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The meeting was called to order at 9:50 a.m. with all Members being present, with the exception of Supervisor Alexander, and with Chairman Davis presiding.

Supervisor Alexander was absent from the entire meeting.

Others present were William J. Leidinger, County Executive; David P. Bobzien, County Attorney; William O. Howland, Jr., Assistant to the County Executive, Barbara M. Jenkins, Assistant to the County Executive; Nancy Vehrs, Clerk to the Board of Supervisors; and Patti M. Hicks, Deputy Clerk to the Board of Supervisors.

2. RESOLUTION IN SUPPORT OF THE JEWISH COMMUNITY CENTER

(Tape 1)

Chairman Davis relinquished the Chair to Vice-Chairman McConnell and moved adoption of the Resolution presented to Suzy Goldhammer, President, Jewish Community Center of Northern Virginia, in support of the Jewish Community Center and condemning the recent actions which took place at the Center. This motion was seconded by Supervisor Bulova and carried by a vote of nine, Supervisor Alexander being absent.

Vice-Chairman McConnell returned the gavel to Chairman Davis.

3. 9:30 A.M. - VIEWING OF SCENIC AMERICA'S VIDEO TAPE OF TREE CONSERVATION EFFORTS IN FAIRFAX COUNTY AND OTHER JURISDICTIONS (Tape 1)

Following a brief introduction by Supervisor Bulova, Scenic America's video tape of tree conservation efforts in Fairfax County and other jurisdictions throughout the United States was viewed by all those present in the Board Auditorium.

4. RECOGNITION OF BRADDOCK DISTRICT SUPERVISOR SHARON BULOVA'S BIRTHDAY (Tape 1)

The entire Board acknowledged that today is Braddock District Supervisor Sharon Bulova's Birthday and extended its congratulations and best wishes.

5. CERTIFICATE TO RECOGNIZE WILLIAM C. BECKNER, DIRECTOR, FAIRFAX COUNTY PARK AUTHORITY (Tape 1)

Supervisor Hyland moved approval of the Certificate presented to William C. Beckner, Director, Fairfax County Park Authority recognizing him for:

- 16 years of distinguished service and dedicated commitment to the government, the citizens and the environment of Fairfax County;
- Outstanding accomplishments during the reorganization of the Fairfax County Park Authority; and
- As Director of the Fairfax County Park Authority.

This motion was seconded by Supervisor Bulova and carried by a vote of nine, Supervisor Alexander being absent.

6. CERTIFICATE TO RECOGNIZE MARSHALL ROAD ELEMENTARY SCHOOL (Tape 1)

Supervisor Dix moved approval of the Certificate presented to Principal Meadows, Teacher Widdifield, and students David Justen, Colin Swink, Ashley Cypher, and Max Dales of Marshall Road Elementary School for coordination of an environmental awareness project to inform citizens of ways to prevent and reduce the amount of pollutants carried by stormwater to the streams and lakes in Fairfax County. This motion was seconded by Supervisor Hanley and carried by a vote of nine, Supervisor Alexander being absent.

7. PROCLAMATION DESIGNATING DECEMBER 11, 1993 AS "GEORGE MASON DAY" IN FAIRFAX COUNTY (Tape 1)

Supervisor Hanley moved approval of the Proclamation presented to Mary Lou Curtis, designating December 11, 1993 as "**George Mason Day**" in Fairfax County and urging all citizens of Fairfax County to acknowledge the remarkable and vital contributions of George Mason to the freedoms everyone enjoys. This motion was seconded by Chairman Davis and carried by a vote of eight, Supervisor Frey being out of the room, Supervisor Alexander being absent.

8. PROCLAMATION DESIGNATING DECEMBER 10, 1993 AS "WALTER W. GRAYSON DAY" IN RECOGNITION OF HIS 28 YEARS OF SERVICE TO FAIRFAX COUNTY (Tape 1)

Supervisor McConnell moved approval of the Proclamation designating December 10, 1993, as "**Walter W. Grayson Day**" in Fairfax County in recognition of Mr. Grayson's 28 years of dedicated service to the government and citizens of Fairfax County. This motion was jointly seconded by Supervisor Bulova and Supervisor

Hyland and carried by a vote of eight, Supervisor Frey being out of the room, Supervisor Alexander being absent.

9. 10:00 A.M. - BOARD ADOPTION OF THE 1994 LEGISLATIVE PROGRAM FOR THE VIRGINIA GENERAL ASSEMBLY (Tapes 1-2)

Following input from Susan Mittereder, Legislative Liaison, Office of the County Executive, and Michael H. Long, Assistant County Attorney, Supervisor Dix moved adoption of the 1994 Legislative Program for the 1994 Session of the Virginia General Assembly, to include endorsement of:

- Legislation which would provide for additional penalties for the willful killing, injuring or assaulting of the local game warden; and
- Provisions of a general agreement addressing the establishment of an indoor archery in a protected area.

Supervisor Bulova moved to amend the motion to endorse and support, in concept, legislation which would strengthen existing Fairfax County tree legislation, particularly with respect to preservation of existing trees. This motion was seconded by Supervisor Hyland.

After discussion, the question was called on the motion to amend, which **FAILED** by a recorded vote of four, Supervisor Bulova, Supervisor Hanley, Supervisor Hyland, and Supervisor Trapnell voting "AYE," Chairman Davis being out of the room, Supervisor Alexander being absent.

Supervisor Berger moved that the Board amend the County's legislative initiative for the 1994 Virginia General Assembly by adding an initiative to amend the Virginia Public Procurement Act to add a provision to Virginia Code 11-45, Exceptions to the Requirement for Competitive Procurement, which would permit the County to enter into a contract without competition with someone who has come to the County with an unsolicited proposal of a unique and innovative means of providing goods and services. This exception would permit the County to evaluate the merits of an unsolicited proposal and determine that it does, in fact, present an innovative and unique method, approach or concept and that the proper justification has been provided that a contract should be

awarded without the need to go through the competitive bidding process. This motion was seconded by Supervisor Dix for the purpose of discussion.

Following discussion, Supervisor Dix stated that the appropriate course of action is for the Board to submit a letter to the Chairman of the subcommittee within the

General Assembly which is examining the Virginia Procurement Act, indicating that the Fairfax County Board of Supervisors would like for this provision to be considered during the subcommittee's deliberations, and he accepted an amendment to his motion in this concept.

In an effort to understand more about this proposed process, Supervisor Bulova asked unanimous consent that the Board direct staff to provide additional information with regard to where and how this procedure is used. Without objection, it was so ordered.

Supervisor Hyland moved to amend the legislative package by initiating legislation which would require localities to provide neighboring jurisdictions notice of proposed planning and zoning actions along common boundaries which have regional implications. This motion was seconded by Supervisor Bulova and carried by a vote of nine, Supervisor Alexander being absent.

Supervisor Dix referred to the Business Tax Study Group's Initial Report and Recommendations, which he distributed to Board Members, and asked unanimous consent that the Board refer the following items to the Statewide Business, Professional and Occupational License (BPOL) Study which is currently underway:

- The Study Group's recommendation that consideration be given to allowing local governments the authority to create a formal appeals process on BPOL assessments; and
- Examination of currently exempt businesses as to whether or not they might be susceptible to some type of contribution to the cost of local government support services.

Without objection, it was so ordered.

(NOTE: Later in the meeting, there was further discussion of the Business Tax Study Group's Report. See Clerk's Summary Item CL#28.)

The question was then called on the main motion to adopt the 1994 Legislative Program, as amended, which carried by a vote of nine, Supervisor Alexander being absent.

Supervisor Dix announced that meetings of the Legislative Subcommittee have been scheduled to begin on **January 21, 1994, at 4:00 p.m.**, and each Friday afternoon thereafter during the General Assembly 1994 Session.

10. ABSENCE OF LEE DISTRICT SUPERVISOR JOSEPH ALEXANDER (Tape 2)

Chairman Davis read into the record a letter from Lee District Supervisor Joseph Alexander which explained his absence from today's Board Meeting due to his representation as Chairman of the Metro Board at an American Public Transit Meeting.

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11. 10:15 A.M. - APPOINTMENTS TO CITIZEN BOARDS, AUTHORITIES, COMMISSIONS AND ADVISORY GROUPS (Tape 3)

(BACs)

(APPTs)

ADVISORY SOCIAL SERVICES BOARD

(NOTE: The appointment of the Dranesville District Representative to the Advisory Social Services Board was deferred.)

ATHLETIC COUNCIL

Chairman Davis moved the appointment of Mr. Jose Romero as the At-Large (Diverse Populations) Representative to the Athletic Council. This motion was seconded by Supervisor McConnell and carried by a vote of nine, Supervisor Alexander being absent.

Supervisor Frey moved the appointment of Mr. David Lacey as the Sully District Representative to the Athletic Council. This motion was seconded by Supervisor Hanley and carried by a vote of nine, Supervisor Alexander being absent.

(NOTE: The appointment of the Dranesville (Alternate) Representative to the Athletic Council was deferred.)

AUDIT COMMITTEE

Supervisor Dix moved the appointment of Mr. Nick D. Turner as the At-Large Representative to the Audit Committee.

Supervisor Berger moved the appointment of Mr. Donald deLaski as the At-Large Representative to the Audit Committee.

Chairman Davis moved the appointment of Mr. Robert H. Frank as the At-Large Representative to the Audit Committee.

Following discussion, Chairman Davis relinquished the Chair to Vice-Chairman McConnell and asked unanimous consent that appointments to the Audit Committee be deferred until later in the meeting in order to allow staff time to distribute information to Board Members. Without objection, it was so ordered.

Vice-Chairman McConnell returned the gavel to Chairman Davis.

(NOTE: Later in the meeting, action was taken to defer appointments to the Audit Committee. See Page 9.)

BOARD OF BUILDING CODE APPEALS (HOUSING HYGIENE DIVISION)

Chairman Davis moved the appointment of Mr. Eugene Delgaudio as the At-Large Representative to the Board of Building Code Appeals-Housing Hygiene Division. This motion was seconded by Supervisor Dix and carried by a vote of nine, Supervisor Alexander being absent.

CHAS COORDINATING COMMITTEE

(NOTE: The appointment of the Springfield District Representative to the CHAS Coordinating Committee was deferred.)

COMMUNITY ACTION ADVISORY BOARD

(NOTE: The appointment of the Springfield District Representative to the Community Action Advisory Board was deferred.)

COMMUNITY IMPROVEMENT COMMITTEE

(NOTE: The appointments of the Dranesville and the Springfield District Representatives to the Community Improvement Committee were deferred.)

ENGINEERING STANDARDS REVIEW COMMITTEE

(NOTE: The appointment of the At-Large Representative to the Engineering Standards Review Committee was deferred.)

CONFIRMATIONS:

Chairman Davis moved that the Board confirm the following appointments to the Engineering Standards Review Committee:

- Mr. Tom Hartnett as the Citizens Committee on Land-Use and Transportation Representative (Reappointment); and
- Mr. Theodore D. Britt to fill the unexpired term of Howell Simmons as the Virginia Society of Professional Engineers Representative.

This motion was seconded by Supervisor Hyland and carried by a vote of nine, Supervisor Alexander being absent.

ENVIRONMENTAL QUALITY ADVISORY COUNCIL

Supervisor Berger moved the reappointment of Mr. Dewey Bond as the Dranesville District Representatives to the Environmental Quality Advisory Council. This motion was seconded by Supervisor Hyland and carried by a vote of nine, Supervisor Alexander being absent.

FAIRFAX AREA DISABILITY SERVICES BOARD

(NOTE: The appointment of the At-Large Representative to the Fairfax Area Disability Services Board was deferred.)

FAXFAIR CORPORATION BOARD

Supervisor Dix moved the appointment of Mr. Dan McGuire to fill the unexpired term of Ms. Karen Martin as the At-Large Representative to the Faxfair Corporation Board. This motion was seconded by Chairman Davis and carried by a vote of nine, Supervisor Alexander being absent.

FAIRFAX/FALLS CHURCH COMMUNITY SERVICES BOARD

(NOTE: The appointments of the Sully and the Mount Vernon District Representatives to the Fairfax/Falls Church Community Services Board were deferred.)

HISTORY COMMISSION

[NOTE: The appointment of the At-Large (Citizen) Representative to the History Commission was deferred.]

HUMAN RIGHTS COMMISSION

Chairman Davis moved the appointment of Mr. Anthony Weaver as the At-Large Representative to the Human Rights Commission. This motion was seconded by Supervisor Dix and carried by a vote of nine, Supervisor Alexander being absent.

HUMAN SERVICES COUNCIL

(NOTE: The appointment of the Springfield District Representative to the Human Services Council was deferred.)

PROJECT SELECTION COMMITTEE

(NOTE: The appointment of the Springfield District Representative to the Project Selection Committee was deferred.)

CONFIRMATIONS:

Supervisor Bulova moved that the Board confirm the following appointments to the Project Selection Committee:

- Mr. George C. Miller, Jr. as the Commission on Aging (Principal) Representative; and
- Ms. Margaret Zitzmann as the Commission on Aging (Alternate) Representative.

This motion was seconded by Supervisor Hanley and carried by a vote of nine, Supervisor Alexander being absent.

TREE COMMISSION

(NOTE: The appointment of the Providence District Representative to the Tree Commission was deferred.)

WETLANDS BOARD

Chairman Davis moved the appointment of Mr. Kent Knowles as the At-Large Representative to the Wetlands Board. This motion was seconded by Supervisor Trapnell and carried by a vote of nine, Supervisor Alexander being absent.

(NOTE: The appointment of the Lee District Representative to the Wetlands Board was deferred.)

AD HOCS

CITIZENS ADVISORY COMMITTEE ON SOLID WASTE AND DISPOSAL MATTERS

(NOTE: The appointment of the Sully District (Alternate) Representative to the Citizens Advisory Committee on Solid Waste and Disposal Matters was deferred.)

CONFIRMATIONS:

Supervisor McConnell moved that the Board confirm the following appointments to the Citizens Advisory Committee on Solid Waste and Disposal Matters:

- Mr. Kenneth C. Kessler as the Business Recycling Task Force (Alternate) Representative; and
- Mr. Douglas R. Ross as the Fairfax County Chamber of Commerce (Alternate) Representative.

This motion was seconded by Chairman Davis and carried by a vote of nine, Supervisor Alexander being absent.

EMPLOYER CHILD CARE COUNCIL

CONFIRMATION:

Supervisor Hanley moved that the Board confirm the following appointment to the Employer Child Care Council:

- Mr. James E. Eubanks to fill the unexpired term of Mr. Jeffrey O'Lingy as the Financial Services Representative.

This motion was seconded by Chairman Davis and carried by a vote of nine, Supervisor Alexander being absent.

TYSONS CORNER TASK FORCE

Supervisor Hanley announced that the Tysons Corner Task Force is very close to the completion of its work and therefore she would not appoint anyone to fill the Providence District vacancy.

RESIGNATION FROM THE CONSUMER PROTECTION COMMISSION

Supervisor Berger announced the resignation of Ms. Clare Bannerman as the At-Large Representative from the Consumer Protection Commission.

Following discussion, Chairman Davis relinquished the Chair to Vice-Chairman McConnell and asked unanimous consent that appointments to the Consumer Protection Commission be deferred until next week. Without objection, it was so ordered.

DEFERRAL OF APPOINTMENTS TO THE AUDIT COMMITTEE

(NOTE: Earlier in the meeting, additional discussion was held regarding appointments to the Audit Committee. See Page 6.)

Following discussion, Supervisor Hanley asked unanimous consent that the Board defer appointments to the Audit Committee until December 13, 1993 when a full Board is present. Without objection, it was so ordered.

12. ADMINISTRATIVE ITEM (Tape 3)

Supervisor Hanley moved approval of the Administrative Item. This motion was seconded by Supervisor McConnell and carried by a vote of nine, Supervisor Alexander being absent.

ADMIN 1 - AUTHORIZATION TO ADVERTISE A PUBLIC HEARING FOR AMENDMENTS TO CHAPTER 9 (CABLE COMMUNICATIONS) OF THE FAIRFAX COUNTY CODE RELATING TO REGULATION OF BASIC CABLE TELEVISION SERVICE RATES

(A) Authorized the advertisement of a public hearing to be held before the Board of Supervisors on **January 24, 1994 at 3:30 p.m.** on proposed amendments to the Code of the County of Fairfax, Chapters 9 (Cable Communications) regarding the regulation of basic cable television service rates.

13. I-1 - REGIONAL JAIL (Tape 3)

The Board next considered an Information Item contained in the Memorandum to the Board dated December 6, 1993 requesting authorization for staff to notify the Regional Jail Authority of Fairfax County's decision not to join, for the reasons outlined in the Memorandum to the Board, the Regional Jail Authority at Fort A.P. Hill.

Following discussion, with input from Carl R. Peed, Sheriff, Supervisor Hyland asked unanimous consent that Information Item I-1 be deferred until next week in order to allow staff time to provide Board Members with additional background information regarding this issue. Without objection, it was so ordered.

14. I-2 - DESIGNATION OF SUBFUND 182 HOUSING TRUST FUND MONIES FOR ELDERLY HOUSING PROJECTS TO BE DEVELOPED BY THE FAIRFAX COUNTY REDEVELOPMENT AND HOUSING AUTHORITY (FCRHA) (COUNTYWIDE) (Tape 3)

The Board next considered an Information Item contained in the Memorandum to the Board dated December 6, 1993 requesting authorization for staff to:

- Designate funds revolving back to the Housing Trust Fund on or before September 30, 1994 to four elderly housing projects and funds will be allocated as follows:
 - Project 003969, Lewinsville, \$2,063,200;
 - Project 013808, Herndon Elderly (Herndon Harbor House), \$400,000;
 - Project 013841, Manchester Lakes (Morris Glen), \$366,800; and
 - Project 013948, Little River Glen II, \$60,000.

The staff was directed administratively to proceed as proposed.

15. I-3 - REPORT ON THE USE OF SUBSURFACE UTILITY ENGINEERING TECHNOLOGY TO LOCATE UTILITY LINES PRIOR TO COMMENCEMENT OF CONSTRUCTION (Tape 3)

The Board next considered an Information Item contained in the Memorandum to the Board dated December 6, 1993:

- Presenting the report on the use of subsurface utility engineering technology to locate utility lines prior to commencement of construction; and
- Requesting authorization for staff to continue to process a proposed amendment to the Public Facilities Manual (PFM) in accordance with established procedures.

Supervisor Dix expressed his appreciation to staff and the Planning Commission Subcommittee for their work on this issue.

The staff was directed administratively to proceed as proposed.

16. I-4 - INITIATION OF STAFF ACTION TO IMPLEMENT A PERMIT PROCESS FOR DISCHARGE OF GROUNDWATER REMEDIATION EFFLUENT INTO COUNTY SEWERS (COUNTYWIDE) (Tape 3)

The Board next considered an Information Item contained in the Memorandum to the Board dated December 6, 1993 requesting authorization for staff to:

- Proceed to formulate and recommend measures to insure that the County's interests are protected when groundwater remediation discharges are directed to County systems; and
- Report to the Board in February, 1994.

Following a brief discussion, staff was directed administratively to proceed as proposed.

17. I-5 - CONTRACT AWARD - ELLISON HEIGHTS NEIGHBORHOOD IMPROVEMENTS (DRANESVILLE DISTRICT) (Tape 3)

The Board next considered an Information Item contained in the Memorandum to the Board dated December 6, 1993 requesting authorization for staff to:

- Award a contract (including Alternate One) to Cube Construction Corporation in the amount of \$514,469 for the construction of Ellison Heights Neighborhood Improvements, Project C00089, in Subfund 488, Neighborhood Improvements; and
- Reallocate funds as outlined in the Memorandum to the Board.

The staff was directed administratively to proceed as proposed.

18. I-6 - APPROVAL OF AN AGREEMENT PROVIDING FOR THE CONSTRUCTION OF AN EMERGENCY ACCESS ENTRANCE TO THE NEWINGTON TANK FARM ALONG INTERSTATE 95 (MOUNT VERNON AND LEE DISTRICTS) (Tape 3)

The Board next considered an Information Item contained in the Memorandum to the Board dated December 6, 1993 requesting authorization for staff to:

- Execute the agreement (contained in the Memorandum to the Board) with the Virginia Department of Transportation (VDOT) for construction of the emergency access;
- Reallocate funds as outlined in the Memorandum to the Board; and
- Authorize VDOT to proceed with design and construction as part of the I-95 High Occupancy Vehicle (HOV) Project.

Following a brief discussion, with input from William J. Leidinger, County Executive, Chairman Davis relinquished the Chair to Vice-Chairman McConnell and asked

unanimous consent that the Board direct staff to also pursue funding from the Newington Tank Farm. Without objection, it was so ordered.

Vice-Chairman McConnell returned the gavel to Chairman Davis.

The staff was directed administratively to proceed as proposed.

19. I-7 - PROPOSED CHANGES TO VEHICLE DECAL PROCESS AND PERSONAL PROPERTY TAX DUE DATE--ISSUE HIGHLIGHTS (Tape 3)

The Board next considered an Information Item contained in the Memorandum to the Board dated December 6, 1993 presenting proposed changes to the vehicle decal process and personal property tax due date.

Chairman Davis relinquished the Chair to Vice-Chairman McConnell and asked unanimous consent that the Board direct staff to review the Options listed on page 23 to consider issuing the first decal for five months at a charge of \$15 and charge \$25 for the following year. Without objection, it was so ordered.

Vice-Chairman McConnell returned the gavel to Chairman Davis.

Additional discussion ensued with input from Kevin C. Greenlief, Director, Personal Property Division, Office of Assessments, and Edward L. Long, Jr., Director, Office of Management and Budget.

20. I-8 - STAFF SUMMARIES OF THE OCTOBER, 1993 TRANSPORTATION ADVISORY COMMISSION MEETINGS (COUNTYWIDE) (Tape 3)

The Board next considered an Information Item contained in the Memorandum to the Board dated December 6, 1993 presenting the Staff Summaries of the October, 1993 Transportation Advisory Commission meetings.

21. I-9 - SUBSTITUTION OF A PRIVATE CONTRACTOR TO REPLACE METROBUS AS THE OPERATOR OF EXISTING BUS SERVICE IN THE HERNDON/RESTON AREAS (DRANESVILLE, HUNTER MILL, PROVIDENCE AND SULLY DISTRICTS) (Tape 3)

The Board next considered an Information Item contained in the Memorandum to the Board dated December 6, 1993 presenting the staff report regarding the substitution of a private contractor to replace Metrobus as the operator of existing bus service in the Herndon/Reston areas.

Supervisor Dix announced that he and Supervisor Alexander would be hosting a public meeting at South Lakes High School on Tuesday, December 7, 1993, at 7:30 p.m. regarding the status of this item.

BOARD MATTERS

22. ADVERTISEMENT OF PUBLIC HEARING FOR THE AT-LARGE REPRESENTATIVE ON THE FAIRFAX COUNTY SCHOOL BOARD (Tape 3)

(BACs)

(A)

Chairman Davis informed the Board that Kay James, At-Large Representative to the Fairfax County School Board, has been appointed by Governor-Elect Allen to his cabinet and will be resigning from the School Board.

Chairman Davis relinquished the Chair to Vice-Chairman McConnell and asked unanimous consent that the Board direct staff to:

- Prepare the advertisement for the public hearing on the School Board vacancy so that the position may be filled as soon as possible; and
- Invite Ms. James to appear before the Board to receive a Certificate of Appreciation for her service to Fairfax County on the School Board.

Without objection, it was so ordered.

23. LOCATING INTERIM SPACE IN FAIRFAX COUNTY FOR THE INTERNATIONAL SOCIETY OF EMERGENCY MEDICAL SERVICES (ISEMS) (Tape 4)

Supervisor Davis informed the Board of the International Society of Emergency Medical Services (ISEMS), a 501C3 non-profit organization that is devoted to addressing the issues of accessibility to health care when a health care emergency develops. The organization presently has a membership of 32 countries and 100 EMS professionals.

ISEMS currently is provided office space in Chantilly by the American Systems Corporation, however they have been advised that they will have to relocate because American Systems Corporation needs the space for expansion. ISEMS has been working with Fairfax County's Economic Development Authority (EDA) to find

permanent office space in the County but is currently seeking space on an interim basis, three to six months while details for a permanent location is finalized. ISEMS currently has four employees but will ultimately have approximately 200 employees working in a campus style office environment. They feel they will reach this staffing level in five to eight years. Their long range goal is to locate permanently in a Fairfax County facility. They are currently in the planning stages of their bi-annual world conference in October, 1994, which will be held in Egypt. The next conference will be held in Fairfax County.

Supervisor Davis moved that in order to assist this organization on an interim basis, the Board direct staff to:

- Find space in a Fairfax County facility for this organization by December 15, 1993;
- Schedule a public hearing at its meeting on January 10, 1994, regarding a lease with the ISEMS; and
- Lease space, rent free, for six to 12 months and after that time ISEMS will be charged the market rental rate for that space until they are able to find a permanent facility within the County.

This motion was seconded by Supervisor McConnell and carried by a vote of nine, Supervisor Alexander being absent.

24. BOARD SUPPORT OF THE FAIRFAX CENTER AREA MIXED USE PERMIT (Tape 4)

Supervisor Davis reminded the Board of the Fairfield Mixed Use Planned Development Commercial District (PDC) located along Fair Lakes Parkway east of West Ox Road in the Fairfax Center area. This property was originally rezoned in 1987 and then amended in 1989. The residential component of this PDC is built and occupied as is one 89,000 square feet office building, the Kaiser-Permanente building adjacent to West Ox Road. The undeveloped remainder of the Fairfield PDC is approved for an additional 349,000 square feet in four office buildings.

Supervisor Davis stated that there is a proposal to convert the undeveloped portion of the previously approved office use into approximately 125,000 square feet of specialty retail and restaurants and asked for an Out-Of-Turn Plan amendment. Currently the property is planned for office mix which calls for a preponderance of non-residential. There is no retail mixed land use category in the Fairfax Center Area Plan. This project is in a Catch -22 because it will be a mix of predominantly office and retail uses with a strong secondary residential component.

Supervisor Davis stated that, in staff's opinion, the reduction in non-residential use resulting from the conversion, even though the non-residential will predominate, will not meet the two-to-one ratio suggested in the Plan. Historically the County wanted a stronger residential component in the Fairfax Center Area, but compromised because of market pressure for a non-residential use. The two-to-one ratio was intended to encourage achievement of no less than the residential component. The results will approach a one-to-one ratio and the project will be a strong mix of office, retail and residential.

Supervisor Davis stated that this is a real economic development opportunity in an area which has more than 1,000 residential units within walking distance of the site and historically has been under-served by restaurants and the other uses proposed. With 15,000 residential units and 15 million square feet of employment uses planned or developed within the Fairfax Center Area, the entire area is vastly under-served by specialty retail, service stations, and restaurants, particularly quality sit-down restaurants.

This proposal offers all three with a very high quality design by RTKL who designed the Reston Towne Center and it includes one of the last unconsolidated previously unavailable parcels in the core area, Tax Map parcel 56-1-((1))-20.

Supervisor Davis announced that the Hazel-Petersen Companies have developed an exciting retail concept at a scale that will complement the surrounding uses and will more than satisfy the high quality design standards of the Fairfax Center Area. They intend to name the retail component "Fair Lakes Promenade."

Supervisor Davis moved that the Board direct staff to move quickly to clearly signal the County's support for the appropriateness of this use before the opportunity to consolidate Parcel 20 and provide the much needed uses is lost. This motion was seconded by Supervisor Frey.

Following discussion, Supervisor Frey asked to amend the motion to also have staff consider the Franklin Property which is located across the street from the Fairfax Center Area and will be coming before the Board for deletion of some retail, and this was accepted.

The question was called on the motion, as amended, which carried by a vote of nine, Supervisor Alexander being absent.

Vice-Chairman McConnell returned the gavel to Chairman Davis.

25. OPENING OF THE FAIRFAX COUNTY GIFT SHOP (Tape 4)

Chairman Davis announced that the Fairfax County Gift Shop will be opening on Wednesday, December 8, 1993 in the Government Center and displayed some of the gifts being offered.

26. DULLES TOLL ROAD SPECIAL ADVISORY COMMITTEE MEETING REGARDING HIGH OCCUPANCY VEHICLES (HOV) USE (Tape 4)

Supervisor Dix called the Board's attention to the motion that was the final product of the Dulles Toll Road Special Advisory Committee meeting held last week and stated his belief that the approval of a plan, in concept only, is appropriate at this time.

Supervisor Dix stated that due to the continuing reluctance of the Airport Authority to commit to use of the Access Road at any time for High Occupancy Vehicles (HOV) use, including during a potential construction time a subcommittee will be appointed to solicit the assistance of the Congressional representatives in Northern Virginia to try to persuade the Airports Authority and the Congressional Oversight Committee that the Dulles Access Road is presently an under-utilized highway that was paid for by taxpayers and is the beginning solution for building HOV ridership for carpools, vanpools, and buses.

Supervisor Dix stated his belief that the numbers presented indicate that the level of service on the Access Road will continue to be a level of Service A if HOV is permitted and asked unanimous consent that the Board direct staff to solicit assistance from the necessary people in order to allow HOV use on the Dulles Access Road, and if approval is made to proceed with the construction of a fourth lane but a commitment is needed in advance, that the road will be available for use during that construction period. Without objection, it was so ordered.

27. SUNSET HILLS ROAD IMPROVED TO SIX-LANES AS A RESULT OF PROFFERS REGARDING PROFFERED CONDITION AMENDMENT APPLICATION PCA 90-C-006 (PLAZA AMERICA) AND REZONING APPLICATION RZ 93-H-004 (SALLIE MAE) (Tape 4)

Supervisor Dix stated that on October 6, 1993, the Board approved Proffered Condition Amendment Application PCA 90-C-006 (Plaza America Development Corporation), for property located on Sunset Hills Road near old Reston Avenue. On November 15, 1993, the Board approved Rezoning Application RZ 93-H-004, an application by Sallie Mae for property located directly across Sunset Hills Road from the Plaza America site. The proffers for both applications provide the County with the opportunity to have Sunset Hills Road improved to a full six-lane section at one time. The proffers for Plaza America state that the Board or the County entity that it may

officially designate must provide the applicant with written notice by December 10, 1993, as to whether the County wishes to have the full section constructed at one time. Plaza America and Sallie Mae are in the process of finalizing a private agreement so that the road can be constructed at one time; however, this agreement has not yet been finalized and signed, or submitted to the County for review.

Therefore, Supervisor Dix moved that the Board designate Anthony H. Griffin, Deputy County Executive for Planning and Development, as the County entity designated to act on the Board's behalf on this issue. This motion was seconded by Supervisor Hyland and carried by a vote of nine, Supervisor Alexander being absent.

28. BUSINESS TAX STUDY GROUP'S INITIAL REPORT AND RECOMMENDATIONS (Tape 4)

(NOTE: Earlier in the meeting, there was a brief discussion on this item included in the Board's adoption of the Legislative Package. See Clerk's Summary Item CL#9.)

Supervisor Dix called the Board's attention to the "Initial Report and Recommendations" from the Business Tax Study Group and acknowledged the Fairfax County Chamber of Commerce who participated with Fairfax County staff, in a joint venture study of the County's business tax policy and programming.

Supervisor Dix reminded the Board of its authorization to create the Business Tax Study Group to assess the findings of the study group and determine if recommendations would be appropriate for the upcoming session of the General Assembly. Supervisor Dix

acknowledged Kevin C. Greenlief, Director, Personal Property, State Income and License Division, Office of Assessments, Edward L. Long, Jr., Director, Office of Management and Budget, and Michael H. Long, Assistant County Attorney, for working with this study group and providing outstanding professional assistance and guidance to this group.

Supervisor Dix stated that there are two things that require the Board's consideration. In the research it was discovered that there is a way the group believes would be beneficial to promoting small, start-up businesses. Presently if gross receipts for a company are less than \$10,000 annually they are not subject to gross receipts taxes. The study group recommends that this threshold be raised to \$50,000 and those businesses be levied an annual business license fee in the amount of \$30, the maximum currently allowed under State law. The revenue impact would be a potential revenue loss of approximately \$250,000.

Supervisor Dix moved that the Board direct staff to review and consider this item during the Fiscal Year (FY) 1995 budget process. This motion was seconded by Chairman Davis and carried by a vote of nine, Supervisor Alexander being absent.

Supervisor Dix stated that the second item of focus has to do with business personal property and the current depreciation schedule on computers.

Supervisor Dix therefore moved that the Board direct staff to return this item to the Board during the mid-year discussion for a policy direction so the County Executive would be able to incorporate this matter in his budget deliberations. This motion was seconded by Supervisor Berger and carried by a vote of nine, Supervisor Alexander being absent.

AR:ar

29. BIRTHDAY CONGRATULATIONS TO BRADDOCK DISTRICT SUPERVISOR SHARON BULOVA (Tape 5)

Supervisor Hyland expressed his personal birthday congratulations to Braddock District Supervisor Sharon Bulova.

At this time, the Board presented a birthday cake to Supervisor Bulova.

30. UNITED COMMUNITY MINISTRIES (UCM) HISPANIC LEADERSHIP DEVELOPMENT PROJECT (Tape 5)

Supervisor Hyland stated that, as the percentage of foreign-born residents in Fairfax County has climbed rapidly in recent years, the Board has looked for ways to ensure that the newest neighbors are included in the community and assume their share of rights and responsibilities.

United Community Ministries (UCM) has addressed the needs of low-income residents of the Route One corridor since 1969. More recently, UCM has given serious attention to the growing Hispanic population in the South County area where, as this year closes, there are about 20,000 Hispanic people, most of them refugees and immigrants from Central and South America.

Supervisor Hyland moved that the Board direct William J. Leidinger, County Executive, to include the UCM request for \$7,318 for Hispanic Leadership Development start-up funding as a Consideration Item at the Fiscal Year (FY) 1994 Mid-Year Review in January 1994 This motion was seconded by Supervisor

McConnell and carried by a vote of eight, Supervisor Frey being out of the room, Supervisor Alexander being absent.

31. STATUS OF FAIRFAX COUNTY'S REGIONAL STORMWATER MANAGEMENT PROGRAM (Tape 5)

Supervisor Hyland stated that on November 10, a letter was sent to the Virginia Department of Environmental Quality concerning this Board's commitment to improving the quality of stormwater runoff into receiving waters and the use of regional stormwater management ponds as a mechanism for achieving this aim.

The letter also requested that the Department of Environmental Quality and the Corps of Engineers strongly consider initiating a regional general permit process to facilitate the review and issuance of permits so that timely implementation of the regional stormwater management program could begin.

Further, there was some concern expressed in the letter about encroachment of regional ponds into wetland areas and for this reason it was requested that a regional general wetlands permit be granted to Fairfax County.

Therefore, Supervisor Hyland asked unanimous consent that the Board direct staff to follow up with the State and Federal agencies on this issue, and to report to the Board with the status of its request. Without objection, it was so ordered.

32. CONGRATULATIONS TO THE DEPARTMENT OF CONSUMER AFFAIRS

(Tape 5)

Supervisor Hyland stated that he had read about an investigation which was concluded successfully as a direct result of the prompt action taken by the County's Department of Consumer Affairs.

Consumer Affairs' staff conducted an investigation of Suntory Water Group, Incorporated (doing business as Polar Water Company) in response to complaints alleging that the company had attempted to induce County residents to purchase their company's bottled water by disseminating false and misleading information concerning the quality of water supplied by the Fairfax County Water Authority.

As a result of the Department of Consumer Affairs' investigation, Suntory Water Group, Incorporated has signed an Assurance of Voluntary Compliance with the County. Under the terms of the Assurance, Suntory Water Group has agreed not to

engage in practices which violate the Virginia Consumer Protection Act such as misrepresenting the quality of water furnished by the Water Authority. In addition, Suntory has agreed to offer contract cancellations and refunds to all Fairfax County residents who purchased bottled water from Polar Water Company because of deceptive and misleading information provided by Suntory in a May 1993 "Notification" concerning the quality of water furnished to residents of Fairfax County.

Furthermore, Suntory Water Group agreed to provide to each customer in Fairfax County the right to cancel any contract within three days following the date of the contract. The Assurance requires Suntory to identify those customers who purchased bottled water from Polar Water Company following receipt of the May 1993 "Notification" and to send not only a retraction letter clarifying the misleading information, but also to issue a public retraction in a newspaper whose general circulation is in Fairfax County.

The Assurance of Voluntary Compliance required Suntory to pay \$2,500 to Fairfax County for administrative and investigative expenses and to pay \$10,830 for administrative costs and attorney fees incurred by the Fairfax County Water Authority. Any consumer complaints alleging fraudulent acts or practices against Suntory or Polar Water which cannot be conciliated must be submitted to binding arbitration through the consumer arbitration program administered by the Fairfax County Department of Consumer Affairs.

Supervisor Hyland stated that the Department of Consumer Affairs deserves special recognition and congratulations for its effectiveness and prompt action for its efforts on behalf of all citizens in Fairfax County.

(NOTE: Later in the meeting, additional kudos were directed towards the Department of Consumer Affairs. See Clerk's Summary Item CL#44.)

33. COMPREHENSIVE ANNUAL FINANCIAL REPORT (Tape 5)

Supervisor Hyland noted that in the Comprehensive Annual Financial Report, there was a reference, in the Appendix to the Report, to a separate letter dated October 8, 1993, which apparently has been sent to the County by the auditors. He asked unanimous consent that the Board direct staff to provide a copy of this letter to each Board Member. Without objection, it was so ordered.

34. PIPELINE ISSUES (Tape 5)

Supervisor Hyland called the Board's attention to two pieces of correspondence, one of which was the County Executive's letter to Mr. Tenley concerning the December 15, 1993 meeting reference the pipeline issues and Colonial 's position regarding the pipeline. In addition, Supervisor Hyland referred to the copy of the letter which was sent by the Congressman Herbert H. Bateman (R) to Mr. Tenley.

Supervisor Hyland asked unanimous consent that the Board:

- Submit a Freedom of Information (FOIA) Request to the Office of Pipeline Safety for information regarding the operation and reliability assessment which was done reference to the pipeline as it comes up through Fredericksburg; and
- Submit via correspondence, or a telephone call from the Chairman, information to Congressman Bateman advising him of Fairfax County's activities with Mr. Tenley, and suggesting that he (Congressman Bateman) may wish to attend the December 15 meeting.

Following discussion, the request was so ordered.

35. UNIWEST CONSTRUCTION, INCORPORATED - BALLS HILL ROAD PROPERTY (Tape 5)

Supervisor Berger said that it has come to his attention that a rezoning application has been filed for property at the intersection of Lewinsville Road and Balls Hill Road. The property is planned for single family detached residential use at 1-2 and 2-3 dwelling units per acre (du/ac). In addition, the current Comprehensive Plan language further states that "...development throughout this area should be at the low end of the Plan density range to foster compatibility with existing development."

Supervisor Berger explained that research has indicated that this concluding sentence was not recommended by either the task force, staff, or the Planning Commission in their 1991 Comprehensive Plan Review, but rather was inserted by the Board in its final review and approval in July 1991. The exact origin or basis for the sentence is unknown.

Supervisor Berger said that he is not convinced that compatibility with existing development can only be achieved by a proposed development at the low end of the density range, and the applicant would like the ability to demonstrate this point.

To provide this flexibility, Supervisor Berger moved that the Board:

- Authorize an Out-of-Turn Plan Amendment to modify the last sentence under Land Use Recommendation Two on page 228 of the Area II Component of the Comprehensive Plan to read:
 - "Except for Parcels 23 and 32 which are appropriate for a transitional density, development throughout this area should be at the low end of the Plan density range to foster compatibility with existing development;"
- Direct staff to prepare the necessary amendment and schedule it for public hearings before the Planning Commission and Board of Supervisors concurrently with the rezoning application.

This motion was seconded by Supervisor Dix and carried by a vote of nine, Supervisor Alexander being absent.

36. MEETING OF JOINT COUNTY/SCHOOL BOARD COMMITTEE (Tape 5)

Supervisor Berger announced that he and Supervisor Bulova will be attending a meeting of the Joint County/School Board Committee on December 8, 1993 at

3:00 p.m. in the Dranesville District Office. He called the Board's attention to the meeting's agenda, which will include joint efforts to address the potential of combining some activities which the County and the School Board currently do separately.

PMH:pmh

37. REQUEST FOR EXPEDITIOUS PROCESSING OF PROFFERED CONDITION AMENDMENT APPLICATION PCA 84-M-004 (KARFAD ASSOCIATES) (Tape 6)

Supervisor Trapnell moved that the Board direct staff to:

- Expeditiously process Proffered Condition Amendment Application PCA 84-M-004 (Karfad Associates) to amend the previously approved Generalized Development Plan (GDP) and proffers.

This motion was seconded by Supervisor Hyland and carried by a vote of nine, Supervisor Alexander being absent.

38. REQUEST TO FORMALIZE THE LAKE BARCROFT WATERSHED IMPROVEMENT DISTRICT AS A "CONTRIBUTORY AGENCY" (Tape 6)

Supervisor Trapnell said that the Lake Barcroft Watershed Improvement District (WID) had, until 1993, a cooperative agreement with the Department of Public Works (DPW) regarding the dredging of sediment and collection of floating debris within the Lake Barcroft Watershed.

Supervisor Trapnell stated that by way of a 1991 memorandum, delivered to WID in 1993, the DPW withdrew from this cooperative effort. The WID, which is the first and only taxing governmental entity of its type in the Commonwealth, currently spends over \$550,000 annually on conservation efforts beneficial to the Chesapeake Bay, as well as the immediate community.

Supervisor Trapnell said that she has discussed this situation with staff in an attempt to determine a way in which the County can re-establish this government-to-

government relationship, which is of benefit to the County as well as the WID as a formal "Contributory Agency" of the County.

Therefore, Supervisor Trapnell moved that the Board direct staff to draw up the necessary item which would, upon Board approval, formalize the Lake Barcroft Watershed Improvement District as a "Contributory Agency". This motion was seconded by Supervisor Hyland and carried by a vote of nine, Supervisor Alexander being absent.

Supervisor Dix asked unanimous consent that the issue of the lakes in Reston which have a similar situation be included in the discussion regarding Lake Barcroft. Without objection, it was so ordered.

39. APPRECIATION TO BOARD MEMBERS FOR BIRTHDAY WISHES (Tape 6)

Supervisor Bulova expressed her appreciation to Board Members for their birthday wishes.

40. BIRTHDAY WISHES FOR JAMES P. ZOOK, DIRECTOR, OFFICE OF COMPREHENSIVE PLANNING (OCP) (Tape 6)

Supervisor Bulova announced that today is the birthday of James P. Zook, Director, Office of Comprehensive Planning (OCP), and on behalf of the Board, she wished him a "Happy Birthday."

41. INTENT TO ADMINISTRATIVELY APPROVE HIGHER FENCE HEIGHT FOR RESIDENTS ABUTTING FAIRFAX COUNTY PARKWAY (Tape 6)

Supervisor Bulova stated that no noise attenuation will be provided to the Braddock District residents whose properties abut the Fairfax County Parkway. Those residents who would be most greatly impacted by the Parkway have decided to pay for and install their own wood fences.

Supervisor Bulova said that the Architectural Review Board (ARB) of the Burke Conservancy has ruled that higher fences in this area will be considered a conforming use. Also, the Board of Trustees of the Burke Conservancy has approved funding for the same type of fencing on the two open space parcels in this area.

Supervisor Bulova explained that in order to provide privacy and screening, some of the fences will have to be higher than the eight-foot allowed by the Zoning Ordinance. She said that she has discussed the issue with the Zoning Administrator who has determined that the Board can administratively approve fences higher than eight-foot under Paragraph 3G of Section 10-104 which states that "...a fence or wall which is to be provided in

conjunction with a public use may be of such a height as approved by the Board." In order to ensure that the higher fences will be stable, the contractor designed the fence with footers. Therefore, the fencing will require a permit from the County and will be inspected.

Supervisor Bulova stated that in order to approve the higher fences, there is a policy which must be followed which requires written notification to adjacent owners by first class mail postmarked a minimum of 20 days prior to Board action. The purpose of this Board Matter is to inform the Board that her office will coordinate this effort with the citizens and will handle the notification requirements. She said that it is her intent to return to the Board on January 10, 1994 to move that the Board administratively approve the higher fence height.

Supervisor McConnell stated she would be requesting the Board to request the Virginia Department of Transportation (VDOT) to review the environmental impacts on these houses.

42. CLOSING OF POPLAR TREE ROAD (Tape 6)

Supervisor Frey stated that there is a small portion of Poplar Tree Road (south side of Westfields) between Route 28 and New Brook Drive that does not have any access. He said that it has become a long strip of unutilized road.

Supervisor Frey asked unanimous consent that the Board direct staff to work with Westfield's and the Virginia Department of Transportation (VDOT) to review any and all possibilities for closing that section of Poplar Tree Road which would include discontinuance and abandonment or vacation. Without objection, it was so ordered.

43. HEAT IN THE PRESS ROOM (Tape 6)

Supervisor Frey said that last year there was a problem of not having heat in the Government Center Press Room. He moved that the Board include this issue as a Consideration Item. This motion was seconded by Chairman Davis and **CARRIED** by a recorded vote of nine, Supervisor Alexander being absent.

NV:nv

44. CONGRATULATIONS TO DEPARTMENT OF CONSUMER AFFAIRS AND COUNTY ATTORNEY'S OFFICE REGARDING POLAR WATER COMPANY

(Tape 7)

(NOTE: Earlier in the meeting, this item was discussed. See Clerk's Summary Item CL#32.)

Supervisor Hanley added her congratulations to the Department of Consumer Affairs for their efforts regarding Polar Water Company's Assurance of Voluntary Compliance Action. Chairman Davis also commended the efforts of the County Attorney's Office on this issue. David P. Bobzien, County Attorney, recognized the efforts of Ms. Marilyn McHugh of his staff.

45. URBAN FORESTRY REVIEW OF RESUBMISSION OF GRADING PLANS AND REVISIONS TO MAJOR PLANS (Tape 7)

Supervisor Hanley called the Board's attention to a November 30, 1993 memorandum distributed by the Department of Environmental Management (DEM) regarding the "Urban Forestry Review of Resubmission of Grading Plans and Revisions to Major Plans." Regarding item three in the memorandum, she asked unanimous consent that the Board direct staff to develop a process ensuring that those proffers and

development conditions are very clear to the urban forester. Without objection, it was so ordered.

46. RESIGNATION OF DAVID O. BANKS, CHIEF OF DUNN LORING VOLUNTEER FIRE DEPARTMENT (Tape 7)

Supervisor Hanley announced the resignation of David O. Banks, Chief, Dunn Loring Volunteer Fire Department, and moved that the Board direct staff to prepare a Certificate for for presentation to him at the Department's Annual Dinner/Dance. This motion was seconded by Chairman Davis and carried by a vote of nine, Supervisor Alexander being absent.

47. REQUEST FOR REPORT ON THE DAYTIME DEVELOPMENT CENTER PLAN (Tape 7)

Supervisor McConnell moved that the Board direct staff to:

- Report on its Daytime Development Center Plan to use third party funding resources to expand services to citizens who are not receiving services in a timely manner; and
- Return this Plan to the Board by the December 13, 1993 meeting.

This motion was seconded by Supervisor Dix and carried by a vote of nine, Supervisor Alexander being absent.

48. CLARIFICATION TO SPECIAL EXCEPTION AMENDMENT APPLICATION SEA 83-S-042 (Tape 7)

Supervisor McConnell stated that on November 15, 1993 the Board approved Special Exception Amendment Application SEA 83-S-042 with the specific addition of

development condition number 12. She stated that the development conditions were misnumbered and that the new development condition should have been number 10.

Therefore, for the purpose of clarification, Supervisor McConnell moved that the specific language added and approved by the Board be corrected for the record to read as development condition 10 for SEA 83-S-042 as follows:

- The County will review and re-evaluate its requirements for the 350-foot tower every five years beginning in 1998. Should it be found that the County no longer requires a 350 foot tower as determined by the Division of

Communications, it will be lowered to a height that meets the County's current and future needs.

This motion was seconded by Chairman Davis and carried by a vote of nine, Supervisor Alexander being absent.

49. ELECTRONIC DATA SYSTEMS EMPLOYEES' PARTICIPATION IN HOLIDAY SPIRIT PROGRAM (Tape 7)

Supervisor Frey announced that the employees of Electronic Data Systems (EDS) made the largest contribution ever to the Department of Human Development's Holiday Spirit Program. Accordingly, he asked unanimous consent that the Board direct staff to invite the EDS employees who had participated in the program and the appropriate staff of the Department of Human Development to be recognized at the next Board Meeting on December 13, 1993.

50. EDITORIAL REGARDING CHAIRMAN DAVIS' VERB USAGES (Tape 7)

Chairman Davis stated that he had received a copy of the editorial where he was cited in regard to his multiple verb usages.

51. RECESS/EXECUTIVE SESSION (Tape 7)

At 12:40 p.m., Supervisor Dix moved that the Board recess and go into Executive Session for discussion or consideration of matters enumerated in Virginia Code Section 2.1-344 and listed in the Agenda as well as for discussion of actual and probable litigation and other specific legal matters requiring the provision of legal counsel, as well as:

- Jean Novak, et al. versus Leonard Wright, At Law Number 120294;
- Board Of Supervisors of Fairfax County, Virginia versus Mac D Associates, At Law Number 116681; and
- Board of Supervisors, et al. versus Fairfax County Board of Zoning Appeals, et al., In Chancery Number 122492.

This motion was seconded by Supervisor Bulova and carried by a vote of nine, Supervisor Alexander being absent.

Chairman Davis announced that the Board would recess for lunch and convene the Executive Session at 2:30 p.m.

PMH:pmh

At 3:50 p.m., the Board reconvened in the Board Auditorium with all Board Members present, and with Chairman Davis presiding.

52. ACTIONS FROM EXECUTIVE SESSION (Tape 8)

A. CERTIFICATION BY BOARD MEMBERS REGARDING ITEMS DISCUSSED IN EXECUTIVE SESSION

Supervisor Bulova moved that the Board of Supervisors certify that, to the best of their knowledge, only public business matters lawfully exempted from the open meeting requirements prescribed by the Virginia Freedom of Information Act and only matters identified in the motion to convene Executive Session were heard, discussed, or considered by the Board during the Executive Session. This motion was seconded by Chairman Davis and carried by a vote of nine, Supervisor Alexander being absent.

B. SETTLEMENT OF JEAN NOVAK, ET AL. VERSUS LEONARD WRIGHT, AT LAW NO. 120294

Supervisor Frey moved that the Board authorize the settlement of Jean Novak, et al. versus Leonard Wright, At Law No. 120294, according to the terms and conditions outlined by the County Attorney in Executive Session. This motion was seconded by Supervisor Hanley and carried by a vote of nine, Supervisor Alexander being absent.

C. AUTHORIZATION TO PURCHASE NECESSARY EASEMENTS FOR THE FAIRFAX COUNTY PARKWAY AND THE VIENNA FEEDER BUS FACILITY

Supervisor Frey moved that the Board of Supervisors purchase the 49.2 acres plus all of the necessary easements for the Fairfax County Parkway and the Vienna Feeder Bus Facility, a portion of Tax Map Number 55-4((1))17 under the conditions outlined by the County Attorney in Executive Session. This motion was seconded by Supervisor Hanley and carried by a vote of nine, Supervisor Alexander being absent.

D. FAIRFAX COUNTY STATEMENT OF SUPPORT

Supervisor Dix moved adoption of the following item to be included with the Board of Supervisors Legislative Package: Fairfax County Board of Supervisors is committed to the establishment of a permanent facility for the Joint Virginia Tech/University of Virginia Northern Virginia Graduate Center and has identified funding for the center as one of its highest legislative priorities for the 1994-95

General Assembly Session. This motion was seconded by Chairman Davis and carried by a vote of nine, Supervisor Alexander being absent.

**E. BOARD OF SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA V.
BOARD OF ZONING APPEALS OF FAIRFAX COUNTY VIRGINIA, ET AL.,
CHANCERY NO. 122492, CIRCUIT COURT OF FAIRFAX, VIRGINIA**

Supervisor Berger stated that on July 9, 1991 the Board of Zoning Appeals (BZA) granted Variance Application VC 91-D-051 to Carl E. and Iola M. Burk. The prior Board of Supervisors voted to appeal to the Circuit Court of Fairfax County the granting of that Variance. He said that the Circuit Court reversed the BZA's granting of the Variance to the Burks. The Burk's motion to reconsider was argued and is currently under advisement.

Supervisor Berger said that it has come to his attention that the "outlet road" which has been providing access to Tax Map parcels 14, 15, 16 and potentially 17 is outside of any easement boundaries and encroaches upon the Burk's Parcel 22 at its intersection with Towlston Road and for a substantial distance to the north leading up to that intersection. He said that it appears that this is an extraordinary situation, and that the BZA determined that this Variance Application and the circumstances surrounding it were unique, that there are issues of access, preservation of monarch trees, and the likelihood of further litigation over the right of access.

Therefore, Supervisor Berger moved that the Board of Supervisors:

- Withdraw its appeal from the BZA granting of Variance Application VC 91-D-051, which variance contained as a condition of approval the requirement that the Burks record an easement running to the benefit of tax map parcels 14, 15, 16 and 17 providing those parcels access to Towlston Road, all as reflected on the Variance Plat and the conditions approved by the BZA on July 9, 1991;
- Direct the County Attorney to advise the Trial Court immediately of the Board's intention to withdraw the appeal; and
- Direct the County Attorney to endorse on behalf of the Board of Supervisors a Final Decree dismissing this matter, which Decree shall, in form and content deemed appropriate by the County Attorney, emphasize the specific findings of concern to the Board and make very clear the unique, non-precedential nature of this Variance.

This motion was seconded by Supervisor Hyland and carried by a vote of seven, Supervisor Hanley and Chairman Davis being out of the room, Supervisor Alexander being absent.

F. AUTHORIZATION TO PURCHASE NECESSARY EASEMENTS FOR THE FAIRFAX COUNTY PARKWAY

Chairman Davis relinquished the Chair to Vice-Chairman McConnell and moved that the Board include in its Legislative Package the following: State legislation should be enacted allowing localities the option of increasing the maximum allowable wholesale tax rate on both petroleum wholesale revenues from five cents per \$100 to 50 cents per \$100. Revenues would then be distributed one third to localities, one third to the State General Fund, and one third to the Virginia Petroleum Storage Tank Fund. This motion was seconded by Supervisor Hanley and carried by a vote of nine, Supervisor Alexander being absent.

SBE:sbe

53. 3:30 P.M. - PH ON PROFFERED CONDITION AMENDMENT APPLICATION PCA 88-S-026 AND SPECIAL EXCEPTION AMENDMENT APPLICATION SEA 88-S-077 (MOBIL OIL CORPORATION) (SULLY DISTRICT) (Tape 9)

Ms. Marie Travesky reaffirmed the validity of the affidavit for the record.

Ms. Travesky had filed the necessary notices showing that at least 25 adjacent and/or interested parties had been notified of the date and hour of this public hearing and she proceeded to present her case.

Chairman Davis disclosed the following campaign contribution which he had received:

- In the amount of \$350 from Marie Travesky, Travesky and Associates, to his campaign.

Following the public hearing, Leslie Johnson, Staff Coordinator, Zoning Evaluation Division, Office of Comprehensive Planning, presented the staff and Planning Commission recommendations.

Supervisor Frey moved approval of Proffered Condition Amendment Application PCA 88-S-026, subject to the revised proffers dated November 17, 1993. This motion was seconded by Supervisor McConnell and carried by a vote of eight, Supervisor Berger being out of the room, Supervisor Alexander being absent.

Supervisor Frey moved approval of Special Exception Amendment Application SEA 88-S-077 subject to the development conditions dated December 6, 1993. This motion

was seconded by Supervisor McConnell and carried by a vote of seven, Supervisor Berger and Supervisor Dix being out of the room, Supervisor Alexander being absent.

54. 3:30 P.M. - PH ON SPECIAL EXCEPTION AMENDMENT APPLICATIONS SEA 91-L-053 AND SEA 91-L-054 [(WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY (WMATA)] (LEE DISTRICT) (Tape 9)

Mr. John Elkins reaffirmed the validity of the affidavit for the record.

Mr. Elkins had filed the necessary notices showing that at least 25 adjacent and/or interested parties had been notified of the date and hour of this public hearing and he proceeded to present his case.

Following the public hearing, Supervisor Hyland moved to waive the reading of the staff and Planning Commission recommendations. This motion was seconded by Supervisor Berger and carried by a vote of eight, Supervisor Frey being out of the room, Supervisor Alexander being absent.

Supervisor Hyland, on behalf of Supervisor Alexander, moved approval of Special Exception Amendment Application SEA 91-L-053 subject to the development conditions dated November 22, 1993. This motion was seconded by Supervisor Berger and carried by a vote of eight, Supervisor Frey being out of the room, Supervisor Alexander being absent.

Supervisor Hyland moved:

- Modification of the transitional screening requirement in favor of the landscaping plan in the revised development conditions;
- Waiver of the barrier requirement; and
- Waiver of the interior parking lot landscaping requirements for the upper deck of the parking structure in favor of the Special Exception landscape plan and development conditions.

This motion was seconded by Supervisor Hanley and carried by a vote of eight, Supervisor Frey being out of the room, Supervisor Alexander being absent.

Supervisor Hyland moved approval of Special Exception Amendment Application SEA 91-L-054 subject to the development conditions dated October 13, 1993. This motion was seconded by Supervisor Hanley and carried by a vote of eight, Supervisor Frey being out of the room, Supervisor Alexander being absent.

55. 3:30 P.M. - PH ON THE ACQUISITION OF CERTAIN DEDICATIONS AND EASEMENTS NECESSARY FOR THE CONSTRUCTION OF THE ROUTE 29 INTERCHANGE SEGMENT OF THE FAIRFAX COUNTY PARKWAY (SULLY DISTRICT) (Tape 9)

(R) Certificates of Publication were filed from the Editor of the Fairfax Journal, showing that notice of said public hearing has been duly advertised in that Newspaper in the issue of November 19 and 26, 1993.

Following testimony by Speaker four, Mr. Roger Cornell, Supervisor Frey asked unanimous consent that the Board direct staff to review at Mr. Cornell's property to determine if the easements are adequate or whether it would be better to acquire all of Mr. Cornell's property. Without objection, it was so ordered.

Following the public hearing, which included testimony by nine speakers, Supervisor Frey moved adoption of the Resolution authorizing the acquisition of interests in real property necessary for construction of the Route 29 Interchange segment of the Fairfax County Parkway, Project 064150. This motion was seconded by Supervisor McConnell and carried by a vote of eight, Supervisor Trapnell being out of the room, Supervisor Alexander being absent.

56. 3:30 P.M. - PH ON A PROPOSAL TO ABANDON A PORTION OF RIGHT-OF-WAY KNOWN AS "ABANDONED ROAD" (SULLY DISTRICT) (Tape 9)

Certificates of Publication were filed from the Editor of the Fairfax Journal, showing that notice of said public hearing has been duly advertised in that Newspaper in the issue of November 19 and 26, 1993.

Supervisor Frey stated for the record that the County Attorney had advised the Board that it did not need to hold the Public Hearing on a Proposal to Abandon a Portion of right-of-Way Known as "Abandoned Road." He asked unanimous consent that the Board direct the Clerk to enter a memorandum from Mark B. Taylor, Assistant County Attorney, into the record advising this action. Without objection, it was so ordered.

57. 3:30 P.M. - PH ON PROPOSED REVISION TO THE CODE OF THE COUNTY OF FAIRFAX, CHAPTER 3 (COUNTY EMPLOYEES) POLICE OFFICERS RETIREMENT SYSTEM ORDINANCE REGARDING TRANSFER OF PRIOR SERVICE FOR PARK POLICE OFFICERS (Tape 10)

(O) Certificates of Publication were filed from the Editor of the Fairfax Journal, showing that notice of said public hearing has been duly advertised in that Newspaper in the issue of November 19 and 26, 1993.

Following the public hearing, which included testimony by four speakers, Supervisor Frey moved approval of the proposed amendments to the Code of the County of Fairfax, Chapter 3 (County Employees) Police Officers Retirement System Ordinance regarding transfer of prior service for Park Police Officers. This motion was seconded by Supervisor Bulova.

Following discussion, Supervisor Hanley moved to call the question. The question was called on the motion which **FAILED** by a recorded vote of five, Supervisor Bulova, Supervisor Frey, Supervisor Hanley, and Supervisor McConnell voting "AYE," Supervisor Alexander being absent.

Supervisor Berger moved approval of the proposed amendments to the Code of the County of Fairfax, Chapter 3 (County Employees) Police Officers Retirement System Ordinance regarding transfer of prior service for Park Police Officers using the **historical** rates of return of the system. This motion was seconded by Supervisor Frey and carried by a vote of nine, Supervisor Alexander being absent.

58. 3:30 P.M. - PH ON THE ACQUISITION OF A CERTAIN DEDICATION NECESSARY FOR ACCEPTANCE OF RAGLAN ROAD FOR STATE MAINTENANCE (HUNTER MILL DISTRICT) (Tape 10)

(R) Certificates of Publication were filed from the Editor of the Fairfax Journal, showing that notice of said public hearing has been duly advertised in that Newspaper in the issue of November 19 and 26, 1993.

Following the public hearing, Supervisor Dix moved adoption of the Resolution authorizing the acquisition of interests in real property necessary for acceptance of Raglan Road for State maintenance, Project U00006 - Tysons Townes Developer Default. This motion was seconded by Supervisor Berger and carried by a vote of nine, Supervisor Alexander being absent.

AM:am

59. 4:00 P.M. - PH ON PROFFERED CONDITION AMENDMENT APPLICATION PCA 86-D-093-7 (WORLDGATE ASSOCIATES LIMITED PARTNERSHIP) (DRANESVILLE DISTRICT) (Tape 11)

Mr. Martin D. Walsh reaffirmed the validity of the affidavit for the record.

Mr. Walsh had filed the necessary notices showing that at least 25 adjacent and/or interested parties had been notified of the date and hour of this public hearing and he proceeded to present his case.

Following the public hearing, Cathy Chianese, Senior Staff Coordinator, Zoning Evaluation Division, Office of Comprehensive Planning, presented the staff and Planning Commission recommendations.

Supervisor Berger moved approval of Proffered Condition Amendment Application PCA 86-D-093-7 subject to the revised proffers dated December 6, 1993. This motion was seconded by Supervisor Dix and carried by a vote of six, Supervisor Hanley, Supervisor McConnell, and Supervisor Trapnell being out of the room, Supervisor Alexander being absent.

60. 4:00 P.M. - PH ON PROFFERED CONDITION AMENDMENT APPLICATION PCA 82-L-030-7 [FAIRFAX COUNTY REDEVELOPMENT AND HOUSING AUTHORITY (FCRHA)] (LEE DISTRICT) (Tape 11)

Mr. Michael J. Scheurer reaffirmed the validity of the affidavit for the record.

Mr. Scheurer had filed the necessary notices showing that at least 25 adjacent and/or interested parties had been notified of the date and hour of this public hearing and he proceeded to present his case.

Following the public hearing, Supervisor Hyland moved to waive the reading of the staff and Planning Commission recommendations. This motion was seconded by Supervisor Berger and carried by a vote of six, Supervisor Dix, Supervisor Hanley, and Supervisor McConnell being out of the room, Supervisor Alexander being absent.

Supervisor Hyland moved approval of Proffered Condition Amendment Application PCA 82-L-030-7 subject to the revised proffers dated November 8, 1993; the Planning Commission having previously approved Final Development Plan Amendment Application FDPA 82-L-030-3-2 on October 28, 1993. This motion was seconded by Supervisor Berger and carried by a vote of six, Supervisor Dix, Supervisor Hanley, and Supervisor McConnell being out of the room, Supervisor Alexander being absent.

61. 4:00 P.M. - PH ON SPECIAL EXCEPTION APPLICATION SE 93-V-008 (SILVERBROOK CONSORTIUM LIMITED PARTNERSHIP) (MOUNT VERNON DISTRICT) (Tape 11)

Supervisor Hyland moved to defer the public hearing on Special Exception Application SE 93-V-008 until **January 24, 1994 at 3:30 p.m.** This motion was

seconded by Supervisor Berger and carried by a vote of seven, Supervisor Dix and Supervisor McConnell being out of the room, Supervisor Alexander being absent.

62. 4:00 P.M. - BOARD DECISION ON PROPOSED AMENDMENTS TO THE CODE OF THE COUNTY OF FAIRFAX, CHAPTER 82 (MOTOR VEHICLES AND TRAFFIC) SECTION 82-5-32 RELATING TO REGULATION OF THE TOWING AND STORAGE OF VEHICLES UNLAWFULLY PARKED ON PRIVATE PROPERTY (Tape 11)

(NOTE: The public hearing on this item was held on November 22, 1993 and Board decision was deferred.)

Supervisor Hanley moved to defer Board decision on the proposed amendments to the Code of the County of Fairfax, Chapter 82 (Motor Vehicles and Traffic) Section 82-5-32 relating to regulation of the towing and storage of vehicles unlawfully parked on private property until **January 10, 1994 at 4:00 p.m.** This motion was seconded by Supervisor Bulova and carried by a vote of seven, Supervisor Dix and Supervisor McConnell being out of the room, Supervisor Alexander being absent.

63. 4:30 P.M. - PH ON THE REPORT OF THE COUNTY GOVERNMENT STUDY COMMITTEE (Tapes 11-12)

Certificates of Publication were filed from the Editor of the Fairfax Journal, showing that notice of said public hearing has been duly advertised in that Newspaper in the issues of November 26 and December 3, 1993.

Following the public hearing, which included testimony by eight speakers, Chairman Davis relinquished the Chair to Vice-Chairman McConnell and moved that the Board act upon recommendation 1B (Page One) of the County Government Committee Report:

- To seek the initiation of legislation that, without repealing the limitations on governmental powers imposed by Virginia's adherence to Dillon's Rule, the County should seek legislative relief from administrative details and housekeeping matters in the exercise of those powers which already have been delegated.

Supervisor Davis explained that this is a position similar to that also recommended in the Report of the Governor's Advisory Commission on the Dillon Rule and Local Government released in November 1992.

This motion was seconded by Supervisor Hanley and carried by a vote of nine, Supervisor Alexander being absent.

Supervisor Davis moved that the Board seek the initiation of legislation that would permit initiative, subject to the following terms and conditions:

- A petition for any initiative would be signed by 10 percent of the registered voters in the County as of January 1 of that year; and
- Initiatives would not be permitted for any zoning actions, revenue levies, or expenditures.

Supervisor Davis noted that this authority, with restrictions, is similar to that currently granted by the General Assembly to many smaller Virginia municipalities, including Hampton, Norfolk and Portsmouth, as noted on pages 59 and 60 of the County Government Committee Report.

This motion was seconded by Supervisor Hyland and carried by a vote of nine, Supervisor Alexander being absent.

Supervisor Davis moved that the Board seek the initiation of legislation that would permit advisory referenda. A petition for any referendum would be signed by 10 percent of the registered voters in the County as of January 1 of that year.

Supervisor Davis noted that this authority, with restrictions, is similar to that currently granted by the General Assembly to many smaller Virginia municipalities, including Charlottesville, Chesapeake, Falls Church, Lynchburg, Newport News, and Virginia Beach, as well as Hampton, Norfolk and Portsmouth, as noted on Pages 58 through 61 of the County Government Committee Report.

This motion was seconded by Supervisor Hyland. Following discussion, the question was called on the motion which carried by a vote of nine, Supervisor Alexander being absent.

Supervisor Davis moved that the Board act upon recommendations 21a and 21b of the County Government Committee Report:

- 21a. Amend va. Acts, Chapter 816, as follows:
 - "Option of certain counties to operate local health department under contract with the Board of Health - The governing body of any County having the County Manager Plan of government or urban County Executive form of government, may enter into a

contract with the State Board of Health to operate the local health department in such counties;" and

- 21b. Review health department personnel benefits for employees in the Virginia Supplemental Retirement System to ensure compliance with statutory requirements (See Section 15.1-687.14) by the end of 1994.

Supervisor Davis noted that in the County Government Committee Report, "by integrating the planning for, and delivery of, health services into a locally-administered system, Fairfax County can structure a delivery system that is client-centered, efficient and effective." This is in concert with the goals of the human services redesign.

This motion was seconded by Supervisor Hanley and carried by a vote of eight, Supervisor Dix being out of the room, Supervisor Alexander being absent.

Supervisor Davis moved that the Board seek legislation which would provide the Chairman of the Board of Supervisors with the following authority:

- To issue meeting notices and call the Board of Supervisors into session;
- To set the agenda for the meetings of the Board of Supervisors;
- To make appointments to regional boards and authorities, subject to being overturned by the Board; and
- To establish, make assignments to, and name chairmen of, Board Subcommittees, subject to being overturned by the full Board.

This motion was seconded by Supervisor Berger.

Following discussion, Supervisor Davis clarified the definition of "full Board" as a majority of the full Board.

Following further discussion among Board Members, it was determined that this motion should be voted seriatimly.

Supervisor Davis moved that the Board seek legislation which would provide the Chairman of the Board of Supervisors with the authority to issue meeting notices and call the Board of Supervisors into session. This motion was seconded by Supervisor Berger and carried by a vote of eight, Supervisor Dix being out of the room, Supervisor Alexander being absent.

Supervisor Davis moved that the Board seek legislation which would provide the Chairman of the Board of Supervisors with the authority to set the agenda for the

meetings of the Board of Supervisors. This motion was seconded by Supervisor Berger and carried by a vote of eight, Supervisor Dix being out of the room, Supervisor Alexander being absent.

Supervisor Davis moved that the Board seek legislation which would provide the Chairman of the Board of Supervisors with the authority to make appointments to regional boards and authorities, subject to being overturned by the majority of the full Board. This motion was seconded by Supervisor Berger and **CARRIED** by a recorded vote of seven, Supervisor Hyland voting "NAY," Supervisor Dix being out of the room, Supervisor Alexander being absent.

Supervisor Davis moved that the Board seek legislation which would provide the Chairman of the Board of Supervisors with the authority to establish, make assignments to, and name chairmen of, Board Subcommittees, subject to being overturned by the majority of the full Board. This motion was seconded by Supervisor Berger and **CARRIED** by a recorded vote of seven, Supervisor Hyland voting "NAY," Supervisor Dix being out of the room, Supervisor Alexander being absent.

Vice-Chairman McConnell returned the gavel to Chairman Davis.

Following further discussion, Supervisor Frey moved that the Board approve recommendation 12a (Page 15) of the Government Committee Report as follows:

- Service on the Board of Supervisors should be considered full-time, and outside employment should be prohibited as is the case with certain State offices.

This motion was seconded by Supervisor Hyland.

Supervisor Bulova moved to amend the motion by adding the words full-time as follows:

- To: "Service on the Board of Supervisors should be considered full-time and outside full-time employment should be prohibited."

This motion was seconded by Supervisor Trapnell.

Following discussion, the question was called on the amendment which **FAILED** by a recorded vote of five, Supervisor Bulova, Supervisor McConnell, and Supervisor Trapnell voting "AYE," Supervisor Dix being out of the room, Supervisor Alexander being absent.

The question was then called on the main motion which **CARRIED** by a recorded vote of five, Supervisor Hanley, Supervisor McConnell, and Chairman Davis voting "**NAY**," Supervisor Dix being out of the room, Supervisor Alexander being absent.

64. BOARD ADJOURNMENT (Tape 12)

At 7:10 p.m., the Board adjourned.