

A regular meeting of the Board of Supervisors of Albemarle County, Virginia, was held on April 3, 2013, at 9:00 a.m., Lane Auditorium, County Office Building, McIntire Road, Charlottesville, Virginia.

PRESENT: Mr. Kenneth C. Boyd, Mr. Christopher J. Dumler, Ms. Ann Mallek, Mr. Dennis S. Rooker (arrived at 9:18 a.m.), 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 9:06 a.m., by the Chair, Ms. Mallek.

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

Agenda Item No. 4. Adoption of Final Agenda.

Ms. Mallek said she had one change to the final agenda. Noting that Mr. Rooker was absent, she suggested moving recognitions in front of brief announcements from Board members. Board members concurred.

Mr. Snow announced that he would be providing a report on the MPO, prior to the discussion on the Long Range Transportation Plan.

Mr. Boyd announced that he would be providing a report on the Fiscal Impact Committee.

Mr. Foley commented that Item No. 8.5 on the consent agenda has been moved to Agenda Item No. 19a on the regular agenda. He added that action needs to be taken on this item after action is taken on the appropriations.

The Board accepted the final agenda.

Agenda Item No. 6. Recognitions:

Item No. 6a. Alan Collier for service on the Equalization Board.

Ms. Mallek presented Mr. Collier with a Certificate of Appreciation for his service on the Equalization Board. She stated that Mr. Collier served on the Equalization Board since 2004. Mr. Collier was always the first to arrive at meetings and last to leave most meetings. He tried to look at each case from a unique angle. Mr. Collier spent a great deal of time preparing for public hearings and shared useful insight with the rest of the Board.

Item No. 6b. David Cooke for service on the Equalization Board.

Ms. Mallek presented Mr. Cooke with a Certificate of Appreciation for his service on the Equalization Board. Mr. Cooke served on the Equalization Board since 2004. In his capacity as Secretary, Mr. Cooke was clear, balanced and concise in summarizing Board actions. Mr. Cooke will be missed by fellow Board members.

Item No. 6c. Proclamation recognizing Mothers Against Drunk Driving (MADD) April 21, 2013, as Power Talk 21 Day.

Ms. Mallek read the following proclamation:

PROCLAMATION

WHEREAS, the County of Albemarle recognizes the importance of parents talking with their teens about alcohol; and

WHEREAS, high school students who use alcohol or other substances are five times more likely to drop out of school or believe good grades are not important; and

WHEREAS, teen alcohol use kills about 5,000 people each year, more than all other illegal drugs combined; and

WHEREAS, the majority of kids say their parents are their primary influence when it comes to decisions about drinking alcohol; and

WHEREAS, **PowerTalk 21®** day is established on **April 21, 2013**, to encourage parents and caregivers to embrace their important role in influencing America's youth and their decisions about drinking alcohol; and

WHEREAS, to equip parents to talk with their teens about alcohol, Mothers Against Drunk Driving® (MADD) will offer free community parent workshops to give parents the tools in a parent handbook to effectively talk to their teens about alcohol; and

WHEREAS, these local parent workshops, also replicated across the country, will offer parents a research-based parent handbook to help them talk with their teens about alcohol and encourage adults to consider creating a safer community by becoming involved in reducing underage drinking; and

NOW, THEREFORE, BE IT RESOLVED, that I, Ann H. Mallek Chair, on behalf of the Board of Supervisors of Albemarle, County, Virginia, do hereby proclaim

Sunday, April 21, 2013
as
PowerTalk 21® Day

in the County of Albemarle, Virginia, and urge all citizens to join in the local and national efforts to raise awareness of the importance of parents and teens talking together about alcohol in order to reduce the risks and dangers posed to teens and communities.

Item No. 6d. Introduction of Douglas C. Walker, Assistant County Executive.

Mr. Foley introduced Mr. Doug Walker as the newly hired Assistant County Executive. Mr. Walker started work with Albemarle on Monday, April 1st. He noted that Mr. Walker has over 20 years experience as a local government manager. Mr. Walker has served as Deputy County Administrator, City Manager, and County Administrator. He is a very strong addition to the County's staff.

Board members welcomed Mr. Walker.

At 9:15 a.m., the Board recessed to give Mr. Rooker time to arrive at the meeting. The Board reconvened at 9:19 a.m.

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

Mr. Rooker apologized for keeping everyone waiting.

Mr. Boyd reported that the Fiscal Impact Committee recently held its semi-annual meeting, in which they discussed the possibility of changing the figure the Board uses for proffers in light of changes to the CIP. He explained that one of the issues that came forth from several developers was the change in the building community in new requirements from banks for lending on development projects and the cost of land. Most developers are not building the Neighborhood Model as called for in the Comp Plan – and instead are building by-right rather than going through the zoning process. Developers are saying that the numbers do not work to have to develop a piece of property and have to pay the approximate \$19,500 per house for the proffers. He said that the Committee will be looking at it further and coming back to the Board. He said that he wanted to share the information with the Board and let them know that the development community feels that the Comprehensive Plan is not working because the County has priced itself out of the market. The numbers do not work to develop a Neighborhood Model which they have to go through a rezoning to do.

Mr. Snow mentioned two developments he saw in Dyke that did not go through the County's process.

Ms. Mallek noted that those were rural subdivisions in the rural area.

Mr. Rooker said that in looking at it analytically, impact fees are a fairer way of distributing costs than cash proffers, but the County doesn't have that ability. There have been some communities recently that have reduced their proffer amounts because of the situation Mr. Boyd mentioned. He stated that anecdotally speaking, there certainly seems to be plenty of building going on in the growth areas, and suggested that the Board get a report on building permits to more accurately assess the trend.

Mr. Boyd commented that what they are seeing with those build-outs are projects like Cascadia, which were zoned prior to the County having the proffer policy. He said that while the County is seeing development pick back up again, from what developers are saying they will probably not be doing much in the way of rezoning for high-density development because the proffer numbers are so high. Mr. Boyd said that the Committee will be gathering more specific information and bringing it back to the Board.

Ms. Mallek asked that the Committee bear in mind that for years regular citizens felt very punished that they were the ones bearing all of the development costs, all of the accessory facility costs

as new developments came in under the argument of keeping prices down for new owners – when all it does is increase the costs for longtime residents. The citizens are still concerned about that. Doing away with something does not make the cost go away, and the Board needs to make sure that it has a way for new development to pay for itself. She said that the Albemarle County Service Authority has a good plan for tie-in fees to ensure that the newer projects buy in to the work that others have already provided over the years, and doing away with things is not just a simple answer. She said that she challenges the Committee to find that broad approach as well and to figure out what a solution would be.

Mr. Boyd said the argument against that is because the community and people who have been here for 30 years or 40 years did not take care of the infrastructure, the County is going to require all the new people that move in to take care of that infrastructure. There are some people who just move from one part of the County to another part and the County's policy is asking all of those people to bear all the brunt of growth in this community.

Mr. Rooker stated that the total amount received from proffers is a drop in the bucket compared with the total infrastructure costs the community bears to deal with general population growth. He said that to assert that all of the cost of growth and past maintenance is being put into proffers is simply not the case.

Mr. Boyd said that part of the issue is whether to get no money from proffers because people are not developing under the proffer policy or to get some money from proffers and looking at whether it should be a lower amount.

Mr. Rooker said that it needs to be looked at objectively, with the Fiscal Impact Committee looking at what's being done in other localities.

Mr. Foley stated that there was a methodology used before, which also included the 10-year capital needs assessment which will depend on whether the Committee will recommend that it continue to be used as a basis for establishing those. He added that it is a starting point.

Mr. Boyd said that if you take the CIP and the five out years, it is close to what the budget was five or six years ago when the proffer policy was first initiated. The difference is there has been a big shift between what was in the CIP and what was in the CNA before. Now the biggest bulk of it is in the out years.

Mr. Rooker commented that if the Board takes away money that could be used to fund the CIP, the result would be having more pushed into the CNA.

Mr. Boyd reiterated his question of whether they would be taking away money they are not getting.

Mr. Rooker said that he is not averse to looking at it, but wants to make sure the Committee views it from all angles objectively.

Mr. Snow reported that the MPO recently met and presented a copy of the agenda. He added that Mr. Steve Williams will be available later at the Board meeting to answer any questions. He said that he also thought it would also be useful for Board members to see what is on the long-range transportation cost analysis and how it has been broken down. Mr. Snow added that anyone can go online and access the MPO's entire agenda packet for any additional information. He also added that there is a new list of performance measures including environment, land use, social, economic, public safety, and mobility.

Mr. Rooker said he has a couple of questions to raise about some of the projects, but will wait for Mr. Williams.

Ms. Mallek asked whether "widening of US 29/US250" was a reference to the bypass. Mr. Snow responded that it is a reference of US250W over to I-64, going past Fontaine Avenue.

Mr. Rooker said that part of that widening was originally included in the Route 29 Bypass project but VDOT took it out to drive the cost down and say that they came in at \$244 million. VDOT had planned to widen the Route 29/Route 250 Bypass from the Bypass out beyond Old Ivy Road and replace both the railroad bridge and the Old Ivy Road bridge. Now it is pointed out in VDOT's own documents that the weaving patterns do not work because of some of that widening issues and the bridge issues. He added that this project has never been considered by the Board as a separate item, but he thinks they should discuss it. Mr. Snow agreed.

Ms. Mallek reported that the Workforce One Stop on Hydraulic Road, that provides unified services to job seekers and to businesses looking for new employees, has met its benchmark and all of its certifications. This is one of fewer than 40% of One-Stop Centers in Virginia meeting all of its certification requirements.

Mr. Rooker announced that he has been involved with Albemarle County governance for the past 20 years, including appointment to the MPO Technical Committee, the first County Fiscal Impact Committee, service on the Planning Commission for four years, and 12 years on the Board of Supervisors.

Mr. Rooker then read the following statement:

"I'm very proud of what the County has accomplished during those years. We have done such things as adopted the Neighborhood Model – which won a national planning award to create walkable, mixed use communities. We adopted an approach to master planning our growth areas and actually have master planned all growth areas except one, which is underway. We revised our subdivision ordinances to provide for more neighborhood-friendly neighborhoods with street trees, sidewalks and those kinds of amenities. We adopted a cell tower ordinance, which at the time was considered by many around the nation as the best in the country in terms of allowing reasonable service while protecting the aesthetics of the community. We adopted an affordable housing plan. We expanded our Architectural Review Board corridors. We adopted a Dark Sky Ordinance to protect the night sky from inordinate light intrusion. We created the ACE Program to preserve rural area property. We adopted a biodiversity section to our Comprehensive Plan, recognizing that biodiversity is a good indicator of environmental health. We passed enhanced stream and stormwater ordinances. We created the County's first groundwater protection ordinance. We adopted a new rural area plan. We added thousands of acres to parkland; about 20% of the County is now in parkland or conservation easement; and about 75% of the County is still in forest coverage. We adopted a cash proffer program to help fund expenditures related to growth, which was mentioned earlier by Mr. Boyd and we will be looking at that again soon.

We have regularly ranked in the top 10 nationally for our use of digital information technology. We adopted an Economic Vitality Plan which included, I think, reasonable deference to the environmental importance of the County and preserving environmental features in the County. We participated in and completed a Target Industry Study. We completed the long-term planning for a community water supply plan, which was ultimately adopted by all participating parties and is currently underway to provide a 50-year water supply for our community. We created a Development Review Task Force to look into streamlining government processes and ordinances and we have moved forward with a number of those recommendations.

Financially, we are one of the soundest counties in the country. We received, during the period of time I'm talking about, our first AAA bond rating, which we have maintained both now under Moody's and Standard and Poor's. I think we are one of only about 30 counties in the country to have a AAA bond rating, which is the indicia of really high financial management and performance. We adopted a five-year business plan approach to our financial planning, meaning that we no longer look at just one or two years out – we look out five years with respect to virtually every decision we make that might have a financial impact. We have maintained one of the lowest unemployment rates in the state and in the nation. We have a low tax rate when you compare our community to other communities around the state. We weathered one of the worst recessions in the past 50 years, and our Finance Department has regularly received an award of excellence for financial reporting.

We greatly expanded our fire and rescue services during this time. We built Monticello Fire and Rescue Station, Hollymead Fire and Rescue Station, the Ivy Station is underway, and we established rescue services at Pantops. We adopted a Fire and Rescue Ordinance to better organize our emergency efforts. We adopted an EMS Recovery Ordinance to help fund the expansion in emergency services. We are one of only a few counties in the state that has a fully accredited Police and Sheriff's department.

Some of the capital projects that have been completed during this period of time include the building and finishing of Monticello High School, the purchase and refurbishing of the 5th Street office building, the remodeling of this building including this auditorium, major additions and remodeling at Albemarle High School, Monticello High School, Burley, Walton, Jack Jouett, Brownsville, Greer, Cale, Henley, Hollymead, and Scottsville Elementary. We built the facilities for and furnished the MESA Program at Albemarle High School. We, after long discussion, had turf fields installed at all the high schools – which I think has proven to be a very good decision. The Crozet Library, a major addition to downtown Crozet and the master plan there is underway. The Seminole Fire Station is presently undergoing the first steps toward expansion.

The Meadow Creek Parkway, after about a 40-year period of discussion and us saving our secondary road funds, we completed our part of that and the City is underway completing their part and we, as a part of that, worked with the City to obtain \$30 million of funding for the interchange at McIntire Road and 250, which is an important element of that project. Georgetown Road project, which is one that his predecessor in office was working on when he got elected, got completed. The widening of Route 29 out to South Fork Bridge was completed at a cost of about \$100 million. We actually now have the only substantial eight-lane section of Route 29 in the state. The Brumley Bridge project, which is near and dear to the people who live on the other side of that bridge, and has not gotten good response times from fire services because of the nature of the existing bridge, has been funded and is planned to be completed in 2014. Jarman's Gap Road has been funded and is finished.

I think very importantly we have worked closely with our School Board to continue to fund an excellent education system. Our schools are typically rated in the top 10% of the state and indeed the nation. I think we were able to, even in times during the recession, work closely with the School Board and provide reasonably adequate funding so that that excellence could continue.

We have hired a lot of good people over these years – Tom Foley, Brian Elliott, Bill Letteri, Doug Walker who was just hired, Chief Sellers, Mark Graham, Lori Allshouse, Susan Stimart, Betty Burrell, and many others who have contributed to the County's success over these years. Of course many of our terrific employees preceded me - Larry Davis, Amelia McCulley, Lee Catlin, Bob Crickenberger, Ella Jordan and Ron White.

Virtually every year our community receives a number of accolades. To summarize those, we regularly get named as one of the best places in the country to live, one of the best places to raise a family, one of the best places to retire, play tennis or golf, drink wine, start a business, and stay healthy. I take no individual credit for any of these things. We have a tremendous staff, it starts at the top. Prior to Tom Foley, Bob Tucker was an excellent County Executive. Mr. Foley has certainly been a terrific County Executive and he has surrounded himself with very bright, dedicated people who have made things happen. Also, the successes we have achieved are attributable to past and present Boards working together to accomplish things. Certainly again, nobody accomplishes anything in isolation from his cohorts.

While I have thoroughly enjoyed and been challenged by my long tenure with the County, I have decided to retire from the County at the end of this year. I would not be comfortable doing this if there were not someone willing to run for this office whom I admire and in whom I have great confidence. That person is Diantha McKeel.

Mr. Rooker stated that Ms. McKeel had been elected four times to the School Board in the Jack Jouett District and has served twice as the School Board Chair, three times as the Vice-Chair, and has served on the CIP Oversight Committee that reviews and ultimately recommends all capital projects. He said that she has been on the School Board Legislative Action Committee and was recognized by the Virginia School Board with an award of honor and an award of distinction, and has an extensive list of other community activities and boards.

Ms. McKeel has my full support and unqualified endorsement. I will be working for Ms. McKeel's election to the Board of Supervisors during her upcoming campaign. I am confident that Ms. McKeel has all of the attributes necessary to have an immediate and positive impact on the Board of Supervisors when she's elected."

Mr. Rooker then thanked fellow Board members for their many courtesies extended to him, adding that he will still be around for a while through the end of the year.

Ms. Mallek thanked Mr. Rooker, adding that the history summary was especially appropriate going into the Board's budget discussions later in the meeting.

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

Ms. Mallek said that her responsibility as Chairman of the Board is to ensure the smooth running of this meeting in order to effectively conduct the items on the agenda. She emphasized that while she understands and respects citizen concern associated with any issue, the Board rules will not allow disruptive verbal demonstrations or any other sounds by pounding of signs or other noises during the meeting. She stated that they will show respect for everyone involved – both citizens and Board members in order to effectively conduct business and to create accurate recordings and podcasts of the meetings. She asked the public to respect the Board's procedures.

Mr. Rodney Rich, President of Crozet Volunteer Fire Department, thanked the County and its citizens for monetary support the Department has received. Mr. Rich said that he thinks it is a great idea to hire the people trained here in the County, but the problem is that every time they hire a volunteer firefighter, he can no longer serve as a volunteer. This is a great loss to a volunteer department, because they have invested a great deal of time in this person, and they are hard to replace. Mr. Rich emphasized that volunteers are getting harder to find because of training time, commitment to the department, and time away from family and work. He said that surrounding counties such as Louisa, Augusta and Rockingham have worked out the problem, which is a great savings to their taxes and also helps other volunteer departments keep good manpower. Mr. Rich suggested that Albemarle look into how other localities have been able to do this, as guidelines should be able to be worked out. The Crozet Fire Department is all volunteers with no paid firefighters, and therefore, it should not be a problem.

Mr. Rooker asked if this issue could be discussed as part of the Board's closed meeting. Mr. Davis responded, "yes".

Mr. Richard Martin said that he spent 32 years as a County employee, been retired for 12 years, and spent 40 years active in the volunteer fire service in the County. He said that he has helped train a lot of people who serve either as volunteers or career personnel. He stated that they have produced about 30 career people that have come from volunteer companies. The policy that came forth about not allowing volunteers to continue to volunteer, after being hired by the County, takes away their love. Mr. Martin said they have hired some from volunteer ranks who now live outside the County and volunteer in those counties, adding that several young people have gone through the training process and have gone on to pass the test to become employees of the City of Waynesboro or Augusta County so they can still volunteer. He asked the County to go back and look at the legal reasons why bordering counties are able to hire volunteers as employees and make it work.

Mr. Tom Loach, a member of the Crozet Community Advisory Council, said that he was here to present a resolution of support for the Crozet Volunteer Fire Department in its efforts to change the current policy that does not allow paid County firefighters to serve their community as a member of the fire department. He then read the resolution aloud and stated that most members of the Advisory Board were somewhat incredulous that the County would take a position that it wouldn't maximize its firefighter safety for the community and for the firefighters. Mr. Loach said that the occupation of firefighting is a labor-intensive endeavor. He noted that recently the County had been through an earthquake, a derecho, several bad storms, a red flag brush fire events – all of which required the service of volunteers. He stated that he does not think that being a volunteer and a paid firefighter is a contradiction in terms, but instead is a failure to develop the necessary policies and procedures to allow volunteer departments to maximize their strength in order to protect the residents. Mr. Loach said that there is a sticker inside his fire helmet that indicates why it is so difficult to recruit firefighters and it read: "Firefighting is an ultra-hazardous, unavoidably dangerous activity. This helmet will not protect you from burns, injuries, disease or other hazards." He also noted that it takes about two semesters of coursework to complete training. He concluded by stating that his helmet has been "battered, bruised and burned" – and he would hate to be in a situation where he is in a jam but no one is there to help because somebody who wanted to volunteer could not.

Mr. Charles Battig addressed the Board, stating that Mr. Boyd's comments regarding smart growth and the Neighborhood Model resonate with a paper written and presented to the Board and the Planning Commission from the American Planning Association coming to the same conclusion: "the Neighborhood Model does not provide the environmental benefits claimed and it drives up costs". He presented an analogy of a Thomas's English Muffin and the County budget – with the nooks and crannies being the budget and the butter being taxpayer money – and said that taking 1% of the \$311 million, you get \$3 million. He cannot believe that taking 1% from the County budget will cause the whole structure to collapse. He pointed out that the \$4,000 for "Virginia Organizing" is one such nook of money, as it is a statewide grassroots organization dedicated to challenging injustice by empowering people in local communities to address the issues that affect the quality of their lives. He asked the Board to think of this image when it is funding requests, and see if it can justify every nook and cranny in there.

Ms. Nancy Carpenter said she was present this morning as an advocate for the homeless. She appeared before the Board several weeks ago to commend it for making a wonderful decision last summer in funding The Crossings. Ms. Carpenter said that she understands there may be a funding issue that is preventing two additional individuals from being able to come off the streets and begin to reestablish themselves as productive residents. She stated that she's communicated with Housing Office staff and it is not really concrete why there is this issue. Ms. Carpenter asked the Board to follow up and find out why there has been this delay with HUD or if the problem is with other governmental entities.

Mr. Charles Winkler, a resident of Mosely Drive and former Albemarle County employee, said that Section 12 of the County's personnel manual deals with "fitness for duty" and states that the Board of Supervisors believes that it is its responsibility "to assure that all of its employees are fit for duty physically and psychologically in order to provide the highest level of services possible to the citizens of Albemarle County." In addition, the Board has charged the County Executive with the responsibility of implementing procedures that protect the basic belief that "all employees must be of sound mind and body in order to carry out their responsibilities at the highest levels possible." Mr. Winkler said he realizes that this applies to ordinary employees.

Mr. Winkler said that the procedures for compliance state that all employees must have a minimum responsibility to maintain physical and emotional health to the degree required to carry out the responsibilities of their job, and if a Supervisor suspects that an employee is not fit for duty – i.e. is unable to effectively perform his or her duties due to physical or emotional health problems – the Supervisor will have the right to refer the employee for a "fitness for duty" examination to the County physician. He stated that an ordinary employee can be summarily dismissed for unacceptable conduct such as criminal convictions for acts of conduct occurring on or off the job, and the same ordinary employee can be dismissed where there is a finding of sexual battery. Mr. Winkler asked what the standards for "fitness of duty" are when applied to a member of the Board of Supervisors, and to what standards of conduct Board of Supervisor members are held.

Mr. Gerry Sackett said that in 2002 his daughter was in an accident at the intersection of Rose Hill Church Lane and Milton Road; she could have been seriously injured but was not. He said that at the time he prepared a paper and submitted it to VDOT, describing the hazardous conditions of bad visibility and speeding motorists. He said that VDOT subsequently sent a letter to the Board that stated that based on a review of the existing conditions the intersection "does need to be improved," and recommended that the proposed improvements be added to the priority list established by the Board. Mr. Sackett stated that subsequently nothing was done. In 2011 VDOT decided to pave the road – at which time he brought the issue up again and submitted a packet of documentation spanning 11 years. He submitted the information to the Board again and asked that the Board add improvements to the intersection to the next cycle of road improvements. He has also included letters from JAUNT and Albemarle County Schools transportation office in support of those improvements.

Ms. Pat Napoleon, a County taxpayer, said that one person is outrageously and ineffectively sitting as a member of the Board of Supervisors. She said that the public would not be here if Mr. Dumler

had done the right thing and resigned. A dysfunctional, convicted person is pretending to lead. She said that a Board member has shamed his supporters, friends and family.

Mr. Steve Peters said that Mr. Dumler put out “a big flashy PR piece” and handed it out at the Glenmore Subdivision. Mr. Peters said that when you look through the pages, they are fraught with errors and totally different than where they find themselves today. He stated that instead of being on the advisory board for places like the jail, Mr. Dumler finds himself in the jail on the weekends. It is important that citizens reflect on whether they want this type of behavior to represent the community. The residents will continue to fight this as long as it goes on until Mr. Dumler does the right thing.

Mr. Peters then asked those who are happy with Mr. Dumler’s behavior and want him to represent them in the Scottsville District to stand up and show their support. He added that Mr. Dumler is representing very few people. Mr. Peters then presented a newspaper of Mr. Dumler on the front page, and said it was not one he would have liked to make.

Ms. Marcia Joseph asked the Board to consider several items prior to taking action on the ZTA regarding industrial uses. She explained that staff has determined that there are 128 industrial parcels with buildings, 11 of which are residents – with 119 remaining and 13 of them or 11% being office buildings. Section 26.3 requires a special use permit for independent offices in LI, and each requirement noted is nebulous enough to make it impossible to justify a request for a special use permit. Section 27.1 states that structures within the LI District are encouraged to be constructed to the standards required for industrial structures regardless of their intended use, and no one has determined what these standards mean in relation to the building cost or use. Section 5.1.5.1(b) indicates that the internal roads in industrial zoned properties must be 100 feet from residential or agricultural districts, and it is not clear how this may create more flexibility. Some office uses require a less visible and costly property than one finds in commercially zoned districts, and these uses can include surveyor’s offices, nonprofits, parole boards, cleaning services, soil scientists, etc. Lastly, limiting uses defies the goal of the Neighborhood Model.

Mr. Blake Hurt addressed the Board, stating that he supports liberalizing the industrial zoning rules to encourage more flexible industrial use. He said that he does not think that elimination of independent offices in industrial zoning promotes that flexibility. He added that such a change would effectively downzone that property. He added that he was particularly galvanized by the proposed changes to his own property whereby the proffers were made for the purpose of obtaining this independent office use – which he has relied on for 10 years in his work to develop the property. He asked that at a minimum the Board grandfather existing industrial zoned property and if possible eliminate the intended restriction.

Mr. Wendell Wood said that he is also speaking about the new LI zoning. He emphasized that the County needs more light industrial property. He said that most of the LI now is located next to residential and is zoned RA with proposed light industrial, which means it is in an area that is now being developed as commercial and residential – and with setbacks about 50% of the land is already lost. Mr. Wood stated that the type of light industrial needed is not available, and it is time for the Board to take some initiative to find some land to be zoned for LI purposes. He suggested that the Board be proactive. He said that the Board is too concerned about the rural areas. He suggested that the land needs to be zoned LI now before it becomes an area that people have moved into, then they oppose the light industrial. He said that some LI land in the County is being taxed at \$150,000 per acre, pre development. He asked the Board to revisit consideration of removing office from the LI zone.

Mr. Joe Draego, a resident of Carrsbrook, said he is before the Board in opposition to the County’s proposed five-year plan. He said that he is puzzled by many of the terms in the plan. One term that confused him is “social justice”. He asked the Planning Commission what they thought it meant but none of them actually knew what it is supposed to mean. He asked if they were going to bind themselves to a contract called the five-year plan when they don’t know what the language in the contract means? He also asked the Board what they feel it means, adding that what he finds particularly baffling is that the same people who are requesting social justice in the plan are going to tax 44% of households in the rural communities at the same tax rate he is taxed for living in the urban ring yet purposefully reduce the services.

Mr. Draego said that there is language in the plan that says “to ensure that every member of the community has adequate clothing, adequate housing, optimal health, affordable transportation and to ensure that every member of the community is able to obtain employment that offers just compensation, fulfillment and opportunities”. He asked where the Board got the power and the money to ensure these things to the people of this County. He said he thought the citizens were supposed to find those things for themselves. They are not supposed to count on the government.

Mr. Jeff Werner thanked Mr. Rooker for his service and honesty on behalf of himself, his family and the Piedmont Environmental Council.

Mr. Werner stated that the County adopted the per-unit proffer policy on October 10, 2007. From the year 2000 until adoption of the proffer policy there were 8,862 dwelling units approved without the policy in place; 682 were approved after the adoption of the per-unit proffer policy. He said that he is not

sure what the argument is about the per-unit proffer policy causing projects not to go forward. He said that he has asked realtors and developers whether housing costs would go down in line with elimination of the proffer policy, and he doubts that seriously.

Ms. Lena Marie said that she does not think there should be a Board member who has been convicted of a non-consensual sex crime and that it is really inappropriate to have an elected official who is currently serving time.

Mr. Rooker commented that nothing should be read into the fact that Board members do not answer questions that are asked by the public, because during that part of the agenda the Board does not engage in give and take because they would be in a never-ending process of taking public comment.

Mr. Rooker said that he missed the recognition of David Cooke's service on the Equalization Board. He said that appointed Mr. Cooke to the Equalization Board numerous times, even after he moved out of the Jack Jouett District, because he was such a good member. Mr. Cooke is one of the more knowledgeable people about real estate values in the community. Mr. Cooke went off the board because 10 years is the maximum allowable service as a matter of statutory law. Mr. Rooker said he wanted to personally thank him for his service.

Agenda Item No. 8. Consent Agenda. **Motion** was offered by Mr. Snow, **seconded** by Mr. Rooker, to approve Item 8.1 (as read) through Item 8.4, to move Item 8.5 to the regular agenda, and to accept Item 8.6 for information. Roll was called and the motion carried by the following recorded vote:

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

Item No. 8.1. Approval of Minutes: December 5, 2012 and January 16, 2013.

Ms. Mallek asked that her portion of the minutes of December 5, 2012, be pulled and carried forward to the next agenda.

Mr. Rooker had read his portion of the minutes of January 16, 2013, pages 1 – 23 (end at Item #9), and found them to be in order with the exception of some typographical errors.

Mr. Thomas had read his portion of the minutes of January 16, 2013, pages 23 (begin Item #9) – end, and found them to be in order.

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

Item No. 8.2. WPO-2012-00066. Ragged Mountain Dam Borrow Area – Request to extend the deadline for installing permanent vegetation.

The executive summary states that County Code § 17-207(B)(2) requires that permanent vegetation be installed on all denuded areas within nine (9) months after the date the land disturbing activity commenced. The deadline for the Rivanna Water and Sewer Authority (RWSA) to install permanent vegetation at the Ragged Mountain Dam borrow area site is June 15, 2013. County Code § 17-207(B)(3) allows the Program Authority to extend the deadline for up to six months and the Board to extend the deadline beyond that period.

This request is for the borrow areas adjacent to the reservoir. It is separate from the dam itself, which began earlier. Below is a timeline for the project:

Permit for the Ragged Mountain Dam
April 19, 2012 - Permit issued
December 5, 2012 - Deadline for permanent stabilization extended to May 1, 2014 by Board. (15 month extension)

Permit for the Borrow Areas
September 5, 2012 - Permit issued
February 19, 2013 – Extension to May 5, 2014 requested by applicant

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

This project is moving forward as anticipated. Due to the project's size, and the amount of fill and borrow areas on-site, neither staff nor the RWSA expected that the borrow area site would be ready for permanent vegetation to be installed by June 15, 2013. RWSA is requesting an extension of this deadline to May 5, 2014.

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

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

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

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

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

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

The owner has measures in place that effectively control erosion and sedimentation from leaving the property. That has not been an issue on the site.

Based on the above analysis, staff concluded that the evidence supports all three findings taking into account the size of the project. County Code § 17-207(B)(3)(b) provides that the Board is to place a time limit on an approved extension and may include reasonable conditions as part of granting the extension. Staff has no recommended conditions, and believes that the proposed deadline extension of eleven (11) additional months is reasonable.

The Water Protection Ordinance requires yearly renewal fees of \$100 per disturbed acre. No changes to funding or staff resources are anticipated as a result of this request.

Staff recommends approval of this request with the following conditions:

1. Permanent stabilization shall be installed by May 5, 2014.

By the above-recorded vote, the Board approved WPO-2012-00066 subject to the following condition:

1. Permanent stabilization shall be installed by May 5, 2014.

Item No. 8.3. SDP-2012-046. Cascadia Preliminary Site Plan, Variations #1-4 from ZMA-2002-004.

The executive summary states that Cascadia was rezoned to Neighborhood Model District, with an associated application plan and Code of Development (COD), in August 2006 (ZMA2002-004). The proposed development will require four variations from the approved Application Plan and Code of Development. These variations are necessary before the final site plan can be approved by staff. The applicant is requesting the following four variations from the approved rezoning plan and code of development:

1. To vary the street layout.
2. To allow public maintenance of various streets.
3. To allow variations to the front and rear yard setbacks.
4. To vary the street sections for Delphi Drive and provide new street sections for the townhouse lots.

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

The variation requests have been reviewed for Zoning and Planning aspects of the regulations. Section 8.5.5.3(a) authorizes the Director of Planning to grant variations from the approved application plat and/ or code of development. However, due to a recent State Supreme Court decision, these variations must now be approved by the Board of Supervisors as a Special Exception under Chapter 18 Section 31.8.

VARIATION #1- To Vary the Street Layout:

The applicant submitted the following (Attachment A): In an effort to meet VDOT minimum street design requirements, we propose the modified street layout, as shown in the attached exhibit. We have eliminated Summit Park Circle in favor of fitting a reverse curve in Delphi Lane and making a T-intersection at Delphi Lane and Glissade Lane near Lot 71. Also, Delphi Lane has been made a through street extending to the Fontana subdivision and a T-intersection with Glissade Lane near Lot 52 has been provided. Short Street has been renamed and Alleys G and I have been removed. Alley H has been named Backwater Alley and it extends from Flat Waters Lane to Delphi Lane. Backwater Alley is one-way. Staff analysis of the variation request is provided below:

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

The revised street layout is consistent with the goals and objectives of the comprehensive plan by providing on-street parking, rear access to lots via alleyways while allowing for

safe access for Fire and Rescue vehicles and meeting VDOT requirements. The design changes were also recommended and/or required by Fire Rescue, VDOT and Engineering.

- 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 while also addressing the concerns of VDOT and Fire and Rescue.

VARIATION #1 RECOMMENDATION:

Staff recommends approval of the variation request #1 with the following conditions:

1. **Provide “Do Not Enter” and “One Way” signage for Backwater Alley.**

VARIATION #2- To Allow Public Maintenance of Various Streets:

The applicant submitted the following: The Code of Development (COD) denotes certain streets to be publicly maintained per Note 1 on Page 21 of the COD. It also allows the developer to request other streets in the development to be publicly maintained as approved by VDOT and the Director of Planning per Note 2 on Page 21 of the COD. Streets requested to be publicly maintained: The 120 linear foot portion of Delphi Lane east of the intersection with Glissade Lane, Oval Park Lane, Flat Waters Lane and Boulder Hill Lane. Staff analysis of the variation request is provided below:

Staff analysis of the variation request is provided below:

- 1) **The variation is consistent with the goals and objectives of the comprehensive plan.**
The variation is consistent with the goals and objectives by allowing for the streets to be publicly maintained instead of privately, which is a County policy.
- 2) **The variation does not increase the approved development density or intensity of development.**
Density is not increased.
- 3) **The variation does not adversely affect the timing and phasing of development of any other development in the zoning district.**
The timing and phasing of the development is unaffected.
- 4) **The variation does not require a special use permit.**
A special use permit is not required.
- 5) **The variation is in general accord with the purpose and intent of the approved rezoning application.**
The variation is in general accord with the approved rezoning application by the review and approval of this request by the Director of Planning and VDOT per the Code of Development.

VARIATION #2 RECOMMENDATION:

Staff recommends approval of the variation request #2 with no conditions.

VARIATION #3- To Allow Variations to the Front and Rear Yard Setbacks:

The applicant submitted the following: Request to vary the required setbacks per the COD for Lots 118-125 to be as follows: front build to range be revised from 5 feet-25 feet to 3 feet-25 feet, and rear setbacks from 10 feet to five (5) feet. Staff analysis of the variation request is provided below:

Staff analysis of the variation request is provided below:

- 1) **The variation is consistent with the goals and objectives of the comprehensive plan.**
The variation is consistent with the goals and objectives by allowing Lots 118-125 to front on an amenity (Summit Park) and have access from the rear of the property. This creates a more pedestrian friendly development and is consistent with the Neighborhood Model principles.
- 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 request is in general accord with the approved rezoning application by allowing the lots to front on a park, maintain rear vehicular access, and provide a development consistent with the Neighborhood Model principles.

VARIATION #3 RECOMMENDATION:

Staff recommends approval of the variation request #3 with the following condition:

1. **Maintain 18 feet from the garage to the edge of pavement from the road.**

VARIATION #4- Vary the Street Sections for Delphi Drive and provide New Street Sections for the Townhouse Lots.

The applicant submitted the following: Request a modification to the Delphi Drive street sections from the intersection with Fontana Drive at Station 10+00 to Station 11+58 and from Station 11+58 to its intersection with Delphi Lane at Station 14+30 to address the unavailability of right of way in that area. Request for the street sections be modified to 29 feet from face of curb to face of curb for Oval Park Lane and Flat Waters Lane. Also, request for Backwater Alley to be 20 feet wide to accommodate Fire and Rescue requirements. Staff analysis of the variation request is provided below:

Staff analysis of the variation request is provided below:

- 6) **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. The design changes were also approved and/or required by VDOT and Fire Rescue.
- 7) **The variation does not increase the approved development density or intensity of development.**
Density is not increased.
- 8) **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.
- 9) **The variation does not require a special use permit.**
A special use permit is not required.
- 10) **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 while also addressing the concerns of Fire Rescue, and the lack of right of way available at the entrance off of Fontana Drive.

VARIATION #4 RECOMMENDATION:

Staff recommends approval of the variation request as described in the narrative provided by the applicant. This does not approve the exhibit for Variation #4 that was provided with the request, as they show pavement sections that provide more detail than necessary, and these details will be worked out for the street sections during the site plan review process in accordance with the requirements of the ordinance.

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 #1, #2, #3, and #4 with the conditions and recommendations listed in this report.

By the above-recorded vote, the Board approved variations #1, #2, #3, and #4 subject to the conditions and recommendations listed in this report:

VARIATION #1 - To Vary the Street Layout subject to the following condition:

1. Provide "Do Not Enter" and "One Way" signage for Backwater Alley.

VARIATION #2- To Allow Public Maintenance of Various Streets.

VARIATION #3 - To Allow Variations to the Front and Rear Yard Setbacks subject to the following condition:

1. Maintain eighteen (18) feet from the garage to the edge of pavement from the road.

VARIATION #4- Vary the Street Sections for Delphi Drive and provide New Street Sections for the Townhouse Lots.

Item No. 8.4. Keswick Estates Utilities, LLC Application for a Certification of Public Convenience and Necessity.

The executive summary states that in 1993, the Board adopted a resolution approving Keswick Utility Company's application to provide central water and sewer services within the Keswick Real Estate Development and acknowledging that both central systems would eventually serve 50 or more customers. In 2010, the Board adopted a resolution approving Keswick Utilities, Inc.'s application for a Certificate of Public Convenience and Necessity to provide water and sewer services to 50 or more customers within the Development with the understanding that the additional customers would not require the expansion of either central system (see September 1, 2010 executive summary and resolution, Attachments A and B). Keswick Utilities, Inc. submitted its application to the Virginia State Corporation Commission (SCC) in 2010 pursuant to Virginia Code § 56-265.3.

In 2011, the owner of Keswick Hall, Keswick Club and Keswick Estates sold the property, and the new owner created a new entity named Keswick Estates Utilities, LLC to provide the water and sewer services before the SCC approved Keswick Utilities, Inc.'s application. Keswick Utilities, Inc. sold its assets to Keswick Estates Utilities, LLC. Before the SCC will further process the pending application, it is requiring that the Board adopt a new resolution approving Keswick Estates Utilities, LLC's application for a Certificate of Public Convenience and Necessity to provide water and sewer services to 50 or more customers.

Roudabush, Gale and Assoc., Inc. submitted a request (Attachment C) on behalf of Keswick Estates Utilities, LLC and the Riverstone Group, the current owner of the Keswick property, requesting that the Board adopt a resolution approving Keswick Estates Utilities, LLC's application for a Certificate of Public Convenience and Necessity to provide water and sewer services to 50 or more customers. The request provides additional background information regarding the utility company. A Resolution approving the Application for a Certificate of Public Convenience and Necessity in the name of Keswick Estates Utilities, LLC is attached (Attachment D) for the Board's consideration.

Staff's opinion is that there have been no substantive changes in circumstance since the Board adopted the resolution approving Keswick Utilities, Inc.'s Certificate of Public Convenience and Necessity on September 1, 2010, except for the change in ownership and the creation of the new entity to provide the services.

No budget impact would result from this action.

Staff recommends that the Board adopt the attached Resolution (Attachment D) To Approve Keswick Estates Utilities, LLC's Application for a Certificate of Public Convenience and Necessity from the SCC to allow more than fifty customer connections to the existing central systems.

By the above-recorded vote, the Board adopted the following Resolution Approving Keswick Utility, Inc.'s Application to Obtain a Certificate of Convenience and Necessity from the SCC to allow more than fifty customer connections to the existing central systems, provided that the additional connections do not create a need to expand the existing central systems:

**RESOLUTION TO APPROVE KESWICK ESTATES UTILITIES, LLC'S APPLICATION
FOR A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY**

WHEREAS, Keswick Utility Company and Keswick Utilities, Inc. provided central water and sewer services to fewer than 50 customers within the Keswick Real Estate Development (hereinafter, the "Development") from 1993 until 2012; and

WHEREAS, the Board adopted a resolution in 1993 approving Keswick Utility Company's application to provide central water and sewer services within the Development and acknowledging that both central systems would eventually serve 50 or more customers; and

WHEREAS, Keswick Utilities, Inc. applied to the Virginia State Corporation Commission (SCC) in 2010 for a Certificate of Public Convenience and Necessity pursuant to Virginia Code § 56-265.3 for approval to provide water and sewer services to 50 or more customers; and

WHEREAS, the Board adopted a resolution in 2010 approving Keswick Utilities, Inc.'s application for a Certificate of Public Convenience and Necessity to provide water and sewer services to 50 or more customers within the Development with the understanding that the additional customers would not require the expansion of either central system; and

WHEREAS, before Keswick Utilities, Inc.'s application was approved by the SCC, Keswick Utilities, Inc. sold its assets to Keswick Estates Utilities, LLC, which was created in early 2012 to provide central water and sewer services within the Development; and

WHEREAS, because authorities for both water and sewer utilities have been created within Albemarle County under Virginia Code § 15.2-5100 et seq., to provide water and sewer utilities, Virginia Code §§ 56-265.3(C) requires that Keswick Estates Utilities, LLC's application for a Certificate of Public Convenience and Necessity to increase the number of customers it serves be approved by the Board of Supervisors before the SCC may hold a public hearing on the application; and

WHEREAS, the SCC is requiring that the Board adopt a new resolution approving Keswick Estates Utilities, LLC's application for a Certificate of Public Convenience and Necessity to provide water and sewer services to 50 or more customers within the Development before it will process the application.

NOW, THEREFORE, BE IT RESOLVED that the Albemarle County Board of Supervisors hereby approves Keswick Estates Utilities, LLC's application for a Certificate of Public Convenience and Necessity to provide water and sewer services to 50 or more customers within the Keswick Real Estate Development.

Item No. 8.5. ~~Lewis and Clark Exploratory Center Funding.~~ **(Moved to Item 19a on regular agenda)**

Item No. 8.6. Board-to-Board, April 2013, *A Monthly Report from the Albemarle County School Board to the Albemarle County Board of Supervisors*, **was received for information.**

Agenda Item No. 9. Calendar Year 2013 Tax Rate Resolution.

Ms. Lori Allshouse, Director of Budget and Performance Management, summarized the following executive summary which was forwarded to Board members:

On March 27, 2013, a public hearing was held on the proposed calendar year 2013 tax rates. The advertised rates were \$0.766/\$100 assessed valuation for real estate, public service, and manufactured homes and at \$4.28/\$100 assessed valuation for personal property, including machinery and tools.

The attached resolution to set the calendar year 2013 (tax year) tax rates must be approved by April 15, 2013. However, adoption of the tax rate at the April 3rd meeting would assist in the timely printing and mailing of the tax bills that are due on or before June 5, 2013.

The attached resolution sets the tax rates for calendar year 2013. The proposed rates are set at \$0.766/\$100 assessed valuation for real estate, public service, and manufactured homes and at \$4.28/\$100 assessed valuation for personal property, including machinery and tools.

Ms. Allshouse said that staff recommends adoption of the attached resolution to set the proposed calendar year 2013 tax rates.

Motion was offered by Mr. Rooker, **seconded** by Ms. Mallek, to adopt the proposed resolution to set calendar year 2013 tax rates.

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

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

**RESOLUTION TO SET
 CALENDAR YEAR 2013 TAX RATES**

BE IT RESOLVED that the Board of Supervisors of Albemarle County, Virginia, does hereby set the County Levy for Calendar Year 2013 for general County purposes at Seventy-Six and Six-Tenths Cents (\$0.766) on every One Hundred Dollars of assessed value of real estate; at Seventy-Six and Six-Tenths Cents (\$0.766) on every One Hundred Dollars of assessed value of manufactured homes; at Seventy-Six and Six-Tenths Cents (\$0.766) on every One Hundred Dollars of assessed value of public service property; at Four Dollars and Twenty-Eight Cents (\$4.28) on every One Hundred Dollars of assessed value of personal property; and at Four Dollars and Twenty-Eight Cents (\$4.28) on every One Hundred Dollars of assessed value of machinery and tools; and

FURTHER orders that the Director of Finance of Albemarle County assess and collect the taxes on all taxable real estate and all taxable personal property.

Agenda Item No. 10. Adoption of the FY 13/14 Operating and Capital Budgets.

Ms. Allshouse summarized the following executive summary which was forwarded to Board members:

On February 22, 2013, the County Executive presented his Recommended FY 13/14 Operating and Capital Budgets to the Board of Supervisors. On February 25, 2013, the Board held a Public Hearing on the Recommended Budget and then held three public work sessions. On March 11, 2013, the Board authorized the advertising of a \$0.766/\$100 real estate tax rate for the 2013 Tax Year. On March 27, 2013, a Public Hearing was held on the Board of Supervisors' Proposed FY 13/14 Operating and Capital Budgets and on the Calendar Year 2013 Tax Rates.

The Board's proposed FY 13/14 Operating and Capital budgets total \$322,450,923. This reflects the County Executive's Recommended Budget, changes made during the Board's work sessions, and changes in revenue projections due to additional information on State and Federal revenue. The budget is based on the proposed \$0.766/\$100 real estate tax rate for the 2013 tax year. The changes made during the work sessions are summarized below:

GENERAL FUND	
REVENUE ADJUSTMENTS	
Tax Rate Adjustment (from \$0.762 to \$0.766)	\$607,525
General Fund fund balance	11,000
Revenue Adjustments Total	\$618,525
EXPENDITURE ADJUSTMENTS	
JABA – Mountainside Operations	\$53,821
Adult Care Facility Reserve	(53,821)
CAT Option A	47,294
Municipal Band	8,000
Historic Preservation	13,000
Reserve for Contingencies	(68,294)
Earlsville EMT Training	11,000
Transfer to School Division	607,525
Expenditure Adjustments Total	\$618,525

SCHOOL FUND	
REVENUE ADJUSTMENTS	
Transfer from the General Fund	\$607,525
School Fund fund balance	616,967
Revenue Adjustments Total	\$1,224,492
EXPENDITURE ADJUSTMENTS	
VRS Group Life Insurance	\$616,967
Other Adjustments	607,525
Expenditure Adjustments Total	\$1,224,492

In addition to the above adjustments, staff has identified a net of \$61,872 in additional projected revenue from the following sources:

- State Compensation Board funding \$44,372
- State funding for Department of Social Services employee raises 31,500
- State reimbursement for Bright Stars Program 21,000
- Reduction in Federal Housing funding due to sequestration (35,000)

Total Additional Revenue \$61,872

Staff recommends that this additional funding be used to restore funding in the County's Reserve for Contingencies which was included in the Recommended Budget at \$250,000. This adjustment would restore this contingency to \$243,578.

The attached resolution formally approves the FY 13/14 Budget. As a reminder at a later date, staff will request the Board amend the FY 13/14 Budget to include the CIP Multi-Year projects.

Staff recommends adoption of the attached FY 13/14 Budget Resolution approving the FY 13/14 Operating and Capital Budgets as recommended by the County Executive and amended by the Board of Supervisors.

Ms. Mallek mentioned that the budget includes a new position in Fire and Rescue for a liaison between the volunteers, and asked that a further description of that position come back to the Board for discussion. Mr. Foley said staff can provide that.

Mr. Rooker then **moved** to adopt the resolution approving the FY13-14 operating and capital budgets as recommended by the County Executive and amended by the Board. Ms. Mallek **seconded** the motion.

Mr. Boyd asked what category apartment rentals fall when the staff calculates the average increase in appraised values – in commercial or residential. Ms. Allshouse responded that apartment rentals are considered multi-family units.

Mr. Foley said that staff needs to check with the Assessor and get back to Board members with that information, to determine what class those fall under.

Mr. Boyd said his assumption that by raising the rate and approving this budget, the Board will be increasing taxes on renters. His understanding is that commercial valuations increased some, but residential did not, and that is the rationale behind some of his concern regarding the increased tax rate.

Mr. Rooker said that the net effect of the .4% increase on the average homeowner is \$10 a year and still left them paying less taxes than the previous year. It is a blended rate and it always is. The impact is always blended because there are always some properties that increase in value, and some that decrease – but on the whole there was a decrease in values on real estate properties in the County.

Mr. Boyd commented that the tax revenues will go up because the economy is growing, which is the way it should be.

Mr. Rooker pointed out that there were comments at the last meeting that school enrollment had not increased and he is not sure where that information came from. He presented information on the last 23 years of enrollment data and noted that from 1990 to 2013 there was an increase of 3,344 students in the system. He said that reference to “loss” in enrollment does not reflect a total loss; it is simply a loss between what happened on September 30 and the date the State counts enrollment. Mr. Rooker said that enrollment has increased about 120 students per year on average for a total of 3,344 students.

Mr. Boyd said that the numbers he quoted reflected a 4% increase in student population over a nine-year period versus a 38%+ increase in spending. He added that enrollment is not driving the additional cost of education.

Mr. Rooker responded that per-pupil expenditures have not increased in six years, which is the best number to look at because it takes enrollment into consideration.

Mr. Snow emphasized that the four things driving the School budget additions are technology, rising enrollment, school lunches, and mandates.

Ms. Mallek responded that the “wildly successful programs” such as MESA and the health academy have also cost, but they all have waiting lists and are very worthy.

Mr. Rooker then offered **motion** again to adopt the budget resolution as presented. Mr. Snow **seconded** the motion.

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

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

NAYS: Mr. Thomas and Mr. Boyd.

FY 2013/2014 BUDGET RESOLUTION

BE IT RESOLVED by the Board of Supervisors of Albemarle County, Virginia:

- 1) That the budget for the County for the Fiscal Year beginning July 1, 2013 is made up of the County Executive’s Recommended Budget document and the amendments made by the Board of Supervisors, including the revised Financial Management Policies.
- 2) That the budget for the County for the Fiscal Year beginning July 1, 2013 is summarized as follows:

	FY 13/14 Adopted
Administration	\$11,056,304
Judicial	4,197,135
Public Safety	34,709,613
General Services	3,820,244
Human Development (including PVCC)	15,505,964
Parks, Recreation, and Culture	6,391,303
Community Development	6,299,971
Other General Government	2,332,390
General Government Special Revenue Funds	16,439,695
General Government Capital Projects	8,624,719
General Government Debt Service	4,094,923
Stormwater Improvements	391,445
Education - School Operations and Self-Sustaining Funds	168,228,920
Education - Capital Projects	10,722,904
Education - Debt Service	12,704,060
City/County Revenue Sharing	16,931,333
TOTAL	\$322,450,923

- 3) That the budget for the County for the Fiscal Year beginning July 1, 2013 as described in 1) and 2) above is approved.

(Note: The next two agenda items were heard concurrently:)

Agenda Item No. 11. ZTA-2010-00004. Industrial Uses (deferred from March 13, 2013).

Agenda Item No. 12. ZTA-2012-00013. Industrial Uses in Commercial Districts (deferred from March 13, 2013).

Ms. Lee Catlin, Assistant to the County Executive for Community and Business Partnerships, reported that the Board's last discussion on industrial uses ZTA was very detailed at the end of a long day, with a fire drill, and just about every distraction imaginable. She said that with that in mind, she thought it might be helpful in framing the Board's discussion by starting off with a high level reintroduction and then focus on the issues that generated most discussion at public hearing and among the Board. She presented the objective of the amendments which has been discussed many times. The major impetus for this work is the need to protect land available for industrial uses from competing uses and to reduce the future challenge to successfully locating desirable industrial projects that results if competition/conversion continues.

On February 3, 2010, the Board participated in a work session on an Industrial Land Report presented by staff that provided significant detail about the topic of conversation, illustrating for example, since 2005 rezoning of LI designated land in Hollymead Town Center, Albemarle Place, NGIC, Willow Glen and Avon 5th (187 acres) to retail, commercial, office, mixed use and affordable housing – not bad projects, but does exemplify the type of conversion that has impacted the County's available inventory. At that time the Board directed staff to follow up on report's recommendations, specifically "maintain, protect, and allow easier use of existing industrial zoned property, including assuring industrial land is given more flexibility for industrial uses (e.g. increase "by-right" opportunities, increase uses by special permit), assuring industrial designated land is not rezoned to other uses without careful consideration of how that impacts the County, and consider assuring that at least some industrially zoned lands are limited to industrial uses." This translated into strategies that showed up in the Board's Economic Vitality Action Plan.

Ms. Catlin said that Mr. Wood is correct that there has been talk about expanding options that are available – which is moving ahead in the Comp Plan process and in other discussions. The focus today is promoting flexibility and protecting what is already the zoned' portion of the direction that the Board gave staff.

Ms. Catlin stated that the provisions for modernizing uses and providing greater flexibility seem to be generally agreeable to the Board. The topic that seemed to generate the most discussion was office uses – and particularly independent office uses. She presented a chart on the proposed provisions compared to what is currently allowed, noting that industrial office uses remain by-right and are unchanged in this proposal with the change recommended for new buildings and building expansions for the independent office category. Ms. Catlin said that there was also a lot of discussion about "industrial categories" versus "independent use," and she presented the definitions they had discussed. She stated that the last time they talked about industrial offices they acknowledged that there was a need to tighten up the language and presented language that clarifies the intent, noting that these are offices that are "owned and operated by the same business entity" that are engaged in one of the industrial uses listed here where the offices provide services to the industrial use but need not be on the same site as that use. Ms. Catlin said that for purposes of this definition, offices that are owned and operated by the same business entity do not mean offices that are part of the entity that have nothing to do with the industrial use.

She emphasized that independent offices do not fall into that definition as described. Examples under this proposal of "industrial offices" would include defense contractors such as Sperry Marine, where they may have an office use that supports that industrial use that does not fit on the property or would be more advantageous to them somewhere else. They would be considered an industrial office that could be by-right in this LI zoning. Ms. Catlin said that other examples include Blue Ridge as a data center, Crutchfield as a data processing center, General Electric as a manufacturer – and if they were to need another type of supporting office use directly affiliated with that industrial use, would be the kind of thing covered under the proposed definition. She stated that the independent office examples are not viewed as having a connection to the industrial uses. She added that this language she just went over is changed language.

Ms. Mallek commented that this clarifies the separate site for an office location that had been a previous concern.

Ms. Catlin stated that it's important to step back and look at the provisions for offices within the larger context of how office uses are accommodated in the County. She presented information that provides all the districts in which independent offices are permitted by right or by special use permit. She said that in addition to what they have discussed for LI, there are quite a few opportunities in different districts for office uses as proposed.

Ms. Catlin commented that staff is very aware of the balancing act required here, and the fact that there are somewhat competing priorities, as there are in all zoning situations. Staff has tried to address that issue by providing a reasonable number of allowances for independent offices in the industrial districts – grandfathered and PDIP zones, as well as existing structures in LI and HI at the date of the ordinance adoption. Vested LI and HI properties at the date of ordinance adoption also have an allowance in what's proposed. She said that staff felt it would be hard to go any further with allowances and still support the direction the Board had given staff. The Board did discuss an exception for LI and HI with use-proffered rezonings that do not restrict office use – which is about 78 acres – and staff felt that was a reasonable addition.

Mr. Rooker said that it seems that fairness would dictate that they should continue to have that use in those circumstances.

Ms. Catlin concluded by reiterating that the proposal before the Board does not prohibit independent offices in LI districts, but it does give the Board discretion through the special use permit process to be very intentional and strategic about projects that fall outside of these allowances on a case-by-case basis to make sure that the particular project is worth the conversion or the loss of what they know to be limited LI land. For independent offices associated with target industries, she said, there was discussion last time about the potential of a big Met Life type office. Staff has business and financial services as a target industry, and the Board has adopted an expedited process for those kinds of projects, so if a target industry type of office would come in they would be able to go through an expedited process if that was required.

Mr. Thomas asked if the grandfathering would include Mr. Hurt's property. Mr. Rooker said that the language presented would include that property.

Mr. Davis stated that the handout distributed to the Board (Paragraph B2) would grandfather proffered rezonings that had proffered out uses, which is the situation Mr. Hurt has.

Mr. Cilimberg said that the intention was those rezonings with proffers that establish the allowance of the use of office or did not restrict or remove office as a use, and Mr. Hurt's property that he spoke to is one of those.

Ms. Catlin stated that DIA and NGIC are defense companies that fall within target industries, so offices that support activity there would be by-right in LI by the connection to the target industry.

Referring to the presentation, Mr. Boyd said that he is trying to determine why the type of offices on the left hand side are more important to the County than the type of offices on the right hand side. All of them generate jobs – some of them well-paying and good jobs. His real concern is establishing jobs. He stated that the whole idea of the ordinance is so they are welcome to create jobs in this community, and he does not understand why the people on the right would be left out.

Mr. Rooker asked if he wanted lawyers eating up industrial property.

Ms. Mallek commented that they are going to buy it because it is less expensive and hog it for themselves.

Mr. Rooker stated that the County has millions of square feet of commercial property zoned, some of it built and some of it unbuilt. There is not a lack of places for the people on the right to locate into. He said that part of the whole purpose of going into this is to provide some flexibility for target industries and things that have been traditionally categorized as light industrial but could fit into commercially zoned property to have flexibility to go in there – so the very thing Mr. Boyd is talking about is being done. Mr. Rooker said that secondarily, the goal is to try to preserve space for industrial use or at least office use that is more related to industrial use. He noted that the problem is that industrial property has been rezoned or people just build office on it because it is a higher valued use. Part of what the staff is talking about doing is a countywide zoning of property that is designated industrial or light industrial in the Comp Plan to save the cost of people having to go through rezonings. Mr. Rooker said that if the Board is

actually going to preserve some of the industrial properties for industrial uses, it can't all bleed over into doctors' offices and lawyers offices.

Mr. Boyd responded that his concern was that it was bleeding into retail and residential – not into the other categories that are business opportunities. It does not bother him that there would be doctors or accountants or engineers or anybody. He wanted to eliminate converting it to retail, which is what the County has been doing. He added that he does not think this is accomplishing that. He added that he didn't really intend to have this do away with certain types of job creation facilities that the Board could put in LI, and that is his objection to it.

Ms. Mallek disagreed that they are doing away with these opportunities, as the chart of all the zones where office was available showed that it was by-right in a monstrous percentage of them, 80% or so with only three requiring special permits.

Mr. Boyd asked why the staff does not sit down and talk to the people that own the land and ask them what they would like to see and see if that fits into the County's plan.

Ms. Mallek responded that there were many roundtables in this three-year process.

Mr. Rooker stated that many people spoke on this issue, and at least one was accommodated because of the fairness issue. The only thing standing between somebody taking an industrial property and just building an office on it is a special use permit in this ordinance, and that at least allows the County some control.

Mr. Boyd responded that they did not use to have to do that; this is creating that situation.

Ms. Mallek said that the goal again is to try to protect the current LI for its uses and the benefits of the 63 expanded uses that are the result of this work.

Mr. Boyd stated that he is not suggesting that; he just wants to leave the commercial buildings alone.

Ms. Mallek stated that it is not that simple to just drop in one use when the whole basis is to have it out. Staff has said it will require a whole redo of this effort.

Mr. Boyd said that he understood Mr. Davis to say that if it was just left the way it is, it is not a major change.

Mr. Davis stated that if the Board leaves office uses as by right in this amendment, staff would have to go back through and make changes in several sections in order for the ordinance to be coherent. He said that it would not require any additional public hearings, just a rewrite of the ordinance for the Board's consideration.

Mr. Boyd commented that he cannot support the ordinance without doing that.

Ms. Mallek said that it is really sad for the Board to turn its backs on three years of work and wait to the very last minute to say "oh no, we are going to change everything that we started on, the whole basis of it." She added that she is very frustrated by that.

Mr. Rooker stated that one of the primary reasons for this was to try to get some control of the bleeding off of industrial property to other uses. That is the only place in the ordinance where it is minimally being done, and it only affects certain kinds of offices – not NGIC or Sperry, etc. If you are going to build an office building on an industrial piece of property, you would need to get a special use permit.

Mr. Boyd asked who made the decision to put some in and some out on the list. He said that he did not make that decision.

Mr. Rooker explained that there's a difference between industrial offices and things that are generally associated with the operation of an industry as opposed to lawyers offices, bankers offices, etc. Mr. Rooker said his office is in an office park. He said he does not think it's the kind of thing the Board should allow to be done on industrially zoned property. There is plenty of property that is properly zoned for that kind of use. If the Board does that, it is going to allow the rest of the County's industrial property to bleed into other uses.

Mr. Boyd said that it does not bother him to have more jobs on the right than on the left.

Mr. Rooker stated that there's a bunch of office space available for those professions. He also said that Mr. Boyd "kind of flipped over" because he started out by talking about how more light industrial property is needed. At the last meeting he said there was not any demand for it and that is why these people want to build offices. He added that it is one or the other. If they have no problem with it, he suggests leaving everything the way it is and forget about this ordinance and go on.

Ms. Mallek added that that will throw away all the flexibility that's been written into this.

Mr. Boyd said that he never objected to all of the ordinance. He opposes choosing certain types of office space and saying you cannot build there by right. He said that taking something away from the

constituents, something they had before that they have now. He said that he is in favor of taking away the retail and residential.

Mr. Rooker noted that retail was not taken out – it was never in. He said that this is an ordinance with lots of changes and modernization that allow for more flexible uses in commercial and industrial. The only thing it requires is a special use permit for certain kinds of traditional office to use industrial property. That does not seem to him to be a huge thing.

Mr. Boyd said that he doesn't think it's the Board's job as government to say you can build something like an internet works office space here but not a corporate headquarters.

Mr. Snow stated that he appreciates what is being done with the ordinance, and they need to define what LI is and preserve the opportunity to maintain cheaper property in order to bring certain types of businesses in. He also said that he is sensitive to the fact that people may have investment in current LI property that they have planned uses for, and if the Board changes the rules in the middle of the game it will affect them dramatically. Mr. Snow said that he feels strongly that the Board should exempt those who own property presently so that they are able to move forward with the options on both sides until they sell it or develop it.

Mr. Rooker said that the zoning goes with the property. Mr. Snow responded that it can be grandfathered.

Ms. Mallek said that there are already categories on the grandfathered list, and anyone who has made an effort to do something verifiable is already covered. She said that she doesn't understand why certain people would be held so special that sometime in 20 years when they have a dream they want to do something that the Board should change the rules for them.

Mr. Snow stated that people buy property for certain reasons, and he is not for pulling the rug out from under them.

Ms. Mallek asked Mr. Davis to weigh in on the legal aspects of this.

Mr. Davis explained that the zoning goes with the land – not with a property owner. The Board cannot distinguish a zoning classification by ownership. He said that if the Board is referring to anyone owning LI property today – even vacant property where there has been no significant approval – the position Mr. Snow is taking would be to leave on all existing LI property independent offices as a by-right use. Mr. Davis stated that whether or not the Board could restrict future LI property that's zoned LI to a different standard would be complicated, and staff would need to look at that issue. He said that one strategy suggested by staff early on was to create a new LI district that would have more limited uses in it for future consideration of people who wanted to rezone to properties without offices. It might be a possibility for them to establish a second LI district to accommodate those rezonings – or perhaps establish some category of uses that were only allowed on property zoned prior to a certain date.

Mr. Davis said staff would need to look at that issue a little bit further before he could recommend that.

Mr. Cilimberg said that the second of the options would mean that any in the future rezoning would be subject to those new provisions, and any property currently zoned would be subject to those provisions absent the office restriction. He stated that staff would need to talk about this. Creating a new district would mean that anyone could apply for either the old district or the new district in seeking a rezoning. This would not be removing the old district's allowances. There might then be a case where someone comes in asking for the old district because it gives them more office opportunities. Mr. Cilimberg noted that he is supposed to approach landowners about being part of a County-initiated zoning, and if he presents the new district they may not have any incentive to go into the new district if they know the old district is still there.

Ms. Mallek said that is a perfect example of why trying to bring everything from both columns and put it into one ordinance is a disaster, so the Board needs to either do this the way it is written or vote it down. She does not think they can just undermine everything that has been organized here in order to try to do something for everybody.

Mr. Snow said that a lot of good things have been done.

Ms. Mallek agreed, stating that that's why she is desperately sad that the plan is under attack for these reasons. She explained that the people who have had LI property forever have been assessed at LI value, and it is not as if they have been paying commercial rates all these years. That is a fairness issue that she would object to, but the Board is not doing that to people. These people basically want to take the opposite view of wanting to hold this light industrial land for less investment and less interest and be able to do the top dollar return whenever they choose to regardless of whether it suits the best needs of the County.

Mr. Boyd asked why Board members think it's their job to tell them what they can and cannot do with their property. He asked if they do not believe in personal property rights.

Mr. Rooker said the difference is that Mr. Boyd has never believed in zoning, and he understands that.

Mr. Boyd responded that that is not true.

Mr. Rooker said that when you talk about left side/right side, that's what zoning is about. There are permitted uses in every zoning area. He added that when you keep coming back and saying "who are we to tell people what they can do on their property", basically, that is zoning. That is community planning, and people do buy their property; they actually pay more for commercial property knowing that every piece of farmland cannot be used for commercial property.

Mr. Boyd said people buy property for certain reasons and the Board cannot just come in and pull the rug out from under them.

Mr. Rooker said the County requires a special use permit to build a private school with 25 students. He asked what the big deal about having doctors' offices that might want to go in and buy industrial land, to get a special use permit in order to accomplish that. Mr. Rooker said it allows some public view of what is going on, and whether or not it is a good idea or bad idea to allow that particular piece of property to be moved from industrial to some other use.

Mr. Boyd stated that what he objects to is "picking winners and losers," as they are choosing some types of businesses that will be able to proceed without a special use permit and some that won't.

Mr. Rooker said those are industrial uses. Mr. Rooker asked if he wanted to remove all the uses and have them be by special use permit.

Mr. Boyd said he wants to leave them the way they are now.

Ms. Mallek said that they need to vote this down to make that happen.

Mr. Snow asked what Mr. Cilimberg meant by contacting landowners for additional LI. Mr. Cilimberg responded that the Board had asked staff to approach landowners designated in the Comp Plan and not zoned to see if they would want to be part of a countywide rezoning to light industrial. There are a number of acres that are designated and not zoned. Staff decided to not do that until this amendment was done because staff wanted them to understand what they were zoning into. Mr. Cilimberg emphasized that this is something he will be doing based on the designations and the ordinance the Board adopts so the landowners understand what they may be part of.

Mr. Foley said that's one of the strategies to get more light industrial land available.

Mr. Boyd said that makes more sense to him because it would allow for additional LI property.

Mr. Rooker said it would not work under the scenario that Mr. Boyd is proposing, because it would simply create more light industrial land that would be bled off into office.

Mr. Boyd stated that light industrial is job creation to him, not retail.

Mr. Rooker asked if a doctor's office or lawyer's office is light industrial.

Mr. Boyd asked why it is not.

Mr. Snow asked what the problem would be with grandfathering those who are in LI currently and move forward to something more restrictive in the future. Mr. Davis replied that there is a legal principle that similarly zoned property must be uniformly treated. Staff would need to look at whether or not a designation based on a point in time of a date of a rezoning would violate that uniformity principle. There is case law on that point, but it is something that staff has not considered at this point and would want to go back and look at that issue to see whether it would withstand legal challenge. Mr. Davis said that the problem is that if it did not hold up to that, anyone who was restricted would basically challenge the ordinance's legality.

Ms. Amelia McCulley, Zoning Administrator, noted that it also becomes difficult if you have property with the old zoning, which is grandfathered, and property with new zoning – and they have a mix of allowed uses within the same parcel. It is very difficult for a property owner to know what they can do with their land.

Ms. Catlin said that she also wanted to discuss manufacturing facilities. Part of this is about protecting the opportunity for those jobs – the kinds of things they have all agreed are very attractive. They have one place to go, and that is what the intention of this was. It was certainly not about picking winners and losers and elevating one kind of job over the other, because there is a lot of value in all those jobs. The question is where there is availability and possibility for those kinds of jobs. Ms. Catlin said that the jobs in the right-hand column have many opportunities already, but the manufacturing and assembly jobs – the whole list staff has been focusing on – really have only one place, and that is LI. As that land gets converted and degraded, those jobs do not have anywhere to go.

Ms. Mallek said that was the whole basis for starting this project to begin with two and a half years ago. She emphasized that the County does not have the large acreage for a plant to come in because so much of it has been siphoned off for smaller offices that have so many other places to go already. There are lots of empty office buildings all over the place.

Mr. Snow asked if there was a date by which a landowner would have to get their project in the works. He asked if they could give the landowner a year to put some plans in place.

Mr. Foley said he is referring to them becoming vested.

Mr. Cilimberg said that would essentially be an effective date that gives owners a chance to decide what they want to do with their property under current zoning.

Mr. Snow stated that that's what he means, as he is still mindful of those landowners now who have plans for the future. He personally supports the proposed ordinance.

Mr. Boyd asked how that would work if it was by-right. Mr. Rooker responded that Mr. Snow is referring to a vesting provision and whether the Board exempted anyone who has taken enough steps with respect to their property to be vested as of the date of the ordinance.

Mr. Boyd asked what process would need to be undertaken in order to have an office building put on it. Mr. Davis explained that one way to look at it would be to continue by-right independent offices until a date certain in the future, and prior to the date that the ordinance provision becomes effective the landowner will have to have established vested rights.

Mr. Rooker noted that this is still only applying to the process without a special use permit.

Mr. Snow then **moved** to approve the ordinance amendment as presented, with the effective date being December 31, 2013.

Mr. Davis suggested that if there is Board consensus, staff should go back and draft a provision that would work and make sure it is coherent within the ordinance and then bring it back to the Board later today for consideration.

Mr. Boyd asked Mr. Davis to explain vested rights.

Mr. Davis said that vested rights are a legal determination with criteria established both by statute and case law. The essence of it is that there must be significant governmental approval, a significant expenditure towards that approval, and due diligence in proceeding with the project to move it forward. Mr. Davis said that if someone has a special use permit or site plan approval that they have acted upon by investing money in plans and have not sat on it for an unreasonable amount of time, then even after the ordinance is passed they could continue to do that project because it has vested rights. He added that that's a determination made by the Zoning Administrator in consultation with the County Attorney, as a statutory requirement, based on the facts of that particular land situation. It is not something that is black and white, but the criteria are well-established.

Ms. Mallek suggested the adoption date of the ordinance be July 1, 2013.

Mr. Snow said that does not give people enough time, and the Board should at least go to December 31, 2013.

Mr. Boyd asked if enacting this would devalue any of this property and take some of the \$150,000 property and put it back down to \$30,000 property.

Mr. Davis responded that that would depend on the market. The fair market value of property is what is reflected in the assessed value. The assessed value will depend on real sales of that property or the value of the property generated by the profits that the property makes. There are different ways to evaluate commercial property. It is hard to know what any change would cause to happen with the value of property, but traditionally these types of ordinance amendments that allow more flexibility, in the past, have not shown any decrease in fair market value of these types of properties. He added that staff does not think it will impact the value, but only time will tell.

Mr. Rooker concurred that it is difficult to say if, overall, this would have any impact on the assessed value of property throughout the County.

Mr. Boyd asked if this issue arose from the development and real estate communities during the roundtables.

Ms. Mallek said that she does not recall the issue being raised from the meetings she attended. Most of the focus was on increasing the flexibility so that people could expand and contract their various businesses as needed – and the 63 use changes that were included were very tuned into the concerns that the evolving businesses had.

Mr. Rooker said that virtually all of the 63 changes provide for more expanded uses.

Mr. Davis pointed out that there are two different options – delaying the effective date of the entire ordinance until a future date, which is fairly easy; or delaying the effective date for how independent offices are treated within the existing ordinance, which would mean the Board would have to adopt the ordinance with a provision that has a different effective date for that particular use.

Mr. Cilimberg noted that they already have language making the effective date for vesting today, so this would involve a change of date of effectiveness for vested properties.

Mr. Davis said that staff would want to review the entire ordinance again to make sure it was not doing anything unintentional.

Mr. Cilimberg stated that there are a lot of really good changes here, and if they could take effect immediately it could broaden potential – and it also carries over to the amendments for allowing industrial in the commercial districts.

Ms. McCulley mentioned that a lot of people have been waiting for that provision, as well as the special use permit under the new industrial regulations – and asked the Board to consider not delaying the effective date for the entire ordinance.

Mr. Rooker said that he has no doubt that the ordinance as a whole increases property values overall, as it allows for greater flexibility – with 61 of the 63 changes providing more flexibility.

Mr. Boyd said he is okay with all of that; his concern is what they are taking away.

Mr. Foley stated that staff needs some clear direction here, noting that Mr. Snow had suggested a different effective date for the office use.

Mr. Snow clarified that he would like to go ahead with the rest of the ordinance because the work that has been done is great, but he is concerned about those other people. He asked if staff could come back with a report on that.

Mr. Davis explained that this ordinance cannot be bifurcated. There are three decisions that require Board consensus in order to give direction to staff to finalize the ordinance: clarification of the definition of industrial offices; the grandfathering of uses in proffered industrial districts; and an effective date for when the restrictions on independent offices would take place.

Mr. Cilimberg clarified that is the vesting language.

Mr. Rooker said he could support what Mr. Snow had proposed, and could support December 31, 2013 as a cutoff date.

Mr. Snow said that he would like it to be July 1, 2014.

Mr. Cilimberg stated that the Board needs to consider the actual staff time necessary to get through a process to reach vesting, and asked Mr. Graham to address that.

Mr. Mark Graham, Director of Community Development, said that July 2013 and the end of calendar year would be very tight for some people. He stated that if the Board is truly interested in giving people an opportunity to vest an office use option, the one year is an appropriate window as it gives them time to research and make sure they have a plan. They cannot come back in and substitute a totally different site plan. Once they get into that site plan, they are locked in as far as what they're vested in. He stated that property owners need time to think about those decisions, and one year would provide that.

Mr. Snow said it gives them time to consider what they want to do and then act on it.

Mr. Boyd said he still cannot support it because people buy things with long-term ideas of what they are going to do with property – not necessarily a year – and the Board is forcing them into a year for a decision like that. He added that he still does not see the harm in letting all of the uses remain in.

Mr. Rooker stated that the worst case would be having to get a special use permit, and Mr. Boyd is acting like the uses are being prohibited. He asked Mr. Boyd how he intends to protect existing industrial property now and in the future.

Mr. Boyd responded that they have to rezone for retail and residential, and he cannot say that the jobs on the left are better than the ones on the right – because they both create jobs.

Mr. Rooker said you could go to every section of the Zoning Ordinance and say “we should allow all uses there because one of them might create a job.”

Mr. Boyd said that he does not see the difference between a data processing center and Liberty Mutual headquarters.

Mr. Rooker replied that if Liberty Mutual wanted to build a corporate headquarters in a particular spot, they probably would not have much difficulty getting a special use permit and it would probably not be a major part of their decision.

Ms. Mallek then **moved** that the ordinance amendment be approved effective April 3, 2013 with the vesting changes to be completed by April 3, 2014.

Mr. Davis suggested that if there are four votes to support this, staff should go back and look at the ordinance to ensure that the simple change actually works and then bring it back to the Board for vote at the end of this meeting.

Mr. Thomas asked for clarification of Ms. Mallek's motion.

Mr. Davis explained that the motion is for the ordinance before the board today to be adopted effective immediately, but the vesting provision for independent offices would be extended for one year so that any independent office use meeting that criteria would be a by-right use going forward. Any independent office use that did not vest by April 3, 2014 would have to meet the requirements of the ordinance unless it was otherwise grandfathered within the ordinance.

Mr. Foley added that it still allows it to be approved, but only with a special use permit.

Mr. Rooker said he would support that action.

Mr. Snow reiterated that he had said July 2014; he does not think it is enough time.

Mr. Thomas said that July 2014 would give landowners more time, but he could also support April.

Mr. Snow said that he does not expect a big rush of people, so what's another three months based on moving forward with the whole plan as outlined.

Mr. Rooker stated that he was not prepared to support moving it that far ahead, adding that he was willing to go for a year because staff has indicated that's a reasonable period of time.

Mr. Foley said that he would like to have a motion before staff spends a lot of time on this.

Mr. Davis suggested that the motion be for the Board to direct staff to revise the ordinance to include the agreed-upon vesting date. The date is what you need to have consensus on.

Mr. Foley noted that staff has said they need at least a year for the vesting date.

Mr. Snow asked if the April date would give people enough time. Mr. Graham responded that he thinks it could actually be done by the end of the calendar year, but there is always a chance that something could hold them up which is why he said one full year, and going beyond that is just an additional comfort zone.

Mr. Rooker then **moved** that the Board direct staff to move forward with revising the ordinance with the changes as presented today, with the change of a vesting date to April 3, 2014. Ms. Mallek **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

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

NAYS: Mr. Boyd.

Mr. Davis said that staff could bring the ordinance back before the end of the meeting today. He added that the other ordinance dealing with commercial designated zones needs to be adopted sequentially.

Ms. Mallek said that the second ordinance was okay as presented.

Agenda Item No. 13. Overview of Virginia Tourism Development Financing Program.

The following executive summary was received by Board members:

Albemarle County's Economic Vitality Action Plan emphasizes the importance of supporting tourism initiatives as a primary focus of Goal 5 of the Plan, recognizing the critical role that tourism plays in the local economy. In recent years the County has significantly strengthened its approach to encouraging partnerships and leveraging outside resources to help meet needs in the locality. Towards this end, the Board's FY13 – 17 Strategic Plan includes an objective to assess and implement appropriate incentive options to support economic development in the County.

The State has established a financing program (the Virginia Tourism Development Financing Program, hereinafter, the "Program") for qualified Virginia tourism development projects. The Program enables localities to provide economic and regulatory incentives for tourism development projects which are identified as critical to local economic development and are developed in partnership with developers, localities, financial institutions, the Virginia Tourism Corporation and the Virginia Resources Authority. The economic incentives under the Program allow approved tourism projects to receive a portion of the State and Local tax revenue generated from the project site combined with a matching contribution from the developer to provide gap financing for up to 20% of the project's total cost.

Because of the Board's interest in considering economic incentive options as stated in its Strategic Plan, and because of the potential of the Program to bring additional resources into the community to support tourism initiatives that meet identified needs, staff wanted to bring this opportunity to the Board's attention for information and further consideration.

Virginia Code § 58.1-3851 enables localities to establish, by ordinance, one or more tourism zones (Attachment A). The Program can only be used for projects located in designated tourism zones, which can be established by any city, town or county. Under Virginia Code §§ 58.1-3851 and 58.1-3851.1, projects in tourism zones are eligible for economic and regulatory incentives, such as reductions in fees and pledges of gross receipt taxes, for up to 20 years. The locality determines which incentives authorized by Virginia Code §§ 58.1-3851 and 58.1-3851.1 will be available to a project. A tourism zone can be

established solely for the purpose of providing regulatory incentives or solely for the purpose of providing access to the Virginia Tourism Development Financing Program if desired.

The Program is unique in that it may pledge portions of the State and Local sales tax to tourism projects remitted through the Economic Development Authority (EDA). In order for a project to be eligible for this sales tax incentive program, a locality must, by ordinance:

- Establish a tourism zone;
- Adopt a tourism development plan; and
- Authorize a proposed project to qualify for gap financing.

The project developer must also enter into a performance agreement with the EDA. A developer must demonstrate that at least 80% of a project's funding is secured from equity and debt financing. Pursuant to Virginia Code § 58.1-3851.1 (Attachment A), once a project is certified by the State Comptroller, the State may pledge 1% of its State sales and use tax generated by the project if the local government also pledges 1% of its local sales taxes generated by the project. The project developer also is required to pay a program access fee to match the amount of the State's 1% tax payment to the project. The pledged tax revenue and the program access fees are used to pay the principal and interest on the financing secured to close the funding gap.

A more detailed description of the program is included in Attachment B.

Representatives from the Virginia Tourism Corporation will be in attendance on April 3 to explain the program and to answer questions from the Board.

There is no immediate budget impact related to this item.

Staff recommends that the Board direct staff to continue exploring the Tourism Development Financing Program, and to provide more detailed information regarding the establishment of a Tourism Zone and the adoption of a tourism development plan for the Board's consideration and action at a future Board meeting.

Ms. Catlin reported that the County's Economic Vitality Action Plan emphasizes the importance of supporting tourism initiatives as a primary focus of goal five of the plan, and they all recognize the critical role that tourism plays in the local economy. In addition, she said, in recent years the County has strengthened their approach to encouraging partnerships and leveraging outside resources to help meet needs in the locality. To achieve this, Ms. Catlin stated, the Board's Strategic Plan for FY13-17 includes an objective to assess and implement appropriate incentive options to support economic development in the County. She said that the State has established a new financing program for qualified Virginia tourism development projects, and staff wanted to bring this opportunity before the Board's attention for information and further consideration. Ms. Catlin emphasized that staff is not looking for an answer right away, but would have a recommendation at the end of the slide presentation. She introduced Mr. Wirt Confroy, Director of Partnership Marketing Outreach at the Virginia Tourism Corporation and Mr. Shawn Crumlish, Director of Debt Management for the Virginia Resources Authority.

Mr. Wirt Confroy reported that the legislation for the Tourism Development Finance Program was born in 2010, following the Governor's Economic Development and Jobs Creation Commission. He said that there was a subcommittee that reviewed tourism in Virginia and after talking with many businesses, developers and communities decided that there was a general consensus that many businesses and projects that were under development were going to have to stop because they only had about 80% of their financing. Mr. Confroy explained that the State came up with legislation – introduced by Senator Tommy Normant and Delegate Matthew James – that enabled this financing program to help the development to continue in an effort to stimulate the State's tourism economy and development.

Mr. Confroy stated that Virginia follows the international and domestic definition of tourism, which is dining, outdoor experiences, events, retail and lodging. This legislation is broad and flexible, in that any of the businesses or developments in those areas are actually under consideration for this gap financing program, he said. Mr. Confroy stated that the program is locally driven so that localities can get together and decide what smart development and tourism growth they need, with the benefit being job creation and tax revenue generation. He said that the requirements are for the communities to work together and follow a few guiding principles: 80% of the financing for a project must already be completed, and the last 20% will be matched 1% through tax entitlements and will match 1% of the State tax entitlement.

Mr. Rooker asked if the locality gets 1%.

Ms. Mallek said the locality would get 3%.

Mr. Confroy explained that if a community gets the gap financing, it must meet certain requirements – having a tourism zone and a tourism development plan, and approval of the project by the community through ordinance.

Mr. Rooker asked if the individual project has to be approved by ordinance, not just the zone. Mr. Confroy confirmed that that is the case.

Mr. Confroy said a tourism zone – much like a business enterprise zone – must be established, along with a performance agreement and a tourism development plan. He stated that Virginia Tourism

works with communities to help pull those together and ask important questions such as how many full-time jobs the plan will create, how it will be marketed, and how it will work with existing businesses.

Mr. Confroy noted that establishing a tourism zone, crafting a development plan, and executing a performance agreement are the three key parts to apply for the certification. He added that once a locality completes those three parts there is an administrative fee to VTC to keep the program going, which in turn is submitted to the Virginia State Comptroller.

Mr. Confroy mentioned that one locality – Fredericksburg – has completed and received certification for a hotel property that serves the University of Mary Washington, the local hospital, and the downtown tourism and County visitor experience. He also said that another development project in the State has received certification but they have not announced it yet as they are still working on some media and government issues. Mr. Confroy stated that there are a lot of communities interested in this and the State is very happy the legislation is here, as it is broad and general to accommodate lots of different developments. He added that they have had inquiries about lodging, reestablishing an old winery, etc. – so it can be about refurbishment and not just new development.

Mr. Confroy presented a graphic from Fredericksburg, which has established three distinct tourism zones in order to help the general business community and tourism businesses work together. He explained that one of their zones is by the waterside, one is downtown shopping, and one is in a completely different area. Each zone has been carefully crafted and reviewed and placed so that it helps bring in all those businesses and industries he talked about and gives benefit to them. He added that a zone is whatever the community wants it to be. There are no super-specific requirements about certain tax benefits. It is really what your community and your county feels it needs to be. Mr. Confroy added that if they did have a project in mind, it would need to be in a tourism zone – which takes into account alcohol laws, food laws, merchandising, etc.

Mr. Rooker asked who defines the types of businesses that qualify, as Mr. Confroy had mentioned retail. Mr. Confroy explained that the State Comptroller looks at what the project is – if it fills a void in a community, if it's a refurbishment of something like an old shopping center. Those that have already received certification include traditional lodging, and a project with four restaurants and a movie theater. It could be a craft brewery out in the rural area or it could be right in town center or city center. Businesses from all those areas can be considered.

Mr. Shawn Crumlish addressed the Board, stating that an example of projects brought to the Virginia Tourism Corporation include a \$5 million hotel project whereby the developer has \$4.25 million in place but has a \$750,000 gap that he cannot get funded, but the hotel could generate \$3 million annually in revenue. Mr. Crumlish explained that the Commonwealth would provide 1%, the locality's local sales and use tax would provide 1%, and the developer would have to agree to contribute another 1%. He said that the concept is that everyone's in partnership, so there would be \$90,000 a year in order to service debt, with lender terms varying.

Mr. Rooker commented that under this scenario, a locality would be giving up almost all of its sales tax revenue. Mr. Crumlish said that is correct. The statute allows for a locality to match the State's 1% with an alternative tax revenue source, but it's the same dollar amount whether or not they attach a different tax.

Mr. Rooker stated that essentially the locality would be using public money to finance someone to come in and go in competition with people who are paying full sales tax.

Ms. Mallek said that it would be based on the revenue that the particular project would bring in via sales tax, not something taken from something else.

Mr. Crumlish confirmed that is the case. He explained that if you spent \$5 million to get a hotel off the ground, there would be an increase in real estate property tax revenues, 4% food and beverage tax if there is a restaurant on the property, business property and/or BPOL tax, etc. He said that conceptually a locality is giving up its 1% sales tax, but collectively there is incremental revenue coming from the project.

Mr. Rooker said that there have been people coming before the Board in the past seeking various ways to mitigate their taxes, and they always pose a sales tax moratorium – with the most recent shopping center in the area making the same kind of pitch. The Board decided not to go forward with it because basically you are giving up substantial revenue and you are also giving them a preferred position with respect to the payment of taxes over people who are already in the market. He said that the \$5 million hotel project assumes that there's no equity going in, so they are looking for 100% financing with the locality and the State financing what would normally be the equity layer in a project.

Mr. Crumlish said that the project would have to have 80% of the financing in place, which could be bank financing or equity. There would also be the discipline of the banker demanding a certain equity contribution. They are just trying to close that last little bit for a project. The locality should define those parameters of where it wants this activity to occur prior to all of a sudden getting bombarded with different projects.

Mr. Foley added that it also includes the type of specific project you're trying to incent to locate. Everyone individually will have to be looked at on its' own merits, and maybe what the return on investment is going to be and so forth. He emphasized that they are talking about incentives here, noting the Economic Opportunity Fund as another example of public dollars used for incentives on an individual basis. Mr. Foley acknowledged that there are a lot of important issues here.

Mr. Rooker said that the community is getting a lot of retail coming in already. Mr. Foley responded that staff would not propose this as an incentive for retail.

Mr. Rooker stated that in talking about light industrial and target industries, none of those fit into this approach, which really supports retail-type establishments such as restaurants, hotels and movie theaters.

Mr. Foley emphasized that in each case the Board would have to make an individual decision. This creates a state-sponsored incentive as another avenue – which is identified in the Economic Vitality Action Plan. The staff is bringing this forward as another important option.

Ms. Catlin added that this is about keeping what is happening in the state – what communities that are our peers and our competitors are bringing in to help the tourism industries in their particular localities. The staff wanted the Board to be aware of this opportunity.” She noted that staff is not looking for a final decision from the Board, but wondered if there is enough interest to take it to the next level of detail and bring back further information. The zone itself does not come with any obligation to it necessarily other than a pathway towards 1% of the State money that the County can draw into this community to match its 1%. She added that each project is a case-by-case consideration that staff would set criteria for.

Mr. Boyd asked where the 20% number come from. Mr. Crumlish explained that there was a tourism subcommittee of the Governor’s committee that noted an issue statewide of a lot of great projects in the pipeline that cannot get over that last hurdle, which was established to be the 20%. He said that it was essentially defined by the industry representation on the committee, which included several developers.

Mr. Boyd commented that this is a good arrow to have in the County’s quiver, but it would not be the highest priority as he sees it, given the other things being worked on in the Economic Vitality Action Plan. He has some of the same concerns mentioned by Mr. Rooker.

Mr. Rooker stated that this is a really good tool for specific communities and specific localities, but it may not fit Albemarle’s needs at this point. He said that if it only applied to specific tourism things, like a community theater, it might be an appropriate consideration – but if they are talking about hotels and retail, probably not.

Ms. Mallek responded that that was just one of the broad options, and the County would choose which items it would want to have by identifying the gap – such as weddings at a remote winery whereby guests are having to drive into town for lodging.

Mr. Rooker commented that there are four going in right now. Ms. Mallek added that they are all in Charlottesville.

Mr. Snow stated that Scottsville would be a great candidate for this type of designation, and there may be others. He supports the idea of moving forward with it as an option.

Mr. Foley agreed that this could take some effort, but he appreciates the perspective of having this as a possible option.

Ms. Mallek said that she understood them to say that the State would provide templates that localities would essentially fill in.

Mr. Crumlish explained that the locality would have to set the zone up – which must be adopted by ordinance, an approved tourism development plan, and the tools available so if they are confronted with a project, they can make it happen. He stated that there is a plan template available, the VRA does the due diligence on establishing that all criteria are met, and eventually presenting it to the comptroller.

Mr. Rooker said that his comments are not meant to be negative on the whole concept, as there are areas where this makes a lot of sense.

Ms. Catlin stated that the purpose of setting up a zone is to have access to the financing program, so staff would want to know that the Board had a level of comfort with the financing program possibility for the right project – or it would not make much sense to do the other work. She said that the idea today was to present the scheme of the 1% against the revenues as presented and the ability to draw down a matching 1% from the State is something that is palatable to the group as a possibility.

Mr. Thomas said that it is a good option to have, although he cannot necessarily see the Board looking at it right now.

Ms. Catlin commented that technology zones exist that do similar things for technology-related businesses.

Mr. Foley asked the Board directly whether they are comfortable with the idea of giving up some sales tax revenue in order to incent a tourism thing they think is valuable, or in concept do they not really support doing this kind of thing.

Ms. Mallek responded that the 10 or 12 year interval it would normally take for this amount to be offset, considering the other revenues that would come in around this project as well as the cessation of

the 1% loss is gravy at that point. She added that this is not something where the Board is taking money away from something else; it is something that the County would be getting that it otherwise would not.

Mr. Rooker said that there's a presumption here that there is an unlimited amount of retail sales and that when something new is put in, financed partially with public money, it is not going to take sales away from someone who is providing the same service that was not financed with public money.

Ms. Catlin said that is why the deficiency piece of it is important.

Mr. Rooker said that with target industries, retail is at the lower end of the pay scale, and he also has concerns about doing something like designating Route 29 North as a tourism zone.

Ms. Catlin stated that the tourism development plan helps identify assets which would probably say that Route 29 North is a pretty asset-rich area already with a strong tourism infrastructure. The plan might identify places in the County where the tourism infrastructure is lacking in a way that is depriving the County of potential future revenues. She said that would be the kind of place that you would look to incent a project.

Mr. Confroy noted that one of the categories under tourism is "meetings, sports and groups". This is really about filling a void or a deficiency – such as with lodging, where it may affect the future of the event. He said that if the community is lacking in meeting space that would be an option. Sports are also a huge focus and money-generator for Virginia, so it could actually help fund a complex for traveling sports teams. Mr. Confroy added that group hosting is also a common challenge, so that would be a possible funding candidate.

Mr. Foley said that staff could come back with a discussion about tourism overall and where some investments might make a difference, otherwise it can just put it on the back burner and come back to the topic sometime in the future.

Ms. Mallek stated that she would like to get to the next level to find out where it might be useful for the Board, and then the Board would be able to make a decision as to whether to go forward with making a plan. Otherwise the Board would be slamming the door on something it does not even know about.

Mr. Rooker said he does not mind having additional information, but he doesn't want staff to spend a huge amount of time putting together a program that won't be approved.

Mr. Foley agreed that staff would stop short of putting a program together and just come back to the Board with ideas about where there might be some opportunity.

Ms. Catlin and the Board thanked Mr. Confroy and Mr. Crumlish for their presentation.

Agenda Item No. 14. Telecommunications Network Upgrade.

The following executive summary was received by Board members:

In September of 2012, the School Division submitted a FY 13/14 CIP request to upgrade the school's network telecommunications infrastructure. The project, which was supported by the CIP Oversight Committee and utilizes funds from previously approved projects (LAN/WAN Upgrades) involves on-going replacement of networking hardware and fiber optic cabling between all school campuses ostensibly to provide increased bandwidth and high speed capabilities for school operations. In conjunction with connecting schools, it is also possible to make direct connections to key local government facilities (office buildings and fire stations) thus enabling local government operations to participate in the improved capability at no additional cost. This County owned network infrastructure will be maintained by the Department of Accountability, Research, and Technology of the School Division and through an independent contractor; those segments of the network involved in connecting government facilities will be supported by the local government's IT department budget.

The School Division's [request for CIP funding for this project](#) is included in the Recommended FY 13/14 CIP. A description of the funding request is attached.

When complete, this fiber optic project will increase the data, voice, and video services capacity for both School and Local Government operations by at least 100 times over what it is today, and at significantly less cost than today's existing capacity. This capacity can support many new services, including capacity to support remote school video monitoring by Police Officers from vehicles and headquarters.

This fiber optic network could also potentially be expanded to provide internet access capability for citizens, however not without legal, business and policy complications as well as additional capital expenditure.

The fiber optic network owned by the County is intended to serve all Local Government and School Buildings. In the future, the additional capacity could support limited wireless transmission to student/parent households. Any additional expansion of services - for example to enable citizen access - would require a legal determination of enabling authority, a vetting of potential plans, an analysis of security issues, and a determination of the scope of the service to be provided. Such a project would likely require significant additional funding.

The fiber optic cable installation is included in the recommended CIP budget for FY 13/14. Maintenance costs are included in the School and Local Government's operating budgets.

Staff recommends approval of the CIP project as proposed in the recommended budget. Any further expansion of the infrastructure project to provide citizen internet access, if directed by the Board, would require additional analysis, evaluation and expenditures.

Mr. Vince Schievert, Chief Information Officer for Schools, said that they have had random discussions about the telecommunications upgrade and hopefully this conversation will help clear up some misunderstandings around them and what the possibilities and capabilities of the program are. He said that the Department of Accountability, Research and Technology (DART) is looking at ways to be able to consolidate, save and plan for the future – which is the idea behind consolidating the LAN and the WAN requests in the CIP. Mr. Schievert said there is absolutely no difference in the dollar amounts. Originally when they had been split, the LAN was \$500,000 and the WAN was \$418,000 for a total of \$918,000 – as it is now. He stated that fundamentally they were separated at a certain point because there were different technologies that went into building out a wide area network, which connects individual independent sites together. Mr. Schievert said that there were different equipment and technology that facilitated that type of data communication.

He explained that LAN is the networking and telecommunications that happens inside a facility. The only difference is that inside schools or sites there are access points of LAN, whereas the WAN uses a router. Mr. Schievert said that a lot of the other equipment is generally the same, so they have the ability to consolidate that into a single purchasing form. One of the areas DART has been working on is changing the way they buy hardware. He stated that one of the differences with Albemarle County is that 80-90% of School Division hardware procurement is done through the CIP, which means he needs to seek approval from both the School Board and the Board of Supervisors. Mr. Schievert said that the LAN project was \$1.7 million, and they are coming into the third year of the project, and by consolidating the programs he will not need that every time it comes up for renewal. The goal is to be able to normalize their expenses inside of the department so that they know what's reliable and accountable, so that way we can appropriately budget for how they are going to do it.

Mr. Schievert said that by consolidating it into a single form factor and having it coexist in the same year, his purchasing power increases exponentially – such as buying in bulk from Sam's Club and achieving a lower cost per unit. He stated that currently they make three strategic purchases throughout the course of the year, and the overall cost per device at a computer level is less now. Mr. Schievert said that despite an increase of over 1,000 students, they have been able to keep their equipment funding level for the last 10 years in the CIP.

He reported that the School Division has been building out its own fiber-optic network, fully inside of the scope of the telecommunications project already underway. This gives the Division the ability to greatly increase their capabilities for current needs and for the future. It allows them to have a converged network. Currently they have a system that runs voice, video and data – which is being compressed together as things move to HD. They are consolidating that all into data, and are passing that along their data streams, so as to reduce the amount of overall equipment needed, and for purchase and replacement. Mr. Schievert said that it also allows them to increase services because there are less divergent technologies to be maintained. He noted that he has met with Mr. Mike Culp, Director of Information Technology, frequently regarding how they can both leverage the capabilities of this to increase services and reduce operational costs.

Mr. Boyd asked if the Schools are laying their own cable. Mr. Schievert responded that they are.

Mr. Boyd asked if it was cost justified versus just buying channels on existing fiber-optic cable. Mr. Schievert replied that it is, adding that they have already interconnected nine sites in the three campuses. In the past those sites would have been treated independently and there would need to be leasing for every individual connection.

Mr. Boyd said that he didn't see any cost comparisons included in the information, and he would like to see that. Mr. Schievert said he can provide that information.

Mr. Snow asked where they were laying cable. Mr. Schievert explained that they have done Brownsville to Western to Henley; and the Albemarle facilities building to Jouett to Greer to transportation, as well as Hollymead and Sutherland. He said that telecommunications companies want to be able to charge by the gigabit rate or connection rate, both of which are slightly prohibitive for the Division to be able to have a sustainable model. Mr. Schievert stated that a lot of school systems in the State, including some neighboring counties, have gone this route. He said that the difficulty facing schools now is that 10 out of 13 grade levels are state-mandated to take online testing. The amount of data needed to hook up and test 10,000 students in a three-week window two or three times a year isn't capable under the current existing processes. It would absolutely be totally cost prohibitive for them to be able to move forward with what the capabilities would be required to do that successfully." He added that they have to challenge their buildings to extend windows that impede normal instruction for testing purposes.

Mr. Boyd said that he understands how that works on the County's own complexes, but does not understand how it would work to interconnect everything, if they need to acquire rights of way or easements. He questions whether that is less costly or less expensive. Mr. Schievert responded that it is less expensive for the return on investment for that versus continually leasing, overall.

Mr. Boyd asked how much cable they were planning to lay to accomplish this. Mr. Schievert replied that they are planning to run between 80-100 miles of fiber optic cable.

Mr. Boyd asked if that involved crossing other people's property. Mr. Schievert responded that almost all of it would be VDOT right of way, and they have planning documents for that.

Mr. Boyd reiterated that he would like to see the cost comparisons.

Ms. Mallek said that she saw some leasing figures for Red Hill and was surprised by how exorbitant the costs were.

Mr. Mike Culp, Director of Information Technology, stated that they are at 10 Megabits, which is a relatively small pipe, and the annual cost for four sites at that connection just for local government is \$26,400. He said that they have asked to increase to 1 Gigabit, and the cost to do it today would be \$72,000 annual. Staff did a thorough cost comparison factoring in the cost of doing the construction – actually doing the bores and pulling the conduit and then drawing the final cable through; operationally, it is a major cost savings.

Mr. Boyd asked if the County is managing the construction projects.

Mr. Dumler noted that the cost is \$72,000 for four sites, and the County has 50 sites including both local government and schools.

Mr. Schievert emphasized that they would not have moved forward with this unless it was prudent for them to do it and a relatively short return on investment before seeing substantial gains. He stated that Mr. Culp's point about moving from 10 mgb to 1 gig is important, because at the point the County owns its fiber connection it immediately goes to 10 gigs. Mr. Schievert said that there was not a physical barrier to be able to do the differential when negotiating with several vendors. It was an artificial limiter that they were putting on the County. He stated that the County will still continue to partner with them because they are a valuable partner, and are still used for telephone service and internet connection – but with 30+ school sites being in a regionally central area, this makes the most amount of sense for long-term sustainability. Mr. Schievert stated that if they were 30 sites in 30 different states it would be a different scenario.

He explained that the scope of the project now is to run two-inch pipe between all locations, which will allow two to three fiber-optic cables per pipe, and the cable has between 96 and 288 strands of fiber in the cable. Mr. Schievert said that this amount of cable allows for the School Division to have both its immediate needs and its future needs covered, as well as the capability for excess capacity – and that's where he has been collaborating with Mr. Culp so that County government can leverage that resource. For a nominal cost – versus putting local government's own in – they will be able to partner and will be able to gain savings as well.

Mr. Boyd asked what the total cost of this project is overall, as they have already put in a lot of money and there are two separate requests for \$900,000. Mr. Schievert explained that the \$900,000 covers immediate construction costs for next year. The overall project is \$3.8 million, which is pretty much covered inside of their normal operational costs over a period of time. He said that if the Division had to continue to pay the costs being paid this year for connectivity services – which he feels are deficient for the operations of school divisions today, and not into the future – there is about a five or six-year return on investment. Mr. Schievert stated that the School Division is paying about \$400,000 for voice, video and data services and connectivity at an area to where they feel it is deficient. He said that they have been able to partner with a vendor to achieve some cost savings, but instead of paying \$400,000 a year they are looking at an operational cost of \$10,000-\$15,000 for maintenance of the lines.

Mr. Rooker commented that the needs for bandwidth are only going to increase.

Mr. Schievert said that they are taking advantage of a down market, so there is a unique opportunity to get in before the market turns around and construction costs go up along with fiber-optic cabling costs. He said that he thinks they are at a great place, and think this will give the Division the capability of being able to move into the future without the continual added expense and ongoing and creeping costs.

Mr. Schievert said that the fiber project is very operational and needed for ongoing sustainability. The other project the Division is working on is the wireless wide area network. Mr. Schievert reported that several years prior, the FCC granted wireless spectrum to schools for free to enable to them to provide internet access to students. When that happened, he said, most school systems were not capable of understanding what it provided nor were they at a technical standpoint of being able to utilize it. He said that a lot of school systems let it lapse and go into a general commercial pool, or leased it away at fractions of its actual cost – to companies like Clearwire, which is the single largest owner in the spectrum that the school division owns. Their plan is to eliminate the digital divide in Albemarle County, and to be able to do it in a cost-effective, cost-efficient manner. They are going to utilize technologies that are the same in any industry. He emphasized that the current scope is for students and staff, not for residential, as they may not necessarily have the bandwidth for that. Mr. Schievert stated that the goal is basically to make the wireless network disappear, as if a person is sitting in the classroom – with the same access to all the same resources and materials as if they were in the classroom.

Mr. Schievert said this project is not related to the telecommunications CIP project; it is coming out of operational funds. He explained that a lot of the monies being allocated to this pilot are coming

from funds the Division recoups through e-rate, a service given to schools through the Telecommunications Act of 1996, and it granted that the universal service fund everyone pays when they pay a cable or telephone bill goes into a pot of money, and each year the school division can apply to get it. Mr. Schievert said that if the Division gets it, they are awarded back a certain percentage based off of free and reduced lunch students. He stated that the Division has not up to now been able to do that and have been waiting for appropriation of e-rate funds. Once the Division has a grasp on the technologies to be utilized they will be able to bring back a deployment plan.

He said that the Division in no way is looking to compete with any of the other cellular vendors; in fact, the Division has tried to include them in their processes – whether they are the large, global telecoms or even the more local ones, and they still continue those discussions so that they can have a partnership versus just having to move out on their own.

Mr. Boyd asked if the School Division is considering putting up cell towers. Mr. Schievert responded that they are not looking at putting up towers, but are looking into hanging antenna arrays off of existing towers. There are ways for technologies to be able to coexist, and they are working on that.

Mr. Boyd commented that in dealing with the private companies, it does not seem they are having much success with co-location. He asked if there were any estimates on how much that would cost. Mr. Schievert replied that it is a range, at about \$30,000-\$50,000 per cell site.

Mr. Rooker asked how many cell sites might be required. Mr. Schievert said that there are nine main cellular sites in the County that could provide 80-90% coverage. He stated that it is hard to say how much it would cover, and that is why he has been hesitant to definitively estimate.

Mr. Dumler asked if that amount was a lease cost, a CIP cost, or an ongoing cost. Mr. Schievert responded that it is a one-time cost for the actual equipment.

Mr. Boyd noted that there is some maintenance expense with that. Mr. Schievert responded, “yes”.

Mr. Thomas asked if the Division would be looking at Carter’s or Peter’s Mountain. Mr. Schievert said they are all part of the considerations. They will also be working to leverage existing resources that the County already has, but right now they are moving towards this large-scale pilot and hoping to have support to proceed.

Mr. Rooker asked if the ECC sites could be used. Mr. Boyd responded that he would think so.

Mr. Schievert explained that the Division does co-locate now with the ECC’s 800 MHz spectrum, but has not gotten the approval to move forward with the 2.6 GHz spectrum, which is what the County owns as well.

Mr. Rooker asked what type of equipment people would need to get in order to pick up the signal. Mr. Schievert responded that it is essentially like a home WiFi device, or there are actually laptop cards that might be pre-programmable. The type of equipment may change depending on a person’s location.

Mr. Snow said that in previous conversations, he had said that they could achieve 100%. He asked if that was still possible. Mr. Vince Schievert responded that their goal is 100%. Based on projected models, the nine regular sites would provide full coverage – but at that point they would have to look at how they are going to expand coverage. He said that not all carriers are on all nine of those sites, so Verizon, AT&T, etc. have located based on where their customers reside. These other cellular companies are not looking to fill in the gaps in the County; they are looking to fill their primary areas – which is essentially the Route 29 corridor and the Route 250 corridor.

Mr. Rooker commented that this would essentially allow them to handle higher volumes of calls in places where they already provide signals. Mr. Schievert noted that they are using a different technology and a different wireless spectrum range than what the schools are using. Every wireless range has its plusses and its minuses.

Mr. Foley said that the purpose of today’s presentation was to provide an update, and Mr. Schievert has covered the project that is underway along with preliminary thinking and planning for a future project – which is not part of the \$900,000 CIP request.

Mr. Boyd asked if the school system has a 10-year CIP and CNA to provide an estimate of what they are planning to spend on technology. Mr. Foley said that they work together with local government on that, which is coming up this year and would come forward to the Board.

Mr. Schievert stated that the schools have a normal long-range planning committee, and he will be presenting to them the following Monday. He added that the telecommunications piece is operational hardware required to run the system, whether he purchases the cable or not. That is why 90% or 95% of this project is coming from the Schools operational costs for the fiber project. The other amounts of money are coming to replace the hardware, no matter if they have Century Link or whatever.

Mr. Boyd said that he is just trying to get a feel for what percentage of the School’s budget is being spent on technology. Mr. Schievert responded that a pretty small amount is being spent. He said that over the last ten years they have averaged about \$1.5 million a year in CIP costs, and about \$715,000 of that actually comes from a State grant, that they get reimbursed. On average, in CIP Schools are

spending in real dollars about \$700,000 or \$800,000 a year in total. By all accounts, it is actually a pretty good bargain for an organization as large as Albemarle.

Mr. Boyd said he does not doubt that at all, he just wanted to see numbers.

Mr. Schievert reiterated that he is available to answer questions at any time.

Board members thanked him for his presentation.

Agenda Item No. 15. Closed Meeting.

At 12:29 p.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; under Subsection (7) to consult with legal counsel and staff regarding specific legal matters requiring legal advice relating to the negotiation of an agreement for implementing a cooperative cost recovery program for emergency service transports; under Subsection (7) to consult with and be briefed by legal counsel and staff regarding the Sequel Investors Limited Partnership litigation and the Glenmore litigation because a public discussion would adversely affect the litigating posture of the County; under Subsection (7) to consult with and be briefed by legal counsel and staff regarding probable litigation concerning thirteen retired employee's compensation claims because a public discussion would adversely affect the litigating posture of the County; and under Subsection (7) to discuss with legal counsel and staff a specific legal matter requiring legal advice regarding employment issues relating to volunteer firefighters. Mr. Snow **seconded** the motion.

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

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

NAYS: None.

Agenda Item No. 16. Certify Closed Meeting.

At 2:06 p.m., the Board reconvened into open meeting. Mr. Dumler **moved** that the Board certify by recorded vote that to the best of each Board member's knowledge, only public business matters lawfully exempted from the open meeting requirements of the Virginia Freedom of Information Act and identified in the motion authorizing the closed meeting were heard, discussed, or considered in the closed meeting. Mr. Rooker **seconded** the motion.

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

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

NAYS: None.

Agenda Item No. 17. Boards and Commissions: Vacancies/Appointments.

Mr. Snow offered **motion** to appoint/reappoint the following individuals:

reappoint Mr. David Shreve to the Charlottesville Albemarle Regional Transportation (CHART) Advisory Committee, with said term to expire April 3, 2016.

appoint Ms. Jennifer Lafferty More to the Crozet Community Advisory Council, with said term to expire March 31, 2015.

appoint Mr. Richard Randolph to the Rivanna River Basin Commission, with said term to expire April 30, 2017.

appoint Ms. Linda Porterfield to the Village of Rivanna Community Advisory Council, with said term to expire March 31, 2015.

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

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

NAYS: None.

NonAgenda. Mr. Boyd **moved** to adopt the proposed resolution for no reconsideration of claims denied on June 2, 2010. Ms. Mallek **seconded** the motion.

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

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

NAYS: None.

**RESOLUTION
NO RECONSIDERATION OF CLAIMS DENIED ON JUNE 2, 2010**

WHEREAS, the Board of Supervisors of Albemarle County has received a letter dated March 22, 2013, from David Thomas representing thirteen retired employees (hereafter, "Claimants") on compensation claims previously presented to the Board in 2010 and disallowed by the Board by a Resolution adopted June 2, 2010; and

WHEREAS, the claims were fully considered and disallowed by the Board on June 2, 2010; and

WHEREAS, the claims were not appealed as required by Virginia Code § 15.2-1246 after written notice of the disallowance was given to the Claimants; and

WHEREAS, the attempted appeal of the disallowance of the claims was dismissed with prejudice by the Virginia Supreme Court; and

WHEREAS, the Board does not consent to any action by the Claimants against the County; and

WHEREAS, pursuant to Virginia Code § 15.2-1247, the disallowance of the claims is final and not appealable.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of Albemarle County hereby declines to reconsider the claims of Cindy Camirand, Larry Claytor, Roger Craig, Glenn Fink, Juanita Irvine, Ron Kesner, George Noteman, Janet Pandy, Michael Schnur, Patty Jo Scites, John Shepherd, James Shifflett, and Bruce Woodzell previously presented to the Board in 2010 and disallowed by the Board by a Resolution adopted June 2, 2010.

BE IT FURTHER RESOLVED that the Board of Supervisors does not consent to any action by the Claimants against the County.

Agenda Item No. 18. **Public Hearing: SP-2012-00031. Verizon Wireless "Eastham" Fox Property Tier III Personal Wireless Service Facility (Sign # 74).**

PROPOSED: Request for installation of a 110 foot steel monopole with 2 flush mounted arrays and associated ground equipment with fencing within a 2,250 square foot lease area.

ZONING CATEGORY/ GENERAL USAGE: RA, Rural Areas- agricultural, forestal, and fishery uses; residential density (0.5 unit/acre in development lots); EC Entrance Corridor – Overlay to protect properties of historic, architectural or cultural significance from visual impacts of development along routes of tourist access.

SECTION: 10.2.2.48 Tier III personal wireless facilities.

COMPREHENSIVE PLAN LAND USE/DENSITY: Rural Areas in Rural Area 2 - preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources/ density (0.5 unit/ acre in development lots).

ENTRANCE CORRIDOR: YES.

LOCATION: 3070 Stony Point Road **TAX MAP/PARCEL:** 04700-00-00-01800.

MAGISTERIAL DISTRICT: Rivanna.

(Advertised in the Daily Progress on March 18 and March 25, 2013.)

Mr. Bill Fritz reported that this is a special use permit for a Tier III wireless facility located on Route 20 North just north of the intersection with Proffit Road, noting that the property is mostly wooded with some scattered residences and some larger fields to the south and east. He said that this particular facility takes its access off a private drive off of Stony Point Road, and the property does require and does have a fall zone easement to the adjacent property because the tower is located closer to the property line than the height of the tower, which is permitted. Mr. Fritz said that this particular facility is taller than the trees around it as well as the reference tree by about 15 feet, and it has two arrays associated with it. The waiver necessary, he said, is that the array involves the use of antenna larger than what is specified in the zoning ordinance; the Planning Commission recommended approval of that modification, and the changing nature of antennas themselves is one of the things they will be considering as part of the Phase II zoning text amendments.

Mr. Rooker asked if there was a picture of the antennas. Mr. Fritz said he did not have one but perhaps the applicant might have a picture.

Mr. Rooker asked if the antennas were flush-mounted. Mr. Fritz responded that they were. Mr. Fritz explained that the antennas are 1,581 square inches versus 1,152 square inches, so it's the size of the antennae, not their mounting that is at issue. He said that, based on staff's observation – because of the location of the tower and the way the antennas are mounted to the structure – the change in antenna size doesn't have any substantial increase, which is why staff is able to recommend approval. Mr. Fritz said that they did a balloon test for the project, and it was noted as being visible from several locations. During the Planning Commission review, he said, it was pointed out by one of the Commissioners that he had participated in the test and reaffirmed the same observations that staff had and, because of the "roller coaster nature of Route 20," there was very limited visibility and only for short durations. He presented a photo of one of the locations, but he was unsure as to where it was taken.

Mr. Fritz reported that staff found favorable factors to be: improved 3G and 4G wireless service for the surrounding area, as there is currently poor coverage there; recommendation of approval by the

Architectural Review Road (ARB), as Route 20 is both an Entrance Corridor District and a Virginia Byway; and meeting of requirements of Section 5.1.40 with some waivers as supported by staff. He said that there were no unfavorable factors cited, staff is recommending approval of this Tier III wireless facility and the Planning Commission also recommended approval with a vote of 5-1. Mr. Fritz stated that there are standard conditions to be compliant with the plans that are submitted.

Mr. Fritz reported that, during the Planning Commission's review, there were two issues raised, one dealing with the driveway and the other providing photo simulation from an adjoining property which the applicant has in their presentation.

At this time, the Chair opened the public hearing.

Ms. Lori Schweller, an Attorney with LeClair Ryan and representing Verizon Wireless, addressed the Board. Ms. Schweller also introduced Mr. Drew Patterson, Planner/Zoning Manager with Network Building & Consulting, who consulted on zoning for Verizon Wireless.

Ms. Schweller offered a slide presentation, noting the general location of the site on Route 20 North and referencing the property of Mark Eastham and the Fox family. She stated that the property is partially in the Southwest Mountains Rural Historic District and noted the location of the site on a map, adding that that's one reason why it's a Tier III as well as being 15 feet above the reference tree. She emphasized that they did make every effort to stay more than 200 feet from Route 20, which is a scenic corridor, and they do require a fall zone easement – which they have from the neighboring Douglas property. Ms. Schweller also presented a coverage map for the area north of Charlottesville, noting the section along Route 29 as having very good coverage and the Route 20 section as having “marginal to poor” coverage. She noted that the Eastham site would be intended to fill in some of those areas with much better coverage, providing a large area of coverage along Route 20. Ms. Schweller explained that the balloon test revealed that the site was not visible from Proffit Road, Rivanna Farm and Foster's Branch Farm, and presented photo simulations depicting where the site was visible. She mentioned that, from the intersection of Proffit Road and Route 20, it wasn't visible, but it was from Riggory Ridge Road.

Ms. Schweller stated that Mr. Fleming owns property directly across the street from Mr. Fox's property and shares a driveway with Mr. Henry's property. She said that Mr. Fleming drew in a tower in ink on several photos, as he was concerned about visibility from his property, but it was not an accurate representation of what he would see from his property. Ms. Schweller emphasized that, as you're driving up to the Fleming and Henry properties from Route 20, the Henry house is to the right and the Fleming property is to the left. She presented her own photo from Mr. Fleming's home site, noting the location of Route 20 and the relationship to the Fox property. The tower would just “peek” over the trees, adding that, from a distance, it's really not going to be that visible, if visible at all. Ms. Schweller noted that the photo simulations were all done when the leaves were off the deciduous trees. She mentioned that there is a long line of telephone poles that cross right through the property, and the Verizon pole won't be any more visible or obtrusive than those.

Regarding the access road, Ms. Schweller reported that the road runs over the Gentry and Fox properties, and Mr. and Mrs. Gentry were concerned about the road as they share that driveway with Mr. Fox before it splits off. She said Verizon has agreed to pave that road beyond the point where it splits off up to where the culvert runs over the driveway, and the Gentrys were satisfied with that. Ms. Schweller said that Verizon would not agree to perpetual maintenance, but the property owner – Mr. Fox – has agreed to maintain that area.

Mr. Boyd said he noticed it wasn't a condition of the special use permit. Ms. Schweller said that they could agree to it being a condition, but she wasn't aware it was still a question.

Mr. Boyd stated that he has met with neighbors who are very concerned about that road because of the washout, and he would like to see that as a condition if possible.

Mr. Davis said that staff felt it was a matter between two property owners, and they have the right to establish those terms and conditions themselves.

Ms. Schweller noted that the maintenance agreement would be within the easement documents so it will be written, and all the parties will have a copy of it.

Mr. Rooker asked if Verizon, as part of the easement they are granting, would agree within that easement to certain maintenance obligations. Ms. Schweller responded that that was her understanding, but that may still be a question as the access road may all be on Fox's property but, regardless of that, Verizon has promised to pave the road.

Mr. Corky Shackelford addressed the Board, stating that, in driving down that road, there is a very rare place on top of the hill where you can get a signal at all and this is a time when mobile phones are very useful and increasingly necessary for security and safety. He said that they have very little coverage from just beyond Key West down to Barbourville, and he has to go outside his home to get any signal at all. Mr. Shackelford stated that this tower is a very useful thing and ought to be approved, no matter what it looks like.

Mr. Harry Fox addressed the Board, stating that he agreed with Mr. Shackelford and indicated that he is the farm manager of Rivanna Farm, which is adjacent to his property. Mr. Fox expressed concern about the lack of coverage in the area, and offered to answer any questions about the site.

Mr. Boyd asked if he was in agreement with the road situation. Mr. Fox responded that he was.

Mr. Fred Shackelford addressed the Board, stating that he also supports the application and indicated that most motorists would never even notice the tower as, on approach, there is a steep hill, a curve and a lot of trees. He said that they really do need better cell service in that area and, at his house, the signal is somewhere between "weak and nonexistent" and it would be a big help to have better coverage.

Mr. Rooker referenced some articles he had distributed from Kiplinger's, which mention the proliferation of cell towers but also stated that "the wireless industry is planning a future without them, or at least without many more of them." He explained that the article states that the antenna of the future would be smaller, some tiny enough to hold in one's hand, and could be placed on lamp posts, utility posts and buildings, and virtually anywhere with electrical and network connections. Mr. Rooker said that, in working on a tower lease recently, his client pointed out to property owners that technology is changing and over time gets smaller, faster and cheaper.

Mr. Rooker said the County has been barraged over time with claims that bigger and bigger towers and bigger and bigger antennae are needed, however that is not the direction in which the industry is moving. He said there are other ways to do this that are cheaper, easier and will actually provide better signalization in a community.

Mr. Boyd said that he has heard that's true in high-density urban areas, but not in rural areas and thought that the bigger towers will be necessary to overcome hilly terrain, etc.

Mr. Thomas asked Mr. Fritz if he felt that was the direction the market was going. Mr. Fritz responded that the distributed systems and smaller antenna systems is clearly the way they're going when they need to reduce the geographic footprint of a particular cell site and break their signal so they can increase their capacity. He said that where they're finding those smaller sites are predominantly areas that already have a certain level of service. He said it is a capacity issue, not a coverage issue. Mr. Fritz acknowledged that the antennae themselves have changed, and it would depend on the density of terrain and resources available to mount to as to whether it would work in the County.

Mr. Boyd **moved** to approve the special exception for modifications to Section 4.1.40(c)(3) and (d)(6). Ms. Mallek **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

(Note: Modifications to Sections 5.1.40(c)(3), and (d)(6) is set out below:)

1. Section 5.1.40©(3)-size of antenna
2. Section 5.1.40(d)(6)-height of the antenna in relation to the reference tree.

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

Mr. Boyd **moved** to approve SP-2012-00031 subject to the one condition as recommended by staff. Ms. Mallek **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

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

(Note: Condition of approval is set out below:)

1. Development and use shall be in general accord with what is described in the applicant's request and site plans, entitled "Eastham," with a final zoning drawing submittal date of 11/06/12 (hereafter "Conceptual Plan"), as determined by the Director of Planning and Zoning Administrator.

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

Agenda Item No. 19. **Public Hearing:** FY 2013 Budget Amendment and Appropriations.
(Advertised in the Daily Progress on March 24, 2013.)

Ms. Lori Allshouse, Director of the Office of Management and Budget, summarized the following executive summary which was forwarded to Board members:

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 cumulative total of the FY 2013 appropriations from the time period of November 7, 2012 through April 3, 2013 and itemized below is \$ 5,104,757.83. Because the cumulative amount of the

appropriations exceeds one percent of the currently adopted budget, a budget amendment public hearing is required.

The proposed increase of this FY 2013 Budget Amendment totals \$ 5,104,757.83. The estimated expenses and revenues included in the proposed amendment are shown below:

ESTIMATED EXPENDITURES

General Fund	\$ 586,437.50
Special Revenue Funds	\$ 563,240.42
School Fund	\$ 851,877.27
School Programs	\$ 1,307,454.54
Capital Improvements Funds	\$ 1,543,863.51
ECC	\$ 251,884.59
TOTAL ESTIMATED EXPENDITURES – All Funds	\$ 5,104,757.83

ESTIMATED REVENUES

Local Revenue (Non-Tax)*	\$ 1,447,845.89
State Revenue	\$ 84,027.46
Federal Revenue	\$ 652,343.93
Loan Proceeds	\$ 519,750.00
General Fund Balance	\$ 5,538,047.00
Other Fund Balances	\$ (3,137,256.45)
TOTAL ESTIMATED REVENUES – All Funds	\$ 5,104,757.83

*The local revenue included in this amendment includes \$979,335.89 in recovered costs, \$143,510.00 in donations and contributions, and \$325,000.00 in miscellaneous revenue,

The budget amendment is comprised of thirty-three (33) separate appropriations as follows, twenty-seven of which have already been approved by the Board as indicated below:

Approved November 7, 2012:

- One (1) appropriation (#2013050) totaling \$105,000.00 for Avemore bond funds;
- One (1) appropriation (#2013051) totaling \$38,675.00 for a grant awarded by the Virginia Department of Motor Vehicles to the Police Department;
- One (1) appropriation (#2013052) totaling -\$31,764.51 for various re-appropriation and proffers adjustments; and
- One (1) appropriation (#2013053) totaling \$40,000.00 for various Emergency Communication Center projects.

Approved December 5, 2012:

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

Approved January 9, 2013:

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

Approved February 6, 2013:

- One (1) appropriation (#2013062) totaling \$2,785.00 for donations to the Department of Fire and Rescue;
- One (1) appropriation (#2013064) totaling \$80,127.46 for the ACE program from the Farmland Preservation's Local Purchase of Development Rights (PDR) Program Grant;
- One (1) appropriation (#2013065) totaling \$5,500,000.00 for a transfer from the FY12 General Fund balance to the FY13 Capital Improvement Program Funds. This appropriation increases the budget \$500,000.00 due to the reduction of use of capital fund balance by \$5,000,000.00;
- One (1) appropriation (#2013066) totaling \$880,800.00 for the Revenue and Taxation component of Access Albemarle. This appropriation increases the budget \$692,945.47; the remaining \$187,054.53 are from currently appropriated funds;
- One (1) appropriation (#2013067) totaling \$38,583.27 for reimbursed and recovered costs received by the Police Department;
- One (1) appropriation (#2013068) totaling \$35,995.00 for a grant awarded by the Department of Criminal Justice Services to the Police Department. This appropriation includes a local match of \$4,000.00 provided from the County's appropriated Grants Leveraging Fund;

- One (1) appropriation (#2013069) totaling \$292,506 for the purchase of an ambulance and related equipment to serve the Seminole Trail/Rio Road area of the County. This appropriation will not increase the total budget because the funding will be re-appropriated from the balance of current apparatus funding;
- One (1) appropriation (#2013070) totaling \$50,000.00 for school division grants; and
- One (1) appropriation (#2013071) totaling \$25,929 for training and professional development for various departments. This appropriation will not increase the total budget because the funding will be re-appropriated from the Training Pool funding.

Approved March 13, 2013:

- 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).

The six (6) appropriations requested for Board approval on April 3, 2013 are as follows:

- One (1) appropriation (#2013078) totaling \$1,275.00 for donations to the Department of Fire and Rescue;
- One (1) appropriation (#2013079) totaling \$75,000.00 for a Department of Criminal Justice Services grant awarded to the Department of Social Services;
- One (1) appropriation (#2013080) totaling \$173,781.33 for expenditures related to the impacts of the June 29-30, 2012 derecho storm that will be reimbursed by the Federal Emergency Management Agency;
- One (1) appropriation (#2013081) totaling \$1,969,331.81 for various school division programs;
- One (1) appropriation (#2013082) totaling \$100,000.00 for miscellaneous school division contributions and miscellaneous revenue; and
- One (1) appropriation (#2013084) totaling \$146,593.64 for two U.S. Substance Abuse and Mental Health Services Administration grants.

After the public hearing, staff recommends approval of the FY 2013 Budget Amendment in the amount of \$ 3,135,426.02 and approval of appropriations #2013078, #2013079, #2013080, #2013082 and #2013084 to provide funds for various local government projects and programs as described in Attachment A. Staff also recommends consideration of appropriation #2013081 in the amount of \$1,969,331.81 for various school projects and programs (also described in Attachment A) which, if approved would bring the total amount of the FY 2013 Budget Amendment to \$5,104,757.83. Representatives from the schools will be available at the Board meeting to provide more information or answer questions regarding the school requests.

Appropriation #2013078		\$1,275.00
Source:	Local Revenue (donations)	\$ 1,275.00

This request is to appropriate \$1,275.00 in donations received by the Fire and Rescue Department (FR) from Martha Jefferson Hospital's Community Outreach Program. This donation will provide three specialized cardiac 12 lead EKG transmission modems. This equipment, which will operate in concert with equipment installed at Martha Jefferson and UVA hospitals, represents a substantial improvement in the standard of care for the treatment of heart attack victims. In 1998 a Special Revenue Fund account was established for donations received by FR. Periodically, these funds are requested for appropriation to help fund needed items for the department.

Appropriation #2013079		\$75,000.00
Source:	Federal Revenue	\$ 71,250.00
	Local Revenue (Contribution from YMCA)	\$ 3,750.00

This request is to appropriate a \$75,000.00 grant received from the Department of Criminal Justice Services (#13-C2141AD11) by the Albemarle County Department of Social Services along with Piedmont Family YMCA, Albemarle County Public Schools and the Broadus Memorial Baptist Church to open and operate an after-school program for students at Stony Point Elementary. There is no local match required by the County.

Appropriation #2013080		\$173,781.33
Source:	Federal Revenue	\$ 173,781.33

This request is to appropriate \$173,781.33 for expenditures related to the impacts of the June 29-30, 2012 derecho storm that will be reimbursed by the Federal Emergency Management Agency (FEMA). These

costs include debris removal, facility and equipment repairs, overtime and emergency shelter management costs in the General Services, Parks and Recreation, Social Services and Police departments.

Appropriation #2013081			\$1,969,331.81
Source:	Local Revenue (Recovered Costs)	\$	940,752.62
	Local Revenue (Donation)	\$	10,000.00
	School Fund Balance	\$	293,124.65
	Self-Sustaining Funds Balances	\$	725,454.54

This request is to re-appropriate and appropriate funding as approved by the School Board:

From the December 13, 2012 School Board meeting:

- The Self-Sustaining School Bus Replacement Fund had an unexpended fund balance of \$472,499.28 in FY 12. This request is to re-appropriate those funds for the School Division's purchase of school buses in FY 13.
- The Self-Sustaining Computer Equipment Replacement Fund's purpose is to provide students and staff reliable access to technology and support its use in meaningful ways. This request is to re-appropriate the available FY 12 fund balance of \$252,955.26 for use in FY 13 to purchase computers.

From the February 14, 2013 School Board meeting:

- The School Division's E-rate Program is designed to ensure that all eligible schools and libraries have affordable access to modern telecommunications and information services. The E-rate Program, which was established by the Federal Government, provides discounts for eligible telecommunications services, depending on economic need and location (urban or rural). The level of discount is based on the percentage of students eligible for participation in the National School Lunch Program or other federally approved alternative mechanisms. This request is to appropriate \$532,000.00 in recovered costs for the School Division's use in FY 13. These funds will be used to provide students and staff reliable access to technology and support its use in meaningful ways by purchasing network hardware, wiring, and associated services. Staff comment: Staff suggests that in future years, the School Division consider including the anticipated E-Rate Program discount proceeds during the development of their initial budget.
- Design 2015 is the Innovation Laboratory for Albemarle County Public Schools. Educators throughout the division are invited to submit proposals for pilot programs that incorporate innovative technologies, develop new instructional models, enhance the learning environment and include components to assess student progress. Programs can be for an individual school or a group of schools and must have the capability to be shared across the division. Local revenues were received from an insurance reimbursement total \$408,752.62. These revenues are reimbursements for costs expended by the School Division in prior years from the School Division's transportation fund and are one-time revenues requested for appropriation for the Design 2015 Innovation Laboratory.

Staff comment: Staff recognizes that the School Division considers this to be a valuable program; alternatively however, if not used for this purpose, the funds could drop to fund balance and potentially be used towards critical capital projects. School representatives will be available during the Board meeting to address the importance of the Innovation Laboratory program and answer any questions of the Board.

- Annually, following completion of the audit and evaluation of current year revenues, re-appropriation of school carryover funds is requested and portions of building rental funds are requested to be returned to school. This practice, which is contingent on certain conditions such as whether the funding is needed to fund a capital project, allows for schools to carry over no more than ten percent of its annual appropriation in a given year and was approved by the School Board and the Board of Supervisors in 1993. (See attached Board Resolution for more details.) Based on this long-standing practice, the School Division requests the re-appropriation of \$207,759.41 of school carryover funds and \$85,365.24 in building rental funds for a total appropriation of \$293,124.65 from the School Division's fund balance to be used for education and recreation supplies.

From the March 14, 2013 School Board meeting:

- This request is to appropriate a \$10,000.00 donation that was awarded to Western Albemarle High School to be used toward repairs and upgrades around the stadium/turf field.

Appropriation #2013082			\$100,000.00
Source:	Local Revenue (Donations)	\$	75,000.00
	Local Revenue (Miscellaneous)	\$	25,000.00

At the July 11, 2012 Board meeting, the Board approved streamlining the appropriation process for anticipated FY 12/13 School Fund revenue for grants, donations, and School Activity Funds. On August 1, 2012, the Board approved an initial appropriation of \$30,000.00 for donations and miscellaneous revenue. Subsequent appropriations of \$50,000.00 each were approved on September 5, 2012 and January 9, 2013, bringing the total appropriated amount to \$130,000.00. The School Division has already exceeded

this amount in donations and miscellaneous revenue. This request is to appropriate an additional \$75,000.00 in donations and \$25,000.00 in miscellaneous revenue. Funds will not be expended until the revenues are received.

Appropriation #2013084		\$146,593.64
Source:	Federal Revenue	\$ 146,593.64

This request is for the appropriation of funds from two grants, which, when combined total \$146,593.64 and cover the time period of July 1, 2012 through June 30, 2013.

In fall 2011, the County of Albemarle, in its capacity as fiscal agent for the Commission on Children and Families (CCF), received a Strategic Prevention Framework – State Incentive Grant (SPF-SIG) from the U.S. Substance Abuse and Mental Health Services Administration’s (SAMHSA) Center for Substance Abuse Prevention (CSAP) through its subcontractor, Virginia Commonwealth University. The purpose of the grant funding is to reduce the number of motor vehicle crashes involving alcohol-impaired drivers between the ages of 15 and 24. As a grantee, the County is eligible to receive up to five years of funding, contingent upon compliance with program rules and regulations and VCU’s receipt of continuing funding from SAMHSA/CSAP.

The time period of the initial grant was February 1, 2012 through January 31, 2013 which spans two of the County’s fiscal years. This request is to re-appropriate \$86,114.64 from the initial grant amount for those expenses incurred during the time period of July 1, 2012 to January 31, 2013.

CCF was dissolved in December 2012, so the second SPF-SIG Project Grant was awarded directly to the County for the time period of February 1, 2013 through January 31, 2014 with an estimated total of \$145,150. The budget amount currently provided by the subcontractor, Virginia Commonwealth University, is \$60,479 for the time period of February 1, 2013 through June 30, 2013.

Mr. Boyd asked if the \$173,000 for the derecho was related to damage to County buildings. Ms. Allshouse responded that it’s reimbursement for departments such as Parks & Recreation, Police, and Social Services, for their extra work, and that will come into the County budget through relief.

Dr. Billy Haun, Assistant Superintendent for Student Learning, addressed the Board, stating that Design 2015 is a program that the School Division has moved forward to establish benchmarks for 21st Century learning and to prepare graduates for lifelong success either in pursuit of higher education or a job in the workplace. He said that they have built a program whereby schools can submit a grant requesting funds from within their budget to move forward with 21st Century education, and they had 24 grants come forward that encompasses all 26 schools. He stated that the goal is to give every child in the classroom access to the MESA-type instruction and, while the program is new, the work is not new as they have been funding for several years seed projects through DART. Dr. Haun explained that they’ve been doing some pilot programs in the classroom, as well as in libraries and media centers with learning space work, and they want to make this the rule – not the exception.

Mr. Steve Koleszar, Chairman of the School Board, addressed the Board, stating that the School Board had identified Design 2015 as their key strategic initiative for bringing better instruction to the classroom.

Mr. Rooker asked if Design 2015 was included in this year’s budget. Mr. Koleszar responded that this is money that came as an insurance settlement through a Fair Labor Standards case and, when the Schools received the money from their insurance company, they put the actual request forward as a budget amendment. He said that the \$408,000 is specifically what they’re talking about. Dr. Haun explained that a budget for Design 2015 was built once they found that the money was available, and combined money from the seed grant, DART, professional development, and operational budgets to fund it. He noted that they have \$1.5 million in grants currently, with some of it assigned to equipment, some to learning spaces, and a lot of it going to professional development to ensure that teachers are prepared have the knowledge to support the program.

Mr. Snow asked what would happen in following years regarding money to run these programs. Dr. Haun responded that they are looking to fund within their budget, and one of the provisions of the grants is that there be no money put in for staffing, and nothing that would carry over into the following year’s budget. He said everything in there is about one-time monies. He added that, if they want to do a Design 2016, they would have to look for money within their budget to do it. Dr. Haun said that the teaching and learning aspects of the project would carry beyond one year.

Mr. Vincent Schievert said that the continuation of the project comes from internal funds being redirected, so his department would typically fund up to \$100,000 for seed projects and, instead of continuing those projects, he would now be allocating funds to the Design 2015 continuation. He said that they have been in small scales piloting and tinkering around the edges, not necessarily making the systematic changes to change the standard of instruction, and this is collectively pooling small amounts of money to now change the standard of instruction across the area. He added that all of the continuation of the program is actually in budget, it was actually a part of the CIP for equipment and renovation as it normally would have been, and then they have operational funds that do apply to it as well. Dr. Hahn added that the amount in consideration is simply a re-appropriation of the insurance funds.

Mr. Boyd stated that his concern relates to the local revenue of \$940,000 which includes a variety of different sources, and said that he was having trouble reconciling the numbers.

Dr. Pam Moran, School Superintendent, said that this represents several different appropriations, with the \$408,000 amount coming from the insurance settlement, and other sources include the e-rate funding and a one-time self-sustaining bus appropriation. She emphasized that these are all things built in as appropriations this year that must be spent in this year.

Mr. Boyd asked why they were being re-appropriated. Mr. Rooker explained that the revenues had to be appropriated because some of them had just come in.

Ms. Mallek asked about the \$300,000 carry-over from last year that was supposed to be used on buses but wasn't. Dr. Moran replied that it was supposed to be used in this year's fund, and it's the difference in moving the buses for next year into the CIP. She said Schools is still in the business of trying to get the last of the buses for this year, so we're appropriating that to be able to finish out this year with our buses and then, next year, we'll move it over to CIP.

Mr. Rooker explained that, at the end of FY12, they had \$472,000 and they're asking for those funds to be appropriated to complete the purchase of buses for FY13.

Mr. Schievert emphasized that they are out of operational, self-sustaining funds.

Dr. Moran added that this would finish out buying the buses from operational explaining that they were trying to get some deals.

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

Mr. Rooker **moved** to approve the FY 2013 Budget Amendment in the amount of \$3,135,426.02 and to **approve** appropriations #2013078, #2013079, #2013080, #2013082 and #2013084 to provide funds for various local government projects and programs. Mr. Snow **seconded** the motion.

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

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

COUNTY OF ALBEMARLE			
APPROPRIATION SUMMARY			
APP#	ACCOUNT	AMOUNT	DESCRIPTION
2013073	3-1000-51000-351000-510100-9999	30,000.00	APPROPRIATION-FUND BAL
2013073	4-1000-99900-499000-999974-9999	30,000.00	GRANTS LEVERAGING
2013078	4-1000-32015-432010-580015-1003	1,275.00	DONATIONS - MISCELLANEOUS
2013078	3-1000-51000-351000-512008-9999	1,275.00	TRS. FR. CONTRIBUTION FD
2013078	4-8405-93010-493010-930009-9999	1,275.00	TRS TO GENERAL FUND
2013078	3-8405-51000-318000-181114-9999	1,275.00	CONTRIBUTIONS
2013079	3-1585-33000-333000-330037-1005	71,250.00	DCJS - AFTER SCHOOL
2013079	3-1585-18110-318110-181325-1005	3,750.00	PIEDMONT YMCA
2013079	4-1585-53162-453010-312210-1005	61,845.00	CONTRACT SERVICES
2013079	4-1585-53162-453010-550000-1005	620.00	TRAVEL
2013079	4-1585-53162-453010-580000-1005	6,535.00	MISCELLANEOUS EXPENSES
2013079	4-1585-53162-453010-601300-1005	6,000.00	EDUC. & RECREATION SUP.
2013080	3-1000-33000-333000-330106-1003	10,241.39	FEDERAL EMERGENCY ASSISTS
2013080	3-1000-33000-333000-330106-1004	116,026.52	FEDERAL EMERGENCY ASSISTS
2013080	3-1000-33000-333000-330106-1005	2,215.38	FEDERAL EMERGENCY ASSISTS
2013080	3-1000-33000-333000-330106-1007	43,224.14	FEDERAL EMERGENCY ASSISTS
2013080	4-1000-31013-431010-120000-1003	6,194.51	OVERTIME WAGES
2013080	4-1000-31013-431010-600800-1003	3,046.88	VEHICLE & EQUIP. FUEL
2013080	4-1000-31013-431010-800501-1003	1,000.00	MOTOR VEHICLES-REPL
2013080	4-1000-43202-443200-120000-1004	1,469.10	OVERTIME WAGES
2013080	4-1000-43203-443200-120000-1004	51.89	OVERTIME WAGES
2013080	4-1000-43206-443200-120000-1004	165.48	OVERTIME WAGES
2013080	4-1000-43206-443200-312375-1004	114,340.05	EMERGENCY -STORM MGMT SERVICES
2013080	4-1000-53011-453010-600200-1005	192.85	FOOD SUPPLIES
2013080	4-1000-53012-453010-600200-1005	15.37	FOOD SUPPLIES
2013080	4-1000-53013-453010-120000-1005	1,683.29	OVERTIME WAGES
2013080	4-1000-53013-453010-600200-1005	102.42	FOOD SUPPLIES
2013080	4-1000-53013-453010-600800-1003	221.45	FOOD SUPPLIES
2013080	4-1000-71012-471010-110000-1007	1,772.74	SALARIES-REGULAR
2013080	4-1000-71012-471010-120000-1007	5,036.54	OVERTIME WAGES
2013080	4-1000-71012-471010-130000-1007	1,634.25	PART-TIME WAGES
2013080	4-1000-71012-471010-331200-1007	32,979.33	R&M EQUIP.-BUILDINGS
2013080	4-1000-71012-471010-331600-1007	284.50	R&M EQUIP.-POWER EQUIP.
2013080	4-1000-71012-471010-600700-1007	1,516.78	REPAIR & MAINT. SUPPLIES
2013080	3-4100-33000-333000-330106-9999	1,407.23	FEDERAL EMERGENCY ASSISTS
2013080	4-4100-31040-435600-120000-1003	1,407.23	OVERTIME WAGES
2013080	3-8610-33000-333000-330106-9999	333.33	FEDERAL EMERGENCY ASSISTS
2013080	4-8610-91081-496010-301221-9999	333.33	MAINT CONT - LANDSCAPING
2013080	3-9010-33000-333000-330106-9999	333.34	FEDERAL EMERGENCY ASSISTS
2013080	4-9010-43100-443200-800666-9999	333.34	FACILITY MAINT.

2013083	4-9010-93010-493010-930222-9999	130,000.00	TRANSFER-EDA
2013083	3-9010-51000-351000-510100-9999	130,000.00	APPROPRIATION-FUND BAL
2013083	3-6850-51000-351000-512043-9999	130,000.00	TRANSFER FRM CIP
2013083	4-6850-91095-391095-950027-9999	130,000.00	LEWIS & CLARK EXPLY. CENTER
2013081	3-3905-63905-351000-510100-6599	472,499.28	APPROPRIATION-FUND BAL
2013081	4-3905-63905-462320-800506-6599	472,499.28	COMMUNICATION EQUIP-REPL
2013081	3-3907-63907-351000-510100-6599	252,955.26	APPROPRIATION-FUND BAL
2013081	3-3907-63907-319000-190241-6599	532,000.00	UVA SHARE - AREA B STUDY
2013081	4-3907-63907-461101-800700-6599	784,955.26	ADP EQUIPMENT
2013081	3-2000-62000-319000-199910-6599	408,752.63	CITY - JUV & SHERIFF BDA
2013081	4-2000-62558-461101-160110-6599	126,568.40	COURT APPOINTED ATTORNEY
2013081	4-2000-62558-461101-210000-6599	9,682.48	CITY - JUV & SHERIFF BDA
2013081	4-2000-62558-461101-301210-6599	136,250.87	GREEN ROOF
2013081	4-2000-62558-461311-601300-6599	34,062.72	MAINT. CONTRACT-EQUIP.
2013081	4-2000-62558-461311-800100-6599	34,062.72	MACHINERY & EQUIPMENT
2013081	4-2000-62558-461311-800700-6599	34,062.72	ADP EQUIPMENT
2013081	4-2000-62558-461311-800710-6599	34,062.72	ADA STRUCTURAL CHANGES
2013081	3-2000-62000-351000-510100-6599	293,124.65	APPROPRIATION-FUND BAL
2013081	4-2000-62216-461101-601300-6116	16,847.65	MAINT. CONTRACT-EQUIP.
2013081	4-2000-62301-461101-601300-6301	7,985.58	MAINT. CONTRACT-EQUIP.
2013081	4-2000-62217-461101-601300-6117	4,163.50	MAINT. CONTRACT-EQUIP.
2013081	4-2000-62201-461101-601300-6101	8,027.63	MAINT. CONTRACT-EQUIP.
2013081	4-2000-62202-461101-601300-6102	5,893.50	MAINT. CONTRACT-EQUIP.
2013081	4-2000-62251-461101-601300-6251	22,243.26	MAINT. CONTRACT-EQUIP.
2013081	4-2000-62214-461101-601300-6114	9,792.90	MAINT. CONTRACT-EQUIP.
2013081	4-2000-62280-461101-601300-6280	308.29	MAINT. CONTRACT-EQUIP.
2013081	4-2000-62203-461101-601300-6103	5,074.60	MAINT. CONTRACT-EQUIP.
2013081	4-2000-62204-461101-601300-6104	3,178.60	MAINT. CONTRACT-EQUIP.
2013081	4-2000-62252-461101-601300-6252	24,505.80	MAINT. CONTRACT-EQUIP.
2013081	4-2000-62205-461101-601300-6105	8,673.70	MAINT. CONTRACT-EQUIP.
2013081	4-2000-62253-461101-601300-6253	7,830.80	MAINT. CONTRACT-EQUIP.
2013081	4-2000-62206-461101-601300-6106	1,421.40	MAINT. CONTRACT-EQUIP.
2013081	4-2000-62304-461101-601300-6304	30,896.05	MAINT. CONTRACT-EQUIP.
2013081	4-2000-62215-461101-601300-6115	9,170.27	MAINT. CONTRACT-EQUIP.
2013081	4-2000-62303-461101-601300-6303	8,415.44	MAINT. CONTRACT-EQUIP.
2013081	4-2000-62207-461101-601300-6107	4,252.80	MAINT. CONTRACT-EQUIP.
2013081	4-2000-62209-461101-601300-6109	6,373.00	MAINT. CONTRACT-EQUIP.
2013081	4-2000-62210-461101-601300-6110	14,271.14	MAINT. CONTRACT-EQUIP.
2013081	4-2000-62211-461101-601300-6111	4,823.65	MAINT. CONTRACT-EQUIP.
2013081	4-2000-62255-461101-601300-6255	29,351.94	MAINT. CONTRACT-EQUIP.
2013081	4-2000-62254-461101-601300-6254	12,321.42	MAINT. CONTRACT-EQUIP.
2013081	4-2000-62302-461101-601300-6302	36,709.21	MAINT. CONTRACT-EQUIP.
2013081	4-2000-62212-461101-601300-6112	3,353.70	MAINT. CONTRACT-EQUIP.
2013081	4-2000-62213-461101-601300-6113	7,238.82	MAINT. CONTRACT-EQUIP.
2013081	3-9002-69999-366600-181107-6599	10,000.00	V P A REFUNDS
2013081	4-9002-69999-466600-950245-6599	10,000.00	VRA - INTEREST
2013082	3-2000-62000-318100-181109-6599	75,000.00	Donations
2013082	3-2000-62000-318000-189900-6599	25,000.00	Misc Revenue
2013082	4-2000-62101-461101-601300-6599	100,000.00	Reserve - Donations & Activity Funds
TOTAL		5,221,326.30	

Agenda Item No. 19a. Lewis and Clark Exploratory Center Funding.

Mr. Foley summarized the following executive summary which was forwarded to Board members:

The Lewis & Clark Exploratory Center ("LCEC") leases property jointly owned by the County of Albemarle and the City of Charlottesville and is located at Darden Towe Park for the purpose of establishing the Lewis & Clark Exploratory Center. The LCEC was awarded grants totaling \$800,000.00 from the Transportation Enhancement Fund Program ("VDOT Enhancement Program") administered by the Virginia Department of Transportation ("VDOT") to provide funding (to be combined with other funds to be raised by the LCEC) for the construction of an educational building, an access road and parking area, and a connecting trail network at Darden Towe Park. The LCEC's application for the VDOT Enhancement Program required the County to be responsible for accepting the grant from VDOT. The County was required to enter into a Project Agreement between VDOT and the County to ensure VDOT's requirements for funding eligibility were met. The County then entered into a separate Pass-Through Agreement with LCEC that, in turn, passed along all of the County's responsibilities under the VDOT Enhancement Program to the LCEC, including holding the County harmless from any liabilities created by the County's acceptance of the VDOT Enhancement Program grants.

As provided in the Pass-Through Agreement, the LCEC is responsible for managing the Project. The LCEC is required to pay the Project invoices and then submit reimbursement requests, including all necessary documentation, to the County's Office of Facilities Development. The County is responsible for coordinating the submittal of the reimbursement request documentation, and all reimbursements are made to the County for its pass-through to the LCEC.

Of the \$800,000 appropriated by the Board on March 14, 2012, the County has paid the LCEC \$794,000. There have been four reimbursement requests submitted to VDOT, totaling \$726,008.26, with the fifth and final request to be submitted in the near future. VDOT has wire-transferred to the County \$538,155.44 in reimbursements for the first three requests and the fourth reimbursement request for \$187,852.82 is currently under review. The County advanced to the LCEC the funds for the fourth and fifth reimbursements prior to receipt of the funds from VDOT to ensure the contractor was paid in a timely manner and to keep the project on schedule.

The LCEC has advised the County that their fund raising efforts have fallen short of the goal and they are requesting assistance from the County to ensure the project is completed and all requirements related to the enhancement grant are met. The project is nearing completion and staff estimates a total shortfall of approximately \$260,000 to complete the work. The LCEC submitted a letter to the County and the City (Attachment A) requesting that the County and the City provide funding assistance in the form of a short-term loan to complete the project. In order to assist the LCEC and ensure that the grant requirements are met, staff recommends that the Board appropriate \$130,000 to the Economic Development Authority ("EDA") for the purpose of the EDA providing a short-term loan to the LCEC. Staff also recommends that the use of the appropriation for this purpose be subject to the following: (1) an agreement between the County and the EDA regarding the EDA's reimbursement of the funds to the County when the LCEC repays the loan; (2) a note or some other instrument acceptable to the County Attorney by which the LCEC would agree to repay the loan to the EDA within 6 months, even though the LCEC has requested that it be given 36 months to repay the loan; and (3) the City of Charlottesville contributing or committing to contribute the other \$130,000 required to make up the \$260,000 shortfall.

One hundred thirty-thousand dollars (\$130,000.00) would be appropriated from the General Government CIP fund balance to the EDA for the purpose of funding a short-term lease to the LCEC. The funds will be reimbursed to the County within 6 months of the EDA granting the loan to LCEC.

Staff recommends that the Board approve an appropriation of \$130,000.00 (Appropriation 2013-083) (Attachment B) to the Economic Development Authority (EDA) for the purpose of funding a loan to the LCEC for completion of the project subject to the following: (1) an agreement between the County and the EDA regarding the EDA's reimbursement of the funds to the County when the LCEC repays the loan; (2) a note or some other instrument acceptable to the County Attorney by which the LCEC would agree to repay the loan to the EDA within 6 months, even though the LCEC has requested that it be given 36 months to repay the loan; and (3) the City of Charlottesville contributing or committing to contribute the other \$130,000 required to make up the \$260,000 shortfall.

Mr. Boyd asked when the City would be acting on this item. Mr. Foley responded that it's on an upcoming Council agenda, but they have not yet acted on it.

Mr. Boyd asked what would happen if it's not settled in six months, as the letter from the Center had requested three years. He asked what happens if that's not agreeable? Mr. Davis explained that if LCEC is unable to raise that money within six months, they would have to come back and renegotiate the note with the EDA – and the EDA would want some consent from the Board prior to doing that. He said that the County agreement with the EDA would set out the terms and conditions, which stipulate that it is a six month note, and if Lewis and Clark can't meet that they would have to come back and request an extension from the EDA who, in turn, would have to request that the Board agree to that.

Mr. Rooker **moved** approval of an appropriation of \$130,000.00 (Appropriation 2013-083-set out above) to the Economic Development Authority for the purpose of funding a loan to the LCEC for completion of the project and **authorized** the County Executive to sign an agreement subject to the following: (1) an agreement between the County and the EDA regarding the EDA's reimbursement of the funds to the County when the LCEC repays the loan; (2) a note or some other instrument acceptable to the County Attorney by which the LCEC would agree to repay the loan to the EDA within six months; and (3) the City of Charlottesville contributing or committing to contribute the other \$130,000 required to make up the \$260,000 shortfall. Ms. Mallek **seconded** the motion.

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

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

Agenda Item No. 20. **Presentation:** VDOT Quarterly Report, Joel DeNunzio.

Mr. Joel DeNunzio addressed the Board, stating that there were some major weather events in March, and VDOT was still cleaning up from the March 6 snowstorm to remove the debris and get all the roads cleared.

Mr. Rooker commented that he is aware of several places along roadways where crews have cut off trees that seem kind of dangerous, as they are on the shoulder or very close to the road.

Mr. DeNunzio asked that Board members inform him of any of those situations, stating that he has also noticed them himself. He explained that when the storm is still going on and the trees are falling, VDOT cuts at least to the white line to get traffic moving – and then goes back and drops everything at least into the ditch line. Mr. DeNunzio added that sometimes they use contractors to do the work, and eventually they take chippers around to mulch the debris.

Mr. DeNunzio reported that they have the Six Year Secondary Road Plan for the County and, for Albemarle County, a work session is scheduled for May 1 with a public hearing slated for June 12. He noted that they are a little bit late this year because they are not exactly sure of funding yet. Mr. DeNunzio said that what they need to prepare for in the work session is to identify federally eligible projects as well as projects qualifying for state funding, so they can at least have the projects on the books.

Mr. Rooker said that the County only gets \$335,000 per year now, and asked if the County should expect more. Mr. DeNunzio responded that he did not know, but it's possible that they might see additional funding for unpaved roads and even federal funds. He added that if they come, then we need to be ready for allocating to the projects the County would want.

Mr. DeNunzio reported that the Route 53 safety projects have been advertised and would be coming up for construction this year, with one project at the Monticello entrance and another one on Route 20, along with a left-turn lane addition at Milton Road. He also mentioned the Dry Bridge Road replacement slated for advertisement in May.

Mr. Snow asked if the Milton Road improvement was the same one mentioned by a citizen earlier in the meeting. Ms. Mallek said that it's on the same road, but not in the identical spot.

Mr. Rooker stated that this particular citizen has been working on getting these improvements for the last 11 years, and VDOT has said that certain things needed to be done for safety reasons at that intersection – but those have still not been done, and there have been several accidents there. He said it would be good to ensure that Mr. DeNunzio has a copy of that packet.

Mr. DeNunzio responded that the intersection is slightly offset for the scheduled project, but the improvements go beyond the intersection that goes by the church there.

Mr. DeNunzio reported that the McIntire Road interchange is now under construction, and they anticipate the contract completion by July 2, 2015 – which will complete the Meadow Creek Parkway and McIntire Road extension. He confirmed that the project is a combination of VDOT and the City of Charlottesville, and explained that, this year, VDOT would complete McIntire Road Extended – which comes to about 2/10 of a mile to the intersection; the City, with some VDOT help, is doing the interchange.

Mr. DeNunzio reported that the Old Trail signs for the school zone have been installed and are on Route 250 at about 150 feet.

Ms. Mallek commented that she had seen them and was very happy.

Mr. DeNunzio stated that the Ash Lawn entrance improvements on Route 795 would be a combination of VDOT doing some sign work there and the facility doing some grading to get better sight distance.

Mr. DeNunzio reported that, currently on Hydraulic Road, there is a “no U-turn” sign on the County side, but VDOT is looking to address that for people who want to go the other direction. He said VDOT traffic people are looking at that to see if it's safe and can work with the signalization there. Mr. DeNunzio explained that the plan is for people traveling from the County side going towards Route 29 be allowed to make a U-turn so they can come back up Hydraulic.

Mr. Rooker noted that VDOT had closed part of the entrance going into Stonefield and, to him, something needs to be done because it is ridiculous not to allow right in and right out. He said that whole area needs to be looked at together to find a good solution for the traffic movement. He added that part of the problem is that when the improvements were being planned for that area, the City did not want the roads in Stonefield to align with Swanson and now they're upset because of the limited way now to access roads.

Ms. Mallek said that Swanson had no other out, and she is concerned about a U-turn situation there. She stated that a different alternative would be better.

Mr. Rooker commented that he'd like to have it looked at as a holistic solution. Mr. DeNunzio responded that they've been working with the developer to get a solution, both to get adequate access at the new Swanson Drive into Stonefield, and getting everyone safe and adequate access on both the City and County side. He added that he's fairly certain it will at least be a “right in, right out” for Swanson on the Stonefield side, but they are having issues with people coming out and then immediately making a U-turn.

Mr. Rooker said that there are other ways from stopping a U-turn other than preventing people from turning right, adding that if they were to put a stoplight in to coordinate with the other stoplight perhaps that might work better. Mr. DeNunzio responded that the developer was going to submit a model for synchronization for a stoplight there, and VDOT would be reviewing it.

Mr. Rooker stated that the issue is how to accommodate the traffic flow yet still factor in safety.

Ms. Mallek said that the real issue is the proximity to the intersection, as people are already racing across Route 29 to make the very short green light.

Mr. DeNunzio said that adding green time to the side streets really affects Rt. 29 in that location also.

Mr. Rooker stated that they've got to clear the same number of cars from the intersection anyway, the question is whether you do it in one signal sequence or in three or four.

Ms. Mallek also asked about the Clover Lawn pedestrian crossing, noting that there was another fatality there on Friday. She said that illumination is needed, along with a crosswalk, and the one on Georgetown Road is simply a three-foot square concrete path surrounded with grass. Ms. Mallek also asked that VDOT consider the center lane and ways to restrict people's cruising in there, as they should only be able to use it when turning.

Mr. DeNunzio stated that his traffic engineer is coming down once a month to meet, and they review a number of locations – so he is sharing the Board's comments with the engineer and then reviewing them onsite so they have a good expectation of what the problem is.

Mr. Rooker commented that Mr. Thomas has mentioned in the past that the lights at the Hydraulic intersection with 29 are not over the proper lanes, so you get the impression that you have to stop when, in fact you are in the right turn lane.

Mr. Thomas said that the left right-turn lane and straight through lane are almost sharing the same lane as you turn, and there is a strong possibility of side-swiping someone.

Mr. DeNunzio responded that they are considering coming back and redoing the hash mark across the intersection so there isn't divergent movement there, and he hopes also to see a widening on Hydraulic on the northbound lane on Route 29, which would move the lanes about six feet over.

Mr. Boyd asked about the pending study of Route 20 and 250, and asked if that was for the light coming out of the shopping center. Mr. DeNunzio said that the plan is to make two left-turn exclusive lanes, instead of there being one through lane.

Mr. Snow noted that he gets a lot of comments about people doing U-turns by the Wendy's to get back on Route 250 heading west.

Mr. DeNunzio explained that the two things they could do would be to change the phasing so the two movements didn't occur together, or restrict the U-turn movement. He said that if they restrict the U-turns, you can still turn left from Route 20 – and that was the concern with removing it.

Mr. Boyd said that the traffic would bring people through McDonald's parking lot.

Mr. DeNunzio indicated that there were conflicts there that haven't resulted in crashes, and so the recommendation of the traffic study was not to restrict the U-turn movement.

Mr. Boyd also asked about the restriction of traffic on Black Cat Road, stating that he was having challenges getting people together to sign petitions. Mr. DeNunzio responded that there was a year before this would be needed, and the requirement is a four-foot shoulder but the bridge engineer was looking to get an exception for a three-foot shoulder. He said that he would talk to the engineer and see if there was a way to get a provision into the design or contract, adding that the caging along that road is a requirement of the railroad – but they did ask for an exception although there is no approval back for that yet. Mr. DeNunzio noted that Broomley Road is a similar situation, and there would not be a fence on that as the truss system is acceptable to the railroad; noting that the bridge on Proffit Road is maintained by the railroad.

Mr. DeNunzio reported that, on Route 6 (Porter's Road), VDOT cannot put "school zone" at that location on Route 6 because it's too far from the school; it has to be within 600 feet. Mr. DeNunzio said that he requested the traffic engineers check the speeds on Route 6 at the intersection and compare it to the sight distances to see if any traffic calming measures are needed. He said there have not been any reported crashes at this point, so it is difficult for traffic engineers to determine if more action is needed.

Mr. Snow asked if they were considering putting some striping for vehicles that approach that area, in order to provide traffic calming. Mr. DeNunzio replied that the idea is to determine right now if the speeds are too high for the sight distance, and if they are, that's the kind of thing VDOT will consider. He said they are going to get some concrete data for that intersection and determine a good plan of action to address the concerns.

Mr. DeNunzio reported that VDOT has also received a number of letters regarding Tillman Road and Route 250 in the Ivy area, and they have studied the last five-year crash data, and the study shows that there has been a 2/3 reduction in crashes in that location after they put the flashing lights. He said that the recommendation is to add stop bars as the road approaches Route 250 and, on the northern approach, they would try to clear the sight distances off to the left; both of those measures would proceed this spring and should make it a safer intersection. Mr. DeNunzio stated that the rear-end accidents are much higher in numbers than the angle collisions, and the long-term report said they should add left-turn lanes on Route 250 which would probably be a six-year plan item. He added that he didn't think they would have the right of way to add left turn lanes, as there should be a minimum of 16 feet added.

Mr. Rooker asked if Mr. DeNunzio would send him a copy of the speed study done on Barracks Farm Road.

Agenda Item No. 21. **Presentation:** Update on Long Range Transportation Plan, Steve Williams, TJPDC.

Mr. Steve Williams, Executive Director of the Thomas Jefferson Planning District Commission (TJPDC), addressed the Board, stating that the long-range transportation plan update process this year was considerably different from those used in the past. He explained that the PDC created an iterative process in which they would be identifying possible collections of projects – called “scenarios” – with a series of about 16 performance measures to analyze the benefits and impacts of those scenarios on the transportation system as well as the community and the environment. He said that they would be reviewed by the TJPDC citizens committee, CHART, the technical committee, and the policy committee and, based on what they see, the PDC would then be revising the scenarios, re-running them, possibly adding projects, possibly dropping projects, to ultimately iterate toward a final preferred scenario. Mr. Williams noted that this may take two or four rounds to get to the final preferred scenario.

Mr. Williams explained that they’ve been working on updating the long-range transportation plan since mid-2011 and, as the Board’s MPO representatives know, it has been a very long process because it is a complete update of the plan and nearly all the projects identified in the last plan as priorities have moved into the transportation improvement program for funding. He said that the process began with some public outreach and workshops that were conducted as part of the livable communities project to identify community issues and interest with regard to where we were on the current project list as well as what type of improvements they would like to see and identified a candidate project list as a starting point for consideration.

Mr. Williams said that the Board had received a copy of the goals for the plan, and would also distribute the candidate list at this meeting. He said the goals and needs have been adopted by the MPO Policy Board at its meeting in January of this year. He stated that the TJPDC is currently developing cost estimates for the projects going forward, and had already identified 16 performance measures – some of which are typical to transportation such as volume, congestion and delay, transit ridership, level of service – but most are more focused on how the transportation system improvements being studied would benefit or impact the community. Mr. Williams said that there are four environmental measures; impacts and benefits to surrounding land uses; measures of the impact of the projects on minorities, seniors, the disabled, and low-income communities; and several measures related to economic development.

Mr. Williams explained that they would be analyzing each of the scenarios based on the different performance measures adding that, at the last MPO policy board meeting, they also approved the starting point project scenarios – which are aimed to be a starting point to understand how different projects and improvements would impact the transportation system and the community in the future. For the main meeting this year, he said, they would be using performance measures to analyze the scenarios and then would bring them back to the MPO committees in order to develop revised scenarios based on that input and decision received at that point. Mr. Williams stated that they anticipate being close to the preferred scenarios after reviewing the scenarios at the TJPDC’s July meeting, and then would go out to the Planning Commissions, Council and Board meetings – as well as to the public – to seek input on the scenarios.

Mr. Williams said they would then bring the input and revised scenarios back to the MPO Policy Board meeting in September, and would then identify a preferred scenario and do one final round of analysis with the identified preferred scenario brought to the November meeting. Mr. Williams stated that, from that, they would develop a list of projects needed to implement the preferred scenario and would circulate the list to the public, the Planning Commissions, and the two elected bodies between November and March. He said it’s expected that the MPO Policy Board would adopt the project list, based on the input they’ve received, and also consider a fiscal analysis with the caveat that the long range transportation plan is required to be fiscally constrained. Mr. Williams said the fiscal constraint will result in two project lists: the fiscally constrained project list including those projects that can be afforded over the next 30 years; and the vision list including projects needed to support the preferred scenario but will require additional funding. He stated that this would go out for a final round of review and come back to the MPO Policy Board for adoption at their July 2014 meeting.

Mr. Williams presented a list of current projects under consideration, noting the starting point list for the long-range transportation plan and indicating that some of the projects would very likely be changed along the way as part of the iterative process. He said this list will undoubtedly change adding that, as we go through the scenario process, there will be projects added and projects taken off. He stated that he fully expects that some of the ones on this list at this point will also be changed in some fashion or another. He said the intent of the scenario process is to go through an iterative process and come up with the best list of projects. Mr. Williams said the second part of the hand-out shows the three scenarios they are starting with and does not expect any of these scenarios to be the scenarios that will ultimately be adopted as the preferred scenario by the MPO Policy Board. He said that the starting point list of projects under consideration represents the “bookends” or the extremes as far as what could be done with transportation improvements so, on one end, there is a scenario that includes all road projects being considered right now and, on the other, is a scenario that includes all transit improvement projects. Mr. Williams said that, in the middle, there is a “hybrid” model whereby they’ve looked at two particular corridors – US 29 and US 250 E – and have identified combinations of road and transit projects that will benefit those corridors. He stated that this is a long process, about three years long and they are about half way through, but feels they are starting to move into the scenario process that includes analysis of various alternatives and a discussion of what is best for the community.

Mr. Thomas asked him to explain to the Board how the Eastern Connector was handled at the last MPO meeting. Mr. Williams responded that one of the things recognized with the Eastern Connector is

that it is probably the highest transportation benefit project that we are looking at, and has huge positive benefits for traffic on the 250 Bypass, Free Bridge, but also throughout other areas of the community. He emphasized that it also has huge impacts on the community, to the parks on either side of the river, and to the river environment – so what they've recognized is that the critical issue regarding that project is not the engineering feasibility or money, but the critical question is – can it be done in a fashion that does not impose impacts on the community and environment that simply can't be accepted. Mr. Williams stated that they have applied for funding from the Federal Highway Administration to do a consensus-building process with stakeholders from the City and County, staffs from both local governments, VDOT, stakeholders from environmental and recreation groups, and the community at large.

Mr. Thomas said that he and Mr. Boyd have already talked about this, and stated that there is already a study that's been done on the Eastern Connector.

Mr. Boyd said everything Mr. Williams has talked about was done about five or six years ago at a cost of a half million dollars, put up by the County and the City collectively. He said the stakeholders were brought in, we looked at all sorts of routes, hired consultants and all of that information was put on a shelf as being totally impractical to do. He stated that he would hate to drag the community back through this entire process again and suggested that, prior to applying for any money, Mr. William should dig out the survey and look at its conclusion.

Mr. Rooker said that the conclusions mainly had to do with the costs of three alternatives and where the routes would be. He said he almost has to laugh when you're talking about impacts because none of you guys seem to have any problem with thousands of people being impacted by the Western Bypass. He said all these impacts that we're concerned about would impact probably a tenth of the number of people and are irrelevant when we're talking about the Western Bypass, schools etc. He said that, regardless of that, they did indeed look at the Eastern Connector but did not do the kind of study Mr. Williams is talking about. Mr. Rooker said that the City has long wanted a way for people to get from the north side of the County without going through the City, and part of the problem is the traffic projections for Pantops show 52,000 vehicles per day in the next 15 years. He said the question is what should be done to move the traffic over there better.

Mr. Boyd stated that he travels that intersection every morning and night, and he knows that a good 30-40% of traffic is going to the City, so one solution would be the extension of Pantops Drive for traffic that is currently turning up High Street. He said that the argument the City made against this was it would be routing traffic to the City, but those people are going to the City anyway. He noted that this study was done long before Martha Jefferson Hospital moved to Pantops which could have a huge impact on the traffic.

Mr. Thomas said that he feels it would be a bad move to bring any kind of connector over to Route 20 and dump it right back onto Pantops, adding that it needs to go past Pantops somehow.

Mr. Snow stated that the MPO discussed both of these scenarios at their last meeting, and the only scenario that will work is a parallel road at Pantops that would take people to Martha Jefferson or State Farm. He said that is the only scenario that he sees working, unless you go further out and then take traffic from 29 North and take it to some point on Rt. 250 or I64.

Mr. Rooker mentioned that 65% of that parallel road is already built.

Mr. Boyd said it would be valuable to determine how much of the traffic coming over Pantops on Route 250 is actually turning into the City in the morning and coming out of the City in the evening that could use a parallel road.

Mr. Rooker asked if the study already done didn't include the traffic numbers in that area. Mr. Boyd responded that it goes back about 20 years to the last time VDOT did a traffic study.

Mr. Snow commented that Martha Jefferson Hospital will have changed the numbers dramatically.

Mr. Rooker stated that, even if they were looking at two routes – one that would be a neighborhood connector that would connect up to Pantops from the City across the river, and to the County on the other side, and the extension there would be much less than the \$144 million included in the scenario study.

Mr. Rooker emphasized that ultimately the Board should approve the scenarios it wants to see moved forward before they are voted on at the MPO, because the MPO members are supposed to reflect the desires of the Board as a whole.

Mr. Rooker said that, speaking from his own impressions, it seems that some of this abandons the concepts that were in Places 29, such as some of the parallel streets – and Route 29 is being narrowed at a cost of \$46.9 million, yet the state has spent \$100 million widening it from Hydraulic Road north. He said every transportation study that has been done shows that, regardless of if you build a bypass or don't build a bypass, the single most important traffic improvement in that area to move traffic was the widening of Rt. 29. He said that, to him, it is astounding that VDOT is going to spend another \$50 million to undo \$100 million in traffic improvements, adding that the interchange at Rio Road has also disappeared. He added that he would like to see that improvement back in the plan. He said we have never gotten the money for projects that we thought we were going to get when these long range plans are done and, at some point, projects have to be prioritized. He said the County did a prioritization with

respect to the Rt. 29 Projects in Places 29 and Berkmar Extended was one of those at the top of the list as was the widening of Rt. 29 from Polo Grounds Road North.

Mr. Rooker said that there is no cost estimate here for the I-64/US 29 interchange project, but that has been done in the past so, if you're looking at major intersections of roads that move significant volumes of traffic at a high speed, there is no more important safety project in the area than dealing with that interchange. He stated that it should be a very high priority, and was made so a long time ago even though the money hasn't been available for it. Mr. Rooker said that the top priority projects should be that particular project and the Berkmar Drive Extended project, adding that this plan has \$80 million to widen US29/250 – which this Board has never looked at or dealt with. He stated that there is also a project listed in the report at a cost of \$50 million to widen Route 250 East at Pantops and that reminds him of Route 29. He noted that they are planning to spend \$100 million widening 29, and now we're going to talk about spending \$50 million to narrow it; then we're going to turn around and spend \$50 million to widen 250 East. He asked if, ten years later, they will then spend \$30 million to narrow it back. He stated that some of the initiatives in here to move traffic in the area make little or no sense, adding that there were some places identified for pedestrians and bicycles across Route 29 so, if they are considering multi-modal forms, that is something that should be looked at.

Mr. Williams explained that the narrowing of US 29 doesn't tear up any of the pavement, it takes the two outside lanes and converts them to transit lanes; it also adds signal improvements at all of the signalized intersections as well as bike and pedestrian improvements to create a grade-separated multi-use path and potentially some over-the-top bike and pedestrian crossings over Rt. 29. He added that it doesn't involve tearing up anything that was previously built by VDOT.

Mr. Rooker said that the report calls it "a narrowing of US 29" and says it will "reshape a portion into a slower-moving boulevard." He stated that, even if the Western Bypass is built, and there is some significant doubt that it will be built, all traffic studies show that the most important transportation improvement to move the remaining 80% of the traffic in the corridor is a widened US 29. Mr. Rooker asked how people leaving Forest Lakes who are trying to get to Seminole Trail, the theatre, etc. would feel about spending an extra 4, 6 or 8 minutes because they're not taking the bypass. He said it just seems to him that what we're doing is spending a lot of money to potentially undo reasonable traffic flow that's been created and will be necessary in the future. He said that it's easy to hear these rosy scenarios and suddenly put a \$50 million project into a plan, but they know for sure that Berkmar Extended should be done and actually works, and that the I-64/US29 interchange needs to be reconfigured. Mr. Rooker added that if the separate project to do an \$80 million bridge at Ivy – since it's been removed from the bypass bid – the weaving lanes don't work very well without it.

Ms. Mallek stated that, while this is a new process, there are many who are quite attached to the old one and she thinks it's very important that they save the good features of the old process as one goes forward. She said that the process Mr. Williams has described seems like a whole lot of work without input from the community, and it would be best to solicit that feedback earlier so it cuts down on the surprise level. She said she is concerned to hear that CHART is sidelined, and people are leaving because they don't feel that they have any respect or have involvement in anything real.

Mr. Thomas said he had recently met with Mac and had personally recommended that CHART become more involved.

Ms. Mallek said that's hard to do when they're told their input is irrelevant.

Mr. Rooker said that, right now, they feel marginalized, and a lot of the recommendations they've had are not being reflected or discussed.

Mr. Thomas said that he has met with Mac and they are trying to get CHART more involved.

Ms. Mallek commented that it's important to have CHART as a valid and functioning committee, and not one that's used as a whipping boy when things don't go right.

Mr. Rooker asked for an update on the Best Buy ramp project and the additional funding necessary for that project. Mr. Williams responded that the total cost is about \$11.5 million, and they have \$10.5 million identified.

Mr. Rooker asked if they had identified the areas needing sound barriers. Mr. Williams responded that they have done the noise study and have identified some areas where sound barriers are needed, especially along one particular neighborhood in the City.

Mr. Thomas pointed out that the subdivision Mr. Rooker referenced is called Meadows.

Ms. Mallek said noise barriers are also needed on the other side, the Cedars area.

Mr. Rooker stated that a lot of the noise barriers would be very close to property lines and, if property owners did not want them, they would not incur the cost of doing them – but it was somewhat optional with the property owners.

Mr. Foley suggested that he get with Jim Utterback to confirm what is going on.

Mr. Williams said that the Eastern Connector project was a grant TJPDC applied for so, if it gets funded, there needs to be a meeting of minds on the MPO Policy Board as far as the alternatives that are going to be considered.

Mr. Thomas stated that they also spoke with Ms. Szakos and Mr. Huja to ensure that the City stays involved.

Ms. Mallek said that the most discouraging part of the whole previous study was that the consultant opened the meeting by saying it would save 23 seconds in travel time.

Mr. Rooker asked what period of years the transit expenditures would span. Mr. Williams responded that the costs represent initial development of the project and then for 20 years of operating and maintenance. On the road side, he said, most of the cost is up front; on the transit side, it's primarily operating and maintenance.

Mr. Boyd requested TJPDC update the name of the Meadow Creek Parkway to the John Warner Parkway.

Mr. Williams said they have struggled with naming because it's had so many different names for such a short road.

Ms. Mallek thanked him for coming. Mr. Williams offered to come back anytime to answer questions.

Agenda Item No. 22. **Presentation:** Community Health Improvement Plan, Lillian Peake, Thomas Jefferson Health District.

Due to a conflict, this item was removed from the agenda.

Note: At this time the Board Agenda Items #11 and #12.

Mr. Cilimberg explained that this is the consolidation of what the Board has seen at public hearing as well as the changes resulting from their discussion earlier in the meeting. He presented the definition for "industrial offices," which is the same as what they saw earlier; the language that clarifies that independent offices must be "existing or vested on or before April 3," and the special use permit independent office requirements would be after April 3, 2014; today's date of April 3, 2013 would be associated with permission of SPs for commercial uses in the industrial district as presented. Mr. Cilimberg said there still needed to be a change for by-right farmer's markets conducted outdoors within a temporary or permanent structure existing on March 5, 2010 – which was a prior ordinance amendment – and by SP after that date. He said that the April 3, 2013 date would apply to planned development industrial parks (PDIPs) as well as the uses in proffered industrial districts, which is the new language noting the addition of the 78 acres already planned for use.

Mr. Kamptner said that the one other change was the removal of a sentence from the February 26 draft, which the Board saw on May 13, which included a recommendation from staff that a sentence in the grandfathering provision stating that "no independent office use shall be expanded without a special use permit as required by Subsection A" be deleted. He stated that by removing that sentence, it clarifies that grandfathered uses in districts "have clear sailing."

Mr. Davis said that what has been distributed to the Board pertains to ZTA 2010-0004, and this would be the ordinance staff recommends the Board first act upon as presented.

Mr. Rooker **moved** to adopt ZTA-2010-0004 with a vesting date of April 3, 2014. Ms. Mallek **seconded** the motion.

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

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

ORDINANCE NO. 13-18(1)

AN ORDINANCE TO AMEND CHAPTER 18, ZONING, ARTICLE I, GENERAL PROVISIONS, ARTICLE II, BASIC REGULATIONS, ARTICLE III, DISTRICT REGULATIONS, AND ARTICLE IV, PROCEDURE, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA

BE IT ORDAINED By the Board of Supervisors of the County of Albemarle, Virginia, that Chapter 18, Zoning, Article I, General Provisions, Article II, Basic Regulations, Article III, District Regulations, and Article IV, Procedure, are hereby amended and reordained as follows:

By Amending:

Sec. 3.1 Definitions
Sec. 4.14.5 Certified engineer's report
Sec. 5.1.10 Junk yards
Sec. 8.5.5.2 Review of site plans and subdivision plats

Sec. 26.1	Intent, where permitted
Sec. 27.1	Intent, where permitted
Sec. 27.2	Permitted uses
Sec. 28.1	Intent, where permitted
Sec. 28.2	Permitted uses
Sec. 29.1	Intent, where permitted
Sec. 29.2	Permitted uses

By Amending and Renaming:

Sec. 5.1.15	Sawmills, temporary or permanent, planing mills and wood yards
Sec. 5.1.20	Sale or storage of petroleum products, including kerosene, gasoline, and heating oil
Sec. 5.1.21	On-site dwellings and sleeping quarters accessory to commercial and industrial uses
Sec. 5.1.31	Automobile or truck repair shops, body shops, motorcycle and off-road vehicle sales and service shops, and public garages

By Amending, Renumbering and Renaming:

<u>Old</u>	<u>New</u>	<u>Heading</u>
Sec. 26.3	Sec. 26.2	Permitted primary and accessory uses and structures; prohibited uses and structures
Sec. 26.6	Sec. 26.4	Structure height and setback
Sec. 26.10	Sec. 26.5	Minimum yards
Sec. 27.4	Sec. 27.3	Structure height, yard, setback, development, use
Sec. 28.4	Sec. 28.3	Structure height, yard, setback, development, use
Sec. 29.5	Sec. 29.3	Structure height, yard, setback, development, use

By Adding:

Sec. 26.3	Independent office and general commercial uses; additional factors when considering special use permits
Sec. 5.1.49	Dry cleaning plants
Sec. 5.1.50	Foundries
Sec. 5.1.51	Outdoor activities
Sec. 5.1.52	Outdoor storage
Sec. 5.1.53	Rendering facilities
Sec. 5.1.54	Slaughterhouses
Sec. 5.1.55	Tire recycling yards
Sec. 26.6	Site development and use

By Repealing:

Sec. 26.2	Application
Sec. 26.4	Standard ratios
Sec. 26.5	Off-street parking and loading requirements
Sec. 26.7	Performance standards
Sec. 26.8	Sign regulations
Sec. 26.9	Minimum landscaped area
Sec. 26.11	Utility requirements
Sec. 26.12	Site planning – external relationships
Sec. 26.12.1	Vehicular access
Sec. 26.13	Building separation
Sec. 27.2.1	By right
Sec. 27.2.2	By special use permit
Sec. 27.3	Minimum area required for establishment of district
Sec. 28.2.1	By right
Sec. 28.2.2	By special use permit
Sec. 28.3	Minimum area required for establishment of district
Sec. 29.2.1	By right – Category I
Sec. 29.2.2	By special use permit – Category I
Sec. 29.2.3	By right – Category II
Sec. 29.2.4	By special use permit – Category II
Sec. 29.3	Minimum area required for creation of district
Sec. 29.4	Number of permitted uses

Chapter 18. Zoning

Article I. General Provisions

Sec. 3.1 Definitions

...

Data center: A facility used to house computer systems and associated components, such as telecommunications and storage systems and which may include redundant or backup power supplies, redundant data communications connections, environmental controls such as air conditioning or fire suppression, and security devices.

Data processing facility: Facilities where electronic data is processed by employees including, but not limited to, data entry, storage, conversion or analysis, subscription and credit card transaction processing, telephone sales and order collection, mail order and catalog sales, and mailing list preparation.

...

Energy and communications transmission facilities: Electrical power substations, transmission lines and related towers; gas or oil transmission lines, pumping stations and appurtenances; unmanned telephone exchange centers, micro-wave and radio-wave transmission and relay towers, substations and appurtenances; but excluding personal wireless service facilities.

...

Independent offices: In the industrial districts, offices that are not "industrial offices."

...

Industrial offices: Offices that are owned and operated by the same business entity engaged in a Laboratories/Research and Development/Experimental Testing, Manufacturing/Processing/Assembly/Fabrication/Recycling, or a Storage/Warehousing/Distribution/Transportation use located in Albemarle County or the City of Charlottesville, where the offices provide services to the industrial use but which need not be on the same site as the industrial use. For the purposes of this definition, "Offices that are owned and operated by the same business entity" does not mean offices that are part of an entity that is in an affiliated business entity relationship or a parent-subsidary relationship with the entity engaged in the industrial use.

...

Laboratories/Research and Development/Experimental Testing: Scientific research, testing, investigation or experimentation, the development of prototype products, and/or the assembly or manufacture of prototype products and including, but not limited to, bioscience and medical devices research, development and manufacturing, and information technology and defense security research, development and manufacturing; scientific or technical instruction.

...

Manufacturing/Processing/Assembly/Fabrication/Recycling: The processing and/or converting of goods, materials or products; the assembly of components, pieces or subassemblies into articles or substances of different character, or for use for a different purpose.

...

Outdoor: Either outside a structure, or inside a structure that has open windows, doors or other openings so as to allow the activity inside the structure to be visible or audible outside the structure.

...

Public uses: Public uses, buildings and structures including, but not limited to, schools, offices, parks, playgrounds and roads funded, owned or operated by local, state or federal agencies and including temporary or mobile facilities for these purposes; public water and sewer transmission, main or trunk lines, treatment facilities, pumping stations and similar facilities owned and/or operated by the Rivanna Water and Sewer Authority (reference 5.1.12).

...

Recycling collection station: A facility providing designated containers for the collection, sorting, and temporary storage of recoverable resources such as paper, glass, metal, and plastic products until they are transported to a recycling process center or to another location.

...

Recycling processing center: A facility to recycle, process, or treat recoverable resources such as paper, glass, metal, and plastic products in order to return them to a condition in which they can be reused for production.

...

Storage/Warehousing/Distribution/Transportation: An establishment used primarily for the safekeeping, selling or transferring of saleable goods or raw materials to be incorporated into saleable goods including, but not limited to, storage facilities, call centers, data processing facilities or transit; an establishment used as a privately owned and operated waste transfer station; and towing services and the storage of vehicles in conjunction with that service.

...

Subordinate retail sales: The retail sale of products of a Laboratories/Research and Development/ Experimental Testing, Manufacturing/Processing/Assembly/Fabrication/ Recycling, or a Storage/ Warehousing/Distribution/Transportation use that is located on the same site as the industrial use.

...

Supporting commercial uses: A retail or office use within an industrial district that is subordinate to and which primarily serves Laboratories/Research and Development/Experimental Testing, Manufacturing/ Processing/Assembly/Fabrication/ Recycling, or Storage/Warehousing/Distribution/Transportation uses or their employees including, but not limited to, restaurants such as sandwich shops, beauty salons, banks, day care centers, copy centers, private parcel shipping and delivery services, courier services, printing services, cleaners, commercial truck repair, financial services, accounting services, human resources services, employment services, and temporary employment services.

...

Water, sewer, energy and communications distribution facilities: Facilities that are: (i) electric, gas, oil and communication facilities, including their monopoles, lines, transformers, pipes, meters and related facilities for distribution of local service and owned and operated by a public utility, but excluding their towers and excluding personal wireless service facilities; (ii) water distribution and sewer collection lines, pumping stations and appurtenances owned and operated by the Albemarle County Service Authority; or (iii) central water supplies and central sewage systems in conformance with chapter 16 and all other applicable law, except as otherwise expressly provided.

Article II. Basic Regulations

Sec. 4.14.5 Certified engineer's report

Prior to the issuance of a zoning clearance or approval of a final site plan, each prospective occupant of a use of an industrial character shall submit a certified engineer's report as follows, except as provided in subsection (c):

- a. *Contents.* Each certified engineer's report shall include the following information unless the county engineer determines that any such information is not necessary:
 1. *Nature of the operation.* A description of the proposed operation, including all machines, processes, and products.
 2. *Emissions and discharges.* The identification of all by-products or wastes, stating the expected levels of emissions or discharges to land, air, and/or water of any liquid, solid or gas, and the emission of electrical impulses and sound under normal operations.
 3. *Control of emissions and discharges.* Descriptions and specifications as to how emissions and discharges will be treated and the equipment and practices that will be used to control emissions and discharges.
 4. *Other information.* Any state or federal permits, readings, measurements, plans or documentation necessary to demonstrate that the proposed use will comply with this chapter, other requirements of the Code and all applicable state and federal laws, including but not limited to those pertaining to the following:
 - (a) *Air emissions.* Air emissions subject to the applicable regulations of the State Air Pollution Control Board and the Virginia Department of Environmental Quality.
 - (b) *Water discharges.* Water discharges subject to the applicable regulations of the State Water Control Board and the Virginia Department of Environmental Quality.
 - (c) *Radioactive materials and radiation emissions.* Radioactive materials used in conjunction with, and radiation emissions from, a use that is subject to the applicable regulations of the State Board of Health and all applicable requirements arising from all agreements between the Commonwealth of Virginia and the United States of America, and any department or agency thereof, pertaining to radioactive materials or radiation emissions, and all interstate compacts pertaining to radioactive materials or radiation emissions to which the Commonwealth of Virginia is a party. Any radioactivity or radiation that would adversely affect the navigation or control of aircraft shall comply with the current regulations of the Federal Aviation Administration.
 - (d) *Flammable, hazardous and explosive materials.* Flammable, hazardous and explosive materials used in conjunction with a use shall comply with the applicable requirements of the county fire marshal and the Virginia Department of Environmental Quality.
 - (e) *Disposal of waste and spill containment.* The disposal of waste and the containment of spills in conjunction with a use shall comply with the applicable requirements of the county fire marshal. Any use required by section 5 to provide a

waste management plan shall provide a plan that demonstrates that waste will be disposed of only in strict compliance with state and federal regulations.

- (f) *Mosquito control plan.* Any use required by section 5 to provide a mosquito control plan shall provide a plan that demonstrates how mosquitoes will be controlled.
- b. *Review of report.* The certified engineer's report shall be reviewed by the county engineer, who shall inform the zoning administrator as to whether the proposed use complies with the performance standards in sections 4.14 through 4.14.5. If a site plan is required, the county engineer shall review the report and inform the commission or the agent prior to action on the preliminary site plan as to whether the proposed use complies with the performance standards in sections 4.14 through 4.14.5.
- c. *Document in lieu of certified engineer's report.* In lieu of a certified engineer's report, the county engineer may allow a prospective occupant of a use of an industrial character to submit a document that describes the processes and activities of the proposed use and addresses the performance standards in sections 4.14 through 4.14.5. A document in lieu of a certified engineer's report: (i) is appropriate for those uses of an industrial character that are determined by the county engineer to be low impact; (ii) may be in the form of a letter, or in any other form acceptable to the county engineer, signed by the prospective occupant or its representative; and (iii) shall be reviewed by the county engineer, who shall inform the zoning administrator as to whether the proposed use complies with the performance standards in sections 4.14 through 4.14.5.

(§4.14.8, 12-10-80; 9-9-92; § 4.14.5, Ord. 11-18(8), 8-3-11)

Sec. 5.1.10 Junk yards

Each junk yard shall be subject to the following:

- a. All storage and operational areas shall be enclosed by a solid, light-tight, sightly fence not less than eight (8) feet in height or alternative screening and/or fencing satisfactory to the zoning administrator.
- b. Any storage area and the site's access to a public road shall be maintained in a dust-free surface.

Sec. 5.1.15 Sawmill, temporary or permanent, planing mills and wood yards

Each temporary or permanent sawmill, planing mill and wood yard shall be subject to the following:
(Added 10-3-01)

- a. No structure and no storage of lumber, logs, chips or timber shall be located closer than one hundred (100) feet to any lot line. Trees and vegetation within the one hundred (100) foot setback shall be maintained as a buffer to abutting properties and uses, provided that during the last three months of operation the trees may be removed.
- b. No saw, planer, chipper, conveyor, chute or other similar machinery shall be located closer than six hundred (600) feet from any dwelling on any lot other than the lot on which the sawmill, planing mill or wood yard is located.
- c. No machinery used for sawing, planing, chipping or other wood processing shall operate between 7:00 p.m. and 7:00 a.m. No wood or wood products shall be loaded or unloaded between 12:00 midnight and 7:00 a.m.
- d. All timbering and milling operations, including reforestation/restoration and the disposal of snags, sawdust and other debris, shall be conducted in accordance with Title 10.1 of the Virginia Code and the regulations of the Virginia Department of Forestry. (Amended 10-3-01)

(§ 5.1.15, 12-10-80; Ord. 01-18(6), 10-3-01)

Sec. 5.1.20 Sale or storage of petroleum products, including kerosene, gasoline, and heating oil

The sale or storage of petroleum products, including kerosene, gasoline, and heating oil, in excess of six hundred (600) gallons shall be subject to the following:

- a. The sale or storage of the petroleum products shall satisfy the requirements established by the fire prevention code of the National Board of Fire Underwriters and the latest edition of the "Flammable and Combustible Liquids Code, NEPA 30" of the National Fire Prevention Association,
- b. No storage tanks and loading facilities shall be located closer than one hundred (100) feet from any lot line.

Sec. 5.1.21 On-site dwellings and sleeping quarters accessory to commercial and industrial uses

Each on-site dwelling or sleeping quarters that is accessory to a commercial or industrial use shall be subject to the following:

- a. Dwellings and sleeping quarters may be occupied only by owners or employees of the establishments, including on-site security officers, scientists and lab technicians.
- b. Any dwelling may be detached from the establishment to which it pertains or within the same structure as the establishment, subject to Albemarle County building official and fire official approvals.
- c. Any sleeping quarters shall be located within the primary structure and shall be subordinate to the primary use.
- d. Not more than one (1) dwelling unit or sleeping quarters shall be permitted per establishment.
- e. No manufactured home shall be permitted as a dwelling unit for a period in excess of six (6) months. (Added 3-17-82) (Amended 4-17-85)

Sec. 5.1.31 Automobile or truck repair shops, body shops, motorcycle and off-road vehicle sales and service shops, and public garages

Each automobile or truck repair shop, body shop, motorcycle and off-road vehicle sales and service shop, and public garage shall be subject to the following:

- a. All parts, materials and equipment shall be stored within an enclosed building.
- b. No vehicle awaiting repair shall be located on any portion of the site so as to be visible from any public street or any residential property, and shall be limited to locations designated on the approved site plan.
- c. All services shall be performed within an enclosed building.
- d. No buildings in which services are performed shall be located closer than fifty (50) feet from any residential or agricultural district.

Sec. 5.1.49 Dry cleaning plants

Each dry cleaning plant shall be subject to the following:

- a. The use of perchloroethylene is prohibited.
- b. The use of petroleum solvents is prohibited.

Sec. 5.1.50 Foundries

Each foundry shall be subject to the following:

- a. The outdoor production, processing, or repair of equipment shall be located no closer than three hundred (300) feet from any residential or agricultural district. The distance shall be measured from the closest edge of the outdoor production, processing, or repair area to the boundary of the residential or agricultural district.
- b. No outdoor activity, including the location of internal access roads, shall be established, conducted or used within one hundred (100) feet of a residential or agricultural district.
- c. No activity shall be conducted outdoors between 7:00 p.m. and 7:00 a.m.

Sec. 5.1.51 Outdoor activities in industrial districts

Except as otherwise expressly permitted for a particular use, each use permitted by right or by special use permit in an industrial district shall be subject to the following:

- a. All manufacturing, compounding, assembling, processing, packaging, or other industrial or business activity shall be conducted within a completely enclosed building.
- b. No outdoor activity, including the location of internal access roads, shall be established, conducted or used within one hundred (100) feet of a residential or agricultural district.
- c. No activity shall be conducted outdoors between 7:00 p.m. and 7:00 a.m.

Sec. 5.1.52 Outdoor storage in industrial districts

Except as otherwise expressly permitted for a particular use, the outdoor storage of parts, materials and equipment in an industrial district shall be subject to the following:

- a. Storage areas shall be screened by a solid wall or fence, including solid entrance and exit gates, not less than seven (7) feet nor more than ten (10) feet in height.
- b. No wall or fence screening a storage area shall encroach into a sight distance triangle.
- c. The parts, materials and equipment stored in a storage area shall not be stacked higher than the screening wall or fence.
- d. No outdoor storage shall be located within fifty (50) feet of a residential or agricultural district.
- e. The outdoor storage of recyclable materials at a recycling collection or recycling processing center is prohibited.

Sec. 5.1.53 Rendering facilities

Each rendering facility shall be subject to the following:

- a. The use may be established and maintained only on a site that is at least five (5) acres in size.
- b. In the light industry (LI) district, no building or parking area shall be located within three hundred (300) feet of any residential or agricultural district. In the heavy industry (HI) district, no building or parking area shall be located within two hundred fifty (250) feet of any residential or agricultural district.
- c. No building shall be located within one thousand (1,000) feet of any school at the time the rendering facility is established.
- d. The certified engineer's report required by section 4.15 shall include a detailed waste management plan satisfying the requirements of that section.
- e. The outdoor storage of offal, dead animals or portions thereof, meat wastes, blood, tankage or any putrescible organic matter is prohibited.

Sec. 5.1.54 Slaughterhouses

Each slaughterhouse shall be subject to the following:

- a. The gross floor area of the building shall not exceed four thousand (4,000) square feet.
- b. The use may be established and maintained only on a site that is at least three (3) acres in size.
- c. In the light industry (LI) district, no building or parking area shall be located within two hundred (200) feet of any residential or agricultural district. In the heavy industry (HI) district, no building or parking area shall be located within one hundred fifty (150) feet of any residential or agricultural district.
- d. No building shall be located within one thousand (1,000) feet of any school at the time the slaughterhouse is established.
- e. Outdoor holding pens for animals are prohibited.
- f. The certified engineer's report required by section 4.15 shall include a detailed waste management plan satisfying the requirements of that section.

Sec. 5.1.55 Tire recycling yards

Each tire recycling yard shall be subject to the following:

- a. Tire storage piles are permitted as follows:
 - 1. The site may have up to four (4) tire storage piles in which unchipped or unshredded tires may be stored.
 - 2. No storage pile shall be more than one hundred (100) feet in width or depth nor taller than twelve (12) feet unless a larger or taller storage pile is permitted by the fire official.
 - 3. Each tire storage pile shall be surrounded by containment berms as required by the fire official.
 - 4. Tires stored in a storage pile shall be laced.
- b. Tires that are not stored in a storage pile shall be chipped or shredded before they may be stored onsite.
- c. Storage piles and all other outdoor storage ("storage areas") are subject to the following:

1. Storage areas shall be screened by a solid wall or fence, including solid entrance and exit gates, not less than seven (7) feet nor more than twelve (12) feet in height.
 2. No wall or fence screening a storage area shall encroach into a sight distance triangle.
 3. Tires stored in a storage area shall not be stacked higher than the screening wall or fence.
 4. No storage area shall be located within fifty (50) feet of a residential or agricultural district.
- d. The certified engineer's report required by section 4.15 shall include a mosquito control plan satisfying the requirements of that section.
- e. Appropriate firefighting apparatus, water supply, and foam suppressant shall be available on the site, and they shall be of a type and in quantities required by the fire official.
- f. Twenty-four (24) hour on-site caretaker(s) trained by the local fire district to provide security and first-line firefighting shall be provided or, in the alternative, a twenty-four (24) hour surveillance and alarm system approved by the fire official may be used if the tire recycling yard is served by a continuously manned fire station.
- g. The site shall have paved or hard-surfaced fire access lanes and cleared areas around the exterior of the storage area and in between individual tire storage piles. The fire access lanes and cleared areas shall be established and maintained to the standards required by the fire official.

Article III. District Regulations

Sec. 8.5.5.2 Review of site plans and subdivision plats

Each preliminary and final site plan and subdivision plat for a planned development shall be reviewed for compliance with the applicable regulations, as follows:

- a. *Planned development districts established on or before December 10, 1980.* Each preliminary and final site plan and subdivision plat within a planned development district established on or before December 10, 1980 shall be reviewed for compliance with the applicable regulations when the site plan or subdivision plat is under county review; provided that, at the option of the developer or subdivider, each preliminary and final site plan and subdivision plat may be reviewed for compliance with the applicable regulations in effect when the planned development was approved if the developer or subdivider establishes a vested right as provided in Virginia Code §§ 15.2-2296 *et seq.* or 15.2-2307 to develop under the previously approved planned development district.
- b. *Planned development districts established after December 10, 1980.* Each preliminary and final site plan and subdivision plat within a planned development district established after December 10, 1980 shall be reviewed for compliance with the applicable regulations in effect when the planned development district was established or, at the option of the developer or subdivider, in effect when the site plan or subdivision plat is under county review; subject to the following:
1. *Election to comply with regulations in effect when district established; exception for certain current subjects of regulation unless vested rights established.* If the developer or subdivider elects to have its site plan or subdivision plat reviewed for compliance with the applicable regulations in effect when the planned development district was established, all of the following subjects of regulation in effect when the site plan or subdivision plat is under county review shall apply unless vested rights are established under Virginia Code §§ 15.2-2296 *et seq.* or 15.2-2307: (i) entrance corridor overlay district (section 30.6); (ii) flood hazard overlay district (section 30.3); (iii) landscaping and screening (section 32.7.9); (iv) outdoor lighting (section 4.17); (v) parking (section 4.12); and (vi) signs (section 4.15). If rights are determined to have vested, the regulations for these six subjects in effect when rights vested shall apply. For the purposes of this subsection 8.5.5.2(b), an application plan approved on and after March 19, 2003 that complies with the requirements of an application plan under section 33.4, or a prior version thereof in effect on and after March 19, 2003, is a significant governmental act within the meaning of Virginia Code § 15.2-2307.
 2. *Election to comply with regulations in effect when district established; election to comply with certain current subjects of regulation.* If the developer or subdivider elects to have its site plan or subdivision plat reviewed for compliance with the applicable regulations in effect when the planned development district was established, the developer or subdivider may also elect to comply with one or more of the subjects of regulation listed in subsection 8.5.5.2(b)(1) in effect when the site plan or subdivision plat is under county review instead of with the corresponding regulations in effect when the planned development district was established.
- c. *Review for compliance and conformance.* A site plan or subdivision plat shall be reviewed to determine whether it complies with the applicable regulations and other requirements of law, and whether it conforms to the application plan, as follows:

1. *Zoning administrator.* The zoning administrator shall determine whether a site plan or subdivision plat complies with the applicable regulations. In addition, the zoning administrator, after consultation with the director of planning, shall determine whether the proposed permitted uses comply with the applicable regulations and, in doing so, may permit as a use by right a use that is not expressly classified in this chapter if the zoning administrator further determines that the use is similar in general character to the uses permitted by right in the district or by the code of development and is similar in terms of locational requirements, operational characteristics, visual impacts, and traffic, noise and odor generation.
 2. *Director of planning.* The director of planning shall determine whether a site plan or subdivision plat conforms to the application plan. In determining conformity, the director shall determine whether the central features or major elements within the development are in the same location as shown on the application plan and if the buildings, parking, streets, blocks, paths and other design elements are of the same general character, scope and scale as shown on the application plan.
 3. *County engineer.* The county engineer shall determine whether an erosion and sediment control plan, grading plan, stormwater management plan, road or street plan, and mitigation plan conform with the concept grading, stormwater management, streets, and mitigation shown on the application plan.
- d. *Applicable regulations defined.* For the purposes of this section 8.5.5.2, the term “applicable regulations” means, as appropriate and applicable, all zoning regulations, all subdivision regulations, the application plan (except for those elements authorized to be shown at a conceptual or general level), including those plans formerly referred to as general development plans, conditions of approval, accepted proffers, the code of development, special use permits, variances, and waivers, modifications and variations.
- e. *Applicability of chapter 17.* Each preliminary and final site plan and subdivision plat within a planned development district shall be reviewed for compliance with chapter 17 of the Code in effect when the site plan or subdivision plat is under county review, regardless of when the planned development was established or whether the developer or subdivider elects, or establishes vested rights, under subsections 8.5.5.2(a) and (b) to proceed with review under the applicable regulations in effect when the planned development was approved.
- f. *Vested rights not impaired.* Nothing in this section shall be construed as authorizing the impairment of a vested right that may be established under Virginia Code §§ 15.2-2261(C), 15.2-2297, 15.2-2298, 15.2-2303 or 15.2-2307.

(§ 8.5.6.2, 12-10-80; 9-9-92; § 8.5.5.2, Ord. 03-18(2), 3-19-03; Ord. 09-18(9), 10-14-09)

Section 26

Industrial Districts -- Generally

Sec. 26.1 Intent, where permitted

Industrial districts are intended to be for the purpose of providing places of employment and strengthening the local economic base in furtherance of the economic development policy of the comprehensive plan. To this end, the following shall be encouraged: (i) the establishment and continuation of industrial uses and their supporting uses in the locations and at the levels of intensity designated for those uses in the comprehensive plan; (ii) the establishment of new industrial uses that are appropriate for the character of the industrial districts; and (iii) the enlargement and expansion of existing industrial uses.

Industrial districts are intended to be established in areas having all of the following characteristics: (i) the area is served by public water and sewer facilities; (ii) the area is served by major highway, rail or air service, or secondary roads improved to standards approved by the county; and (iii) the area is clearly demonstrated to be suitable for the intended uses, considering the physical characteristics of the land and the intended uses and their relationship to surrounding development.

Sec. 26.2 Permitted primary and accessory uses and structures; prohibited uses and structures

Uses and structures within the industrial districts are permitted as follows:

- a. *Primary uses and structures.* Primary uses and structures within the industrial districts are permitted by right, by special use permit, and by special exception as provided in the following table, subject to the applicable requirements of this chapter:

Use	LI	HI	PD-IP Cat. 1	PD-IP Cat. 2
Manufacturing/Processing/Assembly/Fabrication/Recycling*	BR	BR	BR	BR
Asphalt mixing plants.	N	SP	N	SP

Use	LI	HI	PD-IP Cat. 1	PD-IP Cat. 2
Brick manufacturing, distribution.	SP	BR	SP	BR
Cement, lime gypsum manufacture or processing.	N	SP	N	SP
Chemical, plastics manufacture or processing.	SP	SP	SP	SP
Dry cleaning plants (reference 5.1.49).	SP	BR	SP	BR
Foundries (reference 5.1.50).	N	SP	N	SP
Inorganic fertilizer manufacture or processing.	N	SP	N	SP
Materials recovery facilities, privately owned and operated.	SP	BR	SP	BR
Organic fertilizer manufacture or processing.	SP	BR	SP	BR
Petroleum, gasoline, natural gas and manufactured gas bulk storage (reference 5.1.20).	SP	BR	SP	BR
Petroleum refining, including by-products (reference 5.1.20).	N	SP	N	SP
Pulp or paper manufacture or processing.	N	SP	N	SP
Recycling processing center.	SP	BR	SP	BR
Rendering plants (reference 5.1.53).	SP	BR	SP	BR
Sawmills, temporary or permanent; planing mills; wood yards (reference 5.1.15).	SP	BR	SP	BR
Storage/Warehousing/Distribution/Transportation*	BR	BR	BR	BR
Airports.	SP	SP	SP	SP
Heavy equipment and heavy vehicle parking and storage yards.	SP	BR	SP	BR
Heliports (reference 5.1.01).	SP	SP	SP	SP
Helistops (reference 5.1.01).	SP	SP	SP	SP
Junk yards (reference 5.1.10).	N	SP	N	SP
Warehouse facilities where there may be the storage of gasoline, kerosene or other volatile materials, dynamite blasting caps and other explosives, pesticides and poisons, and other materials which may be hazardous to life in the event of accident.	SP	BR	SP	BR
Wholesale businesses where there may be the storage of gasoline, kerosene or other volatile materials, dynamite blasting caps and other explosives, pesticides and poisons, and other materials which may be hazardous to life in the event of accident.	SP	BR	SP	BR
Laboratories/Research and Development/Experimental Testing	BR	BR	BR	BR
Offices**				
Independent offices; within structure existing or vested on or before April 3, 2014.	BR	BR	BR	BR
Independent offices; within structure not established or not vested until after April 3, 2014.	SP	SP	SP	SP
Independent offices; within expanded portion of structure where expansion not established or not vested until after April 3, 2014.	SP	SP	SP	SP
Industrial offices.	BR	BR	BR	BR
Public Uses, Utilities and Services, and Telecommunications Uses**				
Energy and communications transmission facilities (reference 5.1.12).	SP	SP	SP	SP
Fire, ambulance and rescue squad stations (reference 5.1.09).	BR	BR	BR	BR
Personal wireless service facilities, Tier I (reference 5.1.40).	BR	BR	BR	BR
Personal wireless service facilities, Tier II (reference 5.1.40).	BR	BR	BR	BR
Personal wireless service facilities, Tier III (reference 5.1.40).	SP	SP	SP	SP
Public uses (reference 5.1.12).	BR	BR	BR	BR

Use	LI	HI	PD-IP Cat. 1	PD-IP Cat. 2
Stormwater management facilities shown on an approved final site plan or subdivision plat.	BR	BR	BR	BR
Water, sewer, energy, communications distribution facilities (reference 5.1.12).	BR	BR	BR	BR
Temporary Uses**				
Temporary construction headquarters (reference 5.1.18).	BR	BR	BR	BR
Temporary construction storage yards (reference 5.1.18).	BR	BR	BR	BR
Temporary events sponsored by local nonprofit organizations (reference 5.1.27).	SP	SP	SP	SP
Temporary nonresidential mobile homes (reference 5.8).	BR	BR	BR	BR
Commercial Uses**				
Uses permitted by right or by special use permit in the Commercial (C-1), Commercial Office (CO) and Highway Commercial (HC) districts (collectively, "general commercial uses" as used in section 26.3) not otherwise expressly authorized by this section either by right or by special use permit; within structure existing or vested on April 3, 2013.	SP	SP	SP	SP
Farmers' markets conducted in a permanent structure established after May 5, 2010 (reference 5.1.47).	SP	SP	SP	SP
Farmers' markets conducted outdoors or within a temporary or a permanent structure existing on May 5, 2010 (reference 5.1.47).	BR	BR	BR	BR
Hotels, motels, inns.	SP	SP	SP	SP
Outdoor storage, display and/or sales serving or associated with a permitted use, other than a residential, agricultural or forestal use, any portion of which would be visible from a street within the entrance corridor overlay district to which it is contiguous or from any other street within the entrance corridor overlay district which is located within five hundred (500) feet; provided that review shall be limited to determining whether the outdoor storage, display and/or sales is consistent with the applicable design guidelines.	SP	SP	SP	SP
Subordinate retail sales for any use permitted by right; use does not exceed 25% of the gross floor area of the primary industrial use.	BR	BR	BR	BR
Subordinate retail sales for any use permitted by right; use exceeds 25% of the gross floor area of the primary industrial use.	SE	SE	SE	SE
Supporting commercial; use does not exceed 25% of the gross floor area of the freestanding building or multiple buildings on an industrial site.	BR	BR	BR	BR
Supporting commercial; use exceeds 25% of the gross floor area of the freestanding building or multiple buildings on an industrial site.	SE	SE	SE	SE
Parking**				
Parking structures, as part of an occupied structure (reference 4.12, 5.1.41).	BR	BR	BR	BR
Parking structures, stand alone (reference 4.12, 5.1.41).	SP	SP	SP	SP
Parking area, stand alone (reference 4.12, 5.1.41).	SP	SP	SP	SP
Uses Not Served By Public Water or Public Sewer**				
Uses permitted by right in the Light Industry (LI) or Heavy Industry (HI) districts, not served by public sewer, involving anticipated discharge of sewage other than domestic wastes.	SP	SP	SP	SP
Uses permitted by right in the Light Industry (LI) or Heavy Industry (HI) districts, not served by public water, involving water consumption exceeding four hundred (400) gallons per site acre per day.	SP	SP	SP	SP
Miscellaneous				
Dwellings and sleeping quarters, on-site (reference 5.1.21).	BR	BR	BR	BR
Fill areas (reference 5.1.28)	BR	BR	BR	BR
Waste areas (reference 5.1.28)	BR	BR	BR	BR

*Applies to all uses within this use classification, as defined, except for those uses expressly identified in unshaded text below that use classification.

**Heading is for organizational purposes only and is not a use classification.

BR: The use is permitted by right.
 SP: The use is permitted by special use permit.

SE: The use is permitted by special exception.

N: The use is not permitted.

- b. *Planned industrial parks and proffered industrial districts approved prior to April 3, 2013.* Within the following planned industrial parks and proffered industrial districts, the uses permitted by right, by special use permit, and by special exception shall be as follows:
1. *Uses in planned industrial parks.* The uses permitted by right and by special use permit in any planned development -industrial park (PD-IP) district approved prior to April 3, 2013, any industrial park approved as a planned development prior to December 10, 1980, are those uses permitted by right and by special use permit in effect when the zoning map amendment was approved and those uses delineated in subsection (a), regardless of any election made for a planned development district under subsections 8.5.5.2(a) and (b).
 2. *Uses in proffered industrial districts.* The uses permitted by right and by special use permit on any site within an industrial district for which proffers either specifying or prohibiting particular uses were accepted prior to April 3, 2013, are those uses permitted by right and by special use permit in effect when the zoning map amendment was approved and those uses delineated in subsection (a), provided that any use not allowed by right or by special use permit by a proffer shall be prohibited.
 3. *Certain non-industrial uses in planned industrial parks and proffered industrial districts.* In the planned industrial parks and proffered industrial districts delineated in subsections (b)(1) and (2), no supporting retail sales or subordinate commercial use that would exceed the by right thresholds in subsection (a) shall be expanded without a special exception as required by subsection (a).
- c. *Accessory uses and structures.* Accessory uses and structures are permitted within each industrial district, subject to the following:
1. *When accessory use is permitted.* No accessory use is permitted until the primary use to which it is accessory has been established.
 2. *When accessory structure is permitted.* No accessory structure is permitted until either construction of the primary structure or the primary use to which it is accessory has commenced.
 3. *Prohibited accessory uses and structures.* Parking structures, stand alone parking and drive-through windows are permitted only as provided in subsection (a) and not otherwise as accessory uses. The storage of sludge or toxic wastes, or both, is prohibited as an accessory use; provided that the temporary storage of sludge or toxic wastes awaiting proper disposal is a permitted accessory use.
- d. *Prohibited primary uses and structures.* The following uses and structures are prohibited as primary uses within each industrial district:
1. *Incinerators.* The establishment or use of an incinerator.
 2. *Manufacture of certain products.* The manufacture of acetylene gas, acid, ammonia, bleaching powder, chlorine, detergent and cleaning preparations made from animal fats, explosives, fireworks, fish meal, nitrogenous tankage, paints, varnish, shellac that requires distillation or heating ingredients, vinegar that is not derived from an agricultural product, phosphates, and turpentine.
 3. *Sludge.* The storage of sludge.
 4. *Toxic wastes.* The disposal or storage of toxic wastes regulated under the federal Toxic Substances Control Act (15 U.S.C. § 2601 *et seq.*), provided that placing toxic wastes for their lawful collection and disposal by a third party is not prohibited.

Sec. 26.3 Independent office and general commercial uses; additional factors when considering special use permits

In evaluating a request for a special use permit for an independent office or general commercial use as that use is described in section 26.2, the board shall consider the following factors in addition to those delineated in section 33.8:

- a. The purpose of the industrial district in which the use is proposed.
- b. The proposed use and its proposed size should be consistent with the intent of the applicable industrial district.
- c. The use proposed should not be located on the lowest floor of any building having direct exterior access to the ground surface in order to allow that floor to be used for industrial purposes.
- d. The gross floor area of each establishment should not exceed three thousand (3,000) square feet.

- e. The aggregate gross floor area of the independent offices or general commercial uses, or both, should not exceed twenty-four thousand (24,000) square feet and should not exceed twenty-five (25) percent of the gross floor area of the building.
- f. Whether the structure or structure expansion will be constructed to the standards required for industrial structures, regardless of its intended use.

(Amended 11-7-84)

Sec. 26.4 Structure height and setback

The maximum structure height and minimum setback for structures exceeding thirty-five (35) feet in height in the industrial districts are as follows:

- a. *Maximum height.* Except as otherwise provided in section 4.10, structures may be erected to a height not to exceed sixty-five (65) feet.
- b. *Minimum setback.* Any structure exceeding thirty-five (35) feet in height shall be set back from any street right-of-way or residential or agricultural district a distance of not less than two (2) feet for each one (1) foot of height in excess of thirty-five (35) feet plus the applicable minimum yard.
(Amended 9-9-92)

Sec. 26.5 Minimum yards

The minimum yard requirements in the industrial districts are as follows:

- a. *Adjacent to public streets.* No portion of any structure, excluding signs, shall be located within fifty (50) feet of any public street right-of-way. No portion of any off-street parking or loading space shall be located within ten (10) feet of any public street right-of-way. (Amended 7-10-85; 7-8-92)
- b. *Adjacent to district other than commercial or industrial district.* No portion of any structure, excluding signs, shall be located within fifty (50) feet of any district other than a commercial or industrial district and no portion of any off-street parking space shall be located within thirty (30) feet of any district other than a commercial or industrial district. In the heavy industry (HI) district, no portion of any structure, excluding signs, shall be located within one hundred (100) feet of any district other than a commercial or industrial district and no portion of any off-street parking shall be located within thirty (30) feet of any district other than a commercial or industrial district.
(Amended 7- 10-85; 7-8-92)
- c. *Buffer adjacent to district other than commercial or industrial district.* No construction activity, including grading or clearing vegetation (collectively, "disturbance"), shall occur within thirty (30) feet of any district other than a commercial or industrial district except in the following circumstances: (i) adequate landscape screening does not currently exist and disturbance is necessary to install screening that meets or exceeds the screening requirements in section 32.7.9; (ii) an arborist or landscape architect certifies that trees in the buffer are dying, diseased or will constitute a fall hazard and must be removed; (iii) the county engineer determines that disturbance is necessary in order to address an existing drainage problem; or (iv) disturbance will result in improved screening through the use of a berm, a retaining wall or similar physical modification or improvement. When disturbance is allowed under subsection (i), (ii), (iii) or (iv), the developer shall submit an illustration showing the existing screening without disturbance and the screening that would be installed after the disturbance, and disturbance shall be allowed only if the screening installed after the disturbance is equal to or exceeds the screening existing prior to disturbance. (Amended 9-9-92)
- d. *Special exception to disturb buffer abutting district other than a commercial or industrial district.* The board of supervisors may authorize a disturbance in the buffer required to be maintained under subsection (c) by special exception. The board shall consider whether disturbance is necessary or would result in an improved site design, provided that: (i) minimum screening requirements are met; and (ii) existing landscaping in excess of minimum requirements is substantially restored. (Added 7-10-85)

(12-10-80, §§ 26.10, 26.10.1, 26.10.2, 26.10.3; 7-10-85, 7-8-92, 9-9-92; Ord. 09-18(1), 1-14-09, §26.10)

Sec. 26.6 Site development and use

Subject to sections 26.4 and 26.5, each site within an industrial district shall comply with the applicable site development and use requirements in sections 4, 5 and 32.

Section 27

Light Industry – LI

Sec. 27.1 Intent, where permitted

The intent of the light industry (LI) district is to permit industrial and supporting uses that are compatible with, and do not detract from, surrounding districts.

Structures within the light industry (LI) district are encouraged to be constructed to the standards required for industrial structures, regardless of their intended use.

Sec. 27.2 Permitted uses

The uses permitted by right, by special use permit and by special exception in the light industry (LI) district are set forth in "LI" column in the table in section 26.2.

Sec. 27.3 Structure height, yard, setback, development, use

The structure height, yard, setback, development and use standards in sections 26.4, 26.5 and 26.6, and the sections cross-referenced therein, shall apply to all light industry (LI) districts.

Section 28

Heavy Industry – HI

Sec. 28.1 Intent, where permitted

The intent of the heavy industry (HI) district is to permit industrial and supporting uses having the potential, if unregulated, to cause public nuisances and therefore requiring enhanced performance standards and review for their impacts on surrounding lands and the environment.

Structures within the heavy industry (HI) district are encouraged to be constructed to the standards required for industrial structures, regardless of their intended use.

Sec. 28.2 Permitted uses

The uses permitted by right, by special use permit and by special exception in the heavy industry (HI) district are set forth in "HI" column in the table in section 26.2.

Sec. 28.3 Structure height, setback, yard, development, use

The structure height, yard, setback, development, and use standards in sections 26.4, 26.5 and 26.6, and the sections cross-referenced therein, shall apply to all heavy industry (HI) districts.

Section 29

Planned Development – Industrial Park – PD-IP

Sec. 29.1 Intent, where permitted

The intent of the planned development – industrial park (PD-IP) district is to permit a variety of industrial and supporting uses, together with delineated uses that are ancillary thereto, within a planned development that are compatible with and do not detract either from each other or surrounding districts. In establishing a planned development – industrial park (PD-IP) district, the board of supervisors shall designate the category of uses in section 29.2 that will be permitted on each parcel, or part thereof, within the district.

Structures within the planned development – industrial park (PD-IP) district are encouraged to be constructed to the standards required for industrial structures, regardless of their intended use.

Sec. 29.2 Permitted uses

The uses permitted by right, by special use permit and by special exception within those areas designated as Category I or Category II on the application plan applicable to the planned development – industrial park (PD-IP) district are set forth in the "PD-IP Cat. 1" and "PD-IP Cat. 2" columns in the table in section 26.2. No separate application for a special use permit shall be required for any special use identified on the approved application plan.

Sec. 29.3 Structure height, setback, yard, development, use

The structure height, yard, setback, development, and use standards in sections 26.4, 26.5 and 26.6, and the sections cross-referenced therein, shall apply to all planned development – industrial park (PD-IP) districts.

(12-10-80; Ord. 98-A(1), 8-5-98; Ord. 99-18(1), 4-14-99)

Mr. Davis said that the next item, ZTA 2012-00013, has no changes since the public hearing.

Mr. Rooker **moved** to adopt ZTA-2012-00013 as presented. Ms. Mallek **seconded** the motion.

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

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

ORDINANCE NO. 13-18(2)

AN ORDINANCE TO AMEND CHAPTER 18, ZONING, ARTICLE I, GENERAL PROVISIONS, AND ARTICLE III, DISTRICT REGULATIONS, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA

BE IT ORDAINED By the Board of Supervisors of the County of Albemarle, Virginia, that Chapter 18, Zoning, Article I, General Provisions, and Article III, District Regulations, are hereby amended and reordained as follows:

By Amending:

Sec. 3.1	Definitions
Sec. 20.3.1	By right
Sec. 20.3.2	By special use permit
Sec. 20A.6	Permitted uses
Sec. 20B.2	Permitted uses
Sec. 22.2.1	By right
Sec. 22.2.2	By special use permit
Sec. 23.2.1	By right
Sec. 23.2.2	By special use permit
Sec. 24.2.1	By right
Sec. 24.2.2	By special use permit
Sec. 25.2.1	By right
Sec. 25.2.2	By special use permit
Sec. 25A.2.1	By right
Sec. 25A.2.2	By special use permit

Chapter 18. Zoning

Article I. General Provisions

Sec. 3.1 Definitions

...

Drive-through Window: An accessory facility designed to provide access to commercial products and/or services for customers remaining in their motor vehicle, provided that this term does not include providing services to customers remaining in their motor vehicle while it is parked in a parking space. (Added 11-7-84)

...

Establishment: A public or private institution or a place of business.

...

Article III. District Regulations

Sec. 20.3.1 By right

The following uses shall be permitted subject to the requirements and limitations of this-chapter:

1. Detached single-family dwellings.
2. Semi-detached and attached single-family dwellings-such as duplexes, triplexes, quadraplexes, townhouses, atrium houses and patio houses provided that density is maintained, and provided further that buildings are located so that each unit could be provided with a lot meeting all other requirements for detached single-family dwellings except for side yards at the common wall.
3. Multiple-family dwellings.
4. (Repealed 9-2-81)
5. Parks, playgrounds, community centers and noncommercial recreational and cultural facilities such as tennis courts, swimming pools, game rooms, libraries and the like.
6. Water, sewer, energy and communications distribution facilities. (Amended 5-12-93)
7. Public uses (reference 5.1.12). (Amended 11-1-89)

8. Temporary construction headquarters and temporary construction storage yards (reference 5.1.18).
9. Accessory uses and structures including home occupation, Class A (reference 5.2) and storage buildings.
10. Group homes (reference 5.1.07).
11. Stormwater management facilities shown on an approved final site plan or subdivision plat. (Added 10-9-02)
12. Tier I and Tier II personal wireless service facilities (reference 5.1.40).

(§ 20-20.3.1, 12-10-80; 9-2-81; 11-1-89; 5-12-93; Ord 02-18(6), 10-9-02; Ord. 04-18(2), 10-13-04)

Sec. 20.3.2 By special use permit

The following uses shall be permitted by special use permit in the PUD district, subject to the applicable requirements of this chapter and provided that no separate application shall be required for any such use included in the original PUD rezoning petition: (Amended 5-5-10)

1. Day care, child care or nursery facility (reference 5.1.06).
2. Fire, ambulance and rescue squad stations (reference 5.1.09).
3. Rest home, nursing home, convalescent home, orphanage or similar institution (reference 5.1.13).
4. Energy and communications transmission facilities (reference 5.1.12).
5. Home occupation, Class B (reference 5.2).
6. Churches. (Added 9-2-81)
7. Stand alone parking and parking structures (reference 4.12, 5.1.41). (Added 11-7-84; Amended 2-5-03)
8. Tier III personal wireless service facilities (reference 5.1.40). (Added 10-13-04)
9. Farmers' markets (Added 5-5-10)

(§ 20-20.3.2, 12-10-80; 9-2-81; 11-7-84; Ord. 03-18(1), 2-5-03; Ord. 04-18(2), 10-13-04; Ord. 10-18(4), 5-5-10)

Sec. 20A.6 Permitted uses

The following uses shall be permitted in an NMD, subject to the regulations in this section and section 8, the approved application plan and code of development, and the accepted proffers:

- a. *By right uses.* The following uses are permitted by right if the use is expressly identified as a by right use in the code of development or if the use is permitted in a determination by the zoning administrator pursuant to subsection 8.5.5.2(c)(1):
 1. Each use allowed by right or by special use permit in any other zoning district, except for those uses allowed only by special use permit delineated in subsections 20A.6(b)(2) and (b)(3); provided that the use is identified in the approved code of development.
 2. Water, sewer, energy and communications distribution facilities.
 3. Accessory uses and buildings including storage buildings.
 4. Home occupation, Class A, where the district includes residential uses.
 5. Temporary construction headquarters and temporary construction storage yards (reference 5.1.18).
 6. Public uses (reference 5.1.12).
 7. Tourist lodgings, where the district includes residential uses.
 8. Group homes, where the district includes residential uses.
 9. Tier I and Tier II personal wireless service facilities (reference 5.1.40). (Added 10-13-04)
 10. Farmers' markets (reference 5.1.47). (Added 5-5-10)

- b. *By special use permit.* The following uses are permitted by special use permit if the use is expressly identified as use permitted by special use permit in the code of development:
1. Each use allowed by right or by special use permit in any other zoning district.
 2. Drive-through windows.
 3. Outdoor storage, display and/or sales serving or associated with a by right permitted use, if any portion of the use would be visible from a travelway.

(Ord. 03-18(2), 3-19-03; Ord 04-18(2), 10-13-04; Ord. 09-18(9), 10-14-09; Ord. 10-18(4), 5-5-10)

Sec. 20B.2 Permitted uses

The following uses shall be permitted in the DCD, subject to the regulations in this section:

- A. *By right uses; retail and service.* The following retail and service uses are permitted by right:
1. Antique, gift, jewelry, notion and craft shops.
 2. Automobile, truck repair shops excluding body shops.
 3. Barber, beauty shops.
 4. Clothing, apparel and shoe shops.
 5. Commercial recreation establishments including, but not limited to, amusement centers, bowling alleys, pool halls and dance halls.
 6. Convalescent homes (reference 5.1.13).
 7. Convenience stores.
 8. Department stores.
 9. Drug stores, pharmacies.
 10. Factory outlet stores, clothing and fabric.
 11. Farmers' markets (reference 5.1.47). (Amended 5-5-10)
 12. Feed and seed stores (reference 5.1.22).
 13. Financial institutions.
 14. Fire extinguisher and security products sales and service.
 15. Florists.
 16. Food and grocery stores including such specialty shops as bakery, candy, milk dispensary and wine and cheese shops.
 17. Funeral homes.
 18. Furniture and home appliances sales and service.
 19. Hardware stores.
 20. Health spas.
 21. Hotels, motels and inns.
 22. Indoor athletic facilities.
 23. Laboratories, medical or pharmaceutical.
 24. Laundries, dry cleaners.
 25. Musical instrument sales and repair.
 26. New automotive parts sales.
 27. Newspaper publishing.
 28. Newsstands, magazines, pipe and tobacco shops.

29. Nursing homes (reference 5.1.13).
 30. Office and business machines sales and service.
 31. Optical goods sales and service.
 32. Photographic goods sales and service.
 33. Research and development activities, including experimental testing, subject to the performance standards stated in section 4.14 of this chapter.
 34. Restaurants.
 35. Retail nurseries and greenhouses.
 36. Service stations.
 37. Sporting goods sales.
 38. Tailors and seamstresses.
 39. Temporary construction headquarters and temporary construction storage yards (reference 5.1.18).
 40. Tier I and Tier II personal wireless service facilities (reference 5.1.40).
 41. Tourist lodging.
 42. Visual and audio appliances.
- B. *By right uses; office.* The following office uses are permitted by right:
1. Offices.
 2. Temporary construction headquarters and temporary construction storage yards (reference 5.1.18).
- C. *By right uses; public and civic.* The following public and civic uses are permitted by right:
1. Churches.
 2. Clubs, lodges (reference 5.1.02).
 3. Conference centers, outdoor auditoriums, public art or kiosks.
 4. Cultural arts centers.
 5. Day care centers (reference 5.1.06).
 6. Water, sewer, energy and communications distribution facilities.
 7. Fire, ambulance and rescue squad stations (reference 5.1.09).
 8. Libraries.
 9. Outdoor performance areas.
 10. Parking structures and stand alone parking structures (reference 4.12 and 5.1.41).
 11. Private schools.
 12. Public uses-(reference 5.1.12).
 13. Temporary construction headquarters and temporary construction storage yards (reference 5.1.18).
 14. Theaters, live and movie, including multi-screen movie theaters.
- D. *By right uses; residential.* The following residential uses are permitted by right, provided that the first floor of the building in which the residential use exists is designed for and occupied only by a use permitted by subsections 20B.2(A), (B), (C) or (E):
1. Apartments, either as a single-family dwelling or as a multiple-family dwelling.
 2. Attached single-family dwellings such as townhouses.

3. Boarding houses.
 4. Condominiums.
 5. Group homes (reference 5.1.07).
 6. Tourist lodging within detached single-family dwellings existing on June 4, 2008.
 7. Dwellings occupied by the owner or employees of a permitted commercial use, and their families (reference 5.1.21).
- E. *By special use permit.* The following uses are permitted by special use permit:
1. Body shops (reference 5.1.31).
 2. Buildings more than fifty (50) feet or four stories in height, up to seventy (70) feet or six (6) stories in height, provided the increased height allows the provision of a demonstrated public benefit, such as providing affordable housing or parking.
 3. Buildings one story in height.
 4. Car washes.
 5. Compounding of drugs, including biological products, medical and chemical as well as pharmaceutical.
 6. Detached single-family dwelling, provided that there is no other use permitted by subsections 20B.2(A), (B), (C) or (E) on the same lot.
 7. Drive-through windows.
 8. Energy and communications transmission facilities (reference 5.1.12).
 9. Hospitals.
 10. Manufacturing, processing, fabricating, assembling, and distributing products including, but not limited to:
 - Artists' supplies and equipment.
 - Business, office machines and equipment.
 - Cosmetics, including perfumes, perfumed toiletries and perfumed toilet soap.
 - Drafting supplies and equipment.
 - Electrical lighting and wiring equipment.
 - Electrical and electronic equipment and components including radio, telephone, computer, communication equipment, TV receiving sets, phonographs.
 - Food products, such as bakery goods, dairy products, candy, beverages, including bottling plants.
 - Gifts, novelties including pottery, figurines and similar ceramic products.
 - Glass products made of purchased glass.
 - Industrial controls.
 - Jewelry, silverware.
 - Light machinery and machine parts, including electrical household appliances but not including such things as clothes washers, dryers and refrigerators.
 - Musical instruments.
 - Paper products such as die-cut paperboard and cardboard, sanitary paper products, bags and containers.
 - Photographic equipment and supplies including processing and developing plant.
 - Rubber, metal stamps.
 - Small electrical parts such as coils, condensers, transformers, crystal holders.
 - Surgical, medical and dental instruments and supplies.

- Toys, sporting and athletic equipment, except firearms, ammunition or fireworks.
- Watches, clocks and similar timing devices.
- Wood cabinets and furniture, upholstery.

11. Publishing, printing, lithography and engraving, including but not limited to newspapers, periodicals and books.
12. Preparation of printing plates including typesetting, etching and engraving.
13. Stand-alone parking (reference 4.12).
14. Storage yards.
15. Tier III personal wireless service facilities (reference 5.1.40).
16. Towing and storage of motor vehicles (reference 5.1.32).
17. Veterinary offices and animal hospitals.

- F. *Accessory uses and structures.* Accessory uses and structures are permitted, including but not limited to: (i) home occupations, Class A and Class B (reference 5.2) for primary residential uses; (ii) storage buildings for primary residential and non-residential uses; (iii) outdoor performance areas for primary cultural arts center uses; and (iv) prototype manufacturing for research and development uses.

(Ord. 08-18(3), 6-11-08; Ord. 10-18(4), 5-5-10)

Sec. 22.2.1 By right

The following uses shall be permitted in any C-1 district, subject to the applicable requirements of this chapter. The zoning administrator, after consultation with the director of planning and other appropriate officials, may permit as a use by right, a use not specifically permitted; provided that such use shall be similar to uses permitted by right in general character and more specifically, similar in terms of locational requirements, operational characteristics, visual impact and traffic generation. Appeals from the zoning administrator's decision shall be as generally provided in section 34.

- a. The following retail sales and service establishments:
 1. Antique, gift, jewelry, notion and craft shops.
 2. Clothing, apparel and shoe shops.
 3. Department store.
 4. Drug store, pharmacy.
 5. Florist.
 6. Food and grocery stores including such specialty shops as bakery, candy, milk dispensary and wine and cheese shops.
 7. Furniture and home appliances (sales and service).
 8. Hardware store.
 9. Musical instruments.
 10. Newsstands, magazines, pipe and tobacco shops.
 11. Optical goods.
 12. Photographic goods.
 13. Visual and audio appliances.
 14. Sporting goods.
 15. Retail nurseries and greenhouses.
 16. Farmers' markets (reference 5.1.47). (Added 5-5-10)
 17. Laboratories/Research and Development/Experimental Testing; gross floor area of the establishment does not exceed 4,000 square feet per site; provided that the gross floor area of the establishment may exceed 4,000 square feet per site by special exception approved by the board of supervisors.

18. Manufacturing/Processing/Assembly/Fabrication and Recycling; gross floor area of the establishment does not exceed 4,000 square feet per site; provided that the gross floor area of the establishment may exceed 4,000 square feet per site by special exception approved by the board of supervisors.

b. The following services and public establishments:

1. Administrative, professional offices.
2. Barber, beauty shops.
3. Churches, cemeteries.
4. Clubs, lodges (reference 5.1.02).
5. Financial institutions.
6. Fire and rescue squad stations (reference 5.1.09).
7. Funeral homes.
8. Health spas.
9. Indoor theaters.
10. Laundries, dry cleaners.
11. Laundromat (provided that an attendant shall be on duty at all hours during operation).
12. Libraries, museums.
13. Nurseries, day care centers (reference 5.1.06).
14. Eating establishments.
15. Tailor, seamstress.
16. Automobile service stations (reference 5.1.20).
17. Water, sewer, energy and communications distribution facilities. (Amended 5-2-93)
18. Public uses (reference 5.1.12). (Amended 11-1-9)
19. Temporary construction headquarters and temporary construction storage yards (reference 5.1.18).
20. Dwellings (reference 5.1.21).
21. Automobile, truck repair shop excluding body shop. (Added 6-3-81; Amended 9-9-92)
22. Temporary nonresidential mobile homes (reference 5.8). (Added 3-5-86)
23. Indoor athletic facilities. (Added 9-15-93)
24. (Repealed 5-5-10)
25. Stormwater management facilities shown on an approved final site plan or subdivision plat. (Added 10-9-02)
26. Tier I and Tier II personal wireless service facilities (reference 5.1.40). (Added 10-13-04)

(§ 20-22.2.1, 12-10-80; 6-3-81; 3-5-86; 9-9-92; 5-2-93; 9-14-93; 10-11-95; Ord. 02-18(6), 10-9-02; Ord. 04-18(2), 10-13-04; Ord. 10-18(4), 5-5-10)

Sec. 22.2.2 By special use permit

The following uses shall be permitted only by special use permit approved by the board of supervisors:

1. Commercial recreation establishments including but not limited to amusement centers, bowling alleys, pool halls and dance halls. (Amended 1-1-83)
2. Energy and communications transmission facilities.

3. Hospitals.
4. Fast food restaurant.
5. Veterinary office and hospital (reference 5.1.11).
6. Unless such uses are otherwise provided in this section, uses permitted in section 18.0, residential - R-15, in compliance with regulations set forth therein.
7. Hotels, motels and inns.
8. Motor vehicle sales and rental in communities and the urban area as designated in the comprehensive plan. (Added 6-1-83)
9. Stand alone parking and parking structures (reference 4.12, 5.1.41). (Added 11-7-84; Amended 2-5-03)
10. Drive-through windows. (Added 11-7-84; Amended 9-9-92)
11. Uses permitted by right, not served by public water, involving water consumption exceeding four hundred (400) gallons per site acre per day. Uses permitted by right, not served by public sewer, involving anticipated discharge of sewage other than domestic wastes. (Added 6-14-89)
12. Body shop. (Added 9-9-92)
13. Animal shelter (reference 5.1.11). (Added 6-16-99).
14. Tier III personal wireless service facilities (reference 5.1.40). (Added 10-13-04)
15. Storage/Warehousing/Distribution/Transportation.

(§ 20-22.2.2, 12-10-80; 1-1-83; 6-1-83; 11-7-84; 6-14-89; Ord. 03-18(1), 2-5-03; Ord. 04-18(2), 10-13-04)

Sec. 23.2.1 By right

The following uses shall be permitted in the CO district, subject to the applicable requirements of this chapter:

1. Administrative and business offices.
2. Professional offices, including medical, dental and optical.
3. Financial institutions.
4. Churches, cemeteries.
5. Libraries, museums.
6. Accessory uses and structures incidental to the principal uses provided herein. The aggregate of all accessory uses shall not occupy more than twenty (20) percent of the floor area of the buildings on the site. The following accessory uses shall be permitted:
 - Eating establishments;
 - Newsstands;
 - Establishments for the sale of office supplies and service of office equipment;
 - Data processing services;
 - Central reproduction and mailing services and the like;
 - Ethical pharmacies, laboratories and establishments for the production, fitting and/or sale of optical or prosthetic appliances on sites containing medical, dental or optical offices;
 - (Repealed 3-17-82)
 - Sale/service of goods associated with the principal use such as, but not limited to: musical instruments, musical scores, text books, artist's supplies and dancing shoes and apparel;
(Added 12-3-86)
 - Barber shops; (Added 8-5-09)
 - Beauty shops. (Added 8-5-09)

7. Water, sewer, energy and communications distribution facilities. (Amended 5-12-93)
8. Public uses (reference 5.1.12). (Amended 11-1-89)
9. Temporary construction headquarters and temporary construction storage yards (reference 5.1.18).
10. Dwellings (reference 5.1.21). (Added 3-17-82)
11. Temporary nonresidential mobile homes (reference 5.8). (Added 3-5-86)
12. Day care, child care or nursery facility (reference 5.1.6). (Added 9-9-92)
13. Stormwater management facilities shown on an approved final site plan or subdivision plat. (Added 10-9-01)
14. Tier I and Tier II personal wireless service facilities (reference 5.1.40). (Added 10-13-04)
15. Farmers' markets (reference 5.1.47). (Added 5-5-10)
16. Laboratories/Research and Development/Experimental Testing; gross floor area of the establishment does not exceed 4,000 square feet per site; provided that the gross floor area of the establishment may exceed 4,000 square feet per site by special exception approved by the board of supervisors.

(§ 20-23.2.1, 12-10-80; 3-17-82; 3-5-86; 12-3-86; 11-1-89; 9-9-92; 5-12-93; Ord. 01-18(6), 10-9-01 ; Ord. 04-18(2), 10-13-04; Ord. 09-18(6), 8-5-09; Ord. 10-18(4), 5-5-10)

Sec. 23.2.2 By special use permit

The following uses shall be permitted only by special use permit approved by the board of supervisors:

1. Hospitals.
2. Funeral homes.
3. Energy and communications transmission facilities.
4. Stand alone parking and parking structures (reference 4.12, 5.1.41). (Added 11-7-84; Amended 2-5-03)
5. Drive-through windows (Added 11-7-84)
6. School of special instruction. (Added 1-1-87)
7. Clubs, lodges (reference 5.1.2). (Added 1-1-87)
8. Uses permitted by right, not served by public water, involving water consumption exceeding four hundred (400) gallons per site acre per day. Uses permitted by right, not served by public sewer, involving anticipated discharge of sewage other than domestic wastes. (Added 6-14-89)
9. Unless such uses are otherwise provided in this section, uses permitted in section 18.0, residential R-15. in compliance with regulations set forth therein. (Added 6-19-91)
10. Hotels, motels and inns (reference 9.0). (Added 6-19-91)
11. Supporting commercial uses (reference 9.0). (Added 6-19-91)
12. Research and development activities including experimental testing. (Added 6-19-91)
13. Laboratories, medical or pharmaceutical. (Added 6-10-92)
14. Indoor athletic facilities. (Added 9-15-93)
15. Tier III personal wireless service facilities (reference 5.1.40). (Added 10-13-04)
16. Storage/Warehousing/Distribution/Transportation.
17. Manufacturing/Processing/Assembly/Fabrication and Recycling.

(§ 20-23.2.2, 12-10-80; 11-7-84; 1-1-87; 6-14-89; 6-19-91; 6-10-92; 9-15-93; Ord. 03-18(1), 2-5-03; Ord. 04-18(2), 10-13-04)

Sec. 24.2.1 By right

The following uses shall be permitted in any HC district, subject to the applicable requirements of this chapter. The zoning administrator, after consultation with the director of planning and other appropriate officials, may permit, as a use by right, a use not specifically permitted; provided that such use shall be similar to uses permitted by right in general character, and more specifically, similar in terms of locational requirements, operational characteristics, visual impact and traffic generation. Appeals from the zoning administrator's decision shall be as generally provided in section 34.

1. Automobile laundries.
2. Automobile, truck repair shops.
3. Automobile service stations (reference 5.1.20).
4. Building materials sales.
5. Churches, cemeteries.
6. Clubs, lodges (reference 5.1.02).
7. Convenience stores.
8. Educational, technical and trade schools.
9. Factory outlet sales - clothing and fabric.
10. Feed and seed stores (reference 5.1.22).
11. Financial institutions.
12. Fire extinguisher and security products, sales and service.
13. Fire and rescue squad stations (reference 5.1.09).
14. Funeral homes.
15. Furniture stores.
16. Food and grocery stores including such specialty shops as bakery, candy, milk dispensary and wine and cheese shops.
17. Home and business services such as grounds care, cleaning, exterminators, landscaping and other repair and maintenance services.
18. Hardware.
19. (Repealed 6-3-81)
20. Hotels, motels and inns.
21. Light warehousing.
22. Machinery and equipment sales, service and rental.
23. Mobile home and trailer sales and service.
24. Modular building sales.
25. Motor vehicle sales, service and rental.
26. New automotive parts sales.
27. Newspaper publishing.
28. Administrative, business and professional offices.
29. Office and business machines sales and service.
30. Eating establishment; fast food restaurants.
31. Retail nurseries and greenhouses.
32. Sale of major recreational equipment and vehicles.
33. Wayside stands - vegetables and agricultural produce (reference 5.1.19).

34. Wholesale distribution.
35. Water, sewer, energy and communications distribution facilities. (Amended 5-12-93)
36. Public uses (reference 5.1.12). (Amended 11-1-89)
37. Temporary construction headquarters and temporary construction storage yards (reference 5.1.18).
38. Indoor theaters.
39. Heating oil sales and distribution (reference 5.1.20).
40. Temporary nonresidential mobile homes (reference 5.8). (Added 3-5-86)
41. Uses permitted by right pursuant to subsection 22.2.1 of section 22.1, commercial, C-1. (Added 6-19-91; Amended 9-9-92)
42. Indoor athletic facilities. (Added 9-15-93)
43. Farmers' market (reference 5.1.47). (Added 10-11-95; Amended 5-5-10)
44. Stormwater management facilities shown on an approved final site plan or subdivision plat. (Added 10-9-02)
45. Tier I and Tier II personal wireless service facilities (reference 5.1.40). (Added 10-13-04)
46. Storage yards. (Added 11-12-08)
47. Laboratories/Research and Development/Experimental Testing; gross floor area of the establishment does not exceed 4,000 square feet per site; provided that the gross floor area of the establishment may exceed 4,000 square feet per site by special exception approved by the board of supervisors.
48. Manufacturing/Processing/Assembly/Fabrication and Recycling; gross floor area of the establishment does not exceed 4,000 square feet per site; provided that the gross floor area of the establishment may exceed 4,000 square feet per site by special exception approved by the board of supervisors.
49. Storage/Warehousing/Distribution/Transportation; gross floor area of the establishment does not exceed 4,000 square feet per site; provided that the gross floor area of the establishment may exceed 4,000 square feet per site by special exception approved by the board of supervisors.

(§ 20-24.2.1, 12-10-80; 6-3-81; 3-5-86; 11-1-89; 6-19-91; 9-9-92; 5-12-93; 9-15-93; 10-11-95; § 18-24.2.1, Ord. 98-A(1), 8-5-98; Ord.02-18(6), 10-9-02; Ord. 04-18(2), 10-13-04; Ord. 08-18(6), 11-12-08; Ord. 10-18(4), 5-5-10)

Sec. 24.2.2 By special use permit

The following uses shall be permitted by special use permit in the HC district:

1. Commercial recreation establishment including but not limited to amusement centers, bowling alleys, pool halls and dance halls. (Amended 1-1-83)
2. Septic tank sales and related service.
3. Livestock sales.
4. Veterinary office and hospital (reference 5.1.11).
5. Drive-in theaters (reference 5.1.08).
6. Energy and communications transmission facilities (reference 5.1.12).
7. Hospitals, nursing homes, convalescent homes (reference 5.1.13).
8. Auction houses.
9. Unless such uses are otherwise provided in this section, uses permitted in section 18.0, residential - R-15, in compliance with regulations set forth therein.
10. Commercial kennels - indoor only (reference 5.1.11). (Added 1-1-83)
11. Stand alone parking and parking structures (reference 4.12, 5.1.41). (Added 11-7-84; Amended 2-5-03)

12. Drive-through windows. (Added 11-7-84; Amended 9-9-92)
13. Uses permitted by right, not served by public water, involving water consumption exceeding four hundred (400) gallons per site acre per day. Uses permitted by right, not served by public sewer, involving anticipated discharge of sewage other than domestic wastes. (Added 6-14-89)
14. Warehouse facilities not permitted under section 24.2.1 (reference 9.0). (Added 6-19-91)
15. Animal shelter (reference 5.1.11). (Added 6-16-99)
16. Tier III personal wireless service facilities (reference 5.1.40). (Added 10-13-04)
17. Body shops. (Added 1-12-11)

(§ 20-24.2.2, 12-10-80; 1-1-83; 11-7-84; 6-14-89; 6-19-91; 9-9-92; § 18-24.2.2, Ord. 98-A(1), 8-5-98; Ord. 99-18(4), 6-16-99; Ord. 03-18(1), 2-5-03; Ord. 04-18(2), 10-13-04; Ord. 08-18(6), 11-12-08; Ord. 11-18(2), 1-12-11)

Sec. 25.2.1 By right

The following uses shall be permitted by right in the PD-SC district:

1. Uses permitted by right in the C-1, CO and HC districts, except for storage yards. Outdoor storage, sales or display shall be permitted only when enclosed by appropriate visual screening. (Amended 11-12-08)
2. Water, sewer, energy and communications distribution facilities. (Amended 5-12-93)
3. Public uses (reference 5.1.12). (Amended 11-1-89)
4. Temporary construction headquarters and temporary construction storage yards (reference 5.1.18).

§ 20-25.2.1, 12-10-80; 11-1-89; 5-12-93; § 18-25.2.1, Ord. 98-A(1), 8-5-98; § 18-25.2.1, Ord. 98-A(1), 8-5-98; Ord. 08-18(6), 11-12-08)

Sec. 25.2.2 By special use permit

The following uses shall be permitted by special use permit in the PD-SC district:

1. Commercial recreational establishment included but not limited to amusement centers, bowling alleys, pool halls and dance halls. (Amended 1-1-83)
2. Energy and communications transmission facilities (reference 5.1.12).
3. Parking structures located wholly or partly above grade. (Added 11-7-84)
4. Drive-through windows. (Added 11-7-84; Amended 9-9-92)
5. Veterinary office and hospital (reference 5.1.11). (Added 11- 15-89)
6. Tier III personal wireless service facilities (reference 5.1.40). (Added 10-13-04)
7. Storage yards. (Added 11-12-08)

(§ 20-25.2.2, 12-10-80; 1-1-83; 11-7-84; 11-15-89; 9-9-92; § 18-25.2.2, Ord. 98-A(1), 8-5-98; Ord. 04-18(2), 10-13-04; Ord. 08-18(6), 11-12-08)

Sec. 25A.2.1 By right

The following uses shall be permitted by right in the PD-MC district:

1. Uses permitted by right in the C-1, CO and HC districts, except for storage yards. Outdoor storage, sales or display shall be permitted only when enclosed by appropriate visual screening. (Amended 11-12-08)
2. Water, sewer, energy and communications distribution facilities. (Amended 5-12-93)
3. Public uses (reference 5.1.12). (Amended 11-1-89)
4. Temporary construction headquarters and temporary construction storage yards (reference 5.1.18).

(§ 20-25A.2.1, 12-10-80; 11-1-89; 5-12-93; § 18-25A.2.1, Ord. 98-A(1), 8-5-98; Ord. 08-18(6), 11-12-08)

Agenda Item No. 23. From the Board: Committee Reports and Matters not Listed on the Agenda.

Mr. Snow said he heard from a constituent recently about how positive and happy County staff is, and he thanked them for the great work that they do.

Mr. Snow also strongly recommended bringing back the Comp Plan with the same type of notation as the ZTA updates, because it clearly illustrates what has been changed.

Mr. Cilimberg responded that it would be nearly impossible as it would take many months to put it together. He explained that, over 20 years, the County has adopted different sections of the Comp Plan at different points in time, and staff is literally trying to combine four plans plus master plans and associated reference documents into one document and to do that in a "strike through and addition format" would be impossible without assigning staff to it for many months. He said staff has worked very hard to put together a document that focuses on what is the same direction and intent and those things that are new and changed, so hopefully that will help. Mr. Cilimberg offered to talk with the Board about any changes planned.

Mr. Boyd said he expects staff to go through the plan with the same level of detail that was done at the Planning Commission meeting when it is brought to the Board. He said it is too important a document for the Board to abdicate its responsibilities to some other group. He added that he didn't understand why it couldn't be brought to the Board in the same fashion.

Mr. Cilimberg responded that the work session last night was the 22nd work session held with the Planning Commission.

Mr. Rooker noted that the strike-throughs with the Commission documents are those things that have changed from one meeting to the next, not ones that go back to the original Comprehensive Plan.

Mr. Cilimberg confirmed that was the case.

Mr. Foley said that there would be some sections that would be more important to look at than others, and staff would certainly do some good planning toward the review of the Comp Plan.

Mr. Boyd said that he just doesn't want the document to be dropped on them with only one work session to review it.

Ms. Mallek reminded the Board that the plan is available online.

Mr. Foley and Mr. Cilimberg assured the Board that they would come up with a thorough but efficient process to use.

Agenda Item No. 24. From the County Executive: Report on Matters Not Listed on the Agenda.

Mr. Foley stated that the vouchers for The Crossings were for nine people that the County had made a commitment to provide shelter for, but a few of those people no longer need the services so Mr. White's interpretation was that the vouchers were for those originally identified nine people. He said that Ms. Carpenter's assertion was that the two vouchers freed up should be turned over to other people, but the Board's commitment, as he understood it, was for the nine original people.

Mr. Rooker said his understanding is that the vouchers were for those specific people, although he hopes the situation is resolved soon so that all the slots are made available to those who can use those vouchers.

Mr. Foley stated that, if that's the consensus of the Board that the vouchers be assigned to those specific individuals, he would proceed with that intent.

The Board agreed.

Mr. Foley mentioned that the Board, before their next meeting, would have a draft letter for Congressman Hurt's office regarding The Crossings situation.

Mr. Foley reported that the budget the Board adopted today had additional money for historic resources, and there was a question as to whether that money was going to the Historic Society or to be used to support some additional historic research work, and so that matter remains unresolved. Mr. Foley said that Stephen Meeks wasn't sure where those funds were being allocated.

Ms. Mallek said that this discussion took place during their agency review discussion.

Mr. Foley said that the idea was to make a contribution to them, but Mr. Rooker had raised the issue as to whether the money should go to the Historic Society or to some other issues that had been in the Comp Plan for a long time.

Ms. Mallek suggested that staff bring forth alternatives as to how the money would be used if not for the Historic Society.

Mr. Foley agreed, adding that staff has been working for a long time to try to develop a database of historic properties and there is a historic resources committee involved in that process but is not meeting now because that effort is not going forward with much support.

Mr. Rooker said that the Board should consider how the funds will be allocated.

Mr. Snow agreed, adding that he is on the Historic Preservation Committee.

Mr. Foley said that there may be a staff capacity issue with using it, but he would bring back some different options for them.

Agenda Item No. 25. Adjourn to April 10, 2013, 4:00 p.m., Lane Auditorium.

At 4:28 p.m., Ms. Mallek **moved** to adjourn to April 10, 2013 at 4:00 p.m. in Lane Auditorium. Mr. Rooker **seconded** the motion.

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

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

NAYS: None.

Chairman

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