

A regular meeting of the Board of Supervisors of Albemarle County, Virginia, was held on May 1, 2013, at 9:00 a.m., Lane Auditorium, County Office Building, McIntire Road, Charlottesville, Virginia.

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

ABSENT: None.

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

Agenda Item No. 1. The meeting was called to order at 9:02 a.m., by the Chair, Ms. Mallek.

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

Agenda Item No. 4. Adoption of Final Agenda.

Ms. Mallek stated that there was an article in *The Daily Progress* about fracking in the George Washington National Forest, which is to the west of Albemarle and the source of drinking water for the County and points east. She asked that this item be added to the end of the agenda for discussion.

She also said she would like to get some information on the job description for the Volunteer Coordinator position in Fire and Rescue. Mr. Foley stated that the item is planned for the Board's June 5th agenda, but if she wanted to discuss it sooner she can. Ms. Mallek said that the description is being described to the Fire Chiefs as already being done, and it should have come to the Board first. Mr. Foley commented that it is not a done deal; he reiterated that it is scheduled for the Board's discussion.

The Board agreed by consensus to approve the agenda as presented.

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

Mr. Thomas announced that Mr. Nelson Shaw from the Department of Forestry died recently. Mr. Shaw was a dedicated forestry worker who attended all of the Ag/Forestral District Committee meetings. He really believed in his work in the forests.

Board members acknowledged Mr. Shaw's valuable contributions and said he would be missed.

Ms. Mallek reported that there were seven applications received for the ACE Program, representing over 1,500 acres. This is the beginning of the process, with six of the properties immediately qualifying for consideration, so it is a very high quality class this year.

She mentioned that there were some brochures on Preservation Week 2013 available at the meeting. The event begins on May 3 and includes trips, lectures, and other activities highlighting the historic features of the area.

Ms. Mallek reported that there is a State effort at rebranding for the Piedmont Workforce Network, trying to reach out to job providers and business interests to help job-seekers.

With regard to Nelson Shaw, Ms. Mallek said that he passed away the previous Friday. He was the County's Forester and the annual presenter to the State of the Albemarle Forest Report. Ms. Mallek said that Mr. Shaw was born with cerebral palsy and a profound hearing impairment, but through determination he graduated with a degree in forestry magna cum laude from West Virginia University. She stated that she has known Mr. Shaw since the 1980s and worked with her family on their woodland tracks and wrote their forest management plan. He recently represented the DOF at the inter-agency summer camp, at which each of the five sponsoring agencies (Virginia Cooperative Extension, Forestry Department, Virginia Museum of Natural History, Soil and Water Conservation District and the Rivanna Conservation Society) each provided a day of experiences in natural resource management for middle school children. Ms. Mallek said that Mr. Shaw also led the forestry day at her farm and taught kids how to select trees to thin to improve a hardwood stand. Mr. Shaw was a mental image for everyone to remember. The experiences provided to campers and the Boy Scouts he led will carry on his legacy.

Ms. Mallek reported that this week the UVA Health System presented its annual Commitment to Community Service awards. The 2013 recipient was Western Albemarle Rescue Squad Chief Kostas Alibertis. Ms. Mallek said that Chief Alibertis is a leader in emergency medicine locally, and at the State, national and international level, developing programs and teaching. As the head of the Chiefs Board of the Fire and Rescue Department, Chief Alibertis provides leadership for further success with a selfless approach. She stated that as the WARS Chief, he leads the rescue members with high expectations and personal example. Chief Alibertis is a demanding and supportive leader; the glue that holds the agency together. Crozet is lucky to have Chief Alibertis as its Rescue Chief.

Agenda Item No. 6. Recognitions:

Item No. 6a. Paul Wright for service on the Architectural Review Board.

Ms. Mallek recognized and presented Mr. Wright with Certificate of Appreciation for his service on the Architectural Review Board. Mr. Wright served as a member of the Architectural Review Board from 2004-2012, and served as vice-chair of the ARB from 2005-06 and chairman from 2007-09. She stated that the ARB has relied on Mr. Wright for his judgment and sound advice on numerous matters, and read a certificate of appreciation.

Mr. Wright stepped forward and received the award, stating that he appreciated the time and consideration given to him when he presented to the Board. He said that as they go forward, he hoped Board members would continue talking to ARB and Planning Commission members to keep them informed. Mr. Wright stated that he also hoped the Board would consider looking at "smaller buildings not facing their back to the 29 corridor," which has 100% agreement from the ARB. He added that he appreciates the trust and ability to serve the people of Albemarle.

Item No. 6b. Proclamation recognizing May 5-11, 2013 as Municipal Clerks Week.

Ms. Mallek read and presented the following proclamation in recognition of Municipal Clerks Week:

**Municipal Clerks Week
May 5-11, 2013**

Whereas, *the Municipal Clerk is a time honored and vital part of local government that exists throughout the world and serves as an information center on functions of local government and community; and*

Whereas, *the Municipal Clerk is the oldest among public servants; and*

Whereas, *the Municipal Clerk provides a professional link between the citizens and local governing bodies and agencies of government at all levels; and*

Whereas, *Municipal Clerks have pledged to be ever mindful of their neutrality and impartiality, rendering equal service to all; and*

Whereas, *Municipal Clerks continually strive to improve the administration of the affairs of the Office of Municipal Clerk through participation in education programs, seminars, workshops and the annual meeting of their state, province, county and international professional organizations; and*

Whereas, *it is most appropriate that we recognize the accomplishments of the Municipal Clerk;*

Now, Therefore, Be It Resolved that, we, the Albemarle County Board of Supervisors, do recognize

May 5 – 11, 2013 as Municipal Clerks Week

and further extend appreciation to Ella W. Jordan, CMC (Certified Municipal Clerk) Clerk, and Travis O. Morris, Senior Deputy Clerk, and to all Municipal Clerks for the vital services they perform and their exemplary dedication to the communities they represent.

Item No. 6c. Proclamation recognizing May 6-10, 2013 as Public Service Recognition Week.

Ms. Mallek read and presented the following proclamation in recognizing May 6-10, 2013 as Public Service Recognition Week:

**PUBLIC SERVICE RECOGNITION WEEK
MAY 6-10, 2013**

WHEREAS, *Americans are served daily by public servants at the federal, state, county, and city levels. These unsung heroes do the work that keeps our nation working; and*

WHEREAS, *public service is among the most demanding and noble of professions; and*

WHEREAS, *Public Service Recognition Week is observed annually to celebrate and recognize the valuable service that public servants provide to the nation; and*

WHEREAS, *over 500 Albemarle County Local Government employees work tirelessly to serve our residents, businesses, and visitors, providing them with outstanding customer service while maintaining careful stewardship of the resources with which they have been entrusted; and*

WHEREAS, *without these public servants at every level, continuity would be impossible in a democracy that regularly changes its leaders and elected officials; and*

WHEREAS, *we appreciate the many accomplishments and contributions made daily by these public servants;*

NOW, THEREFORE, BE IT RESOLVED that we, the Albemarle County Board of Supervisors, do proclaim

May 6-10, 2013 as Public Service Recognition Week

and call upon the citizens of Albemarle County to join their fellow citizens across the County to recognize the crucial role of public employees.

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

Mr. Dade Van Der Werf addressed the Board, presenting a handout and explaining that he is before them to ask that they reconsider the special use permit for the cell phone tower adjacent to his residence – and in a broader capacity, to consider the implications of this case for the proposed wireless regulations before them at their May 8 meeting. Mr. Van Der Werf noted the location of his residence in relation to the cell tower, adding that he believes the SP was “mistakenly issued.” He explained that the fundamental flaw with the approval is that a key condition in justifying the permit was that there would be a 200-foot buffer preserved around the cell phone tower, and a great portion of it extended onto his property – which the permit holder has no control over, and thus is unable comply with the requirement. Mr. Van Der Werf said that the special use permit was granted in 2000, and subsequently the County approved subdivision of his lot with a septic drainfield. He stated that the original justification for the permit said that the tower would remain invisible to the adjacent properties in the neighborhood without impacting the character of the area, and it also stipulated that future tree removal would not be allowed within 200 feet. Mr. Van Der Werf said that he believes the fundamental requirement is flawed, because County Code requires that any condition of a special use permit shall be deemed to be “essential and non-severable from the permit,” and any condition deemed to be “invalid, void or unlawful” shall invalidate the permit. He stated that the requirement for the buffer was “fundamentally unlawful,” and requested that the Board either revoke the permit or require relocation of the use within the property holder’s land.

Ms. Mallek asked if he wanted the buffer to be effective, or not be there at all. Mr. Van Der Werf clarified that he thinks the buffer should be effective and should be maintained.

Mr. Joel Loving addressed the Board, stating that he lives across the road from where this cell tower is located. Mr. Loving said that in April 2008 many of the neighbors of Bellair stood before the Planning Commission and “argued firmly against the approval” of a proposed subdivision in this very area, whereby the developer wanted to divide what used to be a nicely wooded six-acre parcel with one single home into six one-acre building lots. He said that despite the presence of critical slopes, multiple active streams, marshland resulting from runoff from Observatory Hill, a large pond – and the fact that the lots would have to be engineered septic systems instead of conventional drainfields – the subdivision was approved by the Planning Commission and Board of Supervisors. Mr. Loving stated that no one except the neighbors thought about how this subdivision might affect the adjoining lot and the cell tower that’s there. He said that the six-acre lot is now all split up, with the trees mostly gone and unconventional drainfields squeezed between active streams, and traffic on Route 29 “visible and deafening.” Mr. Loving said that “it’s time to stop bending these rules for developers and cell phone companies,” and the solution is simply to honor the original special use permit and require that the cell tower be moved to accommodate the tree buffer, or revoke the SP and require the removal of the cell tower entirely.

Mr. Charles Battig reported that Dominion Power has announced an opt-out provision for smart meters, as they cause “health problems, privacy problems and fire problems across the country.” He also stated that he had brought up the issue of WiFi in schools, which is the same microwave frequency that you cook food with, and said that the School Board has taken his comments “and disappeared into a black hole.” Mr. Battig stated that other states have taken action in this regard, and France has moved to remove WiFi from grades K-12 – with the FCC reopening the issue in April of safety levels for radio frequency signals and cell phone range. He said that current standards are not up to date with the current biological findings, as they were based only on heating the tissue of adults – not children and developing brains.

Mr. Ralph Feil addressed the Board, stating that he is here as an interested citizen who learned about the cell tower situation about four days ago and obtained a copy of the new proposed ordinance, along with talking to Dade Van Der Werf and his wife Jennifer Greeson. Mr. Feil clarified that Lot 18 holds the cell tower and Lot 16 holds Mr. Van Der Werf’s property, and the issue is simply that “the County imposed a regulation on Lot 18 that it couldn’t meet because there had to be a 200-foot buffer of trees,” but the cell tower is 75 feet from the lot line. Mr. Feil said that the Van Der Werfs bought the adjoining lot, built a house, and had the requirement for locating a septic system within the buffer without anyone realizing the buffer was even there. “Two requirements of the County were at odds with one another that caused an unfortunate result.” He noted that in the ordinance they would take up next week, “the rules are relaxed,” allowing metal poles, higher poles going above the tree line, the buffer area language is very vague, and there must be “opportunities for screening.” Mr. Feil encouraged the Board to read this very carefully and to “balance the need for technology against the need for beauty in Albemarle County” and to

preserve their power to control what is going on. He also mentioned that the ordinance says that any conditions imposed before 2004 on cell towers “go away” and become consistent with the new, more relaxed conditions. Mr. Feil urged them to look at the prior permits and see what effect the new ordinance would have on surrounding properties.

Mr. Rit Venerus addressed the Board, stating that he is President of the Charlottesville-Albemarle Airport Commission and a resident of Walnut Hills, a community that borders the airport to the west. Mr. Venerus stated that he is before them to request immediate action in halting the blasts taking place at the airport, noting that there have been more than 70 blasts occurring since October 2012, causing extensive damage to homes. He said that residents of Walnut Hills have also reported problems with their septic fields and wells, and the airport has only recently just begun the assessments as to the effects of the long-term repeated blasts on homes and the environment. “The airport is not even waiting for these assessment results, as they are continuing to blast as we speak.” Mr. Venerus said that despite a letter sent by 26 neighbors demanding an end to the blasting, a resolution from City Council requesting they stop blasting, the lack of notification from the airport to the EPA of the blasting as it relates to the Avionix groundwater contamination site – which borders Walnut Hills and the airport, and increasing reports of damage, the airport authority has not even called a meeting to discuss the matter. He also stated that he learned that authority members are not even allowed to discuss the issues outside the meeting, due to public meeting laws. “So we’re left with an executive director who is repeatedly saying that the airport will keep blasting until the airport authority tells her to stop, and she’s also saying that there’s no evidence the blasts are causing any damages.” Mr. Venerus stated that the airport’s behavior was “negligent, reckless and downright foolish,” and asked the Board to immediately suspend the land disturbance permit as provided for under Section 17-214 until proper assessments can be done on homes, the environment and the EPA site. He also asked that the Board request that Mr. Foley call an emergency meeting of the airport authority and take a position to end the blasting permanently.

Ms. Jennifer Greeson addressed the Board, stating that she is Mr. Van Der Werf’s wife and is coming before them because this is “a legislative matter,” as this is “kind of a test case” of what happens when you have a special use permit allowing a cell phone tower in an R-1 context. “That’s kind of like trying to put a square peg in a round hole,” she said, and when the County allowed this prior to 2004 they did so with conditions to ensure that the special uses remain in harmony with the primary R-1 residential context. She stated that the 200-foot tree buffer was supposed to screen the neighborhood but also prevent its further development, so that it would be possible to access and maintain the wireless facility on a cul de sac at the back of an established residential neighborhood. Ms. Greeson said that there is an increased line of sight to the tower since they were required by the County to clear a septic field within the buffer, and the operator of the tower has taken advantage of that by increasing the use of the tower to make it into a 4G hub. She said this has included changing the equipment out – resulting in even more visual impact, as well as causing increased use of the access that has led to driveway collapses, road blockages for weeks at a time, damage to fire hydrants, etc. “It’s just not compatible.” Ms. Greeson added that it has to do with the original flaw in the permit that allowed the clearing within the buffer that the Board “wisely specified to take place.”

Mr. Jonathan Boersma addressed the Board, stating that he lives to the west of the airport and reporting that in order to generate fill material for the runway extension project “the airport has essentially created a rock quarry” within 1,500 feet of his home. He said this has meant blasting in the quarry three to four times a week which continues to rock his home and cause significant damage. Mr. Boersma said that they have expressed concerns to airport staff in a letter signed by more than 20 homeowners, and met with Executive Director Melinda Crawford along with Ms. Mallek. He stated that there has been “a lack of meaningful, credible and sincere response” to our concerns, and Ms. Crawford has said there is “no evidence that the blasting has caused the damage.” Mr. Boersma stated that if pictures are falling off the walls concurrent with a blast, you don’t need to be an expert to put the pieces together. He emphasized that the blasting is not necessary, as the airport could require the fill material from other sources, yet Ms. Crawford has said they will not stop blasting despite concerns because “doing so would increase the cost to the airport.” He stated that this essentially shifts the costs onto homeowners by way of repairs needed to be made to homes, and he doesn’t feel that it’s morally or ethically right that they should be subsidizing the costs of their project, and the blasting is costing money as well as adversely affecting property values. “There is clear evidence of a leadership vacuum when the responsible parties for overseeing the airport have not met or even spoken about this crisis.” Mr. Boersma urged the Board to direct Mr. Foley to call for an emergency meeting of the airport authority, and insist that the airport take responsibility for its actions and compensate homeowners for the damage.

Mr. Keyword Cheves addressed the Board, stating that he also lives in Walnut Hills and mentioning that not all of the blasts are of equal force, with some bigger than others. Mr. Cheves stated that many times when there is blasting, shutters are rattling and cupboards are shaking – and if you keep pounding on something repeatedly, it’s going to break. He said that he and his wife put their money into their home, but if something were to happen to him he’s not sure they could sell the house. Mr. Cheves also stated that he was unsure as to whether to fix things at the home when they do break, as they may break again.

Ms. Sharon Donovan addressed the Board, stating that she lives across the street from the cell tower site Bellair. She said that she does not understand how a special use permit can be given with special requirements, and then it is placed only 75 feet from where there the 200 foot buffer cannot be

controlled. She asked where the checks and balances are of when the special use permit was given originally that somebody confirmed that it was only placed 75 feet away from the property line, so there couldn't possibly be a 200-foot buffer. Ms. Donovan said she also wonders who was in charge of that in the first place.

Mr. Tim McLaughlin, a resident of Gillums Ridge Road, said that he is here with his neighbors to request that the County instruct VDOT to finish the paving that was started several years ago on the road. He said that he and his wife have lived on that road – a gravel road – by choice, for 34 years, but recently VDOT paved part of the road. Mr. McLaughlin stated that when they moved on the road it was a dead end, with severe switchbacks and a grade that denied access to trucks. He said that VDOT came in and straightened out the curves and switchbacks, and moved the road so the grade was not severe. Mr. McLaughlin said that because they are located near the interstate and the landfill, their section of straight road that is still dirt and gravel has become a shortcut to those two areas. He stated that they have tandem dump trucks and refuse trucks, creating a tremendous storm of dust. Mr. McLaughlin said it has become intolerable as well as a health and safety issue. Mr. McLaughlin said that his neighbor showed him a Johns Hopkins study that particulate matter that is air-suspended causes cardio-vascular disease. He stated that he is 58, runs 30 miles a week, is vegetarian and low-fat, but has had four heart attacks in the last six years. He said that he hopes that it is not this road, but he really would like to get it paved sometime before he dies.

Mr. James Vitt said he and his wife have lived on Gillums Ridge Road for 20 years. He presented 17 points that he and his wife have put together regarding the road, and 16 petitions signed by people impacted and residing on the Gillums Ridge Road corridor – which were originally submitted back in April 2011 requesting that the road receive the rural rustic road maintenance pave treatment. Mr. Vitt said they have met with Mr. Joel DeNunzio of VDOT and Mr. Snow, and learned that Gillums Ridge Road is the highest traffic volume dust road in Albemarle. He stated that funds exist to improve the road now, and it would cost about \$120,000 – but would be much less expensive to maintain with this treatment. He said that the cloud of dust is relentless and settles on their houses, and caused him to fire off an email to the County. It is time to do the road; the money is there. The engineer agrees that it is the time to take care of this road.

Mr. Justin Smith said that he and his wife have been residents of Gillums Ridge Road for just under three years. Mr. Smith said that if they had known about the traffic trends and the condition in which the road is kept, they probably would not have bought the property. This has been a great source of stress and anxiety for all involved. He said that the latest research from Johns Hopkins posted on the EPA website addresses the acute health effects of particle pollution. The EPA states that road dust accounts for a large source of particulate matter in which numerous studies have linked to a variety of problems including non-fatal heart attacks, aggravated asthma, and decreased lung function. Mr. Smith said that in the neighbors' meeting with Mr. DeNunzio and Mr. Snow, they were aware of the hazardous conditions with the dust and inhaling of toxic particulates. He stated that there are also safety concerns and numerous accidents along the road, especially where it turns from pavement to dirt. Gillums Ridge Road is dangerous because it impairs visibility, and the loss of servicing and binding materials deteriorate the road and reduce its longevity. This deterioration causes washboard-type divots in the roadway and demands the driver to accelerate rather than to slow down.

Mr. Scott Williams addressed the Board, stating that he also lives on Gillums Ridge Road. This road basically functions as a collector road because of changing traffic patterns over the last few years – new shopping in Crozet, a new bus route, parents dropping their kids off at school, etc. Mr. Williams said that the road was never designed to be a collector, and there is no way it can meet those specifications today. He stated that this is through no one's, and if the road were paved through the rural rustic program it would certainly enhance the safety of the road. Mr. Williams encouraged the Board to include the road in their six-year plan and prioritize it at the top for rural rustic paving.

Mr. Snow asked if the bridge was being closed in the near future that would also increase the traffic. Mr. Williams responded that beginning in July, Dry Bridge would be closed for several months. When Dry Bridge was closed a year and a half ago for four days the traffic on that road was unbearable; it just could not support it. The residents would appreciate anything the Board can do to expedite this process.

Mr. Rooker stated that this is on their afternoon agenda for the six-year road plan and is one of the projects recommended for funding through money from the State transportation program.

Mr. Chuck Boldt said that Chapter 18, Section 32.3 of the County Code designates the Director of Community Development as the agent of the Board of Supervisors for the purposes of administering that section – which includes special use permits. Mr. Boldt said that this is a far-reaching power with long-term impacts if not administered properly or to the standards the Board of Supervisors expects. He added that it is the Board who is held accountable, not the designee. Mr. Boldt said that his opinion is that the Board needs to become more involved with how Section 32 and the planning function is being administered, as the cell tower item mentioned earlier is not an isolated example. He stated that the Board's directions need to be more closely monitored to ensure compliance. The Board can no longer trust what it is being told. He asked the Board to take responsibility for action on SDP-2013-0008, reviewing it and not allowing the designated agent to act for it. Mr. Boldt said that residents around the

County have asked the Board to do the right thing on a variety of issues. He asked the Board to take the opportunity to change so that some of these issues no longer arise.

Ms. Mallek asked if there were questions from the Board regarding the airport blasting issue.

Mr. Snow asked if residents had distributed a handout along with the pictures. Ms. Mallek noted that there were some photos presented for the record, but she did not see any handouts.

Mr. Foley mentioned that the Airport Director was also present at this meeting.

Ms. Melinda Crawford, Executive Director of the Charlottesville-Albemarle Regional Airport addressed the Board, offering to answer questions and provide a statement of key facts associated with the project.

Ms. Crawford stated that the blasting project is a very detailed and multi-faceted, with concerns from homeowners that have arisen. She said that the completion of the Airport extension project is necessary to expand services to the community and required to bring areas of the Airport into FAA compliance, as well as maintain eligibility for the Airport to receive future FAA grants. Ms. Crawford said that the utilization of an onsite construction area for materials for blasting provided a significant environmental benefit to this project. By having it onsite, the Airport virtually eliminated 280,000 truck trips from the surrounding roadways that would have been required to bring the 2.2 million cubic yards of material to the airport. She noted that it also resulted in significant savings for the project.

Ms. Crawford explained that the Airport is in a contractual relationship with Sergeant's Construction Company – which has met all federal, state and local guidelines – and stopping this project will subject the Airport to significant liabilities. She said that the Airport is an enterprise operation that does not receive local tax dollars and is entirely self-sufficient, relying on revenues generated at the Airport. Ms. Crawford stated that all blasting has remained well below the threshold regarding air blast, and has been approximately 62% below the level for the seismic readings that are the threshold for this project. She said that the measurements have been validated by an independent third-party reader and will continue to be validated. The readers have been placed on the Airport property as well as near the homes in Walnut Hills since November.

Ms. Crawford stated that the Airport has been responsive to its neighbors, and realizes the concerns that they have. She said that in addition to having pre-blast notices hand-delivered, they have met with homeowners and agreed to hire a geotechnical team to do an assessment of the long-term effects associated with blasting on the foundations, water, septic systems and gas lines. There has been no communications as far as any DEP violations whatsoever. The Airport has even offered to pay for home assessments for the residents of Walnut Hills because they do not have a baseline assessment of the condition of the homes. Ms. Crawford said that the Airport has repeatedly encouraged homeowners to file claims with Maine Drilling, who is the subcontractor for the project. She stated that prior to issuing the blasting permit by the Fire Marshal, Maine Drilling had to submit insurance or bonding at a minimum of \$500,000 to cover any damages associated with the project. Maine Drilling also falls under the performance bond of the contractor, Sergeant's Construction Company.

Ms. Mallek asked if that was \$500,000 per claim. Ms. Crawford confirmed that this was her understanding, although she has not seen the policy.

Mr. Rooker commented that there is a bond provided by the blaster, plus an insurance policy, and a \$12 million bond posted by the general contractor.

Ms. Crawford clarified that the actual performance bond is also applicable if the contractor does not perform in order with the specifications and design of the project, and to cover any damages that are proven to be directly related to the project. She stated that the project is about 90% completed, and blasting is projected to be reduced significantly in June, and even further in the following months – to be completed in October, weather permitting. Ms. Crawford said that when Maine Drilling applied for the blasting permit, they had to put up insurance or bond as required by the State. She stated that there are specific guidelines by the fire marshals associated with filing damages, and at every point throughout the project if anyone has contacted the Airport they have been encouraged to file claims with Maine Drilling. Ms. Crawford pointed out that Maine Drilling currently has a company onsite doing claims investigations of those who have filed claims.

Mr. Snow asked what would happen if the contractor's representative claims that the blasting did not cause a problem, and asked what recourse a homeowner would have if a determination is made that it was preexisting damage. Ms. Crawford responded that that's the reason why the Airport has stepped up and offered to pay for a home inspection, so they can establish a baseline assessment of the condition of their home. While it might not be at the beginning of the project, it does allow that if there's any damage between now and the end of the project, it gives validity and substance to the homeowners' claims.

Mr. Snow said that a point has been made that damage might not show up for a year or more, and asked if there was any time limit on claims. Ms. Crawford responded that she is not aware of a statute of limitations, but Virginia has very specific guidelines and the State Fire Marshal's website identifies the process for filing claims associated with blasting.

Mr. Snow asked if she could check into that, if there is a statute of limitations, and when the bond might be released. Ms. Crawford replied that the construction project is multi-faceted, and they are

currently in the midst of finishing the runway safety area – which is requiring most of the blasting. She said that when that is completed, the Airport will still be working on the adjoining taxi-way and relocating some of the navigational aids. Ms. Crawford said that while blasting and the construction activity associated with this part of the project will be done in October, the actual project is not scheduled to be completed until sometime in late 2014 – so the bond cannot be released until that time. In addition, it takes a lot of time to sign off on a project after the actual work is completed.

Mr. Rooker said that if there are any claims outstanding, adequate reserve would need to be left in the bond to handle those presented. Ms. Crawford replied that he was absolutely correct, adding that the bond is secured through bonding agents out of New Hampshire for Sergeant's Construction Company. She said that in order for the Airport to finish the project and do the final payout, they must be satisfied that the project has been completed to specifications and any issues associated with damages are resolved – and at that point, the Airport has the ultimate release.

Mr. Rooker said that the problem is that they've got a contract that was signed for the project to be done a certain way, and it certainly looks as if from an environmental standpoint they made the right choice at the time given the potential truck traffic impacts. He stated that the Airport signed a contract for that work to be done, and the primary contractor is well-known – with Maine Drilling doing most of the blasting for projects like this up and down the east coast. Mr. Rooker said that the contract specifies that they must operate within certain guidelines, and his understanding is that they are operating within those – including the level of blasting that can occur. He stated that they are operating well below the limits that are imposed on them on the project, so they have not in any way breached the project. Mr. Rooker said that to order the blasting stopped would put the Airport Authority in the position of breaching the contract, because the contractor has not breached the contract based on the information presented. He stated that their penalty is around \$20,000 a day, and at some point the project must be done. Mr. Rooker said that they can lower the blasting levels, but that will mean the project will take longer. The Airport Authority cannot take over the liability as it belongs to the blaster and the prime contractor under the contract.

Mr. Snow stated that that's why his questions have related to the bonding. He said that he just wants to make sure that when this is over the residents are left whole and not end up footing the cost of the runway extension.

Mr. Rooker responded that he agrees 100%, and they have all spoken with Ms. Crawford about the importance of establishing a baseline for the homes. He said that in retrospect it would have been a good idea to do this before the project was started so that homeowners are in a position to maximize their claims for damages and make certain they are paid.

Mr. Foley said that the Airport Authority has supported that as well.

Ms. Mallek commented that there seems to be new information coming out frequently, and it may be helpful for the Airport Authority and Mr. Foley to make sure that the future process is clarified very carefully so there is a common understanding of who is going to do what. There is this nervousness that the claims are going to be passed off and all be discounted. She noted that the science established in Virginia is all based upon single blasts, not repeated blasting, and this is a handicap for the homeowners that also raises their anxiety level. She added that she lives about five miles away and there is a variety in the blast. There was a blast several weeks ago that occurred at 11:58 a.m., and it rocked her house, and she heard it. She added that the Airport Authority has made dramatic improvements in the past couple of weeks in making sure to get the best information for assessments to be done. Ms. Mallek mentioned that the letters put in people's boxes by Maine Drilling were not a directive and did not say they would soon be blasting at the Airport, nor did it mention the homeowner assessments. She said that she does not think it is surprising that people did not necessarily pay attention. The residents have also lived with the occasional blast associated with past projects and did not realize the significant difference in what is currently happening. Ms. Mallek said that she was relieved to hear that the Airport has to sign off on this and make the final decision before anything is released.

Mr. Rooker said that it is apparent that the state and federal limits they are operating within are not adequate. Ms. Mallek agreed.

Mr. Rooker said the Board also needs to make certain going forward that the process is clearly communicated to homeowners of Walnut Creek and Earlsyville Forest, not just a statement that information is available on the website. There needs to be a good outline for people to follow about what they should be doing to protect their rights, to maximize their claim, to present their claim and get the claim paid.

Mr. Snow said that it is easy to sit up here and talk hypothetically about issues that are major in people's lives, and perhaps it would be helpful to have the homeowners associations hold open meetings for Board members to see firsthand what is going on. He then asked for clarification of the upcoming schedule.

Ms. Crawford responded that in June, there will be one to two blasts in a one to two-week period, possibly one blast every two weeks or one per week, through the month of September, but overall it will be reduced significantly.

Mr. Rooker asked if they have a schedule of blasting in advance. Ms. Crawford responded that they do not, but they typically blast three to four times per week between 11:00 a.m. and 2:00 p.m. and the Airport is notified each morning. She said that staff has an email list and sends out that warning, and Maine Drilling issues an automatic phone call to residents of the area.

Mr. Rooker suggested that bos@albemarle.org be on that email list, stating that he would like to go out during one of the blasting times to observe firsthand. He said that it would be helpful to have a smaller window of time, perhaps an hour.

Mr. Boyd said that he had asked the previous week to get that type of notification so that he could visit as well.

Mr. Chuck Boldt said that he wasn't sure if Board members were aware of the Avionix site, as it has carcinogens that have leaked into the water and contaminated some neighbors' wells. He said that they spoke with the engineer, who was never informed of the blasting, and said that it may actually impact their ability to remediate the situation. That's why the neighbors' sense of urgency is kind of heightened since then. This is an issue that he does not think can wait for more and more time, or more and more blasts. He stated that the EPA site is like a ticking time bomb. Under County Code the Board can suspend the land disturbance permit if there are impacts on the watershed.

Mr. Rooker asked if the County has received any kind of report from DEQ about the allegation of water contamination in this area. Ms. Mallek said she had contacted Sarah Huddle at the remediation company through EPA, but this is another indication of how poor regulation is in Virginia. Generally people just go and do, and there is no requirement for one agency to talk to each other.

Mr. Rooker said that there's an allegation of contamination leaking off the site and going into well water.

Ms. Mallek stated that it has already happened and was remediated several years ago – although the blasting may have exacerbated it. She said that there were test wells set up all along the west side of Avionix, and a lot of the homes in Walnut Hill had wells testing positive for these toxins. Ms. Mallek said they put filtration in, which solved the problem for the residents, but the main concern from a water supply perspective is that this is a sinker chemical – which means it goes straight down to the ground and could go under Earlysville Road and head for the reservoir. It's all downhill from there basically, so it is a concern for the wider area.

Mr. Rooker said that they need to take a hard look at whether the blasting has raised that issue again, and it seems that DEQ should do an onsite investigation of what is going on, looking at whatever data homeowners have to determine whether there is a recurring problem because of this blasting and what could be done to stop it.

Mr. Foley said he will follow up on that issue through the Airport Authority and County staff.

Ms. Diane Vitt, a 20-year resident of Gillums Ridge Road, said she is very anxious about the dust on the road and the increased traffic. Ms. Vitt also expressed concern about the closing of Dry Bridge, which will reroute traffic onto their road over the summer. She said that her understanding is that there may be some emergency funding that would allow for paving of the eight-tenths of a mile stretch to help alleviate dust.

Mr. Rooker said that he would like the issue of the cell tower brought back to the Board so they understand the legal ramifications of the existing special use permit, and the remedy is if the conditions are not being met. Regarding the issue of division of the property, Mr. Rooker said that his recollection is that it was a matter of right and not something the Board approved as a discretionary matter. He stated that it met all the requirements that are supposed to be objectively applied that are in the ordinance, so that division was not a Board decision – it was basically mandated.

Mr. Boyd mentioned that the County's secondary road plan is on the agenda for later in the meeting, and commented that the Gillums Ridge Road situation is not a unique situation. There are many, many people who live on dusty roads such as these residents who do that complain for years about that going on. He said that he understands there are some mitigating circumstances with Gillums Ridge Road and maybe some construction, but he is not in favor of leap-frogging people who have been on the list for 20 or 30 years.

Ms. Mallek said that the traffic volume has not been taken into account.

Mr. Snow clarified that Gillums Ridge Road has been on the list for 20 or 30 years.

Mr. Boyd stated that the people on Doctors Crossing have been dealing with this for years.

Ms. Mallek said there are 50 people a day on that road, which is a very different situation.

Mr. Rooker stated that Gillums Ridge and Doctors Crossing are both on the recommended list for paving, and there is some extra money dedicated to paving unpaved roads. He said he does not think that there's been a time when there was not majority support for doing things such as pave in place projects or rural rustic road paving. He said that when the County lost all of its secondary road funding, there was not money to do anything. Before that happened the County did many pave in place and rural rustic road projects, and the Board agreed that generally it's a good idea where the traffic warrants it and conditions make it reasonable from a dollar standpoint.

Ms. Mallek said that the one important element is that the neighbors agree, so everyone along that road needs to sign the petition.

Mr. Boyd encouraged Gillums Ridge Road residents to come back in the afternoon for the discussion, noting that there are mitigating circumstances. He added that after having some rural rustic roads paved in his area, it creates a speeding problem. Now the same people that had those roads paved are very, very upset because the kids are out there playing on their bikes and people are speeding through those roads because they got paved. He added that there are pros and cons to the paving.

Ms. Mallek agreed.

Mr. Rooker said that some of the health issues raised today are issues that will be raised in a multiplied fashion if the proposed bypass is built. Regarding the Johns Hopkins particulate matter mentioned, he stated that the bypass project will bring 18-wheelers rolling by County schools forever. He also mentioned that the blasting at the airport is minor compared to what will be undertaken for the bypass, i.e., taking the top off of Stillhouse Mountain just hundreds of feet way from homes and the Colonnades – with 435 residents all signing a petition against the project. Mr. Rooker said that he wants the Board to be aware that the bypass is a project that is going to have these very same problems in a very, very magnified way. He stated that when the State sent out the RFP, his committee asked them to reduce the blasting levels which they would not consider. The Airport blasting is 62% below the maximum level allowed. These are things that everyone need to keep in mind.

Agenda Item No. 8. Consent Agenda. **Motion** was offered by Mr. Rooker, **seconded** by Ms. Mallek, to approve Item 8.1 through 8.7 and to accept the remaining items for information. (**Note:** Discussion on individual items are included with that agenda item.) Roll was called and the motion carried by the following recorded vote:

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

NAYS: None.

Item No. 8.1. Approval of Minutes: February 6, February 22, February 25, March 4 and March 27, 2013.

Mr. Snow had read the minutes of February 6, 2013, pages 1-46 (end at Item #11), and found them to be in order.

Mr. Dumler had read the minutes of February 6, 2013, pages 46 (begin with Item #11) – end, and found them to be in order.

Ms. Mallek had read the minutes of February 22, 2013, and found them to be in order.

Mr. Thomas had read the minutes of February 25, 2013, and found them to be in order.

Mr. Boyd had read the minutes of March 4, 2013, and found them to be in order.

Mr. Rooker had read the minutes of March 27, 2013, and found them to be in order.

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

Item No. 8.2. Rio Road West Property Acquisition.

The executive summary states that on December 27, 2012 the County Executive, on behalf of the County, entered into a contingent contract to purchase 3.11 acres of property located at 705 Rio Road West (TMP 61-120K) currently owned by Martha Jefferson Hospital. The potential uses identified for this property are a library and long-term storage facility to replace existing facilities. The County retained Heyward Boyd Architects to perform reasonable due diligence to investigate any potential environmental hazards, and to determine the feasibility of converting the former Phillips Supply Building at 705 Rio Road West into a library and storage facility. The contract to purchase the property is contingent upon approval by the Board.

Heyward Boyd Architects submitted its draft study in February 2013. No significant environmental hazards were discovered. The study also concluded that the building located at 705 West Rio Road was appropriate for repurposing as a community library and a storage facility based on a test-fit design.

The property would provide a permanent location for the Northside Library and long-term County warehouse/storage space. The new facility would provide approximately 30,000 square feet of library space, space for the bookmobile and branch office space, and over 20,000 square feet of warehouse space.

The Northside Library is currently located in leased space at Albemarle Square, and the County warehouse/storage space is currently located in leased space at the former Comdial building on Seminole Trail. The new facility would eliminate the need for those two leased spaces. As documented in prior CIP submissions for the construction of a new Northside Library, a larger library facility is needed to support growth in the northern urban area. Based on population figures and guidelines from the Community

Facilities Plan and the State Library, the current Northside Library does not meet minimum requirements. As the northern region of the County continues to develop, the population served and usage levels of the Northside Library will continue to increase. The requirement for a larger facility was identified by a County-funded study in June 2001. With a relatively minor investment in making physical changes to the existing building's basement, the County's warehouse/storage needs could be met, partially offset by discontinuing the lease payments for the current warehouse facility.

This Rio Road West location for the replacement Northside Library offers an exciting opportunity to build community cohesion and identity by actively engaging the public in programming and space considerations. County staff will develop a public participation plan according to Albemarle's administrative guideline on community engagement that will provide a clear and transparent process for engaging community members, including the Places29 Community Advisory Council and other stakeholder groups, at appropriate points in the design and construction process.

With Board action to appropriate the funds for the proposed project, staff could immediately proceed to "fast track" design development in the current fiscal year, with the goal of completing the project in advance of the expiration of the Northside Library lease on October 31, 2014. Notwithstanding this fast track approach, staff recognizes that this is an aggressive schedule and some extension of the Northside Library lease may be required. The property acquisition cost is \$3,000,000, and the estimated cost to renovate the facility for the intended uses is an additional \$8,820,373 for a total project cost of \$11,820,373. The proposed revenue sources include \$11,320,373 in loan proceeds and \$500,000 in Stonefield proffers. Funding for the replacement Northside Library and warehouse/storage space is programmed to be funded by borrowed funds. The debt service associated with the loan proceeds is estimated to be issued in FY 16 for a 20-year term at an interest rate of 5.0%. The additional debt service is expected to be within the limits defined by the County's Financial Policies. Although decreased by this project, the CIP fund balance at the end of five years is expected to meet the \$2 million reserve goal.

The current Seminole Place warehouse lease expires on May 31, 2014. If the proposed project and funding schedule are met, the County may be able to avoid renewing the warehouse lease. Discontinuing the lease on May 31, 2014 would result in a savings of \$922,000 to the Adopted FY 14 five-year CIP.

The current Northside Library lease expires on October 31, 2014. Staff will make every effort to complete the project by the expiration date; however, the County may need to extend the lease to coordinate with the construction schedule.

Staff recommends that the Board adopt the attached Resolution (Attachment A) approving the purchase of 705 Rio Road West (TMP 61-120K) and authorizing the County Executive to execute any documents required to complete the property acquisition, upon the review and approval of the documents by the County Attorney. This includes the acceptance of any easements necessary for the intended use of the property.

Staff also recommends approval of the attached Resolution of Official Intent to Reimburse Expenditures with Proceeds of a Borrowing (Attachment B). This resolution would allow the County to use up to \$11,820,373 in bond proceeds to reimburse the capital budget for expenditures incurred prior to the programmed borrowing of funds for this project.

In a separate agenda item, the Board will be requested to approve appropriation number 2013-088 totaling \$11,820,373, which provides funding for the purchase of the property and the required building renovations.

By the above-recorded vote, the Board adopted the following Resolution approving the purchase of 705 Rio Road West (TMP 61-120K), authorized the County Executive to execute any documents required to complete the property acquisition, upon the review and approval of the documents by the County Attorney, and adopted the following Resolution of Official Intent to Reimburse Expenditures with Proceeds of a Borrowing.

**RESOLUTION TO AUTHORIZE ACQUISITION OF PROPERTY
LOCATED AT 705 RIO ROAD WEST (TMP 61-120K)**

WHEREAS, the County entered into a contingent Agreement of Sale for property located at 705 Rio Road West (TMP 61-120K) dated December 27, 2012; and

WHEREAS, the Board desires to purchase the property located at 705 Rio Road West (TMP 61-120K) to provide necessary public facilities.

NOW, THEREFORE BE IT RESOLVED that the Board of Supervisors hereby approves the acquisition of the property located at 705 Rio Road West (TMP 61-120K), and authorizes the County Executive to execute any documents required to complete the property acquisition, upon the review and approval of the documents by the County Attorney. This includes the acceptance of any easement necessary for the intended use of the property.

**RESOLUTION OF OFFICIAL INTENT TO REIMBURSE
EXPENDITURES WITH PROCEEDS OF A BORROWING**

WHEREAS, the Albemarle County Board of Supervisors, Virginia (the "Borrower"), intends to acquire, construct and equip Albemarle County Parcel No. 06100-00-00-120K0 (also known as 705 Rio Road West) (hereinafter, the "Project"); and

WHEREAS, plans for the Project have advanced and the Borrower expects to advance its own funds to pay expenditures related to the Project (the "Expenditures") prior to incurring indebtedness and to receive reimbursement for such Expenditures from proceeds of tax-exempt bonds or taxable debt, or both;

NOW, THEREFORE, BE IT RESOLVED by the Albemarle County Board of Supervisors that:

1. The Borrower intends to utilize the proceeds of tax-exempt bonds (the "Bonds") or to incur other debt, to pay the costs of the Project in an amount not currently expected to exceed \$11,820,373.
2. The Borrower intends that the proceeds of the Bonds be used to reimburse the Borrower for Expenditures with respect to the Project made on or after the date that is no more than 60 days prior to the date of this Resolution. The Borrower reasonably expects on the date hereof that it will reimburse the Expenditures with the proceeds of the Bonds or other debt.
3. Each Expenditure was or will be, unless otherwise approved by bond counsel, either (a) of a type properly chargeable to a capital account under general federal income tax principles (determined in each case as of the date of the Expenditure), (b) a cost of issuance with respect to the Bonds, (c) a nonrecurring item that is not customarily payable from current revenues, or (d) a grant to a party that is not related to or an agent of the Borrower so long as such grant does not impose any obligation or condition (directly or indirectly) to repay any amount to or for the benefit of the Borrower.
4. The Borrower intends to make a reimbursement allocation, which is a written allocation by the Borrower that evidences the Borrower's use of proceeds of the Bonds to reimburse an Expenditure, no later than 18 months after the later of the date on which the Expenditure is paid or the Project is placed in service or abandoned, but in no event more than three years after the date on which the Expenditure is paid. The Borrower recognizes that exceptions are available for certain "preliminary expenditures," costs of issuance, certain *de minimis* amounts, expenditures by "small issuers" (based on the year of issuance and not the year of expenditure) and expenditures for construction of at least five years.
5. The Borrower intends that the adoption of this resolution confirms the "official intent" within the meaning of Treasury Regulations Section 1.150-2 promulgated under the Internal Revenue Code of 1986, as amended.
6. This resolution shall take effect immediately upon its passage.

Item No. 8.3. Audio Streaming of Board of Supervisors Meetings.

The executive summary states that at the Board's January 4, 2012 meeting, staff presented information regarding the possibility of video streaming Board meetings. Due to the cost of video streaming, and the County's resource limitations, Board members approved the County proceeding with a free advertisement-supported audio stream of Board meetings on the U Stream channel for a trial period in order to assess listener levels and potential concerns to determine the best long term solution to meet the Board's desire to provide live audio streaming.

Live streaming of meetings has had no negative impacts on the County's server or bandwidth capacity since the program establishing an advertisement-supported audio streaming of Board meetings on the County's U Stream channel began last year. Listener levels have steadily increased and audio streaming has become an expected and relied upon opportunity for the public and the media to access Board meetings as they are occurring. However, the frequency and length of the advertisements has increased over time, and the nature of those advertisements, which the County does not control, has become disruptive to the listener experience. The best way to guarantee the quality and reliability of the audio streaming experience is to shift from the free advertisement-supported model to one where the county funds an ad-free live audio stream.

Contracting an ad-free audio cast for the necessary listener hours to meet the expected level of demand would cost approximately \$99 per month. If the listener hours exceed the standard 100-hours of listening, the cost would increase by \$.50 per listener hour. Based on the current number of viewers, staff does not anticipate the cost to exceed \$99 per month. Listenership will be monitored regularly to assess whether adequate listening hours are being provided at this funding level. The cost can be absorbed within the Board of Supervisors' current budget.

Staff recommends that the County acquire an ad-free audio stream of Board meetings on the U Stream channel for a six-month trial period at a cost of \$99 per month with a re-evaluation at the end of the trial period.

By the above-recorded vote, the Board approved acquiring an ad-free audio stream of Board meetings on the U Stream channel for a six-month trial period at a cost of \$99 per month with a re-evaluation at the end of the trial period.

Item No. 8.4. Line of Duty Act (LODA) Trust Agreement between VACORP and Albemarle County.

The executive summary states that the Line of Duty Act (LODA) was initiated and implemented by the State and is administered in accordance with Virginia Code §§ 9.1-400 et seq. Prior to FY2012, the State funded the costs associated with providing LODA benefits. Changes to LODA made by the Virginia General Assembly in 2011 and 2012 resulted in localities becoming responsible for funding LODA benefit costs, effectively making LODA an unfunded mandate.

LODA provides important benefits to public safety officers and public safety volunteers and/or their beneficiaries due to death or disability resulting from performance of the officer's or volunteer's duties. LODA benefits include:

- A one-time death benefit payment of \$100,000 to a covered employee's beneficiary;
- Continued health insurance coverage for the surviving spouse and any dependents of a covered employee who dies in the line of duty; and
- Continued health insurance coverage for the covered employee, spouse, and dependent children for a covered employee who is disabled in the line of duty after July 1, 2000.

Covered persons in the County include:

- Law enforcement officers;
- The Sheriff and Deputy Sheriffs; and
- Members of the fire companies, fire departments and rescue squads recognized by the County as an integral part of the County's official public safety program.

LODA coverage also applies to death or disability caused by service-related hypertension or heart disease, and to qualified volunteer or salaried firefighters whose death or disability is caused by a respiratory disease. In addition, LODA coverage applies to a multitude of cancers, including prostate, ovarian, and pancreatic cancer, for those with 12 years of continuous service who have had contact with toxic substances encountered in the line of duty.

Localities were required to make an irrevocable choice to either opt-in or opt-out of the State's plan by Board resolution before the start of FY12. If the decision were to opt-in, the result would have been annual bills from the Virginia Retirement System, the LODA plan administrator for the State, at whatever rate the State establishes for that year.

On June 6, 2012, the Board adopted a resolution to opt-out of the State's LODA plan and to purchase prospective LODA coverage from VACORP. The County's eight existing claims that were filed with the State before July 1, 2012 are also covered by VACORP, however, the County is required to join the VACORP LODA Trust and to enter into a Trust Agreement with VACORP in order for VACORP to cover the liabilities associated with those claims.

The VACORP LODA Trust was created to address the following issues related to funding those claims:

1. Recording the liabilities for known, pre-existing LODA claims that occurred prior to July 1, 2012; and
2. Recording the liabilities for unknown, pre-existing LODA claims that occurred but were not reported prior to July 1, 2012.

VACORP members pay the annual cost of the LODA claims that existed and were reported before opting out of the state fund. The establishment of the VACORP LODA Trust allows the Pool to direct annual contributions for the above-described claims to the LODA Trust. This enables the Trust to book the liabilities associated with the claims. Absent a Trust membership, the liability for these claims must be carried on the County's financial statements. With the LODA Trust, the financial liability exposure for the Pool and its members is diminished.

There is no membership cost associated with the LODA Trust Agreement.

Staff recommends that the Board adopt the attached Resolution (Attachment A) authorizing the County Executive to execute the attached Trust Agreement (Attachment B).

By the above-recorded vote, the Board adopted the following Resolution authorizing the County Executive to execute Trust Agreement

**RESOLUTION APPROVING THE LODA TRUST AGREEMENT
BETWEEN VACORP AND THE COUNTY OF ALBEMARLE**

WHEREAS, the County opted out of the State's Line of Duty Act (LODA) Plan and purchased prospective LODA coverage from VACORP effective July 1, 2012; and

WHEREAS, the County had existing LODA claims prior to June 30, 2012, and is therefore required to join the VACORP LODA Trust and to enter into a LODA Trust Agreement with VACORP regarding the coverage of those claims.

NOW, THEREFORE, BE IT RESOLVED that the Albemarle County Board of Supervisors hereby authorizes the County Executive to sign, in a form approved by the County Attorney, the LODA Trust Agreement between VACORP and the County of Albemarle.

VACORP LODA TRUST

The County of Albemarle, a political subdivision of the Commonwealth of Virginia ("Grantor"), being authorized and directed to do so, does make this trust agreement dated April 3, 2013 with VACORP, a local government risk sharing pool, which is an instrument of the government of the Commonwealth of Virginia, as Trustee ("the Trustee"). The Trustee and any successor Trustees are all referred to herein as "the Trustee."

The name of this trust agreement is the "VACORP LODA TRUST dated April 3, 2013" ("Trust") and is effective July 1, 2012.

ARTICLE 1 TRUST PROVISIONS

- A. Transfer of Assets and Liabilities. Contemporaneously with the execution of this trust, Grantor (hereinafter "Member") does transfer to the Trustee of the Trust all liabilities appertaining to any claim which they may have prior to July 1, 2012 under the Line of Duty Act pursuant to §9.1-400 et seq. of the 1950 Code of Virginia, as amended ("Act") and does promise to timely pay for said liabilities.
- B. Line of Duty Act Trust Fund. By entering into this Trust, the Member acknowledges that it has opted out of the Commonwealth of Virginia Line of Duty Act Trust Fund.
- C. Eligibility of Members. The Member shall purchase liability insurance from Trustee covering claims under the Act. Likewise the Member shall timely pay to the Trustee all premiums for said insurance and monies for claims prior to July 1, 2012. In the event a Member purchases insurance from other than the Trustee, the Trustee and this Trust shall have no liability or obligation to such Member.
- D. Administration of Claims. During the existence of this Trust, the Trustee shall administer all pre-July 1, 2012 claims of its members under this Trust, shall provide the administration of all claims and shall provide insurance to insure against claims under the Act to all Members as of July 1, 2012.
- E. Insurance & Payments by Members. The Member is obligated to purchase liability insurance for claims under the Act from the Trustee and pay the Trustee those payments for insurance and claims as provided for under the Act, which payments must be timely made. If a payment is overdue by thirty (30) days, or if an insurance premium payment is not made within thirty (30) days of the invoice date, then the Trustee shall not provide claims administration, insurance or payment to claimants, until payments are brought current and all insurance coverage is purchased from the Trustee.

ARTICLE II TRUSTEE PROVISIONS

- A. Trustee's Management Powers. The Trustee shall have the powers granted by law and the powers in Sections 64.2-105, 64.2-777 and 64.2-778 of the 1950 Code of Virginia, as amended, as in effect on the date of the signing of this agreement. These sections are incorporated in this agreement by this reference.
- B. Trustee's Compensation. The Trustee, or any successor Trustee, shall receive compensation for services rendered. The corporate Trustee, or any successor corporate Trustee, shall receive compensation for services rendered according to their list of fees published from time to time.
- C. Resignation of Trustee. The Trustee may resign as Trustee by notice to the Members. The resignation shall take effect upon the effective appointment of a successor Trustee.
- D. Successor Trustee. The Trustee shall have the right to designate a successor Trustee who shall be any natural person or corporation having trust powers, which shall be effective upon the resignation or termination of corporate existence of the Trustee. Such designation shall be made while such Trustee is serving as Trustee by an instrument executed by the Trustee during and by the successor Trustee. In the event that the Trustee does not appoint a successor Trustee or a successor Trustee does not appoint its successor Trustee, which it shall have the privilege to do hereunder, the Members shall have the right to appoint a Trustee.
- E. Actions of Prior Trustee. No Trustee serving under this agreement shall be responsible for or required to inquire into any acts or omissions of a prior Trustee.

ARTICLE III RIGHTS RESERVED BY MEMBERS

- A. Revocation and Amendment. The Member reserves the right to opt out of this Trust by a writing signed by the Member and delivered to the Trustee. All obligations of Member to the Trust shall be paid by Member prior to opting out. Any amendment that changes the duties or compensation of the Trustee shall require the consent of the Trustee.

- B. New Members. The Member agrees that new members as defined by the Act may become Members if the Trustee accepts them.

**ARTICLE IV
MISCELLANEOUS PROVISIONS**

- A. Protection from Claims. To the extent permitted by law, the principal and income of any trust shall not be liable for the debts of any beneficiary or subject to alienation or anticipation by a beneficiary, except as otherwise provided.
- B. Governing Law. This agreement shall be governed by the laws of Virginia.
- C. Signatures. This trust may be executed in counterparts and electronically.

Item No. 8.5. ZMA-2004-00007. Belvedere – Variations from Code of Development.

The executive summary states that the Belvedere development is located off of Rio Road, just west of Dunlora. Belvedere was rezoned to Neighborhood Model District, with an associated application plan and Code of Development, in October 2005 (ZMA2004-00007). The applicant is requesting a variation from the approved Belvedere Code of Development.

The applicant would like to revise the Architectural Standards portion of the Code of Development (pages 17-31). This proposal includes simplifying the requirements and architectural review process based on experience gained during the first five years of development build-out. Architectural standards are not being diminished and all proposed changes have been developed in accord with the Belvedere resident's ARB committee. The applicant has provided a redline document which illustrates all proposed additions to the Architectural Standards in blue text and all deletions in red text (see Attachment A). 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 33.5 Staff is recommending approval of this variation request (#52).

VARIATION #52:

The applicant submitted the following request: "To simplify the requirements and architectural review process following five years of neighborhood experience and lessons learned. Architectural standards are not being diminished; all proposed changes have been developed in accord with the Belvedere resident's ARB committee." Staff analysis of the variation request is provided below:

- 1) **The variation is consistent with the goals and objectives of the comprehensive plan.**
The design is consistent with the goals and objectives of the comprehensive plan.
- 2) **The variation does not increase the approved development density or intensity of development.**
Density is not increased.
- 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.

Staff recommends approval of the variation request #52 as described above, with the following conditions:

- The Belvedere Code of Development must be updated to reflect the proposed changes prior to approval of the Phase II Final Plat.

Staff recommends approval of variation #52 with conditions as recommended in this report.

By the above-recorded vote, the Board approved variation #52 subject to the following condition:

The Belvedere Code of Development must be updated to reflect the proposed changes prior to approval of the Phase II Final Plat.

Item No. 8.6. SDP-2013-00009. Seminole Trail Fire Station – Zoning Ordinance Waivers.

The executive summary states that the Seminole Trail Volunteer Fire Department is located at 3055 Berkmar Drive, approximately 850 feet south of the intersection with Rio Road [631]. It was built in 1980 and has served the Seminole Trail area of the County since that time. This application is a request for approval of a major site plan amendment to build a 10,500 sf addition to the fire station, including two additional bays. It includes the building addition, which will replace a portion of site parking, and access

reconfiguration to separate emergency and non-emergency traffic. The applicant is requesting two special exceptions: one for disturbance of small areas of man-made critical slopes, and one for disturbance of the buffer zone adjacent to residential districts. Staff is recommending approval of both waiver requests.

1. CRITICAL SLOPES WAIVER

The proposed development will require the disturbance of critical slopes. A modification to allow critical slopes disturbance is necessary before the site plan can be approved by staff. The applicant has submitted a request and justification for the waiver, and this request has been reviewed for both the Engineering and Planning aspects of the critical slopes regulations. Section 4.2.1(a) of the Zoning Ordinance requires that the building site, and thus any improvements and earth-disturbing activity, be free from critical slopes. Section 4.2.5(b) allows the Agent to waive this restriction when the slopes were created through development pursuant to an approved Site Plan. However, the waiver must now be approved by the Board of Supervisors as a Special Exception under Chapter 18 Sections 4.2.1(b) and 33.5.

The critical slopes in the area of this request appear to be man-made and created pursuant to the original approved site plan for this parcel. Staff is recommending approval of this waiver request. This recommendation for approval is based on staff's assessment which finds that the proposed disturbance substantially meets the requirements listed in Section 4.2.5(b):

Review of the request by Engineering staff:

Description of critical slope area and proposed disturbance:

The critical slopes proposed as being disturbed are man-made slopes of 2:1 that were created when the fire station was constructed. There are three critical slope areas on site; the first critical slope is along Berkmar Drive, the second is located in between the fire station and parking lot, and the third is behind the fire station. The applicant requests to disturb these critical slopes for a proposed building addition, for an access to separate the emergency and non-emergency traffic, and for a proposed mechanical pad.

Areas	Acres	
Total site	1.785 acres approximately	
Critical slopes	0.18 acres	10% of site
Critical slopes disturbed	.08 acres	44% of critical slopes

Compliance with Zoning Ordinance 18-4.2:

“movement of soil and rock”

The site will require proper slope construction, control of drainage, and vegetative stabilization to prevent any movement of soil. The elevation of the existing building is much lower than the existing parking lot. The proposed building addition will cut into the existing topography and retaining walls will be required in between the parking lot and the building addition.

“excessive stormwater runoff”

The critical slope runoff located along Berkmar Drive is currently draining into a culvert under the existing entrance road and routed to a vegetative area south of the fire station. The disturbance of this critical slope and the additional impervious entrance road will increase the runoff. The proposed building addition will also increase the runoff. A stormwater management analysis will determine if the size of the existing culvert needs to be increased and if erosion control measures are warranted in the vegetative area.

“siltation”

Inspection and bonding by the County will ensure siltation control during construction. Proper stabilization and maintenance will ensure long term stability.

“loss of aesthetic resource”

The critical slopes on site are manmade and were approved on a site plan for the existing fire station.

“septic effluent”

The proposed site will not release any septic effluent to the surrounding environment. The site is serviced by public sewer.

The critical slope along Berkmar Drive is exempt from the critical slopes waiver due to no reasonable alternative locations for an additional entrance. The critical slope in between the fire station and the parking lot are also exempt provided that retaining walls are designed for areas with an elevation difference of 6' or greater. The critical slope behind the Fire Station will have minimal disturbance for a mechanical pad. I recommend approval of the disturbance of these manmade critical slopes.

Review of the request by Planning staff:

The agent may grant a waiver if he or she finds that:

1. *The property is not identified in the open space plan as one having any protected resources and a field inspection has confirmed that there are no significant or critical features on the property identified for protection in the open space plan;*
2. *There is no reasonable alternative that would eliminate or reduce the disturbance of critical slopes;*
3. *The developer or subdivider submitted and obtained approval from the program authority of an erosion and sediment control plan, regardless of whether the area disturbed is less than ten thousand (10,000) square feet; and*
4. *The developer or subdivider submitted and obtained approval from the county engineer of a plan that describes how the movement of soil and rock, stormwater runoff, siltation of*

natural and man-made bodies of water, the loss of aesthetic resources identified in the open space element of the comprehensive plan and, in the event of the failure of a treatment works and subsurface drainfield, a greater travel distance of septic effluent, will be mitigated through design, construction techniques, revegetation, stormwater management and other best management practices.

Based on the County Engineer's comments, staff finds that this request meets the criteria noted above. These slopes are not identified on the Open Space Plan and most are man-made. There are no concerns that would cause staff to object to the approval of the proposed critical slope disturbance request. Staff is recommending approval of this critical slope waiver request.

2. BUFFER ZONE WAIVER

The proposed development will require the disturbance of the buffer zone. A modification to allow this buffer zone disturbance is necessary before the site plan can be approved by staff. The applicant has submitted a request and justification for the waiver, and this request has been reviewed against the buffer zone regulations. Section 21.7(c) of the Zoning Ordinance requires that no construction activity including grading or clearing of vegetation shall occur closer than twenty (20) feet to any residential or rural areas district and that screening shall be provided as required in section 32.7.9. Section 21.7(c)1 allows the commission to waive this prohibition as follows:

The commission may waive the prohibition of construction activity, grading or the clearing of vegetation in the buffer in a particular case where the developer or subdivider demonstrates that grading or clearing 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.

However, the waiver must now be approved by the Board of Supervisors as a Special Exception under Chapter 18 Section 33.5.

Description of proposed buffer disturbance:

The site currently has a portion of existing parking lot and a dumpster pad within this buffer zone. The waiver request includes the following items:

- Disturbance of the 20' buffer zone at the back of the parking lot in close proximity to the location of the new ADA compliant parking spaces. The extent of the disturbance would be removal of the existing 10' x 10' concrete dumpster pad and a portion of the parking lot within the buffer area, as well as the subsequent minor grading and seeding to repair the depression in this area from their removal.
- A small corner section (approx. 12 square feet) of new concrete sidewalk that extends into the 20' buffer zone at the location where the ADA compliant parking spaces connect to this sidewalk. This allows users of the ADA parking spaces direct access to a sidewalk route into the building.
- Existing fencing and screening vegetation are present within the buffer area, but supplementary plantings are also proposed to provide additional screening and to enhance the site.

Staff finds that the disturbance within the buffer will result in an improved site design, and supplemental landscaping will be provided to enhance the buffer area. Based on the review above, there are no concerns that would cause staff to object to the approval of the proposed buffer zone disturbance request. Staff is recommending approval of this buffer zone waiver request.

Staff recommends approval of the critical slopes waiver and the buffer zone waiver.

By the above-recorded vote, the Board approved the critical slopes waiver and the buffer zone waiver as recommended by staff.

Item No. 8.7. Resolution to Approve an Alternate to Act for the County Executive on The Blue Ridge Juvenile Detention Commission.

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

RESOLUTION TO APPROVE AN ALTERNATE TO ACT FOR THE COUNTY EXECUTIVE ON THE BLUE RIDGE JUVENILE DETENTION COMMISSION

WHEREAS, the City of Charlottesville and the Counties of Albemarle, Fluvanna and Green ("Participating Jurisdictions") established the Blue Ridge Juvenile Detention Commission ("Commission") in 1998 by a Concurrent Resolution of the governing bodies; and

WHEREAS, the Concurrent Resolution established the powers and responsibilities of the Commission and the respective rights and obligations of the Participating Jurisdictions for the Commission; and

WHEREAS, pursuant to Section 2 of the Concurrent Resolution, one Commission member from each Participating Jurisdiction is the Participating Jurisdiction's current county administrator, county executive or city manager or their alternates designated as permitted by state law; and

WHEREAS, after consultation with the Chief Judge of the Juvenile and Domestic Relations District Court, the Board wishes to designate the Assistant County Executive for Community Services to act as the alternate for the County Executive to attend Blue Ridge Juvenile Detention Commission meetings and vote in place of the County Executive in his absence; and

WHEREAS, the Board finds that approval of an alternate for the County Executive will improve and facilitate the efficient operations of the County Executive's Office and the Blue Ridge Juvenile Detention Commission.

NOW, THEREFORE BE IT RESOLVED THAT the Albemarle County Board of Supervisors hereby approves the designation of the Assistant County Executive for Community Services as the alternate to attend and vote in place of the County Executive at Blue Ridge Juvenile Detention Commission meetings when the County Executive is absent from such meetings.

Item No. 8.8. Planning Commission Annual Report, **was received for information.**

Item No. 8.9. VDOT, Culpeper District, *Albemarle County Monthly Report, May 2013*, **was received for information.**

Special issues from the report:

- VDOT is working with the County for the upcoming SSYP public hearing.

Item No. 8.10. FY 2013 3rd Quarter Cash and Non-Cash Proffer Report, **was received for information.**

The executive summary stated that in 2007, the Board directed staff to provide a quarterly report on the status of cash proffers. Since that time, the report has been expanded to also include updates on non-cash proffers. The Board received the last quarterly proffer report on February 2, 2013, which included information on cash proffer revenue and expenditures and non-cash proffers for October through December, 2012. This report includes all proffer activity for the third quarter of FY 2013 (January-March 2013). The next quarterly report will be on the Board's August 7, 2013 agenda.

Proffers Activity for Fiscal Year 2013 Third Quarter (January-March, 2013)

- New Proffered Revenue:** There were no rezoning requests approved this quarter that provided new cash proffers.
- Total Proffered Revenue:** The total proffered revenue is \$43,232,742.20. This reflects annual adjustments to anticipated proffer revenue (not received yet obligated) from proffers in which annual adjustments were proffered.
- 3rd Quarter Cash Revenue:** The County received a total of \$1,046,452.98 from existing cash proffers during this quarter from the following developments:

Development	Amount	Intended Purpose
Stonefield	\$909,000.00	CIP
Livengood (Glenmore S5)	\$39,508.28	CIP
Livengood (Glenmore S5)	\$6,016.54	Affordable Housing
Leake (Glenmore)	\$18,755.00	CIP
Leake (Glenmore)	\$2,952.00	Affordable Housing
Old Trail	\$22,000.00	CIP-Crozet Schools/Parks
Wickham Pond II	\$4,500.00	CIP-Crozet
Belvedere	\$4,000.00	Affordable Housing
Avinity	\$39,721.16	CIP-Neighborhoods 4 & 5
TOTAL	\$1,046,452.98	

- 3rd Quarter Expenditures:** There were no appropriations or expenditures this quarter.

Current Available Funds: As of March 31, 2013, the available proffered cash on-hand is \$3,167,592.78 (including interest earnings on proffer revenue received). Some of these funds were proffered for specific projects while others may be used for general projects within the CIP.

Of the available proffered cash on-hand, \$1,122,620.64 is currently appropriated (See Attachment A for details). The net cash balance is \$2,044,972.14. Attachment B provides information on how the net cash may be used for future appropriations.

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

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

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

Item No. 8.11. County Grant Application Report.

The executive summary states that pursuant to the County's Grants Policy and associated procedures, staff provides periodic reports to the Board on the County's application for and use of grants.

Grant awards provide funding to support a variety of projects, the majority of which support Goal 5, Ensure the health and safety of the community.

The attached Grants Report (Attachment A) provides a brief description of five grant applications submitted by the County between February 15, 2013 and April 15, 2013. Also attached is a report on the use of the Grant Matching Fund (Attachment B) which was established by the Board in FY 12 with a \$100,000 appropriation. To date, over \$2 million in grant funds has been received and the County has provided match funds totaling \$86,516.

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

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

This report is for information only.

Item No. 8.12. Illegal Hunting and Trespassing Enforcement.

The executive summary states that the Police Department (PD) received a large number of citizen complaints regarding illegal hunting, trespassers and spot lighting from the roadway throughout the 2012/2013 hunting season. The majority of complaints came from southern Albemarle County. Additionally, many citizens contacted Board members to voice their concerns regarding community safety. As a result, on January 9, 2013, the Board appropriated \$12,000 to the PD for enhanced illegal hunting and trespassing enforcement efforts. Working closely with the Virginia Game Wardens, the PD provided uniformed patrols and undercover operations in the most impacted areas. Additional efforts included hunter education community forums. The purpose of this informational item is to provide an overview of the illegal hunting enforcement operation (Attachment A).

There were 167,340 hunting licenses purchased in Albemarle County during the 2012/2013 hunting season, well exceeding the population of the County. This number of hunters indicates that Albemarle County is considered a hunting destination, which makes prevention and education efforts complex. The funding appropriated to address illegal hunting this past season made a significant impact in enhancing community safety in targeted areas of the County. Without the additional funding and the assistance of the Virginia Game Wardens, staffing limitations would have prevented proactive measures to address the issues of trespassing, illegal hunting and spot lighting. Officers assigned to the illegal hunting enforcement efforts worked to support the operation on their days off so that normal patrol staffing would not be negatively impacted. Staff recommends that a similar operation be considered for the next hunting season with additional prevention and education efforts prior to the start of the season in partnership with the 14 known hunting clubs in Albemarle County.

There is no budget impact for this information item. The PD requested \$12,000 to fund enhanced illegal hunting and trespassing enforcement efforts for the 2013/2014 hunting season as part of the FY 2014 budget process. That request is included in the approved FY 2014 budget.

No action is necessary at this time. The Board has already indicated its continued support of enhanced illegal hunting and trespassing enforcement efforts for the 2013/2014 hunting season.

(Discussion: Mr. Dumler said that last year the Board passed an ordinance allowing the Police Department to serve as the agent to serve no trespassing notices, and asked if Police had developed some kind of form that it could get out to landowners who want to permanently keep hunters off of certain properties.

Lieutenant Greg Jenkins responded that County Ordinance Section 10-120(1) allows the police that authority. The Police Department has developed a designation of "persons in charge of real property" form, which outlines what can be done and what cannot be done. He said that the form goes directly to the Chief of Police, who has to approve it, and there is also a "trespass barment" notice that officers can serve on individuals that may be on properties. They also have a draft policy outlining the trespass enforcement on private property that is under review by command staff. He said that he anticipates that all of this will be approved by the 2013-14 hunting season. These documents and policy has been forwarded to the Commonwealth's Attorney's office for review, so they are just waiting to get final signatures from the Chief of Police.

Mr. Rooker asked if those documents could be emailed to the Board, because they often get requests from landowners as to what they are allowed to do. Lt. Jenkins said he could provide the forms to Board members.)

Item No. 8.13. CCP-2013-00001. County Use of 705 Rio Road West (Tax Map 06100-00-00-120K0), **was received for information.**

The following memorandum to Mr. Trevor Henry, Director, Office of Facilities Development, from Mr. Andy Sorrell, Senior Planner, was received:

The Albemarle County Planning Commission, at its meeting on April 23, 2013, by a vote of 7:0, found the location, character and extent of the proposed uses of 705 Rio Road West are in substantial accord with the County's adopted Comprehensive Plan for the reasons identified as the favorable factors of the staff report. The Planning Commission further requested that final site design comply with the Comprehensive Plan's Neighborhood Model principles and the Community Facilities Plan to the greatest extent possible. Favorable factors are outlined below:

1. The site is centrally-located in a designated Development Area and has access to necessary public infrastructure including a good transportation network and public utilities.
2. A public library on this site will provide for an institutional use that will complement and support the Urban Mixed Use center and areas around it.
3. The existing building can be renovated to meet the general community facility standards and more specific library facility needs and standards as set forth in the Comprehensive Plan.
4. The renovation of the building and site will not impact streams, floodplain, WPO or steep slope.

Agenda Item No. 9. First Quarter CY 2013 – Capital Projects Status Report.

Mr. Trevor Henry, Director of the Office of Facilities Development, stated that he would present the first quarter capital report, including a summary of all projects, a brief summary of status, and more detail for major capital projects.

Mr. Henry presented a PowerPoint of project highlights, stating that they have repaired some foundation damages at the Greenwood Community Center and installed an ADA ramp at the Courthouse. He said that projects underway include the Crozet Library, which is slated for substantial completion by July 15. Mr. Henry said that the project continues to progress well, and County staff will hold a Leadership Council meeting there the following week at which time they will tour the facility. He stated that the Friends of the Library are funding the furniture, fixtures and equipment along with the books, and their fundraising efforts have gone quite well. Mr. Henry said that staff will move into the facility sometime in August, and there are plans underway for the library's grand opening. He stated that the only issue that has arisen is the Century Link fiber conflict with the stormwater easement, and VDOT has agreed to pay. As of yesterday all remaining issues resolved with Century Link appear to have been resolved to allow them to initiate the work.

Mr. Boyd asked if he could provide the total cost of the Crozet Library project beyond the physical building, such as the streetscape, sidewalk, etc. Mr. Henry responded that the budget reflects the total cost and includes a contingency of \$100,000 – with the total cost estimated at \$8.8 million, including all aspects from acquisition to parking lot work, through completion of the building.

Mr. Rooker and Mr. Snow clarified that what Mr. Boyd is looking for is the total investment amount in downtown Crozet. Mr. Henry replied that sometime in the last year he provided a report to the Board of capital projects by area, and the total funding, and he could certainly regenerate that report.

Mr. Foley said that the first page of the Board's attachment to Mr. Henry's report includes the two major projects – \$8.8 million for the library and \$4.4 million for the streetscape – which is really the core of the downtown investment. He said that there is a stormwater project off of that area, but that's not really part of this.

Mr. Rooker said that that's pretty much it for what's going on there, and some of the streetscape was funded through grant money.

Mr. Foley noted that the other major investment was the improvements to Jarman's Gap Road, which was achieved through prioritization of VDOT spending, and that is right on that same corridor.

Mr. Boyd said he does not understand the difference between hard costs and soft costs. Mr. Henry explained that soft costs are things such as study design – non-building and site costs – and in some cases they had to do additional design and work with neighbors to get easements approved.

Mr. Rooker commented that acquisition of an easement would be a soft cost, if they had to buy property.

Mr. Boyd asked if the items noted throughout the budget would equal the \$188,000 in contingency funding, as all throughout they seem to be included in the current estimated completion costs. Mr. Henry explained that when staff does a budget it creates a baseline, which is typically what is established when the project is first scoped and approved to proceed – with a budget for soft costs and hard costs, including a contingency. Every month project managers update their forecast which feeds into the estimate at

completion. That includes monies they have spent, monies they have encumbered, and maybe an item that would turn eventually into a change order. Staff tries to predict the cost and that is what is reflected in the estimate at completion.

Mr. Henry explained that the library hard cost number was \$6.5 million as a baseline, with a contingency of \$567,000 – and now at completion they are looking at a cost of \$6.9, and a contingency of \$188,000. Mr. Henry said that they are predicting some additional costs that were moved from the contingency line that are now anticipated in the hard cost line. He said that they budgeted \$567,000 for contingency but now have \$188,000, so the variance is what was spent from baseline to the current estimate at completion.

Mr. Foley said that the \$379,000 has been distributed to the other components.

Mr. Boyd asked if these were changes that the County initiated based on design changes, or things brought about by “rock clauses” in the contract. Mr. Henry explained that the report also includes the change orders that have been approved and describes what they are. The changes are primarily due to site condition changes – including a sidewalk adjustment in order to make the lower level of the library accessible in order to meet ADA grade down to Crozet Avenue.

Mr. Boyd asked who made the decision that they had to provide 24/7 access to the bottom level. Ms. Mallek responded that it was the Board’s decision that they wanted to offer the property for rent and have it available to a tenant as soon as the library was open.

Mr. Foley said that meeting ADA requirements is not something staff would bring back to the Board, and some of these things are related to changes in site conditions. The question is do they get to a point where there’s a decision that ought to come before the Board because there is a scope change. Staff is trying to find a balance.

Mr. Boyd said he is trying to figure out the process. He added that he knows there is a \$50,000 maximum that the County Executive can approve and then it has to come back to the Board for approval. Mr. Foley added that the Board has a policy on change orders whereby if they get above a certain level there are different types of approvals. A major scope change would automatically come back to the Board. The things that the staff is doing change orders on are within the current scope.

Mr. Boyd commented that this is a very good report, and there were just a few things that raised questions as he was reading it. Mr. Foley responded that staff wants the Board to ask questions and have gone a long way in improving the transparency of their process. Staff is in a best practice place now in terms of what the Board has in front of it.

Mr. Henry encouraged the Board to continue to ask him questions beyond today’s review. He added that there are some items in the forecast of costs that are not yet change orders, including a \$150,000 up-fit of the lower level, and staff wanted to go ahead and reserve the funding for that. He said that they also had to budget for the Century Link fiber optic because they were unsure how it would work. It turns out that the County will fund the work and then be reimbursed to the project, and money needs to be reserved for that. Lastly, the water and sewer tap fees came in much higher than staff anticipated, and it will come back as a change order because of the cost and the need. Mr. Henry noted that for change orders anything over \$50,000 requires Mr. Foley’s signature or his designee, which is usually Mr. Bill Letteri. He said that if it is in aggregate of 25% above the contract, it will require signature, and any other subsequent change order will require that review.

Mr. Foley added that anytime staff thinks they are going to run out of contingency staff would come back to the Board and ask for adjustments. As long as the County can live within that contingency, for something like water and sewer fees or tap fees that go up, and if it is adequate, staff would not bring it back to the Board. If the costs cumulatively get to a point where the budget is exceeded, it will come back to the Board for an appropriation.

Mr. Rooker commented that if staff is in a position where they think that might occur, it would be wise for to bring it back to the Board to discuss while there is still time to find the money in more than one place.

Mr. Foley said that staff totally agrees with that, and that is why the column says “current estimate at completion.” He also mentioned that the contingency for Crozet is fine at \$188,000 because they are far enough along in the project that there is a lot more certainty about what it is going to take to finish it. Mr. Foley said that staff has done a fantastic job given that the project was put together many years ago and had to be put on hold. He said that he thinks staff is in really good shape on this.

Mr. Henry reported that they are underway with utilities for the streetscape project. Dominion is wrapping up within the month. Century Link is underway. Comcast has been working alongside Dominion. He said that the project manager has been working with the owners who have been affected by the utility relocation and is managing the hookup fees, and that work is expected to continue over the next month or two. The overall project design is at VDOT for review, and there is a correction plat that needs to be signed. Once that is done, he said, and they can certify a right of way, that should go out to bid in June.

Mr. Rooker said that’s a good example of a project that had huge differences from beginning to end because of extremely complex circumstances.

Mr. Foley said that the easement process on this has been lesson learned. He added that the County really needs to allow years to get through that.

Ms. Mallek said that every easement owner had an issue, with some people having liens on the property and other compounding issues.

Mr. Henry noted that there were 28 different property owners and every owner had unique needs that had to be addressed.

Mr. Foley commented that the County did not pay for any easements, but it did pay to redesign some of the easements to work with the property owners.

Mr. Boyd commented that the reason he is interested in the investment being made in Crozet is that it really is quite different than what the Board has done anywhere else in the County. The Board is actually investing in infrastructure before the development.

Ms. Mallek said the development came first; there are 4,000 building units there.

Mr. Boyd said he was referring to downtown development, and all the property rezoned for development has not come back to the Board for approvals. He said that the County has invested a lot of money in downtown Crozet as an urban-type area, and it should be used as a test case to see if it should be replicated in other places in the County.

Mr. Rooker stated that people can choose to live in the rural area or urban area, and the only way to get them to choose to live in the growth areas is to make them good places to live. He said that many people have moved to Crozet in the last few years, about 4,000 in the last decade, so whatever the Board has done to attract people to come there and like it once they arrive seems to be working.

Mr. Boyd said he wasn't criticizing it, just considering whether it should be replicated in other parts of the County.

Mr. Foley commented that everything that was done in Crozet was by design. The Board set aside money in the CIP to do it along with Pantops and Places 29 – including identified infrastructure projects – but the economy changed and that is the only difference. The strategy is to proactively put in infrastructure that does exactly what [Mr. Rooker] said. That is what the Comp Plan calls for and why the County has master plans that get to that level of defining that. He added that the funding in the CIP is a challenge that they have.

Ms. Mallek said it is something the Board has a choice about, and it has to just face the choice. This is also 15 years getting there although it all seems like it's all piling in right now in 2013, but it is literally 20 years of effort, planning, designing, and fundraising from the local as well as businesses.

Mr. Boyd stated that he is agreeing with all of this; he is just saying they should use this success in their forward planning.

Mr. Rooker said that Crozet is also an example of the difference in cost between trying to go into an existing developed area and retrofit it to add nice urban features such as sidewalks versus putting things in on the front end. If the Board looks at dealing with the Crozet streetscape project versus the cost of undergrounding, sidewalks, etc., and new development, it is night and day. The Georgetown Road project was extremely expensive and the County never got all it had hoped to get because it was so expensive to try to come into an existing neighborhood and retrofit improvements. It is a lot less expensive to get these things done in the front end rather than to go back in later.

Ms. Mallek commented that Crozet is an old business town crossroads, and the neighborhoods are so strong that it creates a different element and contributes to the quality of life you see there.

Mr. Henry reported that staff anticipates holding a town hall meeting in Crozet in July or August, with the contractor laying out the construction schedule of the streetscape – likely taking about 12 months because of the requirements to keep access throughout the entire project. His staff will work closely with the County Executive's office and the community Development to provide weekly updates.

He said that the Crozet North sidewalk has two funding sources – a Safe Routes to School grant that covers a sidewalk and a crosswalk from Crozet Elementary north to Ballard Drive. From that intersection down to St. George's Avenue is covered by revenue sharing. He said that the Safe Routes project is designed and into VDOT for review, and staff recently received comments from the Albemarle County Service Authority that may push the bidding back to the June timeframe. Mr. Henry stated that second part of the project is tied to revenue-sharing. The County had applied for revenue-sharing with VDOT and received it. When staff did the application, he said, they had bundled four projects into one submission with VDOT – and now they have learned that they must maintain the same phasing of work for all four projects for financing. Mr. Henry said that two of the projects are very close in phase but the other two are not, so VDOT has approved the County's request to split the projects into two UPCs. He said that once the official approval is received staff will continue with both Crozet North and the State Farm/South Pantops sidewalk projects. With those requirements, he said that OFD staff will re-baseline both the schedule and budget with bidding slated for August.

Ms. Mallek asked if the sidewalk project at Pantops will be a separate paved sidewalk with some grass in between it or an urban sidewalk right by the road. Mr. Jack Kelsey, Transportation Engineer, said it will have a grass buffer strip between the road and sidewalk.

Mr. Boyd commented that it is similar to what was done along Route 250. Mr. Henry responded that it is the same concept. He reiterated that the project has to be managed in sync with the Crozet North because of use of revenue sharing.

Ms. Mallek asked if the sidewalk right-of-way on Pantops is being donated. Mr. Henry responded that staff is working on it; the County is not trying to purchase the right-of-way.

Mr. Henry reported that the Ivy Fire Station is nearing substantial completion, and they are anticipating being able to operate an ambulance there on May 13 with full operation scheduled for July 1. He said that staff is paying close attention to the budget for the project, but there is one potential change order because of the need to run a water line from Route 250 down to the station to support a fire hydrant at the station instead of at the intersection. Mr. Henry stated that the change order will be around \$50,000 and it also requires an easement from the Volvo dealership.

Mr. Thomas asked if there were other hydrants available on Route 250. Mr. Henry replied that there is one at the intersection, but it may be a good use of the contingency to locate it at the station because it is a safer condition for fire and rescue personnel than at the intersection.

He stated that staff went to bid on the Seminole Trail project yesterday. The date was delayed about a month from when he last reported, primarily from having to address some site plan comments including a critical slopes waiver that was approved on the Board's Consent Agenda today. Mr. Henry said that there were a lot of "hungry bidders" out there for this project, which means the numbers will be competitive; the bid submission date is May 22. He can provide an update at the next Board meeting on the bid numbers. He stated that they anticipate about a year for construction and have been working closely with staff there to manage how to keep the building operational. At some point the staff may be in trailers while operations are maintained out of the site.

In terms of Belvedere, Mr. Henry reported after several years of trying to work with the developer and the bank to get the work finished, the County called the performance bonds and took on its completion. He said that phase one was intended to complete the paving and curbing from Rio Road to the Fairview Swim Club intersection. The County started the work and discovered that the sub-base was not in satisfactory condition. Mr. Henry said that VDOT had to stop the work while they did follow-up testing; they have been in a year delay trying to resolve the situation. He noted that VDOT had applied some higher requirements on construction that have increased the scope of that phase so much that the bonds cannot support it. Mr. Henry said staff re-strategized and decided that they could move forward with the second phase of the work from Free State Road intersection throughout the neighborhood to the Village Green, getting that up to final condition. He stated that the project went to bid the previous week, and bid openings for that work are scheduled for May 15, which will get final pavement, curbing sidewalks, landscaping, etc. for the final phase of the development plan. Mr. Henry said they had to bid it out as seven line items to tie each scope of work to the actual bond amount. Staff does believe there is likely more than enough in some of the bonds to cover the work – with the hope being there's some residual that might be returned to Belvedere Boulevard so that work can be completed.

Ms. Mallek asked who was inspecting the work when the initial section was put in. Mr. Henry responded that over the past several years, VDOT inspection went away and it was done by certified engineers.

Ms. Mallek asked why they are not being held accountable for the faulty job. Mr. Henry replied that that's been a big part of the discussion and process.

Ms. Mallek commented that there should be a process via court to get their insurance to pay for it. Mr. Henry said it would be between the developer and their contractor. The County has had meetings with VDOT engineering, the developer, the general contractor, the asphalt contractor, etc. He stated that there are some disagreements at the detail level between the asphalt contractor and VDOT about the testing. The County is just trying to get the work done – at least the neighborhood piece at this point.

Ms. Mallek stated that her concern is just holding the right people accountable.

Mr. Rooker said that legally the County has an action against the developer.

Mr. Davis confirmed that the County's cause of action is against the developer. The County holds him responsible with a bond to cover that responsibility. To the extent the bond is inadequate the County still has a right to go against the developer. He said that the developer would then have a cause of action against anyone who caused the insubstantial performance. He reiterated that the County is holding the developer responsible.

Mr. Henry reported that there is a meeting later that day with the residents to talk about phase two, including discussion on the enforcement of parking issue.

Mr. Rooker asked if the project budget was for both parts of this work. Mr. Henry confirmed that it is. He added that the bond total is approximately \$3.6 million – but what's in that bond for the road piece is only \$800,000, to complete the work from Rio Road to Village Green. Based on the current VDOT requirements, the cost is \$1 million more than that.

Mr. Davis pointed out that the County's requirement is to return any unspent bond money for the purposes of that specific bond to the bank. The developer is trying to get the bank to allow the bond money to be used for purposes beyond its original intent if there is money left over.

Mr. Boyd asked if the bond had been called already. Mr. Henry responded that it had, and that is the County's source of funding.

Mr. Rooker said that essentially the County cannot take three-sixths of the bond and allocate it the way it wants to.

Mr. Thomas commented that he tried that early on but was unable as it had to be on each proffer.

Mr. Henry said he will provide the Board with a status in mid-summer on the bid numbers for the phase two work, and whether the developer has had any success with the bank.

Mr. Henry said that thanks to the action the Board and City Council, the Lewis and Clark Center project is funded through completion and will be substantially complete this month. He said that there is one lingering issue – City Council approval of an ACSA easement, which is on its agenda for May 6.

Mr. Henry stated that the Murray High School renovation is a new project slated for 2014. The project is the relocation of the enterprise school from the trailers into the school, displacing the ARC into the trailers. It is a challenge to sequence the work. The County is using current year money for the abatement of the asbestos and to do a demo. They hope to get all the work done in time for opening of the school in August.

Ms. Mallek asked if the trailers being at Seminole are new ones or ones that are available and have been used previously. Mr. Henry responded that they are looking at either renting trailers designed specifically for that use or using excess ones such as those at Hollymead. The concern is that the cost to relocate an owned trailer would exceed the cost of renting a construction trailer.

Regarding other sidewalk and local government projects, Mr. Henry reported that the brick re-pointing project will be completed this year. The last step is to waterproof the front steps. Mr. Henry said that the work will commence any time now. There are also multiple parks road resurfacing projects happening over the month of May. He then presented a list of school maintenance projects (on file in Clerk's office) that will also keep them very busy this summer, adding that they are being bid out now to start in June. Mr. Henry said that there are a few new stormwater projects, with the biggest one being a retrofit of Church Road Basin which is located off of Hillsdale Drive.

Mr. Henry also presented the two change orders that have been executed that require County Executive approval, with the reason being they exceed 25% aggregate on the contract.

Mr. Henry stated that OFD staff is also present should Board members have any questions. He also stated that he will provide a verbal and written report quarterly, and asked if that is an acceptable approach.

Ms. Mallek said she prefers the quarterly report.

Mr. Rooker commented that it is an excellent report and very helpful.

Mr. Boyd said it is very helpful to have the information in this way, as it's hard for Board members to keep up with everything.

Mr. Snow said that another favorable aspect is the quarterly reports is that when questions come into the Board, they would have had a recent review so they know the status.

Agenda Item No. 10. Implementing Multi-year Capital Budgeting.

The following executive summary was forwarded to Board members:

On July 11, 2012, the Board voted to support the following action regarding Multi-year CIP project appropriations:

- Staff is to create a multi-year budget for CIP projects beginning in FY 14 such that project appropriations carry forward until expended or de-obligated by the Board, with the exception of projects where no money has been spent within the past fiscal year.
- During the budget process, staff will provide a report about the status of projects to the Board. Unexpended CIP funding will be re-appropriated as part of the annual appropriation process.

On March 13, 2013, the Board approved the Financial Management Policies, which were formally adopted on April 3, 2013 in the FY 2013/2014 budget resolution. The adopted policies include the following Capital Budget policies: "the County will approve a multi-year capital budget in accordance with an approved Capital Improvements Program. All unspent and unencumbered appropriations allocated for capital projects shall be re-appropriated for completion of the projects. Upon completion of a capital

project, the County Executive is authorized to close out the project and transfer any unencumbered unexpended residual funds to the Capital Improvement Fund fund balance.”

Based upon Board feedback during the March 7, 2013 Capital Budget work session and the approval of the policy March 13, staff has reviewed and prepared a summary of FY 13 Capital Projects (Attachment A.). The financial information in Attachment A is provided as of April 8 and includes pending budget, expenditure, and encumbrance updates and corrections. The Estimated Carry Forward amount may not be equal to the Estimated Balance due to pending changes and anticipated expenditures. The summary of information includes the project title, a brief description of the status, an estimated financial summary, and the status of the estimated balance. The projects are organized into different categories as follows:

- Carry Forward into FY 14 Recommended: for those CIP projects or programs that are in progress and will require the use of budgeted funds (expenditure or encumbrance) to complete or advance the project or program;
- No Carry Forward Recommended: for those CIP projects that are anticipated to be completed and will not require any balance of the currently budgeted funds in the next fiscal year;
- No Expenditure-Carry Forward Recommended: for those CIP projects that remain active or for which contingency funding has previously been appropriated that have no programmed expenditures in the current fiscal year but will require the budgeted funds in future years; and
- No Expenditure-Opportunity: for those projects that are not active and are not projected to need the budgeted funds in the planning period.

Based on the estimates in Attachment A, there are 38 Projects in the Carry Forward into FY 14 Recommended category totaling \$14,789,479 and 21 Projects in the No Expenditure-Carry Forward Recommended category totaling \$7,907,303. A total of \$50,000 is anticipated to be returned to the CIP fund balance (deallocated), and another \$50,000 has been identified that could be deallocated.

Staff recommends that the Board implement the County's multi-year CIP policy for the CIP project budgets that are included in Attachment A and direct staff to include in the June 2013 FY 14 Appropriation Resolution:

- (a) an appropriation that will carry forward funding for the currently funded capital project budgets in FY 13 that are recommended to carry forward into FY 14 in an amount not to exceed a total of \$15,000,000 [Carry Forward Into FY 14 Recommended Category] and
- (b) an appropriation for those CIP projects that have not incurred expenditures or encumbrances in FY 13 but are recommended to carry forward into FY 14 [No Expenditure-Carry Forward Recommended Category]. The total amount of these CIP projects is estimated at \$7,907,303.

Mr. Trevor Henry reported that he spoke at the Board CIP work session in March, and this stems from a policy put in place over the last year that allows monies to be carried forward on multi-year projects, and to keep the funding rolling so there is no question about when money can be appropriated and encumbered. He said that he has been working with Ms. Lindsay Harris, from the Office of Management and Budget, to provide an update and a recommendation that will come back to the Board in June as part of the budget appropriation process. Mr. Henry stated that the data before the Board is effective as of April 8. Staff did a query of all departments with CIP items – ranging from apparatus to maintenance to big projects – to provide an estimate of work being completed in FY13, with projections for cashflow and actualization by the end of this year and, then what would be carried over into the next year.

Mr. Henry reported that there are four categories of work. The first is a category of projects recommended for carry forward into FY14, which are essentially 38 projects that are now underway – things like the CAMA system, tax and revenue, apparatus acquisitions, the Crozet Library streetscape, etc. He said that the County has actuals and encumbrances, but the estimated completion time will be FY14 or possibly beyond that depending on the project. He said that the second category is “no carry forward recommended,” which are those projects anticipated to be completed in this fiscal year with no need to carry over reserves or appropriate money. Mr. Henry stated that there are 41 of those projects in the recommendation, and they include things like the bricks project.

He stated that the category that is the most confusing is the “no expenditure carry forward recommended,” as it includes two types of projects – those that have not spent any money, actual or encumbrance in FY13. He said the category is comprised of contingency items or maintenance projects that are still planned, but are delayed in execution for some reason – such as the Crozet Main Street project, which has a \$90,000 reserve to allow Library Avenue to connect as development occurs. He explained that there's not enough money in that line item to do design and paving, but there is enough to allow for right-of-way acquisitions, roadway landscaping and similar needs. Mr. Henry noted that Keene Landfill falls under this category, and through FY13 the County has carried \$100,000 for issues arising from testing, etc., and General Services has recommended that it be reduced to \$50,000 because the risk seems to be lessening as the testing has not revealed any problems. Project examples include the ECC's computer-aided design and an emergency telephone system upgrade. The ECC anticipates getting both RFPs out this summer and want to do the work next summer.

Mr. Rooker asked how many monitoring wells are out there at this point. Mr. Davis responded that there is one active well. The DEQ has granted closure for the landfill but the County has maintained the monitoring well because it thinks it's the right thing to do.

Mr. Henry noted that the monitoring is strictly voluntary, and it is checked annually – with the last time being March and test results pending.

Mr. Snow stated that there have been a lot of reports of buried barrels there that contain toxic substances that may leach out, so he does not know if it's a good idea to lessen the amount to \$50,000. Mr. Henry said that he is not aware of that and will have to talk to General Services about it, but DEQ granted a formal closure and the landfill met all requirements including post-closure monitoring that has revealed no issues.

Ms. Mallek stated that the barrels were really old, and asked if there is a way to detect what they are.

Mr. Rooker said that a story can build on itself, but it would be nice to know whether the closure put those rumors to rest or not. Citizens keep bringing it up, and he asked if the Board could obtain a copy of the report to see if these issues were discussed.

Mr. Foley stated that DEQ would not have done closure if they had a concern. Also, landfill regulations go back only to the 1980s so there are a lot that have been closed out with stuff still in them. He said that the question is whether you would want to destroy a cap to go in and find things, and that is the reason the County has gone the extra step to leave a monitoring well in place.

Mr. Henry said that General Services is comfortable with \$50,000 as being enough contingency if an issue is identified, and if they need more for cleanup it would have to come back to the Board anyway.

Mr. Foley stated if there was a major issue, the staff would come back to the Board.

Mr. Boyd asked how much attention is paid to the decision to enhance or carry over contingency funds. Mr. Foley said that it's a staff discussion because the CIP Oversight Committee is looking at the projects going forward and planning for the future. He also stated that the Committee has gone into new territory with the addition of an update on active projects that it does not have to decide going forward.

Mr. Davis commented that this is a lot more information than the Board has had in the past in advance of the appropriation.

Mr. Henry reported that the final category is "no expenditure," providing an opportunity to return allocation to the capital fund. The only project in that category is the Rivanna Village Master Plan.

He said that in June the Board will receive an appropriation request that will say "for moving projects forward not to exceed \$15 million," and it covers those projects in the first category, with the Rio property acquisition adding another \$8.8 million if that gets approved later at this meeting.

Mr. Davis said that in June these categories of projects will be updated so there is a final tally as to what is recommended to be carried forward, and those will be in the appropriation resolution for FY14. No additional action will be required of the Board several months into the year as has been required in the past.

Mr. Boyd stated that the Board needs to think ahead about how it is going to get some pedestrian crossings involved at Route 250, at Pantops and at Hollymead, etc. The Board needs to work on investing some money in connecting those neighborhoods with shopping areas. He said that a lot of his constituents in Forest Lakes would like to be able to walk or bike over to the Hollymead Town Center.

Ms. Mallek agreed, adding that the loss of that bridge was a heart-stab for that entire development.

Mr. Boyd said that a lot of people would like to get across to the shops and restaurants at Route 250 too.

Mr. Foley said that some of this can be done with the VDOT monies through revenue sharing, so the Board could certainly discuss it later in the afternoon.

Mr. Boyd commented that a lot of money is being spent for sidewalks, and the roads still have to be crossed to use the sidewalk. Mr. Foley said that there are some pedestrian crosswalks in the revenue-sharing plan, but if there is more the Board should discuss it.

Mr. Rooker stated that he didn't know if the Board had ever gotten a good cost estimate for a pedestrian and/or bicycle crossover for Route 250. He said that thinking long range, the County would probably want a grade-separated interchange at Airport Road, and if so, you could design pedestrian and bicycle features into it.

Mr. Boyd stated that he was hoping for something with a little smaller footprint.

Ms. Mallek said that the bridge at JPJ is exactly what is needed.

Mr. Rooker pointed out VDOT did a community pedestrian study of Route 29 that he had asked to have distributed at the last Places 29 meeting. The study suggested a number of places for crossovers on Route 29. He said that the report was the result of a significant amount of study and walking of the corridor by people.

Mr. Boyd said they had been discussions of a "Northtown Trail" for a long time, but there must be crossovers there for that to make sense.

Mr. Rooker then **moved** to approve staff's recommendations as presented which would implement the County's multi-year CIP policy for the CIP project budgets and directed staff to include in the June 2013 FY 14 Appropriation Resolution: (a) an appropriation that will carry forward funding for the currently funded capital project budgets in FY 13 that are recommended to carry forward into FY 14 in an amount not to exceed a total of \$15,000,000 [Carry Forward Into FY 14 Recommended Category] and an appropriation for those CIP projects that have not incurred expenditures or encumbrances in FY 13 but are recommended to carry forward into FY 14 [No Expenditure-Carry Forward Recommended Category]. The total amount of these CIP projects is estimated at \$7,907,303. Mr. Snow **seconded** the motion.

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

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

NAYS: None.

Agenda Item No. 11. Courts Study Results Update.

The following executive summary was forwarded to Board members:

The County contracted with PSA-Dewberry, Inc. to conduct a needs assessment and to develop renovation and/or new building options for the provision of court facilities, to include the Circuit, General District and Juvenile and Domestic Relations Districts Courts, in order to assist the County in determining its next step in addressing the space needs for the courts. At its February 6, 2013 meeting, the Board received the results of the study and PSA-Dewberry's draft report. The report detailed three options studied by the consultants, including scope, design concept, pros/cons, and conceptual square foot cost estimates. The Board generally favored the option to remain downtown, but noted concerns about the lack of parking. The Board directed staff to meet with the key courts stakeholders on the project to confirm the timeline for necessary improvements and to initiate discussions with the City on the disposition of the jointly owned Levy Building and options for improved parking to accommodate the courts remaining downtown.

A follow-up meeting with the consultants and key stakeholders (Judges, Commonwealth Attorney, Sheriff, Court Clerks, County Executive, etc.) occurred on March 28, 2013. See Attachment A for the minutes of that meeting. The purpose of the meeting was to better understand current security and operational issues and the sense of urgency to move the courts renovation project forward. Staff reviewed the study process and findings, reviewed the two primary options, and discussed the potential phasing of the project and the likely CIP process timeline.

There was unanimous agreement among the courts stakeholders that to remain downtown is the only viable option to avoid significant disruptions to all court functions and efficiencies that would occur if any portion of the courts were to be located off-site. Further, there was strong agreement of the stakeholders to act as soon as possible to address the current operational constraints. Staff anticipates that it may take up to eight years to complete all phases of this CIP project from the time initial design funding is authorized.

Staff will report in more detail the results of this meeting and overview the expected timeline for completion of all phases at the May 1, 2013 Board meeting.

The total budget impact will be dependent on which option the Board chooses to pursue.

No action is needed by the Board at this time. Staff is continuing to work with the City on disposition of the Levy properties and the development of a parking solution. Staff will provide an update on the outcome of these discussions as well as a detailed timeline and schedule of probable cost to complete the project at a future Board meeting. Assuming discussions with the City are successful, staff will bring back requests for appropriations for property acquisition and design services associated with early phases of the project.

Mr. Trevor Henry reported that a court study work session with key stakeholders was held in late March, and said he has provided Board members with a summary of the meeting and meeting minutes as part of the executive summary.

Mr. Henry stated that at the Board's February 6th meeting, staff presented the results of the court study and the consultants were present along with Judge Cheryl Higgins and Commonwealth's Attorney Denise Lunsford. He said that the County is considering two primary options: a downtown option and an option where they split and move the General District Court to a County site. He stated that the feedback from that meeting included the Board's direction to staff to do some additional information gathering and come back to report on it, and seemed to favor the downtown options if the issues associated with parking and the Levy Building disposition could be favorably negotiated. Mr. Henry noted that the staff also kept the split option on the table for discussion purposes.

He reported that on March 28, staff held a meeting with key stakeholders – the County Attorney, County Executive, Judges, Commonwealth's Attorney, Sheriff's office, Public Defender's office, Bar and staff consultants. Mr. Henry said they meet in one of the meeting rooms, and it demonstrated the

conditions of the rooms in the court that is normally used for hearings. He added that he thinks this is a reflection of some of the operational concerns that were identified in the study and the reason for the need to move forward.

Mr. Foley encouraged Board members to tour the court facilities if they hadn't already.

Mr. Henry said that it was a good meeting, with the key goal being to ensure an understanding of the urgency and timeline. There was unanimous agreement from that group of stakeholders that staying downtown must be a priority. He stated that there was also a very strong consensus to move forward as quickly as possible to alleviate space concerns. There was also a suggestion for a temporary solution in the Levy Building.

Mr. Rooker said that seems to make a lot of sense, and asked how realistic it was. Mr. Henry responded that it's possible, but staff needs to develop a scope and a cost before evaluating it.

Mr. Foley said that they are committed to looking at that option, as the timeline for the new facilities is five or six years out. There are currently some challenges.

Mr. Rooker said another reason that it makes sense is the status of the County's Capital Improvement Plan and funding, including what the County can take on at any one time. Mr. Foley said that the distinction to be made is between temporary fixes that might push the County beyond six years versus those that might get to that point. Staff thinks that the project needs to move so it gets done in six years rather than extending it where the County cannot start for a number of years. He wanted to clarify that that is the consensus that came out.

Mr. Snow asked if it was wise to work on a lot of these issues now prior to getting the parking issues resolved, given that the plan hinges on parking. Mr. Foley stated that the staff is working on that now, and those things must come together.

Mr. Boyd commented that one of the big hold-ups at this point is negotiations with the City over the status of the Levy Building. Until that hurdle is crossed there is not much they can do. Mr. Foley said the County does not intend to spend any more until it works through these processes with the City on parking and the Levy Building.

Mr. Boyd asked what needs to be done to get through the process with the City. Mr. Foley responded that it is like anything else the County does with the City – sitting down and trying to come to some common ground. He said that he has had several conversations with Mr. Maurice Jones, City Manager, and Mr. Bill Letteri has spoken with Mr. Aubrey Watts. He said they are working through several different scenarios and have appraisals being done on the property with a joint team so they know how much the property is worth. The disposition of the property may be tied into the parking cost. Mr. Foley said that when the Board discussed this before, Board members said they wanted to accommodate similar parking to Mill Creek right out the back door, but that is not realistic. Staff is trying to come up with some doable solutions to keep the courts downtown.

Mr. Henry reported that the other item of consensus out of that meeting was to design to a two-courtroom set for General District, and potentially have the ability to shell a third. He said that the original design and cost included a few extra court sets, but after speaking with consultants the agreement was they needed two immediately with the ability to potentially up-fit a third down the road. Mr. Henry stated that there was also a strong discussion about communications as they proceed with the project, and he would envision establishing a stakeholder group once they get into the process in order to help guide the design and project.

Mr. Henry then presented a diagram of potential phasing, based on the recommendations of the consultants, noting the location of the Levy Building and annex. He said that to get into the project quickly and alleviate tight constraints would be to get the Levy opera house addition designed, then demo the addition and up-fit it into its final state to allow the Commonwealth's Attorney and staff to move over to that facility. Mr. Henry stated that by doing that, it frees up space in the existing courthouse that could be renovated to allow the Clerk of Circuit Court to move down into the lower level. He said that the second phase would include development of the General District Court addition and entrance area, and then relocate General District Court to the new Levy addition. Mr. Henry said the remaining piece would be to renovate the existing historic courthouse and annex, and the courthouse connector. If they are considering an option that is not downtown, they would have to build a new General District Court and then relocate. He said that the sequencing would be the same, but this allows the County to get the Commonwealth's Attorney out the quickest and create some space in the existing facility, and allows the ability to spread some of the costs over time.

Mr. Foley noted that County staff has not yet sat down with the Commonwealth's Attorney and courts to propose the phasing and design plan, but staff's main point to the Board is that the project will be spread over time. Staff has a lot of work to do, sit down with the Judges and the Commonwealth's Attorney, to figure out what the real phasing plan should be that makes the most sense.

Mr. Boyd asked when staff is coming back and talk about the bonding strategy. Mr. Foley replied that it would be discussed this summer. Staff will try to have some good conversations as they move from the strategic plan into the five-year plan. He also said that one of the issues is holding a referendum on a project that is mandatory, as referendums are usually reserved for things that have more flexibility.

Mr. Henry presented a depiction generated by Microsoft Project showing what the phasing and timeline would look like, including the Board's decision, City negotiations, and CIP process. He said that all of that needs to happen concurrently. Staff recommends putting a CIP submission in the summer that will be approved and effective to start work on July 1, 2014. Mr. Henry stated that either way the Board decides – staying downtown or moving to an offsite location – staff will recommend getting the CIP submission in this year in order to fit into the CIP process.

Mr. Rooker said that speaking for himself and the users' feedback, he is willing to focus on keeping this downtown – contingent on the ability to work out a reasonable deal with the City on the Levy Building and to work out something reasonable on parking. To do otherwise is simply ignoring the feedback from every user.

Mr. Foley added that staff is not spending any time on the Mill Creek option.

Mr. Snow agreed with Mr. Rooker, adding that they need to work out the issues with parking.

Mr. Foley said staff understands the Board's position about staying downtown.

Mr. Rooker added that the City would like for the County courts to remain downtown, users would like to remain downtown, so if it can be done reasonably it appears to be a better option to pursue. Mr. Rooker said that they need to get through the negotiations with the City first though, so to understand the scope of the project.

Mr. Boyd noted that there is also a great value added to the City for keeping the courts downtown.

Mr. Foley said that some Board members have talked to City Councilors, and encouraged others to do the same.

Mr. Henry stated that staff is looking at this as a five to six year project, but it could go as long as seven given its complexity. He said that the project will likely add about \$2 million to \$3 million in debt service requirement, which will burden the CIP beginning in FY19 and running for about 20 years.

Mr. Rooker mentioned that there are people who show up at the wrong court, and it would be inconvenient if the court facility was three or four miles away.

Mr. Henry reported that the appraisal piece is in progress. The initial discussions have occurred at the executive level with the City. He said that the total project cost will be between \$20 million and \$30 million, and that does not include building a parking garage.

Ms. Mallek said that it would be nice to use the lower level of the Levy annex to put some decks in for parking. Mr. Henry responded that the parking planned for that would be secure, and would be reserved just for staff, Judges, the Sheriff, etc. He said that there is concern since the Oklahoma City bombing about having public parking under court complexes, so design practices would preclude it from being located there.

Mr. Foley said that staff continues to work hard on negotiations with the City and will be coming back to the Board as soon as possible to get approval on design money in order to get this started.

Mr. Boyd said that he agrees with others that the downtown option is the way to go.

Agenda Item No. 12. Economic Vitality Plan Quarterly Report.

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

Agenda Item No. 13. Closed Meeting.

At 11:44 a.m., Mr. Dumler offered **motion** that the Board go into Closed Meeting pursuant to Section 2.2-3711(A) of the Code of Virginia under Subsection (1) to consider appointments to boards, committees, and commissions in which there are pending vacancies or requests for reappointments; 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 consult with and be briefed by legal counsel and staff regarding specific legal matters regarding a lease of County property. Ms. Mallek **seconded** the motion.

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

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

Agenda Item No. 14. Certify Closed Meeting.

At 1:04 p.m., the Board reconvened into open meeting and Mr. Dumler **moved** that the Board certify by recorded vote that to the best of each Board member's knowledge, only public business matters lawfully exempted from the open meeting requirements of the Virginia Freedom of Information Act and identified in the motion authorizing the closed meeting were heard, discussed, or considered in the closed meeting. Ms. Mallek **seconded** the motion.

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

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

NAYS: None.

Agenda Item No. 15. Boards and Commissions: Vacancies/Appointments.

Mr. Snow **moved** the following appoints/reappointments:

- **appoint** Mr. John Gobble to the Fiscal Impact Advisory Committee, with said term to expire July 8, 2014.
- **reappoint** Mr. Peter Wiley, Mr. Steven Meeks and Mr. Ross Stevens to the Historical Preservation Committee, with said terms to expire June 4, 2016
- **reappoint** Ms. M. Waltine Eubanks and Mr. Gary Grant to the Jefferson Area Board for Aging Advisory Council, with said terms to expire May 31, 2015.

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

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

NAYS: None.

(Note: Due to time, the Board took up Agenda Item No. 24 at this time.)

Agenda Item No. 24. From the Board: Committee Reports and Matters Not Listed on the Agenda.

Ms. Mallek reported that there was an article in the paper on Sunday regarding the fracking issue, and was told six months ago by the Forest Service that it was "off the table" for the George Washington National Forest. She said that she is very concerned that now the comment period is closing she has learned that they are considering it again. Ms. Mallek mentioned that the Agriculture and Environment Committee at VACo has been studying this for the last two years and would hold a meeting focusing on it on June 3. She said that she attended two seminars on the issue at the NACo meeting in D.C. in March, which included people from all over the country – with some willing to allow the fracking just for the money and others who were resistant. Ms. Mallek stated that the water pollution potential "is so great" with this process because they're drilling down 5,000-6,000 feet and then going laterally for several thousand feet in a "wheel spoke pattern" around the vertical. She said that they have a radius of a mile around the well, and people have been caught dumping hazardous chemicals in them without permits.

Ms. Mallek said that the fracking industry representative acknowledged that they have had serious problems with that, and since Virginia's regulatory level is "so low," the state is not prepared to deal with making these kinds of choices. She stated that the Department of Mines, Minerals and Energy is quoted as saying the process is "overly restrictive," but their job is to promote exploitation of natural resources – not to focus on safety measures. Ms. Mallek said that she didn't know whether the Board would support a comment, given their fairly limited information.

Mr. Rooker stated that he has done a fair amount of reading about fracking over the years, and while it can be done safely there have been a number of accidents that have caused chemicals to leak out. He said that generally the fracking is taking place far below the aquifer, so the chemicals going out wouldn't leak into it.

Mr. Snow said that he's read several articles about fracking and has heard several sides of the story, but he doesn't understand what the chemical is and doesn't know enough about it to ask intelligent questions.

Ms. Mallek stated that geologists say that pushing water works just as well as the chemicals, which is what raised her concerns several years ago. She said that the shale is supposed to carry pockets of gas, so tunnels are made and the chemicals essentially push the gas out.

Mr. Rooker said that there are massive amount of natural gas under these shale areas, and it will probably have the biggest impact on the U.S. economy of anything that has occurred in the last two or three decades – but there are risks. He stated that he companies have taken the position that the chemicals used are proprietary, so they don't have to release "what it is they're shooting down into the ground." Mr. Rooker said that what they shoot down creates fractures in the rock, and that allows the gas to escape through pressure. He stated that sometimes the gas itself leaks into the aquifer.

Mr. Dumler pointed out that the most common hydraulic fracturing chemical is methanol.

Ms. Mallek said that it's incredibly dangerous.

Mr. Rooker said that the matter at hand is whether the Board should send a letter stating that they don't feel fracking is appropriate in the National Forest next to Albemarle County, and he would be in favor of doing that because "there are plenty of commercial opportunities for fracking [in other locations] around." He commented that the price of natural gas is four times the price of gas in the U.S. currently, on a cubic foot basis. Mr. Rooker said they would have to bring in heavy equipment, which means road improvements, and "it just changes the nature of our National Forest area."

Mr. Boyd stated that one of the benefits of it is that it creates good-paying jobs, but he's not sure if it's close enough to benefit Albemarle. He said that there are safety issues with everything that we do.

Ms. Mallek said that that's true, but when it's drinking water or something with a half life of a thousand years, that's a whole different danger to the community.

Mr. Boyd responded that he does not think there's any real science to indicate that there's been serious contamination of drinking water.

Ms. Mallek said that there are hundreds of poisonings of wells and municipal water systems.

Mr. Rooker said it doesn't happen every time they frack, but there are a number of cases of aquifers having significant contamination problems following fracking.

Ms. Mallek noted that the agriculture community is very concerned because of the herd health damage that's occurred in western Pennsylvania.

Mr. Snow said that he would support a letter of opposition until they know more about it.

Mr. Boyd said that he would agree to sign one on the premise of the "unknowns" about the process.

Mr. Rooker stated that he would like it to say they would not support fracking in the National Forest being moved forward at this time.

Ms. Mallek reported that at the Mayors & Chairs meeting recently they broached the idea of bringing up the request to jurisdictions to send a letter to the Governor asking him to sign the regulations on bio-solids, which spent three years getting developed by his appointees in various departments and has been approved by the Water Control Board on September 22, 2011. She explained that this is the issue that staff was involved with for years, trying to get some middle ground of reporting. So localities would be able to be effective in notification. She stated that right now residents get notified for 100 days that sometime in the next 100 days they're going to come and spray. Ms. Mallek said that is what Ray Caddell was so upset about because there wasn't any way for him to protect his wife who has respiratory problems – because there was no decent notice about when it was actually going to happen.

She circulated a letter that had been signed onto by numerous agencies. Ms. Mallek said that she didn't understand why the Governor would not sign his own regulation. She said that it is really interfering with the County's ability to function. She added that DEQ is not able to work with the new regulations because he the Governor has not signed them. She stated that she just wanted to keep Board members informed and if they are in agreement that then the text of the letter can be refurbished and sent around.

Mr. Thomas reported that the Rivanna River Basin Commission had received a \$25,000 grant that would sustain them for a while. He also reported that the Lewis and Clark Exploratory Center has been able to complete their project with loans from the City and County. Mr. Thomas thanked Albemarle County and the Board of Supervisors for helping Lewis and Clark.

Ms. Mallek commented that County staff really stepped up to get the Lewis and Clark funding expedited.

Mr. Davis noted that there is an obligation that Lewis and Clark has to pay the County back.

Mr. Rooker commented that that is an example of a project without an adequate contingency.

Mr. Boyd stated that Lewis and Clark really didn't have enough funding to begin with, let alone a contingency.

Mr. Rooker asked if the County had asked two or three appointees to work on the firing range committee yet.

Mr. Foley responded that staff was still finalizing the committee and said that he has asked the Board for suggestions of a third member, and is scheduled to come back to the Board in July with an update – and a series of citizen and staff group meetings are scheduled as a next step.

Mr. Rooker said that he wants to make sure those committee members are in place before the project gets too far down the road so that their feedback is meaningful.

Mr. Foley commented that in the short term, the basic data needs to be compiled so they can see all the information. He said that there is a lot of work going on with various alternatives, working with both the City and the University.

Mr. Boyd said that he would like to get some information from the County's TJPDC representatives, as he has gotten a lot of questions at a recent homeowner's association meeting on the eastern connector and grants. He stated that he talked to Steve Williams and he said that he didn't know about where the grant was.

Ms. Mallek stated that their monthly meeting would be the following day, but she had not heard any new information since he was before the Board in April.

Mr. Boyd said that he was not sure when they decided to apply for that grant, and whether it was a Board decision or Mr. Williams' decision, etc.

Ms. Mallek responded that she understood that it was one of the items generated by citizens from the limited public meetings that they held in development of the long-range transportation plan.

Mr. Boyd emphasized that if anything is done on it, he hoped that this time they wouldn't exclude the possibility of a southern connector to High Street, as a parallel road in the City would be a great advantage.

Mr. Snow commented that it would be down behind the shopping center.

Mr. Boyd agreed and added that it would be an extension of what's already built.

Ms. Mallek noted that it would be across the circus grounds and up into the Roses parking lot.

Mr. Boyd said that a southern connector was excluded from being discussed last time based on the input from the City.

Mr. Snow said that that is the only one that makes any sense.

Ms. Mallek said that it was discussed a lot in CHART back in 2003-2004, and the City was concerned about people racing through there getting into work.

Mr. Boyd said that he did not want to exclude that from any kind of study that is done and he thinks that they should look at that. He also stated that at the time Great Eastern was interested in doing some remodeling to the shopping center and they were interested in going along with it.

Mr. Rooker said that he had only been to one TJPDC meeting since being on the committee, and this study was not brought up at that meeting. He said that he was on the Board when the study was done that Mr. Boyd is referring to and he would like to understand what is going to be studied that would be different – and why it should be studied – along with some assessment as to whether there's a reasonable chance such a road might be built. Mr. Rooker stated that the eastern connector could be a small connector that went across and connected into south Pantops Drive, and it would be a much less expensive connection than others that have been discussed off of Rio Road, Proffit Road, etc. He said that there was a loose study done at one point about the amount of traffic it would take and that ought to be looked at. He said that part of the problem that he has had with an eastern connector from the beginning – and it was borne out by the study that was done eight years ago – was that the study had to be done only as a quid pro quo to get the Meadow Creek Parkway moved forward.

Mr. Boyd noted that Mr. Rooker was Chair and he was Vice Chair at the time and they negotiated that with City and that was part of the deal.

Mr. Rooker stated that they agreed to forward with the study and see what the results were. He said that part of the problem is that all of the routes that were looked at would have been secondary road projects, and to spend a lot of time and money studying a project that can't qualify for primary road funds makes no sense if it's a \$50-60 million project and they only get a couple million dollars a year. Mr. Rooker said that he thinks whatever is done in terms of spending additional money to study a eastern connector it needs to be tempered by an understanding – if you get a route that makes sense – would there be a way to obtain money from another pot rather than secondary road funds to do it. He noted that the least expensive route from the earlier study was \$40-50 million.

Mr. Boyd said that the least expensive route was \$40 million. He stated that Mark Graham had provided him with some of the links to the study's conclusions, and offered to send them around to the Board. He mentioned that there were "all sorts of problems with historic properties, historic districts it would have to go through, conservation easements that would have to be invalidated." He said that the Board's conclusion at the time was there was no practical way to go east with that.

Mr. Thomas commented that all of that traffic goes back onto Route 250 if you use Stony Point Road to bring it back over, because it takes it right back onto Pantops.

Ms. Mallek said that when the study was done, people were looking at the triangle from Fontana to the top of the mountain.

Mr. Rooker said that the City's interest has always been for there to be some road that would allow people to get from one area of the County to the other without going through the City – and in theory it makes a lot of sense. He said that if he were in the City he would say that “we prefer not to have people driving through our neighborhoods to go from the 29 north area over to Pantops and vice versa”. He stated that the question is can you ever come up with a route that works, that could possibly be built, and that might obtain funding given the pots of money it would qualify for.

Mr. Boyd stated that he tried to get the City to understand that a great deal – if not most – of the traffic was not cut-through traffic, but was traffic with the destination of the City. He said that at the time Martha Jefferson was in the City, but traffic numbers would inform this and should be included as part of the study.

Mr. Rooker said they really needed an origin destination study to determine where people are going when they're coming down Rio Road or the Meadow Creek Parkway.

Ms. Mallek reported that at the Mayors and Chairs meeting held at TJPDC the previous week, the group had asked PDC staff to look into – as a regional project – ways that the jurisdictions and surrounding counties deal with household hazardous waste and whether there were any economies of scale that could be found by having a regional contract. She said they would receive something back in June, but they did get some initial response.

Ms. Mallek said that the final item from that meeting was a report on the task force to study the process for preparation of fiscal impact statements, which is essentially the bill Steve Landes carried forward last year to have the General Assembly get better information before they pass a bill on the impact on localities. She said that the task force would determine how this would function under the Commission for Local Government, and the first meeting would be held at the end of May.

Agenda Item No. 16. **Public Hearing:** An ordinance to amend Chapter 2, Administration, of the Albemarle County Code, **to amend Section 2-202, Compensation of board of supervisors**, to increase the compensation of the members of the Board of Supervisors by an inflation factor of 2% effective July 1, 2013. *(Advertised in the Daily Progress on April 15 and April 22, 2013.)*

Mr. Foley reported that this subject of the public hearing is to consider a 2% inflationary increase in the salary of the Board of Supervisors members effective July 1, 2013 – which is the normal practice in years past and requires a public hearing prior to approval because it is done by ordinance.

Mr. Rooker said that historically the Board decided to take the same increase that staff received, even if it's none, to “somewhat de-politicize the issue of Board salaries.” He commented that he thought it was a good idea and one that worked well, and hoped that Supervisors would continue it.

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

Mr. Rooker **moved** to adopt the ordinance amendment as presented. Ms. Mallek **seconded** the motion. Roll was then called and the motion carried by the following recorded vote:

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

NAYS: None.

Mr. Boyd commented that he agrees with Mr. Rooker, that as much as he hates to vote themselves a pay increase, the process is one they've had for a long time and one that's worked well in the past.

ORDINANCE NO. 13-2(1)

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 2, ADMINISTRATION, ARTICLE II, BOARD OF SUPERVISORS, 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 2, Administration, Article II, Board of Supervisors, of the Code of the County of Albemarle, Virginia, is hereby amended and reordained by amending Section 2-202, Compensation of Board of Supervisors, as follows:

CHAPTER 2. ADMINISTRATION

ARTICLE II. BOARD OF SUPERVISORS

Sec. 2-202 Compensation of board of supervisors.

The salary of the board of supervisors shall be fifteen thousand one hundred thirty-one (\$15,131.00) for each board member effective July 1, 2013. In addition to the regular salary, the vice-chairman shall

receive a stipend of thirty-five dollars (\$35.00) for each and every meeting chaired and the chairman shall receive an annual stipend of one thousand eight hundred dollars (\$1,800.00).

(6-13-84; 5-8-85; 5-14-86; 7-1-87; 7-6-88; 6-7-89; Ord. of 6-13-90; Ord. of 8-1-90; Ord. of 8-7-91; Ord. of 7-1-92; Ord. No. 95-2(1), 6-14-95; Ord. No. 98-2(1), 6-17-98; Code 1988, § 2-2.1; Ord. 98-A(1), 8-5-98; Ord. No. 99-2(1), 5-5-99; Ord. No. 00-2(1), 6-7-00; Ord. 01-2(2), 6-6-01; Ord. 02-2(2), 5-1-02; Ord. 03-2(1), 6-4-03; Ord. 04-2(1), 6-2-04; Ord. 05-2(1), 6-1-05, Ord. 06-2(1), 6-7-06; Ord. 07-2(1), 6-6-07; Ord. 08-2(2), 6-4-08; Ord. 11-2(1), 5-4-11; Ord. 12-2(1), 5-2-12; Ord. 13-2(1), 5-1-13)

State law reference--Compensation of board of supervisors, Va. Code § 15.2-1414.3.

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

Agenda Item No. 17. **Public Hearing:** Consider granting water and sewer easements to the Albemarle County Service Authority across portions of Old Trail Park (TMP 55E-01-H) to provide sanitary sewer and water service to nearby properties in the Old Trail Subdivision. (*Advertised in the Daily Progress on April 22, 2013.*)

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

The Albemarle County Service Authority (ACSA) has requested that the County grant easements for the installation of sanitary sewer and water lines across portions of County-owned property designated as Parcel ID 055E0-01-00-000H0, located in the Old Trail Subdivision.

There are two proposed Deeds of Easement. This property on which the easements are requested was conveyed to the County for use as a public park. The specific location of the proposed easements is set forth in the attached Plats (Attachments B1 and B2). The water and sewer lines will be buried within the easements and there will be no above ground facilities. The easements will not interfere with the use of the property as a public park. Piedmont Senior Living Real Estate, LLC, a neighboring property owner, is also a party to the first proposed Deed (Attachment A1) because a proposed easement also crosses its property. March Mountain Properties I, LLC, a neighboring property owner, is also a party to the second proposed Deed (Attachment A2) because a proposed easement also crosses its property.

Virginia Code § 15.2-1800 requires that the Board hold a public hearing prior to conveyance of this interest in County-owned real property.

There is no budget impact.

Mr. Foley said staff recommends that, after receiving public comment, the Board adopt the attached Resolution (Attachment C) approving the ACSA easements and authorizing the County Executive to sign, in a form approved by the County Attorney, the Deeds of Easement (Attachment A) on behalf of the County.

Ms. Mallek asked for a description of where this would go, as her map wasn't completely visible.

Mr. Davis explained that the sanitary sewer line easement skirts the property line and is right on the boundary line between the two properties, and part of the easement is on the other property – straddling the line going to the senior center. He said that the other one is the waterline easement, and the Parks and Rec staff reviewed it along with the County Engineer and didn't have any concerns as far as development of the park.

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

Ms. Mallek moved to adopt the proposed resolution approving the ACSA easements and to authorize the County Executive to sign, in a form approved by the County Attorney, the Deeds of Easement on behalf of the County.

Mr. Snow **seconded** the motion.

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

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

NAYS: None.

**RESOLUTION APPROVING DEED OF EASEMENT BETWEEN
THE COUNTY OF ALBEMARLE AND THE ALBEMARLE COUNTY SERVICE AUTHORITY
FOR SERVICE TO OLD TRAIL SUBDIVISION**

WHEREAS, the County of Albemarle owns certain property located in the Old Trail Subdivision (Parcel 055E0-01-00-000H0); and

WHEREAS, easements across this County-owned property are necessary for the Albemarle County Service Authority (ACSA) to provide sanitary sewer and water service to the Old Trail Subdivision.

NOW, THEREFORE, BE IT RESOLVED that the Albemarle County Board of Supervisors hereby approves the granting of these certain easements to the ACSA, and authorizes the County Executive to sign, in a form approved by the County Attorney, two Deeds of Easement with ACSA for sanitary sewer and waterline easements across Parcel 055E0-01-00-000H0.

Albemarle County
TMP# 055E0-01-00-000F0
TMP# 055E0-01-00-000H0

PREPARED BY:
Woods Rogers PLC

This **DEED OF EASEMENT**, made this 20th day of February 2013, by and between **PIEDMONT SENIOR LIVING REAL ESTATE, LLC**, a Virginia limited liability company, first Grantor ("PSLRE"), **COUNTY OF ALBEMARLE**, a political subdivision of the Commonwealth of Virginia, second Grantor (the "County" and collectively with PSLRE, the "Grantors"), and **ALBEMARLE COUNTY SERVICE AUTHORITY**, Grantee, whose address is 168 Spotnap Road, Charlottesville, Virginia 22911 (the "Authority").

WITNESSETH:

WHEREAS, the Authority has requested and the Grantors have agreed to grant the Authority various easements shown on the plat attached hereto and recorded herewith made by Roudabush, Gale & Associates, Inc. dated February 1, 2013, entitled "Plat Showing New Sanitary Sewer & Waterline Easements Tax Map Parcels 55E1-F & H Old Trail Subdivision White Hall Magisterial District, Albemarle County, Virginia" (the "Plat"); and

WHEREAS, as shown on the Plat, the proposed easements cross a portion of the property conveyed to PSLRE by deed recorded in the Clerk's Office of the Circuit Court of the County of Albemarle (the "Clerk's Office") in Deed Book 3739, page 307 (the "PSLRE Property"); and PSLRE is the fee simple owner of the said property as of the date hereof; and

WHEREAS, as shown on the Plat, the proposed easements cross a portion of the property conveyed to the County by deed recorded in the Clerk's Office in Deed Book 3955, page 1 (the "Public Park"); and the County is the fee simple owner of the said property as of the date hereof.

NOW, THEREFORE, for and in consideration of the sum of TEN DOLLARS (\$10.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, the Grantors do hereby GRANT and CONVEY with GENERAL WARRANTY OF TITLE unto the Albemarle County Service Authority perpetual rights of way and easements centered twenty feet (20') in width to construct, install, maintain, repair, replace and extend water and sanitary sewer lines consisting of pipes and appurtenances thereto, over, under and across the real property of the Grantors located in the White Hall Magisterial District of Albemarle County, Virginia in the Old Trail Subdivision, the location of the easements hereby granted and the boundary of the properties being more particularly described on the Plat.

The easements hereby granted are shown on the Plat as "New 20' Waterline Easement" and "New 20' Sanitary Sewer Easement." Reference is made to the aforesaid Plat for the exact location and dimension of the permanent easements hereby granted and the property over which the same crosses.

The Grantors, their successors or assigns, agree that new trees, shrubs, fences, buildings, overhangs or other improvements or obstructions, except as provided for below, shall not be placed within the easements conveyed herein. The County shall have the right to construct trails and related improvements ("Park Improvements") within the portions of the easements hereby granted that cross the Public Park. The Grantors, their successors or assigns, shall have the right to construct other utility lines within the easements hereby granted, provided no such lines shall be within five (5) feet horizontally of the water and sewer lines installed hereunder.

As a part of these easements, the Authority shall have the right to enter upon the above described properties within the easements for the purpose of installing, constructing, maintaining, repairing, replacing and extending water and sewer lines and appurtenances thereto within such easements, and the right of ingress and egress thereto as reasonably necessary to construct, install, maintain, repair, replace and extend such water and sewer lines. If the Authority is unable to reasonably exercise the right of ingress and egress over the rights-of-way, the Authority shall have the right of ingress and egress over the property of the owner adjacent to the right-of-way.

Whenever it is necessary to excavate earth within such easements, the Authority agrees to backfill such excavation in a proper and workmanlike manner so as to restore surface conditions as nearly as practical to the same condition as prior to excavation, including restoration of such paved surfaces as may be damaged or disturbed as part of such excavation.

The easements provided for herein shall include the right of the Authority to cut any trees, brush and shrubbery, remove obstructions, including Park Improvements, and take other similar action reasonably necessary to provide economical and safe water and sewer line installation, operation and maintenance. Following the removal of any Park Improvements, the County may restore such Park Improvements at its expense, and the Authority shall have no responsibility to the Grantors, their successors or assigns, to replace or reimburse the cost of said trees, brush, shrubbery or obstructions, including Park Improvements, if cut or

removed or otherwise damaged. Any and all trees, brush, shrubbery or obstructions cut or removed by the Authority shall be disposed of at the Authority's expense at a location not within the PSLRE Property or the Public Park, unless the applicable property owner consents in writing to such disposal on its property.

The facilities constructed within the permanent easements shall be the property of the Authority which shall have the right to inspect, rebuild, remove, repair, improve and make such changes, alterations and connections to or extensions of its facilities within the boundaries of the permanent easements as are consistent with the purposes expressed herein.

WITNESS the following signatures and seals:

PIEDMONT SENIOR LIVING REAL ESTATE, LLC, a Virginia limited liability company

By: _____
David S. Hilliard, Manager

COUNTY OF ALBEMARLE, VIRGINIA

By: _____

Name: _____

Title: County Executive

ALBEMARLE COUNTY SERVICE AUTHORITY

By: _____
Gary O'Connell, Executive Director

Albemarle County

TMP# 055E0-01-00-000G0

TMP# 055E0-01-00-000A1

TMP# 055E0-01-00-000H0

TMP# 055E0-01-11-01600

**PREPARED BY:
Woods Rogers PLC**

This **DEED OF EASEMENT**, made this 16th day of April 2013, by and between **MARCH MOUNTAIN PROPERTIES I, LLC**, a Virginia limited liability company, first Grantor ("MMPI"); **MARCH MOUNTAIN PROPERTIES, L.L.C.**, a Virginia limited liability company, second Grantor ("MMP"); **COUNTY OF ALBEMARLE**, a political subdivision of the Commonwealth of Virginia, third Grantor (the "County" and collectively with MMPI and MMP, the "Grantors"); and **ALBEMARLE COUNTY SERVICE AUTHORITY**, Grantee, whose address is 168 Spotnap Road, Charlottesville, Virginia 22911 (the "Authority").

WITNESSETH:

WHEREAS, the Authority has requested and the Grantors have agreed to grant the Authority various water and sanitary sewer line easements located in and around Block 11 of Old Trail Subdivision, situated in Albemarle County, Virginia, which easements are shown on the following three (3) plats (collectively, the "Plats"):

Plat dated October 19, 2012, prepared by Roudabush, Gale & Associates, Inc. entitled "Boundary Line Adjustment and Revised Subdivision Plat Old Trail Block 11 White Hall Magisterial District Albemarle County, Virginia" which plat is of record in the Clerk's Office of the Circuit Court of Albemarle County, Virginia in Deed Book 4257, pages 377-388;

Plat dated April 5, 2013, prepared by Roudabush, Gale & Associates, Inc. entitled "20' Waterline Easement Old Trail Village Dedicated to the Albemarle County Service Authority White Hall Magisterial District Albemarle County, Virginia," which plat is attached hereto and recorded herewith; and

Plat dated April 15, 2013, prepared by Roudabush, Gale & Associates, Inc., entitled "Easement Plat Showing Water Meter Easement Located on TMP 55E-1-11-16 Block 11 - Old Trail Village Dedicated to the Albemarle County Service Authority White Hall Magisterial District Albemarle County, Virginia," which plat is attached hereto and recorded herewith.

WHEREAS, as shown on the Plats, the proposed easements cross a portion of the property conveyed to MMPI by deed recorded in the Clerk's Office of the Circuit Court of the County of Albemarle (the "Clerk's Office") in Deed Book 3824, page 335 (the "MMPI Property"); and MMPI is fee simple owner of the said property as of the date hereof;

WHEREAS, as shown on the Plats, the proposed easements cross a portion of the property conveyed to MMP by deed recorded in the Clerk's Office in Deed Book 2233, page 389 (the "MMP Property"); and MMP is fee simple owner of the said property as of the date hereof; and

WHEREAS, as shown on the Plats, the proposed easements cross a portion of the property conveyed to the County by deed recorded in the Clerk's Office in Deed Book 3955, page 1 (the "Public Park"); and the County is the fee simple owner of the said property as of the date hereof.

NOW, THEREFORE, for and in consideration of the sum of TEN DOLLARS (\$10.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, the first and second Grantors do hereby GRANT and CONVEY with GENERAL WARRANTY OF TITLE and the third Grantor does hereby GRANT and CONVEY with SPECIAL WARRANTY OF TITLE unto the Albemarle County Service Authority perpetual rights of way and easements to construct, install, maintain, repair, replace and extend water and sanitary sewer lines consisting of pipes and appurtenances thereto, over, under and across the real property of the Grantors located in the White Hall Magisterial District of Albemarle County, Virginia in the Old Trail Subdivision, the location and width of the easements hereby granted and the boundary of the properties being more particularly described on the Plats.

The easements hereby granted are shown on the Plats as "20' Waterline Easement," "10' Sanitary Lateral Easement," "Variable Width Waterline and Sanitary Sewer Easement," "20' Sanitary Sewer Easement," "New Portion of 20' Waterline Esmt. To Include Fire Hydrant," and "New Water Meter Easement." Reference is made to the aforesaid Plats for the exact location and dimension of the permanent easements hereby granted and the property over which the same crosses.

The Grantors, their successors or assigns, agree that new trees, shrubs, fences, buildings, overhangs or other improvements or obstructions, except as provided for below, shall not be placed within the easements conveyed herein. The County shall have the right to construct trails and related improvements ("Park Improvements") within the portions of the easements hereby granted that cross the Public Park. The Grantors, their successors or assigns, shall have the right to construct other utility lines within the easements hereby granted, provided no such lines shall be within five (5) feet horizontally of the water and sewer lines installed hereunder.

As a part of these easements, the Authority shall have the right to enter upon the above described properties within the easements for the purpose of installing, constructing, maintaining, repairing, replacing and extending water and sewer lines and appurtenances thereto within such easements, and the right of ingress and egress thereto as reasonably necessary to construct, install, maintain, repair, replace and extend such water and sewer lines. If the Authority is unable to reasonably exercise the right of ingress and egress over the rights-of-way, the Authority shall have the right of ingress and egress over the property of the owner adjacent to the right-of-way.

Whenever it is necessary to excavate earth within such easements, the Authority agrees to backfill such excavation in a proper and workmanlike manner so as to restore surface conditions as nearly as practical to the same condition as prior to excavation, including restoration of such paved surfaces as may be damaged or disturbed as part of such excavation.

The easements provided for herein shall include the right of the Authority to cut any trees, brush and shrubbery, remove obstructions, including Park Improvements, and take other similar action reasonably necessary to provide economical and safe water and sewer line installation, operation and maintenance. Following the removal of any Park Improvements, the County may restore such Park Improvements at its expense, and the Authority shall have no responsibility to the Grantors, their successors or assigns, to replace or reimburse the cost of said trees, brush, shrubbery or obstructions, including Park Improvements, if cut or removed or otherwise damaged. Any and all trees, brush, shrubbery or obstructions cut or removed by the Authority shall be disposed of at the Authority's expense at a location not within the Public Park, the MMP Property or the MMPI Property, unless the applicable property owner consents in writing to such disposal on its property.

The facilities constructed within the permanent easements shall be the property of the Authority which shall have the right to inspect, rebuild, remove, repair, improve and make such changes, alterations and connections to or extensions of its facilities within the boundaries of the permanent easements as are consistent with the purposes expressed herein.

WITNESS the following signatures and seals:

MARCH MOUNTAIN PROPERTIES I, LLC,
a Virginia limited liability company

By: _____
Name: _____
Title: Manager

MARCH MOUNTAIN PROPERTIES, L.L.C.,
a Virginia limited liability company

By: _____
Name: _____
Title: Manager

COUNTY OF ALBEMARLE, VIRGINIA

By: _____
Name: _____
Title: County Executive

ALBEMARLE COUNTY SERVICE AUTHORITY

By: _____
Gary O'Connell, Executive Director

Agenda Item No. 18. **Public Hearing:** FY 2013 Budget Amendment and Appropriations.
(Advertised in the Daily Progress on April 22, 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 April 3, 2012 through May 1, 2013 and itemized below is \$12,147,434.00. 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 \$12,147,434.00. The estimated expenses and revenues included in the proposed amendment are shown below:

ESTIMATED EXPENDITURES

General Fund	\$ 70,000.00
Special Revenue Funds	\$ 130,000.00
Capital Improvements Funds	\$ 11,874,434.00
ECC	\$ 73,000.00

TOTAL ESTIMATED EXPENDITURES – All Funds \$ 12,147,434.00

ESTIMATED REVENUES

Loan Proceeds	\$ 11,320,373.00
Proffer Revenue	\$ 550,000.00
General Fund Balance	\$ 70,000.00
Other Fund Balances	\$ 207,061.00

TOTAL ESTIMATED REVENUES – All Funds \$ 12,147,434.00

The budget amendment is comprised of seven (7) separate appropriations as follows, two of which has already been approved by the Board as indicated below:

Approved April 3, 2013:

- One (1) appropriation (#2013083) totaling \$130,000.00 to the EDA for the purpose of funding a short-term loan to the Lewis and Clark Exploratory Center;

Approved April 10, 2013:

- One (1) appropriation (#2013085) totaling \$73,000.00 for Emergency Communication Center projects.

The five (5) appropriations requested for Board approval on May 1, 2013 are as follows:

- One (1) appropriation (#2013086) totaling \$50,000.00 for the Ivy Fire Station Maintenance Account as required by the terms of the sublease;
- One (1) appropriation (#2013087) totaling \$4,061.00 to re-appropriate funding for a General Government CIP project;
- One (1) appropriation (#2013088) totaling \$11,820,373.00 for the purchase of the Rio Road West Property and the required building renovations for a new library to replace the current Northside Library and to provide County storage space;
- One (1) appropriation (#2013089) totaling \$20,000.00 for salary reclassifications and adjustments; and
- One (1) appropriation (#2013090) totaling \$50,000.00 for the Cory Farm Greenway Connector project.

After the public hearing, staff recommends approval of the FY 2013 Budget Amendment in the amount of \$12,127,434.00 and approval of appropriations #2013086, #2013087, #2013088, #2013089 and #2013090 to provide funds for various local government projects and programs as described in Attachment A.

Appropriation #2013086 \$50,000.00

Source: General Fund fund balance \$ 50,000.00

This request is to appropriate \$50,000.00 of General Fund fund balance for the Ivy Fire Station Maintenance Account to pay for the County's share of the annual repairs and maintenance of the Ivy Fire Station as required by the terms of the sublease approved by the Board on April 4, 2012. According to the terms of the lease, the County must fund a maintenance account with a balance of \$50,000.00 within 30 days of the Commencement Date and on each anniversary of the Commencement Date. The Commencement Date is anticipated to be May 1, 2013 upon the issuance of a Certificate of Occupancy.

Appropriation #2013087		\$4,061.00
Source:	General Gov't CIP Fund Balance	\$ 4,061.00

This request is to appropriate \$4,061.00 from the General Government CIP Fund fund balance to support the completion of the Preddy Creek Park project. This portion of funding was appropriated in FY 12 and was expected to support services undertaken in late FY 12. However, the expense was recorded in FY 13; so the funding needs to be re-appropriated to FY 13 to cover the FY 13 expense. The services were for removing a collapsed house on park land at Preddy Creek.

Appropriation #2013088		\$11,820,373.00
Source:	Loan Proceeds	\$11,320,373.00
	Proffer Revenue	\$ 500,000.00

As described in the Rio Road West Property Acquisition Executive Summary, also on the Board's May 1, 2013 agenda, this request is to appropriate \$11,208,998 in loan proceeds and \$500,000.00 in Stonefield Proffers for a total appropriation of \$11,708,998 to support the purchase of the property and the required building renovations. The intended use for the property would be a new, permanent location for the Northside library and County warehouse/storage space. The new facility would provide approximately 30,000 to 37,000 square feet of library space and 20,000 square feet of warehouse space. The immediate funding of the Phillips Building Project would allow the project to start design development in FY13/14 and to be completed in FY 14/15.

This appropriation request is contingent upon the Board's approval of the Rio Road West Property acquisition.

Appropriation #2013089		\$20,000.00
Source:	General Fund fund balance	\$ 20,000.00

This request is to appropriate \$37,655.00 in funding from the reclassification pool to various departments for individual reclassifications that occurred throughout FY 13. This portion of the appropriation is a re-allocation of funds and has no impact on the total budget.

In addition, the Office of Housing will overexpend its salary budget in FY 13/14 as the result of a payout of unused annual leave when an employee left the County. This request is for \$20,000.00 to cover those costs.

Appropriation #2013090		\$50,000.00
Source:	Proffer Revenue	\$ 50,000.00

This request is to appropriate \$50,000.00 in various proffer revenues (see below) to support the Cory Farm Greenway Connector project. This project includes the construction of a bike/pedestrian trail that will connect various Crozet neighborhoods to Crozet Park, downtown Crozet and Route 250 retail and businesses. The scope includes an easement acquisition, trail and bridge design/development, pedestrian bridge, benches, Kiosk and signage. The project will begin upon approval of this appropriation request and is anticipated to be complete by the fall of 2013. The proffers supporting this project are summarized below.

	Proffer	Interest	Total
Liberty Hall	\$6,400.00	\$32.22	\$6,432.22
Westhall (1.2)	\$13,000.00	\$29.61	\$13,029.61
Wickham Pond	\$30,538.17	\$0.00	\$30,538.17
Total	\$49,938.17	\$61.83	\$50,000.00

Mr. Boyd mentioned that the largest item in these appropriations is the Northside Library at \$11.874 million.

Mr. Foley noted that \$3 million of it is land purchase, and the rest is renovation costs, which will provide both a library facility and storage space to eliminate two leases the County currently pays on, to offset the cost of the debt service.

Ms. Mallek mentioned that the two leases add up to about \$500,000 a year.

Mr. Boyd stated that he only mentioned that because there has been some public interest.

Mr. Rooker noted that there were several people on the Places 29 committee that objected to moving forward with purchase of the property, as they were inclined to stay in the shopping center – but it was more of a casual observation of the shopping center being a good spot than an assessment of expanding at the shopping center and what that expansion might cost.

Mr. Foley said that this results in a large savings from what was projected to be spent on the library, not even considering the storage space savings. He said that staff thinks it is a good deal for the County.

Mr. Boyd commented that this is not something the County entered into lightly, as it's been studied on the Board for quite some time.

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

Mr. Rooker **moved** to approve the FY 2013 Budget Amendment in the amount of \$12,127,434.00 and to approve appropriations #2013086, #2013087, #2013088, #2013089 and #2013090 to provide funds for various local government projects and programs.

Mr. Boyd **seconded** the motion.

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

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

NAYS: None.

COUNTY OF ALBEMARLE			
APPROPRIATION SUMMARY			
APP#	ACCOUNT	AMOUNT	DESCRIPTION
2013086	4-1000-43202-443202-331608-1004	50,000.00	R&M Ivy Fire Station
2013086	3-1000-51000-351000-510100-9999	50,000.00	Approp Fund Balance
2013087	4-9010-71020-471010-950261-7100	4,061.00	Preddy Creek Park
2013087	3-9010-51000-351000-510100-9999	4,061.00	Approp Fund Balance
2013088	3-9010-51000-351000-512072-9999	500,000.00	TRS-STONEFIELD PROFFER
2013088	3-9010-41000-341000-410500-9999	11,320,373.00	LOAN PROCEEDS
2013088	4-9010-73030-473010-312350-9999	653,250.00	ENGINEERING/PLANNING (A & E)
2013088	4-9010-73030-473010-312366-9999	111,375.00	FAC DEVELOP COORDINATOR
2013088	4-9010-73030-473010-800200-9999	720,000.00	FURNITURE & FIXTURES
2013088	4-9010-73030-473010-800605-9999	6,682,498.00	CONSTRUCTION
2013088	4-9010-73030-473010-800750-9999	3,000,000.00	PURCHASE OF PROPERTY
2013088	4-9010-73030-473010-999999-9999	653,250.00	CONTINGENCY FUNDS
2013088	3-8547-18947-318000-189911-9999	500,000.00	Stonefield Proffer Revenue
2013088	4-8547-93010-493010-930010-9999	500,000.00	Stonefield Proffer Trs to GG CIP
2013089	4-1000-11010-411010-110000-1001	1,650.00	Distribute Reclass Pool
2013089	4-1000-11010-411010-210000-1001	350.00	Distribute Reclass Pool
2013089	4-1000-11010-411010-221000-1001	200.00	Distribute Reclass Pool
2013089	4-1000-11010-411010-241000-1001	20.00	Distribute Reclass Pool
2013089	4-1000-12040-412040-110000-1001	22,000.00	Distribute Reclass Pool
2013089	4-1000-12040-412040-210000-1001	1,250.00	Distribute Reclass Pool
2013089	4-1000-12040-412040-221000-1001	2,820.00	Distribute Reclass Pool
2013089	4-1000-12040-412040-241000-1001	240.00	Distribute Reclass Pool
2013089	4-1000-12150-412150-110000-1001	2,100.00	Distribute Reclass Pool
2013089	4-1000-12150-412150-221000-1001	225.00	Distribute Reclass Pool
2013089	4-1000-21070-421070-110000-1002	20,650.00	Distribute Dept. Contingency
2013089	4-1000-21070-421070-120000-1002	10,115.00	Distribute Dept. Contingency
2013089	4-1000-21070-421070-221000-1002	2,825.00	Distribute Dept. Contingency
2013089	4-1000-21070-421070-241000-1002	270.00	Distribute Dept. Contingency
2013089	4-1000-21070-421070-999908-1002	-33,860.00	Distribute Dept. Contingency
2013089	4-1000-31013-431010-110000-1003	177,602.20	Distribute Dept. Contingency
2013089	4-1000-31013-431010-120000-1003	75,000.00	Distribute Dept. Contingency
2013089	4-1000-31013-431010-210000-1003	13,587.00	Distribute Dept. Contingency
2013089	4-1000-31013-431010-221000-1003	38,846.00	Distribute Dept. Contingency
2013089	4-1000-31013-431010-241000-1003	4,613.00	Distribute Dept. Contingency
2013089	4-1000-31013-431010-119998-1003	-80,172.00	Redistribute Lapse from DSS
2013089	4-1000-31013-431010-999908-1003	-309,648.20	Distribute Dept. Contingency
2013089	4-1000-32011-432010-110000-1003	13,500.00	Distribute Dept. Contingency
2013089	4-1000-32011-432010-120000-1003	1,100.00	Distribute Dept. Contingency
2013089	4-1000-32011-432010-210000-1003	450.00	Distribute Dept. Contingency
2013089	4-1000-32011-432010-221000-1003	1,600.00	Distribute Dept. Contingency
2013089	4-1000-32011-432010-241000-1003	140.00	Distribute Dept. Contingency
2013089	4-1000-32011-432010-999908-1003	-9,900.00	Distribute Dept. Contingency
2013089	4-1000-32012-432010-120000-1003	25,700.00	Distribute Dept. Contingency
2013089	4-1000-32012-432010-210000-1003	1,000.00	Distribute Dept. Contingency
2013089	4-1000-32015-432010-110000-1003	197,058.80	Distribute Dept. Contingency
2013089	4-1000-32015-432010-120000-1003	50,000.00	Distribute Dept. Contingency
2013089	4-1000-32015-432010-210000-1003	23,895.00	Distribute Dept. Contingency
2013089	4-1000-32015-432010-221000-1003	37,081.00	Distribute Dept. Contingency
2013089	4-1000-32015-432010-241000-1003	3,017.00	Distribute Dept. Contingency
2013089	4-1000-32015-432010-999908-1003	-344,641.80	Distribute Dept. Contingency
2013089	4-1000-53012-453010-119998-1005	80,172.00	Redistribute Lapse to Police
2013089	4-1000-71017-471010-110000-1007	5,900.00	Distribute Reclass Pool
2013089	4-1000-71017-471010-221000-1007	825.00	Distribute Reclass Pool
2013089	4-1000-71017-471010-241000-1007	75.00	Distribute Reclass Pool
2013089	4-1000-99900-499000-999908-9999	-37,655.00	Distribute Reclass Pool
2013089	4-1000-81030-481030-110000-1008	20,000.00	Housing Payout
2013089	3-1000-51000-351000-510100-9999	20,000.00	Use of Fund Balance
2013090	3-9010-51000-351000-512065-9999	6,432.22	TRS FR LIBERTY HALL
2013090	3-9010-51000-351000-512059-9999	13,029.61	TRS FR WESTHALL (1.2)
2013090	3-9010-51000-351000-512056-9999	30,538.17	TRS FR WICKHAM POND
2013090	4-9010-71018-473010-312350-9999	10,000.00	ENGINEERING/PLANNING (A & E)
2013090	4-9010-71018-473010-800605-9999	30,000.00	CONSTRUCTION

2013090	4-9010-71018-473010-800750-9999	10,000.00	PURCHASE OF PROPERTY
2013090	3-8544-15000-315000-150101-9999	28.18	Liberty Hall Proffer Interest
2013090	3-8544-18944-318000-189928-9999	6,400.00	Liberty Hall Proffer Revenue
2013090	4-8544-93010-493010-930010-9999	6,428.18	Trs. To GG CIP
2013090	3-8542-15000-315000-150101-9999	8.49	Westhall 1.2 Proffer Interest
2013090	3-8542-51000-351000-510100-9999	13,021.12	Westhall 1.2 Proffer Fund Balance
2013090	4-8542-93010-493010-930010-9999	13,029.61	Trs. To GG CIP
2013090	3-8540-18940-318000-189911-9999	19,354.86	Wickham Pond Proffer Revenue
2013090	3-8540-51000-351000-510100-9999	11,183.31	Wickham Pond Proffer Fund Balance
2013090	4-8540-93010-493010-930010-9999	30,538.17	Trs. To GG CIP
TOTAL		24,988,859.92	

(Note: At this time the Board returned to Agenda Item No. 12.)

Agenda Item No. 12. Economic Vitality Plan Quarterly Report.

The following executive summary was forwarded to Board members:

The Board adopted an Economic Vitality Action Plan (“Plan”) on August 4, 2010 following extensive public discussion and review. That plan established a schedule for staff to provide quarterly reports to the Board on staff’s progress and activities related to the Plan. Staff will present the second quarterly report (January – March, 2013) of the Plan’s third year of implementation at this meeting. This will be the last quarterly report prior to a final report upon completion of the Plan this fall. The Board’s next discussion on the Economic Vitality Action Plan currently scheduled for July, 2013 will focus on the FY 13 – 17 Strategic Plan goal regarding establishing an ongoing economic development function for the County.

Attachment A provides a comprehensive three year work plan that outlines all the strategies and actions contained in the Plan for each goal, along with the status of those activities and next steps required to complete the Plan by September, 2013, as called for in the initial three year timetable. Many of the actions are ongoing in nature and will not be “completed” per se but will be integrated into the established economic development program as components of that program.

Objective 1 - Improve Business Climate and Image

Highlights of Progress on the Plan during the last quarter: Co-sponsored the Virginia Economic Development Authority’s (VEDA) Spring Conference with the City of Charlottesville Economic Development Office, implemented Phase 2 website improvements focused on target industries, participated in Central Virginia Partnership for Economic Development (CVPED) rebranding.
Next Steps: Continued partnership/outreach.

Objective 2 - Simplify and Create Certainty - Continued regulatory reform

Highlights of Progress on the Plan during the last quarter: Implemented legislative review process improvements, continued drop-in hours and ongoing training partnership with the Charlottesville/Albemarle Chamber of Commerce.
Next Steps: Continued assessment of development review improvement opportunities.

Objective 3 - Support Quality Job Opportunities

Highlights of Progress on the Plan during the last quarter: Achieved Albemarle First visitation goal, cosponsored C’ville Start-up Weekend Edu, partnering on Virginia Bio educational summit, teaching session for Community Investment Collaborative (CIC).
Next Steps: Continued focus on workforce development and target market outreach as appropriate.

Objective 4 - Expand Industrial Land Options

Highlights of Progress on the Plan during the last quarter: Adopted zoning text amendments to modernize uses and increase flexibility in industrial and commercial districts, Planning Commission work session on complete Comprehensive Plan update.
Next Steps: Comprehensive Plan update to come to the Board, voluntary rezoning effort to be initiated, market expanded location possibilities to commercial brokers and appropriate businesses.

Objective 5 - Promote Rural Economy/Tourism

Highlights of Progress on the Plan during the last quarter: Launched second year of Monticello Artisan Trail and Presidents Passport tourism program, sponsored local food/agriculture portion of the Tom Tom Festival, supported 2013 Taste of Monticello Wine Trail Festival and Monticello Cup competition.
Next Steps: Continued focus on appropriate rural area economy initiatives.

Data reporting

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

There is no immediate budget impact associated with this item.

No action is required by the Board related to this item.

Ms. Lee Catlin, Assistant to the County Executive for Business and Community Partnerships, addressed the Board, stating that she and Susan Stimart would be giving the last quarterly update on the Economic Vitality Action Plan, in anticipation of doing a final report in September at the close of the three years of the plan. She said that they wanted to take the opportunity to give a comprehensive status check on what has been accomplished and what's left to do in the final several months of the plan before they reach the end point in the fall. Ms. Catlin stated that what they want to do today is to update the status of the Economic Vitality Action Plan and provide an opportunity for Steve Allshouse to give his update on economic indicators.

She said that with goal one – “Improving business climate and image” – recent highlights include phase two of website improvements, which will feature information on all the target industries and particular qualifications for them to help bolster marketing of the area. She reported that the County participated in the rebranding of TJPED, which is now the Central Virginia Partnership for Economic Development. Ms. Catlin stated that as staff transitions into the next step, there would be continued focus on outreach and relationship-building included in the plan.

Ms. Catlin reported that with goal two – “Simplifying and creating certainty” – progress this quarter included implementation of the legislative review process improvements, which followed implementation of the administrative component of that and now completes the actions specified in the plan regarding this particular goal. She said that the next step needs to include a continued focus on reducing complexity and look for future improvement opportunities, along with continuing the small business assistance spearheaded by Ms. Stimart.

She stated that with goal three – “Supporting quality opportunities” – the plan called out specific objectives, and the Board has in the workplan all the various strategies and things that have been accomplished to date on that particular goal. Ms. Catlin said that highlights this quarter include partnering on a large education summit on Stem H, which coincides with the statewide Virginia Bio 20th year anniversary gala. She stated that at last count there were about 80 people registered from the community, including people from education, business, local government, and university sectors. Ms. Catlin said staff would have a morning-long conversation about how to build career pathways to provide job opportunities and also support the Bio and Stem H business cluster in the community. She stated that the County also helped sponsor the Charlottesville Startup Weekend EDU, a very successful program focusing on entrepreneurial opportunities involving educational programs.

Ms. Catlin said that next steps for this goal are to continue focusing on target industries, including how the County is supporting existing target industries and establishing what level of outreach the Board wants to do to encourage new target industries to come into the community, and continuing to address the workforce readiness piece.

She reported that with goal four – “Expanding industrial land options” – the Board adopted zoning text amendments to modernize uses and increase flexibility in industrial and commercial districts. She said that staff is currently putting together a plan to educate the community and market those opportunities to companies. Ms. Catlin stated that the next step is the Comprehensive Plan update, and the Planning Commission is now holding work sessions on the entire plan – which includes items that pertain to expanding industrial land options. She said that there are also several strategies, including a voluntary rezoning initiated by the County that will follow the Comp Plan adoption.

Ms. Catlin stated that with goal five – “Growing the rural economy” – the County launched the second year of the Monticello Artisan Trail Program and the second year of the President's Passport Tourism program, done in combination with Monticello, Ash Lawn and Montpelier. She said that the Taste of Monticello wine trail festival and Monticello Wine Cup competition were held recently, and the wine industry continues to be a vibrant portion of the rural economy. Ms. Catlin said that next steps include continued focus on the appropriate agricultural economic opportunities they've been working with thus far, and continuing to move those forward.

Ms. Catlin noted that the Board has an objective in their economic vitality goal that regards transitioning from the end of this plan to the establishment of an ongoing economic development program, and a lot of things mentioned here as next steps would roll into the program as staff has discussed. She reviewed the timeline as to how this is moving forward stating that in February staff came before the Board with the concept – addressing mission, guiding principles, and program components – and solicited input at that time. Ms. Catlin stated that staff held a community stakeholders roundtable in March, with about 20 attendees from “a wide spectrum of the community.” She said that staff expects to come back to the Board in July with a recommendation based on feedback solicited at that time, as well as other conversations to be held over the next several weeks, so they will have the opportunity to give direction on the establishment of an economic development program for the County. Ms. Catlin mentioned that the Board's budget makes funding available for program implementation beginning January 1, 2014. Ms. Catlin stated that staff would come back before them in June regarding the Tourism Zone Program established by the Virginia Tourism Corporation, and staff would provide the requested information about areas where there may be deficiencies and ways to address them.

Mr. Steve Allshouse, Manager of Economic Analysis and Forecasting, addressed the Board, stating that he would address the economic indicators and indicating that the County's economy appears to be improving gradually, at a modest pace. He mentioned that there is one item that has the potential to slow the recovery down, which he would address in his discussion of employment numbers. Mr. Allshouse reported that sales tax revenue is increasing over the same period of the previous year, largely as a result of new development on the 29 North corridor – and that number will likely continue to rise over the next several years. He said that food and beverage tax is progressing similarly, and would continue to

increase with the addition of new restaurants. Mr. Allshouse stated that it's expected for hotel tax revenue to "leap" over the next several months and beyond as a major new hotel is built along the Route 29 corridor.

Mr. Rooker commented that it was hard to believe the numbers from 2011.

Mr. Allshouse responded that that is likely to be a recording fluke and explained that something when the data gets entered into the system – it might have been something was before a particular quarter that got entered later or earlier. He said that he wouldn't take it as a massive depression in 2011 although it is lower.

Ms. Mallek stated that it is right in the heart of the economic flop.

Mr. Allshouse said that it could have been a combination of things. He stated that there was one theory going around during the recession that people were taking closer in vacations – so when the nation was in the very worst of the recession people were coming to this region from New York, Washington D.C., and Philadelphia – that number might have dropped off as the U.S. economy began to improve.

Mr. Rooker stated that there is no way it fell 1/3 and then went up by three times that the next year.

Mr. Snow asked how the numbers work into projects for the current year.

Mr. Allshouse responded that he usually considers performance over the last four quarters compared to the same period the previous year, and he looks at pending commercial projects to provide a forward-looking indicator, as well as the general forecast for the U.S. economy and blend all three together.

Mr. Snow asked how the actual numbers compare for what was forecasted in the past. Mr. Allshouse responded that they're consistent with what he was looking at last fall.

Mr. Foley said that if you look at the percentage increases projected in the budget for these sources, you'd see pretty large increases, and staff certainly anticipated the number coming in like this and projected them going forward.

Mr. Allshouse reported that the unemployment rate has been declining, mirroring the state and U.S. economies, and Albemarle is not at "full employment" – which would be around the 3.5% mark. He said that the 4.3% unemployment rate was based on 2,437 being unemployed on average during the fourth quarter of calendar year 2012, and if there had been an additional 537 people employed the rate would have dropped to 3.5%. Mr. Allshouse said that 100% employment means that everybody who wants a job has a job, and 3.5% is the figure he has used for full employment in looking at the numbers historically since 1990. He stated that the numbers did not include people who might have dropped out of the labor market, which has taken place during the recession along with people reentering the labor market.

Mr. Allshouse reported that the third quarter numbers were done as a census of the employment and wages that the Virginia Employment Commission compiles, and it generally runs one quarter behind the unemployment numbers. He stated that this number went down by 287 positions between 3rd quarter 2011 and 3rd quarter 2012, and the numbers include full-time, part-time and temporary employment – which can mean wide swings from quarter to quarter. He said that he is not entirely spooked by this number and that the Board is probably seeing some anticipation on the part of employers on sequestration that did go into effect.

Mr. Snow said that a lot of it could be attributed to the weather, with the late spring the area has been having this year.

Mr. Allshouse reported that regarding the housing market, six months is considered the equilibrium for a single-family detached home to be on the market. He said that this is traditionally a very slow quarter for sales, but the numbers are "moving in the right direction" and would likely be along the equilibrium line. Mr. Allshouse reported that the Case-Schiller measuring housing prices in 20 major markets around the country has jumped in the last 12 months, which is probably due to the fact that they had dropped precipitously during the housing bust. He commented that in this area, they may not see as dramatic a rise as some other regions have seen due to a number of factors including proximity to D.C. and the federal presence here.

Mr. Allshouse summarized the findings he presented, and mentioned that the County is seeing jumps in sales tax, food and beverage, TOT are all heading in the right direction in all combination of both the recovering economy and new development; the unemployment rate down slightly; the number of jobs fell with anticipation of it rising again. He reported that single family detached market has come into equilibrium or at least trending toward that direction, and the foreclosure rate in the region continues to be very low – 4.8 dwelling units per 10,000, which is much below that of comparable localities in the state that were badly hit by the housing bust. He stated that the number of residential building permits dropped from quarter one to quarter one, but the dollar value of those permits rose by 12.9% which seems to indicate new construction in the upper end of the housing market. Mr. Allshouse said that the dollar value of commercial building permits fell from quarter one to quarter one, but that likely reflects the end of a major development project taking place along the Route 29 North corridor.

Ms. Mallek noted that the Crozet market has seen time on the market dramatically fall, in some cases down to a week or a month. Mr. Allshouse responded that that's good news, but some analysts caution that this is what happened during the bubble years and this could be a second bubble – "but that remains to be seen."

Ms. Mallek commented that there is some pent up demand in that area.

Mr. Boyd said that something that keeps coming back to him is the need to establish some very specific goals tied to economic indicators, and have that be something to strive for in the future. He said that it might be helpful to look at the average income numbers in the County, to see whether the salary levels of jobs being created are better or worse – which way they're trending.

Mr. Allshouse said that that type of information is available on an annual basis, but not quarterly.

Mr. Rooker noted that the introduction to the budget does include that income data, and said what would be more important would be establishing reasonable goals based on historic information.

Mr. Boyd said that it would also be helpful to track the poverty level and how that may have changed over the years. He added that he would also like to look at categories of jobs, as it would fit in with the target market study.

Ms. Catlin stated that it would fit in well with their KPI discussion in the strategic plan item, as one of the goals for economic vitality is job growth by sector.

Mr. Boyd said that the effect of the target market with skilled labor jobs is something that he is very interested in because he doesn't want to lose track of that need and those types of jobs. He said that if staff was reporting on it, then they could tell whether or not the effect of attracting the high paying jobs also help those people that are in skilled labor jobs.

Ms. Mallek mentioned not to overlook the start-up companies and entrepreneurs, as that is where a lot of growth is happening in the rural economy.

Mr. Foley said that Ms. Catlin had discussed the money available at the midpoint in the new fiscal year and decisions needed to move the program forward, and he did see the new metrics and data being directly tied to the resources in the program. He said that some of the results with the economic vitality plan have been some of the workshops and things set up, and in order to be effective with monitoring some of the new metrics they must have resources to invest in order to bring about some of that. Mr. Foley stated that staff did comparisons with other localities and their economic developments, and further analysis such as how many jobs produced and what those salaries are will require capacity beyond what's in place now with Ms. Catlin working on it part-time and Ms. Stimart.

Mr. Boyd responded that the County is "way understaffed" in this area when compared to other localities, including the City of Charlottesville.

Mr. Rooker pointed out that if you look at other areas around the state and determine who spends the most on economic development per capita and determine whether they have a better or worse economy based on that, it is unclear that there is any real correlation. He said that depressed areas tend to invest as much money into economic development as possible, and that makes sense, but he is "a little skeptical" as to a connection between how much a locality is spending and what their unemployment and per-capita income is.

Mr. Boyd said that that is why he thinks the Board needs to set objectives and measure against them, adding that they have made some additions in staff – especially in the finance area – that has brought great returns. He said that he wouldn't be interested in doing anything where there wasn't some measurable way of telling that it improves the economy.

Mr. Foley responded that some metrics are much more tied to staff investments than others, and unemployment is such a broad measure so the question is whether they would have a dramatic impact on that. He added that perhaps they've gotten some new jobs in the target industries, and setting a goal to increase that by some percentage is a reasonable one as long as the investments are there to do that work.

Mr. Boyd said that he would not try suggest things for which there wasn't data available.

Mr. Rooker said that he did vote to make an investment to move the program forward and he supports the target industry study and the results. He stated that he just did not want the County to get carried away with thinking that every time the unemployment rate improves or goes down it's the result of something government did or didn't do.

Mr. Boyd said that he does not think it should be about government at all.

Mr. Rooker said that the County had gone down in sales tax when Whole Foods moved to its new locations, but now sales are back up again with the opening of Stonefield. He emphasized that there is "a big lag" between things the County might be doing and the ultimate effect. It's not quarter to quarter to quarter, he said, and to jump to conclusions about their role in things going up or down should not be done in the short term.

Ms. Mallek said that some things are easily measured, but there is a delay because Community Development is so small now and she wants to ensure they have the staff they need to do those things as quickly as they can.

Mr. Rooker commented that staff has done a great job over the last few years since the plan, especially with start-up companies and small businesses. He said that a lot of those things the County has done have been geared toward those things where the County has some natural advantages, and also are the kinds of things that allow the County to maintain quality of life.

Agenda Item No. 19. **Presentation:** Board-to-Board Quarterly Report, Steve Koleszar.

Mr. Steve Koleszar, Chairman of the School Board, addressed the Board, reporting that the schools have seen about a 5% increase in the free and reduced lunch population over the last four years, going from about 20% to 26% of total student population. He said that this is partly because of immigration to the area, but largely due to the lagging economy.

Mr. Koleszar reported that at their meeting the previous week the schools balanced their budget, and to close that gap there were two large areas cut: 5.5 positions based on a staffing formula taking into account free and reduced lunches, which might have ticked the numbers higher. He explained that they added one position back for flexible staffing, so if the numbers go up when the school year starts – or one grade level enrollment is too high – another person can be allocated. Mr. Koleszar reported that the School Board deferred their decision to buy some online courses, and would start developing those in-house instead.

Mr. Rooker asked Mr. Koleszar if he knew how many people are enrolled in the M Cubed program. Mr. Koleszar responded that he thinks it's in the 80 person range and stated that it is still continuing to be expanded. He said that algebra is such a critical piece and if there is any one measure in where the achievement gap comes from – at least on the math side – is that people who don't complete algebra by the eighth grade are in a position that they are fairly far behind and that holds back their ability to progress not only in the math's but also in the sciences. Because the sciences tend to be so heavily math related.

Mr. Rooker congratulated the Mr. Koleszar on the School Division's national recognition.

Mr. Koleszar congratulated the Board on their partnership with social services and their family support workers. He said that the Board of Supervisors has the same high standards of excellence for County government that the School Board has for the School Division. He stated that it makes the schools job a lot easier when social services are able to prevent foster children, homelessness etc. Mr. Koleszar said that sootherly if schools do a better job educating kids and putting teenagers and people in their young twenties out in the community with a better education, better job prospects, and a better ability to be able to cope with not having a job, then there is less pressure on the Board for social services, police and so forth. He said that it is sort of a virtuous cycle that he thinks makes Albemarle such a wonderful place to live.

Mr. Koleszar stated that the School Board had hired a new principal for Western Albemarle High School the previous week, and with this addition he feels that the school can raise its game to the next higher level. He said that he has had some disappointments with the school that they aren't doing as well as they should be with the population they have. He gave the example that Monticello has more college courses than Western – and with the demographics at Western, they should be obviously exceeding. Mr. Koleszar reported that the schools had signed an agreement with PVCC that some students would be able to graduate with an Associate's Degree, and if they do they can transfer in-state to any four year school and enter there as a junior.

Mr. Boyd asked how many students would take advantage of that, because he was not convinced it was a good idea to jump them in as juniors.

Mr. Koleszar responded that when the schools had the eight period day, one of the big complaints that they were getting was that "now my child will have to take eight AP course". He said that he thinks initially it will be a relatively small number, especially thinking two years out, because people will have to sign up for the right courses before the school had the agreement. He said that he wouldn't be surprised to see the number grow to 50 or 100 in the next few years.

Ms. Mallek pointed out that there are about 80-100 students now who take classes at either PVCC or UVA currently. Mr. Koleszar responded that there are two or three courses that must be taken at PVCC or online through PVCC, but most would be taught in schools with certified college faculty and to their standards.

Ms. Mallek asked if there are classes of that particular type at Western that exists right now. Mr. Koleszar confirmed that there classes of that type now at Western, and said that the vast bulk of college-level work is dual enrollment whereby they're taught in the high school and AP courses, rather than actually going to PVCC – which is just for unique or accelerated classes.

Mr. Rooker commented that the County has had kids leaving high school with college credits for a number of years now and the associates program is simply a matter of how many they leave with. If they leave with enough they could have an Associate Degree. Mr. Koleszar agreed and said that there is a set

curriculum for this program, and is something that Governor McDonnell has been pushing for. He said that it is also a tremendous savings and explained that there is a certain amount of tuition cost involved for parents of maybe \$600 a year so two years total of a little over a thousand dollars.

Mr. Koleszar said that the new principal that the School Board hired comes with tremendous references and recommendations and they think he will be able to raise Western to the next level – to where they need to be. He stated that Western should be the number one high school in the state and until they get there he is not going to be satisfied.

Mr. Rooker said that there was an article in the Washington Post, where they were looking at it from the Manassas stand point and people were expecting such shock and dismay that the new principal had left. Mr. Koleszar replied yes.

Ms. Mallek asked was there shock and dismay. Mr. Rooker responded yes that he had left, because people thought so highly of him there.

Mr. Koleszar explained that one of the reasons why the new principal is actually taking a pay cut to come work for the Albemarle County Schools is that they were at the point in Osbourn where they want to spend more time on SOL tests and emphasizing that rather than moving to twenty first century skills and the kind of work that Albemarle County is doing. He said that Albemarle does have a recruiting advantage because of the kind of work that is being done with staff development of teachers. Mr. Koleszar said that Albemarle is developing a reputation around the state and people want to be part of a great organization that is making tremendous progress.

Ms. Mallek commented that the burden of SOL testing is not helping.

Mr. Koleszar said that it is not just the M Cubed program. It is the work that students are doing in terms of winning national awards and stated awards. He said that this is the first year that Albemarle has three CATEC students that are going to nationals in their competitions.

Mr. Snow said that he thinks it's pretty impressive when you look over the different awards that the different high schools are getting across the board.

Mr. Koleszar said that as a board the School Board is really committed to being an excellent school system. A school system that is great as the University that is the main driver of the County's economic development and as great as the County we live in. He stated that they have all the resources that they need, they have the kids, the teachers and a system that supports their attempts and efforts.

Ms. Mallek said she had read something in the paper about possible cuts to the charter school funding. Mr. Koleszar responded that the funding was not cut, as the program has been very successful.

Ms. Mallek asked if the intervention specialists at the elementary school had been brought back. Mr. Koleszar responded that those positions haven't been restored except by individual principals deciding how to allocate their staffing. He said that there is a conscious effort made to give principals flexibility in their own schools, so they can decide whether to use personnel for reading help, reducing class size, etc. Mr. Koleszar stated that the coaching model is starting to make "a huge impact," and that along with Design 2015 has helped greatly with effective staff development. He added that teachers must be continually trained and developed, and staff that has been around for a long time need to know that how they taught 20 years ago might not be the best way now.

Mr. Koleszar thanked the Board for their support on the budget, noting that the extra \$600,000 made a big difference.

(Note: The Board next took up Agenda Item No. 22.)

Agenda Item No. 22. **Presentation:** Contradictory Consequences – Cash Proffers White Paper, Neil Williamson, Free Enterprise Forum.

Mr. Michael Guthrie addressed the Board, stating that he serves as 2013 chairman of the Free Enterprise Forum, a privately funded public policy organization focused on local government in the Charlottesville region. Mr. Guthrie said that he was before them to introduce their President Neil Williamson who has lead the Free Enterprise since its inception ten years ago. He stated that Mr. Williamson is a dedicated researcher and prolific writer, whose blog post articles and papers have helped add a property rights balance to local public policy discussion. Mr. Guthrie said that the Free Enterprise Forum appreciates the opportunity to present their research on the market reactions to Albemarle's cash proffer programs.

Mr. Neil Williamson addressed the Board, stating that his report would address the status of the cash proffer program, which was modeled after Chesterfield's, a locality that is considering repealing their proffer program. He presented a chart reviewing the current proffer amounts, stating that the term "cash proffer" refers to the ability of high-growth localities in the state of Virginia to accept cash payments as a "reasonable condition" of a rezoning or amendment to a zoning map. Mr. Williamson said that Albemarle has a relatively detailed number depending on dwelling type, which the Fiscal Impact Committee calculates; and listening to the committee in regard to proffer amounts is an appropriate thing for this board.

Mr. Williamson reported that the County's proffer amounts are \$19,000, which is not the highest in Virginia but is locally.

Ms. Mallek responded that Orange County's was over \$30,000 five years ago.

Mr. Williamson stated that many people think the developer pays the cash proffer, but in a marketplace where housing prices are continually rising, it is absorbed by the end user. However, he said, in a market where prices are stagnant or declining, the cash proffer reduces the value of the land so it's built into the calculation of the development project. Mr. Williamson said that if land values decrease and are assessed properly, the property tax revenue to the County would decrease absent a tax rate increase by the Board.

Mr. Williamson said that rezoning provides more flexible development than by-right development, potential density increases, and significant fees – but it is also a longer process, up to two years for larger projects. He stated that there are significant carrying costs during that time for carrying the property or the option on the property, and at the end of the day a developer may end up with a denial. Mr. Williamson said that a developer pays cash proffers on all of the units, except for the affordable housing units, including those that could have been built by-right – which means less density, less flexibility, lower fees, and a much faster process for site plan or building permit. He stated that a landowner still must adhere to any and all proffers when the land was originally rezoned, but you don't pay a dime in cash proffers.

Mr. Williamson presented several case anecdotal case studies of projects, including one that is half in Charlottesville and half in Albemarle where the developer chose to rezone the property in Charlottesville because it does not have cash proffers. He noted that the developer could have done the project by-right, but it wouldn't have been as gentle on the land and wouldn't have included as much open space under the PUD in the City. Mr. Williamson said that in evaluating the County half, the developer considered the costs and decided to go by-right.

Mr. Williamson said that the Hanover Board of Supervisors chairman recently told the press that the proffers committee recognized there was an unfairness as some people had to pay it but others did it. He stated that the locality repealed it and then came back and put a few thousand dollars back on their cash proffers, and across the state cash proffer acceptance among localities is down year over year.

Mr. Williamson reported that one of the things Albemarle decided to do for Crozet was to create a brand new zoning district, with the goal being residential over commercial – a very new urbanist style. Mr. Williamson said that the Free Enterprise Forum looked at it to establish what the cost would be without the new proactive zoning classification, and it ended up being \$12,996 per unit or an average of \$103,968 before doing any refurbishment to a building. He said that he believed Albemarle County looked at it and said that the rent in Crozet can't support it – it just won't happen. He stated that instead of insisting on cash proffers as the properties rezoned, they created a new zoning classification that by-right allows this to happen. He said that he has to ask when you look at it "if the no cash proffer policy is acceptable in downtown Crozet, why isn't that acceptable in the other growth areas?"

Mr. Rooker stated that you could argue that if an enterprise zone is good for the enterprise zoned area it ought to be extended everywhere. He said that Crozet is kind of like an "enterprise zone" situation, and you could certainly argue that it be extended to everywhere – but downtown Crozet was already zoned commercial, and the mixed zoning attempts to attract some residential over commercial in that area. He said that in that sense, he wouldn't compare it to a vacant piece of land sitting out somewhere in the borders of Albemarle County that's waiting to be rezoned. He stated that the property is already zoned for dense development and the question was then how do you attract some residential value.

Mr. Williamson responded "so in order to attract development to the development areas, you waived the cash proffer?" Ms. Mallek stated that the process started with concerns from businesses about setbacks, and the lack of cash proffers was because it was already zoned commercial. There wasn't going to be a rezoning, except for the one section that didn't choose to come in JBB, and when they do come forward, there will be something – assuming the rules are still in place.

Mr. Rooker said that he understood Mr. Williamson's point, but this isn't an apples-to-apples comparison. Mr. Williamson said that both areas are to be developed densely, although it's not completely analogous. He also stated that Dunlora Forest may be the best apples-to-apples comparison. He emphasized that the Free Enterprise Forum does not take position on projects, they are about policy and this is all about how the policy impacts the projects. He said that the Free Enterprise Forum has never spoke in favor or opposed to any of the projects. He explained that under the rezoning the developer could increase their density up to about 200 units, theoretically. Mr. Williamson said that would give them increase design flexibility, and there was potential to increase the tree preservation – but they factored in \$1 million in carrying costs because they were going to need to go to private investment in order to do this because the banks don't like this type of loan. He said that when the cash proffers on all the 200 units is calculated and all were townhouses and that would be \$2.69 million; when added to the million in carrying costs, each additional unit would add \$36,900. Mr. Williamson said that with by-right they could do approximately 100 units and could move forward with their grading permit immediately – which they did. He noted that there was some loss of environmental benefit through tree preservation, and the project did require a critical slopes waiver but not one penny in cash proffers was paid.

Mr. Williamson said that the County ended up with a less dense development, less flexible, and perhaps slightly less environmentally sensitive.

Mr. Rooker stated that he has spoken with developers who have looked at this same kind of analysis, and a big factor in what they decide to do is the product they think they can sell in the current economic climate. He said that a developer can look at this at what would sell the best given the current climate, such as building homes on larger lots.

Mr. Williamson acknowledged that it is a market-based decision, and that's why you see more and more projects in Albemarle County not achieving the maximum density allowed by the rezoning because the market doesn't want it. He said that this particular development was interested in providing a townhouse project, and because they chose not to go forward with the rezoning they don't have that flexibility.

Mr. Rooker stated that he agreed with some of Mr. Williamson's report, and said that he is raising some counterpoints and that does not mean that there is not common ground on things that he agrees with. He said that at Biscuit Run's trial on the tax benefits they testified that they had an offer of \$200 million to sell the property. He stated that they had bought it for \$45 million and had invested \$10 million in getting a plan approved, and in court testimony they said they had rejected the \$200 million offer because they thought they could do better. Mr. Rooker emphasized that this was a rezoning that carried affordable housing proffers, had a quarter of the land in parkland, and a school site – a lot of things that aren't included in many projects. He said that with that whole package of proffers they were still looking at a profit of \$135 million attributable to the rezoning. So somebody was willing to buy that property, according to their testimony, and accept all of the proffers, and pay them an immense profit at that time.

Mr. Williamson replied and pointed out that there was a \$10 million dollar cost to get it rezoned, without the carry cost of the project.

Ms. Mallek commented that they had the carrying cost of their \$40 million purchase.

Mr. Rooker said that in good times there can be an immense profit on land the day the property rezoning is achieved, and that's what you saw with Biscuit Run. He reiterated that Biscuit Run didn't take that deal and said that who knows today if they hadn't given it to the state and got their tax benefits whether or not with the current climate somebody wouldn't simply taken it forward.

Mr. Williamson said that it's important to note that it never got built, because they had the tax option.

Mr. Snow asked what a townhouse or house would sell for without the proffer costs and the carrying cost. He said that he would like to compare the houses apples-to-apples. He stated that the Board talks about affordable housing all of the time and he has constantly said that the County makes housing unaffordable all the time through policy. Then look around for a way to make housing affordable for those who need it – let's make it affordable for everyone. Referring to Mr. Williamson's chart of \$36,900 built in for each additional unit – just for the carrying cost. He asked what would an average townhouse cost built on proffers and on by-right.

Mr. Williamson said that he would have to defer to Mr. Guthrie and said that he could maybe answer Ms. Mallek's question.

Ms. Mallek said that if you attributed the proffer costs across all 200 units, it would cut that amount in half – down to around \$18,000. Mr. Williamson confirmed that it's each additional unit that's costing that.

Mr. Guthrie said that if you take that proffer amount and add it into the development cost, it would cost more money for the buyer by that same amount. He agreed with Mr. Rooker and said that when it's good, it's good – but they've just been through eight years of not so good.

Mr. Rooker responded that it was four or five years and that 2008 was a pretty good year.

Mr. Guthrie replied that he has been here since 2005 and every year since 2005 real estate has gone down until this year.

Mr. Rooker stated that on the Board's roll 2007 was up from 2006.

Mr. Guthrie said that 2006 caused 2006 and reiterated that when it's good, it's good and a developer can pay the proffers because right now median and average sales prices are up. He said that for the second quarter of 2013 prices would increase moderately, and the proffers can be hidden when prices are going up. He stated that before they reduced the prices of the land at Old Trail, nothing was happening, and now even the higher-priced houses are selling.

Mr. Rooker pointed out that it was improvement in the market that had an impact on that too, not just lowering the price in land.

Mr. Guthrie said that it didn't improve until then.

Mr. Rooker said that it didn't improve until the economy improved either.

Ms. Mallek said that the developer changed the sizes of the lots and the house sizes also.

Mr. Guthrie said that even the smaller lots – the smaller lots were \$100,000 – when reduced to \$50,000 or \$75,000 lot – they could build a \$250,000 or \$300,000 property, which is what the developer

did. He said that for a while it was negatively impacting the resale market for the people who had already lived there and they were really upset, but now they are not upset anymore because of the fact that it's changed.

Mr. Rooker noted that he had a list of developments and dwelling units and whether they had cash proffers in place or not. He said that there seems to be no relationship between what gets built and what doesn't and whether or not they have cash proffers in place or not. He said that Northpointe has miniscule cash proffers - \$500 each; Albemarle Place is moving ahead full speed and their proffers are about \$3,000; he said that Hollymead Town Center's cash proffer is \$7,400. He stated that the ability of people to market and sell their product, even at the end of what's been a bad period of time, doesn't seem to bear a whole lot of relationship to whether or not they have cash proffers or not in that development.

Mr. Guthrie responded that you can say that today, but going back three or four years that wouldn't be the case. He said that there are developers that say 'I'm not going to move forward' because they can't afford the up-front development and finishing the lot cost - and that's the important thing to realize. He said that there are developers that are out of business now because the market went south and they couldn't make payments on their investments.

Mr. Rooker stated that there is an impact on the cost that a community incurs that results from people moving to the area, and the question ultimately comes down to who should bear the cost of that impact. He said that the Fiscal Impact Committee tries to ascertain what that impact is with some degree of precision, and the question comes down to who should bear the cost - the widow that lives across the street that's lived there forever and watches a new development come in, or the new development itself. He said that ultimately when somebody else moves in, they're paying their share of the impact, assuming they stay in place.

Mr. Rooker said that impact fees are a much fairer way to go, and asked Mr. Williamson and Mr. Guthrie would support going to the General Assembly to encourage them to abandon the cash proffer system in favor of an impact fee system - where the fees would be a lot lower and would apply to every unit. He noted that today the Board approved building a new library for Northside, and \$500,000 of that is coming from a cash proffer for residential units at Stonefield. Mr. Rooker mentioned that Hollymead Town Center has \$21 million of cash proffers payable, some of which have already been paid and used for projects. He said that that money comes from somewhere and his question is what is your alternative for defraying the cost of growth?

Mr. Rooker said that the Albemarle County Service Authority is trying to do their entire capital budget based on defraying the cost of growth, and when somebody hooks up they pay a significant hookup fee recognizing that here is infrastructure being put in place to accommodate that.

Mr. Rooker asked Mr. Guthrie what is his recommendation. Mr. Guthrie said that that's something that the Free Enterprise Forum is happy to look at and respond to, adding that the most important point here is that there must be a balance. He said that they have got to find the place that's looking at it on both sides of the ledger.

Mr. Rooker stated that there are a number of developments around Crozet that have cash proffers, so it will be interested to see whether the lack of proffers downtown makes any difference. He reiterated his question to Mr. Williamson regarding going to the General Assembly and supporting an impact fee through enabling legislation, to take the place of cash proffers. He said that he does think they're a better reflection of balancing and defraying the costs of the impacts of development.

Mr. Williamson said that it would spread it out to the rural area properties, where the County doesn't deliver services, and to the development area, where they are delivering services. He said that the question he continues to ask is why this idea is put forth as a way of funding, because it's a welcome stranger tax. Mr. Williamson stated that whenever people move from one location to another, they would pay that fee, and he doesn't know if they would be oppose or in favor of it.

Mr. Rooker stated that it could be addressed by everybody paying higher taxes.

Ms. Mallek said that was what they were doing up until 2004.

Mr. Rooker said that there's no free lunch. He asked Mr. Williamson to tell him he thinks a fairer way to help defray the costs of growth is. Mr. Williamson responded that if their policy is to grow in the development areas and fund the infrastructure there to make them more attractive than the rural areas, they need to look at a different funding source than a cash proffer because they're going to get more rezonings.

Mr. Williamson said that when Hanover County withdrew their cash proffer requirement one development immediately dropped their prices \$10,000 and offered \$2,000 in closing costs because they were feeling this competitive disadvantage with the surrounding counties with their product. He added that when they dropped the price, it made the home more accessible to 14,000 potential new homebuyers who previously couldn't afford it.

Mr. Rooker asked if Loudoun County was continuing to grow. Mr. Williamson responded that it was.

Mr. Rooker asked what the cash proffer situation was there. Mr. Williamson said that their cash proffers are really high.

Mr. Davis stated that they are about \$60,000.

Mr. Williamson said that the housing market is a little different than Albemarle's, and suggested that as the County continues to deliver higher services in development areas and increases density, it will continue to see higher demands. He reiterated that cash proffers are misplaced in every County they are used.

Mr. Rooker stated that the idea that people won't buy in your community because there's a cash proffer system in place don't seem to be borne out by Loudoun, Fairfax and other areas that are considered good places to live.

Mr. Williamson claimed that more and more people are moving out of Loudoun County, and said that cash proffers have reduced the number of rezoning projects in Albemarle.

Ms. Mallek said that in 2007 she was going door to door to her constituents, and most of them commented that they were tired of paying all the bills and watching the developers get all the money and they get stuck with the extra costs in hiring the teachers and building the schools – and these are people that have lived here forever. She stated that many of them are in Crozet and had 4,500 dwelling units handed to them, and are very much in favor of having people buy their way in as a matter of fairness.

Ms. Mallek stated that in response to Mr. Snow's question for the 50 years before proffers, people were not building affordable housing. They were building to the market, whatever they can get. She said that the reason developers were building gigantic homes here is because they could, and people were able to buy them.

Mr. Rooker said that it is a complicated issue, with no easy answers.

Mr. Williamson stated that the Albemarle County Service Authority example isn't entirely comparable because when you pay the hookup fees, you're getting a deliverable. He said that he doesn't think there is anyone on the dais that would say that this County has funded infrastructure up to concurrency.

Ms. Mallek responded that that's what citizens are upset about.

Mr. Boyd said that there is a simple solution to this: taking the proffer amount and adding it to the closing statement. If you move into an existing house, you don't pay that fee. You only pay it if you build a new house or if you move into a new house on the market.

Mr. Rooker stated that they're talking about the cost of growth, and generally speaking the existing house paid a proffer when it was built – and the same unit shouldn't pay it twice. He said that he thinks impact fees are a better way to go, you'd have a more level stream of revenue to the County, and second it would be a much lower impact on all units; third, it wouldn't create disincentives to move into the growth areas as opposed to the rural areas. He agreed that there are problems with the cash proffer system, but the Board does recognize that the act of rezoning itself can create immense value. Mr. Rooker said that the \$135 million profit at Biscuit Run was a buyer that recognized they were going to have to build the cash proffers into the price of the units they were selling as well as 900 acres of parkland, a school site, and all those things. He said that this increased the value by three times the purchase price.

Mr. Boyd said that you can't gauge that situation and say it's going to work for somebody.

Mr. Rooker said that the developer is absorbing the risk.

Mr. Boyd said that apparently Dunlora Forest was not willing to take that risk.

Mr. Rooker stated that Forest Lakes had no proffers and has developed at about 65% of potential density because they felt that they didn't want to do a high-density project throughout, and felt they would do better with a lower density product. He said that that is a developer choice.

Mr. Thomas stated that Dunlora Forest decided they didn't want high density there either.

Mr. Rooker said that to suggest that proffers were the whole reason for the determination isn't accurate, it's just one of the factors.

Agenda Item No. 20. **Presentation:** Albemarle County Service Authority Quarterly Report, Gary O'Connell, Executive Director.

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

Below are some highlights of current items for the ACSA:

1. **FY 2014 Budget & Water & Sewer Rates** – The budget and rates for the next year were proposed to the ACSA Board on March 21st. Our rates are effective with the start of the next fiscal year, beginning on July 1st. The ACSA Board will take up adoption of the rates in June, following a Public Hearing. We have proposed a slight decrease in the monthly rates for our average single-family residential customer. All other monthly rates will remain the same for non-single family customers. The operating budget is proposed at \$25.85 million, of which

about two-thirds is for the purchase of water and wastewater treatment from the Rivanna Water and Sewer Authority. We have also proposed nearly \$6 million in capital projects for replacement and rehabilitation of our utility system. The development related new connections fees are proposed to increase 4%. The “connection fees” are the financial method for new development to pay the ACSA for growth related water and wastewater capital costs, which relates to having the water and wastewater capacity (lines and facilities) to serve new development in the future.

2. **FY 2014 Capital Projects** – Much of our work involves maintenance of our water distribution lines, wastewater collection system, and the associated pump stations and tanks that serve those systems. Our Capital Improvement Program for FY 2014 is proposed at nearly \$6 million; \$5 million for water related projects and \$1 million for wastewater related ones. I will highlight below those projects that are underway, and several new projects that are proposed with the next budget year beginning in July:

- **Western Ridge-Foxchase** – New interconnection to create a loop to help improve water quality. In the midst of completing easement and design work.
- **Key West Water Main Replacement** – Project will replace undersized and deteriorating water mains, and improve fire flow in the area. Design work is underway, with construction planned for early 2014.
- **St. George/Buck Road Water Main Replacement** – Older water lines, some believed to be 70 years old, are in need of replacement on these two Crozet streets. This project has been bid, below budget, and work is about to start.
- **Ashcroft Pump Station & Water Line Replacement** – About 20% of the new 8-inch water line has been installed. Final design work underway for summer construction for the pump station work.
- **Crozet Water Main Replacement** – Recent breaks mean this has gotten high priority for replacement, with undersized and aging water lines. Areas include Tabor Street, High Street, Hilltop Street and St. George Ave. (east of Crozet Ave.).
- **Glenmore Water Tank** – Following a successful neighborhood meeting in February, we are completing some of the preliminary legal work to begin to design the project. Funding for construction not available until July 2015.
- **Ivy Road-Flordon Water Connection** – An interconnect to improve water quality and fire flows, which serves West Leigh.
- **Ednam Water Pump Station** – Pump replacement as part of the Ivy Road-Flordon connection project.
- **Woodbrook Sewer System Rehabilitation** – As part of our continuing efforts to reduce infiltration and inflow (I&I) in our sewer system, this project includes manhole rehabilitation, pipe relining and rehabilitation, and some pipe replacement. Work is underway on this project. We have a study about to begin on sewer system rehabilitation in the Ednam area.
- **Hollymead Water Line Replacement** – This project is part of our ongoing effort to replace undersized and deteriorating water lines in this subdivision; some upwards of 40 years old. The water line replacement by ACSA crews has been completed on Robin Lane, with Derby Lane and then Maiden Lane remaining.
- **Hardware Street Water Extension** – Construction is underway on this new water main in Scottsville, with about 25% of the work completed. This new line provides a direct connection from the tank to the downtown.
- **Buckingham Circle Water Line Replacement** – This water line replacement has been completed.
- **Oak Hill Sewer** – Work is nearly complete on this new sewer line to serve a portion of Oak Hill. This project was in conjunction with Albemarle County using CDBG funding.

3. **ACSA Strategic Plan** – We are nearing completion of our 5-year Strategic Plan for the future. We have worked particularly hard to involve the community, our customers, our employees, and the ACSA Board in this 5-year plan. These are larger strategic issues that we will need to address. A final plan will be completed for Board adoption in June.

Mr. O’Connell said that ACSA presented its budget proposal to the Board about a month and a half ago and are recommending a decrease in the single family residential rate, which is good news and all the other rates would remain the same for the next year or so. He said that the ACSA is continuing to see the average single family house decline in their use. He stated that they are now at 3,800 gallon and six years ago it was almost 6,000 gallons so it’s been a steady decline over the last few years. Mr. O’Connell that they are proposing an operating budget that is almost \$26 million dollars and about two thirds of that goes to the Rivanna Water and Sewer Authority to pay for water and waste water treatment. He said that they have proposed a \$6 million capital program. He stated that as part of the way the ACSA finances their capital projects for the future is that they have a connection fee that is proposed to go up 4% next year. He said that that fee is intended to set money in place to be able to have capacity for the future – in essence current customers are paying the cost to have the capacity whether it’s in the treatment plant that Rivanna runs or new lines that get extended and that connection fee is a buy in that helps pay back for those costs.

Mr. O’Connell stated that the attempt is to try to have growth pay for growth, and have the capacity in place for when the development needs to connect up so they are able to handle that. He said

that in general, that approach works pretty well – but areas such as Crozet and Glenmore are being studied further from a sewer standpoint.

Ms. Mallek asked if the rate reduction still gave the Authority enough money to bank for future investments, such as the pipeline. She said that she does not want that to become a big spike. Mr. O'Connell responded that their board has encouraged them to do a rate review every five years, and that's scheduled for 2014, and they want to look out the next 20-25 years with the pipeline being the biggest project out there. He said that they are evaluating what they need to do today so when that happens there isn't a big spike in rates.

Ms. Mallek asked if the ACSA will again then look at the irrigation rate when that time comes around. Mr. O'Connell stated that one piece of the longer term plan is how much reserve they keep, and whether they set some of it aside for longer-term projects – so they're trying to develop a specific reserve policy as well as some other financial policies.

Mr. Rooker asked Mr. O'Connell if he is talking about both an operating reserve and a separate capital reserve. Mr. O'Connell responded possibly. The ACSA doesn't separate them today but possibly in the future particularly when it comes to the pipeline – it may be designated somehow to be used for that particular project when the time comes.

Mr. Rooker asked if total water sales had also gone down along with volume per residential user. Mr. O'Connell replied that the total water sales for the following year are projected to be the same as this year, which includes about 300 customers coming online and the current use that's there. He said that it has been offset some by the new customers.

Mr. Rooker asked if the total volume has been pretty constant over the last four or five years. Mr. O'Connell replied yes.

Mr. Rooker asked if commercial usage was put into that figure would that still be the case. Mr. O'Connell said that commercial and irrigation usage are up slightly, so all combined there has been a slight increase.

Mr. Boyd asked how the negotiations with the City were going for the Rivanna pump station, and whether that would be completed anytime soon. Mr. O'Connell responded that they'd had a meeting earlier that day, and the pump station project continues to be designed – with a community meeting scheduled a few weeks out to talk about the current status. He said that the last he'd heard, the design would probably be finished in late summer or September, and that's where the pressure will come from needing an agreement in place to move the project forward. Mr. O'Connell added that they're trying to talk about all the wastewater projects that have capacity related to them, not just the pump station, and there are four that fall into that category. He said that there are a number of projects that do not have cost-allocation agreements that need them, with some being 100% ACSA and some being 100% City.

Mr. Boyd said that the reason he asked about it is because there are negotiations between the ACSA and the City. RWSA is not involved in it and County is just passive observers.

Mr. O'Connell referred to the ACSA quarterly report and listed the FY14 Capital Projects.

Ms. Mallek asked if the ACSA was addressing the baseball field issue as part of the Hardware Street project. Mr. O'Connell explained that that was part of a sewer replacement project, and they found that the leak was a natural spring – not a waterline or water pipe – and they have a project to put in drainage in that area to try to drain it away from the ball field.

Mr. Dumler said that Parks & Rec had informed him the day before that the contractor had said he would have a French drain by the end of the week.

Mr. O'Connell reported that the ACSA has been working for several months on a new strategic plan, looking five years out, and it is a fairly ambitious program. He said they were also looking at projects that are 20-25 years out, and he hoped to share the plan with the Board in an upcoming meeting.

Agenda Item No. 21. **Presentation:** Rivanna Water and Sewer Authority Quarterly Report, Tom Frederick, Executive Director.

Mr. Frederick summarized the following memorandum which was forwarded to Board members:

1. Water Treatment Plant Granular Activated Carbon Improvements: All of the RWSA water treatment plants are being evaluated for an advanced upgrade in treatment to add granular activated carbon (GAC) filtration as a new process in addition to the conventional treatment facilities that have been in service for many years. GAC removes much of the natural trace organic matter in the source water, which limits the potential for reactions in the water distribution system between the trace matter and the free chlorine used for disinfection of the water. Those reactions, called disinfection byproducts, are regulated by the EPA, and those regulations are becoming more stringent under Stage 2 requirements which are effective in 2014. The GAC facilities will provide the assurance that our water plant operators will have the tools to meet Stage 2 requirements on a consistent basis.

Final design is nearly completed for the Crozet and Scottsville Water Treatment Plants, and construction bidding will occur later this year. Our consultant is in the preliminary engineering and pilot plant stage for the three Urban water plants. An updated progress meeting to discuss the continuing performance of the pilot plant units will occur between staff and the consultant in May. As soon as sufficient pilot plant and laboratory data is available, a "hybrid" analysis will commence. For the Urban plants, "hybrid" is defined to encompass various options for less than 100% GAC treatment of water. GAC treatment is costly because of the high expense of exchanging the carbon media for regeneration as its adsorption capability diminishes with use. Hybrid options may include partial GAC treatment and blending, seasonal GAC operation, or "triggered" use based upon indicators of source water quality. Parameters for when and how much GAC treatment to provide may also be different at each treatment plant. In general, hybrid GAC will leave more trace organic material in the water, but benefits from a lower cost compared to 100% GAC; all GAC and hybrid options will cost more than what was estimated for chloramines. The Board of Directors will seek guidance from the public and elected officials regarding the selection of the objectives of GAC or hybrid GAC treatment from the following options: (1) minimum approach – for Stage 2 compliance only; (2) moderate approach – trace regulated disinfection byproducts (trihalomethanes and haloacetic acids) should not be greater than would have been achieved had chloramines been used; or (3) maximum approach – 100% GAC year round for superior water quality. Public input will be sought before the decision is made.

2. Operating Budgets: Operating Budgets for both the RWSA and RSWA have been introduced for the fiscal year beginning July 1, 2013. Public hearings are scheduled for Tuesday, May 28, 2013 and the Boards of Directors are expected to deliberate each budget for adoption after each respective hearing. For RWSA, wholesale charges to the City and ACSA are proposed to decline in FY 2014, made possible by significant savings in bond refundings that occurred last fall. Our five year projection for the debt service component of rates is to remain near or below the FY 2013 rate for Urban Water, but with some increase in Urban Wastewater due to an upcoming significant size bond issuance to finance the new Rivanna Pump Station and tunnel. How this project affects the ACSA or City individually will depend upon the outcome of Cost Share Agreement negotiations.

The RSWA budget continued a pattern over the past few years of austerity, providing only the programs directed by the City or County through Local Government Support Agreements. Vegetative wastes and clean fill received at the Ivy MUC vary with economic and weather conditions, but volume received is often close to the level needed to be self-supported. Other Ivy MUC services, including municipal solid waste and appliances, have been previously judged by the County as vital to maintain for those citizens not effectively served by private haulers, but the declining tonnages are well below what is necessary to build economies-of-scale for self-support at reasonable tipping fees, thereby public support has been necessary to maintain the service. A reduction of four permanent positions for the Ivy MUC is proposed July 1, along with reduced hours from the present six days-per-week to only five days-per-week (closing every Sunday and Monday). Except for the McIntire Recycling Center and Paper Sort, special HHW and amnesty day collections, and landfill remediation, the City is providing its own solid waste programs separate from RSWA. The County is now considering its own solid waste service options separate from RSWA as well, with possible implementation as soon as January 1.

3. Cost Share Agreements: We understand the City and ACSA have met, and are continuing to work on a comprehensive agreement as to how the two entities will share the costs of RWSA's Capital Improvement Program. RWSA is providing technical support to either party when requested, but is not participating in the negotiations. It is important to complete this Agreement in 2013, as the \$40 million Rivanna Pump Station project moves to construction in 2014.

Mr. Frederick addressed the Board, stating that he had provided them with a report, some of which they have discussed previously. He stated that the pilot plants for the granular-activated carbon water treatment have been running at the urban plants since December, so they have several months of data available. Mr. Frederick said that they had a lengthy review with their consultant in March and have scheduled another one for this month, at which time they would try to make a decision if they have enough data to proceed with hybrid analyses. He stated that consultants like to have as much data as possible before doing analysis, but Rivanna staff would like to push them a little bit. Mr. Frederick stated that when they are ready to roll out the analyses of hybrid options for the RWSA Board to approve, they are also going to work in some type of public input process, but that hasn't been developed and finalized yet. He said that the key debate would be quality of water versus cost – and it would be a tradeoff.

Mr. Frederick reported that he had given the Board some information on updated operating budgets for both the Water and Sewer Authority and for the Solid Waste Authority, and public hearings are scheduled for May 28 starting at 2:00 p.m. He said that there would be budget public hearings for both bodies, followed by deliberations and decisions from the boards. Mr. Frederick reported that on the solid waste side they are proposing a reduction in staff of four positions, with three retirements taking effect at the end of June and one at the end of July. He stated that there would also be a reduction in operating hours at Ivy, with the plan being to start closing Monday instead of staying open six days a week. Mr. Frederick explained that the Waste Management contract is expiring and was not renewed for another five years, so they are no longer bound to bring their material to Ivy – and Rivanna's understanding is that they

don't plan to bring it there. He said that the loss in tonnage meant they would need to have further expense reductions.

Mr. Rooker asked if it would affect Rivanna's proposal to the County if RSWA were to continue handling the convenience center. Mr. Frederick responded that it wouldn't, because Rivanna is implementing in July what they would have implemented for the Board when they made their decision. He explained that they are still using the same equipment, trucks, and concrete pad – but for all intents and purposes, it's becoming more like a convenience center. He explained that Waste Management was the last real hauler that was using the facility, so with their exit it really is becoming a convenience center. He noted that the reason they were open on Monday is because that's when the haulers were running their routes.

Mr. Snow asked if the retirees who were retiring were taking early retirement or normal retirement. Mr. Frederick responded that two of them had applied for and had been approved for Rivanna's incentive retirement program, which is early retirement with some compensation – and the Authority would have to expend some funds over a five-year period as a result of those. He said that the other two were normal retirements for individuals who are already past the age of normal retirement and social security. Mr. Frederick said that the Rivanna Board has approved some incentives to go along with the reductions in force, and those are one time payments that are not included in the operating budget. He stated that the reductions in service and staffing are expected to cover the revenue losses from the Waste Management contract.

Mr. Frederick reported that service levels are continuing to decline, and for several years now the Authority's position has been to not provide more services than the City or County agree to contract for and help support. He said that RSWA is not out there looking for new initiatives. Some members of the public would like to see new initiatives and they are directing them to their local governments.

He said that on the water and sewer side, they did anticipate some deliberation on their board following the public hearing with regard to two outside funding requests – from Stream Watch and the Rivanna River Basin Commission – and the County's representatives on the Rivanna Board may be seeking some guidance from the BOS as to how they'd like to address that particular issue.

Mr. Frederick said that there are continued discussions with the ACSA and City as to how to pay for cost-share capital improvements, and Rivanna has been on a very strong capital improvement program for several years now. He said that the need is there and it had to be done for regulatory compliance, replacement of worn out assets, and compliance with new environmental provisions particularly the Chesapeake Bay. Mr. Frederick stated that Rivanna is well on track, with the wastewater plant operating very well. He said that with the sewer collection system, all but two of the improvements they had programmed have been made. He reported that the Rivanna pump station would go out to bid later this year, with construction beginning by early 2014 to include the tunnel and the new pump station on the treatment plant site. He said that the other project is the Schenk's Branch interceptor replacement, which is being done in small phases to coincide with the City's roadway work.

Mr. Frederick reported that Rivanna has seen some tapering down of its CIP, as the project needs have decreased from about \$200 million down to \$130 million. He said that he has received notice that the new water supply intake at Ragged Mountain has been placed in service, and the Observatory Water Plant is now treating water that's coming through the new intake structure. Mr. Frederick stated that this means they can take the old Sugar Hollow pipeline in the footprint of the new dam out now, which is the last step before the dam can be built.

Ms. Mallek commented that she had gone on one of the tours and found it to be splendid.

Mr. Snow said that he would like to take a tour, as he was out of town for the last one.

Mr. Frederick said that he would put Doug March in touch with him to make it happen.

Agenda Item No. 23. **Work Session:** Review of County's Priority List of Secondary Road Improvements and the VDOT Six Year Secondary Construction Program Budget.

The following executive summary was forwarded to Board members:

The County's Priority List of Secondary Road Improvements establishes the priorities for road improvements in the State's Secondary Road system (roads with a route number of 600 or higher). The Virginia Department of Transportation (VDOT) Secondary Six-Year Plan (SSYP) is the construction program for the secondary road system based on the County's Priority List and reflects available state road funding allocated to the County. A separate program exists for the Primary and Interstate road systems. The County's Priority List and the VDOT SSYP are typically reviewed annually. Based on the direction provided by the Board regarding projects to be funded, VDOT will draft a revised SSYP.

Attachment A is the County's Priority List of Secondary Road Improvements adopted by the Board on May 2, 2012. Attachment B is the VDOT Six Year Secondary Road Construction Program. Staff will revise the County's Priority List and VDOT Six Year Program for the public hearing based on input received from the Board.

Available Funding – VDOT has provided the following projected funding allocations for Albemarle County:

FISCAL YEAR	SECONDARY UNPAVED ROAD FUND ¹	CTB UNPAVED ROAD FUND ²	REG. STATE FUNDS (teletax fee)	SECONDARY FORMULA FUNDS	TOTAL FUNDS
2013-14	\$0	\$71,588	\$295,492	\$0	\$367,080
2014-15	\$0	\$584,942	\$308,284	\$0	\$893,226
2015-16	\$0	\$881,454	\$308,284	\$0	\$1,189,738
2016-17	\$137,955	\$997,207	\$308,284	\$137,955	\$1,443,446
2017-18	\$170,249	\$997,207	\$308,284	\$170,249	\$2,043,491
2018-19	\$204,172	\$997,207	\$308,284	\$204,172	\$2,190,541
Totals	\$512,376	4,529,605	\$1,587,578	\$512,376	\$8,587,578
Total unpaved road funds	\$5,041,981				

Notes:

- 1- Roads must carry 50 vehicle per day (VPD) or greater.
- 2- Must be applied to unpaved roads with traffic counts of 200 vehicles per day (VPD) or greater.

Funding for the next six years is projected to increase significantly from the prior year's projections of \$350,000 per year. The more significant increases in funding are projected in years 4 through 6 of the Six Year Program. Most of the funding increases are allocated for paving unpaved roads. Since last year, changes have occurred to state funding sources for unpaved roads. There are two categories of unpaved road funds this year - 1) Secondary Unpaved Road Funds and 2) the Commonwealth Transportation Board (CTB) Formula Unpaved Road Funds.

Category one, the Secondary Unpaved Road Funds, are construction funds generated by a formula for use towards road paving projects and which is subject to a penalty formula adjustments if the funds are not used for road paving projects. Funds from this category could be used for other types of projects, but the County's future allocations would be reduced based upon a formula adjustment.

Category two, the CTB Formula Unpaved Road Funds, is funding that must be used to pave gravel roads that have greater than 200 vehicle trips per day (VPD). As stated by VDOT staff:

"Eligibility requirements for the CTB Formula Unpaved Road [category 2] funds set forth in § 33.1-23.1 of the Code requires roadways to have a traffic count greater than 200 VPD. These funds may only be programmed to roadways with traffic volumes greater than 200 VPD. The penalty associated with the regular construction formula [category 1] unpaved road funds with a traffic count greater than 50 VPD does not apply as set forth in § 33.1-23.1:1."

Proposed Modifications to County's Priority List of Secondary Road Improvements (Priority List)

Many of the transportation projects and priorities identified in the County's Priority List are derived from the recommendations of the County's Comprehensive Plan and the Metropolitan Planning Organization's (MPO) Long Range Transportation Plan (LRTP). Both the Comprehensive Plan and the LRTP are currently in the process of being reviewed and updated by the Planning Commission and the MPO; therefore staff recommends that no major changes be made to the Priority List this year. A more comprehensive review of this Priority List and other transportation priorities will be undertaken next year with the completion of the Comprehensive Plan and the LRTP update.

Staff has received three new requests for road construction improvements. Most other comments and requests received over the year have been for roads already listed on the County's Priority List of Road Improvements, or were associated with primary roads. The public requests are:

- Castle Rock Road (Rt. 691)—Public request to pave the road due to erosion issues. Some sections of this road may not be eligible because traffic volume is below 50 vehicle trips per day (VPD). The section from Route 635 to the dead end meets the minimum volume requirement (120 VPD), but the section from Route 635 to Rt. 636 has only 30 VPD.
- Clark Road (Rt. 674)—Public request to pave at least some portions of the road from Millington Road (Rt. 671) and Brown's Gap Turnpike (Rt. 810). VDOT will evaluate whether certain sections can be improved to address erosion and safety issues (paving along blind curve locations). The road carries 46 VPD and may not be eligible for unpaved road funding. VDOT staff should evaluate conditions on the road and determine if there are any spot improvements that can be made to improve road conditions.
- Improve sight distance at Rose Hill Church Lane (Rt.762) and Milton Road (Rt.732)—VDOT has determined that any substantial improvement to sight distance would require a shifting or relocation of the intersection. This project would have to be included in the County's Strategic Priorities page of the County Priority List and prioritized high enough to be included in VDOT's SSYP for funding. While there will be some additional funding in the future for general road construction projects, those funds are still relatively limited. Milton Road carries 960 VPD (2011) and Rose Hill Church Lane carries 120 VPD (2006).

The following are additional comments and recommendations from VDOT and County staff regarding the County's Priority List of Improvements:

- VDOT staff has reviewed both the Rural Rustic Road (RRR) Paving Project list and the Regular Road Paving Project list and confirmed that the projects on the RRR list accurately reflect the projects' eligibility for RRR paving.

- Buck Mountain Ford Lane (Rt. 776) should be deleted from the Regular Paving Projects List (the last project on the list). The project is not eligible for paving because its traffic volume is below 50 VPD.
- Several of the County's strategic secondary road improvement priorities have been completed or are nearly complete and should be deleted from the Priority List. These include:
 - The County's portion of the Meadow Creek Parkway;
 - Jarman's Gap Road (Rt. 691) (under construction);
 - Georgetown Road (Rt. 656);
 - Rose Hill Church Lane (Rt. 762) RRR paving project;
 - Fortune Lane (Rt. 704) RRR paving project;
 - Bluffton Road (Rt. 672) RRR paving project; and
 - Happy Creek Road (Rt. 608) RRR paving project.

Proposed Modifications to the VDOT Secondary Six-Year Plan (SSYP)

The projected funds in the current VDOT SSYP for FY 13 through FY 18 were allocated to the Black Cat Road bridge project, the Dry Bridge Road bridge project, the Broomley Road bridge project, the Dick Woods Road bridge project, the Bear Creek Road RRR paving project and the Pocket Lane RRR paving project in the current VDOT Six Year Secondary Construction Program (approved last year).

The following are VDOT and County staff comments and recommendations:

- All three bridge replacement projects in the VDOT Six Year Program are on schedule and no additional funds are anticipated to be needed at this time.
- VDOT and County staff recommend that Bear Creek Road (Rt.774) not be paved and be removed from the SSYP and the County priority list of improvements. VDOT has indicated that the road would be very difficult to upgrade given the current road alignment and topography of the area. It is an expensive road to pave (\$1,206,130) and would serve a low volume of traffic (80 AADT, 5/4/06).
- County staff recommends that the Pocket Lane (Rt. 703) paving project and the Dickerson Road (Rt. 606) bridge replacement project be retained in the VDOT SSYP.
- Given the focus of future State funding on road paving projects, County staff recommends that five new road paving projects be included in the Six Year Construction Program: Rio Mills Road, Doctor's Crossing (Rt. 784), Midway Road (Rt. 824), Keswick Drive (Rt.878) and Gillums Ridge Road. Rio Mills Road is the highest priority road paving project due to the volume and type of traffic on the road and its location within or near the designated Development Area (Hollymead and the northern Urban Area). Doctor's Crossing, Midway Road, Keswick Drive and Gillums Ridge Road are the highest ranked RRR paving projects not yet included in the VDOT SSYP. Including those roads will ensure that the projected CTB Unpaved Road Funds are allocated in the SSYP.

FY 19 is the "new" sixth year of the SSYP and the FY 19 funds may be needed to complete funding for the Pocket Lane paving project. Because the total cost for RRR paving projects in general have been lower than previously estimated in the Six Year Secondary Construction Program, funds may also be available for an additional project(s).

Due to the increase in State funding in the out years of the next six years, major construction projects identified on the strategic priorities list (page 1 of Attachment A) may be viable projects to again include in the VDOT SSYP in the future. Staff recommends that in light of the pending completion of the Comprehensive Plan update and the MPO LRTP, that discussion of changes to the strategic priority list be addressed in next year's review after the Comprehensive Plan and LRTP updates have been completed.

The Six Year Secondary Road process establishes the County's priorities for the expenditure of State/VDOT secondary road construction funds and does not impact County funding.

Staff requests that the Board: 1) provide comments on the County's Priority List for Secondary Road Improvements (Attachment A) and VDOT Six Year Secondary Construction Program (Attachment B) and 2) schedule a public hearing on the County Priority List and VDOT Six Year Secondary Construction Program on June 12, 2013.

Mr. David Benish, Chief of Planning distributed booklets that VDOT staff had put together and stated that it includes traffic counts, maps of the area, the VDOT six-year plan, and some of the requirements and provisions for funding. Mr. Benish reported that the purpose of this work session is to get comments from the Board on the County's priority list of secondary road improvements and the VDOT six-year secondary road program. He noted that the priority list is the County's list of projects in the secondary system it would like to have improved, and it informs the VDOT six-year improvement program. VDOT's plan needs to be consistent with the Board's priorities.

He stated that he would first review the comments on the County's priority list, which is the long form in their packets as Attachment A, and said that for this year staff is not recommending any major changes to the six-year plan priorities. Mr. Benish said that staff hoped they wouldn't be too far along

before having an updated Comprehensive Plan and a long-range transportation plan, and at that time the documents inform significantly the priorities on this list.

Mr. Benish reported that staff had received three public requests this year for secondary road improvements, which are usually considered at this time, and they include Castle Rock Road – a road paving project located in the Craig's Store area in Batesville; Clark Road, located between Millington and Doyle's River; and the intersection of Milton Road and Rose Hill Church Lane – a request for improved sight distance in the Milton area, which would likely be an intersection relocation project to move the intersection to create sight distance improvements. He said that the two paving projects both have traffic counts that make them borderline eligible for paving, with 46-50 vehicle trips, and staff suggests that the projects be considered this year for possible prioritization next year. Mr. Benish said that there may be some interim improvements such as spot paving made to address some of the issues the residents have for the unpaved road projects.

Ms. Mallek said that Clark Road is on a hill and it's hard for maintenance to keep it from wash boarding on a hill, where as the flat section even though it's scary and narrow would cost millions to pave the whole street.

Mr. Benish said that that is the thinking and over the intervening year VDOT could look at it and maybe do some spot paving or spot improvements that could address certain sections of the roadway in lieu of it being a major project.

Ms. Mallek asked if there was a cost estimate for it.

Mr. Benish said that there was no cost estimate yet but if the Board wanted staff to look into they could bring it back for the public hearing.

Mr. Benish stated that these were the recommendations to the priority list, with no major changes to the priorities, along with recommendations to evaluate the road-paving projects submitted to the County this year. He said they would update the list to eliminate the projects recently completed – which includes four rural rustic road projects.

Mr. Boyd said that he was a bit confused about the amount of money available for the projects, as he wasn't sure where the emergency maintenance paving pot of money was coming from.

Mr. Benish responded that he would be addressing that along with Mr. DeNunzio in the next few minutes.

Mr. Snow asked at what point during the discussion did he need to bring the road that was talked about earlier in the meeting. Mr. Benish replied in the next few slides.

Mr. Benish reported that the last item on the priority list is Buck Mountain Ford Lane, which is the last project on the rural rustic road list that is not eligible for funding because the traffic counts are too low.

He presented the list of projects in the VDOT six-year program, noting that the Gillums Ridge Road request and other requests for improvements would be considered for budgeting in this portion. Mr. Benish explained that this is the allocation of VDOT funds towards actual construction of projects, and thus is the important part. He explained that there are some changes this year, as there are new funds that will be available over the six years of the plan – with most of the funds allocated to unpaved road projects. Mr. Benish referenced a table as to funds available over the next six years.

Mr. Rooker commented that this is a major break from prior funding approaches, whereby the County was expected to spend a certain percentage of secondary road funds on unpaved roads and now is seeing a significant allocation that seems to be separately identified for unpaved roads. He asked if that was part of the legislation that was passed.

Mr. Benish replied that it was, and said that VDOT staff would elaborate. He explained that secondary unpaved road funds were very similar to old unpaved road funds, which were allocated based on a funding formula tied to the amount of those roads in the County. Mr. Benish noted that those funds could be used on other projects, but it would affect the funding formula. He said that staff always referred to it as being 'a penalty'. It just affects the County's future funding amounts based on an adjustment to the formula.

Mr. Boyd asked Mr. Benish to define that a little bit. Mr. Benish clarified that it could be used for any unpaved road – conventional or rural rustic. He said that the thing to consider with those roadways is that there must be traffic counts of 50 or greater in order to use the secondary unpaved road funds.

He stated that the next column on his table was "new funding," which is a new formula funded through the Commonwealth Transportation Board, and it is allocated solely for unpaved roads. He said that "you use it for unpaved roads, or you lose it." He stated that it can only be used on roads that have vehicle trip counts of 200 or greater, adding that it's allocated into the six-year plan and must be committed to projects. Mr. Benish said he wasn't sure if there was a two or four-year requirement like there is for revenue sharing, but it can't be shown on widening or sidewalk projects. It has to be used for unpaved roads and it has to be allocated over the six years of the plan where it is projected to be allocated to the County.

Mr. Rooker noted that more money is being allocated to unpaved roads than paved roads. Mr. Benish responded that that's the net effect of what these programs are, in part to address some of the initiatives at the state level to address maintenance of roads. He said that the tele-fee funds – the monies that the County have been receiving over the years from the tax on cell towers – have been the only source of funding the County has been getting, and the secondary formula funding can be used for general construction improvements, but that money doesn't begin to show up until years 4-6 of the plan.

Mr. Boyd asked for clarification of which fees can be used for which projects. Mr. Benish explained that the tele-fee funds can be used for anything in the secondary system eligible for construction, and they are not constrained to any particular type of project as is the secondary formula funds. He said that the unpaved road funds, particularly the CTB, can only be used for unpaved roads.

Mr. Rooker commented that there's some reason this is being done, and asked if the thought is that it would cost more to maintain the unpaved roads than it would if they were paved. Mr. Benish responded that he believed that to be the logic behind it.

He also said that the VDoT staff and County staff are recommending continuation of funding for the three bridge projects in the plan and Pocket Lane, an unpaved road project. He stated that they also recommend that Bear Creek Road be deleted from the six-year plan as a road paving project, as it's in a mountainous area and will be very expensive to construct, while only serving 80 vehicle trips per day. Mr. Benish noted that it comes out of Nelson County and terminates in Albemarle, and for the cost benefit VDoT feels it's not an appropriate priority for the funding that's available now.

Ms. Mallek asked Mr. Benish to remind her where Pocket Lane is. Mr. Benish responded that it is in the south eastern part of the County.

Mr. DeNunzio said that there is a secondary map in the back of the packet that was handed out and all of the projects are marked in red.

Mr. Dumler clarified that it is off of Chestnut Grove Road.

Mr. Benish stated that with the available unpaved road funds, County staff is recommending moving down the priority list to also include Rio Mills Road, which is the highest priority project on the regular road-paving list. He said that staff is proposing that five new unpaved road projects be added to the six-year plan – Rio Mills Road, Doctors Crossing, Midway Road, Keswick Drive, and Gillums Ridge Road.

Mr. Rooker asked what the estimated cost for Rio Mills Road is. Mr. Benish replied that the estimated cost on Rio Mills Road is \$3.2 million.

Mr. Rooker asked if that would require the consent of all the property owners. Mr. Thomas pointed out that there is only one, maybe two property owners on the unpaved part and then Rockydale Quarry.

Mr. Rooker said that at one meeting people said that they did not want it to be paved because it would make people drive faster. Mr. Thomas responded that there are people who want it paved to cut down on dust, and those who don't because of speeding.

Mr. Benish explained that Rio Mills isn't a rural rustic road, and typically for a general road paving project, the County has asked for donations of right of way – so if the project goes into the list, they usually seek a resident sponsorship to work with property owners in the area. He said that when property owners donate the right of way that provides for some consensus that that's the project they would like to construct. Mr. Benish stated that rural rustic roads are paved in place so the County does not have to go through the right of way process, but as projects approach planning and construction the County provides public notices to those areas to inform people that the road is being paved.

Mr. Rooker commented that Rio Mills is probably 5-10 times more expensive than anything on the list.

Ms. Mallek said that Doctors Crossing alone is about \$1 million.

Mr. Benish explained that that is a high cost and has not been adjusted yet. He noted that some of the estimates were done by VDoT with the assumption they would have to contract out for the work – but they are returning to using local forces instead.

Mr. Joel DeNunzio, of VDoT, stated that the estimates for rural rustic projects assume that VDoT is contracting out the work, as they did with Bluffton and Fortune Lane the previous year, and Rose Hill Church was done under a state forces hired equipment contract. He said that it saves money to proceed under that scenario, as it saves an estimated \$150,000-\$175,000 per mile of rural rustic.

Ms. Mallek commented that it was \$125,000 for Bluffton for less than a mile.

Mr. DeNunzio clarified that that was the total and said that there was also some culvert work on Bluffton that increased the cost.

Ms. Mallek said that the big jump was the contract.

Mr. Snow said that when he talked to Mr. DeNunzio a few months ago, they talked about Gillums Ridge Road being approximately \$120,000 for rural rustic. Mr. DeNunzio commented that it was about 3/4 mile long.

Mr. Snow stated that they also talked about it being one of the roads with the highest amount of cars per day. Mr. DeNunzio noted that it has 280 vehicles per day.

Mr. Snow stated that the volume of cars will go up significantly once the bridge is closed. He said that he has seen the word emergency paving and asked Mr. DeNunzio if there is any type of funds for emergency paving to get something that is a safety issue and a priority because of the number of cars using it. Mr. DeNunzio responded that he was not sure what Mr. Snow was referring to when he used the word emergency paving, and asked Mr. Snow if he was referring to the term maintenance paving.

Mr. Snow said that he was not familiar with that term. Mr. DeNunzio explained that maintenance paving is short section when VDOT takes care of grades and things. He said that he wasn't sure where Mr. Snow heard the term emergency paving but it might be the CTB funds that are new this year.

Ms. Mallek said that one of the neighbors bought up emergency paving earlier in the meeting when they were talk speaking on Gillums Ridge Road.

Mr. DeNunzio reiterated that he did not know that term and explained that VDOT does maintenance paving which is short sections. He added that typically rural rustic would be a secondary project and Gillums Ridge would be a secondary project. Mr. DeNunzio stated that VDOT doesn't necessarily have an emergency paving project in place – or a way to do that.

Mr. Snow said that he thought that since the bridge was going to be closed and add significant amounts of more traffic to that area, then there would be something available to elevate the project.

Mr. DeNunzio said that he would look into it.

Ms. Mallek asked when the projects on this list would start. Mr. DeNunzio explained that the rural rustic projects on this list would start in July 2014.

Mr. Boyd stated that it seems that there are some projects that can be done with the \$360,000 available this year, including Mr. Snow's priority, whereas you couldn't do Doctors Crossing because of the cost.

Mr. DeNunzio pointed out that a lot of the funds for this year are allocated to the five bridge projects.

Mr. Boyd said that the Board may want to consider what the priority projects are, rather than spreading the money amount among them.

Mr. Rooker responded that when the money becomes available, they're going to be able to do the ones on the list very quickly. He said that the CTB money isn't presently allocated to projects, because up to now it hasn't been available to allocate.

Mr. Benish stated that the five projects the Board has identified can be funded over the six years using the funds that are identified here, but when they come in it will probably be at least one year out before there's enough money accrued to begin doing them – but they all can be done over the six years of the plan.

Ms. Mallek asked if there was any money available for rural rustic roads the spring paving season in 2013. Mr. DeNunzio responded that there are no rural rustics on the schedule, as they were all finished last year.

Mr. Rooker commented that there's only \$300,000 anyway.

Ms. Mallek said that Gillums Ridge Road can't be done this year period, because there is no money for 2013.

Mr. DeNunzio stated that normally anything approved to be put on the plan for this year would start July 2014 at the earliest, but if there is an opportunity to move anything up they will.

Ms. Mallek said that from what she has learned this morning the Gillum Ridge Road has been straightened and therefore getting more cut through traffic than it used to, and the fact that Dry Bridge is going to be closed doubling the traffic is a real problem – especially when the skidding on the gravel when it has just been graded.

Mr. Rooker said that the \$71,000 is new money, and he doesn't know what the cost of the project would be.

Mr. Boyd said it would be \$120,000.

Mr. Snow agreed.

Mr. Rooker said that only leaves about \$50,000 needed for the project.

Mr. DeNunzio said that if the Board really wanted to do Gillums Ridge this year, the money wouldn't be there until July, and VDOT still would need to do permitting. He said that the most important thing about the rural rustic paving is that you have to put the product down in warm enough weather or it will fall apart.

Mr. Boyd said that he'd be willing to put Gillums ahead of Doctors Crossings in the priority list.

Ms. Mallek stated that she would like to focus on the vehicle counts and the cost versus how long something has been on the list.

Mr. Benish said that the list before them is prioritized, and staff tries to balance the traffic counts with the years the projects come in. He said that they don't want projects to perpetually drop because other projects come in above it.

Ms. Mallek said that the reality is if they are not as high a priority, they should drop.

Mr. DeNunzio pointed out that in tab seven of their packets, there is a list of all the unpaved roads ordered from the highest vehicle counts to the lowest – and if they're highlighted, they're already on the County's plan for unpaved roads.

Mr. Benish mentioned that the regular road paving list in Attachment A has the road segment and cost estimate along with the traffic counts. He said that Rio Mills Road is about 1.0 mile, and the highest count on that section is 650 vehicle trips per day.

Mr. Rooker said that he wants to make sure that if the Board is approving a \$3.2 million project as the highest priority – which is five times the cost of a rural rustic project – that it's really something the Board wants done, and that the people that live along it support.

Mr. DeNunzio said that one of the biggest cost components at Rio Mills is the need for a quad box culvert that must be added near the tight curve at the bottom of the hill, and that's a large structure to be put in.

Mr. Benish stated that Rio Mills has been designated a high-priority paving project because it will also serve as a parallel road to Route 29 and providing an option for traffic in the Hollymead area to get back and forth to the northern urban area.

Mr. Boyd asked if it would still be a high priority now that the road through Hollymead Town Center is built, because that provides a parallel road very close to Rio Mills. Mr. Benish responded that the County has good east-west connections to Earlysville Drive, but still have some of the traffic from the Earlysville area using Rio Mills as a back access to get to Polo Grounds Road and the SOCA facility, as well as 29 South in that area. He said that staff is seeing, traffic from the northwestern part of the County, using that as kind of a cut-through.

Ms. Mallek said that it has been in much better condition since the quarry reopened because it's frequently graded.

Mr. Thomas added that they are also using dust control measures frequently.

Mr. Benish said that the priorities are highly based on traffic count, and in the past the Board has wanted to ensure that lower traveled roads get moved up. Staff tries to keep them in some order, he said, adding that staff is looking at projects like Bear Creek Road more closely.

Mr. Snow said that he thinks the Board is in agreement to move Gillums Ridge Road up to the top of the priority list and take some of the first money available to get started.

Mr. Benish explained that if the Board agrees with the comments and the projects, VDOT would go back and propose a six-year secondary improvement program that would show the funding over the six years allocated to the project. He said that the proposed plan would then go to public hearing.

Mr. Rooker said that the primary category of additional funds is CTB allocation – so apparently this was done by the CTB.

Mr. DeNunzio responded that he's not sure exactly how it came about, but it is the new funding source that they haven't had in the past and has the limitations that it must be an unpaved road and must have over 200 vehicle trips per day.

Mr. Rooker said that there must be something in writing that set this up.

Mr. DeNunzio stated that it's in the code section of the new transportation bill that was signed.

Mr. Benish said that staff now has the Board's direction, and a public hearing is scheduled for June 12 where they will take public comment, primarily on the six-year plan.

Ms. Mallek then **moved** to schedule the public hearing on the priorities as presented for June 12, 2013. Mr. Rooker **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

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

NAYS: None.

Mr. Rooker asked if the County's application for revenue-sharing had been approved.

Mr. DeNunzio responded that he had heard they had gotten the money, but hasn't seen the official written determination.

Mr. Benish said that he had called Richmond and was informed that it had been awarded for all requests.

Ms. Mallek asked if there was a new CTB appointee yet for the district.

Mr. DeNunzio responded not yet.

Mr. DeNunzio then announced that Mr. Jim Utterback would be moving to the District Administrator position in Hampton Roads, and they are not sure who his replacement in Culpeper will be.

Agenda Item No. 24. From the Board: Committee Reports and Matters Not Listed on the Agenda.

At this time, the Board took up the discussion of the cell tower in Bellair.

Ms. Amelia McCulley, Zoning Administrator, addressed the Board, stating that there are two different cell towers in the Bellair vicinity. The tower mentioned earlier in the meeting by Mr. Van Der Werf was originally approved in 2000, and the 2003 amendment was to allow some additional ground equipment and antenna modifications. She said that that special use permit as well as the prior one carried the condition of "tree removal and a 200-foot distance." Ms. McCulley read the condition as "Except for the tree removal expressly authorized by the director of planning and community development, the permittee shall not remove existing trees within 200 feet of the pole and equipment pad. Special use permit amendments shall be required for any future tree removal within the 200-foot buffer after the installation of the subject facility."

Ms. McCulley explained that this is a consistent condition that the County had attached to special use permits until 2001 when they codified some additional language, which was slightly modified in 2004. She said that the change was going from the 200-foot language to a 100-foot tree buffer, which also refers to distance from the lease area. Ms. McCulley stated that after that date in 2007, the Bellair subdivision plat – which was called #1 – was signed, and created two lots that adjoined the subject property. She noted that the Van Der Werf property was one of those two lots. Ms. McCulley said that the Bellair subdivision #2 had critical slope issues that brought up building site waiver/modification, but that ended up being up denied and withdrawn.

She stated that the County is dealing with the condition that refers to the permittee removing trees, and there is no evidence of that. Ms. McCulley explained that it is not unusual for a portion of the tree buffer to extend beyond the lease area, and even beyond the property lines of the subject property involved in the SP for a personal wireless facility. She said that it is actually more common that it extends offsite onto private property, and staff has recognized that it is out of the cell-phone provider's control, and it's controlled by the adjoining property owner. Ms. McCulley noted that they have not required easements because they've wanted the property owner to choose whether or not they want to remove or maintain the trees, and until this point it hasn't come up anytime as an issue. She mentioned that staff is not proposing changes, reductions or eliminations to any buffers with the wireless modifications being considered.

Ms. McCulley stated that staff's conclusion is based on the wording that this is a condition of the special permit permittee and is thus not a violation of the cell-phone vendor. She said that the result is that the adjoining landowner who didn't know that a tower was there is now seeing a tower.

Ms. Mallek asked if it was customary to be put on a one-acre lot in a neighborhood – that is appalling. Ms. McCulley said that there are more of them on larger acreage – the vast majority are.

Mr. Rooker said that it was approved in 2000, prior to some of the wireless policies. He said that the special use permit is what it is. You can't withdraw it, as a legal matter. Once it's issued, it's in perpetuity with the property, and it is what it is. He stated that the prohibition is with the permittee removing trees – not someone else.

Ms. Mallek stated that the fact that the buffer is routinely extended offsite is letting the cell company completely out of their liability to keep a tree buffer there.

Ms. McCulley mentioned that there is always a reference tree which is absolutely critically under the permittee's control and cannot be removed or reduced in height. That is a real critical kind of control point for the height of the tower, she said, and the other section of the zoning regulations mentions the 50-foot radius – and that also must be in the control of the permittee, and they can't remove trees. She stated that that's even described as being used to establish the proposed height and screening of the monopole, so the 50 feet is a tight requirement that they can't modify or remove trees within.

Mr. Rooker stated that this particular approval is more protective than the current ordinance is, despite the result, and he has opposed several aspects of the new ordinance because of these types of problems. He said that it's the zoning administrator's job to determine whether or not there's a violation and as a legal matter the zoning administrator is not subject to direction or control by the Board of

Supervisors. Mr. Rooker noted that her decisions are appealable to the Board of Zoning Appeals, but the Board of Supervisors does not sit over to second guess the administrator's decision. He said that part of the reason for that, under state law, is so those decisions are not made political but are instead based on objective factors.

Mr. Snow said that it gives the residents of a particular area a false sense of security when the Board approves an area with a 200-foot buffer knowing that it's really not that amount if it's on another property.

Mr. Rooker stated that he hoped Mr. Snow would remember that when the ordinance comes back around because he's fighting for a lot of these things. He said that he generally gets shot down about every time I make any kind of recommendation that would make things a little more protective and perhaps a little more difficult for the cell industry. He added that what the Board is seeing now is people reacting to things like this that are growth-type issues, as they are directly impacting their lives and they don't necessarily like them.

Ms. Mallek asked if the damage done by the crews maintaining and changing out the equipment was also customary. Ms. McCulley responded that staff has not had time to look into it further, as it was just forwarded to them the previous afternoon.

Mr. Rooker commented that if there is a violation, hopefully it will be pursued, but if there's not then nothing can really be done about it. He said that the condition states that a special use permit amendment shall be required for any future tree removal within the 200-foot buffer after installation of the subject facility, but that doesn't have "by the permittee in it." Mr. Rooker clarified that it's interpreted to mean that you can't impose a condition on the permittee that pertains to third-party actions.

Ms. McCulley replied that's right.

Ms. Mallek asked how the County gets information to a person who's getting ready to clear property for a septic field or something that it's not a good place because it will open up a view to a tower.

Ms. McCulley responded that she'd like to discuss it with Mr. Fritz, because perhaps there's a rule of thumb about some large proportion of the buffer that should be within a permittee's control that would remain a buffer.

Ms. Mallek said that she thought the drop zone was taking care of preventing a situation like this, but it clearly doesn't.

Mr. Thomas commented that that's a good point because the pole is about 80 feet tall but the highway is only 75 feet away.

Ms. Mallek said that she'd like to take a few minutes hear from the Van Der Werfs and from AT&T representative, Valerie Long as it is a helpful learning process for when the Board goes through cell tower changes.

Mr. Rooker emphasized that there is no action the Board can take today on this item because they do not enforce the zoning ordinance as that's done by the zoning administrator, and they do not have the power to change a special use permit that's already in place.

Ms. Greeson asked who did have the authority to modify a special use permit, as it is a legislative action. She said that in the code for special use permits, a condition of a permit "may be found invalid or void or unlawful" and if it is it invalidates the permit.

Mr. Davis clarified that the Circuit Court would make that decision, and in this instance the determination of the zoning administrator is that the conditions are not invalid or improper, because it was a proper condition and has been a consistent condition imposed on special use permits over the last 15 years.

Mr. Van Der Werf said that the testaments provided by the applicant said there would be no impact on the neighborhood, that it was a wooded site and the tree cover would be preserved. He said that when he looked at it and the conditions of the special use permit he presumed that the condition of "any tree removal within the buffer" would require an amendment of the special use permit, and that "that language was put there expressly to preserve the protections that were a key foundation of the application for the special use permit."

Ms. Greeson added that she assumes that the Board of Supervisors interpreted it that way during the time during the permitting process – it is clear language.

Mr. Rooker said that nobody on the Board now was serving at the time. He said that he would not read it that way – but I'm a lawyer. He said that the Board could not have imposed a condition that prevented a neighbor from removing trees from their lot, so that could have been challenged by the applicant. Mr. Rooker stated that a reasonable reading of this is that "the applicant cannot remove trees anywhere within this 200-foot buffer."

Mr. Boyd asked when the Van Der Werfs bought the property, and if that was after the cell tower was put there. Mr. Van Der Werf responded that they did.

Ms. Greeson stated that they had no idea that it was there and it was as invisible as the permittee had alleged that it would be originally. She said that they bought the lot and were required to clear their septic field inside of the buffer.

Ms. Greeson read the following statement from Chas Cook, one of her neighbors, Deer Path is a beautiful high value family oriented cul-de-sac Albemarle would be foolish to allow negative changes that reduce home value and controvert the rational provided for this tower in the first place. Further it creates a moral hazard that encourages the camel's nose under tent principal, rather than the principal of integrity. If we can just get the County to bend a little now give it time then we can break them entirely. We presume this isn't the County's intention but it is what you would communicate if you allow the original permittee on the 18 Deer path cell tower to be white washed. It would be embarrassing and a shame to support the proposed changes. We are confident that a moral and sensible approach will prevail rather than this bait and switch illegitimacy.

She said that it's incredibly disruptive, and they've dealt with zoning – and that's why they've come to the Board because they don't feel that it's a matter that zoning can adjudicate and can help them and their neighbors with.

Ms. Valerie Long addressed the Board, stating that she is representing AT&T in this matter, which is one of the first cell tower special use permits she handled. Ms. Long said that she concurred with the zoning administrator's determination, adding that the project came in at a time when there were a large number of applications coming in all at once – from Triton PCS, AT&T's predecessor; Alltel; and Ntelos. Standard conditions were evolving at the time she said, and the County was learning its way in terms of what was important to regulate, how to word the conditions, and the industry was also feeling its way to figure out what worked and what didn't. She said that the 200-foot tree removal was standard, and they didn't spend a lot of time trying to modify them once they'd been established. Ms. Long emphasized that the providers were voluntarily complying, and there was no ordinance that provided rules for the carriers at the time. She said that the wireless policy had not yet been enacted, as it was adopted in December 2000 – three months after this application.

Ms. Long said that they were all trying to figure out what the rules were. The courts were figuring out what the rules were, everybody. No one really knew. So they were all operating in a fairly unusual situation.” She stated that AT&T and Ntelos were voluntarily complying with the County's policies in exchange for working with those conditions. Ms. Long noted that she has a copy of the original plans from the application that clearly show the boundaries of the subject parcel, and show the distances of the pole to the adjacent property line. Ms. Long said that over the last few months, AT&T's subcontractor has been upgrading some of the panel antennas to keep up with the current technology, and they weren't very considerate of the neighbors. She stated that AT&T has brought its own contractor out to the site to try to repair the damage and remedy the situation. Ms. Long added that the neighbors were reasonable to have been frustrated with the way the prior contractor conducted itself which was not as respectful as it should have been.

Mr. Snow asked if there was any way to go back in and provide some additional screening at the base of the pole.

Ms. Long responded that as part of the original approvals in 2000, there was required to be landscaping planted between the ground equipment and the bypass to screen it – and it was a condition of approval suggested by the Architectural Review Board. She stated that the landscaping has not been maintained as well as it should be, and AT&T's construction manager didn't realize it was a requirement, but suggested that they put more landscaping in and clean up the area. Ms. Long said that she reminded him of the conditions of approval and would make sure he knew exactly what species are required, along with supplementing the landscaping that hasn't been maintained. She acknowledged that it wouldn't improve the situation with the view of the tower itself, but it would improve the base. Ms. Long said that there was some damage to the landowner's driveway, so AT&T is going to repair that and re-gravel the entire driveway, and plant additional landscaping. She said that the landowner had asked whether AT&T could put a fence up, but at the time the tower was approved the County policy discouraged fencing because it was felt to be more visible than painting the equipment brown. Ms. Long said that under the current ordinance you can ask for fencing and typically it's allowed, so they have discussed the possibility of doing that if it would help the situation. She stated that the original condition specified a certain number of plants and types of planting, and certainly what's there is not sufficient and can be improved upon.

Mr. Snow asked if she could meet with the Van Der Werfs to mitigate some of the problems. Ms. Long responded that she would.

Mr. Rooker stated that there's a broader issue to be considered, and that is the fact that the current ordinance is more permissive than the special use permit was. He said that the Board should maybe look at some changes that would not allow situations to crop up that they are seeing here, especially when towers are put up near neighborhoods.

Ms. Mallek pointed out that the fact that it's remote is only temporary. She said that this was remote. It had a big lot and a very thick forest, and now it's been surrounded. She suggested that it be required that the buffer be under the control of the tower people, because that's the biggest issue of all.

Mr. Thomas said that “or the owner of the property that the cell tower is renting from.” He asked if the 200-foot buffer was already deeded, or subdivided later. Ms. Long confirmed that it was under separate ownership.

Mr. Rooker stated that staff draw a radius and say that the applicant can't cut down any trees within that radius – and some of it may be on their property, but some may not. He said that his point is that there should be different circumstances when someone has a large piece of property versus small lots, especially near a neighborhood.

Mr. Davis said that there is an ordinance amendment on the agenda next week on this topic, which addresses all the procedural legal requirements that the industry has identified. He said that this particular issue is addressed within the confines of the sections that are being amended, but only that it's being reorganized and not substantively changed. He stated that what it says now is that there would be no removal of existing trees by the applicant within the lease area or within 100 feet in all directions of the facility. He said that that has been the rule since we adopted the Tier II strategy, and as Ms. McCulley has indicated it has not been controversial until today in that regard. Mr. Davis said that the next round of ordinance amendments that are being developed will look at the standards that will apply to towers, and that would be an opportunity for the Board to address the issue. He said that the industry would likely have some input, along with the planning staff as to the appropriateness of the conditions – but it sounds like it needs to be examined again. He stated that he just wanted to put into context that next week's ordinance which is on procedural issues, although it touches on this issue, does not change how it's being currently addressed. Mr. Davis said that the next ordinance that will come to the Board in a few months will be an opportunity to do that.

He stated that he didn't want anyone to be confused when they read the ordinance in the packet next week, to think that this is something that would be addressed differently. Mr. Davis said it is something that is being reorganized from one paragraph to another, but is not substantively being changed.

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

Mr. Foley said that Mr. Bill Letteri will be attending the Board meeting in his place on May 8th, as he will be attending a week-long training at the Senior Executive Institute.

Agenda Item No. 26. Adjourn.

With no further business to come before the Board, the meeting was adjourned at 4:49 p.m.

Chairman

Approved by Board
Date: 08/07/2013
Initials: EWJ