An adjourned meeting of the Board of Supervisors of Albemarle County, Virginia, was held on July 8, 2014, at 5:00 p.m., Room 241, County Office Building, McIntire Road, Charlottesville, Virginia. The meeting was adjourned from July 2, 2014.

PRESENT: Mr. Kenneth C. Boyd, Ms. Jane D. Dittmar, Ms. Ann Mallek, Ms. Diantha H. McKeel, Ms. Liz A. Palmer and Mr. Brad L. Sheffield (arrived at 5:16 p.m.).

ABSENT: None.

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

Agenda Item No. 1. Call to Order. At 5:00 p.m., the Chair, Ms. Dittmar, called the Board of Supervisors to order.

Agenda Item No. 2. Joint Meeting with Planning Commission.

PLANNING COMMISSION MEMBERS PRESENT: Mr. Bruce Dotson, Ms. Karen Firehock, Mr. J. Timothy Keller, Mr. Russell "Mac" Lafferty, Mr. Thomas Loach, Mr. Calvin Morris, Mr. Richard Randolph, and Ms. Julia Monteith, Senior Land Use Planner for the University of Virginia.

At 5:01 p.m., Mr. Morris called the Planning Commission to order.

Board members and Planning Commission members introduced themselves.

Item No. 2a. Discussion of Cash Proffer Policy.

The following executive summary was forwarded to Board members:

On April 2, 2014, the Board directed staff to hold a roundtable to receive comments from the public on the Cash Proffer Policy, to conduct background research on the practice of other localities, and to assemble data for Fiscal Impact Advisory Committee (FIAC) calculations. Staff has completed these tasks and is presenting this information to the Board and Planning Commission at this joint meeting. Staff will request guidance from the Board on how to proceed after the Board and the Commission have reviewed this information. The purpose of the Cash Proffer Policy in 2007 was to accept cash contributions from a developer to address the impacts on public facilities for schools, transportation, parks, libraries, and public safety resulting from a rezoning of property for residential use. The amount of the cash proffer is intended to be the proportional value of the public facilities deemed necessary to serve the proposed residential development on the rezoned property. Prior to 2007, this impact on public facilities was determined on a case-by-case basis. The Cash Proffer Policy addressed concerns of the development community and the County that the case-by-case approach for developing acceptable proffers was too lengthy and created uncertainty for developers in their financial planning for projects.

Staff conducted a roundtable on May 15, 2014. The invitees included those members of the public who had been involved in a rezoning since 2007 and those who had expressed an interest or who were likely to have an interest in the County's cash proffer policy. In addition, notice of the meeting was distributed by A-Mail. Attachment C provides a summary of public comments made at the roundtable and Attachment D provides staff's summary of the roundtable discussion. The public provided a broad range of input on the cash proffer policy, ranging from expanding the cash proffer policy to eliminating the policy completely. There was no clear consensus in the comments received.

Staff's research on other Virginia localities' approach to cash proffers also failed to provide a clear consensus (see Attachment G). Most localities either make no use of cash proffers or are not enabled to accept cash proffers. The localities enabled to accept cash proffers but which show little or no cash proffer revenue collected or pledged either may have had no or few rezonings, or as a matter of policy do not desire to have new residential development address impacts on public facilities through cash proffers. A few localities, including some of Albemarle County's peer localities, have made extensive use of cash proffers. Staff's only conclusion is that cash proffers are one tool available to localities to provide funds for capital improvements. How localities use this tool is a political decision that is based on the circumstances and needs of each locality. No clear evidence exists that any particular policy approach is better than another.

Based on the public input received at the roundtable, staff identified three distinct options for the Board to consider as to how to proceed, but does not believe any of these are clearly preferred by the community. Those options are:

1. Limited changes to current policy – The changes to be considered under this option would be limited to recalculating the maximum proffer amounts and revising the policy to allow full credit for by-right development that is possible on the property. The Board allowed such a credit for a rezoning it approved on December 11, 2013.

These limited changes would require the FIAC to calculate new, lower, maximum proffer amounts, and would address the concerns raised at the roundtable that the amounts are too high. Adjustments to the formula for calculating maximum proffer amounts would have to be made. This would be the quickest and easiest option to implement, and a revised policy could be considered by the Planning Commission and the Board this Fall.

2. Broader changes to current policy – The changes to be considered under this option would include the limited changes discussed in #1, above, as well as additional policy changes for credits (see Attachment E, section 6), adjustments, or both. If this option is chosen, staff requests Board direction on specific parts of the policy to be considered for revision to assure a comprehensive review. Staff estimates that this approach would extend the completion date of its work to January 1, 2015.
3. New approach - Some who commented at the roundtable believe the current policy should be eliminated and replaced with either a case-by-case evaluation of a proposed rezoning's impacts, without the guidance of a cash proffer policy, or alternative funding approaches, such as increasing the real property tax rate. This "new" case-by-case approach is substantially the approach that was used by the County prior to the adoption of the Proffer Policy in 2007. Staff anticipates that extensive research and analysis would be required to best implement a new case-by-case evaluation process that is efficient, ensures that impacts will be appropriately addressed, and assures that any proffers will satisfy the statutory and constitutional requirement that they be reasonable.

Staff believes that deciding how to proceed ultimately becomes a question of which approach bests balances the community interests. For this reason, staff believes the Board may find it necessary to establish a task force that considers all of the options and provides the Board a recommendation. Depending on the Board's direction on the best approach forward, it is anticipated that significant staff resources may be needed in 2015 and/or would likely require delaying work on several other Comprehensive Plan priorities.

Once the Board determines which option it wants to pursue, staff will further research and calculate the budget impact related to that option and will present it at a future Board meeting. Cash proffers are currently a valuable source of revenue to address impacts on public facilities resulting from development, and they support the funding of important and needed capital improvements that would otherwise be funded through general tax revenue. Cash proffer revenue for needed capital improvements builds capacity in the CIP by freeing up funding for other projects.

After review of the public input and staff supplied information, staff requests that the Board provide direction on its preferred option for proceeding.

_____

Mr. Bill Fritz, Chief of Special Projects, addressed the Board and the Commission, stating that the meeting is the result of a Resolution of Intent the Board adopted in April to review and update the cash proffer policy for public facilities, including credits and other issues identified during a public study process. During this meeting, he said, it is hoped that the Board would reach some kind of consensus and provide some direction to the Planning Commission and staff for the next steps in the cash proffer policy.

Mr. Fritz reported that staff believes the County has been accepting cash proffers since 1993, but may have been accepting them since 1991 – and there has been a cash proffer policy since 2007. In the time that they have had the policy things have been extremely volatile, he said, and it is difficult to make interpretation of the impacts and those interpretations are subject to assumptions and conjecture. He stated that the reason the County developed a cash proffer policy was in part a response to the development community's request to insert certainty and equity into the review process. The policy was seen as a way to more efficiently address the impacts and to ensure that all the applicants were being treated in a like manner. He said that Albemarle followed the lead of other localities in the state and attempted to address the impact of new development in five general areas: schools, transportation, parks, libraries and public safety. Criteria for credit were also established. Mr. Fritz said that affordable housing is not part of the cash proffer policy, but credit is given for affordable housing that is constructed; cash paid in lieu of providing affordable housing does not result in a credit. The affordable housing policy predates the cash proffer policy by about two years. He stated that one of the things the Board directed staff to do was to compare the County with other localities, which is a tool used by some localities to address the impacts of rezonings. Mr. Fritz stated that most localities either make no use of cash proffers or are not enabled to accept them. Of the 21 localities in the Coalition of High Growth Communities, all but three were receiving cash proffers in the last two years.

Mr. Fritz said that the result of the work done to date has led staff to identify three options. In May, he said, a roundtable was held and the County invited interested parties and those who had been part of a rezoning application since 2007. At the meeting, he said, staff asked a series of questions – and Attachment C (copy on file) provides a summary of comments made during the roundtable. He summarized that no consensus opinion exists on many of the questions asked. Mr. Fritz stated that they looked at what facilities would be included in calculating the costs, and there was no consensus on the list of revising those facilities. Mr. Fritz said they asked questions about the cash proffer for credits, and how applying credits can be complicated especially for things that are subjective such as small infill developments, the impacts of mixed development, and what a "substantial upgrade" is. Mr. Fritz said that in the Attachment C, a wide range of issues was identified that were outside the questions asked, and the comments ranged from relatively small changes such as reviewing credits, to elimination of the policy completely – even how impacts were calculated was discussed. He stated that one thing that was consistent during the roundtable discussion was the concept that the County does need to find a mechanism to fund the improvements necessary to serve the community.

Mr. Fritz said that the options for action are: limited changes to the current policy, which would be the easiest and quickest option to implement, and has been previously recommended by staff. It essentially maintains the existing policy, only updating it for new numbers, and implementing previous decisions by the Board for credits. He said that this option would also allow the County to gather additional data on the cash proffer policy, and the Board could then revisit the policy at a future date.

Mr. Fritz stated that option two included everything just discussed, but also substantial work by staff and the Planning Commission to implement Board-directed changes, which means additional time would be required to complete those. If the Board selects this option, he said, it would need to provide clear guidance on the types of changes desired and the limits to the changes it wants the staff and the Planning Commission to follow.

Mr. Fritz said that the final option would be to reevaluate the policy in its entirety. This option could place the entire cash proffer policy on the table; the Board could limit the discussion or allow for unlimited discussion, and the timeframe to implement this change is difficult to state without guidance from the Board on the scope of the analysis. He said that the broader a range of options to consider, the longer the review time.

Mr. Fritz said that in conclusion, staff has identified those three options and requests that the Board provide guidance to the Planning Commission and staff so that the goals of the Board may be implemented.

Ms. Dittmar asked if there are questions or requests for clarifications for Mr. Fritz.

Ms. Mallek stated that a developer had offered to send some additional information after the roundtable, and wondered if it had been submitted. Mr. Fritz said that it would have been in the materials sent to them by Ms. Jordan, and Mr. Graham can provide an analysis of the pro-forma.

Mr. Mark Graham, Director of Community Development, reported that Mr. Vito Cetta had submitted a pro-forma on a property in Crozet that he was considering for development, a property that has an existing veterinarian's office that would remain onsite. He said that Mr. Cetta's information shows that if the property sold at or near the assessed price, the cash proffer policy could work and still provide a reasonable rate of return on the property; if the property sold at higher than the County's assessed value, the project was not going to work for him. Mr. Graham said that it really drove home the point that the sales price of a property impacts the cash proffer feasibility. Mr. Graham said that his perspective is that the cash proffer policy would work – but could be a challenge in instances where property value are high.

Ms. Mallek said that aligns with what they have heard from other developers that the cash proffers caused a devaluation, which meant they cannot be sold at the higher prices to make them work.

Mr. Graham said that this underscores a point staff had raised last November, when they suggested waiting a couple years because they are just coming out of a severe recession and do not yet understand how the market has adjusted to this. He pointed out that they have seen developments that had cash proffers were developing. Staff did not see that it was properties from development just because it had cash proffers – but there is not enough information to understand those impacts.

Ms. Palmer asked how staff would figure that out and what would inform their analysis. Mr. Graham said that staff would look for a couple more years of data for residential development, and look to see if the market appears to be avoiding a rezoning of property to develop – choosing the by-right option instead – and how often that was happening. He stated that they would also look at properties choosing to go through the rezoning process, and what they were using to make the projects work – credits or additional density.

Ms. Palmer asked if they would then compare that with what occurred prior to the recession. Mr. Graham said that they would not use that data because the market volatility was an anomaly, and they would not see that kind of market activity for a long time. All they can do is provide as much data as they can on the patterns of rezoning and use of proffers.

Ms. Mallek said that there have been about a half dozen in each category over the last year or more. Mr. Graham responded that that is correct.

Mr. Randolph stated that what was presented by Mr. Fritz provides a "bureaucratic grid" of looking at the impact to the County of different options, and while it was one way of looking at it, the question he sees relates to meeting the needs that are identified in the CIP. He said that currently the cash proffers provide about $2 million for the CIP, and they need to consider how to help fund it over a five-year basis if it is not going to be funded through cash proffers. Mr. Randolph said that they needed to consider how to make larger-scale growth help cover the higher costs of infrastructure and County operations that result from that growth. He emphasized that they need to be focused on that question rather than the structural issues of what this would mean for staff.

(**Note:** Mr. Sheffield arrived at 5:16 p.m.)

Ms. Palmer said that she feels they need to actually go back a step and have a discussion of what their goals are, and to determine whether the goal is to pay for capital, fairness to developers, etc.

Ms. Monteith said that she would actually go a step farther than that, because the staff report tells them the “what” but not the “why.” She said that for her to understand what they are trying to get out of this as a group, it would be helpful to know why the Board directed staff in April 2014 to evaluate this. Ms. Monteith stated that it was also fairly significant to her that there was no consensus on any of the community roundtable items.

Ms. Mallek explained that they have been talking about looking at the policy for several years because there have been some applications over the last few years where it seemed appropriate to the majority on the Board that making a credit or a change, which is within their current policy. She said that she would like to look at the proffer policy as a whole – rather than project by project – as there is great resentment when rules are not applied evenly.

Mr. Boyd said that his thought was they were “nibbling at the edges” of the proffer policy, and felt that it was counter-productive to their growth management plan in that they were having by-right development instead of the density they were hoping to get, i.e., Dunlora Forest. The Board heard anecdotally that the reason was because developers did not want to go through the proffer policy, and the cost was becoming too high of an amount at $21,000 for a single-family dwelling. He added that the developer is just going to pass that cost on to the purchaser of the home.

Ms. Palmer said that her understanding was that there was a decision made by the Board last year, regarding the proffer policy as written in 2007, to exempt single-family units from having to pay the cash proffer, and the policy was to have the by-right units also pay the cash proffer.

Mr. Boyd said that was part of the disagreement, as it was unclear as to whether they could give credit for the by-right numbers. Some Supervisors felt the language was pretty vague, with arguments from developers that it did allow them to give credit.

Ms. Mallek said that the County Attorney said that as well.

Mr. Boyd said that the uncertainty was enough to make them want to bring it back up, and there was a lot of thought given as to whether the considerations should be a 10 year or a 5 year projected costs.

Ms. Dittmar said that the issues of concern are fairness or consistency, legally defensible exceptions, credit for by-right units, and unintended consequences that may be impacting the County’s growth management policy. She stated that the timing for reviewing the policy is good because of the current Comp Plan review.

Ms. Mallek added that when they are looking at places that have a high priority area, should there be a different application in that location in order to encourage development there and use it as an incentive, as opposed to location of a green field.

Ms. Palmer said that is something they may want to include in the policy, because it is not in there now.

Mr. Boyd reported that Mr. Dotson served on the original development review task force that spurned the proffer discussion, and that is where the issue of fairness arose because one developer might come up with a $2,000 cash proffer amount whereas another might end up with $8,000.

Ms. McKeel said that predictability is what she keeps hearing as a desired outcome.

Mr. Randolph reported that Loudoun County has set up a means whereby as they develop into rural property, they have an entire different scheme of cash proffers that are applicable because they know the infrastructure impacts will be so considerable in terms of fire, police, education, health and human services. He stated that they are essentially trying to ensure those new developments do not burden the rest of tax payers, who are likely already paying a significant amount. Mr. Randolph said that this could potentially allow for certain sectors of the community to have financial incentives through proffers to try to attract development but also make it more difficult in that area, to try to recoup some of those expenses. He stated that Loudoun has also permitted a policy whereby when you develop on a certain amount of acres beyond what you are permitted to do in a rural area, you are able to count the development units by-right and not pay proffers on that. Mr. Randolph said that the Planning Commission felt it was fair and equitable to do that, which is one of the reasons why that was included as a policy preference – and he would support that going forward because it seems to be fair and equitable, and does not penalize a landowner who could already by-right develop four units.

Ms. Palmer said that it is voluntary.

Ms. Mallek said that the choice is whether you want to rezone or not. In 2007, when she was campaigning door to door, there were people who were tired of paying for new developments and residents. The idea of proffers is for new residents to “pay in” to support the investors that prior residents have already paid.

Ms. Dittmar said that another point that had been raised was residents simply moving into larger homes or retirees moving from a larger home to something new, and there was concern about consistency. While they will not be able to craft a perfect policy, they may be able to address some of the unintended consequences. She added that they have not really talked about the goal.

Ms. Palmer agreed, stating that she gets the consistency and fairness issue, and said that when they talk about it not being “fair” to charge for the by-right housing, it is confusing to her because it seems as if they are dictating developer profits. She emphasized that if the goal of the cash proffers is to pay for infrastructure or support the growth management plan, they need to look at the data to see if it actually is having that effect – and they really need to know that before they change the policy.

Ms. Mallek said that is the Pandora’s box the Board opened twice the previous year, and it is fair to assume that others will expect it also.

Ms. Palmer said that rezoning is totally discretionary, and the cash proffer policy is a voluntary program.

Mr. Sheffield said there are two types of rezoning: rezoning for higher density, and rezoning for a change in use on the property, so there is a different incentive when going for infill.

Ms. Firehock said that the purpose of a proffer is to offset the impacts of a different type of development than what was originally anticipated. For the things that are by-right, the County has already planned and paid for. She sees a conflict because on the one hand the County wants to have people move into the growth area, and people are moving to Albemarle because it is a special place – and they are not going to not move here because of the growth area. She said that the County needs to decide whether it wants to incentivize more development in the growth area by not requiring proffers there. She stated that the question is what the higher goal is, and they could also impose proffers based on the impacts of that particular development, not have just a straight cash formula.

Ms. Palmer said that her issue is they do not have that data now.

Ms. Mallek stated that she does not think they are ever going to have it, and it will be misery for another two years if they wait for some mythical data to appear.

Mr. Boyd said they had that conversation a year ago and agreed to put it off.

Ms. Mallek said there were a number of projects that have not happened for that reason.

Ms. Palmer said they are not going to get consistent data in a recession.

Ms. Mallek said this could be a way to help them pull out of it, because banking will never be the same as it was prior to the recession. She stated that they need to adjust if they want things to happen. Banks will always fund residential development because they can find someone to buy those houses. Ms. Mallek said that it is difficult to get job creation and small business investments. The Crozet Community Advisory Council has discussed the possibility of waiving proffers on residential units in mixed-use developments because of the financing challenges.

Ms. Palmer emphasized that that’s a perfect example of the proffer policy supporting their growth management policy.

Ms. Mallek said she would not support that out in a greenfield because she does not want people to go to the greenfields.

Ms. Mallek then mentioned that Foothills went by-right, so the County lost the school site that had been in the original plan for rezoning.

Ms. Dittmar reviewed the goals mentioned: encourage mixed use in appropriate areas, support the CIP, recoup incentives such as Loudoun does, waive proffers to encourage certain kinds of behavior, support growth management policy, and pull out of recession if possible.

Ms. Firehock noted that they will have to pay for development if it is pushed out to the rural area, but they will pay more per unit in infrastructure costs than you would if it went into the growth area – so you cannot just look at the input of the cash, you have to look at the output of the expenses to the County over multiple decades.

Mr. Keller asked if it is disincentive now, could it be flipped and put this on development in the rural areas. Mr. Boyd and Ms. Mallek said that you cannot, because they are only allowed to do it on rezonings.

Mr. Keller asked about real estate transfer fees. Ms. Mallek said they are maxed out on those already. Mr. Keller asked if they could charge two percent on every house sale. Mr. Davis said they don't have enabling authority to do that.

Mr. Keller asked if it is conceivable to get that through the legislature in the future, since they are not providing funding back to localities.

Mr. Davis said that he cannot predict the future, but the past indicates that instead of giving localities more authority regarding proffers, over the past 10 to 15 years, the legislature has taken that authority away and have restricted how proffers can be utilized. He said that he does not see that changing in the current General Assembly, as there is a very strong lobby of homebuilders that have influence over this discussion. Mr. Davis stated that in the late 1980s when they first obtained authority to have cash proffers, Albemarle's policy was not to accept them, and while he was in James City County government they looked at that as being "odd." He said that he spoke with Planning Director John Horn at the time, who explained that the idea was they did not want to create a disincentive for people locating in the growth areas – and Albemarle had the same strong growth area concept they have today. Mr. Davis stated that through the early 1990s up until the 2000s, as the developments started coming forward, there were impacts being identified from the different developments – and every time they dealt with a rezoning, Board and staff identified the impacts, and developers addressed them because they wanted approval to move forward. He said that developers were basically offering cash proffers to try to address the impacts of developments, which is what they are intended to do, and developers like those at Biscuit Run indicated a "multiplier effect" in the value of their property when it was rezoned, which it increased by many times its original value.

Mr. Davis said that what brought this to the forefront was a long development process with Northpointe, a four to five year dialogue trying to determine the impacts of that development. In the end the Development Review Committee said there must be a better way to deal with impacts– so they developed a cash proffer policy. He stated that the law requires that the acceptance of cash proffers must be reasonable, and the Constitution requires that it must be proportionately addressing the impacts caused by the development – which the County's policy does in establishing a formula and process to address those impacts. Mr. Davis said that it is a policy, and every case can be looked at on a singular basis so that countervailing factors can be considered – with the concept being that the proffer is a maximum, not a minimum. He noted that Chesterfield County is currently debating whether to have a different proffer policy structure for the east side of their county, where it is more difficult to develop; Hanover County retreated from its cash proffer policy and is currently reducing proffers. Mr. Davis said that every development coming forward for rezoning will have impacts, and one way or another the County will have to pay for the infrastructure. Is it fairer to have it through a cash proffer policy or through a taxation rate is a policy decision that Albemarle has to grapple with. Prince William County also just had this discussion and decided to stay with proffer policies. Chesterfield County had the discussion and decided to stay with cash proffer policies. He added that this is a timely discussion.

Ms. Monteith stated that there is a process question of whether they change it or make an incremental adjustment and see what that means.

Ms. Dittmar said that there may be other models to address their goals, but she does not know how much research that would require.

Ms. Palmer stated that they would not want to get rid of cash proffer policy without something to replace it.

Mr. Boyd suggested that they look at some of the criteria and see what goals might fall out as a result of how they might tweak the policy. He stated that the Board went through this process before but did not look at how much of the growth was due to migration and how much was from internal growth. He does not think it is fair to shift that entire burden onto new homebuyers. Mr. Boyd said that the University growth with students and faculty has not been taken into account, and they need to evaluate those things when determining who will pay for infrastructure.

Ms. Palmer said that she looks at this as a "buy-in fee," and pointed out that people who do choose to live in rural areas cannot expect the same level of service as those who live in or near the urban ring.

Mr. Boyd said that they should look at some of these demographics to see how they influence the goals. In talking to young people they want to move into more urban areas – but he is not sure that is true for everyone. He stated that he was leaning towards the first option and doing some small things with the policy, such as amounts charged, which would also grant them some time to see how it progresses. Mr. Boyd said that the Fiscal Impact Committee evaluated it and decided that it did not have a lot of information, but that was a year ago.

Ms. Mallek said that there should be some data by now then.

Ms. Palmer said that if they are going to discuss increasing or decreasing the cost, that is a big adjustment, but as discussed at the Board meeting, staff had wanted time to get more data.

Ms. Dittmar said that would take the form of limited changes to address some of the most egregious consequences, and then at least requiring a review of data on a certain timeline.

Ms. Palmer said that she would be in favor of sun-setting it.

Ms. Mallek said that the criteria in C-2 says, "… the cost of public facilities generated by the new residential development…", so older homes really will not be affected by this.

Mr. Boyd asked if they should look at halving the cost, if 50% is internal growth, and 50% is new people moving to town.

Ms. Palmer said that if one person moves into a house, they vacate a house that someone else moves into.

Ms. Mallek stated that the cost of service impacts is there, because once the facility is put in and paid for you have offset that.

Mr. Lafferty asked if they have any idea of the percent of the cost of services they want to recapture. Mr. Boyd said that was something the Fiscal Impact Committee worked on, and it was presented to the Board – who in turn decided what that was.

Mr. Graham stated that the Board took the information from the Fiscal Impact Committee in 2007 and applied a discount, stating that the full amount was considered too high – and that is something that is easy to bring back to the Board so they can determine what an appropriate discount would be.

Ms. Mallek said that it was based on the 10-year CIP.

Mr. Boyd agreed, and said that he would like to compare the five and 10-year options.

Ms. Palmer asked staff to go over the calculations. Mr. Davis pointed out that the policy is only intended to address five very specific areas of infrastructure – not all infrastructure – so anything outside of public safety, libraries, parks, transportation and schools is not addressed by this. He said that there is also an assumption that the taxes generated by the new development will pay for operating expenses, but a lot of people doubt that that's valid. There was a six percent reduction in capital costs that were attributed to each dwelling unit because of an assumption that they would generate property taxes that would offset some of the capital costs. Mr. Davis stated that there is no legal requirement to offset 100% of the impacts, but the issue with developers has been that the $20,000 figure was too much, and that is a policy matter for the Board along with the determination that the amount of the proffer is somehow a disincentive to development being rezoned. He reiterated that if the Board thinks the policy is fair but the amount is too much, it can change the amount based on a percentage that has a reasonable basis.

Ms. Palmer said that she would like to understand the calculation before deciding arbitrarily what number to pick, because that speaks to the consistency issue from year to year as they adjust it.

Ms. Mallek said that some of the amounts have been pretty big leaps from year to year, and the early ones were clearly not offsetting the impacts, such as Old Trail at [$3,000].

Mr. Davis said that both Old Trail and Stonefield were $3,000 per unit, and Northpointe was in that range, but as they began adapting the policy and modifying the formula based on the CIP and planned infrastructure, it became focused quite dramatically on the fact they were not addressing infrastructure that the developments were causing.

Ms. Palmer said that they do not even really get into the cost of roads.

Ms. Mallek said that is a different category, and there is enabling legislation that would allow them to set up transportation impact fees for every household.

Mr. Davis said that there are a lot of snags in that enabling legislation that are not very favorable. There are very few roads included in the CIP because Albemarle does not typically build roads, and the amount of the road proffer is fairly negligible under the current formula. He said that if they were a Henrico County, building lots of roads with local funds that proffer number would be much higher.

Ms. Dittmar recapped their discussion as Mr. Boyd and Ms. Palmer wanting to look at limited changes to the current policy, and asked if there were other ideas.

Mr. Boyd clarified that “limited” should include looking at all aspects of how the proffers are done, including credits for by-right development, and whether the pro-forma is too high for their goals, etc. He believes that everything should be on the table, not have a limited review of the policy.

Ms. Monteith said that one process idea would be to come to a direction and have some kind of working group that drilled down into it farther, along with some staff support, so they at least establish a direction and a group to move it forward.

Ms. Palmer asked for Mr. Fritz’s input.

In response to Ms. Palmer’s earlier question about how the Fiscal Impact Committee came up with the numbers, Mr. Fritz said the Committee was looking at the short version – things actually budgeted in the CIP and revenues anticipated to be derived from the residential development.

Mr. Boyd said that it also included the capital needs assessment. Mr. Davis confirmed that it did. Mr. Fritz said that it may have been included in the initial calculation in 2007.

Mr. Boyd said it was included, because it was right in the midst of their work on the master plans, and they were not sure how the money in the capital needs assessment would impact them.

Ms. Palmer said that things like establishing a water utility and some larger projects take 10 to 20 years of the CIP.

Ms. Dittmar asked Ms. Monteith to restate her earlier suggestion.

Ms. Monteith said they should establish a general direction and have that group dive into it and figure out where they need support from staff, because there seems to be a fair amount of complexity in what they are doing.

Mr. Boyd stated that the Fiscal Impact Committee would be the place to do that, as they are a diverse group of people and fleshed this out before. He then asked who the Planning Commission representative was on the Committee. Ms. Dittmar responded that it was Mr. Loach.

Mr. Loach asked if the model was still being used when Mr. Steve Allshouse was using the software. Mr. Boyd said that it was. He added that Mr. Allshouse is still waiting for the schools’ figures so they could gauge the impact of a single-family home.

Mr. Fritz stated that they just received that in the last week.

Mr. Loach said they should evaluate whether the model was robust enough, because looking at different criteria might provide better results and allow the use of more parameters.

Mr. Boyd said they could talk to Mr. Allshouse about it, and they are using a CRIM model – with the trickiest variable being the tipping point at a given school when enrollment increases.

Ms. Mallek said that is why it is probably better to use 10 years, so that one particular developer does not assume the impact of a sudden enrollment surge.

Ms. Firehock said that the workgroup still needs a more defined charge, and they need to provide them with some parameters as to what to consider.

Ms. Mallek said that the points Ms. Dittmar summarized would be those parameters.

Mr. Boyd suggested that they get together as a group and provide options and results, and the equity for developers would be the policy piece for the Board and Commission to wrestle with.

Ms. Mallek said that is basically the charge they have had all along, so this just turns them loose to go ahead and start working on it. He added that there will always be some tension between the goals.

Ms. Firehock asked if the goals could be prioritized. Ms. Mallek said the goals should probably be prioritized after looking at all of them. Ms. Palmer added that there are not that many goals.

Mr. Davis stated that one thing to keep in mind is this is a Comp Plan document, so any policy changes should go through the Planning Commission as an amendment process. He said that if the issue is just recalculating amounts based on the existing policy formula that should go to the Fiscal Impact Committee as they have not recalculated that formula since 2007. Mr. Davis said that staff would recommend that they go back through the process and reconfirm that the amount is appropriate based on the CIP and the capital needs assessment, once the Board is comfortable with the policy itself. He noted that when the Fiscal Impact Committee looked at this before, they were not focusing on the land use policy issues, as those planning facets were more in the purview of the Board and the Commission, they were focusing on how the impact would be calculated and what taxes would be used to offset it. He said that the one exception to that would be that if the Board determines the number derived under the existing policy is too much, they can also amend that policy to tamp it down by some formula.

Mr. Boyd said that what he is proposing is for the Committee to provide numerous options, which would flow through the usual Commission and Board process.

Ms. Mallek said that adding the extra goal of incentivizing implementation to the growth management plan would be something the Commission would start, and then the Fiscal Impact Committee's recommended changes would be added in. She asked if they would need to go through the entire public hearing process if they add one goal. Mr. Davis said those goals are not set forth specifically in the policy now.

Ms. Palmer said that she read them in the staff report for this meeting.

Ms. Mallek said that was just an interpretation of what is in the policy.

Ms. Palmer said that she would like to know if adding the support of the growth management plan is just their intuition that the way it is set up now is negatively affecting that plan, and she would like to know if it is or not before they make that assumption. She added that she is not convinced of that yet.

Ms. Dittmar said that they could look at it after it clears the Planning Commission, or have the Fiscal Impact Committee share with the Board when they get it.

Mr. Boyd said they will probably get mixed opinions from that group, but it is a diverse group and that is why the Board and Commission ultimately make the decision.

Ms. Mallek said that she was shocked to see that they have been adding five percent on top of the 2007 number since that year, as that is completely unrealistic. Mr. Davis said that is not exactly accurate, as it increases based on Consumer Price Index (CPI), averaging about 2% each year; since 2007, it has increased from $17,000+ to $20,900 in 2014 for a single family home.

Ms. Firehock said she would add to the goal for supporting the growth management plan, the word "incentivizing" to read "supporting and incentivizing".

Ms. Mallek commented that she would just take out the word "support" and leave "incentivize" because they are looking at dollars.

Ms. Dittmar commented that the consensus is to have the Fiscal Impact Committee to develop the criteria that will deal with some of the consequences, and look at supporting some of the goals and prioritize them.

Mr. Boyd asked that they change it to "options". Ms. Dittmar asked if the options would come in under policy or criteria.

Ms. Mallek said it would come under policy.

Ms. Dittmar added that the Fiscal Impact Committee should check in with the Board and Planning Commission to get feedback as it gets closer to forming its opinion.

Mr. Morris asked if the Fiscal Impact Committee has the time to meet frequently enough to really dig into this. Mr. Boyd said that it currently only meets twice per year, but it can.

Ms. Dittmar said that the Clerk can check in with the members and make sure they are up for the charge, and if not then look at some appointments to get people who have the time. Mr. Boyd said that the reason they do not meet that often is that they do not have that much to do.

Ms. Dittmar asked if they wanted to set a certain timeline with this effort, or if that would be imprudent. Mr. Boyd said that he was under the impression the Board wanted to fast-track this.

Ms. Mallek stated that one idea that came from a citizen was to extinguish development rights in the rural area, as a way to increase density, and she does not know if something like transferrable development rights would be appropriate.

Mr. Boyd commented that the committee that studied TDRs issued a report that was not very favorable.

Mr. Dotson said that what is being given to the Fiscal Impact Committee seems rather open-ended, which differs from how it has been handled in the past, and he wondered if the staff should write this up and have the Board and Commission see it in writing to confirm the charge and the questions to be asked.

Ms. Palmer said there is a lot of data that staff needs to collect for the Fiscal Impact Committee.

Mr. Boyd said that he thinks it is a good idea, but there is a lot of staff involved with the Committee meetings.

Mr. Foley said that the typical support for fiscal impact is Steve Allshouse, which focuses mostly on numbers and impacts. This effort they are discussing now is broader – particularly in regard to the impact on growth management policies – so they will have to make sure Planning staff is engaged. He said that Wayne Cilimberg is on the Committee, so a charge that clarifies the four goals and the staff support would be a useful exercise, and hopefully one they can turn out very quickly so they can get started.

Mr. Morris said that he thinks they were on the right track, but hopes this is not sending the committee off on a direction where they have no desire to go.

Mr. Boyd said that they have been chomping at the bit to get started.

Mr. Morris said that the Commission is hoping to get a fiscal impact figure on every new development that came about, and that happened once – in 2007 – but not since.

Mr. Boyd said that one of the goals of the proffer policy was to eliminate those individual impact statements, which they used to get all the time.

Mr. Davis stated that they used to do a fiscal impact statement for every rezoning, which was implemented in the late 1990s. There was a software package that the County acquired and then improved. For every rezoning those numbers became a critical part of assessing impact which led to the case-by-case determination to what they needed to proffer or address in order to meet the impacts of the development.

Mr. Boyd commented that those were negotiated between the Board and the developer at the time.

_____

Item No. 2b. Matters not Listed on the Agenda.

Ms. Dittmar stated that she appreciates the collaboration she has with her Planning Commission member and the Chair of the Commission. She also appreciates the projects coming from the Commission as they seem pretty complete and less detail that have to be addressed when they arrive to the Board for consideration. She then asked Mr. Morris if he had any comments.

Mr. Morris said he would like to see more interaction between the Board and Commission. It is often that the Commission and staff discuss where the Board wants something to go as they just do not know. He thinks that the master planning efforts will likely facilitate more collaboration.

Ms. Dittmar asked if they should have a discussion about their respective roles and overlap.

Ms. Mallek said that sharing information is the most important thing for them to do.

Mr. Morris agreed, adding that where they want to go should be dictated by where the community wants them to go. The more they listen, and listen together, the better off they are. He said that he does not see a tremendous chasm between their roles. The Planning Commission fully understands that they are advisers to the decision-makers.

Ms. Mallek said she would encourage Commissioners to "not to pull their punches," as they are the expert bodies in the details and the plans. She added that she worries that the Commission looks over their shoulder and wonder what the Board wants them to do; that is not what she wants them to do. She mentioned the campground at Howardsville as an example of something that the Commission probably felt the Board wanted to go through, and she would encourage them not to be hesitant.

Mr. Loach said that there have been times that the Commission moved projects to the Board where there was consensus, but there were outstanding questions so staff and the developer will say they can work them out by the time they get to the Board.

Ms. Mallek said that sometimes two or three weeks are needed to nail down those details, and that is perfectly appropriate. One of the snags, she as a Board member, has encountered is when they are told those things will be worked out at the site plan stage, so do not put them in the conditions, but then at the site plan stage they are not done and cannot be mandated.

Mr. Randolph said that his hope is for the Supervisors to be aware that the Commission labored long and hard over the language in the Comp Plan, so none of it is accidental. He stated that it would be useful for the Supervisors to ask why the language was included, and the Commission may be able to fill them in on the context – especially if there is political context, which is difficult to talk about publicly.

Ms. Palmer stated that it is challenging sometimes to call Commissioners because of time constraints, and she is hopeful that process will get better over time.

Ms. Mallek said that this is the Board's first stab at the Comp Plan, so hopefully there will be time once the red-line documents are available to have more discussion.

Ms. Palmer asked Commissioners to please let them know if the Board is "doing something stupid" with the Comp Plan, because they do not always have all the information or background discussion.

Mr. Loach said that they miss having a staff person in Crozet, which is very advantageous to them and to the developer.

Mr. Morris said that they also miss having staff with the Pantops Master Plan. He said that he also wants to compliment Board members who drop in on the Planning Commission meetings. He added that he knows they are very busy but he appreciates their involvement.

Mr. Randolph said that he hopes the pace will slow down, but he does not think it will. He said that he will be serving as a liaison to the Southern Neighborhood community advisory councils, and there has been a growth with the time commitment required to be adequately involved. They may want to talk about getting greater professional support because this is become more a full time position and less a part time job. He sees that occurring with site plan reviews that he feels he needs to attend, community advisory council meetings, neighborhood meetings organized as a requirement of the application, etc.

Ms. Dittmar commented that an ongoing concern is where the community wants them to go, but people really get upset when they are surprised – so the more they understand the process, the fewer last-minute items there will be.

Ms. Mallek said that this ties into her concern about providing enough notice. They should explore the system for contacting residents so that all affected people are included, not just adjacent neighbors. For example, sound carries a long way and in different ways.

Ms. Dittmar said that the Board is working on engagement plans, and perhaps the Commission could do the same.

Mr. Dotson added that sometimes County projects affect people in the City. He added that they do not want paralysis by coordination; they all need to use their judgment when coordination is appropriate. He thinks that it would be nice for Commissioners to be informed why the Board decided something when it goes in a different direction. He added that when a proffered development comes before the Commission, he looks at the land use, circulation, physical dimensions, etc., and not so much pay attention to how many dollars are proffered or the details of the proffers. As a Commissioner, he thinks the proffers need to be worked out with the Board. If that is something the Board wants changed, then they need to let the Commission know.

Mr. Loach said that they came to that consensus on the Commission several years ago. When it comes to dollars and cents, the Board has the taxing authority. He added that the proffers are not in the Commission's purview, and they are not always worked out until the Board meeting.

Ms. Mallek said that the proffers are one of those elements that often changes right up to the advertising deadline, because people are trying to adjust and bring forth the best application as they can.

Ms. McKeel commented that she appreciates the dialogue between the County and City Planning Commissions, adding that they were touted at the joint Board and City Council meeting as a model of working across lines.

Mr. Loach said that one of the issues they have talked about at the Planning Commission level is economic development and how it will play out in the rural area, and making sure they do not overload the rural area with agri-tourism activity. In his opinion, the rural areas are not homogenous, and some parts should be master planned.

Ms. Mallek said that is definitely the case for crossroads communities.

Mr. Lafferty stated that they have said they want to reevaluate in a couple years and see if they need to pull back.

Ms. Mallek said that this is the concern many people have shared, and they know that this discussion is coming. She stated that she is concerned about many of the by-right items that the Commission has apparently reached consensus on, and she will be raising those issues as they go forward with the Comp Plan review.

Mr. Randolph stated that with the Northside Library as a case study, he would hope that anytime the County has a project that it wants to undertake – such as courts – it would be beneficial for them to run it through the Commission to get their input. He said that there are people who are willing to provide that perspective, and it also gives citizens another forum to weigh in on projects, which helps the quality of dialogue.

Ms. Palmer said she is in agreement with that.

Mr. Boyd said that they could not have shared the acquisition portion with the public. He added that there was a whole series of meetings held at the Northside Library that the Planning Commission could have attended.

Ms. Mallek said that separate from the acquisition process, if they would have had a public hearing for the Keene firing range at the Planning Commission from the beginning, it would not have dragged on so long. She stated that the connectivity part of the Neighborhood Model could be done in that manner, and it is not that way now.

_____

Mr. Morris said that they had a few more minutes and asked if there are any public comments.

Mr. Morgan Butler, of the Southern Environmental Law Center, commented that one of the questions that emerged from the community and from this meeting is the extent to which the proffer policy may be disincentivizing development occurring in the development areas, consistent with the County's growth management policy. Mr. Butler said that another disincentive to having development occur in the development areas is not providing the services needed there because they cannot be afforded, and if the funding hole is not filled with another source they may be doing more damage than good.

Mr. Neil Williamson, of the Free Enterprise Forum, said that the County is underfunding infrastructure today for its residents. The cash proffer system is a "Band-Aid on a bleeding wound." He said that part of the County's growth management strategy is to provide infrastructure to make the development areas more attractive than the rural areas for development. He continues to believe that repeal of cash proffers is the right thing to do. Mr. Williamson said that he is taken aback at the number of localities that are not charging cash proffers, which is the vast majority, and a broad base is where you get funding to fill a hole. Mr. Williamson stated that the Board of Supervisors controls whether residential development pays for itself – and whether houses are taxed to a level of their services. He emphasized that businesses are needed, and the economic development is needed to make the balance work. He hopes that they will repeal the cash proffers and reinstate the quarterly economic dashboard approach. Mr. Williamson said that they need to strategize a way to make up the $2 million currently generated from cash proffers, as they are a hindrance to their economic success.

Ms. Dittmar added that the Board received a presentation last week on an enhanced public project process. She suggested sending this information to the Commission for their review and to ensure that the portals for the Commission are reasonable, not laborious, but allow them to help the Board with the process.

_____

At 6:51 p.m., Mr. Morris adjourned the Planning Commission to Tuesday, July 15 at 6:00 p.m. in Lane Auditorium.

____

Agenda Item No. 3. Adjourn to July 9, 2014, 3:30 p.m.

At 6:52 p.m., Mr. Sheffield **moved** to adjourn the Board of Supervisors meeting to July 9, 2014, at 4:00 p.m. Lane Auditorium. Ms. Mallek **seconded** the motion. Roll was called, and the motion passed by the following recorded vote:

AYES: Mr. Boyd, Ms. Dittmar, Ms. Mallek, Ms. McKeel, Ms. Palmer and Mr. Sheffield.
NAYS: None.

____
Chairman

Approved by Board
Date: 04/01/2015 Initials: EWJ