Shown below is a preliminary summary of the actions taken by the Hanover County Board of Supervisors on September 25, 2013. Detailed minutes in final form will be presented to the Board for approval at a future date.

HANOVER COUNTY BOARD OF SUPERVISORS

SUMMARY MINUTES

Hanover County Administration Building
Board Room

September 25, 2013

I. Call to Order – The Chairman called the meeting to order at 6:00 p.m. All Board Members were present.

A. Invocation was given by Mr. Stanley. Mr. Stanley noted the recent passing of Mr. Ed Bowles, former Building Inspector. Mr. Stanley asked those present to hold the families of the deceased shooting victims in Washington, DC in their thoughts.
B. Pledge of Allegiance was led by Mr. Davis.

II. Consideration of Agenda Amendments

The Chairman asked if there were any agenda amendments. Hearing none, moved on to the next item on the agenda.

III. Citizens' Time

The Chairman opened Citizens' Time and offered to anyone who wished to address the Board of Supervisors for up to five minutes on any matter within the scope of the Board's authority that is not on the agenda for that meeting to come forward. Seeing no one come forward, the Chairman closed Citizens' Time.

IV. Consent Agenda

The Chairman entertained a motion for approval of the consent agenda. Mr. Via made a motion to approve the consent agenda, seconded by Mr. Hazzard.

	Vote:
W. Canova Peterson	Aye
Sean M. Davis	Aye
Wayne T. Hazzard	Aye
Angela Kelly-Wiecek	Aye
Aubrey M. Stanley	Aye
G. E. Via, III	Aye
Elton J. Wade, Sr.	Aye

Consent Agenda Approved as follows:

A. Approval of a non-standard Utility Service Agreement between Hanover County, HHHunt Providence, LLC and Shaia Group, LLC – Department of Public Utilities (Ashland and Beaverdam Magisterial Districts)

B. Adoption of Resolution to Approve County-Wide Rabies Clinics

C. Active Zoning Case Extension Request – C-11-12(c), George A. Oley III et al. (Chickahominy Magisterial District)

V. Presentations -

- Eagle Scout Keegan Michael McNulty, Ashland Magisterial District, Boy Scout Troop 5216 Mr. Via came forward along with Eagle Scout McNulty. Mr. Via read and presented the proclamation to Eagle Scout McNulty.
- 9-10 year old Mechanicsville Little League National All Star Team - Mr. Peterson came forward and asked the Mechanicsville Little League National All Star Team come forward along with Team Leaders. Mr. Peterson then read and presented the proclamation.

VI. Request for Authorization to Advertise for Public Hearing: Ordinance No. 13-08 - Personal Property Tax Exemption of Mopeds and Other Exempt Personal Property – Mr. S. Harris

Mr. Scott Harris, Commissioner of Revenue came forward to present this item.

Board Sheet Background: In the 2013 Session the General Assembly enacted Senate Bill 1038 and related bills (Acts of Assembly, chapter 783) amending the Virginia Code to address issues related to mopeds, defined as: " every vehicle that travels on not more than three wheels in contact with the ground that (i) has a seat that is no less than 24 inches in height, measured from the middle of the seat perpendicular to the ground; (ii) has a gasoline, electric, or hybrid motor that (a) displaces 50 cubic centimeters or less or (b) has an input of 1500 watts or less; (iii) is power-driven, with or without pedals that allow propulsion by human power; and (iv) is not operated at speeds in excess of 35 miles per hour."

The 2013 changes include an amendment to Virginia Code Section 58.1-3504 adding mopeds to the list of personal effects which are typically exempt from personal property tax. In order to conform the County's list of exempt household items and personal effects to the legislative changes, and to simplify the provisions related to these types of exempt personal property, the staff recommends consideration of adoption of the attached ordinance combining Hanover County Code sections 22-48 (personal effects) and 22-49 (farm property) into one section referring generally to the classes of items in the relevant statutes and providing for future amendments (pursuant to Virginia Code Section 1-220 which allows incorporation of future amendments by reference). Copies of Virginia Code sections 58.1-3504 and 58.1-3505 and Hanover County Code sections 22-48 and 22-49 are attached for reference.

Mr. Hazzard asked if this only came up due to licensing of the mopeds. Mr. S. Harris advised yes, if we do not exempt then we have to tax by law and it would be hard to locate them. Mopeds will not require a driver's license.

Mr. Via made a motion to advertise for public hearing – Ordinance No. 13-08, Hanover County Code Amendment to Address Statutory Change Related to Personal Property Tax Exemption of Mopeds and Other Exempt Personal Property, seconded by Mrs. Kelly-Wiecek.

	Vote:
W. Canova Peterson	Aye
Sean M. Davis	Aye
Wayne T. Hazzard	Aye
Angela Kelly-Wiecek	Aye
Aubrey M. Stanley	Aye
G. E. Via, III	Aye
Elton J. Wade, Sr.	Aye

Motion Approved.

VII. Update – Capital Area Agency on Aging – Senior Connections –

Dr. Thelma B. Watson, Executive Director, Capital Area Agency on Aging, briefed the Board on recent initiatives of Senior Connections and updated the Board on transportation resources within Hanover County. Also present were Pamela Bridgeforth, Charlie Resnick, Ken Lantz, Pam Saunders

Senior Connections, The Capital Area Agency on Aging

Services since 1973 in Hanover and other localities in Planning District 15 (Chesterfield, Goochland, Powhatan, Henrico, New Kent, Charles City and Richmond)

- **Purpose:** Information/Assistance/Referrals/Maintaining Independence in the Community, Less Costly Alternatives to Nursing Homes/Assisted Living, Decreased Hospital Admissions, Support for Caregivers and Recognition of Seniors as Resources.

- **Hanover County (Total population: 99,863; 19,135 age 60 and over; 1,631 – 85 years+)**
  - **Services in Hanover County:**
    - Care Coordination (Pamela Bridgeforth)
    - Friendship Cafés (Shiloh Baptist Church, Montpelier Senior Center)
    - Meals on Wheels (Partnership with FeedMore, Inc.)
    - Transportation (Partnership with CAPUP and MCEF, Ken Lantz)
    - Senior Law Day (Wills, Powers of Attorney, Advance Directives for Health Care; Pro Bono by Williams Mullen)
    - Support for Caregivers
    - Money Management for Bill Paying and Guardianship Education
    - Senior Employment
    - Volunteer Opportunities
    - Initiatives with Community Partners

Transportation

- 150-200 trips per month for Hanover County Residents. Guidelines developed and distributed in March 2013.
- Mobility Manager Ken Lantz engaged with Hanover County staff through the Hanover Human Services Network.
- The Hanover County Department of Community Resources has a human resource directory known as *Aunt Bertha* www.AuntBertha.com. Information for Senior Connections will be included on this user-friendly website.
- $20,000 grant from the Department for Aging and Rehabilitative Services for partnership with Mechanicsville Churches Emergency Function (MCEF) to support a volunteer driver initiative. Dr. Watson noted that her staff has reached out to a citizen who requested help with transportation at the 09 11 13 Board Meeting and they have been able to assist her with that.
- Senior Connections has compiled a directory of Regional transportation providers. (On file with the Board's records, exhibit 1 of 2)
- The Ride Connection Program in Hanover is supported by a grant from the Covenant Woods Retirement Community.
- Staff is involved in ongoing regional planning efforts related to transportation and is represented on the Metropolitan Planning Organization (MPO) and Citizens Transportation Advisory Committee. Ken Lantz chairs the Elderly and Disabled Advisory Committee of the MPO.

Resources for Seniors:

Senior Connections, The Capital Area Agency on Aging (804) 343-3000 – www.seniorconnections-va.org

- **Virginia Department for Aging and Rehabilitative Services**

  (804)662-9333; www.dars.virginia.gov

Overview brochure was also handed out for Senior Connections (exhibit 2 of 2)

Mr. Peterson advised he has had many calls from seniors. Each time he has referred someone to Senior Connections they have followed thru. Mr. Hazzard asked if Ms. Bridgeforth has an office in Hanover. Dr. Watson advised Ms. Bridgeforth is available at the friendship cafes to meet as well as at the county offices when needed.

Since the board was ahead of schedule, the Chairman brought forward closed session.

IX. Closed Session – Section 2.2-3711(a)(7) of the Code of Virginia - Consultation with Legal Counsel and staff regarding Board of Zoning Appeals Case A-3-13, Marilyn Smollen

Mr. Davis moved that the Board of Supervisors go into Closed Session pursuant to the following: Section 2.2-3711(a)(7) of the Code of Virginia - Consultation with Legal Counsel and staff regarding Board of Zoning Appeals Case A-3-13, Marilyn Smollen

Seconded by Mr. Stanley.

	Vote:
W. Canova Peterson	Aye
Sean M. Davis	Aye
Wayne T. Hazzard	Aye
Angela Kelly-Wiecek	Aye
Aubrey M. Stanley	Aye
G. E. Via, III	Aye
Elton J. Wade, Sr.	Aye

Motion approved.

Board Members entered Closed Session at 6:43 p.m. At the conclusion of the Closed Session, all Board Members returned to the Boardroom, and the Chairman called the regular meeting back to order at 7:22 p.m.

Certification of Closed Session

Mr. Davis moved that the Board of Supervisors certify that during the Closed Session only public business matters lawfully exempted from the open meeting requirement of the Freedom of Information Act and only such public business matters as were identified in the motion for the Closed Session were discussed.

Mr. Stanley seconded the motion.

	Vote:
W. Canova Peterson	Aye
Sean M. Davis	Aye
Wayne T. Hazzard	Aye
Angela Kelly-Wiecek	Aye
Aubrey M. Stanley	Aye
G. E. Via, III	Aye
Elton J. Wade, Sr.	Aye

Motion Approved.

Board Closed Session Action was handled later in the minutes at the end of the meeting.

Recognition of Student from Patrick Henry High School

Chairman recognized the student present from Patrick Henry High School.

Recognition of Boy Scout Troop 555

Mr. Davis recognized Boy Scouts from Troop 555 who were present: Steven Catlett, Burt Francis, John Kelly.

VIII. Planning Public Hearings – Mr. Maloney

REZONING

C-4-13(c) LINDA J. AND DONALD R. FIELDS AND SUSAN D. AND JAMES E. COLLISON, Request to rezone from A-1, Agricultural District to AR-6(c), Agricultural Residential District with conditions on GPINs 7799-15-2952 and 7799-15-5895, consisting of approximately 17.58 acres, and located on the east line of Mount Hermon Road (State Route 656) approximately 300 feet southeast of Shelton Farm Lane (Private Road) in the **BEAVERDAM MAGISTERIAL DISTRICT**. The subject property is designated on the General Land Use Plan Map as Agricultural. The proposed zoning amendment would create two (2) 8.79 acre parcels each with an existing residence.

A copy of the Schedule of Notification and September 25, 2013 Staff Report is on file with the Board's papers. (Exhibit 1)

Mr. Maloney introduced this request, displayed the General Parcel Map; Zoning Map

Planning Analysis:

- The rezoning would permit an existing 7.29 acre parcel (Fields) and a 10.29 acre parcel (Collison) to be reconfigured
- A boundary line adjustment will create two 8.79 acre parcels, each with an existing residence

Proffers:

- Conceptual Plan was displayed and Mr. Maloney noted the homes are existing
- Property Line Adjustment

Recommendations:

- The Planning Commission and staff recommend **APPROVAL** subject to the submitted proffers

The Chairman opened the public hearing and there was no one to address the Board, public hearing closed.

On a motion by Mr. Stanley, seconded by Mr. Hazzard, the Board Approved **C-4-13(c)**

LINDA J. AND DONALD R. FIELDS AND SUSAN D. AND JAMES E. COLLISON

	Vote:
W. Canova Peterson	Aye
Sean M. Davis	Aye
Wayne T. Hazzard	Aye
Angela Kelly-Wiecek	Aye
Aubrey M. Stanley	Aye
G. E. Via, III	Aye
Elton J. Wade, Sr.	Aye

C-4-13(c) Approved.

Mr. Maloney reviewed the following cases concurrently:**C-12-94(c) AM. 1-13 SLA, L.C. (DAVIS PLACE) and C-4-96(c) AM. 1-13 SLA, L.C. (DAVIS PLACE)**

REZONING PROFFER AMENDMENT CASES

C-12-94(c) AM. 1-13 SLA, L.C. (DAVIS PLACE), Requests an amendment to the proffers approved with rezoning request C-12-94(c), Donald R. Crump, on GPINs 8725-03-6389, 8715-93-4567, 8725-03-1382, 8725-03-1255, 8715-93-9351, 8715-93-8372 and 8715-93-7382, zoned R-2(c), Single-Family Residential District with conditions. This subdivision is located on the east line of Lee-Davis Road (State Route 643) at its intersection with Wesbeam Drive (State Route 2187) in the **HENRY MAGISTERIAL DISTRICT**. The proposed zoning amendment would amend the cash proffer.

A copy of the Schedule of Notification and September 25, 2013 Staff Report is on file with the Board's papers. (Exhibit 1)

Mr. Maloney introduced this request, displayed the Zoning Map

Planning Analysis:

- The request is to amend the following cash proffer:
  - Eliminate Proffer Nos. 7 and 8 - $2,028.00 (Community Facilities) and $700.00 (Roads)
  - The current value of the road proffer is $1,259.00, which is less than the $2,306.00, approved as part of the new transportation policy
    - The applicant has submitted a proffer reflecting the lower amount, in accordance with the policy that states that the proffer amount should not increase from what was previously accepted

Recommendations:

The Planning Commission and staff recommend APPROVAL subject to the submitted proffers

C-4-96(c) AM. 1-13 SLA, L.C. (DAVIS PLACE), Requests an amendment to the proffers approved with rezoning request C-4-96(c), SLA, L.C., on GPINs 8715-93-2462, 8715-93-1454 and 8715-93-0436, zoned R-2(c), Single-Family Residential District with conditions. This subdivision is located on the east line of Lee-Davis Road (State Route 643) at its intersection with Wesbeam Drive (State Route 2187) in the **HENRY MAGISTERIAL DISTRICT**. The proposed zoning amendment would amend the cash proffer.

A copy of the Schedule of Notification and September 25, 2013 Staff Report is on file with the Board's papers. (Exhibit 1)

Mr. Maloney introduced this request, displayed the Zoning Map

Planning Analysis:

- The request is to amend the following cash proffer:
  - Eliminate Proffer No. 4 - $3,087.00 (Community Facilities and Roads)
  - The current value of the road proffer is $1,259.00, which is less than the $2,306.00, approved as part of the new transportation policy

- The applicant has submitted a proffer reflecting the lower amount, in accordance with the policy that states that the proffer amount should not increase from what was previously accepted

- *Recommendations:*
- The Planning Commission and staff recommend APPROVAL subject to the submitted proffers

The Chairman opened the joint public hearing for C-12-94(c) AM. 1-13 SLA, L.C. (DAVIS PLACE) and C-4-96(c) AM. 1-13 SLA, L.C. (DAVIS PLACE). There was no one to address the Board, public hearing closed.

On a motion by Mr. Davis, seconded by Mrs. Kelly-Wiecek, the Board Approved **C-12-94(c) AM. 1-13 SLA, L.C. (DAVIS PLACE)**

	Vote:
W. Canova Peterson	Aye
Sean M. Davis	Aye
Wayne T. Hazzard	Aye
Angela Kelly-Wiecek	Aye
Aubrey M. Stanley	Aye
G. E. Via, III	Aye
Elton J. Wade, Sr.	Aye

C-12-94(c) AM. 1-13 SLA, L.C. (DAVIS PLACE) Approved.

On a motion by Mr. Davis, seconded by Mrs. Kelly-Wiecek, the Board Approved **C-4-96(c) AM. 1-13 SLA, L.C. (DAVIS PLACE)**

	Vote:
W. Canova Peterson	Aye
Sean M. Davis	Aye
Wayne T. Hazzard	Aye
Angela Kelly-Wiecek	Aye
Aubrey M. Stanley	Aye
G. E. Via, III	Aye
Elton J. Wade, Sr.	Aye

C-4-96(c) AM. 1-13 SLA, L.C. (DAVIS PLACE) Approved.

C-53-04(c) AM. 1-13RE2, L.L.C., ET AL. (LIBERTY TRACE), Requests an amendment to the proffers approved with rezoning request C-53-04(c), John H. Beahr, Jr., et al. (Entropy, L.L.C.)**,** on GPINs 8724-27-4849, 8724-27-4856, 8724-27-4853, 8724-27-4860, 8725-27-4778, 8725-27-4784, 8725-27-5637, 8725-27-5665, 8725-27-5684, 8725-27-6612, 8725-27-6630,

8725-27-6568, 8725-27-9625, 8725-27-9647, 8725-27-9669, 8725-27-9772, 8725-27-9794, 8725-37-0717, 8725-37-0834, 8725-37-0828, 8725-37-0921, 8725-37-0913, 8725-37-0906, 8724-27-9999, 8724-28-9084, 8724-28-9077, 8724-28-9160, 8724-28-9163, 8724-28-9155, 8724-28-9148, 8724-28-9231, 8724-28-9214, 8724-28-8341, 8724-28-8215, 8724-28-7381, 8724-28-7350, 8724-28-7219, 8724-28-6278, 8724-28-6227, 8724-28-6257, 8724-28-6206, 8724-28-5265, 8724-28-6163, 8724-28-6194, 8724-28-7124, 8724-28-7145, 8724-28-7186, 8724-28-8038, 8724-28-8044, 8724-28-8052, 8724-27-8959, 8724-27-8966, 8724-27-8973, 8724-27-8874, 8724-27-8851, 8724-27-8739, 8724-27-8726, 8724-27-8704, 8724-27-7782, 8724-28-3019, 8724-28-3140, 8724-28-3160, 8724-28-3180, 8724-28-4101, 8724-28-4121, 8724-28-4141, 8724-28-4161, 8724-28-4148, 8724-28-4230, 8724-28-4232,8724-28-4234, 8724-28-4236, 8724-28-4238, 8724-28-4330, 8724-28-4333, 8724-28-4359, 8724-28-4329, 8724-28-4309, 8724-28-3389, 8724-28-3369, 8724-28-3349, 8724-28-3329, 8724-28-2399, 8724-28-2359, 8724-28-2339, 8724-28-2319, 8724-28-1399, 8724-28-1379, 8724-28-1348, 8724-28-1340, 8724-28-1268, 8724-28-1276, 8724-28-1274, 8724-28-1283, 8724-28-1291, 8724-28-2109, 8724-28-2126, 8724-28-4543, 8724-28-4512, 8724-28-3592, 8724-28-3572, 8724-28-3552, 8724-28-3532, 8724-28-3512, 8724-28-2582, 8724-28-2552, 8724-28-2522, 8724-28-2502, 8724-28-1582, 8724-28-1572, 8724-28-1541, 8724-28-0499, 8724-28-0479, 8724-28-0458, 8724-28-0437, 8724-18-9387, 8724-18-9394, 8724-18-9392, 8724-28-0300, 8724-28-0208, 8724-28-0216, 8724-28-0225, 8724-28-0232, 8724-28-0159, 8724-28-0167, 8724-28-0175, 8724-28-0183, 8724-28-0191, 8724-28-1009, 8724-28-1018 and 8724-28-1025 zoned R-4, Residential Cluster District with conditions, and located at the terminus of Compass Point Lane (State Route 1075) approximately 800 feet south of its intersection with Mechanicsville Turnpike (U.S. Route 360) in the **MECHANICSVILLE MAGISTERIAL DISTRICT**. The proposed zoning amendment would amend the cash proffer.

A copy of the Schedule of Notification and September 25, 2013 Staff Report is on file with the Board's papers. (Exhibit 1)

Mr. Maloney introduced this request, displayed the Zoning Map

Planning Analysis:

- The request is to amend the following cash proffer:
  - Eliminate Proffer No. 4 - $9,741.00 (non-age restricted units) and $5,422.00 (age-restricted)
  - Substitute with a road improvement proffer No. 4 in the amount of $2,306.00 for 118 lots
  - Proffer No. 5 – no cash proffer for 13 lots
    - During its June 12, 2013, meeting, the Board of Supervisors, in considering a separate but similar request, voted to allow applicants to request elimination of the cash proffer in its entirety, provided a valid purchase contract was entered into between November 28, 2012, and March 13, 2013
- Traffic impacts arising from this project were reviewed by Public Works in accordance with the County's transportation policy for subdivisions of 50 lots or greater
  - However, because there are no pending road projects in the area, the base road contribution amount of $2,306.00 was recommended

Recommendations:

The Planning Commission and staff recommend APPROVAL subject to the submitted proffers

The Chairman opened the public hearing and asked if anyone wished to address the Board. Seeing no one come forward, the Chairman closed the public hearing.

On a motion by Mr. Peterson, seconded by Mr. Via, the Board Approved **C-53-04(c) AM. 1-13 RE2, L.L.C., ET AL. (LIBERTY TRACE).**

	Vote:
W. Canova Peterson	Aye
Sean M. Davis	Aye
Wayne T. Hazzard	Aye
Angela Kelly-Wiecek	Aye
Aubrey M. Stanley	Aye
G. E. Via, III	Aye
Elton J. Wade, Sr.	Aye

C-53-04(c) AM. 1-13RE2, L.L.C., ET AL. (LIBERTY TRACE) Approved.

C-33-98(c) AM. 1-13 J3G PARTNERS, L.L.C., ET AL. (MOUNTAIN RUN), Request an amendment to the proffers approved with rezoning request C-33-98(c), Thomas Pollard, on GPINs 7840-34-8089, 7840-12-4956, 7840-12-8856, 7840-13-7070, 7840-13-6161, 7840-13-5481, 7840-13-8794, 7840-11-3406, 7840-12-6882, 7840-13-5285, 7840-13-8485, 7840-41-6283, 7840-41-1593, 7840-42-6822, 7840-42-9337, 7840-42-8230, 7840-51-0522 and 7840-23-0128, zoned RC(c), Rural Conservation District with conditions, and located on the north line of Mountain Road (U.S. Route 33) at its intersection with Palmers Way (Private Road) and located on the west line of Farrington Road (State Route 670) at its intersection with Palmers Way in the **SOUTH ANNA MAGISTERIAL DISTRICT**. The proposed zoning amendment would amend the cash proffer.

A copy of the Schedule of Notification and September 25, 2013 Staff Report is on file with the Board's papers. (Exhibit 1)

Mr. Maloney introduced this request, displayed the Zoning Map

Planning Analysis:

- The request is to amend the following cash proffer:
  - Eliminate Proffer No. 3(a) - $4,304.00 (Community Facilities) and No. 3(b) - $881.00 (Roads)
    - Proffer 3(b) is being replaced with a proffer which reflects the current value of the proffer accepted with the original rezoning which is $1,259.00 in accordance with the Board's transportation impact policy

Recommendations:

The Planning Commission and staff recommend **APPROVAL** subject to the submitted proffers

The Chairman opened the public hearing and asked if there was anyone to address the Board. Seeing no one come forward, the Chairman closed the public hearing.

On a motion by Mr. Hazzard, seconded by Mr. Stanley, the Board Approved **C-33-98(c) AM. 1-13 J3G PARTNERS, L.L.C., ET AL. (MOUNTAIN RUN),**

	Vote:
W. Canova Peterson	Aye
Sean M. Davis	Aye
Wayne T. Hazzard	Aye
Angela Kelly-Wiecek	Aye
Aubrey M. Stanley	Aye
G. E. Via, III	Aye
Elton J. Wade, Sr.	Aye

C-33-98(c) AM. 1-13 J3G PARTNERS, L.L.C., ET AL. (MOUNTAIN RUN) Approved.

C-16-07(c) AM. 1-13 D&R PROPERTY DEVELOPMENT, INC., Requests an amendment to the proffers approved with rezoning request C-16-07(c), Am. 2-10, D&R Property Development, Inc., on GPIN 8706-66-9058, zoned R-4(c), Residential Cluster Development District with conditions, and located on east line of Chamberlayne Road (U.S. Route 301) approximately 700 feet south of its intersection with McKenzie Drive (State Route 1239) in the **CHICKAHOMINY MAGISTERIAL DISTRICT**. The proposed zoning amendment would amend the cash proffer.

A copy of the Schedule of Notification and September 25, 2013 Staff Report is on file with the Board's papers. (Exhibit 1)

Mr. Maloney introduced this request, displayed the Zoning Map

Planning Analysis:

- The request is to amend the following cash proffer:
  - Eliminate Proffer No. 1 - $14,240.00 (Community Facilities and Roads)
  - Applicant has submitted a copy of the purchase agreement, signed Dec. 2012, between the developer and builder
  - There are no firm dates in the contract indicating when the first lot/pad site will transfer from seller to purchaser
  - Previous approvals of proffer amendment requests were to assist individual property owners who had agreed upon a specified price due to the sellers' belief that the cash proffer requirement had been eliminated
  - In this case, the purchase agreement is between the developer and the builder, not an individual property owner and the builder.
- Recommendations:

- Staff has made no recommendation and will rely on the Board's judgment as to determine if elimination of the proffer in its entirety is in keeping with the Board's transportation impact proffer policy
- The Planning Commission recommends **APPROVAL** subject to the submitted proffers

The Chairman Opened public hearing – Mr. Jeff Geiger, Applicant Representative, came forward to address the Board. Mr. Geiger asked the Board to approve this request based on the perspective that everyone had on November 29, 2012 after the Board Meeting where the board eliminated cash proffers on 11/28/12. Mr. Geiger's clients entered into a sales contract dated 12/21/12 for lot sales in Marley Pointe. Mr. Geiger referred to past board actions where the board waived the transportation proffer for applicants with a sales contract dated between 11/28/12 and 3/13/13 and who provided a copy of the contract. In referencing the roads Mr. Geiger noted that there is more than enough capacity to handle the trips to and from work that these residents will be making. There was a joint commercial and residential entrance put in to eliminate the number of access points onto Chamberlayne Road and for the county's benefit a turn lane in the median was lengthened to over 200 ft. from the existing 50 ft. even though the 50 ft. was more than adequate to handle the 10 feet needed. The elimination of proffers helped his clients to reach a deal on a stalled project that quickly came back to life and his client qualifies for the waiver of the transportation policy and the Planning Commission has agreed and asked the Board apply the waiver. Seeing no one else come forward in favor or in opposition, the Chairman closed the public hearing.

Mrs. Kelly-Wiecek advised that at the meetings referenced based on commentary there was a desire to eliminate proffers but that each of those projects would be looked at individually. The discussion was based on individual homeowners who could not have been expected to understand the complexities of the developer, builder, proffer, bonding process. It was at the board's discretion that this was an individual contract between future home owners and builders. In relation to the turning lane and proffered improvements asked Mr. Maloney to display maps and provide more information and have discussion.

Mr. Maloney stated there was a question raised in the staff negotiations as well as the Planning Commission meeting as to whether or not the applicant in this case would be eligible for an improvement to a crossover lined with McKenzie Lane just north of this project. There was a substandard left turn lane from the northbound 301 that allowed a vehicle to enter into that turn lane, make a u turn back south. The map was displayed and Mr. Maloney pointed out the site and specifics. The County's transportation consultant was McCormick Taylor and they acknowledged that the projected 95th percentile queue which is the technical measure of turn lane warrants under 2017 build conditions are 9-10 ft. in the am and pm peak hours respectively. The

County's traffic consultant said in terms of stacking what is there is sufficient but there is a second part to that. Mr. Maloney displayed the report on the screen and reviewed: Although the adequate storage is available a 50 ft. U turn lane is well below the 200 ft. minimum recommended length for turn lanes on rural roads like Chamberlayne Road that have design speeds of 50 mph or greater. 50 ft. provides little room for a driver decelerating to make the U-turn maneuver increasing the likelihood that the driver will decelerate while still on the Chamberlayne Road through lane which in turn causes additional friction for through traffic. Therefore we recommend that the applicant modify the Chamberlayne Road median to provide for a U-turn lane with a minimum 200 ft. of taper, 200 ft. of storage in accordance with VDOT standards. The consultant is in essence saying that the existing turn lane, the storage length for that turn movement is adequate to address the traffic. There is a safety concern and they recognize that this turn lane does not meet VDOT standards. At that time the staff viewed this improvement as did the Board as an entrance improvement. This is a right in right out project and no opportunity to turn from the project immediately south on Route 301 and explained the traffic pattern. Under the County's previous and current proffer policies entrance improvements are not eligible for proffer credits. That was affirmed with the original rezoning in 2007 as there was no credit provided for this U-turn movement. The applicant has proffered to construct a full movement taper and a full movement turn lane. Bottom line this is a frontage improvement it does not improve capacity, it improves safety which is what the frontage entrance improvements are designed to achieve. Mrs. Kelly-Wiecek asked if this improvement has already been done. Mr. Maloney advised it was done as part of the Atlee Auto combined zoning case, business zoning and town house development – mixed zoning.

Mr. Hazzard noted the original proffer is $14,240 and asked how much is road proffer. Mr. Maloney did not have that on hand, the current road proffer recommended to the board would be $2,306. Mr. Maloney in reviewing the file advised the proffer as drafted was an all-inclusive proffer for both community facilities and roads and staff did not enumerate the break out in that amount. Mr. Hazzard stated the road proffers were proffered as a separate item transportation improvements so on top of that there was a road proffer in that $14,000. Mr. Maloney the whole proffer was $14,000 not sure the amount for community facilities portion and road portion. All the road improvements were in addition to the road portion of the $14,000. Mr. Harris does not know the exact amount but the order of magnitude is in the $6,000 range. When the proffers were eliminated the road proffer was more than half of the total and Mr. Maloney advised that is a fair estimate.

Mrs. Kelly-Wiecek asked if this is different than Kings Acres rezoning where they received a credit for an intersection improvement and Mr. Maloney stated that is correct that specific case they were making capacity improvements to the intersection and the main line.
Mrs. Kelly-Wiecek clarified this is 72 units and $2,306 is the recommended amount we were recommending for developments less than 50. Mr. Maloney advised that because of the location of this project and working with Mr. Flagg, Director of Public Works, they could not identify a specific project and felt the traffic would disperse throughout the network fairly quickly and could not identify a specific impacted project to direct those funds to. In this case it is the default amount of $2306.
Mr. Hazzard asked when we put the transportation proffer in place, decided that we wanted to try to use the money local to the project as best we could. What else can you do local to this property and if the proffer went through at $2306 and how much do we spend to do this improvement. Mr. Geiger advised the cost would be $50,000 (Engineering/Contract Install).
Mr. Geiger reiterated that this did not exist in December of 2012.
Mrs. Kelly-Wiecek stated it is ironic that she has to defend this position on this project which is in Chickahominy District as most proffer rezoning projects that are controversial are in Chickahominy. Everyone on the dais had a lot of conversation and tried to find their way as practical through this process. One remaining concern from that time is that part of the way it used to be done was that we looked at these proffers for the broader impact that the vehicles would bring. This project with 72 units with 1-2 vehicles per unit. Mr. Peterson asked Mrs. Kelly-Wiecek to place her motion on the floor and Mrs. Kelly-Wiecek asked if her fellow board members had any other questions.

Mr. Davis what was the date of contract. Mr. Rives advised he has the contract between Patriot Development Group and Royal Dominion Homes dated 12/21/12. Mr. Davis asked about the impacts Mr. Maloney referenced in discussions he had with Mr. Flagg and was the specific conversation about this property. Mr. Maloney advised yes because he and Mr. Flagg developed the project list and the cost and in developing that they looked at all outstanding projects and tried to make a reasonable determination as to what corridors individual projects would be impacted and it was part of that process that we concluded that the traffic from this particular project would disperse too quickly across the network to assign it specifically to one or two corridors. Mr. Davis asked Mr. Flagg if when he answered that question he recognized he was answering specific to this project and speaking of this project. Mr. Flagg stated his concurrence from the audience. Mrs. Kelly-Wiecek asked Mr. Maloney to review briefly the background. Mr. Maloney advised that when the board considered the current proffer policy a list of 12-15

candidate projects was presented to the board. Staff identified all approved zonings with outstanding proffers greater than 50 lots and as part of that exercise Mr. Flagg and Mr. Maloney worked to develop assumptions as to how traffic from those projects would be distributed across the network. A handful of projects of 50 or more lots were found that the traffic would disperse too rapidly across the network given the capacity of the network in the immediate vicinity to assign to specific corridor. In those cases, those projects were assigned the base impactive amount of $2306. Mrs. Kelly-Wiecek stated it was the hope that if there was a site specific project the proffers could be used for to the best of our ability. Mr. Maloney there were a handful of projects we could not assign to a specific corridor. Mrs. Kelly-Wiecek asked if this was communicated to the applicant and when did you have discussion. Mr. Maloney stated as part of their review yes. When we reviewed the application with the applicant that information was presented. Mrs. Kelly-Wiecek asked if the applicant submitted that Contract when the discussion was held. Mr. Maloney advised it was about the time we had the discussion and tried to formulate a strategy. Mrs. Kelly-Wiecek stated the contract states on page 4 proffers, fees and contributions. Seller shall be responsible for implementing all proffers etc. Mr. Maloney deferred to the applicant related to contract questions as to what is stated in their contract. Mr. Geiger came forward and advised contract was signed in December of 2012 and the cash proffers did not come into being until March 2013 so the discussion they had with Mr. Maloney about the impacts was in June of this year and was not contemplated when the contract went in and Mr. Geiger stated that is a boiler plate form contract. The deal was made on the basis there were no cash proffers.

Mr. Maloney it was the discussion of offsite transportation improvement at McKenzie Road. Mr. Geiger stated there are still other proffers that the developer has to abide by.

Mrs. Kelly-Wiecek stated in looking at this as a business decision, believe that each project would be looked at with its impact and 72 units makes an impact, turn lane improvement would only cover 30% of the proffer considered here. Cannot support application as submitted with zero proffers.

Mr. Rives applicant could amend the proffer and resubmit and file new application. Mr. Davis can the applicant amend tonight. Mr. Rives up until the time the board votes. If denied Mr. Rives advised they would not have to wait one year to resubmit.

Mrs. Kelly-Wiecek motion to deny, seconded by Mr. Via.

Mr. Hazzard – understand their dilemma, when we put the transportation policy in place we said we wanted to try to use the money local instead of spreading it all over the County as in the past. On the face value of what we had said in the past for these contracts was that it was for the

benefit of the end user. His initial inclination is to agree on that but the problem is in applying road proffers to this project we just approved two tonight for $1200 and his point is that he is not sure this is fair to use that as a value not sure what else they can do local to the project.

Mr. Peterson stated reference has been made to the time the board set a window to give a break to builders who had contracts during that time frame with the final home buyer. The intent was not to deal at the developer building level. Mr. Peterson is having issues with road work – turn lane – McKenzie Drive. Doing calculations and realizing part of those u-turns is not just this subdivision but other traffic is going along that as well and using 50,000 divided by 72 – 700.00 could see that as road improvements that could apply and would drop this down to 1606 rather than 2306 if we considered that as road improvement beyond entrance level. Tossing this out if the applicant or Mrs. Kelly-Wiecek wants to amend.

Mr. Rives advised the board cannot change the proffers submitted it can only accept or reject. The applicant may amend proffers. Mr. Rives asked Mr. Maloney to comment on the commercial component of this development and the extent to which these improvements may serve the commercial as well as the residential. Mr. Maloney advised they are intended to serve commercial and residential. Mrs. Kelly-Wiecek asked if the commercial paid anything towards this. Mr. Maloney advised the turn lane was improved as Atlee Auto Parts site was being developed and Mrs. Kelly-Wiecek reiterated who paid for it as she cannot offer a credit if we do not know who paid for it.

Mr. Stanley stated he hopes we will not change from 2306 to something less or more whatever. That will get us into a situation that every development that comes along will expect. Some of the developments in Beaverdam District $2306 will not pay for the road improvements. Mr. Stanley understands Mr. Hazzard's comments in doing this in the area that the proffers come in but don't think we can say you pay 2306 and you have done a little work here so you pay 800 he can't support that. Mr. Peterson they may come back with another application with an amount rather than zero.

Mr. Maloney advised he re-reviewed the file and we did get an AIA document with construction costs and this particular turn lane was paid by D&R properties – the original developers and it was specifically for Atlee Auto Parts project. Mrs. Kelly-Wiecek advised she will hold with her motion to deny. Mr. Geiger came forward to advise his clients wish to amend if possible. The Chairman advised he will call a brief recess for the applicants to discuss with their counsel.

<u>8:13:02 PM</u> Recess

<u>5:16:34 PM</u> Reconvene – All Board Members present.

Mr. Rives asked Mr. Geiger to state the Applicant's amendment.

Mr. Geiger stated they will offer the amount of $2,306.00 which is the default cash proffer.

Mrs. Kelly-Wiecek withdrew the motion to deny and will restate to approve application as amended as it will save the applicant paying a reapplication fee, Mr. Via withdrew his second.

On a motion by Mrs. Kelly-Wiecek, seconded by Mr. Via the Board Approved **C-16-07(c) AM. 1-13 D&R PROPERTY DEVELOPMENT, INC with cash proffer amount of $2,306.00**

	Vote:
W. Canova Peterson	Aye
Sean M. Davis	Aye
Wayne T. Hazzard	Aye
Angela Kelly-Wiecek	Aye
Aubrey M. Stanley	Aye
G. E. Via, III	Aye
Elton J. Wade, Sr.	Aye

C-16-07(c) AM. 1-13 D&R PROPERTY DEVELOPMENT, INC. C-16-07(c) AM. 1-13 D&R PROPERTY DEVELOPMENT, INC. Approved.

IX. Closed Session – Action - Section 2.2-3711(a)(7) of the Code of Virginia - Consultation with Legal Counsel and staff regarding Board of Zoning Appeals Case A-3-13, Marilyn Smollen

Mr. Via made a motion that the Board of Supervisors authorize the County Attorney to file an appeal from the Board of Zoning Appeals decision in Case #A-3-13 involving GPIN 8718-19-0138, seconded by Mr. Stanley.

Mr. Davis advised he could not support the motion.

Mrs. Kelly-Wiecek will support the motion as there is the unknown concern that the legal process was not followed.

	Vote:
W. Canova Peterson	Aye
Sean M. Davis	No
Wayne T. Hazzard	No
Angela Kelly-Wiecek	Aye
Aubrey M. Stanley	Aye
G. E. Via, III	Aye
Elton J. Wade, Sr.	Aye

Motion for appeal approved 5:2.

X. Announcements

None.

XI. Adjournment

At 8:20 p.m., the Chairman adjourned the meeting to October 9, 2013 - Hanover County Administration Building – 2:00 p.m.