

A regular meeting of the Board of Supervisors of Albemarle County, Virginia, was held on September 4, 2013, at 9:00 a.m., Lane Auditorium, County Office Building, McIntire Road, Charlottesville, Virginia.

PRESENT: Mr. Kenneth C. Boyd, Mr. William B. Craddock, Ms. Ann Mallek, Mr. Dennis S. Rooker, Mr. Duane E. Snow and Mr. Rodney S. Thomas.

ABSENT: None.

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

Agenda Item No. 1. The meeting was called to order at 9:05 p.m., by the Chair, Ms. Mallek.

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

Agenda Item No. 4. Adoption of Final Agenda.

Ms. Mallek announced that Agenda Item 21 would be moved to 1:30 p.m., and will be the first public hearing item.

Ms. Mallek added for discussion consideration of a zoning text amendment for existing buildings in the country crossroads to allow more flexibility of use, with a lesser impact, for currently existing rural commercial sites.

Mr. Snow added for discussion the requirements for the proposed golf course at the Trump Estate.

With no further additions, the final agenda was accepted.

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

Ms. Snow reported that he has been meeting with staff regarding the issue of limited internet coverage in the County, and staff is addressing it by pursuing grants through the Thomas Jefferson Planning District Commission (TJPDC) and also scheduling roundtables with broadband wireless service providers. He said staff wants to issue an RFP to determine what various carriers might be willing to do to help bring cell coverage into remote areas, a process that is hoped to discover new strategies and different solutions.

Mr. Foley said this would be along the lines of a "Request for Information," which would generate discussion about approaches rather than soliciting bids, and staff would give a report to the Board at its next day meeting.

Ms. Mallek stated that she would like to talk about how the gaps in coverage are determined and where the inaccuracies are in the state assessment, all of which need to be resolved before the County can get a grant.

Mr. Snow reported that there were approximately 3,200 women running in the Women's Four-Miler, which was held the previous weekend, and he expressed his appreciation for those who made it possible.

Mr. Rooker said that the event raised about \$300,000 this year.

Agenda Item No. 6a. Recognition: Resolution in Support of Pride Festival Day.

Mr. Rooker stated that he had modified the Pride Festival Day resolution which had been submitted to the Board, based on what he thought might be acceptable to the Board as a whole. He said this group represents about 10% or better of the population nationwide and has been subject to discrimination, ridicule, harassment and scorn over the years, although it has improved greatly in recent years. Mr. Rooker stated that this is a nationally recognized day, and he feels it's important to adopt a resolution.

Mr. Rooker then **moved** to adopt the resolution recognizing Pride Festival Day as presented. Ms. Mallek **seconded** the motion.

Mr. Boyd said he has a problem with the Board being used as a bully pulpit for any objective a group wants to bring before it. He said only one individual brought this to the Board, and he didn't know if it was even a group of people. He added that there could be no end to this type of thing and the Board might be going down a very slippery slope.

Mr. Rooker stated that the one person was representing a group and, while he understood Mr. Boyd's point, he feels that symbolism is important – especially in recognizing a group that has suffered egregiously over the years. Mr. Rooker read the resolution presented for adoption.

Mr. Craddock said he agrees with Mr. Boyd, as the County's mission, vision and values statements are very clear about the goals of the County, and the Board could get tied up on this proclamation the same way it did with the NOW proposal.

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

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

NAYS: Mr. Thomas, Mr. Boyd and Mr. Craddock.

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

Mr. Dan Burke addressed the Board, stating that he has been part of a research group studying the history of the building of the railroad – particularly the Blue Ridge Railroad through Central Virginia, which was done in the 1850s under the engineering of Claudius Crozet. He said the work was done primarily by contractors who hired Irish immigrants that had just immigrated from the great famine, along with local slaves. Mr. Burke said, because of this interest, he has become a board member of the Claudius Crozet Blue Ridge Tunnel Foundation, a regional group interested in opening the Blue Ridge Tunnel at Rockfish Gap as a recreational facility for the public. He stated that planning has been going on for several years now, and the group recently secured a VDOT grant for \$749,000, which will allow them to proceed with phase one construction and open the tunnel on the east side. Mr. Burke said the group envisions a hiking and biking trail that will connect to many of the regional trails in the area, including one coming up from Crozet. He noted that Dan Mahon, the County's trail planner, is part of the foundation and has been guiding them as to how to better connect the trail on both sides of the mountain, adding that the hope is to bring this long dormant landmark back alive and become a true tourist destination for both recreational and educational purposes. Mr. Burke said the foundation requests the Board's support and has sent members an invitation for a September 20 fundraiser at Veritas Vineyards.

Mr. John Chavan addressed the Board, stating that, on August 4, 2010, the Economic Vitality Action Plan "final report" was adopted by the Board of Supervisors. Mr. Chavan said he wants to make sure that the modification of the interstate interchange policy is reflected in the action plan, and is included in the County's Comprehensive Plan.

Mr. Timothy Hulbert addressed the Board on behalf of the Charlottesville Regional Chamber of Commerce and stating that he supports the efforts on the Claudius Crozet tunnel, which honors both Irish immigrants and African-Americans. Mr. Hulbert said that he is before the Board in support also of the County Executive's proposal to take the next logical step from the Economic Vitality Action Plan and build an ongoing, sustained economic development program that seeks to grow and attract enterprises that will offer career-ladder jobs for the community. He applauded County staff, particularly Lee Catlin and Susan Stimart, and Board members for their efforts in this regard, and said the Chamber is looking forward to seeing the program move ahead.

Mr. Richard Randolph addressed the Board, stating that there had been a community meeting a week prior resulting from a change in the ordinance regarding the pre-application process to ensure that the public was given an opportunity to weigh in on the merits of the application for a special use permit so that changes could be made prior to coming to the Planning Commission and the Board. He said the meeting involved the applicant known as "Rivanna Village," and there were about 150 people who attended. He stated that notice was given to adjoining property owners that was very clear, a neutral meeting place, the East Rivanna firehouse, was chosen, and a formal, professional and procedurally sensitive meeting was held, materials were prepared in advance, a question and answer period held. Mr. Randolph said this meeting was in stark contrast to a meeting held on July 25, with an invitation stating "[Trump] Winery invites you to attend a neighborhood open house," hosted by a person named Eric [Trump]. He stated that the meeting occurred in Scottsville, but the Planning Commissioner for that district was not invited to the meeting. Mr. Randolph said that, if that is, in fact, a community meeting under the conditions the County established as a Planning Commission and Board, then it doesn't, in his mind, meet the conditions of a required meeting under the ordinance that had been collectively recommended and was passed for the County.

Mr. John Lowry addressed the Board on behalf of the Economic Development Authority in the County of Albemarle, and stated that there has been much success with the Economic Vitality Action Plans over the last three and one-half years. He said credit is due to the Board, but it shouldn't stop now – the Board should take even more meaningful, long-lasting steps. Mr. Lowry stated that staff would soon seek approval from the Board for economic development to take its place among other services the County provides, and said that he had already contacted the Board regarding the fact that every other peer county has ongoing economic development efforts. He said, "It's time to cement the footings of permanency in Albemarle." Mr. Lowry said the Planning Commission recently submitted its draft of the Comprehensive Plan draft to the Board and, with the finishing touches in the months ahead, the capstone to the Economic Vitality Action Plan can be put into place. He said this County needs to be competitive; it

needs to have an economic development partnership with the community and asked the Board to please finish its good work.

Mr. Jim Neale addressed the Board, stating that he wanted to echo the statements made by Mr. Randolph and speak specifically to a special use permit application. He said he represents a 501(c) 4 nonprofit consortium of local property owners and conservation easement grantors designed to preserve the integrity of those conservation easements, and would like to name the project specifically, the special use permit application for the Trump International Golf Course in southern Albemarle County. Mr. Neale stated that he wanted to address the County staff's authority to and insistence upon the production of correspondence from the Virginia Outdoors Foundation – the easement holder in this case – for written certification that the proposed use complies with the easement governing that property. He said this is a simple requirement, clearly authorized by the ordinance statute and is routinely enforced by the Planning Commission, routinely complied with by special use applicants – and should be insisted upon in this case. Mr. Neil stated that the developer's request that the Board circumvent the process, undermine its staff and ignore the ordinance should be rejected. He said this particular developer may be used to a normal course of bypassing procedure and running roughshod over County staff planners, and having its way with local elected officials, but he hopes that won't be the case here.

Mr. Joe Draego addressed the Board, stating that he has been collecting documentation for over two years about the traffic cameras being unsafe and, in fact, creating more accidents than they prevent. He said he has gathered information from the Police Department, VDOT, the 911 call center, and other accredited government sources all over the world, and yet he has been told by the Board that they are going to wait for staff to give a report. Mr. Draego claimed that neither the Planning Commission nor the Board would answer his questions, and expressed concern that the Board would not allow a back and forth conversation with the public. He said that Board members are public servants and should be honoring mutual respect, but it is treating people like "guests in their own country."

Ms. Lettie Bien addressed the Board, stating that she was representing the Save Polo Grounds coalition with respect to the special use permit application requested by the Field School, noting that the residents of Carrsbrook and Still Meadows did not have any kind of direct notice and were very surprised to learn about the possibility of the school being located directly across the river from their homes. She said that it is those residents' belief that the Board will make the decision based on land use requirements only, and not personal relationships or warm, fuzzy emotions that children evoke, or engagements from people who do not live anywhere near the proposed location or are affected by the proposed development. Ms. Bien said that citizens expect their Supervisors to follow its own Comprehensive Plan and Places 29 program.

Ms. Helen Cauthen addressed the Board, stating that she is Director of the Central Virginia Partnership for Economic Development (formerly TJPED) and congratulated the Board for its good work on the Economic Vitality Action Plan. Ms. Cauthen said she was impressed with the depth and breadth of participation in that process, and the amount of time invested. She stated that the plan was one of the key reasons the target market study was done, and applauded the significant work done by Susan Stimart, Lee Catlin, Tom Foley and other staff. Ms. Cauthen stated that CVPED encourages the Board to look at the work not as a completed process, but as the closing of one chapter and the opening of the next one.

Mr. David Redding addressed the Board, stating that he is with 350 Central Virginia and noting that they would hold a discussion on September 25 at Piedmont Virginia Community College (PVCC) on how local governments can get solar power systems installed under a Dominion Virginia Power purchase agreement. He left some flyers about the program and the upcoming event with the Board.

Mr. Rex Linville of the Piedmont Environmental Council (PEC) addressed the Board, stating that, in 2006, the Kluges placed a conservation easement on the Trump Winery property with the Virginia Outdoors Foundation (VOF), at which time the County had a strategic planning goal of protecting 30,000 acres by June 2010. He said that this was also consistent with the Comp Plan, which states in numerous places that preservation of the rural area is a very good thing for the County and encourages landowners to preserve property with a conservation easement. Mr. Linville said that, in 2011, the estate owners began discussing with the VOF the idea of putting a commercial golf course on the property, and the VOF responded to them in a letter dated April 4, 2011 that "the easement does not reserve an absolute right to build a seasonal, commercial golf course on the property." He stated that they then applied for a special use permit, and County staff said they wanted to see documentation that the use was consistent with the conservation easement. Mr. Linville said that their attorney has now asked the County to remove the condition that it must be consistent with the easement and, subsequent to that, their attorney has requested that the item be withdrawn/not considered and should be brought directly to the Board without staff's opinion considered. He stated that he hopes the Board will stick with staff's recommendation and its partnership with the VOF and other conservation easement holders to help achieve these long term goals, and asked that the Board not change the process for this one applicant.

Mr. Boyd said that Mr. Linville had stated their attorney requested to remove the condition, but his understanding was that they were asking that it be made a condition of the special use permit – which is not the same as removing it and he didn't believe the Board would consider that.

Ms. Mallek clarified that the attorney has requested that it not be held as a pre-condition to the application, which is what other applicants have to do.

Mr. Linville said that the attorney is asking that it be removed as a condition for the application to be deemed complete.

Mr. Neil Williamson addressed the Board, stating that he is before them to discuss an issue of fairness related to notification to an applicant if the Board is going to speak about that application. Mr. Williamson stated that citizens have the right to speak about anything but, if the Board chooses to discuss the Trump application, it should do that late in the day with proper notification to the applicant. He said to do otherwise might be compared to a "midnight vote."

Ms. Mallek clarified that the Board had received a letter asking them to talk about it today, so the Trump representatives are well aware of what's going on.

Mr. Snow stated that he attended the meeting at Trump Winery, and it was not a public meeting – and confirmed that it was stated not to be a public meeting. He said that his understanding is that they are not requesting that the condition be removed; they are asking that the project be filed while they're waiting to get the condition fulfilled. Mr. Snow stated that the County does that all the time.

Ms. Mallek pointed out that the County does not do that anymore, and now there is a process where the application must be complete before staff spends a lot of time working on it. She said she hopes the Board will not turn its backs on the progress that's been made just because someone doesn't like it. She mentioned the Blenheim property application, stating that they got a letter of compliance from VOF before they proceeded. Ms. Mallek said that the fees that applicants pay do not even come close to paying for staff time to work on a process and, since the easement decision is so important to the process, she feels the Board needs to wait until the Attorney General is done with his opinion. She said there is no certainty whatsoever that this is going to be approved by VOF or the Attorney General and there is no reason to have staff do any work until that is approved.

Mr. Snow said the Board has let applications proceed all the time with the conditions having to be met before it's approved.

Ms. Mallek pointed out that that's in the special use permit hearing process, prior to them building, and there's no reason that staff should be spending time on it now.

Mr. Boyd asked about the Blenheim situation, as he didn't remember that project coming forward.

Ms. Mallek explained that the Blenheim application has not come before the Board yet, but the applicant has followed the rules and obtained their clearance from VOF – their easement holder – prior to filing their application.

Mr. Boyd said that staff had refused to work on that application as well, and he is sort of missing the rule.

Mr. Foley said staff could provide some examples of the things that would hold up an application if it's "incomplete."

Mr. Cilimberg explained that the Blenheim application was made at the same time as the Trump request, and there was a request in the pre-application process that VOF provide certification.

Mr. Benish explained that the Blenheim people had already met the requirement prior to applying, and delivered the finding in the form of a letter from VOF at the pre-application conference.

Mr. Cilimberg said staff takes this very seriously, because the Board made it clear in the zoning text amendment process that an application being reviewed had the information necessary which was fundamental to the review – not marginally beneficial, but truly fundamental. He said, in the pre-application process, staff has focused on providing clear comments after those meetings to note the things that are fundamental. He said traffic studies are another example, as they were seeing projects come forward where those studies were needed but not undertaken – which created some difficulty for the Board's review and consideration. Mr. Cilimberg noted that the Trump applicants have done a traffic study for this application, as they were told in the pre-application meeting. As has been mentioned previously, he said staff felt conservation easements are very important to the County's planning and what the Board feels it needs in understanding what an application would or would not impact.

Mr. Boyd stated he doesn't have a problem with it, as long as the Board is being consistent with everybody.

Mr. Rooker said he doesn't care who the applicant is, he would just like to ensure that the Board is being consistent in how it treats them.

Mr. Craddock stated that he has received numerous calls and e-mails about the lack of a community meeting regarding the proposal, but has assured the neighbors that there would be a community meeting. He said he sees no reason to alter the process.

Mr. Cilimberg said that occasionally, under the new process, applicants will hold an early community meeting, and staff evaluates whether there was proper notification and invitation. In this case, he said, staff has told the applicant that, once the process starts, a community meeting will be necessary.

Mr. Benish said that the applicant tried to do that but, based on the execution of the event it's best that they do a formal public meeting again – which he announced at the pre-application meeting.

Ms. Mallek stated that there were a lot of people in the area who were not notified, so there needs to be a better job of public outreach.

Mr. Rooker said that a public meeting is one that is open to the general public, not by special invitation, and the ordinance says that it's announced as a meeting about the application.

Mr. Thomas asked if the applicant would put a sign up for the community meeting.

Mr. Cilimberg stated that, in the case of a community meeting under the ordinance, the applicant does a notification based on a list provided by the County. He said that there would be others "in the community of interest," which sometimes extends beyond just adjacent owners and an onsite sign would go out closer to the public hearing.

Ms. Mallek said she thinks this is a great idea, as this is a heavily traveled route. She also said that, in the past, notification letters were sent out by the County and paid for by the applicant – a process that she preferred.

Mr. Cilimberg stated that staff would be providing a list of the owners they feel need to be contacted, and the basic information that needs to be included – so the burden is put on them to send the letter.

Ms. Mallek said that, at the previous meeting, many attendees heard by word of mouth and were never formally notified.

Mr. Benish stated that, in the rural communities, the general guideline is about ½ to 1-mile radius for notification – and, in this case, the applicant went beyond that. He said that the further one goes out, the more possibility there is for mistakes, so a sign would be good for this application.

Agenda Item No. 8. Consent Agenda. **Motion** was offered by Mr. Rooker, **seconded** by Ms. Mallek, to approve the items on the consent agenda with the exception of Items 8.1 (as read), to pull Item 8.6 for discussion, and to accept Items 8.8 through 8.13 for information. (**Note:** Discussions on individual items are included with that agenda item.) Roll was called and the motion carried by the following recorded vote:

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

Item No. 8.1. Approval of Minutes: July 3 and July 10, 2013.

Mr. Snow had read the minutes of July 3, 2013, pages 1-28 (end at Item #22), and found them to be in order with the exception of some typographical errors.

Ms. Mallek asked that her portion of the minutes of July 3, 2013 be pulled and carried forward to the next meeting.

Mr. Thomas had read the minutes of July 10, 2013 and found them to be in order.

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

Item No. 8.2. ZMA-2005-09. Briarwood PRD - Special Exception to allow variation to the Phasing Plan.

The executive summary states that Briarwood development is located off of Seminole Trail (Route 29) and is zoned Planned Residential Development (PRD) and has proffers associated with it. The development has been through numerous rezonings (ZMA91-13, ZMA95-05, ZMA2004-14, and ZMA2005-09). On March 16, 2011 a variation from the approved application plan modified the phasing plan for the development (reviewed under SDP2010-00084). The applicant is requesting a special exception to allow for another variation to the phasing plan for the development as authorized by County Code Section 18-8.5.5.3

With this variation the applicant proposes to modify the phasing plan to react to the current market and builder demands. The total number of townhouse units and single family units in each phase shall remain unchanged for each phase, and the total number of units within the entire development will also remain unchanged per Proffer #9. Based on market demands the applicant has updated the lot widths in the development, which has created the need to modify some of the phasing lines within the plan, without any changes to the overall density.

The applicant submitted a request and justification for the variation by letter dated March 25, 2013 (Attachment B) with revised phasing plan dated April 22, 2013 (Attachment A), and the request has been reviewed for Zoning, Engineering and Planning aspects of the regulations and staff finds no objection. This variation will allow the revised phases as depicted on "Briarwood Phasing Letter of Revision" prepared by Collins Engineering, dated April 22, 2013 to become the phase plan for Briarwood. Section 8.5.5.3(a) authorizes the Director of Planning to grant variations from the approved application plan. However, due to the State Supreme Court decision, these variations must now be approved by the Board of Supervisors as a Special Exception under Chapter 18 Section 33.5 and 33.9. **Staff is recommending approval of the variation.**

PHASING PLAN VARIATION:

The applicant submitted the following request: "Overall market and builder demands are the reason for this modification request. The market demand for this neighborhood is smaller single family houses and smaller townhouse lots. This change to the overall phasing will allow us to accomplish the changes to the lot demand, while maintaining the same overall density on the plan." Staff analysis of the variation request is provided below:

- 1) **The variation is consistent with the goals and objectives of the comprehensive plan.**
The variation is consistent with the goals and objectives of the comprehensive plan. Interconnections, a mix of housing types, buildings that are close to the street and open space will remain.
- 2) **The variation does not increase the approved development density or intensity of development.**
The variation will not increase the approved density or intensity of development. The residential units and density within this development remain within the approved lot mix from ZMA 2004-014 and ZMA2005-09.
- 3) **The variation does not adversely affect the timing and phasing of development of any other development in the zoning district.**
The variation does not adversely affect any timing or phasing of this or any other development.
- 4) **The variation does not require a special use permit.**
A special use permit is not required.
- 5) **The variation is in general accord with the purpose and intent of the approved rezoning application.**
The variation is in general accord with the purpose and intent of the approved rezoning. The development resulting from the variation continues to provide a mixture of housing types, interconnections, and open space in Briarwood.

Staff recommends approval of this Special Exception for a variation to the Briarwood PRD (ZMA2005-09) Phasing Plan noted as "Briarwood Phasing Letter of Revision" prepared by Collins Engineering, dated April 22, 2013.

By the above-recorded vote, the Board approved the special exception for a variation to the Briarwood PRD (ZMA2005-09) Phasing Plan noted as "Briarwood Phasing Letter of Revision" prepared by Collins Engineering, dated April 22, 2013, as recommended by staff.

Item No. 8.3. FY 2013 Budget Amendment and Appropriations.

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

The total increase to the FY 13 budget due to the appropriation itemized below is \$13,000.00. A budget amendment public hearing is not required because the amount of the cumulative appropriations does not exceed one percent of the currently adopted budget.

This request involves the approval of one (1) appropriation as follows:

- One (1) appropriation (#2013105) totaling \$13,000.00 for school division grants.

Staff recommends approval of appropriation #2013105 to distribute funds received from grants to the proper expenditure accounts for various school division projects and programs as described in Attachment A.

Appropriation #20130105		\$13,000.00
Source:	Local Grants	\$ 2,000.00
	Federal Grants	\$ 11,000.00

The Albemarle County Healthy Students Grant received funds in the amount of \$1,500.00 from the United Way. The Healthy Students Program and the Jefferson Area United Way Smart Beginnings Program jointly sponsored a summer training focused on elements of the Child Observation Record for preschool

educators in the County's and the City's Public Schools. The funds were used for the trainer's fee, travel, and lodging, and training materials.

The Albemarle County Safe Schools Grant received funds in the amount of \$500.00 from Edelman USA AON Center to participate in the Substance Abuse and Mental Health Services Administration's (SAMHSA) National Prevention Week. National Prevention Week is an annual health observance dedicated to increasing public awareness of, and action around, substance abuse and mental health issues. The funds were used to provide five Prevention Powwows for the Albemarle/Charlottesville area.

The Alcoholic Beverage Control Community Coalition Grant Review Committee awarded the Albemarle County Schools Safe Schools/Healthy Students Project a grant in the amount of \$6,000.00. The Charlottesville/Albemarle Prevention Coalition and Safe Schools/Healthy Students Project are at the forefront of a collaborative, multidisciplinary movement to address underage drinking. The goals of this project are to decrease underage drinking and decrease the incumbent consequences, such as car crashes and arrests. The funds were used to provide awareness and information about the risk of underage drinking through a variety of activities and marketing campaigns.

The Albemarle/Charlottesville Gang Steering Committee in conjunction with the Albemarle County Schools Safe Schools/Healthy Students Project was awarded a grant in the amount of \$5,000.00 from the Department of Criminal Justice Services. The Albemarle/Charlottesville region has seen an increase in gang involvement locally with over 160 known active gang members identified. The Gang Reduction through Community Engagement (GRACE) Steering Committee was created to determine the severity of the local problem and implement a comprehensive approach to prevention and intervention. These grant funds were used to conduct case file research as part of the comprehensive gang assessment.

By the above-recorded vote, the Board approved Appropriation #2013105 to distribute funds received from grants to the proper expenditure accounts for various school division projects and programs.

COUNTY OF ALBEMARLE			
APPROPRIATION SUMMARY			
APP#	ACCOUNT	AMOUNT	DESCRIPTION
2013105	3-3316-63316-318000-189900-6599	500.00	Safe Schools
2013105	4-3316-63316-461211-601300-6530	500.00	Safe Schools
2013105	3-3317-63317-318000-189900-6599	1,500.00	Healthy Students
2013105	4-3317-63317-462230-312700-6530	1,500.00	Healthy Students
2013105	3-3318-63318-333000-330140-6530	5,000.00	DCJS Grant
2013105	4-3318-63318-461101-312700-6530	5,000.00	Prof. Service Consultants
2013105	3-3319-63319-333000-330141-6530	6,000.00	ABC Grant
2013105	4-3319-63319-461101-312700-6530	3,000.00	Prof. Service Consultants
2013105	4-3319-63319-461101-360000-6530	2,500.00	Advertising
2013105	4-3319-63319-461101-601300-6530	500.00	Ed/Rec Supplies
TOTAL		26,000.00	

Item No. 8.4. FY 2014 Budget Amendment and Appropriations.

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

The total increase to the FY 14 budget due to the appropriations itemized below is \$73,410.45. A budget amendment public hearing is not required because the amount of the cumulative appropriations does not exceed one percent of the currently adopted budget.

This request involves the approval of six (6) appropriations as follows:

- One (1) appropriation (#2014024) to appropriate \$8,524.45 for rental income and expenses related to the Old Crozet Elementary School;
- One (1) appropriation (#2014026) to allocate \$248,529.00 from the Compensation Plan Reserve to various departments. This appropriation will not increase the budget;
- One (1) appropriation (#2014027) to allocate \$17,879.00 for training and professional development for various departments. This appropriation will not increase the total budget because the funding will be allocated from the Training Pool funding;
- One (1) appropriation (#2014028) to appropriate \$20,533.00 to the Department of Voter Registration and Elections;
- One (1) appropriation (#2014029) to appropriate \$40,000.00 to the Department of Social Services for the state-funded Strengthening Families program; and
- One (1) appropriation (#2014030) to appropriate \$4,353.00 to the Office of Housing for an additional three months of funding for Virginia Supportive Housing.

Staff recommends approval of appropriations #2014024, #2014026, #2014027, #2014028, #2014029 and #2014030 to provide funds for various local government projects and programs as described in Attachment A.

Appropriation #2014024 **\$8,524.45**
 Source: Local Revenue (Rent) \$8,524.45

This request is to appropriate \$8,524.45 in rental income revenues to provide for preventative maintenance contracts and fuel oil costs at the Old Crozet Elementary School. The terms of the recently renewed leases with the Field School of Charlottesville and the Old Crozet School Arts (OCSA) resulted in an increase of \$8,524.45 in annual total rent revenues over the amount currently budgeted in FY 14. The County anticipates higher maintenance costs than initially budgeted for FY 14.

Appropriation #2014026 **\$0.00**
 This appropriation will not increase the County Budget.

Source: Compensation Plan Reserve \$ 248,529.00

During the FY 14 budget development process, the Board approved \$290,000.00 in funding for salary increases associated with the County's annual performance review process. This request is to appropriate \$248,529.00 from this reserve to various departments based on the results of the annual performance reviews.

Appropriation #2014027 **\$0.00**
 This appropriation will not increase the County Budget.

Source: Training Pool \$17,879.00

This request is to appropriate \$17,879.00 from the Training Pool to various departments for approved training opportunities and professional development. The Board approved a Training Pool of \$50,000.00 in the FY 14 budget to support the County's strategic objective to expand opportunities for training and professional development. After this appropriation, \$32,121.00 will remain available in the Training Pool.

Appropriation #2014028 **\$ 20,533.00**
 Source: General Fund fund balance \$ 20,533.00

This request is to appropriate \$20,533.00 to the Department of Voter Registration and Elections from the General Fund fund balance. This funding will (1) provide additional election officials and part-time wages to ensure adequate staffing of voting precincts and assistance for the department's operations for the November 5, 2013 election and (2) provide training for staff certifications. It is anticipated that the General Fund fund balance monies for this appropriation will be replenished by anticipated unused funds in the Department of Voter Registration and Elections FY 13 budget.

Appropriation #2014029 **\$ 40,000.00**
 Source: State Revenue \$ 40,000.00

This request is to appropriate \$40,000.00 to the Albemarle County Department of Social Services for the state-funded Strengthening Families program. In 2010, the Virginia Department of Social Services launched this program, which focuses on reducing poverty and improving the well-being of mothers, fathers and children across the Commonwealth by reducing non-marital births, connecting and reconnecting fathers with their children, and encouraging the formation and maintenance of safe, stable, intact, two-parent families. The City of Charlottesville and the County both received \$20,000.00 in state funding, and the County will serve as the fiscal agent for this program.

Appropriation #2014030 **\$ 4,353.00**
 Source: General Fund fund balance \$ 4,353.00

This request is to appropriate \$4,353.00 to the Office of Housing to provide monthly contributions to Virginia Supportive Housing for rental subsidies at The Crossings for six homeless persons that would otherwise be funded through the federally-funded Housing Choice Voucher (HCV) Program. The FY14 Adopted Budget included two months of funding for this purpose. Pursuant to the Board's direction at its August 14, 2013 meeting, this appropriation provides an additional three months of funding in FY 14 (for the time period of September through November). Once final approvals are received from the U.S. Department of Housing and Urban Development, and HCV vouchers are issued, local funding will be discontinued. Due to a reduction in the number of rental subsidies utilized in FY 13, it is anticipated that the General Fund fund balance monies required for this appropriation will be replenished by unused funds budgeted for this purpose in FY 13.

By the above-recorded vote, the Board approved Appropriations #2014024, #2014026, #2014027, #2014028, #2014029 and #2014030 to provide funds for various local government projects and programs as described.

COUNTY OF ALBEMARLE			
APPROPRIATION SUMMARY			
APP#	ACCOUNT	AMOUNT	DESCRIPTION
2014024	3-8610-15000-315000-150262-9999	8,524.45	Rental Income
2014024	4-8610-91081-496010-332100-9999	2,956.45	Maint. Contract - Equip.
2014024	4-8610-91081-496010-510210-9999	5,568.00	Heating/Fuel Oil

2014026	4-1000-32015-432010-110000-1003	16,605.00	Compensation Plan Distribution
2014026	4-1000-32015-432010-210000-1003	1,270.00	Compensation Plan Distribution
2014026	4-1000-32015-432010-221000-1003	2,323.00	Compensation Plan Distribution
2014026	4-1000-32015-432010-241000-1003	198.00	Compensation Plan Distribution
2014026	4-1000-43201-443200-110000-1004	1,310.00	Compensation Plan Distribution
2014026	4-1000-43201-443200-210000-1004	100.00	Compensation Plan Distribution
2014026	4-1000-43201-443200-221000-1004	158.00	Compensation Plan Distribution
2014026	4-1000-43201-443200-241000-1004	13.00	Compensation Plan Distribution
2014026	4-1000-43202-443200-110000-1004	931.00	Compensation Plan Distribution
2014026	4-1000-43202-443200-210000-1004	71.00	Compensation Plan Distribution
2014026	4-1000-43202-443200-221000-1004	130.00	Compensation Plan Distribution
2014026	4-1000-43202-443200-241000-1004	11.00	Compensation Plan Distribution
2014026	4-1000-43203-443200-110000-1004	119.00	Compensation Plan Distribution
2014026	4-1000-43203-443200-210000-1004	9.00	Compensation Plan Distribution
2014026	4-1000-43207-443200-110000-1004	555.00	Compensation Plan Distribution
2014026	4-1000-43207-443200-210000-1004	42.00	Compensation Plan Distribution
2014026	4-1000-43207-443200-221000-1004	78.00	Compensation Plan Distribution
2014026	4-1000-43207-443200-241000-1004	7.00	Compensation Plan Distribution
2014026	4-1000-53013-453010-110000-1005	18,640.00	Compensation Plan Distribution
2014026	4-1000-53013-453010-210000-1005	1,426.00	Compensation Plan Distribution
2014026	4-1000-53013-453010-221000-1005	2,534.00	Compensation Plan Distribution
2014026	4-1000-53013-453010-241000-1005	216.00	Compensation Plan Distribution
2014026	4-1000-53015-453010-110000-1005	2,732.00	Compensation Plan Distribution
2014026	4-1000-53015-453010-210000-1005	209.00	Compensation Plan Distribution
2014026	4-1000-53015-453010-221000-1005	382.00	Compensation Plan Distribution
2014026	4-1000-53015-453010-241000-1005	33.00	Compensation Plan Distribution
2014026	4-1000-53150-453010-110000-1005	9,133.00	Compensation Plan Distribution
2014026	4-1000-53150-453010-210000-1005	699.00	Compensation Plan Distribution
2014026	4-1000-53150-453010-221000-1005	1,278.00	Compensation Plan Distribution
2014026	4-1000-53150-453010-241000-1005	109.00	Compensation Plan Distribution
2014026	4-1000-71011-471010-110000-1007	1,534.00	Compensation Plan Distribution
2014026	4-1000-71011-471010-210000-1007	117.00	Compensation Plan Distribution
2014026	4-1000-71011-471010-221000-1007	215.00	Compensation Plan Distribution
2014026	4-1000-71011-471010-241000-1007	18.00	Compensation Plan Distribution
2014026	4-1000-71012-471010-110000-1007	4,355.00	Compensation Plan Distribution
2014026	4-1000-71012-471010-210000-1007	333.00	Compensation Plan Distribution
2014026	4-1000-71012-471010-221000-1007	609.00	Compensation Plan Distribution
2014026	4-1000-71012-471010-241000-1007	52.00	Compensation Plan Distribution
2014026	4-1000-71014-471010-110000-1007	311.00	Compensation Plan Distribution
2014026	4-1000-71014-471010-210000-1007	24.00	Compensation Plan Distribution
2014026	4-1000-71014-471010-221000-1007	44.00	Compensation Plan Distribution
2014026	4-1000-71014-471010-241000-1007	4.00	Compensation Plan Distribution
2014026	4-1000-71017-471010-110000-1007	1,399.00	Compensation Plan Distribution
2014026	4-1000-71017-471010-210000-1007	107.00	Compensation Plan Distribution
2014026	4-1000-71017-471010-221000-1007	196.00	Compensation Plan Distribution
2014026	4-1000-71017-471010-241000-1007	17.00	Compensation Plan Distribution
2014026	4-1000-81021-481020-110000-1008	19,707.00	Compensation Plan Distribution
2014026	4-1000-81021-481020-210000-1008	1,508.00	Compensation Plan Distribution
2014026	4-1000-81021-481020-221000-1008	2,757.00	Compensation Plan Distribution
2014026	4-1000-81021-481020-241000-1008	235.00	Compensation Plan Distribution
2014026	4-1000-81023-481020-110000-1008	1,423.00	Compensation Plan Distribution
2014026	4-1000-81023-481020-210000-1008	109.00	Compensation Plan Distribution
2014026	4-1000-81023-481020-221000-1008	199.00	Compensation Plan Distribution
2014026	4-1000-81023-481020-241000-1008	17.00	Compensation Plan Distribution
2014026	4-1000-81030-481030-110000-1008	1,904.00	Compensation Plan Distribution
2014026	4-1000-81030-481030-210000-1008	146.00	Compensation Plan Distribution
2014026	4-1000-81030-481030-221000-1008	266.00	Compensation Plan Distribution
2014026	4-1000-81030-481030-241000-1008	23.00	Compensation Plan Distribution
2014026	4-1000-43205-482040-110000-1004	1,118.00	Compensation Plan Distribution
2014026	4-1000-43205-482040-210000-1004	86.00	Compensation Plan Distribution
2014026	4-1000-43205-482040-221000-1004	156.00	Compensation Plan Distribution
2014026	4-1000-43205-482040-241000-1004	13.00	Compensation Plan Distribution
2014026	4-1000-83000-483000-130000-1008	126.00	Compensation Plan Distribution
2014026	4-1000-83000-483000-210000-1008	10.00	Compensation Plan Distribution
2014026	4-1000-31013-431010-930200-1003	1,159.00	Compensation Plan Distribution
2014026	4-1000-53013-453010-930208-1005	2,809.00	Compensation Plan Distribution
2014026	4-1000-43100-443100-312366-1004	2,245.00	Compensation Plan Distribution
2014026	4-1000-99900-499000-999977-9999	-248,529.00	Compensation Plan Distribution
2014026	4-1225-31012-431010-110000-1003	944.00	Compensation Plan Distribution
2014026	4-1225-31012-431010-210000-1003	72.00	Compensation Plan Distribution
2014026	4-1225-31012-431010-221000-1003	132.00	Compensation Plan Distribution
2014026	4-1225-31012-431010-241000-1003	11.00	Compensation Plan Distribution
2014026	3-1225-51000-351000-512004-9999	1,159.00	Compensation Plan Distribution
2014026	4-1553-51122-453010-110000-1005	319.00	Compensation Plan Distribution
2014026	4-1553-51122-453010-210000-1005	24.00	Compensation Plan Distribution
2014026	4-1553-51122-453010-221000-1005	45.00	Compensation Plan Distribution
2014026	4-1553-51122-453010-241000-1005	4.00	Compensation Plan Distribution
2014026	4-1553-51150-453010-110000-1005	114.00	Compensation Plan Distribution
2014026	4-1553-51150-453010-210000-1005	9.00	Compensation Plan Distribution
2014026	4-1553-51150-453010-221000-1005	16.00	Compensation Plan Distribution

2014026	4-1553-51150-453010-241000-1005	1.00	Compensation Plan Distribution
2014026	4-1553-51152-453010-110000-1005	240.00	Compensation Plan Distribution
2014026	4-1553-51152-453010-210000-1005	18.00	Compensation Plan Distribution
2014026	4-1553-51152-453010-221000-1005	34.00	Compensation Plan Distribution
2014026	4-1553-51152-453010-241000-1005	3.00	Compensation Plan Distribution
2014026	4-1553-51153-453010-110000-1005	292.00	Compensation Plan Distribution
2014026	4-1553-51153-453010-210000-1005	22.00	Compensation Plan Distribution
2014026	4-1553-51153-453010-221000-1005	41.00	Compensation Plan Distribution
2014026	4-1553-51153-453010-241000-1005	3.00	Compensation Plan Distribution
2014026	4-1553-51154-453010-110000-1005	1,017.00	Compensation Plan Distribution
2014026	4-1553-51154-453010-210000-1005	78.00	Compensation Plan Distribution
2014026	4-1553-51154-453010-221000-1005	142.00	Compensation Plan Distribution
2014026	4-1553-51154-453010-241000-1005	12.00	Compensation Plan Distribution
2014026	4-1553-51157-453010-110000-1005	305.00	Compensation Plan Distribution
2014026	4-1553-51157-453010-210000-1005	23.00	Compensation Plan Distribution
2014026	4-1553-51157-453010-221000-1005	43.00	Compensation Plan Distribution
2014026	4-1553-51157-453010-241000-1005	4.00	Compensation Plan Distribution
2014026	3-1553-51000-351000-512004-9999	2,809.00	Compensation Plan Distribution
2014026	4-1925-43100-443100-110000-1004	1,827.00	Compensation Plan Distribution
2014026	4-1925-43100-443100-210000-1004	140.00	Compensation Plan Distribution
2014026	4-1925-43100-443100-221000-1004	256.00	Compensation Plan Distribution
2014026	4-1925-43100-443100-241000-1004	22.00	Compensation Plan Distribution
2014026	3-1925-16000-316000-160560-1004	2,245.00	Compensation Plan Distribution
2014027	4-1000-12013-412010-550100-1001	1,850.00	Training Pool Distribution
2014027	4-1000-11010-411010-550100-1001	2,300.00	Training Pool Distribution
2014027	4-1000-31013-431010-550100-1003	4,800.00	Training Pool Distribution
2014027	4-1000-12150-412150-550100-1001	733.00	Training Pool Distribution
2014027	4-1000-12145-412140-550100-1001	5,600.00	Training Pool Distribution
2014027	4-1000-12147-412140-550100-1001	2,596.00	Training Pool Distribution
2014027	4-1000-99900-499000-999984-9999	-17,879.00	Training Pool
2014028	4-1000-13020-413020-130000-1001	1,726.00	PT Wages
2014028	4-1000-13020-413020-210000-1001	132.00	FICA
2014028	4-1000-13020-413020-312510-1001	15,375.00	Election officials
2014028	4-1000-13020-413020-550100-1001	3,300.00	travel/training/education
2014028	3-1000-51000-351000-510100-9999	20,533.00	Use of Fund Balance
2014029	3-1000-24000-324000-240110-1005	40,000.00	ADMINISTRATION-SOCIAL SER
2014029	4-1000-53013-453010-570811-1005	40,000.00	STRENGTHING FAMILIES INITIAVS
2014030	3-1000-51000-351000-510100-9999	4,353.00	Use of Fund Balance
2014030	4-1000-81030-481030-568815-1008	4,353.00	VIRGINIA SUPPORTIVE HOUSING
TOTAL		159,246.90	

Item No. 8.5. FY 14/15 Operating and Capital Budget Calendar.

The executive summary stated that the process of developing the County's Operating Budget for FY 15 and the Capital Improvements Program (CIP) for FY15-19 is underway. The proposed calendar is provided to the Board to establish firm dates for Board meetings and public hearings on the tax rate and budget and the CIP, and to provide the public with as much notice as possible for planned community meetings, public hearings and work sessions associated with the development of the upcoming budgets.

There are several dates in the budget presentation and approval process that are driven by Virginia Code requirements which are reflected in the attached calendar:

- Localities with a first-half tax year collection in June must adopt the tax rate on or before April 15th.
- There must be at least seven days between the public advertisement of the budget public hearing and the actual hearing date, and at least seven days between the public hearing and the adoption of the budget.
- Localities must provide at least 30 days notice of the tax rate public hearing if the reassessment would result in an increase of one percent or more in the total real property tax levied compared to the prior year's tax levies. Prior to 2009, the requirement was seven days notice.

In addition to these Virginia Code requirements, the School Board has requested that the second public hearing be scheduled so that it does not coincide with Spring Break.

Attachment A provides a preliminary budget calendar for the FY 15 budget process that meets the Virginia Code requirements and the School Board's request. Given that the economy is strengthening, this calendar assumes that the reassessment would result in an increase of one percent or more in the total real property tax levied in FY 15 compared to FY 14, and schedules for the necessary 30 days of notice.

This schedule requires the Board to hold two additional meetings on April 8th for the budget and the tax rate public hearings and on April 15th to adopt the budget and to set the tax rates.

Staff recommends that the Board adopt the preliminary budget calendar set forth in Attachment A.

(**Discussion:** Mr. Foley announced a change to the budget calendar, changing the date of the work session with the School Board to approve the Five-Year Financial Plan and Review the Joint CIP from December 11 to December 12. He said the Clerk would provide the Board an updated calendar with more specific details.)

By the above-recorded vote, the Board adopted the following FY 14/15 budget calendar:

FY 14/15 BUDGET CALENDAR
Recommended Calendar

September 2013

Monday	2	CIP Financial Review Team meetings begin
Monday	9	Operating budget manual and instructions available for County departments
Tuesday	24	CIP Technical Review Committee (TRC) meetings begin

October 2013

Thursday	10	2:30 p.m. - Department Budget Presentations to Board of Supervisors (BOS)
Thursday	10	4:00 p.m. - BOS/School Board Compensation meeting with BOS and School Board
Friday	11	Department/office FY 14/15 budget requests due to OMB
Thursday	17	Final CIP TRC meeting

November 2013

Monday	4	Joint CIP Oversight Committee/TRC meeting
Friday	8	Community agency applications due to OMB
Wednesday	13	2:30 p.m. - BOS Work Session – Five-Year Financial Plan – General Government
Thursday	14	4:00 p.m. - BOS Work Session – Five-Year Financial Plan – School Division
Monday	18	CIP Oversight Committee meeting
Tuesday	19	Employee Town Hall meeting (COB McIntire)
Thursday	21	Employee Town Hall meeting (COB 5 th)
Monday	25	CIP Oversight Committee meeting (if needed)

December 2013

Wednesday	4	BOS Work Session – Five-Year Financial Plan
Wednesday	11	4:00 p.m. - BOS Work Session – Approve the Five-Year Financial Plan
Wednesday	12	4:00 p.m. - Joint CIP meeting with BOS and School Board

January 2014

Friday	24	General fund and special revenue funds balanced
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February 2014

Friday	21	11:00 a.m. - Budget briefing to Board
Friday	21	Budget briefing to employees
Monday	24	6:00 p.m. - Public Hearing on County Executive's Recommended Budget
Wednesday	26	9:00 a.m. - BOS Work Session #1 – CIP
Friday	28	9:00 a.m. - BOS Work Session #2 – General Government

March 2014

Monday	3	9:00 a.m. - BOS Work Session #3 – School Division
Monday	3	BOS determines tax rate for advertisement
Monday	3	Tax Rate Ad submitted to Daily Progress for April 8 hearings
Sunday	9	Tax Rate Ad runs in Sunday's Daily Progress for April 8 hearings
Wednesday	12	4:00 p.m. - BOS Work Session #4 (if needed)
Monday	24	Budget Ad Submitted to Daily Progress
Sunday	30	Budget Ad runs in Daily Progress
Monday	31	Spring Break begins

April 2014

Tues-Fri	1-4	Spring Break
Tuesday	8	6:00 p.m. - Public Hearing on Board's Proposed Budget
Tuesday	8	Public Hearing on the 2014 calendar year tax rate
Tuesday	15	9:00 a.m. - BOS sets the 2014 calendar year tax rate
Tuesday	15	BOS adopts the FY 14/15 budget and FY 14-23 CIP Amendment

By the above-recorded vote, the Board approved the FY 2014/15 budget calendar as presented.

Item No. 8.6. "Watch for Children" Signs.

The executive summary states that the County has received requests in the past two months for the installation of two new "Watch for Children" signs. Until recently, Virginia Code § 33.1-210.2 provided that the Virginia Department of Transportation (VDOT) would install and maintain "Watch for Children" signs requested by localities. In 2012, Virginia Code § 33.1-210.2 was amended to make localities responsible for the installation and maintenance cost of new "Watch for Children" signs. See Attachment A for a diagram of a "Watch for Children" sign.

The Virginia Supplement to the 2009 Manual on Uniform Traffic Control Devices (MUTCD) authorizes the installation of "Watch for Children" signs in residential areas on VDOT-maintained secondary routes to alert motorists that children may be in the vicinity. As recently amended, Virginia Code § 33.1-210.2 now allows localities to assume responsibility for the installation and maintenance of these signs. VDOT will no longer install or maintain new signs. To assume this responsibility, localities must enter into an agreement with VDOT (Attachment B) identifying the specific locations of any new sign(s). VDOT retains the authority to approve the location of the signs. If the locality's agreement is approved by VDOT, the locality would be responsible for all costs associated with the installation and maintenance of the new signs. For future additional signs, the locality would submit an addendum to the original agreement to VDOT for its approval. A land use permit (Attachment C) is also required.

The VDOT Agreement specifies that these signs may be installed in two locations:

- Within a subdivision: a single sign may be placed on streets that are major entry points if the statutory or posted speed limit is 35 mph or less.
- Not within a subdivision: a single sign may be placed beyond the speed limit sign at the major approach to a residential development where there is 1/3 mile or more residential development (either side of roadway) with direct frontage/access if the speed limit is 35 mph or less.

These signs may not be installed:

- On any roadway where the speed limit exceeds 35 mph
- In lieu of a standard Playground sign used to warn motorists of a designated playground
- At a location where school warning signs are in place
- In combination (same pole) with any other regulatory or warning signs
- Preceding any existing regulatory or warning signs
- Closer than 200 feet to any existing regulatory or warning signs

Maintenance of existing signs that were previously installed by VDOT will remain the responsibility of VDOT until such signs have reached the end of their useful life or until its current inventory of signs is exhausted.

Prior to July 1, 2012, the Board considered every "Watch for Children" sign request because a Board Resolution requesting VDOT to install and maintain those signs was required. If the Board would like for the County to install new "Watch for Children" signs at the County's expense, staff recommends that County staff administer the program by (a) evaluating each request to determine whether it meets the criteria listed above, (b) submitting the completed agreement or addendum and required land use permit to VDOT for its approval, and (c) installing and maintaining any approved signs.

Under this approach, signs would be installed and maintained at County expense without additional Board review or approval if the request meets the siting criteria.

VDOT estimates the cost for materials and labor to install each sign in FY 11 dollars to be approximately \$850.00. VDOT has no historical data regarding the number of signs it installed during any given year or the number of existing signs that had to be repaired. If the Board wishes to assume the cost of additional signs, staff proposes reallocating \$4,250.00 of the General Services Department's existing funding to cover the cost of any signs installed during this fiscal year. For signs in future years, the funding for the program would need to be included in the operating budget.

If the Board would like for the County to assume responsibility for installing new "Watch for Children" signs, at the County's expense, staff recommends that the Board adopt the attached Resolution (Attachment D) authorizing the County to administer the program and authorizing the County Executive to execute VDOT's Agreement for the Installation and Maintenance of "Watch for Children" Signs in a form approved by the County Attorney and future Addendums to that Agreement.

(Discussion: Ms. Mallek asked that this item be pulled for further discussion.)

Item No. 8.7. Agreement with VDOT for County Removal of Illegal Signs from the Highway Rights-of-Way.

The executive summary states that in response to ongoing concerns about illegal advertisements in highway rights-of-way, the Board approved an agreement with the Commonwealth Transportation Commissioner (VDOT) in December 2008 authorizing the County to act as VDOT's agent in removing illegal advertisements from VDOT-maintained rights-of-way (Attachment A). Since that time, Community Development staff has removed illegal advertisements from priority Entrance Corridors.

Since the County entered into its Agreement with VDOT in 2008, the relevant state law has been amended twice. First, a 2012 amendment to Virginia Code § 33.1-373 (Attachment B) replaced all references to "advertisements" with "signs or advertisements," enabling localities to remove all signs, including political signs, not just "advertisements," as defined in Virginia Code § 33.1-351. Second, as a result of the County's legislative initiative, Virginia Code § 33.1-373 was further amended in 2013 to allow localities to retain any penalties or costs they collect from illegal sign or advertisement violations.

Though the statutory definitions of "sign" and "advertisement" are similar, the definition of "advertisement" had earlier been amended specifically to exclude political signs. In other words, because localities could remove only "advertisements," and "advertisements" specifically did not include political signs, localities previously could not remove political signs. However, the recent amendment to Virginia Code § 33.1-373 would bring political signs within the scope of a permissible local agreement with VDOT.

VDOT has provided a proposed Agreement (Attachment C) to reflect the recent changes in Virginia Code § 33.1-373. Under the Agreement, the County will continue to act as an agent of VDOT in removing advertisements from VDOT rights-of-way and would now be authorized to remove all illegal signs and to retain any penalties and costs collected from either advertisement or sign removal.

The retention of civil penalties and costs is not expected to offset the staffing costs associated with sign and advertisement removal. Staff intends to utilize this deterrent only in cases of recurring violations when voluntary compliance is not successful. Based on past experience, staff does not anticipate that substantial revenue will be collected and retained.

Staff recommends that the Board adopt the attached Resolution (Attachment D) approving the proposed Agreement and authorizing the County Executive to execute the Agreement in a form approved by the County Attorney.

(Discussion: Mr. Boyd requested clarification on political signs stating that, fairly soon, tons of signs will go up outside the Senior Center and he wanted to make sure the rules did not apply to their temporary sign.

Ms. Mallek said this issue has been discussed in the General Assembly and this Board has had some problems with site distance, especially right before election time, and she is thrilled with the new changes related to signs.

Mr. Boyd said he agreed with the concept but he does not want the County to undertake an effort to take down those signs outside the Senior Center because they are temporary when there is a political event.

Mr. Rooker said the County has a complaint-driven ordinance and, generally speaking, when someone does not complain about their signs, nothing is going to happen.

Ms. Mallek said the difference is that county staff sweeps for business signs that are illegally posted in the highway right of way which she also supports strongly.

Mr. Davis said this agreement does not change the legality one way or the other on political signs. The distinction is, under the prior agreement with VDOT, it only allowed for the County to participate in removing advertisements and by definition advertisements did not include political signs. He said that has been changed in the state code which now allows localities to remove signs, including political signs. He said it only applies to signs which are placed in the right of way. He said on, Election Day, these signs appear and then disappear and, if that happens, it is not staff's intent to be out there hawking any particular location; however, if the signs remain in the right of way, staff does have the authority, under this agreement, to remove the signs.

Mr. Rooker said, some time ago, the County sent a letter out to the candidates about the sign regulations.

Mr. Davis said the key is that no party takes advantage of the other party in this type of activity. He said as long as everyone is playing by the same rules, everyone seems to be OK with that.

Mr. Foley said staff can be proactive about this issue by sending a letter out to the candidates in an effort to let them know what the rules are. He said after the election is over is when staff will be paying attending to the signs that remain.)

By the above-recorded vote, the Board adopted the following Resolution approving the proposed Agreement and authorizing the County Executive to execute the Agreement in a form approved by the County Attorney:

RESOLUTION APPROVING PROPOSED AGREEMENT BETWEEN THE COUNTY OF ALBEMARLE AND THE VIRGINIA DEPARTMENT OF TRANSPORTATION (VDOT) FOR ENFORCEMENT OF LAWS REGARDING ILLEGAL SIGNS AND ADVERTISING WITHIN THE LIMITS OF THE HIGHWAY

WHEREAS, pursuant to Title 33.1, Chapter 7, Article 1 of the *Code of Virginia* (1950), as amended (*Code*), the Commissioner of the Virginia Department of Transportation (VDOT), as its chief executive officer, enforces the prohibitions on the placement of signs and advertising within the limits of highways in the Commonwealth; and

WHEREAS, the Board of Supervisors, as the governing body of Albemarle County, has an interest in protecting the public health, safety, and welfare, and in protecting the appearance of the County, in general; and

WHEREAS, the Board has found that the proliferation of signs and advertising in the rights-of-way of highways in Albemarle County threatens the public safety and the welfare of the County, and has a negative effect on the appearance of highways; and

WHEREAS, the Board desires and agrees to enter into an Agreement with the Commissioner to enforce the provisions of § 33.1-373 of the *Code of Virginia* (1950), as amended, and to collect the penalties and costs provided therein; and

WHEREAS, the Commissioner desires the Board's assistance in removing signs and advertising from the VDOT-maintained highways in Albemarle County.

NOW, THEREFORE, BE IT RESOLVED that the Albemarle County Board of Supervisors hereby approves the proposed Agreement, and authorizes the County Executive to sign, in a form approved by the County Attorney, the proposed Agreement for enforcement of laws regarding illegal signs and advertising within the limits of the highway.

**AGREEMENT BETWEEN
THE VIRGINIA DEPARTMENT OF TRANSPORTATION AND
THE BOARD OF SUPERVISORS OF ALBEMARLE COUNTY, VIRGINIA
FOR ENFORCEMENT OF LAWS REGARDING ILLEGAL SIGNS AND
ADVERTISING WITHIN THE LIMITS OF THE HIGHWAY**

THIS AGREEMENT is made this 4th day of September, 2013, between the Commissioner of Highways of the Commonwealth of Virginia (Commissioner), and the County of Albemarle, Virginia, acting by and through its Board of Supervisors (Board).

WITNESSETH:

WHEREAS, pursuant to Title 33.1, Chapter 7, Article 1 of the *Code of Virginia* (1950), as amended (*Code*), the Commissioner, as the chief executive officer of the Virginia Department of Transportation (VDOT), enforces the prohibition on the placement of signs and advertising within the limits of highways in the Commonwealth; and

WHEREAS, the Board, as the governing body of Albemarle County, has an interest in protecting the public health, safety, and welfare, and in protecting the appearance of the County, in general; and

WHEREAS, the Board has found that the proliferation of signs and advertising in the rights-of-way of highways in Albemarle County threatens the public safety and the welfare of the County, and has a negative effect on the appearance of highways; and

WHEREAS, by an appropriate resolution adopted by the Board at its meeting on September 4, 2013, and attached hereto as Exhibit A, the Board expressed its desire and agreement to enter into an agreement with the Commissioner to enforce the provisions of § 33.1-373 of the *Code*, and to collect the penalties and costs provided therein and has authorized execution of said agreement by a County representative; and

WHEREAS, the Commissioner desires the Board's assistance in removing signs and advertising from the VDOT-maintained highways in Albemarle County.

NOW, THEREFORE, for and in consideration of the mutual benefits to be derived from this Agreement, the parties hereto agree as follows:

1. The Commissioner hereby authorizes the Board to act as the Commissioner's agent for the purposes of removing any signs or advertising located within the VDOT-maintained rights-of-way, in violation of §33.1-373 of the *Code*; and
2. The Commissioner further authorizes the Board to act as the Commissioner's agent for the purposes of collecting the penalties and costs from the person, firm, or corporation responsible for signs or advertising located within the VDOT-maintained rights-of-way in violation of and as provided for in §33.1-373 of the *Code*; and
3. The Board may authorize local law-enforcement agencies or other local governmental entities ("hereinafter designee(s)") to act as agents of the Commissioner for the purpose of fulfilling the terms of this Agreement; and
4. The Board shall be entitled to retain, in full, all sums lawfully collected by the Board or its designees as penalties and costs for removal of signs and advertising and enforcement of §33.1-373 of the *Code* pursuant to this Agreement; and
5. The Board, or its designee, when collecting the penalties and costs referenced in Paragraph 2, above, shall:
 - a. Issue an invoice to the person, firm, or corporation being advertised for collection of any and all penalties and costs, as provided in §33.1-373 of the *Code*, which shall provide that within 30 days, 33 days if the invoice is sent by mail, the person, firm, or corporation being advertised shall either (a) remit payment of the invoice to the Board, or its designee, or (b) notify the Board or its designee in writing that the matter and/or the penalties and costs are disputed.

- b. In the event that a person, firm or corporation disputes the matter and/or penalties and costs provided in such invoice, the Board shall be responsible for resolving the dispute in accord with all applicable laws.
6. The Board shall require local government employees and others who are authorized to act or perform services pursuant to this agreement to comply with the provisions of this Agreement and all applicable laws; and
7. This Agreement shall remain in full force and effect unless sooner terminated upon 30-days' written notice by either party to the other party; and
8. This Agreement may be amended at any time by the written agreement of the parties.

In WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives:

VIRGINIA DEPARTMENT OF TRANSPORTATION
BY: _____
Emmett R. Heltzel, P.E.
State Maintenance Engineer

COUNTY OF ALBEMARLE, VIRGINIA
BY: _____
Thomas C. Foley
County Executive

Item No. 8.8. September 2013 VDOT Charlottesville Residency Monthly Report for Albemarle County, **was received for information.**

Item No. 8.9. Copy of letter dated August 9, 2013, from Mr. Francis H. MacCall, Principal Planner, to Mr. John Gilbert Campbell, re: *LOD-2013-00011 – OFFICIAL DETERMINATION OF PARCEL OF RECORD & DEVELOPMENT RIGHTS, Tax Map 105, Parcel 1A (property of John Gilbert Campbell), Scottsville Magisterial District, was received for information.*

Item No. 8.10. Copy of letter dated August 9, 2013, from Mr. Francis H. MacCall, Principal Planner, to Ms. Janice E. Stargell, re: *LOD-2013-00012 – OFFICIAL DETERMINATION OF PARCEL OF RECORD & DEVELOPMENT RIGHTS, Tax Map 110, Parcel 7 (property of Janice E. Stargell), Samuel Miller Magisterial District, was received for information.*

Item No. 8.11. Copy of letter dated August 9, 2013, from Mr. Francis H. MacCall, Principal Planner, to Mr. Ronald S. Woodson and Ms. Kathy Y. Woodson, Trustees, Kathy Y. Woodson Declaration of Trust, re: *LOD-2013-00013 – OFFICIAL DETERMINATION OF PARCEL OF RECORD & DEVELOPMENT RIGHTS, Tax Map 99, Parcel 52 (property of Kathy Y. Woodson Declaration of Trust; Ronald S. Woodson & Kathy Y. Woodson TRS), Samuel Miller Magisterial District, was received for information.*

Item No. 8.12. Copy of letter dated August 9, 2013, from Mr. Francis H. MacCall, Principal Planner, to Ms. Joan Parker Caldwell and Ms. Cheryl Lynn Caldwell Ferguson, re: *LOD-2013-00014 – OFFICIAL DETERMINATION OF PARCEL OF RECORD & DEVELOPMENT RIGHTS, Tax Map 18, Parcel 39; Tax Map 19, Parcel 9; Tax Map 19, Parcel 11; Tax Map 19, Parcel 17A (property of Joan Parker Caldwell and Cheryl Lynn Caldwell Ferguson), White Hall Magisterial District, was received for information.*

Item No. 8.13. Copy of letter dated August 9, 2013, from Mr. Francis H. MacCall, Principal Planner, to Henley Forest, Inc., re: *LOD-2013-00015 – OFFICIAL DETERMINATION OF PARCEL OF RECORD & DEVELOPMENT RIGHTS, Tax Map 39, Parcels 4 and 14; and Tax Map 40, Parcels 1 and 27A (property of Henley Forest Inc), White Hall Magisterial District, was received for information.*

Agenda Item No. 9. Amendment of County Procurement Manual to Include Alternative Procurement Methods.

The executive summary states that as part of the County's strategic planning process, the County Executive has assembled teams to review each of the seven strategic plan goals. Strategic Plan Goal #2 is to "provide community facilities that meet existing and future needs." One of the associated sub-goals is to "identify and implement appropriate alternative construction project procurement methods (design/build, CM Agency, Job Order Contracting, PPEA, etc.) to reduce costs and improve project execution." A team of County staff was assembled to address this goal, and offers the recommendations set forth below for the Board's consideration.

Under *Virginia Code* § 2.2-4308: "While the competitive sealed bid process remains the preferred method of construction procurement for public bodies in the Commonwealth, any public body other than the Commonwealth may enter into a contract for construction on a fixed price or not-to-exceed price design-build or construction management basis provided the public body complies with the requirements of this section and has implemented procedures consistent with the procedures adopted by the Secretary

of Administration for utilizing design-build or construction management contracts.” The County has not yet implemented procedures for utilizing design-build or construction management contracts.

Design/Build (D/B) Procedures

A design-build contract is a contract between a public body and another party in which the party contracting with the public body agrees to both design and build the structure, roadway or other item specified in the contract. *Virginia Code* § 2.2-4301. Design/Build contracts are intended to reduce the delivery schedule by overlapping the design phase and construction phase of a project and mitigate risks associated with conflicts between the architect and contractor by creating a single point of responsibility. As part of state law’s preference for the competitive sealed bid process, a design/build contract may be used only if the locality’s files have documented in writing that for the specific construction project (i) a design-build contract is more advantageous than a competitive sealed bid construction contract; (ii) there is a benefit to the public body by using a design-build contract; and (iii) competitive sealed bidding is not practical or fiscally advantageous. *Virginia Code* § 2.2-4308(A)(2).

State law also requires a public body to adopt Design/Build Procedures before entering any design/build contracts. Staff has prepared the attached draft Chapter 27 entitled Design/Build Procedures (Attachment B), which are based on the procedures adopted by the Virginia Secretary of Administration, for the Board’s consideration.

Construction Management (CM) Procedures

A construction management contract is a contract in which a party is retained by the owner to coordinate and administer contracts for construction services for the benefit of the owner, and may also include, if provided in the contract, the furnishing of construction services to the owner. *Virginia Code* § 2.2-4301. Construction Management contracts may be approved for use on projects where (a) fast tracking of construction is needed to meet agency program requirements, or (b) value engineering and/or constructability analyses concurrent with design are required. The use of Construction Management is generally limited to projects with a construction value that is in excess of \$10,000,000. As with design/build, a construction management contract may be used only if the locality’s files have documented in writing that for the specific construction project (i) a construction management contract is more advantageous than a competitive sealed bid construction contract; (ii) there is a benefit to the public body by using a construction management contract; and (iii) competitive sealed bidding is not practical or fiscally advantageous. *Virginia Code* § 2.2-4308(A)(2).

State law also requires a public body to adopt Construction Management Procedures before entering any construction management contracts. Staff has prepared the attached draft Chapter 28 entitled Construction Management Procedures (Attachment C), which are based on the procedures adopted by the Virginia Secretary of Administration, for the Board’s consideration.

Job Order Contracting

Job order contracting (JOC) is a method of procuring construction services by establishing a book of unit prices and then obtaining a contractor to perform work as needed using the prices, quantities, and specifications in the book as the basis of its pricing. The contractor may be selected through either competitive sealed bidding or competitive negotiation, depending on the needs of the public body procuring the construction services. A minimum amount of work may be specified in the contract. Despite the successful use of Job Order Contracts in other states (most notably California), the enabling authority for their use is not yet explicitly established in the Virginia Public Procurement Act. However, 2013 House Bill 2079 amended the Procurement Act to enable the use of job order contracting, effective July 1, 2014. Staff intends to monitor this for possible implementation in 2014.

PPEA Guidelines

The Public-Private Education and Infrastructure Act of 2002 (PPEA) authorizes a responsible public entity to enter into a comprehensive agreement with a private entity to develop or operate a qualifying project. The project may be either solicited by the responsible public entity or unsolicited.

The PPEA was designed to bring private sector expertise to bear on public projects - saving time and money. It has allowed private entities to "acquire, design, construct, improve, renovate, expand, equip, maintain or operate qualifying projects" and encourages innovative approaches to financing construction and renovation. The law created resources to fund a comprehensive range of projects, including schools, wastewater treatment plants, and telecommunications infrastructure - essentially any type of public venture.

Research of other localities’ practices indicates that the PPEA is rarely used by the County’s larger peer localities, who share the County’s in-house project management staff and financing capacity. For example, according to a published review (Attachment D), the City of Roanoke has done two PPEA projects, but the City attorney involved did not find PPEA particularly advantageous: “It’s my opinion that with all the time constraints and requirements, the PPEA doesn’t save anything. If it’s a typical project, I think going design-bid-build is going to be quicker and cheaper.” He stated further: “All the local attorneys I’ve talked to felt [PPEA] was not a time saving and not money saving and, potentially, PPEA could involve more expense because you spend more time on the thing than traditional design-bid-build.” PPEA is more frequently used by localities whose limited project management staff and/or financing capacity might otherwise preclude larger projects.

While the County may choose not to solicit PPEA proposals for the foreseeable future, even adopting PPEA Guidelines at this point would require the County to entertain unsolicited proposals, whose review would create workload issues. Adopting PPEA Guidelines at this point, with no County-initiated

projects to solicit, would not provide the County with any significant benefit, but would instead open the County up to staff-time-consuming work.

Available Alternatives

While the County may not frequently use the Design/Build and Construction Management alternatives if adopted, the County may benefit from having those options available to it. The County does not currently have the ability to use these alternatives in the unusual event that their use was indicated.

No budget impact is expected.

Staff recommends that the Board: 1) adopt the attached Resolution (Attachment A) to amend and re-adopt the Albemarle County Purchasing Manual by adding Chapter 27 and 28 to establish Design/Build and Construction Management procedures as set forth in attachments B and C; 2) defer consideration of Job Order Contracting for further study; and 3) defer adopting PPEA Guidelines until such time as the County desires to solicit proposals for specific projects.

Mr. Bill Letteri, Assistant County Executive, addressed the Board, stating that the County Executive's office has organized goal teams around each of the seven goals developed as part of their strategic planning exercise. He said Goal Two, in particular, has to do with community facilities and increasing the capacity of the Capital Improvement Program (CIP). He said that, to that end, staff formed three different sub-teams around that question, with one focused on resources and revenues and the other focused on the question of processes and how to organize and prioritize various projects. Mr. Letteri stated that the third was related to alternative procurement methods for how they deliver and procure projects, and he recognized team members Andy Herrick, Trevor Henry, Kelly Okken, Jack Kelsey, and Wendy Roberman. He said that the team discussed their goal as identifying and implementing appropriate alternative construction project procurement methods aimed at reducing costs and improving the County's ability to deliver projects.

Mr. Letteri stated that staff is trying to be very creative and innovative in its approach to delivering projects while, at the same time, looking at best practices around the state and what industry is generally doing. He said that what the team found is the design-bid build is by far the most popular, but there are other methods that provide alternate possibilities.

Mr. Trevor Henry, Director of the Office of Facilities Development, addressed the Board, stating that the design-bid build is the most common practice and preferred method in industry around the state, with advantages including that it puts the owner (the County) in charge of the design, allowing the County to contract directly with the architect/engineer, go through a formal bid process, award based on the lowest responsible bidder, and contract directly with the general contractor. He said that the downsides are that the design could suffer from a lack of input from contractors during the design process that then could create a change order situation potentially. He said it is typically a longer duration process, and contractors may try to low bid but then implement change orders at every opportunity.

Mr. Rooker said that another advantage is that you get apples to apples bids, as everyone is bidding on the same project. Mr. Henry agreed, adding that about 60% of all capital projects are procured through this methodology.

Mr. Henry said that one alternative procurement method was design-build, whereby the County would contract with a design-build team, typically with a general contractor that has an architect under their wing. Mr. Henry said that it's one contract, and it would be based on a determined vision and specification as to how it would be awarded. He stated that the pros are that it is single-point, which allows for work to get started earlier and allows the County to get an enforceable price early in the project. Mr. Henry said that the cons are that the design is a bit out of the owner's control and, if they're looking for an iconic design, design-build may not be the best model.

Mr. Rooker said that the other problem with this approach is that the architect normally acts on behalf of the owner to ensure that requirements take place but, under design-build, the architect is working for the contractor, so there is no third-party oversight.

Ms. Mallek stated that staff would then need to be used to do the work of the architect overseeing the project.

Mr. Boyd asked why subcontractors wouldn't be negotiated through a design-bid build. Mr. Henry responded that the general contractor solicits subs and, in some cases, will bring those in who are the lowest bidder; and, in other cases, they will bring in those who they use frequently.

Ms. Mallek said it would have to be specified in the contract, and she's raised the issue in the past that subcontractors are getting taken to the cleaners by out of town contractors.

Mr. Henry stated that design-bid build is awarded purely on lowest responsible bidder, and he isn't aware of the County's ability to specify a certain contractor. Mr. Rooker said he didn't understand the statement, "The contractor can negotiate subcontracts," because that is always the case.

Mr. Henry stated that it's only a factor under a scenario where time is of the essence. Mr. Rooker said he still didn't understand why it's included, because the contractor in the design-bid build can hire any subcontractors he wants – and not necessarily required to hire the cheapest.

Ms. Mallek added that delivering the work on time should be something the County is requiring, with a penalty if they don't and that makes them pay attention.

Mr. Henry said that the County currently does that, pointing out that there is probably more flexibility for an owner to request a specific subcontractor under this model, which couldn't be done in a design-bid build. He stated that when the County opens bids, all they see is a number – one number or multiple numbers – and all they see is that bid item number and the total bid.

Mr. Foley said that Mr. Davis should comment about what the County can and cannot do in the typical process, which is different than what a private company would do.

Mr. Davis said that in both processes, the County cannot specify or require any particular subcontractor, just the specs for the quality of the work and the criteria for the work. He stated there is no greater advantage for design-build than it is for design-bid build.

Mr. Henry stated that design-build disadvantages include the fact that, unless the scope is well-defined, there is risk to the owner for change orders – and the projects that go well tend to have a good team that includes the owner. He said that enabling a design-build in the County system would still require a qualification process, with the first step being staff demonstrating why a design-build contract would be preferable over the traditional method. He stated that it would have to benefit the public, and the competitive sealed bidding would not be a higher criteria. Mr. Henry explained that, with approval to proceed, they would then go through a selection process that would require a request for qualifications, receive responses, down-select, and then go through an RFP process. He mentioned that this approach would work well for projects such as schools, whereby they designed a prototype and then contracted a design-build team to put it on different sites.

Mr. Thomas asked if the prototype for schools exist now in the County. Mr. Henry responded that the County does not actually have a prototype, but staff has some best practices that have evolved over time. He cited examples of fire stations as a facility that could be replicated on different sites, and part of staff's recommendation is to adopt this as one of the tools in their toolkit because there may be a time to utilize it.

Ms. Mallek asked when this would come to the Board. Mr. Henry stated that the procedures would be established so that staff would make a recommendation that they adopt this methodology of procurement, which would go to the County Executive, and if all prerequisites were met they would move forward on a case by case basis. He said that the design-bid build is the standard to be utilized and, on a case by case basis, they could look at design-build – but it would have to go through the County Executive.

Mr. Foley said that if the Board would prefer the process to go differently, what's before it today would need to change before moving forward.

Mr. Henry reported that the second alternative staff is recommending is construction management – a hybrid process of design-bid build whereby the owner contracts directly with the architect engineer, but still has control and manages the design. He said that, early in the design process, they would solicit and contract with a construction manager, who would advise on design and address any construction issues or phasing. Mr. Henry stated that the construction manager would then convert over to a GC role once the design process is complete. He said the owner would still have control of the design, but they would have the advantage of the contractor on board as a team member as the project is built and designed.

Mr. Henry stated that, when one is dealing with a large, complex project that takes a full-time person to manage, bringing in a construction management firm would help manage that process – such as the court complex project, which includes several different buildings and historic properties. He said that this is also helpful when there is multiple phasing in a project, and it does a lot for fast tracking, with the negatives being similar to design-bid build once you reach the general contractor point. Mr. Henry stated that the implementation requirement threshold for this alternative would be \$10 million, so it would only be used for large projects and staff would have to demonstrate why it's advantageous to use this model. He said that it would go through a similar RFP process, with the added requirement that the construction manager would generally only be able to manage about 10% of the work internally – with 90% bid out.

Mr. Thomas asked if the construction manager process would save money or would it cost more. Mr. Henry responded that he doesn't have strong data, but the construction management model is the one that is growing fastest with about 25% of procurements using this approach. He said that it is gaining traction, and it allows for scheduling and pricing benefits.

Mr. Boyd asked if there would be an RFP for the construction management position. Mr. Henry replied that there would be, and it would not have to go to the lowest bidder. He clarified that the difference in this approach is having a team at the table as the schematic design is being reviewed – and the owner might want to choose a different structural system, etc. – but it doesn't change the vision or the scope of the project.

Ms. Mallek asked how this is different from value engineering, where there is a contractor who provides on-the-street advice, as with the Crozet Library and changes that project required. Mr. Henry explained that typically value engineering is an additive cost to the project, and typically one would use a firm that offered that. He said that value engineering usually happens more toward the end of the project, versus all along the way.

Mr. Craddock asked if the liability would rest with the County if the construction manager goes under. Mr. Henry said it would be the same as awarding the project to any other contractor, with the County responsible for replacing them if they go under.

Mr. Letteri stated that, in a construction manager situation, they are holding the contracts on behalf of the County – so the answer is yes, the County would have liability. He said that the early phases of construction management can be designed as an “agency” role whereby they are providing advice and consultation to the owner throughout the design phase, and then it converts over to more of a typical contractor role.

Mr. Rooker said that the RFP is for the front end of the project, so people submitting responses to the RFP are not giving an all-in project cost, they’re giving an effective cost for that component of the project – not the total cost.

Mr. Letteri stated that they would be charging a fee based on the consultative role, and then details about how they would convert it to an at-risk situation. He said that they would typically be compensated by a set fee on the front end, and there is often not enough information to know what the final design will look like.

Ms. Mallek said that it turns into a general contractor role.

Mr. Henry said that the firm would then turn it into a biddable package, and would cost the construction component of that.

Ms. Mallek stated that it’s an incentive for them to charge as much as possible because, once the County hires them, they’re stuck with them.

Mr. Rooker noted that staff had mentioned having to bid out about 90% of the project and asked for some clarification.

Mr. Henry clarified that only 10% of the work bid could be self-performed by that general contractor, and the remaining 90% would be bid out.

Ms. Mallek said that, at that point, they will have already picked a construction management person and agreed on their fee.

Mr. Letteri stated that the County would not be obligated to proceed at that point.

Mr. Rooker said that, in the typical process, an architect is hired to put a design together and the County would put it out to bid – and if the bids come in 50% higher than anticipated, they may not move forward with the project.

Mr. Letteri said that construction management is useful for very large, very complex projects – but the County has great in-house capability to handle most other projects.

Mr. Boyd compared it to the process with the Ragged Mountain Dam, where Schnabel came in and designed it, then became the project manager.

Mr. Henry said he views it as mitigating risk, because a construction management firm is working toward a vision and a budget, and it allows the team to make decisions as the project proceeds to meet those requirements.

Mr. Henry stated that design-build and construction management are the two procurement methods staff is recommending for adoption. He said the other one being considered was “job-order contracting,” which is a method that would solicit book pricing for work – so there would be a series of contractors standing by who could then do the work based on a job order. He said that it is a model that would be more appropriate for small projects, and there is no legal precedence in the state to implement it until next July.

Mr. Henry said that the final method is the Public, Private, Education and Infrastructure Act (PPEA), which is a procurement methodology between a public entity and a private entity – usually consisting of a design build firm, a maintenance firm, and a funding agent. He explained that this allows a public entity to procure a project or infrastructure that they may not have the capital at the time to procure, and it would allow a private entity to take advantage of things like historical tax credits. Mr. Henry said that staff’s suggestion is that they continue to research and understand PPEA but don’t actually adopt any policies that would allow it until there’s a specific project that would solicit it.

Mr. Boyd said that the PPEA process was used at Rivanna for dredging, which hasn’t gone all that well.

Mr. Henry concluded by stating that staff is recommending that the Board adopt the design-build and construction management procedures.

Mr. Boyd stated that he doesn’t have a problem with having these options available, but it should be the Board’s decision on projects and on which procurement approach to be used.

Mr. Rooker agreed, stating that the other processes are only appropriate for larger projects.

Mr. Henry said that was fine with him.

Mr. Foley said that's an easy change to add.

Mr. Snow asked at what point does it come back to the Board....any project over a million dollars, perhaps. Mr. Foley responded that it would come back any time they use this procedure.

Mr. Rooker said that staff would basically come to the Board and say that the construction management alternative would be the recommended approach, and then the Board could decide whether to go in that direction.

Mr. Davis stated that staff could just remove the wording "County Executive" from 27.2 and 28.2 and replace it with "Board of Supervisors."

Mr. Rooker offered **motion** adopt the proposed Resolution to amend and re-adopt the Albemarle County Purchasing Manual by adding Chapter 27 and 28 to establish Design/Build and Construction Management procedures as set forth in attachments B and C; to defer consideration of Job Order Contracting for further study; and to defer adopting PPEA Guidelines until such time as the County desires to solicit proposals for specific projects, as amended. Ms. Mallek **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

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

NAYS: None.

RESOLUTION TO AMEND AND RE-ADOPT THE ALBEMARLE COUNTY PURCHASING MANUAL

WHEREAS, the County of Albemarle Purchasing Manual ("Manual") delineates not only the requirements of the Virginia Public Procurement Act, but also the methods and procedures that best enable the County to procure the highest quality goods and services at a reasonable cost and in an efficient, fair, and competitive manner; and

WHEREAS, the Manual was last amended on September 7, 2011; and

WHEREAS, the Board finds it is in the best interests of the County to amend the Manual to incorporate procedures in accordance with the Virginia Code for the procurement of design-build and construction management contracts.

NOW, THEREFORE, BE IT RESOLVED that the Albemarle County Board of Supervisors hereby amends and re-adopts the Albemarle County Purchasing Manual by adding Chapter 27, Design/Build (D/B) Procedures, and Chapter 28, Construction Management (CM) Procedures.

Chapter 27. Design Build (D/B) Procedures

Summary

This chapter outlines the procedures to be followed by all departments, agencies, and institutions of the County (each of which is hereinafter referred to as an "Agency") for the procurement of Design-Build ("D/B") contracts.

Essential Information in this Chapter
<ul style="list-style-type: none">• A County agency may enter Design-Build (D/B) contracts only after it has determined in writing, that competitive sealed bidding is either not practicable or not fiscally advantageous to the public.• Prior to using a D/B contract, a County agency must receive approval from the Board of Supervisors.• Procurement of a D/B contract is a two step competitive negotiation process. The agency first selects qualified offerors and then, from among them, the design-build contractor.
Key References to the Code of Virginia Applicable to this Chapter
Section 2.2-4301: Definitions of design-build contract and other key terms Section 2.2-4303(D)(4): Exceptions to competitive sealed bidding Section 2.2-4308: Design-build contracts for public bodies other than the Commonwealth

27-1 General

A design-build contract is a contract between a public body and another party in which the party contracting with the public body agrees to both design and build the structure, roadway or other item specified in the contract. The County may contract to secure D/B projects on a fixed price or not-to-exceed price basis in accordance with *Virginia Code* § 2.2-4308(A), the requirements of that section, and the procedures adopted by the Virginia Secretary of Administration for utilizing design-build or construction management contracts. The County is authorized to use competitive negotiations to procure D/B contracts when it determines in advance, and sets forth in writing, that competitive sealed bidding is either not practicable or not fiscally advantageous to the public, which writing shall document the basis for this determination.

D/B contracts are intended to minimize the project risk for an owner and to reduce the delivery schedule by overlapping the design phase and construction phase of a project.

27-2 Procedure for Approval

Prior to taking any action, the Agency shall request authority, in writing and receive approval from the Board of Supervisors, to use a D/B contract. The request shall justify and substantiate that D/B is more advantageous than a competitive sealed bid construction contract with a general contractor and shall indicate how the County will benefit from using D/B. The request shall also include a written justification that sealed bidding is not practicable and/or fiscally advantageous. These justifications for the use of D/B shall be stated in the Request for Qualifications. Approval of or exceptions to this procedure may be granted by the purchasing agent, who is the approving authority for requests to use D/B procedures.

27-3 Selection Procedures

On projects approved for D/B, procurement of the contract shall be a two step competitive negotiation process. The following procedures shall be used in selecting a Design-Builder and awarding a contract:

1. The Agency shall appoint an Evaluation Committee ("Committee") which shall consist of at least three members from the Agency, including a licensed design professional, if possible. In addition to the Agency members, the Committee shall include a licensed professional engineer or architect from the Office of Facilities Development (OFD). The Agency shall contact the County Attorney's Office (CAO) to determine whether a representative from the CAO should be involved.
2. The basis of the award of the contract shall be in accordance with *Virginia Code* § 2.2-4301(3)(b) and the criteria for the award shall be submitted to the purchasing agent, in advance, for approval. It is noted that cost is a critical component of the selection process. Guidance on methods for award can be found in the *Construction and Professional Services Manual* (2012 Edition, as amended) Section 7.30.1.
3. Selection of Qualified Offerors (STEP I): On projects approved for D/B, the Agency shall conduct a prequalification process as follows to determine which offerors are qualified to receive Request for Proposals (RFPs).
 - a) The Agency shall prepare a Request for Qualifications ("RFQ") containing the Agency's Facility Requirements, building and site criteria, site and survey data (if available), the criteria to be used to evaluate RFQ Responses and other relevant information, including any unique capabilities or qualifications that will be required of the contractor. All offerors shall have a licensed Class "A" contractor and an Architect or Engineer registered in the Commonwealth of Virginia as part of the Project Team.
 - b) The RFQ shall be posted in accordance with the current standards for the posting of public bids in the *Virginia Code* and in accordance with the latest edition of the *Construction and Professional Services Manual*.
 - c) The Committee shall evaluate each offeror's RFQ responses and any other relevant information and shall determine which offerors are fully qualified and suitable for the project.
 - d) The RFQ evaluation shall result in a short list of two to five offerors to receive the RFP. An offeror may be denied prequalification only as specified under *Virginia Code* § 2.2-4317, but the short list shall also be based upon the RFQ criteria.
 - e) At least 30 days prior to the date established for the submission of proposals, the Agency shall advise in writing each offeror which sought prequalification whether that offeror has been prequalified. Prequalified offerors that are not selected for the short list shall likewise be provided the reasons for such decision. In the event that an offeror is denied prequalification, the written notification to such offeror shall state the

reasons for such denial of prequalification and the factual basis of such reasons.

4. Selection of Design-Build Contractor (STEP II):
 - a) The Agency shall send an RFP to the D/B offerors on the short list for the project and request formal proposals from them. The criteria for award shall be included in the RFP.
 - b) Sealed Technical Proposals as described in the RFP shall be submitted to the Committee. Separately-sealed Cost Proposals shall be submitted to the County's Virginia Construction Contracting Officer ("VCCO"), and shall be secured by and kept sealed until evaluation of the Technical Proposals and the design adjustments are completed.
 - c) The Committee will evaluate the Technical Proposals based on the criteria contained in the RFP. It will inform each D/B offeror of any adjustments necessary to make its Technical Proposal fully comply with the requirements of the RFP. In addition, the Agency may require that offerors make design adjustments necessary to incorporate project improvements and/or additional detailed information identified by the Committee during design development.
 - d) Based on the adjustments made to the Technical Proposals, the offeror may amend its Cost Proposal. In addition, an offeror may submit cost modifications to its original sealed Cost Proposal which are not based upon revisions to the Technical Proposals.
 - e) The Committee shall evaluate (and rank if technical rankings are to be considered as a criteria for award) the technical proposals. Should the Agency determine in writing and in its sole discretion that only one offeror is fully qualified, or that one offeror is clearly more highly qualified than the others under consideration, a contract may be negotiated and awarded to that offeror after approval of the purchasing agent. Otherwise, the Agency shall open the cost proposals and apply the criteria for award as specified in the RFP and approved by the purchasing agent.
 - f) The Committee shall make its recommendation for the selection of a design builder to the Agency head based on its evaluations of the technical and cost proposals and all amendments thereto. The contract shall be awarded to the offeror who is fully qualified and has been determined to have provided the best value in response to the Request for Proposal.
 - g) The Agency shall notify OFD of its selection of the Design-Builder and shall request authority to award a contract by processing the notice of award and providing supporting documents, to the purchasing division via e-mail.
 - h) The Agency will notify all offerors who submitted proposals which offeror was selected for the project. In the alternative, the Agency may notify all offerors who submitted proposals of the Agency's intent to award the contract to a particular offeror at any time after the Agency head has selected the Design-Builder. When the terms and conditions of multiple awards are so provided in the RFP, awards may be made to more than one offeror.
 - i) Upon request, documentation of the process used for the final selection shall be made available to the unsuccessful proposers.

Chapter 28. Construction Management (CM) Procedures

Summary

This chapter outlines the procedures to be followed by all departments, agencies, and institutions of the County (each of which is hereinafter referred to as the "Agency") for the procurement of Construction Management ("CM") contracts.

Essential Information in this Chapter

- A County agency may enter Construction Management (CM) contracts only after it has determined in writing, that competitive sealed bidding is either not practicable or not fiscally advantageous to the public.
- Prior to using a CM contract, a County agency must receive approval from the Board of Supervisors.

Essential Information in this Chapter
<ul style="list-style-type: none">• Procurement of a CM contract is a two step competitive negotiation process. The agency first selects qualified offerors and then, from among them, the construction manager.
Key References to the Code of Virginia Applicable to this Chapter
Section 2.2-4301: Definitions of construction management contract and other key terms Section 2.2-4303(D)(4): Exceptions to competitive sealed bidding Section 2.2-4308: Construction management contracts for public bodies other than the Commonwealth

28-1 General

A construction management contract is a contract in which a party is retained by the owner to coordinate and administer contracts for construction services for the benefit of the owner, and may also include, if provided in the contract, the furnishing of construction services to the owner. The County may enter into a contract with a Construction Manager in accordance with *Virginia Code* § 2.2-4308(A), the requirements of that section, and the procedures adopted by the Virginia Secretary of Administration for utilizing design-build or construction management contracts. The County is authorized to use competitive negotiations to procure CM contracts when it determines in advance, and sets forth in writing, that competitive sealed bidding is either not practicable or not fiscally advantageous to the public, which writing shall document the basis for this determination.

CM contracts may be approved for use on projects where 1) fast tracking of construction is needed to meet Agency program requirements, or 2) value engineering and/or constructability analyses concurrent with design are required. The use of CM shall be limited to projects with a construction value that is in excess of \$10,000,000. With proper justification for small complex projects, the purchasing agent may grant a waiver of this requirement.

28-2 Procedure for Approval

Prior to taking any further action, the Agency shall request authority, in writing and receive approval from the Board of Supervisors, to use a CM contract. The request shall justify and substantiate that a CM contract meets the criteria found in section 28-2. The request must also include the stipulation that the CM contract will be initiated no later than the Schematic Phase of design. The request shall also include a written justification that sealed bidding is not practicable and/or fiscally advantageous. These justifications for the use of a CM contract shall also be stated in the Request for Qualifications. Approval of or exceptions to this procedure may be granted by the purchasing agent, who is the approving authority for requests to use CM procedures.

28-3 Selection Procedures

On projects approved for CM, procurement of the contract shall be a two step process unless a one step process is approved pursuant to section 28-5. The following procedures shall be used in selecting a C/M and awarding a contract:

1. The Agency shall appoint an Evaluation Committee ("Committee") which shall consist of at least three members from the Agency, including a licensed design professional, if possible. In addition to the Agency members, the Committee shall include a licensed professional engineer or architect provided by the Office of Facilities Development (OFD). The Agency shall contact the County Attorney's Office (CAO) to determine whether a representative from the CAO should be involved.
2. The basis of the award of the contract shall be in accordance with *Virginia Code* § 2.2-4301(3)(b) and the criteria for the award shall be submitted to the purchasing agent, in advance, for approval. It is noted that cost is a critical component of the selection process.
3. Selection of Qualified Offerors (STEP I): On projects approved for CM, the Agency shall conduct a prequalification process as follows to determine which offerors are qualified to receive Request for Proposals (RFPs).
 - a) The Agency shall prepare a Request for Qualifications ("RFQ") containing the Agency's Facility Requirements, building and site criteria, site and survey data (if available), the criteria to be used to evaluate RFQ Responses and other relevant information, including any unique capabilities or qualifications that will be required of the contractor. All offerors shall have a licensed Class "A" contractor registered in the Commonwealth of Virginia as part of the Project team.
 - b) The RFQ shall be posted in accordance with the current standards for the posting of public bids in the *Virginia Code* and in accordance with the latest edition of the *Construction and Professional Services Manual*.

- c) The Committee shall evaluate each responding firm's RFQ responses and any other relevant information and shall determine those deemed qualified with respect to the criteria established for the project.
- d) The RFQ evaluation process shall result in a short list of two to five offerors to receive the RFP. An offeror may be denied prequalification only as specified under the *Virginia Code* § 2.2-4317, but the short list shall also be based upon the RFQ criteria.
- e) At least 30 days prior to the date established for the submission of proposals, the Agency shall advise in writing each offeror which sought prequalification whether that offeror has been prequalified. Prequalified offerors that are not selected for the short list shall likewise be provided the reasons for such decision. In the event that an offeror is denied prequalification, the written notification to such offeror shall state the reasons for such denial of prequalification and the factual basis of such reasons.

4. Selection of a Construction Manager (STEP II):

- a) The Agency shall send a Request for Proposal ("RFP") to the offerors on the short list and request submission of formal proposals from them. The criteria for award shall be included in the RFP.
- b) Proposals as described in the RFP shall be submitted to the Committee.
- c) The Committee will evaluate and rank the proposals. After evaluation and ranking of the proposals, the Committee shall:
 - 1. Conduct negotiations with two or more offerors submitting the highest ranked proposals. (or)
 - 2. Should the Agency determine, in writing and at its sole discretion, that only one offeror is fully qualified or that one offeror is clearly more highly qualified than the others under consideration, a contract may be negotiated and awarded to that offeror.
- d) The Committee shall make its recommendation on the selection of a construction manager to the Agency head based on its evaluations and negotiations. The contract shall be awarded to the offeror who is fully qualified and has been determined to have provided the best value in response to the Request for Proposal.
- e) The Agency shall notify OFD of the its selection of the Construction Manager and shall request authority to award a contract by processing the notice of award and providing supporting documents to the purchasing division via e-mail to [coforms@dgs.virginia.gov].
- f) The Agency will notify all offerors who submitted proposals which offeror was selected for the project. In the alternative, the Agency may notify all offerors who submitted proposals of the Agency's intent to award the contract to a particular offeror at any time after the Agency head has selected the Construction Manager. When the terms and conditions of multiple awards are so provided in the RFP, awards may be made to more than one offeror.
- g) Upon request, documentation of the process used for the final selection shall be made available to the unsuccessful proposers.

28-4 Required Contract Terms

Any Guaranteed Maximum Price construction management contract entered into by any department, agency or institution of the County will contain provisions requiring that (1) not more than 10% of the construction work (measured by cost of the work) will be performed by the CM with its own forces and (2) that the remaining 90% of the construction work will be performed by subcontractors of the CM which the CM must procure by publicly advertised, competitive sealed bidding to the maximum extent practicable. Documentation shall be placed in the file detailing the reasons any work is not procured by publicly advertised competitive sealed bidding. The purchasing agent may modify these contractual requirements in whole or in part for projects where it would be fiscally advantageous to the public to increase the amount of construction work performed by the Construction Manager.

28-5 Guaranteed Maximum Price

The Guaranteed Maximum Price shall be established at the completion of working drawings unless a waiver has been granted to this requirement by the purchasing agent.

28-6 One-Step Solicitation

An Agency may request from the purchasing agent approval to perform a one-step solicitation for its project. If adequate justification is provided, the purchasing agent may approve the request.

(NonAgenda. At 10:43 a.m., the Board took a recess and reconvened at 10:52 a.m.)

Agenda Item No. 10. Draft 2014 Thomas Jefferson Planning District Legislative Program, David Blount.

**Thomas Jefferson Planning District
2013 Legislative Priorities**

(Counties of Albemarle, Fluvanna, Greene, Louisa and Nelson & Charlottesville City)

STATE MANDATES & FUNDING OBLIGATIONS

- The governor and legislature should 1) not impose financial or administrative mandates on localities; 2) not shift costs for state programs to localities; and 3) not further restrict local revenue authority.
- The state should eliminate across-the-board reductions in aid-to-localities, budgeted to be \$95 million over FY13/FY14.

TRANSPORTATION FUNDING and DEVOLUTION

- We request separate and dedicated state revenues to expand and maintain our transportation infrastructure.
- The state should restore formula allocations for secondary and urban construction.
- We are strongly opposed to any legislation or regulations that would transfer responsibility to counties for construction, maintenance or operation of current or new secondary roads.

PUBLIC EDUCATION FUNDING

- The state should fully fund its share of the realistic costs of the Standards of Quality without making formula and policy changes that shift the funding burden to localities.

CHESAPEAKE BAY TMDL

- The state and federal governments must provide major and reliable forms of financial and technical assistance for comprehensive water quality improvement strategies, to include stormwater management.
- We urge fairness in applying requirements for reductions in nutrient and sediment loading across source sectors, and accompanying authority and incentives for all sectors to meet such requirements.
- We will oppose actions that impose monitoring, management or similar requirements on localities without providing sufficient resources.
- We believe any expansion of the Nutrient Exchange Program should be contained within and be relevant to a particular watershed so as to enhance the health of local waters.

LAND USE and GROWTH MANAGEMENT

- We request additional tools to manage growth without preempting or circumventing existing local authorities in this area.

COMPREHENSIVE SERVICES ACT

- We urge a better partnership between the state and localities in containing the costs of CSA and in balancing CSA responsibilities. We support additional state funding for CSA administration; localities have been footing the bill for most of these costs as state contributions have remained flat over the past decade.

Mr. David Blount addressed the Board, stating that he was seeking input and recommendations as to items the Board would like to see included in the 2014 legislative priorities and referencing the updated 2013 priorities. Mr. Blount said he would be making visits to all of the local governing bodies in September, with plans to get a draft back to the Board later in the month, with inclusion on the Consent Agenda in October and a vote slated for November. He stated that he has met with County staff, and he would include local priorities in the regional plan as well.

Mr. Blount reported that, in 2013, the focus was on local fiscal impacts due to state actions – which generated good discussion in 2012. He said that the end result in 2013 was a budget initiative included and budget language in the two-year state budget amendments that created a task force to consider ways to enhance the process of assessing those impacts. Mr. Blount stated that he and Mr. Foley are members of that task force, and the discussions of the group have been a combination of fruitful as well as frustrating – but there would likely be legislation recommended by the group to expand the authority for additional state entities to be able to go through the formal process and recommend bills for analysis of local fiscal impact. He said that currently, that is only done by the Division of Legislative Services, which recommends to the Commission on Local Government to conduct those analyses.

Mr. Blount stated that, given the budget development year in the General Assembly, there would be pressures on the money despite some additional revenues above the base budget. He said that it is

an education funding re-benchmarking year, increases in rainy day fund contributions as required by the state constitution, Medicaid expenses at approximately \$450-500 million, increases in VRS rates, etc. He stated that Governmental Accounting Standards Board (GASBE) had implemented some new standards related to the teacher retirement pool and the change in assignment of unfunded pension liabilities to the entity that's making the payment, which would be switched to the localities effective in 2015. Mr. Blount said there would likely be some attempts to have that unfunded liability shared, as it is a cost-shared program.

Mr. Rooker said that, from an accounting standpoint, liabilities are generally not reflected where there is no legal obligation to meet that liability – and the localities don't have the obligation to pay the pensions. He stated that it's basically a realignment of liabilities on the books.

Ms. Mallek asked if there was any pushback on this decision.

Mr. Boyd said that, when he was in banking, there was FASBE on the private side, and they were never able to find those officials in order to resist or inquire about changes.

Mr. Blount stated that he calculates the unfunded liability shift to the County at \$160 million for teachers.

Mr. Rooker said it would make just about every locality insolvent on their books.

Ms. Mallek expressed concern about the impact on their bond rating.

Mr. Boyd stated that he sits on the Virginia Association of Counties (VACo) VRS committee and, at a recent meeting, they were told that it wouldn't impact the bond rating.

Mr. Blount said that the VRS director has said it would have about a 2% impact nationally.

Ms. Mallek asked if there had been any discussion of replacing the \$700 million in state surpluses that came from VRS to begin with. Mr. Blount responded that there has been a portion of the surplus that's gone back into repayment, which was set out over the course of 10 years, but the majority of it has already been assigned by the state constitution or statutory provisions to the rainy day fund, water quality, etc. He added that, if the General Assembly was going to move to funding 80% of the VRS actuarially recommended rates for retirement, it would cost them \$280-\$300 million.

Mr. Boyd said that, in their committee meeting, the VRS executive director presented and said there is a long-term commitment by the General Assembly, but whether or not they will live up to it is yet to be determined.

Mr. Foley said that the commitment is obligating localities to deal with it.

Mr. Blount said localities are paying 2/3, with the state paying 1/3.

Mr. Blount stated that the staffer for the Senate Finance Committee mentioned that the two issues related to transportation that the General Assembly would have to deal with next are the funding formulas and the breakdown of roles and responsibilities, which to him "sends up the devolution flag." He said that the County has a strong position against devolution in the legislative program, and he would continue to emphasize that.

Regarding the split precinct issue, Ms. Mallek asked if there was a requirement that it solve the problem as opposed to not creating another one in a different precinct. Mr. Davis said that there is no legal barrier that would keep the General Assembly from moving the district lines in a way that would leave a split, but that has not been the focus. He stated that the focus on all the plans he has seen is to eliminate split precincts, based largely on the number of voters and the variation between one precinct or another – with a target of 1% in the House and slightly higher in the Senate. Mr. Davis acknowledged that there had been a lot of confusion in the last session about it, and the Registrar's Office in the County feels it is very important to address that issue before the Senate elections in two years, because it is a complicating factor for our Registrar in having three split precincts within the Senate-defined areas.

Mr. Boyd asked about the Chesapeake Bay TMDL item on Mr. Blount's summary sheet, stating that he is not a big proponent of the nutrient exchange program. Mr. Blount responded that the idea is that, in order to have more impact on cleaner waterways at the local level, one would trade credits within the same watershed with another locality as opposed to someone in a different region of the state.

Ms. Mallek said it was the adjacent watershed provision that caused them to lose out on really important local improvements.

Mr. Boyd commented that the program is creating something out of nothing, similar to what Enron did with energy credits.

Ms. Mallek said that it's allowing someone locally to avoid their responsibility to manage their stormwater onsite and, instead buy some credits from an unrelated region. She said she didn't believe that was right; it should be in the same watershed so that at least [our] locality is getting some benefit from it.

Mr. Rooker and Mr. Snow agreed.

Mr. Rooker said it's different from trading energy credits, and it's more like the wetland banks approach. He added that if it doesn't stay local, you end up with improvements in another County that do nothing for local water quality.

Mr. Blount mentioned that, several years prior, they had stakeholders who met over the course of a few months and put a longer position together – and he would review it to make sure it conveys what TJPDC wants to say.

Agenda Item No. 11. 2014 Legislative Priorities.

The executive summary states that each year the Board considers and approves its legislative priorities and submits them to the Thomas Jefferson Planning District Commission (TJPDC), the Virginia Association of Counties (VACo) and the Virginia Municipal League (VML). Generally, the TJPDC's legislative program incorporates the County's legislative priorities. Other initiatives are sometimes added prior to the General Assembly session. This executive summary will provide a review of the Board's 2013 Legislative Priorities (Attachment B) and request the Board to review and approve the 2014 Legislative Priorities (Attachment A).

A review of the County's 2013 Legislative Priorities is provided in the attached "2013 Legislative Priorities Report" (Attachment B). The report includes details regarding previous action taken on the priorities, an assessment of what priorities should be continued in the future, and links to the final legislative reports of the TJPDC VACo and VML.

Many of the proposed 2014 Legislative Priorities (Attachment A) are carried forward from 2013. One specific priority, set forth below, has been identified for action in the 2014 Legislative Priorities:

Local Government Administration and Finance

Request legislation to eliminate split Virginia Senate precincts to the extent possible.

The 2011 Virginia Senate and House of Delegates redistricting created split precincts in the Jack Jouett, Rio and Rivanna Magisterial Districts. The Jack Jouett Precinct is split between the 17th and 25th Senate Districts in two places. The Woodbrook precinct is split between the 17th and the 25th Senate Districts. The Free Bridge precinct is split between the 57th and the 58th House Districts and the Stony Point precinct is split between the 175th and 25th Senate Districts.

After the Board's review, input and approval of the proposed 2014 Legislative Priorities, staff will submit the Board's 2014 Legislative Priorities to the TJPDC, VACo and VML for their consideration to be included in their respective legislative programs. The 2014 TJPDC Legislative Program will also be presented to the Board on September 4 for the Board's input and review.

The County's legislative priorities seek to ensure that the state adequately funds its mandated responsibilities and does not jeopardize the County's ability to effectively and efficiently implement the policies (including fiscal) and programs that it deems necessary. A modest budgetary impact for the Registrar's Office and voter services would be expected from redistricting.

Staff recommends that the Board approve the proposed 2014 Legislative Priorities (Attachment A), and any additions it feels are appropriate, for submission to the TJPDC, VACo and VML.

Mr. Davis stated that what's before the Board under Albemarle County's legislative priorities is largely a carry-forward agenda, and the same items on last year's priorities are being advanced again. He said that when County staff was surveyed, there were no initiatives identified outside of these priorities other than advancing the legislation to fix the split precincts. Mr. Davis said staff is open to Board members' input on any other legislative priorities but, if there are none, he would suggest that the Board adopt the 2014 priorities – and if new things come up, those could certainly be added.

Mr. Boyd asked about the scenic protection and tourism enhancement and wondered if it needed to stay in there, especially since there has never been any action taken on it. Mr. Davis explained that it came out of the Mountain Protection Overlay discussions because the County felt it was hamstrung by the enabling authority as to how it could deal more meaningfully with the aesthetics issue of the mountain protection proposal. He said Senator Deeds advanced a bill a few years ago, and Mr. Blount said there was a lot of pushback from the Farm Bureau, so he withdrew that bill. Mr. Davis stated that the reason they have left that item in there, from a policy standpoint, is because if there is legislation advanced by someone in the state, the County has always said it was interested in supporting legislation that would allow it to deal with aesthetics in a mountain protection setting without infringing on property rights.

Mr. Boyd said that the County spent years on the mountaintop ordinance and came to a conclusion on it, and this is really just an extension of that.

Ms. Mallek stated that it gives consideration to the visual impacts, and isn't an overlay that would take away people's abilities.

Mr. Boyd said that it is that, because it implies that the County wants to have the power to tell people what to do with their property, and he is fundamentally opposed to that. Mr. Davis explained that the concept was to take a step back from the Mountaintop Protection Ordinance and try to address the visibility issue of development, and the consensus of the Board at the time was supportive of building

features that would minimize visibility. He stated that finding legislation which would meet that goal has been troublesome and difficult because of the perception that it is an additional reach by government that gets into aesthetics, which is always a difficult issue to regulate. He added that, if there was some limited legislation which would allow the County to do that, he thought it was the Board's position, over the year, that it would support that.

Mr. Boyd said he would rather narrow the list down to things that are top priorities rather than asking for "unreasonable things" which are not going to be touched by the General Assembly.

Mr. Rooker stated that this doesn't mean the Board is going to ask for specific legislation, it just says that, if such legislation goes forward, the County would have an interest in it – but the Board may or may not support the specific legislation when it arises.

Ms. Mallek said that this falls into the "kill the goose that laid the golden egg" category for her, because there is a huge economic benefit derived from the business of scenery in the County and she said everyone needs to remember that.

Mr. Rooker stated that when the Chamber, Tourism Bureau, and Economic Development Authority take pictures of mountains, they don't take a picture of Carter's Mountain with all the towers or a picture of a big white house built on the mountain.

Mr. Boyd said the County has done a pretty good job of preserving that without enabling legislation.

Ms. Mallek said that the County has basically been lucky.

Mr. Rooker stated that it was the same way in Denver, which once had a beautiful mountain entrance view but now has mostly subdivisions built in that view. He said the question is whether aesthetics is enough of a concern in a community where there should be some limitations in some circumstances, such as is done with the Architectural Review Board (ARB).

Mr. Boyd said that there is a fine line that needs to be walked.

Mr. Rooker agreed that it is a fine line.

Mr. Craddock stated that he served on the Mountaintop Protection Ordinance Committee when he served on the Planning Commission, and those same exact discussions were prompted by the visibility of the big white house at Stony Point.

Mr. Rooker said the Planning Commission unanimously approved that ordinance, and it went to the Board and got a 3-3 vote in 1999, then it came back again and got a 3-3 vote. He said no one is pushing that approach today but, if the state offers enabling legislation to consider aesthetics, the County should participate in looking at that.

Mr. Rooker asked about the origin of the item from Joel DeNunzio of VDOT regarding allocation to secondary road funds, and whether it was embedded in legislation. He said the Board seems to be getting two different answers on this as to whether it was legislative or Commonwealth Transportation Board (CTB). He said part of the problem is it's taking local authority away in deciding how to allocate funding for secondary roads – with more being allocated now to unpaved roads rather than paved roads.

Mr. Davis said that his guess is it's not in legislation, as he hasn't seen it, but he would go back and confirm.

Mr. Blount said he would also research it.

Mr. Rooker reiterated that the locality is better able to determine where the funds need to be spent in the community adding that, in the past, there was always a formula in the background whereby the Board allocated some small percentage of funds to unpaved roads or incur a penalty.

Mr. Boyd said it's an economic issue, because it costs a lot more to maintain the unpaved roads than the paved ones.

Ms. Mallek said that the point is that people have a right to decide whether their roads should be paved or not.

Mr. Rooker said there aren't a lot of secondary road funds, and this takes away local flexibility and how those secondary road funds are allocated.

Mr. Blount said that this is all very recent, starting in the 2012 package, which lopped \$500 million off the top for CTB to allocate.

Mr. Rooker stated that all of the secondary road funds the County has received in the last few years have been from telecommunications rental sites.

Ms. Mallek offered **motion** to approve the proposed 2014 Legislative Priorities, and any additions it feels are appropriate, for submission to the TJPDC, VACo and VML. Mr. Snow **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

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

Albemarle County 2014 Legislative Priorities

Growth Management, Land Use and Transportation

Biosolids—Support legislation enabling localities, as part of their zoning ordinances, to designate and/or reasonably restrict the land application of biosolids to specific areas within the locality based on criteria related to the public safety and welfare of its citizens and the environment. In addition, support legislation regarding land application of biosolids that protect the environment, public health and safety.

Local Authority—Support legislation to 1) strengthen localities' authority by enabling them to utilize adequate public facilities ordinances; and 2) not pass legislation that preempts or circumvents existing local authority to regulate land use.

Impact Fee Authority—Support impact fee legislation that allows for 1) a fair allocation of costs representing a "pro-rata" off-set of new growth on public facilities; 2) impact fees for facility costs related to transportation, schools, fire, police, emergency medical services, libraries, stormwater management, open space and parks/recreation lands; 3) effective implementation through simple locally-based formulae and reasonable administrative requirements; 4) does not cap or limit localities' impact fee updates; and 5) does not diminish the existing proffer system.

Conservation Easements—Support legislation that augments local efforts in natural resource protection through 1) continuing to fund the Virginia Land Conservation Foundation (VLCF) for locally established and funded Purchase of Development Rights programs (e.g. ACE Program in Albemarle County); 2) continuing to provide matching funds to localities for their Purchase of Development Rights programs through the Office of Farmland Preservation; 3) retaining provisions in transient occupancy tax legislation so that funds can continue to be used to protect open-space and resources of historical, cultural, ecological and scenic value that attract tourism; and 4) increase incentives for citizens to create conservation easements.

Scenic Protection and Tourist Enhancement—Support enabling legislation for Albemarle County to provide for a scenic protection and tourist enhancement overlay district. As the County pursues options to protect the visual quality of land as an aesthetic and economic resource, this legislation would provide a method to ensure full consideration of visual resources and scenic areas when the County or state make land use decisions in designated areas.

Transportation Funding—Support legislation to 1) establish stable and consistent state revenues for Virginia's long-term transportation infrastructure needs; 2) direct funding efforts at all transportation modes; 3) coordinate planning for transportation and land use, being mindful of local Comprehensive and regional Transportation Plans when planning transportation systems within a locality; and 4) strongly oppose any legislation or regulations that would require the transfer of responsibility to counties for construction, maintenance or operation of new and existing secondary roads.

Health and Human Services

Comprehensive Services Act (CSA)—Request that the legislature assist localities' implementation of CSA in a consistent, financially stable manner by: 1) fully funding the state pool for CSA with allocations based on realistic anticipated levels of need and a cap on local expenditures for serving a child through CSA; 2) enhancing state funding for grants to localities to create community-based alternatives for children served in CSA; 3) establishing state contacts with CSA providers to provide for a uniform contract management process, improve vendor accountability and control costs; and 4) encouraging the state to be proactive in making service providers available and to support local and regional efforts to address areas of cost sharing among localities by procuring services through group negotiation.

Child Care for Low Income Working Families—Request the legislature provide additional funds to local governments to assist low-income working families with childcare costs. This funding helps working-class parents pay for supervised day care facilities and supports efforts for families to become self-sufficient.

Local Department of Social Services (LDSS)—Request the legislature increase funds for LDSS to match all available federal dollars to assist LDSS staffing needs in order to meet state mandated services and workloads.

Local Government Administration and Finance

Voting Precincts—Eliminate split precincts to the extent possible. The 2011 Virginia Senate and House of Delegates redistricting created split precincts in the Jack Jouett, Rio and Rivanna Magisterial Districts. The Jack Jouett precinct is split between the 17th and 25th Senate Districts in two places. The Woodbrook precinct is split between the 17th and the 25th Senate Districts. The Free Bridge precinct is split between the 57th and 58th House Districts and the Stony Point precinct is split between the 17th and 25th Senate Districts.

Full Funding of State Mandates—Request the state provide full funding for its mandates in all areas of local government including the Standards of Quality (SOQs), positions approved by the Compensation Board, costs related to jails and juvenile detention centers and human services positions.

Local Control of Local Revenues—Oppose legislation that restricts or limits the existing local control of local revenues so that local government leaders can take appropriate measures to generate sufficient revenues to

sustain and improve services.

Drug Court Funding—Request the legislature fully fund the Drug Court Program, which provides effective treatment and intensive supervision to drug offenders through the Circuit Courts of several Virginia localities.

Cost to Compete Pay Differential—Due to the documented high cost of living in Albemarle County, request the legislature include Albemarle County Schools in the “Cost to Compete Pay Differential” so that the County may reach and maintain competitive compensation to help recruit, develop and retain a highly qualified and diverse teacher workforce.

Agenda Item No. 12. 2040 Long Range Transportation Plan Process/Status, Sarah Rhodes, MPO Program Manager.

The following memorandum was received from Ms. Rhodes:

“Purpose: To inform the Albemarle County Board of Supervisors about the 2040 Long Range Transportation Plan; specifically, where we are in the 2040 LRTP planning process and the next steps in this process.

Background: The Long Range Transportation Plan (LRTP) is a regionally-focused, fiscally-constrained, transportation planning document that outlines a community’s future transportation vision and lists a series of projects, from all transportation modes, that will contribute to achieving that vision. All LRTPs must consider transportation planning with, at least, a 20 year outlook. Also, all LRTPs are federally required documents. Our community has to develop an LRTP in order to receive federal funding for transportation projects.

The Charlottesville-Albemarle MPO is currently in the process of updating its Long Range Transportation Plan for 2040. We have been working on this plan update since the fall of 2011, and the final 2040 LRTP is due for approval by the MPO Policy Board in May 2014.

Summary: The 2040 LRTP development process is outlined below. Currently the MPO is in the process of assessing capacity-building improvements that have been grouped into project scenarios.

Goals and Vision – Throughout 2012 the MPO Committees reevaluated and revised the Regional Mobility Goals that were developed for previous long range transportation plans, UnJAM 2025 and 2035. These goals were approved for the 2040 LRTP by the MPO Policy Board in January 2013. The MPO is also required to include the Eight Planning Factors in all plans they develop. These factors also helped to shape the 2040 LRTP.

Performance Measures – The MPO wanted to root the 2040 LRTP update in a more technical assessment process. To do this MPO staff researched transportation performance measures that could be used to help determine which projects should be included in the 2040 LRTP. Pulling resources from FHWA’s Strategic Highway and Research Program, as well as the recently implemented Livability Project, the MPO put together a list of 16 performance measures. These measures cover a wide variety of transportation planning issues, such as mobility, environmental, economic development and community. These measures were reviewed with the MPO’s committees and approved by the MPO Policy Board in March 2013.

Transportation Deficiencies – The MPO used a variety of methods to identify transportation deficiencies. In the fall of 2011 the MPO held a public outreach workshop, as part of the Livability Project, to determine which parts of the transportation system our community found deficient based on safety concerns and congestion. In January 2012 the MPO held another workshop, also a part of the Livability Project, which showed the 2040 transportation system assessment from the MPO’s Travel Demand Model. This workshop focused on identifying future transportation congestion concerns for the region. MPO staff also put together an analysis to identify transportation deficiencies for transit access and bike and pedestrian connectivity and access. All of these deficiencies were reviewed the by the MPO committees in January 2013.

Project Scenarios – During the spring of 2012 the MPO committees developed a list of 22 candidate projects to address the transportation deficiencies identified from the public workshops. Projects from this candidate list were modeled individually to determine the mobility benefit they would provide. The results from this exercise were reviewed with the MPO committees. In May 2012, 15 projects from this list were approved to move forward in this process. This list of 15 projects served as the basis for the first round project scenarios development and analysis.

These 15 projects served as a base for the scenario development process. The process is open and any and all project options can be considered, pending approval from the MPO Policy Board. For both round 2 and round 3 of the scenario assessment process, new projects were added for consideration.

Scenario Analysis – The development of the first project scenario began in April 2013 and was presented to the MPO committees in May 2013. This first round scenario assessment was not intended to show potential scenarios but to illustrate the assessment process. Following the first round assessment, MPO staff worked with MPO committees to develop scenarios for the second round. The second round scenario assessment, presented in July 2013, gave MPO stakeholders an opportunity to consider practical potential scenarios and fine tune scenario project lists prior to the public input process. MPO committees developed a list of projects they would like to see move forward into the third round scenario analysis and MPO staff worked with local staff, VDOT staff, and local transit officials to develop the scenarios for this

third round. These scenarios are currently under consideration and are open to public comment as of August 28th 2013. All of the input that goes in to these scenarios will help guide the MPO Policy Board as they develop and approve the preferred scenario.

Next Steps...

Preferred Scenario – A draft preferred scenario will be developed in September. In October a public outreach event will be held to gather input on this preferred scenario. Once approved, the preferred scenario project list will be the list of capacity-building projects included in the final 2040 LRTP. This list will need to be reconciled with projects currently in the 2040 LRTP and will need to be prioritized to meet fiscal-constraint requirements.

Non-Capacity Projects – Non-capacity projects including bike and pedestrian facilities, bridges, and intersections are being assessed outside the scenario process. MPO staff is currently working with VDOT and local staff to develop these draft non-capacity project lists. These lists will be presented to our MPO committees in September 2013 and will be available for public review at a public outreach event in October 2013.

Draft Project List – The preferred scenario project list and the non-capacity project lists will be combined to create the draft project list for the 2040 LRTP.

Fiscal-Constraint Process – All Long Range Transportation Plans must be fiscally-constrained, meaning that our community cannot plan to spend more than it can reasonably expect to receive over the 30-year life of the plan. For the fiscal-constraint process we will need to prioritize projects based on what we can afford. Other projects that might be a lower priority will be placed on a visioning list. Both lists will make up the overall regional transportation vision.

Final Project List and Plan – The final project list will consist of both the fiscally-constrained list and the visioning list. Prior to approval of the 2040 Long Range Transportation Plan two public hearings will be held, one in March 2014 and one in May 2014.”

Ms. Sarah Rhodes addressed the Board, stating that she is the Program Manager for the Charlottesville/Albemarle MPO. She said that the long-range plan is looking at transportation for the future, i.e., projects to be considered very far into the future, and there would be plenty of opportunities in the next year to discuss the plan. Ms. Rhodes stated that the goals have been finalized and were voted on in January 2013, including regional mobility goals based on UNJAM long-range transportation plans. She said that they are also basing their goals on eight federally required factors that must be considered in all MPO planning documents. Ms. Rhodes stated that they also work to develop a series of performance measures, and the goal with the plan was to be much more technical than they had been in the past. She said that they also used a travel demand model and a series of resources to develop a list of transportation deficiencies, which helped them develop their first project scenarios – a list of road and transit projects that were chosen to address the deficiencies in the region. Ms. Rhodes stated that the project scenarios were run through a series of performance measures, and the preferred scenario that has emerged focuses on capacity-building improvements – roads and transit – but they are also implementing a non-capacity process that would begin later in the month with the MPO committees.

Mr. Rooker asked if non-capacity would include intersection analysis. Ms. Rhodes responded that it would include intersection analysis, bridges, bike and pedestrian paths, etc., and both of those project lists would go on to develop the draft project list. She said there would be a fiscal constraint process, which means they can't spend more than they're reasonably expected to get over the course of the long-range plan.

Ms. Rhodes said there are four categories of performance measures – mobility measures, many of which are grounded in their travel demand model; environmental measures which incorporate many different tools including GIS mapping; community measures which also use GIS mapping; and economic development measures which use the mapping and travel demand models. She presented a slide showing which measures are being analyzed using which tool, so congestion/delay, mode share, vehicle mobility, vehicle crashes, and access to jobs are all being analyzed using the travel demand model. She said that GIS was being used to analyze bicycle connectivity, water quality, flood plain impact, historic and archeological site impact, land use, environmental justice, and transit access. Ms. Rhodes said the regional ecological framework tool is being used to help identify overall environmental impacts – specifically wetlands and threatened/endangered species. She stated that, for air quality, they are using Motor Vehicle Emissions Simulation, which uses data from their travel demand model along with data sets from the Division of Motor Vehicles (DMV) and the Department of Environmental Quality (DEQ).

Ms. Mallek asked if they have received any feedback from the air quality monitors such as the one near Albemarle High School. Ms. Rhodes responded that they aren't using that information as part of this analysis process, adding that the information would become pertinent if they were to become non-attainment.

Ms. Rhodes presented a slide that defines the tools they are using, and stated that they are in the middle of the scenario development process. She said they developed the scenarios and project list based on identifying the transportation deficiencies and, from there, they created a candidate project list of 22 projects, all of which were modeled individually to see what kind of impact they would provide based on their structure.

Mr. Rooker asked if there was any intersection analysis done when looking at those 22 projects, because most of the delays in the community occur at intersections. Ms. Rhodes replied that the initial project list was given the parameters and was focused on capacity building, so roads and transit were the choices.

Mr. Rooker said that's the problem he has with the process, because they effectively discard projects without understanding the impact they might have on delays – most of which occur at intersections. Ms. Rhodes acknowledged that the process they've developed is "incomplete," and there are non-capacity projects that they need to add outside of the scenario development process.

Ms. Mallek said she doesn't understand how an intersection that only lets two cars through at a time wouldn't affect capacity, because they seem to be completely intertwined. Ms. Rhodes agreed that they are intertwined, explaining that two of the interchange projects being considered were discussed and pushed forward because they were required to accommodate the roadway capacity improvement.

Mr. Thomas said, "I would hope that you all would give Sarah the respect to let her finish before you all [ask questions]." Mr. Rooker said they wouldn't be asking questions if they weren't interested, and asking questions isn't showing disrespect. Mr. Thomas said, "In your opinion."

Ms. Rhodes stated that the candidate project list was 22 projects, and they modeled them all individually to see how they would be structured. She said some of them were discarded through the committee process (CHART, MPO Technical Committee, MPO Policy Board) because they didn't offer enough benefit. She said that the 15 remaining projects went through a cost estimation process and were the basis for first-round scenarios. She stated that the first round scenarios, which were implemented in April and presented in May, were not realistic project scenarios but the purpose was to show to committees how the analysis process would work. Ms. Rhodes said that they did, however, learn quite a bit from them, with the most important factor being that, for long-range transportation plan development, multi-modal scenario is the best option.

Ms. Rhodes said that, for round two, they worked with committees and local staff to develop the second round scenarios, which was intended to give MPO stakeholders an opportunity to see how the process would work and to weigh in. She stated that they are currently working on the third round scenario process, and held an event the previous week that drew 45 attendees. Ms. Rhodes said they would gather input at this stage and then bring it to the MPO boards during their September meeting cycle, which will lead to the development of a draft-preferred scenario and then a final preferred scenario to be approved in November as a draft project list. She stated that they would still need to do fiscal constraint, and there would be a public input process for that.

Ms. Rhodes reviewed the scenarios, stating that the MPO approved a project list, then they worked with local staff, VDOT and transit officials to develop an actual scenario list. She said all of the projects "above the line" appear in all three scenarios, which was the request of the development process, not in an MPO staff vacuum. Ms. Rhodes said the US 250/29 widening in 3A differs from the other two projects because they widened the small section from Fontaine and the interchange at I-64 to eight lanes, with every other scenario having it as six lanes.

Mr. Rooker asked if the scenario addressed the bridges such as the Ivy Road and the railroad bridge. Ms. Rhodes responded that the cost estimate did include bridge changes and requirements, as well as interchanges, to accommodate that project. She said that the I-64/US 29 interchange would have to be altered to deal with safety issues and capacity issues from the road widening, so those processes would have to work together even though they are listed as separate projects.

Ms. Mallek asked if part of that would be a fly-over from 29 North to I-64 West. Ms. Rhodes responded that the level of detail on how the interchange would look is not typically part of the long-range planning process, and hasn't been put together yet to her knowledge.

Mr. Rooker asked if there was widening from US 250 in the plan to Barracks Road out to Fontaine. Ms. Rhodes responded that the entire project would go from Barracks to I-64, and they worked with VDOT to establish what the costs would be for the Old Ivy Road and railroad bridges.

Ms. Rhodes reported that the third project is the multi-modal 29 concept that stretches from Hydraulic Road up to the South Fork of the Rivanna River, and that would include transit facilities in order to promote bus rapid transit and also pedestrian/bike facilities. She said the widening of Route 250 at Pantops goes from Free Bridge to the I-64 interchange, and there is also widening from the interchange to North Milton Road. Ms. Rhodes stated that the widening at Pantops would be to six lanes and, at Shadwell, it would be four lanes.

Mr. Boyd asked if the right of way was already there, because there is a lot of development going on in that area. Ms. Rhodes replied that they do not have the right of way, but they have cost estimated to adjust for that.

Mr. Rooker asked if the multi-modal Route 29 project involves lowering the speed on existing US 29. Ms. Rhodes responded that it does, and it would be lowered to 35 mph.

Mr. Rooker pointed out that the speed limit on Route 29 would be lower than the speed limit on Earlysville Road or Hydraulic Road. He said that they spent \$100 million of state and federal money on US 29 to widen it, and now they're talking about turning it into a low speed road that's even lower than Earlysville Road or Hydraulic Road when one crosses the reservoir. Mr. Rooker stated that they're talking

about effectively undoing \$100 million in public expenditures, and he does not think it's a good idea to lower the speed limit all the way from the river to Hydraulic Road. He said that a lot of people in his district would not be thrilled at the idea of the road being turned into a 10-lane, low-speed road, at an estimated cost of \$50 million.

Mr. Rooker emphasized that he wanted the Board to look at that and discuss whether it makes sense, because the MPO has put it in all the scenarios.

Ms. Mallek said she would like clarification as to whether the bus rapid transit cost is for the operation of the bus or the lane it is dedicated to be in stating that, when she was on CHART many years ago, the reason they supported the extra lane on Route 29 was so it could be a dedicated bus lane.

Mr. Rooker said that it all relates to the question of how to improve transit, and bus rapid transit is expensive. He added that all the studies have shown that transit is generally only successful where there are reasonably dense populations – and decreasing head times in those areas would generally attract more ridership than running a long route out one road like 29.

Ms. Rhodes stated that the multi-modal 29 concept was developed to facilitate transit and bike/pedestrian movement in that corridor, and was not intended to limit vehicular mobility. She said the project is meant to promote transit and repurpose the investment, not take away lanes and negate what's already been invested.

Mr. Rooker said that this concept is somewhat contrary to the concept of developing parallel roads along Route 29 that would incorporate development and encourage bicycle and pedestrian mobility more off of 29 than on it. He stated that he questions whether this massive investment to turn Route 29 into something it isn't makes much sense, given that there is limited money and it does affect mobility.

Mr. Thomas said that there are already sidewalks on one side, and they are used frequently.

Mr. Rooker said he drives on 29 all the time and rarely sees anyone walking north of Rio Road on the sidewalks.

Ms. Rhodes stated that Berkmar Drive Extended is a project in three scenarios, and they adjusted their transit routes to align with Charlottesville Area Transit's new structural changes – so the new Route 11 is in all three scenarios. She said they have also included geometric improvements at Black Cat and Milton Roads to allow those roads to have a higher speed and more through-put, but would not be widened. Ms. Rhodes said that BRT on Route 29 would go from NGIC, back down 29, through UVA, and into downtown. She stated that they did a model of peak hour service of 7:00-10:00 a.m. and 4:00-7:00 p.m. service to Crozet.

Mr. Rooker asked if there have been any surveys done at NGIC to estimate BRT ridership into UVA. Ms. Rhodes responded that there hadn't been, and this was all based on modeling.

Ms. Rhodes reported that Scenario 3B is also considering a bus rapid transit project from NGIC, and it would come off of Rio Road and use the Meadowcreek Parkway and McIntire Road Extended into downtown. She said they modeled this with and without Route 11, and the transit moves better with Route 11 included so they kept it in. Ms. Rhodes stated that they looked at a scenario of extending Route 5 to the Health Center, stopping at Barracks Road and coming into UVA. She said they also looked at a link at Free Bridge to allow Route 10 to have a transit-only lane, and it would also be open to HOV3. Ms. Rhodes stated that Scenario 3C does not have a BRT option, and considers a project from Scenario 1A of linking from Fashion Square Mall to the Airport – along with a transit-only bridge crossing from Route 10. She said Scenario 3A shows congestion improvement on Route 53 and along the link due to the eight-lane widening, with Scenario 3B having more overall improvement and Scenario 3C congestion improving on the east side.

Ms. Rhodes stated that she would present conclusions from their analysis. She said that Milton Road and the two Pantops widening projects significantly improve congestion on Route 53 and Black Cat Road, and slightly improve congestion on Monticello Avenue and Avon Street – so those three projects work together when all three are implemented. Ms. Rhodes said they did not see a lot of congestion relief benefit from Black Cat Road improvements, but it could be necessary for safety. She stated that the US 29/Route 250 widening has been very successful from the beginning, and the eight-lane widening from Fontaine to the I64 interchange does alleviate congestion on that link – which is the most heavily traveled link in the network with close to 100,000 vehicles.

Mr. Rooker asked if the 64/250 interchange at Shadwell reconfigures that interchange. Ms. Rhodes responded that it's in all of the scenarios, and has been cost estimated.

Mr. Rooker said there was currently a lot of traffic backing up on I-64 at the 5th Street exit, and asked what was in the plan to address that congestion. Ms. Rhodes stated that in Scenario 2A they looked at widening 5th Street from the County Office Building to Bent Creek Drive, but they saw little benefit so the project didn't advance.

Mr. Rooker mentioned the need to alleviate the traffic backups happening as you exit I-64 at 5th Street, and said it might be helpful for the MPO to look at that.

Ms. Rhodes reviewed plans for Berkmar Drive Extended, stating that it significantly improves congestion on US29 from Ashwood Boulevard to Town Center Drive, and also draws traffic from

Earlsville and Dickerson Roads. Regarding the multi-modal US 29 concept, even though one travel lane in either direction is removed for BRT, she said portions of US 29 only experience minor congestion during peak hour travel – and trips divert to Berkmar Drive Extended or the Western Bypass. She said that this doesn't mean the US 29 and the existing corridor isn't congested, it is congested during peak hour and there are other more congested priorities.

Mr. Rooker asked if this was without the intersection analysis. Ms. Rhodes said that it was without that analysis.

Ms. Rhodes stated that they are seeing a daily passenger ridership of 150 people with the Crozet commuter route, and it's not showing much benefit to transit system-wide. She said that, with transit access in the Route 29 corridor, they are seeing the most success with BRT that stays on the US 29 corridor, goes through UVA, and then into downtown – and the Airport route is nowhere near as successful.

Mr. Rooker asked how they could determine the ridership and modeling without any kind of survey instrument. Ms. Rhodes responded that the model has TAZs, which include employment and population areas and was developed in consultation with Albemarle County staff, VDOT and City staff. She said the model picks up what ridership will be on that link, so for BRT and the US 29 corridor that goes down through UVA, the route removes 7, and they are seeing about 7,500 riders per day. Compared to other transit routes, that is considered tremendously successful.

Ms. Marie Scheetz said they worked with VDOT by using their data from 2010 and comparing it to what the model is generating, but they can't validate it. She said it takes a portion of the people living in the zones who are close enough to actually walk and access transit to develop their estimates and is based also on socio-economic data of those populations. Ms. Scheetz stated that currently the model is only taking walk-access people, so it's picking up those people who live within ½ mile walking distance.

Mr. Rooker stated that they're doing the most they can do with the tools available to them, but when they're talking about committing hundreds of millions of dollars of public investment, they need to be reasonably certain that they're going in a direction that will achieve the best transportation results for the money.

Ms. Scheetz said they can't guarantee that, in 2040, there would be 7,500 people taking transit, nor can they anticipate gas prices that could increase ridership. She stated that the best they can do is try to plan for what future conditions might be.

Ms. Mallek said Route 5 that goes through Barracks Road and loops around Georgetown Road is always packed, so that's a good indication that particular route should be kept.

Mr. Boyd asked if they had any current origination destination data available to them. Ms. Scheetz said they work closely with the City and County to estimate based on what they've seen from other similar employment centers, and there's also an ITE manual that predicts trips per day based on a number of factors such as type and size of development.

Mr. Boyd asked if they added a transit line from downtown to DIA, how would one know that's where the riders would come from, as many of them come from surrounding counties, etc.

Mr. Snow said it's important to keep in mind that this model is for 30 years down the road, and there's no way they can envision what it will ultimately be – but this is a starting point that provides a snapshot of what it could look like, and obviously it will change many times over the years.

Mr. Rooker said that, in order for any project to move forward, it must be in the long-range transportation plan, and it concerns him that a number of projects were eliminated without any intersection analysis being done. He stated that the real delays are caused at the intersections, so capacity-building by itself does not really indicate how quickly people are going to be moving from one place to another.

Ms. Rhodes stated that they realize the travel demand model is limited, and are doing their best to fill in the gaps because a long-term transportation plan should be holistic and should consider every aspect of the transportation system.

Mr. Boyd said that, at the Places 29 meeting several nights earlier, they had used Eugene, Oregon as a basis for creating a comparative model, and asked how much multi-modal transportation had been done in that community and how much of it was self-supporting versus supplemented.

Ms. Rhodes responded that she would have to look into that, and said that BRT is very expensive but has the benefit of being implemented incrementally. She stated that it would be a considerable investment for the community, so they would need to be sure they want to make transit investments. Ms. Rhodes said their analysis shows the US 29 corridor and the Pantops areas are worthy of transit investment.

Mr. Rooker said he wants to see a successful transit system implemented going forward, such as CAT, and not that many people live right on Route 29 – they live off of 29, so perhaps routes should be considered and modeled for the parallel routes. He stated that investing in BRT is a big investment decision, not an incremental one.

Ms. Rhodes stated that they haven't looked at BRT on parallel routes because it requires a dedicated lane, one that makes the most sense with the 29 corridor.

Mr. Rooker said he wasn't really referring to BRT, he was talking about decreased head times and expansion of routes that are more granular, and it might be worthwhile to look at those other options.

Ms. Rhodes continued with her summary, stating that there has been a lot of improvement at Pantops but they have to get the bus across the bridge so, if it has a dedicated lane, it accomplishes that and provides a better transit route. She stated that there is improvement on Route 5 with extension to the UVA Health Center, but it's basically gaining that ridership by taking it from other transit – so they're seeing more success with BRT in that area.

Ms. Rhodes said they are reviewing the third-round scenarios with the MPO committees and Board and the Planning Commissioners, and had a very successful public input event on September 28. She stated that they would now develop a draft preferred scenario and are also working with committee and staff to develop non-capacity project lists, and would have another public outreach event on October 23 to gather and discuss the preferred scenario, the draft version and these non-capacity project lists. Ms. Rhodes said they would later work to establish a draft project list, implement a fiscal constraint process, and then hold two public hearings prior to the plan approval in May.

Ms. Rhodes offered a preview of the intersection analysis they've been working on, stating that initially they had wanted to do an analysis focusing on both safety and level of service. Ms. Rhodes said that, for level of service for intersections, they are unable to find a data set that's pervasive enough to look at a regional scale for the long-range transportation plan. She stated that they have looked at intersection safety improvements, and they referenced crash data with intersection volume and compared the two. She said that they put the intersections at volume bins, with all intersections having a daily volume of 0-10,000 vehicles being one bin, 10,000-20,000 volume being another bin, etc. Ms. Rhodes said that, through this analysis, they've discovered a series of key intersections that have higher than average crash totals over five years for their volume bin, and they are listed in the materials provided. She said that the over 60,000 bin has the intersection of US 29 North and Hydraulic Road showing 145 crashes, and US 29 and Rio Road with 127 crashes over the last five years. Ms. Rhodes noted that this analysis doesn't include interchanges, only intersections.

Mr. Rooker said that the existing plan includes an interchange at Rio Road, and the environmental assessment done for the bypass shows that even if the bypass were built, Rio Road needs a grade-separated interchange to avoid operating at an "F" level of service. He stated that they modeled it only because it's actually in the plan, and clearly Hydraulic Road has the same problem so there must be some focus on how to deal with those two intersection problems as the community grows.

Mr. Boyd asked if Hillsdale Drive Extended would alleviate some of the traffic. Mr. Rooker responded that it would, and there has been some work done which shows that really tight interchanges are possible at the two intersections in question. He said Trader Joe's was actually required to set aside the property at that corner for an interchange and, if you're going to get bicycles and pedestrians across a 10-lane road, there needs to be some way to get over or under. Mr. Rooker commented that there are interchanges at Dairy Road, Park Street, Locust Avenue, etc., so whether or not the bypass is built those intersections are going to eventually need improvements – and not dealing with them in the long-range plan would be "a bad mistake."

Mr. Boyd asked if they had run a model that included extending Pantops Drive over the bridge, across the river, onto High Street, and what the impact that would be on the traffic. He said the Pantops widening of Route 250 was \$105 million, and it seems to him that extending Pantops Drive would be a cheaper approach and would take the traffic off of there.

Ms. Rhodes replied that, other than the original Eastern Connector modeling they did in the first round of scenarios, they have not modeled a bridge crossing across the Rivanna that included motor vehicles.

Mr. Rooker said the modeling at one point showed that 15,000-20,000 vehicles per day would use that route, and that has probably increased since the hospital was built there.

Mr. Boyd said it would take a lot of pressure off of Route 250.

Ms. Mallek stated that it's the perfect location for it.

Mr. Boyd said the road has been built right down to the shopping center, and he hoped the MPO would look at putting that on the docket.

Ms. Rhodes said they would bring the input to the CHART Committee, which would have an opinion on it; the MPO Technical Committee would have an opinion on it; and then it will go to policy board, but they need to be asked to do that.

Ms. Mallek clarified that the Board of Supervisors could make that request, because there certainly seems to be a big gap in the information that is available to them.

Ms. Mallek asked about Eastern Avenue in Crozet, stating that it was on the MPO's chart of things that had been removed and noting that there have been 4,000 additional dwellings from 2004 to 2008. Ms. Rhodes responded that they worked with the CHART Committee and the MPO Technical Committee,

and the decision of those committees was to designate Crozet Avenue, Sunset Avenue, Fontaine, and the Southern Connector as “local projects.” She said she would have to get back to the Board on why the change was made to not use MPO funds.

Mr. Rooker asked how cost estimations had been done to this point. Ms. Rhodes said that it would be refined with fiscal constraints in the next round, but what they’ve used for road projects and interchanges has been the VDOT planning level estimates spreadsheets – which is a process they built themselves, with one version for standard transit and one for bus rapid transit. She stated that they looked at national transit database data, and worked with CAT to develop it in house, with a significant amount of research.

Mr. Craddock commented that the Black Cat Road Bridge is supposed to be redone in the next year or two, and he has been blocked by tractor trailers that realize they shouldn’t try to cross it – and East Rivanna Volunteer Fire Company has trucks that can’t cross there either. He said that, even though it’s a rural area, it is really more of a residential area and, once this gets improved, there will be a lot of traffic cutting from I-64 over to Route 22. Mr. Craddock said Milton Road has a 45 mph speed limit, and the police have been amazed at the number and speed of cars that travel that road. He stated that increased speeds on that road would be a detriment, adding that he didn’t see any improvements slated for Route 20.

Ms. Rhodes said Route 20 South hasn’t been pushed forward because they haven’t seen a need in their analysis, and some of the projects being considered are somewhat juxtapose to what the road looks like now. She stated that the process is them asking questions and determining what they can do to make the transportation system more effective. She explained that by putting Milton Road at a higher speed and altering its structure so as to accommodate a higher speed would assist in relieving traffic on Route 53.

Mr. Rooker asked if they had used maps that show the current traffic volumes on the road network in the area when doing the modeling. Ms. Rhodes responded that they showed the 2010 base map in the January 2012 workshop, and they have forecasted population and employment to project the traffic volume through 2040. She agreed to send that information to Board members.

Ms. Mallek said there was discussion at one point that the 2010 census was going to provide origin destination type information and asked if that was part of the data used to form the models. Ms. Rhodes said the census does release a transportation planning package and that is typically used for models. She said it wouldn’t be used for the one they are working on because this model is already built, adding that they wouldn’t change the model’s direction based on that data.

The Board thanked Ms. Rhodes and recognized all of the work that went into developing the long-range plan.

Mr. Rooker commented that the public doesn’t understand why they have to weigh in on a package of projects under a scenario approach, so it would be helpful if people were given the ability to look at projects individually and rank them – especially since they are all funded separately.

Ms. Mallek said that ultimately it boils down to picking what is affordable.

Ms. Scheetz stated that it would be important to clarify that traffic volumes will vary greatly, depending on which other projects go into a scenario.

Mr. Rooker agreed, but said that projects are funded one at a time.

Mr. Snow stated that, based on the information presented today, he feels they should address the 5th Street Exit off of I-64, and begin to look at extending the parallel road at Pantops.

Ms. Mallek asked if there was any hope of VDOT changing their prescription against more interchanges along the I-64 stretch in Albemarle County, because they refused to allow others such as the one at Avon because it is less than three miles and they want to discourage local traffic from using it.

Mr. Benish pointed out that it’s really a Federal Highway Administration standard, not a VDOT standard and, in some areas, they are very close together. He said that the University had looked at it about three years ago and discussed it with VDOT and FHWA representatives and, at that time, they were doing the Area B study in the Fontaine area and actually hit a dead end on the possibility of an interchange on Sunset Avenue or Avon Street.

Mr. Rooker said that the people in the Glenmore area have talked about the idea of having another exit off of I-64 that’s east of Shadwell, and they seem to think it would take a lot of pressure off of Route 250. He asked if any studies had been done to see if that improvement should be considered.

Mr. Benish said they could probably take the work that was done to analyze the Black Cat Road interchange and how improvements there may affect traffic, but the conclusion was that there wasn’t a significant traffic benefit to upgrading that one.

Mr. Rooker said Mr. Boyd’s comment earlier about right of way acquisition to widen Route 250 was significant, because it would involve knocking down buildings and moving utilities, so the question is whether there are other ways to alleviate the pressure on the Rt. 250.

Agenda Item No. 13. Albemarle County Service Authority (ACSA) Update, Gary O'Connell.

The following memorandum was received from Mr. O'Connell:

Thank you again for the opportunity to let us bring the Board of Supervisors up to date on activities and issues at the ACSA. A lot has happened since our last report to you in late April. We continue to grow, serving nearly 18,000 utility accounts that serve nearly 68,000 water and sewer residents of Albemarle in the Urban area, Crozet and Scottsville. We continue to see our average household customer water usage slightly decline; we think this is a function of our tiered rate structure to encourage water conservation. New customer growth means we are seeing small increases year to year in overall water use.

Below are some highlights of current items for the ACSA:

1. **New Water Rates – Good News** – As a result of the ACSA Board adoption of the Budget and rates effective July 1, 2013, we were able to see a 1% decrease in the water and sewer bills for the average single-family household user (the largest majority of our customer accounts). We maintained the current water and sewer user fees for all our other customers (commercial and multi-family).
2. **Strategic Plan** – Since late last year, we have been working on a new Strategic Plan for the ACSA to look at issues to address in the future. We have held numerous workshops to gain involvement of our customers, community, Board and employees and their feedback. The Strategic Plan covers a five year timeframe (2013-2018). We have tried to incorporate into our plan the feedback and comments from the various groups that were involved in the strategic planning process. Our Vision statement I think summarizes what the ACSA seeks to achieve for our customers and community: “Serve and Conserve Today, Sustain for Tomorrow, and Protect Our Resources Forever.”

The proposed Strategic Plan has six theme areas for future emphasis over the next five years, and includes: Asset Management, Employees, Operations, Customer Service, Finance and Technology. We have incorporated into each of the theme areas communications with our customers, community partners, and our employees. For each of the six theme areas, there are major goals to achieve and strategies for action. These are summarized in the attached brochure. This is an ambitious Strategic Plan, but through the dedication we see in our staff at the ACSA we think this is achievable.

The ACSA Strategic Plan builds on our successes and accomplishments over our nearly 50 years of utility services and helps us to strategically plan for the future.

3. **Capital Projects** – Our planned Capital Improvements Program for the coming year totals nearly \$6 million. Below is a quick summary of the current status of some of these projects (for your information, I have attached a County Map by District showing the project locations):
 - **Facility Improvements - Fueling Station** – As part of our environmental management initiatives, we are replacing an obsolete fueling station with a new automated one that will meet all present day environmental regulations.
 - **Western Ridge – Foxchase Water Connection** – A new water line for Crozet that interconnects two parts of the system for improved water quality and emergency redundancy.
 - **Key West Water Main Replacement** - In final design phase and acquiring easements for the project. This new water line replaces deteriorating existing lines.
 - **St. George Avenue – Buck Road Water Main Replacement** – Large water line replacement project in Crozet that is nearly about 50% complete.
 - **Ashcroft Water Improvements** – A replacement project to remove deteriorating existing water lines, nearing completion. Another phase is the installation of replacement water tanks serving the area.
 - **Crozet Water Main Replacements** – A phased project to replace deteriorating water lines that are prone to leakage. This project is in the McCauley Street, Tabor and Hilltop areas. Design is complete and the project will be bid this coming month.
 - **Glenmore Water Tank** – Finalizing the land use agreement, then design will commence. Project for emergency redundancy.
 - **Ivy Road – Flordon Water Connection** – Part of West Leigh water system redundancy plan. At 50% design status on the project.
 - **Hardware Street Water Line Replacement** – Work nearing completion. Resolving a standing water issue in the ball field, and working with County Parks and Recreation on a joint project.
 - **Woodbrook Sewer Rehabilitation** – Project nearing completion to rehabilitate and repair sanitary sewer lines and manholes, and some pipe replacement. This is part of our overall efforts to remove infiltration and inflow (I/I – groundwater, rainwater) from our system to prevent sanitary sewer overflows.
 - **Oak Hill Sewer Phase 1** – Project completed to install new sanitary sewer lines to serve 53 households having septic field problems. Program utilized CDBG funding, administered by the Albemarle County Housing Office – a good partnership.
 - **Ednam Sewer System** – Evaluation study underway to identify needed system improvements or rehabilitation.
 - **Cumberland Road Water Main Replacement** – Project nearly complete.

- **Hollymead Waterline Replacement** – A multi-phased street by street replacement project. Derby Lane replacement recently completed, working now on Maiden Lane.
 - **SCADA** – A phased project to install computerized monitoring and controls on all our operating facilities including pump stations and water tanks.
4. **Connection Fees Policy** – The ACSA New Connections Policy is aimed at having new users and new development pay for their fair share of the total system costs necessary to serve their new needs. The new customer “buy-in” and connection fees help reduce the amount of user fees that ACSA must collect from current customers, the largest part of our customer base being residential use. The ACSA approach carefully calculates the current ACSA and RWSA water and sewer lines, and treatment plants “System Value” to determine what “buy-in” is financially needed to pay for the capacity for new water and sewer connections. The concept is that we have to have in place water and sewer facilities, and in advance finance the “capacity” (supply, treatment plants, pump stations, tanks, and lines) to be able to serve new development in the approved ACSA service area. The connection fees have the new development help pay the costs for the ACSA to be able to provide water and sewer service – the larger the development, the greater the capacity need, and consequently the larger the connection fee payments. This approach is standard water utility best practices where increased development is occurring. These are calculated on the basis of ERC’s (Equivalent Residential Connections), with commercial and multi-family units (apartments, larger commercial development, hotels) having the highest water and sewer utility needs, and consequently the highest new connection fees. In the end, it is a matter of “who” pays; is it the current customer or the new customer? Our Board believes and adopted a new connection fee approach that means the new customer is paying their fair share of connecting to the system, and in many cases, will increase capacity to accommodate their water and sewer needs for the future. This philosophy follows that “growth pays for growth.” Simply put, the ACSA New Connection Fees Policy is aimed at having new users and new development.
5. **Annual Drinking Water Report** – In June all our customers received the attached brochure. Our message is that our public drinking water quality continues to remain excellent. There are many ways we monitor our water, which is one of the most tested substances our customers consumes.
6. **Customer Newsletter** – Attached is our latest customer newsletter, The Pipeline that went out with the July bills. We provide this twice a year to keep our customers informed and connected to our water and sewer services here at the ACSA.

Mr. O’Connell addressed the report, stating that ACSA had a 1% rate decrease effective July 1 for average single-family residential customers, which is unusual when compared to other utility companies around the country. He said that ACSA has very fair rates for customers on both water and sewer.

Mr. O’Connell said they’ve been working on a strategic plan for a long time, and they’ve tried to involve customers, community partners, employees and their board to provide input on a 20-year plan and a 5-year plan. He stated that they revised their vision statement to say, “To serve and conserve today, sustain for tomorrow, and protect our resources forever.” He said there are six theme areas – asset management, employees, operations, customer service improvements, long-term financial items, and application of technology. Mr. O’Connell stated that there’s a major piece in the plan regarding communications – both internally and to the community – and there are 140 total action items in the plan.

Regarding capital projects, Mr. O’Connell said that they have 22 projects overall and a \$6 million capital improvements program, and he has provided a map of all the projects by district. He said completed projects include Ashcroft waterline replacement with work still happening on the tanks there, the Hardware Street water line replacement in Scottsville, the Woodbrook sewer rehabilitation project, the Oak Hill sewer project, the Cumberland Road waterline replacement project in West Leigh, and another waterline replacement at Derby Lane in Hollymead.

Mr. O’Connell reported that projects in progress include St. George Avenue, Buck Road in Crozet, Crozet water main improvements on McCauley-Tabor hilltop, Ivy Road Flordan water connection, the Ednam sewer study for rehabilitation, and SCATA computerized controls on all of their facilities (pump stations, etc.).

Mr. O’Connell said that new CIP projects about to commence are some environmental management initiatives onsite for stormwater protection, a new fill facility, a new wash facility, Western Ridge, Fox Chase, waterline interconnections, and water quality and emergency redundancy that makes the connection in Crozet. He said the Key West waterline replacement would go to bid in October, and they are starting design on the Glenmore water tank.

Regarding connection fees, Mr. O’Connell reminded the Board that it’s a policy of “growth paying for growth,” aimed at having new users and new development pay their fair share of the total system costs necessary to serve their new needs – to have the capacity in place to be able to handle new development. He said that the specific question he was asked about was payment and payment plans, and the ACSA allows a prepay that can be paid upon the approval of a project – which in some cases can be several years – and they do that to fit their budget and to predict costs. Mr. O’Connell said that connection fees are not typically due until the end of a project, when the meter is set. He stated that the meters control payment, and there’s state law which sets up payment schedules - once the meter is in place, there are

some legal difficulties with liens and such if someone were to skip payment. Mr. O'Connell said that he has looked at other utilities around the state that have done this, but he hasn't found one yet.

Ms. Mallek asked if there was something due at the building permit stage. Mr. O'Connell replied that there is not, and the ACSA Board has put an option in to allow the developer to make the payment and sort of "freeze it," but it's not actually due until the meter is set.

Mr. Rooker asked when the connection fee would be due in the case of a development with multiple townhouses. Mr. O'Connell replied that it would depend on how the meters are set up, and most of the larger developments would have a larger meter. He stated that the meter installation happens at the end of a project when the construction is nearly finished, and all of the water and sewer lines are in place. He said, at that point, ACSA would install the meter, but would have the connection fee in hand. Mr. O'Connell said it is rare but the ACSA has run into situations where the fee hasn't been paid at the appropriate time, so ACSA has had to work with the developers to get the fees paid so that people can move in.

Ms. Mallek said she appreciate that the Service Authority is careful to plan ahead and keep a nest egg for future capital projects, and wants to make sure the rates are sufficient to support that.

Mr. O'Connell also said that the Rivanna Authority staff have done a good job of projecting future projects that might have a rate impact on customers.

Mr. Boyd said he was interested to see that, even though demand is up overall, individual usage is still going down – which is good for the community. Mr. O'Connell stated that there is a trend of 1%-1.5% per year downward.

Mr. Snow said he thought that might be due to the wet weather this year, as people are not watering their gardens and lawns as much. Mr. O'Connell said it's really a trend that's longer than that over time, and he believes it's partly because of the conservation rates in place.

Mr. Snow asked if replacing old pipes was also helping in the use of less water. Mr. O'Connell responded that it was, both in people's houses and in the overall systems. He said they've done a lot of work in determining leak detection and replacement of leaky water lines. He said changing out old toilets for newer ones can provide a 40% water reduction almost overnight.

Mr. O'Connell stated that he had sent the Board a copy of the ACSA's drinking water report issued every June, which includes all the tests that Rivanna conducts and informs consumers that the water quality is very good adding that the new GAC treatment will improve that quality even further. Mr. O'Connell said they send a newsletter out to customers twice per year, to inform them of things like rebate programs, etc., and they are starting to convert those to electronic formats also.

Ms. Mallek asked if the strategic plan includes a line item regarding the resiliency of the remote pump stations, which are vulnerable to electric failure. Mr. O'Connell said they have 24 pump stations and are trying to have emergency generators at each one of them. He added that there is a regional emergency plan being established by the 911 Communications Center that would help bring together the different utilities, how to work together, share different equipment during emergencies, etc.

Agenda Item No. 14. Rivanna Water and Sewer Authority (RWSA) Update, Tom Frederick.

The following memorandum was received from Mr. Frederick:

"I plan to cover the following topics, but would be happy to address any other issues brought forward by the elected officials:

1. Water Treatment Plant Granular Activated Carbon Improvements: In my last quarterly report, I defined the meaning of "hybrid GAC" options, a locally "coined" term of which I believe our elected officials are now familiar. Our engineer is completing their analysis of options and a presentation introducing the hybrid alternatives will be scheduled for our September 24, 2013 RWSA Board meeting. We will at that time also discuss with the Board a strategy for receiving public comment, leading up to a scheduled Board decision in November. The decision does not need to be delayed longer, as RWSA is on a schedule enforced by the Virginia Department of Health. I would suggest that elected officials with ideas on how the public input should be obtained please discuss those ideas with their RWSA Board representative.
2. Board Retreat: The RWSA and RSWA will hold a joint retreat at City Space on the downtown mall on Wednesday, October 30, 2013 from 8:00 am until 11:30 am, and the RWSA Board will move its regular monthly meeting from October 22 to immediately following the retreat at 11:30 am. The main focus of the retreat will be strategic planning issues, including some discussion of governing the Authorities in a political atmosphere where the local governments sometimes do not agree, a discussion on mission and vision statements, and a plan for improving public education and communications. The services provided by the Authorities are basic to our community and often taken for granted, yet our core services are heavily regulated by state and federal agencies and therefore must be properly operated and maintained. The RWSA in particular has adopted some recent value added services not offered by most utilities who are compared as our peers, those services being in response to

public advocacy as opposed to staff recommendations, to include: (1) granular activated carbon over chloramines (up to \$13 million added, depending on future hybrid chosen); (2) relocating the Rivanna Pump Station by means of a 1/3-mile long and 8-foot diameter tunnel (\$13 million added); a budget for partial dredging of the South Fork Reservoir (\$3.5 million added); and (4) wholesale metering to enforce a City/ACSA cost share agreement (possibly \$6.4 million added). With this high degree of discretionary capital spending, and a new request now before elected officials from "The Center for Natural Capital" that we believe has substantial upfront costs, the water and wastewater utilities could face the risk of substantial future public criticism regarding the cost of service. I do not advocate we turn back on obligations we have made on GAC or the Rivanna Pump Station, but as the Board holds a retreat I believe a discussion on first doing the basics and core or our responsibilities well is important (and consistent with the principles of the County's Comprehensive Plan). In my position, I have tremendous flexibility for added responsibilities that our Board or elected officials direct if those who direct us also accept responsibility to defend the added costs; I understandably have little patience for efforts to starve us of those necessary resources vital to providing reliable core service and meeting regulatory requirements, and will speak out when I believe that is being considered.

I also believe it is important that we hold down costs associated with settling County/City differences. From the citizen perspective, those costs do not provide any benefit to the quality of utility service.

3. Dredging: Speaking of dredging, RWSA recently received a letter from Orion Marine that they will not be able to secure a reasonable contract to commit land near the South Fork Reservoir for processing dredged sediment, therefore, they will not submit a Detailed Phase Proposal. As the only firm with a responsive proposal out of three at the PPEA Concept Phase, this leaves us without a path forward. The Board will discuss this issue in September. PPEA was introduced as a way to allow dredging contractors the flexibility to design/build their own ideas, which some citizens in our community during the "dam debate" suggested would lead to substantial contractor interest and "much" lower costs. Neither has proven true. If there is still a desire to perform dredging, it may be necessary to purchase some public land for processing sediment, which could be acquired by eminent domain if necessary.
4. Ragged Mountain Dam: Construction is still on schedule toward a target completion date of March 2014. RWSA is completing arrangements for the contracting this fall of a new metered release structure for the Sugar Hollow Reservoir to implement the promised improvements in flow releases to the Moormans River that will come as the new Ragged Mountain Reservoir is being filled.
5. Cost Share Agreements: The City and ACSA have agreed to mediate their differences in interests on how to split the cost of the Rivanna Pump Station at a September 27, 2013 conference, and the mediator (Mr. Mark Rubin of the McCammon Group) has asked RWSA to participate. We do so as a neutral party from a basis of how the ACSA and City split cost, though are willing to suggest ideas to help stimulate creativity and help find an agreement. We have described two interests: (1) that agreement be reached so the financing and construction of the new Rivanna Pump Station experiences no delay, as the schedule is tight to meet legal mandated deadlines from Virginia DEQ; and (2) that the cost share arrangement not be disproportionately costly to implement.
6. Ivy Materials Utilization Center and McIntire Recycling: At the request of the Board of Supervisors, the RSWA Board has approved amendments to the local government support agreements for these services to extend through June 30, 2014, provided RSWA can maintain adequate labor. Our Executive Assistant, Candice Jones, is coordinating with the County and City Clerks to schedule these items for City and County approval. With a pending reduction in force of some magnitude now likely for July 1, 2014 and being discussed publicly months in advance, retaining an adequate workforce may be significantly challenging, and the RSWA Board recently requested that City, County, and ACSA Human Resource Directors work with RWSA in a joint effort to assist personnel in retention incentives, job training, and placement into new positions. We are grateful in anticipation that joint cooperation will occur.

For Albemarle County, it should be noted that since the Ivy MUC was downscaled in July with Waste Management no longer using the facility, tonnage is about 25% higher than we had anticipated, and we are still receiving a substantial number of residents (not businesses) self-hauling solid waste in quantities not easily handled by conventional convenience centers without scales. Many of these residents also pay cash and fear that they will have no options next July (most private sector transfer/disposal/recycling facilities do not accept cash). We would suggest it is important that the County address this in their plans for July 2014.

Mr. Frederick addressed the Board, stating that the RWSA expects an engineering report on the granular-activated carbon (GAC) project to come before their board later in September, and they are pushing for a decision on the system in November. He said that Rivanna staff would also discuss with their board how to have public input, and they may follow the traditional approach of having a facilitator

and doing a presentation with questions. Mr. Frederick stated that he is not hearing the same kind of concern with different hybrid GAC options, as there was with the chloramines discussion.

Mr. Rooker said he hasn't heard a single person mention it.

Ms. Mallek stated that that's based upon the fact that people think they're generally going GAC, and there's a huge education gap which is why people are being quiet. She said that if they felt Rivanna was back-pedaling, there would be an immediate uproar.

Mr. Rooker said people complained about chloramines, not the hybrid approach.

Mr. Snow said they had always talked about the hybrid.

Mr. Rooker said the Board talked about the hybrid approach in the meeting where the decision was made and both City Council and the Board agreed to have that as an option.

Mr. Frederick stated that the issue remaining now for public discussion is whether the Board wants GAC to treat all of the water only seasonally or blend it – as the one negative being its expensive cost and process, both capital and operating. He said one strategy would be to go ahead and build the capital facilities and then try to regenerate the carbon less often, which is a big operating expense by not running it all the time.

Mr. Frederick reported that there would be a joint board retreat in late October at City Space would be open to the public. He said there are several decisions the Board has made in the last few years to spend money because there was a desire to have something above and beyond what peers in other communities have, so the Board should expect to pay more for that particular service. Mr. Frederick emphasized that there are very few places to cut because RWSA is a heavily regulated industry. He pointed out that most shifts at the water plants provide one certified operator to filter water as is mandated by the state.

Mr. Frederick stated that he has significant concerns about how the proposal for planting trees is represented from a financial standpoint, and he has told Mr. Collins several times that he needs to be transparent about those costs – but thus far, he has fallen short on that aspect. Mr. Frederick said that Mr. Collins is talking about allocating a portion of a base rate that doesn't exist, without really telling you that. Mr. Frederick also said that Mr. Collins is suggesting that planting trees over time can be as cheap as dredging, but there's only a budget of \$3.5 million for one-time dredging and a program, as described, would add substantially to the wholesale rates Rivanna would charge. He urged to Board to listen carefully to Mr. Collin's report and keep those facts in mind. He also said that the RWSA does not have the staff to administer this plan, and they do not currently have the expertise needed. Mr. Frederick reported that Rivanna tried a PPEA approach to dredging the South Fork, and actually have gone far enough now to know that it didn't work and they may need to take more of a traditional approach – which may mean Rivanna purchasing the property for processing the sediment.

Mr. Frederick reported that the Ragged Mountain Dam project is on schedule, and they are planning for a March 2014 dedication. He also said they are well on their way to getting the structures and metering put in place on the Moorman's River so flows can be increased there on a more natural cycle once the dam is complete. Mr. Frederick stated that there is a mediation conference later in the month regarding the Rivanna Pump Station, involving how much the ACSA and City would pay to have Rivanna build the project. He said RWSA considers itself to be a neutral party, but they must not allow themselves to delay the project because it is on a state consent order compliance schedule. He said that they hope to find a way to implement a cost-share agreement that doesn't add a lot of additional costs for things such as metering.

Mr. Rooker asked if there was any discussion of having either binding mediation or arbitration so everyone would agree to move forward. Mr. Frederick responded that Rivanna came in after the decision was made to do voluntary mediation, and they did not participate in making that decision. He said that the six-month extension the Board had requested for the Ivy Materialization Center has gone through the Solid Waste Authority Board and would be on the County and City agendas in the near future. Mr. Frederick stated that they are referring citizens to General Services, adding that there are still a number of self-haulers who bring large loads of trash and those folks who do so are concerned about the future.

Ms. Mallek said that perhaps there could be a pick-up load fee, and asked if the trash that is coming in is bagged.

Mr. Frederick said that a lot of the trash is not bagged and they pay because they cross scales so, if scales are not there, they will need to change their habits and their way of disposing of trash. He said some education from the County would be helpful, however, Rivanna staff are hearing some uncertainty from the public.

Mr. Foley said he would make sure staff follows up, and this would be on the Board's agenda in October.

Ms. Mallek asked if vegetative waste used for compost would be able to continue as far as the landfill is concerned. Mr. Frederick responded that RSWA will only provide services that the County or City is willing to contract for and, currently, they have an extension through June 30th but nothing after that. He said that, if there is not going to be a regional authority program after June, the County will need to figure out an alternative for household hazardous waste disposal and amnesty days as well.

Mr. Boyd asked Mr. Frederick if he would come back later in the afternoon for the item related to planting trees versus dredging.

Ms. Mallek said that her understanding of the request was not to assign Rivanna staff to do it.

Mr. Craddock stated that he was already receiving calls about the potential satellite trash sites around the County, but Board members said it was the County's issue at this point.

Mr. Foley reiterated that it would come before the Board in October.

(Due to time constraints, Agenda Item No. 15 was moved to the afternoon portion of the agenda.)

Agenda Item No. 16. Closed Meeting.

At 12:58 p.m., Mr. Craddock offered **motion** that the Board go into Closed Meeting pursuant to Section 2.2-3711(A) of the Code of Virginia under Subsection (1) to consider appointments to boards, committees, and commissions in which there are pending vacancies or requests for reappointments. Mr. Snow **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

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

NAYS: None.

Agenda Item No. 17. Certify Closed Meeting.

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

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

NAYS: None.

Agenda Item No. 18. Boards and Commissions: Vacancies/Appointments.

Mr. Snow then offered **motion, seconded** by Ms. Mallek, to reappoint Ms. Frances Hooper and Mr. Raymond East to the JAUNT Board with said terms to expire September 30, 2016. Roll was called and the motion carried by the following recorded vote:

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

NAYS: None.

(Note: The Board next took up Agenda Item No. 21.)

Agenda Item No. 21. **Pubic Hearing:** To consider the approval of a proposed **Lease Agreement with Crozet Running, LLC** for 1,697 square feet of space on the ground floor of the new Crozet Library, located at 2020 Library Avenue, Crozet, VA 22932 (TMP 056A2-01-00-01800). (*Advertised in The Daily Progress on August 26, 2013.*)

The executive summary states that on July 3, 2013, the Board directed staff to move forward on several tracks regarding use of the first floor space at the new Crozet library. Specifically, the Board endorsed the blending of a proposed retail operation that would generate significant community and visitor interest and engagement with a tourism-oriented use in the remaining space on the first floor. Staff has negotiated terms of a proposed lease with a private sector tenant for a portion of the space. Virginia Code § 15.2-1800 requires that the County hold a public hearing prior to the lease of County property.

The Office of Facilities Development issued a Request for Proposals (RFP) to assess the possibilities of a private sector venture that could meet the criteria established for use of the space, which included: creating foot traffic/pedestrian activity for downtown Crozet, creating a lively street front presence for this important frontage on Crozet Avenue, and ensuring that space usage would be compatible with the library's mission and operations. The first floor space is designed to allow the space to be divided into two independent use areas. The RFP process resulted in a proposal for a retail use that would occupy the larger (1,697 gross square feet) space at fair market rental value and would meet all of the established criteria.

The attached proposed lease (Attachment A) between the County and Crozet Running, LLC includes the following provisions:

- The proposed lease would have an initial five-year term, beginning on October 1, 2013, unless sooner terminated or extended, and may be renewed for an additional period as may be mutually agreed;
- After October 1, 2014, either party may terminate the lease upon 90 days advance written notice to the other party; and
- The County would provide water, sewer, electricity, and heating and cooling as part of Tenant's rent, as well as custodial services to common areas.

The attached proposed lease has been signed by Crozet Running, LLC and has been approved as to form and substance by the County Attorney's Office.

If the Board approves the attached lease, staff would proceed with finalizing details for the tourism-related use proposed for the other space on the first floor of the new library.

The lease is expected to generate \$31,479 during the first year (from October 1, 2013 to September 30, 2014). This amount equates to \$18.55 per gross square foot. That amount would be indexed for inflation for subsequent lease years.

After the public hearing, staff recommends that the Board adopt the attached Resolution (Attachment B) authorizing the County Executive to sign the proposed lease, in a form approved by the County Attorney, on behalf of the County.

Ms. Lee Catlin, Assistant to the County Executive for Community and Business Partnerships, addressed the Board, stating that this agreement is a proposed lease for the first floor space of the Crozet Library. She stated that, in July, the Board directed staff to move forward on several tracks regarding use of the first floor space and to go forward with an RFP for a potential retail operation as well as exploring the possibility of a tourism destination in part of the space. Ms. Catlin stated that Crozet Running, LLC is a private sector tenant proposing to lease a portion of the downtown space in the library. She stated that the Office of Facilities Development had issued an RFP to see what kind of private sector venture might come forward that could meet the established criteria for use of the space, including things such as creating foot traffic and pedestrian activity for downtown Crozet, creating a lively street front presence, and ensuring that the usage would be compatible with the library's mission.

Ms. Catlin said staff is very pleased that the RFP process resulted in a use that is entirely complimentary to all the goals the Board put forward, and will mesh nicely with a tourism activity in the remaining space. She stated that the proposed lease has an initial five-year term beginning on October 1, 2013 unless sooner terminated or extended, and may be renewed for an additional period as mutually agreed upon. After October 1, 2014, she said either party may terminate the lease upon 90 days advanced written notice to the other party, and the lease stipulates that the County would provide water, sewer, electricity and heating and cooling as part of the rent, as well as custodial services to common areas. She said the lease that is now before the Board has already been signed by Crozet Running and approved by the County Attorney's Office and, if the Board approves the lease today, staff will proceed with finalizing details for the tourism-related use for the remainder of the space.

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

Mr. Snow said the Board was excited to have Crozet Running in that space.

Ms. Mallek then **moved** to adopt the proposed resolution authorizing the County Executive to sign the proposed lease, in a form approved by the County Attorney, on behalf of the County. Mr. Snow **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

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

NAYS: None.

**RESOLUTION TO APPROVE AN AGREEMENT OF LEASE
BETWEEN ALBEMARLE COUNTY AND CROZET RUNNING, LLC.**

WHEREAS, the Board finds it is in the best interest of the County to lease a portion of the space on the first floor of the new Crozet Library, located at 2020 Library Avenue, Crozet, VA 22932 (TMP 056A2-01-00-01800), to Crozet Running, LLC.

NOW, THEREFORE, BE IT RESOLVED that the Albemarle County Board of Supervisors hereby authorizes the County Executive to execute an Agreement of Lease between the County of Albemarle and Crozet Running, LLC., in a form approved by the County Attorney.

AGREEMENT OF LEASE

THIS LEASE AGREEMENT is made as of August 14, 2013 by and between the COUNTY OF ALBEMARLE, VIRGINIA, Landlord, and CROZET RUNNING, LLC, Tenant.

ARTICLE I. PREMISES AND IMPROVEMENTS

In consideration of the rents and covenants herein set forth, Landlord hereby leases to Tenant, and Tenant hereby rents from Landlord, the premises described on Exhibit A attached hereto and made a part hereof together with any and all improvements thereon (the "Leased Premises"). The Leased Premises shall be occupied by Crozet Running, LLC.

ARTICLE II. TITLE: QUIET ENJOYMENT

So long as Tenant is not in default hereunder, Tenant shall have peaceful and quiet enjoyment, use and possession of the Leased Premises without hindrance on the part of the Landlord or anyone claiming by, through, or under Landlord.

ARTICLE III. TERM

Section 3.1. Commencement and Expiration. The term of this Lease Agreement shall begin on the 1st day of October, 2013 (the "Effective Date"), and end on the fifth anniversary of the Effective Date, unless sooner terminated or extended as hereinafter provided. The foregoing notwithstanding, after October 1, 2014, either party may terminate this Lease upon ninety (90) days advance written notice to the other party.

Section 3.2. Renewal. This Lease may be renewed for an additional period as may be mutually agreed by the Landlord and Tenant. If renewal is not agreed upon by the Landlord and Tenant, this Lease shall expire upon expiration of the initial term.

ARTICLE IV. RENT AND TAXES

Section 4.1. Annual Rent. Commencing upon the Effective Date, during the first year of this Lease, Tenant agrees to pay to Landlord annual rent of \$31,479.35, payable in equal monthly installments, in advance, on the first day of each month during the term hereof.

After the first year of this Lease, the rent for subsequent years of the term of the Lease shall be indexed for inflation and shall be calculated by first establishing a fraction, the numerator of which shall be the level of the CPI Index (as defined herein) as of the first day of that month which is two months before the month in which the Effective Date occurs in the subsequent years, and the denominator of which shall be the level of the CPI Index as of the first day of that month which is two months before the initial Effective Date. The resulting fraction shall be multiplied by the rent agreed upon or established for the first year of the term of the Lease to determine the annual rent due for the year. The rental figure shall be revised each year based upon this formula. The CPI Index shall be the U.S. Bureau of Labor Statistics Consumer Price Index (all items, all urban consumers, 1982-1984 = 100). If the CPI Index shall be discontinued, Landlord shall designate an appropriate substitute index or formula having the same general acceptance as to use and reliability as the CPI Index and such substitute shall be used as if originally designated herein. Notwithstanding the foregoing, in no event shall the rent due for any lease year decrease below the rent payable for the first year.

Section 4.2. Address for Rent Payment. All payments of rent due Landlord pursuant to Section 4.1 shall be made to Landlord at the address specified in Section 17.3, or to such other party or at such other address as hereinafter may be designated by Landlord by written notice delivered to Tenant at least ten (10) days prior to the next ensuing monthly rental payment date.

Section 4.3. Taxes. Throughout the term of this Lease, Tenant shall pay all real property taxes lawfully assessed against its leasehold interest by the County of Albemarle pursuant to *Virginia Code* § 58.1-3203. Such taxes shall be billed to the Tenant and paid by the Tenant directly to the County of Albemarle.

ARTICLE V. UTILITIES AND SERVICES

Landlord shall provide water, sewer, electricity, and heating and cooling services as part of Tenant's rent. Landlord shall further provide custodial services (to common areas only) and arrange for the regular collection of a shared dumpster as part of Tenant's rent. Tenant shall exercise reasonable and responsible care to conserve these utilities. The Tenant agrees that the monthly rent stipulated above may be adjusted to reflect any change in the cost to the Landlord of providing those utility services above. The Landlord shall provide the Tenant with prompt notice of any such change, and shall make available evidence of its actual utility costs. Tenant shall provide telephone, custodial, and all other services to the Leased Premises.

ARTICLE VI. USE OF PROPERTY

Section 6.1. Permitted Use. Tenant shall have use of the Leased Premises for a retail running shop business or other use approved by Landlord in writing and not inconsistent with Landlord's Library use. Tenant shall also have use of the elevators and main entry corridors during Library operating hours, and of the shared entrance from Crozet Avenue at all times, which areas will not be calculated in the gross square footage for rental purposes.

Section 6.2. Parking. Tenant shall be entitled to non-exclusive use of parking spaces in the parking lot and access to the Leased Premises.

ARTICLE VII. ALTERATIONS, IMPROVEMENTS, FIXTURES AND SIGNS

Section 7.1. Installation by Tenant.

(a) Tenant may, from time to time, make or cause to be made any interior non-structural alterations, additions or improvements which do not damage or alter the Leased Premises, provided that Landlord's consent shall have first been obtained in writing, and provided that Tenant shall obtain all required governmental permits for such alterations, additions or improvements.

(b) Tenant may, from time to time, make interior structural alterations, additions or improvements, only with Landlord's prior written consent to plans and specifications therefore, which consent shall not be unreasonably withheld. Upon the expiration or sooner termination of this Lease, Landlord shall have the option (exercisable upon sixty (60) days notice to Tenant except in the case of a termination of this Lease due to a default by Tenant, in which case no such notice shall be required) to require Tenant to remove at Tenant's sole cost and expense any and all improvements made by Tenant to the Leased Premises or to elect to keep such improvement as Landlord's property. In the event Tenant is required to remove any improvements, (i) Tenant shall be responsible for the repair of all damage caused by the installation or removal thereof, and (ii) if Tenant fails to properly remove such improvements or provide for the repair of the Leased Premises, Landlord may perform the same at Tenant's cost and expense.

Section 7.2. Signs. Tenant shall have the right to place signs on the interior or exterior of the Leased Premises, subject to all applicable zoning and sign regulations and with the prior written approval of Landlord.

ARTICLE VIII MAINTENANCE OF LEASED PREMISES

Section 8.1. Maintenance. Landlord shall be responsible for all repairs and maintenance for the Leased Premises, whether ordinary or extraordinary, structural or non-structural, foreseen or unforeseen, including, but not limited to, plumbing, heating, electrical, air conditioning, plate glass and windows. Notwithstanding the foregoing, Tenant shall be responsible for all maintenance and repairs necessitated by the negligence of Tenant, its employees and invitees.

Section 8.2. Right of Entry. Landlord reserves the right for itself, its agents and employees to enter upon the Leased Premises at any reasonable time to make repairs, alterations or improvements; provided, however, that such repairs, alterations, or improvements shall not unreasonably interfere with Tenant's operations. Such right to enter shall also include the right to enter upon the Leased Premises for the purposes of inspection.

Section 8.3. Surrender of Leased Premises. At the expiration of the tenancy hereby created, Tenant shall surrender the Leased Premises and all keys for the Leased Premises to Landlord at the place then fixed for the payment of rent and shall inform Landlord of all combinations on locks, safes and vaults, if any, which Landlord has granted permission to have left in the Leased Premises. At such time, the Leased Premises shall be broom clean and in good condition and repair, commensurate with its age. If Tenant leaves any of Tenant's personal property in the Leased Premises, Landlord, at its option, may remove and store any or all of such property at Tenant's expense or may deem the same abandoned and, in such event, the property deemed abandoned shall become the property of Landlord.

ARTICLE IX. INSURANCE

Section 9.1. Liability Insurance of Tenant. Tenant covenants and agrees that it will, at all times during the term of this Lease, keep in full force and effect a policy of public liability and property damage insurance with respect to the Leased Premises and the business operated by Tenant and any sub-tenants of Tenant on the Leased Premises in which the limits of public liability for bodily injury and property damage shall not be less than One Million Dollars (\$1,000,000) per accident, combined single limit. The policy shall name the Landlord as an additional insured. The policy shall provide that the insurance thereunder shall not be cancelled until thirty (30) days after written notice thereof to all named insureds.

Section 9.2. Fire and Extended Coverage. Landlord agrees that it will, during the initial and any renewal term of this Lease, insure and keep insured, for the benefit of Landlord and its respective successors in interest, the Leased Premises, or any portion thereof then in being. Such policy shall contain coverage against loss, damage or destruction by fire and such other hazards as are covered and protected against, at standard rates under policies of insurance commonly referred to and known as "extended coverage," as the same may exist from time to time. Landlord agrees to name Tenant as an additional insured on such policy, as its interest may appear. Tenant shall be responsible for insuring its personal property (including its equipment and inventory) kept on the Leased Premises.

Section 9.3. Evidence of Insurance. Copies of policies of insurance (or certificates of the insurers) for insurance required to be maintained by Tenant and Landlord pursuant to Sections 9.1 and 9.2 shall be delivered by Landlord or Tenant, as the case may be, to the other upon the issuance of such insurance and thereafter not less than thirty (30) days prior to the expiration dates thereof.

Section 9.4. Waiver of Subrogation. Tenant hereby releases the Landlord from any and all liability or responsibility to Tenant or anyone claiming through or under it, by way of subrogation or otherwise, from any loss or damage to property caused by any peril insured under Tenant's policies of insurance covering such property (but only to the extent of the insurance proceeds payable under such policies), even if such loss or damage is attributable to the fault or negligence of Landlord, or anyone for whom Landlord may be responsible; provided, however, that this release shall be applicable and in force and effect only with respect

to loss or damage occurring during such time as any such release shall not adversely affect or impair the releasor's policies or insurance or prejudice the right of the releasor to recover thereunder.

ARTICLE X. WASTE, NUISANCE, COMPLIANCE WITH
GOVERNMENTAL REGULATIONS

Section 10.1. Waste or Nuisance. Tenant shall not commit or suffer to be committed any waste or any nuisance upon the Leased Premises.

Section 10.2. Governmental Regulations. During the term of this Lease, Tenant shall, at Tenant's sole cost and expense, comply with all of the requirements of all county, municipal, state, federal and other applicable governmental authorities, now in force, or which may hereafter be in force, pertaining to the Leased Premises or Tenant's use and occupancy thereof.

ARTICLE XI. FIRE OR OTHER CASUALTY

If the Leased Premises shall be damaged so as to render the Leased Premises untenable by fire or other casualty insured against under the insurance required to be carried by Landlord pursuant to Section 9.2, Landlord may elect to either terminate this Lease as of the date of damage or repair the Leased Premises. Unless Landlord elects to terminate this Lease, such damage or destruction shall in no way annul or void this Lease except that Tenant shall be entitled to a reduction of the rent payable under Article IV while such repairs are being made, such reduction to be based upon the proportion of the Leased Premises rendered untenable as a result of such damage. Notwithstanding the foregoing, if any damage or destruction from any cause whatsoever has not been repaired and such repairs have not commenced within one hundred eighty (180) days of the date thereof, Tenant may, as its exclusive remedy, terminate this Lease upon thirty (30) days written notice to Landlord.

ARTICLE XII. DEFAULT OF TENANT

Section 12.1. Default. The occurrence of any of the following shall be deemed a "default" under this Lease:

(a) Tenant fails to pay when due any amount of rent, additional rent or other monies due under this Lease, including Articles IV and V, and such payment is not received by Landlord within ten (10) days after written notice of such failure is received by Tenant; or

(b) a default in any of the other provisions of this Lease, and such default continues uncured for a period of thirty (30) days after written notice thereof from Landlord.

Section 12.2. Remedies. In the event of any default or breach hereof by Tenant, Landlord shall have the right (in addition to all other rights and remedies provided by law) to terminate this Lease or to re-enter and take possession of the Leased Premises, peaceably or by force, and to remove any property therein without liability for damage to and without obligation to store such property, but may store the same at Tenant's expense, and to collect from Tenant all rent then due and which would accrue for the unexpired portion of the term hereof, together with reasonable attorney's fees. In addition, in the event of a failure to pay rent, additional rent or other money within five (5) days of its due date, Tenant shall pay to Landlord the greater of Twenty-Five and no/100 Dollars (\$25.00) or one half (1/2) of one percent (1%) of such sum for each day after the fifth day such rent or other money is late.

ARTICLE XIII. HOLDING OVER, ASSIGNS, SUCCESSORS

Section 13.1. Holding Over. Any holding over after the expiration of the term hereof, with the consent of Landlord, shall be construed to be a tenancy from month-to-month at the same rent herein specified (prorated on a monthly basis) and shall otherwise be on the terms and conditions herein specified as far as applicable. If Tenant remains in possession *without* Landlord's consent after expiration of the term of this Lease Agreement or its termination, the Tenant shall pay to Landlord its damages, reasonable attorney's fees and court costs in any action for possession. Tenant shall pay to Landlord as liquidated damages a sum equal to 200% of the Base Rent then applicable for each month or portion thereof Tenant shall retain possession of the Premises or any part thereof after the termination of this Lease.

Section 13.2. Showing the Leased Premises. During the last ninety (90) days of the term hereof, Tenant shall allow Landlord, or its agents, to show the Leased Premises to prospective tenants or purchasers at such times as Landlord may reasonably desire.

Section 13.3. Successors. All rights and liabilities herein given to, or imposed upon the respective parties hereto, shall extend to and bind the heirs, executors, administrators, successors and permitted assigns of the parties. All covenants, representations and agreements of Landlord shall be deemed the covenants, representations and agreements of the fee owner from time to time of the Leased Premises and Landlord shall be automatically released of all liability under this Lease from and after the date of any sale by Landlord of the Leased Premises. All covenants, representations and agreements of Tenant shall be deemed the covenants, representations, and agreements of the occupant or occupants of the Leased Premises.

ARTICLE XIV. BROKER'S FEES

Tenant and Landlord hereby warrant that there are no brokerage commissions due in connection with this Lease.

ARTICLE XV. NO ASSIGNMENT

Tenant shall not assign this Lease or sublet all or any portion of the Leased Premises, either directly or indirectly, without the prior written consent of Landlord. No assignment, sublease or transfer of this Lease by Tenant shall (i) be effective unless and until the assignee, subtenant or transferee expressly assumes in writing Tenant's obligations under this Lease, or (ii) relieve Tenant of its obligations hereunder, and Tenant shall thereafter remain liable for the obligations of the Tenant under this Lease whether arising before or after such assignment, sublease or transfer.

ARTICLE XVI. SUBORDINATION OF LEASE

This Lease and all rights of Tenant hereunder are and shall be subject and subordinate in all respects to (1) any mortgages, deeds of trust and building loan agreements affecting the Leased Premises, including any and all renewals, replacements, modifications, substitutions, supplements and extensions thereof, and (2) each advance made or to be made thereunder. In confirmation of such subordination, Tenant shall promptly upon the request of Landlord execute and deliver an instrument in recordable form satisfactory to Landlord evidencing such subordination; and if Tenant fails to execute, acknowledge or deliver any such instrument within ten (10) days after request therefor, Tenant hereby irrevocably constitutes and appoints Landlord as Tenant's attorney-in-fact, coupled with an interest, to execute, acknowledge and deliver any such instruments on behalf of Tenant. Tenant further agrees that in the event any such mortgagee or lender requests reasonable modifications to this Lease as a condition of such financing, Tenant shall not withhold or delay its consent thereto.

ARTICLE XVII. MISCELLANEOUS

Section 17.1. Waiver. The waiver by Landlord or Tenant of any breach of any term, covenant or condition contained herein shall not be deemed to be a waiver of such term, covenant, or condition or any subsequent breach of the same or any other term, covenant, or condition contained herein. The subsequent acceptance or payment of rent hereunder by Landlord or Tenant, respectively, shall not be deemed to be a waiver of any breach by Tenant or Landlord, respectively, of any term, covenant or condition of this Lease regardless of knowledge of such breach at the time of acceptance or payment of such rent. No covenant, term, or condition of this Lease shall be deemed to have been waived by Tenant or Landlord unless the waiver be in writing signed by the party to be charged thereby.

Section 17.2. Entire Agreement. This Lease, and the Exhibits attached hereto and forming a part hereof, set forth all the covenants, promises, agreements, conditions and understandings between Landlord and Tenant concerning the Leased Premises; and there are no covenants, promises, agreements, conditions or understandings, either oral or written, between them other than as herein set forth. Except as herein otherwise provided, no subsequent alteration, amendment, change or addition to this Lease shall be binding upon Landlord or Tenant unless reduced in writing and signed by them.

Section 17.3. Notices. Any notice, demand, request or other instrument which may be, or is required to be given under this Lease, shall be in writing and delivered in person or by United States certified mail, postage prepaid, and shall be addressed:

- (a) if to Landlord, at
County of Albemarle
County Executive's Office
401 McIntire Road
Charlottesville, Virginia 22902
or at such other address as Landlord may designate by written notice;
- (b) if to Tenant, at
Crozet Running, LLC
c/o Michelle Andersen, Registered Agent
932 Braeburn Street
Crozet, VA 22932
or at such other address as Tenant shall designate by written notice.

Section 17.4. Captions and Section Numbers. The captions and section numbers appearing in this Lease are inserted only as a matter of convenience and in no way define, limit, construe or describe the scope or intent of such sections of this Lease nor in any way do they affect this Lease.

Section 17.5. Partial Invalidity. If any term, covenant or condition of this Lease, or the application thereof, to any person or circumstance shall to any extent be invalid or unenforceable, the remainder of this Lease, or the application of such term, covenant, or condition to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and each term, covenant, or condition of this Lease shall be valid and be enforced to the fullest extent permitted by law.

Section 17.6. Recording. Upon request of either party, a memorandum of lease will be executed and recorded. Such memorandum shall contain any provisions of this Lease which either party requests except for the provisions of Article IV, which shall not be included. The cost of recording such memorandum of lease or a short form hereof shall be borne by the party requesting such recordation.

Section 17.7. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia.

Section 17.8. Counterparts. This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have executed this instrument as of the day and year first above written.

**TENANT
CROZET RUNNING, LLC**

By: _____
Michelle Andersen, Registered Agent

LANDLORD

This Lease is executed on behalf of the County of Albemarle by Thomas C. Foley, County Executive, following a duly-held public hearing, and pursuant to a Resolution of the Albemarle County Board of Supervisors.

COUNTY OF ALBEMARLE, VIRGINIA

By: _____
Thomas C. Foley, County Executive

Approved as to form:

Albemarle County Attorney

EXHIBIT A

DESCRIPTION OF LEASED PREMISES

All that certain space (the "Space") situated in the County of Albemarle, Virginia, located on the Ground Floor of 2020 Library Avenue, Crozet, Virginia, containing 1697 square feet, more or less, shown as "Leasable Area" on a floor plan dated August 1, 2013 titled "Crozet Library: Ground Floor Lease Space," a copy of which is attached hereto and incorporated herein. Reference is made to the floor plan for a more particular description of the location of the described space. This Space is a portion of Albemarle County Parcel ID 056A2-01-00-01800, containing 1.41 acres, more or less.

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

Agenda Item No. 19. **Public Hearing: ZTA-2011-00006. Noise.** Ordinance to amend Secs. 4.18.01, Applicability, 4.18.02, Definitions, and Sec. 4.18.05, Exempt sounds, of Chapter 18, Zoning, of the Albemarle County Code. The proposed ordinance would amend Sec. 4.18.01 to clarify the applicability of the noise regulations in Sec. 4.18; amend Sec. 4.18.02 to add definitions of "agricultural activity" and "place of public entertainment"; and amend Sec. 4.18.05 to state the exemptions in a manner consistent with the exemptions in County Code § 7-106. *(Advertised in The Daily Progress on August 19 and August 26, 2013.)*

Agenda Item No. 20. **Public Hearing: Ordinance to amend Secs. 7-102, Applicability, 7-103, Definitions, 7-105, Prohibited acts enumerated, and 7-106, Exemptions, of Chapter 7, Health and Safety, of the Albemarle County Code.** The proposed ordinance would amend Sec. 7-102 to clarify the applicability of the noise regulations in Chapter 7; amend Sec. 7-103 by amending the definition of "place of public entertainment" and add definitions of "agricultural activity" and "outdoor"; amend Sec. 7-105 by prohibiting sound from devices producing outdoor amplified music or serving as an outdoor public address system, or both, if it is audible off-site in the circumstances described; amend Sec. 7-106 to state the exemptions in a manner consistent with the exemptions in County Code § 18-4.18.05, including amending the exemption for sound related to agricultural activities to apply to sound produced "by," rather than "during," an agricultural activity; and to make other technical amendments necessary to conform to Virginia Code requirements. *(Advertised in The Daily Progress on August 19 and August 26, 2013.)*

The following executive summary was forwarded to Board members:

Introduction:

The regulation of noise is currently addressed in two sections of the County Code. Noise generated by land uses, such as a sawmill, is regulated through the Zoning Ordinance (Chapter 18, Section 4.18) based on a maximum decibel standard. Zoning staff enforces these regulations. Nuisance noise generated primarily by vehicles, people and people's activities, such as loud music at parties, is based on an audibility standard in County Code Chapter 7, Health and Safety. The Police Department enforces the Chapter 7 noise regulations. The existing noise regulations of both County Code chapters are found in Attachment A.

History:

- On June 14, 2000, the Board adopted an ordinance to comprehensively amend the noise standards in the Zoning Ordinance. This ordinance amendment (ZTA 2000-06) was based on input from a Noise Task Force that included citizens, a representative from UVA, the Chamber of Commerce and several other members. Among other things, the amendment established decibel standards rather than using a complex standard for decibels based on frequency of the sound wave.
- On December 2, 2009, the Board adopted an ordinance to amend the standard for nuisance noise in Chapter 7. The prior standard prohibited noise levels that were “loud, disturbing or raucous so as to disturb or annoy the reasonable person” (i.e., nuisance noise). The current standard prohibits sound levels that are audible from a specified distance or location.
- On May 5, 2010, the Board adopted a comprehensive Zoning Ordinance amendment to codify the state legislation relating to the regulation of farm wineries. This amendment (ZTA 2009-003) established an audibility standard for outdoor amplified music associated with farm wineries.
- On March 9, 2011, the Board adopted an ordinance to amend the noise regulations for outdoor amplified music at farm wineries. This amendment (ZTA 2010-08) changed the standard for farm winery outdoor amplified music from an audibility standard to the decibel-based standard applicable to other land uses under Section 18-4.18.
- On October 5, 2011, the Board adopted a resolution of intent to amend the Noise Zoning Ordinance (Attachment B) and set the Chapter 7 Health and Safety noise regulation amendment for public hearing (See Attachment C for October 5, 2011 Executive Summary). The primary purposes of these amendments are to better distinguish which sounds are regulated under the nuisance noise regulations in Chapter 7 and which are regulated under the zoning noise regulations in the Zoning Ordinance and to eliminate any perceived overlap between the two.
- On November 8, 2011, the Planning Commission held a public hearing and indefinitely deferred action on the pending Noise Zoning Ordinance (ZTA 2011-06). The Commission raised several issues for further consideration.
- The issue of noise impacts on neighbors and enforcement of noise complaints has arisen numerous times since the November 8, 2011 Commission meeting. Noise was identified in a Comprehensive Plan discussion as an issue to be further addressed in the Rural Areas, particularly with any broadening of uses such as special events involving outdoor amplified music. All of these issues relating to noise regulation and enforcement will be part of a second phase of noise regulation amendment (See Attachment D Phase II Noise Issues).
- On June 11, 2013, the Commission held a work session on the Phase I Noise Zoning Ordinance amendment and primarily focused on the exemption relating to agricultural activity (See Attachment E for June 11, 2013 PC Report). There have been at least two recent instances of noise complaints by citizens in which outdoor amplified music was claimed to be an exempt agricultural activity. In one case, music was played for farm workers at a volume that impacted neighbors. In a second case, music is purportedly played to both train horses and riders and to condition/desensitize horses, even when the riders and horses are not being actively trained. In this second case, the music could be clearly heard in homes adjacent to the horse-training property under the Chapter 7 audibility standard. However, when the case went to court, the Judge ruled that all of the activity fell within the agricultural exemption under the current language of the Chapter 7 regulations.
- On August 6, 2013, the Commission held a public hearing on the Phase I Noise Zoning Ordinance amendment and recommended that the Board adopt this amendment (See Attachment E for August 6, 2013 PC Report and Attachment F for August 6 PC Action Memo). The Commission’s comments regarding the amendment to Chapter 7 will be addressed under “Discussion.”

Proposal and Public Purposes to be Served: The Phase I Noise Zoning Ordinance and Chapter 7 amendments are narrowly focused to: 1) better clarify and address outdoor amplified sound, including that associated with a bona fide agricultural activity; 2) provide consistent exemptions in both the Zoning Ordinance and Chapter 7 noise regulations; and 3) clarify which regulations apply where there is otherwise possible overlap between the two Chapters.

Ordinance Amendment Criteria:

Based on prior Board direction, staff has reviewed the ordinance amendment impacts under the following additional criteria:

Administration/Review Process: Consistency between the two regulations and clarification of applicability will improve their administration.

Housing Affordability: There is no discernible impact on housing costs.

Implications to Staffing/Staffing Costs: These amendments will potentially save staff some time, although the amount is probably limited.

The proposed ordinance amendments are the first of two phases of amendments to the noise regulations proposed for Chapters 7 and 18. Following is a summary of the proposed amendments in Phase I:

Chapter 7 Noise Regulations

The proposed amendments to Chapter 7 would make the following key changes:

- **Clarify applicability:** The proposed ordinance would clarify the circumstances when the Chapter 7 or the Chapter 18 noise regulations apply.

- Standardize exemptions: The proposed ordinance would ensure that the exemptions in Chapters 7 and 18 are consistent with one another.
- Exemption for agricultural activities amended: The exemption for agricultural activities will continue to exempt all sound produced *by* an agricultural activity. However, under the proposed ordinance the exemption will no longer extend to any sound produced *during* an agricultural activity (Attachment I, County Code § 7-106(A)). Although this amendment narrows the scope of the exemption, it preserves the exemption for any sounds produced by an agricultural activity. An example that illustrates the distinction is as follows: the sound from a tractor while it is working the fields such as plowing or cutting hay, is exempt as a sound produced *by* an agricultural activity; and amplified music playing from speakers attached to the tractor is not exempt because it is sound produced *during* an agricultural activity.
- New class of prohibited sound: In conjunction with the amended exemption for agricultural activities, the proposed ordinance would add a new class of prohibited sound – outdoor amplified music and public address systems. (Attachment I, County Code § 7-105(B)(5)) A violation would exist if the sound was audible from within a dwelling on an off-site parcel. Outdoor amplified music from farm wineries and outdoor amplified sound produced in conjunction with an outdoor music festival authorized by special use permit under Chapter 18 of the Code would continue to be regulated under the Zoning Ordinance (Attachment I, County Code § 7-106(H)).

Chapter 18 Noise Regulations

The proposed amendments to Chapter 18 would clarify the applicability and standardize the exemptions as similarly proposed for Chapter 7.

In developing these regulations for both chapters, staff has focused on: (1) not obstructing bona fide agricultural operations and the sounds that they may generate; (2) treating similar activities similarly; and (3) establishing clear enforcement standards that the Police Department can easily administer and enforce in the field. In developing the proposed regulations to ensure they would not adversely affect agricultural activities, staff consulted with the Farm Bureau and several local commercial stable owners.

The Commission recommended approval of the Phase I Noise Zoning Ordinance. The Commission also expressed two concerns for Board consideration with the Chapter 7 amendment: 1) instead of determining audibility from inside of a dwelling unit, consider determining audibility from inside of a “habitation unit,” to include habitation of other structures, such as barns; and 2) expand the audibility standard to include adjacent outdoor space to the dwelling, such as decks or patios. While staff understands these concerns and does not intend for the regulations to allow noise to drive residents indoors and limit their use of their exterior spaces at home, staff does not support the Commission’s recommended expansion of the standard. Zoning staff met with Police to discuss the amendment and the Commission’s concerns and offers the following:

1. Sound travels some distance, even in the country. It is not reasonable to expect that a person will not hear sounds produced by neighbors at any time while on decks and patios.
2. Chapter 7 violations are enforced in a criminal proceeding and staff recommends that this standard be drafted as narrowly as possible for now, and staff can evaluate the proposed standard with existing standards as part of the Noise Phase II amendments.
3. Audibility from “inside a dwelling” is consistent with the other audibility standards in Chapter 7, which makes it easier for the Police to administer and enforce.
4. Some Rural Areas properties encompass decking and/or patios and other outdoor space. This could significantly extend the audibility standard for those properties. Alternatively, an alternative standard, such as audibility from a specified distance from the dwelling, would be problematic to administer and time-consuming for Police to enforce. The increased time spent on those calls could reduce the availability of Police and increase response times for higher priority calls.

See Attachment J for a comparison of the existing and proposed noise regulations.

There is no increased budget impact expected as a result. As noted under “Implications to Staffing,” staff expects a limited staff time saving to result from these amendments.

After the public hearings, staff recommends adoption of the proposed Zoning Ordinance amendment (Attachment H) and the proposed Chapter 7 amendment (Attachment I).

Ms. Amelia McCulley, Zoning Administrator, addressed the Board, stating that she was distributing a reference sheet to the Board that summarizes the substantive changes proposed and explains the distinctions between the two regulations in Chapter 7 of the Zoning Ordinance – “Health and Safety Noise Regulations.” Ms. McCulley said there are two separate agenda items, which would require separate actions, and noted that Lt. Greg Jenkins and Major Ron Lantz of the Albemarle County Police Department were in attendance to discuss noise enforcement, which they administer.

Ms. McCulley reported that there are currently two sets of regulations, and each has a different standard and enforcing agency, with this particular zoning and code amendment being a phase one focused amendment that emerged from a broader discussion resulting in many issues that have now been shifted to a phase two endeavor. She said the phase two issues include neighbors’ concerns about farm winery events, potential expansion of commercial uses in the rural areas as contemplated with the proposed Comp Plan, and those noise impacts on neighbors.

Ms. McCulley stated that the genesis of the phase one zoning and Chapter 7 noise regulation amendment was a case in which amplified music played for horses, riders and farm workers, and created a nuisance for neighbors. She said the County currently has an overly broad exemption for amplified sound that may not necessarily be directly related to agricultural uses, and it highlighted a gap in the regulations.

Ms. McCulley stated that it's important before changing regulations to identify why they are doing it and what the purpose is, with items 2 and 3 being primarily housekeeping items to provide clarity and consistency between the two regulations. She said the focused issue in item 1 relates to clarifying and better addressing the exemption associated with agricultural activity. Ms. McCulley stated that, currently, there is a very broad exemption in the Zoning Ordinance language for sound generated during an agricultural activity and, in Chapter 7, it states "sound produced by an agricultural activity." She said this amendment narrows the scope of the agricultural exemption but preserves the exemption for sounds produced by an agricultural activity so, with this amendment, they are still not regulating sounds produced directly by an agricultural activity such as the use of tractors and other farm equipment – and they have no intention of doing that.

Ms. McCulley stated that their focus has been on three criteria, and it's important to treat similar activities similarly – but with two different regulations, it's very difficult to do that. She explained that the amendment brings the County closer to treating similar activities similarly, so someone playing music loudly at an outdoor party or someone playing music at their barn, it's all treated the same in terms of the standard. If it's considered a nuisance and would then be audible by neighbors within their dwellings, she said it would be a violation and that's what staff is proposing as the standard. In terms of the second criteria, Ms. McCulley said this establishes clear enforcement standards, and the police have stated that it's important for them to be able to enforce quickly and easily on clear and straightforward terms. She stated that, currently, the standard talks about the property line, within 100 feet of the property line, or audible within a dwelling – and the property line determination can be very difficult, particularly in the rural areas. Ms. McCulley said this also eliminates the situation where a police officer must make a judgment call as to whether or not the sound is associated with an agricultural activity, because it's all treated the same regardless.

Ms. McCulley said there is a statutory standard for noise regulation of farm wineries, and that is separate from this issue and not impacted by these amendments. She stated that they would be talking about those things with phase two, in terms of establishing some performance standards for self-monitoring, pre-planning, etc. – but this amendment does not, in any way, change the regulation of sound from farm winery events. Ms. McCulley said staff met with the Farm Bureau and consulted five local commercial stable owners for input on this issue, and there are two different schools of thought for the use of amplified sound. In the end, she said there was consensus that whether or not amplified sound was used as conditioning for horses, they don't want to be a nuisance to neighbors and thus can support the standard as proposed.

Ms. McCulley stated that the current exemption applies to sound produced during an agricultural activity, even if it doesn't have a direct relationship to that agricultural activity, so staff is recommending that the exemption be clarified to apply to sound produced solely by an agricultural activity and not to sound-producing devices. Ms. McCulley said the operating of tractors, silage blowers, grain dryers, and other agricultural equipment and activity is still exempt from sound regulation. She stated she has compared the existing and proposed regulations, which are complex because they are two different regulations with different standards and enforcing agencies. Ms. McCulley said she's highlighted the two amendments, the Zoning Ordinance amendment and the Chapter 7 amendment. She explained that the Chapter 7 amendments were the more substantive changes to resolve the focused issue and, after research and consultation with several people involved in the equine business, they found that the current standard used to determine if a sound is a nuisance noise – the audibility within a house – was reasonable and acceptable.

Ms. McCulley summarized the proposed amendments, stating that some of the items are housekeeping and clarified the applicability of one regulation versus the other, making a consistent list of exemptions – and the more substantive change in phase one was coming up with a definition of "agricultural activity," which mirrors the definition in the Zoning Ordinance for agriculture. Currently in Chapter 7, she said there is no definition so it's anyone's guess as to what would apply. She said they have a new listing for outdoor amplified music or outdoor public address systems that clarifies which of the two noise regulations apply so, if it's associated with a regulated event such as an outdoor concert, it would be under zoning; if it's not a land use that is regulated under zoning and it's just people-generated noise, it's under Chapter 7 and police would enforce that. Ms. McCulley noted the location of the standards in the Zoning Ordinance and in Chapter 7, stating that, for some reason, the regulation of sound for private schools is in the wrong regulation and should be in the Zoning Ordinance. She said that if there's any condition related to a special use permit for a private school or anything else that applies, then that would modify the outright exemption for private school activity.

Ms. McCulley stated that staff recommends adoption of the proposed Zoning Ordinance amendment and the proposed Chapter 7 amendment with the revision presented to the Board related to the private school exemption.

Mr. Rooker asked how this interacts with the farm winery regulations. Mr. Greg Kamptner stated that the standard for outdoor amplified music stands on its own, and staff would be looking at that as part of phase two noise regulations. Mr. Kamptner clarified that these amendments do not affect this standard at all and, under state law, the standard the County would consider imposing for outdoor amplified music

must be consistent with the standards applicable under the Zoning Ordinance generally, so it would be a decibel-based standard.

Mr. Boyd asked for an explanation of the phase one and phase two review of the ordinance, for the public's benefit. Ms. McCulley explained that, when they get into issues that are very complex, staff realizes that it may take a long time to get to the end of it – so if they can parse off something that is limited in focus, they can address it early. She said that's what the agricultural exemption phase one is all about. Ms. McCulley said phase two incorporates different issues, which are broader-reaching, more comprehensive issues that will require much more community involvement. She stated that one of the lessons learned from farm winery events is that, if the owners do self-monitoring with a sound meter, consulting a sound management professional before locating the venue, it's a much better result. Ms. McCulley said staff is going to recommend that, but it's going to take a lot of interaction including roundtables and focused discussions. She stated that number three relates to the 100-foot audibility standard, which has been complex for police to enforce.

Ms. Mallek asked what the standard would be for that third item. Ms. McCulley clarified that it would be the audibility within a neighbor's house. She added that this is a much broader issue requiring more time and more community involvement.

Mr. Boyd asked if there was a timeframe for that. Ms. McCulley responded that, when they did the comprehensive Zoning Ordinance amendment for the current standards, they had a noise task force – and it took several years of meeting, taking samples of sound levels throughout the community, and doing comparisons with other localities. She said it can take a lot of time, and depends on how extensive they want the issues to be and how involved they want to get with stakeholder groups.

Ms. Mallek asked if those comparisons were appropriate for Albemarle County given the topography and with the 55 [decibels] still providing a lot of disruption to neighbors or the 60 in the daytime in addition to the hours, i.e., going to 10 o'clock at night for an industrial use is excessive. She wanted to know if this issue would be something that will come back in phase two.

Ms. McCulley said if the Board wants staff to do that, staff can certainly do that. She said it may have to be broken out into another phase that could go forward quicker. She added that the County is getting new wineries and cideries so she would like to go with number two as soon as possible, knowing that it will take time.

Ms. Mallek said when there is a process that could be set out before people begin, then it is easier to prevent some of the disasters they have experienced so far.

Mr. Thomas asked if there was anything in here related to construction, or if it was solely for agricultural noise. Ms. McCulley responded that it's only for agricultural noise but, if the Board wants, they can add construction noise to phase two because it's become an increasingly common issue – and one that will also involve extensive outreach to the community and to builders.

Ms. Mallek said that will be important, especially since the County is doing more in-fill projects and green-fill projects.

Mr. Snow said there was mention of construction noise in the information staff provided. Ms. McCulley stated that construction noise is exempt between certain hours.

Mr. Davis said that, from 10:00 p.m. to 7:00 a.m., it's restricted.

Mr. Thomas said that a lot of contractors start at daybreak.

Ms. Mallek said 5:00 a.m. is pretty standard in the summertime, and Saturday and Sunday work is becoming a burden for people in established neighborhoods where there is construction nearby. She said the Board does not need to address those issues now, but she would like to talk about them in the future.

Mr. Craddock asked if someone had a big festival like LockN, and they had to go through the special use permit process, he assumed these regulations would apply. Ms. McCulley confirmed that they would, and said that zoning regulations would apply along with the noise levels and hours of operation in the ordinance. She stated that the Board can actually set a more restrictive noise level if they choose, with a particular special permit approval.

Mr. Rooker asked if the number of complaints related to noise have decreased over the last six months or so, as it seems that the volume of emails has dropped off considerably. Ms. McCulley responded that the noise complaints have gone down, and the one cidery that went through the process has not caused a single complaint since they hired a professional, did an assessment, installed some special framing, and have done self-monitoring. She said modification of structures can make an unbelievable difference. Ms. McCulley stated that farm winery events for fewer than 200 attendees would still be subject to a supplementary regulation, so it wouldn't only cover those who come forward with a special use permit – but she wants to engage the farm wineries on that.

Mr. Davis explained that the basic difference between the Zoning Ordinance enforcement standards and the police standards is that the Zoning Ordinance is based on a decibel reading for the most part while the police standard is based on an audible determination. He said the reason they went to an audible standard several years ago is because of a Virginia Supreme Court case that eliminated the ability to do the "reasonable man standard" for enforcing nuisance noise. Mr. Davis noted that police

departments and localities across the state are struggling with how to reasonably implement the audible standard as an alternative to the reasonable man standard but, to date, it hasn't been a big problem for Albemarle.

Ms. Mallek asked if there was a change with the standard of audible inside the neighbor's house, because it used to be audible at the property line. Mr. Greg Kamptner, Deputy County Attorney, said that the decibel standard under the Zoning Ordinance is measured from the property line, and the audibility standard under Chapter 7 has always been audible within a dwelling – measured four feet inside the wall. He said the 100 feet from property line standard pertains to prohibited noise.

Ms. McCulley stated that the change in farm wineries went from audibility to a decibel-based standard.

Ms. Mallek said that, back then, it wasn't audible inside the neighbor's house and, if it had been, they wouldn't have had to go to decibels. She said she's been dissatisfied with how the County handled the decibel level standard, because it wasn't the solution they thought it would be.

Mr. Davis said those are the standards they want to take a closer look at under phase two, as far as how it's working, how enforceable it is by police, how Zoning has been impacted, and how other localities are dealing with the issue. He stated that it seems to be working here, but there are some glitches to the standard.

Mr. Snow said complaints have gone down at this point, which is notable.

The Chair then opened the public hearings on both the zoning text amendment and the ordinance.

Ms. Paula Brown-Steadly addressed the Board, stating that she perceives this as a "designer law," which throws the County into the aspect of being Northern Virginia-bound. She said she is a native of Albemarle County, and she wants to know whether a single instance of loud noise would trigger this standard. Ms. Steedly said she has a sick horse that is awake 24/7, and she has used sound to block out other noise such as illegal fireworks, adding that the topography makes sound louder in some places than others. She stated that she also uses the sound to repel coyotes and foxes that have killed cows and chickens within a mile of her home. Ms. Steedly said the sound blast – if not the music – protects her and her animals from the changes that have occurred which are bringing in the wildlife. She said that during hunting season, she uses an MP3 player, which she has to have or she might be shot by illegal hunters.

Ms. Elizabeth Larney addressed the Board, stating that she has a horse farm in Stony Point and professionally breeds, trains and sells horses – which is part of an agricultural endeavor. She said training involves desensitizing horses with music, and many people who train horses use music. Ms. Larney said she has been using music as a training tool for 16 years, and there have been many studies done related to using music to help calm horses. She stated that loud music at horse shows and gunshots can terrify horses, and they must be conditioned to these sounds. Ms. Larney said her stallion won the Virginia State Champion in 2012 and, without music, she would never have gotten this far with him. She noted that music was playing the whole time he was shown and, if the County takes away the right to use it, she will not be able to make a living.

Mr. Frederick Lundmark addressed the Board, stating that he owns a horse farm that was deemed "exempt" through the County's judicial system because it is part of their agriculture business. Mr. Lundmark said his music is the main activity in training the horses, not a secondary activity, so it is being generated from an agricultural use. He also stated that the "Right to Farm" under Virginia Code Section 3.2-301 would exempt him as an agricultural activity.

Mr. Felix Padroza addressed the Board, stating that he is a neighbor to these farms and has no problem with them making a living from their horses – his only issue is being disturbed on his property and not being able to enjoy it. He said he has a life investment in his property too, and designed his house 33 years ago. Mr. Padroza stated that he had no trouble until three or four years ago, when people began to come help his neighbors with their horses and, since that time, they've increased the volume of the music to the point he can't sit on his patio and enjoy it. He said this occurs only at certain times a day, but he thinks they can find a way to train their horses and still be respectful to their neighbors as they did before. Mr. Padroza said he didn't want to bring police in on the situation and would rather handle it himself and, in the spring and fall, he likes to keep his windows open.

Ms. Bonnie Padroza addressed the Board, stating that she lives in Stony Point Hills subdivision and is hopeful that the Board will be able to put an amendment in place that will enable them to have quietude and a peaceful existence both in their home and on the outside of their property. She said the proposed amendment would allow them to be inside their home with the windows and doors shut, but would allow no consideration for them to use an outdoor area or open their windows. Ms. Padroza said that the 100 feet from property line standard seemed to be a reasonable distance, along with being able to hearing it within a dwelling. She stated that, once a hundred-foot distance is determined and marked by the police, it could be used for subsequent visits to the property, and its location could be documented by photos or in some other way to ensure that the marker has not been changed. She encouraged the Board to consider this as part of the amendment, and they are only asking that their rights as property owners be protected to the same extent as those having a barn and a horse. Ms. Padroza added that they like to get along with their neighbors, and would like to resolve this peaceably.

Mr. Rooker said it would be helpful to hear from the County Police officers on how these regulations are enforced and whether what's being proposed would assist with noise ordinance enforcement.

Lt. Greg Jenkins said it is currently difficult for his officers to go out and do the enforcement. He said the first time they get called to a situation, they try to educate the neighbors and ask for cooperation – but if that doesn't seem to work, the code section in the ordinance requires them to find the property line and measure off 100 feet. He said where they have the problems are when people differ in opinion on where the property lines are, so police end up having to pull out tax maps, etc., and then figure out how to calculate 100 feet. Lt. Jenkins said this may have to include range finders for officers to use, and the attorneys will ask in court whether the equipment is calibrated. He emphasized that they don't have the equipment to be able to do this type of measurement, and he sees the process as problematic. Lt. Jenkins stated that hearing it from inside the dwelling makes it very simple for officers to determine if it's a violation.

Mr. Rooker asked about the situation of the windows being open. Lt. Jenkins said they have not talked about that aspect and, in his opinion, the windows and doors would have to be closed in order to hear audible sound.

Mr. Davis pointed out that that's already covered by the ordinance.

Ms. McCulley stated that it's an existing definition, and one that wouldn't be changed.

Mr. Rooker said they're talking about refining definitions, not changing the entire ordinance. Ms. Mallek said they're making a distinction about what "agricultural use" is and cleaning up the definition.

Mr. Rooker acknowledged that they are changing the definition of agricultural.

Mr. Boyd said that there has been a lawsuit related to this, and one of the problems the judge pointed out is that the ordinances were "vague and not very enforceable."

Mr. Davis said that it was more related to the definition of agriculture, not to the vagueness of the standard as it relates to measuring the music. In that particular case, he said, because the definition of agriculture was very broad, the judge determined that the playing of the music was part of an agricultural activity – which was exempt. He said this ordinance attempts to define that more specifically, whereby amplified music would be subject to the noise regulation of being audible inside the dwelling of the adjacent property. Mr. Davis emphasized that this change would solve both problems in regards to enforcement, as it makes it clear that playing the music is a controlled activity, and there is a clear standard for police officers to enforce it by hearing it inside a closed dwelling.

Mr. Rooker asked about the issue raised regarding intermittent noise versus continuous noise, i.e., a blast versus a sound that is continuous over a period of time. Mr. Davis clarified that there isn't a distinction in the ordinance between intermittent and continuing sound other than in the barking dog ordinance where that regulation is specified. He said that technically, under these provisions, a single blast would be a violation.

Mr. Rooker said proving that would be another matter because, if police come out to enforce it, they must hear the sound inside the dwelling in order for them to enforce it.

Mr. Kamptner said the ordinance does exempt "warning devices," which includes sound produced by a horn or warning device of a vehicle when used as a warning device – including backup alarms for trucks and other equipment.

Mr. Rooker asked if this attempts to regulate cars on the roads at all. Mr. Davis said there are specific prohibited acts regarding loud music being played from cars that the police enforce. Mr. Kamptner clarified that it's not sound from the vehicles themselves, and he confirmed that this exists in the current ordinance.

Mr. Thomas asked if police have had a difference in the officers' hearing of sound. Lt. Jenkins replied that he wasn't with them every time they responded to an event, and they try to educate citizens with criminal charges being a last resort if no resolution is reached. He said it is up to interpretation, as each officer would hear and interpret things differently, but going inside a residence does help narrow the scope a bit and helps offset some of that interpretation related to the property line standard.

Mr. Davis said what's being proposed here would only change the 100-foot property line standard for this particular agricultural activity enforcement, and it would remain for the other Chapter 7 violations. He said the amplified music prohibition standard is within a dwelling, not within 100 feet.

Mr. Rooker clarified that it's pertinent regardless of whether it's connected to an agricultural activity or someone in a driveway running a car stereo.

Mr. Snow asked how loud the music had to be in order to train/calm a horse.

Ms. Mallek said she's been using music for 55 years to keep her horses amused, but she can't hear it outside the barn and wouldn't want to disturb them by playing the music really loud.

Ms. McCulley mentioned that staff has not received other complaints; this is a unique case.

Mr. Craddock said the complaints are citizen-driven, and the factors are not only topography but also the wind.

Lt. Jenkins stated that Albemarle is a challenging county because of the topography, wind, ambient noise, etc.

Mr. Boyd asked how many calls like this does the Police Department get. Lt. Jenkins responded that the majority of their calls come from apartment complexes, and occasionally they get calls from the rural area – with this being the first horse training one he is aware of.

Mr. Snow asked if the music is played 24 hours per day.

Mr. Rooker said the ordinance doesn't distinguish, and so it's up to the owner.

The Chair then closed the public hearing and placed the matter before the Board.

Mr. Davis noted that there are two ordinances before the Board that are the correct ordinances to adopt – one is an amendment to Chapter 7, the public safety provisions; and the other is the amendment to the Zoning Ordinance.

Motion was then offered by Ms. Mallek to adopt the proposed Zoning Ordinance. Mr. Boyd **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

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

NAYS: None.

(The adopted ordinance is set out below:)

ORDINANCE NO. 13-18(4)

AN ORDINANCE TO AMEND CHAPTER 18, ZONING, ARTICLE II, BASIC REGULATIONS, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA

BE IT ORDAINED By the Board of Supervisors of the County of Albemarle, Virginia, that Chapter 18, Zoning, Article II, Basic Regulations, is hereby amended and reordained as follows:

By Amending:

Sec. 4.18.01 Applicability
Sec. 4.18.02 Definitions
Sec. 4.18.05 Exempt sounds

Chapter 18. Zoning

Article II. Basic Regulations

Sec. 4.18.01 Applicability

This section 4.18 shall apply to sound produced by any use authorized by this chapter, including any use that is expressly authorized by a proffer, special use permit, special use permit condition, or a standard in a code of development, except as otherwise provided in section 4.18.05, regardless of whether the property in the receiving zone is within or without Albemarle County.

(Ord. 00-18(3), 6-14-00)

State law reference – Va. Code § 15.2-2280.

Sec. 4.18.02 Definitions

The following definitions shall apply to this section 4.18. The definitions of any sound-related term not defined herein shall be obtained from the American Standard Terminology if defined therein.

...

Agricultural activity. The term "agricultural activity" means a lawfully permitted activity pertaining to horticulture, viticulture, or gardening including, but not limited to: tilling soil for raising crops; keeping livestock, poultry, or both; operating agricultural industries or businesses, including, but not limited to, orchards, fruit packing plants, dairies, nurseries, farm sales, farm stands and farmers' markets; or any combination of the foregoing activities.

...

Place of public entertainment. The term "place of public entertainment" means a building or other place used primarily as a cinema, theater, amphitheater, concert hall, public hall, dance hall, restaurant or other place of entertainment open to the public, but not including a music festival authorized by a special use permit, regardless of whether the payment of money or other consideration is required for admission.

...

Sec. 4.18.05 Exempt sounds

The following sounds shall not be subject to this section 4.18:

- A. *Agricultural activities.* Sound produced by an agricultural activity.
- B. *Animals.* Sound produced by animals including, but not limited to, barking dogs; provided that this sound is otherwise subject to the animal noise regulations in chapter 4 of the Code.
- C. *Bells or chimes from place of religious worship.* Sound produced by bells, chimes or other similar instruments or devices from a place of religious worship.
- D. *Construction, demolition and/or maintenance activities.* Sound produced by construction, demolition and/or maintenance activities, provided that this sound is otherwise subject to the noise regulations in chapter 7 of the Code.
- E. *Emergency operations.* Sound produced in the performance of emergency operations including, but not limited to, audible signal devices which are employed as warning or alarm signals in case of fire, collision or imminent danger or sound produced by power generators during power outages and other emergency situations.
- F. *Firearms.* Sound produced by the lawful discharge of a firearm; provided that this exemption shall not apply to a firearm discharged at a gun club, shooting range, shooting preserve, or target, trap or skeet range.
- G. *Home appliances.* Sound produced by the normal use of home appliances such as generators, air conditioners, heat pumps, vacuum cleaners, washing machines, dryers and dishwashers, provided that the appliances are in good repair.
- H. *Outdoor amplified music or outdoor public address systems.* Sound produced by an outdoor amplified music system or outdoor public address system; provided that sound from outdoor amplified music at a farm winery is otherwise subject to the farm winery regulations in section 18-5.1.25(e), sound produced in conjunction with an outdoor music festival authorized by special use permit under this chapter shall be subject to the noise regulations in this chapter, and sound produced by an outdoor amplified music system or outdoor public address system, including any system used in conjunction with an agricultural activity, is subject to the noise regulations in chapter 7 of the Code.
- I. *Parades, fireworks and similar events.* Sound produced by parades, fireworks, and other similar events which are officially sanctioned, if required; provided that the exemption for fireworks shall apply only to fireworks displays duly issued a permit pursuant to chapter 6 of the Code.
- J. *Person's voice.* Sound produced by a person's voice.
- K. *Place of public entertainment.* Sound produced by a radio, tape player, television receiver, musical instrument, electronic sound amplification equipment, phonograph, compact disc player, MP3 player, or other similar device intended primarily for the production or reproduction of sound (hereinafter, collectively and singularly a "device") at a place of public entertainment; provided that this sound is otherwise subject to the noise regulations in chapter 7 of the Code.
- L. *Protected expression.* Sound produced by any lawful activity which constitutes protected expression pursuant to the First Amendment of the United States Constitution, but not amplified expression.
- M. *Public facilities and public uses.* Sound produced by the operation of a public facility or public use including, but not limited to, any sound which would not be an exempt sound if it was produced by the operation of a non-public facility or non-public use.
- N. *School athletic contests or practices, and other school activities; private schools.* Sound produced by private school athletic contests or practices, and other private school activities, but only if conditions are not imposed which regulate the generation of sound including, but not limited to, conditions regulating the hours of the activity and the amplification of sound.
- O. *Silvicultural activities.* Sound produced during lawfully permitted bona fide silvicultural activities including, but not limited to, logging activities; provided that this sound is otherwise subject to the noise regulations in chapter 7 of the Code.
- P. *Solid waste collection.* Sound produced by the collection of solid waste; provided that this sound is otherwise subject to the noise regulations in chapter 7 of the Code.
- Q. *Telephones.* Normal sound produced by landline and wireless telephones.
- R. *Transportation.* Transient sound produced by transportation including, but not limited to, public and private airports (except as otherwise regulated), aircraft, railroads and other means of public transit, and sound produced by motor vehicles and motorcycles.

- S. *Warning devices.* Sound produced by a horn or warning device of a vehicle when used as a warning device, including back-up alarms for trucks and other equipment.
- T. *Yard maintenance activities.* Sound produced by routine yard maintenance activities including, but not limited to, mowing, trimming, clipping, leaf blowing and snow blowing; provided that this sound is otherwise subject to the noise regulations in chapter 7 of the Code.

(Ord. 00-18(3), 6-14-00)

Mr. Rooker then **moved** to adopt the proposed ordinance to amend Sections 7-102, 7-103, 7-105 and 7-106 of the County Code. Mr. Boyd **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

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

(The adopted ordinance is set out in full below:)

ORDINANCE NO. 13-07(2)

AN ORDINANCE TO AMEND CHAPTER 7, HEALTH AND SAFETY, ARTICLE I, NOISE, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA

BE IT ORDAINED By the Board of Supervisors of the County of Albemarle, Virginia, that Chapter 7, Health and Safety, Article I, Noise, is hereby amended and reordained as follows:

By Amending:

Sec. 7-102 Applicability
Sec. 7-103 Definitions
Sec. 7-105 Prohibited acts enumerated
Sec. 7-106 Exempt sounds

Chapter 7. Health and Safety

Article I. Noise

Sec. 7-102 Applicability.

This article shall apply to sound produced within the county, regardless of whether the complainant or the receiving property is within or without the county, that is not subject to the noise regulations in chapter 18 of the Code including, but not limited to, section 18-4.18 *et seq.* of the Code.

(Ord. 98-A(1), 8-5-98; Ord. 09-7(3), 12-2-09)

State law reference--Va. Code § 15.2-1200.

Sec. 7-103 Definitions.

The following definitions shall apply to this article:

...

(1.1) *Agricultural activity.* The term "agricultural activity" means a lawfully permitted activity pertaining to horticulture, viticulture, or gardening including, but not limited to: tilling soil for raising crops; keeping livestock, poultry, or both; operating agricultural industries or businesses, including, but not limited to, orchards, fruit packing plants, dairies, nurseries, farm sales, farm stands and farmers' markets; or any combination of the foregoing activities.

...

(9) *Motor vehicle.* The term "motor vehicle" means every vehicle that is self-propelled or designed for self-propulsion and includes, but is not limited to, any device defined in Virginia Code § 46.2-100 as an "electric personal assistive mobility device," "electric power-assisted bicycle," "golf cart," "moped," "motorized skateboard or scooter" or "utility vehicle," but does not include a device moved by human power or used exclusively on stationary rails or tracks that is self-propelled or designed for self-propulsion. Any structure designed, used, or maintained primarily to be loaded on or affixed to a motor vehicle to provide a mobile dwelling, sleeping place, office, or commercial space shall be considered a part of a motor vehicle.

...

(12.1) *Outdoor.* The term "outdoor" means either outside a structure, or inside a structure that has open windows, doors or other openings so as to allow the activity inside the structure to be visible or audible outside the structure.

...

(15) *Place of public entertainment.* The term "place of public entertainment" means a building or other place used primarily as a cinema, theater, amphitheater, concert hall, public hall, dance hall, restaurant or other place of entertainment open to the public, regardless of whether the payment of money

or other consideration is required for admission, but does not include a music festival authorized by a special use permit under chapter 18 of the Code,.

Sec. 7-105 Specific acts prohibited.

It shall be unlawful for any person to produce sound from the following acts that meets or exceeds the applicable sound levels:

A. *Motor vehicle or motorcycle operation.* The sound is produced by: (i) the absence of a muffler and exhaust system conforming to Virginia Code §§ 46.2-1047 and 46.2-1049 on a motor vehicle or a motorcycle; (ii) jackrabbit starts, spinning tires, racing engines, or other similar acts in a motor vehicle or on a motorcycle; or (iii) a refrigeration unit mounted on a motor vehicle, and either:

1. *On a street or on public property.* The motor vehicle or motorcycle is operated or parked on a street or on public property, and the sound is audible from a distance of one hundred (100) feet or more from the motor vehicle or motorcycle; or

2. *On private property.* The motor vehicle or motorcycle is operated or parked on private property, and the sound is audible: (i) from a distance of one hundred (100) feet or more from the property line of the parcel on which the motor vehicle or motorcycle is located; or (ii) from inside a dwelling unit or hotel room.

B. *Radios, tape players, televisions receivers, musical instruments, electronic sound amplification equipment, and other sound producing or reproducing devices.* The sound is produced by a radio, tape player, television receiver, musical instrument, electronic sound amplification equipment, phonograph, compact disc player, MP3 player, or other similar device intended primarily for the production or reproduction of sound (hereinafter, collectively and singularly a "device") and either:

1. *Device within or on a motor vehicle on a street or on public property.* The device is within or on a motor vehicle that is operated or parked on a street or on public property, and the sound is audible from a distance of one hundred (100) feet or more from the motor vehicle; or

2. *Device within or on a motor vehicle on private property.* The device is within or on a motor vehicle that is operated or parked on private property, and the sound is audible: (i) from a distance of one hundred (100) feet or more from the property line of the parcel on which the motor vehicle is located; or (ii) from inside a dwelling unit or hotel room; or

3. *Device within a place of public entertainment.* The device is located within a place of public entertainment, and the sound is audible for a duration of five (5) continuous minutes or more, without an interruption of the sound for thirty (30) or more consecutive seconds during the five (5) minute period, within any one (1) hour period: (i) from a distance of one hundred (100) feet or more from the property line of the parcel on which the place of public entertainment is located; or (ii) between the hours of 10:00 p.m. and 7:00 a.m. from inside a dwelling unit or hotel room; or

4. *Device within a dwelling unit.* The device is located within a dwelling unit and the sound is audible: (i) from a distance of one hundred (100) feet or more from the property line of the parcel on which the motor vehicle is located; or (ii) from inside a dwelling unit or hotel room; or

5. *Device producing outdoor amplified music or serving as an outdoor public address system.* The device is located to produce outdoor amplified music, to serve as an outdoor public address system, or both, including any such device used in conjunction with an agricultural activity, and the sound is not otherwise regulated under subsections (B)(1) through (4) or exempt under section 7-106, and the sound is audible from inside a dwelling unit or hotel room.

6. *Device in other locations.* The device is located other than within or on a motor vehicle, a place of public entertainment, a dwelling unit, or is not producing a sound subject to subsection (B)(5), and the sound is audible: (i) from a distance of one hundred (100) feet or more from the property line of the parcel on which the device is located; or (ii) from inside a dwelling unit or hotel room.

C. *Off-road vehicles.* The sound is produced by an off-road vehicle operated in a location other than on a street, where the off-road vehicle use is not an authorized primary use under chapter 18 of the Code, and the sound is audible: (i) from a distance of one hundred (100) feet or more from the property line of the parcel on which the off-road vehicle is located; or (ii) between the hours of 10:00 p.m. and 7:00 a.m. from inside a dwelling unit or hotel room.

D. *Proximity to sound-sensitive institutions.* The sound is produced on any street adjacent to any school, hospital, nursing home or court (hereinafter, collectively referred to as "institutions"), provided that conspicuous signs are posted and visible on the street(s) adjacent to the institution stating that the street is adjacent to a school, hospital, nursing home or court and either:

1. *Schools and courts.* The sound is audible from inside the school building or the court between the hours of 7:00 a.m. and 10:00 p.m. when the school or court is in session; or

2. *Hospitals and nursing homes.* The sound is audible from inside the hospital or nursing home.

E. *Construction, demolition and/or maintenance activities.* Sound produced by construction, demolition and/or maintenance activities between the hours of 10:00 p.m. and 7:00 a.m., and the sound is audible: (i) from a distance of one hundred (100) feet or more from the property line of the parcel on which the activities are located; or (ii) from inside a dwelling unit or hotel room.

F. *Silvicultural activities.* Sound produced during lawfully permitted bona fide silvicultural activities including, but not limited to logging activities, between the hours of 10:00 p.m. and 6:00 a.m. or at any time if the silvicultural activities, including logging activities, are determined to not be lawfully permitted bona fide silvicultural activities, and the sound is audible: (i) from a distance of one hundred (100) feet or more from the property line of the parcel on which the activities are located; or (ii) from inside a dwelling unit or hotel room.

G. *Solid waste collection.* Sound produced by the collection of solid waste between the hours of 10:00 p.m. and 6:00 a.m. within a residential zoning district established under chapter 18 of the Code, and between the hours of 10:00 p.m. and 5:00 a.m. within any non-residential zoning district established under chapter 18 of the Code, including any mixed-use site, and the sound is audible: (i) from a distance of one hundred (100) feet or more from the solid waste collection activity; or (ii) from inside a dwelling unit or hotel room.

H. *Yard maintenance activities.* Sound produced by routine yard maintenance activities including, but not limited to, mowing, trimming, clipping, leaf blowing and snow blowing between the hours of 10:00 p.m. and 7:00 a.m. within a residential zoning district established under chapter 18 of the Code, and between the hours of 10:00 p.m. and 6:00 a.m. within any non-residential zoning district established under chapter 18 of the Code, including any mixed-use site, and the sound is audible: (i) from a distance of one hundred (100) feet or more from the property line of the parcel on which the activities are located; or (ii) from inside a dwelling unit or hotel room.

(Ord. 98-A(1), 8-5-98; Ord. 09-7(3), 12-2-09)

State law reference--Va. Code § 15.2-1200.

Sec. 7-106 Exempt sounds.

The following sounds are not prohibited by this article:

- A. *Agricultural activities.* Sound produced by an agricultural activity.
- B. *Animals.* Sound produced by animals including, but not limited to, barking dogs, which is subject to the animal noise regulations in chapter 4 of the Code.
- C. *Bells or chimes from place of religious worship.* Sound produced by bells, chimes or other similar instruments or devices from a place of religious worship.
- D. *Construction, demolition and/or maintenance activities.* Sound produced by construction, demolition and/or maintenance activities, except as provided in section 7-105(E).
- E. *Emergency operations.* Sound produced in the performance of emergency operations including, but not limited to, audible signal devices which are employed as warning or alarm signals in case of fire, collision or imminent danger, or sound produced by power generators during power outages and other emergency situations.
- F. *Firearms.* Sound produced by the lawful discharge of a firearm, including any sound produced at a gun club, shooting range, shooting preserve, or target, trap or skeet range; provided that this sound is otherwise subject to the noise regulations in chapter 18 of the Code.
- G. *Home appliances.* Sound produced by the normal use of home appliances such as generators, air conditioners, heat pumps, vacuum cleaners, washing machines, dryers and dishwashers, provided that the appliances are in good repair.
- H. *Outdoor amplified music or outdoor public address systems.* Sound produced by an outdoor amplified music system or outdoor public address system if the sound is outdoor amplified music at a farm winery subject to the farm winery regulations in section 18-5.1.25(e) or is sound produced in conjunction with an outdoor music festival authorized by special use permit under chapter 18 of the Code.
- I. *Parades, fireworks and similar officially sanctioned events.* Sound produced by parades, fireworks or other similar events which are officially sanctioned, if required; provided that the exemption for fireworks shall apply only to fireworks displays duly issued a permit pursuant to chapter 6 of the Code.
- J. *Person's voice.* Sound produced by a person's voice, except as provided in section 7-105(B).
- K. *Protected expression.* Sound produced by any lawful activity which constitutes protected expression pursuant to the First Amendment of the United States Constitution, but not amplified expression; provided that the sound is not prohibited by section 7-105.

L. *Public facilities and public uses.* Sound produced by the operation of a public facility or public use including, but not limited to, any sound which would not be an exempt sound if it was produced by the operation of a non-public facility or non-public use.

M. *School athletic contests or practices, and other school activities; private schools.* Sound produced by private school athletic contests or practices, and other private school activities.

N. *Silvicultural activities.* Sound produced during lawfully permitted bona fide silvicultural activities including, but not limited to, logging activities, except as provided in section 7-105(F).

O. *Solid waste collection.* Sound produced by the collection of solid waste, except as provided in section 7-105(G).

P. *Telephones.* Normal sound produced by landline and wireless telephones.

Q. *Transportation.* Transient sound produced by transportation including, but not limited to, public and private airports (except as otherwise regulated), aircraft, railroads and other means of public transit, and sound produced by motor vehicles and motorcycles, except as provided in section 7-105(A).

R. *Warning devices.* Sound produced by a horn or warning device of a vehicle when used as a warning device, including back-up alarms for trucks and other equipment.

S. *Yard maintenance activities.* Sound produced by routine yard maintenance activities including, but not limited to, mowing, trimming, clipping, leaf blowing and snow blowing, except as provided in section 7-105(H).

(§ 12.1-7, 9-10-80, § 7; Code 1988, § 12.1-7; Ord. 98-A(1), 8-5-98; Ord. 09-7(3), 12-2-09)

State law reference--Va. Code § 15.2-1200.

Ms. Mallek thanked Ms. McCulley and her staff for their work on the amendments.

Agenda Item No. 22. **Public Hearing: Ordinance to establish a tourism zone pursuant to Virginia Code § 58.1-3851.** Proposed ordinance to establish a tourism zone pursuant to Virginia Code § 58.1-3851. The proposed ordinance would establish a tourism zone whose boundaries are coterminous with the boundaries of the Crozet Development Area as depicted in the Crozet Master Plan, designate the tourism zone as the "Crozet Tourism Zone," and state that the purpose of the tourism zone is to provide gap financing as authorized by Virginia Code § 58.1-3851.1. (*Advertised in The Daily Progress on August 19 and August 26, 2013.*)

The executive summary states that the State has established a financing program (the Virginia Tourism Development Financing Program, hereinafter, the "Program") for qualifying Virginia tourism development projects (hereinafter, "Project"). The Program enables localities to provide economic and regulatory incentives for Projects that are identified as critical to local economic development and are developed in partnership with developers, localities, financial institutions, the Virginia Tourism Corporation and the Virginia Resources Authority.

The Program was introduced to the Board at its April 3, 2013 meeting by County staff and representatives from the Virginia Tourism Corporation and the Virginia Resources Authority. During that discussion, the Board directed staff to provide additional information, including specific critical tourism infrastructure deficiencies that might be appropriate for consideration. At a subsequent presentation to the Board on June 5, 2013, staff recommended that the Board consider an ordinance to establish a tourism zone in the Crozet Development Area for the purpose of providing a gap financing mechanism authorized by Virginia Code § 58.1-3851.1 for qualifying Projects. Qualifying Projects would be those identified as critical and which would address specific critical tourism infrastructure deficiencies under criteria to be established by the Board in conjunction with satisfying all other requirements of Virginia Code § 58.1-3851.1.

The proposed ordinance (Attachment A) establishes the boundaries of the tourism zone, which are coterminous with the boundaries of the Crozet Development Area, and names the tourism zone the "Crozet Tourism Zone." As outlined during the Board's June 5 discussion, staff recommended that the tourism zone be established in Crozet because an analysis of tourism assets and deficiencies revealed a critical lack of sufficient options for lodging in the western area of the County where there are significant tourism assets, including Monticello Artisan Trail sites, wineries, breweries, County parks, the Shenandoah National Park, Skyline Drive and the Blue Ridge Parkway, orchards, and other agritourism attractions.

The proposed ordinance also states that the purpose of the tourism zone will be to provide a gap financing mechanism authorized by Virginia Code § 58.1-3851.1 for those qualifying Projects. Virginia Code § 58.1-3851.1 defines "gap financing" to mean "debt financing to compensate for a shortfall in project funding between the expected development costs of an authorized tourism project and the debt and equity capital provided by the developer of the project." Under a gap financing program, a Project is entitled to 1% of the State sales taxes generated on the Project site, matched by equal amounts from future local sales tax revenues or an equivalent amount of other local tax revenues and funds from the developer. This funding is applied to the payment of principal and interest on the qualified gap financing of up to 20% of the Project's total cost. Because only new tax revenues are used, the Program does not

erode the locality's existing tax revenues. At the April 3, 2013 Board meeting, the Virginia Resources Authority representative demonstrated that the County's revenue generated by a Project site (real estate tax, food and beverage tax, business personal property tax, and transient occupancy tax) would significantly exceed the County's 1% contribution. Any potential Project to be considered for the Program will be evaluated very carefully to identify the full tax revenue potential and the projects return on investment.

The proposed ordinance is the first of several steps required in order to establish a tourism zone. The next step will be to develop a Tourism Development Plan, which will be reviewed and certified by the Virginia Tourism Corporation (VTC). The purpose of the plan is to: (1) identify the deficiency a proposed Project would fill; (2) provide accurate representations of the County's current tourism products, assets, infrastructure, marketing efforts, and visitor profiles; and (3) show the return on investment the proposed Project would have to the local tourism economy. Upon approval of the Tourism Development Plan by VTC, the Board must adopt the plan by ordinance. VTC will advise the County throughout the approval process.

After the Tourism Development Plan is adopted, the Board then must consider adopting an ordinance authorizing a specific Project. Although many types of tourism-related projects may be considered for the Program, the Board has the absolute ability to set clear criteria for Projects it will consider. Any Project that is proposed for this Program must be identified as critical to meet a specific deficiency in the Tourism Development Plan in order to be eligible for the Program.

The final step in the process requires the Board to adopt an ordinance establishing a local match to the State sales and use tax revenues by designating at least 1% local sales and use tax, or an equivalent amount of other local tax revenues, generated by transactions taking place on the Project site.

In order for any future projects to be considered for the Virginia Tourism Development Financing Program, a Tourism Development Plan must be filed with the Virginia Tourism Corporation at the cost of \$500. Any matching contribution to a future Project would be offset by tax revenue generated by the Project.

Staff recommends that the Board adopt the attached proposed Tourism Zone ordinance (Attachment A), which includes the tourism zone map.

Ms. Lee Catlin addressed the Board, stating that staff would present the proposed tourism zone ordinance for the Crozet Development area. She said they have discussed the Virginia Tourism Development financing program several times, which was started by the state as an economic incentive approach for tourism development projects that are identified as critical to local economic development by jurisdictions that are interested in this particular program. She noted that it is a gap financing program, so any project that comes forward must have 80% of the financing in place, and this is a program that looks at using new tax revenues from the project to make up the 20% gap financing. Ms. Catlin stated that a project accepted into the program is entitled to 1% of the state sales tax it generates, which in turn is matched by future local tax revenues as well as the developer – and that's the money that then goes to make up the 20% gap financing.

Mr. Rooker asked if any of that 1% comes from the state itself. Ms. Catlin responded that the state itself gives up the 1% of sales tax, with the developer and the locality matching what the state puts up with the 1%. She said the expectation is that revenue generated by a project that would be accepted into the program would significantly surpass the County's 1% contribution, and it's important to note that any potential project would be evaluated for its full tax revenue potential and its ability to meet the County's return on investment (ROI) expectations.

Ms. Catlin presented an example based on a hypothetical \$5 million hotel, with local sales, real estate, food and beverage, business personal property, and transient occupancy revenues. She said that, from those annual revenues, the 1% match – or \$30,000 – would be taken away, leaving significant net incremental revenues. Ms. Catlin stated that the program is intended to support projects which localities identify as critical to its local economic development, and ones which address specific tourism infrastructure deficiencies. She said staff did an analysis of tourism assets to identify critical deficiencies in Albemarle's tourism infrastructure, and what they came up with was a "lack of sufficient lodging options in western Albemarle." Ms. Catlin stated that they were looking at the tourism financing program as an opportunity to accelerate a critical lodging project in the County, and the Board acknowledged that the lodging deficiency there might be something to consider addressing, and directed staff to draft the ordinance.

Ms. Catlin reported that the proposed ordinance establishes the boundaries of the tourism zone, and names the tourism zone "Crozet Tourism Zone" because it is equivalent to the Crozet development area. She said the stated purpose of the tourism zone is only to provide a gap financing mechanism authorized by the state which is an important distinction because a tourism zone, by its establishment, does not convey any incentives, regulatory relief, or anything in and of itself. Ms. Catlin stated that this is only a tool to provide a pathway for desirable projects to the state financing program, and the ordinance talks about qualifying tourism development projects that have been identified as critical and ones which address specific tourism infrastructure deficiencies. She said staff has only identified lodging in western Albemarle as a tourism deficiency, so those would be the only projects considered appropriate under this ordinance in the zone. Ms. Catlin stated that, in the future, another deficiency might be identified, and the Board can discuss whether it agrees to it being a deficiency.

Ms. Catlin said establishing a tourism zone is just the first step in how a project would move through the financing program, and a tourism zone must first be identified and established by ordinance. She explained that a potential project would have to be identified and would have to be contained within that geographic tourism zone; a tourism development plan would have to be in place, and it would have to identify what the deficiencies are and how the project will address the deficiencies as well as pointing out what the return on investment would be. Ms. Catlin said the tourism plan must be certified by the Virginia Tourism Corporation, and the Board must adopt that by ordinance.

Ms. Catlin said that, in addition, a performance agreement would need to be developed, and it would stipulate very clearly how the financing would be handled, what the requirements and the obligations of the developer and involved parties were, any criteria needed to be put in place as was done with the Government Opportunity Fund performance agreements in the past. Ms. Catlin stated that the Board and the EDA would have to sign and approve that performance agreement. She said the application then gets submitted to the Virginia State Comptroller to sign off on, and then the project is authorized with the Board adopting it by ordinance.

Mr. Boyd asked who would be doing this work. Ms. Catlin replied that a fair amount of the responsibility falls on the developer who brings the project forward, and the Virginia Tourism Corporation works through the plan with the developer, but with the County's input. She said the performance agreement would be a shared responsibility and, in the past, this type of agreement has been a collaboration between the County Attorney's office, the applicant's attorney, and the state. Ms. Catlin stated that it wouldn't fall completely on staff, but it would take some staff time to make some of it happen.

Mr. Boyd asked what the possibility would be of getting two or three applications. Ms. Catlin said that, if they got one application and it came all the way through and was funded, that would probably mean there would no longer be a deficiency in lodging – so the Board would no longer need to entertain additional projects.

Mr. Boyd stated that he has been approached by two individuals who are in that line of business, and asked how the Board would determine which one was the best candidate. Ms. Catlin explained that the Board would have the opportunity to look at the tourism development plans to see how they would address it and the return on investment as far as the 1% investment being made.

Mr. Boyd said it would take Board time and staff time.

Ms. Catlin said the tourism zone itself takes very little time, but that's just step one.

Mr. Rooker said there's no reason to adopt a tourism zone if there's no expectation there would be an application.

Mr. Foley stated that it's similar to an economic development project, where they would invest to get a return – and that does require staff work.

Mr. Boyd said his ongoing concern has been the impact on human resources, and it bothers him because there's obviously more than \$500 of staff time involved in a project like this.

Ms. Catlin offered to answer questions.

Mr. Rooker asked if staff would be able to define what revenues were subject to this, in the case of a hotel, because they may have a restaurant and a gift shop, etc. – and those things may compete with existing businesses in the immediate area. Ms. Catlin responded that they could choose where they want the revenues to come from - the 1% of sales tax revenue - and the performance agreement would need to specify that.

Ms. Mallek asked if it was allowed by the state enabling legislation for them to segregate and specify what part of the revenue is counted. Ms. Catlin said that staff would have to check.

Mr. Rooker stated that he would like to know the answer to that.

Mr. Davis said his best guess is that everything onsite that would generate the sales tax would have to be matched and, as Ms. Catlin has indicated, it's the dollar amount that the state is interested in matching. He said the simplistic way to look at it is that the County will have to match 1% of all the sales tax generated from the onsite operations of the hotel.

Mr. Rooker said that the restaurant would be part of that.

Ms. Mallek said that it would just fill the gap more quickly, with fewer years needed to cover the 20% gap.

Ms. Catlin agreed, stating that the way it would make sense is to look at it as a revenue accelerator, with incremental revenues gathered during the time the project comes online more than compensating for the 1% given back.

Mr. Boyd asked for clarification on where the capital comes from. Ms. Catlin responded that the developer must have 80% of it.

Mr. Rooker explained that the bank basically just extends additional credit.

Mr. Boyd said that, in the end, the County is guaranteeing 20% of it.

Mr. Rooker said they need to be careful about the financial examples, because every business that comes to town could say that they should be exempt from sales tax because they're going to generate revenues and be revenue positive.

Ms. Catlin said, at this point, the Board has only identified lodging in the Crozet area as a deficiency that the Board is willing to consider with this particular program.

Mr. Boyd asked if the hotel didn't make it, would the County have to make up the 20%. Mr. Rooker said it's only a sales tax exemption, the County is not co-signing the note, and asked what the time period is.

Mr. Davis responded that a defined 10-year period is all the County would be guaranteeing for the matching sales tax revenue stream, which theoretically would be used by the business to pay back the loan amount which the banks would look at as a revenue stream to allow the developer to have a greater capacity to borrow.

Mr. Rooker said that it wouldn't matter if they have a loan or not – it's just an exemption from sales tax. He stated that the state is giving up 1%, the County is giving up 1%, and that leaves 3% for the developer over that 10-year period, instead of 5%.

Mr. Davis clarified that the purpose of this program is to offer a gap financing plan so, in order to support a proposal, the Board would identify that there is a gap financing holding back this project – and in order to make the project work, the County would commit to an incentive for them to come forward. He said that, if that wasn't the case, there probably wouldn't be a recommendation to support this in the next several steps leading to final approval. Mr. Davis stated that it would be a challenging task for staff to interpret and analyze the financial capacity of the project.

Mr. Boyd asked if there were financial analysts on staff. Mr. Rooker said that he isn't going to support this, and the analysis shouldn't distinguish between having equity or not. He said it doesn't appear to him that they can exempt the parts of the revenue that would be from auxiliary uses at the hotel, which would be in competition with other area businesses.

Mr. Foley stated that they didn't know that for sure, but it's a good question.

Mr. Rooker said he supported looking at it further, but didn't say he would support it after exploring it more in depth.

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

Ms. Mallek said she would support it because it's a worthy program that also leverages state effort, with nearly \$200,000 in return based on the example shown.

Mr. Rooker said every business that comes to town could say they should be exempt, and he's not sure that a \$30,000 a year difference would be the catalyst for an operator to come into the market. He added that it would require significant staff time.

Mr. Boyd agreed, stating that he sees it as too much overreach into the private sector and the Board would essentially be picking and choosing winners and losers.

Ms. Mallek said it's a state-sponsored activity put out by tourism and economic development in Richmond, and she thinks it has great potential.

Mr. Foley said that the broader question may be how the Board feels about incentives in general because, every time an incentive gets put on the table, there is the question of whether they would have come anyway. He stated that incentives were something the Board included in the Economic Vitality Action Plan.

Mr. Snow said that it's another tool available to the Board, stating that the Board would not have to use it unless the opportunity arose and it was deemed to be a good fit.

Mr. Craddock stated that, during the Old Trail approval process, there was a plan for a hotel to go in that area – and his assumption is that different people have looked at it and decided it wasn't economically viable, which is why it hasn't happened. He said that, once Old Trail builds out, someone will probably build a hotel there whether they do this program or not.

Ms. Mallek said that they might do it next year instead of 10 years from now, which would put the County many dollars ahead.

Ms. Mallek then **moved** to adopt the proposed ordinance to establish a tourism zone as presented. Mr. Snow **seconded** the motion. Roll was called and the motion **failed** by the following recorded vote:

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

NAYS: Mr. Rooker, Mr. Boyd and Mr. Craddock.

Ms. Catlin said that the broader discussion is whether or not the Board embraces incentives, as there will be more coming before them in the future, including some that will perhaps be more palatable to the Board.

Mr. Foley stated that this was a very complex process, and it would have been a complex process even if it had been approved.

Mr. Rooker said there's nothing that prevents the Board from looking at it again, adding that it would be helpful to know whether the revenues can be segregated, the level of debt required on the project, the time frame, etc.

Mr. Boyd said he might view this differently if there were a specific situation that arose.

Mr. Foley stated that this was only to allow a process if someone came forward and because the state has set it up this way, that's how they have to proceed.

Mr. Rooker said his concern is that it is a complex process, and one that has to be monitored if they move forward with a project. He said that, in looking at the numbers, he doesn't think this is going to be the difference in convincing an operator to move forward. Mr. Rooker said that, in effect, what they would be saying is that a project that is more likely to fail would qualify.

Ms. Mallek then **moved** to reconsider the previous motion. Mr. Snow **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

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

NAYS: Mr. Boyd.

Mr. Foley clarified that there are two questions that need to be followed up on – whether or not the revenues could be limited to just the hotel operation and not auxiliary onsite uses, and whether it would only apply in the case of a financing scenario.

Ms. Catlin said her initial assessment is that this would only apply in the case of gap financing that needs to be made up and, if that's not the case, she didn't think the state would support it.

Mr. Boyd said that the other issue he has is the situation where more than one applicant might come forward. Ms. Catlin stated that the Board would have the opportunity to look at them on their individual merits.

Mr. Foley said that there would be a return on investment analysis, and they would have to go through that in the event of competing proposals.

Staff agreed to bring the item back with more information addressing the questions Board members have asked.

Agenda Item No. 23. Boys and Girls Club Annual Update, James Pierce, Executive Director, Boys and Girls Club.

Mr. James Pierce addressed the Board, stating that the Boys & Girls Club has a guest speaker at the meeting – Diana Foster, Director of the Forest Discoveries Program.

Ms. Diana Foster addressed the Board, stating that she is a professional biologist and an educator with a special interest in protecting riparian forests. She said Albemarle County has a diversity of forests that protect waterways, provide habitat for wildlife, and offer endless opportunities to the public for recreation and education. She said there is a group of residents in the Southwood neighborhood who are intelligent, energetic, eager to learn, and enthusiastic about helping their community. Ms. Foster stated that, in the forests of Southwood and the abutting Biscuit Run State Park, there are neo-tropical migrant birds that breed here in spring and then fly south in autumn to or through many of the former home countries of many of the neighborhood's Latino families. She said the Boys & Girls Club has done a superb job of empowering young people to be the best they can be even when their home lives and life histories present challenges.

Ms. Foster said that she has taken advantage of all the things she cares about being located in one place, and has created a program entitled "Forest Discoveries." She stated that, through fun activities in nature and multi-faceted educational programming, and with the support of Boyd & Girls staff, she is able to use the forest and migrating birds to engage the children who are members of the club's Southwood unit and empower these young people to accomplish incredibly wonderful things. Ms. Foster said that, several years ago, she partnered with the club and artist, Anne Sheiks, to create an exhibit at McGuffey Art Center about Piedmont Virginia forests; and in 2010, with support of the Rivanna Trails Foundation and Bob Crickenberger, they built hiking trails and a 20-foot long footbridge in the Southwood forest that can connect to future trails in the County. In the past year, she said she partnered with the Club's choreographer to interpret the movements of three neo-tropical migrant birds that live in the Southwood forest.

Mr. Pierce showed a video reflecting the work they have done at Southwood, which featured resident children talking about the Forest Discoveries program and activities.

Mr. Pierce said that Ms. Foster is representative of about 400 people who make the organization happen – staff, volunteers, Board members, community members, government leaders, and corporate partners. He stated that the club has 65 or 70 different programs, and Forest Discoveries represents the best of the programming, having received national attention.

Mr. Pierce thanked the Board for their involvement individually and collectively with the Boys & Girls Club, noting that they have made visits to the club and have helped strategize future activities. He said the County's support has grown this year, and their awareness of their mission is noticeable – with the three main areas of focus being on-time graduation from high school, healthy lifestyles, and service to the community. Mr. Pierce stated that he had just received results from the 10-week summer reading program held with 100 kids from the City and 100 from the County, and they achieved their goal of over 90% of kids in the program not falling behind. He said this has been a partnership between the two school systems and the club, pointing out that one of the local student participants is featured on the cover of the Boys & Girls Club national magazine. Mr. Pierce said that, over 95% of the kids in the County schools who attend the club three days per week or more, have progressed to the next grade level on time, and they work hard to ensure the kids get their homework done and get special tutoring if they need it. He stated that, in the area of healthy lifestyles, they provide 45 minutes a day of fitness activity. Mr. Pierce said that five days per week, they will be able to provide fresh fruit snacks at Southwood for kids, which has been a two-year effort to get funding. He said the club's participants average about 10 hours of service to the community – either in the club or out in the wider community in places such as nursing homes, food banks, etc.

Mr. Pierce reported that the population of Albemarle County children in the program has increased about 20% this year because they are busing them after school from three County elementary schools to Cherry Avenue, where they spend many of their after-school hours.

Mr. Rooker asked if the buses were Boys & Girls Club vehicles. Mr. Pierce responded that they are mostly JAUNT buses, with one being a club bus.

Mr. Pierce stated that, in looking forward, local government has been excellent to work with, and the club wants to stay aligned with what their priorities are for serving youth. He said the Albemarle County Police Department, County Schools, and Board of Supervisors have all proven to be great partners. Mr. Pierce said they have a cycling challenge coming up the following weekend, and the reason they've been able to do it is because police officers have volunteered to ride with kids and prepare them for their first bike ride.

Mr. Pierce said that the Boys & Girls Club looks forward to providing more specific direction to the kids through SAT prep, more deep tutoring, technology classes, and more individualized fitness instruction. He stated that he had received a call from the Boys & Girls Clubs of America the previous week, and they asked how the local club was able to work so well with local government – so he spent about a half hour explaining the collaboration to them.

Ms. Mallek commented that the open house and the children who spoke and were tour guides were delightful, and she asked about the bike event. Mr. Pierce said the cycling challenge is September 15 at 8:00 a.m. at Old Trail, with an eight-mile family ride starting an hour later.

Mr. Rooker asked if they were still considering expansion in the northern growth area. Mr. Pierce responded that Jack Jouett District is the number two area on their priority list now, and they have a current club at the middle school that serves grades 6, 7 and 8. He said Colonel Sellers and others have identified this is a possible growth area.

Mr. Rooker said that there had been a meeting about a year ago with Matt Haas, and there was going to be a follow-up discussion with him about expanding in one of the schools. Mr. Pierce responded that they have met with Mr. Haas several times to discuss the logistics of a partnership near Albemarle High School, and it is still in the works for the two to three year horizon.

Mr. Snow asked what percentage of kids in the Boys & Girls Club come from the County. Mr. Pierce explained that they serve Orange, Madison, Albemarle and the City and, of the 2,000 kids they serve altogether, about 500-600 are from Albemarle.

Mr. Craddock thanked him for all his work to get a Boys & Girls Club going in Scottsville.

Mr. Pierce thanked him for his support, noting the work group that has been established for southern Albemarle, and said that Bob Crickenberger and the Parks & Recreation Department have been wonderful to work with.

Agenda Item No. 24. Request to Use Portion of Water Base Rate for Green Infrastructure to Reduce Sediment in the South Fork Rivanna River Watershed, Michael Collins, The Center for Natural Capital.

Mr. Michael Collins addressed the Board, stating that he is with the Center for Natural Capital and introduced former BOS member Ed Bain, who is the center's Chairman. He also introduced Buck Klein, Director of the Forestland Conservation Division with the Department of Forestry (DOF), who has become a national leader in the field of environmental services. Mr. Collins said that the DOF has been an instrumental partner in the development of "Forests to Faucets," which he would explain in his presentation. He also introduced Tracy Mehan, a representative of the U.S. Endowment for Forestry and

Communities, which was a funding entity for the project. He thanked the Board for their interest in this topic.

Mr. Collins reported that the mission of the Natural Capital, a 501 (c) 3 nonprofit, is economic development through environmental restoration. He said that they make a business case for the environment in a variety of ways, through four program areas: energy, rivers, landscape, and people. Mr. Collins stated that the organization postulates what the economy would look like and what commerce would look like if they could more fully integrate nature into it and that is what drives the organization.

Mr. Collins said Albemarle County is a national leader in watershed protection adding that the County has decades of programming that is well-respected for its creativity and innovation – and the origin of today's proposal comes from County folks including former Supervisors, Planning Commissioners, former League of Women Voters members, etc. Mr. Collins recognized some of the people who have been involved in this effort over the years: David Bowerman, Dave Tice, David Turner, Sally Thomas, Tim Rose, Emily Couric, Ed Imhoff, Carter McNeely, Bunny Murray, Frank Kessler. He said Mr. Kessler, as a developer, was a huge proponent of the underlying concept – a business case for the environment. He said that John Schwab and Walter Perkins were also passionate about this concept and spent much time volunteering their efforts to create and pave the way for the project.

Mr. Collins stated that staff members like Dave Hirschmann, Steven Bowler, Mary Joy Scala, Mark Harper and Mark Graham have also been instrumental in their belief in “nature’s services,” a concept fostered in the 1990s. He explained that the concept recognizes that nature provides human communities with services they must have for survival, such as nitrogen cycling, phosphorous cycling, pollination services, waste assimilation services. Mr. Collins said that if nature was degraded, man-made systems made of steel and concrete, etc. would need to be constructed to replace those nature services, which are largely free. He stated that these individuals were passionate about the idea that somehow, some way in the future, there must be a way to take those services and begin to integrate them quantitatively into the fabric of local government.

Mr. Collins said that the core of their concept is moving the qualitative appreciation of nature reflected in the language of the Comp Plan from that silo into the capital improvements silo, into the arena of capital expenditures – which is where one gets value. He stated that the belief is, if you can't value it in an accounting basis, it gets destroyed. Mr. Collins said when nature's services are moved into a capital expenditures place, it's called “green infrastructure,” which recognizes that things like forest buffers provide these services, which are the same when they use steel and concrete. He said to carry forward is what the best business case is, what the least costly solution is, and what is the best mix – in this particular case, the best mix of dredging, dam, and forest cover.

Mr. Collins stated that Natural Capital believes that green infrastructure can provide the least costly solutions for a portion of the County's environmental management needs, including overland runoff with sediment, TMDLs, and stormwater. He said there is ample evidence from other communities in the United States that have been doing this for dozens of years, such as Raleigh, NC; the Washington Suburban Sanitary Commission; Philadelphia, Pennsylvania; Portland, Maine; Denver, Colorado. Mr. Collins said these communities are on the verge of spending a billion dollars over the last few decades, recognizing that forests and green infrastructure have actual service value and that it needs to be in their capital improvement budgets.

Mr. Collins reported that, with Forests to Faucets, they've found that over a 30-year planning horizon, green infrastructure was at least as cost-effective as dredging – and with some modeling, even more effective. He said that, in the prototype for the reservoir, they considered forest conservation easements and tree planting and, over anything longer than 10 years, green infrastructure had the same efficacy as dredging. Mr. Collins stated that millions of dollars have been spent by sister communities throughout the U.S. that believe in that notion, and have backed it up with funding. He said this fact, combined with the work of individuals in this community in the 1990s, along with their prototype project, compels them to ask the Board to consider taking this program to the next step.

Mr. Collins explained that the next step is the Board's own – an implementation study that it can conduct how it wants, hiring the parties it wants to perform it and adopting any time frame the Board would like. He said Mr. Mehan's foundation provides millions of dollars for these types of projects, but they have a limited window in which to spend this kind of money. Mr. Collins stated that the Forests to Faucets project officially expires this month, and it would be very attractive to the endowment to move it into a study implementation phase. Mr. Collins said it's very likely that grant funds exist for this – and would require in-kind matching as is usually required for grants. He said his company may not get any work out of that, but he promised the Board that they would help in this effort and find the dollars to continue the effort.

Mr. Collins concluded by stating that green infrastructure – or nature's services – can provide a cost-effective solution for a portion of the County's environmental management needs. He asked the Board to take action on this today.

Mr. Tracy Mehan addressed the Board, stating that he is with a consulting firm called the Cadmus Group, which is based in Arlington and, prior to that, was assistant administrator for water at EPA from 2001-2003, and before that ran the Michigan office of the Great Lakes for eight years. He said that, prior to that, he was director of the Missouri Department of Natural Resources in his home state, and has lived in Virginia for 12 years. Mr. Mehan reported that, in February, he began working with the U.S. Endowment for Forestry and Communities, a perpetual endowment established as part of a settlement between the

U.S. and Canada over a timber sales trade dispute. He said that, as part of that settlement, the Canadians put a \$200 million investment in establishing the endowment – which exits only off the interest.

Mr. Mehan stated that they've been interested in supporting forests in the U.S., a sector that has been transitioning from paper company ownership to private and real estate investment trust ownership. Mr. Mehan said the endowment is also interested in water quality and aligning their interest in forestry with water utility interests in "source water protection." He said his job is to interact with the various stakeholders and introduce them to the endowment and search for ways they might collaborate. Mr. Mehan stated that the endowment has made a \$400,000 investment in the research going on in Albemarle County through the efforts of Mr. Collins and Buck Klein. He said the endowment is eager to be a contributing partner wherever they can, make a critical investment where needed, and perhaps reach out to other funding sources.

Ms. Mallek asked if the proposal would involve outside funding to do a study. Mr. Collins said that is the plan, and the County would decide how they want to do it. He explained that they have done a "proof of concept" project in the South Fork Rivanna Reservoir, which included developing a detailed sediment budget through use of a new DOF tool called "In Forest." He stated that Nick Evans prepared a sediment budget, which showed that about 75% of the sediment moving down the South Fork is legacy sediment, and 25% is overland sediment – which green infrastructure would help with. Mr. Collins said that they would have to dredge with the legacy sediment, but the question remains as to how to deal with the overland sediment. He stated that they made a model where they linked up the land cover and the sediment delivery coming from the land cover, and routed it down into the reservoir, then created a model that showed how increased forest cover would affect reservoir lifetime. Mr. Collins said they made a predictive model with dials that allow a user to adjust variables such as gray and green infrastructure and yearly expenditures to get the longest life for the reservoir. He stated that the other part of the project is estimating what it would cost to do that, with approximately \$250,000 going to Albemarle landowners – or \$600-\$850 per acre to incentivize a landowner to participate in the program over a 20-year span.

Mr. Rooker asked how they would measure the ultimate reduction in sediment. Mr. Collins responded that they used the best available models from USGS, but it is a feasibility study so there's no question that this is an open-source model that would allow for changing the parameters, then re-running the scenario.

Mr. Rooker asked if they had looked at the planning that was done at Buck Mountain with regard to mitigation there, which was a big investment and if they had drawn any conclusions from that. Mr. Collins responded that he was aware of it, but wasn't prepared to draw any conclusions from it.

Mr. Rooker said that it was a significant investment that was required as part of the environmental requirements for the reservoir, and it would be helpful to get some idea of expected return. Mr. Collins said that they could take Buck Mountain and run it through the OIE system they've developed, and get a handle on the cost-effectiveness of the tree-planting program.

Mr. Rooker emphasized that there is already a case study taking place, so it could be contemplated as far as what they're talking about. Mr. Collins said that what they're interested in is the concept of green infrastructure being implemented in a capital planning paradigm and, if the County wants to use that process and apply it to another case study, that's fine.

Mr. Rooker said he wonders if the measuring metrics become better with respect to something that's already been done, but this Board recognizes the investment needed to meet TMDL requirements. He asked Mr. Collins if his group is aware of how their tools interface with the reduction credits being given by the state for doing certain things. Mr. Collins replied that what they've created is a framework to connect those dots and, right now, it contemplates three things: the cost benefit of forest conservation easements, the same for forestation and tree planning, and the same for dredging. He stated that the TMDL issue moves into the arena of nitrogen and phosphorus, and encouraged the Board to communicate with New Haven, CT on their own sediment efforts – which involved looking at forest cover and eutrophication of the reservoir. Mr. Collins said that they came to the same kind of conclusions that his group did but, in order for their framework to be used, additional data and information analysis needs to be added to it.

Mr. Boyd asked where the initial \$400,000 came from. Mr. Collins said the money to develop the tool came from the U.S. Endowment, and most of that – \$250,000 – went to landowner payments.

Mr. Boyd said the County had an engineering study done as a preface to the Ragged Mountain Dam, and they got a very extensive report on the sediment there. He asked how what Mr. Collins' group is proposing relates to that. Mr. Collins explained that they are trying to provide a system that connects the dots which would enable a capital improvements program manager to optimize the best mix of yearly capital expenditures for dredging, forestation, and easements. He said what they found when they used their tool, along with existing local data and the best information from the Mid-Atlantic, and created a system that allows them to mix the optimization.

Mr. Boyd said that what he gleaned from all of their previous presentations on sedimentation is that scientifically you can't determine its origin, whether it's agricultural activities, development, storm management, or all of the above. Mr. Collins said his group scoured the Mid-Atlantic and particularly the state of Pennsylvania for the latest studies on the sediment transport issue, and found that there has been a basic understanding developed in the last few years that enables an estimate or creation of a sediment budget that allows one to parse the amount of sediment that's coming in from in-stream processes versus overland runoff. He stated that their estimates were roughly 75/25% and, based on other communities,

the answer is emerging that green infrastructure – in certain conditions – is at least as good as manmade infrastructure, given a long-term planning horizon. Mr. Collins said the rationale is not because it's environmental, but because it's the best buy and gives the County the best deal. He encouraged the Board to investigate this and his group will help do so.

Ms. Mallek said that forestry would help slow down the velocity of sediment transfer whether it's legacy sedimentation or overland runoff. Mr. Collins stated that, in considering the cost of this, it will be six figures just to meet basic compliance, and the basic reason that green infrastructure can be cost-effective is its ability to stack services and take sediment. He said there is a payment for forestation but, in addition, there is a nitrogen benefit, a phosphorus benefit and perhaps a bio-diversity benefit or a carbon benefit so the unit cost of that service drops way down.

Mr. Rooker said in order to assess this, the Board would need to know the financial investment. Mr. Collins said they won't really know the cost until the involved parties settle on a methodology, but he guesses it would be in the low six-figure range, as it would involve consulting engineers, economists, environmental scientists, policy people. He said that his best estimate is \$200,000-\$300,000, with the foundation or another source entertaining a proposal with the match being in-kind.

Mr. Rooker stated he didn't think the Board has enough information right now, but he has heard enough to agree that it's worth exploring. He said staff would need to interact with Mr. Collins and his group to come back with a recommendation as to how this might work.

Mr. Boyd said staff and the Board would also need to know how this would mesh with overall stormwater management, TMDLs, etc., and its alignment with other things that are already planned.

Mr. Foley said that Mr. Graham is familiar with it, but there are questions that need to be answered. He stated that the original proposal was for Rivanna, so that would involve both City and County, and Mr. Frederick made comments earlier in this regard.

Mr. Rooker stated that one big question he has is whether they can address some of the TMDL requirements through this approach but, in order to do that, there would need to be a study that shows process, cost and predicted effect. He said there isn't a huge amount of extra money to deploy, but the question to him is whether some of the money could go in this direction to satisfy requirements.

Mr. Collins said that is all they're asking for today is a willingness to examine that, adding that there are a few leading edge communities in the U.S. that are on board with this approach now. He stated that groups like the endowment feel that this is a hot issue and thus are encouraging communities to proceed so, to the extent the Board can decide it is willing to move forward with the next step, it will put the County in line for some foundation funding.

Ms. Mallek stated that she is always in favor of having the right information at the time the Board needs to make a decision, and there's so much in this issue that they don't know yet – so this study, in combination with other existing studies and future planned efforts, would move them closer to that.

Mr. Foley said that, if there's enough interest on the part of the Board to move forward, staff can do an assessment of what's been proposed here and try to get some answers to move it to the next stage. He noted that Mr. Graham is very familiar with this at this point.

Mr. Rooker emphasized that he is looking to staff for guidance, as the County will have to meet a number of requirements and thus should explore the most economical measures to do so, and the ones that will probably have the best long-term environmental impacts. He said that he wants staff to recommend whether they should work on it as the County, with the City, through Rivanna, etc.

Mr. Mark Graham, Director of Community Development, said there's been some evolution as to what the goal is with this, and the report in the Board's packets clearly focuses on dredging in the reservoirs and the most cost-effective way to maintain capacity – either through forestation or dredging. He stated that what he is hearing today is that this could also benefit the stormwater program, with green infrastructure perhaps replacing expensive manmade infrastructure. Mr. Graham said this is a fairly complex issue and, while staff could define the question a little better, how it's answered would still remain.

Mr. Boyd emphasized that the dredging decision was a Rivanna decision, greatly influenced by the City – which points out that it is "their" reservoir, not "our" reservoir. He said that the County cannot be making this decision unilaterally.

Mr. Graham said that what he was hearing today is a much bigger goal than just dredging, including those affecting TMDL compliance.

Ms. Mallek said that, to her, it shows there are many possibilities for using the information they would learn, and stated that she has long advocated for a forebay to help maintain the capacity they have – instead of disturbing the whole body. She said that interrupting the sediment transport wherever it occurs is going to help in the long run.

Mr. Foley said staff will need to debrief after the meeting on the goal here, and work with Mr. Collins' group as to what exactly they are proposing here. He stated that bringing back more information to the Board, including how well this may address TMDL mandates, would help them decide whether they want to go to the next step.

Ms. Mallek asked if there is a general positive interest in learning more about this.

Mr. Snow stated that he didn't feel the Board had enough information yet to make a decision.

Ms. Mallek thanked Mr. Collins and his group for coming.

Agenda Item No. 15. Economic Vitality Action Plan Final Report.

The executive summary states that the Board adopted a three-year Economic Vitality Action Plan ("Plan") on August 4, 2010 following extensive public discussion and review. The Plan established a schedule for staff to provide quarterly reports on progress and activities to the Board, and this is the final report. Recognizing that the Plan was adopted as a three-year effort that has now reached the end of its timeframe, the Board included under Strategic Plan Goal #3 - *Encourage a Diverse and Vibrant Local Economy*, Objective #2 as follows: *Establish a fully functioning economic development program for the County.* Staff will present a recommendation to the Board on this topic at a later Board meeting.

As part of the final report on the Plan, it is important to reflect back on the purpose and desired outcomes of the Plan as it was developed and adopted in 2010. Below is an excerpt from the Plan's preamble that outlines what the Plan was intended to do, as well as the Plan's stated primary goal:

Preamble: *This Action Plan is intended to translate the purpose and goals of the Economic Development Policy into concrete and measurable actions, being very mindful of the need to adhere to already established growth management objectives and natural resource protections. While this Plan is focused on accomplishing specific action items within the next three years, the County recognizes the need for a long term commitment to economic vitality. This Plan is intended to establish a sustainable pathway for the long term health of our local economy. Broad-based community input is critical to the success of the Action Plan and is a key feature of many of the specific strategies and actions.*

Primary Goal: *Increase the County's economic vitality and future revenues through economic development by expanding the commercial tax base and supporting the creation of quality jobs for local residents. This Plan is developed for the benefit and economic well being, first, of current local residents and existing local businesses.*

Attachment A provides a comprehensive three-year work plan that outlines all of the strategies and actions for each goal of the Plan, along with the status of those activities at the conclusion of the three-year period. Many of the actions are ongoing in nature and will not be "completed," but will be integrated into the established economic development program as components of that program. The following summary highlights major outcomes/results of the Plan for each goal.

Objective 1 - Improve Business Climate and Image

Plan Outcomes/Results:

- Additional staff resources dedicated to economic development and more visibility to those efforts due to relocation to Office of Community and Business Partnerships in the County Executive's Office
- Expanded website
- Productive and positive working relationships with local, regional and state partners
- Ongoing dialogue with business community on issues and concerns
- Single point of contact established to assist small businesses

Objective 2 - Simplify and Create Certainty - Continued regulatory reform

Plan Outcomes/Results:

- Simplified sign review process
- Simplified ARB application procedures for entrance corridor development
- Additional opportunities for lodging possibilities in the rural area
- Reduced fees and simplified approval process for home-occupation applications
- Priority review process for qualified target industries with several successful applications completed
- Improvements to site plan ministerial review process
- Improvements to legislative review process for zoning map amendments and special use permits
- Amended farm winery zoning regulations to simplify noise enforcement
- Small business toolkit online and in printed form to help small businesses
- Drop in program to help small businesses
- Ongoing training in partnership with Chamber of Commerce and others

Objective 3 - Support Quality Job Opportunities

Plan Outcomes/Results:

- Expanded Albemarle Business First program engaging with a minimum of 100 companies annually
- Alternative Site Foreign Trade Zone to help County companies that import goods
- Robust partnership with entrepreneurial community, including the University of Virginia, the Charlottesville Business Innovation Council (CBIC) and Community Investment Collaborative, among others

- Identified target markets for the County and region
- Workforce opportunities becoming aligned with target market needs
- Increased funding for rebranded Central Virginia Partnership for Economic Development (CVPED)
- Increased funding for Small Business Development Center (SBDC)

Objective 4 - Expand Industrial Land Options

Plan Outcomes/Results:

- Updated and clarified industrial district performance standards
- Increased flexibility and opportunities for businesses to locate in industrial and commercial districts
- Additional protection from potential office conversion on light industry district land (with exceptions for certain pre-existing circumstances)
- Comprehensive Plan recommendations to consider designating additional land as industrial

Objective 5 – Promote Rural Economy

Plan Outcomes/Results:

- Ongoing dialogue with agricultural community on issues and concerns
- Comprehensive Plan recommendations that support Rural Area economic opportunities within overall County policies
- Robust tourism marketing program featuring a revitalized brand that recognizes the County's name and its assets
- Completed successful first year and launching second year of Monticello Artisan's Trail
- Strong partnerships with the Local Food Hub, Monticello's Heritage Harvest Festival, the Tom Tom Festival, UVA's Food Heritage Program and other stakeholders to support and promote agricultural interests
- Annual Agribusiness Marketing Conference in partnership with the Chamber

Data reporting

As stated in the Plan, it is critical that the County regularly monitor and assess the economy and the local business climate in order to proactively and effectively promote economic vitality. Data for the identified indicators for the plan's three year timeframe is provided in Attachment B.

There is no immediate budget impact associated with this item.

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

Ms. Catlin reported that she was presenting a final report on the three-year Economic Vitality Action Plan, stating that the Board had set a very intentional and strategic direction to guide the economic development activities of the County. Ms. Catlin said that there was a preamble to the plan, and one of the things that stood out was the idea of establishing a sustainable pathway for the long-term health of the local economy. She stated that the primary goal of the plan was identified with an emphasis on expanding the local commercial tax base and supporting the creation of quality jobs, and those priorities have remained consistent throughout the time period.

Ms. Catlin said the Board received a detailed workplan and a lot of information on each goal. She explained that, with the visibility and business climate goal, the County moved Ms. Stimart's position into the County Executive's office as part of an effort to expand community and business partnerships; the website is an important driver for economic development activity, and they have gone through several expansions and upgrades of that; staff has worked hard to develop positive and productive relationships with partners at the local, regional and state levels; they've established an ongoing dialogue with the business community on issues and concerns through regular roundtables and Chamber involvement; and they've established a single point of contact in Community Development Department for local businesses.

Regarding objective two - simplifying and creating certainty in development review - Ms. Catlin acknowledged Mark Graham and Community Development staff for a lot of great work on that goal – with a long list of review and approval processes that were simplified or clarified or improved during the three-year time period. She stated that they established a priority review process for the target industries, and several projects have moved through that new process successfully. Ms. Catlin said they have established a small business toolkit in both print and online form to help businesses navigate the process as efficiently as possible. She reported that there has been good activity with the drop-in program for businesses, where people come in and talk about their ideas as well as getting help with mentoring. She said that there have also been ongoing training programs in partnership with the Chamber, SCORE, and other entities.

Ms. Catlin stated that fostering quality job opportunities has been an important effort for the County, and they've had a "hit list" of businesses that they wanted to engage with, and they are on pace for 200 businesses per year. She said the entrepreneurial focus has been very important, working with UVA, the Charlottesville Business Innovation Council, the Community Investment Collaborative, etc., and the Board approved a foreign trade zone during the three-year timeframe as well as increased funding to the Central Virginia Partnership for Economic Development and Small Business Development Center. Ms. Catlin said the target market study identified the types of businesses they want to attract and grow in the community, and are now working to build the pipelines that will allow career people to be ready to move into those companies.

Mr. Rooker asked for examples of businesses that had gone through the priority review process.

Ms. Catlin said that when Siemens Company came in, Mr. Graham assigned senior staff in his department to meet with them, and they had to meet a fairly aggressive timeline in order to get in with Micro-Aire leaving. She noted that Siemens was very pleased with how that process worked for them.

Mr. Rooker asked what has come of the foreign trade zone.

Ms. Catlin said they've had meetings with several companies in the County that are importers and have explained the benefits, but they haven't seen anything specific yet. She stated that this is more of a long-term strategy that becomes a benefit for those firms to work through.

Ms. Mallek asked if it also pertained to exporting, as Chiles Orchards has been internationally exporting their fruit for over a decade on their own.

Ms. Susan Stimart said that the foreign trade zone allows for ease of reporting, which is a more unified reporting process, and it eliminates paying for two points of taxation in the case of local assembly for re-exportation.

Ms. Catlin explained that efforts toward goal four - expanding industrial land options - has included the Board's adoption of industrial district performance standards and recent changes to the zoning ordinance that have increased flexibility in the industrial and commercial districts. She said the Board will be hearing, during in the Comp Plan discussions, some recommendations for additional industrial-designated land, and there would be discussion of interstate interchanges – which is an area that still needs work in terms of meeting target markets.

Ms. Catlin reported that there has been ongoing dialogue with the agricultural community related to the rural economy goal in the plan, and the Board would be seeing some recommended updates in the Comp Plan that have resulted from those discussions. Ms. Catlin mentioned the tourism marketing plan that the CACVB has put in place and the branding process, and the Monticello Artisan's Trail is entering its second year after a very successful first year. She said the County continues to partner with the local food hub and other local food partnerships, including the Monticello Heritage Harvest Festival, the Tom Tom Festival, UVA's food heritage program and other like stakeholders. Ms. Catlin said the County would again partner with the Chamber on the agri-business marketing conference in January 2014, which helps local businesses increase their visibility and sales potential.

Mr. Steve Allshouse addressed the Board, stating that he would present fiscal year data for FY13, instead of the usual quarterly data, and would compare it with previous fiscal years. He said that, over the last two years, there has been a recovery in sales tax revenue – with just under \$13 million for FY13, the highest amount since FY 07/08. Mr. Allshouse said there was a decrease in FY11 and FY12 sales tax revenue due to the departure of a major retailer to the City, but the County has rebounded from that point with increases of about 5.7%. He stated that it is anticipated that, between this year and FY14, they should see another 4.7%, based on the consensus of the revenue team at this point. Mr. Allshouse said that a Board member had asked for a picture of where they were a year ago and where they ended up, and for sales tax revenue in October 2012, the revenue team was looking at \$12.618 million – and they've beaten that estimate by about \$300,000.

Mr. Rooker asked if occupancy taxes and meals taxes were reflected in sales tax.

Mr. Allshouse replied that they were not, as they are considered a separate item. He said that there was a lull during the recession, and are now anticipating a 7% increase in that category over the next year due primarily to the opening of several new restaurants. Mr. Allshouse noted that the County did lose a high-volume restaurant to the City in the last year, and that tended to blunt some of the increase since the recession ended. He stated that, in October 2012, they had projected \$6.217 million and ended up with \$6.13 million – slightly below projections.

Mr. Thomas pointed out that some restaurants had moved from the City to the County, and Mr. Allshouse said that there were several that are starting to counteract the loss of the major one.

Mr. Allshouse reported that transient occupancy tax jumped by about 12% in the last year, and they anticipate a major hotel opening along the 29 North corridor in the next year, helping to generate an expected 9% increase in TOT. He said a year ago they were projecting \$2.35 million, and ended up with \$2.5 million.

Mr. Allshouse reported that the unemployment rate has not reached the low point it had before the recession, but there has been some progress and the rate has tended to mirror changes seen at the state and national levels. He said the total number of jobs in the County in FY13 barely exceeded the peak employment number in FY08, but this data includes part-time and temporary jobs along with full-time and thus can vary significantly. Mr. Allshouse mentioned that the County is a larger community than it was in FY08 so, in looking at the number of jobs per person, there were .52 jobs per resident in FY08 versus .49 in FY13.

Mr. Allshouse presented information on the supply of unsold single-family detached inventory of houses in the County, and said that the numbers are going in the right direction – reaching the six-month level and, at one point, dropping below it. He said this is the first time in the years he's been compiling the data that this has been the case, and is indicative to him that the housing market has "healed."

Mr. Allshouse presented the percentage of real estate tax revenue that is accruing from the commercial sector versus the residential sector, noting that he includes multi-family residential in this composite which had increased over the last year. He said that the Charlottesville metro area is essentially driven by two industries – healthcare and higher education – both are institutional sectors of the economy and thus don't typically pay real estate taxes.

Mr. Allshouse summarized that the County was affected by the recession but fared somewhat better than the state and country did, and they have seen recovery in a number of revenue streams, with unemployment trending downward and the housing market improving. He said that the county assessor, based on a very preliminary assessment, believes that the total value of both commercial and residential real estate would increase by at least 1% this year over the previous fiscal year.

Mr. Boyd said that multi-family should be included as residential, not commercial, because they consider homes to have more of a tax impact with schools, etc. Mr. Allshouse stated that they can report it either way and it differs by locality but, in general, they need to be cautious about how data from other localities is interpreted. He asked if there was interest on the part of the Board to have this information presented in the future.

Ms. Mallek said that the quarterly report format is important and helpful.

Mr. Foley stated that the question is in what context it's presented to the Board, as the economic development program in the future may be focused on other metrics.

Ms. Mallek said that this could stand on its own.

Mr. Foley said it should probably be part of the financial report.

Mr. Boyd said the Fiscal Impact Committee had discussed having these numbers published as part of a financial newsletter. Mr. Allshouse stated that he used to produce a stand-alone newsletter, and perhaps he could incorporate this sort of report into an appendix to the quarterly financial projections he does for the County.

Ms. Mallek said it would be beneficial to have this as part of their community profile because, if people are looking to invest here, they want to know that the County is in good financial shape.

Mr. Boyd commented that the indices look pretty flat except for tourism, and asked Mr. Allshouse if he thought it was just the economy affecting this, something in the economic development plan, or the rebranding of tourism. Mr. Allshouse responded that it's probably "all of the above," and it's difficult to segregate out what's happening locally from what's happening on a national level.

Mr. Rooker said Albemarle County stays way below the national and below the state unemployment average and, in general, moves along with national trends.

Mr. Boyd stated that what's missing from this data is the poverty index, which the County wants to improve with jobs, and average income data.

Mr. Allshouse said everything counts, adding that the other way to look at this is whether the County would have done worse without the economic development effort.

Ms. Catlin stated that, in October, staff would be coming back to the Board to talk about transition from the action plan to an ongoing economic development program, and would be seeking the Board's direction as to how it would like to move forward.

Mr. Boyd commended staff on all of the effort put into the plan, stating that it's all about activity, and asked if they are now ready to set some target outcomes – such as increasing the number of jobs, increasing the number of companies, etc., – perhaps identify specific goals that can be easily measured.

Mr. Rooker agreed that those goals were very important but, in his mind, he felt the Board should focus on existing residents rather than new population-generating activities which could put a strain on existing resources.

Mr. Boyd also suggested doing a peer review of what has been done so far with economic vitality professionals, as they would be able to provide input as to successful initiatives and future plans.

Ms. Catlin said staff did some of that with the stakeholders meetings over the summer, as they included Helen Cauthen of CVPED, Chamber representatives, and several major business people. She stated that they also shared with them the white paper developed on what they would do to take the next step and transition to an ongoing economic development program, so hopefully that information will come back to the Board in October.

Mr. Foley stated that the success of this program over the last few years has been the reception from the business community, with people like Tim Hulbert coming before them and commenting on the positive change. He said that the reason they've done a lot of activities is because they had to get "over the hump," and he's not certain whether they could answer the question as to whether the economic development program led to those changes. Mr. Foley said that if the Board wants to set some different metrics that hold staff accountable for things like the number of jobs created or the number of target industries were attracted, those are huge questions for the discussion they will have the following month.

He stated that several Board members have asked if more staff is really needed to go to the next level, and that will depend on the metrics and goals established. Mr. Foley said that they couldn't be where they are now were it not for all the hard work done over the last three years – which has been no small feat – and he commended Ms. Catlin, Ms. Stimart, and other staff for their efforts. He stated that whether they need to go after the target market or help enhance existing business is a pretty big question, and staff cannot go to the next level with the resources they have in place currently.

Mr. Boyd said that, after consulting with business professionals, staff may come back and say they can't do much with the staff they have now, but they may be able to pinpoint how key additional staff can help them move forward.

Mr. Snow said, with enough information, the Board can make the decision, looking at the realistic possibilities with current staffing levels and the potential benefits of adding staff. He also expressed his appreciation to staff and said that "it's not the same County" it was before these efforts.

Mr. Rooker stated that the list of things they've done over the last few years is amazing, and his question is whether perhaps they should narrow their focus.

Mr. Foley said that is exactly where they are right now, and they had to do many different things at first because the County had "image issues" and other challenges. He stated that an economic development program may focus more on going after target industries, getting sites available, working with developers and the private sector on the kinds of things that can bring those types of jobs to the area.

Mr. Thomas said it should also include a focus on the ones that are here now, and staff has been doing a great job in that area.

Mr. Foley stated that he knows the Board is appreciative of staff, and Ms. Catlin has provided an update every quarter, so they would continue that in their discussion in October.

NonAgenda. At 4:47 p.m., the Board took a recess and reconvened at 5:01 p.m.)

Agenda Item No. 25. **Work Session:** Water Resources Program Development (Virginia Stormwater Management Program) – Work Session #3.

The executive summary states that largely in response to Virginia's Chesapeake Bay Watershed Implementation Plan (WIP), the Virginia Stormwater Management Act was significantly revised to enhance stormwater regulations and to set clear mandates for local governments. In response to this new law, the Virginia Soil and Water Conservation Board (VSWCB) promulgated new regulations. The purpose of this Board work session is to review the elements of the Virginia Stormwater Management Program (VSMP) that the County is required to submit to the VSWCB by December 15, 2013, and staff's plan for responding to this mandate. Over the last several months, staff has provided background information and visions for a water resource program that responds to both the new State mandates and the County's goals as stated in current policy (Attachments A and B). The County's response to the VSMP mandates will not preclude it from later considering additional programs that address the County's goals, and staff plans to resume that effort after the Board provides direction on this program.

While a hyperlink to the regulations is provided ([VSMP Permit Regulations](#)), the reader is advised that the regulations are over 160 pages in length and can be somewhat difficult to follow without significant background research into Virginia stormwater law. Staff has attempted to distill the regulations into 2 pages that summarize the County's mandates and a recommended response. As with any summary of this type, this report attempts to focus on the key points but cannot fully address the wide array of details associated with this program.

Required County Response

By December 15, 2013, the County is required to submit the following to the VSWCB:

- A draft ordinance supported by the Board that addresses the requirements of the regulations as outlined in the Virginia Administrative Code (4VAC 50-60-148 and 4VAC 50-60-150).
- A funding and staffing plan that supports the full implementation of the ordinance (4VAC 50-60-150).
- Policies and procedures to ensure full implementation of the ordinance (4VAC 50-60-150).

Details on each of these elements is provided below.

Required Draft Ordinance

The draft ordinance must address the following nine requirements:

- Identification of authority. Identification of the authority accepting complete registration statements (pertaining to discharges from regulated construction activities) and to complete plan reviews, plan approvals, inspections, and enforcement. The County's Water Protection Ordinance (WPO) already contains many of these provisions and they will be updated to incorporate the VSMP Regulations.
- Provisions for reviewing and approving erosion and sediment control plans. The WPO already addresses this requirement.

- Provisions to ensure compliance with the VSMP Regulations pertaining to Stormwater Pollution Prevention Plans, Stormwater Management Plans, and Pollution Prevention Plans. While the County has a stormwater management requirement in its current WPO, this requirement will be greatly expanded under new State laws, and the County is assigned the responsibility for pollution prevention plans that were previously administered by the State.
- Requirements for inspections and monitoring by the developer/property owner. This provision is part of the transfer of the stormwater and pollution prevention plans to the County. While the program makes the developer responsible for regularly inspecting the site and ensuring compliance, the County now has a responsibility for assuring compliance.
- Requirements for long-term inspection and maintenance of stormwater management facilities. The County already requires maintenance agreements as part of its approvals, but this provision includes additional inspection requirements for future property owners. Staff anticipates this will prove difficult to enforce with smaller residential developments and may generate future demands for the County to assume responsibility for these facilities.
- Collection and distribution of fees. While the WPO already includes fees and fee collection procedures, the VSMP Regulations provide for new fees to offset the additional program costs. The VSMP Regulations also include a requirement that part of collected fees with this program must be transferred to the Virginia Department of Environmental Quality (DEQ) for administering state program oversight. Thus, fees included in the ordinance to offset costs must be determined in anticipation that 28% of most new fees will be transferred to DEQ.
- Provisions for enforcement and civil penalties. The WPO already includes provisions for this, but they will need to be significantly revised to include the new required provisions.
- Provisions for bonding construction activities to ensure the County has a funding source if it proves necessary for the County to revoke permits and stabilize the site. The County already has this program in place. Staff notes that many of the current state limitations for a bond program remain in place.
- Provisions for record keeping and reporting to DEQ on program compliance. Community Development already manages this program, but the regulations add additional steps that must be followed.

Required Funding and Staffing Plan

While the VSMP Regulations include proposed fees, the County has flexibility to adopt fees up to complete cost recovery. Additionally, despite repeated staff requests to the Commonwealth for estimates of typical resource requirements, no guidance on resource requirements has been provided to local governments. As such, staff is required to estimate anticipated resource demands for new programs for which it has limited or no experience in administering.

There are two parts to the County's program cost estimate. As addressed in the County's Municipal Separate Storm Sewer System (MS4) permit, General Services has provided a budget request that addresses the long-term inspection and maintenance program. For new program costs associated with construction, Community Development staff has estimated workload increases based on the current number of applications per year. Assuming the current rate of applications is maintained, staff estimates that this program will require one additional plan review engineer and one and one-half additional inspectors starting with implementation of the new ordinance. That would increase engineering staff from the current 4 FTE to 5 FTE and WPO inspectors from the current 3½ FTEs to 5 FTEs. Staff also anticipates this program will require one additional inspector in FY16, bringing the number of inspectors to 6 FTEs. The FY16 increase is planned to accommodate program growth as more new projects are subject to the new requirements and fewer projects are eligible to be grandfathered under the current requirements. This equates to an estimated cost increase above current levels of approximately \$182,000 in FY15 and \$251,000 in FY16.

It is possible for the County to offset some or all of the additional costs through development fees established in this ordinance. When the WPO fees were last updated, the Board established a policy of recovering approximately one-half of the program costs through fees. By considering the fees allowed in the VSMP Regulations and the number of current applications each year, staff estimates those fee amounts will generate approximately \$180,000 in new revenue per year. Transferring 28% of that amount to DEQ, as required by the VSMP Regulations, would leave the County with approximately \$130,000 in net revenue. With the estimated program cost increase for FY 15 and 16, the expected net revenue would maintain compliance with the current policy of recovering one-half of the costs through fees. Assuming the Board wishes to maintain that current policy, staff recommends this approach. Staff notes the County may recover additional revenue each year beyond FY16 from permit modifications or renewals, but those amounts do not appear to be appreciable in FY15 or FY16.

Required Policies and Procedures

Through the Design Standards Manual, the County already has most policies and procedures in place for implementation of the new ordinance, though some updates for the stormwater provisions will be required. Staff has noted two areas where the regulations require new policy.

- Towns. The town of Scottsville has the option to be covered by the County's program or to create its own program. Scottsville officials have expressed an interest in the County administering the program for the town, and staff does not believe this would result in a significant change in workload. By State law, this would include the part of the town within Fluvanna County.

- Grandfathering. Staff notes the VSMP Regulations have a very generous grandfathering provision. Under that provision, any valid plan of development that was approved prior to July 1, 2012 would be grandfathered from these new regulations until June 30, 2019. For Albemarle County, this would include a number of larger rezonings in addition to site plans and subdivision plats already extended to June 30, 2017 under separate action of the General Assembly.

As outlined above, staff anticipates presenting to the Board for its review in November: 1) a draft ordinance; 2) a plan for funding and staffing the new program; and 3) recommended policies and procedures for implementing the new ordinance. The Board will not be required to adopt the ordinance at that time, but an endorsement by the Board of the three listed documents is required before they are forwarded to the VSWCB prior to December 15, 2013. The VSWCB will review the documents to verify compliance with its regulations and will advise the County whether the County's documents are in compliance or additional changes are required before the Board's adoption. Following the VSWCB's review, staff will ask the Board to schedule the ordinance for public hearing before April 1, 2014, so that the adopted ordinance may be submitted to the VSWCB by that date.

As noted above, this new program is estimated to increase current program costs by approximately \$182,000 in FY15 and by \$251,000 in FY16. Some or all of this increased cost can be offset by new revenue associated with development fees. Staff is proposing to use the fees as provided in the VSMP Regulations and anticipates those fees will generate approximately \$130,000 in net revenue for the County in FY15 and FY16. Additionally, the General Services Department budget currently includes MS4 permit costs which include overseeing the long-term inspection program, which also is part of the VSMP permit. Final estimates of the impact on General Services are currently being finalized and will be reviewed further with the Board on Wednesday. Estimating this amount is challenging because of the multiples Federal and State mandates being imposed on the County.

Staff has provided this information to assist the Board in understanding the general requirements of the proposed ordinance, funding and staffing the program, and the policies and procedures associated with the program.

In addition, staff has proposed a fee structure consistent with current policy for WPO fees. When the Board considers adopting the ordinance, it may adopt lower fees than advertised, but higher fees would require the ordinance amendment be re-advertised. Therefore, staff requests that the Board advise staff if it would like staff to draft an ordinance amendment that would more fully offset the increased costs of the program.

Mr. Graham reported that the reason for this presentation was to ensure the Board understands what would be coming before it in the fall, as there will be some actions the County would have to take in response to the water resources issues. He said that, in July, they talked about current conditions and in August they talked about goals, and, today, this is one of the first programs that is being addressed. He said it was being broken out separately because staff is on a timeline to meet the state deadline. Mr. Graham stated that, at the last meeting, staff presented a wide range of possibilities with program implementation but, today, his focus would be on the Virginia Stormwater Management Program and how to address development-related stormwater impacts and what staff must do to address that mandate.

Mr. Graham said that, under those VSMP requirements, there are three dates of significance: by December 15, 2013, the County must submit a draft program for review by the State Water Control Board, and, with that, there is a draft ordinance, a draft resource and funding plan, and any draft policies and procedures identified as necessary for implementation of the ordinance. In April 2014, he said, the County should have heard back from the State Water Control Board, hopefully indicating that the draft ordinance satisfies the state requirements under the regulations. He said there would have to be a public hearing at that time for the water protection ordinance amendment and, at that time, they would also have the FY15 budget adoption to help address the resources and funding necessary for implementation. Mr. Graham said the final date is July 1, 2014, which is when date the program must be up and running.

Mr. Graham reported that they have identified 1.5 FTEs for inspections and another 1.0 FTE for the plan review in FY15 and, in FY16, staff has identified another FTE for inspections. He said that, by the time they get to the second year, there will be other projects to inspect as they won't all come online in the first year. Mr. Graham said staff has tried to be conservative in their estimates on what it will take to do this, and the costs will primarily be staff and staffing-related costs such as training, equipment, vehicles, and computers. He said this is really about overseeing permits and managing a permit program that's been delegated to localities by the state. Mr. Graham reported that the estimated cost, as noted in their executive summary, is \$182,000 for the first year. He anticipates that it would be offset by about \$132,000 in fees, assuming the Board adopts the fees as he's proposed in this report. In the second year, the cost is expected to go up to \$251,000 total with the addition of a second FTE.

Mr. Graham said that, as far as the policies and procedures in the report, there is a grandfathering clause that allows plans prior to 2012 to be grandfathered until July 1, 2019 and, if they haven't started by then, there is no more grandfathering and they would have to comply.

Mr. Rooker asked how this would apply to large developments that have more than one phase. Mr. Graham responded that he has asked that same question and has received two slightly different answers, but his understanding is that it would cover the phases that they've started on by that date so, if there was a phase without a final plan and it needed to be submitted after that date, it would not be

grandfathered. Mr. Graham stated that site plans in subdivisions are already extended currently by the General Assembly until 2017.

Mr. Boyd asked if a letter should be sent to those who are affected, because they may not be aware of how they might be impacted, i.e., whether or not they're grandfathered. Mr. Graham said that was a great point, and he would cover it momentarily. Mr. Graham stated that the Town of Scottsville has the option to have their own program or fold into Albemarle's plan, and their feeling right now is that they'd prefer to be under the County's.

Ms. Mallek asked what the Town would bring with them to pay for this. Mr. Graham responded that they don't bring anything, and the program would be funded by fees or through the County's tax support, or through a stormwater utility. He said the only other way he could see the Town working it would be to turn over the management to the Thomas Jefferson Soil & Water Conservation District.

Ms. Mallek noted that a lot of rural counties do that, and Mr. Graham agreed.

Mr. Graham reported that he would review the project costs – but just the permit applications and fees, not the actual cost of compliance, which will be much higher in terms of what they have to do for construction. He said that, in the case of properties that are less than one acre, nothing is currently required in terms of permitting but, beginning next year, anything going over 10,000 square feet would require a permit. Mr. Graham said the permit cost for the first year is \$290 for the first example; for the next example, the general state permit for stormwater discharge is just under \$1,500 but, under the new fees, it would increase to \$4,500 with 28% handed over to the state for each application. Regardless of where the County sets their fees, that is the amount that will be given to the state.

Ms. Mallek asked if it was 28% of what they think the cost should be. Mr. Graham clarified that it was the fixed amount listed and, if the County charged zero, they would still have to pay that amount to the state.

Mr. Rooker asked what he meant by first year. Mr. Graham responded that it covers the cost of all permit inspections for the first year, and there is a permit renewal that would have an additional cost in the second year if the project continues beyond that one year.

Mr. Graham said the last example he provided was a large project where the cost jumps up to about \$9,500 and the permit would be based on the size of the project because there are so many new elements to inspections beyond just the stormwater management facility. He clarified that this example was for a 101-acre disturbance, and the cost is per acre. Mr. Graham explained that, in the chart he provided, the right-hand bar up to \$9,500 is the fee proposed to be collected from the applicant – and the amount on top is the part of the fee the County would turn around and give to the state. He noted that this is just the permitting cost, and the actual costs for developers on the ground will be significantly higher given the pollution-prevention measures they must implement for compliance.

Mr. Graham stated that what staff is seeking at this point is a draft ordinance with funding and staffing plans to be brought to the Board in November. He said the draft is for Board endorsement and, if so, staff would then forward to the State Water Control Board - adding that the Board would not be adopting it at this time.

Mr. Graham said that regarding notification, he felt it would be important to hold at least one roundtable in advance of that.

Mr. Boyd stated that it should be a broader invitation, so it includes people who might be contemplating a family subdivision.

Mr. Graham said that a family subdivision wouldn't have to comply, as they still don't have a stormwater management requirement, but other small developments would have to comply. He stated that staff would try to capture as many affected parties as possible, but it would at least provide an opportunity to get some initial input.

Mr. Davis stated that the question Mr. Graham is really getting to is whether the Board is going to be comfortable endorsing an ordinance without having a public hearing. He said that, if they make substantial changes to the ordinance that's been reviewed, it may be problematic to the approval of the ordinance.

Mr. Graham said it's a very awkward situation in that staff is required to have the state approve the ordinance before it can be implemented, however, the state may require us to make certain changes to it. He stated that, if they had a public hearing before it went to the state and the changes from the Board were substantive, then the County would have to have a second public hearing and explain why they're doing it again.

Mr. Davis said that if substantial changes are made locally to the ordinance after the state has approved it, they would have to go back through the process again by the deadline.

Mr. Graham said that's why he's calling for a public hearing in April, so there will be enough turn-around time, but if they adopt something different it may be problematic.

Mr. Boyd asked if they could hold two public hearings. Ms. Mallek said they could prepare two, and not have the second one if it isn't needed. Mr. Graham clarified that there's no requirement to have a formal public hearing in advance, but they can certainly open it up to the public in November.

Ms. Mallek said someone from the DEQ who had attended the VACo meeting when this was discussed said there would be response and help available with drafts before it was submitted in order to get some initial feedback on the first run. Mr. Graham stated that staff has tried getting feedback in the past, and it should be an interesting process with the State Water Control Board having to take action on over 100 local ordinances.

Ms. Mallek said that hopefully there would be a template to follow. Mr. Graham said they would try to follow that template as much as possible, however, staff has already identified flaws in that template – and other localities are going to have those same issues.

Mr. Foley said the Board is going to need to look at the fees and be comfortable with where they're set, and recognize that the state amount isn't going to change.

Ms. Mallek stated that the Board needs to make sure the County is at least getting 50%.

Mr. Graham said staff was scheduled to come back and address water protection ordinance fees anyway, so the state has effectively preempted that with a totally new program.

Mr. Boyd said the reason they had gone with 50% for normal development fees before is because they felt the entire community benefited from it, and he wouldn't be opposed, in this particular case, to charge them the whole fee because it's a mandate from the state.

Ms. Mallek said it wouldn't really be fair otherwise. Mr. Graham stated that, from an ordinance adoption perspective, that's the safest approach because they can always back down and reduce the fees if there's enough public concern.

Mr. Boyd said he is tired of taking hits from the state, and this is their mandate.

Ms. Mallek said that if they don't do that, then there is a necessity to do the utility or some other measure.

Mr. Boyd said that this is a very specific fee tied to a specific mandate which will require additional County personnel and, if there are a number of projects that can be tied to each staff person, it will help set some kind of tangible amount to that.

Mr. Snow asked how it would work with affordable housing. Mr. Foley said that component would have to be part of the Board's discussion, and asked if Mr. Graham needed to get input prior to advertising the public hearing in November. Mr. Graham responded that he was looking for input regardless of the public hearing before he brought the ordinance back for endorsement. He said that, if there are changes the Board wants to see, staff could reasonably get those turned around by November, have the Board look at those in December, and still make the December 15 deadline to get something to the state. Mr. Graham said that he already has the spreadsheet worked out that ties the number of applications to the number of personnel needed, and that would be simple to alter based on volume.

Mr. Rooker asked how much training would be required for an inspector. Mr. Graham said that the state has set out a formal training program, and it would take four sessions, so they would have to go through that certification program.

Mr. Graham stated that the requirement is to have the ordinance and plan forwarded to DEQ by December 15, 2013, adopted tentatively in April, and implemented by July 1, 2014.

Mr. Rooker asked if the state has any leeway on these deadlines. Mr. Graham said that it's not built into the state regulations.

Mr. Rooker said that the state legislature could change these deadlines.

Ms. Mallek and Mr. Graham stated that they had done that once, when they came up last year.

Mr. Graham said that they will have to meet the December deadline, and hopefully they will know of any extensions before the ordinance and plan are due.

Mr. Doug Walker, Assistant County Executive, pointed out that there will be other costs associated with other mandates such as the MS4 permit and TMDL as they move forward in the budget process.

Mr. Foley said the five-year financial plan that will be presented to the Board in November would take a broader look at this, because it affects more than Mr. Graham's inspectors; it also impacts General Services and some other areas.

Mr. Graham agreed that it would have a broader impact, and mentioned that Virginia hasn't fully addressed the bigger parts of the TMDL, specifically the agriculture question, which must be answered and he remains uncertain as to what the state is going to do there.

Ms. Mallek said it may be another way to use the tree buffers mentioned in the earlier presentation.

Mr. Graham said the watershed implementation plan with the Chesapeake Bay TMDL identifies that they would have 95% of the streams within the watershed fenced with a buffer, but he has no idea how that will be accomplished.

Agenda Item No. 26. From the Board: Committee Reports and Matters Not Listed on the Agenda.

Ms. Mallek asked Mr. Snow about the broadband item.

Mr. Snow stated that he was going to come back to the Board as part of some additional information from staff.

Ms. Mallek said she sent fellow Board members an email about “country crossroads” areas where there are older communities, and there is a building in Earlysville that has been used since 1930 as a garage, sitting just a few inches from the commercial zone. She stated that a landscaper would like to move into this now vacant building, but it’s not commercial zoned – it’s in the rural area, despite its ongoing commercial use for many generations. Ms. Mallek said she approached staff about it as a zoning issue, but it was discovered to be much more complicated, and her question is whether it could be addressed as part of their discussion of “borderline” buildings that are on the edge of commercial and industrial zones. She asked if the only option was an expensive rezoning, or if there was something more supportive the Board could do that would be reasonable to accommodate like situations.

Mr. Rooker stated that the Board would need to be careful about making broad changes to fit a particular circumstance.

Ms. Mallek said that it is just one example, but there are many other places where the same type of thing would come forward, to use another building.

Mr. Rooker stated that there is commercial zoning beside this building, but this particular parcel is not.

Mr. Cilimberg explained that Chapter 7 of the Comp Plan, which the Board would review this fall, includes several strategies that would create the potential for some alternative uses in the rural area – particularly at crossroads communities – including consideration for allowing landscape services and storage of landscape materials as a use allowance in the rural area. He said this is one of the recommendations of the Planning Commission, some of which apply to the rural areas in general and some applying just to country crossroads. Mr. Cilimberg stated that this issue wouldn’t be before the Board until its review of the Comp Plan though.

Ms. Mallek said she didn’t know if the landowner would sit on the building for that long.

Mr. Cilimberg clarified that the proposed provision is for allowance of landscape services and landscape materials storage in the rural area.

Mr. Craddock recalled the Scott Watkins situation on Route 20 South where he had landscaping items at his house, then he moved out to Route 250.

Mr. Cilimberg said he ended up in industrial zoning, which wouldn’t apply to this case. He explained that Earlysville was one of the County’s development area villages until the 1990s, and there was potential for additional zoning to occur there, but the community said it didn’t want to be a village anymore.

Ms. Mallek said it’s because the County wasn’t interested in providing water and sewer.

Mr. Cilimberg said that what the County has pursued recently are several amendments pertaining to earlier priorities for things such as country stores and rural home occupations, and there are a few others on the work program list – but this one hasn’t risen to that level because it’s part of the Comp Plan consideration. He said they have also identified other types of uses in crossroads communities that may be very supportive of the area around them, and that’s another strategy in the Comp Plan recommendations.

Mr. Snow asked if there was anything that could be done to help this individual in the interim. Ms. McCulley stated that, if someone resided there, it could be considered a home occupation if it complied with the regulations. Under the current zoning, she said there would be some other special uses that could be considered but, if it’s a public garage, it probably has very specific uses assigned to it.

Mr. Davis clarified that the garage wasn’t a grandfathered use, it was a nonconforming use. He said that the general principle in planning is that nonconforming uses are not favored because they’re inconsistent with the Comp Plan and zoning – and there should be an end to those uses when they end. Mr. Davis said that, with crossroads, there may be other factors that would play into whether or not it’s deemed appropriate for those types of uses to continue.

Mr. Rooker asked if it was possible to do a single zoning text amendment that allows by special use permit to have landscaping operations that are not greater than a certain size in the rural area, even limiting it to crossroads areas.

Mr. Davis said that these issues have been considered before, and they would have to look at a special use permit for a particular type of use in an existing building, but that would be a special use permit that the Board would have to consider. He reiterated that it should all be consistent with the Comprehensive Plan.

Agenda Item No. 27. From the County Executive: Report on Matters Not Listed on the Agenda.

Mr. Foley stated that the Board would be receiving an email from Davenport, the County's financial advisors, on a \$36 million bond issue – which is basically the last two years of capital projects. He stated that they would be going out to the market with lease-revenue financing through the EDA, to pay for things like the library and other projects. Mr. Foley said that they normally do reimbursement resolutions early on so they have 18 months before they have to actually borrow the money for the projects, and staff would be coming to the Board in October and November with formal resolutions for approval.

Mr. Foley said he, Bill Letteri, and Betty Burrell are scheduled to meet with the rating agencies before the bond issue, to reinforce the County's AAA bond rating so they can get the best possible rates – and would also meet with Fitch, the one rating agency they hadn't yet been rated by. Mr. Foley said that this covers only projects that have already been approved, and they don't want to pay interest any sooner than they have to. He stated that they're borrowing at almost AAA rates, even with a lease-revenue bond through the EDA.

At this time the Board went back to Item 8.6 – Children at Play Signs.

Ms. Mallek asked if it was optional or mandatory that the County pay for these signs. Mr. Foley said VDOT has stated that it will no longer pay, and localities can do what they want to do, but the only thing they can do is to pass it onto the community. He stated that, if a community decides to change a street name and agrees to pay for a new sign themselves, they can do it, adding that VDOT has dumped this on localities.

Mr. Davis said there are several costs: the initial cost of the sign which VDOT places at \$800, and the ongoing costs to maintain or replace the sign.

Ms. Mallek stated that a neighborhood could, on their own, put up a sign that says "Welcome to our Neighborhood. Children at Play."

Mr. Davis said they actually can't do that and, even these signs must be approved by VDOT if they are in the right of way. He stated that VDOT will still have to approve it, and the County would implement it and pay for it.

Mr. Boyd asked for some statistics on how many signs they're talking about. Mr. Michael Freitas, Chief of Public Works, addressed the Board, stating that he was unable to get any information from VDOT as to how many signs they put up a year, how many are out there, and how many they repair each year. He said he met with David Benish on what had gone through the Board previously for resolution, and they're looking at only one or two signs per year.

Mr. Rooker asked if the Board had to approve them all. Mr. Davis said that, prior to 2005, VDOT just did it upon request but, after that, they started requiring the Board to adopt a resolution asking VDOT to do it.

Mr. Thomas stated that, about two months ago, he had a request for a "Children Playing" sign.

Mr. Freitas said it was at Airport Acres, and that's what precipitated staff to do this. Since then, he said they have had only one other request, at Inglewood Court, which is off Hydraulic across Route 29.

Mr. Boyd said he has also gotten a request for Gilliam's Station Road.

Mr. Foley stated that they don't know how many of these signs are in need of repair or replacement but that would be coming to the County in the future.

Mr. Freitas said that, regarding the \$850 estimate from VDOT, the 12" street signs with four signposts on Route 29 cost less than \$200 each, and he thinks they would anticipate a cost of \$250-\$300.

Ms. Mallek said the County wouldn't necessarily have to use VDOT signs.

Mr. Davis said the signs would have to meet VDOT standards.

Ms. Mallek said that neighborhoods can come up with \$250 for these signs.

Mr. Boyd agreed that neighborhoods could pay for them, given that VDOT no longer pays for them.

Mr. Foley said that there is a model for the process they would need to follow, and staff could come up with a plan and bring it back to the Board.

Mr. Rooker stated that he would rather have people write to their legislators and complain about it.

Mr. Davis said that the item in front of them authorizes the County Executive to enter into a master agreement with VDOT that the County would do these signs on a case by case basis. He said the Board could either adopt it today and figure out the funding later, or delay the decision to continue the program.

Mr. Foley said he would recommend the Board adopt what's before it today and have staff come back with a suggested process going forward.

Mr. Snow then **moved** to adopt the proposed Resolution authorizing the County to administer the program and authorizing the County Executive to execute VDOT's Agreement for the Installation and Maintenance of "Watch for Children" Signs in a form approved by the County Attorney and future Addendums to that Agreement. Mr. Rooker **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

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

NAYS: None.

RESOLUTION TO ASSUME THE "WATCH FOR CHILDREN" SIGNS PROGRAM

WHEREAS, Virginia Code § 33.1-210.2 was amended in 2012 to make localities responsible for the installation and maintenance of "Watch for Children" signs, which was previously the responsibility of the Virginia Department of Transportation (VDOT); and

WHEREAS, any locality that wishes to assume the responsibility for the installation and maintenance of new "Watch for Children" signs must enter into an agreement with VDOT identifying the specific location of any new signs, which must be approved by VDOT, and must submit addendums for any future additional signs to VDOT for its approval; and

WHEREAS, the Board finds it is in the best interest of the County for the County to assume the responsibility for the installation and maintenance of new "Watch for Children" signs in the County.

NOW, THEREFORE, BE IT RESOLVED that the Albemarle County Board of Supervisors hereby authorizes the County to administer the "Watch for Children" signs program and authorizes the County Executive to execute VDOT's Agreement for the Installation and Maintenance of "Watch for Children" Signs in a form approved by the County Attorney and to execute future Addendums to that Agreement to be submitted to VDOT after determining that the sign request meets the siting criteria.

Mr. Boyd said he has received a number of calls related to SDP-2013-31, Stonefield, that would be before the Board at its next meeting, and asked if it was a public hearing.

Ms. Jordan said it isn't a public hearing, but it is on the regular agenda for Board discussion and action. She said she has told the public that it would be up to the Board as to whether comments would be taken or not.

Mr. Foley said there is a specific way to approach it because of the Supreme Court decision, and Mr. Davis could clarify that.

Mr. Boyd stated that he doesn't want to have people speak at the beginning of the meeting under other matters, and then have the Board discuss it later in the meeting.

Mr. Rooker said the Board has, in the past, moved agenda items around to accommodate that.

Mr. Davis stated that the policy requires it to be on the Consent Agenda and, if there's a staff recommendation for approval and it comes to the Board without any appeal from the developer, it goes on the Consent Agenda. He said the Board could obviously remove any item from the Consent Agenda and discuss it, but it would not be a decision for the clerk to make as to whether to remove it.

Mr. Foley said the Board should just move to put it on the regular agenda.

Mr. Davis clarified that this is a variation to the master plan of development.

Mr. Foley said staff has developed a recommendation for approval, and the Board would have to make the call on that, so if it wants to move to put it on the regular agenda, it can do that.

Mr. Davis pointed out that there's still no legal requirement to hold a public hearing, so this would be at the Board's discretion as to who it wants to hear from in order to make the decision. He said that typically staff would make a brief presentation, and then the Board could determine whether it needs additional input in order to make a decision.

Ms. Mallek said it would help for the public to see it on the agenda so they would know when to speak about it. She stated that it would be better to have the public speak when the item is going to be heard.

Mr. Foley said there would be a separate opportunity during that agenda item for public comment after staff does their overview.

Mr. Boyd **moved** to schedule SDP-2013-31 on the regular agenda instead of on the consent agenda. Mr. Snow **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

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

Mr. Graham asked if the applicant would also have an opportunity to speak.

Ms. Mallek said she thought that was the only fair way to do it.

Agenda Item No. 28. Adjourn to 3:30 p.m., September 11, 2013.

Mr. Foley stated that the Board also had a work session scheduled for next week on the Comp Plan as well as some closed meeting items.

At 5:58 p.m. Mr. Rooker **moved** to adjourn the meeting until 3:30 p.m. on Wednesday, September 11, 2013. Mr. Craddock **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

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

Chairman

Approved by Board
Date: 03/12/2014
Initials: EWJ