

**CHARLOTTESVILLE - ALBEMARLE
TRANSPORTATION COALITION, INC.**

DECEPTIONS

JUNE 20, 2013

DECEPTIONS

For the past 34 years, the Virginia Department of Transportation (VDOT) has been studying and/or designing a near-in western bypass of a portion of Route 29 North through Albemarle County, Virginia. A review of news articles and other pertinent documents for those years reveals that VDOT has consistently misled the public through errors, omissions, and misstatements of information at best and through deliberate deceptions and falsehoods at worst, and that transportation decisions have been made for political, not fact-based, reasons. In fact, VDOT's marketing and public relations consultant Mary Means of Mary Means Associates, Inc. advised in a January 14, 1997 draft memorandum to Chuck Cayton (Parsons Brinkerhoff Quade and Douglas – VDOT consultants on the proposed bypass project) and Patsy Napier (VDOT project engineer for the bypass project in the 1990's), “....remember, this is where you get to control the information the public gets....”

“Controlling the information that the public gets” has played a part in eroding the public's trust of and confidence in VDOT for many years. An editorial in “The Daily Progress” on August 7, 1997 summarized it well. The editorial stated,

Virginia's government should be in the business of telling the truth. When government officials pass around information that is misleading and falls far short of being truthful, the trust people have in their government erodes....Unfortunately, VDOT has a history of providing information that local officials and state lawmakers have characterized as misleading....VDOT can build public trust by ensuring the accuracy of the information it provides. If its statements about highway projects reflect public relations spin more than accurate information, VDOT is building a record that erodes trust.

The following is a chronological compilation of newspaper articles, various pertinent documents, and major steps and events in the 34 year history of the proposed western bypass in Albemarle County. These articles reveal actions through this time period which have resulted in the public's lack of trust in VDOT and illustrate the political manner in which transportation decisions have been made for the Charlottesville-Albemarle area.

In its 1991 comments on the *Draft Environmental Impact Statement* concerning issues to be addressed in the *Final Environmental Impact Statement*, the Federal Highway Administration stated,

“The purpose and need is clearly to relieve traffic congestion on the three mile section of U.S. Route 29 north of the U.S. Route 250 Bypass. Listing a secondary purpose of specifically completing a gap in improvements to existing U.S. Route 29 seems to add confusion to the endeavor in that all of the alternates studied do not equally address this secondary purpose ... None of the alternates seem to meet the stated purpose and need without grade separation of the intersections.”

In its July 1990 comments on the *Draft Environmental Impact Statement*, the U.S. Environmental Protection Agency noted,

“ ... the proposed candidate build alternatives will not relieve the traffic congestion problem without the construction of grade-separated interchanges at Rio, Hydraulic, and Greenbrier Roads. Since the proposed build alternatives would not improve the Level of Service of Route 29, we question the need for a highway on a new alignment.”

PUBLIC OPINION:

Summary of Bypass Public Comment* – 1990-2012

DATE	TYPE MEETING	PURPOSE OF MEETING	<u>PUBLIC OPINION</u>		
				FAVOR	OPPOSE
6/26-28/1990	Location Public Hearing	Bypass Alternatives	<i>Any Bypass -----</i>	51	3,212**
2/25/1997	<i>Design</i> Public Hearing	<i>Bypass Design</i>	<i>Build the Rt.29 Bypass</i>	1,101	7,108**
7/13/2011	BOS Hearing	Albemarle Co. position to support constr. of Rt. 29 Bypass	<i>Alb. Co. position to support the proposed construction of Rt. 29 Bypass</i>	33	70**
7/14/2011	MPO Public Hearing #1	Amend CLRP & TIP to incorporate Bypass	<i>Incorporate Bypass into MPO Plans & Programs</i>	19	33**
7/27/2011	MPO Public Hearing #2	Amend CLRP & TIP to incorporate Bypass	<i>Incorporate Bypass into MPO Plans & Programs</i>	35	69**
9/27/2012	<i>Citizen Information Meeting</i>	Comments on Draft Environmental Assessment (EA)	<i>Need to Prepare a full Supplemental Environmental Impact Statement (SEIS)</i>	3,194**	63

*Information on 1990's meetings & 9/27/2012 Citizen Information Meeting from VDOT documents.

**Shaded figures reflect opposition to the Bypass.

These figures of 1990 – 2012 public comment indicate:

- a total of **13,686 (91%)** oppose the Bypass, and
- a total of **1,302 (9%)** support the Bypass.

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- 1979** On **March 1, 1979**, “The Daily Progress” reported that the state Highway Department (later to be known as the Virginia Department of Transportation or VDOT) “*proposes to build a ‘Western Bypass’ from U.S. 29 just south of the South Rivanna River looping west around the Charlottesville urban area to join the U.S. 29 – 250 Bypass....a department official assured [the Albemarle County Board of Supervisors that] the bypass, whose route is still indefinite in the extreme, could be drawn so as to avoid disrupting any existing neighborhoods, such as Montvue and Colthurst. In order to build it, large tracts of land, particularly for interchanges, will have to be held more or less vacant of development in the fast-developing area, or the county and state will face prohibitive costs for acquiring the road’s right of way, officials said.... [W]arned John H. Page, Highway Department transportation planning engineer, ‘If you allow development (in the South Rivanna interchange area), the Western Bypass ceases to be a reality.’*”
- 1980** **1980 – Albemarle County Board of Supervisors (BOS) downzoned 1/3 of the land in Albemarle County to protect the South Fork Rivanna Reservoir (SFRR)**
- 1983** **May 18, 1983 – Albemarle County BOS resolution (unanimous vote) removed western bypass from Charlottesville-Albemarle Transportation Study (CATS) and requested eastern bypass study**
- June 27, 1983 – Metropolitan Planning Organization (MPO) resolution adopted CATS Year 2000 Transportation Plan which did not include a western bypass**
- 1984** According to an article in “The Daily Progress” on **June 1, 1984**, members of the Charlottesville-Albemarle Metropolitan Planning Organization (MPO) told the state highway department that they would “*fight a north-south bypass that would cut through Albemarle to the west of U.S. 29 near Ivy.*” This proposed route was known as the Piedmont Corridor. The article stated, “*The route was drafted by the [highway] department for Lynchburg and Danville officials, who have been pushing for the improved corridor for more than a year....because it would stimulate growth.*” Bill Jeffrey, an assistant transportation planning engineer for the highway department, “*warned the MPO to begin lobbying now to protect its interests, because powerful figures in Danville and Lynchburg are backing the highway.*”
- In **July, 1984**, “The Observer” reported on the Piedmont Corridor Steering Committee (PCSC). Its director, William Mays, commented that the Washington DC suburbs have not been as enthusiastic about the plan (a proposed Piedmont Corridor interstate highway) as predicted. The article stated, “*The Lynchburg Chamber of Commerce, however, has thought a lot about a new north-south highway. William Hibbert, a staff member of the Central Virginia Planning District Commission, said the Lynchburg chamber was instrumental in organizing support for and proposing the Piedmont Corridor.*” According to the article, Dan Roosevelt, local VDH&T engineer, commented

on a few bottlenecks on Rt. 29, including Charlottesville, “*but doubts ‘whether or not it warrants a massive highway or not....I think they [the PCSC] put forth a plan far too large to get widespread support....[the bottleneck is] little problem.’*” Roosevelt further opined that traveling on a bypass might take as much time as driving through city traffic.

July 18, 1984 – Albemarle County BOS resolution opposing 18 mile Piedmont Corridor through SFRR watershed

In an article on **December 20, 1984**, “The Daily Progress” reported, “*State Highway Commissioner Harold C. King said this morning that a western bypass proposal that raised the ire of thousands of Albemarle County residents this fall would be eliminated as an option in transportation improvements studied for the Charlottesville area. ‘I have 2,000 signatures (and) opposition from boards and legislators,’ King said.... ‘There isn’t any sense in us standing out there alone’....The highway’s path would have crossed numerous subdivisions, the South Fork Rivanna Reservoir and valuable farmland....King said he has directed planners in the Virginia Department of Highways and Transportation that the ‘western bypass be removed from consideration’ in a comprehensive study of transportation improvements in the Charlottesville area....He said the highway department would not push for a new highway or road unless it was acceptable to both the department and the Charlottesville Albemarle Metropolitan Planning Organization....*”

1985 March 1985 – Highway Department rejected eastern bypass as an option for reducing traffic congestion in Route 29 corridor

On **March 25, 1985**, an article in “The Daily Progress” stated, “*In a report released Monday, planners for the Virginia Department of Transportation said what most Charlottesville-area residents wanted to hear – that a bypass, including one to the east of the city, would not be studied. Instead, the planners recommended that the existing highway be widened to six lanes from the U.S. 250 Bypass to Airport Road and greater use be made of measures such as public transportation and carpooling.*” Referring to a proposed bypass of the area, a plan supported by officials in Lynchburg and Danville, Yale Rabin, associate dean of architecture at the University of Virginia and author of national studies on the impact of highways on communities, commented, “*I fail to see how either a widening of (U.S.) 29 North or a bypass to the east or the west is really going to do significant things for Lynchburg or Danville....[the amount of travel time saved by a bypass] becomes a matter of absolute triviality [considering the cost and impact a bypass would have on county residents].*”

On **August 15, 1985**, an article in “The Daily Progress” stated that the Albemarle County Board of Supervisors (BOS) decided to request the MPO “*to ask the state highway department to resume preliminary engineering to widen [Route 29] from Hydraulic to Rio Roads.*” According to the article, Daniel S. Roosevelt, resident engineer for the highway department, “*told the supervisors their decision to widen the highway to six lanes effectively ended discussion of long-range highway needs for the time being... [and] limited state highway money seems to preclude any other major projects in the next few decades.*”

“The Observer” published a letter to the editor from Virginia Department of Highways and Transportation commissioner Harold C. King in its **October 10 – 16, 1985** edition. In the letter, Commissioner King stated, “*Our recommendations for improving Route 29 in the short term*

include widening the corridor to six lanes with interchanges at Hydraulic and Rio Roads, and improving/constructing McIntire/Meadow Creek Parkway between Preston Avenue and Airport Road. For the long term, we have recommended that Albemarle County take steps to reduce the magnitude of the transportation demand in the Route 29 corridor by instituting various types of land use controls, such as limiting the amount of development along the route, and shifting the development to other roadways having sufficient reserve capacity. Should these efforts prove unsuccessful, the long-range solution to Route 29's congestion problem may be in the construction of some type of bypass."

1986 October 30, 1986 – VDOT Location Public Hearing on the Base Case widening of Route 29 and Rio Road grade-separated interchange

An article in "The Daily Progress" on **October 7, 1986** stated, *"State highway officials are studying the prospect of a Charlottesville bypass while they continue to plan to widen U.S. 29 from four to eight lanes between Hydraulic and Rio roads. The highway department believes the widening project 'will not adequately serve the future needs in the Route 29 corridor,' Highway Commissioner Ray D. Pethtel said in a Sept. 26 letter to Albemarle supervisors....A bypass is likely to draw intense opposition from Albemarle County residents....the letter indicates state officials continue to study a bypass despite county opposition."*

1987 On **January 4, 1987**, "The Daily Progress" printed an interview with Highway Commissioner Ray D. Pethtel in which Pethtel stated, *"The problem, as I see it today is everyone is operating on assumptions and speculation. The whole point of the study we're doing is to present the facts and projections of the impact a bypass would have on the Charlottesville-Albemarle area."* In response to the reporter's question about the role of local governments in deciding where a bypass would go, Pethtel responded, *"....I think their needs have to be taken into account and their concerns addressed. I think we would not be responsible if we tried to put in a road with major development without considering their concerns and citizen concerns....Since it's a controversial project, we want to go back and discuss it with the citizenry. That's a new approach we're taking within the department...."*

October 24, 1987 – VDOT signed \$3.7 million contract with Sverdrup Corporation for comprehensive study of Route 29 North corridor

1988 In **1988**, VDOT consultant, Sverdrup Corporation, issued a report on alternatives to relieve traffic congestion on Rt. 29 in Albemarle County. According to an article in "The Daily Progress" on **July 22, 1988**, this report did not include the cost of widening existing Rt. 29 in the cost of bypass alternatives, thereby underestimating the cost of a bypass in comparison to an expressway which was another alternative under consideration.

"The Daily Progress" editorial on **August 7, 1988** stated, *"Virginia has spent millions of dollars to upgrade U.S. 29 and, proceeding on its present course, will spend countless millions more to create, most likely, a road very much like the one that exists today....In areas such as Charlottesville, where major bypass alternatives are being examined, costs must be measured in terms of human disruption of established neighborhoods as well as environmental risks to sources of drinking water. Before one more home or business is razed and one more acre of Virginia countryside is paved, this shortsighted, patchwork approach must end....Instead of focusing almost*

exclusively on bypass options for U.S. 29, the state should be examining other ways of achieving the same goal of moving traffic between the southern and northern sections of Virginia. Several options are better than the short-sighted bypass....In other cities, existing four-lane routes have been upgraded with bridges and underpasses in developed areas with parallel access roads. These access roads allow for easy travel onto and off the main route, and allow through traffic to get through without signals and at reasonable speed....If the past and present development along U.S. 29 has proved one thing, it is that roadways provide more than vital transportation links within a state. They also shape the direction of economic development....The failure of the state's present course is obvious. Equally obvious is that other options exist that are clearly fairer and arguably more feasible."

On **August 24, 1988**, an article in "The Daily Progress" reported that Sverdrup shifted proposed bypass routes *"by far greater distances than planners had originally anticipated"* without informing Albemarle County officials. These shifts resulted in different alignments for proposed bypass routes than those that had been shown to the public at VDOT meetings in June 1988.

On **August 25, 1988**, "The Daily Progress" reported that Robert Tucker, who was then Albemarle County's deputy county executive and administrator for the Joint Transportation Committee (a local committee with representatives from Albemarle County, Charlottesville, and the University of Virginia) said county officials *"were very surprised" by the drastic changes in the routes.* Sverdrup officials claimed the shifts were done to avoid parks, neighborhoods, historical and archaeological sites, and the airport. One proposed eastern bypass route was shifted almost 2 miles to avoid parkland and the Key West neighborhood, according to VDOT project engineer Vince Valenti.

1989 On **April 22, 1989**, "The Daily Progress" reported that, following a meeting of the Joint Transportation Committee, Sverdrup's project engineer Richard Brown stated, *"...Alternative 10 [close-in western bypass]....does the most for relieving traffic on U.S. 29....and only goes through a couple of subdivisions."* (In fact, the proposed bypass goes through or adjacent to eight established neighborhoods.) Brown made this comment six months before the Draft Environmental Impact Statement (DEIS) was completed. The article further stated that VDOT disavowed the comment, claiming that it didn't have a favorite traffic alternative. Brown's comment disagreed with Sverdrup's previous project engineer Jim Hunt who, the previous year, had stated, *"We found that an expressway was probably going to be the best solution, and because of that analysis we kept it in the study."*

On **April 23, 1989**, "The Daily Progress" editorialized, *"Although the close-in western bypass emerged from a consultant's computer as the preliminary favorite for relieving traffic problems, expressway data were not compared to bypass data on a fair and equal basis. That failure confirms many local citizens in their suspicion that the state never intended to honestly evaluate the expressway idea....This failure to analyze comparable figures taints the entire study and its preliminary conclusions...."*

In **May 1989**, VDOT refused local officials' request for copies of charts and maps that were being used to complete the study of Rt. 29, claiming that the maps could not be released until they were approved by the FHWA, according to a May 15, 1989 article in "The Daily Progress." On **May 7, 1989**, "The Daily Progress" editorialized, *"Those documents are the detailed maps and figures from*

Sverdrup Corp.'s analysis of U.S. 29 North traffic solutions. Although any of the six possible solutionswill devour homes, businesses, or land, neither citizens whose property will be taken nor officials whose duty it is to coordinate local transportation issues have had practical access to the critical information. And that only serves to worsen an already fragile relationship between local and state transportation officials. It is a relationship that could be improved if the state would take the logical step of sharing its information openly and heartily with affected localities. Since the onset of Sverdrup's two-year study, members of the Joint Transportation Committee, a group made up of representatives from Charlottesville, Albemarle County and the University of Virginia, have voiced concerns about being excluded from the decision-making process....The state transportation department must better accustom itself to working with localities as partners, not as serfs in some bureaucratic fiefdom....a project as massive as U.S. 29, which generates an unusual amount of controversy, demands openness and cooperation on a scale to match. State officials do not yet seem committed to meeting that demand. Thus, local officials have had to fight continually for the information to which they are entitled." Subsequently, VDOT planned to display the maps for two days in June in the Albemarle County Office Building, and county officials filed an official request with the state for copies of the documents. ("The Daily Progress," May 15, 1989)

"The Daily Progress" editorial on June 22, 1989 stated, "U.S. 29 traffic congestion is a local problem that demands a local answer....Members of the Joint Transportation Committee said last week that none of the six highway alternatives now proposed by the state would solve the local traffic problems facing the Charlottesville area....[The new \$3.6 million Sverdrup study concluded] [o]nly 2,204 of the more than 70,000 vehicles expected to use the highway each day will be traveling through the area. The other 67,796 vehicles will be commuting to, from or within the U.S. 29 North corridor. Accommodating a scant 2,200 cars a day is hardly worth the financial and emotional expense of building a bypass that destroys homes, businesses, and scenic vistas, that risks damaging a major urban water supply and that threatens to shift development into new areas."

"The Daily Progress" editorial on August 29, 1989 asked, "Will a \$3.6 million study and years of agony over bypass vs. expressway go for naught if neither expressway nor bypass is chosen as the solution to U.S. 29 traffic problems? Not necessarily. The money, blood, sweat and tears have demonstrated that massive measures such as a bypass are more destructive than constructive. A costly bypass would destroy homes, reduce land values, create a rural eyesore, probably endanger the watershed and threaten the county's policy of rural protection by increasing pressures for outlying development. For all this, it would serve only 10 percent of the traffic now causing such congestion on U.S. 29....U.S. 29 traffic congestion is a local problem; the expensive consultant's study verifies that in no uncertain terms. Logically, then, the problem requires a local solution."

On August 30, 1989, "The Daily Progress" editorial stated, "After years of local controversy and a \$3.6 million study, city-county leaders are reviving and revising a 4-year-old plan to create local solutions to U.S. 29 traffic congestion. The Charlottesville-Albemarle Transportation Study that is being updated rejects solutions such as bypass or expressway in favor of a less intrusive system of local roads. Some of those local roads, moreover, already are in city-county plans and would not impose new and unpopular construction projects on area residents.....Even so, it might be difficult to swerve the state transportation department from its long-held opinion – that U.S. 29 improvements plus a bypass (or possibly an expressway) is the optimum solution. The state has already invested millions of dollars in testing its opinion. It is to be hoped the department has the

objectivity, wisdom and grace to admit that its own consultant's study disproves that opinion – at least concerning the bypass, which would handle only 10 percent of the traffic congestion....Traffic congestion is a local problem that apparently can be solved with localized, non-intrusive solutions."

1990 May 11, 1990 - Sverdrup Corp. issued Draft Environmental Impact Statement (DEIS or Sverdrup Study) presenting Base Case, Base Case with three grade-separated interchanges, expressway, six bypass alternatives, transportation management system, and mass transit options

The editorial in "The Daily Progress" on **May 20, 1990** proclaimed, *"No more delays, no more excuses, please. The data are in. The conclusions are growing clear. The solution to the U.S. 29 North traffic mess is within reach....at a price of \$3.6 million and an emotional cost of hostility and divisiveness, we arrive at the old conclusion. According to the [Sverdrup] study, widening U.S. 29 North to eight lanes and constructing three overpasses at key intersections would provide a better level of service at less cost than any of the bypass and expressway options."*

On June 26 – 28, 1990 – VDOT Location Public Hearing on options presented in DEIS

June 26 – 28, 1990, VDOT held a three day location public hearing on the possible construction of a US. 29 bypass. According to an article in "The Daily Progress" on June 29, opponents of a western bypass *"voiced their opinions loudly."* Albemarle County Board of Supervisors chairman, Rick Bowie, *"said the county is strongly against the bypass, and suggested the state widen U.S. 29 and build overpasses at major intersections....The University of Virginia's spokesman, Raymond Haas, voiced a position similar to the county's....[saying] widening the road, constructing the overpasses and building....the Meadowcreek Parkway....would be the best solution for the area's traffic problems."* However, officials from Lynchburg favored a bypass around Charlottesville *"to help traffic speed through central Virginia without stopping."* A member of the Lynchburg Chamber of Commerce, William Mays, stated, *"Truck transportation is really what we're after."* According to VDOT documents that tallied public comment at this three day meeting, 51 people favored a bypass, while 3,212 opposed it.

In **July 1990**, VDOT prepared two charts entitled "Route 29 Study - Traffic Comparisons and Socio-Economic Comparisons" that compared traffic volumes and impacts, levels of service, maximum grades, times of travel, rights-of-way required, noise levels, residences and schools within ¼ mile, estimated lost tax revenue to Albemarle County and ensuing estimated tax rate increase due to loss, cost, relative cost per vehicle, and impacts on natural and historic resources of all of the Route 29 corridor study alternatives being considered at that time (3 western bypass routes, 3 eastern bypass routes, base case improvements on Rt. 29, and an expressway). These charts showed that, according to VDOT's own internal analysis, of all of the options being studied for improving traffic in the Route 29 corridor, the expressway had the best traffic results, lowest cost, and least environmental impacts. The charts were never made public or shared with officials until they were discovered through a Freedom of Information Act request (FOIA) in 1995.

October 10, 1990 – VDOT Position Paper of recommendations for Commonwealth Transportation Board (CTB) concerning Route 29 Bypass Corridor Study

On **October 19, 1990**, an article in “The Daily Progress” reported on VDOT’s plans to recommend to the CTB widening U.S. 29 to eight lanes, construction of the Meadowcreek Parkway, construction of overpasses at Hydraulic Road, Greenbrier Drive, and Rio Road, and construction of a dead-end connector from the U.S. 250 Bypass to UVA’s North Grounds, according to Jack Hodge, chief VDOT engineer. According to the article, *“Hodge would neither confirm nor deny that construction of a western bypass or an expressway in the U.S. 29 median would be recommended.”* The article reported that, although VDOT’s recommendations had been mailed to CTB members, they were not shared with local officials. Albemarle County Supervisor Charlotte Humphris *“said she was disturbed Hodge could make a recommendation to the Transportation Board without contacting the city, county, and university, stating, ‘I’m really astonished that he would put that out to them [CTB] and not to us.’”* It is worth noting that the Route 29 Corridor Position Paper which VDOT presented to the CTB was dated October 4, 1990; the affected community learned of VDOT’s recommendation on October 19 when “The Daily Progress” printed this article.

October 24, 1990 – CTB meeting at Natural Bridge, first public notice of VDOT recommendations

October 31, 1990 – Albemarle County BOS resolution opposing Alternative 10 western bypass and supporting grade-separated interchanges on Rt. 29 and primary funding for Meadow Creek Parkway

November 9, 1990 – VDOT Final Position Paper of recommendations for Rt. 29 long range traffic improvement plan

November 15, 1990 – CTB resolution establishing three phase construction sequence for Rt. 29 long range improvement plan.

This resolution established short, medium, and long range transportation solutions for Rt. 29 and stated, in part:

PHASE I – Short Range Recommendations

BE IT RESOLVED, that to construct Route 29 Base Case improvements from Hydraulic Road to the South Fork Rivanna River. These improvements will provide six lanes plus continuous right turn lanes with signalized at-grade intersections. These improvements will help satisfy the immediate needs for additional highway capacity on existing Route 29.

BE IT RESOLVED, that right of way necessary for the construction of interchanges as they may be needed at Rio Road, Greenbrier Drive, and Hydraulic Road should be reserved initially.

BE IT FURTHER RESOLVED, that Albemarle County and the city of Charlottesville should be encouraged to restrict, to the extent possible, further development on the needed right of way in these areas.

BE IT FURTHER RESOLVED, that should it be necessary, we recommend that the Department acquire any needed right of way under our advanced acquisition policies.

BE IT FURTHER RESOLVED, that we recommend the North Grounds access facility be developed as soon as possible, along with additional mass transit, to immediately begin to improve traffic conditions along Route 29, Emmet Street between the Route 250 Bypass and the university, and free up parking around the grounds of the university.

BE IT FURTHER RESOLVED, that we recommend Alternative 10 be approved as a corridor for future development and Albemarle County assist in preserving the necessary right of way – developing local plans to minimize any future adverse impacts associated with the future development of this corridor....

BE IT FURTHER RESOLVED, that the preservation of the Alternative 10 corridor will assist the county in a no-growth position in the watershed. Access to the corridor would only be provided at the request of the county.

PHASE II – Medium Range Recommendations

BE IT RESOLVED, that as traffic continues to increase and economic conditions allow, we recommend interchanges at Rio Road, Greenbrier Drive, and Hydraulic Road....

PHASE III – Long Range Recommendations

BE IT RESOLVED, that at such time traffic conditions along the Route 29 corridor become unacceptable and economic conditions permit, we recommend the construction of the preserved corridor - Alternative10.

On **November 20, 1990**, “The Daily Progress” editorial opined, *“The Commonwealth Transportation Board made the wrong decision in endorsing a near-western bypass for U.S. 29....The [CTB’s] pro-bypass vote also came despite studies showing it to be an expensive way to deal with a relatively small number of vehicles. The latest study, with its \$3.6 million price tag, found that some 67,800 vehicles a day use U.S. 29 North on their way to or from shops, restaurants or other businesses along the road itself; only 2,200 are simply trying to bypass Charlottesville. The state will better solve problems with its plans to implement major improvements on U.S. 29, including widening the road and constructing overpasses at key intersections....In any case, the near-western bypass is a short-term solution that is likely to be insufficient by the time it is built....”*

An article in “The Daily Progress” on **December 9, 1990** stated, *“Construction of the proposed U.S. 29 bypass will reduce Albemarle County tax revenues at least \$167,000 per year at the existing real estate tax rate, according to state transportation department documents. The documents also show that while the department solicited public comment on 12 proposed routes in late summer 1990, it was conducting location and design work only on the route that was ultimately approved.”* According to these documents obtained by the Freedom of Information Act (FOIA), *“[c]onstruction of the bypass will require condemning 325.31 acres....The state estimates it will pay \$30 million for the 90 tax parcels needed for the right of way....The transportation department decided to shift the path of the bypass in August to minimize the impact on the St. Anne’s-Belfield School and avoid the headmaster’s house....”*

December 12, 1990 – Albemarle County BOS requested a rehearing of bypass issue by CTB

1991 On **January 20, 1991**, “The Daily Progress” editorialized about the June 1990 location public hearing on possible routes for a bypass. The editorial stated, *“All bypass routes are not created equal, and they were not equal even when Charlottesville-Albemarle residents were trying to influence the route selection during a public hearing period last summer. The Daily Progress charged in a Dec. 12, 1990 editorial that the Virginia Department of Transportation was continuing to make decisions in favor of Alternative 10 even as a public-comment period was under way from late June through mid-August....why did the department work so diligently to fine-tune this particular line, if the route were not already the prime candidate for approval? Although*

extensive location work was done on the common line of the three alternatives, no similar work was done on other sections of those routes – and certainly no other alternatives were studied in similar depth....several eastern bypass routes had been all but written off....The department had determined that shifting the several eastern bypasses was too difficult, running into problems with park land, wetlands and existing highways....But the department found plenty of ways to shift its favored alternative, both during the comment period and during other phases of the route study. The close-in bypass was moved not once, but several times....[Chief Engineer Jack Hodge's] own comment suggests that the department began to narrow its choices, in thought if not on paper, a month before the public-input period closed."

On **January 21, 1991**, "The Daily Progress" editorial stated, "In defending its progress toward a decision on U.S. 29 North, the Virginia Department of Transportation relies on technicalities and semantics that may make sense to a bureaucrat or an engineer, but make no sense to the average citizens. Yet it is the citizen whom transportation department officials are supposed to serve; it is the citizen with whom those officials should communicate.....Inherent in the very concept of public hearing is the assumption that public comment actually has the chance to alter outcomes. But with U.S. 29, it is unclear what the public could have said that would have steered the transportation department away from its prime alternative – the alternative [western bypass] that was eventually approved. We suspect that only a detailed presentation uncovering startling new evidence would have deterred the department. But to have achieved that level of sophistication would have required the expertise of a highway engineer – something that the average citizen could not produce....[The department] officials fail to see how a procedure that was gradually making incremental decisions can strike citizens as unfair – especially when those cumulative decisions ultimately gave the department what it appeared to have wanted in the first place, a close-in western bypass....[The CTB allowed] itself to become little more than a rubber-stamp endorser of the department's decision. No wonder local citizens feel they cannot trust the system."

April 19, 1991 – CTB denied rehearing appeal from Albemarle County BOS

In late **summer 1991**, VDOT officials in Richmond sent its residency office in Charlottesville a different plan for the proposed Rt. 29 bypass than the one that had been approved by the CTB in November 1991, then recalled it, stating it contained errors and was released prematurely. According to an article in "The Daily Progress" on **August 2, 1991**, the recalled plan changed part of the route as well as the center line and caused angst among landowners who lived near the proposed bypass. The article stated, "A U.S. 29 bypass plan different from one approved by the state in November appeared at the Department of Transportation office in Charlottesville Monday before being recalled to Richmond....Highway department officials on Wednesday recalled the plan, saying it contained errors and was mistakenly forwarded to the local office. The plan showed changes to the center line of the proposed bypass from the route approved by the Commonwealth Transportation Board, according to people who saw it....In the plan approved by the transportation board, the bypass ran to the west of the Montvue subdivision. The recalled plan showed the bypass passing east of the subdivision, virtually eliminating all contact with the Colthurst subdivision....The recalled plan showed the bypass missing the Ivy Creek Agricultural-Forestal District and the St. Anne's-Belfield School headmaster's home. The plan showed the bypass coming closer to the University of Virginia's Colonnades project and the Terrell subdivision."

On Aug. 6, 1991, “The Daily Progress” editorial stated, “*The mysterious bypass plan that appeared and disappeared at the local transportation office has county supervisors wondering what strange maneuvers Richmond will try next.*”

August 7, 1991 – Albemarle County BOS resolution (4-2 vote) withdrew opposition to bypass in exchange for VDOT commitment to adhere to sequence of road improvements stated in CTB resolution of November 15, 1990

“The Daily Progress” editorial on August 29, 1991 stated, “*The Virginia Department of Transportation **must** expedite improvements to U.S. 29 North....It is a major destination in its own right – especially the northern part of the highway that serves numerous shopping centers and other businesses. No bypass is going to significantly reduce this local business and commuter traffic. That means improvements to U.S. 29, plus some new local feeder roads, will be needed to handle the traffic demands. Improvements should include adding lanes, but eliminating traffic lights by creating overpasses at key intersections. To get this kind of consideration from the state, Albemarle County is going to have to keep negotiating, keep pushing, keep holding Richmond’s feet to the fire....If residents catch state workers surveying the center line of the bypass before designing the improvements to U.S. 29, they should demand answers – from Richmond, and from their supervisors.*”

November 4, 1991 – Letter from Secretary of Transportation John Milliken to BOS Chairman Rick Bowie, reaffirming CTB’s commitment to sequence of road improvements stated in CTB resolution of November 15, 1990

December 19, 1991 – CTB resolution reaffirming CTB November 15, 1990 resolution

December 1991 – February 1992 – Albemarle County, City of Charlottesville, University of Virginia signed Three Party Agreement

The Three Party Agreement specified certain improvements and sequencing of those improvements in the Route 29 corridor. It was endorsed by the Charlottesville-Albemarle MPO as an amendment to the Charlottesville-Albemarle Transportation Study (CATS plan) in 1992 and was confirmed by resolution of the CTB in December 1991. In part, the Three Party Agreement stated:

NOW THEREFORE BE IT RESOLVED, that the City, County, and University jointly support and request that the CTB and VDOT implement improvements to the 29 North Corridor in the following sequence:

Widen Route 29 North as provided for in the 1985 Charlottesville Area Transportation Study;

Design the North Grounds connector road facility;

Address each element of CTB Phase I recommendation of November 15, 1990;

Construct the Meadowcreek Parkway from the Route 250 By-Pass to U.S. 29 North as soon as funding is available;

Construct grade-separated interchanges on U.S. 29 North at Hydraulic Road (Rt. 743), Greenbrier Drive (Rt. 866) and Rio Road (Rt. 631) with early acquisition of right-of-way for these interchanges based upon hardship (same program being used for early acquisition of Alternative 10 – Western alignment);

Construct an alternate controlled vehicle access for traffic bound for University areas only, including the north grounds from Route 29/250 By-Pass;

Complete remainder of CTB Phase II recommendation of November 15, 1990;

Construct Alternative 10 after completion of the above and when traffic on Route 29 is unacceptable and economic conditions permit, concurrent with the remainder of 1985 Charlottesville Area Transportation Study.

1992 An article in “The Daily Progress” on **April 1, 1992** discussed “*Albemarle County’s concern that the state Department of Transportation was changing the timetable for improvements to U.S. 29.*” The article stated that Secretary of Transportation John Milliken said those concerns were unfounded. The article further stated, “*The department is committed to the sequence approved by the Commonwealth Transportation Board in November 1990,*” according to Milliken who stated, “*Our intentions are clear and we will move heaven and earth to make good on those promises.*” When Jack Jouett Supervisor Charlotte Humphris discovered that “*no money had been allocated for purchasing right of way for the interchanges and that the state had set aside funds to buy land for the bypass, the board raised questions about the state’s priorities*” to which Milliken responded, “*We expect [the improvements] to be done in the sequence recommended by the Commonwealth Transportation Board. Only something beyond our control could interfere, and I can’t imagine what that would be.*”

1993 January 20, 1993 – Final Environmental Impact Statement (FEIS) issued

VDOT’s Final Environmental Impact Statement (FEIS) was released on **January 20, 1993**. On page I-1, it stated, “*PROJECT PURPOSE – The purpose of the Route 29 Corridor Study is to find a solution to existing and future traffic congestion on a three-mile section of U.S. Route 29 between U.S. Route 250 Bypass and the South Fork Rivanna River in the City of Charlottesville and Albemarle County north of Charlottesville. A secondary purpose of the study is to complete a gap in ongoing improvements to U.S. Route 29 through central Virginia.*” This secondary purpose has become, or always was, VDOT’s main purpose for the bypass. However, without grade-separated interchanges on Rt. 29, the level of service will remain “F” regardless of whether or not the bypass is built, and VDOT’s stated primary purpose of finding a solution to traffic congestion on Rt. 29 North itself will not be accomplished. Eighteen years later, VDOT’s Request for Proposals (RFP), dated January 27, 2011, stated, “*The purpose of the project is to relieve congestion on existing Route 29 and to improve the movement of through traffic.*” (Part I, p. 1) RFP Addendum #1, dated November 18, 2011, and RFP Addendum #2, dated March 29, 2011, list the same purposes. However, in May and October 2012, VDOT’s website elaborated on the “Purpose and Need,” stating, “*The Route 29 Charlottesville Bypass will improve efficiency and safety along the existing Route 29 corridor. It will also address a gap in ongoing improvements to Route 29 through Central Virginia and provide an alternate route for regional traffic that will avoid the existing developed corridor along Route 29 north of the city of Charlottesville....It will also provide an alternate route for motorists traveling to the University of Virginia or UVA Medical Center.*” VDOT’s Environmental Assessment (EA), dated August 23, 2012, reverted to the original purpose, citing the 1993 FEIS, stating, “*The purpose of the Route 29 Corridor Study is to find a solution to existing and future congestion on a three-mile section of U.S. Route 29 between U.S. Route 250 Bypass and the South Fork Rivanna River in the City of Charlottesville and Albemarle County north of Charlottesville....a secondary purpose of the study was identified ‘to complete a gap in ongoing improvements to U.S. Route 29 through Central Virginia.’*” VDOT appears to have rewritten the

primary and secondary purposes several times, adding new purposes beyond what was approved by the CTB in 1990.

On **January 21, 1993**, an article in “The Daily Progress” revealed that, *“Delegate Mitchell Van Yahres, D-Charlottesville, has launched a two-pronged attack on how the Virginia Department of Transportation does business along the U.S. 29 corridor. Van Yahres has drafted a resolution that criticizes VDOT for not heeding public comment in the state’s last \$3.6 million study when highway commissioners recommended a short western bypass around Charlottesville. Van Yahres said Wednesday that Albemarle County residents feel the study ‘was not done fairly and that the route already had been picked before the study. VDOT is a dictatorship amongst themselves.’ His resolution charges that the department ‘failed to react to the public comment supplied, wherein 3,212 comments were made in opposition to ANY bypass, and only 51 were for a bypass’....A separate bill sponsored by Van Yahres would require that VDOT purchase land within three years that has been designated for a highway right-of-way. He said land for a short western bypass around Charlottesville might be designated for a right-of-way for a decade or more without compensation to landowners unable to sell their property.”*

“The Daily Progress” published an article on **January 27, 1993** which stated, *“Construction of a western bypass of U.S. 29 may be completed as early as 2000, at least 10 years sooner than anticipated, in the highly unlikely event that more state highway funds become available”* according to officials. The article further stated, *“The state plans to hire consultants next month to begin design work on the bypass and the proposed interchanges at Hydraulic Road, Greenbrier Drive and Rio Road, [VDOT resident engineer Dan] Roosevelt said.”* VDOT chief engineer Jack Hodge *“suggested that strong opposition to the interchanges may delay their construction, forcing the state to move ahead with the bypass earlier than expected.”* Hodge commented, *“Any hue and cry at the public hearings could change what we do.”* However, it is worth noting that VDOT never considered the overwhelming public comment against the bypass (see chart on page iii) as a reason for not going forward with that project.

An article in “The Daily Progress” on **May 6, 1993** reported that, *“The Virginia Department of Transportation is considering another northern terminus for the proposed western bypass of U.S. 29, according to the state Secretary of Transportation. In an April 29 letter to the Albemarle County Board of Supervisors, John G. Milliken said his department may push the proposed intersection of the bypass with U.S. 29 further north, eliminating the road’s impacts on businesses in the Rio Hills Shopping Center and other businesses along both sides of U.S. 29. It also would spare through traffic possible delays at traffic lights....But Milliken said the plan is only a concept at this point and no in-depth study has been prepared. This tie-in with U.S. 29 would link the bypass to the proposed Meadowcreek Parkway east of U.S. 29.”*

According to an article in “The Daily Progress” on **May 25, 1993**, the CTB *“tentatively increased funding for engineering and right-of-way acquisition for the proposed western bypass of U.S. 29 but delayed some funding for interchanges at Rio Road, Greenbrier Drive, and Hydraulic Road.”* This action was taken despite the Three Party Agreement, incorporated into the CTB’s resolution of Nov. 15, 1990, that placed construction of the grade-separated interchanges ahead of the bypass, and, in fact, stated that the bypass would only be built at *“such time traffic conditions along the Route 29 corridor become unacceptable and economic conditions permit.”*

On **June 1, 1993**, “The Daily Progress” editorial stated “....the CTB’s tentative decision to delay some funding for the U.S. 29 interchanges is ominous.”

An article in “The Daily Progress” on **October 7, 1993** reported that, “The Virginia Department of Transportation is considering several major changes to the path of the proposed western bypass to U.S. 29” according to the state’s chief highway engineer. According to the article, “The revisions include a shift in the bypass’s northern terminus on U.S. 29 and minor adjustments to the middle and southern end of the highway, where it will connect with the U.S. 29-250 Bypass. The proposed revisions will eliminate the road’s effect on more than a dozen businesses, schools, historic districts and homes that were previously in the path of the bypass, engineer Jack Hodge told the Albemarle County Board of Supervisors. The changes could save the state as much as \$20 million in reduced right-of-way costs but make the road slightly less efficient, Hodge said....Besides avoiding 10 businesses [in the northern area], the bypass would no longer affect any portion of the Agnor-Hurt Elementary School or the proposed extension of Berkmar Drive....The adjustment to the middle portion of the bypass lessens the road’s effect on the Montvue subdivision and avoids a large family farm....The supervisors, affected county landowners and environmentalists have opposed the proposed bypass since the Commonwealth Transportation Board approved its tentative location three years ago. They have said the road is unnecessary and will cause much damage to the rural character of the land it is supposed to traverse.”

1994 February 1994 - Governor George Allen appointed Carter Myers and William Roudabush to CTB

On **June 10, 1994**, the Albemarle County Board of Supervisors (BOS) sent a letter to Virginia Secretary of Transportation Robert E. Martinez which stated, “There is an apparent conflict between VDOT’s interpretation and action and the attached agreement as it relates to Phase II, Medium-range Recommendations and Phase III, Long-range Recommendations found in the CTB’s November 15, 1990 resolution. Our concern is that VDOT appears to be moving forward with the long range recommendations [i.e. the bypass] prior to the completion of the short and medium-range recommendations, again in conflict with a CTB resolution....adopted on December 19, 1991. The intent, as we read it, is to complete the short (Phase I) and medium-range (Phase II) recommendations after which assessment for the need of Alternative 10 By-Pass (Phase III) could be determined and, if traffic on Rt. 29 is unacceptable and funding permits, then construction of the Alternative 10 By-Pass would commence. The crucial question for Albemarle County Board of Supervisors is how can VDOT schedule a date for construction of a by-pass in early 1998 (confirmed by Mr. Hodge’s letter of April 5, 1994) and still comply with the CTB’s November 15, 1990 and December 19, 1991 resolutions along with the CTB’s intent to follow the sequencing in the attached agreement.”

October 26, 1994 – VDOT Public Information Meeting on Route 29 grade-separated interchanges design

November 4, 1994 – Draft Environmental Assessment (DEA) on termini revisions issued

1995 In a **January 15, 1995** guest commentary in “The Daily Progress,” Dennis Rooker (future member and chair of the Albemarle County Planning Commission, Metropolitan Planning Organization, and Board of Supervisors) wrote about Albemarle County’s objection to the proposed bypass based on

its concern for the county's water supply. He noted, "A resolution passed by the Board of Supervisors on May 18, 1983, stated 'that the Metropolitan Planning Organization (MPO)....is requested to study methods of alleviating congestion in the Route 29 North Corridor....provided, however, that it is the expressed desire of the Albemarle County Board of Supervisors, consistent with its concern for the protection of public drinking water supplies, and the protection of existing neighborhoods, that no alternative shall be studied which would impact or intrude upon any drinking water impoundment or intrude upon any existing neighborhoods.' It was with that background that the county consistently opposed a western bypass, including the Alternative 10 Bypass that is now included in the three phases of U.S. 29 corridor projects. The county agreement on the phasing of the U.S. 29 projects was explicitly contingent on those projects being built in the agreed-upon order and upon the agreement that the encroachment into the watershed would take place only after the other improvements were build and only if traffic conditions were still not satisfactory.... Opponents of the grade-separated interchanges at Rio Road, Greenbrier Drive and Hydraulic Road have urged the localities [Albemarle County and Charlottesville] to abandon the three-party agreement and immediately build the western bypass. More than four miles of the proposed bypass are in the watershed. If the new northern terminus is approved, two bridges of 1,000 linear feet will be constructed over the Rivanna River and part of the road will be built on a steep grade directly uphill from the reservoir intake to the treatment facility."

January 16, 1995 – Charlottesville City Council resolution opposing design and construction of grade-separated interchange at Hydraulic Road based largely on its oversized design

An article on **February 12, 1995** in "The Daily Progress" discussed VDOT's public hearing on proposed changes to the southern and northern termini of the proposed bypass. According to the article, these changes "would lessen the roadway's impact on businesses along U.S. 29 north of Charlottesville and on a residential area west of the city....Business leaders who had requested a change in the northern terminus praise the revisions, which they said would draw more traffic from north U.S. 29 and would avoid established businesses which would be expensive for the state to acquire....But critics of the bypass point out additional problems with the new northern terminus, warning it would be too close to the watershed and would still be south of future growth in Hollymead....The Alternative 10 corridor was chosen by the Commonwealth Transportation Board in 1990. But business leaders in 1993 asked the state to move the northern end of the bypass farther north to avoid displacing Lowe's and other existing businesses....The northern extension would require the state to build a bridge over the Rivanna, increasing the cost of construction of the northern end from \$14.6 million to \$31.6 million, according to figures provided by VDOT....The revised northern end would take 10 more homes than would the existing corridor, but would spare six businesses and one cemetery that would be taken by the existing corridor, according to VDOT." It is worth noting that the proposed bypass would take 41 homes.

February 13, 1995 – VDOT Location Public Hearing on northern and southern termini revisions for proposed bypass

February 16, 1995 – CTB resolution eliminating three grade-separated interchanges on Rt. 29 North and rescinding former actions relating to sequencing approach for Rt. 29 corridor improvements, discussed and approved by CTB with no notice to Albemarle County

An article in “The Observer’s” publication for the week of **February 16 – 22, 1995** reported on VDOT’s public hearing on the proposed modifications of the Alternate 10 bypass. Albemarle County resident Jack Marshall commented, *“You are going to get raped. What they’re asking here is ‘how do you want it.’”* According to the article, Eleanor Santic, president of Citizens for Albemarle, *“noted the study by Black and Veatch, commissioned by the Rivanna Water and Sewer Authority, which reported that siltation has already consumed 22 percent of the total volume capacity of the reservoir....normal siltation will continue to diminish the reservoir until supply equals demand in the year 2015....Construction of the bypass itself and the pursuant surrounding development would speed the process of siltation and diminish the water supply more quickly.”* Jack Jouett Supervisor Charlotte Humphris stated, *“If the bypass is built out of order, we will never see the interchanges.”* The article stated, *“Grade separated interchanges reduce delays by 80 percent, according to the Sverdrup study, she said.”*

March 16, 1995 – CTB resolution approving termini revisions

According to a **March 17, 1995** article in “The Daily Progress,” at its February 13, 1995 location public hearing on proposed modifications to the northern and southern terminus of the proposed bypass, VDOT presented information that showed:

- for the revised northern terminus – 229 people commented –
 - with 62% in favor of the modifications and 15% in opposition;
- for the revised southern terminus – 245 people commented –
 - with 56% in favor and 19% in opposition.

However, of the 1,014 people who commented on both, 64% opposed and 32% favored the modifications. There were also petitions signed by 1744 people stating the bypass should be built only if other improvements to help traffic on Rt. 29 didn’t work. VDOT ignored this input. Furthermore, the article stated that, according to VDOT, the modified termini would reduce their cost from \$100 million to \$67.5 million – a saving of approximately \$32.5 million, despite the fact that the termini revisions lengthened the bypass by a mile and included a bridge crossing of the South Fork Rivanna River. (However, cost figures from the January 21, 1997 VDOT document, “Detail Estimated Prices,” indicated a considerably higher cost of these termini revisions – an increase of approximately \$52.2 million.)

May 3, 1995 – Albemarle County BOS resolution (4-2 vote) withdrawing support for grade-separated interchanges, endorsing the Meadow Creek Parkway (MCP), and requesting CTB to include MCP in primary system

“The Daily Progress” on **May 14, 1995** reported that Albemarle County Board of Supervisors members *“found themselves being instructed by [Commonwealth Transportation Board member Carter] Myers to drop their support of interchanges on U.S. 29 to secure state funding for the proposed Meadow Creek Parkway....According to supervisors, Myers and fellow transportation board member William Roudabush of Charlottesville met privately with each supervisor to ask that the board formally renounce the U.S. 29 interchanges proposed for Rio Road, Greenbrier Drive, and Hydraulic Road.”*

June 8, 1995 – Final Environmental Assessment (FEA) on termini revisions issued

An article in “The Observer’s” publication for the week of **June 22 – 28, 1995** reported that “*The Charlottesville-Albemarle SPCA will have to make way for the Alternative 10 Bypass if the current corridor plans are finalized, according to VDOT and SPCA officials....According to officials from the Society for the Prevention of Cruelty to Animals, the Virginia Department of Transportation informed them about a month and a half ago that it has moved the Alternative 10 corridor so that it will pass through the shelter’s property. They say VDOT wants about 3.5 acres of the 10-acre site, impacting the entire operation.*”

July 7, 1995 – Federal Highway Administration (FHWA) issued Finding of No Significant Impacts (FONSI) concerning modification of termini

According to an article in “The Daily Progress” on **July 14, 1995**, “*What state highway officials consider a typographic error is being looked upon as an opportunity by Albemarle County. The state included \$10.1 million for the U.S. 29 bypass planned for Albemarle by mistake in its six-year spending plan for state highways this year, according to Virginia Department of Transportation officials....The six-year spending plan estimates a cost of \$33.9 million for the acquisition of right-of-way in the path of the bypass. But the figure should have been \$23.8 million because of changes to the northern and southern ends of the bypass according to Frank Edens, spokesman for VDOT....‘It is a typographical error,’ Edens said....[Supervisor Charlotte] Humphris, a bypass watchdog, found the error by comparing the updated six-year plan with the last spending plan. The transportation plan is updated annually. ‘It could not have been simply a typo,’ Humphris said. ‘It all adds up to that amount of money. The question is, can they just change all their numbers and just say it was a typo?’*”

On **July 18, 1995**, “The Daily Progress” editorial opined, “*If Albemarle County can make the Virginia Department of Transportation live up to its \$10 million error, more power to ‘em. The state’s six-year spending plan for highways within the county estimates \$33.9 million for acquiring right-of-way for the U.S. 29 western bypass. The figure **should** have been \$23.8 million....The county would like to apply that money to....the Meadow Creek Parkway....But, true to form, VDOT doesn’t seem inclined to help the county out on this one. The \$33.9 figure was an error, not a commitment, says the department.*”

An article in “The Daily Progress” on **August 16, 1995** reported, “*Property owners in the path of the planned U.S. 29 bypass should know how it will affect their property by the end of the year, transportation officials and consultants said Tuesday....Transportation officials are beginning a three-year design period intended to create a highway nestled in a ‘park-like setting’ that will meet the standards of area residents, transportation officials and consultants said.....[R. Stan] Tatum of Land Planning and Design Associates, Inc., said his mission is to see how the road can be fit into the topography and maintain scenic views of the countryside. The Charlottesville planning commissioner said he will investigate ways to incorporate bicycle and pedestrian paths....Among [the designers’] tasks will be to determine whether interchanges at Hydraulic Road and Barracks Road should be added to the project, [CTB member Carter] Myers said. The highway is tentatively planned to allow access to U.S. 29 only at each end....VDOT officials emphasized that the amount of property affected will depend on how the road is designed. A 1994 draft environmental assessment estimated the bypass would directly claim five single-family homes, six apartments, one business, a cemetery and the Society for the Prevention of Cruelty to Animals building. It could*

affect a number of other properties indirectly, officials have said.” (In actuality, 41 single family homes, not five single family homes and six apartments, are taken by the proposed bypass.)

On **August 17, 1995**, “The Daily Progress” editorialized on VDOT’s planned three-year design period for the proposed bypass, *“intended to create a highway nestled in a ‘park-like setting.’ While we doubt whether it’s possible to make any multi-lane highway truly ‘park-like,’ the apparent willingness of VDOT officials to build a road that fits well into its surroundings is encouraging....[It is essential to address such] issues as: Minimizing the roadway’s visual impact. Limiting noise pollution. Protecting the Rivanna River watershed. Keeping the size and scale of all aspects of the project within local guidelines. Another major issue the VDOT consultants will face is determining if interchanges at Hydraulic Road and Barracks Road should be added to the project. Whether the U.S. 29 bypass will be a true expressway or a roadway connected with these two important local roads should be decided by people who live – and drive – here.”*

An article in “The Daily Progress” on **August 25, 1995** reported, *“Commonwealth Transportation Board member H. Carter Myers III has said he will ask the consultants to study whether interchanges at Hydraulic and Barracks roads should be added to the [bypass] project as part of their design work. But some Albemarle County officials take issue with such a study, saying that interchanges were not part of the bypass plan outlined in a 1990 Commonwealth Transportation Board resolution. Only the county can request interchanges, according to that resolution, and county officials have not asked for them because they would contribute to development, [Supervisor Charlotte] Humphris said. ‘If they are simply going to go ahead and look at interchanges at Hydraulic and Barracks, that is very negative in itself,’ Humphris said. ‘Everybody is politically astute enough to understand that where there are interchanges, the pressure for development is strong’.... The bypass corridor was selected by the Commonwealth Transportation Board in 1990. The board decided earlier this year to lengthen the bypass by extending its northern and southern ends, stretching the highway from 5.4 miles long to about 6 miles long. Without the extension, [VDOT spokesman Frank] Edens said, the bypass would have affected an estimated 17 homes and 8 businesses. Extension of the bypass decreases the number of businesses affected, he said, but officials have no firm number of homes affected.”* It is worth noting that the proposed bypass would take 41 homes.

On **August 29, 1995**, “The Daily Progress” reported, *“Design consultants for the U.S. 29 bypass project will look at the effect of interchanges at Barracks and Hydraulic roads while studying potential traffic on the bypass, a Virginia Department of Transportation official said Monday. ‘But they haven’t been told to develop interchanges in those areas,’ Patsy Napier, a VDOT senior transportation engineer, said during a meeting with Charlottesville and Albemarle County officials on design issues concerning the bypass.”*

September 6, 1995 – Albemarle County BOS resolution (unanimous) opposing any interchanges on bypass

An article in “The Daily Progress” on **September 7, 1995** stated, *“The Albemarle County Board of Supervisors reminded state highway officials Wednesday that they need local permission to add interchanges to the planned U.S. 29 bypass. Then the supervisors made their position clear: permission denied. By a 6-0 vote the supervisors renounced the plans of highway consultants to study the effects of building interchanges at Barracks and Hydraulic roads on the proposed bypass,*

now planned to have access only at its northern and southern ends....Regarding the bypass interchanges, the supervisors will send a letter protesting the consultants' study to VDOT Secretary Robert Martinez and members of the Commonwealth Transportation Board, said County Executive Robert W. Tucker, Jr. 'What's happening here is outrageous and the way it is happening is outrageous,' said Supervisor Charlotte Humphris, I-Jack Jouett. 'Saying it's just a study is a bunch of baloney. It's a precursor to building interchanges.' Adding two interchanges to the 6-mile-long bypass would open the area up to commercial development, further damaging neighborhoods and threatening the health of the Rivanna River watershed, supervisors said. Furthermore, to study interchanges would be a waste of money, they agreed....According to the 1990 agreement on U.S. 29 improvements among the city, county, the University of Virginia and state transportation officials, the state would build no bypass interchanges without the county's permission. The supervisors and residents who attended Wednesday's meeting noted that other parts of that agreement already have been broken by the state, including three interchanges on U.S. 29 and funding for the Meadow Creek Parkway, which was slated for construction prior to building the bypass. The Commonwealth Transportation Board scuttled the U.S. 29 interchanges – which were to be built at Rio Road, [Greenbrier] Drive and Hydraulic Road – earlier this year after some city and county residents complained they would destroy the business district on the highway. Also, the county has been trying without success to get primary road funds for the Meadow Creek Parkway....During public hearings on the location of the bypass, plans for the road have not included any interchanges. The possibility of building interchanges was raised by Commonwealth Transportation Board member and Albemarle car dealer H. Carter Myers III, who asked the consultants to study what effect on traffic the interchanges would have....County resident [and former member of the Virginia House of Delegates] Jim Murray [called the move] 'the old bait and switch. We were told the bypass would go straight through the area with no interchanges. This kind of sleaze does not belong in state government.'"

The **September 12 – 18, 1995** edition of "The Observer" reported, "Speaking at the start of the design phase of the Route 29 Bypass, [Commonwealth Transportation Board member Carter] Myers said the design consultants would study whether to add interchanges at Hydraulic and Barracks Roads. Uh-oh. According to the 1990's famous Three Party Agreement, the Bypass should remain accessible only at its northern and southern termini-unless the County says otherwise. Well, last Wednesday the County spoke. Not only do all six Supervisors not like the idea of building interchanges; they don't even want the designers to **think about** building interchanges. The Supervisors resolved to write a letter to the state transportation secretary saying, in no uncertain terms, that studying interchanges is taboo because the access to the high-speed Bypass would cause growth in the watershed."

A **November 3, 1995** article in "The Daily Progress" stated that Governor George Allen "told a supporter that his transportation department will not allow interchanges on the U.S. 29 western bypass in light of opposition from the Albemarle County Board of Supervisors." (BOS letters of September 7 and November 3, 1995) Meanwhile, however, VDOT contracted with Parsons Brinckerhoff Quade & Douglas to prepare an "Interchange Feasibility Study" to study interchanges on the proposed bypass at Barracks and Hydraulic Roads. Results of that study were released on February 7, 1996 and recommended an interchange at Hydraulic Road. Subsequently, a July 1, 1996 VDOT interoffice memo was discovered through FOIA. The memo stated, "At Hydraulic Road....we will look at the possibility of a tight diamond interchange in the future at this location."

.... we are all aware that this is not the 'best' location for a future interchange, but this is where we will place it."

1996 In **1996**, the Virginia General Assembly directed the Joint Legislative and Audit Committee (JLARC) to review the highway location process used by VDOT to select corridors for new road locations. In January 1998, JLARC issued its findings in a report, approximately 25% of which focused on VDOT's location process for the Rt. 29 bypass. JLARC concluded, *"....the location process used for improvements to Route 29 in the Charlottesville area raises some concerns about the process in that case....The CTB's reversal of its prior decisions regarding the interchanges, the participation of a CTB member [Carter Myers] with a personal interest in the decision process, and the lack of coordination between the widening and interchange projects all raise concerns about the process in this case as well as some broader concerns about the overall process....the support for the interchanges was withdrawn by the CTB without the benefit of any completed technical reports or analysis, any public hearing, or any staff recommendation. The manner in which the decision was made is of particular concern because the decision changed entirely which traffic needs would be addressed along the Route 29 corridor in Charlottesville."* The report also noted the perception of impropriety caused by a CTB member's [Myers] *"active participation in the decision of the CTB to withdraw support for the interchanges."* JLARC recommended, *"Decisions to rescind prior location decisions of the CTB should be made only after the public is provided with a formal opportunity to submit input through the public hearing process and after sufficient technical analyses have been prepared to assess the issue. In addition, members of the CTB should be expressly precluded from participating in decisions that directly impact their personal interests. Furthermore, local governments should be given the opportunity to directly address the CTB prior to location decisions that directly impact their locality if there is disagreement over the preferred alternative between an affected locality and VDOT."* To date, no action on these recommendations has been taken by VDOT, the CTB, or the General Assembly.

March 11, 1996 – VDOT Citizen Information Meeting on four design alternatives for bypass

July 3, 1996 – Albemarle County BOS resolution (unanimous) reconfirming opposition to interchanges on bypass

July 25, 1996 – Charlottesville-Albemarle MPO resolution adopting 1996-97 Transportation Improvement Program (TIP) withholding federal construction funds for bypass until certain criteria met

July 30, 1996 – VDOT Citizen Information Meeting on new bypass design

On **September 19, 1996**, "The Daily Progress" editorial addressed the design of the southern terminus of the proposed bypass, stating, *"The continuing difficulty in designing a southern terminus for the proposed U.S. 29 bypass – and the controversy attached to the problem – points up one of the many reasons a close-in bypass is a bad idea."*

1997 An article in "The Daily Progress" on **February 24, 1997** stated, *"A state summary of the U.S. 29 western bypass project includes only future costs – not millions already spent – and underestimates the number of homes the road will demolish, according to a review of state and local records. The Virginia Department of Transportation will distribute the seven-page summary of the project's final*

design Tuesday at a public hearing – the last opportunity for the public to comment on the project....The VDOT pamphlet states that the proposed road would cost between \$161.9 million and \$170.9 million. But the estimate doesn't include \$4.4 million VDOT used to purchase 11 homes potentially threatened by the bypass before the route was selected. Neither does it include the initial \$3.7 million bypass study used to select the route.” Adding those costs results in a total estimate cost of nearly \$179 million. VDOT project manager Patsy Napier stated, “That was different money. That money was already spent.” Further, the “VDOT pamphlet also indicates the road would level as many as 17 homes. But preliminary right-of-way plans.....show the bypass would demolish at least 29 residences....Napier acknowledged the highway department did not include in the pamphlet the homes it already owns.” It is worth noting that the proposed bypass would demolish 41 homes.

February 25, 1997 – VDOT Design Public Hearing on bypass

VDOT held a six-hour Design Public Hearing on the proposed Rt. 29 bypass on **February 25, 1997**. According to an article in “The Daily Progress” on February 26, over 1500 people attended the hearing, at which VDOT made public its noise study. The study showed that *“66 to 68 homes, businesses or schools would sustain enough impact from the bypass to be eligible for noise abatement of some kind. The highway department deemed noise walls along the bypass would not be cost-effective in those areas.”* According to VDOT documents, over 8,000 people commented as a part of this Design Public Hearing, with 1,101 in favor of building the Rt. 29 bypass and 7,108 in opposition.

In an article on **March 7, 1997**, “The Daily Progress” reported that the Environmental Protection Agency sent a letter to VDOT on February 26, asking for clarification of the 1992 Final Environmental Impact Statement that justified selection of the route of the proposed Rt. 29 bypass. The letter *“cited long-term risks to Charlottesville and Albemarle’s main water source, referred to ‘remarkable’ local opposition to the current plan and touted the relative benefits of turning the existing U.S. 29 into an expressway with overpasses and service roads.”* It stated, *“EPA believes that the risk to business and residences from potential contamination of the county’s water supply....is a major concern that warrants serious consideration of alternatives to avoid this potential.”*

April 9, 1997 – Albemarle County BOS resolution (unanimous) withdrawing support for proposed Rt. 29 bypass

On **April 9, 1997**, the Albemarle County BOS which had withdrawn its opposition to the bypass on a 4-2 vote on August 7, 1991 (conditioned on adherence to the December 1991 and February 1992 Three Party Agreement between Albemarle County, Charlottesville, and the University of Virginia), unanimously approved a resolution withdrawing its support for the bypass. In part, Albemarle County’s resolution stated:

WHEREAS, the Albemarle County Board of Supervisors opposed the Alternative 10 Bypass due to its severe environmental and economic impacts, and agreed to the construction of the Alternative 10 Bypass only after receiving specific assurances from the CTB in two separate resolutions, and only after receiving several additional assurances from the Secretary of Transportation, as recently as June, 1994, that said sequence of construction improvements would be followed; and

WHEREAS, on February 16, 1995, following a motion with no discussion, and without prior notice to Albemarle County, the City of Charlottesville, or the MPO, the CTB passed a resolution rescinding specific actions of the Board taken at its meetings November 15, 1990 and December 19, 1991, which relate to the interchanges at Rio Road, Greenbrier Drive, and Hydraulic Road.... “and relating to the phasing of construction for the Route 29 Bypass based on increases in traffic and economic conditions”; and

WHEREAS, the aforesaid February 16, 1995, CTB resolution: (1) was contrary to the findings of the \$3.70 million Route 29 corridor study, (2) ignored the recommendations of the VDOT Chief Engineer concerning the sequence of Route 29 improvements, (3) violated the agreements and assurances made by VDOT to Albemarle County concerning the sequencing of Route 29 improvements and (4) was contrary to the Three Party Agreement and the CATS; and

WHEREAS, it is contrary to the Three Party Agreement to commit public funds to the construction of the Project until currently committed projects, such as the base case widening of Route 29, the four-laning of Hydraulic Road and Rio Road, and the Meadow Creek Parkway are completed, and a reasonable period of time has passed after the completion of those improvements so that a determination can be made of their effect upon traffic flow in the Route 29 Corridor; and

WHEREAS, the improvements in the Route 29 corridor scheduled to be completed prior to beginning construction of the Project, as identified in the Three Party Agreement, the CATS, and the CTB resolutions of November, 1990 and December, 1991, have not been completed; and

WHEREAS, the recently completed Design Study (the “Design Study”) for the Route 29 Bypass disclosed that there are many important community impacts from the Project which had not been previously disclosed or determined; and

WHEREAS, there have been numerous variations and increases in the VDOT cost estimates for the proposed Project and the cost estimates of the Project have grown from \$68.0 million in 1998 to more than \$170.0 million now; and

WHEREAS, the U.S. Route 29 Corridor Study, for the length of U.S. 29 between Charlottesville and Warrenton, has concluded that Route 29 should not be turned into a limited access facility; accordingly, this Project does not fit into a desired limited access north-south Central Virginia corridor; and

WHEREAS, the public opposition to this Project has been overwhelming;

NOW, THEREFORE BE IT RESOLVED, that in light of the aforesaid facts, the County of Albemarle hereby opposes any additional expenditure of public funds for the Alternative 10 Bypass and withdraws its support for this Project.

April 17, 1997 – CTB resolution approving bypass design

In a **July 17, 1997** “The Daily Progress” article, Bypass project manager Patsy Napier stated that as soon as VDOT purchased homes in the path of the Bypass, they would be demolished and the land cleared. VDOT began purchasing these homes in 1991. To date, VDOT has not demolished any homes or cleared any land for the Bypass.

“The Daily Progress” editorial on **August 7, 1997** was entitled “VDOT has credibility problem.” The editorial stated, *“Virginia’s government should be in the business of telling the truth. When government officials pass around information that is misleading and falls far short of being truthful, the trust people have in their government erodes. The Virginia Department of Transportation did not help itself this year by circulating false information in a proposal that would accelerate its plans to build a short western bypass for U.S. 29 across a little more than six miles of Albemarle County countryside. Four members of Congress were named as sponsors of a federal budget request for the bypass in a proposal drafted by VDOT for a direct grant to speed construction of the \$170 million bypass. This was a big surprise to Reps. Thomas J. Bliley, Jr., R-Richmond, and Virgil H. Goode, Jr., D-Rocky Mount, the pair of congressmen whose districts bisect Albemarle County and would include the proposed bypass. Mr. Bliley and Mr. Goode let VDOT officials know that they were most assuredly not sponsoring or supporting a direct federal highway grant for the road....Robert E. Martinez, state transportation secretary, said that the listing of the four members of Congress [including Virginia’s two senators who also did not support the proposal] as supporting the bypass funding probably was a ‘transcribing error’ by one of the three employees of the congressional liaison office. One problem with that response is that it ignores other faulty information in the same document prepared for submission to Congress....A faulty answer or two in a congressional questionnaire would not be a major problem for VDOT if the agency had a history of sharing the truth about its plans with local officials and citizens. Unfortunately, VDOT has a history of providing information that local officials and state lawmakers have characterized as misleading....VDOT can build public trust by ensuring the accuracy of information it provides. If its statements about highway projects reflect public relations spin more than accurate information, VDOT is building a record that erodes trust.”*

August 11, 1997 – Charlottesville-Albemarle MPO resolution adopting 1997-98 TIP, continuing to withhold federal construction funds for bypass until certain criteria met

1998 January 8, 1998 – Southern Environmental Law Center (SELC) filed suit against VDOT, FHWA, CTB, and U.S. and Virginia Secretaries of Transportation challenging construction of proposed Rt. 29 bypass on five environmental counts

January 15, 1998 – Joint Legislative Audit and Review Committee (JLARC) Report issued, including remarks criticizing highway location process used for Route 29 bypass

In **October 1998**, the Charlottesville-Albemarle MPO discovered that VDOT had set aside approximately \$33.8 million in federal and state funds and planned to begin construction in 2000, despite the MPO’s resolutions of 1996 and 1997 which denied construction funding for the bypass until several issues were addressed. VDOT administrator Bob Cassada’s explanation for this action cited the CTB’s disagreement with the MPO’s concerns about the bypass. (“The Daily Progress,” October 1998)

December 15, 1998 – Charlottesville-Albemarle MPO resolution adopting 1998-99 TIP, continuing to withhold federal construction funds for bypass until certain criteria met

1999 March 1999 – In response to SELC’s lawsuit, VDOT issued Draft Section 4(f) Evaluation of proposed bypass’ impact on jogging/walking trails near Jack Jouett Middle School

August 1999 – In response to SELC’s lawsuit, VDOT issued draft of Final Section 4(f) Evaluation – Albemarle County School Properties

September 21, 1999 – Charlottesville-Albmarle MPO resolution adopting 1999-2000 TIP, continuing to withhold federal construction funds for bypass until certain criteria met. The MPO adopted language withholding federal construction funds for the bypass until certain criteria were met in every subsequent TIP until 2011.

2001 SELC’s lawsuit resulted in federal judge ordering VDOT to prepare Supplemental Environmental Impact Statement (SEIS)

2002 CTB approved transportation plan that indefinitely delayed funding to construct bypass. Funding redirected from purchase of right-of-way to study of overpasses.

2003-04 Albemarle County, Charlottesville, MPO, and VDOT developed 29-H-250 Study focused on improvements to Rt. 29 corridor area at Hydraulic Road

2005-11 Albemarle County developed Places 29 Master Plan with state support

2009 On **February 11, 2009**, an article in “The Hook” stated that, according to “Charlottesville Tomorrow,” Charles Rasnick, who was VDOT’s manager of a \$1.5 million study of Route 29, commented, *“The [Rt. 29 western bypass] would not function today as it was envisioned when it was first planned back in the 1970’s. We don’t anticipate building that bypass....”*

On **September 23, 2009**, VDOT consultants who performed a \$1.5 million, two year Rt. 29 Corridor Study to determine the best ways to improve traffic flow in the Route 29 Corridor throughout Virginia presented the conclusions of their study at a meeting of the Charlottesville-Albemarle MPO. With respect to the proposed bypass, the consultants concluded, *“As currently designated, the Western Bypass is no longer an effective option to serve corridor-wide trips.”*

At CTB meetings on the Route 29 Corridor Study in **November and December, 2009**, Ken White (who represented the Lynchburg District on the CTB) and Secretary of Transportation Pierce Homer made remarks critical of the proposed bypass. White commented, *“[E]verybody that has informed themselves on the subject realizes the [29 Bypass] is now obsolete. There’s no way that the bypass could ever be justified for the cost of what it would take to build it.”* Homer stated, *“I have yet to find a defender of the Charlottesville Bypass who says that particular configuration works.”*

2011 February 2, 2011 – Albemarle County BOS unanimously approved Places 29 Master Plan

June 8, 2011 – Albemarle County BOS voted (4-2) to approve bypass in unannounced late night vote with no public input and no prior notice to two dissenting Supervisors

On **June 8, 2011**, after a long and contentious public hearing on unrelated matters, in a surprise move near midnight, four members of the Albemarle County BOS (Ken Boyd, Lindsay Dorrier, Duane Snow, and Rodney Thomas) voted to suspend the Board’s rules of order for conducting meetings in order to allow a vote on the proposed Rt. 29 Bypass. On a 4-2 vote (with Supervisors

Ann Mallek and Dennis Rooker opposed), these same four Supervisors voted to direct the county's representatives on the MPO (Snow and Thomas) to remove language blocking the state from allocating money for the construction of the proposed Route 29 bypass. No public notice was given, and no public comment was allowed. This vote occurred exactly one week after the same motion had failed on a 3-3 vote (with Dorrier, Mallek, and Rooker opposed). Dorrier stated that his reason for changing his vote was a telephone call that he had received that afternoon from Virginia Secretary of Transportation Sean Connaughton, urging him to change his vote.

In an article in Charlottesville Tomorrow on **June 9, 2011**, Secretary of Transportation Connaughton was quoted as confirming the conversation with Lindsay Dorrier, stating, *"I assured him that if the MPO did move forward and include construction [of the bypass] in its transportation plan that the state would end up altering or revising the six-year program to provide full funding for the project."* The article further stated, *"Connaughton said his assurance was based on the existing alignment and design, and not some other alternative....Connaughton said the project would also be connected to a widening of U.S. 29 from the South Fork of the Rivanna River north to the Hollymead Town Center."* It is worth noting that this widening should be done simultaneously with the construction of the northern terminus of the bypass for efficiency and cost savings. To date, there has been no coordination between the bypass and the widening projects.

"The Daily Progress" editorial on **June 14, 2011**, "Supervisor's actions show disrespect," discussed the vote of the Albemarle County BOS on June 8, 2011, stating, *"A one-on-one call from a top state official. A late-night vote with no warning to the public. A surprise switch by a county leader. Last week's actions by the Albemarle County Board of Supervisors were lawful. But they were disrespectful toward constituents and disdainful of best practices in public decision-making....To take its unexpected, late-night vote on the bypass, the board had to not only rescind its earlier motion but also suspend its earlier rule. That, too, is lawful. But the combination of maneuvers – coupled with a personal, persuasive phone call from a state cabinet member (who instigated that intervention?) – paints a picture of back-room manipulation. This is not in the public's best interest. Whether the bypass is the best solution for the public or not, the manner in which this step was taken is contemptuous in the extreme. The end-run around the public amounts to an act of contempt for the public, and for the highest and best practices of public leadership."*

July 13, 2011 – Albemarle County BOS public hearing on bypass, five weeks after vote. Majority of speakers oppose bypass.

On **July 15, 2011**, an article in "The Daily Progress" reported on the Albemarle County BOS' four hour public hearing on the proposed Rt. 29 bypass which occurred on July 14 (five weeks AFTER its midnight vote on the bypass). According to the article, Supervisor Snow stated, *"To me, the bypass is not the main issue, the main issue is getting those other projects that have been identified that are greatly going to reduce the burden of traffic on Route 29."* The article further stated, *"Snow and [Supervisor] Thomas met on Wednesday in Richmond with VDOT Commissioner Gregory A. Whirley and Deputy Commissioner Charles Kilpatrick, in advance of the public hearing, to start negotiating the language in a resolution that would be considered by the MPO. Snow said the initial statement from VDOT was too vague and only promised to build the bypass, widen U.S. 29 at the northern terminus, and not remove funding from other projects."* Despite VDOT's prior promise (as delivered by Secretary of Transportation Connaughton to Supervisor Dorrier) and despite the alleged negotiating efforts of Supervisors Snow and Thomas, the Rt. 29

widening project between Polo Grounds Road and Hollymead Town Center was not included in VDOT's RFP or in the winning bidder, Skanska-Branch's, design for the bypass project. Of the 100 plus speakers at the meeting, 70 spoke against and 33 spoke in favor of Albemarle County's new position to construct the bypass.

On **July 19, 2011**, an article in "The Daily Progress" reported that Secretary of Transportation Connaughton would *"ask the Commonwealth Transportation Board....to reallocate \$230 million set aside for public-private partnerships and future projects in order to fully fund the Western Bypass of U.S. 29."* According to this article, one of the objectives of the public-private partnership transportation initiatives is *"to encourage private-sector investment in transportation projects, possibly in exchange for toll revenues...."* However, Connaughton acknowledged that it was highly unlikely that the bypass would be a toll road. Further, it is important to note that this bypass is not a public-private partnership. It is also very interesting to note that the amount of money that Secretary Connaughton requested for reallocation for this project is the approximate amount of Skanska-Branch's winning bid – a bid that was as much as \$80 million less than other bids.

This same "The Daily Progress" **July 19, 2011** article stated, *"In advance of Wednesday's CTB meeting, the MPO policy board has sent a letter to Connaughton outlining the conditions under which it will drop its objections to construction funding. These include the extension of Hillsdale Drive, interchange improvements at the intersection of U.S. 29 and U.S. 250 and full funding of the replacement of the Belmont Bridge by fiscal year 2014. None of these projects are included in the request Connaughton will make....Connaughton said he could not guarantee those projects would be funded, [stating], 'The funds that are being set aside are for the U.S. 29 bypass and the widening project.'"*

On **July 20, 2011**, the CTB approved the allocation of \$197.4 million (\$7.4 million for additional engineering, \$71 million for additional right-of-way and easement purchase, and \$118.2 million for construction) for the proposed Rt. 29 Bypass project, which *"fully fund[s] the \$233 million cost estimate for the project"* ("The Daily Progress," July 21, 2011) *and \$32.5 million to widen Rt. 29 to six lanes from Polo Grounds Road to Hollymead Town Center."*

On **July 24, 2011**, a story in "The Daily Progress" quoted Secretary of Transportation Connaughton as stating, *"[The Bypass] might not be the perfect solution to the problems in that corridor, but it's the only one that can actually move forward right now."*

July 27, 2011 – Charlottesville-Albemarle MPO voted (3-2) to allow construction funding for bypass, reversing its longstanding opposition. Majority of MPO refused to postpone vote despite public opposition, flawed public input process, and lack of firm commitment by state to other promised projects.

An article in "The Daily Progress" on **July 28, 2011** stated that Secretary of Transportation *"Connaughton promised no funding for Berkmar Drive Extended [per the MPO's request], however, offering only to prepare a design concept."* He stated, *"I am directing VDOT as part of the Route 29 Bypass design to include the conceptual design and layouts of Berkmar Drive Extended, including the river crossing to ensure that Bypass does not preclude the construction of Berkmar Drive Extended."* However, VDOT's RFP (September 27, 2011) only required the design-

build bid winner to provide three alternatives for Berkmar Drive Extended to a conceptual level during final design development (RFP, Part 2, 1.3).

On **July 28, 2011**, “Bacon’s Rebellion,” an online publication focused primarily on issues in Virginia and published by Jim Bacon, the former editor of “Virginia Business,” reported on the July 27 meeting of the Charlottesville-Albemarle MPO at which, in a split vote, the MPO “*voted to amend its Transportation Improvement Plan [TIP] to include [construction of the Rt. 29 bypass and widening of a section of Rt. 29 North], but did not make the approval contingent upon state funding for the other projects, as two MPO board members had hinted they might. Instead, the board attached a letter from Transportation Secretary Sean Connaughton that outlined his promise to ‘recommend’ the improvements to the Commonwealth Transportation Board (CTB) for incorporation into the state’s Six Year Plan next year. The value of the promises in Connaughton’s letter became the object of contention between MPO board members. ‘I’ve got the letter I sought,’ declared Duane Snow....But Charlottesville representative Kristen Szakos said the letter ‘doesn’t offer any concrete assurances.’ Moreover, she didn’t like the fact that the letter had been delivered the day of the hearing, giving neither board members nor the public time to examine it carefully.*” Szakos also commented that the letter didn’t indicate when the money for the other projects would be available. She told Snow and Thomas (Albemarle County’s two representatives on the MPO) that the letter “*doesn’t meet the conditions you set.*” However, Snow and Thomas “*said the letter was good enough for them.*” Over 100 members of the public addressed the board, with 35 speaking in favor of the bypass and 69 in opposition.

In an article that followed up on the Albemarle County BOS vote on June 8, 2011 to resurrect the Bypass, “The Daily Progress” reported on **August 4, 2011** that Supervisors Mallek and Rooker wanted a guarantee from the state for funding for Berkmar Drive Extended. “*When [Supervisor Dorrier] came back that night and said he wanted to change his vote, he said we got Berkmar,’ Rooker said. The secretary [of transportation]’s letter recommends a conceptual design for Berkmar Drive Extended, but does not mention construction funds.*” It is apparent that there was a discrepancy in what Dorrier reported to the BOS at its June 8 meeting and what Secretary of Transportation Connaughton claimed he promised in order to get Dorrier’s vote for the bypass.

“Bacon’s Rebellion” posted an article online on **August 10, 2011** that discussed another aspect of Connaughton’s July 27, 2011 letter to the Charlottesville-Albemarle MPO. According to the article, “*In a side deal forged to grease the skids for construction of the \$200 million Charlottesville Bypass, the chairman of the regional Metropolitan Planning Organization and member of the Albemarle County Board of Supervisors [Rodney Thomas] has agreed to limit private property owners from opening new access points to U.S. 29 north of Charlottesville. The specifics of the handshake deal had not been spelled out until today during a meeting between Rodney S. Thomas and Gregory Whirley, commissioner of the Virginia Department of Transportation. In exchange for Albemarle’s approval of the Charlottesville Bypass, the McDonnell administration has committed to fund or assist four smaller projects on the region’s list of priorities. But that help is contingent upon the county’s commitment to the state’s ‘access management’ strategy for U.S. 29. In addition to limiting new access to the highway, the County may also buy up ‘a few driveways’ from private property owners, Thomas, says, and it will ‘consider’ deleting some median-strip crossovers....While the Bypass project was a ‘go,’ it was not clear to the public what was included in the side deal. In a letter to the MPO board, Connaughton specified the recommendations he would make to the CTB to advance or accelerate the remaining priority projects....Overlooked in*

the MPO board discussion of the deal and in subsequent press coverage was the fact that Connaughton had attached what he later described as a 'quid pro quo' – the region had to get serious about keeping U.S. 29 a Corridor of Statewide Significance, free from curb cuts, traffic lights and other access points that slowed traffic on the highway....What emerged from Thomas' discussion with Whirley could better be described as an informal understanding than a formal agreement....'There is no specific proposal or plan. We don't have to sign anything,' Thomas said. It would be nice if we could cooperate with VDOT to improve traffic situations rather than make problems for them....I trust Sean Connaughton.'"

On **September 2, 2011**, "The Daily Progress" reported that VDOT spokesman Lou Hatter stated, "The northern interchange will not require a public hearing." The article continued, "However, Hatter later clarified that federal law will require a public hearing as part of the process to ensure that prior environmental reviews for the entire bypass project are still adequate." Hatter stated, "A public hearing will be held before the re-evaluation is completed in accordance with [National Environmental Protection Act] requirements." To date, no public hearing on the northern terminus has been held.

An article posted on "Bacon's Rebellion" on **September 15, 2011** reported on the decision of the Albemarle County BOS at its September 14, 2011 meeting not to ask VDOT to "update a traffic and environmental analysis of the Charlottesville Bypass before putting the \$245 million project out for bids. The board voted instead to ask the Virginia Department of Transportation to complete the update before construction commences....[Supervisors] Ann H. Mallek, the board chair, and Dennis S. Rooker argued that it is crucial to get updated information in circulation before VDOT issues the Request for Proposal. That way, contractors will know exactly what they're bidding on and the state won't have to come back later with expensive change orders....The original Environmental Impact Statement (EIS) for the U.S. 29 Bypass was written 18 years ago, and a supplemental impact statement, focused mainly on protecting the county's drinking-water reservoir, was completed eight years ago....Mallek and Rooker contended that the data in the old evaluations are seriously out of date and that new data could influence the final design. Not only are the traffic numbers obsolete, but recent scientific research has documented the detrimental effects of highway pollutants on the health of children – a particularly sensitive issue given that six schools are located near the proposed Bypass route....Supervisor Ken Boyd contended that it was not necessary to hold up the RFP....'They've told us they're going to award a design-build contract with the caveat that they'll come back after the public hearing and may make change orders.'"

On **September 21, 2011**, "The Daily Progress" reported on a series of internal VDOT documents, obtained through the Freedom of Information Act (FOIA) by the Charlottesville – Albemarle Transportation Coalition, Inc. According to the article, "An unofficial estimate for the construction of the Western Bypass of U.S. 29 is more than double the amount members of the Commonwealth Transportation Board were told by Virginia Department of Transportation officials in July before they voted to resume funding of the 6.2-mile highway. Internal documents released under the Freedom of Information Act reveal that VDOT engineers calculated a cost estimate of \$436 million in late June, several weeks before CTB members voted to allocate \$197 million to the project....VDOT spokesman Lou Hatter has confirmed the validity of the information....the released documents call into question whether enough money has been allocated to the project because internal estimates are much more detailed than those on which the CTB vote was based. When it was revived at Connaughton's direction earlier this year, engineers in VDOT's Culpeper District

estimated the project would have cost a total of \$233 million....VDOT engineer Mohammad Mirshahi, who works in VDOT's central office, wrote in a June 20 email that he was 'uncomfortable' with the estimate developed by engineers in the Culpeper District. 'There is no backup information to support it,' Mirshahi wrote. A second preliminary cost estimate by engineers in VDOT's central office raised the unofficial cost estimate to \$273 million....None of this information was made available to members of the CTB" prior to their vote to approve the project on July 20, 2011 in which they approved \$233 million to "fully fund" the project. It is important to note that these estimates were for construction only and did not include over \$100 million of other costs such as right-of-way acquisition.

In a follow-up article in "The Daily Progress" on **September 22, 2011**, Secretary of Transportation Connaughton defended the cost estimate he'd presented to the CTB and stated, *"he had not seen the estimate produced by the central office"* – despite the fact that his office is located there. *"It's only a six-mile stretch of road over terrain that is not that difficult"* he stated, despite the fact that the proposed route would cut through a mountain and other hilly terrain as well as cross a major river. Culpeper District CTB member James Rich commented, *"I've expressed concern that we hadn't been given the information beforehand and that the project did not appear to be on sound financial grounds or technical grounds."* Morgan Butler, senior attorney with the Southern Environmental Law Center (SELC), characterized this process as an *"approve first, answer questions later"* approach. Steve Williams, executive director of the Charlottesville-Albemarle MPO, commented, *"While it is disappointing that VDOT did not provide full information on the cost uncertainty of the project to the MPO prior to the action in July, we have received full funding assurance for the project from Commissioner [Gregory] Whirley."* (It is worth noting that the "full funding assurance was for \$233 million.) Supervisor Rooker characterized the use of a lower estimate as *"a deliberate attempt to move the project as quickly as possible with little public scrutiny."*

An article in "The Hook" on **September 22, 2011** reported that, in his July 27, 2011 letter to the Charlottesville-Albemarle MPO, Secretary of Transportation Connaughton stated that, in return for funding several road projects in Charlottesville and Albemarle County, including the Rt. 29 bypass, he expected Albemarle County to produce a plan to limit access on the rest of Rt. 29. In a telephone interview, he stated that Albemarle will be a *"test bed" for access management as a Corridor of Statewide Significance,* and suggested *"limiting curb cuts and traffic lights, better light synchronization and parallel/service roads."*

The **September 22, 2011** article in "The Hook" – "Corridor Cleaning: Strings Attached to 29 Bypass Money" – quotes Secretary of Transportation Connaughton as stating, *"One of the reasons your region has not been successful in obtaining funding is the 29 Bypass – it's been the cork in the bottle."* He characterized the area as *"road-averse"* despite the fact that in February 2011, the Albemarle County BOS had unanimously approved Places29, an integrated land use and transportation plan for the Rt. 29 North corridor, developed in cooperation with VDOT, that included a number of projects to improve traffic movements on Rt. 29 North and was touted by VDOT as a model for the state.

September 27, 2011 – VDOT issued Request for Proposals (RFP) for bypass

According to a traffic survey performed by Smart Mobility, Inc. in the fall of 2011, traffic numbers on Rt. 29 increased by 0.5% in the last 20 years, not 1.7% as claimed by VDOT ("The Daily

Progress,” November 23, 2011). On **October 27, 2011**, “The Daily Progress” reported, “At that rate, the 2036 traffic projection in [VDOT’s] RFP will not be reached for nearly 200 years.” On this same issue, “Bacon’s Rebellion” posted a story online on October 26, 2011 that stated, according to traffic engineer Norman Marshall, “What the 1990 VDOT study doesn’t take into account is the phenomenon of ‘induced demand....If the 29 bypass makes travel to and from areas in Albemarle and Greene Counties in the greater Route 29 corridor more accessible, it will encourage both residential and commercial development in these areas. This increased development will cause increased traffic volumes, again partially offsetting any benefit of the project.’ Marshall says that VDOT should analyze alternative investments, such as grade-separated interchanges at Rio Road, Hydraulic Road, and Greenbrier Drive as well as other elements listed in the Places29 master plan.”

On **November 3, 2011**, “Bacon’s Rebellion” posted an article, “In the Dark,” which detailed how “[t]he McDonnell administration omitted critical information from its presentation [in July 2011] when seeking the Commonwealth Transportation Board’s approval to fund the controversial Charlottesville bypass.” The article stated, “....there were some very important things that [VDOT Culpeper District administrator Jim] Utterback did not mention in his scripted presentation. He did not tell the CTB, for instance, that central office engineers inside the Virginia Department of Transportation thought that construction could cost \$100 million or more than the official estimate. He neglected to say that VDOT engineers were considering significant changes to the highway design to bring the cost down. Finally, he failed to mention that VDOT would not build the project using a ‘design-bid-build’ process, doing the final design in-house as was customary, but as a ‘design-build,’ which meant contracting out the final design to the winning construction team. In other words, the McDonnell administration omitted highly germane information – that the design and cost estimates of the project were uncertain and in flux – when it asked the CTB to approve the \$197 million allocation....James E. Rich, Culpeper district representative to the CTB, had even stronger words. ‘Deliberately providing incomplete information would prevent the board from fulfilling its statutory responsibilities to the commonwealth and to taxpayers.’ If the omissions were shown to be deliberate, he said, ‘there should be consequences’....It is impossible to know [Secretary of Transportation Sean] Connaughton’s state of mind going into the CTB meeting. But given the vehement opposition to the bypass, it would not have made his job any easier had CTB members known (a) that no one had a firm grasp on what the project would cost, (b) that the engineers, seeking to reduce the cost, were re-thinking the conceptual design but had reached no firm conclusions yet and (c) that VDOT was planning to enter into a design-build contract of a size and scope it had never managed before. Such information undoubtedly would have roiled the crowd of speakers who had come to oppose the project, it would have emboldened Jim Rich, the one hold-out on the board, and it might have even provided probing questions by other board members....In sum, the McDonnell administration wanted to expedite the Charlottesville Bypass but disagreements erupted inside VDOT over the costs. When seeking the CTB’s approval, VDOT’s point man, with the administration’s approval, omitted important material from his presentation that might have cast the project in a negative light. CTB members have every right to demand a clearer explanation not only of how much money the bypass will cost, but why the McDonnell administration kept them in the dark.”

An article in “The Daily Progress” on **November 20, 2011** about recommendations for the RFP from citizens’ task forces states that “a requirement that the two termini not have traffic lights” was accepted by VDOT for inclusion in the RFP. However, the RFP only stated that the existing Route

29/250 bypass must remain free flow; it did not prohibit traffic lights at the southern terminus. For the northern terminus, the RFP required all traffic movements to be free flow with no additional traffic lights at the terminus. Skanska-Branch's southern terminus design includes stoplights on the bridge/ramp structure over existing Route 250 Bypass, and its northern terminus design has traffic entering and exiting at Ashwood Boulevard's signalized intersections. In another article in "The Daily Progress" on February 19, 2012, VDOT noted that *"the winning bidder will have to produce a traffic study showing its design can maintain a level of service 'C' in the design year 2036."* The article stated, *"That means traffic must be continuous and free-flowing both on the 6.2-mile roadway and its two interchanges."* In an article in "The Daily Progress" on July 4, 2012, VDOT Culpeper District spokesman Lou Hatter stated, *"According to the conceptual roadway plans, there will be traffic signals to control traffic flow at the termination of the ramps to and from the U.S. 250/U.S. 29 bypass."* However, according to Skanska-Branch's conceptual design, these signals are actually on the new ramp/bridge structure and will affect all traffic entering the bypass to travel north and all traffic exiting the bypass via Leonard Sandridge Road to the University of Virginia's North Grounds, as well as all traffic traveling west on the current Route 250 Bypass and exiting at Old Ivy Road. The article further stated, *"Skanska-Branch's project narrative states that the northern terminus will be 'free-flow' and technically has no intersections....the intersection of Ashwood Boulevard and U.S. 29 is immediately adjacent to the project's northernmost end point."* Morgan Butler, senior attorney with SELC, commented, *"The winning bidder has predicted bad traffic delays at the northern terminus of the bypass where Ashwood Boulevard intersects with Route 29, but its proposal explains that VDOT didn't require bidders to address delays at this intersections as part of their bypass designs."*

On **November 21, 2011**, an article in "The Daily Progress" reported on a recent meeting of the Charlottesville-Albemarle MPO which included a dispute between Steve Williams, executive director of the TJPDC and Jim Utterback, VDOT's Culpeper District administrator, over the *"details of changes made to a traffic forecast model. Williams said he was trying to protect the community from having the data misused to support unwanted road projects"* and did not want to furnish VDOT with the data files unless VDOT would provide a signed, written agreement explaining how they would use the files. Because VDOT would not do so, *"VDOT Commissioner Gregory Whirley sent a letter to Williams on November 14, demanding he do so or the MPO would lose some of its funding."* Williams told the MPO that giving VDOT the model would ensure that he would never get the agreement he sought, and he *"expressed distrust of VDOT during the discussion."* On a 4-1 vote (with City Councilor Kristen Szakos opposing), the MPO directed Williams to provide the data to VDOT.

2012 "The Daily Progress" editorial on **January 18, 2012** stated, *"First, a reminder: This newspaper supports the U.S. 29 Western Bypass. It's not the best solution, but it's the only one that has gotten any traction and it's better than no bypass at all....But....last year's bypass decision was itself a politicized maneuver that reversed a board position of some 10 years' standing. The board took its vote just before midnight after much of the public had left for home, and it had to approve a suspension of its own rules of procedure in order to cast that vote."*

On **February 19, 2012**, "The Daily Progress" reported that the nine firms in the design-build bid process for the Rt. 29 bypass sought more details about traffic data, noise analyses, and bridge designs to help them prepare their bids. In response, VDOT referred the *"companies to a supplemental information package available on its website, but also issue[d] a warning 15 times in*

the 33-page document [that stated] ‘The Department does not represent or warrant that the information contained in the supplemental information package is reliable or accurate or suitable for designing this project.’”

On February 20, 2012, “Bacon’s Rebellion” posted an article, “The Road to Wealth Destruction,” that discussed the economics of the proposed bypass and concluded that it would provide a “lousy economic return on investment.” The article stated, “The Virginia Department of Transportation has never conducted a Return on Investment (ROI) analysis to determine how much economic benefit the commonwealth would derive from its \$244 million expenditure, much less how that ROI would compare to alternative transportation improvements....The unwillingness or inability to conduct such an analysis means that billions of dollars worth of transportation projects around the state are funded on the basis of ideology, gut feelings, lobbying pressure and raw politics – not where the money can be most productively employed. The issue is all the more pressing today, given the McDonnell administration’s use of borrowed money and public private partnerships to fund billions of dollars of new road, highway and bridge construction over the next several years....While Bypass proponents argue that there are economic benefits to the Bypass, they do so in abstract terms and concede that they have no tangible evidence to back up their claims. No one has conducted any such studies. The benefits, such as they are, cannot be measured with any confidence. As such, it is impossible to incorporate economic impact into any Return on Investment model.” The same article commented on one of VDOT’s justifications for building the bypass – a reduction of “traffic accidents on the most accident-prone stretch of U.S. 29.” According to an AAA report cited in the article, “A complex relationship exists between congestion and crashes. Although the evidence is mixed, less congested roadways appear to lead to fewer, but more severe crashes....that is, more severe crashes occur in less congested roadways due in part to faster speeds. On more congested roadways, the number of crashes may increase, but they may be primarily minor crashes reflecting the increased weaving and access/egress movements often occurring on congested road segments.” The article noted, “....the Bypass termini at Ashwood Boulevard in the north end and Leonard Sandridge Road on the south end will significantly increase the complexity of traffic flow at those two intersections, thereby increasing the likelihood of accidents and injuries at those two locations.”

On February 29, 2012, “Bacon’s Rebellion” posted an article, “Second Thoughts on Charlottesville Bypass,” about the Charlottesville-Albemarle MPO’s letter to VDOT which raised a number of issues about the bypass. According to the article, the letter stated, “At a minimum, we request that a No-Build alternative and an Alternative that includes proposals from the joint VDOT/Albemarle County Places29 Transportation plan, should be studied.” The letter also requested an entirely new traffic analysis due to the change in development patterns during the past 9 years, as well as the removal of interchanges on the bypass and connection to the Meadowcreek Parkway; consideration of the bypass’ impacts on three schools adjacent to it; updating of the noise analysis; and updating of impacts on the South Fork Rivanna reservoir, wetlands, stormwater, and the water distribution system. In addition to these points, the article stated, “....traffic-light sequencing has so dramatically reduced congestion on U.S. 29 that it calls into question the need for a Bypass in the first place.”

In an article on March 6, 2012, “The Daily Progress” reported that Steve Williams, executive director of the TJPDC, responded via letter on February 17, 2012 to VDOT’s request for details on major land use changes since the 2003 SEIS was issued. Williams’ letter stated, “At a minimum, we

request [study of] a no-build alternative and an alternative that includes proposals from the joint VDOT/Albemarle County Places29 transportation plan.” Mark Graham, Albemarle County’s director of community development, also responded to VDOT’s request, stating, “We hope that any assessment of the bypass would include consideration of how VDOT would assure the bypass does not preclude or increase the cost of building the Berkmar Road extension.” Williams’ and Graham’s letters also cited concerns with the use of out-of-date data, old travel demand modeling, incomplete cultural resources evaluations, and old noise assessment and stormwater requirements.

VDOT’s second addendum (February 29, 2012) to its RFP (September 27, 2011) for the bypass *“removed all reference promising to keep open the Ashwood Boulevard interchange with U.S. 29 as part of a new design for the Western Bypass,”* according to a story in “The Daily Progress” on **March 28, 2012**. VDOT spokesman Lou Hatter said this was a result of *“more specific definition of the project limits in response to questions from bidders.”*

Commenting on VDOT’s refusal to hold a formal public hearing on the new design of the proposed bypass, the editorial in “The Daily Progress” on **April 29, 2012** stated, *“The Virginia Department of Transportation will not hold a full-fledged public hearing on the design of the bypass now that its northern terminus has been shifted farther north. The public will get a chance to comment during a ‘citizen information hearing’ and during the ‘draft environmental assessment review period,’ said a VDOT spokesman. But neither occasion sounds as if it is designed for the type of meaningful input the public desires....The ‘design-build’ process now selected for the bypass is geared toward fast-tracking the project and keeping costs down. That may not necessarily accommodate the public’s interest in actually influencing the design.”*

May 2012 – VDOT issued Notice of Intent to award design-build contract to Skanska-Branch based on lowest cost bid design

On **May 4, 2012**, “Bacon’s Rebellion” posted an article, “Still No Final Design as C’ville Bypass Approaches Construction,” that stated, *“Uncertainty is inherent in the nature of the fast-tracked process which the McDonnell administration has employed to move the controversial [bypass] project ahead.”* Due to the design build process, *“....the proposed [design] will be kept under wraps until VDOT has evaluated the bids and selected a winner. Once the design plan has been set, it will be difficult to implement any substantive changes that arise from public feedback. Thus, while design-build may save money, it won’t necessarily lead to the best result if the contractor makes design decisions that prove unpopular.”* The article noted that, at a meeting on May 2, 2012, *“Dennis Rooker and his allies on the Albemarle County Board of Supervisors tried to pass a resolution requesting VDOT to hold a formal public hearing rather than an informational meeting, as currently planned.”* Quoting “Charlottesville Tomorrow,” the article stated, *“Rooker argued in favor of a public hearing in part because VDOT does not intend to make the project’s design public until a contract has been awarded. Normal procedure for design-build projects, he said, includes opportunity for public hearings on design. ‘In this case, the public won’t have the opportunity to see the design until the contract has been awarded,’ he said. ‘Think about that.’ The board deadlocked, 3-3 [with Supervisors Rooker, Mallek, and Dumler in support, and Boyd, Snow, and Thomas opposed], on Rooker’s proposal, effectively defeating it.”*

An article in “The Daily Progress” on **May 16, 2012** stated that VDOT planned *“to use lower than expected land acquisition costs to help ensure that the 6.2 mile Western Bypass of U.S. 29 stays*

within its \$244.5 million budget.” Senior attorney for SELC, Morgan Butler, questioned, “why [VDOT] now believe[s] they can obtain the remaining right-of-way for roughly half of what they indicated last year.” An article posted on “Bacon’s Rebellion” on May 18 asked, “What trade-offs did Skanska make in its proposed design and how will they effect the bypass performance? In the original design, the Bypass would shave 2 ½ to 3 minutes in driving time. But the substitution of a stop light or tighter curves for flyovers, and a steeper slope over Stillhouse Mountain to reduce excavation costs, could diminish the time savings and degrade the project’s economic Return on Investment.”

June 1, 2012 – American Infrastructure filed protest against VDOT’s awarding of bypass contract based on problems with southern terminus design. VDOT found protest to be without merit.

An article on **June 5, 2012** in “The Daily Progress” - “VDOT says bypass will not exceed its budget” - reported, *“A financial plan released by the Virginia Department of Transportation says the agency will be able to fully fund the \$244.5 million Western Bypass of U.S. 29 in Albemarle County....However, the financial plan redacts specific expenditures upon which VDOT is basing that claim. For instance, the agency is not releasing the projected estimate to complete the acquisition of land for right of way. VDOT also redacted projected costs for landscaping, unknown contingencies, and the cost for VDOT to oversee the project.”* According to VDOT Culpeper District spokesman Lou Hatter, *“....those numbers are still exempt from public disclosure under the Virginia Public Procurement Act”* and will not be released to the public until the CTB awards the design-build contract, expected to be on June 20. The article further stated, *“State law requires VDOT to create a financial plan for any transportation project in excess of \$100 million. The plan must have a complete cost-estimate for construction, right of way purchase and design services. A cash-flow analysis must be performed and sources of revenue must be identified....The financial plan must be updated annually and must be updated if the project requires a major change.”* The article noted the reduction in remaining right-of-way purchase estimate from \$71 million in July 2011 to \$35 million in May 2012; VDOT declined to provide detailed reasoning for that change.

On **June 20, 2012**, the CTB awarded a \$135 million design-build contract to Skanska/Branch Highways for the Rt. 29 bypass, over the objections of the Culpeper District CTB representative, Jim Rich, who *“argued that projects called for in Albemarle’s Places29 master plan would be a more cost-effective way to improve traffic flow on U.S. 29,”* and suggested that the CTB defer the action until all of the environmental documents were complete. (“The Daily Progress,” June 21, 2012). Secretary of Transportation Connaughton stated, *“It’s not the perfect solution, but it will be a partial solution to a major problem faced in the Charlottesville area.”* Lynchburg CTB representative Mark Peake voted in favor of the award and characterized the 6.2 mile Bypass as *“...far from being a road to nowhere. [It] is a road from North Carolina to Washington, D.C.”*

July 2012 – VDOT signed design-build contract with Skanska-Branch for bypass

August 23, 2012 – VDOT issued draft Environmental Assessment (EA)

On **August 23, 2012**, VDOT issued its draft Environmental Assessment (EA) for the proposed Rt. 29 Bypass. However, instead of analyzing the new Skanska/Branch design, the draft EA analyzed the decade old design that has major differences from the new design, especially at the northern and

southern termini. Morgan Butler, senior attorney for SELC, commented, *“It doesn’t evaluate the current project so it’s not an accurate picture of what all the impacts would be.”*

An article in “The Daily Progress” on **September 2, 2012** discussed public responses to VDOT’s draft EA. Morgan Butler, Senior Attorney at SELC, commented, *“The document does not provide some of the most basic information the public and decision-makers need in order to assess the merits of the bypass proposal and to understand its impacts. The assessment analyzes a decade-old design that has major differences from the design VDOT is now pursuing.”*

VDOT held a Citizen Information Meeting to accept comments on the draft Environmental Assessment on **September 27, 2012** at Jack Jouett Middle School, a central location in the Jack Jouett magisterial district through which most of the bypass would pass. VDOT had originally scheduled the meeting to be held at Sutherland Middle School which is in the Rivanna magisterial district, but moved the location when Jack Jouett Supervisor Dennis Rooker objected, citing the need to hold the meeting in a more convenient location for the people who would be most impacted by the bypass. According to articles in “The Daily Progress” on September 28 and “The Hook” on October 4, the meeting was attended by hundreds of people. VDOT documents reveal that over 3,000 comments were received about the draft EA, of which 3,194 cited a need to prepare a full Supplemental Environmental Impact Statement, and 61 disagreed with this need.

On **October 2, 2012**, “Bacon’s Rebellion” posted an article about Taxpayers for Common Sense’s report, “Sliding Past Sequestration,” which *“outlined a program to cut \$2 trillion in federal spending over the next 10 years without touching entitlements.”* This report named the proposed Charlottesville Bypass as one of the eight worst transportation projects in the nation, stating, *“The proposed Charlottesville Bypass is a 6.2 mile, four lane limited access highway intended to act as a reliever road for the congested U.S. 29 corridor. This bypass is extremely expensive as compared to similar projects and will cost almost \$40 million per mile. Furthermore, state transportation officials found that none of the bypass alternatives would have much, if any, impact on the ‘F level of service’ rating on the existing U.S. 29 corridor. More fiscally responsible alternatives such as overpass and design improvements have shown promise of achieving the same goals without the local opposition that has developed against the bypass. Congress should block any federal funding for this wasteful roadway.”*

On **October 16, 2012**, “Bacon’s Rebellion” posted an article about concerns raised by the Southern Environmental Law Center about VDOT’s draft Environmental Assessment of the bypass, stating that it *“is based on an outdated highway design, uses a deeply flawed traffic model, and fails to consider transportation alternatives.”* According to the article, SELC is concerned that the EA *“is based upon a conceptual VDOT bypass design that differs in important respects from the design submitted by winning bidder Skanska/Branch. Of particular concern is the configuration of the southern terminus connecting to the U.S. 250 Bypass....Additionally, one of the other bidders, American Infrastructure, had filed a protest against the awarding of the contract to Skanska/Branch on the grounds that the southern terminus design was deficient....”* SELC further contended *“that the VDOT traffic projections contain a major methodological error: treating growth of ‘external’ traffic (originating outside of the Metropolitan Planning Office boundaries) as ‘through’ trips, meaning that all such vehicles will travel through the region to destinations outside the region. However, some of those trips will be, in fact, to destinations in Charlottesville and*

Albemarle County.” The article stated that, according to SELC, “*VDOT never gave serious consideration to bypass alternatives.*”

An article in “The Daily Progress” on **October 19, 2012** reported that VDOT knowingly used flawed traffic data for its traffic forecasts in the draft EA for the Rt. 29 bypass, according to consultant Norm Marshall of Smart Mobility. The article stated, “*The area’s Metropolitan Planning Association was made aware of an error in its traffic model in January and corrected the analysis. But VDOT has not yet used the updated information....The draft Environmental Assessment released in August by VDOT references information generated by the traffic model on January 12, 2012.....The MPO....corrected the model in early February....The SELC urged VDOT to use the new model, but the agency declined.*” Further, Marshall stated that his study revealed, “*The bypass would generate additional traffic volume in the area north of the proposed northern terminus that would have inadequate capacity by 2040. The additional congestion the bypass would generate north of its northern terminus would undercut what little effectiveness it might offer in facilitating intrastate and interstate trips passing through central Virginia because the most severe bottleneck would become even more congested.*” In an article in “The Daily Progress” on January 13, 2013, “*VDOT defended the use of the January 12 model as what was available at the time, stating, ‘That model was the most current model available at the time of the forecasting efforts.’*”

November 2012 – VDOT’s Environmental Division became aware of historic African-American cemetery located in direct path of bypass

On **November 9, 2012**, “Bacon’s Rebellion” posted an article that discussed the potential difficulty that trucks would encounter when trying to use the proposed bypass due to Skanska’s design for the southern terminus. According to the article, “*The crux of the problem is that the winner of the design-build contract, Skanska/Branch, made major changes to the original Virginia Department of Transportation (VDOT) design in order to shave costs, submit the low bid and bring the project under the \$244 million set aside by the state....But Skanska created problems with the new design. North-bound trucks serving manufacturing operations in Lynchburg, Danville and elsewhere would exit U.S. 250 onto a ramp onto Leonard Sandridge Road....and encounter a stoplight. Then they would turn left and encounter another stoplight before entering the bypass....[They] would encounter two problems. First, they could not make the tight left turn at the first stoplight unless they were in the right-hand lane, and they would create a safety hazard by cutting off cars in the left-hand lane. Second, the incline after the first stoplight is exceedingly steep, with a grade of 11.36%....Another set of problems arises from the re-design of the southern terminus, which arguably breaks an understanding reached in the 1990s with the University of Virginia by encroaching upon UVA’s northern grounds.*”

“Bacon’s Rebellion” posted another article on **November 9, 2012** which was written as a letter, pleading with Governor McDonnell to take another look at the proposed bypass. The letter cited various reasons for revisiting the bypass including, “*....a modest investment in traffic light sequencing [which] has greatly improved travel times through the congested area north of Charlottesville.*” The letter stated, “*...that the original \$244 million cost estimate of the project was gravely flawed and that there was considerable disagreement inside VDOT on what the final cost would be....the Commonwealth Transportation Board approved the project without hearing these concerns....VDOT managed to bring the project within the cost parameters approved by the CTB only by accepting radically different designs for the bypass’ northern and southern*

termini....the winning design/build contractor, Skanska/Branch, submitted a lower bid than other competitors by introducing design changes that would seriously limit the Bypass' usefulness for heavy trucks. The configuration of the southern terminus is so flawed that three trucking companies have said they would not even use it for north-bound traffic. Moreover, the configuration would create a safety hazard for south-bound traffic in bad weather." The letter further stated, "....Charlottesville and Albemarle County were far advanced in developing an alternative to the Bypass [before the project was resurrected]. For a comparable sum of money, the Places29 plan would build interchanges at the busiest intersections of U.S. 29, extend parallel roads to siphon off traffic and make other spot improvements. These changes would benefit everyone who uses the U.S. 29, not just those who seek to drive through Charlottesville on the way to somewhere else...." The letter closed by imploring the Governor not to "....let the Bypass go down in history as 'McDonnell's Folly.'"

On **November 28, 2012**, "The Daily Progress" reported that the EPA had sent a letter to VDOT on October 9, 2012, recommending that alternatives to the Rt. 29 bypass be considered to make sure the project complied with federal law. The letter stated, *"Given the time that has passed since the original study, an alternative that is sensitive to the environment and social concerns [should] be considered in addition to the preferred bypass....It might be appropriate for the lead agencies to provide an updated or new [Supplemental Environmental Impact Statement] to reflect the environmental conditions since the last NEPA document [and] provide an up-to-date alternatives analysis reflecting current status of roadways and land use in the area....The EA makes no mention of how the proposed project will potentially affect the already impaired watersheds [Moores Creek, Meadow Creek, Ivy Creek, and the Rivanna River] with the increased surface disturbance, filling of 2.8 acres of wetlands, increased impermeable surfaces, impacts from the 24 stream crossings, runoff, and potential pollutants from the roadways once it is in use."* Further, the EPA letter noted that the Army Corps of Engineers *"can only permit the Least Environmentally Damaging Practicable Alternative, [so] it must be demonstrated that the preferred alternative [the bypass] is the LEDPA."* The letter warned, *"If controversy and environmental or community impacts appear significant pertaining to new information or circumstances, including new regulations, a higher level of study may be required."*

On **December 7, 2012**, "Charlottesville Tomorrow" reported that Jim Rich, the Culpeper District representative on the CTB was unsuccessful in his attempt *"to transfer money set aside for the Western Bypass of U.S. 29 to other projects in the state."* At the CTB meeting, Rich commented, *"We're sitting here in the important part of the golden crescent, the economic engine of the Commonwealth here in Northern Virginia. We've heard about the dire situation for funding. There isn't any. We have nothing left for new construction."* According to the article, *"Rich offered a motion to transfer \$100 million from the bypass and transfer it to the \$6.8 billion project to extend the Metro to Dulles airport, noting, 'We've got this very important Dulles rail project which serves the technology center here. The Commonwealth really isn't putting much into it. This has been on the backs of poor men and women commuters [who] are paying this toll.'" Secretary of Transportation Sean Connaughton stated, "It's completely inappropriate to bring this up. You can't just transfer these types of funds from highway funds over to Metro....I really don't appreciate you raising this in that context. This is something I've had to live for the last two and a half years of very difficult issues with this project. There are some things going on with that project right now that I'm privy to that we're going to have some very good news shortly....You can't turn around*

and then turn around and take the money away from the project or we will be in some serious legal issues.”

An article in “The Daily Progress” on **December 13, 2012** reported that the Army Corps of Engineers (CoE) notified VDOT that *“it will require an analysis of alternatives to the Western Bypass before it will issue a permit allowing for full construction.”* In its November 9, 2012 letter to VDOT, the Corps stated, *“We concur with the Environmental Protection Agency that it would be prudent to allow for a comprehensive re-evaluation of the project.”* The Corps’ letter further stated that, *“....it is not clear that the proposed project will provide much relief to traffic congestion”* since the draft EA’s August 2012 traffic study showed *“there would be little difference in ‘levels of service’ at several traffic signals on existing U.S. 29,”* according to the article.

2013 January 2013 – Jim Rich removed from CTB by Secretary of Transportation Sean Connaughton

On **January 11, 2013**, the Charlottesville–Albemarle Transportation Coalition, Inc. (CATCO) issued a report, “The 10 Top Reasons - Why the proposed Charlottesville Route 29 Western Bypass should not be built!,” which focused on various problems with traffic issues over the past 20+ years. This report stated, *“VDOT’s traffic information from the early 1990’s until mid 2012 is incorrect and inconsistent, as its traffic analyses are based on a major incorrect assumption. Over the past ~20 years VDOT has consistently based traffic data on the 1990 Draft Environmental Impact Statement traffic analysis, which included two intermediate interchanges on the proposed Bypass at Barracks Rd. and Hydraulic Rd. The 1990 Commonwealth Transportation Board (CTB) resolution stated that, ‘Access to the corridor would only be provided at the request of the county,’ a request that has never occurred. Interchanges on the Bypass were never allowed by the local government. However, these erroneous counts were carried forward through the 1993 Final Environmental Impact Statement (FEIS), the 1996-97 Parsons Brinckerhoff (PB) studies, the 2003 Supplemental Environmental Impact Statement (SEIS), VDOT’s slides presented to the Albemarle County Board of Supervisors in September 2011, and the May 2012 VDOT Initial Financial Plan. The impact of these erroneous counts has inflated the projected Bypass traffic volume by as much as 60% to 65% ... In response to a November 2011 Freedom of Information request, VDOT stated that no traffic analysis without interchanges on the Bypass could be found.... for over 20 years VDOT has consistently presented incorrect and false traffic analyses which overstate the projected counts on the bypass in pursuit of constructing this proposed project ... [CATCO] strongly suggests the need for further analysis by independent experts.”*

The CATCO report (**January 11, 2013**) also stated, *“Secretary of Transportation Sean Connaughton has recently cited safety issues and a high accident rate on the three-mile section of Rt. 29 that the proposed Bypass would avoid as a main reason for its construction. Safety issues were NOT cited in the original ‘purpose’ of the Bypass ... Secretary Connaughton cites the December 19, 2009 VDOT – Route 29 Corridor Study (Rt29CS) in a February 2, 2012 letter, stating: ‘In addition, there were almost 900 crashes in Albemarle County between 2005 and 2007, which represents almost 50% of all crashes along the entire Route 29 corridor from North Carolina to the Fauquier/Prince William Line. The vast majority of these crashes were located along the section of Route 29 that the Bypass will circumvent.’ This statement asserts that ‘all crashes’ are involved. While the Rt29CS does confirm the numbers in Secretary Connaughton’s statement, it’s not the whole story. The document further states, ‘As could be expected, crashes on Route 29 occur most frequently on those sections of the road that carry the highest volumes of traffic, and where*

traffic volumes from side streets are highest ... Overall, close to half of the total crashes in the non-city portions of the corridor occurred in Albemarle County, while approximately 77 percent of the crashes occurred north of I-64. As stated previously, this reflects, to a large extent, the overall higher levels of traffic in these portions of the study corridor (inclusive of traffic both on Route 29 itself as well as higher volumes on intersecting side streets).’ The Rt29CS text does not mention that the information is only for the non grade-separated (G-S) intersection crashes.... The VDOT publications, ‘Summary Crash Data’ for 2005, 2006, and 2007 present very comprehensive crash data for all roads in Virginia. Whereas the 2009 – Rt29CS showed only crashes at non G-S intersections on Rt. 29 in Virginia, these three documents state the total number of ALL crashes on the 218 mile long highway. No separate information is given for intersection crashes. Figure 18 shows a comparison of these two totals, assuming the difference is equal to the number of crashes NOT at intersections. The counts for All Crashes (Total Crashes = 7,103 and Number of Persons Injured or Killed = 3,575) are approximately four times the comparable figures for Crashes at non-G-S Intersections. This implies that there are three crashes in the segments between intersections for every crash within an intersection. This fact indicates that, to be complete, ‘All Crashes’ and not just the intersection crashes, should have been included in the 2009 – Rt29CS... The above data indicates that Connaughton’s statements concerning accidents in Albemarle County during 2005-2007 are misleading and false. Furthermore, these incorrect statements about safety were made as one of the main reasons to build the proposed Bypass.”

Fig. 18. Crashes on Rt. 29 in Virginia (2005-2007)

Selection	Total Crashes (2005-2007)	Number of Persons Injured or Killed (2005-2007)
Crashes at Intersections ¹	1,780	933
Crashes NOT at Intersections (calculated)	5,323	2,623
All Crashes ²	7,103	3,575

¹ = 2009 – Route 29 Corridor Study, Chapter 2 (No GSI’s included)

² = VDOT’s Summary Crash Data – 2005, 2006, & 2007 (With GSI’s)

On **January 13, 2013**, an article in “The Daily Progress” stated VDOT will not allow the public to “view the final version of a key document on the environmental impacts of the U.S. 29 Western Bypass....until the federal government decides whether construction can proceed.” VDOT Culpeper District spokesman Lou Hatter commented, “Once the Federal Highway Administration makes a decision, the [final] environmental assessment will be made available.”

On **January 16, 2013**, “Bacon’s Rebellion” posted an article which discussed the resignation of James Rich, Culpeper district representative to the CTB and vocal opponent of the Rt. 29 bypass, from the CTB. According to the article, Rich “confirmed that he was asked to resign.” Rich commented, “there was great consternation when I voted against the Charlottesville Bypass. There was an attempt to push me out at that time. I’m not going to sit on the board as a potted plant. You have a statutory duty to make the best decisions you can with the information you have. And that’s what I’ve tried to do. I’m not going to waiver from that just to say I have a title.” The article stated, “His forced resignation should raise red flags, Rich said. Diminished tax revenues mean that fewer funds flow through formulas that distribute money dispassionately to each VDOT transportation district. By borrowing \$3 billion, which is it leveraging through public-private partnerships, the administration is not bound by traditional checks and balances and has largely dictated how the money was spent.” Before his resignation, “Rich had suggested that board members were too dependent for information upon VDOT....staff and recommended that the CTB hire a financial expert and technical expert that answered directly to the board.”

“The Daily Progress” reported on **January 17, 2013** that James Rich, Culpeper district representative to the Commonwealth Transportation Board and vocal opponent of the Rt. 29 bypass, had been removed from the Board by Secretary of Transportation Connaughton. Rich commented, *“I think the Secretary of Transportation wanted me to depart because I voted against the Western Bypass....On this board, all the decisions are made by the secretary and I question whether we really need a board....If they think I was going to just sit there as a potted plant, they were wrong. As long as I was on the board, I was going to do what was right because that’s the responsibility we have to the taxpayers.”* Albemarle County Supervisor Dennis Rooker commented, *“The CTB was created in an effort to depoliticize transportation decisions with an independent board. Removing Jim Rich demonstrates that hasn’t worked. Dissent will not be tolerated. Independent thought and judgment will not be tolerated.”*

On **January 18, 2013**, “The Daily Progress” editorialized on Jim Rich’s removal from the CTB, stating, *“Deposed Commonwealth Transportation Board member James Rich’s assessment of Virginia transportation leadership strengthens our growing suspicions.... Mr. Rich’s suggestion that the board has become merely a rubber-stamp for Secretary Connaughton’s decisions also deserves deliberation. Readers will remember Mr. Connaughton’s controversial intervention in an Albemarle County Board of Supervisors’ decision that put the bypass back on the local agenda.”*

January 23, 2013 – VDOT consultant, Cultural Resources, Inc., issued report concluding Sammons-Ferguson cemetery not eligible for historic designation

An article in the **February 26, 2013** edition of “C-ville” reported on the Sammons-Ferguson cemetery on Lambs Road which lies in the path of the proposed Rt. 29 bypass. According to the article, *“The burial site made news in late January when the Virginia Department of Transportation (VDOT) first reported it would have to be moved to a new location to make way for the Bypass....Since the announcement, one of Sammons’ descendants has come forward to ask VDOT to reconsider.”* Erica Caple James, a descendant of Jesse Scott Sammons who is buried in the cemetery, stated, *“The Commonwealth knew about the cemetery since before they purchased it, but to my knowledge, no state actor made any effort to systematically try to contact people that are related [to the interred].”* Lou Hatter, VDOT spokesman for the Culpeper District noted that finding graves in project pathways is not uncommon and that VDOT has *“policies in place for situations like this.”* Since at least two of the people interred in the cemetery, Jesse Scott Sammons and Dr. George Rutherford Ferguson, were significant figures in the history of free African-Americans in Albemarle County during the Reconstruction era, the Virginia Department of Historic Resources (VDHR) must advise VDOT on the eligibility of the Sammons-Ferguson cemetery and home site for the National Register of Historic Places, a designation that VDOT opposes. To date, that determination has not been made.

March 2013 – FHWA requested VDOT to prepare a revised EA

An article in “Charlottesville Tomorrow” on **March 9, 2013** cited an internal VDOT report on the southern terminus of the Rt. 29 Bypass which indicated it *“would take motorists almost three times longer under the current design compared with the original.”* Mike Fendrick, Parsons Brinckerhoff engineer, wrote in a November 2012 draft memo to VDOT, *“As would be expected, the flyover is the best from a traffic operations perspective....There is an operational issue on the US 29/250*

freeway between Ivy Road and the proposed interchange. Due to restrictions at the Old Ivy Road bridge, railroad bridge, and Ivy Road bridge, the merge lane cannot be lengthened.” These comments support the contention made by competitive bidder, American Infrastructure, which filed a protest over the bid award in June 2012 and stated in its June 13, 2012 letter to VDOT that *“a more comprehensive interchange configuration at the southern terminus of the bypass is required.”* The issues over the design of the southern terminus have been called into question since the low and high bids for the design-build contract were approximately \$80 million apart.

On **March 11, 2013**, the Charlottesville Newsplex television station reported on a meeting of the Charlottesville NAACP at which the Sammons-Ferguson cemetery and site as well as other nearby sites of the free African-American Reconstruction era community were discussed. According to Charlottesville City Councilwoman Dede Smith who made a presentation on this topic to the group, *“Wetalked about the community that surrounds the cemetery, which was a thriving, very prosperous African-American community after the civil war and represents a path a lot of freed blacks took in land ownership and education to find success.”* Dr. Rick Turner, president of the Charlottesville NAACP, commented, *“With the presentation, hopefully it will remind us of the significance of the community, the significance of the cemetery.”*

A **March 12, 2013** posting by “Bacon’s Rebellion” discussed the January 17, 2013 draft memo from Michael Fendrick at Parsons Brinckerhoff which confirmed speculation that Skanska’s design for the southern terminus was flawed. According to the article, Fendrick stated, *“As would be expected, the flyover is the best from a traffic and operations perspective. The 3 lane diamond with steep grades [Skanska’s design] is substantially slower than the other alternatives due to signal delay plus truck acceleration issues.”* The article further stated, *“The difference between [VDOT’s original design and Skanska’s design] is 110 seconds – offsetting much of the roughly 150-second travel-time savings the \$244 million project was supposed to gain for north-bound trucks seeking to skirt a congested stretch of U.S. 29 north of Charlottesville....The Skanska/Branch design would also create a problem with a ‘weaving’ traffic pattern between the southern terminus and the Ivy Road interchange on the U.S. 250 Bypass....When interchanges are closely spaced or when conditions are already congested, the complex pattern can slow traffic, worsen congestion and increase the risk of traffic accidents.”* Fendrick wrote, *“From a capacity standpoint, the merge will cause flow operation issues, particularly if the single lane to the right is at a low design speed.”* Further, the article stated, *“When the Commonwealth Transportation Board approved \$244 million in 2012 to fund the project, VDOT displayed schematics from an earlier design in its presentation to the board. No one had informed board members that engineers in the Richmond central office were questioning whether the project could be delivered for that price. The McDonnell administration finessed those concerns by setting up the Bypass as a design - build contract on the expectation that outside, private-sector bidders might find creative ways to redesign the 6.5-mile highway at a lower cost.”* The article also discussed meetings between VDOT and Skanska in late summer and early fall of 2012 in which officials at VDOT’s Culpeper office expressed the impact on the southern terminus’ ability to handle traffic during UVA events. Quoting minutes of an August meeting, the article noted, *“VDOT stated that [Skanska-Branch] may need to take a more thorough look at the access needed by UVA for events, stating the event traffic may result in a need to put an additional lane on the bridge.”* According to minutes of a September 12 meeting of this group, *“Stacking between the signals is also a concern to VDOT. They may require a 4th lane on the bridge that can be used as a reversible lane for UVA events. [Skanska-Branch] has a partially-developed option for this.”* In a November 2012 draft memo entitled, “Preliminary Traffic

Review,” Fendrick noted, “*Due to restrictions at the Old Ivy Road bridge, railroad bridge, and Ivy Road bridge the merge lane cannot be lengthened. We have all acknowledged this is a needed future project, and we will need to make sure [the Federal Highway Administration] is understanding as part of the IJR [Interchange Justification] review process.*”

March 25, 2013 – VDOT consultant, Cultural Resources, Inc., issued revised report stating Sammons-Ferguson cemetery not eligible for historic designation

On **April 26, 2013**, Ed Sundra, Director of Program Development, FHWA Virginia Division, emailed in response to a citizen’s concerns about the Sammons-Ferguson cemetery and site, “*There is no question that the Sammons and Ferguson families and the surrounding area share a rich history; FHWA, VDOT and the Virginia Department of Historic Resources (VDHR) all acknowledge this....It is unfortunate that VDOT’s cultural resource consultant inadvertently passed over the Sammons Cemetery when they conducted their original surveys and that their omission was not caught by VDOT environmental staff until last December....*” However, according to the report, “*Documentary Research for the Sammons Cemetery, Albemarle County, Virginia,*” issued on March 25, 2013 by VDOT’s consultant, Cultural Resources, Inc. (CRI), when VDOT purchased the property in 1998 for the right-of-way for the Bypass, “*a sketch map was prepared by VDOT at the time of purchase....*” (p. 3) That sketch map which shows the names and the graves of four of the interred (Jesse Scott Sammons, Dr. George Rutherford Ferguson, Lula Minor Sammons, and Robert J. Sammons) as well as four other unnamed graves and nine other possible graves is included in the CRI report (p. 4).

May 6, 2013 – The Advisory Council on Historic Preservation (ACHP) requested the Secretary of the Interior to determine eligibility of Sammons-Ferguson cemetery for National Register of Historic Places

An article in “The Daily Progress” on **May 12, 2013** reported VDOT’s promise “*to preserve the graves and homestead of one of Albemarle County’s most prominent African-American families that once lay in the direct route of the proposed Western Bypass of U.S. 29. But, with nothing in writing, descendants of the family and preservationists are still concerned the county could lose a significant chapter of American history.*” Dr. Erica Caple James, an anthropology professor at the Massachusetts Institute of Technology and a direct descendant of the Sammons family, stated, “*When I came [to the cemetery and homestead] in March, it still wasn’t clear we were going to be able to protect the cemetery....When the family even found out that the cemetery was endangered, it was presented to a relative that this disinterment was going to happen. The paperwork is done, it’s been approved, where would you like the bodies to go? If VDOT rerouted the road for a pet cemetery, the least that they could do is reroute the road for human beings whose descendants are still around. I think it would be the least VDOT could do to grant the Sammons family some type of respect.*” VDOT spokesman Lou Hatter commented, “*We have determined that we can adjust the alignment. So the cemetery can remain in place.*” However, James expressed concern that, “*Until I see a binding agreement in writing, I think it’s fair to say that, until further notice, we are going to be cautious.*” The article further stated that, according to Steven Meeks, president of the Albemarle Charlottesville Historical Society, “*approximately 16 known cemeteries lie in the path of the Western Bypass and the state has no intentions to preserve any cemetery.*” Meeks stated, “*I’ve seen VDOT and other developers move cemeteries....for the march of progress.*”

Also on **May 12, 2013**, an article in “The Daily Progress” reported that the FHWA’s “review of the Western Bypass of U.S. 29 in Albemarle will be extended now that another agency is requiring study of the historical significance of a cemetery and a house that lie in the planned route.” “The Advisory Council on Historic Preservation [ACHP] requests the FHWA obtain a formal determination of eligibility...for the Sammons-Ferguson Cemetery and J.S. Sammons House,” according to a May 6 letter sent by Charlene Dwin-Vaughn of the ACHP to Ed Sundra at FHWA. VDOT Culpeper District spokesman, Lou Hatter, commented, “This [new] evaluation must be completed and a decision rendered before the environmental assessment process can be concluded.” The article cited an April 7 letter sent to a VDOT archaeologist by Charlottesville archaeologist Steve Thompson, in which Thompson wrote, “The Route 29 Bypass corridor cuts a wide swath through an area of concentrated late-19th-century and 20th-century settlement, land ownership and community formation,” sites which are significant because the creation of the South Fork Rivanna River reservoir in 1966 flooded all traces of the Hydraulic Mills community. Thompson further noted, “Properties embodying these themes remain woefully under-recognized and under-memorialized in the commonwealths’ rich inventory of historic resources.”

On **May 13, 2013**, Louis Malon, director of preservation services for Preservation Virginia, the nation’s first statewide historic preservation group, announced at a press conference at Union Ridge Baptist Church that the organization had included the Jesse Scott Sammons farmstead in its annual list of endangered sites in the Commonwealth “that face serious threats because of neglect, insufficient funding, inappropriate development or public policies and procedures.”

“The Daily Progress” editorialized about VDOT’s promise to preserve the preservation of the Sammons-Ferguson cemetery and the Sammons family homestead on **May 16, 2013** and advised, “Get it in writing....As of earlier this week, when the [Preservation Virginia’s] ‘most endangered’ list was released, the state’s preservation pledge was verbal only. Nothing had been committed to writing.” The editorial opined, “....the experiences of freed men and women after the Civil War represent one of Virginia’s most under-appreciated historical periods. How people who were formerly enslaved managed to build businesses, families and communities is an inspiring tale of courage and resilience. Except....there is relatively little left in the way of physical reminders of those experiences. Freed people might have been able to build communities that were internally strong, but they lacked political power in the outer world. As a result, they were unable to defend their legacy....if the Sammons site is to be saved, it might well be necessary for some group or agency to stand guard to make sure that happens.”

May 23, 2013 – VDOT’s Citizen Information Meeting on three designs for southern terminus

An article in “The Daily Progress” on **May 24, 2013** reported on VDOT’s Citizen Information meeting on May 23 at which VDOT and its consultants presented three alternative designs for the southern terminus of the proposed bypass – the design originally proposed by Skanska Branch and two new designs. The article stated, “The first option is the original design for the interchange developed last year by the team of Skanska Branch-Highway. Under this arrangement, traffic seeking to enter or exit the new bypass from the existing U.S. 29/250 Bypass would have to travel through up to two traffic signals....The two [new] options also shift the existing U.S. 29/250 highway, which will allow for its elevation to be slightly lowered....However, both [new] alternatives would feature more roadway and bridges, which could significantly raise the cost of the project.” Shawn Reynolds, an engineer and subcontractor working with Skanska Branch on the

design noted, *“Obviously, there will be cost differences but we haven’t looked at that.”* Commenting on the entire situation, Jim Rich, former Culpeper District CTB representative, said, *“When we [the CTB] voted on this, none of us knew that there was a problem down here, and then after the fact, we realized it was a serious problem. It’s going to cost a lot more money to fix.”*

On **May 24, 2013**, one day after VDOT’s Citizen Information Meeting about alternatives for the southern terminus, a posting on “Bacon’s Rebellion” cited, *“unresolved problems with the design of the northern terminus at U.S. 29 North and Ashwood Boulevard.”* The article stated, *“More than a half year after VDOT’s central office had accepted the SBJV bid to build the highway, VDOT employees in the Culpeper District office enumerated a number of issues in a technical memorandum dated Jan. 31, 2013, acquired by the Southern Environmental Law Center (SELC) through the Freedom of Information Act. Key questions centered on the ‘weave’ – a cross-crossing [traffic pattern] that can create congestion and safety issues – created by the SBJV design....In a letter dated March 19, 2013, also acquired through the Freedom of Information Act, SBJV Project Manager J.J. Moegling suggested that addressing the newly raised issues would cost \$13,000 in additional design costs for a northern terminus traffic study, \$45,000 for a lane configuration-weave analysis and \$500,000 to modify the design of the intersection at Ashwood Boulevard and U.S. 29 – and that’s just counting the design and consulting fees. Another key issue that had surfaced by that point was how to dovetail the bypass design, which terminated at the Ashwood Boulevard intersection, with a planned widening of U.S. 29 on the other side of the intersection....It is now apparent that SBJV’s proposed location for an extra northbound lane, submitted in its winning bid, does not match up with the proposed lane configuration of a wider U.S. 29 on the other side of Ashwood. Moreover, Moegling contended, ‘VDOT’s apparent plan [would] create a dangerous merge condition prior to the signalized intersections....VDOT commented that the weave condition from the US29 bypass to Ashwood Blvd. must be modeled and analyzed; we are unable to locate language in the RFP that requires this. We believe this model would fail if performed. It is our opinion that the entire intersection would have to be reconfigured in some fashion for this weave to be successful, possibly including an elevated section through the intersection.’”* The article noted, *“This is what you get when you ram a project through the approval process. VDOT did not create this mess, by the way. Mid-level VDOT employees raised red flags throughout the entire process and their concerns were brushed aside. The McDonnell administration owns this fiasco, and VDOT planners and engineers are stuck with the job of making it work.”*

An article in “The Washington Post” on **June 15, 2013** entitled “Another ill-conceived Virginia highway” stated, *“A proposed six-mile highway outside Charlottesville is so wasteful and ill-conceived that it’s achieved literary status. It prompted best-selling novelist and area resident John Grisham to write a book implicitly denouncing it. ‘The Activist,’ published last month and aimed at youths ages 10 to 12 is fictional. But Grisham said it was inspired by the decades-long battle over a \$245 million bypass west of the city that’s home to the University of Virginia. Grisham, famed for such legal thrillers as ‘The Firm,’ said the new book is about ‘a boneheaded bypass around a lovely little college town and all the issues that go into such a boondoggle.’ The rest of the state and especially Northern Virginia, should be equally appalled. The road is one of the most egregious examples of a pattern in which Gov. Bob McDonnell’s administration relentlessly pushes a major highway project despite abundant evidence that the money could be spent more wisely elsewhere.”*