

**FAIRFAX COUNTY
BOARD OF SUPERVISORS
MARCH 9, 2009**

AGENDA

9:30 **Done** Presentations

10:00 **Done** Items Presented by the County Executive

**ADMINISTRATIVE
ITEMS**

- | | | |
|---|---------------------------------|---|
| 1 | Approved | Authorization to Advertise a Public Hearing to Consider Amending Chapter 61, Building Provisions, of The Code of the County of Fairfax, Virginia, Fire Marshal Fees |
| 2 | Approved | Authorization to Advertise a Public Hearing to Consider Amending Chapter 62, Fire Protection, of The Code of the County of Fairfax, Virginia, Adopt Amendments to the Statewide Fire Prevention Code and Fire Marshal Fees |
| 3 | Approved | Authorization to Advertise a Public Hearing on the Proposed Creation of a Stormwater Service District |
| 4 | Approved | Authorization to Advertise a Public Hearing on the Proposed Establishment of a Tax Rate on all Real Property Situated Within the Stormwater Service District of Fairfax County |
| 5 | Approved | Authorization to Advertise a Public Hearing to Consider the Adoption of Article 17.2, Chapter 4, of the Fairfax County Code to Establish Local Vehicle Registration License Fees (Formerly Decal Fees) |
| 6 | Approved | Authorization to Advertise a Public Hearing to Consider the Adoption of Article 17.3, Chapter 4, of the Fairfax County Code to Impose a License Tax on Certain Motor Vehicles Not Otherwise Displaying Current License Plates |
| 7 | Approved | Authorization to Advertise a Public Hearing to Consider Amending Section 4-17.1-9, Chapter 4, of the Fairfax County Code Concerning Late Payment Penalties for Delinquent Personal Property Taxes |
| 8 | Approved
w/amendment | Authorization to Advertise a Public Hearing to Consider to Amending Section 82-1-32, of the Fairfax County Code, to Increase Fines for Parking Violations |
| 9 | Approved | Authorization to Advertise a Public Hearing to Consider Amending Chapter 8.1, of the Code of the County of Fairfax, Security Alarm Systems |

**FAIRFAX COUNTY
BOARD OF SUPERVISORS
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**ADMINISTRATIVE
ITEMS
(continued)**

- | | | |
|----|---------------------------------|---|
| 10 | Approved | Authorization to Advertise a Public Hearing to Consider Amending the Fairfax County Code for Regulatory Services Dealing with Private Schools and Child Care, Onsite Sewage Disposal Systems, Well Water Supply Systems, Food Service Establishments, and Water Recreation Facilities |
| 11 | Approved
w/amendment | Authorization to Advertise Publication of the FY 2010 Budget and Required Tax Rates |
| 12 | Approved | Authorization to Advertise a Public Hearing to Amend the Current Appropriation Level in the FY 2009 Revised Budget Plan |
| 13 | Approved | Authorization to Advertise a Public Hearing on the Proposed Consolidated Plan One-Year Action Plan for FY 2010 |
| 14 | Approved | Authorization for the Department of Family Services, Office for Children to Apply for and Accept Grant Funding from Child Development Resources, Inc. for the Virginia Infant and Toddler Specialist Network Regional Office Sub-Contract |
| 15 | Approved | Extension of Review Periods for 2232 Review Applications (Braddock, Dranesville, Mount Vernon, Springfield, and Sully Districts) |
| 16 | Approved | Additional Time to Commence Construction for Special Exception Amendment SEA 78-D-098-3, McLean Bible Church (Dranesville District) |
| 17 | Approved | Approval of Installation of "\$200 Additional Fine for Speeding" Signs, and "Watch for Children" Signs as Part of the Residential Traffic Administration Program (Mason and Hunter Mill Districts) |
| 18 | Approved | Authorization to Advertise a Public Hearing to Establish the Grove at Huntley Meadows Community Parking District (Lee District) |
| 19 | Approved | Streets into the Secondary System (Lee District) |

**FAIRFAX COUNTY
BOARD OF SUPERVISORS
MARCH 9, 2009**

ACTION ITEMS

- | | | |
|---|-----------------|--|
| 1 | Approved | Parking Reduction for Promenade at Tysons West (Hunter Mill District) |
| 2 | Approved | Approval of a Project Funding Agreement to Construct the Boudinot Drive On-Ramp as Part of Fairfax County Parkway EPG Phased Construction (Springfield, Lee, and Mount Vernon Districts) |
| 3 | Approved | Approval of an Amendment to the Mulligan Road Memorandum of Agreement to Include the Widening of Telegraph Road as Part of the Project (Mount Vernon and Lee Districts) |

**INFORMATION
ITEMS**

- | | | |
|-------|--------------|--|
| 1 | Noted | Contract Award – Lee District RECenter Mechanical Systems Renovation (Lee District) |
| 2 | Noted | 2008 Virginia Pollutant Discharge Elimination System Permit Annual Report for Fairfax County, Virginia |
| 3 | Noted | Consolidated Plan Certification for the Fairfax County Redevelopment and Housing Authority Public Housing and Housing Choice Voucher Annual Plan Update for Federal Fiscal Year 2009 |
| 4 | Noted | Contract Award – Spring Hill Road (Route 684) (Providence District) |
| 5 | Noted | Contract Award - Dental Services for the Homeless Healthcare Program |
| 10:30 | Done | Matters Presented by Board Members |
| 11:20 | Done | Closed Session |

**FAIRFAX COUNTY
BOARD OF SUPERVISORS
MARCH 9, 2009**

PUBLIC HEARINGS

3:30	Approved	Public Hearing on the Waiver of the Board of Supervisors' Reversionary Interest in Property Owned by the Bailey's Cross Roads Volunteer Fire Department at 3601 Firehouse Lane, Falls Church (Mason District)
3:30	Approved	Public Hearing on SE 2008-PR-033 (Metropolitan Washington Airports Authority and the Virginia Department of Rail and Public Transportation on Behalf of Washington Metropolitan Area Transit Authority) (Providence District)
3:30	Approved	Public Hearing on SE 2008-MD-034 (Metropolitan Washington Airports Authority and the Virginia Department of Rail and Public Transportation on Behalf of Washington Metropolitan Area Transit Authority) (Hunter Mill and Providence Districts)
3:30	Approved	Public Hearing on RZ 2004-LE-042 (James Puryear) (Lee District)
3:30	Approved	Public Hearing on RZ 2008-LE-001 (Hilltop Sand and Gravel Company, Inc.) (Lee District)
3:30	Approved	Public Hearing on SEA 2005-LE-027 (Hilltop Sand and Gravel Company, Inc.) (Lee District)
3:30	Approved	Public Hearing on RZ 2008-LE-002 (Hilltop Sand and Gravel Company, Inc.) (Lee District)
3:30	Approved	Public Hearing on SEA 78-L-074-06 (Hilltop Sand and Gravel Company, Inc.) (Lee District)
3:30	Approved	Public Hearing on RZ 2008-MD-003 (Hilltop Sand and Gravel Company, Inc.) (Lee and Mount Vernon Districts)
4:00	Approved	Public Hearing on Proposed Policy Plan Amendment S08-CW-1CP Concerning Roadways by Functional Classification Table



Fairfax County, Virginia
BOARD OF SUPERVISORS
AGENDA

Monday
March 9, 2009

9:30 a.m.

PRESENTATIONS

1. CERTIFICATE – To recognize Sean Fletcher for winning the 100-yard butterfly event and setting a national high school record at the Virginia AAA state swimming championships on February 21. Requested by Supervisor Hudgins.
2. CERTIFICATE – To recognize Fairfax Cares for its leadership and initiative to raise community awareness in assisting residents with basic immediate needs. Requested by Supervisor Hudgins.
3. PROCLAMATION – To designate March 2009 as Intellectual and Developmental Disabilities Month in Fairfax County. Requested by Chairman Bulova.
4. CERTIFICATE – To recognize Walter “Skip” Munster Jr. for more than 25 years of service to Fairfax County. Requested by Chairman Bulova.

STAFF:

Merni Fitzgerald, Director, Office of Public Affairs
Bill Miller, Office of Public Affairs

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Board Agenda Item
March 9, 2009

10:00 a.m.

Items Presented by the County Executive

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Board Agenda Item
March 9, 2009

ADMINISTRATIVE -1

Authorization to Advertise a Public Hearing to Consider Amending Chapter 61, Building Provisions, of The Code of the County of Fairfax, Virginia, Fire Marshal Fees

ISSUE:

A recent review of the current fee structure charged for mandated plan review and inspection services supports an increase of certain fees assessed by the Fire Marshal. These fees involve performing plan review and inspection services outside normal business hours, per reviewer or inspector. The change is necessary to more closely align the fees with the cost of performing these services. The proposed amendments to Chapter 61 adopt language to allow the rate to automatically adjust with any base hourly fee adjustments that affect plan reviews and inspections. This is a revenue enhancement initiative that stems from the FY 2010 Lines of Business Review.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors authorize advertisement of the public hearing.

TIMING:

Board action is requested on March 9, 2009, to provide sufficient time to advertise the proposed hearing on March 30, 2009, at 2:30 p.m. If approved by the Board after the public hearing, these provisions will become effective July 1, 2009.

BACKGROUND:

The Fire Prevention Division of the Fairfax County Fire and Rescue Department enforces the *Virginia Uniform Statewide Building Code* and Fairfax County local fire protection ordinances. Fees are levied for permits, plan reviews, and inspections. Current plan review and inspection fees, which were last adjusted in FY 2009, are \$128 per hour, per reviewer or inspector. The Fire and Rescue Department recently reviewed the current fee structure and cost recovery effort within the Fire Prevention Division during the Lines of Business Exercise for the FY 2010 Budget Process. As a result of the review, the department recommends an increase to existing fees for conducting reviews or inspections outside of business hours to a rate that is double the normal hourly rate. This will more closely align the fees with the cost of performing these services.

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Proposed amendments to Chapter 62, Fire Protection, recommend increased Fire Marshal fees for inspections performed outside of normal business hours and amend the language to address those inspections. The proposed amendments to Chapter 62 have been submitted separately to the Board of Supervisors for review and are contained in this board package.

FISCAL IMPACT:

Based on current estimates, an increase of \$475,000 per year is anticipated if the proposed amendments to Chapter 61 and Chapter 62 are adopted. It should be noted that this additional revenue has been included in the FY 2010 Advertised Budget Plan.

ENCLOSED DOCUMENTS:

Attachment I: Staff Report, Proposed Amendments to Chapter 61, Building Provisions, of *The Code of the County of Fairfax, Virginia*

STAFF:

Robert A. Stalzer, Deputy County Executive
Jimmie D. Jenkins, Director, Department of Public Works and Environmental Services
Chief Ronald L. Mastin, Fire and Rescue Department
Ann Killalea, Assistant County Attorney

Board Agenda Item
March 9, 2009

ADMINISTRATIVE - 2

Authorization to Advertise a Public Hearing to Consider Amending Chapter 62, Fire Protection, of The Code of the County of Fairfax, Virginia, Adopt Amendments to the Statewide Fire Prevention Code and Fire Marshal Fees

ISSUE:

As amendments are adopted to the *Statewide Fire Prevention Code*, Chapter 62, Fire Protection, the county ordinances must be reviewed and updated to realign the county amendments with the state amendments. In addition, increases to the current fee structure are proposed. This is a revenue enhancement initiative that stems from the FY 2010 Lines of Business Review.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors authorize advertisement of the public hearing.

TIMING:

Board action is requested on March 9, 2009, to provide sufficient time to advertise the proposed hearing on March 30, 2009, at 2:30 p.m. If approved by the Board after the public hearing, these provisions will become effective July 1, 2009.

BACKGROUND:

Section 27-97 of the *Code of Virginia* empowers the Virginia Board of Housing and Community Development to promulgate and adopt a state fire prevention code, now known as the *Statewide Fire Prevention Code*. Local governments are authorized under this section to adopt fire prevention regulations that are more stringent than the *Statewide Fire Prevention Code* and, as a result, the bulk of the county fire code consists of such amendments to the *Statewide Fire Prevention Code*. Periodically the *Statewide Fire Prevention Code* is amended which necessitates review and amendment to the county code. Recent adoption of the 2006 version of the *Statewide Fire Prevention Code* by the Virginia Board of Housing and Community Development necessitated review of the county fire code. The proposed changes ensure county amendments are in compliance with state amendments.

During the Lines of Business Exercise for the FY 2010 budget process, the current fee structure and cost recovery effort within the Fire Prevention Division were reviewed.

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Based on that review, an increase to the current fee schedule is proposed with these amendments. The fee increase will more closely align the fees with the cost of issuing permits and performing inspections. Fees range from \$25 for a home day care inspection to \$600 for a wholesale fireworks permit. The majority of permits will increase from \$100 to \$125 per permit.

Proposed amendments to Chapter 61, Building Provisions, recommend increased Fire Marshal fees for inspections performed outside of normal business hours and amend the language to address those inspections. The proposed amendments to Chapter 61 have been submitted separately to the Board of Supervisors for review and are contained in this board package.

FISCAL IMPACT:

Based on current estimates, an increase of \$475,000 per year is anticipated if the proposed amendments to Chapter 61 and Chapter 62 are adopted. It should be noted that this additional revenue has been included in the FY 2010 Advertised Budget Plan.

ENCLOSED DOCUMENTS:

Attachment I: Staff Report, Proposed Amendments to Chapter 62, Fire Protection, of *The Code of the County of Fairfax, Virginia*

STAFF:

Robert A. Stalzer, Deputy County Executive
Chief Ronald L. Mastin, Fire and Rescue Department
Ann Killalea, Assistant County Attorney

Board Agenda Item
March 9, 2009

ADMINISTRATIVE - 3

Authorization to Advertise a Public Hearing on the Proposed Creation of a Stormwater Service District

ISSUE:

Board authorization to advertise a public hearing on the proposed creation of a Stormwater Service District within Fairfax County, which District shall encompass all of Fairfax County with the exception of Fort Belvoir, federal property.

RECOMMENDATION:

The County Executive recommends that the Board authorize advertisement of the public hearing.

TIMING:

Board action is requested on March 9, 2009, to provide sufficient time to advertise a public hearing to be held on March 30, 2009 at 3:00 p.m.

BACKGROUND:

Based on the findings and information contained in the attached Staff Report **dated January 16, 2009, February 18, 2009**, the County Executive has proposed in the FY 2010 Advertised Budget the creation of a Stormwater Service District, as authorized by Va. Code Ann. §§15.2-2400 to -2403.1 (2008). The Stormwater Service District would levy its own tax to provide a stable funding source for stormwater management, including reinvestment in the existing Stormwater systems, and design and construction of new systems to improve Stormwater quality and county streams. Funding for these programs is necessary to ensure compliance with state and federal Stormwater mandates.

The Department of Tax Administration (DTA) advises that it is able to bill and collect the stormwater tax rate as part of the normal billing process.

A separate Administrative Board Item, to advertise a public hearing on the Tax Rate for the Stormwater Service District, is contained in this Board Package.

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FISCAL IMPACT:

Since FY 2006, the Board of Supervisors had dedicated the value of one penny of the real estate tax, or approximately \$20 million annually to stormwater capital projects. In FY 2009, due to budget constraints, staff and operating costs were charged to the stormwater penny fund, resulting in approximately \$15 million remaining for capital project support. The proposed levy of \$0.015 per \$100 of assessed value, to fund the Stormwater Service District, will provide approximately \$20 million in a typical budget year for capital project implementation and reinvestment, an amount roughly equal to the value of the dedicated penny. The remaining funding from the service district will support the staff and operating costs. The proposed effective date of the service district and tax rate is July 1, 2009. Therefore, during the service district's first year, taxpayers will be billed for the second half of calendar year 2009, generating approximately \$15 million for the stormwater program in FY 2010. It is anticipated that approximately \$5 million will remain unexpended within the Stormwater Management Program, in FY 2009 based on project timelines and completion schedules. This funding will be available at year-end, in order to support a total stormwater program of approximately \$20 million in FY 2010. It is estimated that beginning in FY 2011, the stormwater program will be fully supported by a projected \$30 million annually, generated from the Stormwater Service District, enabling much needed capital projects to move forward.

ENCLOSED DOCUMENTS:

Attachment 1 - Staff Report dated February 18, 2009

Attachment 2 - Board Resolution to advertise the proposed creation of a Stormwater Service District

STAFF:

Robert A. Stalzer, Deputy County Executive

Jimmie D. Jenkins, Director, Department of Public Works and Environmental Services (DPWES)

Randolph W. Bartlett, Deputy Director, DPWES

James V. McGettrick, Assistant County Attorney, Office of the County Attorney

Board Agenda Item
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ADMINISTRATIVE - 4

Authorization to Advertise a Public Hearing on the Proposed Establishment of a Tax Rate on all Real Property Situated Within the Stormwater Service District of Fairfax County

ISSUE:

Board authorization to advertise a public hearing on the proposed establishment of a tax rate of \$0.015 per \$100 of assessed valuation on all real property situated within Fairfax County's Stormwater Service District that is subject to assessment and levy of the County's regular ad valorem real property tax. This is a revenue enhancement initiative that stems from the FY 2010 Lines of Business Review.

RECOMMENDATION:

The County Executive recommends that the Board authorize advertisement of the public hearing.

TIMING:

Board action is requested on March 9, 2009, to provide sufficient time to advertise a public hearing to be held on March 30, 2009 at 3:00 p.m.

BACKGROUND:

In order to restore the full value of the original dedicated funding source of one cent on the real estate tax rate, for the stormwater capital projects, the County Executive has proposed in the FY 2010 Advertised Budget, the creation of a "service district", as authorized by Va. Code Ann. §§15.2-2400 to -2403.1 (2008). This district would levy its own tax of \$0.015 per \$100 of assessed valuation of real property. As indicated in the attached Staff Report **dated January 16, 2009, February 18, 2009** that rate would yield a projected \$30 million in a typical budget year, and after required staff and operating costs, approximately \$20 million would remain for program implementation, an amount roughly equal to the value of the original dedicated penny.

The Department of Tax Administration (DTA) advises that it is able to bill and collect this additional tax rate as part of the normal billing process.

A separate Administrative Board Item, to advertise a public hearing to create the Stormwater Service District, is contained in this Board Package.

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FISCAL IMPACT:

Since FY 2006, the Board of Supervisors had dedicated the value of one penny of the real estate tax, or approximately \$20 million annually to stormwater capital projects implementation and reinvestment. In FY 2009, due to budget constraints, staff and operating costs were charged to the stormwater penny fund, resulting in approximately \$15 million remaining for capital project support. The proposed levy of \$0.015 per \$100 of assessed value, to fund the Stormwater Service District, will provide approximately \$20 million in a typical budget year for capital project implementation, an amount roughly equal to the value of the dedicated penny. The remaining funding from the service district will support the staff and operating costs. The proposed effective date of the service district and tax rate is July 1, 2009. Therefore, during the service district's first year, taxpayers will be billed for the second half of calendar year 2009, generating approximately \$15 million for the stormwater program in FY 2010. It is anticipated that approximately \$5 million will remain unexpended within the Stormwater Management Program, in FY 2009 based on project timelines and completion schedules. This funding will be available at year-end, in order to support a total stormwater program of approximately \$20 million in FY 2010. It is estimated that beginning in FY 2011, the stormwater program will be fully supported by a projected \$30 million annually, generated from the Stormwater Service District, enabling much needed capital projects to move forward.

ENCLOSED DOCUMENTS:

Attachment 1 - Staff Report dated February 18, 2009

Attachment 2 - Board Resolution to advertise a proposed tax rate of \$0.015 per \$100 of assessed valuation on real property situated within the Stormwater Service District

STAFF:

Robert A. Stalzer, Deputy County Executive

Jimmie D. Jenkins, Director, Department of Public Works and Environmental Services (DPWES)

Randolph W. Bartlett, Deputy Director, DPWES

James V. McGettrick, Assistant County Attorney, Office of the County Attorney

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ADMINISTRATIVE – 5

Authorization to Advertise a Public Hearing to Consider the Adoption of Article 17.2, Chapter 4, of the Fairfax County Code to Establish Local Vehicle Registration License Fees (Formerly Decal Fees)

ISSUE:

Board authorization to advertise a public hearing to consider adopting Article 17.2, Chapter 4, of the Fairfax County Code in order to impose a Local Vehicle Registration License Fee. This is a revenue enhancement initiative that stems from the FY 2010 Lines of Business Review.

RECOMMENDATION:

The County Executive recommends that the Board advertise a public hearing to consider the attached proposed ordinance adopting Article 17.2, Chapter 4, of the Fairfax County Code in order to impose a Local Vehicle Registration License Fee (formerly referred to as the Decal Fee). Should the Board approve this fee, the County Executive further recommends that, as stated in the proposed ordinance, the fee be established without requiring the physical display of an actual decal on a vehicle's windshield.

TIMING:

Board action is requested on March 9, 2009, to provide sufficient time to advertise a public hearing on the proposed ordinance on March 30, 2009, at 2:30 p.m. If approved by the Board following that public hearing, the local vehicle registration license fee would become effective on and after July 1, 2009. The fee for tax year 2009 would be added, as applicable, to the personal property bills mailed during the summer of 2009.

BACKGROUND:

For years, Fairfax County imposed a vehicle decal fee pursuant to Virginia Code, § 46.2-752. As part of its FY 2007 budget actions, the Board of Supervisors abolished the requirement to display a vehicle decal and abolished the fee itself on April 3, 2006.

In its deliberation of the County Executive's FY 2010 Advertised Budget Plan, a revenue option before the Board is the possible reinstatement of a local vehicle registration license fee without actually requiring the physical display of a windshield decal. The option to impose a fee without requiring the physical display of a decal was specifically authorized by a 2006 General Assembly amendment to the aforementioned statute. In authorizing the local registration fee, Virginia Code, § 46.2-752(G) now states that "nothing in this section shall be construed to require a county, city, or town to issue a decal or any other tangible

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evidence of a local license to be displayed on the licensed vehicle if the county's, city's, or town's ordinance does not require display of a decal or other evidence of payment."

The Department of Tax Administration (DTA) and the Department of Information Technology (DIT) have confirmed that they are able to resume billing a local vehicle registration license fee on the FY 2010 personal property tax bills to be mailed during the summer of 2009, assuming the Board adopts the proposed ordinance. Since the former programming infrastructure is still in place, there are no programming costs as a result of this initiative, nor will there be any significant operational problems associated with implementing the proposed ordinance.

Imposition of the fee without requiring an actual decal display is preferable, because it helps eliminate taxpayer confusion about payment deadlines. When a decal used to be required, thousands of citizens would come to the Government Center to purchase their decal in order to display it by October 5th (even though the display deadline was clearly communicated as being November 15th). If the Board required the display of a physical decal, citizen traffic at the Government Center would rise significantly once again. This would be contrary to the reduced 'walk-in' traffic experienced since the elimination of the physical decal and would be contrary to the FY 2010 Lines of Business Cashiering reduction being recommended in DTA.

Some facilities, such as Regional Parks and the County landfill, might find some benefit in returning to a physical decal requirement. However, their business operations have accommodated the lack of a decal since 2006, and the potential benefits do not outweigh the increased cashier counter traffic associated with a decal. Additionally, citizen reaction overwhelmingly endorsed eliminating the need to scrape off and reattach annual decals. While the fee may be a budget necessity, elimination of the physical decal would continue to be a convenience to the public. Furthermore, use of a physical decal would increase implementation costs by nearly \$500,000 due to required inventory, postage, and Exempt Limited Term salaries.

The County did not experience any decrease in its tax collection rate or in the compliance of vehicle registrations once the decal was abolished in 2006. Therefore, the revenue gain from imposing a local vehicle registration license fee can be accomplished without any detrimental impact to operations by doing so without actually requiring the display of a decal itself. For perspective, approximately 57 other jurisdictions in Virginia currently impose a decal fee without actually requiring the display of a physical decal.

FISCAL IMPACT:

Based on the previous fee amount of \$25 for most vehicles, it is estimated that reinstating a local vehicle registration license fee will generate approximately \$20 million per year.

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Furthermore, Virginia Code, § 46.2-752(A) authorizes the County to impose a local vehicle registration license fee at a rate not to exceed the state rate. Since the base state rate is now \$33 for passenger vehicles of 4,000 pounds or less, and \$38 for heavier passenger vehicles, the Board of Supervisors can consider adopting these higher vehicle registration fees. At the maximum state rates, the FY 2010 revenue gain is estimated to be approximately \$27 million, in lieu of the \$20 million stated above. Under any scenario, motorcycle fees and cab registration fees are generally limited to \$18 and \$23 respectively by state code. If adopted, the new fees would go into effect as of July 1, 2009.

In order to give the Board maximum flexibility, the proposed ordinance is based on state maximum rates. Advertising these rates allows the Board to consider adopting the highest rate, or something less than the maximum, following public hearing. Pending Board action, revenue from the local vehicle registration license fee has not yet been factored into the FY 2010 Advertised Budget Plan.

ENCLOSED DOCUMENTS:

Attachment 1: Proposed Ordinance to Adopt Article 17.2, Code of the County of Fairfax, Imposing a Local Vehicle Registration License Fee

STAFF:

Edward L. Long, Jr., Deputy County Executive
Kevin C. Greenlief, Director, Department of Tax Administration
Michael Long, Senior Assistant County Attorney

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Board Agenda Item
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ADMINISTRATIVE - 6

Authorization to Advertise a Public Hearing to Consider the Adoption of Article 17.3, Chapter 4, of the Fairfax County Code to Impose a License Tax on Certain Motor Vehicles Not Otherwise Displaying Current License Plates

ISSUE:

Board authorization of a public hearing on an ordinance to amend Chapter 4 of the Fairfax County Code to impose a \$100 annual license tax on certain vehicles that do not display current Virginia license plates and that should display such license plates. This is a revenue enhancement initiative that stems from the FY 2010 Lines of Business review.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors authorize advertisement of the public hearing.

TIMING:

Board action is requested on March 9, 2009, to provide sufficient time to advertise the proposed hearing on March 30, 2009 at 2:30 p.m. If approved by the Board after the public hearing, these provisions will become effective July 1, 2009.

BACKGROUND:

As part of its Target program, the Department of Tax Administration ("DTA") investigates reports of vehicles that may not be in proper compliance with the registration requirements for personal property taxation. If a suspected vehicle is reported with Virginia license plates, this information is automatically matched against the Virginia Department of Motor Vehicle ("DMV") database, and an assessment is made as may be appropriate. If the vehicle has expired Virginia license plates, it is still subject to personal property taxation, but DTA has no enforcement authority to require the display of a current Virginia license plate.

For out-of-state license plates reported to DTA, staff must manually research these accounts to determine the appropriate tax liability. If DTA determines that a car with out-of-state plates is normally "garaged, docked or parked" in Fairfax County, an assessment is made for the appropriate liability period pursuant to Virginia Code §§ 58.1-3519 and 58.1-3903. But again, DTA has no enforcement authority to require the display of current Virginia license plates. In other words, DTA may determine that a vehicle with out-of-state license plates is in fact subject to County personal property laws because the vehicle has taxable situs within the County. At the same time, the vehicle may still display a current license plate from another state. DTA has experienced many cases where a person is assessed

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and pays the local personal property tax on a vehicle with out-of-state plates based on the situs of the vehicle, but the owner does not purchase and display current Virginia plates. As a result, citizens making reports to DTA often assume the County has taken no action.

While DTA has no license plate enforcement authority, a section of Virginia law does allow the County to impose a license tax of \$100 per year until such time as the vehicle owner obtains and displays current Virginia license plates on the vehicle. DTA can assess and collect this tax, along with the normal personal property tax.

Specifically, Virginia Code § 15.2-973 provides that “any locality may adopt an ordinance imposing a license tax, in an amount not exceeding \$100 annually, upon the owners of motor vehicles which do not display current license plates” and which are not otherwise exempted by statute. While the proposed ordinance applies to both in-state and out-of-state vehicles, practically this should provide an incentive for those with out-of-state plates to properly register their vehicles with the Virginia DMV upon local taxation. Arlington County adopted a similar tax in 2008.

Statutory exemptions are specified in the proposed ordinance. These typically pertain to certain farm equipment that is not prevalent in the County. State law also exempts from this tax vehicles that are in public dumps or “automobile graveyards;” vehicles in the possession of licensed junk dealers or licensed motor vehicle dealers; vehicles which are stored on private property for a period not in excess of 60 days for the purpose of removing parts for the repair of another vehicle; any vehicle regularly stored within a structure; vehicles being held or stored by or at the direction of any governmental authority; and, consistent with Virginia law, the proposed ordinance will not be applicable to any vehicle owned by a member of the armed forces on active duty. Finally, under Virginia law, new residents with vehicles licensed in another state have thirty days to register with the Virginia Department of Motor Vehicles and obtain Virginia license plates. Such vehicles are temporarily exempt from the license tax under the proposed ordinance during that thirty-day grace period.

If adopted, the proposed ordinance shall become effective on July 1, 2009. DTA will assess and collect the \$100 fee authorized by this initiative, and revenue received will be available to the General Fund. The license plate tax will be billed to applicable vehicle owners along with the local personal property tax.

FISCAL IMPACT:

The proposed ordinance sets the annual license tax at the state authorized maximum of \$100. Most of these cases already entail manual research, and the various exemptions are expected to keep the number of vehicles subject to this tax relatively low. DTA currently assesses personal property taxes on approximately 2,400 vehicles per year that also display out-of-state license plates. Data is not available on how many Virginia registered vehicles are not otherwise displaying current license plates. Based on the lack of data, and to be conservative given the exemptions, it has been assumed that no more than 10% of

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the out-of-state vehicles might actually be subject to the proposed license plate tax. Accordingly, a revenue increase of \$24,000 has already been factored into the FY 2010 Advertised Budget Plan. The revenue stream will be monitored during FY 2010 in order to make any adjustments that might be necessary based on actual experience with this tax.

ENCLOSED DOCUMENTS:

Attachment 1: Proposed Ordinance to Adopt Article 17.3 to Impose an Annual License Tax of \$100 on Vehicles Not Otherwise Displaying Current Virginia License Plates

STAFF:

Edward L. Long, Jr., Deputy County Executive
Kevin C. Greenlief, Director, Department of Tax Administration
Michael Long, Senior Assistant County Attorney

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ADMINISTRATIVE – 7

Authorization to Advertise a Public Hearing to Consider Amending Section 4-17.1-9, Chapter 4, of the Fairfax County Code Concerning Late Payment Penalties for Delinquent Personal Property Taxes

ISSUE:

Board authorization to advertise a public hearing to consider amending Chapter 4 of the Fairfax County Code in order to increase late payment penalties on personal property taxes from 10% to 25% when delinquencies are more than 30 days past due. This is a revenue enhancement initiative that stems from the FY 2010 Lines of Business review.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors authorize advertisement of the public hearing.

TIMING:

Board action is requested on March 9, 2009, to provide sufficient time to advertise the proposed hearing on March 30, 2009, at 2:30 p.m. If approved by the Board after the public hearing, these provisions will become effective July 1, 2009.

BACKGROUND:

The Department of Tax Administration (DTA) mails personal property tax bills to citizens more than 30 days in advance of the payment due date. If the property was not originally registered with the County on time, the initial tax bill also includes a *late filing penalty* of 10% (§ 4-17.1-7(A), Chapter 4, Fairfax County Code). Under Virginia Code, § 58.1-3916, once a late filing penalty is assessed, it “. . . shall become a part of the tax.”

Based on Virginia law, and § 4-17.1-9(A), Chapter 4, of the Fairfax County Code, payments received or postmarked after the due date are assessed a *late payment penalty* of 10% on the amount of the delinquent tax and late filing penalty, if any. The original tax bill mailed prior to the due date warns citizens of the late payment penalties and other consequences of non-payment. This is done to help citizens avoid the added costs and to ensure timely payment.

However, Virginia Code, § 58.1-3916 allows localities to charge a higher late payment penalty when certain delinquencies are more than 30 days past due: “in the case of delinquent tangible personal property tax more than 30 days past due, 25 percent of the tax due on such tangible personal property” can be charged. If the proposed ordinance is adopted, the original bill will warn of a 10% late penalty if the tax is not paid by the due date and will warn that the penalty will increase to 25% if paid more than 30 days late.

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Following the original tax bill, a delinquent personal property bill is mailed to citizens once a delinquency occurs. The delinquent bill shows the original liability, plus a 10% late payment penalty. Under the proposed ordinance, the first delinquent personal property bill will give citizens another chance to avoid the higher penalty of 25%, as long as they promptly pay the delinquency.

The increased penalty for late payment is solely applicable to personal property taxes (vehicles and business personal property). If adopted, this code change would take effect as of July 1, 2009. Citizens with any personal property delinquencies that are still outstanding as of June 1, 2009, will be sent a delinquent tax bill at that time, giving them 30 days to make payment and warning them of the increased penalty provision about to go into effect. The late payment penalty for any applicable delinquencies that remain unpaid after July 1, 2009, will subsequently be increased to 25%.

It should be noted that in accordance with Virginia law, DTA has the authority to waive late filing penalties and/or late payment penalties if the failure to file or pay on time was due to no fault of the taxpayer or if it was due to some fault on the part of the County.

FISCAL IMPACT:

While the County has an excellent personal property collection rate of approximately 97%, roughly 88,000 personal property tax bills are paid late each year. Accordingly, staff estimates that increasing the late payment penalty to 25% for extended delinquencies could generate approximately \$1.5 million in additional annual revenue. Whereas the increased penalty might encourage some citizens to pay earlier, late payment trends are reasonably constant. This revenue has already been factored into the FY 2010 Advertised Budget Plan. The revenue stream will be monitored during FY 2010 in order to make any adjustments that might be necessary based on any changes in historical payment patterns.

ENCLOSED DOCUMENTS:

Attachment 1: Proposed Ordinance Amendment to Section 4-17.1-9(A), Chapter 4, of the Fairfax County Code, Increasing the Late Payment Penalty for Extended Personal Property Delinquencies

STAFF:

Edward L. Long, Jr., Deputy County Executive
Kevin C. Greenlief, Director, Department of Tax Administration
Michael Long, Senior Assistant County Attorney

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ADMINISTRATIVE - 8

Authorization to Advertise a Public Hearing to Consider to Amending Section 82-1-32, of the Fairfax County Code, to Increase Fines for Parking Violations

ISSUE:

Board authorization of a public hearing on an ordinance to revise Fairfax County Code Section 82-1-32 to increase the fines for parking violations and to make other administrative changes to delete obsolete language and to simplify administration. This is a revenue enhancement initiative that stems from the FY 2010 Lines of Business review.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors authorize advertisement of the public hearing.

TIMING:

Board action is requested on March 9, 2009, to provide sufficient time to advertise the proposed hearing on March 30, 2009 at 2:30 p.m. If approved by the Board after the public hearing, these provisions will become effective July 1, 2009.

BACKGROUND:

In conducting the recent Lines of Business review, the Board requested that staff consider proposing increases in the present fines for parking violations. Except for accessible parking violations that are \$500 for each violation, the County Code now imposes fines for parking violations that range from \$20 for parking meter violations to \$40 for all other parking violations. Most of the parking meters are located near Metro stations. In addition, there is a late fee of \$25 that is imposed on persons who do not pay within fifteen days from the date of the issuance of the notice of the parking violation. The ordinance being proposed generally increases all parking fines to \$50 for each violation.

The ordinance also proposes to delete duplicative and obsolete language, to better define the notice given to violators, and to establish a twenty-one day period in which a person issued a notice of a parking violation either may pay the ticket or advise the County that he or she wants to appeal the notice of violation to the appropriate court. The late fee would remain at \$25, but language is added to clarify that the late fee may

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be waived when the delay was not the fault of the person who was issued the notice of violation.

Also, the Board inquired as to the maximum possible fine that could be imposed for parking violations. All parking offenses are classified by state law as traffic infractions, and the maximum penalty for traffic infractions is set by Virginia Code §§ 46.2-100 and 46.2-113. That maximum penalty for traffic infractions is \$250 per violation. However, while in theory the County could impose fines of up to \$250 for parking violations, there is a lower practical limit, because Virginia law gives persons the option of going to court to contest a parking offense. The Virginia Supreme Court has established a payment schedule of fines for such violations that generally calls for payment of a parking fine of \$20 and a court processing fee of \$51 for a total amount of \$71. Rule 3B:2(4) of the Rules of the Supreme Court of Virginia. The proposed increase to \$50 is an increase in the present County fine, but that newly-increased fine would remain low enough to encourage most violators to prepay parking tickets using the County's administrative procedure in lieu of pursuing a court appeal that would consume additional staff time and that may result in lower fines and overall County revenues.

FISCAL IMPACT:

If the proposed ordinance is adopted as proposed, staff estimates that the higher fines will generate additional revenues of \$590,000. This revenue has not been included in the FY 2010 Advertised Budget.

ENCLOSED DOCUMENTS:

Attachment 1: Draft Ordinance to Amend Fairfax County Code Section 82-1-32

STAFF:

Edward L. Long, Jr., Deputy County Executive
Kevin C. Greenlief, Director, Department of Tax Administration
David J. Ferris, Manager, Policy and Planning, Fairfax County Police Department
Michael Long, Senior Assistant County Attorney

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ADMINISTRATIVE - 9

Authorization to Advertise a Public Hearing to Consider Amending Chapter 8.1, of the Code of the County of Fairfax, Security Alarm Systems

ISSUE:

Authorization to advertise a public hearing to consider amending the Fairfax County Code by adopting amendments to Chapter 8.1 to increase the alarm registration fee and revise the false alarm violation fee scale. This is a revenue enhancement initiative that stems from the FY 2010 Lines of Business Review.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors authorize advertisement of the public hearing.

TIMING:

Board action is requested on March 9, 2009, to provide sufficient time to advertise the proposed hearing on March 30, 2009, at 2:30 p.m. If approved by the Board after the public hearing, these provisions will become effective July 1, 2009.

BACKGROUND:

As part of the County's Lines of Business process, the Police Department reviewed the possibility of increasing the alarm registration fee and revising the false alarm violation fee scale upward. Both actions would update fees for the first time since November 1998, and bring the County in line with fees assessed in other nearby jurisdictions. Additionally, raising the false alarm fees should act to reduce violations which will proportionally reduce police staff hours required to respond to false alarms. Officers' time can then be spent on more productive policing activities.

Alarm Registration Fee

The current registration fee for new alarm systems is \$10, per County Code Section 8.1-3-6 adopted in November 1998. Nearby jurisdictions require registration fees ranging from \$0 to \$50 (see table below); the proposed fee for Fairfax County would be \$25, well within that range.

Jurisdiction	Current Registration Fee (\$)	Renewal Fee (\$)	Notes
Arlington County	30	0	Commercial only
City of Alexandria	0	0	

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Jurisdiction	Current Registration Fee (\$)	Renewal Fee (\$)	Notes
Howard County	25	0	
Loudoun County	0	0	
Montgomery County	30	10	Renewal every two years
Prince Georges County	50	50	Commercial only; renewal every two years
Fairfax County (current)	10	0	
Fairfax County (proposed)	25	0	

False Alarm Violation Fee

Fairfax County currently applies a progressive fee scale for false alarms, ranging from \$0 for the first two alarms in a twelve-month period, up to \$500 for each false alarm occurrence after eight during the same period. Rigorous tracking and enforcement of these violations by the Police Department's False Alarm Reduction Unit (FARU) has greatly reduced false alarms by almost 60% annually since 2001. It is expected that increasing fees – especially for frequent offenders - should reduce violations even further.

The proposed fee scale shown below does not distinguish between residential and commercial alarm users. However, the most frequent violators tend to be commercial alarm users, and they would pay significantly higher fees. In FY 2008, 557 false alarms fell into the 10th or greater occurrence category, and all were operated by commercial users. Both Montgomery and Loudoun County current fee schedules (commercial alarm users) are included for comparison purposes.

False Alarm Occurrence	Montgomery County Fee - Commercial (\$)	Loudoun County Fee - Commercial (\$)	Fairfax County	
			Current Fee (\$)	Proposed Fee (\$)
1 – 2	0 - 25	0	0	0
3	50	100	50	100
4	75	200	100	150
5	100	300	150	200
6	150	400	200	250
7	200	500	250	300
8	250	600	300	350
9	300	700	500	500
10	400	800	500	600
11	500	900	500	700
12	600	1,000	500	800
13	700	1,250	500	900
14	800	1,500	500	1,000
15 – 19	1,000 – 3,000	1,750 – 3,500	500	1,500
20 – 24	4,000	4,000	500	2,000
25 and above	4,000	4,000	500	3,000

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FISCAL IMPACT:

Alarm Registration Fee

The County currently averages 6,000 new alarm registrations annually. The increase from \$10 to \$25 per registration would result in \$90,000 additional annual revenue.

False Alarm Violation Fee

In FY 2008, the County raised \$743,000 from the collection of false alarm fees for 4,211 violations. Using the same violation rate, the County would see an annual increase of \$632,700 under the proposed fee schedule.

It should be noted that this additional revenue has been included in the FY 2010 Advertised Budget Plan.

ENCLOSED DOCUMENTS:

Attachment 1 – Proposed Amendments to Chapter 8.1, Security Alarm Systems

STAFF:

Robert A. Stalzer, Deputy County Executive
Colonel David M. Rohrer, Chief of Police
Robert M. Ross, Assistant County Attorney

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ADMINISTRATIVE - 10

Authorization to Advertise a Public Hearing to Consider Amending the Fairfax County Code for Regulatory Services Dealing with Private Schools and Child Care, Onsite Sewage Disposal Systems, Well Water Supply Systems, Food Service Establishments, and Water Recreation Facilities

ISSUE:

Authorization to advertise a public hearing to consider amendment of Sections 30-2-7, 43.1-3-1, 43.1-3-5, 43.1-3-11, 43.1-5-1, 43.1-6-1, 43.1-7-1, 43.1-7-2, 68.1-1-6, 68.1-5-8, 68.1-9-1, 69.1-1-6, 69.1-1-7, 69.1-1-8, 69.1-1-18, 69.1-1-21, 70.1-1-4, 70.1-2-1, and 70.1-3-1 of the Fairfax County Code relating to fees charged for certain regulatory services provided by the Health Department. This is a revenue enhancement initiative that stems from the FY 2010 Lines of Business Review.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors authorize advertisement of the public hearing.

TIMING:

Board action is requested on March 9, 2009, to provide sufficient time to advertise the proposed hearing on March 30, 2009, at 3:00 p.m. If approved, the provisions of these amendments will become effective July 1, 2009.

BACKGROUND:

The County imposes fees on certain services provided by the Health Department. The current fees have not been increased since 2003. After review and study of existing fees, staff has prepared amendments to Sections 30-2-7, 43.1-3-1, 43.1-3-5, 43.1-3-11, 43.1-5-1, 43.1-6-1, 43.1-7-1, 43.1-7-2, 68.1-1-6, 68.1-5-8, 68.1-9-1, 69.1-1-6, 69.1-1-7, 69.1-1-8, 69.1-1-18, 69.1-1-21, 70.1-1-4, 70.1-2-1, and 70.1-3-1 of the Fairfax County Code relating to fees charged for certain regulatory services provided by the Health Department.

These amendments seek to achieve the goal of providing partial cost recovery for regulating well water supply systems, onsite sewage disposal systems, and public establishments including food service establishments and water recreation facilities. The recommended fee increases are comparable to fees charged by neighboring jurisdictions for similar services.

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While the County Executive recommends adoption of the entire range of fee increases, the Board could approve the fee increases individually or could remove individual fee increases from the total package of recommended changes.

Fee Description	Current Amount-Fee	Proposed Increase Fee
Private School and Daycare Facilities – New	\$175.00	\$220.00
Private School and Daycare Facilities – New - 1 Jan - 31 Mar	\$131.25	\$165.00
Private School and Daycare Facilities – New - 1 Apr - 30 Jun	\$87.50	\$110.00
Private School and Daycare Facilities – New - 1 Jul - 30 Sep	\$43.75	\$55.00
Private School and Daycare Facilities - Renewal	\$150.00	\$190.00
Private School and Daycare Facilities – Late Renewal After September 30	\$50.00	\$65.00
Sewage Disposal Contractor – New	\$60.00	\$150.00
Sewage Disposal Contractor – Renewal	\$45.00	\$150.00
Sewage Disposal Contractor - Late Renewal Fee after 31 Jan	\$65.00	\$200.00
Sewage Disposal System - New Application	\$150.00	\$200.00
Sewage Disposal System – Expansion	\$90.00	\$125.00
Sewage Disposal System - Re-evaluation	\$95.00	\$130.00
Sewage Handlers - First Truck – Renewal	\$565.00	\$710.00
Sewage Handlers - Each Additional Truck - Renewal	\$285.00	\$360.00
Sewage Handlers - First Truck - Late Renewal after 31 Jan	\$690.00	\$865.00
Sewage Handlers - Each Additional Truck-Late Renewal after 31 Jan	\$440.00	\$550.00
Sewage Handlers - First Truck - New - (1 Jan - 31 Mar)	\$565.00	\$710.00
Sewage Handlers - Each Additional Truck - New - (1 Jan - 31 Mar)	\$285.00	\$360.00
Sewage Handlers - First Truck - New - (1 Apr - 30 Jun)	\$423.75	\$530.00
Sewage Handlers - Each Additional Truck - New - (1 Apr - 30 Jun)	\$213.75	\$270.00
Sewage Handlers - First Truck - New - (1 Jul - 30 Sep)	\$282.00	\$355.00
Sewage Handlers - Each Additional Truck - New - (1 Jul - 30 Sep)	\$142.50	\$180.00
Sewage Handlers - First Truck - New - (1 Oct - 31 Dec)	\$141.25	\$180.00
Sewage Handlers - Each Additional Truck - New - (1 Oct - 31 Dec)	\$71.25	\$90.00
Water Well System – New Application	\$175.00	\$200.00
Water Well Contractor	\$150.00	\$150.00
Water Well Contractor - Late Renewal Fee after 31 Jan	\$200.00	\$200.00
Water Well Routine Water Sample Evaluation and Analysis	\$20.00	\$25.00
Water Recreation Facilities - Seasonal Pool 0 - 2,000 Ft ²	\$230.00	\$290.00
Water Recreation Facilities - Seasonal Pool 2,001 - 10,000 Ft ²	\$288.00	\$360.00
Water Recreation Facilities - Seasonal Pool > 10,000 Ft ²	\$345.00	\$430.00
Water Recreation Facilities – Year-Round Pool 0 - 2,000 Ft ²	\$288.00	\$360.00
Water Recreation Facilities – Year-Round Pool 2,001 - 10,000 Ft ²	\$345.00	\$430.00
Water Recreation Facilities – Year-Round Pool > 10,000 Ft ²	\$403.00	\$505.00
Each Additional Pool In A Multi-Pool Facility	\$173.00	\$220.00
Each Therapeutic Or Spa Pool	\$52.00	\$65.00

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Therapeutic Or Spa Pool Only	\$230.00	\$285.00
Water Park	\$690.00	\$865.00
Interactive Water Feature 0 - 2,000 Ft ²	\$200.00	\$250.00
Interactive Water Feature 2,001 - 10,000 Ft ²	\$250.00	\$315.00
Interactive Water Feature > 10,000 Ft ²	\$300.00	\$375.00
Portable Toilet – New	\$60.00	\$75.00
Portable Toilet – Renewal	\$45.00	\$60.00
Portable Toilet - Late Renewal Fee after 31 Jan	\$65.00	\$85.00
Plan Review - Site Development	\$65.00	\$85.00
Plan Review - Building Permit	\$50.00	\$75.00
Plan Review - Public Establishments	\$200.00	\$250.00
Plan Review – Alternative Sewage Systems	\$150.00	\$200.00
Plan Review – Alternative Discharge Sewage Disposal Systems	\$150.00	\$200.00
Sewer and Water Evaluations	\$200.00	\$250.00
Inspection – Re-inspection Fee	\$0.00	\$100.00
Inspection - Preliminary Fee	\$0.00	\$100.00
Plan Review - Re-review Fee	\$0.00	\$50.00
Plan Review - Subdivision per Lot	\$0.00	\$50.00
License - Soil Consultant	\$0.00	\$150.00
Re-Instatement of Permit	\$0.00	\$200.00
Food Safety Workshop Fee	\$0.00	\$25.00
Food Service Establishment Application, Renewal after December 31	\$110.00	\$150.00

FISCAL IMPACT:

The proposed fee increases will generate a projected \$301,000 in FY 2010. This revenue has been included in the FY 2010 Advertised Budget.

ENCLOSED DOCUMENTS:

Attachment 1 - Proposed amendments to Sections 30-2-7, 43.1-3-1, 43.1-3-5, 43.1-3-11, 43.1-5-1, 43.1-6-1, 43.1-7-1, 43.1-7-2, 68.1-1-6, 68.1-5-8, 68.1-9-1, 69.1-1-6, 69.1-1.7, 69.1-1-8, 69.1-1-18, 69.1-1-21, 70.1-1-4, 70.1-2-1, and 70.1-3-1 of the Fairfax County Code

STAFF:

Verdia L. Haywood, Deputy County Executive
Gloria Addo-Ayensu, MD, MPH, Director of Health
Thomas Crow, Director, Division of Environmental Health
Corinne N. Lockett, Assistant County Attorney

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ADMINISTRATIVE - 11

Authorization to Advertise Publication of the FY 2010 Budget and Required Tax Rates

ISSUE:

Board authorization to advertise the FY 2010 County budget and the tax rates that are proposed to support the FY 2010 budget. Advertising these rates will not prevent the Board from lowering any advertised tax rate, but higher tax rates could not be imposed without advertising such rates.

RECOMMENDATION:

The County Executive recommends that the Board authorize advertisement of a brief synopsis of the FY 2010 Budget and a real estate tax rate for FY 2010 of \$1.07 per \$100 of assessed value. The County Executive's proposed budget is balanced based on the inclusion of a real estate tax rate of \$1.04 per \$100 of assessed value. Advertising a real estate tax rate of \$1.07 per \$100 of assessed value gives the Board of Supervisors the opportunity to react to the ever-changing and worsening economic outlook for the nation and the region. Advertising an increase in the rate does not prevent the Board from lowering any advertised tax rate, but a higher tax rate can not be imposed without advertising the higher rate.

It should be noted that the County Executive's proposed budget includes an increase of \$0.13 per \$100 of assessed value for the real estate tax rate. This amount is required to balance the FY 2010 budget as proposed. Since one penny of the FY 2009 rate of \$0.92 per \$100 of assessed value was dedicated to support stormwater management activities, the tax rate basis for all County activities absent the stormwater management program was \$0.91 per \$100 of assessed value. Therefore, a real estate tax rate of \$1.04 per \$100 of assessed value is recommended. This rate will generate \$267.1 million in additional revenue with a real estate penny valued at \$20.54 million. As a result, the average tax per household would decrease \$55.24 from its FY 2009 tax payment level.

In addition, the FY 2010 Proposed Budget recommends the implementation of a Stormwater Service District with a service district tax rate of \$0.015 per \$100 of assessed value, which combines the existing penny dedicated to stormwater management and an additional one half cent on the rate to support increases based on operating and construction requirements. The new service district is proposed to support the stormwater management program, as authorized by Virginia Code Section 15.2-2403. The proposed FY 2010 levy is \$0.015 per \$100 of assessed real estate value, an amount that will support both staff operating requirements and stormwater capital projects. Since FY 2006, the Board of Supervisors had dedicated the value of one penny of the real estate tax, or approximately \$20 million annually to stormwater capital projects. In FY 2009, due to budget constraints, staff and operating costs were charged to the stormwater penny fund, resulting in approximately \$15 million

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remaining for capital project support. The proposed levy of \$0.015 per \$100 assessed value will provide approximately \$18 to \$20 million in a typical budget year for program implementation of capital projects, an amount roughly equal to the value of the original dedicated penny. The remaining funding from the service district fee will support the staff and operations costs. The proposed effective date of the service district and tax rate is July 1, 2009. Therefore, during the service district's first year, taxpayers will be billed for the second half of calendar year 2009, generating approximately \$15 million for both operating and project support in FY 2010. It is estimated that beginning in FY 2011, the service district will be fully supported by a projected \$30 million annually, enabling much needed capital projects to move forward. A separate item regarding this Stormwater Management Program Service District levy is included in today's Board package.

At the \$1.04 per \$100 of assessed value real estate tax rate and combined with the new Stormwater Management Service District tax rate of \$0.015 per \$100 of assessed value, the average taxes paid per household in FY 2010 will reflect a slight increase of \$2.16 or \$13.64 with the full year of the district in FY 2011. It also should be noted that a real estate tax rate of \$1.07 per \$100 of assessed value combined with the new Stormwater Management Service District tax rate of \$0.015 per \$100 of assessed value, the average taxes paid per household in FY 2010 will reflect an increase of \$139.93 or \$151.41 with the full year of the district in FY 2011.

The Board should be aware that based on the assessed value of existing property there is no effective tax rate increase. Therefore in FY 2010 based on current assessments, a separate advertisement noting the effective tax rate is not required. As the Board will recall, a separate advertisement for the effective tax rate increase was not required from FY 1991 – FY 1998 and in FY 2009 since the growth in property value was less than one percent. However, the growth in value exceeded one percent from FY 1999 through FY 2008 and separate advertisements for the effective tax rate increase were required during those years.

In addition, the County Executive recommends that the Board authorize advertisement of a public hearing on the Advertised Capital Improvement Program for Fiscal Years 2010 - 2014 (With Future Fiscal Years to 2019).

Also included in the brief synopsis of the FY 2010 budget advertisement is information as it relates to the Personal Property Tax Relief Act (PPTRA) and the percentage of state "Car Tax" subsidy on qualifying personal property tax levy. On November 21, 2005, as part of Action Item 3, the Board of Supervisors adopted a resolution to implement the state "Car Tax" changes found in the Executive Amendments to the 2004 – 2006 Biennial Budget, specifically state Budget Item 503(E) of the Central Appropriations Act, in accordance with the requirements set forth in Virginia Code Sections 58.1-3524(C)(2) and 58.1-3912(E), as amended by Chapter 1 of the Acts of Assembly (2004 Special Session 1) and as set forth in Item 503(E)(Personal Property Tax Relief Program) of Chapter 951 of the 2005 Acts of Assembly.

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Beginning in tax year 2006, the state "Car Tax" subsidy on qualifying vehicles was "capped" to a statewide total of \$950 million. Based on the final report from the state Auditor of Public Accounts, dated February 2006, Fairfax County's share of this \$950 million was fixed at 22.2436%, or \$211,313,944.16. The annual subsidy is frozen at this amount and is factored into the FY 2010 Advertised Budget Plan.

Consistent with the November 21, 2005, Board resolution, the state "Car Tax" funding is estimated to provide a 100% subsidy of the levy for tax year 2008 for qualifying vehicles valued at \$1,000 or less. Furthermore, the state "Car Tax" funding is estimated to provide a 70% subsidy of the tax year 2009 levy for all other qualifying vehicles on the value up to \$20,000.

It should be noted that included in the draft tax resolution to be advertised are the following recommendations regarding rates for FY 2010:

The following rate is included for the first time:

- ✓ Stormwater Management Program Service District Levy at \$0.015/\$100 assessed value

The following rates are not recommended to change:

- ✓ Reston Community Center at \$0.047/\$100 assessed value;
- ✓ Burgundy Village Community Center at \$0.02/\$100 assessed value;
- ✓ Special service district for pest infestations at \$0.0010/\$100 assessed value.
- ✓ Leaf Collection Districts at \$0.015/\$100 assessed value;
- ✓ Refuse Collection Services assessment at \$345 per household unit.
- ✓ Route 28 Taxing District Levy at \$0.20/\$100 assessed value; and
- ✓ Rail to Dulles Phase I Transportation Improvement District Levy at \$0.22/\$100 assessed value.
- ✓ Commercial and Industrial Real Estate Tax for Transportation at \$0.11/\$100 assessed value;
- ✓ EMS Transport Fee: (1) a service fee of \$400 for Basic Life Support transport (BLS), (2) \$500 for Advanced Life Support, level 1 transport (ALS1), (3) \$675 for Advanced Life Support, level 2 transport (ALS2), and (4) \$10.00 per mile for ground transport mileage.

The following rates are recommended to increase:

- ✓ I-95 Landfill ash disposal fee from \$11.50 per ton to \$13.50 per ton

The following rates are recommended to decrease:

- ✓ McLean Community Center from \$0.026/\$100 assessed value to \$0.024/\$100 assessed value;
- ✓ Energy Resource Recovery Facility fee from \$32 per ton to \$31 per ton.

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Public hearings on the FY 2010 budget, the advertised capital improvement plan (CIP) and proposed tax rates for tax year 2009 will be held on March 30, March 31, and April 1, 2009. It should be noted that if the number of individuals wishing to speak warrants additional time, than the public hearings could be extended by recessing the Board meeting on April 1 to another date and time or by adding new public hearing dates.

Please note that a separate item recommending Board authorization to advertise public hearings for sewer rate revision notices was included in the February 23, 2009 Board package. The sewer rate revision notices authorize the increase in the Sewer Service Charges from \$4.10 to \$4.50 per 1,000 gallons of water consumption, and the Sewer Availability Fees from \$6,896 to \$7,310 per new home being constructed, to become effective July 1, 2009. In addition, a new base charge to sewer billings is included in FY 2010 to recover billing costs for the Wastewater Management Program. The base charge will be billed quarterly in the amount of \$5.00 per bill totaling \$20.00 per year. The combined effect of the sewer service charge as well as the new base charge equate to an increase of 16.2 percent in rates and will result in an anticipated increase in the annual cost to the typical household of \$50.40. Please note that Sewer service charge rates are increasing as debt and capital expenses rise in anticipation of construction of additional treatment facilities to meet more stringent nitrogen removal requirements imposed by the State as a result of "Chesapeake 2000" Agreement. New Chesapeake Bay water quality program requirements include reductions in the amount of nutrient pollutants discharged from wastewater treatment facilities. In December 2004, the state notified the County that the renewal of County's National Pollutant Discharge Elimination System (NPDES) permit will include a requirement that nutrient removal be performed at the "Limits of Technology." Current technology allows for discharge limits of less than 3.0 milligrams per liter of nitrogen and 0.1 milligrams per liter for phosphorus. The County currently has the capability to meet a nitrogen removal standard of 6.0 milligrams per liter. A phased approach has been recommended to renovate and upgrade current plant facilities to accommodate these more stringent nutrient discharge requirements. Due to the significant level of requirements, it is anticipated that projects will be financed on an as-needed basis. These rate increases are consistent with the recommendations of the Department of Public Works and Environmental Services and the analysis included in the February 2009 Wastewater Revenue Sufficiency and Rate Analysis. A separate public hearing on sewer rate revisions will be held on Monday, March 30, 2009.

Finally, the Board of Supervisors should be aware that the *FY 2009 Third Quarter Review* was also forwarded to the Board for advertisement in today's package. Public hearings on the Third Quarter Review will be held on March 30, March 31 and April 1, 2009 in conjunction with the FY 2010 Budget, CIP and proposed tax rates for FY 2010.

TIMING:

Action must be taken on March 9, 2009, in order to provide adequate time to include the tax rate advertisements in the newspapers no later than the week ending March 20, 2009 to meet advertising legal requirements and ensure as broad a circulation as possible.

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BACKGROUND:

Virginia Code Section 15.2-2506 specifies the time frame within which the advertisements must be published. That section requires the publication of a brief synopsis of the budget at least seven days prior to the date set for public hearing.

Therefore, this item requests Board authorization to advertise the following items, during the weeks ending March 13 and 20, 2009.

- A brief synopsis of the FY 2010 Budget , including information as it relates to the impact of the Personal Property Tax Relief Act (PPTRA) on the percentage of state “Car Tax” subsidy on qualifying personal property tax levy
- Proposed Tax Rates for tax year 2009
- Notice of public hearings on the Advertised Capital Improvement Program for Fiscal Years 2010 - 2014 (With Future Fiscal Years to 2019)

In order to meet these legal requirements and hold to the scheduled public hearing dates, the advertisements must be approved no later than March 9, 2009. This will permit the County to adhere to the following budget schedule:

- Public Hearings on the FY 2010 Budget, the Advertised Capital Improvement Program for Fiscal Years 2010 - 2014 (With Future Fiscal Years to 2019) and proposed FY 2010 Tax Rates– March 30, at 7:00 p.m., March 31, at 3:00 p.m., and April 1, 2009 at 3:00 p.m.
- Public Hearings on the *FY 2009 Third Quarter Review* – March 30, at 7:00 p.m., March 31, at 3:00 p.m. and April 1, 2009, at 3:00 p.m.
- FY 2010 Budget Mark-up and Board Adoption of the *FY 2009 Third Quarter Review* - April 20, 2009, at 10:00 a.m.
- Board Adoption of Fiscal Plan, Tax Levies, and Appropriation Resolution – April 27, 2009, at 10:00 a.m.
- School transfer set (required by May 1 or 30 days after the State approves aid to schools).

In addition, it should be noted that during FY 2010 the allowable asset limits and income limits associated with the Real Estate Tax Relief Program for the Elderly and Disabled are maintained at the FY 2009 level. In FY 2010, the income limits of the Tax Relief program provide 100 percent exemption for elderly and disabled taxpayers with incomes up to \$52,000; 50 percent exemption for eligible applicants with income between \$52,001 and \$62,000; and 25 percent exemption if income is between \$62,001 and \$72,000. The allowable asset limit in FY 2010 is \$340,000 for all ranges of tax relief and that limit does not include the value of the residence of the applicant and one acre of land on which the

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residence is located. In addition, elderly and disabled tax relief benefits are eligible to be prorated based on the portion of the year an applicant is 65 or becomes disabled.

FISCAL IMPACT:

None, as this item authorizes a public hearing.

ENCLOSED DOCUMENTS:

Attachment I - Brief Synopsis of the FY 2010 Budget

Attachment II - Draft Resolution Adopting Fairfax County Tax Rates for FY 2010

STAFF:

Anthony H. Griffin, County Executive

Edward L. Long, Jr., Deputy County Executive

Susan W. Datta, Director, Department of Management and Budget

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ADMINISTRATIVE - 12

Authorization to Advertise a Public Hearing to Amend the Current Appropriation Level in the FY 2009 Revised Budget Plan

ISSUE:

Board approval of an advertisement for a public hearing to increase the FY 2009 appropriation level. The advertisement encompasses both the County and the Schools' *FY 2009 Third Quarter Reviews*. Section 15.2-2507 of the Code of Virginia requires that a public hearing be held prior to Board action to amend the current appropriation level.

RECOMMENDATION:

The County Executive recommends that the Board authorize staff to publish the advertisement for a public hearing to be held on March 30, at 7:00 pm and March 31 and April 1, 2009 at 3:00 p.m.

TIMING:

Board action is requested on March 9, 2009 to provide sufficient time to advertise the proposed public hearing on March 30, at 7:00 pm and March 31 and April 1, 2009 at 3:00 p.m.

BACKGROUND:

As the *FY 2009 Third Quarter Review* includes potential increases in appropriation greater than \$500,000, a public hearing is required prior to Board action. In addition, the Code of Virginia requires that a synopsis of proposed changes be included in the advertisement. Copies of these documents are being made available for citizen review at governmental centers, libraries, the Government Center, and on the County's Internet website.

The School Board funding adjustments included in the advertisement are based on staff's Third Quarter recommendations to the School Board, which is scheduled to take action on them on March 19, 2009. Should the School Board's final actions result in any changes to the funding adjustments shown in this advertisement, a separate advertisement and public hearing will have to be held.

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FISCAL IMPACT:

The enclosed documents describe the fiscal impact of FY 2009 Third Quarter adjustments.

ENCLOSED DOCUMENTS:

Attachment A - Proposed advertisement for public hearing
Attachment B - Memorandum to the Board of Supervisors dated March 9, 2009 from Anthony H. Griffin, County Executive, with attachments, transmitting the County's *FY 2009 Third Quarter Review* with appropriate resolutions and the Fairfax County Public Schools staff's recommendations on the *FY 2009 Third Quarter Review*. A memorandum transmitting final recommendations on the School Board's *FY 2009 Third Quarter Review* will be distributed separately to the Board.
(Attachments A&B to be distributed under separate cover)

STAFF:

Anthony H. Griffin, County Executive
Edward L. Long, Jr., Deputy County Executive
Susan W. Datta, Director, Department of Management and Budget

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ADMINISTRATIVE - 13

Authorization to Advertise a Public Hearing on the Proposed Consolidated Plan One-Year Action Plan for FY 2010

ISSUE:

Board of Supervisors' authorization to advertise a public hearing on the *Proposed Consolidated Plan One-Year Action Plan for FY 2010* as forwarded by the Consolidated Community Funding Advisory Committee (CCFAC).

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors authorize the advertisement of a public hearing on the Proposed Consolidated Plan One-Year Action Plan for FY 2010. The public will have an opportunity to comment on the proposed use of funds in accordance with United States Department of Housing and Urban Development (HUD) regulations and guidelines. Citizens may also comment on housing and community service needs in Fairfax County.

TIMING:

Board action is requested on March 9, 2009, to provide sufficient time to advertise the proposed hearing on March 30, 2009, at 4:30 p.m. and in order to proceed in a timely manner with required public notification and to maintain the schedule for the Consolidated Plan process.

BACKGROUND:

A *Proposed Consolidated Plan One-Year Action Plan for FY 2010* (Attachment 1) was prepared, which presents the proposed uses of funding for programs implemented through the Five Year Consolidated Plan for FY 2006-2010. These programs include: Community Development Block Grant (CDBG), HOME Investment Partnerships Program (HOME), Emergency Shelter Grants (ESG), and Housing Opportunities for Persons with AIDS (HOPWA). The *Proposed Consolidated Plan One-Year Action Plan for FY 2010* is for the fifth year of the Five Year Consolidated Plan for FY 2006-2010. The *Proposed Consolidated Plan One-Year Action Plan for FY 2010* includes the second year of the two-year (FY 2009-2010) funding cycle for the Consolidated Community Funding Pool (CCFP). Although the CCFP FY 2010 funding awards will be made by the Board in April 2009, the awards are subject to annual appropriations, and approval of the annual Action Plan which is required by HUD.

In FY 2009, the County will receive \$2,807,300 in Neighborhood Stabilization Program

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(NSP) Funding. The NSP is a new federal program to provide emergency assistance funds for redevelopment of abandoned and foreclosed homes and residential properties. This is to be considered a one-time allocation from HUD. NSP funds will be committed to eligible projects in FY 2009-FY 2010.

Funding allocations under the *Proposed Consolidated Plan One-Year Action Plan for FY 2010* have been reviewed by the FCRHA and the CCFAC-FCRHA Working Advisory Group (WAG). The WAG is a group established to strengthen coordination between the FCRHA and the CCFAC in the proposed use of funds and this year's was composed of six members: two appointed by the FCRHA Chairman, three appointed by the CCFAC Chairman, and one who serves on both the FCRHA and the CCFAC. Recommendations from the WAG were forwarded to the CCFAC as were recommendations from the FCRHA. The final recommendations contained in the *Proposed Consolidated Plan One-Year Action Plan for FY 2010* are consistent with what the WAG and the FCRHA recommended.

The *Proposed Consolidated Plan One-Year Action Plan for FY 2010* will be released by the CCFAC following this Board action to allow for a 30-day public comment period, and will also be the subject of the public hearing by the Board on March 30, 2009, as authorized by this item. Following the public hearing and the conclusion of the public comment period, the CCFAC will make any revisions and forward its recommendations to the Board for action in April 2009 to approve the One-Year Action Plan for FY 2010. The One-Year Action Plan for FY 2010 will include the funding allocations to the CCFP. The CCFP awards are based on the recommendations from the Selection Advisory Committee appointed to review the proposals received through the CCFP Request for Proposal process for FY 2009-2010.

The Fairfax County Citizen Participation Plan and HUD regulations require advertisement of the public hearing (Attachment 2) prior to the date of the Board meeting. The notice will include sufficient information about the purpose of the public hearing to permit informed comment from citizens. Upon approval of the Board, a public hearing on the *Proposed Consolidated Plan One-Year Action Plan for FY 2010* will be scheduled for Monday, March 30, 2009 at 4:30 p.m. An advertisement will appear in newspaper(s) of general circulation and minority non-English speaking publications at least 15 days prior to the date of the public hearing, and will be included in the Weekly Agenda, as well as in information released by the Fairfax County Office of Public Affairs.

FISCAL IMPACT:

Funds identified in the *Proposed Consolidated Plan One-Year Action Plan for FY 2010* include CDBG (\$5,928,982 entitlement and \$310,071 estimated program income), Neighborhood Stabilization Program (\$2,807,300), HOME (\$2,448,682 entitlement and \$52,211 estimated program income), ESG (\$265,518), and HOPWA (\$180,000) funds.

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ENCLOSED DOCUMENTS:

Attachment 1: Proposed Consolidated Plan One-Year Action Plan for FY 2010

Attachment 2: Public Hearing Advertisement

STAFF:

Verdia L. Haywood, Deputy County Executive

Paula C. Sampson, Director, Department of Housing and Community Development (HCD)

John Payne, Deputy Director, Real Estate and Development, HCD

Aseem K. Nigam, Director, REF&GM Division, HCD

Audrey Spencer-Horsley, Associate Director, Grants Management, HCD

Douglass Lynott, Senior Program Manager, Grants Management, HCD

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ADMINISTRATIVE - 14

Authorization for the Department of Family Services, Office for Children to Apply for and Accept Grant Funding from Child Development Resources, Inc. for the Virginia Infant and Toddler Specialist Network Regional Office Sub-Contract

ISSUE:

Board approval for the Department of Family Services, Office for Children (OFC) to apply for and accept funding, if received, from Child Development Resources (CDR), Inc. for the Virginia Infant and Toddler Specialist Network Regional Office Sub-contract in the amount of \$234,600 (\$46,920 from the date of award through June 30, 2009 and \$187,680 from July 1, 2009 through June 30, 2010). Funding in the amount of \$234,600 will provide financial assistance to establish a Virginia Infant and Toddler Specialist Network office in the Northern 1 Region (encompassing Arlington County, Fairfax County, Loudoun County, City of Alexandria, City of Fairfax, and City of Falls Church). The County has received letters of support from these jurisdictions. No Local Cash Match or in-kind match will be required. The grant period is from the date of the award, approximately April 1, 2009, through June 30, 2010 (with two one-year optional renewals). If the actual award received is significantly different from the application amount, another item will be submitted to the Board requesting appropriation of grant funds. Otherwise, staff will process the award administratively as per Board policy.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors authorize the Department of Family Services, Office for Children to apply for and accept funding, if received, from CDR.

TIMING:

Due to a February 6, 2009 submission deadline, the application was submitted pending Board approval. If the Board does not approve this request, the application will be immediately withdrawn.

BACKGROUND:

On September 16, 2008, the Virginia Department of Social Services (VDSS) entered into a contract with CDR to establish and implement the Virginia Infant and Toddler Specialist (ITS) Network for the period of September 15, 2008 through June 30, 2010 (with two one-year optional renewals). The ITS Network is designed to utilize a

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centralized leadership framework for oversight, monitoring and evaluation, and a community-based collaborative approach for strengthening the capacity of early care and education programs to deliver high quality services. The goals of the ITS Network are to:

- Improve the quality of care and education that infants and toddlers receive while away from their primary caregiver;
- Increase the educational level and competencies of infant and toddler caregivers/teachers and directors;
- Promote community connections to increase awareness and use of available resources and services that support healthy, safe, and nurturing care for infants and toddlers; and
- Implement an effective, efficient, and accountable infant and toddler specialist system and increase its capacity to offer services.

CDR's contract is supported by the VDSS Grant #93.575, with federal funds targeted for infant and toddler child care initiatives made available to Virginia from the U. S. Department of Health and Human Services.

As part of the Northern 1 Region (encompassing Arlington County, Fairfax County, Loudoun County, City of Alexandria, City of Fairfax, and City of Falls Church) Infant and Toddler Specialist Network, the 2/2.0 SYE new grant child care specialists will provide training and professional development to center-based and family home early care and education programs to strengthen practices and enhance the healthy growth and development of infants and toddlers (birth to 36 months of age). The 1/0.5 SYE new grant administrative assistant will provide clerical support to the program.

FISCAL IMPACT:

Grant funding in the amount of \$234,600, \$46,920 for the period from the date of the award through June 30, 2009 and \$187,680 from July 1, 2009 through June 30, 2010, has been requested from CDR. These funds will support 3/2.5 SYE new grant positions. No Local Cash Match is required. This action does not increase the expenditure level in Fund 102, Federal/State Grant Fund, as funds are held in reserve for unanticipated grant awards in FY 2009. This grant does not allow the recovery of indirect costs.

CREATION OF NEW POSITIONS:

These funds will be used to support 3/2.5 SYE new grant positions. The County has no obligation to fund these positions when the grant period ends.

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ENCLOSED DOCUMENTS:

Attachment 1 – Grant Application, Excerpt

STAFF:

Verdia L. Haywood, Deputy County Executive

Nannette M. Bowler, Director, Department of Family Services

Anne-Marie Twohie, Acting Director, Office for Children, Department of Family Services

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ADMINISTRATIVE – 15

Extension of Review Periods for 2232 Review Applications (Braddock, Dranesville, Mount Vernon, Springfield, and Sully Districts)

ISSUE:

Extension of the review periods for specific 2232 Review applications to ensure compliance with the review requirements of *Section 15.2-2232* of the *Code of Virginia*.

RECOMMENDATION:

The County Executive recommends that the Board extend the review periods for the following applications: applications FS-S08-118, FS-D08-119, FS-B08-130, and FS-D08-132 to May 10, 2009; application FS-S08-128 to May 15, 2009; and applications 2232-S08-23, 2232-V08-24, and FS-Y08-129 to May 21, 2009.

TIMING:

Board action is required on March 9, 2009, to extend the review periods of the applications noted above before their expirations.

BACKGROUND:

Subsection B of *Section 15.2-2232* of the *Code of Virginia* states: "Failure of the commission to act within sixty days of a submission, unless the time is extended by the governing body, shall be deemed approval." Subsection F states: "Failure of the commission to act on any such application for a telecommunications facility under subsection A submitted on or after July 1, 1998, within ninety days of such submission shall be deemed approval of the application by the commission unless the governing body has authorized an extension of time for consideration or the applicant has agreed to an extension of time. The governing body may extend the time required for action by the local commission by no more than sixty additional days."

The Board should extend the review periods for applications 2232-S08-23, 2232-V08-24, FS-S08-118, FS-D08-119, FS-S08-128, FS-Y08-129, FS-B08-130, and FS-D08-132 listed below, which were accepted for review by the Department of Planning and Zoning between December 11, 2008, and December 22, 2008. These applications are for telecommunications facilities, and thus are subject to the State Code provision that the Board may extend the time required for the Planning Commission to act on these applications by no more than sixty additional days:

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- 2232-S08-23 Nextel Communications of the Mid-Atlantic, Inc.
52' replacement utility pole / monopole
Fairfax County Parkway and Burke Lake Road intersection
Springfield District
- 2232-V08-24 Nextel Communications of the Mid-Atlantic, Inc.
52' replacement utility pole / monopole
Fairfax County Parkway and Rolling Road interchange
Mount Vernon District
- FS-S08-118 T-Mobile Northeast LLC
Antenna colocation inside replacement steeple
6304 Lee Chapel Road
Springfield District
- FS-D08-119 T-Mobile Northeast LLC
Antenna colocation on existing treepole
1139 Walker Road
Dranesville District
- FS-S08-128 Cricket Communications
Antenna colocation on existing transmission pole
9220 Old Keene Mill Road
Springfield District
- FS-Y08-129 Cricket Communications
Antenna colocation on existing treepole
13224 Franklin Farm Road
Sully District
- FS-B08-130 T-Mobile Northeast LLC
Antenna colocation inside replacement steeple
5116 Twinbrook Road
Braddock District
- FS-D08-132 T-Mobile Northeast LLC
Antenna colocation inside replacement steeple
1545 Dranesville Road
Dranesville District

The need for the full time of these extensions may not be necessary, and is not intended to set a date for final action.

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FISCAL IMPACT:
None

ENCLOSED DOCUMENTS:
None

STAFF:
Robert A. Stalzer, Deputy County Executive
James P. Zook, Director, Department of Planning and Zoning
David B. Marshall, Planning Division, DPZ
David S. Jillson, Planning Division, DPZ

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ADMINISTRATIVE - 16

Additional Time to Commence Construction for Special Exception Amendment SEA 78-D-098-3, McLean Bible Church (Dranesville District)

ISSUE:

Board consideration of additional time to commence construction for SEA 78-D-098-3, pursuant to the provisions of Section 9-015 of the Zoning Ordinance.

RECOMMENDATION:

The County Executive recommends that the Board approve six months additional time for SEA 78-D-098-3 to August 4, 2009.

TIMING:

Routine.

BACKGROUND:

Under Section 9-015 of the Zoning Ordinance, if the use is not established or if construction is not commenced within the time period specified by the Board of Supervisors, an approved special exception shall automatically expire without notice, unless additional time is approved by the Board. A request for additional time must be filed with the Zoning Administrator prior to the expiration date of the special exception. The Board may approve additional time if it determines that the use is in accordance with the applicable provisions of the Zoning Ordinance and that approval of additional time is in the public interest.

On August 4, 2003, the Board of Supervisors approved Special Exception Amendment SEA 78-D-098-3, subject to development conditions. The special exception amendment application was filed in the name of McLean Bible Church to amend a previously approved special exception for a church with a child care center, with an enrollment of 150 children daily, and a Youth Recreation Center, with a maximum daily attendance of 300 children, and a recycling drop-off center, to permit an increase in land area, addition of a medical care facility which provides respite care and early intervention programs to children and young adults with special needs, parking, and to permit other site modifications for property identified as Tax Map Parcel 28-2 ((1)) 9, pursuant to Sections 3-104 and 3-204 of the Fairfax County Zoning Ordinance (See the Locator Map in Attachment 1). The SEA development conditions were in addition to the development conditions approved with SEA 78-D-098-2, which continue to govern the church and all

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portions of Tax Map Parcels 28-2 ((1)) 10 and 11, which were not included in the SEA 78-D-098-3. On August 4, 2003, the Board of Supervisors also approved concurrent Proffered Condition Amendment PCA 83-D-050 to amend the proffers for RZ 83-D-050 previously approved for a cluster subdivision to permit a medical care facility with an overall Floor Area Ratio (FAR) of 0.20 in the R-2 District, subject to proffers dated July 31, 2003. The development conditions for SEA 78-D-098-3 and proffers for PCA 83-D-050 are included as part of the Clerk to the Board's letters in Attachment 2. The development conditions specified that the use be established or construction be commenced and diligently prosecuted within thirty months of the approval date, unless the Board granted additional time.

On February 27, 2006, the Board of Supervisors approved eighteen months additional time to commence construction with a new expiration date of August 4, 2007. A copy of the Clerk to the Board's letter is contained in Attachment 3. The additional time was requested to allow time to make changes to the interior building layout, which would break the interior into pods, instead of a large institutional facility. The applicant stated that the project was in the design phase and it was anticipated that a site plan would be filed in early 2006. The additional time was requested in order to allow the processing of the site plan.

On August 6, 2007, the Board of Supervisors approved eighteen months additional time to commence construction with a new expiration date of February 4, 2009. A copy of the Clerk to the Board's letter is contained in Attachment 3. The applicant stated that additional time was requested to allow additional time for fundraising and obtaining site plan approval. Site plan (#3455-SP-004-1) was submitted to DPWES on April 18, 2007, and returned to the engineer with comments on July 2, 2007. Additional time was needed to address the comments, which included issues associated with stormwater outfall; stormwater management pond design; off-site sanitary sewer easement issues; erosion and sedimentation control measures for the off-site sanitary sewer installation; redesign of the berm along Route 7 to conform with the SEA Plat; notification of adjacent property owners; and, clarification of building setbacks and dimensions, among other items.

On January 30, 2009, the Department of Planning and Zoning received a letter dated January 30, 2009, from Stuart Mendelsohn, Agent for the Applicant, requesting six months of additional time to commence construction (Attachment 4). The request was received prior to the date on which the approval would have expired; therefore, the special exception will not expire pending the Board's action on the request for additional time. Mr. Mendelsohn stated that a Rough Grading Plan (RGP) had been approved on December 4, 2008, and work approved on the RGP had begun and was expected to be completed on January 30. He stated that the site plan for the project has advanced through Bonds and Agreements and final approval by DPWES is imminent. Once the site plan is approved, work on the rest of the site will immediately begin. On February

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11, 2009, staff received confirmation from DPWES that the site plan (#3455-SP-004-2) was approved February 4, 2009.

Staff has reviewed Special Exception Amendment SEA 78-D-098-3 and has established that, as approved, it is still in conformance with all applicable provisions of the Fairfax County Zoning Ordinance to allow a medical care facility which provides respite care and early intervention to children and young adults with special needs in the R-2 District. As noted in the previous request for additional time, there has been a change in land use circumstances affecting the subject property since the approval of SEA 78-D-098-3. The Dulles Rail Project has completed design plans for Phase I of the planned extension of Metrorail to Dulles which will result in major construction impacts along Route 7. The Department of Transportation (DOT) has requested that the applicant coordinate its construction of the medical care facility with the construction on Route 7 that is associated with the Metrorail Project and with the reconstruction of Route 7 south of the Dulles Toll Road, so that peak period capacity on Route 7 is maintained. Mr. Mendelsohn has confirmed that McLean Bible Church will continue to coordinate construction of the medical care facility (Jill's House) with the Dulles Rail Project (Attachment 5).

The Comprehensive Plan recommendation for this site has not changed since the SEA was approved. Finally, the conditions associated with the Board's approval of SEA 78-D-098-3 are still appropriate. Staff believes that six months additional time should be sufficient to allow the commencement of construction to occur.

Staff recommends that six months additional time be approved. This additional time would begin from the prior specified expiration date and would result in a new expiration date of August 4, 2009.

FISCAL IMPACT:

None.

ENCLOSED DOCUMENTS:

Attachment 1: Locator Map

Attachment 2: Letter dated August 21, 2003, to Elizabeth D. Baker, agent for the applicant, from Patti Hicks, Deputy Clerk to the Board of Supervisors. Letter dated August 21, 2003, and revised letter dated July 21, 2004, to Elizabeth D. Baker, agent for the applicant, from Patti Hicks, Deputy Clerk to the Board of Supervisors

Attachment 3: Letter dated March 2, 2006, from Nancy Vehrs, Clerk to the Board of Supervisors. Letter dated August 6, 2007, from Nancy Vehrs, Clerk to the Board of Supervisors

Attachment 4: Letter dated January 30, 2009, from Stuart Mendelsohn, agent for the

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applicant, to Eileen McLane, Zoning Administrator, Department of Planning and Zoning,
Attachment 5: E-mail dated February 15, 2009, from Stuart Mendelsohn, agent for the
applicant, to Mary Ann Godfrey, Senior Staff Coordinator

STAFF:

Robert A. Stalzer, Deputy County Executive

James P. Zook, Director, Department of Planning and Zoning (DPZ)

Regina C. Coyle, Director, Zoning Evaluation Division (ZED), DPZ

Kevin Guinaw, Chief, Special Projects Applications/Management Branch, ZED, DPZ

Pamela Nee, Chief, Environment and Development Review Branch, PD, DPZ

Mary Ann Godfrey, Senior Staff Coordinator, ZED, DPZ

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ADMINISTRATIVE – 17

Approval of Installation of “\$200 Additional Fine for Speeding” Signs, and “Watch for Children” Signs as Part of the Residential Traffic Administration Program (Mason and Hunter Mill Districts)

ISSUE:

Board endorsement of “\$200 Additional Fine for Speeding” signs, and “Watch for Children” signs, as part of the Residential Traffic Administration Program (RTAP).

RECOMMENDATION:

The County Executive recommends approval of a resolution (Attachments I and II) for the installation of “\$200 Additional Fine for Speeding” signs on the following road:

- Braddock Road between Columbia Pike and Lincolnia Road (Mason District).

The County Executive further recommends approval for a “Watch for Children” sign at the following intersection (Attachment III):

- Brookmeadow Drive (Hunter Mill District).

In addition, the County Executive recommends that the Virginia Department of Transportation (VDOT) be requested to install the approved measures as soon as possible.

TIMING:

Board action is requested on March 9, 2009.

BACKGROUND:

Section 46.2-878.2 of the *Code of Virginia* permits a maximum fine of \$200, in addition to other penalties provided by law, to be levied on persons exceeding the speed limit on appropriately designated residential roadways. Also, these residential roadways must have a posted speed limit of 35 mph or less. In addition, to determine that a speeding problem exists, staff performs an engineering review to ascertain that additional speed and volume criteria are met. Braddock Road between Columbia Pike and Lincolnia Road meets the RTAP requirements for posting of the “\$200 Additional Fine for Speeding” signs. On January 26, 2009, the Department of Transportation received written verification from the local supervisor confirming community support.

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The RTAP allows for installation of “Watch for Children” signs at the primary entrance to residential neighborhoods, or at a location with an extremely high concentration of children relative to the area, such as playgrounds, day care or community centers. In particular, Section 33.1-210.2 of the *Code of Virginia* provides that the Board may request, by resolution to the Commissioner of VDOT, signs alerting motorists that children may be at play nearby. VDOT reviews each request to ensure the proposed sign will be effectively located and will not be in conflict with any other traffic control devices. On January 29, 2009 the Department of Transportation received written verification from the appropriate local supervisor confirming community support for the referenced “Watch for Children” signs on Brookmeadow Drive.

FISCAL IMPACT:

The estimated cost of \$200 is to be paid out of the VDOT secondary road construction budget.

ENCLOSED DOCUMENTS:

Attachment I: \$200 Fine for Speeding Signs Resolution - Braddock Road
Attachment II: Area Map of Proposed \$200 Fine for Speeding Signs - Braddock Road
Attachment III: “Watch for Children” Sign Resolution – Brookmeadow Drive

STAFF:

Robert A. Stalzer, Deputy County Executive
Katharine D. Ichter, Director, Fairfax County Department of Transportation (FCDOT)
Ellen Gallagher, Chief, Capital Projects and Operations Division, FCDOT
William P. Harrell, Transportation Planner, FCDOT
Steven K. Knudsen, Transportation Planner, FCDOT

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ADMINISTRATIVE - 18

Authorization to Advertise a Public Hearing to Establish the Grove at Huntley Meadows Community Parking District (Lee District)

ISSUE:

Board authorization to advertise a public hearing to consider a proposed amendment to Appendix M of *The Code of the County of Fairfax, Virginia* (Fairfax County Code), to establish the Grove at Huntley Meadows Community Parking District (CPD).

RECOMMENDATION:

The County Executive recommends that the Board authorize advertisement of a public hearing for March 30, 2009, at 4:30 p.m. (Attachment III) to consider adoption of a Fairfax County Code amendment (Attachment I) to establish the Grove at Huntley Meadows CPD in accordance with current CPD restrictions.

TIMING:

The Board of Supervisors should take action on March 9, 2009, to provide sufficient time to advertise the public hearing on March 30, 2009, at 4:30 p.m.

BACKGROUND:

Fairfax County Code Section 82-5B-2 authorizes the Board to establish a CPD for the purpose of prohibiting or restricting the parking of watercraft; boat trailers; motor homes; camping trailers and any other trailer or semi-trailer; any vehicle with three or more axles; any vehicle that has a gross vehicle weight rating of 12,000 or more pounds except school buses used on a current and regular basis to transport students; any vehicle designed to transport 16 or more passengers including the driver, except school buses used on a current and regular basis to transport students; and any vehicle of any size that is being used in the transportation of hazardous materials as defined in Virginia Code § 46.2-341.4 on the streets in the CPD.

No such CPD shall apply to (i) any commercial vehicle when discharging passengers or when temporarily parked pursuant to the performance of work or service at a particular location or (ii) utility generators located on trailers and being used to power network facilities during a loss of commercial power or (iii) restricted vehicles temporarily parked on a public street within any such CPD for a maximum of 48 hours for the purpose of loading, unloading, or preparing for a trip or (iv) restricted vehicles that are temporarily

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parked on a public street within any such CPD for use by federal, state, or local public agencies to provide services.

Pursuant to Fairfax County Code Section 82-5B-3, the Board may establish a CPD if: (1) the Board receives a petition requesting such an establishment and such petition contains the names and signatures of petitioners who represent at least 60 percent of the addresses within the proposed CPD, and represent more than 50 percent of the eligible addresses on each block of the proposed CPD, (2) the proposed CPD includes an area in which 75 percent of each block within the proposed CPD is zoned, planned or developed as a residential area, (3) the Board receives an application fee of \$10 for each petitioning property address in the proposed CPD, and (4) the proposed CPD must contain the lesser of (i) a minimum of five block faces or (ii) any number of blocks that front a minimum of 2,000 linear feet of street as measured by the centerline of each street within the CPD.

Staff has verified that the requirements for a petition-based CPD have been satisfied.

The parking prohibition identified above for the Grove at Huntley Meadows CPD is proposed to be in effect seven days per week, 24 hours per day.

FISCAL IMPACT:

The cost of sign installation is estimated at \$1000 to be paid out of Fairfax County Department of Transportation (FCDOT) funds.

ENCLOSED DOCUMENTS:

Attachment I: Amendment to the Fairfax County Code, Appendix M (CPD Restrictions)
Attachment II: Area Map of Proposed Grove at Huntley Meadows CPD
Attachment III: Notice of Public Hearing

STAFF:

Robert A. Stalzer, Deputy County Executive
Katharine D. Ichter, Director, Department of Transportation (FCDOT)
Ellen Gallagher, Chief, Capital Projects and Operations Division, FCDOT
Maria Turner, Sr. Transportation Planner, FCDOT

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ADMINISTRATIVE – 19

Streets into the Secondary System (Lee District)

ISSUE:

Board approval of streets to be accepted into the State Secondary System.

RECOMMENDATION:

The County Executive recommends that the street(s) listed below be added to the State Secondary System.

Subdivision

District

Street

The Grove at Huntley Meadows

Lee

Lindberg Drive (Route 3322)

Cyrene Boulevard (Route 10407)

TIMING:

Routine.

BACKGROUND:

Inspection has been made of these streets, and they are recommended for acceptance into the State Secondary System.

FISCAL IMPACT:

None.

ENCLOSED DOCUMENTS:

Attachment 1 - Street Acceptance Form

STAFF:

Robert A. Stalzer, Deputy County Executive

Jimmie D. Jenkins, Director, Department of Public Works and Environmental Services (DPWES)

Howard J. Guba, Deputy Director, DPWES

James W. Patteson, Director, Land Development Services, DPWES

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ACTION - 1

Parking Reduction for Promenade at Tysons West (Hunter Mill District)

ISSUE:

Board approval of an 11.7 percent reduction in required parking for Promenade at Tysons West, Tax Map reference number 029-3 ((1)) 0001B and 0001C, Hunter Mill District.

RECOMMENDATION:

The County Executive recommends that the Board approve a parking reduction of 11.7 percent for Promenade at Tysons West, pursuant to paragraph 4(B), Section 11-102 of Chapter 112 (Zoning Ordinance) of the *Code of the County of Fairfax, Virginia*, based on an analysis of the parking requirements for each use on the site and a parking reduction study, on condition that:

1. A minimum of 1159 parking spaces must be maintained on site at all times for the Promenade at Tysons West.
2. The following mix of uses are permitted per this parking reduction:
 - 56,201 square feet (SF) of office uses
 - 142,223 SF of retail uses, and
 - 48,214 SF of restaurant space with a maximum of 1,085 table seats, 362 counter seats, and 242 employees.
3. The current owners, their successors or assigns of the parcels identified as Fairfax County Tax Map Number 029-3-01-0001B and 0001C, shall submit a parking space utilization study for review and approval by the Board at any time in the future that the Zoning Administrator so requests. Following review of that study, or if a study is not submitted within 90 days after being requested, the Board may rescind this parking reduction or require alternative measures to satisfy parking needs, which may include requiring all uses to comply with the full parking spaces requirements as specified in Article 11 of the Zoning Ordinance.
4. All parking utilization studies prepared in response to a request by the Zoning Administrator shall be based on applicable requirements of the County Code and the Zoning Ordinance in effect at the time of said parking utilization study submission.
5. Shared parking with any additional use(s) shall not be permitted without the submission of a new parking study prepared in accordance with the applicable

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requirements of the Zoning Ordinance and the County Code, and shall be subject to the Board's approval.

6. All parking provided shall be in accordance with applicable requirements of Article 11 of the Zoning Ordinance and the Fairfax County Public Facilities Manual, including the provisions referencing the Americans with Disabilities Act.
7. Parking shall not be reserved to serve individual businesses.
8. The conditions of approval of this parking reduction shall run with the land and be recorded in the Fairfax County land records in a form acceptable to the County Attorney.

TIMING:

Board action is requested on March 9, 2009.

BACKGROUND:

The proposed Promenade at Tysons West development is a 7.09 acres site which is Zoned Regional Retail Commercial District C-7. This site is located on the South side of the intersection of Leesburg Pike Route 7 and Westwood Center Drive Route 3888 and the site runs North West along Route 7 until it intersects Ashgrove Lane. The rear side of the proposed development of the site runs along Sheraton Tysons Drive. Moore Cadillac and Hummer and Tysons Design Expo Furniture Store are the former existing businesses which the applicant proposes to raze and then redevelop the site as the Promenade at Tysons West. The Promenade at Tysons West is a proposed mix of uses that includes office, retail and eating establishments. The applicant has submitted a site plan (site plan number 6279-SP-004-1) for the proposed redevelopment of this property. This parking reduction request has been made in conjunction with the proposed redevelopment.

A parking study (6279-PKS-004-1) to justify the reduction in the parking code was submitted to the county. The analysis of the study indicates that the hourly accumulation of the parking demand for the uses can support an 11.7 percent reduction in the code requirement. The code requirement for the proposed redeveloped site is 1,312 parking spaces and the 11.7 percent reduction will reduce the required parking to 1,159 parking spaces.

The review of the parking analysis indicates that the parking accumulations of the uses justify the 11.7 percent parking reduction. Therefore, the staff recommends granting this reduction.

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FISCAL IMPACT:

None.

ENCLOSED DOCUMENTS:

Attachment I – Parking Reduction Study and Letter of Request dated September 19, 2008, from Robin L. Antonucci, Kevin R. Fellini and John F. Cavan.

STAFF:

Robert A. Stalzer, Deputy County Executive

Jimmie D. Jenkins, Director, Department of Public Works and Environmental Services (DPWES)

Howard J. Guba, Deputy Director, DPWES

James W. Patteson, Director, Land Development Services, DPWES

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ACTION - 2

Approval of a Project Funding Agreement to Construct the Boudinot Drive On-Ramp as Part of Fairfax County Parkway EPG Phased Construction (Springfield, Lee, and Mount Vernon Districts)

ISSUE:

Board approval to execute a project funding agreement (Attachment 1) with the Virginia Department of Transportation (VDOT), the Federal Highway Administration – Eastern Federal Lands Highway Division (EFLHD), and the U. S. Army to construct the Boudinot Drive on-ramp. This ramp is part of Phase 4 (which is the complete Boudinot Drive/Parkway Interchange) of the Fairfax County Parkway Project located on the Engineer Proving Grounds (EPG) section of the parkway. Execution of this agreement is necessary so that EFLHD may execute Option 3 of the previously awarded Design/Build contract, which will add the Boudinot on-ramp to the existing Parkway work program, at the original bid price of \$2,440,080.50. Fairfax County has previously allocated Regional Surface Transportation Program (RSTP) funds for the project.

RECOMMENDATION:

The County Executive recommends the Board approve execution of this funding agreement, in substantial form, for construction of the Boudinot Drive on-ramp and authorize the County Executive to act as an agent of the Board to sign the agreement.

TIMING:

Board action is requested on March 9, 2009 so that the project may be considered at the Commonwealth Transportation Board (CTB) meeting on March 19, 2009.

BACKGROUND:

Construction of the Rolling Road to Fullerton Road section of the Fairfax County Parkway will complete the missing critical link between existing sections of the Fairfax County Parkway. Not all four phases of the project can be constructed due to lack of funding and increased project costs; therefore, the project will be built in phases. The phases were created and prioritized by VDOT, the Army and FHWA, without input from the County, and only phases 1 and 2 were fully funded.

- Phase One - Construction of four (of the ultimate six) through lanes between Donegal Lane and Fullerton Road will complete the mainline Parkway and allow improved access to I-95. Construction is scheduled to begin in March 2009 and be completed by December 2010.
- Phase Two - Construction of a partial cloverleaf interchange connecting the Parkway to Rolling Road and the EPG access Road. Construction is scheduled to begin in March 2009 and be completed by December 2010.

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- Phase 3 (unfunded) - Includes relocating Hooes Road and Rolling Road with improvements to the interchange at Fairfax County Parkway and the Franconia-Springfield Parkway. Estimated cost for this phase is \$34.6 million.
- Phase 4 (unfunded) - Construct loop ramps at Boudinot Drive and the Fairfax County Parkway providing full access to the Parkway in both directions. Phase 4 is estimated at \$23.2 million and Fairfax County will provide \$2.268 million of RSTP money for the Boudinot Ramp C.

The Boudinot Drive on-ramp, which is currently part of Phase 4, will provide access to southbound Fairfax County Parkway, which also provides critical access to northbound I-95. If this on-ramp is not completed concurrently with phases 1 & 2, then access to I-95 and southbound Fairfax County Parkway will require an extensive vehicle detour. Further, access from the I-95 Industrial Area to southbound I-95 will be eliminated upon completion of the I-95 HOT Lanes project, thus requiring additional extensive vehicle detours to I-95 in both directions without this on-ramp.

On, September 12, 2008, the Board requested the Northern Virginia Transportation Authority authorize VDOT to allocate existing RSTP funds to the Boudinot Ramp project (Attachment 2). The County has allocated \$2.268 million in RSTP funds to the Boudinot Ramp project. This allocation is anticipated to fully cover the County's portion of the project, based on current project cost estimates. If additional funding is required, staff will return to the Board for any necessary approvals.

FISCAL IMPACT:

There is no general fund impact to the County. Previously approved RSTP funds have been allocated to the project. This allocation is anticipated to fully cover the County's portion of the project, based on current project cost estimates. If additional funding is required, staff will return to the Board for the necessary appropriations.

ENCLOSED DOCUMENTS:

Attachment 1: Boudinot Ramp project funding and administration agreement.

Attachment 2: Fairfax County's request to reallocate RSTP funds.

STAFF:

Robert A. Stalzer, Deputy County Executive

Katharine D. Ichter, Director, Fairfax County Department of Transportation (FCDOT)

Ellen F. M. Posner, Assistant County Attorney

Ellen Gallagher, Chief, Capital Projects and Operations Division, FCDOT

Tom Biesiadny, Chief, Coordination and Funding Section, FCDOT

Mark G. Canale, BRAC Coordinator, FCDOT

Jay Guy, Senior Transportation Planner, Coordination and Funding Section, FCDOT

Jim Chandler, Senior Transportation Planner – BRAC, FCDOT

Board Agenda Item
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ACTION - 3

Approval of an Amendment to the Mulligan Road Memorandum of Agreement to Include the Widening of Telegraph Road as Part of the Project (Mount Vernon and Lee Districts)

ISSUE:

Board approval to execute an amendment (Attachment I) to the Memorandum of Agreement (MOA) for the replacement of Woodlawn Road and Beulah Street through Fort Belvoir (Attachment II). The replacement roadway, now known as Mulligan Road, connects Richmond Highway (Route 1) to Telegraph Road. The proposed amendment to the MOA authorizes the Federal Highway Administration, Eastern Federal Lands Highway Division (EFLHD), to design and construct the widening of Telegraph Road between Leaf Road and Beulah Street as part of the Mulligan Road project. This amendment acknowledges that County funds may be necessary to complete the project; however, no County funds are requested to be obligated or appropriated at this time.

RECOMMENDATION:

The County Executive recommends that the Board approve the attached amendment (Attachment I) to the Mulligan Road MOA and direct staff to develop a separate funding agreement between the County, the Virginia Department of Transportation (VDOT), and EFLHD to be executed prior to the commitment of any County funds for project construction.

TIMING:

Board approval is requested on March 9, 2009, so that the project can move forward.

BACKGROUND:

The proposed amendment is with all signatories to the original Mulligan Road MOA (Attachment II) including the Federal Highway Administration (FHWA), EFLHD, VDOT, and the U.S. Army. Staff is seeking the approval of an amendment to the MOA that adds the Telegraph Road project as the last phase of the Mulligan Road project. The Mulligan Road project will be extended to complete the widening of Telegraph Road to four lanes between Beulah Street and Leaf Road.

Completing the Mulligan Road and Telegraph Road projects will help alleviate the traffic impacts expected with the influx of up to 19,300 new federal jobs relocating to the southern portion of the County as a result of the 2005 Base Realignment and Closure (BRAC) action for Fort Belvoir. By expanding the Mulligan Road project scope and authorizing the EFLHD to construct this portion of Telegraph Road, the County will benefit by completing these needed road improvements in a more timely and coordinated fashion. Future projects will address the widening of Telegraph Road north of Leaf Road when funding becomes available. Telegraph Road is already widened to four lanes south of Beulah Street.

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This amendment does not obligate or appropriate any County funds at this time and an additional Project Funding Agreement with VDOT and EFLHD for the Telegraph Road widening project will be developed and brought before the Board in the coming months. The Telegraph Road amendment calls for VDOT Six-Year Program funding for the project. In order to avoid delays on the project, language has been included that would allow the County to provide up-front funding for the project if the proposed funding from the VDOT Six-Year Program is delayed. Any County funds used for the project are proposed to be paid back to the County out of future VDOT Six-Year Program funds.

The attached amendment to the MOA authorizes EFLHD to manage the project at such time as the needed funds become available for its construction. Completing these roads as a single project is more efficient in terms of reduced design and construction costs and disruption to traffic at the tie-in points and minimizes the potential for cost increases that result from phased implementation.

FISCAL IMPACT:

No County funds are requested to be obligated or appropriated at this time. Should the Board approve executing this agreement, a detailed funding plan, defining federal, state, and county funds needed for project construction, will be prepared. This funding plan will be presented to the Board for approval as a separate Project Funding Agreement. The Board has previously approved commercial and industrial tax increment funds for transportation and transportation bond funds for BRAC projects. These are potential sources for any County funds needed for the Telegraph Road project.

ENCLOSED DOCUMENTS:

Attachment I – Proposed Amendment No. 1 to Memorandum of Agreement for the Replacement of Woodlawn Road and Beulah Street through Fort Belvoir authorizing EFLHD to manage the widening of Telegraph Road between Beulah Street and Leaf Road as part of the Mulligan Road project

Attachment II – Memorandum of Agreement for the Replacement of Woodlawn Road and Beulah Street through Fort Belvoir

STAFF:

Robert A. Stalzer, Deputy County Executive

Katharine D. Ichter, Director, Fairfax County Department of Transportation (FCDOT)

Ellen Gallagher, Chief, Capital Projects and Operations Division, FCDOT

Tom Biesiadny, Chief, Coordination and Funding Division, FCDOT

Mark G. Canale, County BRAC Coordinator, FCDOT

Jay Guy, Senior Transportation Planner, Coordination and Funding Division, FCDOT

Jim Chandler, Senior Transportation Planner – BRAC, FCDOT

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INFORMATION - 1

Contract Award – Lee District RECenter Mechanical Systems Renovation (Lee District)

Nine sealed bids for construction of major renovations to the mechanical systems at Lee District RECenter, in Project 474408, Park and Building Renovations, in Fund 370, Park Authority Bond Construction, were received and opened on January 14, 2009, as detailed in Attachment 1.

This project is included in the FY 2009 – 2013 Adopted Capital Improvement Program.

The lowest responsive and responsible bidder is Adrian L. Merton, Inc., of Capitol Heights, Maryland. Their bid of \$1,181,595 is \$568,405, or 32.5% below the Park Authority's pre-bid estimate of \$1,750,000. The second lowest bid of \$1,279,000 is \$97,405, or 8.2% above the low bid, and the highest bid of \$1,497,000 is \$315,405, or 26.7% above the low bid.

The project designer compared their pre-bid estimate with Adrian L. Merton, Inc.'s bid breakdown and concluded the bid was lower than anticipated because Adrian L. Merton, Inc. is serving as both the mechanical and general contractor thus eliminating one full level of mark-up on the bid. The bid review also revealed a significant cost savings in Adrian L Merton, Inc.'s bid because they have the ability to fabricate ductwork eliminating the need to hire a major subcontractor.

Based on their financial capability and construction experience, Adrian L. Merton, Inc. is considered to be a responsible contractor and holds a Virginia Class A Contractor's license.

The Department of Tax Administration has verified that Adrian L. Merton, Inc. has the appropriate Fairfax County Business, Professional, and Occupational License (BPOL).

On February 25, 2009, the Fairfax County Park Authority Board approved the contract award.

Unless otherwise directed by the Board of Supervisors, the Park Authority will proceed to award this contract to Adrian L. Merton, Inc. in the amount of \$1,181,595.

FISCAL IMPACT:

Based on the post-bid update, funding in the amount of \$1,476,994 is necessary to award this contract and to fund the associated contingency, administrative costs and

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other project-related costs. Funds are currently appropriated in the amount of \$1,476,994 in Project 474408, Park and Building Renovation; in Fund 370, Park Authority Bond Construction, to award this contract and to fund the associated contingency, administrative costs and other project-related costs.

ENCLOSED DOCUMENTS:

Attachment 1: Bid Results
Attachment 2: Scope of Work
Attachment 3: Cost Estimate

STAFF:

Robert A. Stalzer, Deputy County Executive
John W. Dargle, Jr., Director, Fairfax County Park Authority

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March 9, 2009

INFORMATION – 2

2008 Virginia Pollutant Discharge Elimination System (VPDES) Permit Annual Report for Fairfax County, Virginia

Fairfax County Department of Public Works and Environmental Services prepared the 2008 VPDES Permit Annual Report for submission to the Virginia Department of Conservation and Recreation (DCR) in compliance with Virginia Pollutant Discharge Elimination System (VPDES) Permit VA0088587, Part I, Section C.4. The annual report documents activities performed by the County between January 1, 2008, and December 31, 2008, to satisfy requirements of its VPDES permit to operate a municipal separate storm sewer system (MS4). The report is formatted to meet DCR's request for a concise summary of activities related to each permit requirement presented in the order in which they appear in the MS4 permit. The current permit was issued January 24, 2002, and expired January 24, 2007. The County is currently operating under an administrative continuance of the existing permit in anticipation of permit renewal later this year.

Unless otherwise directed by the members of the Board of Supervisors, the County Executive will forward the "2008 VPDES Permit Annual Report" with attachments to DCR and to others as requested, and will publish it on the County's Web site.

FISCAL IMPACT:

The fiscal year 2009 funding needs for compliance with the permit are accommodated within the current appropriations for ongoing programs of various County and contributory agencies. No fiscal impact is associated with the submittal of this report to the Department of Conservation and Recreation.

ENCLOSED DOCUMENT:

Attachment 1: 2008 VPDES Permit Annual Report

STAFF:

Robert A. Stalzer, Deputy County Executive
Jimmie D. Jenkins, Director, Department of Public Works and Environmental Services (DPWES)
Howard J. Guba, Deputy Director, DPWES
Randolph W. Bartlett, Deputy Director, DPWES

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INFORMATION - 3

Consolidated Plan Certification for the Fairfax County Redevelopment and Housing Authority Public Housing and Housing Choice Voucher Annual Plan Update for Federal Fiscal Year 2009

On March 5, 2009, the Fairfax County Redevelopment and Housing Authority (FCRHA) will consider approval of the submission of its Public Housing and Housing Choice Voucher Annual Plan Update for Fiscal Year 2009 (FCHRA Fiscal Year 2010) to the U.S. Department of Housing and Urban Development (HUD). This plan update is required by the Quality Housing and Work Responsibility Act (QHWRA) of 1998, and submission to HUD is a requirement for receipt of federal Public Housing and Housing Choice Voucher funds. Certification that the plan is consistent with the Fairfax County Consolidated Plan is part of the required submission which is due by April 15, 2009. County policy requires that the Board be informed of Consolidated Plan certifications. The Board was sent an advance copy of the revised plan in February 2009 to facilitate Board member review and/or questions.

The Public Housing and Housing Choice Voucher Annual Plan update articulates the FCRHA's mission for serving the housing needs of low-income and very low-income households, and the FCRHA's strategy for addressing those needs. The plan also provides details about the FCRHA's operations and the Public Housing and Housing Choice Voucher rental housing programs and services for the upcoming fiscal year. The plan is based on an examination of the FCRHA's existing operations and needs and proposed long-range and short-range strategies to address the needs.

The plan is presented in a HUD-mandated format, and has had extensive review by the FCRHA, the public, and the FCRHA's Resident Advisory Council (RAC), which represents Public Housing and Housing Choice Voucher participants. The Fairfax County Department of Housing and Community Development (HCD) received comments from the RAC on November 15, 2008; the RAC's comments and HCD's responses have been included in the Plan. The FCRHA made the plan available for public comment from November 3, 2008 through December 17, 2008. No comments were received during the public comment period or during the public hearing, which was held January 22, 2009.

Unless directed otherwise by the Board, the County Executive will sign the Consolidated Plan certification and provide it to the FCRHA for inclusion in the Public Housing and Housing Choice Voucher Annual Plan Update for Federal Fiscal Year 2009 to be submitted to HUD.

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ENCLOSED DOCUMENTS:

Attachment 1: Certification by State or Local Official of PHA Plans Consistency with the Consolidated Plan (HUD Form)

STAFF:

Verdia L. Haywood, Deputy County Executive

Paula C. Sampson, Director, Department of Housing and Community Development (HCD)

Mary A. Stevens, Deputy Director, HCD

Carol Erhard, Director, Rental Services Division, HCD

Vincent Rogers, Management Analyst, Rental Services Division, HCD

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INFORMATION - 4

Contract Award – Spring Hill Road (Route 684) (Providence District)

Ten sealed bids were received and opened on Tuesday, February 3, 2009, for the construction of Spring Hill Road (Route 684), Project No. 064233, in Fund 304, Transportation Improvements. This project provides for widening of Spring Hill Road from two lanes to four lanes from the intersection of Leesburg Pike to the intersection of International Drive, construction of retaining walls, replacement of two existing traffic signal systems, relocation and improvements to water mains, and other related items. This project is included in the adopted FY 2009-FY 2014 Virginia Department of Transportation (VDOT) Six-Year Improvement Program.

The lowest responsive and responsible bidder is A&W Contracting Corporation. The firm's bid of \$4,165,958.40 is \$459,261.10 or 9.93 percent lower than the Engineer's Estimate of \$4,625,219.50. The second lowest bid of \$4,549,057.76 is \$383,099.36 or 9.20 percent above the low bid. The highest bid of \$6,768,973.97 is \$2,603,015.57 or 62.48 percent above the low bid.

A&W Contracting Corporation has satisfactorily completed several County projects and is considered a responsible bidder. The Department of Tax Administration has verified that A&W Contracting Corporation has the appropriate Fairfax County Business, Professional and Occupational License.

This bid may be withdrawn after March 19, 2009.

Funding for the project is provided through the VDOT Six-Year Improvement Program. Therefore, award of the contract is being processed for concurrent approval by the Commonwealth Transportation Board at their meeting scheduled for March 19, 2009. Fairfax Water is also providing funding to increase the size of their water main with this project.

Unless otherwise directed by the Board of Supervisors, the Department of Public Works and Environmental Services will proceed to award this contract to A&W Contracting Corporation in the amount of \$4,165,958.40.

FISCAL IMPACT:

Funding in the amount of \$5,900,000 is necessary to award this construction contract and to fund the associated contingencies and other project costs, including land

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acquisition, utility relocation, contract administration, and inspection. FY 2009 funding of \$6,484,999, supported by VDOT revenue under the VDOT Six-Year Improvement Program, is currently appropriated in Project 064233, Spring Hill Road (Route 684), Fund 304, Transportation Improvements.

ENCLOSED DOCUMENTS:

Attachment 1 – Order of Bidders
Attachment 2 – Vicinity Map

STAFF:

Robert A. Stalzer, Deputy County Executive
Jimmie D. Jenkins, Director, Department of Public Works and Environmental Services (DPWES)
Howard J. Guba, Deputy Director, DPWES

INFORMATION - 5

Contract Award - Dental Services for the Homeless Healthcare Program

The Homeless Healthcare Program (HHP) was initiated in 2006 to provide medical and behavioral health outreach to the unsheltered homeless in Fairfax County. Four mobile medical teams, comprised of nurse practitioners (medical and psychiatric), outreach workers, and mental/substance abuse outreach workers, in addition to one part-time psychiatrist, are dispatched to areas of the County where the unsheltered homeless live. After assessing each client, teams provide physical and behavioral health care, as well as referral and transportation to medical care, mental health and alcohol and drug services and dental resources. The unsheltered are offered the opportunity to enroll in existing County programs, be they emergency shelters, alcohol and substance abuse treatment, Community Health Care Network (CHCN), and/or mental health counseling.

HHP clients are also afforded the opportunity to enroll in the dental and/or denture programs created and funded specifically for this program. Appropriate and timely dental care has been shown to decrease heart disease, improve nutritional status, elevate self-esteem and enhance the possibilities of gaining meaningful employment. Dental care is integral to the health and well-being of all clients regardless of socio-economic status. The provision of dental care also helps to build trust with the clientele served by the HHP.

County contractors select which clients will be seen (in accordance with County guidelines) and transport them to their scheduled appointments.

On October 24, 2008, the Department of Purchasing and Supply Management issued a Request for Proposal (RFP09-998743-32) for the provision of dental services for the homeless healthcare program, on an as needed basis, for clients who are homeless and unsheltered.

Tasks required to be performed by the dentists under this contract for dental services are to include:

1. Provide and perform preventative and restorative dental services at the contractors office to include, but not limited to:
 - a. Fillings
 - b. Crowns for molars
 - c. Extractions
 - d. Surgical treatment of abscess
 - e. Medical treatment of abscess
 - f. Root canals
 - g. Dentures, full and partial

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2. Provide emergency dental care for clients within two (2) business days of request. Emergency dental care is when a patient is in severe pain, has an infection, experiencing swelling, has a fever that is attributable to a dental issue, or other acute situations.
3. Conduct a complete exam for each "first time" client, which will include x-rays, dental care education, and the establishment of a treatment plan. The treatment plan will include:
 - a. Proposed treatment;
 - b. Estimated costs of biopsies and/or materials;
 - c. Expected number of visits required to complete treatment. Treatment plans will be submitted to the Fairfax County Health Department. Long-term monthly treatment plans (treatment requiring more than six visits) require pre-approval from the Fairfax County Health Department before treatment begins.

The solicitation notice was sent to approximately 500 firms, and 2 firms responded with a proposal by the closing date of November 21, 2008. The Selection Advisory Committee (SAC), appointed by the County Purchasing Agent, evaluated the proposals in accordance with the criteria established in the RFP. Upon completion of the final evaluation of the proposals, the SAC negotiated with the offerors and recommended contract award to Northern Virginia Dental Clinic.

The Northern Virginia Dental Clinic (NVDC) is a private, non profit organization that was established in 1994 by members of the Northern Virginia Dental Society who wanted to contribute a critically needed service to the community. NVDC also provides comprehensive oral health care services to low-income and uninsured residents from Arlington, Fairfax, Loudoun, and Prince William Counties, as well as the Cities of Alexandria, Fairfax, and Falls Church. Services are rendered by licensed dental professionals who serve as volunteers. NVDC is currently providing dental services to the unsheltered homeless at 30 percent of market value, and has proposed similar rates for the proposed new contract.

Unless otherwise directed by the Board of Supervisors, the Purchasing Agent will proceed to award this contract to Northern Virginia Dental Clinic. This contract will begin on date of award and terminate on June 30, 2013. The contract is a four year contract with five (5) one-year renewal options. The total estimated amount of this contract is \$270,000.00.

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FISCAL IMPACT:

There is an annual contract requirement of \$30,000 associated with this contract. Funds are available within the Department of Health budget for this purpose.

ENCLOSED DOCUMENTS:

Attachment 1 List of Offerors

STAFF:

Edward L. Long, Deputy County Executive

Cathy A. Muse, Director, Department of Purchasing and Supply Management

Dr. Gloria Addo-Ayensu, M.D., M.P.H, Health Director

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March 9, 2009

10:30 a.m.

Matters Presented by Board Members

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March 9, 2009

11:20 a.m.

CLOSED SESSION:

- (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. *Louise Root v. D.L. Cook*, Case No. 08-2254 (Va. Sup. Ct.)
 - 2. *Advanced Towing Company, LLC, Roadrunner Wrecker Service, Inc., and King's Towing, Inc. v. Fairfax County Board of Supervisors*, Case No. CL-2008-0011827 (Fx. Co. Cir. Ct.)
 - 3. *Fairfax County Redevelopment and Housing Authority v. James C. Riekse, Rajesh Kapani, Rajinder P. Kapani, Frederick L. Shreves, II, Trustee, Vincent J. Keegan, Trustee, Mortgage Electronic Registration Systems, Inc., and Weichart Financial Services*, Case No. CL-2007-0011400 (Fx. Co. Cir. Ct.) (Mount Vernon District)
 - 4. *Eileen M. McLane, Fairfax County Zoning Administrator v. Carion Lee Woodson and William Henry Woodson*, Case No. CL-2008-0004628 (Fx. Co. Cir. Ct.) (Springfield District)
 - 5. *Eileen M. McLane, Fairfax County Zoning Administrator v. Scott W. Pruitt and Paula E. Pruitt*, Case No. CL-2008-0001802 (Fx. Co. Cir. Ct.) (Sully District)
 - 6. *Eileen M. McLane, Fairfax County Zoning Administrator, Michael R. Congleton, Property Maintenance Code Official for Fairfax County, Virginia, and Ronald L. Mastin, Fairfax County Fire Marshal v. Adela Cuellar Taylor*, Case No. CL-2008-0001917 (Fx. Co. Cir. Ct.) (Braddock District) (Strike Team Case)

7. *Eileen M. McLane, Fairfax County Zoning Administrator, and Michael R. Congleton, Property Maintenance Code Official for Fairfax County, Virginia v. Beltran Sanchez Carbajal, Sulma Patricia Flores de Sanchez, and Evelin Y. Mendoza, Case No. CL-2007-0013442 (Fx. Co. Cir. Ct.) (Mason District) (Strike Team Case)*
8. *Eileen M. McLane, Fairfax County Zoning Administrator, and Michael R. Congleton, Property Maintenance Code Official for Fairfax County, Virginia v. Edward L. Miller and Virginia P. Miller, Case No. CL-2008-0010203 (Fx. Co. Cir. Ct.) (Lee District)*
9. *Eileen M. McLane, Fairfax County Zoning Administrator v. Jose A. Rodriguez and Doris Garcia Cordova, Case No. CL-2007-0012673 (Fx. Co. Cir. Ct.) (Lee District)*
10. *Michael R. Congleton, Property Maintenance Code Official for Fairfax County, Virginia v. Cesia C. Rivera, Case No. CL-2008-0011521 (Fx. Co. Cir. Ct.) (Lee District)*
11. *Eileen M. McLane, Fairfax County Zoning Administrator v. Ola M. Coalson, Case No. CL-2008-0010794 (Fx. Co. Cir. Ct.) (Lee District)*
12. *Eileen M. McLane, Fairfax County Zoning Administrator v. Derlis A. Arnez, Rosario Arnez, and Carmen R. Arnez, Case No. CL-2008-0016093 (Fx. Co. Cir. Ct.) (Lee District)*
13. *Eileen M. McLane, Fairfax County Zoning Administrator v. Rodney C. Smith and Pamela W. Smith, Case No. CL-2008-0016978 (Fx. Co. Cir. Ct.) (Mount Vernon District)*
14. *Eileen M. McLane, Fairfax County Zoning Administrator v. Tua Anh Ngo and Ngocnga T. Nguyen, Case No. CL-2008-0016331 (Fx. Co. Cir. Ct.) (Providence District)*
15. *Eileen M. McLane, Fairfax County Zoning Administrator, and Michael R. Congleton, Property Maintenance Code Official for Fairfax County, Virginia v. Luis F. Becerra Barba, Case No. CL-2008-0014599 (Fx. Co. Cir. Ct.) (Lee District) (Strike Team Case)*
16. *Michael R. Congleton, Property Maintenance Code Official for Fairfax County, Virginia v. Susan W. Butler, Case No. CL-2008-0015767 (Fx. Co. Cir. Ct.) (Mount Vernon District)*

17. *Michael R. Congleton, Property Maintenance Code Official for Fairfax County, Virginia v. Thomas R. L'ecuyer*, Case No. CL-2008-0015328 (Fx. Co. Cir. Ct.) (Sully District)
18. *Eileen M. McLane, Fairfax County Zoning Administrator v. Ominex, Inc., and Belleview SC Co., LLC*, Case No. CL-2008-0016278 (Fx. Co. Cir. Ct.) (Mount Vernon District)
19. *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)
20. *Eileen M. McLane, Fairfax County Zoning Administrator, and Michael R. Congleton, Property Maintenance Code Official for Fairfax County, Virginia v. Sonia Marlene Lopez De Cejas*, Case No. CL-2009-0002076 (Fx. Co. Cir. Ct.) (Mason District) (Strike Team Case)
21. *Eileen M. McLane, Fairfax County Zoning Administrator v. Juvenal Meneses*, Case No. CL-2009-0002075 (Fx. Co. Cir. Ct.) (Mason District) (Strike Team Case)
22. *Eileen M. McLane, Fairfax County Zoning Administrator v. Rafael S. Chavarria*, Case No. CL-2009-0002074 (Fx. Co. Cir. Ct.) (Mason District)
23. *Eileen M. McLane, Fairfax County Zoning Administrator, and Michael R. Congleton, Property Maintenance Code Official for Fairfax County, Virginia v. Ercilia Vargas and Walter Vargas*, Case No. CL-2009-0002073 (Fx. Co. Cir. Ct.) (Lee District)
24. *Eileen M. McLane, Fairfax County Zoning Administrator v. Mauricio E. Villegas*, Case No. CL-2009-0001974 (Fx. Co. Cir. Ct.) (Mason District) (Strike Team Case)
25. *Eileen M. McLane, Fairfax County Zoning Administrator v. Teresa Van Huet*, Case No. CL-2009-0002258 (Fx. Co. Cir. Ct.) (Lee District)
26. *Eileen M. McLane, Fairfax County Zoning Administrator v. Ruben Blanco and Steven N. Blanco*, Case No. CL-2009-0002257 (Fx. Co. Cir. Ct.) (Lee District)
27. *Eileen M. McLane, Fairfax County Zoning Administrator, and Michael R. Congleton, Property Maintenance Code Official for Fairfax County, Virginia v. Juana E. Flores*, Case No. CL-2009-0002349 (Fx. Co. Cir. Ct.) (Mason District)

28. *Eileen M. McLane, Fairfax County Zoning Administrator v. Jose R. Melgar*, Case No. CL-2009-00002348 (Fx. Co. Cir. Ct.) (Sully District) (Strike Team Case)
29. *Eileen M. McLane, Fairfax County Zoning Administrator v. James G. Miller, Trustee of the James G. Miller Living Trust, and Atlantic Construction Fabrics, Inc.*, Case No. CL-2009-0002430 (Fx. Co. Cir. Ct.) (Sully District)
30. *Eileen M. McLane, Fairfax County Zoning Administrator v. Atef Saleeb and Mary Saleeb*, Case No. CL-2009-0002487 (Fx. Co. Cir. Ct.) (Sully District)
31. *Eileen M. McLane, Fairfax County Zoning Administrator v. Hossein Nilforoush*, Case No. 2008-0036594 (Fx. Co. Gen. Dist. Ct.) (Providence District)
32. *Eileen M. McLane, Fairfax County Zoning Administrator v. Cesia C. Rivera*, Case No. 08-0024757 (Fx. Co. Gen. Dist. Ct.); *Eileen M. McLane, Fairfax County Zoning Administrator v. Cesia C. Rivera*, Case No. 09-0005176 (Fx. Co. Gen. Dist. Ct.) (Lee District)
33. *Eileen M. McLane, Fairfax County Zoning Administrator v. Mortgage Electronic Registration Systems, Inc.*, Case No. 08-0036352 (Fx. Co. Gen. Dist. Ct.) (Mount Vernon District)
34. *Eileen M. McLane, Fairfax County Zoning Administrator v. RMC-Tyco, LLC*, Case No. 08-0036595 (Fx. Co. Gen. Dist. Ct.) (Providence District)
35. *Eileen M. McLane, Fairfax County Zoning Administrator v. Cesar M. Tello and Rosa G. Tello*, Case No. 2008-0037113 (Fx. Co. Gen. Dist. Ct.) (Springfield District)
36. *Board of Supervisors of Fairfax County, Virginia v. Ashcraft, LLC*, Case No. CL-2009-0002486 (Fx. Co. Cir. Ct.) (Dranesville District)

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March 9, 2009

3:30 p.m.

Public Hearing on the Waiver of the Board of Supervisors' Reversionary Interest in Property Owned by the Bailey's Cross Roads Volunteer Fire Department at 3601 Firehouse Lane, Falls Church (Mason District)

ISSUE:

Public hearing and decision on the adoption of a resolution to approve a limited waiver of the reversionary interest held by the Board on property owned by the Bailey's Cross Roads Volunteer Fire Department located at 3601 Firehouse Lane (Tax Map No. 61-4((1)) 20A). This waiver will permit the Volunteer Fire Department to lease certain portions of its property to Cricket Communications, Inc. ("Cricket"), for the installation of a commercial telecommunications facility, and to assign that lease to and grant an easement in the leased property to Cell Tower Lease Acquisition, LLC ("CTLA").

RECOMMENDATION:

The County Executive recommends that the Board approve the draft resolution included among the enclosed documents, stating that the Board agrees that the proposed lease to Cricket and assignment and easement to CTLA will not cause title to the property to revert to the Board.

TIMING:

On February 23, 2009, the Board directed staff to schedule a public hearing on this matter.

BACKGROUND:

On July 18, 1991, the Board of Supervisors conveyed a parcel containing approximately 44,523 square feet to the Bailey's Cross Roads Volunteer Fire Department located at 3601 Firehouse Lane, Falls Church, and identified as Tax Map No. 61-4((1)) parcel 20A ("subject property"). The subject property is zoned to the C-2 District and has been used as a fire station pursuant to a special permit approved by the Board of Zoning Appeals ("BZA") on October 31, 1973 (Special Permit S-214-73). The deed of conveyance was made subject to an Automatic Reverter Clause, which provides, among other things, that fee simple title to the property shall revert to the Board in the event that any portion of the property may be sold, conveyed, leased, or transferred to any entity other than a volunteer fire department.

At its meeting on March 10, 1997, the Board approved Special Exception Number SE 96-M-040 to permit the erection of a monopole and the operation of telecommunications facilities on the subject property. This special exception also approved the ongoing operation of the

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Volunteer Fire Department, a public benefit association special exception use under the current Zoning Ordinance. Development condition number 6 provides that "Fairfax County shall be guaranteed free access to use the monopole for future public safety and other governmental agency communications needs."

On three previous occasions, the Board has approved the Volunteer Fire Department's requests that the Board waive its reversionary interest in the subject property in order that portions of the property could be leased and have easements granted across them for telecommunications purposes. At its meeting on September 11, 1995, the Board adopted a Resolution whereby the Board agreed not to claim that its reversionary interest would be triggered if 1,200 square feet of the site were to be leased by the Volunteer Fire Department for the erection and operation of a monopole and related telecommunications facilities. Cellular One became the lessee of this 1,200 square feet and erected the monopole. That lease has been assigned to Southern Towers, Inc.

Later, on October 19, 1998, the Board adopted a similar Resolution regarding an additional 300 square feet of the subject property that was subsequently leased to Nextel Communications. Nextel added panel antennas to the monopole and needed the 300 square feet for an accessory equipment shed. Both the 1995 and 1998 Resolutions contained express conditions that the Board be given space on the monopole at no cost for public safety and other Fairfax County government communication purposes, and that the Board's right to use vacant space on the monopole, as it may become available, for such purposes shall take priority over other users, provided the monopole had the structural capacity to handle the Board's antennas on the monopole. Staff has included similar conditions in the proposed Resolution attached hereto.

Finally, on November 17, 2003, the Board adopted a third resolution waiving the Reverter Clause, permitting the Bailey's Cross Roads Volunteer Fire Department to grant an easement to Unison Site Acquisition, L.L.C. ("Unison") over the same portions of the subject property that are currently leased to others for telecommunications purposes. Unison then assumed the rights and obligations of the Volunteer Fire Department under the leases in consideration of a lump sum payment by Unison to the Volunteer Fire Department. Rents previously paid to the Volunteer Fire Department would thereafter be paid to Unison.

Currently, the Bailey's Cross Roads Volunteer Fire Department seeks approval of a waiver of the Reverter Clause in connection with a lease to Cricket of an area of 150 square feet for an equipment shed and a separate proposal to assign that lease and grant an easement in the leased area to CTLA, the successor in interest to Unison.

This matter comes before the Board again because of the Board's reversionary interest in the subject property. The conditions that staff has recommended include various conditions to be a part of any Board waiver of its reversionary interest that would limit the area of the lease and easement to 150 square feet of the site and would require the lease and easement agreements to comply with the conditions of Special Exception Number

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SE 98-M-040. In addition, the lease and easement could not interfere with the operation of the fire station, and, should the subject property cease to be used as a fire station, fee simple title to the entire tract would revert to the Board, and the easements would no longer be in effect. Finally, the same conditions of the Board's 1995, 1998, and 2003 waivers related to the Board's right and priority to use space on the monopole at no cost for public safety and other County government communication purposes are retained. However, staff notes that the County does not presently have any telecommunications equipment installed on that monopole.

The scheduled public hearing is required, because Virginia Code § 15.2-1800(B) provides that the Board must hold a public hearing before it may "subordinate interest in or otherwise dispose of" real property, such as its reversionary interest in the subject property.

FISCAL IMPACT:

None.

ENCLOSED DOCUMENT:

Attachment 1 – Letter to Anthony Griffin from Sarah E. Hall dated February 24, 2009

Attachment 2 – Draft Board Resolution

Attachment 3 – Letter to James R. Michal from Nancy Vehrs dated March 21, 1997

Attachment 4 – Deed Book 7858, Pages 980-82

STAFF:

Michael Long, Senior Assistant County Attorney

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3:30 p.m.

Public Hearing on SE 2008-PR-033 (Metropolitan Washington Airports Authority and the Virginia Department of Rail and Public Transportation on Behalf of Washington Metropolitan Area Transit Authority) to Permit an Electrically-Powered Regional Rail Transit Facility and Associated Components and Uses in a Floodplain, Located on Approximately 4.4 Acres Zoned C-3 and HC, Providence District

and

Public Hearing on SE 2008-MD-034 (Metropolitan Washington Airports Authority and the Virginia Department of Rail and Public Transportation on Behalf of Washington Metropolitan Area Transit Authority) to Permit an Electrically-Powered Regional Rail Transit Facility and Associated Components, Located on Approximately 1.91 Acres, Zoned C-7, HC and SC. Hunter Mill and Providence Districts

Application property for SE 2008-PR-033 is located in the southwest quadrant of the intersection of Dolley Madison Boulevard and Colshire Drive and on the north side of Dolley Madison Boulevard, Tax Map 29-4 ((5)) A1, B1 pt. C1 pt., D and E; 30-3 ((28)) B3 pt. and C1 pt.

Application property for SE 2008-MD-034 is located at 1580 Spring Hill Rd. and 8536 and 8548 Leesburg Pike, Tax Map 29-3 ((1)) 2C1 pt., 53 pt. and 53A pt.

PLANNING COMMISSION RECOMMENDATION:

The Planning Commission public hearings on the above five applications were held on Wednesday, February 18, 2009 in conjunction with the accompanying public facility (2232) applications. The Commission's February 18, 2009 recommendations on the applications are provided seriatum.

SE 2008-PR-033 (Tysons East Station)

The Planning Commission voted 7-2-1 (Commissioners Donahue and Litzenberger opposed; Commissioner Flanagan abstaining; Commissioner Hall absent from the vote; Commissioner Harsel absent from the meeting) to recommend that the Board of Supervisors approve SE 2008-PR-033, subject to the Development Conditions dated February 18, 2009, with the following modifications:

- Revise Condition #11, regarding erosion and sediment control plans, by adding the following sentence: "The stricter of the state or Fairfax County standards shall be applied by the state reviewing body."

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- Revise Condition #16 to read, “The pedestrian bridges shall be a minimum of 16 feet wide from handrail to handrail.”

The Commission voted unanimously (Commissioner Hall absent from the vote; Commissioner Harsel absent from the meeting) to recommend that the Board waive the transitional screening and barrier requirements along the property boundaries of the site.

In a related action, the Planning Commission voted 8-1-1 (Commissioner Litzenberger opposed; Commissioner Flanagan abstaining; Commissioner Hall absent from the vote; Commissioner Harsel absent from the meeting) to approve 2232-P08-10. The Commission noted that the proposed Tysons East Station satisfied the criteria of location, character, and extent, as specified in Sect. 15.2-2232 of the *Code of Virginia*, as amended.

SE 2008-MD-034 (Tysons West Station)

The Planning Commission voted unanimously (Commissioner Hall absent from the votes; Commissioner Harsel absent from the meeting) to recommend the following actions to the Board of Supervisors:

- Approval of SE 2008-MD-034, subject to the Development Conditions dated February 18, 2009, with the following modifications:
 - Revise Condition #11, regarding erosion and sediment control plans, by adding the following sentence: “The stricter of the state or Fairfax County standards shall be applied by the state reviewing body.”
 - Revise Condition #14 by adding the words “and Administrative approval by the Planning Commission” to the end of the sentence.
 - Revise Condition #15 to read, “The pedestrian bridges shall be a minimum of 16 feet wide from handrail to handrail.”
- Waiver of the transitional screening and barrier requirements along the property boundaries of the site.

In a related action, the Planning Commission voted 9-1 (Commissioner Donahue opposed; Commissioner Hall absent from the vote; Commissioner Harsel absent from the meeting) to approve 2232-MD08-13. The Commission noted that the proposed Tysons West Station satisfied the criteria of location, character, and extent, as specified in Sect. 15.2-2232 of the *Code of Virginia*, as amended.

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ENCLOSED DOCUMENTS:

None. Staff Reports previously furnished.

STAFF:

Regina Coyle, Director, Zoning Evaluation Division, Department of Planning and Zoning
(DPZ)

Suzanne Lin, Staff Coordinator, Zoning Evaluation Division, DPZ

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3:30 p.m.

Public Hearing on RZ 2004-LE-042 (James Puryear) to Rezone from R-1, C-5 and HC to C-5 and HC to Permit Commercial use with an Overall Floor Area Ratio of 0.24, Located on Approximately 1.18 Acres, Lee District

The application property is located on the east side of Grovedale Drive, approximately 260 feet south of Franconia Road, Tax Map 81-3 ((5)) 13.

PLANNING COMMISSION RECOMMENDATION:

On Thursday, January 29, 2009, the Planning Commission voted unanimously (Commissioner Harsel absent from the meeting) to recommend that the Board of Supervisors approve RZ 2004-LE-043, subject to the execution of proffers consistent with those dated October 8, 2008.

ENCLOSED DOCUMENTS:

None. Staff Report previously furnished.

STAFF:

Regina Coyle, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
St. Clair Williams, Staff Coordinator, Zoning Evaluation Division, DPZ

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3:30 p.m.

Public Hearing on RZ 2008-LE-001 (Hilltop Sand and Gravel Company, Inc.) to Rezone from I-3 and NR to R-1 and NR to Include this Land Within an Existing Golf Course, Located on Approximately 0.73 Acres, Lee District

and

Public Hearing on SEA 2005-LE-027 (Hilltop Sand and Gravel Company, Inc.) to Amend SE 2005-LE-027 Previously Approved for a Golf Course to Permit an Increase in Land Area and Modifications to Site Design and Development Conditions. Located on Approximately 82.87 Acres Zoned R-1 and NR, Lee District

and

Public Hearing on RZ 2008-LE-002 (Hilltop Sand and Gravel Company, Inc.) to Rezone from I-3 and NR to R-1 and NR to Permit Continuation of Existing Landfill and Future Recreation Facilities. Located on Approximately 3.51 Acres. Lee District

and

Public Hearing on SEA 78-L-074-06 (Hilltop Sand and Gravel Company, Inc.) to Amend SE 78-L-074 Previously Approved for a Landfill to Permit Reduction of Land Area, Continuation of Existing Landfill, to Establish Quasi-Public Recreation Facilities in Future and Associated Modifications to Site Design and Development Conditions, Located on Approximately 64.78 Acres Zoned R-1, I-3 and NR, Lee District

and

Public Hearing on RZ 2008-MD-003 (Hilltop Sand and Gravel Company, Inc.) to Rezone from I-3, R-1 and NR to PDC and NR to Permit Mixed use Development, Office, Retail, Retail Establishment Large with an Overall Floor Area Ratio of 0.26, Located on Approximately 33.0 Acres, Lee and Mount Vernon Districts

The application property RZ 2008-LE-001 is located in the northeast quadrant of the intersection of Beulah Street and Telegraph Road, Tax Map 100-1 ((1)) 9 pt.

The application property SEA 2005-LE-027 is located at 7836, 7928 and 7950 Telegraph Road, Tax Map 100-1 ((1)) 9 pt. 17 and 23A pt.

The application property RZ 2008-LE-002 is located northeast of Beulah Street approximately 1,000 feet north of its intersection with Telegraph Road, Tax Map 100-1 ((1)) 9 pt.

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The application property SEA 78-L-074-06 is located on the east side of Beulah Street approximately 1,000 feet north of its intersection with Telegraph Road, Tax Map 100-1 ((1)) 9 pt.

The application property RZ 2008-MD-003 is located in the northeast quadrant of the intersection of Beulah Street and Telegraph Road, Tax Map 100-1 ((1)) 9 pt., 11A, 11A1, 14 and 15. .

PLANNING COMMISSION RECOMMENDATION:

On Thursday, February 12, 2009, the Planning Commission voted unanimously (Commissioner Sargeant recusing; Commissioners Alcorn, Hall, and Harsel absent from the meeting) to recommend the following actions to the Board of Supervisors:

- Approval of RZ 2008-LE-001;
- Approval of SEA 2005-LE-027, subject to the Development Conditions dated February 12, 2009;
- Modification of the transitional screen yard requirement along all boundaries of the property and waiver of the barrier requirement along all boundaries, in favor of that shown on the Generalized Development Plan, Special Exception Amendment Plat, and referenced in the Development Conditions;
- Modification of the requirement for golf course parking areas to allow the parking area to be set back 50 feet from the property line of residentially zoned property and allow the parking area across from Fort Belvoir to be set back 25 feet from the right-of-way for Telegraph Road;
- Approval of RZ 2008-LE-002;
- Approval of SEA 78-L-074-006, subject to the Development Conditions contained in Appendix 1 of the staff report;
- Waiver of the transitional screening yard and barrier requirements along all boundaries of the landfill to that depicted on the FDP/SEA Plat; and
- Approval of the construction of the proffered recreational facilities and the proposed parking lot on the closed landfill sooner than 20 years after closure of the landfill, pursuant to Par. 9 of Sect. 9-205.

The Planning Commission voted 7-0-1 (Commissioner Flanagan abstaining; Commissioner Sargeant recusing; Commissioners Alcorn, Hall, and Harsel absent from the meeting) to recommend the following actions to the Board of Supervisors:

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- Approval of RZ 2008-MD-003, subject to the execution of proffers consistent with those dated February 11, 2009;
- Modification of the transitional screening yard requirements and the barrier requirements along all boundaries, in favor of that shown on the Conceptual Final Development Plan, referenced in the proffers, and required by the proposed Development Conditions;
- Approval of the P-District variance, in accordance with Par. 8 of Sect. 16-401, to allow the proposed secondary uses in the Hilltop Village Center to exceed 25% of the proposed principal uses;
- Direct the Director of the Department of Public Works and Environmental Services to approve waiver of the required loading spaces for the two proposed drive-in financial institutions and a modification to allow the loading spaces for the retail uses, as shown on the proffered Conceptual and Final Development Plan; and
- Approval of the construction of the proposed parking lot for the Hilltop Village Center on the closed landfill sooner than 20 years after closure of the landfill, pursuant to Par. 9 of Sect. 9-205.

The Planning Commission voted 7-0-1 (Commissioner Flanagan abstaining; Commissioner Sargeant recusing; Commissioners Alcorn, Hall, and Harsel absent from the meeting) to approve FDP 2008-MD-003, subject to Board approval of RZ 2008-MD-003 and the associated Conceptual Development Plan.

ENCLOSED DOCUMENTS:

None. Staff Report previously furnished.

STAFF:

Regina Coyle, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
St. Clair Williams, Staff Coordinator, Zoning Evaluation Division, DPZ

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Board Agenda Item
March 9, 2009

4:00 p.m.

Public Hearing on Proposed Policy Plan Amendment S08-CW-1CP Concerning Roadways by Functional Classification Table

ISSUE:

The proposed Plan Amendment S08-CW-1CP contains two technical corrections to the Listing of Roadways by Functional Classification Table in the Transportation Section of the Policy Plan of the Comprehensive Plan in order to correct two errors discovered during the course of updating the Listing of Roadways by Functional Classification Table located in the Code of the County of Fairfax, Chapter 112 (Zoning Ordinance).

PLANNING COMMISSION RECOMMENDATION:

On Wednesday, February 11, 2009, the Planning Commission voted unanimously (Commissioners Alcorn, Hall, Harsel, and Lusk absent from the meeting) to recommend that the Board of Supervisors adopt S08-CW-1CP, as set forth in the staff report dated January 28, 2009.

RECOMMENDATION:

The County Executive concurs with the Planning Commission recommendation. The two changes to the Listing of Roadways by Functional Classification Table are shown in Attachment 1.

TIMING:

Planning Commission public hearing and decision was February 11, 2009. Board of Supervisors public hearing is scheduled for March 9, 2009.

BACKGROUND:

On March 10, 2008, the Board of Supervisors approved amendments to the Code of the County of Fairfax, Chapter 112 (Zoning Ordinance), regarding the Listing of Roadways by Functional Classification Table. The Zoning Ordinance was amended so that it would be consistent with the Transportation Section of the Policy Plan Element of the Comprehensive Plan that was updated in 2006. During the course of the update to the Zoning Ordinance, two minor errors were discovered in the Listing of Roadways by Functional Classification Table in the Transportation Element Section of the Comprehensive Plan. As part of the Board's action on the amendments to the Zoning

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Ordinance, this Plan Amendment was authorized to correct the two errors in the Listing of Roadways by Functional Classification so that the Zoning Ordinance and the Policy Plan would be consistent.

The Listing of Roadways by Functional Classification Table can be found in Appendix 1 of the Transportation Section of the Policy Plan Element of the Comprehensive Plan (2007 Edition), as amended through July 10, 2006, pages 16-23. The last major update to the Functional Classification Table occurred during the 2006 update when the entire Countywide Transportation Plan was reviewed. Since that time this table has remained unchanged.

FISCAL IMPACT:

None.

ENCLOSED DOCUMENT:

Attachment 1: Recommended Changes to the Policy Plan

Attachment 2: Planning Commission Verbatim

STAFF:

Katharine D. Ichter, Director, Department of Transportation (FCDOT)

Daniel B. Rathbone, Chief, Transportation Planning Division, FCDOT

Leonard Wolfenstein, Chief, Transportation Planning Section, FCDOT

Fred Selden, Chief, Planning Division, Department of Planning and Zoning (DPZ)

Michael W. Garcia, Transportation Planner, FCDOT