheduled for 15 minutes that actually took two hours.

Mr. Foley said that the only difference is that there is an advertised public hearing time for things that have been scheduled. He reiterated that the Board could either schedule those hearings after lunch or schedule as the first item on the agenda.

Mr. Rooker said that the Clerk generally schedules the public hearing items for which there is a lot of comment anticipated for night meetings, but the day meeting would be easier because those items are not those that normally have a lot of public comment.

Mr. Foley suggested coming back with ideas for rearranging public hearing times to coordinate with public comment.

Mr. Snow said that the option he likes best is to keep public comments as the first item on the agenda, and then, for day meetings, shift public hearings to after lunch so applicants know they have a specific time.

Mr. Rooker said that would be fine with him also, and it is pretty much what they do now.

Mr. Davis noted that it would not require any amendment of the Board's rules. Public hearings fall under "general business," so it would just mean reordering the agenda within that item.

Hearing no opposition to that suggestion, Ms. Mallek commented that this would not require any further action from the Board, and Item #12 could be removed from the night agenda.

Agenda Item No. 4. To establish a public process for appointing an interim Board member to hold office until a special election is held if a vacancy occurs on the Board.

Ms. Mallek said that this item for consideration is establishing a public process for appointing an interim Board member to hold office until a special election is held if any vacancy occurs on the Board. She stated that it is important that Board members publicly state they would appoint someone with whom all remaining Board members agree, to give the public a sense of comfort that they would know how it was going to be handled – no matter what the circumstance.

Mr. Snow stated that he likes the way the School Board handled Mr. Ronnie Price's vacancy when he left. The School Board took applications and came up with a "placeholder," with Mr. Harley Miles ending up doing a terrific job in that capacity. The election was then held in the fall. He would like to see the same procedure used by this Board.

Mr. Rooker said that State law sets out a process in which the Board must appoint someone within 45 days, or it kicks over to a default approach whereby a Judge appoints someone. He stated that if a vacancy comes up, it would be obvious there is an opening. The Board would have to advertise quickly to fill that and it would be up to the Board to discuss and interview applicants. Mr. Rooker said that Ms. Mallek is saying that Board members ought to try to have a unanimous Board with that appointment, emphasizing that "it could happen to anybody." He added that it is important for the Board to reach unanimity on an appointment.

Mr. Snow said he agrees with that approach.

Mr. Boyd stated that the Board almost always reach consensus on appointments. When he was on the School Board, one of its members moved away and the remaining Board members were able to come up with someone who was agreeable to everyone. He said that he does not know if the Board needs a formal process as much as that sort of understanding.

Ms. Mallek said that her contention is that it would be reassuring to everyone to have a formal process in place, and she would like to see it written.

Mr. Davis stated that the agreement would not be binding on the Board under State law, which stipulates that a replacement is made by a majority vote of the Board within 45 days of the vacancy. The Board cannot put a higher standard legally on itself. Board members can certainly agree amongst themselves that it will be a unanimous decision, but it cannot be a binding legal commitment.

Mr. Rooker said Board members are talking about a statement of Board intent and policy, not something that is legally binding.

Mr. Foley noted that it is about what process Board members want to use when a vacancy occurs. The question is whether there is a Board policy to follow certain steps in filling a vacancy. He said that it could be the same policy the Board follows for appointments to boards and committees of citizens, which is an application process that gets advertised. The Board receives applications, goes into closed meeting to discuss and decides who to appoint. Mr. Foley said that the School Board vacancy mentioned followed a similar process but also included a public hearing.

Mr. Boyd mentioned that the School Board's process included interviews for that replacement that were held in a public meeting, which he felt was very open and good.

Ms. Mallek commented that that is a great idea.

Mr. Rooker noted that it is a very short time period in which the Board would have to get it done.

Ms. Mallek said it would have to be a very accelerated process.

Mr. Davis clarified that the Board would have 45 days from the date of vacancy to appoint an interim Board member. If the Board fails to do so within the 45 days, the Judges of the Circuit Court have the authority to appoint an interim member or leave it vacant until a special election.

Mr. Rooker reiterated that the Board needs to be mindful that it would be operating on tight deadline.

Mr. Foley said that if the Board advertises the vacancy, it will take some time, and if a public hearing is added that pushes the timeframe even tighter. He said that the Board seems to be in favor of advertising for an opening, and the only question is once the applications are received whether or not to do something different than discussing it in closed meeting.

Mr. Davis noted that some of this may depend on the circumstances at the time. If the Board has a process with two applicants then it would be different than the process if there were 100 applicants. The process needs to remain somewhat flexible. He said that he thinks the Board can commit to having applications and commit to having some type of public process to consider those applications, but he would recommend that the Board not become locked down into the details because of the need for flexibility.

Mr. Foley said that when applications are received, they would come to the Board to decide on how it wants to proceed.

Mr. Davis said that a motion would be in order to direct staff to have an application in place that can be used for the process, and that the Board is committed to a public process if a vacancy occurs.

Motion was then offered by Mr. Rooker, **seconded** by Ms. Mallek, to direct staff to establish an application process to be utilized in its intent to commit to a public process, if a vacancy occurs on the Board of Supervisors. Roll was called and the motion carried by the following recorded vote:

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

NAYS: None.

Agenda Item No. 5. Financial Management Policies.

Ms. Lori Allshouse, Director of Budget and Performance Management, addressed the Board, and stated that Ms. Betty Burrell, Director of Finance, was also present. Ms. Allshouse said that the County has over 60 financial management policies. She said that October 2000 was the last major review and update to the Board's financial policies, so it has been a long time since they looked at these in a comprehensive way. In July 2012, she said, the Board approved having staff create a multi-year budget for CIP projects beginning in FY14, which would require an additional policy. In August 2012, three amendments to the financial management policies were proposed and approved by the Board. In December 2012, the Board approved a change regarding the School Division Fund Balance Policy and directed staff to draft a policy for the Board's consideration. Ms. Allshouse said that the recommended changes are included in the recommended budget, and those approved will be incorporated into the adopted budget document for this year.

Ms. Allshouse stated that she and Ms. Burrell will approach this by reviewing some minor revisions, which clarify language and ensure use of consistent terminology. They will look at some updates to a few of the policies to make sure that the policies accurately reflect current and planned processes. Finally, they will look at the recommended addition of the School Board's Fund Balance Policy based on the Board's direction in December.

Ms. Allshouse stated that Ms. Burrell indicated that the reason the County has so many financial policies is because Albemarle is a AAA-bond rated locality. Ms. Allshouse stated that there are eight policy categories: operating budget policies, capital budget policies, policies for asset management replacement and enhancement, revenue policies, investment policies, policies for financial reporting, auditing and accounting, debt policies, and policies for fund balance and reserves. She said that the categories "Asset Maintenance Replacement and Enhancement Policies" through "Debt Policies" contain minor revisions, such as adding or removing a word or clarifications.

Ms. Allshouse stated that she will review some changes to the budget policies, and Ms. Burrell would review changes to the capital budget policies. She said that staff has made slight revisions to the operating policy, and distributed a copy of the revised policy. Ms. Allshouse then read the proposed clarification to the 60/40 split policy as reflected in paragraph 9: "The County shares 60% of the increase or decrease in available shared local tax revenues with the School Board. Available shared local tax revenues are additional or reduced tax revenues that can be used for County and School Division operations after subtracting any increases and adding any decreases in debt service, capital improvement program funding, the City of Charlottesville revenue sharing, tax relief for the elderly and disabled, tax refunds, and any shared reserves for contingencies. This guideline may be reviewed annually."

Mr. Snow said a proposal was made at a budget work session to raise the tax rate by .4 cents with 100% going to the School Division. He asked how the increase would impact this policy. Ms. Allshouse responded that this is a policy that is a guideline. The Board can review it and make adjustments to it annually.

Mr. Foley clarified that this is about next year's change in revenues. The Board can make a decision during any budget process to provide more money to the schools – to the base. The policy applies to the next year, as revenues change, to determine how they are divided out. He explained that the .4-cent change means the schools' base will change by that much, and next year it will depend on growth or decline in revenues as to what happens to that amount.

Mr. Rooker said that he thinks that the new paragraph 9 better defines what the Board considers to be splittable revenues.

Ms. Mallek pointed out that in the event of falling revenues due to lower sales tax income or other sources, that still protects the cash the Board needs to go to debt service first – and some of that may have to come out of a shared amount from what the County thought it would be able to provide to the School Board, and that might happen mid-year. The Board has had to make adjustments during the year to reduce delivery of money.

Mr. Foley said that has happened in recent years, and it is reflected in the resolution the Board adopts when it adopts the budget. It basically says that the school system will share in any fluctuation in those shared revenues.

Ms. Allshouse said that paragraph 15 has some minor changes to reflect the Board's current practice. This section relates to transfers between divisions and departments. The revised language states that: "Transfers between divisions and non-salary line-item expenditures within a General Government Department are approved by the heads of the Departments." "Transfers between expenditure accounts in different departments are approved by the Board of Supervisors or, if specifically delegated by the Board of Supervisors, by the County Executive. Ms. Allshouse noted that this past year the Board authorized the County Executive the ability to move small amounts, up to \$50,000, between departments.

Ms. Burrell said that the first item she will discuss is the cash funding of the Capital Program. She noted that the change reflects the budgeted net transfer to capital after debt service would be three percent. This is a goal of ensuring that there is adequate cash funding of the Capital Plan. Ms. Burrell said that the next change deals multi-year funding of the CIP program. As Ms. Allshouse mentioned this was first discussed last summer, with the Board directing staff to put together a plan for a multi-year budget. She emphasized that the essence of this change is to eliminate "artificial starts and stops" with respect to capital projects, unlike the operating budget that is simply a one-year budget. Ms. Burrell stated that with the adoption of this language, all unspent and unencumbered appropriations allocated for capital projects will be re-appropriated through adoption of the annual budget. She said that upon completion of those projects, the County Executive will close out those unexpended funds to the capital project fund balance.

Ms. Burrell said that during the CIP budget work session the previous week, Board members received information about anticipated carry-forward projects, which was part of their review and approval as part of the FY14 budget process. Prior to the June 14 resolution of appropriation, she said, additional information will be provided to the Board to include recommendations for the CIP projects that would be carried forward into FY14. Ms. Burrell reported that specifically the language will read, "All unspent and unencumbered appropriations allocated for capital projects shall be re-appropriated in FY14 for completion of the projects. Upon completion of a capital project, the County Executive is hereby authorized to close out the project and transfer the unencumbered, unexpended residual funds to the Capital Improvement Fund balance. She said that this is the practice of other AAA-rated jurisdictions such as the City of Virginia Beach, and is among best practices in other jurisdictions.

Ms. Mallek asked why it states FY14 instead of leaving the language general. Ms. Burrell responded that each year the Board would adopt a budget that includes language that says "for the next fiscal year."

Mr. Davis pointed out that it would be in the appropriation resolution, and there would be similar language each year appropriating that money forward into the next year.

Ms. Allshouse stated that the recommended School Fund fund balance policy stems from the Board's direction in December. The County Attorney's office, Finance Department, and Budget Department all worked on this policy to ensure that the departments were all on the same page as to how the funding will work. She said that the proposed policy reads, "At the close of each fiscal year, before the County's audit is complete, all non-appropriated School Operating Fund fund balance will be transferred into the General Fund into a category called 'School Reserve Fund.'" "The Board of Supervisors will maintain in the General Fund-School Reserve Fund an amount not greater than 2% of the current year's School Division adopted operating budget." She said that these funds will be available for School Division purposes, subject to appropriation by the Board of Supervisors. "The Board of Supervisors will transfer any funds in excess of that 2% to the CIP on an annual basis, unless otherwise determined by the Board of Supervisors."

Ms. Allshouse stated that if the proposed changes meet with the Board's approval, staff will include them in the adopted budget as part of the Board's budget and finance policies. Per GFOA guidelines, staff will review these policies on a periodic basis.

Mr. Foley commented that staff has done a great job cleaning all this up.

Motion was then offered by Mr. Rooker, **seconded** by Ms. Mallek, to approve the Financial Management Policies for inclusion in the Board's proposed budget for final adoption. Roll was called and the motion carried by the following recorded vote:

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

FINANCIAL MANAGEMENT POLICIES

STATEMENT OF PURPOSE

The County of Albemarle has a responsibility to its citizens to account for public funds, to manage its finances wisely, and to allocate its resources efficiently and effectively in order to provide the services desired by the public. The primary objective of establishing Financial Management Policies is to provide a framework wherein sound financial decisions may be made for the long-term betterment and stability of Albemarle County. These financial policies also provide guidelines and goals to guide the short- and long-term financial practices of Albemarle County.

POLICY GOALS

A fiscal policy that is adopted, adhered to, and regularly reviewed is recognized as the cornerstone of sound financial management. An effective fiscal policy should:

- Insulate the County from fiscal crises;
- Enhance the County's ability to obtain short-term and long-term financial credit by helping to achieve the highest credit rating and bond rating possible;
- Promote long-term financial stability by establishing clear and consistent guidelines;
- Provide the total financial picture of the County rather than concentrating on single issue areas;
- Provide a link between long-range financial planning and current operations; and
- Provide a framework for measuring the fiscal impact of government services against established fiscal parameters and guidelines.

OPERATING BUDGET POLICIES

The annual budget will be prepared consistent with guidelines established by the Government Finance Officers Association (GFOA).

The budget must be structured so that the Board and the public can understand the relationship between revenues, expenditures and the achievement of service objectives.

The goal of the County is to fund all recurring expenditures with recurring revenues and to use non-recurring revenues for non-recurring expenses.

The County will maintain an updated fiscal impact model to assess the impact of new development on the future costs of associated County services.

The County will develop and annually update a long range (five-year) Financial Plan, which will include projections of revenues and expenditures, as well as future costs and the financing of capital improvements and other projects that are included in the capital budget.

When revenue shortfalls are anticipated in a fiscal year, spending during that fiscal year must be reduced sufficiently to offset the projected revenue shortfalls.

The County will prepare the capital improvement budget in conjunction with the development of the operating budget in order to assure that the estimated costs and future impact of a capital project on the operating budget will be considered prior to its inclusion in the CIP.

The County will annually update and review the Five Year Financial Plan, which includes a review of revenue trends and expenditures from the preceding three (3) years.

The County shares 60% of the increase or decrease in available shared local tax revenues with the School Board. Available shared local tax revenues are additional or reduced tax revenues that can be used for County and School Division operations after subtracting any increases and adding any decreases in debt service, capital improvement program funding, City of Charlottesville revenue sharing, tax relief for the elderly and disabled, tax refunds and any shared reserves for contingencies. This guideline may be reviewed annually.

The operating budget preparation process is conducted to allow decisions to be made regarding anticipated resource levels and expenditure requirements for the levels and types of services to be provided in the upcoming fiscal year. The following budget procedures will ensure the orderly and equitable appropriation of those resources:

The General Government operating budget requests are initiated at the department level within target guidelines set by the County Executive. Priorities of resource allocation of divisions within a department are managed at the department level. In formulating budget requests, priority will be given to maintaining the current level of services. New services will be funded through the identification of new resources or the reallocation of existing resources.

Proposed program expansions above existing service levels must be submitted as a budget initiative requiring detailed justification. Every proposed program expansion will be scrutinized on the basis of its relationship to the health, safety and welfare of the community, among other factors, and will include analysis of long-term fiscal impacts.

Proposed new programs must also be submitted as budget initiatives requiring detailed justification. New programs will be evaluated on the same basis as program expansions, to include analysis of long term fiscal impacts.

Performance measurement and productivity indicators will be integrated into the budget process as appropriate.

The General Government operating budget is approved and appropriated by the County Board of Supervisors at the department level. Total expenditures cannot exceed total appropriations of any department within the General Fund. Changes to the approved operating budget during the fiscal year can be accomplished in any of the following ways:

Transfers between divisions and non-salary line-item expenditures within General Government departments are approved by the heads of the departments.

Transfers between expenditure accounts in different departments are approved by the Board of Supervisors or, if specifically delegated by the Board of Supervisors, by the County Executive

Encumbered funds for active operational purchase orders will be carried forward into the next fiscal year subject to the approval of the Board of Supervisors.

The Board of Supervisors appropriates School Division funding in accordance with Virginia Code § 22.1-115.

The County will prepare quarterly financial reports, monthly financial statements, and annual financial reports.

The Board of Supervisors will adopt the operating budget no later than April 30.

CAPITAL BUDGET POLICIES

The County will approve a multi-year capital budget in accordance with an approved Capital Improvements Program. All unspent and unencumbered appropriations allocated for capital projects shall be re-appropriated for completion of the projects. Upon completion of a capital project, the County Executive is authorized to close out the project and transfer any unencumbered unexpended residual funds to the Capital Improvement Fund fund balance.

The Board of Supervisors will accept recommendations from the Planning Commission for the five-year Capital Improvements Program that are consistent with identified needs in the adopted Comprehensive Plan and Capital Facilities Plan.

The County will coordinate the development of the capital budget with the development of the operating budget so that future operating costs, including annual debt service associated with new capital projects, will be projected and included in operating budget forecasts.

Emphasis will continue to be placed upon a viable level of "pay-as-you-go" capital construction to fulfill needs in a Board-approved Capital Improvements Program.

The County believes in funding a significant portion of capital improvements on a cash basis. The County's goal is that the budgeted net transfer to Capital after debt service would be 3% of General Fund Revenues.

Financing plans for the five-year capital program will be developed based upon a five-year forecast of revenues and expenditures.

The County maintains a capital facilities inventory and estimates remaining useful life and replacement costs.

Upon completion of any capital project, remaining appropriated funds in that project will be returned to the unassigned capital project fund. Any transfer of remaining funds from one project to another must be approved by the Board of Supervisors, or if authorized by the Board of Supervisors, by the County Executive. (Amended August 1, 2012)

The County collaborates with the School Board regarding the development and coordination of the County's Capital Improvement Program. Collaboration includes the following: a) planning for required capital improvements; b) debt ratio targets; and c) debt issuance schedules.

ASSET MAINTENANCE, REPLACEMENT, AND ENHANCEMENT POLICIES

The County will maintain a system for maintenance, replacement, and enhancement of the County's and School Division's physical plant. This system will protect the County's capital investment and minimize future maintenance and replacement costs:

- The operating budget will provide for minor and preventive maintenance;
- Within the Capital Improvement Program, the County will maintain a capital plant and equipment maintenance/replacement schedule, which will provide a five-year estimate of the funds necessary to provide for the structural, site, major mechanical/electrical rehabilitation or replacement of the County and School physical plant requiring a total expenditure of \$10,000 or more with a useful life of ten years or more;
- To provide for the adequate maintenance of the County's capital plant and equipment, the County intends to increase the percentage of maintenance/repair and replacement capital improvements financed with current revenues.

REVENUE POLICIES

Re-assessment of real property will be made every year.

The County will maintain sound appraisal procedures to keep property values current. The County's goal is to achieve an annual assessment to sales ratio of at least 95% under current real estate market conditions, when the January 1st assessment is compared to sales in the succeeding calendar year.

The County will maintain a diversified and stable revenue structure to shelter it from short-term fluctuations in any one revenue year.

The County will estimate its annual revenues by an objective, analytical process.

The County will monitor all taxes to insure that they are equitably administered and that collections are timely and accurate.

The County will follow an aggressive policy of collecting tax revenues. The annual level of uncollected current property taxes should not exceed 4%, unless caused by conditions beyond the County's control.

To the extent possible, the County shall attempt to decrease its dependency on real estate taxes to finance the County's operating budget.

The County will, where possible, institute user fees and charges for specialized County programs and services based on benefits and/or privileges granted by the County or based on the cost of a particular service. Rates will be established to recover operational as well as capital or debt service costs.

The County will regularly (at least every three (3) years) review user fee charges and related expenditures to determine if pre-established recovery goals are being met.

The County will identify all inter-governmental aid funding possibilities. However, before applying for or accepting either state or federal funding, the County will assess the merits of the program as if it were to be funded with local dollars. No grant will be accepted that will incur management and reporting costs greater than the grant.

Local tax dollars will not be used to make up for losses of inter-governmental aid without first reviewing the program and its merits as a budgetary increment.

The County will attempt to recover all allowable costs – direct and indirect – associated with the administration and implementation of programs funded through inter-governmental aid. In the case of state and federally mandated programs, the County will attempt to obtain full funding for the service from the governmental entity requiring that the service be provided.

INVESTMENT POLICIES

The County will invest County revenue to maximize the rate of return while maintaining a low level of risk. The County will invest in conformance with the Virginia Security for Public Deposits Act.

The County will conduct an analysis of cash flow needs on an annual basis. Disbursements, collections, and deposits of all funds will be scheduled to insure maximum cash availability and investment potential.

The Director of Finance shall maintain a system of internal controls for investments, which shall be documented in writing and subject to review by the County's independent auditor.

Contractual consolidated banking services will be reviewed regularly and procured in accordance with the Virginia Public Procurement Act.

ACCOUNTING, AUDITING, AND FINANCIAL REPORTING POLICIES

The County will establish and maintain a high standard of accounting practices in conformance with the Uniform Financial Reporting Manual of Virginia and Generally Accepted Accounting Principals (GAAP) for governmental entities as promulgated by the Governmental Accounting Standards Board.

Regular quarterly financial statements and annual financial reports will present a summary of financial activity by governmental funds.

An independent firm of certified public accountants will perform an annual financial and compliance audit according to generally accepted auditing standards; Government Auditing Standards issued by the Comptroller General of the United States; and Specifications for Audit of Counties, Cities and Towns issued by the Auditor of Public Accounts of the Commonwealth of Virginia. The County will maintain an audit committee comprised of the County Executive, or designee, the Superintendent of Schools, or designee, the Director of Finance, two Board of Supervisors members and one School Board member. The committee's responsibility will be to review the financial statements and results of the independent audit and to communicate those results to the Board of Supervisors.

The County will annually seek the GFOA Certificate of Achievement for Excellence in [Financial] Reporting.

DEBT POLICIES

The County will not fund current operations from the proceeds of borrowed funds.

The County will manage its financial resources in a way that prevents borrowing to meet working capital needs.

The County will confine long-term borrowing and capital leases to capital improvements or projects that cannot be financed by current revenues.

To the extent feasible, any year that the debt service payment falls below its current level, those savings will be used to finance one-time capital needs.

When the County finances capital improvements or other projects through bonds or capital leases, it will repay the debt within a period not to exceed the expected useful life of the projects.

The County's debt offering documents will provide full and complete public disclosure of financial condition and operating results and other pertinent credit information in compliance with municipal finance industry standards for similar issues.

Recognizing the importance of underlying debt to its overall financial condition, the County will set target debt ratios which will be calculated annually and included in the annual review of fiscal trends:

- Net debt as a percentage of the estimated market value of taxable property should not exceed 2%; and
- The ratio of debt service expenditures to General Fund and School Fund revenues should not exceed 10% (Amended October 11, 2000).

The County intends to maintain a 10 year payout ratio at or above 60% at the end of each adopted five-year CIP for tax-supported debt and lease payments. When the County finances capital improvements or other projects through bonds or capital leases, it will repay the debt within a period not to exceed the expected useful life of the projects. (Amended August 1, 2012)

FUND BALANCE OR RESERVE POLICIES

The fund balance is built over years from savings to provide the County with working capital to enable it to finance unforeseen emergencies without borrowing.

The County will maintain a fund balance for cash liquidity purposes that will provide sufficient cash flow to minimize the possibility of short-term tax anticipation borrowing.

The County does not intend, as a common practice, to use General Fund equity (unassigned fund balance) to finance current operations. If circumstances require the use of the unassigned fund balance that causes the balance to fall to a point below the 10% target level, the County will develop a plan during the annual budget adoption process to replenish the unrestricted fund balance to the 10% target level over a period of not more than three (3) years.

At the close of each fiscal year, the unassigned General Fund fund balance, plus the committed fund balance available for fiscal cash liquidity purposes, should be equal to no less than 10% of the County's total operating revenues, which includes the General Fund plus the School Fund. Funds in excess of the required unassigned fund balance may be considered to supplement "pay-as-you-go" capital expenditures or as additions to the fund balance. (Amended October 11, 2000; August 1, 2012)

The County should contribute to Capital Reserve periodically to provide flexibility in meeting debt service and capital requirements and to mitigate tax rate increases related to future capital projects (Amended October 11, 2000).

At the close of each fiscal year before the County's audit is complete, all non-appropriated School Operating Fund fund balance will be transferred into the General Fund-School Reserve Fund. The Board of Supervisors will maintain in the General Fund-School Reserve Fund an amount not greater than 2% of the current year's School Division adopted operating budget. These funds will be available for School Division purposes subject to appropriation by the Board of Supervisors.

The Board of Supervisors will transfer any funds in excess of that 2% to the CIP on an annual basis unless otherwise determined by the Board of Supervisors. (Added March 13, 2013); *Adopted: October 5, 1994; Amended: October 11, 2000; August 1, 2012; March 13, 2013*

Agenda Item No. 6. Industrial Hemp Farming Act of 2013.

Mr. Foley said that the Board received a presentation on this a few months prior, regarding garnering support for moving forward. At that time, the Board asked staff to provide some additional background information on the issue – which are included as attachments, but do not reflect any recommendations.

Ms. Mallek said that she also distributed an email as a follow-up to seeing the staff report, to answer some questions Board members might have had.

She stated that she would like Albemarle to support the resolution as proposed, in order to ask Congress to consider changing these regulations so that farmers in Virginia can participate more fully in production of this great commodity.

Mr. Boyd said that he views this as a confusing issue with different points of view. Some police departments are nervous about making this change. It is not something that the Board has anything to do with. He said that he thinks the Board is overreaching its bounds to even send a letter to the federal government, which is what is being proposed. He added that he does not see a need to do anything with this issue. Mr. Boyd said he thinks the Board should leave it up to the people who are going to debate the issues, and who have the authority to pass something.

Ms. Mallek said that it actually has a lot to do with what farmers could potentially do. It is a great perennial crop with great conservation value, and it does not have to be tilled up every year. From an agricultural point of view, it is an option that she thinks would be helpful. She added that the County's congressmen and senators are interested in localities point of view – otherwise they would have a more difficult time representing the citizens of the state.

Mr. Thomas said that he is surprised that more farmers are not showing up to talk about it, as they may want this to happen. He said that he has not talked to any farmer that has even said anything about it.

Ms. Mallek said that it is not here yet, but for Southside it is definitely an issue.

Mr. Rooker stated that the Board sends letters to congressmen all the time about pending legislation or legislation that the Board thinks ought to be considered.

Mr. Boyd said he is not disputing that fact, but this is a controversial issue that he does not think the Board got the wherewithal to deal with on a local basis.

Mr. Rooker stated that the Board could add language in the resolution part of it, "whereas the Board hereby supports the adoption of the Industrial Hemp Farming Act for 2013..." and change it to say, "hereby supports the consideration of the adoption..." He said that this is a \$500 million crop the United States is handing to the rest of the world and then importing back the majority of the products – about \$200 million a year. China is the biggest producer of hemp currently and Canada being another major producer. It seems to him to be a strange policy where the United States turns the profits over to the rest of the world and then buy back the products for things that can be grown and produced here very easily. Virginia's soil and climate are well-suited to hemp. The Board is not passing the legislation. The act itself may have to have certain other details. Mr. Rooker said that Ms. Mallek has distributed an email from the Sheriff in Christiansburg. If the legislation were to go forward it would be discussed in Congress as to what types of controls would be appropriate. Other countries seem to have dealt with this, and are producing the product, and are [exporting] it to the United States. It seems to him to be an incredibly unwise policy to allow that continued economic circumstance to exist. He said that he would support a resolution, and would not mind adding the word "consideration" instead of saying the Board supports the adoption.

Mr. Snow suggested adding, "...with appropriate guidelines."

Mr. Rooker said he would support that addition also.

Mr. Davis said that the concept of the legislation is to decriminalize the possession of it, because currently hemp is considered to be a Class 1 controlled substance. The second part of the measure would authorize states to regulate the production as an industrial and agricultural commodity. He said that this would allow states to authorize the standards, not the federal government, so the General Assembly would take it up. It would be a state issue, rather than a federal issue.

Mr. Rooker commented that to consider hemp a Class 1 controlled substance is absolutely ridiculous. He would rather it states be able to debate and decide for themselves.

Mr. Davis stated that the resolution before the Board has a "therefore be it resolved" clause that urges the adoption.

Mr. Rooker said the Board could remove that clause, because it is repetitive.

Mr. Rooker then offered **motion** to adopt the proposed resolution as discussed and to include the last clause as: "Now, therefore, be it resolved, by the Board of Supervisors of Albemarle County, Virginia, that the Board of Supervisors hereby urges the 113th Congress to consider adoption of the Industrial Hemp Farming Act of 2013 and grant the states the authority to license and regulate...." Ms. Mallek **seconded** the motion.

Mr. Boyd said he will not support the resolution because he does not think it is an issue the Board has all the facts on or can evaluate. He does not like to vote on something that turns the issue over to someone else to decide. He does not feel comfortable with what the Board has seen so far or does he know enough about the issue. Mr. Boyd commented that China was mentioned, but they are the worst polluter in the world.

Mr. Rooker responded that this has nothing to do with pollution. The U.S. is buying back the crop – making the economics of this extremely disadvantaged for this country, and for farmers who might want to participate in this crop. He added that he thinks Virginia needs to at least consider putting an end to that disadvantage.

Mr. Snow said that he will support the resolution because it moves it to a more local level, whereby they would have more input and be able to get additional information.

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

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

(Note: The adopted resolution is set out below:)

**RESOLUTION URGING THE 113TH CONGRESS
TO CONSIDER ADOPTION OF THE INDUSTRIAL HEMP FARMING ACT OF 2013**

WHEREAS, the industrial hemp industry has recently experienced a revitalization with worldwide hemp sales continuing to increase; and

WHEREAS, faltering agricultural economics in a number of states have created pressure to investigate alternative crops, including industrial hemp; and

WHEREAS, industrial hemp's three raw materials – fiber, hurds and seeds, can be used in more than 25,000 products, including textiles, rope, cellulose plastics, resin, particle board, paper products, shampoo, vitamins and oil; and

WHEREAS, the histories of the United States and Virginia are replete with examples of the utility of and dependence on industrial hemp, which was legally cultivated in Virginia and many other states until the late 1930's; and

WHEREAS, although industrial hemp is derived from the Cannabis Sativa plant, it is distinctive from its better known relative, marijuana, in that it contains less than one percent of the chemical responsible for its psychoactive properties; and

WHEREAS, under the current United States drug policy, all Cannabis varieties, including hemp, are considered Schedule I controlled substances under the Controlled Substances Act, and as such, the growing of industrial hemp is controlled and strictly regulated by the U.S. Drug Enforcement Administration (DEA); and

WHEREAS, the growing of industrial hemp in the United States has been allowed only by a federal permit issued by the DEA, and the conditions of such a permit are so restrictive as to make the experimental cultivation of hemp essentially impossible; and

WHEREAS, the Virginia General Assembly in 1999 urged the federal government to revise the necessary regulations so as to permit the controlled experimental cultivation of industrial hemp in Virginia; and

WHEREAS, the National Farmers Union (NFU) has urged the President, the Attorney General, and Congress to direct the DEA to differentiate between industrial hemp and marijuana and adopt a policy to allow American farmers to grow industrial hemp under state law without requiring DEA licenses; and

WHEREAS, the National Association of State Departments of Agriculture supports revisions of the federal rules and regulations authorizing commercial production of industrial hemp and has urged the DEA to develop and adopt an official definition of industrial hemp that comports with definitions currently used by countries producing industrial hemp; and

WHEREAS, the Industrial Hemp Farming Act of 2013 (House Resolution 525 and Senate Bill 359) have been introduced in the 113th Congress with the intention of removing Industrial Hemp as a Schedule I controlled substance under the Controlled Substance Act and allowing the State Legislatures to license and regulate the commercial production of hemp as an industrial and agricultural commodity.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of Albemarle County, Virginia, that the Board of Supervisors hereby urges the 113th Congress to consider adoption of the Industrial Hemp Farming Act of 2013 and grant the States the authority to license and regulate the production of industrial hemp as an industrial and agricultural commodity which in turn will open the market for farmers, businesses and entrepreneurs in the emerging and fast growing hemp industry.

Note: At this time, the Board went back to Item 2.2 from the consent agenda.

Fire Chief Dan Eggleston reported that the \$597,147 listed in Appropriation #2013072 does not include the \$110,125 that is already appropriated, which explains the addition. He said that the following page that outlines appropriation of a grant was targeted to allow Fire and Rescue to sustain for another year a blended learning training program for volunteers, which has been well-received based on initial feedback. He said that it also allows Fire and Rescue to train hazmat technicians to meet obligations for a regional hazmat team – not for training any new career staff, as included in the first appropriation.

Mr. Rooker asked how much of the first appropriation is being paid for by a grant. Chief Eggleston confirmed that none of it is.

Mr. Rooker said that his question was why the training component did not qualify for payment under the \$1 million FEMA grant. Chief Eggleston responded that the FEMA grant was for the nine new hires, and this is in addition to that personnel. This is training. He explained that Fire and Rescue holds an abbreviated academy compared to a 16-week traditional academy.

Ms. Mallek asked if they were budgeting \$40,000 a piece to accomplish that. Chief Eggleston responded that they were. He added that it would include both fire and EMS training – which could include some advanced life support training to make sure that the people in the field meet the OMD requirements for advanced life support care. He said that this training is typically done in-house, although they may

bring in contract instructors for the specialized training. Chief Eggleston noted that the training is mainly for career staff, although there are people who need continuing education hours that may sit in on the training during the day. He added that the nighttime training is aimed for the volunteers.

Ms. Mallek commented that the County cannot criticize people for not having training if they are not making it available. If the County is spending \$125,000 it needs to be for more than three people. Chief Eggleston explained that they have two classes underway currently – the first wave of people hired earlier in the year, and the second wave that would include these three people.

Motion was then offered by Ms. Mallek, **seconded** by Mr. Thomas, to approve Item #8.2 from the consent agenda to approve appropriations #2013063, #2013072, #2013074, #2013075, #2013076 and #2013077. Roll was called and the motion carried by the following recorded vote:

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

NAYS: None.

**COUNTY OF ALBEMARLE
 APPROPRIATION SUMMARY**

APP#	ACCOUNT	AMOUNT	DESCRIPTION
2013063	4-1000-31013-431010-250200-1003	47,351.00	250200-LINE OF DUTY - BENEFITS
2013063	4-1000-32015-432010-250200-1003	15,784.00	250200-LINE OF DUTY - BENEFITS
2013063	4-1000-32020-432020-311000-1003	15,325.00	311000-HEALTH SERVICES
2013063	4-1000-99900-499000-250200-9999	-78,460.00	250200-LINE OF DUTY - BENEFITS
2013072	3-1000-51000-351000-510100-9999	13,147.00	APPROPRIATION-FUND BAL
2013072	4-1000-32015-432010-110000-1003	36,819.00	SALARIES-REGULAR
2013072	4-1000-32015-432010-120000-1003	26,000.00	OVERTIME WAGES
2013072	4-1000-32015-432010-210000-1003	4,806.00	FICA
2013072	4-1000-32015-432010-221000-1003	5,151.00	VIRGINIA RETIREMENT SYS.
2013072	4-1000-32015-432010-231000-1003	5,059.00	HEALTH INSURANCE
2013072	4-1000-32015-432010-232000-1003	227.00	DENTAL INSURANCE
2013072	4-1000-32015-432010-241000-1003	438.00	VRS GROUP LIFE INSURANCE
2013072	4-1000-32015-432010-311000-1003	1,500.00	HEALTH SERVICES
2013072	4-1000-32011-432010-332900-1003	2,700.00	OTHER MAINTENANCE CONTRAC
2013072	4-1000-32015-432010-390000-1003	3,000.00	OTHER PURCHASED SERVICES
2013072	4-1000-32015-432010-520300-1003	2,547.00	TELECOMMUNICATIONS
2013072	4-1000-32015-432010-530900-1003	600.00	AUTOMOTIVE INSURANCE
2013072	4-1000-32015-432010-600100-1003	50.00	OFFICE SUPPLIES
2013072	4-1000-32015-432010-600400-1003	13,600.00	MEDICAL & LAB. SUPPLIES
2013072	4-1000-32015-432010-600500-1003	125.00	LAUNDRY/JANITORIAL SUP.
2013072	4-1000-32015-432010-600800-1003	2,800.00	VEHICLE & EQUIP. FUEL
2013072	4-1000-32015-432010-600900-1003	4,800.00	VEHICLE & EQUIP. REPAIRS
2013072	4-1000-32015-432010-601100-1003	4,200.00	UNIFORMS & APPAREL
2013072	4-1000-32015-432010-601104-1003	7,500.00	F/R TURNOUT GEAR
2013072	4-1000-32025-432010-301216-1003	1,256.00	EMS-OUTSOURCE BILLNG FEES
2013072	4-1000-32025-432010-600402-1003	94.00	PHARMACEUTICAL DRUGS
2013072	4-1000-99900-499000-999990-9999	-110,125.00	CONTIN-BUDGET ADJUSTMENTS
2013072	4-9010-32010-432010-800317-3140	6,500.00	MOBILE DATA COMPUTERS
2013072	4-9010-32010-432010-811101-3140	288,750.00	MONTICELLO-AMB 111
2013072	4-9010-32030-432030-815703-3140	288,750.00	SCOTTSVILLE-AMB 706
2013072	3-9010-41000-341000-410500-9999	519,750.00	Loan Proceeds
2013072	3-9010-51000-351000-510100-9999	64,250.00	Use of Fund Balance
2013074	4-1000-31013-431010-999908-1003	57,638.20	CONT-RECLASSIFICATIONS
2013074	4-1000-32015-432010-999908-1003	67,361.80	CONT-RECLASSIFICATIONS
2013074	4-1000-99900-499000-999983-9999	-125,000.00	POLICE & FIRE RESCUE RECRUITMT
2013075	4-1000-32012-432010-312500-1003	-3,500.00	PROF. SER. INSTRUCTIONAL
2013075	4-1000-99900-499000-999974-9999	-23,391.00	Grants Leveraging Fund
2013075	4-1000-93010-493010-930228-9999	26,891.00	Transfer to Fund 1598
2013075	3-1598-33000-332000-330042-1003	107,565.00	FEMA - GRANT
2013075	3-1598-51000-351000-512004-9999	26,891.00	TRS. FR.-GENERAL FUND
2013075	4-1598-32015-432010-110000-1003	46,628.00	SALARIES-REGULAR
2013075	4-1598-32015-432010-120000-1003	15,456.00	OVERTIME WAGES
2013075	4-1598-32015-432010-210000-1003	6,155.00	FICA

2013075	4-1598-32015-432010-221000-1003	9,094.00	VIRGINIA RETIREMENT SYS.
2013075	4-1598-32015-432010-231000-1003	2,248.00	HEALTH INSURANCE
2013075	4-1598-32015-432010-232000-1003	101.00	DENTAL INSURANCE
2013075	4-1598-32015-432010-241000-1003	774.00	VRS GROUP LIFE INSURANCE
2013075	4-1598-32015-432010-301210-1003	54,000.00	CONTRACT SERVICES
2013076	3-8408-18110-318000-181117-9999	700.00	SHERIFF-RESERVE PROGRAMS
2013076	4-8408-93010-493010-930009-9999	700.00	TRS TO GENERAL FUND
2013076	3-1000-51000-351000-512020-9999	700.00	TRNS. SHERIFF CONTRIBUTIN
2013076	4-1000-21070-421070-301230-1002	700.00	RESERVE PROGRAMS
2013077	3-1599-24000-324000-240421-1003	3,900.00	DCJS - GRANT
2013077	4-1599-35030-439010-600000-1003	3,900.00	MATERIALS & SUPPLIES
TOTAL		1,473,806.00	

Agenda Item No. 7. Solid Waste Services RFP.

The following executive summary was forwarded to Board members:

The purpose of this work session is to present for discussion a draft Request for Proposals (RFP) for procuring an operator for the Ivy Materials Utilization Center (Ivy MUC) for the County and determine if the Board wishes staff to proceed to advertise the RFP. On January 16, 2013, the Board held a work session where two options for solid waste services at the Ivy MUC were discussed (Attachment A). The two options were:

- Option 1) Continue having the Rivanna Solid Waste Authority (RSWA) provide all services at the Ivy MUC.
- Option 2) Have the County assume control of the services provided at the Ivy MUC through a lease with RSWA.

The Board determined that both options needed to be fully evaluated before a decision is made and that Option 2 lacked an adequate detail of costs to make that evaluation. The Board recognized that the evaluation and possible procurement process under Option 2 would necessitate a short-term agreement with RSWA to continue current services. In addition, the Board recognized that an agreement for the continuation of services at the McIntire Recycling Center is needed. Following the discussion, the Board gave staff the following directions:

- Prepare a draft RFP for Option 2 and bring it to the Board for review before advertising for procurement. This draft RFP is provided as Attachment B.
- Work with RSWA in the development of a lease agreement for the Ivy MUC that defines cost and other terms. A memo regarding the lease and the lease itself are included in Attachments C and D.
- Work with RSWA to develop a short-term agreement for the continued operation of the Ivy MUC through December 31, 2013. RSWA is currently developing this agreement, but it is not ready for review at this time.
- Work with RSWA to develop an amended agreement for the continued operation of the McIntire Recycling Center. RSWA is currently developing this agreement, but it is not ready for review at this time.

Service Options - As discussed with the Board, the RFP is structured to assure the current services provided to residents are maintained, while providing the contracted operator the widest possible latitude on how those services are provided. This includes three options for municipal solid waste (MSW) services:

- Option 1** – Continue operating the current transfer station. This allows the contracted operator to gain additional tonnage through commercial haulers. This option would require the County to obtain a new permit from the Virginia Department of Environmental Quality (DEQ). Permitting is discussed below.
- Option 2** – Provide a new Convenience Center, which would provide services to residents, but would not be open to County businesses. This is the minimal level of services and would not require a permit from DEQ provided the material is carried to a permitted transfer station.
- Option 3** – Provide a new transfer station. This option allows a contracted operator to provide services to commercial haulers while streamlining the operation to reduce operational costs. The new facility would require the County to obtain a permit from DEQ. This option may prove difficult to structure. Because the Board cannot make financial commitments that bind future boards, this option would likely require the County to fund a portion of the capital facilities that would not be fully depreciated if the agreement were terminated before the term of the contract is completed.

Regardless of the MSW option chosen, the RFP requires all other current services to be continued. This includes the disposal of white goods, tires and wheels, pallets, vegetative waste, and clean fill materials. In addition, the RFP is structured to encourage enhanced recycling services as well as providing the contracted operator the ability to offer additional services that the County may select on an individual basis.

Contracted Operator Responsibilities – The selected operator would be responsible for operating and maintaining the facility in a way that protects the public and the County while assuring an adequate level of service by:

- Carrying insurance for liability and environmental hazards. Staff is still developing how this will function.
- Having well-defined days and hours of operation, giving the contracted operator some flexibility in determining the schedule.
- Maintaining the existing facilities, including snow removal and litter control. A new transfer station may require an additional agreement with RSWA if that entails the demolition of the current facility.
- Maintaining the utilities (phone and electric) and the office.
- Logging customer complaints and demonstrating adequate responses.

Operator/Permitting - The attached RFP is structured so the County is legally the facility operator and the contracted operator provides services to the County. The RFP is structured in this way for the following reasons:

- This property is zoned RA, and the Zoning Ordinance does not provide for a transfer station or convenience center on RA zoned property by a private enterprise. The use is only allowed at this location as a public facility found to be consistent with the County's Comprehensive Plan. (This type of facility is a by-right use on Industrial-zoned land provided it is an enclosed facility. All newly permitted transfer stations in Virginia are enclosed.)
- This framework keeps any permit in the County's name. The contractor would be responsible for all materials and costs for obtaining a new permit if a permit is required. If the facility were permitted in the contractor's name and the contractor were removed, the facility would have to remain closed until a new permit was approved.

As the legal operator, the County Board of Supervisors will need to set fees and provide for adjustments to fees. The RFP is structured to include proposed fees for each service. The County payment for services would be structured as an annual payment in the amount of the fees collected, regardless of the quantity of materials received. The contracted operator would collect all fees collected as part of this agreement based on the adopted fee structure. Under the RFP, a proposal could also request the County to provide additional compensation to the contracted operator above and beyond the fees collected. This approach allows the County to make an easy evaluation as to whether this service is more cost effective than what RSWA has offered.

Selection Criteria – The selection criteria is based on qualified proposals that demonstrate the technical and financial capacity for the startup and operation of the facility, as well as the consideration of the fee structure that would be part of the negotiated agreement. As noted above, this would require the Board to adopt those fees for the agreement to be binding on the contracted operator.

This RFP would only cover one part of the County's costs for solid waste services. Other costs will include an agreement to operate the McIntire Recycling Facility, a short-term agreement for RSWA to continue operating the Ivy MUC, the current household hazardous waste program provided by RSWA, the Amnesty Days provided at the Ivy MUC, and environmental mitigation work covered by a separate agreement. As noted in the background, the Board requested an "apples to apples" comparison between any proposals received with this RFP and the RSWA estimate for services. In making a balanced comparison, it will be necessary to consider where other costs will increase if RSWA no longer has staff to share between programs. For example, at the January work session it was noted that environmental costs are likely to increase by \$50,000 or more as a result of lost efficiencies where RSWA shares employees between the Ivy MUC and the environmental programs. The same is expected for the RSWA McIntire Recycling Center. These costs are currently being finalized by RSWA, but are estimated in a memo related to the lease in Attachment C. Other likely costs are also identified in Attachment C as well.

As noted in the RFP Fee Schedule, it is possible that proposals may include an expectation of additional County support beyond the fees collected. It will not be possible to estimate those costs until proposals are reviewed.

The draft RFP and lease are presented for discussion by the Board and for direction on how to proceed. Should the Board direct staff to proceed to advertise the RFP, the motion should include flexibility for staff to make minor modifications to the RFP that simplify the process or to incorporate necessary corrections.

Mr. Mark Graham, Director of Community Development, said that the Board's previous direction was for staff to prepare a draft RFP for solid waste services that the County would manage at the Ivy material utilization center. In doing that, staff is striving to maintain the maximum flexibility as to how that facility would be operated, with a potential contractor deciding how they can best operate the facility. Mr. Graham emphasized that they have also strived to avoid the need for County supplemental funding for that contractor in providing those services. He added that staff has also been working with the Rivanna Solid Waste Authority to look into a potential lease agreement for the Ivy MUC. The staff is also working on a short-term agreement for the RSWA to continue providing services after July 1 – with the understanding that there is no chance there could be a County facility up and operating by that date. Mr. Graham said staff is also considering amendment to the agreement to continue operations of the McIntire recycling facility. He noted that the RSWA currently has a request for bids out for providing continued hauling service past July 1 and hope to be able to discuss it with Rivanna's Board later this month.

Ms. Mallek commented that she thought the County was doing the bid for the hauler. Mr. Graham explained that after July 1 and until the County could begin operation there is a gap, and for that gap RSWA would continue to provide those services.

Mr. Foley noted that Rivanna is responsible for the County's solid waste services through the end of the calendar year, just for six months.

Mr. Boyd explained that Rivanna has an agreement with Waste Management, but that was a much larger contract – and it expired. Rivanna had to find someone else to do it because Waste Management said they were no longer interested.

Ms. Mallek asked why it is going to cost so much more, as there are lots of haulers around that should be able to bid on this. Mr. Graham responded that that is what they are doing right now. There is a bona fide process going on. It is for a short-term delivery of services, so that may affect what the prices are on the bid. He added that this is an open bidding process.

Mr. Boyd pointed out that there are certain types of trucks that must be used, which will exclude some companies from bidding on it.

Ms. Mallek said that the big roll-off trucks could be used to drop the material in. Mr. Graham stated that Rivanna is not set up for those kinds of facilities. The transfer station is set up to operate with a rear load rather than a top load, so they are looking for haulers that can provide that service.

Mr. Graham said that with the RFP, there are some key points. He clarified that staff is trying to maintain the maximum flexibility for the contractor, and have provided for three options: 1) to continue operating the existing transfer station; 2) to operate a new, scaled-down convenience center that will rely on roll-offs; or 3) construction and operation of a new transfer station on the property. Mr. Graham said there are a number of contractor responsibilities under this: 1) operation and disposal of all the waste; 2) insurance requirements – both liability and environmental hazard; 3) maintenance of the existing facility, including equipment plus things like litter pickup and snow removal; 4) utility and customer complaints; and 5) financial risk, as there is no guarantee the contractor will make money on this.

In terms of County responsibilities, the County must be the permit holder. The County is responsible for acquiring an environmental stormwater discharge permit and the lease is specific in that this would be the County's responsibility. Additionally, if it is operated as a transfer station, it requires another permit from DEQ – and it must be the County's permit rather than the contractor's permit, as the County is the property owner there.

Ms. Mallek said that the County could go ahead and start that permit process now since it does not have to identify who the contractor is. The whole point of the County having the permit is so if the contractor goes away they can get another contractor in rather than having to start all over again. She added that that is what the Board was told before.

Mr. Snow said if RSWA is the successful bidder and continues to operate, they already have those permits. Mr. Graham responded that if they are the successful bidder, there would be no need for a lease agreement.

Mr. Foley said the County would become the operator of the site.

Mr. Rooker said this is "a no-brainer," as the cost is down to about \$290,000 a year. The question is whether they go out with an RFP to private bidders – knowing that it requires the County to enter into a lease to lease this property from RSWA, to assume the environmental liabilities that might result from the facility's operations, to assume the permit obligations, to assume management of the contract and thus put an additional burden on County staff. He stated that if the County could save even \$100,000, it would not be worth it to pick up the potential liability. Mr. Rooker stated that Greenwood, for example, was a small chemical operation with about 10 employees – and by the time the state is finished there, they will have spent \$40 million cleaning up the site.

Mr. Rooker said he thinks it would be completely pennywise and pound-foolish to step in here and assume environmental liability at this site. He stated that he feels the Board would be better off making a decision today to keep this at RSWA and to let them know they need to keep their employees there. Otherwise the County is going to spend a whole lot of time jumping through hoops only to find out that it is the only route to go anyway, because of the up-front liability issues. The County could spend another three months putting out RFPs that he thinks will be worthless and waste a lot of the bidders' times and staff time, to come back to that issue and not be willing to accept the liability.

Ms. Mallek said that she has been told there is contractor insurance and premise insurance that already exists, and it is also important that the contractor have a good track record, good experience, and a good record with DEQ. She said she would not be in favor of having a beginner here who has no track record or reputation on which to rely. The County is not getting the kind of services with these twice a year hazardous waste things that cost a fortune and cause people to sit there for four hours in traffic to get rid of things when other opportunities exist to have that available every single day by a contractor who would be licensed and could run the property. That is a huge advantage that she would rather not turn the County's back on today.

Ms. Foley commented that that is not part of this though.

Mr. Graham reiterated that it is clearly not part of this.

Ms. Mallek responded that it is one of the options that Rivanna has refused to do. The County has an option to have that availability as part of an add-on that people could provide as part of their RFP.

Mr. Rooker added that that will be reflected in the cost.

Mr. Snow suggested that the Board hear the rest of the presentation and then discuss the issues.

Mr. Graham reported that another County responsibility is establishing fees. This has to be operated as a County facility – because of the zoning there. He said that if it was industrial-zoned land, it could potentially be a by-right use, and there is nothing that would prevent someone today from starting a private transfer station on industrial-zoned land. That will be a complicated arrangement with a potential contractor. Mr. Graham stated that in the back of the RFP, he included a table for the contractor to add the fees they would recommend for a break-even point.

Mr. Davis noted that the fees by statute would be a legislative act of the Board of Supervisors. The Board would have to set the fees on an annual basis or whatever schedule it wanted to impose. He added that it is not something that this Board could bind a future Board to. If a future Board wanted to change those fees, it could. That does make for some complicated contractual terms because the assumption would be that any contractor would want an “out” provision if the fees are not adequate for his purposes.

Mr. Graham said this would be the case if, for example, the contractor invested \$1 million in a transfer station and the Board in a subsequent year wanted to reduce the fees, there would probably be a contract buy-out provision that would require the County to buy that facility from the contractor if the County was unwilling to set the fees as agreed to in their contract.

Mr. Boyd asked why this would fall outside of the usual multi-year contract procedure. Mr. Davis said that any multi-year contract that the County has is always subject to appropriation by the Board, so they are single-year contracts legally.

Ms. Mallek commented that the Board has a moral obligation and she does not see why that would change.

Mr. Graham stated that the County has responsibility for the oversight, as it is the County's facility and it is the permit holder. The County is also responsible for facility risks. Once the County becomes an owner of the facility, regardless of the insurance that the ultimate contractor maintains, the County is in the chain of title. He said that under RCRA and CERCLA law, the County will be one of the parties looked to for remedies. If the contractor runs out of money and there is no more insurance to cover the cost, the County becomes the next party they look to for funding the liability.

Mr. Graham added that the lease agreement does have a specific area defined – the paved area up front that is fenced. There will be some mandatory changes to go with that, and the County will be responsible for all costs associated with shifting those operations such as the fencing and utilities. He noted that Rivanna has provided an initial estimate of \$53,500 for that cost, which would be a first-year expense as part of the lease agreement. Mr. Graham said that the County would also be responsible for care of the shared road under this agreement, even though Rivanna would continue to use it, and that cost would be passed onto the contractor. He added that this includes 24/7 access to the landfill areas, which is a requirement Rivanna wrote in, so even if everything is closed for snow there is an expectation that the contractor would go out there and clear the road so that Rivanna can access the landfill areas. Mr. Graham stated that the County will have to obtain a stormwater discharge permit, and will be responsible for maintenance of all equipment – including that equipment that is currently fully depreciated by Rivanna and is likely reaching the end of its life cycle.

Ms. Mallek asked why the County is volunteering to do that. Mr. Graham responded that the County has not volunteered, but that is in the lease agreement that Rivanna has proposed.

Ms. Mallek said Rivanna is taking advantage of the County very severely here, and she is horrified by all the dollars that they are asking for.

Mr. Rooker said Rivanna is turning the equipment over to the County, and what they are saying is that as part of the lease the County gets the equipment – in whatever condition it is in. Rivanna is not going out and buying new equipment to lease to the County, and the County then turns it over to the operator.

Mr. Davis said that the basic concept of the lease agreement as he reviewed it is that it includes two components: Rivanna does not feel it should incur any cost of the operation, so any cost they have for managing the lease agreement becomes additional rent that is subject to payment by the County. The estimate of \$15,000 is Rivanna's projection as to what they think the costs are going to be, but if there are additional costs, then they reserve the right to add additional rent for those purposes.

Mr. Foley stated that this would be unless the County is fully responsible for the equipment costs.

Mr. Snow asked if the County is essentially leasing the old equipment, and asked why it could not just be sold. Mr. Rooker responded that the equipment is needed to perform the facility's functions. Mr. Snow said not if the County is not running the facility.

Mr. Rooker said the County could require an operator to bring in his own equipment, and that would need to be included in their cost estimate for doing the work.

Mr. Snow asked why the County would want to carry the cost of equipment that it would not use, and if Rivanna insists that the County takes it, then he would insist that the County sell it. Mr. Rooker said the County may sell it and find it would pay an operator a lot more to replace it. The County does not know the economics of it.

Ms. Mallek said in this instance the County is signing a lease before it knows anything.

Mr. Snow stated that he does not want the County to retain responsibility for the equipment if it does not work.

Mr. Graham clarified that these points illustrate why the County cannot sign a lease agreement in advance of knowing how the contractor is going to provide services. There needs to be a scope of services for that contractor, and then this basically has to be similar to a three-party negotiation where the contractor, the County and Rivanna are sitting down together and working through the issues. It is going to be a very complicated discussion.

Mr. Davis said that the initial lease proposes that the County take the equipment "as is," and then when it terminates the lease, the County returns the equipment to Rivanna in the same condition as which it was received – which does not make a lot of sense.

Ms. Mallek commented that she thought they were talking about \$1 a year, not \$125,000. She said that she is completely blown away by a lot of this stuff.

Mr. Graham said that the insurance provisions under the lease are complicated, at the very least, and he is still struggling with it. He said that he is not sure he totally understands the provisions.

Mr. Davis said the provisions are very complicated and require the County to provide insurance for environmental and pollution coverage – which is insurance the County currently does not have. He added that that's an exclusion that VACo does not cover. He believes that getting insurance for that type of protection on an existing closed landfill will be challenging and probably expensive.

Ms. Mallek said they are not talking about the remediation area, as that is Rivanna's responsibility, and asked why the County was getting stuck with it. Mr. Davis stated that there are some complicating facts.

Ms. Mallek commented that she is tired of being told that it is too complicated for her to understand.

Mr. Davis said that there are existing solid waste disposal areas underneath the area proposed to be leased. Ms. Mallek responded that they should not be leasing that part of the area then.

Mr. Foley said that the nature of "ground lease" term should be clarified.

Mr. Davis explained that it is a surface lease, but it is a complicated surface lease because if the County has to build any facilities it has to dig. It is difficult to distinguish what happens on the surface and what is below the surface when talking about environmental contamination.

Ms. Mallek said it sounds to her as though they would be using things that could be put on top of the ground – removable, transferrable bins in a nice, paved area. She thinks the County is just making it more complicated than it needs to be.

Mr. Graham said that the RFP is written to say that if the County wants to build improvements, it has to start at the surface and go up, not down.

Ms. Mallek commented that they are precluding this whole red herring over what is considered dangerous. Mr. Graham responded that he is not sure he would really say that.

Mr. Rooker emphasized that if you understand environmental law, you realize you are not precluding liability – and beyond that, the operations that take place there have their own environmental risks.

Mr. Graham said that, for example, if someone brings a solvent out there and spills it on the ground, the question is where does the liability start and stop with that, as it leaches into the ground – and now it has leached into the ground where there is other material buried there. He stated that that's why it gets complicated – because there is an existing liability, and the County is overlaying on it. Trying to separate those two is proving very difficult to do.

Mr. Thomas commented that even a concrete surface can have a chemical seep through it.

Ms. Mallek said that is where the ACME issue originated – from all the degreasers that went right through the floor down to the ground. She also noted that there are people who routinely change their oil in their driveway and let the gearbox down into the ground. It happens all the time.

Mr. Rooker agreed, but emphasized that those people are not subject to the inspection and reporting to federal and state authorities.

Mr. Foley said that liability is one of the important things for the Board to consider. To wrap up, Mr. Graham is also going to cover the cost issues.

Mr. Graham reported that the costs are not yet finalized, and some of them will be determined by the actual contractor arrangement – but the initial cost for Rivanna to modify will be passed to the County and is estimated at \$54,000 as a one-time front-end expense.

Ms. Mallek asked for an example of what that would include. Mr. Graham said that one example is the shared electrical lines between the area leased by the County and what is currently in the Rivanna area. He stated that they will need a separate meter, will need to separate the lines, and will need to bring in an electrical contractor to do that. Mr. Graham said that the facility that Rivanna is maintaining – such as the office building and the storage sheds, which were deliberately left to keep the costs down – will need to be fenced where they have a common boundary with the leased area to ensure that the County's contractor does not have access to their space. He stated that a third expense relates to their legal expenses in preparing and executing the lease, as Rivanna is expecting to be reimbursed for that.

Regarding indirect costs which are outside the purview of the lease, Mr. Graham said the act of the County taking over this facility impacts other services that Rivanna provides – the environmental agreement and McIntire operations. Mr. Graham said that Rivanna estimated that the environmental agreement has the potential to raise costs \$50,000-\$150,000, as well as the McIntire operation no longer having shared efficiencies with RSWA out of the picture. He noted that Rivanna has estimated the indirect cost at about \$125,000 per year if they stop providing the services that would be contracted.

Ms. Mallek said that she has asked Rivanna about six times over the last year for clarification as to what those other roles are, but has not been able to get an answer from them. She said that Rivanna keeps referring to all the work that is being done on the remediation project, but have never elaborated on what that entails.

Mr. Graham explained that there are requirements for regular inspections of the facility, mowing of the old landfill cells, leachate sample collection, and repairs of things such as erosion on landfill cells. He said that Rivanna is able to do those things with its own staff because they have the people and equipment, and can move staff around at non-peak times – but they will no longer have the capacity with this lease.

Mr. Boyd said that there are some administrative costs associated with this for Mr. Frederick's time and the manager of Ivy.

Mr. Graham said that the administrative portion of the indirect costs will require some shifting of expenses, such as part of the Executive Director's cost being shifted to the RWSA, and shifting to Ivy's environmental cost. He noted that not only does the County's indirect cost go up with this scenario, but the City's will also go up by about \$50,000 as a result of Rivanna not providing these services.

Mr. Graham reported that with Option 1 of having Rivanna continuing to operate the facilities, the estimated cost is about \$300,000 – recognizing that there is an operations risk remaining with Rivanna. The estimate is “an estimate” and not a fixed price. He also noted that Rivanna has been very conservative in its historical estimates and they have never exceeded the estimates.

Mr. Boyd asked if that number includes the household hazardous waste cost. Mr. Graham responded that it does not, as that comes out of the McIntire budget.

Mr. Graham said that Option 2 will cost about \$265,000 in the first year (potential savings of \$35,000), and in subsequent years the estimate is about \$200,000 (potential \$100,000 savings). – Both of the estimates assume the County can find a contractor who could provide all the services without any additional County support including insurance. Mr. Graham noted that this assumption is that the contractor will be able to recoup the insurance through the fees that are collected.

Mr. Foley said that the County has heard from various contractors that they could do this at no cost, so that assumption has been built in.

Mr. Rooker responded that the cost would be incurred by the people who are getting their waste handled, so it is essentially a fee for service. He added that there has always been concern stated that if Rivanna charged enough in fees to cover the \$300,000 per year, it would discourage people from using it. He asked if the County has added anything to cover administration of the contract. Mr. Graham responded that staff added \$50,000 per year for management of the contract.

Mr. Graham mentioned that as part of the County assuming responsibility for this operation, there will also be assumption of community relations (complaints, littering) – which is something that Rivanna used to have a lot of trouble with, but now has fairly well under control. He pointed out that if the County takes this over, it would be considered a “new service,” so there will be more problems when they start up, which is typical in the first year or so. Mr. Graham said that the last County “risk” is the long term, as once it locks into this contract it would be very difficult for the County to choose any other option for an extended period of time.

Ms. Mallek asked what the terms of the contract would be. Mr. Graham responded that it would be about 10 years, depending on what option they use and the amount of up-front investment, but that is a negotiable term by the bidders.

Mr. Foley said the contractor could propose a shorter term where they would not have to make a lot of investment, so their risk would not be as high, or they could expand it and take a 10-year contract to pay back their equipment costs.

Mr. Rooker stated that one concern would be having an outside contractor come in with a short-term contract and then decide not to continue, as the option to go back to Rivanna is not there. He said that those employees would be gone, and the County will have put itself in the position of a second round of RFPs – which could come in very, very high. He added that there are not a whole lot of people who will be bidding on this.

Mr. Boyd stated that he is close to Mr. Rooker's position at this point. He has heard the arguments from Rivanna all along, but wonders if a preliminary RFP meeting would be possible with the potential people who might bid on this just to get some feedback. Mr. Graham responded that they have done that sort of thing before.

Ms. Mallek asked why not ask the bidders to send the County the ideas of things they would like include, and then the County could pick from those things.

Mr. Davis said that the County cannot let a potential bidder draft the RFP, but it can have a pre-RFP informational meeting before the RFP is issued. It is not legal for the County to draft an RFP that is only biddable by one bidder.

Mr. Boyd suggested that they did this once before and nobody bid on it. Now that they have a document that outlines the requirements, it might be worth going the extra step. He also said that he would like to figure out a way – if they stay with Rivanna – to exclude the City from the regulatory part of that board. He said that he thinks that it is only fair that the County do that, given the fact that it is going to be funding it all. Right now the County has to get the City's concurrence with everything that it does. He acknowledged that the City must stay involved because of the environmental clean-up situation, but wondered if there is a way to rework the mechanism so the County is not at the mercy of the City when it wants to do something.

Ms. Mallek pointed out that the way the Memorandum of Understanding is written now is not being enforced anyway, and the City is not holding up its end.

Mr. Davis said the only way it could be amended is through concurrence by the City and the County. There is a provision in the agreement as to how to terminate the Authority – but that is not something they would want to do because of the environmental liability issue and the ownership of the landfill.

Mr. Boyd commented that he does not think the City would be totally opposed to redoing it, as they are no longer footing any of the bills.

Mr. Foley stated that the problem is there is a County service being run by a regional agency, so there is not a partnership overseeing it.

Mr. Rooker said that McIntire is a joint operation, and the City has an interest in seeing what happens with the land out there. He does not think the City will give up a partnership decision with respect to major decisions.

Mr. Boyd said that's why he wants to know if the County can just carve the solid waste part out of it and make that a separate administrative board.

Mr. Rooker said it seems they could create a subcommittee that had certain decision-making capacity, although they would want to retain the ability to reverse those decisions in certain circumstances. The County would basically manage that component of what RSWA do that only the County has an interest in.

Mr. Davis emphasized that the governing RSWA Board is established by statute, and there are certain things that only they can do, so within the framework of the Authority there would be limitations as to what a subcommittee could do – such as setting rates.

Mr. Rooker said they could make recommendations.

Mr. Davis said that would have to be a negotiated process and is not something the County can do unilaterally.

Mr. Foley said that the County could separate itself from a regional agency and run its own solid waste operation, but that has its own challenges.

Mr. Davis confirmed that they could create a new solid waste authority, similar to how the Albemarle County Service Authority does its operation. The County would then need to get the City to agree to amend the operating agreement to reduce or take those responsibilities away from Rivanna, and the County would authorize those to a new County solid waste authority.

Mr. Foley noted that the other issue is getting the City to amend the agreement on something they have already not followed and have no interest in being a part of. The Rivanna Authority Board has already looked at language that would take Rivanna out of the solid waste business with the exception of the mandated items. The challenge right now is the County is trying to do this on their property and if the County wants to do it on their property, it has to deal with Rivanna and go about it that way. He said that if the Board wanted to set up a convenience center somewhere in the County, it could, or it could set up an authority to handle it. But, right now the County is tied into the whole thing because it is trying to lease property from a regional agency to provide a County service, including what is under the ground and all the accompanying liability issues.

Mr. Rooker said that if the County created a separate authority, it would be creating a separate set of administrative expenses. Mr. Foley responded that that's the key issue here, and the option regarding that would be whether the General Services Department would run a very minor, scaled-back operation with the administrative staff in place now. He said that the County is not in the solid waste business now, and there is not sufficient staff to do a full transfer station – but if they have a scaled-down convenience center operation – which was the Board's original direction – that becomes a much more manageable thing. Mr. Foley stated that even with these options, the County will incur expenses for administrative oversight of a contract or payment to Mr. Frederick to oversee it.

Mr. Foley said one way or the other, the County is paying for oversight of some level of solid waste operation. If the Board does not want the City involved in those decisions, it cannot do it through the Rivanna Solid Waste Authority because it exists for that purpose even though the City is not even participating in the service that the County wants to provide. The City is going in its own direction and running it themselves. He added that those things are making this complicated, because it depends on the scope of service the Board wants to provide, and whether it is done at this particular site or somewhere else. Mr. Foley added that several Board members have mentioned putting recycling services closer to where the population centers are, and under that scenario they would need to cite the locations for that – and at that point could put recycling in the communities. He said the Board could transfer the money it is paying for McIntire in the City and put it out in the locations they feel make the most sense, and that would then become a County-run operation. Mr. Foley said that he and Mr. Graham have discussed the possibility of doing that, as the cost of two convenience sites in the County just for household waste might be the equivalent to paying Rivanna to run at the current site.

He said that as long as the County puts the RFP out, it is going to allow a transfer station and be on a site that exists now that has some potential liabilities. It will be done through a lease which means the Rivanna Board and City Council members will always have a say in the decision because of the structure that presently exists. Mr. Foley said that this might be a good opportunity to take a step back and envision what they want for the future of solid waste. If the Board is interested in opening other sites it could spend the \$290,000 in places that make more sense for the population of the County. But, there are different opinions on this Board, and that is what staff is struggling with - the direction the Board wants to go in.

Ms. Mallek said that staff was going to research about what other counties were doing. Buckingham County is done completely with satellite drop-off sites that are hauled off by a contractor. Mr. Foley responded that staff is fairly knowledgeable about that.

Ms. Mallek said that staff may have that information, but the details of it have not really been shared with the Board and that might be helpful at this juncture. She said that she does not understand why it has to be so different than what is done in surrounding counties. For example, Nelson County manages satellite sites throughout the county.

Mr. Foley said that having satellite drop-off sites is a pretty common practice throughout the state, and when he served as a county administrator in another location they operated three staffed convenience sites within a fenced area that was opened from 8:00 a.m. to 5:00 p.m. He said that the hardest facilities to manage are the green-box sites out in rural areas that are unmanned, as it constantly becomes a battle. Mr. Foley added that they are not doing anything so different at Ivy that they could not do at convenience sites in other places, except for that commercial component – which is requiring scales and some higher level of operation. He emphasized that they are getting ready to issue an RFP that continues that type of an operation in two potential different forms, rather than just a convenience site. Mr. Foley said that the idea was that the economy might help pay for that, but they are finding that no matter which way they go there will be some cost to the operation.

Mr. Foley said even if the contractor that comes to Ivy does not charge the County, it is still approaching the amount that RSWA would charge the County. He added that at that point, the Board may want to evaluate whether that cost is better to meet some of the objectives they have not talked about, which might be a convenience center in better locations in the County.

Mr. Snow asked for clarification that the City pulled out of their side of the contract and has not incurred any costs whatsoever. Mr. Foley said the City is not contributing to Rivanna, but they work with the County on hazardous waste day and some other things.

Mr. Snow asked if the County made the decision to pull out of Ivy altogether, would it incur any additional costs. Mr. Graham responded that the County would incur the indirect costs as he mentioned earlier.

Mr. Davis added that the City would incur some of those costs as well at that point in time.

Ms. Mallek noted that they are not paying it now.

Mr. Snow suggested the possibility of pulling out of Ivy and McIntire altogether, and putting three convenience centers around the County to handle the household waste – with all contractors taking their items where they needed to.

Mr. Foley said that staff could run the numbers on the cost of that, taking the cost per convenience site and multiplying it by however many the County wanted to do, and define the service – which would include a compactor site, a recycling bin, and perhaps an open-top for debris and bulky waste.

Mr. Snow commented that in his conversations with other counties, they have sites that are manned but only have it open certain days and they use retired help to man it.

Mr. Foley said the Board would have control over those types of details.

Ms. Mallek said that they often use people who live nearby who could keep an eye on the site.

Mr. Foley confirmed that they are also manned with part-time staff.

Mr. Graham said that limiting hours of operation is also helpful, and they can provide a very reasonably priced option. He said that back in the early 2000s, the County had construction of three convenience centers included in the CIP, adding that it was running a little more than \$100,000 for each facility.

Mr. Rooker said that would be \$300,000, plus capital start-up expenses.

Ms. Mallek said they could use the open roll-off.

Mr. Graham said they would still have to provide a paved and fenced area.

Mr. Foley stated that the Board would have to be comfortable agreeing upon locations in the County, but would be paying roughly the same amount of money. He added that the frustration as expressed by Mr. Graham is that the County could propose a new fee to the Rivanna Board, but the City does not agree with it and the County, therefore, cannot get enough votes to get it approved – so the County drops the fee and cannot get enough to cover costs. The County is always subject to that kind of thing when it is in a regional authority that is not providing a regional service; it is providing a County service.

Mr. Boyd pointed out that the RSWA has about \$2.0 to \$3.0 million in reserves, and about \$1.2 million is a depreciation fund that was designed to replace existing equipment. He asked what happens to those funds if they dissolve RSWA.

Mr. Foley said that the start-up money for convenience sites would probably come from Rivanna, with the percentages to be negotiated, as there is money set aside for depreciation on the old equipment. He said that the money has been set aside, but Mr. Frederick does not know what to do with it because he does not know where the operation is headed. If that part of the operation is dissolved, the monies will have to go back to the City and the County through some formula, which will generate some money for start-up costs.

Mr. Boyd said that Mr. Frederick also indicated several years ago that the Ivy site could be modernized and made more efficient to run.

Mr. Foley stated that they could modernize the site at Ivy through a regional organization to provide County services, but it would be in a big negotiation about the cost of all that modernization, the cost of Mr. Frederick's operation, and the split of his salary. The County will have to go through all of those things that it is currently going through. He added that there would still be the ongoing issues to deal with. The Board needs to be sure what direction it wants to go in before going through this RFP.

Mr. Boyd said that having a preliminary RFP meeting makes sense to him.

Ms. Mallek said today the Board has a draft of what the County would expect and the contractors will have something to react to, so it will give them the opportunity to come to a meeting fairly informed and able to ask reasonable questions.

Mr. Davis stated that the problem with the Rivanna RFP is that the people who were submitting bids did not want to accept the risk of any loss, so they still want Rivanna to make up any difference in operating losses that resulted from tonnage and fees. If none of the bidders are willing to take the risk and if they want a contract that says if they operate at a deficit, the County will make up the difference, that is pretty much a deal-killer.

Mr. Foley added that the fact that they control the fees makes that challenging too.

Board members agreed that it would make sense to still move ahead with the pre-RFP meeting.

Mr. Rooker stated that he does not want to downplay the addition of two convenience centers, as citing those can be a significant challenge. Mr. Davis added that how they look and operate will be important to the discussion.

Mr. Boyd said that he does not think he wants to throw that into the agenda, because that might be a more profitable operation and might prevent contractors from giving good feedback on the RFP at Ivy.

Ms. Mallek said there is a standard marketplace for the satellite centers. Mr. Boyd responded that it could be a separate conversation.

Mr. Graham said that his understanding of the meeting is to take the draft RFP and allow potential contractors to review it and provide comments as to whether it is something they would be interested in bidding on, and what potential issues they see that might keep them from wanting to bid on it.

Mr. Snow asked how much tonnage would be left now that the contract with the private company bringing their waste into Ivy to be transferred out is coming to an end. Mr. Graham responded that it would only be about 5,000-6,000 tons a year.

Mr. Foley said it is such a small volume that it makes it difficult for the economics of this to work, which is the key issue here.

Mr. Snow stated that for him this is a good argument for him to close that site and have people use the satellites.

Ms. Mallek said that it depends on where people live in the County, because the Ivy site already exists and could continue to do so with a roll-off box.

Mr. Snow stated that it depends on what the RSWA would be charging to have it there, whereas if the County pulls out of the site completely the City would have to start paying its share for maintenance of the site.

Mr. Foley emphasized that the County needs to move quickly on this, as the Waste Management contract runs out on June 30, 2013 and the County has to go out to bid – and will pay a higher premium for a short-term contract.

Mr. Graham said that it is just a matter now of taking the draft RFP and soliciting input from potential bidding contractors.

Mr. Snow and Ms. Mallek thanked staff for all their work.

Agenda Item No. 8. Closed Meeting.

At 11:10 a.m., **motion** was offered by Mr. Dumler, that the Board go into Closed Meeting pursuant to Section 2.2-3711(A) of the Code of Virginia under Subsection (1) to consider appointments to boards, committees, and commissions in which there are pending vacancies or requests for reappointments and to consider the removal of a Board member from his appointed position on certain committees and commissions; under Subsection (3) to discuss the acquisition of real property for a library because an open meeting discussion would adversely affect the bargaining position of the County; under Subsection (7) to consult with legal counsel and staff regarding specific legal matters requiring legal advice relating to the Lewis and Clark Exploratory Center of Virginia, Inc.; under Subsection (7) to consult with legal counsel and staff regarding the pending Bishop litigation because a public discussion would adversely affect the litigating posture of the County; and under Subsection (7) to consult with legal counsel and staff regarding probable litigation resulting from an accident on Old Mills Trail because a public discussion would adversely affect the litigating posture of the County. Mr. Boyd **seconded** the motion.

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

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

(**Note:** The Board reconvened in Room 241.)

Agenda Item No. 9. Certify Closed Meeting.

At 1:38 p.m., Mr. Dumler **moved** that the Board certify by recorded vote that to the best of each Board member's knowledge, only public business matters lawfully exempted from the open meeting requirements of the Virginia Freedom of Information Act and identified in the motion authorizing the closed meeting were heard, discussed, or considered in the closed meeting. Ms. Mallek **seconded** the motion.

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

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

Agenda Item No. 10. Boards and Commissions:

Item No. 10a. To remove Chris Dumler from all Board appointed positions on boards, committees and commissions and to appoint replacement members.

Item No. 10b. Vacancies/Appointments.

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

- **reappoint** Ms. Mary Gallo, Mr. John Savage, Ms. Meg Holden and Mr. Kelly Strickland to the Crozet Community Advisory Council, with said terms to expire March 31, 2015.
- **appoint** Ms. Beth Bassett to the Crozet Community Advisory Council, with said term to expire on March 31, 2015.
- **appoint** Mr. Steve Janes as Rivanna District representative, to the Equalization Board, with said term to expire December 31, 2013.
- **reappoint** Ms. Constance Palmer, Mr. Robert Gest III and Mr. Richard Lindsay to the Jefferson Area Board for Aging (JABA), with said terms to expire March 31, 2015.
- **appoint** Mr. Lewis Lloyd to the Public Recreational Facilities Authority, with said term to expire December 13, 2015.
- **reappoint** Mr. Richard Wagaman, Ms. Carole Milks, Ms. Paula Pagonakis and Mr. Dennis Odinov to the Village of Rivanna Community Advisory Council, with said terms to expire March 31, 2015.

Mr. Snow announced that in the closed meeting, Mr. Dumler resigned from his positions on the various Boards and Commissions.

Mr. Snow then offered motion to appoint Board members to serve on the following committees to replace Mr. Dumler who resigned from said committees:

Ken Boyd:

- Audit Committee
- Fiscal Impact Advisory Committee
- Village of Rivanna Community Advisory Council

Dennis Rooker:

- Thomas Jefferson Planning District Commission

Rodney Thomas:

- Rivanna River Basin Commission

Ms. Mallek **seconded** the motions.

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

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

NAYS: None.

Agenda Item No. 11. "Counting the Costs and Benefits of Growth: A Fiscal Impact Analysis of Growth in the City of Charlottesville and Albemarle County, Virginia."

Mr. David Shreve addressed the Board, stating that he was filling in for Craig Evans. Mr. Shreve thanked Mr. Evans for authoring and bringing forth the study that he is reporting on today. He said that he helped Mr. Evans edit the report and vetted all the economic analysis behind it. Mr. Shreve stated that he is a board member and treasurer of Advocates for a Sustainable Albemarle Population. He said that he would present a summary of ASAPs recently concluded analysis of the fiscal costs and benefits of potential growth in Charlottesville and Albemarle. He said that the study is unique in the community, and the previous studies examined the loose relationship between population growth and taxes, or the general fiscal impact of specific development proposals – and no other prior analysis they could find examined all measurable fiscal costs and benefits in the two jurisdictions for all major types of land uses.

Mr. Shreve reported that ASAP included in the revenue column all taxes collected by the County and all collected by the state but connected to local sources – such as alcohol, excises, and a penny of the general sales tax. On the fiscal cost side, he said, they included the budgets for all locally administered programs and services. In addition, Mr. Shreve stated that ASAPs study also examined in separate but related analyses the implication of fiscal strategies that bank on the recruitment or immigration of wealthy newcomers, the recruitment of target industries, reliance on commercial proffers, and the distinctions between different types of new commercial enterprises.

Mr. Shreve emphasized that the results are clear, and only three types of land use – agricultural, commercial, and industrial – generate sufficient revenue to pay for the new costs they've imposed. For every dollar generated in revenue, he said, the services required by single-family homes in Albemarle County incur about \$1.28 in costs. He said that multi-family homes incur approximately \$1.96 in costs for every dollar generated. Mr. Shreve reported that for every dollar in new revenue, County commercial properties generate approximately 51 cents in costs, and County industrial properties generate 44 cents. He said that some analysts are eager to note that wealthier newcomers "offer a potential way out of this fiscal trap," so the study also calculates a "break-even price for new residences" where the additional

revenues would equal the additional costs. For the County, he said, the break-even threshold is \$668,761 – slightly higher than the City's \$630,000.

In the commercial and industrial categories, Mr. Shreve said that the favorable fiscal benefit cost analysis is based on the assumption that the hypothetical new industry or commercial enterprise requires no new employees from outside the two jurisdictions. He said that ASAP didn't have the ability to conduct an experimental analysis examining the varying effects of partial to full employment of outside residents or employees, but a Montgomery County, Maryland study found that the average new enterprise there relied upon the recruitment of outside employees extensively enough to offset all of the theoretical fiscal policy advantage. He said that in their examination of commercial and industrial types, they found that the more technically oriented and productive enterprises are precisely the industries that tend to require the most outside employees. Mr. Shreve also said that since residences account for approximately 70% of the County's revenues and 80% of its costs, when you begin to fold in the fiscal cost and benefits of new residents, modest changes can readily offset the theoretical advantage tied to commercial or industrial expansion.

Mr. Shreve noted that the study excluded two significant cost factors: environmental costs – including air and water quality, ecosystem services in general, and viewscapes; and infrastructure costs – both deferred and prospective. Mr. Shreve said these were excluded because ASAP found them almost impossible to measure accurately, but they are known to be "much greater than zero." He stated that the general conclusion of the study is fairly simple: once realistic employment requirements and the hidden environmental and infrastructure costs are recognized, it is very likely that no growth of any type will offer any inherent fiscal policy advantage to the County and its citizens. He said that if County residents wish to accommodate it or encourage it for other reasons, they must do so on some other equally important basis and must recognize that it will likely carry a net fiscal cost.

Mr. Rooker said that he has the summary, and asked where he could get a copy of the full report. Mr. Shreve responded that it is available at www.asapnow.org.

Mr. Rooker suggested that ASAP send the link to the Board and asked if the report is that same report that came out several months ago. Mr. Shreve said that the appendices to the report show all the computations.

Mr. Rooker asked if the report assume land use tax for agricultural. Mr. Shreve confirmed for Mr. Rooker that it did assume land use tax for agricultural.

Ms. Mallek asked how the open space/recreation at 28 cents more on the dollar would happen. Mr. Shreve responded that Mr. Evans followed a line of analysis in which he tied services or land use to people. So in theory something like recreation would always be tied to residences and would be blended into a cost related to paying for the benefit to residences in the study – which is why it might appear higher than pure agricultural uses. He said that in looking at agriculture, if a given farm decided to subdivide for one reason or another and bring in single-family residences onto that piece of property it would quickly wash out those advantages as well. Mr. Shreve said that what is seen with recreation is that it's not prospective – it's happening already – and it doesn't have an outside revenue sources like ticket sales.

Mr. Dumler said that Mr. Shreve had indicated that deferred infrastructure costs had not been taken into account, and asked if ASAP was basing the costs they did take into account on the five-year CIP. Mr. Shreve responded that they're excluded altogether, and that only capital costs in the budget already are taken into account. He said that a proposal presented to the City for stormwater management, for example, was cited at \$200 million for "what they would do if they could do it all," and that represents a cost that was "buried" for years and years that they're trying to catch up on. Mr. Shreve added that this study is part of a larger study – the OSPS Study – in which they have some pretty good analysis of bio-capacity and ecosystems services and what they're worth, so you can put a dollar figure to it. He said that for purposes of this study they assumed that the environmental and infrastructure costs were out of the picture, so they could just consider the things that typically fall into fiscal policy analysis such as property tax revenues, school costs, etc.

Mr. Jack Marshall addressed the Board, stating that ASAP would hold their annual meeting the following week, at Westminster Presbyterian Church in the library, at which they would be discussing the report. He stated that his task is to comment on what this policy might have to do with the development of public policy. He said that in 2008 Albemarle County contributed \$25,000 toward funding five studies in ASAP's Optimal, Sustainable Population Size Project – and the fiscal cost of growth analysis was one of three not funded with County money. Mr. Marshall said that the Board at the time specified that the County's contribution be applied exclusively to the five examinations of the community's biological carrying capacity. He stated that in past years, ASAP has presented those results to the Board, and this is the final investigation in their research project.

Mr. Marshall said that although the County has not provided any funding for it, ASAP believes that it has policy implications that will be of interest. He stated that one conclusion is that County needs to visit the long-held assumptions that "growth is good," and to question the belief that unless a population is expanding a community is stagnant. Mr. Marshall said that growth is good in communities, up to a point, but the Board should consider the possibility that some American localities have already passed that point, and others are nearing it. He said that the benefits of further growth should be weighed against the environmental costs, the costs in quality of life, and the fiscal costs. Mr. Marshall said that one implication of this study is that County planners and decision-makers – when considering possible residential, commercial or industrial expansion – should carefully examine claims that such growth is in the County's fiscal best interests. He stated that it well might be "a win-win situation" with net benefits for the

developer's profits and the County's coffers, or there might be non-monetary benefits such as providing jobs for the unemployed and under-employed, or providing low-cost housing for the less advantaged.

Mr. Marshall stated that careful, fact-based analyses are necessary – not simply buying in to common myths – and this is true even for the claims of the recent Target Industry Study, which ASAP thinks didn't adequately take into account the number of likely new residents who would be brought here to staff new industrial and commercial concerns and the substantial infrastructure and service costs they and their families would impose. Mr. Marshall said that the ASAP study has possible implications for taxes, and they found that as population grows, per-capita costs for services and infrastructure will also increase. To avoid erosion of services, he said, tax structures should be made "more progressive and responsive," and their data indicates that without such structural change, tax rates must rise or local government-provided services and infrastructure must decline.

He said that the ASAP study also suggests that because population growth has critical fiscal and quality of life implications for the community over the long haul, both the City of Charlottesville and Albemarle – working together, ideally – could benefit by developing thoughtful population policies focused on realistic costs and benefits of growth. Mr. Marshall said that such policies would help guide deliberations regarding issues from zoning regulations to planning for new schools. He stated that ASAP proposes that a commitment to working on such a population policy be included in the County's revised Comprehensive Plan, adding that the County's vision statement in the draft contains no mention of a population size or scale that's consonant with the ambitious goals. Mr. Marshall added that one does not have to believe that demography is destiny to recognize that beyond optimal levels of size and density, the hopes in our proposed new vision statement are unlikely to be realized.

Mr. Marshall said that ASAP feels that the results of their study support "a new paradigm for community planning," and rather than assuming that bigger is better, the community should be seeking to define its' optimal, sustainable population size, and to identify ways to ensure that growth doesn't exceed the limits that we've agreed on. He said that ASAP believes they should be judging the success of the community not by size or continued rates of growth, but by residents' wellbeing, environmental health, and the steps they take toward sustainability. He said that Jefferson's foundational argument for democracy was the idea that "the world is knowable," and "objective, empirical knowledge is the most equitable basis for public policy." Mr. Marshall stated that without revisiting old ideas with the benefit of new facts, the Board risk operating on the basis of "magical thinking."

He stated that their hope is that those who disagree with the implications of the ASAP research will not simply dismiss the evidence out of hand, but will offer additional analyses that will further enrich the discussion about planning for a just and sustainable community.

Mr. Rooker said that the Free Enterprise Forum had provided a "rebuttal" of sorts to this report, which was circulated to the Board. He stated that the observations he has made over time is that when areas have experienced population increases, their tax rates go up – and the higher the population, generally the higher the tax rate. Mr. Rooker said that in thinking of it in simple terms, one school child in Albemarle costs about \$11,500 – with the County paying a little over 70% of that, or about \$8,000. He stated that to generate \$8,000 in real estate tax from a single house requires that the home be assessed at about \$1.2 million to break even.

Ms. Mallek commented that that doesn't leave money for local government.

Mr. Rooker responded that this is a simplistic approach that doesn't account for all the revenues but also doesn't account for all the local government costs.

Mr. Snow commented that the City population is 44,000 and their tax rate is \$1.23.

Mr. Rooker said that you can't compare cities and counties because they provide different types of services.

Ms. Mallek said that the County of Arlington has 200,000+ people and their tax rate is 96 cents on \$100, and Fairfax pays \$1.20 with a population of over 1 million people.

Mr. Snow stated that the object is "don't provide so many services and entitlements."

Mr. Rooker said that if you stack up 100 counties in the state, those with higher populations have higher tax rates – and Loudoun County's tax rate increased generally as its population grew. He reiterated that it is just an observation – it is not a quantitative assessment.

Mr. Boyd commented that only about 12% of the population is school-aged children, and when he was on the School Board only about 20% of households had kids in the school system.

Ms. Mallek said it was 37% just a few years ago, and these are all things the Board needs to consider as they "make the complete pie."

Agenda Item No. 12. Department of Social Services Advisory Board Annual Report.

Ms. Janet Morrow addressed the Board, stating that she is the Chair of the Advisory Board for the Department of Social Services this year and acknowledged that a lot of work has gone into the annual report.

She reported that there are some areas within the key performance indicators where they didn't meet the targets this year. She said that Medicaid renewals, for which they are below the time schedule, partly due to the increase in those applications; participants maintaining employment, as the job market has been more difficult; reduced cases of abuse, neglect and exploitation, which was not possible because there's been an increase in those cases due perhaps to the economic downturn.

Mr. Rooker asked what the numbers were for those cases. Ms. Kathy Ralston, Director of Social Services, responded that the number of cases is included in the report, and while they had fewer this year, than in previous years, the complexity of those cases is increasing – with more exploitation cases – and so it's more difficult for DSS to reduce risk on some of those, which is how this is measured.

Ms. Morrow reported that DSS also slightly missed their key performance indicator goal for Child Protective Services referrals.

She said that in every category except two, the workload on Albemarle DSS staff is "well above the average" for state target benchmarks.

Ms. Morrow said that there has been an increase in SNAP; in energy assistance, and in Medicaid applications – so unfortunately DSS has been "a real growth industry."

Mr. Rooker asked if it is known at this point how sequestration might impact SNAP. Ms. Ralston replied that TANIFF, SNAP and Medicaid were exempt from sequestration, but the block grant of social work programs would be most impacted – and that money is dedicated to staff.

Ms. Morrow said that Congress voted to delete that money, as their philosophy was "they didn't know where that money went" and it was "just a block grant to the states" so it probably wasn't good for anything. She stated that in Albemarle, it supports Adult Protective Services, Child Protective Services, and foster care. Ms. Morrow said that many DSS board members wrote letters to the editor, and some of them cornered Congressman Robert Hurt to offer to show him where the money goes. She stated that Albemarle's Social Services brought in over \$95 million to the community, with \$7.3 million coming from local funds.

Ms. Morrow said that the DSS Advisory Board is highly dedicated, and in her experience she has never seen a better example of a wonderfully managed program and a very caring staff. She stated that every year there are values and this year's values are hope, respect, opportunity and self-determination – and DSS truly has a culture of caring for the people that they serve.

Ms. Mallek stated that she recently had two constituents who met with DSS and asked her to participate, and she was "so incredibly impressed" with their capability to help.

Mr. Snow asked Ms. Ralston to convey to her staff how much the Board appreciates their work.

Agenda Item No. 13. Virginia Pre-School Initiative "Bright Stars" Annual Report.

Ms. Kelly Shifflett addressed the Board, stating that she is the Program Coordinator for Bright Stars and would be presenting the report for school year 2011-12. Ms. Shifflett stated that the report covers the 11 classes in the preschool network that are served by the Bright Stars program, including the data of students in Title I and Early Childhood Special Education, and those funded specifically by the Virginia Preschool Initiative. Since its inception in 1995, she said, 1,600 preschoolers have been served. Ms. Shifflett thanked the Board for their ongoing support and significant contribution of local match, as that is what has made that possible along with the partnership of the school division.

Ms. Shifflett reported that the program continues to grow, serving a record number last year that represents a 6% increase from the previous year. She said that what is less apparent here but abundantly clear in their operations is that Bright Stars are not keeping up with the demand. Ms. Shifflett said Bright Stars processed a total of 336 applications for the current school year, and 78% of those were for potential Bright Stars – but there were only 164 preschool seats available in the whole division, and that is including the Title I and Early Childhood Special Ed seats. She stated that Bright Stars could select from that 336 a maximum of 137, based on the Virginia Preschool Initiative funding formula and limitations with additional school funding and even physical capacity in the schools.

Mr. Snow asked how Bright Stars selected those who are admitted. Ms. Shifflett responded that she would address risk factors later in her report, noting that they try to select the children who are most at risk and most in need in terms of having success in the school years. She said that they don't have an income cutoff as Head Start does, but they do consider poverty to be a factor, the status of the parents at the time of the child's birth, issues in the family such as substance abuse and domestic violence, siblings with learning disabilities, behavior problems and parenting concerns, etc.

Ms. Shifflett stated that the average demand is about twice their capacity, but at some schools Bright Stars have three times more applicants than seats. For next year, she said, they have already identified 312 four-year-olds that are eligible from preschool just from the roster of families currently receiving DSS benefits – and 68% of those live in Bright Stars school districts.

Mr. Rooker asked which schools have high application ratios. Ms. Shifflett responded that Greer, Cale, and Agnor Hurt had the most valid processed applications, and those would be the ones with the highest wait lists as well.

Ms. Mallek asked where the other classrooms were. Ms. Shifflett said that the eight sites are located at Agnor Hurt, Cale, Greer, Stoney Point, Red Hill, Woodbrook, Stone Robinson, and Scottsville.

She reported that Bright Stars serves “a unique population” whose demographics differ from those of the school division, and their aim is to close the achievement gap. Ms. Shifflett said that overall families are getting needier and presenting with greater risk factors, and Bright Stars continue to prioritize the children who are most in need and most at risk for not having success in school, and the mean risk score for the program overall has increased 13% in just over a decade. She stated that in the past year, three sites had their highest mean risk score ever – Agnor Hurt, Stony Point, and Woodbrook – and Cale has been the highest in the group for seven out of ten years.

Ms. Mallek asked if that is because Cale is much larger, with over 700 students versus 300. Ms. Shifflett stated that Bright Stars take the risk scores of the children they accept to calculate the mean risk score, and then average all eight schools to come up with a program mean for the year. She said that poverty is one demographic with many Bright Stars families, with free and reduced meal eligibility being an indicator of poverty – which is one area that proportionately sets this population apart from the school division as a whole. Ms. Shifflett emphasized that limited English proficiency is another indicator, as Bright Stars serves many more families with language barriers – 30% of their total enrollment as of last year. She added that the need for interpreter and translation services exceeds their budget, and they saw a 46% increase in spending in that area over about three years.

Ms. Shifflett reported that preschoolers and their families continue to have access to the Bright Stars services through 5th grade, except at Stony Point and Red Hill where services are limited just to the preschool year. She said that the total caseload of Bright Stars and alumni has increased 9% from the previous year, with no additional staffing. She stated that the family coordinators at those sites made over 2,000 contacts with their families and children – relationship building, resource connecting, problem solving and providing the continuity and ongoing support that really makes the difference.

Ms. Shifflett stated that there are 11 Bright Stars Teachers, 12 teaching assistants, and 8 family coordinators. She said that the teachers and principals in the school division have noted the impact of the program on subsequent school years, stating that these children are “ready to learn” and “behave differently than children who haven’t had preschool experience.”

Ms. Shifflett presented a chart on key program goal performance, and with reading readiness last year’s Bright Stars students upon entering were worse off by comparison to the previous year’s students and their mean scores and percentage of passing fall literacy assessments were down compared to previous years – but by spring they were back on par with the spring scores of that year. She said that the number of students who attained a high pass score with the literacy assessments showed a 6% improvement over the numbers in the previous year.

Mr. Snow asked if there were records on the progress of students who did not make the program. Ms. Shifflett responded that they would very much like to have that data, but they don’t have that ability currently. She said that Ms. Ralston has had conversations with the schools to see how to make that happen, but as of yet it has not happened.

Mr. Snow commented that it would be interesting to look at a child in Bright Stars and look at the six years later to see if an overall feeling for assessments.

Mr. Boyd said that Albemarle has that tracking capability.

Ms. Shifflett stated that last year she was able to present data regarding Bright Stars performance in kindergarten, 3rd grade and 5th grade with SOLs, but they’re dependent on the school division for that data and it was not available for this report.

She reported that Bright Stars teachers also work to build foundations for math, and there were great improvements from fall to spring in the areas where children demonstrate basic benchmarks. Ms. Shifflett said that socio-emotional development is also “absolutely foundational,” and principal comments teachers to her from principals and kindergarten indicate that “they can tell who went through Bright Stars.” She added that it is not just about reading a counting, but how children approach learning, as they are willing to struggle through difficult concepts and skills, developing independence and self-management. That’s what successful students are made of.

Ms. Shifflett stated that what makes the Bright Stars program unique in another way is directly working with families to engage them in their school community, enhancing their appreciation for a school education – which often involves having parents overlook their own bad experiences in school and lack of support. She said that it is really rewarding to staff that parents participated in nearly half of the opportunities that we provided to them. She stated that 85% of parents also attended both parent-teacher conferences offered during the year. She reported that Bright Stars continues to get four and five-star ratings from parents and are proud that at year’s end parents see the broader impact and talk about how they feel their child will be more successful and more comfortable as a result of being in the program. Ms. Shifflett noted that there was a 7% increase in the number of parents who commented on that.

Ms. Mallek commented that there is an unbelievable difference in the children who enter Bright Stars in October and then come back in April, as far as their ability to adapt to new environments and experiences.

Board members thanked Ms. Shifflett and staff for the Bright Stars program.

Agenda Item No. 14. **Work Session:** ZTA-2013-01. Phase I – Wireless.

The following executive summary was forwarded to Board members:

On October 3, 2012, the Board adopted resolutions of intent to amend the wireless regulations in the Zoning Ordinance in two phases. The Phase 1 zoning text amendment (ZTA) will amend the wireless regulations to ensure that the County's regulations are consistent with the recent changes in federal law, add relevant definitions related to those changes in federal law, and delete those requirements that are no longer necessary. The resolution of intent for the Phase 1 ZTA is attached (Attachment A). The Phase 2 ZTA will amend the wireless regulations to change certain application requirements, procedures and standards for reviewing and approving personal wireless facilities, standards for monopoles and the equipment attached to monopoles, and certain definitions and district regulations.

The purpose of this work session is to review the proposed Phase 1 ZTA prior to holding public hearings. The Phase 2 ZTA will proceed after the Phase 1 ZTA is adopted and implemented.

Staff held a roundtable on January 17, 2013 with wireless industry representatives and interested members of the public to discuss the Phase 1 changes. Two primary issues for the roundtable were implementing the requirements of Section 6409 of the Middle Class Tax Relief and Job Creation Act of 2012 (Section 6409) and the Federal Communications Commission's "shot clock" ruling.

A copy of the proposed Phase 1 ZTA is attached (Attachment B). The significant provisions of the proposed ZTA are:

- Adds and amends definitions.
 - Allows collocating and replacing equipment by-right if it does not result in a substantial change to the facility.
 - Allows Tier II applications to be approved administratively.
 - Requires balloon tests at the request of the agent, instead of in all cases.
 - Eliminates the automatic annual reporting requirement.
 - Clarifies the procedures and requirements for making changes to wireless facilities and sites previously approved.
 - Codifies review times consistent with the FCC "shot clock" ruling.

Adds and clarifies definitions.

The proposed ordinance defines some new terminology resulting from Section 6409 and the FCC's shot clock ruling. The proposed ordinance also clarifies some existing definitions.

Allows collocating and replacing equipment by-right if it does not result in a substantial change to the facility.

Section 6409 requires that localities approve applications to collocate and replace equipment on an existing "tower" if the modification does not result in a substantial change to the physical dimensions of the facility. The proposed ordinance delineates several classes of changes that would not result in a substantial change to the physical dimensions of a facility and, therefore, would have to be approved by the agent:

- Adding one or more antennas.
- Replacing a tower at an equal or lesser height.
- Replacing a treetop tower with one that is not more than 10 feet taller than the reference tree.
- Strengthening a tower without the use of guy wires.
- Expanding the lease area up to two times the original lease area.
- Adding ground equipment.

These changes would be considered substantial changes if the facility is located in an avoidance area, an entrance corridor district overlay, or within 500 feet of a dwelling.

At the January 17, 2013 roundtable, staff received the following additional suggestions about changes that should not be considered substantial:

- A requirement that if a treetop facility is increased to 10 feet above the reference tree, the setback to the property line must equal to or exceed the height of the tower.
- Allowing an increase in the height of any facility provided that its backdrop is maintained.
- Allowing an increase in tower height of 20 feet **or** the off-set of additional antenna by 20 feet from the face of the tower (from the FCC's shot clock ruling).
- Adding cables or other measures to strengthen a tower which results in the design standards for the width being exceeded.
- Allowing an increase in facility height if it satisfies "facility height to property line" setback requirements (e.g., a facility could be increased in height to 150 feet if it was set back from the property line at least 150 feet).

Staff's opinion is that these changes are substantial and they have not been included in the proposed ordinance. For example, increases in tower height of up to 20 feet or antenna off-sets of up to 20 feet from the face of the tower will be substantial changes to tree top facilities having flush-mounted antennas under Section 6409. These 20-foot thresholds are derived from the Programmatic Agreement (Attachment C) which establishes a definition of a "substantial increase". The Programmatic Agreement was developed to streamline federal review of applications to collocate wireless antennas on properties

under Section 106 of the National Historic Preservation Act. The Programmatic Agreement lists a limited number of collocations that are exempt from certain Federal requirements for review. The FCC's Wireless Bureau recently issued a public notice suggesting that "substantial change" should be interpreted to mean "substantial increase" as used in the FCC's shot clock ruling.

Staff cannot recommend that the concepts of the FCC's shot clock ruling or the Programmatic Agreement be applied to the County's implementation of Section 6409. Simply put, the FCC's shot clock ruling addresses merely the time within which two broad classes of wireless classifications should be acted upon (either within 90 days or 150 days). Section 6409, on the other hand, is a federal divestiture of state and local zoning authority, and one that Congress intentionally left open for interpretation. Although it could have, Congress did not use the term "substantial increase" in Section 6409, which was the term used in the FCC's shot clock ruling.

Section 6409 is implemented in proposed subsection 5.1.40(f), and it requires that the County approve equipment collocations and replacement if they do not substantially change the physical dimensions of the facility. The FCC's shot clock ruling is implemented in proposed subsection 5.1.40(h), and it requires that the County act on applications for certain modifications that do not "substantially increase" the size of the facility" within 90 days. Any other wireless application must be acted on within 150 days. For the purpose of deciding whether an application needs to be processed within 90 or 150 days, the 20 foot increase in height or antenna off-sets may be reasonable. However, applying those same thresholds to proposed subsection 5.1.40(f), particularly where multiple modifications to the same facility could be sought over time, would establish a class of facilities essentially exempt from any zoning review, and would significantly reduce the County's zoning authority over wireless facilities.

Allows Tier II applications to be approved administratively.

Under current regulations, Tier II facilities are not more than seven (7) feet taller than the reference tree and the facility is not located in an avoidance area. Tier II facility review is primarily a ministerial task to confirm that the facility meets the regulations for a Tier II facility. Discretion is limited to deciding whether to allow the facility to be up to ten (10) feet taller than the reference tree, instead of the seven (7) feet allowed by right. Before the *Sinclair* decision, Tier II facilities were acted on by the Planning Commission. After *Sinclair*, they are acted on by the Board by special exception. The proposed ordinance will make Tier II applications subject to review and action by the agent and allow facilities to be up to ten (10) feet taller than the reference tree by right. If the facility meets the requirements of the ordinance, it will be approved. If the application is disapproved or requires a special exception to modify a design standard, it will be acted on by the Board of Supervisors.

Requires balloon tests at the request of the agent.

Currently balloon tests are required for all applications unless a waiver is granted. For many applications, balloon tests are unnecessary or impracticable. For example, balloons cannot be flown when the proposal is to attach to a power line and the tests are unnecessary when the proposal is to modify or add equipment to an existing tower. Revising the ordinance to require balloon tests only at the request of the agent will remove the burden on the applicant and the County to process waivers. Balloon tests will still be required for new facilities where it is possible to fly a balloon.

Eliminates the automatic annual reporting requirement.

Currently the owner of a wireless facility is required to submit an annual report stating that the facility is still in use. Monitoring this condition is a substantial burden on the Zoning Administrator. The proposed ordinance requires the submittal of a report verifying the status of a facility only at the request of the Zoning Administrator.

Allows collocation and replacing equipment by-right if it does not result in a substantial change to the facility.

The proposed ordinance would allow for administrative approval of the collocation and replacement of equipment that does not result in a substantial change to the facility. This revision is necessary in order to comply with the requirements of Section 6409.

Clarifies the process for revisions to wireless facilities and sites previously approved.

Before the current wireless regulations were adopted in 2004, wireless facilities were allowed only by special use permit. Some wireless facilities precede the requirement for a special use permit and are nonconforming. Processing requested changes to these older facilities has proven to be administratively difficult, cumbersome and expensive for both the applicant and the County. The proposed ordinance would allow changes to these older facilities and sites to be processed under the proposed regulations. This will make applications easier to process. This revision was one of the industry's most requested amendments. The proposed ordinance also clarifies how the conditions of approval for these older facilities will apply in several circumstances.

Codifies review times consistent with the FCC shot clock.

The FCC released a Declaratory Ruling in November 2009 which established time frames for acting on applications to collocate and for new facilities, generally referred to as the shot clock ruling. The ruling requires locality action within 90 days on an application for a collocation and within 150 days for a new facility. The proposed ordinance will codify these review timelines. A challenge to the FCC's authority to issue the shot clock ruling is currently pending in the United States Supreme Court.

No budget impact is anticipated. Staff recommends that the Board identify any provisions of the proposed amendments it would like staff to consider further and direct staff to proceed to public hearing with the Planning Commission.

Mr. Bill Fritz addressed the Board, stating that staff has split the wireless work into two phases and is a little bit ahead of schedule. He explained that the zoning text amendment provides definitions that are necessary to incorporate the collocation requirements and implement the proposed process changes for previously approved and constructed sites. Mr. Fritz stated that the ordinance currently requires that all sites submit an annual report stating that the site is still in use, which has been a time consuming venture for the zoning administrator to keep up with and serves no purpose, as no site has ever been abandoned. He said that the proposed ordinance will still allow a report to be required upon request. Mr. Fritz stated that amending existing sites has been time consuming and difficult to administer, and this proposal brings all old sites – those approved prior to the 2004 ordinance – into the tier structures, which will greatly simplify the processing. He noted that this has been one of the most requested revisions by the industry. He said that review times are currently brought into the ordinance by policy, and are consistent with the FCC-recommended review times – commonly referred to as the “shot clock.” Mr. Fritz noted that the U.S. Supreme Court is currently considering whether the shot clock can be imposed on localities by the FCC.

Mr. Fritz said that what the ZTA is not doing is changing any of the design requirements, as that would be part of the Tier II discussions, and the tier concept would remain the same with one minor change, and it does not eliminate public involvement except for certain collocation proposals. He explained that the ZTA also does not address the issue of broadband wireless, which is viewed as a different issue. Mr. Fritz reported that the proposed ordinance greatly simplifies processing by making the balloon test required upon request of the agent. He said that currently the applicant must go through a special exemption process for cases where a balloon cannot be flown, so this will be a much easier process by having it required when it is appropriate.

Ms. Mallek asked what criteria will be used in determining the appropriateness of the balloon test. Mr. Fritz said that some examples of times when the balloon test would not be appropriate include the presence of power lines, or in collocation cases where there is already a structure there. But if it is a new site, then staff will require it.

Mr. Snow commented that it is a common sense approach.

Mr. Fritz said that during the roundtable discussions that was something that everyone agreed to. No one had any problem with it – it made sense to staff – it’s been one of those things that has been problematic over the years.

Mr. Fritz reported that the zoning text amendment creates an administrative review for Tier II sites – also known as treetop facilities – and staff feels that allowing treetop facilities to be processed administratively will greatly reduce review times and make the review process much easier for everyone. He explained that staff has nine years of experience processing them through the Planning Commission and for the last year through the Board of Supervisors. He said that the height would be 10 feet above the reference tree, public notice would be maintained, and all the design requirements would be maintained – it simply that staff would be reviewing it, and if it were denied it would come to the Board.

Mr. Rooker commented that this has gone from 7 to 10 feet, and that is an example of how the exception becomes the rule, as the ordinance stipulated a limit of 7 feet but an applicant could get a waiver to go to 10 feet. He noted that almost everyone requests a waiver for new towers, and it is generally granted, but he wouldn’t want to see a waiver go beyond that.

Mr. Fritz responded that going beyond 10 feet would push it into a Tier III, which would require a special use permit. He said that staff would still be making the findings to allow 10 – but it would be done administratively.

Ms. Mallek asked how staff would deal with the circumstance of an applicant asking for successive 10-foot increases.

Mr. Fritz said that the way the language is proposed you could not do that, and an increase above the 10 feet would be considered a “substantial change” that would have to come back to the Board.

He reported that the by-right procedure for collocation in the proposed ZTA was developed by having a roundtable and soliciting a lot of comments, but there was no consensus that came out of that effort. Mr. Fritz said that in order for a by-right collocation to occur, it cannot be in an avoidance area, within an Entrance Corridor district, or within 500 feet of a dwelling. He said that if it meets those criteria, a by-right collocation to add one or more antennas can be done. Mr. Fritz stated that Section 64.09 requires approval if a change to a site does not represent a substantial change, but there are some who are questioning whether that federal law can mandate a state or locality to approve a change to a site – and staff is not taking a position on the ability of federal law to mandate a local action. He emphasized that staff does believe that by-right changes to a site should be permitted, regardless of what 64.09 might say, and does feel that they should be permitted if they are not substantial. With that in mind, he said, staff has developed a list of standards: all of the changes would require that design requirements be met; changes that exceed those limits – such as adding lighting, changing color, or not meeting any other design requirement would be considered a substantial change.

Ms. Mallek asked Mr. Fritz to clarify whether an applicant would have to make do with what they have in terms of roadway access, as far as bringing in additional ground equipment. Mr. Fritz responded that Ms. Sarah Baldwin has been working with him on this, and confirmed that they have not yet addressed access but would prior to bringing it to the Planning Commission for public hearing.

Mr. Rooker asked if the antennae have to meet the requirements and be flush-mounted antennae. Mr. Fritz responded that they would.

Mr. Dumler asked if it made sense to by-right exempt those properties where the lease in question is on the same parcel as the only dwelling within 500 feet as well as the avoidance areas and Entrance Corridors. Mr. Fritz replied that many in the industry have brought this issue up, and it may be a very good change to what is being proposed.

Mr. Dumler commented that those people have presumably already agreed to have that on their property at some point in time.

Ms. Mallek said that the property owner would just need to send in a letter to say they approve of it, as they deserve that protection as well – so that they have the protection, rather than having the industry be able to just go in and do this. Mr. Fritz responded that staff could address that.

Mr. Rooker asked if staff had planned to discuss the category – “clarifies the process for revisions to wireless facilities and sites previously approved,” and asked what the situation would be with existing facilities and changes, and if they proposed to put antennae on a nonconforming structure. Mr. Fritz responded that he hadn’t planned to address it but would, adding that staff has had all sorts of different problems. He explained that one example is a facility that looks like a treetop facility but was approved under the ordinance prior to the County’s tier structure, and the applicant wants to do an expansion. Mr. Fritz said that the facility has a special use permit, and because the preexisting structure had conditions – they have to go through the whole process as if it were a new site to get it approved. He stated that staff wants to bring it up and say that if it was approved prior to the tier system it automatically fits into those categories now based on “what’s physically there,” which makes amending them much easier and addresses how conditions were written in the past. Mr. Fritz noted that this really picks up the Tier II applications and old nonconforming sites, as they are very difficult to deal with now...[and this] makes the processing much easier and much more logical. He added that with the structuring of the ZTA, staff knew they were not dealing with any of the long-term questions about design standards, antennae size, etc. – but they wrote it in a way that can accommodate those things when they come forth.

Mr. Rooker asked if they discontinued the requirement for reports entirely. Mr. Fritz explained that the current requirement is to have the applicant submit that yearly, and what staff is doing is replacing it with a provision that they must submit it upon request of the zoning administrator. He added that if they have reason to believe that a facility has been abandoned, they can request that the information be presented.

Ms. Mallek said that still leaves the burden on the County, and asked if an applicant should be required to notify the County within 30 days if they are abandoning it – with the clock beginning at that time for them to remove it within 90 days.

Mr. Fritz said that the provision is still there for removal after 90 days of discontinuance of use, and there is a requirement for them to provide a yearly report to the County – and the responsibility for report submission is a very burdensome one.

Ms. Mallek stated that the 90-day provision is meaningless if no one is telling them to start the clock on 90 days.

Mr. Fritz said that staff could add a provision to the ZTA to have applicants notify the County if they abandon a site.

Mr. Rooker said that at least the annual reports would show what was on the tower and what might have been added, and his question is whether staff is aware of this being a problem – because if not, the reason for having the report is not as acute. Mr. Fritz responded that he is never aware of it having ever been a problem.

Mr. Rooker asked about the plan to have a five-year report. Mr. Fritz replied that they had discussed the possibility for three years or five years, which is still an option, but for this amendment staff went with the “upon request” concept. He explained that when a tower application is submitted and staff processes it and determines whether it can be approved, and once it is approved the applicant will submit their final construction documents – and included in that will be additional information such as verification of the height of the tower, height of the reference tree, etc.

Mr. Rooker asked why was the mention of the adverse impact on “resources identified in the open space plan” was deleted. Mr. Fritz explained that it is because staff is taking out the difference between 7 and 10, and are still looking at it to determine whether it impacts the open space resources and other resources identified in items 2 and 3.

Mr. Rooker asked Mr. Fritz if the part that he thought was taken out, was picked up in items 2 and 3. Mr. Fritz replied that he believed so.

Mr. Rooker asked why the County is not mandating that an application meet all compliance requirements of 5.1.4, as the proposed changes just singles out items 1-4 and 7. Mr. Fritz responded that because this pertains to collocation, and staff doesn’t need to get things like a survey of the parcel or photographs, so it knocks out the items that were covered in a prior application, or by prior information.

Ms Mallek commented that if those things were changed they would be addressed. Mr. Fritz replied correct. He gave an example of photographs and explained that staff would not need actual photographs because they could go out and see the property and not have to visualize it.

Mr. Rooker also asked how in H.5 staff is distinguishing between “antenna” and other things that they’re allowing to protrude by as much as 20 feet. Mr. Fritz explained that the definition is different than the “collocation” definition because it is dealing with a process, not what is permitted. He confirmed that it affects the time period, but doesn’t set standards for what gets approved because that is covered elsewhere.

Mr. Dumler asked if staff was effectively limiting the maximum height of towers, since they are limiting the base diameter to 30 inches, in terms of engineering safety standards. Mr. Fritz said that was brought up at the roundtable discussions, along with the potential for limiting collocation as one of the other requirements is for cables to be routed inside. He said that staff has already documented that they want to investigate that, as long as “stiffening of the tower” providing the diameter is still met – and there was some concern that adding steel cables to the outside of a monopole that might increase the diameter, and that is seen as a Phase II discussion item.

Mr. Thomas asked how the stiffening of a tower could be accomplished. Mr. Fritz responded that staff has not received good information on that yet, and the only place they have seen stiffening of a tower is with lattice towers where more diagonals were added.

Mr. Rooker commented that the major wireless providers are moving toward deployment of “small cell towers” equipped with WiFi, which will also accommodate LTE and 4G service.

Ms. Mallek said that in urban areas, providers are placing them on the sides of buildings.

Mr. Fritz concluded by stating that staff would address the concerns the Board raised, then bring it to the Planning Commission and back to the Board.

The Board thanked Mr. Fritz for all his work.

Note: At 3:01 p.m., the Board recessed.

Joint Meeting with School Board.

School Board Members Present: Mr. Jason Buyaki, Mr. Ned Galloway, Mr. Stephen Koleszar, Ms. Diantha McKeel and Ms. Barbara Massie Mouly (arrived at 4:20 p.m.).

Absent: Ms. Pam Moynihan and Mr. Eric Strucko.

STAFF PRESENT: Dr. Pam Moran, Superintendent, Mr. Billy Haun, Assistant Superintendent for Student Learning, Mr. Matt Haas, Assistant Superintendent for Organizational and Human Resources Leadership, Mr. Josh Davis, Chief Operating Officer, Mr. Chris Brown, Senior Assistant County Attorney, and Ms. Jennifer Johnston, School Board Clerk.

The meeting was called backed to order at 4:01 p.m.

Agenda Item No. 15. Discussion: Medical and Dental Insurance Programs.

In November 2000, the Board of Supervisors and School Board (Boards) approved a Total Compensation Strategy to target employee salaries at 100% of an adopted market median and benefits slightly above market levels. Medical insurance and the Virginia Retirement System are the largest components of that benefit strategy. The information provided in the attached Memorandum from the Health Care Executive Committee (HCEC) to the County Executive and Superintendent (Attachment A) details the analysis of the medical and dental programs and prior actions taken to remain consistent with the benefits strategy. In order to comprehensively evaluate the medical insurance plan, staff worked with Keiter, Slabaugh, Penny & Holme, LLC (KSPH) to conduct reviews based on a scoring model which includes plan design features, premium costs to employees, and Board contribution amounts.

The attached Memorandum outlines the current year’s process and the HCEC’s recommendations for Medical and Dental Insurance. The HCEC develops recommendations for the County’s medical and dental plans based on the following objectives:

- offer affordable options that meet varying needs of employees and their families;
- maintain reserves at approximately 25% of claims;
- ensure plans are in compliance with Health Care Reform regulations; and
- maintain our competitive position for benefits (slightly above market).

The report includes information regarding the HCEC’s benefits review process, the insurance plans’ reserves, claims and market competitiveness, and the HCEC’s recommendations for the 2013-2014 medical and dental programs to become effective on October 1, 2014. Attachment B provides a five-year history of the County’s Compensation and Benefits actions.

A 7% average medical and dental premium increase projection was included in the County Executive's proposed FY 14 budget. The medical premium projection of 7% remains the recommendation. The dental premium that was initially projected to increase has been reevaluated. Based on claims and reserves, the HCEC is not recommending a dental premium increase. This change would result in a savings of \$33,463 for the School Division and \$10,260 for Local Government from the proposed budgeted amounts.

The HCEC recommendations:

Medical Plan:

1. Continue to offer the Basic and Plus plans through Coventry.
 - a. Both plans are Point-Of-Service Plans with the same benefit coverage.
 - b. There are differences in cost sharing (co-pays, co-insurance, out-of-pocket maximums, deductibles) and employee premium requirements.
 - c. The benefit summary is shown in Attachment C.
2. Increase the Board contribution by 7% for the new plan-year starting October 1, 2013.
3. Set full-time employee premiums (7% increase) at the rates shown in Attachment D.
4. Retain a self-insured medical plan with Specific-Claim-Stop-Loss insurance to limit the County's liability against any single large claim.

Dental Plan:

1. Continue the contract with United Concordia.
2. Continue to offer the Basic and High Options with no change in benefit design.
3. Retain the current rates for the new plan year starting October 1, 2013.
4. Approve the employee premiums as shown Attachment D.
5. Implement a dental rate holiday from March 2013 through September 2013 for all dental enrollees for this period, regardless of hire date.

Ms. Lorna Gerome, Director of Human Resources, addressed the Board and said she would be presenting the recommendations of the Healthcare Executive Committee, acknowledging the work of staff members Claudine Cloutier, LeAnn Knox, and Brody Downs on benefits "all throughout the year." She also noted that the County's consultant from KSPH, Tom McKay, who has helped advise them for many years.

Ms. Gerome said that the work they do around benefits and compensation is intended to attract and retain a talented workforce, supporting Board and School Board goals. She stated that the Board-adopted targets for compensation are to have salary at the median of the market for classified and the top quartile for teachers, with the benefits target slightly above market. Ms. Gerome said that health insurance is the cornerstone of that strategy, and the Healthcare Executive Committee works throughout the year in light of these goals: affordability, and meeting individual and family needs. She noted that many of these things have been mandated with healthcare reform, but the County had its plan designed this way long before – and it's really important to have preventative visits and easy access for employees to focus on the preventative health measures. Ms. Gerome stated that they've also begun onsite health services such as the mobile mammography and cancer screenings, and strive to keep the plan accessible to employees. She said they also strive to meet the Board-adopted target to be slightly above market, and target reserves at 25%. Ms. Gerome stated that they've used some of those reserves in previous years to offset premium increases for employees and decrease the Board contribution amount, adding that they are targeted to reach their target by September 2014. She said that the committee also keeps an eye on compliance, and there is a "whole new world" with healthcare reform.

In reaching those objectives, Ms. Gerome reported, the Healthcare Executive Committee "puts many puzzle pieces together," considering market data on plan design, the employee premium amounts, the Board contribution amounts, and claims data – partnering with Coventry to implement disease management programs for things like asthma and diabetes. She said that they solicit feedback through surveys, and through focus groups that provide "good qualitative data" and allow an opportunity for staff to explain complex issues. Ms. Gerome stated that they got employee feedback this year as they evaluated whether or not to put in a deductible, working with an advisory group on the school side and starting an advisory group on the local government side. She said that County employees strongly favor higher premiums and no deductible, which was a "very loud consensus."

Ms. Gerome stated that for the past three years they have not had a change in their employee premiums, no change in Board premiums the past two years, and a decrease the previous year. She said that they have had plan changes, which is cost shifting to employees in a different way – implementing co-payments, higher out-of-pocket limits – and that has impacted employees. Ms. Gerome stated that salaries have had no base increase in FY09-10 and 10-11, a 1% increase in FY11-12, and a VRS offset in FY12-13 with the net increase to employees being less than 1%. She said that the past year was a "pretty significant year" for employees, which the Board heard from them, with elimination of the "high plan" as data had shown that it was really out of line with what the market was offering in terms of co-insurance and out of pocket. Ms. Gerome said that they changed co-insurance from 95% to 90%, so the employee pays a higher share, and increased the out-of-pocket maximum. She stated that they also did a temporary subsidy for those employees in the middle plan, so some will feel more than the 7% increase when that subsidy goes away.

Ms. Gerome reported that the Healthcare Executive Committee looked at some plan design benchmarking, noting that the County goes to the adopted market every other year to ask for plan design information and uses national data in the "off years." She explained that this is showing that with the plan design changes, they are more in line with the market – with the County's PCP physician co-pays at \$15

for the plus plan and basic at \$25 compared to \$20 and \$25 for the market. Ms. Gerome said that the out-of-pocket maximums with the plus plan are right in line with the market – \$2,000 and \$4,000; prescription co-pays are fairly in line with the market, with generics being slightly lower. She stated that they collected adopted market data on deductibles and found that 62% of the adopted market did implement a deductible this year, which is a marked increase from previous years. Ms. Gerome said that the executive committee really debated this, based on the significant changes last year to the plan design that passed the impact to employees – along with employee feedback not to implement a deductible this year.

She presented comparative information on the total cost of the plan relative to other plans in the adopted market, and noted that it indicates that the total cost per individual is slightly above market at \$7,225 compared to \$6,496.

Mr. Boyd said that the adopted market is about 95% government agencies, and noted that there is a big difference between those and the private sector.

Ms. Gerome stated that the family total cost, which is employee premium and Board contribution, is \$9,973 – which is significantly lower than the adopted market at \$16,706. She said that the County is essentially providing “a low cost yet quality plan for employees,” and other information such as premiums supports this as well. Ms. Gerome noted that the Board contribution is \$6,745 for families while the market is \$10,176. She said that they have 42% of employees in individual coverage, and the rest have some level of dependents.

Mr. Snow read a letter from a homeowner who is retired, age 67, with Social Security and Medicare premiums of \$237 per month; in the 2005-06 budget, a County employee of the individual healthcare plan paid \$37 per month; and in the proposed FY14 budget the same individual would pay \$43 per month. He said that the letter continues to underscore salary increases and a “huge inequity” in what citizens’ pay and what employees pay with their plan. Ms. Gerome responded that while the premiums may not have increased drastically over the past several years, there has been a great deal of cost-shifting as to what employees have to pay out of pocket. She also pointed out that the information may show a “\$10,000 increase for the employee,” but that might be attributed in part to the VRS contribution that employees take on.

Mr. Boyd noted that the private sector has 401k plans mostly, not the high-end defined benefit plans as the County does.

Mr. Koleszar said that over the last four years, including the proposed increase, the net increase to the County for the employee share of healthcare has gone up about 3.5% - with the other health insurance costs for employees rising 10-15% per year. He emphasized that employees have assumed much more of their benefits costs, and thus have prevented the County from increases in contribution costs.

Ms. Mallek stated that some of that was offset by the drawdown in reserves.

Mr. Boyd said there were three years of 3%.

Mr. Rooker stated that the County has picked an adopted market for policy reasons, but a telling statistic is the total contribution being made by employers – which is \$1,000 high on the individual side and over \$3,000 on the family side. “What that tells me is that our plan is doing a pretty good job of managing costs, because basically we have a plan that’s self-funded, so we have to charge premiums sufficient to pay our claims and build up or continue whatever reserves we have.” He said that his biggest concern at the end of the day is what the cost is to the County for providing benefits, and the cost has not gone up greatly over the last three or four years. Mr. Rooker stated that compared to other employers in the market, they still pay less for their benefits.

Mr. Snow commented that the market is government entities.

Ms. Mallek said that has to be the comparison, for an apples-to-apples comparison.

Mr. Rooker said that the people the County tries to hire against are generally other governments, adding that there have been pay increases in the private market in the 2-3% – which the County has not done over the last five years. “You have to compare it to like-kind employers, certainly of similar size.”

Ms. Mallek said that what’s telling to her is the dramatic increase in what individuals pay as far as annual out-of-pocket, as \$1,000 a year is significant.

Mr. Rooker said that as a small employer, his cost per employee is higher than this and the premiums have gone up substantially over the last few years.

Mr. Ned Galloway asked Ms. Gerome why the individual pays a much smaller percentage of the individual cost than the family does. Ms. Gerome responded that many other organizations subsidize the dependent premiums so that it’s affordable, but the County has kept the Board contribution the same for everyone – so in keeping the premiums affordable, that’s created the disparity. She said that the committee has reviewed and discussed the possibility of changing the contribution strategy, because most other organizations in the market provide an additional amount to families and dependents. Ms. Gerome emphasized that when they gathered employee feedback on that, “there was a pretty strong reaction to not changing it, and that it would be unfair to give people that chose to have a family a higher amount than singles.”

Mr. Rooker said that there was a time traditionally when a lot of plans paid 100% for all employees, but there was a cost-sharing for dependents, and that was “a standard approach for a long time.” He said that over time, the amounts that employees pay for individual coverage has increased somewhat, but they still don’t come near the percentage that individuals pay because of that traditional starting point.

Ms. Gerome stated that the recommendations from the Healthcare Executive Committee for this year are a 7% increase to the employee premium and a 7% increase to the Board contribution, with no plan design changes. She reiterated that they seriously evaluated adding the deductible, but after gathering employee feedback determined that this would be the best way to proceed.

Mr. Boyd asked what the two 7% increases net out to be. Ms. Gerome responded that she would have to bring that back and said that they built the budget with the 7% to the Board contribution, assuming there would also be a similar increase on the employee premium side or plan design changes that would impact it.

She reported that there is ongoing wellness work underway and they are attempting to get some good data on employees, so they will be conducting some health risk assessments over the next few months – such as screenings for cholesterol, blood pressure, body mass index. Ms. Gerome said that they would be coming to the Board next year with recommendations as to how they can incent employees to participate in the health risk assessment, as a lot of data shows that reducing health premiums or providing some monetary award is effective. She stated that Mr. Downs and Ms. Knox are also working on an interactive wellness website to serve as a nice source of information for employees so they can access wellness information, nutrition information, etc., and are also working on a “branding” for wellness. Ms. Gerome said that they would continue to evaluate the deductible for the following year, looking at adding that, as well as the contribution structure.

Mr. Koleszar encouraged her to consider the impact on employees utilizing healthcare insurance when they’re considering adding a deductible, so they don’t create higher plan costs with people who put off going to the doctor. Ms. Gerome responded that that’s a “very important point” and something they keep in mind when they look at the plan design changes in an effort to incent employees to go to the doctor for preventative care. She said that what they would look at for the deductible is not co-payments, not prescription co-pays, but some of the diagnostic testing.

Mr. Snow asked what implications the national healthcare reform might have. Mr. Tom Mackay responded that the County and the schools are in good shape as far as the “pay or play” mandate, which is the primary provision to be concerned about. He reported that his survey data from colleagues at one of the largest consulting organizations indicates that over 90% of them are going to “play” and continue their health insurance; for under 50 employees, where it is not mandated, the parameters are different and are where the exchanges would come in. Mr. Mackay said that the individual mandate says that as of January 1, 2014, every citizen in the country must have health insurance or will pay a tax, and that’s a graduated scale going up until 2016. “That is a real unknown...because every health insurance plan now has what we call ‘opt-outs’...a lot of employers have employees that go elsewhere or don’t purchase health insurance,” he said, so the effect of the individual mandate is that it would bring more people onto the plan. Mr. Mackay said that employers that allow employees to go to the exchange system may mean that spouses come back onto the County’s plan.

He stated that the Medicaid expansion in Virginia included passing a bill that states they will expand Medicaid if the federal government completes the reforms they want under the system – so the federal government said they would do that, and if so the state of Virginia will expand it as of July 1, 2014. Mr. Mackay said that the big change there is that eligibility would go from 33% of the poverty level up to 133% of the federal poverty level. He stated that the exchanges are still an uncertain thing, but if you comply with the law your employees can’t go to the exchange and get a subsidy – but if your plan does not comply or an individual is not eligible for a plan, they can get significant subsidy from the exchanges. Mr. Mackay said that the big question remaining is how the government would determine that subsidy, and the employer would somehow have to report that information – which would increase the administrative burden significantly as they would have to know salary and benefits information for each employee.

Mr. Mackay reported that health insurance industry fees are also changing, with one fee already in place - \$1 per member increasing to \$2 per member – but in 2014 a re-insurance fee of \$63 per member per year kicking in, or a total of around \$70,000. He said that because they are self-insured, they avoid the other health insurance fee of 2-4%.

Ms. Mallek asked if they would still be hit with the \$63 fee if they don’t have a disruption of their plan.

Mr. Mackay said that it’s for both insured and self-insured plans, and the word “re-insurance” is a misnomer as it’s really intended to cover the adverse affects in the individual marketplace because everybody who had preexisting conditions or couldn’t get individual insurance is going to come onto the plan. “That fee is supposed to cover that added cost.”

Ms. Mallek commented that it’s basically a payoff to insurance companies that denied coverage for these people before. Mr. Mackay responded that it’s a complex formula and the whole rating structure is changing as to how insurance companies classify individuals – so for the adverse risk, the government is basically going to subsidize it.

He said that with auto-enrollment, every employer over 200 would have to automatically enroll their employees in the health plan, and their employees can then opt out – which is the reverse of how it's done today.

Mr. Boyd asked what percentage of County employees currently take the healthcare plan. Ms. Gerome responded that it's over 95%.

Mr. Mackay said that the law also says that you must provide insurance for all employees who work 30 hours a week, and the issue is how to calculate employees that work a certain number of hours one week and less the following week. He stated that the government has come out with a really complex set of regulations for this, and they acknowledge that educational employees are different because of their schedules.

Mr. Boyd indicated that universities have already said they would cut back on hours for adjunct professors, etc.

Mr. Mackay stated that this was indeed the case, but some professors work for more than one institution. "It's a real challenge...this 30-hour look-back is probably the most challenging thing employers are dealing with in healthcare reform this year as they go forward."

Mr. Rooker asked about temporary employees. Mr. Mackay explained that temporary employees are excluded, and seasonal employees that work under 120 days per year – but over that, they would be considered a "variable employee."

Mr. Boyd asked if local bus drivers would be impacted by this. Ms. Gerome responded that the County does provide benefits for those employees, but there is a provision related to the cost of the health insurance for part-time employees.

Mr. Mackay said that they are more liberal in offering benefits than the law requires, and with part-time employees the question is whether they are better off going to the exchange and getting subsidies or getting it through the County as an employer. "I think it's a long-term strategy that you'll need to address."

Ms. Mallek asked if someone could come back after they left the plan. Ms. Gerome said they would be able to under an open enrollment.

Mr. Mackay agreed that it would be an open enrollment decision.

Mr. Rooker stated that under these new rules, there would be part-time employees that would also qualify for Medicaid. Mr. Mackay said if they do qualify, then the employer is not responsible for providing health insurance and they could get insurance through the Medicaid provision.

Mr. Koleszar asked if the County would be mandated to drop those who qualify for Medicaid from the group healthcare plan. Mr. Mackay said the County would not be mandated and could be more liberal in the provision, but most employers probably would drop them.

Mr. Koleszar pointed out that as a recruitment and retention advantage, pushing people off onto Medicaid might mean the County loses them as employees.

Mr. Mackay added that the other question is what the perception of exchange coverage would be – really good coverage, or coverage as a last resort – and that's not known yet.

Ms. Mallek asked if there was a timetable for this decision. Mr. Mackay responded that the implementation would be July 1, 2014, assuming there is a timetable – but a committee has to monitor it and make recommendations.

Mr. Boyd asked if the issue with Medicaid was that the federal government would only provide dollars for the first few years, then it would become the state's responsibility. Mr. Mackay replied that the feds would provide 100% funding for the first three years, and 90% thereafter.

Mr. Boyd said that it's likely that the state will push that down to localities.

Mr. Rooker said he hadn't seen them do that before. Mr. Mackay said that the Governor's argument has been that the 90% can change based on the federal deficit situation.

Mr. Koleszar noted that they have talked about adopting a cafeteria plan of benefits, so if lower income workers chose to go on Medicaid, they could still get some benefit from the County.

Mr. Mackay commented that he thinks there will be more cafeteria defined contribution approaches going forward.

He stated that one of the nice things about the regulations is the effective date delayed of non-calendar year plan, so they have until October 14 to comply with the law.

Mr. Mackay said that under the regulations there would also be higher differentials in wellness incentives – up to 50% for tobacco users and 30% for other wellness incentives.

Mr. Mackay reported that out in the future there's a "Cadillac tax" set for 2018, which would mean a 40% excise tax paid on the value of the total insurance over certain thresholds. He said that he didn't know how that would hold up, as a valuable plan would essentially be taxed.

Mr. Boyd asked if that had been defined yet. Mr. Mackay responded that it's about \$27,000 for family coverage.

He said that the pay or play mandate, or the Shared Employer Responsibility, is the major piece of legislation that kicks in next year, so any employer with over 50 employees will have to either offer health insurance that complies with the law or pay a penalty. He stated that if they don't offer insurance the penalty is \$2,000 per employee, less the first 30, and that money goes to the federal government – and is not tax-deductible. Mr. Mackay stated that the first issue the County needs to address is that all employees over 30 hours are eligible, and if over 5% are not eligible they're still subject to the penalty.

He noted that the employees only had to be offered the insurance, they did not have to take it, and assuming everyone qualifies there are two other tests to meet – the affordable premiums test that stipulates that employee contribution cannot exceed 9.5% of household income and the sufficient benefits test that provides that there is a 60% minimum value of benefits. Mr. Mackay said if they could not meet those tests and an employee purchased coverage from an exchange and received a subsidy, then the penalty would be \$3,000 just for that employee.

Mr. Mackay said that the County is in "pretty good shape," and from a penalty standpoint would be fine – but they may have some work to do on the 30-hour definition to establish how it might affect the plan going forward.

Ms. Mallek asked if the employees who work for benefits, and it created a problem for the County in the affordable formula. Mr. Mackay responded that the affordability issue is only on the 30-hour workforce, and they are not mandated to provide coverage for part-time employees.

He said that since the County would meet all of those provisions, any of the employees who were eligible for the plan would not be eligible for a subsidy under the exchange.

Ms. Gerome reported that the recommendations around dental insurance are to not change employee premiums or the Board contribution for FY14, and the dental coverage is also self-funded so they are in a position now where they can have a "premium holiday" because the reserve is overfunded. She said that their recommendation is for a premium holiday for March through September, for both employee premiums and Board contributions.

Ms. Gerome concluded her presentation by stating that the benefits recommendations are part of the total compensation strategy, and the 2% pay for performance has already been built in for classified staff along with the 5% member contribution for VRS. She stated that they would continue to offer the two plans through Coventry – basic and plus, increase the Board contribution by 7% for the new plan year, beginning October 1, and setting employee premiums at 7%; and continuing dental with no benefit changes, retaining the rates for the new plan year along with the premium holiday. She noted that the dental plan is a standalone, voluntary plan.

Ms. Mallek then offered **motion** to approve the following recommendations for the medical and dental plans.

Medical Plan:

- Continue to offer the Basic and Plus plans through Coventry.
- Increase the Board contribution by 7% for the new plan-year starting October 1, 2013.
- Set full-time employee premiums (7% increase)

Dental Plan:

- Continue the contract with United Concordia with no change in benefit design.
- Retain the current rates for the new plan year starting October 1, 2013.
- Implement a dental rate holiday from March 2013 through September 2013 for all dental enrollees for this period, regardless of hire date.

Mr. Rooker **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

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

NAYS: None.

Ms. McKeel then offered motion to approve the recommendations as approved by the Board of Supervisors. Ms. Massie Mouly seconded the motion. On a voice call vote, all voted aye.

Agenda Item No. 16. Adjourn.

With no further business to come before the Board, the meeting was adjourned at 5:01 p.m.

Chairman

Approved by Board
Date: 07/03/2013
Initials: EWJ