AGENDA

9:30	**Done**	Presentations
10:30	**Done**	Presentation of the Environmental Excellence Awards
10:45	**Done**	Presentation of the 2011 Exceptional Design Awards
11:00	**Done**	Appointments to Citizen Boards, Authorities, Commissions, and Advisory Groups
11:00	**Done**	Items Presented by the County Executive
	ADMINISTRATIVE ITEMS	
1	**Approved**	Streets into the Secondary System (Providence District)
2	**Approved**	Authorization to Advertise a Public Hearing for the Enlargement/De-Creation/Re-Creation of Small and Local Sanitary Districts for Refuse/Recycling and/or Leaf Collection Service (Dranesville and Providence Districts)
3	**Approved**	Authorization to Advertise a Public Hearing to Amend the Large Area Community Parking Districts to Reflect 2011 Redistricting of Election/Magisterial Districts
4	**Approved**	Authorization to Advertise a Public Hearing to Consider Adopting an Ordinance Expanding the Sunset Manor Residential Permit Parking District, District 18 (Mason District)
5	**Approved**	Authorization to Advertise a Public Hearing to Establish the Zion Community Parking District (Braddock District)
6	**Approved**	Resolution for Endorsement of Farmington Drive, Fort Drive and Edgehill Drive to Be Considered for Cut-Through Measures as Part of the Residential Traffic Administration Program (Lee District)
7	**Approved**	Approval of Traffic Calming Measures as Part of the Residential Traffic Administration Program (Sully District)
8	**Approved**	Extension of Review Periods for 2232 Review Applications (Dranesville, Hunter Mill, Providence, and Sully Districts)
9	**Approved**	Additional Time to Establish the Use for Special Exception Amendment SEA 78-L-074-6, Hilltop Sand and Gravel Company, Inc. (Lee District)

	ADMINISTRATIVE ITEMS (Continued)	
10	**Approved**	Additional Time to Commence Construction for Special Exception Amendment SEA 2005-LE-027, Hilltop Sand and Gravel Company, Inc. (Lee District)
11	**Approved**	Authorization to Advertise a Public Hearing on a Proposal to Abandon Part of the Right-of-Way of Willard Road (Sully District)
12	**Approved**	Board Approval of the Distribution of a Plain English Information Statement for the 2011 School Bond Referendum
	ACTION ITEMS	
1	**Approved w/ amendments**	Approval of Revisions to Chapters 2, 4, 5, 7, 8, 10, 14, 17 of the Fairfax County Personnel Regulations to Align With Federal Law, FOCUS System, Fair Labor Standards Act, and Department of Justice Requirements, and to Incorporate Administrative Updates
2	**Approved w/ amendment**	Comment on the Proposed Federal Capital Improvements Program – National Capital Region, Fiscal Years 2012-2017
3	**Approved**	Comments on Design Plans for the I-95 High Occupancy Toll Lanes Project (Mason, Lee, and Mount Vernon Districts)
4	**Approved**	Consumer Protection Commission Report on its Comprehensive Review of the City of Falls Church's Water Ratemaking Process
	INFORMATION ITEMS	
1	**Noted**	Submission of Testimony In the Application of Washington Gas Light Company for a General Increase in Rates and Charges, and to Revise its Terms and Conditions for Gas Service, State Corporation Commission Case No. PUE-2010-00139
11:30	**Done**	Matters Presented by Board Members
12:20	**Done**	Closed Session

PUBLIC HEARINGS

3:30	**Approved**	Public Hearing on RZ 2010-MV-011 (Memorial Venture, LLC) (Mount Vernon District)
3:30	**Approved**	Public Hearing on RZ 2010-PR-014-A (Georgelas Group, LLC) (Providence District)
3:30	**Approved**	Public Hearing on RZ 2010-PR-014-B (Georgelas Group, LLC) (Providence District)
3:30	**Approved**	Public Hearing on SE 2011-MV-002 (Muhammad T. Butt) (Mount Vernon District)
3:30	**Approved**	Public Hearing on SE 2009-BR-020 (T-Mobile Northeast LLC & Commonwealth Swim Club, Inc.) (Braddock District)
3:30	**Approved**	Public Hearing on RZ 2011-LE-015 (Jefferson Development LLC) (Lee District)
4:00	**Public hearing deferred to 1/10/12 at 4 p.m.**	Public Hearing on PRC A-502-02 (Fairways I Residential, L.L.C. and Fairways II Residential, L.L.C.) (Hunter Mill District)
4:00	**Approved**	Public Hearing on the Adoption of the Proposed Amendments to the Jefferson Manor Conservation Plan (Lee District)

Fairfax County, Virginia

BOARD OF SUPERVISORS AGENDA

Tuesday
September 27, 2011

9:30 a.m.

PRESENTATIONS

DESIGNATIONS

- PROCLAMATION – To designate October 9-15, 2011, as Fire Prevention Week in Fairfax County. Requested by Chairman Bulova.

- PROCLAMATION – To designate October 10-14, 2011, as Operation Medicine Cabinet Cleanout Week in Fairfax County. Requested by Chairman Bulova.

- PROCLAMATION – To designate October 2011 as Domestic Violence Awareness Month in Fairfax County. Requested by Chairman Bulova.

- PROCLAMATION – To designate November 2011 as Adoption Awareness Month in Fairfax County. Requested by Chairman Bulova.

- PROCLAMATION – To designate October 2011 as Disability Employment Awareness Month in Fairfax County. Requested by Chairman Bulova.

- PROCLAMATION – To designate October 2-8, 2011, as Mental Illness Awareness Week in Fairfax County. Requested by Chairman Bulova.

— more —

Board Agenda Item
September 27, 2011

- PROCLAMATION – To designate October 2011, as Cemetery Preservation Month in Fairfax County. Requested by Chairman Bulova.

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

Board Agenda Item
September 27, 2011

10:30 a.m.

Presentation of the Environmental Excellence Awards

ENCLOSED DOCUMENTS:
None.

PRESENTED BY:
Stella Koch, Chairman, Environmental Quality Advisory Council (EQAC)

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Board Agenda Item
September 27, 2011

10:45 a.m.

Presentation of the 2011 Exceptional Design Awards

ENCLOSED DOCUMENTS:
None.

PRESENTED BY:
John F. Boland, Chairman of the Architectural Review Board and Chairman, 2011 Exceptional Design Award Jury

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Board Agenda Item
September 27, 2011

11:00 a.m.

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

ENCLOSED DOCUMENTS:
Attachment 1 - Appointments to be heard September 27, 2011

STAFF:
Nancy Vehrs, Clerk to the Board of Supervisors

September 27, 2011

FINAL COPY

APPOINTMENTS TO BE HEARD SEPTEMBER 27, 2011

(ENCOMPASSING VACANCIES PROJECTED THROUGH SEPTEMBER 30, 2011)

(Unless otherwise noted, members are eligible for reappointment)

AFFORDABLE DWELLING UNIT ADVISORY BOARD (4 years)

Incumbent History	Requirement	Nominee	Supervisor	District
Mark S. Ingrao (Appointed 1/03 by Mendelsohn; 5/05 by DuBois) Term exp. 5/09	Citizen Representative		By Any Supervisor	At-Large
VACANT (Formerly held by James Francis Carey; appointed 2/95-5/02 by Hanley; 5/06 by Connolly) Term exp. 5/10 *Resigned*	Lending Institution Representative		By Any Supervisor	At-Large

AIRPORTS ADVISORY COMMITTEE (3 years)

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Barbara Kreykenbohm; appointed 1/09 by Gross) Term exp. 1/11 *Resigned*	Mason District Representative		Gross	Mason

ALCOHOL SAFETY ACTION PROGRAM LOCAL POLICY BOARD (ASAP)
(3 years)

Incumbent History	Requirement	Nominee	Supervisor	District

CONFIRMATION NEEDED:

- Mr. Nhat Minh Nguyen as the Community Services Board Representative

ARCHITECTURAL REVIEW BOARD
(3 years)
[NOTE: Members shall be appointed by the Board of Supervisors as follows: at least two (2) members shall be certified architects; one (1) landscape architect authorized to practice in Virginia; one (1) lawyer with membership in the Virginia Bar; six (6) other members shall be drawn from the ranks of related professional groups such as archaeologists, historians, lawyers, and real estate brokers.]

Incumbent History	Requirement	Nominee	Supervisor	District
Michele C. Aubry (Appointed 10/09 by Hyland) Term exp. 9/11	Related Professional Group #2 Representative		By Any Supervisor	At-Large
Peter A. Juanpere (Appointed 10/96-9/02 by Hanley; 12/05&9/08 by Connolly) Term exp. 9/11	Related Professional Group #5 Representative	**Peter Juanpere** (Bulova)	By Any Supervisor	At-Large

ATHLETIC COUNCIL (2 years)

Incumbent History	Requirement	Nominee	Supervisor	District
Michael Champness (Appointed 2/05&3/07 by DuBois; 3/09 by Foust) Term exp. 3/11	Dranesville District Principal Representative		Foust	Dranesville
Jennifer Beausoliel (Appointed 1/06-6/09 by Gross) Term exp. 6/11	Mason District Alternate Representative		Gross	Mason
Stephen McLaughlin (Appointed 9/98-9/03 by Connolly; 9/05-10/09 by Smyth) Term exp. 9/11	Providence District Representative	**Stephen McLaughlin**	Smyth	Providence

BARBARA VARON VOLUNTEER AWARD SELECTION COMMITTEE (1 year)

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Lilyan Spero; appointed 6/04-6/09 by Connolly; 6/10 by Bulova) Term exp. 6/11 *Deceased*	At-Large Chairman's Representative	**Ken Balbuena**	Bulova	At-Large Chairman's
VACANT (Formerly held by Judy Seiff; appointed 9/10 by Foust) Term exp. 6/11 *Resigned*	Dranesville District Representative		Foust	Dranesville

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BARBARA VARON VOLUNTEER AWARD SELECTION COMMITTEE
(1 year)
Continued

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Regina Jordan; appointed 6/04&6/09 by Hudgins) Term exp. 6/10 *Resigned*	Hunter Mill District Representative		Hudgins	Hunter Mill
VACANT (Formerly held by Brian K. Halston; appointed 1/10-6/11 by McKay) Term exp. 6/12 *Resigned*	Lee District Representative		McKay	Lee
Rachel Rifkind (Appointed 5/09-6/09 by Gross) Term exp. 6/11	Mason District Representative		Gross	Mason
John R. Byers (Appointed 6/09-6/10 by Hyland) Term exp. 6/11	Mount Vernon District Representative		Hyland	Mt. Vernon
VACANT (Formerly held by Robert McDaniel; appointed 9/10 by Herrity) Term exp. 6/11 *Resigned*	Springfield District Representative		Herrity	Springfield

BOARD OF BUILDING AND FIRE PREVENTION CODE APPEALS
(4 years)

(No official, technical assistant, inspector or other employee of the DPWES, DPZ, or FR shall serve as a member of the board.)

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Brian K. Halston; appointed 1/10&2/10 by McKay) Term exp. 2/14 *Resigned*	Design Professional #6 Representative		By Any Supervisor	At-Large

CELEBRATE FAIRFAX, INC. BOARD OF DIRECTORS
(1 year – limited to 6 consecutive terms)

[NOTE: In January of 2002 terms were changed to run from October 1 until September 30. An asterisk (*****) beside any of the following names denotes an individual who is NOT eligible for reappointment.]

Incumbent History	Requirement	Nominee	Supervisor	District
Steve Sherman (Appointed 9/08-9/10 by McKay) Term exp. 9/11	At-Large #1 Representative	**Steve Sherman** (McKay)	By Any Supervisor	At-Large
Jason M. Chung (Appointed 2/11 by Frey) Term exp. 9/11	At-Large #2 Representative		By Any Supervisor	At-Large
Jill Patrick (Appointed 9/09&9/10 by Gross) Term exp. 9/11	At-Large #3 Representative	**Jill Patrick** (Gross)	By Any Supervisor	At-Large
Peter F. Murphy (Appointed 6/06-9/08 by Connolly; 9/09-9/10 by Bulova) Term exp. 9/11	At-Large #4 Representative	**Peter F. Murphy** (Bulova)	By Any Supervisor	At-Large

CHESAPEAKE BAY PRESERVATION ORDINANCE EXCEPTION REVIEW COMMITTEE
(4 years)

Incumbent History	Requirement	Nominee	Supervisor	District
Anne S. Kanter (Appointed 12/03 by Hanley; 9/07 by Connolly) Term exp. 9/11	At-Large #1 Representative	**Anne S. Kanter**	Bulova	At-Large Chairman's
Harrison Glasgow (Appointed 12/03 by Hanley; 9/07 by Connolly) Term exp. 9/11	At-Large #2 Representative		Bulova	At-Large Chairman's
Mary Cortina (Appointed 2/06&9/07 by Bulova) Term exp. 9/11	Braddock District Representative	**Mary Cortina**	Cook	Braddock
Frank Crandall (Appointed 9/10 by Foust) Term exp. 9/11	Dranesville District Representative	**Frank Crandall**	Foust	Dranesville
Howard R. Green (Appointed 5/09 by Hudgins) Term exp. 9/11	Hunter Mill District Representative	**Howard R. Green**	Hudgins	Hunter Mill
Stephen Kirby (Appointed 12/03&1/08 by Kauffman) Term exp. 9/11	Lee District Representative	**Stephen Kirby**	McKay	Lee
Grant Sitta (Appointed 9/10 by Mason) Term exp. 9/11	Mason District Representative	**Grant Sitta**	Gross	Mason

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CHESAPEAKE BAY PRESERVATION ORDINANCE EXCEPTION REVIEW COMMITTEE
(4 years)
Continued

Incumbent History	Requirement	Nominee	Supervisor	District
Gloria Bannister (Appointed 9/07 by Hyland) Term exp. 9/11	Mount Vernon District Representative		Hyland	Mount Vernon
VACANT (Formerly held by Michael Fraser; appointed 11/08 by Smyth) Term exp. 9/11 *Resigned*	Providence District Representative		Smyth	Providence
David W. Schnare (Appointed 12/03 by McConnell; 11/10 by Herrity) Term exp. 9/11	Springfield District Representative	**David W. Schnare**	Herrity	Springfield
Christina Terpak-Malm (Appointed 12/3-9/07 by Frey) Term exp. 9/11	Sully District Representative		Frey	Sully

CHILD CARE ADVISORY COUNCIL (2 years)

Incumbent History	Requirement	Nominee	Supervisor	District
Tamara Derenak (Appointed 7/02-9/05 by Kauffman; 2/08&9/09 by McKay) Term exp. 9/11	Lee District Representative	**Tamara Derenak**	McKay	Lee
VACANT (Formerly held by Karen Hecker; appointed 10/03-9/09 by Hyland) Term exp. 9/11 *Resigned*	Mount Vernon District Representative		Hyland	Mt. Vernon
VACANT (Formerly held by Joan C. Holtz; appointed 5/09 by Smyth) Term exp. 9/11 *Resigned*	Providence District Representative		Smyth	Providence

COMMUNITY REVITALIZATION AND REINVESTMENT ADVISORY GROUP (2 years)

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Michael Webb; appointed 4/07 by Bulova; 5/09 by Cook) Term exp. 4/11 *Deceased*	Braddock District Representative	**Jorge E. Reyna**	Cook	Braddock

CONSUMER PROTECTION COMMISSION
(3 years)

Incumbent History	Requirement	Nominee	Supervisor	District
Michael Roark (appointed 1/08&10/08 by Hyland) Term exp. 7/11	Fairfax County Resident #2 Representative		By Any Supervisor	At-Large

ENVIRONMENTAL QUALITY ADVISORY COUNCIL (EQAC) (3 years)

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Edmund P. Foster; appointed 1/09&12/09 by Herrity) Term exp. 11/12 *Resigned*	Springfield District Representative	**Angela Greenberg**	Herrity	Springfield

FAIRFAX AREA DISABILITY SERVICES BOARD
(3 years- limited to 2 full consecutive terms per MOU, after initial term)
[NOTE: Persons may be reappointed after being off for 3 years. State Code requires that membership in the local disabilities board include at least 30 percent representation by individuals with physical, visual or hearing disabilities or their family members. For this 15-member board, the minimum number of representation would be 5.

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Thomas Choman; appointed 5/02 by Hanley; 11/04&1/08 by Connolly) Term exp. 11/10 *Resigned*	At-Large Fairfax County Representative		By Any Supervisor	At-Large
Ann Pimley (Appointed 9/03&11/06 by Frey) Term exp. 11/09 ***Not eligible for reappointment (need 3 year lapse)***	Sully District Representative		Frey	Sully

FAIRFAX COMMUNITY LONG TERM CARE COORDINATING COUNCIL
(2 years)

Incumbent History	Requirement	Nominee	Supervisor	District

CONFIRMATIONS NEEDED:

- Ms. Joan Thomas as Long Term Care Provider Representative
- Ms. Nancy M. Commisso as Long Term Care Provider Representative
- Ms. Cynthia Nothom as Long Term Care Provider Representative
- Ms. Mary B. Brown as Long Term Care Provider Representative

FAIRFAX-FALLS CHURCH COMMUNITY SERVICES BOARD
(3 years – limited to 3 full terms)
[NOTE: In accordance with *Virginia Code* Section 37.2-502, "**prior to making any appointment, the appointing authority shall disclose and make available to the public the names of those persons being considered for appointment**. The appointing authority shall also make information on the candidates available to the public, if such information is available to the appointing authority." **Members can be reappointed after 3 year break from initial 3 full terms. VA Code 37.2-502]**

Incumbent History	Requirement	Nominee	Supervisor	District
Renee Alberts (Appointed 8/01-5/02 by Hanley; 6/05-6/08 by Connolly) Term exp. 6/11 ***Not eligible for reappointment)***	At-Large #3 Representative	**Karen Margensey** (Bulova) (*Will be confirmed on October 18*)	By Any Supervisor	At-Large
VACANT (Formerly held by Diane Hofstadter; appointed 6/10 by Frey) Term exp. 6/13 *Resigned*		**Lisa Lynne Kania** (Frey) (*Will be confirmed on October 18*)	By Any Supervisor	At-Large

HEALTH SYSTEMS AGENCY BOARD
(3 years - limited to 2 full terms, may be reappointed after 1 year lapse)

Incumbent History	Requirement	Nominee	Supervisor	District
Carol Ann Coryell (Appointed 6/05-6/08 by Frey) Term exp. 6/11 ***(Not eligible for reappointment. Must have 1 year lapse)***	Consumer #6 Representative		By Any Supervisor	At-Large
Stephen Goldberger (Appointed 7/04-6/06 by Kauffman; 7/09 by McKay) Term exp. 6/11 ***(Not eligible for reappointment. Must have 1 year lapse)***	Provider #3 Representative		By Any Supervisor	At-Large

HUMAN RIGHTS COMMISSION (3 years)

Incumbent History	Requirement	Nominee	Supervisor	District
Gloria Crawford (Appointed 9/08 by Hudgins) Term exp. 9/11	At-Large #2 Representative	**Gloria Crawford** (Hudgins)	By Any Supervisor	At-Large
Daoud Khairallah (Appointed 11/05-9/08 by Gross) Term exp. 9/11	At-Large #8 Representative	**Daoud Khairallah** (Gross)	By Any Supervisor	At-Large
Karen Margensey (Appointed 10/08 by Connolly) Term exp. 9/11	At-Large #9 Representative		By Any Supervisor	At-Large
Luis F. Padilla (Appointed 4/10 by Bulova) Term exp. 9/11	At-Large #11 Representative		By Any Supervisor	At-Large
Heather D. Lawson (Appointed 1/03-9/08 by Hudgins) Term exp. 9/11	At-Large #12 Representative	**Heather Lawson** (Hudgins)	By Any Supervisor	At-Large

HUMAN SERVICES COUNCIL (4 years)

Incumbent History	Requirement	Nominee	Supervisor	District
Kevin Bell (Appointed 6/95-6/99 by Hanley; 7/03-7/07 by Connolly) Term exp. 7/11	At-Large #1 Chairman's Representative		Bulova	At-Large Chairman's
Virginia Norton (Appointed 1/97-7/03 by Mendelsohn; 7/07 by DuBois) Term exp. 7/11	Dranesville District Representative		Foust	Dranesville
Carol Ann Hawn (Appointed 9/07 by Frey) Term exp. 7/11	Sully District Representative		Frey	Sully

INFORMATION TECHNOLOGY POLICY ADVISORY COMMITTEE (ITPAC) (3 years)

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by William Young; appointed 3/02-12/09 by Hudgins) Term exp. 12/12 *Resigned*	Hunter Mill District Representative	**Bhaskar Kuppusamy**	Hudgins	Hunter Mill

SMALL BUSINESS COMMISSION, FAIRFAX COUNTY (3 years)

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT Formerly held by April S. Tan; appointed 2/09 by Hudgins) Term exp. 12/11 *Resigned*	At-Large #2 Representative		By Any Supervisor	At-Large

SOUTHGATE COMMUNITY CENTER ADVISORY COUNCIL (2 years)

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Lawrence Bussey; appointed 3/05-3/09 by Hudgins) Term exp. 3/11 *Resigned*	Fairfax County #2 Representative		By Any Supervisor	At-Large
VACANT (Formerly held by Patrick Kane; appointed 3/07&3/09 by Hudgins) Term exp. 3/12 *Resigned*	Fairfax County #7 Representative		By Any Supervisor	At-Large

TRAILS AND SIDEWALKS COMMITTEE (2 years)

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Kala Quintana; appointed 10/091/10 by Bulova) Term exp. 1/12 *Resigned*	At-Large Chairman's Representative		Bulova	At-Large Chairman's

TRESPASS TOWING ADVISORY BOARD (3 years)

[Note: Advisory board created effective 7/1/06 to advise the Board of Supervisors with regard to the appropriate provisions of Va. Code Section 46.2-1233.2 and Fairfax County Code 82.5-32.]

Membership: Members shall be Fairfax County residents. A towing representative shall be defined as a person who, prior to the time of his or her appointment, and throughout his or her term, shall be an operator of a towing business in Fairfax County.

Incumbent History	Requirement	Nominee	Supervisor	District
Fred Scheler (Appointed 7/06-9/08 by Bulova) Term exp. 9/11	Towing #1 Representative	**Fred Scheler** (Bulova)	By Any Supervisor	At-Large

CONFIRMATION NEEDED:

- MPO Steven M. Lescallett as the Law Enforcement #1 Representative

YOUTH BASKETBALL COUNCIL ADVISORY BOARD (1 year)

CONFIRMATIONS NEEDED:

- Mr. E. J. Thomas as the Treasurer and Vienna Youth Incorporated Representative
- Mr. Dave Vennergrund as the Chairman and the Southwestern Youth Association Representative
- Mr. Gordon Austin as the Commissioner and the Burke Basketball Representative
- Mr. Alton Greene as the Secretary and the Fort Belvoir Youth Services Representative
- Mr. David Maher as the Member At-Large and the Arlington County Recreation Representative
- Mr. Grady Bryant as the Member At-Large Representative
- Mr. Frank DeLatour as the Parliamentarian and the Annandale Boys and Girls Club Alternate Representative
- Mr. Charles Chandler as the Scheduler
- Mr. Christopher Pulley as the Fairfax County Recreation Representative
- Ms. Kate Sciorra as the Boys Deputy Commissioner and the Chantilly Youth Association Representative
- Mr. Marvin Elliott as the Alexandria City Recreation Representative
- Mr. George Reid as the Annandale Boys and Girls Club Representative
- Mr. Lezone Kenney as the Annandale Boys and Girls Club Alternate Representative
- Mr. Phil McConnell as the Arlington County Alternate Representative
- Mr. Daryl Lucas as the Baileys Community Center Representative
- Mr. Soan Gibson as the Baileys Community Center Alternate Representative
- Mr. James Bosley as the Braddock Road Youth Club Representative

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YOUTH BASKETBALL COUNCIL ADVISORY BOARD (1 year)
Continued

CONFIRMATIONS NEEDED:

- Mr. Jim Watson as the Braddock Road Youth Club Alternate Representative
- Mr. Mark Tavernier as the Burke Basketball Alternate Representative
- Mr. David Posz as the Chantilly Youth Association Representative
- Mr. Rick Shryock as the Chantilly Youth Association Alternate Representative
- Mr. Marcos Poole as the Fairfax Police Youth Club Representative
- Mr. Kirk Intermill as the Fairfax Police Youth Club Alternate Representative
- Mr. Chris Madison as the Falls Church Parks and Recreation Representative
- Mr. Danny Schlitt as the Falls Church Parks and Recreation Alternate Representative
- Mr. Herb Marshall as the Fort Belvoir Youth Services Alternate Representative
- Mr. Jack Lohrer as the Fort Hunt Youth Athletic Association Representative
- Mr. Chip Gately as the Fort Hunt Youth Athletic Association Alternate Representative
- Mr. Brian Miller as the Gainesville Basketball Association Representative
- Mr. Jason Knight as the Gainesville Basketball Association Alternate Representative
- Mr. Richard Warrick as the Great Falls Basketball Representative
- Ms. Ayannah Arrington as the Gum Springs Community Center Representative

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YOUTH BASKETBALL COUNCIL ADVISORY BOARD (1 year)
Continued

CONFIRMATIONS NEEDED:

- Mr. Eric Cooksey as the Herndon Optimist Club Representative
- Mr. Chris Watari as the Herndon Optimist Club Alternate Representative
- Mr. Jimmy Bernardez as the James Lee Community Center Representative
- Ms. Kim Thompson as the Lee District Basketball Representative
- Mr. Dennis McMinn as the Lee District Basketball Alternate Representative
- Mr. Barton Phillips as the Mercer-Lunsford Basketball League Representative
- Mr. Tim Stanley as the Mercer-Lunsford Basketball League Alternate Representative
- Mr. Jeff Goettman as the McLean Youth Incorporated Representative
- Mr. Gerry Megas as the McLean Youth Incorporated Alternate Representative
- Mr. Russell Ray as the Mount Vernon Youth Athletic Association Representative
- Mr. Mitch Kalman as the Reston Youth Basketball League Representative
- Ms. Iris Kalman as the Reston Youth Basketball League Alternate Representative
- Mr. Bob Korman as the Southwestern Youth Association Alternate Representative
- Mr. Dermot Cashman as the Springfield-South County Youth Club
- Mr. Chris Spera as the Springfield Youth Club Alternate Representative
- Mr. Mike Mastrota as the Turnpike Basketball Club Representative
- Mr. Tom Stepka as the Turnpike Basketball Club Alternate Representative
- Ms. Taylor Roberts as the Vienna Youth Incorporated Alternate Representative
- Mr. Brian Sale as the Lee Mount Vernon Sports Club Representative

Board Agenda Item
September 27, 2011

11:00 a.m.

Items Presented by the County Executive

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Board Agenda Item
September 27, 2011

ADMINISTRATIVE – 1

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**
Quail Creek	Providence	Mallard Creek Trail

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

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Print Form

Street Acceptance Form For Board Of Supervisors Resolution - June 2005

FAIRFAX COUNTY BOARD OF SUPERVISORS
FAIRFAX, VA

Pursuant to the request to inspect certain streets in the subdivisions as described, the Virginia Department of Transportation has made inspections, and recommends that same be included in the secondary system.

VIRGINIA DEPARTMENT OF TRANSPORTATION - OFFICE OF THE PERMITS MANAGER, FAIRFAX, VIRGINIA

REQUEST TO THE PERMITS MANAGER, FOR INCLUSION OF CERTAIN SUBDIVISION STREETS INTO THE STATE OF VIRGINIA SECONDARY ROAD SYSTEM.

PLAN NUMBER: 1876-SD-01

SUBDIVISION PLAT NAME: Quail Creek

COUNTY MAGISTERIAL DISTRICT: Providence

PERMITS MANAGER:

BY: Nadia Alphonse

FOR OFFICIAL USE ONLY

DATE OF VDOT INSPECTION APPROVAL: 06/17/2011

STREET NAME	LOCATION		LENGTH MILE
	FROM	TO	
Mallard Creek Trail	CL Highland Place (Route 2518) - 760' NE CL Valley Road (Route 1019)	630' NW to End of Cul-de-Sac	0.12
		TOTALS:	0.12

NOTES:

550' of 4' Concrete Sidewalk on South Side to be maintained by VDOT.

Attachment 1

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Board Agenda Item
September 27, 2011

ADMINISTRATIVE - 2

Authorization to Advertise a Public Hearing for the Enlargement/De-Creation/Re-Creation of Small and Local Sanitary Districts for Refuse/Recycling and/or Leaf Collection Service (Dranesville and Providence Districts)

ISSUE:
Board authorization to advertise a Public Hearing for the Enlargement/De-Creation/Re-Creation of Small and Local Sanitary Districts for refuse/recycling and/or leaf collection service.

RECOMMENDATION:
The County Executive recommends that the Board authorize advertisement of a public hearing at 4:00 p.m. on Tuesday, November 1, 2011, to consider the following change to small and local sanitary districts for refuse/recycling and/or leaf collection service in accordance with the Board of Supervisor's adopted criteria for the Creation/Enlargement/Withdrawal of Small or Local Sanitary Districts.

Sanitary District	Action	Service	Recommendation
Small District 6 Within Dranesville District (Wemberly Way)	Enlarge	Refuse, Recycling	Approve
Local District 1A61 Within Dranesville District (Elliott Ave)	Enlarge	Refuse, Recycling, Leaf	Approve
Local District 1A61 Within Dranesville District (MacArthur Dr.)	Enlarge	Refuse, Recycling, Leaf	Approve
Small District 1 Within Providence District (Idylwood Rd)	Enlarge	Refuse, Recycling, Leaf	Approve

Board Agenda Item
September 27, 2011

TIMING:
Board of Supervisors' authorization to advertise on September 27, 2011, is required for a public hearing to be held on November 1, 2011, at 4:00 p.m.

BACKGROUND:
The administrative responsibility for the Creation/Enlargement/De-Creation/Re-Creation of Small and Local Sanitary Districts in the County of Fairfax for refuse/recycling and/or leaf collection is with the Department of Public Works and Environmental Services. The establishment of sanitary districts is accomplished through the action of the Board of Supervisors at public hearings. Prior to any action by the Board of Supervisors on a proposed small or local sanitary district, certain relevant standards and criteria must be met in accordance with the Board of Supervisors' adopted criteria for the Creation/Enlargement/De-Creation/Re-Creation of Small and Local Sanitary Districts.

The submitted petitions have been reviewed, and it has been determined that the petitions meet the Board of Supervisors' Adopted Criteria. Staff recommends that the authorization to advertise a public hearing for the Enlargement/De-Creation/Re-Creation of small and local sanitary districts for refuse/recycling and/or leaf collection be approved. If approved, the modification will become permanent in January 2012.

FISCAL IMPACT:
None

ENCLOSED DOCUMENTS:
Attachment 1: Summary Sheet
Attachment 2: Data Sheets with Proposed Resolutions and Maps

STAFF:
Robert A. Stalzer, Deputy County Executive
James W. Patteson, Director, Department of Public Works and Environmental Services (DPWES)

Attachment 1

SUMMARY SHEET

Proposed alterations to the following small and local sanitary districts for refuse/recycling and/or leaf collection service:

1. Enlarge Small District 6 within Dranesville District for the purpose of adding County Refuse and Recycling Collection Service to the Wemberly Way area.

2. Enlarge Local District 1A61 within Dranesville District for the purpose of adding County Refuse, Recycling and Leaf Collection Service to the Elliott Avenue area.

3. Enlarge Local District 1A61 within Dranesville District for the purpose of adding County Refuse, Recycling and Leaf Collection Service to the MacArthur Drive area.

4. Enlarge Small District 1 within Providence District for the purpose of adding County Refuse, Recycling and Leaf Collection Service to the Idylwood Road area.

Attachment 2

DATA SHEET
Enlarge
Small District 6
Within Dranesville District

Purpose: To provide County Refuse and Recycling Collection Service to the Wemberly Way area.

- Petition requesting service received on July 18, 2011.
- Petition Area: 2 Properties.
- 2 Property Owners in favor.
- The Department of Public Works and Environmental Services can provide the requested service using existing equipment.
- The Department of Public Works and Environmental Services recommends that the proposed action be approved effective January 1, 2012.

NOTICE OF INTENTION TO PROPOSE FOR ADOPTION
A RESOLUTION AND A PUBLIC HEARING THEREON

TO ENLARGE
SMALL DISTRICT 6
WITHIN DRANESVILLE DISTRICT

TAKE NOTICE that at a regular meeting of the Board of Supervisors of the County of Fairfax, Virginia, held in the Board Auditorium of the Government Center, 12000 Government Center Parkway, Fairfax, Virginia, on Tuesday the 27th day of September, 2011, it was proposed by said Board to adopt a resolution to enlarge a small district known as Small District 6 within Dranesville District to include a portion of Wemberly Way for the purpose of providing for refuse/recycling collection to be effective January 1, 2012, and the Clerk of said Board was directed to cause notice thereof by publication once a week for two consecutive weeks in a newspaper published in or having general circulation in said County, together with a notice that at a regular meeting of said Board to be held in the Board Auditorium of the Government Center, 12000 Government Center Parkway, Fairfax, Virginia, on

TUESDAY
NOVEMBER 1, 2011
COMMENCING AT 4:00 P.M.

The said Board of Supervisors of Fairfax County, Virginia, will hold a public hearing at which time and place any interested parties may appear and be heard. The full text of the resolution to be adopted is in the following words and figures, to-wit:

WHEREAS, Virginia Code Section *15.2-858*, as amended, provides for, among other things, the enlargement by the Board of Supervisors of Fairfax County, Virginia, of a small sanitary district by resolution; and

WHEREAS, the Board of Supervisors has been presented with facts and information upon consideration of which said Board, finding the property embraced in the proposed small sanitary district will be benefited by enlarging the small sanitary district for the purpose of providing for refuse/recycling collection for the citizens who reside therein.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors of Fairfax County, Virginia, authorizes the advertisement for the proposed enlargement of a small sanitary district, pursuant to Virginia Code Section *15.2-858*, as amended, to be known as Small District 6 within Dranesville District, Fairfax County, Virginia, which said enlargement of the small sanitary district shall be described as follows:

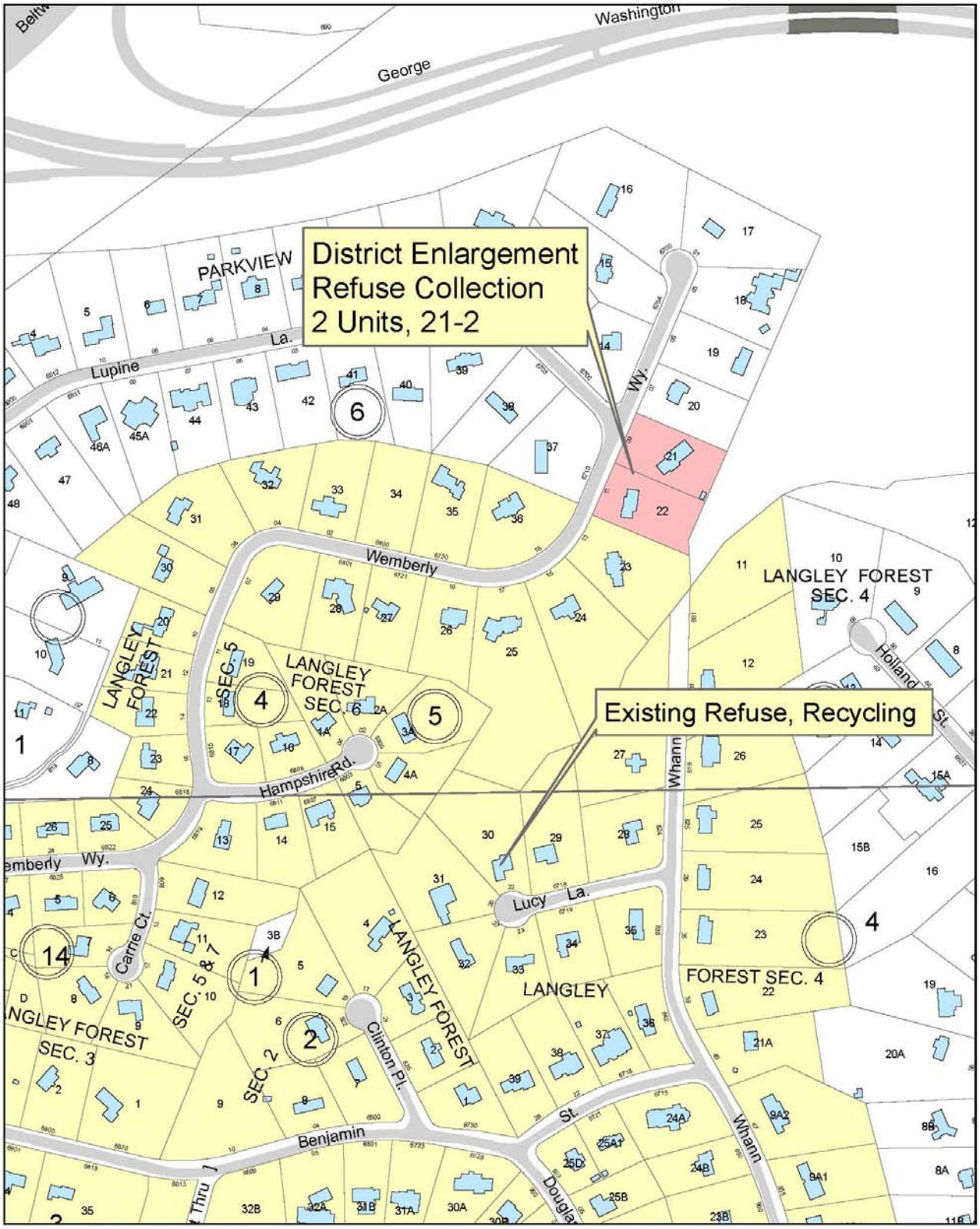
The Enlargement of Small District 6 within Dranesville District to include a portion of Wemberly Way located in the County of Fairfax, McLean, Virginia, and as shown on the attached map.

AND BE IT FURTHER RESOLVED that the Board of Supervisors of Fairfax County, Virginia, declares its intention to implement the purpose for which said Small District 6 within Dranesville District is hereby enlarged to wit:

To provide refuse/recycling collection service for the citizens who reside therein.

Given under my hand this____day of November 2011.

_____
Nancy Vehrs
Clerk to the Board



21-2

Wemberly Way

Attachment 2

DATA SHEET
Enlarge
Local District 1A61
Within Dranesville District

Purpose: To provide County Refuse/Recycling and Vacuum Leaf Collection Service to the Elliott Avenue area.

- Petition requesting service received on August 1, 2011.
- Petition Area: 1 Property.
- 1 Property Owner in favor.
- The Department of Public Works and Environmental Services can provide the requested service using existing equipment.
- The Department of Public Works and Environmental Services recommends that the proposed action be approved effective January 1, 2012, with Vacuum Leaf service to start in the fall of 2012.

NOTICE OF INTENTION TO PROPOSE FOR ADOPTION
A RESOLUTION AND A PUBLIC HEARING THEREON

TO ENLARGE
LOCAL DISTRICT 1A61
WITHIN DRANESVILLE DISTRICT

TAKE NOTICE that at a regular meeting of the Board of Supervisors of the County of Fairfax, Virginia, held in the Board Auditorium of the Government Center, 12000 Government Center Parkway, Fairfax, Virginia, on Tuesday the 27th day of September, 2011, it was proposed by said Board to adopt a resolution to enlarge a small district known as Local District 1A61 within Dranesville District to include a portion of Elliott Avenue for the purpose of providing for refuse/recycling and vacuum leaf collection to be effective January 1, 2012, and the Clerk of said Board was directed to cause notice thereof by publication once a week for two consecutive weeks in a newspaper published in or having general circulation in said County, together with a notice that at a regular meeting of said Board to be held in the Board Auditorium of the Government Center, 12000 Government Center Parkway, Fairfax, Virginia, on

TUESDAY
NOVEMBER 1, 2011
COMMENCING AT 4:00 P.M.

The said Board of Supervisors of Fairfax County, Virginia, will hold a public hearing at which time and place any interested parties may appear and be heard. The full text of the resolution to be adopted is in the following words and figures, to-wit:

WHEREAS, Virginia Code Section *15.2-858*, as amended, provides for, among other things, the enlargement by the Board of Supervisors of Fairfax County, Virginia, of a small sanitary district by resolution; and

WHEREAS, the Board of Supervisors has been presented with facts and information upon consideration of which said Board, finding the property embraced in the proposed small sanitary district will be benefited by enlarging the small sanitary district for the purpose of providing for refuse/recycling and vacuum leaf collection for the citizens who reside therein.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors of Fairfax County, Virginia, authorizes the advertisement for the proposed enlargement of a small sanitary district, pursuant to Virginia Code Section *15.2-858*, as amended, to be known as Local District 1A61 within Dranesville District, Fairfax County, Virginia, which said enlargement of the small sanitary district shall be described as follows:

The Enlargement of Local District 1A61 within Dranesville District to include a portion of Elliott Avenue located in the County of Fairfax, Mclean, Virginia, and as shown on the attached map.

AND BE IT FURTHER RESOLVED that the Board of Supervisors of Fairfax County, Virginia, declares its intention to implement the purpose for which said Local District 1A61 within Dranesville District is hereby enlarged to wit:

To provide refuse/recycling and vacuum leaf collection service for the citizens who reside therein.

Given under my hand this____day of November 2011.

_____
Nancy Vehrs
Clerk to the Board

40-1

Elliott Avenue Area

Attachment 2

DATA SHEET
Enlarge
Local District 1A61
Within Dranesville District

Purpose: To provide County Refuse/Recycling and Vacuum Leaf Collection Service to the MacArthur Drive area.

- Petition requesting service received on May 31, 2011.
- Petition Area: 5 Properties.
- 5 Property Owners in favor.
- The Department of Public Works and Environmental Services can provide the requested service using existing equipment.
- The Department of Public Works and Environmental Services recommends that the proposed action be approved effective January 1, 2012, with Vacuum Leaf service to start in the fall of 2012.

NOTICE OF INTENTION TO PROPOSE FOR ADOPTION
A RESOLUTION AND A PUBLIC HEARING THEREON

TO ENLARGE
LOCAL DISTRICT 1A61
WITHIN DRANESVILLE DISTRICT

TAKE NOTICE that at a regular meeting of the Board of Supervisors of the County of Fairfax, Virginia, held in the Board Auditorium of the Government Center, 12000 Government Center Parkway, Fairfax, Virginia, on Tuesday the 27th day of September, 2011, it was proposed by said Board to adopt a resolution to enlarge a small district known as Local District 1A61 within Dranesville District to include a portion of MacArthur Drive for the purpose of providing for refuse/recycling and vacuum leaf collection to be effective
January 1, 2012, and the Clerk of said Board was directed to cause notice thereof by publication once a week for two consecutive weeks in a newspaper published in or having general circulation in said County, together with a notice that at a regular meeting of said Board to be held in the Board Auditorium of the Government Center, 12000 Government Center Parkway, Fairfax, Virginia, on

TUESDAY
NOVEMBER 1, 2011
COMMENCING AT 4:00 P.M.

The said Board of Supervisors of Fairfax County, Virginia, will hold a public hearing at which time and place any interested parties may appear and be heard. The full text of the resolution to be adopted is in the following words and figures, to-wit:

WHEREAS, Virginia Code Section *15.2-858*, as amended, provides for, among other things, the enlargement by the Board of Supervisors of Fairfax County, Virginia, of a small sanitary district by resolution; and

WHEREAS, the Board of Supervisors has been presented with facts and information upon consideration of which said Board, finding the property embraced in the proposed small sanitary district will be benefited by enlarging the small sanitary district for the purpose of providing for refuse/recycling and vacuum leaf collection for the citizens who reside therein.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors of Fairfax County, Virginia, authorizes the advertisement for the proposed enlargement of a small sanitary district, pursuant to Virginia Code Section *15.2-858*, as amended, to be known as Local District 1A61 within Dranesville District, Fairfax County, Virginia, which said enlargement of the small sanitary district shall be described as follows:

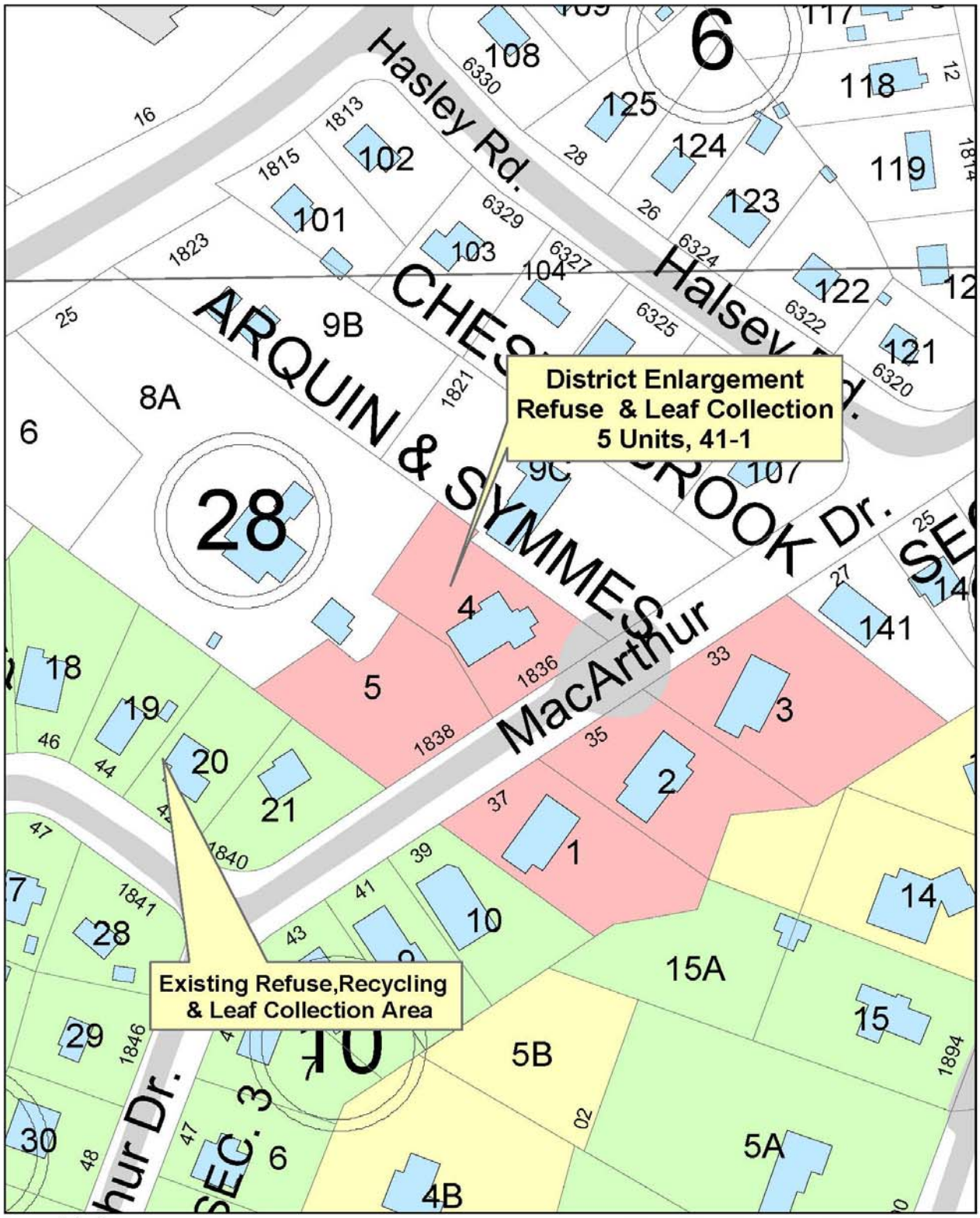
The Enlargement of Local District 1A61 within Dranesville District to include a portion of MacArthur Drive located in the County of Fairfax, Mclean, Virginia, and as shown on the attached map.

AND BE IT FURTHER RESOLVED that the Board of Supervisors of Fairfax County, Virginia, declares its intention to implement the purpose for which said Local District 1A61 within Dranesville District is hereby enlarged to wit:

To provide refuse/recycling and vacuum leaf collection service for the citizens who reside therein.

Given under my hand this____day of November 2011.

_____
Nancy Vehrs
Clerk to the Board



41-1

MacArthur Drive Area

Attachment 2

DATA SHEET
Enlarge
Small District 1
Within Providence District

Purpose: To provide County Refuse/Recycling and Vacuum Leaf Collection Service to the Idylwood Road area.

- Petition requesting service received on June 6, 2011.
- Petition Area: 1 Property.
- 1 Property Owner in favor.
- The Department of Public Works and Environmental Services can provide the requested service using existing equipment.
- The Department of Public Works and Environmental Services recommends that the proposed action be approved effective January 1, 2012, with Vacuum Leaf service to start in the fall of 2012.

NOTICE OF INTENTION TO PROPOSE FOR ADOPTION
A RESOLUTION AND A PUBLIC HEARING THEREON

TO ENLARGE
SMALL DISTRICT 1
WITHIN PROVIDENCE DISTRICT

TAKE NOTICE that at a regular meeting of the Board of Supervisors of the County of Fairfax, Virginia, held in the Board Auditorium of the Government Center, 12000 Government Center Parkway, Fairfax, Virginia, on Tuesday the 27th day of September, 2011, it was proposed by said Board to adopt a resolution to enlarge a small district known as Small District 1 within Providence District for the purpose of including a portion of Idylwood Road area for the purpose of providing for refuse/recycling and vacuum leaf collection to be effective January 1, 2012, and the Clerk of said Board was directed to cause notice thereof by publication once a week for two consecutive weeks in a newspaper published in or having general circulation in said County, together with a notice that at a regular meeting of said Board to be held in the Board Auditorium of the Government Center, 12000 Government Center Parkway, Fairfax, Virginia, on

TUESDAY
NOVEMBER 1, 2011
COMMENCING AT 4:00 P.M.

The said Board of Supervisors of Fairfax County, Virginia, will hold a public hearing at which time and place any interested parties may appear and be heard. The full text of the resolution to be adopted is in the following words and figures, to-wit:

WHEREAS, Virginia Code Section *15.2-858*, as amended, provides for, among other things, the enlargement by the Board of Supervisors of Fairfax County, Virginia, of a small sanitary district by resolution; and

WHEREAS, the Board of Supervisors has been presented with facts and information upon consideration of which said Board, finding the property embraced in the proposed small sanitary district will be benefited by enlarging the small sanitary district for the purpose of providing for refuse/recycling and vacuum leaf collection for the citizens who reside therein.

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors of Fairfax County, Virginia, authorizes the advertisement for the proposed enlargement of a small sanitary district, pursuant to Virginia Code Section *15.2-858*, as amended, to be known as Small District 1 within Providence District, Fairfax County, Virginia, which said enlargement of the small sanitary district shall be described as follows:

The Enlargement of Small District 1 within Providence District to include a portion of Idylwood Road located in the County of Fairfax, Falls Church, Virginia, and as shown on the attached map.

AND BE IT FURTHER RESOLVED that the Board of Supervisors of Fairfax County, Virginia, declares its intention to implement the purpose for which said Small District 1 within Providence District is hereby enlarged to wit:

To provide refuse/recycling and vacuum leaf collection service for the citizens who reside therein.

Given under my hand this____day of November 2011.

_____
Nancy Vehrs
Clerk to the Board

40-3 **7500 Idylwood Road**

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Board Agenda Item
September 27, 2011

ADMINISTRATIVE - 3

Authorization to Advertise a Public Hearing to Amend the Large Area Community Parking Districts to Reflect 2011 Redistricting of Election/Magisterial Districts

ISSUE:
Board authorization to advertise a public hearing to consider proposed amendments to Appendix M of *The Code of the County of Fairfax, Virginia* (Fairfax County Code), to reflect redistricting in the large area Lee, Mount Vernon, Springfield, and Reston Community Parking Districts (CPD).

RECOMMENDATION:
The County Executive recommends that the Board authorize advertisement of a public hearing for October 18, 2011, at 4:30 p.m. to consider adoption of Fairfax County Code amendments (Attachment I) to amend the Lee, Mount Vernon, Springfield, and Reston CPD's to reflect the new 2011 election/magisterial district boundaries in accordance with the large area CPD restrictions.

TIMING:
The Board of Supervisors should take action on September 27, 2011, to provide sufficient time for advertisement of the public hearing on October 18, 2011, at 4:30 p.m.

BACKGROUND:
Fairfax County Code Section 82-5B-2 authorizes the Board to expand 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 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, while certain areas may be excluded that meet minimum size requirements.

The Board of Supervisors approved the redistricting plan for Fairfax County on April 26, 2011. As required by the federal Voting Rights Act of 1965, the U.S. Department of Justice approved the redistricting plan for Fairfax County on June 20, 2011.

The purpose of the public hearing is to amend and readopt the large area CPD districts in accordance with the new 2011 election/magisterial district boundaries. The large area Lee, Mount Vernon, and Springfield CPDs encompass their entire election/magisterial districts and should be reestablished to reflect their new boundaries. The amendments will reflect the new boundaries of the Hunter Mill District, but the areas currently affected by the parking restrictions within the Reston Community Parking District, the limits of which are designated in Appendix M-60, will not change. In addition, previously established petition based CPDs located within a large area CPD are described in the amendment of each large area CPD. Springfield CPD has gained the petition-based Burgoyne Forest CPD from the Mount Vernon CPD due to redistricting. The attached amendments will allow the code in Appendix M to reflect these changes.

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 Large Area CPD Boundaries based on 2011 Redistricting

STAFF:
Robert A. Stalzer, Deputy County Executive
Tom Biesiadny, Acting Director, Fairfax County Department of Transportation (FCDOT)
Eric Teitelman, Division Chief, Capital Projects and Operations Division, FCDOT
Selby Thannikary, Chief, Traffic Operations Section, FCDOT
Maria Turner, FCDOT
Janet Nguyen, FCDOT

Attachment I

PROPOSED CODE AMENDMENT(S)

THE CODE OF THE COUNTY OF FAIRFAX, VIRGINIA
APPENDIX M

Amend and readopt Appendix M-46 of *The Code of the County of Fairfax*, *Virginia,* concerning the Mount Vernon Community Parking District, in accordance with Article 5B of Chapter 82, as follows:

(a) *District Designation.*

(1) The restricted parking area is designated as the Mount Vernon Community Parking District.

(2) Blocks included in the Mount Vernon Community Parking District are described below:

All public secondary streets in residential areas within the Mount Vernon Election/Magisterial District. This includes the previously established CPDs of Beechwood, ~~Burgoyne Forest,~~ Landsdowne, Newington, Newington II, Riverview and Southrun.

(b) *District Provisions.*

(1) This District is established in accordance with and is subject to the provisions set forth in Article 5B of Chapter 82

(2) Parking of watercraft; boat trailers; motor homes; camping trailers; any other trailer or semi-trailer, regardless of whether such trailer or semi-trailer is attached to another vehicle; 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 is prohibited at all times on the streets within the Mount Vernon Community Parking District.

(3) No such Community Parking District 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 District for a maximum of 48 hours for the purpose of loading,

unloading, or preparing for a trip.

(c) *Signs.* Signs delineating the Mount Vernon Community Parking District will not be installed. (19-08-M-46.)

Amend and readopt Appendix M-60 of *The Code of the County of Fairfax*, *Virginia,* concerning the Reston Community Parking District, in accordance with Article 5B of Chapter 82, as follows:

(a) *District Designation.*

(1) The restricted parking area is the Hunter Mill Election/Magisterial District but excludes all areas of the Hunter Mill District except the area within the Reston Community Parking District as set forth below.

(2) Parking is restricted within the area designated as the Reston Community Parking District. For the purposes of this Code section, the phrase "Reston" shall mean land designated as a section of Reston on the Fairfax County Tax Map and the phrase "Reston boundary" shall mean the boundary between any section of Reston and another land development, corporate limit, or natural feature.

(3) Blocks included in the Reston Community Parking District are described below:

All existing and future public secondary streets in residential areas within Reston, all existing and future public secondary streets in the following residential communities adjacent to Reston to include Carter Woods, Deepwood, Estates at Wyndham Hills, New Bedford, Polo Fields, Stratton Woods and Sutton Ridge, and all existing and future public secondary streets in the residential areas within the perimeter of the Reston Community Parking District that is set forth below.

The Reston Community Parking District also includes the previously established Community Parking Districts of Golf Course Square and Vantage Hill.

The perimeter for the Reston Community Parking District is:

From the north side of the Dulles Toll Road at the Monroe Street bridge, east then follow along the Town of Herndon Corporate Line to the northern boundary of Reston Section 51; east then follow along the Reston boundary to Route 7; east along Route 7 to 12.5 outlet road located west of the property at 11131 Leesburg Pike (Tax Map No. 12-1((1)) parcel 51); south along said outlet road to Reston boundary; east then south along Reston boundary to southern boundary of the property located at 1144 Meadowbrook Court (Tax Map No. 12-1((1)) parcel 43); east along southern boundary of 1114 Meadowbrook Court to Jordon Road; south on Jordon Road to end; east then south along Reston boundary to Baron Cameron Avenue; east along Baron Cameron Avenue to Lake Fairfax Drive, south along Lake Fairfax Drive to Lake Fairfax Park; east then south along the eastern boundary of Lake Fairfax Park and then along unnamed Colvin Run southern stream extension

connecting to 30' outlet road at the property located at Tax Map No. 18-3((9)) parcel A; west along 30' outlet road to Reston boundary; southeast along Reston boundary to the northwestern boundary of the property located at Tax Map No. 18-3((1)) parcel 13B1; southwest along the properties located at Tax Map Nos. 18-3((1)) parcels 13B1 and 13B; southeast along the properties located at Tax Map Nos. 18-3((1)) parcels 13B and 13A to Sunset Hills Road; east along Sunset Hills Road to Hunter Mill Road at Dulles Toll Road; south along Hunter Mill Road to Sunrise Valley Drive; south along Reston boundary to Snakeden Branch; west and then south along Reston boundary to Lawyers Road; west along Lawyers Road to eastern boundary of Reston Section 18; south and west along Reston boundary to 400 feet southeast of cul-de-sac at Soapstone Drive; west then north along Reston boundary to Lawyers Road; west along Lawyers Road to 275 feet west of Blue Spruce Road; southwest along Reston boundary to Fox Mill Road; northwest along Fox Mill Road to Lawyers Road; southwest along Lawyers Road to West Ox Road; northwest along West Ox Road to Monroe Street; north along Monroe Street to north side of Dulles Toll Road.

(b) *District Provisions*.

(1) This District is established in accordance with and is subject to the provisions set forth in Article 5B of Chapter 82

(2) Parking of watercraft; boat trailers; motor homes; camping trailers; any other trailer or semi-trailer, regardless of whether such trailer or semi-trailer is attached to another vehicle; 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 is prohibited at all times on the above-described streets within the Reston Community Parking District.

(3) No such Community Parking District 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 District for a maximum of 48 hours for the purpose of loading, unloading, or preparing for a trip or (iv) restricted vehicles that are temporarily parked on a public street within any such District for use by federal, state or local public agencies to provide services.

(c) *Signs*. Signs delineating the Reston Community Parking District will not be installed. (93-08-M-60; 16-10-M-60.)

Amend and readopt Appendix M-68 of *The Code of the County of Fairfax*, *Virginia,* concerning the Lee Community Parking District, in accordance with Article 5B of Chapter 82, as follows:

(a) *District Designation*.

(1) The restricted parking area is designated as the Lee Community Parking District.

(2) Blocks included in the Lee Community Parking District are described below:

All public secondary streets in residential areas within the Lee Election/Magisterial District. This includes the previously established CPDs of Grove at Huntley Meadows, Hayfield View, Island Creek, Kingstowne, Lackawanna, Landsdowne, Manchester Lakes, Potters Glen, Runnymeade, St. John and West Hampton.

(b) *District Provisions*.

(1) This District is established in accordance with and is subject to the provisions set forth in Article 5B of Chapter 82

(2) Parking of watercraft; boat trailers; motor homes; camping trailers; any other trailer or semi-trailer, regardless of whether such trailer or semi-trailer is attached to another vehicle; 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 is prohibited at all times on the streets within the Lee Community Parking District.

(3) No such Community Parking District 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 District for a maximum of 48 hours for the purpose of loading, unloading, or preparing for a trip.

(c) *Signs*. Signs delineating the Lee Community Parking District will not be installed.(45-09-M-68.)

Amend and readopt Appendix M-72 of *The Code of the County of Fairfax*, *Virginia,* concerning the Springfield Community Parking District, in accordance with Article 5B of Chapter 82, as follows:

(a) *District Designation.*

(1) The restricted parking area is designated as the Springfield Community Parking District.

(2) Blocks included in the Springfield Community Parking District are described below:

All public secondary streets in residential areas within the Springfield Election/Magisterial District. This includes the previously established CPDs of Burke Station Square, Burgoyne Forest, Caroline Oaks, Cedar Lakes, Cherry Run, Daventry, Greentree Village, Hillside, Keene Mill Village IV, North Lake Village, Old Mill, Orange Hunt, Somerset, South Run Crossing, Stone Creek Crossing, Timber Ridge, and White Oaks.

(b) *District Provisions.*

(1) This District is established in accordance with and is subject to the provisions set forth in Article 5B of Chapter 82

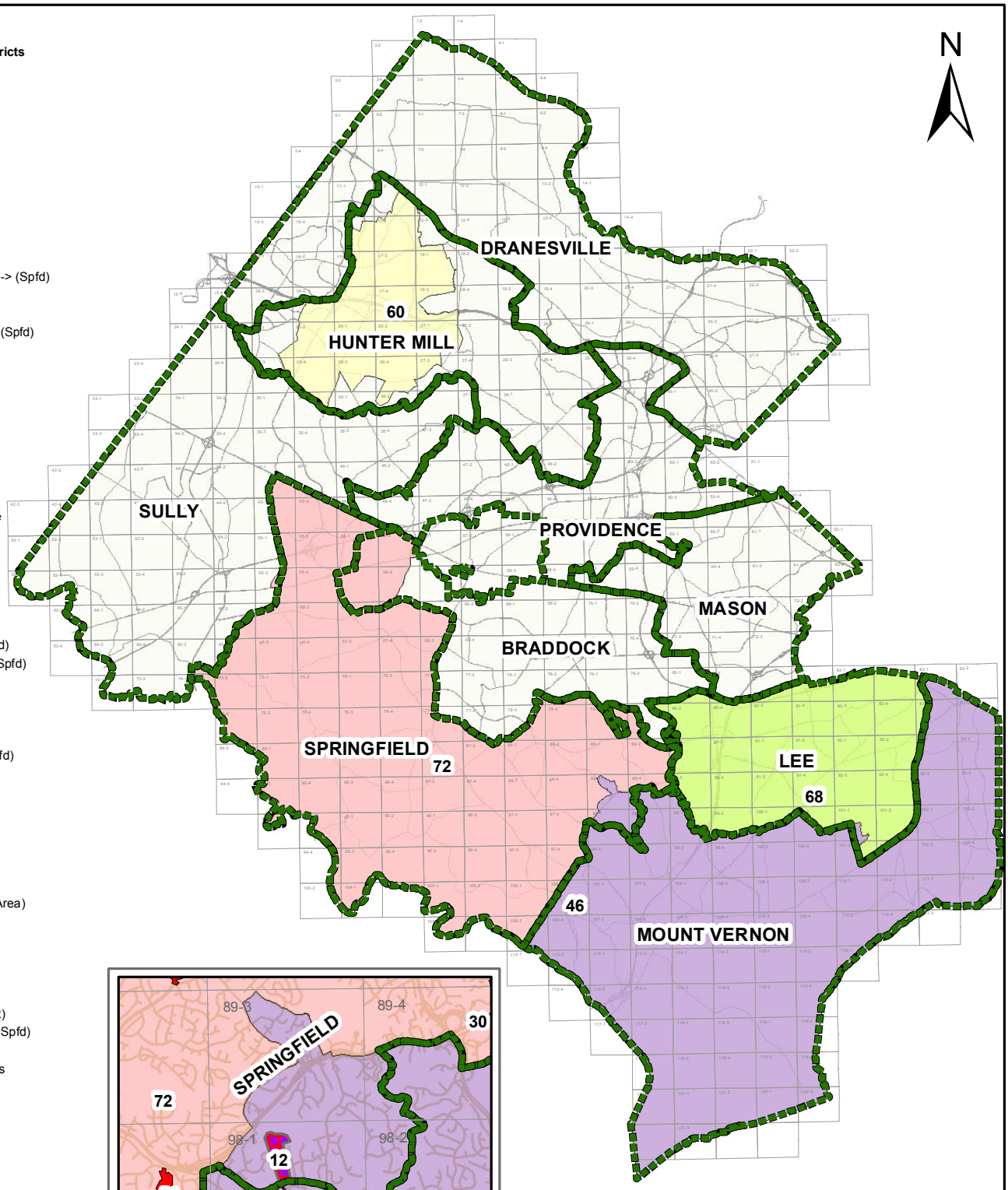
(2) Parking of watercraft; boat trailers; motor homes; camping trailers; any other trailer or semi-trailer, regardless of whether such trailer or semi-trailer is attached to another vehicle; any vehicle with three or more axles; any vehicle that has a gross vehicle weight rating of 12,000 or more pounds 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 is prohibited at all times on the streets within the Springfield Community Parking District.

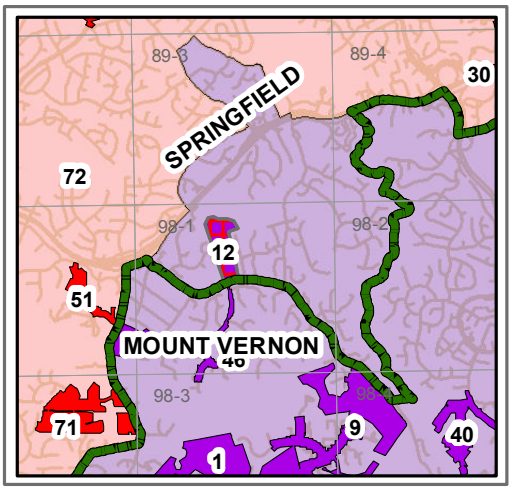
(3) No such Community Parking District shall apply to (i) any commercial vehicle when discharging passengers or when temporarily parked pursuant to the performance of work or service at a particular location or (ii) utility generators located on trailers and being used to power network facilities during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

(c) *Signs.* Signs delineating the Springfield Community Parking District will not be installed. (04-10-M-72.)

Community Parking Districts

1. Beechwood (MV)
2. Manchester lakes(Lee)
3. Vantage Hill (R)
4. Penderbrook
5. Green Trails
6. Center Ridge Regeant
7. Cabell's Mill
8. Riverview (MV)
9. Southrun (MV)
10. Lackawanna (Lee)
11. Kingstowne (Lee)
12. Burgoyne Forest (MV) -> (Spfd)
13. Signall Hill
14. West Hampton (Lee)
15. Stone Creek Crossing (Spfd)
16. Pinecrest
17. Fair Oaks/Woods
18. Danbury Forest
19. Landsdowne (Lee)
20. Union Mills
21. Burke Centre
22. Cardinal Forest
23. Hillside (Spfd)
24. Orange Hunt (Spfd)
25. Second London Towne
26. Wood Gate
27. Fair Oaks Chase
28. Colony Park
29. Sully Station II
30. Daventry (Spfd)
31. Island Creek (Lee)
32. Greentree Village (Spfd)
33. Keene Mill Village IV (Spfd)
34. Newgate
35. Franklin Glen
36. Little Rocky Run
37. Lake Braddock
38. North Lake Village (Spfd)
39. Compton Village
40. Newington II (MV)
41. Newington (MV)
42. Sequoia Farms
43. Meadows
44. Old Centreville
45. Runnymeade (Lee)
46. Mount Vernon (Large Area)
47. Potters Glen (Lee)
48. White Oaks (Spfd)
49. Pinewood Greens
50. Sully Station
51. Somerset (Spfd)
52. Golf Course Square (R)
53. Burke Station Square (Spfd)
54. Ashgrove Plantation
55. Colvin Meadow Estates
56. Hayfield View (Lee)
57. Cedar Lakes (Spfd)
58. Caroline Oaks (Spfd)
59. Singleton's Grove
60. Reston (Large Area)
61. Cherry Run (Spfd)
62. Lakeford
63. Grove at Huntley Meadows (Lee)
64. St. John (Lee)
65. Robin Glen
66. Old Mill (Spfd)
67. South Run Crossing (Spfd)
68. Lee (Large Area)
69. Amberwood
70. Franklin Farm
71. Timber Ridge (Spfd)
72. Springfield (Large Area)
73. Prosperity Heights
74. Heritage Forest
75. Armfield Farm





Legend

New 2011 Election/Magisterial Districts

Large Area CPD Districts Prior to 2011 Redistricting

- 46. Mount Vernon
- 60. Reston
- 68. Lee
- 72. Springfield

August 2, 2011

FAIRFAX COUNTY DEPARTMENT OF TRANSPORTATION
TRAFFIC OPERATIONS SECTION
COMMUNITY PARKING DISTRICTS (CPD)
LARGE AREA CPD 2011 REDISTRICTING

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Board Agenda Item
September 27, 2011

ADMINISTRATIVE - 4

Authorization to Advertise a Public Hearing to Consider Adopting an Ordinance Expanding the Sunset Manor Residential Permit Parking District, District 18 (Mason District)

ISSUE:
Board authorization to advertise a public hearing for October 18, 2011, at 4:30 p.m., to consider a proposed amendment to Appendix G, of *The Code of the County of Fairfax, Virginia*, to expand the Sunset Manor Residential Permit Parking District (RPPD), District 18.

RECOMMENDATION:
The County Executive recommends that the Board authorize advertisement of a public hearing for October 18, 2011, at 4:30 p.m., to consider adopting an amendment (Attachment I) to Appendix G, of *The Code of the County of Fairfax*, *Virginia*, to expand the Sunset Manor RPPD, District 18.

TIMING:
The Board should take action on September 27, 2011, to advertise a public hearing for October 18, 2011, at 4:30 p.m.

BACKGROUND:
Section 82-5A-4(b) of *The Code of the County of Fairfax*, *Virginia*, authorizes the Board to establish or expand an RPPD in any residential area of the County if: (1) the Board receives a petition requesting establishment or expansion of an RPPD that contains signatures representing at least 60 percent of the eligible addresses of the proposed District and representing more than 50 percent of the eligible addresses on each block of the proposed District, (2) the proposed District contains a minimum of 100 contiguous or nearly contiguous on-street parking spaces 20 linear feet in length per space, unless the subject area is to be added to an existing district, (3) 75 percent of the land abutting each block within the proposed District is developed residential, and (4) 75 percent of the total number of on-street parking spaces of the petitioning blocks are occupied, and at least 50 percent of those occupied spaces are occupied by nonresidents of the petitioning blocks, as authenticated by a peak-demand survey. In addition, an application fee of $10 per address is required for the establishment or

expansion of an RPPD. In the case of an amendment expanding an existing District, the foregoing provisions apply only to the area to be added to the existing District.

A petition requesting expansion of the RPPD was received to include the following street block: Scoville Street from Paul Street to Dannys Lane. The signatures on the petition represent more than 60 percent of the eligible addresses of the proposed District expansion and represent more than 50 percent of the eligible addresses on each block face of the proposed District expansion, thereby satisfying Code petition requirements. More than 75 percent of the land abutting each block of the proposed District expansion is developed residential, thereby satisfying Code land use requirements. The required application fees were submitted, thereby satisfying Code fee requirements.

FISCAL IMPACT:
The cost of sign installation is estimated at $600 to be paid out of Fairfax County Department of Transportation (FCDOT) funds.

ENCLOSED DOCUMENTS:
Attachment I: Proposed Amendment to *the Code of the County of Fairfax, Virginia*
Attachment II: Map Depicting Proposed Limits of RPPD Expansion

STAFF:
Robert A. Stalzer, Deputy County Executive
Tom Biesiadny, Acting Director, Fairfax County Department of Transportation (FCDOT)
Eric Teitelman, Chief, Capital Projects and Operations Division, FCDOT
Selby Thannikary, Chief, Traffic Operations Section, FCDOT
Maria Turner, FCDOT
Hamid Majdi, FCDOT

Attachment I

Proposed Amendment

Amend *The Code of the County of Fairfax*, *Virginia*, by adding the following streets to Appendix G-18, Section (b), (2), Sunset Manor Residential Permit Parking District, in accordance with Article 5A, of Chapter 82:

Scoville Street (Route 1845)
From Paul Street to Dannys Lane.

Attachment II

Fairfax County Department of Transportation
Traffic Operations Section
RESIDENTIAL PERMIT PARKING DISTRICT (RPPD)
Sunset Manor # 18
Maon District

August 30, 2011

Board Agenda Item
September 27, 2011

ADMINISTRATIVE - 5

Authorization to Advertise a Public Hearing to Establish the Zion Community Parking District (Braddock 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 Zion Community Parking District (CPD).

RECOMMENDATION:
The County Executive recommends that the Board authorize advertisement of a public hearing for October 18, 2011, at 5:00 p.m. to consider adoption of a Fairfax County Code amendment (Attachment I) to establish the Zion CPD in accordance with current CPD restrictions.

TIMING:
The Board of Supervisors should take action on September 27, 2011, to provide sufficient time for advertisement of the public hearing on October 18, 2011, at 5:00 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

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

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

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

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

FISCAL IMPACT:
The cost of sign installation is estimated at $800 to be paid out of Fairfax County Department of Transportation (FCDOT) funds.

ENCLOSED DOCUMENTS:
Attachment I: Amendment to the Fairfax County Code, Appendix M (CPD Restrictions)
Attachment II: Area Map of Proposed Zion CPD

STAFF:
Robert A. Stalzer, Deputy County Executive
Tom Biesiadny, Acting Director, Fairfax County Department of Transportation (FCDOT)
Eric Teitelman, Chief, Capital Projects and Operations Division, FCDOT
Selby Thannikary, Chief, Traffic Operations Section, FCDOT
Maria Turner, FCDOT

Attachment I

PROPOSED CODE AMENDMENT

THE CODE OF THE COUNTY OF FAIRFAX, VIRGINIA
APPENDIX M

M-76 Zion Community Parking District

(a) *District Designation*.

(1) The restricted parking area is designated as the Zion Community Parking District.

(2) Blocks included in the Zion Community Parking District are described below:

Berrywood Court (Route 7749)
From Grovewood Way to cul-de-sac east and west inclusive.

Brigantine Way (Route 5100)
From Zion Drive to cul-de-sac inclusive.

Burke Chase Court (Route 8134)
From Zion Drive to cul-de-sac inclusive.

Grovewood Way (Route 7750)
From Zion Drive to Berrywood Court.

Hilliard Lake Road (Route 6000)
From Zion Drive to cul-de-sac inclusive.

Hollie Bowling Lane (Route 8135)
From Burke Chase Court to the end.

Kennington Place (Route 7751)
From Grovewood Way to cul-de-sac inclusive.

Zion Drive (Route 654)
From Jib Lane to Guinea Road.

(b) *District Provisions*.

(1) This District is established in accordance with and is subject to the provisions set forth in Article 5B of Chapter 82.

(2) Parking of watercraft; boat trailers; motor homes; camping trailers; any other trailer or semi-trailer, regardless of whether such trailer or semi-trailer is attached

to another vehicle; 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 is prohibited at all times on the above-described streets within the Zion Community Parking District.

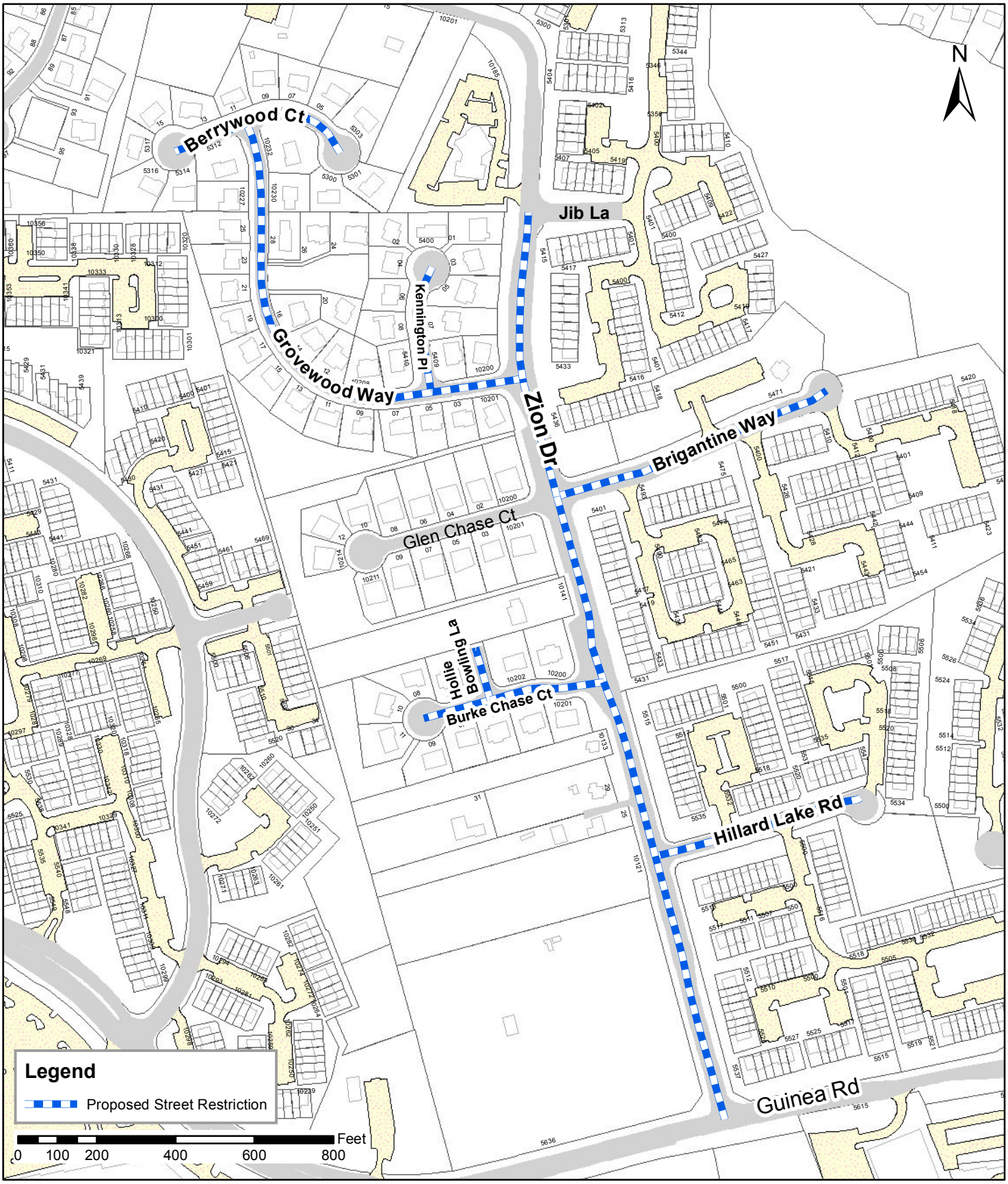
(3) No such Community Parking District shall apply to (i) any commercial vehicle when discharging passengers or when temporarily parked pursuant to the performance of work or service at a particular location or (ii) utility generators located on trailers and being used to power network facilities during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

(c) *Signs*. Signs delineating the Zion Community Parking District shall indicate community specific identification and/or directional information in addition to the following:

NO PARKING
Watercraft
Trailers, Motor Homes
Vehicles ≥ 3 Axles
Vehicles GVWR ≥ 12,000 lbs.
Vehicles ≥ 16 Passengers

FAIRFAX COUNTY CODE §82-5B

Attachment II



Tax Map: 77-2

Fairfax County Department of Transportation
Traffic Operations Section
COMMUNITY PARKING DISTRICT (CPD)
Proposed Zion CPD
Braddock District

August 18, 2011

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Board Agenda Item
September 27, 2011

ADMINISTRATIVE - 6

Resolution for Endorsement of Farmington Drive, Fort Drive, and Edgehill Drive to Be Considered for Cut-Through Measures as Part of the Residential Traffic Administration Program (Lee District)

ISSUE:
Board endorsement of the following streets to be considered for cut-through measures as part of the Residential Traffic Administration Program (RTAP):

- Farmington Drive (between Telegraph Road and North Kings Highway)
- Fort Drive (between Edgehill Drive and North Kings Highway)
- Edgehill Drive (between Monticello Road and Jefferson Drive)

RECOMMENDATION:
The County Executive recommends that the Board endorse a resolution (see Attachment I) for the selection of the above-referenced streets into the RTAP for cut-through traffic.

TIMING:
Board action is requested on September 27, 2011.

BACKGROUND:
As part of the RTAP, roads are reviewed for the cut-through traffic program when requested by a Board member on behalf of a homeowners' or civic association. Cut-through normally employs the use of access restrictions (turn prohibitions, etc.) and/or physical devices such as speed humps, speed tables, raised pedestrian crosswalks, chokers, median islands, or traffic circles to reduce the volume of traffic on a residential street. Multi-way stops may also be employed for regulatory control of traffic. Candidate streets considered for inclusion into the RTAP for cut-through must meet certain eligibility requirements, as follows:

- The street is classified as a local residential or collector roadway
- The roadway is used by at least 150 cut-through vehicles in one hour and in one direction
- At least 40% of the total traffic is cut-through

- A viable alternate route is identified

  An engineering review completed by staff (see Attachment II) has documented the attainment of all preliminary qualifying criteria for Farmington Drive. Fort Drive and Edgehill Drive have been included due to their close proximity to Farmington Drive and their interaction with Farmington Drive in the localized cut-through traffic issues and in anticipation of Fort Drive and Edgehill Drive receiving displaced traffic from Farmington Drive should Farmington Drive's cut-through traffic mitigation measures be implemented.

Also, since Farmington Drive is a collector road, there are additional eligibility criteria, as follows:

- The road does not serve as primary access to commercial or industrial areas
- The street is posted for a 25 mph speed limit
- There exists a minimum of approximately 12 dwellings per 1000 feet of roadway
- Cut-through measures are limited to traffic-calming measures with no access restrictions

An engineering review completed by staff (see Attachment II) has documented the attainment of all additional preliminary qualifying criteria for Farmington Drive.

FISCAL IMPACT:
None.

ENCLOSED DOCUMENTS:
Attachment I: Proposed Resolution
Attachment II: Documentation of Cut-Through Traffic Study Requirements
Attachment III: Primary Use Area Map

STAFF:
Robert A. Stalzer, Deputy County Executive
Tom Biesiadny, Acting Director, Fairfax County Department of Transportation (FCDOT)
Eric M. Teitelman, Chief, Capital Projects and Operations Division, FCDOT
Selby J. Thannikary, Chief, Traffic Operations Section, FCDOT
William P. Harrell, Transportation Planner, FCDOT

Attachment I

RESOLUTION

FAIRFAX COUNTY DEPARTMENT OF TRANSPORTATION
RESIDENTIAL TRAFFIC ADMINISTRATION PROGRAM
CUT-THROUGH MEASURES
FARMINGTON DRIVE, FORT DRIVE AND EDGEHILL DRIVE
LEE DISTRICT

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium of the Government Center in Fairfax, Virginia on Tuesday, September 27, 2011 at which a quorum was present and voting, the following resolution was adopted:

WHEREAS, the residents of Jefferson Manor have petitioned the Fairfax County Department of Transportation (FCDOT) to consider remedial measures to reduce the volume of cut-through traffic on Farmington Drive, Fort Drive and Edgehill Drive; and

WHEREAS, an engineering study by FCDOT for Farmington Drive indicates that all basic cut-through criteria are met pertaining to functional classification of the roadway, identification of their primary use area, identification of actual cut-through volume, and proof of community support; and

WHEREAS, Fort Drive and Edgehill Drive, though not meeting the cut-through volume requirements, would likely receive an increase in displaced traffic if cut-through measures were not implemented;

NOW THEREFORE BE IT RESOLVED, that the Virginia Department of Transportation is hereby requested to review and address the feasibility of implementing cut-through measures on Farmington Drive, Fort Drive and Edgehill Drive as part of FCDOT's Residential Traffic Administration Program.

ADOPTED this 27th day of September, 2011.

A Copy Teste:

_____
Nancy Vehrs
Clerk to the Board of Supervisors

FAIRFAX COUNTY DEPARTMENT OF TRANSPORTATION
RESIDENTIAL TRAFFIC ADMINISTRATION PROGRAM (RTAP)

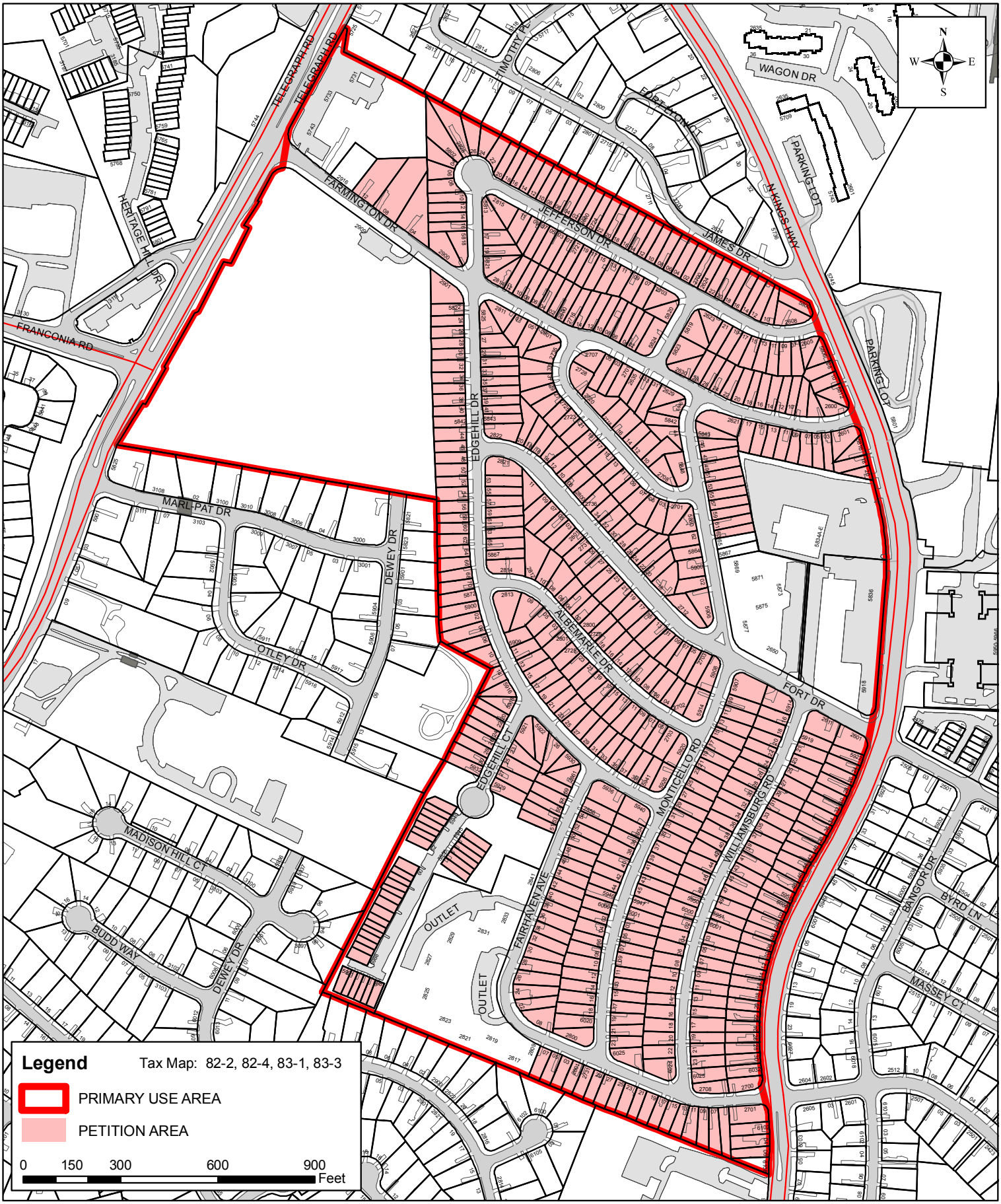
CUT-THROUGH STUDY
FARMINGTON DRIVE, FORT DRIVE & EDGEHILL DRIVE
LEE DISTRICT

VDOT CRITERIA	STUDY RESULTS
Functional classification of streets proposed for cut-through measures	Farmington Drive: Urban Collector Road Fort Drive: Urban Local Road Edgehill Drive: Urban Local Road
Functional classification of other roads in primary use area	Jefferson Drive, Monticello Road, Williamsburg Road, Farnsworth Drive, Albemarle Drive, Fairhaven Avenue & Edgehill Court: Urban Local Road
Relationship of roads in primary use area to the comprehensive plan	Land use–residential. No land use changes planned
Identification of primary use area	See attached map
Verification of cut-through traffic to be a minimum of 40% or more of the total one hour, single direction volume AND that a minimum of 150 cut-through trips occur in one hour, in one direction	• Total traffic entering Farmington Drive at North Kings Highway in the AM peak hour was 350, 79% cut-through: 278 cut-through vehicles Fort Drive and Edgehill Drive are included due to their close proximity to Farmington Drive and their interaction with Farmington Drive in the localized cut-through traffic issues and also in anticipation of Fort Drive & Edgehill Drive receiving displaced traffic from Farmington Drive.
Technique employed to calculate cut-through traffic	Count of total vehicle volumes entering and exiting the study area from Telegraph Road and North Kings Highway. Application of expected ITE A.M. average rate and expected ITE A.M. directional distribution of vehicles, computation of expected local trips vs. actual trips, and translated into percentages for local traffic vs. cut-through traffic
Verification of petitions signed by at least 75% of households in primary use area	Meets requirement
Identification of alternate routes	Not applicable for Farmington Drive since access restrictions are not allowed. For Fort Drive & Edgehill Drive: From the intersection of Fort Drive and North Kings Highway to the intersection of North Kings Highway and Telegraph Road and then to the intersection of Telegraph Road and Farmington Drive.

ADDITIONAL REQUIREMENTS APPLICABLE
FOR COLLECTOR ROADS: FARMINGTON DRIVE

Road does not serve as primary access to commercial or industrial uses	Meets requirement
Street posted for 25-mph speed limit	Meets requirement
A minimum of approximately 12 dwellings per 1000 feet of roadway, counting both sides of road	Meets requirement
Cut-thru measures to be limited to traffic calming measures; no access restrictions	Meets requirement

Attachment III



Fairfax County Department of Transportation
Residential Traffic Administration Program (RTAP)
CUT-THROUGH STUDY
FARMINGTON DRIVE, FORT DRIVE & EDGEHILL DRIVE
Lee District

09/27/2011

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Board Agenda Item
September 27, 2011

ADMINISTRATIVE - 7

Approval of Traffic Calming Measures as Part of the Residential Traffic Administration Program (Sully District)

ISSUE:
Board endorsement of traffic calming measures as part of the Residential Traffic Administration Program (RTAP).

RECOMMENDATION:
The County Executive recommends that the Board endorse traffic calming measures for Folkstone Drive (Attachment I), consisting of the following:

- Two speed tables on Folkstone Drive (Sully District)

In addition, the County Executive recommends that the Fairfax County Department of Transportation (FCDOT) be requested to schedule the installation of the approved measures as soon as possible.

TIMING:
Board action is requested on September 27, 2011.

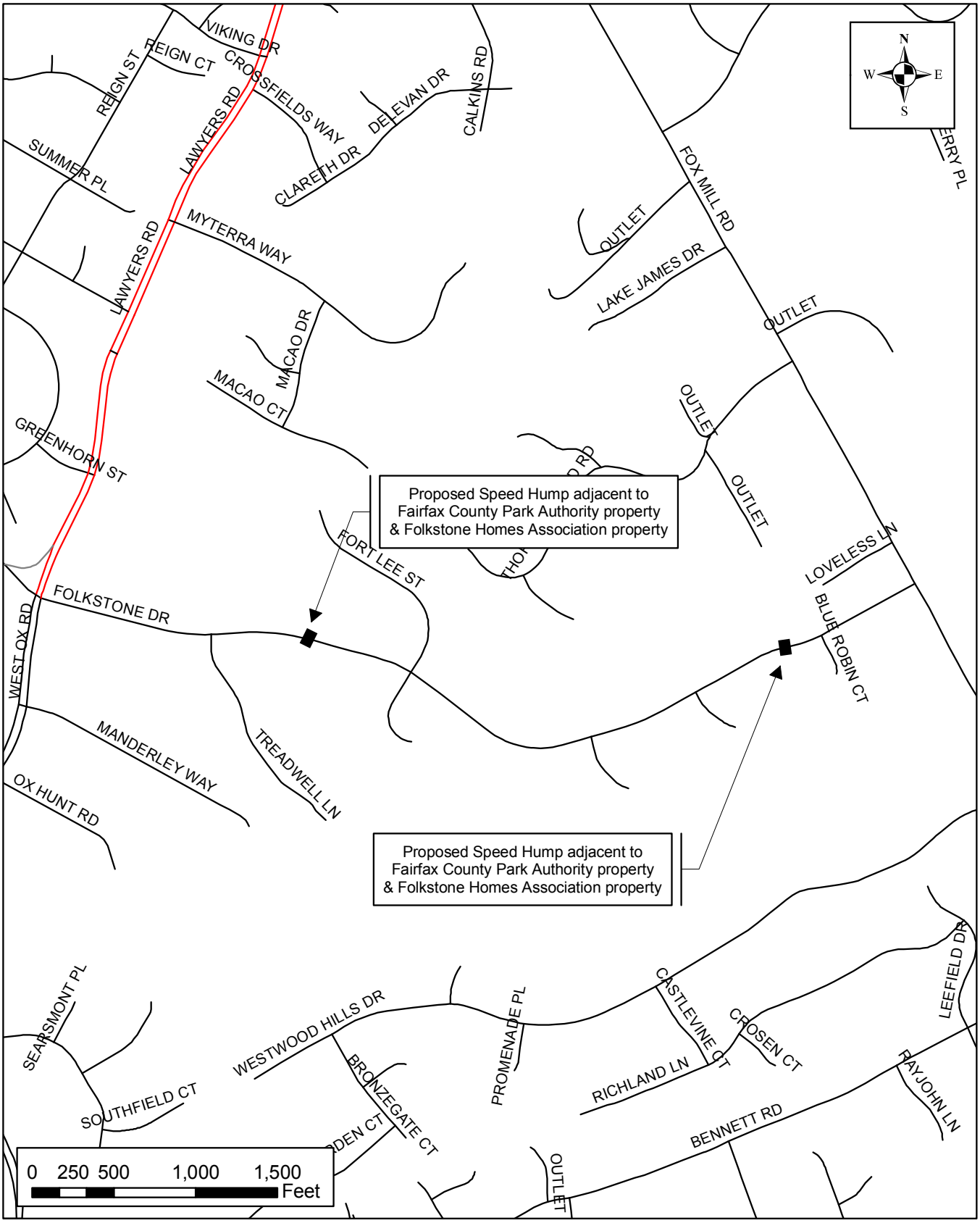
BACKGROUND:
As part of the RTAP, roads are reviewed for traffic calming when requested by a Board member on behalf of homeowners or homeowners/civic associations. Traffic calming employs the use of physical devices such as speed humps, speed tables, raised pedestrian crosswalks, chokers, median islands, or traffic circles to reduce the speed of traffic on a residential street. Staff performed engineering studies documenting the attainment of qualifying criteria for Folkstone Drive. A task force was formed with the community to develop a traffic calming plan to reduce the speed of traffic. Once a plan for Folkstone Drive was adopted and approved by staff, the plan was submitted for approval to residents of the ballot area in the adjacent community. On August 10, 2011, the Department of Transportation received verification from the local supervisor confirming community support for the referenced traffic calming plan.

Board Agenda Item
September 27, 2011

FISCAL IMPACT:
The estimated cost of $14,000 for traffic calming measures is to be paid out of the VDOT secondary road construction budget.

ENCLOSED DOCUMENTS:
Attachment I: Traffic Calming Plan for Folkstone Drive

STAFF:
Robert A. Stalzer, Deputy County Executive
Tom Biesiadny, Acting Director, Fairfax County Department of Transportation (FCDOT)
Eric M. Teitelman, Chief, Capital Projects and Operations Division, FCDOT
Selby J. Thannikary, Chief, Traffic Operations Section, FCDOT
William P. Harrell, Transportation Planner, FCDOT



Fairfax County Department of Transportation
Residential Traffic Administration Program (RTAP)
TRAFFIC CALMING PLAN
FOLKSTONE DRIVE

8/26/2011 **Sully District** TAX MAP: 25-4, 26-3, 35-2, 35-4, 36-1, 36-3

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Board Agenda Item
September 27, 2011

ADMINISTRATIVE – 8

Extension of Review Periods for 2232 Review Applications (Dranesville, Hunter Mill, Providence, and Sully Districts)

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

RECOMMENDATION:
The County Executive recommends that the Board extend the review periods for the following applications: application FSA-P96-57-1 to November 27, 2011; application 2232-D10-18 to November 28, 2011; application FS-Y11-21 to December 3, 2011; application FS-H11-25 to December 10, 2011; application FS-D11-28 to December 12, 2011; application FSA-D97-61-1 to December 15, 2011; applications 2232A-D99-13-1 and FSA-P00-81-1 to December 16, 2011; and application FS-D09-208 to April 9, 2012.

TIMING:
Board action is required on September 27, 2011, 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 of *Section* 15.2-2232 of the *Code of Virginia* 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 period for applications FSA-P96-57-1, 2232-D10-18, FS-Y11-21, FS-H11-25, FS-D11-28, FSA-D97-61-1, 2232A-D99-13-1, and FSA-P00-81-1 which were accepted for review by the Department of Planning and Zoning (DPZ) between June 30, 2011 and July 19, 2011. 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.

The Board should extend the review period for application FS-D09-208 which was accepted for review by the DPZ on April 9, 2010. This application is for a non-telecommunication public facility, and thus is not subject to the State Code provision for extending the review period by no more than sixty additional days.

The review periods for the following applications should be extended:

2232-D10-18	NewPath Networks LLC/New Cingular Wireless PCS LLC/Sprint-Nextel Communications Modify three (3) existing DAS nodes Great Falls Area Dranesville District
FS-D09-208	District of Columbia Water and Sewer Authority Odor Control Facility in Great Falls area Dranesville District
FS-Y11-21	Sprint 14708 Mount Olive Road Antenna collocation on existing tower Sully District
FS-H11-25	AT&T Mobility/Verizon Wireless Antenna collocation on Dominion Virginia Power (DVP) static pole 11975 Lake Newport Road – DVP electrical substation Hunter Mill District
FS-D11-28	AT&T Mobility Antenna collocation on existing tower 9916 Georgetown Pike – Great Falls Fire Station Dranesville District
FSA-P96-57-1	Sprint Antenna collocation on existing water tank 1766 Chain Bridge Road Providence District

Board Agenda Item
September 27, 2011

FSA-D97-61-1	AT&T Mobility Antenna collocation on existing tower 11000 Leesburg Pike Dranesville District
2232A-D99-13-1	AT&T Mobility Antenna collocation on stealth bell tower 1089 Liberty Meeting Court Dranesville District
FSA-P00-81-1	AT&T Mobility Antenna collocation on building rooftop 11250 Waples Mill Road Providence 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
Fred R. Selden, Director, Department of Planning and Zoning
Chris B. Caperton, Chief, Facilities Planning Branch, Planning Division, DPZ
Sandi M. Beaulieu, Planner, Facilities Planning Branch, Planning Division, DPZ

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Board Agenda Item
September 27, 2011

ADMINISTRATIVE - 9

Additional Time to Establish the Use for Special Exception Amendment SEA 78-L-074-6, Hilltop Sand and Gravel Company, Inc. (Lee District)

ISSUE:
Board consideration of additional time to establish the use for SEA 78-L-074-6, pursuant to the provisions of Sect. 9-015 of the Zoning Ordinance.

RECOMMENDATION:
The County Executive recommends that the Board approve the request for twenty-four months of additional time to establish the use for SEA 78-L-074-6 to September 9, 2013.

TIMING:
Routine.

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

On March 9, 2009, the Board of Supervisors approved Special Exception Amendment SEA 78-L-074-6, subject to development conditions. This approval was concurrent with the Board's approval of SEA 2005-LE-027, RZ 2008-LE-001, RZ 2006-LE-002, and RZ/FDP 2008-MD-003. All of the applications were filed in the name of Hilltop Sand and Gravel Company and, collectively, permit the development of recreation facilities and a shopping center, known as Hilltop Village Center, located in the northeast quadrant of the intersection of Telegraph Road and Beulah Street. The establishment of the shopping center requires closure of the existing landfill operation on the property. Approval of SEA 78-L-074-6 permitted a reduction of the landfill from 64.7 acres to 35.88 acres, increased the amount of fill permitted on the remaining portion of the landfill, and allowed approval of recreational facilities on the site upon closure of the landfill operation, subject to development conditions, pursuant to Section 3-104 of the Fairfax County Zoning

Ordinance, for the property located at Tax Map 100-1 ((1)) 9 pt.. A Locator Map for SEA 78-L-074-6 is contained in Attachment 1. SEA 78-L-074-6 was approved with a condition that the use will expire within 30 months of the approval date, unless the landfill entrance has been relocated and an initial Non-RUP obtained for the relocated landfill office. The SEA was also approved with a condition that the recreational uses shown on the SEA Plat shall be established or construction has commenced and been diligently prosecuted within five years from the date of approval. This second condition still has over 30 months remaining prior to expiration and is not part of the current additional time request. The Board of Supervisors may grant additional time if a written request for additional time is filed with the Zoning Administrator prior to the date of expiration for the special exception. The development conditions for SEA 78-L-074-6 are included as part of the Clerk to the Board's letter in Attachment 2.

On August 11, 2011, the Department of Planning and Zoning (DPZ) received a letter dated August 11, 2011, from Lynne J. Strobel requesting twenty-four months additional time to establish the use for the project (see Attachment 3). The letter requests additional time for both SEA 78-L-074-6 and SEA 2005-LE-005; however, the requests for additional time are being addressed individually as separate Board of Supervisors' items. The request for additional time was received prior to the date on which the approval would have expired; therefore, the special exception will not expire pending the Board's action on the request for additional time. Ms. Strobel states that the applicant has been diligently pursuing approval of a site plan that will allow implementation of the SEA development conditions. She states that the partial landfill closure was approved by the Virginia Department of Environmental Quality in 2010, thereby allowing construction of Hilltop Village Center to commence upon approval and bonding of a site plan. The letter states that Site Plan 3365-SP-008 was submitted on June 23, 2009, and approved July 26, 2010, following approval of the soils report. On August 19, 2010, Site Plan 3365-SP-008-2 was submitted. The third site plan (3365-SP-008-3) was submitted November 30, 2010, and, according to DPWES has been sent to bonding pending resolution of a number of unmet conditions (see the copy of the DPWES comments in Attachment 4). Ms. Strobel's letter also states that a lawsuit challenging the approvals of the Board of Supervisors remains pending. She states that the uncertainty associated with the pending lawsuit and the expense associated with posting the necessary bonds does not make the pursuit of construction feasible at this time. She, therefore, requests twenty-four months additional time to allow for resolution of the lawsuit and the subsequent posting of bonds.

Staff has reviewed Special Exception SEA 78-L-074-6 and has established that, as approved, the application is still in conformance with all applicable provisions of the Fairfax County Zoning Ordinance to permit those activities approved with the aforementioned special exception amendment that are required for the ultimate development of the Hilltop Village Center. Further, staff knows of no change in land use circumstances which affect the compliance of SEA 78-L-074-6 with the special exception standards applicable to this

use or which should cause the filing of a new special exception application and review through the public hearing process. The Comprehensive Plan recommendation for this site continues to provide for a retail and office use option for this site consistent with that recommended at the time the SEA was approved. Finally, the conditions associated with the Board's approval of SEA 78-L-074-6 are still appropriate and remain in full force and effect. Staff believes that approval of the request for twenty-four months additional time is in the public interest and recommends that it be approved. The additional time would begin from the prior specified expiration date of September 9, 2011, and would result in a new expiration date of September 9, 2013.

FISCAL IMPACT:
None

ENCLOSED DOCUMENTS:
Attachment 1: Locator Map
Attachment 2: Letter dated March 25, 2009, to Lynne J. Strobel, agent for the applicant, from Nancy Vehrs, Clerk to the Board of Supervisors, which set forth the conditions for approval of SEA 78-L-074-6
Attachment 3: Letter dated August 11, 2011, from Lynne J. Strobel, requesting additional time
Attachment 4: Copy of DPWES comments on SP 3365-SP-008-3 dated August 24, 2011

STAFF:
Robert A. Stalzer, Deputy County Executive
Fred R. Selden, Acting Director, Department of Planning and Zoning (DPZ)
Barbara C. Berlin, Director, Zoning Evaluation Division (ZED), DPZ
Kevin J. Guinaw, Chief, Special Projects Applications/Management Branch, ZED, DPZ
Pamela Nee, Chief, Environment and Development Review Branch, Planning Division, DPZ
Mary Ann Godfrey, Senior Staff Coordinator, ZED, DPZ

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Rezoning Application

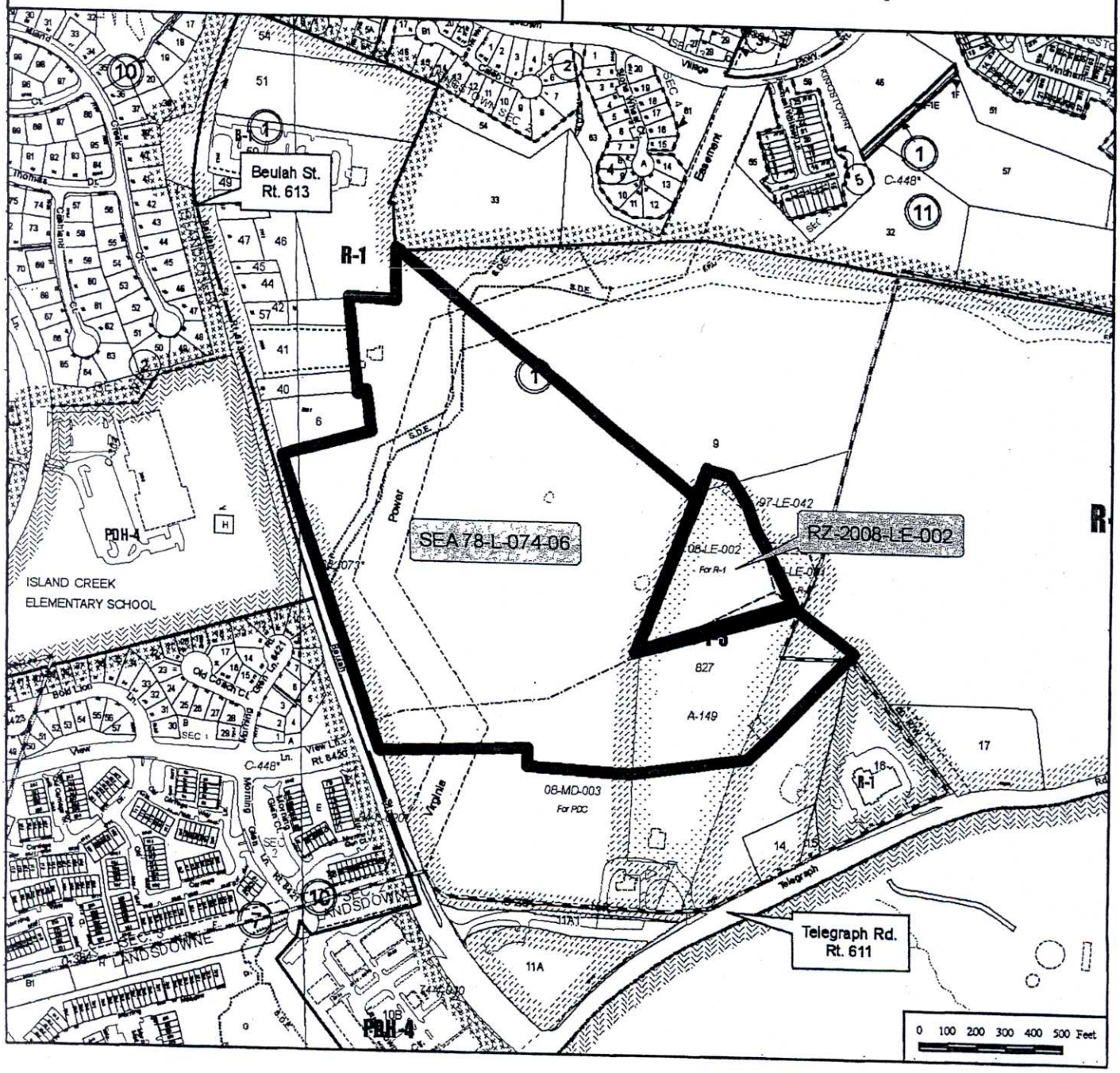
RZ 2008-LE-002

Applicant:	HILLTOP SAND AND GRAVEL COMPANY, INC.
Accepted:	03/25/2008
Proposed:	TO PERMIT CONTINUATION OF EXISTING LANDFILL AND FUTURE RECREATION FACILITIES
Area:	3.51 AC OF LAND; DISTRICT - LEE
Zoning Dist Sect:	
Located:	NORTHEAST OF BEULAH STREET APPROXIMATELY 1,000 FEET NORTH OF ITS INTERSECTION WITH TELEGRAPH ROAD
Zoning:	FROM I- 3 TO R- 1
Overlay Dist:	NR
Map Ref Num:	100-1- /01/ /0009 pt.

Special Exception Amendment

SEA 78-L-074-06

Applicant:	HILLTOP SAND AND GRAVEL COMPNY, INC.
Accepted:	03/25/2008
Proposed:	AMEND SE 78-L-074 PREVIOUSLY APPROVED FOR LANDFILL TO PERMIT SITE MODIFICATIONS, REDUCTION OF LAND AREA, CONTINUATION OF EXISTING LANDFILL, AND TO ESTABLISH QUASI-PUBLIC RECREATION FACILITIES IN FUTURE
Area:	64.78 AC OF LAND; DISTRICT - LEE
Zoning Dist Sect:	03-0104
Art 9 Group and Use:	3-08 2-03
Located:	EAST SIDE OF BEULAH STREET APPROXIMATELY 1,000 FEET NORTH OF ITS INTERSECTION WITH TELEGRAPH ROAD
Zoning:	R- 1
Plan Area:	4,
Overlay Dist:	NR
Map Ref Num:	100-1- /01/ /0009 pt.



County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County

March 25, 2009

Lynne J. Strobel
Walsh, Colucci, Lubeley, Emrich & Walsh, P.C.
2200 Clarendon Boulevard, 13th Floor
Arlington, Virginia 22201

RE: Special Exception Amendment Application SEA 78-L-074-06
(Concurrent with Rezoning Application RZ 2008-LE-002)

Dear Ms. Strobel:

At a regular meeting of the Board of Supervisors held on March 9, 2009, the Board approved Special Exception Amendment Application SEA 78-L-074-06 in the name of Hilltop Sand and Gravel Company, Inc. The subject property is located on the east side of Beulah Street, approximately 1,000 feet north of its intersection with Telegraph Road, on approximately 64.78 acres of land zoned R-1, I-3, and NR in the Lee District [Tax Map 100-1 ((1)) 9 pt.]. The Board's action amends Special Exception Application SE 78-L-074, previously approved for a landfill to permit reduction of land area, continuation of existing landfill, to establish quasi-public recreation facilities in the future, and associated modifications to site design and development conditions pursuant to Section 3-104 of the Fairfax County Zoning Ordinance, by requiring conformance with the following development conditions:

General Conditions

1. This Special Exception Amendment is granted for the location indicated in the application and is not transferable to other land.

2. This Special Exception Amendment (SEA) is granted for the location and uses outlined in the application as amended by these conditions.

3. This SEA is subject to the provisions of Article 17, Site Plans, as may be determined by the Director, Department of Public Works and Environmental Services (DPWES). Any plan submitted pursuant to this SEA shall be in conformance with the approved Special Exception Amendment Plat (the "SEA Plat") prepared by Dewberry & Davis, which is dated February 11, 2008, as revised through December 16, 2008, and these conditions. Minor modifications to the approved special exception amendment may be permitted pursuant to Par. 4 of Section 9-004 of the Zoning Ordinance.

Office of the Clerk to the Board of Supervisors
12000 Government Center Parkway, Suite 533
Fairfax, Virginia 22035
Phone: 703-324-3151 ♦ Fax: 703-324-3926 ♦ TTY: 703-324-3903
Email: clerktothebos@fairfaxcounty.gov
http://www.fairfaxcounty.gov/bosclerk

4. The existing single family detached dwelling unit in the northwestern corner of the property may continue to be used as a residence. Upon such time as the residential use is ceased, the residential building, other building and man-made structures and improvements (such as, but not limited to, sheds, clothes lines, driveways, patios, etc.) shall be removed and the disturbed land stabilized in accordance with the recommendations of the Urban Forestry Division as determined at the time of the issuance of the building permit to allow the demolition of the structure.

5. Construction of recreational facilities as depicted on the SEA Plat shall not take place until:

   - The Geotechnical Review Board (GRB) has determined that any residual post-construction settlement will not affect the appearance or structural integrity of the proposed improvements; and

   - The Fire and Rescue Department and/or DPWES has determined that the nature and extent of the generation and escape of combustible gases and potential fire hazards of the constituent material, considering its state of decomposition, has been provided for adequately and will not create an unsafe or hazardous condition in or around any of said proposed improvements.

   - The Approval of the Closure Certification by the Virginia Department of Environmental Quality (DEQ). A copy of the Closure Certification shall be provided to the Director, DPWES.

Conditions on the Operation of the Landfill

6. Until ceased as described herein, the landfill operations previously approved pursuant to SEA 78-L-074-05 may continue in full force and effect on reduced landfill area comprised of 35.86 acres.

7. A copy of the Closure Plan approved by DEQ shall be provided to the Department of Planning and Zoning (DPZ), the Division of Solid Waste Disposal and Resource Recovery (DSWDRR) of the DPWES and a copy of the approved Closure Plan shall be maintained on-site and made available. Amended versions of the Closure Plan shall be submitted to the above mentioned agencies as revisions occur and with any subsequent site plan submissions.

8. The applicant shall operate the landfill in conformance with all sections of Virginia Code (VAC) applicable to the proposed landfill operations. There shall be NO FUTURE EXPANSION of the landfill, beyond that outlined by the SEA Plat.

9. The fill volume of the landfill prior to the installation of final cover, vegetation, and "structures" as shown on the SEA Plat, shall not exceed the proposed final fill volume of 8.95 million cubic yards. The Applicant shall cease accepting construction and demolition debris when the final fill level is reached or prior to public occupancy of the proposed grocery store proposed on the CDP/FDP for RZ 2008-MD-003 or by April 1, 2013, whichever occurs first.

10. The landfill shall receive only construction/demolition debris materials, as defined in Section 104 of the County Code and as deemed permissible by Federal, State and County regulations. Unacceptable landfill materials shall be prohibited on-site in accordance with the facility's Unauthorized Waste Control Plan as required by DEQ.

11. Waste materials shall not be burned nor allowed to be burned at the site.

12. A licensed operator of the landfill shall provide the Director of DPWES a copy of the Annual Groundwater Monitoring Report at the same time it is submitted to DEQ. The Director of DPWES shall be notified within thirty (30) days if the landfill exceeds any of the facility's approved Groundwater Protection Standards.

13. Elevation certifications signed and sealed by a Virginia licensed land surveyor or professional engineer shall be provided to the Director of DPWES annually by the licensed operator of the landfill. The certification shall include a statement verifying whether the landfill elevations are at or below the approved elevations approved pursuant to this special exception amendment.

14. Dredge soils may be deposited at the landfill so long as the dredge soils entering the site meet the DEQ definition of acceptable waste for Construction and Demolition Debris landfills.

15. The control of decomposition gases from the landfill shall be monitored through the implementation of a Gas Monitoring and Management Plan in accordance with Virginia's Solid Waste Management Regulations. A gas collection system shall be installed per the DEQ approved Closure Plan. All proposed recreational structures shall be open air, self-venting construction in order to prevent the buildup of landfill gases. Any closed structures shall be locked to prohibit public access.

16. The height of the landfill shall not exceed the elevations depicted by the proposed topography on the SEA Plat, except for (i) any temporary berms which may be required by the Director for visual screening or noise attenuation; (ii) to provide adequate drainage from the center of the landfill; and (iii) temporary soil stockpiles for accelerating landfill

settlement prior to construction of the recreation improvements; and (iv) final grading as may be approved in conjunction with the Closure Plan.

17. An Emergency Contingency Plan has been prepared and implemented in accordance with Virginia's Solid Waste Management Regulations and a list of the landfill's equipment operators and their telephone numbers shall be made available to the County's Emergency Operations Center and kept current by the landfill operator.

18. Prior to the implementation of condition Number 9, no construction and demolition debris shall be accepted except between the hours of 7:00 a.m. to 5:00 p.m. Monday through Friday and between 7:00 a.m. and 12:00 p.m. (noon) on Saturdays. In no case shall landfill operations begin until the commencement of the normal business hours listed above. With prior approval from the Director of DPWES, or his designated agent, the applicant may operate until 5:00 p.m. on Saturday on an emergency basis. This approval shall not be granted more than ten times per calendar year. In the event of a significant community emergency, as determined by the County Executive, the landfill may temporarily operate outside of normal business hours if so notified in writing.

19. Per Sect. 9-205 of the Zoning Ordinance, the site shall be made available to the Director of DPWES or his representatives in preparation for the annual report to the Board of Supervisors. As a result of the annual inspection, the Director of DPWES may recommend additional restrictions and limitations on the use to the Board.

20. A fee of fifty cents ($0.50) per truck load will be collected from each truck carrying construction debris entering the Hilltop Landfill. This fund will be equally distributed for use in the development of Lee District Park and acquisition and restoration of Huntley Plantation. There will be no limitation on the amount collected for this fund. This fee shall be tied to a yearly escalator based on the Consumer Price Index.

21. Sound levels emanating from the site shall not exceed those applicable levels specified in Chapter 108, Noise, of the County Code.

Buffering, Landscaping and Screening Condition

22. Landscaping shall be provided as shown on the SEA Plat. All landscaping shall be maintained in good health by the applicant. Any landscaping materials that should die shall be replaced by the operator/applicant within six months (weather permitting as determined by Urban Forestry Management).

23. Final cover material shall be provided in accordance with DEQ design requirements as approved in the Closure Plan.

Transportation Conditions

24. Effective dust control measures shall be installed and maintained by the operator of the landfill. At a minimum, these measures shall include the full-time availability of a water tank truck and sweeper truck on-site.

Park Conditions

25. The proposed park is for active and passive recreation. All park improvements shall be provided by the applicant as depicted on the SEA Plat and shall be constructed to Fairfax County Park Authority (FCPA) standards in consultation with FCPA staff.

26. Public access easements shall be provided over all trails and those on-site park facilities intended for public access as depicted on the SEA Plat. A cooperative agreement shall be developed between FCPA and the applicant regarding liability.

27. A maintenance and liability agreement to govern park related uses shall be established between the applicant and FCPA prior to any portions of the property being made accessible to the public for park purposes.

28. Should the proposed recreation facilities be operated by the Fairfax County Park Authority and it is determined that 2232 approval is required, said approval shall be obtained by the Park Authority prior to the facilities being opened and operated by the Park Authority.

29. Subject to the review and approval of the Park Authority and FCDOT, bicycle racks that provide parking for 20 bicycles shall be included.

30. A four foot tall chain-link fence, vinyl coated, shall be provided along the boundary between the landfill and Hilltop Village Center prior to the issuance of the first Non-Residential Use Permit (Non-RUP) for that shopping center. This fence may be removed as part of the closure activities of the landfill.

31. Submission and approval of a site plan prepared in accordance with the provisions of Article 17, is required prior to the implementation of the recreational facilities. The site plan will submitted upon submission of the landfill closure certification to DEQ. Any plan submitted pursuant to this SEA shall be in substantial conformance with the approved SEA Plat Minor modifications to the approved Special Exception may be permitted pursuant to Par. 4 of Section 9-004 of the Zoning Ordinance.

This approval, contingent on the above noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be himself responsible for obtaining the required

Non-Residential Use Permit through established procedures, and this Special Exception shall not be valid until this has been accomplished. The approval of this special exception does not interfere with, abrogate or annul any easements, covenants, or other agreements between parties, as they may apply to the property subject to this application.

Pursuant to Section 9-015 of the Zoning Ordinance, this special exception shall automatically expire, without notice, thirty (30) months after the date of approval unless the landfill entrance has been relocated and an initial Non-RUP obtained for the relocated landfill office. The recreational uses shown on the SEA Plat shall be established or construction has commenced and been diligently prosecuted within five (5) years from the date of approval. The Board of Supervisors may grant additional time to establish the use or to commence construction if a written request for additional time is filed with the Zoning Administrator prior to the date of expiration of the special exception. The request must specify the amount of additional time requested, the basis for the amount of time requested and an explanation of why additional time is required.

The Board also:

- Waived the transitional screening yard and barrier requirements along all boundaries of the landfill to that depicted on the GDP/SEA Plat.

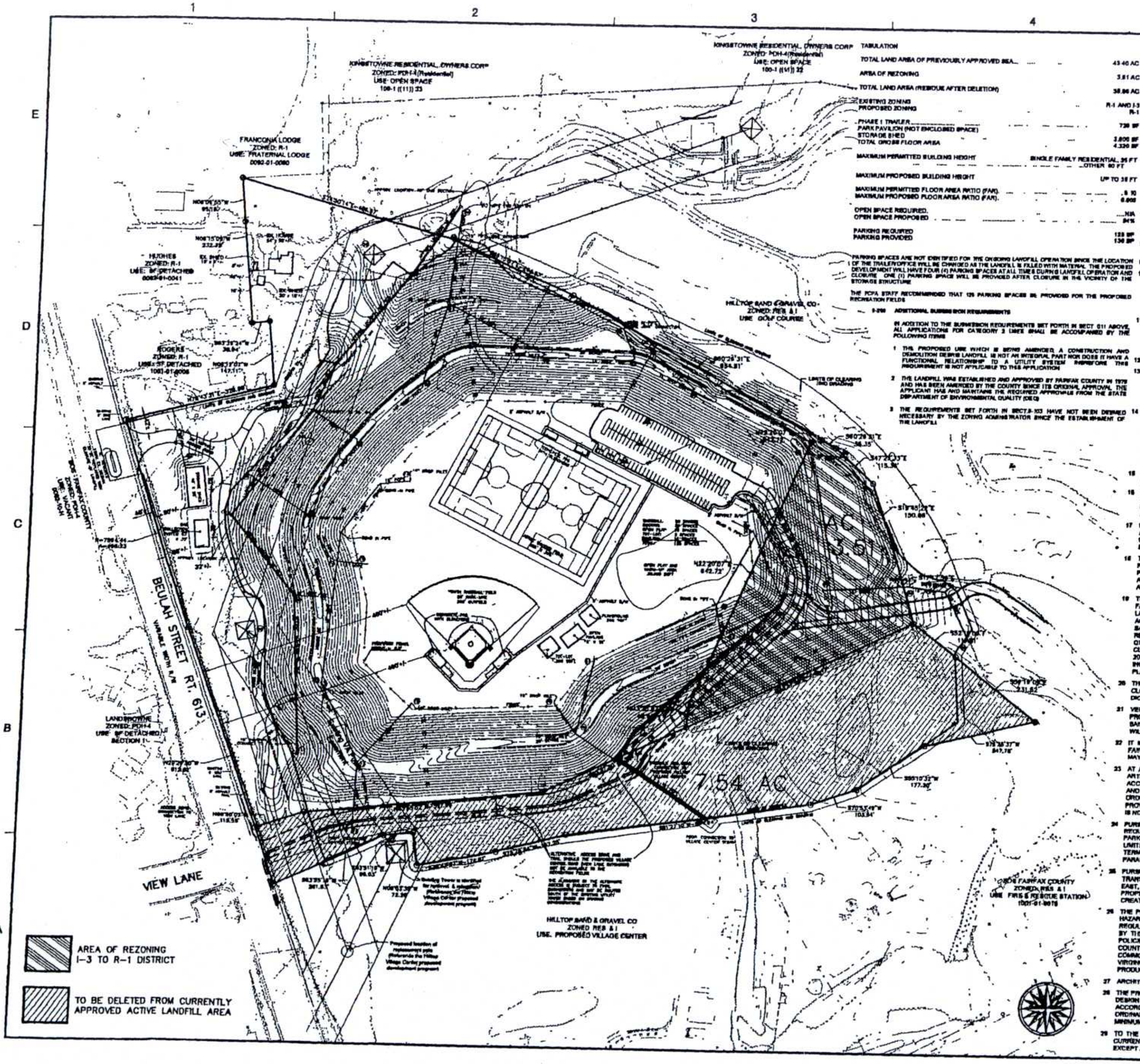
- Approved the construction of the proffered recreational facilities and the proposed parking lot on the closed landfill sooner than 20 years after closure of the landfill, pursuant to Paragraph 9 of Section 9-205 of the Zoning Ordinance.

Sincerely,

Nancy Vehrs

Nancy Vehrs
Clerk to the Board of Supervisors
NV/dms

Cc: Chairman Sharon Bulova
Supervisor Jeffrey McKay, Lee District
Janet Coldsmith, Director, Real Estate Division. Dept. of Tax Administration
Regina Coyle, Director, Zoning Evaluation Division, DPZ
Diane Johnson-Quinn, Deputy Zoning Administrator, Dept. of Planning and Zoning
Angela K. Rodeheaver, Section Chief, Transportation. Planning Division
Ellen Gallagher, Capital Projects and Operations Div., Dept. of Transportation
Ken Williams, Plans & Document Control, ESRD, DPWES
Department of Highways-VDOT
Sandy Stallman, Park Planning Branch Manager, FCPA
Charlene Fuhrman-Schulz, Development Officer, DHCD/Design Development Division
District Planning Commissioner
Barbara J. Lippa, Executive Director, Planning Commission
Karyn Mooreland, Chief Capital Projects Sections, Dept. of Transportation



TABULATION

TOTAL LAND AREA OF PREVIOUSLY APPROVED SEA	43.40 AC
AREA OF REZONING	3.81 AC
TOTAL LAND AREA (RESIDUE AFTER DELETION)	38.86 AC
EXISTING ZONING	R-1 AND I-3
PROPOSED ZONING	R-1
PHASE 1 TRAILER	
PARK PAVILION (NOT ENCLOSED SPACE)	720 SF
STORAGE SHED	3,600 SF
TOTAL GROSS FLOOR AREA	4,320 SF
MAXIMUM PERMITTED BUILDING HEIGHT	SINGLE FAMILY RESIDENTIAL 35 FT OTHER 60 FT
MAXIMUM PROPOSED BUILDING HEIGHT	UP TO 35 FT
MAXIMUM PERMITTED FLOOR AREA RATIO (FAR)	.5 10
MAXIMUM PROPOSED FLOOR AREA RATIO (FAR)	0.003
OPEN SPACE REQUIRED	N/A
OPEN SPACE PROPOSED	84%
PARKING REQUIRED	123 SP
PARKING PROVIDED	130 SP

PARKING SPACES ARE NOT IDENTIFIED FOR THE ONGOING LANDFILL OPERATION SINCE THE LOCATION OF THE TRAILER/OFFICE WILL BE CHANGED AS THE LANDFILL IS FILLED WITH MATERIAL. THE PROPOSED DEVELOPMENT WILL HAVE FOUR (4) PARKING SPACES AT ALL TIMES DURING LANDFILL OPERATION AND CLOSURE. ONE (1) PARKING SPACE WILL BE PROVIDED AFTER CLOSURE IN THE VICINITY OF THE STORAGE STRUCTURE

THE FCPA STAFF RECOMMENDED THAT 125 PARKING SPACES BE PROVIDED FOR THE PROPOSED RECREATION FIELDS

9-200 ADDITIONAL SUBMISSION REQUIREMENTS

IN ADDITION TO THE SUBMISSION REQUIREMENTS SET FORTH IN SECT 011 ABOVE, ALL APPLICATIONS FOR CATEGORY 3 USES SHALL BE ACCOMPANIED BY THE FOLLOWING ITEMS

1. THE PROPOSED USE WHICH IS BEING AMENDED, A CONSTRUCTION AND DEMOLITION DEBRIS LANDFILL IS NOT AN INTEGRAL PART NOR DOES IT HAVE A FUNCTIONAL RELATIONSHIP TO A UTILITY SYSTEM THEREFORE THIS REQUIREMENT IS NOT APPLICABLE TO THIS APPLICATION
2. THE LANDFILL WAS ESTABLISHED AND APPROVED BY FAIRFAX COUNTY IN 1979 AND HAS BEEN AMENDED BY THE COUNTY SINCE ITS ORIGINAL APPROVAL. THE APPLICANT HAS AND MAINTAINS THE REQUIRED APPROVALS FROM THE STATE DEPARTMENT OF ENVIRONMENTAL QUALITY (DEQ)
3. THE REQUIREMENTS SET FORTH IN SECT 9-103 HAVE NOT BEEN DEEMED NECESSARY BY THE ZONING ADMINISTRATOR SINCE THE ESTABLISHMENT OF THE LANDFILL

NOTES

1. THE PROPERTY THAT IS THE SUBJECT OF THE SPECIAL EXCEPTION AMENDMENT (SEA) AND GENERALIZED DEVELOPMENT PLAN IS IDENTIFIED ON THE FAIRFAX COUNTY TAX MAPS AS 100-1 ((1)) PART 9
2. THE APPLICANT PROPOSES TO REVISE THE SEA TO REDUCE THE LAND AREA OF THE 43.40 ACRE LANDFILL TO 38.86 ACRES, WHICH IS A REDUCTION OF 7.54 ACRES. THE APPLICANT PROPOSES TO ADJUST THE GRADES TO PERMIT AN INCREASE IN THE AMOUNT OF FILL PERMITTED FROM 8.6 MILLION CUBIC YARDS TO 8.99 MILLION CUBIC YARDS TO PERMIT CONTINUED OPERATION OF A CONSTRUCTION AND DEMOLITION DEBRIS LANDFILL ON AN INTERIM BASIS (PHASE 1). ONCE CONTOURS ARE BROUGHT TO GRADE AN ACTIVE RECREATION AREA WILL BE ESTABLISHED (PHASE 2). THE APPLICANT PROPOSES TO REZONE 3.81 ACRES FROM THE I-3 TO THE R-1 DISTRICT TO PERMIT THE ESTABLISHMENT OF AN ACTIVE RECREATION FACILITY ON APPROXIMATELY ELEVEN (11) ACRES WHEN THE LANDFILL MEETS ITS APPROVED CONTOUR ELEVATIONS AND IS CLOSED
3. THE TOPOGRAPHIC INFORMATION HEREON IS FROM AERIAL SURVEY AT TWO FOOT CONTOUR ELEVATIONS FROM VIRGINIA RESOURCE MAPPING FLOWN IN DECEMBER 2007
4. THE BOUNDARY INFORMATION IS FIELD RUN BY DEWBERRY & DAVIS LLC
5. A STATEMENT THAT CONFIRMS THE OWNERSHIP OF THE PROPERTY, AND THE NATURE OF THE APPLICANT'S INTEREST IN SAME IS PROVIDED IN A SEPARATE ASSOCIATED DOCUMENT
6. PUBLIC UTILITIES ARE AVAILABLE TO THE SITE AND WILL BE EXTENDED AS REQUIRED BY THE PROPOSAL
7. TO THE BEST OF OUR KNOWLEDGE THERE ARE NO GRAVES ON THE SUBJECT PROPERTY
8. THERE IS NO FLOODPLAIN, RESOURCE PROTECTION AREA (RPA) OR ENVIRONMENTAL QUALITY CORRIDOR (EQC) ON THE SUBJECT PROPERTY
9. THERE ARE EXISTING STRUCTURES ON THE SUBJECT PROPERTY THAT SHALL REMAIN
10. THERE IS A UTILITY GREATER THAN TWENTY-FIVE (25) FEET ON THE SUBJECT PROPERTY IN THE FORM OF A 130 FOOT VEPCO EASEMENT WHICH HOUSES OVERHEAD TRANSMISSION LINES. AN EXISTING TOWER SOUTHWEST OF THE SUBJECT PROPERTY IS PROPOSED FOR RELOCATION WHICH WILL RESULT IN ADJUSTMENT TO THE UTILITY EASEMENT ALIGNMENT AS DEPICTED ON THE GRAPHIC. IN ADDITION THERE ARE NO MAJOR UNDERGROUND UTILITIES ON THE SUBJECT PROPERTY
11. THE USE OF ADJACENT PROPERTY TO THE NORTH AND EAST IS A GOLF COURSE OPERATION ON TOP OF A CLOSED LANDFILL, A MIXED USE DEVELOPMENT (HILLTOP VILLAGE CENTER) IS PROPOSED ON THE 33 ACRES TO THE SOUTH. THE WESTERN BOUNDARY ABUTS BEULAH STREET AND FOUR (4) R-1 ZONED PARCELS ARE LOCATED TO THE NORTHWEST, ONE OF WHICH IS THE FRANCONIA LODGE
12. THE EXISTING SITE DOES NOT INCLUDE SCENIC ASSETS WORTHY OF PROTECTION
13. STORMWATER MANAGEMENT WILL BE PROVIDED AND WILL COMPLY WITH THE REQUIREMENTS OF THE PUBLIC FACILITIES MANUAL AS DETERMINED BY THE DEPARTMENT OF PUBLIC WORKS AND ENVIRONMENTAL SERVICES (DPWES). IT IS ANTICIPATED THAT THE STORMWATER MANAGEMENT WILL BE CONTROLLED BY TWO (2) WET PONDS ON PROPERTY UNDER THE SAME OR AFFILIATE OWNERSHIP AS THE APPLICANT OF THIS SUBMISSION
14. IN PHASE 1 OF THE PROPOSED DEVELOPMENT PROJECT, THERE WILL BE A NEED FOR A 12X60 FOOT TRAILER ON A 1000 SQUARE FOOT PAD WHICH WILL BE USED FOR THE ADMINISTRATION OF THE ACTIVE LANDFILL AND FOR COLLECTING TIPPING FEES FROM USERS. IT IS NOTED THAT THE LOCATION OF THE TRAILER AND PAD WILL BE MOVED PERIODICALLY TO ACCOMMODATE THE CHANGING GRADES BUT AT NO POINT WILL IT BE PLACED CLOSER TO THE PERIMETER OF THE SUBJECT PROPERTY THAN ALLOWED UNDER THE BULK REGULATION OF THE R-1 ZONE PURSUANT TO PARAGRAPH 28 OF SECT 3-107 AS STIPULATED IN PARAGRAPH 2 OF SECTION 9-204 OF THE ZONING ORDINANCE
15. THE COMPREHENSIVE PLAN MAP IDENTIFIES A PEDESTRIAN / BICYCLE TRAIL ALONG THE BEULAH STREET FRONTAGE OF THE PROPERTY WHICH IS AS SHOWN ON THE GRAPHIC
16. THERE ARE PROPOSED IMPROVEMENTS TO THE EXISTING PUBLIC RIGHT-OF-WAY WHERE THE PROPERTY IS CONTIGUOUS TO BEULAH STREET AS SHOWN HEREON. A STATEMENT OF IMPROVEMENTS PROPOSED AND THE TIMING OF SUCH IMPROVEMENTS SHALL BE PROVIDED AS DESCRIBED IN THE PROFFERS ASSOCIATED WITH RZ 2008-MD-003
17. INTERIM ACCESS FROM BEULAH STREET TO THE LANDFILL OPERATION WILL BE ACCOMMODATED BY THE INTERIM SHORTENING THE MEDIAN IN BEULAH STREET AS SHOWN ON THE GRAPHIC. UPON ACCEPTANCE OF THE LANDFILL CLOSURE BY DEQ THE MEDIAN SEGMENT WILL BE REPLACED
18. THE SUBJECT PROPERTY IS IN THE LEHIGH COMMUNITY PLANNING SECTOR (RH-4) IN THE ROSE HILL PLANNING DISTRICT OF AREA IV. THE COMPREHENSIVE PLAN RECOMMENDS PRIVATE RECREATION AND AS AN OPTION RESIDENTIAL USE AT 2-3 DWELLING UNITS PER ACRE PROVIDED THERE IS SUBSTANTIAL PARCEL CONSOLIDATION AND CONSOLIDATED ACCESS. THIS PROPOSAL IS IN CONFORMANCE WITH THE COMPREHENSIVE PLAN
19. THE PROPOSED DEVELOPMENT AS PRESENTED WILL PROVIDE AN ACTIVE RECREATION FACILITY IN THIS AREA OF THE COUNTY. THIS APPLICATION PROPOSES CONVERTING THE LANDFILL AREA TO AN ACTIVE RECREATION COMPLEX UPON CLOSURE OF THE LANDFILL IN ACCORDANCE WITH (1) REVISION NO 2 CLOSURE AND POST CLOSURE CARE PLAN HILLTOP SAND AND GRAVEL LANDFILL PREPARED BY SCS ENGINEERS, DATED AUGUST 27, 2008 AND REVISED THROUGH OCTOBER 14, 2008, AND (2) VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY APPROVAL FOR THE HILLTOP CONSTRUCTION DEBRIS LANDFILL, PERMIT NO 326 CLOSURE AND POST-CLOSURE CARE PLAN FOR PHASES II AND III DATED NOVEMBER 10 2008. THE AREA CONSISTS OF APPROXIMATELY ELEVEN (11) ACRES AND IT IS PLANNED TO INCLUDE AN ADULT SOCCER FIELD, YOUTH BASEBALL FIELD, OPEN PLAY AREA, TOT LOT PLAYGROUND, PAVILION AND ACCESSORY PARKING AS REQUIRED
20. THE EXACT PHASING SCHEDULE OF THIS PROPOSAL WILL COINCIDE WITH THE REFERENCED CLOSURE PLAN ACHIEVING THE PLANNED CAPACITY OF THE LANDFILL WHICH WILL BE DICTATED BY MARKET CONDITIONS
21. VEHICULAR ACCESS TO THE PROPOSED RECREATION CENTER SHALL BE FROM THE PROPOSED HILLTOP VILLAGE CENTER VIEW LANE EXTENDED ACCESS DRIVE. IN THE EVENT SAID ACCESS DRIVE IS NOT AVAILABLE TO ACCESS THE RECREATION AREA, THE APPLICANT WILL CONSTRUCT A HALF SECTION OF THAT DRIVE AS DEPICTED ON THE GRAPHIC
22. IT IS UNDERSTOOD THAT MINOR ADJUSTMENTS INCLUDING THOSE REQUESTED BY THE FAIRFAX COUNTY PARK AUTHORITY IN THE ORIENTATION OF THE RECREATION FACILITIES MAY BE MADE AT TIME OF SITE PLAN
23. AT A MINIMUM, PARKING WILL BE PROVIDED IN ACCORDANCE WITH THE PROVISIONS OF ARTICLE 11 OF THE FAIRFAX COUNTY ZONING ORDINANCE. THE NUMBER AND LOCATION OF ACCESSIBLE PARKING SPACES WILL BE DETERMINED AT TIME OF SITE PLAN SUBMISSION AND WILL BE IN ACCORDANCE WITH THE PROVISIONS OF ARTICLE 11 OF THE ZONING ORDINANCE. THE APPLICANT RESERVES THE RIGHT TO ADD ADDITIONAL PARKING SPACES PROVIDED THE AMOUNT OF OPEN SPACE AND THE DISTANCE TO THE PERIMETER LOT LINES IS NOT DIMINISHED
24. PURSUANT TO PAR 9 OF SECT 9-206 OF THE ZONING ORDINANCE, THE APPLICANT REQUESTS A WAIVER TO PERMIT SITE IMPROVEMENTS INCLUDING BUT NOT LIMITED TO PARKING, VEHICULAR DRIVES, SIDEWALKS, PLAYFIELDS AND LANDSCAPING WITHIN THE LIMITS OF A FORMER LANDFILL PRIOR TO THE STIPULATED TWENTY (20) YEAR PERIOD FROM TERMINATION OF THE LANDFILL OPERATIONS SUBJECT TO THE APPROVAL CRITERIA SAID PARAGRAPH 9
25. PURSUANT TO PAR 1 OF SECT 13-304 OF THE ZONING ORDINANCE, A WAIVER OF THE TRANSITIONAL SCREENING AND BARRIER REQUIREMENTS IS REQUESTED ON THE NORTH EAST, SOUTH AND WESTERN BOUNDARIES OF THE SUBJECT PROPERTY. THE REUSE OF THE PROPERTY AS A RECREATION FACILITY IN LIEU OF THE EXISTING LANDFILL OPERATION CREATES AN ENHANCED COMMUNITY AMENITY
26. THE PROPOSED USE WILL NOT GENERATE, UTILIZE, STORE, TREAT OR DISPOSE OF ANY HAZARDOUS OR TOXIC SUBSTANCES AS SET FORTH IN TITLE 40, CODE OF FEDERAL REGULATIONS PARTS 116.4, 302.4 AND 355 WITH THE EXCEPTION OF METHANE, GENERATED BY THE LANDFILL, WHICH WILL BE REGULATED IN ACCORDANCE WITH THE RULES AND POLICIES OF THE VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY AND THE FAIRFAX COUNTY FIRE MARSHALL'S OFFICE. ANY HAZARDOUS WASTE AS SET FORTH IN THE COMMONWEALTH OF VIRGINIA/DEPARTMENT OF WASTE MANAGEMENT VR 672-10-1 - VIRGINIA HAZARDOUS WASTE MANAGEMENT REGULATIONS AND/OR ANY PETROLEUM PRODUCTS AS DEFINED IN TITLE 40, CODE OF FEDERAL REGULATIONS PART 280
27. ARCHITECTURAL ELEVATIONS ARE NOT RELEVANT TO THIS PROPOSAL
28. THE PROPOSED IMPROVEMENTS TO THE SITE AND BUILDINGS ARE BASED ON PRELIMINARY DESIGN. IT IS TO BE UNDERSTOOD THAT THE FINAL IMPROVEMENTS MAY BE MODIFIED IN ACCORDANCE WITH THE PROVISIONS SET FORTH IN PAR 4 OF SECT 9-004 OF THE ZONING ORDINANCE SO LONG AS THE OPEN SPACE REPRESENTED IN THE TABULATION AND THE MINIMUM DIMENSIONS TO THE PERIPHERAL LOT LINES ARE NOT DIMINISHED
29. TO THE BEST OF OUR KNOWLEDGE THE PROPOSED DEVELOPMENT CONFORMS TO ALL CURRENT APPLICABLE LAND DEVELOPMENT ORDINANCES AND ADOPTED STANDARDS EXCEPT AS NOTED HEREIN

Dewberry

Dewberry & Davis LLC
8401 ARLINGTON BLVD
FAIRFAX VA 22031
PHONE 703 849 0100
FAX 703 849 0518
www.dewberry.com

HILLTOP CONSTRUCTION AND DEMOLITION DEBRIS LANDFILL

GENERALIZED DEVELOPMENT PLAN / SPECIAL EXCEPTION AMENDMENT

LEE DISTRICT
FAIRFAX COUNTY, VIRGINIA

SEAL

COMMONWEALTH OF VIRGINIA
CHARLES CULLEN
Lic. No. 20117
12.2.2008
PROFESSIONAL ENGINEER

KEY PLAN

SCALE 0' 100' 200'

No	DATE	BY	Description
2	12.01.08	DMC	REV LAYOUT / ADDITIONAL DETAIL
1	10.17.08		Rec.Facility Layout

REVISIONS

DRAWN BY ARR

APPROVED BY

CHECKED BY LM

DATE February 12, 2008

TITLE

Hilltop Construction and Demolition Debris Landfill

GDP / SEA
PHASE II

PROJECT NO

3

SHEET NO 3 OF 7

M-10694

ATTACHMENT 3

Lynne J. Strobel
(703) 528-4700 Ext. 5418
lstrobel@arl.thelandlawyers.com

WALSH COLUCCI
LUBELEY EMRICH
& WALSH PC

FAX RECEIVED
AUG 11 2011
DIVISION OF
ZONING ADMINISTRATION
2011-0968

August 11, 2011

RECEIVED
Department of Planning & Zoning
AUG 11 2011
Zoning Evaluation Division

Via Hand Delivery

Eileen M. McLane
Zoning Administrator
Fairfax County Zoning Administration
12055 Government Center Parkway, Suite 807
Fairfax, Virginia 22035

Re: SEA 78-L-074-06 and SEA 2005-LE-027
Applicant: Hilltop Sand and Gravel Company, Inc.
Fairfax County Tax Map Reference: 100-1 ((1)) 9 pt. (SEA 78-L-074-06)
100-1 ((1)) 9 pt., 17 and 23A pt. (SEA 2005-LE-027)

Dear Ms. McLane:

Please accept this letter as a request for additional time in accordance with the provisions of Section 9-015 of the Fairfax County Zoning Ordinance (the "Zoning Ordinance") for SEA 78-L-074-06 and SEA 2005-LE-027.

The Applicant has been the owner and operator of a construction and demolition debris landfill for over thirty (30) years in the Lee District. In 1998, a portion of the landfill was converted into a golf course. The approvals for the landfill and golf course have been amended from time to time since 1998. Most recently, the two (2) referenced special exception amendment applications were processed concurrently by the Applicant with RZ 2008-LE-001, RZ 2008-LE-002 and RZ/FDP 2008-MD-003. All of the applications were approved by the Fairfax County Board of Supervisors at its hearing held on March 9, 2009. The applications were collectively submitted and processed to achieve development of a shopping center, known as Hilltop Village Center, on 33 acres of land located in the northeast quadrant of the intersection of Telegraph Road and Beulah Street. The establishment of a shopping center necessitates the closure of the existing landfill operation on the property. Specifically, SEA 78-L-074-06 reduced the land area of the landfill from 64.7 acres to 35.88 acres, increased the amount of fill permitted on the remaining portion of the landfill, and allowed approval of recreational facilities on the site upon closure of the landfill operation. The application referred to as SEA 2005-LE-027 was filed on approximately 82.14 acres to accommodate a stormwater management/best management facility to serve Hilltop Village Center and to increase the land area of the adjacent golf course.

The approval for SEA 78-L-074-6 was granted for a period of thirty (30) months during which the landfill entrance was required to be relocated and an initial non-RUP obtained for the relocated landfill office. The approval for SEA 2005-LE-027 was granted for a period of thirty (30) months during which construction of the proposed improvements was required to be commenced and diligently pursued. Both of the applications will expire on September 9, 2011 unless these conditions have been satisfied. Please accept this letter as a request for twenty-four (24) months of additional time for both applications to allow for satisfaction of the special exception conditions.

The Applicant has been diligently pursuing a site plan for Hilltop Village Center that will allow implementation of the special exception applications. This includes closing that portion of the landfill included in RZ 2008-MD-003. The partial landfill closure was approved by the Virginia Department of Environmental Quality in 2010, thereby allowing construction of Hilltop Village Center to commence upon approval and bonding of a site plan. A site plan has been submitted to the Fairfax County Department of Public Works and Environmental Services that is referenced as 3365-SP-008. Site plan approval has been diligently pursued as evidenced by the following:

- June 30, 2009 – First site plan submission.
- July 26, 2010 - Approval of the soils report, which took an extended period of time to be analyzed, reviewed and approved.
- August 19, 2010 - Second site plan submission (the second submission could not occur until the soils report was approved).
- November 30, 2010 - Third site plan submission.
- February 17, 2011 - Site plan recommended for approval and sent to bonding.

The Applicant has not yet posted the bonds that will allow for the issuance of permits due to the fact that a lawsuit challenging the approvals of the Board of Supervisors on March 9, 2009 remains pending. The uncertainly associated with the pending lawsuit and the expense associated with posting the necessary bonds, does not make pursuit of construction feasible at this time. When the lawsuit is resolved, the site plan can be bonded and construction commenced.

The length of time associated with site plan approval and the protracted defense of a lawsuit are circumstances that were unknown and unforeseen at the time of approval of the referenced applications. Further, there has been no change in circumstances that would render the approvals inconsistent with the Comprehensive Plan or the public interest. Therefore, I

would appreciate the granting of a request for twenty-four (24) months of additional time to fulfill the conditions of SEA 78-L-074-06 and SEA 2005-LE-027.

Should you have any questions regarding this request, or require additional information, please do not hesitate to give me a call. As always, I appreciate your cooperation and assistance.

Very truly yours,

WALSH, COLUCCI, LUBELEY, EMRICH & WALSH, P.C.

Lynne J. Strobel /kae

Lynne J. Strobel

LJS/kae

cc: Michael Gailliot
Brent Clarke
Chris DePascale
Kim Follin
Martin D. Walsh

{A0228659.DOCX / 1 McLane Ltr re: additional time request 8-11-11 003062 000008}

Submission Number: 003365-SP -008-3

Print Date: 08/24/2011

Pre-Approval Condition Comment: NO

Post-Approval Condition Comment: NO

Condition:

Pre/Post	Approval Condition	Status	Remark
PRE	AGREEMENT - SANITARY SEWER	NOT MET	
PRE	AGREEMENT - WET POND - DESIGN 1 MAINTENANCE	NOT MET	
PRE	OUTSTANDING ACCOTINK CRK APPLICANT PRO RATA SHA	NOT MET	$10,958 PRS DUE FOR ACCOTINK CREEK
PRE	OUTSTANDING DOGUE CREEK APPLICANT PRO RATA SHA	NOT MET	$150,247 PRS DUE FOR DOGUE CREEK
PRE	OUTSTANDING INSPECTION APPLICANT FEE	NOT MET	$284,603.24 INSPECTION FEE DUE
PRE	OUTSTANDING ISSUE - STATE CERTIFICATION	NOT MET	
PRE	OUTSTANDING REVIEW APPLICANT FEE	NOT MET	$2210 INSERT FEE + $378 REVIEW FEE = $2588 DUE
PRE	PERMIT - CONSTRUCTION APPLICATION	NOT MET	
PRE	RELATED BOND	NOT MET	
PRE	RELATED CONSERVATION DEPOSIT	NOT MET	
PRE	RIGHT - OF - WAY - DEDICATION	NOT MET	DEDICATION FOR FRONTAGE IMPROVEMENTS ALONG TELEGRAPH ROAD (PROFFERS 3A1 AND 3A2) JV
PRE	RIGHT - OF - WAY - DEDICATION	NOT MET	DEDICATION FOR FRONTAGE IMPROVEMENTS ALONG BEULAH STREET (PROFFERS 3A3, 3A4) JV
PRE	SITE SPECIFIC CONDITION	NOT MET	PLAN COMM/SUPERVISR TO REVIEW GARAGE/GROCERY ARCHS PRIOR TO APPROVAL. (PROFFER #9G,9I4) JV
PRE	SITE SPECIFIC CONDITION	NOT MET	PLAN SENT TO FT BELVOIR BASE COMMNDR 90 DAYS PRIOR TO APP. (PROFFER #9L)
PRE	SOILS REPORT	NOT MET	GRB APPROVAL REQD (PROFFER #4). JV

ATTACHMENT 4

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Board Agenda Item
September 27, 2011

ADMINISTRATIVE - 10

Additional Time to Commence Construction for Special Exception Amendment
SEA 2005-LE-027, Hilltop Sand and Gravel Company, Inc. (Lee District)

ISSUE:
Board consideration of additional time to commence construction for SEA 2005-LE-027, pursuant to the provisions of Sect. 9-015 of the Zoning Ordinance.

RECOMMENDATION:
The County Executive recommends that the Board approve the request for twenty-four months of additional time to commence construction for SEA 2005-LE-027 to September 9, 2013.

TIMING:
Routine.

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

On March 9, 2009, the Board of Supervisors approved Special Exception Amendment SEA 2005-LE-027, subject to development conditions. This approval was concurrent with the Board's approval SEA 78-L-074-6, RZ 2008-LE-001, RZ 2006-LE-002, and RZ/FDP 2008-MD-003. All of the applications were filed in the name of Hilltop Sand and Gravel Company and, collectively, permit the development of recreation facilities and a shopping center, known as Hilltop Village Center, located in the northeast quadrant of the intersection of Telegraph Road and Beulah Street. The establishment of the shopping center requires closure of the existing landfill operation on the property. Approval of SEA 2005-LE-027 permitted an increase in land area and modifications to site design to accommodate a stormwater management/best management facility to serve Hilltop Village Center and to increase the land area of the adjacent golf course, subject to

development conditions, pursuant to Section 3-104 of the Fairfax County Zoning Ordinance, located at Tax Map 100-1 ((1)) 9 pt., 17, and 23 A pt.. A Locator Map for SEA 2005-LE-027 is contained in Attachment 1. The application was approved with a condition that the special exception amendment would automatically expire, without notice, thirty (30) months after the date of approval unless construction of the proposed improvements has commenced and been diligently prosecuted, unless the Board grants additional time. The development conditions for SEA 2005-LE-027 are included as part of the Clerk to the Board's letter in Attachment 2.

On August 11, 2011, the Department of Planning and Zoning (DPZ) received a letter dated August 11, 2011, from Lynne J. Strobel requesting twenty-four months additional time to commence construction for the project (see Attachment 3). The letter requests additional time for both SEA 2005-LE-005 and SEA 78-L-074-6; however, the requests for additional time are being addressed individually as separate Board of Supervisors' items. The request for additional time was received prior to the date on which the approval would have expired; therefore, the special exception will not expire pending the Board's action on the request for additional time. Ms. Strobel states that the applicant has been diligently pursuing approval of a site plan that will allow implementation of the SEA development conditions. She states that the partial landfill closure was approved by the Virginia Department of Environmental Quality in 2010, thereby allowing construction of Hilltop Village Center to commence upon approval and bonding of a site plan. The letter states that Site Plan SP 3365-SP-008 was submitted on June 23, 2009, and approved
July 26, 2010, following approval of the soils report. On August 19, 2010, Site Plan 3365-SP-008-2 was submitted. The third site plan (3365-SP-008-3) was submitted November 30, 2010, and, according to DPWES has been sent to bonding pending resolution of a number of unmet conditions (see the copy of the DPWES comments in Attachment 4). Ms. Strobel's letter also states that a lawsuit challenging the approvals of the Board of Supervisors remains pending. She states that the uncertainty associated with the pending lawsuit and the expense associated with posting the necessary bonds does not make the pursuit of construction feasible at this time. She, therefore, requests twenty-four months additional time to allow for resolution of the lawsuit and the subsequent posting of bonds.

Staff has reviewed Special Exception SEA 2005-LE-027 and has established that, as approved, the application is still in conformance with all applicable provisions of the Fairfax County Zoning Ordinance to permit those activities approved with the aforementioned special exception amendment that are required for the ultimate development of the Hilltop Village Center. Further, staff knows of no change in land use circumstances which affect the compliance of SEA 2005-LE-027 with the special exception standards applicable to this use or which should cause the filing of a new special exception application and review through the public hearing process. The Comprehensive Plan recommendation for this site has not changed since the SEA was approved. Finally, the conditions associated with the

Board's approval of SEA 2005-LE-027 are still appropriate and remain in full force and effect. Staff believes that approval of the request for twenty-four months additional time is in the public interest and recommends that it be approved. The additional time would begin from the prior specified expiration date of September 9, 2011, and would result in a new expiration date of September 9, 2013.

FISCAL IMPACT:
None

ENCLOSED DOCUMENTS:
Attachment 1: Locator Map
Attachment 2: Letter dated March 25, 2009, to Lynne J. Strobel, agent for the applicant, from Nancy Vehrs, Clerk to the Board of Supervisors, which sets forth the conditions for approval of SEA 2005-LE-027
Attachment 3: Letter dated August 11, 2011, from Lynne J. Strobel, requesting additional time
Attachment 4: Copy of DPWES comments on SP 3365-SP-008-3 dated August 24, 2011

STAFF:
Robert A. Stalzer, Deputy County Executive
Fred R. Selden, Acting Director, Department of Planning and Zoning (DPZ)
Barbara C. Berlin, Director, Zoning Evaluation Division (ZED), DPZ
Kevin J. Guinaw, Chief, Special Projects Applications/Management Branch, ZED, DPZ
Pamela Nee, Chief, Environment and Development Review Branch, Planning Division, DPZ
Mary Ann Godfrey, Senior Staff Coordinator, ZED, DPZ

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Rezoning Application

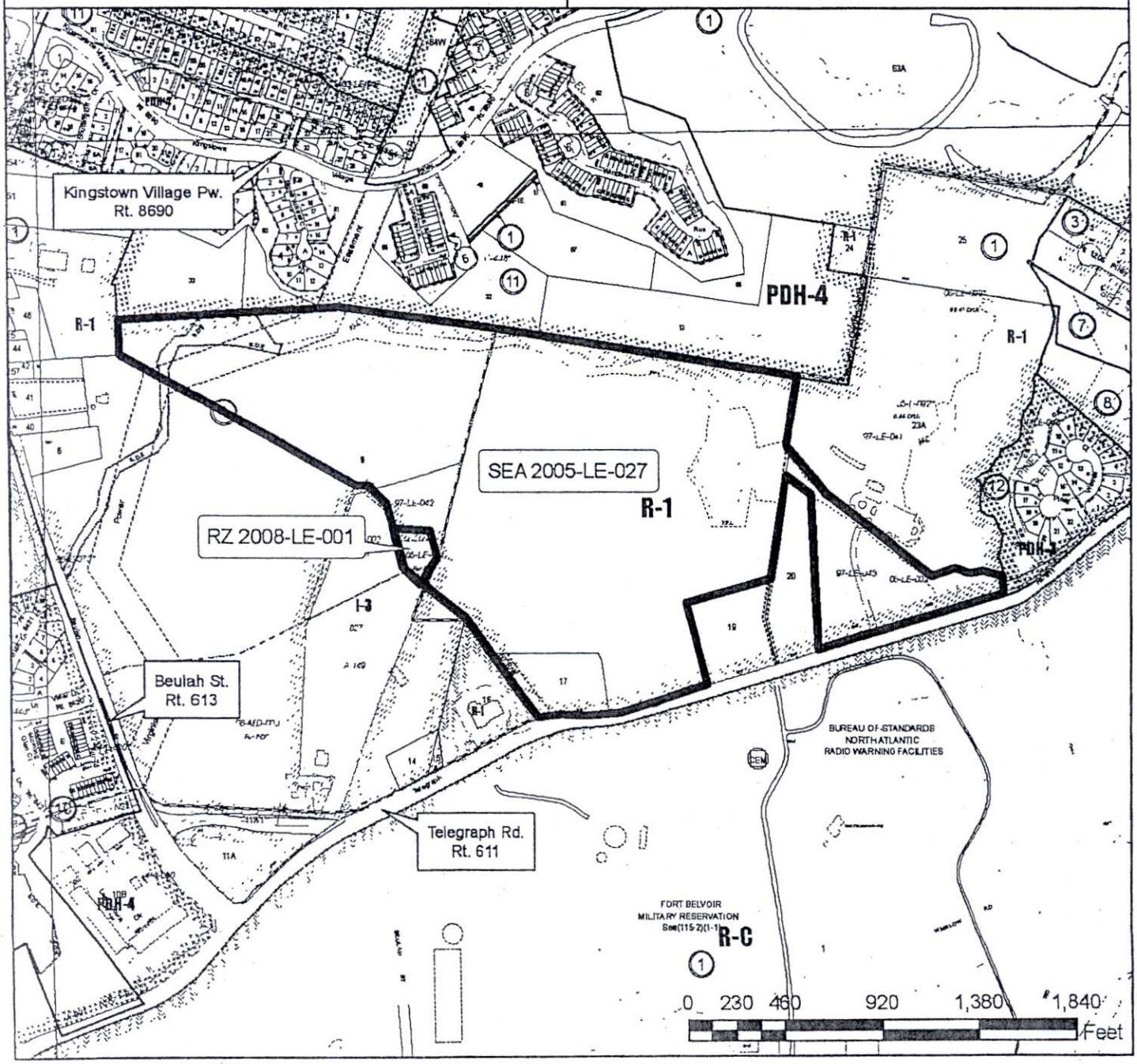
RZ 2008-LE-001

Applicant:	HILLTOP SAND GRAVEL COMPANY, INC.
Accepted:	03/25/2008
Proposed:	TO INCLUDE THIS LAND WITHIN AN EXISTING GOLF COURSE
Area.	0.73 AC OF LAND; DISTRICT - LEE
Zoning Dist Sect:	
Located:	NORTHEAST QUADRANT OF THE INTERSECTION OF BEULAH STREET AND TELEGRAPH ROAD
Zoning:	FROM I- 3 TO R- 1
Overlay Dist:	NR
Map Ref Num:	100-1- /01/ /0009 pt.

Special Exception Amendment

SEA 2005-LE-027

Applicant:	HILLTOP SAND AND GRAVEL COMPANY, INC.
Accepted:	03/25/2008
Proposed:	AMEND SE 2005-LE-027 PREVIOUSLY APPROVED FOR GOLF COURSE TO PERMIT INCREASE IN LAND AREA AND SITE MODIFICATIONS
Area:	82.87 AC OF LAND; DISTRICT - LEE
Zoning Dist Sect:	03-0104
Art 9 Group and Use:	5-38
Located:	7928, 7836 AND 7950 TELEGRAPH ROAD
Zoning:	R- 1
Plan Area:	4,
Overlay Dist:	NR
Map Ref Num:	100-1- /01/ /0009 pt. /01/ /0017 /01/ /0023A pt.



ATTACHMENT 2

County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County

March 25, 2009

Lynne J. Strobel
Walsh, Colucci, Lubeley, Emrich & Walsh, P.C.
2200 Clarendon Boulevard, 13th Floor
Arlington, Virginia 22201

RE: Special Exception Amendment Application SEA 2005-LE-027
(Concurrent with Rezoning Application RZ 2008-LE-001)

Dear Ms. Strobel:

At a regular meeting of the Board of Supervisors held on March 9, 2009, the Board approved Special Exception Amendment Application SEA 2005-LE-027 in the name of Hilltop Sand and Gravel Company, Inc. The subject property is located at 7836, 7928, and 7950 Telegraph Road on approximately 82.87 acres of land zoned R-1 and NR in the Lee District [Tax Map 100-1 ((1)) 9 pt. 17 and 23A pt.]. The Board's action amends Special Exception Application SE 2005-LE-027, previously approved for a golf course to permit an increase in land area and modifications to site design and development conditions pursuant to Section 3-104 of the Fairfax County Zoning Ordinance, by requiring conformance with the following development conditions:

1) This Special Exception Amendment is granted for and runs with the land indicated in this application and is not transferable to other land.

2) This Special Exception Amendment is granted only for the purpose(s), structure(s) and/or use(s) indicated on the special exception plat approved with the application, as qualified by these development conditions.

3) This Special Exception Amendment is subject to the provisions of Article 17, Site Plans, as may be determined by the Director, Department of Public Works and Environmental Services (DPWES). Any plan submitted pursuant to this special exception amendment shall be in substantial conformance with the approved Special Exception Plat, which is a combined Generalized Development Plan/Special Exception Amendment Plat, entitled Hilltop Golf Course, prepared by Dewberry & Davis and dated February 12, 2008 as revised through January 16, 2009, and these conditions. Minor modifications to the approved special exception amendment may be permitted pursuant to Par. 4 of Sect. 9-004 of the Zoning Ordinance.

Office of the Clerk to the Board of Supervisors
12000 Government Center Parkway, Suite 533
Fairfax, Virginia 22035
Phone: 703-324-3151 ♦ Fax: 703-324-3926 ♦ TTY: 703-324-3903
Email: clerktothebos@fairfaxcounty.gov

4) Transportation/Parking

a. A continuous pedestrian travel-way shall be provided from Telegraph Road to the proposed clubhouse as shown on the GDP/SEA Plat.*

b. The proposed parking surfaces shall be maintained and landscaped in accordance with PFM standards and the GDP/SEA Plat as determined by the Director, DPWES. Interior and peripheral parking lot landscaping shall be installed prior to the issuance of the non-RUP for the clubhouse and maintained as determine by UFM, DPWES.*

5) Environment

a. A water quality impact assessment for the proposed new SWM/BMP facility which demonstrates that the proposed uses will not exceed runoff and nutrient loading requirements for the Chesapeake Bay Preservation Ordinance shall be provided to the Director, DPWES, prior to site plan approval.*

b. An integrated fertilizer, herbicide and pesticide management program and turf maintenance plan for limiting excessive chemicals and protecting water quality shall continue to be implemented for this use. This program and plan shall include maintenance of the lawn areas on the site and shall provide for periodic monitoring and adjustment that demonstrates an intent to reduce amounts of fertilizers, herbicides and pesticides applied to the property over time. The design of this program and all monitoring parameters shall be consistent with the most current Virginia Cooperative Extension Test Management Guide and reviewed by the Virginia Cooperative Extension, Fairfax County Office, as determined by DPWES prior to site plan approval. Following site plan review, a copy of the approved management program shall be kept on site at all times. Records of all applications of pesticides and herbicides shall be kept and made available to County staff on demand.

c. The Resource Protection Area (RPA) associated with Piney Run shall remain undisturbed. The Applicant shall conform strictly to the limits of clearing and grading as shown on the GDP/SEA Plat, subject to the installation of fences, utilities and/or trails as determined necessary by the Director of

DPWES. If it is determined necessary to install fences, utilities and/or trails in areas protected by the limits of clearing and grading as shown on the CDP/FDP, they shall be located in the least disruptive manner necessary as determined by UFM. A replanting plan shall be developed and implemented, subject to approval by UFM for any areas protected by the limits of clearing and grading that must be disturbed for such trails or utilities. The RPA area shall be protected by tree protection fence. Tree protection fencing in the form of four (4) foot high, fourteen (14) gauge welded wire attached to six (6) foot steel posts driven eighteen (18) inches into the ground and placed no further than ten (10) feet apart or, super silt fence to the extent that required trenching for super silt fence does not sever or wound compression roots which can lead to structural failure and/or uprooting of trees, shall be erected at the limits of clearing and grading adjacent to the tree preservation areas as shown on the phase I & II erosion and sediment control sheets. All tree protection fencing shall be installed prior to any clearing and grading activities. The installation of all tree protection fencing shall be performed under the supervision of a certified arborist and UFM, and accomplished in a manner that does not harm existing vegetation that is to be preserved. At least ten (10) days prior to the commencement of any clearing or grading activities adjacent to the tree preservation areas, but subsequent to the installation of the tree protection devices, the UFM, DPWES shall be notified and given the opportunity to inspect the site to ensure that all tree protection devices have been correctly installed. If it is determined that the fencing has not been installed correctly, no grading or construction activities shall occur until the fencing is installed correctly, as determined by UFM.*

6) Lights

a. All lighting on the application site shall conform to Group I standards as defined in Sect. 14-900 of the Fairfax County Zoning Ordinance.*

b. A maximum of thirty-one (31), twelve (12)-foot high lights, as measured from the ground to the top of the fixture, shall be permitted within the parking areas. Each pole shall contain no more than two (2) lumieres with a maximum of one-hundred-seventy-five 175 watts each.*

c. A maximum of eighteen (18), twelve (12)-foot high lights shall line the travel lanes. Each pole shall contains no more than one (1) lumiere with a maximum of one-hundred-seventy-five (175) watts.*

d. All lights on the application property, with the exception of necessary security lighting, shall be extinguished at closing of the facility.*

e. No lighting of these facilities shall be permitted in the morning. There shall be no lighting associated with the golf course portion.*

7) Design/Style

a. The proposed club house shall be constructed as illustrated in the combined GDP/SE Plat.

b. All signs shall be designed and installed in accordance with Article 12 of the Fairfax County Zoning Ordinance.*

8) Additional Landscaping

In addition to the landscaping shown on the GDP/SEA Plat, the following landscaping shall be added to the golf course facilities:

a. The amount of setback between the proposed golf course and Telegraph Road shall be a minimum of fifty (50) feet in depth. However, the amount of landscaping within the fifty foot deep transitional screening yard shall be the equivalent of the amount of plantings required for Transitional Screening Yard 1 and shall be subject to the approval of Urban Forest Management.

b. A continuous row of large deciduous and/or evergreen trees shall be planted along the western boundary with the exception of those areas where the landfill closure plan precludes such plantings.

c. The location, types and species of all landscaping material shall be subject to the approval of Urban Forestry Management.

d. All deciduous trees required by this condition shall be a minimum size of 3-3.5 inch caliper at the time of planting.

All evergreen trees will be a minimum of six feet in height at the time of planting.

9) Hours of Operation, etc.

a. The hours of operation of the nine-hole golf course, the short game practice area and the pitching and putting green shall be limited to a maximum from 6:00 a.m. until dusk, seven (7) days a week.*

b. The mechanical equipment used for maintenance of the golfing facilities shall not be operated outside of normal operating hours of the facilities, except, however maintenance equipment may operate for one (1) hour before operating hours, but no earlier than 6:00 a.m. Operation of mechanical equipment shall be in compliance with the noise standards established in Article 14-700 of the Fairfax County Zoning Ordinance.*

c. No loud speakers or amplification devices shall be permitted with the exception of announcements by the starter for golf course tee times. No amplified announcement shall be loud enough to be heard off-site.*

d. Vending machines shall not be visible from Telegraph Road.*

10) General

a. Two (2) foul weather shelters, not to exceed two-hundred (200) square feet each, may be provided in the vicinity of the commercial golf course. These shelters shall provide adequate ventilation in order to prevent the collection of methane gases and shall not be constructed on top of the area formerly used as a landfill.*

b. Sufficient green or black safety netting (containment structures) shall be provided in order to protect Parcels 19 and 20 from errant golf balls. Netting poles shall be of a natural wood color.*

This approval, contingent on the above noted conditions, shall not relieve the applicant from compliance with the provisions of any applicable ordinances, regulations, or adopted standards. The applicant shall be himself responsible for obtaining the required Non-Residential Use Permit through established procedures, and this Special Exception

shall not be valid until this has been accomplished. The approval of this special exception does not interfere with, abrogate or annul any easements, covenants, or other agreements between parties, as they may apply to the property subject to this application.

Pursuant to Section 9-015 of the Zoning Ordinance, this special exception amendment shall automatically expire, without notice, thirty (30) months after the date of approval unless construction upon the proposed improvements has commenced and been diligently prosecuted. The Board of Supervisors may grant additional time to establish the use or to commence construction if a written request for additional time is filed with the Zoning Administrator prior to the date of expiration of the special exception. The request must specify the amount of additional time requested, the basis for the amount of time requested and an explanation of why additional time is required.

The Board also:

- Modified the transitional screen yard requirement along all boundaries of the property and waiver of the barrier requirement along all boundaries, in favor of that shown on the Generalized Development Plan/Special Exception Amendment Plat, and referenced in the development conditions.

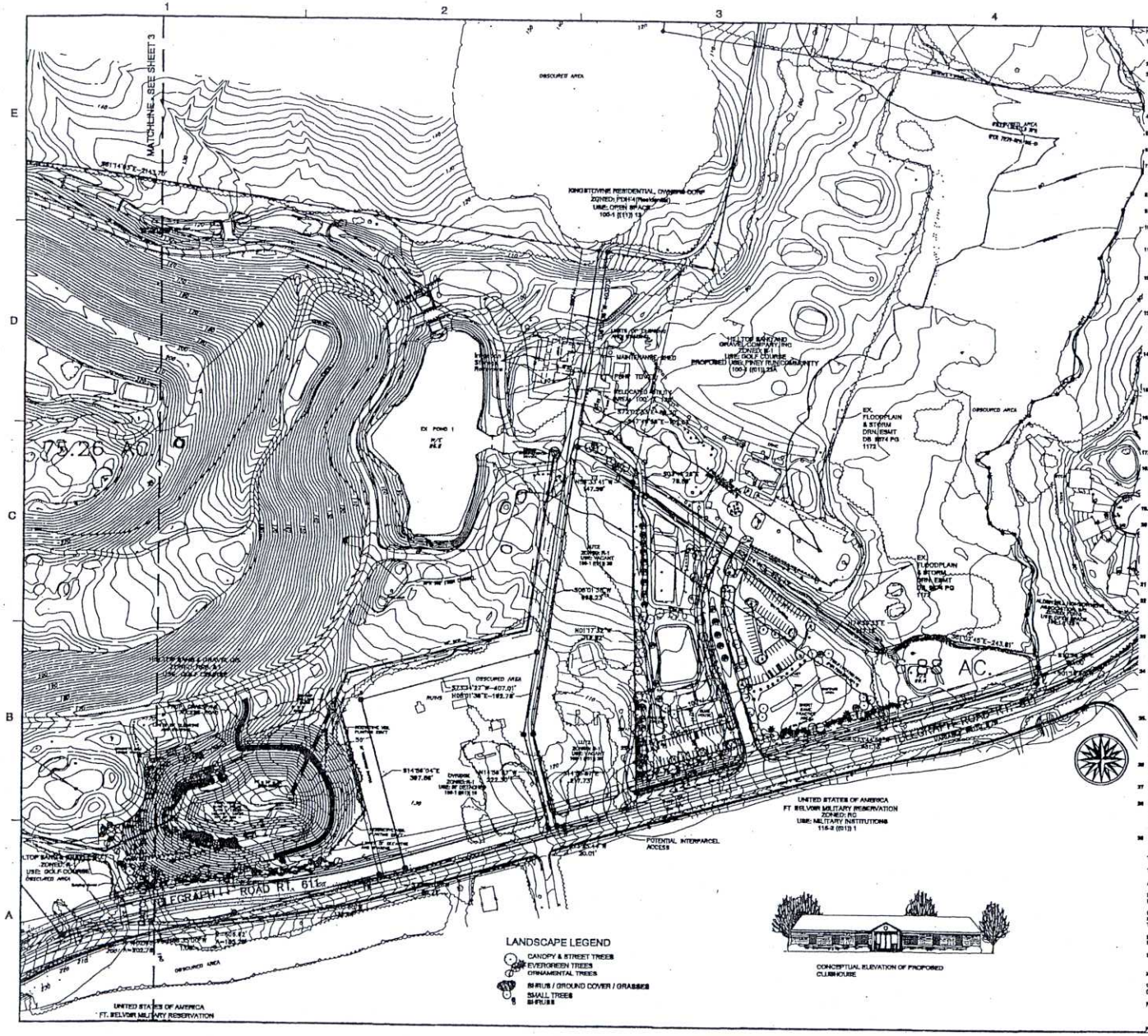
- Modified the requirement for golf course parking areas to allow the parking area to be set back 50 feet from the property line of residentially zoned property and allow the parking area across from Fort Belvoir to be set back 25 feet from the right-of-way for Telegraph Road.

Sincerely,

Nancy Vehrs

Nancy Vehrs
Clerk to the Board of Supervisors
NV/dms

Cc: Chairman Sharon Bulova
Supervisor Jeffrey McKay, Lee District
Janet Coldsmith, Director, Real Estate Division. Dept. of Tax Administration
Regina Coyle, Director, Zoning Evaluation Division, DPZ
Diane Johnson-Quinn, Deputy Zoning Administrator, Dept. of Planning and Zoning
Angela K. Rodeheaver, Section Chief, Transportation. Planning Division
Ellen Gallagher, Capital Projects and Operations Div., Dept. of Transportation
Ken Williams, Plans & Document Control, ESRD, DPWES
Department of Highways-VDOT
Sandy Stallman, Park Planning Branch Manager, FCPA
Charlene Fuhrman-Schulz, Development Officer, DHCD/Design Development Division
District Planning Commissioner
Barbara J. Lippa, Executive Director, Planning Commission
Karyn Mooreland, Chief Capital Projects Sections, Dept. of Transportation



CONCEPTUAL ELEVATION OF PROPOSED CLUBHOUSE

NOTES:

1. THE PROPERTY THAT IS THE SUBJECT OF THIS SPECIAL EXCEPTION AMENDMENT (SEA) AND GENERALIZED DEVELOPMENT PLAN (GDP) IS IDENTIFIED ON THE FAIRFAX COUNTY TAX MAPS AS 100-1 ((1)) PARTS 16, 17 AND PART 25A.
2. THE TOTAL LAND AREA CONSISTS OF 92.87 ACRES AND IS ZONED R-1 AND I-3
3. THE PURPOSE OF THE SEA IS TO PERMIT A UTILITY AREA TO INCLUDE A PUMP HOUSE AND MAINTENANCE SHED, A STORMWATER MANAGEMENT POND, THE RELOCATION OF GOLF HOLE NUMBER 5, AND AN INCREASE IN LAND AREA. THE PURPOSE OF THE GDP IS TO REZONE 73 ACRES OF THE PROPERTY FROM I-3 TO R-1 FURTHERMORE, THE PREVIOUSLY APPROVED IMPROVEMENTS ASSOCIATED WITH RZ 2005-LE-008 AND SE 2005-LE-027 HAVE BEEN ADJUSTED TO REFLECT MOST PROPOSED IMPROVEMENTS TO TELEGRAPH ROAD
4. THE TOPOGRAPHIC INFORMATION HEREON IS FROM AERIAL SURVEY, AT TWO (2) FOOT CONTOUR ELEVATIONS, FROM VIRGINIA RESOURCE MAPPING FLOWN IN DECEMBER 2007
5. THE BOUNDARY INFORMATION IS FIELD RUN AT TWO (2) FOOT CONTOUR INTERVALS BY DEWBERRY & DAVIS LLC
6. A STATEMENT THAT CONFIRMS THE OWNERSHIP OF THE PROPERTY AND THE NATURE OF THE APPLICANT'S INTEREST IN SAME IS PROVIDED IN A SEPARATE ASSOCIATED DOCUMENT
7. THERE IS A FLOODPLAIN AND RESOURCE PROTECTION AREA (RPA) AS SHOWN HEREON. THERE IS NO ENVIRONMENTAL QUALITY CORRIDOR (EQC) ON THE SUBJECT PROPERTY. THE FLOODPLAIN AND RESOURCE PROTECTION AREA REFLECT COUNTY APPROVED FIRST RUN FLOODPLAIN STUDY 7226-FP-RS-1 AND COUNTY APPROVED RPA PLAN 7226-RPA-001-1
8. PUBLIC UTILITIES ARE AVAILABLE TO THE SITE AND WILL BE EXTENDED AS REQUIRED BY THIS PROJECT.
9. TO THE BEST OF OUR KNOWLEDGE, THERE ARE NO GRAVES OR HISTORIC STRUCTURES ON THE SUBJECT PROPERTY.
10. THERE IS ONE (1) EXISTING DWELLING UNIT CURRENTLY LOCATED ON THE SUBJECT PROPERTY. IT WILL BE REMOVED AT THE TIME OF TELEGRAPH ROAD WIDENING AND/OR CONSTRUCTION OF THE PROPOSED STORM WATER MANAGEMENT (POND/BS) FACILITY.
11. THERE ARE UTILITY EASEMENTS IN EXCESS OF 25 FEET WITHIN THE SUBJECT AREA. THESE INCLUDE A 300' VEPCO EASEMENT, A 50' VEPCO EASEMENT, A 50' BELL ATLANTIC EASEMENT AND A 136 FOOT VEPCO EASEMENT WHICH HOUSES OVERHEAD TRANSMISSION LINES. THERE ARE NO MAJOR UNDERGROUND UTILITIES ON THE SUBJECT PROPERTY.
12. THE DEPICTED STORM WATER MANAGEMENT FACILITY IS TO ACCOMMODATE THE PROPOSED DEVELOPMENT PROGRAM TO THE NORTH AND WEST. THIS INCLUDES AN ACTIVE CONSTRUCTION AND DEMOLITION DEBRIS LANDFILL PROPOSED FOR CONVERSION TO AN ACTIVE RECREATION AREA ONCE THE LANDFILL'S CONTOURS ARE REACHED AND THE PROPOSED HILLTOP VILLAGE CENTER.
13. STORMWATER MANAGEMENT FOR THE IMPROVEMENTS SHOWN HEREON WERE PREVIOUSLY WAIVED WITH 2345-WSM-001 ASSOCIATED WITH APPROVED PLAN NUMBER 2345-SP-096 TITLED "HILLTOP MINIATURE GOLF COURSE" AND FOR THE DEVELOPMENT IS PROPOSED IN THE FORM OF CONSERVATION EASEMENT CREDITS. SEE SE 2005-LE-018/RZ 2005-LE-003 OUTFALL REQUIREMENTS FOR THE IMPROVEMENTS SHOWN HEREON WERE PREVIOUSLY MET WITH APPROVED PLAN 2345-SP-96
14. AT A MINIMUM, PARKING IS PROVIDED IN ACCORDANCE WITH THE PROVISIONS OF ARTICLE 11 OF THE FAIRFAX COUNTY ZONING ORDINANCE. THE NUMBER AND LOCATION OF ACCESSIBLE PARKING SPACES IS SHOWN ON SITE PLAN # 2345-SP-96. THE APPLICANT RESERVES THE RIGHT TO PROVIDE ADDITIONAL PARKING SPACES PROVIDED THE OPEN SPACE AND DISTANCES FROM PROPERTY LINES IS NOT DIMINISHED
15. THERE ARE PROPOSED IMPROVEMENTS TO THE EXISTING PUBLIC RIGHTS-OF-WAY WHERE THE PROPERTY IS CONTIGUOUS TO A PUBLIC STREET AS SHOWN HEREON. RIGHT-OF-WAY IS PROPOSED TO BE DEDICATED AS DEPICTED IN THE PROFFER STATEMENT DB. 8874 PG 1172
16. THE SUBJECT PROPERTY IS IN THE LISBON COMMUNITY PLANNING SECTOR (RN-4) IN THE ROSE HILL PLANNING DISTRICT OF AREA IV. THE COMPREHENSIVE PLAN RECOMMENDS PRIVATE RECREATION AND AS AN OPTION RESIDENTIAL USE AT 2.5 DWELLING UNITS PER ACRE, PROVIDED THERE IS SUBSTANTIAL PARCEL CONSOLIDATION AND CONSOLIDATED ACCESS. THIS PROPOSAL IS IN CONFORMANCE WITH THE COMPREHENSIVE PLAN
17. THE PROPOSED DEVELOPMENT AS PRESENTED PROVIDES AN ACTIVE RECREATION FACILITY IN THIS AREA
18. THE DEVELOPMENT WILL BE CONSTRUCTED IN PHASES. THE STORMWATER MANAGEMENT POND WILL BE CONSTRUCTED WITH THE PROPOSED VILLAGE CENTER LOCATED TO THE WEST OF THE SUBJECT PROPERTY. IT IS ANTICIPATED GOLF COURSE RELATED DEVELOPMENT WILL COMMENCE AS SOON AS ALL NECESSARY APPROVALS AND PERMITS ARE OBTAINED. HOWEVER, CONSTRUCTION OF IMPROVEMENTS MAY BE PHASED CONCURRENTLY WITH IMPROVEMENTS SHOWN ON RZ 2005-LE-003 / SE 2005-LE-027
19. PURSUANT TO PAR. 26 OF SECT. 11-102 OF THE ZONING ORDINANCE A WAIVER OF LOADING SPACES IS HEREBY REQUESTED
20. THE PROPOSED USE WILL NOT GENERATE, UTILIZE, STORE, TREAT OR DISPOSE OF ANY HAZARDOUS OR TOXIC SUBSTANCES AS SET FORTH IN TITLE 40, CODE OF FEDERAL REGULATIONS PARTS 116.4, 302.4 AND 355 WITH THE EXCEPTION OF METHANE GAS, WHICH IS GENERATED BY THE LANDFILL AND WILL BE REGULATED IN ACCORDANCE WITH THE RULES AND POLICIES OF THE VIRGINIA DEPARTMENT OF ENVIRONMENTAL QUALITY AND THE FAIRFAX COUNTY FIRE MARSHALL'S OFFICE. ANY HAZARDOUS WASTE AS SET FORTH IN THE COMMONWEALTH OF VIRGINIA DEPARTMENT OF WASTE MANAGEMENT VR 672-10-1 - VIRGINIA HAZARDOUS WASTE MANAGEMENT REGULATIONS AND/OR ANY PETROLEUM PRODUCTS AS DEFINED IN TITLE 40, CODE OF FEDERAL REGULATIONS PART 280
21. A FINAL ARCHITECTURAL ELEVATION OF THE CLUBHOUSE IS NOT AVAILABLE AT THIS TIME. THE DEPICTED CONCEPT ELEVATION IS INTENDED TO CONVEY DESIGN INTENT ONLY
22. THIS APPLICATION SHOWS A PRIVATE ACCESS ROAD TO THE NORTHERN PORTION OF TAX 100-1 ((1)) 23A CURRENTLY APPROVED FOR AN INDEPENDENT LIVING FACILITY (RZ 2005-LE-003 AND SE 2005-LE-027). AN ACCESS EASEMENT AND MAINTENANCE AGREEMENT SHALL BE EXECUTED BETWEEN THE OWNER ENTITIES AT THE TIME OF SITE PLAN FOR THE INDEPENDENT LIVING FACILITY WHICH IS NEW CHARGE FOR CONSTRUCTION OF THE ROAD
23. AN 8-FOOT WIDE ASPHALT TRAIL IS SHOWN AS PROPOSED ALONG THE FRONTAGE OF TELEGRAPH ROAD AS REQUIRED BY THE COUNTYWIDE TRAILS PLAN. LOCATION OF THE TRAIL IS TO BE DETERMINED AT THE TIME OF FINAL SITE PLAN. FUNDS WERE PREVIOUSLY ESCROWED BY THE APPLICANT FOR THIS TRAIL; ACCORDINGLY, CONSTRUCTION OF THE TRAIL SHALL BE BY OTHERS.
24. THE APPLICANT REQUESTS A WAIVER OF ADDITIONAL STANDARD 6-808.3 WHICH REQUIRES A 50 FOOT SETBACK FOR OFF-STREET PARKING SPACES. THE PROPOSED PARKING SPACES ALONG THE TELEGRAPH ROAD WILL BE LOCATED 30+ FEET FROM THE PROPOSED RIGHT-OF-WAY OF TELEGRAPH ROAD. JUSTIFICATION FOR THIS WAIVER INCLUDES: THE RESIDENTIAL DISTRICT TO THE SOUTH OF TELEGRAPH ROAD IS USED AS A MILITARY INSTALLATION, AND THE PARKING LOT SETBACK SHOWN IS CONSISTENT WITH PREVIOUSLY APPROVED SE 2005-LE-027 AND SE 2005-LE-027
25. PURSUANT TO PAR. 1 OF SECT. 13-304 OF THE ZONING ORDINANCE, A WAIVER OF THE TRANSITIONAL SCREENING REQUIREMENTS ALONG THE EASTERN BOUNDARY IN FAVOR OF THE EXISTING VEGETATION ASSOCIATED WITH FIRST RUN, ALONG THE SOUTHERN BOUNDARY AND BOUNDARIES OF PARCELS 19 AND 20 IN FAVOR OF THE CONDITIONS SHOWN ON THE GDP/SE AND ALONG THE NORTHERN BOUNDARY AND WESTERN BOUNDARIES DUE TO THE DEMOLITION OF ANY ADDITIONAL PROPOSED IMPROVEMENTS FROM THOSE BOUNDARIES NOT PREVIOUSLY REFLECTED IN APPROVED RZ 2005-LE-003 AND SE 2005-LE-027.
26. PURSUANT TO PAR. 1 OF SECT. 13-304 OF THE ZONING ORDINANCE, A WAIVER OF THE BARRIER REQUIREMENT ALONG ALL BOUNDARIES IS HEREBY REQUESTED AS PREVIOUSLY APPROVED IN RZ 2005-LE-003 AND SE 2005-LE-027.
27. PURSUANT TO SECT. 9-601 OF THE ZONING ORDINANCE, A MODIFICATION IS REQUESTED TO ALLOW PARKING IN A RESIDENTIAL DISTRICT.
28. THE PROPOSED IMPROVEMENTS TO THE SITE AND BUILDINGS ARE BASED ON PRELIMINARY DESIGN. IT IS TO BE UNDERSTOOD THAT THE FINAL IMPROVEMENTS MAY BE MODIFIED IN ACCORDANCE WITH THE PROVISIONS SET FORTH IN PAR. 4 OF SECT. 9-004 OF THE ZONING ORDINANCE SO LONG AS THE OPEN SPACE REPRESENTED IN THE TABULATION AND THE MINIMUM DIMENSIONS TO THE PERIPHERAL LOT LINES ARE NOT DIMINISHED
29. TO THE BEST OF OUR KNOWLEDGE, THE PROPOSED DEVELOPMENT CONFORMS TO ALL CURRENT AND APPLICABLE LAND DEVELOPMENT ORDINANCES AND ADOPTED STANDARDS EXCEPT AS NOTED HEREIN

TABULATION

TOTAL LAND AREA	92.87 ± AC
AREA OF REZONING FROM THE I-3 TO THE R-1 DISTRICT	0.73± AC
EXISTING ZONING	R-1 AND I-3
PROPOSED ZONING	R-1
CLUBHOUSE	4,000 SF
MAINTENANCE SHED/PUMP TOWER	1,900 SF
TOTAL GROSS FLOOR AREA	5,900 SF
MAXIMUM PERMITTED FLOOR AREA RATIO (FAR)	0.15 NON RESIDENTIAL
MAXIMUM PROPOSED FLOOR AREA RATIO (FAR)	0.003
MAXIMUM PERMITTED BUILDING HEIGHT	SINGLE FAMILY RESIDENTIAL 35 FT; OTHER 60 FT
MAXIMUM PROPOSED BUILDING HEIGHT	UP TO 35 FT
OPEN SPACE REQUIRED	NA
OPEN SPACE PROVIDED	36%
PARKING SPACES REQUIRED (1 SPACE / 3 PEOPLE x 80 PLAYERS (OCCUPANCY LOAD) = 27 SPACES; 1 SPACE / EMPLOYEE x 6 = 6 SPACES)	33 SP
PARKING SPACES PROVIDED	96 SP

Dewberry

Dewberry & Davis LLC
8401 ARLINGTON BLVD
FAIRFAX, VA 22031
PHONE: 703.849.0100
FAX: 703.849.0118
www.dewberry.com

HILLTOP GOLF COURSE

GENERALIZED DEVELOPMENT PLAN / SPECIAL EXCEPTION AMENDMENT

LEE DISTRICT

FAIRFAX COUNTY, VIRGINIA

SEAL

COMMONWEALTH OF VIRGINIA
TIMOTHY CHARLES GULLETTE
Lic. No. 20112
1-16-09
PROFESSIONAL ENGINEER

KEY PLAN

SCALE

0' 100' 200'

No.	DATE	BY	Description
3	01.16.09	DMC	[illegible]
2	12.02.08	DMC	ADD. DETAIL
1	10.17.08		

REVISIONS

DRAWN BY ARW

APPROVED BY

CHECKED BY LM

DATE February 12, 2008

TITLE

Hilltop Golf Course
GDP / SEA

Enlargement Plan / Notes and Tabulation

PROJECT NO.

4

SHEET NO. 4 OF 8

M-10693

ATTACHMENT 3

Lynne J. Strobel
(703) 528-4700 Ext. 5418
lstrobel@arl.thelandlawyers.com

WALSH COLUCCI
LUBELEY EMRICH
& WALSH PC

FAX RECEIVED
AUG 11 2011
DIVISION OF
ZONING ADMINISTRATION
2011-0968

August 11, 2011

RECEIVED
Department of Planning & Zoning
AUG 11 2011
Zoning Evaluation Division

Via Hand Delivery

Eileen M. McLane
Zoning Administrator
Fairfax County Zoning Administration
12055 Government Center Parkway, Suite 807
Fairfax, Virginia 22035

Re: SEA 78-L-074-06 and SEA 2005-LE-027
Applicant: Hilltop Sand and Gravel Company, Inc.
Fairfax County Tax Map Reference: 100-1 ((1)) 9 pt. (SEA 78-L-074-06)
100-1 ((1)) 9 pt., 17 and 23A pt. (SEA 2005-LE-027)

Dear Ms. McLane:

Please accept this letter as a request for additional time in accordance with the provisions of Section 9-015 of the Fairfax County Zoning Ordinance (the "Zoning Ordinance") for SEA 78-L-074-06 and SEA 2005-LE-027.

The Applicant has been the owner and operator of a construction and demolition debris landfill for over thirty (30) years in the Lee District. In 1998, a portion of the landfill was converted into a golf course. The approvals for the landfill and golf course have been amended from time to time since 1998. Most recently, the two (2) referenced special exception amendment applications were processed concurrently by the Applicant with RZ 2008-LE-001, RZ 2008-LE-002 and RZ/FDP 2008-MD-003. All of the applications were approved by the Fairfax County Board of Supervisors at its hearing held on March 9, 2009. The applications were collectively submitted and processed to achieve development of a shopping center, known as Hilltop Village Center, on 33 acres of land located in the northeast quadrant of the intersection of Telegraph Road and Beulah Street. The establishment of a shopping center necessitates the closure of the existing landfill operation on the property. Specifically, SEA 78-L-074-06 reduced the land area of the landfill from 64.7 acres to 35.88 acres, increased the amount of fill permitted on the remaining portion of the landfill, and allowed approval of recreational facilities on the site upon closure of the landfill operation. The application referred to as SEA 2005-LE-027 was filed on approximately 82.14 acres to accommodate a stormwater management/best management facility to serve Hilltop Village Center and to increase the land area of the adjacent golf course.

The approval for SEA 78-L-074-6 was granted for a period of thirty (30) months during which the landfill entrance was required to be relocated and an initial non-RUP obtained for the relocated landfill office. The approval for SEA 2005-LE-027 was granted for a period of thirty (30) months during which construction of the proposed improvements was required to be commenced and diligently pursued. Both of the applications will expire on September 9, 2011 unless these conditions have been satisfied. Please accept this letter as a request for twenty-four (24) months of additional time for both applications to allow for satisfaction of the special exception conditions.

The Applicant has been diligently pursuing a site plan for Hilltop Village Center that will allow implementation of the special exception applications. This includes closing that portion of the landfill included in RZ 2008-MD-003. The partial landfill closure was approved by the Virginia Department of Environmental Quality in 2010, thereby allowing construction of Hilltop Village Center to commence upon approval and bonding of a site plan. A site plan has been submitted to the Fairfax County Department of Public Works and Environmental Services that is referenced as 3365-SP-008. Site plan approval has been diligently pursued as evidenced by the following:

- June 30, 2009 – First site plan submission.
- July 26, 2010 - Approval of the soils report, which took an extended period of time to be analyzed, reviewed and approved.
- August 19, 2010 - Second site plan submission (the second submission could not occur until the soils report was approved).
- November 30, 2010 - Third site plan submission.
- February 17, 2011 - Site plan recommended for approval and sent to bonding.

The Applicant has not yet posted the bonds that will allow for the issuance of permits due to the fact that a lawsuit challenging the approvals of the Board of Supervisors on March 9, 2009 remains pending. The uncertainly associated with the pending lawsuit and the expense associated with posting the necessary bonds, does not make pursuit of construction feasible at this time. When the lawsuit is resolved, the site plan can be bonded and construction commenced.

The length of time associated with site plan approval and the protracted defense of a lawsuit are circumstances that were unknown and unforeseen at the time of approval of the referenced applications. Further, there has been no change in circumstances that would render the approvals inconsistent with the Comprehensive Plan or the public interest. Therefore, I

would appreciate the granting of a request for twenty-four (24) months of additional time to fulfill the conditions of SEA 78-L-074-06 and SEA 2005-LE-027.

Should you have any questions regarding this request, or require additional information, please do not hesitate to give me a call. As always, I appreciate your cooperation and assistance.

Very truly yours,

WALSH, COLUCCI, LUBELEY, EMRICH & WALSH, P.C.

Lynne J. Strobel /kae

Lynne J. Strobel

LJS/kae

cc: Michael Gailliot
Brent Clarke
Chris DePascale
Kim Follin
Martin D. Walsh

{A0228659.DOCX / 1 McLane Ltr re: additional time request 8-11-11 003062 000008}

Submission Number: 003365-SP -008-3

Print Date: 08/24/2011

Pre-Approval Condition Comment: NO

Post-Approval Condition Comment: NO

Condition:

Pre/Post	Approval Condition	Status	Remark
PRE	AGREEMENT - SANITARY SEWER	NOT MET	
PRE	AGREEMENT - WET POND - DESIGN 1 MAINTENANCE	NOT MET	
PRE	OUTSTANDING ACCOTINK CRK APPLICANT PRO RATA SHA	NOT MET	$10,958 PRS DUE FOR ACCOTINK CREEK
PRE	OUTSTANDING DOGUE CREEK APPLICANT PRO RATA SHA	NOT MET	$150,247 PRS DUE FOR DOGUE CREEK
PRE	OUTSTANDING INSPECTION APPLICANT FEE	NOT MET	$284,603.24 INSPECTION FEE DUE
PRE	OUTSTANDING ISSUE - STATE CERTIFICATION	NOT MET	
PRE	OUTSTANDING REVIEW APPLICANT FEE	NOT MET	$2210 INSERT FEE + $378 REVIEW FEE = $2588 DUE
PRE	PERMIT - CONSTRUCTION APPLICATION	NOT MET	
PRE	RELATED BOND	NOT MET	
PRE	RELATED CONSERVATION DEPOSIT	NOT MET	
PRE	RIGHT - OF - WAY - DEDICATION	NOT MET	DEDICATION FOR FRONTAGE IMPROVEMENTS ALONG TELEGRAPH ROAD (PROFFERS 3A1 AND 3A2) JV
PRE	RIGHT - OF - WAY - DEDICATION	NOT MET	DEDICATION FOR FRONTAGE IMPROVEMENTS ALONG BEULAH STREET (PROFFERS 3A3, 3A4) JV
PRE	SITE SPECIFIC CONDITION	NOT MET	PLAN COMM/SUPERVISR TO REVIEW GARAGE/GROCERY ARCHS PRIOR TO APPROVAL. (PROFFER #9G,9I4) JV
PRE	SITE SPECIFIC CONDITION	NOT MET	PLAN SENT TO FT BELVOIR BASE COMMNDR 90 DAYS PRIOR TO APP. (PROFFER #9L)
PRE	SOILS REPORT	NOT MET	GRB APPROVAL REQD (PROFFER #4). JV

ATTACHMENT 4

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Board Agenda Item
September 27, 2011

ADMINISTRATIVE – 11

Authorization to Advertise a Public Hearing on a Proposal to Abandon Part of the Right-of-Way of Willard Road (Sully District)

ISSUE:
Authorization to advertise a public hearing on a proposal to abandon part of the right-of-way of Willard Road.

RECOMMENDATION:
The County Executive recommends that the Board authorize the advertisement of a public hearing to consider the abandonment of the subject right-of-way.

TIMING:
The Board should take action on September 27, 2011, to provide sufficient time to advertise the public hearing for November 1, 2011, at 4:00 p.m.

BACKGROUND:
The abandonment is being undertaken per a request by the Board of Supervisors to facilitate the Virginia Department of Transportation (VDOT) in its Willard Road – Route 28 interchange project. Willard Road is in the (VDOT) State Secondary System (Route 6215).

The dedicated right-of-way is excess. Abandonment will create a parcel that will be used by VDOT as part of a negotiated settlement related to other right-of-way acquisition for the interchange.

Traffic Circulation and Access
The abandonment will have no long-term impact on vehicle circulation and access. The right-of-way is excess to requirements and is not used for travel.

Easements
Needs for ingress-egress, storm drainage, and sanitary sewer facilities were indentified in the review process and are designated on the plat. These easements will be executed at the time of final settlement as the County cannot be both parties in an easement deed. No other easement needs were identified.

Board Agenda Item
September 27, 2011

The proposal to abandon this right-of-way was circulated to the following public agencies and utility companies for review: Office of the County Attorney, Department of Public Works and Environmental Services, Fairfax County Department of Transportation, Department of Planning and Zoning, Fairfax County Park Authority, Fairfax County Water Authority, Fairfax County School Board, Fire and Rescue, Virginia Department of Transportation, Dominion Virginia Power, Washington Gas Light Company, and Verizon. None of these agencies indicated any opposition to the proposal.

FISCAL IMPACT:
None.

ENCLOSED DOCUMENTS:
Attachment I: Statement of Justification-Board Summary
Attachment II: Notice of Intent to Abandon
Attachment III: Order of Abandonment
Attachment IV: Metes and Bounds Description
Attachment V: Abandonment Plat
Attachment VI: Vicinity Map

STAFF:
Robert A. Stalzer, Deputy County Executive
Tom Biesiadny, Acting Director, Fairfax County Department of Transportation (FCDOT)
Donald Stephens, FCDOT

43. **CONVEYANCE OF COUNTY PROPERTY TO THE VIRGINIA DEPARTMENT OF TRANSPORTATION (VDOT)** (1:28 p.m.)

Supervisor Frey asked that staff initiate the process of conveying a parcel of County property to VDOT as part of the Route 28/Willard Road Interchange Improvement Project.

Supervisor Frey said that the parcel of land is located at the northeast corner of the Route 28/Willard Road interchange and was originally dedicated to the County for public street purposes in accordance with the proffer.

Therefore, Supervisor Frey asked unanimous consent that the Board direct staff to begin the process and take the appropriate steps to convey the aforementioned parcel of land to VDOT. Without objection, it was so ordered.

44. **HUNTER MILL SKATE PARK ON WHEELS (HUNTER MILL DISTRICT)** (1:29 p.m.)

Supervisor Hudgins said that on Saturday, April 3, the Hunter Mill District office and the Town of Vienna Department of Parks and Recreation are co-hosting a Skate Park on Wheels at the Vienna Volunteer Fire Department from 2 p.m. until 5 p.m. The event will feature a portable skateboard facility complete with ramps, rails, and jumps, geared for beginners through novices, ages 6 and older. This free event is made possible through the contribution of American Inline Skating.

Therefore, Supervisor Hudgins moved that the Board direct the Office of Public Affairs to assist in disseminating information about the Skate Park on Wheels event on April 3, 2010, at Vienna Volunteer Fire Department, 400 Center Street, in Vienna. Supervisor Foust seconded the motion and it carried by unanimous vote.

45. **GIRL POWER DAY** (1:30 p.m.)

Supervisor Hudgins said that for 11 years Girl Power, an organization sponsored by the Fairfax-Falls Church Community Services Board and the Public Schools, along with private sector and non-profit support, has helped to encourage and empower girls in the 9 to 14 year old age group to build self-esteem and leadership skills. Studies show that girls tend to lose self confidence and experience low self-esteem, become less physically active, and school performance starts to deteriorate during this critical age period. The goal of Girl Power is to empower girls from across the County with positive information through workshops on life building skills.

Supervisor Hudgins referred to her written Board Matter and shared two success stories.

ATTACHMENT II

NOTICE OF INTENT TO ABANDON
WILLARD ROAD

SULLY DISTRICT,
FAIRFAX COUNTY, VIRGINIA

Notice is hereby given that the Board of Supervisors of Fairfax County, Virginia, will hold a public hearing on November 1, 2011, at 4:00 PM during its regular meeting in the Board Auditorium of the Fairfax County Governmental Center, 12000 Government Center Parkway, Fairfax, VA, pursuant to Virginia Code Ann. § 15.2-2204, to consider proposed abandonment of a portion of public road known as Willard Road, between parcel Tax Map Number 44-1 ((1)) 7A and Tax Map Number 44-1 ((9)) E2, pursuant to Virginia Code Ann. §§ 33.1-151 and 33.1-157-158. The road is located on Tax Map 44-1, and is described and shown on the metes and bounds schedule and plat prepared by Vickie McEntire, dated September 10, 2010, both of which are on file with the Fairfax County Department of Transportation, 4050 Legato Road, Suite 400, Fairfax, Virginia 22033, Telephone Number 877-5600.

SULLY DISTRICT.

ATTACHMENT III

ORDER OF ABANDONMENT

WILLARD ROAD

SULLY DISTRICT
Fairfax County, Virginia

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held this day of November 1, 2011, it was duly moved and seconded that:

WHEREAS, after conducting a public hearing pursuant to notice as required by Virginia Code §33.1-151, and after giving due consideration to the historic value, if any, of such road, the Board has determined that no public necessity exists for continuance of this road as a public road, and that the safety and welfare of the public will be served best by an abandonment,

WHEREFORE, BE IT ORDERED:

That a portion of the Right-of-Way of Willard Road between parcel Tax Map number 44-1-((1))-7A and parcel Tax Map number 44-1-((9))-E2, and described on the plat prepared by Vickie McEntire dated September 10, 2010, which is attached hereto and incorporated herein, be and the same is hereby abandoned as a public road pursuant to Virginia Code §§ 33.1-151 and 33.1-157 -158.

This abandonment is subject to any right, privilege, permit, license, or easement in favor of any public service company, utility, or other person or entity, including any political subdivision, whether located above, upon, or under the surface, either presently in use or of record, including the right to operate, maintain, replace, alter, extend, increase or decrease in size any facilities in the abandoned roadway, without any permission of the landowner(s).

A Copy Teste:

Nancy Vehrs
Clerk to the Board

§33.1-151

County of Fairfax, Virginia

To protect and enrich the quality of life for the people, neighborhoods and diverse communities of Fairfax County

DESCRIPTION OF ABANDONMENT OF a PORTION OF WILLARD ROAD,
Situated in FAIRFAX COUNTY, VIRGINIA,
lying on Tax Map 44-1
approximately 413 feet eastward from Sully Road
and along the northern right of way of Willard Road,
and said PORTION being formerly Dedicated to Public Street Purposes
at Deed Book 8402, Page 1905
among the land records of
FAIRFAX COUNTY, VIRGINIA:

More particularly described as follows:

COMMENCING in the northern right of way of Willard Road, Route 6215 at a corner common with lands now or formerly Patricia A. Norton, Trustee, as recorded at DB 7000, PG 1606 and DB 6243, PG 272 (Tax Map 44-1 ((1)) 7A), said commencement point lying approximately 413 feet east of the intersection with Sully Road;

Thence with Norton, Trustee, and the existing right of way N10° 56'45"E, 44.62' to the POINT OF BEGINNING;

Thence with Norton, Trustee, and the existing right of way the following two courses:
N10° 56'45"E, 311.78';
N02° 36'32"W, 165.00' to the point common to the existing right of way of Willard Road, Norton, Trustee, and Parcel D-1 of Brookfield-Beverly Road Associates Limited Partnership;

Thence with the existing right of way, Parcel D-1, and Parcel E-1B, S12°46'47"E, 448.28';

Continuing with Parcel E-1B and the existing right of way, along the arc of a curve to the left 102.31', radius of 150.00', and chord of S32° 19'15"E, 100.34';

Thence departing Parcel E-1B, creating the new northern right of way of Willard Road, the following two courses:

Department of Public Works and Environmental Services
Capital Facilities, Construction Management Division, Land Survey Branch
12000 Government Center Parkway, Suite 147
Fairfax, VA 22035-0088
Ph. 703-324-5151, TTY 1-800-828-1120, Fax 703-324-5575
www.fairfaxcounty.gov

N77° 54'57"W, 60.06';
N75° 13'04"W, 150.76'

to the Point of Beginning, containing 35,552 square feet.

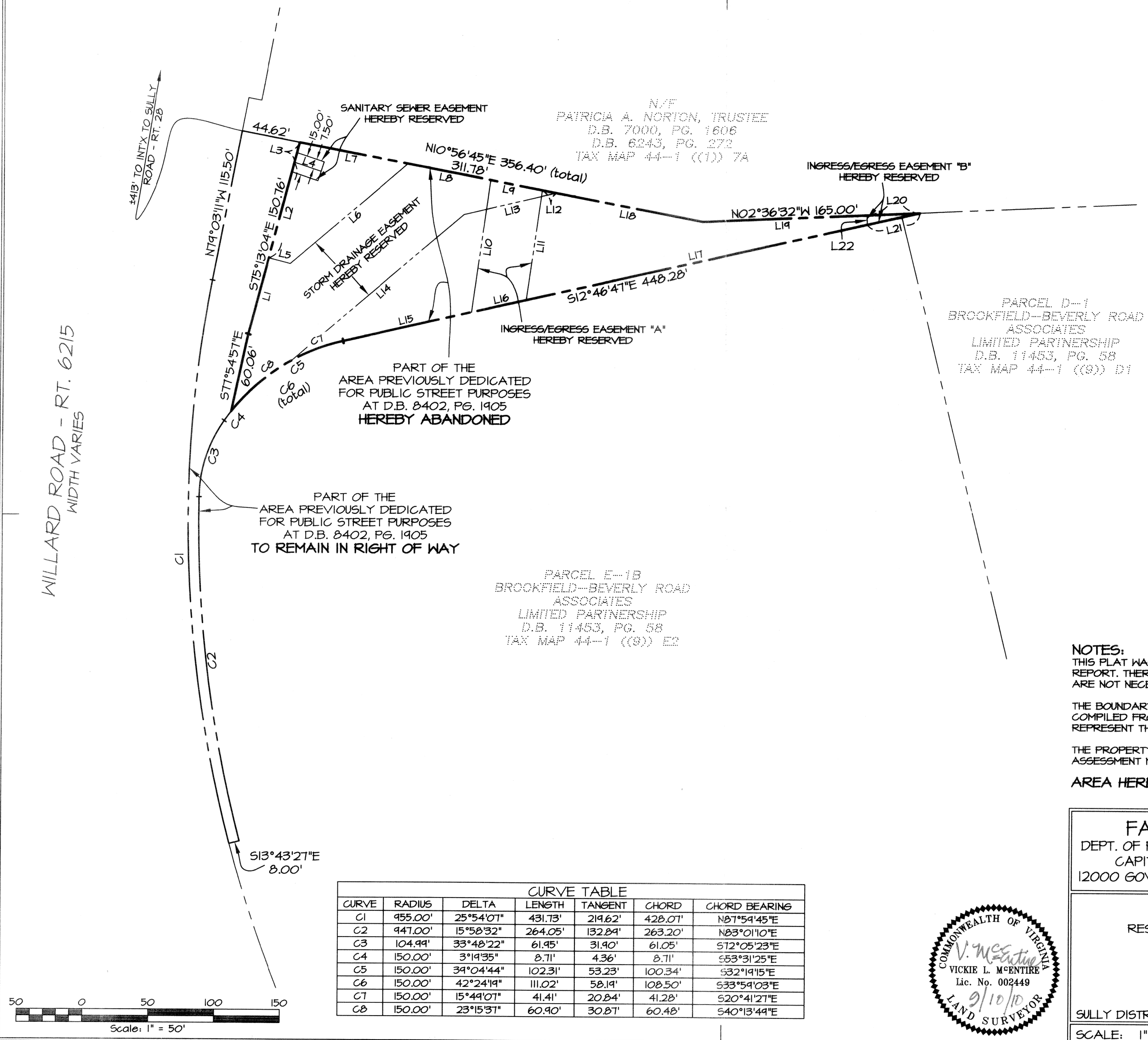
The meridian for this description is Virginia Grid North.

GIVEN UNDER MY HAND THIS 10th DAY OF SEPTEMBER, 2010.

COMMONWEALTH OF VIRGINIA
VICKIE L. McENTIRE
Lic. No. 002449
9/10/10
LAND SURVEYOR

Department of Public Works and Environmental Services
Capital Facilities, Construction Management Division, Land Survey Branch
12000 Government Center Parkway, Suite 147
Fairfax, VA 22035-0088
Ph. 703-324-5151, TTY 1-800-828-1120, Fax 703-324-5575
www.fairfaxcounty.gov

Attachment V



LINE TABLE		
LINE	LENGTH	BEARING
L1	59.89'	S75°13'04"E
L2	75.23'	S75°13'04"E
L3	15.64'	S75°13'04"E
L4	21.37'	S18°45'04"W
L5	16.99'	S14°46'56"W
L6	117.38'	N40°30'36"W
L7	84.01'	N10°56'45"E
L8	63.70'	N10°56'45"E
L9	40.05'	N10°56'45"E
L10	101.78'	N81°58'47"W
L11	84.54'	N81°58'47"W
L12	10.93'	N10°56'45"E
L13	72.09'	S13°27'38"E
L14	170.77'	N40°30'36"W
L15	99.54'	S12°46'47"E
L16	42.79'	S12°46'47"E
L17	265.31'	S12°46'47"E
L18	113.08'	N10°56'45"E
L19	125.00'	S02°36'32"E
L20	40.00'	N02°36'32"W
L21	40.64'	S12°46'47"E
L22	7.18'	S87°23'28"W

CURVE TABLE						
CURVE	RADIUS	DELTA	LENGTH	TANGENT	CHORD	CHORD BEARING
C1	955.00'	25°54'07"	431.73'	219.62'	428.07'	N87°59'45"E
C2	947.00'	15°58'32"	264.05'	132.89'	263.20'	N83°01'10"E
C3	104.99'	33°48'22"	61.95'	31.90'	61.05'	S72°05'23"E
C4	150.00'	3°19'35"	8.71'	4.36'	8.71'	S53°31'25"E
C5	150.00'	39°04'44"	102.31'	53.23'	100.34'	S32°19'15"E
C6	150.00'	42°24'19"	111.02'	58.19'	108.50'	S33°59'03"E
C7	150.00'	15°49'07"	41.41'	20.84'	41.28'	S20°41'27"E
C8	150.00'	23°15'37"	60.90'	30.87'	60.48'	S40°13'49"E

NOTES:

THIS PLAT WAS PREPARED WITHOUT THE BENEFIT OF A TITLE REPORT. THEREFORE ALL ENCUMBRANCES TO THE PROPERTY ARE NOT NECESSARILY SHOWN HEREON.

THE BOUNDARY INFORMATION SHOWN ON THIS PLAT WAS COMPILED FROM EXISTING LAND RECORDS AND DOES NOT REPRESENT THE RESULT OF AN ACTUAL BOUNDARY SURVEY.

THE PROPERTY DELINEATED ON THIS PLAT IS LOCATED ON TAX ASSESSMENT MAP 44-1.

AREA HEREBY ABANDONED **35,552 SQ. FT.**

COMMONWEALTH OF VIRGINIA
V. McEntire
VICKIE L. McENTIRE
Lic. No. 002449
9/10/10
LAND SURVEYOR

FAIRFAX COUNTY, VIRGINIA
DEPT. OF PUBLIC WORKS & ENVIRONMENTAL SERVICES
CAPITAL FACILITIES, LAND SURVEY BRANCH
12000 GOVERNMENT CENTER PKWY, FAIRFAX, VIRGINIA

PLAT SHOWING
RESERVATIOIN OF VARIOUS EASEMENTS
AND
ABANDONMENT OF A PORTION
OF THE RIGHT-OF-WAY
OF
WILLARD ROAD

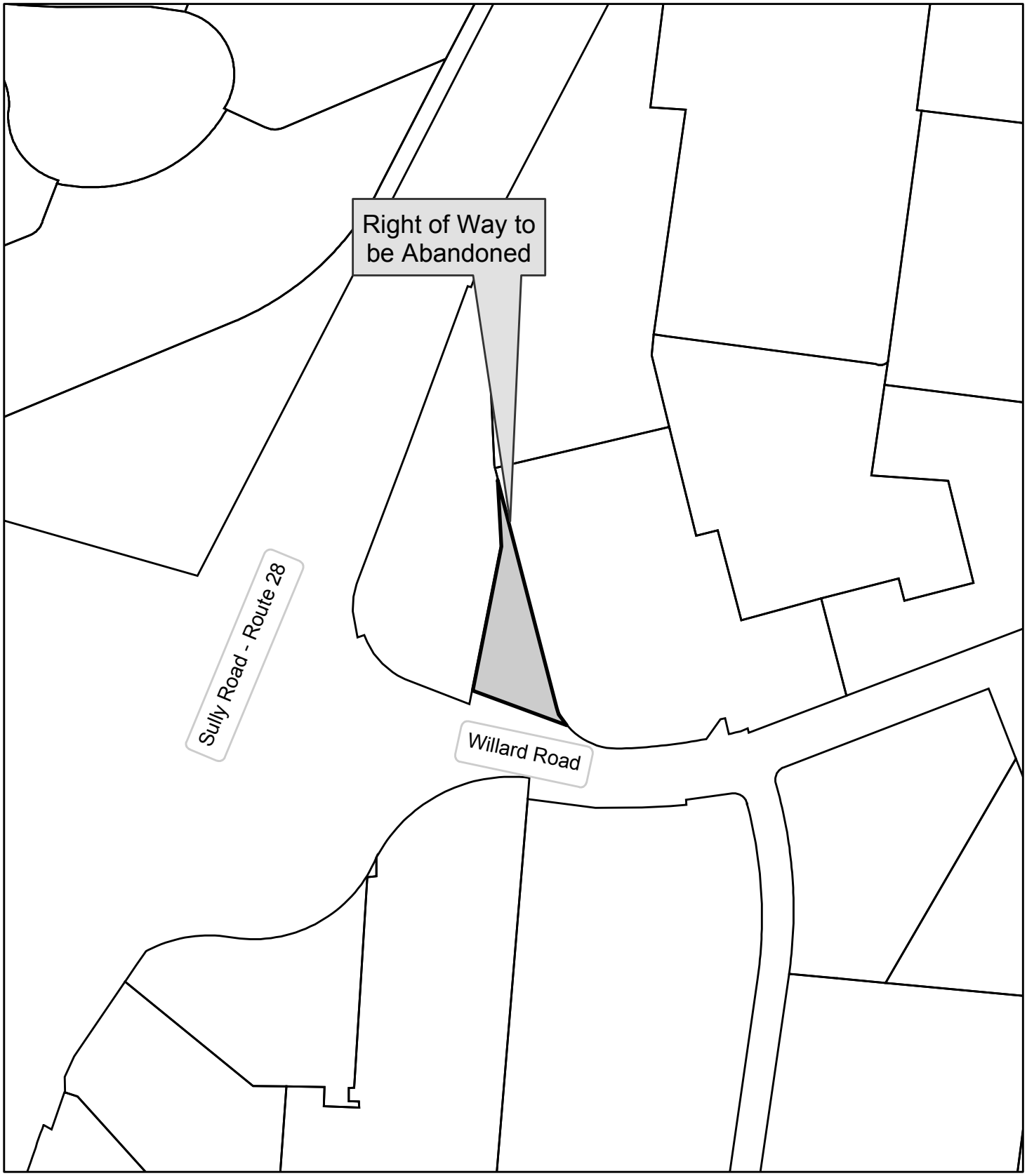
SULLY DISTRICT, FAIRFAX COUNTY — SHEET 1 OF 1

SCALE: 1"=50'	DATE: 6/3/2010	DRAWN BY: MS

G:\ASU\SURVEY PROJECTS\FMD_080201_3010 Willard Road Abandonment\dwg\Willard-Plat.dwg, FFXC-CMD, M.Strecker

ATTACHMENT VI

Vicinity Map - Tax Map 44-1



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Board Agenda Item
September 27, 2011

ADMINISTRATIVE - 12

Board Approval of the Distribution of a Plain English Information Statement for the 2011 School Bond Referendum

ISSUE:
Board approval of the preparation and printing of an explanatory statement on the forthcoming referendum on whether the County should be authorized to issue bonds in the maximum aggregate principal amount of $252,750,000 for the Fairfax County Public Schools. If approved by the Board, staff plans to make this explanatory statement available at County polling places for absentee voters prior to the referendum and for all other voters on Election Day.

RECOMMENDATION:
The County Executive recommends that the Board authorize the preparation and printing of a plain English statement for the school bond referendum.

TIMING:
Early Board action is recommended to provide time for the printing and distribution of the explanation to citizens prior to the election.

BACKGROUND:
On April 28, 2011, the Fairfax County School Board adopted a resolution asking the Board to petition the Fairfax County Circuit Court to order a special election on November 8, 2011, to determine whether the Board should be authorized to contract a debt, borrow money, and issue capital improvement bonds in the maximum aggregate principal amount of $252,750,000 for the purpose of providing funds for the improvement of public school facilities. On May 10, 2011, the Board considered the School Board's request and adopted its own resolution asking the Circuit Court to order such a special election. The County Attorney then petitioned the Circuit Court for such an order, and on May 16, 2011, Chief Circuit Court Judge Dennis J. Smith entered an order for the referendum as requested.

Subsequently, the County Attorney submitted the proposed referendum to the United States Department of Justice for preclearance pursuant to Section 5 of the federal Voting Rights Act of 1965, as amended. In June 2011, the Department of Justice notified the County that the Department had no objection to the proposed referendum. Therefore, the referendum may be conducted as planned on November 8, 2011.

Board Agenda Item
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Virginia Code § 24.2-687 was amended during the 2011 Session of the Virginia General Assembly, and it now requires localities to prepare "plain English" explanations of referendum questions involving the issuance of bonds. Prior to the 2011 amendment, the preparation of such statements was at the discretion of the locality. As amended, § 24.2-687 also now requires that the explanation must (i) state the estimated maximum amount of the bonds proposed to be issued, and (ii) state the proposed use of the bond proceeds, and if there is more than one use, state the proposed uses for which more than 10 percent of the total bond proceeds is expected to be used. As in the past, the law requires the explanation to include the ballot question and a neutral "plain English" statement of not more than 500 words prepared by the locality's attorney.

Staff recommends that the Board authorize the printing and distribution of a plain English statement for this referendum in sufficient copies to make it available to voters at County polling places for absentee voters prior to the general election and at all polling places during the general election on November 8, 2011. If the Board authorizes the distribution of this plain English statement, the explanation will be printed on distinctive yellow paper so that it will be readily recognizable to poll workers and voters.

In the past, the Board has asked that such explanations be translated into other common languages, and staff will prepare such explanations for interested citizens. However, given that Virginia Code § 24.2-687 only permits the distribution of "plain English" explanations within the polling places, these translations will be made available at places other than polling places.

FISCAL IMPACT:
The cost of translating and printing the plain English explanation is estimated at $1,554.00, and that cost can be met by existing Board appropriations.

ENCLOSED DOCUMENTS:
Attachment 1 – Virginia Code § 24.2-687
Attachment 2 – Draft Explanatory Statement for School Bonds

STAFF:
Susan Datta, Chief Financial Officer
Leonard Wales, County Financing Advisor
Joseph LaHait, Debt Coordinator
David P. Bobzien, County Attorney
Erin C. Ward, Assistant County Attorney

Attachment 1

§ 24.2-687. Authorization for distribution of information on referendum elections.

A. The governing body of any county, city or town may provide for the preparation and printing of an explanation for each referendum question to be submitted to the voters of the county, city or town to be distributed at the polling places on the day of the referendum election. The governing body may have the explanation published by paid advertisement in a newspaper with general circulation in the county, city or town one or more times preceding the referendum.

The explanation shall contain the ballot question and a statement of not more than 500 words on the proposed question. The explanation shall be presented in plain English, shall be limited to a neutral explanation, and shall not present arguments by either proponents or opponents of the proposal. The attorney for the county, city or town or, if there is no county, city or town attorney, the attorney for the Commonwealth shall prepare the explanation. "Plain English" means written in nontechnical, readily understandable language using words of common everyday usage and avoiding legal terms and phrases or other terms and words of art whose usage or special meaning primarily is limited to a particular field or profession.

If the referendum question involves the issuance of bonds by a locality, the locality shall provide for such printed explanation. The explanation shall (i) state the estimated maximum amount of the bonds proposed to be issued, and (ii) state the proposed use of the bond proceeds, and if there is more than one use, state the proposed uses for which more than 10 percent of the total bond proceeds is expected to be used.

B. Nothing in this section shall be construed to limit a county, city or town from disseminating other neutral materials or advertisements concerning issues of public concern that are the subject of a referendum; however, the materials or advertisements shall not advocate the passage or defeat of the referendum question.

C. This section shall not be applicable to statewide referenda.

D. Any failure to comply with the provisions of this section shall not affect the validity of the referendum.

(1996, c. 297; 2004, cc. 21, 399; 2006, c. 302; 2011, c. 590.)

PUBLIC SCHOOL BONDS EXPLANATION

BALLOT QUESTION

PUBLIC SCHOOL BONDS

Shall the Board of Supervisors of Fairfax County, Virginia, contract a debt, borrow money, and issue capital improvement bonds in the maximum aggregate principal amount of $252,750,000 for the purposes of providing funds, in addition to funds from school bonds previously authorized and any other available funds, to finance, including reimbursement to the County for temporary financing for, the costs of school improvements, including acquiring, building, expanding and renovating properties, including new sites, new buildings or additions, renovations and improvements to existing buildings, and furnishings and equipment, for the Fairfax County public school system?

☐ **YES**

☐ **NO**

EXPLANATION

Virginia law permits the Fairfax County government to borrow money to buy land and/or construct projects by issuing general obligation bonds. General obligation bonds are sold to investors, and the bonds are repaid over time with future County revenues. The money received from the sale of the bonds is used as a source of funding for many County facilities. Bond financing permits the costs of those County facilities to be repaid over a period of years. However, prior to incurring such a County general obligation debt, the voters of the County must authorize the County to borrow those funds.

The question being presented in this referendum asks the voters of the County whether the County government should be authorized to contract a debt and issue bonds in the maximum amount of $252,750,000 for a range of planned improvements to the County's public schools and support facilities. If this question is approved by a majority of the voters who vote on this question and bonds are sold, then the proceeds from the sale of such bonds must be used for the purposes set forth in the ballot question. More specifically, these funds will be used to plan and design projects, supervise construction, add onto and renovate existing school facilities, and make other physical repairs and improvements. This borrowing will permit:

NEW CONSTRUCTION:

Additions and other modifications at three existing elementary schools and the relocation of modular units in order to address enrollment increases in certain areas of the County and overcrowding at certain schools.

RENOVATION:

Planning and/or construction of renovations of 14 elementary schools, two middle schools, and three high schools.

OTHER IMPROVEMENTS:

Includes funding for replacements and improvements to facility infrastructure such as: roofs, major mechanical systems, parking lots, security systems, technology systems, athletic infrastructure, and upgrades to comply with the Americans With Disabilities Act.

This explanation was prepared, printed, and made available at voter registration sites and at election polling places in accordance with Virginia Code § 24.2-687

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Board Agenda Item
September 27, 2011

ACTION – 1

Approval of Revisions to Chapters 2, 4, 5, 7, 8, 10, 14, 17 of the Fairfax County Personnel Regulations to Align With Federal Law, FOCUS System, Fair Labor Standards Act, and Department of Justice Requirements, and to Incorporate Administrative Updates

ISSUE:
Board approval of revisions to Chapters 2, 4, 5, 7, 8, 10, 14 and 17 of the Fairfax County Personnel Regulations. Revisions ensure alignment with Federal law, FOCUS System, Fair Labor Standards Act, and Department of Justice requirements, and incorporate administrative updates.

RECOMMENDATION:
The County Executive recommends that the Board of Supervisors approve the proposed revisions to Chapters 2, 4, 5, 7, 8, 10, 14, and 17 of the Personnel Regulations. The Board Personnel and Reorganization Committee has reviewed and supported these revisions at the June 28, 2011 meeting.

TIMING:
In accordance with the Merit System Ordinance, the proposed revisions were forwarded to the Civil Service Commission for a public hearing that was held on August 4, 2011. FOCUS-related changes will be implemented according to the system conversion schedule; other changes will be implemented following Board approval.

BACKGROUND:
Revisions in Chapters 5, 7, and 14 incorporate updates and new practices to ensure compliance with the Federal Genetic Information and Nondiscrimination Act requirements.

Revisions in Chapters 4 and 10 incorporate changes in advance of FOCUS implementation. Aligning policies and procedures with SAP system requirements and best practices supports the FOCUS project philosophy. Additional FOCUS-related changes will be submitted during the next 18 months as other modules are developed.

Additional revisions are administrative in nature, and include routine content updates, revised delegation of authority levels, points of administrative clarification, and revised thresholds governing overtime-eligible job classifications.

The following summarizes the changes, by chapter:

Chapter 2 – *Definitions*
Revisions update definitions of the terms *FLSA Eligible* and *Straight Pay Eligible, to* reflect current job classifications eligible to receive overtime pay under the Fair Labor Standards Act (FLSA). Revisions affect Pay Plan S positions only. (Attachment 1).

Chapter 4 – *Pay Plan, Hours of Work and Overtime*
Revisions simplify the approval process for employees working in excess of scheduled hours, change the leave accrual period from leave year to calendar year, and streamline the designation of senior management positions ineligible to accrue compensatory leave. (Attachment 2).

Chapter 5 – *Recruitment and Examination*
Revisions update the term handicap to disability and add genetic information as a basis for protection from discrimination for individuals participating in employment processes, and clarify elements of the background check policy. (Attachment 3).

Chapter 7 – *Certification and Appointment*
Revisions update the title of the Office of Human Rights and Equity Programs and benefit eligibility requirements for part-time merit staff. (Attachment 4).

Chapter 8 – *Transfers, Promotions, Demotions*
Revision modifies the delegation of authority, within the Department of Human Resources, for managing and approving Acting Capacity Promotion requests. (Attachment 5).

Chapter 10 – *Leave*
Revisions refresh general leave definition and policy language, change the leave accrual period from leave year to calendar year, clarify employees will not receive dual compensation for use of compensatory leave, align policies with FOCUS requirements governing paid leave status and action required to transfer employees' compensatory leave balances to a different department, clarify the maximum allowable parental leave hours granted per 12-month period, and further describe Family and Medical Leave Act policies. (Attachment 6).

Board Agenda Item
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Chapter 14 – *Reports and Records*
Revision establishes requirements governing access to and management of confidential employee medical records (Attachment 7).

Chapter 17 – *Grievance Procedure*
Revision further specifies a subset of complaints deemed grievable. (Attachment 8). In accordance with the Merit System Ordinance, the proposed revisions were forwarded to the Civil Service Commission for public hearing. The Commission's comments from the August 4, 2011 public hearing are included as Attachment 9. Chapters 7 and 17 were revised, consistent with Civil Service Commission recommendations. The Commission expressed concern with proposed changes to the Family and Medical Leave section (10.22) in Chapter 10, specifically regarding the importance of consistent application of this entitlement program.

Responsive to feedback from the Commission and testimony at the public hearing, enhancements were made to further strengthen and clarify policy language, bolster management accountability at key decision points in the administrative process, and expand definitional language. The importance of consistent application of these regulations will be regularly underscored in communication from the Human Resources Director to both senior management and decentralized Human Resources Managers. Specific changes, responsive to Civil Service Commission recommendations, are itemized in attachment number ten.

Staff met with employee group representatives following the public hearing to review the proposed enhancements and gained their support for moving the revised regulations forward to the Board for approval. Additionally, DHR staff is working with employee groups and others to improve the effectiveness of language in the Family and Medical Leave Procedural Memorandum and online training programs.

While the Commission recommended against approval of the Chapter, staff desires to move forward with this request, to ensure approval of time sensitive changes related to calendar year-end actions. The concerns expressed by the Commission regarding section 10.22 relate to consistent application of the regulations rather than specific concerns about regulation content. Several enhancements to the regulations address this concern by ensuring either department head or Human Resources Director approval at key points in the FML administration process. Other implementation or application consistency concerns will be addressed through revisions to the related Procedural Memorandum, increased training and collaborative work with department heads and their staff to ensure appropriate management and accountability measures are in place at the agency level.

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FISCAL IMPACT:
The fiscal impact of changes to the Family and Medical Leave Act (FMLA) section is expected to be minimal. There is no fiscal impact associated with other proposed changes.

ENCLOSED DOCUMENTS:
Attachment 1: Proposed revisions to Fairfax County Personnel Regulations, Chapter 2
Attachment 2: Proposed revisions to Fairfax County Personnel Regulations, Chapter 4
Attachment 3: Proposed revisions to Fairfax County Personnel Regulations, Chapter 5
Attachment 4: Proposed revisions to Fairfax County Personnel Regulations, Chapter 7
Attachment 5: Proposed revisions to Fairfax County Personnel Regulations, Chapter 8
Attachment 6: Proposed revisions to Fairfax County Personnel Regulations, Chapter 10
Attachment 7: Proposed revisions to Fairfax County Personnel Regulations, Chapter 14
Attachment 8: Proposed revisions to Fairfax County Personnel Regulations, Chapter 17
Attachment 9: Memorandum from the Civil Service Commission
Attachment 10: Staff Response to Civil Service Commission Recommendations

STAFF:
Anthony H. Griffin, County Executive
Susan Woodruff, Director, Department of Human Resources
Cynthia Tianti, Deputy County Attorney, Office of the County Attorney

CHAPTER 2

Definitions

Allocation

The assignment of a position to its appropriate class in relation to duties performed.

Appeal

An application or procedure for review of an alleged grievance submitted or instituted by an employee to the Civil Service Commission or to other higher authority.

Appointing Authority

The officer, board, commission, person, or group of persons having the power by virtue of state law or County ordinance to make appointments. The appointing authority is generally responsible for personnel administration within a given department. As used in these regulations, the term “appointing authority” is synonymous with the term “department head.”

Appointment

The offer to and acceptance by a person of a position.

Assembled Examination

An examination for which applicants are required to appear at a specific place for the purpose of taking a test.

Break in Service

Any separation from the service of Fairfax County whether by resignation, lay-off, dismissal, unsatisfactory service, disability, retirement, or absence without leave of three days or more when the employee is subsequently reemployed. An authorized leave without pay shall not be considered as constituting a "break in service."

Business Day

Calendar days exclusive of Saturdays, Sundays, and legal holidays.

Class

A group of positions which are sufficiently alike in general duties and responsibilities to warrant the use of the same title, specification and pay range.

Class Series

A number of classes of positions which are substantially similar as to the types of work involved and differ only in rank as determined by the importance of the duties and degree of responsibility involved and the amount of training and experience required. Such classes constitute a series and each is usually given a designation either by Roman numerals, beginning with the lowest level as I, next level II, or by rank adjectives such as the junior, intermediate or senior level, etc.

Class Specification

A written description of a class consisting of a class title, a general statement of the level of work, a statement of the distinguishing features of work, some examples of work, and the minimum qualifications for the class.

Classification

The grouping of positions in regard to: (a) kinds of duties performed and responsibilities; (b) level of duties performed; (c) requirements as to education, knowledge and experience and ability; (d) tests of fitness; (e) ranges of pay.

Classification Review or Reclassification Review

An evaluation of the duties and responsibilities of a position performed by the Department of Human Resources to determine the appropriateness of the present class. Appropriateness will be determined on the basis of: (a) kinds of duties performed and responsibilities; (b) level of duties performed; (c) requirements as to education, knowledge and experience and ability; (d) tests of fitness; (e) ranges of pay. The review will result in the position retaining its present class assignment; or being assigned to an existing lower class, or being assigned to an existing higher class; or being assigned to a new class created by amendment to the Classification and Compensation Plans.

Classification Plan

The official or approved system of grouping positions into appropriate classes, consisting of three parts: (1) a schematic index to the class specifications; (2) the class specifications; and (3) rules for administering the classification plan.

Compensation

The standard rates of pay which have been established for the respective classes of work, as set forth in the compensation plan.

Compensation Plan

The official schedule of pay approved by the Board of Supervisors assigning one or more rates of pay to each pay grade.

Compensatory Leave

Time off in lieu of monetary payment for overtime worked.

Compensatory Time Eligible

Employees in pay grades S-26, P/O/C-27, F-31 or above and L-02 or above, excluding any classes designated as exceptions in a procedural memorandum issued by the Human Resources Director.

Competitive Promotion

A promotion based on a competitive examination with appointment to the higher level position restricted to a specific number of persons receiving the highest ratings.

Competitive Service

All officers and positions in the service of Fairfax County as defined in the Merit System Ordinance.

Continuous Service

Employment without interruption, including merit service with the Fairfax County School System, except for absences on approved leave or absences to serve in the Armed Forces of the United States, or absences of less than one calendar year when followed by reemployment or reinstatement. Service prior to normal or early retirement from a County retirement system shall not be counted.

Deferred Retirement Option Plan (DROP)

An option in lieu of immediate retirement in which an employee remains employed by his/her department, but no longer contributes to his/her respective retirement system and must retire within 3 years of election to DROP. DROP participants retain the rights and privileges of merit employees.

Definition of Duties

The work requirements for each position in terms of the importance, difficulty and extent of supervision and responsibility attaching thereto.

Demotion

Assignment of an employee from one class to another which has a lower maximum rate of pay.

Department

An administrative branch including a line of work and a group of employees under the immediate charge of a chief executive officer or officers of a department, institution, court, board or commission of the County government, which latter officer or officers shall be known as the department head.

Dismissal

Separation from County employment for cause.

Department Head

An employee appointed by the Board of Supervisors to oversee, direct or manage a major functional division of County government, whether formally known as a department or not, under the general direction of the County Executive, and to act as the appointing authority for the positions assigned to that organization. As used in these regulations, the term "department head" is synonymous with the term "appointing authority."

Deputy

One or more individuals authorized to act in specific functional areas for the department head.

Eligible

A person who has successfully met required qualifications for a particular class.

Eligible List

The ranking of eligibles by class in order of score earned.

Employee

An individual who is legally employed by the County and is compensated through the County payroll for his services. Individuals or groups compensated on a fee basis are not included.

Examination

The process of testing, evaluating or investigating the fitness and qualifications of applicants.

Exempt Service

Those positions not included in the competitive service as defined in the Merit System Ordinance.

Fire Protection Personnel

24-hour shift employees in the Fire and Rescue Department who perform suppression and rescue duties as defined in the Fair Labor Standards Act (29 CFR Sec. 553.3).

Fair Labor Standards Act

Legislation originally enacted by Congress in 1938, which establishes requirements with respect to minimum wage, overtime, compensation and record keeping.

Full-Time Employee

Any employee who is regularly scheduled to work at least 2,080 hours in 12 consecutive months.

FLSA Eligible

Employees in pay grades S-21~~0~~, P-23, O/C-21, F-22 and below. ~~and those employees in job classes designated as E~~exceptions are noted in a procedural memorandum issued by the Human Resources Director.

Full-Time Position

Any position which is authorized to be filled for at least 2,080 hours in 12 consecutive months.

Hourly Rate of Pay

The hourly rate of pay is shown on the County pay plans for the minimum, midpoint and maximum of each pay range. Public safety pay plans shall include such intermediate rates as deemed appropriate. Hourly rates are carried out to four places after the decimal. The hourly rate is derived by dividing annual salary by 2,080 which is the number of scheduled hours for a full time employee. The hourly rate for fire protection personnel assigned to a 24 hour shift is derived by dividing the annual salary by 2,912 which is the number of scheduled hours for a full time fire protection employee.

Immediate Family

Includes wife, husband, son, daughter, mother, father, brother or sister of employee, and other close relatives.

Incumbent

An employee occupying a position in the County service.

Law Enforcement Personnel

Sworn employees of the Police Department (including animal control officers), Fire and Rescue Department, and Office of the Sheriff who are empowered to enforce laws, have the power of arrest and have undergone (or will be undergoing) on-the-job training or similar instruction as defined in the Fair Labor Standards Act (29 CFR Sec. 553.4). The term also includes security personnel in correctional institutions.

Lay-Off

Separation of an employee from a position to which he was legally certified and appointed as a result of the abolition of a position, lack of work or lack of funds.

Longevity Pay Increment

An increase in compensation established in the compensation plan as a reward for long and faithful service for public safety employees.

Merit Employee

Any employee in the competitive service.

Merit System

The system of personnel administration applicable to the competitive service. It includes the Merit System Ordinance, any applicable provisions of other County ordinances, Personnel Regulations, and all applicable and lawful personnel management directives of the Board of Supervisors, County Executive or Human Resources Director.

Minimum Wage

The minimum hourly wage to be paid to employees as designated by the United States Department of Labor.

Multi Rater Option

The use of feedback from persons in addition to the immediate supervisor as part of the performance review process.

Open Examination

An examination open to the public and not limited to applicants in County service.

Overtime (FLSA)

Time worked or on paid leave by an employee (excluding employees in law enforcement and fire protection as defined herein) in excess of 40 hours during his/her seven consecutive days work period. Overtime for law enforcement personnel shall be time worked or on paid leave in excess of 86 hours (82 hours for sworn Police Officers, Animal Control Officers, and Deputy Sheriffs scheduled to work a 40 hour week) during his/her 14 consecutive day work period. Overtime for fire protection personnel shall be time worked or on paid leave in excess of 212 hours during his/her 28 consecutive day work period. Non-FLSA overtime includes hours worked in excess of the employee's scheduled hours but less than the eligibility requirement for FLSA overtime stated above.

Overtime Pay

Compensation paid to an employee for overtime work performed in accordance with these rules. The rate of pay for overtime compensation will be either 1 times the hourly rate or 1 and 1/2 times the regular rate of pay as prescribed in Section 4.15 of these rules.

Part-Time Employee

An individual who is assigned to a work day of less than eight hours or less than forty hours

a week.

Part-Time Position

Any position, which does not meet the criteria set forth for full-time positions in the Merit System Ordinance and these regulations.

Pay Grade

A combination of letter and number symbol indicating the pay range on a county pay schedule assigned to one or more classes in the Compensation Plan.

Pay Grade Reallocation Review

An evaluation of a class performed by the Department of Human Resources to determine the appropriateness of the present pay grade. The review will result in the class retaining its present pay grade assignment; or being assigned a higher or lower pay grade requiring amendment to the Compensation Plan. Such a review may include, but is not limited to pay factors including prevailing area levels of pay, internal evaluation of the relative worth of the class and economic and related fiscal concerns.

Pay Period

The 14 consecutive calendar day period utilized for the calculation of paychecks and the crediting of leave earned.

Pay Range

Rates of pay assigned to a pay grade on a County pay schedule in the Compensation Plan. For non-public safety employee classes, a pay range shall consist of the minimum and maximum rates of pay and the mid-point of the range. Pay ranges assigned to grades allocated to classes of public safety employees shall consist of the minimum and maximum rates of pay as well as intermediate steps.

Pay Rate

A specific dollar amount expressed as an annual rate, a bi-weekly rate or an hourly rate, as shown in a County Pay Plan.

Pay Status

Any period in which an employee is actually working or using paid leave.

Performance Pay Bonus

A lump sum payment made to an employee who is earning the maximum salary in his/ her pay grade. A department head or designee may grant an employee who is earning the maximum salary in his/her pay grade following his or her annual performance review, a bonus of up to 5 % of his/her salary if he/she meets or exceeds the performance requirements set for the award of such bonuses. The award of such a bonus does not change the employee's salary.

Performance Pay Increase

An increase in compensation, which may be granted to an employee by his/her department head or designee for performance that meets the requirements specified for such pay increases.

Performance Pay Increase Date

The date an employee's pay increase or bonus is effective.

Position

Any office or employment, whether occupied or vacant, full-time or part-time, consisting of duties and responsibilities assigned to one individual by competent authority.

Primary Position

When an employee holds more than one position with the County, one of the positions is designated as the primary and the other as the secondary for the purpose of calculating pay and benefits and tracking employment history. If the two positions are equal in pay and scheduled hours, the primary position is the one the employee occupied first. Otherwise, the primary position is the position with higher pay and/or hours.

Probationary Period

The working test or trial period of employment beginning with the date of appointment to a particular class.

Promotion

Assignment of an employee from one class to another which has a higher maximum rate of pay.

Promotional Examination

A competitive examination restricted to persons who are on regular appointment in the County classified service or to persons who are eligible to reinstatement thereto.

Public Safety Employees

For the purposes of these regulations, public safety employees includes all uniformed employees in the Police Department, Fire and Rescue Department and the Office of the Sheriff. It also includes all other job classes that are included on P/O/C/F pay scale~~s~~.

Qualifications

The minimum educational, experience and personal requirements which must be fulfilled by a person preliminary to appointment or promotion.

Reduction in Rank

Assignment of an employee from one class to another class which has a lower maximum rate of pay. Same as demotion.

Reemployment

Reappointment of a former merit employee, who had completed the probationary period and was separated in good standing but did not retire, which is not considered a reinstatement as defined herein.

Reemployment List

A list of names of former County employees with a break in service of less than one calendar year, arranged in order of their right to reinstatement as defined in Section 2.60, or reemployment in lower classes of the same or similar series as that in which the employee was serving at the time of termination.

Regular Rate of Pay

The rate of pay to be utilized for the calculation of overtime pay in accordance with FLSA requirements. The regular rate is derived by dividing the total amount of eligible pay for the work period (including the hourly rate and shift differential) by the number of hours worked during the work period.

Reinstatement

Reappointment of a former merit employee who had completed the probationary period and was separated in good standing, but did not retire, after a break in service of less than one calendar year to the position or class formerly held.

Restoration

A return to a position in a class in which status was formerly held where there has been no break in service.

Scheduled Hours

The number of hours that an employee is scheduled to work each pay period on a recurring basis as reflected in the personnel record for the position occupied.

Self Assessment

The completion of a performance evaluation form by the employee to provide his/her assessment of their performance during the review period.

Separation

Leaving a position including resignation, lay-off, dismissal, unsatisfactory service, disability and death.

Straight Pay Eligible

Employees in pay grades S-22~~1~~ to S-25, P-24 to P-26, O-22 to O-26, C-22 to C-26, F-25 to F-29 and L-01. ~~excluding any job classes designated as e~~Exceptions are noted in a procedural memorandum issued by the Human Resources Director.

Suspension

An enforced leave of absence without pay for disciplinary purposes or pending investigation of charges made against an employee.

Transfer

Assignment of an employee from one position to another position. Transfers can take place within a department, between departments, between positions of the same pay range, between positions of different pay ranges, between positions of the same class or between positions of different classes.

Unassembled Examination

An examination in which qualifications are evaluated on the basis of records or education and experience submitted by the applicants, supplemented by any information obtained by an investigation.

Vacancy

A position which has been newly established or which has been rendered vacant by the resignation, death or other removal of the previous incumbent.

Veteran

Any person who has received an honorable discharge and has (i) provided more than 180 consecutive days of full-time, active duty service in the armed forces of the United States or reserve components thereof, including the National Guard, or (ii) has a service-connected disability rating fixed by the United States Department of Veterans Affairs.

Workday

Days of the week and number of hours an employee is scheduled to work. Work schedules vary by operation and agency.

Workweek

The seven consecutive day period beginning at 12:00 a.m. Saturday and ending the following Friday at 11:59 p.m. during which an employee (excluding law enforcement and fire protection personnel as defined herein) is scheduled to work.

Work Period

The period during which an employee is scheduled to work. For all employees except law enforcement and fire protection personnel as defined herein, the work period shall be the work week which comprises one half of a pay period. The work period for fire protection personnel shall be a 28 consecutive calendar day period beginning at 12:00 a.m. Saturday and ending at 11:59 p.m. Friday and covering 2 pay periods. The work period for law enforcement personnel shall be a 14 consecutive calendar day period beginning at 12:00 a.m. Saturday and ending at 11:59 p.m. Friday and covering one pay period.

CHAPTER 4

Pay Plan, Hours of Work and Overtime

4.1 *Pay Ranges*

-1 In preparing the pay plan, consideration shall be given to the duties and responsibilities of the various types of positions, the prevailing rates paid for comparable services in public and private employment and to experience in recruiting for such positions. Pay ranges shall include a minimum rate, a midpoint rate and a maximum rate for each class. Pay ranges assigned to classes consisting of public safety employees shall include such intermediate rates or steps as deemed necessary.

-2 The rate of pay set forth in the plan shall include total pay in every form, except that it shall not include allowance for actual and necessary travel expense authorized and included as incident to employment. If subsistence, quarters or other maintenance is furnished to an employee, the reasonable value thereof shall be deducted from the rate of pay set forth in the plan. Exceptions to this provision must be approved by the Board of Supervisors.

-3 When, in the opinion of the department head or deputy, following these rules results in an inequity, the Human Resources Director may authorize a salary adjustment if he /she concurs in the opinion of the department head or deputy.

-4 Except as provided in these rules, performance pay increase dates shall not be affected by the adoption of the new pay plan.

4.2 *Starting Rate of Pay*

-1 The minimum rate of pay for a class shall normally be paid upon appointment.

-2 Original appointment not to exceed the midpoint rate may be made if any of the following conditions exist:

a. The qualifications of the applicant significantly exceed the requirements for the class.

b. Difficulty of recruitment requires payment of a higher rate.

-3 Original appointment above the midpoint rate requires the approval of the Human Resources Director.

-4 A former employee being reinstated, as defined in Chapter 2, will be appointed at a rate of pay equal to or greater than the rate he/she was receiving at the time of his/her separation, adjusted to reflect any cost of living or market pay adjustments pay to that pay grade since his/her separation.

4.3 *Performance Pay Increase/Bonus*

-1 Performance pay increase or bonuses may be granted to those employees who meet the requirements specified for such increases or bonuses. Employees considered not qualified for performance pay increase shall be handled in accordance with the provisions of Chapter 12.

-2 Eligibility

A non-public safety employee receiving less than the maximum scheduled rate for his/her grade may be granted an annual percentage salary increase not to exceed the amount authorized by the Board of Supervisors. An employee receiving the maximum scheduled rate for his/her grade may be granted an annual percentage bonus not to exceed the amount authorized by the Board of Supervisors. In those cases where receipt of a performance pay increase would move an employee's salary beyond the maximum rate of pay for their pay grade, the employee's salary will be moved to the maximum rate of pay and he/she will receive the remainder of the increase as a bonus, assuming the rating would otherwise qualify for a bonus and provided the amount of the bonus does not exceed the maximum bonus amount for that rating. A performance pay increase for a public safety employee advances him/her to the next step in the grade. Eligibility for performance pay increases and bonuses are subject to available funding and the following:

a. His/her work has met or exceeded the performance requirements established by his/her department head or designee to qualify for a pay increase. Public safety employees' performance must exceed the minimum performance standards to qualify for a performance pay increase. Effective August 1, 1990 employees who enlist, or are inducted into military service, or who are members of a reserve component of the armed forces of the United States who are ordered to active duty and return to County employment; upon their release from active duty and whose service is other than dishonorable shall be deemed to have satisfied this requirement for the period they are on active duty. The total length of active military service may not exceed five years, unless the period beyond five years, up to one additional year, is at the request and for the convenience of the federal government.

b. A performance review period is 12 months. The only exception is for public safety employees who serve 2 years in step 8 before being eligible to move to step 9.

Notwithstanding the merit review periods listed above, effective July 13, 1991, the beginning of the first full pay period in FY 1992, all employees who have merit increment dates shall have their merit increment date extended by one year.

Thus, for example, an employee who had a merit increment date of the first day of payroll number 15 in 1991, which falls on July 13, 1991, would have a new increment date of the first day of payroll number 15 in 1992. An employee who had a merit increment date of the first day of payroll number 15 in 1992, which falls on July 11, 1992, would have a new merit increment date of the first day of payroll number 15 in 1993, which falls on July 10, 1993. An employee who had a merit increment date of the first day of payroll number 15 in 1993, which falls on July 10, 1993, would have a new merit increment date of the first day of payroll number 15 in 1994, which falls on July 9, 1994.

Notwithstanding the merit review periods listed above, effective July 11, 1992, the beginning of the first full pay period in FY 1993, all employees who have merit increment dates shall have their merit increment date extended by one year. Thus, for example, an employee who had a merit increment date of the first day of payroll number 15 in 1992 which falls on July 11, 1992, would have a new merit increment date of the first day of payroll number 15 in 1993, which falls on July 10, 1993. An employee who had a merit increment date of the first day of payroll number 15 in 1993 which falls on July 10, 1993, would have a new merit increment date of the first day of payroll number 15 in 1994 which falls on July 9, 1994. An employee who had a merit increment date of the first day of payroll number 15 in 1994, which falls on July 9, 1994, would have a new merit increment date of the first day of payroll number 15 in 1995 which falls on July 8, 1995.

-3 Each employee shall have a performance pay increase date established when he/she is initially appointed to a merit position. The performance pay increase date corresponds to the beginning of a pay period. Partial pay periods do not count towards the performance pay increase date. Performance pay increase dates consist of the payroll number and year the increase is effective.

-4 Creditable service in the completion of performance review periods includes:

a. Continuous employment in the competitive service not including overtime.

b. Period of involuntary separation initiated by the department head followed by reinstatement after appeal by the Civil Service Commission under the grievance procedure, for which the Commission determines that the

employee is entitled to back pay. In the event that the period that the Commission determines that the employee is entitled to back pay is less than the entire period of separation, the employee's performance pay increase date shall be adjusted accordingly.

c. Honorable service with the armed forces by employees who enlist or are inducted into military service or who are members of a reserve component of the United States who are ordered to active duty and who return to County employment upon their release from active duty. The total length of active military service, which can be credited, may not exceed four years, unless the period beyond four years, up to one additional year, is at the request and for the convenience of the Federal Government.

4.4 *Outstanding Performance Award*

-1 An employee who has completed their initial probationary period and performs the duties and responsibilities of his/her position in an outstanding manner and whose work generally is well above expectations shall be eligible to be considered for an outstanding performance award.

-2 An outstanding performance award may be recommended by a department head or designee. Such outstanding performance award recommendation shall be in writing, shall state the reason for such recommendation and shall be submitted through the Deputy County Executive to the Human Resources Director, as appropriate, for implementation.

-3 Outstanding performance awards may be granted in any dollar amount not to exceed $1,000 the amount authorized by the Board of Supervisors.

4.5 *Longevity Pay Increment for Public Safety Employees*

Public Safety employees shall receive a longevity increment increase after 15 years of service and reaching top step in grade. A second longevity increase is awarded after 20 years of service.

4.6 *Within-Grade Adjustment*

When in the opinion of the County Executive, it is in the best interest of the County to do so, he/she may authorize a salary adjustment to encourage retention of highly qualified County employees and address pay inequities not to exceed the maximum rate of pay assigned to the employee's class. The employee's performance pay increase date shall not change.

4.7 *Pay Rate in Promotion, Demotion, Reallocation of Position or Transfer - Except Public Safety Employees*

If an employee other than a public safety employee is promoted, demoted, appointed to a reallocated position or transferred, his/her rate of pay for the new position shall be determined as follows:

-1 When a position is filled by promotion, the appointee shall receive a salary increase equal to 10% for one and two-grade promotions and 15% for promotions of three or more grades not to exceed the maximum rate of pay assigned to the new job class or the minimum rate of pay for the new job class whichever is greater. In addition, the appointee will receive a pro-rated pay adjustment for time served in the current review period. Such pay adjustment will be determined using the average pay for performance percentage increased included in the adopted budget for that fiscal year. That percentage increase will then be pro-rated based on the number of pay periods the employee served prior to promotion. In all promotions, the appointee shall receive a new performance pay increase date, which shall be calculated from the payroll number and year of his/her promotion.

-2 With the exception of disciplinary demotions or demotions during a promotional probationary period, when an employee is demoted, he/she shall be placed at the same salary in the new pay grade. If the employee's salary is greater than the maximum salary of the new pay grade he/she shall be placed at the maximum salary for the new pay grade. The performance pay increase date shall not change.

When an employee is promoted or reinstated to his or her former job class within a year from the date of demotion, he or she shall remain at the same salary or be placed at the salary he or she was receiving prior to the demotion, whichever is greater and the performance pay increase date shall not change.

-3 When an employee is demoted for disciplinary reasons he or she shall be placed at the salary in the new grade that is 5% less than his/her current salary not to exceed the maximum salary for the pay grade. The performance pay increase date shall not change.

-4 When an employee is demoted during a promotional probationary period, the employee's former rate of pay shall be reinstated in the new lower pay grade, not to exceed the maximum salary for the pay grade. If the pre-promotion performance pay increase (PPI) falls between the date of the promotion and the date of the subsequent demotion, the promotion date shall be retained as the PPI date; otherwise the pre-promotion PPI date shall be reinstated.

-5 When an employee is transferred from a position of one class to a position of another class at the same level, he/she shall continue to be paid at the same rate of pay.

-6 Upon upward reclassification of a position, the incumbent shall receive a pay increase equal to 5% of the midpoint of the salary range for the new, higher pay job class or move to the minimum of the new range, which ever is greater not to exceed the maximum rate of pay for the new pay grade. The performance pay increase date shall not change.

-7 Upon review of a job class to determine if a regrade is warranted, the incumbents in the job class may be entitled to a pay adjustment regardless of whether the job class is regraded or not. The determination of pay increase eligibility and the amount of such pay increase will be made in accordance with procedures approved by the County Executive and the Board of Supervisors. In no case shall the employee's salary be less than the minimum or greater than the maximum for the new pay range.

4.8 *Pay Rate in Promotion, Demotion, Reallocation of Position or Transfer - Public Safety Employees*

If a public safety employee is promoted, demoted, appointed to a reallocated position or transferred, his/her rate of pay for the new position shall be determined as follows:

-1 When a position is filled by promotion, except as noted elsewhere in this chapter, the appointee shall receive the greater amount of the minimum rate for the class of the new position or an amount in excess of one normal within grade increase in the pay grade of the class of the position held prior to promotion. Such increase shall not be less than 6%. The appointee shall receive a new performance pay increase date, which shall be calculated from the payroll number and year of his/her promotion.

-2 When an employee is demoted, he/she shall be placed in the pay step in the new pay grade, which represents the closest dollar amount that is less than the former pay. The performance pay increase date shall not change.

When an employee is promoted or reinstated to his or her former job class within a year from the date of demotion, he or she shall remain at the same salary or be placed at the salary he or she was receiving prior to the demotion, whichever is greater and the performance pay increase date shall not change.

-3 When an employee is demoted to his or her former job class during a promotional probationary period, the employee's former grade and step shall be reinstated. When an employee is demoted to a job class other than that in which he/she was serving at the time of promotion, he/she shall be placed at the step in the lower grade that is closest to, but not less than the employee was making prior to promotion. If the employee's pre-promotion performance pay increase (PPI) date falls between the date of promotion and the date of the subsequent demotion, the promotion date will be retained as the PPI date; otherwise the pre-promotion PPI date shall be reinstated.

-4 When an employee is transferred from a position of one class to a position of another class at the same level, he/she shall continue to be paid at the same rate of pay.

-5 Upon upward reclassification/reallocation of a position, the incumbent shall receive the greater amount of either the minimum rate for the new grade or the next higher dollar rate in the new pay grade as compared to the dollar rate in the lower grade except in the following instances:

a. Employees who have served one year or more in a two year review period and who upon reclassification/reallocation, move to a step with a one year review period, shall receive an additional step upon reclassification/ reallocation to the new grade. The employee shall receive a new performance pay increase date, which shall be calculated from the payroll number and year of the reclassification/reallocation using the performance review period for the new step.

b. Except as noted above, the performance pay increase date shall not change unless the reclassification/reallocation moves the employee to a step with a shorter review period. In such cases, the year of the performance pay increase date is reduced if the time between the effective date of the reclassification/reallocation action and the employee's performance pay increase date is more than one year.

4.9 *Pay Rate in Promotion, Demotion, Reallocation of Position or Transfer - Police Officers and Deputy Sheriffs*

-1 A Police Officer I promoted to Police Officer II or a Deputy Sheriff I promoted to Deputy Sheriff II shall receive an increase in pay not to exceed one within grade increase and the performance pay increase date will not change.

-2 A Police Officer II or Deputy Sheriff II who is receiving a proficiency pay adjustment and is promoted to Police Sergeant or Deputy Sheriff Sergeant respectively, shall receive an increase in pay not to exceed one within grade increase and the performance pay increase date will not change.

-3 In all other cases, the normal rules affecting promotion, demotion, reallocation of positions, and transfer for public safety employees shall apply.

4.10 *Allowances Granted Police Officers*

-1 Police Officers required to wear civilian clothes while on duty shall be granted a clothing allowance while such assignment lasts.

-2 A Police Officer II who has a minimum of five (5) years of service as a sworn officer with Fairfax County and who is certified by the Chief of Police or designee

as demonstrating exemplary expertise in an authorized Police Officer II specialty, may be eligible to receive a police proficiency pay adjustment and assume the work title of "Master Police Officer".

a. A Police Officer II who is eligible for a police proficiency pay adjustment shall be reassigned to pay grade O-19 and shall receive an increase in pay not to exceed one within grade increase, and the performance pay increase date will not change.

b. The number of Police Officers receiving a proficiency pay adjustment shall at no time be greater than one-third of the total number of authorized and established Police Officer II positions.

4.11 *Allowances Granted Deputy Sheriffs*

-1 A Deputy Sheriff II who has a minimum of five (5) years of service as a sworn Deputy Sheriff with Fairfax County and who is certified by the Sheriff or designee as demonstrating exemplary expertise in an authorized Deputy Sheriff position, may be eligible to receive a proficiency pay adjustment and assume the work title of "Master Deputy Sheriff".

a. A Deputy Sheriff who is eligible for a proficiency pay adjustment shall be reassigned to pay grade C-19 and shall receive an increase in pay not to exceed one within grade increase and the performance pay increase date will not change.

b. The number of Deputy Sheriff II's receiving a proficiency pay adjustment shall at no time be greater than one-third of the total number of authorized and established Deputy Sheriff II positions.

4.12 *Allowances Granted Uniformed Fire Employees*

-1 A Fire Technician who has a minimum of five (5) years of service as a uniformed Fire employee with Fairfax County, and who is certified by the Chief of Fire and Rescue or designee as demonstrating exemplary expertise in an authorized Fire Technician specialty, may be eligible to receive a fire proficiency pay adjustment and assume the work title of "Master Firefighter."

a. A Fire Technician who is eligible for a fire proficiency pay adjustment shall be reassigned to pay grade F-20 and shall receive an increase in pay not to exceed one within grade increase, and the performance pay increase date will not change.

b. The number of Fire Technicians receiving a fire proficiency pay adjustment shall at no time be greater than one-third of the total number of authorized and established Fire Technician positions.

4.13 *Allowances Granted Animal Control Officers*

-1 An Animal Control Officer II who has a minimum of five (5) years of service as an Animal Control Officer with Fairfax County and who is certified by the Chief of Police or designee as demonstrating exemplary expertise in an authorized Animal Control Officer specialty, may be eligible to receive a proficiency pay adjustment and assume the work title of "Master Animal Control Officer."

a. An Animal Control Officer II who is eligible for a proficiency pay adjustment shall be reassigned to pay grade P-21 and shall receive an increase in pay not to exceed one within grade increase, and the performance pay increase date will not change.

b. The number of Animal Control Officer II's receiving a proficiency pay adjustment shall at no time be greater than one-third of the total number of authorized and established Animal Control Officer II positions.

4.14 *Hours of Work*

-1 The regular work period for all full-time County employees, excluding law enforcement and fire protection personnel, shall be 40 hours worked or on paid leave (excluding meal periods) within a seven consecutive calendar day period beginning and ending as defined in Chapter 2. The schedule of hours for the workweek shall be determined by the department head or designee.

-2 The regular work period for fire protection personnel shall be 28 consecutive calendar days, beginning and ending as defined in Chapter 2. The number of hours worked during the 28-day work period may vary depending on shift schedules and department needs.

-3 The regular work period for law enforcement personnel shall be 14 consecutive calendar days, beginning and ending as defined in Chapter 2. The number of hours worked during the 14-day work period may vary depending on shift schedules and department needs.

-4 The County Executive may authorize the inclusion of the meal period as actual work for shift positions.

-5 All employees in the Merit System shall be entitled to a 15 minute rest period for each four hours of assigned work, during a duty day, as scheduled by the department head or designee. Whenever possible, the rest period shall be scheduled at the middle of each such four-hour period of work.

-6 Shift Differential Premium Pay shall be authorized for all merit employees who are scheduled to work on fixed and/or rotating shifts that start at or after 1:00 P.M. wherein the hours scheduled on a shift after 4:00 P.M. are greater than the hours scheduled prior to 4:00 P.M., excluding employees who work flex-time schedules.

If an employee whose regular shift schedule qualifies him/her for shift differential premium pay, reports to work prior to the start of their regular shift hours, he/she remains eligible for shift differential premium pay for all hours worked after 1:00 P.M. regardless of the time he/she actually begins working on that day. The hours worked before the beginning of the regular shift schedule are not eligible for shift differential.

-7 The Evening Shift shall encompass all shift schedules, which begin between the hours of 1:00 P.M. and 7:59 P.M. The premium pay rate established for the Evening Shift shall apply for all regularly scheduled hours actually worked between 1:00 P.M. and 7:59 P.M.

-8 The Night Shift shall encompass all shift schedules, which begin at 8:00 P.M. and thereafter. The premium pay rate established for the Night Shift shall apply for all regularly scheduled hours actually worked between 8:00 P.M. and 6:59 A.M.

-9 Employees assigned to 24-Hour Shift Schedules shall be paid Shift Differential Premium Pay for all regularly scheduled hours actually worked between the hours of 4:00 P.M. and 7:00 A.M. and in accordance with established payroll procedures.

4.15 *Overtime, Compensatory Time, Call-Back Time, Consecutive Shift Time*

-1 Overtime.

FLSA overtime shall include all hours worked or on paid leave by an FLSA eligible employee (other than law enforcement and fire protection personnel) in excess of 40 hours in a work week.

Overtime for FLSA eligible law enforcement personnel (excluding sworn Police Officers, Animal Control Officers, and Deputy Sheriffs scheduled to work a 40 hour week) shall include all hours worked or on paid leave in excess of 86 hours in a 14-day work period. Overtime for FLSA eligible law enforcement personnel in the Police Department and Deputy Sheriffs scheduled to work a 40 hour week shall include all hours worked or on paid leave in excess of 82 hours in a 14-day work period. Overtime for FLSA eligible fire protection personnel shall include all hours worked or on paid leave in excess of 212 hours in a 28-day work period. Non-FLSA overtime includes hours worked in excess of the employee's scheduled hours but less than the eligibility requirement for FLSA overtime. Overtime shall be kept to a minimum and shall be used to relieve occasional excessive workloads or emergencies, and not to provide for constant recurring requirements. Overtime may be mandated when related to the health, welfare or safety of either the public or employees. Except in emergency situations, all overtime worked by an employee shall be approved ~~authorized in advance and approved in writing~~ by the employee's supervisor or designee, verbally or in writing prior to the overtime being worked. Employees shall not work in excess of authorized scheduled hours without express approval of the supervisor. ~~In event of emergency situations, the written approval shall be documented not later than the following workday.~~

-2 Eligibility.

Employees shall earn compensatory time or be paid for overtime hours actually worked in accordance with the following provisions:

a. FLSA eligible employees excluding law enforcement and fire protection personnel as defined in Chapter 2:

(1) shall be compensated at one and one-half times their regular rate of pay for all eligible hours worked or on paid leave in excess of 40 hours during the designated seven consecutive day work period. If requested by the employee and approved by the department head or designee, compensatory time at the rate of time and a half may be awarded in lieu of overtime pay. If the employee's compensatory leave balance is 240 hours or greater, overtime pay at one and one-half times the regular rate of pay must be awarded.

(2) shall earn straight compensatory time or be paid overtime at their hourly rate of pay, at the employee's discretion, for hours worked in excess of their scheduled hours wherein the time actually worked is less than forty hours in a seven day work period. If the employee's compensatory time leave balance is 240 hours or greater, overtime pay at the hourly rate of pay must be awarded.

b. Straight pay eligible employees shall, at the discretion of the department head or designee, earn straight compensatory time or be compensated at their hourly rate of pay for all time worked in excess of their scheduled work hours.

c. Compensatory time eligible employees shall earn straight compensatory time for time worked in excess of their scheduled work hours.

d. FLSA eligible fire protection personnel:

(1) shall be compensated at one and one-half times their regular rate of pay for all eligible hours worked or on paid leave in excess of 212 hours during the 28 consecutive day work period. If requested by the employee and approved by department head or designee, compensatory time at the rate of time and a half may be awarded in lieu of overtime pay. If the employee's compensatory leave balance is 336 hours or greater, overtime pay at one and one-half times the regular rate of pay must be awarded.

(2) shall earn straight compensatory time or be paid overtime at their hourly rate of pay, at the employee's discretion, for hours worked in excess of their scheduled hours wherein the hours actually worked

are less than 212 hours in a 28 day work period. If the employee's compensatory leave balance is 336 hours or greater, overtime pay at the hourly rate of pay must be awarded.

All other Fire and Rescue Department employees shall be treated as described in Section 4.15 - 2a, b, or c.

e. FLSA eligible law enforcement personnel:

(1) shall be compensated at one and one-half times their regular rate of pay for all hours worked or on paid leave in excess of 86 hours (82 hours for sworn Police Officers and Deputy Sheriffs scheduled to work a 40 hour week) during the 14 consecutive day work period. If requested by the employee and approved by the department head or designee, compensatory time at the rate of time and a half may be awarded in lieu of overtime pay. If the employee's compensatory leave balance is 240 hours or greater, overtime pay at one and one-half times the regular rate of pay must be awarded.

(2) shall earn straight compensatory time or be paid overtime at their hourly rate of pay, at the employee's discretion, for hours worked in excess of their scheduled hours wherein the hours actually worked are less than 86 hours (82 hours for sworn Police Officers and Deputy Sheriffs scheduled to work a 40 hour week) in a 14 day work period. If the employee's compensatory leave balance is 240 hours or greater, overtime pay at the hourly rate of pay must be awarded.

(3) shall be compensated at one and one-half times their hourly rate of pay for actual court time worked when such court time falls on the employee’s scheduled day off or begins more than two hours prior to the employee’s scheduled shift, regardless of the number of hours worked in a given work period.

All other public safety employees shall be treated as described in Section 4.15 - 2a, b, or c.

-3 Holiday/Emergency Administrative Leave.

Pro-rata adjustments shall be made for the holiday usage rate for shift schedules other than 40 hours per week to ensure compliance with the provisions of Chapter 10.

a. Part-time merit employees shall be granted holiday time off with pay on a pro-rated basis regardless of the number of hours scheduled on the day on which a holiday falls computed at the rate of one-tenth of an hour times the employees bi-weekly scheduled hours.

b. When an employee is required to work due to an emergency, staff shortage or hours worked that are a part of the regular work week on a holiday (actual or observed), the employee shall be compensated for the hours actually worked at the employee's hourly rate of pay or in accordance with the rules governing overtime, if applicable.

To receive holiday compensation on an actual holiday, an employee must be directed by his/her supervisor to work due to staff shortage or other operational necessity.

In addition, employees shall receive holiday compensation as follows:

(1) FLSA eligible employees shall, at the employee's discretion, be granted holiday compensatory time or be paid holiday pay not exceeding the employee's regularly scheduled hours or one half of the employee's regularly scheduled hours for a half-day holiday. If the employee's compensatory leave balance is 240 hours or greater, holiday pay at the employee's hourly rate must be granted.

(2) Straight pay eligible employees shall, at the discretion of the department head or designee, be granted holiday compensatory time or be paid holiday pay not exceeding the employee's regularly scheduled hours or one half of the employee's regularly scheduled hours for a half-day holiday) at the employee's hourly rate of pay.

(3) Compensatory time eligible employees shall be granted holiday compensatory time not exceeding the employee's regularly scheduled hours or one half of the employee's regularly scheduled hours for a half-day holiday) at the employee's hourly rate of pay.

c. When a holiday falls on an employee's scheduled day off, the employee shall be compensated as follows:

(1) FLSA eligible employees shall, at the employee's discretion, be granted holiday compensatory time or be paid holiday pay not exceeding eight hours (4 hours for a half-day holiday) at the employee's hourly rate of pay. If an employee's compensatory leave balance is 240 hours or greater, holiday pay at the employee's hourly rate must be granted.

(2) Straight pay eligible employees shall at the discretion of the department head or designee, be granted holiday compensatory time or be paid holiday pay not exceeding eight hours (4 hours for a half-day holiday) at the employee's hourly rate of pay.

(3) Compensatory time eligible employees shall be granted holiday compensatory time not exceeding eight hours (4 hours for a half-day holiday).

d. When a holiday falls on an employee's scheduled work day and the employee does not work, the employee shall receive holiday pay at the employee's hourly rate of pay. Full-time merit employees (other than Fire and Rescue Department employees on the 24-hour shift schedule) who are scheduled to work more than 8 hours due to departmental operational needs (this does not include employees who elect to work a compressed work week or flex schedule), shall be granted holiday time off with pay up to the regularly scheduled hours for a full holiday (or one-half of the regularly scheduled hours for a half holiday).

e. In the event of extreme inclement weather or other emergency, wherein the general County government is closed by the County Executive and all employees are granted Emergency Administrative Leave, those employees required to perform emergency services shall be compensated for the hours actually worked at the employee's hourly rate of pay or in accordance with the rules governing overtime. In addition, the employee shall be compensated as follows:

(1) FLSA eligible employees shall at the employee's discretion, be granted compensatory time or be paid at the employee's hourly rate of pay for the number of hours that coincide with the employee's work schedule for the day itself not to exceed the maximum amount granted by the County Executive. If the employee's compensatory leave balance is 240 hours (336 hours for fire protection personnel) or greater, the employee must be paid for these hours.

(2) Straight pay eligible employees shall, at the discretion of the department head or designee, be granted compensatory time or be paid at the employee's hourly rate of pay for the number of hours that coincide with the employee's work schedule for the day itself not to exceed the maximum amount granted by the County Executive.

(3) Compensatory time eligible employees shall be granted compensatory time for the number of hours that coincide with the employee's work schedule for the day itself not to exceed the maximum amount granted by the County Executive.

-4 Compensatory Time.

Compensatory time shall be earned and credited to an employee's records on the basis of actual hours worked in excess of the employee's scheduled hours. FLSA eligible employees who earn compensatory time for FLSA overtime hours worked

(as defined 4.15 – 2 a(l), d(l), and e(l) shall accrue 1 1/2 hours of compensatory time for each overtime hour worked.

All other compensatory time shall be accrued on an hour for hour basis. Compensatory time off for overtime worked shall be granted upon request of the employee, when approved by the department head or designee.

a. In the event that an employee is granted compensatory time off in excess of the employee's accrued balance, the excess shall be charged against the employee's annual leave balance.

b. Compensatory time not to exceed 240 hours may be carried forward from one calendar ~~leave~~ year to the next calendar ~~leave~~ year.

c. County employees shall be awarded a terminal leave payment for any accrued compensatory time not to exceed a maximum of 240 hours (336 hours for fire protection personnel). This will be paid at the employee's current hourly rate of pay at the time of termination with the exception that FLSA eligible employees will be paid at the current regular rate or at the average regular rate for the last 3 years, whichever is greater.

d. Notwithstanding the provisions of this section or any other provision of these personnel regulations or of the procedural directives governing the exempt service, effective July 1, 1998, senior managers shall not be eligible to earn or accrue compensatory leave. For purposes of this section, "senior managers" are noted in a procedural memorandum issued by the Human Resources Director.
~~means Deputy County Executives; Assistants to the County Executive; the Chief, Fire and Rescue Department; the Chief, Police Department; the County Attorney; the Commonwealth's Attorney; the Sheriff; the Clerk to the Board of Supervisors; the Financial and Programs Auditor; General Registrar; PSTOC, General Manager; the heads of the following departments, agencies and offices: Administration for Human Services, Community and Recreation Services, Community Revitalization and Reinvestment, Court Services, Office of Emergency Management, Equity Programs , Facilities Management, Family Services, Finance, Health, Housing and Community Development, Human Resources, Information Technology, Internal Audit, Libraries, Management and Budget, Park Authority, Planning and Zoning, Program Partnerships, Public Affairs, Public Safety Communications, Public Works and Environmental Services, Purchasing and Supply Management, Systems Management for Human Services, Tax Administration, Cable Communications and Consumer Protection, Transportation, Vehicle Services and Office for Women; and the Executive Directors of the following boards, commissions, and other entities: Civil Service Commission, Economic Development Authority, Human Rights Commission, McLean Community Center, Mental Health, Mental Retardation, Alcohol and Drug Services Board of Fairfax-Falls~~

~~Church, Planning Commission, Reston Community Center, and Retirement Administration Agency. Senior~~
Senior managers shall be credited with the amount of unused compensatory leave accrued as of July 1, 1998. Subject to the provisions of these regulations and any other applicable procedural directive, they may take such compensatory leave after July 1, 1998 until such leave balances are exhausted. Senior managers may carry over no more than 240 hours of previously accrued and unused compensatory leave into the 1999 calendar year. Upon separation, senior managers shall be granted a terminal leave payment for any such accrued and unused compensatory leave paid at the senior manager's current rate of pay, on an hourly basis, at the time of separation not to exceed a maximum of 240 hours.

-5 Call-Back Time.

Call-back time refers to situations wherein an employee is off duty and is called to return to work after departing from the work place. It does not apply to those incidents where an employee is at work or has not departed from the work site and the work period is extended.

Employees called back to work shall be credited with a minimum of four hours overtime in each separate instance, excluding travel time, regardless of the hours actually worked.

(a) FLSA eligible employees shall, at the employee's discretion, be granted compensatory time (at the time and one-half rate) or be paid at one and one-half times their hourly rate of pay for call-back hours. If the employee's compensatory leave balance is 240 hours or greater, the employee must be paid.

(b) Straight pay eligible employees shall, at department head's or designee's discretion, earn straight compensatory time or be compensated at their hourly rate of pay for all call-back time.

(c) Compensatory time eligible employees on all pay scales shall earn straight compensatory time for all call-back time.

-6 Consecutive Shift Time.

Consecutive Shift time refers to situations wherein an employee has completed a full eight or more hour shift and is required to remain on duty a second consecutive shift to perform essential services during an emergency situation or to meet minimum State certification standards in the Department of Public Works and Environmental Services.

Employees required to perform 2nd consecutive shifts shall be compensated as follows:

(a) FLSA eligible employees shall, at the employee's discretion, be granted compensatory time (at the time and one-half rate) or be paid at one and one-half times their hourly rate of pay for consecutive shift hours. If the employee's compensatory leave balance is 240 hours or greater, the employee must be paid.

(b) Straight pay eligible employees shall, at the department head's or designee's discretion, earn straight compensatory time or be compensated at their hourly rate of pay for all consecutive shift time.

(c) Compensatory time eligible employees shall earn straight compensatory time for all consecutive shift time.

4.16 *Outside Employment and Conflict of Interest*

-1 Employees in the competitive service shall not engage in any employment, activity or enterprise which has been or may be determined to be inconsistent, incompatible, or in conflict with duties, functions, or responsibilities of their County employment.

-2 No employee in the competitive service shall hold any other position in any other governmental jurisdiction or in private employment, when such other position may have the effect of reducing the efficiency of such employee in the competitive service.

-3 Employees in the competitive service who desire to accept outside employment in addition to their regular County positions shall inform their respective department head or designee of the nature and extent of such outside employment. The department head or designee shall thereupon determine whether or not the holding of such employment conflicts with the duties and responsibilities of said employee to the County.

-4 Violation of the rules on outside employment and conflict of interest may be grounds for dismissal.

4.17 *Application of Pay Policies to Deferred Retirement Option Plan (DROP) Participants*

Notwithstanding any provision of this chapter to the contrary, employees who are participating in the Deferred Retirement Option Plan (DROP) are considered as merit employees and the pay provisions included in this chapter continue to apply during their DROP participation.

CHAPTER 5

Recruitment and Examination

5.1 *Overview of the Process*

-1 By law, appointments to positions in the competitive service of Fairfax County must be "on a competitive basis, free of discrimination on the basis of race, color, national origin, religion, sex, age, political affiliation, ~~or handicap~~disability or genetic information" (Sec. 3-1-1a (3) Fairfax County Code as Amended) and "on the basis of ability, training and experience of the appointees which fit them for the work which they are to perform" (Sec. 15.2-807, Code of Virginia, Annotated).

-2 To accomplish this end:

a. Positions in the competitive service are advertised periodically in a manner designed to reach a broad sector of qualified potential applicants. Resumes are accepted for an individual position or specified group of positions.

b. In the case of positions for which vacancies occur with some frequency or periodically in large numbers, resumes may be accepted at intervals for specific classes rather than for specific positions and qualified applicants may be placed on eligibility lists and certified from such lists for consideration by department heads or deputies as vacancies occur;

c. Applicants are screened through a variety of processes which may include written, oral, and performance testing, and evaluation of education and experience. The best qualified are certified for only those positions advertised.

d. Applicants are selected from certification lists for further screening, which usually includes either a personal or panel interview.

e. Successful applicants are appointed and serve a one-year probation period.

-3 When an adequate number of well qualified potential applicants for a position exist within the competitive service, competition may be restricted to County employees unless doing so would create or perpetuate a serious imbalance of the work force in terms of race or sex, in which case the position will be advertised for open competition. However, when there are an adequate number of well qualified applicants for a particular position in an agency, the Human Resources Director may restrict admission to the examination for that position to current employees of the department.

-4 The Human Resources Director is responsible for all aspects of the recruitment and certification process, except those aspects delegated by him/her to department heads as authorized in these regulations; and for ensuring that all appointments to positions in the competitive service comply with the Merit System Ordinance and these regulations. Periodically, the Human Resources Director will offer training on laws, regulations and techniques pertinent to interviewing potential employees.

-5 Any applicant who believes that his/her failure to receive an appointment was the result of illegal discrimination as defined in the Merit System Ordinance has certain appeal rights defined herein.

5.2 *Announcement of Vacancies*

-1 In the interest of minimizing delay in filling vacancies, department heads or designee should inform the Human Resources Director of actual or impending vacancies as soon as this information becomes available.

a. This is accomplished by submission of an on-line personnel requisition including a job description, and a list of any special or preferred qualifications desired.

b. A vacancy may be advertised and applicants certified before the vacancy occurs, but no appointment may become effective more than three pay periods before the position is vacant unless dual encumbrance has been authorized by the County Executive or his/her designee.

-2 The announcement period for job vacancies shall be at least two weeks unless otherwise authorized by the Human Resources Director.

a. If, in the opinion of the Human Resources Director, there is an adequate pool of potential applicants and there is an urgent need to fill the position the announcement period may be reduced to one week but in no case shall the announcement period be less than five business days.

b. Except for public safety uniformed jobs the Human Resources Director may accept resumes after the closing date if the eligibility or certification list for a position has not been issued.

c. Positions for which a continuing need for applicants exists or for which recruitment is particularly difficult may be announced with an open or indefinite closing date, and applicants may be placed on an eligibility list or certified at any time after the announcement has been open for five business days.

-3 Each announcement of a vacancy shall include information on the position (e.g., number of vacancies, title, salary, duties, minimum and preferred qualifications,

screening process, closing date) so applicants have sufficient information to be able to consider whether to apply for the position.

-4 Job announcements shall be available at the Department of Human Resources, all County Governmental Centers, all Fairfax County Public Libraries, and such other locations as the Human Resources Director may direct. Vacancies also may be announced in news media of general and special circulation, to include the internet, which are likely to reach a large and varied population.

5.3 *Evaluation of Applicants*

-1 The Human Resources Director or his/her designee may investigate any applicant's statements regarding their qualifications and experience to ensure their accuracy and completeness.

-2 The content of all evaluations, including interviews, shall be based on bona fide occupational qualifications pertinent to the duties to be performed. Department heads or deputies shall ensure that all interviewers are aware of legal restrictions on the types of questions, which may be asked of applicants.

-3 The Human Resources Director may delegate some or all of the actions described in this section to department heads.

5.4 *Disqualification of Applicants*

-1 In addition to failure to meet basic qualifications, a finding of any of the following facts may be cause for rejection of an applicant.

a. The applicant has falsely stated any material fact or has attempted to practice deception or fraud in his/her resume/application.

b. The applicant has any disqualifying condition (mental or physical); although the mere finding of such shall not be disqualifying if reasonable accommodation can be made.

c. The applicant currently is a substance abuser, except that a history of substance abuse shall not in itself disqualify a person in recovery.

d. The applicant has been found guilty of a felony, misdemeanor, or crime involving moral turpitude, or has committed disgraceful conduct, such as to render him/her presently unfit, in the judgment of the Human Resources Director, for a position in the class for which he/she is applying or for County service.

e. The applicant has a recent record of previous unsatisfactory service in County employment or elsewhere of such a nature as to demonstrate

unsuitability for employment in a position of the class for which he/she is applying.

f. The applicant has used or attempted to use, prior to, during or subsequent to the examination, fraud or pressure of any kind for the purpose of bettering his/her grade on the examination or to obtain certification to any position.

g. The applicant has received a dishonorable discharge from the Armed Forces resulting from conviction by a general court martial for an offense which renders him/her presently unfit, in the judgment of the Human Resources Director, for a position in the class for which he/she is applying or the County service.

h. The applicant has received a bad conduct discharge from the Armed Forces resulting from conviction by a special court martial for an offense which renders him/her presently unfit, in the judgment of the Human Resources Director, for a position in the class for which he/she is applying or for County service.

-2 When such finding is made, the Human Resources Director may reject the application and may cancel the eligibility of the applicant if he/she already has been certified or has attained a place on an eligible list. In the event the applicant has already received an appointment, the Human Resources Director may take appropriate action to remove him/her from the County service. The applicant shall be informed in writing of the action taken under this provision and of the reason therefore, and shall be advised of the method of appeal outlined in the following subsection.

-3 Any person whose resume is rejected by order of the Human Resources Director, whose eligibility is canceled or who is removed from any position under the provisions of this rule may make a written request to the Human Resources Director for reconsideration, giving his/her reasons therefore, within fifteen business days of the date on which he/she received notice of this action. The decision of the Human Resources Director is final, except that an employee in the competitive service who is dismissed in accordance with this section after having completed his/her initial probationary period may grieve his/her dismissal under the provisions of Chapter 17.

5.5 *Investigations and Fingerprinting*

-1 Department heads or their designees are responsible for verifying references and claimed veteran status of prospective appointees.

-2 Investigations of the backgrounds of candidates for public safety positions will be conducted by the various public safety agencies. The backgrounds of candidates for other sensitive positions may be investigated at the request of a department head or designee with the concurrence of the Human Resources Director.

-3 Selected candidates receiving a conditional offer of employment in a ~~Prospective appointees to~~ sensitive position ~~s involving a high degree of trust~~ will be fingerprinted and the prints forwarded to the Federal Bureau of Investigation for checking against its records. Any such candidate who refuses to be fingerprinted shall be disqualified. Candidates with a conviction or convictions on their record that are incompatible with the nature of employment in the sensitive position may be denied employment and the conditional offer of employment rescinded.

-4 All appointees will be required to present evidence of United States citizenship or, in the case of non-citizens, evidence of eligibility to work in the United States as required by law. All appointees who have claimed veteran status will be required to present evidence of the status claimed.

5.6 *Medical Examinations*

-1 The Human Resources Director shall designate classes for which a pre-employment medical examination shall be required.

-2 Candidates who fail such examinations shall be disqualified, but such failure shall not disqualify any individual from consideration for a position for which the physical qualification he/she failed to meet does not apply.

5.7 *Security and Retention of Resumes and Related Records*

-1 Resumes of successful candidates will be retained in their central personnel files. Copies may be retained by departments.

-2 Resumes of unsuccessful candidates and related records shall be retained for at least five years.

-3 Retention of records may be in paper, photographic or electronic form.

5.8 *Promotional Public Safety/Uniformed Employee Examinations*

-1 Qualifying Scores

a. In establishing qualifying scores, the Human Resources Director or his/her designee may consider the following factors: projected staffing needs, minimum standards of job performance, distribution of candidates' raw scores in a particular examination, standard deviation of test scores, test reliability, adverse impact and standard error of measurement.

b. When an exam consists of several components, such as written, performance and physical portions, a candidate may be required to attain a qualifying score in each portion of the exam.

-2 Method of Breaking Ties

a. If two or more candidates attain the same final score, the tie shall be resolved in favor of the applicant who receives the highest score in the most heavily weighted portion of the examination. If a tie still exists, scores on the remaining portions of the examination will be considered in order of their relative weight. If a tie still exists, the tie shall be resolved in favor of the applicant, who is a veteran, if it is an initial hire opportunity for the veteran. If the tie is between an applicant who is a veteran and an applicant who is a veteran with a service-connected disability rating, the tie will be resolved in favor of the latter applicant if it is an initial hire opportunity for the veteran with a service-connected disability rating.

b. For promotional examinations for uniformed public safety job classes, if the tie extends beyond the procedure noted above, the tie shall be resolved in favor of the employee having the longest period of continuous service in the class series, beginning with date of appointment to the public safety class series (police, fire, sheriff).

-3 Notice of Examination Results for Public Safety Examinations

If an examination was conducted for the purpose of establishing a continuing eligibility list, all successful candidates will be advised of the results as soon as practicable after establishment of the list. Such notice shall include the following information:

a. The position class,

b. The length of time the list will be maintained,

c. The number of persons on the list, except in the case of open announcements where the individual's position on the list may change from time to time as other applicants are found eligible, and

d. The individual's position on the list as determined by applicable sections of Chapter 6 of these Regulations, except in the case of open announcements where the individual's position on the list may change from time to time as other applicants are found eligible.

-4 Examination Reevaluations

a. For written multiple choice exams that test the candidate’s technical knowledge (such as departmental operating manuals, standard operating procedures, etc.), candidates may request a reevaluation of their examination papers with a view towards obtaining a higher score providing such request

is made to the Human Resources Director within 15 business days following written notification of the examination results. Other types of written exams (including but not limited to situational judgment tests, multiple choice in-baskets, etc.) that measure other abilities are not subject to reevaluation.

b. Reevaluation of performance-based examinations (including but not limited to practical examinations and assessment centers) shall not be allowed. However, candidates may request an explanation of their performance rating in such exams providing such request is made to the Human Resources Director within 15 business days following written notification of the examination results. The explanation shall be provided by the examining staff of the Employment Division and the Agency Test Evaluators, if any. Staff shall answer questions of the candidate, including information on how the test was graded and how scores were obtained in general. Staff shall not normally reveal individual scores on specific dimension ratings.

c. When a request for reevaluation results in a candidate obtaining a higher score so that the relative standing of the candidate on an eligible list is changed, the Human Resources Director shall review certifications made subsequent to the promulgation of the eligible list and determine whether or not the initial and incorrect score resulted in the candidate's losing certification. When, as a result of error, a certification has been lost to an eligible candidate, the Human Resources Director shall place the name of the candidate on the eligible list so that he/she benefits from the next certification. Appointments already made from such eligible lists shall not be affected by such correction.

-5 Eligible Lists

The names of applicants who meet minimum qualifications as determined by an examination, which is numerically scored, shall be placed on the appropriate eligible list in order of their total scores or grouped into categories. In the event of a tie in scores, veterans, who are applying as initial hires, shall be listed ahead of non-veterans, and veterans with a service connected disability rating shall be listed ahead of other veterans. Within each category all eligibles will be considered tied.

CHAPTER 7

Certification and Appointment

7.1 *Appointments to the Competitive Service*

-1 Merit appointment indicates that the employee has been selected for appointment in accordance with the provisions of Chapters 5 and 6 of the Regulations. Merit employees shall receive annual and sick leave and other fringe benefits.

-2 Merit positions may be filled from within or outside the merit system. Appointments from within the system may be promotions, lateral transfers or demotions.

-3 Merit employees whose ~~Appointees to part-time positions~~ scheduled for 20 or more hours (but less than 40 hours) per week ~~in the competitive service~~ shall have all the benefits of full-time merit employees. ~~in the competitive service.~~ Leave benefits for such employees will accrue on a prorated basis according to scheduled hours, and employees will be subject to higher premium payments for certain benefits. Specific costs are delineated in a procedural memorandum issued by the Human Resources Director.

-4 Employees holding two part-time, benefits eligible positions shall receive benefits from and accrue leave in both ~~of the~~ positions, not to exceed benefit and leave eligibility for one full time merit ~~benefit eligible~~ position. Employees holding two part-time merit positions will be eligible~~Eligibility~~ to receive ~~for performance~~ pay increases from both positions. ~~bonuses shall be limited to the employee's primary position.~~

7.2 *Status of Employees and Positions*

-1 Merit employees normally occupy positions in the competitive service and exempt employees normally occupy positions in the exempt service. In exceptional circumstances, however, particularly when it is urgent that a position be filled without delay, a merit employee may occupy a position in the exempt service or an exempt employee may occupy a position in the competitive service.

-2 Except as provided in 7.2-3 below, a merit employee shall not have his/her status changed to exempt while assigned to a position in the exempt service when there has been no break in service. There shall be no change in the merit employee's rights and benefits entitlement while serving in an exempt service a position. When a merit employee is appointed to an exempt service a position, the personnel action request form shall indicate in what manner it is planned to return the employee to a merit position. The rules governing temporary acting promotion or demotion shall apply. Upon return to the merit position, the

employee's grade, salary and performance pay increase date shall be determined as if the exempt appointment had not occurred.

-3 A merit employee may occupy an exempt position without a change in status for no longer than ninety days. A merit employee who accepts an appointment in excess of ninety days to an exempt position loses his/her merit status, but may be reinstated to a position in the competitive service at his/her former merit grade and salary within one calendar year of the end of the exempt appointment.

7.3 *Certification of Applicants*

-1 Upon receipt of a personnel requisition, the Human Resources Director or the Director's designee shall promptly announce the vacancy and certify applicants following the procedures specified in Chapters 5 and 6.

-2 When creating the certification list, in addition to the employment standards, necessary knowledge, skills and abilities as defined in the class specification, consideration shall be given to the following: the number of vacant positions to be filled from that list, preferred qualifications considered critical to successful performance in the job when approved by the Human Resources Director or designee, as well as the diversity needs as identified in the agency's Diversity Plan. Where possible, the certification list should contain at least ten applicants.

-3 Applicants shall be certified in accordance with the following rules.

a. If a position has been announced exclusively as a promotional opportunity open only to current employees, only current County employees shall be certified.

b. Applicants shall be listed in alphabetical order on certification lists furnished to departments. The certification list shall identify the applicants who are veterans and veterans with a service connected disability rating.

-4 The Human Resources Director may delegate some or all of the actions described in this section to department heads**.**

7.4 *Selection and Appointment*

-1 Before making any appointment, the department head or his/her designee shall review the resumes of all certified applicants and shall interview at least one more than half of those certified.

-2 For the purpose of this subsection, the department head's designee may be either an individual or a panel. Department heads are encouraged to use panels for all positions. When panels are used, either to review resumes or to conduct interviews, they should be constituted with due regard for the demographic

characteristics of the certified applicants. Due to the scope and rigorous nature of the selection procedures used for public safety job classes, interviews are not required for these job classes except when deemed appropriate at the discretion of the department head or deputy**.**

-3 The department head or his/her designee should review and consider the performance records of current and former employees who are finalists for a job vacancy.

-4 Department heads or deputies normally should complete the process of screening, interviewing and appointing within 30 calendar days of receipt of a certification list. If a period longer than 30 days is required to make a selection, department heads or deputies shall consider the likelihood that the best qualified applicants may no longer be available. This subsection does not apply to applicants for uniformed public safety positions, who are required to undergo additional screening after initial certification and whose appointments may be timed to coincide with the convening dates of training academy classes.

-5 Appointment to a vacancy in the competitive service shall be made by the proper department head or deputy from those applicants certified by the Human Resources Director. Such appointment shall be indicated by the completion of a personnel action request form.

-6 No applicant shall seek or attempt to use any political endorsement in connection with any merit system appointment and no consideration shall be given to political or partisan affiliation, activity or endorsement in selecting candidates for original or promotional appointment in the merit service.

-7 Every appointee shall be required to show proof of identity and proof of eligibility to work in the United States, before his/her appointment becomes effective.

7.5 *Probationary Period*

-1 Except as noted in 7.5-2 below every merit appointee shall serve a probationary period of twelve months after original appointment (initial probationary period) or promotion (promotional probationary period). The probationary period shall be used for closely observing the employee's work, for obtaining the most effective adjustment of a new employee to his/her position, and for separating any new employee or demoting any promoted employee whose performance does not meet the performance requirements.

-2 Sworn police officers, animal control officers**,** deputy sheriffs and uniformed firefighters shall serve an initial probationary period of twelve months commencing with the date of graduation from the appropriate training academy. Public safety communicators shall serve an initial probationary period of twelve months commencing upon graduation from the Department of Public Safety

Communications Academy and the completion of a 10 week on the job training program. For all other merit employees, the initial probationary period shall commence with the date of appointment. The performance pay increase date shall be determined by the date of original appointment.

-3 With the approval of the Human Resources Director, a department head or deputy may extend the initial or promotional probationary period in limited circumstances situations where the employee has been unable to perform the duties for which he or she was hired due to extended absence or extended period of restricted duty for medical reasons due to FMLA for a period not to exceed 120 calendar days.

Requests for extension of the probationary period must be made in writing to the Human Resources Director stating the specific facts and circumstances justifying the request. The request for extension must be made in advance of the expiration of the employee's probationary period and may be granted under the following circumstances:

(1) when an employee is absent from work on an approved absence in excess of 30 calendar days during the probationary period;

(2) when an employee is unable to perform the assigned duties of the job for which he/she was hired for a period in excess of 30 days, such as when serving in a temporary light duty assignment to accommodate a medical condition.

b. Such extension shall commence on the date the employee resumes the assigned duties of the job for which he/she was hired.

-4 An employee serving in the initial probationary period is eligible to apply for, be certified to, and be appointed to a class of a higher level. Under such circumstances, a promotional probationary period begins with the date of the promotion but the initial probationary period expires twelve months from initial appointment date unless extended in accordance with the provisions of this action.

-5 Unless alleging illegal discrimination, an employee serving an initial appointment probationary period including extensions authorized in accordance with this section has no right to grieve or appeal under these rules. Any employee who has satisfactorily completed an initial probationary period and who is serving a probationary period following promotion retains his/her grievance rights.

7.6 *Underfill Appointments*

-1 With the approval of the Human Resources Director, an applicant who does not meet all the employment qualifications for a merit class may be appointed competitively to fill a position in that class at a lower grade than that of the class under the conditions specified in this section.

-2 Underfills are appropriate under the following circumstances:

a. When recruitment difficulties exist for a class at the authorized grade.

b. When appointees require specialized training and work experience within a particular function to meet the performance standards for the position at the authorized grade.

c. When underfilling a position is part of an upward mobility program for career employees.

-3 When it is planned or likely that a position will be underfilled, the vacancy announcement will so state.

-4 Before making a formal offer of an underfill appointment, the department head or deputy shall prepare a written underfill agreement, which must be approved by the Human Resources Director or designee in advance of the offer. The agreement shall include at least the following information:

a. The specific training and experience requirements the employee must meet before promotion to the authorized grade.

b. The manner in which they are to be met and the time frame within which the appointee is expected to meet the performance standards for the position, which standards shall be included as an appendix to the agreement.

c. A statement to the effect that promotion will be made without further competition when the appointee meets the terms of the agreement and the performance standards of the position; and that if the appointee fails to do so within the allotted time the department head or deputy will effect a transfer, demotion, dismissal or unsatisfactory service separation or a statement to the effect that after successfully completing the terms of the agreement, the employee will be required to compete for promotion to the higher level position and if not selected, the department head or deputy will effect a transfer, demotion, dismissal or unsatisfactory service separation.

-5 Underfill agreements normally will be for a period of not more than one year but may be for periods of up to four years in multi-tiered underfill agreements. The department head or deputy may extend an underfill agreement if the employee necessarily is absent for more than 30 consecutive calendar days because of the unavailability for required training. The department head or deputy must inform the Human Resources Director of all such extensions.

7.7 *Appointment of Family Members, Members of Household or Extended Relationships*

-1 Except as provided herein, no applicant/employee shall be hired, reinstated, reemployed, transferred, promoted or demoted to a position which places him/her in a direct supervisory line as defined herein or otherwise permits them to participate in any personnel action relative to a family member or members of his/her household or extended relationships.

-2 This prohibition may also be extended to positions, in which the duties involve access, review, verification, authorization, or approval of the transactions of family members, members of household, or extended relationships in financial, personnel, purchasing, or other sensitive matters, even though the respective functions are in different departments. Such positions will be identified by an affected department head or designee, with the approval of the Human Resources Director.

-3 For the purposes of this regulation, "family member" is defined by the following relationships, including those legalized by adoption:

aunt	grandparent	sister-in-law
brother	half brother	son-in-law
brother-in-law	half sister	spouse
child	mother-in-law	stepbrother
daughter-in-law	nephew	stepchild
father-in-law	niece	stepparent
first cousin	parent or parent-in-law	stepsister
grandchild	sister	uncle

-4 For the purposes of this regulation, "Extended Relationships" is defined as those personal relationships creating a potential conflict of interest or having the possibly of creating adverse impact (actual or perceived) on supervision, safety, and security. Additionally, a direct supervisory line is defined as those situations where an employee, regardless of job description or title, has authority to hire, transfer, promote, assign, reward, discipline or terminate other employees or has responsibility to direct their work or conduct their performance evaluation. This also includes those situations where an employee effectively is able to recommend these actions where such recommendations are given substantive weight in the final decisions being made.

-5 If a change occurs which causes employees to be in conflict with this regulation, one of the employees shall be transferred to a vacant position within the County. In the absence of an agreement which is satisfactory to all the concerned parties, the employee with the lower grade, or, if they are of the same grade, the employee with the fewer years of County service shall be transferred.

-6 Requests for exceptions to this policy shall be submitted in writing to the Human Resources Director, who has the authority to waive this regulation when it is in the best interest of the County to do so.

7.8 *Applicant Right of Appeal on Discriminatory Practices*

-1 An applicant who is not employed by the County at the time of his/her application and who believes he/she has been discriminated against on the basis of race, sex, color, religion, national origin, age, disability, political affiliation, genetic information or his or her status as a veteran during the selection process may file an appeal on the alleged discriminatory practice. A bona fide occupational requirement for any position, the minimum age qualifications for public safety occupations, and the exclusion of family members, members of household, or extended relationships as defined in Section 7.7 shall not be appealable except as provided in Sec. 7.7-6.

-2 Such an appeal stating the alleged discriminatory practice and the corrective action desired must be filed in writing with the Director of the Office of Human Rights and Equity Programs within fifteen business days of the date the applicant knew or should have known that he/she was not selected for employment.

-3 The Director of the Office of Human Rights and Equity Programs shall investigate the allegations and respond in writing to the applicant within twenty business days.

-4 Should the applicant believe the Director of the Office of Human Rights and Equity Programs' response to be unsatisfactory, the applicant may file a written request for a hearing with the Civil Service Commission. The applicant's request for a hearing must contain a complete statement of the alleged discriminatory practice and the corrective action desired, and must be filed within fifteen business days of receipt of the Director of the Office of Human Rights and Equity Programs' response.

-5 The Civil Service Commission shall set a time and place for such hearing to be held not more than thirty workdays after receipt of such request. At its discretion, the Commission may appoint a hearing officer to hear the appeal.

-6 The hearing shall be conducted in accordance with hearing procedures adopted by the Civil Service Commission.

-7 After the hearing, the Commission shall forward an advisory finding on the merit of the appeal and disposition of the case to the County Executive. The Commission does not have the authority to award or recommend monetary damages.

CHAPTER 8

Transfers, Promotions, Demotions

8.1 *General*

Transfers, promotions and demotions include all cases in which an employee is moved from one position to another in the competitive service without a break in service. No employee shall be required to obtain the permission of his/her supervisor before applying for a transfer, promotion or demotion.

8.2 *Lateral Transfers*

Lateral transfers include all cases in which an employee is moved to a different position in the same class or to a different class in the same grade without a break in service.

-1 Intra-Departmental Lateral Transfers

a. To a different position in the same class:

A department head or deputy may, at any time, transfer an employee under his/her jurisdiction from one merit position to another merit position in the same class in the same department.

b. To a different class in the same grade:

Before an employee can be transferred between merit positions in different classes, the employee must be certified as qualified for the new class by the Human Resources Director. There shall be no change in grade or salary.

-2 Inter-Departmental Lateral Transfers

a. An employee may be transferred from one department to another in the same class or in a different class of the same grade at his/her request subject to the following conditions:

(1) The Human Resources Director must certify that the employee is qualified to perform the duties of the position to which he/she is being transferred.

(2) The department head or deputy of the releasing department must be given the opportunity to set a date for the transfer which shall not be more than thirty calendar days after the date when the employee was selected for transfer.

b. Notwithstanding the above, the County Executive, for the good of the competitive service, may transfer an employee from a position in one department to a position of the same class in another department, or to a position of a different class, in the same grade in another department, for which the employee meets the minimum qualifications.

8.3 *Promotions*

-1 Promotional Policy

A promotion is a transfer to a position in a class with a higher pay grade. In order to provide quality public service, it shall be the policy of Fairfax County Government to provide a career service for its employees, which encourages individual development, and acquisition of skills and experience, which will better serve citizens.

a. As far as practicable, and within the constraints of Chapter 7 of the Personnel Regulations, the policy for filling vacant positions in the competitive service shall be to foster and encourage career development and upward mobility through competitive promotional opportunities for eligible County employees.

b. In order to maintain a highly effective workforce, when the Human Resources Director determines that there may be an insufficient number of well qualified current County employees or when limiting the competition to current County employees would perpetuate a serious imbalance of the workforce in terms of race or sex, he/she may direct that the examination for such positions also be open to all other qualified persons.

-2 Demotion During Promotional Probationary Period

When an employee who has been promoted does not meet performance requirements in the higher class, he/she shall be demoted prior to the end of the probationary period subject to the terms listed below. The employee will be placed in a vacant position in a class and grade similar to that held prior to promotion.

a. The department into which the employee was promoted has primary responsibility for locating a position for the employee.

b. If the current department does not have an appropriate vacant position, the department head must notify the Human Resources Director in writing. The Human Resources Director, after verifying that no appropriate vacancy exists in the current department, will direct the head of the department from which

the employee was promoted to locate a position for the employee.

c. Where no appropriate vacancy exists in the employee's current agency or former agency, the employee being demoted shall be separated and shall have his/her name placed on the reemployment list for the class held prior to promotion. In addition, at the employee's option, his/her name may be placed on the reemployment list for lower level positions for which he/she is qualified. An employee, whose name is placed on the reemployment list under this provision, shall be certified for appropriate vacancies but is not guaranteed placement.

d. An employee who is demoted must satisfactorily complete any required medical examination.

e. Upon demotion, the employee's rate of pay shall be determined in accordance with the provisions stated in Chapter 4.

-3 Acting Capacity Promotion

a. A department head or designee requesting an acting capacity promotion of an employee shall submit the request to the Division Director, Employment Division, Department of Human Resources, ~~Director~~ and shall indicate the reason for the acting capacity promotion and the duration of the action.

b. When an acting capacity promotion to an authorized, budgeted and established position is approved by the Division Director, Employment Division, Department of Human Resources, ~~Director,~~ the incumbent's compensation for the performance in the acting capacity shall be the greater amount of either the minimum rate of the new pay grade or a 5% salary increase for one or two grade acting capacity promotions or a 7.5% salary increase for three or more grade acting capacity promotions (or for public safety employees the next higher dollar rate in the new pay grade as compared to the dollar rate in the employee's position held prior to the acting capacity promotion).

c. An employee selected for a position under this policy must meet the minimum qualifications for the higher level position.

d. The employee's performance pay increase date shall not change upon an acting capacity promotion.

e. At the end of the period of authorized acting capacity, the employee shall return to the grade and salary (grade and step for public safety employees) held prior to the acting capacity assignment with appropriate adjustments for performance pay increases due while in the acting capacity assignment.

f. This policy shall not apply to positions authorized by the Human Resources Director to be underfilled.

8.4 *Reclassification of Position to a Higher Level*

When a merit position is reclassified to a higher-grade level, the Human Resources Director shall certify the incumbent as qualified for the position. If the incumbent does not meet the minimum standards for the new classification, he/she must execute a work agreement approved by the Human Resources Director or designee identifying the steps to be taken for the incumbent to meet the minimum requirements for the higher grade job class.

8.5 *Demotions*

A demotion is a transfer to a position in a class with a lower pay grade.

-1 A department head may transfer an employee to a merit position at a lower pay grade, for which the employee meets the minimum qualifications, when an employee voluntarily requests such a demotion, as reasonable accommodation for partial disability or in accordance with the reduction-in-force procedures as specified in Chapter 9.

-2 A department head may transfer an employee to a merit position at a lower pay grade for which he/she meets the minimum qualifications, with or without the consent of the employee concerned, when the employee is not rendering satisfactory service in the position he/she holds.

-3 Demotions for disciplinary reasons shall be implemented in accordance with Chapter 16 of the Personnel Regulations.

-4 An employee who is to be demoted, to a position in a class in which he/she has not previously served may, at the direction of the Human Resources Director, be required to be certified as meeting the minimum qualifications for the new class.

-5 Upon demotion, the employee's rate of pay shall be determined in accordance with the provisions stated in Chapter 4.

-6 An employee who has been promoted and does not meet departmental performance requirements in the higher class, shall be demoted prior to the end of the probationary period in accordance with Personnel Regulations 8.3-2.

Attachment 6

CHAPTER 10

Leave

10.1 *Leave Defined*

Leave is any authorized absence during regularly scheduled work hours that has been approved by proper authority. Leave may be authorized with or without pay. Absence without ~~leave~~ approval is considered unauthorized absence.

10.2 *Leave Policy*

~~All merit employees are encouraged to take annual leave for vacation purposes of two consecutive weeks each year. During the year careful consideration shall be given to the desire and needs of employees in the granting of shorter periods of annual leave.~~ Department heads or designees shall grant leave in accordance with leave ~~these~~ rules as established in this chapter. Each leave request will be considered individually with due consideration given to the needs and personal wishes of the requesting employee, workplace staffing requirements and ~~on the basis of the work~~ other departmental operational ~~requirements in the department, and whenever possible, the personal wishes of the employee.~~concerns. Employees shall comply with requirements governing leave, as outlined in this chapter.

10.3 *Maintenance of Leave Records*

The Department head or his/her designee shall be responsible for the maintenance of accurate leave records. Such records shall be kept on a form prescribed by the Human Resources Director, who may periodically inspect them to insure that departments are adhering to the provisions of these rules.

10.4 *Procedures for Requesting Leave*

-1 For all leave, with the exception of official holiday, sick and administrative emergency leave, a request indicating the kind of leave, duration and dates of departure and return must be approved prior to the taking of the leave. The request for leave should be submitted to the department head or designee the same number of days prior to beginning the leave as the number of days leave requested. In the case of sick leave, the leave form shall be completed and submitted for approval immediately upon the employee's return to duty.

-2 Unless an absence is substantiated by a leave form approved by the department head or his/her designee, an employee shall not be paid for any absences from scheduled work hours.

10.5 *Unauthorized Absence*

-1 An employee who is absent from duty without approval shall:

a. Receive no pay for the duration of the absence;
b. Be subject to disciplinary action, which may include dismissal.

-2 It is recognized there may be extenuating circumstances for unauthorized absence and due consideration shall be given each case.

-3 Failure of an employee to report for work at the expiration of an authorized leave or to request an extension of such leave shall be considered an absence without leave.

10.6 *Types of Leave*

The following types of leave, and no other, are officially established:

- 1 Annual leave (Section 10.7 - 10.12);

- 2 Sick leave (Section 10.13 - 10.21);

- 3 Extraordinary sick leave (Section 10.16~~5~~);

- 4 Parental Leave (Section 10.23)

- 5 Leave for injury in line of duty (Section 10.24);

- 6 Bereavement leave (Section 10.25);

- 7 Compensatory leave (Section 10.26 - 10.28);

- 8 Military leave (Section 10.29);

- 9 Civil leave (Section 10.30);

- 10 Volunteer activity leave (Section 10.31);

- 11 Leave without pay (Section 10.32);

- 12 Education leave (Section 10.34);

- 13 Holiday leave (Section 10.35 - 10.36);

- 14 Administrative leave (Section 10.37);

- 15 Leave for inclement weather or other emergencies (Section 10.38).

10.7 *Granting Annual Leave*

Department heads or designees shall grant annual leave with pay to merit employees in accordance with the following provisions:

-1 Annual leave shall normally be granted each calendar year unless a department head or designee specifically defers an employee's vacation because of work requirements.

-2 Annual leave shall not exceed the total amount credited to an employee at the beginning of the pay period in which the absence occurs.

-3 The approval of the department head or deputy is required when granting or denying annual leave to extend a period of absence beyond the allowable FMLA entitlement period.

10.8 *Crediting of Annual Leave*

-1 Annual leave shall be credited as indicated below to all full time merit employees except those designated as senior management in 4.15-4d. Merit employees scheduled to work other than 80 hours per pay period shall have leave credited on a pro-rated basis. Employees working in two part-time merit positions will accrue prorated annual leave in both positions, not to exceed maximums outlined below. Employees who are participants in the Deferred Retirement Option Plan (DROP) will be considered as merit employees for purposes of crediting annual leave.

a. Less than three years service - four (4) hours per bi-weekly payroll period;

b. Three (3) years but less than fifteen (15) years - six (6) hours per bi-weekly payroll period;

c. Fifteen (15) and over years of service - eight (8) hours per bi-weekly payroll period;

d. Employees reemployed or reinstated within one calendar year of their separation after successful completion of the initial probationary period ~~in good standing~~ shall ~~ould~~ have their annual leave computed based on ~~the basis of~~ total years of service.

i. ~~e.~~ Leave computation dates, when recomputed due to reemployment or reinstatement shall be rounded to the nearest day~~.~~. ~~Excess hours shall be rounded to the next day.~~

-2 For a pay period in which an employee, except, a senior manager is paid for less than

full standard hours, including paid leave, leave shall be credited in the proportion that the number of hours worked has to the number of regular work hours in the pay period.

-3 Employees with less than ten (10) years of service may accumulate annual leave up to 240 hours. Employees with ten (10) or more years of service may accumulate annual leave up to 320 hours.

-4 Annual leave in excess of the limits imposed by this section existing at the end of each calendar year shall be converted to sick leave.

-5 Employees shall not receive dual compensation from the County for annual leave.

-6 Employees designated as senior managers shall receive 208 hours (26 days) of annual leave at the beginning of each calendar ~~leave~~ year. Senior managers appointed after the start of a calendar ~~leave~~ year shall receive annual leave credit on a prorated basis for that year.

10.9 *Debiting Annual Leave*

Annual leave shall be debited as follows:

-1 The amount of annual leave to be debited shall be computed on the basis of the exact number of days or hours an employee is scheduled to work in the period when leave is taken.

-2 Annual leave shall be debited in no less than one-tenth hour units.

-3 Overdrawn annual leave shall be debited in the following order: compensatory leave, leave without pay.

10.10 *Transfer of Annual and Sick Leave*

Annual or sick leave may be transferred from one employee to another employee in the following situations:

-1 Annual or sick leave may be transferred from one employee to another when the employee-in-need has exhausted his/her sick leave and is facing an absence without pay due to his/her extended illness or that of a family member with the following provisions:

a. Annual or sick leave may be transferred to any County employee eligible to receive sick leave.

b. Employees transferring sick leave may not transfer more than 80 hours in any calendar year.

c. The employee transferring annual or sick leave relinquishes all rights to that leave. Annual or sick leave transferred under this policy cannot be recovered at a later date.

d. An employee may not transfer leave to his/her immediate supervisor or reviewing authority for performance evaluations.

e. Unused transferred leave may be transferred to another leave recipient or returned to the donor.

f. Transferred leave may be granted only to employees who have exhausted their sick leave balance and whose combined annual and compensatory leave balance does not exceed 80 hours (120 hours for 24-hour shift employees).

g. This policy does not preclude or in any way limit the right of an employee to apply for advanced or extraordinary sick leave under existing procedures.

h. Final approval of leave transfer requests rests with the department head or designee.

i. An employee who returns to work before using all received transferred leave may use the balance for subsequent treatment or recuperation from the ailment for which the leave was granted. This balance may be used for up to one year from the date transferred leave was approved.

-2 Annual leave may be transferred from one employee to another when the employee-in-need is a member of the National Guard or an organized military reserve of the United States who has volunteered or been ordered to active duty pursuant to an order by the President of the United States or a competent State authority. The transfer of annual leave under this Section is subject to the following conditions:

a. Annual leave may be transferred to any merit County employee who is a member of the National Guard or an organized military reserve of the United States.

b. The employee transferring annual leave relinquishes all rights to that leave. Annual leave transferred under this policy cannot be recovered at a later date. Once the leave has been used by the employee, it cannot be recovered.

c. An employee may not transfer leave to his/her immediate supervisor or reviewing authority for performance evaluations.

d. Transferred annual leave may only be used when the employee called to active military duty has reduced his/her accrued annual and compensatory leave to a combined balance no greater than 80 (120 hours for 24-hour shift employees)

hours.

e. Final approval of leave transfer requests rests with the department head or designee.

10.11 *Effect of Transfers on Annual Leave Credits*

A merit employee who transfers from one department to another shall have his/her total annual leave credits transferred to the new department.

10.12 *Effect of Separation on Annual Leave Credits*

Upon separation, an employee shall be paid for the unused portion of his/her accrued annual leave, except as modified by the rules governing resignation without sufficient notice.

10.13 *Sick Leave Policy*

Sick leave shall be used when an employee is incapacitated by sickness or injury; for childbirth, placement of a child for adoption or foster care; for medical, dental, or optical diagnosis or treatment; for necessary care and attendance or death of a member of the employee's immediate family or household; exposure to a contagious disease when the attendance at duty jeopardizes the health of others. Sick leave for childbirth and adoption/foster care placement shall comply with the provisions in Section 10.22 of these Regulations.

10.14 *Granting Ordinary Sick Leave*

Department heads or designees shall grant sick leave with pay to merit employees in accordance with the following provisions:

-1 Ordinary sick leave shall not exceed the total amount credited to an employee at the beginning of the pay period in which the absence occurs;

-2 Leave without pay may be granted for sickness extending beyond the earned credit;

-3 For merit employees' annual or compensatory leave credits may be used for sick leave.

-4 The approval of the department head or deputy is required when granting or denying sick leave to extend a period of absence beyond the allowable FMLA entitlement period.

10.15 *Granting Advance Sick Leave*

-1 Advance sick leave, not to exceed 192 hours (288 hours for 24 hour shift employees), may be granted to merit employees qualified to earn ordinary sick leave in cases of serious disability or ailments of the employee, the spouse, minor or disabled child,

parent or parent-in-law of an employee when it is to the advantage of the County to do so.

-2 Advance sick leave may be granted to employees whose combined annual and compensatory leave balance does not exceed 80 hours.

-3 Advance sick leave shall not normally be advanced to a merit employee qualified to earn ordinary sick leave during his/her first year of service with the County.

-4 Advance sick leave shall not be approved retroactively to restore hours previously charged to the employee's annual or compensatory leave balance for an ailment or disability.

-5 When a department head or designee believes that a request for advance sick leave is justified, a personnel action form shall be prepared with the following supporting documentation:

a. The circumstances and the need for such leave verified by a physician's statement;

b. The time and date when accrued sick leave will be exhausted;

c. The number of hours of advance sick leave requested and date to which such leave will extend;

d. Probable return to duty and prospect for continued employment;

e. Recommendation of the department head or designee;

f. Statement notifying employee of the repayment requirement if advance sick leave is approved.

-6 The Human Resources Director shall consider the information provided and make a recommendation to the County Executive.

-7 Advance sick leave shall be approved by the County Executive or his/her designee.

-8 Advance sick leave shall be charged to future accruals of sick leave. An employee may not use regular sick leave until the approved advance sick leave is repaid.

-9 An employee who returns to work before using all approved advance sick leave may use the balance for subsequent treatment or recuperation from the ailment for which the leave was granted. This balance may be used for up to one year from the date advance sick leave was first used.

-10 An employee returning to work before using all approved advance sick leave may

request an adjustment to his/her leave record to eliminate or reduce the remaining approved advance sick leave.

-11 When an employee who receives advance sick leave leaves County service for any reason and the advance sick leave has not been repaid, the County will be financially reimbursed for the balance of sick leave remaining, except in the case of full disability or death.

10.16 *Granting Extraordinary Sick Leave*

-1 When the above provisions do not adequately allow for the illness or injury of a merit employee qualified to earn sick leave, and when the department head or designee believes that it is to the advantage of the County to do so, he/she may request of the County Executive, through the Human Resources Director, that the employee be granted an extraordinary sick leave not to exceed 4 hours (6.0 hours for 24-hour shift employees) for each month of service.

-2 Extraordinary sick leave shall be recorded on the employee's leave record but shall not be charged to future accrued leave of any kind.

10.17 *Crediting Sick Leave*

-1 Sick leave shall be credited to all full time merit employees except those designated as senior managers in Section 4.15-4d at 4 hours per 80-hour pay period. Merit employees scheduled to work other than 80-hours per pay period shall have leave credited on a pro-rated basis. Employees working in two merit part-time positions will accrue prorated sick leave in both positions, not to exceed 4 hours per 80-hour pay period.

-2 Unused sick leave may be accumulated without limit.

-3 Employees reemployed or reinstated within one calendar year of their separation in good standing shall have their unused sick leave reinstated.

-4 Employees designated as senior managers shall receive 104 hours (13 days) of sick leave at the beginning of each calendar ~~leave~~ year. Senior managers appointed after the start of a calendar ~~leave~~ year shall receive sick leave credit on a prorated basis for that year.

-5 Employees who are participants in the Deferred Retirement Option Plan (DROP) will be considered as merit employees for purposes of crediting sick leave.

10.18 *Debiting Sick Leave*

Sick leave shall be debited as follows:

-1 The amount of sick leave to be debited shall be computed on the basis of the exact number of days or hours an employee is scheduled to work in the period when leave is taken.

-2 Sick leave shall be debited in no less than one-tenth hour units.

-3 Overdrawn sick leave shall be debited in the following order: annual leave, compensatory leave, and leave without pay.

10.19 *Effect of Transfer on Sick Leave Credits*

A merit employee who transfers from one department to another shall have his/her total sick leave credits transferred to the new department.

10.20 *Effect of Separation on Sick Leave Credits*

1. Sick leave credits shall not be paid to an employee upon separation.

2. Upon application for retirement, an employee's sick leave credits can be applied towards membership service credit at the rate of one month of credit for each 172 hours of accrued unused sick leave, and prorated for any fraction of this amount.

3. Employees who are participants in the Deferred Retirement Option Plan may apply all sick leave credits towards membership service credit for retirement, or retain 40 hours as an initial sick leave balance, while the remaining sick leave credits are applied towards membership service credit for retirement.

10.21 *Other Factors Relative to Sick Leave*

-1 Reporting of sickness.
Employees who are absent from duty for reasons which entitle them to sick leave shall notify their respective supervisors within the time frame established by the Department unless physically unable to do so. Upon return to work, the employee shall submit immediately to his/her supervisor an authorization for leave form.

-2 Medical certificate.
A department head or designee may require a medical statement for sick leave when it occurs before or after a holiday or other scheduled day off, or when it is in excess of two workdays. When an employee has a record of repetitious usage of short amounts of sick leave over an extended period a department head or designe**e** may require a medical certificate for each day of sick leave taken. Employees shall be provided advance notice that a medical certificate will be required for future absences.

-3 The department head or designee may require an employee returning from sick leave to take a medical examination, or, with the concurrence of the Human Resources Director, on such other occasions that he/she deems it in the best interest of the

County. The medical examination shall be given by a medical doctor designated by the Human Resources Director or his designee.

-4 Investigation of sickness.
A department head or designee may investigate the alleged illness of an employee absent on sick leave.

-5 False or fraudulent use of sick leave.
False or fraudulent use of sick leave shall be cause for disciplinary action against the offending employee. Such disciplinary action may include dismissal.

-6 An employee on annual leave who presents a medical certificate giving the dates of illness may have that portion of his/her annual leave converted to sick leave.

-7 Conversion of sick leave.
Conversion of sick leave to annual leave shall not be permitted.

-8 State worker's compensation insurance.
An employee, who is eligible to receive state worker's compensation payments beyond the year of injury leave, may elect to use accumulated sick leave and/or annual leave. The use of such leave will be coordinated with worker's compensation payments so that the total amount received from both sources does not exceed the employee's full wage or salary until such sick and/or annual leave is depleted or until the employee returns to work.

Leave hours used will be calculated only on that portion of total compensation over the workers' compensation payment. While using sick and/or annual leave the employee will continue accruing sick and annual leave.

10.22 *Family and Medical Leave*

The Family and Medical Leave Act (FMLA) entitles eligible employees to take unpaid, job-protected leave for specified family and medical reasons with assured continuation of group health insurance coverage under the same terms and conditions as if the employee had not taken leave.

Family and Medical Leave (FML):
Employees, as defined by the implementing regulations of the Family and Medical Leave Act (FMLA), may take job-protected leave for any one or more of the following reasons:

- the birth and care of the employee's newborn child;
- ~~or~~ the placement of child for adoption or foster care with the employee;
- to care for a family member (child, spouse, parent or parent-in-law) with a serious health condition;
- the employee's own serious health condition makes him/her unable to perform the functions of his/her job.

Military Family and Medical Leave (MFML):
The Family and Medical Leave Act also provides for two types of military family and medical leave, including military caregiver leave and qualifying exigency leave. This job-protected leave allows employees to care for a covered service member with a covered serious injury or illness, or to address a qualifying exigency arising out of the affected individual's covered active duty status.

i. Caregiver leave is available to eligible employees with an eligible spouse, son or daughter, parent, parent-in-law, or next of kin.
ii. Exigency leave is available to eligible employees with an eligible spouse, son or daughter, parent or parent-in-law.

-1 All Fairfax County employees are eligible for Family and Medical Leave Act coverage, provided they have worked for Fairfax County for at least 12 months, and worked a minimum of 1,250 hours during the last 12 months.

Job protection, comparable to entitlements established in the Family and Medical Leave Act, are granted to part-time merit employees after completion of their initial probationary period. Part-time merit employees may also be eligible for such protection in the event the employee has accrued at least 1,250 hours and met the length of service requirement by other allowable means, such as hours worked in an exempt position with Fairfax County or eligible military service.

-2 The Family and Medical Leave Act affords employees protected time off from work but does not address pay during the leave period. Employees may use the following leave types, as appropriate and as available, during FML or MFML absences: sick leave, annual leave, compensatory leave, parental leave, transferred leave, advanced or extraordinary sick leave, worker's compensation, injury leave, and leave without pay. All leave types used during FML or MFML must conform to requirements in this chapter.

a. At the discretion of the department head or designee**,** an employee requesting FML or MFML may be required to use accrued sick, and/or annual leave, as appropriate, prior to use of leave without pay.
b. Requests for leave beyond approved FML and MFML periods are subject to regular leave policies and approved by the department head or deputy. Denial of such an extension must be reviewed with the Director, Department of Human Resources.

-3 Entitlement Periods

a. Employees on FML may receive up to a maximum of 12 workweeks of leave during a 12-month period for any one or more qualifying FML events. The 12-month period begins with the employee's first use of FML. This date also establishes 12-month periods for subsequent FML events.

i. A mother, father, or guardian may take six (6) weeks of sick leave immediately following the birth or placement of a child.
ii. Use of additional sick leave requires medical certification.

b. MFML may be granted for a period of up to twenty-six (26) workweeks over a twelve-month period. The duration of the MFML event and the twelve-month period during which leave may be taken varies according to the type of MFML event:

iii. For service-member caregiver events, leave, of up to 26 weeks, shall commence with the first day the eligible employee takes service-member caregiver leave and ends 12 months after that date, regardless of the twelve-month period established for prior FML events.

iv. For qualifying exigency events, up to 12 weeks of leave may be taken, and the twelve-month period coincides with the employee's first use of FML.

-4 Employee requests for Family and Medical Leave Act coverage must be made in writing and submitted 30 calendar days in advance when the need for such leave is foreseeable, otherwise, as soon as practicable – generally the same or next business day.

a. Department heads or designees may require employees requesting FML to provide documentation as follows:

i. Medical certification documenting the employee's own serious health condition as the basis for the FML event or the continuing necessity for medical leave affecting his/her ability to return to work at the expiration of the FML period.

ii. Medical certification of the serious health condition of a qualifying family member as the basis for FML coverage.

iii. In the event authentication and/or clarification of medical certification is necessary, these actions must be completed by the department head, deputy, FMLA program administrator, or human resources manager.

b. Department heads or designees may require employees requesting MFML provide documentation as follows:

i. Certification of qualifying exigency when requesting exigency leave.

ii. Medical certificate to document a covered serious injury or illness for a covered military member, when requesting military caregiver leave.

c. FML and MFML documentation will be managed in accordance with Chapter 14 of the Personnel Regulations and other laws and regulations governing confidential handling of employee medical records.

-5 Family leave may be taken on an intermittent or reduced schedule basis with the approval of the department head or designee. Medical leave may be taken on an intermittent or reduced schedule basis if certified as necessary by the health provider.

-6 During the leave period, the County will continue health insurance coverage for the employee under the same plan and coverage level in place prior to the beginning of FML or MFML.

-7 No employee shall be prevented from returning to work prior to the expiration of the 12/26 week period. Upon return, the employee shall be placed in the position vacated.

a. Employees may be placed in a different position, in accordance with requirements specified in the Family and Medical Leave Act and with the express approval of the Director,

Department of Human Resources.

b. Employees who do not plan to return to work should notify their department no later than the leave expiration date. Failure to return to work without giving notice and/or without good cause may result in an unsatisfactory service separation.

c. If the employee does not return to work for a reason other than the continuation, recurrence, or onset of a serious health condition for him/herself, children, spouse, parents, parents-in-law, or injured family service member or other circumstances beyond the control of the employee, the County may recover the employer's contribution to the health insurance premium paid during any period of unpaid leave.

-8 The department head or deputy shall be responsible for ensuring the equitable administration of FMLA cases within the department.

-9 This regulation shall be construed as to ensure compliance with the minimum requirements of the Family and Medical Leave Act of 1993, as amended. The terms "covered military member," "covered active duty," "covered serious injury or illness," "as soon as practicable," "eligible employee," "qualifying reasons," "serious health condition," "continuing treatment," "incapable of self-care," "equivalent position," "equivalent terms and conditions of employment," and "qualifying exigency" shall be defined as set forth in the Family and Medical Leave Act as amended.

~~Eligible employees, as defined by the implementing regulations of the Family and Medical Leave Act, may take job-protected, unpaid leave, or substitute appropriate paid leave, for up to a total of 12 workweeks in any 12 months for the birth of a child, for the placement of child for adoption or foster care, because the employee is needed to care for a family member (child, spouse, parent or parent-in-law) with a serious health condition, because the employee's own serious health condition makes the employee unable to perform the functions of his or her job, or because of any qualifying exigency arising out of the fact that the employee's spouse, son, daughter, parent or parent-in-law is a covered military member on covered active duty. In addition, eligible employees may take job-protected, unpaid leave or substitute appropriate paid leave for up to a total of 26 workweeks in a single 12 month period to care for a covered servicemember with a covered serious injury or illness. The terms "covered military member," "covered active duty," and "covered serious injury or illness" shall be defined as set forth in the Family and Medical Leave Act as amended.~~

~~Family and medical leave consists of any combination of sick leave, annual leave, compensatory leave and leave without pay. Sick leave used for the purpose of family or medical leave must conform to the requirements in Section 10.13. If parental leave (Section 10.22) is taken for the birth, adoption, or foster care placement of a child, the leave must be applied towards the employee's Family and Medical Leave entitlement if applicable.~~

~~-1 Family and medical leave shall be granted to any merit employee for a period of up to twelve work weeks over a twelve-month period. The twelve-month period during which family leave may be taken for the birth of or placement of a child shall expire at~~

~~the end of the twelve-month period beginning on the date of birth or placement. Servicemember caregiver leave is granted for up to 26 work weeks during a single 12-month period on a per-covered servicemember and per-injury/illness basis. Work week is defined as the hours an employee is regularly scheduled to work in a seven (7) consecutive day period.~~

~~2 The twelve-month period for family and medical leave usage shall commence with the first use of family or medical leave. The single twelve-month period for servicemember caregiver leave shall commence with the first day the eligible employee takes servicemember caregiver leave and ends 12 months after that date regardless of the 12 month period established for prior FMLA qualifying events.~~

~~3 Requests for leave beyond 12/26 work weeks are subject to regular leave policies with approval determined by the department head or designee.~~

~~4 Requests for family and medical leave must be made in writing and submitted 30 calendar days in advance whenever the necessity for such leave is foreseeable.~~

~~5 The mother may take six (6) weeks of sick leave immediately following the birth of her child. Use of additional sick leave requires medical certification. The father may take four (4) weeks of sick immediately following the birth of his child. Use of additional sick leave requires medical certification.~~

~~6 Mothers and/or fathers may take four (4)weeks of sick leave immediately following placement of a child for adoption or foster care. Use of additional sick leave requires medical certification.~~

~~7 Family leave to include exigency leave may be taken on an intermittent or reduced schedule basis with the approval of the department head or designee. Medical leave may be taken on an intermittent or reduced schedule basis if certified as necessary by the health provider.~~

~~8 At the request of the department head or designee, the employee shall provide certification from a health care provider in connection with a request for medical leave. Additionally, an employee may be required to provide medical documentation concerning the continuing necessity for medical leave and in connection with any issue concerning his/her ability to return to work at the expiration of medical leave.~~

~~9 At the request of the department head or designee, the employee shall provide certification of a qualifying exigency in connection with a request for exigency leave.~~

~~10. At the discretion of the department head or designee, an employee requesting family leave for the birth or adoption of a child may be required to use accrued annual or sick leave prior to use of leave without pay. Employees requesting family or medical leave~~

~~for all other reasons may be required to use accrued sick, and/or annual leave prior to use of leave without pay.~~

~~-11 During the leave period, the County will provide coverage under the health insurance plan which the employee had selected prior to going on leave at the level and under the conditions coverage would have been provided if the employee had not gone on leave.~~

~~-12 If the employee fails to return to work for a reason other than the continuation, recurrence, or onset of a serious health condition for him or herself, children, spouse, parents, parents-in-law, or injured family servicemember or other circumstances beyond the control of the employee, the County may recover the employer's contribution to the health insurance premium paid during any period of unpaid leave.~~

~~-13 No employee shall be prevented from returning to work prior to the expiration of the 12/26 week period.~~

~~-14 Employees shall return to the position vacated or, with the approval of the Human Resources Director, to another position in the same class.~~

~~-15 Employees who do not plan to return to work should notify their department no later than at the expiration of the leave. Failure to return to work without giving notice at the expiration of the leave without good cause may result in an unsatisfactory service separation.~~

~~-16 This regulation shall be construed as to ensure compliance with the minimum requirements of the Family and Medical Leave Act of 1993.~~

10.23 Parental Leave

-1 Parental leave is paid leave granted to a mother, father, or guardian for the birth, adoption, or foster care placement of a child.

a. An employee must request parental leave and submit necessary documentation to receive the leave hours.

-2 Full time ~~M~~merit employees are eligible to receive a maximum of ~~provided~~ 80 hours of paid parental leave (120 hours for full time 24-hour shift personnel) per 12-month period immediately following the birth, adoption, or placement of the child, regardless of the number of children born, adopted, or placed during the 12 months.~~qualifying event. Merit employees scheduled to work less than 80 hours per pay period shall have parental leave credited on a pro-rated basis.~~

-3 ~~The~~ ~~P~~parental leave is intended to ~~must~~ be applied toward ~~s~~ the employee's FML ~~Family and Medical Leave~~ entitlement ~~if applicable~~. When FML is available to the employee, parental leave hours will run concurrently with FML.

a. -If the an employee does not meet FML eligibility requirements, has already exhausted that entitlement for the qualifying period, the mother, or fatherfather, or guardian is still eligible to use take the 80 hours of parental leave.

i. Parental leave may be used any time within the first 12 weeks following the birth or placement event.

ii. Parental leave may be used after the twelfth week, in total or on an intermittent basis, subject to scheduling approval by the department head or designee.

i. Parental leave not used prior to the 12-month anniversary of the placement or birth event will be forfeited.

Mothers and/or fathers are entitled to take up to 80 hours of paid parental leave (120 hours for 24-hour shift employees) up to 12 months immediately following the birth, adoption, or foster care placement of a child. Such time will run concurrently with Family Medical Leave (FML) to the extent that FML is available to the employee. In some instances when deemed medically necessary, parental leave may be taken prior to the birth. Merit employees scheduled to work less than 80 hours per pay period shall have parental leave credited on a pro-rated basis. If an employee has already exhausted FML for the qualifying period, the mother or father is still eligible to take the 80 hours of parental leave.

-4 When medically necessary, parental leave may be taken prior to the birth.

10.24 *Leave for Injury in Line of Duty*

-1 A merit employee who is injured while performing the duties of his/her position, without fault or negligence on his/her part, and who is accepted as compensable under the Virginia Worker's Compensation Act, shall be granted injury leave with pay, as approved by the County Executive or his/her designee. Such eligibility for injury leave with pay begins on the first day of injury and shall expire not later than twelve calendar months from the original injury date. Reinjuries do not extend the period of eligibility for injury leave. Such leave requires a medical certificate from an approved licensed physician authorized by the County to treat worker's compensation claims. This certificate must set forth the nature and extent of the injury and the probable period of disability.

-2 Extensions of injury leave beyond twelve calendar months may be granted by the department head or designee**.** In no case shall the employee be granted injury leave in excess of 2080 (2912 for 24-hour shift employees) total hours. In evaluating such requests, the following elements shall be considered:

a. The circumstances in which the injury occurred to include consideration of the nature and extent of the injury;

b. The nature and extent of treatment providing that the employee has continued under the regular care of the authorized physician requiring an office visit at

minimum intervals of at least once every three months; and providing that the medical records clearly substantiate a relationship between the current prescribed treatment and the original injury;

c. The likelihood of the employee's return to duty;

d. The employee's past injury, leave and service record;

e. The employee's compliance with injury leave policies and requirements.

-3 When possible, employees who have been injured but are not totally disabled, will be placed in temporary assignments without loss of pay with duties that fall within the medical restrictions prescribed by the treating physician.

-4 When injury leave is used other leave benefits shall not accrue.

-5 An employee on injury leave is expected to follow medical procedures and complete necessary forms/reports so as to insure that worker's compensation payment will be credited to the appropriate account.

-6 An employee on injury leave is specifically prohibited from engaging in activities that may impair his/her recovery. This includes:

a. Engaging in strenuous recreational or other physical activities without the approval of the authorized physician.

b. Being employed or self-employed to perform work of any kind without the prior written approval of the authorized physician and the Human Resources Director.

-7 An employee on injury leave is not required to remain at home, but is required to be available for contact by his/her supervisor and to notify the supervisor of any change of residence during authorized absence.

-8 Failure of an employee on injury leave to follow prescribed procedures or to accept appropriate medical treatment, vocational rehabilitation, or medically appropriate temporary assignments, may result in disallowal of full salary continuation and reversion to straight worker's compensation wages, if eligible, for the time period of noncompliance, with the employee being liable for repayment of the monetary differential.

10.25 *Bereavement Leave*

Bereavement leave may be used when a death occurs in an employee's immediate family or household. Department heads or designees shall grant bereavement leave with pay to merit employees in accordance with the following provisions:

-1 Full time merit employees shall be eligible to use up to 16 hours of bereavement leave per calendar year. Merit employees scheduled to work less than 80 hours per pay period shall be eligible for bereavement leave on a pro-rated basis.

-2 Bereavement leave may not be carried over from one calendar year to the next.

-3 The amount of bereavement leave to be debited shall be computed on the basis of the exact number of hours an employee is scheduled to work in the period when the leave is taken.

-4 Bereavement leave shall be debited in no less than one-tenth hour units.

-5 Sick leave may be granted for absences extending beyond bereavement leave eligibility in accordance with the sick leave provisions herein.

10.26 *Compensatory Leave*

-1 Compensatory leave shall be credited to an employee as provided for in the rules governing overtime. Employees who are participants in the Deferred Retirement Option Plan (DROP) will be considered as merit employees for purposes of crediting compensatory leave.

-2 Compensatory time for overtime worked shall be granted at the discretion of the employee at a time convenient to and approved by the department head or designee.

-3 Employees shall not receive dual compensation from the County for compensatory leave.

-4~~3~~ Overdrawn compensatory leave shall be debited in the following order: annual leave, leave without pay.

-5 The approval of the department head or deputy is required when granting or denying compensatory leave to extend a period of absence beyond the allowable FMLA entitlement period.

10.27 *Effect of Transfers on Compensatory Leave*

An employee who transfers from one department to another shall~~,~~ have ~~if possible, use~~ his/her compensatory leave ~~prior to the effective date of the transfer. If this is not possible, the total number of compensatory leave~~ balance ~~shall be recorded on the personnel action form and shall be~~ transferred to the new department.

10.28 *Effect of Separation on Compensatory Leave*

An employee who is separated from service may only be paid for any accrued overtime for which he/she has not been granted compensatory leave in accordance with the provisions of section 4.15-4.

10.29 *Military Leave*

-1 A merit employee who is a member of the National Guard or an organized military reserve of the United States, or is a former member of the Armed Services and has been
reactivated by a competent authority shall be allowed military leave under the following circumstances:

a. Leaves of absence with pay not to exceed fifteen workdays during any one federal fiscal year (October 1 - September 30) to attend federally funded military duty, including duty for training. For the purposes of this section, one 24-hour shift workday shall equate to two military leave workdays. The employee shall report to work in accordance with the following schedule:

1. If the period of service is less than 31 days, the employee must report back to work not later than the beginning of the next regularly scheduled workday after the military duty, including travel time and an 8-hour rest period, is completed.

2. If the period of service is more than 30 days but less than 181 days, the employee must report back to work not later than 14 calendar days after completing service.

3. If the period of service is more than 180 days, the employee must report back to work not later than 90 days after completing service.

4. If the employee is hospitalized or convalescing from an injury or illness incurred during the period of service, then the time for the employee to report back to work will be extended.

b. Leaves of absence without pay for training not covered above. The employee shall report to work the next regularly scheduled workday after the training period, including travel time and an 8-hour rest period, is completed.

-2 A merit employee who is a member of the Virginia National Guard and who is called to emergency duty by the Governor to combat floods, riots, winter storms, hurricanes or other disasters shall be allowed military leave with pay for each day of such service. A merit employee who is a member of any National Guard organization other than the State of Virginia and who is called to emergency duty by the competent authority of that state may elect to be placed on military leave without pay for each day of such service.

-3 The employee shall notify his/her supervisor as far in advance as possible when taking

military leave. The employee's notice may be either verbal or written. A copy of military orders may be requested, but cannot be required. Failure to notify the County in advance shall not deprive the employee of rights and benefits.

-4 An employee who leaves the County service in order to join the military forces of the United States or who is inducted into such service has resigned and is not considered to be on military leave. (Section 9.2-5).

-5 In the event of any conflict between County regulations and federal or state law, the latter shall take precedence.

10.30 *Civil Leave*

A merit employee shall be given time off without loss of pay when performing jury duty, when subpoenaed or requested to appear before a court, public body or commission except when the employee is a party to the suit, when performing emergency civilian duty in connection with national defense, or for the purpose of voting. Leave for the purpose of voting shall only be granted when the employee's work schedule prohibits voting before or after duty hours or through absentee balloting.

10.31 *Volunteer Activity Leave*

Volunteer activity leave may be used to participate in volunteer activities and initiatives to support the neighborhoods in which employees live and work to include educational and charitable institutions, religious/faith-based and community service entities. Department heads or designees shall grant volunteer activity leave with pay to merit employees in accordance with the following provisions:

-1 Full time merit employees shall be eligible to use up to 16 hours of volunteer activity leave per calendar year. Merit employees scheduled to work less than 80 hours per pay period shall be eligible for voluntary activity leave on a pro-rated basis.

-2 Voluntary activity leave may not be carried over from one calendar year to the next.

-3 The amount of voluntary activity leave to be debited shall be computed on the basis of the exact number of hours an employee is scheduled to work in the period when the leave is taken.

-4 Voluntary activity leave shall be debited in no less than one-tenth hour units.

10.32 *Leave Without Pay*

A department head or designee may grant a merit employee a leave without pay for a period not to exceed one year, subject to the following conditions:

-1 Leave without pay shall be granted only when it is in the interests of the County to do so. The interests of the employee shall be considered when he/she has shown by his/her record to be of more than average value to the County and when it is desirable to return the employee even at some sacrifice.

-2 At the expiration of a leave without pay, the employee shall be reinstated in the position he/she vacated or in any other vacant position in the same class.

-3 The employee does not earn leave while on leave without pay.

-4 Failure on the part of the employee to report promptly at the expiration of a leave without pay may be cause for dismissal.

~~10.33 *Unauthorized Absence*~~

~~-1 An employee who is absent from duty without approval shall:~~

~~a. Receive no pay for the duration of the absence;~~

~~b. Be subject to disciplinary action, which may include dismissal.~~

~~-2 It is recognized that there may be extenuating circumstances for unauthorized absence and due consideration shall be given each case.~~

~~-3 Failure of an employee to report for work at the expiration of an authorized leave or to request an extension of such leave shall be considered an absence without leave.~~

10.34 *Education Leave*

A merit employee engaged in professional or technical work may be granted a leave of absence with full or partial pay for enrollment in a special institute or course of study of direct benefit to the County service, at the discretion of the department head or designee.

Such leave may be granted on the assumption that the employee will remain with the County service for a reasonable period to be recommended by the department head or designee, upon completion of the institute or course of study.

10.35 *Holiday Leave*

-1 The following holidays are observed by the County and shall be granted to merit employees with pay, unless such employees are required to be on scheduled duty.

a. New Year's Day (January 1);

b. Martin Luther King, Jr.'s Birthday (Third Monday in January);

c. Washington's Birthday (Third Monday in February);

d. Memorial Day (Last Monday in May);

e. Independence Day (July 4);

f. Labor Day (First Monday in September);

g. Columbus Day (Second Monday in October);

h. Veteran's Day;

j. Thanksgiving Day (Fourth Thursday in November);

k. Fall Holiday (Friday after Thanksgiving);

l. Christmas Eve (One-half day on December 24);

m. Christmas Day (December 25);

n.

o. Inauguration Day (January 20, every fourth year) when it falls on a business day, Monday through Friday.

-2 The County Executive may also set aside other days as holidays.

10.36 *Granting Holiday Leave*

The granting of holidays observed by the County shall be subject to the following provisions:

-1 Holidays on a weekend.
When a holiday falls on Saturday, it shall be observed on the preceding Friday. When a holiday falls on Sunday, the following Monday shall be observed as the holiday.

-2 Holiday on scheduled workday

a. Holiday on scheduled workday; employee works**.**

Employees who are required to work on a holiday (actual or County observed) shall be compensated for the time worked in accordance with the rules governing hours and overtime. Holiday compensation will be provided on an hour for hour basis for an employee's regular scheduled hours not to include overtime hours. If an employee who would not normally work the holiday, is scheduled to work to meet staffing or other operational needs, the employee is entitled to receive holiday compensation for hours worked not to exceed the number of his/her regularly

scheduled hours.

b. Holiday on scheduled workday; employee does not work.
Employees who are required to work on a holiday (actual or County observed) but do not work, shall be compensated as follows. Holiday compensation will be provided on an hour for hour basis up to the number of regularly scheduled hours for that day.

-3 Holiday on scheduled day off. Within the policy established in the section on holiday leave, whenever one of the designated holidays falls on an employee's scheduled day off, the employee shall be granted either holiday pay or holiday compensatory time in accordance with the rules governing hours and overtime. To receive holiday compensation on an actual holiday, an employee must be directed by his/her supervisor to work due to staff shortage or other operational necessity.

-4 Holidays for merit part-time employees. Part-time merit employees shall be granted holiday time off with pay on a pro-rated basis regardless of the number of hours scheduled on the day a holiday falls computed at the rate of one-tenth of an hour times the employees bi-weekly scheduled hours.

-5 Holidays during paid leave. A holiday falling within a period of paid leave shall not be counted as a workday in computing the amount of leave debited.

-6 Holiday during unpaid leave. When a holiday falls within a period of leave without pay ~~or~~ immediately ~~preceding or~~ following such leave, the employee shall receive no pay for the holiday. To be eligible for holiday compensation the employee must be in pay status for a full workday preceding ~~on one side of~~ the holiday ~~and a minimum of one-half workday on the other side~~.

-7 Appointment on a holiday. The appointment of a merit employee shall not be effected on a holiday except when the employee works that day.

10.37 *Administrative Leave*

-1 Administrative leave shall be any paid leave authorized by the County Executive, which is not otherwise classified by these Regulations.

-2 Administrative leave will normally[1] be granted to any full-time or part-time employee by an appointing authority or the County Executive for any of the following reasons:

a. Where an employee is required to appear before a public body, public agency, board or commission during normal working hours on matters relating to County business.

1 Exceptions to be justified and made a matter of record.

b. For the attendance in an official capacity during normal working hours as a representative of the County at meetings, symposiums, conferences, conventions or hearings.

c. During the investigation of an alleged improper act by an employee which may result in formal disciplinary actions and/or when the retention of the employee on an active duty status may be detrimental to the interests of the County or injurious to the employee, his/her fellow workers or the general public. Administrative Leave for this purpose will not exceed ten business days without prior approval of the County Executive. A memorandum to the Human Resources Director will be submitted by the department head or designee giving details of the Administrative Leave for all situations covered by this paragraph. In lieu of the use of Administrative Leave for situations of this type, a department head or designee may temporarily assign the employee to other duties.

d. For participation in the blood donor program for which purpose up to four hours may be granted, at the discretion of department head or designee, for each recuperative purpose.

e. For the purpose of undergoing a medical examination as may be required by the employee's department head or designee.

f. To recognize long term service to general county employees who earn length of service awards of 20, 25, 30, 35, 40 and 45 years or more shall be eligible for one day's of leave (12 hours for 24 hour shift firefighters) in the year after they have qualified for the length of service award.

g. To recognize outstanding performance such as Outstanding Performance Awards or Team Excellence Awards. The number of hours received for Outstanding Performance Awards or Team Excellence Awards shall be equal to one day of leave (12 hours for 24 hour shift firefighters).

h. For officers of the Employees Advisory Council and employee organizations, which participate in payroll dues deduction to attend conventions and training related to employee relations. Administrative Leave for this purpose shall not exceed 30 workdays (240-hours) per year per employee organization. In the accrual of hours toward the 240-hour limit, one 24-hour shift shall equate to 16 hours of administrative leave. Employees must submit such leave requests as far in advance as possible and provide written verification upon return to duty of attendance at the convention or employee relations training.

-3 In addition to the provisions of paragraph -2 above, Administrative Leave may be granted to any full-time or part-time employee by the County Executive or his/her designee for any of the following reasons:

a. Breakdown of essential facility services such as heating, air conditioning, or water or other problems wherein facilities must be closed and employees released early from work or not required to report to work.

b. Breakdowns of equipment making it impossible to accomplish assigned tasks.

10.38 *Leave for Inclement Weather or Other Emergency*

-1 When extreme inclement weather or other emergencies occur, the County Executive or his/her designee shall have the option to declare one of the following types of leave:

a. Unscheduled Leave - may be declared by the County Executive or his/her designee when it is deemed advisable to provide employees flexibility regarding reporting to work due to inclement weather or other emergency. Unscheduled leave authorizes all employees, except those designated as emergency service personnel, to use their own leave to remain home from work or to leave work early without obtaining prior approval from their supervisor. Employees, however, must notify their supervisors if they opt to stay home on unscheduled leave. Employees may only use annual leave, compensatory leave, or leave without pay for this purpose. Such leave is authorized only for the period of time designated by the County Executive or his/her designee.

b. Emergency Administrative Leave - may be declared by the County Executive or his/her designee when it is determined necessary to close the general County government due to extreme inclement weather or other emergency. Emergency administrative leave authorizes all merit County employees, except those designated as emergency service personnel, to remain home from work or to leave work early without prior approval of the supervisor and without the use of personal leave or leave without pay. Such leave shall be limited to the time periods designated by the County Executive or his/her designee. Employees required to work during a period of such emergency administrative leave shall receive extra compensation in accordance with provisions contained in Chapter 4.

-2 When leave for inclement weather or other emergency is declared, emergency service personnel must report to work. Emergency service personnel are those employees, designated by the department head or designee, who due to the nature of the emergency which has occurred, must report to work to ensure that public health and safety needs or critical departmental requirements are met.

CHAPTER 14

Reports and Records

14.1 *Reports to the Department of Human Resources*

-1 Department heads or designees shall notify the Department of Human Resources of all proposed appointments to, status changes in, and separations from the classified service at such time, in such form, and with such supporting or pertinent information as these rules prescribe or as the County Executive shall deem necessary.

-2 Department heads or designees shall notify the Department of Human Resources of all changes in the duties and responsibilities of a position when the change is of such a nature that the position should properly be reallocated to another class.

-3 Department heads or designees having jurisdiction over positions in the exempt service shall report to the Department of Human Resources the names of appointees, their titles and the dates of their appointments.

14.2 *Records and Tabulations*

The Human Resources Director shall maintain such other personnel records as he/she may consider desirable, or as the County Executive shall direct, and shall make available to the Board of County Supervisors, the County Executive, the Civil Service Commission, department heads and other persons having a proper interest therein, tabulations and analyses of such personnel data as he/she has available.

14.3 *Public Inspection*

The records of the Department of Human Resources shall, with the exception of records specified in these rules, and such other records as may be specified by the County Executive, be public records and be open to public inspection during regular office hours at such times and following such procedures as may be prescribed by the Human Resources Director.

14.4 *Reports to County Executive, Civil Service Commission and Employees Advisory Council*

The Human Resources Director shall submit a written report to the County Executive annually. Copies of such reports shall be sent to the Civil Service Commission and the Employees' Advisory Council. Copies of such other reports on administrative matters as are sent to the Board of Supervisors by the Department of Human Resources shall also be sent to the Employees Advisory Council.

14.5 *Employee Medical Records*

-1 The term "employee medical records," as used in this section, means any documents or other materials (e.g., photographs) relating to or including any medical information concerning job applicants and/or employees that federal or state law, or County policy, requires the County as an employer to keep confidential. Subjects that employee medical records cover include, but are not limited to, employment entrance medical examinations or inquiries (including medical histories) made after a conditional offer of employment, employee fitness-for-duty examinations or inquiries, and voluntary medical examinations and inquiries (including voluntary medical histories) that are part of an employee health program available to employees at the work site. This section applies to employee medical records relating to current and former employees and job applicants. Job applicants include employees applying for other positions in the County service.

-2 Employee medical records shall be maintained in secured files physically separate from personnel files. In those instances in which a document or other material designated for a personnel file includes any medical information that federal or state law, or current County policy, requires the county as an employer to keep confidential, this medical information shall be removed from the document or other material before placing it in the personnel file.

-3 Employee medical records shall be retained in accordance with federal and/or state record retention rules or guidelines. Once the longest applicable retention period has expired, the records shall be disposed-of in a confidential and secure manner, unless they are potentially relevant to an ongoing or a reasonably anticipated legal proceeding, in which case the records shall be retained until the proceeding ends or is time-barred.

-4 Employee medical records shall be kept confidential, unless disclosure of the records is required or authorized by law, or by a court or other person or entity empowered to compel such disclosure.

-5 Access to employee medical records shall be limited to authorized County staff on a need-to-know basis.

-6 No employee shall read any employee medical records that he or she is not authorized to review.

-7 Any transmission of employee medical records shall be done using a means that reasonably avoids disclosure of the records to persons not authorized to have access to those records (i.e., unauthorized persons).

-8 No employee shall discuss information found in another individual's employee medical records with unauthorized persons. Any discussion of any employee medical records shall take place in a location where unauthorized persons should not be able to overhear the discussion.

-9 Any employee who violates any part of this section shall be subject to appropriate disciplinary action.

-10 This section does not abrogate any duty of the County under federal or state law, or County policy, to keep medical records confidential. To the extent that such a duty provides for greater confidentiality protection than the confidentiality protection provided by this section, it shall control.

CHAPTER 17

GRIEVANCE PROCEDURE

17.1 *Purpose*

The purpose of the grievance procedure is to provide a fair, detailed process whereby employees may voice complaints concerning issues related to their employment with the County. The objective is to improve employee-management relations through a prompt and fair method of resolving problems.

17.2 *Coverage of Personnel*

-1 All merit employees in the competitive service of the County who have satisfactorily completed their initial probationary period are eligible to file complaints under this procedure.

-2 Excluded from the grievance procedure are the following:

a. Employees in the exempt service, except as specifically provided otherwise in the procedural directives for the administration of the exempt service issued by the County Executive with the approval of the Board of Supervisors pursuant to Fairfax County Code § 3-1-2(c);

b. Employees serving their initial probationary periods unless their complaints include allegations of discrimination as defined in Section 17.3-2d and 17.3-2e;

c. Sworn police employees who have elected to proceed under the "Law-Enforcement Officers Procedural Guarantee Act." Such employees shall be given written notification of their right to initiate a grievance under the County's Grievance Procedure. They may choose to file the grievance under either procedure, but not both.

17.3 *Types of Complaints*

-1 Employee complaints will be classified at the point of grievability determination (see Section 17.5-4) as one of the following:

a. Grievable, with a binding decision from a hearing panel of the Civil Service Commission;

b. Nongrievable but eligible for a hearing and an advisory decision from a hearing officer appointed by the Chair of the Civil Service Commission;

c. Nongrievable with no hearing.

-2 Grievable complaints which receive binding decisions from a three-member panel of the Civil Service Commission hearing the appeal include:

a. Dismissals, unsatisfactory service separations, demotions and suspensions;

b. The application of specific County personnel policies, procedures, rules and regulations;

c. Acts of retaliation as a result of utilization of this procedure, the pay for performance appeals procedure, or for participation in the grievance of another county employee;

d. Discrimination against an employee, including a probationary employee, on the basis of race, color, creed, religion, age, disability, national origin, sex, political affiliation, marital status, union affiliation, genetic information, veterans status, or disabled veterans status;

e. Discrimination or retaliation against an employee, including a probationary employee, because of participation in political activities permitted under state law and County ordinances or failure to participate in political activities, whether permitted or not by state law or County ordinance;

f. Acts of retaliation because the employee (i) has complied with any law of the United States or of the Commonwealth, (ii) has reported any violation of such law to a governmental authority, (iii) has sought any change in law before the Congress of the United States or the General Assembly (iv) has reported an incidence of fraud, abuse, or gross mismanagement to the Board of Supervisors Audit Committee, the Auditor to the Board, his/her department head, or to any other federal, state, or County government authority, such as the Commonwealth's Attorney for the County of Fairfax, or the U.S. Attorney for the Eastern District of Virginia.

g. For the purpose of sub-paragraphs (c) and (f) of this section, there shall be a rebuttable presumption that increasing the penalty that is the subject of the grievance at any level of the grievance shall be an act of retaliation.

-3 Nongrievable complaints eligible to receive advisory decisions from a hearing officer appointed by the Chair of the Civil Service Commission include:

a. The physical plant;

b. The methods and conditions of the specific job;

c. Relations with fellow employees;

d. Performance appraisals;

e. Written reprimands.

17.4 *Nongrievable Complaints*

-1 Complaints that are not grievable under this procedure include:

a. The establishment and revision of wages or salaries, position classification, employee benefits;

b. Oral reprimands;

c. The contents of ordinances, statutes, or established personnel policies, procedures, rules and regulations;

d. Failure to promote, except where the employee contends that established promotional policies or procedures were not followed and were not fairly ~~or~~ applied ~~fairly~~;

e. Discharge, lay-off or suspension from duties because of lack of work or reduction-in-work-force, except where such actions affect an employee who has been reinstated within the previous six months by the Civil Service Commission as the result of the final determination of a grievance. In such cases, the department must show that there was a valid business reason for the action and that the employee was notified of such reason in writing prior to the effective date of the action;

f. Management of County employees including the right to make personnel appointments in accordance with adopted selection policies and techniques, to establish rules and regulations governing work performance and performance evaluations, to transfer and assign employees within the County,

to determine the need for shift operation and rotation of the workweek, to assign overtime, to determine job training and career development, and to determine duties or actions in emergency situations.

g. Decisions of performance evaluation appeals panel, except in accordance with the provisions of Chapter 12.

-2 Appeals of position classification are handled in accordance with the criteria set forth in Section 3.6.

17.5 *Steps of the Procedure*

-1 Step 1: Immediate Supervisor

An employee who has a complaint shall discuss the problem directly with his/her supervisor within twenty (20) business days of the date the employee should have reasonably gained knowledge of the event giving rise to the complaint.

A verbal reply by the Supervisor shall be made to the complaint during the discussion or within five business days following the meeting.

-2 Step 2: Division Supervisor

If the complaint is not resolved after the first step meeting and where there is a division supervisor, the employee may reduce the complaint to writing on "Complaint Form - Second Step." All grievance forms are obtainable from the Department of Human Resources.

The employee shall specify the relief sought through the use of this procedure. The fully completed Complaint Form shall be delivered by the employee to the division supervisor within five (5) business days of the first step meeting or the supervisor's reply, if given at a later date. The division supervisor shall meet with the employee within five business days of receipt of the Complaint Form.

A written reply by the division supervisor shall be made to the complaint within five business days following the meeting.

-3 Step 3: Department Head

If the reply from the second step meeting is not acceptable to the employee, or where no division supervisor exists, the employee may appeal the last response to the department head.

"Complaint Form - Third Step" shall be completed by the employee and delivered to the department head within five business days of receipt of the last response. The department head shall meet with the employee within five business days of receipt of the Complaint Form.

A written reply by the department head shall be made to the complaint within five business days following the meeting.

-4 Step 4: Grievability Determination

a. When a complaint cannot be satisfactorily resolved pursuant to Steps 1 through 3 above, the employee shall request on the appropriate form a determination concerning the grievability of the complaint within ten business days of receipt of the third step reply.

b. All requests for grievability determination shall be submitted to the County Executive. The County Executive will determine whether the employee is entitled to access to the grievance procedure and if the complaint is grievable, and if so, based upon the criteria set forth in Section 17.3, establish whether the grievant shall receive a binding or an advisory decision. Grievability and access determinations by the County Executive shall be made within ten business days of receipt of such request.

c. Decisions regarding grievability and access are appealable only to the Fairfax County Circuit Court. Such appeals shall be made by filing a notice of appeal with the County Executive within ten business days from the date of receipt of the decision. The County Executive, or his/her designee, shall transmit to the Clerk of the Circuit Court a copy of the County Executive's decision, a copy of the notice of appeal, and the exhibits constituting the record of the grievance within ten calendar days of receipt of the notice of appeal. A list of the evidence furnished to the County shall also be provided to the grievant.

d. The Circuit Court shall have a hearing on the issue of grievability and/or access within thirty (30) days of receipt of the record of the grievance by the Circuit Court Clerk. The Court may affirm, reverse or modify the decision of the County Executive.

e. The decision of the Circuit Court is final and is not appealable. Procedures governing the review by the Circuit Court are found in Virginia Code §15.2-1507(a)(9).

f. In no case shall the County or Commonwealth's Attorney be authorized to

decide the issue of grievability.

-5 Step 5: Appeal to the Civil Service Commission

a. If the complaint has been determined to be grievable, with a binding decision or nongrievable with an advisory decision as provided herein, the employee may file a request for hearing on the appropriate form with the Fairfax County Civil Service Commission. The employee shall file the request within ten business days following the receipt of the determination that the complaint is grievable.

b. Appeals of complaints that have been determined to be grievable shall be heard by a three-member panel of the Commission (hearing panel or panel) as soon as possible after receipt of the employee's appeal request. Appeals of complaints that have been determined to be non-grievable but entitled to an advisory and non-binding opinion shall be heard by a hearing officer or by the Executive Director of the Commission when the parties are not represented by counsel, as soon as possible after the receipt of the employee's appeal request. The Executive Director of the Commission in scheduling hearings on appeals shall give priority on its docket to dismissal and unsatisfactory service separation cases. The Executive Director of the Commission shall notify the employee and the department head in writing of the time and place of the appeal hearing.

c. The jurisdiction and authority of the hearing panels of the Civil Service Commission shall be confined exclusively to those complaints previously determined to be grievable as provided herein. While a panel of the Commission hearing the appeal has authority to determine the appropriate application of an existing rule or policy, they do not have the authority to add to, detract from, alter, amend or modify in any way County or department policy or procedure, and its findings shall be consistent with all applicable laws and ordinances.

d. No member of the Civil Service Commission or an appointed hearing officer shall hear a grievance if he/she has direct involvement with the grievance being heard, or with the complaint or dispute giving rise to the grievance. The following relatives of a participant in the grievance process or a participant's spouse are prohibited from hearing said grievance: spouse, parent, child, descendants of a child, sibling, niece, nephew and first cousin.

17.6 *Remedies*

-1 The panel of the Commission hearing the appeal is empowered to uphold or reverse

the action being grieved or, in appropriate circumstances, choose a modified remedy.

-2 In grievances entitled to a binding decision the following guidelines pertaining to remedial action shall apply:

a. Dismissals - The panel of the Commission hearing the appeal may deny relief, reinstate the employee while imposing lesser disciplinary actions such as demotion or suspension, or reinstate the employee.

b. Disciplinary Demotions pursuant to Personnel Regulation 16.5-5 - The panel of the Commission hearing the appeal may deny relief, impose lesser disciplinary sanctions, or revoke the disciplinary demotion.

c. Suspensions - The panel of the Commission hearing the appeal may deny relief, impose a lesser suspension, instruct that a written reprimand be substituted for the suspension, or revoke the disciplinary suspension.

d. Unsatisfactory Service Separations - The panel of the Commission hearing the appeal may deny relief; reinstate with a demotion to the employee's previously held class, or in the case where an employee's class is part of a class series, reinstate with a demotion to the next lower class in the series; reinstate with a new probationary period with or without a demotion; or reinstate the employee in the class he was in at time of separation.

e. Back Pay and Restoration of Benefits in Appeals of Dismissals, Demotions, Suspensions, and Unsatisfactory Service Separations:

i If an employee is reinstated, he/she shall be given back pay for the period of separation contingent upon his/her making full disclosure of all earnings he/she received during separation, which shall be an offset against back pay. In the event the employee fails to provide to the panel of the Commission hearing the appeal such evidence as it deems necessary to determine the amount of the offset, the employee shall forfeit his/her right to back pay.

ii In cases of suspension, the employee shall be entitled to back pay for the period of suspension revoked by the panel of the Commission hearing the appeal under the same conditions as sub-section (1).

iii A lesser sanction in dismissal cases shall include a suspension without pay covering some or all of the period of separation, notwithstanding any other provision of the Personnel Regulations.

iv In the event that the panel of the Commission hearing the appeal imposes a demotion in lieu of an unsatisfactory service separation or dismissal, back pay may be awarded, at the discretion of the panel of the Commission hearing the appeal, for the period of separation at the rate of pay for the lower level classification.

v Back pay shall be computed on the basis of the employee's regularly scheduled hours of work and shall not include any overtime that the employee might have earned.

vi For any period of time that an employee is entitled to receive back pay, he/she shall be given service credit towards retirement and shall be reinstated in the appropriate retirement system with his/her previous plan election, provided that he/she repays into the system all contributions that he/she withdrew on separation. The employer shall ensure that all contributions and deductions attributable to such service are made.

vii Similarly, for purposes of accruing leave, the employee shall be given credit towards his/her total years of service for any period of time that he/she is entitled to back pay. The employee shall also be credited with any leave that he/she would have accrued during that period.

viii Upon reinstatement, the employee shall be placed in the health plan that he/she was in at the time of separation with the same options that he/she had previously elected. The effective date of coverage will be the first of the month following reinstatement. A reinstated employee may opt for retroactive coverage in the event that it would be to his or her advantage. The employee must pay his or her share of retroactive coverage premiums. Claims expenses incurred for the retroactive period will be adjusted upon payment of the premium and the employee will be reimbursed for out-of-pocket costs above those he or she will have incurred had the coverage been in effect. The employee may be reimbursed for monies expended by the employee to obtain medical insurance during the period of separation up to the amount of the employer's contribution that would have been incurred had the employee been in service during the period of separation. In no event shall the employee be entitled to reimbursement for medical costs incurred during the period of separation. In the event the employee elected to continue his or her County health insurance under COBRA during the period if separation, the employee shall be reimbursed the difference between the premium he or she paid under COBRA and what he or she would have paid had he or she continued

to be employed during the period of separation. In no event shall the employee be entitled to reimbursement for medical costs during the period of separation, except as provided above.

ix. Upon reinstatement, an employee's salary shall be adjusted to reflect any performance pay increases that would have been received had the employee not been separated. If a performance evaluation existed for the performance year prior to the employee's separation, the performance pay increase shall be determined using the final rating on that performance evaluation. If no performance evaluated existed for the performance year prior to the employee's separation, the employee shall be given a 3.5% pay increase. The performance pay increase date does not change.

f. Promotions - The panel of the Commission hearing the appeal may deny relief, order the promotional procedure redone, order a retroactive promotion, order the grievant promoted immediately if there is an available vacancy or promoted to the next available vacancy.

-3 In cases other than dismissals, unsatisfactory service separations, demotions, suspensions, or performance evaluations, the panel of the Commission hearing the appeal may deny the relief sought by the employee or grant such relief as is necessary to place the employee in the situation he/she would have been in had the Personnel Regulations or policies been properly interpreted and/or applied in the first instance. In no event shall the employee be awarded any damages, nor shall the relief granted by the panel of the Commission hearing the appeal affect the rights of other employees.

-4 Acts of Reprisal and Discrimination - Where the panel of the Commission hearing the appeal determines that any act of reprisal or discrimination as defined in this chapter is the reason for the adverse employment action grieved by the employee, the panel of the Commission hearing the appeal shall have the authority to revoke the adverse employment action. In the event the adverse employment action is one of the actions described in Sections 2 or 3 of this section, the panel of the Commission hearing the appeal may apply the remedial actions provided under those subsections. The panel of the Commission hearing the appeal shall also affirm such adverse employment actions taken to the extent that they were not the result of reprisal or discrimination.

-5 Damages, Attorney's Fee and Costs - The panel of the Commission hearing the appeal shall have no authority to order the payment of damages of the grievant's or the County's attorney's fees or costs.

-6 Recommendations - Regardless of whether the panel of the Commission hearing the appeal grants the individual grievant any relief, such panel may make whatever recommendations to the Board of Supervisors or County Executive it deems appropriate.

17.7 *Conduct of Grievance Step Meetings*

-1 Personal face-to-face meetings are required at all steps. The employee and the County management may have a representative present at all steps. If the employee is represented by legal counsel, management likewise has the option of being represented by counsel. The parties to the grievance may by mutual agreement waive any or all intermediate steps or meetings, with the exception of the initial complaint, reducing the complaint to writing and the request for grievability determination.

Upon written request from the grievant to the Department head, County management shall waive the first and second step grievance meetings in cases of termination, suspension, or demotion. Time spent attending grievance step meetings, Circuit Court hearings or a hearing before a panel of the Civil Service Commission during the grievant's regularly scheduled hours shall be considered work time and the use of personal leave is not required.

-2 At all steps, appropriate witnesses also may be asked to provide information. Witnesses shall be present only while actually providing testimony.

-3 In any complaint involving a charge of discrimination, at the request of any party to the grievance, the Director of the Office of Equity Programs, or his/her designee, may attend step meetings.

17.8 *Grievant's Expenses*

-1 The grievant must bear any cost involved in employing representation or in preparing or presenting his/her case.

-2 Whenever possible, grievances will be handled during the regularly scheduled workhours of the parties involved. Civil Service Commission hearings are held during the County's business day whenever possible.

-3 A panel of the Civil Service Commission has no authority to award legal fees or punitive damages.

17.9 *Extension of Time*

-1 The parties to the grievance, by mutual agreement, or the County Executive or his/her designee, upon the request of one of the parties and showing of just cause, may extend any or all of the time periods established in this procedure.

17.10 *Compliance with Procedural Requirements of this Procedure*

-1 After the initial filing of a written complaint, failure of either the employee or the respondent to comply with all substantial procedural requirements of the grievance procedure without just cause shall result in a decision in favor of the other party on any grievable issue, provided the party not in compliance fails to correct the noncompliance within five workdays of receipt of written notification by the other party of the compliance violation. Such written notification by the grievant shall be made to the County Executive, or his/her designee.

-2 The County Executive, or his/her designee, may require a clear written explanation of the basis for just cause extensions or exceptions to any of the substantial procedural requirements. The County Executive, or his/her designee, shall determine all compliance issues.

-3 Any party aggrieved by the determination of the County Executive or his/her designee on a compliance issue may obtain judicial review of the determination by filing a petition with the Fairfax County Circuit Court within thirty days of the compliance determination.

17.11 *Resolution Prior to Hearing*

Any grievance shall be considered settled at the completion of any step if all parties are satisfied. In fact, it is expected that the great majority of grievances will be settled at the first or second step. However, nothing in this procedure should be construed as limiting the employee's right to exhaust the remedies provided by this procedure.

17.12 *Hearings*

-1 Hearings shall be conducted as described in Addendum 1 to Chapter 17.

-2 Hearings shall be open to the public. However, upon request of either party, the hearing shall be private. The hearing officer or the panel of the Commission hearing the appeal, by majority vote, may close a hearing to the public if the testimony about to be presented might impugn the personal reputation of a party or witness to said hearing, or if the right to privacy of such party or witness requires that the hearing be closed. Parties and their representatives shall be allowed to attend the hearing at all times. All witnesses shall be excluded from the hearing, except when testifying, at

the request of either party.

-3 Failure of either party without just cause to comply with all substantial procedural requirements at the hearing shall result in a decision in favor of the other party in accordance with the procedures under Pers. Reg. §17.10.

-4 The decision of the panel of the Commission hearing the appeal shall be announced after the deliberations by that hearing panel at the conclusion of the hearing and shall be filed in writing by the Chairperson of that hearing panel of the Civil Service Commission or by the Hearing Officer with the parties not later than ten business days after the completion of the hearing. Copies of the decision shall be transmitted to the Human Resources Director, the employee, the employee's department head and the County Executive. The Hearing Officer also shall transmit a copy of the advisory decision to the Executive Director of the Civil Service Commission.

-5 The majority decision of the panel of the Commission hearing the appeal shall be final and binding. Either party may petition the Fairfax County Circuit Court for an order requiring implementation of a binding decision from the panel of the Commission hearing the appeal. Notwithstanding any other provision of this chapter to the contrary, a final decision of a panel of the Civil Service Commission hearing the appeal rendered under this procedure which would result in the reinstatement of any employee of the Sheriff's Department, who had been terminated for cause, may be reviewed by the Fairfax County Circuit Court upon the petition of the County. Such review by the Circuit Court shall be limited to the question of whether the decision of the panel of the Civil Service Commission hearing the appeal was consistent with the provisions of law and written policy.

-6 The decision of the Hearing Officer shall be advisory to the County Executive.

-7 All decisions in the grievance procedure shall be consistent with the provisions of law and written policy. Any challenge to the relief granted by the decision of a panel of Civil Service Commission hearing the appeal on the grounds of inconsistency with written policy shall be submitted by either party within five (5) workdays to the County Executive, or his/her designee, who is empowered to decide such questions and to direct reconsideration by the Commission, where appropriate. If the County Executive or his/her designee has a direct involvement in the grievance the decision shall be made by the Commonwealth's Attorney. Notwithstanding the above, after receipt of a decision of a hearing panel of the Civil Service Commission the County Executive or his/her designee, may on his/her own action, within ten business days, remand to the panel of the Commission that heard the appeal for further consideration a decision in which the relief granted appears to be inconsistent with written policy.

17.13 Severability

Should any article, section, subsection, sentence, clause, or phrase of these regulations, procedures and/or addenda, be held unconstitutional or invalid for any reason, such decision or holding shall have no effect on the validity of the remaining portions hereof. It is the intent of the Board of Supervisors to enact or have enacted each section and portion thereof, individuality, and each such section shall stand alone, if necessary, and be in force regardless of the determined invalidity of any other section or provision.

Attachment 8

ADDENDUM NUMBER 1

PROCEDURE FOR GRIEVANCE HEARINGS AND APPEALS

Preamble

The panel of the Commission hearing the appeal shall not be bound by Statutory or Common Law rules of pleading or evidence. Hearings will be conducted so as to ascertain the rights of the parties accurately and expeditiously.

The Commission

The Commission consists of twelve members who will sit in rotating panels of three to hear grievance appeals. Panels will be randomly assigned to a schedule as needed to conduct appeal hearings. When a hearing is scheduled, the next three Commissioners on the schedule will be contacted to participate in that hearing. If a Commissioner is unable to participate in an assigned hearing, the next available member on the schedule will fill in when the absence of a scheduled panel member cannot be avoided, as no hearing can be conducted by a panel unless all three members designated to hear that appeal are present throughout the hearing. If an appeal is settled or withdrawn prior to the scheduled hearing, the panel members assigned to hear that appeal will be assigned to the next appeal scheduled. The schedule and the assigned panel members are considered confidential. The names of the panel members will not be released prior to a scheduled hearing.

The Commission consists of twelve members who will sit in panels of three to hear grievance appeals. Each of the four panels of three members will meet as needed to conduct appeal hearings. The member and chair of each hearing panel hearing the appeals will rotate on a monthly basis according to a set schedule. Three members of the Commission will be designated as “on call” each quarter to fill in when the absence of a scheduled panel member cannot be avoided as no hearing can be conducted by a panel unless all three members designated to hear that appeal are present throughout the hearing. The members designated as “on call” will rotate each quarter according to a set schedule. Each member of the Commission will receive his or her schedule in advance for a three month period.

Appeals of complaints that have been determined to be grievable shall be heard by a three-member panel of the Commission (hearing panel or panel) as soon as possible after receipt of the employee’s appeal request. Appeals of complaints that have been

determined to be non-grievable but entitled to an advisory and non-binding opinion shall be heard by a hearing officer or, by the Executive Director of the Commission when the parties are not represented by counsel, as soon as possible after receipt of the employee's appeal request.

A simple majority of the hearing panel will prevail in any decision made by the panel. The panel hearings will be held during the County's normal business hours continuing until all evidence has been heard and arguments made. Upon the conclusion of the evidence and argument, the hearing panel will recess the hearing while it deliberates in closed session and makes its findings. Upon the conclusion of the panel's deliberations, the panel will come out of closed session and resume the hearing to cast the panel members' individual votes, state the findings of the panel, and conclude the hearing. A written decision prepared by the Hearing Officer and signed by the chair of the panel that heard the appeal will be filed with the Executive Director and distributed to the parties within ten days of the conclusion of the hearing.

The Hearing Officer

The Hearing Officer is an independent attorney retained by the Commission to conduct hearings on grievances which receive advisory decisions and to advise the panel of the Commission hearing the appeal concerning legal and procedural matters in cases in which the parties are represented by counsel. The Hearing Officer does not vote on matters before the panel of the Commission hearing the appeal and participates in deliberations only to the extent of advising the panel of the Commission hearing the appeal concerning legal and procedural matters. The Hearing Officer is responsible for conducting hearings in an orderly and expeditious fashion; and makes rules on evidentiary and procedural questions. The rulings are advisory and may be overturned by the panel of the Commission hearing the appeal.

In hearings before the panel of the Commission hearing the appeal in which the parties are not represented by counsel, and at all prehearing conferences, the Executive Director of the Commission shall act as hearing officer.

A. *Prehearing Requirements*

A Prehearing Conference will be held by the Prehearing Officer prior to a panel hearing or the Hearing Officer. The following matters will be addressed:

1. Definition of the scope of the case, the specific issues to be presented to the panel of the Commission hearing the appeal, and the specific regulations and/or ordinances allegedly violated.

2. Stipulations and agreements which will expedite the hearing are greatly encouraged, including but not limited to (1) stipulations of fact; (2) stipulations as to evidence which will be admitted without objection; (3)

stipulations with respect to testimony which will be admitted in written form.

3. All exhibits and documents will be exchanged at or before the Prehearing Conference. Documents shall be marked for identification and tabbed for ease of reference. Any exhibit not provided at or before the Prehearing Conference will not be admitted as evidence, absent a showing of good cause. If as a result of the Prehearing Conference there is an outstanding request for the production of documents, such request must be complied with not later than ten business days prior to the date of the hearing. Any objection to the admissibility of a proposed exhibit or document shall be raised at the Prehearing Conference and if not resolved, the issue will be clearly defined by the Prehearing Officer for consideration by the panel of the Commission hearing the appeal or the Hearing Officer.

4. Witness lists will be exchanged at or before the scheduled Prehearing Conference. Any witness not so designated will not be permitted to testify, absent a showing of good cause. If as a result of the Prehearing Conference, there are to be deletions or additions to the witness lists, such changes will be submitted no later than ten business days prior to the date of the hearing. Witness lists shall include the name, address and telephone number of each witness identified and a brief statement of the substance of the expected testimony. If, upon the petition of a party, the County Executive finds that a witness who is listed by a party and who is a County employee has relevant, material, and non-cumulative testimony and that the party seeking to call the witness at the panel hearing has been unable to secure attendance of the witness before the hearing panel despite the party's reasonable and diligent efforts, the County Executive shall order the County employee witness to appear at the hearing to give testimony. Upon such order to appear being issued by the County Executive to a County employee, any County employee so ordered who fails to appear at the hearing may be subject to disciplinary action as provided in Chapter 16.

5. County management shall provide the Commission with copies of the grievance record prior to the hearing. A copy of the grievance record shall be provided to the grievant by County management at the same time but in no event any later than ten days prior to the hearing before the panel of the Commission hearing the appeal.

6. The hearing date(s) will be set at the Prehearing Conference in accordance with the time estimates provided by both parties.

B. *Continuances*

Requests for continuances shall be in writing with a copy to the opposing party and submitted to the panel of the Commission hearing the appeal and/or Hearing Officer at least five workdays prior to the hearing date. The panel of the Commission hearing the appeal and/or Hearing Officer may grant such requests only where good cause is shown.

C. *Hearing Procedure*

Hearings on appeals will be heard by the panel of the Commission hearing the appeal or the Hearing Officer in accordance with the following order and procedures:

1. Opening statement by the moving party. (The County shall be considered as the moving party in suspensions, demotions and dismissals. In all other cases, the employee is considered to be the moving party.)

2. Opening statement by the responding party.

3. Presentation of moving party's case by direct examination.

4. Cross-examination.

5. Questions, if any, by members of the hearing panel or the Hearing Officer.

6. Redirect and recross examination.

7. Presentation of responding party's case by direct examination.

8. Cross-examination.

9. Questions, if any, by members of the hearing panel or the Hearing Officer.

10. Redirect and recross examination.

11. Presentation of rebuttal witnesses, if any, by moving party by direct examination may be presented in documentary form. Rebuttal testimony should ordinarily be included in the party's original presentation. However, rebuttal evidence may be permitted where, in the judgment of the panel of the Commission hearing the appeal or the Hearing Officer, it is necessary to the party to rebut new material, which could

not reasonably have been anticipated. The panel of the Commission hearing the appeal or the Hearing Officer will judge the necessity of rebuttal testimony on the basis of a proffer or statement by the party seeking to introduce the rebuttal.

12. Cross-examination, questions, if any, by members of the hearing panel or the Hearing Officer, redirect and recross examination of rebuttal witnesses. If rebuttal evidence is in documentary form, provision shall be made for response by opposing party.

13. Closing statement by moving party. Proposed findings of fact and conclusions of law may be submitted at the party's option or at the request of the panel of the Commission hearing the appeal or the Hearing Officer.

14. Closing statement by responding party. Proposed findings of fact and conclusions of law may be submitted at the party's option or at the request of the panel of the Commission hearing the appeal or the Hearing Officer.

15. The hearing record may be held open upon request of either party or upon the panel of the Commission hearing the appeal or the Hearing Officer's own motion for the receipt of additional exhibits or documentary evidence which in the opinion of the panel of the Commission hearing the appeal or the Hearing Officer are necessary for a full and complete hearing. Any opposing party shall be allowed a period of ten calendar days after such receipt to respond thereto. If the panel of the Commission hearing the appeal or the Hearing Officer finds that additional oral testimony is necessary, a hearing may be recessed for scheduling of such testimony.

16. The panel of the Commission hearing the appeal may alter the foregoing procedures in a hearing it if deems it necessary to afford the parties a full and equal opportunity to all parties for the presentation of their evidence.

D. *Record of Hearing*

Recorded tapes will serve as the formal record of grievance hearings. Any party to the appeal may obtain a copy upon payment of reproduction and administrative costs.

E. *Posthearing Procedures*

1. Reopening Hearing

A hearing may be reopened by the panel of the Commission hearing the appeal or the Hearing Officer at any time prior to final decision on the ground of newly discovered evidence or for other good cause shown and if the panel of the Commission hearing the appeal or the Hearing Office finds that reopening the hearing is required for a full

and true disclosure of facts or to assure that the parties receive a fair hearing in accordance with the relevant law and regulations. Petitions for reopening shall set forth the specific newly discovered evidence or other good cause, and will be granted only under exceptional circumstances. If a party files a petition for reopening the hearing, the opposing party shall file a response to said petition within five calendar days of service of the petition.

2. Reconsideration

The Hearing Officer or the panel of the Commission hearing the appeal, upon majority vote, may reconsider a Decision prior to the actual implementation of that decision. The panel of the Commission hearing the appeal or the Hearing Officer will only reconsider on the ground of newly discovered evidence or other good cause shown. Petitions for reopening shall set forth the specific newly discovered evidence or other good cause, and will be granted only under exceptional circumstances. Petitions for reconsideration must be filed with the panel of the Commission hearing the appeal and or the Hearing Officer within five calendar days of receipt of the decision. The opposing party shall file a response to said petition within five calendar days of service of the petition.

County of Fairfax, Virginia

MEMORANDUM

DATE: August 9, 2011

TO: Susan Woodruff, Director
Department of Human Resources

FROM: Sara J. Simmons, Executive Director
Civil Service Commission

SUBJECT: Public Hearing on Proposed Revisions to the Personnel Regulations - Chapters 2, 4, 5, 7, 8, 10, 14 and 17

Following an advertised public hearing held on August 4, 2011, the Civil Service Commission considered the above referenced proposed revisions to the Personnel Regulations. Members of the Commission present at the public hearing included: Tom Garnett, Robert Frye, Rich Stacy, Ron Copeland, Audrey Morton, John Harris and Jason Fong.

Susan Woodruff, Director, Department of Human Resources (DHR) and Leslie Amiri, Resource Development and Training Manager, DHR gave an overview regarding the proposed changes for each chapter. Some of the proposed changes are a result of changes to the new personnel corporate system (FOCUS), some are a result of changes to Federal law, and some a result of an agreement between the County and the Department of Justice after a recent audit performed by the Department.

Prior to the public hearing, the Commission received copies of the June 27, 2011 letter from the employee groups to Supervisor Gross and a copy of DHR's response. The Commission also heard testimony from four speakers: Karen Conchar, President of the Fairfax County Government Employees Union (FCGEU); Dave Lyons, Member Representative, FCGEU; Paula Woodrum, Secretary, FCGEU and Lonney Dickinson, FCGEU. Ms. Conchar discussed the June 27 letter and that DHR had responded satisfactorily to some of their concerns; making changes as proposed. She also discussed the concerns specific to the proposed changes for Chapter 5.5-3 and indicated clarification is needed regarding the types of convictions and positions affected. Mr. Lyons discussed the employee groups' concerns regarding the proposed changes to Chapter 10, specifically the Family and Medical Leave (FML) language and how the County processes requests of employees with qualifying medical conditions. The other two speakers provided anecdotal testimony on the implementation of FML within the County. After closing the public hearing, the members of the Commission present spent significant time discussing the proposed revisions.

Chapter 2

The members of the Civil Service Commission present voted unanimously to recommend that the Board of Supervisors approve the proposed recommendations as drafted for Chapter 2.

The Commission would like to point out that the language in the two sections under review at this public hearing, and elsewhere in the regulations, incorporates delegation of authority to the Director,

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Department of Human Resources to provide interpretation of the personnel regulations and set procedures for implementation that are not reviewed by the Civil Service Commission. The Commission requests that for future proposed changes, where a Personnel/ Payroll Administration Policy and Procedure is referenced, that a copy of the current memorandum be included, so that when the Commission discusses and votes on a recommendation, they have reviewed the full proposed policy.

Chapter 4
The members of the Civil Service Commission present voted unanimously to recommend that the Board of Supervisors approve the proposed recommendations as drafted for Chapter 4. The same request, as outlined under Chapter 2, is relevant to this chapter as well.

Chapter 5
The members of the Civil Service Commission present voted unanimously to recommend that the Board of Supervisors approve the proposed recommendations as drafted for Chapter 5.

Chapter 7
The members of the Civil Service Commission present voted unanimously to recommend that the Board of Supervisors approve the proposed recommendations as drafted for Chapter 7 with the following change, which was discussed at the public hearing with staff from DHR, who concurred with the revision:

7.1-3
Merit employees whose scheduled hours are 20 or more (but less than 40) per week shall have all the benefits of full-time merit employees. Leave benefits for such employees will accrue on a prorated basis according to scheduled hours, and employees will be subject to higher premium payments for certain benefits. Specific costs are delineated in a procedural memorandum issued by the Human Resources Director.

Chapter 8
The members of the Civil Service Commission present voted unanimously to recommend that the Board of Supervisors approve the proposed recommendations as drafted for Chapter 8.

Chapter 10
The members of the Civil Service Commission present voted unanimously to recommend that the Board of Supervisors **not approve** the proposed recommendations as drafted for Chapter 10. The Commission understands and concurs that this is an extremely important regulation that needs to be revised and updated. Several points of concerns raised by the Commissioners:

- There needs to be a comprehensive review of the Family and Medical Leave Act (FML) application, the County's implementation through policies and procedures, and consistency with the Act and within agencies in the County to the extent possible.
- There needs to be an alignment between Chapter 10.13 (and further sections on sick leave) and Chapter 10.22 (FML).
- It would be helpful to have a definition of FML included at the start to Chapter 10.22 the same as there is in Chapter 10.13 for sick leave.

- Assuming it has already been done, it would be helpful to the Commission to have included an opinion or ruling by legal staff of the County's FMLA-related policies and practices to ensure that they are consistent with the law.
- As noted above, having an implementation policy, incorporated by reference but not specifically addressed in the Personnel Regulations, makes it difficult for the Commission to make an informed recommendation on the totality of the program.

The Commission recommends that the Department of Human Resources redraft the proposed revisions to Chapter 10, including areas of concerns listed above and bring back before the Commission in a new public hearing.

Chapter 14

The members of the Civil Service Commission present voted unanimously to recommend that the Board of Supervisors approve the proposed recommendations as drafted for Chapter 14.

Chapter 17

Chapter 17.4-1(d)

The members of the Civil Service Commission present voted unanimously to recommend that the Board of Supervisors approve the proposed recommendations as drafted for Chapter 17.4-1(d).

Chapter 17.3-2(b)

The members of the Civil Service Commission present voted unanimously to recommend that the Board of Supervisors **not approve** the proposed recommendations as drafted for Chapter 17.3-2(b) and recommend that the language be left as is:

> b. The application of specific County personnel policies, procedures, rules and regulations;

The Commission's view is that the terminology currently in the Personnel Regulations represents specifically what is in the Virginia Code §15.2-1507(A)(1)(ii):

> (ii) the application of personnel policies, procedures, rules and regulations, including the application of policies involving matters referred to in subdivision 2 (iii) below;
>
> §15.2-1507(A)(2)(iii): the contents of ordinances, statutes or established personnel policies, procedures, rules and regulations;

Testimony at the public hearing indicated that this was the recommendation from a Circuit Court Judge, during a County employment trial. However, there wasn't anyone from the County Attorney's Office available for comment at the public hearing on August 4th, nor was a written opinion included in the Commission's package, which was a concern to the members of the Civil Service Commission.

If the Commission can be of further assistance, please let me know.

cc: Board of Supervisors
Commissioners, Civil Service Commission
Anthony H. Griffin, County Executive
David Bobzien, County Attorney
Peter Andreoli, Deputy County Attorney
Randy Creller, Chair, Employee Advisory Council
John Niemiec, President, Fairfax County Professional Firefighters & Paramedics Union/ Local 2068
Karen Conchar, President, Fairfax County Government Employees Union

Staff Response to Civil Service Commission Recommendations

Personnel Regulations	Commission Recommendation	Commission Concerns	Staff Action
Chapter 2 – Definitions	Recommend approval of changes as proposed	None	Request Board of Supervisors' approval of proposed changes to Chapter 2.
Chapter 4 – Pay Plan, Hours of Work and Overtime	Recommend approval of changes as proposed	None	Request Board of Supervisors' approval of proposed changes to Chapter 4.
Chapter 5 – Recruitment & Examination	Recommend approval of changes as proposed	None	Request Board of Supervisors' approval of proposed changes to Chapter 5.
Chapter 7 – Certification and Appointment	Recommend approval of changes as proposed, with modification to 7.1-3.	Clarity of proposed change	Modified 7.1-3 as proposed. Request Board of Supervisors' approval of proposed changes to Chapter 7.
Chapter 8 – Transfers, Promotions, Demotions	Recommend approval of changes as proposed	None	Request Board of Supervisors' approval of proposed changes to Chapter 8.
Chapter 10 – Leave	Recommend against approval and revisions be brought before forward in a new public hearing	Ensure accuracy of policy	Policy reviewed and approved by the Human Resources Director and Deputy County Attorney.
		Add definitional language in 10.22	Staff enhanced definitional language at the beginning of section 10.22.
		Consistent application of the Family and Medical Leave (FML) program, specifically: a. ensuring employees are returned to appropriate position following FML b. allowing reasonable use of additional leave following conclusion FML entitlement period c. placing employees on FML d. ensuring consistent application of FML policies and procedures	Policy enhancements in support of increased consistency include: a. centralizing approval or denial of additional sick/annual/compensatory leave use for employees off FML but unable to return, at the department head/deputy level. Denials must be reviewed with the Director, Department of Human Resources. (10.7-3, 10.14-4, 10.22-2b, 10.26-5) b. requiring DHR Director approval of non-standard placement upon return to work (10.22-7a.) c. clarifying, in the FML procedural memorandum, the FML designation procedures, including rights and responsibilities of employees and employers upon such designation. d. DHR staff is working with employee groups to enhance the FML procedural memorandum and associated training module. DHR will deliver targeted communiqués to senior managers and department human resources managers.
Chapter 14 – Reports and Records	Recommend approval of changes as proposed	None	Request Board of Supervisors' approval of proposed changes to Chapter 14.
Chapter 17 – Grievance Procedure	Recommended approval of 17.4-1(d); did not recommend approval of 17.3-2(b)		Redacted 17.3-2(b) as proposed. Request Board of Supervisors' approval of proposed change to Chapter 17.

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Board Agenda Item
September 27, 2011

ACTION - 2

Comment on the Proposed Federal Capital Improvements Program – National Capital Region, Fiscal Years 2012-2017

ISSUE:
Request by the National Capital Planning Commission (NCPC) for review and comment by Fairfax County on the proposed Federal Capital Improvements Program (FCIP) for the National Capital Region, Fiscal Years 2012-2017.

RECOMMENDATION:
The County Executive recommends that the Board of Supervisors submit the comments provided in Attachment I to NCPC concerning the proposed Federal Capital Improvements Program FY 2012-2017. The majority of the projects identified in Fairfax County which are recommended for funding are located at Fort Belvoir. The comments state that the County remains concerned about the magnitude and pace of growth at Fort Belvoir and insists that the nature, location and extent of projects be identified and fully evaluated for impacts on the surrounding area before any commitment to these projects is made. The comments support the other two projects recommended in the Program: 1) Pedestrian Bridge over Dulles Access and Toll Road, and 2) Rehabilitate and Reconstruct VA Route 123 Interchange of GW Parkway. The comments recommend removing the project identified as "Fairfax County Parkway Phase III" from the FCIP as it is fully funded and under construction. The comments also support projects listed as "Other Recommended and Strongly Endorsed Projects." These projects are identified as "Address Urgent Capital Priorities of the Metro System and Expand Capacity of Metrorail" and the Dulles Corridor Rapid Transit Project. Finally, the comments support the project identified as "Transit Projects in the District of Columbia, Virginia, and Maryland," listed as "Recommended for Future Programming."

TIMING:
NCPC requested comments on the proposed program by September 23, 2011 and staff has transmitted a draft of the letter included as Attachment I to meet that deadline. Board approval is requested on September 27, 2011 so that an official Board position can be transmitted to NCPC.

BACKGROUND:
The FCIP for the National Capital Region, Fiscal Years 2012-2017, contains the federal land acquisition and development proposals in the National Capital Region that are recommended for funding over the next five federal fiscal years. Of the twenty-two projects

in the proposed FCIP to be located in Fairfax County, nineteen are located at Fort Belvoir with a five-year funding requirement and total project cost of $1,389,900,000. The other projects include Phase III of the Fairfax County Parkway with a five-year funding requirement of $33,600,000; Pedestrian Bridge over the Dulles Access and Toll Road with a five-year funding requirement of $2,420,000; and to Rehabilitate and Reconstruct the VA Route 123 interchange at GW Parkway with a five-year funding requirement of $9,000,000.

Provided below is a description of each of the projects contained in the FCIP which is proposed to be located in Fairfax County. An asterisk (*) by the project name indicates it is a new project in the FCIP.

Department of the Army, Fort Belvoir Projects - Of the nineteen projects listed for Fort Belvoir, all are in the "Projects Requiring Additional Planning Coordination" category. These are projects which may not conform to the submitting agency's own approved master plan, federal agency system plans or NCPC-approved site and building plans; projects which lack sufficient basic information for review, such as building programs or conceptual plans, out-year projects that are still in development; projects which significantly conflict with existing adopted federal, regional or local plans, planning initiatives identified in the Federal Comprehensive Plan, or are contrary to federal interests as defined by adopted planning guidelines or policies. Significant planning issues might also be identified through consultation with NCPC staff or through NCPC review.

The nineteen projects "Requiring Additional Planning Coordination" include:

1. Administrative Facilities, ACC*. $360,000,000 estimated total project cost programmed for fiscal years 2012-2017. This project will construct approximately 830,900 gross-square-feet of secure administrative office building, to house the Army Contracting Command (ACC). The project is proposed to meet LEED Silver standards. Sustainable Design and Development and Energy Policy Act of 2005 features will be provided.

2. Administrative Facility, DLA Annex. $108,000,000 estimated total project cost. This project will construct a 267,000 gross-square-foot facility to house the Defense Energy Support Center part of the Defense Logistics Agency at Fort Belvoir. A total of 1600 parking spaces will be provided through structured parking. The project is proposed to meet LEED Silver standards. Sustainable Design and Development and Energy Policy Act of 2005 features will be provided. This project first appeared in the FYs 2011-2016 program.

3. Airfield Modernization, Phase I. $76,000,000 estimated total project cost. This project is required to reconfigure the Davison Army Airfield to support modernization and replacement of functionally inadequate facilities. This project will construct the infrastructure needed to support construction of hangars and aviation operational

facilities replacing those in the primary surface posing a hazard to flight safety. This project first appeared in the FYs 2011-2016 program.

4. Airfield Modernization, Phase II. $38,000,000 estimated total project cost. This project is Phase 2 in the reconfiguration/modernization of the airfield in an effort to bring operations and facilities in line with airfield setback and safety standards. This project will include constructing an airfield base operations building, unit airfield operations building, an aircraft hangar and maintenance apron, fire alarms and suppression, building information systems, installing Intrusion Detection Systems and connect Energy Management and Control Systems. This project first appeared in the FYs 2011-2016 program.

5. Airfield Modernization, Phase III. $49,000,000 estimated total project cost. This project is Phase 3 in the reconfiguration/modernization of the airfield in an effort to bring operations and facilities in line with airfield setback and safety standards. This project will modernize and construct aircraft hangars and maintenance aprons, aviation battalion headquarters, armory, taxiways, fire alarm and suppression, and building information systems, install Intrusion Detection Systems and connect Energy Management and Control Systems. This project first appeared in the FYs 2011-2016 program.

6. Aviation Hangar*. $21,000,000 estimated total project cost. This project will construct a maintenance hangar for rotary-wing aircraft. Work includes an aircraft hangar, associated maintenance shops, administrative space, parts and tool storage, aviation operations, a hazardous materials storage facility, information systems, fire protection and alarm systems, and Energy Monitoring Control Systems. Sustainable Design and Development and Energy Policy Act of 2005 features will be provided.

7. Battalion Headquarters. $35,000,000 estimated total project cost. This project will construct a large-battalion headquarters building, two-company operations facility, and tactical equipment maintenance facility, organizational equipment storage and vehicle parking, Petroleum, Oil, & Lubricants and hazardous materials storage buildings, and supporting facility and security systems. The project footprint will displace an existing RV storage lot, which will be replaced on another site on the installation that has been previously disturbed. Sustainable Design and Development and Energy Policy Act of 2005 features will be provided. This project first appeared in the FYs 2011-2016 program.

8. Construct Barracks. $36,000,000 estimated total project cost. This project provides for construction of 240 room barracks complex and company operations buildings adjacent to the existing McRee Barracks complex. Installation of Intrusion Detection System, fire detection/suppression systems, building information systems, and other supporting facilities. Sustainable Design and Development and Energy Policy Act of

2005 features will be provided. This project first appeared in the FYs 2011-2016 program.

9. DAU Training Center*. $46,000,000 estimated total project cost. This project will construct a Defense Acquisition University Training Center. Primary facilities include: administrative space, conference rooms, video teleconference rooms, data processing center; surface and multi-story parking; fire protection and alarm systems; and building information systems. Sustainable Design and Development and Energy Policy Act of 2005 features will be provided.

10. National Museum of the United States Army (Private Funding for Construction). $125,000,000 estimated total project cost. This phased project will construct an 185,000 gross-square-foot facility to house the National Museum of the US Army. The complex will consist of indoor and outdoor exhibit space and related systems and support facilities. Project requires the site improvements and relocation of golf course facilities and realignment of the golf course. A total of 550 vehicle and 40 recreational vehicle surface parking spaces will be provided. This project is proposed to meet LEED Silver standards. This project first appeared in the FYs 2010-2015 program.

    NCPC notes the several comments provided to the Department of the Army on the preliminary design for the National Museum of the US Army. Fairfax County has also reviewed and provided comments on the project and the Department of the Army should take these into consideration as they move forward with the project and coordinate with the County regarding several concerns.

11. Physical Fitness Center. $33,000,000 estimated total project cost. This project provides for the construction of a 102,400 gross-square-foot center which includes a physical fitness facility (64,799 sf) with multi-purpose courts, racquetball courts, aerobic exercise and strength training rooms, jogging track, indoor 25-meter swimming pool with associated pump rooms, athletic fields, men's and women's locker rooms, toilets, showers and saunas; administrative offices, vending and lounge area, storage, equipment issue, and supporting facilities and security systems. An existing parking lot will be utilized, and 100 additional parking spaces will be provided. This project first appeared in the FYs 2011-2016 program.

12. Recreation Lodging Facility*. $41,000,000 estimated total construction cost. This project will construct a new 153,585 square foot (250 guest room) Recreation Lodging Facility for Military Service members and their authorized patrons to service the National Capital Region. Parking estimates are not included. The project is proposed to meet LEED Silver standards. Sustainable Design and Development and Energy Policy Act of 2005 features will be provided.

13. Religious Education Center*. $7,900,000 estimated total project cost. This project will construct a religious education center with lobby, assembly area, classrooms, offices, kitchen, resource room/storage, and supporting facilities and security systems. The center will be constructed adjacent to the existing North Post Chapel. Sustainable Design and Development and Energy Policy Act of 2005 features will be provided.

14. Replace Commissary Facility. $48,000,000 estimated total project cost. This project will construct a 140,512 gross-square-foot facility to house a replacement Commissary at Fort Belvoir. The complex will consist of food display areas, storage and refrigeration, administrative, and supporting facilities and building systems. A total of 650 surface parking spaces will be provided. The new Commissary will be constructed over the footprint of the existing Main Post Exchange (on North Main Post), which will be demolished. The project is proposed to meet LEED Silver standards. This project first appeared in the FYs 2011-2016 program.

15. Roads and Infrastructure Improvements. $25,000,000 estimated total project cost. This project will provide for the construction of infrastructure improvements to support the Museum of the US Army. These include: electric service, water and gas distribution, wastewater collection lines, access roads, traffic improvements, intersection upgrade, stormwater drainage, and physical security measures. This project is in support of the January 16, 2009 Memorandum of Agreement between the Army and the Army Historical Foundation, that the Army will make available a suitable, appropriate and partially prepared U.S. Government site for this complex. This project first appeared in the FYs 2011-2016 program.

16. Sensitive Compartmented Information Facility, Phase I. $304,000,000 estimated total project cost. The project will be phased with the first phase to reconfigure existing site infrastructure, construct a 1566 space parking structure over existing surface parking, and make the site ready for phases 2 and 3. Phases 2 and 3 will construct a 290,000 gross square foot addition to the existing Information Dominance Center Sensitive Compartmented Information Facility. Phase 4 will renovate/reconfigure the existing 200,000 square feet for better utilization of space and operational functionality. This project first appeared in the FYs 2004-2009 program.

17. Structured Parking, 200 Area. $11,800,000 estimated total project cost. This project will construct a 400-space parking structure. This project first appeared in the FYs 2011-2016 program.

18. Vehicle Maintenance Shop - Wheeled. $14,200,000 estimated total project cost. This project will construct a small tactical equipment maintenance facility, company operations building with combined administrative and readiness module, organizational equipment storage and oil storage buildings, vehicle parking and

storage facility, equipment storage, and supporting facilities and building systems. This project will be constructed on a previously disturbed site that contains and outdated maintenance facility and parking areas, which will be demolished. Sustainable Design and Development and Energy Policy Act of 2005 features will be provided. This project first appeared in the FYs 2011-2016 program.

19. Veterinary Treatment Facility*. $11,000,000 estimated total project cost. This project will construct a Veterinary Treatment Facility (VTF), to include Military Working Dog reception, treatment rooms, surgical suites, veterinary medical and laboratory space, training facilities, administrative office space and kennels. One 5,728 square foot building will be demolished. Project is required to replace existing outdated VTF. Sustainable Design and Development and Energy Policy Act of 2005 features will be provided.

Federal Highway Administration - Three projects are Recommended under the Federal Highway Administration program with a five year funding requirement of $45,020,000 and a total project cost of $85,190,000. Projects included in the “Recommended” category include those that are submitted with budget estimates by federal agencies that are considered to be in conformance with NCPC and local planning policies; planning initiatives identified in the Comprehensive Plan; identified federal interests and objectives; federal agency system plans; master plans for individual installations; and NCPC-approved site or building plans. These projects include:

1. Fairfax County Parkway Phase III. $33,600,000 five-year funding requirement; $67,200,000 estimated total project cost. This project will relocate Hooes Road and Rolling Road with improvements to the interchange at Fairfax County Parkway and the Franconia-Springfield Parkway. The project will also complete construction of the mainline section of the Fairfax County Parkway connecting to I-95.
   The Fairfax County Department of Transportation recommends that this project be removed from the FCIP as it is fully funded and under construction.
2. Pedestrian Bridge over Dulles Access and Toll Road. $2,420,000 five-year funding requirement; $4,840,000 estimated total project cost. This project will construct a Pedestrian Access Bridge over the Dulles Access and Toll Road. The proposed bridge will be located adjacent to and to the west of the existing vehicular Trap Road Bridge.

3. Rehabilitate and Reconstruct VA Route 123 Interchange of GW Parkway. $9,000,000 five-year funding requirement; $13,150,000 estimated total project cost. This project will rehabilitate and reconstruct 2.5 miles of mainline roadway, including ramp alignment modifications to improve sight distances, vehicle merges, and overall safety.

The FCIP also contains projects that have been submitted by NCPC and are "Recommended and Strongly Endorsed". Projects in this category include those submitted by federal agencies or recommended by NCPC that are critical to strategically advancing and implementing specific NCPC and/or local planning policies and development initiatives; clearly defined federal interests and objectives; federal agency system plans; master plans for individual installations; or NCPC-approved site and building plans. These projects include:

1. Address Urgent Capital Priorities of the Metro System and Expand Capacity of Metrorail. This project supports adequate funding for urgent capital priorities of the WMATA.

2. Dulles Corridor Rapid Transit Project. This project provides for the extension of Metrorail in an exclusive right-of-way between the existing Metrorail Orange Line (between East and West Falls Church stations) and eastern Loudoun County via Tysons Corner, Reston/Herndon, and Washington Dulles International Airport.

One other project listed in the FCIP is of interest to Fairfax County and is identified as "Recommended for Future Programming." Projects in this category include those that have not yet been submitted by federal agencies but that the Commission believes should be submitted by a particular agency for future programming to advance and implement NCPC and/or local planning policies; planning initiatives identified in the Comprehensive Plan; identified federal interests and objectives; federal agency system plans; master plans for individual installations; or NCPC-approved site and building plans. Projects in this category may or may not currently be recommended in NCPC plans and could be conceptual in nature. The project in this category is:

1. Transit Projects in the District of Columbia, Virginia and Maryland. NCPC's Comprehensive Plan for the National Capital: Federal Elements recommends planning and implementing regional transportation systems – operated by state and local governments and other authorities – that accommodate the transportation requirements of federal facilities, including employee, visitor, and service needs. This project calls for various rail projects that complement the existing regional transit system, including the Inner Purple Line in Montgomery and Prince George's Counties in Maryland; a trolley system in the District of Columbia; light rail in the Route 1 Corridor in Arlington County and the City of Alexandria, light rail along Columbia Pike within Arlington County and Fairfax County, in Virginia and priority corridors for rapid bus systems in the region. This project first appeared in the FY 2011-2016 program.

<u>FISCAL IMPACT</u>:
None.

Board Agenda Item
September 27, 2011

ENCLOSED DOCUMENTS:
Attachment I: Proposed letter from Sharon Bulova, Chairman of the Board of Supervisors, to NCPC transmitting the Board of Supervisors' comments on the Proposed Federal CIP.

STAFF:
Robert A. Stalzer, Deputy County Executive
Fred R. Selden, Director, Department of Planning and Zoning (DPZ)
Chris B. Caperton, Chief, Facilities Planning Branch, PD, DPZ

Attachment I

COMMONWEALTH OF VIRGINIA
County of Fairfax
BOARD OF SUPERVISORS

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12000 GOVERNMENT CENTER PKWY
FAIRFAX, VIRGINIA 22035-0071

TELEPHONE: 703/324-2321
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chairman@fairfaxcounty.gov

SHARON BULOVA
CHAIRMAN

DRAFT

Marcel C. Acosta
Executive Director
National Capital Planning Commission
401 9th Street, N.W., Suite 500
Washington, D.C. 20004

Dear Mr. Acosta:

Fairfax County appreciates the opportunity to provide comments on the Proposed Federal Capital Improvements Program (FCIP) for Fiscal Years 2012-2017. Consistent with comments submitted over the past several years, Fairfax County remains concerned about the number of large projects at Fort Belvoir and the Army's commitment towards offsetting on- and off-post infrastructure and transportation impacts on the surrounding communities. The County's comments are provided below.

Nineteen projects listed in the FCIP are proposed within Fairfax County at Fort Belvoir and are located on the Main Post in the southeastern area of the County. All nineteen are designated by NCPC as "Projects Requiring Additional Planning Coordination." As defined by NCPC, this category includes projects which may not conform to the submitting agency's own approved master plan, federal agency system plans or NCPC-approved site and building plans; projects which lack sufficient basic information for review, such as building programs or conceptual plans (including many out-year projects that are still in development); projects which significantly conflict with existing adopted federal, regional or local plans, planning initiatives identified in the Federal Comprehensive Plan, or are contrary to federal interests as defined by adopted planning guidelines or policies. Significant planning issues might also be identified through consultations with NCPC staff or through NCPC review.

Fairfax County supports NCPC's designation of the Fort Belvoir projects as "Projects Requiring Additional Planning Coordination." Fairfax County remains concerned about the magnitude and pace of growth at Fort Belvoir, and agrees that additional analysis should be performed to identify the nature, location and extent of these projects as well as to fully evaluate the impacts on the surrounding area before project commitments are made.

Fairfax County staff continues to have concerns that projects are proposed at Fort Belvoir in the absence of a fully updated and approved Real Property Master Plan (RPMP). We believe that the cumulative impacts associated with all the proposed projects at Fort Belvoir would best be

examined in the context of the update of the RPMP, and associated Environmental Impact Statement, that is currently underway. This process would provide a much better opportunity for the Army, Fairfax County, NCPC, and the community to evaluate the full impacts of all proposed growth and development at Fort Belvoir. It is imperative that the cumulative impacts of current and future development be fully understood and addressed before additional development moves forward. The County reiterates its belief that no additional capital projects for Fort Belvoir should be included in the FCIP until the ongoing master plan update and associated environmental impact statement process is completed.

Many of the listed projects are very large in scope and will be major traffic generators that have significant impacts on the local road network. With the impending completion of the BRAC relocations to Fort Belvoir's main post, Mark Center and former Fort Belvoir Engineer Proving Ground, the traffic impacts are still not fully known. We will soon know to what extent the local road network will be impacted by projects approved in the past, and can base future recommendations on that data. Until the County has complete information and details about all Fort Belvoir projects as well as the commitments the Army will make to offset the associated impacts, we withhold any endorsement of specific projects.

In addition, the FCIP indicates that a revised Master Plan for the Humphrey Engineering Center is being prepared. Fairfax County requests that this planning effort be coordinated with the Fort Belvoir Master Plan update as the facilities are adjacent to one another and both will impact the Telegraph Road area.

As has been previously transmitted to NCPC, Fairfax County believes that the Department of the Army should make a very significant commitment to roadway and transit improvements to offset the impacts of its proposed development and road closings on the surrounding communities. The County strongly urges a complete examination of transportation and related funding options and sources to support the significant growth in military and civilian jobs associated with the Base Realignment and Closure (BRAC) process as well as new post-BRAC projects being proposed. We urge the full examination of all transit options to serve Fort Belvoir in order to maximize the number of people travelling to the Fort by transit in the future. Given existing conditions and the large number of projects previously approved and now being planned for Fort Belvoir, Fairfax County urges the Department of the Army to closely coordinate all projects with the County and to work toward significantly offsetting all impacts of their proposed development. As NCPC reviews FCIP projects related to Fort Belvoir, Fairfax County continues to believe that a commitment to related transportation and infrastructure improvements should be made, both those required on-post as well as a commitment to those required off-post, and that adequate funding for same be secured before Fort Belvoir-related CIP projects are approved.

We also note that Fort Belvoir continues a recent trend to propose projects that will locate commercial services and retail uses of a private nature on the base, such as the commissary, recreation lodging, and fitness facilities. While Fairfax County has no particular objection to these specific projects, the County reiterates its concern about the growth of commercial entities on Post. Fairfax County is concerned that the continued location of expanded retail operations on the Post may not take full advantage of existing supporting services located in this area of the County and will undermine our efforts to revitalize the Central Springfield and Richmond

Highway areas. Fairfax County is hopeful that the integration of BRAC and military base development within the surrounding communities can be more strongly advanced at Fort Belvoir with increased support to the local business community. We strongly encourage the Army to look at addressing this issue by recognizing that there are many small businesses in Fairfax County that are presently serving the Post military personnel. Creating a variety of similar businesses on the Post has a strong negative impact on these County businesses and fails to integrate the Post with the surrounding community.

Fairfax County supports and endorses the projects which are Recommended in this year's FCIP including the Pedestrian Bridge over the Dulles Access and Toll Road, and the Rehabilitation and Reconstruction of the VA Route 123 Interchange of GW Parkway. The County recommends that the Fairfax County Parkway Phase III project be removed from the FCIP as it is fully funded and under construction.

The County also offers its full support of the two Recommended and Strongly Endorsed Commission-Submitted Projects related to Fairfax County. The Dulles Corridor Rapid Transit Project is the number one priority of Fairfax County and will enable the County to focus future development around transit nodes, reducing regional vehicle miles travelled and the region's carbon footprint while mitigating what would otherwise be significant increases in congestion. Fairfax County appreciates NCPC's support of all of these projects. The County also supports the project identified as "Address Urgent Capital Priorities of the Metro System and Expand Capacity of Metrorail."

We appreciate that the "Transit Projects in the District of Columbia, Virginia, and Maryland," is included as Recommended for Future Programming as a Commission–Submitted Project and again includes light rail along Columbia Pike within Arlington and Fairfax County.

Fairfax County thanks you for the opportunity to comment on the Proposed FCIP for Fiscal Years 2012-2017 and urges that our concerns and identified issues be discussed with the related agencies and departments and be fully addressed before any project commitments are made. If you should have any questions or comments, please contact me at (703) 324-2321.

Sincerely,

Sharon Bulova
Chairman

Cc: Board of Supervisors
Anthony H. Griffin, County Executive
Fred R. Selden, Director, Department of Planning and Zoning

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Board Agenda Item **REVISED**
September 27, 2011

ACTION – 3

Comments on Design Plans for the I-95 High Occupancy Toll Lanes Project (Mason, Lee, and Mount Vernon Districts)

ISSUE:
Board issuance of comments on the design plans for constructing High Occupancy Toll (HOT) Lanes on I-95.

RECOMMENDATION:
The County Executive recommends that the Board offer conditional concurrence with the design plans for constructing HOT Lanes on I-95/395, generally as presented at the September 26, 28, and 29, 2011, public hearings, subject to the following modifications, comments, and requests for additional coordination to ensure that the project remains fully in conformance with the Board's Environmental Agenda and the Fairfax County Comprehensive Plan:

- Coordinate plans to manage stormwater runoff, including sediment and erosion control, outfall treatments, and necessary easements, with the Fairfax County Department of Public Works and Environmental Services (for all locations) and the Fairfax County Park Authority Planning and Development Division (for park properties). In particular, the County wants to ensure that areas of known existing stormwater management concerns and stream degradation adjacent to the project are adequately addressed to provide stabilization during and at the completion of construction, so as not to exacerbate existing stream degradation. It is desirable that planned stormwater management facilities and areas identified on preliminary road plans be maximized and optimized where possible to help alleviate existing and future stormwater impacts due to the highway. The County requests the opportunity to provide input during the early stages of stormwater drainage designs to provide collaborative opportunities for implementation of identified watershed capital improvement projects. Also, the County would like the opportunity to review the portions of the construction plans dealing with stormwater and erosion and sedimentation control and will provide comments on these elements on a priority basis within the Virginia Department of Transportation's (VDOT's) established review timeframes.
- To reduce the expected significant traffic impacts on neighboring communities and the secondary street system of various Base Realignment and Closure (BRAC) installations being constructed along the I-95 corridor, direct access should be provided to and from the HOT lanes to/from the BRAC facilities where

physically and operationally feasible. The cost of this direct access should be borne by the developers of the BRAC properties, rather than at project cost.

- The project team should provide the design exception documentation for the narrow shoulder widths along the corridor and identify specifically how they plan to address these constrained areas in terms of safety, both of transit and autos.
- Slugging has been very successful in moving large numbers of people in the corridor. This project should ensure that this practice continues at its current or increased levels.
- The project team must ensure that, at a minimum, the project meets the federal performance thresholds for High Occupancy Vehicle (HOV) lanes that are converted to HOT lanes. These lanes provide the fixed guideway miles that allow Northern Virginia transit systems to qualify for federal funding. Therefore, it is critical to the region that this level of service does not fall below the minimum standards. If the facility is not able to meet the standards to receive federal money, the project partners must replace the lost funding.
- Ensure that the current transit operating speeds are maintained. Even though federal laws only requires a speed of 45 miles per hour to be maintained, buses on the current HOV lane operate at significantly higher speeds. Decreased speeds will increase local operating costs.
- Introduction of low occupancy vehicles on the HOV lanes compromises transit's efficiency. Provide some type of priority to transit at especially congested points along the facility, such as the access/egress points.
- The project team must ensure that all the intersections in the corridor, such as Route 236 and Beauregard Street, that are affected by additional traffic are mitigated and operate at an acceptable level of service.
- In locations where feasible, construct new sound walls before existing sound walls are removed or, at a minimum, in those areas where pre-replacement is not feasible due to topographic changes, commit to replace the sound wall within a minimal time frame after removal, so that residents are not left without sound protection for long periods of time.
- Further review should be given to the construction of sound walls adjacent to Laurel Crest, Gunston Corner, Laurel Hill Park, Edsall Gardens, Landmark Mews, and Lincolnia Community Park to protect the public parks and the communities.
- Coordinate with Fairfax County Department of Transportation (FCDOT) Transit Services Division, WMATA, and other transit operators in the corridor and Virginia Department of Rail and Public Transportation (DRPT) to determine the best provision of transit in the corridor, including funding for the recommended service increases.

- Coordinate the design of the ramps and lanes with all the public and private transit providers in the corridor to ensure they can adequately and safely accommodate buses.
- Coordinate with FCDOT Transit Services Division and other transit operators using the I-95 HOV lanes to address safety concerns raised by the limited number of refuge areas for disabled vehicles in the segment of the facility north of the Occoquan River.
- The project should provide a detailed plan for the emergency pull-outs and how these pull-outs impact the flow of traffic.
- Provide information on the sequencing of construction and a construction staging plan for the project.
- Provide traffic mitigation during the construction phase and provide traffic mitigation measures where neighborhoods are impacted by diverted traffic.
- When a traffic management plan is being prepared during the construction, develop traffic mitigation plans in accordance with the "Guidelines for Temporary Traffic Management During Construction" adopted by the Fairfax County Board of Supervisors on September 22, 2008.
- Identify truck haul routes to be used for construction activity and ensure that construction vehicles associated with the project do not use local streets.
- Consider additional options for public transportation during construction.
- In identifying construction staging areas, work closely with the affected communities and district supervisors.
- Schedule regular briefings with the Board offices, County staff, community groups, and the general public on what to expect in the following months during the construction phase of the project.
- VDOT should provide the County the opportunity and sufficient time to review and comment on their finalized comprehensive agreement with Fluor-Transurban before it is executed.
- VDOT should provide the total cost of the project and indicate the source of the funding as well as the public and private shares of the project.
- VDOT should analyze the cost/benefit ratio of the project and show the return on this public investment.

A corollary I-95 Corridor Transit and Transportation Demand Management Plan study is being undertaken by DRPT to identify current and future transit services and needs in the corridor to complement the HOT lanes project and improve its operational efficiency. The following comments are offered in response to the DRPT recommendations:

- The Board is concerned that this represents a retrenchment from the previous commitments to fund transit as part of the HOT lanes public-private partnership

agreement, and as a result the I-95 HOT lanes may not operate at optimal efficiency as called for in DRPT's stated goals for the project.

- The diminution of the $195 million in transit services that were part of the original proposal means that there will be more auto vehicle trips utilizing the I-95 corridor and further congesting Fairfax County roads.
- The Board is concerned about the increase in the parking demand from the previous I-95/I-395 Transit and TDM study and that the greater proportion of projected costs in the new Transit/TDM Plan will go to park-and-ride lot expansion, meaning that more trips will be on the road than earlier projected.
- The Board would like to see data prepared on the origins of commuters using Fairfax County park-and-ride lots. The Board is concerned that park-and-ride spaces be located as close as possible to where the demand is occurring. It has a strong preference that sufficient park-and-ride spaces be provided in Prince William and Stafford Counties so that park-and-ride spaces in Fairfax County (Springfield area) will be able to serve County residents, rather than commuters located downstream in the corridor. Doing so will also discouraged commuters in those downstream counties from driving longer distances to access transit and thereby creating additional congestion on roadways in Fairfax County.
- The Board is concerned that the Transit/TDM Plan for the corridor no longer includes a Bus Rapid Transit (BRT) recommendation.
- The Transit/TDM Plan for the corridor needs flexibility to ensure that the 750 additional structured parking spaces identified as being needed to support the Franconia-Springfield Station can be included with the parking planned to be provided at the Springfield CBC Circuit City site, as well as at other potential off-site locations.
- The Transit/TDM Plan needs flexibility to ensure that the shuttle services recommended for that satellite parking can be successfully integrated with the circulator bus service planned to serve greater Springfield, which is already an element of the County's 10-year Transit Development Plan.
- The Board is concerned that more than three-quarters of the recommended transit and park-and-ride improvements are unfunded and must therefore compete with other important project needs in the already fiscally-constrained and much-downsized VDOT/DRPT Six Year Improvement Program.

TIMING:
The Board should take action on this matter as soon as possible to allow VDOT to proceed with the negotiations of a comprehensive agreement with their private partners, Fluor and Transurban. Final design and construction operations will follow once the agreement has been satisfactorily completed.

Board Agenda Item **REVISED**
September 27, 2011

BACKGROUND:
On February 3, 2011, Secretary Sean T. Connaughton announced a new I-95 HOV/HOT Lane project that will be implemented from Garrisonville Road in Stafford County to Edsall Road in Fairfax County.

This new project will create approximately 29 miles of HOV/HOT Lanes on I-95. This project will add capacity to the existing HOV lanes from the Prince William Parkway to the vicinity of Edsall Road; improve the existing two HOV lanes for six miles from Route 234 to the Prince William Parkway, and construct a nine mile reversible two-lane extension of the existing HOV lanes from Dumfries to Garrisonville Road in Stafford County, to help alleviate the worst traffic bottleneck in the region.

HOV-3, motorcycles, buses, and emergency vehicles will use the HOV/Bus/HOT lanes free of charge. Non-HOV motorists will be able to access the HOV/Bus/HOT lanes by paying a toll. Tolls will be based on demand. This practice is also called congestion pricing. Tolls will change throughout the day according to real-time traffic conditions to manage the number of cars in the HOV/Bus/HOT lanes and keep lanes free of congestion.

The Virginia HOV/Bus/HOT lanes project is being developed as a public-private partnership between VDOT and Fluor-Transurban. VDOT will continue to own the I-95 roadway and Fluor-Transurban will construct, operate, and maintain the HOT lanes.

DRPT is also playing an active role in the project, since the project will provide opportunities for expanded public transportation in the I-95/I-395 corridor. Fairfax County staff is also participating in this effort.

Project Cost and Schedule:
This project is a Public-Private Transportation Act (PPTA) project. VDOT is in the process of negotiating a comprehensive agreement with their private partners, Fluor and Transurban.

The anticipated project schedule is as follows:

Commercial Close:	Fall 2011
Right-of-Way Acquisition:	Starts after commercial close
Design/Construction:	Spring/Summer 2012
Completion/Opening of HOT Lanes:	2 - 3 years after start of construction

The cost of the project is not finalized, and VDOT is in the process of finalizing the comprehensive funding agreement with Fluor-Transurban.

Right-of-Way Impacts:
The proposed project is anticipated to be located entirely within the existing right-of-way; and, therefore, no permanent right-of-way taking will be required.

FISCAL IMPACT:
No Fairfax County funds are required for this project.

ENCLOSED DOCUMENTS:
None

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Board Agenda Item
September 27, 2011

ACTION - 4

Consumer Protection Commission Report on its Comprehensive Review of the City of Falls Church's Water Ratemaking Process

ISSUE:
On April 26, 2011, shortly after the Falls Church City Council (City) proposed a phased increase of its retail water rates, the Board of Supervisors (Board) directed the Consumer Protection Commission (CPC), with support from the Department of Cable and Consumer Services (DCCS), to undertake a comprehensive review of the City's water ratemaking actions, with findings and/or recommendations to the Board regarding the four specific questions raised by the Board and set forth below.

RECOMMENDATION:
That the Board of Supervisors adopt and endorse the findings and recommendations made by the Consumer Protection Commission and refer this matter to staff to develop the process to implement the recommendations.

TIMING:
The Board directed that the CPC report be provided at or before its September 27, 2011, meeting.

BACKGROUND:
During its April 26, 2011 meeting, the Board expressed its ongoing concern regarding the water rates charged by the City to the approximately 100,000 water customers who reside or have businesses in Fairfax County. The Board also expressed concerns regarding the City's proposal to increase its water commodity charges from $3.03 to $3.27 per 1,000 gallons of water effective July 1, 2011, as well as planned annual increases of eight percent (8%) in fiscal years (FY) 2013 and 2014 and planned increases of an additional three percent (3%) per year in FY2015 and FY2016.

The Board directed the CPC to investigate the following issues relating to the City's 2011 water ratemaking actions, and to make findings and recommendations regarding these issues:

- What were the bases underlying the City's proposal to increase its water commodity charges in FY 2012 and beyond?

- In determining its water rate increases for FY2012 and beyond, did the City faithfully comply with all of the water ratemaking principles adopted by the Board on May 25, 2010?

- What was the precise nature, total cost, and exact locations of the capital improvements that the City of Falls Church made to its water system during the past five years, and how were those improvements funded when made?

- What is the precise nature, total cost, and exact locations of all projected capital improvements to the City of Falls Church's water system that formed the basis for the City's projected water rate increases for Fiscal Years 2012, 2013, 2014, 2015, and thereafter, and do any such improvements involve anything other than the maintenance, improvement, and/or upgrading of the City's existing water system?

As a result of the Board's directive, the Consumer Protection Commission undertook a comprehensive study of these issues over the last five months and at meetings of the Commission. At its regular meeting on September 20, 2011, the Commission approved the attached report after receiving public comment.

Findings in the Report

1. On April 26, 2011, the Board of Supervisors (Board) directed the Consumer Protection Commission (CPC) to undertake a comprehensive review of the water ratemaking actions of the City of Falls Church (City) and to report its finding and/or recommendations regarding four specific issues to the Board by September 27, 2011.

2. The City of Falls Church water system provides service to approximately 34,000 accounts (FY2010). Almost 30,000 of these accounts – about 90 percent – are located in Fairfax County. It is estimated that these accounts serve at least 100,000 persons in the County.

3. During the period 1981-2008, the City transferred over $58 million in surplus water revenues to its general fund. This practice was enjoined in a January 2010 court opinion and decree, and the City was prohibited from building any surplus into its water rates. In May 2010, the City contracted with a consultant, Municipal and Financial Services Group (MFSG) to perform a water rate study to review its water rates.

4. In March 2011, MFSG provided the City with a rate study using the utility-basis ratemaking methodology, which is primarily used by investor-owned (for profit) utilities and includes a return or profit component. In May 2011, MFSG provided the

City with a rate study using the cash-basis ratemaking methodology, which is used primarily by municipal utilities and does not include a return component. Although the rate studies used different methodologies, each recommended the same set of retail rate increases over the period FY2012-FY2016. Cumulatively, the recommended water rate increases over the period FY2012-FY2016 would increase quarterly service charges and commodity charges 30 percent as compared to FY2011 water rates.

5. Neither the March 2011 nor the May 2011 water rate study proposed changes to the water system's availability fees. The City's availability fees were last revised in 1996.

6. On June 27, 2011, the City tabled its proposed ordinance TO11-07, regarding an increase in water rates effective July 1, 2011. This ordinance was supported by MFSG's March 2011 utility-basis water rate study. On that same date, the City adopted on first reading ordinance TO11-15, regarding an increase in water rates effective August 1, 2011. Ordinance TO11-15 was supported by MFSG's May 2011 cash-basis water rate study (May 27 water rate study).

7. On September 12, 2011, approximately five months after initially taking up these recommendations, the City Council adopted Ordinance TO11-15 and increased retail water rates eight percent, effective October 1, 2011.

8. A number of issues impeded a comprehensive review of the City's water ratemaking actions. A copy of the March 2011 water rate study, which used the utility-basis ratemaking methodology and upon which the City relied in support of proposed City Ordinance TO11-07, was not made available to the public. Staff was able to review the May 27 water rate study, which uses the cash basis ratemaking methodology and upon which the City relied in support of City Ordinance TO11-15. However, the schedules accompanying the May 27 water rate study that were posted on the City's website are difficult to read, use undefined terms, and require supplemental information not available in the schedules themselves. Staff requested but the City did not provide either legible copies of the schedules or responses to questions asked by staff regarding the schedules.

9. The first Board issue that the CPC considered pertained to reasons for the recommended water rate increases. According to the City's water rate study, rate increases are needed to establish three new reserve funds, fund capital improvements for operating and system expansion projects, and meet rising operating costs. The rate study allocates the system's revenue requirements almost entirely to the water commodity charge.

10. With respect to this first issue, the CPC finds that the rate study does not explain why the City's prior water rates, which were sufficient to generate excess water revenues in the millions of dollars annually, are not sufficient to fund the reserves. It also does not explain why reserve funding is identified as a permanent rate element rather than a temporary rate element that expires upon funding of a given reserve fund.

11. With respect to this first issue, the CPC finds that, as compared to the City's capital improvements program (CIP), the water rate study apparently under-allocates system expansion costs to new customers and over-allocates these costs to existing customers, approximately 90 percent of which reside or are located in Fairfax County. As a result, commodity and service-charge rates applied to existing customers must be increased to absorb these excess costs. In other words, rather than fully recovering system expansion costs through availability fees, the City's existing water service customers will be subsidizing system expansion through inflated commodity and service charges.

12. With respect to this first issue, the CPC finds that in preparing the May 27 water rate study, MFSG appears to have used as its starting point the water system's costs as used in years past. MFSG appears to have made no effort to determine whether it was reasonable to use these costs – which previously had generated millions in surplus revenue – as a starting point.

13. The second Board issue that the CPC considered pertained to the City's compliance with the water ratemaking principles adopted by the Board on May 25, 2010. The CPC finds that the public information available to it is insufficient to conclude that the City faithfully complied with all of the principles.

14. With respect to this second issue, due to a number of unanswered questions regarding the May 27 water rate study, the CPC cannot conclude that the City set reasonable water rates on a well-substantiated cost basis, as required by the third principle. For example, are water revenues understated, thus inflating recommended rate increases? Why does the new $4.3 million operating and maintenance (O&M) reserve fund begin with a negative $5.5 million balance? What do various O&M costs in the water rate study represent, and how were they determined? How does the City reconcile a planned FY2012-FY2016 $21.875 million system expansion with billable water consumption growth of just 0.35 percent per year?

15. With respect to this second issue, the CPC cannot conclude that the City complied with several other principles. The first principle recognizes that a water utility should periodically undertake a condition, integrity, and valuation study to fully assess the system, evaluate critical factors, and to update cost estimates. It cannot be

determined when, if ever, the City last conducted such a study. MFSG apparently did not conduct such a study as part of its ratemaking efforts. The water rate study does not discuss the segregation of funds, as contemplated by the second principle, and provides no guidance regarding reserve fund use and replenishment.

16. The third Board issue that the CPC considered pertained to the nature and cost of capital improvements in the FY2007-FY2011 period, and the manner in which the improvements were funded. During this period, the Falls Church water system took on $30,859,000 in debt to fund a number of projects, the largest of which appears to have been improvements at the Dalecarlia water treatment plant, from which it obtains water. One hundred percent (100%) of this existing debt has been allocated to operating expenses for recovery via retail rates.

17. The fourth Board issue that the CPC considered pertained to the nature and cost of planned water system capital improvements in the FY2012-FY2016 period, and the manner in which the improvements will be funded. According to the City's Capital Improvements Program, an additional $33.325 million in water system capital improvement projects are planned for the FY2012-FY2106 period, with about two-thirds of the cost ($21.875 million) attributable to system expansion projects planned to meet demand in Fairfax County, particularly the Tysons Corner area. Debt financing is identified as the source of funds for all projects.

18. With respect to this fourth issue, the May 27 water rate study shows a lower figure of $27.96 million for planned water system capital improvements in FY2012-FY2016, and attributes only about one-third of the cost ($9.38 million) to system expansion projects. This approach over-allocates costs to existing retail customers.

19. Numerous Fairfax County customers of the City's water system have voiced their concerns to the City Council regarding its planned water rate increases. Fairfax County customers have presented written materials and spoken before the City Council at its June 27, 2011, July 11, 2011, and September 12, 2011 meetings.

20. The City Council asserts that rate increases are warranted due to rising costs since its retail rates were last revised in 2005 and the need to ensure water safety and reliability. The CPC finds that the publicly available information does not support these assertions.

21. In October 2011, a typical residential customer who uses 19,000 gallons of water per quarter will be charged $38.76 by Fairfax Water in commodity charges, but $62.13 in commodity charges – or approximately 60 percent more – by the City of Falls Church water system. Assuming the City of Falls Church continues to implement the recommendations in the May 27 water rate study, the disparity between these two customers, both Fairfax County residents, will grow over time.

Board Agenda Item
September 27, 2011

RECOMMENDATIONS BY THE CONSUMER PROTECTION COMMISSION

1. Pursuant to its authority under Section 15.2-2111 of the Virginia Code, the Board of Supervisors should fix rates and charges for water service provided to customers located in Fairfax County so that no Fairfax County customer of the City of Falls Church water system will be charged rates and charges that exceed those of Fairfax Water, unless the City can demonstrate the need for higher rates and charges to the County's satisfaction; and

2. Pursuant to its authority under Section 15.2-2111 of the Virginia Code, the Board of Supervisors should establish Fairfax Water as the exclusive water service provider for all new development and redevelopment in Fairfax County, unless Fairfax Water determines that it is unable to furnish water service to a given location.

FISCAL IMPACT:
Ensures that Fairfax County customers of the City of Falls Church water system are protected against the imposition of unreasonable rates and charges set by a City Council that does not represent them.

ENCLOSED DOCUMENTS:
Attachment 1 – Staff presentation to the Consumer Protection Commission, "Falls Church Water Rates," September 20, 2011.
Attachment 2 – "Report of the Fairfax County Consumer Protection Commission – Review of City of Falls Church Water System: Rates and Capital Improvements," September 20, 2011.

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Attachment 1

Falls Church Water Rates

Consumer Protection Commission

Department of Cable and Consumer Services

September 20, 2011

Falls Church Water System

- Provides service to 33,756 accounts (FY2010)
  - 29,777, or almost 90%, located in Fairfax County
  - Fairfax accounts serve an estimated 100,000 persons
- City expects Fairfax percentage to grow
  - Rate study forecasts 1% annual customer growth outside City but 0% inside City
- City expects minimal change in consumption
  - Rate study projects 0.35% annual system-wide increase FY2012-FY2020

Falls Church Water Rate History

- 2010 opinion: City's then-current rates more than sufficient to cover costs
  - Pre-2005 rates sufficient to operate water system and pay for all capital costs improvements
  - 2005 increase implemented to transfer more money to City's general fund
- Rate study undertaken after 2010 court order requires cost-based rates
  - Court prohibited transfer of surplus revenues to City's general fund

Falls Church Planned Increases

Recommended Rates – Inside and Outside City						
Rate	**FY2011**	**FY2012**	**FY2013**	**FY2014**	**FY2015**	**FY2016**
Quarterly service charge	$7.47	$8.07	$8.73	$9.42	$9.69	$9.99
Commodity charge (per 1,000 gallons)	$3.03	$3.27	$3.53	$3.82	$3.93	$4.05
Peak charge (per 1,000 gallons) (additive)	$4.62	$4.99	$5.39	$5.82	$5.99	$6.17
% Rate Increase	**--**	**8.0%**	**8.0%**	**8.0%**	**3.0%**	**3.0%**

April 26 Board Directive

Board directs CPC to undertake comprehensive review of Falls Church water ratemaking

- Bases underlying proposed rate increases?
- Compliance with Board's water ratemaking principles?
- Past capital improvements: nature, total cost, locations, and manner of funding?
- Projected capital improvements: nature, total cost, locations, and purpose
  - Will improvements involve anything other than maintenance, improvement, and/or upgrading?

Rationale for Rate Increases

- Rate study identifies three reasons for increases
  - Need to establish three reserve funds
  - Capital improvement expenditures – both operating and system expansion
  - Increasing operating expenses
- Study forecast increases in retail rates for existing customers FY2012-FY2020
  - Study did not review availability fees for new customers / connections

Compliance with Principles?

- Publicly available information insufficient to conclude City complied with all principles
  - City declined to meet with CPC staff despite initial offer of cooperation
- Cannot conclude that City set reasonable rates on a well-substantiated cost basis (Principle 3)
  - Rate study raises numerous unanswered questions
- Issues regarding other principles
  - Questions regarding reserve funds and water system compensation of direct and indirect City costs

Examples of Questions

- Are water revenues understated, thus inflating recommended rate increases?
- Why does the new $4.3M O&M reserve begin with a *negative* $5.5M balance?
- What do various O&M costs represent, and how were they determined?
- How does the City reconcile a planned FY2012-16 $21.88M system expansion with water consumption growth of just 0.35%/year?

Capital Improvements – Past

- Debt financing of system water improvement projects appears to begin in FY2009
  - G.O. bonds issued in FY2007 for Dalecarlia plant improvements
- Total existing debt of $30,859,000
  - Principal = $22,022,115
  - Interest = $ 8,856,885
- 100% of existing debt allocated to operating expenses for recovery via retail rates

Capital Improvements – Planned

- CIP: $33.325M in planned projects FY12-16
  - $21.875M (2/3) for system expansion
  - $11.45M (1/3) for operating projects
- Rate study: Includes lower amount of $27.96M in planned projects; reverses allocation
  - $ 9.38M (1/3) for system expansion
  - $18.57M (2/3) for operating projects
- Rate study over-allocates capital improvement costs to existing retail customers

Consumer Protection

- County customers of City system are not represented on the City Council
  - County customers have voiced concerns to City Council, to no avail
- City's reasons for increasing water rates are not supported by publicly-available information
  - That information does not demonstrate need for adopted and recommended rate increases
  - No information suggesting City's water safety and reliability at risk in absence of rate increases

Recommendations

- Fix rates and charges for water service so that no Fairfax County customer of the City's water system will be charged rates and charges that exceed those of Fairfax Water, *unless the City can demonstrate the need for higher rates and charges to the County's satisfaction*; and
- Establish Fairfax Water as the exclusive water service provider for all new development and redevelopment in Fairfax County, unless Fairfax Water determines that it is unable to furnish water service to a given location.

The Falls Church water rate study is available on the webpage of the Falls Church Public Utilities Division at http://www.fallschurchva.gov/Content/Government/Departments/EnvironmentalServices/WaterRateStudy_Final2011.pdf?cnlid=3823

QUESTIONS?

Attachment 2

Report of the Fairfax County Consumer Protection Commission

Review of City of Falls Church Water System: Rates and Capital Improvements

September 20, 2011

EXECUTIVE SUMMARY

The City of Falls Church water system provides service to approximately 34,000 accounts (FY2010). Almost 30,000 of these accounts – about 90 percent – are located in Fairfax County. It is estimated that these accounts serve at least 100,000 persons in the County.

During the period 1981-2008, the City transferred over $58 million in surplus water revenues to its general fund. This practice was enjoined in a January 2010 court opinion and decree, and the City was prohibited from building any surplus into its water rates. In May 2010, the City contracted with a consultant to perform a water rate study to review its water rates. The consultant provided the City with two different rate studies in 2011 – the first one designed for a for-profit utility and which includes revenue elements expressly prohibited under the January 2010 court decree, and the second one designed for a municipal utility – but each recommended the same set of retail rate increases over the period FY2012-FY2016. Cumulatively, these rate increases would increase quarterly service charges and commodity charges 30 percent as compared to FY2011 water rates. On September 12, 2011, approximately five months after initially taking up these recommendations, the City Council adopted an eight percent increase in retail water rates for FY2012, effective October 1, 2011.

On April 26, 2011, shortly after the Falls Church City Council initially proposed to increase water rates, the Board of Supervisors (Board) directed the Consumer Protection Commission (CPC) to undertake a comprehensive review of the City's water ratemaking process and report back to it on four issues. The CPC's findings regarding these issues are detailed in this report, and summarized below:

(1) *What are the reasons for the recommended increases?* According to the City's water rate study, rate increases are needed to establish three new reserve funds, fund capital improvements for operating and system expansion projects, and meet rising operating costs. The rate study allocates the system's revenue requirements almost entirely to the water commodity charge.

- *Reserve funds:* The rate study does not explain why the City's prior water rates, which were sufficient to generate excess water revenues in the millions of dollars annually, are not sufficient to fund the reserves. It also does not explain why reserve funding is identified as a permanent rate element rather than a temporary rate element that expires upon funding of a given reserve fund.
- *Capital improvements:* As compared to the City's capital improvements program (CIP), the water rate study apparently under-allocates system expansion costs to new customers and over-allocates these costs to existing customers. As a result, commodity and service-charge rates applied to existing customers must be increased to absorb these excess costs. In other words, rather than fully recovering system expansion costs through availability fees, the City's existing water service customers will be subsidizing system expansion through inflated commodity and service charges.
- *Operating costs:* Projected expenditures have been added to the system's costs as established in years past. In preparing the water rate study, the consultant appears to have made no effort to determine whether it was reasonable to use those costs – which were used to generate millions in surplus revenues – as a starting point.

(2) *Has the City complied with the water ratemaking principles adopted by the Board in 2010?* The CPC's review relied on publicly available information, as the City declined to meet with CPC staff or answer any of its questions. This public information is insufficient to conclude that the City complied with all principles. Given a number of outstanding questions, the CPC cannot conclude that the City set reasonable water rates on a well-substantiated cost basis. For example:

- Are water revenues understated, thus inflating recommended rate increases?
- Why does the new $4.3 million operating and maintenance (O&M) reserve fund begin with a negative $5.5 million balance?
- What do various O&M costs in the water rate study represent, and how were they determined?
- How does the City reconcile a planned FY2012-FY2016 $21.875 million system expansion with billable water consumption growth of just 0.35 percent per year over the period FY2012-FY2020?

(3) *What is the nature and cost of capital improvements in the FY2007-FY2011 period, and how were they funded?* During this period, the Falls Church water system took on $30,859,000 in debt to fund a number of projects, the largest of which appears to have been improvements at the Dalecarlia water treatment plant, from which it obtains water. One hundred percent (100%) of this existing debt has been allocated to operating expenses for recovery via retail rates.

(4) *What is the nature and cost of capital improvements planned in the FY2012-FY2016 period, and how does the water system propose to fund them?* According to the City's Capital Improvements Program, an additional $33.325 million in capital improvement projects are planned for the upcoming five year period, with about two-thirds of the cost ($21.875 million) attributable to system expansion projects planned to meet demand in Fairfax County, particularly the Tysons Corner area. The water rate study shows a lower figure of $27.96 million, and attributes only about one-third of the cost ($9.38 million) to system expansion projects; as noted above, this approach over-allocates system expansion costs to existing retail customers.

The City of Falls Church City Council has not been responsive to the concerns voiced by Fairfax County customers of the City's water system. While the City Council asserts that rate increases are warranted due to rising costs and the need to ensure system safety and reliability, the CPC finds that the publicly available information does not support these assertions. Consequently, so that residents and businesses obtaining water service from the City of Falls Church pay only fair and reasonable rates, the CPC recommends that the County exercise its authority under Section 15.2-2111 of the Virginia Code and:

- Fix rates and charges for water service so that no Fairfax County customer of the City's water system will be charged rates and charges that exceed those of Fairfax Water, unless the City can demonstrate the need for higher rates and charges to the County's satisfaction; and
- Establish Fairfax Water as the exclusive water service provider for all new development and redevelopment in Fairfax County, unless Fairfax Water determines that it is unable to furnish water service to a given location.

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D. What is the precise nature, total cost, and exact locations of all projected capital improvements to the City of Falls Church's water system that formed the basis for the City's projected water rate increases for Fiscal Years 2012, 2013, 2014, 2015, and thereafter, and do any such improvements involve anything other than the maintenance, improvement, and/or upgrading of the City's existing water system? 21

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I. BACKGROUND AND TASK

On May 25, 2010, the Board had adopted a series of sound principles for water ratemaking, which were to be applied and adhered to by all entities providing water service within the County. These principles were derived from the comprehensive study of water rates charged to County customers undertaken by the Consumer Protection Commission (CPC) and included as part of the CPC's final report to the Board at the May 25, 2010, meeting.

During its April 26, 2011, public meeting, the Board of Supervisors (Board) expressed its ongoing concern regarding the water rates charged by the City of Falls Church (City) to the approximately 100,000 water customers who reside or have businesses in Fairfax County. The Board also expressed concerns regarding the City's proposal to increase its water commodity charges from $3.03 to $3.27 per 1,000 gallons of water effective July 1, 2011, as well as planned annual increases of eight percent (8%) in fiscal years (FY) 2013 and 2014 and planned increases of an additional three percent (3%) per year in FY2015 and FY2016. The City asserts that these increases are needed due to extensive past and projected system infrastructure improvements.

The Board deemed it imperative to determine whether the water ratemaking principles it adopted in May 2010 were applied by the City during its ratemaking process. The Board therefore unanimously directed the CPC to undertake a comprehensive review of the City's water rate-making actions, with findings and/or recommendations regarding the following questions:

- What were the bases underlying the City's proposal to increase its water commodity charges in FY 2012 and beyond?
- In determining its water rate increases for FY2012 and beyond, did the City faithfully comply with all of the water ratemaking principles adopted by the Board on May 25, 2010?
- What was the precise nature, total cost, and exact locations of the capital improvements that the City of Falls Church made to its water system during the past five years, and how were those improvements funded when made?
- What is the precise nature, total cost, and exact locations of all projected capital improvements to the City of Falls Church's water system that formed the basis for the City's projected water rate increases for Fiscal Years 2012, 2013, 2014, 2015, and thereafter, and do any such improvements involve anything other than the maintenance, improvement, and/or upgrading of the City's existing water system?

The Board directed the Department of Cable and Consumer Services (DCCS) to assist the CPC in this review.

DCCS advised the CPC of the Board directive at the CPC's May 17, 2011, meeting, which was the CPC's first regularly-scheduled public meeting after the Board's April 26, 2011, meeting.

II. CHRONOLOGY

July 21, 2008	Board directs CPC to investigate water rates paid by County residents to the water systems providing water service in Fairfax County.
January 6, 2010	Judge R. Terrence Ney of the Fairfax County Circuit Court enters a decree and issues a letter opinion holding that Falls Church's long-standing practice of transferring the profit derived from the sale of water and related service into its general fund amounts to an unconstitutionally void tax on non-residents. The City is enjoined from transferring any moneys from its water fund to its general fund for purposes unrelated to the water system. The opinion expressly requires that City water rates equal expenses; that is, it prohibits the City from making a profit from its water system.
January 12, 2010	City of Falls Church releases Request for Proposal No. 1015-10-FRS requesting proposals for a cost of service analysis and proposed water and wastewater rate and fee schedule design or adjustments to existing rates and fees as needed.
April 20, 2010	In response to the July 21, 2008, Board directive, the CPC unanimously approves the staff water report, including principles of water ratemaking. Report is submitted to the Board.
May 2010	City of Falls Church City Manager contracts with Municipal and Financial Services Group (MFSG) in the amount of $59,500 to perform a comprehensive rate study for the City's water and sewer funds. (Purchase order amount subsequently increased to $86,000.)
May 25, 2010	Board unanimously adopts CPC principles of water ratemaking.
March 28, 2011	1) MFSG presents the results and recommendations of its utility-basis ratemaking study to the City of Falls Church City Council. The underlying report is not made public. 2) The City Council adopts TO11-07, *Ordinance to Amend Water Rates as of July 1, 2011*, on first reading and schedules second reading and public hearing for April 11, 2011. TO11-07 would increase water commodity charge and service charges for existing customers eight percent (8%) each year over the three-year period FY2012-FY2014, effective July 1, 2011.
April 11, 2011	City Council defers second reading of TO11-07 until April 25, 2011.
April 25, 2011	City Council defers action on TO11-07 until June 27, 2011. (According to the City's June 27, 2011, Agenda materials, TO11-07 was deferred on March 28, 2011, until June 27, 2011.)

April 26, 2011	Board directs CPC to conduct a comprehensive review of the City's water ratemaking actions and report to the Board by September 27, 2011, with findings and recommendations regarding four specific items.
May 9, 2011	City Council authorizes City Manager to increase the purchase order for the MFSG contract by $20,500, to a total of $106,500, for the cost of additional work on water rate options requested by the City, as well as for several additional meetings. In addition, the City Council authorizes extension of the contract from June 30, 2011 to December 31, 2011.
May 17, 2011	CPC is advised of the Board's directive regarding a comprehensive review of the City of Falls Church water ratemaking actions.
May 27, 2011	Date of City of Falls Church Water Rate Study, *Final Report*, prepared by MFSG using the cash-basis ratemaking methodology.[1]
June 27, 2011	1) City Council tables TO11-107, *Ordinance to Amend Water Rates as of July 1, 2011*. 2) MFSG presents the May 27, 2011, cash-basis water rate study to the City. 3) The City Council adopts TO11-15, *Ordinance to Amend Water Rates as of August 1, 2011*, on first reading and schedules second reading for July 11, 2011. TO11-15 would increase non-peak commodity charges eight percent (8%), from $3.03 to $3.27 per 1,000 gallons. Quarterly service charges and peak commodity charges also would increase by eight percent (8%). Rate increases recommended for future years in the May 27 water rate study to be evaluated on their own merits at future meetings.
July 11, 2011	TO11-15, *Ordinance to Amend Water Rates as of August 1, 2011*, is scheduled for second reading but consideration is deferred until September 12, 2011. Deferral is intended to give the City time to obtain Fairfax Water's concurrence that the adoption of the proposed rate increase would comply with Judge Ney's January 6, 2010, opinion letter and decree.
July 19, 2011	CPC commissioners provide guidance to staff regarding the direction of the report, findings, and recommendations.
August 16, 2011	DCCS staff presents preliminary findings regarding the May 27, 2011, water rate study to CPC.
September 12, 2011	City of Falls Church City Council adopts TO11-15 on a 6-0 basis (one absence), increasing service charges and water commodity rates eight percent (8%) effective October 1, 2011.

[1] The report is posted on the City's website at http://www.fallschurchva.gov/Content/Government/Departments/EnvironmentalServices/WaterRateStudy_Final2011.pdf?cnlid=3823.

III. KEY ELEMENTS OF REVIEW AND ANALYSIS

A. The rate review focused on the City's May 27 water rate study

At its August 16, 2011, meeting, the CPC received a presentation from DCCS staff that described staff's preliminary findings regarding the City's proposed water rate increases. Staff's preliminary findings reflected its review, to that point, of the May 27, 2011, City of Falls Church Water Rate Study, *Final Report*, prepared by the City's rate consultant, Municipal and Financial Services Group (MFSG) (hereinafter May 27 water rate study). This rate study used the "cash-needs" or "cash" ratemaking methodology to determine the water system's revenue requirements over the period FY2012-FY2020 and included a financial plan with recommended rate increases over the period FY2012-FY2016. The May 27 water rate study was presented to the City Council at its June 27, 2011, meeting as support for City Ordinance TO11-15, *Ordinance to Amend Water Rates as of August 1, 2011*.

Staff advised the CPC that the May 27 water rate study was in fact the City's second water rate study presented by MFSG to the City of Falls Church City Council in 2011. The first study used the "utility basis" ratemaking methodology to determine the water system's revenue requirement and recommended rate increases. The utility-basis water rate study was presented by MFSG at the City Council's March 28, 2011 meeting as support for City Ordinance TO11-07, *Ordinance to Amend Water Rates as of July 1, 2011*. The results of this study were summarized in a March 28, 2011 presentation to the City Council, but the study itself was not released to the public.

The utility basis of determining utility revenue requirements is typically used by investor-owned utilities, not municipalities. This methodology requires (1) establishing a rate base, defined as the value of the assets on which the utility is entitled to earn a return; and (2) setting a fair rate of return on the rate base. MFSG, which chose this methodology after discussions with City staff, included as a revenue element in its utility-basis water rate study a 7.8 percent return on equity (ROE) that it described to the Falls Church City Council as "conservative."[2] No attempt was made to reconcile the methodology or inclusion of the ROE with Judge Ney's January 6, 2010, letter opinion and decree, which expressly required the City to set water rates "with 'receipts equal to expense,' without building any surplus or 'return on equity' into the rates themselves."[3]

In April 2011, Fairfax Water formally requested a copy of the rate study from the City, but the City declined to provide it. Fairfax Water also explained to the City that Judge Ney's letter opinion and decree precluded the City's use of the utility basis ratemaking methodology. The City tabled consideration of Ordinance TO11-07 at its June 27, 2011 meeting, effectively ending its reliance on the utility-basis rate study.

MFSG's May 27 water rate study noted differences in the two rate study methodologies, as shown in the table below.

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[2] March 28, 2011 City of Falls Church Council Meeting video webcast at 2:16:40 of 2:56:21.

[3] Opinion Letter, *Fairfax County Water Authority v. City of Falls Church*, Case No. CL-2008-16114 (Jan. 6, 2010) at 4.

Table 3.1

Building Blocks of Utility Revenue Requirement[4]		
	Included in Rates	
Cost Element	**Utility Basis (3/2011)**	**Cash Basis (5/2011)**
Operating and Maintenance Costs	X	X
Return on Equity	X	
Depreciation	X	
Debt Service		
Principal		X
Interest		X
Return on Debt	X	
Reserves		
Operating Reserve		X
Repair / Replacement / Rehabilitation Reserve		X
Debt Service		X

The two rate study methodologies, as applied by MFSG, resulted in slightly different net revenue requirements for the City water system:

Table 3.2

Net Revenue Requirement (in Millions)[5]					
	FY2012	**FY2013**	**FY2014**	**FY2015**	**FY2016**
Utility basis (A)	$20.05	$20.58	$21.44	$21.88	$22.67
Cash basis (B)	$19.24	$20.53	$20.50	$22.02	$21.92
Difference (A-B)	$ 0.81	$ 0.05	$ 0.94	($ 0.14)	$ 0.75

Despite their differing approaches, however, both the utility-basis and cash-basis rate studies reached the same conclusions regarding recommended rate increases:

[4] May 27 water rate study at 5.

[5] City of Falls Church Water Rate Study, Findings and Recommendations (March 28, 2011) (hereinafter March 28 presentation) at 12; City of Falls Church Water Rate Study, Findings and Recommendations (June 27, 2011) (hereinafter June 27 presentation) at 4.

Table 3.3

Recommended Rates – Inside and Outside City[6]						
Rate	**FY2011**	**FY2012**	**FY2013**	**FY2014**	**FY2015**	**FY2016**
Quarterly service charge	$7.47	$8.07	$8.73	$9.42	$9.69	$9.99
Commodity charge (per 1,000 gallons)	$3.03	$3.27	$3.53	$3.82	$3.93	$4.05
Peak charge (per 1,000 gallons) (additive)	$4.62	$4.99	$5.39	$5.82	$5.99	$6.17
% Rate Increase	--	8.0%	8.0%	8.0%	3.0%	3.0%

At its September 12, 2012, meeting, the Falls Church City Council adopted the recommended eight percent (8%) rate increase for FY2012, effective October 1, 2011. The City anticipates revisiting water rates on an annual basis.[7]

Schedule 16A of the May 27, 2011, cash-basis water rate study, *Rate Projections,* forecasts rate increases for each year through FY2020. Non-peak commodity increases are shown below. Greater detail about each of the rate increases is provided in Section IV.

Table 3.4

Non-Peak Commodity Rate Projections: FY2012-2020 (per 1,000 gallons)[8]									
	FY12	**FY13**	**FY14**	**FY15**	**FY16**	**FY17**	**FY18**	**FY19**	**FY20**
Rate	$3.27	$3.53	$3.82	$3.93	$4.05	$4.17	$4.21	$4.25	$4.30
% Increase	8%	8%	8%	3%	3%	3%	1%	1%	1%

Because the City did not release the utility-basis water rate study, it cannot be determined whether that study also envisioned rate increases beyond FY2016.

B. Staff was unable to obtain additional information about the 19 schedules that comprise the Appendix to the May 27 water rate study

The May 27 water rate study includes an Appendix comprised of 19 schedules addressing eight topics: (1) global inputs and assumptions; (2) operating and capital expense (revenue) data; (3) asset management and reinvestment plan; (4) revenue requirements and financial plan; (5) customer and consumption analysis; (6) rate analysis and projections; (7) customer impact and customer sample bills; and (8) cash flow statements and bond coverage calculations. The City Manager initially expressed his willingness to cooperate with the staff's review but declined to meet with staff when staff attempted to obtain responses to questions regarding these 19 schedules.

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[6] March 28 presentation at 15; June 27 presentation at 7.

[7] September 12, 2011, City of Falls Church Council Meeting video webcast at 1:20:00 of 2:32:59.

[8] May 27 water rate study, Appendix, Schedule 16A.

A number of issues impeded a comprehensive review of the City's water rate study. These issues included water rate study schedules posted on the City's website that are difficult to read, the use of undefined terms, and the need for supplemental information not available in the schedules themselves. Staff therefore submitted 58 questions to the City (including a request for legible copies), or about three questions per schedule. The questions to the City are provided as Attachment 1. The City Manager objected to the request, characterizing staff's comprehensive review as "something more along the lines of rate case discovery process" than the simple review he had originally contemplated. Ultimately, staff received from the City neither legible copies of the schedules nor information responsive to its questions. The email exchanges documenting the City's refusal to respond are provided as Attachment 2.

C. AWWA ratemaking principles provided guidance

In addition to the Board's water ratemaking principles, staff's analysis reflects the policy principles found in the American Water Works Association Manual of Water Supply Practices, *Principles of Water Rates, Fees, and Charges* (AWWA M1).

Use of the AWWA M1 helped staff ensure that it recognized and understood, to the extent possible, issues that the City may have encountered in the rate-setting process and the options available to it. These uses are consistent with the stated purpose of the manual, which is "to describe and present issues associated with developing water rates and charges, to enumerate the advantages and disadvantages of various alternatives, and to provide information to help users determine water rates and charges that are most relevant to a particular solution."[9] The AWWA M1 provides guidance; it does not prescribe solutions and does not endorse or recommend data or assumptions.

D. Staff recognized legal constraints on the City's transfer of funds from its water fund to its general fund

Staff's analysis recognizes that the City is operating under certain constraints as a result of the January 2010 opinion letter and decree in Case No. CL-2008-16114, *Fairfax County Water Authority v. City of Falls Church*. In his January 6, 2010, opinion letter, Judge R. Terrence Ney of the Fairfax County Circuit Court enjoined the City of Falls Church from transferring any moneys from its water fund to its general fund for purposes unrelated to the water system.

Evidence introduced at trial in the litigation between the City of Falls Church and Fairfax Water established that during the period 1981 through 2008, the City transferred nearly $59 million in surplus revenues from its water fund to its general fund. The trial exhibit listing each year's transfer is provided as Attachment 3. In concluding that injunctive relief was warranted, Judge Ney explained that:

> . . . the Falls Church City Manager's Memorandum of May 13, 2005, made clear that the then-existing rates were more than sufficient to operate the water system and pay for all capital improvements. It also showed that the rate increase was

[9] AWWA M1, *Foreword*, at xv.

> needed simply in order to transfer more money to the general fund. As in *Marshall*, the positive difference between expenses and revenues constitutes a tax.
>
> The City . . . imposes this tax primarily on persons who do not elect representatives or themselves sit on the City's governing board. Indeed, ninety-two percent of that transfer was funded by Fairfax County customers who are not represented on the Falls Church City Council. The Court finds that the profits derived from the rates charged to Fairfax County residents violate the principle of no-taxation-without-representation and, thus, amount to an unconstitutional tax.[10]

Under the terms of the court's decree, the City may transfer from the water fund to the general fund only that amount "corresponding to compensation for *reasonable* direct and indirect costs associated with operating the water system, and a *reasonable* payment in lieu of taxes (PILOT) with regard to water system property owned by the City within its corporate limits."[11] As discussed in more detail in Section V, below, the reasonableness of the City's payments requires more information than is available solely in the May 27 water rate study and schedules.

E. Staff also reviewed materials related to the City's budgets and capital improvement programs

As part of the CPC's comprehensive review of the water ratemaking actions of the City of Falls Church, staff reviewed various financial and planning materials available on the City's website. These materials included:

- the City's adopted budgets and five-year capital improvements programs for FYs 2006 through 2011;
- the City's proposed FY2012 budget and five-year capital improvements program; and
- presentations related to the proposed FY2012 budget, including the April 7, 2011, City Manager Proposed Budget presentation regarding utility funds.

Several of the City's financial and planning documents refer to a Falls Church Water System Master Plan and Supplement, but neither the Master Plan nor Supplement could be located on the City's website or by an on-line search.

In addition to the City materials, staff reviewed numerous letters and email exchanges between Fairfax Water and the City of Falls Church that are posted on the Fairfax Water website. Topics addressed in these letters and exchanges include Fairfax Water's request for a copy of the March 2011 utility-basis rate study and Falls Church's refusal to produce that report, as well as Fairfax Water's opposition to the City's proposed water rate increases.

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[10] Opinion Letter, *Fairfax County Water Authority v. City of Falls Church*, Case No. CL-2008-16114 (Jan. 6, 2010) at 5 (footnote omitted).

[11] Id., Final Decree on Count V Concerning the City's Water Rates and Water Fund Transfers, at ¶ 2 (emphasis added).

IV. PROJECTED WATER RATE INCREASES: FY2012-FY2020

According to its website, the City of Falls Church water system serves approximately 35,000 residential and commercial accounts in the City and Fairfax County. Schedule 11 of the May 27 water rate study provides an FY2010 Actual number of 33,756 retail accounts. Schedule 11 provides details regarding the number of retail quarterly single family and townhome (residential) accounts and the number of monthly and quarterly apartment, commercial, industrial, and municipal (other) accounts billed for water service provided by the City of Falls Church's water system:

Customer Class	Inside City	Fairfax County	Total
Quarterly residential	3,409	27,518	30,927
Quarterly other	551	2,137	2,688
Monthly other	19	122	141
Total	3,979	29,777	33,756

It is estimated that Falls Church provides water service to at least 100,000 Fairfax County residents and businesses through these approximately 30,000 Fairfax County accounts.

The May 27 water rate study projects increases in the water service charge, non-peak commodity charge, and peak commodity charge for each year in the period FY2012-FY2020 for existing retail customers. The following table illustrates the expected increase for the three categories of water rates charged to residential and other customers billed on a quarterly basis:

Table 4.1

Projected Water Rate Increases for Quarterly Water Service: FY2012-2020 (per 1,000 gallons)[12]									
	FY12	**FY13**	**FY14**	**FY15**	**FY16**	**FY17**	**FY18**	**FY19**	**FY20**
Service chg.	8%	8%	8%	3%	3%	3%	1%	1%	1%
Non-peak commodity	8%	8%	8%	3%	3%	3%	1%	1%	1%
Peak commodity	8%	8%	8%	3%	3%	3%	3%	3%	3%

Non-peak commodity rate. The May 27 water rate study projects a cumulative increase of 36 percent in the non-peak commodity rate by FY2020 as compared to the FY2011 rate of $3.03 per 1,000 gallons:

[12] May 27 water rate study, Appendix, Schedule 16A.

Table 4.2

Non-Peak Commodity Rate Projections: FY2012-2020 (per 1,000 gallons)[13]									
	FY12	**FY13**	**FY14**	**FY15**	**FY16**	**FY17**	**FY18**	**FY19**	**FY20**
Rate	$3.27	$3.53	$3.82	$3.93	$4.05	$4.17	$4.21	$4.25	$4.30
% Increase	8%	8%	8%	3%	3%	3%	1%	1%	1%

Peak commodity rate. The May 27 water rate study projects a cumulative increase of 42 percent in the peak commodity rate by FY2020 as compared to the FY2011 rate of $4.62 per 1,000 gallons. The peak rate is an additive rate – that is, consumption during peak periods is charged both the non-peak and peak rates – and applies when a customer's consumption exceeds the sum of that customer's winter-quarter use, plus an allowance. The charges are seasonal and apply only during the six month June – November period.

Table 4.3

Peak Commodity Rate Projections: FY2012-2020 (per 1,000 gallons)[14]									
	FY12	**FY13**	**FY14**	**FY15**	**FY16**	**FY17**	**FY18**	**FY19**	**FY20**
Rate	$4.99	$5.39	$5.82	$5.99	$6.17	$6.36	$6.55	$6.75	$6.95
% Increase	8%	8%	8%	3%	3%	3%	3%	3%	3%

Service charge. For single family/townhome customers, the May 27 water rate study projects a cumulative increase of 36 percent in the quarterly service charge by FY2020 as compared to the FY2011 charge of $7.47 per quarter:

Table 4.4

Service Charge (Single Family/Townhome) Rate Projections: FY2012-2020[15]									
	FY12	**FY13**	**FY14**	**FY15**	**FY16**	**FY17**	**FY18**	**FY19**	**FY20**
Rate	$8.07	$8.73	$9.42	$9.69	$9.99	$10.29	$10.39	$10.50	$10.60
% Increase	8%	8%	8%	3%	3%	3%	1%	1%	1%

[13] May 27 water rate study, Appendix, Schedule 16A, "Current Rate Structure – Alternative 4." Although Alternative 4 appears to apply only to customers located inside the City, it has been used as a source for two reasons: (1) Schedule 16A does not provide another alternative; and (2) the City is not proposing that customers located outside the City pay different rates than those located inside the City. Schedule 16A does not explain the meaning of "Alternative 4."

[14] Id.

[15] Id.

V. ISSUES IDENTIFIED BY THE BOARD

A. What were the bases underlying the City's proposal to increase its water commodity charges in FY2012 and beyond?

The City's May 27 water rate study attributes the need for substantial rate increases in both commodity and service charges to an increasing system revenue requirement over the period FY2012-FY2020. According to the water rate study, the estimated system revenue requirements for FY2012 through FY2020 are significantly greater than system revenue requirements that might have been determined in prior years due principally to: (1) the establishment of three new reserve funds; (2) capital improvement expenditures; and (3) increases in operating expenses. It should be noted that *projected expenditures have been added to the system's costs as established in years past; MFSG appears to have made no effort to determine whether it was reasonable to use those costs as a starting point.*

New Reserve Funds. MFSG proposes that the City establish three new reserve funds: (1) an operating and maintenance (O&M) reserve; (2) a repair, replacement, and rehabilitation (3R) reserve; and (3) a debt service reserve. MFSG explains that for accounting and financial statement purposes the reserves would constitute a council-imposed restriction on Fund Balance in the Water Fund's Operating Fund.[16] The cost of contributions to these new reserve funds for the period FY2012-FY2016 is shown in millions of dollars below:

Table 5.1

MFSG – Reserve Fund Contributions (in Millions)[17]						
Reserve Fund	**FY11**	**FY12**	**FY13**	**FY14**	**FY15**	**FY16**
O&M	-	$1.50	$1.50	$1.50	$1.50	$1.50
3R	-	$0.20	$0.20	$0.21	$0.21	$0.21
Debt service	-	$0.26	$0.57	$0.00	$0.66	$0.00
Contributions	**-**	**$1.96**	**$2.27**	**$1.71**	**$2.37**	**$1.71**

As a review of Attachment 3 will show, these reserve contributions are comparable in magnitude to many of the transfers made by the water system to the City's general fund over the period 1981-2008. They also are comparable to the FY2009 transfer of $2.54 million (subsequently reversed in response to the court decree) and the planned but enjoined FY2010 transfer of $2.2 million.

Among other things, the rate study does not explain why its prior rates, which were sufficient to generate excess water revenues in the millions of dollars annually, are not sufficient to fund the reserves. It also does not explain why reserve funding is identified as a permanent rate element rather than a temporary rate element that expires upon funding of the reserve fund.

Capital improvement expenditures. The May 27 water rate study identifies 10 major operating and system expansion projects in the City's current capital improvements program (CIP) at a

[16] May 27 water rate study at 10.

[17] See May 27 water rate study, Table 2.4 at 12.

total cost of $27.96 million over the period FY2012-FY2016.[18] The City's proposed FY2012-FY2016 CIP – which was released prior to the rate study – identifies eight major projects at a total cost of $33.325 million; the projects are described in more detail in Section V.D, below.

	MFSG Study	Falls Church CIP
McLean pumping station (PS) improvements	X	X
Water main replacement program	X	X
Kirby Rd. water main replacement (Chain Bridge PS to Chesterbrook PS)	X	X
Kirby Rd. water main replacement (Chesterbrook PS to Westmoreland St.)	X	X
Tysons Tank No. 2	X	X
Tysons Tank No. 1 to Tank No. 2 water main	X	X
Chain Bridge PS to Merchant Ln. water main	X	X
Dolley Madison to McLean PS water main	X	X
FY10 Seven Corners system improvements	X	
Storage shed replacement and paving	X	

As shown in the chart below, the capital improvements projects discussed in the May 27 water rate study and FY2012-FY2016 CIP differ not only in terms of overall cost, but in terms of projects designated "operating" and "system expansion:"

Table 5.2

Comparison of Capital Improvement Plan Funding by Fund (in Millions)[19]						
	FY12	**FY13**	**FY14**	**FY15**	**FY16**	**Total**
Operating Fund						
MFSG Rate Study	$2.14	$4.52	$3.25	$4.41	$4.25	$18.57
Proposed FY12 CIP	$2.45	$2.90	$2.10	$2.00	$2.00	$11.45
System Expansion Fund						
MFSG Rate Study	$0.88	$1.26	$3.85	$2.64	$0.75	$ 9.38
Proposed FY12 CIP	$1.20	$3.03	$7.00	$4.65	$6.00	$21.88
Total						
MFSG Rate Study	**$3.03**[20]	**$5.78**	**$7.10**	**$7.05**	**$5.00**	**$27.96**
Proposed FY12 CIP	**$3.65**	**$5.93**	**$9.10**	**$6.65**	**$8.00**	**$33.33**

As the chart demonstrates, MFSG and the City's CIP allocate FY2012-FY2016 capital expenses to the Operating and System Expansion funds in opposite manners:

[18] May 27 water rate study at 8. These ten projects include two that are not included in the City's FY2012-FY2016 CIP but are included in prior CIPs.

[19] May 27 water rate study, Table 2.3, at 9; City of Falls Church Capital Improvements Program, Utility Funds Fiscal Year 2012-2016, City Manager Proposed Budget, Work Session (April 7, 2011) at 3.

[20] It is assumed that MFSG's FY2012 total of $3.03 million is due to rounding.

	Total	Operating Fund	System Expansion Fund
MFSG Rate Study	$27.96M	$18.57M = 66%	$ 9.38M = 34%
City FY2012-FY2016 CIP	$33.33M	$11.45M = 34%	$21.88M = 66%

Under assumptions and guidelines developed by MFSG with the assistance of City staff, "[e]xpenses and capital costs will be evaluated for allocation between the Operating Fund (Existing Users) and the System Expansion Fund (New Connections)."[21] The rate study explains that the System Expansion Fund "includes costs associated with serving new customers and is offset by revenues collected via water availability fees paid for by new customers when they connect to the water system or when they pre-pay availability fees in advance of actually connecting to the system."[22] System expansion costs typically include the costs of constructing lines and facilities to dedicate, expand, or extend service capability and to connect new properties to a water system.

When a system charges cost-based availability fees, as Fairfax Water does, growth pays for the facilities necessary to provide service for that growth. It cannot be determined to what extent growth in the City of Falls Church water system pays for growth. The May 27 water rate study does not address the City's availability fees and charges and, although availability fees and charges have not increased since 1996, the study does not recommend any change in them.[23] The City declined to respond to questions from staff regarding availability fees.

The allocation differences shown in Table 5.2 indicate that the May 27 water rate study apparently underallocates system expansion costs to new customers as compared to the City's CIP, and overallocates these costs to existing customers, of which approximately 90 percent reside or are located in Fairfax County. As a result, commodity and service-charge rates charged to existing customers must be increased to absorb these excess costs. *In other words, rather than fully recovering system expansion costs through availability fees, under the May 27 water rate study the City's existing water service customers subsidize system expansion through inflated commodity and service charges.*

Increases in Operating Expenses. According to the May 27 water rate study, the third major cost driver for the recommended rate increases is increasing system operating expenses. Operating expenses include costs related to the following categories: (1) water administration; (2) customer service; (3) source of supply; (4) water distribution; (5) water connection; (6) transfers; (7) debt service; and (8) other post-employment benefits (OPEB). The May 27 water rate study projects an increase of approximately 27 percent in operating expenses over the period FY2012 to FY2020, as shown below:

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[21] May 27 water rate study at 3.

[22] Id. at 2.

[23] See June 14, 2011 letter of Philip Alin, Chairman, Fairfax Water, to City of Falls Church Mayor Nader Baroukh, at 4.

Table 5.3

Increases in Operating Costs FY2012-2020 (in Millions)[24]								
FY12	**FY13**	**FY14**	**FY15**	**FY16**	**FY17**	**FY18**	**FY19**	**FY20**
$17.858	$18.393	$18.945	$19.513	$20.099	$20.702	$21.323	$21.963	$22.621

Factors contributing to this increase include an overall operating expenses inflation rate of three percent (3%).[25] The City declined to respond to questions regarding its operating expenses.

Impact on commodity rates. According to Schedule 2 of the May 27 water rate study, and as shown below, system revenue requirements are allocated almost entirely to the commodity charge. The City declined to respond to questions regarding its allocation process.

Table 5.4

Water Rate Study Cost Allocation: Determination of Commodity Charges[26]			
Cost Category	**Existing Customers**		**New Customers**
	Commodity Charges	**Service Charge**	**Availability Fees**
Administration	80%	20%	N/A
Customer service	0%	100%	N/A
Source of supply	100%	0%	N/A
Water distribution	100%	0%	N/A
Water connection	100%	0%	N/A
Reserves	100%	0%	N/A
Debt service	100%	0%	N/A
OPEB	100%	0%	N/A

B. In determining its water rate increases for FY2012 and beyond, did the City faithfully comply with all of the water ratemaking principles adopted by the Board on May 25, 2010?

On May 25, 2010, the Board adopted seven water ratemaking principles, which are provided in their entirety as Attachment 4. Pursuant to these principles, water systems serving Fairfax County customers should:

1. Periodically undertake a condition, integrity, and valuation study to fully assess the system, evaluate critical factors, and to update cost estimates;

2. Fund and maintain adequate reserves in a segregated fund;

[24] May 27 water rate study, Appendix, Schedules 2 and 7.

[25] May 27 water rate study at 7.

[26] May 27 water rate study, Appendix, Schedule 2.

3. Establish water rates that are reasonably based and set on a well-substantiated cost basis that reflects the direct and indirect costs of the water system, as well as necessary contributions to Water Fund reserves;

4. Charge all similarly-situated customers the same rates;

5. Not transfer water revenues or reserves to the municipality's general fund to be applied towards expenditures unrelated to water utility services;

6. Routinely update water system study findings and cost estimates, which should be reflected in budget documents with details described on a segregated basis in supporting budget documents; and

7. Attain, at a minimum, water utility distribution system integrity rates that are at or near nationwide median standards as published by the American Water Works Association.

As discussed below, there remain significant questions about the City's ratemaking process. Consequently, at this time it cannot be concluded that the City of Falls Church faithfully complied with all of the Board's ratemaking principles, particularly Principle 3.

Principle 1: The Board's ratemaking principles recognize that a water utility should periodically undertake a condition, integrity, and valuation study to fully assess the system, evaluate critical factors, and to update cost estimates. It cannot be determined when, if ever, the City last conducted such a study.

MFSG apparently did not conduct such a study as part of its ratemaking efforts. According to the May 27 water rate study, MFGS's scope of work for the City was limited to three tasks: (1) identifying and addressing certain policy objectives; (2) developing a financial model to determine system revenue requirements; and (3) creating a financial plan for the City to ensure adequate revenues.[27]

Principle 2: Funding and maintaining adequate reserves in a segregated fund, as contemplated by the second principle, protects against commingling and ensures that reserves funds are used only for stated purposes. While the water rate study schedules included in the Appendix identify the funds on an individual basis, it appears that the reserves will not be funded on a segregated basis.

As structured by MFSG, reserve funding is considered an element of the revenue requirement, with costs recovered from water revenues collected from existing users' service-charges and commodity charges. Unlike a surcharge that expires once the reserves are fully funded, this rate approach ensures that – absent a future rate decrease – ratepayers will continue to pay for the establishment of reserve funds even after they are fully funded.

The water rate study does not discuss the segregation of funds and provides no guidance regarding use and replenishment.

[27] May 27 water rate study at 2.

Principle 3: Pursuant to the third principle, a water provider should establish water rates that are reasonably based and set on a well-substantiated cost basis that reflects the direct and indirect costs of the water system, as well as necessary contributions to Water Fund reserves. Compliance with this principle requires transparency on the part of the provider, so that the County can ensure that costs are in fact substantiated and reasonable. In this case, transparency is particularly important, as various actions on the part of the City or its rate consultant have called into question the reasonableness of the City's recommended water rate increases. These actions include: (1) the City's long history of setting water rates at levels that generated millions in surplus water revenues; (2) the use of system costs and rates from preceding years as the apparent starting point for the water rate study; (3) the exclusion of availability fees from the scope of the water rate study; and (4) the City's refusal to make publicly available the utility-basis water rate study presented to the City Council in March 2011. Nonetheless, the City declined the opportunity to respond to staff's questions and explain its water ratemaking process. *Given numerous unanswered questions regarding the City's water rate study, it cannot be concluded that the water rates charged by the Falls Church water system are reasonably based and set on a well-substantiated cost basis.*

The following are examples of the types of questions that remain unanswered:

- Does the water system's transfer of administrative costs to the General Fund comply with Judge Ney's decree that the transfer be limited to compensation for *reasonable* direct and indirect costs associated with operating the water system? For example, Schedule 2 of the water rate study, regarding operating and maintenance (O&M) expenses, identifies a transfer of administrative costs to the City's General Fund in the amount of $1,200,000 in FY2012, increasing to $1,520,124 by FY2020. How were these amounts determined?

- Does the water rate study underestimate revenues, resulting in recommended rate increases that may not be warranted? For example, the rate reconciliations and rate analyses provided in Schedules 12, 13, 14, and 15 appear to underestimate revenues associated with peak consumption by treating the peak rate as a stand-alone rate, not as an additive rate. In Schedule 15, correctly calculating revenues attributable to peak consumption increases FY2011 total variable (commodity) charge revenue by $869,034 (286,810 x $7.65 = $2,194,097, not $1,325,063).

- In establishing the $4.3 million O&M reserve, why did MFSG begin with a negative $5.558 million balance for FY2011, thereby increasing the cost to ratepayers over time to about $9.8 million? (-$5.5M – $4.3M = -$9.8M) How can this negative beginning FY2011 balance as shown on Schedule 7 be reconciled with the system's plans, until enjoined, to transfer $2.2 million in surplus water revenues to the City's general fund in FY2010?

- Are operating costs reasonable? Most cost categories in Schedule 2, regarding O&M expenses, include a number of cost subcategories, including those for "salaries and wages," "materials, supplies, and other," and "professional/contractual" expenses. Schedule 2 lacks adequate information to assess the reasonableness of the costs, however. For example, in the Source of Supply category, reported FY2012

professional/contractual costs for "repairs/maintenance" are $950,000, increasing to $1,203,432 by FY2020. What do these costs represent? How are they determined?

- Why has the City chosen to raise rates to establish its reserves, rather than using available cash balances? According to Schedule 19, Cash Balance, the water system held $19,560,376 in total available cash balances in Budget FY2011. The available cash balance is forecast to increase to $34,551,073 by FY2020.

- Are existing water customers subsidizing wholesale service to Vienna through their commodity charges and service charges? The City currently provides wholesale service to the Town of Vienna. The water rate study includes wholesale revenues in determining the system's net revenue requirement but does not appear to separately identify the expenses associated with providing wholesale service. What are the expenses associated with providing wholesale water service, and how do they compare to wholesale revenues? What would be the impact to existing customers if the City terminated its provision of wholesale service to Vienna?

- Schedule 11 projects total billable water consumption to grow system-wide by just 0.35 percent per year during the period FY2012 through FY2020. How does the City reconcile this minimal expected growth in water consumption with the $21.88 million in planned system expansion projects described in the City's FY2012-FY2016 CIP and discussed in Section V.A, above?

Principle 4: Under the fourth principle, a water service provider should charge all similarly-situated customers the same rates. With respect to existing residential customers with comparable meter sizes, the City's water system complies with this principle by charging the same service charge and commodity rate regardless of location inside or outside City limits.

Principle 5: The fifth principle prohibits the transfer of water revenues or reserves to the municipality's general fund to be applied towards expenditures unrelated to water utility services. In compliance with the January 6, 2010 opinion letter and decree, the City's water budgets no longer include a line item for the transfer of a management fee to the City's general fund. As noted in the discussion of Principle 3, based solely on publicly-available information, it cannot be determined whether the City's transfer of compensation from the water fund to the general fund is limited to *reasonable* direct and indirect costs associated with operating the water system.

Principle 6: The sixth principle directs providers to routinely update water system study findings and cost estimates, and to reflect the information and material in budget documents. Under this principle, the City should have a process by which it periodically reviews its findings and cost estimates. No publicly-available information indicates that the City has any such process or plans to implement such a process.

Principle 7: The seventh and last principle encourages service providers to attain, at a minimum, water utility distribution system integrity rates that are at or near nationwide median standards as published by the American Water Works Association. The CPC was not asked by the Board to review the integrity of the City of Falls Church water system.

C. What was the precise nature, total cost, and exact locations of the capital improvements that the City of Falls Church made to its water system during the past five years, and how were those improvements funded when made?

Although it appears to be a straight-forward question, this issue cannot be readily addressed, primarily because the capital improvements program (CIP) documents that are available on the City's website for the period FY2006-FY2011 identify planned capital improvements for the period, but neither describe them nor provide the total cost of each project.

The City's CIP documents for the period FY2006-FY2011 list 17 capital improvement projects. These projects and the fiscal years in which expenditures were planned are shown below:

Table 5.5

FALLS CHURCH WATER SYSTEM IMPROVEMENTS – FY2012-2016 (CIPs)[28]						
Project	**FY06**	**FY07**	**FY08**	**FY09**	**FY10**	**FY11**
Arlington special pump station	X	X				
SCADA system improvements	X	X				
Water utility security	X	X				
Meter replacement program	X	X	X			
Water main replacement (Rte 50)	X	X	X			
Seven Corners system improvemts	X	X		X	X	
Wash Aqueduct residuals disposal	X	X	X	X		
Water main replacement program	X	X	X	X	X	X
Property yard relocation		X	X	X	X	
Chesterbrook pump station upgrde		X	X			
Telephone system replacement			X			
McLean pump station improvemts			X	X	X	X
Pump station control center			X	X		
Document management system				X		
Kirby Rd water main (Chain Bridge-Chesterbrook)					X	X
City Hall West Wing improvemts					X	X
Storage shed replacement/paving						X

Attachment 5 provides reported planned expenditures for each of these projects during each of the fiscal years.

Of these 17 projects, the largest during the five-year period FY2007-FY2011 appears to have been that relating to Washington Aqueduct Residuals Disposal, which had planned expenditures

[28] City of Falls Church Adopted Budgets and Capital Improvements Program, FY2006, FY2007, FY2008, FY2009, FY2010, and FY2011. As noted, the City documents do not describe the nature of the improvements. As a result, the nature of the City Hall West Wing improvements cannot be determined. Planned expenditures for this project were $75,000 in FY2010 and $100,000 in FY2011.

of $10,600,000. The City's water main replacement program was the next largest project, with planned expenditures totaling approximately $6,000,000. The City expected to spend $5,000,000 on its Route 50 water main replacement project.[29]

Although the CIPs do not provide descriptions of these projects, the Washington Aqueduct Residuals Disposal project appears to have been related to federally-mandated changes at the Dalecarlia Treatment Plant. As noted in several CIP narratives during this period,

> [t]he principal challenges to both the Water and the Sewer Utility Funds are capital costs incurred by our regional partners, which we must pass through in our rate schedules. With respect to the Water Fund, changes at the Dalecarlia Treatment Plant will put an added strain on our ability to finance the long-term capital needs of the system.[30]

Pay-as-you-go financing. It appears that the City may have relied on current revenues to finance capital improvements prior to FY2006. Even beyond this period, the City's Water Fund operating and maintenance (O&M) budgets include some capital costs. For example, in pre-FY2009 City budget documents, the "source of supply" O&M cost category includes a subcategory, "COE – Capital Costs." Although undefined, presumably the acronym "COE" refers to the Baltimore District, U.S. Army Corp of Engineers, which operates the Washington Aqueduct. According to Water Fund budgets, COE – Capital Costs have been included as an O&M cost item for years:

Table 5.6

City of Falls Church Water Fund COE-Capital Cost – FY2002-FY2008 Budgets[31]						
Actual			**Revised**	**Actual**	**Original**	**Adopted**
FY02	**FY03**	**FY04**	**FY05**	**FY06**	**FY07**	**FY08**
$822,986	$1,212,696	$832,778	$1,156,554	$1,365,206	$843,000	$967,000

MFSG's May 27 water rate study includes COE – Capital Costs in the water system revenue requirement through FY2020:

[29] City of Falls Church 2006-2007 Annual Expenditure and Five-Year Capital Improvements Program at 270.

[30] City of Falls Church Adopted 2007-2008 and Adopted 2008-2009 Annual Expenditure and Five-Year Capital Improvements Program at 239 and 199, respectively.

[31] City of Falls Church 2005-2006 and Adopted 2007-2008 Annual Expenditure and Capital Improvements Program, at 207 and 214, respectively.

Table 5.7

City of Falls Church Water Fund COE-Capital Cost – May 27 water rate study[32]						
Adopted	**Budget**	**Projected**				
FY11	**FY12**	**FY13**	**FY14**	**FY15**	**FY16**	**FY20**
$1,077,000	$2,100,000	$2,163,000	$2,227,890	$2,294,727	$2,363,569	$2,660,217

Debt financing. In FY2007, the City issued general obligation funds to finance its share of the Dalecarlia water treatment plant renovation by the U.S. Army Corps of Engineers. In FY2009 and FY2010, the City began issuing general obligation bonds for water system improvement projects, but at this time it cannot be determined which projects were funded with these bonds.[33]

The Water Fund began separately identifying its interest and principal payments in FY2008. The following table provides debt service figures as reported in City budget documents. Budgets beginning in FY2009 refer to "net expenditures supported by general revenues" instead of "total." Beginning in FY2010, a line item for "professional/contractual" (P/C) was added to the water fund debt service category.

Table 5.8

City of Falls Church Water Fund Debt Service – FY2005-FY2012[34]							
	Actual	**Actual**	**Actual**		**Actual**	**Adopted**	**Proposed**
	FY06	**FY07**	**FY08**	**FY09**	**FY10**	**FY11**	**FY12**
P/C		-	-	$650	45,394	$1,000	$1,000
Principal	$0	$136,870	-	-	-	$925,000	$1,369,104
Interest	$0	-	$433,234	$549,914	$684,781	$763,101	$919,703
Total	$0	$136,879	$433,234	$550,564	$730,175	$1,689,101	$2,289,807

According to Schedule 3 of the May 27 water rate study, the water system has $30,859,000 in existing debt, comprised of $22,022,115 in principal and $8,856,885 in interest. One hundred percent (100%) of the debt is allocated to operating expenses for recovery through charges to existing users. Zero (0%) is allocated to system expansion or water purchases.

2006 (GO) Bond (Water)	Principal	$ 4,150,000
2006 (GO) Bond (Water)	Interest	$ 879,603
2007 VRA Water Bond	Principal	$ 7,975,000
2007 VRA Water Bond	Interest	$ 4,170,546

[32] May 27 water rate study, Schedule 2.

[33] City of Falls Church Adopted FY2010 Annual Expenditures and Revenues and Five-Year Capital Improvements Program at 165.

[34] City of Falls Church budget documents, generally referred to as Annual Expenditures and Capital Improvements Program. See Adopted FY2008 at 219, Adopted FY2009 at 189, Adopted FY2010 at 165, Adopted FY2011 at 177, and Proposed FY2012 at 172.

2009 VRA Water Bond	Principal	$ 5,385,000
2009 VRA Water Bond	Interest	$ 2,436,977
DC Loan	Principal	$ 1,150,555
DC Loan	Interest	$ 891,019
U.S. Treasury Loan	Principal	$ 3,341,560
U.S. Treasury Loan	Interest	$ 478,740
Total Existing Debt		$30,859,000

D. What is the precise nature, total cost, and exact locations of all projected capital improvements to the City of Falls Church's water system that formed the basis for the City's projected water rate increases for Fiscal Years 2012, 2013, 2014, 2015, and thereafter, and do any such improvements involve anything other than the maintenance, improvement, and/or upgrading of the City's existing water system?

According to Proposed FY2012 budget documents presented at the City Council's April 7 and April 25, 2011, meetings, the City of Falls Church proposes eight water system capital improvement projects during the period FY2012-FY2016. Two of these projects are maintenance projects. The remaining six are system expansion projects, several of which were recommended by the consultant to the City's 2005 Water System Master Plan and 2010 Supplement (hereinafter Master Plan). The estimated cost of these eight projects during the five-year planning period is approximately $33.325 million.

The following descriptions, statements of need, project costs, and schedules are excerpted from materials presented during the City Council's April 25 FY2012 Budget Meeting:

Maintenance:

1) McLean Pumping Station Improvements — Total estimated cost: $4,200,000

The McLean Pumping Station was constructed in the early 1970s, and some of the equipment in the facility is the originally-installed equipment. A study to evaluate the structure, mechanical equipment, control, and electrical equipment is needed. It is possible that the station will need to be replaced with a new facility having a greater capacity.

Engineering and Design ($450,000):	January 2011 to April 2012
Construction ($3,750,000):	May 2012 to May 2013

2) Water Main Replacement Program — Total estimated cost: $17,000,000

The City is pursuing a systematic approach to water main replacement. Replacement is based on factors including main break history, impact to customers, and traffic impacts. The list of water main replacements is reevaluated annually and priority projects selected for construction.

Engineering and Design ($200,000/year):	On-going
Construction ($1,800,000/year):	On-going

System Expansion:

1) Kirby Road Water Main Replacement (#1) Total estimated cost: $10,200,000

The Master Plan consultant recommended that several water main projects be completed by 2014 or 2015 to meet future demand. This Kirby Road project consists of approximately 15,500 feet of 36-inch water line along Kirby Road from the Chain Bridge Pumping Station to the Chesterbrook Pumping Station. Route selection, permitting, and engineering on this project began in 2010.

Engineering and Design ($1,050,000):	January 2011 to September 2012
Construction ($9,150,000):	November 2012 to November 2014

2) Kirby Road Water Main Replacement (#2) Total estimated cost: $3,750,000

The Master Plan consultant recommended that several water main projects be completed by 2015 to meet future demand. This second Kirby Road project consists of 5,700 feet of 36-inch water main in Kirby Road from the Chesterbrook Pumping Station to Westmoreland Street. Engineering was to have begun in July 2011 to meet the project's 2015 completion date.

Engineering and Design ($400,000):	July 2011 to April 2013
Construction ($3,350,000):	June 2013 to June 2015

3) Chain Bridge P.S. to Merchant Lane Water Main Total estimated cost: $1,300,000

This project consists of 1,700 feet of new 48-inch water main in Dolley Madison Boulevard from the Chain Bridge Pumping Station to Merchants Lane. The need for this facility is based largely on projected future demand in the Tysons Corner and surrounding area.

Engineering and Design ($130,000):	January 2013 to January 2015
Construction ($1,170,000):	March 2014 to January 2015

4) Dolley Madison to McLean P.S. Water Main Total estimated cost: $1,400,000

The project consists of 2,100 feet of proposed 36-inch main in Dolley Madison Boulevard from Old Dominion Drive to the McLean Pumping Station. The project was recommended by the City's Master Plan consultant to meet future projected demands. The project location and scope will be re-evaluated upon completion of the preliminary engineering study of the McLean Pumping Station.

Engineering and Design ($200,000):	August 2012 to June 2013
Construction ($1,200,000):	July 2013 to April 2014

5) Tysons Tank No. 2 Total estimated cost: $6,000,000

The Master Plan consultant recommended a second water storage tank at Tysons Corner, with a proposed capacity of 3 million gallons. The City owns a site intended for this purpose on Old Courthouse Road, which can accommodate the proposed tank. The need for this facility is based on projected future demand in the Tysons Corner and surrounding area.

Engineering and Design ($500,000):	January 2014 to March 2015
Construction ($5,500,000):	May 2015 to November 2016

6) Tysons Tank No. 1 to Tank No. 2 Water Main Total estimated cost: $1,325,000

As noted above, the Master Plan consultant recommended a second water storage tank at Tysons Corner. Along with this new tank, approximately 3,800 feet of 16-inch water main

will be required to connect the two Tysons area storage tanks. The need for this facility is based on projected future demand in the Tysons Corner and surrounding area.

Engineering and Design ($150,000): January 2014 to March 2015
Construction ($1,175,000): May 2015 to November 2016

All eight projects will be debt-financed.[35] Projected expenditures for each of the projects during the period FY2012 – FY2016 are provided in the table below.

Table 5.9

FALLS CHURCH WATER SYSTEM IMPROVEMENTS – FY2012-2016 (in Millions)[36]							
Improvement	**Project Cost**	**FY12**	**FY13**	**FY14**	**FY15**	**FY16**	**Totals**
Maintenance Projects							
McLean P.S.	$4.200	$0.450	$0.900	$0.100			$1.450
Water main replacement program	$17.000	$2.000	$2.000	$2.000	$2.000	$2.000	$10.000
Subtotal	**$21.200**	**$2.450**	**$2.900**	**$2.100**	**$2.000**	**$2.000**	**$11.450**
System Expansion Projects							
Kirby Rd. water main replacement (#1)	$10.200	$1.000	$2.500	$3.000	$2.100		$8.600
Kirby Rd. water main replacement (#2)	$3.750	$0.200	$0.200	$1.950	$0.900	$0.500	$3.750
Chain Bridge P.S. to Merchant Ln	$1.300		$0.130	$0.600	$0.570		$1.300
D.Madison - McLean P.S.	$1.400		$0.200	$1.200			$1.400
Tysons Tank No. 2	$6.000			$0.100	$0.400	$5.000	$5.500
Tysons Tank #1 to #2 water main	$1.325			$0.150	$0.675	$0.500	$1.325
Subtotal	**$23.975**	**$1.200**	**$3.030**	**$7.000**	**$4.645**	**$6.000**	**$21.875**
TOTAL MAINTENANCE AND SYSTEM EXPANSION							
Total	**$45.175**	**$3.650**	**$5.930**	**$9.100**	**$6.645**	**$8.000**	**$33.325**
Sources of Funds							
Debt Financed		$3.650	$5.930	$9.100	$6.645	$8.000	$33.325

Attachment 6 is the chart presented to the Falls Church City Council by its City Manager at the City's April 7, 2011, budget work session, from which this information was derived.

[35] City of Falls Church Capital Improvements Program, Utility Funds Fiscal Year 2012-2016, City Manager Proposed Budget, Work Session (April 7, 2011) at 3.

[36] Presentation, City of Falls Church Capital Improvements Program, Utility Funds, Fiscal Year FY2012-2016, City Manager Proposed Budget, Work Session (April 7, 2011) at 3; Presentation, City of Falls Church FY2012 Budget Council Meeting (April 25, 2011).

According to Schedule 5 of the May 27 water rate study, regarding Operating Fund projected debt, the City plans debt issuances totaling $38,150,000 for the period FY2012-FY2020, and $40,650,000 for the period FY2011-FY2020. As noted previously, operating fund expenses are recovered from existing users in retail rates, primarily commodity charges.

The Water System Master Plan and Supplement may describe capital projects planned for the period beyond FY2016. The Master Plan and Supplement do not appear to be publicly available, however. Staff asked the City about future improvements but, as previously noted, the City declined to respond to staff's questions.

VI. CONSUMER PROTECTION

A. The City has not been responsive to the Fairfax County customers of its water system

Currently, approximately 90 percent of the City's water system customers are located in Fairfax County, outside City limits. In his January 6, 2010 opinion letter, Judge Ney noted that 92 percent of the transfer deemed unconstitutional was funded by Fairfax County customers who are not represented on the Falls Church City Council. These numbers will only grow over time. The May 27 water rate study assumes no growth (0.0%) in customers located inside City limits, but a one percent (1%) annual increase in customer growth outside City limits.[37]

Fairfax County customers have voiced concerns to the City Council about its proposal to increase water rates, both in writing and in appearances before the City Council.[38] Included as Attachment 7 is a copy of a June 25, 2011, letter sent to the City of Falls Church City Council by a Fairfax County customer of the City's water system, Mr. Kirk Randall. Mr. Randall was one of numerous County residents who spoke before the City Council at its July 11, 2011, second reading of TO11-15, *Ordinance to Amend Water Rates as of August 1, 2011*. Attachment 8 is a copy of a September 12, 2011, letter signed by 18 Fairfax County customers of the City's water system opposing the City's water rate increases. A signatory of that letter, Mr. Ryan Scarborough, spoke before the Council that same date in opposition to the proposed rate increases.

A recurring theme in these complaints is the belief that Fairfax County customers of the City of Falls Church water system have paid rates that essentially fund the system twice: they have paid both for the cost of the system's operating and capital expenses to date and for the approximately $58 million in surplus revenues that, as shown on Attachment 3, the water system transferred to the City's general fund since 1981. While City residents benefitted from those transfers in the form of subsidized tax rates, County customers did not. Some customers note that despite the court ruling deeming these transfers unconstitutional, the City has not volunteered to refund the transferred revenues to the water system and its customers.

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[37] May 27 water rate study at 3-4.

[38] The City of Falls Church posts video recordings of its City Council meetings on its website. The June 27, 2011, July 11, 2011, and September 12, 2011, recordings include the comments made by Fairfax County customers of the Falls Church water system to the City Council, as well as the Council's responses.

Fairfax County customers also express concerns over the City's plans over the next several years to issue debt to cover costs associated with a significant system expansion to meet projected future demand in Fairfax County. As shown in Table 5.9, City budget documents estimate the total cost of six water system-expansion improvements to be $23.975 million, with costs during the FY2012-FY2016 period estimated at $21.875 million. Fairfax County customers, who are not represented on the City Council, will shoulder in excess of 90 percent of the cost of these and future debt issuances, in addition to the system's reserve requirements and routine operating and capital expenses.

The City has dismissed the complaints of its Fairfax County customers, contending that it has not increased its water rates since 2005, and that rate increases are warranted to cover increasing costs and to ensure system safety and reliability. The City's dismissal of Fairfax County customer complaints on these grounds cannot be supported by the information the City has presented to the public on its website.

Contrary to the City's suggestion, a water rate increase is not necessarily warranted simply because of the passage of time. A rate increase should be implemented only if the service provider can demonstrate that current rates are insufficient to cover costs. For the reasons described in this report, the Consumer Protection Commission cannot conclude that the City's FY2011 water rates are or were insufficient to cover the system's costs. As Judge Ney concluded in his January 6, 2010 opinion letter, even the water rates the City charged prior to 2005 "were more than sufficient to operate the water system and pay for all capital improvements. . . . [T]he [2005] rate increase was needed simply in order to transfer more money to the general fund."[39]

The Commission finds the City Council's claims regarding system safety and reliability similarly indefensible. Falls Church does not contend that its current system is inadequate to provide safe service to existing customers. Rather, its claims relate to its perceived inability to satisfy projected growth within Fairfax County – growth that, according to Schedule 11 of its own rate study, is projected at no more than 0.50 percent per year over the period FY2012-FY2020. It is to serve this projected demand that the City's water system proposes six system expansion projects in the FY2012-FY2016 period. It is of concern that the City intends to undertake these capital improvement projects using only debt financing, thereby increasing its debt load from $30.859 million to an anticipated $64.184 million by FY2016. Also troubling is the City's proposal to recover its debt service costs through commodity and service charges assessed on its existing customer accounts – approximately 90 percent of which, as Fairfax County customers, have no electoral recourse in response to City actions – when it may be more appropriate to recover the costs of some or all of its planned system expansion through availability charges. Indeed, if any City water rate warrants examination and update, it is the City's water service availability fees, which were last revised in 1996. The sufficiency of availability fees is an issue that was excluded from the scope of the May 27 water rate study, however.

[39] Opinion Letter, *Fairfax County Water Authority v. City of Falls Church*, Case No. CL-2008-16114 (Jan. 6, 2010) at 5 (footnote omitted).

B. Fairfax County customers of the City's water system can be protected

Sixty years ago, water service was provided to Fairfax County residents and businesses through a patchwork of mostly private water systems, and a limited number of public systems, including the system operated by the City of Falls Church. There was no standardization between systems and each system maintained its own rate schedule and level of service. To improve water service reliability, establish equitable rates, and provide effective fire protection throughout Fairfax County, the Fairfax County Board of Supervisors created Fairfax Water in September 1957 for the express purpose of "acquiring, constructing, operating and maintaining an integrated water system for supplying and distributing water." Fairfax Water is governed by a ten-member Board of Directors, composed of Fairfax County citizens, appointed by the elected Board of Supervisors of Fairfax County.

Today, Fairfax Water provides water service to approximately 233,000 mostly residential accounts in Fairfax County, comprising about 55 percent of the County's total water sales, and charges its customers the lowest retail water rates in the region.[40] Fairfax Water charges substantially less in water commodity charges than the City of Falls Church:

Table 6.1

Residential Water Rate Comparison (October 2011): City of Falls Church and Fairfax Water[41]			
Water System	*Commodity Charge (per 1,000 gallons)*		*Service Charge*
	Non-Peak	*Peak*	
Fairfax Water	$ 2.04	$ 2.95	$ 8.35
City of Falls Church	$ 3.27	$ 4.99	$ 8.07

In October, a typical residential customer who uses 19,000 gallons of water per quarter will be charged $38.76 by Fairfax Water in commodity charges, but $62.13 in commodity charges – or more than 60 percent – by the City of Falls Church water system. The disparity between these two customers, both Fairfax County residents, will grow over time, assuming the City of Falls Church implements the recommendations in the May 27 water rate study beyond FY2012. Aside from the very real economic cost associated with the City's higher water rates, this disparity frustrates County customers of the City's system when they compare water rates with Fairfax Water customers who are their neighbors.

The CPC, which is charged with advising the Board of Supervisors on issues regarding consumer protection, has considered how best to end the disparity and ensure that Fairfax County consumers pay only just and reasonable rates for their water service. The CPC is aware that Section 15.2-2111 of the Virginia Code authorizes the County to "exercise its powers to regulate

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[40] Comparison of Local Water Rates (as of August 1, 2011) at http://www.fcwa.org/rates/rate%20comparison%202011%20for%20web.pdf

[41] See Fairfax Water Rates at http://www.fcwa.org/rates/index.htm. Fairfax Water is proposing a rate increase effective April 2012. It proposes to increase its non-peak commodity charge from $2.04 to $2.16 per 1,000 gallons and its peak commodity charge from $2.95 to $3.20 per 1,000 gallons. It does not propose an increase in its quarterly service charge.

. . . water service notwithstanding any anticompetitive effect. Such regulation may include the establishment of an exclusive service area for any sewage or water system, including a system owned or operated by the locality, the fixing of rates or charges for any sewage or water service, and the prohibition, restriction or regulation of competition between entities providing sewage or water service." A complete copy of this statutory provision is provided in Attachment 9.

To that end, the Commission proposes that the Board exercise its authority under Section 15.2-2111 of the Virginia Code and:

- Fix rates and charges for water service provided to customers located in Fairfax County so that no Fairfax County customer of the City of Falls Church water system will be charged rates and charges that exceed those of Fairfax Water, unless the City can demonstrate the need for higher rates and charges to the County's satisfaction; and

- Establish Fairfax Water as the exclusive water service provider for all new development and redevelopment in Fairfax County, unless Fairfax Water determines that it is unable to furnish water service to a given location.

Together, these two recommendations ensure that Fairfax County customers of the City of Falls Church water system are protected against the imposition of unreasonable rates and charges by a City Council that does not represent them.

Benchmarking the City's rates to Fairfax Water's rates achieves the goal of rate equity that helped spur Fairfax Water's creation. The Commission recognizes that a water system may have costs that differ from Fairfax Water and so recommends providing a mechanism that will allow the service provider to charge different rates if it can establish, to the County's satisfaction, the need to do so. It is imperative that the burden be on the service provider to demonstrate the need for higher rates and charges. Any other approach rewards the lack of transparency exhibited by the City's ratemaking process and the non-cooperation it demonstrated in this review.

The establishment of Fairfax Water as the presumptive exclusive water service provider in Fairfax County is a key and essential safeguard. It removes all rationale for the City of Falls Church to expand its water system in Fairfax County to serve projected demand, saving the City's 34,000 water ratepayers approximately $33.325 million over just the next five fiscal years. All customers of the City's water system, whether located inside or outside City limits, will benefit from the avoidance of this substantial debt. Fairfax Water's continuing role ensures high-quality, reliable service and furthers Fairfax Water's stated purpose of constructing, operating and maintaining an integrated water system for supplying and distributing water in Fairfax County.

FINDINGS

1. On April 26, 2011, the Board of Supervisors (Board) directed the Consumer Protection Commission (CPC) to undertake a comprehensive review of the water ratemaking actions of the City of Falls Church (City) and to report its finding and/or recommendations regarding four specific issues to the Board by September 27, 2011.

2. The City of Falls Church water system provides service to approximately 34,000 accounts (FY2010). Almost 30,000 of these accounts – about 90 percent – are located in Fairfax County. It is estimated that these accounts serve at least 100,000 persons in the County.

3. During the period 1981-2008, the City transferred over $58 million in surplus water revenues to its general fund. This practice was enjoined in a January 2010 court opinion and decree, and the City was prohibited from building any surplus into its water rates. In May 2010, the City contracted with a consultant, Municipal and Financial Services Group (MFSG) to perform a water rate study to review its water rates.

4. In March 2011, MFSG provided the City with a rate study using the utility-basis ratemaking methodology, which is primarily used by investor-owned (for profit) utilities and includes a return or profit component. In May 2011, MFSG provided the City with a rate study using the cash-basis ratemaking methodology, which is used primarily by municipal utilities and does not include a return component. Although the rate studies used different methodologies, each recommended the same set of retail rate increases over the period FY2012-FY2016. Cumulatively, the recommended water rate increases over the period FY2012-FY2016 would increase quarterly service charges and commodity charges 30 percent as compared to FY2011 water rates.

5. Neither the March 2011 nor the May 2011 water rate study proposed changes to the water system's availability fees. The City's availability fees were last revised in 1996.

6. On June 27, 2011, the City tabled its proposed ordinance TO11-07, regarding an increase in water rates effective July 1, 2011. This ordinance was supported by MFSG's March 2011 utility-basis water rate study. On that same date, the City adopted on first reading ordinance TO11-15, regarding an increase in water rates effective August 1, 2011. Ordinance TO11-15 was supported by MFSG's May 2011 cash-basis water rate study (May 27 water rate study).

7. On September 12, 2011, approximately five months after initially taking up these recommendations, the City Council adopted Ordinance TO11-15 and increased retail water rates eight percent, effective October 1, 2011.

8. A number of issues impeded a comprehensive review of the City's water ratemaking actions. A copy of the March 2011 water rate study, which used the utility-basis ratemaking methodology and upon which the City relied in support of proposed City Ordinance TO11-07, was not made available to the public. Staff was able to review the May 27 water rate study, which uses the cash basis ratemaking methodology and upon which the City relied in support of City Ordinance TO11-15. However, the schedules accompanying the May 27 water rate study that were posted on the City's website are difficult to read, use undefined

terms, and require supplemental information not available in the schedules themselves. Staff requested but the City did not provide either legible copies of the schedules or responses to questions asked by staff regarding the schedules.

9. The first Board issue that the CPC considered pertained to reasons for the recommended water rate increases. According to the City's water rate study, rate increases are needed to establish three new reserve funds, fund capital improvements for operating and system expansion projects, and meet rising operating costs. The rate study allocates the system's revenue requirements almost entirely to the water commodity charge.

10. With respect to this first issue, the CPC finds that the rate study does not explain why the City's prior water rates, which were sufficient to generate excess water revenues in the millions of dollars annually, are not sufficient to fund the reserves. It also does not explain why reserve funding is identified as a permanent rate element rather than a temporary rate element that expires upon funding of a given reserve fund.

11. With respect to this first issue, the CPC finds that, as compared to the City's capital improvements program (CIP), the water rate study apparently under-allocates system expansion costs to new customers and over-allocates these costs to existing customers, approximately 90 percent of which reside or are located in Fairfax County. As a result, commodity and service-charge rates applied to existing customers must be increased to absorb these excess costs. In other words, rather than fully recovering system expansion costs through availability fees, the City's existing water service customers will be subsidizing system expansion through inflated commodity and service charges.

12. With respect to this first issue, the CPC finds that in preparing the May 27 water rate study, MFSG appears to have used as its starting point the water system's costs as used in years past. MFSG appears to have made no effort to determine whether it was reasonable use these costs – which previously had generated millions in surplus revenue – as a starting point.

13. The second Board issue that the CPC considered pertained to the City's compliance with the water ratemaking principles adopted by the Board on May 25, 2010. The CPC finds that the public information available to it is insufficient to conclude that the City faithfully complied with all of the principles.

14. With respect to this second issue, due to a number of unanswered questions regarding the May 27 water rate study, the CPC cannot conclude that the City set reasonable water rates on a well-substantiated cost basis, as required by the third principle. For example, are water revenues understated, thus inflating recommended rate increases? Why does the new $4.3 million operating and maintenance (O&M) reserve fund begin with a negative $5.5 million balance? What do various O&M costs in the water rate study represent, and how were they determined? How does the City reconcile a planned FY2012-FY2016 $21.875 million system expansion with billable water consumption growth of just 0.35 percent per year?

15. With respect to this second issue, the CPC cannot conclude that the City complied with several other principles. The first principle recognizes that a water utility should periodically undertake a condition, integrity, and valuation study to fully assess the system, evaluate

critical factors, and to update cost estimates. It cannot be determined when, if ever, the City last conducted such a study. MFSG apparently did not conduct such a study as part of its ratemaking efforts. The water rate study does not discuss the segregation of funds, as contemplated by the second principle, and provides no guidance regarding reserve fund use and replenishment.

16. The third Board issue that the CPC considered pertained to the nature and cost of capital improvements in the FY2007-FY2011 period, and the manner in which the improvements were funded. During this period, the Falls Church water system took on $30,859,000 in debt to fund a number of projects, the largest of which appears to have been improvements at the Dalecarlia water treatment plant, from which it obtains water. One hundred percent (100%) of this existing debt has been allocated to operating expenses for recovery via retail rates.

17. The fourth Board issue that the CPC considered pertained to the nature and cost of planned water system capital improvements in the FY2012-FY2016 period, and the manner in which the improvements will be funded. According to the City's Capital Improvements Program, an additional $33.325 million in water system capital improvement projects are planned for the FY2012-FY2106 period, with about two-thirds of the cost ($21.875 million) attributable to system expansion projects planned to meet demand in Fairfax County, particularly the Tysons Corner area. Debt financing is identified as the source of funds for all projects.

18. With respect to this fourth issue, the May 27 water rate study shows a lower figure of $27.96 million for planned water system capital improvements in FY2012-FY2016, and attributes only about one-third of the cost ($9.38 million) to system expansion projects. This approach over-allocates costs to existing retail customers.

19. Numerous Fairfax County customers of the City's water system have voiced their concerns to the City Council regarding its planned water rate increases. Fairfax County customers have presented written materials and spoken before the City Council at its June 27, 2011, July 11, 2011, and September 12, 2011 meetings.

20. The City Council asserts that rate increases are warranted due to rising costs since its retail rates were last revised in 2005 and the need to ensure water safety and reliability. The CPC finds that the publicly available information does not support these assertions.

21. In October 2011, a typical residential customer who uses 19,000 gallons of water per quarter will be charged $38.76 by Fairfax Water in commodity charges, but $62.13 in commodity charges – or approximately 60 percent more – by the City of Falls Church water system. Assuming the City of Falls Church continues to implement the recommendations in the May 27 water rate study, the disparity between these two customers, both Fairfax County residents, will grow over time.

RECOMMENDATIONS

1. Pursuant to its authority under Section 15.2-2111 of the Virginia Code, the Board of Supervisors should fix rates and charges for water service provided to customers located in Fairfax County so that no Fairfax County customer of the City of Falls Church water system will be charged rates and charges that exceed those of Fairfax Water, unless the City can demonstrate the need for higher rates and charges to the County's satisfaction; and

2. Pursuant to its authority under Section 15.2-2111 of the Virginia Code, the Board of Supervisors should establish Fairfax Water as the exclusive water service provider for all new development and redevelopment in Fairfax County, unless Fairfax Water determines that it is unable to furnish water service to a given location.

ATTACHMENT 1

QUESTIONS REGARDING WATER RATE STUDY

The following questions pertain to the City of Falls Church Water Rate Study Final Report (hereinafter Rate Study) (May 27, 2011). The terms "schedule" or "schedules" refer to those schedules provided in the Appendix to the Rate Study.

1. Please provide legible copies of all rate schedules attached to the Rate Study and a legible copy of Schedule 8 in the electronic format referenced on the schedule.

2. Please explain how a projection period of ten years is consistent with the AWWA *Principles of Water Rates, Fee, and Charges* (hereinafter AWWA M1).

3. Please provide citations supporting the creation of a 90-day Operating and Maintenance (O&M) reserve balance for municipal water utilities using a cash-needs approach, and the standard(s) articulated therein regarding the level of funding.

4. Please provide citations supporting the establishment of a repair, replacement, and rehabilitation (3R) reserve fund for municipal water utilities using a cash-needs approach, and the standard(s) articulated therein regarding the level of funding.

5. Is the 3Rs reserve fund limited to emergency repair, replacement, and rehabilitation? If not, please explain how the 3R reserve fund distinguishes between annual O&M activity and capital improvements and replacements, and provide corresponding amounts.

6. Please provide citations supporting the establishment of a debt service reserve fund that uses 100% of the highest annual debt service payment on each future bond issue as the basis for establishing a debt service reserve fund (Rate Study at 11).

7. Please explain the statement on page 11 of the Rate Study, regarding the debt service reserve, that "[t]his should have no material impact on water rates."

8. Please provide copies of current debt indenture documentation that addresses debt service reserve requirements.

9. Please explain how revenues for each of the three reserve funds will be segregated.

10. Please explain the policies and practices regarding the use and replenishment of the three reserve funds. Who or what entity is responsible for determining those policies and practices?

11. Please explain the reasoning for the decision to increase rates to fund reserves, rather than fund reserves through the use of available cash balances.

12. Please identify the applicable test year used in the financial model developed to support the Falls Church Rate Study. For that test year, please identify adjustments and the reason(s) therefor. If a test year was not used in preparation of the rate study, please explain the basis for cost and revenue projections contained therein.

13. Please provide all pro forma adjustments to historical O&M expenses, and the explanation for each such adjustment.

14. Please provide definitions for each group and subgroup listed in Schedule 2, regarding O&M expenses, included in the financial model developed to support the Falls Church Rate Study.

15. In Schedule 2, the Water Administration group (Group 2111) includes the subgroup "Transfer to General Fund," described as "administrative costs to GF." Please explain what administrative costs are included in this transfer and how the amount was calculated for each fiscal year, including applicable costs and any factors used. If the amount represents a transfer in payment of interdepartmental expenses for services rendered, please specify each service, the department rendering the service, and the cost of that service.

16. Schedule 2 includes costs for the Water Connection group (2132). Please explain the relation between this group of costs and Water Fund Connection Charges listed as miscellaneous revenue on Schedule 6.

17. To the extent that Water Connection expenses are incurred for the benefit of connecting new customers to the system, please explain why it is appropriate to classify 100% of these expenses as variable expenses to be recovered in the commodity rate.

18. In Schedule 2, the Source of Supply group (Group 2121). The subgroup "professional and contractual" includes an amount for "COE-Capital Cost." Please define this cost item and explain how the amount was calculated for each fiscal year, including applicable costs and any factors used. Please provide citations supporting the inclusion of this item in a municipal cash-needs rate study.

19. In Schedule 2, is any amount designated as "Professional/Contractual" in the various subgroups paid to a City of Falls Church employee? If so, for each such individual, identify the department(s) employing the individual(s) and the amount(s) paid to the department(s).

20. For each group listed in Schedule 2 that includes a subgroup for "Professional/Contractual" expenses, please describe the professional/contractual service provided. In particular, explain the bases for the costs of the items described as "Professional Services" in the Water Administration and Water Distribution groups and the items described as "COE-Capital Cost" and "Repairs & Maintenance" (subgroup 0021-2121-33100-) in the Source of Supply group.

21. In Schedule 2, the group Transfers includes the subgroup Transfer to CIP. Please explain the reasons for the FY2011 (Adopted) $900,000 transfer to water improvement fund (WIF) and the $4,350,000 transfer to WIF – Bond Proceeds, and why no transfers are planned for the remaining study period.

22. Please explain the basis for the allocations between fixed and variable costs for each group, as set forth in Schedule 2.

23. Does the Rate Study recognize cost differences in providing service to customers based on any of the following characteristics: meter size, billing frequency, customer class, and/or location? If so, please explain how these cost differences are reflected in and accounted for in the Rate Study.

24. Please explain how and where Schedule 2 accounts for costs associated with the provision of water on a wholesale basis to the Town of Vienna. Please provide a copy of any study by the City of its consultant(s) regarding the cost of providing wholesale service to the Town of Vienna.

25. Please explain how the Rate Study accounts for costs that relate both to O&M expenses and capital investment. For example, please explain how the Rate Study accounts for the salaries, wages, and accompanying overhead of employees who devote time to a project that is a capital investment.

26. Please provide a copy of any elasticity study conducted for the purposes of the Rate Study that shows the impact of the proposed rate changes on consumption.

27. Regarding Schedule 3, Existing Debt Expenses, please explain why 100% of the existing debt expenses are included in the column "Operating."

28. Schedule 4 lists various projects in the Capital Improvement Program. Will the improvements listed in the schedule involve anything other than maintenance, improvement, and/or upgrading? If so, please identify the project and purpose.

29. According to the City's FY2010 Comprehensive Annual Financial Report, in June 2010 the City Council designated approximately $24.9 million of the Water Fund unrestricted net assets to provide for future improvements as needed. Please describe the type of future improvements envisioned and identify any such

improvement that is not included on Schedule 4. Please explain how the need for such future improvements will be determined.

30. According to the City of Falls Church Adopted FY11 Budget, changes at the Dalecarlia Treatment Plant "will put an added strain on our ability to finance the long-term capital needs of the system." Please explain this statement, including the nature and expected cost per year of changes at the treatment plant. Please explain how such costs are treated for the purposes of the rate study, including the schedule(s) on which such costs are included and the cost description.

31. Regarding Schedule 5, Projected Debt, please explain the purpose(s) of future series Bond 0-1 through 06. For each fiscal year, what portion of the projected debt will be classified as "operating" (as that term is used on Schedule 3)?

32. Regarding Schedule 5, Projected Debt, please explain the purpose(s) of future series Bond E-1 through E-6. For each fiscal year, what portion of the projected debt will be classified as "operating" (as that term is used on Schedule 3)?

33. Please explain the meaning of "ASSUMES NO RATE INCREASES" as used in Schedule 6, regarding Miscellaneous Revenues, and why no service charges or availability fees are reported for the period FY13 to FY20.

34. Schedule 6 includes accounts for availability fees. Please define this term as used in the Schedule 6 and provide a copy of any study relating to the cost of providing the service to which these revenues relate.

35. Please explain why availability fees as provided in Schedule 6 substantially decline from FY09 Actual ($1,302,956) to FY12 Budget ($300,000).

36. Schedule 6 includes an account for water hydrant service charges. Please provide a copy of any study relating to the cost of providing water hydrant service.

37. Regarding Schedule 7, O&M Reserve, please explain why FY11 Begin Year Balance is a negative $5,558,365.

38. Please explain the reasoning for use of a 20-year payoff period in Schedule 7B, regarding 3R Reserve.

39. Please explain the entries in Schedule 7B regarding "Recommended Additional Reinvestment" and "Recommended Additional Annual Contributions to "3R" Reserves," including the reasoning underlying the recommendations.

40. Regarding Schedule 7B, Debt Service Reserves, please explain how use of the 130% "% to contribute to reserve" is consistent with the discussion on page 11 in the Rate Study text.

41. Please provide descriptions and explanations regarding entries in Schedule 9, Contributed Assets. That explanation should include information regarding the first column on the left of the schedule, which lists five percentages: 5%, 22%, 90%, 25%, 97%.

42. Please describe the treatment of total contributed assets for the purposes of the Rate Study.

43. Please explain the item "Annual Additional Increases" in Schedule 10, Cash Basis Revenue Requirements, and its relation to the item "Required Breakeven Increase."

44. Please explain how "fixed" and "variable" are defined for purposes of Schedule 10.

45. Please provide a copy of any study supporting the customer and consumption projections provided in Schedule 11.

46. Please define the term equivalent units as used in Schedules 12, 13, 14, 15, and 16.

47. Schedules 12, 13, 14, and 15 refer to fixed and variable revenues. Please explain how "fixed" and "variable" are used in these schedules.

48. Please explain the basis for the allocation of costs referenced on Schedules 12, 13, 14, and 15. Please provide a copy of each study supporting the allocation of costs between service charges and variable/consumption charges, the allocation of costs between non-peak and peak rates, the allocation of costs between monthly and quarterly accounts, and the allocation of costs to the Town of Vienna.

49. Schedules 14 and 15 include columns entitled 7.83% and 92.17%. Please explain the significance of these columns, including the numbers provided therein.

50. Please explain the basis for the water consumption figures provided in Schedule 16A, regarding rate projections.

51. Schedule 16B provides wholesale rate projections. There appears to be footnote or reference in the FY12 Unit Rate column. Please clarify.

52. Please explain the basis for the modest increase in the unit rate charged to the wholesale customer, from $2.00 per 1,000 gallons in FY11 to $2.58 per 1,000 gallons in FY15, with no increase thereafter. In that explanation, please provide the current and projected unit base cost for provision of wholesale service.

53. Please explain why Schedule 16 does not include revenues associated with fixed charges and peak period consumption. What is the impact of the wholesale customer's consumption on the maximum hour demand placed on the water system?

54. Please explain the significance of the term "check" and the use of red font in Schedule 17, Operating Cash Flow.

55. Please explain why Schedule 17 designates all expenses as Capital Expenses.

56. Please explain the significance of Schedule 18, Availability Fee Cash Flow, for the purposes of ratesetting.

57. Schedule 19, Cash Balance, includes substantial total available cash balances. Please explain why the available cash balances were not used to establish reserve funds.

58. Please reconcile the Schedule 11 customer and consumption projections with the Schedule 19 system expansion fund balance.

ATTACHMENT 2

Hafeli, Susan M.

From: Sinclair, Steve D.
Sent: Wednesday, August 31, 2011 5:15 PM
To: 'Wyatt Shields'
Cc: Hafeli, Susan M.
Subject: RE: Questions for reference at our September 1 meeting

Dear Mr. Shields:;

I understand from your email earlier today that you wish to postpone our meeting scheduled for tomorrow September 1. You indicated "we can consider rescheduling the meeting after [you] are able to evaluate the County's position."

As I stated in my email to you of August 30, 2011, I am not an attorney, and the question of whether the Board of Supervisors or the Consumer Protection Commission has any regulatory role in the City's water making process is a legal question. Furthermore, in my role as staff to the Consumer Protection Commission, I do not have the authority to state any position on behalf of either the CPC or the County. As I previously stated, I am simply trying to gather relevant and comprehensive information to provide to the CPC to assist it in complying with its directive from the Board of Supervisors.

Should you wish to reschedule our meeting for the week of September 6 through 9, please let me know.

Sincerely,

Steve Sinclair

From: Wyatt Shields [mailto:WShields@fallschurchva.gov]
Sent: Wednesday, August 31, 2011 11:08 AM
To: Sinclair, Steve D.
Cc: Hafeli, Susan M.
Subject: RE: Questions for reference at our September 1 meeting

Dear Mr. Sinclair,

It is puzzling to me that you should claim to have no opinion on this matter. It is necessary that we postpone our meeting of tomorrow to allow you time to obtain clarification. My firm expectation is that you will be able to state very clearly that neither the Board of Supervisors nor the County Commission has any formal regulatory role in the City's water rate making process. I am sure that you would agree that it is not appropriate for us to meet if there exists any misunderstanding on this matter.

As noted earlier, my intention is to assist you in responding to the Board's four questions, out of a spirit of cooperation and courtesy between two independent localities. The long list of questions you have generated goes far beyond what is necessary for that purpose, and is more in the nature of a rate regulation discovery process. It would require our consultants many hours to prepare a response, a cost that I believe is inappropriate for our rate payers to absorb for no apparent purpose. It is natural that the City now requires your affirmation that the County has no formal regulatory role in the City's water rate making process. With that, we can proceed along the lines of the original four questions put forward by the Board of Supervisors, which (with the clarifying assumption I noted in my prior email) are reasonable questions and readily

answerable. We stand ready to assist you with the information necessary to provide a response, all of which is already in the public realm.

I will await your reply, and we can consider rescheduling the meeting after I am able to evaluate the County's position.

Thank you,
Wyatt Shields
City Manager
City of Falls Church

From: Sinclair, Steve D. [mailto:Steve.Sinclair@fairfaxcounty.gov]
Sent: Tuesday, August 30, 2011 5:14 PM
To: Wyatt Shields
Cc: Hafeli, Susan M.
Subject: RE: Questions for reference at our September 1 meeting

Dear Mr. Shields:

Thank you for your response today. As you know, the Fairfax County Board of Supervisors has directed the Consumer Protection Commission (CPC) to conduct a comprehensive review of the City of Falls Church water rate studies prepared this year. As staff designated to provide support to the CPC, Susan Hafeli and I have analyzed the publicly-available information regarding the City's water rate studies. As such, we identified a number of questions that impede a response to the Board of Supervisors directive because the information could not be adequately answered from the reports made public. These questions relate to: legibility issues, assumptions, citations, definitions, policies and procedures, cost allocations and forecasts, among others, and comprise the basis of the questions that we provided to you.

In your email letter today, you asked if it was my understanding that neither the CPC nor the Board of Supervisors has any formal regulatory authority over actions by the City Council on the setting of rates, or any other matter. I am not an attorney, and do not profess to be knowledgeable enough to answer that question. I would think that the Fairfax County Attorney's office would be the appropriate venue to obtain an opinion on that matter.

Susan Hafeli and I will be the only persons attending the meeting from Fairfax County. If you could let me know who will be attending on behalf of the City that would be appreciated also.

Susan and I look forward to our meeting with you and your staff on September 1, and to the discussion of your responses to the questions we provided last week.

Sincerely,

Steve Sinclair

From: Wyatt Shields [mailto:WShields@fallschurchva.gov]
Sent: Tuesday, August 30, 2011 10:05 AM
To: Sinclair, Steve D.

Cc: Hafeli, Susan M.
Subject: RE: Questions for reference at our September 1 meeting

Dear Mr. Sinclair:

I am in receipt of the 58 questions that you emailed to me on Wednesday, August 24. I am concerned that the four questions that you were assigned to answer by the Board of Supervisors in April has evolved into something more along the lines of a rate case discovery process. This is not what I contemplated when I reached out to you as a courtesy last spring, to personally offer my assistance to you in your efforts to be responsive to the Board's questions.

The questions the Board of Supervisors asked you to respond to are readily answerable from information already made public. My intention for our meeting on September 1 is to review that information with you to facilitate your response to the Board of Supervisors. To be clear, I am assuming that one of the questions posed by the Board in April regarding whether the City has faithfully complied with all of the water rate-making principles adopted by the Board on May 25, 2010 is understood by the County as not intending to suggest that these principles are binding on the City. Such principles are advisory only. A fair review of the May 27, 2011 rate study will conclude that the City's water rates are consistent with those principles.

Our proposed meeting on September 1 is in the spirit of inter-jurisdictional cooperation and courtesy extended to a customer (the County being a customer of the City Water Utility). Neither the County Consumer Protection Commission nor the County Board of Supervisors has any formal regulatory authority over the actions by the City Council in setting water rates, or any other matter. Prior to our meeting on September 1, please confirm that this is your understanding as well. I do not think it would serve any useful purpose for us to meet if there is disagreement on such a fundamental point.

Please also let me know who will be attending with you.

Sincerely,

Wyatt Shields,
City Manager
City of Falls Church

From: Sinclair, Steve D. [mailto:Steve.Sinclair@fairfaxcounty.gov]
Sent: Wednesday, August 24, 2011 1:12 PM
To: City-manager
Cc: Hafeli, Susan M.
Subject: Questions for reference at our September 1 meeting

Wyatt:

I had indicated to you via Sandy that we would be sending over a list of preliminary questions that we had in preparation for our meeting on September 1. If there are questions that cannot be answered at that meeting, the responses would be appreciated shortly thereafter.

We look forward to our meeting September 1 to discuss water rate issues.

Thanks,

Steve Sinclair
Chief, Public Utilities Branch
Fairfax County Dept. of Cable and Consumer Services
12000 Government Center Parkway
Suite 433
Fairfax, Virginia 22035
telephone #: 703-324-5955
fax #: 703-324-3900
cell #: 703-618-7815

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ATTACHMENT 3

History of Falls Church Return/Fee Transferred to General Fund

1981	400,000	1995	1,389,888
1982	440,000	1996	1,543,931
1983	448,631	1997	1,590,312
1984	428,298	1998	1,622,118
1985	1,004,054	1999	1,992,444
1986	1,150,410	2000	3,029,637
1987	1,003,401	2001	4,576,191
1988	927,579	2002	4,878,754
1989	1,283,145	2003	4,625,874
1990	1,290,869	2004	4,625,874
1991	1,391,560[1]	2005	4,625,874
1992	1,511,614	2006	4,625,874
1993	1,277,828	2007	2,905,121
1994	1,362,636	2008	2,926,174
	Total	$ 58,878,091	

[1] City claims the amount for 1991 was higher -- $2,070,468 (see City Deposition page 287).

PLAINTIFF'S EXHIBIT 3.4

ATTACHMENT 4

RECOMMENDATIONS

Water systems serving Fairfax County customers should abide by the following principles, which the Commission hereby recommends:

1. Water systems should periodically undertake a condition, integrity, and valuation study to fully assess the system, evaluate critical factors and to update cost estimates.

2. Water systems should fund and maintain adequate system reserves in a segregated fund. The fund should be adequate for future renewals/replacements and capital improvements, including those related to water system infrastructure.

3. Water rates should be reasonably based and set on a well-substantiated cost basis that reflects the direct and indirect costs of the water system, as well as necessary contributions to Water Fund reserves.

4. A water system should charge all similarly-situated customers the same rates. A municipal water system that provides water service to customers located outside its boundaries ("outside customers") should charge its outside customers a higher rate only if that rate reflects a reasonable correlation between the benefit conferred upon its outside customers and the higher cost exacted from them.

5. Neither water revenues nor water system reserves should be subject to transfer by a municipally-owned water system to the municipality's General Fund to be applied towards expenditures unrelated to water utility services.

6. Water system study findings and cost estimates should be routinely updated and discretely reflected in the provider's budget documents, with details described on a segregated basis in supporting budget documents, including:
    a. annual operating and maintenance budget;
    b. annual budget for repair and replacement;
    c. annual budget component for long-term capital improvements;
    d. annual allocation for long-term reserves; and
    e. rate-setting to meet current and long-term needs.

7. Water system providers should attain, at a minimum, water utility distribution system integrity rates that are at or near nationwide median standards, as published by the American Water Works Association.

ATTACHMENT 5

CITY OF FALLS CHURCH WATER SYSTEM IMPROVEMENTS - FY06-FY11

Improvement	FY06	FY07	FY08	FY09	FY10	FY11	Totals
2005-06 CIP							
Arlington special pumping station	75,000						75,000
Meter replacement project	1,500,000	750,000	750,000				3,000,000
Property yard relocation		2,050,000		1,650,000			3,700,000
SCADA system improvements	200,000	500,000					700,000
Seven Corners system improvements	800,000		1,500,000				2,300,000
Wash.Aqueduct residuals disposal	250,000	1,750,000	2,350,000	1,700,000	150,000		6,200,000
Water main replacement (Route 50)	400,000	2,500,000	2,500,000				5,400,000
Water main replacement program	1,000,000		1,000,000	1,000,000	2,000,000		5,000,000
Water utility security	375,000	325,000					700,000
Total	***4,600,000***	***7,875,000***	***8,100,000***	***4,350,000***	***2,150,000***		***27,075,000***

2006-07 CIP	FY06	FY07	FY08	FY09	FY10	FY11	Totals
Arlington special pumping station		115,000					115,000
AMR meter replacement project		3,000,000					3,000,000
Chesterbrook pump station upgrade		325,000	135,000				460,000
Property yard relocation			2,050,000		1,650,000		3,700,000
SCADA system improvements		700,000					700,000
Seven Corners system improvements		200,000	250,000	1,100,000			1,550,000
Wash.Aqueduct residuals disposal		9,000,000	800,000	800,000			10,600,000
Water main replacement (Route 50)		2,300,000	2,860,000				5,160,000
Water main replacement program				2,000,000	2,000,000	2,000,000	6,000,000
Water utility security		325,000					325,000
Total		***15,965,000***	***6,095,000***	***3,900,000***	***3,650,000***	***2,000,000***	***31,610,000***

2007-08 CIP (through FY11)	FY06	FY07	FY08	FY09	FY10	FY11	Totals
Telephone system replacement			80,000				80,000
Chesterbrook pump station upgrade			225,000				225,000
McLean pumping station imprvmnts			75,000	600,000			675,000
Seven Corners system improvements				385,000	700,000		1,085,000
Wash.Aqueduct residuals disposal			1,800,000	400,000			2,200,000
Water main replacement (Route 50)			2,900,000				2,900,000
Water main replacement program			1,000,000	1,000,000	2,000,000	2,000,000	6,000,000
Pumping station control center			50,000	100,000			150,000
Total			***6,130,000***	***2,485,000***	***2,700,000***	***2,000,000***	***13,315,000***

CITY OF FALLS CHURCH WATER SYSTEM IMPROVEMENTS - FY06-FY11

2008-09 CIP (through FY11)	FY06	FY07	FY08	FY09	FY10	FY11	Totals
Document management system				25,000			25,000
Kirby Rd water main*					700,000	3,000,000	3,700,000
McLean pumping station imprvmnts				600,000			600,000
Seven Corners system improvements				375,000	700,000		1,075,000
Wash.Aqueduct residuals disposal				400,000			400,000
Water main replacement program				1,000,000	2,000,000	2,000,000	5,000,000
Pumping station control center				150,000			150,000
Total				***2,550,000***	***3,400,000***	***5,000,000***	***10,950,000***

* Chain Bridge-Chesterbrook

2009-10 CIP (through FY11)	FY06	FY07	FY08	FY09	FY10	FY11	Totals
City Hall West Wing improvements					75,000		75,000
Kirby Rd water main*					600,000	1,000,000	1,600,000
McLean pumping station imprvmnts					275,000	2,050,000	2,325,000
Seven Corners system improvements					700,000		700,000
Water main replacement program					2,000,000	2,000,000	4,000,000
Total					***3,650,000***	***5,050,000***	***8,700,000***

* Chain Bridge-Chesterbrook

2010-11 CIP (through FY11)	FY06	FY07	FY08	FY09	FY10	FY11	Totals
City Hall West Wing improvements						100,000	100,000
Storage shed replacement/paving						800,000	800,000
Kirby Rd water main*						1,000,000	1,000,000
McLean pumping station imprvmnts						1,350,000	1,350,000
Water main replacement program						2,000,000	2,000,000
Total						***5,250,000***	***5,250,000***

ATTACHMENT 6

City of Falls Church
Capital Improvements Program
Utility Funds
Fiscal Year 2012 – 2016

City Manager Proposed Budget

Work Session
April 7, 2011

Five Year CIP Details: Water Fund

PROJECT	FY2012	FY2013	FY2014	FY2015	FY2016	Project Totals
McLean Pumping Station Improvements	450,000	900,000	100,000	-	-	1,450,000
Dolley Madison-McLean PS Water Main	-	200,000	1,200,000	-	-	1,400,000
Chain Bridge PS (to Merchant Lane Wtr Main)	-	130,000	600,000	570,000	-	1,300,000
Kirby Rd Water Main (Chain Bridge-Chesterbrook)	$ 1,000,000	$ 2,500,000	$ 3,000,000	$ 2,100,000	$ -	$ 8,600,000
Kirby Rd Water Main (Chesterbrk-Westmoreland)	200,000	200,000	1,950,000	900,000	500,000	3,750,000
Tysons Tank No. 2	-	-	100,000	400,000	5,000,000	5,500,000
Tysons Tank No.1 (Tysons to Tank 2 Wtr Main)	-	-	150,000	675,000	500,000	1,325,000
Water Main Replacement Program	2,000,000	2,000,000	2,000,000	2,000,000	2,000,000	10,000,000
Total	**$ 3,650,000**	**$ 5,930,000**	**$ 9,100,000**	**$ 6,645,000**	**$ 8,000,000**	**$ 33,325,000**
SOURCES OF FUNDS						
Total Debt Financed	***$ 3,650,000***	***$ 5,930,000***	***$ 9,100,000***	***$ 6,645,000***	***$ 8,000,000***	***$ 33,325,000***
Total Sources	**$ 3,650,000**	**$ 5,930,000**	**$ 9,100,000**	**$ 6,645,000**	**$ 8,000,000**	**$ 33,325,000**

Maintenance Projects

Expansion Projects

ATTACHMENT 7

June 25, 2011

Kirk F. Randall
4279 Country Squire Lane
Fairfax, Va. 22032
(H) 703-425-0210
(C) 703-887-4690

Re: City of Falls Church's Proposed 34% Increase in Water Rates

To: Hon. Nader Baroukh, Mayor, City of Falls Church
nbaroukh@fallschurchva.gov
Hon. David F. Snyder, Vice Mayor - dsnyder@fallschurchva.gov
Hon. Johannah Barry, Council Member - jbarry@fallschurchva.gov
Hon. Robin Gardner, Council Member - rgardner@fallschurchva.gov
Hon. Ira Kaylin, Council Member - ikaylin@fallschurchva.gov
Hon. Ron Peppe, Council Member - rpeppe@fallschurchva.gov
Hon. Lawrence Webb, Council Member - lwebb@fallschurchva.gov
Mr. Wyatt Shields, City Manager - city-manager@fallschurchva.gov
Mr. John Foster, Esq., City Attorney - jfoster@fallschurchva.gov

cc: Hon. Sharon Bulova, Chairman, Fairfax County Board of Supervisors
chairman@fairfaxcounty.gov
Hon. John Cook, Supervisor - braddock@fairfaxcounty.gov
Hon. John Faust, Supervisor - dranesville@fairfaxcounty.gov
Hon. Cathy Hudgins, Supervisor - hntrmill@fairfaxcounty.gov
Hon. Jeff McKay, Supervisor – lee@fairfaxcounty.gov
Hon. Penelope Gross, Supervisor - mason@fairfaxcounty.gov
Hon. Gerry Hyland, Supervisor – mountvernon@fairfaxcounty.gov
Hon. Linda Smyth, Supervisor – providence@fairfaxcounty.gov
Hon. Pat Herrity, Supervisor – Springfield@fairfaxcounty.gov
Hon. Michael R. Frey, Supervisor - sully@fairfaxcounty.gov
Mr. Michael Liberman, Director, Department of Cable Communications and Consumer Protection - consumerprotection@fairfaxcounty.gov

Mr. Charles Murray, General Manager, Fairfax Water –
GeneralManager@fairfaxwater.org, cmurray@fairfaxwater.org

Falls Church Press – fcnp@fcnp.com
Falls Church Times - contact@fallschurchtimes.com

Note: Printable versions of this email/letter and the June 14, 2011, letter from Fairfax Water to the City of Falls Church are attached.

Dear City of Falls Church Officials,

I am heartened that the City of Falls Church will consider customer comments regarding its proposed five-year 34% increase in water rates. City communications director Barbara Gordon recently stated that the City will review recent comments submitted by Fairfax Water "along with any other comments we receive prior to final adoption." This is a big step in opening a dialog between the City and its water utility customers and stands as a positive signal that the City intends to work in a "fully open and transparent" manner, to quote Ms. Gordon.

My immediate recommendations are summarized as follows:

<u>There is no immediate cash crisis facing the City of Falls Church's water utility which requires an immediate rate increase.</u> The consultant's analyses purportedly show a $2.54 million revenue shortfall in 2012 (15.2%). However, $1.96 million of that shortfall can be attributed to non-cash accounting provisions, so-called reserve funds. These are "rainy day" funds which represent no immediate cash expense to the City.

I urge you to defer your final decision on the first phase of the proposed rate increase until after September 27, 2011, when the Fairfax County Consumer Protection Commission is due to report back to the Fairfax County Board of Supervisors (BOS). I encourage you to consider the Commission's comments at that time, given that 92% of your water business significantly affects county customers. This is most appropriate given Ms. Gordon's comments above.

I urge you to immediately develop a series of sound ratemaking "best practices" that the City Council commits to follow during this rate proceeding and those that follow. The BOS urged Falls Church to adopt such practices on May 25, 2010 – over a year ago. Its recommended practices, as well as those <u>adopted by the City of Fairfax earlier this year</u>, can serve as a starting point for this project.

Before you vote on the pending rate increase, I urge you to hold open work sessions where your customers can discuss the studies and assumptions underlying the proposed rate increases with City staff and its consultants.

I urge the City to re-release the May 27, 2011 Final Report in electronic format such as Excel (for analytical data) and Word (for narratives). This will facilitate customer reviewers to more fully understand the study. This is a common practice in the utility arena. Doing so will facilitate review of the Appendix to the Report which has been released in a font so small as to render it undecipherable.

Under Virginia law, the City self-regulates its water utility and is, therefore, exempt from regulation by the State Corporation Commission, which regulates traditional monopoly utilities. While I have grave concerns whether such self-regulation has best served the City's utility customers, I reserve that topic for a later date and, instead limit my comments only to your rate study.

The City's proposed rate five-year increase in water rates of 34% is supported by the May 27, 2011 Final Report prepared by its consultant, the Municipal & Financial Services Group. The numbers underlying <u>any</u> utility revenue requirements analysis imply a level of precision, where there may actually be little or none. Underlying the calculations is a number of assumptions that need to be carefully addressed in an open dialog that considers all sides of an issue. Some of these assumptions are listed on pp. 3-4 of the study. For a traditional monopoly utility, this balancing of opinions on study assumptions is traditionally done by a state regulatory agency such as Virginia's State Corporation Commission. Under self-regulation, Falls Church needs to go the extra mile to ensure that all technical and legal issues are carefully addressed in a transparent manner before a rate increase is implemented. This is especially crucial for non-resident customers who have no voice at the ballot box to express their concerns. A prime example of the necessity of carefully reviewing the rate study's underlying assumptions is the fact that two very different approaches to municipal ratemaking were employed within a very short period of time by the City – the Utility model and the Cash Basis model. Both models incorporate widely varying assumptions. This is just one example of a model assumption that could have a significant impact upon the results.

In addition to rate study issues raised by Fairfax Water on June 14, 2011 (attached), further review is needed on the following issues before the rate increases may be adopted. More issues may be discovered upon further analysis.

> **The calculation of the $3+ million Water Administration Fee, which comprises over 17% of the Water Fund's expenses, is not supported.** Since the Utility Department does not operate on a stand-alone basis (this is common for municipal utility systems), it is reasonable that a certain amount of City overhead be recovered through water rates. The City should provide these services on a cost basis. The revenue requirements study provides absolutely no information on the assumptions used in calculating the Administration Fee. Given the prior history of Falls Church using management and administrative fee accounts to transfer water utility customer revenues to the General Fund (for the benefit of City residents only), it is absolutely critical that the City explain <u>in detail</u> the process employed to calculate this fee.

In order to build up a $4.5 million Operating and Maintenance Expenses Reserve (i.e., "rainy day" fund), an unsubstantiated $1.5 million has been included in annual rates. This amount, which represents one-fourth of current Operating and Maintenance expenses, is supported only by the consultant's recommendation. Traditional electric utilities charge significantly less, on the order of 2%. Moreover, the calculation of the year-to-year reserve balance starts in FY2012 with $5.5 million "in the hole," which means that $10 million needs to be collected through customer revenues before the $1.5 million assessment can be discontinued in FY2018. The negative $5.5 million starting balance is also not explained.

The Debt Service Reserve component of rates is unsupported. The consultant asserts that a debt service reserve of 100% of the highest annual debt service payment on each future bond issue "will be required [by lenders] as a condition of borrowing." This reserve provision collects $570,000 in revenues in FY2012. The inclusion of this amount of reserve in the revenue requirement is not explained.

The City's tap fees may not be cost based, thereby requiring them to be subsidized by higher water usage charges for all customers. Such cost shifting should be prohibited. See Fairfax Water's comments on this issue.

The assumed interest rate for future debt issuances is unsupported. The consultant's revenue requirements study assumes that the water fund will pay premium borrowing rates, an assumption which is not supported.

It is inappropriate to charge significant legal fees to the City's water customers, given the history that much of the City's legal expenses are not for the benefit of its water customers, but rather to facilitate the transfer of customer paid revenues from those customers to the City's General Fund, which benefits residents only.

Thank you for giving me the opportunity to comment on this important topic. If you have any questions, please don't hesitate to contact me.

ATTACHMENT 8

September 12, 2011

Via First-Class Mail

Falls Church City Mayor, City Council, City Manager
300 Park Ave.
Falls Church, VA 22043

Re: Opposition to Proposed Increase in City of Falls Church Water Rates

To Whom It May Concern:

We write in opposition to the City's proposal to increase the water rate over the next five years. Presently, the City's water rate is $3.03 per thousand gallons, which is almost twice that of the Fairfax Water Authority. Last year, Fairfax County Circuit Court Judge R. Terrence Ney found that the City improperly appropriated excess profits and transferred funds from the water renewal fund to its general fund, in violation of the Falls Church City's charter. This action has taken large sums of monies from the water renewal fund that is supposed to be used only for maintenance and replacement of water system facilities, not for its general fund. Judge Ney's Final Decree required the City to comply with its own charter by setting its water rates without building in profits to be transferred to its general fund (water receipts equal to expenses without any surplus or return on equity into the rates themselves).

Notwithstanding the substantial premium already being charged by the City, the City Council is now considering a proposal to dramatically ***increase*** the water rate – 8% annual increases for the next 3 years, followed by 3.5% annual increases for the following two years. At the end of the five-year period, the City's water rate, if approved, will be almost ***three times*** that of the Fairfax Water Authority. These increases cannot be justified, particularly given the City's illegal actions of siphoning excess profits and transferring substantial sums from the water renewal fund to the City's general fund.

In essence, the City is asking its customers – 92% of whom reside in Fairfax County and did not obtain any benefit from the City's general fund – to pay twice to build up the water renewal fund. As residents of Fairfax County, we already paid to build up the water renewal fund once; unfortunately, the City chose to ignore its charter when it tapped those reserves for general, non-water-related expenses. The illegality of those actions has already been established by the Fairfax County Circuit Court, and the City's appeal of Judge Ney's decision was rejected. It is not fair to ask Fairfax County residents to pay a second time to rebuild the water renewal fund (whether the funds go to the current water renewal fund or new funds, the purpose and effects are the same). To the extent additional funds are necessary, those monies should come from the City's general fund, which was the improper beneficiary of excess water profits and water renewal funds in recent years, and not from Fairfax County residents. The water renewal fund should have ample funds available, when the City reimburses the fund for the millions of dollars, plus interest, and water revenue profits, unlawful transfers or appropriation to its general fund.

If the City repays the funds improperly transferred from the water profits and renewal fund to the general fund, the City will have ample resources to cover the maintenance and capital costs for its water system. There is no need to create two new water reserve funds unless and until the monies siphoned from the water revenue profits and the water renewal fund are repaid and found to be inadequate.

It is time for the City to be transparent, honest, and accountable to its water customers (both City and County users). The City Council has said that the proposed water rate increases over the next five years are necessary to maintain the system, its customer service and water quality. Since the City water system must operate on a non-profit basis, and the cost to the City's customers (City and County users) will be almost 3 times greater than the Fairfax County Water Authority's at the end of the five-year period, it is in the best interest of the City, its residents, and the residents of Fairfax County who use the City's water system, for the City to sell its water system to the Fairfax County Water Authority. This would amount to a substantial savings to the City from the sale of its water system, as well as tremendous savings to the City's and County's water customers (who would pay far less than they currently pay for water). This is one of those rare instances when there is a win-win solution for everyone involved. Conversely, the City is sure to lose if it continues on its current path and votes to raise water rates, as additional litigation is sure to follow.

Sincerely,

1. Ryan T. Scarborough, 7277 Highland Estates Pl., Falls Church, VA, 22043
703-241-8247; rscarborough@wc.com
2. [illegible] 2013 Franklin Ave., McLean Va. 22101, 703.237.8876
ekuhl@wc.com
3. Darlene G. Hoyos 7286 Highland Est. Pl 703-625-2589
Falls Church, VA 22043
4. [illegible] 7282 Highland Estates Pl
Falls Church, VA 22043
5. Stephanie D. Bunnkmyr 7280 Highland Estates Place
Falls Church, VA 22043
6. [illegible] 2320 Dale Drive 202-413-6176
Falls Church, VA 22043
7. [illegible] 2326 Dale Drive, Falls Church, VA 703-533-5667

Cc: Fairfax County Water Authority
Fairfax County Board of Supervisors

8. William E Dunne 7295 HIGHLAND ESTATES PLACE, FALLS CHURCH, VA 22043

9. Pamela M. Dunne 7295 Highland Est. Pl. Falls Church VA 22043

10. Jennifer Taylor 7291 Highland Est. Pl Falls Church, VA 22043

11. [illegible] 7273 Highland Est. Pl, Falls Church, Va.

12. [illegible] 7276 Highland Estates, Falls Church, VA

13. Marianne R Cassel 7315 Gordons Rd, Falls Church VA

14. [illegible] 7321 Gordons Rd, Falls Church, VA

15. [illegible] 7276 Highland Estates Pl Falls Church, VA 22043

16. [illegible] 7294 Highland Estates Pl. Falls Church, VA 22043

17. [illegible]

18. Mary Beth & Marc DeLuca 7297 Highland Estates Pl Falls Church VA 22043

ATTACHMENT 9

prev | next

§ 15.2-2111. Regulation of sewage disposal or water service.

Any locality may exercise its powers to regulate sewage collection, treatment or disposal service and water service notwithstanding any anticompetitive effect. Such regulation may include the establishment of an exclusive service area for any sewage or water system, including a system owned or operated by the locality, the fixing of rates or charges for any sewage or water service, and the prohibition, restriction or regulation of competition between entities providing sewage or water service.

No power herein granted shall alter or amend the powers or the duties of any present or future authority created pursuant to the Virginia Water and Waste Authorities Act (§ 15.2-5100 et seq.) nor confer any right or responsibility upon the governing body of any locality which would supersede or be inconsistent with any of the duties or responsibilities of the State Water Control Board.

(1984, c. 525, § 15.1-292.2; 1997, c. 587.)

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Board Agenda Item
September 27, 2011

INFORMATION - 1

Submission of Testimony In the Application of Washington Gas Light Company for a General Increase in Rates and Charges, and to Revise its Terms and Conditions for Gas Service, State Corporation Commission Case No. PUE-2010-00139

On July 26, 2011, the Board authorized staff of the Public Utilities Branch to file testimony in the Application of Washington Gas Light Company (WGL) for a General Increase in Rates and Charges, and to Revise its Terms and Conditions for Gas Service, State Corporation Commission (SCC) Case No. PUE-2010-00139. In its application, WGL requested a $29.6 million (or 6.0%) rate increase.

Staff's testimony in this case was filed August 17, 2011, and addresses several issues raised in the case that materially affect the level of increase in rates requested by the company. These issues include: the company's requested increase in its allowed return on equity (ROE), the classification of costs related to its investment in distribution mains, WGL's proposal to recover the costs of research and development funding from ratepayers, and the company's request to use the purchased gas charge to recover its hexane costs from sales service customers.

The hearing in this case begins November 16, 2011 in Richmond, Virginia. Staff from the Public Utilities Branch, and the County Attorney's office will represent the County at the hearing. If the SCC were to order a reduction in the company's proposed $29.6 million per year rate increase, both county residents, businesses and Fairfax County government would realize savings over the requested amount.

FISCAL IMPACT:
None.

ENCLOSED DOCUMENTS:
Attachment 1: Testimony of Stephen Sinclair
Attachment 2: Testimony of Susan Hafeli

STAFF:
David J. Molchany, Deputy County Executive
Michael Liberman, Director, Department of Cable and Consumer Services
Nancy Loftus, Assistant County Attorney
Stephen Sinclair, Chief, Utilities Branch, Department of Cable and Consumer Services
Susan Hafeli, Utilities Analyst, Department of Cable and Consumer Services

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Attachment 1

COMMONWEALTH OF VIRGINIA

BEFORE THE

STATE CORPORATION COMMISSION

Application of

Washington Gas Light Company

For a general increase in rates and charges,

and to revise its terms and conditions for gas service

Case No. PUE-2010-00139

Direct Testimony and Exhibits of

Stephen D. Sinclair

on behalf of

The Board of Supervisors of

Fairfax County, Virginia

August 17, 2011

1. Q. PLEASE STATE YOUR NAME, ADDRESS AND OCCUPATION.

A. My name is Stephen D. Sinclair, my business address is 12000 Government Center Parkway, Fairfax, Virginia, and I am an Economist employed as the Senior Utilities Analyst and Chief of the Public Utilities Branch by the Fairfax County Department of Cable and Consumer Services.

2. Q. WOULD YOU BRIEFLY SUMMARIZE THE RESPONSIBILITIES OF YOUR POSITION?

A. My major responsibility is to review economic and regulatory issues associated with the rates of all public utilities serving Fairfax County or any segment thereof and forward appropriate recommendations to the County Board of Supervisors (the "Board"). In cases before the Virginia State Corporation Commission ("SCC" or "Commission") or any other regulatory body, the Board's authorization to participate is requested. When the Board's approval is obtained, I am responsible for developing statements, testimony and exhibits, as necessary, for presentation before the regulatory body on behalf of the Board. I also prepare special studies related to utilities in general for the Board of Supervisors, the Consumer Protection Commission, or other County officials upon request.

3. Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE THE COMMISSION?

A. Yes, I have previously presented testimony on behalf of the Fairfax County Board of Supervisors on numerous occasions before this Commission.

4. Q. HAVE YOU PREVIOUSLY TESTIFIED BEFORE ANY OTHER REGULATORY BODIES OR PRESENTED YOUR PROFESSIONAL VIEWS ON MATTERS OF REGULATORY IMPORT?

A. Yes, I have participated in public hearings at the Virginia Department of Environmental Quality on the development of the Clean Air Interstate Rule (2005 and 2006), and represented the U.S. Environmental Protection Agency at public hearings related to the economic impact of proposed water effluent regulations for the coil coating, porcelain enameling and aluminum forming industries. In addition, I have made numerous presentations to industry as well as government groups detailing methodological approaches utilized for estimating the economic and financial impact of government regulations upon affected industries.

5. Q. WHAT ARE YOUR PROFESSIONAL QUALIFICATIONS AND EXPERIENCE?

A. In 1973, I received a Bachelor of Arts in History from Clemson University in Clemson, S.C., and in 1977 I received a Master of Science in Agricultural (Resource) Economics from Clemson University. My educational experience includes extensive graduate work in economics, econometrics, statistics, and finance. In addition, I have attended two-day intensive seminars on Determining the Cost of Capital for Regulated Utilities and Fundamentals of Utility Finance, the 1984 NARUC Annual Regulatory Studies Program and the 1986 and 1988 NARUC Advanced Regulatory Studies Program. I have also attended Michigan State's Institute of Public Utilities Annual Regulatory Policy Conference from 1994 through 2007, the 2006 and 2007, 2008 and 2010 Energy Virginia Conference (and its successors), and the Virginia National Regulatory Conference from 1995 through 2011. I am also Chairman of the Virginia Energy Purchasing Governmental Association (VEPGA), which is a joint purchasing association composed of over 175 counties, cities, towns and political subdivisions in Dominion's service territory in Virginia. The primary purpose of VEPGA is to

negotiate rates, terms and conditions of electric service with Dominion Virginia Power on behalf of its members.

My experience in determining economic and financial impacts of government regulations upon affected industries began in 1977 when I became employed as an economic analyst with JRB, Associates, in McLean, Virginia. In July, 1981, I accepted a position as an economist with CONSAD Research Corporation in Vienna, Virginia. During these periods, I performed economic impact analyses for the U.S. Environmental Protection Agency, U.S. Department of Labor and the Department of Energy. In March, 1984, I accepted the position of Utilities Analyst with Fairfax County's Department of Consumer Affairs. In 2006, I accepted the position as Chief of the Public Utilities Branch.

6. Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?

A. The purpose of my testimony is to present my recommendations on the cost of equity capital for Washington Gas Light Company ("WGL" or "the company") in this proceeding.

7. Q. IS YOUR TESTIMONY SUPPLEMENTED WITH ANY EXHIBITS IN THIS PROCEEDING?

A. Yes, Exhibit SDS ___ consisting of Schedules (1) to (5) supplement my testimony.

8. Q. HAVE YOU PERFORMED A STUDY OF THE COST OF COMMON EQUITY CAPITAL FOR WGL?

A. Yes I have.

9. Q. WHAT ARE YOUR CONCLUSIONS BASED ON THAT STUDY?

A. Washington Gas Light Company should be allowed to earn in the range of 8.5% to 9.5% on the common equity portion of its capital structure.

10. Q. WHAT APPROACHES DID YOU UTILIZE TO ESTIMATE THE COST OF CAPITAL?

A. I used two methods: 1) the discounted cash flow ("DCF") method as the primary means to determine the cost of common equity capital for WGL; and 2) a risk premium analysis.

11. Q. WHY IS THE DCF ANALYSIS THE PREFERABLE APPROACH TO ESTIMATE THE COST OF CAPITAL?

A. The DCF method is the preferable approach for estimating the cost of equity capital for several reasons: 1) investors are forward looking, as is the DCF model, 2) the estimates derived are company specific, 3) the estimates can be derived for particular industries (such as public utilities) or by sub-groups of particular industries (in this case the east coast natural gas distribution industry), and 4) it is a widely utilized method published by investment advisory services for use by investors for valuating equities and estimating returns.

12. Q. PLEASE EXPLAIN YOUR DCF ANALYSIS FOR WASHINGTON GAS LIGHT COMPANY.

A. I performed a comparable group cost of equity DCF analysis for WGL. Washington Gas Light is a wholly owned subsidiary of WGL Holdings, Inc., ("WGLH") which operates regulated natural gas utility subsidiaries in three jurisdictions: Virginia, Maryland, and the District of Columbia. WGLH's business is highly dependent on its utility subsidiaries, with approximately 90% of its assets and over 90% of its net income from continuing operations attributable to its regulated utility operations. In many cases, the parent company of a utility (in this case a natural gas distribution utility) may have significant lines of business outside of the natural gas distribution sector. However, in this case, with WGLH's business so highly weighted toward the natural gas utility business, a comparable group of natural gas distribution companies that have similar risk to WGLH should approximate the required cost of equity for WGL. I utilize a group of six natural gas companies for this purpose. The criterion for selection include companies: 1) that are included in Value Line's Natural Gas Distribution group, 2) have Value Line Safety Ratings of 1 or 2 (WGLH has a Safety Rating of 1), 3) whose stock is traded on the New York Stock Exchange, and 4) are not currently the target of a merger, acquisition, or self-induced sale. I believe that this group of six natural gas distribution companies also serves as a reasonable proxy for estimating the cost of equity capital for WGLH, and for WGL. Exhibit SDS___Exhibit 1 contains a list of various comparative measures of business risk for the six comparable companies, and for WGLH. Value Line's Beta, Safety, and Financial Strength Ratings for WGLH are .65, 1 and A, respectively. For the six comparable firm companies, the Value Line Beta's range from .60 to .65; the Safety Ratings range from 1 to 2; and the Financial Strength Ratings range from B+ to A. Based on Value Line's valuation, I conclude that this six firm sample of companies, have similar business risk to WGLH.

The DCF methodology is firm specific in nature and utilizes data and techniques readily available to most investors. For a particular company, the DCF method

can be used to estimate investors' expected or required rate of return on common equity, based upon market prices, expected dividend streams, and expected capital gains.

The DCF method is derived from the theory of present value. The theory is based on the concept that rational individuals place a higher value on a dollar received today than on a dollar received in the future. Stated more typically, individuals discount (place a lower value on) future cash streams. Calculating the present value of an investment (or the income it provides over time) allows one to compare a quantity of dollars in hand today with a quantity of dollars to be received during some future time period. Consider the present value theory as it applies to common stocks. The following formula will help to visualize this concept:

$$P_o = \frac{D_1}{(1+r)} + \frac{D_2}{(1+r)^2} + \ldots + \frac{D_n}{(1+r)^n} + \frac{P_n}{(1+r)^n}$$

The net present value of the stock is expressed by its current market price, P_o, and is a function of the flow of dividends, D; the investor's required return, r; and the final price of the stock, P_n. The present value formula is equivalent to saying that the net present value of a stock is a function of the return expected from current dividends and in stock price, discounted for the decrease in value over time.

The DCF formula may be obtained by solving for r, the required rate of return, and is normally stated as:

$$r = D_1/P_o + g_n$$

where *g* is the expected rate of growth, and the time period n is assumed to be infinite. The expression D_1/P_o is generally viewed as the company's expected yield, where D_1 is the expected dividend for the next period and P_o is the (average) stock price for the current period.

With this DCF formula, the investor's required return is equal to the sum of the expected dividend yield and the expected growth rate in dividends. Calculation of the expected dividend yield is usually fairly straightforward, though not without occasional controversy. It is determined by dividing the expected annualized dividends per share (over the next twelve month period) by the average market price of the stock. However, the determination of an appropriate growth rate (g_n) is less obvious. Investors in utility companies' common stock are generally most interested in the expected future growth in dividends, since dividends constitute the ultimate source of value to the investor. Thus, the estimation of future growth in dividends, as well as earnings, rests upon determining the most reasonable predictor of dividend growth. Careful consideration of the company's dividend and earnings prospects for the future, along with a reference to past growth rates, can provide a range of growth rates which may be used as an estimate of investors' expectations.

13. Q. HOW DID YOU DETERMINE THE DIVIDEND YIELD FOR THE COMPARABLE NATURAL GAS DISTRIBUTION COMPANIES AND FOR WGLH?

A. First, I determined the P_o (market price) of the comparable group of natural gas distribution companies' common stock for the most recent 3-month period, from March 1, 2011 through May 31, 2011, and the current dividend over the past 12 months (D_o).

Second, recognizing that an investor's valuation process is forward looking, I utilize the expected dividend payments for the next 12 month period (second, third and fourth quarters 2011, and the first quarter 2012). To develop the expected dividend component (D_1), I calculated the expected dividend utilizing growth rates in dividends reported by Value Line (see Exhibit SDS___Schedules

2 and 3). Thus, the dividend yield (D_1/P_o) to be used in the comparable groups discounted cash flow model is:

$$D_1/P_o = 3.7\%$$

And the indicated dividend yield for WGLH's firm specific analysis is:

$$D_1/P_o = 4.0\%$$

14. Q. HOW DID YOU ARRIVE AT THE APPROPRIATE GROWTH COMPONENT (*g*) TO USE IN THE DCF FORMULA?

A. Analysts generally agree that two methods are most appropriate for estimating the *g* component (growth rate of dividends/earnings) in the DCF model:

1) Analysts' forecasted growth rates;

2) Historical growth rates.

Analysts' forecasts are generally of significantly greater interest to both institutional and individual investors in providing a basis for estimating required returns. Analysts' forecasts of growth are conceptually more dynamic than historical growth rates in that they factor in recent events such as current economic conditions, future business prospects, etc. These projections are derived by analysts based on their conclusions concerning the company's prospects, after consideration of a number of important investment factors. For these reasons, I believe analysts' growth rates should be the principal method for estimating the growth (*g*) component in the DCF analysis.

My analysis involved review of information and growth forecasts from three investment advisory services. These include: the Value Line Investment Survey,

Zack's Research, and Yahoo Finance. Value Line estimates are derived based on a single analysts' recommendations, while Zack's and Yahoo Finance are consensus based. For projections on five year growth rates in dividends, I utilized Value Line published data. For projections of long term (five-year) growth rates in earnings, I cite three sources: Value Line, Zack's, and Yahoo Finance investment services (see Exhibit SDS___Schedule 3).

Apparently, the use of historical growth rate data for use by investors is becoming increasingly less important to investors. Over the past few years, several firms which used to make this information easily accessible, including Zack's and Yahoo Finance, no longer readily do so. Historical growth rates have traditionally provided a useful tool for reference. However, the relevance of using historical growth rates as a tool for estimating future growth is likely in decline, especially in cases in which there are significant changes happening within the industry or market. In the past several years, with the emergence of electric and natural gas deregulation, many natural gas distribution companies have entered into businesses in which they had not previously been engaged. Many of these companies now face more varied and volatile business prospects than they had faced in past years. Thus, based on these known events and future expectations, in my opinion, historical growth rates will not provide valid projections of future growth, and should not be used as a primary method for estimating the growth (*g*) component in the DCF analysis. However, I provide for reference in Exhibit SDS___Schedule 4, the five and ten year historical growth rates in dividends and earnings for the six firm proxy group, and for WGLH.

15. Q. WHAT RANGE OF GROWTH IS SUGGESTED BASED ON YOUR REVIEW OF ANALYSTS' FORECASTS FOR FUTURE GROWTH IN EARNINGS AND DIVIDENDS PER SHARE FOR WGLH (WGL), AND FOR THE COMPARABLE GAS COMPANIES?

A. Exhibit SDS ____ Schedule 3 contains estimates of projected earnings and dividends per share reported for the comparable group of companies and for WGLH. Value Line's ("VL") estimates of long term growth in dividends for the comparable companies and WGLH, were 4.2% and 2.5%, respectively.

Three estimates of long-term earnings growth were cited from Value Line, Zach's, and Yahoo Finance. These estimates averaged 4.6%, 3.5% and 4.2%, respectively, or an average from all sources of 4.1%. For WGLH, the range in projected growth rates in earnings was 1.5% to 5.3% or and average of 3.6%. Thus the average growth rates of the comparable group of companies and for WGLH are summarized below:

Comparable Groups

Dividend growth - 4.2%

Earnings growth - 4.1% (range of 3.5% to 4.6%)

WGLH

Dividend growth – 2.5%

Earnings growth average - 3.6% (range of 1.5% to 5.3%)

16. Q. WHAT IS THE RANGE OF REQUIRED RETURNS FOR WGLH WHEN BOTH ANALYSTS' FORECASTS OF DIVIDENDS AND EARNINGS ARE USED FOR THE GROWTH COMPONENT IN THE DCF EQUATION?

A. Use of the full range of growth rates derived from the dividend and earnings projected growth methods results in calculation of required rates of return on equity (r) (where $r = D_1/P_o + g_n$) for WGL within the range of:

<u>Dividends growth projections</u>

WGLH (Value Line)	r = 4.0% + 2.5% = 6.5%
Comparable group (VL)	r = 3.7% + 3.9% = 7.6%

<u>Earnings growth projections</u>

WGLH (range of 3 analysts')	r = 4.0% + (1.5% to 5.3%) = 5.5% to 9.3%
Comp. group (range of 3 analysts')	r = 3.7% + (3.5% to 4.6%) = 7.2% to 8.3%

17. Q. WHAT THEN ARE YOUR CONCLUSIONS FOR DCF ANALYSIS FOR WGL?

A. The comparable firm analysis has a relatively narrow range of required returns (7.2% to 8.3%), whereas the single firm estimate for WGL has a much wider range (5.5% to 9.3% or a 380 basis point difference) in the indicated required returns. I give little weight to the low end of indicated returns for the WGL firm specific analysis, and I recommend that more weight be given to returns at the

upper end of that range. However even the returns at the top end of the range suggest a required return within the range of 7.2% to 9.3%.

18. Q. WHAT OTHER METHOD DID YOU USE TO GAUGE THE REASONABLENESS OF THE DCF ANALYSIS?

A. I used the risk premium method, which recognizes that common equity capital is more risky than debt from an investor's standpoint, and that investors require higher returns on stocks than they do on bonds to compensate for this additional risk. The approach is fairly straightforward. First, determine the historical spread of actual returns between returns on equity and return on debt. Then, add this spread to the current debt yield to derive an estimate of current equity requirements. The risk premium analysis can be stated as follows:

$$K_e = K_d + \text{ historical bond-equity spread}$$

where K_e = cost of common equity

K_d = incremental cost of debt (risk free)

19. Q. WHAT ELEMENTS DID YOU UTILIZE IN YOUR RISK PREMIUM ANALYSIS?

A. I utilize a long-term return instrument for measuring a risk premium because investment in utility capital is a long-term not a short-term investment. I use the 30 year Treasury ("T") Bond as my risk free bond instrument. The 30 year T Bond, which was first issued in 1977, was discontinued in February 2002, and was re-issued in February of 2006. Exhibit SDS___Schedule 5 contains the yield

on 30 year T Bonds since the first issue, Total Returns on Large Stocks[1] for all yearly holding periods since 1926, and the resulting risk premiums from 1977 to 2002, 2005, and to June 2011.

20. Q. WHAT WAS THE RESULT OF YOUR RISK PREMIUM ANALYSIS?

A. Utilizing the formula for computing the risk premium of:

$$K_e = K_d + \text{historical bond-equity spread}$$

where K_e = cost of common equity

K_d = bond yield

The indicated cost of equity for the most recent period bond yield is

$$K_e = 4.45 + 5.65$$

$$K_e = 10.1$$

21. Q. DID YOU LOOK AT TOTAL RETURNS AND RISK PREMIUMS FOR PERIODS OTHER THAN THE PERIOD CONTAINED IN THE IBBOTSEN STUDY OF 1926 TO 2010?

A. Yes, utilizing more current, up to date return/bond yield data from the Ibbotson Study, I looked at indicated risk premiums over the past 10, 20 and 30 year periods, and calculated the following risk premiums per year over these periods:

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1 Roger G. Ibbotson and Associates, Stocks, Bonds, Bills and Inflation: 2011 Yearbook.

- over the past 10 years (2001) to 2010) = 5.41%
- over the past 20 years (1991) to 2010) = 4.55%
- over the past 30 years (1981) to 2010) = 2.67%

This data suggests that realized Risk Premiums have been increasing over the past 10 to 20 year periods, and are at virtually the highest levels today, than at any other period in this time frame.

22. Q. ARE THERE FACTORS THAT SUGGEST A REQUIRED EQUITY RISK PREMIUM FOR THE GROUP OF NATURAL GAS DISTRIBUTION COMPANIES MAY BE LOWER THAN FOR AN AVERAGE STOCK?

A. Yes, a basic investment principle is that higher risk requires a higher expected return. Thus, lower risk companies should on average require lower risk premiums than higher risk companies. The Value Line data contained in Exhibit SDS ___ Schedule 1 suggest that both WGLH and the natural gas distribution group of companies have less risk than the average stock. For instance, WGLH has a beta of .65, which is very close to the .63 average of the six comparable group company stocks rated by Value Line. For Value Line's Safety rating, which measures the total risk of a stock relative to the approximately 1,700 other stocks that Value Line ranks, (with 1 being the safest and 5 having the most risk), all stocks were rated 1 or 2, which means that the stocks rated as having Safety ratings of 1 or 2 are among the 40 percent less risky stocks of those rated. Clearly, this group of stocks is less risky than the market as a whole. Thus, I believe the required risk premium for the proxy group of comparable companies is likely to be lower than for the average risk stock, and the results of the risk premium analysis may overstate the cost of equity for companies of lower risk, such as found in the comparable gas distribution group and for WGLH.

23. Q. WHAT IS THE RANGE OF RETURNS INDICATED IN YOUR COST OF EQUITY ANANLSIS FOR WGLH?

A. The results of the DCF analysis using the range in the upper end of the results suggest a required rate of return (r) for the six natural gas companies and for WGLH in the range of:

$$r = 7.2\% \text{ to } 9.3\%.$$

The results of the Risk Premium analysis for estimating the cost of equity based on the yield the 30 year Treasury bond and the historical risk premium of stocks over bonds of:

$$K_e = K_d + \text{historical bond-equity spread}$$

where K_e = cost of common equity

K_d = bond yield

The indicated cost of equity for an average stock for the most recent period bond yield is:

$$K_e = 4.45\% + 5.65\%$$

$$K_e = 10.1\%$$

Therefore the full range of results from my cost of equity analysis suggests that the cost of equity for WGLH lies within the range of 7.2% to 10.1%.

24. Q. WHAT IS YOUR FINAL RECOMMENDATION ON SETTING THE REQUIRED RETURN ON EQUITY FOR WGL?

A. For ratemaking purposes, I am recommending that the allowed rate of return on common equity for WGL be set just within the upper end of the range of indicated required returns for the DCF cost of equity analysis, and just below the indicated return for the Risk Premium analysis, or in the range of 8.5% to 9.5%. Setting the required rate of return at this level should allow the continuation of financial soundness of the company, and should be adequate under prudent management to assure confidence in the financial integrity of the company, so as to maintain its credit and attract capital.

25. Q. DOES THAT CONCLUDE YOUR TESTIMONY?

A. Yes, it does.

EXHIBITS

Exhibit SDS___ Schedule 1

Comparable Group Natural Gas Distribution Companies
Various Measures of Risk

Company	VL Beta	VL Safety	VL Fin Strength	S&P Bond Rating
Atmos Energy	0.65	2	B+	BBB
Laclede Group	0.60	2	B++	A
New Jersey Resources	0.65	1	A	
N.W. Natural Gas	0.60	1	A	AA-
Piedmont Natural Gas	0.65	2	B++	A
South Jersey Industries	0.65	2	B++	A
Average	0.63			
WGL Holdings	0.65	1	A	A+

Source: Value Line, Ratings and Reports, March 11, 2011
S&P Bond Ratings, June 2011

Exhibit SDS____Schedule 2

Washington Gas Light Company
Comparable Group Dividend Yield Components

Company	Avg. 3-Mo. Price (Po) Po	Current Div. Do	Current Div. Yield Do/Po	VL Expected Div. D1	VL Expected Div. Yield D1/Po	DCF D1/Po+g Proj. Dividends	DCF D1/Po+g Proj. Earnings
Atmos Energy	$33.54	$1.35	4.0%	$1.38	4.1%	6.1%	9.1%
Laclede Group	$37.33	$1.59	4.3%	$1.63	4.4%	6.9%	7.4%
New Jersey Resources	$42.79	$1.38	3.2%	$1.44	3.4%	7.9%	7.4%
N.W. Natural Gas	$45.54	$1.70	3.7%	$1.77	3.9%	7.9%	6.9%
Piedmont Natural Gas	$30.07	$1.12	3.7%	$1.16	3.9%	7.4%	7.4%
South Jersey Industries	$55.11	$1.36	2.5%	$1.47	2.7%	11.2%	11.7%
Group Average	$40.73	$1.42	3.6%	$1.47	3.7%	7.9%	8.3%
WGL Holdings	$38.32	$1.51	3.9%	$1.55	4.0%	6.5%	5.5%

VL expected dividend yield determined by multiplying VL expected growth rate in dividends to the current dividend yield

Source: Value Line, "Ratings and Reports", March 11, 2011.

Comparable Group Natural Gas Distribution Companies
Analysts' Projected Growth Rates

	Projected Earnings			Projected Dividends	
	Value Line	Zack's	Yahoo	Value Line	
Company	5 Yr. Earnings	5 Yr. Earnings	5 Yr. Earnings	5 Year Div.	
Atmos Energy	5.0%	4.5%	3.35%	2.0%	
Laclede Group	3.0%	3.0%	3.50%	2.5%	
New Jersey Resources	4.0%	4.0%	2.55%	4.5%	
N.W. Natural Gas	3.0%	4.6%	3.67%	4.0%	
Piedmont Natural Gas	3.5%	4.8%	4.88%	3.5%	
South Jersey Industries	9.0%	0.0%	7.50%	8.5%	
Average	4.6%	3.5%	4.2%	4.2%	
Consensus Average		4.1%			
WGL Holdings	1.5%	5.3%	3.90%	2.5%	
Consensus Average		3.6%			

Source: Value Line, Ratings and Reports, March 11, 2011
Zack's Research June 27, 2011; Yahoo Finance Gas Utilities Industry June 27, 2011

Comparable Group Natural Gas Distribution Companies
Value Line Historical Growth Rates

Company	Dividends 5 yr	Dividends 10 yr	Earnings 5 yr	Earnings 10 yr
Atmos Energy	1.5%	2.0%	4.0%	5.0%
Laclede Group	2.5%	1.5%	7.5%	6.0%
New Jersey Resources	7.5%	5.0%	8.5%	8.5%
N.W. Natural Gas	3.5%	2.0%	9.5%	6.0%
Piedmont Natural Gas	4.5%	4.5%	5.0%	5.0%
South Jersey Industries	7.5%	4.5%	10.0%	10.5%
Average	4.5%	3.3%	7.4%	6.8%
WGL Holdings	2.5%	2.0%	2.5%	4.0%

Source: Value Line, Ratings and Reports, March 11, 2011

Risk Premium Analysis
Washington Gas Light Company

Year		Yield on 30 Year Treasury Bond* (Percent)	Total Returns Large Stocks** (Percent)	Risk Premium (Percent)
1977		7.75	8.9	1.15
1978		8.49	8.9	0.41
1979		9.28	9.0	-0.28
1980		11.27	9.4	-1.87
1981		13.45	9.1	-4.35
1982		12.76	9.3	-3.46
1983		11.18	9.6	-1.58
1984		12.41	9.5	-2.91
1985		10.79	9.8	-0.99
1986		7.78	10.0	2.22
1987		8.59	9.9	1.31
1988		8.96	10.0	1.04
1989		8.45	10.3	1.85
1990		8.61	10.1	1.49
1991		8.14	10.4	2.26
1992		7.67	10.3	2.63
1993		6.59	10.3	3.71
1994		7.37	10.2	2.83
1995		6.88	10.5	3.62
1996		6.71	10.7	3.99
1997		6.61	11.0	4.39
1998		5.58	11.2	5.62
1999		5.87	11.3	5.43
2000		5.94	11.0	5.06
2001		5.49	10.7	5.21
2002		5.43	10.2	4.77
2003		na	10.4	
2004		na	10.4	
2005		na	10.4	
2006		4.91	10.4	5.49
2007		4.8	10.4	5.60
2008		4.22	9.6	5.38
2009		4.02	9.8	5.78
2010		4.25	9.9	5.65
2011		4.45		

* US Department of Treasury, Daily Treasury Yield Curve Rates", (note 2011 average yield through June 28, 2011).

**Ibbotson SBBI, "Market Returns for Stocks, Bonds, Bills and Inflation", Large Company Stocks for All Holding Periods, 1926 - 2011

Attachment 2

COMMONWEALTH OF VIRGINIA

BEFORE THE

STATE CORPORATION COMMISSION

APPLICATION OF WASHINGTON GAS LIGHT COMPANY

For a general increase in rates and charges and
to revise its terms and conditions for gas service
Case No. PUE-2010-00139

Direct Testimony and Exhibit of Susan M. Hafeli
on behalf of
The Board of Supervisors of
Fairfax County, Virginia

August 17, 2011

1. **Q. Please state your name, address, and occupation.**

A. My name is Susan M. Hafeli. My business address is 12000 Government Center Parkway, Suite 433, Fairfax, Virginia, 22035. I am employed by the Fairfax County Department of Cable and Consumer Services as a Utility Analyst.

2. **Q. Would you briefly summarize the responsibilities of your position?**

A. My responsibilities include the review of issues associated with the rates, terms, and conditions of public utilities serving Fairfax County or any segment thereof and to forward appropriate recommendations to the County Board of Supervisors (the Board). When the Board's approval is obtained, I am responsible for developing statements, testimony and exhibits, as necessary, for presentation before the regulatory body on behalf of the Board. I also prepare special studies related to utilities for the Board of Supervisors, the Consumer Protection Commission, or other County officials upon request.

3. **Q. Please describe your experience.**

A. I have been in the field of utility regulation and policy since 1989, when I accepted a position as Assistant General Counsel at the Public Utility Commission of Texas. While with the Texas Commission, I was involved in rate-case proceedings as well as contested-case and rulemaking activities intended to appropriately introduce competition in local-exchange telecommunications markets. Later, as an attorney in private practice, I represented end-users and competitive carriers in federal and state regulatory proceedings, including those to revise the communications regulatory landscape in response to statutory, technological, and market developments. I joined Fairfax County Government in 2006.

4. **Q. Please describe your professional qualifications.**

A. I received a Bachelor of Arts (B.A.) degree in economics from the University of Michigan in Ann Arbor, Michigan and a Juris Doctor (J.D.) degree from the University of Texas School of Law in Austin, Texas. In 1989, shortly after joining the Texas Commission, I attended the two-week annual Regulatory Studies Program sponsored by the Institute of Public Utilities at Michigan State University. Over the years, I have attended numerous continuing legal education courses and seminars, many of them addressing issues in the areas of public utility regulation and administrative law. I also have taken a graduate-level course in the principles of finance.

5. **Q. Have you previously testified before the Commission?**

A. Yes. I submitted testimony on behalf of the Board in Case No. PUE-2010-00017, Case No PUE-2009-00019, Case No. PUC-2007-00008, Case No. PUE-2006-00059, and in Case Nos. PUE-2005-00098 and PUE-2005-00100.

6. **Q. What is the purpose of your testimony?**

A. The purpose of my testimony is to address several issues raised in the Application filed by Washington Gas Light Company ("WGL" or "the company"). My testimony addresses WGL's classification and allocation of costs related to its investment in distribution mains, its proposal to recover the costs of research and development funding from ratepayers, and its proposal to use the Purchased Gas Charge to recover its hexane costs from sales service customers.

7. **Q. Please summarize your testimony.**

A. Rate regulation of monopoly utility providers like WGL is intended to act as a substitute for competition and to provide customers of monopoly utility providers

with the protections that would be afforded by competition. In developing its cost support, the company relied on a cost allocation methodology that denies this essential customer-protection objective. The company's use of a "minimum system" approach to classify the costs of its Virginia distribution mains has the effect of assigning the greatest share of distribution costs to the customer class in most need of protection. WGL's reliance on a cost allocation methodology that allocates the vast majority of distribution mains costs to the residential class substantially overstates the residential class revenue requirement. The Commission should decline to adopt WGL's methodology for classifying and allocating distribution mains costs.

The Commission also should decline to approve WGL's proposed funding of research and development (R&D) that is of uncertain benefit to ratepayers. WGL's R&D funding proposal appears to assign all risk and cost to captive ratepayers and all benefit to shareholders. Significantly, it lacks any mechanism that would allow ratepayers to reap the rewards of successful R&D. Moreover, notwithstanding WGL's extensive discussion of certain Gas Technology Institute initiatives that are of particular interest to WGL, the company's proposal apparently contemplates that WGL would be free to use ratepayer funding to pursue different R&D initiatives with other, unnamed research organizations without Commission oversight or input.

Finally, the Commission should reject WGL's proposed use of the purchased gas charge (PGC) to recover hexane costs. Because there is no evidence to suggest that WGL is purchasing hexane as fuel or feedstock for the production of substitute natural gas, the proposal is inconsistent with WGL's own tariff provisions governing the PGC. It is also inconsistent with long-standing regulatory principles that favor a matching of costs and revenues in establishing just and reasonable rates.

8. **Q. Are you offering any exhibits?**

A. Yes. I am offering one exhibit: Exhibit SMH ___, Schedule 1, which is an excerpt from WGL's Schedule 40 regarding WGL's development of embedded system charge cost.

COST ALLOCATION

9. **Q. What is the purpose of a cost of service study?**

A. The primary goal of a cost of service study, according to the Commission, is to assign costs and revenues to each customer class as reasonably consistently as possible with the incurrence of those costs.

An embedded cost of service study incorporates three major steps: (1) functionalization of costs as production, storage, transmission, or distribution; (2) classification of costs as customer, demand or capacity, or commodity; and (3) allocation of costs to customer classes. Costs that cannot be directly assigned to an appropriate customer class must be allocated.

10. **Q. Can a cost of service study provide actual costs attributable to each class?**

A. No. A cost of service study yields estimates reflecting the study's methodology and inputs, including the factors used to allocate joint and common costs that cannot be attributed to a particular customer class. The Commission has long recognized that cost of service studies are tools to guide the revenue apportionment process, not precision instruments:

> A certain amount of judgment must be used in any cost of service study. Cost of service studies are not precision instruments, but rather tools to facilitate the establishment of a zone of reasonableness. This zone of reasonable class rates of return can then be used as a guide to apportion a utility's revenue requirement.

Application of Commonwealth Gas Services, Inc. For a general increase in rates,

Case No. PUE-1992-00037, 1993 S.C.C. Ann. Rept. 262, 264-65, Final Order (Oct. 15, 1993). The Commission typically reviews multiple studies in establishing the zone of reasonableness that is used as a guide to apportion a utility's revenue requirement and to design rates.

11. **Q. Has the company prepared a cost of service study as part of its application?**

A. Yes. The company's Virginia Jurisdiction service area class cost of service study is provided in Schedule 40 and sponsored by witness Wagner. In WGL's last rate case, staff witness John Stevens recommended that WGL prepare multiple class cost of service studies to provide a range of returns. Case No PUE-2006-00059, Stevens Direct at 11. Staff witness Stevens recommended that WGL prepare cost of service studies using the minimum system, zero intercept and demand only methodologies. Id. Rather than prepare the three cost of service studies recommended by Mr. Stevens, WGL has prepared a single cost of service study using the minimum system methodology. WGL's use of this methodology has the effect of assigning an unreasonable share of costs to the residential class.

12. **Q. Please explain what you mean by the minimum system methodology.**

A. At an estimated cost of $581,966,493, distribution mains are the single largest component of WGL's Virginia system. WGL Schedule 40, Schedule RB, page 2, line 14. Prior to allocating the cost of distribution mains among classes, WGL used the minimum system methodology to classify a portion of its distribution mains investment as customer-related. The minimum system approach attempts to estimate the cost of a hypothetical gas system at the minimum size necessary to connect all customers to the system. The cost of this hypothetical system is classified as customer-related, and the remainder classified as demand-related. As WGL explained:

> The first step is to determine the footage installed of cast iron, steel and plastic mains by vintage (year installed). The footage by type of main is then multiplied by the average cost (excluding

> materials) of the minimum size main for each type of main. The resulting cost for each type of main is summed to determine total minimum cost of installing distribution mains. The resulting percent of the minimum cost to total cost for installing distribution mains multiplied by the total mains investment will be the customer component. The difference is the demand component.

Schedule 40 workpapers at 3-4.

According to WGL, application of the minimum system methodology resulted in an average customer component for its Virginia system of approximately 47.37% and a demand component of approximately 52.63%, based on the following inputs:

VA	Resid	Comm'l & Industrial			Group Metered Apts			Interrup
		H/C	NonH/C	LgCI	Lg	H/C	NonH/C	
47.37%	57.34%	14.60%	15.84%	0.69%	0.90%	6.18%	27.10%	0.51%

Exhibit SMH ___, Schedule 1, p.2, line 26, cols. C-K.

As shown on the attached exhibit, when WGL applies its average 47.37% factor to its $581,966,493 investment in distribution mains, it derives a Virginia customer-related cost of $275,672,872. WGL then allocates this $275,672,872 cost on a customer-count basis, assigning $262,462,407, or approximately 95.2%, of the Virginia customer-related cost to the residential class as its share of the cost of distribution mains. Exhibit SMH ___, Schedule 1, p.1, line 2, cols. C-D.

13. **Q. What is the significance of WGL's use of the minimum system methodology?**

A. The cost of distribution mains is a fundamental input used in deriving the total annual customer cost. WGL's classification of 47.37% of its distribution mains cost as customer-related, and the consequent allocation of approximately 95.2% of that cost on a customer-count basis, unreasonably inflates the size of this input, which has the effect of allocating excessive costs to the residential class. WGL's methodology does not take into account relative contribution to demand or system size, and penalizes the residential class due solely to its size.

Use of a different customer component can yield significantly different results. As would be expected, keeping all else constant, the cost of distribution mains allocated to the residential class will decrease as the customer-related component of WGL's Virginia mains investment decrease. For example, decreasing the customer-related component of WGL's Virginia mains investment from 47.37% to 20% reduces the residential share of distribution mains costs by approximately $151,655,986:

Customer Component	*VA Mains Cost*	*Residential Share*
WGL's 47.37%	$275,672,872	$262,462,407
Alternative 20%	$116,393,299	$110,806,421

Exhibit SMH ___, Schedule 1, p.1, line 2, cols. C-D.

Allocating a smaller share of distribution mains costs to the residential class by use of either a lower customer component or a different classification methodology reduces both the total annual customer cost attributed to the residential class and the revenue requirement that is recovered from residential rates.

14. **Q. Do you believe WGL's classification of distribution mains is appropriate?**

A. No. Unlike distribution services, distribution mains are common facilities that are not dedicated to an individual customer. Mains are installed to deliver natural gas to paying customers and are sized to meet the maximum load demand imposed on them. The costs of distribution mains are related to maximum system requirements and do not vary directly with the number of customers or their annual usage. Consequently, distribution mains are more appropriately classified as demand or capacity costs. Because classification affects allocation, this more appropriate classification means that the common costs are allocated on a basis other than customer-count, thereby significantly reducing the residential class cost burden.

While the minimum system approach is one of several accepted methodologies, it

is not without controversy. The methodology tends to overstate the customer component of costs for distribution mains; in particular, the methodology does not account for the minimum system's load carrying capability, which may be more than adequate to satisfy the demand of lower-use residential customers. Moreover, as observed by Professor Bonbright, there is only a "very weak correlation" between the area (or mileage) of a distribution system and the number of customers served by the system. "[I]f the company's entire service area stays fixed, an increase in the number of customers does not necessarily betoken any increase whatever in the costs of a minimum-sized distribution system." Bonbright, James, Danielson, Albert, Kamerschen, David, *Principles of Public Utility Rates*, 491-492 (1988).

Rate regulation of monopoly utility providers is intended to act as a substitute for competition. One objective of regulation is to provide customers of monopoly utility providers the protections that would be afforded by competition. In developing the total annual customer cost, the company relied on a cost allocation methodology that denies this essential customer-protection objective. WGL's use of the minimum system methodology to classify and allocate the cost of distribution mains inflates costs for the customer class that is least able to leave the system and thus most in need of protection. Because the company's cost of service study allocates an outsize share of costs to the residential class, it cannot provide guidance for equitable revenue apportionment and rate design.

The Commission recently declined to adopt a minimum system approach for allocating certain distribution costs of the Appalachian Power Company. *Application of Appalachian Power Company – For a statutory review of the rates, terms and conditions for the provision of generation, distribution and transmission services pursuant to section 56-585.1 A of the Code of Virginia,* Case No. PUE-2009-00030, Final Order (July 15, 2010), at 29, fn. 111. Given the "very weak correlation" described by Professor Bonbright, the uncertainties

inherent in developing any hypothetical construct, and the adverse and unreasonable impact of WGL's minimum system approach on the residential class, I recommend the same conclusion in this case: that the Commission decline to adopt WGL's methodology for classifying and allocating distribution mains costs.

RESEARCH AND DEVELOPMENT COSTS

15. **Q. Please explain WGL's proposal regarding the funding of research and development.**

A. As explained in the testimony of WGL witness Tracy Townsend, WGL proposes to assess customers $0.90 per year to allow participation in two Gas Technology Institute (GTI) research and development programs: GTI's Operations Technology Development (OTD) program and GTI's Utilization Technology Development (UTD) program. WGL witnesses Townsend and Ronald Edelstein discuss a total of 15 R&D projects funded through OTD and UTD that are of particular interest to WGL.

WGL's requested funding to allow participation in OTD and UTD is $0.50 and $0.40 per customer per year, respectively. Witness Tuoriniemi proposes a $437,338 adjustment to reflect this proposal.

In support of its proposal, WGL notes its participation in GTI's sustaining membership program and membership in GTI's keyhole technology program, which gives WGL some access to GTI's R&D efforts. WGL states that participation in designated OTD and UTD initiatives would advance existing processes associated with distribution operations and also would develop new product technologies that will benefit the end user.

16. **Q. Does WGL identify Commission precedent in support of its request?**

A. WGL does not identify a case in which the Commission resolved a contested issue regarding ratepayer funding for participation in OTD and UTD funding programs. WGL witness Edelstein refers to Case No. PUE-2003-00507 as a Virginia authorization for natural gas local distribution company participation in OTD and UTD funding programs, but fails to note that the case was resolved by stipulation of the parties approved by the Commission. Pursuant to paragraph 24 of the parties' agreement, the stipulation "represents a compromise for the purposes of settlement in this case only and shall not be regarded as a precedent with respect to any ratemaking or any other principle in any future case." *Application of Atmos Energy Corporation For an increase in rates,* Final Order, Case No. PUE-2003-00057 (January 7, 2005).

17. **Q. Do you support WGL's request regarding R&D funding?**

A. No. Essentially, WGL asks that ratepayers assume the risk and costs of WGL's preferred R&D initiatives while the company retains all benefit. If WGL's proposal is approved, ratepayers would be required to fund WGL's preferred R&D initiatives, but would not be entitled to realize any of the benefits of that R&D in the form of rate reductions or credits. WGL proposes no mechanism that would allow ratepayers to benefit from cost reductions attributable to successful OTD R&D that improves its distribution operations. Nor does it propose any mechanism that would allow ratepayers to benefit from additional revenue WGL derives from new product technologies developed by the UTD R&D program, particularly those that increase its natural gas sales. Such mechanisms would need to take into account the fact that certain programs, such as the UTD initiative regarding high-efficiency steam-driven combined heat and power (CHP) systems, also may benefit WGL's unregulated operations.

18. **Q. Do you have any additional concerns regarding the proposal?**

A. Yes. WGL witnesses Tracy Townsend and Ronald Edelstein describe various GTI R&D programs of interest to WGL. Mr. Edelstein states, however, that WGL's contributions to OTD and UTD would not necessarily be earmarked for GTI. Edelstein Direct at 21. He states that WGL "will have the ability to . . . place these R&D dollars with GTI or other research organizations for gas-consumer-interest R&D purposes." Edelstein Direct at 21. Mr. Edelstein neither identifies these other research organizations nor provides any information regarding their work. Mr. Edelstein also does not discuss the circumstances that would warrant the funding of a research organization other than GTI, nor the type of work that might be funded.

WGL does not propose to request the Commission's approval prior to funding one or more research organizations other than GTI, or even keep the Commission informed of such a change. Mr. Edelstein's testimony suggests that WGL may view R&D funding as a type of blank check, to be delivered to the organization or organizations of its choosing for the projects of its choosing.

WGL's proposal effectively assigns costs to captive ratepayers and benefits to shareholders. Concerns regarding inequity are heightened by the prospect that ratepayer funding of R&D may provide some benefit to WGL's unregulated operations. Rather than allay these concerns, witness Edelstein's testimony magnifies them by suggesting that WGL does not consider itself subject to Commission oversight regarding the research to be funded. The Commission should decline to approve WGL's proposed R&D funding.

HEXANE COST RECOVERY

19. **Q. Please explain WGL's proposal regarding the recovery of hexane costs.**

A. As explained by WGL witness Paul Buckley, WGL proposes to recover all

hexane commodity costs through the Purchased Gas Charge (PGC) for sales service customers and through the balancing charge for delivery service customers. In support of proposal, witness Buckley testifies that WGL believes that costs related to the injection of hexane are commodity costs and are appropriately recovered through the PGC/Actual Cost Adjustment (ACA) and Balancing Charge provisions of the company's tariffs.

WGL recognizes that the Commission may determine that it is inappropriate for WGL to recover the non-Btu portion of hexane via the PGC and proposes an alternative. Under this alternative, only an amount reflecting the Btu-related portion of hexane costs would be recovered through the PGC. This alternative approach apparently would continue the recovery method approved as part of the parties' stipulated resolution of Case No. PUE-2006-00059 and reflected in the revised tariffs approved in Case No. PUE-2010-00063 (*Application of Washington Gas Light Company For approval to recover hexane costs ad to revise tariffs*).

20. **Q. Do you support recovery of all hexane costs through the PGC, as WGL proposes?**

A. No, as there is no evidence that WGL is purchasing hexane as a fuel stock. It would appear more appropriate to continue the recovery method approved as part of the parties' stipulated resolution of Case No. PUE-2006-00059, which WGL proposes as an alternative approach.

WGL's PGC recovers the purchase and provision of specific sources of natural gas or commodity. In addition to the costs of natural gas, substitute natural gas (SNG), liquefied natural gas, and liquefied petroleum gas, WGL's PGC may include the costs of "[o]ther hydrocarbons used as feedstock for the production of" SNG and spot or emergency purchases. WGL Va. (Tariff) S.C.C. No. 9, General Service Provisions, 2nd Rev. 76, Sec. 16.A.2.(iii).d. The Commission

also has permitted WGL to recover via its PGC costs associated with the use of certain financial hedging instruments intended to help dampen the spikes in gas costs. Operational costs, including those relating to system maintenance and repair, are recovered through WGL's distribution and system charges.

While the hexane may have a Btu content that provides heating value to customers, this is an incidental attribute. There is no evidence to suggest that WGL is purchasing hexane (or another heavy hydrocarbon) as feedstock for the production of SNG. As WGL witness Buckley acknowledges, WGL believes the hexane injections more adequately protect the company's gas pipeline infrastructure. Buckley Direct at 34. Because the hexane is purchased for operational purposes rather than for fuel stock, cost recovery via the PGC is not warranted.

WGL seeks to use the PGC/ACA mechanism to recover a category of ordinary business expense that is currently a component of its cost of service. Cost recovery outside a base rate case undermines the matching of costs and revenues, which is fundamental to the establishment of just and reasonable rates, and shifts risk from the company to its ratepayers. WGL's proposal to recover all hexane costs via the PGC is inconsistent with both regulatory principles and its own tariff provisions and should be denied.

21. **Q. Does this conclude your testimony?**

A. Yes, it does.

EXHIBIT

WGL SCHEDULE EXCERPT

Development of Embedded System Charge Cost

Exhibit SMH ___ Schedule 1
Page 1

Washington Gas Light Company
Virginia

Development of Embedded System Charge Cost

Line No.	Description	Reference	Virginia Amount	Residential	Commercial & Industrial: Htg/Clg	Commercial & Industrial: Non-htg/Non-clg	Commercial & Industrial: Large C&I	Group Metered Apartments: Large GMA	Group Metered Apartments: Heating/Cooling	Group Metered Apartments: Non-htg/Non-clg	Interruptible	Line No.
	A	B	C=D+...+K	D	E	F	G	H	I	J	K	
1	Original Cost of Customer Facilities											1
2	Mains - Customer Component	Sch. RB, Pg 2, Line 17	$ 275,872,872	$ 262,462,407	$ 10,477,771	$ 668,006	$ 74,208	$ 13,387	$ 1,019,628	$ 873,241	$ 84,224	2
3	Services - Customer Component	Sch. RB, Pg 2, Line 22	323,684,320	308,173,108	12,302,590	784,347	87,132	15,719	1,197,207	1,025,326	98,892	3
4	Meters	Sch. RB, Pg 2, Line 27	14,669,576	10,432,474	3,173,353	111,648	48,099	12,166	589,990	166,081	215,765	4
5	Enscan Units	Sch. RB, Pg 2, Line 28	20,768,549	14,769,844	4,492,895	158,067	68,096	17,224	722,022	235,131	305,471	5
6	Index Correctors & Demand Recorders	Sch. RB, Pg 2, Line 29	2,585,622	-	2,205,203	56,292	8,390	1,353	160,575	136,669	17,140	6
7	Meter Installations	Sch. RB, Pg 2, Line 31	68,890,253	48,992,266	14,902,480	524,315	225,877	57,133	2,394,981	779,940	1,013,262	7
8	House Regulators	Sch. RB, Pg 2, Line 32	10,657,275	10,041,051	502,857	36,583	2,456	443	36,921	32,558	4,397	8
9	House Regulator Installations	Sch. RB, Pg 2, Line 33	3,460,138	3,260,066	163,265	11,881	797	144	11,987	10,571	1,428	9
10	Total	Sum of Lines 2 - 9	$ 720,388,606	$ 658,131,215	$ 48,220,213	$ 2,351,148	$ 515,054	$ 117,568	$ 6,053,312	$ 3,259,517	$ 1,740,578	10
11	Less: Reserve for Depreciation	Line 10 x footnote a/	290,730,799	265,095,254	19,842,618	964,676	213,902	48,803	2,507,282	1,335,750	722,514	11
12	Net Cost	Line 10 - Line 11	$ 429,657,807	$ 393,035,961	$ 28,377,595	$ 1,386,472	$ 301,152	$ 68,765	$ 3,546,030	$ 1,923,767	$ 1,018,064	12
13	Fixed Charges on Customer Facilities											13
14	Return @ 8.58%	Line 12 x footnote b/	$ 36,864,640	$ 33,722,485	$ 2,434,798	$ 118,959	$ 25,839	$ 5,900	$ 304,249	$ 165,059	$ 87,350	14
15	Depreciation Expense	Line 10 x footnote c/	17,393,012	15,860,962	1,186,217	57,603	12,773	2,916	149,517	79,858	43,166	15
16	General Tax Expense	Line 10 x footnote d/	6,109,601	5,528,302	448,448	21,866	5,202	1,187	57,506	29,336	17,754	16
17	Income Tax Expense	Line 12 x footnote e/	16,842,587	15,407,010	1,112,402	54,350	11,805	2,696	139,004	75,412	39,908	17
18	Total Fixed Charges	Sum of Lines 14 - 17	$ 77,209,840	$ 70,518,759	$ 5,181,865	$ 252,778	$ 55,619	$ 12,699	$ 650,276	$ 349,665	$ 188,178	18
19	Customer Accounts Expense											19
20	General Supervision	Sch EX, Pg 7, Line 2 + Line 3	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	20
21	Meter Reading	Sch EX, Pg 7, Line 6	2,855,964	2,690,827	134,757	9,806	658	119	9,894	8,725	1,178	21
22	Dispatch Applications & Orders	Sch EX, Pg 7, Line 9	4,642,395	4,373,963	219,049	15,940	1,070	193	16,083	14,183	1,915	22
23	Customer Collection Expense	Sch EX, Pg 7, Line 15	1,628,554	1,534,388	76,842	5,592	375	68	5,642	4,975	672	23
24	Customer Billing and Accounting	Sch EX, Pg 7, Line 18	3,860,334	3,637,122	182,148	13,255	889	160	13,374	11,793	1,593	24
25	Uncollectibles	Sch EX, Pg 7, Line 19	1,423,698	1,095,056	225,951	16,522	18,470	2,695	40,290	9,001	15,713	25
26	Total Customer Accounts Expense	Sum of Lines 20 - 25	$ 14,410,945	$ 13,331,355	$ 838,747	$ 61,115	$ 21,463	$ 3,235	$ 85,282	$ 48,677	$ 21,072	26
27	Other Operation & Maintenance Expense											27
28	Operation - Mains - Customer Component	footnote f/	$ 71,076	$ 67,671	$ 2,701	$ 172	$ 19	$ 3	$ 263	$ 225	$ 22	28
29	Operation - Removing & Resetting Meters	Sch EX, Pg 2, Lines 23 + 24	4,188,327	3,955,571	198,096	14,415	967	175	14,545	12,826	1,732	29
30	Operation - Service on Customer Premises	Sch EX, Pg 2, Lines 27 + 28	249,732	235,292	11,783	857	58	11	885	783	103	30
31	Maintenance - Mains - Customer Component	footnote f/	3,180,457	3,028,059	120,878	7,707	851	154	11,772	10,074	962	31
32	Maintenance - Services - Customer Component	footnote f/	3,618,367	3,444,951	137,549	8,768	973	175	13,386	11,462	1,103	32
33	Maintenance - Meter & Regulator Installations	Sch EX, Pg 4, Line 10	2,343,978	1,694,502	492,686	17,407	6,850	1,713	74,300	26,357	30,163	33
34	Total Other Operation & Maintenance Expense	Sum of Lines 28 - 33	$ 13,661,938	$ 12,426,046	$ 963,693	$ 49,327	$ 9,718	$ 2,231	$ 115,131	$ 61,707	$ 34,085	34
35	Total Annual Customer Cost	Lines 18 + 26 + 34	$ 105,282,723	$ 96,276,161	$ 6,984,304	$ 363,220	$ 86,800	$ 18,165	$ 850,689	$ 460,049	$ 243,335	35
36	Average Number of Customers	JBW-1, Schedule C	487,172	459,003	22,987	1,673	112	20	1,688	1,488	201	36
37	Calculated Annual Cost per Customer	Line 35 / Line 36		$ 209.75	$ 303.84	$ 217.14	$ 773.27	$ 897.02	$ 504.04	$ 309.11	$ 1,210.62	37
38	Number of Months Billed	Current Tariff		12	12	12	12	12	12	12	12	38
39	Calculated Monthly Cost per Customer	Line 37 / Line 38		$ 17.48	$ 25.32	$ 18.10	$ 64.44	$ 74.75	$ 42.00	$ 25.76	$ 100.89	39
40	Current System Charges	Current Tariff		$ 9.00	$ 16.35	$ 11.15	$ 16.35	$ 44.60	$ 44.60	$ 14.80	$ 100.00	40
41	Percent Collected through Present Charges	Line 40 / Line 39		51.49%	64.57%	61.60%	25.37%	59.67%	106.19%	57.45%	99.12%	41
42	Proposed System Charges	JBW-1, Schedule A		$ 11.25	$ 20.45	$ 13.60	$ 20.45	$ 44.60	$ 44.60	$ 18.10	$ 125.60	42
43	Percent Collected through Proposed Charges	Line 42 / Line 39		64.38%	80.77%	75.14%	31.73%	59.67%	106.19%	70.26%	123.90%	43

SEE PAGE 2 FOR FOOTNOTES

Washington Gas Light Company
Virginia

Exhibit SMH ___ Schedule 1
Page 2

Development of Embedded System Charge Cost - Footnotes to Page 1

Line No.	Description	Reference	Virginia Amount	Residential	Commercial & Industrial: Htg/Clg	Commercial & Industrial: Non-htg/Non-clg	Commercial & Industrial: Large C&I	Group Metered Apartments: Large GMA	Group Metered Apartments: Heating/Cooling	Group Metered Apartments: Non-htg/Non-clg	Interruptible	Line No.
	A	B	C=D+...+K	D	E	F	G	H	I	J	K	
2	a/ Determination of Reserve for Depreciation %											
3	Total Distribution Plant - GPIS	Sch. RB, Pg 2, Line 37	$1,116,052,698	$ 882,396,435	$ 142,852,642	$ 7,784,161	$ 16,191,778	$ 2,449,910	$ 32,622,435	$ 6,321,727	$ 25,433,609	2
4	Total Distribution Plant - Reserve for Depr.	Sch. RB, Pg 7, Line 16	451,828,753	355,449,355	58,784,578	3,193,711	6,724,045	1,017,036	13,510,900	2,590,582	10,558,565	3
5	Reserve as a percent of GPIS	Line 4 / Line 3	40.48%	40.28%	41.15%	41.03%	41.53%	41.51%	41.42%	40.98%	41.51%	4
6	b/ Proposed overall Rate of Return of 8.58%											5
7	c/ Determination of Distribution - Other Depreciation Expense %											6
8	Total Distribution Plant - GPIS	Sch. RB, Pg 2, Line 37	$1,116,052,698	$ 882,396,435	$ 142,852,642	$ 7,784,161	$ 16,191,778	$ 2,449,910	$ 32,622,435	$ 6,321,727	$ 25,433,609	7
9	Depreciation Expense - Distribution - Other	Sch. EX, Pg 6, Line 15	28,981,481	21,223,222	3,511,998	190,658	401,658	60,807	807,224	154,646	631,269	8
10	Expense as a percent of GPIS	Line 9 / Line 8	2.42%	2.41%	2.46%	2.45%	2.48%	2.48%	2.47%	2.45%	2.48%	9
11	d/ Determination of General Taxes Expense %											10
12	Total Distribution Plant - GPIS	Sch. RB, Pg 2, Line 37	$1,116,052,698	$ 882,396,435	$ 142,852,642	$ 7,784,161	$ 16,191,778	$ 2,449,910	$ 32,622,435	$ 6,321,727	$ 25,433,609	11
13	Total Property Taxes Expense	Sch. EX, Pg 8, Line 5	9,599,948	7,380,154	1,331,197	72,267	164,279	24,675	310,957	56,752	259,669	12
14	Expense as a percent of GPIS	Line 13 / Line 12	0.86%	0.84%	0.93%	0.93%	1.01%	1.01%	0.95%	0.90%	1.02%	13
15	e/ Determination of Income Tax Expense %											14
16	Preferred Stock Pre-tax Cost @ 4.790%	Workpapers	0.13%									15
17	Common Equity Pre-tax Cost @ 10.50%	Workpapers	9.94%									16
18	Total Preferred and Common	Line 16 + Line 17	10.07%									17
19	Composite Tax Rate	Workpapers	38.90%									18
20	Income Tax Expense as a % of Net Cost	Line 18 x Line 19	3.92%									19
21	f/ Determination of Other O&M Expense ratios											20
22	Distribution Mains Investment											21
23	Demand Component	Sch. RB, Pg 2, Line 15	$ 306,293,621	$ 195,269,106	$ 61,284,926	$ 3,549,175	$ 10,618,888	$ 1,467,494	$ 15,490,815	$ 2,341,727	$ 16,271,690	22
24	Customer Component	Sch. RB, Pg 2, Line 17	275,672,872	262,462,407	10,477,771	668,006	74,208	13,387	1,919,628	873,241	84,224	23
25	Total	Line 23 + Line 24	$ 581,966,493	$ 457,731,513	$ 71,762,698	$ 4,217,181	$ 10,693,096	$ 1,480,882	$ 16,510,243	$ 3,214,968	$ 16,355,914	24
26	Customer Component percentage	Line 24 / Line 25	47.37%	57.34%	14.60%	15.84%	0.69%	0.90%	8.18%	27.16%	0.51%	25
27	Total Operation - Mains Expense	Sch EX, Pg 2, Line 22	$ 150,048	$ 118,017	$ 18,503	$ 1,087	$ 2,757	$ 382	$ 4,257	$ 829	$ 4,217	26
28	Customer Component Operation - Mains	Line 27 x Line 26	$ 71,076	$ 67,671	$ 2,701	$ 172	$ 19	$ 3	$ 263	$ 225	$ 22	27
29	Total Maintenance - Mains	Sch EX, Pg 4, Line 8	$ 6,714,193	$ 5,280,885	$ 827,832	$ 48,654	$ 123,367	$ 17,085	$ 190,480	$ 37,091	$ 188,899	28
30	Customer Component Maintenance - Mains	Line 29 x Line 26	$ 3,180,457	$ 3,028,059	$ 120,878	$ 7,707	$ 851	$ 154	$ 11,772	$ 10,074	$ 962	29
31	Distribution Services Investment											30
32	Capacity Component	Sch. RB, Pg 2, Line 20	$ 57,125,242	$ -	$ 31,595,593	$ 1,001,041	$ 5,000,689	$ 855,424	$ 10,729,844	$ 622,360	$ 7,320,291	31
33	Customer Component	Sch. RB, Pg 2, Line 22	323,684,320	308,173,108	12,302,590	784,347	87,132	15,719	1,197,207	1,025,326	98,892	32
34	Total	Line 32 + Line 33	$ 380,809,562	$ 308,173,108	$ 43,898,183	$ 1,785,388	$ 5,087,821	$ 871,143	$ 11,927,051	$ 1,647,686	$ 7,419,183	33
35	Customer Component percentage	Line 33 / Line 34	85.00%	100.00%	28.03%	43.93%	1.71%	1.80%	10.04%	62.23%	1.33%	34
36	Total Maintenance - Services	Sch EX, Pg 4, Line 8	$ 4,256,927	$ 3,444,951	$ 490,721	$ 19,958	$ 56,875	$ 9,738	$ 133,328	$ 18,419	$ 82,936	35
37	Customer Component Maintenance - Services	Line 36 x Line 35	$ 3,618,367	$ 3,444,951	$ 137,549	$ 8,768	$ 873	$ 175	$ 13,388	$ 11,462	$ 1,103	36
												37

Board Agenda Item
September 27, 2011

11:30 a.m.

Matters Presented by Board Members

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Board Agenda Item
September 27, 2011

12:20 p.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. Claim of Alicia Maldonado Torres (Mount Vernon District)

2. Claim of Alan and Brenda Smith (Hunter Mill District)

3. *James Darden v. Colonel David M. Rohrer, Officer Christian J. Chamberlain, Officer Mohammed S. Oluwa, and Fairfax County*, Case No. 1:11cv828 (E.D. Va.)

4. *Eileen M. McLane, Fairfax County Zoning Administrator v. Anthony Eller and Barbara D. Eller*, Record No. 111252 (Va. Sup. Ct.) (Providence District)

5. *Eileen M. McLane, Fairfax County Zoning Administrator v. Mohammed J. Abdlazez*, Case No. CL-2008-0006965 (Fx. Co. Cir. Ct.) (Mason District)

6. *Eileen M. McLane, Fairfax County Zoning Administrator v. Marlon Carballo*, Case No. CL-2011-0008690 (Fx. Co. Cir. Ct.) (Lee District)

7. *Eileen M. McLane, Fairfax County Zoning Administrator v. Ahmed R. Bizri*, Case No. CL-2011-0004073 (Fx. Co. Cir. Ct.) (Dranesville District)

8. *Eileen M. McLane, Fairfax County Zoning Administrator v. Edward E. Ankers, Jr., and Edward E. Ankers, III*, Case No. CL-2006-0010511 (Fx. Co. Cir. Ct.) (Hunter Mill District)

9. *Eileen M. McLane, Fairfax County Zoning Administrator v. Denzal L. Williams and Lucille M. Williams*, Case No. CL-2011-0005856 (Fx. Co. Cir. Ct.) (Lee District)

10. *Michael R. Congleton, Property Maintenance Code Official for Fairfax County, Virginia v. Su Yong Kong and Kyung N. Kong***,** Case No. CL-2011-0009508 (Fx. Co. Cir. Ct.) (Providence District)

11. *Eileen M. McLane, Fairfax County Zoning Administrator v. Michael P. Savage*, Case No. CL-2008-0000541 (Fx. Co. Cir. Ct.) (Lee District)

12. *Eileen M. McLane, Fairfax County Zoning Administrator v. Ruben Perez and Sonia M. Montecinos*, Case No. CL-2010-0017148 (Fx. Co. Cir. Ct.) (Mason District)

13. *Eileen M. McLane, Fairfax County Zoning Administrator v. Eduardo Severich and Maria A. Severich*, Case No. CL-2011-0009177 (Dranesville District)

14. *Eileen M. McLane, Fairfax County Zoning Administrator v. Loc D. Le and Dung N. Le*, Case No. CL-2011-0004305 (Fx. Co. Cir. Ct.) (Providence District)

15. *Eileen M. McLane, Fairfax County Zoning Administrator v. Jorge F. Landivar and Patricia J. Landivar*, Case No. CL-2011-0006715 (Fx. Co. Cir. Ct.) (Dranesville District)

16. *Eileen M. McLane, Fairfax County Zoning Administrator v. Philip W. Bradbury*, Case No. CL-2011-0009319 (Fx. Co. Cir. Ct.) (Mount Vernon District)

17. *Eileen M. McLane, Fairfax County Zoning Administrator v. Victoriano Zurita, Charles Fredy Zurita Martinez, Sandro Zurita Martinez, Guido Zurita Martinez, Orlex Alexander Zurita Martinez, and Wilmer Genry Zurita Martinez*, Case No. CL-2011-0005998 (Fx. Co. Cir. Ct.) (Mason District)

18. *Michael R. Congleton, Property Maintenance Code Official for Fairfax County, Virginia v. Ruth S. Wong*, Case No. CL-2010-0005963 (Fx. Co. Cir. Ct.) (Mason District)

19. *Eileen M. McLane, Fairfax County Zoning Administrator v. Ransell Property, LLC*, Case No. CL-2010-0014720 (Fx. Co. Cir. Ct.) (Providence District)

20. *In Re: July 27, 2011, Decision of the Board of Zoning Appeals of Fairfax County*, Case No. CL-2011-0012444 (Fx. Co. Cir. Ct.) (Providence District)

21. *Eileen M. McLane, Fairfax County Zoning Administrator v. Tariq Ahmad and Ata Ul Qayyum*, Case No. CL-2011-0012293 (Fx. Co. Cir. Ct.) (Lee District)

22. *Eileen M. McLane, Fairfax County Zoning Administrator v. Placido Amurrio and Lourdes Amurrio***,** Case No. CL-2011-0012637 (Fx. Co. Cir. Ct.) (Mason District)

23. *Michael R. Congleton, Property Maintenance Code Official for Fairfax County, Virginia v. KLM and Mary Ellen Talbert*, Case No. CL-2011-0012724 (Fx. Co. Cir. Ct.) (Mount Vernon District)

24. *Eileen M. McLane, Fairfax County Zoning Administrator, and Michael R. Congleton, Property Maintenance Code Official for Fairfax County, Virginia v. Canh Van Nguyen and Khanh T. Huynh Nguyen*, Case No. CL-2011-0012719 (Fx. Co. Cir. Ct.) (Mason District)

25. *Eileen M. McLane, Fairfax County Zoning Administrator v. Lucy W. Berkebile***,** Case No. 2011-0012842 (Fx. Co. Cir. Ct.) (Dranesville District)

26. *Eileen M. McLane, Fairfax County Zoning Administrator, and Michael R. Congleton, Property Maintenance Code Official for Fairfax County, Virginia v. Charilene N. Lucas, a.k.a. Christine N. Lucas***,** Case No. CL-2011-0012915 (Fx. Co. Cir. Ct.) (Lee District)

27. *Eileen M. McLane, Fairfax County Zoning Administrator v. Nehemias O. Salvador*, Case No. CL-2011-0012880 (Fx. Co. Cir. Ct.) (Mason District)

28. *Eileen M. McLane, Fairfax County Zoning Administrator v. Victor Diaz and Myrnal A. Hernandez*, Case No. CL-2011-0007503 (Fx. Co. Cir. Ct.) (Providence District)

29. *Eileen M. McLane, Fairfax County Zoning Administrator v. Margaretha Carroll McGrail, Trustee under the Margaretha Carroll McGrail Revocable Trust*, Case No. CL-2011-0013323 (Fx. Co. Cir. Ct.) (Dranesville District)

Board Agenda Item
September 27, 2011

3:30 p.m.

Public Hearing on RZ 2010-MV-011 (Memorial Venture, LLC) to Rezone from PRM, CRD and HC to C-8, CRD and HC to Permit Commercial Development with an overall Floor Area Ratio of 0.11 and Modifications and Waivers in a CRD, Located on Approximately. 1.23 Acres, Mount Vernon District

The application property is located at the southeast quadrant of the intersection of East Lee. Avenue and Richmond Hwy. Tax Map 93-1 ((18)) (D) 117, 126, 130 and 138.

PLANNING COMMISSION RECOMMENDATION:
On Wednesday, July 20, 2011, the Planning Commission voted 10-0-2 (Commissioners Donahue and Hall abstaining) to recommend the following actions to the Board of Supervisors:

- Approval of RZ 2010-MV-011, subject to the execution of the proffers dated July 19, 2011;
- Modification of the transitional screening and barrier requirements along the eastern and southern property lines;
- Modification of the peripheral parking lot landscaping requirements along the northern, eastern, and southern property lines;
- Modification of the Richmond Highway Commercial Revitalization District streetscape requirements along Richmond Highway and East Lee Avenue, in favor of that shown on the Generalized Development Plan;
- Approval of a deviation from the tree preservation requirement target to that shown on the Generalized Development Plan;
- Waiver of the minimum lot width; and,
- Waiver of the service drive requirement along Richmond Highway.

ENCLOSED DOCUMENTS:
Attachment 1 - Verbatim
Staff Report previously furnished and available online at
http://ldsnet.fairfaxcounty.gov/ldsnet/ldsdwf/4352515.PDF

Board Agenda Item
September 27, 2011

STAFF:
Barbara Berlin, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
Kelli-Mae Goddard-Sobers, Staff Coordinator, Zoning Evaluation Division, DPZ

Planning Commission Meeting Attachment 1
July 20, 2011
Verbatim Excerpt

RZ 2010-MV-011 – MEMORIAL VENTURE, LLC

Decision only During Commission Matters
(Public Hearing held on June 23, 2011)

Commissioner Flanagan: Well, I'm sure – I hope this goes a little faster than the public hearings, but – yes, Mr. Chairman, I think the first item I want to bring up would be the deferral motion for Memorial Venture. That's RZ 2010-MV-011. If you remember, we had the public hearing not only with staff recommending denial of this application, but also the Land Use Committee of the Mount Vernon Council was also recommending denial. And on top of that, the applicant came in and during their testimony offered an alternate to the proposal as it was presented in the staff report, so consequently that was the basis for my recommending that we defer the decision until tonight. And so we're at this point now. I would like to say that I think that the community has spent many, many times on this and finally I have the support of the Land Use Committee of the Mount Vernon Council and we have the support of the staff as well, so I MOVE THAT THE COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF RZ 2010-MV-011, SUBJECT TO THE EXECUTION OF THE PROFERS DATED JULY 19, 2011.

Commissioners Litzenberger and Sargeant: Second.

Chairman Murphy: Seconded by Mr. Litzenberger and Mr. Sargeant. Is there a discussion of the motion?

Commissioner Litzenberger: Mr. Chairman?

Chairman Murphy: Mr. Litzenberger, please.

Commissioner Litzenberger: Thank you, Mr. Chairman. I would like to make an important point on this application in that when I was on the Housing Authority, one of our big concerns was urban blight, especially along the Route 1 corridor. And in the past we've had plenty of federal dollars on how to fight that kind of fight. Those dollars have gone away, yet this proposal to rezone will improve the tax base, make the citizens happy, and also not cost the taxpayers a cent. So I just want to put that in the record.

Chairman Murphy: Thank you very much. Further discussion of the motion? All those in favor of the motion to recommend to the Board of Supervisors that it approve RZ 2010-MV-011, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Mr. Flanagan?

Commissioner Hall: Abstain. Not present.

Chairman Murphy: All right, Ms. Hall abstains. Not present for the public hearing.

Commissioner Donahue: Mr. Chairman? Also, Mr. Chairman, I abstain.

Chairman Murphy: Yes, Mr. Donahue abstains. Not present for the hearing.

Commissioner Sargeant: Mr. Chairman? May I make a note? I was not present for the public hearing, but I did review the video of that entire public hearing. So I am available.

Chairman Murphy: So noted. Mr. Flanagan?

Commissioner Flanagan: Just a request of the Chair. I have six more motions. Is it possible to make them a part of an omnibus motion?

Chairman Murphy: Sure.

Commissioner Flanagan: Okay, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF A MODIFICATION OF THE TRANSITIONAL SCREENING AND BARRIER REQUIREMENTS ALONG THE EASTERN AND SOUTHERN PROPERTY LINES. AND I ALSO RECOMMEND THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF A MODIFICATION OF THE PERIPHRIAL PARKING LOT LANDSCAPING REQUIREMENTS ALONG THE NORTHERN, EASTERN, AND SOUTHERN PROPERTY LINES. AND I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF A MODIFICATION OF THE RICHMOND HIGHWAY COMMERCIAL REVITALIZATION DISTRICT STREETSCAPE REQUIREMENTS ALONG RICHMOND HIGHWAY AND EAST LEE AVENUE, IN FAVOR OF THAT SHOWN ON THE GENERALIZED DEVELOPMENT PLAN. AND I ALSO MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF A DEVIATION FROM THE TREE PRESERVATION TARGET REQUIREMENT TO THAT SHOWN ON THE GDP. I NEXT MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF A WAIVER OF THE MINIMUM LOT WIDTH REQUIREMENT. AND FINALLY, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF A WAIVER OF CONSTRUCTION OF THE SERVICE DRIVE REQUIRED ALONG RICHMOND HIGHWAY.

Commissioner Litzenberger: Second.

Chairman Murphy: Second by Mr. Litzenberger. Is there a discussion of them there motions? All those in favor of the motions as articulated by Mr. Flanagan, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

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(The motions carried by votes of 10-0-2 with Commissioners Donahue and Hall abstaining.)

JLC

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Board Agenda Item
September 27, 2011

3:30 p.m.

Public Hearing on RZ 2010-PR-014-A (Georgelas Group, LLC) to Rezone from I-5 and HC to PTC and HC to Permit Mixed Use Development with an Overall Floor Area Ratio (FAR) of 6.33 and Approval of the Conceptual Development Plan, Located on Approximately 1.56 Acres, Providence District

and

Public Hearing on RZ 2010-PR-014-B (Georgelas Group, LLC) . to Rezone from I-5 to PTC to Permit Mixed Use Development with an Overall Floor Area Ratio (FAR) of 7.25 and Approval of the Conceptual Development Plan, Located on Approximately 5.51 Acres, Providence District

The application property RZ 2010-PR-014-A is located on the E. side of Leesburg Pk. and S. of Spring Hill Rd. approx. 250 ft. W. of its intersection with Greensboro Dr. Tax Map 29-3 ((1)) 48D.

The application property RZ 2010-PR-014-B is located on the N. side of Spring Hill Rd. directly opposite its intersection with Greensboro Dr. Tax Map 29-3 ((1)) 60C

PLANNING COMMISSION RECOMMENDATIONS:
On Wednesday, September 21, 2011, the Planning Commission voted 5-0-3 (Commissioners de la Fe, Flanagan, and Murphy abstaining; Commissioner Sargeant recused; Commissioners Donahue, Hall, and Harsel absent from the meeting) to recommend the following actions to the Board of Supervisors pertinent to the subject application:

- Approval of RZ 2010-PR-014-A subject to proffers consistent with those dated September 20, 2011;

- Approval of FDP 2010-PR-014-A, subject to the development conditions dated September 20, 2011, and subject to the Board's approval of the rezoning; and

- Approval of RZ 2010-PR-014-B, subject to proffers consistent with those dated September 20, 2011, and to Conceptual Development Plan (CDP) development conditions consistent with those dated September 20, 2011.

In addition, the following series of recommended modifications and waivers apply to both RZ 2010-PR-014-A and RZ 2010-PR-014-B:

- Modification of all trails and bike trails, in favor of the streetscape and on-road bike lane system shown on the Plans;

- Waiver of Section 17-201, Paragraph 3 of the Zoning Ordinance, to provide any additional interparcel connections to adjacent parcels beyond that shown on the Plans and as proffered;

- Waiver of Section 17-201, Paragraph 4 of the Zoning Ordinance, requiring any further dedication and construction for widening existing roads to address Comprehensive Plan requirements beyond that which is indicated in the plans and proffers;

- Waiver of Section 6-506, Paragraph 1 of the Zoning Ordinance, requiring a minimum of district size of 10 acres in the Planned Tysons Corner (PTC) Urban District;

- Waiver of Section 11-102, Paragraph 8 of the Zoning Ordinance, requiring a one foot setback from the property line for underground parking garages;

- Modification of Section 7-0802.2 of the Public Facilities Manual (PFM) to allow for the projection of structural columns into parking stall to no more than four percent of the stall area;

- Modification of Section 7-0800 of the PFM to allow for the use of tandem parking spaces with valet service to be counted as required parking;

- Waiver to allow the use of underground stormwater management and best management practices in a residential development, subject to Waiver number 8158-WPFM-001-2;

- Modification of the 10 year tree canopy requirements and the tree preservation target, in favor of that shown on the Plans and as proffered; and

- Modification of Section 12-0702 1B (2) to permit the reduction of the minimum planter opening area for trees used to satisfy the tree cover requirement, in favor of that shown on the plans and as proffered.

ENCLOSED DOCUMENTS:
Attachment 1 – Verbatim excerpt from September 21, 2011 Planning Commission meeting
Staff Report previously furnished and available online at
http://ldsnet.fairfaxcounty.gov/ldsnet/ldsdwf/4360625.PDF

STAFF:
Barbara Berlin, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
Tracy Strunk, Senior Staff Coordinator, Zoning Evaluation Division, DPZ

Planning Commission Meeting
September 21, 2011
Verbatim Excerpt

RZ/FDP 2010-PR-014-A - GEORGELAS GROUP, LLC
RZ 2010-PR-014-B - GEORGELAS GROUP, LLC

Decision Only During Commission Matters
(Public Hearing held on September 8, 2011)

Commissioner Lawrence: Thank you very much, Mr. Chairman. I'm ready to go.

Chairman Murphy: All right, now we go on verbatim.

Commissioner Lawrence: Mr. Chairman, tonight we have the decision on RZ/FDP 2010-PR-014-A and RZ 2010-PR-014-B, the Georgelas applications, located close to the westernmost of the four planned Tysons rail stations. We held the public hearing on these applications on September 8th. These are the first major applications under the new PTC Ordinance for Tysons Corner. The Comprehensive Plan for Tysons was approved by the Board of Supervisors on June 22nd, 2010; we reach our first action a few months more than one year later. But this work goes back much further. The Tysons Demonstration Project which these applications begin to bring forward was conceived in 2009, while the Plan and the Ordinance were still being spelled out. An important purpose of the Demonstration Project was to inform the Plan even as it was formulated; the project has indeed served that purpose. The Tysons Comprehensive Land Use Plan was in turn based, by direction of the Board, on the recommendations made by the Tysons Land Use Task Force, which began its work in 2004 and issued its report in September of 2008. What we do tonight begins to provide substance to the vision of Tysons shown in those recommendations. We expect that the completion of the transformation of Tysons Corner which begins here tonight will occupy this body and the Board of Supervisors on many occasions like this one for years to come. We have arrived at a moment of some significance. Gratitude is due to all the many people who provided time and talent in abundance on the pathway to this point. At the public hearing, through in-person testimony and by correspondence for the record, there were compliments on and endorsements of the proposed FDP for Building F1 and the CDPs for the G buildings. In an unusual and helpful step, the proffer set for the proposals delineates early on what the major public facilities contributions to be made by the applicants will be. Those interested were able to review up front what it was that would help fit the whole proposal into the Tysons urban context and offset its impact. Although most of what I have to say tonight addresses the questions raised about the proposal at the public hearing, I hope all who hear this presentation will keep in mind that there was significant support for it. The reason there are several items to cover is that it is a large, complex, and pioneering proposal, and a departure from our more suburban past. I'll first cover a few of the items I raised at the public hearing. All questions from all sources have been considered. What follows should illustrate what's been done. Tysons will be a 21st century city. Besides the usual utilities, there will be fiber connections for such features as smart roads and wireless devices. The applicant will provide pathways for fiber networking. As future technology unfolds, alternate sources of energy will become available and cost-effective, and in the same way it will become cost-effective to share energy among buildings. I note that this latter point was also

raised in testimony at the public hearing. The applicant now addresses these concepts in proffers, and there will be more on this as further submittals for this project are made. I should point out, though, that as I understand it there are some regulatory issues that need to be resolved in the area of sharing energy from alternate sources across property lines; I believe work is underway for that purpose. I asked about the pinch-point on what's called Condominium Street. Given the proximity of the parking structure wall at the Greensboro Conference Center, and the youthfulness of that building complex, it will be a long time before there may be a chance to relieve that pinch-point. As other projects develop in Tysons there will for more than one reason be other tight situations, but we will continue to strive for the unfettered circulation of pedestrians as well as wheeled vehicles. I asked for some staff discussion on how the project functions in the way we have come to accept as the Plan for achieving a balance between intensity and multi-modal transportation in Tysons. Staff emphasizes that the project as a whole satisfies this balance. When the transportation impacts of the proposed uses are quantified, allowing for the mix of uses and the synergy effects of urban TOD, the trips to be generated are such that the overall level of service, for instance, that we seek in Tysons is met. By committing to extend Greensboro Drive and meeting the Comprehensive Plan recommendations for TDM, the applicant has improved upon the level of service measures originally assumed for intersections studied in the State-approved 527 Traffic Impact Analysis. Further, the residential development proposed in the applications will begin to create a pattern of live-work within Tysons as well as contra-flow commuting from the Tysons Core offsetting the influx of traffic entering the Urban Center. I note that in the area of transportation, the Board and the State have agreed to a Memorandum of Understanding on Urban Street Design Standards, with design specs for the various Tysons street types. This is a major accomplishment by our County Office of Transportation. The standards will be incorporated in the Demonstration Project and future Tysons redevelopment. I asked whether the active recreation provisions in the proposal were adequate. Staff is now satisfied that for the submittals we have so far, they are. I want to add this point: the Park Authority has internalized the impact of the Tysons transformation, as can be seen in the special standards set they have formulated for Tysons. This extends to the area of playing fields. In the present application, there is a proffer for efforts at acquiring land to be dedicated to the Park Authority. If this approach succeeds, the regular master planning process would then be applied to the land. That process is an open process with public input. I believe that playing fields will receive the priority due to them in this process, and I note that in addition to Park Authority requirements for such things as vegetative screens and buffers between fields and neighboring residential, there is Plan language addressing those things which applies here. Apart from this present application, I want to point out that playing fields will continue to be a very high matter of concern in the course of Tysons redevelopment and our efforts to assure a sufficient number of them will continue. Questions from several people were addressed to trees. The applicant has asked for a waiver of the tree canopy requirement, which in Tysons is 10 percent at 10 years' growth. It's noted that the street trees, which count towards the canopy, will be in the public right-of-way. We are at work on a proffer which should show up in later applications on this project; the object is to set up the means to do plantings elsewhere that will offset the impact of urban density on the tree canopy, and provide a little insurance against unforeseen future events involving the public right-of-way. It was also asked whether line-of-sight requirements would eliminate trees. With the present design speeds for the roads, there is one tree which is threatened in this application; there is hope that time is on our side here, that is, that the tree

will have grown enough so that by the time it comes up, the obstruction to sight lines can be cleared by limbing rather than by removing the tree. The applicant was concerned about the tree planting soil depth required in a development condition. It's now been agreed that a more shallow depth will suffice, provided that the total volume of soil remains adequate for nourishing the tree. Stormwater management was also the topic of several questions. Staff and the applicant assure that on its building area, Building F will achieve the Tysons first inch detainment expectation. While the entire first inch is not captured for that portion of the site, which will become the public street and streetscape, this is in large part because the applicant does not have full control over what facilities might be acceptable to VDOT and the County in that public area. Staff has indicated that they feel the proposal does meet the intent of the Plan, and will continue to work with applicants and VDOT to increase the range of facilities that might be utilized in public rights-of way. Also, the capacity of the stormwater detention system has been designed to meet PFM requirements for successive storms, and the 72-hour retention feature takes dry winter periods into account as well as wetter summers. Retained water will be used for cooling and irrigation, and the longer holding period that is recognized in the plans and proffers takes into account the fact that, if the holding tank is full and the temperature outside is cool, the cooling system might not need to use all the water in the holding tank as quickly as in warmer months. Incidentally the cooling use is different in residential buildings than in offices; the engineers have met this challenge. As the designs evolved, the requirements for stormwater retention capacity became more clear, and the areas to be dedicated to VDOT were no longer included. This resulted in a smaller retention volume, which can be seen in the changes between drawings for early July and the late August iterations. The question of height for the G buildings in the 014B application was raised. The height increase allows for the inclusion of the workforce housing units in these buildings, but also is requested because of the inclusion of the fire station and the impact of the Greensboro Drive extension. However, we have pointed out to the applicant that at the time of FDPs for these buildings, height will be revisited, for at least the reason behind the Plan language on a varied skyline in Tysons, and also because we will know more at that time about the design of the fire station and how that impacts the massing of the buildings. There were questions on the TDM program. One was addressed to the quality of surveys. Survey design and administration will be done under County oversight, as a means to help assure valid and reliable results. The TDM penalty provision, I have to say, has not been defined by the experience of implementation and we hope not to, as we want TDM programs to succeed. The remedy provisions, where programs are strengthened if need be, illustrate that. Certainly the penalty amount should be in proportion or scale to the scope of a TDM program and its relationship to overall achievement of the needed Tysons mode splits. It was with those factors in mind that the amount for this application was set. The 45-cent per square foot of residential development equates to a total potential exposure of approximately $970,000 in penalties in today's dollars. This total is expected to increase with inflation based on changes to the CPI-U; therefore, the financial impact to the developer is expected to be substantial even with the passage of time. I'd like to conclude with one more general matter relating to support for the applications. I mentioned earlier that we received and heard expressions of support from such organizations as the Coalition for Smarter Growth, the Sierra Club, and the Rotonda. We also received conditional expressions of support from the McLean Citizens' Association. Two such conditions were imposed. First, with regard to 014-A, the MCA desires that the schools proffers reflect a revision of County policy – I quote – "to conform with sound economic

principles" – end quote. I must note that the Planning Commission does not make or alter such policy, and therefore cannot accept the condition. I recommend that the MCA consult the Board of Supervisors on this matter. Second, with regard to both applications, the MCA desires agreement to a specific Tysons cost recovery ratio. Mr. Chairman, I must state that the Planning Commission's Tysons Committee, at the direction of the Board, is now engaged in deliberations on the question of responsibility for Tysons costs. No recommendation has been made at this point on any ratio, or even on the basic applicability of a ratio construct for cost recovery. I should note for completeness that it is recognized that aside from Federal support, the principal responsibility for roads in our County lies with the State. However, since no recovery ratio of any sort is presently in place, this condition is also unacceptable. To the extent that MCA support is absolutely dependent on these conditions, I am sorry to say that I must move onward without it. Mr. Chairman, I now have several motions to make. Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF RZ 2010-PR-014-A SUBJECT TO PROFFERS CONSISTENT WITH THOSE DATED SEPTEMBER 20TH, 2011.

Commissioners Alcorn and Hart: Second.

Chairman Murphy: Seconded by Mr. Hart and Mr. Alcorn.

Commissioner Flanagan: Abstain.

Commissioner de la Fe: Mr. Chairman?

Chairman Murphy: Is there a discussion? Yes, and then Mr. Flanagan.

Commissioner de la Fe: Mr. Chairman, I just wanted to make a short statement. I have followed the progress on this case throughout its – you know, from the beginning and I commend staff and Ken and the applicant and I looked forward to being here at the public hearing. However, because of a personal emergency I missed the public hearing and only for that reason will I be abstaining on all these motions, but I commend you on this and thank you.

Chairman Murphy: Mr. Flanagan?

Commissioner Flanagan: Yes, I too will be abstaining as I was not present for the public hearing and I will be abstaining on all the motions of Commissioner Lawrence.

Chairman Murphy: We might have a baseball score. I also will have to abstain. I was out of town and I did not have an opportunity – carried by a vote of one. Ken's going to support his motions I might add parenthetically, but I do – I want to congratulate the applicant and the staff. I've been following this. I've read the staff report. I've read the testimony that came in while I was away, but to be fair with other precedents we've set at the Planning Commission it's been our tradition that we will not vote on a public hearing that we are absent from without viewing the video and I unfortunately did not have the opportunity to view it since I got back late Sunday, but I do think there was a lot of work

obviously put into this application. It not only reflects what's in the staff report and what's in Mr. Lawrence's motion and his excellent summary, but it also reflects all the hard work of the citizens, the Task Force, the Planning Commission Committee, and all the staff people and all the citizens that participated in this process were – I guess it goes back eight years – and this is a reflection of all that hard work into making what Mr. Lawrence said, a city for the 21st century. And I think you're all to be congratulated and I really regret personally that I have to abstain. All those in favor of the motion to recommend to the Board of Supervisors that it approve RZ 2010-PR-014-A, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed, motion carries. Same abstentions. We'll go through the same abstentions all the time, Jake. Okay?

Commissioner Lawrence: I MOVE THAT THE PLANNING COMMISSION APPROVE FDP 2010-PR-014-A, SUBJECT TO THE DEVELOPMENT CONDITIONS DATED SEPTEMBER 20TH, 2011 AND SUBJECT TO THE BOARD'S APPROVAL OF THE REZONING.

Commissioners Alcorn and Hart: Second.

Chairman Murphy: Seconded by Mr. Alcorn and Mr. Hart. Discussion? All those in favor of the motion to approve FDP 2010-PR-014-A, subject to the – the Board's approval of the Rezoning and Conceptual Development Plan, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Lawrence: I FURTHER MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF RZ 2010-PR-014-B, SUBJECT TO PROFFERS CONSISTENT WITH THOSE DATED SEPTEMBER 20TH, 2011 AND TO CDP DEVELOPMENT CONDITIONS CONSISTENT WITH THOSE DATED SEPTEMBER 20TH, 2011.

Commissioners Alcorn and Hart: Second.

Chairman Murphy: Seconded by Mr. Alcorn and Mr. Hart. Is there a discussion of the motion? All those in favor of the motion, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Same abstentions.

Commissioner Lawrence: And now I have a series of modifications and waivers to make, all of which apply to both RZ 2010-PR-014-A and RZ 2010-PR-014-B. I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS A MODIFICATION OF ALL TRAILS AND BIKE TRAILS, IN FAVOR OF THE STREETSCAPE AND ON-ROAD BIKE LANE SYSTEM SHOWN ON THE PLANS.

Commissioners Alcorn and Hart: Second.

Chairman Murphy: Seconded by Mr. Hart and Mr. Alcorn. Discussion? All those in favor, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Lawrence: I MOVE THAT THE PLANNING COMMISSION RECOMMEND A WAIVER OF SECTION 17-201, PARAGRAPH THREE OF THE ZONING ORDINANCE, TO PROVIDE ANY ADDITIONAL INTER-PARCEL CONNECTIONS TO ADJACENT PARCELS BEYOND THAT SHOWN ON THE PLANS AND AS PROFFERED.

Commissioners Alcorn and Hart: Second.

Chairman Murphy: Seconded by Mr. Hart and Mr. Alcorn. Discussion? All those in favor of the motion, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Same abstentions.

Commissioner Lawrence: I MOVE THAT THE PLANNING COMMISSION RECOMMEND A WAIVER OF SECTION 17-201, PARAGRAPH FOUR OF THE ZONING ORDINANCE, REQUIRING ANY FURTHER DEDICATION AND CONSTRUCTION FOR WIDENING EXISTING ROADS TO ADDRESS COMPREHENSIVE PLAN REQUIREMENTS BEYOND THAT WHICH IS INDICATED IN THE PLANS AND PROFFERS.

Commissioners Alcorn and Hart: Second.

Chairman Murphy: Seconded by Mr. Hart and Mr. Alcorn. Discussion? All those in favor of the motion, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Same abstentions.

Commissioner Lawrence: I MOVE THAT THE PLANNING COMMISSION RECOMMEND A WAIVER OF SECTION 6-506, PARAGRAPH ONE OF THE ZONING ORDINANCE, REQUIRING A MINIMUM OF DISTRICT SIZE OF 10 ACRES IN THE PTC DISTRICT.

Commissioners Alcorn and Hart: Second.

Chairman Murphy: Seconded by Mr. Hart and Mr. Alcorn. Discussion? All those in favor, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Same abstentions.

Commissioner Lawrence: I MOVE THAT THE PLANNING COMMISSION RECOMMEND A WAIVER OF SECTION 11-102, PARAGRAPH EIGHT OF THE ZONING ORDINANCE, REQUIRING A ONE-FOOT SETBACK FROM THE PROPERTY LINE FOR UNDERGROUND PARKING GARAGES.

Commissioners Alcorn and Hart: Second.

Chairman Murphy: Seconded by Mr. Hart and Mr. Alcorn. Discussion? All those in favor, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Same abstentions.

Commissioner Lawrence: I MOVE THAT THE PLANNING COMMISSION RECOMMEND A MODIFICATION OF SECTION 7-0802.2 OF THE PFM TO ALLOW FOR THE PROJECTION OF STRUCTURAL COLUMNS INTO PARKING STALL NO MORE THAN FOUR PERCENT OF THE STALL AREA.

Commissioners Alcorn and Hart: Second.

Chairman Murphy: Seconded by Mr. Hart and Mr. Alcorn. Is there a discussion? All those in favor of the motion, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Same abstentions.

Commissioner Lawrence: I MOVE THAT THE PLANNING COMMISSION RECOMMEND A MODIFICATION OF SECTION 7-0800 OF THE PFM TO ALLOW FOR THE USE OF TANDEM PARKING SPACES WITH VALET SERVICE TO BE COUNTED AS REQUIRED PARKING.

Commissioners Alcorn and Hart: Second.

Chairman Murphy: Seconded by Mr. Hart and Mr. Alcorn. Is there a discussion? All those in favor of the motion, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Same abstentions.

Commissioner Lawrence: I MOVE THAT THE PLANNING COMMISSION RECOMMEND A WAIVER TO ALLOW THE USE OF UNDERGROUND STORMWATER MANAGEMENT AND BEST MANAGEMENT PRACTICES IN A RESIDENTIAL DEVELOPMENT, SUBJECT TO WAIVER NUMBER 8158-WPFM-001-2.

Commissioners Alcorn and Hart: Second.

Chairman Murphy: Seconded by Mr. Hart and Mr. Alcorn. Discussion? All those in favor of the motion, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Lawrence: I MOVE THAT THE PLANNING COMMISSION RECOMMEND A MODIFICATION OF THE 10 YEAR TREE CANOPY REQUIREMENTS AND THE TREE PRESERVATION TARGET, IN FAVOR OF THAT SHOWN ON THE PLANS AND AS PROFFERED.

Commissioners Alcorn and Hart: Second.

Chairman Murphy: Seconded by Mr. Hart and Mr. Alcorn. Discussion? All those in favor, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Lawrence: And finally, I MOVE THAT THE PLANNING COMMISSION RECOMMEND A MODIFICATION OF SECTION 12-07021B (2) TO PERMIT THE REDUCTION OF THE MINIMUM PLANTER OPENING AREA FOR TREES USED TO SATISFY THE TREE COVER REQUIREMENT, IN FAVOR OF THAT SHOWN ON THE PLANS AND AS PROFFERED.

Commissioners Alcorn and Hart: Second.

Chairman Murphy: Seconded by Mr. Hart and Mr. Alcorn. Is there a discussion of that motion? All those in favor, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Same abstentions.

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(The motions carried by votes of 5-0-3 with Commissioners de la Fe, Flanagan, and Murphy abstaining; Commissioner Sargeant having recused himself from the votes; Commissioners Donahue, Hall, and Harsel absent from the meeting.)

JLC

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Board Agenda Item
September 27, 2011

3:30 p.m.

Public Hearing on SE 2011-MV-002 (Muhammad T. Butt) to Permit a Home Child Care Facility with a Maximum Enrollment of 10 Children and a Maximum of Two Employees. Located on Approximately 4,150 Square Feet Zoned PDH-5, CRD and HC, Mount Vernon District

The application property is located at 8740 Talbott Farm Dr., Alexandria, 22309, Tax Map 110-1 ((27)) 11A.

PLANNING COMMISSION RECOMMENDATION:
On Wednesday, September 21, 2011, the Planning Commission voted 8-0-1 (Commissioner Murphy abstaining; Commissioners Donahue, Hall, and Harsel absent from the meeting) to recommend that the Board of Supervisors approve SE 2011-MV-002, subject to the development conditions dated September 20, 2011.

ENCLOSED DOCUMENTS:
Attachment 1 – Verbatim excerpt from the September 21, 2011 Planning Commission meeting
Staff Report previously furnished and available online at
http://ldsnet.fairfaxcounty.gov/ldsnet/ldsdwf/4360991.PDF

STAFF:
Barbara Berlin, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
Nicolas Rogers, Staff Coordinator, Zoning Evaluation Division, DPZ

Attachment 1

Planning Commission Meeting
September 21, 2011
Verbatim Excerpt

SE 2011-MV-002 – MUHAMMAD T. BUTT

Decision Only During Commission Matters
(Public Hearing held on September 15, 2011)

Chairman Murphy: Mr. Flanagan.

Commissioner Flanagan: Yes, thank you, Mr. Chairmain. I think I have a brief motion. I hope it's brief. During the last meeting of the Commission, we heard public testimony on a request to recommend approval of a Special Exception to permit a total of 10 children at any one time in an existing day care facility located in one of 25 detached Talbott Farms subdivision homes in the Mount Vernon District. Numerous residents within and without Talbott Farms testified unanimously in favor of the approval, as did the Talbott Farms Homeowners Association. The Mount Vernon Land Use Committee raised no objections, although all were aware of a staff recommendation for denial. Through questioning of staff and the applicant, however, raised four principal problems needing mitigation: the first related to the hazardous placement of rear yard playground equipment, the second related to the adequacy of play space for 10 children, and the third related to the role of the Homeowners Association, and the fourth related to the hazardous potential of the stormwater drain near the middle of the rear yard. I'm pleased to report that staff, in particular Nick Rogers, immediately set about to find mitigation measures for all four problems. In the process, Nick and I became aware that the storm drain inspection staff of DPWES would be removing the grate installed by the applicant over the storm drain inlet and requiring a fenced enclosure instead during their five-year periodic inspection. Those requirements are now included in the revised conditions in a new paragraph 14. I'm satisfied that the other three problems have been also mitigated in a revised paragraph 11 plus two new paragraphs 12 and 13. And those were distributed to you Commissioners this evening and you should have them in a document dated September 21, 2011.

Commissioner Hart: September 20?

Commissioner Flanagan: Well, the date is for the meeting of the September 21, yeah. It's dated September 20, but it's for the meeting, September 21. So, I THEREFORE MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF SE-2011-MV-002, SUBJECT TO THE DEVELOPMENT CONDITIONS DATED SEPTEMBER 20, 2011.

Commissioner Sargeant: Second.

Commissioners: Aye.

Chairman Murphy: Seconded by Mr. Sargeant. Is there a discussion of the motion? All those in favor of the motion to recommend to the Board of Supervisors that it approve SE-2011-MV-002, say aye.

Chairman Murphy: Opposed? Motion carries. And I abstain, not present for the present hearing.

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(The motion carried by a vote of 8-0-1 with Chairman Murphy abstaining; Commissioners Donahue, Hall, and Harsel absent from the meeting.)

JLC

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Board Agenda Item
September 27, 2011

3:30 p.m.

Public Hearing on SE 2009-BR-020 (T-Mobile Northeast LLC & Commonwealth Swim Club, Inc.) to Permit a Telecommunications Facility (Tree Monopole up to 120 ft. in Height), Related Equipment and Site Improvements, Located on Approximately 5.49 Acres Zoned R-2, Braddock District

The application property is located at 9800 Commonwealth Blvd. Tax Map 69-3 ((5)) B.

PLANNING COMMISSION RECOMMENDATION:
On Wednesday, July 20, 2011, the Planning Commission voted unanimously to recommend the following actions to the Board of Supervisors pertinent to the subject application:

- Approval of SE 2009-BR-020, subject to the proposed development conditions contained in Appendix I, as modified and agreed upon by the applicant;
    - Condition 17 will now read: "Any components of the telecommunication facility shall be removed by the operator of the facility within 120 days after such components are no longer in use."
- Reaffirmation of the previously approved modifications of the transitional screening and barrier requirements to allow the existing and added vegetation to remain and in favor of the supplemental plantings depicted on the SE/SP Plat;

In a related action, the Commission also voted unanimously to approve 2232-B08-7, as meeting the criteria of character, location, and extent as specified in Section 15.2-2232 of the *Code of Virginia* and being in accord with the adopted Comprehensive Plan.

ENCLOSED DOCUMENTS:
Attachment 1 - Verbatim
Staff Report previously furnished and available online at
http://ldsnet.fairfaxcounty.gov/ldsnet/ldsdwf/4355551.PDF

STAFF:
Barbara Berlin, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
Miriam Bader, Staff Coordinator, Zoning Evaluation Division, DPZ

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Planning Commission Meeting Attachment 1
July 20, 2011
Verbatim Excerpt

2232-B08-7 – COMMONWEALTH SWIM CLUB, INC
SE 2009-BR-020 – T-MOBILE NORTHEAST LLC

After the Close of the Public Hearing

Commissioner Harsel: Okay, thank you, Mr. Chairman. I think as we have said throughout the whole hearing and Ms. Hall has kept reinforcing the idea that we are here to look at a land-use issue. And as the rest of us have entered into the thing is also the fact that with inventions and with us moving forward in progress of different things, we are having to put up more and more cell towers. I have to say, we no longer are able to do them on buildings. We're no longer able to do them in industrial sites. We're starting now to move into a residential area. I thank the industry and I commend the industry very much for trying to disguise them as flag poles, as steeples, and in this particular case, as a tree pole. When we first started this in 2007, it was 150 feet high and it was visible for quite a large distance around. It was also – I don't know where the engineers of the South Company came from because it was like a good wind would be – like Mr. Anderson said – it would blow it down into the – it was teetering right on the edge of this ravine. But they have moved it in. They have – they're landscaping it. They're landscaping the parking lot. It is close to the RPA – not as close to the houses as at one time it had met. I will say this, that we have had two citizen meetings under two Supervisors and we had a nice, healthy turnout at both of them and fortunately or unfortunately it was always at the end – the feeling of the groups assembled was split down the middle as you can tell by the letters we have received. We have seven letters that we have received in favor of this application and we have six letters that came in to us against this application. Mr. Chairman, and I would like all of these letters entered into the record and – in favor of this is a letter by Susan Susanke; in favor is a letter by Ms. Miller; and we have testimony by Mr. Buckley that he brought, plus he also sent us a letter; we have in favor I want entered into the record by David Shade, by Mark Balderson, by Sarah Caponie, by Patricia Bozell. I would like those entered into the record and I also would like the record to show we had an outstanding turnout from citizens both for and against, but the Swim Club answered and heeded Mr. Joyce's letter, which said, "You show by coming that you are in favor of it." No means does that talk against the six letters I want entered into the record that are opposed to this application; the one by Charles Anderson and he did speak very eloquently on the landscaping problem; the letter against it by Ronald and Katherine Shell; by Chris Howell; and by the Simmons, Mr. and Mrs. Simmons entered quite a lengthy letter in opposition; and finally by Paul Albertson, the letter is in opposition; and Mary Lou and Harry Wolfkill. I would like all those letters for and against entered into the application. We are looking to do the 2232 first where we look at character, extent, and location. Mr. Chairman, I – when looking at this, the character is a tree pole. The location is in a – I hate to say this and I'm not offending the Swim Club – in a deserted parking lot with an unused tennis compound, which will be beefed up and people will look into it. We're going to have landscaping, but that's the location as opposite of Laurel Ridge School. And I think we have heartburn about putting these things on elementary schools. It's bad enough on a high school. We're trying to avoid the elementary school. There are – T-Mobile is located very close. They've tried as much as they can. They're in a church steeple. They're in a high school. They're in the State Police.

They've extended their options for commercial and non-commercial spots. As far as extent, it's an interpretation problem. I say they meet the extent. They've gone from 150 feet down to 120 feet and it's a very fluffy tree rather than a plain pole. Therefore, Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION APPROVE 2232-B08-7 AS IT MEETS THE CRITERIA OF CHARACTER, LOCATION, AND EXTENT AS SPECIFIED IN SECTION 15.2-2232 OF THE *CODE OF VIRGINIA* AND IT IS IN ACCORD WITH THE ADOPTED COMPREHENSIVE PLAN.

Commissioners Hall and Sargeant: Second

Chairman Murphy: Seconded by Ms. Hall and Mr. Sargeant. Is there a discussion of the motion? All those in favor of the motion to approve 2232-B08-7, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Mrs. Harsel.

Commissioner Harsel: Thank you, Mr. Chairman. Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF SPECIAL EXCEPTION 2009-BR-020, SUBJECT TO THE PROPOSED DEVELOPMENT CONDITIONS CONTAINED IN APPENDIX 1 AS MODIFIED AND AGREED UPON BY THE APPLICANT. CONDITION NUMBER 17 WILL NOW READ: "ANY COMPONENTS OF THE TELECOMMUNICATION FACILITY SHALL BE REMOVED BY THE OPERATOR OF THE FACILITY WITHIN 120 DAYS AFTER SUCH COMPONENTS ARE NO LONGER IN USE."

Commissioner Sargeant: Second.

Chairman Murphy: Seconded by Mr. Sargeant. Is there a discussion of that motion? All those in favor of the motion to recommend to the Board of Supervisors that it approve SE 2009-BR-020, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Mrs. Harsel.

Commissioner Harsel: Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS A REAFFIRMATION OF THE PREVIOUSLY APPROVED MODIFICATIONS OF THE TRANSITIONAL SCREENING AND BARRIER REQUIREMENTS TO ALLOW THE EXISTING AND THE ADDED VEGETATION TO REMAIN AND IN FAVOR OF THE SUPPLEMENTAL PLANTINGS DEPECTED ON THE SE/SP PLAT, ESPECIALLY THE ONES THEY'RE TALKING ABOUT ON Z-6.

Commissioner Sargeant: Second.

Chairman Murphy: Seconded by Mr. Sargeant. Is there a discussion of that motion? All those in favor, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

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(The motions carried unanimously.)

JLC

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Board Agenda Item
September 27, 2011

3:30 p.m.

Public Hearing on RZ 2011-LE-015 (Jefferson Development LLC) to Rezone from R-1 to C-6 to Permit a Funeral Home with an Overall Floor Area Ratio of 0.15, Located on Approximately 1.77 Acres, Lee District

The application property is located on the S. side of Castlewellan Dr. approx. 250 ft. E. of its intersection with South Van Dorn St. Tax Map 81-4 ((1)) 56A.

PLANNING COMMISSION RECOMMENDATION:
On Wednesday, September 21, 2011, the Planning Commission voted unanimously (Commissioners Donahue, Hall, and Harsel absent from the meeting) to recommend the following actions to the Board of Supervisors pertinent to the subject application:

- Approval of RZ 2011-LE-015, subject to proffers consistent with those dated September 9, 2011;

- Modification of the transitional screening requirements and waiver of the barrier requirements along all property boundaries, in favor of maintaining the existing screening with supplemental landscaping provided in accordance with the proffers;

- Modification of the interior parking lot landscaping requirement, in favor of maintaining the existing parking lot landscaping shown on the plat; and

- Waiver of the use limitation, as required in Part 5B of Section 4-605 of the Zoning Ordinance, to allow continued use of the existing curb cut.

ENCLOSED DOCUMENTS:
Attachment 1 - Verbatim excerpt from September 21, 2011 Planning Commission meeting
Staff Report previously furnished and available online at:
http://ldsnet.fairfaxcounty.gov/ldsnet/ldsdwf/4361305.PDF

STAFF:
Barbara Berlin, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
Nicholas Rogers, Staff Coordinator, Zoning Evaluation Division, DPZ

Attachment 1

Planning Commission Meeting
September 21, 2011
Verbatim Excerpt

RZ 2011-LE-015 – JEFFERSON DEVELOPMENT, LLC

After the Close of the Public Hearing

Chairman Murphy: Public hearing is closed; recognize Mr. Migliaccio.

Commissioner Migliaccio: Thank you, Mr. Chairman. This application seeks to rezone land from the R-1 District to the C-6 District to allow a funeral home to operate on site. As we heard, there now exists a funeral chapel on the land. By approving this application, we will allow a current business to offer an additional service, namely embalming for its clients, without changing the size of their building. With the recent approval of the new Comprehensive Plan language for this parcel, staff recommends approval of this application. The Lee District Land Use Committee overwhelmingly also recommends approval. Therefore, Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF RZ 2011-LE-015, SUBJECT TO PROFFERS CONSISTENT WITH THOSE DATED SEPTEMBER 9TH, 2011.

Commissioners Sargeant and Alcorn: Second.

Chairman Murphy: Seconded by Mr. Sargeant and Mr. Alcorn. Is there a discussion of the motion? All those in favor of the motion to recommend to the Board of Supervisors that it approve RZ 2011-LE-015, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Migliaccio: I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS MODIFY THE TRANSITIONAL SCREENING REQUIREMENTS AND WAIVE THE BARRIER REQUIREMENTS ALONG ALL PROPERTY BOUNDARIES, IN FAVOR OF MAINTAINING THE EXISTING SCREENING WITH SUPPLEMENTAL LANDSCAPING PROVIDED IN ACCORDANCE WITH THE PROFFERS.

Commissioner Sargeant: Second.

Chairman Murphy: Seconded by Mr. Sargeant. Is there a discussion of that motion? All those in favor of the motion, say aye.

Commissioners: Aye.

Chairman Murphy: All opposed? Motion carries.

Commissioner Migliaccio: I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE A MODIFICATION OF THE INTERIOR PARKING LOT LANDSCAPING REQUIREMENT, IN FAVOR OF MAINTAINING THE EXISTING PARKING LOT LANDSCAPING SHOWN ON THE PLAT.

Commissioner Sargeant: Second.

Chairman Murphy: Seconded by Mr. Sargeant. Discussion? All those in favor, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Migliaccio: And finally, I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE A WAIVER OF THE USE LIMITATION, AS REQUIRED IN PART 5B OF SECTION 4-605 OF THE ZONING ORDINANCE, TO ALLOW CONTINUED USE OF THE EXISTING CURB CUT.

Commissioner Sargeant: Second.

Chairman Murphy: Seconded by Mr. Sargeant. Is there a discussion of that motion? All those in favor, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

//

(The motions carried unanimously with Commissioners Donahue, Hall, and Harsel absent from the meeting.)

JLC

Board Agenda Item
September 27, 2011

4:00 p.m.

Public Hearing on PRC A-502-02 (Fairways I Residential, L.L.C. and Fairways II Residential, L.L.C.) to Approve a PRC Plan Associated with RZ A-502 to Redevelop Existing Multi-Family Dwellings with Single-Family Attached and Multi-Family Dwellings and Bonus Density for Providing ADUs, Located on Approximately 18.82 Acres Zoned PRC, Hunter Mill District

The application property is located at 11555 and 11627 North Shore Dr., S.W. corner of North Shore Dr. and Fairways Dr. and E. of intersection of North Shore Dr. and Wainwright Dr. Tax Map 17-2 ((18)) 1 and 17-2 ((19)) 2A.

PLANNING COMMISSION RECOMMENDATION:
On Thursday, July 28, 2011, the Planning Commission voted unanimously (Commissioners Alcorn and Donahue absent from the meeting) to recommend the following actions to the Board of Supervisors pertinent to the subject application:

- Approval of PRC A-502-02, subject to the development conditions consistent with those dated July 27, 2011;

- Modification of the loading space requirement to allow a total of 9 loading spaces instead of 10;

- Approval of a PFM waiver to allow pervious pavements for parking spaces, walkways, and pedestrian plazas within a single-family attached residential neighborhood.

The Commission also voted 9-0-1 (Commissioner Harsel abstaining; Commissioners Alcorn and Donahue absent from the meeting) to recommend to the Board of Supervisors a waiver of the PFM to allow use of an underground stormwater management vault in a residential development, subject to the DPWES waiver of conditions dated April 21, 2011.

ENCLOSED DOCUMENTS:
Attachment 1 - Verbatim
Staff Report previously furnished and available online at:
http://ldsnet.fairfaxcounty.gov/ldsnet/ldsdwf/4354040.PDF

STAFF:
Barbara Berlin, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
St. Clair Williams, Staff Coordinator, Zoning Evaluation Division, DPZ

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Planning Commission Meeting Attachment 1
July 28, 2011
Verbatim Excerpt

PRC A-502-02 - FAIRWAYS I & II RESIDENTIAL, LLC

Decision Only During Commission Matters
(Public Hearing held on July 7, 2011)

Commissioner de la Fe: Thank you, Mr. Chairman. I have a decision to make – to propose tonight on PRC A-502-02, Fairways I & II Residential, LLC. Mr. Chairman, the first public hearing for this case was held on July 15, 2010. At that public hearing, the staff recommended denial primarily based on its findings that the proposed development was not in keeping with the character of the neighborhood and that the proposed density was at the highest end of the allowed zoning. Although the Reston Planning and Zoning Committee had recommended approval, its endorsement came with a degree of division not usually seen on its recommendations. Of the eight speakers testifying at that time, the majority were opposed. After that public hearing, the Planning Commission deferred its decision in order for the applicant to address the issues raised. In the year since the original public hearing, the applicant worked to redesign its development in order to address the issues raised. The second public hearing on this application was held on July 7, 2011. The revised application reduced the density and changed the configuration of the site design by increasing the number of single-family attached units, eliminating high-rise structures, and one mid-rise – one of the mid-rise buildings. The changes have satisfied staff's major original reasons for recommending denial and it is now recommending approval. The Reston Planning and Zoning Committee again recommends approval on a vote of 11 to 1 and 1 abstention, reflecting its traditional high level of consensus on project recommendations. At that public hearing, the majority of the nine speakers were opposed. Most of the speakers at the second public hearing were the same ones appearing or representing the same organization and at the first public hearing, raising many of the same objections. In addition to the individuals appearing at the public hearings, numerous communications from interested neighbors have been received, mainly in opposition. The issues raised during this second public hearing were similar to the ones raised a year earlier, relating to density, design, and traffic. The redevelopment proposed affects a part of what is traditionally referred to as "Original Reston." The site was developed 40 – over 40 years ago – 40 years ago at a lower density and character than envisioned and zoned. It is totally residential, although part of it – it is zoned to permit commercial. The original proposal included both residential and neighborhood serving retail. The commercial part of the proposal disappeared very quickly in response to community reaction. In keeping with what was developed, it is now recommended to be purely residential. There were requests that this redevelopment await the results of the ongoing study to revise Reston's Master Plan as contained in the County's Comprehensive Plan. We, of course, must base our actions on the current provisions of the Comprehensive Plan, not on what may be in the future. The proposed development is in keeping with the current Plan. Although much has been said about traffic, the principal roads serving this development can handle the additional traffic. The major problem spots relate to the arrival and dismissal times of the elementary school across the street and at the intersection with Temporary Road. The applicant has agreed to provide a traffic signal warrant study and contribute its pro rata share of the cost of the signal if deemed necessary. The issue of site design has been the

one that has raised the most comments. Under Reston's covenants, the Reston Design Review Board has final say on the design of properties, subject to the Reston Association. The DRB has raised numerous concerns and will have final say on what the final redevelopment will look like. However, we have a distinct governmental responsibility – responsibilities and guides. Because of the DRB's ultimate say, we have imposed a development condition that will give us the opportunity to review and approve the final design. The issue of affordable housing has been raised with respect to the redevelopment. Although many refer to the current development as affordable, the fact is that none of the units are under any kind of governmental control. They are all market rate. As part of the redevelopment, the applicant will provide the required number of units for the townhouse portion and the 12-percent workforce units for the rest of the development. I could go on and address a number of other issues. However, as a final point, I would like to remind my fellow residents of Reston of Bob Simon's seventh goal for the community, which to paraphrase is: "Since Reston is being developed by the private sector, it must be financially successful." Here, we are presented with an opportunity to redevelop an aging residential complex by the private sector that meets the requirements of the Comprehensive Plan. I realize that this is not a perfect development. I doubt that there is such a thing. But I believe that it is time to move on. Therefore, Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE PRC A-502-02, SUBJECT TO THE DEVELOPMENT CONDITIONS CONSISTENT WITH THOSE DATED JULY 27, 2011.

Commissioners Hart and Litzenberger: Second.

Chairman Murphy: Seconded by Mr. Hart and Mr. Litzenberger. Is there a discussion of the motion? All those in favor of the motion, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner de la Fe: Mr. Chairman, I further MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE A MODIFICATION OF THE LOADING SPACE REQUIREMENT TO ALLOW A TOTAL OF 9 LOADING SPACES INSTEAD OF 10.

Commissioners Hart and Litzenberger: Second.

Chairman Murphy: Seconded by Mr. Litzenberger and Mr. Hart. Is there a discussion? All those in favor, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner de la Fe: Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE A WAIVER OF THE PFM TO ALLOW USE OF AN UNDERGROUND STORMWATER MANAGEMENT VAULT IN A RESIDENTIAL DEVELOPMENT, SUBJECT TO THE DPWES WAIVER CONDITIONS DATED APRIL 21, 2011.

Commissioners Hart and Litzenberger: Second.

Chairman Murphy: Seconded by Mr. Hart and Mr. Litzenberger. Discussion? All those in favor, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Harsel: Abstain.

Chairman Murphy: Ms. Harsel abstains.

Commissioner de la Fe: And finally, Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE A WAIVER OF THE PFM TO ALLOW PERVIOUS PAVEMENTS FOR PARKING SPACES, WALKWAYS, AND PEDESTRIAN PLAZAS WITHIN A SINGLE-FAMILY ATTACHED RESIDENTIAL NEIGHBORHOOD.

Commissioners Hart and Litzenberger: Second.

Chairman Murphy: Seconded by Mr. Litzenberger and Mr. Hart. Is there a discussion of that motion? All those in favor, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.
//
(The first, second, and fourth motion carried unanimously with Commissioners Alcorn and Donahue absent from the meeting from the meeting.)

(The third motion carried by a vote of 9-0-1 with Commissioner Harsel abstaining; Commissioners Alcorn and Donahue absent from the meeting.)

JLC

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Board Agenda Item
September 27, 2011

4:00 p.m.

Public Hearing on the Adoption of the Proposed Amendments to the Jefferson Manor Conservation Plan (Lee District)

ISSUE:
Public Hearing and adoption of the Amended Jefferson Manor Conservation Plan by the Fairfax County Board of Supervisors.

RECOMMENDATION:
The County Executive recommends that the Board adopt the Amended Jefferson Manor Conservation Plan.

TIMING:
Board action is requested on September 27, 2011 in order to maintain the schedule for approval of the Amended Jefferson Manor Conservation Plan.

BACKGROUND:
The Jefferson Manor Conservation Plan was adopted by the Board on June 17, 1991, after the required public hearings before the Board on that date. The 1991 Conservation Plan did not provide for a means to incorporate future changes in the Fairfax County Zoning Ordinance, Land Use Map or County Comprehensive Plan into the Plan. Instead, the 1991 Conservation Plan limited comprehensive planning land use development to the standards and limits specifically contained in the 1991 Land Use Map, Zoning Ordinance and Comprehensive Plan. As a result, the current Jefferson Manor development standards and regulations are out of date and do not reflect the standards and policies contained in the current County Comprehensive Plan, Land Use Map or Zoning Ordinance.

The Jefferson Manor community and the Fairfax County Department of Planning and Zoning (DPZ) have requested changes to the Plan to provide the means to keep the Jefferson Manor Conservation Plan current with County zoning regulations, land uses and comprehensive plan. DPZ met with the Jefferson Manor Community Association on five different occasions between December 15, 2009 and January 19, 2011 to discuss the amendments to the Conservation Plan. The proposed plan amendment will provide the means to keep the Conservation Plan current with Fairfax County Land Use Map,

Zoning Regulations and the County Comprehensive Plan. The amendment will also clarify the role of the Conservation Plan in the Fairfax County land use and regulatory processes, including the Zoning and Comprehensive Plan amendment processes. The amendment will also make other minor changes and updates to the Plan text.

Section XII of the Jefferson Manor Conservation Plan, "Procedure for Plan Amendment," stipulates that all proposed amendments will be subject to two public hearings in Fairfax County: one hearing each before the Fairfax County Redevelopment Housing Authority (FCRHA) and the Board, The FCRHA public hearing took place on the proposed revisions was held on June 16, 2011, and the FCRHA approved the Plan Amendments at that meeting. The Board authorized the September 27, 2011 public hearing on the Conservation Plan, as revised and updated, on July 26, 2011.

FISCAL IMPACT:
None. The Jefferson Manor Conservation Plan is for planning purposes only and any specific facilities or improvements would require Board of Supervisors approval, through the budget, Capital Improvement Program (CIP), or other appropriate action.

ENCLOSED DOCUMENTS:
Attachment 1: Board of Supervisors Resolution
Attachment 2: Public Hearing Notice
Attachment 3: Amended Jefferson Manor Conservation Plan, showing proposed changes since adopted on June 17, 1991 by the Fairfax County Board of Supervisors

STAFF:
Paula C. Sampson, Director, Department of Housing and Community Development (HCD)
John Payne, Deputy Director, Real Estate, HCD
Aseem K. Nigam, Director, Real Estate Finance and Grants Management Division, HCD
Robert C. Fields, Interim Associate Director, Grants Management, Real Estate Finance and Grants Management Division, HCD

Attachment 1

RESOLUTION

Approval of the Proposed Amendments to the Jefferson Manor Conservation Plan (Lee District)

WHEREAS, the Board of Supervisors adopted the Jefferson Manor Conservation Plan (Plan) on June 17, 1991; and

WHEREAS, the Jefferson Manor community, in cooperation with the Department of Planning and Zoning, desires to amend the Plan to conform with the Fairfax County Comprehensive Plan and Fairfax County Zoning Ordinance, and submitted such amendments to the Fairfax County Redevelopment and Housing Authority (FCRHA) for review and approval; and

WHEREAS, on April 28, 2011 the FCRHA authorized a public hearing on the amended Jefferson Manor Conservation Plan; and

WHEREAS, the FCRHA held a public hearing on and approved the amended Jefferson Manor Conservation Plan on June 16, 201; and:

WHEREAS, on July 26, 2011 the Board of Supervisors authorized a public hearing on the amended Jefferson Manor Conservation Plan on September 27, 2011;

NOW THEREFORE, BE IT RESOLVED, that the Fairfax County Board of Supervisors approves the proposed amendments to the Jefferson Manor Conservation Plan.

Attachment 2

NOTICE OF
PUBLIC HEARING ON PROPOSED AMENDMENTS TO THE
JEFFERSON MANOR CONSERVATION PLAN

The Fairfax County Board of Supervisors (Board) will hold a public hearing on Tuesday September 27, 2011 at 4:00 p.m. in the Fairfax County Government Center Board Auditorium, located at 12000Government Center Parkway, Fairfax, Virginia, on proposed amendments to the Jefferson Manor Conservation Plan (Plan).

The proposed Plan amendment, requested by the residents of the Jefferson Manor community in cooperation with the Fairfax County Department of Planning and Zoning, is to revise language to clarify the role of the Plan in the Fairfax County land use and regulatory processes, including the Zoning and the Comprehensive Plan Amendment processes.

Following is a summary of the major proposed changes to the Jefferson Manor Plan as approved by the Board of Supervisors on June 17, 1991:

- Section VII Relationship to Local Objectives:
    - Designates the Huntington Transit Station area as a special planning area in the Fairfax County Comprehensive Plan;
    - Deletes the Plan recommendation to develop the four acre parcel adjacent to the Huntington Gardens at a density of 16-20 dwelling units;
    - Updates the Existing Land Use Map from 1991 to the current land use and deletes references to the 1991 Land Use Map and 1991 Comprehensive Plan.
- Section XI.B Development Review:
    - Amends the Plan to delete the word “shall” and adds the word “may” to state that the FCRHA may review and comment on development issues; and
    - Revises the Section XI.D: Duration of Controls, Regulations and Standards.
- Section XI.C - Specific Regulations: Subsection 2.a - Land Use:
    - Ties land use and intensity of development to the Fairfax County Comprehensive Plan and deletes the attachment of same to the Conservation Plan and County Zoning Map;
    - Specifies that all land uses within the boundaries of the Jefferson Manor Conservation Area shall conform with regulations enumerated in the Zoning Ordinance of the Code of Fairfax County;
    - Deletes conditions for the development of the 4 acre Huntington Gardens site and redevelopment of Huntington Station Shopping Center and other, smaller sized parcels from the Jefferson Manor Conservation Plan; and

- Removes the expiration date for the Plan and controls imposed on disposition documents relating to properties acquired by the FCRHA.

Additional minor changes were made to update the text of the Plan.

The draft revised Jefferson Manor Conservation Plan is available at the Sherwood Hall Regional Library and also on the Fairfax County Redevelopment and Housing Authority's website at www.fairfaxcounty.gov/rha/. For additional information, contact Robert Fields in the Department of Housing and Community Development at 703-246-5277, or TTY (703-385-3578).

Citizens wishing to comment on the Jefferson Manor Conservation Plan amendment may do so by writing to the attention of Robert Fields, Interim Associate Director, Grants Management, at the Department of Housing and Community Development, 3700 Pender Drive, Fairfax, Virginia 22030. The deadline for receipt of written comments on the Plan amendment is 4 p.m. on Friday, September 23, 2011. For additional information on the amendment, contact the Department of Housing and Community Development at 703-246-5170, TTY: 703-385-3578. **EHO/EEO**

All persons wishing to testify at the Board of Supervisor public hearing on September 27, 2011 at 4 p.m. may register in advance by calling the Clerk to the Board of Supervisors at 703-324-3151 (TDD 703-324-3903). Following the public hearing the Board will act on the Jefferson Manor Conservation Plan Amendment.

Fairfax County is committed to a policy of nondiscrimination in all County programs, services and activities and will provide reasonable accommodations upon request. To request special accommodations call 703-246-5101 or TTY 703-385-3578. Please allow 48 hours in advance of the event in order to make the necessary arrangements.

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Equal Housing Opportunity

EQUAL HOUSING OPPORTUNITY

Attachment 3

DRAFT

JEFFERSON MANOR CONSERVATION PLAN
(As Amended)

A Publication of Fairfax County, VA

Prepared by the
Fairfax County Department of Housing and Community Development

Adopted by the Fairfax County Redevelopment and Housing Authority – May 30, 1991

Adopted by the Fairfax County Board of Supervisors on June 17, 1991

Revised: _____

(Proposed revisions appear in underline or ~~strikethrough~~ text)

Jefferson Manor Conservation Plan
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Fairfax County is committed to nondiscrimination on the basis of disability in all county programs, services and activities. Reasonable accommodations will be provided upon request. For information, call 703-246-5101, TTY 703-385-3578.

Equal Housing Opportunity

EQUAL HOUSING OPPORTUNITY

AREA II
AREA I
AREA III
AREA IV
Georgetown Pike Rt. 193
Leesburg Pike Rt. 7
Dulles Airport Access Road
Town of Herndon
Washington Dulles International Airport
Sully Road
UPPER POTOMAC
VIENNA
Town of Vienna
Chain Bridge Rd.
I-495
Rt. 123
G.W. Memorial Pkwy.
McLEAN
JEFFERSON
Rt. 50
John S. Mosby Hwy.
Rt. 28
Rt. 29
FAIRFAX
I-66
BULL RUN
City of Fairfax
Lee Hwy.
Little River Turnpike
Rt. 236
BAILEYS
ANNANDALE
Braddock Rd. Rt. 620
LINCOLNIA
Fairfax County Parkway
Capital Beltway
I-95
Franconia Rd.
Town of Clifton
POHICK
Ox Road Rt. 123
ROSE HILL
SPRINGFIELD
Shirley Hwy.
Richmond Hwy. Rt. 1
MT. VERNON
LOWER POTOMAC
JEFFERSON MANOR
Planning Area Boundary
Planning District Boundary
NORTH
0 1 2 3 4 miles
SCALE

I. FOREWORD

The Jefferson Manor Conservation Plan is a general guide that includes recommended policies and procedures for future development and improvement of the Jefferson Manor neighborhood. The requirements and provisions of the Jefferson Manor Conservation Plan will be carried out by the Fairfax County Redevelopment and Housing Authority (FCRHA) as provided under Title 36 of the Code of Virginia, as amended.

The basic goal of the Jefferson Manor Conservation Plan is to preserve the Jefferson Manor area as a stable residential community, to prevent the area from further deterioration, and to provide for its improvement in the future. The Jefferson Manor Conservation Plan is consistent with the goals of the Fairfax County Community Development Program which are (1) to produce, retain and improve low and moderate income housing in Fairfax County; (2) to eliminate conditions of slums, blight and deterioration and disorderly growth throughout the County; (3) to improve and preserve existing low and moderate income communities through the provision of public facilities and services; and (4) to maintain an ongoing comprehensive planning and citizen participation process to meet the aforementioned goals.

The Fairfax County Department of Housing and Community Development (HCD), under the auspices of the FCRHA, undertook a study of existing conditions in the Jefferson Manor area in the summer of 1990. This document, the Jefferson Manor Summary of Existing Conditions, was submitted to the FCRHA and the Fairfax County Board of Supervisors in the fall of 1990. Based on the information contained in the Summary of Existing Conditions, the FCRHA and the Board of Supervisors concluded that Jefferson Manor is a community which meets the criteria for the establishment of a conservation area, and would benefit from the adoption of a conservation plan. Accordingly, on December 10, 1990, the Board of Supervisors directed the FCRHA to prepare a conservation plan for Jefferson Manor in accordance with Title 36 of the Code of Virginia, as amended. The Jefferson Manor Neighborhood Improvement and Conservation Plan was subsequently adopted by the Fairfax County Board of Supervisors on June 17, 1991.

~~The Jefferson Manor Conservation Plan is presented on the following pages. The Conservation Plan could not have been developed without the assistance and continued support of the residents of Jefferson Manor, Lee District Supervisor Joseph Alexander, and the FCRHA. Their interest in the future of the neighborhood makes the conservation of Jefferson Manor possible.~~

II. BACKGROUND

Jefferson Manor is located in the southeastern portion of Fairfax County between North Kings Highway and Telegraph Road. The community is located directly across North Kings Highway from the Huntington Metro Station.

Built in the late 1940's, the Jefferson Manor community was part of the post-World War II housing development in Fairfax County. It is a community of 555 duplex housing units

developed over a two-year period between 1947 and 1949. Although there are three single family detached homes and two apartment complexes (consisting of 178 Apartment units) within the boundaries of the conservation area, the predominant housing type is the duplex. Since its development Jefferson Manor has continued to be a stable neighborhood. Approximately 65% of the 555 duplex units in Jefferson Manor are owner occupied. Jefferson Manor also includes a 13 acre park and the Huntington Station Shopping Center, a small community oriented shopping center on North Kings Highway across from the Huntington Metro Station. Since the opening of the Metro Station in 1983, this small shopping area has been refurbished.

In the spring of 1990, the Jefferson Manor Civic Association requested that the County prepare a Conservation Plan for Jefferson Manor. One of the many goals of the Jefferson Manor Civic Association was to maintain the stable residential character of the community. Over the years housing and public facilities in Jefferson Manor had begun to deteriorate.

The Jefferson Manor community identified conditions inhibiting a quality living environment for the existing residents. On April 30, 1990, the Fairfax County Board of Supervisors directed the FCRHA to survey the existing conditions in Jefferson Manor to determine if the area may be eligible for conservation in accordance with Title 36 of the Code of Virginia of 1950, as amended. Subsequently, the Department of Housing and Community Development undertook a comprehensive survey of existing conditions in Jefferson Manor based on a community questionnaire, data gathered from other County agencies, a windshield survey of public facilities and housing, analyses of data on housing and property values, and attendance at community meetings and discussions with residents. The more detailed description of conditions in the Jefferson Manor area is found in the Jefferson Manor Summary of Existing Conditions, prepared by the Department of Housing and Community Development in October 1990. Conditions in Jefferson Manor are briefly summarized later in the Conservation Plan. The two major conditions identified in the report were (1) the need for improvement of the majority of the housing stock, and (2) that most of the streets in Jefferson Manor were in need of repair.

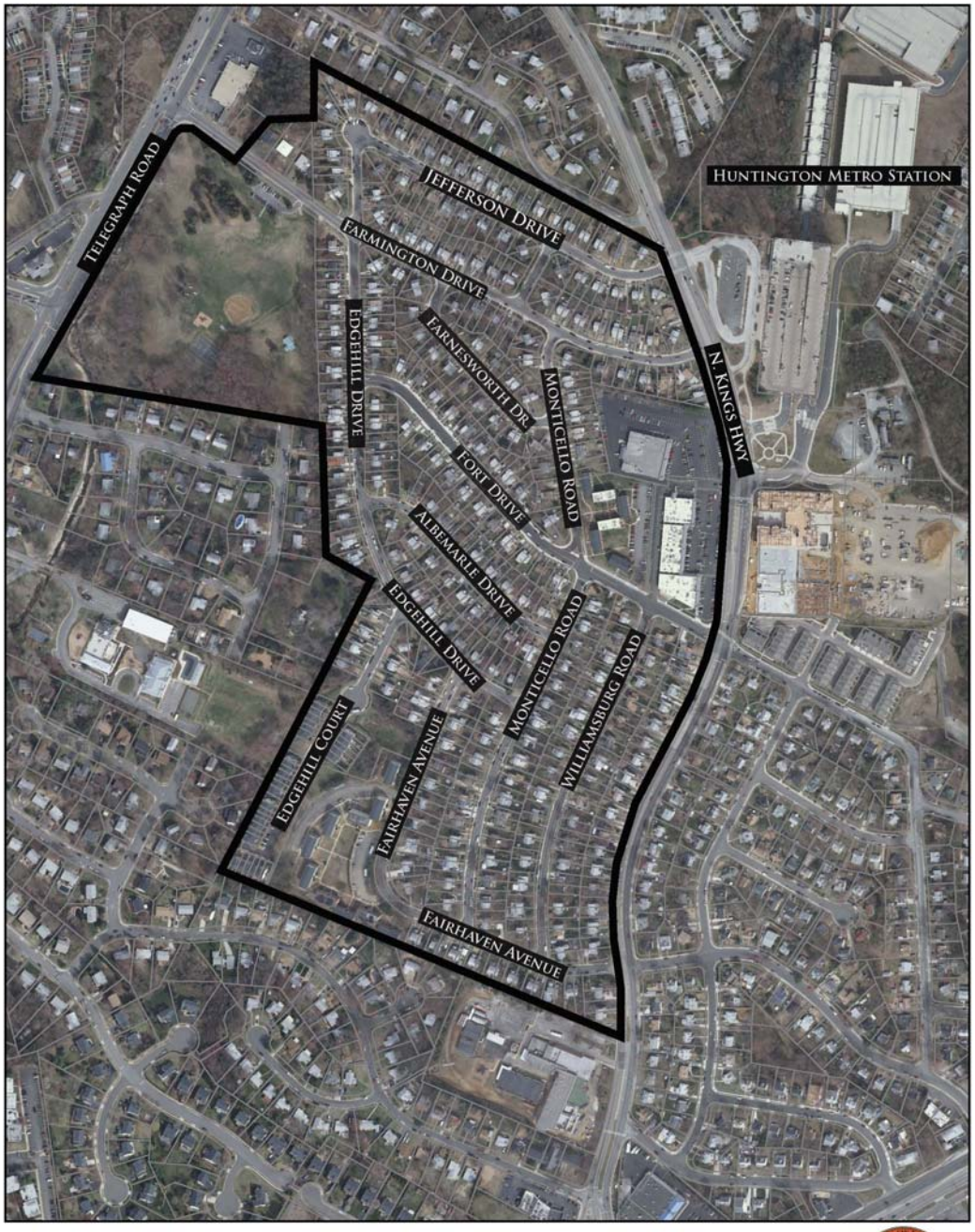
III. BOUNDARIES OF THE CONSERVATION AREA

The Jefferson Manor Conservation Area is located in the Lee Magisterial District of Fairfax County. It is generally bounded by Jefferson Drive on the north, Fairhaven Avenue on the south, North Kings Highway on the east, and Telegraph Road on the west. The conservation area boundary is described as follows:

BEGINNING at the point of intersection of the western right-of-way of North Kings Highway (Route 241) with the northern boundary of lot 24B Tax map 83-1, Double Circle Six, Single Circle Eleven, on Fairfax County, Virginia, Real Property Identification Map (hereafter referred to as Tax Map);

THENCE, from said point, running in a generally southward direction along said right-of-way to its intersection with the southern boundary of lot B Tax Map 83-3, Double Circle Two, Single Circle Five;

Jefferson Manor Conservation Area Boundary



0 250 500 1,000 Feet

Fairfax County Department of Planning and Zoning
Aerial Imagery, Copyright 2002, Commonwealth of Virginia

Created by the Dept. of Planning and Zoning, January 2011

THENCE, from said point, running in a generally westward direction along the southern boundary of lots B, 3B, 4A, 4B, 5A, 5B, 6A, 6B, 7A, 7B, 8A, 8B, 9A, 9B, 10A, 10B, 11A, 11B, on Tax Map 83-3, Double Circle Two, Single Circle Five, continuing along the southern boundary of lot A on Tax Map 83-3, Double Circle Two, Single Circle Seven (also known as Jefferson Gardens Apartments) and continuing along the southern boundary of lots Cl and C Tax Map 83-3, Double Circle Two, Single Circle Seven (having no street address) to a point intersecting the western boundary line of said lot C;

THENCE, from said point, running in a generally northward direction along the western boundary of lots C, B, 25A, 25B, 26A, 26B, 27A, 27B, 28A, 28B, 29A, 29B Tax Map 83-3, Double Circle Two, Single Circle Seven, to the intersection of the northern property line of lot 29B Tax Map 83-3, Double Circle Two, Single Circle Seven;

THENCE, from said point, running in a northwestern direction along the western boundary of lots 16B, 16A and 15B Tax Map 83-3, Double Circle Two, Single Circle Six to a point intersecting the western boundary of lot 15B Tax Map 83-3, Double Circle Two, Single Circle Six;

THENCE, from said point, running in a northern direction along the western boundary of lots 15B, 15A, 14B, 14A, 13B, 13A, 12B, 12A, 11B, 11A, 10B, 10A, 9B Tax Map 83-3, Double Circle Two, Single Circle Six, to a point intersecting the southern boundary of lot 15, Tax Map 83-1, Double Circle One (also known as Jefferson Manor Park);

THENCE, from said point, running in a western direction along the southern boundary of said lot 15 to a point intersecting the eastern right-of-way of Telegraph Road (Route 611);

THENCE, from said point, running in a northeastern direction along said right-of-way to a point of intersection with the southern right-of-way of Farmington Drive (Route 1616);

THENCE, from said point, running in an eastern direction along said right-of-way to a point opposite the western boundary of lot 1 Tax Map 83-1, Double Circle Nineteen.

THENCE, from said point, running in a northern direction crossing Farmington Drive and continuing in a northern direction along the western boundary of said lot 1 to a point intersecting the northern boundary of said lot 1;

THENCE, from said point, running in a generally eastern direction along the northern boundary of said Lot 1 and Lot 2, Tax Map 83-1, Double Circle Nineteen to a point intersecting the western boundary of lot 5A Tax Map 83-1, Double Circle Six, Single Circle Eleven;

THENCE, from said point running in a northern direction across the western boundary of said Lot 5 and Lot 5B Tax Map 83-1, Double Circle Six, Single Circle Eleven to a point intersecting the northeastern boundary of said Lot 5B;

THENCE, from said point, running in an eastern direction along the northern boundary of lots 6A, 6B, 7A, 7B, 8A, 8B, 9A, 9B, 10A, 10B,10A, 11B, 12A, 12B, 13A, 13B, 14A, 14B, 15A, 15B, 16A, 16B, 17A, 17B, 18A, 18B, 19A, 19B, 20A, 20B, 21A, 21B, 22A, 22B, 23A, 23B, 24B Tax Map 83-1, Double Circle Six, Single Circle Eleven to the point of BEGINNING.

The following properties are included in the boundaries of and shall be part of the Jefferson Manor Conservation Area:

Tax Map 83-1 ((6)) (6), (8), (9), (10), (11), (12), all parcels
Tax Map 83-1 ((1)) parcel 15, 87
Tax Map 83-1 ((19)) all parcels
Tax Map 83-3 ((2)) (1), (2), (3), (4A), (4B), (5), (6), (7), (8), (9),(13)
Tax Map 83-3 ((3)) all parcels

IV. ~~EXISTING~~ CONDITIONS

On December 10, 1990, the Board of Supervisors directed the FCRHA to prepare a Conservation Plan for the Jefferson Manor community. This directive was based upon identified conditions which substantiated the fact that Jefferson Manor was physically deteriorating and in need of conservation through appropriate public action.

These conditions, which were in accordance with the standards set forth in Section 36-48.1 of Title 36 of the Code of Virginia, as amended, are outlined below and are covered more extensively in the Summary of Existing Conditions submitted to the Board of Supervisors on December 10, 1990.

Housing

When compared to duplexes in Fairfax County as a whole, those in Jefferson Manor are older, smaller in size, and of lower appraised value. Due to the age of the housing stock, many of the homes were showing signs of deterioration. A windshield survey of housing conditions was conducted in the spring of 1990. The survey revealed that approximately 90% of the homes in Jefferson Manor are in need of improvement. An estimated 20% need major rehabilitation such as roof replacement and foundation work. The majority of respondents to a community needs questionnaire mailed to all residents and non-resident owners in Jefferson Manor cited homes in need of repair, and the general appearance of the community as two of the most pressing problems which the community needed to address.

Public Facilities

Most of the streets in Jefferson Manor were in need of repair. Narrow streets characterized by uneven pavement, pot holes, and cracked asphalt were more common. Sidewalks, curbs, and gutters were in poor condition. Sidewalks were broken and cracked throughout the community. The effectiveness of curbs and gutters had been compromised due to the construction of non-standard driveways by property owners; in many cases storm water run-off is no longer channeled to storm sewer inlets.

These conditions impeded automobile and pedestrian circulation and caused widespread drainage problems throughout the community. The sanitary sewer lines in Jefferson Manor were constructed in the late 1940's to early 1950's and they were in very poor condition.

Many respondents to the community questionnaire noted traffic problems, especially cut-through traffic traveling to and from the Huntington Metro Station. Inadequate parking was also noted by many respondents as an area of concern.

Other Problems

While the need for improvements in housing and public facilities were the top priorities of the community, other areas cited for improvement included open dumping, reducing crime, expansion of recreational facilities at Jefferson Manor Park, and the provision of organized programs for youth within the community.

These conditions of deteriorated and deteriorating private and public facilities which are a detriment to the health, safety, and welfare of the community, warranted a comprehensive improvement program that directs both public and private resources toward alleviating these problems.

V. GOALS AND OBJECTIVES FOR JEFFERSON MANOR

The basic goal of the Jefferson Manor Conservation Plan is to preserve the Jefferson Manor area as a stable residential community, to prevent the area from deteriorating, and to provide for its improvement in the future. The specific objectives to accomplish this goal are to:

- Conserve and improve the Jefferson Manor neighborhood and the affordable housing stock, and provide for new residential development at densities compatible with the community and consistent with the Conservation Plan.

- Stimulate the private rehabilitation of existing dwellings and ensure that the improvements are enduring and of high quality.

- Develop a program to provide for the improvement of streets, sidewalks, and other public facilities in areas of need as identified by residents, and to minimize cut-through traffic.

- Work with the Virginia Department of Transportation to improve the conditions and safety of the road system.

- Improve the storm water drainage system to provide for the efficient removal of surface water and to prevent any adverse flooding, erosion or ponding problems.

- Stimulate the development and improvement of commercial properties.

- Discourage trash dumping on vacant land and provide for the removal and clean-up of areas where there is litter and trash.

- Encourage local citizen leadership and participation in the upgrading of the area and in the decision-making process of the public improvement program.

- Ensure that all citizens in the area are compensated within the requirements of Federal and State law for any public actions concerning their property or household.

- Promote programs to ensure the protection and safety of the residents and their property.

- Ensure public and private improvements are planned, designed and coordinated in a manner which contributes to the aesthetic quality of Jefferson Manor and does not adversely impact existing traffic and parking conditions of the community.

- Ensure that the Fairfax County Comprehensive Plan is consistent with and promotes the purpose of the Jefferson Manor Conservation Plan.

- Develop and evaluate implementation strategies on an on-going basis to achieve the goals and objectives of the Conservation Plan.

VI. UNDERTAKINGS OF A CONSERVATION PLAN

A. General Requirements (as described in 1991, with amendments proposed in 2011)

This Conservation Plan shall be implemented by the FCRHA after it is approved and adopted by the Board of Supervisors. The FCRHA may delegate certain undertakings and action under the Conservation Plan to appropriate County agencies. The FCRHA and the Board of Supervisors shall each conduct a public hearing prior to approval of the Conservation Plan. All undertakings and actions under the power of eminent domain authorized in this Conservation Plan shall be deemed to be public uses as stipulated in Title 36 of the Code of Virginia, as amended. Under this Plan, the exercise of eminent domain by the FCRHA shall be made only in those instances where efforts to acquire land for public use through voluntary conveyance have failed. This Plan has been prepared in accordance with the requirements of the Code of Virginia, as amended.

B. Authorized Undertakings

Within the Conservation Area, the powers of the FCRHA to carry out the work or undertakings called for in the Conservation Plan include the following:

<u>Acquisition of Land</u> - It is anticipated that acquisition by the FCRHA of property for public use will be limited to the acquisition of dedications and/or easements as

necessary for the construction of public improvements. The FCRHA may acquire other property through private purchase for the purpose of rehabilitation. The FCRHA may also acquire property designated as commercial and high density residential consistent with the Fairfax County Comprehensive Plan ~~on the Conservation Plan Land Use Map~~ to facilitate the redevelopment of this area.

Disposition of Land - The FCRHA may sell, lease, or otherwise convey any property acquired by the FCRHA under this Plan to public agencies or to private non-profit or profit entities for development in accordance with the provisions of this Plan, provided that it shall (1) use the land for the purpose designated in this Plan, (2) begin the building of improvements within a reasonable period of time, (3) comply with such other conditions as are necessary to carry out the purposes of this Plan.

Provision of Public Facilities - The FCRHA may provide for the installation, construction, or reconstruction of streets, utilities, parks, parking facilities, playgrounds, public buildings, and other site improvements, essential to the conservation or rehabilitation planned. A detailed master plan will be developed to outline specific public improvements in Jefferson Manor such as streets, traffic patterns, storm drainage, sidewalks, curbs and gutters, street lighting, and parking.

Financial Assistance - The FCRHA may provide financial assistance in accordance with the provisions of Title 36 of the Code of Virginia, as amended, for the planning, development, construction, repair, rehabilitation, or maintenance of residential or commercial buildings in the Conservation Area. The Jefferson Manor Conservation Area may benefit from FCRHA financing programs which include the Home Improvement Loan Program and the multi-family tax exempt bond program. Other financing sources may be used to assist rehabilitation and development in Jefferson Manor as they are available.

Other Actions - The FCRHA may undertake other actions in accordance with the provisions of Title 36 of the Code of Virginia to further the purposes of this Plan, after approval of the Fairfax County Board of Supervisors.

C. Cooperation with County Agencies

Fairfax County and local agencies and authorities shall aid and cooperate with the FCRHA under the powers of the Code of Virginia, as amended, for the purpose of assisting the development and administration of the Conservation Plan.

VII. RELATIONSHIP TO LOCAL OBJECTIVES

The Jefferson Manor Conservation Plan is consistent with the policies, goals and objectives of the Countywide Comprehensive Plan. The Fairfax County Comprehensive Plan divides the County into four planning areas, which are divided into planning districts that are further divided into community planning sectors. Some areas of the County are designated as special planning areas, such as the Huntington Transit Station Area. According to the Comprehensive Plan, the Jefferson Manor community is located in ~~Planning~~ Area IV, Mount Vernon Planning District, Huntington Community

Planning Sector, in the Huntington Transit Station Area. The Comprehensive Plan discusses the Jefferson Manor community in conjunction with the Huntington Metro Station Area. The Comprehensive Plan generally ~~It~~ describes Jefferson Manor as "a stable neighborhood of primarily duplex units that is planned for a density of 8-12 dwelling units per acre". Specific recommendations for Jefferson Manor discussed in the Comprehensive Plan include:

- Improve pedestrian facilities to provide better access to the Huntington Metro Station.
- Discourage non-local cut-through traffic.
- ~~Develop the vacant 4 acre site adjacent to the Huntington Gardens Apartments at a density of 16-20 dwelling units per acre taking the necessary measures to minimize the potential heavy traffic impact on adjacent communities.~~
- Redevelop the Huntington Station Shopping Center and the adjacent block of residential properties bounded by ~~Jefferson Drive,~~ Farmington Drive ~~Monticello Road, Fort Drive and North Kings Highway~~ with a mix of ~~retail and high-density residential units~~ uses as described in the Comprehensive Plan. The redevelopment should be coordinated with the Washington Metropolitan Area Transit Authority to ensure compatibility with the Huntington Metro Station.
- A density of 8-12 dwelling units per acre is planned for the remaining large area of duplex housing in Jefferson Manor.

The Existing Land Use Map ~~and the Conservation Plan Land Use Map are~~ is included on the following page~~s~~. ~~The Conservation Plan Land Use Map incorporates the recommended land use for Jefferson Manor as previously discussed in reference to the Comprehensive Plan.~~

The Jefferson Manor Conservation Plan also supports definite local goals and objectives with respect to the Fairfax County Community Development Program. The Jefferson Manor Conservation Plan is consistent with the following objectives of the Community Development Program.

- To identify areas of the County in need of neighborhood revitalization and to seek adoption by the Board of Supervisors of redevelopment and/or conservation plans under Title 36 of the Code of Virginia, as amended, or general neighborhood improvement plans, thereby allowing a comprehensive approach to meeting community development needs.
- To provide and improve housing and public facilities in accordance with implementation schedules.
- To correct health, safety and welfare violations in the County's low and moderate income communities.
- To provide support for the production of new housing for low and moderate income persons and the retention and improvement of existing low and moderate income housing.

In addition to the above, the Jefferson Manor community is a part of the Route One Rehabilitation District, which was adopted by the Board of Supervisors on November 22, 1982. The Conservation Plan is consistent with the goals of the Rehabilitation District. This district, established under Section 36-52.3 of the Code of Virginia, as amended, designates this area as one that, if not rehabilitated, is likely to deteriorate into an area of blight and confers on the FCRHA certain powers to finance improvements to property within the boundaries of the Rehabilitation District.

Coordination and Responsibilities of Public Agencies

The County and all of its agencies, authorities, boards, and commissions will cooperate with and assist the FCRHA in the implementation of the Jefferson Manor Conservation Plan. Overall coordination of the implementation of the Conservation Plan, including coordination with the State and its agencies, shall be the responsibility of the County Executive who is Secretary/Executive Director of the FCRHA. They shall work under the direction of the Board of Supervisors and the FCRHA through the Department of Housing and Community Development.

VIII. PROPERTY ACQUISITION

Although substantial acquisition of property is not anticipated, acquisition of easements may be necessary for the construction of public improvements. The FCRHA is empowered to acquire properties within the Conservation Area by purchase or eminent domain pursuant to law for a public purpose. The FCRHA may also acquire other properties through voluntary sale for rehabilitation. Acquisition under the Conservation Plan shall be carried out, where applicable, consistent with the regulations of the Virginia Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1973, as amended, and the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, and Title 36 of the Code of Virginia, as amended.

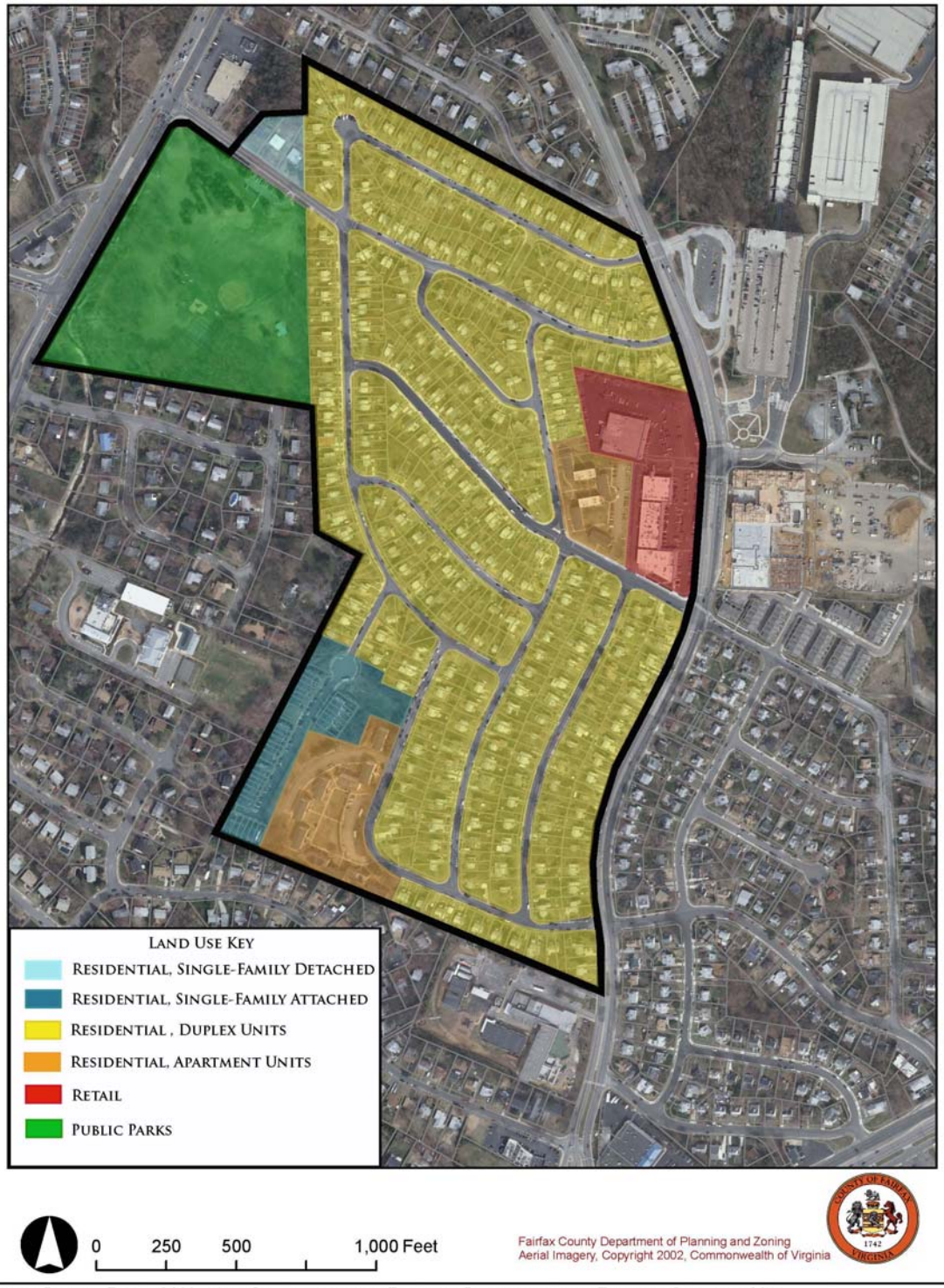
IX. RELOCATION POLICY

Any displacement of persons or businesses located within the Conservation Area resulting from the acquisition and development of property by the FCRHA under this Plan shall be carried out in compliance with all applicable provisions of the Virginia Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1973, as amended, and, if applicable, the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, and Section 104(d) of the Housing and Community Development Act of 1974, as amended, or relocation policies and procedures as approved by the FCRHA and the Fairfax County Board of Supervisors.

X. PROCEDURES FOR REHABILITATION

The Home Improvement Loan Program is administered by the FCRHA to assist property owners within the Conservation Area in upgrading their properties. The program may be financed by both public and private funds.

Jefferson Manor Conservation Area: Existing Land Use



Aerial Photo From 2009. Map Created by the Dept. of Planning and Zoning, January 2011

Property owners in the Jefferson Manor Conservation Area may be eligible to apply for a home improvement loan through the FCRHA Home Improvement Loan Program. Loans may be made on a sliding scale of interest rate, based upon the FCRHA's policies and procedures for loan underwriting.

After rehabilitation, properties must be in compliance with the Conservation Plan, and housing hygiene and building codes applicable in Fairfax County, unless waived as provided for in Section XI, C, 2, b, of this Plan. The waivers shall apply only to recipients of home improvement loans and shall be used only in limited cases to allow for the economic rehabilitation of existing dwelling units without requiring unnecessary or excessive alterations or repairs.

The FCRHA may acquire properties through private purchase which are offered to it by the owners. Upon acquisition of such property, the FCRHA may, at its option: rehabilitate each structure according to accepted standards and then sell or lease it; or dispose of such property under conditions obligating the purchaser to rehabilitate the property within a period of eighteen months after transfer of title.

In order to ensure that the rehabilitation of FCRHA-acquired properties that are subsequently sold to private individuals is completed and that the property will be used in a manner which is consistent with the objectives of this Plan, the disposition documents shall contain the appropriate restrictions running with the land. Such restrictions shall be imposed as covenants running with the land for the duration of the Conservation Plan or the term of the loan, whichever is greater.

XI. REGULATIONS AND STANDARDS

A. General Provisions

The following controls and regulations covering land use and building requirements provide guidelines for the Conservation Area. Maximum ingenuity and freedom of design consistent with the objectives of the Conservation Plan are encouraged for any improvement or new development. Unless otherwise stated below, all capital improvement and development projects will be constructed or improved in accordance with the Conservation Plan and with all applicable local, state and federal regulations, statutes, ordinances and codes, including the Comprehensive Plan.

B. Development Review

Upon adoption of the Conservation Plan, all of the following requests, plans, and proposals shall be forwarded by the County to the FCRHA to the Jefferson Manor Citizens Association for review. All regulations, limitations, and time schedules of the County shall be followed in reviewing and commenting on said documents. HCD shall work with a committee designated by the Jefferson Manor Civic Association in carrying out all such reviews as called for in this section of the Conservation Plan. The committee shall also have responsibility for keeping the community informed of such reviews including residents of the apartment complexes within Jefferson Manor.

1. Zoning Actions - The HCD, with the committee, shall review and comment on all new or pending zoning actions in the Conservation Area. All rezoning requests for properties that are wholly or partially within the Conservation Area boundaries shall be submitted to the committee at the same time as they are submitted to the County of Fairfax. All such requests will be reviewed with respect to their conformance with the objectives of the Conservation Plan.

~~2.~~ Comprehensive Planning Actions - The HCD, with the committee, ~~shall~~ may review and comment on all proposed Comprehensive Plan amendments ~~to the Area IV and Countywide Plans~~ pertaining to the Conservation Area. ~~All such amendments shall be submitted to the HCD at the same time as they are submitted to the Planning Commission.~~

3. Development and Site Plans - The HCD, with the committee, ~~shall~~ may review and comment on all development and site plans for property in the Conservation Area. This review shall be coordinated with ~~the Department of Environmental Management~~ Department of Public Works and Environmental Services and will include, but not be limited to, site planning, architectural layout, materials to be used in construction, landscaping, access, advertising and identification signs, parking, vehicular circulation, and street and sidewalk improvements.

All proposed subdivision plans and all proposed development and site plans for projects that are wholly or partially within the Conservation Area boundaries shall be submitted to HCD for review and comment with the committee at the same time as they are submitted to the County of Fairfax.

4. Public Improvements - All public and quasi-public agencies which propose projects within the Conservation Area boundaries will be required to submit preliminary and final working drawings or site plans and building ~~elevations~~ plans in sufficient detail to show access, layout, landscaping, and construction to HCD for review and comment with the committee prior to the start of construction.

C. Specific Regulations

1. Regulations Applicable to All Properties

a. Statement of Purpose - A basic purpose of this Plan, in promoting rehabilitation and conservation within Jefferson Manor, is to provide standards for improvements which will serve the goals and objectives of the community. All improvements shall reflect quality in design, materials, and techniques. None of the regulations contained herein shall be construed to release any developer, owner, or other individual from required conformance to all applicable County regulations, controls, and ordinances.

b. Dedications/Easements –

1. No building shall be erected on or over any utility easement, unless expressly agreed to by all necessary parties.

2. No building, improvements, fence, or another barrier shall be erected on any pedestrian pathway easement.

3. Dedications/easements for a public purpose may be granted by property owners.

c. Street Standards - Waivers should be considered on standard street widths due to building setbacks and existing topographical conditions. Private service and access drives will be wide enough to handle the particular function assigned and shall comply with Fairfax County codes and ordinances. Design and traffic control provisions should be made to prohibit through-trucks from entering the Conservation Area. All newly constructed public or private streets shall be developed with curbs and gutters. Private entrances should conform to the Virginia Department of Transportation standards and the Fairfax County Public Facilities Manual.

The development of all streets should address the following objectives:

1. Adequate vehicular and pedestrian circulation into and through the Conservation Area;

2. Separation of pedestrian and vehicular traffic, where feasible;

3. Reasonable access to and egress from all land uses in an efficient manner;

4. Minimum obstruction to efficient traffic flow on all streets in the Conservation Area; and

5. The use of curb cuts to facilitate bicycle and handicapped movement.

d. Garbage and Rubbish - The following regulations shall apply to the removal of garbage, rubbish, and litter by property owners:

It shall be unlawful for the owner of any property, after having been notified by the Fairfax County Health Director, to fail to remove any and all garbage, rubbish, litter, or any other substance which have caused the premise to become unclean, unsightly, ~~insanitary~~ unsanitary, obnoxious, or blight to the community. When the County Health Director has determined that a violation exists, he/she shall notify the owner of the land or lot(s) in accordance with the Fairfax County Code. If such garbage, rubbish, litter or other substances are

not removed, the Fairfax County Director of Public Works shall cause removal and assess the cost and expense against the owner of such property, as provided in the County Code.

2. Regulations Applicable to Residential Areas

a. Land Use – The land uses and intensity of development ~~maximum density and use of the land~~ within the Conservation Area boundaries shall conform to the guidance of the Fairfax County Comprehensive Plan, as amended ~~be the same as that specified on the Conservation Plan Land Use Map~~. All uses shall conform with regulations which are enumerated in the Zoning Ordinance of the Code of Fairfax County, Virginia, as amended. ~~The recommendations of the Comprehensive Plan are consistent with and have been incorporated into the proposed Conservation Plan Land Use Map for Jefferson Manor previously referenced. These~~ Land use recommendations are listed as follows:

- Improve pedestrian facilities to provide better access to the Huntington Metro Station.
- Discourage non-local cut-through traffic.
- ~~Develop the vacant 4 acre site adjacent to the Huntington Gardens Apartments at a density of 16-20 dwelling units per acre taking the necessary measures to minimize the potential heavy traffic impact on adjacent communities.~~
- ~~Redevelop the Huntington Station Shopping Center and the adjacent block of residential properties bounded by Jefferson Farmington Drive, Monticello Road, Fort Drive and North Kings Highway with a mix of retail and high-density residential units uses as described in the Comprehensive Plan. The redevelopment should be coordinated with the Washington Metropolitan Area Transit Authority to ensure compatibility with the Huntington Metro Station.~~
- A density of 8-12 dwelling units per acre is planned for the remaining large area of duplex housing in Jefferson Manor.

b. Home Improvement Loan Recipients - Those property owners receiving loans from the FCRHA for the rehabilitation of their properties shall upgrade such properties to conform to housing hygiene and building codes applicable in Fairfax County, unless waived by the appropriate County body pursuant to applicable laws and regulations; and to conform to the Fairfax County Home Improvement Loan Program Policy and Procedures Manual.

3. Regulations Applicable to Residential and Non-Residential Mixed-Use Areas and Neighborhood Commercial Uses ~~and Institutional Facilities.~~

The land uses and intensity of development ~~intensity of land use~~ for residential, non-residential and mixed use areas within the Conservation Area boundaries ~~should~~ shall conform to the guidance of ~~that specified in the Official Zoning Map of Fairfax County~~ the Fairfax County Comprehensive Plan, as amended. ~~Current zoning in Jefferson~~

~~Manor is illustrated on the following page. Commercial development will be limited to that portion of the Conservation Area so designated on the Conservation Plan Land Use Map. Only those uses permitted in the commercial districts of the zoning ordinances of Fairfax County shall be permitted in the Conservation Area.~~ All uses shall conform with regulations which are enumerated in the Zoning Ordinance of the Code of Fairfax County, Virginia, as amended.

The following objectives shall be met by any ~~commercial or institutional~~ development:

a. Redevelop the Huntington Station Shopping Center and the peripheral residential properties as described in the Comprehensive Plan. The redevelopment should be coordinated with the Washington Metropolitan Area Transit Authority to ensure compatibility with the Huntington Metro Station;
b. The structures, signing, and lighting shall be innovatively designed to be compatible in scale and character with the neighborhood;
c. The ~~commercial and institutional~~ uses shall be arranged in such a manner that they will not adversely affect other uses;
d. Surface parking lots of five spaces or more shall be screened from a public road or street by walls or solid landscaping material at least five feet in height;
e. Adequate and safe pedestrian access to the commercial, mixed use or institutional development shall be available from within the community; and,
f. Current best standards for storm water management shall be encouraged in any mixed-use or commercial ~~or institutional~~ development within the Conservation Plan area.

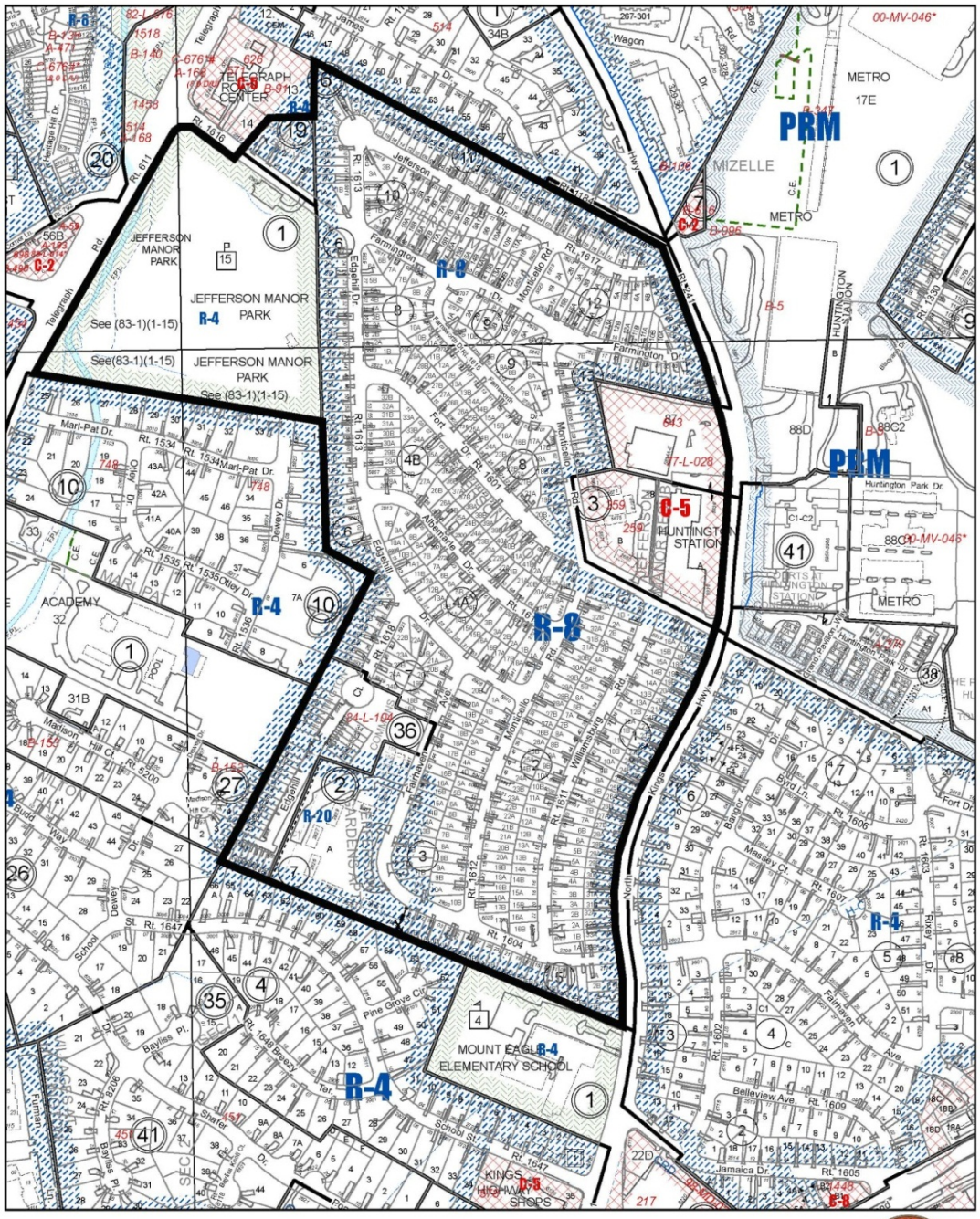
D. ~~Duration of~~ Controls, Regulations and Standards

The controls set out in the Plan are compatible with existing County Codes. Rehabilitation and new construction within the Conservation Area will, ~~for a period of twenty-five years from the date of approval of this Plan by the Fairfax County Board of Supervisors,~~ be subject to these controls, regulations and standards, and to any more restrictive provisions which may be contained in this Plan. ~~Any controls imposed in disposition documents relating to those properties acquired by the FCRHA will run for their stated time period.~~

XII. PROCEDURE FOR PLAN AMENDMENT

All proposed amendments to the Conservation Plan shall be submitted to the FCRHA for the purpose of holding a public hearing to provide the opportunity for residents of the Conservation Area and all other affected parties to voice their views on the proposal. The FCRHA shall then submit the amendment and its recommendation to the Board of Supervisors for approval. Any Conservation Plan amendments that require an amendment of the Comprehensive Plan shall further require the approval by the Planning Commission of the amendment and the Comprehensive Plan change.

Jefferson Manor Existing Zoning Map



Created by the Dept. of Planning and Zoning, January 2011

XIII. TIME LIMITATIONS

There is no stated limitation on the length of time within which the program activities must be completed.

XIV. PROGRAM FUNDING

Funding from all sources allowable under Virginia law will be sought to finance approved program activities. The implementation of public improvements will be contingent on the availability of funds.

APPENDICES

1991 RESOLUTIONS FROM THE FAIRFAX COUNTY REDEVELOPMENT AND HOUSING AUTHORITY AND THE BOARD OF SUPERVISORS ADOPTING THE JEFFERSON MANOR CONSERVATION PLAN

1. Fairfax County Redevelopment and Housing Authority Item – May 20, 1991

2. Board of Supervisors Resolution – June 17, 1991

Appendix 1

FCRHA Agenda Item
May 30, 1991

ACTION – A1

RESOLUTION NUMBER 29-91: APPROVAL OF THE JEFFERSON MANOR CONSERVATION PLAN (LEE DISTRICT)

ISSUE:
Approval by the FCRHA of the Jefferson Manor Conservation Plan and authorization by the FCRHA to forward the Jefferson Manor Conservation Plan to the Fairfax County Board of Supervisors with the recommendation that the Plan be adopted by the Board of Supervisors.

RECOMMENDATION:
At its meeting on May 22, 1991, the FCRHA Community Development Committee recommended adoption of Resolution Number 29-91 approving the Jefferson Manor Conservation Plan and forwarding the Plan to the Board of Supervisors with the recommendation that the Plan be adopted by the Board of Supervisors.

TIMING:
Action should be taken as soon as possible in order to forward the Jefferson Manor Conservation Plan to the Board of Supervisors prior to their public hearing on the Plan scheduled for June 17, 1991.

BACKGROUND:
In the spring of 1990, the Jefferson Manor Civic Association requested that the County prepare a Conservation Plan for Jefferson Manor. On April 30, 1990, the Board of Supervisors directed the FCRHA to survey the existing conditions in Jefferson Manor to determine if the area met the criteria for conservation in accordance with Title 36 of the Code of Virginia of 1950, as amended.

The Fairfax County Department of Housing and Community Development, on behalf of the FCRHA, undertook a study of existing conditions in the Jefferson Manor area in the summer of 1990. This document, the Jefferson Manor Summary of Existing Conditions, was submitted to the FCRHA and the Board of Supervisors in the fall of 1990.

Based on the information contained in the Summary of Existing Conditions, the FCRHA and the Board of Supervisors concluded that Jefferson Manor is a community which meets the criteria for the establishment of a conservation area, and would benefit from the adoption of a conservation plan. On December 10, 1990, the Board of Supervisors directed the FCRHA to prepare a conservation plan for Jefferson Manor in accordance with Title 36 of the Code of Virginia, as amended.

FCRHA Agenda Item
May 30, 1991

The Department of Housing and Community Development, on behalf of the FCRHA, has held several meetings with the community and has prepared a conservation plan for Jefferson Manor. The Jefferson Manor Conservation Plan is a general guide that includes recommended policies and procedures for future development and improvement of the Jefferson Manor neighborhood. The requirements and provisions of the Jefferson Manor Conservation Plan will be carried out by the FCRHA as provided under Title 36 of the Code of Virginia, as amended. The Plan has been reviewed by the staff of the Lee District Supervisor, the County Attorney, and the Department of Environmental Management, the Office of Comprehensive Planning, the Department of Public Works, and the Virginia Department of Transportation. The Jefferson Manor Civic Association has reviewed the Conservation Plan and supports the adoption of the Plan by the FCRHA.

The goal of the Jefferson Manor Conservation Plan is to preserve the Jefferson Manor area as a stable residential community, to prevent the area from further deterioration, and to provide for its improvement in the future. The Jefferson Manor Conservation Plan is consistent with the goals of the Fairfax County Community Development Program which are (1) to produce, retain and improve low and moderate income housing in Fairfax County; (2) to eliminate conditions of slums, blight and deterioration and disorderly growth throughout the County; (3) to improve and preserve existing low and moderate income communities through the provision of public facilities and services; and (4) to maintain an ongoing comprehensive planning and citizen participation process to meet the aforementioned goals.

Through approval of Resolution 29-91 the FCRHA approves the Jefferson Manor Conservation Plan and transmits the Plan to the Board of Supervisors with a recommendation that the Board adopt the plan. A public hearing by the Board of Supervisors is scheduled for June 17, 1991, at 4:00 p.m. Section 36-49.1 of the Code of Virginia of 1950, as amended, requires the Board of Supervisors to conduct a public hearing prior to approval of a conservation plan.

ENCLOSED DOCUMENTS:
Attachment 1: Resolution Number 29-91
Attachment 2: Jefferson Manor Conservation Plan

STAFF:
Walter D. Webdale, Director, Department of Housing and Community Development (HCD);
Bruce A. LaVal, Director, Community Development Division, HCD;
Audrey Spencer-Horsley, Chief Planner, Community Development Division, HCD; Deidre M. Ricks, Community Program Coordinator, Community Development Division, HCD.

Attachment 1

RESOLUTION NUMBER 29-91

APPROVAL OF THE JEFFERSON MANOR CONSERVATION PLAN
(LEE DISTRICT)

WHEREAS, past and current studies and analyses have documented the serious problems and deteriorating conditions in the Jefferson Manor Area, including the need to upgrade housing and public facilities; and

WHEREAS, the Fairfax County Redevelopment and Housing Authority (hereinafter called the "Authority") and the Board of Supervisors have investigated the Jefferson Manor Area and have found such area feasible for conservation; and

WHEREAS, on December 10, 1991, Board of Supervisors directed the Authority to prepare a Conservation Plan in accordance with Title 36 of the Code of Virginia, as amended; and

WHEREAS, the Department of Housing and Community Development, on behalf of the Authority, has met with residents of Jefferson Manor and prepared the Conservation Plan dated May 1991;

WHEREAS, the Authority is specifically empowered to carry out the work or undertakings as called for in the Conservation Plan under Title 36 of the Code of Virginia, as amended; and

WHEREAS, the Authority held a public hearing on the Jefferson Manor Conservation Plan on May 30, 1991.

NOW THEREFORE, BE IT RESOLVED THAT the Authority approves the Jefferson Manor Conservation Plan and transmits said Plan to the Fairfax County Board of Supervisors for its consideration with the recommendation that it be approved and adopted.

Appendix 2

BOARD OF SUPERVISORS' RESOLUTION
June 17, 1991

APPROVAL OF THE JEFFERSON MANOR CONSERVATION PLAN

WHEREAS, past and current analyses have documented the serious problems and deteriorating conditions in the Jefferson Manor neighborhood, including the need to upgrade housing and public facilities; and

WHEREAS, on December 10,1990, the Board of Supervisors requested that the Fairfax County Redevelopment and Housing Authority (hereafter called the "Authority") investigate the Jefferson Manor neighborhood and, if feasible, to delineate such area and prepare a Conservation Plan in accordance with Section 36-49.1 of the Code of Virginia, as amended; and

WHEREAS, the Authority has investigated the Jefferson Manor neighborhood and has found such an area feasible for conservation; such area being that described in the boundaries of the **Jefferson Manor Conservation Plan;** and

WHEREAS, the Authority, after meeting with citizen groups, has prepared the **Jefferson Manor Conservation Plan,** dated May 1991; and

WHEREAS, after its public hearing on May 30,1991, the Authority duly approved by Resolution No. 29-91 transmittal of said **Jefferson Manor Conservation Plan,** to the Board of Supervisors for its consideration; and

WHEREAS, the Authority is specifically empowered to carry out the work or undertakings as called for in the **Jefferson Manor Conservation Plan** under Section 36-49.1 of the Code of Virginia, as amended; and

WHEREAS, the Jefferson Manor Conservation Plan has been prepared in accordance with the requirements of Section 36-49.1 of the Code of Virginia, as amended; and

WHEREAS, the **Jefferson Manor Conservation Plan** is consistent with all other provisions of Title 36 of the Code of Virginia, as amended, and with the Cooperation Agreement of May 14,1973, between the Fairfax County Board of Supervisors and the Redevelopment and Housing Authority, as amended; and

WHEREAS, the Board of Supervisors has considered said **Jefferson Manor Conservation** Plan;

NOW, THEREFORE, BE IT RESOLVED, that

1. The Board of Supervisors of Fairfax County, Virginia, does hereby approve and adopt said **Jefferson Manor Conservation Plan,** and
2. **The Jefferson Manor Conservation Plan,** as adopted, is applicable in that area described as the boundaries of such Plan; and
3. **The Jefferson Manor Conservation Plan,** as adopted, shall be implemented in accordance with the Cooperation Agreement of May 14,1973, between the Fairfax County Board of Supervisors and the Redevelopment and Housing Authority, as amended; and

4. The County staff shall forward any and all requests, plans and proposals concerning zoning, subdivision and development, and public improvements within the Jefferson Manor Conservation Area to the Authority for its review and comment prior to final County agency action.