

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

PRESENT: Mr. Kenneth C. Boyd, Mr. 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 she would like to add for discussion sending a letter to the Governor regarding performance standards for ABC agents given the incident the previous week involving UVA students purchasing what the arresting officers mistakenly thought to be beer. She said that, in her mind, the women did the right thing, given previous situations where women have been abducted under false law enforcement pretenses.

There being no other additions, the Board accepted the final agenda.

---

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

There were none.

---

Agenda Item No. 6. Recognitions.

There were none.

---

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

Dr. Charles Battig addressed the Board, stating that the County School Board continues setting its own standards for the health and safety of school children related to wireless service. He presented WiFi symptoms exhibited from real children in a real school include hyperactivity and attention deficit disorder. Dr. Battig said that the School Board is encouraging WiFi to be everywhere for every student. A wireless laptop has more radiation than a cell phone tower. He mentioned that the World Health Organization has classified electromagnetic fields as a possible carcinogenic. Dr. Battig said that he has discussed this with an individual from the FCC who said that the exposure limits quoted are probably not appropriate given recent developments. He stated that the chief of Microsoft in Canada has gone on record to say they should exercise caution with school children with this technology. He added that schools can get money to subsidize laptops and other things by signing up with a wireless carrier. Dr. Battig said that the School Board has determined on its own that it is safe, not a threat to school children's health, but they are not basing it on any standard. He added that there is no federally recognized standard which sets safe WiFi exposure to children and safety has been refuted by international studies. There are a whole generation of students undergoing this experiment.

Mr. Rooker asked if there are any school systems in the U.S. that have eliminated WiFi because of health concerns, at this point. Dr. Battig responded that some schools in Canada, Italy, Germany and France have eliminated WiFi. France has removed it from the Louvre just for general exposure. He noted that the Canadians have been very proactive in this, but the U.S. federal government has promoted the use of WiFi in schools.

---

Ms. Nancy Carpenter said she was present to discuss the voucher funding for the "Albemarle Nine" at The Crossings. The Board has a choice to make as to whether to continue extending its financial contribution for three months, contingent upon HUD assurances, refuse to continue extension of financial contributions which will have some truly disastrous results, or to continue extension of its contribution until the County has received all waivers and reviews approved by HUD. She said that with the previous action, the advocates, service providers, current Crossings residents, and Board members looked beyond their differences to come together and unite in the decision to get nine homeless individuals off the streets and give them house keys instead of handcuffs. Ms. Carpenter emphasized that it was paramount then and it is paramount today to keep these individuals in their homes and off the streets. She said that what has happened in the last 11 months is prudent fiscal policy that must and should be extended. Ms. Carpenter added that the Deputy Secretary of HUD, Maurice Jones, recently toured The Crossings and was very favorably impressed with the residents' progress and the facility. She added that she would like to see these seven people stay in their homes as long as it takes to resolve the HUD issue.

Ms. Carpenter also added that she supports the comments made by Ms. Mallek regarding the incident with the ABC agents and the UVA students. Not knowing who they were, the students did the right thing and should not have stopped for the agents unless they were clearly identified.

---

Ms. Dell Erwin, a resident of the Scottsville District, said she is concerned about the appointment of the interim position to the Board for her district. Ms. Erwin stated that the citizens of Scottsville voted a Democrat to fill the Board position and she feels that the appointee to the interim position should also be a Democrat.

---

Ms. Linda O'Connor, a resident of the Scottsville District, said that on behalf of a list of signees, she is also present to speak to the appointment of the interim position for the Scottsville District. She said that the next few months are an important time for the Scottsville District – with several development proposals and the timing of the Comprehensive Plan review, which will likely take place before the special election. Ms. O'Connor said that the Comp Plan includes the master plan for the Southern District for the first time. The Planning Commission and County citizenry have worked hard to resolve the issues surrounding the master plan. They are eager for this master plan so that the citizenry can finally have a regional advisory council so as to have a voice and a vehicle to gain early notice of proposed developments. She emphasized that it is critical that the appointee have in-depth knowledge of the impending work of the Board, and that he or she follow the platform of their previously elected official or supervisor, which included managed growth, concern for a development's environmental impact, maintenance of the beauty of the area, and a strict adherence to the Neighborhood Model – including interconnectivity as well as decreasing densities and elevations from the centers and proximity to rural areas.

Ms. O'Connor said that the signees request that Mr. Rick Randolph be appointed as the interim Supervisor for the Scottsville District. Mr. Randolph is a longstanding member of the Planning Commission for the district, as well as a member of the Capital Improvement Committee. Mr. Randolph has an in-depth know of the work coming before this Board, has been steadfast in voicing the district's views and votes in line with the values of the majority. Mr. Randolph is also cognizant of the County's conditions, current developments, and plans for future needs. The signees believe Mr. Randolph is the most qualified candidate before this Board and will continue the legacy of their previously elected official. In addition, they are pleased with Mr. Randolph's interaction with the citizenry and his work ethic. Mr. Randolph is always available by email, he does site visits, and he does his homework diligently. Ms. O'Connor said she has personally witnessed Mr. Randolph's integrity in avoiding potential conflicts of interest at public meetings. She does not believe Mr. Randolph would use this appointment for his own gain.

---

Agenda Item No. 8. Consent Agenda. **Motion** was offered by Mr. Rooker, **seconded** by Mr. Snow, to approve Items 8.1 (as read) through 8.8 and to accept Items 8.9 and 8.10 for information. Roll was called and the motion carried by the following recorded vote:

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

NAYS: None.

---

Item No. 8.1. Approval of Minutes: March 7, March 13 (Special), March 13(N), April 3, April 10(A) and April 10(N), 2013.

Mr. Snow had read the minutes of March 7, 2013, and found them to be in order.

Mr. Snow had read the minutes of March 13S, 2013, pages 1-12 (end at Item #3), and found them to be in order.

Mr. Thomas had read the minutes of March 13S, 2013, pages 12 (begin with Item #3), and found them to be in order.

Ms. Mallek asked that the minutes of March 13N, 2013, be pulled and carried forward to the next meeting.

Mr. Rooker had read the minutes of April 3, 2013, page 1-32 (end at Item #18), and found them to be in order.

Mr. Boyd had read the minutes of April 3, 2013, pages 32 – end, and found them to be in order.

Ms. Mallek asked that the minutes of April 10(A), 2013, be pulled and carried forward to the next meeting.

Mr. Boyd asked that the minutes of April 10(N), 2013, be pulled and carried forward to the next meeting.

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

---

Item No. 8.2. Proposed Lease of Interim Emergency Medical Facilities Station on Berkmar Drive to Service the Route 29 North area.

The executive summary states that during the FY14 Budget process, the Board approved funding for additional fire fighter/advanced life support (ALS) positions to expand the daytime ambulance service currently provided at the Seminole Trail station to twenty-four hours per day, seven days per week, starting on July 1, 2013. Due to the current space limitations and planned building renovation/expansion, it is not possible to house the additional career staff in the Seminole Trail building. Staff researched various options to house the two career staff and has determined that the most cost effective option is to temporarily lease office space in the general vicinity of the Seminole Trail Station.

Staff has negotiated a 13-month lease with Claude and Carol Marsilia (Lessor) for 836 sq. ft. of office space at 3042-A Berkmar Drive (Parcel 061U0-03-00-007A0), along with two parking spaces. This space can adequately serve as an interim emergency medical services station that will provide space for one ambulance and its crew.

The attached proposed Lease Agreement (Attachment A) addresses all issues identified by the County in discussions with the agent representing the Marsilias. The County Attorney's Office has reviewed and approved this proposed Lease Agreement as to form. Significant provisions of the proposed lease include:

1. A term of 13 months beginning on July 4, 2013, with July 2013 at no cost, and an option to renew upon the same terms for six additional one-month terms.
2. Fair market rent, determined to be \$1,025 per month.
3. Lessor to provide garbage pickup, parking lot maintenance including snow removal, and water/sewer, the cost of which is reflected and included in the rent. The County will be responsible for the provision of electricity, internet, and telecommunication services.

The direct cost of the lease to the County is approximately \$12,297 annually. Staff has submitted an appropriation request (Appropriation #2014002) for \$22,100 as part of the FY14 Appropriation Request being presented to the Board on July 3, 2013 to cover both the lease and operating expenditures for FY14.

Staff recommends that the Board adopt the attached Resolution (Attachment B) to approve the proposed Lease Agreement for the Berkmar Drive office space and to authorize the County Executive to sign the lease and any associated documents, after approval of both form and substance by the County Attorney.

**By the above-recorded vote, the Board adopted the following Resolution to approve the proposed Lease Agreement for the Berkmar Drive office space and authorized the County Executive to sign the lease and any associated documents, after approval of both form and substance by the County Attorney:**

**RESOLUTION APPROVING LEASE AGREEMENT  
FOR EMERGENCY MEDICAL SERVICES STATION**

**WHEREAS**, the County of Albemarle intends to provide twenty-four hours per day, seven days per week ambulance transport service beginning on July 1, 2013 to improve emergency response times in the 29 North area; and

**WHEREAS**, Claude and Carol Marsilia have offered a 13-month lease for space in the Village Offices on Berkmar Drive at which the County can locate an interim emergency medical services station until a permanent site can be finalized.

**NOW, THEREFORE, BE IT RESOLVED** that the Albemarle County Board of Supervisors hereby approves the Lease Agreement and authorizes the County Executive to sign the Lease Agreement and any associated documents between the County of Albemarle and Claude and Carol Marsilia after approval as to form and substance by the County Attorney for an interim emergency medical services station at 3042-A Berkmar Drive, Charlottesville, Virginia 22901.

\*\*\*\*\*

**LEASE**

THIS LEASE made as of this 4<sup>th</sup> day of July, 2013, by and between Claude and Carol Marsilia (hereinafter referred to as "Lessor") and the County of Albemarle, Virginia (hereinafter referred to as "Lessee").

W I T N E S E T H:

**ARTICLE I**  
**PREMISES**

1.1 Lessor does hereby demise, rent and lease to Lessee and Lessee hereby rents and takes from Lessor all that certain parcel of improved property known as Unit 7A, Phase-II, Village Offices, Albemarle County, Virginia. The property has a street address of 3042-A Berkmar Drive, Charlottesville, Virginia and is also known as Albemarle County Tax Map Parcel 061U0-03-00-007A0, consisting of approximately 0.10 acres of land and 836 square feet of office space, together with (a) the Lessor's interest in the parking lot and other

common areas of the Village Offices and (b) two (2) parking space(s), located on the side of the building for Lessee's emergency response vehicle(s) (hereinafter collectively referred to as "Premises");

TO HAVE AND TO HOLD the Premises together with all privileges and appurtenances thereunto belonging or appertaining unto Lessee for the full term of this Lease in accordance with the terms and provisions of this Lease.

1.2 Lessor's Title. Lessor covenants that it has both fee simple title to the Premises and full right and authority to make and execute this Lease and perform its obligations hereunder.

## ARTICLE II TERM

2.1 The term of this Lease shall commence on July 4, 2013 and expire on July 31, 2014, both dates inclusive.

2.2 The Lessee shall have the right to six (6), one (1) month extensions of the Lease as long as Lessor received thirty (30) days notice of Lessee's intent to extend.

## ARTICLE III RENTAL

3.1 Lessee shall pay to Lessor at its offices as stipulated in paragraph 15.11, or at such other location as Lessor shall designate in writing, a monthly rental of \$1,025.00 beginning on August 1, 2013. One such monthly installment shall be due and payable without demand on or before the first day of each succeeding calendar month during such term (first rent payment shall be prorated to end of month). The covenant of Lessee to pay rent hereunder is and shall be deemed a separate and individual covenant and Lessee shall have no right of deduction or set-off whatsoever.

3.2 Lessee agrees to pay to Lessor or to the public officer charged with the collection thereof, as additional rent before the same become delinquent, all charges for electric power, telephone, license fees and charges that during the full term of this lease shall be levied, assessed, charged or imposed upon Lessee or Lessee's business, together with all interest and penalties that may accrue thereon, except that:

- (a) Income, sales, use, excise, or other taxes imposed on the rents or other sums payable to Lessor hereunder shall not be chargeable to Lessee;
- (b) Any estate, inheritance, succession or legacy tax or gift tax or capital gains tax or other tax imposed or any transfer of the interest of Lessor shall not be chargeable to Lessee;
- (c) All real estate taxes and assessments shall be paid by Lessor; and
- (d) Water and sewer charges shall be paid by Lessor.

3.3 The Lessor acknowledges receipt of the sum of \$1,025.00 to be held by Lessor as a Security Deposit for the faithful performance by Lessee of the terms, covenants and conditions to be performed hereunder. There shall be no interest payable on such Security Deposit. Any portion of the Security Deposit may be applied towards payment of overdue or unpaid rent at the option of Lessor, or as compensation to Lessor for any loss, damage or expense sustained by Lessor attributable to Lessee's default hereunder. Lessor shall refund the Security Deposit to Lessee thirty (30) days after the expiration of this Lease, or any extensions exercised pursuant to Section 2.2 of this Lease. Lessor may withhold only that portion of the Security Deposit necessary to repair damage to the Premises resulting from the intentional or negligent acts of the Lessee except ordinary wear and tear.

## ARTICLE IV USE

4.1 The Premises shall be used only as offices and lodging for the County Emergency Services personnel and for such other lawful purposes as may be incidental thereto. The Premises shall not be used for any illegal purposes; nor in violation of any regulation of any governmental body; nor in any manner to vitiate the insurance on the Premises. Lessee shall, at its own expense, obtain any and all licenses and permits necessary for its use of the Premises. Without Lessor's prior written consent, Lessee shall not receive, store or otherwise handle any product, material or merchandise which is explosive or highly inflammable. In no event shall any activity carried out on the Premises emit smoke, noxious odor or dust.

4.2 Lessee shall not use the sidewalks, parking area or other parts of the common area for any business purpose except for the parking of vehicles owned or operated by the Lessee, its agents, and/or invitees, and for ingress and egress. Lessee shall have non-exclusive use of such areas in common with other occupants in the complex.

4.3 Lessor gives Lessee exclusive control of the Premises and shall be under no obligation to inspect the Premises. Lessor may, however, inspect the Premises during business hours to determine whether or not Lessee is complying with the terms and provisions of this lease or to show the Premises to prospective purchasers of the Premises or to prospective mortgagees of the Premises and during the last one (1) year of this lease to prospective tenants.

ARTICLE V  
REPAIRS

5.1 Lessor shall, at its expense, maintain the roof, structural parts, and outside walls of the premises. The condominium association for all units in the complex is responsible for all common area maintenance.

5.2 Lessee accepts the Premises in their present condition and as suited for the use intended by Lessee. Lessee shall be responsible for the interior of the building, including all plumbing and heating and air conditioning, subject, however, to the limits set in paragraph 5.3 below. Lessee shall, at the end of the term hereof, deliver possession of the Premises to Lessor in the same condition as the Premises were in on the commencement of the terms hereof, natural wear and tear excepted. Lessee shall not remove any fixtures, machines or equipment from the Premises unless it shall repair and restore any damage caused to Premises caused by the installation, removal or use of said fixtures, equipment or machines and in no event shall it remove any equipment or fixtures from premises if it is in default under this lease.

5.3 Notwithstanding anything herein contained, Lessee shall be required in any twelve (12) month period to spend a maximum of \$200.00 on heating and air conditioning maintenance service (administered by Lessor), \$200.00 on heating and air conditioning repairs, \$200.00 on electrical repairs and \$200.00 on plumbing repairs. Beyond these limits the Lessor shall be responsible for all such repairs. Provided however, electric fixture light bulbs and ballasts shall be Lessee's expense.

5.4 Lessor shall care for the grounds surrounding the building, including the mowing of grass, care of shrubs and general landscaping.

ARTICLE VI  
ALTERATIONS

6.1 Lessee shall not make any alterations, additions or improvements on the Premises without the written consent of Lessor. All such alterations, additions or improvements made by Lessee shall become the property of Lessor upon termination of this Lease.

6.2 At the termination of this lease, Lessee shall, only if requested by Lessor, remove all alterations, additions or improvements erected by Lessee and restore the Premises to their original condition, natural wear and tear excepted. Any such removals and restoration shall be accomplished in a good workmanlike manner. Lessee shall keep Premises free of any mechanic's lien or encumbrances due to Lessee's alterations, additions, removal or improvements.

ARTICLE VII  
DESTRUCTION OR DAMAGE

7.1 In the event that the building on the Premises is totally destroyed or so substantially damaged as to be untenantable by fire, lightning, earthquake, windstorm, or other casualty, and cannot be repaired within a reasonable time, this lease may be terminated by either party upon thirty (30) days written notice to the other, and rent shall be accounted for between Lessor and Lessee as of that date.

7.2 If the building on the Premises, or any part thereof, is damaged but not rendered untenantable by any such casualty, Lessor shall repair the Premises within a reasonable time after receipt of written notice from Lessee of such damage, provided that Lessor shall not be required to rebuild, repair or replace any part of the alterations, additions, improvements, equipment or machinery which may have been placed on the Premises by Lessee. The rent until such repairs shall be made shall be abated proportionately to the part of the building which is usable by Lessee. At the completion of such repairs, full rent shall recommence.

ARTICLE VIII  
INSURANCE

8.1 Lessor will maintain, at its expense, insurance on the Premises against loss or damage by fire, lightning and other risks. No furniture, equipment, fixtures, improvements or other property of Lessee will be included in said coverage. Lessee must provide its own coverage for any of its property.

ARTICLE IX  
CONDEMNATION

9.1 If during the term of this lease the Premises or any part thereof be condemned or taken by any governmental authority or any corporation having the power of eminent domain, the court in such condemnation proceedings shall be requested to make separate awards to Lessor and Lessee, and Lessor and Lessee agree to request such action by such court; however, in the event that the court grants only one award then it shall be the sole and exclusive property of the Lessor, and Lessee shall make no claim against this award. If the entire Premises are condemned, or if a substantial portion of the Premises is taken and the portion remaining after such condemnation proceedings shall not be suitable for Lessee's use, this lease shall terminate as of the date of taking. If the portion of the Premises remaining after such condemnation proceedings shall be suitable for Lessee's use, the rent payable by Lessee to Lessor after taking shall be reduced to the proportion of the rent stipulated hereunder which shall be the market value of the Premises remaining after the taking bears to the market value of the Premises immediately prior to the taking.

ARTICLE X  
LIABILITY

10.1 Lessee shall keep in full force and effect a policy or policies of public liability insurance with respect to the Premises and the business of Lessee, in which both Lessee and Lessor shall be adequately covered under reasonable limits of liability of not less than \$250,000 per person and \$500,000 per occurrence with \$50,000 coverage for property damage.

10.2 Lessee shall furnish Lessor with certificates that all such insurance is in effect and that all of said policies contain provision prohibiting cancellation without at least 15 days notice to Lessor.

10.3 All of Lessee's property of every kind or description which may at any time be on the Premises shall be at Lessee's risk and Lessor shall not be liable for any damages to said property or loss suffered by the business or occupation of Lessee caused by water from any source whatsoever or from the bursting, overflowing or leaking of sewer or from the heating or plumbing fixtures or from electrical wires or from gas or odors caused in any manner whatsoever except as may result from or be caused by the negligence of Lessor and/or its agents or employees.

ARTICLE XI  
DEFAULTS AND REMEDIES

11.1 If Lessee fails to keep or perform any covenant or provision of this lease (except payment of any installment of rent or other charge or money obligation herein required to be paid by Lessee) or violates any such covenant or provision, Lessor may, in addition to any other remedies at law or in equity or elsewhere provided for in this lease, without notice, enjoin Lessee from any such failure or violation.

11.2 Any installment of rent or any other charge or money obligation herein required to be paid by Lessee which is not paid within five days when due shall bear a late charge of five percent (5%) and Lessor may treat any such charge or money obligation as additional rent hereunder.

11.3 The occurrence of any of the following is deemed to be an event of default under this lease:

- (a) The making by Lessee of an assignment for the benefit of its creditors;
- (b) The levying of a writ of execution or attachment on or against the property of Lessee and the same not being released or discharged within thirty (30) days thereafter;
- (c) The institution of proceedings for the reorganization, liquidation or involuntary dissolution of Lessee, or for its adjudication as a bankrupt or an insolvent, or for the appointment of a receiver of the property of Lessee, and said proceeding not being dismissed, and any receiver, trustee or liquidator appointed therein not discharged within thirty (30) days after the institution of such proceedings;
- (d) The doing or permitting to be done of any act by Lessee which creates a claim or a lien therefor against the building and the same not being released or otherwise provided for by indemnification satisfactory to Lessor within thirty (30) days thereafter; or
- (e) Failure of Lessee to pay any installment of rent or other charge or money obligation herein required to be paid by Lessee or to comply with any other covenant or provision of this lease within ten (10) days after written notice of such failure is given by Lessor, or if it is not possible to cure such failure within such period promptly after receipt of such notice, to advise Lessor in writing of Lessee's intention duly to institute all steps necessary to cure such failure or violation and to begin performance of such covenant within such period and diligently to pursue performance to completion in a reasonable time thereafter.

11.4 In the event of default, Lessor has the option of pursuing any one or more of the following remedies without any notice or demand whatsoever:

- (a) Terminate this lease, in which event Lessee shall immediately surrender Premises to Lessor, and if Lessee fails to do so, Lessor may, without prejudice to any other remedy which Lessor may have, enter upon and take possession of Premises and expel or remove Lessee and any other person who may be occupying the Premises or any part thereof, by force, if necessary, without being liable for prosecution or any claim of damages therefor; and/or
- (b) Enter upon and take possession of Premises and expel or remove Lessee and any other person who may be occupying Premises or any part thereof, without being liable for prosecution or any claim of damages therefor, and, if Lessor so elects, make such alterations and repairs as may be necessary to relet Premises, and relet Premises or any part thereof at such rent and for such period of time and subject to such terms and conditions as Lessor may deem advisable and receive the rent therefor. Upon each such reletting all rent received by the Lessor from such reletting shall be applied first to the payment of any loss and expenses of such reletting, including brokerage fees and costs of such alterations and repairs; second to the payment of any indebtedness other than rent due hereunder from Lessee to Lessor; third to the payment of rent due and unpaid hereunder; and the residue, if any, shall be held by Lessor and applied in payment of future rent as the same may become due and payable hereunder. Lessee agrees to pay to Lessor on demand any deficiency that may arise by reason of such reletting. Notwithstanding any such reletting without termination,

Lessor may at any time thereafter elect to terminate this lease for such previous breach; and/or

- (c) Lessor may, in addition to any other remedies at law or in equity or elsewhere in this lease provided, cure or prosecute the curing of such failure or violation at reasonable expenses, which expenses shall be paid to Lessor by Lessee on demand. Lessee agrees that in the event of any failure or violation covered by this Article and Lessor's failure to give notice or to exercise any rights under this Article, all rights of Lessor under this Article may be exercised by persons acting on behalf of Lessor, under authority granted by Lessor, with full right of reimbursement as provided hereunder. Lessee agrees that neither Lessor nor any such person acting on its behalf shall be liable for any damage resulting to the Lessee by the exercise of the rights granted under this Article.

11.5 Should Lessor terminate this lease in accordance with the provisions of this Article, Lessor may in addition to any other remedies it may have, recover from Lessee all damages Lessor may incur by reason of such breach, including the cost of recovering Premises, and including the worth at the time of such termination of the excess, if any, of the amount of rent and charges equivalent to rent reserved in this lease for the remainder of the lease term over the then reasonable rental value of Premises for the remainder of the lease term, all of which amounts shall be immediately due and payable from Lessee to Lessor.

11.6 Pursuit of any of the foregoing remedies shall not preclude pursuit of any of the other remedies herein provided or any other remedies provided by law, nor shall pursuit of any remedy herein provided constitute a forfeiture or waiver of any rent due to Lessor hereunder or of any damages accruing to Lessor by reason of the violation of any of the covenants and provisions herein contained.

## ARTICLE XII SERVICES

12.1 Lessee agrees to pay all charges incurred for any utility services used on the Premises except for water and sewer charges, which shall be paid by Lessor. Lessor shall in no event be liable for any interruption or failure of utility services on the Premises, but shall make reasonable effort to secure speedy resumption of said interrupted service.

## ARTICLE XIII SUBORDINATION

13.1 This lease and all rights of Lessee hereunder are and shall be subject and subordinate to the lien of any mortgage, deed to secure debt, deed of trust or other instrument in the nature thereof which may now or hereafter affect Lessor's fee title to the Premises; provided, however, that the foregoing provision shall only be applicable with respect to those mortgages to which Lessee has been provided a Subordination, Non-Disturbance and Attornment Agreement ("Non-Disturbance Agreement"), providing generally that the mortgagee or any purchaser at the foreclosure of the mortgage will not disturb Lessee's possession of the Premises and that Lessee will attorn to such mortgagee or purchaser at foreclosure as Lessor under the terms and conditions of this Lease upon receiving written notice that such party has succeeded to the interest of Lessor under this Lease. In confirmation of such subordination, Lessee shall join with any such mortgagee and execute promptly (and, in any event, within thirty (30) business days after receipt of a written request therefor) a Non-Disturbance Agreement. Lessee's obligation to join with any mortgagee in the execution of a Non-Disturbance Agreement shall be applicable with respect to all present and future mortgages to which Lessor requests Lessee's execution of a Non-Disturbance Agreement. Lessor represents that there is no mortgage existing as of the date hereof.

## ARTICLE XIV SUBLETTING AND ASSIGNMENTS

14.1 Lessee shall not have the right to assign this lease or any interest hereunder, or sublet the Premises, or any part thereof, to one or more subtenants, without the express written consent of Lessor, which consent shall not be unreasonably withheld. Notwithstanding any such assignment or subletting, Lessee shall at all times remain fully responsible and liable for the payment of the rent herein specified and for compliance with all of Lessee's other obligations under the terms, provisions and covenants of this lease.

14.2 Upon the occurrence of any default by Lessee as herein defined, if the Premises or any part thereof are then assigned or sublet, Lessor, in addition to any other remedies herein provided, or provided by law, may at its option collect directly from such assignee or subtenant all rents becoming due to Lessee under such assignment or sublease and apply such rent against any sum due to Lessor by Lessee hereunder, and such collection shall not be construed to constitute a novation nor a release of Lessee from the further performance of its obligations hereunder.

## ARTICLE XV MISCELLANEOUS

15.1 The words "terminate" or "termination" as used herein shall refer to the end of this lease whether due to the expiration of the term hereof or the earlier ending of this lease in accordance with the terms and provisions hereof.

15.2 No failure of Lessor or Lessee to exercise any power given Lessor or Lessee hereunder or to insist upon strict compliance by Lessor or Lessee with its obligations hereunder, and no custom or practice of the parties at variance with the terms hereof shall constitute a waiver of Lessor's or Lessee's right to demand exact compliance with the terms hereof.

15.3 All rights, powers and privileges conferred herein upon the parties hereto shall be cumulative but not restrictive to those given by law.

15.4 The captions used in this lease are for convenience only and do not in any way limit or amplify the terms and provisions hereof.

15.5 One or more waivers of any covenant, term or condition of this lease by either party shall not be construed as a waiver or subsequent breach of the same covenant, term or condition. The consent or approval by either party to or of any act by the other party requiring such consent or approval shall not be deemed to waive or render unnecessary consent to or approval of any subsequent similar act.

15.6 This lease contains the entire agreement of the parties and no representations or agreements, oral or otherwise, between the parties not embodied herein, shall be of any force or effect.

15.7 Time is of the essence of this agreement.

15.8 This contract shall create the relationship of landlord and tenant between Lessor and Lessee; no estate shall pass out of Lessor; Lessee has only a usufruct, not subject to levy and sale.

15.9 If Lessee remains in possession after expiration of the term hereof, with Lessor's acquiescence and without any agreement of parties, Lessee shall be a tenant at will; and there shall be no renewal of this lease by operation of law.

15.10 The term "Lessor" as used in this lease means only the owner for the time being of the Premises so that in the event of any sale or sales thereof, Lessor, who is grantor in any such sale, shall be and hereby is entirely free and relieved of all of the obligations of Lessor hereunder. Any such sale of the premises or any interest therein shall be subject to this lease, and it shall be deemed and construed without further agreement that the purchaser at any such sale has assumed and agreed to carry out any and all obligations of Lessor in this lease so long as such purchaser shall be the owner of the Premises.

15.11 All notices required to be given to Lessor hereunder shall, until contrary instructions are given to Lessee in writing, be effectively given to Lessor if mailed by registered or certified mail, return receipt requested, to Lessor:

Claude and Carol Marsilia  
115 Paynes Landing Road  
Scottsville, VA 24590

All notices required to be given to Lessee hereunder shall, until contrary instructions are given to Lessor in writing, be effectively given to Lessee if personally delivered or mailed, by registered or certified mail, return receipt requested, to Lessee:

Attention: Chief Dan Eggleston  
County of Albemarle, Virginia  
Fire and Rescue Division  
460 Stagecoach Road  
Charlottesville, VA 22902

15.12 If any clause or provision of this lease is or becomes illegal, invalid or unenforceable because of present or future laws or any rule or regulation of any governmental body or entity, effective during its term, or becomes unenforceable because of ambiguity or judicial construction, the intention of the parties hereto is that the remaining parts of this Lease shall not be affected thereby.

15.13 This Lease is subject to annual funding by the Board of Supervisors of the County of Albemarle, Virginia. In the event the Board of Supervisors fails to appropriate funds necessary to perform the obligations specified hereunder, this Lease shall be deemed cancelled, with no penalty to the Lessee, and of no effect. Notice of such cancellation must be given to the Lessor within thirty (30) days of the Board of Supervisors' final approval of the annual County budget. However, the failure of the Lessee to provide such notice shall not invalidate any non-appropriation decision by the County. In the event that this Lease is cancelled for the reasons set forth in this paragraph, the Lessor will be paid for any amounts due and owing as of the date of cancellation in accordance with the Lease, excluding any prospective amounts. Notwithstanding the above, Lessee is to give notice to Lessor not later than July 5, 2013 of its intent to fulfill the Lease obligations.

#### ADDENDUM -1

1. Electric – Lessee agrees to pay all charges incurred for any utility services used on the premises except for water and sewer charges, which shall be paid by Lessor. Lessee shall pay thirty-four percent (34%) of the electric bill to the adjacent Lessee (3042-A) within thirty (30) days after presentation of a copy of the Dominion Virginia Power invoice thereof. Lessee shall be provided a receipt for all payments made pursuant to this Addendum. Lessor shall in no event be liable for any interruption or failure of utility services on the Premise, but shall make reasonable effort to secure speedy resumption of said interrupted service.

IN WITNESS WHEREOF the Lessor and Lessee have caused these presents to be executed under seal on the date first above written.

LESSOR:  
By: \_\_\_\_\_ (Signed) \_\_\_\_\_  
Claude Marsilia  
Date: June 27, 2013  
By: \_\_\_\_\_ (Signed) \_\_\_\_\_  
Carol Marsilia

LESSEE:  
By: \_\_\_\_\_ (Signed) \_\_\_\_\_  
Thomas C. Foley, County Executive  
Date: July 3, 2013

Date: June 27, 2013

Item No. 8.3. Resolution to Authorize Inmate Community Workforce Program.

The executive summary states that Community Work Force Program was established by the Albemarle-Charlottesville Regional Jail for incarcerated non-violent inmates convicted of misdemeanors that meet specific eligibility criteria and guidelines. The Program provides these inmates the opportunity to work on County-owned property, and on certain other property specified in Virginia Code § 53.1-128, while serving their sentences. The Albemarle County Department of Parks and Recreation has used selected crews of inmates since September 2004 to perform routine maintenance and improvements and enhancements of the County's parks and Greenway/Recreational Trail System. Crews of inmates have provided over 30,635 hours of labor in the County. When valued at \$9.00 an hour, inmate work forces have provided worked valued at \$275,715. A large portion of those hours has been on projects where contractor prices have been a bench mark to estimate the overall project cost and value of the program. The net savings to the County since 2004 has been \$534,857. The Board previously adopted a Resolution of Support for the Inmate Workforce/Community Service Program at its May 9, 2012 meeting. (Attachment B)

According to a 2004 citizen Needs Assessment Study, respondent households ranked continued upkeep and maintenance of existing facilities as the most important action from a list of 13 possible actions that the Parks and Recreation Department could take to improve the Parks and Recreation system.

As the Parks and Recreation Department continues to take on additional maintenance responsibilities with new facilities and the expanding Greenway/Recreational Trail System, the Inmate Community Workforce Program has improved and expanded the level of routine maintenance and has assisted with new maintenance requirements and responsibilities. With Inmate Community Workforce labor, the Parks and Recreation Department has opened two new park facilities in 2011 (the Patricia Ann Byrom Forest Preserve Park and the Preddy Creek Trails Park) and has added over 23.5 miles of recreational multi-use trails.

The Albemarle-Charlottesville Regional Jail provides training for those supervising inmates and the Albemarle County Parks and Recreation Department has prepared Standard Operating Procedures (SOP's) for all of its trained employees who supervise inmates. The SOP's expands on the current guidelines and policies established by the Albemarle-Charlottesville Regional Jail. The County Attorney's Office has reviewed and approved the Resolution and the SOP's as to form.

An estimated full year of inmate labor provides an annual savings to the County in excess of \$90,000.00.

Staff recommends that the Board adopt the attached Resolution, (Attachment A) re-establishing inmate work forces from the Albemarle-Charlottesville Regional Jail to work on property owned, leased or operated by the County of Albemarle and on other property specified in Virginia Code § 53.1-128.

**By the above-recorded vote, the Board adopted the following Resolution, re-establishing inmate work forces from the Albemarle-Charlottesville Regional Jail to work on property owned, leased or operated by the County of Albemarle and on other property specified in Virginia Code § 53.1-128:**

**RESOLUTION AUTHORIZING  
THE ALBEMARLE-CHARLOTTESVILLE REGIONAL JAIL  
TO ESTABLISH WORK FORCES PURSUANT TO VIRGINIA CODE § 53.1-128**

**WHEREAS**, the County of Albemarle, Virginia is a member of the Albemarle-Charlottesville Regional Jail; and

**WHEREAS**, Virginia Code § 53.1-128 allows the County to establish work forces to work on public property owned, leased or operated by the County; and on other property specified therein; and

**WHEREAS**, persons 18 years of age or older who are convicted and confined for any violation of a local ordinance and who are confined as a punishment or for failure to pay a required fine, may work in such workforce.

**NOW, THEREFORE, BE IT RESOLVED THAT** the Board of Supervisors for the County of Albemarle hereby establishes work forces in the County pursuant to Virginia Code § 53.1-128 and authorizes persons eighteen years of age or older to work on property owned, leased or operated by the County and on other

property specified therein, when the person is convicted and confined for any violation of a local ordinance and is confined as a punishment or is confined for failure to pay a required fine.

Item No. 8.4. FY 2013 Budget Amendment and Appropriations.

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

The total increase to the FY 13 budget due to the appropriations itemized below is \$1,624,942.00. A budget amendment public hearing is not required because the amount of the cumulative appropriations does not exceed one percent of the currently adopted budget.

This request involves the approval of five (5) appropriations as follows:

- One (1) appropriation (#2013099) totaling \$1,524,641.00 for Comprehensive Services Act expenditures;
- One (1) appropriation (#2013100) totaling \$6,120.00 for the courts facilities appraisals;
- One (1) appropriation (#2013101) that transfers \$57,564.94 from the Family Support Fund to the General Fund, reducing the planned use of General Fund fund Balance. The appropriation will not increase the County Budget;
- One (1) appropriation (#2013102) totaling \$94,181.00 to adjust the amounts budgeted for the Criminal Justice Program grants administered by Offender Aid and Restoration; and
- One (1) appropriation (#2013103) that transfers \$146,715.27 from the Performance Incentive Pool to the appropriate departments. The appropriation will not increase the County Budget.

Staff recommends approval of appropriations #2013099, #2013100, #2013101, #2013102, and #2013103 to provide funds for various local government projects and programs as described in Attachment A.

\*\*\*\*\*

<b><u>Appropriation #2013099</u></b>		<b><u>\$1,524,641.00</u></b>
Source:	State Revenue	\$ 1,506,188.00
	CSA Fund fund balance	\$ 18,453.00

This request is to appropriate \$1,524,641.00 for Comprehensive Services Act (CSA) expenditures based on increasing trends and anticipated expenditures for this fund. These expenditures will be funded through \$1,506,188.00 in State revenue and \$18,453.00 in CSA Fund fund balance. Because these expenditures can vary significantly year-to-year, the CSA fund maintains a fund balance for this circumstance.

<b><u>Appropriation #2013100</u></b>		<b><u>\$6,120.00</u></b>
Source:	Gen. Gov't. Capital Fund fund bal	\$ 6,120.00

This request is to appropriate \$6,120.00 from the General Government Capital Fund fund balance to support the County's share of the Courts Facility Project appraisal for four parcels, including the Levy Building Facility, the Levy Building Lot, the Jessup House Facility, and the Market Street Parking Lot. The total cost of the appraisal is \$12,000.00, which is shared with the City of Charlottesville. The County's share is \$6,000.00. The 2% City Administration fee totals \$120.00.

<b><u>Appropriation #20130101</u></b>		<b><u>\$0.00</u></b>
---------------------------------------	--	----------------------

The appropriation will not increase the County Budget.

Source:	Family Support Fund Fund Balance	\$ 57,564.94
	General Fund Fund Balance	\$ (57,564.94)

This request is to appropriate and transfer \$57,564.94 from the fund balance in the Family Support Fund. The Family Support Program provides prevention and intervention services that support children's growth and development, strengthens families, and promotes school success through home, school, and community collaboration. The Fund was initially set up as a separate Fund, but is no longer required to be separated, as the Program is now budgeted in the General Fund. This will reduce the planned use of General Fund fund balance in FY 12/13 by the same amount.

<b><u>Appropriation #20130102</u></b>		<b><u>\$94,181.00</u></b>
Source:	State Revenue	\$ 69,181.00
	Recovered Costs	\$ 25,000.00

This request is to appropriate \$94,181.00 to increase the amounts budgeted for the Criminal Justice Program grants administered by Offender Aid and Restoration. Criminal Justice Programs are funded through grants from the Department of Criminal Justice Services and are administered by Offender Aid and Restoration – Jefferson Area Community Corrections (OAR-JACC). These programs include services under the Pretrial Services Act and Comprehensive Community Corrections Act.

**Appropriation #20130103**

**\$0.00**

The appropriation will not increase the County Budget.

Source: Performance Incentive Pool \$ 146,715.27

In the FY 12/13 budget, the Board approved \$150,000.00 for a performance-based recognition program. The objective of the program is to award lump-sum bonuses at the end of FY 12/13 to certain employees based on demonstrated success in accordance with the Local Government mission, values and the recently approved [FY13-17 Strategic Plan goals](#). This appropriation distributes funding from the Performance Incentive Pool to the various departments based on employee performance.

**By the above-recorded vote, the Board approved appropriations #2013099, #2013100, #2013101, #2013102, and #2013103 to provide funds for various local government projects and programs.**

COUNTY OF ALBEMARLE			
APPROPRIATION SUMMARY			
APP#	ACCOUNT	AMOUNT	DESCRIPTION
2013099	3-1551-24000-324000-240109-1005	1,506,188.00	State revenue
2013099	3-1551-51000-351000-510100-9999	18,453.00	App fund balance
2013099	4-1551-53120-453010-581001-1005	1,524,641.00	CSA mandated services
2013100	3-9010-51000-351000-510100-9999	6,120.00	App fund balance
2013100	4-9010-21005-421005-312345-2180	6,120.00	Prof Serv: Appraisal
2013101	3-1000-51000-351000-510100-9999	-57,564.94	App Fund Balance
2013101	3-1000-51000-351000-512077-9999	57,564.94	Transfer from Family Support fund 1557
2013101	3-1557-51000-351000-510100-9999	57,564.94	App Fund Balance
2013101	4-1557-53150-453010-930009-1005	57,564.94	Transfer to GF
2013102	3-1520-19000-319000-199900-9999	25,000.00	Other Recovered Costs
2013102	3-1520-24000-324000-240440-9999	69,181.00	DCJS-Community Correction
2013102	4-1520-29406-421090-566120-1003	108,298.00	OAR: Offender Aid Restora
2013102	4-1520-29406-421090-580300-1003	-14,117.00	Refunds
2013103	4-1000-11010-411010-110000-1001	670.82	Performance Incentive Pool
2013103	4-1000-11010-411010-210000-1001	51.32	Performance Incentive Pool
2013103	4-1000-12010-412010-110000-1001	782.63	Performance Incentive Pool
2013103	4-1000-12010-412010-210000-1001	59.87	Performance Incentive Pool
2013103	4-1000-12013-412010-110000-1001	1,006.23	Performance Incentive Pool
2013103	4-1000-12013-412010-210000-1001	76.98	Performance Incentive Pool
2013103	4-1000-12031-412030-110000-1001	335.41	Performance Incentive Pool
2013103	4-1000-12031-412030-210000-1001	25.66	Performance Incentive Pool
2013103	4-1000-12040-412040-110000-1001	2,124.28	Performance Incentive Pool
2013103	4-1000-12040-412040-210000-1001	162.51	Performance Incentive Pool
2013103	4-1000-12141-412140-110000-1001	1,341.66	Performance Incentive Pool
2013103	4-1000-12141-412140-210000-1001	102.64	Performance Incentive Pool
2013103	4-1000-12142-412140-110000-1001	3,130.51	Performance Incentive Pool
2013103	4-1000-12142-412140-210000-1001	239.48	Performance Incentive Pool
2013103	4-1000-12143-412140-110000-1001	1,677.05	Performance Incentive Pool
2013103	4-1000-12143-412140-210000-1001	128.29	Performance Incentive Pool
2013103	4-1000-12144-412140-110000-1001	1,565.26	Performance Incentive Pool
2013103	4-1000-12144-412140-210000-1001	119.74	Performance Incentive Pool
2013103	4-1000-12145-412140-110000-1001	447.22	Performance Incentive Pool
2013103	4-1000-12145-412140-210000-1001	34.21	Performance Incentive Pool
2013103	4-1000-12146-412140-110000-1001	670.83	Performance Incentive Pool
2013103	4-1000-12146-412140-210000-1001	51.32	Performance Incentive Pool
2013103	4-1000-12147-412140-110000-1001	1,341.65	Performance Incentive Pool
2013103	4-1000-12147-412140-210000-1001	102.64	Performance Incentive Pool
2013103	4-1000-12150-412150-110000-1001	1,118.04	Performance Incentive Pool
2013103	4-1000-12150-412150-210000-1001	85.53	Performance Incentive Pool
2013103	4-1000-12200-412200-110000-1001	4,919.39	Performance Incentive Pool
2013103	4-1000-12200-412200-210000-1001	376.33	Performance Incentive Pool
2013103	4-1000-13020-413020-110000-1001	1,006.23	Performance Incentive Pool
2013103	4-1000-13020-413020-210000-1001	76.98	Performance Incentive Pool
2013103	4-1000-21070-421070-110000-1002	2,571.51	Performance Incentive Pool
2013103	4-1000-21070-421070-210000-1002	196.72	Performance Incentive Pool
2013103	4-1000-22010-422010-110000-1002	3,577.76	Performance Incentive Pool
2013103	4-1000-22010-422010-210000-1002	273.70	Performance Incentive Pool
2013103	4-1000-31013-431010-110000-1003	36,336.29	Performance Incentive Pool
2013103	4-1000-31013-431010-210000-1003	2,779.73	Performance Incentive Pool
2013103	4-1000-32011-432010-110000-1003	1,453.45	Performance Incentive Pool
2013103	4-1000-32011-432010-210000-1003	111.19	Performance Incentive Pool
2013103	4-1000-32012-432010-110000-1003	335.41	Performance Incentive Pool
2013103	4-1000-32012-432010-210000-1003	25.66	Performance Incentive Pool
2013103	4-1000-32013-432010-110000-1003	782.63	Performance Incentive Pool
2013103	4-1000-32013-432010-210000-1003	59.87	Performance Incentive Pool
2013103	4-1000-32015-432010-110000-1003	2,124.27	Performance Incentive Pool
2013103	4-1000-32015-432010-210000-1003	162.51	Performance Incentive Pool
2013103	4-1000-34050-434050-110000-1003	559.02	Performance Incentive Pool
2013103	4-1000-34050-434050-210000-1003	42.77	Performance Incentive Pool
2013103	4-1000-43201-443200-110000-1004	1,229.84	Performance Incentive Pool

2013103	4-1000-43201-443200-210000-1004	94.08	Performance Incentive Pool
2013103	4-1000-43202-443200-110000-1004	1,118.04	Performance Incentive Pool
2013103	4-1000-43202-443200-210000-1004	85.53	Performance Incentive Pool
2013103	4-1000-43203-443200-110000-1004	894.44	Performance Incentive Pool
2013103	4-1000-43203-443200-210000-1004	68.42	Performance Incentive Pool
2013103	4-1000-43204-443200-110000-1004	447.22	Performance Incentive Pool
2013103	4-1000-43204-443200-210000-1004	34.21	Performance Incentive Pool
2013103	4-1000-43205-482040-110000-1004	670.82	Performance Incentive Pool
2013103	4-1000-43205-482040-210000-1004	51.32	Performance Incentive Pool
2013103	4-1000-43206-443200-110000-1004	559.02	Performance Incentive Pool
2013103	4-1000-43206-443200-210000-1004	42.77	Performance Incentive Pool
2013103	4-1000-43207-443200-110000-1004	223.61	Performance Incentive Pool
2013103	4-1000-43207-443200-210000-1004	17.11	Performance Incentive Pool
2013103	4-1000-53011-453010-110000-1005	4,024.94	Performance Incentive Pool
2013103	4-1000-53011-453010-210000-1005	307.91	Performance Incentive Pool
2013103	4-1000-53012-453010-110000-1005	8,161.69	Performance Incentive Pool
2013103	4-1000-53012-453010-210000-1005	624.37	Performance Incentive Pool
2013103	4-1000-53013-453010-110000-1005	10,621.37	Performance Incentive Pool
2013103	4-1000-53013-453010-210000-1005	812.53	Performance Incentive Pool
2013103	4-1000-53015-453010-110000-1005	2,347.89	Performance Incentive Pool
2013103	4-1000-53015-453010-210000-1005	179.61	Performance Incentive Pool
2013103	4-1000-53150-453010-110000-1005	4,628.70	Performance Incentive Pool
2013103	4-1000-53150-453010-210000-1005	354.10	Performance Incentive Pool
2013103	4-1000-71011-471010-110000-1007	335.41	Performance Incentive Pool
2013103	4-1000-71011-471010-210000-1007	25.66	Performance Incentive Pool
2013103	4-1000-71012-471010-110000-1007	3,577.73	Performance Incentive Pool
2013103	4-1000-71012-471010-210000-1007	273.70	Performance Incentive Pool
2013103	4-1000-71014-471010-110000-1007	335.41	Performance Incentive Pool
2013103	4-1000-71014-471010-210000-1007	25.66	Performance Incentive Pool
2013103	4-1000-71017-471010-110000-1007	447.22	Performance Incentive Pool
2013103	4-1000-71017-471010-210000-1007	34.21	Performance Incentive Pool
2013103	4-1000-81021-481020-110000-1008	10,956.78	Performance Incentive Pool
2013103	4-1000-81021-481020-210000-1008	838.19	Performance Incentive Pool
2013103	4-1000-81023-481020-110000-1008	1,006.23	Performance Incentive Pool
2013103	4-1000-81023-481020-210000-1008	76.98	Performance Incentive Pool
2013103	4-1000-81030-481030-110000-1008	1,341.65	Performance Incentive Pool
2013103	4-1000-81030-481030-210000-1008	102.64	Performance Incentive Pool
2013103	4-1000-82030-482030-110000-1008	447.22	Performance Incentive Pool
2013103	4-1000-82030-482030-210000-1008	34.21	Performance Incentive Pool
2013103	4-1000-83000-483000-110000-1008	335.41	Performance Incentive Pool
2013103	4-1000-83000-483000-210000-1008	25.66	Performance Incentive Pool
2013103	4-1000-31013-431010-930200-1003	842.50	Transfer to Victim Witness Fund 1225
2013103	4-1000-53013-453010-930208-1005	1,275.75	Transfer to Bright Staras Fund 1553
2013103	4-1000-93010-493010-930230-9999	962.85	Transfer to OFD Fund 1925
2013103	4-1000-93010-493010-930205-9999	361.07	Transfer to Fund 3317
2013103	4-1000-35600-435600-700001-1003	9,508.25	Contribution to ECC
2013103	4-1000-71002-471000-700007-1007	722.14	Transfer to Towe Park Fund 4200
2013103	4-1000-99900-499000-999982-9999	-146,715.27	Distribution of Pool
2013103	4-1225-31012-431010-110000-1003	782.63	Performance Incentive Pool
2013103	4-1225-31012-431010-210000-1003	59.87	Performance Incentive Pool
2013103	3-1225-51000-351000-512004-9999	842.50	Transfer from General Fund
2013103	4-1553-51122-453010-110000-1005	134.16	Performance Incentive Pool
2013103	4-1553-51122-453010-210000-1005	10.26	Performance Incentive Pool
2013103	4-1553-51129-453010-110000-1005	134.16	Performance Incentive Pool
2013103	4-1553-51129-453010-210000-1005	10.26	Performance Incentive Pool
2013103	4-1553-51150-453010-110000-1005	134.16	Performance Incentive Pool
2013103	4-1553-51150-453010-210000-1005	10.26	Performance Incentive Pool
2013103	4-1553-51152-453010-110000-1005	178.89	Performance Incentive Pool
2013103	4-1553-51152-453010-210000-1005	13.69	Performance Incentive Pool
2013103	4-1553-51153-453010-110000-1005	134.16	Performance Incentive Pool
2013103	4-1553-51153-453010-210000-1005	10.26	Performance Incentive Pool
2013103	4-1553-51154-453010-110000-1005	335.41	Performance Incentive Pool
2013103	4-1553-51154-453010-210000-1005	25.66	Performance Incentive Pool
2013103	4-1553-51157-453010-110000-1005	134.16	Performance Incentive Pool
2013103	4-1553-51157-453010-210000-1005	10.26	Performance Incentive Pool
2013103	3-1553-51000-351000-512004-9999	1,275.75	Transfer from General Fund
2013103	4-1925-43100-443100-110000-1004	894.43	Performance Incentive Pool
2013103	4-1925-43100-443100-210000-1004	68.42	Performance Incentive Pool
2013103	3-1925-51000-351000-512004-9999	962.85	Transfer from General Fund
2013103	4-3317-63317-461108-111400-6599	335.41	Performance Incentive Pool
2013103	4-3317-63317-461108-210000-6599	25.66	Performance Incentive Pool
2013103	3-3317-51000-351000-512004-9999	361.07	Transfer from General Fund
2013103	4-4100-31040-435600-110000-1003	4,583.99	Performance Incentive Pool
2013103	4-4100-31040-435600-210000-1003	350.68	Performance Incentive Pool
2013103	4-4100-31041-435600-110000-1003	1,229.85	Performance Incentive Pool
2013103	4-4100-31041-435600-210000-1003	94.08	Performance Incentive Pool
2013103	4-4100-31043-435600-110000-1003	1,229.85	Performance Incentive Pool
2013103	4-4100-31043-435600-210000-1003	94.08	Performance Incentive Pool
2013103	4-4100-31047-435600-110000-1003	670.83	Performance Incentive Pool
2013103	4-4100-31047-435600-210000-1003	51.32	Performance Incentive Pool

2013103	4-4100-31049-435600-110000-1003	1,118.04	Performance Incentive Pool
2013103	4-4100-31049-435600-210000-1003	85.53	Performance Incentive Pool
2013103	3-4100-16000-316000-160503-9999	9,508.25	Albemarle
2013103	4-4200-71002-471010-110000-1007	670.82	Performance Incentive Pool
2013103	4-4200-71002-471010-210000-1007	51.32	Performance Incentive Pool
2013103	3-4200-16000-316000-160508-9999	722.14	Transfer from General Fund

Item No. 8.5. Resolution to accept Timberwood Boulevard into the State Secondary System of Highways.

**By the above-recorded vote, the Board adopted the following resolution, at the request of the County Engineer:**

The Board of County Supervisors of Albemarle County, Virginia, in regular meeting on the 3rd day of July, 2013, adopted the following resolution:

#### R E S O L U T I O N

WHEREAS, **Timberwood Boulevard**, as described on the attached Additions Form AM-4.3 dated **July 3, 2013**, fully incorporated herein by reference, is shown on plats recorded in the Clerk's Office of the Circuit Court of Albemarle County, Virginia; and

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

NOW, THEREFORE, BE IT RESOLVED, that the Albemarle Board of County Supervisors requests the Virginia Department of Transportation to add **Timberwood Boulevard**, as described on the attached Additions Form AM-4.3 dated **July 3, 2013**, to the secondary system of state highways, pursuant to §33.1-229, Code of Virginia, and the Department's Subdivision Street Requirements; and

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

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

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

- 1) **Timberwood Boulevard (State Route 1721)** from Airport Road, 0.1405 miles north, as shown on plat recorded in the office the Clerk of Circuit Court of Albemarle County in Deed Book 4351, page 705, with a 58-foot right-of-way width, for a length of 0.14 miles.

Total Mileage – 0.14

Item No. 8.6. Resolution to Appoint Robert Gilmer as Assistant Fire Marshal's with Police Powers.

The executive summary states that they Albemarle County Code § 6-111 establishes the Office of the Fire Marshal pursuant to Virginia Code § 27-30 and allows for the appointment of Assistant Fire Marshals pursuant to Virginia Code § 27-36. Albemarle County Code § 6-111 further provides that the Fire Marshal and/or Assistant Fire Marshals shall be authorized to exercise all of the powers authorized by Title 27 of the Virginia Code and the Virginia Statewide Fire Code, which includes the authority to be appointed with police powers as authorized by Virginia Code § 27-34.2:1.

Robert Gilmer was appointed as an Assistant Fire Marshal by the Board on June 6, 2012. At that time, he had not completed the training classes required to exercise police powers, so he was appointed without that authority. Assistant Fire Marshal Gilmer completed all of the required training required to exercise police powers on June 7, 2013. The appointment of Robert Gilmer as an Assistant Fire Marshal with police powers is necessary for the efficient operation of the Albemarle County Fire Marshal's Office. Adoption of the attached resolution (Attachment A) to appoint Robert Gilmer as an Assistant Fire Marshal with police powers would authorize him to fulfill all the necessary duties of the Office of the Fire Marshal and to exercise the same powers as a sheriff, police officer or other law enforcement officer as provided for in Title 27 of the Virginia Code and the Virginia Statewide Fire Code.

With completion of the training, Robert Gilmer became eligible to be elevated from an Assistant Fire Marshal I (pay grade 14) to an Assistant Fire Marshal II (pay grade 15) as provided for in the job descriptions of each position.

Staff recommends that the Board adopt the attached resolution appointing Robert Gilmer as an Assistant Fire Marshal with police powers.

**By the above-recorded vote, the Board adopted the following resolution appointing Robert Gilmer as an Assistant Fire Marshal with police powers:**

**RESOLUTION TO APPOINT ROBERT GILMER  
AS AN ASSISTANT FIRE MARSHAL WITH POLICE POWERS**

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

**WHEREAS**, Albemarle County Codes §§ 6-111, 6-200 and 6-201 recognize the Fire Marshal as Albemarle County's Fire Official for the duties and responsibilities as established by Title 27 of the Virginia Code, the Virginia Statewide Fire Code, and the Albemarle County Code; and

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

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

**WHEREAS**, on June 6, 2012, Robert Gilmer was appointed as an Assistant Fire Marshal without police powers; and

**WHEREAS**, the appointment of Robert Gilmer as an Assistant Fire Marshal with police powers will promote the efficient and effective operation of the Albemarle County Department of Fire and Rescue.

**NOW, THEREFORE, BE IT RESOLVED**, that the Albemarle County Board of Supervisors hereby appoints Robert Gilmer as an Assistant Fire Marshal with full police powers of the Fire Marshal as authorized in Virginia Code §§ 27-34:2:1 and 27-36 and Albemarle County Code § 6-111.

---

Item No. 8.7. SUB-2013-067. Napier Subdivision - Special Exception from Building Site Requirement under County Code § 18-4.2.1(b).

The executive summary states that the applicant proposes to divide approximately 2 acres off of an 11.4 acre parcel known as Tax Map 109, Parcel 1A (Attachment A). The parcel currently contains two dwellings that access the property from two different public roads (Attachment B). The applicant lives at 5877 Broken Sun Road and his sister lives at 5771 Heards Mountain Road. The parcel was granted to the applicant and his siblings in 1994 from their parents. Permitting this subdivision would allow the applicant and his sister to each own a separate parcel. No new development is being proposed with this application.

County Code § 18-4.2.1(a) requires that each parcel have a building site, which may not contain, among other things, land within a stream buffer established under the Water Protection Ordinance (County Code Chapter 17). The applicant is requesting a special exception to waive that requirement.

The proposed subdivision cannot meet the requirement that each parcel created by the subdivision have a building site with a minimum area of 30,000 square feet that does not contain, as relevant to this application, any land within a stream buffer. A stream buffer bisects almost the entire property (Attachment B). This stream buffer did not exist in its current form when the applicant's home was constructed in 2003. A Water Protection Ordinance amendment in 2008 expanded the areas where the 100 foot buffer applies and this expansion created an unusual condition for this property. Following the amendment, the buffer impacted approximately 75% of the parcel due to its topography and location. The other dwelling on the property, constructed in 1930, also predates the expansion of the buffer areas.

County Code § 18-4.2.1(b) authorizes the Board to waive or modify any requirement of County Code § 18-4.2.1(a) by special exception upon consideration of whether (i) the parcel has an unusual size, topography, shape, location or other unusual physical condition; or (ii) development in a stream buffer on the parcel was authorized as provided in County Code § 17-321.

Staff finds that the strict application of County Code § 18-4.2 would unreasonably restrict the proposed 2 acre property and recommends approval of this request. Under current ordinance requirements, no future development on the parent parcel or residue would be permitted without further waivers or modifications from the Board.

Staff recommends that the Board approve the special exception and waive the building site requirement in County Code § 18-4.2 of the Zoning Ordinance.

**By the above-recorded vote, the Board approved the special exception and waived the building site requirement in County Code § 18-4.2 of the Zoning Ordinance.**

---

Item No. 8.8. ZMA-1979-00032. Briarwood Application Plan – Special Exception to allow variation from side yard setback.

The executive summary states that this property is located in a section of the Briarwood development that was included in the original rezoning approved in 1980. The approved application plan did not designate setbacks on all sections of the development. As a result, Community Development was required to interpret what was shown on the application plan. Staff consistently required a 6 foot side setback with a minimum 10 foot building separation in this area. The applicant is requesting a special exception to allow a variation from the side yard setbacks imposed by the approved application plan (Attachment A). The minor variation of a side yard setback shown on an application plan is authorized by County Code § 18-8.5.5.3(a)(1).

County tax records indicate this structure was built in 1990. However, a recent physical survey of the property (TMP 0032G0-07-00-00400) shows a bay window encroaching into the 6 foot side setback by 16.92 inches (Attachment B). Additionally, an onsite inspection revealed that the front porch also encroaches into the side setback by approximately 3.5 feet. The onsite inspection also confirmed a building separation of greater than 10 feet from the single family dwelling on the property next door (TMP 0032G0-07-00-025A0).

The application notes these improvements were constructed prior to the County's final inspection and staff found no evidence to suggest that either improvement was constructed after all final approvals were granted. A special exception to allow the application plan to be varied to accommodate these improvements is needed to bring it into compliance with current regulations.

The applicant investigated other possible options to achieve compliance. There is not enough area for a boundary line adjustment and the only other options are to remove the existing bay window and front porch or seek a variance from the Board of Zoning Appeals. Staff analysis of the variation request under County Code § 18-8.5.5.3(c) is provided below:

1. **The variation is consistent with the goals and objectives of the comprehensive plan.**  
This request 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 any development in this district 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 finds that the variations from the setbacks applied in this section of the development are not a significant threat to health, safety and welfare.

Staff recommends that the Board approve the special exception, subject to the following condition:

1. The minimum side yard setback for this parcel is 2.5 feet.

**By the above-recorded vote, the Board approved the special exception, subject to the following condition:**

1. **The minimum side yard setback for this parcel is 2.5 feet.**

Item No. 8.9. Albemarle County Building Code Evaluation, *was received for information.*

The executive summary states that Insurance Services Office, Inc (ISO) provides insurance companies and others data that is used for establishing insurance rates and risk management. There are two local government programs the ISO routinely assesses: 1) community fire protection and 2) building code effectiveness. Every five years, ISO performs an evaluation of the County's building code program through its "Building Code Effectiveness Grading Schedule" (BCEGS). This evaluation is also performed throughout Virginia and the United States, providing a comparison of the local program to both the state and national averages. The BCEGS scores the building code program in three areas: 1) Administration of the Building Code; 2) Plan review for permits; and 3) Field Inspections of the actual construction. The BCEGS uses a scale of Class 1 to Class 10, where Class 1 "represents an exemplarily commitment to building code enforcement" and Class 10 indicates a seriously deficient program. This report is then provided to building insurers and others, who use it as one of the factors for determining community insurance rates. While no data is available to translate a higher rated building code program into insurance savings, a better score should translate into insurance savings and improve the community's reputation.

ISO completed an evaluation of the Albemarle County Building Code program in February 2013 and the results were provided to the County in May. The 2013 report (Attachment A) resulted in no

classification changes from the 2008 survey for residential buildings and a slight improvement for commercial buildings, with Albemarle County maintaining a score of Class 4 for the construction of single-family and two-family homes (residential) and improving from a Class 4 in 2008 to a Class 3 in 2013 for other construction (commercial). Referring to Section 6 of the report, the 2013 evaluation shows a small improvement for commercial construction with a score of 77.07 out of 100, compared to a score of 74.87 in 2008. The 2013 evaluation shows a small decline for residential construction with a score of 67.10 out of 100, compared to a score of 69.79 in 2008. Relative to other localities, Albemarle County does well. As shown in Section 6 of the report, Albemarle County consistently scored better than the Virginia and United States averages for all three program areas in both residential and commercial construction. Interestingly, while Albemarle County's program consistently scored better than the state and national averages, the workload comparisons in Section 5 (Charts B5-3 and B5-4) show that Albemarle County's plan reviewers and inspectors have a higher workload than comparable communities.

Albemarle County strives to be a High Performance Organization and continuously seeks improvement. Referring to the scoring table in Section 6 of the report, several line items were noted where the County may be able to increase scores enough to improve its classification ratings by improving its building code program. The easiest change would allow the County to gain 2 points by updating its inspections checklists, but that alone would not improve the County's classification ratings. Looking for additional improvements, three items were noted. Under the plan administration area, the County scored 5.57 out of a possible 13.0 points on training. Expanding training is currently constrained by workload. Under the plan review area, the County scored 4.8 out of a possible 9.0 for staffing levels with commercial construction and 2.86 out of a possible 9.0 for staffing levels with residential construction. Under the field inspection area, the County scored 5.7 out of a possible 9.0 for staffing with residential construction. By addressing these items, it appears possible to raise Albemarle County to Class 2 for both the residential and commercial programs.

The current building inspection program is largely supported by fees and no changes are budgeted. Under the policy of a biennial review of fees with the County's Building Code (County Code Chapter 5) Regulations, staff plans to review possible fee changes with the Board later this year. Staff will plan to include consideration of program changes to improve the ISO classifications as part of that review.

The report is provided for information only.

Item No. 8.10. County Grant Application Report, ***was received for information.***

Applications were made for the following grants from April 16, 2013 through June 15, 2013:

Granting Entity	Grant	Amount Requested	Match Required	Dept.	Purpose
Virginia Department of Emergency Management (VDEM)	Local Emergency Management Grant Program (LEMPG)  Federal	\$25,451.88	\$25,451.88  ECC Budget	ECC	VDEM disburses funds on a reimbursement basis to support the locality's efforts to develop and maintain a Comprehensive Emergency Management Program. FY 2013 funds will be made available to each locality utilizing a formula with a base allocation and per capita basis using the most recent census figures. The County is eligible for an increase in its normal LEMPG allocation.
Virginia Department of Criminal Justice Services (DCJS)	Byrne Memorial Justice Assistance Grant  Federal  Continuation Grant	\$14,796	0	Police	The Police Department plans to use these funds for community policing overtime activities that most likely would not occur without this funding resource. These are likely to include the Police Explorer Program, bike patrols of neighborhoods and parks, participating in a range of community events, and perhaps most importantly, various crime related problem solving projects.
DCJS	DCJS-CCCA/PSA  Federal Continuation Grant	\$706,090	0	OAR	Provision of pre-trial and probationary services.
U.S. Dept. of Justice COPS Office	COPS Hiring Program  Federal	\$500,000	\$261,030  TBD	Police	To partially pay for four newly hired Police Officers and simultaneously create four new School Resource Officer (SRO) positions at the four County middle schools that do not currently have SROs.
Va Department of Agriculture	Agricultural and Forestal Industries Development Planning Grant  State	\$20,000	\$20,000  County Matching Funds	Co. Executive Office	Hire a consultant to determine the feasibility of establishing a Virginia Wine Heritage Center in the County.

Agenda Item No. 9. Crozet Library First Floor Space Usage.

Ms. Lee Catlin, Assistant to the County Executive for Community and Business Partnerships, stated that she and Mr. Trevor Henry, Director of the Office of Facilities Development, are before the Board to recommend use of the Crozet Library first floor space. She then summarized the following executive summary which was forwarded to Board members:

On October 3, 2012, the Board discussed guidelines and preliminary concepts for use of the Crozet Library first floor space. The first floor of the Library is comprised of approximately 4,796 gross square feet (gsf) of available space, and includes restrooms and a 700 net square feet (nsf)

entrance/lobby area and windows fronting Crozet Avenue. The design has the lower level split into a larger tenant area of 1,697 nsf and smaller tenant space of 1,038 nsf. As was stressed during this discussion, the first floor space, with its visual connection to the street and its co-location with the Library in a prime area of downtown Crozet, is an important potential catalyst for activity and vitality in downtown Crozet.

The Board indicated general agreement with the guiding principles and preliminary concepts. Those concepts, which are listed below, were also discussed and endorsed at a roundtable of Crozet residents and business owners and with officials of the Jefferson-Madison Regional Library prior to the Board's review.

- Tourism support
- Crozet history/heritage
- Collaborative workspace
- Private sector venture

The Board directed staff to continue exploring these options without eliminating any possibilities and to bring back a recommendation on space usage for further consideration.

Following the Board's direction to explore all identified options, staff proceeded forward on several tracks. The Office of Facilities Development issued an RFP to assess the possibilities of a private sector venture that could meet the established criteria while staff from the Office of Community and Business Partnerships explored the viability of community-serving uses that also would meet the criteria. This approach has yielded a blended set of potential complementary uses that staff believes will generate a reasonable level of revenue for the space while also accommodating community uses that will bolster the activity level and revenue potential of downtown Crozet and tourism assets in western Albemarle and beyond.

The RFP process resulted in a proposal for a retail use that would occupy the larger (1,697gsf) space at fair market rental value. While details of the proposal are confidential at this time, staff believes that the proposed retail operation would generate significant community and visitor interest and engagement and would create positive synergy with a tourism-oriented use in the remaining space on the first floor. Virginia law requires that the Board hold a public hearing prior to the lease of County property.

Staff has met several times with a consortium of the major tourism partners in the western Albemarle County region, including:

- Shenandoah National Park/Appalachian Trail/Skyline Drive;
- Artisans Center of Virginia;
- Monticello Wine Trail;
- Charlottesville Albemarle Convention and Visitors Bureau;
- Piedmont Council for the Arts; and
- Albemarle County Parks and Recreation.

All of these partners have expressed great interest in the concept of an "Adventure Outpost" headquartered at the Library that would serve as a gateway and promotional venue for the significant cluster of tourism assets in the area. The County does not have a focal point for our rich inventory of outdoor recreational and adventure-oriented options, and the partners felt that there was a niche for this type of "launching point" that would have a more active and engaging ambience than a traditional visitor center. While the space is small and would not involve staff from every attraction, the partners have all committed to supporting the "Adventure Outpost" with materials, programming and other services.

As mentioned in the October 3, 2012 executive summary, the agreement establishing the Charlottesville Albemarle Convention and Visitors Bureau (CACVB) mandates that CACVB operate and maintain "at least one visitor center within the City and at least one visitor center in the County." Currently, there is not a visitor center in the County, and a location in the Crozet Library could satisfy that requirement while generating some yet to be determined level of rental income. The Department of Parks and Recreation has also expressed a willingness to provide some level of staffing support for the "Adventure Outpost" since it would strongly align with their mission.

Taken together, the potential private sector tenant and the "Adventure Outpost" would meet the guiding principles established for the space while generating income from a significant amount of the space and supporting the visibility and viability of the County's tourism industry. The guiding principles are:

- Create foot traffic/pedestrian activity for downtown Crozet to maximize activity and revenues for other downtown businesses
- Create a lively street front presence for this important frontage on Crozet Avenue
- Generate revenue to help cover the County's expense
- Ensure that all space usage would be compatible with the Library's mission and operations
- Maintain flexibility in the space and operate under the understanding that at some point in the future the space could convert to Library usage

As discussed during the October Board meeting, staff recommends proceeding with a base level of upfit for the currently unfinished spaces. The project has previously budgeted \$150,000 to complete an upfit that will provide finished ceilings, drywall over concrete or CMU walls, and medium-grade carpet, as well as electrical and mechanical tie ins. This scope of work would be required for eventual occupancy and use by the Library.

The cost to complete a base level upfit of the lower level spaces will be approximately \$150,000. This budget has been planned for and does not require any additional appropriations. Fair market rental income from the leased space will offset some project expenses.

Staff recommends that the Board:

- (1) approve the blended approach described above and direct staff to negotiate a lease with the proposed retail tenant for the larger space, and to advertise a public hearing for public input for the Board to consider its approval of the lease;
- (2) direct staff to finalize details of the "Adventure Outpost" concept for final Board approval; and
- (3) approve completion of a base upfit of the first floor while the General Contractor for the Library project is still on site.

\*\*\*\*\*

Mr. Henry said that staff has been working on this since October 2013. A committee of key cross-functional stakeholders within staff representing the County Executive, legal, Finance, Community Development, Office of Facilities Development, and General Services partnered to evaluate the best use of the lower level space. He reported that the team worked together to issue an RFP, which was out for about six weeks and closed at the end of May. Mr. Henry explained that staff solicited input tying back to the criteria Ms. Catlin mentioned, looking for uses that would create foot traffic and pedestrian activity for downtown Crozet, and offer fair market value rent, a term limit given potential future uses, compatibility with the library's mission and operations, avoidance of uses to which the library has objected, and creation of a lively street-front presence for Crozet. Mr. Henry said staff feels they have a candidate with which they would like proceed forward in negotiations. Staff believes the proposal is responsive to the County's RFP with bulleted responses provided for the criteria. He stated that the next step would be negotiations and, before anything could be formalized, staff would have to bring the lease back before the Board. The proposal does seem to fit well with library use and the tourist hub.

Ms. Mallek noted that there would also be a public hearing on the lease, which would provide more public interaction.

Ms. Catlin said staff believes the private sector tenant and the adventure outpost concept would work together to meet the guiding principles established for the space, would generate income for a significant amount of the space and would support the visibility and viability of the County's tourism industry. Staff recommends that the Board approve this blended approach and direct staff to negotiate a lease with the proposed retail tenant, advertise the public hearing for public input, direct staff to finalize details of the adventure outpost concept for Board final approval, and to approve completion of the base up-fit of the first floor while the general contractor for the library project is still onsite.

Mr. Boyd asked what an "adventure outpost" is, and whether it would be a place that could house brochures. Ms. Catlin responded that there would be information available there but, given the tourism partners staff has met with, there will also be a level of programming – such as a class done by a Shenandoah National Park ranger, displays done by the artisans at the Artisans Center, a demonstration by one of the wineries, an interactive Crozet history display, etc. It is meant to not be a static where someone walks in and there are brochures on the wall. The intent is to become a hub for active engagement with the County's tourism assets.

Mr. Thomas asked if the winery presentation could be a tasting. Ms. Catlin responded that it could be, as other places have done that, and, in preliminary discussions with the ABC office, it seems that could be a possibility. She said there could be a variety of demonstrations, programming, displays of items, etc., as well as activities that originate out of the center.

Mr. Snow asked who would staff and facilitate the programming at the center. Ms. Catlin responded that staff envisions it to be a County tourism center, so the CACVB staff of the COB-first floor would move over and staff that site. She added that Parks & Recreation – particularly their trails person – could work out of that location at times, and the partners have indicated a willingness to set up a rotational kind of system.

Mr. Snow asked if there would be an additional cost to the County to maintain the center. Ms. Catlin replied, "no", not in terms of staffing.

Mr. Rooker commented that there is no long-term commitment to this program. He asked if the adventure outpost concept envisions signing a lease with CACVB. Ms. Catlin responded that much like the current arrangement in the County Office Building, if the partners approve the concept, they would develop a Memorandum of Understanding as to expectations, how it would function, etc. She added that the agreement at the County Office Building is a year-to-year arrangement, and she believes they could do something like that as well.

Mr. Rooker said that it seems to be worth a try for a year and, if it does not work after a year or two, the County could lease it out for private use.

Mr. Boyd said that he would want to see some kind of outcome measurements, particularly if County dollars are invested – even if it is through the CACVB. He stated that he is a bit reluctant until he finds out who the retailer is.

Ms. Catlin clarified that the lease will come back to the Board, and what staff is asking for is the ability to negotiate a lease.

Mr. Boyd asked why the County is paying the up-fit cost on this project, and why the people using it are not paying it. Mr. Henry responded that in internal discussions it was felt that the County needed to provide at least a base level upfit, and any unique aspect of the space would be borne by the tenant. He said that currently it is a roughed-in space, and staff feels it should at least be brought up to basic standards.

Mr. Foley stated that for it to be a leasable space, the County would have to at least do the basics, just like any other building owner in the market. He added that the County is looking to CACVB to take a lead role in this – as they do have some obligation in terms of a visitors center – and they would be expected at a high level to continue to make the operation viable. Mr. Foley said that there would be a lease arrangement with CACVB in the same way there is an arrangement with the City of Charlottesville in the visitors center they operate. The CACVB becomes that steady foundation of this whole proposal going forward.

Ms. Mallek pointed out that the retail would have a lease with the County, not with CACVB. Mr. Foley agreed.

Mr. Rooker **moved** to approve the following staff recommendations:

- 1) approve the blended approach as recommended and described by staff;
- 2) direct staff to negotiate a lease with the proposed retail tenant for the larger space, and to advertise a public hearing for public input for the Board to consider its approval of the lease;
- 3) direct staff to finalize details of the “Adventure Outpost” concept for final Board approval; and
- 4) approve completion of a base upfit of the first floor while the General Contractor for the Library project is still on site.

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

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

NAYS: None.

---

#### Agenda Item No. 10. The Crossings at 4<sup>th</sup> and Preston.

The following executive summary was forwarded to Board members:

Albemarle County signed an Agreement to Enter into a Housing Assistance Payment Contract (AHAP) with Virginia Supportive Housing on April 28, 2011, committing nine (9) Housing Choice Vouchers to The Crossings. At that time, we had been provided information from the City of Charlottesville, the Charlottesville Redevelopment and Housing Authority (CRHA), and Virginia Supportive Housing (VSH) that all requirements had been met to commit the vouchers. CRHA had already executed an AHAP for their commitment of twenty-one vouchers. In February 2012, VSH notified us that the project would be completed in early March, and we prepared nine potential tenants for move-in.

The Crossings contains sixty studio apartments with thirty assisted through housing vouchers and thirty available to anyone. When VSH notified us that the rents for the units assisted with vouchers would be over \$100 more than the unassisted units, we requested assistance from HUD-Richmond because this was not our understanding of federal regulations regarding comparable rents. In the course of HUD staff providing a response, they also indicated that they had not reviewed a number of things necessary for HUD approval and that we were not authorized to execute a Housing Assistance Payment Agreement. Subsequent correspondence with HUD identified specific issues that were deemed not completed in accordance with guidance provided by HUD in September 2011. Because all of the issues related to the execution of the April 28, 2011 AHAP, HUD suggested that we correct those issues that we could and submit a request for waivers for those that we could not. These issues included:

- The need to revise our PHA 5-Year Plan which was approved by HUD on July 29, 2010 because it did not contain information on the use of project-based vouchers;
- The need to update our Administrative Plan to include policies related to project-based vouchers;
- The need to have an Environmental Review (ER) and Subsidy Layering Review (SLR) completed and approved by HUD or an authorized responsible entity, both statutory requirements; and
- The potential need to request certain regulatory waivers particularly related to the execution of the AHAP prior to the certifications of the ER and SLR.

To begin addressing issues noted by HUD, the Board approved an updated PHA Plan and Administrative Plan and they were submitted to HUD in June 2012. HUD approved the PHA Plan and commented on the Administrative Plan, which was revised and resubmitted in September 2012 after Board approval. A request for various waivers was made at the time the revised Administrative Plan was submitted. There was no further guidance or comments from HUD until late February 2013 and in a follow-up conference call on March 5, 2013. While we had believed that HUD-Richmond was working with HUD-Headquarters, we learned during this call that our waiver request was still in Richmond and we would need to revise it by narrowing our requests to specific subsections of the applicable regulations. When asked why our waiver request was still in Richmond, HUD’s response was that they were working with other communities on similar requests which were taking priority because those requests involved

unoccupied units, costing the owner significant losses in receipt of equity investments from housing tax credits. As noted in the attached timeline (Attachment A), we resubmitted our request for waivers on April 9, 2013. HUD did not respond or acknowledge receipt until May 17, 2013, after a phone call was made requesting a response. The Board received a letter dated May 28, 2013 in response to its letter to HUD sent on April 10, 2013.

Given the lengthy process for receiving approval of waiver requests and the County's need to get this approval before August 31, 2013, City and County staff began discussing how assistance may be obtained from someone in Headquarters to expedite approval of our requests. Fortuitously, HUD Deputy Secretary Maurice Jones was a luncheon speaker at a housing forum held at the Boar's Head on June 14, 2013 and he agreed to a short meeting to discuss this matter. After being provided information about this matter, we are hopeful there will be some positive follow-up from him or other Headquarter's staff prior to the July 3 Board meeting.

The Board committed to provide local general funds to support rents for nine units in The Crossings for up to twelve months. This commitment ends August 31, 2013. The FY13 appropriation was \$53,640 for ten months and \$10,728 is appropriated in FY14. To date, \$49,287 has been expended to cover rents through July 31, 2013. After August rents are paid, we should have a balance of \$11,206 if the FY13 balance is reappropriated.

At this time, this update is provided for information only. Staff may recommend a reappropriation of the FY13 balance if there is some certainty or assurance from HUD on the approval to issue vouchers. This balance would cover an additional three months for the current seven (7) residents.

\*\*\*\*\*

Mr. Ron White, Chief of Housing, said that he would present the most recent information on the project-based vouchers at The Crossings. He reported that the County committed vouchers to The Crossings in 2010, in accordance with its policy adopted by HUD in 2004 and guidance received from that agency in issuing project-based vouchers. Mr. White stated that what has led to the current issue is an emphasis on project-based vouchers nationwide. An update in the form of a notice was provided in late 2011 that emphasized some of the regulations that went along with the allowance to issue the vouchers. He said that there is new staff in the Richmond HUD office that was not there in 2004, and HUD's current position is that the guidance given and the policy put in place in 2004 was not sufficient to meet all of the requirements. Mr. White stated that Albemarle is not the only one in this position. He added that HUD did not inform the County until much, much later.

Mr. White said that all the efforts that the County has gone through have been to correct things that are uncorrectable. He stated that "the cart got before the horse" in terms of following the regulations, and now they cannot go back and change it. He explained that Mr. Davis reviewed the waiver request submitted to HUD, and he agrees that a lot of it is administrative with the recognition that the County did not follow the policies HUD had in place. The current status is requesting HUD to waive some of their regulatory requirements. Mr. White said that the waiver request was sent to HUD in April, but the County did not receive any response that they had received it. He called HUD in early May, asking for confirmation, in writing, of receipt of these communications. For example, there was no response received from the letter written by the Board until late May, and that was only after his telephone call.

Mr. White stated that on June 14, there was a federal housing forum held at the Boar's Head Inn. Staff was able to get about 10 minutes time from HUD Deputy Secretary Maurice Jones, who was keynote speaker. Mr. White said that he presented the issue to Mr. Jones, and clarified for him that the real issue was that the waiver request was over the head of the staff in Richmond because they had not experienced it before. He said that he mentioned to Mr. Jones that HUD staff's recommendation was to hire an attorney for the County, and they recommended an attorney who was a former HUD employee. Mr. White stated that he told Mr. Jones the County has committed local funds through August 31, so that is the County's deadline. Mr. White said that Mr. Jones asked to see the property, and Virginia Supportive Housing prepared the property for the visit. He stated that the visit went well and there was a veteran resident present, who had been homeless, that he visited with. During his speech, Mr. Jones had expressed a special interest in supporting the homeless veteran population.

Mr. White said that he was very optimistic after that visit that Mr. Jones was going to help resolve the situation when he returned to D.C. Mr. White stated that he received an email from the Richmond HUD office asking for information that they said "headquarters needed," which he had already sent them but resent. On July 2 the City received an email requesting the environmental review and a timeline for the project. They know headquarters is looking at the information. Mr. White reported that he just received an email from the City's Housing Specialist, Kathy McCue, earlier this morning stating that she is working on a Subsidy Layering Review, which is the statutory requirement in addition to the environmental review – and she plans to have it completed by the end of the week and it will be submitted to HUD. He stated that they asked the Deputy Secretary, which he agreed, to speak with someone or try to get the Subsidy Layering Review moved on a fast track once it comes through, because it can typically be a 60-90 day timeframe.

Mr. White stated that he feels more optimistic after meeting with Mr. Jones and knows that the communication with headquarters has started again. They know that they have submitted everything to HUD that they have asked. He said that they do not believe they have anything else remaining with the exception of the Subsidy Layering Review which the City is doing. He mentioned that the Review was done on the project already by DHCD for HOME funds, but the Public Housing section would not accept that one and ordered a completely new one. Mr. White said that the County's position all along has been that project-based vouchers were additional assistance going into the project after the project was

completed and had nothing to do with the construction of the facility. He stated that there are sections in the environmental review regulations that states if you are providing supplemental assistance, the environmental review conducted for the other piece of assistance is valid for this one. Mr. White said that the public housing section is not in agreement with that section of the regulations and they want to do their own.

Mr. White reported that HUD has not provided a timeframe for getting this completed. Staff does not have anything new to recommend today. In the budget section of the executive summary, he said, he noted where they stand with the funding appropriated in FY13 and if HUD comes forward and says they can get it done in a few months, there is some room to work within the budget. Mr. White said that he would like to get a placeholder for the Board's second meeting in August, and hopefully come back to the Board with good news or request a re-appropriation of the FY13 money for their consideration to take them through a few extra months. Mr. White said he would be uncomfortable making that recommendation if there was not some level of certainty from HUD.

Ms. Mallek asked if Mr. White would be getting notification with the official transmittal from the City. Mr. White said he is making the actual transmittal.

Mr. Snow asked if it would be helpful for the Board to write Mr. Jones for the purpose of thanking him for visiting The Crossings, as well as asking him to push the matter along. Mr. White responded that it would not hurt. He said that he can draft a letter for the Board's consideration.

Mr. Boyd said that he does not want HUD to know the County is considering the re-appropriation. The letter should emphasize that if HUD cannot get this done by August 31<sup>st</sup>, they are going to be responsible for putting seven people back out on the street.

Mr. Foley stated that staff will draft a letter indicating that the Board has made no commitment beyond August 31<sup>st</sup> and that it would like an answer as quickly as possible. Obviously, he said, the County needs to keep the pressure on as no decision has been made to make any future appropriations.

Mr. White said that he made it clear to the Deputy Secretary that August 31<sup>st</sup> was the deadline, and told him that he would not be inclined to make any further recommendation to the Board beyond that unless HUD provided some certainty to the County.

Mr. Rooker asked if they had contacted Congressman Hurt's office about this. Mr. Boyd said that he had not done that because of communication with Senator Warner and Senator Kaine's office, but he can do it now if the Board desires.

Mr. Foley commented that there is still that avenue to take, but they have been made aware of the situation. He said, now that the County has the right contact, that could be the next step if necessary. He added that the City has been working on this very hard as well.

---

Agenda Item No. 11. **Work Session:** Water Resources Program Development.

The following executive summary was forwarded to Board members:

County policies, such as those included in the Strategic Plan and the Comprehensive Plan have set aggressive goals for protecting natural resources, including water resources. Moreover, various new State mandates – including the Chesapeake Bay TMDL – require that the County's existing programs be expanded and new programs introduced. In anticipation of these program development needs, the Board has indicated a desire to consider establishing a dedicated funding mechanism. These circumstances create an opportunity for the Board to consider, as a whole, the County's long-term water resources objectives, the level and timing of future program implementation, and an appropriate funding arrangement.

Due to the breadth and complexity of the topic, staff thinks that the Board would best benefit from a series of work session discussions over the course of the next four to six months. Accordingly, staff proposes the following discussion guidelines:

**July 3<sup>rd</sup> Work Session:**

***Where We Are Now?*** Review County policies, currently implemented programs, stream health and impairments, and new mandates. This work session is informational and no direction is requested.

**Future Work Sessions:**

***Where Do We Want To Be?*** Taking into consideration policies, mandates, and stream conditions, discuss and agree on 20-year water resource objectives and metrics.

***How Do We Get There?*** Based on the proposed objectives, determine the level of program implementation necessary to meet the 20-year objectives. The Board will have the opportunity to consider those programs required and to determine if the objectives need refinement.

***How Do We Pay For It?*** Based on the earlier outcomes, declare a preference for a funding arrangement suitable to support the future programs. Staff will then proceed with developing a detailed funding arrangement for future consideration by the Board.

Finally, recognizing the complexity of these decisions, staff realizes that additional opportunities for discussion and consideration may be required so that specific objectives can be tested against

resource requirements and then revisited and modified as determined by the Board. In that case, it may prove necessary to divide this process into stages, allowing the time-sensitive mandate changes to move forward more quickly to meet prescribed deadlines.

[The following is a summary of a more extensive report included as Attachment A.]

#### County Policy

Albemarle County has long considered the protection of natural resources, including water resources, a primary goal. Beyond the current Strategic Plan goal stated above, the Natural Resources section of the Comprehensive Plan includes the goal to “Preserve and manage the County’s natural resources in order to protect the environment and conserve resources for future use.” In support of this goal, the Natural Resources section includes 18 objectives and 45 strategies related to protecting water resources, more than any other element of the Comprehensive Plan. In addition, the County’s citizen surveys have regularly listed protecting water resources as one of the most important functions of local government with comparable importance to that of police and fire protection. The County’s commitment in this regard is demonstrated by establishing a number of programs beyond what is required including the construction and maintenance of regional stormwater maintenance facilities, and the adoption of certain land disturbance regulations related to stream buffers, critical slopes, erosion and sediment control, stormwater management, and groundwater management.

#### Current Programs

Even with reduced overall staffing capacity, the County currently implements a meaningful water resources program employing the equivalent of approximately 10 FTEs at an annual cost of approximately \$900,000. Multiple departments are responsible for implemented program elements. A staff organizational chart focused on water resources is included as Attachment B. The programs currently implemented are as diverse as public education, regulating development, emergency spill response, and capital projects. A comprehensive listing of water resources protection programs and activities is included as Attachment C.

#### Stream Health and Impairments

Despite the County’s commitment to water resources protection, the majority of streams in the County would likely fail Virginia’s standard for stream health and would be considered impaired. Streams are assessed by the Virginia Department of Environmental Quality (DEQ) using chemical and biological data collected by DEQ and by various other organizations. DEQ’s [2010 Water Quality Assessment Integrated Report](#) indicates that, of the streams within Albemarle County sufficiently assessed to make a determination, approximately 70% are impaired. This conclusion is consistent with a [2011 StreamWatch Land Use Study](#) estimating that – based on the relationship between land use and stream health – 70% of the streams within the Rivanna River watershed would fail Virginia’s standard. StreamWatch further predicts that future land use intensification in rural areas will lead to a reduction in the number of healthy streams by about one-third over the next 20 years.

DEQ is required to prepare plans to restore all impaired waters through a process commonly referred to as a TMDL (“Total Maximum Daily Load”), which means the maximum pollution amount a waterbody can assimilate over a given time period while still remaining healthy. However, the term is also used to describe the entire analysis and planning process for assessing the stream. The process includes identifying impaired waters, determining the pollution limits for these waters, and developing an implementation plan to reduce pollution loads to the determined limits. Implementation plans typically include an assignment of pollution reductions to the sources of the pollutant, including urban areas.

Many waters within the County are included on DEQ’s impaired waters list (see the map included as Attachment D). However, implementation plans have only been developed for some of these impaired waters, including the Rivanna River, Meadow Creek, and Moores Creek. The County’s role in restoring impaired waters will be briefly discussed in the following section on new mandates.

Scientific research indicates that stream health is directly correlated with land use. Highly forested areas generally produce the healthiest streams. But as land use intensifies, the amount and intensity of runoff increases and pollutants from the watershed are more easily conveyed into streams. As one would expect, urban streams are generally the most impaired. But many rural streams have deteriorated as well. StreamWatch found that, even for land use categories averaging 70% forest cover and having only a single home for every 17 acres, more than half of the streams were impaired. Fortunately, it is more likely that these marginally impaired streams can be restored to a healthy condition than highly urban streams where it would be very difficult to bring them into attainment with Virginia’s standards.

#### New Mandates

As part of State and regional efforts to address stormwater pollution and impaired waters in Albemarle County, the County has been delegated the responsibility to implement the following new or enhanced programs:

Municipal Separate Storm Sewer System (MS4) permit update – Beginning July 1, 2013, the County will be regulated under a new 5-year permit through DEQ as the “operator” of an MS4. Multiple program elements must be substantially updated to be consistent with new requirements, including many related to addressing stream impairments such as TMDLs.

TMDLs – Under the authority of the new MS4 permit, the County is required to develop, by July 1, 2015, a detailed action plan to achieve pollutant load reductions allocated to the County’s urban areas as part of the Chesapeake Bay TMDL process. In addition, by July 1, 2016 the County must develop action plans for any local TMDLs that have associated load reduction allocations; these

presently include an eColi reduction for the Rivanna River and some of its tributaries and a sediment reduction for the Rivanna River.

Virginia Stormwater Management Program (VSMP) – Like most other local governments in Virginia, by July 1, 2014, the County must adopt and implement a local VSMP consistent with State regulations. This program expands the responsibilities of the County's existing regulatory program for development and other land disturbing activities. This mandate will require various amendments to the Water Protection Ordinance and is anticipated to require new County resources. A draft ordinance with an implementation plan that includes resource requirements must be submitted to Virginia no later than December 15, 2013 and then adopted no later than April 1, 2014.

This work session is intended to provide background information. A discussion of budget impacts will be deferred to a later work session.

This report is provided for information only and no action is required at this time. Staff will seek the Board's input in follow-up work sessions regarding the development and funding of programs to support water protection goals.

\*\*\*\*\*

Mr. Greg Harper, Water Resources Manager, said that he and County Engineer, Glenn Brooks, will be speaking to the Board about the County's water resources programs. Mr. Harper said that the Board has probably been hearing a lot lately about new mandates coming down to the County from the EPA through DEQ. He said that these measures will cost some money and additional resources. The Board has wanted to discuss a dedicated funding mechanism to fund some of these new and existing programs. Mr. Harper stated that he and Mr. Brooks will start that conversation at this meeting. The first step is to talk about the specific programs that would be funded. He said that prior to that, staff would like for the Board to revisit and reiterate some of the goals it would like to set forth for stream quality and stream health. Mr. Harper said that at this meeting staff will review where things are, including stream health, today. Staff envisions holding about four work sessions in the future to get through this process.

Mr. Harper explained that staff would report today on existing County goals and policies, current programs, stream health conditions and causes of impairments, and would also briefly review the new mandates. He reported that the County has been doing a lot of forward-thinking programs since the 1970s to protect water resources, and has been doing them voluntarily over the years, but the mandates coming down from the State have been catching up with those voluntary programs, with many of those measures becoming required. Mr. Harper noted that Albemarle used to be a progressive, front of the curve type of community, but now is more in the middle of the pack due to other local governments responding to these mandates. He added that there are many departments and staff that devote time to water resources protection activities; it is not just one group of people doing one thing. It is a lot of people scattered throughout the organization.

Mr. Harper said the streams that have been monitored enough to have a determination made as to their overall health indicate that most of the streams in the County are impaired, but fortunately most of them are not impaired to the degree they cannot be restored again.

Mr. Snow asked if the impairment is due to erosion or fecal matter/bacteria. Mr. Harper responded that it is due to all of that; they are DEQ-impaired. The State makes that determination, not the County. The State has a very detailed process that they go through and they come out with reports every two years describing which streams are designated impaired and not. These streams can be impaired for sediment, bacteria, nutrients, pH, etc.

Mr. Boyd said that it confused him in reading the report because there are references to StreamWatch testing, DEQ monitoring, County testing, etc. He added that he does not know what this is relative to other communities. Mr. Harper stated that he can respond to that after completing his report.

Mr. Harper said that Albemarle has more stream miles than road miles, with 1,800 road miles and 2,300 stream miles. He said that, beginning in the early 1970s, citizens of the community felt that it was important enough to protect streams to enact early erosion and sediment control ordinances. In County surveys, stream protection is consistently ranked very, very high as a priority – right below police and fire/rescue.

Mr. Glenn Brooks provided a timeline beginning with when the County started enacting a water protection program and when it became a State mandate, with Albemarle starting erosion control measures in the 1970s due to citizen activism. He said that the County was a voluntary local implemented State program, putting more emphasis and staff on these efforts than what was needed to meet the minimum. Mr. Brooks stated that the state legislation had a cafeteria approach to stormwater management meaning the legislation was there but a locality had to choose whether it wanted to implement that legislation. He said that Albemarle began with a runoff control ordinance in the water supply areas to protect the drinking water, and it grew from there – with the stormwater water protection ordinance adopted in 1998, which consolidated the erosion control program and added a stream buffer program.

Mr. Brooks mentioned that every owner of a dam that is regulated by the State is required to do a maintenance inspection on a yearly basis, and that has been expanded with counties now required to regulate inundation zones or possible flooding areas.

Mr. Snow asked if there is any money coming along with these state mandates. Mr. Brooks responded "no". He explained that, for the stormwater program, the County will be required to pay fees to the State as collected through the local program – which might actually hurt the County because it has to pay part of its fee structure to the State. In effect, the County will have to raise its fees to pay part of them to the State. He said that the erosion control program has been partially funded by fees since its inception, at about 40% initially and now at about 50%.

Mr. Brooks reported that the County has had various projects over the years through the CIP to try to implement master plans, such as building the Lickinghole basin when making the Crozet development area. It is his understanding that the program is now defunded.

Ms. Mallek asked what source defunded that effort. Mr. Harper clarified that it was defunded internally, but there are still reserves available.

In terms of voluntary programs, Mr. Brooks reported that the stream buffer program was an implementation of the Chesapeake Bay Act and is not mandatory, as was the case with groundwater management. He said that the public education and illicit discharging are very minimal programs that they try to handle with the staff that does the erosion control and stormwater management.

Mr. Brooks presented an organizational chart, with Community Development having about eight staff people and General Services having 2.5. He added that there are other divisions that help out such as Fire/Rescue cleaning up a spill on the highway before it gets into stormwater, and Parks and Recreation having an impact because they own a lot of land with dams and stormwater facilities on them. He noted that OFD handles projects when a bond is called. Mr. Brooks said that there is also a position in the Rivanna Water and Sewer Authority that does watershed management, a position in schools that takes care of environmental aspects of school buildings and operations, and a person in the Soil and Water Conservation District the County pays part time to do illicit discharge detection and tracking.

Ms. Mallek commented that the pre-work done from 1971 to today will end up being assets on the TMDL list, as that has been promised with the mandates.

Mr. Brooks responded that there has actually been some argument about that because the model put together for the TMDL targets did not give the County any credit, but hopefully they will in the future.

Mr. Harper clarified that they are only giving the County credit for capital projects done since 2009, so anything done before that is just part of the background conditions.

Mr. Rooker noted that what they have actually done is penalize localities that put things in place before this.

Mr. Harper stated that UVA, which has a master plan campus-wide for its stormwater management and 70% of built areas served by stormwater management, is in the same position as some of the rural counties that have no stormwater management. It is very disadvantaged. The state essentially allocated pollution reduction goals to local governments through the MS4 permits that they carry which is the only way they could do it legally.

Mr. Snow commented that, based on the information presented, 10% of streams are healthy, 23% are impaired, and 60%+ do not have enough data but the statement is made that most of our streams are impaired.

Mr. Harper explained that StreamWatch is an organization that collects data. There are 20 sites throughout the County where they collect macro-invertebrate data which they give to the State. There are other monitoring stations throughout the County that the State manages. He clarified that there are about 100 locations throughout the County where data is being collected to help the State determine which streams and reservoirs are healthy or impaired. It is extremely difficult to make a determination about stream health because water samples are collected randomly and it is not easy to put a gauge on a stream to say whether it is good or bad. Mr. Harper said that is why 67% of the streams in the County have not been monitored to the degree necessary for the DEQ to make this determination that they have full confidence in.

Mr. Boyd said that it would seem logical to monitor the streams in the urban areas.

Ms. Mallek noted that they are monitoring way out in the rural and mountain areas, because the headwaters are even more important.

Mr. Harper responded that they are monitoring everywhere, but the urban streams are easier because they are so impaired there is no question.

Mr. Snow asked the location of the 100 monitoring stations he previously mentioned – in Albemarle County or throughout the State. Mr. Harper responded that, within the County, there are 100 different types of monitoring stations that the DEQ uses to make these determinations.

Mr. Rooker said that the monitoring stations involve representative streams of different kinds throughout the County so that, when you get the results, you get a picture that is reasonably accurate.

Mr. Harper referenced a map on the DEQ website, noting the points on the map as being some type of monitoring station, with some being federal and some being citizen monitoring like StreamWatch.

He said that they can extrapolate and use only the sites with enough data to draw the conclusion that the majority of the County's streams are determined impaired by DEQ. Mr. Harper explained that impaired doesn't necessarily mean the streams are all scoured out; it means that they are not meeting the State standard for designated uses – water supply, aquatic life, wildlife, or recreation. He emphasized that if those water bodies are impaired such that they cannot be used for swimming, fishing, or sustaining aquatic life, then they are considered "impaired."

Ms. Mallek said that there are five headwater streams that go into Buck Mountain Creek. It is a logical conclusion that if the Creek is impaired up high, some of that is coming from the five headwater streams that have not been individually tested. Mr. Harper agreed and added that Buck Mountain Creek is considered impaired because of bacteria levels, which could come from farms, wildlife, or even septic systems.

Ms. Mallek asked if the source of impairment for Naked Creek comes from the Murray Plant. Mr. Harper responded that he does not know but could find out.

Mr. Harper reported that the StreamWatch data supports the 30%/70% split. They did a study in 2011 on the premise of the correlation between stream health and land use. Specifically, impervious cover within watersheds contributing to streams, has a significant impact on stream health. They looked at the correlation between land use and stream health and came up with the same result as the DEQ data suggests. Mr. Harper said that staff could do some work into restoring streams with a target of 50/50%, but it depends on what the Board's goal is. He added that there is certainly room for improvement.

Mr. Snow said that someone he spoke with who samples streams strongly questioned the premise that 70% of streams are impaired.

Mr. Foley reiterated that the information states that most of those that they have data on are impaired, although 67% of streams do not have data available.

Mr. Harper reported that bacteria is a huge cause of impairments locally. Benthic is a bottom dweller and means that the macro-invertebrates that live in streams indicate that they are not doing very well. He said that DEQ can often determine what is driving that type of benthic-driven impairment, whether it is sediment or other things. Mr. Harper said that some of the County's reservoirs are impaired due to acidity, which is due to acid rain that is not within the localities' control.

Mr. Snow said that his contact with stream monitoring also said that pets, mainly dogs, are a major cause of stream degradation.

Mr. Harper responded that their education partnership has really focused on pet waste lately, as it is a big problem, but impervious connected areas contribute to that just by facilitating the runoff.

Mr. Thomas asked how the filter next to the County's parking lot has helped Schenk's Branch. Mr. Harper replied that it is less than one-half of one percent of the drainage area, so it would be really impossible to measure, but the County has done its part on their tiny piece of property within the watershed to make it improved.

Regarding the new mandates, Mr. Harper reported that the Virginia Stormwater Management Program (VSMP) is the State delegating to local governments the responsibility to implement erosion and sediment control and stormwater management programs to essentially regulate development. He said that, in addition to all of the other measures the County has been doing, they now have to manage pollution prevention at construction sites.

Mr. Brooks stated that this is a program the State has been running for many years very poorly so now they have delegated it to the counties. He explained that the County will need to regulate things such as where the concrete washout is, where the trash from sites is going, whether they are using a container for paints and solvents, and whether the porta-johns are operating properly.

Mr. Harper reported that the MS4 –Municipal Separate Storm Sewer System Permit – which the County has had for 10 years, now has new obligations. He explained that the County must update a lot of the existing program elements over the next year or two, i.e., targeting audiences such as restaurants for the public education campaign. He explained that there are local TMDLs as well as the Chesapeake Bay TMDL, and there are two local ones that have resulted in allocations to the County for pollution reduction. He said that for every impaired stream in the County, DEQ has to do a TMDL for those water bodies, so anything that runs through the jurisdictional area will need to be addressed through the MS4 permit eventually. Mr. Harper said that the TMDLs were essentially being embedded within the MS4 permit; the obligations to reduce pollutant loadings to meet the TMDLs. He noted that anyone with an MS4 permit, including local governments, colleges and universities, and even VDOT, are under the TMDL mandate. Mr. Harper said that if the locality is not large enough to have an official MS4 program, it is not mandated to reduce pollutant loadings yet.

Mr. Harper said the next work session will include a discussion and specific goals on what the Board wants its streams to look like in the future.

Ms. Mallek commented that the County has made huge progress and she hopes that it continues.

Mr. Rooker asked if staff knows yet what the County's allocation for pollution load reductions will be. Mr. Harper responded that the State has distilled the complexity of the Bay model into a simple table

that is within the general conditions of the County's permit. The County would multiply the impervious and pervious areas within jurisdictional areas by the loading rates provided to come up with what is currently being contributed in terms of sediment, nitrogen and phosphorous to the Chesapeake Bay.

Mr. Rooker asked if the County's loadings have already been measured. Mr. Harper responded that it has been measured over the entire Chesapeake Bay watershed, and they are separated out some differences, but no one really knows how much is coming out of the County. The State has just evenly allocated these pollutant load reductions to every local government and university within the watershed.

Mr. Rooker asked if it was given as a percent of TMDL reduction. Mr. Harper responded that it's done by ratio or percentage. The assumption is that the larger you are the more you contribute and the more you will need to clean up later.

Mr. Rooker said that it sounds as though every locality and MS4 holder will be assigned a reduction requirement. He asked how the State will know if Albemarle has reduced its TMDL load if you do not have some kind of reasonable background, a baseline, for the County going in, to compare it against. Mr. Harper said that that's a weakness mentioned because you cannot zero in on any small region, so there is a presumption that what Albemarle contributes is similar to that of other localities. The assumption is that the larger the localities MS4 jurisdictional area, the more the locality contribution.

Ms. Mallek noted that it would include the impervious surface calculation.

Mr. Snow commented that it is about four percent of the County since Albemarle is about 96% rural.

Mr. Rooker expressed concern that Albemarle is being required to submit a plan that shows how it will achieve some percentage reduction, despite the fact there is no baseline to determine what exists today and what will exist after the measures are put in place. It is just all hypothetical.

Ms. Mallek said she thinks it is also based on BMPs, so installing structures such as bio-filters will take some of the materials out. Mr. Harper confirmed that is the case, noting that the State calibrated the model based on its best understanding and information the County has provided on what's on the ground.

Mr. Rooker pointed out that, under this scenario, someone that has nothing in place may be able to put 10 BMPs in and achieve their reduction and if you got 800 in place, you may have to put in 80.

Mr. Boyd commented that, from what Mr. Harper is saying, the County is going to need to spend a lot more money and spend a lot more personnel to apply this process in order to meet state and federal mandates. He asked why the County needs to reinvent the wheel, since this is going on all over the state and the East Coast with the states affecting the Bay. He asked if the County could not gather some detail of other successes.

Ms. Mallek responded that it was already being done, as the River Basin Commission has been doing research, the Soil and Water Conservation District has been working on it. There are so many partners that are just figuring out where to do what.

Mr. Rooker commented that there are known ways to meet the goals, so the more infrastructure put in place the better the result.

Mr. Foley said the County is going to be held accountable in a different way than it has in the past. It is going to become the County's responsibility.

Mr. Boyd asked if the goals the County is trying to establish have been put forth. Mr. Harper responded that the minimum goals are to clean up the impaired streams, and the State is saying that is what needs to be done. That is the whole TMDL process.

Mr. Rooker said the County has to develop a plan and submit a plan by July 2015 that sets forth a coherent way to accomplish how these reductions will be achieved.

Mr. Brooks emphasized that the goals have changed, and that is part of the problem. He said that with stormwater management back in the 1970s and 1980s it was a localized flooding goal, and then it graduated into protecting water supplies. It then evolved further and became part of the Clean Water Act and overall pollution prevention. Now they are in a new phase with a specific target of trying to save the Chesapeake Bay. He said that, originally, the goals were to try get regulations on the same scale as development, which is why they talked about local streams. Now, they are talking about local streams just because of the Bay. Mr. Brooks said that they are talking about the final pollutant load reaching the James River and the Bay, which was not really talked about 10 years ago.

Mr. Thomas commented that Albemarle is on the tail end of the James River, and asked if the County would be put on the same scale as Harrisburg, PA – as they dump all of their water right into the Susquehanna. Mr. Brooks responded that that's what Mr. Rooker was getting at, and the answer is "yes." He added that there is a big model, and everyone is vying for credits in this model. There is a tenuous connection to reality, but the County has to deal with this model and the loadings the model gives the County, and then try to give back something that allows the State to put credits for Albemarle into the model.

Mr. Rooker said that the question is whether all of these efforts and all of the money invested work.

Mr. Harper replied that there is a constant process of iteration and, in five years, the DEQ will determine whether what has been done is good enough to get to the next 5% or 10% or not.

Mr. Brooks said that this brings up an important question. What are the goals Albemarle should have? He commented that the goals have changed a lot and are still changing.

Mr. Boyd stated that there must be some guidelines as to what is going to be required before the County can establish its goals.

Ms. Mallek said that one way to look at it while waiting for the guidelines is that, since 1971, the community has had the goal to do the best job it can and has made incremental steps all of those years with a huge improvement in a lot of situations. She stated that trying to improve local stream health is doing a good thing, and that achieves benefits for those that are downstream.

Mr. Boyd responded that the question is, at what cost.

Mr. Thomas added, and at what cost to the farmers.

Ms. Mallek stated that there have been tremendous resources available for fence-out miles on farmland.

Mr. Thomas said that the Murrays have taken all of their cattle off their property, and asked if that would be demanded of all farmers since the cows are adding e-coli to the water.

Mr. Harper responded that there are incentive programs that the Soil and Water Conservation District implements to get people to fence off streams and provide water sources that are not in the streams so that there is no direct impact. The County has no authority over agricultural or forestall areas anyway. He said that, even though they are addressing mostly urban areas, the impairments are throughout the County.

Mr. Rooker emphasized that all of that impacts the Bay, and he wonders how successful it will be to impose extremely expensive requirements on urban areas.

Ms. Mallek said that there are requirements on the rural areas, which hope to lessen the expensive investments in the MS4; the County's 60% forest cover is a huge asset as well.

Mr. Rooker commented that even with that, the County has the degree of impairment as reported.

Mr. Boyd stated that part of this discussion needs to be about cost, and he would like to know what can be achieved at what price.

Mr. Rooker noted that there is a regulatory goal here, and the County's goal could be to beat regulatory goals by a certain percentage with an associated cost. The bare minimum is going to be to meet state and federal requirements.

Mr. Boyd said that the Board does not know what they are yet.

Mr. Harper clarified that the County has numerical goals, but do not know exactly what they have to do to meet those goals yet and what the price tag will be.

Ms. Mallek said there is a consultative process from December 2013 through March 2014 where DEQ will be looking for the gaps, feedback from localities on challenges, need for staff and monetary support, etc.

Mr. Rooker said that his understanding is there will be a presumption that certain kinds of programs will have a certain kind of effect. Mr. Harper responded that this is correct. He added that it will be a little more refined. The State is working on some guidance to help local governments learn more about the numbers. Everyone is currently muddling through this trying to figure out a plan of action, but they will know a lot more in the near future.

Mr. Mark Graham, Director of Community Development, stated that the mandates, especially with the Chesapeake Bay TMDL, do overlap with County goals through either the strategic plan or comprehensive plan, but do not fully address those stated goals. He emphasized that what staff is trying to do with goals is to give the Board scenarios, with a mix of mandates and other goals, and associated costs.

Mr. Thomas said that he feels this is "a pig in a poke," and wished staff luck with their work.

Ms. Mallek noted that another compounding factor is the transfer of responsibility happening between DCR and DEQ.

Mr. Boyd mentioned that he has not been in favor of having a dedicated revenue source for stormwater management, as it is so integrated with everything else that the County does. He said that the

chart staff has presented shows how many departments and people are involved in maintaining clean water. He added that the rain fee or stormwater tax is not necessarily the way to go.

Ms. Mallek said that one thing she hears from citizens frequently is if they are doing their job to reduce the impact, they should not have to pay out of the General Fund the same amount as somebody with a huge impact. She thinks that element of a user fee is an element of fairness that a lot of people think is really important.

Mr. Rooker stated that one way or another it must be paid for, so if Mr. Boyd says he is not in favor of a stormwater utility fee then he is in favor of paying for it out of general revenues.

Ms. Mallek commented that that would not hold people responsible for their impact.

Mr. Foley said that the amount will be worked through over the next few work sessions. The Board may decide to go beyond mandates but the mandates will require more resources.

Mr. Boyd stated that he is concerned that if the staff sets up a dedicated funding source for water resources, it will create a huge big bureaucracy instead of the integrated approach presented.

Ms. Mallek said that she understood it to be a revenue source that would help to cover the cost of the increased staff element, but not changing the organization.

Mr. Foley commented that it will depend on the goals the Board sets and the programs it wants to put in place. Staff has not determined that it needs a new department or anything to deal with this. He said that he thinks the County has the structure in place to implement this, but as it goes forward and staff understands what the Board wants to accomplish; they will have to figure out how to do it organizationally.

Mr. Graham pointed out that a utility is just a funding mechanism; it is one tool in the toolbox. Whether the Board wants to use it or whether it is the right tool will be somewhat dependent on what the programs are that it wants to put in place. Staff wants to make sure the Board has enough information so as to make an informed decision.

Mr. Foley noted that the Board has a strategic plan that sets out an ambitious goal, and it does not say to meet the minimum mandates that are imposed by the federal and state government. It says to do something more although that still has not been defined yet.

Ms. Mallek said that goals are aspirational, and does not mean they are going to do this tomorrow at a hundred-million dollar cost. It means that the County will nibble away at it a little bit at a time, and it will take a long time.

Mr. Foley stated that staff is trying to clarify the ultimate target with the Board. This will definitely take time. He said he does not even think the federal and state governments are prepared to tell the County exactly what it is going to have to do, but the Board's goal becomes one of the big questions from this.

Mr. Snow commented that it is a moving target, not a stationary one.

Ms. Mallek pointed out that the local target has been the same since 1971 which is important to remember.

Mr. Foley said staff is trying to help the Board and public through the process with these work sessions. Staff has received some good input from the conversation and questions.

Ms. Mallek commented that it would be a shame if the Board turned its back on what has already been accomplished.

Mr. Foley said staff will need to hear that as a majority opinion and what that means.

---

**Since the Board was ahead of schedule, it decided to take up Agenda Item No. 22.** From the Board: Committee Reports and Matters Not Listed on the Agenda.

Ms. Mallek stated that her question about the Historical Society was related to whether it was actually a group, as her understanding is they are two people with no board. She emphasized that she wants to make sure the money in the budget is actually going to go to somebody who can actually use it, and that they have a plan for the two events. Ms. Mallek said that she would like to have an answer to this before she votes on it. The County's Historical Resources Committee has a lot of work to do, such as working on the inventory of assets, that could use staff help and funding. She stated that if the Historical Society is in a reorganization phase, perhaps the money could be redirected for now.

Mr. Davis mentioned that this item is part of the appropriation set for public hearing in the afternoon.

Mr. Foley said that it is important for the Board to know the background on this. Staff has asked Mr. Steven Meeks to come to the public hearing in the afternoon. He has not received confirmation that Mr. Meeks will be present, but staff is contacting him.

---

Ms. Mallek raised the issue of the ABC incident and the will of the Board to send a letter to the Governor about it.

Mr. Rooker said that he is not certain what standards and training are in place today, or what training is required of ABC officers. The Board could comment on a specific incident and say that clearly it indicates there are not adequate guidelines and training in place, or if there are, they are not being followed. Either way, something needs to change within the system to make certain these kinds of circumstances are not duplicated in the community.

Mr. Boyd said he views a letter from the Board as "a bit of piling on," because everybody in the nation is now weighing in on this particular situation. He thinks that it is shifting to be what the City does at times by asking the Board to take some sort of Board position on everything that occurs in the County. He added that the incident happened in the City.

Mr. Rooker commented that he does not feel strongly about sending anything, but if the Board does it needs to be a general statement as opposed to some specific position. He said that he does not know all of the specifics about what happened other than what he read in the media.

Mr. Thomas said that an official report has not yet been released, and he would like to see what authority the ABC had "to attack the young lady," and it could be what they were told to do.

Mr. Snow stated that chasing down two young ladies and pulling a gun means that somewhere along the line, something is breaking down. He said that he sees the value in sending a letter expressing concern that someone should be looking into training.

Mr. Rooker said either there is a problem with the guidelines or the guidelines are not being followed.

Ms. Mallek said the fact that there was an investigation and the ABC absolved its people of any wrongdoing is also a breakdown.

Mr. Boyd said he agrees that what happened was inappropriate. A letter to the Governor's office from the Board is not going to suddenly make them decide to look into this.

Ms. Mallek responded that they did not start looking into it until they got a bunch of letters. She said that she thinks the Board has a responsibility to do this.

Mr. Snow said that public input makes a difference, and a letter of concern will make a difference. He will support a letter to the Governor.

Ms. Mallek stated that she would move that the Board draft a letter to go to the Governor. Mr. Thomas said that he will support it.

Mr. Foley said staff will draft a letter to the Governor's office that is general in nature.

---

Mr. Thomas reported that the previous Saturday he helped move the Lewis & Clark Exploratory Center over to the new Route 20 site, and they are waiting for the building to get completed. He said that he received a call from Alexandria Searls, Executive Director of the Center, who was panicking over a shortfall in what was needed to be paid in fees – specifically \$32,500 in tapping fees for water. He said that he spoke with Mr. Gary O'Connell about the possibility of getting some relief, but that request fell flat. He also found out that the Crozet Library had to pay about \$100,000 in water fees. Mr. Thomas said that Mr. O'Connell suggested that they go to the ACSA Board and ask that they stretch out the payments.

Mr. Rooker said that the question would be whether or not the ACSA does that for anyone else. Mr. Thomas replied that they do not.

Mr. Rooker stated that it is not appropriate to request something from the Authority that the Board would not do for any other applicant.

Mr. Thomas said that he would like to see the City and County give the Lewis & Clark Center some more money to get it off the ground, as it is floundering along right now. Mr. Thomas noted that fundraising has not materialized as hoped, and the construction budget has gone over.

Mr. Rooker suggested asking the CACVB to allocate some money to the organization. Mr. Thomas said that he asked Monticello for \$300,000 to help Lewis & Clark, and got turned down flat.

Mr. Foley stated that the Center has a fundraising plan they are supposed to implement to help offset these costs. The City and County EDAs approved loans to get the Center through this period. He said that the idea was not to let the fundraisers think that the County and City taxpayers were going to pick it up, as the goal is for private funding to pay the majority of the case. In fact, the County has taken significant action to get a VDoT grant that it had to backup. Although there have been some legitimate issues, the County's project management staff has worked hard on this project. He reiterated that the original intent was that fundraising would pay the majority of the project.

Mr. Thomas said that either the contractor, Mathers, or tapping fees had to be paid by the previous Friday, so the Center paid Mathers, but the size of the pipes in the building increased the cost from \$15,000 to \$32,500.

Ms. Mallek said it should be based on the number of bathrooms and the capacity. Mr. Foley pointed out that it is an objective standard.

Mr. Boyd said that he has heard complaints about tapping fees all along, and wondered if the ACSA could establish a process to spread the costs out over time. It is a little bit of a surprise to him that they do not have the ability to do that for everybody. He said that the ACSA could even charge interest for that, as the tapping fees are designed to pay for capital improvements that take place over time. He said that he would not be opposed to talking with Mr. O'Connell and asking the Service Authority to look at that.

Ms. Mallek said she would support the ability to pay installments during the construction process. Currently the fee has to be paid before the building permit is issued.

Mr. Foley stated that Mr. O'Connell will have to do some analysis as to what the Service Authority's carrying costs would be if they build the infrastructure up front and do not get paid over time.

Mr. Boyd said he would agree with that.

Ms. Mallek added that she is very supportive of how the Service Authority has done its future budget and that it is collecting money as needed in order to do infrastructure projects. She said that she is not suggesting they are doing that incorrectly but she does support the idea of asking them to stagger their payments, if possible.

Mr. Rooker commented that this should be approached cautiously and methodically, as there will likely be delinquency issues. In fact, most projects of a large nature are financed up front which is a cost of construction. If they are told that a construction cost can be paid over two years that will be done, and utility hook-ups are a cost of construction. He noted that allowing financing will shift the burden of collection to the ACSA, rather than the bank.

Ms. Mallek noted also that lien holders will be way down the line.

Mr. Foley clarified that he will follow up with Mr. O'Connell on the best practices for utilities.

Mr. Thomas responded that Mr. O'Connell told him it has not been the Authority's normal practice and suggested that he come before the ACSA Board.

Mr. Foley said he will contact Mr. O'Connell regarding the broader question. He added that the Board wants to continue to push the Center to do community fundraising as originally intended.

Mr. Davis mentioned that both the City and County EDAs have given Lewis & Clark a \$70,000 loan, which is what staff, in conjunction with the Center, determined was needed to complete the project.

Mr. Foley said it sounds as though this may have been underestimated.

Mr. Thomas commented that the problem the Center ran into was not having a project manager, so they became dependent on the architect to tell them all of the things they would need to pay. The tapping fee came up a week ago, and they didn't even know about it.

Ms. Mallek stated that she would prefer the request to the ACSA be a general request rather than for a specific project.

Mr. Rooker said that he is not supportive of the County asking for something it would not do for any other applicant.

Mr. Foley asked if there was any other direction from the Board other than directing the Center to continue with private fundraising.

Ms. Mallek pointed out that the Center could apply to the CACVB Board as well.

Mr. Davis reported that he just spoke with Mr. Jack Kelsey, the County's lead on this project, who said that they have achieved substantial completion but there is still a punch list to do. The contractor is not willing to proceed until receiving final payment on the work that has been done. They thought that had been arranged and it was proceeding to final completion. Mr. Kelsey said that he was not aware of the issue Mr. Thomas raised about the connection fees. Mr. Davis said that it would be advantageous to get a report back from Mr. Kelsey or Mr. Henry on the Center's financial condition, as analyzed by County staff. Mr. Davis stated that the staff has some oversight on this because of the VDoT grant for which the County is responsible.

Mr. Davis said that the County has stepped into this and provided a great deal of assistance to Lewis & Clark to keep this project moving forward. He said he thinks they are close to completion and that there is a deadline whereby the Center has to raise money to repay these loans; it was a six-month loan. Mr. Davis stated that there is pressure on the Center to do fundraising. There was no intent to have it be a County or City-funded project. Unless the Board changes that, Mr. Davis said he thinks they need to be kept on task to raise the money.

Mr. Foley stated that he isn't certain that the VDoT requirements will not be met if they do not have the money for the connection fees, as completion of construction is the grant tie.

Mr. Boyd said this is also the first time he has heard about this issue. He is also on the Lewis and Clark Board, and he and Mr. Thomas should sit down with some staff members to come up with a concrete proposal, if needed.

Ms. Mallek stated that if there are cost increases the Center could go back to VDoT for enhancement grants, as there is money available. She said she has not heard about any fundraisers for the Center in three or four years.

Mr. Foley encouraged Mr. Thomas to have the Center continue to pursue private fundraising and continue to reach out to constituents.

Mr. Thomas said they have continued to fundraise, but it has only been modestly successful.

---

Agenda Item No. 12. Closed Meeting.

At 11:14 p.m., Mr. Boyd 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 specific legal matters requiring the provision of legal advice related to the appointment of the Scottsville District member to the Board of Supervisors. Ms. Mallek **seconded** the motion.

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

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

---

Agenda Item No. 13. Certify Closed Meeting.

At 1:34 p.m., the Board reconvened into open meeting. Mr. Boyd **moved** that the Board certify by recorded vote that to the best of each Board member's knowledge, only public business matters lawfully exempted from the open meeting requirements of the Virginia Freedom of Information Act and identified in the motion authorizing the closed meeting were heard, discussed, or considered in the closed meeting. Mr. Rooker **seconded** the motion.

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

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

---

Agenda Item No. 14. Boards and Commissions: Vacancies/Appointments.

Mr. Snow offered **motion** to make the following appointments/reappointments:

- **reappoint** Mr. Jason Burch to the Charlottesville-Albemarle Convention and Visitors (CACVB) Management Bureau with said term to expire June 30, 2015.
- **appoint** Ms. Cynthia Chiles to the Charlottesville-Albemarle Convention and Visitors (CACVB) Management Bureau with said term to expire June 30, 2015.
- **appoint** Ms. Cyndra Van Clief to the Jail Authority Board to fill the unexpired term of Valerie L'Herrou effective July 12, 2013, to expire on August 4, 2014.
- **appoint** Ms. Elly Tucker to the Places 29 Community Advisory Council to fill the unexpired term of Mr. Robert Short, to expire on January 31, 2016.
- **appoint** Mr. William Craddock to the Village of Rivanna Community Advisory Council with said term to expire March 31, 2016

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

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

---

Agenda Item No. 15. VDoT Monthly Report, Joel DeNunzio.

Mr. Joel DeNunzio addressed the Board, and introduced Mr. Andrew Scott, who would be spending two years at the residency doing various rotations with engineering studies and other VDOT items. Mr. DeNunzio mentioned that Mr. John Lynch will be new District Administrator beginning in August, replacing Jim Utterback. Mr. Lynch's former position in Northern Virginia is the same as that of Mr. Brent Sprinkle in the Culpeper office.

Mr. DeNunzio reported that the road closure for Route 708 and Dry Bridge would begin sometime in August; paving of Gillums Ridge Road would begin in mid-July with completion slated for August.

Mr. DeNunzio said that the request the Board sent regarding the bypass meeting request has been forwarded to Brent Sprinkle, and a public meeting for the interchange would be held – perhaps in combination with the public hearing for the overall project.

Mr. Rooker mentioned that VDOT cannot move forward with the interchange until the environmental assessment is complete.

Mr. DeNunzio confirmed that is the case, with the northern and southern interchanges having different requirements on the level of detail needing to be developed for the overall project. He said that VDOT allowed the southern interchange meeting to take place in June because it required more analysis, but they would not be clear to proceed on the design items on the northern terminus until they get through the environmental process and clearance from the FHWA. He stated that VDOT can't really hold a meeting now because they don't have anything to present, but they will be accommodating the request and will have more information to come in the next few months.

Mr. Boyd asked Mr. DeNunzio to send him a copy of the response to the Board's letter, so it can be forwarded. He said that the Forest Lakes Homeowner's Association has approached the Board about that meeting, and he has tried to communicate VDOT's status.

Ms. Mallek suggested having it emailed to all Board members.

Mr. Rooker said that it would be helpful for VDOT to explain why they can't have the public meeting at this point, and what triggers them being able to hold one.

Mr. DeNunzio reported that the Route 250 bicycle lane markings would be complete within 30 days.

Mr. Boyd said that he had been having trouble getting petitioners together to talk about making Black Cat Road a no through-trucks corridor between I-64 and Route 231, and asked if he was under any time limits for getting that done given the bridge construction schedule. Mr. DeNunzio responded that a design exception for the shoulder widths was requested, and if they do proceed with the through-truck restriction they would not necessarily want to have that design exception.

Mr. Boyd said that they don't need as much.

Mr. DeNunzio clarified that the bridge shoulder width standard is four feet per side, and the exception was to make it three feet. He said that he would check with the bridge engineers to confirm at what point they would need to know.

Mr. Boyd said it's going out for right-of-way acquisition this month. Mr. DeNunzio replied that he didn't think a one-foot difference on either side would have a huge impact on the right-of-way, but he would check with the district office to be sure.

Mr. DeNunzio also reported that the work on the Sherwood Farms railroad crossing was scheduled for July 8, and the railroad had contacted VDOT a few months ago, with the crossing to be closed from 8:00 a.m. to 6:00 p.m. that day and accommodations made for emergency vehicles as necessary. Mr. DeNunzio noted that VDOT would need to replace a culvert through the crossing area, which would take the entire day.

Mr. DeNunzio reported that he has made a number of requests for traffic studies that are not in his report, including the Route 743/29 signal heads that aren't aligned properly. He said that VDOT engineers have requested that the Stonefield developer's engineers provide them with the CAD file so they can resolve the issue. Mr. DeNunzio stated that they have already taken the right-turn signal heads and put red, green and yellow arrows on them instead of the "balls," and that has been effective. He said that the next step is to align the middle lanes about three to five feet over and redo the striping. He added that they would have to do that at night and would have to shut down part of Route 29 during those improvements.

Regarding Old Trail, Mr. DeNunzio reported that VDOT has initiated a speed study from Route 250 up to the first road to the right and are considering increasing the speed to 35 mph. He said that they are also doing a signing study at the roundabout to see if they can remove some of it, as it is fairly cluttered, and the results will likely take effect in places like Rolkin Road at Pantops. Mr. DeNunzio said that the roundabout signage is really being applied to something like Route 743 where there are higher volumes, not the neighborhood roundabouts. He stated that he had received a request from the Albemarle County police regarding the issue of trucks going down Route 616 toward the restricted bridge, and they had asked him about installing variable message signs there. Mr. DeNunzio said that upon review, VDOT realized there were existing signs on both ramps, so the question is whether they are effective or not. He noted that they are looking into going farther each way on I-64 with additional signage, but variable message boards on the ramps would be redundant.

Mr. DeNunzio reported that they had started a speed study on Route 691 from Jarman's Gap Road to Route 690 and were also looking at the stop sign for that intersection. He said that VDOT was looking into the pavement markings on Route 250 at Clover Lawn and, prior to the County having a sidewalk project, there could be some improvements.

Ms. Mallek said that one of the preliminary results of that study would be a landing spot between Radford and Harris Teeter, so they could get a pedestrian crossing in the next round.

Mr. DeNunzio stated that he and Ms. Mallek had discussed a concrete median, but what VDOT can likely do before that is changing the striping to show the same thing a grazed median would. He confirmed that this would include removing the far right lane that goes the whole length, and having one right turn lane for each entrance point, similar to what the ultimate design would be.

Mr. Rooker asked for an explanation of the "signing review" item related to Greenbrier Drive at Route 1427 – Old Forge Road, as those roads don't come together. Mr. DeNunzio responded that he would have to look into that study report and get back to the Board with the correct information.

Ms. Mallek thanked Mr. DeNunzio for going out with her and looking at needed improvements. She added that she hoped someone was still looking into the situation at Markwood where a resident is having cars landing in her front yard.

Mr. DeNunzio responded that the bushes around her driveway may be creating a sight distance problem, so he would have engineers look at that. He said that people pulling off into her yard may be their reaction to seeing a car coming around a curve and not seeing it coming.

---

**Since the Board was ahead of schedule, at this time it took up Agenda Item No. 23.** From the County Executive: Report on Matters Not Listed on the Agenda.

Mr. Foley stated that the Board would be receiving a report on the County's records retention policies related to some land records, and a good bit of work has been done in this regard. He said that Mr. Bill Letteri would be sending an email to them regarding the Historic Preservation Committee's meeting the previous Monday, as well as information about the records that were destroyed along with the items still in the County's position. Mr. Foley said that the state's destruction standards are much less stringent, and the County's plan is to go beyond that. He said that it will ultimately lead to a policy that staff will bring before the Board established with input from the Historic Preservation Committee and Historical Society.

---

**NonAgenda.** The Board recessed at 1:52 p.m. and reconvened at 2:03 p.m.

---

Agenda Item No. 16. **Public Hearing: SP-2012-00032. Bellair CSA Barn (Sign # 90).**

**PROPOSAL:** Special events in and around existing barn.

**ZONING CATEGORY/GENERAL USAGE:** RA, Rural Areas- agricultural, forestal, and fishery uses; residential density (0.5 unit/acre in development lots) **SECTION:** 10.2.2.50, which allows for Special events (reference 5.1.43).

**COMPREHENSIVE PLAN LAND USE/DENSITY:** Rural Areas in Rural Area 4 - Preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources/ density (.5 unit/acre in development lots).

**ENTRANCE CORRIDOR:** No.

**LOCATION:** 5363 Bellair Farm.

**TAX MAP/PARCEL:** 11300-00-00-01000.

**MAGISTERIAL DISTRICT:** Scottsville.

*(Advertised in the Daily Progress on June 17 and June 24, 2013.)*

Mr. Scott Clark, Planner, addressed the Board, stating that this is a special use permit request for special events in the rural areas on a farm of approximately 900 acres. He said that the proposal is to hold special events for up to 150 people up to 24 times per year in an existing building, a barn, with no amplified sound proposed for this use. He stated that the property is located on Secretary's Road slightly east of Carter's Bridge on Route 20, and the barn is located near the center of the property. Mr. Clark explained that Bellair Farm is the main entrance to the farm and would be the route in to the events; the driveway on the next parcel over would be the route out.

He said that for the review of the SP, staff looked under the rural area comprehensive plan goals, which would provide alternative income to an existing farm to help support that farm. Mr. Clark stated that VDOT has reviewed both the proposed entrance and exit, and has determined that the designs are sufficient without any changes other than some gravel added to the outgoing driveway. He said that the building official has reviewed the barn and has found that it's satisfactory for 150-person events with some minor additions of signage, and no issues were expected with water supply or septic capacity. Mr. Clark stated that staff is anticipating no noise issues with the property, given the location of the barn within the parcel and the lack of amplification.

Mr. Clark stated that favorable factors include the use supporting a working farm in the rural area, and it would not create significant impact on adjacent properties; no unfavorable factors were found. He said that the Planning Commission recommended approval with conditions, but felt that staff's recommendation of having all events within 250 feet of the barn was too restrictive given things like walks and hayrides. Mr. Clark stated that staff went back and revised the condition to limit structures to be used for the events to that barn or the buildings within 250 feet of it, so the main core of events would be located within the center of the property. He noted the version of the condition in the staff report and the amended one provided by the County Attorney: "The event activities shall not use any structure except the barn at 5290 Bellair Farm or any structure located within 250 feet of that barn."

Ms. Mallek said that she wasn't sure why the activities are limited to this one particular barn, given that there may be things like a hayride or corn maze. She said that it seems a little over the top as far as a restriction, but the Board will learn more about that as they go along. She said that perhaps a more general condition stipulating that "activities are to be focused on the center of the farm" might achieve the same result.

Mr. Clark clarified that this condition would restrict only the structures in use, and the activities themselves could go virtually anywhere on the farm.

Mr. Snow said he could understand the midnight deadline, but asked "why no earlier than 3:00" as a start time.

Mr. Clark explained that the applicant runs a community-supported agriculture during the day, with people coming out at that time, so in order to keep the uses from overlapping the afternoon start time limit was included. He added that the applicant doesn't want to start the events earlier than 3:00 because of traffic flow and conflict with other activities going on.

Mr. Boyd asked about the use of a tent, and whether that would be considered a structure under these conditions. Mr. David Benish clarified that a temporary tent installed for an event isn't considered a structure.

Mr. Rooker pointed out that this doesn't govern outdoor activities, it governs which structures can be used.

At this time, the Chair opened the public hearing.

Mr. Don Swofford addressed the Board, stating that he is a local architect and planner working for Ms. Cynthia Davis at Bellair Farm.

Mr. Rooker asked Mr. Swofford if he was ok with the current conditions of approval. Mr. Swofford clarified that tents fall under temporary structures and do not require a permit, and explained that there are two residences immediately adjacent to the barn and a large greenhouse pertaining to the CSA – which is limited to those using the barns for events. Mr. Swofford mentioned that Bellair Farm do have walking trails around the farm to show the CSA, and sometimes have hay rides to show the lower planning fields. He stated that Ms. Davis has an extensive organic farming operation, and those who come to the CSA are often interested in seeing the farm. He noted that there are two pergolas that are related to the barn, which are used for events.

Ms. Mallek asked if the pergolas is within the measured distance stipulated in the permit. Mr. Swofford responded that they are within 250 feet.

Mr. Swofford explained that they use the two entryways going through the forest and coming into the farm, and one is definitely egress with one for exit to keep the traffic moving one way. Mr. Swofford added that they also have 15 mph speed limits on the farm. He said that it is trying to be set up as careful and as safe as it can possibly be given all of the conditions there and also strives to maintain the rural character of the farm. He stated that the applicant allows people to park in designated parking areas, but they are not paved.

Mr. Boyd asked Mr. Swofford if he was amenable to the conditions as presented. Mr. Swofford responded that he was and noted that the applicant offered those restrictions because they wanted limits for those renting the property for events.

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

Mr. Rooker **moved** for approval of SP 2011-0032 with the conditions as presented, and condition #8 including "July 3, 2015" as the commencement date. Mr. Snow **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

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

**(The conditions of approval are set out below:)**

1. The maximum number of events per calendar year shall not exceed twenty-four (24).
2. The maximum number of event guests shall not exceed one hundred fifty (150) persons.
3. Event activities shall not use any structure except: (1) the barn located at 5290 Bellair Farm; or (2) any structure located within two hundred fifty (250) feet of that barn.
4. Hours of operation for the events shall be no earlier than 3 p.m. and no later than midnight.
5. There shall be no amplified sound permitted for this use.
6. The use shall not commence without approval from the Virginia Department of Transportation of the entrance to the property at Bellair Farm and of the proposed driveway exit on Tax Map Parcel 1130000000800. The exit on Tax Map Parcel 1130000000800 shall be posted for exit-only use to the satisfaction of the Zoning Administrator.
7. The use shall not commence without approval from the building official, the fire official, and the Virginia Department of Health.

8. The use shall commence on or before July 3, 2015 or the permit shall expire and be of no effect.

Agenda Item No. 17. **Public Hearing:** Intent to adopt an ordinance **to amend sections 4-100, Definitions, 4-108, Cruelty to animals; penalty and 4-218, Dangerous and Vicious Dogs, and to add section 4-219, Vicious Dogs, to Chapter 4, Animals and Fowl, of the Albemarle County Code.** The proposed ordinance amends the processes for law enforcement, animal control officers and courts in dealing with dangerous and vicious dogs and increases the initial registration fee and annual registration fee of a dangerous dog to comply with recent amendments of Virginia Code §§ 3.2-6540, 3.2-6540.1, and 3.2-6570. (*Advertised in the Daily Progress on June 17 and June 24, 2013.*)

The following executive summary was forwarded to Board members:

The 2013 General Assembly amended and re-enacted *Virginia Code* § 3.2-6540 and added § 3.2-6540.1 relating to vicious dogs, effective July 1, 2013. These changes require an update to Chapter 4, Animals and Fowl, of the Albemarle County Code to ensure conformance with State law.

The attached draft ordinance (Attachment A) amends Chapter 4, Animals and Fowl, of the County Code by amending three sections and adding one new section as set forth below. The proposed changes encompass both housekeeping and substantive changes. The housekeeping changes separate the Dangerous Dog provisions from Vicious Dog provisions and amend the wording of existing provisions to mirror Virginia Code.

**Amends Section 4-100 (35) Definitions**

- Amends the definition of “serious injury to a person” to mirror changes in the Virginia Code

**Amends Section 4-108 Cruelty to Animals**

- Updates internal references to sections 4-218 and 4-219

**Amends Section 4-218 Dangerous Dogs**

- Removes provisions related to vicious dogs, which are now separately addressed in new Section 4-219, Vicious dogs
- Adds new authority for the court to order dangerous dog owners to pay for the care of the animal while it is in the custody of the locality
- Amends dangerous dog certificate fees and registry requirements consistent with new State law
  - Increases the time period for obtaining a dangerous dog registration from 10 days to 45 days
  - Increases the initial registration fee from \$50.00 to \$150.00
  - Requires that the annual registration shall be updated and renewed by January 31 of each year, and that the renewal registration fee is \$85.00
  - Requires animal control officers to post registration information on the Virginia Dangerous Dog Registry
  - Removes having the dog tattooed as a means of identifying the dog as a dangerous dog. Electronic chip identification is specified as the only means of permanently identifying the dog to be dangerous.
- Amends confinement requirements for dangerous dogs by requiring that the owner of a dangerous dog provide basic care while confining the animal
- Adds procedures for animal control officers and law enforcement officers to deal with dangerous dogs that mirror the Virginia Code by authorizing officers to confine a dangerous dog if the court finds that its owner or custodian has willfully failed to comply with the law

**Adds Section 4-219 Vicious Dogs.**

- Includes provisions previously located under Section 4-218, Dangerous and Vicious Dogs, regarding vicious dogs, including the definition for “vicious dog”
- Adds procedures for animal control officers and law enforcement officers to deal with vicious dogs that mirror the Virginia Code:
  - Authorizes animal control and law-enforcement officers to apply to a magistrate for a summons when the officer believes that the owner of a vicious dog has willfully failed to comply with the law
  - Authorizes animal control and law-enforcement officers to confine a vicious dog if the court finds that the owner of a vicious dog has willfully failed to comply with the law
- Authorizes a court to order the owner of a vicious dog to pay for the care of the animal while it is in the custody of the locality

Staff anticipates limited additional enforcement by animal control officers under the proposed ordinance and, therefore, anticipates that there should be a minimal budget impact.

Staff recommends that after the public hearing the Board adopt the attached ordinance (Attachment A).

\*\*\*\*\*

Police Sergeant Tim Aylor addressed the Board, stating that this amendment would change the County code so it's in conformance with the state code changed on July 1, including separating the dangerous dog and vicious dog ordinance and associated penalties.

Mr. Davis explained that the General Assembly separated what a "dangerous dog" was from a "vicious dog," and made a few changes to the dangerous dog provisions – primarily clarifying how officers can confine dangerous dogs and what care can be taken of them. He said that they changed the amount of the fee required to register a dangerous dog and expanded the time period people have to make that registration complete. Mr. Davis stated that people were having a hard time completing the process within 10 days, so 45 days is a more reasonable time for that process to be completed. He emphasized that if someone hasn't completed the registration process, they are committing a misdemeanor – so this gives a more reasonable window to come into compliance; other than that, this is just a housekeeping measure.

Mr. Thomas asked who determines what a "dangerous dog" is. Mr. Davis responded that there's a definition stated within the ordinance, and the officers upon responding to a complaint make a determination as to whether or not it should be brought to a magistrate to pursue the designation.

Ms. Mallek asked why this ordinance was so lenient in regard to having to inflict inhumane injury or pain, not connected with any reason. She stated that she would like it to state "you are not allowed to cause unnecessary pain or torture animals." Mr. Davis said that the substance of that section was not advertised to be changed, but staff could look at it for future review. He stated that the code section mirrors the state code and is the standard for inhumane treatment of animals, but that is not before the Board today.

Ms. Mallek said she understood that, and commented that animal control officers are put in a different position when they don't have high enough standards. She said that she understands that it is a long stretch to get to cruelty, so there are a whole lot of really horrible situations that animal control officers have to turn a blind eye to because the County standard is low. She commented that she was just raising the issue in hopes the Board can figure out a way to make improvements in the future.

The Chair then opened the public hearing.

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

Mr. Rooker **moved** to adopt the ordinance to amend Chapter 4 – Animals and Fowl to the County Code as presented. Mr. Snow **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

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

**(The adopted Ordinance is set out in full below:)**

#### **ORDINANCE NO. 13-4(1)**

AN ORDINANCE TO AMEND CHAPTER 4, ANIMALS AND FOWL, ARTICLE II, DOGS, DIVISION 4, DANGEROUS AND VICIOUS DOGS

BE IT ORDAINED by the Board of Supervisors of the County of Albemarle, Virginia, that Chapter 4, Animals and Fowl, Article II, Dogs, Division 4, Dangerous and Vicious Dogs, is hereby amended and reordained as follows:

**By Amending:**

**Sec. 4-100**      **Definitions**  
**Sec. 4-108**      **Cruelty to animals; penalty**  
**Sec. 4-218**      **Dangerous and vicious dogs**

**By Adding:**

**Sec. 4-219**      **Vicious dogs**

#### **DIVISION 4. DANGEROUS AND VICIOUS DOGS**

##### **4-100 Definitions**

...

(35) *Serious injury to a person.* The term "serious injury to a person" means any bodily injury for which medical attention was sought and obtained, having a reasonable potential to cause death, or any injury other than a strain or sprain which involves a serious laceration requiring stitches to more than one puncture wound, serious disfigurement, serious impairment of health, or serious impairment of bodily function, or which is serious in the opinion of a licensed physician.

...

(Code 1967, § 4-4; 4-13-88; Code 1988, § 4-4; Ord. 98-A(1), 8-5-98; Ord. 09-4(1), 7-8-09; Ord. 11-4(1), 2-2-11)

State law reference—Va. Code §§ 3.2-6500, 6528.

#### **4-108 Cruelty to animals; penalty.**

A. Any person who: (i) overrides, overdrives, overloads, tortures, ill-treats, abandons, willfully inflicts inhumane injury or pain not connected with bona fide scientific or medical experimentation, or cruelly or unnecessarily beats, maims, mutilates, or kills any animal, whether belonging to himself or another; (ii) deprives any animal of necessary food, drink, shelter or emergency veterinary treatment; (iii) sores any equine for any purpose or administers drugs or medications to alter or mask such sores for the purpose of sale, show or exhibition of any kind, unless such administration of drugs or medications is within the context of a veterinary client-patient relationship and solely for therapeutic purposes; (iv) willfully sets on foot, instigates, engages in, or in any way furthers any act of cruelty to any animal; (v) carries or causes to be carried by any vehicle, vessel or otherwise any animal in cruel, brutal, or inhumane manner, so as to produce torture or unnecessary suffering; or (vi) causes any of the above things, or being the owner of such animal permits such acts to be done by another shall be guilty of a class 1 misdemeanor.

In addition to the penalties provided in this subsection, the court may, in its discretion, require any person convicted of a violation of this subsection to attend an anger management or other appropriate treatment program or obtain psychiatric or psychological counseling. The court may impose the costs of such a program or counseling upon the person convicted.

B. Any person who: (i) tortures, willfully inflicts inhumane injury or pain not connected with bona fide scientific or medical experimentation, or cruelly and unnecessarily beats, maims, mutilates or kills any animal whether belonging to himself or another; (ii) sores any equine for any purpose or administers drugs or medications to alter or mask such sores for the purpose of sale, show, or exhibit of any kind, unless such administration of drugs or medications is under the supervision of a licensed veterinarian and solely for therapeutic purposes; (iii) maliciously deprives any companion animal of necessary food, drink, shelter or emergency veterinary treatment; (iv) instigates, engages in, or in any way furthers any act of cruelty to any animal set forth in clauses (i) through (iv); or causes any of the actions described in clauses (i) through (iv), or being the owner of such animal permits such acts to be done by another; and has been within five (5) years convicted of a violation of this subsection or subsection A, shall be subject to prosecution pursuant to Virginia Code § 3.2-6570 if the current violation or any previous violation of this subsection or subsection A resulted in the death of an animal or the euthanasia of an animal based on the recommendation of a licensed veterinarian upon determination that such euthanasia was necessary due to the condition of the animal, and such condition was a direct result of a violation of this subsection or subsection A.

C. Nothing in this section shall be construed to prohibit the dehorning of cattle conducted in a reasonable and customary manner.

D. This section shall not prohibit authorized wildlife management activities or hunting, fishing or trapping as regulated under the Code of Virginia, including Title 29.1, or to farming activities as provided by this Code or the Code of Virginia.

E. It is unlawful for any person to kill a domestic dog or cat for the purposes of obtaining the hide, fur or pelt of the dog or cat. A violation of this subsection is a class 1 misdemeanor. A second or subsequent violation of this subsection shall be subject to prosecution pursuant to Virginia Code § 3.2-6570.

F. Any person who: (i) tortures, willfully inflicts inhumane injury or pain not connected with bona fide scientific or medical experimentation or cruelly and unnecessarily beats, maims or mutilates any dog or cat that is a companion animal whether belonging to him or another; and (ii) as a direct result causes the death of such dog or cat that is a companion animal, or euthanasia of such animal on recommendation of a licensed veterinarian upon determination that such euthanasia was necessary due to the condition of the animal, shall be subject to prosecution pursuant to Virginia Code § 3.2-6570. If a dog or cat is attacked on its owner's property by a dog so as to cause injury or death, the owner of the injured dog or cat may use all reasonable and necessary force against the dog at the time of the attack to protect his dog or cat. Such owner may be presumed to have taken necessary and appropriate action to defend his dog or cat and shall therefore be presumed not to have violated this subsection. The provisions of this subsection shall not supersede section 4-106, 4-201, 4-218 or 4-219.

G. Any person convicted of violating this section may be prohibited by the court from possession or ownership of companion animals or equine.

(Ord. 98-A(1), 8-5-98, § 4-207; Ord. 09-4(1), 7-8-09)

State law references- Va. Code § 3.2-6570.

#### **4-218 Dangerous dogs.**

A. As used in this section:

*"Dangerous dog"* means a canine or canine crossbreed that has bitten, attacked, or inflicted injury on a person or companion animal that is a dog or cat, or killed a companion animal that is a dog or cat. When a dog attacks or bites a companion animal that is a dog or cat, the attacking or biting dog shall not be deemed dangerous if:

(i) no serious physical injury as determined by a licensed veterinarian has occurred to the dog or cat as a result of the attack or bite:

- (ii) both animals are owned by the same person;
- (iii) such attack occurs on the property of the attacking or biting dog's owner or custodian; or
- (iv) for other good cause as determined by the court.

No dog shall be found to be a dangerous dog as a result of biting, attacking, or inflicting injury on a dog or cat while engaged with an owner or custodian as part of lawful hunting or participating in an organized, lawful dog handling event. No dog that has bitten, attacked, or inflicted injury on a person shall be found to be a dangerous dog if the court determines, based on the totality of the evidence before it, that the dog is not dangerous or a threat to the community.

B. Any law-enforcement officer or animal control officer who has reason to believe that a canine or canine crossbreed within its jurisdiction is a dangerous dog shall apply to a magistrate of the jurisdiction for the issuance of a summons requiring the owner or custodian, if known, to appear before a general district court at a specified time. The summons shall advise the owner of the nature of the proceeding and the matters at issue. If a law-enforcement officer successfully makes an application for the issuance of a summons, he shall contact the local animal control officer and inform him of the location of the dog and the relevant facts pertaining to his belief that the dog is dangerous. The animal control officer shall confine the animal until such time as evidence shall be heard and a verdict rendered. If the animal control officer determines that the owner or custodian can confine the animal in a manner that protects the public safety, he may permit the owner or custodian to confine the animal until such time as evidence shall be heard and a verdict rendered. The court, through its contempt powers, may compel the owner, custodian or harbinger of the animal to produce the animal. If, after hearing the evidence, the court finds that the animal is a dangerous dog, the court shall order the animal's owner to comply with the provisions of this section. The court, upon finding the animal to be a dangerous dog, may order the owner, custodian, or harbinger thereof to pay restitution for actual damages to any person injured by the animal or whose companion animal was injured or killed by the animal. The court, in its discretion, may also order the owner to pay all reasonable expenses incurred in caring and providing for such dangerous dog from the time the animal is taken into custody until such time as the animal is disposed of or returned to the owner. The procedure for appeal and trial shall be the same as provided by law for misdemeanors. Trial by jury shall be as provided in Virginia Code §§ 19.2-260 *et seq.* The county shall be required to prove its case beyond a reasonable doubt.

C. No canine or crossbreed shall be found to be a dangerous dog solely because it is a particular breed, nor is the ownership of a particular breed of canine or canine crossbreed prohibited. No animal shall be found to be a dangerous dog if the threat, injury or damage was sustained by a person who was (i) committing, at the time, a crime upon the premises occupied by the animal's owner or custodian; (ii) committing, at the time, a willful trespass upon the premises occupied by the animal's owner or custodian; or (iii) provoking, tormenting, or physically abusing the animal, or can be shown to have repeatedly provoked, tormented, abused, or assaulted the animal at other times. No police dog that was engaged in the performance of its duties as such at the time of the acts complained of shall be found to be a dangerous dog. No animal that, at the time of the acts complained of, was responding to pain or injury, or was protecting itself, its kennel, its offspring, a person, or its owner's or custodian's property, shall be found to be a dangerous dog.

D. If the owner of an animal found to be a dangerous dog is a minor, the custodial parent or legal guardian shall be responsible for complying with all requirements of this section.

E. The owner of any animal found to be a dangerous dog shall, within forty-five (45) days of such finding, obtain a dangerous dog registration certificate from the county for a fee of one hundred and fifty dollars (\$150.00), in addition to other fees that may be authorized by law. The county shall also provide the owner with a uniformly designed tag that identifies the animal as a dangerous dog. The owner shall affix the tag to the animal's collar and ensure that the animal wears the collar and tag at all times. By January 31 of each year, until such time as the dangerous dog is deceased, all certificates obtained pursuant to this subsection shall be updated and renewed for a fee of eighty-five dollars (\$85.00) and in the same manner as the initial certificate was obtained. The animal control officer shall post registration information on the Virginia Dangerous Dogs Registry.

F. All dangerous dog registration certificates or renewals thereof required to be obtained under this section shall only be issued to persons eighteen (18) years of age or older who present satisfactory evidence of:

- (i) the animal's current rabies vaccination, if applicable;
- (ii) that the animal has been spayed or neutered; and
- (iii) that the animal is and will be confined in a proper enclosure or is and will be confined inside the owner's residence or is and will be muzzled and confined in the owner's fenced-in yard until the proper enclosure is constructed.

In addition, owners who apply for certificates or renewals thereof under this section shall not be issued a certificate or renewal thereof unless they present satisfactory evidence that:

- (i) their residence is and will continue to be posted with clearly visible signs warning both minors and adults of the presence of a dangerous dog on the property; and
- (ii) the animal has been permanently identified by means of electronic implantation.

All certificates or renewals thereof required to be obtained under this section shall only be issued to persons who present satisfactory evidence that the owner has liability insurance coverage, to the value of at least one hundred thousand dollars (\$100,000.00) that covers animal bites. The owner may obtain and maintain a bond in surety, in lieu of liability insurance, to the value of at least one hundred thousand dollars (\$100,000.00).

G. While on the property of its owner, an animal found to be a dangerous dog shall be confined indoors or in a securely enclosed and locked structure of sufficient height and design to prevent its escape or direct contact with or entry by minors, adults, or other animals. While so confined within the structure, the animal shall be provided for according to section 4-105. When off its owner's property, an animal found to be a dangerous dog shall be kept on a leash and muzzled in such a manner as not to cause injury to the animal or interfere with the animal's vision or respiration, but so as to prevent it from biting a person or another animal.

H. The owner of any dog found to be dangerous shall register the animal with the Commonwealth of Virginia Dangerous Dog Registry as established under Virginia Code § 3.2-6542, within forty-five (45) days of such a finding by any appropriate court. The owner shall also cause the local animal control officer to be promptly notified of: (i) the names, address, and telephone numbers of all owners; (ii) all the means necessary to locate the owner and the dog at any time; (iii) any complaints or incidents of attack by the dog upon any person or cat or dog; (iv) any claims made or lawsuits brought as a result of any attack; (v) chip identification; (vi) proof of insurance or surety bond; and (vii) the death of the dog.

I. After an animal has been found to be a dangerous dog, the animal's owner shall immediately, upon learning of same, cause the local animal control authority to be notified if the animal: (i) is loose or unconfined; (ii) bites a person or attacks another animal; or (iii) is sold, is given away, or dies. Any owner of a dangerous dog who relocates to a new address shall, within ten (10) days of relocating, provide written notice to the appropriate local animal control authority for the old address from which the animal has been moved and the new address to which the animal has been moved.

J. Any owner or custodian of a canine or canine crossbreed or other animal:

1) shall be guilty of a class 2 misdemeanor if the canine or canine crossbreed previously declared a dangerous dog pursuant to this section, when such declaration arose out of a separate and distinct incident, attacks and injures or kills a cat or dog that is a companion animal belonging to another person; or

2) shall be guilty of a class 1 misdemeanor if the canine or canine crossbreed previously declared a dangerous dog pursuant to this section, when such declaration arose out of a separate and distinct incident, bites a human being or attacks a human being causing bodily injury; or

3) shall be subject to prosecution pursuant to Virginia Code § 3.2-6540 if the owner or custodian whose willful act or omission in the care, control, or containment of a canine, canine crossbreed, or other animals is so gross, wanton, and culpable as to show a reckless disregard for human life, and is the proximate cause of such dog or other animal attacking and causing serious bodily injury to any person.

The provisions of this subsection shall not apply to any animal that, at the time of the acts complained of, was responding to pain or injury, or was protecting itself, its kennel, its offspring, a person, or its owner's or custodian's property, or when the animal is a police dog that is engaged in the performance of its duties at the time of the attack.

K. The owner of any animal that has been found to be a dangerous dog who willfully fails to comply with the requirements of this section shall be guilty of a class 1 misdemeanor.

Whenever an owner or custodian of an animal found to be a dangerous dog is charged with a violation of this section, the animal control officer shall confine the dangerous dog until such time as evidence shall be heard and a verdict rendered. The court, through its contempt powers, may compel the owner, custodian, or harbinger of the animal to produce the animal.

Upon conviction, the court may (i) order the dangerous dog to be disposed of by the county pursuant to Virginia Code § 3.2-6562 or (ii) grant the owner up to forty-five (45) days to comply with the requirements of this section, during which time the dangerous dog shall remain in the custody of the animal control officer until compliance has been verified. If the owner fails to achieve compliance within the time specified by the court, the court shall order the dangerous dog to be disposed of by a local governing body pursuant to Virginia Code § 3.2-6562. The court, in its discretion, may order the owner to pay all reasonable expenses incurred in caring and providing for such dangerous dog from the time the animal is taken into custody until such time that the animal is disposed of or returned to the owner.

L. All fees collected pursuant to this section, less the costs incurred by the county in producing and distributing the certificates and tags required by this section and fees due to the State Veterinarian for maintenance of the Virginia Dangerous Dog Registry shall be paid into a special dedicated fund of the county for the purpose of paying the expenses of any training course required under Virginia Code § 3.2-6556.

(Ord. No. 94-4(12), 8-3-94; Code 1988, § 4-37A.1; Ord. 98-A(1), 8-5-98; Ord. 03-4(1), 2-5-03; Ord. 03-4(3), 12-3-03, § 4-401; Ord. No. 94-4(12), 8-3-94; Code 1988, § 4-37A; Ord. 98-A(1), 8-5-98; Ord. 03-4(3), 12-3-03, § 4-400; Ord. 09-4(1), 7-8-09)

State law reference—Va. Code § 3.2-6540.

#### **4-219 Vicious dogs**

A. As used in this section:

“Vicious dog” means a canine or canine crossbreed that has (i) killed a person, (ii) inflicted serious injury to a person, or (iii) continued to exhibit the behavior that resulted in a previous finding by a court, or, on

or before July 1, 2006, by an animal control officer as authorized by ordinance that it is a dangerous dog, provided that its owner has been given notice of that finding.

B. Any law-enforcement officer or animal control officer who has reason to believe that a canine or canine crossbreed within the county is a vicious dog shall apply to a magistrate serving the county for the issuance of a summons requiring the owner or custodian, if known, to appear before a general district court at a specified time. The summons shall advise the owner of the nature of the proceeding and the matters at issue. If a law-enforcement officer successfully makes an application for the issuance of a summons, he shall contact the local animal control officer and inform him of the location of the dog and the relevant facts pertaining to his belief that the dog is vicious. The animal control officer shall confine the animal until such time as evidence shall be heard and a verdict rendered. The court, through its contempt powers, may compel the owner, custodian, or harbinger of the animal to produce the animal. If, after hearing the evidence, the court finds that the animal is a vicious dog, the court shall order the animal euthanized in accordance with the provisions of Virginia Code § 3.2-6562. The court, upon finding the animal to be a vicious dog, may order the owner, custodian, or harbinger thereof to pay restitution for actual damage to any person injured by the animal or to the estate of any person killed by the animal. The court, in its discretion, may also order the owner to pay all reasonable expenses incurred in caring and providing for such vicious dog from the time the animal is taken into custody until such time as the animal is disposed of. The procedure for appeal and trial shall be the same as provided by law for misdemeanors. Trial by jury shall be as provided in Virginia Code §§ 19.2-260 *et seq.* The county shall be required to prove its case beyond a reasonable doubt.

C. No canine or canine crossbreed shall be found to be a vicious dog solely because it is a particular breed, nor is the ownership of a particular breed of canine or canine crossbreed prohibited. No animal shall be found to be a vicious dog if the threat, injury, or damage was sustained by a person who was (i) committing, at the time, a crime upon the premises occupied by the animal's owner or custodian; (ii) committing, at the time, a willful trespass upon the premises occupied by the animal's owner or custodian; or (iii) provoking, tormenting, or physically abusing the animal, or can be shown to have repeatedly provoked, tormented, abused, or assaulted the animal at other times. No police dog that was engaged in the performance of its duties as such at the time of the acts complained of shall be found to be a vicious dog. No animal that, at the time of the acts complained of, was responding to pain or injury or was protecting itself, its kennel, its offspring, a person, or its owner's or custodian's property, shall be found to be a vicious dog.

D. Any owner or custodian of a canine or canine crossbreed or other animal whose willful act or omission in the care, control, or containment of a canine, canine crossbreed, or other animal is so gross, wanton, and culpable as to show a reckless disregard for human life and is the proximate cause of such dog or other animal attacking and causing serious injury to any person may be prosecuted pursuant to Virginia Code § 3.2-6540.1. The provisions of this subsection shall not apply to any animal that, at the time of the acts complained of, was responding to pain or injury or was protecting itself, its kennel, its offspring, a person, or its owner's or custodian's property, or when the animal is a police dog that is engaged in the performance of its duties at the time of the attack.

State law reference—Va. Code § 3.2-6540.1

---

Agenda Item No. 18. **Public Hearing:** Intent to adopt an ordinance **to amend Chapter 6, Fire Protection, of the Albemarle County Code by adding section 6-113, Physical examinations for firefighters and other operational members.** The proposed ordinance directs the County to employ physicians to perform physical examinations of every salaried and volunteer fire fighter and other specified operational members of the coordinated fire and rescue system entering the service of the system to comply with the requirements of Virginia Code § 27-40.1:1. (*Advertised in the Daily Progress on June 17 and June 24, 2013.*)

The following executive summary was forwarded to Board members:

Virginia's Line of Duty Act (LODA) provides important benefits for state and local public safety officers and public safety volunteers and/or their beneficiaries due to death or disability resulting from performance of duties. LODA benefits include:

- 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 deceased in the line of duty
- Continued health insurance coverage for the covered employee, spouse and dependent children for a covered employee who is disabled in the line of duty occurring after July 1, 2000

After the cost of the LODA benefit was passed down to localities in June 2012, staff recommended that the County opt out of the Virginia Retirement System (VRS) LODA fund and purchase coverage from the Virginia Association of Counties Self-Insurance Risk Pool (VACoRP). At its June 6, 2012 meeting, the Board adopted a Resolution "opting out" of the State LODA Fund, and authorized the County to purchase LODA coverage from VACoRP for FY 13 by joining the VACoRP LODA Risk Pool. (Attachment B).

To effectively manage this unfunded mandate moving forward, staff also presented additional VACoRP recommendations. Staff has been working since June 2012 to establish an effective LODA program and implement VACoRP's recommendations.

Fire Rescue staff and the Fire and Emergency Medical Services Board (FEMS Board) have been working together to develop a policy to define LODA-eligible personnel, both career and volunteer, as well

as establish procedures for entry-level physical exams and training. Fire Rescue LODA policy SAP-DEP-048 (Attachment A) was approved by the FEMS Board in April and will be issued as a system-wide policy by the Fire Rescue Chief, effective July 1, 2013.

Virginia Code § 27-40.1:1 (Attachment B) requires that any locality providing death, retirement, or sickness benefits to salaried or volunteer fire fighters shall, by ordinance, provide for the employment of a physician to conduct physical examinations of all career and volunteer firefighters entering its service. If a locality fails to provide these physical examinations, it is presumed that a firefighter suffering from respiratory disease, hypertension, or heart disease contracted the ailment in the line of duty, leaving the locality possibly liable for the cost of the benefits.

While the Virginia Code requirement is specific to firefighters, staff believes that volunteer members of both fire departments and rescue squads are subject to similar hazards on duty. In addition, many volunteers initially join a rescue squad and later sign up for fire training or join a fire department. Having all operational members complete a physical prior to entering service will identify any significant health hazards prior to members' exposure to those hazards, provide a standard process that won't need to be repeated, and reduce some of the liability associated with LODA benefits.

Staff has prepared a draft ordinance (Attachment C) to amend County Code Chapter 6, Fire Protection, to comply with the requirement of Virginia Code § 27-40.1:1. The ordinance would add County Code § 6-113, Physical examinations for firefighters and other operational members, to require that the County employ physicians to perform physical examinations of every salaried and volunteer fire fighter and other specified operational members of the coordinated fire and rescue system entering the service of the system.

Funds to conduct physicals for both career and volunteer firefighters have already been appropriated for FY14. No additional budget impact is anticipated due to the adoption of this ordinance.

Staff recommends that after the public hearing, the Board adopt the attached ordinance (Attachment C).

\*\*\*\*\*

Fire Chief Dan Eggleston addressed the Board, stating that this is also a housekeeping issue, and is related to the completion of Line of Duty Act requirements for Fire Rescue. He reported that over the last years, Fire Rescue has worked with HR, VACORP, and the FEMS Board to develop a policy that will manage risk related to the LODA benefit. He explained that the goal was to balance out the need to manage risk while at the same time not put up obstacles that would hinder their ability to recruit and retain volunteers. Chief Eggleston said it was a delicate balance, but one he believe they struck last April when the FEMS Board approved the LODA benefit policy. He stated that the policy went into effect July 1, 2013, and includes the provision that Fire Rescue will provide a medical physical to any new volunteer or career staff person that comes on board and performs an operational role – someone who delivers emergency services in a potentially hazardous environment. Chief Eggleston said that the code stipulates that they would need to employ a physician to conduct the physicals, and the County would need to establish this by ordinance. He stated that Fire Rescue has included in their packets an amendment to the ordinance that would basically bring the County code into compliance, and staff recommends amending the code to include the attachment presented.

Ms. Mallek asked if the two-page test is part of the state law. Chief Eggleston responded that some of that information came from NFPA-1582, which is a standard for medical physicals for firefighters – and the National Fire Protection Association is used by many departments as a guideline in consultation with their physician, to determine what items are included in the medical physical.

Ms. Mallek said that the state law is now precluding having a menu of physicians in the community that agree to the County rate to do this with whom these people would already have a relationship. She said that that would be preferable to her, to be able to go to her own physician, like a sports physical.

Mr. Davis clarified that state law says that in order to not have a presumption that all respiratory disease, hypertension or heart disease is job-related, the County must adopt an ordinance and provide a County physical for those employees.

Ms. Mallek commented that there are thousands of physicians around that are already serving these volunteers, and it seems illogical to have those volunteers go to a County-employed doctor.

Mr. Davis explained that the intent is to have a consistent application of the standard, and the County would retain a physician on that basis – not hire one.

Chief Eggleston confirmed that it would be a contract employee, and the FEMS Board expressed no concern about this part of the process – with most attention pertaining to the timeliness of the process and exclusion of non-essential items in the physical.

Mr. Boyd commented that the County is not going to hire a physician they are going to designate one.

Mr. Rooker emphasized that with insurance-type of exams, they need to make certain there is a standard approach to how the exam is performed and reported.

Ms. Mallek commented that her personal concern is that this is over the top, with the County keeping control of everything.

Mr. Snow asked if the volunteers could take the information from the physical and take it back to their own physician. Chief Eggleston responded that they certainly could, and the information is available to the individual. Once a person goes and gets a physical, that's their medical record. They can take that information and take it to their physician for follow up. He noted that the purpose of doing it this way was to maintain consistency, and he doesn't recall it being an issue for FEMS as they've been reviewing it over the last year.

Mr. Davis added that it's the same process the County uses now for career police and fire department staff, and it is a very common procedure to require it.

Mr. Thomas mentioned that his new employees are required to go to the same doctor, one that he designates.

Mr. Rooker said that it is extremely common in businesses and industry, because you want to have a consistent exam done in a consistent way – and the business will often negotiate a rate with one or more physicians who will perform them.

Mr. Foley noted that he is quite pleased that FEMS staff and volunteers came together and developed a policy that is being recommended on an issue perceived to be very difficult.

Mr. Boyd stated that it would be helpful for the Board to get copies of the FEMS Board minutes when they approve items like this. Chief Eggleston responded that they are [near]-verbatim minutes, and could be provided.

Mr. Boyd said that it would be helpful to have them, to see who voted for or against an item, as part of the background information on anything. Mr. Foley agreed that they could be included.

Chief Eggleston commented that the minutes are available on the Fire Rescue website.

Ms. Mallek said that that is a big improvement over what has been done in the past.

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

Mr. Rooker **moved** to adopt the ordinance to amend County Code Chapter 6 – Fire Protection as presented. Ms. Mallek **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

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

NAYS: None.

**(The adopted Ordinance is set out in full below:)**

**ORDINANCE NO. 13-6(3)**

AN ORDINANCE TO AMEND CHAPTER 6, FIRE PROTECTION, ARTICLE I, COORDINATED FIRE AND RESCUE SYSTEM, DIVISION I, IN GENERAL, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA

BE IT ORDAINED By the Board of Supervisors of the County of Albemarle, Virginia, that Chapter 6, Fire Protection, Article I, Coordinated Fire and Rescue System, Division I, General, is hereby amended and reordained as follows:

By Adding:

Sec. 6-113 Physical examination for firefighters.

**Chapter 6. Fire Protection**

**Article I. Coordinated Fire and Rescue System**

**Division I. In General**

...

**Sec. 6-113. Physical examinations for firefighters and other operational members.**

The county shall employ physicians to perform physical examinations of (a) every salaried and volunteer firefighter and (b) every operational member participating in any fire, rescue, or EMS service delivery activities that may occur in a potentially hazardous environment. Such physical examination shall occur when such firefighter or operational member enters the service of the coordinated fire and rescue system.

**State law reference**—Performance of physical examinations, Virginia Code § 27-40.1:1.

Agenda Item No. 19. **Public Hearing:** Intent to adopt an ordinance **to amend Chapter 10, Offenses-Miscellaneous, of the Albemarle County Code by amending section 10-123, Prohibited activities on public roadways and medians.** The proposed ordinance would clarify the definitions of certain terms and the prohibitions on certain distributions, solicitations, and sales in the roadways and medians consistent with Virginia Code § 46.2-931. (*Advertised in the Daily Progress on June 17 and June 24, 2013.*)

The following executive summary was forwarded to Board members:

The County adopted County Code § 10-123 in 2005 to prohibit the distribution of certain materials, the solicitation of contributions, and the sale or attempted sale of merchandise by those standing on any public roadway or median. In order to maintain consistency with amendments to Virginia Code § 46.2-931, County Code § 10-123 requires certain clarifying and updating amendments.

The proposed ordinance (Attachment A) would amend *County Code* § 10-123, Prohibited Activities on Public Roadways and Medians:

- to prohibit certain distributions, solicitations and sales by persons “while on any public roadway or median” rather than “while *standing* on any public roadway or median” consistent with the amended enabling authority;
- to amend the definition of “selling, offering for sale, advertising, soliciting, distributing or distribute” to “sell, solicit or distribute” consistent with the terms used elsewhere in the ordinance;
- to amend the definition of “center median” to “median” consistent with the term used elsewhere in the ordinance;
- to prohibit the delivery and sale of a service, or attempted delivery and sale of a service, on public roadways and medians consistent with the amended enabling authority; and
- to change the references to “drivers of motor vehicles or passengers therein” to “occupants of motor vehicles” consistent with the amended enabling authority.

The adoption of the proposed ordinance would cause only a minor increase in police enforcement, provided the County continues to follow a complaint-driven model. Staff believes that this enforcement model is manageable within current budget and staffing.

Staff recommends that after the public hearing, the Board adopt the attached proposed ordinance (Attachment A).

\*\*\*\*\*

Deputy Police Chief Ron Lantz addressed the Board, stating that this would amend the County Code, which was adopted in 2005, to come up to standard with the state code. He said that the code language would change from prohibiting certain distribution, solicitation and sales by persons while on a public roadway or median, rather than while standing on a public roadway or median. He clarified that this would specify “occupying” a median – not just standing on the median or on a roadway. Mr. Lance said that this would also amend the language that states selling, offering for sale, advertising, soliciting, distributing, or distributing to sell, to sell, solicit, or distribute consistent with the terms used elsewhere in the ordinance. He stated that these changes would also amend the definition of “center median” to just “median,” and would also state “to prohibit the delivery or sale of service, or attempted delivery or sale of service” on public roadways and medians consistent with the amended enabling authority. He said that the final change would amend the reference to “drivers of motor vehicles” to “all passengers in motor vehicles,” and the police department doesn’t see an increase in cost to enforce this – it just gives the officers more latitude in enforcement.

Ms. Mallek stated that she has noticed for the first time that in the City there is more people in the medians asking for donations rather than trying to sell something. She asked if this legislation would address the solicitors in the medians around town. Mr. Lance responded that the City has the same ordinance as the County’s, but it is not enforced at the same level.

Mr. Davis clarified that it is not the same ordinance, but is similar. He said that in the County, officers would move those people along.

Mr. Snow commented that he has noticed a lot of people in the roadway over the last few weeks.

Mr. Boyd said that he had noticed it too.

Chief Lantz stated that he had also noticed an increase when driving around, and sees more panhandlers in the City than in the County. He said that he personally believes, from his own standpoint, it’s because officers actually stop, talk to people, and let them know what they’re doing is wrong – and actually recently made an arrest on one of the individuals that was wanted for a felony out of another state. He said that the word gets out in the County that the police will stop and engage, and ask for voluntary compliance, but in the City they aren’t as proactive.

Ms. Mallek stated that her concern is a car pileup when someone stops for one of the solicitors.

Chief Lantz said that it is a safety concern as well.

Mr. Boyd noted that he also notices them in shopping centers, but that is private property.

Chief Lantz confirmed that it would be private property, and thus up to the shopping center owners to enforce.

Ms. Mallek said that this would be a circumstance where owners of the shopping centers who have signed up with law enforcement for trespassers could address this.

Mr. Davis stated that this ordinance makes the terms more clear and the violation more clear. The original ordinance was modeled in 2005 after another locality – but since that time the state code has been amended to use language that is clearer.

Mr. Boyd asked if this would pertain to people standing in the roadways advertising merchandise. Mr. Davis clarified that it wouldn't be a violation unless they're making a sale, and just advertising it on the roadway isn't punishable.

Ms. Mallek opened the public hearing.

No public comment was offered, and the Chair closed the public hearing and placed the matter before the Board.

Mr. Rooker **moved** to adopt the ordinance to amend County Code Chapter 10 – Offenses Miscellaneous, as presented. Ms. Mallek **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

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

NAYS: None.

**(The adopted Ordinance is set out in full below:)**

**ORDINANCE NO. 13-10(1)**

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 10, OFFENSES-MISCELLANEOUS, 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 10, Offenses-Miscellaneous, is hereby amended and reordained as follows:

**By Amending:**

Sec. 10-123 Prohibited activities on public roadways and medians

**CHAPTER 10. OFFENSES-MISCELLANEOUS**

...

**Sec. 10-123 Prohibited activities on public roadways and medians.**

A. Definitions:

*Roadway.* As used in this section, the term "roadway" means that portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the shoulder. A highway may include two or more roadways if divided by a physical barrier or barriers or an unpaved area.

*Median.* As used in this section, the term "median" means any area in the middle of any roadway, designed to provide a barrier to keep traffic on one side of the road from going to the other side of the road. A median may be a raised concrete strip or a grass strip.

*Sell, solicit or distribute.* As used in this section, the terms "distribute", "solicit", and "sell" mean any such activity which involves the delivery of any service, document, publication or other item or the intent to deliver any service, document, publication or other item to any occupant of a motor vehicle located on a county roadway or median or any such activity which involves the receipt of any money or any item or the intent to receive any money or any item from the occupant of an automobile located on a county roadway or median, other than a motor vehicle parked in a designated parking space.

B. It shall be unlawful for any person while on any public roadway or median therein to:

1. Distribute handbills, leaflets, bulletins, literature, advertisements or similar material to the occupants of motor vehicles on any roadway or median within the county.

2. Solicit contributions of any nature from the occupants of motor vehicles on any roadway or median within the county.

3. Sell or attempt to sell merchandise or services to the occupants of motor vehicles on any roadway or median within the county.

C. Any person, firm, organization, or corporation violating any provision of this section shall be guilty of a traffic infraction, punishable as provided under state law. Each separate incident may be considered a new violation.

(Ord. 05-10(1), 7-6-05)

**State Law References** -- Authority to enact section, Va. Code § 46.2-931.

. . .

---

Agenda Item No. 20. **Public Hearing:** Intent to adopt an ordinance **to amend Article III, Dealers in Precious Metals, of Chapter 12, Regulated Enterprises, of the Albemarle County Code by amending section 12-308, Records, copies of bill of sales required; inspection, and section 12-311, Dealer to retain purchases.** To comply with recent amendments of the Virginia Code, the proposed ordinance would require precious metals dealers to retain a digital image of the form of identification used by persons involved in each purchase of precious metals or gems, would increase from ten to fifteen the number of calendar days that precious metals dealers are required to retain certain precious metals and gems and the article from which any precious metals or gems were removed, and make other technical amendments necessary to conform with Virginia Code requirements. *(Advertised in the Daily Progress on June 17 and June 24, 2013.)*

The following executive summary was forwarded to Board members:

The 2013 General Assembly amended Virginia Code § 54.1-4101 to require that precious metals dealers obtain and maintain a digital record of the form of identification used by persons involved in each purchase of precious metals or gems. The amendments also expanded the required description of the person selling the precious metals or gems as part of the record-keeping process.

In addition, Virginia Code § 54.1-4104 was amended to increase from ten to fifteen calendar days the retention period that precious metal dealers are required (a) to retain all precious metals or gems in the condition in which they are purchased and (b) when they perform the service of removing precious metals and gems, to retain both the removed precious metals or gems and the articles from which the removal was made.

An ordinance amendment is needed to comply with these recent amendments to the Virginia Code.

Staff has prepared a draft ordinance (Attachment A) to:

- Amend County Code § 12-308, Records, copies of bills of sale required; inspection. The proposed ordinance would:
  - require that dealers of precious metals obtain and maintain digital images of the form of identification used by persons involved in each purchase of precious metals or gems;
  - require that “other identifying marks” be included in the description of the person selling the precious metals or gems; and
  - make other technical amendments necessary to conform with Virginia Code requirements.
- Amend County Code § 12-311, Dealer to retain purchases. The proposed ordinance would require dealers of precious metals and gems to retain for fifteen calendar days all precious metals or gems in the condition in which they are purchased. The proposed ordinance would also require that when the dealers perform the service of removing precious metals and gems, to retain both the removed precious metals or gems and the articles from which such removal was made.

Though the proposed ordinance would require the Police Department to revise the bill of sale form for precious metals dealers, the Department is already responsible for enforcing the existing precious metals ordinance. Staff does not foresee the cost of enforcement increasing under the proposed ordinance.

Staff recommends that after the public hearing, the Board adopt the attached ordinance (Attachment A).

\*\*\*\*\*

Lieutenant Todd Hopwood addressed the Board, stating that this ordinance would require a digital image to be obtained by the dealer from a government-issued ID, would require a description of the seller that would include identification marks such as tattoos, would require the dealer to maintain the purchased items in their original condition for 15 days – rather than the current 10, and has some other minor amendments to conform to state code requirements. He noted that this ordinance would bring the County in compliance with state code. Lieutenant Hopwood mentioned that County police routinely reviews records from dealers in precious metals to compare the information provided by them with current criminal activity, in order to rule out stolen goods. He said that the police have solved many cases by working with local pawn shops and precious metals dealers, and the additional five days under this provision gives the police a few more days to do comparative analysis. Lieutenant Hopwood recommended that the Board adopt the changes as presented.

Mr. Thomas asked for clarification as to why the timeframe was changed from 10 days to 15. Lt. Hopwood said that it stems from the state requirement, and 10 days was a pretty quick turnaround time, with 15 days giving law enforcement a little more time.

Mr. Davis pointed out that the local ordinance must be as strict as state code, so the County is required to go at least 15 days.

Lt. Hopwood added that the police have a good working relationship with local dealers and those throughout Central Virginia, and they have made some major cases developed based upon pawn records and dealer records.

Ms. Mallek opened the public hearing.

No public comment was offered, and the Chair closed the public hearing and placed the matter before the Board.

Mr. Rooker **moved** to adopt the ordinance to amend County Code Chapter 12 – Regulated Enterprises, as presented. Ms. Mallek **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

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

NAYS: None.

**(The adopted Ordinance is set out in full below:)**

**ORDINANCE NO. 13-12(1)**

AN ORDINANCE TO AMEND CHAPTER 12, REGULATED ENTERPRISES, ARTICLE III, DEALERS IN PRECIOUS METALS, 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 12, Regulated Enterprises, Article III, Dealers in Precious Metals, is hereby amended and reordained as follows:

**By Amending:**

**Sec. 12-308** Records, copies of bill of sales required; inspection.

**Sec. 12-311** Dealer to retain purchases.

**CHAPTER 12. REGULATED ENTERPRISES**

**ARTICLE III. DEALERS IN PRECIOUS METALS**

**State law reference**—Regarding dealers in precious metals generally, see Va. Code §§ 54.1-4100 et seq.; authority of county to enact ordinance regulating dealers in precious metals and gems, see Va. Code § 54.1-4111.

**Sec. 12-308 Records, copies of bills of sale required; inspection.**

A. Every dealer shall keep at such dealer's place of business an accurate and legible record of each purchase of precious metals or gems, security arrangement, or transaction involving the removal of precious metals or gems from any manufactured article not then owned by the dealer. The record of each such purchase or security arrangement shall be retained by the dealer for not less than twenty-four (24) months. These records shall set forth the following:

1. A complete description of all precious metals or gems purchased, taken as security or removed from a manufactured article not then owned by the dealer, including the true weight or carat of the precious metals or gems purchased or taken as security and all names, initials, serial numbers or other identifying marks or monograms appearing on each item in question;

2. The price for each item purchased or taken as security;

3. The date, time, and place of receiving the items purchased or taken as security;

4. The full name, residence address, work place, home and work telephone numbers, date of birth, sex, race, height, weight, hair and eye color, other identifying marks, and legible handwritten signature of the person selling the precious metals or gems;

5. Verification of the identification by the exhibition of a government-issued identification card bearing a photograph of the person selling the precious metals or gems, such as a driver's license or military identification card that contains a photograph of the seller and at least one other corroborating piece of identification. The record shall contain the type of identification exhibited, the issuing agency, and the number thereon;

6. A statement of ownership from the seller; and

7. A digital image of the form of identification used by the person involved in the transaction.

B. The information required by subparts (1) to (5) of paragraph (A) of this section shall appear on each bill of sale, the form of which shall be provided by the chief of police. One copy of the form is to be retained by the dealer, one copy to be delivered during regular work hours to the chief of police at his office within twenty-four (24) hours of the purchase or loan or mailed to the chief of police within such twenty-four (24) hour period, and one copy to be delivered to the seller of such precious metals or gems or to the borrower. If the purchase or loan occurs on a Saturday, Sunday or recognized holiday, then the delivery or mailing to the chief of police shall be made no later than 10:00 A.M. of the next regular workday.

(11-12-80, § 1; 7-8-81; 11-14-84; 4-13-88; Code 1988, §§ 5.1-6, 5.1-7; Ord. 98-A(1), 8-5-98)

**State law reference**--Va. Code § 54.1-4101.

**Sec. 12-311 Dealer to retain purchases.**

A. The dealer shall retain all precious metals or gems in the condition in which purchased for a minimum of fifteen calendar days from the time of filing the bill of sale for their purchase with the chief of police. During such period of time, the dealer shall not sell, alter or dispose of a purchased item in whole or in part, or remove it from the county.

B. If a dealer performs the service of removing precious metals and gems, such dealer shall retain the precious metals or gems removed and the article from which such removal was made for a period of fifteen calendar days after receiving such article and precious metals or gems.

C. All items required to be retained hereunder shall be retained in the county at the location specified in the dealer's permit application. An agent of the dealer shall be readily accessible throughout the applicable retention period to make the retained items available for inspection by the chief of police or any law enforcement official of the state or federal government.

(11-12-80, § 1; 7-8-81; 11-14-84; Code 1988, § 5.1-9; Ord. 98-A(1), 8-5-98; Ord. 11-12(1), 2-2-11)

**State law reference**--Similar provisions, Va. Code § 54.1-4104.

Agenda Item No. 21. **Public Hearing: FY 2014 Budget Amendment and Appropriations.**  
(Advertised in the Daily Progress on June 23, 2013.)

The following executive summary 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 2014 appropriations itemized below is \$5,509,444.99. 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 2014 Budget Amendment totals \$5,509,444.99. The estimated expenses and revenues included in the proposed amendment are shown below:

**ESTIMATED EXPENDITURES**

General Fund	\$ 43,665.00
Special Revenue Funds	\$ 3,879,941.42
Capital Improvements Funds	\$ 1,585,838.57
<b>TOTAL ESTIMATED EXPENDITURES – All Funds</b>	<b>\$ 5,509,444.99</b>

**ESTIMATED REVENUES**

State Revenue	\$ 1,299,452.00
Federal Revenue	\$ 739,240.02
Loan Proceeds	\$ (519,750.00)
Proffer Revenue	\$ 222,983.77
General Fund Balance	\$ 38,665.00
Other Fund Balances	\$ 3,728,854.20
<b>TOTAL ESTIMATED REVENUES – All Funds</b>	<b>\$ 5,509,444.99</b>

The budget amendment is comprised of thirteen (13) separate appropriations as follows:

- One (1) appropriation (#2014001) to allocate \$13,000.00 of funding from the Historic Preservation Contingency to the Historical Society pursuant to the Board of Supervisors' action on June 5, 2013. This appropriation will not increase the budget;
- One (1) appropriation (#2014002) totaling \$22,165.00 for the operation of a temporary location for the Route 29 North area ambulance during the renovation of the Seminole Trail Volunteer Fire Department;
- One (1) appropriation (#2014003) totaling \$5,000.00 for donations to the Sheriff's Department;
- One (1) appropriation (#2014004) totaling \$(198,060.39) for various Capital Program projects and revenues previously identified at the March 2013 Board work session;
- One (1) appropriation (#2014005) totaling \$1,617,052.00 for various Capital Program projects;
- One (1) appropriation (#2014006) totaling \$55,460.92 to support the Public Recreational Facilities Authority (PRFA) for its conservation easement monitoring services;
- One (1) appropriation (#2014007) totaling \$16,500.00 to provide temporary staffing to the Office of Management and Budget;

- One (1) appropriation (#2014008) totaling \$3,061,240.48 to reappropriate funding for various special revenue projects;
- One (1) appropriation (#2014009) totaling \$137,000.00 to reappropriate funding for various General Government Capital Program projects;
- One (1) appropriation (#2014010) totaling \$29,846.96 to reappropriate funding for various Stormwater Capital Program projects;
- One (1) appropriation (#2014011) totaling \$6,072.00 for a 2012 State Homeland Security Program (SHSP) grant for emergency shelter management;
- One (1) appropriation (#2014012) totaling \$757,168.02 to reappropriate and appropriate Community Development Block Grant (CDBG) funding; and
- One (1) appropriation (#2014013) to allocate \$51,685.00 of funding from the Intern Fund to the Office of Management and Budget. This appropriation will not increase the budget. This appropriation does not increase the budget.

After the public hearing, staff recommends approval of the FY 2013 Budget Amendment in the amount of \$5,518,715.99 and approval of appropriations #2014004, #2014005, #2014006, #2014007, #2014008, #2014009, #2014010, #2014011, #2014012, and #2014013 to provide funds for various local government projects and programs as described in Attachment A.

\*\*\*\*\*

**Appropriation #2014001** **\$0.00**

This appropriation will not increase the County Budget.

Source: Historic Preservation Contingency \$ 13,000.00

At the June 5, 2013 Board meeting, the Board authorized the expenditure of \$13,000.00 to be provided to the Albemarle Charlottesville Historical Society with the condition that any unused funds be returned to the County to be used by Community Development for assistance with updating the County's GIS information on Registered Historic Resources. This funding is provided from the \$13,000.00 Historic Preservation Contingency included in the FY14 Adopted Budget and will provide for the following programs:

- Civil War Sesquicentennial – Battle of Rio Hill Commemoration (\$8,000): This program will commemorate the 150th anniversary of the battle of Rio Hill, the only Civil War battle within this community, in March 2014. The Virginia Sesquicentennial History Mobile will be part of the program, along with another state-developed exhibit and a new local exhibit.
- Community Educational Exhibits (\$5,000): These exhibits will expand a mobile exhibit program, which began in 2012 as part of the City of Charlottesville's Celebrate250 program, to include themes based in Albemarle County. These exhibits will aim to introduce the community and visitors to the rich and diverse history of the area and will become a reusable resource for area schools.

**Appropriation #2014002** **\$22,165.00**

Source: General Fund fund balance \$ 22,165.00

This request is to appropriate \$22,165.00 to the Department of Fire Rescue to provide funding for the operation of a temporary location for the Route 29 North area ambulance during the renovation of the Seminole Trail Volunteer Fire Department. This funding will provide for the lease and related operational costs for the temporary location. This funding is provided from the General Fund fund balance at this time. It is anticipated that the General Fund fund balance monies for this expense will be replenished by anticipated one-time savings in the Department of Fire Rescue's FY 12/13 budget.

**Appropriation #2014003** **\$5,000.00**

Source: Sheriff Donation Fund fund bal. \$ 5,000.00

This request is to reappropriate \$5,000.00 in contributions that were received to support the Sheriff's volunteer reserve programs. These contributions will support the various reserve programs such as Project Lifesaver, TRIAD, Search and Rescue, child fingerprinting, and any other programs/activities that the Reserves are involved in within the community.

**Appropriation #2014004** **\$(198,060.39)**

Source:	Loan Proceeds	\$ (519,750.00)
	Proffer Revenue	\$ (42,716.23)
	Gen. Gov't Capital Fund fund balance	\$ 351,423.61
	Sch. Capital Fund fund balance	\$ 12,982.23

This request is to appropriate funds from various Capital Program revenues and projects and to make other adjustments as discussed at the March 2013 CIP Work Session:

- This request is to reduce \$519,750.00 in General Government Capital Program Fund loan proceeds and \$64,250.00 in General Government Capital Program Fund fund balance to reflect the approved action of Appropriation 2013-072. This appropriation accelerated the request to fund the apparatus replacements of the Monticello Fire Rescue Ambulance and the Scottsville Volunteer Rescue Squad from FY 14 to FY 13. Each apparatus replacement is estimated to cost \$288,750.00 for a total of \$577,500.00. The purchase was expedited to meet the change in service needs.

- This request is to appropriate \$349,439.61 in General Government Capital Program Fund fund balance to serve as the County's match to support the anticipated FY 15 Transportation Revenue Sharing Program. In November 2013, an application will be made to the State for this round of funding.

These revenues will be used to construct priority transportation projects to be identified by the Board during its approval of the application in November 2013. To establish County matching funds for this application from previously identified projects, the following actions are requested:

- Appropriate \$329,200.00 from Transportation-Local project to the Transportation Revenue Sharing Program project for the County's share; and
- Appropriate \$50,239.61 from the Neighborhood Implementation Plan Contingency to the Transportation Revenue Sharing Program project for the County's share.
- This request reduces the use of proffers for various Capital Program projects by \$42,716.23 and increases the use of the Capital Program Fund fund balance by the same amount to comply with a new State law that prohibits the use of cash proffers for projects that do not expand the capacity of a facility. Specifically, the use of General Government Capital Fund fund balance would increase by \$29,734.00, and the use of School Capital Fund fund balance would increase by \$12,982.23.
- This request reduces the use of a Martha Jefferson Hospital (MJH) proffer by \$60,000.00 and increases the use of the Stonefield proffer by the same amount to support the County's match for the Transportation and Revenue Sharing Program. Upon further review of the MJH Proffer revenue, staff determined \$60,000.00 of the \$429,503.00 in available proffer funding is specifically dedicated for public transit and therefore is not eligible for use to support the County's match for the Transportation and Revenue Sharing Program.

<b>Appropriation #2014005</b>		<b>\$1,617,052.00</b>
Source:	State Revenue	\$ 1,299,452.00
	Proffer Revenue	\$ 235,700.00
	Gen. Gov't Capital Program Fund fund bal.	\$ 81,900.00

This request is to appropriate funds from various Capital Program projects and supporting revenues:

- This request is to reappropriate \$288,750.00 from Charlottesville Albemarle Rescue Squad (CARS) ambulance 140 replacement and \$288,750.00 from CARS ambulance 141 replacement for a total of \$577,500.00 to support the purchases of the Ivy Ambulance – Medic 15 at the cost of \$288,750.00 and the Earlysville Ambulance – Medic 4 at the cost of \$288,750.00.

This request supports Fire Rescue's plan that was implemented to address CARS adjusted service coverage. Beginning on February 4, 2013, CARS no longer runs daytime calls in the County. In order to cover these calls, Fire Rescue implemented the following plan: a daylight (M-F) ambulance was placed in service at Seminole Trail; a daylight (M-F) ambulance was placed in service at COB-5 to cover the Ivy area (which is to be relocated to the new Ivy station when it is operational); and an ambulance was placed at the Earlysville station. The two new ambulances are expected to be delivered six months after the order is placed. The ambulances currently being used will either be sold or kept in reserve for the system.

- This request appropriates \$81,900.00 in proceeds from the sale of older surplus lifepacks. The proceeds from the sale were received by the County in FY 13, and are currently included in the General Government Capital fund fund balance. The proceeds will be used to support the purchase of two new lifepacks and one new training lifepack. These new lifepacks will be deployed in various EMS vehicles.
- In June 2012, the Commonwealth Transportation Board approved the County's request for the FY13 Revenue Sharing Program totaling \$1,000,000.00. This request is to appropriate \$1,000,000.00 in Transportation Revenue Sharing Program State funding and \$235,700.00 in Stonefield Proffer revenue towards the County's match and to reappropriate \$380,000.00 from Transportation-Local to be applied towards the County's match.

This revenue supports the sidewalk projects described below:

- South Pantops Drive/State Farm Boulevard Sidewalk: This project supports pedestrian safety along the north side of South Pantops Drive and west side of State Farm Boulevard by constructing 3500 feet of curb, gutter and sidewalk which will serve several residential, business, and commercial establishments. The project budget will increase \$395,000 for a total revenue sharing project budget of \$830,000. There is \$435,000 currently appropriated, which is a portion of the County's match. County staff anticipates receiving the necessary VDOT approvals to advertise for bid by the fourth quarter of calendar year 2013 and expects construction to take approximately four months.
- Crozet Avenue North Sidewalk: This project supports pedestrian safety by replacing or constructing approximately 1100 feet of sidewalk and drainage improvements along the west side of Crozet Avenue from Saint George Avenue to Crozet Elementary School. The project budget will increase \$383,700 for a total revenue sharing project budget of \$663,700. There is \$280,000 currently appropriated, which is a portion of the County's match. County staff anticipates receiving the necessary VDOT approvals to advertise for

bid by the fourth quarter of calendar year 2013 and expects construction to take approximately four months.

- Hydraulic Road and Barracks Road Sidewalks: This project supports pedestrian safety by making sidewalks improvements along Barracks Road and Hydraulic Road. The Barracks Road sidewalk improvement involves: 1) the construction of approximately 1000 feet of sidewalk from the Barracks West apartments on the north side of Barracks Road to the existing sidewalk west of the Georgetown Road intersection; 2) the construction of crosswalks and two segments of sidewalk (650 ft total) on the south side of Barracks Road between the Georgetown Road intersection and Westminster Road, and between S. Bennington Road and the 29/250 Bypass ramps; and 3) the construction of a crosswalk at Chaucer Road to serve an existing bus stop. The Hydraulic Road sidewalk improvement involves the construction of approximately 1700 feet of sidewalk on the north side of Hydraulic Road. The projects currently have no funds appropriated. The total revenue sharing project budget is \$837,000 for these two projects. The State match totals \$221,300. The County's match is \$380,000 reappropriated from Transportation-Local and \$235,700 from Stonefield proffer revenue. County staff anticipates starting this project in July 2014 with completion in July 2015.
- This request is to appropriate a total of \$230,452.00 in FY 11 of Transportation Revenue Sharing Program State funding to support the Crozet Streetscape Phase II project. The County's match is already appropriated. This will not increase the scope of the project but appropriates the anticipated use of funds identified in September 2010. In September 2010, the Commonwealth Transportation Board approved the County's request for the FY11 Revenue Sharing Program funds for this project. The project is currently underway; streetscape construction is anticipated to begin in the third quarter of calendar year 2013 and is estimated to take approximately 12 months to complete.
- This request is to appropriate \$69,000.00 for a grant awarded by the Virginia Department of Conservation and Recreation Recreational Trails Program Grant Program and the local match of \$17,250.00 for the Preddy Creek Park Phase II project. The local match is being provided by the Capital Greenway Program. The project totals \$86,250.00, and the scope includes a bridge to span seventy feet (70') across Preddy Creek to connect the undeveloped remainder of Preddy Creek Park property, the establishment of approximately seven miles of new and restored existing trails, and signage and mapping. Upon approval of this appropriation, the project will begin in October 2013 and is anticipated to be completed by October 2015.

This request is also to appropriate \$7,500.00 of currently budgeted funds from the General Government Project Management Services to the Preddy Creek Park Phase II project to support the project management costs associated with the bridge project oversight.

- This request is to adjust two project budgets associated with capital projects in Crozet. The request is to re-appropriate \$181,900.00 from the Crozet Library project to the Crozet Streetscape Phase II project to support the construction of a 200 foot extension of Main Street. The construction of Library Avenue (a.k.a. Main Street) was initially funded from the Crozet Streetscape Phase II project. After the design was completed for the Library, it was determine a 200 foot extension to Main Street was required to accommodate the Library's driveway. The cost of the extension totals \$264,400.00 but is offset by \$82,500.00 for a net total of \$181,900.00. The offset is for a storm sewer tie-in that was paid for with funding in the Crozet Library project but was initially budgeted to be part of the Crozet Streetscape Phase II project. This appropriation will not increase the total County budget.

<b>Appropriation #2014006</b>		<b>\$55,460.92</b>
Source:	PRFA Fund fund balance	\$ 53,935.13
	Gen. Gov't. Capital Program Fund fund bal.	\$ 1,525.79

As authorized by the Public Recreational Facilities Authority (PRFA) at its May 9, 2013 meeting, this request is to appropriate \$53,935.13 of PRFA Department of Conservation and Recreation (DCR) revenue received in FY 13, which is now included in the PRFA Fund fund balance and \$1,525.79 of DCR revenue received in FY 12, which is now included in the General Government Capital Fund fund balance, for a total appropriation of \$55,460.92 to Com-munity Development to support the PRFA by providing conservation easement monitoring services during FY 14.

<b>Appropriation #2014007</b>		<b>\$ 16,500.00</b>
Source:	General Fund fund balance	\$ 16,500.00

This request is to appropriate \$16,500.00 to provide temporary part-time staffing to the Office of Management and Budget. This will provide part time assistance primarily to the Capital Improvements Program budget development and management process due to the planned absence of a current staff member. This assistance is needed to project and manage capital revenue for different funding scenarios, support the technical, oversight, and financial committee efforts, prepare capital program manual and associated budget documents. Some overlap for training the temporary employee will be required in advance of the current staff member's departure.

<b>Appropriation #2014008</b>		<b>\$ 3,061,240.48</b>
Source:	Federal Revenue	\$ 6,000.00
	Other Fund fund Balance	\$ 3,055,240.48

The following requests are for the re-appropriation of FY 13 funds to the following projects:

- Belvedere Bond Default Project:** This request is to reappropriate \$3,052,982.00 to support the Belvedere Bond Default Project. The funds are proceeds from six letters of credit that secured developer performance bonds for Belvedere Phase 1 and Belvedere Phase 1, Blocks 3, 4A, 5A, 6B & 9A on which the County collected payment due to the developer's non-performance. The funds will be used to complete the specific improvements secured by the bonds. The County project will be conducted in 2 phases. Phase 1 is Belvedere Boulevard from Rio Road to Free State Road (railroad bridge). This phase is currently on hold pending resolution of funding issues and the extent of quality issues with the base asphalt identified by VDOT. Phase 2 is the remaining Belvedere Boulevard (Free State Rd. to the Village Green) and the residential "blocks." Bids were opened for this phase on May 15, 2013. S. L. Williamson Company was the sole bidder and only provided a bid on three of the nine bid items (each bonded improvement must be shown as a separate bid item). A contract is being awarded to S. L. Williamson for the three bid items. Once the contract is approved, notice to proceed will be issued and substantial completion is anticipated in 120 days. The remaining six bid items were rebid. Those bids were opened on June 12, 2013, and the bids have been received and are currently being reviewed and evaluated.
- Abington Place Bond Default Project:** This request is to reappropriate \$2,258.48 to support the Abington Place Bond Default project. The County collected payment on the bond that secured the greenway path improvements required by condition number 4 of ZMA2002-002, as the improvements were not completed by December 31, 2010 as required. The funds will be used to address any erosion issues and any remaining funds will be used towards the County's cost to manage the project. The County contracted with S. L. Williamson Company to complete the paving of the pathway. It is anticipated that any remaining work will be completed by the third quarter of calendar year 2013.
- Lewis and Clark Exploratory Center (LCEC) Grant:** This request is to reappropriate \$6,000.00 of the awarded grant balance from the Transportation Enhancement Fund Program administered by VDOT to support the construction of an educational building (including transportation exhibits and river history), an access road and parking area, and a connecting trail network, all located at Darden Towe Park. LCEC is required to pay the project invoices and then submit reimbursement requests, including all necessary documentation, to the County. The County is responsible for coordinating the submittal of the reimbursement request documentation to VDOT and all reimbursements will be paid to the County for its pass-through to LCEC.

<b>Appropriation #2014009</b>			<b>\$137,000.00</b>
Source:	Gen. Gov't. Capital Program Fund	fund Bal.	\$ 137,000.00

This request is for the reappropriation of FY 13 funds to the following General Government Capital Program project that was not included in the carry-over estimate, as it was anticipated to be complete before the close of FY 13.

- COB McIntire Brick Repointing:** This reappropriates \$137,000.00 to support the waterproofing of the front stairs at the McIntire County Office Building. This is the final phase of a larger project which included brick repointing, helical tie installation, and masonry repairs. A contract with Strickland Waterproofing Company is being finalized. A Notice to Proceed is scheduled to be issued before the end of June 2013 with substantial completion expected in 30 days. Once this final phase is complete and all invoices processed, any remaining funds will be returned to the CIP Fund fund balance.

<b>Appropriation #2014010</b>			<b>\$29,846.96</b>
Source:	Stormwater Capital Program	Fund Bal.	\$ 29,846.96

This request is for the reappropriation of FY 13 funds for a General Government Capital Program project that was not included in the carry-over estimate, as it was anticipated to be complete before the close of FY 13.

- This request is to re-appropriate \$29,846.96 to support the Downtown Crozet Regional Stormwater Improvements project which consists of stormwater management for a 250-acre urban watershed through channel improvements, wetlands, and biofiltration.

<b>Appropriation #2014011</b>			<b>\$6,072.00</b>
Source:	Federal Revenue		\$ 6,072.00

This request is to appropriate a 2012 State Homeland Security Program (SHSP) grant (CFDA # 97.073) awarded for a shelter enhancement project. The purpose of the SHSP is to make grants to states to assist state and local governments in the implementation of State Homeland Security strategies to address the identified planning, organization, equipment, training, and exercise needs to prevent, protect against, mitigate, respond to, and recover from acts of terrorism and other catastrophic events. This funding will provide kits for the County of Albemarle and the City of Charlottesville Departments of Social Services to allow for registering people in a sheltering event. The kits will include laptops, bar code scanners and bracelets to allow shelter management to know where people are.

<b>Appropriation #2014012</b>			<b>\$757,168.02</b>
Source:	Federal Revenue		\$ 727,168.02
	Proffer Revenue		\$ 30,000.00

This request is to:

1. Reappropriate \$27,168.02 in Community Development Block Grant (CDBG) funding associated with the Scattered Site Rehab Project and Orchard Acres CDBG Planning Grant. The Scattered Site grant should be completed by September 1, 2013 and the Orchard Acres CDBG will go under contract in early July 2013.
2. Appropriate \$700,000 in CDBG funding for the Orchard Acres Rehabilitation Project and \$30,000 in affordable housing proffer funds committed as match for the grant. The project will include at least 24 housing rehabs for low- and moderate income residents over the next 18 to 24 months in the Orchard Acres subdivision located in Crozet.

**Appropriation #2014013** **\$0.00**

This appropriation will not increase the County Budget.

Source:	Intern Fund	\$	51,685.00
---------	-------------	----	-----------

During the FY 13/14 budget process, the Board approved \$166,500.00 in one-time funding to establish a flexible one-year internship program for college and grad school graduates who are seeking experiences in local government. The intent of the program, which has been re-named the County's Fellowship program to distinguish it from the County's other undergraduate level internship programs, is intended to provide a meaningful and goal-oriented experience in which individuals learn about careers in local government with the purpose of benefiting both the County and the Fellow. Fellowships will last for a period not to exceed one calendar year.

This appropriation transfers \$51,685.00 from the Fellowship Program Fund to the Office of Management and Budget (OMB) to provide funding for the salary and associated costs for a one-year full time fellowship for a Masters of Public Administration (MPA) graduate. In addition to completing a variety of policy, budget-related, and cross-departmental duties on behalf of OMB and the County Executive's Office, this Fellowship position will help to establish and manage the remainder of the program to ensure its success.

\*\*\*\*\*

Ms. Lori Allshouse, Director of the Office of Management and Budget, addressed the Board, stating that Virginia Code requires the County to hold a public hearing before amending its budget if the total amount of funds appropriated exceeds 15 of expenditures in the current adopted budget. She stated that the appropriations for FY14 included in this summary total \$5.5 million, and the 13 requests for their consideration are included in Attachment A. Ms. Allshouse said that the majority of the requests are to move funding forward to the new fiscal year for projects that are incomplete as of year-end, and the request also includes appropriations of grants, donations, and other budget adjustments. She said that staff recommends approval of this budget amendment along with the 13 appropriation requests in Attachment A.

Ms. Mallek said that Ms. Allshouse had made suggestions on what to do if the Board does not get more information about the Historic Preservation Contingency that could be processed along with the appropriation but payment held until more information is gathered.

Mr. Rooker asked why there were six items that no bidders bid on for the Belvedere bond RFP. Mr. Henry responded that the County subsequently went out and did a re-bid and had multiple bidders, and they are now in the process of issuing contracts for the bond items. He said that staff had a pre-construction meeting with S.L. Williamson the previous day, and would be meeting with remaining contractors over the next few weeks.

Mr. Rooker asked if the reason the RFP's were bid out separately is because there is nine separate bonds. Mr. Henry confirmed that there were nine separate bonds, which was why the County was required to solicit each bond item separately.

Mr. Rooker pointed out that among the revenue items in the amendment is \$223,000 of proffers, so this is an example of almost \$250,000 million in proffer money being used for projects.

The Chair opened the public hearing.

Mr. Neil Williamson addressed the Board, stating that the Free Enterprise Forum does not have a position on the amendment and appreciated Mr. Rooker bringing forward the proffer monies being spent. He said that he has spoken to the Board about the proffer policy and to him it seems very much like a new municipal piggy bank. He said that the appropriation 2014005 lists \$235,700 from a Stonefield proffer to fund sidewalks in South Pantops, Crozet Avenue, and the north side of Hydraulic Road. Mr. Williamson said the sidewalk cost for the 1,700 feet on Hydraulic equates to \$138.65 per foot, and said that proffers are being spent in the ways the County wants to spend their money – but they are not always directly associated with impacts from the projects. He said that he is not convinced that Crozet Avenue has an impact from Stonefield.

Mr. Rooker said that the money is probably all going toward the sidewalk, given the cost of sidewalks in projects to date. He stated that the County has also spent money on a signal system at Stonefield for people to cross the road safely, so there are expenditures in the walking areas around the development that greatly outstrip this \$235,000.

Mr. Davis mentioned that the County's match for that project is \$380,000 – of which \$235,000 is the Stonefield proffer.

Mr. Rooker noted that it is all going toward that project.

Ms. Mallek said that the bullets in the executive summary seem to have created the confusion.

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

Mr. Boyd asked Ms. Mallek if she had a resolution to the question she asked earlier. Ms. Mallek stated that she has not received any response to her emails or phone query, and asked Ms. Allshouse for some direction on the Historical Society item.

Ms. Allshouse responded that the staff could hold Finance from sending the check until they get some answers.

Mr. Foley said that the real question is what answers the Board would want before releasing the allocation.

Ms. Mallek stated that she would like to know if it is going to a person's salary, or to projects – and what those projects are.

Mr. Boyd said that the question is if the Board should pull that particular appropriation or approve it.

Ms. Mallek said that that is one alternative is to approve as is and hold the check.

Mr. Davis clarified that Finance can't cut a check to them for those purposes unless it's appropriated, and after it's appropriated and they request it there is no reason not to cut the check. He said that it's a zero sum appropriation, so it can be pulled without affecting the numbers here.

Mr. Foley said that staff needs some direction as to where to go with it.

Ms. Mallek suggested that the appropriation be pulled until more information is available.

Mr. Rooker said he would agree with pulling the \$13,000 item until more information came in, and one of the things the Board had discussed was using the money for an additional County staff person to move forward with the database of historic properties in the County. He said that he did not know how they got from there to here.

Mr. Foley clarified that the action was: if the funding was not needed to support their request, then it would then go to Community Development to continue the inventory effort. He said that the Historical Society request was for all \$13,000, so there's nothing left to go to that other effort – and if it was not needed to support their request, it would go to Community Development specifically for that purpose. He mentioned that he would also try to ascertain why the amount listed was \$8,000.

Mr. Rooker then **moved** to approve the 2014 Budget Amendment and Appropriations, with the Historic Preservation contingency item of \$13,000 withdrawn. Mr. Snow **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

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

COUNTY OF ALBEMARLE			
APPROPRIATION SUMMARY			
APP#	ACCOUNT	AMOUNT	DESCRIPTION
2014001	Not Approved		
2014001	Not Approved		
2014002	3-1000-51000-351000-510100-9999	22,165.00	App Fund Balance
2014002	4-1000-32015-432010-312210-1003	5,000.00	Contract Services
2014002	4-1000-32015-432010-510121-1003	2,400.00	ELECTRICAL SERVICES
2014002	4-1000-32015-432010-520300-1003	2,400.00	TELECOMMUNICATIONS
2014002	4-1000-32015-432010-530950-1003	65.00	VEHICLE & BUILDING INSURA
2014002	4-1000-32015-432010-540200-1003	12,300.00	LEASE/RENT-BUILDINGS
2014003	3-8408-51000-351000-510100-9999	5,000.00	Donations
2014003	4-8408-93010-493010-930009-9999	5,000.00	Transfer to GF
2014003	3-1000-51000-351000-512020-9999	5,000.00	Transfer from Fund 8408
2014003	4-1000-21070-421070-301230-1002	5,000.00	Reserve Programs
2014004	3-8529-51000-351000-510100-9999	-60,000.00	MJH-App Fund Balance
2014004	3-8547-51000-351000-510100-9999	60,000.00	Stonefield-App Fund Balance
2014004	3-9000-69000-351000-510100-6599	12,982.23	Sch Capital App Use of Fund Balance
2014004	3-9000-69000-351000-512057-6599	-12,982.23	Transfer from Proffers
2014004	3-9010-41000-341000-410500-9999	-519,750.00	Loan Proceeds
2014004	3-9010-51000-351000-510100-9999	351,423.61	Gen Govt App Use of Fund Balance
2014004	3-9010-51000-351000-512057-9999	-29,734.00	Transfer from Proffers
2014004	3-9010-51000-351000-512072-9999	60,000.00	Trs. From Proffer, Stonefield

2014004	3-9010-51000-351000-512075-9999	-60,000.00	Trs. From Proffer, MJH
2014004	4-8529-93010-493010-930010-9999	-60,000.00	MJH-Trsf to Gen. Govt. CIP
2014004	4-8547-93010-493010-930010-9999	60,000.00	Stonefield-Trsf to Gen. Govt. CIP
2014004	4-9010-32010-432010-811101-3140	-288,750.00	MONTICELLO-AMBULANCE
2014004	4-9010-32030-432030-815703-3140	-288,750.00	SCOTTSVILLE-AMB 706
2014004	4-9010-41020-441200-950081-9999	379,439.61	Transportation Rev. Sharing Program
2014005	3-8547-51000-351000-510100-9999	235,700.00	Stonefield-App Fund Balance
2014005	3-9010-24000-324000-240049-1007	69,000.00	State Revenue-DCR
2014005	3-9010-24000-324000-240231-1004	1,230,452.00	State Match Transportation Rev. Sharing Program
2014005	3-9010-51000-351000-510100-9999	81,900.00	Use of Fund Balance
2014005	3-9010-51000-351000-512072-9999	235,700.00	Trs. From Proffer, Stonefield
2014005	4-8547-93010-493010-930010-9999	235,700.00	Stonefield-Trsf to Gen. Govt. CIP
2014005	4-9010-32010-432010-800321-3140	81,900.00	Lifepacks
2014005	4-9010-32010-432010-815901-3140	288,750.00	Ivy Ambulance - Medic 15
2014005	4-9010-32030-432030-810406-3140	288,750.00	Earlsville Ambulance - Medic 4
2014005	4-9010-32030-432030-815103-3140	-288,750.00	CARS Ambulance 140
2014005	4-9010-32030-432030-815104-3140	-288,750.00	CARS Ambulance 141
2014005	4-9010-41020-441200-950136-9999	-380,000.00	Transportation-Local
2014005	4-9010-41023-441200-800605-9999	412,352.00	Crozet Streetscape Phase II
2014005	4-9010-41350-441200-950509-9999	837,000.00	Hydraulic Road and Barracks Road Sidewalks
2014005	4-9010-41350-441200-950510-9999	395,000.00	South Pantops Drive/State Farm Blvd Sidewalk
2014005	4-9010-41350-441200-950514-9999	383,700.00	Crozet Avenue North Sidewalk
2014005	4-9010-71020-471010-312366-9999	7,500.00	Preddy Creek Park Phase II PM Services
2014005	4-9010-71020-471010-950261-7100	69,000.00	Preddy Creek Park Phase II
2014005	4-9010-72030-471010-950026-7280	-17,250.00	Greenway Program
2014005	4-9010-72030-471010-950233-7280	17,250.00	Preddy Creek Park Phase II
2014005	4-9010-91046-443100-312366-9999	-7,500.00	Future PM Services
2014005	4-9010-94160-494070-999999-7140	-181,900.00	Crozet Library
2014006	3-9010-51000-351000-510100-9999	1,525.79	Appr Use of GG Capital Fund Balance
2014006	4-9010-93010-493010-939999-9999	1,525.79	GG Capital TRS. To Other Fund
2014006	3-8420-51000-351000-512031-9999	1,525.79	TRS. FR.-G/F CIP to PRFA
2014006	3-8420-51000-351000-510100-9999	53,935.13	Appr Use of PRFA Fund Balance
2014006	4-8420-71051-471010-999999-9999	55,460.92	Contingency
2014007	4-1000-12150-412150-110000-1001	15,325.00	Salaries
2014007	4-1000-12150-412150-210000-1001	1,175.00	FICA
2014007	3-1000-51000-351000-510100-9999	16,500.00	Use of Fund Balance
2014008	3-9011-51000-351000-510100-9999	3,052,982.00	Belvedere Bond Default Project
2014008	4-9011-91000-491000-940080-9999	3,052,982.00	Belvedere Bond Default Project
2014008	3-9016-51000-351000-510100-9999	2,258.48	Abington Place Bond Default Project
2014008	4-9016-91000-491000-940086-9999	2,258.48	Abington Place Bond Default Project
2014008	3-1592-33030-333000-330036-1007	6,000.00	Lewis and Clark Exploratory Center (LCEC) Grant
2014008	4-1592-72055-472030-568915-1007	6,000.00	Lewis and Clark Exploratory Center (LCEC) Grant
2014009	3-9010-51000-351000-510100-9999	137,000.00	Approp Use of Fund Balance
2014009	4-9010-43100-443200-950103-1100	137,000.00	COB McIntire Brick Repointing
2014010	3-9100-51000-351000-510100-9999	29,846.96	Approp Use of Fund Balance
2014010	4-9100-82062-482040-800605-9999	29,846.96	Downtown Crozet Regional Stormwater Improvements
2014011	3-1600-33000-333000-330001-1005	6,072.00	Federal Revenue
2014011	4-1600-53011-453010-800700-1005	6,072.00	ADP Equipment
2014012	3-1224-33000-333000-330009-1008	700,000.00	CDBG
2014012	3-1224-33000-333000-330043-1008	27,168.02	SCATTERED SITE-CDBG-DHCD
2014012	3-1224-51000-351000-512068-1008	30,000.00	Transfer from Belvedere Proffer fund 8536
2014012	4-1224-81032-481030-300205-1008	53,306.31	300205-ADMINISTRATIVE SERVICES
2014012	4-1224-81032-481030-563100-1008	703,861.71	AHIP
2014012	3-8536-51000-351000-510100-9999	30,000.00	Belvedere Proffer App Fund Balance
2014012	4-8536-93010-493010-930232-9999	30,000.00	Belvedere Proffer Transfer to fund 1224
2014013	4-1000-12150-412150-110000-1001	37,440.00	MPA Fellow - Salaries
2014013	4-1000-12150-412150-210000-1001	2,864.00	MPA Fellow - FICA
2014013	4-1000-12150-412150-221000-1001	5,238.00	MPA Fellow - VRS
2014013	4-1000-12150-412150-231000-1001	2,712.00	MPA Fellow - Health
2014013	4-1000-12150-412150-232000-1001	285.00	MPA Fellow - Dental
2014013	4-1000-12150-412150-241000-1001	446.00	MPA Fellow - Group Life
2014013	4-1000-12150-412150-520300-1001	250.00	MPA Fellow - Telecommunications
2014013	4-1000-12150-412150-550100-1001	300.00	MPA Fellow - Travel/Training
2014013	4-1000-12150-412150-580100-1001	50.00	MPA Fellow - Dues/Memberships
2014013	4-1000-12150-412150-600100-1001	100.00	MPA Fellow - Office Supplies
2014013	4-1000-12150-412150-800700-1001	2,000.00	MPA Fellow - Laptop
2014013	4-1000-99900-499000-999976-9999	-51,685.00	MPA Fellow - OMB
<b>TOTAL</b>		<b>11,563,341.56</b>	

Agenda Item No. 24. To receive statements from candidates seeking appointment as the Scottsville District representative on the Board of Supervisors.

Ms. Mallek stated that she had a list of all representative candidates for the Scottsville District seat, and would receive their comments in alphabetical order.

Mr. Richard Armstrong addressed the Board, stating that this situation is unprecedented in Albemarle County and could have been done in a back room somewhere whereby the Board decided who they wanted to replace. He said that he salutes Board members for acting with integrity and with principle in saying let's have an open process about this where the people can really be heard. Mr. Armstrong said that he's read comments to the effect that people want to know what the agenda was that the applicants would have, adding that he does not have an agenda. He explained that this is an unelected position where a candidate will fill an interim spot, and people of the Scottsville District – through no fault of their own – are now unrepresented.

Mr. Armstrong stated that what is needed is someone who understands that and is willing to represent without an agenda, but fill the spot in a way that's consistent with what the voters in the Scottsville District wanted when they elected Mr. Dumler. He said that while he is a Democrat, he is not here with a Democratic agenda. He stated that he comes here with an idea that he would vote consistently on issues that come up with the way Mr. Dumler would have done it, and he thinks that is the only really fair way for him to apply for this position, and also in some ways for the Board to decide it. Mr. Armstrong said that the easy way to spin it is to say if Mr. Dumler had been a Republican and forced to resign, it wouldn't be fair to specifically replace him with a Democrat. He stated that he has been a lawyer since 1987, and lawyers in some ways are uniquely situated to fill a role. Mr. Armstrong said that he has represented thousands of people and thousands of businesses over the 20+ years that he has been a lawyer, but is not there when the actual incident or dispute happens – so his role has been to parachute in, evaluate the facts and advise clients as to a good way to proceed. He said that he thinks that is exactly what this position requires. He stated that he is a litigator, but he spends most of his time making peace. Mr. Armstrong said that Board members probably have to tell people they won't get their way, and work with constituents to make their situations better. He said that he thinks that's what lawyers are uniquely qualified to do, and he thinks that is what he is uniquely qualified to do. He added that he grew up in Albemarle County and attended UVA for both undergraduate and law school.

---

Ms. Anne Bedarf addressed the Board, stating that she has the experience, the technical knowledge, and the passion to serve the County and the Scottsville District in the way that they voted in 2011. Ms. Bedarf said that she worked for five years at the Rivanna Water & Sewer Authority and Rivanna Solid Waste Authority, where she gained a deep appreciation and understanding for the region and the issues that are important. Ms. Bedarf stated that she worked hard on the Ivy Landfill cleanup to ensure that it progressed, but also to establish a positive relationship with the neighbors of that site who had an adversarial relationship for a long time. She said that she has a proven ability to work with County staff and helped form Stream Watch, the Rivanna Regional Education Stormwater Partnership, and the Regional Environmental Management System Alliance. Ms. Bedarf stated that while at Rivanna, she went back to school and got a planning degree because of her excitement about public service and the opportunity to work on local agriculture issues. She said that she contributed to planning the first Virginia Food Security Summit and writing the first Buy Fresh/Buy Local guide. Ms. Bedarf stated that she has been on the County's Natural Heritage Committee since 2009, and sees a lot more work needing to be done in that area. She said that most recently they have been working on the Comp Plan – Natural Resources Chapter and Historic Chapter review, and has also been working with Parks & Rec on assessment of natural resources at Byrum and other parks.

Ms. Bedarf stated that she's been at the Green Blue Institute for five years as a senior manager, and their mission is to work with businesses on the triple bottom line, which is the balance between economic, social, and environmental interests – something that is well articulated in the County's strategic plan. She said that their collaborative approach at the Institute includes working with a variety of businesses and government at both the state and national levels. Ms. Bedarf stated that she sees the Supervisor appointment as "a caretaker appointment," and feels it's important to reflect the views of the people who said what they wanted in the last election – someone who will focus on economic growth and is business-savvy, but is a caretaker of shared stewardship values. She said that she does not have a set agenda but is looking forward to working on the one already laid out by this Board, and if there's something she doesn't know she's a quick study with the tenacity and network to learn more. Ms. Bedarf said that focus issues over the next few months include the Comp Plan, zoning issues, and pursuing strategic plan goals for economic development in balance with local resources with things like agri-tourism, joint planning for the watersheds, transfer of development rights, and the ACE program. She stated that solid waste and recycling is also a huge issue to be addressed, and she can bring a lot to that conversation through her work with Rivanna and at Green Blue. Ms. Bedarf said she has also been involved in a recycling task force that "Better World Betty" and the Citizens Advisory Committee of Rivanna have formed.

---

Ms. Cindi Burket addressed the Board, stating that she and her husband Roger have lived in Albemarle since 1997. She said that their son Brian attended Albemarle High School and graduated in 2001. Ms. Burket said that she and her husband moved to the Scottsville District in 2001. Ms. Burket said that she has a bachelor's degree in law enforcement and corrections from Penn State University with a concentration in juvenile justice, and a master's in public administration from George Mason University with a concentration in criminal justice administration. She said that she has held several leadership positions since living in the County, including being the president of Newcomer's Club of Greater

Charlottesville, the president of the Albemarle/Charlottesville Republican Women's League, and is currently the chair of the Albemarle County Republican Committee. She stated that the last few months for Scottsville residents have been challenging, and it is for this reason she has stepped forward for consideration of the interim position.

Ms. Burket said that in addition to her leadership and educational achievements, she has the ability to bring people together and restore the confidence of the residents of the Scottsville District in their Supervisor. She stated that she strongly believes that each issue brought before the Board needs to be decided upon its own merits, with resolution reached with common sense and fiscally sound principles. Ms. Burket added that citizen input should be sought on all issues and should be made an important component of any final decision the Board makes. She stated that she would be a responsive Supervisor by answering all concerns of all constituents. Ms. Burket pledged to return phone calls, answer emails, and visiting people as necessary, adding that she is a proponent of thinking outside the box. She stated that it would be an honor to hold the interim position and would work hard on behalf of the residents of the district and the county as a whole.

---

Ms. Nancy Carpenter addressed the Board, stating that she is seeking the appointment as interim Supervisor for the Scottsville District. Ms. Carpenter said that she has lived in Albemarle County and the Scottsville precinct for five years, and while she is a newcomer to local politics she has been before the Board many times to deliver public comment. She stated that her working with various groups of City residents has allowed her to learn from and connect with many individuals from all ideological and political boundaries, and her experience includes working with the County and state government, Department of Corrections and Culpeper County planning office. Ms. Carpenter said that these positions required the understanding and communication of detailed information to the board, commissions, staff, and the general public. She stated that she majored in geography at James Madison University, which is more than knowing where something is but also knowing how things have come to be and how they have changed.

Ms. Carpenter noted that she has worked extensively in Charlottesville on homeless and housing issues, and has partnered with organizations like the Haven and the Crossings. She stated that she can bring openness to the table, a belief in working beyond the partisan political paradigm to focus on issues, a strong commitment to public fairness, and protection of all citizens' rights – to continue the vision and policies of smart public transportation and intelligent and strategic development area growth, as well as the strength to serve the public. She stated that most of all, what she wants to be is a good steward of this position, and wants to ensure a seamless transition to whomever the district elects to fulfill the rest of the term for the Scottsville District Supervisor.

---

Mr. Petie Craddock addressed the Board, stating that the Scottsville District has been very fortunate and blessed over the years to have a long and distinguished list of representatives on the Board of Supervisors: Rev. Peter Way, Ms. Eenie Nash, Mr. Lindsay Dorrier and Mr. Forrest Marshall. He stated that he had been approached months ago by Democrats, Republicans, and Independents to be a healing bridge from the current unsettled situation to the special election in November. Mr. Craddock emphasized that he is fair, open-minded, independent, reserved, calm, and confident with previous government experience. He said that he was appointed by Lindsay Dorrier to two terms on the Planning Commission, and worked on the Comp Plan, the Neighborhood Model, and Places 29. Mr. Craddock stated that he, his wife, and children all graduated from County public schools, and he is a lifelong resident of the County and Scottsville District – mostly Scottsville Road and the Milton area – and his wife taught at Stone Robinson for 35 years. He said that he is a deacon at First Baptist Church and is a graduate of the Sorensen Institute of Public Policy and a graduate of the Charlottesville-Albemarle Chamber of Commerce Leadership Institute, as well as a graduate of UVA. Mr. Craddock noted that he's also been a board member of the East Rivanna Volunteer Fire Company since 1986. He said that he has willingly agreed to answer the call to serve our community through this difficult transition period, and stated that the next few months would be very busy so there's no need for political posturing or showmanship.

Mr. Craddock said that he would ask each representative appointed by Mr. Dumler to remain on their post pending the election in November, should they so choose. He stated that he is an experienced veteran that can help resolve issues and bring the Board back to its sworn duties with the citizens of Albemarle County. He stated that the real question is what the Board needs to know about him, so when the meeting is over they can be confident that he was the person they believed to be the best person to deliver the results. Mr. Craddock added that the Scottsville electorate will have the opportunity to choose their next Supervisor in the fall, and he would like to be the interim to facilitate this transition functionally and smoothly.

---

Sheriff Terry Hawkins addressed the Board, stating that he has been around for a long time and that he worked with Mr. Foley and Mr. Davis when he was elected Sheriff prior to him semi-retiring. He said that he has been requested by numerous people to seek this position on a temporary basis to fill in until the election in November. He stated that he is a lifelong resident of Albemarle County and his children and grandchildren have all been educated in Albemarle County public schools, and has a deep-seeded love for the County. He said that his background is in law enforcement and this year represents his 48<sup>th</sup> year in law enforcement. He stated that he was elected County Sheriff for three terms – 12 years – and prior to that was a captain in the Police Department. He said that he has spent his entire life servicing as a law enforcement officer. Sheriff Hawkins stated that he is kind of surprised that no one with any law enforcement background has been on this Board, given that public safety is the second priority budget item after schools and he would bring extensive knowledge in that particular aspect. He said that

that he was the former president of the Fraternal Order of Police, and state president for the Virginia State Sheriff's Association and have contacts all over the community. He mentioned that he currently serves on Chief Sellers' advisory board, on the Crime Stoppers organization, on TRIAD, and numerous other boards and panels – particularly related to law enforcement. Sheriff Hawkins said that he has always been accessible to the public, and said that if you are going to be in an elected position then you better be a real good listener for all aspects.

He stated that the Scottsville District has been near and dear to his heart, as he has been there 17 years, and in the past they were kind of ignored by the rest of the County. Sheriff Hawkins said that at one point Scottsville lost their police department and their chief, and didn't have the funding to go forward. He explained that he went to the state government, found a code section that allowed him to apply for funds, and allowed him to be the police chief – which he agreed to do as long as there was no pay. Sheriff Hawkins said that for the last eight years he was sheriff, he was also police chief for the Town of Scottsville while they rebuilt the department. He stated that he has no political agenda, and to attach Republican or Democrat means nothing when it comes down to local issues, and the same held true when he was Sheriff. Sheriff Hawkins said that he has no hidden agenda and is a good listener, and would make decisions based on common sense judgment. He said that he thinks that is what people expect of him, and that is what he plans to do. He added that he knows the Board members, and has known some of them for a lifetime, and they would be getting a known entity.

---

Mr. Prandip Phukan addressed the Board, stating that he has lived in Albemarle County since January 2011 and moved here because his wife is a Physician in the UVA Department of Cardiology. He said that he is a civil engineer having graduated from the Indian Institute of Technology in 1995, and moved to the U.S. in 1997, and has two daughters in County schools. Mr. Phukan stated that he is seeking the interim Supervisor position mainly because he is looking for an opportunity to get in the public eyes to run for a state and federal level position in the future. He said that his family likes the County and Virginia, and would like to put forth his opinions and get to the people with them. Mr. Phukan said that he has worked on a lot of big construction projects and has experience with investment, finance and healthcare – having worked as a consultant for process improvements – and has also worked as a venture capitalist and real estate investor. He said that he has ways of improving business, how to get businesses to the County and how to bring my jobs to the County.

He explained that he was born and raised in the foothills of the Himalayas, and believes strongly in individual freedom and liberty, security and defense, and in principles over politics. Mr. Phukan said that there is no right way or left way, just one way – and that is the correct way. He stated that people should mean what they say and say what they mean, and would not promise the Board anything he couldn't deliver. Mr. Phukan said that he wants to earn it by working for them.

---

Mr. Kevin Quick addressed the Board, stating that he is honored to stand before them with the opportunity to represent the Scottsville District. He said that the District is ready to heal, and starts with their future decision. Mr. Quick said that he considers this position to be of high importance to the entire County, and stated that he has worked in the Town of Scottsville for the past 19 years as a real estate appraiser and realtor. He said that he has three children in County schools, and has coached youth league baseball, basketball, and soccer, as well as volunteering for the past 10 years with the Scottsville Rescue Squad, despite getting light headed at the sight of blood. Why, because he's cared, and continues to care about the population within his district.

Mr. Quick stated that he applied because he is a rural resident of the County and there were few applicants from the southern end of the County. He said that he is uniquely qualified for this position as it would help the Board gain relationships with the population of this part of the County, that typically could take Board members years to obtain. He said that both Christopher Dumler and Lindsay Dorrier were residents of southern Albemarle, a fact that was important to voters and should not be missed in the Board's decision-making process. Mr. Quick said that he realizes that the act of choosing a substitute is extremely difficult, but must be done soon to promote district healing. He stated that he doesn't envy their position, but if he was he would highly consider someone who makes his living already serving the needs of the population within the district while simultaneously gaining their respect. He encouraged them to make calls in the Scottsville District to ask questions about his character, as he doesn't feel a five-minute presentation by candidates should be the only consideration for the position.

---

Mr. Rick Randolph addressed the Board, thanking them for the opportunity to allow him to present his qualifications for the Board vacancy. Mr. Randolph said that Thomas Jefferson's emphasis on character captures well his own thoughts, and the Board's assessment of character is vitally important in determining the best candidate for this position. He stated that for the last five years he and his wife have been members of Grace Episcopal Church, where he has been active in committee work, volunteered with and spearheaded the church's role with Habitat for Humanity, taught Sunday School, served as a lay reader, and assisted with special events. Mr. Randolph said that his involvement with the church has demonstrated his devotion to God. He stated that he is very fortunate to have had two amazing father-in-laws in his life, and cherishes the continued warm presence of his mother-in-law Joan Jones.

Mr. Randolph said that his involvement in politics since 1969 is one way he has sought to exemplify [his] love for neighbors, community, and country. He stated that he's been active in Democratic politics in Pennsylvania, Connecticut, and Virginia, and has served in the Peace Corps and the National Guard of PA. Mr. Randolph said that his neighbors in Connecticut elected him president of a newly-created community association to address carcinogen-contaminated wells, which subsequently led to his

running for mayor and being appointed to a cancer risk-assessment committee reporting to the Connecticut legislator. He stated that he also served on the board of a water pollution control authority and headed up on campus Republican Lowell Wiker's successful campaign for governor. He said that he has worked the other side of the aisle as well. Mr. Randolph said that he has helped coordinated the MS Society's "Tour de Vine" since 2007, and was an active participant in three Chamber of Commerce subcommittees. He stated that his love of justice – instilled by his father and a Mennonite high school history teacher – is what motivated him to major in American Government at UVA and carried him into his master's work at Penn and doctoral program at UConn. Mr. Randolph said that his commitment to justice for all may be one reason today why his son is a special agent with the FBI, and his father was a Lieutenant Colonel. He stated that his military training plus his religious beliefs have imprinted the importance of honor and integrity in his life, and the match-up between the probably upcoming Board of Supervisors agenda and his experience may be relevant to being true to one's self. Mr. Randolph said that he serves as the County's citizen representative on the Rivanna River Basin Commission and has worked with three watershed organizations in Connecticut and New York, assistant the MDC of Hartford with the public awareness of the consequences of combined sewer overflows. He added that he is the Scottsville District representative on the Planning Commission and serves on the Village of Rivanna Regional Advisory Council, as well as serving on the CIP committee. Mr. Randolph said that he has extensive strategic planning experience as a development director as well as a consultant with for-profit and nonprofit organizations. He stated that he is a former university and secondary teacher, and was a high school principal. Mr. Randolph mentioned that he is very familiar with the public safety training range, as he reviewed the original proposal and site plan as a Planning Commissioner. He said that as a former realtor and Planning Commissioner, he would look at all proposals for the court study review, with an eye to the convenience the location provides for both the public and law enforcement officials – and will be very mindful of the bottom line.

---

Mr. Edward Strickler addressed the Board, stating that it's a privilege of freedom to present one's self for public service. Mr. Strickler said the faith in community is being restored to see so many fine people stepping forward to fill the vacancy. He stated that the burden of their decision is guided well by the law, which requires that the opinion of the qualified voters of the election district expressed through their vote must ultimately determine who shall represent them. Mr. Strickler said that the law appears to guide them to consider with the utmost seriousness the most recent expressed opinion of qualified voters of the Scottsville District, and that opinion was expressed in the November 2011 election. He said that there is much work to do in the interim role that involves restoring a kind, civil, and productive discourse across the district, and the people of the district and the County would not want electoral politics to threaten that restoration. Mr. Strickler stated that the letters from constituents highlight some common themes: that the person appointed be able to facilitate transition, will serve with humility rather than personal or partisan willfulness, will be accessible to the people of the district, will apply skills of listening to all sides along with a desire to be fair, and have the goals to bring people together and restore the confidence of district residents in a representative good governance. He said that these are all quotes from letters provided, and are the expressions of citizen concerns and hope for the appointment.

Mr. Strickler said that he is currently appointed to the Yancey School Workgroup, which concerns both the Samuel Miller and Scottsville districts, and his familiarity with that group and the currency of its discussions would help bring engagement with those issues to the Board and would help benefit the workgroup's success. He stated that as a local resident, he participated in most of the public outreach workshops and attended most of the joint meetings of the Planning Commission throughout the livable communities planning project. Mr. Strickler said that he has over 25 years history of appointment to local, regional and statewide planning bodies, and has been elected to leadership roles in some of them. He stated that the issues have been broad, involving sustainable effective services, research and outreach to include vulnerable populations, public health, criminal justice, and human rights. Mr. Strickler said that throughout this time in public service, he has been concerned with service that builds capacity for individuals, families and communities so they can flourish. He said that accountability to ensure safety and health, freedom and human dignity, are necessary aspects of local government if we are governing well. Mr. Strickler added that these are foundational values of common sense conservatism, where the government ensures responsible use of public money and public resources to meet public needs under the guidance of safety, health, freedom, and human dignity.

Ms. Mallek thanked all applicants for their effort and for attending the meeting today.

Mr. Boyd also thanked the candidates, and wanted them to know there would be no announcement as to who would fill the seat.

Mr. Snow also thanked them for coming forward and their desire to get involved.

Mr. Rooker commented that there is a phenomenal group of candidates from which to choose. Mr. Thomas said it was overwhelming, and he was really impressed by the group.

---

Agenda Item No. 25. Closed Meeting: Appointments.

At 3:48 p.m., Mr. Boyd 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 the appointment of the Scottsville District member to the Board of Supervisors who will hold that office until a replacement Board member is elected in a special election to be held on November 5, 2013, and such person qualifies for the office. Mr. Rooker **seconded** the motion.

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

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

---

Agenda Item No. 26. Certify Closed Meeting.

At 4:45 p.m., the Board reconvened into open meeting. Mr. Boyd **moved** that the Board certify by recorded vote that to the best of each Board member's knowledge, only public business matters lawfully exempted from the open meeting requirements of the Virginia Freedom of Information Act and identified in the motion authorizing the closed meeting were heard, discussed, or considered in the closed meeting. Mr. Rooker **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

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

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

---

Agenda Item No. 27. Adjourn to July 10, 2013, 3:30 p.m.

At 4:46 p.m., with no further business to come before the Board, **motion** was offered by Mr. Boyd, **seconded** by Mr. Rooker, to adjourn to July 10, 2013, 3:30 p.m., Lane Auditorium.

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

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

---

Chairman

Approved by Board
Date: 12/04/2013
Initials: EWJ