

An adjourned meeting and a regular meeting of the Board of Supervisors of Albemarle County, Virginia, was held on July 10, 2013, Lane Auditorium, County Office Building, McIntire Road, Charlottesville, Virginia. The adjourned meeting was held at 3:30 p.m., and was adjourned from July 3, 2013. The regular meeting was held at 6:00 p.m.

PRESENT: Mr. Kenneth C. Boyd, 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 3:34 p.m., by the Chair, Ms. Mallek.

Agenda Item No. 2. **Work Session:** Solid Waste Service Options.

The following executive summary was forwarded to Board members:

At the April 10, 2013 work session, the Board directed staff to advertise a Request for Proposals (RFP) for solid waste services. The purpose of the July 10, 2013 work session is for the Board to consider options for the provision of future solid waste services and to review of the results of the RFP. The RFP was advertised from May 20, 2013 to June 20, 2013 and one acceptable proposal was received. Four site visits were conducted with potential contractors and staff responded to phone calls requesting additional information from a number of potential contractors. Based on those site visits and phone calls, staff anticipated receiving several other proposals. Following up to determine why more proposals were not submitted, staff found there were two reasons cited:

- 1) The RFP includes a requirement to operate the facilities, and the companies had limited or no experience in running convenience centers. The primary business of most companies was hauling and disposal of waste.
- 2) The RFP places the financial risk on the contractor for assuring the tonnage received could make the operation profitable.

The proposal includes an option to operate a convenience center at the Ivy MUC location and an option to operate up to three convenience centers at other County locations.

Despite having only one proposal, staff found this proposal addresses the requested services and appears to provide viable options. At this point, staff requests that the Board review the two options provided by this proposal against the option of continuing with the Rivanna Solid Waste Authority (RSWA) operating the Ivy Materials Utilization Center (Ivy MUC), then provide direction on which option to pursue.

Submitted Proposal

A copy of the Container Rentals, LLC proposal is provided as Attachment A. To summarize, Container Rentals proposes to operate a convenience center at Ivy MUC or at other locations specified by the County with fees equal to those charged by RSWA and without any additional County financial support. As has been previously discussed, the County would still incur cost for (1) the cost of the RSWA ground lease and post-closure expenses if the Ivy MUC site is utilized and (2) the County's oversight management expenses regardless of which option is selected. The proposal includes the requested services except for clean fill, which was an option service. Vegetative waste would be limited to small loads. Large loads and stumps would be required to use other facilities, which are currently available. Staff does not believe this limitation is a significant concern with the understanding a convenience center is not intended to serve commercial users. Typically, large loads of clean fill or vegetative waste that include stumps delivered by commercial users would not be allowed at a convenience center. The option of delivering this material to other locations still remains and could potentially be continued at Ivy if the RSWA found it profitable to offset other expenses of the Authority. Additionally, Container Rentals has offered to provide additional recycling services at no cost to the County provided any permitting issues are addressed by the County. This would include materials such as paint, fluorescent bulbs and electronics. Staff is still consulting with the Virginia Department of Environmental Quality on how these recycling services could be part of a County convenience center, but initial discussions suggest this can be done.

Comparison of Options

Attachment B provides a staff analysis of the three considered options. The first page of the attachment provides an analysis of costs and the second page considers other factors that may influence the decision. To summarize:

- Option 1 is continuing with the RSWA. This option has the highest operating costs, is the easiest for the County to implement, and is the only option that continues services for commercial users. Any capital costs for replacement or upgrading of the facility is assumed to be RSWA's responsibility, but that cost would eventually be recovered through fees or County contributions. Depreciation funds set aside by RSWA over that past number of years may also potentially be used to offset start-up costs. Additionally, a longer term commitment to this arrangement by the County would likely require a major amendment to the RSWA Organizational Agreement to align RSWA funding with Board composition, though this process presents its own challenges. This option appears to be the best choice if the Board wishes to maintain the current level of service and continues to want to explore other long term options.

- Option 2 is the County overseeing a convenience center at the Ivy MUC through a space leased from RSWA and a contract based on the proposal. This option has no anticipated capital costs, though there will be start-up and other costs as outlined in attachment B. Based on the RFP response, this option does cut annual County funding to one-half of Option 1. However, it provides limited services in one location that is marginally convenient to most County residents, as is the case with Option 1. Additionally, it places the County at greater risk for possible environmental liabilities associated with any additional issues discovered at the Ivy MUC. This option appears to be the best choice if the Board believes minimal services are needed, is not prepared for the capital investment required by Option 3, and the potential environmental liability is judged acceptable.
- Option 3 is the County overseeing the operation of three convenience centers on County properties through a contract based on this proposal. The analysis of this option includes three convenience centers because the County's CIP has included three recycling centers since the early 2000's. This option would incorporate those recycling services in addition to other services, replacing a need to continue funding of the RSWA McIntire Recycling facility. This option is the more complex to implement and requires more significant upfront funding to establish the facilities. However, the County's portion of depreciation funds set aside by the RSWA over the past number of years should eventually be available to offset some of this cost, based on a future settlement with the RSWA. Once past the start up phase, this option was found to have the lowest annual operating costs while providing the highest level of services to residential users. This option appears to be the best choice if the Board believes there is a need to improve solid waste services to its residents through multiple locations without significant ongoing funding for operations, believes commercial users have other viable options, and is prepared to make the capital investment necessary for implementation.

Under this option, the Board would need to agree on convenience center locations and fund their construction. While very aggressive, staff believes it may be possible to have one facility in place adjacent the Monticello Fire Station by early 2014. Staff believes this site is a viable option because of its easy access, the availability of existing infrastructure and the site's location on the edge of the development area. Sites located on the edge of development areas are consistent with the Comprehensive Plan and serve both rural residents for solid waste disposal and recycling services and urban areas residents who may have less need for solid waste disposal services, but would want easy access to recycling. Proceeding with this site would allow the County to cease ongoing funding of the RSWA operation at the Ivy MUC. Remaining facilities could then follow as sites are identified by the Board and constructed. Staff has identified other County properties that could potentially serve as additional convenience centers, but none that allow quick development. Additionally, staff realizes the Board may wish to solicit public input before committing to those locations. If the Board is not comfortable with the Mill Creek site as a location for a convenience center that can more quickly be placed in service, we would recommend a six month extension of services with the RSWA (until June 30, 2014) at the current IVY MUC to allow adequate time to go through a site selection and construction process.

Budget impacts are defined on page 1 of Attachment B.

After reviewing the three options, staff believes Option 3 is in the overall best interest of the County. This option provides the lowest annual operating cost once the facilities are in place and enhances the level of service for residents, providing three rather than one convenience center location. In addition, this option avoids the potential liability at the Ivy site and the complications of remaining in a "regional" organization for an exclusively County service.

If Option 3 is selected, staff requests the Board provide direction regarding its desire to (1) begin this new service at Mill Creek next to the Monticello Fire Station or (2) request an extension of service from the RSWA until June 30, 2014 so that a site selection and construction process can be undertaken. Based on that direction, staff will identify funding sources for facility construction and finalize a contract that provides for up to three facilities for future review with the Board.

Mr. Mark Graham, Director of Community Development, addressed the Board, stating that, in January, staff had prepared a draft RFP for the Board's consideration and was directed to work with the Rivanna Solid Waste Authority (RSWA) on a potential lease agreement if the County was to operate a convenience center there, as well as getting an extension agreement between July 1 and the County's start-up of a facility at Ivy or elsewhere, and also to amend the agreement. Mr. Graham said that the latter two have been done, as approved by the Board in June, and those agreements are now with the RSWA. He stated that, in March, staff reviewed the draft RFP with potential bidders and determined there was interest in the operation and staff identified some concerns especially with the existing convenience center.

As a result, Mr. Graham said, staff went back and talked to the Board about it in April and the direction was to advertise the RFP for a convenience center at Ivy and convenience centers at County properties and then staff was to bring the recommended proposal back to the Board for a decision. He mentioned that the RFP was written to delineate the contractor's responsibility from the County's responsibility. He said that the language "permit holder if needed" is included to note that the convenience center doesn't need a permit from the Department of Environmental Quality (DEQ), but there had been a

question about additional recycling services that are offered under the proposal that may require the County to get a permit to hold materials such as electronics, paint, etc. Mr. Graham added that he's still waiting for some direction back from DEQ on that issue.

Mr. Graham reported that the County received one proposal from its advertising, which "does seem to address the County's interest in providing the needed services for the solid waste materials – including appliances – and does anticipate comingled recycling. He stated that the contractor who responded to the proposal has a good history of providing services, adding that Cumberland County residents are very excited about what van der Linde has been doing in that locality. Mr. Graham explained that collection and disposal costs are offset by the fees, keeping the County expenses low – but there would be a paid attendant at County-located convenience centers. He said that the additional recycling services are subject to DEQ allowing this as part of a convenience center, and the initial conversations with DEQ have been very good. Mr. Graham stated that he hasn't gotten everything in writing from DEQ yet, but would let the Board know when he does.

Mr. Graham reported that there are three options presented: the status quo which would be maintaining what the County does currently – to have RSWA continue existing services with County support; a County-operated convenience center at the Ivy Material Utilization Center; and lastly, consideration of three possible convenience centers located on County properties in order to better serve constituents. He said that the third option was used because the old CIP budgets from the early 2000s showed a consistent intent to provide three recycling centers located throughout the County. Mr. Graham stated that staff has identified three major areas related to cost: the start-up cost and capital costs, the annual operating cost, and cost offsets due to closing the Rivanna solid waste operations. He said that there were qualitative parts of the decision that can be just as important as the cost, covering four areas: citizen convenience, the breadth of services and the number of services provided, the ease of implementation of that proposal, and associated risk of implementing that option.

Mr. Graham said that the advantages staff identified with the first option include a proven record of good service delivery, with RSWA having done a great job and having resolved citizen issues along the way. He stated that another advantage identified by staff is that it continues the services for the businesses, which can only be done through a transfer station – not a convenience center. Mr. Graham said that the disadvantages identified include the highest annual operating cost of the three options, limited convenience of the location to many citizens and, with changes in the hours this year, it has the fewest hours of operation.

Mr. Graham stated that the advantages of an Ivy convenience center, which is option 2, include a much lower annual operating cost than the RSWA option, and much easier implementation than option three adding that this option would probably be a relatively simple thing to get up and running. Mr. Graham stated that there were, however, significant disadvantages with this option, including limited convenience to most citizens, and being the lowest level of service of the three options in that it had restricted services to the business community. He said that the significant disadvantage of this option is the environmental liability that is out there by going onto a site which is already known to have environmental issues, and getting in that chain of title. Mr. Graham said staff felt this was the best choice if there was an interest in minimal services and if the capital costs were considered a barrier to option three; there was a determination that the environmental risks were considered "acceptable."

Mr. Boyd asked if option two would be operated by the County, or by a private contractor. Mr. Graham responded that option two would have to be operated by the County and, because of zoning requirements, it cannot be a privately-operated facility.

Mr. Foley clarified that the contractor would operate it on a day-to-day basis, but it would have to be overseen by the County.

Mr. Graham reported that option three would include three County convenience centers located at areas where there would be the highest level of service to citizens, and the advantages were: the lowest annual operating costs of the three options, and the highest citizen convenience both in terms of location and potential services. He said the disadvantages identified were: significant start-up costs, businesses would be required to find other solutions and would not be allowed to use the facilities, and had the most complex implementation whereby the County would have to design and build the sites for the firm running it day-to-day. Mr. Graham noted that staff felt this was the best choice if there was an interest in improved citizen convenience and lower operating cost.

Mr. Boyd commented that he didn't understand how McIntire Recycle Center would play into options one and two, and if staff was including that in their cost analysis. Mr. Graham responded that McIntire is included in options one and two as a line item identified "recycling," which shows \$57,000 as the County share of ongoing costs to operate the McIntire facility. He noted that this would exist with option one and two, but not with option three as there would be other convenient locations providing recycling for those materials.

Mr. Graham reported that the potential barrier identified with option three was the funding for the start-up, and staff is still exploring options for how that capital cost can be funded. He said that, under the County's CIP, there is currently a line item in the budget for "environmental expenses," and they are anticipating spending about \$540,000 in payments under the Ivy environmental agreement to the Rivanna Solid Waste Authority, which would leave a balance of approximately \$690,000. Mr. Graham stated that the County had decided to leave a fairly large contingency there for the first few years of the environmental clean-up because of the changes going on and the uncertainty about what expenses might be incurred.

Mr. Graham explained that there was groundwater which needed remediation at the Ivy landfill, and there was concern it might require a one-time, \$1 million expense from the County and City but that's become less important in recent years, as it has reached the point where groundwater isn't needing treatment. He said RSWA is not quite there, but they are getting close so that some of that contingency money could potentially be a source for capital. Mr. Graham explained that RSWA has been doing a gas extraction from the "paint pit," or the flare, and they have also been injecting bacteria into the contaminated areas that is designed to eat up the contamination before it gets there. He said that was planned to be done for about seven years but has actually been going on for about nine years now, and they're hoping that DEQ will agree that, based on ongoing results, there's no need to keep that program going, which will save Rivanna a significant amount of money.

Mr. Graham reported that the County budget for Ivy operations received some one-time revenue sources through Rivanna, so the County did not have to pay as much in operations last fiscal year. He said that Rivanna had a significant carry-over in addition to the \$300,000 budgeted for this year, making a balance of \$543,000 to start the year. Mr. Graham stated that, assuming the County could get one facility up and running by mid-year, it would have a cost under the Rivanna agreements of about \$215,000, leaving a balance of about \$328,000. He said that Rivanna has a capital reserve designed and intended for replacement of equipment with the transfer station and, if that's no longer needed for Ivy operations, some of those funds may be available for environmental expenses – which could then offset County expenses. Mr. Graham stated that there are sources of funding for a lot of the capital expenses, and staff views this as a multi-year project as staff tries to open the convenience centers.

Mr. Graham concluded his presentation by stating that staff is recommending option three with three convenience centers, as they felt it best addressed the interest in improved services by maintaining a low operating cost; it allows for phased development, which results in time to consider preferred locations; and alternative funding sources for the initial capital costs have been identified.

Mr. Rooker asked him to explain the role of the private company with any of these options. Mr. Graham responded that a private contractor would be involved in option two or three, and confirmed that there would be no transfer station operating under any of those scenarios, however, under option one, Rivanna would probably continue with a transfer station because they think they can operate it at "less of a loss" than strictly a convenience center.

Mr. Davis added that Rivanna also believes the municipal solid waste stream would be dramatically reduced because of the loss of Waste Management's streaming of material to that site.

Mr. Boyd stated that he doesn't understand how it can be cost effective to continue to operate a transfer station with no volume.

Ms. Mallek said, in earlier discussions, it seemed to her that the Board was very much in favor of moving away from the City complication and extra people making decisions for the County.

Mr. Foley pointed out that staff also had some questions about option #1, which is Tom Frederick's proposal, and he would need to justify the continued operation at that one level. Mr. Foley said that Rivanna does generate more money with the clean fill coming in, and Mr. Frederick has told the County that, if Rivanna runs it, he would proceed as option #1 indicates.

Mr. Rooker asked for clarification that Rivanna is willing to fix the \$378,000 rate, or if it would be a variable number. Mr. Graham responded, "That's what he proposed to us...that's an estimate of his annual cost. Under the agreement, he would expect the County to pay whatever it came out to be."

Mr. Snow asked if the cost would be shared with the City. Mr. Graham responded that it would not and added that the only shared expense with option #1 would be with the operation of McIntire and the environmental clean-up of Ivy. He added that the City is totally removed from the operations side of Ivy.

Mr. Rooker commented that it seems the County's contribution to McIntire is certainly not any more than the cost of operating one of the convenience centers under option #3. He asked if there was an option to continue at McIntire and then have two other convenience center drop-offs.

Mr. Graham said that is possible as a fourth option, but not one that staff has explored.

Mr. Davis questioned whether that would require McIntire to take municipal solid waste drop-off.

Mr. Rooker said that having two convenience centers plus McIntire would save \$333,000 in initial capital expense, and it could always be changed later if it's determined that another convenience center is needed.

Ms. Mallek commented that there are a lot of people who don't come to town, so she would like to be able to make that decision later. She said there have been sites already talked about that haven't been analyzed and she would like to have those looked at first before the Board does anything with this.

Mr. Foley said that staff just threw that out as an option to get things up and running quickly, but the Board would need to set some criteria as far as where the sites are located. He stated that the logic with it being at the "edge of the development area" was so that urban and rural residents could use it. Mr. Foley said that, if they don't pursue a site that can be easily put in place, they will likely need to extend the Rivanna agreement until next July when the three locations can be put in place.

Ms. Mallek asked if staff had explored any of the suggestions made earlier, such as the ACSA site and the Three Notch site. Mr. Foley stated that the Board would need to talk about those locations before staff does any work on them. He said staff wasn't sure if the Board wanted to go with three sites so the Board might want to focus on that decision first, and then implementation would become the next piece of that.

Mr. Boyd said that the capital investment cost would probably have an impact for the next 10 years, and he wanted to be sure that's noted.

Mr. Foley said that this reflects a one-time cost with no plans for financing, given the cost and the funding available from some sources.

Mr. Graham stated that the \$333,000 amount is "a scientific dart at the wall," estimated by what a typical site would cost to grade and what typical paving might be. He said that the biggest variable cost is the distance from three-phase power, as it would be cost-prohibitive to run electricity from a mile away. Mr. Graham emphasized that the real question with the remote sites – just as with operating a store or anything else – is how many rooftops are close to your facility, how many people will really use the facility.

Mr. Foley said that the \$7,000 difference is not "apples to apples," it is \$7,000 more to operate one site under option #2.

Mr. Boyd asked if there would be a charge to citizens to use the convenience center.

Mr. Graham explained that it would be the same fees as Rivanna currently charges at Ivy, and those fees would be set by the County but collected by the contractor operating the facility. He said the County would pay an attendant, but staff is still working on what services could be provided by the contractor if there was a scale provided as part of the initial construction and the need for the cost of the attendant if there wasn't a scale. Mr. Graham stated that there are still some details to be worked through before it gets to contract, but the numbers in the table are a pretty good representation of what the Board should expect.

Mr. Rooker mentioned that the Ivy facility had been closed on a Monday recently.

Mr. Boyd clarified that the hours were cut back recently, stating that the contract the County has with Waste Management required that the facility be open six days a week – and they elected Saturday rather than Monday.

Mr. Rooker asked what the operating schedule would be for the option #3 facilities. Mr. Graham responded that the presumption is six days per week, but that is negotiable as part of the contract.

Mr. Boyd asked if it was different to separate the recycling if people wanted to do that, as a lot of people would rather do that.

Mr. Rooker asked if van der Linde doesn't do that. Mr. Graham said that if it were separated at the convenience center, it may end up co-mingled again when it gets to his facility.

Ms. Mallek said she has seen the facility, and it doesn't stay mixed for long.

Mr. Mike Ledford addressed the Board, stating that he is President and CEO of van der Linde Recycling. Mr. Ledford said that they would put this up as a traditional convenience center – with a compactor for trash, one for cardboard, and multiple open-top containers as well as closed-top containers for paper. He said that if someone wants to separate, they are more than welcome to – but for those who do not, it will still be taken to the facility and separated. Mr. van der Linde clarified that anything already separated would be baled and sold as-is, not comingled.

Mr. Ledford also stated that three-phase power is needed to operate the compactors but, if there is single-phase power coming in, they have single-phase converters that convert over to three-phase, so three-phase doesn't have to be brought from a distance.

Ms. Mallek said that the Board hasn't discussed what kind of public input they would have on this process.

Mr. Boyd stated that, before any long-term decisions are made, the Board should have a public hearing and get input from the public, however, the Board should decide on a direction as to which option to pursue.

Mr. Rooker said that staff's recommendation is a good one, given the information provided and what they are trying to accomplish. He said that this would provide a more convenient service for citizens, and having separated recycling at the convenience sites is also a big benefit.

Mr. Boyd stated that he likes the suggestion to continue using McIntire, and would like that to be explored further as an option – as it's used more by County residents than City residents.

Mr. Foley said that the current option is to abandon McIntire site and open three full-service convenience centers, but Mr. Rooker has suggested the hybrid option. He said staff wants to make sure they understand in which direction the Board is leaning.

Ms. Mallek proposed that McIntire be an add-on to the three new sites, because of the size of the County; adding that McIntire should be kept open until the third one is open so as to determine what the flow will be.

Mr. Rooker commented that they may not open up the new sites all at once, and this would give them an idea as to the impact on the volume at McIntire.

Mr. Davis asked if the assumption is that Rivanna would operate the McIntire facility. Mr. Rooker and Mr. Boyd said that would be the \$57,000 referred to earlier.

Mr. Davis said that would be the cost if Rivanna continued to operate McIntire as a joint City-County facility.

Mr. Graham mentioned that the McIntire facility is located on property leased from the City.

Mr. Foley pointed out that the County has two operating agreements now – one for the Ivy station and the other for McIntire so the plan is to keep that in some form in place.

Mr. Davis stated that there was an assumption that, once Ivy closed, the cost of McIntire would increase if it remained open.

Mr. Foley said that staff would need to explore this further.

Ms. Mallek commented that it seems like a “double-whammy.”

Mr. Foley reiterated that staff would need to do more analysis on this scenario. He said Rivanna had some people working McIntire that were also working the Ivy center – so without operating the scales and spreading the cost, it would probably drive the cost of McIntire up. He emphasized that staff would need to ask Mr. Frederick that question, but they have received some good direction from the Board on the three sites and includes the possibility of keeping McIntire open. Mr. Foley said it would be helpful for the Board to talk for a few minutes about whether the Mill Creek site is one to consider, or what other criteria ought to be used about what sites to consider.

Mr. Boyd said they would need to look at population centers and put the new sites where the people are, adding that the County can't afford to spend \$300,000 to accommodate 50 people.

Mr. Rooker stated that people who have trash service wouldn't be using this, so the question is how many people would use the service in particular locations. He said that if they have the recyclable option, there would be people who take separated items to a location if it's convenient much like they do at McIntire now.

Mr. Boyd said they have a designated growth area with a concentration of people, and Forest Lakes has a contracted trash service so they would probably not use the facilities.

Mr. Foley said that what he is hearing the Board say is that the tendency would be to provide the sites outside of the urban areas because the private sector is handling most of the pick-up anyway, and leaving McIntire in place would offer urban people who still want to recycle the option there.

Ms. Mallek suggested having a western site on the fringe but still in the growth area, so that rural people could still access it. She mentioned that people are still talking about the fact the County had \$250,000 in the CIP for the Crozet Recycling Center.

Mr. Foley said it seems as though Crozet is easier, just because it's removed from the urban area around the City, adding that it just makes sense for a lot of reasons.

Mr. Snow stated that the same logic applies to the Scottsville and Esmont area also.

Mr. Rooker said that it makes sense to have something in between Scottsville and Mill Creek, so one wouldn't have to drive all the way to Scottsville – because McIntire won't be an option for waste.

Mr. Foley said the County has some land in that area that, at one point, was considered for a convenience center.

Mr. Boyd said it would be helpful for staff to find out what areas of the County private haulers are not servicing.

Mr. Foley stated that it seems the County will need to extend the contract with Rivanna through next July, because otherwise they will have to hold a public hearing, get a Comp Plan consistency determination, develop a site plan, put it out to bid, get it under construction and complete before the end of the year. He stated that those things are not going to happen before the end of this calendar year. He added that staff has received some competitive prices on the disposal fees for the temporary contract, so staff feels good about cost.

Mr. Graham asked if staff would need to examine potential sites in preparation for the public hearing.

Ms. Mallek responded that if there are some that have been studied already at least to know what the possible cost range would be, because some may already be paved and fenced.

Mr. Graham asked the Board to give him any information that they might have on potential sites.

Mr. Foley said that, for clarification purposes on the public hearing, staff would need to know if the Board would be asking the public to weigh in on the three options or would the Board be looking for public feedback on putting three sites out, best locations and how that should be done. He said those are two very different things the public would be coming in to comment on.

Mr. Boyd suggested having a work session with public input, rather than waiting until after the next step is done.

Mr. Rooker said that he liked that idea, as there wouldn't be immediate action expected as with a public hearing.

Mr. Steven Janes addressed the Board, stating that he is an appointee to the Solid Waste Advisory Committee and stated that he likes what he has heard in terms of accommodating citizens outside of the urban ring. Mr. Janes said that he lives in Forest Lakes and, while he has his trash picked up at the curb, he still takes trash down to the recycling center at McIntire such as cardboard boxes, newspaper, and scrap metal. He also suggested that the County cut ties with the City with the exception of McIntire, because the difference in opinions is like night and day.

Mr. John Martin addressed the Board, stating that Albemarle is one of the most sophisticated counties in the Commonwealth and perhaps the nation, with very capable staff. He said that one of the first questions they need to pose to the public is how much of the County's trash they want deposited in landfills 40 years from now. Mr. Martin stated that he would recommend that the answer be "0," and that they work out a plan with goals with the private sector to "recover, reuse and recycle everything." He said that a community like Austin, Texas, has those plans right now and his fear is that the discussion now is "where are we going to put dumpsters?"

Ms. Mallek said that this is the next step in getting them there.

Mr. Martin stated that he lives in Free Union and has his trash picked up by a private hauler each week and wanted to continue that, and said that he feels that he needs to know where his trash is going and what's happening to it.

Mr. Thomas commented that Mr. Martin is voicing thousands of people's thoughts.

Mr. Snow noted that, as long as he can remember, all of the County's garbage has been going to the landfill and that's the purpose of setting up the new system.

Mr. Martin said that some of it is being recycled, but the long-term goal needs to be zero, and that kind of planning needs to be done now.

Mr. Rooker responded that the County would not control or operate these facilities – they would be contracting with an outside vendor – so the quicker the private sector moves toward economical solutions to achieve that goal, the quicker the County will get there.

Mr. Martin encouraged the Board to visit the Austin, Texas website and look at their "resource recovery master plan," which is a long-term plan that involves the private sector and helps create entrepreneurial opportunities for these vendors. He said that one of the things they do is recycle paint and resell it.

Mr. Rooker said there are a lot of things you can do if you have the volume.

Mr. Boyd agreed that volume is the big difference.

Mr. Martin acknowledged the difference, but emphasized that this community is also capable of doing very imaginative planning just by going forward. He said he thought the public would be behind an effort to look at long-term goals.

Ms. Mallek said she's appreciative of the fact that there is a new culture that believes solid waste is a responsibility the government should be doing something about, rather than just "looking away and saying we don't want to pay anything at all." Ms. Mallek said that she views this as a core service of government.

Mr. Martin stated that he has always viewed solid waste as a core function of government.

Mr. Rooker said that a lot of individuals are viewing it as a personal responsibility, in terms of what they put back out into the system.

Mr. Ledford mentioned that several weeks ago they invested in a new process that will be replacing their equipment with new machines that have optical sorters that recognize what plastic is and what aluminum is, and it would also include OCC screens. He said that there would always be residual left over and, even if that trash goes to an incinerator, there would be ash left over which will end up in a landfill. Mr. Ledford said they are pumping about 120-150 tons per day to the incinerator at JMU, and

"we're very proud of that." He stated that they pull out about 20-30% by hand currently and collect that, and then take the remainder – with 50% going to a landfill, and 50% going to the waste energy facility. He said there needs to be volume to help pay for this stuff and some of the technology and that is exactly where they are right now. He said they have taken the next step and if JMU could take it all, van der Linde would deliver it all there but DEQ regulates the amount of waste JMU can take.

Mr. Janes mentioned that a locality in Northern Virginia just put up a bond for a \$40 million recycling facility that will burn trash to generate electric.

Ms. Mallek said that was Fauquier County.

Mr. Martin stated that another matter needing attention is the structure of the RSWA, as it is "a body politic incorporate and political subdivision of the Commonwealth...it's a big deal." He stated that the RSWA's current Board of Directors is acting against the interest of the Solid Waste Authority by putting the Solid Waste Authority out of business, with no attention to – right now – revising the articles of incorporation. Mr. Martin said that one thing that's been discussed, long term, is amending Rivanna's articles of incorporation to make it responsible only for remediation, both a City and a County responsibility, and then create a new authority just for the County to handle solid waste matters. He stated that Tom Frederick is one of the most competent, qualified and valuable people working in the community, and his expertise isn't being fully utilized.

Ms. Mallek thanked everyone for their work on this item and for the input provided, stating that she is really thrilled to get to this point.

Agenda Item No. 3. Closed Meeting.

At 4:34 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; and under Subsection (1) to conduct the annual performance review of the County Executive. 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. 4. Call to Order. At 6:03 p.m., the meeting was called to order by the Chair, Ms. Mallek.

Agenda Item No. 5. Certify Closed Meeting.

At 6:03 p.m., 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. Snow **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. 6. Pledge of Allegiance.
Agenda Item No. 7. Moment of Silence.

Agenda Item No. 8. Adoption of Final Agenda.

Mr. Boyd added for discussion Highland Ridge Development, a proposed development in the Rivanna District.

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

Agenda Item No. 9. Brief Announcements by Board Members.

There were none.

Agenda Item No. 10. Appointment of Scottsville District representative on the Board of Supervisors.

Ms. Mallek thanked all of the applicants and the public for providing input to the Board. She stated that it has been a very busy but exciting and wonderfully participatory couple of weeks.

Mr. Rooker then **moved** to appoint Mr. William B. "Petie" Craddock as the interim Supervisor in the Scottsville District to serve until his successor is elected, and that the Board adopt the resolution as provided by the County Attorney. Ms. Mallek **seconded** the motion.

Ms. Mallek said that the entire Board is looking forwarding to working with Mr. Craddock.

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

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

NAYS: None.

RESOLUTION TO APPOINT SCOTTSVILLE DISTRICT BOARD MEMBER

WHEREAS, in the general election held on November 8, 2011, Christopher J. Dumler was elected in the Scottsville District of Albemarle County, Virginia, to serve a four-year term on the Albemarle County Board of Supervisors commencing January 1, 2012 and ending December 31, 2015; and

WHEREAS, on June 5, 2013, Mr. Dumler resigned as the Scottsville District member on the Board effective June 5, 2013, creating a vacancy in the seat representing the Scottsville District; and

WHEREAS, pursuant to *Virginia Code* § 24.2-228, the Board may within forty-five days of the vacancy appoint a qualified voter of the Scottsville District to serve as the Board member for the Scottsville District until the qualified voters of the Scottsville District fill the vacancy by special election and the person so elected has qualified for the office; and

WHEREAS, a Writ of Election has been issued ordering a special election to be held on November 5, 2013 to fill the Scottsville District member vacancy on the Board; and

WHEREAS, the Board finds it is proper and in the best interest of the County to appoint a Board member for the Scottsville District who will hold such office until the qualified voters elect a Board member to serve for the remainder of the term of office by special election and the person so elected has qualified for the office.

NOW, THEREFORE, BE IT RESOLVED THAT the Albemarle County Board of Supervisors hereby appoints William B. Craddock, a qualified voter in the Scottsville District, to serve as the Board member for the Scottsville District on the Albemarle County Board of Supervisors until the qualified voters of the Scottsville District elect a Board member in a special election to be held on November 5, 2013, to fill the vacancy for the remainder of the term of office ending December 31, 2015, caused by the resignation of Christopher J. Dumler, and the person so elected has qualified for the office.

Agenda Item No. 11. From the Public: Matters Not Listed for Public Hearing on the Agenda.

Mr. Doug Arrington addressed the Board, stating that he is before the Board for to ask for clarification rather than to make any demands. Mr. Arrington said that there was a letter sent from Community Development on May 10, 2013, concerning the Phase A approval process for Whittington. He explained that, in the zoning category under general usage, it's listed as "PRD – Planned Residential District" – which allows for 3-34 units plus light commercial. Mr. Arrington said the plat submitted was approved in 2006, but goes back to 1980 and, at that time, was given the PRD designation. He stated that the first two proffers show "a maximum potential of 96 residential lots," with each lot to be "at least 40,000 square feet." Mr. Arrington emphasized that the discrepancy bothers him, as he views the letter to the homeowners as a legal document. He explained that he is worried that sometime in the future it may be used to increase the density. He said that, in fall 2010, Whittington was granted sewer from the County and, at the first Planning Commission meeting of 2011, the property was designated in a request to change the Comp Plan to "development area," which would be 3-34 units and light commercial. He said there is nothing down there that that plugs into. The closest townhouses or duplexes or anything else are up off of Old Lynchburg Road going into town adding that it is all at least two-acre lots.

Ms. Mallek said that Mr. Arrington seems to want clarification as to whether there's been any change, adding that she didn't remember the Board making a change to multi-family.

Mr. Arrington mentioned that the sewer was predicated on a 96-lot maximum, and there was discussion at that point that it be done at no greater density.

Mr. Wayne Cilimberg explained that Whittington is zoned PRD – Planned Residential Development – and the general planning residential development district has allowances for that range of dwelling units as well as commercial. Mr. Cilimberg said that, in this case, it is proffered, which is the legal standing of the zoning, for 96 single-family units on 40,000 square foot lots, among other proffers. He said there are definitely proffers that stipulate the level of development to occur on the Whittington property. He mentioned that, when the Board granted the sewer jurisdictional area, the Board also at the time indicated it wanted that to be considered as part of the Comp Plan for addition to the development

area because it was getting sewer. Mr. Cilimberg clarified that that's what the Planning Commission has done to this point in its work on the draft of the plan, which the Board hasn't gotten yet. He noted that there is a Commission meeting on July 23 to consider the final draft, and they will take public comment at that time. Mr. Cilimberg said that it's been proposed as residential neighborhood density, which is 3-6 dwelling units per acre, and that's the lowest level of density in the development areas – but the zoning still holds in terms of what they can do based on the proffers.

Mr. Arrington said he was still not clear if it's a development area, adding that, if they zone it, they will build.

Ms. Mallek responded, "No they can't, because they have a particular plan that's been approved – and that's what they have to do."

Mr. Arrington said they could change the plan.

Mr. Rooker clarified that there's nothing on any piece of land in the County anywhere that prevents it from being rezoned, and it's ultimately a discretionary decision by the Board. He stated that what they have right now is an approval that is limited by the proffers they made to 96 units. He said they can't go beyond that without coming back for an amendment to their zoning, and reiterated that any piece of property in the County can technically be rezoned.

Mr. Arrington continued to express concern that including it in the Comp Plan and being granted water and sewer strengthens the argument going in if they want to petition to change the zoning.

Ms. Anne Bedarf addressed the Board, stating that the Board made a good choice by appointing Mr. Craddock to the interim Supervisor position. Ms. Bedarf said she would continue to remain involved with the County's Natural Heritage Committee and hoped that committee could get more support for the group in terms of staff and long-term goals such as a landscape plan. She stated that there is a newly formed task force – Charlottesville/Albemarle Recycling Task Force (CART) – and that group is looking forward to the public process mentioned in the previous session. Ms. Bedarf said that van der Linde's representative said they recycle between 20-30%, and there needs to be the highest level of transparency possible with this process, along with truth in advertising. She also stated that the EPA defines "single-stream" as "recyclables together, co-mingled should be separate from trash which is another big point of confusion for county residents. Ms. Bedarf added that she hoped the Board would also consider the efficiencies that might come from the republic services that could be offered in the urban ring, such as curbside pickup. She stated that the Board could even look into what's being done in 90+ other communities around the U.S., where food waste, yard waste, and compostable materials are disposed in a third bin.

Dr. Charles Battig addressed the Board, stating that he had posed two questions to them regarding the stormwater management funding dilemma and commenting on the unfairness of a square-footage based assessment fee such as the City has done. He said that with a 3,000 square foot home sitting on 6,000 square feet of property is using half the property and thus taking away half of its impervious surface. Dr. Battig said that if someone takes the same 3,000 square foot property and put it on a 10-acre parcel, it would need to be established if the 3,000 square feet is having the same impact – and if a homeowner buys another 10 acres, he would essentially mitigate his impact. He said there is a conundrum here which leaves the fact this is not a fair way of assigning storm water drainage expenses, because the impact on the real world that you're trying to correct is insignificant. He also stated that he hopes somebody can identify the DNA from deer and wild animals in terms of their impact on TMDLs, because, in some areas, there are more deer than humans. Dr. Battig also mentioned that the City of Boston had recently dropped its ICLI membership.

Mr. Joe Draego addressed the Board, stating that he came before the Board three years ago with objections to the red-light cameras, based on the constitutionality of them and now judges across the country are demanding that they be removed. He mentioned his objection to people who are getting tickets when they weren't driving the vehicle, just because the car was titled in their name. Mr. Draego stated that the Board had no comment on the constitutionality, but all said the goal was "safety." He said that he now has four documents that prove these cameras don't make intersections safer, including documentation from Albemarle's own County Police Department. Mr. Draego asked the Board to reconsider their decision about these red-light cameras.

Ms. Nancy Carpenter addressed the Board, thanking them for making such a good decision for the Scottsville District and stating that she wanted to mention again the housing vouchers at the Crossings. Ms. Carpenter said she hoped the County would continue funding these vouchers for the next few months until HUD releases the money, adding that perhaps the County could do an off-cycle budget amendment until this situation is resolved.

Mr. Thomas asked the ratio of women to men at the Crossings, and how many of the group of seven were women vs. men. Ms. Carpenter said she thought it was 70/30% male, but she would email the Board that information.

Mr. Thomas mentioned that his church wanted to help out with the seven individuals at the Crossings, and they had asked that question.

Agenda Item No. 12. Consent Agenda. **Motion** was offered by Ms. Mallek, **seconded** by Mr. Snow, to approve Items 8.1 (as read) through 8.3 on the consent agenda. 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.

Item No. 12.1. Approval of Minutes: March 13(N), April 10(A) and April 10(N), 2013.

Ms. Mallek asked that the minutes of March 13N, 2013, and April 10(A), 2013, be pulled and carried forward to the next meeting.

Mr. Boyd had read the minutes of April 10(N), 2013, and found them to be in order.

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

Item No. 12.2. Resolution to add Petty Cash Fund for Ivy Fire Station and Albemarle-Charlottesville Regional Jail.

The executive summary states that Virginia Code Section 15-2-1229 provides that the County may adopt a resolution to establish petty cash funds not exceeding \$5,000 to be used to transact daily County business.

The Board of Supervisors last established petty cash funds by a Resolution adopted on June 2, 2010. Staff recommends the addition of a \$1,000.00 petty cash fund for the Fire and Rescue Department at the Ivy Fire Station and the addition of a \$300.00 petty cash fund for the Albemarle-Charlottesville Regional Jail. These new petty cash funds would allow for reimbursements of authorized small purchases or expenses of employees and volunteers.

There is no budget impact.

Staff recommends that the Board adopt the attached Resolution to reestablish the existing petty cash funds and to add a petty cash fund for the Ivy Fire Station and the Albemarle-Charlottesville Regional Jail (Attachment A).

By the above-recorded vote, the Board adopted the following Resolution to reestablish the existing petty cash funds and to add a petty cash fund for the Ivy Fire Station and the Albemarle-Charlottesville Regional Jail:

RESOLUTION

WHEREAS, Virginia Code §15.2-1229, provides that the governing body of any county may establish by resolution one or more petty cash funds not exceeding \$5,000 each for the payment of claims arising from commitments made pursuant to law; and

WHEREAS, the Board of Supervisors adopted a Resolution on June 2, 2010 establishing petty cash funds; and

WHEREAS, the Board of Supervisors now desires to add certain petty cash funds for the above stated purpose.

NOW, THEREFORE, BE IT RESOLVED THAT the Board of Supervisors of Albemarle County, Virginia establishes the following petty cash funds:

Finance Department	\$4,350.00
Social Services	200.00
Community Development	100.00
Police Department	1,800.00
Fire and Rescue	150.00
Fire and Rescue – Hollymead Fire Station	500.00
Fire and Rescue – Ivy Fire Station	1,000.00
Fire and Rescue – Monticello Fire Station	200.00
Commonwealth's Attorney	300.00
Parks & Recreation	100.00
Albemarle-Charlottesville Regional Jail	300.00
Total	<u>\$9,000.00</u>

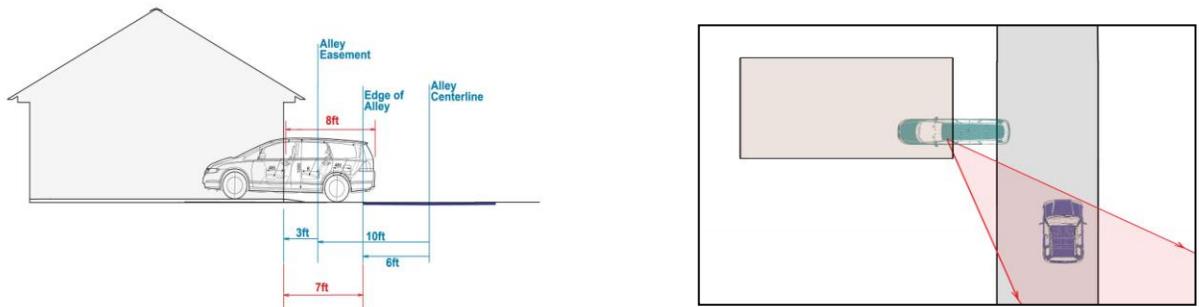
Item No. 12.3. SUB-2013-42. Old Trail Block 14 – Special Exception to Waive Overlot Grading Plan Standards for Driveways.

The executive summary states that the Old Trail rezoning was approved in September 2005 with 8 proffers. Proffer 7 required an overlot grading plan and Proffer 7(H) provides that “the driveway grading shall provide an area in front of the proposed garage, or an area proposed for vehicle parking where no garage is proposed, that is not less than eighteen (18) feet in length that will be graded no steeper than eight (8) percent.” Proffer 7(J) allows any requirement of Proffer 7 to be waived. The applicant has requested that the minimum length and maximum grade standards for driveways be waived in Old Trail Block 14. Under current procedures, these standards may be waived by special exception approved by the Board. The applicant’s original request and related exhibits are provided in Attachment A. A similar request was reviewed and approved by the Board November 7, 2012 for Block 13 in Old Trail.

In evaluating this request, Proffer 7(J) provides that the Board should “consider whether the alternative proposed by the Owner satisfies the purpose of the requirement to be waived to at least an equivalent degree.” Staff has concluded that the purpose for the minimum length and maximum grade standards for driveways in Proffer 7(H) is to ensure safe and convenient access. The standards provide adequate sight distance for vehicles exiting garages, appropriate sight lines for vehicles entering and exiting garages, and prevent vehicles from scraping driveways at severe grade transitions. Staff’s analysis focuses on this purpose.

Reduction in Driveway Length

The applicant has requested approval to reduce the minimum length of driveways in front of garages to either 5 feet or 16 feet. Staff has evaluated the minimum length of a driveway that is necessary in order to provide safe sight distance for vehicles exiting garages, and has concluded that the safe minimum length is 7 feet from the edge of the pavement. Driveways shorter than 7 feet would require the vehicle to partially back into the alley before the driver could see oncoming vehicles or pedestrians. The following illustrations depict staff’s sight distance concern:

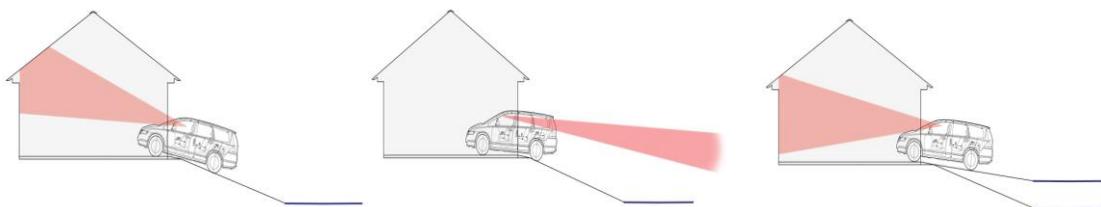


Illustrations 1 and 2: Driveways shorter than 7 feet from the edge of the alley would not provide sight distance until part of the vehicle was in the alley.

Therefore, staff supports a reduction in minimum driveway length to 7 feet, measured from the edge of the pavement rather than from the boundary of the alley easement.

Increase in Driveway Grade

The applicant has requested permission to increase the grade of driveways above the maximum 8% grade allowed by proffer 7(J), but has not specified a particular grade. Staff has evaluated the request and has concluded that a driver’s sight lines are restricted at grades of 10% or greater. Steeper grades prevent a driver from seeing the lower portion of the garage upon entry, or low-lying objects in the alley directly behind the vehicle, upon exit. Staff also has concluded that the bottoms of vehicles will scrape a driveway if grade transitions are approximately 20% or greater. The following illustrations depict staff’s driveway grade concerns:



Illustrations 3 and 4: At grades greater than 10%, sight lines are adversely affected. Illustration 5: At grades 10% or less, sight lines are appropriate.

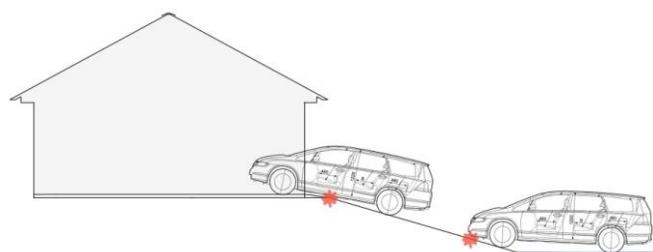


Illustration 6: At grades of 20% or greater, scraping occurs at grade transitions.

Based upon the foregoing, the maximum 8% grade in Proffer 7(H) is reasonable and staff recommends that it not be changed, but that a grade transition not to exceed 10% be allowed.

There is no budget impact.

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

1. Garages shall be set back from the edge of pavement of the alley at least seven (7) feet.
2. Driveway grades shall be 8% or less. The grade transition on the driveway shall not exceed 10%.
3. The applicant shall obtain approval of an amended overlot grading plan for each block, phase, or sub-phase within Block 14 before any permits are issued within Block 14.

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

1. Garages shall be set back from the edge of pavement of the alley at least seven (7) feet.
2. Driveway grades shall be eight (8) percent or less. The grade transition on the driveway shall not exceed ten (10) percent.
3. The applicant shall obtain approval of an amended overlot grading plan for each block, phase, or sub-phase within Block 14 before any permits are issued within Block 14.

Agenda Item No. 13. **Public Hearing: SP-2013-00009. All Things Pawssible (Sign #13).**

PROPOSED: Special Use Permit for dog day care, training and overnight boarding. ZONING CATEGORY/GENERAL USAGE: Airport Impact Overlay and Planned Unit Development (Industrial).

SECTION: 29.2.2.1 Commercial Kennel (via 26.2 pending adoption by the Board of Supervisors). COMPREHENSIVE PLAN LAND USE/DENSITY: Industrial Service – warehousing, light industry, heavy industry, research, office uses, regional scale research, limited production and marketing activities, supporting commercial, lodging and conference facilities, and residential (6.01-34 units/acre) in Neighborhood 4.

ENTRANCE CORRIDOR: No.

LOCATION: 1201 Stoney Ridge Road (Rt. 1000) [appx. 750 feet from intersection of Stoney Ridge Road and Southern Parkway (Rt. 1165)].

TAX MAP/PARCEL: 076M1000001200.

MAGISTERIAL DISTRICT: Scottsville.

(Advertised in the Daily Progress on June 24 and July 1, 2013.)

Mr. Wayne Cilimberg, Director of Planning, addressed the Board, stating that this is the first special use permit request the Board had received under the changes to the Industrial District allowances. He explained that this request is for an existing facility to relocate from the City into the County, providing dog daycare and training and overnight boarding – along with other uses such as weekend events, small retail sales, and a specialty services area. Mr. Cilimberg said there would be a dwelling for one of the employees at the site, which is within the Mill Creek Industrial Park in the PUD-Industrial section. He noted on a map the location of the adjacent zoning which shows a mix of PUD industrial commercial, and presented some photos of the building. Mr. Cilimberg stated that the applicant is in the process of purchasing the building for the proposed use, which would occupy both floors and would include an area outside for walking the dogs.

Mr. Cilimberg stated that staff found favorable factors to include that it's a service supporting the community, has been in existence already, and there is no detrimental impact to adjoining properties in the PUD primarily as industrial, it's compatible with industrial uses in the district, and it could revert back to a more industrial type of use in the future should that change arise. He said that the unfavorable factor would be the loss of space that could otherwise be available for industrial uses. Mr. Cilimberg reported that staff and the Planning Commission have recommended approval subject to conditions, as outlined in the staff report, and the seventh condition would be changed to a commencement date of July 10, 2013 rather than July 3, 2013. He noted that the applicants intend to start much earlier than that, so it shouldn't be a factor, and clarified that the building is not changing in any way other than to accommodate the applicants' use.

Ms. Mallek noted that the numbers for overnight boarding at 75 would mean a lot of pens to build inside the house. Mr. Cilimberg responded that conditions 2 and 3 address the limitations, which are 70 for daycare and 30 for boarding.

The Chair opened the public hearing.

Ms. Karen Quillen and Mr. Sean Julian, co-owners of All Things Pawsible, addressed the Board.

Ms. Mallek asked the applicants if they were building individual accommodations inside for nighttime.

Ms. Quillen responded that they play with the dogs all day, so when they are put to bed at night "they're done," and they are having 15 foldable kennels built along with some rooms in the building – and there would be someone onsite at night as well. She thanked the Board for their consideration, noting that the business has operated for 11½ years and contributes a great value to this community.

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

Mr. Rooker **moved** to approve SP-2013-0009 subject to the conditions recommended by staff 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 conditions of approval are set out below:)

1. Development of the use shall be in general accord with the conceptual plan titled "All Things Pawssible Conceptual Plan" dated March 18, 2013, and revised May 28, 2013, as determined by the Director of Planning and the Zoning Administrator. To be in general accord with the Conceptual Plan, development and use shall reflect the following major elements within the development essential to the design, as shown on the plan:
 - a. Location of outdoor play areas
 - b. Height, type and material for fencing around outdoor play areas
 - c. Location of approved parking areas

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

2. The total number of dogs admitted for daycare each day shall not exceed seventy (70) dogs.
3. The total number of dogs kept for boarding shall not exceed thirty (30) dogs.
4. The total number of guests invited for events shall not exceed seventy-five (75) people.
5. Dogs located in outdoor play areas shall be supervised by the permittee's staff.
6. Off-site parking shall be provided for any event open to the public or allowed by Condition 4 for which more than twelve (12) guests are invited. Prior to the first event or in conjunction with approval of a site plan for the site, whichever occurs first, the permittee shall obtain approval of an instrument for shared parking as provided under Albemarle County Code §§ 18-4.12.8(e) and 18-4.12.10 for up to sixty-three (63) invited guests.
7. The use shall commence on or before July 10, 2018 or permit shall expire and be of no effect.

Agenda Item No. 14. **Public Hearing: SP-2013-00011. Verizon Wireless/Boiling Siding/ Brochu Property - Tier III Personal Wireless Service Facility (Sign #5).**

PROPOSED: Request for installation of a 95' tall monopole structure & associated ground equipment on 21.1 acres. No dwellings proposed.

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

SECTION: Chapter 18 Section 10.2.2.48 of the Albemarle County Code, which allows for Tier III personal wireless service facilities (reference 5.1.40).

COMPREHENSIVE PLAN: Rural Areas in Rural Area 4 – preserve and protect agricultural, forestal, open space, and natural, historic and scenic resources/ density (0.5 unit/acre in development lots).

LOCATION: Tax Map 127, Parcel 40A. At the intersection of Irish Road [State Route 6] and Old Green Mountain Road [State Route 722].

MAGISTERIAL DISTRICT: Samuel Miller.

(Advertised in the Daily Progress on June 24 and July 1, 2013.)

Mr. Brent Sprinkle, Planner, addressed the Board, stating that the applicant is proposing to install a 95-foot tall Tier III personal wireless service treetop facility along with associated ground equipment at 3706 Irish Road. He explained that the top of the proposed monopole would be 10 feet above the 85-foot tall reference tree identified as a 22-inch caliper poplar. Mr. Sprinkle reported that the proposed facility is to be located on a 21.1-acre parcel located on the northeast side of Route 6 (Irish Road) just east of the intersection with Secretary's Sand Road, and the facility is to be situated approximately 567 feet north of Route 6 in a wooded section of the parcel. He stated that the general character of the parcel is rural, consisting of heavily wooded areas and a single-family home and, because the proposed facility is located in an avoidance area – the Southern Albemarle Historic District – a special use permit is required. Mr. Sprinkle stated that the site plan drawing shows the location of the facility on the parcel, the existing access drive used to reach it, and the existing single-family residence located at the top of the drawing. He said that the plan also shows the monopole is located 169 feet from the western property line and 446 feet from the eastern property line at its closest points, with a 95-foot radius for the fall zone.

Mr. Sprinkle referenced a site plan drawing showing the location of the proposed monopole, the reference tree, the entrance drive, and the proposed equipment shelter, and referenced a photo showing the heavily wooded condition of the lease area. He presented a drawing showing the proposed 95-foot monopole, the top of the reference tree, and the 10-foot difference to the top of the proposed monopole. Mr. Sprinkle reported that a balloon test was conducted on April 25, 2013, and the balloon was floated at the approximate height of the proposed facility, and staff traveled nearby roads and properties to determine the visual impact. He presented a photo taken from Route 6, directly in front of the parcel, noting that the red arrow points to the balloon with minimal visibility due to the significant number of trees and vegetation from that vantage point. Mr. Sprinkle presented another photo taken from Route 6, just east of the site, with the red arrow pointing to the balloon located at the treetop level and there was no sustained views of the balloons above the trees. He also referenced a photo taken from 7607 Old Green

Mountain Road, just south of Route 6 and the parcel under review, with the balloon once again only visible through trees.

Mr. Sprinkle reported that staff identified favorable factors with this proposal as: the monopole is located so that only the top section of the monopole containing the antennas is expected to be visible, and only through trees; the ARB has advised that there would be minimal visibility from Route 6, the Entrance Corridor; there is limited visibility of the tower from nearby historic sites, public roads, and properties. He said that staff did not identify any factors that would prevent them from recommending approval, and staff and the Planning Commission recommend approval of this facility at 10 feet above the tallest tree, with conditions as presented.

Ms. Mallek said she was glad to see that the fall zone was under the control of the owner and not counting on buffering that belonged to someone else.

The Chair opened the public hearing.

Mr. Steve Blaine addressed the Board on behalf of Verizon, stating that the staff report is very thorough and the recommendations from the Planning Commission along with the conditions are acceptable to the applicant, so he asked that the Board approve the SP.

Ms. Judy Brochu addressed the Board, presenting a petition from residents of the area in support of high-speed internet, which CenturyLink has been unable or unwilling to provide.

With no one else coming forward to speak, the Chair closed the public hearing.

Mr. Snow **moved** to approve SP-2013-0011 subject to the conditions as presented. 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.

(The condition of approval is set out below:)

1. Development and use shall be in general accord with the conceptual plan titled "Boiling Siding (Brochu Property) 3706 Irish Road, Esmont, VA22937" prepared by Justin Y. Yoon latest revision date 5/15/13 (hereafter "Conceptual Plan"), as determined by the Director of Planning and the Zoning Administrator. To be in general accord with the Conceptual Plan, development and use shall reflect the following major elements within the development essential to the design of the development, as shown on the Conceptual Plan:
 - a. Height
 - b. Distance above reference tree

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

Agenda Item No. 15. **Public Hearing: ZMA-2013-000001. The Lofts At Meadowcreek (Sign #15).**

PROPOSED: Rezone approximately 2.80 acres from R-4-Residential zoning district which allows residential uses at a density of 4 units per acre to NMD-Neighborhood Model District zoning district which allows residential (3 – 34 units/acre) mixed with commercial, service and industrial uses. Proposed 65 maximum dwelling units for a density of 23 units/acre.

ENTRANCE CORRIDOR: No.

AIRPORT IMPACT AREA: Yes.

PROFFERS: Yes. COMPREHENSIVE PLAN: Urban Density Residential – residential (6.01 – 34 units/ acre); supporting uses such as religious institutions, schools, commercial, office and service uses – Places 29 Corridor.

LOCATION: 605 Rio Road East in Neighborhood 2.

TAX MAP/PARCEL: 061A0000001500 and 061A0000001700.

MAGISTERIAL DISTRICT: Rio.

(Advertised in the Daily Progress on June 24 and July 1, 2013.)

Ms. Claudette Grant, Planner, addressed the Board, stating that the property is located at 605 Rio Road East and currently has a house on the property that will be demolished for the proposed development. Ms. Grant said that the applicant would like to rezone 2.8 acres from R-4 residential zoning to Neighborhood Model district, and presented the application plan showing up to 65 units proposed as a multi-family residential urban loft-style building – with majority of the parking proposed to be under the building.

Ms. Grant stated that staff found the favorable factors to be: the rezoning request would be consistent with the Comp Plan; the use is consistent with the uses permitted under the existing Neighborhood Model district; the rezoning request would provide additional residential opportunities for people in this portion of the County; and 20% affordable housing is proposed. Ms. Grant reported that on June 4, the Planning Commission held a public hearing on the request and recommended approval subsequent to the applicant addressing the unfavorable factors identified in the staff report: the proffers needed to be substantively and technically revised; Fire and Rescue's concern regarding fire safety of the

site needs to be addressed; the application plan and code of development need to be substantively and technically revised; the VDOT issue regarding an internal access road to the detention facility needs to be addressed; and there are no cash proffers provided. Regarding the cash proffer, she said the Planning Commission provided the following recommendation: the applicant is providing 13 affordable units, so no cash proffers would be necessary for those units per the policy. She said the Planning Commission also suggested that 11 by-right units be given as an allowance, with 41 remaining units to have a cash proffer as multi-family dwellings as noted.

Ms. Grant reported that the applicant has provided the following: proffers have been revised and now address all outstanding technical issues. She stated that the application plan now includes a note describing an automatic sprinkler system installed in the building; however, Fire/Rescue staff remain concerned and want to ensure their emergency vehicles can access the building, and the site layout shown on the current plan makes this difficult to achieve. She said that ideally, fire apparatus should be able to access the rear of the site and circulate around the building, and staff believes that the rezoning is the best time to resolve this issue. She said, if the County waits until later in the process, it's possible that the applicant might have to come back and do a rezoning amendment. Ms. Grant said that the application plan and code of development have been adequately revised with the exception of the fire/rescue issue. She added that VDOT has no objections to this rezoning as long as their comments are addressed during the site plan stage.

Ms. Grant noted that the proffers do not reflect the Planning Commission's cash proffer expectation, which was based on 41 units, and the applicant has provided a cash proffer of \$20,000 for 175 feet of sidewalk improvements along the frontage of the property at the corner of Rio Road and Penn Park Road. She said that the number of parking spaces has been clarified, and staff recommends approval of the parking waiver. Ms. Grant reported that the applicant has not addressed the following Planning Commission expectations: adequate access to the building for fire/rescue needs, the cash proffers based on 41 units and, in addition, it is unlikely that the cash proffers will be enough to construct the sidewalk segment that's identified.

Ms. Grant said that, based on this status, staff does not recommend approval of ZMA 2013-0001.

The Chair opened the public hearing.

Ms. Valerie Long addressed the Board, stating that she is representing the applicant and introduced William Park with Pinnacle Construction and Mrs. Dickens, the landowner.

Mr. Park addressed the Board, thanking staff for their work on this project and stating that his company did the first phase of Treesdale – which addressed extreme affordability, and a second phase now that provides some workforce housing in addition to housing at the 80% level that is “just affordable,” along with market-rate units that are unrestricted. Mr. Park stated that they have designed a community that is truly unique to the County, with units supplied to people at incomes of 40%, 50%, 80%, 120%, and the balance unrestricted. He said that this is an infill project that is consistent with and works with the Comp Plan noting that they spent, over time, approximately \$500,000 in road improvements at Treesdale – with additional road improvements for the Lofts at \$300,000. Mr. Park stated that they are also planning sidewalks entirely across the project for pedestrian access, and said that his understanding is that Charlottesville Catholic School was obligated to build the sidewalks in between, which is the reason his company has proffered the \$20,000 for the road going to Penn Park.

Mr. Park stated that Treesdale has been very successful, and that property is 98% leased. He said they have been good neighbors there and believes they have a very high-quality project. He said that one of the reasons for the Lofts project is that they've had to turn away people from Treesdale because they have too much income at 40-50%, adding that this new property would be managed by the same company from the community center at Treesdale – and Loft tenants would have the ability to use this building. He said that the combination of Treesdale and Lofts will end up serving the total income spectrum of the people in Albemarle County in an area that's in a growth area and consistent with the Comprehensive Plan. Mr. Park stated that before the Commission meeting, Ms. Dickens hosted a neighborhood meeting at her home in which people came to talk informally about the project and, at that time, there were no issues raised. He said that residents were complimentary of the Treesdale project and understood there was some benefit to the road improvements, with widening of the road and lowering it somewhat to improve sight lines.

Mr. Park addressed the two issues raised by Ms. Grant, stating that Fire/Rescue had suggested that they install a fire escape at the rear of the building to address safety concerns and, as owners and managers of the buildings, they are also concerned about life safety issues. Mr. Park explained that this is a 5A structure, which means that all the structural walls in the building are one-hour protected, and the building is 400 feet in length with two-hour rated stairwells at all ends nothing that, in essence, we do have fire escapes. He said there are fire escapes at each end of the building, and they're not fire escapes but they are two-hour rated structures which has a masonry structure to go along with the one in the middle. He said that the International Building Code (IBC) states that there needs to be 250 feet of run before getting to a means of egress and, with this building, it would be 200 feet on each side. Essentially, he said, there is 100 feet instead of the maximum requirement of 250 feet. Mr. Park added that they have gone above and beyond, and the building also has a full sprinkler system in it.

Regarding the sidewalk issue, Mr. Park stated that they only have 175 linear feet of sidewalk, five feet wide, for a total of 875 square feet x \$5 a square foot or \$4,300. He said that they added curb and gutter at about \$18 a foot for a total of \$8,500, and they added another \$12,500 for potential grading and

traffic control. He said they took the actual cost of what they thought the sidewalk would cost and more than doubled it.

Ms. Long addressed the Board, stating that the applicant has 20% of affordable units under the County's definition of affordable, for those making 80% of Area Median Income (AMI), and 20% of additional units being affordable to the workforce population – making 120% of AMI; and the remaining 60% of the units being market rate. She referenced the site plan and the unique design of the Loft units, noting some renderings the architect had prepared that showed the view from Rio Road and the entrance to the parking under the building – with all but a handful of guest parking spaces under the building.

Ms. Long stated that the cash proffers are the big issue, noting the 2013 cash proffer amounts and the increase over 2012 amount, with the current rate for multi-family apartment units at \$14,000. She said that taking the 13 affordable units off the top leaves 52 units for a total cash proffer expectation of almost \$754,000. Ms. Long stated that, in looking at the County's approved proffer policy and the Board's ability to grant credits, the existing R-4 zoning would yield 11 lots by-right, leaving \$160,000. She said they think that's fair and believes it is like giving credit to the landowner for what they have the right to build already. In addition, she said, the proffer policy gives the Board broad discretion to consider unique circumstances about any project that mitigates impacts on public facilities and creates a reduction in capital facility needs. She stated that the unique aspects of this project merit the Board taking an individual look at this project and to appreciate the unique benefits that the Phase I project at Treesdale generated for the community. She stated that, even though there were credits that were not able to be achieved or those that the developer did not benefit from, there were many other benefits to the community that weren't utilized. She said they think this is an appropriate opportunity for the Board to consider those unique circumstances and grant a credit to the Phase II project.

Ms. Long stated that the Treesdale project was double the County standard of 80% AMI, and they are proposing a \$5,000 credit per unit for that aspect. She also said that the Treesdale project was affordable for 10 times longer than the County standard, with a deed restriction of 50 years of affordability, a significant benefit for the County and worth a unique look from the Board. Ms. Long said that the Lofts project also provides workforce housing, and the applicant is proposing that credit be granted at the rate of ½ a unit, totaling \$94,000. She also stated that the improvements to the stretch of Rio Road would benefit the entire community, as well as the water and tap fees, consistency with the Comp Plan, relegated parking, proffers for a bus stop pull off and a bus shelter, and includes the sidewalks which triggers the completion of the sidewalk network all the way to Penn Park.

Mr. Greg McFadden addressed the Board, stating that he has been a resident of Woodmont Drive for almost three years. He said that, since moving into their home, Lockland Hills has been approved for 204 home units, Treesdale was built with 88 home units, Dunlora Forest began construction of its 99 home units, Stonewater has been approved for 48 home units – for a total of 439 new units. Mr. McFadden stated that the Lofts at Meadowcreek would add another 65 units, and all of these projects are within ½ mile of his home. He said he is all for new development, but is greatly concerned that this development in this area consists only of new housing, and not necessarily the improvements to the infrastructure to support this housing. He said that, in his three years here, he hasn't seen any improvements to the water and sewer lines, and wondered if there was enough capacity in the system for the new developments. Mr. McFadden stated that his concern was a lack of connecting sidewalks in this area, noting that there are pieces of sidewalks in front of each development – but no sidewalks that connect them. He emphasized that this is a highly residential area that encompasses a park and two schools, yet the residents have no way of safely walking to these parks and trails, and improvements to pedestrian safety should be considered a necessity, given all the residents on this short stretch of road.

Mr. McFadden added that there should also be a traffic signal installed at the intersection of Rio Road and Penn Park Lane, given all of the new construction approved in the area. He said that this should also include a pedestrian signal crosswalk, and a traffic signal at Rio Road and Penn Park Road should be upgraded to include a pedestrian signal and crosswalk. Mr. McFadden said that this road is similar to the Georgetown Road corridor, and should receive similar pedestrian improvements. He said if the Board is going to promote building in growth areas, then it should support that by giving the residents safe ways to get to parks that are right beside us and by giving us walking access to trails right down the street that we spent millions of dollars on our tax money to build. He stated that needs to make sure that their utility services are not compromised because the demand is greater than current services can provide. He emphasized that, in order to help fund those improvements, he asked the Board to not waive or reduce the proffers. Mr. McFadden stated that the June 4 Planning Commission minutes said the proffers would be reduced due to affordable housing provided. He asked the Board not to do it. He pointed out that, if the builder wants to build new housing, they need to pay the price. In this specific proposal, he said the residents of affordable housing benefit from the proffers being put to good use, just as much as those not in affordable housing. He added that Mr. Rooker had said, "I think our County citizens expect that when new development comes into the County, it will pay its fair share of the imposition of the costs of the infrastructure." Mr. McFadden asked why the proffers are being reduced, and why the Board is 'picking and choosing' who has to pay them and who doesn't. He said the citizens who live here are who should be receiving the benefits, not the developers. He also commented on the addition of a bus stop at this route and the recommendation by a paid consultant not to add a bus route there, and wondered where the bus would turn around.

Mr. McFadden pointed out that residents in his neighborhood were told by the developer, William Park, at a May 24 open house, that there would be no affordable housing included in this development. He said this is why no opposition was given to the Planning Commission on Tuesday, June 4 but the residents have been told there are federal credits left over from Treesdale and are looking to use them in this development. Mr. McFadden stated that the Board should reduce the affordable housing to a typical

10% or less, which would be six or seven units and does not believe there is a need for a Phase II to Treesdale.

Mr. William Arijudos addressed the Board, stating that he is a resident of the Rio Heights neighborhood and has lived there for 10 years. He said that population growth and the need for housing for citizens of all income levels will continue to be issues for the County, and he appreciates the Board's effort to address them in a thoughtful manner. Mr. Arijudos stated that, at the same time, he would urge the Board to be mindful of how growth will impact existing neighborhoods, and the rezoning proposal for the Lofts at Meadowcreek follows on the heels of recently constructed and planned developments in the immediate vicinity of Rio Heights – and Treesdale, Stonewater, and Lockland Hills will add over 400 units to this very small area. He said that, even with the Meadowcreek Parkway completion, the impact on local traffic and associated safety issues will be considerable, especially with the potential need to run additional school buses. Mr. Arijudos stated that the Lofts at Meadowcreek will only exacerbate this issue, and asked the Board to slow down the pace of development slightly and let the planned developments go forward first in order to gauge its impacts prior to agreeing to build another new development. He stated that he strongly urges the Board to deny this rezoning request.

Executive Director of Albemarle Housing Improvement Program (AHIP), Jennifer Jacobs, addressed the Board, stating that she is here to voice her support for the Lofts at Meadowcreek. She said that AHIP was intimately involved in Treesdale Park, and was so pleased with Pinnacle's hard work with that development and the finished product in addition to the fact that Albemarle County has 88 units of high quality, affordable housing units added to its housing stock. Ms. Jacobs said that AHIP also owns and operates Park's Edge apartments, located off Whitewood Road and offering 96 units. She stated that it is imperative to create and ensure a continuum of housing opportunities and housing options, and a broad continuum for both renters and home buyers is necessary for the health of the community. Ms. Jacobs said that a mix of types – owner-occupied and rental – creates a pipeline of housing options, and a person living at Park's Edge who improves their economic status might be able to move into the Lofts. She said this is the essence of mobility and one of the guiding goals of organizations such as AHIP. She said AHIP focuses on the safety net so that people get help when they need it, but that there is a focus on complementing the safety net which ensures that there are viable options for when people are ready to move on and up. She said projects like Treesdale and the Lofts at Meadowcreek must get built if the County wants to provide ample housing opportunities and a healthy range of options. She stated that good, high-quality, community-oriented options are essential for a healthy and economically independent community. She added that this project has many characteristics of quality developments including mixed-type housing, walk-ability, and proximity to amenities, connectivity, and public transit.

Ms. Mary Dickens addressed the Board, stating that she is the owner of the property intended for the Lofts at Meadowcreek development. She said that the architectural renderings for the Lofts are very attractive and will balance the overall look of the area. Ms. Dickens stated that, about five years ago, there were four abandoned houses on properties within 1/8 of a mile of her property, which has been her home for 41 years. She said that this is within the growth planned area and Treesdale, along with other properties, has improved the area with great location to parks, recreation, trails, etc. Ms. Dickens urged the Board to approve the rezoning so that Mr. Park may commence with the project before winter weather impacts construction.

Ms. Nancy Carpenter addressed the Board, stating that this project is a good compliment to Treesdale, but urged the Board to look at the Charlottesville Area Transportation (CAT) appropriation so as to connect the residents of this development to the downtown area and other commercial areas in an effort to expand that portion of CAT that serves Rio Road.

Mr. Thomas noted that the bus route wouldn't turn – it goes downtown and then loops around, with the turnaround at Fashion Square, but the school busses may have some issues.

Ms. Long said that the applicant appreciates the comments from residents in the area and is very hopeful and optimistic that the combination of the new bus line, the bus pull-off and the bus shelter along with the sidewalk connections, in addition to the City's completion of the John Warner Parkway and interchange, would help reduce the amount of traffic on Rio Road in this area. She also stated that there was a proffer when the Treesdale Phase I project was approved for a signal at Rio Road and Penn Park Lane, and her understanding is there is a bond in place for that stating that it is just a matter of VDOT determining that the traffic signal warrants have been met.

Ms. Mallek asked Mr. Howard Lagomarsino, the County's Fire Marshall, if he wished to offer anything official, or if he was just present for questions.

Mr. Rooker asked him to weigh in on the plan presented by the developer regarding the fire exits as opposed to an external fire escape.

Chief Howard Lagomarsino stated that the zoning request did not offer the detail that Mr. Park presented, so Fire/Rescue couldn't consider it at the time. He said that Fire/Rescue's comments were basically, "we have concerns that need to be addressed." Chief Lagomarsino emphasized that one of the issues they're having is there's only one way in for fire department vehicle access, and the fire code stipulates that the fire official – if there's potential for that area to be blocked – can require a second access. He said that one of their concerns is the rear of the building and, if someone is stuck in a rear window, Fire/Rescue does not have ground ladders that will reach those people based on the height of the building. Chief Lagomarsino stated that this may be addressed by the exit corridors but, until that level of detail is provided, it is difficult to know.

Chief Lagomarsino said that, if it's a residential sprinkler system, it would only be required to flow 13 gallons per minute at two heads for 10 minutes, and that could very easily be overcome in a substantial fire. He added that it's possible to overcome those issues through engineering, but they're not at a stage where they've addressed those issues.

Mr. Rooker asked if those issues are a matter of building code, or if the developer needs something beyond code. Chief Lagomarsino responded that the biggest concern is the rear of the building, and how to get someone out of the rear of the building if the front exits can't be used. He said that, in looking at some of the topography, they may not be able to get a road in the back and Fire/Rescue will not know that until site plan phase. He stated that he didn't want the developer to be surprised at site plan phase that Fire/Rescue is making these comments.

Mr. Thomas said it is his hope that the comments and discussions go on before the developer gets to that point, because we're kind of fighting one situation right now that came up with the state fire codes changing a little bit. Chief Lagomarsino said that is why he made the comments at this stage so everyone will know what the ground rules are and what they are looking for.

Ms. Mallek commented that one of the things the Board needs to discuss at some point is the proposed changes to the proffer process, and she would like to do that during a discussion of proffers – not as a spot consideration with a particular application.

Mr. Rooker stated that this is a reasonable project that fits in reasonably well with the community, but there is a cash proffer policy. He emphasized that Treesdale was built with the affordable housing requirements imposed on it because AHIP required that in the deed by which they sold the property. He said Treesdale was a different project than this project and, when the developer was in his office, he asked whether or not Treesdale was "a good deal" and Mr. Park said it was a profitable deal. Mr. Rooker said, as land is bought by this developer in other areas – not from AHIP, not with deed restrictions regarding affordable housing – he did not think the Board should just abandon its affordable housing policy. Mr. Rooker asked how the Board could rationalize requiring no cash proffers for this project when the Board has a cash proffer policy in place that has applied to every rezoning in the County.

Mr. Rooker said there are really two policy issues here. He pointed out that Treesdale didn't pay cash proffers because it was all affordable, and the Planning Commission recommended that they not pay any proffers on the affordable housing component – 13 units – and he could support that. He explained that the second issue is whether the developer should get credit for the existing by-right development on the property, as they have a right on the 2.8 acres to 11 units but, in the past, they have never said the developer didn't have to pay cash proffers on the existing property density. He stated that, when they rezoned, except for affordable units, they paid cash proffers on everything above affordable units and that would be a policy change if the Board went there today. Mr. Rooker said that the Board has not had those policy discussions yet, and haven't applied the policy changes being requested today to any other developer.

Mr. Rooker stated that the developer also doesn't want to pay cash proffers on everything left, which would be over \$700,000 of cash proffers which they are asking to be alleviated. He said that driving down Park Street to Rio today is nearly unrecognizable because of the all the development going on along that road. He said neighbors speaking at this meeting have emphasized the need for pedestrian and bicycle connections necessary to make it a reasonable area to live with respect to the kind of density that is now in place, but is in the process of being greatly increased. Mr. Rooker said that the cash proffers could be used exactly for that purpose, and could help make the area better able to absorb the increased density. He stated that the developer has some great advantages with respect to this property, with Penn Park right next door, and is basically able to use the entire parcel for apartments.

Mr. Rooker added that he thought the Board would be making a big mistake to isolate this project, treat it differently, and say they don't have to pay any cash proffers. He wasn't sure how the Board would base that decision adding that, if it becomes just picking or choosing who the Board would want to apply cash proffers to, then the County really doesn't have a policy.

Mr. Snow asked if the County had a policy for when they've given more affordable housing than they've actually received credit for. He asked if they could build up a credit of affordable housing that could be applied to the other part of the development.

Mr. Davis said that scenario is not addressed in the policy as being something that a credit would be given for.

Mr. Rooker pointed out that the policy does not require paying cash proffers on affordable units anyway.

Ms. Mallek said that, when the Board does have the proffer discussion, it could contemplate whether putting in 20% instead of 15% might generate extra credit, but crediting some from another property is a whole different issue.

Mr. Boyd said there is a density bonus for more affordable housing.

Mr. Davis stated that's a zoning provision, but not a cash proffer provision and it doesn't really apply to the Planned Unit Development zoning.

Mr. Cilimberg noted that it would apply in conventional zoning districts if someone's looking for higher density in a site plan than what's allowed by zoning.

Mr. Boyd said that he has wanted to re-address the proffer policy, but agreed it probably shouldn't be done in the context of one application. He said the Board does need to look at the proffer policy and perhaps adjust it somehow, but didn't see how it could be done for this one single project, because that would be setting a precedent. He added that he didn't know how one would get around it in the future.

Mr. Thomas stated that developers have all complained about the proffer prices, and he wasn't aware of the extra discounts associated with this application. He commented that it's a nice project, but perhaps the request is 'taboo' at this time.

Mr. Rooker said that they could get something approved with cash proffers that follow the policy, or they can wait. He stated that the Comp Plan is a 20-year plan, and it doesn't mean that everything has to be done tomorrow. Mr. Rooker said that Stonefield went through two owners, and the second owner came to him and asked if they could just abandon that and put up a regular shopping center there, but he told him he would never support it because it was approved based upon a certain kind of development. He added that he hoped the developer would come back and make this project work with a normal cash proffer proposal but, if not, maybe it needs to wait.

Mr. Snow agreed and said this could wait until the Board has a proffer discussion. He said that he thinks affordable housing is a great thing to offer in the community, and just wasn't sure if the credits could be applied and that question has been answered.

Ms. Mallek said this hadn't crossed her mind before now.

Mr. Boyd stated that there are a lot of good things about this project, and AHIP has identified it as an important one, however, it's a little bit before its time. He said the Fiscal Impact Committee is also looking at the proffer statements as they want to come back with a recommendation at some point.

Mr. Cilimberg said that the Comp Plan also has the proffer policies within it, so it's an opportunity for the Board to discuss it then.

Mr. Rooker mentioned that the Commission did recommend in this case that the existing density not have to pay cash proffers, but it did not approve non-payment of cash proffers on the rest of the units. He said he wasn't sure if the applicant wanted them to vote on it tonight, or if they wanted to defer it.

Ms. Long clarified that the Board has the authority under the proffer policy to grant credits for other projects, and it was her opinion that the Board has very broad authority under the clear language of the policy to consider what is stated as 'unique circumstances.' She said that the language states, "it can consider any aspects of a project that mitigate the capital facilities needs, and create reductions in those needs." Ms. Long said that a senior housing facility, for instance, wouldn't generate school-age children and thus wouldn't have an impact on schools. She said it does not require the Board to make a change in its policy. She said she thought the policy is already sufficiently broad and flexible such that if the Board decided it wanted to recognize the unique benefits and circumstances of this project, it has full authority to do so. She stated that, regarding the authority to grant credit for the proffers on the by-right lot yield, the policy states that there is a presumption it will not be granted – but the Board left itself flexibility and authority to grant it for those projects that have enhanced development standards. She stated that they believe this project fulfills this goal and they are asking the Board to look at this project on a case-by-case basis and consider the very unique aspects and unique benefits of it.

Mr. Boyd said the Board had discussed previously whether or not to give credit for by-right units, but said he didn't think the Board has ever approved it.

Mr. Rooker said it came up with the Belvedere project because they had significant development rights, but the Board didn't do it.

Mr. Davis clarified that the policy states, "If there is not a substantial increase in that density from the underlying use, then it may be eligible for a waiver of the by-right density of the existing zoning." He said, in this instance, they're asking for an increase from 11 to 65. He said he was unsure how that would fall within a minimal increase in density based on this site. He added that the other parts of the policy that address "unique circumstances" stipulates that there are unique circumstances "which reduces the amount of infrastructure that would otherwise be covered by the cash proffers." Mr. Davis said there hasn't been any presentation of how this development would reduce the impact on infrastructure from any other like development. He stated that the provision for "substantial upgrades to design and development standards" does give the Board some flexibility, if it finds there would be a substantial upgrade, but Planning staff's opinion is that it's not a substantial upgrade over what would be expected under normal development circumstances for this type of a project. Mr. Davis emphasized that this is a policy which is intended to address the impacts of this development, and the underlying methodology has proven that it does address impacts of development appropriately.

Mr. Davis stated that the policy is designed to address parks, libraries, fire facilities, police facilities, and schools. He said those are all important needs that the County is struggling to fund today in its capital plan adding that this would be \$700,000 that could be applicable to those infrastructure needs that would be generated by this development. He commented that, unless there is some rational basis to not follow the policy, it would be staff's recommendation that the Board follow the policy to address the impacts of this development.

Mr. Boyd said that there was a suggestion that there weren't adequate sewer, water or gas line facilities there, and asked staff to clarify that this issue had been checked out. Ms. Grant responded that staff gets comments from the Service Authority and Rivanna on each project.

Mr. Cilimberg pointed out that staff doesn't necessarily evaluate gas, because that's a City service which is not provided in all areas.

Mr. Rooker asked if the applicant wanted to defer this item, or have the Board vote on it tonight.

Ms. Mallek asked if there was adequate time to sort out the policy issues, in order to give the applicant some frame of reference.

Mr. Park addressed the Board, and stated that they didn't pay any proffers at Treeddale – but there was at a significantly lower level AMI, at 40-50%, not 80%. He also stated that it's challenging to provide the quality of housing, affordability of housing, road improvements, water and sewer tap fees, etc. with this type of development and keep it affordable. He said, in looking at the project, the infrastructure is already there which is why they want to build in this location. He commented that is why the Board has put in the Comprehensive Plan that this is a growth area, which is a positive. He said this project is near a park so people will not have to get in their car to travel to the park. Mr. Park said that the first thing he's done, as a developer, is look at the Comp Plan, but they can't pile all these fees and pay a reasonable price for the land and still provide this amount of affordable housing. He explained that, in order to make the math work, he has to finance the \$700,000+ by adding the amount to the rent, which would raise it by about \$80-85 per month. Mr. Park said that with Treeddale, they went below what was required by the County and below what was required by the tax credit program, not because AHIP made them do it, but because it met the need and was what the County wanted. He stated that they didn't want this to be a discussion of the entire proffer policy, but 11 homes by-right would put more strain on the system than these 65 units designed for young urban professionals.

Mr. Rooker said that there may be additional impacts on things like the bus system or the library, and one of the reasons the County is adding the bus route is the increased density in this area.

Mr. Park stated that the prudent thing to do would be to defer it but, if they have to pay these proffers, this project will not go forward.

Mr. Rooker **moved** that the Board accept an indefinite deferral of ZMA 2013-0001 at the developer's request. 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.

Mr. Rooker **moved** to defer the waivers along with the zoning deferral request. 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.

Mr. Cilimberg clarified that staff's understanding as to the reason for the deferral is to allow the applicant to reconsider how they'll proceed regarding the cash proffer policy.

Ms. Mallek said that while she's very understanding of the concerns mentioned about proffers, the infrastructure already in place was provided by previous taxpayers, and so part of that is buying into the system, i.e., paying it forward, so to speak.

Mr. Foley said that he didn't know if there was a set timeframe for review of the proffer policy but, if the Board wants to move it forward, he would like some direction.

Ms. Mallek stated that she'd like to encourage the committee to reactivate and to carry on with this particular item in mind.

Mr. Boyd suggested that staff move this topic up on the agenda as soon as possible, as it forces the Fiscal Impact Committee to meet.

Mr. Rooker agreed and said the applicant's proposal tonight put this policy right in front of the Board, so it would be prudent not to have to deal with applications that come before the Board with the same issues.

Mr. Davis said that there are two issues here: changing the substance of the policy to address some of these other circumstances; and to also look at the values of the policy, which was delayed by the CIP analysis and the 10-year needs analysis of the County, both of which drive the numbers. He commented that the Fiscal Impact Committee looks at numbers, not the policies, and Planning staff would play a larger role in addressing the policy issues – which is why it's in the Comp Plan.

Mr. Foley said that he would ensure that it moves up on the Board's agenda, and would get back to the Board with an update.

Agenda Item No. 16. From the Board: Committee Reports and Matters Not Listed on the Agenda.

Mr. Boyd reported that he met with the Pantops Advisory Council earlier in the week, which included discussion of the Highland Ridge development, and the committee noted that part of this project would be outside of the development area – seven 21-acre lots. He said that the water and sewer lines would run right down the road in front of those houses, and he would be interested in talking about making an exception to extend water and sewer to this project.

Mr. Rooker said that he would like to talk about it because of the uniqueness of the circumstances, but a lot of areas are outside the growth area and thus don't get water and sewer, including his neighborhood.

Mr. Boyd stated that this is a new development and, environmentally, it would be better if it were allowed to tap into the water and sewer lines.

Mr. Davis said that this issue comes up with every new development, and the Comp Plan has a pretty defined rationale for extension, which is based on health and safety issues – not on convenience or a logical extension of sewer lines. He stated that there is a hard edge to the service area adding that there is always going to have to be that hard edge unless the Board changes the policy, which says that it is going to allow extensions from inside the growth areas into the rural area.

Mr. Boyd stated that he thinks the Board should have that option in common sense cases such as this.

Mr. Davis said that every one of these instances would present a 'common sense' argument to extend the service area outside the edge of the growth area.

Mr. Foley noted that is not a criteria of the policy.

Mr. Rooker stated that, with his development 20 years ago, the developer of his neighborhood offered to pay for the connections and the lines, but the County wouldn't allow it. He said that every case could be a 'common sense' exception.

Mr. Boyd said the Board ought to have the option to do it, and he would be willing to address it through the Comp Plan. He said that he isn't in favor of expanding the growth area, but it would be logical to make the line extension in this case.

Mr. Cilimberg stated that, in the past, the Board has made exceptions due to health and safety issues – but with Whittington, the Board directed staff to have the Planning Commission review the proposal because it involved very small lots with very old zoning and that was a unique situation.

Mr. Davis said that policy is grounded in the Comprehensive Plan, and one that has been in there for a long time.

Mr. Boyd said that it doesn't need to be perpetuated forever.

Mr. Rooker cautioned that, in granting exceptions on a case-by-case basis, the exception becomes the rule very quickly.

Mr. Boyd said Board members didn't get elected to simply follow rules that were set by Boards twenty years ago. He said the Board should look at things on a timely basis, and take a new look at them, and that's just where he is on this particular item.

Ms. Mallek emphasized that the Board needs to uphold the sense among citizens that everybody does follow the same rules because, when there is a perception that there are certain rules for certain people, that gets to be a disaster very, very fast.

Mr. Boyd said that people have the right to petition the Board and the Board should have the option to make exceptions.

Mr. Thomas said that he has friends in business in Mr. Boyd's district that have been begging to get on the water line and don't have enough water to operate things like a sprinkler system.

Mr. Rooker stated that they bought those businesses knowing what was and wasn't provided.

Mr. Josh Davis addressed the Board and stated that he would be leaving his position with Albemarle County and would be working in Henrico County due to his family situation. He recognized the County Executive's Office, the Finance staff, County Attorney's staff, and the Board, and thanked them for their work with him during his 4½-year tenure.

Mr. Rooker said that Mr. Davis would be missed, and Ms. Mallek thanked him for completely changing the school transportation system.

Mr. Boyd **moved** to adopt the resolution presented setting the compensation and benefits for the County Executive. 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.

**RESOLUTION TO SET FY 14
COMPENSATION & BENEFITS FOR
THE COUNTY EXECUTIVE**

WHEREAS, the County of Albemarle operates under the County Executive Form of Government; and

WHEREAS, the Board of Supervisors determines the compensation and benefits to be paid to the County Executive for the performance of his duties and responsibilities.

NOW, THEREFORE, BE IT RESOLVED that the Albemarle County Board of Supervisors hereby deems that Thomas C. Foley, County Executive, shall receive the following compensation and benefits for FY 14, beginning July 1, 2013:

- 1) Annual salary of \$ 178,039.
- 2) Annual vehicle allowance of \$6,300.
- 3) Annual deferred Compensation paid by the County in the amount of \$23,000.
- 4) Annual leave equivalent to that of a County employee with twenty three (23) years of consecutive employment with the County.
- 5) Such other benefits provided to all County employees in the Personnel Policy & Procedures Manual.
- 6) In the event of termination by the Board or resignation at the request of the Board, the continuation of salary and health insurance benefits for six months on a monthly basis beginning the next month after the date of separation from employment.

Agenda Item No. 17. From the County Executive: Report on Matters Not Listed on the Agenda.

There were none.

Agenda Item No. 18. Adjourn to July 25, 2013, 12:30 p.m., Department of Forestry Building.

At 8:04 p.m., Ms. Mallek **moved** to adjourn to July 25, 2013 at 12:30 p.m., the Department of Forestry for a joint retreat with the School Board. 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.

Chairman

Approved by Board
Date: 09/04/2013
Initials: EWJ