



CLERK'S BOARD SUMMARY

REPORT OF ACTIONS OF THE FAIRFAX COUNTY BOARD OF SUPERVISORS

**TUESDAY
February 9, 2010**

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At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium of the Government Center at Fairfax, Virginia, on Tuesday, February 9, 2010, at 12:07 p.m., there were present:

- Chairman Sharon Bulova, presiding
- Supervisor John C. Cook, Braddock District
- Supervisor John W. Foust, Dranesville District
- Supervisor Michael Frey, Sully District
- Supervisor Penelope A. Gross, Mason District
- Supervisor Patrick S. Herrity, Springfield District
- Supervisor Catherine M. Hudgins, Hunter Mill District
- Supervisor Gerald W. Hyland, Mount Vernon District
- Supervisor Jeffrey C. McKay, Lee District
- Supervisor Linda Q. Smyth, Providence District

Others present during the meeting were Anthony H. Griffin, County Executive; David P. Bobzien, County Attorney; Catherine A. Chianese, Assistant County Executive; Nancy Vehrs, Clerk to the Board of Supervisors; Patti M. Hicks, Chief Deputy Clerk to the Board of Supervisors; and Denise A. Long, Deputy Clerk to the Board of Supervisors.

BOARD MATTER1. **ORDERS OF THE DAY DUE TO WEATHER CONDITIONS** (12:07 p.m.)

Chairman Bulova announced that today's Board meeting was modified and the reception for Virginia Task Force One and the recognition which was scheduled for 9:15 a.m. have been postponed and will probably take place at the first meeting in March. She noted that the other presentations which were scheduled to be presented today are also being rescheduled.

Chairman Bulova also noted that all of the public hearings would be deferred later in the meeting due to the weather.

(NOTE: Later in the meeting, the public hearings were formally deferred. See Clerk's Summary Item #31.)

AGENDA ITEM2. **12 NOON – REPORT ON GENERAL ASSEMBLY ACTIVITIES**
(12:10 p.m.)

Supervisor McKay, Chairman of the Board's Legislative Committee, said that the committee met on January 29, and noted that updates of the report were in Board Member's red folders.

Supervisor McKay announced that the Legislative Committee received updates from staff on efforts to continue to press for reversal of the proposed freeze of the Local Composite Index (LCI) for Fiscal Year 2011. He was pleased to report that Governor Robert McDonnell announced yesterday his intention to support updating the LCI, undoing the proposed freeze. The freeze would have cost Fairfax County Public Schools \$61 million in State aid if it had been allowed to stand. The Governor's support for allowing the routine updating to proceed without politicizing the LCI is very helpful and was the result of a bipartisan effort on the part of Northern Virginia's local governments, the General Assembly delegation, the business community, and the taxpayers. He stated that, with the Governor's backing, the County must now turn its attention to the General Assembly's budget process, as this change will still require budgetary action. He noted that Board Members will have the opportunity to talk to the legislators' about this issue on Thursday, at the Virginia Association of Counties/Virginia Municipal League Legislative Day in Richmond, weather permitting.

Supervisor McKay noted that crossover is scheduled for a week from today. Next Tuesday is the last day for legislation to pass its originating chamber, so committees have been meeting frequently to meet this deadline. The General Assembly took a very unusual snow day on Friday, which will mean an even busier schedule this week as committees try to finish their work on time.

Supervisor McKay briefed the Board on the status of select legislation initiated by the County, noting that the following two County's initiatives have advanced since the Board last met:

- House Bill (HB) 517, which allows a court to order that building code violations on non-residential buildings be abated or remedied, has passed the House unanimously.
- HB 1207, which updates the current code section on computer crimes, has been considered and reported from one committee and is being considered by a second committee this week.

Supervisor McKay reminded his colleagues that the Board's annual reception in Richmond is still scheduled for Wednesday, February 24, from 5:30 p.m. until 7:30 p.m. at the Library of Virginia, and staff will be sending an official invitation by email and collecting responses this weekend and next.

Supervisor McKay moved that the Board adopt Legislative Report Number Two. Supervisor Gross and Supervisor Hyland jointly seconded the motion and a brief discussion ensued regarding whether Board Members will be carpooling to the reception in Richmond.

Chairman Bulova noted that she recently met with Prince William County Chairman Corey Stewart and Loudoun County Chairman Scott York to address the LCI freeze.

The question was called on the motion and it **CARRIED** by a recorded vote of nine, Supervisor Herrity voting "NAY."

ADDITIONAL BOARD MATTER

3. **ADOPTION OF A RESOLUTION CONFIRMING AND EXTENDING A DECLARATION OF LOCAL EMERGENCY** (12:15 p.m.)

- (R) Chairman Bulova relinquished the Chair to Vice-Chairman Gross and moved adoption of a Resolution confirming and extending a declaration of local emergency. Supervisor Foust seconded the motion and it carried by unanimous vote, Supervisor Cook, Supervisor Foust, Supervisor Frey, Supervisor Gross, Supervisor Herrity, Supervisor Hudgins, Supervisor Hyland, Supervisor McKay, Supervisor Smyth, and Chairman Bulova voting "AYE."

Vice-Chairman Gross returned the gavel to Chairman Bulova.

AGENDA ITEMS4. **ADMINISTRATIVE ITEMS** (12:20 p.m.)

Supervisor Gross moved approval of the Administrative Items, noting that Admin 6 and Admin 7 had been withdrawn by staff. Supervisor McKay seconded the motion and it carried by unanimous vote, Supervisor Cook, Supervisor Foust, Supervisor Frey, Supervisor Gross, Supervisor Herrity, Supervisor Hudgins, Supervisor Hyland, Supervisor McKay, Supervisor Smyth, and Chairman Bulova voting “AYE.”

ADMIN 1 – DESIGNATION OF PLANS EXAMINER STATUS UNDER THE EXPEDITED LAND DEVELOPMENT REVIEW PROGRAM

Designated the following individual, identified with a registration number, as a Plans Examiner:

- Andrew Thomas Yeagle (290)

ADMIN 2 – AUTHORIZATION TO ADVERTISE A PUBLIC HEARING ON PROPOSED AMENDMENTS TO THE CODE OF THE COUNTY OF FAIRFAX, CHAPTER 112 (ZONING ORDINANCE), REGARDING RIDING AND BOARDING STABLE SETBACKS

- (A) (R) Adopted the Resolution authorizing the advertisement of a public hearing to be held before the Planning Commission on March 31, 2010, at 8:15 p.m., and before the Board on **April 27, 2010, at 4 p.m.** to consider proposed amendments to the Code of the County of Fairfax, Chapter 112 (Zoning Ordinance), regarding riding and boarding stable setbacks.

ADMIN 3 – AUTHORIZATION TO ADVERTISE A PUBLIC HEARING ON PROPOSED AMENDMENTS TO THE CODE OF THE COUNTY OF FAIRFAX, CHAPTER 112 (ZONING ORDINANCE), REGARDING STATE CODE CHANGES; EDITORIAL AND OTHER MINOR REVISIONS

- (A) (R) Adopted the Resolution authorizing the advertisement of a public hearing to be held before the Planning Commission on March 31, 2010, at 8:15 p.m., and before the Board on **April 27, 2010, at 4 p.m.** to consider proposed amendments to the Code of the County of Fairfax, Chapter 112 (Zoning Ordinance), regarding State Code changes, editorial, and other minor revisions.

ADMIN 4 – EXTENSION OF REVIEW PERIODS FOR 2232 REVIEW APPLICATIONS (PROVIDENCE DISTRICT)

Authorized the extension of review periods for the following Public Facility (2232) Review Applications to the dates noted:

<u>Application Number</u>	<u>Description</u>	<u>New Date</u>
FSA-M96-19-3	Verizon Wireless Replacement antennas 7409 Eastmoreland Road Mason District	April 15, 2010
FS-P09-171	T-Mobile Northeast LLC Antenna colocation on existing monopole (treepole) 3457 Gallows Road Providence District	April 19, 2010
FS-P09-176	Clearwire US LLC Antenna colocation on existing monopole (treepole) 3457 Gallows Road Providence District	April 19, 2010

ADMIN 5 – AUTHORIZATION FOR THE DEPARTMENT OF SYSTEMS MANAGEMENT FOR HUMAN SERVICES (DSMHS) TO APPLY FOR AND ACCEPT GRANT FUNDING FROM US DEPARTMENT OF JUSTICE’S OFFICE ON VIOLENCE AGAINST WOMEN THROUGH THE FISCAL YEAR (FY) 2010 COMMUNITY-DEFINED SOLUTIONS TO VIOLENCE AGAINST WOMEN PROGRAM

- Authorized DSMHS to apply for and accept funding, if received, from the US Department of Justice’s Office on Violence Against Women through the FY 2010 Community-Defined Solutions to Violence Against Women Program in the amount of \$1 million to support up to 4 grant positions to staff and operate a County Domestic Violence Justice Center for 24 months and to provide mandated training and technical assistance. No local cash match is required.
- Authorized the County Executive to sign the certifications and assurances required for the grant application on behalf of the County.

ADMIN 6 – AUTHORIZATION TO ADVERTISE A PUBLIC HEARING TO SUBLEASE COUNTY LEASED PROPERTY TO NEW CINGULAR WIRELESS PCS, LLC (AT&T MOBILITY) (LEE DISTRICT)

(NOTE: Earlier in the meeting, the Board noted that this item was withdrawn. See page 4.)

This item was withdrawn by staff.

ADMIN 7 – AUTHORIZATION TO ADVERTISE A PUBLIC HEARING TO SUBLEASE COUNTY LEASED PROPERTY TO CLEAR WIRELESS LLC, A NEVADA LIMITED LIABILITY COMPANY (LEE DISTRICT)

(NOTE: Earlier in the meeting, the Board noted that this item was withdrawn. See page 4.)

This item was withdrawn by staff.

ADMIN 8 – APPROVAL OF INSTALLATION OF “\$200 ADDITIONAL FINE FOR SPEEDING” SIGNS AND MULTI-WAY STOP SIGNS AS PART OF THE RESIDENTIAL TRAFFIC ADMINISTRATION PROGRAM (SULLY AND DRANESVILLE DISTRICTS)

(Rs)

- Adopted a Resolution for the installation of “\$200 Additional Fine for Speeding” signs on Green Trails Boulevard between Centreville Road and Wood Rock Way/Creek Run Drive (Sully District).
- Approved multi-way stop signs at the following intersections:
 - Pimmit Drive and Lisle Avenue (Dranesville District)
 - Anderson Road and Sportsman Drive (Dranesville District)
- Directed staff to request the Virginia Department of Transportation (VDOT) install the approved measures as soon as possible.

ADMIN 9 – AUTHORIZATION TO ADVERTISE A PUBLIC HEARING ON PROPOSED AMENDMENTS TO THE CODE OF THE COUNTY OF FAIRFAX, APPENDIX M, TO ESTABLISH THE PROSPERITY HEIGHTS COMMUNITY PARKING DISTRICT (CPD) (PROVIDENCE DISTRICT)

- (A) Authorized the advertisement of a public hearing to be held before the Board on **March 9, 2010, at 4 p.m.** to consider proposed amendments to the Code of the County of Fairfax, Appendix M, to establish the Prosperity Heights CPD, in accordance with current CPD restrictions.

ADMIN 10 – AUTHORIZATION TO ADVERTISE A PUBLIC HEARING ON PROPOSED AMENDMENTS TO THE CODE OF THE COUNTY OF FAIRFAX, APPENDIX M, TO ESTABLISH THE HERITAGE FOREST COMMUNITY PARKING DISTRICT (CPD) (SULLY DISTRICT)

- (A) Authorized the advertisement of a public hearing to be held before the Board on **March 9, 2010, at 4 p.m.** to consider proposed amendments to the Code of the County of Fairfax, Appendix M, to establish the Heritage Forest CPD, in accordance with current CPD restrictions.

5. **A-1 – ISSUANCE BY THE INDUSTRIAL DEVELOPMENT AUTHORITY (IDA) OF ITS HEALTH CARE REVENUE BONDS (INOVA HEALTH SYSTEM PROJECT) SERIES 2010 REFUNDING BOND ISSUE**
(12:20 p.m.)

- (R)
(BONDS) On motion of Supervisor Gross, seconded by Supervisor Hyland, and carried by unanimous vote, Supervisor Cook, Supervisor Foust, Supervisor Frey, Supervisor Gross, Supervisor Herrity, Supervisor Hudgins, Supervisor Hyland, Supervisor McKay, Supervisor Smyth, and Chairman Bulova voting “AYE,” the Board concurred in the recommendation of staff and adopted a Resolution approving the issuance by the IDA of its Health Care Revenue Bonds (Inova Health System Project) Series 2010, to be issued in one or more series, in an aggregate principal amount not to exceed \$200 million.

6. **A-2 – ISSUANCE BY THE ECONOMIC DEVELOPMENT AUTHORITY (EDA) OF ITS REVENUE BONDS (SIX PUBLIC FACILITIES PROJECTS), SERIES 2010 FOR PURPOSES OF REFINANCING CERTAIN FAIRFAX COUNTY REDEVELOPMENT AND HOUSING AUTHORITY (FCRHA) AND COUNTY OBLIGATIONS** (12:21 p.m.)

- (R)
(BONDS) On motion of Supervisor Hyland, seconded by Supervisor Gross, and carried by unanimous vote, Supervisor Cook, Supervisor Foust, Supervisor Frey, Supervisor Gross, Supervisor Herrity, Supervisor Hudgins, Supervisor Hyland, Supervisor McKay, Supervisor Smyth, and Chairman Bulova voting “AYE,” the Board concurred in the recommendation of staff and adopted a Resolution requesting and approving the issuance of the EDA Bonds, which also authorizes the

execution and delivery of an Installment Purchase Contract, Continuing Disclosure Agreement, and other documents necessary for sale. This resolution also approves the form of the Trust Agreement, First Supplemental Trust Agreement, Notice of Sale and the Preliminary Official Statement.

7. **A-3 – APPROVAL TO PURCHASE THE WEST OX ROAD GROUP RESIDENCES FROM THE FAIRFAX COUNTY REDEVELOPMENT AND HOUSING AUTHORITY (FCRHA) (SULLY DISTRICT)** (12:21 p.m.)

Supervisor Frey moved that the Board concur in the recommendation of staff and approve the purchase of the West Ox Road Group Residences from the FCRHA for the outstanding mortgage debt, which is approximately \$593,500, with additional revenue the County will realize by an initiative to generate debt service savings on certain County facilities by refinancing the debt. The transfer of ownership and the elimination of mortgage service that will result, will allow greater flexibility on a future use for the properties. Supervisor Gross and Supervisor Hudgins jointly seconded the motion.

Supervisor Herrity commended staff for identifying the refinancing.

Supervisor Herrity questioned whether the funds could be used to offset next year's projected shortfall, and discussion ensued, with input from Len Wales, County Debt Manager.

Further discussion ensued, with input from Paula Sampson, Director, Department of Housing and Community Development, regarding the proposed use of the properties, the market value of the properties, and the purpose for keeping the properties.

The question was called on the motion, and it **CARRIED** by a recorded vote of eight, Supervisor Foust and Supervisor Herrity voting "NAY."

8. **A-4 – COMMENTS ON THE INTERCHANGE JUSTIFICATION REPORT (IJR) FOR THE DULLES INTERNATIONAL AIRPORT ACCESS HIGHWAY RAMPS (DIAAH) AT I-495 (CAPITAL BELTWAY)** (12:35 p.m.)

Supervisor McKay moved that the Board concur in the recommendation of staff and offer conditional concurrence with the IJR for the DIAAH ramps at I-495, generally as presented at the Board briefing on November 23, 2009, and the Board's Transportation Committee meeting on December 8, 2009, with the comments, as outlined in the Board Agenda Item dated February 9, 2010, and coordination to ensure that the project remains fully in conformance with the County's Comprehensive Plan. Supervisor Hudgins seconded the motion.

Following a brief discussion regarding the project, Chairman Bulova clarified that the Board is not endorsing the project or being asked to approve it, but getting the Board's comments and concerns regarding the project on the record.

Discussion continued, with input from Katharine D. Ichter, Director, Department of Transportation (DOT), regarding the comments and the changes that have been made in the area that is being impacted.

Supervisor Hudgins asked to amend the motion to include in the comments the Board's concerns regarding the public/private partnership and the transit shortfall issue. This was accepted.

Further discussion ensued, with input from William P. Harrell, Senior Transportation Planner, Traffic Operations Division, DOT, and Ms. Ichter regarding right-of-way requirements.

The question was called on the motion, as amended, and it **CARRIED** by a recorded vote of nine, Supervisor Foust abstaining.

9. **A-5 – APPROVAL OF WOLF TRAP FOUNDATION FOR THE PERFORMING ARTS FIRST AMENDMENT TO LICENSE AGREEMENT, AND ASSOCIATED OPERATING AGREEMENT (DRANESVILLE DISTRICT)** (12:50 p.m.)

On motion of Supervisor Foust, jointly seconded by Supervisor Hudgins and Supervisor Smyth, and carried by unanimous vote, the Board concurred in the recommendation of staff and:

- Approved, in substantiated form, the:
 - First Amendment to the existing License Agreement with Wolf Trap Foundation for the Performing Arts
 - Operating Agreement
- Authorized the Director of Transportation to execute the finalized agreement on behalf of the County.

10. **I-1 – CONTRACT AWARD – MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) AND STORMWATER MONITORING PROGRAM SUPPORT SERVICES BASIC ORDERING AGREEMENT (BOA)** (12:50 p.m.)

The Board next considered an item contained in the Board Agenda dated February 9, 2010, requesting authorization for staff to award a contract to AMEC Earth and Environmental, in an amount not to exceed \$1.5 million, to provide support on a BOA basis for the County's Stormwater Program in

furtherance of the Boards' Environmental Initiatives and the County's MS4 permit. The contract may be renewed at the option of the County for up to two additional years

Discussion ensued, with input from Craig Carinci, Director, Stormwater Planning Division, Department of Public Works and Environmental Services, regarding the fiscal impact.

The staff was directed administratively to proceed as proposed.

11. **I-2 – CONTRACT AWARD – PROVIDENCE RECENTER MECHANICAL SYSTEMS RENOVATION (PROVIDENCE DISTRICT)** (12:52 p.m.)

The Board next considered an item contained in the Board Agenda dated February 9, 2010, requesting authorization for staff to award a contract to Adrian L. Merton, Incorporated, in the amount of \$414,566, for construction of major renovations to the mechanical systems at Providence RECenter, in Project 474408, Park and Building Renovation, in Fund 370, Park Authority Bond Construction.

Supervisor Smyth raised a question regarding the bid estimates and expressed her concern regarding the accuracy of the estimates. Discussion ensued, with input from Anthony H. Griffin, County Executive, who stated that he would convey the concerns to the Park Authority.

The staff was directed administratively to proceed as proposed.

12. **I-3 – CONTRACT AWARD – SPRING HILL RECENTER MECHANICAL SYSTEMS RENOVATION (DRANESVILLE DISTRICT)** (12:54 p.m.)

The Board next considered an item contained in the Board Agenda dated February 9, 2010, requesting authorization for staff to award a contract to Sigal Construction Corporation in the amount of \$858,000, for construction of major renovations to the mechanical systems at Spring Hill RECenter, in Project 474408, Park and Building Renovation, in Fund 370, Park Authority Bond Construction.

The staff was directed administratively to proceed as proposed.

13. **I-4 – DEFERRED COMPENSATION VENDOR CONSOLIDATION PROPOSAL** (12:55 p.m.)

The Board next considered an item contained in the Board Agenda dated February 9, 2010, requesting to release a request for proposal (RFP) to the vendor marketplace in the near future with a targeted conversion date of December 2010.

Supervisor Hyland raised a question regarding employee representation, and discussion ensued, with input from Susan Woodruff, Director, Department of Human Resources.

The staff was directed administratively to proceed as proposed.

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ADDITIONAL BOARD MATTERS

14. **WINTER STORM INFORMATION** (12:56 p.m.)

Chairman Bulova said that the County witnessed the latest winter storm that gripped the Northern Virginia region this past weekend. With the forecast for yet another storm tonight and tomorrow, she provided some information and safety tips for this season.

Chairman Bulova reminded the viewing audience that it is important to note that all roads are owned by the Virginia Department of Transportation (VDOT), and it is responsible for plowing all State roads including interstate, primary, secondary, and residential roads. If residents have not seen a plow in their subdivisions by tomorrow, they should call VDOT at 703-383-VDOT or send an email to novainfo@vdot.virginia.gov with the location. VDOT will also accept photos of streets via email as visual support for roads that need attention.

Several helpful tips may also be found on the County webpage at <http://www.fairfaxcounty.gov/emergency/prepare/winter/>. These tips include the following:

- Do not touch downed power lines or anything in contact. Report this immediately to Dominion Virginia Power at 1-888-667-3000 or Northern Virginia Electric Cooperative at 703-335-0500.
- Assist fire departments by making sure you also dig out around fire hydrants.
- Check on residents who may be homebound and without power.
- Try to avoid parking on the street, if possible, so that snowplows can clear as much snow as possible.
- Keep your driveway and walks clear so that firefighters and medics can reach your house in case of an emergency.
- If you are on the road, keep your gas tank full. If your vehicle breaks down, pull as far off the road as possible.

In the event that residents lose internet, cable, or telephone service, they should keep these numbers handy:

- Comcast of Virginia, Incorporated: 703-841-7700, TTY 711
- Cox Communications, Incorporated.: 703-378-8422, TTY 378-3924
- Verizon Virginia, Incorporated: 1-888-553-1555, TTY 1-800-974-6006

Chairman Bulova also suggested that residents consider signing up for the Community Emergency Alert Network: <https://www.fairfaxcounty.gov/cean/>.

Supervisor Gross suggested that residents clear around their heat pumps so the air can flow into the intake.

Supervisor Cook noted that dryer vents should be cleared, and residents should use the weather as an opportunity to reach out to neighbors.

Chairman Bulova suggested that residents check with neighbors before making a run to the store or pharmacy.

Supervisor Hudgins expressed appreciation to VDOT for its efforts and also noted that the National Guard is assisting the County.

15. **TREE ACTION PLAN** (1:02 p.m.)

(BACs) Chairman Bulova noted that in 2007, the Board approved the Tree Action Plan, a 20-year strategy for conservation and management of the County's tree resources. The Tree Action Plan was developed collaboratively with the Tree Commission, County staff, citizens, and builders. Significant progress has been made on the Plan since its adoption.

Last week, Chairman Bulova met with members of the Tree Commission to discuss the Tree Action Plan and their ideas for developing additional goals and direction. They agreed that, in accordance with the Tree Commission's mission, they would provide an annual report on their activities to the Board.

Therefore, Chairman Bulova relinquished the Chair to Vice-Chairman Gross and asked unanimous consent that the Board direct the Tree Commission to provide by the Board's second meeting in May, a "State of the Tree Action Plan" update, along with a work plan containing specific goals, plans, and activities that can be tracked and measured, similar to the annual Environmental Quality Advisory Commission (EQAC) report. Without objection, it was so ordered.

Chairman Bulova suggested that the Tree Commission may want to consider that, beginning next year, this annual report cover a January to December calendar

year, with the report being presented in the April timeframe to coincide with Earth Day/Arbor Day observations. With this proposed timeline, the Tree Commission and staff will have the period of time from January to early April to collect data, generate, review, and edit a report based on work and activities of the previous year.

Following discussion, the Board left it to a later date for a determination as to whether to present the update in a formal presentation or in a written report only.

16. **REQUESTS FOR CERTIFICATES OR RECOGNITION** (1:05 p.m.)

Chairman Bulova asked unanimous consent that representatives of the Health Department be invited to appear before the Board as follows:

- To accept a proclamation on March 23 declaring April 2010 as “*Childhood Immunizations Month*” in Fairfax County.
- To accept a proclamation on March 23 declaring April 5-11, 2010, as “*Public Health Week*” in Fairfax County.
- To accept a proclamation on April 27 declaring May 2010 as “*Lyme Disease Awareness Month*” in Fairfax County.
- To accept a proclamation on April 27 declaring May 6-12 as “*Nurses Week*” in Fairfax County.

Chairman Bulova further asked that the Board direct staff to prepare and send proclamations to the organizations as follows:

- Volunteer Fairfax, recognizing the Fairfax County Volunteer Service Awards ceremony, being held on Friday, April 23.
- Health Department, recognizing “*TB Awareness Month*” in Fairfax County during the Month of March.

Without objection, it was so ordered.

(NOTE: Later in the meeting, the Board took action to honor a student regarding her work with Lyme Disease. See Clerk’s Summary Item CL#19.)

17. **APPOINTMENT TO THE DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY (DCWASA)** (1:06 p.m.)

(APPT) Chairman Bulova said that with the retirement of Jimmie Jenkins, the seat for the alternate representative from the County to the Board of Directors of DCWASA is now vacant.

Therefore, Chairman Bulova moved that the Board nominate to the Mayor of the District of Columbia, James Patteson, Director, Department of Public Works and Environmental Services, as the County's alternate representative on DCWASA. Supervisor Hyland and Vice-Chairman Gross jointly seconded the motion, and it carried by unanimous vote.

Vice-Chairman Gross returned the gavel to Chairman Bulova.

18. **ESTABLISHING A FLUCTUATION RESERVE FOR THE COUNTY**
(1:07 p.m.)

In a joint Board Matter with Chairman Bulova, Supervisor Cook said that as the Board continues to grapple with the County budget and the need to reduce substantially some County programs, some citizens rightly ask, "How can we make sure this doesn't happen again?" Property values have always undergone normal cyclical ups and downs. He said that while the Board cannot completely plan for the length or depth of the down cycles, the Board may want to consider ways to provide a mechanism which could cushion the effects of falling property values as future market adjustments occur.

Supervisor Cook said that during the past year or so, some consideration has been given to the creation of a "fluctuation reserve," which could serve as sort of a "savings account" or "cushion" for the County. Money could be paid into this account during the "good" years, and could be drawn on in the "down" years.

Supervisor Cook said that during periods of growth, the County invests in capital projects and community needs. Objection could be raised to the practice of "banking" some of the growth in revenue instead of returning it to taxpayers in tax cuts. He asserted that now may be the time to seriously consider whether the County government should follow the lead of its citizens, with the creation of a "savings account" to level out, to some degree, the variances in annual budgets caused by economic fluctuations.

Supervisor Cook explained that several years ago, the Board correctly established a revenue stabilization fund (sometimes called the "rainy day fund"). This fund is available when unexpected changes occur within a single budget year, after the tax rate has already been set and a budget adopted, creating the prospect of an illegal deficit. The rainy day fund helps avoid large cuts within a year to close such a gap. A fluctuation reserve would be different as it would hold money across budget years as a hedge against a serious, multi-year economic downturn.

Supervisor Cook noted that a "fluctuation" reserve would not be without potential drawbacks. The criteria for how it would be funded, at what level, and when and how funding could be applied during the "down" years would need to be carefully considered.

Therefore, Supervisor Cook moved that the Board direct the County Executive to study the advisability of establishing a type of fluctuation reserve fund as described above, and to report so that this proposal could be discussed and considered as part of the budget process this year. Chairman Bulova seconded the motion.

Discussion ensued, with input from Edward L. Long, Jr., Deputy County Executive, regarding:

- The need for another reserve fund.
- The differences between the current reserve funds.
- Adjusting the criteria for using the revenue stabilization fund.
- How much to set aside in reserve.
- Asking taxpayers to pay for reserves.
- Diversification of the tax base.
- Typical fund balances of AAA bond rated localities.

Supervisor Herrity asked to amend the motion to direct staff to examine the revenue stabilization fund (rainy day fund) and managed reserve and report with what the reserve should be and how to achieve it, and this was accepted.

Following further discussion about the School's use of the County's rainy day fund, the question was called on the motion, as amended, and it carried by unanimous vote.

19. **HONORING MS. TEMPLE DOUGLAS** (1:34 p.m.)

(NOTE: Earlier in the meeting, the Board declared May 2010 as "*Lyme Disease Awareness Month*" in Fairfax County. See Clerk's Summary Item CL#16.)

Supervisor Herrity noted that the rise of Lyme disease as a national epidemic has been given much more attention at the local, state, and federal level over the last year. Much work needs to be done to improve the diagnosis and treatment of Lyme disease and hopefully more research will eventually lead its eradication. In Virginia alone, the number of confirmed cases of Lyme disease has doubled in the last two years and that number is likely understated. Some studies at the national level have estimated that Lyme disease costs the economy \$2 billion a year. One major problem with Lyme disease is the lack of an accurate and timely test. In fewer than 50 percent of the cases do victims get the "bulls eye rash," and the current test only has 65 percent sensitivity – missing 35 percent of culture proven cases of Lyme.

Supervisor Herrity said that Ms. Temple Douglas, a senior at Thomas Jefferson High School for Science and Technology (TJHSST), has been working towards a solution for a quick and accurate test for Lyme disease. In her senior research paper entitled “The Application of Hydrogel Nanoparticles for Early Lyme Disease Diagnosis,” she proposes adding nanoparticles to a patient’s urine sample so that the bacteria that cause Lyme disease are visible.

Supervisor Herrity said that Ms. Douglas’ paper has already received plaudits. She is currently a finalist in the Intel Science Talent Search, and her accomplishments are a positive testament to both herself as an individual, and the quality of education that is given at TJHSST. He noted that her work was inspired by her mother and her two siblings who have all suffered from Lyme disease.

Therefore, Supervisor Herrity asked unanimous consent that the Board direct staff to invite Ms. Douglas to appear before the Board so that she can be presented with a resolution recognizing her groundbreaking work at TJHSST in the battle against Lyme disease. Without objection, it was so ordered.

20. **EVOLUTION CYCLING CLUB (SULLY DISTRICT)** (1:36 p.m.)

Supervisor Frey said that the Evolution Cycling Club, in collaboration with the Mid-Atlantic Bicycle Racing Association and USA Cycling, has requested permission from the Board to conduct a bicycle race on Avion Parkway and Virginia Mallory Drive on Saturday, April 17. The bicycle event is proposed to occur from 7 a.m. until 5 p.m. During that timeframe, two interior lanes of Avion Parkway and Virginia Mallory Drive would be closed to the public. The cycling club will provide three flagmen and two Caution Bike Race signs within the County right-of-way and will coordinate additional security with the Police Department.

Supervisor Frey noted that the Evolution Cycling Club estimates 100 cyclists will participate in the event. The applicant has liability insurance coverage and agrees to hold harmless and indemnify the County with respect to any claim or loss, injury or damage arising out of negligence of the applicant. It is also understood that the participants will wear appropriate protective equipment and will not encroach on private property.

Therefore, Supervisor Frey moved that the Board authorize the County Executive to grant permission to the Evolution Cycling Club to utilize Avion Parkway and Virginia Mallory Drive from 7 a.m. until 5 p.m. on April 17 for the bicycle race event. Supervisor Hyland and Supervisor McKay jointly seconded the motion and it carried by unanimous vote.

21. **WINTER DRESS CODE** (1:38 p.m.)

In a touch of levity, Supervisor Frey noted that two Board Members, he and Supervisor Hyland, were dressed for the blizzard. He warned that motorists will not stop to help just because someone is wearing a suit.

22. **COLLAPSE OF BAILEY'S FIRE STATION 10 ROOF (MASON DISTRICT)** (1:38 p.m.)

Supervisor Gross announced that the weekend's 24-inch blizzard caused a catastrophic failure of the roof of Bailey's Fire Station 10. A full determination of damage is underway, and all fire personnel escaped the 3 a.m. collapse without incident. Emergency plans for coverage are in place, and preparations for rebuilding are being developed.

Accordingly, Supervisor Gross asked unanimous consent that the Board direct the County Executive to expedite all necessary permits and reviews regarding the rebuilding of Bailey's Station 10. Without objection, it was so ordered.

Supervisor Gross noted that personnel are removing snow from the roof of Fire Station 8 to prevent a similar collapse in light of the forecast for additional snow tonight and tomorrow.

DET:det

23. **NO BOARD MATTERS FOR SUPERVISOR SMYTH (PROVIDENCE DISTRICT)** (1:40 p.m.)

Supervisor Smyth announced that she had no Board Matters to present today.

24. **NO BOARD MATTERS FOR SUPERVISOR FOUST (DRANESVILLE DISTRICT)** (1:40 p.m.)

Supervisor Foust announced that he had no Board Matters to present today.

PMH:pmh

25. **NO BOARD MATTERS FOR SUPERVISOR HUDGINS (HUNTER MILL DISTRICT)** (1:40 p.m.)

Supervisor Hudgins announced that she had no Board Matters to present today.

26. **REPORT OF THE BRADDOCK DISTRICT CITIZEN BUDGET REVIEW COMMITTEE AND BUDGET SURVEY RESULTS FROM THE BRADDOCK BEACON** (1:40 p.m.)

Supervisor Cook said that this year he joined some Board Members who have established citizen budget committees, and set up the Braddock Budget Advisory Council. The council was open to all, and he did not recruit its members (except the Chairman), nor did he establish for it any preconceived agenda or goals. Instead, the Council was self-selected and free to adopt its own goals, procedures, and findings.

Supervisor Cook noted that the council met monthly and heard from a variety of experts, including County and Schools' budget staff and former Congressman and Board Chair Tom Davis. Unlike other citizen review committees, this one decided not to strive for unanimity or consensus and instead set out to offer a variety of suggestions for consideration. To meet this objective, they formed three subcommittees, and each prepared a report, a menu of individual recommendations. The final report of the Council includes the subcommittee reports as well as an executive summary. He added that he neither endorses nor rejects the recommendations therein, but referred it to the Board for its consideration.

Supervisor Cook expressed his appreciation to the committee's chairman, Chris Craig, for his leadership in this endeavor. He also thanked all those who participated for their hard work and dedication.

Supervisor Cook said that in the January edition of his monthly newsletter, he posed to readers several questions on the County Budget in an effort to help assess available options. More than 100 Braddock residents responded, and he included the results of the survey in his written Board Matter as distributed to the Board.

Therefore, Supervisor Cook asked unanimous consent that the Board direct staff to forward the Braddock District Citizens Budget Advisory Council Report and the results of his newsletter survey to the County Executive for his information as he prepares the Advertised Budget and that the Office of Public Affairs publicize these reports.

Chairman Bulova announced that there is a coalition of budget chairs where there are district budget committees.

Without objection, the request was so ordered.

27. **RECOGNIZING CANTERBURY WOODS BAND AND STRING (BRADDOCK DISTRICT)** (1:44 p.m.)

Supervisor Cook said that the Kennedy Center belongs to the nation, and at 6 p.m. on Tuesday, February 23 its Millennium Stage will belong to the Canterbury Woods Elementary School Strings Ensemble. Along with the NOVA Guitar Trio, Canterbury will perform classical and chamber works as part of the Kennedy Center's *Performing Arts for Everyone* program.

Supervisor Cook noted that the initiative, established in 1997, was designed to expand and increase access to the performing arts for local Washington residents and visitors to the nation's capital. Every day of the year at 6 p.m., the Kennedy Center hosts a free performance; no tickets are required, though seating is limited and available on a first-come, first-served basis. It features international, national, and – two weeks from now – Braddock District talent.

Therefore, Supervisor Cook asked unanimous consent that the Board direct the Office of Public Affairs to publicize this event. He added that he intends to make Tuesday, February 23, 2010, Canterbury Woods Elementary School Strings Ensemble Day in the Braddock District. Without objection, it was so ordered.

28. **HAITI RECONSTRUCTION** (1:46 p.m.)

Supervisor Hyland said that last week, he received an email asking the Board and its Congressional delegation to support an effort to help reconstruct Haiti and help lower the unemployment rate in the United States by sending skilled construction workers to the earthquake-ravaged country. The idea is that the US Government could form a civilian styled Seabee operation with experts in building, plumbing, electrical, etcetera to rebuild the nation. The idea would “have the dual effect of heightening America’s visibility as not only a caring nation but also as a ‘can do’ nation while at the same time making a meaningful contribution to aiding economic recovery.” The email’s author said he shared this idea with Congressman Connolly.

Therefore, Supervisor Hyland asked unanimous consent that the Board direct staff to send a letter to the members of the County’s Congressional delegation sharing the idea and asking them to continue to work cooperatively with the State Department and the US Agency for International Development (USAID) to help rebuild. Without objection, it was so ordered.

29. **MOUNT VERNON’S TWENTY-THIRD ANNUAL TOWN MEETING NEWS RELEASE** (1:47 p.m.)

Supervisor Hyland announced that he will host Mount Vernon District’s annual town meeting on February 20. The program starts at 9 a.m., with the exhibits opening at 7:45 a.m. He said that he looks forward to Chairman Bulova, County Executive Anthony H. Griffin, Superintendent Jack Dale, and Mount Vernon

District School Board Member Dan Storck's discussion on the budget and many other topics. All Board Members have also been invited.

Therefore, Supervisor Hyland asked unanimous consent that the Board direct the Office of Public Affairs to issue a press release publicizing Mount Vernon's Twenty-Third Annual Town Meeting. Without objection, it was so ordered.

30. **LEGISLATIVE COMMITTEE ITEMS** (1:49 p.m.)

Supervisor McKay asked unanimous consent that the Board refer to the Legislative Committee the issue of the Lee District Park accessible tree house and spray park for children with disabilities. Without objection, it was so ordered.

Supervisor Frey asked unanimous consent that the Board refer the following issues to the Legislative Committee:

- The Route 28/I-66 interchange
- The addition of parcels to the Centreville Historic Park

Without objection, it was so ordered.

31. **DEFERRAL OF PUBLIC HEARINGS (LEE, PROVIDENCE, AND SPRINGFIELD DISTRICTS)** (1:53 p.m.)

(A) Supervisor Smyth moved to defer the public hearing on Proffered Condition Amendment Application PCA 79-P-038-02 until **February 23, 2010, at 3 p.m.** Supervisor Foust seconded the motion and it carried by unanimous vote.

Supervisor McKay moved to defer the public hearing on Proffered Condition Amendment Application PCA 1998-LE-048-03 until **February 23, 2010, at 3 p.m.** Supervisor Hyland seconded the motion and it carried by unanimous vote.

Supervisor Herrity moved to defer the public hearing on proposed amendments to the Code of the County of Fairfax, Appendix M, establishing the Springfield Community Parking District (CPD), in accordance with current CPD restrictions until **February 23, 2010, at 4:30 p.m.** This motion, the second to which was inaudible, carried by unanimous vote.

Supervisor Gross moved to defer the public hearing on proposed amendments to the Code of the County of Fairfax, adding a new Chapter, Chapter 123 (Coastal Primary Sand Dune Zoning Ordinance), regarding protection of coastal sand dunes and beaches until **February 23, 2010, at 4:30 p.m.** Supervisor Foust seconded the motion and it carried by unanimous vote.

Supervisor Smyth moved to defer the public hearing for the Board to authorize the County to enter into a communications lease with Verizon Wireless that is substantially in accordance with the Lease Agreement until **February 23, 2010, at 4:30 p.m.** Supervisor Foust seconded the motion and it carried by unanimous vote.

32. **RECESS/CLOSED SESSION** (1:57 p.m.)

Supervisor Smyth moved that the Board recess and go into closed session for discussion and consideration of matters enumerated in Virginia Code Section (§) 2.2-3711 and listed in the agenda for this meeting as follows:

- (a) Discussion or consideration of personnel matters pursuant to Virginia Code § 2.2-3711(A) (1).
- (b) Discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body, pursuant to Virginia Code § 2.2-3711(A) (3).
- (c) Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, and consultation with legal counsel regarding specific legal matters requiring the provision of legal advice by such counsel pursuant to Virginia Code § 2.2-3711(A) (7).
 1. *Martin F. Wiesner v. Fairfax County Police Department*, Record No. 091670 (Va. Sup. Ct.)
 2. *Eugenia B. White v. Fairfax County Government*, Case No. 09-8700 (United States Supreme Court)
 3. *Fairfax County Department of Family Services v. Gerardo Ortega*, Record No. 2455-09-4 (Va. Ct. App.)
 4. Wrongful Death Claim of Brook H. Beshah and Tsehainesh K. Gebru
 5. *Wright Patman Congressional Federal Credit Union. v. George V. Omilan and County of Fairfax*, CL-2009-0017719 (Fx. Co. Cir. Ct.) (Hunter Mill District)

6. *Eileen M. McLane, Fairfax County Zoning Administrator v. Victor H. Pajares*, Case No. CL-2009-0016099 (Fx. Co. Cir. Ct.) (Providence District)
7. *Michael R. Congleton, Property Maintenance Code Official for Fairfax County, Virginia v. Washington Mutual Bank*, Case No. CL-2009-0011617 (Fx. Co. Cir. Ct.) (Mason District)
8. *Michael R. Congleton, Property Maintenance Code Official for Fairfax County, Virginia v. Jacqueline Ball*, Case No. CL-2009-0012436 (Fx. Co. Cir. Ct.) (Lee District)
9. *Eileen M. McLane, Fairfax County Zoning Administrator, and Michael R. Congleton, Property Maintenance Code Official for Fairfax County, Virginia v. Gerald M. Bowen*, Case No. CL-2009-0001835 (Fx. Co. Cir. Ct.) (Sully District)
10. *Eileen M. McLane, Fairfax County Zoning Administrator v. Armando Uriona*, Case No. CL-2008-0007966 (Fx. Co. Cir. Ct.) (Mason District)
11. *Michael R. Congleton, Property Maintenance Code Official for Fairfax County, Virginia v. Norman Mesewicz*, Case No. CL-2007-0008884 (Fx. Co. Cir. Ct.) (Braddock District)
12. *Eileen M. McLane, Fairfax County Zoning Administrator v. Arturo Castellon*, Case No. CL-2008-0004426 (Fx. Co. Cir. Ct.) (Springfield District)
13. *Eileen M. McLane, Fairfax County Zoning Administrator v. Robert Pierre Johnson Housing Development Corporation of the National Capital Area*, Case No. CL-2009-0012063 (Fx. Co. Cir. Ct.) (Mount Vernon District) (Strike Team Case)
14. *Michael R. Congleton, Property Maintenance Code Official for Fairfax County, Virginia v. Tom Hu*, Case No. CL-2009-0008218 (Fx. Co. Cir. Ct.) (Lee District)

15. *Eileen M. McLane, Fairfax County Zoning Administrator v. Leonel A. Romero and Nora E. Martinez*, Case No. CL-2009-0012157 (Fx. Co. Cir. Ct.) (Braddock District)
16. *Eileen M. McLane, Fairfax County Zoning Administrator v. Delfido Chavarria and Marina A. Aguirre*, Case No. CL-2009-0011230 (Fx. Co. Cir. Ct.) (Mason District)
17. *Eileen M. McLane, Fairfax County Zoning Administrator, and Michael R. Congleton, Property Maintenance Code Official for Fairfax County, Virginia v. Scott W. Pruitt*, Case No. CL-2009-0013751 (Fx. Co. Cir. Ct.) (Springfield District)
18. *Eileen M. McLane, Fairfax County Zoning Administrator v. Young C. Kim and Ok Ja Kim*, Case No. CL-2009-0016977 (Fx. Co. Cir. Ct.) (Mason District)
19. *Eileen M. McLane, Fairfax County Zoning Administrator, and Michael R. Congleton, Property Maintenance Code Official for Fairfax County, Virginia v. Melba B. Clarke*, Case No. CL-2009-0016978 (Fx. Co. Cir. Ct.) (Mason District)
20. *Eileen M. McLane, Fairfax County Zoning Administrator v. Mirna G. Rubio and Manuel R. Perez*, Case No. CL-2010-0000611 (Fx. Co. Cir. Ct.) (Lee District)
21. *Eileen M. McLane, Fairfax County Zoning Administrator v. Carmen A. Portillo and Corina J. Portillo*, Case No. CL-2010-0000612 (Fx. Co. Cir. Ct.) (Springfield District)
22. *Michael R. Congleton, Property Maintenance Code Official for Fairfax County, Virginia v. Christopher Rademacher*, Case No. CL-2010-0000610 (Fx. Co. Cir. Ct.) (Mount Vernon District) (Strike Team/BNV Case)

23. *Eileen M. McLane, Fairfax County Zoning Administrator v. Sue Baek and Seong J. Kim*, Case No. CL-2010-0000726 (Fx. Co. Cir. Ct.) (Mason District)
24. *Eileen M. McLane, Fairfax County Zoning Administrator v. Nasir Ahmad and Wosai Ahmadi*, Case No. CL-2010-0000725 (Fx. Co. Cir. Ct.) (Mason District)
25. *Michael R. Congleton, Property Maintenance Code Official for Fairfax County, Virginia v. Arthur B. Hough*, Case No. CL-2010-0000984 (Fx. Co. Cir. Ct.) (Mason District) (Strike Team/BNV Case)
26. *Eileen M. McLane, Fairfax County Zoning Administrator v. Kingsway Limited Partnership and Miguelito Chicken, Inc.*, Case No. CL-2010-0001018 (Fx. Co. Cir. Ct.) (Lee District)
27. *Michael R. Congleton, Property Maintenance Code Official for Fairfax County, Virginia v. Deutsche Bank National Trust Company*, Case No. CL-2010-0001310 (Fx. Co. Cir. Ct.) (Mount Vernon District)
28. *Eileen M. McLane, Fairfax County Zoning Administrator v. Jose Bracamonte Castillo*, Case Nos. 09-0026686 and 09-0026687 (Fx. Co. Gen. Dist. Ct.) (Lee District)
29. *Eileen M. McLane, Fairfax County Zoning Administrator v. Michael Collins*, Case No. 10-0001474 (Fx. Co. Gen. Dist. Ct.) (Mason District)
30. *Eileen M. McLane, Fairfax County Zoning Administrator v. Vicki L. Dodge*, Case No. 10-0001473 (Fx. Co. Gen. Dist. Ct.) (Springfield District)
31. *Eileen M. McLane, Fairfax County Zoning Administrator v. Ali Ahmed and Widad Hamadelnail*, Case No. 10-0001472 (Fx. Co. Gen. Dist. Ct.) (Sully District)

32. *Eileen M. McLane, Fairfax County Zoning Administrator v. Karen A. Hernandez and Keon De Roche*, Case No. 10-0001647 (Fx. Co. Gen. Dist. Ct.) (Lee District)
33. *Eileen M. McLane, Fairfax County Zoning Administrator v. Latitia D. Jarvis*, Case No. 10-0001646 (Fx. Co. Gen. Dist. Ct.) (Springfield District)
34. *Eileen M. McLane, Fairfax County Zoning Administrator v. Tram K. Le and Phong Q. Le*, Case No. 10-0001645 (Fx. Co. Gen. Dist. Ct.) (Providence District)
35. *Eileen M. McLane, Fairfax County Zoning Administrator v. Jacqueline Jones*, Case No. 10-0001648 (Fx. Co. Gen. Dist. Ct.) (Hunter Mill District)
36. *Eileen M. McLane, Fairfax County Zoning Administrator v. Crystal Lewis*, Case No. 10-0001807 (Fx. Co. Gen. Dist. Ct.) (Lee District)
37. *Eileen M. McLane, Fairfax County Zoning Administrator v. Mohammad A. Rad*, Case No. 10-0001808 (Fx. Co. Gen. Dist. Ct.) (Providence District)
38. *Eileen M. McLane, Fairfax County Zoning Administrator v. Theia D. Trusselle*, Case No. 10-0001811 (Fx. Co. Gen. Dist. Ct.) (Hunter Mill District)
39. *Eileen M. McLane, Fairfax County Zoning Administrator v. Jacqueline Tillery*, Case No. 10-0001810 (Fx. Co. Gen. Dist. Ct.) (Springfield District)
40. *Eileen M. McLane, Fairfax County Zoning Administrator v. Rose Myers*, Case No. 10-0001809 (Fx. Co. Gen. Dist. Ct.) (Mount Vernon District)

And in addition:

- Composite Index of Local Ability-to-Pay
- *Wood, Muncy, and F&M Services v. Redevelopment and Housing Authority and Board of Supervisors*
- Reston Lake Anne Air Conditioning Corporation Rate Increase Application, PUE-2009-00129
- *City of Arlington, Texas v. Federal Communications Commission and the United States of America*
- Reston Spectrum, LLLP, Appeal

Supervisor Foust seconded the motion and it carried by unanimous vote.

DET:det

At 4:07 p.m., the Board reconvened in the Board Auditorium with all Members being present, and with Chairman Bulova presiding.

ACTIONS FROM CLOSED SESSION

33. **CERTIFICATION BY BOARD MEMBERS REGARDING ITEMS DISCUSSED IN CLOSED SESSION** (4:07 p.m.)

Supervisor Gross moved that the Board certify that, to the best of its knowledge, only public business matters lawfully exempted from open meeting requirements and only such public business matters as were identified in the motion by which closed session was convened were heard, discussed, or considered by the Board during the closed session. Supervisor Smyth seconded the motion and it carried by unanimous vote, Supervisor Cook, Supervisor Foust, Supervisor Frey, Supervisor Gross, Supervisor Herrity, Supervisor Hudgins, Supervisor Hyland, Supervisor McKay, Supervisor Smyth, and Chairman Bulova voting "AYE."

34. **FEDERAL COMMUNICATION COMMISSION (FCC) "SHOT CLOCK" LITIGATION** (4:07 p.m.)

Supervisor Hyland stated that the FCC recently issued an order that purports, among other things, to limit local governments' timeframes for deciding applications that involve the siting of cell phone towers, monopoles, and other telecommunications facilities. He added that the order will, in some cases, necessitate a hurried legislative review of the placement of such facilities in a manner that is contrary to County residents' expectations and noted that a case has already been filed in the US Court of Appeals for the Fifth Circuit challenging the FCC's authority to issue such an order.

Because of the County's obvious interest in these issues, Supervisor Hyland moved that the Board authorize the County Attorney to work with outside counsel to file a Motion to Intervene on behalf of the County in the pending Fifth Circuit case, styled *City of Arlington, Texas versus Federal Communications Commission and the United States of America*, Case Number 10-60039. Supervisor Foust seconded the motion and it carried by unanimous vote.

35. **LAKE ANNE AIR CONDITIONING CORPORATION APPLICATION FOR APPROVAL OF RATE INCREASE IN STATE CORPORATION COMMISSION (SCC) CASE NUMBER PUE-2009-00129** (4:09 p.m.)

Supervisor Hudgins moved that the Board authorize the Department of Cable Communications and Consumer Protection and the County Attorney's office to file a Notice of Participation as a Respondent concerning the Application for Approval of Rate Increase filed by Reston Lake Anne Air Conditioning Corporation in SCC Case Number PUE-2009-00129. Supervisor Foust seconded the motion.

Supervisor Herryty asked to amend the motion to keep track of the hours and expenses incurred by staff and report that information to the Board, and this was accepted.

The question was called on the motion, as amended, and it carried by unanimous vote.

36. **RESTON SPECTRUM, LLP APPEAL OF A DETERMINATION ISSUED ON BEHALF OF THE COUNTY ZONING ADMINISTRATOR** (4:10 p.m.)

Supervisor Hudgins announced that Reston Spectrum, LLP, has filed an appeal of a determination issued on behalf of the Zoning Administrator on November 18, 2009, by the Director of the Zoning Evaluation Division, Department of Planning and Zoning adding that the determination involves density credits available for use by the Winwood Daycare Property, which is located in the Hunter Mill District and is identified as Tax Map Number 17-1((17)) parcel 3. She noted that in the appeal, Reston Spectrum asks that the Board determine that Reston Spectrum has a vested right to develop its property in accordance with a Concept Plan that was approved by the Planning Commission on May 21, 2008. She stated that the Board does not have the legal authority to make such a determination.

Supervisor Hudgins moved that the Board dismiss Reston Spectrum's appeal. Supervisor Hyland seconded the motion and it carried by unanimous vote.

ADDITIONAL BOARD MATTER37. **DEFERRAL OF PUBLIC HEARINGS** (4:11 p.m.)

Chairman Bulova announced that all public hearings that had been scheduled for this afternoon had been deferred to the next meeting date of February 23, 2010.

AGENDA ITEMS38. **3:30 P.M. – PH ON PROFFERED CONDITION AMENDMENT APPLICATION PCA 79-P-038-02 (NEVZAT KANSU AND HACER K. KANSU) (PROVIDENCE DISTRICT)**

(NOTE: Earlier in the meeting, the Board deferred the public hearing on this item until **February 23, 2010, at 3 p.m.** See Clerk's Summary Item #31.)

39. **3:30 P.M. – PH ON PROFFERED CONDITION AMENDMENT APPLICATION PCA 1998-LE-048-03 (CSHV METRO PARK LLC) (LEE DISTRICT)**

(NOTE: Earlier in the meeting, the Board deferred the public hearing on this item until **February 23, 2010, at 3 p.m.** See Clerk's Summary Item #31.)

40. **4 P.M. – PH ON PROPOSED AMENDMENTS TO THE CODE OF THE COUNTY OF FAIRFAX, APPENDIX M, TO ESTABLISH THE SPRINGFIELD COMMUNITY PARKING DISTRICT (CPD) (SPRINGFIELD DISTRICT)**

(NOTE: Earlier in the meeting, the Board deferred the public hearing on this item until **February 23, 2010, at 4:30 p.m.** See Clerk's Summary Item #31.)

41. **4 P.M. – PH ON PROPOSED AMENDMENTS TO THE CODE OF THE COUNTY OF FAIRFAX, VIRGINIA, TO ADD A NEW CHAPTER, CHAPTER 123 (COASTAL PRIMARY SAND DUNE ZONING ORDINANCE), REGARDING PROTECTION OF COASTAL SAND DUNES AND BEACHES**

(NOTE: Earlier in the meeting, the Board deferred the public hearing on this item until **February 23, 2010, at 4:30 p.m.** See Clerk's Summary Item #31.)

42. **4 P.M. – PH TO LEASE COUNTY-OWNED PROPERTY TO CELLCO PARTNERSHIP D/B/A VERIZON WIRELESS (PROVIDENCE DISTRICT)**

(NOTE: Earlier in the meeting, the Board deferred the public hearing on this item until **February 23, 2010, at 4:30 p.m.** See Clerk's Summary Item #31.)

43. **BOARD ADJOURNMENT** (4:11 p.m.)

The Board adjourned.

Index

AGENDA ITEM	Page
Report on General Assembly Activities	2-3
Items Presented by the County Executive	
Administrative Items	4-7
Action Items.....	7-9
Information Items	9-11
Board Matters	
Chairman Bulova	2, 3, 11-15
Supervisor Cook.....	14-15, 17-10
Supervisor Foust	n/a
Supervisor Frey	16
Supervisor Gross.....	17
Supervisor Herrity	15-16
Supervisor Hudgins	n/a
Supervisor Hyland	19
Supervisor McKay	19-20
Supervisor Smyth.....	n/a
Actions from Closed Session	26-27
Public Hearings	28