

**FAIRFAX COUNTY
BOARD OF SUPERVISORS
SEPTEMBER 14, 2009**

AGENDA

9:30	Done	Presentations
10:00	Done	Presentation of the Environmental Excellence Awards
10:00	Approved w/amendment	Public Hearing on the County and Schools' <i>FY 2009 Carryover Review</i> to Amend the Appropriation Level in the FY 2010 Revised Budget Plan
10:25	Done	Appointments to Citizen Boards, Authorities, Commissions, and Advisory Groups
10:25	Done	Items Presented by the County Executive

**ADMINISTRATIVE
ITEMS**

1	Approved	Extension of Review Periods for 2232 Review Applications (Lee, Mason, and Springfield Districts)
2	Approved	Authorization to Advertise a Public Hearing on Proposed Amendment to Article 7 of Chapter 61 (Building Provisions) of <i>The Code of the County of Fairfax, Virginia</i> , Re: Addition of Civil Penalties Provision for Violations of the Virginia Maintenance Code
3	Approved	Installation of "No Parking" Signs on the Leesburg Pike Service Road (F-1033) at Northfalls Court (Dranesville District)
4	Approved	Authorization to Advertise a Public Hearing to Establish the Lee Community Parking District (Lee District)
5	Approved	Authorization to Advertise a Public Hearing on a Proposal to Prohibit Through Truck Traffic on Memorial Street, Harrison Lane, Lockheed Boulevard, Southgate Drive, Lenclair Street, Queens Road and Groveton Street as Part of the Residential Traffic Administration Program (Lee and Mount Vernon Districts)
6	Approved w/amendment	Authorization for the Department of Transportation to Apply for and Accept Funding for the Transportation Investment Generating Economic Recovery (TIGER) Program Funds; and Support for the Regional TIGER Application

**FAIRFAX COUNTY
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**ADMINISTRATIVE
ITEMS**
(continued)

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| 7 | Approved | Authorization for the Department of Transportation to Apply for FY 2011 Regional Surface Transportation Program and Congestion Mitigation and Air Quality Program Funds |
| 8 | Approved | Approval of Traffic Calming Measures and Installation of "\$200 Additional Fine for Speeding" Signs, Multi-Way Stop and "Watch for Children" Signs as Part of the Residential Traffic Administration Program (Dranesville, Springfield, Lee and Providence Districts) |
| 9 | Approved | Approval of Supplemental Appropriation Resolution AS 10049 for the Department of Family Services to Accept Grant Funding from the Virginia Department of Social Services, Office of Early Childhood Development, for the Virginia Star Quality Initiative |
| 10 | Approved | Approval of Supplemental Appropriation Resolution AS 10025 for the Department of Family Services, to Accept Grant Funding from the U.S. Department of Health and Human Services for Head Start and Early Head Start Cost of Living Adjustments and Quality Improvement |
| 11 | Approved | Approval of Supplemental Appropriation Resolution AS 10031 for the Department of Family Services to Accept Grant Funding from the Virginia Department of Social Services for the Community Services Block Grant Program |
| 12 | Approved | Approval of Supplemental Appropriation Resolution AS 10057 for the Fairfax County Fire and Rescue Department to Accept Funding from the Washington Metropolitan Airports Authority for the Dulles Corridor Metrorail Tunnel at the Intersection of Routes 123 and 7 Rescue Project |
| 13 | Approved | Approval of Supplemental Appropriation Resolution AS 10037 for the Office of the Commonwealth's Attorney to Accept Grant Funding from the Virginia Department of Criminal Justice Services for the Violence Against Women Stimulus Program |

**FAIRFAX COUNTY
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**ADMINISTRATIVE
ITEMS**

(continued)

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| 14 | Approved | Authorization for the Fairfax County Police Department to Apply for and Accept Grant Funding from the Office of Justice Programs Edward Byrne Memorial Justice Assistance Grants |
| 15 | Approved | Approval of Supplemental Appropriation Resolution AS 10043 for the Department of Transportation to Accept Grant Funding from the Virginia Department of Rail and Public Transportation for the I-495 Capital Beltway High Occupancy Toll Lane Construction Transportation Management Plan (TMP) |
| 16 | Approved | Authorization to Advertise a Public Hearing on Proposed Transportation Enhancement Program Projects |
| 17 | Approved | Approval of Supplemental Appropriation Resolution AS 10051 for the Health Department to Accept a Department of Homeland Security Urban Area Security Initiative Sub-Grant Award from the Virginia Department of Emergency Management Through the State Administrative Agency for the National Capital Region |
| 18 | Approved | Streets into the Secondary System (Braddock, Mason, Providence, and Sully Districts) |
| 19 | Approved | Approval of Supplemental Appropriation Resolution AS 10054 for the Department of Vehicle Services to Accept Grant Funding from the U.S. Environmental Protection Agency (EPA) for the Clean Diesel Emerging Technologies Program |
| 20 | Approved | Streets into the Secondary System (Providence District) |

ACTION ITEMS

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| 1 | Approved | Establishment of the Number of Taxicab Certificates for the Biennial Period 2009 – 2010 |
| 2 | Approved | Endorsement of Eligibility and Procedural Requirements of Minor Arterial Streets for Inclusion into the Fairfax County Residential Traffic Administration Program |

**FAIRFAX COUNTY
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ACTION ITEMS

(continued)

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| 3 | Approved | Approval of a Project Agreement and Funding for County-Funded Roadway Improvements to Stringfellow Road and the Stringfellow Road Park-and-Ride Lot (Springfield and Sully Districts) |
| 4 | Approved | Presentation of Lists of Delinquent Real Estate, Personal Property, and Business, Professional, and Occupational License Taxes for Tax Year 2008 (FY 2009) |
| 5 | Approved | Adoption of a Proposed Amendment to the Rules of Procedure Regarding Time Allocations for Speakers at Board Public Hearings |
| 6 | Approved | Approval of Amended Parking Reduction for Fairfax Corner Center (Springfield District) |
| 7 | Approved | Approval of Parking Reduction for Brookfield Corporate Center Park Phase 2 (Sully District) |
| 8 | Approved | Renewal of a Memorandum of Understanding Between the Fairfax County Police Department and the United States Department of Justice Drug Enforcement Administration (DEA) HIDTA Task Force |
| 9 | Approved
w/amendment | Approval of a Draft Board of Supervisors' Meeting Schedule for Calendar Year 2010 |
| 10 | Approved | Renewal of a Memorandum of Understanding Between the Fairfax County Police Department and the United States Department of Justice Drug Enforcement Administration (DEA) Task Force |

**CONSIDERATION
ITEMS**

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| 1 | Approved | Approval of the Amendments to the Bylaws for the Fairfax County Animal Services Advisory Commission (ASAC) |
| 2 | Reversed proffer
interpretation
determination | Appeal of a Proffer Interpretation for RZ 86-C-121 Reston Town Center (Hunter Mill District) |

**FAIRFAX COUNTY
BOARD OF SUPERVISORS
SEPTEMBER 14, 2009**

INFORMATION ITEMS

1	Noted	Planning Commission Action on Application 2232-D09-2, NewPath Networks, LLC and New Cingular Wireless PCS, LLC (Dranesville District)
2	Noted	County Holiday Schedule – Calendar Year 2010
10:55	Done	Matters Presented by Board Members
11:45	Done	Closed Session
12:00	Held	9/11 Remembrance Ceremony The 9/11 Memorial Grove, Fairfax County Government Center

PUBLIC HEARINGS

3:00	Approved	Public Hearing on SEA 95-M-009 (Pinecrest (E&A) LLC) (Mason District)
3:00	Approved	Public Hearing on SEA 2005-SP-033 (Washington DC SMSA LTD Partnership D/B/A Verizon Wireless) (Springfield District)
3:00	Approved	Public Hearing on SE 2007-SP-022 (Trustees Of The Sydenstricker United Methodist Church & T-Mobile Northeast LLC) (Springfield District)
3:30	Public hearing deferred to 10/19/09 at 3:30 p.m.	Public Hearing on SEA 89-L-080 (Sunoco, Inc. (R&M)) (Lee District)
3:30	Approved	Public Hearing on RZ 2009-PR-006 (Arlington Boulevard Consolidation LLC) (Providence District)
3:30	Approved	Public Hearing on PCA 2009-PR-007 (Arlington Boulevard Consolidation LLC) (Providence District)
3:30	Approved	Public Hearing on PCA 2004-PR-003-02 (Arlington Boulevard Consolidation LLC) (Providence District)
3:30	Approved	Public Hearing on RZ 2009-MA-012 (Board of Supervisor's Own Motion) (Mason District)

**FAIRFAX COUNTY
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**PUBLIC HEARINGS
(continued)**

3:30	Public hearing deferred to 10/5/09 at 3:30 p.m.	Public Hearing on SE 2009-MV-010 (Wachovia Bank) (Mount Vernon District)
3:30	Public hearing deferred to 10/19/09 at 3:30 p.m.	Public Hearing on RZ 2005-HM-028 (Pedro & Carmen M. Toscano, Jr.) (Hunter Mill District)
3:30	Public hearing deferred to 10/19/09 at 3:30 p.m.	Public Hearing on SE 2007-HM-023 (Pedro & Carmen M. Toscano, Jr.) (Hunter Mill District)
3:30	Approved	Public Hearing on SE 2009-MA-004 (Teraa, LLC) (Mason District)
4:00	Approved	Public Hearing on a Proposed Amendment to the Zoning Ordinance Re: Single Family Detached Dwelling Grade
4:00	Approved	Public Hearing on the Acquisition of Certain Land Rights Necessary for the Construction of the Center Lane Stormwater Management Drainage Improvements - Project CA8000 (CA004) (Mason District)
4:00	Approved	Public Hearing on a Sewer Ordinance Amendment to Revise Chapter 67.1 of the County Code in Compliance with the Environmental Protection Agency's (EPA) New Pretreatment Streamlining Rule and Miscellaneous EPA and County Housekeeping Updates
4:00	Approved	Public Hearing on Proposed Area Plans Review (APR) Item 08-III-1DS, Located Northeast of the Stonecroft Boulevard and Stonecroft Center Court Intersection (Sully District)



Fairfax County, Virginia
BOARD OF SUPERVISORS
AGENDA

Monday
September 14, 2009

9:30 a.m.

PRESENTATIONS:

1. **CERTIFICATE** – To recognize residents and businesses that have made properties for training available to Fairfax County public safety workers. Requested by Chairman Bulova.
2. **PROCLAMATION** – To designate September 12-18, 2009, as Child Passenger Safety Week in Fairfax County. Requested by Chairman Bulova.
3. **PROCLAMATION** – To designate October 2009 as Domestic Violence Awareness Month in Fairfax County. Requested by Chairman Bulova.
4. **PROCLAMATION** – To designate September 15-October 15, 2009, as Hispanic Heritage Month in Fairfax County. Requested by Chairman Bulova.
5. **RESOLUTION** – To recognize the Independent Living Project and ElderLink for their work and receiving a Commonwealth Council on Aging 2009 Best Practices Award. Requested by Supervisor Herrity.
6. **PROCLAMATION** – To designate October 4-10, 2009, as Mental Illness Awareness Week in Fairfax County. Requested by Chairman Bulova.
7. **PROCLAMATION** – To designate September 6-12, 2009, as Suicide Prevention Week in Fairfax County. Requested by Supervisor Cook.

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8. RESOLUTION – To recognize Columbia Lighthouse for the Blind for its Bridge to Work program. Requested by Chairman Bulova.
9. CERTIFICATE – To recognize Maureen Ribble for winning the 2009 Ms. Virginia Senior America title and advancing to the Ms. Senior America Pageant to be held in Atlantic City in October. Requested by Supervisor Hyland.

STAFF:

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

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10:00 a.m.

Presentation of the Environmental Excellence Awards

ENCLOSED DOCUMENTS:

None.

PRESENTED BY:

Stella Koch, Chairman, Environmental Quality Advisory Council (EQAC)
Robert D. McLaren, EQAC

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Board Agenda Item
September 14, 2009

10:00 a.m.

Public Hearing on the County and Schools' FY 2009 Carryover Review to Amend the Appropriation Level in the FY 2010 Revised Budget Plan

ISSUE:

Public Hearing and Board action on the County and Schools' *FY 2009 Carryover Review*.

RECOMMENDATION:

The County Executive recommends that, after holding a public hearing, the Board approve staff recommendations including the County and Schools' *FY 2009 Carryover Review*.

TIMING:

The public hearing has been advertised for 10:00 a.m. on September 14, 2009. State law allows the Board to act on proposed amendments to the budget on the same day as the public hearing.

BACKGROUND:

On August 3, 2009, the Board of Supervisors authorized staff to advertise a public hearing scheduled to be held on September 14, 2009, regarding the County and Schools' Carryover Review. Section 15.2 - 2057 of the Code of Virginia requires that a public hearing be held prior to Board action. Board approval of an amendment to increase the FY 2010 appropriation level can occur immediately following the public hearing.

ENCLOSED DOCUMENTS:

Attachment A: Advertisement for public hearing

Attachment B: August 3, 2009 memorandum to the Board of Supervisors from Anthony H. Griffin, County Executive, with attachments, transmitting the *FY 2009 Carryover Review* with appropriation resolutions

Attachment C: Fairfax County School Board's FY 2009 Final Budget Review and Appropriation Resolutions

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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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10:25 a.m.

Appointments to Citizen Boards, Authorities, Commissions, and Advisory Groups

ENCLOSED DOCUMENTS:

Attachment 1: Appointments to be heard September 14, 2009

Attachment 2: Résumé of Pamela Barrett, Fairfax-Falls Church Community Services
Board Nominee

STAFF:

Nancy Vehrs, Clerk to the Board of Supervisors

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10:25 a.m.

Items Presented by the County Executive

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Board Agenda Item
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ADMINISTRATIVE – 1

Extension of Review Periods for 2232 Review Applications (Lee, Mason, and Springfield 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: application 2232-S09-7 to November 16, 2009; application 2232-L09-13 to November 20, 2009; application 2232-M09-8 to November 23, 2009; and application FS-M09-43 to November 27, 2009.

TIMING:

Board action is required on September 14, 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-S09-7, 2232-M09-8, 2232-L09-13, and FS-M09-43, which were accepted for review by the Department of Planning and Zoning between June 19, 2009, and June 30, 2009. 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-S09-7 Cricket Communications, Inc., and Verizon Wireless
130-foot monopole/light pole
4201 Stringfellow Road (Chantilly High School)
Springfield District
- 2232-M09-8 T-Mobile Northeast LLC
130-foot monopole/light pole
6560 Braddock Road (Thomas Jefferson High School)
Mason District
- 2232-L09-13 New Cingular Wireless PCS, LLC
155-foot monopole (tree pole)
6500 Byron Avenue (Byron Avenue Park)
Lee District
- FS-M09-43 Clearwire US LLC
Antenna colocation on existing monopole
3101 Hodge Place (Jefferson Fire Station)
Mason 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.

FISCAL IMPACT:

None

ENCLOSED DOCUMENTS:

None

STAFF:

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

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ADMINISTRATIVE - 2

Authorization to Advertise a Public Hearing on Proposed Amendment to Article 7 of Chapter 61 (Building Provisions) of *The Code of the County of Fairfax, Virginia*, Re: Addition of Civil Penalties Provision for Violations of the Virginia Maintenance Code

ISSUE:

Board authorization to advertise a public hearing to consider a proposed amendment to Article 7 of Chapter 61 (Building Provisions) of *The Code of the County of Fairfax, Virginia* (County Code), to establish a uniform schedule of civil penalties for specified violations of the Virginia Uniform Statewide Building Code, Part III, Maintenance (Virginia Maintenance Code).

RECOMMENDATION:

The County Executive recommends the authorization of the advertisement of a public hearing to consider the proposed amendment to the County Code as set forth in the Staff Report dated September 14, 2009.

TIMING:

Board of Supervisors action is requested on September 14, 2009, to provide sufficient time to advertise the proposed Board of Supervisors public hearing on October 19, 2009, at 4:00 p.m. The proposed amendment has an effective date of 12:01 A.M. the day following adoption.

BACKGROUND:

Pursuant to Va. Code Ann. § 36-105(C) (Supp. 2009) and County Code § 61-1-1(b), the County is authorized to enforce the Virginia Maintenance Code, which contains the regulations and standards for the maintenance of existing buildings and structures for all localities in Virginia. There are different means available to prosecute violations of the Virginia Maintenance Code, including as criminal misdemeanors in General District Court or by obtaining injunctions in Circuit Court. As an alternative to criminal misdemeanors, Va. Code Ann. § 36-106(C) specifically authorizes localities to adopt an ordinance establishing a uniform schedule of civil penalties for specified violations of the Virginia Maintenance Code. The civil penalty process allows violators to prepay the fines and admit liability, which obviates the need for a court appearance for all parties.

Pursuant to County Code § 61-1-2, the Property Maintenance Code Official, who is the duly authorized agent of the Director of the Department of Planning and Zoning (DPZ), is responsible for enforcing the Virginia Maintenance Code for existing residential buildings

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and structures in Fairfax County. The Building Official, who is with the Department of Public Works and Environmental Services, is responsible for enforcing the Virginia Maintenance Code for existing non-residential buildings and structures in Fairfax County.

DPZ has recently reinstated using the civil penalty process for prosecuting minor offenses of the Zoning Ordinance after state law was amended to allow the General District Court to order a violator to abate any violation that is still outstanding at the time of the hearing on the civil penalties. Similarly, for violations of the Virginia Maintenance Code, Va. Code Ann. § 36-106(C) provides that if the violations involve residential properties, the General District Court shall order abatement of violations of the Virginia Maintenance Code that remain uncorrected at the time of the trial on the civil penalties. Parallel authority for court-ordered abatement of violations involving non-residential properties does not exist under state law.

Due to the success of the civil penalty approach for litigating minor Zoning Ordinance violations, staff, in coordination with the County Attorney's Office, recommends that the Board amend Article 7 of Chapter 61 of the County Code to establish a uniform schedule of civil penalties for prosecuting violations of all of the provisions of the Virginia Maintenance Code, except for violations of the provisions of Section 105 – Unsafe Structures or Structures Unfit for Human Habitation of the Virginia Maintenance Code, which will continue to be prosecuted as criminal misdemeanors due to the serious nature of these offenses. The Building Official concurs with this recommendation. It is noted that the establishment of a uniform schedule of civil penalties for Virginia Maintenance Code violations will eliminate authority to seek court-ordered abatement of violations involving non-residential properties through the criminal process in General District Court, except for structures declared unsafe pursuant to the provisions of Section 105 of the Virginia Maintenance Code. It is noted that this amendment will not preclude the Property Maintenance Code Official or the Building Official from obtaining injunctive relief in Circuit Court for recurring and/or more significant violations involving residential or non-residential properties should that be necessary.

SUMMARY OF AMENDMENT:

The proposed amendment establishes a uniform schedule of civil penalties for specified violations of the Virginia Maintenance Code as follows: a civil penalty for any one violation of any of the provisions of the Virginia Maintenance Code of \$100.00 for the initial summons and \$150.00 for each additional summons, up to a total of \$3,000.00 for the same offense, except for violations of the provisions of Section 105 - Unsafe Structures or Structures Unfit for Human Habitation of the Virginia Maintenance Code, which will continue to be prosecuted as criminal misdemeanors.

A more detailed discussion of the proposed amendment is set forth in the attached Staff Report.

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REGULATORY IMPACT:

The proposed amendment will offer an alternative method of enforcing violations of the Virginia Maintenance Code, specifically minor violations that are not promptly remedied after receipt of a notice of violation. The civil penalty process allows violators to prepay the fines and admit liability, which obviates the need for a court appearance for all parties. It is anticipated that the civil penalty method of enforcing minor violations of the Virginia Maintenance Code will be a more efficient and cost effective method of achieving compliance for both parties by eliminating the time and expense of court costs and legal fees. Currently the preparation and filing of a civil action in the Circuit Court through resolution typically takes between 4 to 12 months. Based on DPZ's experiences with the civil penalty process for minor zoning violations, this method of enforcement can typically be accomplished within one to two months, significantly reducing the amount of staff time and providing a quicker resolution to the violation, including court ordered abatement of violations involving residential properties. Designation of the proposed provisions of the Virginia Maintenance Code as civil penalties will be in lieu of criminal sanctions and, as such, will preclude the prosecution of such violations in General District Court, except for violations under Section 105, as criminal misdemeanors. However, injunctive relief through the Circuit Court for all violations involving residential and non-residential properties will remain available.

FISCAL IMPACT:

If adopted, it is anticipated that the proposed amendment establishing a schedule of civil penalties will yield additional revenue of approximately \$10,000 annually starting in FY 2010. The projected additional revenue will be collected by the Department of Finance and added to the general fund.

ENCLOSED DOCUMENT:

Attachment A - Staff Report Dated September 14, 2009

STAFF:

Robert A. Stalzer, Deputy County Executive
James P. Zook, Director, Department of Planning and Zoning (DPZ)
Jimmie D. Jenkins, Director, Department of Public Works and Environmental Services (DPWES)
Howard Guba, Deputy Director, DPWES
James Patteson, Director, Land Development Services, DPWES
Ray Pylant, Building Official, DPWES
Eileen M. McLane, Zoning Administrator, DPZ
Michael Congleton, Property Maintenance Code Official, DPZ

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ADMINISTRATIVE - 3

Installation of “No Parking” Signs on the Leesburg Pike Service Road (F-1033) at Northfalls Court (Dranesville District)

ISSUE:

Board approval for the County installation of “No Parking” signs on both sides of the Leesburg Pike service road (F-1033) from the west side of parcel 11-2((12))01 to the east side of parcel 11-2((12))09.

RECOMMENDATION:

The County Executive recommends that the Board adopt the attached resolution (Attachment I) restricting parking on the above-referenced service road. The County Executive further recommends that staff be directed to install these signs at the earliest possible date.

TIMING:

Routine.

BACKGROUND:

The Dranesville District Supervisor’s Office has requested that “No Parking” signs be placed on both sides of the Leesburg Pike service road (F-1033) from the west side of parcel 11-2((12))01 to the east side of parcel 11-2((12))09. Staff has reviewed the area and has determined that vehicles that are parked on the grass straddling the curb are damaging property and/or landscaping within the right-of-way limits. In addition, large vehicles parked at this location create a safety hazard for pedestrians, cyclists, and motorists exiting Northfalls Court.

Section 82-5-37 of *The Code of the County of Fairfax, Virginia*, provides that the Board of Supervisors may designate, by resolution, areas for restricted parking upon any part of the secondary road system within the County if the Board finds that any of the following conditions exist:

1. That parking along any secondary road is damaging property/and or landscaping within the right-of-way limits; or
2. That parking along local residential streets is so restricting the primary purpose of the road as to interfere with that purpose; or

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3. That parking along any secondary road creates a safety hazard for pedestrians, cyclists, or motorists entering or exiting the roadway from driveways or for pedestrians, cyclists, or motorists traveling along that road; or
4. That statutory parking violations pursuant to Fairfax County Code section 82-5-1 occur with frequency in a particular location and compliance with section 82-5-1 will be facilitated by the installation of "No Parking" signs; or
5. That, in the case of any street which serves as a boundary between an area zoned for residential use and an area zoned for non-residential use on which parking is restricted on the residential side of the street pursuant to Fairfax County Code section 82-5-7, the prohibition of parking of commercial vehicles, as defined by section 82-5-7, on the side of that street which is zoned for a use other than residential would further the residential character of the abutting residential community, would facilitate the free and unrestricted vehicular travel along that street, and would promote the health, safety and general welfare of the abutting residential community.

In accordance with subsections (1) and (3) referenced above, staff believes that parking along both sides of the Leesburg Pike service road (F-1033) from the west side of parcel 11-2((12))01 to the east side of parcel 11-2((12))09, should be prohibited everyday, 24 hours a day.

FISCAL IMPACT:

The cost of installing the signs is estimated at \$600 to be paid out of Department of Transportation funds.

ENCLOSED DOCUMENTS:

Attachment I: Proposed Restricted Parking Resolution

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
Selby Thannikary, Section Chief, Traffic Operations Section, FCDOT
Maria Turner, FCDOT
Janet Nguyen, FCDOT

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ADMINISTRATIVE - 4

Authorization to Advertise a Public Hearing to Establish the Lee 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 large area Lee Community Parking District (CPD).

RECOMMENDATION:

The County Executive recommends that the Board authorize advertisement of a public hearing for October 19, 2009, at 4:00 p.m., to consider adoption of a Fairfax County Code amendment (Attachment I) to establish the Lee CPD in accordance with current large area CPD restrictions.

TIMING:

The Board of Supervisors should take action on September 14, 2009, to provide sufficient time for advertisement of the public hearing on October 19, 2009, at 4:00 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 large area CPD if the proposed District contains all of a magisterial district, excluding certain areas that meet minimum size requirements. In this case, the proposed District will encompass the entire Lee District. Staff has verified that the requirements for a large area CPD have been satisfied.

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

If approved, the proposed Lee large area CPD would be the third non-petition based CPD established in the County. Existing CPD signs within the Grove at Huntley Meadows, Hayfield View, Island Creek, Kingstowne, Lackawanna, Landsdowne, Manchester Lakes, Potters Glen, Runnymede, St. John and West Hampton CPDs that are within the new district will not be removed.

FISCAL IMPACT:

The recommended changes should have minimal fiscal impact. Signs will not be installed.

ENCLOSED DOCUMENTS:

Attachment I: Amendment to the Fairfax County Code, Appendix M (CPD Restrictions)

Attachment II: Area Map of Proposed Lee CPD

STAFF:

Robert A. Stalzer, Deputy County Executive

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

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

Selby Thannikary, Chief, Traffic Operations Section, FCDOT

Maria Turner, FCDOT

Janet Nguyen, FCDOT

ADMINISTRATIVE - 5

Authorization to Advertise a Public Hearing on a Proposal to Prohibit Through Truck Traffic on Memorial Street, Harrison Lane, Lockheed Boulevard, Southgate Drive, Lenclair Street, Queens Road and Groveton Street as Part of the Residential Traffic Administration Program (Lee and Mount Vernon Districts)

ISSUE:

Board authorization to advertise a public hearing to be held on Monday, October 19, 2009, 4:00 p.m., for the purpose of endorsing the following roads to be included in the Residential Traffic Administration Program (RTAP) for a through truck traffic restriction:

- Memorial Street between South Kings Highway and Richmond Highway
- Harrison Lane and Lockheed Boulevard between South Kings Highway and Richmond Highway
- Southgate Drive between South Kings Highway and Richmond Highway
- Lenclair Street and Memorial Street between South Kings Highway and Richmond Highway
- Queens Road and Groveton Street between South Kings Highway and Richmond Highway

RECOMMENDATION:

The County Executive recommends the Board authorize advertisement of a public hearing for the purpose of endorsing Memorial Street, between South Kings Highway and Richmond Highway; Harrison Lane and Lockheed Boulevard between South Kings Highway and Richmond Highway; Southgate Drive between South Kings Highway and Richmond Highway; Lenclair Street and ~~Groveton Street~~ Memorial Street between South Kings Highway and Richmond Highway; and Queens Road and Groveton Street between South Kings Highway and Richmond Highway to be included in the RTAP for a through truck traffic restriction.

TIMING:

The Board should take action on September 14, 2009, to provide sufficient time for advertisement of the proposed public hearing scheduled for October 19, 2009, 4:00 p.m.

BACKGROUND:

On January 21, 2009, Supervisor McKay requested staff to work with the Virginia Department of Transportation (VDOT) to establish through truck traffic restrictions on Harrison Lane and Lockheed Boulevard, between South Kings Highway and Richmond Highway, due to continuing safety concerns of residents regarding through trucks. On February 11, 2009, Supervisor McKay requested through truck traffic restrictions on a portion of Memorial Street, between South Kings Highway and Richmond Highway. To avoid potential truck diversion to parallel streets, Lenclair Street, Queens Road, Groveton Street, and Southgate Drive were subsequently included for through truck restrictions as well.

For a through truck restriction on Harrison Lane and Lockheed Boulevard between South Kings Highway and Richmond Highway, a possible alternate route is via South Kings Highway from the intersection of South Kings Highway and Harrison Lane to the intersection of South Kings Highway and Richmond Highway, and then via Richmond Highway to the intersection of Richmond Highway and Lockheed Boulevard.

For a through truck restriction on Memorial Street between South Kings Highway and Richmond Highway, a possible alternate route is via South Kings Highway from the intersection of South Kings Highway and Memorial Street to the intersection of South Kings Highway and Richmond Highway, and then via Richmond Highway to the intersection of Richmond Highway and Memorial Street.

For a through truck restriction on Southgate Drive between South Kings Highway and Richmond Highway, a possible alternate route is via South Kings Highway from the intersection of South Kings Highway and Southgate Drive to the intersection of South Kings Highway and Richmond Highway, and then via Richmond Highway to the intersection of Richmond Highway and Southgate Drive.

For a through truck restriction on Lenclair Street and ~~Groveton Street~~ Memorial Street between South Kings Highway and Richmond Highway, a possible alternate route is via South Kings Highway from the intersection of South Kings Highway and Lenclair Street to the intersection of South Kings Highway and Richmond Highway, and then via Richmond Highway to the intersection of Richmond Highway and ~~Groveton Street~~ Memorial Street.

For a through truck restriction on Queens Road and Groveton Street between South Kings Highway and Richmond Highway, a possible alternate route is via South Kings Highway from the intersection of South Kings Highway and Queens Road to the intersection of South Kings Highway and Richmond Highway, and then via Richmond Highway to the intersection of Richmond Highway and Groveton Street.

(Attachment II).

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REVISED

Section 46.2-809, of the *Code of Virginia* requires a local jurisdiction to hold a duly advertised public hearing on any proposal to restrict through truck traffic on a primary or secondary road. Further, a resolution pertaining to prohibiting through truck traffic on the aforementioned roads (Attachment I) has been prepared for adoption and transmittal to VDOT, which will conduct the formal engineering study of the through truck restriction request.

FISCAL IMPACT:

None.

ENCLOSED DOCUMENTS:

Attachment I: Proposed Resolution to Restrict Through Truck Traffic on Memorial Street, Harrison Lane, Lockheed Boulevard, Southgate Drive, Lenclair Street, Queens Road and Groveton Street

Attachment II: Area Map of Proposed Through Truck Traffic Restriction

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

Selby J. Thannikary, Chief, Traffic Operations Section, FCDOT

William P. Harrell, Transportation Planner, FCDOT

Steven K. Knudsen, Transportation Planner, FCDOT

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ADMINISTRATIVE - 6

Authorization for the Department of Transportation to Apply for and Accept Funding for the Transportation Investment Generating Economic Recovery (TIGER) Program Funds; and Support for the Regional TIGER Application

ISSUE:

Board authorization is requested for the Department of Transportation to apply for TIGER program grant funds made available under the American Recovery and Reinvestment Act of 2009. Funding in the amount of \$55.0 million will be used for the U.S. Route 29/Gallows Road Intersection Improvements (\$20.0 million) and Springfield CBD Multimodal Transportation Facility (\$35.0 million). There is no Local Cash Match required. Board support is also requested for the regional Priority Bus, and the Washington Metropolitan Area Transit Authority (WMATA) Cinder Bed Road Bus Garage TIGER applications. All four of these projects are described in Attachment 1. After TIGER allocations have been determined, staff will return to the Board for concurrence with specific grant agreements for projects administered by Fairfax County.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors authorize the Department of Transportation to apply for \$55.0 million in TIGER program grant funds, and support the regional priority bus application and WMATA's Cinder Bed Road Bus Garage application.

TIMING:

Board of Supervisors' authorization and support is requested on September 14, 2009, in order to meet the USDOT September 15, 2009, submission deadline.

BACKGROUND:

As part of the American Recovery and Reinvestment Act of 2009 (ARRA), \$1.5 billion in discretionary transportation funding was approved. The United States Department of Transportation (USDOT) is implementing this program that has been named the Transportation Investment Generating Economic Recovery (TIGER) program. Eligible projects include major capital infrastructure investments for highways, transit, aviation, and ports. The application deadline is September 15, 2009. USDOT will evaluate applications and announce project awards no later than February 17, 2010. In general, applicants are strongly encouraged to obligate any funds that are received under the TIGER program by February 2012.



ARRA specifies that grants be no less than \$20 million and no more than \$300 million. As such, staff has prepared two applications for individual projects toward the lower end of the spectrum, and has helped develop a regional application toward the upper end.

Staff primarily considered projects included in the Board of Supervisors' Four Year Transportation Program, the TransAction 2030 Plan, the VDOT Six-Year Program, and the list of projects included in the item presented to the Board at the July 13, 2009, Board of Supervisors' meeting outlining transportation funding strategies. A key factor in determining staff's final recommendations was also the February 2012 deadline for obligating funds. Fairfax County staff recommends requesting \$55.0 million in TIGER projects and supporting the regional application of approximately \$275.0 million, and WMATA's application of \$75 million. The projects included in the requests are listed below. More detailed information is provided in Attachment I.

<p>County TIGER Applications <u>Project:</u> U.S. Route 29/Gallows Road Intersection Improvements <u>Project:</u> Springfield CBD Multimodal Transportation Facility</p>	<p>Request \$20.0 million \$35.0 million</p>
<p>Regional TIGER Application <u>Project:</u> Regional Priority Bus</p>	<p>Request \$275.0 million</p>
<p>WMATA TIGER Application <u>Project:</u> Cinder Bed Road Bus Garage</p>	<p>Request \$75.0 million</p>

In addition to the projects the County is directly applying for and the regional application, the County may also benefit from an application being submitted by the Washington Metropolitan Area Transit Authority for the Cinder Bed Road Bus Garage.

Unless otherwise directed by the Board of Supervisors, staff will assume endorsement of these projects by the Board and will pursue funding under the TIGER program.

FISCAL IMPACT:

Grant funding of \$55.0 million is being requested by the County from the TIGER program. The County is directly applying for funding for the U.S. Route 29/Gallows Road Intersection Improvements (\$20.0 million) and Springfield CBD Multimodal Transportation Facility (\$35 million). No Local Cash Match is required. If funding is awarded, upon Board approval, staff will include the necessary funding adjustments as part of the Third Quarter or Carryover Review process. This grant does not allow the recovery of indirect costs.

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ENCLOSED DOCUMENTS:

Attachment 1: Prioritized List of Projects

STAFF:

Robert A. Stalzer, Deputy County Executive

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

Tom Biesiadny, Chief, Coordination and Funding Division, FCDOT

Jay Guy, Senior Transportation Planner, Coordination and Funding FCDOT

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ADMINISTRATIVE - 7

Authorization for the Department of Transportation to Apply for FY 2011 Regional Surface Transportation Program and Congestion Mitigation and Air Quality Program Funds

ISSUE:

Board authorization is requested for the Department of Transportation to apply for FY 2011 Regional Surface Transportation Program (RSTP) and Congestion Mitigation and Air Quality Program (CMAQ) Funds. These funds would be used to advance the projects listed below and described in Attachment I. There is no Local Cash Match required for these funds. The Virginia Department of Transportation (VDOT) provides the Local Cash Match for RSTP and CMAQ projects. After RSTP and CMAQ allocations have been determined, staff will return to the Board for concurrence with specific grant agreements for projects administered by Fairfax County.

RECOMMENDATION:

The County Executive recommends that the Board authorize the Department of Transportation to apply for FY 2011 RSTP and CMAQ Funds. There is no Local Cash Match required for these funds.

TIMING:

Board authorization is requested on September 14, 2009, in order to meet the Northern Virginia Transportation Authority (NVTA) submission deadline of September 25, 2009.

BACKGROUND:

The RSTP and CMAQ programs provide funds for regions that are designated air quality non-attainment areas to assist them in complying with Clean Air Act requirements. For FY 2011, VDOT estimates that in Northern Virginia, \$30.8 million will be available for distribution in the RSTP Program, and \$20.8 million will be available in the CMAQ Program.

The NVTA is requesting that jurisdictions submit all RSTP and CMAQ project requests by September 25, 2009. The Commonwealth Transportation Board will subsequently consider the NVTA-approved list of projects in May or June 2010.

Staff has prepared a prioritized list of projects for each program to submit to the NVTA Jurisdiction and Agency Coordinating Committee by the September 25, 2009, deadline. These projects are shown in the table below. More detailed information is provided in Attachment I.

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Staff primarily considered projects included in the Board of Supervisors' Four Year Transportation Program, the TransAction 2030 Plan, the VDOT Six-Year Program, and prior year submissions. At the July 13, 2009, Board of Supervisors' meeting, staff also included the Route 29/Gallows Road intersection improvements and I-66/Vienna access ramp projects in an item recommending transportation funding strategies and priorities. The submissions for these projects are based on the Board's subsequent action. Fairfax County staff recommends requesting \$19.0 million in RSTP projects and \$10.95 million in CMAQ projects.

<u>Regional Surface Transportation Program</u>	<u>Request</u>
U.S. Route 29/Gallows Road Intersection Improvements	\$16.000 million
Rolling Road Improvements – Fairfax County Parkway to Old Keene Mill Road	<u>\$ 3.000 million</u>
TOTAL	\$19.000 million
<u>Congestion Mitigation and Air Quality Program</u>	<u>Request</u>
I-66/Vienna Access Ramp	\$ 5.000 million
Transit Store Operating Costs (FY 2011)	\$ 0.450 million
VRE Lorton Platform Extension	\$ 1.500 million
<u>Bike & Pedestrian Connections to HOT Lanes</u>	<u>\$ 4.000 million</u>
TOTAL	\$ 10.950 million

In addition to the projects directly applied for, the County also benefits from projects applied for and received by the Washington Metropolitan Area Transit Authority (WMATA) and the Virginia Railway Express (VRE).

Unless otherwise directed by the Board of Supervisors, staff will assume endorsement of these projects by the Board and will pursue funding for FY 2011.

FISCAL IMPACT:

None at this time. Neither the RSTP nor CMAQ projects require a Local Cash Match from the County, because VDOT provides the match. As part of the annual budget process and quarterly budget reviews, staff reviews anticipated funds and requirements, based on projects approved and project schedules, to determine the appropriate level of funding required in the upcoming fiscal year.

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ENCLOSED DOCUMENTS:

Attachment I: Prioritized List of Projects

STAFF:

Robert A. Stalzer, Deputy County Executive

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

Tom Biesiadny, Chief, Coordination and Funding Division, FCDOT

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

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ADMINISTRATIVE - 8

Approval of Traffic Calming Measures and Installation of "\$200 Additional Fine for Speeding" Signs, Multi-Way Stop and "Watch for Children" Signs as Part of the Residential Traffic Administration Program (Dranesville, Springfield, Lee and Providence Districts)

ISSUE:

Board endorsement of a Traffic Calming plan, "\$200 Additional Fine for Speeding" signs, multi-way stop and "Watch for Children" signs as part of the Residential Traffic Administration Program (RTAP)

RECOMMENDATION:

The County Executive recommends that the Board endorse the traffic calming plans for Ingleside Avenue (Attachment I), Trap Road (Attachment II), Upland Drive (Attachment III), and Stonewall Drive (Attachment IV) consisting of the following:

- One speed hump on Ingleside Avenue (Dranesville District)
- One speed hump on Trap Road (Dranesville District)
- Two speed tables on Upland Drive (Lee District)
- Two speed tables and one raised crosswalk on Stonewall Drive (Providence District)

The County Executive further recommends approval for the installation of "\$200 Additional Fine for Speeding" signs (Attachment V and VI) on the following road:

- Balls Hill Road (Dranesville District)

The County Executive further recommends approval of multi-way stops at the following intersections:

- Loch Raven Drive and Hardy Drive (Dranesville District)
- Russell Road and Lawrence Street (Lee)

The County Executive further recommends approval for "Watch for Children" signs on the following streets (Attachment VII):

- Hunter Village Drive (Springfield District)
- Wooded Glen Avenue (Springfield District)

In addition, the County Executive recommends that the Virginia Department of

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Transportation (VDOT) be requested to install the approved measures as soon as possible.

TIMING:

Board action is requested on September 14, 2009.

BACKGROUND:

Traffic calming employs the use of physical devices such as speed humps, speed tables, raised pedestrian crosswalks, chokers, median islands, or traffic circles to reduce the speed of traffic on a residential street. For Ingleside Avenue, Trap Road, Upland Drive and Stonewall Drive, plans were approved by staff and VDOT. The traffic calming plans were subsequently submitted for approval to residents of the petition area in each community. On July 27, 2009 (Ingleside Avenue), August 3, 2009 (Trap Road), July 23, 2009 (Upland Drive), and August 13, 2009 (Stonewall Drive), FCDOT received written verification from the appropriate local supervisor confirming community support.

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. Balls Hill Road met the RTAP requirements for posting of the "\$200 Additional Fine for Speeding" signs. FCDOT received written verification from the appropriate local supervisor confirming community support for the referenced "\$200 Additional Fine for Speeding" signs on Balls Hill Road (June 3, 2009).

The RTAP allows for installation of multi-way stops in local residential neighborhoods at intersections consisting of a through cross street connected to adjacent intersections. In addition, the following criteria must be met, as contained in VDOT "Policy on Multi-way Stops in Residential Communities":

- The street has 100% residential frontage on both sides and is classified as a local or collector street.
- The street has a posted legal speed limit of 25 mph.
- No potential safety problems would be created.
- The intersection geometrics and spacing to adjacent intersections have been determined to be acceptable.
- There would be minimal impact on traffic flow for neighboring streets.

Staff and VDOT have authorized the multi-way stop signs requested. On, July 27, 2009 (Loch Raven Drive and Hardy Drive), and July 10, 2009 (Russell Road and Lawrence Street), FCDOT received written verification from the appropriate local supervisor confirming community support.

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The Board should be aware, however, of the potential negative impacts of multi-way stops. These include delay in travel time, reduced motorist compliance with regulatory signs, difficulty of police enforcement, parking restrictions within 30 feet of stop signs, and increased air and noise pollution.

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 signs will be effectively located and will not be in conflict with any other traffic control devices. FCDOT received written verification from the appropriate local supervisor confirming community support for the referenced “Watch for Children” signs on Hunter Village Drive (July 29, 2009) and Wooded Glen Avenue (August 3, 2009).

FISCAL IMPACT:

The estimated cost of \$28,000 is to be paid out of the VDOT secondary road construction budget.

ENCLOSED DOCUMENTS:

Attachment I: Traffic Calming Plan for Ingleside Avenue

Attachment II: Traffic Calming Plan for Trap Road

Attachment III: Traffic Calming Plan for Upland Drive

Attachment IV: Traffic Calming Plan for Stonewall Drive

Attachment V: “\$200 Fine for Speeding” Signs Resolution – Balls Hill Road

Attachment VI: Area Map of Proposed “\$200 Fine for Speeding” Signs – Balls Hill Road

Attachment VII: “Watch for Children” Signs Resolution – Hunter Village Drive and Wooded Glen Avenue

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

Selby J. Thannikary, Chief, Traffic Operations Section, FCDOT

William P. Harrell, Transportation Planner, FCDOT

Steven K. Knudsen, Transportation Planner, FCDOT

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ADMINISTRATIVE - 9

Approval of Supplemental Appropriation Resolution AS 10049 for the Department of Family Services to Accept Grant Funding from the Virginia Department of Social Services, Office of Early Childhood Development, for the Virginia Star Quality Initiative

ISSUE:

Board approval of Supplemental Appropriation Resolution AS 10049 for the Department of Family Services (DFS) to accept funding from the Virginia Department of Social Services, Office of Early Childhood Development (OECD), for the Virginia Star Quality Initiative in the amount of \$73,500. The grant will support the implementation of a quality rating and improvement system for a select number of early childhood programs in Fairfax County. No Local Cash Match is required. The grant period is from August 10, 2009 to June 30, 2011. This funding has been made available as a result of the American Recovery and Reinvestment Act of 2009 (ARRA), with funds passed through from the U.S. Department of Health and Human Services to OECD. When grant funding expires, the County is under no obligation to continue funding the program.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors approve Supplemental Appropriation Resolution AS 10049 to accept funding from the Virginia Department of Social Services, Office of Early Childhood Development, in the amount of \$73,500 for the Virginia Star Quality Initiative. The program will support the implementation of a quality rating and improvement system for a select number of early childhood programs in Fairfax County.

TIMING:

Board approval is requested on September 14, 2009.

BACKGROUND:

A quality rating and improvement system is a method to assess, improve, and communicate the level of quality in early care and education settings that families consider for their children. Quality rating and improvement systems not only define standards for early childhood education and create a framework for accountability, but also establish a network of support and outreach for programs and practitioners, provide incentives linked to achieving and maintaining the quality standards, and improve the information available to parents. As such, the state developed the Virginia Star Quality Initiative as a market-based approach to evaluate and encourage quality in early childhood learning programs, featuring four standards for classroom-based programs rated on a five-star scale. Funds are being awarded to sub-grantees across the state to collaborate with local public and private center-

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based early childhood programs, preschools, and the community to employ the Virginia Star Quality Initiative to evaluate and encourage quality in early childhood settings. Through the Virginia Star Quality Initiative, DFS will:

- Ensure that the best possible early learning experiences are available for young children and families through high quality early childhood programs;
- Provide information and support to early childhood programs to improve and sustain the quality of their programs; and
- Provide families with a practical tool to select a high quality program that is best for their child.

FISCAL IMPACT:

The Virginia Star Quality Initiative grant of \$73,500 will support the implementation of a quality rating and improvement system for a select number of early childhood programs in Fairfax County as outlined above. No Local Cash Match is required. This action does not increase the expenditure level of Fund 102, Federal/State Grant Fund as funds are held in reserve for funding received as part of the American Recovery and Reinvestment Act of 2009 in FY 2010. This grant does not allow the recovery of indirect costs.

Reporting Requirements

In order to meet the American Reinvestment and Recovery Act of 2009 transparency and accountability requirements, DFS is required to submit quarterly reports and a final report to the Virginia Department of Social Services, Office of Early Childhood Development. The state is responsible for submitting the required information to the federal government. Should there be additional and/or a change in existing reporting requirements, staff will notify the County Executive.

CREATION OF NEW POSITIONS:

No new positions will be created by this grant.

ENCLOSED DOCUMENTS:

Attachment 1: Award Letter from the Virginia Department of Social Services

Attachment 2: Supplemental Appropriation Resolution AS 10049

STAFF:

Verdia L. Haywood, Deputy County Executive

Nannette M. Bowler, Director, Department of Family Services

Anne-Marie Twohie, Acting Division Director, Child Care Division, Department of Family Services

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ADMINISTRATIVE - 10

Approval of Supplemental Appropriation Resolution AS 10025 for the Department of Family Services, to Accept Grant Funding from the U.S. Department of Health and Human Services for Head Start and Early Head Start Cost of Living Adjustments and Quality Improvement

ISSUE:

Board approval of Supplemental Appropriation Resolution AS 10025 for the Department of Family Services (DFS) to accept funding from the U.S. Department of Health and Human Services (DHHS) for Head Start and Early Head Start cost of living adjustments and quality improvement in the amount of \$400,330. The required 20 percent non-federal match will be met through existing in-kind resources. The grant period is from July 1, 2009 to September 30, 2010. This funding has been made available as a result of the American Recovery and Reinvestment Act of 2009 (ARRA). When grant funding expires, the County is under no obligation to continue funding the cost of living adjustments or quality improvement projects.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors approve Supplemental Appropriation Resolution AS 10025 to accept funding from DHHS in the amount of \$400,330 for Head Start and Early Head Start cost of living adjustments and quality improvement.

TIMING:

Board approval is requested on September 14, 2009.

BACKGROUND:

Head Start and Early Head Start are national child and family development programs that provide quality early childhood education and comprehensive family support services to income eligible families with children birth to 5 years of age and expectant parents. DFS is the administering agency for Head Start and Early Head Start and directly operates the Greater Mount Vernon Community Head Start programs. Fairfax County Public Schools (FCPS) and Higher Horizons Day Care Center, a private non-profit organization, also provide Head Start and Early Head Start services through a contractual delegate relationship with DFS.



The federal government has made \$400,330 in ARRA funds available to Fairfax County Head Start (\$237,385) and Early Head Start (\$162,945) for cost of living adjustments (COLA) and program quality improvement (QI). DHHS is requiring that these ARRA funds first be used to improve staff compensation. If staff salaries are already comparable to the market rate, then these funds may be used for other operating needs of the program. After a review of compensation for DFS, FCPS, and Higher Horizons staff, only wages for staff at Higher Horizons were found to be at or below the market rate of compensation in comparison to other employers (Fairfax County, FCPS, and a local non-profit early childhood program). Therefore, a portion of Head Start and Early Head Start COLA funds are being allocated to Higher Horizons for compensation increases. This COLA is not permanent. When the funds expire, the County will not be obligated to continue funding the COLA. The balance of COLA and QI funds will be allocated to fund other critical operating needs of the programs. The table below summarizes how the ARRA funding will be allocated at each Head Start and Early Head Start location.

Head Start Program				
	DFS-Gum Springs	FCPS	Higher Horizons	Total
COLA	\$0	\$39,000 <ul style="list-style-type: none"> • Hourly assistance with registration phone calls 	\$34,364 <ul style="list-style-type: none"> • Staff COLA pay increases • Supplies 	\$73,364
Quality Improvement	\$39,365 <ul style="list-style-type: none"> • Transportation costs. • Facility improvements at Gum Springs Children's Center 	\$91,852 <ul style="list-style-type: none"> • Early childhood specialist to reduce family-to-staff ratios • P/T program assistant to assist with registration and calls from families 	\$32,804 <ul style="list-style-type: none"> • 1 P/T classroom staff to support children with disabilities 	\$164,021
Total	\$39,365	\$130,852	\$67,168	\$237,385



Early Head Start Program				
	DFS-Gum Springs	FCPS	Higher Horizons	Total
COLA	\$12,986 • Classroom/ family child care supplies	\$12,986 • Classroom supplies	\$22,404 • Staff COLA pay increases • Supplies	\$48,376
Quality Improvement	\$64,159 • Increase family child care provider payment • Video monitoring training tool • Facility improvements at Gum Springs Glen	\$21,768 • Create an infant/toddler certificate institute • Community-wide strategic planning for services to children ages 0-3 and their families.	\$28,642 • 1 P/T classroom staff to support dual language learners	\$114,569
Total	\$77,145	\$34,754	\$51,046	\$162,945

FISCAL IMPACT:

The COLA and QI grant of \$440,330 will support the Head Start and Early Head Start programs as outlined above. The required 20 percent non-federal match will be met through existing in-kind resources. This action does not increase the expenditure level of Fund 102, Federal/State Grant Fund as funds are held in reserve for funding received as part of the American Recovery and Reinvestment Act of 2009 in FY 2010. This grant does not allow the recovery of indirect costs.

Reporting Requirements

In order to meet the ARRA transparency and accountability requirements, DFS is required to submit quarterly reports to the federal government. The reports are due no later than 10 days after the end of each quarter. Should there be additional and/or a change in existing reporting requirements, staff will notify the County Executive.

CREATION OF NEW POSITIONS:

No new positions will be created by this grant.

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ENCLOSED DOCUMENTS:

Attachment 1: Head Start and Early Head Start COLA and QI award letter

Attachment 2: Supplemental Appropriation Resolution AS 10025

STAFF:

Verdia L. Haywood, Deputy County Executive

Nannette M. Bowler, Director, Department of Family Services

Anne-Marie Twohie, Acting Division Director, Child Care Division, Department of Family Services



ADMINISTRATIVE - 11

Approval of Supplemental Appropriation Resolution AS 10031 for the Department of Family Services to Accept Grant Funding from the Virginia Department of Social Services for the Community Services Block Grant Program

ISSUE:

Board approval of Supplemental Appropriation Resolution AS 10031 for the Department of Family Services (DFS) to accept funding from the Virginia Department of Social Services for the Community Services Block Grant program in the amount of \$870,713. This funding will support the following four projects: 1) child care subsidies to 32 low-income families through the Child Care Assistance and Referral (CCAR) program; 2) additional limited term support to determine eligibility for the Supplemental Nutrition Assistance Program (SNAP); 3) housing services for homeless high school students; 4) financial literacy and free tax preparation services through the Creating Assets, Savings and Hope (CASH) program. There is no Local Cash Match requirement. The grant period is from July 1, 2009 to September 30, 2010. This funding has been made available through the Community Services Block Grant as a result of the American Recovery and Reinvestment Act of 2009 (ARRA). When grant funding expires, the County is under no obligation to continue funding these projects.

RECOMMENDATION:

The County Executive recommends that the Board approve Supplemental Appropriation Resolution AS 10031 to accept funding from the Virginia Department of Social Services in the amount of \$870,713 for the Community Services Block Grant program.

TIMING:

Board approval is requested on September 14, 2009.

BACKGROUND:

The Community Services Block Grant (CSBG) is a federal grant designed to alleviate poverty. Fairfax County receives approximately \$750,000 in annual CSBG funding, which constitutes one component of the Consolidated Community Funding Pool. When the American Recovery and Reinvestment Act passed in 2009, \$1.0 billion was included for CSBG. This funding was allocated to existing CSBG recipients by formula, resulting in \$870,713 in one-time funding to Fairfax County. The Department of Family Services, which administers these funds, was required to submit a work plan by May 15, 2009 for the use of these funds. DFS staff approached DFS and other human service agencies for suitable projects that would address the eligibility requirements of the funding (services to clients



under 200 percent of the poverty level). A list of these projects was brought to the Community Action Advisory Board, which ranked them and selected the top four projects below to receive funding.

- \$249,297 will be used to provide child care subsidies to 32 low income families through the Child Care Assistance and Referral (CCAR) Program;
- \$140,000 will be used for limited term eligibility workers for the Supplemental Nutrition Assistance Program (SNAP). It is anticipated that these limited term positions will process an additional 6,000 applications for Food Stamps;
- \$225,000 will be used to coordinate housing services for homeless high school students. A total of 50 students will be housed through a combination of host family placements, rental assistance payments and the use of a vacant house owned by a non-profit organization; and
- \$256,416 will be used for financial literacy and free tax preparation services through the Creating Assets Savings and Hope (CASH) Program. The program will include the establishment of two limited term positions. It is estimated that 5,000 people will be helped with income tax preparation and 750 families will be provided with financial literacy education.

FISCAL IMPACT:

The Community Services Block Grant ARRA funds of \$870,713 will support the four projects described above: The Child Care Assistance and Referral Program, SNAP eligibility workers, housing for homeless high school students, and the CASH program. There is no Local Cash Match requirement. This action does not increase the expenditure level of Fund 102, Federal/State Grant Fund as funds are held in reserve for funding received as part of the American Recovery and Reinvestment Act of 2009 in FY 2010. This grant does not allow the recovery of indirect costs.

Reporting Requirements

In order to meet the American Reinvestment and Recovery Act transparency and accountability requirements, DFS is required to submit quarterly program and financial reports to the Virginia Department of Social Services. The reports are due five days after the end of each quarter. The program reports require reporting on the progress made towards the outcomes mentioned above as well as the number of jobs created and saved by the ARRA funded programs. The state is responsible for submitting the required information to the federal government. Should there be additional and/or a change in existing reporting requirements, staff will notify the County Executive.

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CREATION OF NEW POSITIONS:

No new positions will be created by this grant.

ENCLOSED DOCUMENTS:

Attachment 1: CSBG Application Notice of Approval

Attachment 2: Supplemental Appropriation Resolution AS 10031

STAFF:

Verdia L. Haywood, Deputy County Executive

Nannette M. Bowler, Director, Department of Family Services

J. Kevin Filbey, Senior Manager, Department of Family Services

Anita Smith, Project Manager, Department of Family Services

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ADMINISTRATIVE - 12

Approval of Supplemental Appropriation Resolution AS 10057 for the Fairfax County Fire and Rescue Department to Accept Funding from the Washington Metropolitan Airports Authority for the Dulles Corridor Metrorail Tunnel at the Intersection of Routes 123 and 7 Rescue Project

ISSUE:

Board approval of Supplemental Appropriation Resolution AS 10057 for the Fairfax County Fire and Rescue Department to accept funding in the amount of \$123,000 from the Metropolitan Washington Airports Authority (MWAA) to purchase equipment and provide training necessary to perform tunnel rescues for the Dulles Corridor Metrorail Project. The grant period is from September 1, 2009 to June 30, 2010. No Local Cash Match is required.

RECOMMENDATION:

The County Executive recommends that the Board approve Supplemental Appropriation Resolution AS 10057 for the Fairfax County Fire and Rescue Department to accept funding in the amount of \$123,000 from Metropolitan Washington Airports Authority for the Tunnel Rescue Project. Funding will provide financial assistance for training and procuring specialized equipment to meet Occupational Safety and Health Act requirements for tunnel recovery in a mining situation.

TIMING:

Board approval is requested on September 14, 2009.

BACKGROUND:

Construction of Phase 1 of the Dulles Metrorail Project includes the building of a tunnel at or near the intersection of Route 123 and Route 7. In consultation with the MWAA, it was determined that certain equipment and supplies were needed to meet Occupational Safety and Health Act requirements for a tunnel recovery in a mining situation. The Fire and Rescue Department agreed to procure such equipment with funds provided by the MWAA.

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FISCAL IMPACT:

Funding in the amount of \$123,000 will be available from the MWAA to be used for training and procuring specialized equipment to be used during construction of the Dulles Corridor Metrorail Project. Funding will be provided by the MWAA on a reimbursement basis using authorized state billing procedures. No Local Cash Match is required. This action does not increase the expenditure level of Fund 102, Federal/State Grant Fund, as funds are held in reserve for unanticipated grant awards in FY 2010. This agreement does not allow the recovery of indirect costs.

CREATION OF NEW POSITIONS:

No positions will be created by this grant award.

ENCLOSED DOCUMENT:

Attachment 1 – First Addendum to Cooperative Agreement Between Metropolitan Washington Airports Authority and County of Fairfax, VA
Attachment 2 – Supplemental Appropriation Resolution AS 10057

STAFF:

Robert A. Stalzer, Deputy County Executive
Ronald L. Mastin, Fire Chief
Cynthia L. Tianti, Deputy County Attorney



ADMINISTRATIVE - 13

Approval of Supplemental Appropriation Resolution AS 10037 for the Office of the Commonwealth's Attorney to Accept Grant Funding from the Virginia Department of Criminal Justice Services for the Violence Against Women Stimulus Program

ISSUE:

Board approval of Supplemental Appropriation Resolution AS 10037 for the Office of the Commonwealth's Attorney to accept funding from the Virginia Department of Criminal Justice Services (DCJS) for the Violence Against Women Stimulus program in the amount of \$195,238. Funding will be used to establish a dedicated unit for the prosecution of domestic violence and stalking cases. The local match requirement of \$65,079 will be met with existing in-kind resources. The grant period is from July 1, 2009 to December 31, 2010. This funding has been made available as a result of the American Recovery and Reinvestment Act of 2009 (ARRA). When grant funding expires, the County is under no obligation to continue funding this program.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors approve Supplemental Appropriation Resolution AS 10037 to accept funding from the DCJS in the amount of \$195,238 for a dedicated unit for the prosecution of domestic violence and stalking cases in the Juvenile and Domestic Relations Court.

TIMING:

Board approval is requested on September 14, 2009.

BACKGROUND:

This program will allow the Office of the Commonwealth's Attorney to hire two Assistant Commonwealth's Attorneys who will prosecute domestic violence and stalking cases exclusively. These positions will create a unit focused on participation in police, court and community-based efforts to combat domestic violence and stalking. Projects include collaboration with system- and community-based agencies, a dedicated domestic violence docket in Juvenile and Domestic Relations Court, development of a protocol for handling domestic violence and stalking cases, improved access to domestic violence prosecutors for victims, witnesses and citizens, and development of training for local law enforcement agencies. The agency plans to search for funding through other grant sources to continue the program; however, should outside funding

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not be identified, there is no expectation that the County continue funding this program.

FISCAL IMPACT:

The Violence Against Women Stimulus grant in the amount of \$195,238 will support a dedicated unit for the prosecution of domestic violence and stalking cases. A local match of \$65,079 will be met through existing in-kind resources. This action does not increase the expenditure level of Fund 102, Federal/State Grant Fund as funds are held in reserve for funding received as part of the American Recovery and Reinvestment Act of 2009 in FY 2010. This grant does not allow the recovery of indirect costs.

Reporting Requirements

In order to meet the American Reinvestment and Recovery Act transparency and accountability requirements, the Office of the Commonwealth's Attorney is required to submit a quarterly report to the Virginia Department of Criminal Justice Services. The report is due five days after the end of each quarter. The state is responsible for submitting the required information to the federal government. Should there be additional and/or a change in existing reporting requirements, staff will notify the County Executive.

CREATION OF NEW POSITIONS:

These funds will be used to support 2/1.5 SYE new grant positions. The County has no obligation to fund these positions when the grant period ends.

ENCLOSED DOCUMENTS:

Attachment 1: Violence Against Women Stimulus award letter, Excerpt
Attachment 2: Supplemental Appropriation Resolution AS 10037

STAFF:

Raymond Morrogh, Commonwealth's Attorney
Ian M. Rodway, Chief Deputy Commonwealth's Attorney
Casey Ligan, Deputy Commonwealth's Attorney

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ADMINISTRATIVE - 14

Authorization for the Fairfax County Police Department to Apply for and Accept Grant Funding from the Office of Justice Programs Edward Byrne Memorial Justice Assistance Grants

ISSUE:

Board approval for the Fairfax County Police Department to apply for and accept funding, if received, from the Office of Justice Programs (OJP) Edward Byrne Memorial Justice Assistance Grant in the amount of \$133,286. Funding in the amount of \$133,286 will be used for technology upgrades and training. No Local Cash Match is required. The grant period for this award is October 1, 2009 through September 30, 2012. 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 authorize the Fairfax County Police Department to apply for and accept funding, if received, from the OJP Edward Byrne Memorial Justice Assistance Grant. Funding in the amount of \$133,286 will be used by the Police Department for technology upgrades and training.

TIMING:

Because of a July 9, 2009 application submission deadline, the application was submitted pending Board approval. If the Board does not approve this request, the application will be immediately withdrawn.

BACKGROUND:

Although the projects to be funded by the grant are different in their scope, they will support several important strategic objectives of the Police Department: ensure emergency readiness; obtain and analyze information effectively; enhance internal communication; provide effective training and career development; and provide the best available facilities and equipment.

The grant will support emergency readiness by improving the capabilities of the Tactical Section during hostage/barricade or similar incidents through funding for the Recon Scout robotic equipment (\$16,000), which will enable members to view an approach path, room or other area via video without exposing officers to potential dangers presented by

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suspects. Also, the replacement of older, outdated computer equipment and software with the newer Nomad M-FX system (\$10,096) for the Crash Reconstruction Unit will ensure the emergency readiness of its personnel to respond to crash scenes and assist the Criminal Investigations Bureau. Increased secure server storage space for digital evidence (\$12,500) will enable the department to obtain and analyze information more effectively. The digital video recorder system (\$26,500) will provide additional communications capacity for the video teleconferencing system for release of important information to all personnel, enhancing internal communications. Providing effective regional transition training (\$7,000) to officers returning to their "regular duties" from military deployment in combat zones will help to provide effective training and career development. Finally, improvements to facility security access and control technology will be made to improve facility security at Pine Ridge and four district stations (\$61,190). At the Pine Ridge Facility, these improvements will include an alarm system and additional proximity access card readers. At the four district stations, these improvements will include the installation of remote automatic lockdown mechanisms to secure public entrances from external threats.

FISCAL IMPACT:

Grant funding in the amount of \$133,286 has been requested from the OJP Edward Byrne Memorial Justice Assistance Grant. These funds will be used for technology upgrades and training. 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 2010. This grant does not allow the recovery of indirect costs.

CREATION OF NEW POSITIONS:

No positions will be created by this grant award.

ENCLOSED DOCUMENTS:

Attachment 1: Grant Application, Excerpt

STAFF:

Robert A. Stalzer, Deputy County Executive
Colonel David M. Rohrer, Chief of Police
Major Michael Kline, Commander, Technical Services Bureau
Major Edwin C. Roessler, Jr., Commander, Administrative Support Bureau
Major Thomas Ryan, Commander, Operations Support Bureau
Christopher Rosen, Director, Information Technology Bureau

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ADMINISTRATIVE - 15

Approval of Supplemental Appropriation Resolution AS 10043 for the Department of Transportation to Accept Grant Funding from the Virginia Department of Rail and Public Transportation for the I-495 Capital Beltway High Occupancy Toll Lane Construction Transportation Management Plan (TMP)

ISSUE:

Board approval of Supplemental Appropriation Resolution AS 10043 for the Department of Transportation to accept funding from the Virginia Department of Rail and Public Transportation (VDRPT) for the I-495 Capital Beltway High Occupancy Toll (HOT) Lanes Construction Transportation Management Plan (TMP). Funding in the amount of \$680,000 will support the implementation of the Virginia Megaprojects Vanpool VanStart/VanSave and Employer Transportation Benefits Programs of the I-495 HOT Lanes TMP. No Local Cash Match is required. The grant period runs from July 8, 2009, to December 30, 2013.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors approve the agreement between the Department of Transportation and VDRPT and approve Supplemental Appropriation Resolution AS 10043 for the Department of Transportation to accept funding from VDRPT in the amount of \$680,000 for the implementation of the Virginia Megaprojects Vanpool VanStart/VanSave and Employer Transportation Benefits Programs of the I-495 HOT Lanes TMP.

TIMING:

Board approval is requested on September 14, 2009.

BACKGROUND:

This funding subsidizes vacant seats in new vanpools to allow the vanpool operators to get established and find new riders to help maintain mobility during the five-year construction project for HOT lanes on the Beltway. Funds for this strategy will cover the increase in vanpool activity due to Beltway construction. This program will only be available to commuter vans traveling in the Beltway corridor under the I-495 HOT Lanes TMP. Funds to vanpools will be distributed in accordance with the Virginia Megaprojects Vanpool VanStart/VanSave guidelines approved by the I-495 TMP Committee. The County will receive full funding to operate the programs for four years.

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FISCAL IMPACT:

Funding in the amount of \$680,000 from the Virginia Department of Rail and Public Transportation will be administered by Fairfax County. Acceptance of this funding will not increase the expenditure level in Fund 102, Federal/State Grants, as funds are held in reserve for unanticipated grant awards. This agreement does not allow the recovery of indirect costs. No Local Cash Match is required.

CREATION OF NEW POSITIONS:

No positions will be created by this grant.

ENCLOSED DOCUMENTS:

Attachment I – Master Agreement – Virginia Department of Rail and Public Transportation
Attachment II – Supplemental Appropriation Resolution AS 10043

STAFF:

Robert A. Stalzer, Deputy County Executive
Katharine D. Ichter, Director, Fairfax County Department of Transportation (FCDOT)
Rollo Axton, Chief, Transit Services Division, (FCDOT)
Beth Francis, Chief, Transportation Marketing Section, (FCDOT)
Walter E. Daniel, Jr., Transportation Marketing Section, (FCDOT)

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ADMINISTRATIVE - 16

Authorization to Advertise a Public Hearing on Proposed Transportation Enhancement Program Projects

ISSUE:

Board authorization to advertise a public hearing for October 5, 2009, at 4:00 p.m., to solicit comments and input on proposed FY 2011 Transportation Enhancement Projects.

RECOMMENDATION:

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

TIMING:

The Board should take action on September 14, 2009, to advertise a public hearing for October 5, 2009, at 4:00 p.m.

BACKGROUND:

The Safe, Accountable, Flexible, and Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) continues the Enhancement Program that was established in the Intermodal Surface Transportation Efficiency Act (ISTEA), that provides ten percent of funds apportioned to a State under the Surface Transportation Program (STP) be made available for transportation enhancement activities. It is estimated that approximately \$21 to 22 million will be available statewide for enhancement projects this year. In FY 2010, approximately \$19.1 million was available in this program. This amount represents the federal 80 percent share and does not include the 20 percent local match.

The Virginia Department of Transportation (VDOT) staff announced that the Commonwealth Transportation Board (CTB) will be accepting new applications for FY 2011, and, therefore, County staff recommends that the County proceed with the public hearing process necessary to solicit new projects.

A list of projects tentatively approved by the CTB for FY 2010 enhancement funds is provided as Attachment II.

Under VDOT guidelines, enhancement projects may be initiated by any group or individual, but need to be formally endorsed by a local jurisdiction or public agency.

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Transportation enhancement projects are financed with up to 80 percent STP funds and require a minimum 20 percent local match. Any project endorsed by the Board must have an identified source of funding for the 20 percent match. VDOT will generally administer an enhancement project, if it is located within the VDOT right-of-way. VDOT has implemented new requirements for jurisdictional sponsors (like Fairfax County) to provide technical guidance and oversight throughout project development. Additionally, the sponsor must ensure that the budget accurately reflects project cost and accept responsibility for future maintenance and operating cost of the completed project.

Final selection of projects will be made by the CTB working through the VDOT Programming and Scheduling Division. The deadline to identify potential projects for FY 2011 funds to Fairfax County for inclusion in the November 16, 2009, Board Item is October 19, 2009. The deadline for submitting applications to VDOT is December 1, 2009.

Staff proposes the following schedule for the FY 2009 enhancement grant program:

September 14, 2009	Board Authorization to Advertise a Public Hearing on Enhancement Requests
October 5, 2009	Board Public Hearing
October 19, 2009	Deadline to Submit Projects for Board Consideration
November 16, 2009	Board Endorsement of Recommended Projects
November 18, 2009	Letters to Applicants Announcing Applications Endorsed by the Board
December 1, 2009	VDOT Submission Deadline

Criteria for Project Eligibility:

Transportation enhancements are activities or improvements that increase the value or growth of a project or make it more aesthetically pleasing. In other words, the project is “enhanced” by doing something that is not a common practice. Eligible transportation enhancement activities are:

1. Provision of facilities for bicycles and/or pedestrians;
2. Provision of safety and educational activities for pedestrians and bicycles;
3. Acquisition of scenic easements and scenic or historic sites;
4. Scenic or historic highway programs;

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5. Landscaping and other scenic beautification;
6. Historic preservation;
7. Rehabilitation and operation of historic transportation buildings, structures, or facilities including historic railroad facilities and canals;
8. Preservation of abandoned railway corridors, including the conversion and use thereof for pedestrian and bicycle trails;
9. Control and removal of outdoor advertising;
10. Archaeological planning and research;
11. Environmental mitigation to address water pollution due to highway runoff or reduce vehicle-caused wildlife mortality while maintaining habitat connectivity; and
12. Establishment of transportation museums.

The Federal Highway Administration (FHWA) has determined that the above list is exclusive. Only those activities listed are eligible for transportation monies.

FISCAL IMPACT:

Transportation enhancement projects will require a minimum 20 percent local match. Any project endorsed by the Board must have an identified source of funding for the 20 percent match. VDOT has implemented new requirements for jurisdictional sponsors (like Fairfax County) to provide technical guidance and oversight throughout project development. Additionally, the sponsor must ensure that the budget accurately reflects project cost and accept responsibility for future maintenance and operating cost of the completed project.

ENCLOSED DOCUMENTS:

Attachment I: List of Projects Tentatively Approved by CTB For FY 2010 Enhancement Funds
Attachment II: Enhancement Project Update Spreadsheet

STAFF:

Robert A. Stalzer, Deputy County Executive
Katharine D. Ichter, Director, Fairfax County Department of Transportation (FCDOT)
Tom Biesiadny, Chief, Coordination and Funding Division, FCDOT
Carl Winstead, Transportation Planner, Coordination and Funding Division, FCDOT

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ADMINISTRATIVE - 17

Approval of Supplemental Appropriation Resolution AS 10051 for the Health Department to Accept a Department of Homeland Security Urban Area Security Initiative Sub-Grant Award from the Virginia Department of Emergency Management Through the State Administrative Agency for the National Capital Region

ISSUE:

Board approval of Supplemental Appropriation Resolution AS 10051 in the amount of \$114,500 for the Health Department to accept a Department of Homeland Security (DHS) FY 2008 Urban Area Security Initiative (UASI) Sub-Grant Award from the Virginia Department of Emergency Management (VDEM) through the State Administrative Agency (SAA). These funds are made available by DHS through the District of Columbia which is serving as the SAA. This award will continue support of public health emergency planning initiatives in FY 2010. The grant period is July 1, 2009 to June 30, 2010. No Local Cash Match is required.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors approve Supplemental Appropriation Resolution AS 10051 in the amount of \$114,500 for the Health Department to accept a DHS FY 2008 UASI Sub-Grant Award from VDEM. These funds will be used to support the revision of the agency's Emergency Operations Plan and to support the Medical Reserve Corps (MRC) program.

TIMING:

Board approval is requested on September 14, 2009.

BACKGROUND:

The DHS UASI grant program provides funding to high-threat, high density urban areas in order to strengthen and expand local emergency preparedness and response efforts. The National Capital Region (NCR) is one such area and Fairfax County comprises a significant percentage of the NCR population and geographical area.

The Health Department received \$255,300 from a multi-year UASI grant in support of the agency's Medical Reserve Corps program which was approved by the Board of Supervisors on December 8, 2008. This item requests approval for an unanticipated

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continuation of UASI funds in the amount of \$114,500 to be added to the current grant funds, which would then total \$369,800.

The Health Department requests approval to accept \$114,500 in UASI funds to strengthen and expand the agency's emergency preparedness, response and recovery capabilities. Grant funds will focus on a comprehensive revision of the agency's Emergency Operations Plan and staff participation in related working groups. Funds will also support efforts to make existing emergency plans operational and to meet the administrative and programmatic needs of the Fairfax County Medical Reserve Corps.

FISCAL IMPACT:

Grant funding in the amount of \$114,500 is available from DHS through VDEM for the UASI program. These funds will be used to support the revision of the agency's Emergency Operations Plan and to support the Medical Reserve Corps program. This action does not increase the expenditure level of Fund 102, Federal/State Grant Fund, as funds are held in reserve for unanticipated grant awards in FY 2010. No Local Cash Match is required. This grant does not allow the recovery of indirect costs.

CREATION OF POSITIONS:

No new positions will be created by this grant.

ENCLOSED DOCUMENTS:

Attachment 1 – Grant Adjustment Notice and E-mail Notification from D.C. Department of Homeland Security

Attachment 2 – Project Management Plan

Attachment 3 – Supplemental Appropriation Resolution AS 10051

STAFF:

Verdia L. Haywood, Deputy County Executive

Gloria Addo-Ayensu, MD, MPH, Director of Health, Health Department

Rosalyn Foroobar, Deputy Director of Health Services

Marc Barbriere, MPH, Public Health Emergency Preparedness Coordinator

Scott Patchan, Fiscal Administrator for the Health Department

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ADMINISTRATIVE – 18

Streets into the Secondary System (Braddock, Mason, Providence, and Sully Districts)

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.

<u>Subdivision</u>	<u>District</u>	<u>Street</u>
Trinity Christian School	Braddock	Braddock Road (Route 620) (Additional Right-of-Way (ROW) Only)
First Washington Realty	Mason	Arlington Blvd. Service Drive (Route F713) (Additional ROW Only)
Hunting Ridge Section 1	Providence	La Salle Avenue (Route 2750) Colonial Lane (Route 1074) Seneca Avenue (Route 1549) (Additional ROW Only)
Faircrest Landbay 4	Sully	Leland Road (Route 7773) (Additional ROW Only)
Leroy Harris Property	Sully	Nicholas Schar Way (Route 8012)
Sully North Investments	Sully	Air & Space Museum Parkway (Route 7833)

TIMING:

Routine

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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 Forms

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



ADMINISTRATIVE - 19

Approval of Supplemental Appropriation Resolution AS 10054 for the Department of Vehicle Services to Accept Grant Funding from the U.S. Environmental Protection Agency (EPA) for the Clean Diesel Emerging Technologies Program

ISSUE:

Board approval of Supplemental Appropriation Resolution AS 10054 for the Department of Vehicle Services (DVS) to accept funding from the U.S. Environmental Protection Agency for the Clean Diesel Emerging Technologies Program in the amount of \$1,334,352. The funding will support the purchase and installation of advanced exhaust retrofits on 32 Fairfax County Public School (FCPS) buses. The retrofits are projected to deliver substantial emissions reductions from the affected buses. The local match requirement of \$70,926 will be met with existing in-kind resources. The grant period is from August 1, 2009 to October 31, 2010. This funding has been made available as a result of the American Recovery and Reinvestment Act of 2009 (ARRA). When grant funding expires, the County is under no obligation to continue funding the program.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors approve Supplemental Appropriation Resolution AS 10054 to accept funding from the U.S. Environmental Protection Agency in the amount of \$1,334,352 for the Clean Diesel Emerging Technologies Program to fund the purchase and installation of advanced exhaust retrofits on 32 FCPS school buses.

TIMING:

Board approval is requested on September 14, 2009.

BACKGROUND:

Diesel emissions account for 6.3 million tons of oxides of nitrogen (NO_x) and 305,000 tons of particulate matter in the 2004 national mobile emissions inventory. Even with stringent emissions standards for new diesel engines taking effect over the next decade, millions of diesel engines already in use will continue to emit large amounts of pollutants contributing to serious public health problems.

The U.S. Environmental Protection Agency's National Clean Diesel Campaign includes several programs addressing these in-use engines and encourages voluntary retrofits to reduce their emissions. Manufacturers submit retrofit technologies to an intensive verification process to be eligible for use in federally funded retrofit programs and to be recognized as effective measures in state implementation plans. The time and expense of the data collection and final verification testing is a troublesome obstacle to many manufacturers,



especially small companies. The Clean Diesel Emerging Technologies Program allows a fleet to receive a retrofit product that is highly promising but not yet verified, and for the manufacturer to receive some income from the sales while completing the data collection and field testing necessary to prepare for final verification testing in a federally approved laboratory.

The retrofits to be acquired in this program use a chemical process, selective catalytic reduction (SCR), that most engine manufacturers plan to use to meet the 2010 emissions standards for new highway heavy duty diesel engines. SCR reduces the NO_x in the diesel exhaust. NO_x is the most difficult of the regulated pollutants to remove, and, in the Washington Metropolitan Area, it is the controlling precursor of ground-level ozone. The Washington Metropolitan Area has struggled for many years to attain the national ambient air quality standard for ground-level ozone.

The 2010 engines using SCR will require the use of diesel exhaust fluid (DEF), a mixture of urea and purified water, stored in a separate tank on the vehicle that requires periodic replenishment as well as temperature and shelf life controls. The proposed retrofit technology, however, does not require the use of DEF or any other additional fluid.

The retrofits are projected to reduce NO_x emissions by at least 65 percent. They will also reduce emissions of hydrocarbons, carbon monoxide, and particulate matter by at least 90 percent. It is feasible that the retrofitted engines, which are model year 2004, could meet the 2010 emissions standards for new engines.

FISCAL IMPACT:

The Clean Diesel Emerging Technologies Program grant in the amount of \$1,334,352 will support the purchase and installation of advanced exhaust retrofits on 32 FCPS school buses and support the County's Emissions Reduction Program. A local match of \$70,926 will be met through existing in-kind resources. This action does not increase the expenditure level of Fund 102, Federal/State Grant Fund as funds are held in reserve for funding received as part of the American Recovery and Reinvestment Act of 2009 in FY 2010. No indirect costs are included in this award.

Reporting Requirements

In order to meet the American Reinvestment and Recovery Act transparency and accountability requirements, the U.S. EPA has established the following reporting requirements. Quarterly reports summarizing technical progress, planned activities for the next quarter and summary of expenditures are due no later than 10 days after the end of each quarter. A final report is required within 90 days after the end of the performance period summarizing the project, advances achieved, costs and lessons learned. Should there be additional and/or a change in existing reporting requirements, staff will notify the County Executive.

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CREATION OF NEW POSITIONS:

No new positions will be created by this grant.

ENCLOSED DOCUMENTS:

Attachment 1: U.S. Environmental Protection Agency Notice of Award, Excerpt

Attachment 2: Supplemental Appropriation Resolution AS 10054

STAFF:

Edward L. Long, Jr., Deputy County Executive

Jim Gorby, Director, Department of Vehicle Services

Dave DuVal, Quality Control Superintendent, Department of Vehicle Services

Brian Waymire, Vehicle Maintenance Coordinator, Fairfax County Public Schools

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ADMINISTRATIVE – 20

Streets into the Secondary System (Providence 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

Tysons Westpark

Providence

Park Run Drive (Route 6062)
(Additional Right-of-Way Only)

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 Forms

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

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ACTION – 1

Establishment of the Number of Taxicab Certificates for the Biennial Period 2009 – 2010

ISSUE:

Board approval establishing the number of taxicab certificates available to be issued for the biennial period 2009 – 2010.

RECOMMENDATION:

The County Executive recommends that the Board maintain the current number of taxicab certificates at 576 for the biennial period 2009 – 2010.

TIMING:

Board adoption of the proposed recommendation is requested on September 14, 2009, because the Board's action is the initial step in a multi-step process regarding the establishment of the number of taxicab certificates, as set forth in the Fairfax County Code.

BACKGROUND:

Chapter 84.1, Public Transportation, of the County of Fairfax, Virginia (County Code) requires the Board to determine and make known to all prospective taxicab certificate applicants, the maximum number of certificates available to be awarded in every odd numbered year. The Code provides that on a biennial basis in each odd-numbered year, the Board will adopt a resolution establishing the number of taxicab certificates to be issued. In doing so, the Board may consider subsequent appropriate recommendations from the Consumer Protection Commission (CPC) and the Director of the Department of Cable Communications and Consumer Protection, and other such information as the Board chooses. In approving the initial number, "the Board reserves the right to revise that number by subsequent resolutions as the Board deems appropriate," see County Code § 84.1-2-5(a).

Upon the filing of applications for operator's certificates, including any additional certificates beyond the total number initially set by the Board, the CPC is required to hold a public hearing, see County Code § 84.1-2-6(a). A second Board action is required to set the final number of certificates based on the CPC's recommendation,

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and the allocation (if any) among the applicants. County Code § 84.1-2-7(a); see *also* County Code § 84.1-2-6(b).

In performing the biennial analysis for assessing the need for additional certificates, staff utilized the Taxicab Demand Estimation formula, which was adopted at the Board's request in 1998. Data used in this formula is widely recognized in the taxicab industry as being reflective of demand for taxicab services, and is collected and analyzed to determine the need for additional taxicab certificates. The demand components utilized in the formula include:

- average number of taxicab trips per certificate (50%)
- mass transit/tourism economic indicators (30%), and
- population (20%).

Average number of trips per certificate directly measures trends in the demand for taxicab services, and this measure is weighted at 50% of the total demand formula. The remaining components of the formula are made up of changes in mass transit and tourism indicators, which includes changes in metro ridership, number of passengers at Dulles International airport, number of hotel rooms available, and hotel occupancy rates, and is weighted at 30%; and population growth, which is weighted at 20%. This formula and these measures provide an objective, periodic and quantifiable basis in the development of recommendations for adjusting the number of operating certificates available in Fairfax County.

The taxicab analysis demand formula calculates the weighted change (in positive or minus growth rates) of the three primary factors related to estimating the demand for taxicabs. This weighted change percentage derived from the taxicab demand formula is then applied to the current number of certificates to derive a recommended change in the total number of certificates authorized. Recommendations derived from the taxicab demand formula may be adjusted to allow for other factors less quantifiable, such as consideration of citizen complaints, evidence of over/under utilization of community needs, changes in known economic conditions, etc.

Formula calculations indicate that the optimum number of new certificates to be awarded in 2009 is at best zero (see Attachment 2). Average trips per certificate, which comprises half of the weighted index, *decreased* 7.8% in this period. This decrease in demand for taxicab services was not unexpected in light of anecdotal evidence from taxicab drivers of decreased demand, and the regional decline in economic activity and the increase in unemployment rates. While the other two formula components did indicate moderate growth activity, mass transit/tourism component was up 3.3% and population increased 1.5%, the weighted change in the need for taxicab certificates based on the taxicab demand analysis formula was found to be -2.6%, which would indicate that a *reduction* of 15 vehicles in the County taxicab fleet may be warranted.

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While the demand formula is used as the principle means for making recommendations for new certificates, other factors (such as complaints and evidence of unmet demand) are also considered. In this regard, staff have received relatively few citizen complaints regarding inadequacy of taxicab service; there is little indication that specialized needs of the riding public have not been met; and competition from other sources of transportation have also been considered. All of these factors, in conjunction with the formula calculations, and a review of economic conditions suggest that the current number of certificates is more than adequate to meet demand.

On June 11, 2009, the taxicab industry was notified of staff's preliminary finding that the demand analysis indicated that no new certificates appeared to be justified for the biennial period 2009 to 2010. On June 30, 2009, staff received a request for 50 additional certificates from an applicant. Staff is currently analyzing this application, and is anticipating a public hearing to be held by the CPC on October 20, 2009 to consider this request. If is further anticipated, that staff will be coming back to the Board at its November 16, 2009 meeting to bring forward the CPC's recommendation on this application.

The Board last considered an increase in the number of taxicab certificates in 2005. At that time, the Board approved an additional 51 taxicabs, which brought the total number of authorized taxicab certificates to 576. In 2007, there were no applications filed for additional operator's certificates for that biennial period.

In summary, while the taxicab formula demand analysis suggests that a slight decrease in number of taxicab certificates (15) might be warranted, staff does not recommend a reduction in the number of certificates at this time. Factors that support staff's recommendation to retain the current number of taxicab certificates at 576 include: (a) no indication that current certificates are underutilized; (b) the absence of any requests from certificate holders to decrease the number of certificates; and (c) the concern that a reduction in certificates could result in lowered levels of taxicab accessibility and service to County residents as well as business and leisure travelers, shoppers, visitors, and others.

FISCAL IMPACT:
None

ENCLOSED DOCUMENTS:
Attachment 1 – Chapter 84.1, Article 2, *Operator's Certificates*
Attachment 2 – Taxicab Demand Formula Analysis

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STAFF:

David Molchany, Deputy County Executive

Michael S. Liberman, Director, Department of Cable Communications and Consumer Protection (DCCCP)

Steve Sinclair, Chief, Public Utilities Branch, DCCCP

Dave Reidenbach, Chief, Regulatory and Licensing Branch, DCCCP

Randall Scott, Management Analyst, DCCCP

Board Agenda Item
September 14, 2009

ACTION - 2

Endorsement of Eligibility and Procedural Requirements of Minor Arterial Streets for Inclusion into the Fairfax County Residential Traffic Administration Program

ISSUE:

Board endorsement of eligibility and procedural requirements for minor arterial streets for inclusion into the Fairfax County Residential Traffic Administration Program (RTAP).

RECOMMENDATION:

The County Executive recommends that the Board endorse the criteria for roads functionally classified by the Virginia Department of Transportation (VDOT) as minor arterials in the County-specific guidelines of the RTAP.

TIMING:

Board approval is requested on September 14, 2009.

BACKGROUND:

In 2002, the Board of Supervisors adopted a permanent traffic calming program as part of the Fairfax County Department of Transportation's (FCDOT's) RTAP in conjunction with VDOT. VDOT's policy allows for amendments to the guidelines which may be needed to address County-specific needs.

At the March 9, 2009, Board meeting, staff was directed to ask VDOT to consider an exception to the State's traffic calming policy to allow Old Courthouse Road into the traffic calming program. The exception is required because Old Courthouse Road is classified as a minor arterial, but only local or collector roads are eligible for traffic calming under the current policy. Within the Town of Vienna, the Town has placed two speed humps. The roadway characteristics do not change between the residential areas in the town and County, yet the County is limited in its options to address the speeding issue because of the road classification. Through collaborative efforts, staff has worked with VDOT to develop requirements for minor arterial streets, as indicated in the attachment.

FISCAL IMPACT:

None.

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ENCLOSED DOCUMENTS:

Attachment I: Eligibility and Procedural Requirements of Minor Arterial Streets for Inclusion into the Fairfax County Residential Traffic Administration Program for Traffic Calming

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

Selby Thannikary, Chief, Traffic Operations Division, FCDOT

William P. Harrell, Senior Transportation Planner, Traffic Operations Division, FCDOT

Steven Knudsen, Transportation Planner II, Traffic Operations Division, FCDOT

Board Agenda Item
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ACTION - 3

Approval of a Project Agreement and Funding for County-Funded Roadway Improvements to Stringfellow Road and the Stringfellow Road Park-and-Ride Lot (Springfield and Sully Districts)

ISSUE:

Board approval to execute a project agreement (Attachment I) with the Virginia Department of Transportation (VDOT) and spend up to \$43.0 million in County identified funds, and \$2.0 million in VDOT Revenue Sharing funds on the widening of Stringfellow Road; and up to \$5.5 million in County transportation bond funds for the expansion of the Stringfellow Road Park-and-Ride Lot. These funds along with previously allocated VDOT Revenue Sharing funds are expected to complete funding for the widening of Stringfellow Road between U.S. Route 50 and Fair Lakes Boulevard from two lanes to four lanes, and add 300 parking spaces as well as enhanced bus transfer facilities at the Stringfellow Road Park-and-Ride Lot.

RECOMMENDATION:

The County Executive recommends that the Board approve the project agreement in substantial form, including the provision of using up to \$43.0 million in available County transportation funds, and \$2.0 million in VDOT Revenue Sharing funds for the widening of Stringfellow Road from U.S. Route 50 to Fair Lakes Boulevard from two lanes to four lanes; and \$5.5 million in available County transportation bond funds for the expansion of the Stringfellow Road Park-and-Ride Lot.

TIMING:

Board approval is requested on September 14, 2009, so that these projects can move forward as expeditiously as possible.

BACKGROUND:

This Stringfellow Road widening project is part of the County's Four-Year Transportation Plan. On July 25, 2005, the Board approved spending up to \$16 million on the project. Since that time, the project has progressed in the Preliminary Engineering phase, and VDOT and County staffs have been working with the affected utility companies to prepare for construction.

On July 13, 2009, as part of the transportation funding strategies item, the Board confirmed its support for allocating \$16 million in 2004 transportation bond funds approved by the voters for the Stringfellow Road widening project. The Board also approved allocating \$21

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million in 2007 transportation bond funds and \$6.0 million in Commercial and Industrial (C&I) funding for the project. All of these funds require an agreement between VDOT and the County to allow VDOT to continue to administer the project.

In addition, in FY 2007 and FY 2009, the Board authorized staff to apply for and accept a total of \$2.0 million in VDOT Revenue Sharing Program funds for the Stringfellow Road widening project. These funds require a local match, and the County will utilize the approved bond funds for the required matches. These funds also require an agreement with VDOT.

On July 13, 2009, the Board also supported the use of \$5.5 million in 2007 transportation bond funds for the expansion of the Stringfellow Road Park-and-Ride Lot. This expansion will add 300 new parking spaces and improve the existing bus transfer facilities to increase access to the transit system and the capacity of the passenger amenities.

The project agreement with VDOT for the two projects is similar to the agreement the Board of Supervisors approved in the original Stringfellow Road action in July 2005. The attached project agreement utilizes all County-identified funding for both projects.

FISCAL IMPACT:

County funds are available for the Stringfellow Road widening project and Stringfellow Road park-and-ride lot. Funding of \$45.0 million for the Stringfellow Road widening project includes \$43.0 million in funding from County sources supplemented by \$2.0 million in VDOT Revenue Sharing Program funds. County sources of funding include \$37.0 million in previous year and current year funding in Fund 304, Transportation Improvements, including \$16.0 million in Project 4YP017, Stringfellow Road Widening FY 2004 Bond, and \$21.0 million in FY 2007 bond funding in Project 4YP211, Stringfellow Road Widening FY 2007 Bond; and \$6.0 million in available funding through Fund 124, County and Regional Transportation Projects, that was endorsed by the Board on July 13, 2009 to be supported from FY 2009 through FY 2012 Commercial and Industrial Funds. Funding of \$5.5 million for the park and ride lot is available in Fund 304, Transportation Improvements in Project, 4YP216, Transit Projects.

These funding allocations are consistent with the Board's action on July 13, 2009.

ENCLOSED DOCUMENTS:

Attachment I – Agreement for County-funded Roadway Improvements to Stringfellow Road, and the Stringfellow Road Park-and-Ride Lot.

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STAFF:

Robert A. Stalzer, Deputy County Executive

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

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

Tom Biesiadny, Chief, Coordination and Funding Division, FCDOT

Ellen F. M. Posner, Assistant County Attorney

Len Wales, County Debt Manager

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

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ACTION - 4

Presentation of Lists of Delinquent Real Estate, Personal Property, and Business, Professional, and Occupational License Taxes for Tax Year 2008 (FY 2009)

ISSUE:

Presentation to the Board of lists of delinquent real estate, personal property and Business, Professional and Occupational License (BPOL) taxes in accordance with state law.

RECOMMENDATION:

Consistent with state law, Attachments B and C are presented to the Board so that the Department of Tax Administration (DTA) can credit these small tax amounts and remove them from the delinquency rolls. This is an annual process. Furthermore, while the Board can direct staff to make the delinquencies in Attachment A available for public review in the Libraries, the Board declined to do so last year. Consistent with last year's action, the County Executive recommends that the list in Attachment A not be made available in the public libraries as this has no significant value added to the delinquent collection process. Regardless, DTA and its agents will continue to pursue collection.

TIMING:

Routine.

BACKGROUND:

Pursuant to Sections 58.1-3921 and 58.1-3924 of the Code of Virginia, the Board may authorize the publication of the full list of delinquent taxes, or parts thereof, as deemed advisable. Last year, the Board of Supervisors decided not to make the lists of delinquent local taxes available for public reference in Fairfax County Public Libraries. Staff recommends continuation of this policy.

As required by Virginia law, the report being presented to the Board is a 'snapshot' as of June 30, 2009. This includes delinquent taxpayers who may be on a payment plan with DTA, and includes delinquencies that are currently tied up in bankruptcy. Staff will continue collection efforts on all accounts still within the statute of limitations, in accordance with Sections 58.1-3933 and 58.1-3940 of the Code of Virginia. Presented below is a summary of delinquent taxes still outstanding for Tax Year 2008. The actual list is presented in Attachment A.

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Tax year 2008 (FY 2009)
(First Year Delinquent)
As of June 30, 2009

	<u>Number of Accounts</u>	<u>Local Tax Amount</u>
Real Estate	4,061	\$ 10,522,073
Personal Property – Vehicles	37,994	\$ 4,905,411
Business Personal Property	2,242	\$ 1,297,302
Public Service Corp. Properties	0	\$ 0
BPOL	<u>2,189</u>	<u>\$ 1,297,471</u>
Total	46,486	\$ 18,022,257

For perspective, the total amount of all unpaid current year taxes, or \$18.02 million, represents less than 1% of the levy for Tax Year 2008 (FY 2009). This is consistent with prior year percentages. Of the \$4,905,411 in delinquent vehicle taxes, \$1,699,063 million is from business owned and used vehicles, and \$3,206,348 million is from personal property taxes on personally owned and used vehicles.

Throughout FY 2009, DTA aggressively collected on delinquent accounts using its broad array of collection tools which include computer-generated letters; telephone calls; statutory summons authority; payment plans; marking credit records; liens; and, 'Set-Off' against income tax refunds. In FY 2009, delinquent payments were received in response to approximately 28,000 collection actions.

With outstanding support in FY 2009 from the Sheriff's Office, the Police Department and the County Attorney's Office, DTA also utilized booting or towing of vehicles, seizure of equipment and cash "till taps" to collect more difficult tax accounts. The Sheriff's Office handled 2,223 vehicle 'boot' orders in FY 2009, and the County Attorney's Office pursued collection on current and prior year taxes for more than 2,303 delinquent cases. These accounts may face pending legal action, or may already have judgments docketed. The Police Department also assists the collection effort in towing vehicles as necessary. In partnership with its third party collection agents, DTA will continue collection efforts in FY 2010 on all delinquent taxes as authorized by law.

During FY 2009, DTA again continued a program of broadcasting the names of certain delinquent taxpayers on cable TV's Channel 16. Each taxpayer is sent a letter *before* their name is aired in order to give them another opportunity to pay or correct an account as may be applicable and avoid the cable presentation. This program accounted for FY 2009 collections totaling \$409,429.

In accordance with Virginia law, DTA also has an agreement with the Department of Motor Vehicles (DMV) whereby vehicle registrations are withheld from citizens who have delinquent personal property taxes. In FY 2009, \$8,384,511 was collected from nearly

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51,966 DMV holds. DTA also places a significant number of delinquent tax accounts with its private tax collection agency.

Thanks to these combined efforts, staff collected \$28,462,505 in net delinquent taxes in FY 2009 for all prior tax years. Furthermore, the positive results of these collection efforts are also reflected in the strong current year collection rates. For example, pending completion of the year-end audit, the collection rates achieved in FY 2009 are shown below:

	<u>FY 2009</u>
Real Estate	99.61 %
Personal Property (local share)	98.00 %
BPOL	98.05 %

The strong Real Estate collection rate is particularly significant given the economic stress in the housing market.

In addition to the collection of taxes, a total of \$2,769,525 was collected in Parking Ticket revenue in FY 2009. Of the seizure actions previously referenced, DTA issued 5,286 wage and bank liens for parking tickets, along with 342 boot orders in FY 2009.

Additionally, 'holds' were placed on more than 2,606 vehicle registrations in FY 2009 for outstanding parking tickets, resulting in payments on 2,267 citations thus far.

As of the end of FY 2009, the current amount of tickets remaining to be collected was \$1,650,075 from 23,569 tickets. This excludes tickets still pending a match to DMV. A significant amount of the uncollected revenue is from single issue tickets and \$671,644 is from violators outside of Fairfax County. DTA continues to use the resources of its private ticket collection agent, Citation Management. This has been a productive relationship and their annual report is provided in Attachment D.

In addition to the delinquent list in Attachment A, Sections 58.1-3921 and 58.1-3924 of the Code of Virginia state that the DTA, upon submission of a list of small tax amounts for which no bills were sent, and small uncollected balances of previously billed taxes, shall be given credit for these uncollected taxes (Attachments B and C). The total value of taxes in Attachments B and C is shown below and averages about \$1.31 per account:

	<u>Number of Accounts</u>	<u>Dollars</u>
Real Estate	8,587	\$ 3,762
Personal Property	<u>66,430</u>	<u>\$ 94,277</u>
TOTAL	75,017	\$ 98,039

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In reference to “small tax amounts”, the Virginia Code speaks to accounts that are “less than twenty dollars each.” The County’s lists however are for accounts that are under five dollars, to reflect DTA’s actual billing practice.

Staff will work closely with its private collection agents throughout FY 2010 to help ensure collections continue to meet high standards. As part of the FY 2010 budget reductions approved by the Board, DTA will outsource all personal property accounts that are more than 180 days delinquent, in accordance with state law, to its private collection agent, Nationwide Credit Corporation (NCC). DTA has successfully used NCC to supplement collection efforts since November, 2006. The FY 2010 outsourcing represents an expansion in the use of NCC. State law allows the collection agent to collect its fee, not to exceed 20%, from the delinquent taxpayers. This ‘Lines of Business’ (LOB’s) reduction enabled the Board to eliminate 16 merit positions and 30 Exempt Limited Term positions in DTA, reducing County expenditures by \$1.5 million.

Similarly, as part of its FY 2010 LOB’s the County Attorney will outsource the tax collection work it previously provided to assist DTA to the private law firm of Linebarger, Goggan, Blair and Sampson, LLP (Linebarger). Linebarger is also able to pass its collection fees on to the delinquent taxpayers. Like personal property, real estate accounts must be 180 days delinquent before being outsourced. However, unlike personal property, DTA can only outsource delinquent real estate accounts to an attorney for collection. Until accounts become 180 days delinquent, DTA will continue to pursue collections using the tools set out above.

FISCAL IMPACT:

None.

ENCLOSED DOCUMENTS:

Attachment A - Delinquent Taxpayers for Tax Year 2008 (FY 2009)

Attachment B - Tax Year 2008 accounts valued less than five dollars that were not billed

Attachment C - Tax Year 2008 ‘balance due’ accounts of less than five dollars

(Attachments A-C listed above are computer printouts which will be made available in the Board of Supervisors’ Conference Room on 9/14/2009, from 9:00 A.M. - 4:30 P.M.)

Attachment D – Citation Management’s Annual Report

Attachment E – Statistical Profile of Unpaid Tickets

STAFF:

Edward L. Long, Jr., Deputy County Executive

Kevin C. Greenlief, Director, Department of Tax Administration

Michael H. Long, Deputy County Attorney

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ACTION – 5

Adoption of a Proposed Amendment to the Rules of Procedure Regarding Time Allocations for Speakers at Board Public Hearings

ISSUE:

Board adoption of a proposed amendment to the Rules of Procedure regarding new time allocations for persons addressing the Board at public hearings: three minutes for individuals and five minutes for the single authorized representative of an organization.

RECOMMENDATION:

The County Executive recommends that the Board adopt the proposed amendment to the Rules of Procedure regarding proposed new time allocations for persons addressing the Board.

TIMING:

Board action is requested on September 14, 2009. The Board can vote on an amendment to the Rules of Procedure after the text has been presented at least one previous meeting at which the date for the vote has been established. Staff presented proposed text on August 3, 2009, and the Board amended the proposal.

BACKGROUND:

One of the procedural items discussed at the Board's retreat in June was clarifying what had become a confusing protocol for speakers at public hearings. According to current practice, persons speaking for Board-recognized Countywide organizations were allotted ten minutes; speakers for County Boards, Authorities, and Commissions (BACs) or district wide organizations were allotted five minutes; and persons speaking for themselves or a neighborhood group were allotted three minutes. To make the time allowed to individuals and spokespersons for organizations more consistent, the Board discussed setting the time for individual speakers at three minutes and for spokespersons for organizations at five minutes. The Board also discussed this during the recap of the retreat presented at the July 13, 2009, Board meeting.

To adopt these guidelines, the Board's Rules of Procedure must be formally amended. According to the Rules, "Amendment of these rules may be accomplished by majority vote of the entire membership, provided that such amendment may not be voted upon at any meeting unless the text of the proposed amendment has been presented at least

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one previous meeting at which the date for a vote has also been established. Any proposed amendment shall be subject to further amendment at the meeting at which the vote is taken.” The proposed text for the amendment was presented to the Board at its meeting on August 3, at which time the Board further amended it. The proposed amendment is included in Attachment 1.

FISCAL IMPACT:
None

ENCLOSED DOCUMENTS:
Attachment 1: Proposed Amendment to the Rules of Procedure

STAFF:
Nancy Vehrs, Clerk to the Board

ACTION - 6

Approval of Amended Parking Reduction for Fairfax Corner Center (Springfield District)

ISSUE:

Board approval of a 26.1 percent amended reduction in required parking for Fairfax Corner Center, Tax Map reference number 56-1 ((1)), 0047C, 0047E, 0047G1, 0047H, 0047I, 0047J, 0047K, 0047L, 0047P, 0047Q, 0047R, 0047S1 and 0047T, Springfield District.

RECOMMENDATION:

The County Executive recommends that the Board approve a parking reduction of 26.1 percent for Fairfax Corner Center, pursuant to paragraph 4(B), Section 11-102 of Chapter 112 of the *Code of the County of Fairfax, Virginia* (Zoning Ordinance), 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 3,485 parking spaces must be maintained on site at all times for the Fairfax Corner Center at build-out.
2. The following uses permitted per this parking reduction are:
 - 4,190 movie theater seats;
 - 66,900 GSF retail uses;
 - 153,731 GSF shopping center uses;
 - 558,438 GSF office uses;
 - 2,336 restaurant seats (1,901 table seats and 435 counter seats) and 395 employees of restaurant activity (including any restaurant use associated with a hotel);
 - 100,000 GSF hotel (160 rooms)

Any additional uses must be parked at code and these uses must not exceed the approved F.A.R.

3. There must be compliance with the conditions of the approved Proffer Condition Amendment PCA 87-5-039-6 and Final Development Plan Amendment FDPA 87-5-039-10.
4. The mix of uses may be changed if a new parking generation study demonstrates to the satisfaction of the Director of the Department of Public Works and Environmental Services that the synergy between the uses is comparable to the approved parking

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study associated with this parking reduction for ten years or until full occupancy of this proposed development is achieved.

The percent of reduction granted by the Board must be honored and the same methodology must be employed in the study. A utilization study may additionally be required by the Director if it is determined to be needed to evaluate the existing parking condition at the time of the request.

5. The applicant will prepare shared parking summary exhibits in accordance with the shared parking analysis that conform to the approved F.A.R. restrictions that will be incorporated into all site plan submissions for Fairfax Corner Center.
6. The current owners, their successors or assigns of the parcels identified as Fairfax County Tax Map numbers 56-1 ((1)) 0047C, 0047E, 0047G1, 0047H, 0047I, 0047J, 0047K, 0047L, 0047P, 0047Q, 0047R, 0047S1 and 0047T 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.
7. 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.
8. 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 requirements of the Zoning Ordinance and shall be subject to the Board's approval.
9. All parking provided shall be in accordance with the 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 (ADA).
10. No parking spaces shall be restricted or reserved except for those required to meet the parking requirements of the ADA.
11. The conditions of approval of this parking reduction shall be recorded in the Fairfax County land records in a form acceptable to the County Attorney.

TIMING:

Board action is requested on September 14, 2009.

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BACKGROUND:

Fairfax Corner Town Center, now referred to as Fairfax Corner Center, is a 36.28 acres site and is zoned planned development commercial. The site is governed by PCA 87-S-039-06, FDPA 87-S-09-10 and an amended parking reduction.

On March 18, 2002, the Board granted a parking reduction of 27.5 percent reduction and on January 6, 2008, the Board granted an amended parking reduction request of 24.7 percent for build out of the commercial portion of the site and a 20.8 percent for phase 1B development. The applicant is now requesting another amended parking reduction request of 26.1 percent for the proposed build out scenario of Fairfax Corner Center.

A parking study 7656-PKS-003-1 to justify the reduction in the County Code's parking requirements was submitted to the County. Approval by the Board of this parking request will allow the establishment of a mixed-use development consisting of fifteen (15) buildings with a total of 1,066,885 square feet of space. The code requirement for the proposed developed site is 4,718 parking spaces and the 26.1 percent reduction will reduce the required parking to 3,485 parking spaces. The analysis of the study indicates that the hourly accumulation of the parking demand for the uses can support a 26.1 percent reduction in the code requirement. Therefore, the staff recommends granting this reduction.

The recommended parking reduction reflects a coordinated review by the Department of Transportation, Department of Planning and Zoning, Department of Public works and Environmental Services, and the Office of the County Attorney.

FISCAL IMPACT:

None.

ENCLOSED DOCUMENTS:

Attachment I – Parking Reduction Study and Letter of Request dated June 18, 2009, from Robin L. Antonucci, Principal Associate, Wells + Associates, Inc., Excerpt

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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September 14, 2009

ACTION - 7

Approval of Parking Reduction for Brookfield Corporate Center Park Phase 2 (Sully District)

ISSUE:

Board approval of a 21.0 percent (48 parking spaces) reduction in required parking for Brookfield Corporate Center Park Phase 2, Tax Map #44-1((3))-0002, Sully District.

RECOMMENDATION:

The County Executive recommends that the Board approve a parking reduction of 21.0 percent (48 parking spaces) for Brookfield Corporate Center Park Phase 2, pursuant to paragraph 4(B), Section 11-102 of Chapter 112 of *The Code of the County of Fairfax, Virginia* (Zoning Ordinance), 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 225 spaces are provided on site at all times for the uses at Brookfield Corporate Center Park Phase 2.
2. A maximum of 167 people (seats) are permitted at church services on Sundays and other than administrative personnel, all week day activities must start after 6:00 p.m. All vehicles associated with this use must be parked on site.
3. The operating hours of any proposed use that is established after the approval of this parking reduction will not be able to operate on Sundays without approval of the Department of Public Works and Environmental Services (DPWES).
4. The current owner, their successors or assignees of the parcel identified as Fairfax County Tax Map #44-1((3))0002 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 ninety 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 space requirements as specified in Article 11 of the Zoning Ordinance.
5. All parking utilization studies prepared in response to a request by the Zoning Administrator shall be based on applicable requirements of *The Code of the County of Fairfax, Virginia* (County Code) and the Zoning Ordinance in effect at the time of said parking utilization study submission.
6. 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 requirements of the Zoning Ordinance and shall be subject to the Board approval.

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7. All parking provided shall be in accordance with the applicable requirements of Article 11 of the Zoning Ordinance and the Fairfax County Public Facilities Manual (PFM), including the provisions referencing the Americans with Disabilities Act.
8. The conditions of approval of this parking reduction shall be recorded in the Fairfax County land records in a form acceptable to the County Attorney.

TIMING:

Board action is requested on September 14, 2009.

BACKGROUND:

Brookfield Corporate Center Park Phase 2 is a 4 acre parcel with two warehouses built on the property which is Zoned I-5. The warehouses have other uses which include production, retail, wholesale, vehicle services, financial institution, furniture store, and place of worship (church) uses. The Saint Rapheal's Orthodox Church operates on Sunday at its highest parking demand when the other uses are closed. At present, there is adequate parking for all of the proposed uses. However, the managing general partners are requesting a parking reduction based on the church use to facilitate future intensification of the on-site uses. An analysis of the parking accumulations indicated that the on-site shared parking request will provide additional weekday parking for future uses, subject to DPWES' approval. DPWES recommends a maximum reduction of 21.0 percent (48 parking spaces) of required parking spaces based on a weekend parking supply of 225 spaces.

FISCAL IMPACT:

None.

ENCLOSED DOCUMENTS:

Attachment 1: Letter of Request dated June 12, 2009 from Martha McCue Sherlin, Managing General partner from Brookfield Park Phase 2, L.P.

Attachment 2: Shared Parking Analysis and parking tabulation dated June 12, 2009 from Michael F. McCabe, Architect, Studio 3 Architects, P.C., Excerpt

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 - 8

Renewal of a Memorandum of Understanding Between the Fairfax County Police Department and the United States Department of Justice Drug Enforcement Administration (DEA) HIDTA Task Force

ISSUE:

Board renewal of a Memorandum of Understanding between the Fairfax County Police Department and the United States Department of Justice Drug Enforcement Administration (DEA) HIDTA Task Force authorizing the assignment of one detective to the DEA HIDTA Task Force (Mass Transit).

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors authorize the Chief of Police to renew the Memorandum of Understanding between the Police Department and the DEA HIDTA Task Force (Mass Transit).

TIMING:

Board action is requested on September 14, 2009.

BACKGROUND:

In supporting the regional effort toward intervention and suppression of trafficking in narcotics and dangerous drugs, the Fairfax County Police Department recognizes the need to continue to be a lead agency within the Drug Enforcement Administration HIDTA Task Force. Participating in a partnership with the Task Force will allow the department to meet some fixed expenses such as rental vehicles, radios and some overtime.

Under this agreement renewal, DEA HIDTA Task Force and the Fairfax County Police will work to facilitate sharing information in an effort to suppress and disrupt drug trafficking, gather and report intelligence data relative to narcotics activities, and conduct undercover operations that are associated with the culture of illegal narcotics and drug trafficking.

The assigned Fairfax County detective will be a member of the DEA HIDTA Task Force engaged in specific, directed investigations and intelligence gathering designed to support the prosecution and disruption of narcotics crime in the Northern Virginia area.

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FISCAL IMPACT:
None

ENCLOSED DOCUMENTS:
Attachment 1: State and Local HIDTA Task Force Agreement between Fairfax County Police Department and the Drug Enforcement Administration

STAFF:
Robert A. Stalzer, Deputy County Executive
Colonel David M. Rohrer, Chief of Police
Karen Gibbons, Assistant County Attorney

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ACTION – 9

Approval of a Draft Board of Supervisors' Meeting Schedule for Calendar Year 2010

ISSUE:

Board approval of a draft meeting schedule for January through December, 2010.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors approve the draft meeting schedule for January through December, 2010.

TIMING:

The Board should take action on September 14, 2009, in order that accommodations to implement this calendar can proceed in advance of January.

BACKGROUND:

The *Code of Virginia*, Section 15.2-1416, requires the governing body to establish the days, times and places of its regular meetings at the annual meeting, which is the first meeting of the year. Therefore, the schedule for the entire 2010 calendar is presented for Board approval. The section further states that “meetings shall be held on such days as may be prescribed by resolution of the governing body but in no event shall less than six meetings be held in each fiscal year.”

Scheduled meetings may be adjourned and reconvened as the Board may deem necessary, and the Board may schedule additional meetings or adjust the schedule of meetings approved at the annual meeting, after notice required by Virginia law, as the need arises.

At its Retreat, held on June 29 and 30, 2009, the Board discussed moving the 2010 Board Meetings from Mondays to Tuesdays. The attached Draft Calendar shows such a change in meeting day. If the Board adopts a Tuesday schedule for Board Meetings, Board Committee meeting could also be moved to Tuesdays.

At the first meeting of the Board of Supervisors in January, staff will bring the 2010 meeting calendar to the Board for formal adoption.

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ENCLOSED DOCUMENTS:

January-December, 2010 Schedule for Board of Supervisors' Meetings

STAFF:

Catherine A. Chianese, Assistant County Executive

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ACTION - 10

Renewal of a Memorandum of Understanding Between the Fairfax County Police Department and the United States Department of Justice Drug Enforcement Administration (DEA) Task Force

ISSUE:

Board renewal of a Memorandum of Understanding between the Fairfax County Police Department and the United States Department of Justice Drug Enforcement Administration (DEA) Task Force authorizing the assignment of one detective to the DEA Task Force (Washington Division Group 21).

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors authorize the Chief of Police to sign the Memorandum of Understanding between the Police Department and the DEA Task Force (Washington Division Group 21).

TIMING:

Board action is requested on September 14, 2009.

BACKGROUND:

In supporting the regional effort toward intervention and suppression of trafficking in narcotics and dangerous drugs, the Fairfax County Police Department recognizes the need to continue to be a lead agency within the Drug Enforcement Administration Task Force. Participating in a partnership with the Task Force will allow the department to meet some fixed expenses such as rental vehicles, radios and some overtime.

Under this agreement renewal, DEA Task Force and the Fairfax County Police will work to facilitate sharing information in an effort to suppress and disrupt drug trafficking, gather and report intelligence data relative to narcotics activities, and conduct undercover operations that are associated with the culture of illegal narcotics and drug trafficking.

The assigned Fairfax County detective will be a member of the DEA Task Force engaged in specific, directed investigations and intelligence gathering designed to support the prosecution and disruption of narcotics crime in the Northern Virginia area.

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FISCAL IMPACT:
None

ENCLOSED:
Attachment 1 - State and Local Task Force Agreement between Fairfax County Police Department and the Drug Enforcement Administration

STAFF:
Robert A. Stalzer, Deputy County Executive
Colonel David M. Rohrer, Chief of Police
Karen Gibbons, Senior Assistant County Attorney

Board Agenda Item
September 14, 2009

CONSIDERATION – 1

Approval of the Amendments to the Bylaws for the Fairfax County Animal Services Advisory Commission (ASAC)

ISSUE:

Consideration of the proposed amendments to the bylaws for the Fairfax County Animal Services Advisory Commission.

TIMING:

Board consideration is requested on September 14, 2009.

BACKGROUND:

The Fairfax County Animal Services Advisory Commission (ASAC) was created by the Board of Supervisors in 1994 to serve in an advisory capacity to the Animal Shelter Director and the Board of Supervisors on issues relating to animal health and welfare. The group established its by-laws in 1995 and they were subsequently amended in 2002 and 2004. The current proposed amendments will conform and format the ASAC by-laws to the sample County by-laws for Boards, Authorities and Commissions (BAC); eliminate unnecessary or impractical provisions; add requirements unique to the ASAC's official purpose; and add an indemnity provision to clarify coverage for members of the ASAC as set forth by the Board of Supervisors in the Indemnification Resolution adopted in 1997. County guidelines require the Board of Supervisors to approve BAC bylaws and subsequent amendments.

FISCAL IMPACT:

None.

ENCLOSED DOCUMENTS:

Attachment 1 – Proposed Amended Bylaws for the Fairfax County ASAC
Attachment 2 – Summary of Bylaws Changes

STAFF:

Robert A. Stalzer, Deputy County Executive
Colonel David M. Rohrer, Chief of Police
Karen Diviney, Animal Shelter Director

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September 14, 2009

CONSIDERATION - 2

Appeal of a Proffer Interpretation for RZ 86-C-121 Reston Town Center (Hunter Mill District)

ISSUE:

Board consideration of an appeal of a proffer interpretation that determined the available development potential for Part 5 of RZ 86-C-121.

TIMING:

Routine.

BACKGROUND:

Rezoning application RZ 86-C-121 filed by Reston Land Corporation to rezone 144.64 acres to the PRC District was approved by the Board of Supervisors on March 9, 1987, subject to proffers. The application was approved concurrently with three other rezoning applications (RZ 86-C-119, RZ 85-C-088, and RZ 86-C-118) that collectively comprised the Reston Town Center. A map showing the location of the rezoning property is presented in Attachment 1A. A more detailed tax map showing the property which is the subject of the proffer interpretation and delineating Part 5 of RZ 86-C-121 is presented in Attachment 1B. A copy of the Clerk to the Board's letter for the rezoning is presented in Attachment 2. Copies of the proffers and approved development plans are presented in the exhibits attached to the Appellants' submission in Attachment 6. (Given the size of the attachments to this document, the number of attachments have been minimized to the extent possible to avoid duplication.)

Conceptual Plan Amendment CPA 86-C-121-2-3, which was filed by Reston Spectrum, LLLP, and Harris Teeter Properties, LLC, with respect to three parcels in Reston Town Center (a portion of which lie within Part 5 of RZ 86-C-121) identified as Tax Map Nos. 17-1 ((1)) parcels 3K, 3P, and 3Q showing a concept for mixed use development, was approved by the Planning Commission on May 21, 2008. The approved CPA shows density that ranges from a minimum of approximately 33.78 dwelling units per acre to a maximum 63.29 dwelling units per acre and nonresidential intensity that ranges from a minimum of approximately 0.65 FAR to a maximum 1.05 FAR for the site area that is within Part 5 of RZ 86-C-121. A copy of the Clerk to the Planning Commission's letter is presented in Attachment 3.

On November 6, 2008, David Gill, the attorney for NCC Consortium, LLC, submitted a request for a determination by the Zoning Administrator of the development potential available for Tax Map No. 17-1 ((17)) parcel 4 pursuant to RZ 86-C-121, as subsequently

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amended, and the associated Development Plan. (Attachment 4.) This property, also known as the library park property, is shown on the approved Development Plan for RZ 86-C-121 within Part 5 of the Reston Town Center.

On May 15, 2009, in response to Mr. Gill's request, a determination was made by Regina C. Coyle, Director of the Zoning Evaluation Division, acting as the duly authorized agent of the Zoning Administrator, that the overall development within Part 5 of RZ 86-C-121, as shown on the approved Development Plan for Part 5, is limited to a maximum of 746 dwelling units (50 du/ac) and 455,000 square feet of non-residential use (0.70 FAR). Based upon existing development and current site plan approvals within Part 5, approximately 646 residential units and approximately 354,983 square feet of non-residential use remain available for development within the overall land area of Part 5, subject to obtaining all applicable land development approvals. It was further stated that in order to develop the library park site with a use at an intensity in accordance with the approved Development Plan, review and approval of a Conceptual Plan, PRC Plan and a Site Plan in accordance with the approved proffers is required. In order to develop the site at a density that exceeds 50 du/ac or at an intensity that exceeds 0.70 FAR on the site area of the parcel, written concurrence from the affected property owners within Part 5 would be required at the time of filing of the PRC Plan. (Attachment 5.)

On June 12, 2009, an appeal of this proffer interpretation was filed by Mark Looney and Martin Walsh, attorneys for Reston Spectrum, LLLP ("Spectrum"), and Harris Teeter Properties, LLC ("Harris Teeter"), respectively. (Attachment 6.) Spectrum is the owner of the parcels of property identified as Tax Map Nos. 17-1 ((1)) parcels 3K and 3P, and Harris Teeter is the owner of the parcel of property identified as Tax Map No. 17-1 ((1)) parcel 3Q. These properties were the subject of Conceptual Plan Amendment CPA 86-C-121-3 ("the CPA"), which was approved by the Planning Commission on May 21, 2008. A portion of these properties is located within Part 5 and is subject to RZ 86-C-121. Spectrum and Harris Teeter ("Appellants") argue in this case, among other things, that the subject proffer interpretation deprives them of the right to develop their properties in accordance with the CPA approved by the Planning Commission. The Appellants argue that the library park property was shown as a park on the Master Conceptual Plan approved by the Planning Commission in 1992 and that the density depicted on their CPA was based upon the total area of the Development Plan that governs Part 5, i.e., all the land area in Part 5, including the library park property, not owned or controlled by the Appellants. The Appellants argue that the proffer determination deprives them of vested rights they acquired under Va. Code Section 15.2-2307 to develop the property in accordance with their CPA.

Staff's position is that the Appellants are not deprived of the ability to develop their properties. Pursuant to the Zoning Ordinance and the executed proffers for RZ 86-C-121, as subsequently amended, further review and approval actions are required subsequent to the approval of a Conceptual Plan in order to develop Part 5. The Conceptual Plan is an instrument created by the Reston Town Center proffers (see Proffer D1) to articulate

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details not presented on the Development Plan approved in 1987 prior to the submission of a PRC Plan. Conceptual Plans have been submitted in fulfillment of the proffers over the years since that time. The approved proffers and Section 16-203 of the Zoning Ordinance require the submission and approval of a PRC Plan subsequent to the approval of a rezoning, and Section 16-204 requires the submission of a Site Plan subsequent the approval of a PRC Plan before development of any kind may occur. While the Appellants have obtained approval of their CPA from the Planning Commission in accordance with the rezoning proffers, they have yet to submit and obtain approval of a PRC Plan and a Site Plan for their properties. The proffers are clear, on their face, that once the CPA is approved, the only right the Appellants have with respect to the development of their properties is to take the next step in the development process. That is, now that the Appellants have an approved CPA, they can now file a PRC Plan and a final Site Plan. Under the proffers, they have no other right with respect to the development of their properties in Part 5.

It is staff's position that should the Appellants file a PRC Plan that exceeds 50 dwelling units per acre or exceeds a 0.70 FAR on land area within Part 5 that is not owned by the Appellants, concurrence from the affected property owners within Part 5 would be required because a landowner cannot use density or intensity from property he or she does not own or control to develop their property without the concurrence of the affected property owners. No private person has the right to take another person's property without his or her consent. Even the Board cannot take another's property without the owner's consent unless it does so for a public purpose and pays fair market value for the property.

The Appellants' argument that the determination deprives them of their vested rights to develop their property in accordance with the CPA is without merit. The Appellants have the rights granted to them under the proffers, namely, to file a PRC Plan and a final Site Plan to implement the redevelopment of their property. This is the only right they have under the proffers as a result of the Planning Commission's approval of the CPA. Therefore, staff respectfully requests that the Board uphold the Zoning Administrator's determination in this case, as set forth in the Proffer Interpretation Letter Dated May 15, 2009. (Attachment 5.)

Written statements from the agents representing (1) the owners of two parcels in Part 5 not owned or controlled by the Appellants and identified as Tax Map No. 17-1(17) parcel 4 ("library park property") and Tax Map No. 17-1((17)) parcel 3 ("Winwood property"), and (2) other interested landowners within Part 5 who are affected by this appeal, are included as Attachments 8 and 9, respectively, for consideration by the Board of Supervisors.

FISCAL IMPACT:

None.

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ENCLOSED DOCUMENTS:

- Attachment 1A - Locator Map: RZ 86-C-121
- Attachment 1B - Locator Map: Library Park Parcel/Part 5 of RZ 86-C-121
- Attachment 2 – Clerk to the Board of Supervisors’ Letter for Rezoning RZ 86-C-121
- Attachment 3 - Clerk to the Planning Commission’s Letter, Conceptual Plan Amendment CPA 86-C-121-3
- Attachment 4 - Interpretation Request Letter dated November 6, 2008, to Eileen McLane, Zoning Administrator, from David R. Gill, McGuire Woods, Attorney for NCC Consortium LLC.
- Attachment 5 - Proffer Interpretation Letter Dated May 15, 2009, to David R. Gill, McGuire Woods LLP, from Regina C. Coyle, Director, Zoning Evaluation Division, DPZ
- Attachment 6 - Appellants’ Application and Basis for Appeal dated June 12, 2009, from Mark C. Looney, Cooley, Godward, Kronish, LLP, Attorney for Reston Spectrum LLLP, and Martin D. Walsh, Attorney for Harris Teeter Properties LLC. (without attachments. Full set of attachments at the Office of the Clerk to the Board)
- Attachment 7 - Letter dated August 3, 2009, to Chairman Sharon Bulova, Board of Supervisors, from Mark C. Looney, Cooley, Godward, Kronish LLP
- Attachment 8 - Letter dated August 4, 2009, to Supervisor Catherine M. Hudgins, Board of Supervisors, from Jonathan P. Rak, McGuire Woods, Attorney for NCC Consortium LLC (“Trammell Crow”)
- Attachment 9 - Letter dated August 4, 2009 to Chairman Bulova, Board of Supervisors, from Frank Stearns, Venable LLP, Attorney for RAJ Development, LLC (RAJ)
- Attachment 10 - Va. Code Section 15.2-2307

STAFF:

- Robert A. Stalzer, Deputy County Executive
- James P. Zook, Director, Department of Planning and Zoning (DPZ)
- Eileen McLane, Zoning Administrator, DPZ
- Regina C. Coyle, Director, Zoning Evaluation Division, DPZ
- Kevin Guinaw, Chief, Special Projects, Zoning Evaluation Division, DPZ

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INFORMATION - 1

Planning Commission Action on Application 2232-D09-2, NewPath Networks, LLC and New Cingular Wireless PCS, LLC (Dranesville District)

On Thursday, July 30, 2009, the Planning Commission voted unanimously (Commissioner Sargeant having recused himself; Commissioner Harsel not present for the vote; Commissioners Alcorn, Flanagan, and Lusk absent from the meeting) to approve 2232-D09-2, with the exception of node GFE9, which was deferred.

The Commission noted that the application met the criteria of character, location and extent, and was in conformance with Section 15.2-2232 of the Code of Virginia.

Application 2232-D09-2 sought approval to construct a telecommunications Distributed Antenna System along portions of Arnon Chapel Road, Beach Mill Road, Georgetown Pike, River Bend Road, Seneca Road, Springvale Road, Utterback Store Road, and Walker Road in the Great Falls area. The additional nodes will be located on portions of public rights-of-way on Tax Maps 2-4, 3-3, 3-4, 6-2, 6-4, 7-1, 7-3, 7-4, 8-1, 8-2, 8-3, 8-4, 12-1, 13-2; Tax Maps 8-2((1))14A; 12-1 ((1))1; 13-1 ((1)) 2, 2A.

ENCLOSED DOCUMENTS:

Attachment 1: Verbatim excerpts from 7/30/09 Commission meeting

Attachment 2: Vicinity map

STAFF:

Robert A. Stalzer, Deputy County Executive

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

David B. Marshall, Assistant Director, Planning Division, DPZ

Barbara J. Lipka, Executive Director, Planning Commission Office

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INFORMATION – 2

County Holiday Schedule – Calendar Year 2010

A proposed calendar year 2010 Holiday Schedule for Fairfax County Government has been prepared. County employees are authorized 11 ½ holidays in each calendar year (12 ½ every fourth year for Inauguration Day).

The proposed holiday schedule for 2010 lists the Federal Government holidays as well as those of the Commonwealth of Virginia and the Fairfax County Public Schools. State employees and the Courts observe the Commonwealth of Virginia designated holidays. This year's holiday schedule lists two New Year's Day holidays since New Year's Day for 2011 will be observed during the 2010 calendar year.

Unless otherwise directed by the Board of Supervisors, the enclosed will be adopted as the holiday schedule for calendar year 2010.

ENCLOSED DOCUMENTS:

Attachment 1: Proposed Holiday Schedule – 2010

STAFF

Edward L. Long, Jr., Deputy County Executive
Susan E. Woodruff, Human Resources Director

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10:55 a.m.

Matters Presented by Board Members

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11:45 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. *John McIntosh, et al. v. Amanda Perry*, Case No. CL-2009-0000354 (Fx. Co. Cir. Ct.)
 - 2. *Eugenia B. White v. Fairfax County Government*, Case No. 08-2179 (U.S. Ct. App. 4th Cir.)
 - 3. *Helen Brazell v. Fairfax County Department of Family Services*, Record No. 090521 (Va. Sup. Ct.)
 - 4. *Sheila Datta v. Fairfax County Department of Family Services*, Record No. 1008-09-4 (Va. Ct. App.)
 - 5. *Board of Supervisors of Fairfax County, Virginia v. Krispy Kreme Doughnut Corporation*, Case No. 1:09cv653A (E.D. Va.) (Mount Vernon District)
 - 6. *Irene Richardson and Lenir Richardson v. Andrew Lee Richardson, et al.*, Case No. CL-2007-0007994 (Fx. Co. Cir. Ct.)
 - 7. *Lenir Richardson v. Zips Dry Cleaners and Officer Corrigan (sic)*, Case No. CL-2007-0011466 (Fx. Co. Cir. Ct.)

8. *Tyrone Boykin v. Anthony H. Griffin, County Executive*, Case No. CL-2009-0008584 (Fx. Cir. Ct.)
9. *Rita Illes v. Fairfax County, Va.*, Case No. 1:09cv858 LO/JFA (E.D. Va.)
10. *Adonis Wright v. Fairfax County, G.S. Tuggle, and Officer Shifflett, and Other Unnamed Officers, John Does*, Case No. 1:09cv949 (E.D. Va.)
11. *Janet Lyon Haight v. Fairfax County Employees' Retirement System*, Case No. CL-2009-0011834 (Fx. Co. Cir. Ct.)
12. *Nicholas Theofilos v. Fairfax County*, Case No. CL-2009-0003344 (Fx. Co. Cir. Ct.) (Dranesville District)
13. *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)
14. *Michael R. Congleton, Property Maintenance Code Official for Fairfax County, Virginia v. David Strohl and Pamela L. Strohl*, Case No. CL-2008-0016691 (Fx. Co. Cir. Ct.) (Lee District)
15. *Eileen M. McLane, Fairfax County Zoning Administrator v. Ola M. Coalson*, Case No. CL-2008-0010794 (Fx. Co. Cir. Ct.) (Lee District)
16. *Eileen M. McLane, Fairfax County Zoning Administrator v. Sunil Arora*, Case No. CL-2009-0010198 (Fx. Co. Cir. Ct.) (Mason District)
17. *Eileen M. McLane, Fairfax County Zoning Administrator v. Atef Saleeb and Mary Saleeb*, Case No. CL-2009-0002487 (Fx. Co. Cir. Ct.) (Sully District)
18. *Eileen M. McLane, Fairfax County Zoning Administrator v. The Melvin Gelman Trust and ARPA Enterprises, Inc.*, Case No. CL-2008-0015529 (Fx. Co. Cir. Ct.) (Providence District)
19. *Eileen M. McLane, Fairfax County Zoning Administrator v. Lewis M. Lipscomb, Jr., and Floy A. Lipscomb*, Case No. CL-2007-0014495 (Fx. Co. Cir. Ct.) (Mount Vernon District)
20. *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)

21. *Eileen M. McLane, Fairfax County Zoning Administrator v. Kyu H. Choe*, Case No. CL-2008-0014034 (Fx. Co. Cir. Ct.) (Lee District)
22. *Eileen M. McLane, Fairfax County Zoning Administrator v. Duane L. Hecox, Carolyn Day Hecox, and Wallace E. Day, Jr.*, Case No. CL-2008-0001326 (Fx. Co. Cir. Ct.) (Springfield District)
23. *Eileen M. McLane, Fairfax County Zoning Administrator v. Athenie F. Munoz*, Case No. CL-2008-0009340 (Fx. Co. Cir. Ct.) (Lee District)
24. *Eileen M. McLane, Fairfax County Zoning Administrator v. Jose A. Gutierrez and Julia B. Gutierrez*, Case No. CL-2009-0002829 (Fx. Co. Cir. Ct.) (Mount Vernon District)
25. *Eileen M. McLane, Fairfax County Zoning Administrator v. Gary C. Smith, Trustee of the Smith Living Trust, and Carolyn W. Smith, Trustee of the Smith Living Trust*, Case No. CL-2009-0004848 (Fx. Co. Cir. Ct.) (Dranesville District)
26. *Michael R. Congleton, Property Maintenance Code Official for Fairfax County, Virginia v. Leo S. Morrison*, Case No. CL-2008-0012787 (Fx. Co. Cir. Ct.) (Dranesville District)
27. *Eileen M. McLane, Fairfax County Zoning Administrator, et al. v. Carol A. Davis*, Case No. CL-2008-0014958 (Fx. Co. Cir. Ct.) (Lee District)
28. *Eileen M. McLane, Fairfax County Zoning Administrator, and Michael R. Congleton, Property Maintenance Code Official for Fairfax County, Virginia v. Frank Rowe*, Case No. CL-2008-0013676 (Fx. Co. Cir. Ct.) (Braddock District)
29. *Michael R. Congleton, Property Maintenance Code Official for Fairfax County, Virginia v. Vincent G. Hickey*, Case No. CL-2009-0006008 (Fx. Co. Cir. Ct.) (Mount Vernon District)
30. *Eileen M. McLane, Fairfax County Zoning Administrator v. Rony Rigoberto Hernandez*, Case No. CL-2009-0005120 (Fx. Co. Cir. Ct.) (Mason District) (Strike Team Case)

31. *Michael R. Congleton, Property Maintenance Code Official for Fairfax County, Virginia v. Henry A. Novak and Shirley Lee Novak, Case No. CL-2009-0009727 (Fx. Co. Cir. Ct.) (Mason District) (Strike Team/BNV Case)*
32. *Michael R. Congleton, Property Maintenance Code Official for Fairfax County, Virginia v. Margaret E. Wayne, Case No. CL-2009-0006358 (Fx. Co. Cir. Ct.) (Mount Vernon District)*
33. *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)*
34. *Eileen M. McLane, Fairfax County Zoning Administrator v. Ominex, Inc., et al., Case No. 1:09cv521 (E.D. Va.) (Mount Vernon District)*
35. *Eileen M. McLane, Fairfax County Zoning Administrator, and Michael R. Congleton, Property Maintenance Code Official For Fairfax County, Virginia v. Osmin Hernandez Sanchez and Ana Lucia Bonilla De Hernandez, Case No. CL-2009-0001471 (Fx. Co. Cir. Ct.) (Mount Vernon District) (Strike Team Case)*
36. *Eileen M. McLane, Fairfax County Zoning Administrator v. Apolonia G. Fuentes, Case No. CL-2009-0008361 (Fx. Co. Cir. Ct.) (Providence District)*
37. *Eileen M. McLane, Fairfax County Zoning Administrator v. Shirley A. Guernsey, Case No. CL-2008-0011520 (Fx. Co. Cir. Ct.) (Mount Vernon District)*
38. *Eileen M. McLane, Fairfax County Zoning Administrator v. Seung Ik Seo and Myung Soon Han, Case No. CL-2009-0008136 (Fx. Co. Cir. Ct.) (Springfield District)*
39. *Eileen M. McLane, Fairfax County Zoning Administrator v. Galileo Palma, Case No. CL-2009-0006974 (Fx. Co. Cir. Ct.) (Lee District)*
40. *Michael R. Congleton, Property Maintenance Code Official for Fairfax County, Virginia v. Manote Auandee, Sandra Auandee, and Amnart Tic Auandee, Case No. CL-2009-0007328 (Fx. Co. Cir. Ct.) (Mason District)*

41. *Eileen M. McLane, Fairfax County Zoning Administrator v. Islamic Foundation of North America, Inc.*, Case No. CL-2009-0004498 (Fx. Co. Cir. Ct.) (Lee District)
42. *Eileen M. McLane, Fairfax County Zoning Administrator v. Ronald F. Tropea and Mary Jane Tropea*, Case No. CL-2009-0008545 (Fx. Co. Cir. Ct.) (Sully District)
43. *Eileen M. McLane, Fairfax County Zoning Administrator v. Son Tran and Dung H. Tran*, Case No. CL-2009-0008760 (Fx. Co. Cir. Ct.) (Providence District)
44. *Eileen M. McLane, Fairfax County Zoning Administrator v. Yolanda Ramirez and Hernan Tambo*, Case No. CL-2009-0003974 (Fx. Co. Cir. Ct.) (Braddock District)
45. *Eileen M. McLane, Fairfax County Zoning Administrator, and Michael R. Congleton, Property Maintenance Code Official For Fairfax County, Virginia v. Kevin R. DeCourcy and Robyn L. Fortune*, Case No. CL-2009-0005333 (Fx. Co. Cir. Ct.) (Mount Vernon District)
46. *Eileen M. McLane, Fairfax County Zoning Administrator v. Maria T. Cortez and Selvin Valdez*, Case No. CL-2008-0016980 (Fx. Co. Cir. Ct.) (Lee District)
47. *Eileen M. McLane, Fairfax County Zoning Administrator v. Paul L. Veeder*, Case No. CL-2009-0003259 (Fx. Co. Cir. Ct.) (Providence District)
48. *Michael R. Congleton, Property Maintenance Code Official for Fairfax County, Virginia v. Lawrence and Joyce Brawner*, Case No. CL-2009-0009307 (Fx. Co. Cir. Ct.) (Mount Vernon District) (Strike Team/BNV Case)
49. *Eileen M. McLane, Fairfax County Zoning Administrator v. Juan Marquez and Angela Del Carmen Marquez, a.k.a. Angela D. C. Marquez*, Case No. CL-2009-0010490 (Fx. Co. Cir. Ct.) (Lee District)
50. *Eileen M. McLane, Fairfax County Zoning Administrator, and Michael R. Congleton, Property Maintenance Code Official for Fairfax County, Virginia v. Potomac Custom Homes II, LLC*, Case No. CL-2009-0010550 (Fx. Co. Cir. Ct.) (Mount Vernon District)
51. *Michael R. Congleton, Property Maintenance Code Official for Fairfax County, Virginia v. Peter L. Johnson, Lloyd K. Johnson, and Virginia M.*

- Johnson*, Case No. CL-2009-0010551 (Fx. Co. Cir. Ct.) (Mount Vernon District)
52. *Eileen M. McLane, Fairfax County Zoning Administrator v. Yong Ho Kwon and Kristi L. Karls*, Case No. CL-2009-0010821 (Fx. Co. Cir. Ct.) (Mason District)
53. *Eileen M. McLane, Fairfax County Zoning Administrator, and Michael R. Congleton, Property Maintenance Code Official for Fairfax County, Virginia v. Iris Y. Villalobos Aguilar*, Case No. CL-2009-0010920 (Fx. Co. Cir. Ct.) (Lee District)
54. *Eileen M. McLane, Fairfax County Zoning Administrator v. Johnny Paz and Marlene B. Paz*, Case No. CL-2009-0010924 (Fx. Co. Cir. Ct.) (Braddock District)
55. *Eileen M. McLane, Fairfax County Zoning Administrator v. Darioush David Movafagh and Lili Movafagh*, Case No. CL-2009-0010922 (Fx. Co. Cir. Ct.) (Hunter Mill District)
56. *Eileen M. McLane, Fairfax County Zoning Administrator v. Wayne F. Sandross and Lisa L. Sandross*, Case No. CL-2009-0010923 (Fx. Co. Cir. Ct.) (Braddock District)
57. *Eileen M. McLane, Fairfax County Zoning Administrator v. 8805 Properties, LLC*, Case No. CL-2009-0010972 (Fx. Co. Cir. Ct.) (Mount Vernon District)
58. *Eileen M. McLane, Fairfax County Zoning Administrator v. Melissa M. Schwartz, Trustee of the Schwartz Living Trust, a/k/a Melissa M. Schwartz, Trustee of the Schwartz Living Trust*, Case No. CL-2009-0010970 (Fx. Co. Cir. Ct.) (Dranesville District)
59. *Eileen M. McLane, Fairfax County Zoning Administrator v. Michael Shen*, Case No. CL-2009-0010971 (Fx. Co. Cir. Ct.) (Providence District)
60. *Eileen M. McLane, Fairfax County Zoning Administrator v. Mary Ann R. Devine*, Case No. CL-2009-0011063 (Fx. Co. Cir. Ct.) (Mount Vernon District)
61. *Eileen M. McLane, Fairfax County Zoning Administrator v. Marlon J. Reyes*, Case No. CL-2009-0011062 (Fx. Co. Cir. Ct.) (Lee District) (Strike Team Case)

62. *Eileen M. McLane, Fairfax County Zoning Administrator v. Delfido Chavarria and Marina A. Aguirre*, Case No. CL-2009-0011230 (Fx. Co. Cir. Ct.) (Mason District)
63. *Eileen M. McLane, Fairfax County Zoning Administrator v. Eugenio Valenzuela Rivas*, Case No. CL-2009-0011619 (Fx. Co. Cir. Ct.) (Mason District)
64. *Eileen M. McLane, Fairfax County Zoning Administrator v. Juan P. Bonilla*, Case No. CL-2009-0011661 (Fx. Co. Cir. Ct.) (Providence District)
65. *Michael R. Congleton, Property Maintenance Code Official for Fairfax County, Virginia v. Washington Mutual Bank*, Case No. CL-2009-0011617 (Fx. Co. Cir. Ct.) (Mason District)
66. *Eileen M. McLane, Fairfax County Zoning Administrator v. Alma Carranza and Luis Carranza*, Case No. CL-2009-0011725 (Fx. Co. Cir. Ct.) (Lee District)
67. *Michael R. Congleton, Property Maintenance Code Official for Fairfax County, Virginia v. Curtis O. Williams and Barbara J. Williams*, Case No. CL-2009-0011792 (Fx. Co. Cir. Ct.) (Lee District)
68. *Michael R. Congleton, Property Maintenance Code Official for Fairfax County, Virginia v. Carolyn Jones*, Case No. CL-2009-0011791 (Fx. Co. Cir. Ct.) (Lee District)
69. *Eileen M. McLane, Fairfax County Zoning Administrator v. Florentino Claros and Fortunata Claros*, Case No. CL-2009-0011914 (Fx. Co. Cir. Ct.) (Mason District)
70. *Eileen M. McLane, Fairfax County Zoning Administrator v. Robert Pierre Johnson Housing Development Corporation of the National Capital Area*, Case No. CL-2009-0012063 (Fx. Co. Cir. Ct.) (Mount Vernon District) (Strike Team Case)
71. *Michael R. Congleton, Property Maintenance Code Official for Fairfax County, Virginia v. Jacqueline Ball*, Case No. CL-2009-0012436 (Fx. Co. Cir. Ct.) (Lee District)

72. *Eileen M. McLane, Fairfax County Zoning Administrator v. Mohamad E. El-Achi and Rita El-Achi*, Case No. CL-2009-0012129 (Fx. Co. Cir. Ct.) (Mason District)
73. *Eileen M. McLane, Fairfax County Zoning Administrator v. Peter A. Shultz*, Case No. CL-2009-0012158 (Fx. Co. Cir. Ct.) (Springfield District)
74. *Eileen M. McLane, Fairfax County Zoning Administrator v. Leonel A. Romero and Nora E. Martinez*, Case No. CL-2009-0012157 (Fx. Co. Cir. Ct.) (Braddock District)
75. *Eileen M. McLane, Fairfax County Zoning Administrator v. Elmer A. Canas, Mauro R. Canas, and Lorenza A. Canas*, Case No. CL-2009-0012492 (Fx. Co. Cir. Ct.) (Lee District)
76. *Eileen M. McLane, Fairfax County Zoning Administrator v. Tajinder S. Ruprai*, Record No. 1466-09-4 (Va. Ct. App.) (Providence District)
77. *Eileen M. McLane, Fairfax County Zoning Administrator v. Lester R. Kerfoot, Jr., and Carole Jean Kerfoot*, Case Nos. 09-0010583 and 09-0010584 (Fx. Co. Gen. Dist. Ct.) (Lee District)
78. *Eileen M. McLane, Fairfax County Zoning Administrator v. Jahanza Khan and Shabana Khan*, Civil Case Nos. 09-0015430 and 09-0015431 (Fx. Co. Gen. Dist. Ct.) (Lee District)
79. *Eileen M. McLane, Fairfax County Zoning Administrator v. Kathleen M. Ward Ciccotelli*, Case Nos. 09-0015620 and 09-0015621 (Fx. Co. Gen. Dist. Ct.) (Lee District)
80. *Eileen M. McLane, Fairfax County Zoning Administrator v. Demetrios Demetriou and Androula Demetriou*, Case No. 09-0014890 (Fx. Co. Gen. Dist. Ct.) (Mount Vernon District)
81. *Eileen M. McLane, Fairfax County Zoning Administrator v. Muhammad Aziz and Shahnaz Aziz*, Case Nos. 09-0012874 and 09-0012875 (Fx. Co. Gen. Dist. Ct.) (Mount Vernon District)
82. *Eileen M. McLane, Fairfax County Zoning Administrator v. Maury A. Audet*, Case Nos. 09-0016479 and 09-0016480 (Fx. Co. Gen. Dist. Ct.) (Lee District)

Board Agenda Item
September 14, 2009

3:00 p.m.

Public Hearing on SEA 95-M-009 (Pinecrest (E&A) LLC) to Amend SE 95-M-009 Previously Approved for a Fast Food Restaurant to Permit Increase in Land Area, Waiver of Open Space Requirements, Expansion of the Use and Associated Modifications to Site Design and Development Conditions, Located on Approximately 5.51 Acres Zoned C-2, C-5 and HC, Mason District

The application property is located at 6546-6552 Little River Turnpike, Tax Map 72-1 ((1)) 20D.

PLANNING COMMISSION RECOMMENDATION:

On Wednesday, September 9, 2009, the Planning Commission voted unanimously (Commissioners Flanagan and Murphy absent from the meeting) to recommend that the Board of Supervisors approve SEA 95-M-009, subject to the Development Conditions dated August 18, 2009.

ENCLOSED DOCUMENTS:

None. Staff Report previously furnished.

STAFF:

Regina Coyle, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
Tracy Strunk, Senior Staff Coordinator, Zoning Evaluation Division, DPZ

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Board Agenda Item
September 14, 2009

3:00 p.m.

Public Hearing on SEA 2005-SP-033 (Washington DC SMSA Ltd Partnership D/B/A Verizon Wireless) to Amend SE 2005-SP-033 Previously Approved for a Telecommunications Facility to Permit Site Modifications and Modifications to Development Conditions, Located on Approximately 2.59 Acres Zoned R-2, Springfield District

The application property is located at 7008 Elkton Drive, Tax Map 89-4 ((5)) A.

PLANNING COMMISSION RECOMMENDATION:

On Thursday, July 23, 2009, the Planning Commission unanimously voted (Commissioners Flanagan, Hall, and Murphy absent from the meeting) to recommend the following actions to the Board of Supervisors:

- Approval of SEA 2005-SP-033, subject to the Development Conditions dated July 8, 2009; and
- Reaffirmation of the previously approved modification of the transitional screening requirements in favor of the existing screening as shown on the SE Plat.

ENCLOSED DOCUMENTS:

None. Staff Report previously furnished.

STAFF:

Regina Coyle, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
Tracy Strunk, Senior Staff Coordinator, Zoning Evaluation Division, DPZ

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Board Agenda Item
September 14, 2009

3:00 p.m.

Public Hearing on SE 2007-SP-022 (Trustees of the Sydenstricker United Methodist Church & T-Mobile Northeast LLC) to Permit a Church with Nursery School and Child Care Center with a Maximum Daily Enrollment of Less Than 100 Children and a Telecommunications Facility, Located on Approximately 4.98 Acres Zoned R-1, Springfield District

The application property is at 7230 Sydenstricker Road and 8500 Hooes Road, Tax Map 89-3 ((1)) 14 and 15.

PLANNING COMMISSION RECOMMENDATION:

On Wednesday, July 29, 2009, the Planning Commission voted unanimously (Commissioners Alcorn, Donahue, Flanagan, and Lusk absent from the meeting) to recommend the following actions to the Board of Supervisors:

- Approval of SE 2007-SP-022, subject to the proposed Development Conditions dated July 23, 2009;
- Modification of the transitional screening requirements to that shown on the SE Plat;
- Waiver of the barrier requirements; and
- Modification of the fence height to allow a total height of 8.5 feet, as shown on the SE Plat.

In a related action, the Planning Commission voted unanimously (Commissioners Alcorn, Donahue, Flanagan, and Lusk absent from the meeting) to approve 2232-S07-3. The Commission noted that the proposed telecommunications facility was in conformance with the recommendations of the Comprehensive Plan and met the criteria of character, location, and extent, as set forth in Sect. 15.2-2232 of the Code of Virginia.

ENCLOSED DOCUMENTS:

None. Staff Report previously furnished.

STAFF:

Regina Coyle, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
Tracy Strunk, Senior Staff Coordinator, Zoning Evaluation Division, DPZ

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Board Agenda Item
September 14, 2009

3:30 p.m.

Public Hearing on SEA 89-L-080 (Sunoco, Inc. (R&M)) to Amend SE 89-L-080 Previously Approved for a Service Station and Waiver of Minimum Lot Width to Permit the Addition of a Quick Service Food Store, Modifications of Development Conditions and Site Modifications. Located on Approximately 42,967 Square Feet Zoned C-6, CRD, HC and SC, Lee District

The application property is at 6400 Backlick Road, Tax Map 80-4 ((1)) 9B.

PLANNING COMMISSION RECOMMENDATION:

The Planning Commission public hearing on SEA 80-L-080, originally scheduled on September 9, 2009, has been deferred to October 15, 2009. The Commission's recommendation will be forwarded to the Board of Supervisors subsequent to that date.

ENCLOSED DOCUMENTS:

None. Staff Report previously furnished.

STAFF:

Regina Coyle, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
Tracy Strunk, Senior Staff Coordinator, Zoning Evaluation Division, DPZ

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Board Agenda Item
September 14, 2009

3:30 p.m.

Public Hearing on RZ 2009-PR-006 (Arlington Boulevard Consolidation LLC) to Rezone from R-1 to C-3 to Permit Commercial Development with an Overall Floor Area Ratio of 0.59 for the Subject Property (0.64 overall), Located on Approximately 33,976 Square Feet, Providence District

and

Public Hearing on PCA 2009-PR-007 (Arlington Boulevard Consolidation LLC) to Establish Proffers on Existing C-3 Zoned Property with an Overall Floor Area Ratio of 1.0 on the PCA Site, Located on Approximately 43,124 Square Feet, Providence District

and

Public Hearing on PCA 2004-PR-003-02 (Arlington Boulevard Consolidation LLC) to Amend RZ 2004-PR-003 Previously Approved for Commercial Development to Permit Site Modifications with an Overall Floor Area Ratio of 1.40 on the PCA Site Zoned C-3 (0.64 Overall), Located on Approximately 2.02 Acres, Providence District

Application RZ 2009-PR-006 is located on the north side of Pennell Street, approximately 500 feet west of intersection with Williams Drive, Tax Map 49-3 ((9)) 6 and 6A.

Application PCA 2009-PR-007 is located on the south side of Arlington Boulevard, approximately 450 feet west of intersection with Williams Drive, Tax Map 49-3 ((1)) 104B.

Application PCA 2004-PR-003-02 is located on the south side of Arlington Boulevard approximately 225 feet west of its intersection with Williams Drive and north of Pennell Street, Tax Map 49-3 ((1)) 135; 49-3 ((9)) 7A and 11A

PLANNING COMMISSION RECOMMENDATION:

The Planning Commission public hearing will be held on Thursday, September 10, 2009. The Commission's recommendation will be forwarded to the Board of Supervisors subsequent to that date.

ENCLOSED DOCUMENTS:

None. Staff Report previously furnished.

Board Agenda Item
September 14, 2009

STAFF:

Regina Coyle, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
William O'Donnell, Staff Coordinator, Zoning Evaluation Division, DPZ

Board Agenda Item
September 14, 2009

3:30 p.m.

Public Hearing on RZ 2009-MA-012 (Board of Supervisor's Own Motion) to Rezone from PDH-5, HC and SC to R-5 HC and SC to Permit Residential Development at a Density of 1.94 Dwelling Units Per Acre and a Waiver of the Minimum District Size, Located on Approximately 22,433 Square Feet, Mason District

The application property is located in the northeast quadrant of the intersection of Alpine Drive and Evergreen Lane, Tax Map 71-2 ((2)) 29.

PLANNING COMMISSION RECOMMENDATION:

The Planning Commission public hearing will be held on Thursday, September 10, 2009. The Commission's recommendation will be forwarded to the Board of Supervisors subsequent to that date.

ENCLOSED DOCUMENTS:

None. Staff Report previously furnished.

STAFF:

Regina Coyle, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
Krisen Abrahamson, Branch Chief, Zoning Evaluation Division, DPZ

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Board Agenda Item
September 14, 2009

3:30 p.m.

Public Hearing on SE 2009-MV-010 (Wachovia Bank) to Permit a Drive-In Financial Institution, Located on Approximately 35,475 Square Feet Zoned C-8, CRD and HC, Mount Vernon District

The application property is located at 8770 Richmond Highway, Tax Map 109-2 ((1)) 23.

Public hearing on SE 2009-MV-010 is TO BE DEFERRED to October 5, 2009, at 3:30 p.m.

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Board Agenda Item
September 14, 2009

3:30 p.m.

Public Hearing on RZ 2005-HM-028 (Pedro & Carmen M. Toscano, Jr.) to Rezone from R-1 to R-2 to Permit Residential Development at a Density of 1.2 Dwelling Units Per Acre, Located on Approximately 1.67 Acres, Hunter Mill District

and

Public Hearing on SE 2007-HM-023 (Pedro & Carmen M. Toscano, Jr.) to Permit a Waiver of the Minimum Lot Width Requirement, Located on Approximately 1.67 Acres Zoned R-2, Hunter Mill District

The application property is located on the east side of Vale Road approximately 500 feet south of its intersection with Corsica Street at 9946 Vale Road, Tax Map 38-3 ((1)) 4

PLANNING COMMISSION RECOMMENDATION:

On Thursday, May 28, 2009, the Planning Commission voted unanimously (Commissioners Harsel and Murphy absent from the meeting) to recommend that the Board of Supervisors deny RZ 2005-HM-028 and SE 2007-HM-023, as recommended in the staff report.

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
September 14, 2009

3:30 p.m.

Public Hearing on SE 2009-MA-004 (Teraa, LLC) to Permit Service Station with Quick Service Food Store, Located on Approximately 31,286 Square Feet Zoned C-8, Mason District

The application property is located at 6540 Edsall Rd. Tax Map 80-2 ((1)) 58.

PLANNING COMMISSION RECOMMENDATION:

On Thursday, July 30, 2009, the Planning Commission voted unanimously (Commissioners Alcorn, Flanagan, and Lusk absent from the meeting) to recommend the following actions to the Board of Supervisors:

- Approval of SE 2009-MA-004, subject to the Development Conditions dated July 15, 2009; and
- Direct the Department of Public Works & Environmental Services to waive the tree inventory and the poor condition analysis as outlined in Sect. 12.0502.1A of the Public Facilities Manual.

ENCLOSED DOCUMENTS:

None. Staff Report previously furnished.

STAFF:

Regina Coyle, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
Suzianne Zottl, Staff Coordinator, Zoning Evaluation Division, DPZ

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Board Agenda Item
September 14, 2009

Regulatory
Review



4:00 p.m.

Public Hearing on a Proposed Amendment to the Zoning Ordinance Re: Single Family Detached Dwelling Grade

ISSUE:

The proposed amendment is in response to a request from the Board that staff examine possible ways to address the impacts of building larger (taller) houses adjacent to smaller (shorter) houses in existing residential neighborhoods. The proposed amendment revises the current grade definition to stipulate that building height measurements for single family detached dwellings be made from the lower average ground level of either pre-existing or finished grade. The amendment also incorporates the changes to the variance standards that were adopted by the 2009 Virginia General Assembly by eliminating the requirement for a showing of hardship “approaching confiscation”.

PLANNING COMMISSION RECOMMENDATION:

On July 30, 2009, the Planning Commission voted unanimously (Commissioners Hall and Murphy abstaining; Commissioners Alcorn, Flanagan, and Lusk absent from the meeting) to recommend the following actions to the Board of Supervisors:

- Adoption of the proposed Zoning Ordinance amendment regarding Single Family Detached Dwelling Grade as set forth in the Staff Report dated June 22, 2009;
- The following be grandfathered from the proposed building height measurement as it pertains to grade:
 - All special permit, special exception and proffered rezoning applications and amendments thereto that set forth building heights for single family detached dwelling units, when approved prior to the effective date of this amendment;
 - Building and grading plans submitted on or before the effective date of the amendment, provided:
 - The grading plan and Building Permit are approved within 12 months of the return of the initial submission to applicant/agent;
 - The plan or permit does not expire;

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- A Building Permit for the structure(s) shown on the approved plan is issued;
 - The structure is constructed in accordance with the approved permit; and/or
- Any other circumstances giving rise to a vested right as set forth in Va. Code Ann. § 15.2-2307.

The Planning Commission also voted unanimously (Commissioners Hall and Murphy abstaining; Commissioners Alcorn, Flanagan and Lusk absent from the meeting) to recommend that the Board direct staff to review the current single family detached dwelling building height limitation of 35 feet, to consider whether it may be appropriate to increase this height limitation for single family detached dwellings that are located on lots in the R-1, R-E and R-C districts, of a certain minimum size, and set back a specified distance from all lot lines.

RECOMMENDATION:

The County Executive concurs with the Planning Commission's main motion with one exception regarding the grandfather provisions concerning building and grading plans. It is recommended that instead of grandfathering building and grading plans submitted **on or before** the effective date of the amendment that only such building and grading plans submitted **prior to** the effective date be grandfathered. It is further recommended that the amendment have an effective date of 12:01 September 15, 2009.

As staff assigned to accomplish Zoning Ordinance amendments have been impacted due to budgetary constraints, it is recommended that the Planning Commission's follow on motion be considered by the Board in conjunction with setting priorities for the 2010 Zoning Ordinance Amendment Work Program.

TIMING:

Board authorization to advertise on June 22, 2009; Planning Commission public hearing on July 23, 2009; Deferred Planning Commission decision on July 30, 2009; Board public hearing on September 14, 2009, at 4:00 p.m.

BACKGROUND:

The proposed amendment is on the 2009 Priority 1 Zoning Ordinance Amendment Work Program and was initiated by a July 2007 Board request that staff examine possible ways to address massing and looming impacts of new construction in established residential neighborhoods. Over the past two years staff has studied this

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September 14, 2009

issue, which is characterized by larger new homes or additions to existing homes towering over existing, smaller sized, homes. This effort has been undertaken in coordination with stakeholders that were included in the process consisting of various citizen interest groups and representatives from the building industry. Staff has also discussed this issue with the Board's Development Process Committee on five occasions over this two year period. In September of 2008, a proposed amendment to address looming was brought to the Board for authorization of public hearings, which included the establishment of a residential angle of bulk plane regulation and an adjustment to how grade was determined for single family detached dwellings. However, due to issues regarding the complexity and cost associated with the angle of bulk plane, the Board did not authorize the amendment and requested staff to pursue an alternative approach. In response to this request, in lieu of the angle of bulk plane, staff recommended a setback ratio regulation in conjunction with the grade approach and coordinated this with the stakeholders in a series of workshops. On March 16, 2009, staff briefed the Board's Development Process Committee regarding this alternative and stated that consensus was not reached on the setback ratio, but that general consensus was reached regarding the grade approach. At this meeting staff was directed to proceed with the Zoning Ordinance amendment proposal regarding how grade is measured and to coordinate a stakeholder workgroup to consider other methods to further address looming. The stakeholder workgroup has met four times and will report its findings to the Board at the next Development Process Committee meeting scheduled for September 21, 2009.

The amendment proposes a revised method of measuring grade for single family detached dwellings, which is a component of how building height is measured, by establishing grade as the lower average ground level of the pre-development or finished elevations. This revision is to preclude a fairly common practice whereby a lot is artificially elevated with fill resulting in the construction of taller houses that technically comply with the maximum 35 foot height limit, since building height is currently measured from finished grade. However, in such circumstances the effective height of the dwelling is one that includes the combined height of the structure plus the height of the fill material.

There may be circumstances under which adherence to the proposed grade measurement may present a hardship on the owner. One example is a lot that is located in or within close proximity to a floodplain and the floodplain regulations require that the lowest floor level be a minimum of 18 inches above the floodplain. The proposed amendment would allow the Board in conjunction with a special exception for another use or a rezoning to approve a special exception for a modification of the grade requirement for a detached dwelling that is located within or in proximity to a floodplain and such dwelling must be elevated to meet all applicable floodplain regulations. The amendment would also allow the Board of Zoning Appeals (BZA) to approve the same

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grade modification as a special permit to address instances where no special approvals are being requested of the Board.

In addition to meeting the floodplain regulations, there are other examples of how a proposed grade revision could constrain the construction of a dwelling on a lot. One such example is a lot that sits in a low topographic position relative to abutting properties (house in a valley) where it may be appropriate to allow such a lot to be elevated to a point that is more compatible with adjacent properties and to avoid a "reverse looming" effect. Given the existence of various topographic and other site constraints that may present hardships that cause difficulties in developing properties, and given that a 2009 State Code change loosened the standards by which a variance can be granted by eliminating the requirement for showing a hardship as "approaching confiscation", it is staff's opinion that the use of a variance can now be a viable and an appropriate tool to obtain relief of the grade requirement. It is noted that as part of this amendment the variance standards are being revised to be consistent with the 2009 State Code change.

A new fee of \$885 is recommended for the above mentioned special exception and special permit applications and a new fee of \$885 is recommended for those seeking a variance for a grade modification as well as a modification to building height for single family detached dwellings. These fees are consistent with the fees for other types of residential special exception, special permit and variance application requests. It is noted that for advertisement purposes a fee range of no less than \$885 and no greater than \$7935 is set forth that would permit the Planning Commission and the Board to consider any fees within that range.

At the stakeholders meetings discussed above, it was suggested that the proposed single family detached dwelling grade amendment should not be applicable for large lot R-Districts and where the houses are setback a considerable distance from the lot lines, as it was generally believed that such houses do not create a "looming" impact on the adjacent properties. These issues were also discussed by the Planning Commission at the July 23rd public hearing. Staff's position is that the methodology used for measuring building height should be consistent for all single family detached dwellings regardless of zoning district, thereby also controlling the effective height. As such, someone could not artificially elevate the grade for purposes of height. It is further staff's position that if the Board should desire to allow for higher houses under certain circumstances, such as in the lower density, larger lot R-Districts where the house is setback a minimum distance of perhaps 50 feet from all property lines, an increase in building height greater than 35 feet would be the recommended approach. Staff also noted that increasing the maximum residential building height in certain districts would be outside of the scope of advertisement for the current amendment. In response, the Planning Commission recommended that the proposed amendment be adoption as advertised, which included the revised grade measurement being applicable to all single

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family detached dwellings; and further recommended that the Board direct staff to review the current single family detached dwelling building height limitation of 35 feet and to consider whether it may be appropriate to increase this height limitation for single family detached dwellings that are located on lots in the R-1, R-E and R-C Districts, of a certain minimum size, and set back a specified distance from all lot lines.

The proposed regulations are intended to provide a reasonable balance between protecting older homes from the impacts of infill development and the rights of property owners to build on and improve their property. A more detailed discussion of the proposed amendment is set forth in the Staff Report enclosed as Attachment 2.

REGULATORY IMPACT:

The amendment modifies the manner in which grade is calculated for single family detached dwellings by requiring that the lower of the pre-development or finished elevations be used for determining building height.

For development proposals requiring a grading plan: Currently the pre-development and finished ground level elevations are required to be shown on the grading plans along with the tabular finished grade calculation and height certification. To implement this grade change only the addition of a tabular pre-development grade calculation will be needed and the lower of the pre-construction or finished grade calculation will be used in the height certification. There should be no significant increase in staff review time for proposals requiring grading plans, as the additional staff review will consist of verification of the pre-construction grade information.

For development proposals where a grading plan is not required: Currently, the applicant certifies to the building height on the architectural drawings and a certified (as-built) survey of the structure may be required, if the proposed height is between 33 and 35 feet. To implement this grade change, for those proposals that are more than a single story, a height certification showing the pre-development and finished ground levels in a tabular form may be required. Up to an hour additional staff review time may result in those instances where the applicant is not a building professional and must be assisted as to what type of information is required in order to evaluate the proposal and how to go about gathering such information.

The amendment also introduces a new Group 9 special permit and a new Category 6 special exception to allow grade modifications of single family detached dwellings.

FISCAL IMPACT:

For development proposals requiring a grading plan, it is anticipated that an additional cost of \$100 to \$200 may be incurred by the applicant to provide a tabular pre-

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September 14, 2009

construction grade calculation on the grading plan in conjunction with the already required finished grade calculation, and apply the lower grade in the height certification calculation. For development proposals that do not require a grading plan, for those proposals that are more than a single story, a height certification showing the pre-development and finished ground levels in a tabular form may be required with an anticipated additional cost in the range of \$200 to \$750.

The proposed amendment introduces a new Group 9 special permit, a new Category 6 special exception and a new variance application fee of \$885 to allow modifications of grade for single family detached dwellings. This is the same fee that will be effective on July 1, 2009 for residential minimum yard and fence height variances and special permit and special exception applications for minimum yard modifications. Since the new special exception is only applicable when in conjunction with a rezoning or another special exception, the higher fee will prevail as the applicant will not be charged double. As such, there will be minimal, if any, increase in revenue from the new special exception use. An increase in revenue due to the new special permit and variance fees will be dependent on the number of applications filed.

ENCLOSED DOCUMENTS:

Attachment 1 – Staff Report

Attachment 2 – Planning Commission Recommendation

STAFF:

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

Eileen M. McLane, Zoning Administrator, DPZ

James W. Patteson, Director, Land Development Services, Department of Public Works and Environmental Services (DPWES)

Jack Reale, Senior Assistant to the Zoning Administrator, DPZ

Board Agenda Item
September 14, 2009

4:00 p.m.

Public Hearing on the Acquisition of Certain Land Rights Necessary for the Construction of the Center Lane Stormwater Management Drainage Improvements - Project CA8000 (CA004) (Mason District)

ISSUE:

Public Hearing on the acquisition of certain land rights necessary for the construction of Project CA8000 (CA004) - Center Lane Stormwater Management Drainage Improvements, Fund 318, Stormwater Management Program.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors (Board) adopt the attached resolution authorizing the acquisition of the necessary land rights.

TIMING:

On August 3, 2009, the Board authorized advertisement of a public hearing to be held on September 14, 2009, commencing at 4:00 p.m.

BACKGROUND:

This project consists of storm drainage improvements that will alleviate flooding of commercial property located at the intersection of Center Lane and Williams Lane. A stormwater management facility has been installed at the end of Williams Lane, which requires an outfall to adequately convey larger storm events.

This project requires the acquisition of an existing 12-foot outlet road by deed of dedication starting at Paul Street (Route 1844) and extending north approximately 175 linear feet into Williams Lane. An "unknown owner" owns the property; therefore, condemnation is required to obtain title to the affected property.

Acquisition of the property will also serve to provide land rights for the existing Fairfax County utilities located in the 12-foot outlet.

In order to commence construction of this project on schedule, it is necessary for the Board to utilize quick-take eminent domain powers. These powers are conferred upon the Board by statute, namely, VA. Code Ann. §15.2-1904 and 15.2-1905 (2008). Pursuant to these provisions, a public hearing is required before property interests can be acquired in such an accelerated manner.

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FISCAL IMPACT:

Funding is available in Project CA8000 (CA004) - Cameron Run Watershed Projects, Center Lane, Fund 318, Stormwater Management Program. This project is included in the FY 2010-FY 2014 Adopted Capital Improvement Program (with Future Fiscal Years to 2019). No additional funding is being requested from the Board.

ENCLOSED DOCUMENTS:

Attachment A – Project Location Map

Attachment B – Resolution with Fact Sheet on the affected parcel with plat showing interests to be acquired (Attachments 1 through 1A).

STAFF:

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

Howard J. Guba, Deputy Director, DPWES

Board Agenda Item
September 14, 2009

4:00 p.m.

Public Hearing on a Sewer Ordinance Amendment to Revise Chapter 67.1 of the County Code in Compliance with the Environmental Protection Agency's (EPA) New Pretreatment Streamlining Rule and Miscellaneous EPA and County Housekeeping Updates

ISSUE:

Board adoption of amendments to the County's sewer ordinance Chapter 67.1 Articles 1 through 8 is being requested to incorporate revisions required by the EPA's new Streamlining Rule and corresponding changes to the Virginia Pollutant Discharge Elimination System Permit Regulation (VAC 25-31-10 et. seq.). Also, the ordinance is being amended to incorporate miscellaneous EPA and County housekeeping updates including a modification to the conditions under which the county will pay claims.

RECOMMENDATION:

The County Executive recommends that the Board adopt modifications to the sewer use ordinance as set forth in Attachment 2.

TIMING:

Authorization for advertisement of the public hearing was given by the Board on August 3, 2009. Public Notices of the sewer ordinance revisions were advertised on August 27, 2009 and September 3, 2009, in the Washington Times (See Attachment 1). The public hearing is scheduled to be held on September 14, 2009 at 4:00 p.m. Decision on the adoption of the revisions to the sewer ordinance is requested on September 14, 2009. The County is required to adopt the streamlining changes within one year of the effective date of the County's reissued VPDES permit, making the adoption deadline September 29, 2009.

BACKGROUND:

Fairfax County is required to administer a Pretreatment Program to protect its sanitary sewer system (referred to as a Publicly Owned Treatment Works or POTW) from harmful pollutants which could interfere with the POTW's operation or pass through the POTW insufficiently treated. Specifically, the Federal Water Pollution Control Act, as amended by the Clean Water Act of 1977 (Pub.L. 95-217), as implemented by the General Pretreatment Regulations (40 CFR Part 403), requires implementation of National Pretreatment Standards to control such pollutants. The program is

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administered nationally by the EPA, and in Virginia by the Department of Environmental Quality (DEQ). Subject to DEQ approval and through the issuance of discharge permits, the Department of Public Works and Environmental Services has administered such a Pretreatment Program since 1983.

On October 14, 2005, EPA adopted the "Streamlining Rule", a major amendment to the General Pretreatment Regulations. The Streamlining Rule is designed to reduce the overall regulatory burden on both industrial users and regulators without adversely affecting environmental protection. DEQ has required the County to incorporate required Streamlining Rule changes to its sewer use ordinance. In addition to incorporating the required changes, other changes have been included that provide clarification or flexibility for the administration of the County's Pretreatment Program. Also, Section 67.1-13 of the code dealing with payment of claims resulting from sanitary sewer backups has been modified to better outline the conditions under which these claims may be paid by the County. Attachments include the public hearing advertisement, proposed amended Sewer Use Ordinance, Chapter 67.1 (Articles 1-8) and staff report outlining the rule and its requirements.

FISCAL IMPACT:

None

ENCLOSED DOCUMENTS:

Attachment 1: Proposed Amended Sewer Use Ordinance, Chapter 67.1 (Articles 1-8)

Attachment 2: Staff report prepared by the Department of Public Works and Environmental Services

STAFF:

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

Howard J. Guba, Deputy Director, DPWES

Randy Bartlett, Deputy Director, DPWES

Shahram Mohsenin, Director, Wastewater Planning & Monitoring Division, DPWES

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4:00 p.m.

Public Hearing on Proposed Area Plans Review (APR) Item 08-III-1DS, Located Northeast of the Stonecroft Boulevard and Stonecroft Center Court Intersection (Sully District)

ISSUE:

Area Plans Review (APR) 08-III-1DS addresses approximately 10 acres located northeast of the corner of the Stonecroft Boulevard and Stonecroft Center Court intersection. The nomination proposes to allow vehicle sales and service uses up to .35 FAR as an option. The staff analysis and recommendation are found in the Staff Report, Attachment I. The Sully District APR Task Force recommendation is found in Attachment II.

PLANNING COMMISSION RECOMMENDATION:

On Thursday, July 30, 2009, the Planning Commission voted unanimously (Commissioners Alcorn, Flanagan, and Lusk absent from the meeting) to recommend that the Board of Supervisors approve the Task Force alternative with modifications. This recommendation adds an option for vehicle sale, rental and ancillary uses up to .35 FAR with conditions addressing site design and access. The Planning Commission verbatim for this item is found in Attachment III. The proposed Plan text recommended by the Planning Commission is found in Attachment IV.

RECOMMENDATION:

The County Executive recommends that the Board of Supervisors adopt the Task Force alternative with modifications as recommended by the Planning Commission.

TIMING:

Planning Commission public hearing – May 20, 2009
Planning Commission mark-up session – July 30, 2009
Board of Supervisors' public hearing – September 14, 2009

BACKGROUND:

The Board of Supervisors designated 2008-2009 as the timeframe to review and evaluate recommendations contained in the Comprehensive Plan for the northern part of the County.

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FISCAL IMPACT:

None

ENCLOSED DOCUMENTS:

Attachment I: Staff Report for APR Item 08-III-1DS

Attachment II: Sully District APR Task Force Report for APR Item 08-III-1DS

Attachment III: Planning Commission Verbatim and Recommendation

Attachment IV: Plan Text Recommended by the Planning Commission, July 30, 2009

STAFF:

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

Fred R. Selden, Director, Planning Division (PD), DPZ

Sterling R. Wheeler, Chief, Policy and Plan Development Branch, PD, DPZ

Bernard Suchicital, Planner II, Policy and Plan Development Branch, PD, DPZ