

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

PRESENT: Mr. Kenneth C. Boyd, Ms. Jane D. Dittmar, Ms. Ann H. 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, Director of Community Development, Mark Graham, Director of Planning, V. Wayne Cilimberg, Clerk, Ella W. Jordan, and Senior Deputy Clerk, Travis O. Morris.

Agenda Item No. 1. The meeting was called to order at 9:01 a.m., by the Chair, Ms. Mallek.

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

Agenda Item No. 4. Adoption of Final Agenda.

Ms. Mallek stated that there were two additions to the Consent Agenda – Item 8.4a (Resolution supporting the “First Day Introduction Requirement”) and Item 8.4b (Final Albemarle County 2014 Legislative Priorities).

With no other additions to the agenda, the Board accepted the final agenda.

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

There were none.

Agenda Item No. 6. Recognitions:

Item No. 6a. 2013 VACO/VML Go Green Virginia Challenge Award.

Ms. Mallek recognized Albemarle County staff for receiving Gold Certification from the Virginia Municipal League’s “Green Government Challenge” and the 2013 Virginia Association of Counties’ “Go Green Virginia” challenge, for implementation of environmental policies and practical actions to reduce carbon emissions.

Ms. Mallek recognized Mr. Andrew Lowe. Mr. Foley asked General Services staff to stand and be recognized for their efforts.

Mr. Lowe thanked the Board for their support, and also recognized Community Development, the schools, and the countywide effort to achieve energy, transportation and waste management efficiencies. He added that it has been a countywide dedication to environmental stewardship.

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

Mr. Charles Battig, a County resident, provided a slide presentation entitled “Good News From 2013...Less Climate Concerns for 2014”. He stated that the concept of “carbon footprint hysteria” has been debunked by “hard evidence.” He said that manmade carbon dioxide contribution to climate change is so tiny, it remains unidentifiable compared to natural processes. Carbon pollution is “a political propaganda term without scientific meaning.” Carbon dioxide is absolutely necessary for individual’s existence. Mr. Battig stated that the hysteria is based on climate models and predictions, but the reality does not match the panicked stories of carbon problems. He said the United Nations has discounted human influence on drought, warm spells, heat waves and frequency of floods. Instead of disappearing this year, the Arctic ice has actually increased by 50%, the largest one-year increase since 1978 when satellites first measured it. Global sea ice has seen a huge jump at both poles. Mr. Battig stated that there has also been a lower rate of sea level rise – seven inches versus a 12 inch average. The Maldives are planning 30 additional luxury class hotels on this non-sinking island. This has been the quietest year for tornadoes since the 1980s. Tropical rainforests have positive response to increased atmospheric carbon dioxide. Data from the Austrian offices shows that the Alps are not melting away. The United States is soon to be energy self-sufficient; there is no problem with running out of fuel. In spite of everything, commuters prefer driving to work alone.

Mr. John Martin, a resident of Free Union, stated that he attended the joint legislative meeting the day before and hopes that tradition continues. He said that immediately after the meeting, a conversation took place between two Board members – Mr. Snow and Mr. Boyd – and Senator Bryce Reeves. Mr. Martin said that the subject of the bypass was discussed, but since the meeting took place in the hallway after the open record meeting, he would like to suggest that the two Board members might inform the rest

of the Board what the conversation was about, whether it related to legislative priorities, and to inform the public.

Ms. Laurel Davis addressed the Board, stating that she is reticent to speak about the plans to expand the volunteer arm of the Police Department because as a result of her opposition to the firing range plans her phone was tapped for several months. Ms. Davis stated that the militarization of the police is a growing nightmare, and she implored the Board to think very carefully about the nature and powers of the police force in general in these times, and consider the possible consequences and dangers of putting volunteers with guns under their control.

She said that the other reason she is before the Board is the proposal to put a trash collection site at the end of her road, which is another assault on the quality of life and value of her property and her neighbors. Ms. Davis stated that this is in addition to the failed landfill that continues to leach toxins into groundwater, and the devastating loss of acreage along Route 20 to host a cell tower. She said that this is an incredibly inappropriate location for a trash site, and the Board seems bound and determined to trash southern Albemarle. She asked that the Board reconsider its decision and find a more appropriate site.

Mr. Neil Williamson addressed the Board, stating that later in the meeting the Board will be discussing economic development and how the Board can move forward in the years ahead. He said that the specific level of investment will be determined by the budget process, and the question before the Board is what the proper manner is in which to move forward with economic development. Mr. Williamson said that there is a balance to be achieved, and to fail to move forward would be to fail in finding career-ladder jobs so that future generations can stay in Albemarle. He stated that the community has been known for building a "quilt" with different job levels, and it is worth funding an economic development office that is dedicated to all jobs while promoting successful business and balancing environmental needs.

Agenda Item No. 8. Consent Agenda. Mr. Snow **moved** to approve items 8.1 (as read) through 8.4b, and to accept the remaining items for information on the Consent Agenda. Ms. Mallek **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

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

Item No. 8.1. Approval of Minutes: August 7 and August 14(A), 2013.

Mr. Rooker had read the minutes of August 14, 2013(A), and found them to be in order.

Mr. Thomas asked that the portion of his minutes of August 7, 2013, be pulled and carried forward to the next meeting.

Mr. Snow asked that the portion of his minutes of August 7, 2013, be pulled and carried forward to the next meeting.

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

Item No. 8.2. 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 appropriation itemized below is \$2,269,586.64. 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 seven (7) appropriations as follows:

- One (1) appropriation (#2014056) to appropriate \$1,838,127.52 to fund the initial debt service payment for the Fall 2013 borrowing;
- One (1) appropriation (#2014058) to allocate \$60,000.00 from the Commonwealth's Attorney fees fund to the General Fund. This appropriation will not increase the total County budget;
- One (1) appropriation (#2014059) to appropriate \$461,318.55 for various school division programs;
- One (1) appropriation (#2014060) for \$(29,859.43) to revise the appropriation approved on August 7, 2013 for the Emergency Communications Center;
- One (1) appropriation (#2014061) to appropriate \$718.00 from the Reserve for Contingencies to the Office of Housing for an additional month of funding for Virginia Supportive Housing. This appropriation will not increase the total County budget;

- One (1) appropriation (#2014062) to appropriate \$25,000.00 from the Church Road Basin Stormwater Improvements project to the Western Albemarle Stormwater Improvements project. This appropriation will not increase the total County budget; and
- One (1) appropriation (#2013063) to appropriate \$6,091.23 from the Reserve for Contingencies to the Community Development Department for unanticipated insurance expenditures. This appropriation will not increase the total County budget.

Staff recommends approval of appropriations #2014056, #2014058, #2014059, #2014060, #2014061, #2014062, and #2014063 for various school division and general government projects and programs as described in Attachment A.

<u>Appropriation #2014056</u>		<u>\$1,838,127.52</u>
Source:	CIP Fund Balance	\$1,838,127.52

This request is to appropriate \$1,838,127.52 of the General Government CIP Fund Balance to fund the initial debt service payment required for the fall 2013 borrowing. In previous fall bond issuances using the Virginia Public School Authority (VPSA), the first debt service payment was due on July 1 of the next fiscal year. The fall 2013 bond issuance used revenue bonds issued by the County's Economic Development Authority on the open market because the funding was for both school projects and non- school projects. These types of borrowings require a June 1 initial payment for funds that are borrowed in the fall. The payment includes \$439,921.04 in principal and interest for school division projects and \$1,398,206.48 in principal and interest for general government projects.

<u>Appropriation #2014058</u>		<u>\$0.00</u>
This appropriation will not increase the County Budget.		

Source:	CAO Commission Fund fund balance	\$ 60,000.00
	General Fund fund balance	\$ -60,000.00

This request is to allocate \$60,000.00 from the Commonwealth Attorney's Commission Fund to the General Fund. In 2010, the Commonwealth's Attorney's Office (CAO) began collecting delinquent fines and fees due for criminal and traffic matters in the Circuit and General District Courts. This revenue is collected into the CAO Commission Fund. At the June 6, 2012 meeting, the Board approved the CAO's request that the County retain the revenues collected into this fund and fund a part-time attorney position in the CAO.

<u>Appropriation #2014059</u>		<u>\$461,318.55</u>
Source:	State Revenue	\$ 61,219.00
	Computer Equipment Replacement Fund	\$ 400,099.55

This request is to appropriate the following School Division requests approved by the School Board on October 24, 2013 and on November 14, 2013:

- Albemarle County Public Schools is requesting the appropriation of a grant that totals \$39,994.00 from the 2013-2014 School Security Equipment Grant Program. These funds will be used for the purchase and installation of security cameras at Cale Elementary, Red Hill Elementary, Scottsville Elementary, Burley Middle, Henley Middle, Jouett Middle, Sutherland Middle, Walton Middle, Albemarle High, Monticello High, Murray High, and Western Albemarle High Schools.
- Albemarle County Public Schools is requesting the appropriation of a state grant in the amount of \$21,225.00 for continued support of the Community Public Charter School for FY 14. These funds will be used for curriculum development work for seven teachers, four artists in residence, a literacy specialist to support unit development, support for the language arts teacher, technology/media support, art supplies, and books for teachers and students.
- Albemarle County Public Schools is requesting that \$400,099.55 from their Computer Equipment Replacement Fund FY 13 fund balance be appropriated for use in FY 14 to pay for networking equipment to support services in the schools, equipment for digital studio at the middle and elementary level, and data conversion costs associated with the school division Information Management System conversion. The mission of the Computer Equipment Replacement Fund is to provide students and staff with reliable access to technology and support its use in meaningful ways in support of the Division's strategic plan.

<u>Appropriation #2014060</u>		<u>(\$29,859.43)</u>
Source:	ECC 800MHz Fund Balance	\$ (\$29,859.43)

This request is to revise the re-appropriation request for the Emergency Communication Center's 800 MHZ Scottsville Augmentation Project that was approved on August 7, 2013.

This adjustment will revise the FY14 appropriated budget for completion of the 800 MHZ Scottsville Augmentation Project to \$585,007.00 to update the FY14 project cost based on the timing of expenditures that took place in FY13. The project is scheduled for completion this fall and will provide better coverage for radio system users in the Town of Scottsville.

Appropriation #2014061 \$0.00

This appropriation will not increase the County Budget.

Source: Reserve for Contingencies \$ 718.00

This request is to appropriate \$718.00 from the Reserve for Contingencies to the Office of Housing to provide an additional contribution 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 Board approved an appropriation at its September 4, 2013 meeting to provide a three-month extension (September through November) for this funding and this additional appropriation will provide sufficient funding for the month of December 2013.

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. An update on the status of these approvals is provided in a separate consent agenda item on the December 4, 2013 agenda.

Appropriation #2014062 \$0.00

This appropriation will not increase the County Budget.

This request is to appropriate \$25,000.00 from the previously appropriated Church Road Basin Stormwater Management Project to the Western Albemarle High School Stormwater Management (WAHS SWM) Project for construction of a biofilter to treat stormwater runoff from the driver's education parking lot and to repair a portion of the stormwater channel that is eroding behind the school.

Based on bids received for the WAHS SWM project, additional funding is needed for the base bid and additional items that will stabilize the eroding stormwater channel and reduce sediment transfer from the channel to downstream natural resources (i.e. County streams). Based on a recently updated cost estimate for the Church Road Basin project, funding is available to be reallocated to the WAHS SWM project.

Appropriation #2014063 \$0.00

This appropriation will not increase the County Budget.

Source: Reserve for Contingencies \$ 6,091.23

This request is to appropriate \$6,091.23 from the Reserve for Contingencies to the Community Development Department for unanticipated insurance expenditures. This is the deductible owed to VACORP under the County's VACORP insurance policy for the defense of the Redfield's Zoning litigation. This appropriation will not increase the total County budget.

By the above-recorded vote, the Board approved Appropriations #2014056, #2014058, #2014059, #2014060, #2014061, #2014062, and #2014063 for various school division and general government projects and programs.

COUNTY OF ALBEMARLE			
APPROPRIATION SUMMARY			
APP#	ACCOUNT	AMOUNT	DESCRIPTION
2014056	4-9900-95000-495000-910074-9999	235,000.00	School Division - Principal
2014056	4-9900-95000-495000-920074-9999	204,921.04	School Division - Interest
2014056	3-9900-51000-351000-512031-9999	439,921.04	Tr. From Gen Govt CIP
2014056	4-9910-95000-495000-910074-9999	795,000.00	Gen. Govt. - Principal
2014056	4-9910-95000-495000-920074-9999	603,206.48	Gen. Govt. - Interest
2014056	3-9910-51000-351000-512031-9999	1,398,206.48	Tr. From Gen Govt CIP
2014056	4-9010-93010-493010-930003-9999	439,921.04	Tr. To School Debt
2014056	4-9010-93010-493010-930011-9999	1,398,206.48	Tr. To Gen Govt Debt
2014056	3-9010-51000-351000-510100-9999	1,838,127.52	Use of Fund Balance
2014058	4-8150-93010-493010-930009-9999	60,000.00	Transfer to General Fund
2014058	3-8150-51000-351000-510100-9999	60,000.00	Use of Fund Balance
2014058	3-1000-51000-351000-510314-9999	60,000.00	Tr fr Comm. Atty. Commission Fund
2014058	3-1000-51000-351000-510100-9999	(60,000.00)	Use of Fund Balance
2014059	3-3224-63224-324000-240990-6599	39,994.00	School Security Equipment Grant
2014059	4-3224-63224-464600-800100-6530	39,994.00	Machinery/Equipment
2014059	3-3380-63380-324000-240806-6599	21,225.00	Comm. Public Charter School State Supt. Grant
2014059	4-3380-63380-461101-132100-6280	2,438.45	PT/Wages-Teacher
2014059	4-3380-63380-461101-152100-6280	12,540.63	Sub/Wages-Teacher
2014059	4-3380-63380-461101-210000-6280	1,145.92	FICA
2014059	4-3380-63380-461101-312700-6280	3,000.00	Prof. Serv. Consultants
2014059	4-3380-63380-461101-601300-6280	2,100.00	Ed/Rec Supplies
2014059	3-3907-63907-351000-510100-6599	400,099.55	Fund Balance
2014059	4-3907-63907-461101-800700-6599	400,099.55	Technology Equipment
2014060	3-4110-51000-351000-510100-9999	-29,859.43	App Fund Balance
2014060	4-4110-31060-435600-999999-1003	-29,859.43	Contingency
2014061	4-1000-81030-481030-568815-1008	718.00	VIRGINIA SUPPORTIVE HOUSING
2014061	4-1000-99900-499000-999990-9999	-718.00	reserve for contingencies
2014062	4-9100-82066-482040-800975-9999	25,000.00	WAHS stormwater improvement
2014062	4-9100-82067-482040-800605-9999	-25,000.00	Church Rd Basin - construction
2014063	4-1000-81021-481020-317000-1008	6,091.23	other professional services

2014063	4-1000-99900-499000-999990-9999	-6,091.23	reserve for contingencies
TOTAL		8,335,428.32	

Item No. 8.3. Earlysville Volunteer Fire Company, Application to Operate as Advanced Life Support (ALS) EMS Transport Agency.

The executive summary states that in February 2013, Fire Rescue began providing emergency medical transport services out of the Earlysville Volunteer Fire Company (EVFC) during weekday hours. The daytime career personnel assigned to the EVFC respond to calls by dispatching either the fire engine or ambulance, depending on the type of call. Also in February 2013, the EVFC established a goal to begin staffing the ambulance with volunteers during nights and weekends beginning in January 2014.

During the weekday hours when career Fire Rescue personnel are staffing the EVFC station, Advanced Life Support (ALS) transport services are provided, as the Fire Rescue Department is licensed by the State to provide this level of patient care. The EVFC is currently licensed by the State to provide non-transport first response services at the Basic Life Support (BLS) level. Before the EVFC is allowed to begin staffing the ambulance on nights and weekends, it is required by the State to upgrade its EMS license from non-transport to transport. The EVFC is applying for an ALS transport license, and plans to provide ALS services when volunteer ALS staffing is available. When volunteer ALS staffing is not available, the next closest ALS resource would be dispatched to supplement the BLS crew.

Fire Rescue staff, members of the EVFC, and the operational medical director have been working together to support the EVFC's staffing initiative. An Emergency Medical Technician (EMT) course was held at the EVFC station, which helped the EVFC increase the number of trained medical providers at its station. Staff and EVFC leadership are negotiating a cooperative agreement that addresses quality management, EMS provider training, and release processes.

There are multiple advantages to the citizens and visitors to Albemarle County if the EVFC upgrades its EMS license and begins staffing the ambulance on nights and weekends, including the following:

1. Quicker ambulance response times to the Earlysville and surrounding areas.
2. Increased availability of a staffed ambulance for the EMS system.
3. An increase in the level of EMS service to the citizens of Albemarle County.

Staff does not expect any increases in the overall Fire Rescue budget because the Earlysville ambulance will replace other existing resources. Staff will work with the EVFC to support expenses for fuel, supplies, insurance, and maintenance.

Staff recommends the Board adopt the attached Resolution endorsing the upgrade of the EVFC's EMS License from Basic Life Support Non-Transport to Advanced Life Support Transport (Attachment A).

By the above-recorded vote, the Board adopted the following resolution endorsing the upgrade of the EVFC's EMS License from Basic Life Support Non-Transport to Advanced Life Support Transport:

**RESOLUTION ENDORSING THE UPGRADE OF
THE EARLYSVILLE VOLUNTEER FIRE COMPANY'S
EMS LICENSE FROM BASIC LIFE SUPPORT NON-TRANSPORT
TO ADVANCED LIFE SUPPORT TRANSPORT**

WHEREAS, County Fire and Rescue career personnel provide Advanced Life Support (ALS) Transport services out of the Earlysville Volunteer Fire Company (EVFC) station during weekday hours; and

WHEREAS, EVFC currently provides non-transport first response services at the Basic Life Support (BLS) level out of the EVFC station during the evenings and weekends and desires to provide ALS Transport services during those hours; and

WHEREAS, the EVFC desires to upgrade its Emergency Medical Services (EMS) License from a BLS Non-Transport License to an ALS Transport License in order for its volunteer members to provide ALS Transport services out of the EVFC station during the evenings and weekends; and

WHEREAS, the ability of the EVFC to provide ALS Transport services would advance the health, safety, and welfare of County residents and visitors.

NOW, THEREFORE, BE IT RESOLVED THAT the Board of Supervisors for the County of Albemarle hereby endorses the upgrade of EVFC's EMS License from a BLS Non-Transport License to an ALS Transport License to provide ALS Transport services in the County.

Item No. 8.4. Project Based Vouchers: The Crossings at 4th and Preston.

The executive summary states that staff has provided frequent updates to the Board on the status of the approval of nine project-based vouchers (PBVs) for The Crossings at 4th and Preston, most recently on November 6, 2013. In that update, staff identified a number of outstanding issues that were discussed

with the U.S. Department of Housing and Urban Development (HUD) in a conference call on September 6, 2013. One issue was the need for an Environmental Review to be conducted by HUD. The County had provided results of radon testing conducted at The Crossings but had not received any correspondence from HUD regarding the results or the status of the Environmental Review.

On November 4, 2013, the County received the attached letter from HUD approving the Environmental Review. The letter further states that "HUD will proceed with consideration of both PHA's waiver request which remain under consideration at this time. Also HUD Headquarters will resume its review of required documentation constituting the Subsidy Layering Review (SLR)." During the September 6 conference call, HUD had agreed to work on these reviews while the Environmental Review was underway and let the PHAs (County and City) know if additional information or clarification was needed. Having received no requests from HUD for additional information to date, the assumption is that HUD has everything needed for the final approvals. However, it is possible that HUD could require additional information as its review progresses. In addition, HUD has not provided any timeframe for the completion of its reviews.

Given the fact that the Environmental Review has been approved and HUD has indicated that it is proceeding with the other reviews, staff believes the County can expect approvals in the near future. As noted in the November 6 update, the Board has appropriated sufficient funds to cover the assistance of six (6) residents at The Crossings through November 2013 and is short \$718 to cover the assistance for December. Staff recommends that an appropriation of \$718 be made to cover this shortage with the expectation that HUD will complete its reviews and authorize housing voucher funding for January payments. This appropriation request is included in the FY 14 Appropriation agenda item, also being presented to the Board for approval on December 4, 2013.

It is important to note that while staff thinks formal approval of the vouchers is forthcoming, HUD has not yet provided the County with any specific timeframe for such approval and authorization for funding of these vouchers. According, if formal HUD approval is not received, staff is prepared to bring this matter back to the Board in January for further consideration. Staff continues to communicate with appropriate HUD officials and with Congressman Hurt's office to expedite federal approval of these housing vouchers. Total funding necessary to cover the assistance of six residents at The Crossings for one month is \$3,279.

Continuing to provide assistance to six families at The Crossings through December 2013 will require an appropriation in the amount of \$718 as described in Appropriation #2014061 on the December 4 FY 14 Appropriation Request.

Staff recommends that the Board approve continuing to support the six families at The Crossings by approving Appropriation #2014061 on the December 4 FY 14 Appropriation Request.

By the above-recorded vote, the Board approved continuing to support the six families at The Crossings by approving Appropriation #2014061 (Item 8.2).

Item No. 8.4a. Resolution supporting the "First Day Introduction Requirement".

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

RESOLUTION SUPPORTING THE FIRST DAY INTRODUCTION REQUIREMENT FOR BILLS WITH LOCAL FISCAL IMPACTS IN THE VIRGINIA GENERAL ASSEMBLY ("THE FIRST DAY INTRODUCTION REQUIREMENT")

WHEREAS, many local governing bodies in the Commonwealth of Virginia have expressed increasing concern about the impact of state mandates and cost shifting upon localities; and

WHEREAS, Section 30-19.03 of the Code of Virginia states that the Commission on Local Government shall prepare and publish a statement of fiscal impact for "any bill requiring a net additional expenditure by any county, city, or town, or ... any bill requiring a net reduction of revenues by any county, city, or town, filed during any session of the General Assembly"; and

WHEREAS, numerous bills fitting such criteria have been submitted to and completed the legislative process without review for local fiscal impacts due to limited time and resources available to review such bills during the General Assembly session; and

WHEREAS, it is further recognized that a need exists for additional time and resources to provide local fiscal impact information to legislators under the stringent procedural confines of the current legislative process; and

WHEREAS, we believe it is in the best interest of lawmakers to have accurate and timely information on the fiscal impact to localities for consideration of bills and budget items which shall affect said localities.

NOW, THEREFORE, BE IT RESOLVED, that the Albemarle County Board of Supervisors does hereby request that the General Assembly support measures which require its members to file bills with local fiscal impacts as early as possible and no later than the first day of any General Assembly session.

Item No. 8.4b. Final Albemarle County 2014 Legislative Priorities.

By the above-recorded vote, the Board the final 2014 Legislative Priorities for Albemarle County:

Final 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 Virginia Senate precincts to the extent possible. The Virginia Senate redistricting plan has 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 and the Stony Point precinct is split between the 17th and 25th Senate Districts.

Full Funding of State Mandates—Support resolution requesting a "First Day Introduction Requirement" for bills with local fiscal impacts. 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.

Composite Index— The County loses 13% of its tax base and \$18 million taxable dollars under land use taxation. Support legislation to correctly identify a locality's "ability to pay" by amending the Composite Index Funding Formula by (1) redefining the local true values component of the formula to include the land use taxation value of real property rather than the fair market assessed value for those properties that have qualified and are being taxed under a land use value taxation program; and (2) adjusting the funding formula for Albemarle County and the City of Charlottesville to account for the annual transfer of funds from the County to the City required by their annexation and revenue sharing agreement.

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.

Item No. 8.5. December 2013 VDOT Charlottesville Residency Monthly Report for Albemarle County, **was received for information.**

Item No. 8.6. Board-to-Board, December, 2013 *Monthly Communications Report from School Board*, **was received for information.**

Item No. 8.7. Copy of letter dated November 15, 2013, from Mr. Francis H. MacCall, Principal Planner, to Mr. Frank Pohl, re: *LOD-2013-00022 – OFFICIAL DETERMINATION OF PARCEL OF RECORD, Tax Map 56A1-01, Parcel 74 (property of John H. Jr., or Jennifer B. Hilker), White Hall Magisterial District*, **was received for information.**

Item No. 8.8. Copy of letter dated November 15, 2013, from Mr. Ronald L. Higgins, Chief of Zoning/Deputy Zoning Administrator, to Evergreen 651 LLC (c/o Therese Elron) re: *OFFICIAL DETERMINATION OF PARCELS, Tax Map Parcel 059D1-02-0H-01400 (property of Evergreen 61 LLC), Samuel Miller Magisterial District*, **was received for information.**

Agenda Item No. 9. FY 2012-2013 Comprehensive Annual Financial Report (CAFR).

The following executive summary was forwarded to Board members:

Every year the Board of Supervisors is presented a Comprehensive Annual Financial Report (CAFR) for its review and acceptance.

Attached for the Board's review is the recently completed FY 2012-2013 CAFR. As in previous years, the Report contains a detailed accounting of the County's financial operations for the 2012-2013 fiscal year. Highlights of the Report include:

- The Transmittal Letter to the Board of Supervisors and the Citizens of Albemarle County (pages vii – xiii) that provides a summary of the County's geographic, demographic, economic, and financial features. It also includes a discussion of current and future County initiatives.
- The Independent Auditor's Report (pages 1 – 2) that notes that the financial statements are "in conformity with accounting principles generally accepted in the United States of America".
- The Management's Discussion and Analysis (pages 3 – 14) that provides a summary of the County's financial activity for the fiscal year, including tables and graphs that accompany the summaries.

The remainder of the Report includes detailed information about the County's financial activity for the fiscal year, statistical tables providing historical economic and demographic information, and the outside auditor's Compliance Report.

The Report was presented to the County's Audit Committee at its meeting on November 22, 2013 by Mr. David Foley of the County's external auditing firm of Robinson, Farmer, Cox Associates.

Staff recommends that the Board accept the FY 2012-2013 Comprehensive Annual Financial Report.

Mr. David Hughes thanked the Finance Department for their efforts in getting the report completed by Thanksgiving, which has not happened before in the County's history. Mr. Hughes said that his role as an auditor is to provide opinion on the financial statements. The auditors have provided three opinions

within the statements: one on the basic financial statements, one on compliance with laws and regulations, and one on compliance with Office of Management and Budget federal programs – Circular A133. He stated that all three opinions have been deemed “unqualified,” which are the cleanest opinions they can provide.

Mr. Hughes said that he would like the Board to note the introductory section, which includes some information about the local economy, and financial policies that have led the County to be only one of 39 localities in the U.S. with a Triple AAA bond rating. He added that the transmittal letter also includes some current and future initiatives. He stated that he also wanted to bring attention to one of the County's future initiatives – the tax revenue implementation module in the County's Access Albemarle software, scheduled to begin in January. The conversion process will be a huge undertaking in the Finance Department. Thus far, everyone involved has done a great job with Access Albemarle.

Mr. Hughes also mentioned that the Board implemented a school reserve fund as part of the general fund, so it needs to monitor that during the course of the year. He stated that the auditors reviewed the report with the Audit Committee several weeks prior, and there is good statistical information including 10-year trend data included. He said that one particular table showing tax collection percentage is notable, reflecting the Finance Department's initiatives to aggressively collect taxes. Mr. Hughes said the auditors did issue a management letter that addresses certain staffing issues within the Finance Department. Mr. Hughes stated that Mr. Ed Koonce will be retiring the following year, and it will be difficult to find someone who can immediately step in and fill all of his roles. He added that Mr. Koonce is very conservative and has done a wonderful job for the County; he will be sorely missed.

Board members thanked Mr. Hughes for his work on the County's behalf.

Ms. Betty Burrell, Director of Finance, addressed the Board and recognized Ms. Tammy Critzer, who has worked to put the CAFR together and is an integral part of the process; Ms. Ann Murray, who is part of the leadership team for CAFR production; and Mr. Hughes for his work and advice. She thanked Mr. Ed Koonce for his tireless work and dedication. Ms. Burrell then read a proclamation from the Finance Department in honor of his service to the County since 1985.

Mr. Ed Koonce accepted the certificate of recognition and stated that everyone in the Finance Department deserves the honor.

Board members thanked Mr. Koonce for his service.

Agenda Item No. 10. Economic Development Program (continued discussion).

The following executive summary was forwarded to Board members:

On November 6, 2013, the Board considered staff's recommendation regarding an ongoing Economic Development Program for the County, including the establishment of an Economic Development Office. The Board directed staff to proceed with the information gathering and education process set forth in the Recommendation but deferred approval of the Economic Development Office until the FY15 Budget process in February/March, 2014. Based on a request from Board members at the November 13 Board meeting, staff is bringing this matter back for further Board discussion and is providing the information set out below to provide more clarity on the upcoming information gathering and evaluation process.

The November 6 Executive Summary (Attachment A) outlined a Program concept and the staffing that would be required to implement that concept. It is important to realize that the Program concept specifically identifies the mission for the program as follows:

“To foster and encourage responsible economic development activities that **enhance the county's competitive position and result in quality job creation and career employment opportunities, increased tax base and an improved quality of life for all citizens while respecting Albemarle County's natural resources and unique character.**”

The proposed concept establishes the County's vision statement, the Economic Development Chapter of the Comprehensive Plan, and the Economic Vitality Action Plan as overarching foundations for the proposed economic development program. The Economic Vitality Action Plan preamble clearly states that ***“This Action Plan is intended to translate the purpose and goals of the Economic Development Policy into concrete and measureable actions, being very mindful of the need to adhere to already established growth management objectives and natural resource protections.”***

Staff's recommended information gathering and education process includes the following milestones:

December, 2013 – research peer communities and best practices for appropriate Program measures, expected outcomes, etc.

- **outcome:** *staff will have more detailed comparison information to provide to the Board pursuant to its request*

January, 2014 - hold a joint work session with the Economic Development Authority (EDA) to review research results and hear from outside expert(s) on current/future state of economic development

best practices, including reasonable expectations/measures, real estate development and site selection, etc.

- **outcome:** *attendees will gain a working knowledge of what efforts are necessary to achieve the goals of the economic development program in a competitive environment and will develop a shared understanding of economic development among key partners, such as the EDA, to establish the philosophical framework that sets direction for the Economic Development Program, including desired measurements/outcomes.*

February, 2014 – hold a work session with public comment to review and revise the proposed Economic Development Program framework, including a mission, guiding principles, components and high level goals

- **outcome:** *Board endorsement of preferred direction/framework for the Program with opportunity for public feedback*

Late February/early March, 2014 – review detailed cost information for establishing an independent Economic Development Office as part of the budget process and approve Board –supported direction as part of adopting final budget

- **outcome:** *approved budget for future direction of economic development effort*

April/May, 2014 – If the Board directs staff to create an Economic Development Office, begin the hiring process and set initial priorities and outcomes for the future Program

- **outcome:** *adopted priorities to guide initial work plan*

July, 2014 – If the Board directs staff to create an Economic Development Office, hire an Economic Development Director and administrative staff, transition the Economic Development Facilitator from the County Executive's Office to the new office, and refocus and transition the efforts of the existing Office of Community and Business Partnerships

- **outcome:** *team is in place for County's future Economic Development Program*

Staff estimates the cost to establish an Economic Development Office to be staffed by a new Director and a new half-time administrative position would be approximately \$160,000 annually in addition to the existing Economic Development Facilitator position. Exact costs for the new office would be determined during the FY 15 annual budget process, and funding, if approved, would become available on July 1, 2014.

Staff recommends that the Board endorse the process outlined about for continued consideration of the establishment of an Economic Development Program.

Mr. Foley said that the Board had a discussion in November regarding staff's recommendations about establishing an economic development office. He said that the recommendations were developed with a good bit of public input, roundtables, meetings with the Board, and that discussion ended with the Board's direction to bring some more information back so that a final decision could be made as part of the budget process. Mr. Foley stated that staff has estimated the cost of an economic development office to be approximately \$160,000 for a director and support staff for the operation. Through the process followed in developing the recommendation staff developed a mission statement as reviewed with the Board, staff and community members who were involved in the process. He said that the mission is "to foster and encourage responsible economic development activities that enhance the County's competitive position and result in quality job creation and career employment opportunities, an increased tax base, and an improved quality of life for all citizens while respecting Albemarle County's natural resources and unique character."

Mr. Foley stated that this statement recognizes and emphasizes the need for balance in their approach, recognizes the need for quality job opportunities – with a particular emphasis on jobs for people who are here, and with sensitivity to the environment and Comp Plan priorities. He said that staff has proposed establishment of an office as a next step, and feel the effort is important in order to maintain a healthy economy. Mr. Foley said that staff is in the process of doing some research on best practices on metrics to measure success. Staff is proposing a joint meeting with the Economic Development Authority in January 2014, to include bringing in outside experts. He stated that they are hoping to secure the same speaker from McGuire, Woods who spoke at a recent Chamber of Commerce event about economic development in the current environment. Following the January work session, staff will come back to the Board for further input and discussion. Mr. Foley said staff recommends that the Board endorse the process as set out in the executive summary.

Mr. Snow asked if a motion was needed. Mr. Foley said that would be helpful.

Ms. Mallek asked if there were questions or discussions for staff.

Mr. Rooker said that he supports what is been presented with an information process whereby the Board makes a decision about what to fund and how much to fund at the appropriate time. He stated that the Board discussed having information come back on the relationship between what a community spends on economic development and job creation, unemployment rate, etc. Mr. Rooker said that the Board does not want to just create a "feel-good" cost center without some tangible results in the form of jobs. He also stated that the County has 1.5 people assigned to economic development currently and has an Economic Vitality Plan. The County is a member of the Central Virginia Economic Development Partnership whose

job focuses solely on reaching out regionally to enhance economic efforts. Mr. Rooker said that the County is a member of the Chamber of Commerce and has a \$250,000 fund set aside to augment state grants. To suggest that the County is not doing anything is simply not accurate. He stated that the question is whether the Board should spend another \$160,000 annually to hire more people in this area. He added that he wholeheartedly supports what Mr. Foley has presented in order to arrive at that decision.

Mr. Foley agreed that that's the key question and the Board should carefully look at that, with staff doing a good job of justifying why more investment in economic development is necessary. He said that that's one of the reasons for having outside experts come talk to the Board about the difference in what the County is doing now and what it will need to do in order to pursue some of the identified target industries so they can locate here – and that will involve sites and buildings, and things that staff currently is not working on. An important part of the process is educating the Board and the Economic Development Authority.

Mr. Snow agreed with Mr. Rooker that the Board has come a long way, but the next Board will make the decision based on what it hears – and that's entirely appropriate.

Ms. Mallek said that it is very worthy to do a full comparison, but it may not be as linear as the Board hopes because there are a lot of variables involved. She added that she looks forward to the additional information.

Mr. Thomas said that one of those variables is what the Economic Vitality Plan is not doing, and what could be done better.

Mr. Boyd then **moved** to accept staff's recommendation as outlined for the continued consideration of the establishment of an Economic Development Program. Mr. Rooker **seconded** the motion.

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

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

NAYS: None.

Note: At 9:41 a.m., the Board recessed to allow staff time to set up a video presentation. The Board reconvened at 9:48 a.m.

Agenda Item No. 11. Charlottesville Albemarle Convention and Visitors Bureau (CACVB) 2013 Annual Report.

Mr. Kurt Burkhart, Executive Director of CACVB, addressed the Board, stating that the CACVB's mission is to market the City and County's assets to those who wish to enjoy them – from overnight lodging to retail to restaurants, attractions, agri-businesses, sporting events, and entertainment. Mr. Burkhart said that the catchphrase for their marketing plan is, "More people staying longer, spending more." The County's destination marketing organization is a success of the County and City working together to enjoy the rewards of the TOT, or the bed tax. The CACVB receives 30% of the first five percent collected of the bed tax, with the County retaining 70 cents on the dollar that can be spent for programs that benefit its residents. He stated that the CACVB has a Board of Directors and full and part-time staff that operate two visitors centers – one on the Downtown Mall and one in the first floor of the County Office Building.

Mr. Burkhart said that as a member of the Destination Marketing Association International, the CACVB follows the industry's Best Practices. He stated that its' 11-member board meets every other month and is charged with overseeing the governance of the organization. The County's members to the board includes Lee Catlin, Jason Burch (Chairman), Cynthia Childs, and Naresh Naran. Mr. Burkhart said that the CACVB currently has several full-time staff people and is looking to fill two vacancies over the next few months: an E-marketing position and a sales manager. The staff also includes a number of part-time travel specialists and volunteer welcome ambassadors. In addition, their interns earn valuable experience and receive credit for work they contribute to the CACVB.

Mr. Burkhart said that Governor McDonnell had presented a report on the economic impact of tourism at both state and jurisdictional levels in the Commonwealth, and each category was up – from direct visitor spending to food and excise taxes – but travel will always be a discretionary expense item, and economic and political factors can have a negative impact on consumer confidence. He presented information from key lodging indicators established by Smith Travel Research, showing the monthly occupancy rate to be at historic highs for six of the ten months that data is available for 2013 – with an annual occupancy rate of 72.5%. Mr. Burkhart said that in 2013, October's government shutdown and rainy weather were factors in the decline to 75.5% from the 2012 October rate of 82%.

Mr. Burkhart reported that average daily rates (ADRs) in this calendar year show historic highs for eight of the ten months, and ADR is essentially "yield management," a strategy that involves strategic control of inventory to sell to the right customer at the right time at the right price. He said that the average for 2013 is 111, above last year's average of 106. Mr. Burkhart said that revenue per available room (REVPAR) is another key indicator used by hotels globally. This is a performance matrix in which you multiply a hotel's average daily room rate by its occupancy rate – and room revenues locally saw more

monthly highs in six of the ten months of this calendar year. He stated that for FY13, the County Office Building recorded 5,537 persons serviced.

Ms. Mallek said that she would like to find out the “real” County split for room rates because she would like to know how the County does in comparison to the City.

Mr. Burkhart reported that the CACVB received its new marketing plan in July 2012, followed by a rollout of its new brand, and has acquired advertising space in publications with circulation in the key market of the Washington, D.C. metro area, as well as on-line. He said that CACVB worked with Payne, Ross and Associates to get ads in publications and online channels to help drive the message of “Fun, fun and more fun” through a unique collection of promotional videos. Mr. Burkhart said that online ad click-through rates are above the industry average, and the mix of print to online is 30% to 70%. He stated that their promotional videos feature a dozen short vignettes targeted to a digital online audience, capturing themes or seasonal settings, each to the sound of the Dave Matthews Band song “Stay.”

Mr. Burkhart said that the CACVB website continues to be the engine that drives nearly everything they do, and the performance shown speaks for itself – with nearly 600,000 visitors to the site, a 46% increase over the previous year. He stated that driving the growth is content delivery to the website, which is accomplished through search engine optimization. During this period, page views were up by about 800,000 during the period. He said that following national trends, there is an increasing amount of web access from mobile devices, and 25% of the CACVB’s web activity originates from mobile phones.

Mr. Rooker asked what “convertible regional travel expenditures” means. Mr. Burkhart explained that they provide information to the Board regarding how the CACVB concluded its year, and this methodology is used by destinations across the country to determine the actual number of visitors by multiplying the number of unique visits by a 31% conversion rate. He said that this calculation format originated in 2004, and with an increase in social media those numbers have probably inched up. He said that the figure is then taken and multiplied by 2.5 average nights per stay with the annual average ADR, for a total of \$41.7 million. He said that there’s an added figure of \$373.17 that DMA updates every year for the additional spend from visitors that convert, so that equates to \$56 million for the \$98 million total.

Mr. Rooker asked about “leisure travel expenditures directly from CACVB” at \$7 million. Mr. Burkhart said that this reflects a compilation of the numbers listed above that figure, and are essentially all of the inquiries they receive at the Visitors’ Center with a 28% conversion rate. He said that it also includes direct inquiries from the website, so there’s a figure of 10,600 multiplied by the 2.9 nights used in the formulation and the \$109 expected to be spent along with additional trip expenditures.

Ms. Catlin noted that the bottom of page 2 in the report includes the formula and a full explanation of the \$7 million.

Mr. Burkhart said that in the future they would like to come up with a new methodology that makes sense and is easy to read.

Mr. Rooker suggested that they do a survey that asks people how they decided to stay in a hotel and how much of that is attributed back to the CACVB, and if those numbers are not as high as expected they can ask what might be done to improve them.

Mr. Burkhart thanked him for the suggestion.

Mr. Burkhart reported that the tracking service “quintly.com” recognized the Bureau as having the #1 Facebook page in the world for a city destination, ranked 11th overall behind Dubai, Disney, and Air New Zealand. He said that this was based on the total number of engagements, and the page during late October-early November engaged over one-quarter million people daily, with the Facebook page “Experience Charlottesville” having nearly 78,000 fans. Mr. Burkhart stated that earned media has continued to grow over the last few years due to continued public relations efforts by staff. Last year they were just over \$7 million in paid advertising equivalency – and each time a story appears that the bureau has pitched or assisted with is a third-party endorsement that carries more weight than any print ad can ever hope to achieve. He noted that within the last year the area was designated the top agri-tourism designation in the country, and that was achieved by staff who pitched the area to travel writers. Mr. Burkhart presented a slide showing some of the media outlets that carried stories on the area over the past year.

He said that the CACVB has new opportunities underway with an extension of their presence at the Crozet Library’s adventure outpost, and continues longstanding partnerships including three signature festivals. Mr. Burkhart stated that they are also continuing partnerships with the Piedmont Council for the Arts and the Charlottesville Airport, with continued support of the Jefferson Heritage Trail and the Monticello artisan and wine trails. He said that the CACVB recently promoted Virginia Cider Week and joined with that association as a participant in their grant program. Mr. Burkhart stated that they continue to be involved with the Virginia Tourism Corporation, especially in the area of public relations involving travel writers and through their advertising buy-down program.

Mr. Burkhart stated that over the past several years the Board has had an interest in funding festivals and cultural programs, and the CACVB assumed the responsibility of providing marketing support for festivals under the ABRT process. He said that this has now transitioned into what is now called the “nonprofit festival funding marketing program. A committee is now reviewing submissions that were received for FY 2015. Additionally the CACVB offers twice-yearly opportunities for similar support through its sponsorship program that allows for both nonprofit and for-profit entities to apply for marketing dollar

support. Mr. Burkhart stated that they have a new visitors' guide out, with an initial run of 50,000 copies and a reprint slated for early spring. He said that the guide is currently placed in all 12 Virginia welcome centers, as well as 53 localities outside the area and local delivery to hotels, attractions, wineries, and area businesses, including departments at the University of Virginia, for a total of 127 locations. Mr. Burkhart said that the CACVB Board favored having a guide without advertising, with every page devoted to content that helps to inspire visitors to the area. They have also included photos showing the diversity of both visitors and residents of the community. The CACVB's website also includes a rich-mix of diversity. Overall the community has responded very well to the new look.

He reported that it has been a successful year for the CACVB in terms of awards and recognitions, with three-quarters of the awards granted due to excellence in digital work. Mr. Burkhart said that this is the first year the bureau has won two awards as the best in the state through the annual VIRGO awards presented by the Virginia Association of Convention and Visitors Bureaus. Of more than 4,000 submissions, the International Academy of Visual Arts awarded the gold award for the new website. He stated that the Hospitality, Sales and Marketing Association International recently announced a gold award for digital marketing out of 1,200+ entries, along with another digital award to be presented to the CACVB in February.

Mr. Burkhart also reported that they were continuing with involvement in the tourism zone discussion and the heritage center, and have recently concluded its strategic planning process. Richmond 2015 will be an important event. The CACVB will be putting together a committee to work on capitalizing on that ten day event. He said that there will be an announcement in early 2014 regarding the President's Passport, which will be extended and expanded. He added that they are very excited about participation in the Create Charlottesville Cultural Plan for the region.

Mr. Boyd asked what the status was for the Virginia Wine Heritage Center. Ms. Catlin said that the feasibility study is underway, and the County got a grant from the state for it – and Monticello and the CACVB also came in as funding partners for it. She said that they have engaged a consultant for the effort and are hoping to have a draft report back on the feasibility by the end of the year.

Mr. Boyd asked if there was a selection process to decide where it would be located. Ms. Catlin stated that the first part of it is a very preliminary feasibility study, with several locations considered, but she does not think that Phase I of the feasibility study phase one will recommend a location per se – but will instead identify characteristics of a location that will be required to add to the center's success. That information will be shared with the Board as soon as it is available.

Mr. Rooker asked if the Cultural Plan was being done in conjunction with the Piedmont Council for the Arts. Mr. Burkhart said that it has been initiated and the PCA is the principle on that, with funding from the CACVB and others to help drive the effort.

Mr. Burkhart then thanked Board members for their sacrifice and commitment in public service and concluded his report.

Ms. Mallek asked if they had any luck getting the videos from the area into places like the Dulles International Airport, as there are for other parts of the country. Mr. Burkhart said that there is a major hotel in the area that will be putting the information on their in-room TV service, but there is a big cost involved with doing that in airports. He said that there is discussion about getting videos out into aggregators, where there is a per-impression payment – but there is a big payoff with consumers.

Mr. Snow commented that he is really pleased to see the changes in the CACVB over the last 18 months. Mr. Burkhart thanked him and said he would share it with Bureau staff.

Agenda Item No. 12. Albemarle County Service Authority (ACSA) Update, Gary O'Connell, Executive Director.

Mr. Gary O'Connell addressed the Board, stating that the ACSA's product is "clean, safe, high-quality water," and the new water treatment process will improve it even further. He reported that the Authority has about \$6 million in capital projects – 34 active projects – and most of those are focusing on major maintenance and rehabilitation for older parts of the water and sewer system. Mr. O'Connell said that there is another set of projects for redundancy, or emergency backups, which help keep water moving within the system and help with water quality. He stated that one of the interconnect projects is Western Ridge (Fox Chase) and they are about to finish easements. Mr. O'Connell said that the design is finished for the Key West water main replacement project and they are hoping to go to bid in spring if property owner agreements and easements can be finalized in time. He stated that the ACSA has done a good job of helping people understand what the projects entail before anything starts, early in design to minimize impacts.

Mr. O'Connell reported that the big replacement project in Crozet at St. George Avenue (Buck Road) is almost complete, with a section along Crozet Avenue where services are currently being switched over. He said that they just finished a waterline replacement project in Ashcroft, and there is a new 10,000 gallon tank now in service. There is also another replacement water pump station project that is in final design. Mr. O'Connell reported that the ACSA has a 70-year old line serving Michie Tavern which recently failed, and several previous efforts have failed.

Mr. Rooker asked if Michie Tavern is all that is served by that line. Mr. O'Connell responded "yes". Mr. Rooker asked if there is an estimated cost to the project. Mr. O'Connell said he does not know

the estimated project cost at this time. Mr. Rooker asked if it would be possible to coordinate that with Monticello's project. Mr. O'Connell stated that the ACSA discussed it from a conceptual standpoint with the engineers working on the Monticello project, but initial assessments indicate that the service will probably come from their property – much further away from where their line is going to be, with a lot of up and down topography and a lot of private properties. He said that part of it involves the RWSA, because the straightest route to come under the interstate is onto Rivanna property, but as of now they have not considered these projects to be connected.

Mr. O'Connell reported that the ACSA is trying to look at any lines in the system that are really old, and recently had a leak in a line near the University that was 90 years old. He stated that there is a second phase of Crozet that will serve McCauley Street, Tabor and Hilltop neighborhoods. The Authority is waiting for final easements so it can bid that project – which is separate from the streetscape project.

Mr. O'Connell said that Glenmore water tank is part of the emergency redundancy and is a 600,000 gallon tank to be located on the County's fire station property. It is currently under design with construction slated for 2014. He reported that the Ivy Road (Flordon) water connection is another water system interconnects under design, intended to serve the West Leigh area. It is a fairly short project that will have very little impact on property owners. Mr. O'Connell said that the Authority is also looking at upgrades at the Ednam water pump station as part of the West Leigh redundancy project. He stated that the Hardware Street water main replacement work is complete with all new services in place, and they are now providing water to downtown Scottsville. He said that the storm sewer work in the ball field has been finished. Mr. O'Connell stated that there is another water main replacement on Jackson Street in Scottsville that the Authority is finalizing easements. The Authority is finalizing water main replacements in Hollymead. When that work is done, he said, the Authority will likely move into West Leigh to do line replacements, cognizant of some of the new streets that have been put in there.

Mr. O'Connell stated that there are two projects related to the Authority's infiltration inflow and sewer system rehabilitation. The City, ACSA and Rivanna have all been doing major projects that total almost one-quarter billion dollars for sewer system-related projects to handle capacity but primarily to keep rain and groundwater out of the sewer system. He said that they are also finishing up work in Woodbrook with a study process to identify where problems are and strategies implemented to address them, followed by the same approach for the Ednam area. Mr. O'Connell noted that the Authority does about \$5 million per year. They are in the midst of doing a 10-year capital program. He then presented a list of projects on the list – including a water line replacement for Ragged Mountain, Glenmore tank construction, water line replacement at Orchard Acres in Crozet, Berkley water line replacement, and the West Leigh project he already mentioned. He said that for sewer projects the Authority will move into the PVCC area after the Ednam drainage project.

Mr. O'Connell reported that budget rates and the capital improvement program will be considered by the ACSA Board in April, with final adoption the following June. He said that there is a statewide survey that an engineering firm does every year with about 60% of utilities participating in it. The Authority's average residential monthly bill is 8% less than the statewide average. He noted that the retail water rate is 10% less than a comparable bill in the City of Charlottesville.

Ms. Mallek asked about the percentage of customers who are at the below-cost rate. Mr. O'Connell said that about 70% of the system is residential customers, and the average monthly bill is for 4,400 gallons per month with the tier at 3,000 gallons. Ms. Mallek asked that they reconsider letting all the irrigation be Tier IV so as to encourage people to not throw that water around on their grass during the summer. Mr. O'Connell commented that most irrigation customers are in the third to fourth tier before they irrigate.

Mr. Rooker commented that that part of the business carries the other part of the business, and they have to be careful about chasing them away.

Mr. O'Connell stated that for two consecutive five-year strategic planning periods, the ACSA has had an outside third party utility rate financial specialist review their rates, and the last time had fairly significant changes. He said that the Authority recently contracted with Municipal Financial Services Group (MSFG) to take another look at rates – particularly irrigation rates, regular monthly rates, cost of service, future capital improvements, rate models used, methodology and calculations of connection fees, the philosophy of growth paying for growth, and overall financial policies. He stated that the intent is to do some preliminary work to have a work session with the new ACSA board in January, and some recommendations to be in front of the board in February – with any changes to be built into the rate structure considered in the budget in April.

Mr. O'Connell said that 2014 is the Authority's 50th anniversary. He added that at the December board meeting, the Authority will be discussing the Rivanna pump station, as the bids have come in. He said that they are still talking about the wastewater cost allocation and are trying to come up with a formula they can apply to all wastewater projects – not just the Rivanna pump station. There is some study work underway to try to help advance that. Mr. O'Connell said that the granular-activated carbon item will be on the Rivanna board agenda for December. The ACSA board recently discussed it with a second presentation from consultants on the various options.

He stated that there were two major future projects including the water metering project that was envisioned as part of the water supply plan, which has been approved by Rivanna and is moving forward. He said that there is general consensus that this is the right way to measure water costs for the future, particularly as they get to the pipeline project as it will cost at least \$60 million. Mr. O'Connell stated that the next big project coming up that will have a big effect on the Authority's rates is the Beaver Creek Dam.

There has been a change in some federal regulations that require the dam to be repaired at a fairly significant cost. He said that the Authority has done a lot of rehabilitation work in Crozet but still has concerns for the long term about the capacitor capacity, so there may need to be a bigger project there in the future.

Mr. Rooker asked if there was a preliminary estimate for the Beaver Creek Dam repair, which is a Rivanna project. Mr. Tom Frederick said that it is in the \$6 million to \$8 million range.

Mr. O'Connell mentioned that it is a 100% Service Authority cost.

Agenda Item No. 13. Rivanna Water and Sewer Authority (RWSA) Update, Tom Frederick.

Mr. Frederick addressed the Board, stating that both Rivanna and the ACSA have assessed all of the publicly-owned pipes in the Crozet sewer system, and have identified defects within the public system. He said that both entities should go back and reconfirm what they have done prior to taking the next step, and if their findings are confirmed it could mean building a flow equalization basin to handle the wet weather or require property owners to repair and/or replace privately-owned sewer laterals. He stated that the latter will be a complex issue involving a lot of public discussion, but if the public systems are deemed to be tight then the inflow and infiltration is coming from privately owned pipe on private property and not from the ACSA or Rivanna systems.

Mr. Frederick reported that both Rivanna boards have expressed a strong interest in conducting a strategic plan. They have been leaning in that direction particularly in recent years as they have expanded their CIP to address system deficiencies related to state and federal mandates, not local priorities. He said that Rivanna will be soliciting input from the City and County on the plan and the process. Mr. Frederick said that the annual update to their five-year capital improvement plan is out now and will be discussed at the RWSA's December 17 meeting with a decision expected to come as early as January. He stated that with much of their wastewater work behind them, there is a lot of emphasis on the water system in the current five-year plan. Mr. Frederick said that all of the water treatment plants currently operating are from the 1960s or earlier technology, without any substantial upgrading efforts done.

He stated that the new Ragged Mountain Dam is about two-thirds of the way up, above ground, and is expected to be finished in April. Mr. Frederick said that they are beginning to have conversations about a dedication in April, and asked for suggestions for a keynote speaker. He stated that Rivanna took bids on the new Rivanna pump station along with the tunnel, and the bids came in at \$5.7 million below the engineer's construction estimate. The price is a lump sum which includes the tunnel. He said that he has asked Rivanna engineering staff to revise its cost estimate for a total project budget to incorporate the bid price and hopes to present that to the RWSA board on December 17, offering it as an amendment to their CIP.

Mr. Frederick said that there will be an item on their solid waste agenda in December seeking the Board's approval to issue a letter to DEQ, and they are already talking to DEQ about how much flexibility they will allow in that letter. DEQ's rules state that Rivanna must give a six-month notice when they are going to close a permitted facility. He stated that if they are going to close it June 30, which is what the contract says, they will have to give notice December 31. Mr. Frederick said that their inquiry to DEQ is related to whether the June 30 closing date could be revised, and he is seeking the opinion of the entire agency rather than that of one staff person.

Mr. Foley asked if Rivanna would not be able to close it without that six-month window, as that seemed odd to him, and asked if there is a penalty associated with it. Mr. Frederick responded that DEQ has a lot of discretion in handling issues like this, but they could assess a penalty. He stated that he does not know the answer at this time.

Mr. Rooker agreed with Mr. Foley that it is strange to require six-month notice for a closure.

Ms. Mallek said that it seems to indicate the importance of having acceptable solid waste facilities, because you cannot just close sites abruptly.

Mr. Rooker said that you can do that, because there is no requirement to operate waste facilities.

Mr. Frederick said that he is not offering an opinion, just conveying the regulations. It is their job to follow up appropriately – but often regulators will not provide a direct answer when asked about penalties, and will say that it depends on the nature of the situation.

Mr. Foley said that the County is checking thoroughly to see if there is a possibility to have the site opened if they make a selection on January 8th, and then not have to extend. The optimal solution is to not have to ask Rivanna for an extension. Staff hopes to provide the Board a report in the next week or two.

Mr. Frederick said Rivanna wants to work with the County recognizing that it has some difficult decisions to make. He is glad Rivanna has been able to extend services as the County contemplates its decisions recognizing that the two localities have different ideas on solid waste. Mr. Frederick commented that he has not been able to find any single solution that is economical, feasible, and agreed upon by both localities. Rivanna will continue to serve the County as well as possible through the transition. He stated that one member of the Solid Waste Board had approached him and asked if the County was going to ask for multiple extensions going forward, or can the County identify a reliable date for Rivanna's planning

purposes. He said that he is concerned that some Rivanna personnel may be leaving, which could impact their ability to have a critical mass to operate the facilities.

Mr. Frederick thanked the Board and said goodbye to Mr. Rooker, Mr. Snow and Mr. Thomas.

Mr. Snow asked if he was keeping the new Board members in the loop with information. Mr. Frederick stated that he works through Mr. Foley as the County staff representative, and Mr. Boyd because he serves on the Rivanna Board.

Mr. Foley said that it has not been the County's practice to send information to all Board members.

Mr. Boyd said that there have not been a lot of issues that have required full Board attention.

Mr. Foley said that in the past, Board members have visited the Rivanna website for information.

Mr. Frederick offered to provide an orientation on Rivanna to any new Supervisors who would like it.

He stated that the Rivanna Board will be meeting on December 17 and will be asked to make a decision on whether they want to build facilities for a hybrid option or a full-scale option for granular-activated carbon, with the difference in capital cost being \$17.3 million for hybrid and \$19.5 million for full-scale. He said that both options will meet stage two disinfection byproducts rules from the EPA 100% of the time. The question is how far the community wants to go with GAC treatment beyond meeting the regulations. It is difficult to quantify what that difference might be, which could be on the order of 3:4 parts per billion of byproduct in the water. EPA declares the safe level, and they have to make sure they are consistently under that level. These options do achieve that goal.

Mr. Rooker said that some of the public's misunderstanding is because they thought a "hybrid" system was part GAC and part chloramine.

Mr. Frederick said that hybrid means that not all drinking water will get GAC treatment 100% of the time, but most of it will. He explained that if they build the hybrid option and want to treat as much of the water as possible through GAC, the amount of GAC capacity would be 14 million gallons per day through three water treatment plants – 9 at South Fork, 3 at Observatory, and 2 at North Fork. Mr. Frederick said that the highest demand day in calendar year 2013 was about 12.5 gallons per day and if the demand were to exceed that in a given day, a blended approach would be needed – meaning that a little bit of the water would be treated to the standards of today but might not go through the GAC columns to get the extra treatment to remove the precursors of organic byproducts. He stated that the local process includes chlorine, and the FDA has determined threshold levels for that substance, and all water would still be disinfected as mandated.

Mr. Rooker clarified that GAC is not a disinfectant process; it's a bio-solid removal process.

Mr. Frederick confirmed that is the case and said that with one class of products known as trihalomethanes, the reaction between the residual organic matter and the chlorine is faster in the summer – which is why those numbers are higher in the summer. He said that they determined that open tanks could work at Observatory because the organic matter going in is less, but UVA's architectural standards will not allow them to put open tanks at that facility and are requiring a building enclosure.

Mr. Snow asked if the cost of GAC had come down at all since their initial discussions. Mr. Frederick said that they are within the original cost estimates when updated for inflation, and the hybrid is actually lower.

Mr. Snow asked about the water level currently at the Ragged Mountain Dam. Mr. Frederick responded that they're controlling the water level at an elevation of 623, which is 18 feet below the top of the old dam, because they decided not to disturb any of the forest above the new water elevation, and they had the soil onsite to build the dam by mining the dirt onsite so they did not have to bring so many trucks down Reservoir Road. He said that in order to provide the contractor area to work to move the dirt to the dam site, they had to drop the reservoir 18 feet for construction – and when the contractor is done, they can start filling up the dam pool.

Mr. Snow asked how long it will take to fill up with average rainfall. Mr. Frederick said that he hopes with average rainfall conditions they can fill the reservoir in less than a year. He stated that they made a computation with severe drought conditions similar to those in 2001 and 2002, and it took more than two years to fill.

Mr. Rooker asked about the operating cost difference between the hybrid versus full GAC models, beyond the initial capital costs. Mr. Frederick said that Rivanna's engineer estimated \$920,000 annually for the hybrid option and \$1.1 million for the full-scale model, a difference of about \$200,000. He stated that the engineer looked at a single scenario, and if the Rivanna Board's direction is to minimize operating costs but achieve stage two goals, there is a more sophisticated model that can be developed to perhaps minimize those operating costs. If they want as much full-scale as possible, it will be a higher cost. Mr. Frederick emphasized that the more water run through the GAC, the higher the cost because the filtration media runs out of absorption capability faster and must be regenerated.

Ms. Mallek said that she feels there is an important benefit to running the water through the GAC for the extra cost because it removes the other things no one has been asked to test for, such as pharmaceutical products.

Mr. Rooker stated that if you build to a 14 million gallon capacity, there would not have been a day last year that did not have full GAC treatment, and there are probably very few times when the hybrid would be used.

Ms. Mallek asked if water usage was still increasing slightly. Mr. Frederick said that Rivanna saw a significant reduction between 2002 and 2006, then started creeping up but went down again slightly in 2009. He stated that it is a difficult thing to evaluate because during wetter summers, demand is suppressed, and demand is a bit higher than the 2009 level at the end of a dry week.

Mr. Rooker asked what the average daily demand would be for 2013. Mr. Frederick said it would likely be about 9.7 MGD for the year.

Mr. Rooker noted that that's four million below the hybrid GAC capacity of 14 million gallons per day.

Ms. Mallek asked if it would be 10 years at the most before they would reach that limit. Mr. Frederick agreed that it would, and said that a rule of thumb is to use average demand during the dry season to look at safe yield of reservoirs.

Mr. Foley said that the discussion is interesting and is particularly important to him because he serves on the Rivanna Board. It is a bit of a dilemma when the Authority Board is supposed to make a decision on December 17 as to whether they should spend more to go to the full GAC treatment, or less to save money and still provide high quality water. Mr. Foley said that what typically happens is the Authority Board has the discussion, and the City Council member who serves there goes back to the full Council and asks them to weigh in.

Mr. Boyd said that he would like to hear from Mr. O'Connell again, because the ACSA has gone on record as being in favor of the hybrid system.

Mr. O'Connell said that there are huge tanks at various locations, with Scottsville and Crozet having the smallest. It is being designed so that the building is large enough to put more vessels in when the demand increases in the future.

Ms. Mallek said that was her next question, as she wondered if they would be saving money by not doing it now. Mr. O'Connell stated that it is a modular type design, and his Board felt it was cost effective to do the hybrid approach now and put the additional vessels in when the demand necessitates it in the future. He said that the operating costs over a 20-year period are as much as the capital costs, and the ACSA Board felt they would be building an expandable hybrid system that will continuously achieve excellent water quality.

Mr. Frederick said that at the City Council meeting there were alternative viewpoints, but the sense was that the majority favored a hybrid system.

Mr. Boyd said that was the direction he was leaning in also.

Ms. Mallek said that she was encouraged to hear that they would still be able to treat almost everything through GAC for many years. Service Authority Board members also indicated to her that there are other expenses that would be coming up that need attention.

Mr. Boyd agreed that there are other sewer-related projects as well.

Mr. Frederick said that the \$920 million operating cost estimate was for operating a hybrid system as a hybrid. If they decide they want to operate a hybrid as a full-scale GAC system it will be closer to the \$1.1 million because the cost of carbon is directly associated with how much water is placed through the carbon vessel and what the organic content of that water is. He stated that once the carbon vessel is spent, it must be regenerated if you want to continue to treat water with it. Mr. Frederick stated that the demand for GAC nationally is going up, due in part to fracking, and along with that will come higher costs.

Mr. Boyd said that he feels comfortable in pursuing the hybrid approach and not running it to full capacity all the time. At one point they were talking with the EPA about why they had to do anything since the water quality was already good.

Ms. Mallek asked for clarification as to whether they would be able to fully treat the 9+ million gallons. Mr. Frederick said that on a day when the demand is at that level they will be able to treat it all, with the operating costs higher for running it full-scale GAC.

Mr. Rooker said that those are two different decisions. The decision today is how much capacity they build – which seems to him to be a no-brainer, given the current demands and the capacity of a hybrid system at 14 million gallons.

Mr. Foley stated that he agree with Mr. Rooker that the issue about capital is different than the issue of operating. The question is whether there is a consensus on the Board to operate a hybrid system and build it with extra capacity.

Mr. Frederick said he does not need his Board to direct him on that until 2017. The answer he needs in two weeks relate to what capital facilities they are going to build and is it going to be 14 mgd, the hybrid, or is it going to be 18 mgd, the full-scale. He added that they will be building a modular building, and then at each treatment plant reserving the space needed for full-scale GAC treatment for future capacities out to 2060. He said that they are also proposing that the buildings be easily expandable with a space reserved to add vessels.

Mr. Rooker said that given that circumstance, there does not seem to be a prudent case made to build anything other than the 14 million gallon initial capacity. He asked if there would be less precursor treatment with chlorine if the water is treated with GAC.

Mr. Frederick said that it is likely the chlorine level would be lessened, because when organic matter is being removed from water the chlorine demand is slightly reduced. He explained that granular-activated carbon has wide enough pores for water to go through it, with the organic matter absorbed by the material; powdered activated carbon (PAC) is added at the front end, and it removes organic matter out of the water by settling with the coagulated material from the reservoir into the sludge. Mr. Frederick said that the PAC is a one-time pass and adds costs on handling residual sludge materials. Granulated carbon stays in a vessel and it treats until it is spent. Operating costs are much higher with PAC, but Rivanna has been talking about using much higher levels of PAC in 2015 and on days when they need to remove more organic material.

Mr. Foley said that the only other thing he would come away with beyond the Board's support of the hybrid construction project is the need for the Board to clarify how much it would like the GAC system to be used in the future to treat water – which might be 100%.

Mr. Snow said that the entire Board would all like to see the 100%, but that will be a decision that someone makes in 2017.

Mr. Rooker agreed, stating that the cost of carbon may affect that decision.

Ms. Mallek commented that she feels more positive than she did earlier.

Mr. Foley said that he has enough information to work with at this point.

At this time, the Board went back to take action on Agenda Item No. 9.

Ms. Mallek **moved** that the Board accept the FY 2013 Comprehensive Annual Financial Report. Mr. Snow **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

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

NAYS: None.

Agenda Item No. 14. Closed Meeting.

At 11:35 a.m., **motion** was offered by Ms. Dittmar, that the Board go into Closed Meeting pursuant to section 2.2-3711(A) of the Code of Virginia under subsection (1) to consider appointments to boards, committees, and commissions in which there are pending vacancies or requests for reappointments; under subsection (3) to discuss the acquisition of real property for public park land because an open meeting discussion would adversely affect the bargaining position of the County; and under subsection (7) to consult with legal counsel and staff regarding specific legal matters requiring legal advice relating to the cost recovery program for emergency service transports and the negotiation of an agreement for further implementing a cooperative cost recovery program for emergency service transports. Ms. Mallek **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

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

NAYS: None.

Agenda Item No. 15. Certify Closed Meeting.

At 1:35 p.m., Ms. Dittmar **moved** 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: Mr. Thomas, Mr. Boyd, Ms. Dittmar, Ms. Mallek, Mr. Rooker and Mr. Snow.

NAYS: None.

Agenda Item No. 16. Boards and Commissions: Vacancies/Appointments.

Mr. Snow **moved, seconded** by Ms. Mallek to make the following appointments/reappointments

- **reappoint** Mr. Jason Woodfin to the Acquisition of Conservation Easements Committee (ACE), with said term to expire August 1, 2015.
- **reappoint** Mr. Jean Lorber to the Acquisition of Conservation Easements (ACE) Appraisal Review Committee, with said term to expire December 31, 2014.
- **appoint** Mr. Ken Boyd as the Board representative to participate in the Free Bridge Congestion Relief Project.
- **appoint** Ms. Nancy Carpenter to the Monticello Area Community Action Agency (MACAA), with said term to expire October 31, 2018.
- **reappoint** Mr. Devin Floyd to the Natural Heritage Committee, with said term to expire September 30, 2017.
- **appoint** Ms. Peggy Cornett to the Natural Heritage Committee, with said term to expire September 30, 2015.
- **reappoint** Ms. Marilyn Minrath to the Public Defenders Office Citizens Advisory Committee, with said term to expire December 31, 2016.
- **reappoint** Ms. Sherry Buttrick to the Public Recreational Facilities Authority, with said term to expire December 13, 2016.
- **appoint** Ms. Angela Lynn to the Public Recreational Facilities Authority, with said term to expire December 13, 2016.
- **appoint Steven Janes** to the Rivanna Solid Waste Citizens Advisory Committee with said term to expire on December 31, 2015.

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

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

NAYS: None.

Agenda Item No. 17. **Public Hearing: Proposed Ordinance to Establish Auxiliary Police Force.** Ordinance to amend Chapter 2, Administration, Article V, Law Enforcement, of the Albemarle County Code, by amending Section 2-504, Volunteer community service force, to clarify the function and the insurance coverage of the community service force volunteers, and by adding Section 2-505, Auxiliary police force, to establish an auxiliary police force under the direction of the chief of police pursuant to Virginia Code Section 15.2-1731. (*Advertised in the Daily Progress on November 18 and November 25, 2013.*)

The following executive summary was forwarded to Board members:

Virginia Code § 15.2-1731 enables localities to establish, equip and maintain auxiliary police forces that have all the powers, authority and immunities of full-time law-enforcement officers if such forces have met specific training requirements (See Attachment A). Auxiliary police officers are non-paid volunteers who would “further preservation of the public peace, safety and good order of the community” by performing duties to assist in the delivery of police services to the community. They would not be permitted to carry or use a firearm while serving as an auxiliary police officer unless specific firearms training requirements have been met.

The Police Department wishes to establish an Auxiliary Police Force to enhance law enforcement services in the County as part of Phase I of the Geo-Policing effort.

A proposed ordinance giving the County’s Chief of Police the authority to establish an Auxiliary Police Force is attached (Attachment B), as well as the Police Department’s General Orders for Auxiliary Police Officers (Attachment C).

The primary function of an Auxiliary Police Force would be to augment the Department’s patrol and administrative resources, especially during large pre-planned events or in situations that tend to overburden the normal operations of the Department. As part of the Geo-Policing Program, Auxiliary Police Officers would be utilized to support community outreach and crime prevention efforts.

Following are some of the duties Auxiliary Police Officers would perform:

1. Augment police staffing at community festivals, parades, concerts, street fairs and park patrols;
2. Augment police staffing for traffic control during large events;
3. Assist with crime prevention activities, such as Home Security Surveys and House Checks;
4. Assist with parking enforcement;
5. Provide limited support for patrol activities; and
6. Observe and report conditions requiring professional police services to the Police Department

Based upon information from the Virginia Department of Criminal Justice Services, there are three levels of Auxiliary Police Officers as follows:

Level I – Sworn, armed, trained to same DCJS standards as a certified police officer.

Level II – Sworn, armed, limited training and limited duties.

Level III – Sworn, unarmed, authorized to carry less-than-lethal weapons, limited training, and limited duties.

All Auxiliary Police Officers would be required to abide by the same standards, rules and regulations as regular Police Officers.

The attached draft ordinance provides that the number of auxiliary police officers would not exceed 15 percent of the paid force. This 15 percent cap is recommended by the Police Chief. The current number of authorized police officer positions is 126, so the number of auxiliary police officers would not exceed 18 at the current staffing levels. The Department estimates it would hire approximately six volunteers in the first year of the program, and that it would take another one to two years to reach the 18 officer limit.

The attached draft ordinance also amends County Code § 2-504 regarding the Volunteer Community Service Force to specify that volunteer community service officers do not assist with traffic control and crowd control and are not provided workers' compensation insurance coverage by the County. The Volunteer Community Service Force is intended to provide in-house support services and is not intended to function in the field. The Code of Virginia does not permit the County to offer worker's compensation insurance to the Volunteer Community Service Force.

The establishment of an Auxiliary Police Force would have a minimal impact on the budget. The estimated cost to provide a fully-outfitted uniform for one auxiliary police officer is \$1,400 or \$8,400 for 6 officers. This initial cost would be funded from the existing FY14 Police Department budget, and the Department would request the Albemarle County Police Foundation to purchase additional uniforms in the future. Staff believes that any firearms training for Level II and III officers would either be provided by the Department or would be funded with existing Department budget funds, and that the cost of any firearms would be funded with existing Department budget funds.

Because Auxiliary Police Officers will be performing police duties in the field, it is proposed that they would be provided health insurance coverage for job-related injuries similar to what is provided to volunteer firefighters. The cost of providing limited duty-related medical and disability insurance coverage for 6 officers would be approximately \$990.90 per year. The cost of that coverage would be funded from the Department's budget. In addition, the County would be required to provide Line of Duty Act (LODA) benefits to the officers. The LODA coverage for the current fiscal year was billed at \$77.17 per volunteer, and staff expects that the cost will increase each year. There is no cost for volunteers who begin after the beginning of the fiscal year, so there is no cost to provide LODA benefits for these officers in FY 14. The cost of providing LODA coverage to 18 volunteers in FY 15 and in each subsequent fiscal year is estimated to cost \$1,389.06 or more if the cost increases as expected.

Using the designated value of volunteer service as located on the Volunteers in Police Service website (\$22.90/hour in Virginia in 2011), the estimated value of service that would be provided by 6 volunteers each working an average of 10 hours per month (720 total hours/year) would be \$16,488/year. The estimated value of service that would be provided by 18 volunteers each working an average of 10 hours per month (2,160 total hours/year) would be \$49,464/year. Although the Department would not realize this amount in actual savings, the Department would realize some savings in reducing staff overtime costs, and it would be able to provide enhanced services.

After the public hearing, staff recommends that the Board adopt the attached proposed Ordinance (Attachment B).

Lieutenant Mike Wagner addressed the Board and presented the proposal to create an ordinance for an auxiliary police department within Albemarle County. He stated that the department is asking for the ordinance to help supplement current staff. Lt. Wagner said this is not a replacement system, but it is a set of volunteers which will augment existing services for special events, parades, and will serve at the direction of the Chief of Police.

Ms. Mallek asked for clarification on the training for these volunteers and their level of involvement in activities such as investigations. Lt. Wagner said all of the training will be monitored and governed by the Department of Criminal Justice Services and the Chief of Police. He said anyone who enters the auxiliary police program will have the same level of certifications deemed necessary for police volunteers – with levels one and two having full arrest powers, permission to carry firearms at the discretion of the Chief of Police, and with the necessary training mandated by the Department of Criminal Justice Services; level three would be more of a volunteer-based service without arrest powers to help with crime prevention. He said all auxiliary police officers would be under direct supervision of a senior officer or a line level supervision sergeant, corporal or lieutenant.

Mr. Rooker asked if responses would be provided solely by a volunteer to investigate a crime if someone's house was broken into and they call the police department. Lt. Wagner said level one does have that capacity, but they would be sworn in and would meet all mandated training requirements – and would be under direct supervision, just as a line officer would today.

Mr. Rooker asked if a line officer would typically come to someone's home along with the volunteer. Lt. Wagner responded that "it's possible," and the difference between a level one and level two officer is that level one allows them to operate on their own, but he doesn't see that as being a top priority of the agency and he envisions them working in conjunction with a full-time member of the agency.

Ms. Dittmar asked how the Police Department would recruit volunteers. Lt. Wagner said they would recruit in a manner similar to how they recruit full staff, adding that other localities in the state use YouTube videos, PSAs, newspaper ads, etc. – but Albemarle will be very selective, and the requirements will be no different than those wanting to become a full-time officer with the agency.

Mr. Rooker asked what the ultimate goal would be to be recruited. Lt. Wagner said the goal is no more than 15, as they don't want to have an overabundance of auxiliary officers with a goal of having 10-12.

Mr. Davis clarified that the ordinance specifies 15% of existing staff, so that would equal 18.

Lt. Wagner confirmed that their goal would be to get to the maximum number, but it's a tiered process and they would remain very selective with the personnel for these positions. He said they're currently only hiring 3% of current sworn staff, so the requirements would be just as stringent.

Mr. Thomas asked if each officer would have a car, or if there would be two per car. Lt. Wagner said they currently have been able to maintain cars in the fleet and were not going to add any new car purchases just for auxiliary. He explained that any cars utilized by those officers would be those from the existing pool.

The Chair opened the public hearing.

Mr. John Martin addressed the Board, stating that he applauds Chief Sellers' innovative ideas and efforts to enhance law enforcement in the County. Mr. Martin said the only information he has is what's presented in the packet, however, he did have some concerns, but felt most of those will probably be addressed with additional discussion. He stated that the material calls for 18 auxiliary officers at 10 hours per month, for a total of 180 hours per month in additional manpower – however, hiring one additional full-time officer would provide 160 hours. Mr. Martin suggested it would be better to hire some additional police officers, which they've been talking about for a long time. He stated that the Board is considering \$160,000 for an economic development office and he doesn't know what that office would do – but he does know what that investment could do for the police department. Mr. Martin said he did support the use of unarmed level three auxiliary officers.

There being no other public comments, the public hearing was closed and the matter placed before the Board.

Mr. Rooker asked Lt. Wagner about the flexibility provided by 18 auxiliary officers which may not be achieved with one officer. Lt. Wagner said the volunteers' availability will not be as great as it is with full-time paid police officers because there is no obligation to be at work. He said he envisions using them for big events like Foxfield, with the auxiliary program being a great supplement to what is currently in place.

Mr. Rooker said this proposal seems to provide the flexibility they would need when more officers are needed, whereas one officer can't provide 10 additional bodies for a large event. Lt. Wagner agreed and stated that the auxiliary officers' main function would be to supplement the department for big events which would then allow the department to maintain day to day operations better.

Mr. Foley said it's important to emphasize that this isn't being proposed as a way to reduce the need to hire new officers, but instead provide more help for big events.

Mr. Snow said it would be priceless to have trained individuals to assist with emergencies and large events. Lt. Wagner agreed, stating that natural disasters are a good example of when the department struggles to maintain day to day services – and the auxiliary force could help provide additional support when needed.

Ms. Dittmar said she appreciates the comment made regarding the Board's commitment to their previous goal of fully staffing the police department, and did not see this as a mutually exclusive situation.

Mr. Rooker **moved** to adopt the proposed ordinance to establish an auxiliary police force as presented in the Board's packet. Mr. Snow **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

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

NAYS: None.

(The adopted ordinance is set out below:)

ORDINANCE NO. 13-2(2)

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 2, ADMINISTRATION, ARTICLE V, LAW ENFORCEMENT, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA.

BE IT ORDAINED by the Board of Supervisors of the County of Albemarle, Virginia, that Chapter 2, Administration, Article V, Board of Supervisors, of the Code of the County of Albemarle, Virginia, is hereby amended and reordained as follows:

By Amending:

Sec. 2-504 Volunteer community service force

By Adding:

Sec. 2-505 Auxiliary police force

CHAPTER 2. ADMINISTRATION

ARTICLE V. LAW ENFORCEMENT

Sec. 2-504 Volunteer community service force.

There is hereby created a volunteer community service force which shall be designated the "Albemarle County Community Service Force."

A. The community service force shall consist of unpaid volunteer citizens designated volunteer community service officers, who shall be under the direct supervision of the chief of police of the county.

B. The purpose and function of the volunteer service force shall be to provide assistance to the chief of police and the regular county police force in the maintenance of police records and communications, to provide public education and information in crime prevention and detection and similar police activities; provided, that no volunteer community service officer shall carry weapons of deadly force or have power of arrest.

C. Uniforms and equipment for volunteer community service officers, the qualification and training of candidates, duties and operating procedures and all other matters not specified in this section shall be as prescribed by regulations recommended from time to time by the chief of police and county executive and approved by the board of supervisors. Uniforms and equipment shall be provided by the county from the budget of the county police force.

D. Volunteer community service officers shall not be deemed county employees for purposes of tenure, nor shall they be subject to the county employee grievance procedure.

E. To the extent possible, volunteer community service officers shall be covered by the county's liability insurance.

F. Volunteer community service officers shall not be deemed auxiliary police officers under Virginia Code § 15.2-1731, or special police officers under Virginia Code § 15.2-1737.

(8-10-88; Code 1988, § 10.1-3; Ord. 98-A(1), 8-5-98)

Sec. 2-505 Auxiliary police force.

There is hereby created an auxiliary police force which shall be designated the "Albemarle County Auxiliary Police Force."

A. The auxiliary police force shall be comprised of citizen volunteers selectively used to conduct a variety of operational support and administrative assignments.

B. The chief of police shall have the authority to appoint as auxiliary police officers as many persons of good character as he deems necessary, not to exceed 15 percent of the paid force; and their appointment shall be revocable at any time by the chief of police.

C. The chief of police shall have the authority to prescribe the uniform, equipment, organization and such rules and regulations as he shall deem necessary for the operation of the auxiliary police force.

D. The chief of police may call into service such auxiliary policemen as may be deemed necessary:

1. In time of public emergency;
2. At such times as there is an insufficient number of regular policemen to preserve the peace, safety and good order of the community; or
3. At any time for the purpose of training such auxiliary policemen.

E. The members of the auxiliary police force shall not be required to act beyond the limits of the jurisdiction of the county except when called upon to protect any public property belonging to the county which may be located beyond its boundaries unless authorized by a mutual aid agreement pursuant to Virginia Code § 15.2-1736.

F. The members of the auxiliary police force shall not be deemed county employees and shall serve without compensation.

G. To the extent possible, members of the auxiliary police force shall be covered by the county's liability insurance.

H. The members of the auxiliary police force shall not be deemed special police officers under Virginia Code § 15.2-1737.

I. The members of the auxiliary police force shall wear the uniform and equipment prescribed by the chief of police at all times while serving as auxiliary policemen.

J. Any citizen of the United States shall be eligible to make application to become a member of the auxiliary police force. Applicants shall apply and will be selected in the form and manner prescribed by the chief of police.

State law reference-Va. Code §§ 15.2-1731-1736.

Agenda Item No. 18. **Public Hearing: – Agricultural and Forestal Districts.** Ordinance to amend Division 2, Districts, of Article II, Districts of Statewide Significance, of Chapter 3, Agricultural and Forestal Districts, of the Albemarle County Code, to add lands to certain districts and to make corrections to certain district regulations to identify all those tax map parcels within the districts, as specified below:

Item No. 18a. **AFD-2013-1. Ivy Creek AFD – District Review.** The proposed ordinance would amend Section 3-217, Ivy Creek Agricultural and Forestal District, to identify TMP 44-21C(part) as being in the district (land from a parcel in the district was transferred to this parcel, the remainder of which is not in the district), to identify TMP 44-35(part) as being in the district (land not in the district was added to this parcel, resulting in only part of this parcel being in the district), to continue the district for all parcels identified in the district regulations, to set the next district review deadline date of December 4, 2023, and to remove any parcels for which a request for withdrawal is received before the Board acts on the proposed ordinance;

Item No. 18b. **AFD-2013-2. Keswick AFD – Addition.** The proposed ordinance would amend Section 3-219, Keswick Agricultural and Forestal District, to add TMPs 65-14A and 65-14A1 to the district;

Item No. 18c. **AFD-2013-3 and 2013-4. Hardware AFD – Addition.** The proposed ordinance would amend Section 3-214, Hardware Agricultural and Forestal District, to add TMPs 74-6H and 88-3U to the district;

Item No. 18d. **AFD-2013-5 and 2013-6. Glen Oaks AFD – Addition.** The proposed ordinance would amend Section 3-213.5, Glen Oaks Agricultural and Forestal District, to add TMPs 93A5-K2A11, 93A5-K2A12 and 93A5-K2A13 to the district;

Item No. 18e. **AFD-2013-7. Jacobs Run AFD – Addition.** The proposed ordinance would amend Section 3-218, Jacobs Run Agricultural and Forestal District, to add TMP 19A-22 to the district; and

Item No. 18f. **AFD-2013-8. Totier Creek AFD – Addition.** The proposed ordinance would amend Section 3-227, Totier Creek Agricultural and Forestal District, to add TMP 127-39 to the district.

(Advertised in the Daily Progress on November 18 and November 25, 2014.)

The following executive summary was forwarded to Board members:

Ivy Creek AFD – District Review

Virginia Code § 15.2-4311 requires the periodic review of agricultural and forestal districts (AFD) to determine whether they should continue, be modified, or be terminated unless the Board determines that review is unnecessary. During the review process, land within the District may be withdrawn at the owner's request by filing a written notice with the Board any time before the Board acts on the review. In addition, Virginia Code § 15.2-4311 requires that the Board conduct a public hearing on AFD reviews, and that they also be reviewed by both the Agricultural and Forestal District Advisory Committee and the Planning Commission for their recommendations.

The Ivy Creek AFD, which was created in 1988 and currently includes 20 parcels and 330 acres, is undergoing its periodic ten-year review. This AFD is located to the west of the South Fork Rivanna Reservoir. One landowner submitted a request on November 14, 2013 to withdraw three parcels (TMP 44-35, 44-35A and 45-7A) from the District. The Advisory Committee reviewed the Ivy Creek AFD and recommends the continuation of the AFD. The Planning Commission will review the AFD on December 3, 2013, and the Board will receive an update on the Commission's recommendation on December 4th. The Ivy Creek AFD staff report to the Planning Commission is attached (Attachment B).

Additions

Virginia Code § 15.2-4307 permits the addition of lands to an existing AFD upon application pursuant to the Agricultural and Forestal Districts Act. In addition, Virginia Code §§ 15.2-4307 and 15.2-4309 require that the Board conduct a public hearing on proposed additions to AFDs, and that these actions be reviewed by both the Agricultural and Forestal District Advisory Committee and the Planning Commission for their recommendations. The Advisory Committee and the Planning Commission have reviewed the proposed additions to the Hardware (TMP 88-3U), Jacob's Run and Totier Creek AFDs and recommend approval of the proposed actions. The Advisory Committee reviewed the proposed additions to the Ivy Creek, Keswick, Hardware (TMP 74-6H) and Glen Oaks AFDs and recommends approval of the proposed

actions. The Planning Commission will review those AFDs on December 3, 2013, and the Board will receive an update on the Commission's recommendation on December 4th. The AFD-specific staff reports to the Planning Commission are attached (Attachment B).

Keswick AFD

The Keswick AFD was created in 1986 and currently includes 70 parcels with 6,886 acres. The AFD is located in the area north of Keswick in the vicinity of Keswick and Cismont. One owner has requested to add two parcels (TMPs 65-14A and 65-14A1) totaling 36.86 acres to the District. The Keswick AFD is currently on a 10-year review cycle and is scheduled to be reviewed prior to November 3, 2014.

Hardware AFD

The Hardware AFD was created in 1987 and currently includes 53 parcels with 3,296 acres. This AFD is located on either side of US 29 South, in the vicinity of Crossroads, Arrowhead and Red Hill, and east of Batesville. Two owners have requested to add two parcels (TMPs 74-6H and 88-3U) totaling 44.4 acres to the District. The Hardware AFD is currently on a 10-year review cycle and is scheduled to be reviewed prior to September 12, 2017.

Glen Oaks AFD

The Glen Oaks AFD was created in 2011 and currently includes 2 parcels with 257 acres. This AFD is located to the east of the Village of Rivanna development area, along Limestone Creek and north of the Rivanna River. Two owners have requested to add three parcels (TMPs 93A5-K2A11, 93A5-K2A12, and 93A5-K2A13) totaling 96.6 acres to the District. The Glen Oaks AFD is currently on a 10-year review cycle and is scheduled to be reviewed prior to December 7, 2021.

Jacobs Run AFD

The Jacobs Run AFD was created in 1988 and currently includes 16 parcels with 951.4 acres. This AFD is located in the vicinity of Earlysville. One owner has requested to add one 21.4 acre parcel (TMP 19A-22) to the District. The Jacobs Run AFD is currently on a 10-year review cycle and is scheduled to be reviewed prior to December 2, 2019.

Totier Creek AFD

The Totier Creek AFD was created in 1983 and currently includes 41 parcels and 6,637 acres. This AFD is located in the south central portion of the County. One owner has requested to add one 28.82 acre parcel (TMP 127-39) to the District. The Totier Creek AFD is currently on a 10-year review cycle and is scheduled to be reviewed prior to July 6, 2021.

Ivy Creek AFD

The Ivy Creek AFD primarily consists of a mix of small to medium-sized parcels and is located in an area that has had much of its lands converted to suburban residential uses. Of the 330 acres in the District, there are currently 102.75 acres under conservation easement. There are also 112.5 acres in Agricultural Land Use and 183.4 acres in Forestry Land Use. However, the landowner of TMPs 44-35, 44-35A and 45-7A (the only three parcels in the District that are under conservation easement, of which 100.8 acres are in land use taxation) submitted a request on November 14, 2013 to withdraw those parcels from the District. The requested withdrawal of the parcels, totaling 102.75 acres, would decrease the total number of acres in the Ivy Creek AFD to 227.25. Although these parcels will be withdrawn from the AFD, they would continue to be subject to the conservation easement. In addition to agriculture and forestry, there are approximately 10 dwellings in the District (this includes secondary dwellings).

Conservation of this area will help maintain the environmental integrity of the County and aid in the protection of ground and surface water, agricultural soils, mountain resources, critical slopes, and wildlife habitat. The District's proximity to the South Fork Rivanna Reservoir gives it an important role in the protection of the public water supply.

TMP 44-21C(part), which is identified as being added to the District in section 3-217 of the proposed ordinance, was formerly a non-AFD parcel to which land from parcel 44-20G in the District was transferred, and TMP 44-35(part), which is identified as being reduced from the full parcel to part of the parcel in the proposed ordinance, is an AFD parcel to which land from a non-AFD parcel was transferred.

Keswick AFD

The Keswick AFD primarily consists of large forested parcels and large farm parcels, as well as a few smaller residential lots. Approximately 5,327 acres of the 6,887 acres in the District are under conservation easement. Of the 68 parcels in the District, 24 are enrolled in land use taxation. In addition to agricultural and forestry, there are approximately 86 dwellings in the District (this includes secondary dwellings).

The parcels under consideration for addition, 65-14A and 65-14A1, are located at the intersection of Louisa Road (Route 22) and Airlie Farm. There is one dwelling on the parcels. The proposed addition of the parcels, totaling 36.86 acres, would increase the total number of acres in the Keswick District to 6,923.

Conservation of this area, which includes woodland and agricultural fields, will help protect forest and rich farm land, and will help maintain the environmental integrity of the County and aid in the protection of ground and surface water, agricultural soils, and wildlife habitat. The Keswick AFD is located in the Mechunk Creek and Middle Rivanna River watersheds.

Hardware AFD

The Hardware AFD includes many large forested parcels and large farms, as well as some smaller residential lots. Approximately 1,036 acres of the 3,296 acres in the District are under conservation easement. Of the 54 parcels in the District, 34 are enrolled in land use taxation. In addition to agriculture and forestry, there are approximately 38 dwellings in the District (this includes secondary dwellings).

The parcels under consideration for addition are TMPs 74-6H and 88-3U. TMP 74-6H is 23.4 acres in size and is located at 3135 Blandemar Drive. TMP 88-3U is 21 acres in size and is located at the intersection of Blandemar Drive and Chopin Drive. There is one dwelling on TMP 74-6H and there are no dwellings on TMP 88-3U. The proposed addition of the parcels, totaling 44.4 acres, would increase the total number of acres in the Hardware District to 3,740.

Conservation of this area, which includes woodland and agricultural fields, will help protect forest and rich farm land, and will help maintain the environmental integrity of the County and aid in the protection of ground and surface water, agricultural soils, and wildlife habitat. The Hardware AFD is located mostly in the North Fork Hardware River watershed, with a small portion in the Upper Mechums River watershed.

Glen Oaks AFD

The Glen Oaks AFD primarily consists of a wooded area and open fields along the Rivanna River. Of the two parcels in the District, none are under conservation easement, and both are enrolled in land use taxation. There are no dwellings in the District (this includes secondary dwellings).

The parcels under consideration for addition are TMPs 93A5-K2A11, 93A5-K2A12, and 93A5-K2A13. TMPs 93A5-K2A11 and 93A5-K2A12 total 75.6 acres in size and TMP 93A5-K2A13 is 21 acres in size. The parcels are located on Grey Heron Road approximately 1,000 feet from its intersection with Carroll Creek Road. There are no dwellings on these parcels. The proposed addition of the parcels, totaling 96.6 acres, would increase the total number of acres in the Glen Oaks District to 353.6.

Conservation of this area, which includes woodland and agricultural fields, will help protect forest and rich farm land, and will help maintain the environmental integrity of the County and aid in the protection of ground and surface water, agricultural soils, and wildlife habitat. The Glen Oaks AFD is located in the Middle Rivanna River watershed.

Jacobs Run AFD

The Jacobs Run AFD primarily consists of large forested parcels and large farm parcels. Approximately 187.1 acres of the 951.4 acres in the District are under conservation easement. Of the 16 parcels in the District, 11 are enrolled in land use taxation. In addition to agriculture and forestry, there are approximately 37 dwellings in the District (this includes secondary dwellings).

The parcel under consideration for addition, TMP 19A-22, is located at 884 Caddice Court. There is one dwelling on the parcel. The proposed addition of the parcel, totaling 21.4 acres, would increase the total number of acres in the Jacob's Run District to 972.8.

Conservation of this area, which includes woodland and agricultural fields, will help protect forest and rich farm land, and will help maintain the environmental integrity of the County and aid in the protection of ground and surface water, agricultural soils, and wildlife habitat. The Jacobs Run AFD is located in the North Fork Rivanna River watershed.

Totier Creek AFD

The Totier Creek AFD primarily consists of large forested parcels and large farm parcels. Approximately 3,403 acres of the 6,637 acres in the District are under conservation easement. Of the 41 parcels in the District, 16 are enrolled in land use taxation. In addition to agriculture, forestry and horticulture, there are approximately 17 dwellings in the District (this includes secondary dwellings).

The parcel under consideration for addition, TMP 127-39, is located at 3993 Irish Road. There is one dwelling on the parcel. The proposed addition of the parcel, totaling 28.82 acres, would increase the total number of acres in the Totier Creek District to 6,666.

The conservation of this area, which includes woodland and agricultural fields, will help protect forest and rich farm land, and will help maintain the environmental integrity of the County and aid the protection of ground and surface water, agricultural soils, mountain resources, critical slopes and wildlife habitat.

There is no budget impact.

After conducting public hearings on the proposed AFD additions and the district review, which may be held together as one public hearing, staff recommends that the Board adopt the attached ordinance to 1) continue the Ivy Creek AFD; and 2) approve the additions to the Keswick, Hardware, Glen Oaks, Jacobs Run and Totier Creek AFD's.

Mr. Scott Clark, Planner, addressed the Board, stating that the first item is the periodic review of the Ivy Creek district, located just west of the South Fork Rivanna Reservoir along Woodlands Road. Mr. Clark stated that the district is a combination of woods and more open space, created in 1988 with 18 parcels and 315 acres with additions and withdrawals since its formation – adding that the current size

includes almost the same number of parcels, and 330 acres; and 271 acres of which are important soils as listed in the Comprehensive Plan. Mr. Clark said during the review process is when landowners enrolled in the district can withdraw by-right if they choose to do so and, as of the date the Board packet went out, there was one withdrawal request of 102 acres; and, since that time, there was one more request for withdrawal. He stated that, at its November 7 meeting, the Ag/Forestal District Advisory Committee recommended continuing the district for another 10 years, and the Planning Commission recommended the same.

Mr. Clark said the remaining items are applications for additions to existing districts, with the first one being an addition to the Keswick District along Gordonsville Road – with two parcels totaling 36 acres, about 28 of which are important agricultural soils. He stated that both the committee and Planning Commission have recommended in favor of this proposed addition. Mr. Clark said there are two proposed additions to the Hardware District, which is located mostly to the west of US 29 South. He pointed out the location of the Felder property of 23.4 acres, with 16 ¼ acres of important soils, mostly wooded with one dwelling; and the Eudy property of 21 acres, with 18.2 acres of important soils and no dwelling as of yet. Mr. Clark said both the committee and Planning Commission have recommended in favor of these proposed additions.

Mr. Clark stated that there are two additions to the newest of the districts – the Glen Oaks District – located just to the east of Glenmore, and there are three parcels proposed for addition, all of which are almost entirely wooded. Mr. Clark said the first proposal would add 75.6 acres in the two northern parcels, with 44 acres of important soils, and the southern-most parcel would add 21 acres with eight acres of important soils. He stated that the committee and Planning Commission have recommended in favor of the additions. Mr. Clark said there's been one application to join the Jacob's Run District, which is grouped largely around Earlysville, with the Goldberg property at 21.4 acres and 14.2 acres of important soils. He stated that both the committee and Planning Commission have recommended approval of the addition. Mr. Clark said the last item is the proposed addition to the Totier Creek District, located in the area of Esmont and Porter's, which is 28.8 acres with 19.4 acres of important soils.

Mr. Clark said staff recommends that the Board adopt the proposed ordinance to continue the Ivy Creek District for another 10 years, reflecting the removal of Parcel 44-21.D; and to approve the additions to the Keswick, Hardware, Glen Oaks, Jacob's Run and Totier Creek Districts.

The Chair opened the public hearing.

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

Mr. Rooker moved to **adopt** the proposed ordinance to continue Ivy Creek AFD with parcel 44-21D removed as requested by the landowner; and approve the additions to the Keswick, Hardware, Glen Oaks, Jacobs Run and Totier Creek AFD's. Ms. Mallek **seconded** the motion.

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

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

NAYS: None.

(The adopted ordinance is set out below:)

ORDINANCE NO. 13-03(1)

AN ORDINANCE TO AMEND AND REORDAIN CHAPTER 3, AGRICULTURAL AND FORESTAL DISTRICTS, ARTICLE II, DISTRICTS OF STATEWIDE SIGNIFICANCE, DIVISION 2, DISTRICTS, 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 3, Agricultural and Forestal Districts, Article II, Districts of Statewide Significance, Division 2, Districts, of the Code of the County of Albemarle, Virginia, is hereby amended and reordained as follows:

By Amending:

Sec. 3-213.5	Glen Oaks Agricultural and Forestal District
Sec. 3-214	Hardware Agricultural and Forestal District
Sec. 3-217	Ivy Creek Agricultural and Forestal District
Sec. 3-218	Jacob's Run Agricultural and Forestal District
Sec. 3-219	Keswick Agricultural and Forestal District
Sec. 3-227	Totier Creek Agricultural and Forestal District

CHAPTER 3. AGRICULTURAL AND FORESTAL DISTRICTS ARTICLE II. DISTRICTS OF STATEWIDE SIGNIFICANCE DIVISION 2. DISTRICTS

Sec. 3-213.5 Glen Oaks Agricultural and Forestal District.

The district known as the "Glen Oaks Mountain Agricultural and Forestal District" consists of the following described properties: Tax map 93A5, parcels K2A11, K2A12, K2A13; tax map 94, parcels 15A1,

15A2. This district, created on December 7, 2011 for not more than 10 years, shall next be reviewed prior to December 7, 2021.

(Ord. 11-3(4), 12-7-11)

Sec. 3-214 Hardware Agricultural and Forestal District.

The district known as the "Hardware Agricultural and Forestal District" consists of the following described properties: Tax map 72, parcel 51C; tax map 73, parcels 38, 39C7, 41A, 41B1, 41B2, 42, 42A, 43, 44; tax map 74, parcels 6H, 6N, 26, 28, 28B; tax map 75, parcels 4A, 5; tax map 86, parcels 14, 16, 16A, 16C, 16D, 16E, 16F, 16H, 27, 27A; tax map 87, parcels 10, 13A, 13E (part consisting of 89.186 acres), 16A; tax map 88, parcels 2A, 3T, 3U, 3V, 6A, 20A, 20B, 20C, 20D, 20F, 23, 23E, 23F, 24, 24A, 24B, 26B, 29, 40, 42; tax map 99, parcels 10(part), 29, 52, 52B. This district, created on November 4, 1987 for not more than 10 years and last reviewed on September 12, 2007, shall next be reviewed prior to September 12, 2017.

(Code 1988, § 2.1-4(h); Ord. No. 98-A(1), 8-5-98; Ord. 00-3(2), 7-12-00; Ord. 07-3(2), 9-12-07; Ord. 09-3(4), 12-2-09; Ord. 10-3(2), 7-7-10; Ord. 10-3(3), 12-1-10; Ord. 12-3(1), 7-11-12)

Sec. 3-217 Ivy Creek Agricultural and Forestal District.

The district known as the "Ivy Creek Agricultural and Forestal District" consists of the following described properties: Tax map 44, parcels 19, 19A, 19B, 20, 20A, 20B, 20C, 20D, 20E, 20F, 20G, 21A1, 21A2, 21C(part); tax map 45, parcels 5F, 5F4. This district, created on November 2, 1988 for not more than 7 years, since amended at its last review on December 4, 2013 to continue for not more than 10 years, shall next be reviewed prior to December 4, 2023.

(4-14-93; 2-14-96; Code 1988, § 2.1-4(n); Ord. 98-A(1), 8-5-98; Ord. 03-3(1), 7-9-03; Ord. 09-3(4), 12-2-09)

Sec. 3-218 Jacobs Run Agricultural and Forestal District.

The district known as the "Jacobs Run Agricultural and Forestal District" consists of the following described properties: Tax map 19, parcels 25, 25A; tax map 19A, parcels 22, 31; tax map 20, parcel 6J; tax map 30, parcel 32B; tax map 31, parcels 1, 1B, 4K, 8, 8E, 16, 16B, 44C, 45, 45B, 45C. This district, created on January 6, 1988 for not more than 6 years, since amended to continue for not more than 10 years and last reviewed on December 2, 2009, shall next be reviewed prior to December 2, 2019.

(3-2-94; Code 1988, § 2.1-4(i); Ord. 98-A(1), 8-5-98; Ord. 00-3(1), 4-19-00; Ord. 09-3(4), 12-2-09; Ord. 10-3(2), 7-7-10; Ord. 11-3(2), 7-6-11)

Sec. 3-219 Keswick Agricultural and Forestal District.

The district known as the "Keswick Agricultural and Forestal District" consists of the following described properties: Tax map 48, parcels 30, 30A, 30B, 30C, 30D, 30E; tax map 63, parcels 39, 39A, 40, 42A; tax map 64, parcels 5, 7, 7A, 8A, 9, 10 10A, 10B, 10C, 10D, 11 12, 13, 13A, 14; tax map 65, parcels 13, 14A, 14A1, 31C1, 31C3, 31D, 32; tax map 79, parcel 46; tax map 80, parcels 1, 2, 2A, 2C, 3A, 3A1, 3G, 3H, 3I, 4, 61D, 88, 114A, 115, 164, 169, 169A, 169C, 169C1, 174, 176, 176A, 182, 182A, 183, 183A, 190, 192, 194; tax map 81, parcels 1, 8A, 15A6, 15B, 63, 69, 72, 73, 74, 79. This district, created on September 3, 1986 for not more than 10 years and last reviewed on November 3, 2004, shall next be reviewed prior to November 3, 2014.

(10-12-94; 4-12-95; 8-13-97; Code 1988, § 2.1-4(e); Ord. 98-A(1), 8-5-98; Ord. 04-3(3), 11-3-04; Ord. 09-3(4), 12-2-09; Ord. 10-3(3), 12-1-10; Ord. 11-3(4), 12-7-11; Ord. 12-3(1), 7-11-12)

Sec. 3-227 Totier Creek Agricultural and Forestal District.

The district known as the "Totier Creek Agricultural and Forestal District" consists of the following described properties: Tax map 121, parcels 70A, 70D, 70E, 72C, 85, 85A; tax map 122, parcels 5, 5A; tax map 127, parcel 39; tax map 128, parcels 13, 14A, 14B, 14C, 14D, 27, 29, 30, 72; tax map 129, parcels 3, 5, 6, 6A, 7A, 7D, 9; tax map 130, parcels 1, 5A; tax map 134, parcels 3, 3A, 3B, 3C, 3D, 3E, 3F, 3G, 3H, 3I, 3J, 3K, 3L; tax map 135, parcels 7, 10. This district, created on June 29, 1983 for not more than 10 years and last reviewed on July 6, 2011, shall next be reviewed prior to July 6, 2021.

(Code 1988, § 2.1-4(b); Ord. 98-A(1), 8-5-98; Ord. 01-3(1), 6-20-01; Ord. 11-3(1), 7-6-11)

Agenda Item No. 19. **Public Hearing: ZTA-2013-00003. Dam Break Inundation Zones.** Ordinance to amend Chapter 18, Subdivision of Land, of the Albemarle County Code by adding regulations pertaining to proposed development within dam break inundation zones, as required by State law. This ordinance would amend Sec. 18-3.1, Definitions, by adding definitions, Secs. 18-32.4.1.3, Contents of preapplication plan, and 18-32.5.2, Contents of an initial site plan, by requiring information pertaining to dam break inundation zones be shown on those plans, and Sec. 18-32.4.2.8, Effect of approval of initial site plan on other future and pending approvals, to refer to new Sec. 18-32.8.6, Dam break inundation zones; prerequisites to development. New Sec. 18-32.8.6 imposes requirements before development may occur in dam break inundation zones, as required by State law. In addition to adding Sec. 18-32.8.6, this ordinance would add Sec. 18-32.5.6, Dam break inundation zones, to impose certain requirements on the site review committee when reviewing a site plan in a dam break inundation zone,

and Sec. 18-32.6.4, Dam break inundation zones; engineering study and mapping information, which requires the developer to submit an engineering study and mapping information in prescribed circumstances. This ordinance also would make a technical amendment to Sec. 18-32.8.1, Completion of on-site improvements required prior to final site plan approval, to provide that required improvements must be completed prior to issuance of a certificate of occupancy and amend Sec. 35.1, Fees, to impose the minimum fee required by Virginia Code § 15.2-2243.1 related to the developers' share of the contract-ready costs for necessary upgrades to an impounding structure, which fee is one percent of total amount of payment or one thousand dollars (\$1,000.00), whichever is less. (*Advertised in the Daily Progress on November 18 and November 25, 2014.*)

The following executive summary was forwarded to Board members:

In 2008, the Virginia General Assembly passed legislation requiring localities to undergo a new review process for development occurring within a dam break inundation zone (Attachment B). According to the Virginia Code, a dam break inundation zone (DBIZ) is "the area downstream of a dam that would be inundated or otherwise directly affected by the failure of a dam." Development is defined as "one or more lots developed or to be developed as a unit under single ownership or unified control which is to be used for any business or industrial purpose or is to contain three or more dwelling units, but does not include any lot or lots that will be principally devoted to agricultural production."

Dam owners are required to conduct a dam break analysis to support the appropriate hazard classification of the impounding structure in accordance with the Virginia Administrative Code. An owner of a State-regulated dam is also required to provide the locality in which the dam is located with a map of its DBIZ and incorporate all affected properties into its dam safety emergency action plan. There is currently no timeframe associated with this mandate. The state requirements place localities in the role of notifying the Virginia Department of Conservation and Recreation (DCR) when a development is proposed within a DBIZ for which the locality has a map on file so that the plan for development can be reviewed by DCR for its impacts on a dam's spillway design flood standards.

There are currently 109 state regulated dams in Albemarle County. Community Development's Zoning Division is the designated point of intake for DBIZ mapping and has received mapping for four of these dams to date. When a map is received, it is passed along to Information Services staff to be incorporated into CountyView and GIS-Web so that parcels within a DBIZ can be identified by staff and the general public. Planning staff then follow the required review process when reviewing any site plan or subdivision application that falls within a DBIZ.

On April 23, 2013 the Board of Supervisors adopted a resolution of intent to amend the zoning and subdivision ordinances in order to comply with state requirements (Attachment C). The proposed zoning text amendment addresses revisions to the site plan review process for properties that fall within a DBIZ. On October 8, 2013 the Planning Commission recommended adoption of the proposed zoning text amendment and STA 2012-02, also being considered by the Board on December 4th, which would make the corresponding changes to the subdivision ordinance (Attachments D & E).

The proposed ordinance (Attachment A) implements State law and would:

- Add definitions for "dam break inundation zone", "development", and "impounding structure"
- Require that a DBIZ be depicted on the pre-application plan, initial site plan & preliminary plat
- Require that if development is within a DBIZ: (1) the dam owner is notified about the proposed development, and (2) DCR is notified within 10 days to make a determination as to whether or not the proposed development will impact the dam's spillway design flood standards
- If DCR determines that spillway design flood standards will be affected by the proposed development, require that the developer either alter the plan of development so that spillway design flood standards will not be affected or submit an engineering study with the final site plan to be reviewed by DCR.
- Prior to development in a DBIZ that will impact the dam's spillway design flood standards, require the developer to pay 50% of the costs for necessary upgrades to the dam attributable to the development, plus an administrative fee not to exceed 1% of the total amount of payment required or \$1,000, whichever is less. These costs and fees would be paid to the Dam Safety, Flood Prevention and Protection Assistance Fund held by the Virginia Resources Authority.
- When a development within a DBIZ is complete, require the developer to provide the dam owner, the County, and any other affected localities with information necessary for the dam owner to update the DBIZ map to reflect any new development within the DBIZ.

Staff does not anticipate that this ordinance will result in the need for additional staff or funding.

After the public hearing, staff recommends adoption of the proposed ordinance amendment (Attachment A) effective January 1, 2014.

Ms. Mandy Burbage, Principal Planner, addressed the Board, stating that she would address the inundation zone text amendment as well as revisions to the subdivision ordinance related to dam break inundation zones. Ms. Burbage said dam break inundation zones as defined in the staff report are the

areas downstream of a dam that would be inundated or otherwise directly affected by the failure of a dam. She stated that the impetus for the amendment was legislation passed in 2008 by the General Assembly to address development in a dam break inundation zone downstream of a state-regulated dam. Ms. Burbage said state code defines development as “one or more lots that are to be used for any business or industrial purpose, or as to contain three or more dwelling units. She stated that there are three key components to the regulations, the first of which being that dam owners are required to submit maps of their inundation zones to the localities and to the Department of Conservation and Recreation (DCR). She noted that there is no mandated timeframe for them to do this and, although DCR notified people when the regulations took effect, there was no timeline associated with when they should have maps submitted to localities. She said the second component is that localities are required to undertake a special review process for development that falls in a dam break inundation zone for which it has a map on file, which is basically an additional review by DCR of the development proposal. Ms. Burbage said the third component is that developers that proceed with building in a dam break inundation zone are required to cost-share up to 50% of the dam upgrades which may be associated as a result of the development. She stated that the hazard classification of a dam is linked to how much property is downstream of the dam so, if additional development is occurring, the hazard classification level can go up.

Ms. Burbage reported that the Board adopted a resolution of intent in April to implement the state-mandated changes to the development review process for both site plans and subdivisions and, on October 8, the Planning Commission recommended approval of the proposed amendments. Ms. Burbage said staff has been working to develop an intake process for receipt of inundation zone maps from dam owners, and they've worked with GIS staff to make the maps accessible to the public through GIS web and also to staff internally through County View. She stated that locally, there are a total of 109 total state-regulated dams in the County and, thus far, there is only mapping for four of them: North Fork, two at Birdwood, and Lake Albemarle. She said maps are ready for three other dams, and those would be submitted to DCR within a day, with the Rivanna Water and Sewer Authority (RWSA) sending their mapping in this week also.

Ms. Burbage presented an image showing how the dam break inundation zone appears in GIS web, noting that the hundred-year flood plain is also shown and the zone exceeds those boundaries in some places. She stated that proposed changes which will apply to the subdivision and zoning ordinance amendments mirror each other in both ordinances and reflect the state-mandated process as it's written in the code. Ms. Burbage said, if a proposed development falls within a dam break inundation zone, the County has mapping for it and the developer will need to show the area on the pre-application plan and initial site plan or preliminary plat. She stated that the County will have to notify the dam owner that they've received the application and also notify DCR of the development application within 10 days. Ms. Burbage said DCR then has 45 days to make a determination as to whether or not the proposed development will affect the dam spillway flood design standards and, if DCR doesn't notify the County, the development is presumed to have no effect – so the development application can proceed normally.

Ms. Burbage said, if DCR does determine that the spillway standards will be affected, the developer has two options: to alter the plan of development, or proceed with development under certain conditions. She stated that the first condition is, prior to final site plan or subdivision approval, they need to submit an engineering study which outlines the upgrades necessary to the dam and provide cost estimates for those upgrades. Ms. Burbage said DCR would review that engineering study to ensure it conforms to state standards. She stated that the second condition is, prior to development, the developer would be responsible for contributing 50% of the cost of dam upgrades. Ms. Burbage said, under state code, the County has two options on how to handle the money – either accept it on their own behalf, or pass it through to the dam safety flood prevention and protection assistance fund, which is what the County has elected to do and is reflected in the ordinance. She stated that, once the development is complete, the developer would have to provide the dam owner and the locality information necessary to update the mapping on file.

Ms. Burbage concluded her presentation and thanked Rob Van Lier, the County's regional representative for DCR. She said, following the public hearing, staff recommends adoption of ZTA 2013-0003.

Ms. Mallek asked for clarification on the other 50% cost of improving the dam. Ms. Burbage stated that it comes from the dam owner.

Ms. Mallek asked what happens if that person doesn't have the money to do that. Ms. Burbage said the owner has a five-year window and, after that point, if the upgrades haven't been done, the money is given back to the developer.

Ms. Mallek pointed out that houses are still built in a floodway that's not improved.

Mr. Rooker stated that there's really no mechanism to force the dam upgrade to occur.

Ms. Burbage said this is still untested, so it hasn't played out yet even though the regulations have been in place since 2008.

Mr. Rooker said it's an encouragement to the owner to upgrade the dam if he has liability, but it's not going to force it to occur.

Mr. Rob Van Lier of DCR said he deals with 15 counties and over 400 dams, and quite a few of them are already considered high-hazard. Mr. Van Lier said dam owners are doing everything they can to get the upgrade, and DCR has a matching fund for the engineering work – but not the construction –

necessary to upgrade the dams. He stated he's doing everything he can to assist with those upgrades, adding that this law was passed in 2008 without a lot of input from DCR. Mr. Van Lier said the developers weren't happy with the original proposal, so they were able to get modifications, and it's at least an effort to keep dam owners from getting stuck with the hazard creep. He stated that, if only one house is built, it's not considered a development, so the dam owner would be responsible for 100% of the dam upgrades.

Ms. Mallek said the dam owner didn't do anything to cause the hazard mitigation on his property, and to her it sounds like a taking.

Mr. Van Lier said this is being addressed in every state, and there is also the reverse impact on people who are told they can't build on their property because a dam is being built above them.

Ms. Mallek pointed out that the property was in a floodway to begin with.

Mr. Van Lier said that's not the case, because there are areas beyond the floodplain which have large dam break inundation zones. He reiterated that this is a nationwide issue, and this is one step to try to keep developers out of inundation zones. Mr. Van Lier stated that all of the planning offices he talks with say they're hoping the state will pass a law that says you can't build in inundation zones – or accept the liability.

Mr. Snow asked if Mr. Van Lier had heard of other solutions that are being tried in other states. Mr. Van Lier said he encourages dam owners to get their inundation maps done because very few have been done, and you can't tell what the hazard class is until the inundation mapping is done. He stated that "hazard creep" is a term being used across the country whereby dams are seeing their hazard class increase because of development downstream. Mr. Van Lier said a low hazard dam only has to pass the hundred-year flood before it's over-topped and, if you over-top an earthen dam, it will erode away. He stated that a significant-hazard dam with a major road downstream that would be impacted by a dam break must pass the one-half probable maximum flood; and a high-hazard dam must pass the full probable maximum flood. Mr. Van Lier cited Ragged Mountain Dam as an example of a high-hazard dam, and his recommendation for dam construction is to build to the probable maximum flood regardless of hazard class so a structure doesn't have to be retrofitted when there's hazard creep.

Mr. Thomas asked if there were any codes to tell someone not to build a dam or not to build a house below it. Mr. Van Lier said there's no code in the state for those issues.

Ms. Mallek asked if the County had the enabling authority to do that. Mr. Davis said the County does not have specific enabling legislation, but he could look into whether general zoning powers might cover it.

Ms. Mallek said it seems like the only fair thing to do.

Mr. Rooker pointed out that there are equities on all sides of the issue because, if you buy a piece of property that has 10 development rights and a neighbor goes in and puts in a dam, it's not really fair to say that a person who bought those rights can't develop their property.

Mr. Rooker asked about the definition of a state-regulated dam. Mr. Van Lier said it must be six feet high measured from the stream edge to the first place the dam would overtop, not counting the emergency spillway. He stated that the next thing to consider is how many acre feet (volume) are behind the dam at that point and, if that number is 50 acre feet, the dam will need to be state regulated. Mr. Van Lier said there are agricultural exemptions for property that produces certain products, such as cattle. He stated that there's one other category to be regulated, and that is a dam that is over 25 feet tall but only 15 acre feet of water. Mr. Van Lier explained that this could occur in places like Western Albemarle and Nelson County because, with steep mountainous terrain when a dam breaks, there's no floodplain for the water to spread out. He said he has a lot of dams in his region that have not been brought into regulation, with one issue being that many were built just under the 25-foot height law that was in place prior to 2001 – and when the law changed that year, nobody was grandfathered.

Mr. Rooker commented that the bottom line is that it's very difficult to force any of these things to occur.

Mr. Van Lier mentioned that Green Acres Dam in Greene County had a major dam failure and they had to slip-line their pipe at a cost of \$100,000 – but the homeowners' association didn't have the money, and no bank is going to loan anyone money for a broken dam. He said the homeowners association had 10 people in the community loan \$10,000 a piece, and they raised the association fees to cover it and pay it back at 7% interest.

Ms. Mallek pointed out that this ZTA basically brings the County into compliance with state law.

The Chair opened the public hearing.

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

Motion was then offered by Mr. Rooker to adopt the proposed amendment to Ordinance No. 13-18(7) with an effective date of January 1, 2014. Ms. Mallek **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

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

(The adopted ordinance is set out below:)

ORDINANCE NO. 13-18(7)

AN ORDINANCE TO AMEND CHAPTER 18, ZONING, ARTICLE I, ADMINISTRATION, AND ARTICLE IV, PROCEDURE, OF THE CODE OF THE COUNTY OF ALBEMARLE, VIRGINIA

BE IT ORDAINED By the Board of Supervisors of the County of Albemarle, Virginia, that Chapter 18, Zoning, Article I, Administration, and Article IV, Procedure, are hereby amended and reordained as follows:

By Amending:

- Sec. 3.1 Definitions
- Sec. 32.4.1.3 Contents of preapplication plan
- Sec. 32.4.2.8 Effect of approval of initial site plan on other future and pending approvals
- Sec. 32.5.2 Contents of an initial site plan
- Sec. 35.1 Fees

By Amending and Renaming:

- Sec. 32.8.1 Completion of on-site improvements required prior to ~~final site plan approval~~ issuance of a certificate of occupancy

By Adding:

- Sec. 32.5.6 Dam break inundation zones
- Sec. 32.6.4 Dam break inundation zones; engineering study and mapping information
- Sec. 32.8.6 Dam break inundation zones; prerequisite to development

**Chapter 18. Zoning
Article I. Administration**

Sec. 3.1 Definitions

...

Dam break inundation zone. The term "dam break inundation zone" means the area downstream of a dam that would be inundated or otherwise directly affected by the failure of a dam that has been mapped as provided in Virginia Code § 10.1-606.2.

Development. The term "development," as used in regulations pertaining to dam break inundation zones, means one or more lots developed or to be developed as a unit under single ownership or unified control which is to be used for any business or industrial purpose or is to contain three or more dwelling units, but does not include any lot or lots that will be principally devoted to agricultural production.

Impounding structure. The term "impounding structure" means a man-made structure, whether a dam across a watercourse or other structure outside a watercourse, used or to be used to retain or store waters or other materials and includes: (i) all dams that are twenty-five (25) feet or greater in height and that create an impoundment capacity of fifteen (15) acre-feet or greater; and (ii) all dams that are six (6) feet or greater in height and that create an impoundment capacity of fifty (50) acre-feet or greater. The term "impounding structure" does not include dams licensed by the State Corporation Commission that are subject to a safety inspection program; dams owned or licensed by the United States government; dams operated primarily for agricultural purposes which are less than twenty-five (25) feet in height or which create a maximum impoundment capacity smaller than one hundred (100) acre-feet; water or silt retaining dams approved pursuant to Virginia Code § 45.1-222 or 45.1-225.1; or obstructions in a canal used to raise or lower water.

...

**Article IV. Procedure
Section 32. Site Plans**

Sec. 32.4.1.3 Contents of preapplication plan

Each preapplication plan shall contain the following information:

- a. *General information.* The name of the development; names of the owner, developer and individual who prepared the plan; tax map and parcel number; boundary dimensions; zoning district; descriptions of all proffers, special use permits and conditions thereof, special exceptions and conditions thereof, variances and conditions thereof, application plans, codes of development and bonus factors applicable to the site; magisterial district; county and state; north point; scale; one datum reference for elevation (if the site includes land subject to section 30.3, flood hazard overlay district, United States Geological Survey vertical datum shall be shown and/or correlated to plan topography); the source of the topography; departing lot lines; minimum setback lines, yard and building separation requirements; the source of the survey; sheet number and total number of sheets; and the names of the owners, zoning district, tax map and parcel numbers and present uses of abutting parcels.

- b. *Information regarding the proposed use.* Written schedules or data as necessary to demonstrate that the site can accommodate the proposed uses, including proposed uses and maximum acreage occupied by each use; maximum number of dwelling units by type including the number of bedrooms for multi-family dwellings; gross residential density; square footage of recreational areas, percentage and acreage of open space; maximum square footage for commercial and industrial uses; maximum floor area ratio and lot coverage for industrial uses; maximum height of all structures; schedule of parking including the maximum amount required and the amount provided; the maximum amount of impervious cover on the site; and whether a landscape plan is required under section 32.7.9.
- c. *Phase lines.* If phasing is planned, phase lines.
- d. *Topography and proposed grading.* Existing topography (up to twenty [20] percent slope, maximum five [5] foot contours, over twenty [20] percent slope, maximum ten [10] foot contours) for the entire site with sufficient offsite topography to describe prominent and pertinent offsite features and physical characteristics, but in no case less than fifty (50) feet outside of the site unless otherwise approved by the agent; proposed grading (maximum five [5] foot contours) supplemented where necessary by spot elevations; areas of the site where existing slopes are critical slopes.
- e. *Landscape features.* The existing landscape features as described in section 32.7.9.4(c).
- f. *Watercourses and other bodies of water.* The name and location of all watercourses and other bodies of water adjacent to or on the site; indicate whether the site is located within the watershed of a public water supply reservoir.
- g. *Onsite sewage system setback lines.* The location of onsite sewage system setback lines from watercourses including intermittent streams and other bodies of water.
- h. *Flood plain.* The one hundred (100) year flood plain limits as shown on the official flood insurance maps for Albemarle County.
- i. *Streets, easements and travelways.* The existing and proposed streets, access easements, alley easements and rights-of-way, and travelways, together with street names, state route numbers, right-of-way lines and widths, and pavement widths.
- j. *Existing sewer and drainage facilities.* The location and size of existing water and sewer facilities and easements, the storm drainage system, and drainage easements.
- k. *Proposed sewer and drainage facilities.* The proposed conceptual layout for water and sewer facilities and the storm drainage system, indicating the direction of flow in all pipes and watercourses with arrows.
- l. *Existing and proposed utilities.* The location of other existing and proposed utilities and utility easements, including existing telephone, cable, electric and gas easements.
- m. *Ingress and egress.* The location of existing and proposed ingress to and egress from the site, showing the distance to the centerline of the nearest existing street intersection.
- n. *Existing and proposed improvements.* The location and dimensions of all existing and proposed improvements including buildings (maximum footprint and height) and other structures; walkways; fences; walls; trash containers; outdoor lighting; landscaped areas and open space; recreational areas and facilities; parking lots and other paved areas; and loading and service areas.
- o. *Areas to be dedicated or reserved.* All areas intended to be dedicated or reserved for public use.
- p. *Symbols and abbreviations.* A legend showing all symbols and abbreviations used on the plan.
- q. *Dam break inundation zones.* The limits of a dam break inundation zone.

State law reference – Va. Code §§ 15.2-2241(9), 15.2-2255, 15.2-2258, 15.2-2286(A)(8).

Sec. 32.4.2.8 Effect of approval of initial site plan on other future and pending approvals

The approval of an initial site plan affects the following pending and future approvals:

- a. *Issues pertaining to a certificate of appropriateness.* An approved initial site plan that has complied with the architectural review board's requirements identified under section 32.4.2.2(b) shall be deemed to be consistent with the applicable design guidelines pertaining to the elements of sections 30.6.4(c)(2), (3) and (5) delineated in section 32.4.2.2(b)(1).
- b. *Erosion and sediment control plan and grading permit; conventional zoning districts.* On any site within a conventional zoning district, including any conventional zoning district also within an entrance corridor overlay district, an approved initial site plan is an "approved site plan" within the meaning of section 17-204(E). As such, an erosion and sediment control plan and corresponding grading permit may be approved under chapter 17, provided that the developer has satisfied the

conditions of approval identified by the agent in the letter required by section 32.4.2.5(c), and further provided that any site within a dam break inundation zone is subject to section 32.8.6.

- c. *Erosion and sediment control plan and grading permit; planned development zoning districts.* Notwithstanding section 8.5.5.4(c) but subject to sections 32.6.4 and 32.8.6, on any site within a planned development zoning district, including a planned development zoning district also within an entrance corridor overlay district, an approved initial site plan is an "approved site plan" within the meaning of section 17-204(E). As such, an erosion and sediment control plan and corresponding grading permit may be approved under chapter 17, provided that the developer has satisfied the conditions of approval identified by the agent in the letter required by section 32.4.2.5(c), and further provided that any site within a dam break inundation zone is subject to section 32.8.6. Except as provided in sections 32.6.4 and 32.8.6, nothing in this section shall affect the ability of a developer to obtain approval of an erosion and sediment control plan and corresponding grading permit prior to approval of an initial site plan as provided in section 8.5.5.4(b).

State law reference – Va. Code §§ 10.1-563, 15.2-2241, 15.2-2286(A)(4), 15.2-2306.

Sec. 32.5.2 Contents of an initial site plan

Each initial site plan shall contain the following information:

- a. *General information.* The name of the development; names of the owner, developer and individual who prepared the plan; tax map and parcel number; boundary dimensions; zoning district; descriptions of all proffers, special use permits and conditions thereof, special exceptions and conditions thereof, variances and conditions thereof, application plans, codes of development and bonus factors applicable to the site; magisterial district; county and state; north point; scale; one datum reference for elevation (where section 30.3, flood hazard overlay district, is involved, United States Geological Survey vertical datum shall be shown and/or correlated to plan topography); the source of the topography; departing lot lines; minimum setback lines, yard and building separation requirements; the source of the survey; sheet number and total number of sheets; and the names of the owners, zoning district, tax map and parcel numbers and present uses of abutting parcels.
- b. *Information regarding the proposed use.* Written schedules or data as necessary to demonstrate that the site can accommodate the proposed uses, including proposed uses and maximum acreage occupied by each use; maximum number of dwelling units by type including the number of bedrooms for multi-family dwellings; gross residential density; square footage of recreational areas; the percentage and acreage of open space; maximum square footage for commercial and industrial uses; maximum floor area ratio and lot coverage for industrial use; maximum height of all structures; schedule of parking including the maximum amount required and the amount provided; the maximum amount of impervious cover on the site; and if a landscape plan is required, the maximum amount of paved parking and other vehicular circulation areas.
- c. *Phase lines.* If phasing is planned, phase lines and the proposed timing of development.
- d. *Topography and proposed grading.* Existing topography (up to twenty [20] percent slope, maximum five [5] foot contours, over twenty [20] percent slope, maximum ten [10] foot contours) for the entire site with sufficient offsite topography to describe prominent and pertinent offsite features and physical characteristics, but in no case less than fifty (50) feet outside of the site unless otherwise approved by the agent; proposed grading (maximum five [5] foot contours) supplemented where necessary by spot elevations; areas of the site where existing slopes are critical slopes.
- e. *Landscape features.* The existing landscape features as described in section 32.7.9.4(c).
- f. *Watercourses and other bodies of water.* The name and location of all watercourses and other bodies of water adjacent to or on the site; indicate whether the site is located within the watershed of a public water supply reservoir.
- g. *Onsite sewage system setback lines.* The location of onsite sewage system setback lines from watercourses including intermittent streams and other bodies of water.
- h. *Flood plain.* The one hundred year flood plain limits as shown on the official flood insurance maps for Albemarle County.
- i. *Streets, easements and travelways.* The existing and proposed streets, including proposed bike lanes, access easements, alley easements and rights-of-way, and travelways, together with street names, state route numbers, right-of-way lines and widths, centerline radii and pavement widths.
- j. *Existing sewer and drainage facilities.* The location and size of existing water and sewer facilities and easements, the storm drainage system, drainage channels, and drainage easements.
- k. *Proposed sewer and drainage facilities.* The proposed conceptual layout for water and sewer facilities and the storm drainage system, indicating the direction of flow in all pipes and watercourses with arrows.
- l. *Existing and proposed utilities.* The location of other existing and proposed utilities and utility easements, including existing telephone, cable, electric and gas easements.

- m. *Ingress and egress.* The location of existing and proposed ingress to and egress from the property, showing the distance to the centerline of the nearest existing street intersection.
- n. *Existing and proposed improvements.* The location and dimensions of all existing and proposed improvements including buildings (maximum footprint and height) and other structures; walkways; fences; walls; trash containers; outdoor lighting; landscaped areas and open space; recreational areas and facilities; parking lots and other paved areas; loading and service areas; signs; and the proposed paving material types for all walks, parking lots and driveways.
- o. *Areas to be dedicated or reserved.* All areas intended to be dedicated or reserved for public use under sections 32.7.1.1, 32.7.1.2 and 32.7.1.3, and shall include a note on the plan stating that the land is to be dedicated or reserved for public use.
- p. *Landscape plan.* A landscape plan that complies with section 32.7.9, if it is required to be submitted with the initial site plan.
- q. *Traffic generation figures.* If deemed appropriate by the agent due to the intensity of the development, estimated traffic generation figures for the site based on current Virginia Department of Transportation rates; indicate the estimated number of vehicles per day and the direction of travel for all connections from the site to a public street.
- r. *Symbols and abbreviations.* A legend showing all symbols and abbreviations used on the plan.
- s. *Additional information.* The agent may require additional information to be shown on the initial site plan as deemed necessary to provide sufficient information for the agent and the site review committee to adequately review the plan.
- t. *Dam break inundation zones.* The limits of a dam break inundation zone.

State law reference – Va. Code §§ 15.2-2241(1), 15.2-2258, 15.2-2286(A)(8).

Sec. 32.5.6 Dam break inundation zones

If the proposed development is located wholly or partially within a dam break inundation zone, the site review committee shall review the initial site plan as follows: (i) it shall review the dam break inundation zone map on file with the county for the affected impounding structure; (ii) notify the dam owner about the proposed development; and (iii) within ten (10) days after the application is deemed complete, send a written request to the Virginia Department of Conservation and Recreation to make a determination of the potential impacts of the proposed development on the spillway design flood standards required for the dam as provided in Virginia Code § 10.1-606.3.

State law reference--Va. Code §§ 10.1-606.3, 15.2-2243.1.

Sec. 32.6.4 Dam break inundation zones; engineering study and mapping information

If the proposed development is located wholly or partially within a dam break inundation zone, the developer shall submit with the final site plan the following:

- a. *Engineering study.* If the Virginia Department of Conservation and Recreation determines that a plan of development proposed by a developer would change the spillway design flood standards of an impounding structure pursuant to Virginia Code § 10.1-606.3, the developer shall submit an engineering study in conformance with the Virginia Soil and Water Conservation Board's standards under the Virginia Dam Safety Act in Virginia Code § 10.1-604 *et seq.* and the Virginia Impounding Structure regulations in 4 VAC 50-20. The engineering study shall be reviewed and acted upon by the Virginia Department of Conservation and Recreation as provided in Virginia Code § 15.2-2243.1.
- b. *Mapping information.* The developer shall provide the dam owner, the county, and any other affected localities with information necessary for the dam owner to update the dam break inundation zone map to reflect any new development within the dam break inundation zone following completion of the development.

State law reference--Va. Code §§ 10.1-606.3, 15.2-2243.1.

Sec. 32.8.1 Completion of on-site improvements required prior to issuance of a certificate of occupancy

Except as provided in section 32.8.2, all on-site improvements required by section 32.7 shall be completed prior to approval of issuance of a certificate of occupancy. Prior to issuance of the certificate of occupancy:

- a. *Certification regarding all completed improvements.* The developer shall submit to the agent a certificate of completion of all of the improvements prepared by a professional engineer or a land surveyor, to the limits of his license; and

- b. *Certification of payment.* The developer shall certify to the agent that all of the construction costs for the improvements, including those for materials and labor, have been paid to the person constructing the improvements.

State law reference – Va. Code §§ 15.2-2241(5), 15.2-2241(9), 15.2-2255.

Sec. 32.8.6 Dam break inundation zones; prerequisite to development

Following the completion of the engineering studies in accordance with Virginia Code § 15.2-2243.1(A) and the determination by the Virginia Department of Conservation and Recreation that the developer's plan of development would change the spillway design flood standards of the impounding structure, before any development within a dam break inundation zone:

- a. *Payment for portion of necessary upgrades.* The developer shall pay fifty (50) percent of the contract-ready costs for necessary upgrades to an impounding structure attributable to the development, together with an administrative fee not to exceed one (1) percent of the total amount of payment required or one thousand dollars (\$1,000.00), whichever is less. Any payments shall be made to the Dam Safety, Flood Prevention and Protection Assistance Fund held by the Virginia Resources Authority pursuant to Virginia Code § 10.1-603.19:1. "Necessary upgrades" do not include costs associated with routine operation, maintenance, and repair, nor do they include repairs or upgrades to the impounding structure not made necessary by the proposed development; or
- b. *Redesign the development.* The developer shall amend the site plan so that it does not alter the spillway design flood standards required of the impounding structure.

State law reference--Va. Code §§ 10.1-606.3, 15.2-2243.1.

Sec. 35.1 Fees

Each applicant shall pay the following applicable fees, provided that neither the county nor the county school board shall be required to pay any fee if it is the applicant:

...

- d. Site plans:
1. Initial site plans: \$1200.00 plus \$15 per dwelling unit and \$0.015 per square foot of nonresidential structure; the fee paid for preapplication plans shall be applied to the fee for initial site plans
 2. Preapplication plans: \$500.00
 3. Final site plans: \$1500.00
 4. Exception to drawing of site plan under section 32.3.5(a): \$1500.00
 5. Site plan amendments under section 32.3.3(b): \$500.00 (minor); \$100.00 (letter of revision)
 6. Site plan amendments under section 32.3.3(b) (major): \$1500.00
 7. Appeals under section 32.4.2.6: \$240.00
 8. Reinstatement of review under sections 32.4.2.1(d) and 32.4.3.1(e): \$240.00
 9. Reinstatement of review under section 32.4.2.5(e): \$80.00
 10. Extension of period of validity: \$475.00
 11. Inspections pertaining to secured site plan improvements; per inspection: \$280.00
 12. Deferral of scheduled public meeting at applicant's request: \$180.00
 13. Dam break inundation zones; administrative fee as required by section 32.8.6: One percent of the total amount of payment required by section 32.8.6 or one thousand dollars (\$1,000.00), whichever is less. (Payment made to the Dam Safety, Flood Prevention and Protection Assistance Fund held by the Virginia Resources Authority).

...

Except as provided in subsection (d)(13), the fee shall be in the form of cash or a check payable to the "County of Albemarle." An application presented without the required fee shall not be deemed to be submitted and shall not be processed, provided that for applications for zoning map amendments and special use permits, the fee shall be paid when the application is determined to be complete. If the zoning administrator determines after a fee has been paid that the review and approval to which the fee pertains is not required to establish the use or structure, the fee shall be refunded to the applicant in full.

(Amended 5-5-82; 9-1-85; 7-1-87; 6-7-89; 12-11-91 to be effective 4-1-92; 7-8-92; Ord. 10-18(7), adopted 8-4-10, effective 1-1-11; Ord. 11-18(1), 1-12-11; Ord. 11-18(7), 6-1-11; Ord. 12-18(6), 10-3-12, effective 1-1-13; Ord. 12-18(7), 12-5-12, effective 4-1-13)

State law reference – Va. Code §§ 15.2-2286(A)(6), 15.2-2241(9), 15.2-2243.1.

This ordinance is effective on and after January 1, 2014.

Agenda Item No. 20. **Public Hearing: STA-2012-00002. Subdivision Plat Process Improvements.** Ordinance to amend Chapter 14, Subdivision of Land, of the Albemarle County Code. This ordinance would add and delete definitions (Sec. 106, Definitions), amend the requirements and procedures for administering Chapter 14 and the procedures for submitting, reviewing and acting on subdivision plats, easement plats, and related variations and exceptions (Secs. 14-200 through 14-231.1), including eliminating planning commission review of plats except on appeal from an action by the agent and requests for certain variations or exceptions, requiring an approved valid preliminary plat prior to submitting a final plat for certain classes of subdivisions, reorganizing such regulations, deleting certain fee classifications for processes no longer required and amending the terminology of other fee classifications (Sec. 14-203, Fees) and to impose the minimum fee required by Virginia Code § 15.2-2243.1 related to the subdividers' share of the contract-ready costs for necessary upgrades to an impounding structure, which fee is one percent of total amount of payment or one thousand dollars (\$1,000.00), whichever is less; amending the regulations pertaining to plat requirements (Secs. 14-300 through 14-318) by making technical corrections and adding requirements for information for stream crossings (Sec. 14-307, Stream crossings) and dam break inundation zones by imposing requirements on the site review committee when reviewing a preliminary plat for development in a dam break inundation zone (Sec. 14-307.1, Dam break inundation zones) and requiring the subdivider to submit an engineering study and mapping information in prescribed circumstances. (Sec. 14-318, Dam break inundation zones; engineering study and mapping information); amending the regulations pertaining to onsite improvements and design (Sec. 14-400 through 14-441) by making technical corrections, amending those sections authorizing waivers to instead authorize "variations or exceptions," updating regulations pertaining to securing improvements and the release of security (Secs. 14-435 through 14-436), and adding regulations pertaining to dam break inundation zones which impose requirements before development may occur in dam break inundation zones, as required by State law (Sec. 14-441, Dam break inundation zones; prerequisites to development). In addition to the foregoing regulations pertaining to dam break inundation zones, this ordinance would amend Sec. 14-302, Contents of preliminary plat, to require information pertaining to dam break inundation zones be shown on plats and, the regulations in new Sec. 14-225, Effect of approval of preliminary plat on other future and pending approvals, would refer to new Sec. 14-441, Dam break inundation zones; prerequisites to development. (*Advertised in the Daily Progress on November 18 and November 25, 2014.*)

The following executive summary was forwarded to Board members:

In December 2011 the Board of Supervisors adopted a resolution of intent to amend both the zoning and subdivision ordinances to "improve the quality and efficiency in the application and review process". The changes to the Zoning Ordinance were adopted in 2012. Those changes affected the review process for site plans. The current subdivision text amendment is to implement in the subdivision ordinance procedures similar to those adopted in the zoning ordinance. At the time of adoption of the zoning ordinance changes staff stated that there would be a delay in bringing forward the changes to the subdivision ordinance. This delay was to allow for implementation of the site plan process and to allow for an opportunity to identify any problems or difficulties with the new administrative procedure.

The major changes in the proposed ordinance include:

- Provide for an administrative review process solely by the agent.
- Establish that any comment not responded to within 6 months deems the project withdrawn.
- Use language similar to that used in the Zoning Ordinance.
- Update the terminology and standards to be consistent with state enabling authority.
- Simplifies 2 lot divisions in the Development Areas and subdivisions occurring after site plan approval.

Provide for an administrative review process solely by the agent.

Under the current regulations, most subdivision plats are reviewed and acted upon by the site plan agent. However, abutting landowners and members of the Planning Commission and the Board of Supervisors may "call up" some types of plats for review and action by the Planning Commission. Because the review and approval of subdivision plats is ministerial in nature, subdivision plats that satisfy the minimum requirements of the County's subdivision regulations and other applicable regulations *must* be approved. Given the ministerial nature of subdivision plats, this process has extended the time for subdivision plat review and increased the cost to both the applicant and County but has not brought corresponding value to the process. The application fee for a subdivision reviewed by the Planning Commission is approximately \$1,000 more than the cost of the application for an administratively reviewed subdivision. The application fee does not cover the entire cost of review. The ordinance will provide that all subdivision plats will be reviewed and administered by the agent and subdivision plats will no longer be able to be called up to the Planning Commission for review and action. However, the agent's decisions will continue to be appealable by the applicant to the Planning Commission and thereafter to the Board of Supervisors. This change should reduce the time required to process an application and reduce the Planning Commission's workload and allow it more time to spend on other planning and zoning matters.

The ordinance will continue the current requirement that staff provide notice to abutting landowners that a preliminary subdivision plat for the abutting site has been submitted and allow them to attend the site review committee meeting and submit comments.

Establish that any comment not responded to within 6 months deems the project withdrawn.

Revisions to a subdivision plat that are received long after staff comments have been made requires considerable time for staff to refamiliarize themselves with the project. In addition, the project may need to essentially be re-reviewed in order to ensure that no regulatory changes have occurred since the comments were provided. Only a minimal fee is required for re-activating a project. The proposed ordinance provides the failure of a developer to submit a revised subdivision plat in response to staff

comments within 6 months after the comments are provided will cause the subdivision plat to be deemed withdrawn. This change will allow staff to be more efficient in reviewing projects.

Use language similar to that used in the Zoning Ordinance.

The state enabling authority for subdivision plats is, for the most part, identical to the state enabling authority for site plans. Enhancing the commonality between the site plan regulations and the Subdivision Ordinance will make the regulations of both ordinances easier for staff to administer and for the development community and the public to understand and follow. The ordinance proposes processes similar to that used for site plans including the requirement of submitting preliminary plats prior to final plats for larger subdivisions.

Update the terminology and standards to be consistent with state enabling authority.

The ordinance updates the terminology and standards to ensure that the subdivision plat regulations are consistent with state enabling authority. These changes are technical in nature and are required to be in compliance with the state code. The proposed ordinance also contains language necessary to implement the Dam Break Inundation Zones requirements contained in the State Code and proposed with ZTA 2013-3 which is being heard at the same time as this subdivision text amendment.

Simplifies 2 lot divisions in the Development Areas and subdivisions occurring after site plan approval.

Currently any division in the Development Areas, other than family divisions and special lots, requires the application to be reviewed by the Site Review Committee and they are eligible to appeal to the Planning Commission. However, in the Rural Areas two lot divisions have always been reviewed and approved administratively. Divisions creating two lots do not have the complexity of larger divisions and staff can identify no justification for treating two lot divisions in the development area the same as larger subdivisions. Subdivisions that occur after site plan approval currently require a full review including submittal to the site review committee. These plats typically divide multi-family units shown on a site plan onto individual lots for sale or divide commercial developments into blocks corresponding to the site plan layout. The current review process for these plats mimics the work done during the approval process for the site plan. This duplication of effort is not an efficient use of County resources and does not, in the opinion of staff, result in a higher quality of review than would occur from the proposed streamlined process. Staff is recommending that two lot divisions and subdivisions occurring after site plan approval be reviewed administratively without referral to the site review committee.

Staff does not anticipate that this ordinance will result in the need for additional staff or funding.

Staff recommends adoption of the attached ordinance.

Mr. Bill Fritz, Chief of Special Projects, addressed the Board, stating that this is similar to the Board's work on the zoning text amendments about a year earlier. He said staff was tasked by the Board to shorten approval times and reduce the cost of development review, avoid unnecessary and burdensome regulations, maintain opportunities for public information and input, and maintain community quality. Mr. Fritz said Board direction was to move forward, resulting in a pre-application submittal – reviewed within 10 days to determine the main issues. He stated that it reduces some plan content, primarily on site plans not subdivisions, and the public is still invited to attend site review meetings to provide input. Mr. Fritz said staff was also directed to establish clearer submittal requirements for the final site plan, establish that any comment not responded to within six months deems the project “withdrawn,” allow the issuance of grading permits with the approval of the initial preliminary site plan, agent approval instead of Planning Commission approval, and continuation of ARB review of projects in the Entrance Corridor districts.

Mr. Fritz reported that the zoning text amendment was approved on September 5, 2012 and became effective January 1, 2013, with the subdivision process delayed to make sure they had done the zoning process correctly – and staff found one minor item related to bonding and site plans, which they have since corrected. Mr. Fritz said the proposed subdivision text amendment will make everything now processed the same. He explained that it is an administrative process, with projects approved solely by the agent and, if comments aren't responded to within six months, the project is deemed withdrawn. Mr. Fritz said there was some concern that the applicant had to make the changes being requested within six months, but it only provides that the applicant respond within six months. He stated that the language and process will also be updated to be the same as what's used in the zoning ordinance for consistency, and terminology will be updated to be consistent with the state enabling authority. Mr. Fritz said it simplifies the two-lot division process in the development areas and, if a subdivision is proposed following the approval of a site plan, it will be reviewed administratively and not put through a site review process. He noted that there had been some duplication of work for the additional site review process, which cost the County time and the applicant money – several thousand dollars. Mr. Fritz said they are also incorporating the procedures to implement the dam break inundation zone as the Board just approved.

Mr. Fritz said the Planning Commission reviewed this and unanimously recommended approval, and also agreed to extension for applicants beyond the six-month response window. He stated that notification of abutting owners is also retained, with notice still going out three to four weeks prior to the site review meeting and, if people can't go to that meeting, they can call and talk to a planner, or meet one on one with them. Mr. Fritz said Planning Commissioners will also be notified of project submittals, and the call-up procedure would be eliminated so input would need to happen at the site review meeting or before. He stated that they have a delayed effective date of the ordinance which will allow projects currently under review to finish, and for staff to complete training and get all pertinent forms online as well

as issue communication to the community. Mr. Fritz said staff is recommending that the Board approve the ordinance.

Ms. Dittmar asked how staff plans to communicate with the development community. Mr. Fritz responded that they will use the County View tracking system and will identify consultants who have submitted applications within the last year, adding that the changes for the development community are very minor with no new requirements imposed.

Ms. Dittmar said perhaps staff could reach out to associations of homebuilders, realtors, etc. Mr. Fritz agreed that staff could do that.

The Chair opened the public hearing.

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

Mr. Rooker **moved** to adopt Ordinance No. 13-14(1), with an effective date of January 1, 2014. Mr. Thomas **seconded** the motion.

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

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

(The adopted ordinance is set out below:)

ORDINANCE NO. 13-14(1)

AN ORDINANCE TO AMEND CHAPTER 14, SUBDIVISION OF LAND, ARTICLE I, GENERAL PROVISIONS, ARTICLE II ADMINISTRATION AND PROCEDURE, ARTICLE III, SUBDIVISION PLAT REQUIREMENTS AND DOCUMENTS TO BE SUBMITTED, AND ARTICLE IV, ON-SITE IMPROVEMENTS AND DESIGN, 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 14, Subdivision of Land, Article I, General Provisions, Article II, Administration and Procedure, Article III, Subdivision Plat Requirements, and Article IV, On-Site Improvements and Design, are hereby amended and reordained as follows:

By Amending:

- Sec. 14-105 Rules of construction
- Sec. 14-106 Definitions
- Sec. 14-200 Designation of agent; powers and duties
- Sec. 14-201 Designation of commission; powers and duties
- Sec. 14-202 Establishment of site review committee; powers and duties
- Sec. 14-203 Fees
- Sec. 14-208 Family subdivisions
- Sec. 14-208.1 Boundary line adjustments
- Sec. 14-208.2 Easement plats
- Sec. 14-211 Family subdivisions; conditions precedent
- Sec. 14-212 Family subdivisions; conditions of approval
- Sec. 14-213 General
- Sec. 14-303 Contents of final plat
- Sec. 14-305 Stormwater management information
- Sec. 14-317 Instrument evidencing maintenance of certain improvements
- Sec. 14-401 Double frontage lots
- Sec. 14-402 Lot shape
- Sec. 14-404 Lot location to allow access from lot onto street or shared driveway
- Sec. 14-405 Side lot lines
- Sec. 14-407 Block width
- Sec. 14-409 Coordination and extension of streets
- Sec. 14-410 Standards for all streets and alleys
- Sec. 14-412 Standards for private streets only
- Sec. 14-414 Public water and sewerage systems
- Sec. 14-419 Landscaping for double frontage lots
- Sec. 14-420 Location of utilities above- and underground
- Sec. 14-422 Sidewalks and planting strips
- Sec. 14-434 Completion of on-site improvements required prior to plat approval
- Sec. 14-435.1 Surety for maintenance of streets until accepted into state system
- Sec. 14-436 Release of surety
- Sec. 14-437 Effect of acceptance or approval of improvements
- Sec. 14-438 Inspections; right of entry
- Sec. 14-439 Improvements completed at expense of subdivider; exception

By Amending and Renaming:

- Sec. 14-206 Subdivisions other than rural subdivisions, two lot subdivisions, subdivisions following final site plan approval, subdivisions creating one special lot and one residue lot, family subdivisions, and boundary line adjustments and easement plats

- Sec. 14-207 Rural subdivisions, two lot subdivisions, subdivisions following final site plan approval, and subdivisions creating one special lot and one residue lot
- Sec. 14-212.1 Boundary line adjustment; procedure
- Sec. 14-304 Request ~~for critical slopes waiver to disturb critical slopes~~
- Sec. 14-417 Stormwater management and ~~drainage control facilities and other control measures~~
- Sec. 14-431 Easements for ~~facilities for stormwater management and drainage control facilities and other control measures~~
- Sec. 14-435 ~~Surety in lieu of completion of on-site improvements~~ Agreement and surety
- Sec. 14-440 County and other public entities not obligated to maintain improvements

By Amending and Renumbering:

- | <u>Old</u> | <u>New</u> | |
|-------------|---------------|---|
| Sec. 14-217 | Sec. 14-219 | Review of preliminary plat by site review committee |
| Sec. 14-219 | Sec. 14-222 | Review and action on preliminary plat by agent |
| Sec. 14-222 | Sec. 14-227 | Review of final plat by site review committee |
| Sec. 14-224 | Sec. 14-230 | Review and action on final plat by agent |
| Sec. 14-228 | Sec. 14-224 | Period of validity of approved preliminary plat |
| Sec. 14-229 | Sec. 14-231.1 | Period of validity of approved final plat |

By Amending, Renumbering and Renaming:

- | <u>Old</u> | <u>New</u> | |
|---------------|---------------|--|
| Sec. 14-216 | Sec. 14-218 | Submittal of preliminary plat; <u>determination of completeness</u> |
| Sec. 14-221 | Sec. 14-226 | Submittal of final plat; <u>determination of completeness</u> |
| Sec. 14-231.1 | Sec. 14-202.1 | Changes or revisions to preliminary or final plat <u>Amendments to a plat</u> |

By Amending and Combining Multiple Sections:

- | <u>Old</u> | <u>New</u> | |
|----------------------|---------------|--|
| Sec. 14-224.1 | Sec. 14-203.1 | Variations and exceptions |
| Sec. 14-225.1 | | |
| Sec. 14-209 | Sec. 14-209 | Rural subdivisions; family subdivisions; subdivisions creating a special lot and one residue lot; subdivisions resulting in not more than two lots; subdivisions after approval of a final site plan; easement plats; boundary line adjustments; procedure |
| Sec. 14-210 | | |
| Sec. 14-212.1 (part) | | |
| Sec. 14-212.3 | | |
| Sec. 14-212.4 | | |

By Amending, Renaming and Separating Into Multiple Sections:

- | <u>Old</u> | | <u>New</u> | |
|-------------|---|-------------|---|
| Sec. 14-215 | Preliminary application conference | Sec. 14-214 | Preapplication conference |
| | | Sec. 14-215 | Contents of preapplication schematic plat |
| Sec. 14-226 | Appeal of disapproval of preliminary or final plat; resubmittal | Sec. 14-223 | Appeal and judicial review of disapproval of preliminary plat |
| | | Sec. 14-231 | Appeal and judicial review of disapproval of final plat |

By Adding:

- Sec. 14-203.2 Appeals of decisions pertaining to variations and exceptions
- Sec. 14-217 Review of preapplication schematic plat
- Sec. 14-220 Revisions to preliminary plat to address required changes
- Sec. 14-221 Deferral of review of preliminary plat; when application deemed withdrawn
- Sec. 14-225 Effect of approval of preliminary plat on other future and pending approvals
- Sec. 14-228 Revisions to final plat to address required changes
- Sec. 14-307 Stream crossings
- Sec. 14-307.1 Dam break inundation zones
- Sec. 14-318 Dam break inundations zones; engineering study and mapping information
- Sec. 14-441 Dam break inundation zones; prerequisites to development

By Repealing:

- Sec. 14-212.3 Resubdivision without vacation of plat; procedure
- Sec. 14-218 Determining whether agent or commission reviews and acts on preliminary plat
- Sec. 14-223 Determining whether agent or commission reviews and acts on final plat
- Sec. 14-225 Review and action on final plat by commission

Chapter 14
Subdivision of Land
Article I. General Provisions

Sec. 14-105 Rules of construction.

This chapter protects paramount public interests and shall be liberally construed to effectuate its several purposes. In addition to the rules of construction set forth in section 1-101 of the Code, the following rules of construction apply to the construction of this chapter, unless the application would be contrary to the purposes of this chapter or the context clearly indicates otherwise:

A. All references to any statute, regulation, guideline, manual or standard are to that statute, regulation, guideline, manual or standard as it exists on the date of adoption of this chapter, and includes any amendment thereafter or reissue in a subsequent edition.

B. The word “days” means calendar days.

C. All distances and areas shall be measured in a horizontal plane.

D. The word “current” means the point in time at which a matter is under consideration and shall not mean the date of the adoption of this chapter.

E. The word “street,” when not preceded by either “public” or “private,” means either a public street or a private street.

F. All provisions requiring that improvements be designed or constructed to prescribed standards, or otherwise comply with delineated standards, refer to the minimum standard and nothing in chapter 14 shall prohibit an improvement from exceeding the standard.

(9-5-96, 4-13-88, 2-4-81, 3-29-78, 12-15-76, 4-21-76, 8-28-74; 1988 Code, § 18-2 (part); Ord. 98-A(1), 7-15-98; Ord. 05-14(1), 4-20-05, effective 6-20-05)

State law reference--Va. Code §§ 15.2-2240, 15.2-2241(9).

Sec. 14-106 Definitions.

The following definitions shall apply in the interpretation and enforcement of this chapter:

...

Control measure. The term “control measure” means any best management practice (“BMP”), stormwater facility, or other method used to minimize the discharge of pollutants to state waters.

...

Dam break inundation zone. The term “dam break inundation zone” means the area downstream of a dam that would be inundated or otherwise directly affected by the failure of a dam that has been mapped as provided in Virginia Code § 10.1-606.2.

...

Development. The term “development,” as used in regulations pertaining to dam break inundation zones, means one or more lots developed or to be developed as a unit under single ownership or unified control which is to be used for any business or industrial purpose or is to contain three or more dwelling units, but does not include any lot or lots that will be principally devoted to agricultural production.

...

Easement plat. The term “easement plat” means the schematic representation of an easement required by, and subject to review and approval by the county under, this chapter, which includes a statement of the specific purpose for which the easement is established.

...

Impounding structure. The term “impounding structure” means a man-made structure, whether a dam across a watercourse or other structure outside a watercourse, used or to be used to retain or store waters or other materials and includes: (i) all dams that are twenty-five (25) feet or greater in height and that create an impoundment capacity of fifteen (15) acre-feet or greater; and (ii) all dams that are six (6) feet or greater in height and that create an impoundment capacity of fifty (50) acre-feet or greater. The term “impounding structure” does not include dams licensed by the State Corporation Commission that are subject to a safety inspection program; dams owned or licensed by the United States government; dams operated primarily for agricultural purposes which are less than twenty-five (25) feet in height or which create a maximum impoundment capacity smaller than one hundred (100) acre-feet; water or silt retaining dams approved pursuant to Virginia Code § 45.1-222 or 45.1-225.1; or obstructions in a canal used to raise or lower water.

Improvement. The term “improvement” means all public utilities and facilities required by this chapter, including, but not limited to, streets, turnarounds, traffic signalization and controls, sanitary sewers, stormwater management facilities, and erosion control facilities, control measures, water systems, curbs, curbs and gutters, and sidewalks, regardless of whether such utilities and facilities are publicly or privately owned and/or maintained.

...

State waters. The term “state waters” means all waters, on the surface and under the ground, wholly or partially within or bordering the Commonwealth or within its jurisdiction, including wetlands.

Stormwater management facility. The term “stormwater management facility” means a control measure that controls stormwater runoff and changes the characteristics of that runoff including, but not limited to, the quantity and quality, the period of release, or the velocity of flow.

Stormwater management plan. The term “stormwater management plan” means a document or documents containing material for describing the methods for complying with the requirements of the Virginia Stormwater Management Program implemented in chapter 17 of the code.

Stormwater runoff. The term “stormwater runoff” means that portion of precipitation that is discharged across the land surface or through conveyances to one or more waterways.

...

Subdivision. The term “subdivision” means any division of land, and includes rural subdivisions, family subdivisions, and the establishment of a condominium regime. For purposes of this chapter, a boundary line adjustment is also a “subdivision.”

...

(§ 18-2 (part) 9-5-96, 4-13-88, 7-9-86, 3-29-78, 12-15-76, 4-21-76; § 18-56, 9-5-96, 10-17-79, 8-28-74; 1988 Code, §§ 18-2, 18-56; Ord. 98-A(1), 7-15-98; Ord. 02-14(1), 2-6-02; Ord. 05-14(1), 4-20-05, effective 6-20-05; Ord. 11-14(1), 6-1-11)

State law reference--Va. Code § 15.2-2252.

Article II. Administration and Procedure

Division 1. Administration

Sec. 14-200 Designation of agent; powers and duties.

The director of community development is hereby designated the agent of the board of supervisors for the purpose of administering chapter 14 except as otherwise expressly provided. The agent shall have the powers and duties to:

- A. Receive, process and act on all applications as provided in chapter 14.
- B. Establish reasonable administrative procedures as deemed necessary for the proper and efficient administration of chapter 14.
- C. Make all determinations and findings and impose all applicable requirements in reviewing an application under chapter 14.
- D. Consider and act on requests to vary or except the regulations of chapter 14 as provided in section 14-203.1.

(9-5-96, 8-28-74 (§ 2); 1988 Code, § 18-10; Ord. 98-A(1), 7-15-98; Ord. 05-14(1), 4-20-05, effective 6-20-05)

State law reference--Va. Code §§ 15.2-2241(9), 15.2-2255, 15.2-2259.

Sec. 14-201 Designation of commission; powers and duties.

The commission shall have the following powers and duties in the administration of this chapter:

- A. To initiate amendments to this chapter and to make recommendations on the amendments and on proposed amendments referred to it by the board of supervisors.
- B. Consider and act on requests to vary or except the regulations of chapter 14 as provided in section 14-203.1.
- C. To consult with and advise the agent on matters contained in this chapter.

(Ord. 98-A(1), 7-15-98; Ord. 05-14(1), 4-20-05, effective 6-20-05)

State law reference--Va. Code §§ 15.2-2241(9), 15.2-2251, 15.2-2253, 15.2-2255.

Sec. 14-202 Establishment of site review committee; powers and duties.

A site review committee is hereby established and it shall be composed of representatives of the department of community development, the department of fire rescue, the Albemarle County Service Authority, the Virginia Department of Health, the Virginia Department of Transportation, the United States Department of Agriculture, and the Natural Resource Conservation Service. Each member of the site review committee shall identify the requirements and may make recommendations on those matters within the authority of the bodies and entities that they represent. The site review committee shall have the powers and duties to:

- A. Meet from time to time to review plats as provided in chapter 14, including requests for variations or exceptions.
- B. Transmit to the agent the requirements and recommendations it has identified regarding each plat, and information and recommendations on each request for a variation or exception.

C. Propose rules for the conduct of its business to the agent, which shall be established and approved as administrative procedures under section 14-200.

(Ord. 98-A(1), 7-15-98; Ord. 05-14(1), 4-20-05, effective 6-20-05)

State law reference – Va. Code §§ 15.2-2241(9), 15.2-2255.

Sec. 14-202.1 Amendments to a plat.

Changes, revisions or erasures (collectively, “amendments”) to a plat may be made as follows:

A. *Prior to approval.* Before a plat is approved by the agent, the subdivider may amend a plat or accompanying data sheet that has been submitted to the county if the agent authorizes the amendment in writing or if the site review committee requires the amendment in its review of the plat. The procedures and requirements for preliminary and final plats apply to amendments to a plat.

B. *After approval.* After a plat is approved by the agent, the subdivider may amend the plat if the amended plat is submitted, reviewed and approved as provided in section 14-209 or sections 14-213 through 14-231.1, as applicable; provided that the agent may approve amendments to an approved final plat without proceeding under section 14-209 or 14-213 through 14-231.1, as applicable, if he determines that the plat, as amended: (i) complies with all requirements of this chapter and all other applicable laws; (ii) is substantially the same as the approved plat or site plan; and (iii) will have no additional adverse impact on adjacent land or public facilities.

C. *Signature by owner.* An amended final plat shall be signed by the owner as provided in section 14-303(O).

(Ord. 98-A(1), 8-5-98; § 14-238; Ord. 05-14(1), 4-20-05, effective 6-20-05; § 14-231.1)

State law reference – Va. Code §§ 15.2-2241(9), 15.2-2255.

Sec. 14-203 Fees.

Each subdivider shall pay a fee upon the submittal of a plat or other application, based on the schedule below; provided that neither the county nor the county school board shall be required to pay any fee if it is the applicant. Except as provided in subsection (H)(7), the fee shall be in the form of cash or a check payable to the “County of Albemarle.”

A. Preliminary plat:

1. If subject to review by the agent:
 - (a) Two-lot subdivision as described in section 14-232(B)(2) or if all lots front on an existing public street: \$250.00.
 - (b) 1 to 9 lots: \$1,150.00.
 - (c) 10 to 19 lots: \$1,150.00.
 - (d) 20 or more lots: \$1,150.00.
2. Reinstatement of review: \$520.00.
3. Each filing of a preliminary plat, whether or not a preliminary plat for the same property has been filed previously: The applicable preliminary plat fee.

B. Final plat:

1. If subject to review by the agent:
 - (a) Two-lot subdivision as described in section 14-232(B)(2) or if all lots front on an existing public street: \$540.00.
 - (b) 1 to 9 lots: \$1,000.00.
 - (c) 10 to 19 lots: \$1,100.00.
 - (d) 20 or more lots: \$1,230.00.
2. Condominium plat: \$100.00.
3. Reinstatement of review: \$520.00.

C. Other subdivision plats:

1. Plat for a rural subdivision, family subdivision, or resubdivision: \$690.00.
2. Plat for a boundary line adjustment: \$200.00.
3. Plat creating one or more special lots and one residue lot: \$88.00.

D. Easement plat or plats, per easement:

1. Easement plat(s) without a deed: \$490.00.

2. Easement plat(s) with a deed: \$760.00.
 3. Easement plat(s) required with a site plan: \$200.00.
 4. Easement plat(s) amending a previously approved easement plat(s): \$200.00.
- E. Streets:
1. Public road plans: \$250.00 for each review of a submitted plan, including reviews of revisions after plan approval.
 2. Private road plans: \$400.00 for each review of a submitted plan, including reviews of revisions after plan approval.
 3. Authorization for one or more private streets within a subdivision filed separately from a subdivision application: \$670.00.
 4. Variation to or exception from one or more street standards before approval of a preliminary plat: \$540.00.
 5. Variation to or exception from curb and/or gutter requirements before approval of a preliminary plat: \$540.00.
 6. Variation to or exception from street interconnection requirements before approval of a preliminary plat: \$540.00.
 7. If required to construct a street, the subdivider shall pay to the county a fee equal to the cost of the inspection of the construction of any such street. These fees shall be paid prior to completion of all necessary inspections and shall be deemed a part of the cost of construction of the street for purposes of section 14-435(B).
- F. Bonds:
1. Bond estimate request for subdivision improvements: \$250.00.
 2. Bonding inspection for a plat or bond reduction: \$250.00.
- G. Groundwater assessment information required by section 14-308.1:
1. Tier 1 assessment under section 17-401: \$50.00.
 2. Tier 2 assessment under section 17-402: \$330.00.
 3. Tier 3 assessment under section 17-403: \$510.00.
 4. Tier 4 assessment under section 17-404: \$1,100.00.
- H. Other matters subject to review:
1. Variation to or exception from any requirement of this chapter for which a variation or exception is authorized after approval of a preliminary plat and before approval of a final plat: \$830.00.
 2. Variation to or exception from any requirement of this chapter for which a variation or exception is authorized after approval of a final plat: \$830.00.
 3. Relief from plat conditions imposed by the commission prior to the date of adoption of this chapter: \$390.00.
 4. Appeal of a plat decision to the board of supervisors: \$270.00.
 5. Extension of a plat approval: \$120.00.
 6. Vacation of a plat or part thereof: \$240.00.
 7. Dam break inundation zones; administrative fee as required by section 14-441: One percent of the total amount of payment required by section 14-441 or one thousand dollars (\$1,000.00), whichever is less. (Payment made to the Dam Safety, Flood Prevention and Protection Assistance Fund held by the Virginia Resources Authority).
- I. Notices as required by section 14-218:
1. Preparing and mailing or delivering up to fifty (50) notices: \$200.00.
 2. Preparing and mailing or delivering, per notice more than fifty (50): \$1.00 plus the actual cost of first class postage.

(9-5-96, 12-11-91, 6-7-89, 4-17-85, 12-1-82, 12-14-77, 3-2-77, 11-10-76, 8-28-74 (§ 3); 1988 Code, § 18-43; Ord. 98-A(1), 7-15-98; Ord. 99-14(1), 6-16-99; Ord. 02-14(2), 7-3-02; Ord. 04-14(1), adopted 12-8-04, effective 2-8-05; Ord. 05-14(1), 4-20-05, effective 6-20-05; Ord. 09-14(1), 5-13-09, effective 10-1-09; Ord. 11-14(1), 6-1-11)

State law reference--Va. Code § 15.2-2241(9).

Sec. 14-203.1 Variations and exceptions.

The requirements of this chapter may be varied or excepted as follows:

A. *Exception from requirement to provide certain details in subdivision plat.* The agent may except certain details of a plat and any other information required by sections 14-302 through 14-318 expressly authorized to be varied or excepted, as provided herein:

1. *Request for exception.* A subdivider requesting an exception shall submit to the agent a written request stating the reasons for the request and addressing the applicable finding in subsection (A)(2).

2. *Finding.* An exception may be approved if the agent finds that unusual situations exist or that strict adherence to requiring the details in sections 14-302 or 14-303 would result in substantial injustice or hardship. This finding shall be supported by information from the site review committee that all of the details required by sections 14-302 and 14-303 are not necessary for its review of the proposed subdivision, and from the zoning administrator, in consultation with the county engineer, that the details waived are not necessary to determine that the subdivision is developed in compliance with this chapter and all other applicable laws.

3. *Action by the agent on a request.* The agent may approve or deny the request. In approving an exception, the agent shall identify the details otherwise required by sections 14-302 and 14-303 that are excepted.

B. *Variation or exception from any requirement of section 14-400 et seq.* The agent or the commission may vary or except any requirement of section 14-400 through 14-441 expressly authorized to be varied or excepted by the agent or the commission, as the case may be, as provided herein:

1. *Request for a variation or exception.* A subdivider requesting a variation or exception shall submit to the agent a written request stating the reasons for the request and addressing the applicable findings in subsections (B)(2) and (B)(3) and all of the information required to be submitted by the applicable regulation. When a variation is requested, the subdivider also shall describe the proposed substituted technique, design or materials composing the substituted improvement. The request should be submitted before the site review committee considers the preliminary plat, if applicable. The agent may request that the site review committee provide information and a recommendation on any request for a variation or exception. If the commission is authorized to grant the variation or exception, the agent shall forward his and the site committee's recommendations to the commission.

2. *Findings required for a variation.* The agent or the commission may approve a request for a variation to substitute a required improvement upon finding that because of an unusual situation, the subdivider's substitution of a technique, design or materials of comparable quality from that required by the applicable regulation results in an improvement that substantially satisfies the overall purposes of this chapter in a manner equal to or exceeding the desired effects of the requirement in the applicable regulation.

3. *Findings required for an exception.* The agent or the commission may approve a request for an exception from any requirement of the applicable regulation upon finding that: (i) because of an unusual situation, including but not limited to, the unusual size, topography, shape of the site or the location of the site; or (ii) when strict adherence to the requirements would result in substantial injustice or hardship by, including but not limited to, resulting in the significant degradation of the site or to adjacent properties, causing a detriment to the public health, safety or welfare, or by inhibiting the orderly development of the area or the application of sound engineering practices.

4. *Action by the agent on a request; conditions.* The agent or the commission may approve, approve with conditions, or deny the request. If a request is approved, the agent, for himself or on behalf of the commission, shall prepare a written statement regarding the findings made. If a request is denied, the agent, for himself or on behalf of the commission, shall inform the developer in writing within five (5) days after the denial, and include a statement explaining why the request was denied. In approving a request, the agent or the commission may impose reasonable conditions deemed necessary to protect the public health, safety or welfare.

C. *Appeals.* The decision of the agent or the commission may be appealed as provided in section 14-203.2.

§ 14-224.1: (Ord. 05-14(1), 4-20-05, effective 6-20-05; Ord. 09-14(2), 10-14-09)

§ 14-225.1: (9-5-96, 8-28-74 (§ 10); 1988 Code, § 18-3; Ord. 98-A(1), 8-5-98, § 14-237; Ord. 05-14(1), 4-20-05, effective 6-20-05; Ord. 09-14(2), 10-14-09)

State law reference – Va. Code §§ 15.2-2241(9), 15.2-2242(1).

Sec. 14-203.2 Appeals of decisions pertaining to variations and exceptions.

A denial of a request for a variation or an exception or the approval of a variation or exception with conditions objectionable to the subdivider may be appealed by the subdivider as follows:

A. *To the planning commission.* A subdivider may appeal the decision of the agent to the commission by submitting a written request for appeal to the agent within ten (10) days after the date of the agent's decision. In acting on an appeal, the commission shall consider the recommendation of the agent and all other relevant evidence, and apply the applicable findings provided in section 14-203.1. The commission may approve or deny the request. In approving a request on an appeal from a decision under section 14-203.1(B), the commission may impose reasonable conditions deemed necessary to protect the public health, safety or welfare.

B. *To the board of supervisors.* A subdivider may appeal the decision of the commission to the board of supervisors by submitting a written request for appeal to the clerk of the board of supervisors within ten (10) days after the date of the commission decision. In acting on an appeal, the board shall consider the recommendation of the agent and all other relevant evidence, and apply the applicable findings provided in section 14-203.1. The board may approve or deny the request. In approving a request on an appeal from a decision under section 14-203.1(B), the board may impose reasonable conditions deemed necessary to protect the public health, safety or welfare.

C. *Effect of filing appeal.* An appeal shall suspend the running of the time by which the agent must act on a plat under sections 14-209, 14-222 or 14-230, as applicable from the date the appeal is submitted until the date the commission or the board of supervisors acts on the appeal, whichever takes the last action.

State law reference – Va. Code § 15.2-2242(1).

Division 2. Provisions of Chapter Applicable to Subdivisions and Easement Plats

Sec. 14-206 Subdivisions other than rural subdivisions, two lot subdivisions, subdivisions following final site plan approval, subdivisions creating one special lot and one residue lot, family subdivisions, boundary line adjustments and easement plats.

The following sections of this chapter shall apply to each subdivision that is not a rural subdivision, a subdivision resulting in two lots, a subdivision following final site plan approval, a subdivision creating one special lot and one residue lot, a family subdivision, a boundary line adjustment or an easement plat:

- A. *General:* Sections 14-100 through 14-108.
- B. *Administration and procedure:* Sections 14-200 through 14-204, and 14-213 through 14-236.
- C. *Plat requirements and documents to be submitted:* Sections 14-300 through 14-318.
- D. *On-site improvements and design:* Sections 14-400 through 14-441.

(Ord. 98-A(1), 7-15-98; Ord. 01-14(1), 5-9-01; Ord. 05-14(1), 4-20-05, effective 6-20-05)

State law reference--Va. Code § 15.2-2241(9).

Sec. 14-207 Rural subdivisions, two lot subdivisions, subdivisions following final site plan approval, and subdivisions creating one special lot and one residue lot.

The following sections of this chapter shall apply to each rural subdivision, a subdivision resulting in two lots, a subdivision following final site plan approval, and a subdivision creating one special lot and one residue lot:

- A. *General:* Sections 14-100 through 14-108.
- B. *Administration and procedure:* Sections 14-200 through 14-204 and sections 14-209, 14-231, 14-231.1 and 14-236.
- C. *Plat requirements and documents to be submitted:* Sections 14-300, 14-301, 14-302(A)(1), (3), (4), (5), (6), (7), (9), (10), (11), (14), (15) and (16), 14-302(B)(1), (2), (4), (5), (6), (7), (8), (9) and (10), 14-303(A), (B), (C), (D), (E), (F), (H), (I), (L), (O) and (P), 14-304, 14-305(B), 14-307, 14-307.1, 14-308.1, 14-309, 14-310, 14-312, 14-314, 14-316 and 14-318.
- D. *On-site improvements and design:* Sections 14-400, 14-403, 14-404 if any proposed lot would have less than five hundred (500) feet of frontage on a major rural street identified in subsection 14-207(E), 14-406, 14-414, 14-416, 14-421, 14-426, 14-427, 14-433, 14-438 and 14-441.
- E. The following streets in the rural areas are major rural streets:
 - 1. Barracks Road (SR 654) from Old Garth Road (SR 601) to Georgetown Road (SR 656).

2. Black Cat Road (SR 616) from Richmond Road (US 250) to Interstate 64 east of Charlottesville.
3. Blenheim Road (SR 795) from Coles Rolling Road (SR 712) to the Town of Scottsville line.
4. Browns Gap Turnpike (SR 810) from White Hall Road (SR 810) to Blufton Road (SR 672).
5. Buck Mountain Road (SR 663) from Earlysville Road (SR 743) to Simmons Gap Road (SR 664).
6. Buck Mountain Road (SR 664) from Markwood Road (SR 664) to Simmons Gap Road (SR 663).
7. Buffalo River Road (SR 664) from Simmons Gap Road (SR 663) to Frays Mountain Road (SR 664).
8. Buffalo River Road (SR 604) from Frays Mountain Road (SR 664) to Lexington Lane (SR 1540)
9. Burnley Station Road (SR 641) from Seminole Trail (US 29) to Watts Passage (SR 600).
10. Critzers Shop Road (SR 151) from Rockfish Gap Turnpike (US 250) to the Nelson County line.
11. Crozet Avenue (SR 810) from Three Notch'd Road (SR 240) to Buck Road (SR 789).
12. Dick Woods Road (SR 637) from Interstate 64 to Taylors Gap Road (SR 708).
13. Earlysville Road (SR 743) from Hydraulic Road (SR 743) to Buck Mountain Road (SR 663).
14. Frays Mill Road (SR 641) from Seminole Trail (US 29) to Spring Hill Road (SR 606).
15. Free Union Road (SR 601) from Garth Road (SR 676) to Chapel Spring Lane (SR 668).
16. Garth Road (SR 601) from Barracks Road (SR 654) to Free Union Road (SR 676).
17. Garth Road (SR 614) from Browns Gap Turnpike (SR 810) to Owensville Road (SR 676).
18. Garth Road (SR 676) from Garth Road (SR 614) to Free Union Road (SR 601).
19. Gordonsville Road (SR 231) from Louisa Road (SR 22) to the Louisa County line.
20. Hansens Mountain Road (FR 179) from Richmond Road (US 250) to its end.
21. Hydraulic Road (SR 743) from Georgetown Road (SR 656) to Rio Road (SR 631).
22. Irish Road (SR 6) from the Nelson County line to the Town of Scottsville line.
23. Ivy Road (US 250) from Three Notch'd Road (SR 240) to the US 29/US 250 interchange.
24. Ivy Depot Road (SR 786) from Ivy Road (US 250) to Dick Woods Road (SR 637).
25. James Monroe Parkway (SR 795) from Carters Mountain Road (SR 627) to Thomas Jefferson Parkway (SR 53).
26. James River Road (SR 726) from Blenheim Road (SR 795) to Irish Road (SR 6).
27. Lego Drive (SR 1090) from Hansens Mountain Road (FR 179) to its end.
28. Louisa Road (SR 22) from Richmond Road (US 250) to the Louisa County line.
29. Markwood Road (SR 664) from Buck Mountain Ford Lane (SR 776) to Buck Mountain Road (SR 665).
30. Miller School Road (SR 635) from Rockfish Gap Turnpike (US 250) to Dick Woods Road (SR 637).
31. Milton Road (SR 729) from Thomas Jefferson Parkway (SR 53) to Richmond Road (US 250).
32. Monacan Trail (US 29) from Interstate 64 to the Nelson County line.
33. Monticello Avenue (SR 20) from Interstate 64 to
34. Old Ballard Road/Broomley Road (SR 677) from Ivy Road (US 250) to Owensville Road (SR 676).
35. Old Garth Road (SR 601) from the US 29/US 250 interchange to Barracks Road (SR 654).
36. Old Lynchburg Road (SR 631) from Red Hill Road (SR 708) to Country Green Road (SR 875).

37. Owensville Road (SR 676) from Decca Lane (SR 678) to Garth Road (SR 614).
38. Owensville Road (SR 678) from Ivy Road (US 250) to Owensville Road (SR 676).
39. Plank Road (SR 692) from Monacan Trail (US 29) to Miller School Road (SR 635).
40. Proffit Road (SR 649) from Stony Point Road (SR 20) to Pritchett Lane (SR 785).
41. Reas Ford Road (SR 660) from Earlysville Road (SR 743) to Loftlands Drive (SR 1555).
42. Red Hill Road (SR 708) from Monacan Trail (US 29) to Dudley Mountain Road (SR 706).
43. Reservoir Road (SR 702) from Buckingham Circle (SR 820) to its end.
44. Richmond Road (US 250) from Interstate 64 east of Charlottesville to the Fluvanna County line.
45. Rio Road (SR 631) from Seminole Trail (US 29) to Hydraulic Road (SR 743).
46. Rockfish Gap Turnpike (US 250) from Three Notch'd Road (SR 240) to the Nelson County line.
47. Rolling Road (SR 620) from Presidents Road (SR 795) to the Fluvanna County line.
48. Rolling Road (SR 795) from Rolling Road (SR 620) to Carters Mountain Road (SR 627).
49. Scottsville Road (SR 20) from Interstate 64 to the Town of Scottsville line.
50. Seminole Trail (US 29) from Rio Mills Road (SR 643) to the Greene County line.
51. Simmons Gap Road (SR 663) from Buck Mountain Road (SR 664) to Buffalo River Road (SR 664)
52. Stony Point Road (SR 20) from its southern intersection with Dorrier Drive (SR 1422) to the Orange County line.
53. Thomas Jefferson Parkway (SR 53) from Scottsville Road (SR 20) to the Fluvanna County line.
54. Three Notch'd Road (SR 240) from Ivy Road (US 250) to Crozet Avenue (SR 810).
55. Union Mills Road (SR 616) from Richmond Road (US 250) to the Fluvanna County line.
56. White Hall Road (SR 810) from Browns Gap Turnpike (SR 680) to Buck Road (SR 811).
57. Woodlands Road (SR 676) from Free Union Road (SR 601) to Earlysville Road (SR 743).

(9-5-96, 7-9-86, 12-21-83, 2-4-81, 5-2-79, 11-13-74, 8-28-74; 1988 Code, § 18-13(b); Ord. 98-A(1), 7-15-98; Ord. 05-14(1), 4-20-05, effective 6-20-05; Ord. 09-14(2), 10-14-09)

State law reference--Va. Code § 15.2-2241(9).

Sec. 14-208 Family subdivisions.

The following sections of this chapter shall apply to each family subdivision, when applicable:

- A. *General:* Sections 14-100 through 14-108.
- B. *Administration and procedure:* Sections 14-200 through 14-204, 14-208, 14-209, 14-211, 14-212, 14-231, 14-231.1, 14-232(B) and 14-236.
- C. *Plat requirements and documents to be submitted:* Sections 14-300, 14-301, 14-302(A)(1), (3), (4), (5), (6), (7), (9), (10), (11), (13), (14) and (15), 14-302(B)(1), (2), (4), (5), (6), (7), (8), (9) and (10), 14-303(A), (B), (C), (D), (E), (F), (H), (I), (L), (M), (N), (O), (P), (Q) and (S), 14-304, 14-305(B), 14-307, 14-307.1, 14-308.1, 14-309, 14-310, 14-312, 14-314 and 14-318.
- D. *On-site improvements and design:* Sections 14-400, 14-401, 14-402, 14-403; if a private street will be constructed or approved as authorized by section 14-232(B)(1), then also sections 14-316, 14-406, 14-410(F) and 14-412(A)(4); if any part of the property within a proposed family subdivision is within the jurisdictional area of the service authority, then also section 14-414, but if not, each lot, including a lot not required to connect to public sewer service pursuant to section 14-414, which is less than five (5) acres, shall comply with the requirements of sections 14-416, 14-421 and 14-426 through 14-441.

(§ 18-57 (part), 9-5-96, 1-3-96, 4-13-88, 12-21-83, 10-17-79, 8-28-74; § 18-58 (part), 9-5-96, 8-28-74; 1988 Code, §§ 18-57, 18-58; Ord. 98-A(1), 7-15-98; Ord. 05-14(1), 4-20-05, effective 6-20-05)

State law reference--Va. Code §§ 15.2-2241(9), 15.2-2244(C).

Sec. 14-208.1 Boundary line adjustments.

The following sections shall apply to each boundary line adjustment, when applicable:

- A. *General:* Sections 14-100 through 14-108.
- B. *Administration and procedure:* Sections 14-200 through 14-204, 14-209, 14-212.1, 14-231 and 14-231.1.
- C. *Plat requirements and documents to be submitted:* Sections 14-300, 14-301, 14-302(A)(1), (2), (3), (4), (5), (6), (7), (9), (10), (11), (14), (15) and (16),, 14-302(B)(1), (2), (4), (5), (6), (7), (9) and (10), 14-303(A), (B), (C), (D), (E), (F), (G), (H), (I), (L), (O) and (P); 14-307, 14-307.1, 14-318, if any lot will be less than five (5) acres, the soil evaluation required by section 14-309, 14-310, 14-312 and 14-314.
- D. *On-site improvements and design:* Sections 14-400, 14-405, 14-406, 14-416, 14-421, 14-426 through 14-429, 14-433, 14-438 and 14-441.

(9-5-96, 8-28-74 (§ 3); 1988 Code, § 18-15; Ord. 98-A(1), 8-5-98, § 14-239(part); Ord. 05-14(1), 4-20-05, effective 6-20-05)

State law reference--Va. Code §§ 15.2-2241(9).

Sec. 14-208.2 Easement plats.

The following sections shall apply to each easement plat, when applicable:

- A. *General:* Sections 14-100 through 14-108.
- B. *Administration and procedure:* Sections 14-200 through 14-204, 14-209, 14-231 and 14-231.1.
- C. *Plat requirements and documents to be submitted:* Sections 14-300, 14-301, 14-302(A)(1), (2), (3), (4), (5), (6), (11), (14) and (15), 14-302(B)(1), (2), (4), (5), (6), (7), (9) and (10), 14-303(A), (B), (C), (D), (E), (F), (H), (I), (L), (O) and (P), 14-312 and 14-314.
- D. *On-site improvements and design:* Sections 14-433 and 14-438.

(Ord. 05-14(1), 4-20-05, effective 6-20-05)

State law reference--Va. Code § 15.2-2241.9.

Division 3. Procedures for Rural Subdivisions, Two Lot Subdivisions, Subdivisions Following Final Site Plan Approval, Subdivisions Creating One Special Lot and One Residue Lot, Family Subdivisions, Boundary Line Adjustments, Easement Plats and Vacations

Sec. 14-209 Rural subdivisions; family subdivisions; subdivisions creating a special lot and one residue lot; subdivisions resulting in not more than two lots; subdivisions after approval of a final site plan; easement plats; boundary line adjustments; procedure.

Each plat for a rural subdivision, family subdivision, a subdivision creating one or more special lots and one residue lot, a subdivision resulting in not more than two lots, a subdivision after a final site plan has been approved, a boundary line adjustment and each easement plat shall be submitted, reviewed and approved as follows:

- A. *Submittal of plat.* The subdivider shall submit the plat for review and approval by the agent. The plat shall be deemed to be a final plat and a preliminary plat shall not be required.
- B. *Review of plat.* The agent shall determine whether the plat complies with the applicable requirements of this chapter. The agent may request that any department, agency, or authority review the plat and forward its comments to him. If approval of a feature or features of the plat by a state agency or public authority authorized by state law is necessary, the agent shall forward the plat to the appropriate state agency or agencies for review within ten (10) business days of receipt of the plat.
- C. *Decision.* If the agent determines that the plat complies with the applicable requirements of this chapter, he shall approve the plat. If the agent determines that the plat does not comply with the applicable requirements of this chapter, he shall inform the subdivider in writing of the reasons for the disapproval, with citation to the applicable sections of this chapter or other law, and what corrections or modifications are required for the plat to be approved. The agent shall either mail the notice of disapproval by first class mail, or personally deliver it, to the subdivider.
- D. *Time for decision.* The agent shall act on the plat within sixty (60) days after it has been submitted, provided that if state agency or public authority review of the plat is required, the agent shall act on the plat within thirty-five (35) days after receipt of all approvals by the state agencies or public authorities.

E. *Procedures for other approvals related to the plat.* Other approvals related to the plat shall be reviewed and approved as provided in sections 14-203.1, 14-231.1 and 14-232 through 14-236.

F. *Appeal of disapproval of plat.* The disapproval of a plat may be appealed as provided in section 14-231.

G. *Period of validity of approved plat; extension thereof.* An approved plat shall be valid for the periods provided in section 14-231.1. The period of validity may be extended as provided in section 14-231.1.

§ 14-209: (§ 18-13 (part), 9-5-96, 12-21-83; § 18-57 (part), 9-5-96, 1-3-96, 4-13-88, 12-21-83, 10-17-79, 8-28-74; § 18-58 (part), 9-5-96, 8-28-74; 1988 Code, §§ 18-13, 18-57, 18-58; Ord. 98-A(1), 7-15-98; Ord. 05-14(1), 4-20-05, effective 6-20-05; Ord. 11-14(1), 6-1-11)

§ 14-210: (9-5-96, 8-28-74; 1988 Code, § 18-58; Ord. 98-A(1), 7-15-98; Ord. 05-14(1), 4-20-05, effective 6-20-05)

§ 14-212.1: (9-5-96, 8-28-74 (§ 3); 1988 Code, § 18-15; Ord. 98-A(1), 8-5-98, § 14-239(part); Ord. 05-14(1), 4-20-05, effective 6-20-05)

§ 14-212.4: (Ord. 05-14(1), 4-20-05, effective 6-20-05)

State law reference--Va. Code §§ 15.2-2241(9), 15.2-2244(C), 15.2-2258.

State law reference--Va. Code §§ 15.2-2241(1), 15.2-2241(9), 15.2-2244(C), 15.2-2258.

Sec. 14-211 Family subdivisions; conditions precedent.

A family subdivision shall be approved only if, in addition to satisfying all other applicable requirements of this chapter, the agent is satisfied that:

- A. Only one lot is created for transfer by sale or gift to the immediate family member.
- B. The subdivider has not previously divided any other land within the county by family subdivision for transfer by sale or gift to the same family member.
- C. Each lot proposed to be created complies with all applicable requirements of the zoning ordinance.
- D. If the lot proposed to be created will be transferred to a member of the immediate family owning an abutting lot, the family subdivision lot shall be combined with the abutting lot and shall be so noted on the plat by appropriate symbol and wording.

(9-5-96, 1-3-96, 4-13-88, 12-21-83, 10-17-79, 8-28-74; 1988 Code, § 18-57; Ord. 98-A(1), 7-15-98; Ord. 05-14(1), 4-20-05, effective 6-20-05)

State law reference--Va. Code § 15.2-2244(C).

Sec. 14-212 Family subdivisions; conditions of approval.

Each approval of a plat for a family subdivision shall be subject to the following conditions:

- A. No lot may be created by family subdivision unless it has been owned by the current owner or a member of his or her immediate family for at least four (4) consecutive years immediately preceding the date the family subdivision plat is submitted under section 14-209. For the purposes of this section, and subject to approval by the county attorney:
 - 1. Land owned as part of a trust for estate planning purposes may be considered to be owned by the current owner or a member of his or her immediate family upon consideration of the following factors: (i) the title to the real property is in the name of one or more of the trustees; (ii) if there is more than one trustee, the intended grantee is a qualifying member of each trustee's immediate family; (iii) if there is more than one trustee, all of the trustees agree in writing to the family subdivision; (iv) under the trust instrument, the trustee(s) retain complete control over the trust assets; and (v) the trust instrument allows the trustee(s) to convey real property.
 - 2. A lot created by family subdivision may be conveyed to the custodian of a qualifying member of the immediate family under the Virginia Uniform Transfers to Minors Act (*Virginia Code § 64.2-1900 et seq.*)
- B. No lot created by the family subdivision, including the residue, may be transferred, except by devise, descent or operation of law, to a person other than an eligible member of the immediate family of the subdivider, for a period of four (4) years after the date of recordation of the plat, except for purposes of securing any purchase money and/or construction loan, including bona fide refinancing, or if the lending institution requires in writing that the spouse of the member of the immediate family be a co-grantee and co-owner of the lot. The subdivider shall place a restrictive covenant on the lots created by the family subdivision prohibiting the transfer of the lots so created to a person who is not a member of the immediate family for the retention period after the date of recordation. The restrictive covenant shall be subject to review and approval by the county attorney before it is recorded. If the lot created is conveyed

back to the grantor during the retention period, it shall be recombined with the parent lot within six (6) months after such conveyance and no building permits shall be issued for the lots until they are recombined.

C. The entrance of the principal means of access for each lot onto any public street shall comply with Virginia Department of Transportation standards and be approved by the Virginia Department of Transportation.

D. The following note shall be added to each plat for a family subdivision: "No lot shown on this family subdivision plat may be sold or conveyed to a person other than an eligible 'member of the immediate family,' as that term is defined in Chapter 14 of the Albemarle County Code, for a period of four (4) years after the date of recordation of this plat except as authorized by section 14-212(A) of the Albemarle County Code. If any lot created by the recordation of this plat is conveyed back to the grantor during the four (4) year period, it shall be recombined with the parent lot within six (6) months after such conveyance."

(9-5-96, 1-3-96, 4-13-88, 12-21-83, 10-17-79, 8-28-74; 1988 Code, § 18-57; Ord. 98-A(1), 7-15-98; Ord. 05-14(1), 4-20-05, effective 6-20-05; Ord. 08-14(1), 2-6-08)

State law reference--Va. Code § 15.2-2244(C).

Sec. 14-212.1 Boundary line adjustment; conditions precedent.

A boundary line adjustment shall be approved only if, in addition to satisfying all other applicable requirements of this chapter, the agent is satisfied that:

A. The lots affected shall have been: (i) part of an otherwise valid and properly recorded subdivision plat approved pursuant to this chapter or a prior subdivision ordinance of the county; or (ii) part of a properly recorded deed prior to the adoption of the first subdivision ordinance of the county that required an approved subdivision plat under the applicable circumstances.

B. The application shall not involve the relocation or alteration of any streets, alleys, or easements for public passage, or other public areas. Easements or utility rights-of-way may be relocated or altered only with the express written consent of all persons holding an interest therein.

(9-5-96, 8-28-74 (§ 3); 1988 Code, § 18-15; Ord. 98-A(1), 8-5-98, § 14-239(part); Ord. 05-14(1), 4-20-05, effective 6-20-05)

State law reference--Va. Code § 15.2-2275.

Division 4. Procedure for All Other Subdivisions

Sec. 14-213 General.

The procedures in sections 14-214 through 14-231.2 shall apply to each subdivision that does not qualify for the procedures in section 14-209.

A. *Preapplication conference and schematic plat optional.* The preapplication conference and schematic plat procedure set forth in sections 14-213 through 14-216 is not mandatory and is at the sole option of the subdivider.

B. *Preliminary plat required; prerequisite to submittal of final plat.* The preliminary plat procedure set forth in sections 14-217 through 14-225 is mandatory and no final plat shall be submitted unless a preliminary plat was approved for the subdivision and the preliminary plat is valid at the time the final plat is submitted.

(9-5-96, 5-5-82, 8-28-74 (§ 8); 1988 Code, § 18-54; Ord. 98-A(1), 7-15-98; Ord. 01-14(1), 5-9-01; Ord. 05-14(1), 4-20-05, effective 6-20-05)

State law reference--Va. Code § 15.2-2241(9).

Sec. 14-214 Preapplication conference.

A subdivider may request a preapplication conference by submitting the following to the department of community development in accordance with the submittal schedule established by the agent:

A. *Preapplication schematic plat.* A preapplication schematic plat meeting the requirements of sections 14-215 and 14-216.

B. *Other information.* A letter stating which provisions of this chapter the subdivider believes will require a variation or exception under section 14-203.1 or a special exception under the zoning ordinance. The letter need not include a justification or any supporting information.

§ 14-215: (9-5-96, 8-28-74 (§ 7); 1988 Code, § 18-44; Ord. 98-A(1), 7-15-98; Ord. 05-14(1), 4-20-05, effective 6-20-05)

State law reference – Va. Code §§ 15.2-2241(9), 15.2-2255, 15.2-2258, 15.2-2286(A)(8).

Sec. 14-215 Form and style of preapplication schematic plat.

Each preapplication schematic plat submitted shall comply with the following:

- A. *Number of copies.* Three (3) clearly legible copies in blue or black ink of the plat shall be submitted.
- B. *Scale and size.* The plat shall be prepared to the scale of one (1) inch equals twenty (20) feet or to another scale approved by the agent in a particular case. No sheet shall exceed forty-two (42) inches by thirty-six (36) inches in size. The plat may be prepared on one (1) or more sheets. If prepared on more than one (1) sheet, match lines shall clearly indicate where the several sheets join. The top of the sheet shall be approximately either north or east.
- C. *Dimensions.* The plat shall be dimensioned to at least the following standards for accuracy:
1. *Boundary, setback and zoning lines:* One foot in one thousand (1:1,000) feet.
 2. *Existing contours:* One-half (½) of the contour interval required in section 32.5.2(d).
 3. *Proposed contours:* Within five (5) feet horizontally and vertically.
 4. *Existing structures, utilities and other topographic features:* Within five (5) feet.
 5. *Proposed structures, roads, parking lots and other improvements:* Within five (5) feet.

§ 14-215: (9-5-96, 8-28-74 (§ 7); 1988 Code, § 18-44; Ord. 98-A(1), 7-15-98; Ord. 05-14(1), 4-20-05, effective 6-20-05)

State law reference – Va. Code §§ 15.2-2241(9), 15.2-2255, 15.2-2258, 15.2-2286(A)(8).

Sec. 14-216 Contents of preapplication schematic plat.

Each preapplication schematic plat shall contain the following information:

- A. *General information.* The name of the subdivision; names of the owner, subdivider and individual who prepared the plat; tax map and parcel number; boundary dimensions; zoning district; descriptions of all proffers, special use permits and conditions thereof, special exceptions and conditions thereof, variances and conditions thereof, application plats, codes of development and bonus factors applicable to the site; magisterial district; county and state; north point; scale; one datum reference for elevation (if the site includes land subject to section 30.3, flood hazard overlay district, United States Geological Survey vertical datum shall be shown and/or correlated to plat topography); the source of the topography; departing lot lines; minimum setback lines, yard and building separation requirements; the source of the survey; sheet number and total number of sheets; and the names of the owners, zoning district, tax map and parcel numbers and present uses of abutting parcels.
- B. *Information regarding the proposed use.* Written schedules or data as necessary to demonstrate that the site can accommodate the proposed uses, including proposed uses and maximum acreage occupied by each use; maximum number of dwelling units by type including the number of bedrooms for multi-family dwellings; gross residential density; square footage of recreational areas, percentage and acreage of open space; maximum square footage for commercial and industrial uses; maximum floor area ratio and lot coverage for industrial uses; maximum height of all structures; schedule of parking including the maximum amount required and the amount provided; and the maximum amount of impervious cover on the site.
- C. *Phase lines.* If phasing is planned, phase lines.
- D. *Topography and proposed grading.* Existing topography (up to twenty [20] percent slope, maximum five [5] foot contours, over twenty [20] percent slope, maximum ten [10] foot contours) for the entire site with sufficient offsite topography to describe prominent and pertinent offsite features and physical characteristics, but in no case less than fifty (50) feet outside of the site unless otherwise approved by the agent; proposed grading (maximum five [5] foot contours) supplemented where necessary by spot elevations; areas of the site where existing slopes are critical slopes.
- E. *Watercourses and other bodies of water.* The name and location of all watercourses and other bodies of water adjacent to or on the site; indicate whether the site is located within the watershed of a public water supply reservoir.
- F. *On-site sewage system setback lines.* The location of on-site sewage system setback lines from watercourses including intermittent streams and other bodies of water.

G. *Flood plain.* The one hundred (100) year flood plain limits as shown on the official flood insurance maps for Albemarle County.

H. *Streets, easements and travelways.* The existing and proposed streets, access easements, alley easements and rights-of-way, and travelways, together with street names, state route numbers, right-of-way lines and widths, and pavement widths.

I. *Existing sewer and drainage facilities.* The location and size of existing water and sewer facilities and easements, the storm drainage system, and drainage easements.

J. *Proposed sewer and drainage facilities.* The proposed conceptual layout for water and sewer facilities and the storm drainage system, indicating the direction of flow in all pipes and watercourses with arrows.

K. *Existing and proposed utilities.* The location of other existing and proposed utilities and utility easements, including existing telephone, cable, electric and gas easements.

L. *Ingress and egress.* The location of existing and proposed ingress to and egress from the site, showing the distance to the centerline of the nearest existing street intersection.

M. *Existing and proposed improvements.* The location and dimensions of all existing and proposed improvements including buildings (maximum footprint and height) and other structures; walkways; fences; walls; trash containers; outdoor lighting; landscaped areas and open space; recreational areas and facilities; parking lots and other paved areas; and loading and service areas.

N. *Areas to be dedicated or reserved.* All areas intended to be dedicated or reserved for public use.

O. *Symbols and abbreviations.* A legend showing all symbols and abbreviations used on the plat.

P. *Dam break inundation zones.* The limits of a dam break inundation zone.

State law reference – Va. Code §§ 15.2-2241(9), 15.2-2255, 15.2-2258, 15.2-2286(A)(8).

Sec. 14-217 Review of preapplication schematic plat.

Each preapplication plat meeting the requirements of sections 14-215 and 14-216 and each letter provided by section 14-214(B) shall be reviewed by the agent. Within ten (10) days after the submittal, the agent shall send written comments to the subdivider addressing the following:

A. *Compliance with zoning.* Whether the proposed use and density complies with this chapter and all applicable proffers, special use permits and conditions thereof, special exceptions and conditions thereof, variances and conditions thereof, application plats and codes of development.

B. *Variations, exceptions and special exceptions.* Identify all variations and exceptions that will be required under chapter 14 and all special exceptions that will be required under the zoning ordinance, including references to the sections in this chapter under which the variation, exception or special exception will be sought, the sections authorizing the variation, exception or special exception, and the sections identifying the information the subdivider must submit in order for the variation, exception or special exception to be considered.

C. *Fees.* The amount of the fees required for reviewing the plat and any request for a variation or exception.

D. *Required changes.* Identify any features on the plat required to be changed in order to comply with this chapter or any applicable requirement of a proffer, special use permit, special exception, variance, application plat or code of development.

E. *Recommended changes.* Identify any features on the plat recommended to be changed to address components of the comprehensive plan or sound planning, zoning or engineering practices.

F. *Additional information.* The agent may require additional information to be shown on the preliminary plat as deemed necessary in order to provide sufficient information for the agent to adequately review the plat including, but not limited to, information from a traffic study, landscaping, historic resources and groundwater.

State law reference – Va. Code §§ 15.2-2241(9), 15.2-2255, 15.2-2258, 15.2-2283, 15.2-2286(A)(8).

Sec. 14-218 Submittal of preliminary plat; determination of completeness.

Each preliminary plat shall be submitted to the agent and processed as follows:

A. *Date of official submittal.* A preliminary plat shall be deemed to be officially submitted on the date of the next application deadline established by the agent after the submittal of the plat and the agent's determination that the plat is complete.

B. *Timing of review to determine completeness.* The agent's review to determine whether a preliminary plat is complete shall be made within ten (10) days after the application submittal deadline.

C. *Determination that plat is incomplete; notice.* A preliminary plat omitting any information required by sections 14-302 and 14-304 through 14-307.1 shall be deemed to be incomplete and shall not be accepted for official submittal by the agent. The agent shall inform the subdivider in writing of the reasons for the disapproval, with citation to the applicable section of this chapter or other law, and what corrections or modifications will permit acceptance of the plat. The agent shall notify the subdivider or his or her agent of the disapproval in writing by first class mail, personal delivery, or, if consented to by the subdivider in writing, by fax or email.

D. *Resubmittal.* Within fifteen (15) days after the date the notice of disapproval was mailed or delivered by the agent, the subdivider may resubmit the preliminary plat. The date of the next application deadline after the resubmittal of the plat shall be deemed to be the date upon which the plat was officially submitted. In the event the subdivider fails to resubmit the plat within the fifteen (15) day period, the plat shall be deemed to be disapproved and a new application and fee shall be required for submittal of the plat.

E. *Transmittal to site review committee, architectural review board, and state agency.* A preliminary plat deemed officially submitted shall be transmitted to the site review committee. If state agency approval of a preliminary plat is required, the agent shall forward to the state agency all documents necessary to allow it to conduct its review within ten (10) days after the preliminary plat is deemed officially submitted.

F. *Notice; recipients.* When the agent determines that a preliminary plat is officially submitted, he shall send notice that the plat has been submitted to the owner of each lot abutting the site and to each member of the board of supervisors and the planning commission. The notice shall describe the type of use proposed; the specific location of the subdivision; the appropriate county office where the plat may be viewed; and the dates the site review committee will review the plat.

G. *Notice; how provided.* The notice required by subsection (F) shall be mailed or hand delivered at least ten (10) days prior to the site review committee meeting and, if applicable, the architectural review board meeting at which the preliminary plat will be reviewed. Mailed notice shall be sent by first class mail. Notice mailed to the owner of each lot abutting the site shall be mailed to the last known address of the owner, and mailing the notice to the address shown on the current real estate tax assessment records of the county shall be deemed to be compliance with this requirement. If a lot abutting the site is owned by the subdivider, the notice shall be given to the owner of the next abutting lot not owned by the subdivider.

H. *Notice; defect does not affect validity of plat.* The failure of any person to receive the notice required by subsection (F), or any error in the notice, shall not affect the validity of an approved plat, and shall not be the basis for an appeal.

§ 14-216: (9-5-96, 5-3-79, 8-28-74; 1988 Code, § 18-45; Ord. 98-A(1), 7-15-98; Ord. 05-14(1), 4-20-05, effective 6-20-05)

State law reference – Va. Code §§ 15.2-2241(9), 15.2-2255, 15.2-2258, 15.2-2260.

Sec. 14-219 Review of preliminary plat by site review committee.

Upon receipt of a preliminary plat from the agent, the site review committee shall review each plat for compliance with the technical requirements of this chapter and other applicable laws. Upon completion of its review, the site review committee shall transmit to the agent its requirements and recommendations. The site review committee also may recommend to the agent conditions of preliminary plat approval, including conditions required to be satisfied before a grading permit may be issued under chapter 17. Any recommended conditions shall pertain to any requirements of this chapter and other applicable laws.

§ 14-217: (Ord. 98-A(1), 7-15-98; Ord. 05-14(1), 4-20-05, effective 6-20-05)

State law reference – Va. Code §§ 15.2-2241(9), 15.2-2255, 15.2-2258, 15.2-2260, 15.2-2286(A)(4), 15.2-2306.

Sec. 14-220 Revisions to preliminary plat to address required changes.

Each preliminary plat for which changes are required shall be revised as follows:

A. *Requirements identified; letter to the subdivider.* If the site review committee or the architectural review board require or recommend revisions to the preliminary plat, the agent shall promptly issue a letter to the subdivider stating the required changes that must be made and the recommended changes that may, in the subdivider's discretion, be made. The letter shall be sent by first class mail, be personally delivered or, if consented to by the subdivider in writing, by fax or email.

B. *Plat revised to address required changes.* The subdivider shall revise the plat to address all of the required changes before approval of the preliminary plat by the agent. The subdivider is not required to revise the plat to address any recommendations of the site review committee or the architectural review board.

State law reference – Va. Code §§ 15.2-2241(9), 15.2-2255, 15.2-2258, 15.2-2260.

Sec. 14-221 Deferral of review of preliminary plat; when application deemed withdrawn.

The review of, and action on, a preliminary plat may be deferred, and an application for a preliminary plat may be deemed withdrawn, as follows:

A. *Request to defer by subdivider.* A subdivider may request that review or action on its application for a preliminary plat be deferred for a specified period up to six (6) months. If during the deferral period the subdivider does not request the agent to take action on the preliminary plat as provided in section 14-222 within six (6) months after the date the deferral was requested, the application shall be deemed to have been voluntarily withdrawn.

B. *Failure to submit revised plat.* If a subdivider fails to submit a revised preliminary plat to address all of the requirements within six (6) months after the date of the letter from the agent as provided in section 14-220, the application shall be deemed to have been voluntarily withdrawn by the subdivider.

C. *Extension of deferral period or period to submit revised plat.* Before the deferral period in subsection (A) expires, the subdivider may request that the agent extend the period before the application is deemed to have been voluntarily withdrawn. The request must be received by the agent before the deferral period expires. The agent may grant one extension for a period determined to be reasonable, taking into consideration the size or nature of the proposed subdivision, the complexity of the review, and the laws in effect at the time the extension request is made.

State law reference – Va. Code §§ 15.2-2241(9), 15.2-2255.

Sec. 14-222 Review and action on preliminary plat by agent.

The agent shall review and act on a preliminary plat as follows:

A. *Review.* The agent shall review the preliminary plat for compliance with all requirements, and shall make a good faith effort to identify all deficiencies, if any, during review of the plat. The agent shall consider the recommendation of the site review committee as to whether the plat complies with all applicable requirements and any statement by the subdivider. The agent also may consider any other evidence pertaining to the plat's compliance with the requirements of this chapter as deemed necessary for a proper review of the plat.

B. *Time for action.* The agent shall act on the preliminary plat within sixty (60) days after the date the plat was officially submitted, provided:

1. *Alternative time for action if state agency approval is required.* If approval of a feature on the plat by a state agency is required, the agent shall approve or disapprove the plat within thirty-five (35) days after receipt of approvals from all state agencies, and not more than ninety (90) days after the date the plat was officially submitted.

2. *Suspension of running of time for action.* The running of the time by which the agent must act on a plat shall be suspended: (i) from the date the appeal of a decision on a request for a variation or exception is submitted under section 14-203.1 until the date the planning commission or the board of supervisors, as the case may be, acts on the appeal, whichever takes the final action; (ii) from the date of the letter to the subdivider until the date the revised preliminary plat addressing the required changes is submitted under section 14-223(B); (iii) from the date of the subdivider's request for a deferral under section 14-221(A); and (iv) during any extension granted under section 14-221(C).

C. *Action to approve and notice of approval.* If the agent determines that the preliminary plat complies with all applicable requirements, he shall approve the plat and promptly issue a letter to the subdivider informing the subdivider of the approval and stating the requirements that must be included with submittal of the final plat and those conditions which must be satisfied prior to approval of the final plat and, where applicable, those conditions which must be satisfied prior to issuance of a grading permit under section 17-204(E). The agent shall mail the letter by first class mail, personally deliver it to the subdivider, or, if consented to by the subdivider in writing, deliver it by fax or email.

D. *Action to disapprove and notice of disapproval.* If the agent determines that the plat does not comply with all applicable requirements, he shall disapprove the plat and promptly issue a letter to the subdivider stating the reasons for disapproval by identifying the plat's deficiencies and citing the applicable sections of this chapter or other applicable laws, and what corrections or modifications will permit approval of the plat. The agent shall mail the letter by first class mail, personally deliver it to the subdivider, or, if consented to by the subdivider in writing, deliver it by fax or email.

E. *Action to disapprove because of failure to make required revisions; notice of disapproval; opportunity to resubmit.* If the subdivider submits a revised plat under section 14-220 that fails to address all of the required changes, the plat shall be disapproved. Within fifteen (15) days after the date the notice of disapproval required by subsection (D) is mailed or delivered by the agent, the subdivider may resubmit the preliminary plat. The date of the next application deadline after the resubmittal of the plat shall be deemed to be the date upon which the plat was officially submitted. In the event the subdivider fails to resubmit the plat within the fifteen (15) day period, the plat shall be deemed to be disapproved and a new application and fee shall be required for submittal of the plat.

§ 14-214: (§ 18-46, 9-5-96, 8-28-74 (§ 7); § 18-53(part), 9-5-96, 6-3-81, 8-28-74 (§ 8); 1988 Code, §§ 18-46, 18-53; Ord. 98-A(1), 7-15-98; Ord. 05-14(1), 4-20-05, effective 6-20-05)

§ 14-219: (§ 18-13, 9-5-96, 12-21-83; § 18-47 (part), 9-5-96, 8-28-74 (§ 7); § 18-48, 9-5-96, 8-28-74 (§ 7); 1988 Code, §§ 18-13, 18-47, 18-48; Ord. 98-A(1), 7-15-98; Ord. 05-14(1), 4-20-05, effective 6-20-05)

State law reference – Va. Code §§ 15.2-2241(9), 15.2-2255, 15.2-2258, 15.2-2260.

Sec. 14-223 Appeal and judicial review of disapproval of preliminary plat.

The disapproval of a preliminary plat may be appealed as follows:

A. *Appeal to commission and board of supervisors.* If a preliminary plat is disapproved by the agent, or is approved with conditions that the subdivider objects to, the subdivider at its sole option may appeal the decision of the agent to the commission and, if the commission disapproves the preliminary plat or affirms the objectionable conditions, to the board of supervisors. The appeal shall be in writing and be filed with the agent within ten (10) days after the date of the decision by the agent or by the commission, as the case may be. The action by the commission and the board shall comply with subsections 14-222(C), (D) and (E), as applicable.

B. *Judicial review.* If a preliminary plat is disapproved by the agent, the commission or the board of supervisors, the subdivider may appeal the disapproval to the circuit court as provided in Virginia Code § 15.2-2260(E). No subdivider is required to appeal the disapproval of the plat under subsection (A) before appealing it to the circuit court.

§ 14-226: (9-5-96, 11-4-82, 11-3-82; 1988 Code, § 18-4; Ord. 98-A(1), 7-15-98; Ord. 05-14(1), 4-20-05, effective 6-20-05)

State law reference – Va. Code §§ 15.2-2241(9), 15.2-2255, 15.2-2258, 15.2-2260.

Sec. 14-224 Period of validity of approved preliminary plat.

An approved preliminary plat is valid as follows:

A. *Valid for five years; prerequisites.* A preliminary plat shall be valid for: (i) a period of five (5) years from the date it is approved pursuant to this chapter, provided that the subdivider submits a final plat for all or a section of a subdivision as shown on an approved preliminary plat within one (1) year after the approval as provided in section 14-226, and thereafter diligently pursues approval of the final plat; and (ii) any additional period as may be provided by state law.

B. *Revocation of approval after three years.* After three (3) years following preliminary plat approval, the agent may, after ninety (90) days' written notice provided by certified mail to the subdivider, revoke the approval of the preliminary plat upon a specific finding of fact that the subdivider failed to diligently pursue approval of the final plat.

C. *Approval null and void if final plat not submitted within one year.* The failure of a subdivider to officially submit a final plat as provided in section 14-226 within one (1) year after approval of the preliminary plat shall render the approval of the preliminary plat null and void. For purposes of this section, the date the preliminary plat is approved shall be the date that the letter of approval required by section 14-222(C) is mailed or otherwise delivered as provided therein.

§ 14-228: (9-5-96, 8-28-74 (§ 7); 1988 Code, § 18-50; Ord. 98-A(1), 7-15-98; Ord. 05-14(1), 4-20-05, effective 6-20-05)

State law reference – Va. Code §§ 15.2-2209.1, 15.2-2261

Sec. 14-225 Effect of approval of preliminary plat on other future and pending approvals.

Subject to sections 14-318, 14-441 and 18-8.5.5.4, for any subdivision within a planned development zoning district, an approved preliminary plat is an "approved plat" within the meaning of section 17-204(E). As such, an erosion and sediment control plan and corresponding grading permit may be approved under chapter 17, provided that the subdivider has satisfied the conditions of approval identified by the agent in the letter required by section 14-222(C), and further provided that any site within a dam break inundation zone is subject to section 14-441. Except as provided in sections 14-318 and 14-441, nothing in this section shall affect the ability of a subdivider to obtain approval of an erosion and sediment control plan and corresponding grading permit prior to approval of a preliminary plat as provided in section 18-8.5.5.4(b).

State law reference – Va. Code §§ 15.2-2241, 62.1-44.15:55.

Sec. 14-226 Submittal of final plat; determination of completeness.

Each final plat shall be submitted to the agent and processed as follows:

A. *Prerequisites to submittal.* A final plat shall not be submitted unless: (i) a preliminary plat was approved for the subdivision and it remains valid; (ii) the final plat satisfies all of the requirements of section 14-303 and sections 14-304 through 14-318; and (iii) the final plat satisfies all of the conditions

delineated in the letter provided under section 14-222(C) required to be satisfied prior to submitting the final plat.

B. *Date of official submittal.* A final plat shall be submitted for approval within one (1) year after the date of approval of the preliminary plat was mailed or delivered as provided in section 14-222(C). A final plat submitted ten (10) days or less before the one (1) year period expires shall be deemed to be officially submitted on the date it is submitted provided that it is complete by satisfying the requirements of subsection (A). A final plat submitted more than ten (10) days before the one (1) year period expires shall be deemed to be officially submitted on the date of the next application deadline established by the agent after the submittal of the plat and the agent's determination that the plat is complete.

C. *Timing of review to determine completeness.* The agent's review to determine whether a final plat is complete shall be made within ten (10) days after it was submitted.

D. *Determination that plat is incomplete; notice.* A final plat not satisfying the requirements of subsection (A) shall be deemed to be incomplete and shall not be accepted for official submittal by the agent. The agent shall inform the subdivider in writing of the reasons for the disapproval, with citation to the applicable section of this chapter or other law, and what corrections or modifications will permit acceptance of the plat. The agent shall notify the subdivider or his or her agent of the disapproval in writing by first class mail, personal delivery, or, if consented to by the subdivider in writing, by fax or email.

E. *Resubmittal.* Within fifteen (15) days after the date the notice of disapproval was mailed or delivered by the agent, the subdivider may resubmit the final plat together with payment of the fee for the reinstatement of review. The date of the next application deadline after the resubmittal of the plat shall be deemed to be the date upon which the plat was officially submitted. In the event the subdivider fails to resubmit the plat within the fifteen (15) day period, the plat shall be deemed to be disapproved and a new application and fee shall be required for submittal of the plat.

F. *Transmittal.* A final plat deemed officially submitted shall be transmitted to the site review committee. If state agency approval of a final plat is required, the agent shall forward to the state agency all documents necessary to allow it to conduct its review within ten (10) days after the final plat is deemed officially submitted.

§ 14-221: (§ 18-51, 9-5-96, 8-28-74 (§ 7); § 18-53, 9-5-96, 6-3-81, 8-28-74 (§ 8); 1988 Code, §§ 18-51, 18-53; Ord. 98-A(1), 7-15-98; Ord. 05-14(1), 4-20-05, effective 6-20-05)

State law reference – Va. Code §§ 15.2-2241(9), 15.2-2255, 15.2-2258, 15.2-2259, 15.2-2286(A)(8).

Sec. 14-227 Review of final plat by site review committee.

Upon receipt of a final plat from the agent, the site review committee shall review the plat and make its recommendations as follows:

A. *Review for compliance with chapter 14.* The plat shall be reviewed to determine that it complies with the requirements of chapter 14 in effect when the preliminary plat was approved.

B. *Review for compliance with chapter 18 and other laws.* The plat shall be reviewed to determine whether it complies with the requirements of chapter 18 and other applicable laws in effect at the time of final plat review, including but not limited to, sections 17-403 and 17-404; provided that the subdivider may establish that its rights have vested to have the final plat reviewed under prior versions of chapter 18 or other applicable laws.

C. *Review for compliance with conditions of preliminary plat approval.* The plat shall be reviewed to confirm that it satisfies all of the conditions required to be satisfied prior to submitting the final plat, and all of the conditions required to be satisfied prior to final plat approval, delineated in the letter provided under section 14-222(C).

D. *Recommendation.* Upon completion of its review, the site review committee shall transmit to the agent its recommendation for approval if it determines that the plat satisfies the requirements of subsections (A), (B) and (C), or its recommendation for required changes if it determines the plat does not satisfy the requirements of subsections (A), (B) or (C).

§ 14-222: (Ord. 98-A(1), 7-15-98; Ord. 05-14(1), 4-20-05, effective 6-20-05)

State law reference – Va. Code §§ 15.2-2121, 15.2-2241(9), 15.2-2255, 15.2-2258, 15.2-2259, 15.2-2286(A)(8).

Sec. 14-228 Revisions to final plat to address required changes.

A final plat for which changes are required shall be revised as follows:

A. *Requirements identified; letter to the subdivider.* If the site review committee identifies required changes to the final plat, the committee shall promptly issue a letter to the subdivider stating the changes required to be made. The letter shall be sent by first class mail, be personally delivered or, if consented to by the subdivider in writing, by fax or email.

B. *Response to address requirements.* The subdivider shall revise the plat to address all of the required changes before approval of the final plat by the agent.

State law reference – Va. Code §§ 15.2-2241(9), 15.2-2255, 15.2-2258, 15.2-2259.

Sec. 14-229 Deferral of review of final plat; when application deemed withdrawn.

The review of, and action on, a final plat may be deferred, and an application for a final plat may be deemed withdrawn, as follows:

A. *Request to defer by subdivider.* A subdivider may request that review or action on its application for a final plat be deferred for a specified period up to six (6) months. If during the deferral period the subdivider does not request the agent to take action on the final plat as provided in section 14-230 within six (6) months after the date the deferral was requested, the application shall be deemed to have been voluntarily withdrawn.

B. *Failure to submit revised plat.* If a subdivider fails to submit a revised final plat to address all of the requirements within six (6) months after the date of the letter from the agent as provided in section 14-228, the application shall be deemed to have been voluntarily withdrawn by the subdivider.

C. *Extension of deferral period or period to submit revised plat.* Before the deferral period in subsection (A) expires, the subdivider may request that the agent extend the period before the application is deemed to have been voluntarily withdrawn. The request must be received by the agent before the deferral period expires. The agent may grant one extension for a period determined to be reasonable, taking into consideration the size or nature of the proposed subdivision, the complexity of the review, and the laws in effect at the time the extension request is made.

State law reference – Va. Code §§ 15.2-2241(9), 15.2-2255.

Sec. 14-230 Review and action on final plat by agent.

The agent shall review and act on a final plat as follows:

A. *Review.* The agent shall review the final plat for compliance with all requirements, and shall make a good faith effort to identify all deficiencies, if any, during review of the plat. The agent shall consider the recommendation of the site review committee as to whether the plat complies with all applicable requirements and any statement by the subdivider. The agent also may consider any other evidence pertaining to the plat's compliance with the requirements of this chapter as deemed necessary for a proper review of the plat.

B. *Time for action.* The agent shall act on the final plat within sixty (60) days after the date the plat was officially submitted, provided:

1. *Alternative time for action if state agency approval is required.* If approval of a feature on the plat by a state agency is required, the agent shall approve or disapprove the plat within thirty-five (35) days after receipt of approvals from all state agencies, and not more than ninety (90) days after the date the plat was officially submitted.

2. *Suspension of running of time for action.* The running of the time by which the agent must act on a plat shall be suspended: (i) from the date the appeal of a decision on a request for a variation or exception is submitted under section 14-203.1 until the date the planning commission or the board of supervisors, as the case may be, acts on the appeal, whichever takes the final action; (ii) from the date of the letter to the subdivider until the date the revised preliminary plat addressing the required changes is submitted under section 14-228(B); (iii) from the date of the subdivider's request for a deferral under section 14-229(A); and (iv) during any extension granted under section 14-229(C).

C. *Action to approve and notice of approval.* If the agent determines that the final plat complies with all applicable requirements, he shall approve and sign the plat, and may issue a letter to the subdivider informing the subdivider of the approval. The agent shall mail the letter by first class mail, personally deliver it to the subdivider, or, if consented to by the subdivider in writing, deliver it by fax or email.

D. *Action to disapprove and notice of disapproval.* If the agent determines that the plat does not comply with all applicable requirements, he shall disapprove the plat and promptly issue a letter to the subdivider stating the reasons for disapproval by identifying the preliminary plat's deficiencies and citing the applicable sections of this chapter or other law, and what corrections or modifications will permit approval of the plat. The agent shall mail the letter by first class mail, personally deliver it to the subdivider, or, if consented to by the subdivider in writing, deliver it by fax or email.

E. *Submittal of corrected or modified plat.* Any subdivider who has received a notice of disapproval under subsection (D) may submit a corrected or modified final plat addressing the deficiencies identified in the notice of disapproval, as follows:

1. *Deadline for submittal.* The subdivider shall submit the corrected or modified plat within sixty (60) days after the date of the notice of disapproval.

2. *Time for action.* The agent shall act on the corrected or modified plat within forty-five (45) days after it was submitted.

3. *Action to approve or disapprove.* The agent shall approve or disapprove the corrected or modified plat and provide notice of the action to the subdivider as provided under subsections (C) and (D).

§ 14-214: (§ 18-46, 9-5-96, 8-28-74 (§ 7); § 18-53(part), 9-5-96, 6-3-81, 8-28-74 (§ 8); 1988 Code, §§ 18-46, 18-53; Ord. 98-A(1), 7-15-98; Ord. 05-14(1), 4-20-05, effective 6-20-05)

§ 14-224: (9-5-96, 6-3-81, 8-28-74 (§ 8); 1988 Code, § 18-53; Ord. 98-A(1), 7-15-98; Ord. 05-14(1), 4-20-05, effective 6-20-05)

State law reference – Va. Code §§ 15.2-2241(9), 15.2-2255, 15.2-2258, 15.2-2259.

Sec. 14-231 Appeal and judicial review of disapproved final plat.

The disapproval of a final plat may be appealed as follows:

A. *Appeal to planning commission and board of supervisors.* If a final plat is disapproved by the agent, the subdivider at its sole option may appeal the disapproval to the planning commission and, if the commission disapproves the plat, to the board of supervisors. The appeal shall be in writing and be filed with the agent within ten (10) days after the date of the disapproval by the agent or by the commission, as the case may be. The action by the commission and the board shall comply with sections 14-230(C) and (D).

B. *Judicial review.* If a final plat is disapproved by the agent, the planning commission or the board of supervisors, the subdivider may appeal the disapproval to the circuit court as provided in Virginia Code § 15.2-2259(D). No subdivider is required to appeal the disapproval of the plat under subsection (A) before appealing it to the circuit court.

§ 14-226: (9-5-96, 11-4-82, 11-3-82; 1988 Code, § 18-4; Ord. 98-A(1), 7-15-98; Ord. 05-14(1), 4-20-05, effective 6-20-05)

State law reference – Va. Code §§ 15.2-2241(9), 15.2-2255, 15.2-2258, 15.2-2260.

Sec. 14-231.1 Period of validity of approved final plat.

An approved final plat is valid as follows:

A. *Subdivisions generally; valid for five years or longer.* An approved final plat that is not eligible for being platted in phases under subsection (B) shall be valid for: (i) a period of not less than five (5) years after the date of its approval or for a longer period as the agent may, at the time of approval, determine to be reasonable, taking into consideration the size and phasing of the proposed subdivision; and (ii) any additional period as may be provided by state law. A plat shall be deemed to be approved once it has been signed by the agent and if the only requirement remaining to be satisfied in order to obtain a building permit is the posting of any bonds and escrows.

B. *Subdivisions eligible to be platted in phases; right to record final plats in remaining sections.* If a subdivider records a final plat that is a section of a subdivision as shown on an approved preliminary plat and the subdivider furnishes the surety required by section 14-435 in the amount of the estimated cost of construction of the facilities to be dedicated for public use within the section and maintained by the county, the Commonwealth, or any other public agency, the subdivider may record final plats for the remaining sections shown on the preliminary plat for a period of five (5) years after the recordation date of any section, or for such longer period as the agent may, at the time approval, determine to be reasonable, taking into consideration the size and phasing of the proposed subdivision, subject to engineering and construction standards and zoning requirements in effect at the time that each remaining section is recorded.

C. *Request for extension.* Upon application by the subdivider submitted prior to expiration of a final plat, the agent may grant one or more extensions of the approval for additional periods as the agent may, at time the extension is granted, determine to be reasonable, taking into consideration the size and phasing of the proposed subdivision, and the laws, ordinances and regulations in effect at the time of the request for an extension. If the agent denies the request, he shall promptly issue a letter to the subdivider stating the reasons for the denial. The agent shall mail the letter by first class mail, personally deliver it to the subdivider, or, if consented to by the subdivider in writing, deliver it by fax or email.

D. *Judicial review if request for extension denied.* If the agent denies an extension requested under subsection (C) and the subdivider contends that the denial was not properly based on the regulation applicable thereto, the considerations for granting an extension delineated in subsection (C), or was arbitrary or capricious, the subdivider may appeal the denial to the circuit court as provided in Virginia Code § 15.2-2261.

E. *Rights attached to valid approved final plat.* For so long as the final plat remains valid in accord with the provisions of this section, no change or amendment to any county ordinance, map, resolution, rule, regulation, policy or plat adopted after the date the plat was approved shall adversely affect the right of the subdivider or its successor in interest to commence and complete an approved subdivision in accordance with the lawful terms of the approved plat unless the change or amendment is required to comply with state law or there has been a mistake, fraud or a change in circumstances substantially affecting the public health, safety or welfare.

F. *Effect of minor amendments and boundary line adjustments.* A subdivider's application for a minor amendment to an approved final plat or for a boundary line adjustment during a final plat's period of validity shall not constitute a waiver of the provisions of this section. The agent's approval of a minor amendment or a boundary line adjustment shall not extend the period of validity of the final plat.

§ 14-229: (Ord. 98-A(1), 7-15-98; Ord. 05-14(1), 4-20-05, effective 6-20-05)

§ 14-230: (Ord. 98-A(1), 7-15-98; Ord. 05-14(1), 4-20-05, effective 6-20-05)

§ 14-231: (9-5-96, 8-28-74 (§ 7); 1988 Code, § 18-50; Ord. 98-A(1), 7-15-98; Ord. 05-14(1), 4-20-05, effective 6-20-05)

State law reference – Va. Code §§ 15.2-2209.1, 15.2-2241(5), 15.2-2261.

Division 5. Procedures for the Approval of Private Streets, Shared Driveways and Alleys
Article III. Subdivision Plat Requirements and Documents to be Submitted
Division 1. Plat Requirements

Sec. 14-301 Form and style of plats.

Each subdivision plat shall comply with the following:

A. *Standards.* Except as otherwise provided in subsection (E), each plat shall meet the standards for plats set forth in 17 VAC 15-60-10 *et seq.*; provided that each final plat to be submitted for recordation in the office of the clerk of the Albemarle County circuit court shall meet the standards for plats set forth in 17 VAC 15-60-10 *et seq.*

B. *Scale.* The plat shall be drawn to a scale of one (1) inch equals fifty (50) feet or to such scale as may be approved by the agent in a particular case.

C. *Size.* The plat shall be prepared on one (1) or more sheets, provided that no sheet shall exceed twenty-four (24) inches by thirty-six (36) inches in size, and further provided that if the plat is prepared on more than one (1) sheet, match lines shall clearly indicate where the several sheets join.

D. *Approximate North.* The top of each sheet shall be approximately north.

E. *Number of copies.* The following number of copies of plats shall be submitted for review, and each copy shall be clearly legible in blue or black ink:

1. Plats eligible for the procedures in sections 14-206 through 14-208.2: Five (5) copies.
2. Preliminary plats: Sixteen (16) copies.
3. Final plats: One original on mylar and one copy.

(§ 18-45, 9-5-96, 5-3-79, 8-28-74; § 18-51, 9-5-96, 8-28-74 (§ 7); § 18-55, 9-5-96, 2-4-81, 8-28-74 (§ 8); 1988 Code, §§ 18-45, 18-55; Ord. 98-A(1), 8-5-98; Ord. 05-14(1), 4-20-05, effective 6-20-05)

State law reference--Va. Code §§ 15.2-2241(1), (9).

Sec. 14-302 Contents of preliminary plat.

A preliminary plat shall contain the following information:

A. A preliminary plat shall contain the following information, which must be included in order for a preliminary plat to be deemed complete under section 14-218:

1. *Name of subdivision.* The title under which the subdivision is proposed to be recorded. The title shall not duplicate or be a homonym of an existing or reserved subdivision name within the county, the City of Charlottesville, or the Town of Scottsville, except if the subdivision is an extension of an existing subdivision.

2. *Vicinity map.* A map at a scale of one (1) inch equal to two thousand (2,000) feet showing the property and its relationship with adjoining land and streets, its relationship with landmarks in the area and, if the subdivision is a phased subdivision, all other phases of the subdivision for which a final plat has been approved, in detail adequate to describe the location of the property without field review.

3. *Existing or platted streets.* The location, width and names of all existing or platted streets and all other rights-of-way.

4. *Private easements.* The location and dimensions of all existing and proposed private easements. Existing easements shall be labeled with the deed book and page number and the name of the owner of record.

5. *Public easements.* The location and dimensions of all existing and proposed public easements outside of a street right-of-way. Existing easements shall be labeled with the deed book

and page number and the name of the public owner of record. Proposed easements shall be labeled as "dedicated to public use."

6. *Alleys and shared driveways.* The location and dimensions of all easements for alleys and shared driveways.

7. *Existing and departing lot lines.* If the property consists of more than one existing lot, then the identification of the existing lots and their outlines, which shall be indicated by dashed lines; and, the location of departing lot lines of abutting lots.

8. *Proposed lots.* The number, approximate dimensions, and area of each proposed lot.

9. *Building sites on proposed lots.* The location, area and dimensions of a building site on each proposed lot complying with the requirements of section 18-4.2. The plat shall also contain the following note: "Parcel [letter or number] and the residue of Tax Map/Parcel [numbers] each contain a building site that complies with section 4.2.1 of the Albemarle County Zoning Ordinance."

10. *Right of further division of proposed lots.* The number of lots, as assigned by the subdivider, into which each proposed lot may be further divided by right pursuant to section 18-10.3.1, if applicable. The plat shall also contain the following note: "Parcel [letter or number] is assigned [number] development rights and may/may not be further divided and when further divided these rights shall not comprise more than [number] acres. The residue of Tax Map/Parcel [numbers] is retaining [number] development rights and when further divided it shall not consist of more than [number] acres." Development rights need not be assigned to a special lot.

11. *Instrument creating property proposed for subdivision.* The deed book and page number of the instrument whereby the property was created, as recorded in the office of the clerk of the circuit court of the county.

12. *Topography.* Existing topography at the time of plat submittal at up to twenty [20] percent slope, with a contour interval that is not greater than the interval on aerial topography available from the county. The source of topography, including survey date and name of the licensed professional; or a statement that topography data provided by the county was used. Proposed grading, with a contour interval equal to the intervals of the existing topography, supplemented where necessary by spot elevations; areas of the site where existing slopes are twenty-five (25) percent or greater. Existing topography for the entire site with sufficient offsite topography to describe prominent and pertinent offsite features and physical characteristics, but in no case less than fifty (50) feet outside of the site unless otherwise approved by the agent. For property in the rural areas zoning district, the proposed grading shall show all grading on each proposed lot, including access, clearing and all other lot improvements.

13. *Proposed facilities.* The location of proposed water and sewer lines and related improvements; proposed drainage and stormwater management facilities and related improvements.

14. *Land to be dedicated in fee or reserved.* The location, acreage, and current owner of all land intended to be dedicated in fee or reserved for public use, or to be reserved in a deed for the common use of lot owners in the subdivision.

15. *Identification of all owners and certain interest holders.* The names and addresses of each owner of record and holders of any easements affecting the property.

16. *Dam break inundation zones.* The limits of a dam break inundation zone.

B. A preliminary plat shall also contain the following information, provided that the preliminary plat shall not be deemed incomplete for purposes of section 14-218 if it does not include this information in the initial plat submittal:

1. *General information.* The date of drawing, including the date of the last revision, the number of sheets, the north point, and the scale. If true north is used, the method of determination shall be shown.

2. *Name of plat preparer.* The name of the person who prepared the plat.

3. *Public areas, facilities or uses.* The location of all areas shown in the comprehensive plan as proposed sites for public areas, facilities or uses, as described in Virginia Code § 15.2-2232, which are located wholly or in part within the property.

4. *Places of burial.* The location of any grave, object or structure marking a place of burial located on the property.

5. *Zoning classification.* The zoning classification of the property, including all applicable zoning overlay districts, proffers, special use permits and variances.

6. *Tax map and parcel number.* The county tax map and parcel number of the property.

7. *Reservoir watershed; agricultural-forestal district.* A notation as to whether the land is within an Albemarle County and/or City of Charlottesville water supply watershed or an agricultural-forestal district.

8. *Yards.* The location of all yards required by this chapter and the zoning ordinance, which may be shown graphically or described in a note on the plat.

9. *Flood plain.* The location of any part of the property within the flood hazard overlay district, as set forth in section 18-30.3.

10. *Stream buffers.* The location of stream buffers required by the water protection ordinance, with the following note: "The stream buffer(s) shown hereon shall be managed in accordance with the Albemarle County Water Protection Ordinance."

(9-5-96, 2-4-81, 8-28-74; 1988 Code, § 18-52; Ord. 98-A(1), 8-5-98; Ord. 05-14(1), 4-20-05, effective 6-20-05; Ord. 08-14(1), 2-6-08; Ord. 11-14(1), 6-1-11)

State law reference--Va. Code §§ 15.2-2241(1), 15.2-2258, 15.2-2262.

Sec. 14-303 Contents of final plat.

In addition to containing all of the information required by section 14-302, except for the information required by section 14-302(A)(12), a final plat shall contain the following information:

A. *Statement of consent to division.* A statement that: "The platting or dedication of the following described land [insert a correct description of the land subdivided] is with the free consent and in accordance with the desire of the undersigned owners, proprietors and trustees, if any."

B. *Section name or number.* The name or number of the section if the property is a part of a larger piece of land.

C. *Boundary lines.* The exterior boundary lines of the property with bearings in degrees, minutes and seconds. Curvilinear data shall include radius, central angle, arc length, and tangent distance. All dimensions shall conform to the standards set forth in this chapter.

D. *Acreage of lots.* The total acreage of each existing lot and each proposed lot.

E. *Dimension standards and information on all lots, streets, alleys, easements, and shared driveways.* All linear, angular, and curvilinear dimensions of lots, streets, alleys, public easements and private easements and shared driveways shall conform to the requirements set forth in 18 VAC 10-20-370(C), a copy of which shall be on file in the department of community development. Curvilinear data shall include radius, central angle, arc length, and tangent distances and may be shown either directly on the corresponding boundary or surveyed line or in table form. Easements shown for private streets, alleys and shared driveways shall be labeled as "private street easement", "alley easement" or "shared driveway easement." The easement holder(s) shall be identified on the plat. If shared driveways are shown, a note shall be added to the plat stating that maintenance shall be by the owners of the lots affected by the shared driveway easement, not by the Virginia Department of Transportation or the county.

F. *Identification of sections, blocks and lots.* Sections (phases) shall be identified by numbers; blocks shall be identified by letters; lots shall be identified by numbers, assigned in numerical order.

G. *Ownership of common areas.* The intended ownership of all common areas.

H. *Monuments.* The location and material of all permanent reference monuments. Monuments found or installed prior to plat recordation may be referred to if they are permanent and undisturbed. If any monument required by this chapter will be installed after recordation of the final plat, the certification of the professional engineer or land surveyor shall so note.

I. *Bearing and distance ties.* A definite bearing and distance tie between not less than two (2) permanent monuments on the exterior boundary of the property and further tie to existing street intersection where possible and reasonably convenient.

J. *Restrictions.* Restrictions imposed in conjunction with the approval of the preliminary plat and their period of existence. If the length of a restriction makes its inclusion on the final plat impractical, and does not necessitate the preparation of a separate instrument, reference shall be made to the restriction on the final plat.

K. *Temporary turnarounds.* The location of temporary turnarounds, if needed, with the following accompanying note: "The area on this plat designated as a temporary turnaround will be constructed and used as other streets in the subdivision until (street name) is/are extended to (street name), at which time the land in the temporary turnaround area will be abandoned for street purposes and will revert to adjoining property owners in accordance with specific provisions in their respective deeds."

L. *Public utility, drainage and sight distance easements.* The location and dimensions of each public utility, drainage and sight distance easement outside of a street right-of-way; for each existing easement, include a note stating the deed book and page number.

M. *Street names.* The name of each proposed street, which names shall be subject to approval by the agent.

N. *Statement pertaining to private streets.* If the subdivision will contain one or more private streets, the following statement: "The streets in this subdivision may not meet the standards for acceptance into the secondary system of state highways and will not be maintained by the Virginia Department of Transportation or the County of Albemarle."

O. *Signature panels.* Signature panels for each owner and for the agent or his designee. The signature panel for the owner shall be located immediately below the statement required by paragraph (A).

P. *Notary panels.* Notary panels for the notary to acknowledge the signature of the owner.

Q. *Water supply.* A statement as to whether the subdivision will be served by a public water supply and a public sewer system. If the property is not within the service authority jurisdictional area, the following statement: "Under current county policy, public water and/or sewer service will not be available to this property."

R. *Parent parcel access.* If the subdivision is in the rural areas, the following statement, unless a waiver is granted as provided in section 14-404: "All subsequent divisions of the residue shall enter only onto such street(s) shown on the approved final plat and shall have no immediate access onto to any public street."

S. *Control points.* At least four (4) control points, evenly distributed across the property and located at survey property corners, and shown on each sheet depicting the property. At the option of the subdivider, the control points may be shown on a copy of the final plat, rather than on the original final plat.

T. *Special lots.* If the subdivision creates a special lot, the following note shall be placed on the plat: "Lot 'X' is a special lot established solely for (insert purpose for the special lot as identified in the definition of special lot in section 14-106)."

(9-5-96, 2-4-81, 8-28-74 (§ 8); 1988 Code, § 18-55; Ord. 98-A(1), 8-5-98; Ord. 02-14(1), 2-6-02; Ord. 05-14(1), 4-20-05, effective 6-20-05; Ord. 11-14(1), 6-1-11)

State law reference--Va. Code §§ 15.2-2241(1), 15.2-2262, 15.2-2264.

Division 2. Documents and Information to be Submitted with Preliminary or Final Plat

Sec. 14-304 Request to disturb critical slopes.

If the proposed subdivision will require the disturbance of critical slopes, the subdivider shall submit with each preliminary plat, or if none, with each final plat, a written request or application under the applicable sections of the zoning ordinance.

(Ord. 05-14(1), 4-20-05, effective 6-20-05)

State law reference--Va. Code §§ 15.2-2241(9).

Sec. 14-305 Stormwater management information.

The subdivider shall submit with each preliminary plat or, if none, with each the final plat:

A. Removal rate computations and project drainage area maps as described in the design standards manual to support conceptual stormwater management plans. In addition, the subdivider shall submit a written request and justification for any waiver of water detention requirements allowed by the water protection ordinance, if such a waiver is needed.

B. If applicable, a mitigation plan as provided in section 17-322 of the water protection ordinance.

(Ord. 98-A(1), 8-5-98; Ord. 05-14(1), 4-20-05, effective 6-20-05)

State law reference--Va. Code §§ 15.2-2241(3), 15.2-2262.

Sec. 14-307 Stream crossings.

If any lot within the subdivision would be served by a street or driveway crossing a perennial or intermittent stream, the subdivider shall submit with each preliminary plat or, if none, with each final plat, the information required to show that the stream crossing would satisfy the requirements of section 17-320(D) or, in the alternative, section 17-321(4).

(Ord. 05-14(1), 4-20-05, effective 6-20-05)

State law reference--Va. Code §§ 62.1-44.15:73.

Sec. 14-307.1 Dam break inundation zones.

If the proposed subdivision is wholly or partially within the boundaries of a dam break inundation zone, and the proposed subdivision is a "development" as defined in this chapter, the site review committee shall review the preliminary plat, or if none, the final plat, as follows: (i) it shall review the dam break inundation zone map on file with the county for the affected impounding structure; (ii) notify the dam owner about the proposed subdivision; and (iii) within ten (10) days after the application is deemed complete, send a written request to the Virginia Department of Conservation and Recreation to make a determination of the potential impacts of the proposed subdivision on the spillway design flood standards required for the dam as provided in Virginia Code § 10.1-606.3.

State law reference--Va. Code §§ 10.1-606.3, 15.2-2243.1.

Division 3. Documents and Information to be Submitted with Final Plat

Sec. 14-317 Instrument evidencing maintenance of certain improvements.

If the subdivision will contain one (1) or more improvements that are not to be maintained by the county or any authority or other public agency, the subdivider shall submit with the final plat an instrument assuring the perpetual maintenance of the improvement, as follows:

A. The instrument shall, at a minimum:

1. Identify the plat to which the instrument applies; if the plat has been recorded, the identification shall include a deed book and page number.

2. State that the improvement will be maintained in perpetuity.

3. State that the improvement will be maintained to a standard that, at a minimum, ensures that it will remain in substantially the condition it was in when approved by the county if the improvement was installed prior to the agent signing the plat or the condition it is to be in when the surety was released as provided in section 14-436; for a private street, shared driveway, or alley, the instrument also shall state substantially as follows: "The travelway shall at all times be maintained so that it is safe and convenient for passenger automobiles and emergency vehicles at all times except in severe temporary weather conditions."

4. If the instrument pertains to the maintenance of one or more private streets, alleys or shared driveways, it shall define "maintenance" by stating substantially as follows: "For purposes of this instrument, 'maintenance' includes the maintenance of the private streets or alleys, and all curbs, curbs and gutters, drainage facilities, utilities, dams, bridges and other private street improvements, and the prompt removal of snow, water, debris, or any other obstruction so as to keep the private street or alley reasonably open for usage by all vehicles, including emergency services vehicles."

5. Describe the condition of the improvement when it was approved by the county if the improvement was installed prior to the agent signing the plat or the condition it is to be in when the surety was released as provided in section 14-436.

6. Identify the timing or conditions warranting maintenance of the improvement.

7. State a means to collect funds necessary for the cost of maintaining the improvement; at a minimum, the means stated shall include the right of any landowner subject to the instrument to record a lien against a non-contributing landowner, to bring an action at law to collect the funds, or both.

8. Describe how maintenance costs will be prorated among the landowners subject to the instrument (e.g., "equally," or on a percentage basis); if any lot within the subdivision may be further divided, the instrument shall also describe how maintenance costs will be prorated among the landowners after division.

9. State substantially as follows: "No public agency, including the Virginia Department of Transportation and the County of Albemarle, Virginia, will be responsible for maintaining any improvement identified herein."

B. The instrument shall be subject to review and approval by the county attorney and shall be in a form and style so that it may be recorded in the office of the clerk of the circuit court of the county. The agent may require that the instrument be on a form prepared by the county attorney.

C. For purposes of this section, the term "to maintain," or any derivation of that verb, includes the maintenance, replacement, reconstruction and correction of defects or damage.

D. Nothing in this section shall affect the rights of the county reserved under section 14-440.

(§ 18-7, 9-5-96, 12-21-83; § 18-36 (part), 9-5-96, 8-28-74; 1988 Code, § 18-7, 18-36; Ord. 98-A(1), 8-5-98; Ord. 02-14(1), 2-6-02, § 14-313; Ord. 05-14(1), 4-20-05, effective 6-20-05)

Sec. 14-318 Dam break inundation zones; engineering study and mapping information.

If the proposed subdivision is wholly or partially within the boundaries of a dam break inundation zone, and the proposed subdivision is a "development" as defined in this chapter, the subdivider shall submit with the final plat the following:

A. *Engineering study.* If the Virginia Department of Conservation and Recreation determines that a plan of development proposed by a subdivider would change the spillway design flood standards of an impounding structure pursuant to Virginia Code § 10.1-606.3, the subdivider shall submit an engineering study in conformance with the Virginia Soil and Water Conservation Board's standards under the Virginia Dam Safety Act in Virginia Code § 10.1-604 *et seq.* and the Virginia Impounding Structure regulations in 4 VAC 50-20. The engineering study shall be reviewed and acted upon by the Virginia Department of Conservation and Recreation as provided in Virginia Code § 15.2-2243.1.

B. *Mapping information.* The subdivider shall provide the dam owner, the county, and any other affected localities with information necessary for the dam owner to update the dam break inundation zone map to reflect any new development within the dam break inundation zone following completion of the development.

State law reference--Va. Code §§ 10.1-606.3, 15.2-2243.1.

**Article IV. On-site Improvements and Design
Division 1. Lots and Blocks**

Sec. 14-401 Double frontage lots.

Double frontage lots for single family detached and attached residential uses are prohibited. The prohibition of double frontage lots may be varied or excepted by the agent as provided in section 14-203.1. Double frontage lots shall be screened as provided in section 14-419.

(Ord. 98-A(1), 8-5-98, § 14-500; Ord. 05-14(1), 4-20-05, effective 6-20-05)

State law reference--Va. Code §§ 15.2-2241(3), 15.2-2242(1).

Sec. 14-402 Lot shape.

Each lot within a subdivision shall be of a shape which provides a satisfactory and desirable building site, and shall otherwise be at least the minimum lot width allowed by the applicable provisions of the zoning ordinance. No lot shall contain peculiarly shaped elongations designed solely to provide the required square footage of area or frontage on a street. All portions of each lot shall be contiguous.

(9-5-96, 8-28-74; 1988 Code, § 18-29; Ord. 98-A(1), 8-5-98, § 14-503; Ord. 05-14(1), 4-20-05, effective 6-20-05)

State law reference--Va. Code § 15.2-2241(3).

Sec. 14-404 Lot location to allow access from lot onto street or shared driveway.

Each lot within a subdivision shall be located as follows:

A. *Single point of access required.* Each lot, other than a corner lot within the development areas, shall have reasonable access to the building site from only one street, shared driveway or alley established at the same time as the subdivision; provided that, if the subdivision is in the rural areas, each lot created from the subsequent division of any lot within the subdivision shall enter only onto such street(s) established at the same time as the original subdivision and shall have no immediate access onto any other public street.

B. *Conditions when single point of access not required.* Notwithstanding subsection (A), a lot may be located so that it has reasonable access to the building site from a public street abutting the subdivision if: (i) the agent approves a variation or exception under subsection (C) and section 14-203.1; (ii) the subdivider obtains an entrance permit from the Virginia Department of Transportation for the access; (iii) the entrance complies with the design standards set forth in sections 14-410(F) and 14-410(G); and (iv) the subdivider demonstrates to the agent prior to approval of the final plat that the variation or exception does not violate any covenants to be recorded for the subdivision.

C. *Lots exempt from requirements of subsections (A) and (B).* The requirements of subsections (A) and (B) shall not apply to the subdivision of a parcel where two (2) or more dwellings existed on the parcel on October 14, 2009 and one existing dwelling would be located on each lot created.

D. *Standards for variation or exception.* The requirements of subsection (A) may be varied or excepted by the agent as provided in section 14-203.1. A request for a variation or exception may be made prior to or with submittal of a preliminary or final plat, as follows:

1. *Information to be submitted.* A request shall include a justification for the variation or exception and a conceptual plan. The conceptual plan shall: (i) be drawn at a scale no smaller than one (1) inch equals two hundred (200) feet showing surveyed boundaries of the property or an alternative scale approved by the agent; (ii) show the topography of the property at the best interval available from the

County including delineation of proposed building sites; (iii) show the locations of streams, stream buffers, critical slopes, floodplains, and known wetlands; and (v) show the proposed layout of lots, location of existing features such as buildings, fences, drainfields, existing driveways or other access ways, or other significant features.

2. *Consideration.* In reviewing a request for a variation or exception and determining whether the findings provided in section 14-203.1 can be made, the agent shall consider whether: (i) installing a single point of access would substantially impact environmental resources such as streams, stream buffers, critical slopes, and floodplain; (ii) construction of a single point of access would substantially impact features existing on the property prior to October 14, 2009; (iii) granting the a variation or exception would contribute to maintaining an agricultural or forestal use of the property; and (iv) granting the a variation or exception would facilitate development of areas identified in the open space plan as containing significant resources.

E. *Terms defined.* For purposes of this section, the term “reasonable access” means a location for a driveway or, if a driveway location is not provided, a location for a suitable foot path from the parking spaces required by the zoning ordinance to the building site; the term “within the subdivision” means within the exterior boundary lines of the lands being divided.

(§ 18-36 (part), 9-5-96, 8-28-74; § 18-39 (part), 9-5-96, 10-19-77, 5-10-77, 8-28-74; 1988 Code, §§ 18-36, 18-39; Ord. 98-A(1), 8-5-98, §§ 14-500(C), 14-505; Ord. 05-14(1), 4-20-05, effective 6-20-05; Ord. 09-14(2), 10-14-09; Ord. 10-14(1), 2-10-10)

State law reference--Va. Code §§ 15.2-2241(5), 15.2-2242(1).

Sec. 14-405 Side lot lines.

Side lot lines of each lot within a subdivision shall be approximately at right angles or radial to the street line, except turnaround terminal points.

The requirements of this section may be varied or excepted by the agent as provided in section 14-203.1.

(9-5-96, 8-28-74; 1988 Code, § 18-32; Ord. 98-A(1), 8-5-98, § 14-506; Ord. 05-14(1), 4-20-05, effective 6-20-05)

State law reference--Va. Code §§ 15.2-2241(3), 15.2-2242(1).

Sec. 14-407 Block width.

Each block within a subdivision shall be wide enough to allow two (2) tiers of lots of the minimum depth allowed by the applicable provisions of the zoning ordinance fronting on all streets.

The requirements of this section may be varied or excepted by the agent as provided in section 14-203.1. In reviewing a request for a variation or exception and determining whether the findings provided in section 14-203.1 can be made, the agent shall consider whether the creation of two (2) tiers of lots of the minimum depth are prevented by topographical conditions or the size of the property.

(9-5-96, 8-28-74; 1988 Code, § 18-34; Ord. 98-A(1), 8-5-98, § 14-508; Ord. 05-14(1), 4-20-05, effective 6-20-05)

State law reference--Va. Code §§ 15.2-2241(3), 15.2-2242(1).

Division 2. Streets and Alleys

Sec. 14-409 Coordination and extension of streets.

Public streets within the development areas shall be coordinated and extended as follows:

A. *Coordination.* All public streets within a subdivision shall be coordinated as to location, width, grades and drainage with other public streets, as follows: (i) by coordinating with existing or planned streets within the general area of the subdivision, including but not limited to existing or future adjacent subdivisions, or subdivisions contiguous to such adjacent subdivisions; and (ii) by continuing the public streets to planned, existing, or platted streets into adjoining areas by dedication or reservation of right of way adequate to accommodate continuation of the streets.

B. *Extension.* All public streets within a subdivision shall be extended and constructed to the abutting property lines to provide vehicular and pedestrian interconnections to future development on adjoining lands, terminating within the subdivision with a temporary turnaround. The arrangement of the public streets shall provide adequate access to adjoining lands within the subdivision where necessary to provide for the orderly development of the county including, but not limited to, reserving temporary construction easements of sufficient area to accommodate the future completion of the street when the adjoining lands are developed.

C. *Variation or exception by commission of coordination requirement.* The requirements of subsection (A) may varied or excepted by the commission as provided in section 14-203.1. A request for

a variation or exception may be made prior to or with submittal of a preliminary plat or with an application to rezone the land, as follows:

1. *Information to be submitted.* If such a request is made, it shall include: (i) a justification for the request; (ii) a vicinity map showing a larger street network at a scale no smaller than one (1) inch equals six hundred (600) feet; (iii) a conceptual plan at a scale no smaller than one (1) inch equals two hundred (200) feet showing surveyed boundaries of the property; (iv) topography of the property at five (5) foot intervals for the property being subdivided and on abutting lands to a distance of five hundred (500) feet from the boundary line or a lesser distance determined to be sufficient by the agent; (v) the locations of streams, stream buffers, steep slopes, floodplains, known wetlands; (vi) the proposed layout of streets and lots, unit types, uses, and location of parking, as applicable; and (vii) the location of the nearest development and rural area boundaries, and the maximum number of lots proposed in the subdivision.

2. *Consideration.* In reviewing a request for a variation or exception under section 14-203.1, the commission shall consider: (i) the engineering requirements for coordination and connection; (ii) whether the need for coordination and connection outweighs the impacts on environmental resources such as streams, stream buffers, steep slopes, and floodplain; (iii) whether the street would and should be extended into the rural areas; (iv) whether there is an alternative street connection from another location in the subdivision that is preferable because of design, traffic flow, or the promotion of the goals of the comprehensive plan, including the neighborhood model, and the applicable neighborhood master plan; and (v) whether the variation or exception would enable a different principle of the neighborhood model to be satisfied to a greater extent so that the overall goals of the neighborhood model are more fully achieved.

D. *Variation or exception by agent of extension requirement.* The requirements of subsection (B) may be varied or excepted by the agent as provided in section 14-203.1. A request for a variation or exception may be made prior to or with submittal of a preliminary plat or with an application to rezone the land, as follows:

1. *Information to be submitted.* If such a request is made, it shall include: (i) a justification for the request; (ii) a vicinity map showing a larger street network at a scale no smaller than one (1) inch equals six hundred (600) feet; (iii) a conceptual plan at a scale no smaller than one (1) inch equals two hundred (200) feet showing surveyed boundaries of the property; (iv) topography of the property at five (5) foot intervals for the property being subdivided and on abutting lands to a distance of five hundred (500) feet from the boundary line or a lesser distance determined to be sufficient by the agent; (v) the locations of streams, stream buffers, steep slopes, floodplains, known wetlands; (vi) the proposed layout of streets and lots, unit types, uses, and location of parking, as applicable; and (vii) identification of the location of the nearest development and rural area boundaries and the maximum number of lots proposed in the subdivision.

2. *Consideration.* In reviewing a request for a variation or exception under section 14-203.1, the agent shall consider whether: (i) extending the street to the abutting property line would require offsite easements; (ii) the need for the extension outweighs the impacts on environmental resources such as streams, stream buffers, steep slopes, and floodplain; (iii) alternative connections to the abutting lands from a different location would provide a better connection; (iv) the subdivider would contribute to the cost to complete the extension to the abutting property line when the adjoining lands are developed, and how; and (v) the street would be extended into the rural areas.

3. *Requirements if variation or exception granted.* If the agent grants the variation or exception: (i) the public street shall be constructed past the point at which the primary structures on the lots abutting the street would rely on the finished grade for landscaping and other improvements, but in no case less than thirty (30) feet beyond the curb line or ditch line on those lots; (ii) the subdivider shall dedicate the required right of way to the abutting property line, along with all easements required to allow the street connection to be constructed in the future; (iii) the required easements shall prohibit any improvements being established therein; (iv) the subdivider shall provide a surety guarantee or an escrow of funds for its share of the cost to complete the extension if determined by the agent to be necessary; the type of surety guarantee or the escrow shall be acceptable to the county engineer and be approved by the county attorney; and (v) the agent may require that the subdivider install and maintain a sign at the end of the constructed portion of the street stating that the street is a future through street, and that the sign is maintained until the county grants final approval of extending the street to the abutting property.

(9-5-96, 11-21-79, 3-29-78, 8-28-74; 1988 Code, § 18-37; Ord. 98-A(1), 8-5-98, § 14-510; Ord. 05-14(1), 4-20-05, effective 6-20-05)

State law reference--Va. Code § 15.2-2241(2), (4), 15.2-2242(1).

Sec. 14-410 Standards for all streets and alleys.

The following minimum design standards shall apply to all streets and alleys within a subdivision:

A. *Layout.* Each street shall be configured, to the extent practicable, to conform to the natural topography, to minimize the disturbance of critical slopes and natural drainage areas, and to provide vehicular and pedestrian interconnections within the subdivision and existing or future development on adjoining lands, as provided in section 14-409.

B. *Angle of intersection.* An angle of intersection of not less than eighty (80) degrees is acceptable; however, a perpendicular intersection, where practical, is preferred. The county engineer may grant an exception to this requirement for a private street in accord with American Association of State Highway and Transportation Officials guidelines.

C. *Temporary turnarounds.* Streets more than three hundred (300) feet in length from an intersection, or proposed to serve more than four (4) dwelling units that terminate temporarily shall be provided with a temporary turnaround meeting American Association of State Highway and Transportation Officials guidelines. The temporary turnaround shall be extended to the abutting property line unless a waiver is granted as provided in section 14-409(D). The temporary turnaround shall exist until the street extensions are accepted into the secondary system of state highways.

D. *Alleys.* Alleys with a right-of-way or easement width of not less than twenty (20) feet may be provided in the rear or side of all commercial, industrial, and residential lots. The design specifications shall be determined by the county engineer, subject to the following: (i) the alley design shall allow emergency services vehicles such as police cars and ambulances to use the alley; and (ii) an alley need not be designed to accommodate the largest emergency services vehicles, except that if firetrucks do not have adequate access to one or more lots from a street, the county engineer shall require that the alley be designed to accommodate firetrucks. The agent may authorize an alley to be established with a right-of-way or easement width of less than twenty (20) feet if the county engineer determines that the proposed design incorporates features that assure public safety and welfare. The county engineer shall consider the provision of adequate access to required on-site parking and/or garages, unimpeded vehicular circulation along the alley, an adequate clear zone along the alley, and other safety issues deemed appropriate for the conditions. Alley rights-of-way may either be established as privately held fee simple interests or as privately held easements.

E. *Reserved or spite strips.* Reserved or spite strips restricting access from adjoining lands to an existing or future street or alley shall not be permitted; provided that nothing herein shall prohibit areas for scenic planting and landscaping where adequate access to the adjoining lands is otherwise available.

F. *Principal means of access to subdivision.* The principal means of access to a subdivision shall be either a public street or a private street. The principal means of access shall conform, in the case of a public street, to Virginia Department of Transportation standards, or, in the case of a private street, to the standards of the county as set forth in section 14-412, throughout the street's length, including any distance between the boundary of the subdivision and any existing public street. If discharge water of a twenty-five (25) year storm could be reasonably anticipated to inundate, block, destroy or otherwise obstruct a principal means of access to a residential subdivision, the following shall also apply:

1. The principal means of access shall be designed and constructed so as to provide unobstructed access at the time of flooding; and/or

2. An alternative means of access which is not subject to inundation, blockage, destruction or obstruction, and which is accessible from each lot within the subdivision shall be constructed.

G. *Drainage.* Adequate drainage control shall be provided for streets by installing culverts under streets; side, lead, or outlet ditches; catch basins; curb inlets; or any other devices, including piping, as determined to be necessary by the county engineer. All of these improvements shall meet the standards of the county or, in the event no county standards exist, Virginia Department of Transportation standards.

H. *Curb, curb and gutter, sidewalks and planting strips.* In the development areas, streets shall be constructed with curb or curb and gutter, sidewalks and planting strips. Sidewalks and planting strips shall be designed and constructed in compliance with section 14-422.

I. *Variation of or exception to requirement for curb or curb and gutter.* The requirement for curb or curb and gutter may be waived varied or excepted by the commission as provided in section 14-203.1. A request for a variation or exception may be made prior to or with submittal of a preliminary plat or with an application to rezone the land, as follows:

1. *Information to be submitted.* If such a request is made, it shall include: (i) a justification for the request; (ii) a vicinity map showing a larger street network at a scale no smaller than one (1) inch equals six hundred (600) feet; (iii) a conceptual plan at a scale no smaller than one (1) inch equals two hundred (200) feet showing surveyed boundaries of the property; (iv) topography of the property at five (5) foot intervals for the property being subdivided and on abutting lands to a distance of five hundred (500) feet from the boundary line or a lesser distance determined to be sufficient by the agent; (v) the locations of streams, stream buffers, steep slopes, floodplains, known wetlands; (vi) the proposed layout of streets and lots, unit types, uses, and location of parking, as applicable; and (vii) the maximum number of lots to be served by the rural cross-section street, the location of the nearest development and rural area boundaries, and a cross-section of existing streets to which the proposed subdivision streets would be extended, if any.

2. *Consideration.* In reviewing a request for a variation or exception under section 14-203.1 to allow a rural cross-section (no curb and no curb and gutter) instead, the commission shall consider: (i) the number of lots in the subdivision and the types of lots to be served; (ii) the length of the street; (iii) whether the proposed street(s) or street extension connects into an existing system of streets

constructed to a rural cross-section; (iv) the proximity of the subdivision and the street to the boundaries of the development and rural areas; (v) whether the street terminates in the neighborhood or at the edge of the development area or is otherwise expected to provide interconnections to abutting lands; (vi) whether a rural cross-section in the development areas furthers the goals of the comprehensive plan, with particular emphasis on the neighborhood model and the applicable neighborhood master plan; (vii) whether the use of a rural cross-section would enable a different principle of the neighborhood model to be more fully implemented; and (viii) whether the proposed density of the subdivision is consistent with the density recommended in the land use plan section of the comprehensive plan.

(§ 18-37, 9-5-96, 11-21-79, 3-29-78, 8-28-74; § 18-39 (part), 9-5-96, 10-19-77, 5-10-77, 8-28-74; 1988 Code, §§ 18-37, 18-39; Ord. 98-A(1), 8-5-98, § 14-512; Ord. 02-14(1), 2-6-02, § 14-512; Ord. 05-14(1), 4-20-05, effective 6-20-05)

State law reference--Va. Code §§ 15.2-2241(4), 15.2-2242(1), 15.2-2242(3).

Sec. 14-412 Standards for private streets only.

In addition to the minimum design requirements set forth in section 14-410, the following minimum design requirements shall apply to private streets authorized by this chapter:

A. *Residential private streets.* Each private street serving detached residential uses authorized under sections 14-232 or 14-233 shall satisfy the following:

1. *Streets serving two lots.* Each private street serving two (2) lots: (i) shall not exceed a sixteen (16) percent grade calculated over a distance of fifty (50) feet; (ii) shall have a travelway that is at least ten (10) feet in width; and (iii) shall include a rectangular zone superjacent to the driveway that is clear of all obstructions, including any structures and vegetation, that is at least ten (10) feet in width and fourteen (14) feet in height. The subdivider shall demonstrate to the satisfaction of the county engineer that the street will meet the requirements of this subsection.

2. *Streets serving three to five lots.* Each private street serving three (3) to five (5) lots shall satisfy the following: (i) vertical centerline curvature shall meet a minimum design K value of five (5) for crest curves and fifteen (15) for sag curves; (ii) sight distances shall not be less than one hundred (100) feet; (iii) turnarounds shall be provided at the end of each street per American Association of State Highway and Transportation Officials guidelines; (iv) street easements or right-of-way widths shall be thirty (30) feet minimum; and (v) the radius for horizontal curvature shall be forty (40) feet or greater, unless otherwise authorized by this chapter. Any standard in this paragraph (2) may be reduced to the standard for streets serving two (2) lots where a driveway departs from the street and two lots remain to be served, and a turnaround is provided. In addition, the following shall also apply:

(a) *Private streets in the rural areas.* For such private streets in the rural areas: (i) travelway widths shall be fourteen (14) feet minimum, with three (3) feet minimum shoulder widths, and a minimum of four (4) feet from the edge of the shoulder to the ditch centerline; (ii) the grade shall not exceed sixteen (16) percent calculated over a distance fifty (50) feet; (iii) if the grade of any portion of the street exceeds seven (7) percent, the entire street shall be surfaced as required by Virginia Department of Transportation standards; streets having a grade of seven (7) percent or less may have a gravel surface; and (iv) the street shall have a rectangular zone superjacent to the street that is clear of all obstructions, including any structures and vegetation, that is at least fourteen (14) feet in width and fourteen (14) feet in height.

(b) *Private streets in the development areas.* For such private streets in the development areas: (i) an urban cross-section street design shall be provided, with a minimum width of twenty (20) feet measured from the curb faces or such alternative design, including a street easement or right-of-way width, deemed adequate by the county engineer to be equivalent to or greater than the applicable standard in the design standards manual, so as to adequately protect the public health, safety or welfare; additional widths shall be provided for gutters to control drainage at the discretion of the county engineer; and (ii) the entire street shall be surfaced as required by Virginia Department of Transportation standards.

3. *Streets serving six lots or more.* Each private street serving six (6) or more lots shall satisfy Virginia Department of Transportation standards, provided:

(a) *Private streets in the rural areas.* For such private streets in the rural areas, the commission may approve Virginia Department of Transportation standards for mountainous terrain if the subdivider demonstrates, for a specific, identifiable reason, the general welfare, as opposed to the proprietary interests of the subdivider, would be better served by the application of those standards.

(b) *Private streets in the development areas.* For such private streets in the development areas, the agent may approve Virginia Department of Transportation standards for mountainous terrain or an alternative standard deemed adequate by the county engineer to be equivalent to or greater than the applicable standard in the design standards manual, so as to adequately protect the public health, safety or welfare.

4. *Streets serving family subdivisions.* Each private street authorized to serve a family subdivision under section 14-232(B)(1) shall satisfy the following: (i) easement or right-of-way widths shall be ten (10) feet minimum; and (ii) the surveyor shall include the following wording on the plat: "The existing and/or proposed right-of-way is of adequate width and horizontal and vertical alignment to

accommodate a travelway passable by ordinary passenger vehicles in all but temporary extreme weather conditions, together with area adequate for maintenance of the travelway, as required by section 14-412 of the Albemarle County Code.”

B. *Private streets serving non-residential, non-agricultural, attached residential, multi-unit residential and combined residential and non-residential uses.* Each private street authorized to serve non-residential, non-agricultural, attached residential, multi-unit residential and combined residential and non-residential uses under sections 14-232 or 14-233 shall satisfy Virginia Department of Transportation standards or an alternative standard deemed adequate by the agent, upon the recommendation of the county engineer, to be equivalent to or greater than the applicable standard in the design standards manual, so as to adequately protect the public health, safety or welfare. The agent may require minimum travelway widths to provide for on-street parking upon a determination that the provisions for off-street parking may be inadequate to reasonably preclude unauthorized on-street parking.

C. *Clearing land for improvements.* A private street constructed to Virginia Department of Transportation standards shall not be subject to that department's clear zone requirements.

D. *Landscaping and other improvements permitted.* Subsequent to construction of a private street, a subdivider may install ornamental plantings and any other improvements provided that they do not conflict with sight distance, drainage facilities or other required improvements.

E. *Variation or exception.* The standards of sections 14-412(A)(1)(i) and 14-412(A)(2)(a) relating to street easement or right-of-way widths may be varied or excepted by the agent as provided in section 14-203.1, as follows:

1. *Variation of or exception to section 14-412(A)(1)(i).* The agent, with the recommendation of the county engineer and the fire marshal, may vary or except the standard in section 14-412(A)(1)(i) and authorize a street having a grade that exceeds sixteen (16) percent if the subdivider demonstrates to the satisfaction of the county engineer and the fire marshal that public safety vehicles would be able to access each lot even though the grade may exceed sixteen (16) percent. In developing their recommendation to the agent, the county engineer and the fire marshal shall consider: (i) the length of the segment of the street that would exceed sixteen (16) percent; and (ii) whether the segment that would exceed sixteen (16) percent would require the public safety vehicle to travel uphill towards each lot. In authorizing such a grade, the agent may impose reasonable conditions to ensure that the public safety vehicles may access the lot including, but not limited to, a condition limiting the maximum length any segment of the driveway may exceed sixteen (16) percent.

2. *Variation of or exception to section 14-412(A)(2)(a).* In reviewing a request for a variation or exception for a lesser street easement or right-of-way width under section 14-412(A)(2)(a), the agent shall consider whether: (i) the subdivision will be served by an existing easement or right-of-way of fixed width that cannot be widened by the subdivider after documented good faith effort to acquire additional width; and (ii) the existing easement or right-of-way width is adequate to accommodate the required travelway and its maintenance. If the variation or exception pertains to minimum street easement or right-of-way widths over an existing bridge, dam or other structure, the agent shall consider whether: (i) the long-term environmental impacts resulting from not widening the bridge, dam or other structure outweigh complying with the minimum width requirements, as determined by the county engineer; or (ii) whether the bridge, dam or other structure is a historical structure.

F. *Eligibility for future acceptance into the system of state highways.* Any and all streets that are not constructed to meet the standards necessary for inclusion in the system of state highways shall be privately maintained and shall not be eligible for acceptance into the system of state highways unless improved to current Virginia Department of Transportation standards with funds other than those appropriated by the General Assembly and allocated by the Commonwealth Transportation Board.

(§ 18-36, 9-5-96, 8-28-74; § 18-37, 9-5-96, 11-21-79, 3-29-78, 8-28-74(part); 1988 Code, §§ 18-36, 18-37, 18-38; Ord. 98-A(1), 8-5-98, § 14-514; Ord. 02-14(1), 2-6-02; Ord. 05-14(1), 4-20-05, effective 6-20-05; Ord. 09-14(2), 10-14-09)

State law reference--Va. Code §§ 15.2-2242(3), 15.2-2242(1), 33.1-72.2.

Division 3. Water, Sewers and Other Improvements

Sec. 14-414 Public water and sewerage systems.

A subdivision within the jurisdictional area of the service authority shall be served by public water and/or sewerage if the service is reasonably available to the subdivision, as follows:

A. The public water and/or sewerage service shall be provided to each lot within the subdivision within the jurisdictional area, and to assure that service is available to abutting parcels that would rely on such systems by constructing such systems to the boundary lines of abutting lands.

B. All facilities required to be constructed to provide the services to the lots shall be designed and constructed to service authority specifications. Sewer facilities constructed to the boundary lines of abutting lands shall be constructed at a depth and location that allows gravity sewers to provide service to the developable land draining towards the sewer.

C. For purposes of this section, the term "water and/or sewerage service" shall be deemed not to be reasonably available in a particular case in which:

1. The commission, in consultation with the service authority, finds that the capacity of the public water and/or sewerage system is inadequate to serve the proposed development; or

2. The commission, in consultation with the service authority, finds that the capacity of the public water and/or sewerage system is adequate to serve the proposed development, but the commission finds that the cost of connecting to the public water and/or sewerage system, exclusive of connection fees, is unreasonable. In determining whether the cost of connecting is unreasonable, the commission shall consider, among other things, the distance the system must be extended to serve the subdivision, the cost of extension, the uses to be served by the extended system, and the scale of those uses.

D. *Variation or exception.* The requirements of subsection (A) that such systems be constructed to the boundary lines of abutting lands may be varied or excepted by the commission as provided in section 14-203.1. In reviewing a request for a variation or exception, the commission shall consult with the service authority and consider whether the system is needed and whether construction of the system would unnecessarily disturb significant environmental resources. If variation or exception is granted and the systems are not constructed to the boundary lines, easements for such future systems shall be shown on the final plat.

(§§ 18-22 (part), 9-5-96, 1-3-96, 2-4-81, 12-20-78, 8-28-74 (§ 3)); § 18-25, 9-5-96, 1-3-96, 8-28-74; 1988 Code, §§ 18-22, 18-25; Ord. 98-A(1), 8-5-98, § 14-516; Ord. 05-14(1), 4-20-05, effective 6-20-05)

State law reference--Va. Code §§ 15.2-2121, 15.2-2241(4), 15.2-2242(1).

Sec. 14-417 Stormwater management facilities and other control measures.

Stormwater management facilities serving a subdivision shall be designed to comply with the water protection ordinance. The subdivider shall design and construct all on-site stormwater management facilities and other control measures required by the water protection ordinance or determined by the county engineer to be necessary to control stormwater runoff in compliance with the water protection ordinance, any proffers applicable to the subdivision, or any other applicable law.

(Ord. 98-A(1), 8-5-98, § 14-520; Ord. 05-14(1), 4-20-05, effective 6-20-05)

State law reference--Va. Code § 15.2-2241(3).

Sec. 14-419 Landscaping for double frontage lots.

Double frontage lots shall be screened as provided in section 18-32.7.9.7. If existing vegetation is to be used to provide the required screening the subdivider shall sign a conservation checklist approved by the agent to ensure that the specified trees will be protected during construction. Except as otherwise expressly approved by the agent in a particular case, the checklist shall conform to the specifications in the Virginia Erosion and Sediment Control Handbook, pages III-393 through III-413, and as hereafter amended.

The screening requirements may be varied or excepted by the agent as provided in section 14-203.1. In reviewing a request for a variation or exception, the agent shall consider whether adequate screening by topography and vegetation exists so that the rear of the dwelling units will not be visible from a public street or a street intended to provide rear access to lots.

(Ord. 98-A(1), 8-5-98, § 14-522; Ord. 05-14(1), 4-20-05, effective 6-20-05)

State law reference--Va. Code §§ 15.2-2241(3), 15.2-2242(1)..

Sec. 14-420 Location of utilities above- and underground.

All utilities, including but not limited to wires, cables, pipes, conduits and appurtenant equipment for electricity, gas, water, sewer, telephone or similar service, shall be located within a subdivision as follows:

A. Each utility shall be located, to the extent practicable, in a manner that conforms to the natural topography, minimizes the disturbance of critical slopes and natural drainage areas, and allows vehicular and pedestrian interconnections within the subdivision and existing or future development on adjoining lands.

B. All new utilities shall be located underground except the following, which may be located above-ground: (i) electric transmission lines and facilities; (ii) equipment, including electric distribution transformers, switch gear, meter pedestals, telephone pedestals, outdoor lighting poles or standards, radio antennae and associated equipment, which is, under accepted utility practices, normally installed above-ground; (iii) meters, service connections, and similar equipment normally attached to the outside wall of a utility customer's premises; and (iv) satellite dishes.

C. If it is necessary to locate a new or existing public utility within the right-of-way of a public street, the subdivider shall first obtain a permit from the Virginia Department of Transportation.

D. Installation of utilities in or adjacent to the right-of-way shall not preclude the installation of street trees or required landscaping.

E. The requirements of this section may be varied or excepted by the agent as provided in section 14-203.1. In reviewing a request for a variation or exception, the agent shall consider whether the requirement would unreasonably impact the existing above-ground electrical network so that extensive off-site improvements are necessary.

(9-5-96, 8-28-74 (§ 2); 1988 Code, § 18-12; Ord. 98-A(1), 8-5-98, § 14-523; Ord. 05-14(1), 4-20-05, effective 6-20-05)

State law reference--Va. Code §§ 15.2-2241(4), 15.2-2242(1).

Sec. 14-422 Sidewalks and planting strips.

Sidewalks and planting strips shall be provided as follows:

A. *Requirement.* Sidewalks and planting strips for street trees and other vegetation shall be established on both sides of each new street within a subdivision creating lots for single family detached and single family attached dwellings in the development areas.

B. *Sidewalk design.* Each sidewalk proposed to be accepted for maintenance by the Virginia Department of Transportation shall be designed and constructed according to Virginia Department of Transportation standards or to the standards in the design standards manual, whichever is greater. Each sidewalk proposed to be privately maintained shall be constructed using concrete, designed so that no concentrated water flow runs over them, and otherwise satisfy the standards in the design standards manual. The agent may allow privately maintained sidewalks to be a 10-foot multi-use asphalt path in unique circumstances such as a path leading to a school or major employment center. The asphalt path generally shall run parallel to the street and shall be constructed to a standard deemed adequate by the county engineer to be equivalent to or greater than the applicable standard in the design standards manual, so as to adequately protect the public health, safety or welfare.

C. *Sidewalk ownership.* Each sidewalk proposed to be accepted for maintenance by the Virginia Department of Transportation shall be dedicated to public use. Each sidewalk proposed to be privately maintained shall be conveyed to a homeowners association for ownership and maintenance. The agent may require that a sidewalk proposed by the subdivider to be privately maintained instead be dedicated to public use if the agent determines there is a need for the sidewalks to be publicly owned and maintained.

D. *Planting strip design.* Each planting strip shall be a minimum of six (6) feet in width except that the minimum width may be less in areas of transition between rural cross-section and urban cross-section streets. On an urban cross-section street, the planting strip shall be located between the curb and the sidewalk. The planting strip shall be located between the paved travelway and the sidewalk.

E. *Variation of or exception to sidewalk requirements.* The requirements for sidewalks may be varied or excepted by the commission as provided in section 14-203.1. A request for a variation or exception may be made prior to or with submittal of a preliminary plat or with an application to rezone the land, as follows:

1. *Information to be submitted.* If such a request is made, it shall include: (i) a justification for the request; (ii) a vicinity map showing a larger street network at a scale no smaller than one (1) inch equals six hundred (600) feet; (iii) a conceptual plan at a scale no smaller than one (1) inch equals two hundred (200) feet showing surveyed boundaries of the property; (iv) topography of the property at five (5) foot intervals for the property being subdivided and on abutting lands to a distance of five hundred (500) feet from the boundary line or a lesser distance determined to be sufficient by the agent; (v) the locations of streams, stream buffers, steep slopes, floodplains, known wetlands; (vi) the proposed layout of streets and lots, unit types, uses, and location of parking, as applicable; and (vii) the location of any existing pedestrian network in the area, whether it is publicly or privately maintained, descriptions by widths and surfaces of the pedestrian ways within the existing pedestrian network, a proposed alternative profile and the intended ownership and maintenance.

2. *Consideration.* In reviewing a request to vary or except the requirement for sidewalks, the commission shall consider whether: (i) a variation or exception to allow a rural cross-section has been granted; (ii) a surface other than concrete is more appropriate for the subdivision because of the character of the proposed subdivision and the surrounding neighborhood; (iii) sidewalks on one side of the street are appropriate due to environmental constraints such as streams, stream buffers, critical slopes, floodplain, or wetlands, or because lots are provided on only one side of the street; (iv) the sidewalks reasonably can connect into an existing or future pedestrian system in the area; (v) the length of the street is so short and the density of the development is so low that it is unlikely that the sidewalk would be used to an extent that it would provide a public benefit; (vi) an alternate pedestrian system including an alternative pavement could provide more appropriate access throughout the subdivision and to adjoining lands, based on a proposed alternative profile submitted by the subdivider; (vii) the sidewalks would be publicly or privately maintained; (viii) the waiver promotes the goals of the comprehensive plan, the neighborhood model, and the applicable neighborhood master plan; and (ix) waiving the requirement would enable a different principle of the neighborhood model to be more fully achieved.

F. *Variation of or exception to planting strip requirements.* The requirements for planting strips may be varied or excepted by the commission as provided in section 14-203.1. A request for a variation or exception may be made prior to or with submittal of a preliminary plat or with an application to rezone the land, as follows:

1. *Information to be submitted.* If such a request is made, it shall include: (i) a justification for the request; (ii) a vicinity map showing a larger street network at a scale no smaller than one (1) inch equals six hundred (600) feet; (iii) a conceptual plan at a scale no smaller than one (1) inch equals two hundred (200) feet showing surveyed boundaries of the property; (iv) topography of the property at five (5) foot intervals for the property being subdivided and on abutting lands to a distance of five hundred (500) feet from the boundary line or a lesser distance determined to be sufficient by the agent; (v) the locations of streams, stream buffers, steep slopes, floodplains, known wetlands; and (vi) the proposed layout of streets and lots, unit types, uses, and location of parking, as applicable.

2. *Consideration.* In reviewing a request to vary or except any requirement for planting strips, the commission shall consider whether: (i) a variation or exception to allow a rural cross-section has been granted; (ii) a sidewalk variation or exception has been granted; (iii) reducing the size of or eliminating the planting strip promotes the goals of the comprehensive plan, the neighborhood model, and the applicable neighborhood master plan; and (iv) waiving the requirement would enable a different principle of the neighborhood model to be more fully achieved.

(9-5-96, 10-19-77, 5-10-77, 8-28-74; 1988 Code, § 18-39; Ord. 98-A(1), 8-5-98, § 14-525; Ord. 05-14(1), 4-20-05, effective 6-20-05)

State law reference--Va. Code §§ 15.2-2241(5), 15.2-2242(1).

Division 4. Contributions, Dedications, Reservations and Transfers

Sec. 14-431 Easements for stormwater management facilities and other control measures.

The agent shall require each subdivider to establish easements for stormwater management facilities and other control measures, as follows:

A. The following easements shall be required:

1. An easement for all stormwater management facilities and other control measures located on the property shall be established whenever the improvement is designed and/or constructed beyond a street right-of-way or access easement, and shall extend from all drainage outfalls to an adequate channel as defined in 4 VAC § 50-30-10 that satisfies the minimum standards in 4 VAC § 50-30-40(19) to the boundary of the property.

2. An easement along any natural stream or man-made waterway located on the property.

B. The area of each easement shall be sufficient, as determined by the county engineer, to: (i) accommodate the facilities and the drainage characteristics from each drainage outfall from a control measure; and (ii) allow access to a natural stream or man-made waterway to allow widening, deepening, relocating, improving, or protecting the natural stream or man-made waterway for drainage purposes.

C. Each easement shall include the right of ingress and egress for installation, maintenance, operation, repair and reconstruction of any improvement within the easement. The agent also may require that an easement be provided through abutting land under the same ownership as the property.

D. The board of supervisors shall not be required to compensate the subdivider for any easement or any improvements thereon.

E. No easement shall be considered part of any required street width.

(§ 18-16, 9-5-96, 8-28-74 (§ 3); § 18-21, 9-5-96, 12-15-82, 8-28-74 (§ 3); 1988 Code, §§ 18-16, 18-21; Ord. 98-A(1), 8-5-98, § 14-409; Ord. 05-14(1), 4-20-05, effective 6-20-05)

State law reference--Va. Code § 15.2-2241(3).

Division 5. Completion of On-site Improvements and Surety

Sec. 14-434 Completion of on-site improvements required prior to plat approval.

Except as provided in section 14-435, all on-site improvements required by this chapter shall be completed prior to approval of the final plat. Prior to approval of the final plat:

A. *Certification regarding all completed improvements.* The subdivider shall submit to the agent a certificate of completion of all of the improvements prepared by a professional engineer or a land surveyor, to the limits of his license; and

B. *Certification of payment.* The subdivider shall certify to the agent that all of the construction costs for the improvements, including those for materials and labor, have been paid to the person constructing the improvements.

9-5-96, 12-15-82, 4-21-76, 2-19-76, 8-28-74 (§ 3); 1988 Code, § 18-18; Ord. 98-A(1), 8-5-98, § 14-412; Ord. 05-14(1), 4-20-05, effective 6-20-05; Ord. 09-14(2), 10-14-09)

State law reference – Va. Code §§ 15.2-2241(5), 15.2-2241(9), 15.2-2255.

Sec. 14-435 Agreement and surety.

Any subdivider who does not complete all required improvements as provided in this chapter shall, prior to approval of a final plat, enter into an agreement with the county to complete the construction and installation of all improvements required by this chapter within a period of time agreed to by the parties, and shall provide a surety to guarantee the completion of the improvements, as follows:

A. *Form of the agreement.* The agreement accompanying the surety shall be on a form prepared by the county attorney and any proposed amendment to the agreement shall be subject to review and approval by the county attorney.

B. *Type of surety permitted and amount.* The subdivider shall furnish to the agent a certified check, official check, bond with surety, letter of credit, or collaterally assign funds in a manner satisfactory to the county attorney (collectively, the “surety instrument”), in an amount sufficient for and conditioned upon the completion of the construction and installation of the improvements, as determined under subsection (C). Any proposed surety instrument shall be subject to being acceptable to the county engineer, shall be in a form and have the substance approved by the county attorney, and shall be subject to review and approval by the county attorney.

C. *Estimate.* The subdivider shall submit a request for an estimate of the surety amount to the county engineer. The county engineer shall prepare a cost estimate of all improvements, based upon unit prices for new public or private sector construction in the county, and a reasonable allowance for estimated administrative costs, including inspection fees required by section 14-203, inflation, and potential damage to existing streets or utilities, which shall not exceed ten (10) percent of the estimated construction costs.

D. *Use of surety.* The county may make use of monies guaranteed by the surety instrument if either: (i) the subdivider fails to timely renew the bond with surety, letter of credit, or the collaterally assigned funds; or (ii) the county engineer, in his discretion, determines that any of the improvements have not been completed in a timely manner and the completion of the improvements is deemed necessary to protect the public health, safety or general welfare. The county’s use of the monies guaranteed by the surety instrument shall not terminate the agreement accompanying the surety instrument.

E. Surety shall not be required for a private street authorized under section 14-232(B)(1), 14-232(B)(2), 14-233(A)(2) or 14-233(B)(2).

(9-5-96, 12-15-82, 8-28-74 (§ 3); 1988 Code, § 18-19; Ord. 98-A(1), 8-5-98, § 14-413; Ord. 05-14(1), 4-20-05, effective 6-20-05)

State law reference – Va. Code §§ 15.2-2241(5), 15.2-2241(9), 15.2-2255.

Sec. 14-435.1 Surety for maintenance of streets until accepted into state system.

If one or more public streets within a subdivision are proposed for dedication or have been dedicated for public use and the street or streets, due to factors other than quality of construction, is not acceptable into the secondary system of state highways, the subdivider shall, prior to approval of the final plat or prior to the final release of surety as provided in section 14-436, provide surety for the maintenance of the street or streets as provided herein:

A. The subdivider shall furnish to the agent a certified check, official check, bond with surety satisfactory to the county, or a letter of credit satisfactory to the county, or collaterally assign funds in a manner satisfactory to the county, in an amount established by the Virginia Department of Transportation sufficient for and conditioned upon the maintenance of the street or streets until it is accepted into the secondary system of state highways, and assume the subdivider’s liability for maintenance of the street or streets. The form and the type of the surety shall be to the satisfaction of and be approved by the county attorney.

B. For purposes of this section, the term “maintenance” means maintenance of the streets, curb, gutter, drainage facilities, utilities or other street improvements, including the correction of defects or damages and the removal of snow, water or debris, so as to keep such road reasonably open for public usage.

(9-5-96, 12-15-82, 4-21-76, 2-19-76, 8-28-74 (§ 3); 1988 Code, § 18-18; Ord. 98-A(1), 8-5-98, § 14-414; Ord. 05-14(1), 4-20-05, effective 6-20-05)

State law reference--Va. Code § 15.2-2241(5).

Sec. 14-436 Release of surety.

Any surety provided under section 14-435 or 14-435.1 shall be released as follows:

A. *Partial releases, generally.* Upon written request by the subdivider, the agent shall make periodic partial releases of the surety as provided in Virginia Code § 15.2-2245.

B. *Request for partial or final release; response.* Within thirty (30) days after receipt of a written notice by the subdivider of completion of part or all of any improvements required to be constructed by this chapter, the agent shall respond in writing to the subdivider in one of the following ways: (i) grant the partial or final release, if the applicable state agency, county department, or any applicable authority or other entity has accepted the improvements; or (ii) inform the subdivider that the improvement has not been accepted by the applicable state agency, county department, authority or other entity and/or identify any specified defects or deficiencies in construction and suggested corrective measures.

C. *Failure to respond to request.* If the agent fails to take action within the thirty (30) day period provided in subsection (B), the request of the subdivider shall be deemed approved and a partial release shall be granted to the subdivider. No final release shall be granted until after expiration of the thirty (30) day period and there is an additional request in writing sent by certified mail by the subdivider to the county executive. The agent shall act within ten (10) working days after receipt of the request by the county executive. If he fails to timely act, the request shall be deemed approved and final release shall be granted to the subdivider.

D. *Final release.* Upon final completion and acceptance or approval of the improvements and upon receipt from the subdivider of a certification of final completion from a professional engineer, land surveyor, or the county engineer, the agent shall release any remaining surety to the subdivider. A public improvement shall be deemed to be accepted when it is accepted by and taken over for operation and maintenance by the county, an authority, or a state agency or department responsible for maintaining and operating the improvement. A private improvement shall be deemed to be approved when the agent determines that the improvements are completed.

(9-5-96, 12-15-82, 4-21-76, 2-19-76, 8-28-74 (§ 3); 1988 Code, § 18-18; Ord. 98-A(1), 8-5-98, § 14-415; Ord. 05-14(1), 4-20-05, effective 6-20-05)

State law reference--Va. Code §§ 15.2-2241(9), 15.2-2245, 15.2-2255.

Sec. 14-437 Effect of acceptance or approval of improvements.

Acceptance or approval of an improvement shall be made only if the improvement satisfies all applicable statutes, regulations, ordinances, guidelines and design and construction standards for acceptance or approval of the improvement, upon completion of inspections as provided in section 14-438.

(Ord. 98-A(1), 8-5-98, § 14-416; Ord. 05-14(1), 4-20-05, effective 6-20-05)

State law reference--Va. Code § 15.2-2255.

Sec. 14-438 Inspections; right of entry.

Improvements required by this chapter shall be inspected as follows:

A. *Application deemed consent.* The submittal of a preliminary or final plat by a subdivider shall constitute consent by the subdivider to all officers and employees of the county, the service authority and any other authority, and any state department or agency, responsible for permitting, approving or accepting, or both, any improvement required by this chapter, to enter upon the property at all reasonable times for the purpose of making periodic inspections related to the review of the preliminary or final subdivision plat for compliance with this chapter and to the completion of all improvements required by this chapter. The deemed consent shall expire when all improvements required by this chapter are completed, permitted, approved, or accepted as the case may be, and all surety is finally released as provided in section 14-436.

B. *Notice prior to request for inspection.* Each developer shall notify the zoning administrator when each stage of the development is ready for inspection.

C. *Scope of inspections.* Any inspection of improvements required by this chapter shall be conducted solely to determine compliance with the requirements and specifications provided by law and the approved design plan.

(Ord. 98-A(1), 8-5-98, § 14-417; Ord. 05-14(1), 4-20-05, effective 6-20-05)

State law reference--Va. Code §§ 15.2-2245, 15.2-2255.

Sec. 14-439 Improvements completed at expense of subdivider; exception.

All on-site improvements required by this chapter shall be completed at the expense of the subdivider, except where the subdivider and the county, or any authority, state agency or department, or any other public body, enter into a cost-sharing or reimbursement agreement prior to final plat approval.

(9-5-96, 12-15-82, 4-21-76, 2-19-76, 8-28-74 (§ 3); 1988 Code, § 18-18; Ord. 98-A(1), 8-5-98, § 14-402; Ord. 05-14(1), 4-20-05, effective 6-20-05)

State law reference--Va. Code §§ 15.2-2241, 15.2-2242, 15.2-2243.

Sec. 14-440 County and other public entities not obligated to maintain improvements.

Nothing in this chapter, including the approval of a final plat, obligates the county to: (i) install or maintain facilities for the conveyance of stormwater, domestic water or sewage unless otherwise agreed to by the county; (ii) pay for grading or paving, or for sidewalk, sewer, curb and gutter improvements or construction; (iii) assume financial responsibility for upgrades to an impounding structure except as the owner of an impounding structure; or (iv) to otherwise maintain, repair, replace or reconstruct any improvement required by this chapter.

Nothing in this chapter, including the approval of a final plat, obligates the county, any authority, or any state agency or department, to accept and take over for operation and maintenance any improvements completed by a subdivider as required by this chapter.

(Ord. 98-A(1), 8-5-98, § 14-403; Ord. 05-14(1), 4-20-05, effective 6-20-05)

State law reference--Va. Code §§ 15.2-2241, 15.2-2243.1, 15.2-2265, 15.2-2268.

Sec. 14-441 Dam break inundation zones; prerequisite to development.

Following the completion of the engineering studies in accordance with Virginia Code § 15.2-2243.1(A) and the determination by the Virginia Department of Conservation and Recreation that the subdivider's plan of development would change the spillway design flood standards of the impounding structure, before any development within a dam break inundation zone:

A. *Payment for portion of necessary upgrades.* The subdivider shall pay fifty (50) percent of the contract-ready costs for necessary upgrades to an impounding structure attributable to the subdivision, together with an administrative fee not to exceed one (1) percent of the total amount of payment required or one thousand dollars (\$1,000.00), whichever is less. Any payments shall be made to the Dam Safety, Flood Prevention and Protection Assistance Fund held by the Virginia Resources Authority pursuant to Virginia Code § 10.1-603.19:1. "Necessary upgrades" do not include costs associated with routine operation, maintenance, and repair, nor do they include repairs or upgrades to the impounding structure not made necessary by the proposed subdivision; or

B. *Redesign the subdivision.* The subdivider shall amend the plat so that it does not alter the spillway design flood standard required of the impounding structure.

State law reference--Va. Code §§ 10.1-606.3, 15.2-2243.1.

This ordinance shall be effective on and after January 1, 2014; provided that: (i) any preliminary or final subdivision plat submitted before January 1, 2014 shall be reviewed and acted upon under the subdivision regulations in effect on December 31, 2013, (ii) the preliminary or final subdivision plat submitted before January 1, 2014 is approved by April 1, 2014, and (iii) any final subdivision plat submitted on or after January 1, 2014 for which a preliminary subdivision plat was approved prior to January 1, 2014 shall be reviewed and acted upon under the subdivision regulations effective on and after January 1, 2014.

Agenda Item No. 21. Arrowhead Farm Acquisition.

The following executive summary was forwarded to Board members:

On November 6, 2013, the Board discussed accepting Arrowhead Farm as a gift to the County of 410.26 acres to be donated by Montgomery Bird Woods and Jose Lambert ("Property Owners"). The property is approximately seven miles southwest of Charlottesville and lies entirely on the eastside of Route 29. In 1994 the property was placed in a conservation easement with the Virginia Outdoors Foundation, an Agency of the Commonwealth of Virginia that preserves and protects the natural, scenic, historic, scientific and open-space of recreational areas. Arrowhead Farm has an existing network of roads and trails that are in excellent condition, and based on a report provided by the Natural Heritage Committee, contains one of the regions highest biodiversity environments and several habitats and species that are rare to this region.

Project development and operating impacts for Arrowhead Farm were shared with the Board, as well as for two other potential park properties, Buck Island Creek Park and Hedgerow Trail Park, all of which are being offered for donation to the County. (See Attachment B for map of proposed parks.) The Board expressed concern about the County's ability to fund costs associated with improvements, maintenance, and operations of all three potential park properties. The Board deferred action on accepting the donation and directed staff to explore a potential partnership with Rockfish Wildlife Sanctuary specifically and/or any other interested third party that could be identified prior to its regular meeting on December 4th. In doing so, it is understood that the Board is interested in a partnership in which the third party(ies) could either assist the County with, or assume full responsibility for perpetual stewardship and ongoing maintenance of the proposed Arrowhead Farm park.

During the discussion of the this issue on November 6th, the property owner referenced a formal letter of intent previously delivered to the Board as part of its consideration on this matter. That letter, dated October 15, 2013, stipulates five specific conditions that the offerers have placed on the County in exchange for its acceptance of the donation of the property (see Attachment A): Those five conditions are stipulated specifically as follows:

1. *The park must be named after Bird's father, William S. D. Woods;*
2. *Future ownership must be restricted in perpetuity to 501(c)(3) or charitable organizations or to governmental agencies;*
3. *As you will see in the most recently-prepared Declaration of Easement (copy enclosed, to be recorded), the owner owner of subject property [the County] is responsible for one-half of the cost to maintain the road from point "B" to Point "E" and is responsible for all of the cost to maintain the road from US Route 29 to its terminus at the adjoining property – Tax Map and Parcel 89-15. (See Attachment C for map of access road to TMP 89-15.) The standard for maintenance of both roads is the current condition;*
4. *The two existing building/division rights currently held by the 410.26 acres should be EXTINGUISHED with the conveyance to the County; and*
5. *As you probably know, the use of land is dictated by the Virginia Outdoors Foundation Open-Space Easement dated January 14, 1994, of record in the Albemarle County Clerk's Office in Deed Book 1383, Page 595 (copy enclosed) and other matters of record.*

At the November 6th Board meeting, the property owners demanded an unconditional decision on whether or not the County will accept the donation by December 4, 2013.

As directed, Parks and Recreation staff have followed up and explored a possible partnership with Rockfish Wildlife Sanctuary. In addition, County staff identified other potential partners who might be interested in some type of partnership due to the reported rare and endangered plant species associated with the site. This inquiry was limited to groups with a natural heritage management focus. Staff identified several potential partners which could contribute potentially to future program support, but most were comprised of highly fluxuating volunteer membership and few would have been suitable to accept the long term commitment needed for proper stewardship of the site. The Rockfish Wildlife Sanctuary and The Ivy Creek Foundation emerged as the most interested, best suited and capable of the kind of commitment needed for reliable long term partnerships.

Staff has identified the Nature Foundation at Wintergreen as a good local model of the type of stewardship/educational program that the Arrowhead Farm property is well suited to accommodate. While the Nature Foundation at Wintergreen could not serve as a managing partner, Doug Coleman, Biologist/Executive Director with The Nature Foundation at Wintergreen, has offered to help with developing a strategic future plan for the site.

On November 14, 2013, Parks and Recreation staff met with members of the Rockfish Wildlife Sanctuary and Ivy Creek Foundation representatives and learned that Rockfish Wildlife Sanctuary is indeed very interested in a partnership with the County and is willing to assist immediately with property management support and enter into a long-term agreement with the County for volunteer management of the Arrowhead Farm property. The Sanctuary's vision and need is to have a location in which it can conduct and organize educational programs and Sanctuary members think that Arrowhead Farm would be an ideal location. They also exhibited an open willingness to collaborate with other nature preservation groups, such as the Ivy Creek Foundation, who are specifically interested in the preservation and protection of the rare botanical environment. Based on initial discussions, these partnerships would provide in-kind services only but no financial contributions.

Listed below are the identified minimal interim property management needs that were presented to both the Rockfish Wildlife Sanctuary and the Ivy Creek Foundation:

- Regular monitoring of the property
- Regular assessment of the condition of the trails and roads
- Regular basic maintenance of the property and roads
- Annual posting of the property
- Reporting of any unauthorized use
- Assistance with volunteer coordination and management
- Partnering/collaborating with other groups, organizations and agencies
- Financial resources

A firm commitment from either of these organizations requires approval by their respective Boards. The Rockfish Wildlife Sanctuary Board is scheduled to meet on November 25, 2013 and the Ivy Creek Foundation is scheduled to meet on December 9, 2013. While both of these organizations have demonstrated strong interest in the project, neither have indicated any ability and/or willingness to provide meaningful or sustained financial support for the on-going costs associated with managing and maintaining the property.

As envisioned, the Arrowhead Farm property could serve a different public purpose than the proposed Hedgerow Trail Park to be located four miles closer to town on the Hedgerow property. Hedgerow is expected to be developed and managed as a more active multi-use recreation facility to include mountain biking, running, hiking, geocaching, picnicking, sightseeing and pets on leashes. Alternatively, the value of the Arrowhead Farm property is more directly tied to the protection and preservation of its biodiversity and other ecological features which would be served best by defining the character and managing visitor expectations for wildlife viewing and nature education, and developing trail routes and destinations to guide public use while avoiding impact on the sensitive natural areas.

Staff estimates that the annual cost to the County to provide basic property stewardship of this property and the access easement road would be approximately \$11,000. The estimate of the annual

cost for routine maintenance of the road from Rt. 29 to Tax Map Parcel 89-15, which is approximately .840 of a mile, is approximately \$15,500.00.

Staff has concerns with the conditional offer from the landowner as documented in the letter dated October 15, 2013 and recognizes that this matter may require further consideration by the Board. Specifically, staff is concerned with the stipulation in the offer letter that the County provide permanently for the maintenance of an access easement from Route 29 to the boundary of adjacent property on Tax Map Parcel 89-15. While there has been some discussion with the property owner about this requirement, staff cannot recommend to the Board that it accept the property with this requirement. However, staff is currently in the process of following up with the property owners regarding this condition.

Also, while staff recognizes the high value of the natural resources located on the property and the keen interest on the part of many area preservation and conservation stakeholders that the County accept the property as a nature preserve, staff is unable to present to the Board at this time a partner or partners that are able and willing to commit to providing long term funding support for the management and maintenance of the property. Active volunteers could provide considerable supplemental support to County staff in managing the property as a nature preserve. Ultimately, responsibility for the management and maintenance of the property will rest with County staff and will, given current information, require additional annual County funding.

Mr. Bob Crickenberger, Director of Parks and Recreation, addressed the Board, stating he would provide an update from the Board's November 6 meeting when a discussion was held regarding the acceptance of Arrowhead Farm as a gift to the County from Montgomery Byrd Wood and Jose Lambert. Mr. Crickenberger said the Board had expressed concerns about the County's ability to fund the associated costs of improvements and ongoing maintenance, so the Board deferred action and directed staff to explore potential partners – including Rockfish Wildlife Sanctuary and any other third party that could be identified prior to this meeting to assist the County with or assume full responsibility for ongoing maintenance of the farm. Mr. Crickenberger said staff followed up with Rockfish and has also identified other potential partners. He said staff limited the scope to groups that have a natural heritage management focus based on the reported rare and endangered plant species on the property. He said that they found that most of the organizations were comprised of volunteer memberships, and few would not have been suitable to accept the long-term commitment needed for property stewardship. Mr. Crickenberger said Rockfish and the Ivy Creek Foundation emerged as the most interested, best suited, and most capable partners in terms of the commitment needed for reliable partners. He stated that, on November 14, County staff met with members of Rockfish and Ivy Creek and learned that they are both very interested in partnering with the County.

Mr. Crickenberger said the sanctuary vision and need is to have a location in which potential partners can conduct and organize educational programs and feel that Arrowhead Farm is an ideal location. He stated that, based on discussions with those potential partners, they could provide only in-kind services and no financial commitments, and a firm commitment from either of the organizations requires approval from their boards. Mr. Crickenberger said the Rockfish board met on November 25, and Ivy Creek is scheduled to meet on December 9 to discuss this matter. He stated that County staff met with the Rockfish board to discuss the partnership at its November 25 meeting, and their board voted unanimously to collaborate with the County on the property management as well as displayed a willingness to assist staff immediately.

Mr. Crickenberger said the Rockfish Wildlife Sanctuary Board agreed to the following property management responsibilities including but not limited to: regular monitoring of the property, assessment of the condition of the trails and roads, perform basic maintenance of the property trails and existing roads, assistance with the annual posting of the property, reporting of any unauthorized use, assistance with volunteer coordination and management, and collaboration with other groups, organizations and agencies. He reiterated that Rockfish is not in a position to provide any financial support toward ongoing management, but could put a lot of "boots on the ground."

Mr. Crickenberger said Arrowhead Farm would serve a much different public purpose than the Hedgerow Trail potential park property because of its natural heritage preserve status that directly ties it to preservation, protection and special education offerings of biodiversity and other ecological features. He said Hedgerow is expected to be developed and managed as more of an active, multi-use recreational facility such as Byrum and Preddy Creek. Mr. Crickenberger stated that staff recognizes the high value of the natural resources located on the property and the keen public interest of the various stakeholders, but is unable to present to the Board at this time any partners who are able and willing to provide long-term funding support. He said active volunteers could, however, provide assistance and staff support as they have at many other County facilities, helping staff to manage Arrowhead Farm as a preserve – reducing the estimated annual appropriation to \$6,500.

Mr. Crickenberger introduced Mr. Jim Peterson, a board member of Rockfish Wildlife Sanctuary.

Mr. Thomas asked for confirmation that he was not able to find any financial assistance.

Mr. Crickenberger said staff has not been able to identify any partners who can provide funding, however, volunteer help will reduce the estimated operational cost from \$11,000 to \$6,500. He stated that the County has no formal agreement at this point, but there has been a verbal agreement for volunteer assistance. Mr. Crickenberger emphasized that there is a tremendous amount of volunteer support available and, given the short timeframe staff had to investigate partnerships, they feel there may be many more opportunities. He said the original estimate was submitted prior to those conversations when there

wasn't a commitment from Rockfish and, based on their meetings and discussions, they believe it can be reduced to \$6,500.

Mr. Davis said the cost would be an annual amount until the County wanted to make improvements to the property, at which time costs would increase.

Mr. Rooker said it would be maintaining the property as required by the current easement. Mr. Crickenberger confirmed that was the case.

Mr. Rooker said the Board voted to accept Hedgerow, Byrum, Preddy Creek, and other park properties – which puts more burden on the Parks & Recreation Department – but this particular property would serve a purpose that is not currently being served in the County. He stated that it would be maintained and operated in a different manner, and it would be a wise idea to move forward with this.

Mr. Boyd agreed, but cautioned that they need to make it very clear that the Board's intent is for this to be a nature preserve and not a regular park.

Mr. Crickenberger said this property would be under different management practices, and operating it as a preserve will have a lot less impact on the facility and will help reduce ongoing maintenance costs.

Mr. Boyd asked how it would be secured, because people will likely go there once they find out it's public. Mr. Crickenberger said they can lock the gates at night, but it won't necessarily keep everyone out at all times.

Mr. Boyd mentioned that people were out at Preddy Creek riding horses and using dirt bikes very frequently

Ms. Mallek said that's why it's important to her to have active volunteers to serve as stewards because, when they are out there watching, people won't come and use it in those ways. She asked for clarification of how the roadway easement will be transferred.

Mr. Davis said the Board has received a letter from the property owners dated December 2, 2013 which outlines conditions on their intent to donate the property to the County. He explained that, in a previous letter that is supplanted by this one, there was an obligation for the County to maintain about .8 of a mile of roadway that provides access to an adjacent parcel, and that requirement has been removed from these conditions. Mr. Davis said, before this property transfers to the County, they would want to confirm that there is no maintenance obligation for that stretch of roadway. He stated that there is a proposed amended declaration of easement for road maintenance for the roads on the property, and staff would suggest some amended language to the proposed amendment which should be included before the matter is closed in 2014. Mr. Davis said the other issue in the proposed conditions which has changed is that it calls for the site to be managed as a natural heritage preservation area, so there would be a requirement as a condition of the County's acceptance of the property that it be managed in that way – not as a park. He stated that this would need to be addressed in the deed of ownership which is being transferred to the County, and the December 2 letter also asked for the Board to make a decision whether it would accept or reject the property, and for that to be communicated in writing by December 9.

Ms. Dittmar said this appears to be a pretty innovative step for the County, and she had two calls about the acceptance of this property – both of which were very favorable – indicating that there were some interesting models in the country where nonprofits come together to support localities doing this. She mentioned "Scenic Hudson," with that nonprofit doing fundraising for the park, and she would like to consider something like that as a pilot program.

Mr. Crickenberger said that is certainly a direction they would follow.

Mr. Rooker said members of the Natural Heritage Committee and others have pointed out the presence of unique species on this property which perhaps make it more important to be preserved in this fashion than other properties that might come along.

Mr. Foley stated that staff would work hard to try to define and set parameters for the park and its operation, including the pursuit of fundraising opportunities, etc., and bring that back to the Board for review.

Ms. Mallek said, as part of the discussion of the Natural Resources chapter of the Comp Plan in January, the Board should consider adding a sentence to the description of parks that describes them categorically to help clarify the differences and education for the citizenry.

Mr. Foley said it's important to identify the limitations of what can be done on a natural heritage preserve.

Mr. Jim Peterson addressed the Board, stating that he is treasurer of the Rockfish Wildlife Sanctuary and commented that it is an extremely exciting opportunity for them – with 20 acres in Nelson County and a new building going up. He said they lost the opportunity in that process for public education as it's not appropriate on the sanctuary site, with 600+ animals being housed in the sanctuary, and stated that the Arrowhead Farm site would serve that educational purpose as well as being a new release site. Mr. Peterson stated that Rockfish is not able to provide financial support, but they can provide volunteer work that would offset the cost, such as staking the entire boundary of the property. He mentioned that

Pete Seim was present at the meeting, and he is the person who staked Ivy Creek Natural Area. Mr. Peterson said another person with extensive experience in running volunteer programs has also come forward and offered to serve as volunteer coordinator for Arrowhead. He stated that Rockfish is in it for the long haul and is ready to move forward immediately.

Mr. Snow **moved** to approve acceptance of the Arrowhead Farm property, after appropriate legal review of the documents, with the condition that the County is not responsible for maintenance of the access easement from Route 29, and to authorize the County Executive to sign deeds once they are in proper form. Ms. Mallek **seconded** the motion. Roll was called and the motion carried by the following recorded vote:

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

Note: The Board recessed their meeting at 3:03 p.m., and reconvened at 3:06 p.m.

Agenda Item No. 22. Five-Year Financial Plan – Work Session.

Ms. Lori Allshouse, Director of the Office of Management and Budget, addressed the Board, stating that this is the Board's third work session on the Five Year Financial Plan and the desired outcome of this meeting is for the Board to provide policy direction and make any adjustments deemed appropriate. She said the Board has the option of approving the five-year plan at this meeting, which would preclude the worksession scheduled for December 11. Ms. Allshouse said the Board's November 13 worksession included a lot of numbers, but this meeting would primarily be a conversation about policy and direction. She stated that the Board also heard information from the School Division on its five-year plan at the November 14 joint worksession. Ms. Allshouse said there are two updates since the five-year plan presentation on the VRS and the composite index, and staff has also included new information on geopolying. She stated that there are two policy questions which staff would like to have the Board discuss – the capital program and the water resource protection mandate.

Ms. Allshouse reported that the five-year financial plan is a policy and planning tool, starting out with specific goals and criteria, and is a critical process for the County's triple AAA-bond rating. She said the plan brings together the three major components of the County budget – schools, general government and capital – and looks at those over a period of five years. She stated that the Board isn't approving a budget when approving the plan, but it does inform budget development for the first year of the plan (fiscal year 15). Ms. Allshouse said, when the five-year planning process commenced in November, Mr. Foley shared some general information about improving economic conditions – but the County is still having pressures related to increased mandates and obligations as previously mentioned. She said the County is also having increased service impacts of population growth, adding that current staffing is at the FY05 per-capita level. Ms. Allshouse said there are increased community expectations and aspirations which determine the quality of life, and this is setting the context for the five-year plan.

Ms. Allshouse reported that, at this time last year, staff felt there would still be some downturn in real estate taxable assessed values, and the current assumptions are that things are getting better – with a 1.2% increase in taxable assessed values projected for calendar year 2014, which is important because about 52% of general fund revenue is based on real estate revenue. Ms. Allshouse reiterated that these are assumptions; everything that is put into revenues and expenditures are based on assumptions and, as more information comes in, these assumptions can change. She stated that the plan assumes moderate revenue growth with the majority of that growth being from local sources. She said the County's single family housing market appears to be more or less in equilibrium now for the first time in years. Local tax revenues, such as sales tax, transient occupancy tax, food and beverage experienced some solid gains in fiscal year 13 and staff believes that growth will continue, especially with the opening of new retail and hotel space. She added that state and federal revenues are not moving along at the same pace in their assumptions and believe that state revenues will increase only by about 1% per year, and federal revenues only slightly increasing.

Mr. Snow asked if state revenues included funding for schools. Ms. Allshouse responded that she was not addressing school funding in this information.

Mr. Boyd asked what the percentage growth in local revenue would be for 2013. Ms. Allshouse said she didn't have that overall figure with her.

Mr. Foley said staff could calculate that number for overall growth and get it to the Board in a few minutes.

Ms. Dittmar asked why the state is at 1%, but local and federal were about 2%. Ms. Allshouse said the state supports things like police and social services, and staff is not seeing any growth there right now.

Mr. Foley pointed out that these numbers, as a percent of total budget, are extremely small and are usually tied directly to an increase in a specific program, like social services, and the five-year plan pertains more to what the Board does have control over. He said what the Board is looking at today are General Fund revenues, which is where all the real estate taxes and personal property taxes go.

Ms. Allshouse said the plan presented on November 13 includes some revenue enhancements, and, in FY15, the plan incorporates water resource protection revenue over and above economic growth revenue and real estate revenue, and will support operating and capital costs.

Mr. Boyd asked how much money would that be. Ms. Allshouse said it's about \$1 million a year.

Ms. Allshouse reported that, in FY 16, the five-year plan assumes an additional penny on the tax rate which is to be dedicated solely to capital and, in FY18, the plan has an assumption of an additional penny on the tax rate dedicated to capital. Ms. Allshouse stated that the plan funds all required mandates, obligations and commitments, and does support the water resource protection mandate and capital program with the addition of those dedicated revenues, and does provide additional funding to the School Division per formula – an additional \$3.4 million in FY15. She said the plan provides operating funds to open the Northside Library and continues the reserves and financial policies to protect the County's Triple AAA-bond rating, as well as addressing some of the most critical health, safety and mandated capacity issues over the next five years. Ms. Allshouse said, during the recession, general government eliminated 66 positions and is slowly building back critical core services, with 33 public safety health and welfare positions returned –but there have been net losses in all other functional areas of County government. She stated that some examples of the County's capacity challenges include an 82% increase in the number of children in foster care between 2012-13, a 133% increase in the Comprehensive Services Act (CSA) caseload volume, a 29% increase in building maintenance, \$33 million in the fire/rescue fleet with no dedicated fleet management personnel, no dedicated crews for greenway maintenance, and a dedicated school resource officer at only one County middle school.

Mr. Boyd asked for clarification on the increase in foster care, and how many children that meant. Ms. Kathy Ralston, Director of Social Services, addressed the Board, stating that the low number was 62 children in foster care, and that increased to about 135 at the peak with the current level at about 125.

Ms. Allshouse said the plan presented on November 13th doesn't fully address core services and capital needs; the plan assumes there are no new school or local government capital projects; there is no revenue sharing for transportation built into capital; the plan doesn't address all of the workload-related needs or potential emerging capital needs or unfunded mandates which may be on the horizon; and the plan doesn't include additional funding for strategic planning goals such as ACE or parks or master plan implementation.

Mr. Rooker said, at the CIP committee meeting, two scenarios were approved and recommended to come to the Board – and one of those included a penny on the tax rate to address ACE, transportation revenue-sharing, and some school capital needs.

Ms. Allshouse said she would address Mr. Rooker's comments further into her presentation. She then provided a summary of what the School Division had presented for their five-year financial plan. She stated that school projections rely on enrollment and changes in demographics such as free and reduced lunch students, English as a Second Language students, special needs students, operational increases, salary increases to mirror the 2% local government market increases, and there was no funding for strategic initiatives. Ms. Allshouse said the School Division relayed to the Board that its fund balance is depleted, and its state and federal growth projections are also 1-2%. She stated that, while there are increases in local revenues, the schools anticipate shortfalls in all five years of its plan including a \$6.5 million deficit in the first year of the plan. Ms. Allshouse commented that there are some shared challenges for general government and schools, as both are faced with mandates and obligations, service demands, and unfunded capital needs.

Ms. Allshouse reported that the County is anticipating some savings with VRS from the large increases and localities, on average, would be paying a lower employer retirement contribution rate than previously provided by VRS as a planning number. She said the updated assumption is that the rate will be somewhere between the 15.59% planning number and the current rate of 13.99%, but those rates won't be officially provided until the end of December. Ms. Allshouse noted that the General Assembly becomes involved with the school rates, but general government's rates are provided directly from the VRS office. She said the other update received was on the composite index, and that number was provided to the schools as 0.6504% for 2014-16, which is the same as the current rate of 0.6502% and will have no material impact on funding from the state.

Ms. Allshouse provided a map of a geo-policing model, stating that the County is separated into two geographic districts – the Jefferson and the Blue Ridge – with each having four sectors, and having overlapping patrol coverage. She stated that this is a different model of policing which is more proactive, with officers becoming more familiar with their designated areas, and the department believes this will help increase their ability to respond. Ms. Allshouse said moving to the 10-hour shifts preferable for geo-policing would require five additional patrol officer positions and, based on the population estimates used to add officers, the plan would accomplish that level by FY16.

Police Chief Steve Sellers addressed the Board, stating that current levels are at 119 officers out of a total authorized number of 126.

Mr. Foley said the Police Department is working hard to meet the challenge of being fully staffed, as the more officers you have, the closer you can get to the numbers that make a difference.

Ms. Mallek asked if the department had been able to bring in more highly qualified people based on the enhancements given for people with special qualifications. Chief Sellers explained that what was authorized was the ability to enhance the salary of new people coming in with college degrees – 2.5% for

associate's degrees and 5% for bachelor's degree. He stated that, since the policy change, everyone he's hired has had either a bachelor's or master's degree.

Mr. Boyd asked when the County was last at full capacity for approved officers. Chief Sellers said it has not happened since he was hired, but that's typical for local departments – with attrition being an ongoing challenge. He stated that he continues to get close to maximum level, but then someone will retire. Chief Sellers said they are down pretty consistently and, as they increase the size of the police department, they increase the size of staff on the street.

Mr. Foley said it's a matter of keeping up with the turnover, and part of that is related to training.

Mr. Boyd asked if the salary increase approved wasn't enough to recruit police officers. Chief Sellers said it's hard to find officer candidates with clean backgrounds, adding that only about 2.6% of the people that apply are actually accepted.

Mr. Rooker asked how moving to 10-hour shifts would change things. Chief Sellers responded that it provides three more hours in a day of overlap which doesn't currently exist, and permits officers to do more community engagement such as attending community meetings and developing partnerships to deal with long-term crime issues. He said the department believes that, by modifying start and end times, based on some science provided by UVA from a staffing study, they can load up staffing at peak times to allow response time for priority one calls to decrease by about 6% across the board for response times. Chief Sellers stated that they hope the three hours will allow for more proactive policing in those extra amounts of time during the day, noting that repeat calls for service to the same address are a big problem.

Mr. Snow asked if this has the potential to reduce overtime. Chief Sellers said it definitely has that potential, and 42% of overtime is contractual for things like ball games at schools and the University; with 44% of overtime related to officers being required to come back to work because there aren't enough officers on the street. He said the smallest third comes from grants, with three types of grants expended for overtime – DMV grants to enforce traffic laws, a VCU grant for DUI enforcement, and federal monies to do community policing. Chief Sellers said almost all of their community policing currently is done with that small amount of grant money, and they are hoping to move that into regular time rather than overtime.

Ms. Dittmar asked if the new auxiliary force would help with overtime. Chief Sellers said it will help free up regular paid officers' time for things such as routine patrols.

Mr. Rooker asked if the five additional patrol officer positions assumes there is staff up to fully authorized levels. Chief Sellers said it doesn't assume full staffing, so calculations are based on what they typically have, and true staffing is expected to go up by five additional officers.

Mr. Foley said the police force is roughly 27 officers behind what it should be for the population standard, adding that 18 officers would get them to phase two of geo-policing. He stated that staff would like to change the language and goal of this to be more focused on the type of police work the chief feels they need to have in the community, so they would like to pull the population measure out because it doesn't have a lot of meaning in terms of safety, etc. Mr. Foley said the five-year plan, based on the population growth as projected, would not get the department to the first goal of the 10-hour shift until the second year, even though they would be meeting the growth in population target.

Mr. Rooker said there is a spread of seven officers, and asked if they budget based upon what's fully authorized – with the assumption they will have 127 officers next year.

Mr. Foley said they've never done it that way, and the Board directed staff to at least keep up with the growth of population in the five-year plan.

Mr. Rooker said his question was related more to salary lapse.

Ms. Allshouse said staff takes the budget and reduces it by the amount of attrition lapse, as they do with all large departments, so that attrition figure is budgeted at the level of about half of what the gap usually is.

Ms. Allshouse stated that this is planned in phases and, to fully implement phase two of the geo-policing model, the department would need to add 18 sworn officer positions over the next three years. Ms. Allshouse said four of the 18 would be school resource officers, increasing that number from five to nine; and 14 of the 18 would be patrol officers.

Mr. Boyd asked how much that equated to in actual dollars. Ms. Allshouse and Mr. Foley said that they usually budget it at about \$75,000 per officer, but there is an additional \$25,000 in the first year for start-up.

Mr. Boyd said he has mentioned before his concern about committing \$4 million to nonprofits, and he supports gradually shifting some of that money over to the police department – as that is much more of a core service. He stated that nonprofit contributions have increased 119% over 15 years, and he would like to see a gradual decrease in that spending.

Ms. Mallek pointed out that there's a huge multiplier with those contributions though, as those organizations bring in lots of outside money for the community.

Mr. Rooker said that is really a budget decision, pointing out that Mr. Boyd is making a general statement which cannot be quantified without specific numbers.

Mr. Boyd said staff is planning for a 2% increase in nonprofit expenditures over the next five-year period, which is a substantial figure unto itself.

Mr. Foley said the Board could certainly set a target for a group of expenditures, but eventually the Board would have to make a decision about which ones to cut. He stated that, as they move forward with the five-year plan, it would be helpful to have direction from a majority of the Board.

Mr. Rooker said Mr. Boyd has brought this up before and didn't have majority support of the Board and, in order to make those kinds of cuts, they would need to evaluate which agencies to cut.

Mr. Boyd said the ABRT makes those decisions based on a total amount for the budget.

Ms. Dittmar asked when the next Board retreat would be held where they would talk about values and priorities. Mr. Foley said the next retreat is scheduled for June 2014; however, staff would like to have some of this discussion to feed into a five-year plan.

Ms. Dittmar asked if the values of the Board were reflected in the current five-year plan. Ms. Mallek said those were crafted primarily from the strategic planning retreat last August.

Mr. Foley said those values have been informing the five-year plan, but the issue of geo-policing has been looming for a while with discussion revolving around whether it's an issue of allocating additional resources or reducing other areas and shifting priorities.

Mr. Boyd said he thought it was important to bring it up at this time because the only thing in the proposed five-year plan is for three police officers.

Mr. Foley said that would happen by the second year.

Ms. Allshouse clarified that 12 additional patrol officers over the next five years were included in the five-year plan.

Mr. Boyd said he would be willing to propose including the second bullet item in a shorter period of time, over the next five years.

Mr. Snow said he would support that.

Mr. Rooker said the plan would not balance if that were done.

Mr. Boyd said he thought the Board needed to shift resources out of the nonprofits.

Mr. Rooker said, in all the years of budgeting that he's seen, any of the cuts to nonprofits end up usually being restored – and agencies like JABA end up doing a tremendous amount of work for seniors with a miniscule contribution from the County, and other localities end up spending millions out of their government budgets for those same services.

Mr. Snow said this discussion wasn't assigning dollars to anything at this point.

Mr. Rooker said the five-year financial plan is all about dollars, and the only way to generate the kind of revenue needed for the police officers under this scenario would be another tax increase.

Mr. Foley said these are the right discussions to have about priorities and, if the Board wants to look at those types of things, it can do so at the work session the following week – with the actual cost of nonprofit funding and the cost of funding the additional officers provided at that time.

Ms. Mallek said the Board has looked at it carefully every year, and a lot of those agencies provide the kinds of services which prevent a lot of police action.

Mr. Boyd said he would like to see those numbers.

Other Board members agreed to look at the numbers.

Mr. Foley said staff would bring the information forward at the work session the following week.

Ms. Allshouse reported that there were a few policy questions for more discussion, including the state of the CIP and the water resources protection mandate.

Ms. Allshouse reported that the County received about \$300 million in CIP requests for FY15-19, and the five-year financial plan includes dedicated revenues for capital; in FY15, the capital program includes water resource protection revenues, which support both capital and operating costs of the water resource protection mandates. She said, in FY16, there's an additional penny on the tax rate that would go into the capital program; and, in FY18, there's an additional penny on the tax rate for capital. Ms. Allshouse said, without additional dedicated revenues, the capital plan could only provide for fire

apparatus, school bus replacement purchases, and partial maintenance of school and local government buildings.

Ms. Allshouse said the CIP Oversight Committee completed its work on November 25, and the Board will have a joint capital plan work session with the School Board on December 12. She said the Oversight committee completed its process and established two scenarios, with the second being their recommendation. Ms. Allshouse said, under the first scenario, the total CIP is \$163 million over five years and includes the bulleted items as previously discussed, with the maintenance and replacement needs for schools and general government funded, ECC and radio dispatch requirements funded, dam repair and water resource mandate requirements, school bus replacements, school safety upgrades, court upgrades, the firing range, solid waste convenience centers, and Pantops fire/rescue substation.

Mr. Foley pointed out that is the originally proposed five-year plan for CIP.

Ms. Allshouse said the second scenario totals \$182 million and begins with everything in the first scenario but adds funding for the Henley gymnasium addition, transportation revenue sharing and ACE by including an additional penny on the tax rate for FY15, dedicating 2/3 of it for revenue sharing and 1/3 for the ACE program. She stated the second scenario also increases the amount of borrowing and picks up the Henley gym addition.

Mr. Rooker said the increased borrowing is basically tied to the Henley addition.

Ms. Mallek said it's well within all of the parameters for borrowing.

Ms. Allshouse agreed.

Mr. Boyd asked what the difference would be in operating costs for these items, because the Board needs to look carefully at the impact of the capital plan on those expenses. Ms. Mallek explained that there are 800 students at a school which was designed for 650, so half of them sit out at P.E. because there is no space for them to have it.

Mr. Rooker said there should be considerations for operating costs for every capital item, and the other two things don't have any impact on operating costs. He said the CIP Oversight Committee came to the conclusion that they should plan for the transportation revenue-sharing item and also for ACE, rather than scrambling around at the end of the year to try to find the money.

Mr. Foley said, under scenario A, all operating expenses of capital are funded; under scenario B, there are no operating cost increases for revenue sharing or ACE and, with the Henley addition, there are no increased operating expenses because the Board allocates to the schools on a split, not for specific budget items.

Ms. Allshouse stated that the policy questions are whether the Board agrees with the plan's assumptions regarding additional dedicated revenues, and also to consider the Oversight Committee's recommendation of the second scenario.

Mr. Foley said another way of saying that is whether the Board is comfortable with adopting the CIP with two pennies in it, or supporting the CIP committee's recommendation of three pennies – or neither.

Ms. Mallek said, for budgeting purposes, having seen the length of the list that isn't even touched, she believed this is the responsible way to go forward for the discussion that will be starting in January.

Mr. Snow said he would like to see the overall additional dollars coming in and compare that with budgeted amounts, rather than just having percentages. He stated that, over the last four years, they've had zero dollars in the CIP yet they've been able to set money aside for the firing range, the Ivy and Seminole fire stations, etc., and that's why he wants to see the actual numbers.

Mr. Foley said it would be no problem for staff to provide that information, and he would like to also include information about how they were able to fund the library and the fire stations – because those were supported with balances and one-time monies pulled from other places. He stated that it's still a legitimate way to go, but they still need to know what wasn't funded during that period of time so the Board can have the whole picture.

Mr. Snow said, with the improving economy, they should see more revenue coming in.

Mr. Foley stated that it's important to include the big picture and the bottom lines, because the extra revenue was 2.7% in the general fund – which was about \$6 million – but that increase was eroded by things like VRS and other mandates.

Mr. Snow said that's why he would like to see the actual numbers.

Mr. Boyd said the 2.5% increase in real estate each year would end up being cumulative, and asked if that would mean adding \$30 million over five years in revenue.

Mr. Foley said, in the simplest way, he would respond "yes," and that additional money in the plan has gone to fund three police officers in the first year, two officers in the second year, and a foster care worker – and those are the expenditure assumptions that eat up the extra dollars every year. He stated

that the question is whether the County is doing a bunch of fancy things, or doing things just to keep up that may not even be fully addressing capacity issues.

Mr. Snow said what the Board has been looking at doesn't give information about comparing income with new expenditures.

Mr. Foley said it does include that information, but perhaps not in the simplest way.

Mr. Rooker said they receive all of that information in the budget process and also with the five-year plan, adding that staff runs a model which shows how a penny on the tax rate might impact the budget.

Ms. Allshouse stated that the Board has also been having lots of discussion on the water resources mandate, which affects both the Community Development area and the General Services area on the operating side of the budget. She said Community Development fees in FY15 would fund a 1.5 FTE inspector, one engineer, and one office associate, with two additional inspectors in the out years; and those costs would be 100% offset by fees, with the assumption built into the model. Ms. Allshouse stated that other dedicated revenue would fund capital – the Hollymead Dam, the TMDL projects built into the capital program, operating costs to include a civil engineer and inspector in January 2015. She added that, in the out years, there would be one additional civil engineer and it would also support existing water resource staff.

Mr. Foley said Mr. Boyd had asked earlier how much the fees were, and the amount is about \$1 million – which funds those items related to the mandates.

Mr. Rooker said this proposal meets state requirements, but not at a higher level.

Mr. Foley confirmed that they were proposing the minimum level of increases to meet mandates.

Ms. Mallek asked if they were subtracting the 23% which DEQ would pull out of their fees.

Mr. Foley said that they were.

Mr. Boyd asked when the Board would be talking about the stormwater management fee and how it would be structured. Mr. Foley said staff would bring that issue forward in January.

Ms. Allshouse presented a slide showing four revenue options: establishing stormwater fees, stormwater districts, raising the tax rate to support the water resources mandate, or reducing funding to other programs and services to fund the mandate. She said the key question for the Board is whether it agrees with the plan's assumption that all costs for the water resource protection mandate are covered by an additional dedicated revenue source.

Mr. Foley stated that the Board would have a work session in January regarding its direction about the right way to fund it, adding that the Board would have to cut \$1 million from other programs if it proceeded with a new revenue source. He said the Board fundamentally needs to decide whether there should be another dedicated source of revenue, or whether there are programs and services which should be cut to balance it.

Ms. Mallek said the fee is the most fair to all citizens, and constituents at community meetings have indicated to her a preference for more impact-related decisions rather than a blanket charge to everyone whether they're involved or not. She said the fee for square foot of impervious surface would draw a better connection to impact and would be better received by the citizenry than just jacking up the tax rate.

Mr. Rooker said this is basically a federal mandate handed down to the state to clean up the Chesapeake Bay which the state subsequently passed on to localities, and one way to make citizens aware that it's tied to a state mandate is to separate it out from the regular tax rate. He stated that it's a better way for the citizenry to understand that, when mandates come down, there is a cost.

Ms. Dittmar said she looks forward to seeing the research as far as how other localities deal with this, and she agrees that it's important to convey to citizens that the County is responding to a mandate.

Mr. Boyd said Mr. Graham's recent presentation indicated that the biggest amount of pollutants actually come from agricultural areas, but they would be least impacted by impervious surface tax.

Mr. Rooker agreed, but said that the means by which they must implement the programs are in the urban areas – and what they're basically saying is that they're not imposing any requirements in the rural areas so they're not incurring a cost out there.

Ms. Mallek said the model for the bay involves fencing livestock out of streams, and the rural areas must get up to par so there can be trading to get the lower dollar investments.

Mr. Foley said the plan addresses the minimum needs for inspections, which are really driven by urban areas and, in the future, the Board will have to decide if it wants a higher level of service and how that might be paid for.

Mr. Rooker said, as Mr. Graham's presentation indicated, the way the program is being implemented isn't going to work because they're imposing costly requirements in the more urban areas where most of the pollutants aren't created in the first place, and you don't get the highest return on investment in trying to reduce them.

Ms. Mallek stated that rooftops do generate pollutants, but the sediment is what Mr. Graham was referring to.

Mr. Rooker commented that there is a lot of phosphorous in fertilizer.

Mr. Foley said agricultural uses have a greater impact on streams than urban uses, and the Board would be exploring that further in its January work session. He stated that this is going to have to be phased over time, and what staff has provided is the first step – but even that will require another \$1 million, and a decision will need to be made about extra resources.

Mr. Boyd said he would like to know the process and administrative costs of setting up impact fees and ordinance changes and stormwater districts, because it would be a lot easier to just add a penny on the tax rate.

Mr. Rooker agreed that there would be an ongoing administrative expense associated with a stormwater district based on impervious surface.

Mr. Foley said staff would try to estimate as closely as possible how much it would cost to manage that for the Board's discussion the following week.

Ms. Allshouse asked if the Board had any recommended changes to the assumptions in the plan which they haven't discussed.

Mr. Rooker said the Board has spent a fair amount of time going over this in previous meetings, and it looks like a good plan to him – with a few decisions needing to be made based on the information scheduled to be brought back.

Mr. Foley clarified that the three major items were stormwater, capital, and geo-policing – and the big issue staff raised was the capacity of the organization overall, which will be a continuing challenge under the current scenarios.

Ms. Mallek said there's a very long list of items related to capacity which haven't made the priority cut-off yet.

Ms. Allshouse mentioned that the Board would have a work session on December 11, with the joint School Board discussion on the Capital Program scheduled for December 12.

Agenda Item No. 23. From the Board: Committee Reports and Matters Not Listed on the Agenda.

Mr. Rooker said Mr. John Martin had raised an issue regarding a conversation with a legislator outside of the legislative meeting, and he feels that if any Board member or Board members are pursuing legislators to support legislation which would affect the County in any way, it should be brought to the full Board's attention – especially when the Board is already having an open meeting with legislators for those issues.

Mr. Snow said Mr. Martin had posed that question to him and explained that Senator Reeves had simply asked him about the bypass but he told him he didn't have any additional information.

Mr. Boyd said he had the same conversation with Senator Reeves, which simply included a question about the status of the bypass.

Mr. Rooker said he appreciated knowing that Board members were not having conversations about specific legislation outside of the meeting.

Mr. Snow said Supervisors have a right to discuss anything with anyone, including legislators, without having to come back to the Board and report about it.

Mr. Rooker said, if there's a legislative meeting, then it may not be appropriate for individual Board members to propose specific legislation separately – but Mr. Snow said that didn't happen, so it's a moot point.

Agenda Item No. 24. From the County Executive: Report on Matters Not Listed on the Agenda.

Mr. Foley stated that, on January 8, 2014, the Board meeting would include a public hearing on two options for the solid waste convenience site, limited to the original Keene site and the Mill Creek site. He said staff would have additional information distributed to the public, and the hearing would be on the same night as the Board's regular day meeting because of the timing of the January calendar.

Mr. Foley recognized County staff for achieving a triple AAA-bond rating, which is a testament to the management of the County's finances and the Board's approach to financial management. He said he, Bill Letteri, and Betty Burrell traveled to New York several weeks earlier to present to all three rating agencies – S&P, Moody's and Fitch – with the main purpose of securing financing for the latest capital financing. Mr. Foley said this rating is a reflection of the work of current staff but also past finance staff members such as Bob Tucker, Roxanne White, and Bryan Elliott.

Mr. Foley said he also wanted to recognize the work of the Police Department and regional partners in getting a \$3 million grant for the firing range, which is a great success.

Mr. Foley stated that, in January, they would be talking about an aggressive and significant schedule of meetings relating to important decisions which need to be made on water resources, the firing range, solid waste site and the comprehensive plan, etc. – and he would continue to distribute his bi-monthly updates via email.

Agenda Item No. 25. Adjourn to December 11, 2013, 4:00 p.m., if needed.

At 4:28 p.m., Mr. Rooker **moved** to adjourn to December 11, 2013 at 4:00 p.m. in Lane Auditorium. Mr. Boyd **seconded** the motion.

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

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

NAYS: None.

Chairman

Approved by Board
Date: 08/06/2014
Initials: EWJ