
Regular Meeting, Wednesday, May 27, 2009, at 7:00 p.m. Government Center, Verona, VA.

PRESENT: Larry C. Howdyshell, Chairman
Gerald W. Garber, Vice-Chairman
David R. Beyeler
Tracy C. Pyles, Jr.
Wendell L. Coleman
Jeremy L. Shifflett
Nancy Taylor Sorrells
Patrick J. Morgan, County Attorney
Dale L. Cobb, Director of Community Development
Becky Earhart, Senior Planner
Jennifer M. Whetzel, Director of Finance
John C. McGehee, Assistant County Administrator
Patrick J. Coffield, County Administrator
Rita R. Austin, CMC, Executive Secretary

VIRGINIA: At a regular meeting of the Augusta County Board of Supervisors held on Wednesday, May 27, 2009, at 7:00 p.m., at the Government Center, Verona, Virginia, and in the 233rd year of the Commonwealth....

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Chairman Howdyshell welcomed the citizens present and reminded them to remove their hats and turn off their cell phones.

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Laura Ward, an eighth grader at S. Gordon Stewart Middle School, led the Pledge of Allegiance. Laura enjoys basketball, cross country and track, and being with her friends.

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Wendell L. Coleman, Supervisor for the Wayne District, delivered invocation.

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SPECIAL GUEST VACo PRESIDENT DONALD HART, JR. – INTRODUCTION

Chairman Howdyshell welcomed Donald Hart, Jr., President of VACo (Virginia Association of Counties), from Accomack County. Mr. Hart felt honored to be before the Board and stated that “Augusta County is very important to the State of Virginia and very important to VACo”. He reported that he had a Board of 9 members and stated that he is the oldest member in seniority (29 years) and is the youngest on the Board and is the father of four – one son and three daughters. He reported that there are 95 counties in the State and 550 supervisors. He complimented Augusta County in being active and involved and gave special kudos to Supervisor Pyles for being Augusta County’s representative on the VACo Board of Directors. Mr. Hart’s goals are to have a close relationship with every county in the State. He encouraged the Board to contact him whenever he is needed. He suggested that the Board get on the Communications list to be better informed of federal and state issues. He also urged the Board to participate in legislative committees.

Mr. Beyeler thanked Mr. Hart for coming tonight.

Chairman Howdyshell presented a County lapel pin to Mr. Hart and informed him that every Board member sits on a committee.

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May 27, 2009, at 7:00 p.m.

BUFFALO GAP HIGH SCHOOL – RESOLUTION

Mr. Pyles moved, seconded by Mr. Beyeler, that the Board adopt the following resolution:

RESOLUTION

WHEREAS, on Friday, the 13th, 2009, something very special happened to a group of students at Buffalo Gap High School; and

WHEREAS, the Buffalo Gap Girls Basketball Team, won their second straight Group A, Division 1 State Championship; and

WHEREAS, Buffalo Gap Girls Basketball Team and Coaching Staff accomplished a very rare feat in high school athletics; and

WHEREAS, individual players and coaches were recognized with honors after the 2009 season. Individuals did not win the State Championship. The **team** won the State Championship; and

WHEREAS, 20 years from today, students, faculty, and parents that gaze into the Buffalo Gap High School trophy case will have admiration for the accomplishments of a group of student athletes and coaches that accomplished their goals in 2008 and, again, in 2009.

NOW, THEREFORE, BE IT RESOLVED that the members of the Augusta County Board of Supervisors, meeting in regular session on May 27, 2009, congratulate and admire the consistency, motivation, and teamwork of the Buffalo Gap Girls Basketball Team during the 2009 season and wish each member continued success in their future career endeavors.

BE IT FURTHER RESOLVED that a copy of this resolution be spread upon the minutes of the Augusta County Board of Supervisors and presented to the faculty coaches and team of the 2009 Buffalo Gap Girls Basketball Team, State Champions.

Vote was as follows: Yeas: Howdysshell, Sorrells, Garber, Beyeler, Shifflett, Pyles and Coleman

Nays: None

Motion carried.

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PUBLIC HEARING RULES

Chairman Howdysshell expressed his appreciation for the interest and participation in tonight’s hearing and asked that the speakers come forward and state their name and address and keep comments within the three-minute range. Members of the Board are not expected to respond to questions. Response to questions is made at the Chairman’s discretion. He asked that public refrain from clapping and other public demonstrations of support or opposition.

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May 27, 2009, at 7:00 p.m.

STAUNTON BEVERLY ROAD, LLC AND GATEWAY-BEVERLY ROAD, LLC - REZONING

This being the day and time advertised to consider a request to rezone from General Agriculture to General Business with proffers approximately 135.2 acres owned by Staunton-Beverly Road, LLC and Gateway-Beverly Road, LLC located in the northeast and southeast quadrants of the Interstate 81/Route 262 interchange (Beverly Manor District). The Planning Commission recommends approval with revised proffers.

Becky Earhart, Senior Planner, displayed the property outlined in pink; blue indicates property is currently zoned General Agriculture; red is property zoned General Business; pink is property zoned Planned Unit Development (Country Club and Ironwood development); white is property in the City of Staunton zoned Business.

The applicant has submitted seven proffers. Abbreviated version of the proffers:

1. Permitted uses: A gasoline retail outlet with 20 fueling positions and convenience mart, 180 room hotel, and up to 909,164 sq. ft. of additional commercial and service related uses.
2. Prohibited Uses: Adult businesses, mini-warehouses, warehouse operations, and truck stops.
3. Development Conformance: With all County Ordinance provisions; bound by water quality standards, and design guidelines by restrictive covenants. In addition along the north side of the property, a 35' wide landscaped berm 1-5' in height along I-81; a 20' wide landscaped berm 1-4' in height along Route 262. All freestanding parking lot lighting shall be full cut-off fixtures no taller than 35' in height.
4. Signage: No more than 5 pylon signs (1- 45' tall, 2-35', and 2- 25' max.)
5. Water and Sewer- Developer will extend to serve their property and be responsible for costs associated with improvements
6. Lewis Creek- No buildings or parking in the floodplain, as it may be modified. Buffer of 60' to 100' on the north side of Route 262.
7. Transportation Improvements:
 - Initial Phase- Gasoline Retail Outlet (up to 20 fueling positions) and convenience mart, and up to an additional 28,000 sq. ft. of commercial/service uses with no more than 15,000 on south side.
 - Phase I- If not before, the gasoline retail outlet, and a 180 room hotel and up to a total of 462,600 square feet of commercial/service uses with no more than 108,900 on the south side.
 - Phase II- If not before, the gasoline retail outlet and a 180 room hotel and up to a total of 729,658 square feet of commercial/service uses with no more than 130,000 on the south side.
 - Phase III- If not before, the gasoline retail outlet and a 180 room hotel, and up to a total of 909,164 square feet of commercial/service uses with no more than 208,900 on the south side.
 - Dedicate right-of-way necessary to permit the construction of Woodrow Wilson Parkway as a 4 lane primary roadway (100' section)
 - Should off-site right-of-way or easements be necessary, responsibility of the applicant to get or pay all costs associated with County acquiring them. If County is to acquire, applicant can proceed with development and be allowed to construct or occupy additional square footage.
 - Applicant builds improvements on I-81 facilities; can begin building their development without making those improvements; if they can't get approvals and are finished with Phase 2, they are released from obligation to build improvements that require FHWA approval.
 - No more than 2 points of access to Lewis Creek Road, any crossings built to VDOT standards.
 - All turn lanes are to be built according to transportation models unless shorter or longer lengths are agreed to by VDOT and the applicant.

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STAUNTON BEVERLY ROAD, LLC AND GATEWAY-BEVERLY ROAD, LLC – REZONING (cont'd)

Ms. Earhart displayed the development plan that has been submitted by the applicant and has been proffered. In terms of a conceptual development plan, the only thing that is binding is in terms of the location of Site Drive #1, which relates to both north and south of Route 262; second Site Drive #2 on the north side of Route 262. Transportation improvements are relatively lengthy; therefore, she showed it graphically to help explain:

In terms of the initial phase of development, prior to the issuance of a building permit, on the north side, the applicant will build two entrances (Sites #1 and #2). That will necessitate the closing of the median at Baker Lane, which will be reconfigured to be right-in; right-out as will the Site Drive #2 on the other side of the road, which will be right-in; right-out. That would only be if they could not get approval from VDOT to keep the median open and build some other kind of transportation improvements that will facilitate the traffic. Prior to the issuance of the building permit on the south side, two entrances will be built—one off of Baker Lane, and one off of Woodrow Wilson Parkway. They will be improving Baker Lane to a two-lane section across their frontage; build a right-turn lane into Site Drive #1; a left-turn lane from Woodrow Wilson Parkway eastbound into Site Drive #1; reconfigure the lane approaches to the bridge over Lewis Creek and either signalize or enter into a signalization agreement with VDOT for the traffic light at the northbound ramp.

In Phase I (shown in blue on the map), they will be required to build a second left-turn lane on eastbound Woodrow Wilson Parkway into Site Drive #1, a left-turn lane from Woodrow Wilson Parkway westbound into South Site Drive #1, a right-turn lane from Woodrow Wilson Parkway westbound into North Site Drive #1; reconfigure the loan approaches to the bridge from Site Drive #1; add a shared thru right-turn lane on westbound Woodrow Wilson Parkway between North Site Drive #1 and #2. There will be a free-flow right-turn on Woodrow Wilson Parkway eastbound from existing right-turn lane at Baker Lane eastward to Site Drive #1; reconfigure the South Drive #1 for dual left onto Woodrow Wilson Parkway westbound and a shared thru right-turn lane onto Woodrow Wilson Parkway eastbound. A free-flow right-turn lane on I-81 northbound to eastbound Woodrow Wilson Parkway to Baker Lane and a free-flow right-turn lane from westbound Woodrow Wilson Parkway to I-81 northbound. They will be extending the storage lane length of the left-turn lane on westbound Woodrow Wilson Parkway on to I-81 southbound and, either, signalize or enter into a signalization agreement for ten years at the I-81 southbound location, as well as Site Drive #1.

In Phase II (shown in purple on the map) includes a second left-turn lane on Woodrow Wilson Parkway onto I-81 southbound ramp and a receiving lane on the ramp to accommodate the dual left. It converts the free-flow right-turn lane from eastbound Woodrow Wilson Parkway on to Baker Lane into a thru lane and then adding a second, or a new, right-turn lane. Construct an additional lane on I-81 southbound ramp to accommodate dual left on to eastbound Woodrow Wilson Parkway. A left-turn lane from eastbound Woodrow Wilson Parkway into the north Site Drive #1 has to be extended for more storage capacity. If they want to access Lewis Creek Road, they will have to improve the road to two twelve-foot lanes through their entrances off Lewis Creek if that has not been done by somebody else.

In Phase III (shown in green on the map), they are going to construct an additional thru-lane on Woodrow Wilson Parkway both east and westbound from Lewis Creek Road on to Site Drive #2. They are going to either signalize or enter into a signalization agreement for Lewis Creek Road intersection. If they access Lewis Creek, they will need to improve the road to two twelve-foot lane sections; reconfigure the Lewis Creek Road intersection by constructing dual-left from eastbound Woodrow Wilson Parkway on to Lewis Creek Road and a southbound right-turn lane from Lewis Creek Road on to westbound Woodrow Wilson Parkway and reconfigure Site Drive #1 to provide a dedicated right-turn lane and a shared right-turn thru-lane and a left-turn lane on to eastbound Woodrow Wilson Parkway. They will also be widening the Woodrow Wilson Parkway Bridge over Lewis Creek to five lanes.

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STAUNTON BEVERLY ROAD, LLC AND GATEWAY-BEVERLY ROAD, LLC – REZONING (cont'd)

Ms. Earhart stated that this property is in an Urban Service Area, with the majority slated for Business Development; a small portion to the east, slated for Medium Density Residential. Public water and sewer are available.

Frank McDermott, a Fairfax attorney with Hunton-Williams, representing Pence Friedel Developers, gave a PowerPoint presentation and stated that the project would be an economic windfall for Augusta County and could generate \$2.3 million in annual county tax revenue and bring 5,000 jobs to the area once completed. Highlights of the presentation:

AUGUSTA MARKETPLACE

- Located on 135 acres in the northeast and southeast quadrants of the I-81/Woodrow Wilson Parkway interchange
- Public access is currently provided to the North Side from Lewis Creek Road and to the South Side from Bakers Lane
- The site is primarily vacant with the exception of the existing farmhouse and outbuildings on the North Side

PROPOSED DEVELOPMENT PROGRAM

- Rezone property from General Agriculture (GA) to General Business (GB)
- Development will consist of:
 - Gasoline station and convenience mart
 - Hotel (up to 180 rooms)
 - Up to 909,164 square feet of additional commercial and service related uses associated with the GB District
- Development will be phased according to certain public road improvements to be constructed by the Applicant
- Approximately \$5 million dollars in public road improvements in Initial Phase, Phase 1 and Phase 2

PROHIBITED USES

- Truck stops
- Adult businesses
- Mini-warehouses
- Warehouses not associated with a permitted sales and service establishment

PROFFER MODIFICATIONS FOLLOWING PLANNING COMMISSION PUBLIC HEARING

- Best Management Practices (“BMPs”) commitment providing water quality controls in excess of that required by the County Code
- Lewis Creek, I-81 and Woodrow Wilson Pkwy buffer provisions
- Unified architectural design reinserted (enforced with restrictive covenants)
- Parking lot lighting height and design restrictions (limited to 35 feet with full cut-off lights so that they do not bleed light beyond the property and is directed inward)
- Pylon sign height restrictions (one sign 45 feet; two signs 35 feet; two signs 25 feet)
- Road improvements to be constructed in accordance with VDOT and FHWA standards, respectively
- Road improvements to be bonded prior to issuance of building permits
- All road improvement commitments track recommendations of TIA

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STAUNTON BEVERLY ROAD, LLC AND GATEWAY-BEVERLY ROAD, LLC – REZONING (cont'd)

Mr. McDermott introduced the Pence family and noted that they were quite respectable and well-noted for their successful developments.

Mr. McDermott showed developments that Mr. Pence had completed to note the quality of his work.

Ms. Sorrells asked if, in any of the developments, Mr. Pence had incorporated any LEED design or worked with LEED services or bioretention in some of the newer designs. Mr. McDermott said that LEED had been more recent than when the centers had been built; however, the concepts have been incorporated for quite a long time. They have been building before LID (Low Impact Development) but have always been at the cutting edge of architectural treatment and water quality treatment with their projects, whether required by local ordinances or not.

The Chairman declared the public hearing open.

Lee Godfrey felt that the Richmond Road and Greenville Avenue corridors were “ugly” and hoped that this corridor would be more attractive. She suggested having walkways, bike trails, bus stops with seats and shelter.

Holly Bailey, President of the Augusta County Garden Club, has been involved with the cleaning up, maintenance, and preservation of Lewis Creek. She felt that the proffer regarding Lewis Creek addressed the primary concern of cleanliness, state of riparian borders, and the control of runoff from buildings, parking lots, and gas stations. She understood that environmental studies will be done and hoped that the public would be apprised of these studies before the rezoning was approved. She also stated that, after approval, she would like assurance that the health of the creek would be monitored on a continuing basis. Examples of signage of the preservation of Lewis Creek were presented to the Board. Ms. Bailey also asked about the historic house on the property.

Ginny Turner, second closest residential property to the proposed Augusta Market Place, expressed opposition. She asked for a timeline of the project. She also expressed concerns regarding security and hours of operation. She noted that there were quite a few empty buildings and asked why they could not be redeveloped so that they could be a “good steward of the land”.

Patrick J. Coffield, County Administrator, clarified that during the Public Hearing, if any speakers have questions to be answered, the applicant will be invited back to respond. Also, staff may be able to respond at a later date in written form.

Deborah Cheezum opposed the project because she felt that it would hurt other area businesses, including those in Staunton, and because it would disrupt the rural “beauty” of the area. She felt that the population and economic structure of Augusta County will not be benefited by the development.

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STAUNTON BEVERLY ROAD, LLC AND GATEWAY-BEVERLY ROAD, LLC – REZONING (cont'd)

Tina Zumsteg, resident of Ironwood, adjacent to the Country Club, appreciated the revisions to the proffers but preferred not having the development. She expressed concerns about Lewis Creek and supported riparian tree plantings along the buffer zone, not just grass. Ms. Zumsteg also mentioned her concern of the Callison House, which is a historic property, and hoped that it would be incorporated in the project. She noted that there were unmarked gravesites and did not want to see them paved. Another concern was light pollution. Ms. Zumsteg asked what happens after the property is sold.

Greg McGee, Acting General Manager for the Country Club of Staunton, felt that this development would provide significant jobs and commended Mr. Pence for meeting with a group of concerned citizens. Mr. McGee felt that Mr. Pence has demonstrated he is a “man of his word” and appreciated that he would take the time to listen to the people.

Melissa Cline, a nineteen-year old and a Certified Vet Assistant, did not want this development close to her home and expressed traffic and safety concerns. She suggested that Ingleside be renovated. She stated, “I want to live in Augusta County. I don’t want to live in Augusta City.”

William Tueting advised that he had looked at the revised proffers and referred to Proffer 4 and 5 in the Transportation Section. He felt that they needed to be addressed to avoid potential problems that will leave the County to solve problems after the fact. In referring to Proffer 4, if the applicant is not successful in acquiring the right-of-way within 90 days, they can shift the responsibility to the County to acquire the right-of-way. He asked if the County is better at purchasing the right-of-way than the developer, which would mean condemnation. He noted that condemnation is mentioned in the Comprehensive Plan was to be used only for public use not for private benefit and that the Board of Supervisors removed the provision when the Comprehensive Plan and was approved. This proffer provides, should the Board elect to acquire the right-of-way, the applicant is entitled to proceed with development while waiting the right to construct such off-site improvements in the right-of-way. If the County is delayed in acquiring the right-of-way, the applicant can move ahead on the project. If the Board does not elect to acquire off-site right-of-way, the applicant will not be allowed to develop additional square feet.

In reference to Proffer 5, the applicant shall be entitled to proceed with its development including occupancy permits, if VDOT and Federal Highway Administration permits are not received timely. Also, if the permits are withheld after the applicant has applied for its final initial occupancy permit for Phase II, the applicant’s responsibility to construct transportation improvements under 7(A)(5) shall be deemed to have been satisfied. Mr. Tueting asked, if that were the case, who would make the improvements.

Charles Huppuch, member of the Soil and Water and Conservation District and Chairman of the Forestry and Riparian Group and is involved in the water monitoring of Lewis Creek, realized that development needs to be made at the appropriate places. He did not feel that this much land should be taken out of Agriculture. He mentioned that the Soil and Water District and the USDA has put thousands of trees along Poque Run, tributary of Lewis Creek, and have taken the cattle out of the stream and planted trout in the waters. He stated concerns about Lewis Creek with its poor pollution rates. He felt that there was going to be tremendous runoff and pollution from this area with the heavy traffic.

Mike Mehta, Manager of Quality Inn, was encouraged with the development in providing restaurants and shopping for his visitors.

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STAUNTON BEVERLY ROAD, LLC AND GATEWAY-BEVERLY ROAD, LLC – REZONING (cont'd)

Lee Hereford did not feel that Augusta County needed this large of a mall in a rural setting. He did not feel that the population could absorb a shopping center of this magnitude as well as adjoining localities. He reiterated the concerns of vacated retail spaces and the Industrial Park unfilled. He felt that if this rezoning was approved, it should be made as green as possible to make it pleasing to the eye and to represent the area. He suggested that the architectural design be more Jeffersonian instead of the Italian Renaissance. He expressed concerns of “dumping 135 acres of watershed” into Lewis Creek, as well as concerns with the landscape buffering, and signage language of the proffer. He stated he felt there are a lot of things that need to be worked out before approved.

John Sills, attorney for the Bakers, who own four parcels of land immediately adjacent to the project on the south side totaling approximately 29 acres, which is currently zoned General Business. That property has road access on Baker Lane. The Bakers are supportive of the project but are concerned with the traffic. The only access provided to Baker Lane, under the proffers, is right-in, right-out and a median that is to be closed. There is no traffic signal provided at the entrance and, virtually, all the traffic that would come in and out of Baker Lane, under that proposal, is going to be forced to U-turn. He did not feel that this was a significant problem with the existing traffic level. He did not feel it to be a significant problem if you accepted the developer’s Traffic Impact Analysis, which shows that there is no increase in the traffic out of Baker Lane at full build-out of the project in 2025. It would become a huge problem if the Baker property develops. Because of the location, zoning and infrastructure, it would likely be developed quickly if the project proceeds. If it fully develops, it has the potential to generate more than 150% of the traffic that is projected for the south side of the Augusta Marketplace project. There is also an issue about how Baker Lane intersects with Woodrow Wilson Parkway and access to the southern part of the Augusta Marketplace will work that has not been addressed in the proffers. He felt that these traffic demands should be planned for now and should not be dealt with later. Mr. Sills asked that this rezoning not be approved until the traffic issues have been resolved and reasonable means of connecting Baker Lane to the Woodrow Wilson Parkway be created at a traffic signalized intersection.

John Eckman, of Valley Conservation Council, asked the Board to delay voting on the rezoning to finalize the details on the proffers. He reported that a shopping center outside of Front Royal was recently awarded the Better Models for Development Award and suggested that the Pences stop by on their way home and look at that center to see how it has blended in with a more rural setting. He asked that the proffers be more specific on water management and which Best Management Practices (BMP) would be implemented.

Helen Wood, an Ironwood resident, expressed concerns of light and noise pollution, Lewis Creek and the historical significance of the property. She asked the Board to require the developer, or its successors in interest, to minimize the impact of this project upon the nearby landowners.

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STAUNTON BEVERLY ROAD, LLC AND GATEWAY-BEVERLY ROAD, LLC – REZONING (cont'd)

Mr. McDermott gave the following response:

1. Walkway – Substantial walkways between the parking lot areas and buildings. Seats will be provided throughout the area.
2. Historical property – Vision of either restaurant, office uses, or possibly a bed and breakfast. Committed to preserving and having it integrated in the development. Will it be at this location? Maybe, maybe not, but they are committed to saving the house.
3. Competition of businesses – 1958 Supreme Court decision which has not changed or been modified that states “local governing bodies shall not make their land use decisions based upon possibility of competition with the existing uses”. Do not want to hurt other businesses; in some cases (Quality Inn), it will help. Comp Plan envisions preservation of farmland, but specifically envisions an Urban Service Area and Business Development in this particular location immediately adjacent to I-81. This project does not violate the concepts in the Comp Plan.
4. Right-of-way not obtained – with respect to the Federal Highway ramp issues, staff and VDOT feels there will be no issue. With respect to private right-of-way, the reality is that if it is needed for any of the road improvements and is not acquired, the project has to stop, which is a significant detriment. A project of this scale, the initial investment and land acquisition and site improvements is \$30 million. The ultimate money into it is between \$70 million and \$90 million. It requires substantial personal investment and substantial financing. You will not get the financing if you cannot assure the sources of that money that you can get from start to finish.
5. Riparian tree planting – Nothing is mentioned in the proffer. In going through the Corps of Engineers and DEQ, for wetland mitigation, they are going to impact .23 acres of wetlands. Already identified is improving the banks of the stream and improving the riparian setting.
6. Mr. Eckman’s statement – Included in a letter from Mr. Eckman indicating “use of natural materials, muted colors, broken roof lines and traditional architectural styles would be in keeping with the surrounding areas and would compliment the wonderful views of valley farms”. Mr. Pence, in each of his project locations, has respected the local setting and used quality architectural design and appropriate themes. Jeffersonian and brick would be appropriate.
7. Mr. Sills – Baker property was displayed. Noted that Mr. Pence’s property was available on the market for a long time. If the Bakers were concerned about their access to Woodrow Wilson Parkway, they had the opportunity to purchase the property. An aerial was displayed indicating the theory of extending Baker Lane as a service drive that would create a bigger issue than it would solve because the proffer to build two left-turn outbound lanes. That traffic could back up to impede the left-turn movements that want to come out of the extension of Baker Lane and get to the traffic signal unless you added another traffic signal. That, in turn, causes a delay and impact on the capacity of the intersection and the thru movements on Woodrow Wilson Parkway. Mr. McDermott showed an example of channelization where traffic could come off of the Woodrow Wilson Parkway into the first left-turn if VDOT allows the median to be kept open with a signal. Traffic lights could be synchronized so that the thru movements are still given the priority and the movement from the side streets are brought out and allowed to travel their short distances until the thru traffic is given a green light. He noted that the Bakers would have a problem with their 300,000 square feet of development regardless of the project. The primary and secondary road access criteria that are pending, and are to be effective October 1 by VDOT, would cause the closure of that median. The fix is to keep the median open and we will continue to work with VDOT to make that happen.

There being no other speakers, the Chairman declared the public hearing closed.

Mr. Shifflett made the following statement:

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STAUNTON BEVERLY ROAD, LLC AND GATEWAY-BEVERLY ROAD, LLC – REZONING (cont'd)

It's been no secret that Augusta County and even Staunton have been trying to land the next commercial center for quite some time. Augusta Marketplace will consist of over 900,000 square feet of retail, restaurants, a theatre and business space. This development will generate jobs to the tune of over 2,500 (50% of completion) and up to 5,000 (at completion) along with a substantial amount of revenue. The projected amount of revenue this development will generate is over \$2 million a year which equals out to 4¢ on the tax rate.

While other localities are willing to roll out the red carpet to get a project of this nature, Augusta County did not have to offer any type of incentives to land this project. The only thing they have said they would like help with, in the terms of cost, is with the waterline upgrade and that agreement will be up to the Service Authority.

We know that this economy is not the greatest and some have asked why build this now. Chances are once the first phases of this development are ready for occupancy, the economy will have begun to make its turnaround. This site could potentially put Augusta County at the forefront of our neighbors. With the areas unemployment reaching unseen levels this is the only economic proposal at this time, since the Toyota ordeal, that is offering that glimmer of light in the darkness of unemployment and revenue loss for Augusta County.

Commercial developments are Pence-Friedel Developers specialty. They have developed over 30 similar projects across the country. Having been in this business since 1968, they understand what it takes to make a project like this successful. I am sure that if they had any doubt about this location or project they would not be investing their time and money and we wouldn't be here tonight.

What I thought was the most interesting was that on May 12th NBC 29 reported the latest retail sales numbers of the first quarter of 2009 for the area. Surprisingly, sales were up 10% in Greene County, 38% in Louisa County and 10% in Waynesboro. All three of those localities have seen new retail and commercial growth within the past 5 years. Albemarle and Charlottesville numbers were down also along with Augusta County's, as it should be no surprise as the county simply does not have any significant retail.

If you look at what Augusta County has to offer its citizens in the way of shopping, it's very slim. Our citizens usually have to travel to Waynesboro, Harrisonburg, Charlottesville and some even to Roanoke to do their shopping for our lack of. If you live in Augusta County, work in Augusta County, and pay your taxes in Augusta County, then you should be able to spend your money in Augusta County and not have to travel elsewhere. The money our citizens spend outside of Augusta County does not help us one bit in the way of revenue generation. There is no doubt this center will draw not only from the area but from Rockingham, Rockbridge, Highland, Bath and even Albemarle.

There is a silver lining to that because citizens from other areas will come, spend their money and then leave just as our citizens do when they shop and spend outside of the county.

No one can foresee future issues and this is why localities have zoning, ordinances, policies, and so forth along with a natural process to deal with issues that may arise. Proffers cannot address every single issue with a rezoning. As we have seen with this project, Pence Friedel Developers have been willing to go above and beyond what our current ordinances require.

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STAUNTON BEVERLY ROAD, LLC AND GATEWAY-BEVERLY ROAD, LLC – REZONING (cont'd)

I am confident that cooperation between the developer, VDOT, Augusta County and any other agency, that may be involved can be achieved in overcoming the concerns and in making this project a benefit and aesthetically pleasing, as it is a Gateway to the City of Staunton that just happens to be in Augusta County. As you have seen in the presentation tonight, Pence Friedel Developers put the utmost of quality into their projects. Traffic will not come over night; this project will be built in phases with final completion in about 15 years. Unlike past developments of this size, a Traffic Impact Analysis (TIA) was required and completed which listed the traffic improvements per each phase of this development. A TIA is still a relatively new process and does not provide answers to everything. It does not take into account neighboring property that "could" or "might" be developed, such as with adjacent property. Once that property is in the process of being developed a TIA will be required for that development and it will most likely take into account the current concerns which then may be addressed. As with all traffic issues, VDOT still has the authority when it comes to managing our roadways. The developers will also be working with the Service Authority to upgrade the waterline to get their required fire flow; with that waterline upgrade, it will also improve the water flow problems in that area and the 254 corridor.

As for Light pollution, we do have a lighting ordinance for this. They have also further restricted parking lot lighting, sign heights and, of course, proffered out a truck stop.

There are issues with Lewis Creek and, per our Planning Commission and developers, a 60-foot buffer in the area of a potential future crossing of Lewis Creek with a 100-foot buffer along the rest of the creek. They are also willing to go a step further and clean up and repair the banks of Lewis creek fronting their property upon approval and I am sure that that approval from those respective agencies will have guidelines to go along with that. If the flood plain is to be modified per the developers less than 1/4 acre of the current floodplain would be impacted. Of course, again, they will have to obtain approval from the respective agencies to do this. They have also added buffer and landscaping provisions along the Interstate and Woodrow Wilson Parkway. They will be held to stormwater management practices in reducing and controlling runoff. Even during construction, this site will be held to the state's Erosion and Sediment control guidelines and inspections.

Development along this corridor will come sooner or later. This property is located in the Urban Service Area of the Comprehensive Plan, where our citizens were able to participate as recently as 2006 and they made it clear that they wanted future growth in these Urban Service Areas. The 262 corridor is slated for growth; for that growth to come, it only takes a willing seller and a willing buyer. The recommended use of this property is listed as General Business. I don't like to see farmland developed but I will say if it is in the Urban Service Area and someone is willing to develop it, I would much rather see a revenue generating and job creating development than a revenue draining residential development.

I would like to thank staff and our Planning Commission for their in-depth work and insight on this project, as it is a large project. I feel they have worked diligently in reasonably addressing the issues of this development. I can in good faith support staff's recommendations on this project.

Ms. Sorrells made the following statement:

I would like to thank everyone for coming out tonight. It is inspiring to know that the people of Augusta County care about where they live. The young, the elderly, the newcomers, and the life long residents all think this is a special place and they care about what happens here.

I think I have gained a reputation over the last few years as a big supporter of farmland preservation, ag vitality and natural resource protection. And I feel that that reputation is deserved. But what I have come to understand more and more is that those things aren't going to be preserved out of context with everything else that is happening all around. Augusta County is a living, breathing place. You can't wave a magic wand and freeze us in time. Populations grow and change and development happens. So the key is good vision and good planning. We have a 20-year "vision" for Augusta County called the Comprehensive Plan. And, while I am the first to admit that it is not a perfect document, it does set forth a vision built upon the assumption that we will grow and develop.

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If you start from that assumption, then the key is not stopping growth, but putting growth in the right place and making it good growth that respects our environment, our quality of life, and our eyesight to make sure it is visually appealing and respect that we don't decrease our quality of life with hassles of transportation and issues like that.

Done well, in the right place, growth can enhance a community not hurt it: provide services to our population; provide tax revenue; and provide jobs.

The bottom line is that, according to our Comp Plan, this is where we want this kind of development – it is in an Urban Service Area where the infrastructure is in place. One of the ways to protect farmland is to put development in the right place. Right here on the Interstate, people get off the Interstate, spend their money, and get back on the Interstate. If this development was plopped 10 miles off the Interstate in the middle of our farmland, I would be singing a different song. The far greater threat to our farmland every year is the fact that 50% of our new housing starts are going in on farmland designated as such on the comp plan rather than places like this.

That said, this is our last unspoiled entrance corridor on the Interstate in Augusta County and we have to get this right.

A lot of work and discussion has already brought many concessions that go far and above anything we have asked of a developer before. Could it go further? Probably, yes, but Augusta County needs to crawl and then we'll walk and we have taken great strides in what you see here today. Think about it. We require a 35-foot buffer. We have through most of Lewis Creek a 100-foot buffer. While I would prefer native grasses and trees in the buffer just because it is not in the proffer does not mean that it won't happen. However if we have 35 feet of grass and then the asphalt starts, you can't plant grass there. If you have 100 feet of grass then we can go back and plant trees when you have your vision all worked out. We are going to be recipients of millions of dollars worth of road improvements. There are major concessions on signage. To me, a major concession is there is no truck stop. The water quality standards are far above what we require anywhere else. The fact that this developer is going to respect the historic landscape of our area in keeping the historic house as part of the context of this development appeals to me.

I think that Augusta County has taken great steps forward. We are working with our Comp Plan. We're growing and developing in the right ways and it is my hope that this developer will help us develop a vision. I don't think Augusta County has developed a vision of itself, yet. I think we found that out when we tried to work out some of these proffers, when we asked for in design guidelines, I don't think we know what we want, yet. Maybe, you all can help us create that vision and set a standard. It is my hope that one day this development will be receiving a Better Models of Development Award from the Valley Conservation Council.

Mr. Pyles made the following statement:

First, of all, I think there are both good people here on both sides. When I hear Dr. Hereford speak, or John Sills speak, I have great respect for those gentlemen. According to attorneys, and, of course, you can always take an attorney at his word, Mr. Pence and his family seem like outstanding people. I wasn't pleased that they got picked on for Italian Renaissance because if they bring an Olive Garden here, they will love the Italian Renaissance to be nearby. But it is not about the people and, in many cases, it is not about the revenue that was projected up there because there is no doubt that this will

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hurt other areas within our confines. Staunton will be the less because of this. Waynesboro won't be as well off because of this. But, you know, it is an important thing.

There is going to be additional business brought to our area. I know we drive to Harrisonburg and go into the mall area there. It is crowded and congested; you go other places, it would be really nice to be able to stay close here and spend in Augusta County.

We have to separate 81 from Augusta County. 81 is a business corridor. That is what it is. You have 70-80,000 vehicles on that thing every day. You have the business of trucking. You have the business of sales people. You have the business of tourism. The gentleman, from the Quality Inn, that's right, those snowbirds, when you leave upstate New York, this is about where you stop when you're heading on down to Florida, so they stop in here. There is travel back and forth. We need to make that entertaining and worth it to them. We can't make Augusta County, along 81, look like the rest of Augusta County. It's not that way. It is a business corridor. If you want to see Augusta County, get off and go out to Deerfield, but you can't get there, now, because of the rock slide. Out in the country, is where Augusta County is; it is not here on 81. This is our urban center. We have Staunton; we have Waynesboro; we have Fishersville; we have Verona in this little "L". This is where the business is. As it is pointed out, this is our last good interchange. The cities both annexed good ones on 340 in Waynesboro and coming over to 81 from Richmond Road. When we looked at others, we didn't want it down at Greenville, but we got it. We should have put some stuff there in Mint Spring which is better for us but there is just a hodgepodge of things there. This is the one that is opened. It is pristine. You say, well, let's not screw it up, and that's right. But when I look at what they project to be there, it has a lot of advantages to us. When we talk about these strip malls going up, that comes from not having a plan; not having the draw; this will be the anchor for Augusta County. This will stop some of those little things from popping up that don't come before the Board. They are just there. They do, in many cases, blight our entranceway. They make safety more of an issue. This will help that. It's right on the Interstate. It's right on our loop. It is something that will reduce as much as possible traffic that comes out into our County. So I think that, in most regards, this is what we want. But the jobs, I think, are going to be very important to us as is the investment these gentlemen are going to make. That is just not money thrown down; that is paying people to move dirt. That is paying people to construct, to build, good jobs.

Yes, the 2,500, I think, is probably an overestimation, but, maybe, it is as much as half. You know if Staunton Mall gets deteriorated or the others, but this is a marketing plan that they made—Business Plan—somebody wanted to sell property; somebody wanted to buy it; and it is where we said it ought to be. I can't think of how we could justifiably say, no, this doesn't fit any of our conditions. I think we're pretty luck to have them. I think it will hurt our cities and I think we may have to work with them some to help ameliorate that to some degree because their health is important to us. One last thing I think we need to look at is what do we do with these disposable buildings? We have things left all over this county when one thing comes in and it moves and hops to the next spot and hops to the next spot. We have to have some way to go in there, renovate, clear it out, sell it, buy it, tear it down, and make it nice to do something with. I think we want to do something good that would be important. There was a question of the Service Authority—I think the Service Authority will be happy to build whatever you want, but the Service Authority works for the rate payer, not for the taxpayer. That's got to come from funds from this Board if they want to oversize a line or something.

Mr. Beyeler made the following statement:

This is the ideal place for this. It is no question in my mind. The first time I heard about it going to this location. This is where we want it to happen. I don't like the idea that the Highway Department wants to close that first crossing and I will speak for one member of this Board, I will help the developer and the Bakers to try to keep that crossing open. I think the Pencses have a plan that will work. It works in Northern Virginia; it ought to be able to work in Augusta County. We are just going to have to convince them. Mr. Pence, I checked on you a little bit and I have, yet, to find anyone to speak badly about you. They have all said you will do what you say and a little bit more. We expect that from this project and we wish you well.

Mr. Coleman made the following statement:

These people have been in this County for a year working with various parties, VDOT, County staff, Mr. Shifflett, it's obviously in his district. I mean I am a supervisor in a growth area. I'm in the Fishersville area. Yeah, there are things there that haven't happened to the degree that we would like for them to have happened. I'm concerned about that. I'm not sure what to do about it. I'm talking about, for example, Exit 91.

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We took farmland over there. It, initially, was called Interstate Business Park. Then what happened, is, in my opinion, we got kind of behind the 8-ball over there and all the development went to Waynesboro. It went to the interchange down below and I was told people who have that ability have what I call deep pockets to have invested what they have invested in that property over there and then, to this point, just be sitting on it. Those are business decisions and that is a private sector stuff. It is probably very little that we, as government, can actually do unless we have something as a part of an agreement to where we can hold people's feet to the fire in terms of getting something done, when something is going to start, when it is going to end, when we are going to see something. I know Mr. Coffield, our County Administrator, usually asks those questions all the time. Once we rezone something, as to when and if anything will ever happen with it. Of course, I've seen things that were rezoned 30 years ago that, today, things are just starting to happen with it. It got rezoned and, of course, sometimes that is a significant marketing tool. So I am in a growth area. I don't make any beans about it. The people who put me in office can decide what they think about the job that I've done in another couple of years, but they are in a growth area and I, basically, have been complemented for telling them that, "if you don't like what's going on, you best move because it is a development area". I truly and sincerely am committed to protecting our open space, protecting our farmland and, as you heard Ms. Sorrells say, she, I and others are continually concerned with the amount of growth that continues to go on out there even though we have worked diligently to try to tighten the ordinances to limit development in our rural areas. We have to encourage growth where we want it. We have to discourage growth where we don't want it. I think right up until this hour, until we came to this meeting tonight, as a result of the meeting yesterday and the meetings that they had with adjoining property owners, they have continued to step forward and to make concessions and revise the proffers. From everything that I know, these are quality people. They are not going to invest the kind of money that you heard tonight that they're talking about investing with no likelihood as to who is coming in there. We see three big anchor stores. We see a lot of retail. We see a movie theater. Waynesboro is talking about a movie theater. That's the nature of the free enterprise system. We are well aware that Staunton has plans to do some stuff at the Frontier Culture Museum. Staunton still has plans to do something at the next interchange down in terms of the Western State property. Again, I want to be known as helping to keep this economy diverse in terms of agriculture, manufacturing, tourism, retail and not find ourselves overly dependent on any one segment of that. I'm certainly going to support the rezoning request. Like Mr. Beyeler said, I'm going to get in the ear of VDOT in terms of them seriously working with the Bakers and with the Pencses in terms of that signalized interchange coming out of Baker Lane because that is the answer that makes the most sense.

Mr. Garber made the following statement:

I believe this is the right place. I believe it's the right plan. I believe in trust and verify. Also, like Mr. Beyeler, I checked outside this building on the folks involved. I think we have the right partners and I hope, for all our sake, it's the right time.

Chairman Howdysshell made the following statement:

I think it's the time. We have the place. We need something to happen. We've been sitting around with the economy going south and I think this will help give us a little boost and, hopefully, this will be the help we get to bring in more technology to some of our other places where we want technology. You have to have a place for people to be entertained and shop. This is the place. This is the time. I think we have the right partner.

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Mr. Shifflett moved, seconded by Mr. Beyeler, that the Board adopt the following ordinance with revised proffers:

05/27/09

ORDINANCE

A REQUEST TO REZONE FROM GENERAL AGRICULTURE TO GENERAL BUSINESS WITH PROFFERS APPROXIMATELY 135.2 ACRES OWNED BY STAUNTON-BEVERLY ROAD, LLC AND GATEWAY-BEVERLY ROAD, LLC LOCATED IN THE NORTHEAST AND SOUTHEAST QUADRANTS OF THE INTERSTATE 81/ROUTE 262 INTERCHANGE IN THE BEVERLEY MANOR DISTRICT.

AN ORDINANCE to amend Chapter 25 "Zoning" of the Code of Augusta County, Virginia.

WHEREAS, application has been made to the Board of Supervisors to amend the Augusta County Zoning Maps,

WHEREAS, the Augusta County Planning Commission, after a public hearing, has made their recommendation to the Board of Supervisors,

WHEREAS, the Board of Supervisors has conducted a public hearing,

WHEREAS, both the Commission and Board public hearings have been properly advertised and all public notice as required by the Zoning Ordinance and the Code of Virginia properly completed,

WHEREAS, the Board of Supervisors has considered the application, the Planning Commission recommendation and the comments presented at the public hearing;

NOW THEREFORE BE IT ORDAINED, by the Board of Supervisors that the Augusta County Zoning Maps be amended as follows:

Parcel numbers **84B**, **86B**, **86C**, and **86E** on tax map number **46** containing approximately 135.175 acres are changed from General Agriculture to General Business with the following proffers:

1. **Permitted Uses**. The Applicant shall be permitted to develop the Property with a gasoline retail outlet (up to 20 gasoline fueling positions) and convenience mart, 180 room hotel (which may or may not include such ancillary uses as are typically utilized in full service hotels) (collectively, the "Baseline Development") and up to 909,164 square feet of additional commercial and service related uses consisting of those uses permitted in the General Business (GB) District as it exists at the time of, and including such uses as may be added subsequent to, this proffered rezoning.
2. **Prohibited Uses**. The following uses shall be prohibited on the Property: (a) adult businesses; (b) mini-warehouses; (c) warehouse operations, except that the foregoing shall not preclude storage and warehousing ancillary to, and typically used by, sales and service establishments including, without limitation, department stores, grocery stores, and home improvement stores; and (d) truck stops.
3. **Development Conformance**. The Property shall be developed, with respect to the approximate location of ultimate points of access at the periphery of the Property, in substantial conformance with the Conceptual Development Plan (CDP) dated May 15, 2009 and prepared by JPRA Architects, as further modified by these proffered conditions. For the purpose of this Paragraph 3, the term "points of access at the periphery of the Property" refers only to access from Woodrow Wilson Parkway directly into the property, and does not refer to points of access from Baker Lane; access from

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Baker Lane shall be provided as may be approved by VDOT and/or the County. The CDP is referenced herein solely for the purpose of showing the approximate location of the peripheral entrances to the Property directly from Woodrow Wilson Parkway. All site plans submitted for review by the Applicant for development on the Property shall be in conformance with these Proffers and all provisions of the Zoning Ordinance, unless waived and/or modified, as it existed at the time of the filing of each respective site plan. In an effort to minimize the impacts of the proposed development on surface and groundwater systems the Applicant shall implement Best Management Practices in conformance with the Virginia Stormwater Management Regulations (4VAC50-60-60) as though required by Chapter 18 (Stormwater) of the County Code. All buildings and pylon signs on the Property shall be constructed with compatible materials and colors characteristic of a unified theme, except that architectural motifs and/or trademark design requirements of individual tenants/occupants shall be respected but incorporated in a manner consistent with the unified design theme to the greatest extent feasible; said unified design theme shall be enforced by the Applicant through restrictive covenants. All freestanding parking lot lighting shall be full cut-off design to minimize off-site leakage of light, and shall not exceed 35 feet, as measured from the finished grade to the top of the light standard, which shall be inclusive of the light fixture. Along the Property's North Side frontage with Interstate 81 ("I-81"), a 35 foot wide buffer, measured from the eastern I-81 right-of-way line, shall be provided which shall be landscaped and shall include an undulating berm between 1 and 5 feet in height. Along the Property's Woodrow Wilson Parkway frontage, a 20 foot wide buffer, measured from the northern Woodrow Wilson Parkway right-of-way line, shall be provided which shall be landscaped and include an undulating berm between 1 and 4 feet in height.

4. **Signage.** The Applicant shall design all signage on the Property with a unified theme. No more than five pylon signs (freestanding signs greater than 15 feet in height containing signage) shall be installed on the Property, three (two on the North Side and one on the South Side) of which, in the Applicant's sole discretion, may be located along the Property's I 81 frontage. One of the pylon signs constructed on the Property may be up to 45 feet in height, two may be up to 35 feet in height, and two may be up to 25 feet in height. All other freestanding and building mounted signage shall be in conformance with the provisions of Article IV of the Zoning Ordinance (the "Sign Ordinance"), unless waived and/or modified. All freestanding signage adjacent to I-81 and/or site entrances shall be installed consistent with VDOT regulations.
5. **Utility Improvements.** The Applicant shall extend public water and public sanitary sewer lines sufficient to serve the Property to, and throughout the Property, in conformance with Chapter 24 of the Augusta County Code and Section 25-505 of the Zoning Ordinance and in accordance with the Augusta County Service Authority (the "Authority") rules and regulations. The Applicant shall be responsible for acquiring the easements necessary to make the aforesaid improvements.

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6. **Lewis Creek Floodplain and Buffer.** The Applicant shall perform all site work (including, without limitation, necessary public water, sanitary sewer, and/or stormwater management facilities, Property access, and/or improvements to Lewis Creek Road) within the Floodplain Overlay District, in accordance with Article XLVII of the Zoning Ordinance, as the Floodplain Line may be altered subject to the approval of each applicable governmental authority. The Applicant shall not construct any buildings or parking on the North Side and South Side (as each is defined below in Paragraph 7(A)(1)) portions of the Property that is within the designated floodplain adjacent to Lewis Creek as it may be altered subject to the approval of each applicable governmental authority. The Applicant shall provide a buffer [which shall remain undisturbed except as to (a) the installation and/or maintenance of facilities for public water, sanitary sewer, stormwater management, other public utilities or facilities, and property access; (b) improvements to Lewis Creek Road and/or other public road, and improvements for up to two peripheral points of access to the Property from Lewis Creek Road; (c) improvements to and/or restoration of the banks of Lewis Creek; and/or (d) other maintenance or restorative activity as to Lewis Creek] on the North Side of the Property (i) east of Lewis Creek; (ii) within 60 feet of the west bank of Lewis Creek in the vicinity of the existing Lewis Creek Lane crossing of Lewis Creek and (iii) within 100 feet of all others portions of the west bank of Lewis Creek not described in (ii) above.
7. **Transportation Improvements.**
- A. **General.**
1. The Property is bisected by Woodrow Wilson Parkway, with approximately 118.405 acres on the north side (the "North Side") and approximately 16.77 acres on the south side (the "South Side"). The development contemplated on the Property by the Applicant is divided into four phases: the Initial Phase, Phase 1, Phase 2, and Phase 3.
 - i. In the **Initial Phase** of development on the Property the Applicant shall be permitted to develop, in the Applicant's sole discretion, the Baseline Development, but not including the hotel, and/or up to an additional 28,000 square feet of any of the commercial and service related uses permitted in the GB District (the "Initial Phase Additional Development"), with no more than a maximum of 15,000 square feet of such commercial and service related uses to be developed on the South Side.
 - ii. In **Phase 1** of development on the Property the Applicant shall be permitted to develop, in the Applicant's sole discretion, the Baseline Development including the hotel, and in addition to this development a cumulative total of 462,600 square feet of any of the commercial and service related uses permitted in the GB District (the "Phase 1 Additional Development"), with no more than a maximum of 108,900 square feet of such commercial and service related uses to be developed on the South Side.
 - iii. In **Phase 2** of development on the Property the Applicant shall be permitted to develop, in the Applicant's sole discretion, the Baseline Development including the hotel, and in addition to this development a cumulative total of 729,658 square feet of any of the commercial and service related uses permitted in the GB District (the "Phase 2 Additional Development"), with no more than a maximum of 130,000 square feet of such commercial and service related uses to be developed on the South Side.

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- iv. In **Phase 3** of development on the Property the Applicant shall be permitted to develop, in the Applicant's sole discretion, the Baseline Development including the hotel, and in addition to this development a cumulative total of 909,164 square feet of any of the commercial and service related uses permitted in the GB District, with no more than a maximum of 208,900 square feet of such commercial and service related uses to be developed on the South Side.
2. The Applicant shall provide transportation improvements according to a phasing schedule, as illustrated in the attached transportation improvement diagrams (Exhibit A), and as described in Proffer 7(B) below for, respectively, the Initial Phase, Phase 1, Phase 2, and Phase 3 of development as described in the Traffic Impact Analysis ("TIA"), prepared by Patton, Harris, Rust & Associates ("PHR&A"), dated November 26, 2008 as revised through December 17, 2008, such improvements shall be constructed in accordance with VDOT and/or FHWA Standards where respectively applicable. Upon approval of a site plan for development on the Property and construction plans for said transportation improvements, the Applicant shall provide such performance guarantees or bonds consistent with those required under Section 21-36 of the Augusta County Code (subject to the approval of the Director of Community Development) for the completion of such transportation improvements (referenced immediately above in this Paragraph 7 (A)(2)) as are shown or referenced on each such respective site plan. Periodic partial release of the bonds shall be permitted in a manner consistent with the provisions of Section 21-38 of the County Code.
3. At the time of approval of the first site plan for development on the Property, the Applicant shall dedicate to the Board or VDOT right-of-way along the Property's Woodrow Wilson Parkway frontage in an amount necessary to permit the construction of Woodrow Wilson Parkway as a four-lane primary roadway (100 foot wide section) in accordance with the recommendation of the Comprehensive Plan.
4. Should off-site, privately owned right-of-way and/or easements (collectively "right-of-way") be necessary to complete any of the improvements proffered below, the Applicant shall either acquire such right-of-way or shall pay all costs, including reasonable attorney's fees for outside counsel (if applicable), necessary for Augusta County to acquire such right-of-way by such lawful means as are available to Augusta County. The Applicant shall first use its good faith efforts to diligently pursue acquisition of said right-of-way. If the Applicant is unable to

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acquire said right-of-way within ninety days of commencement of its efforts to acquire such right-of-way, the Applicant shall provide evidence of such efforts and request in writing that the Board acquire such right-of-way by whatever lawful means are available to it for the purpose of accomplishing said off-site road improvements. Should the Board elect to acquire such right-of-way, Applicant shall be entitled to proceed with its development plan approvals and permits, including occupancy permits, while waiting for the right to construct such off-site improvements in such right-of-way. Should the Board not elect to acquire such off-site right-of-way, the Applicant shall not be permitted to construct or occupy any additional square feet of development, which these proffers and the TIA reflect require the availability of road improvements to be constructed within such off-site right-of-way.

5. All transportation improvements that involve any of the I-81 access ramps and/or limited access areas shall be coordinated with VDOT, the Federal Highway Administration ("FHWA") and Augusta County. Applicant shall apply for approvals of said transportation improvements before commencement of construction of any development Phase that includes such improvements. Should VDOT and/or FHWA not timely permit any such improvements within the timeframe required for such improvements described below, the Applicant shall be entitled to proceed with its development plan approvals and permits, including occupancy permits, while continuing to pursue the right to construct such off-site improvements in such right-of-way. In which event, the Applicant shall continue, until it has applied for its final initial occupancy permit for Phase 2, its good faith efforts to obtain approval by VDOT and/or FHWA to construct, and shall construct upon receipt of such approval, each such proffered transportation improvement not previously permitted by VDOT and/or FHWA. In the event that approvals from VDOT and/or FHWA have been withheld until after the Applicant has applied for its final initial occupancy permit for Phase 2, the Applicant's responsibility to construct any such transportation improvements, requiring approval by VDOT and/or FHWA, referenced in this Paragraph 7(A)(5) shall be deemed to have been satisfied.
6. The Applicant shall have no more than two points of access (which may be private or public roadways) to Lewis Creek Road to and from the Property's North Side upon the upgrade, by the Applicant or others, of Lewis Creek Road from Woodrow Wilson Parkway to the respective access point in accordance with applicable VDOT standards. In the event any such access from the Property to Lewis Creek Road crosses Lewis Creek, such bridge crossing shall be designed and constructed in accordance with applicable VDOT standards.
7. All turn lanes to be constructed by the Applicant in association with these proffers shall be constructed with turn lane storage lengths equivalent to the 95th percentile queue results per the February 5, 2009 Synchro software analysis submitted by PHR&A as supplemental information to the Applicant's TIA, unless shorter or longer storage lengths are agreed to by the Applicant and VDOT.

B. Phasing.

1. Initial Phase. In conjunction with the Initial Phase Development, and as illustrated in the attached transportation improvement diagram (Exhibit A-Figure 2), the Applicant shall complete the following transportation related improvements:

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- i. Prior to the issuance of the first building permit for development on the North Side, the Applicant shall bond the construction of two entrances from Woodrow Wilson Parkway, one at Site Drive #1 and one at Site Drive #2 to include, without limitation, the improvements identified in Paragraph 7(B)(1)(iv)(a) and (c) below. The intersection of Site Drive #2 with Woodrow Wilson Parkway shall be configured to allow for right-in/right-out movements only unless VDOT and the County have approved a median break in this location per Proffer 7(B)(1)(iii) below.
- ii. Prior to the issuance of the first building permit for development on the South Side, the Applicant shall bond the construction of (a) one entrance accessing the South Side from Baker Lane to and from Woodrow Wilson Parkway; (b) an improved two-lane Baker Lane (if necessary to meet VDOT standards) across the Property's frontage on Baker Lane, to include right turn capacity onto eastbound Woodrow Wilson Parkway; (c) a right turn lane from eastbound Woodrow Wilson Parkway into South Side Site Drive #1, i.e., a second entrance; and (d) the reconfiguration identified in Paragraph 7(B)(1)(iv)(c) below as to South Side Site Drive #1.
- iii. Close the median break at the intersection of Woodrow Wilson Parkway and Site Drive #2, unless otherwise approved by the County and VDOT.
- iv. Improve the intersection at Site Drive #1 by constructing (a) a left turn lane from eastbound Woodrow Wilson Parkway into North Side Site Drive #1; (b) a right turn lane from eastbound Woodrow Wilson Parkway into South Side Site Drive #1; and (c) reconfigure the lane approaches on Woodrow Wilson Parkway between Site Drive #1 and the existing bridge crossing of Lewis Creek, as necessary to accommodate these intersection improvements.
- v. Submit a traffic signal warrant analysis to VDOT to determine whether a traffic signal is warranted at the intersection of Woodrow Wilson Parkway and the northbound I-81 ramp. Should VDOT determine that this signal is warranted, the Applicant shall install the traffic signal prior to the issuance of an occupancy permit for the Initial Phase of development. In the event that VDOT does not make a determination on the necessity to install said traffic signal by the time the Applicant is entitled to issuance of an occupancy permit for the Initial Phase of development, the Applicant shall furnish a surety bond, a bank letter of credit or a cash escrow for funds deemed sufficient to install the traffic signal at such later date as VDOT shall deem the signal to be warranted, and the Applicant shall be permitted to receive occupancy permits for development in the Initial Phase and each subsequent phase of development. To the extent any such bond, escrow, or letter of credit has not been drawn down upon for construction of the respective aforesaid traffic signal by the tenth anniversary of the date of

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issuance thereof, then such bond, escrow, or letter of credit shall be promptly released to the Applicant.

2. Phase 1. In conjunction with the Phase 1 Additional Development, and as illustrated in the attached transportation improvement diagram (Exhibit A-Figure 3), the Applicant shall bond the following transportation related improvements prior to the issuance of the initial building permit for any Phase 1 Additional Development beyond that allowed in the Initial Phase:
 - i. Prior to the issuance of the initial building permit for Phase 1 of the development, the Applicant shall bond the reconfiguration of Site Drive #1 by constructing (a) an additional left turn lane from eastbound Woodrow Wilson Parkway into North Side Site Drive #1; (b) a left turn lane from westbound Woodrow Wilson Parkway into South Side Site Drive #1; (c) a right turn lane from westbound Woodrow Wilson Parkway into North Side Site Drive #1; (d) lane approaches on Woodrow Wilson Parkway between Site Drive #1 and the existing bridge crossing of Lewis Creek, as necessary to accommodate these intersection improvements; (e) a shared through/right turn lane on westbound Woodrow Wilson Parkway between North Side Site Drive #1 and Site Drive #2; (f) a free flow right turn lane on eastbound Woodrow Wilson Parkway from the existing right turn lane at the Baker Lane intersection with Woodrow Wilson Parkway eastward to South Side Site Drive #1; and (g) reconfigure the South Side Site Drive #1 to provide dual lefts onto westbound Woodrow Wilson Parkway and a shared through/right turn lane onto eastbound Woodrow Wilson Parkway.
 - ii. Construct free flow right turn lanes (a) from the I-81 northbound ramp onto eastbound Woodrow Wilson Parkway to provide access onto southbound Baker Lane; and (b) from westbound Woodrow Wilson Parkway onto the I-81 northbound ramp.
 - iii. Submit traffic signal warrant analyses to VDOT to determine whether traffic signals are warranted at (a) the intersection of Woodrow Wilson Parkway and the southbound I-81 ramp; and (b) the intersection of Woodrow Wilson Parkway and Site Drive #1. Should VDOT determine that these signals are warranted, the Applicant shall install the traffic signals prior to the issuance of an occupancy permit for additional development beyond that allowed in the Initial Phase. In the event that VDOT does not make a determination on the necessity to install said traffic signals by the time Applicant is entitled to issuance of an occupancy permit for development beyond that permitted in the Initial Phase, the Applicant shall furnish a surety bond, a bank letter of credit or a cash escrow for funds deemed sufficient to install the respective traffic signals at such later date as VDOT shall deem the respective signal to be warranted, and the Applicant shall be permitted to receive occupancy permits for development in Phase 1 and each subsequent Phase. To the extent any such bond, escrow, or letter of credit has not been drawn down upon for construction of the respective aforesaid traffic signals by the tenth anniversary of the date of issuance thereof, then such bond, escrow, or letter of credit shall be promptly released to the Applicant.
 - iv. Extend the storage length of the left turn lane on westbound Woodrow Wilson Parkway onto the I-81 southbound ramp.
3. Phase 2. In conjunction with the Phase 2 Additional Development, and as illustrated in the attached transportation improvement diagram (Exhibit A-Figure 4), the Applicant shall bond the following transportation related improvements prior to the issuance of the initial building permit for any

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Phase 2 Additional Development beyond that allowed in the Initial Phase and Phase 1:

- i. Construct a second left turn lane on westbound Woodrow Wilson Parkway onto the I-81 southbound ramp.
 - ii. Convert free flow right turn lane from eastbound Woodrow Wilson Parkway onto southbound Baker Lane into a through lane and construct a right turn lane from eastbound Woodrow Wilson Parkway onto southbound Baker Lane.
 - iii. Construct an additional lane on I-81 southbound ramps to accommodate (a) dual left turn lanes from the I-81 southbound ramp onto eastbound Woodrow Wilson Parkway, and (b) a receiving lane on the I-81 southbound ramp from the dual left turn lanes from westbound Woodrow Wilson Parkway onto I-81 southbound ramp.
 - iv. The left turn lane from eastbound Woodrow Wilson Parkway into North Side Site Drive #1 shall be extended to provide adequate storage capacity.
 - v. If a point of access from Lewis Creek Road to the North side of the Property is required, at the time of final site plan approval for Phase 2, to be provided in association with the Phase 2 Additional Development, then the Applicant shall widen Lewis Creek Road to two 12-foot lanes from its intersection with Woodrow Wilson Parkway to the respective entrance to the North side of the Property from Lewis Creek Road, if not already constructed by others.
4. Phase 3. In conjunction with the Phase 3 Additional Development, and as illustrated in the attached transportation improvement diagram (Exhibit A-Figure 5), the Applicant shall bond the following transportation-related road improvements prior to the issuance of the initial building permit for any Phase 3 Additional Development beyond that allowed in the Initial Phase, Phase 1, and Phase 2:
- i. Construct an additional through lane on Woodrow Wilson Parkway (a) eastbound between Baker Lane and Lewis Creek Road; and (b) westbound between Lewis Creek Road and North Side Site Drive #2.
 - ii. Submit traffic signal warrant analyses to VDOT to determine whether a traffic signal is warranted at the intersection of Woodrow Wilson Parkway and Lewis Creek Road. Should VDOT determine that this signal is warranted, the Applicant shall install the traffic signal prior to the issuance of occupancy permits for the Phase 3 Additional Development requiring such traffic signal. In the event that VDOT has not warranted said traffic signal and issued a permit for its construction by the time Applicant is entitled to issuance of occupancy permits for any Phase 3 Additional Development, the Applicant shall furnish a surety bond, a bank letter of credit or a cash escrow for funds deemed sufficient to install the traffic signal at such later date as

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VDOT shall deem the signal to be warranted, and the Applicant shall be permitted to receive occupancy permits for Phase 3 Additional Development and Phase 4 Additional Development. To the extent any such bond, escrow, or letter of credit has not been drawn down upon for construction of the aforesaid traffic signal by the tenth anniversary of the date of issuance thereof, then such bond, escrow, or letter of credit shall be promptly released to the Applicant.

iii. Widen the Woodrow Wilson Parkway bridge crossing of Lewis Creek from two lanes to five lanes.

iv. Reconfigure the Lewis Creek Road/Woodrow Wilson Parkway intersection by constructing (a) dual left turns from eastbound Woodrow Wilson Parkway onto Lewis Creek Road; and (b) a southbound right turn lane from Lewis Creek Road onto westbound Woodrow Wilson Parkway.

v. Reconfigure Site Drive #1 by restriping the North Side entrance to provide a dedicated right turn lane, a shared right turn/through lane, and a left turn lane onto eastbound Woodrow Wilson Parkway.

vi. Widen Lewis Creek Road to two 12-foot lanes from its intersection with Woodrow Wilson Parkway to the respective entrance to the North side of the Property from Lewis Creek Road, if not already constructed by the Applicant or by others.

Vote was as follows: Yeas: Howdysshell, Sorrells, Garber, Beyeler, Shifflett, Pyles and Coleman

Nays: None

Motion carried.

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(END OF PUBLIC HEARINGS)
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MATTERS TO BE PRESENTED BY THE PUBLIC - NONE

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The Chairman called for a 5-minute recess at 9:28 p.m.

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DEERFIELD COMMUNITY CENTER

The Board considered request from Deerfield Community Center for improvements to basketball court and goals to not exceed \$8,175.

Funding Source: Pastures Recreation Account #80000-8024-22

Mr. Pyles advised that the Deerfield Community Center is owned by Augusta County and is leased to the Ruritan Club, with 12 members who want to do something for the community. Mr. Pyles is agreeable. The first thing needed is re-blacktopping of the basketball court and goals.

Mr. Pyles moved, seconded by Mr. Coleman, that the Board approve the request.

Vote was as follows: Yeas: Howdysshell, Sorrells, Garber, Beyeler, Shifflett, Pyles and Coleman

Nays: None

Motion carried.

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May 27, 2009, at 7:00 p.m.

HOMELAND SECURITY GRANT – FIRE DEPARTMENTS

The Board considered grant to purchase Toughbooks for County Fire Department agencies.

Funding Source: #80000-8152 \$53,264

Patrick J. Coffield, County Administrator, advised that a report was given at the Staff Briefing on Tuesday. The grant program is an 80/20 match program and would purchase 30 Toughbooks at a cost of \$4,000 each. It will also provide some software and hardware for one year.

Mr. Beyeler moved, seconded by Ms. Sorrells, that the Board approve the request.

Vote was as follows: Yeas: Howdysshell, Sorrells, Garber, Beyeler, Shifflett, Pyles and Coleman

Nays: None

Motion carried.

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AUGUSTA SPRINGS WATERLINE CONNECTION

The Board considered request for funding to assist property owner with waterline connection fee.

Funding Source: Pastures Infrastructure Account #80000-8014-57 \$3,275

Mr. Pyles asked that this item be tabled for two weeks to follow up Mr. Garber’s request to verify the numbers. Chairman Howdysshell advised that he had spoken with Bo Beasley who verified that the letter was correct. Mr. Pyles stated that there were extenuating circumstances when the trailer burned down. The people thought everything was taken care of and then learned more was needed. He felt that this was similar to what Habitat for Humanity does and asked that the Board approve the request to allow the person to remain connected without paying additional money.

Mr. Pyles moved, seconded by Mr. Shifflett, that the Board approve the request.

Vote was as follows: Yeas: Howdysshell, Sorrells, Garber, Beyeler, Shifflett, Pyles and Coleman

Nays: None

Motion carried.

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May 27, 2009, at 7:00 p.m.

SWEET DREAMS

The Board considered request for Board donation for 2009 event in the amount of \$2,500.

SWEET DREAMS (cont'd)

Funding Sources:	Beverley Manor Infrastructure Account	#80000-8011-36	\$ 625.00
	South River Infrastructure Account	#80000-8016-48	\$ 625.00
	Riverheads Infrastructure Account	#80000-8015-51	\$ 625.00
	Wayne Infrastructure Account	#80000-8017-59	<u>\$ 625.00</u>
			\$2,500.00

Mr. Coffield advised that this item was discussed at the Staff Briefing on Tuesday.

Mr. Beyeler moved, seconded by Mr. Coleman, that the Board approve the request.

Vote was as follows: Yeas: Howdyshell, Sorrells, Garber, Beyeler, Shifflett, Pyles and Coleman

Nays: None

Motion carried.

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STUARTS DRAFT DIAMOND CLUB

The Board considered request for funding to construct foul ball netting to protect Fire Department in an amount not to exceed \$3,200.

Funding Source:	South River Infrastructure Account	#80000-8016-49
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Mr. Coffield advised that this item was discussed at the Staff Briefing on Tuesday. Mr. Beyeler added that half a dozen balls a game goes on top of the building and roll down the gutters, which could later cause a bigger problem.

Mr. Beyeler moved, seconded by Mr. Shifflett, that the Board approve the request.

Vote was as follows: Yeas: Howdyshell, Sorrells, Garber, Beyeler, Shifflett, Pyles and Coleman

Nays: None

Motion carried.

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CONSENT AGENDA

Mr. Coleman moved, seconded by Ms. Sorrells, that the Board approve the following consent agenda:

MINUTES

- Approved minutes of the following meeting:
- Special Meeting, Wednesday, May 6, 2009
 - Regular Meeting, Wednesday, May 13, 2009.

VALLEY COLLEGE PARK – PRELIMINARY PLAT

Approved preliminary plat – Valley College Park, containing 4 lots zoned General Business located at the intersection of Route 256 and Route 11 in Weyers Cave (North River District). The Planning Commission recommends approval.

COMMUNITY ACTION PARTNERSHIP

Approved modifications to Memorandum of Agreement and proposed funding allocations.

May 27, 2009, at 7:00 p.m.

CONSENT AGENDA (cont'd)

Vote was as follows: Yeas: Howdyshell, Sorrells, Garber, Beyeler, Shifflett, Pyles and Coleman

Nays: None

Motion carried.

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(END OF CONSENT AGENDA)
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MATTERS TO BE PRESENTED BY THE BOARD

The Board discussed the following:

Ms. Sorrells: Middlebrook Library – welcomed in the community and has a book drop. Volunteers have signed up to help keep Wednesdays open.

Mr. Beyeler: Kiser event at the Stuarts Draft Diamond Club – Well attended – approximately 250 people!

Mr. Coleman: Augusta Medical meeting today @ 5:00 p.m. – received update on AMC from the new CEO – great networking!

Chairman Howdyshell: AMC meeting – key staff members were present.

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VALLEY ALCOHOL SAFETY ACTION PROGRAM – REAPPOINTMENT

Mr. Garber moved, seconded by Mr. Pyles that the Board reappoint Patrick J. Coffield to serve another three-year term on the Valley Alcohol Safety Action Program, effective July 1, 2009, to expire June 30, 2012.

Vote was as follows: Yeas: Howdyshell, Sorrells, Garber, Beyeler, Shifflett, Pyles and Coleman

Nays: None

Motion carried.

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Mr. Garber made the following appointments, seconded by Ms. Sorrells:

SHENANDOAH VALLEY WORKFORCE INVESTMENT – REAPPOINTMENT

Shelly A. Argenbright and Patricia M. Snyder to serve another three-year term on the Shenandoah Valley Workforce Investment Board, effective July 1, 2009, to expire June 30, 2012.

May 27, 2009, at 7:00 p.m.

MATTERS TO BE PRESENTED BY THE BOARD (cont'd)

SHENANDOAH VALLEY PARTNERSHIP – REAPPOINTMENT

Wendell L. Coleman to serve another two-year term on the Shenandoah Valley Partnership, effective July 1, 2009, to expire June 30, 2011.

BLUE RIDGE CRIMINAL JUSTICE BOARD – REAPPOINTMENTS

Miles C. Bobbitt and Nuccia Hardrich to serve another two-year term on the Blue Ridge Criminal Justice Board, effective July 1, 2009, to expire June 30, 2011.

YOUTH COMMISSION – REAPPOINTMENT

Courtney Yancey to serve another one-year term on the Youth Commission, effective July 1, 2009, to expire June 30, 2010.

CAP-SAW (COMMUNITY ACTION PARTNERSHIP) – APPOINTMENTS

1. Wendell L. Coleman (Government) – 2-year term, effective June 1, 2009, to expire June 30, 2011.
2. Jeremy L. Shiflett (Government) – 1-year term, effective June 1, 2009, to expire June 30, 2010.
3. Justine Carter-Moats (Business) – 2-year term, effective June 1, 2009, to expire June 30, 2011.
4. Richard Baldwin (Business) – 3-year term, effective June 1, 2009, to expire June 30, 2012.

COMMUNITY POLICY AND MANAGEMENT TEAM (CPMT) – APPOINTMENTS

1. Dr. Don Lewis (VCSB) – ongoing term, effective July 1, 2009.
2. Gary Conway (DCSU) – ongoing term, effective July 1, 2009.
3. Elizabeth Middleton (DSS) – ongoing term, effective July 1, 2009.
4. Dr. Doug Larsen (Health Dept.) – ongoing term, effective July 1, 2009.
5. John C. McGehee – 2-year term, effective July 1, 2009, to expire June 30, 2011.
6. Carol Blair – 3-year term, effective July 1, 2009, to expire June 30, 2012.
7. Jennifer Whetzel – 4-year term, effective July 1, 2009, to expire June 30, 2013.

Vote was as follows: Yeas: Howdysshell, Sorrells, Garber, Beyeler, Shiflett, Pyles and Coleman

Nays: None

Motion carried.

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MATTERS TO BE PRESENTED BY STAFF

Staff discussed the following:

1. Audit Committee: June 10th at 6:00 p.m.

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