



CLERK'S BOARD SUMMARY

REPORT OF ACTIONS OF THE FAIRFAX COUNTY BOARD OF SUPERVISORS

**MONDAY
March 9, 2009**

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At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium of the Government Center at Fairfax, Virginia, on Monday, March 9, 2009, at 9:37 a.m., there were present:

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

Supervisor Gerald W. Hyland, Mount Vernon District, arrived at 3:42 p.m.

Others present during the meeting were Anthony H. Griffin, County Executive; Karen J. Harwood, Deputy County Attorney; Catherine A. Chianese, Assistant County Executive; Regina Stewart, Administrative Assistant, Office of the County Executive; Nancy Vehrs, Clerk to the Board of Supervisors; Patti M. Hicks, Chief Deputy Clerk to the Board of Supervisors; and Denise A. Long, Deputy Clerk to the Board of Supervisors.

BOARD MATTERS1. **MOMENT OF SILENCE** (9:37 a.m.)

Supervisor Gross asked everyone to keep in thoughts the family of Mr. Marwan Burgan, who died this past Thursday from a long battle with cancer. Mr. Burgan was Supervisor Gross' former Chief Aide for many years. Supervisor Gross noted that Mr. Burgan would be buried in his homeland of Jordan.

Supervisor Foust asked everyone to keep in thoughts the family of Ms. Sumiko Biderman, who died recently. Supervisor Foust noted that Ms. Biderman was well-known by all Board Members.

2. **MORNING ABSENCE OF MOUNT VERNON DISTRICT SUPERVISOR GERALD W. HYLAND** (9:39 a.m.)

Chairman Bulova announced that Supervisor Hyland would be absent from the morning part of the meeting. Chairman Bulova noted that Supervisor Hyland was attending the National Association of Counties legislative meeting and would arrive in time for the afternoon part of the Board meeting.

AGENDA ITEMS3. **CERTIFICATE OF RECOGNITION PRESENTED TO FAIRFAX CARES** (9:39 a.m.)

Supervisor Hudgins moved approval of the Certificate of Recognition presented to Fairfax Cares for its leadership and initiative to raise community awareness in assisting residents with basic immediate needs. Supervisor Gross and Supervisor Smyth jointly seconded the motion and it carried by a vote of eight, Supervisor Hyland not yet having arrived.

4. **PROCLAMATION DESIGNATING MARCH 2009 AS "INTELLECTUAL AND DEVELOPMENTAL DISABILITIES MONTH" IN FAIRFAX COUNTY** (9:46 a.m.)

Chairman Bulova relinquished the Chair to Vice-Chairman Gross and moved approval of the Proclamation to designate March 2009 as "*Intellectual and Developmental Disabilities Month*" in Fairfax County. Supervisor Gross seconded the motion and it carried by a vote of eight, Supervisor Hyland not yet having arrived.

5. **CERTIFICATE OF RECOGNITION PRESENTED TO MR. WALTER "SKIP" MUNSTER, JR.** (9:56 a.m.)

Chairman Bulova moved approval of the Certificate of Recognition presented to Mr. Walter "Skip" Munster, Jr. for more than 25 years of service to the County.

Supervisor Hudgins seconded the motion and it carried by a vote of eight, Supervisor Hyland not yet having arrived.

Vice-Chairman Gross returned the gavel to Chairman Bulova.

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6. **ADMINISTRATIVE ITEMS** (10:04 a.m.)

Supervisor Gross moved approval of the Administrative Items. Chairman Bulova seconded the motion.

Supervisor Frey called the Board's attention to Admin 4 – Authorization to Advertise a Public Hearing on the Proposed Establishment of a Tax Rate on all Real Property Situated Within the Stormwater Service District of the County and discussion ensued regarding the rate increase.

Supervisor Frey moved to amend the motion to authorize advertisement of a proposed rate of \$0.01 per \$100 of assessed value. Supervisor Foust seconded the motion.

Discussion ensued, with input from Susan Datta, Director, Department of Management and Budget, regarding the proposed tax rate on all real property situated within the Stormwater Service District of the County.

Further discussion ensued, with input from Jimmie Jenkins, Director, Department of Public Works and Environmental Services, regarding the funding.

The question was called on the amendment to the motion and it **FAILED** by a recorded vote of five, Supervisor Frey, Supervisor Herrity, and Supervisor McKay voting “**AYE**, Supervisor Hyland not yet having arrived.

Supervisor McKay called the Board's attention to Admin 5 – Authorization to Advertise a Public Hearing on Proposed Amendments to the Code of the County of Fairfax, Chapter 4 (Taxation and Finance), Article 17.2, to Establish Local Vehicle Registration License Fees (Formerly Decal Fees) and discussion ensued regarding the fee.

Supervisor McKay noted his intent, at the conclusion of the public hearing scheduled for March 30, 2009, to make a motion directing guidance to staff to dedicate a substantial portion of the funds to the three public safety agencies: the Fire Department, the Police Department, and the Sheriff's Office.

Supervisor Gross clarified that the fee was abolished April 2006.

Supervisor Foust raised a question regarding whether a business can deduct the fee from its commercial income tax and discussion ensued with input from Kevin Greenlief, Director, Department of Tax Administration.

Supervisor McKay moved that the Board authorize the advertisement of a public hearing to be held before the Board on **March 30, 2009, at 2:30 p.m.** to consider proposed amendments to the Code of the County of Fairfax, Chapter 4 (Taxation and Finance), Article 17.2, to establish local vehicle registration license fees (formerly decal fees). Supervisor Gross seconded the motion.

Supervisor Foust raised a question regarding whether the County is assuming 100 percent compliance with the revenue estimates reflected in the Board Package, and discussion ensued with input from Anthony H. Griffin, County Executive.

The question was called on the motion and it **CARRIED** by a recorded vote of six, Supervisor Frey and Supervisor Herrity voting “NAY,” Supervisor Hyland not yet having arrived.

Supervisor Herrity called the Board’s attention to Admin 6 – Authorization to Advertise a Public Hearing on Proposed Amendments to the Code of the County of Fairfax, Chapter 4 (Taxation and Finance), Article 17.3, to Impose a License Tax on Certain Motor Vehicles Not Otherwise Displaying Current License Plates. Supervisor Herrity raised a question regarding the process that will be used to collect the fees, and discussion ensued with input from Mr. Greenlief, who noted that the fee would be included on the personal property tax bill.

Supervisor McKay called the Board’s attention to Admin 8 – Authorization to Advertise a Public Hearing on Proposed Amendments to the Code of the County of Fairfax, Chapter 82 (Motor Vehicles and Traffic), to Increase Fines for Parking Violations.

Supervisor McKay moved that the Board authorize the advertisement of a public hearing to be held before the Board on **March 30, 2009, at 2:30 p.m.** to consider proposed amendments to the Code of the County of Fairfax, Chapter 82 (Motor Vehicles and Traffic), to increase fines for parking violations, with the following amendment:

- Page 1, Line 31, before the words “For a violation of Section 82-5-26...” insert the following: “For a violation of Section 82-5-7, the fine shall be \$100.”

Supervisor Gross seconded the motion and raised a question regarding whether that type of change could be made considering enabling legislation. Discussion ensued, with input from Michael Long, Senior Assistant County Attorney, who noted that the change could be made.

The question was called on the motion, as amended, and it carried by a vote of eight, Supervisor Hyland not yet having arrived.

Supervisor Hudgins called the Board's attention to Admin 9 – Authorization to Advertise a Public Hearing on Proposed Amendments to The Code of the County of Fairfax, Chapter 8.1 (Security Alarm Systems) and referred to a previous Board Matter she presented in which she noted constituents contacted her regarding a problem with a homeowners alarm system. The homeowner was out of town when the alarm was triggered and continued for the entire weekend and the County did not have the authority to turn it off. She raised a question regarding whether a fine could be imposed when this happens. She noted that her previous Board Matter was never addressed and discussion ensued, with input from Mr. Griffin.

Supervisor Hudgins asked unanimous consent that the Board direct staff to report, prior to the public hearing, with a response to the issues she raised in her previous Board Matter. Without objection, it was so ordered.

Chairman Bulova called the Board's attention to Admin 11 – Authorization to Advertise Publication of the Fiscal Year (FY) 2010 Budget and Required Tax Rates and, following a brief discussion, relinquished the Chair to Vice-Chairman Gross and moved that the Board authorize a real estate tax rate of \$1.05 per \$100 of assessed value. This will provide flexibility of \$0.01, or \$20.54 million above the County Executive's FY 2010 proposed Budget Plan. Each \$0.01 increase on the real estate tax rate impacts the average residential taxpayer's annual bill by \$45.92. Vice-Chairman Gross seconded the motion.

Following a lengthy discussion regarding the proposed tax rate, the question was called on the motion and it **CARRIED** by a recorded vote of six, Supervisor Frey and Supervisor Herrity voting "NAY," Supervisor Hyland not yet having arrived.

Chairman Bulova further moved that the Board authorize an advertisement for implementation of a local vehicle registration license fee in the amount of \$33. The additional revenue associated with this fee is estimated at \$27 million and is not currently included in the County Executive's FY 2010 proposed budget plan. Supervisor Foust seconded the motion.

Supervisor Foust stated that he thought the rates were set forth in the proposed ordinance.

Discussion ensued, with input from Mr. Griffin, who noted that the rates are listed in the attachment to the Board Agenda Item, on handwritten page three.

Chairman Bulova withdrew her motion.

Vice-Chairman Gross returned the gavel to Chairman Bulova.

Supervisor Frey called the Board's attention to Admin 17 – Approval of Installation of a “\$200 Additional Fine For Speeding” Sign and a “Watch For Children” Sign as Part of the Residential Traffic Administration Program (R-TAP) (Mason and Hunter Mill Districts), and asked unanimous consent that the Board direct staff to report with an update regarding how this is being processed through the courts and whether the judges are imposing the fine. Following discussion, with input from Mr. Griffin, without objection, it was so ordered.

Supervisor Hudgins raised a question regarding the “Watch for Children” signs and noted that she and Supervisor Hyland had previously asked for a report regarding whether any fines are imposed.

The question was called on the main motion to approve the Administrative Items, as amended, and it carried by a vote of eight, Supervisor Foust, Supervisor Frey, Supervisor Gross, Supervisor Herrity, Supervisor Hudgins, Supervisor McKay, Supervisor Smyth, and Chairman Bulova voting “AYE,” Supervisor Hyland not yet having arrived.

ADMIN 1 – AUTHORIZATION TO ADVERTISE A PUBLIC HEARING ON PROPOSED AMENDMENTS TO THE CODE OF THE COUNTY OF FAIRFAX, CHAPTER 61 (BUILDING PROVISIONS), REGARDING FIRE MARSHAL FEES

- (A) Authorized the advertisement of a public hearing to be held before the Board on **March 30, 2009, at 2:30 p.m.** to consider proposed amendments to the Code of the County of Fairfax, Chapter 61 (Building Provisions), regarding fire marshal fees.

ADMIN 2 – AUTHORIZATION TO ADVERTISE A PUBLIC HEARING ON PROPOSED AMENDMENTS TO THE CODE OF THE COUNTY OF FAIRFAX, CHAPTER 62 (FIRE PROTECTION), TO ADOPT AMENDMENTS TO THE STATEWIDE FIRE PREVENTION CODE AND FIRE MARSHAL FEES

- (A) Authorized the advertisement of a public hearing to be held before the Board on **March 30, 2009, at 2:30 p.m.** to consider proposed amendments to the Code of the County of Fairfax, Chapter 62 (Fire Protection), to adopt amendments to the Statewide Fire Prevention Code and fire marshal fees.

ADMIN 3 – AUTHORIZATION TO ADVERTISE A PUBLIC HEARING ON THE PROPOSED CREATION OF A STORMWATER SERVICE DISTRICT

- (A) (R) Adopted the Resolution authorizing the advertisement of a public hearing to be held before the Board on **March 30, 2009, at 3 p.m.** to consider the proposed creation of a Stormwater Service District.

ADMIN 4 – AUTHORIZATION TO ADVERTISE A PUBLIC HEARING ON THE PROPOSED ESTABLISHMENT OF A TAX RATE ON ALL REAL PROPERTY SITUATED WITHIN THE STORMWATER SERVICE DISTRICT OF THE COUNTY

- (A) (R) (NOTE: Earlier in the meeting, the Board discussed this item. See page 3.)

Adopted the Resolution authorizing the advertisement of a public hearing to be held before the Board on **March 30, 2009, at 3 p.m.** to consider the proposed establishment of a tax rate of \$.015 on all real property situated within the Stormwater Service District of the County.

ADMIN 5 – AUTHORIZATION TO ADVERTISE A PUBLIC HEARING ON PROPOSED AMENDMENTS TO THE CODE OF THE COUNTY OF FAIRFAX, CHAPTER 4 (TAXATION AND FINANCE), ARTICLE 17.2, TO ESTABLISH LOCAL VEHICLE REGISTRATION LICENSE FEES (FORMERLY DECAL FEES)

- (A) (NOTE: Earlier in the meeting, the Board took action on this item. See pages 3 - 4.)

ADMIN 6 – AUTHORIZATION TO ADVERTISE A PUBLIC HEARING ON PROPOSED AMENDMENTS TO THE CODE OF THE COUNTY OF FAIRFAX, CHAPTER 4 (TAXATION AND FINANCE), ARTICLE 17.3, TO IMPOSE A LICENSE TAX ON CERTAIN MOTOR VEHICLES NOT OTHERWISE DISPLAYING CURRENT LICENSE PLATES

- (A) (NOTE: Earlier in the meeting, the Board discussed this item. See page 4.)

Authorized the advertisement of a public hearing to be held before the Board on **March 30, 2009, at 2:30 p.m.** to consider proposed amendments to the Code of the County of Fairfax, Chapter 4 (Taxation and Finance), Article 17.3, to impose a license tax on certain motor vehicles not otherwise displaying current license plates.

ADMIN 7 – AUTHORIZATION TO ADVERTISE A PUBLIC HEARING ON PROPOSED AMENDMENTS TO THE CODE OF THE COUNTY OF FAIRFAX, CHAPTER 4 (TAXATION AND FINANCE), SECTION 4-17.1-9, CONCERNING LATE PAYMENT PENALTIES FOR DELINQUENT PERSONAL PROPERTY TAXES

- (A) Authorized the advertisement of a public hearing to be held before the Board on **March 30, 2009, at 2:30 p.m.** to consider proposed amendments to the Code of the County of Fairfax, Chapter 4 (Taxation and Finance), Section 4-17.1-9, concerning late payment penalties for delinquent personal property taxes.

ADMIN 8 – AUTHORIZATION TO ADVERTISE A PUBLIC HEARING ON PROPOSED AMENDMENTS TO THE CODE OF THE COUNTY OF FAIRFAX, CHAPTER 82 (MOTOR VEHICLES AND TRAFFIC), TO INCREASE FINES FOR PARKING VIOLATIONS

- (A) (NOTE: Earlier in the meeting, the Board took action on this item. See page 4.)

ADMIN 9 – AUTHORIZATION TO ADVERTISE A PUBLIC HEARING ON PROPOSED AMENDMENTS TO THE CODE OF THE COUNTY OF FAIRFAX, CHAPTER 8.1 (SECURITY ALARM SYSTEMS)

- (A) (NOTE: Earlier in the meeting, the Board took additional action regarding this item. See page 5.)

Authorized the advertisement of a public hearing to be held before the Board on **March 30, 2009, at 2:30 p.m.** to consider proposed amendments to the Code of the County of Fairfax, Chapter 8.1 (Security Alarm Systems).

ADMIN 10 – AUTHORIZATION TO ADVERTISE A PUBLIC HEARING ON PROPOSED AMENDMENTS TO THE CODE OF THE COUNTY OF FAIRFAX REGARDING REGULATORY SERVICES DEALING WITH PRIVATE SCHOOLS AND CHILD CARE, ONSITE SEWAGE DISPOSAL SYSTEMS, WELL WATER SUPPLY SYSTEMS, FOOD SERVICE ESTABLISHMENTS, AND WATER RECREATION FACILITIES

- (A) Authorized the advertisement of a public hearing to be held before the Board on **March 30, 2009, at 3 p.m.** to consider proposed amendments to the Code of the County of Fairfax, to amend Sections 30-2-7, 43.1-3-1, 43.1-3-5, 43.1-3-11, 43.1-5-1, 43.1-6-1, 43.1-7-1, 43.1-7-2, 68.1-1-6, 68.1-5-8, 68.1-9-1, 69.1-1-6, 69.1-1.7, 69.1-1-8, 69.1-1-18, 69.1-1-21, 70.1-1-4, 70.1-2-1, and 70.1-3-1, regarding the fees charged for certain regulatory services provided by the Health Department for private schools and child care, onsite sewage disposal systems, well water supply systems, food service establishments, and water recreation facilities.

ADMIN 11 – AUTHORIZATION TO ADVERTISE PUBLICATION OF THE FISCAL YEAR (FY) 2010 BUDGET AND REQUIRED TAX RATES

- (A) (NOTE: Earlier in the meeting, additional action was taken regarding this item. See page 5.)

Authorized the advertisement of the following items, during the weeks ending March 13 and 20, 2009:

- A brief synopsis of the FY 2010 Budget, including information as it relates to the impact of the Personal Property Tax Relief Act on the percentage of State “Car Tax” Subsidy on qualifying personal property tax levy

- Proposed Tax Rates for tax year 2009
- Notice of public hearings on the Advertised Capital Improvement Program for FYs 2010 – 2014 (With Future FYs to 2019)

ADMIN 12 – AUTHORIZATION TO ADVERTISE A PUBLIC HEARING TO AMEND THE CURRENT APPROPRIATION LEVEL IN THE FISCAL YEAR (FY) 2009 REVISED BUDGET PLAN

- (A) Authorized the advertisement of public hearings to be held before the Board on **March 30, 2009, at 7 p.m., and March 31 and April 1, 2009, at 3 p.m.** to amend the current appropriation level in the FY 2009 Revised Budget Plan.

ADMIN 13 – AUTHORIZATION TO ADVERTISE A PUBLIC HEARING ON THE PROPOSED CONSOLIDATED PLAN ONE-YEAR ACTION PLAN FOR FISCAL YEAR (FY) 2010

- (A) Authorized the advertisement of a public hearing to be held before the Board on **March 30, 2009, at 4:30 p.m.** on the proposed Consolidated Plan One-Year Action Plan for FY 2010. The public will have an opportunity to comment on the proposed use of funds in accordance with US Department of Housing and Urban Development regulations and guidelines. Citizens may also comment on housing and community service needs in the County.

ADMIN 14 – AUTHORIZATION FOR THE DEPARTMENT OF FAMILY SERVICES (DFS), OFFICE FOR CHILDREN (OFC) TO APPLY FOR AND ACCEPT GRANT FUNDING FROM CHILD DEVELOPMENT RESOURCES (CDR), INCORPORATED, FOR THE VIRGINIA INFANT AND TODDLER SPECIALIST NETWORK REGIONAL OFFICE SUB-CONTRACT

Authorized DFS OFC to apply for and accept funding, if received, from CDR, Incorporated for the Virginia Infant and Toddler Specialist Network Regional Office Sub-contract in the amount of \$234,600 (\$46,920 from the date of award through June 30, 2009, and \$187,680 from July 1, 2009, through June 30, 2010). Funding in the amount of \$234,600 will provide financial assistance to establish a Virginia Infant and Toddler Specialist Network office in the Northern 1 Region (encompassing Arlington County, Fairfax County, Loudoun County, the City of Alexandria, the City of Fairfax, and the City of Falls Church). The County has received letters of support from these jurisdictions. No local cash match or in-kind match will be required.

ADMIN 15 – EXTENSION OF REVIEW PERIODS FOR PUBLIC FACILITIES 2232 REVIEW APPLICATIONS (BRADDOCK, DRANESVILLE, MOUNT VERNON, SPRINGFIELD, AND SULLY DISTRICTS)

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

<u>Application Number</u>	<u>Description</u>	<u>New Date</u>
FS-S08-118	T-Mobile Northeast LLC Antenna colocation inside replacement steeple 6304 Lee Chapel Road Springfield District	May 10, 2009
FS-D08-119	T-Mobile Northeast LLC Antenna colocation on existing tree pole 1139 Walker Road Dransville District	May 10, 2009
FS-B08-130	T-Mobile Northeast LLC Antenna colocation inside replacement steeple 5116 Twinbrook Road Braddock District	May 10, 2009
FS-D08-132	T-Mobile Northeast LLC Antenna colocation inside replacement steeple 1545 Dransville Road Dransville District	May 10, 2009
FS-S08-128	Cricket Communications Antenna colocation on existing transmission pole 9220 Old Keene Mill Road Springfield District	May 15, 2009
2232-S08-23	Nextel Communications of the Mid-Atlantic, Incorporated 52' replacement utility pole / monopole Fairfax County Parkway and Burke Lake Road intersection Springfield District	May 21, 2009

<u>Application Number</u>	<u>Description</u>	<u>New Date</u>
2232-V08-24	Nextel Communications of the Mid-Atlantic, Incorporated 52' replacement utility pole / monopole Fairfax County Parkway and Rolling Road interchange Mount Vernon District	May 21, 2009
FS-Y08-129	Cricket Communications Antenna colocation on existing tree pole 13224 Franklin Farm Road Sully District	May 21, 2009

ADMIN 16 – ADDITIONAL TIME TO COMMENCE CONSTRUCTION FOR SPECIAL EXCEPTION AMENDMENT APPLICATION SEA 78-D-098-3, McLEAN BIBLE CHURCH (DRANESVILLE DISTRICT)

(AT) Approved the request for six months of additional time to commence construction for Special Exception Amendment Application SEA 78-D-098-3 to August 4, 2009, pursuant to the provisions of Section 9-015 of the Zoning Ordinance.

ADMIN 17 – APPROVAL OF INSTALLATION OF A “\$200 ADDITIONAL FINE FOR SPEEDING” SIGN AND A “WATCH FOR CHILDREN” SIGN AS PART OF THE RESIDENTIAL TRAFFIC ADMINISTRATION PROGRAM (R-TAP) (MASON AND HUNTER MILL DISTRICTS)

(Rs) (NOTE: Earlier in the meeting, additional action was taken regarding this item. See page 6.)

- Adopted the Resolution authorizing installation of a “\$200 Additional Fine for Speeding” sign on the following road:
 - Braddock Road between Columbia Pike and Lincolnia Road (Mason District)
- Approved a “Watch for Children” sign at the following intersection:
 - Brookmeadow Drive (Hunter Mill District)
- Directed staff to request the Virginia Department of Transportation (VDOT) install the approved measures as soon as possible.

ADMIN 18 – AUTHORIZATION TO ADVERTISE A PUBLIC HEARING ON PROPOSED AMENDMENTS TO THE CODE OF THE COUNTY OF FAIRFAX, APPENDIX M, TO ESTABLISH THE GROVE AT HUNTLEY MEADOWS COMMUNITY PARKING DISTRICT (CPD) (LEE DISTRICT)

- (A) Authorized the advertisement of a public hearing to be held before the Board on **March 30, 2009, at 4:30 p.m.** to consider proposed amendments to the Code of the County of Fairfax, Appendix M, to establish the Grove at Huntley Meadows CPD (Lee District).

ADMIN 19 – STREETS INTO THE SECONDARY SYSTEM (LEE DISTRICT)

<u>Subdivision</u>	<u>District</u>	<u>Street</u>
The Grove at Huntley Meadows	Lee	Lindberg Drive (Route 3322) Cyrene Boulevard (Route 10407)

7. **A-1 – PARKING REDUCTION FOR PROMENADE AT TYSONS WEST (HUNTER MILL DISTRICT)** (11:07 a.m.)

On motion of Supervisor Hudgins, seconded by Chairman Bulova, and carried by a vote of eight, Supervisor Hyland not yet having arrived, the Board concurred in the recommendation of staff and approved a parking reduction of 11.7 percent for Promenade at Tysons West, pursuant to paragraph 4(B), Section 11-102 of Chapter 112 (Zoning Ordinance) of the Code of the County of Fairfax, Virginia, based on an analysis of the parking requirements for each use on the site and a parking reduction study, on the conditions as outlined in the Board Agenda Item dated March 9, 2009.

8. **A-2 – APPROVAL OF A PROJECT FUNDING AGREEMENT TO CONSTRUCT THE BOUDINOT DRIVE ON-RAMP AS PART OF THE FAIRFAX COUNTY PARKWAY ENGINEER PROVING GROUNDS PHASED CONSTRUCTION (SPRINGFIELD, LEE, AND MOUNT VERNON DISTRICTS)** (11:07 a.m.)

Supervisor Herrity raised a question regarding whether taking action on this item would prevent the County from getting stimulus funds for this piece of the project and the timeframe for whether this would be included in the stimulus project. Discussion ensued, with input from Katharine D. Ichter, Director, Department of Transportation (DOT), regarding Phase III of the Boudinot Drive on-ramp.

Supervisor McKay moved that the Board concur in the recommendation of staff and:

- Approve execution of a funding agreement, in substantial form, for construction of the Boudinot Drive on-ramp.
- Authorize the County Executive to act as an agent of the Board to sign the agreement.

Chairman Bulova seconded the motion.

Supervisor Herrity asked to amend the motion to approve the recommendation contingent on DOT's ability to extend the deadline for the decision.

Following discussion, with input from Ms. Ichter, Supervisor Herrity withdrew his amendment to the motion.

Supervisor McKay noted that this project is being considered by the Commonwealth Transportation Board on March 19, 2009.

Ms. Ichter noted that if action is not taken on this item by March 25, 2009, it must be rebid.

The question was called on the motion and it carried by a vote of eight, Supervisor Hyland not yet having arrived.

9. **A-3 – APPROVAL OF AN AMENDMENT TO THE MULLIGAN ROAD MEMORANDUM OF AGREEMENT (MOA) TO INCLUDE THE WIDENING OF TELEGRAPH ROAD AS PART OF THE PROJECT (MOUNT VERNON AND LEE DISTRICTS)** (11:13 a.m.)

On motion of Supervisor McKay, seconded by Chairman Bulova, and carried by a vote of eight, Supervisor Hyland not yet having arrived, the Board concurred in the recommendation of staff and:

- Approved the amendment to the Mulligan Road MOA.
- Directed staff to develop a separate funding agreement between the County, the Virginia Department of Transportation, and the Federal Highway Administration's Eastern Federal Lands Highway Division to be executed prior to the commitment of any County funds for project construction.

10. **I-1 – CONTRACT AWARD – LEE DISTRICT RECenter MECHANICAL SYSTEMS RENOVATION (LEE DISTRICT)** (11:13 a.m.)

The Board next considered an item contained in the Board Agenda dated March 9, 2009, requesting authorization for staff to award a contract to Adrian L. Merton, Incorporated, in the amount of \$1,181,595 for construction of major renovations to the mechanical systems at Lee District RECenter, in Project 474408, Park and Building Renovations, in Fund 370, Park Authority Bond Construction.

The staff was directed administratively to proceed as proposed.

11. **I-2 – 2008 VIRGINIA POLLUTANT DISCHARGE ELIMINATION SYSTEM (VPDES) PERMIT ANNUAL REPORT FOR FAIRFAX COUNTY, VIRGINIA** (11:14 a.m.)

The Board next considered an item contained in the Board Agenda dated March 9, 2009, requesting authorization for staff to:

- Forward the 2008 VPDES Permit Annual Report with attachments to the Virginia Department of Conservation and Recreation in compliance with Virginia Pollutant Discharge Elimination System (VPDES) Permit VA0088587, Part I, Section C.4 and to others as requested.
- Publish it on the County's Web site.

The staff was directed administratively to proceed as proposed.

12. **I-3 – CONSOLIDATED PLAN CERTIFICATION FOR THE FAIRFAX COUNTY REDEVELOPMENT AND HOUSING AUTHORITY (FCRHA) PUBLIC HOUSING AND HOUSING CHOICE VOUCHER ANNUAL PLAN UPDATE FOR FEDERAL FISCAL YEAR (FY) 2009** (11:14 a.m.)

The Board next considered an item contained in the Board Agenda dated March 9, 2009, requesting authorization for the County Executive to sign the Consolidated Plan certification and provide it to the FCRHA for inclusion in the Public Housing and Housing Choice Voucher Annual Plan Update for Federal FY 2009 to be submitted to the US Department of Housing and Urban Development.

The staff was directed administratively to proceed as proposed.

(NOTE: Later in the meeting, the Board discussed this item. See Clerk's Summary Item #15.)

13. **I-4 – CONTRACT AWARD – SPRING HILL ROAD (ROUTE 684) (PROVIDENCE DISTRICT)** (11:14 a.m.)

The Board next considered an item contained in the Board Agenda dated March 9, 2009, requesting authorization for staff to award a contract to A&W Contracting Corporation in the amount of \$4,165,958.40 for the construction of Spring Hill Road (Route 684), Project Number 064233, in Fund 304, Transportation Improvements. This project provides for widening of Spring Hill Road from two lanes to four lanes from the intersection of Leesburg Pike to the intersection of International Drive, construction of retaining walls, replacement of two existing traffic signal systems, relocation and improvements to water mains, and other related items.

The staff was directed administratively to proceed as proposed.

14. **I-5 – CONTRACT AWARD - DENTAL SERVICES FOR THE HOMELESS HEALTHCARE PROGRAM** (11:14 a.m.)

The Board next considered an item contained in the Board Agenda dated March 9, 2009, requesting authorization for staff to award a contract to the Northern Virginia Dental Clinic, in an estimated amount of \$270,000, for the provision of dental services for the homeless healthcare program, on an as needed basis, for clients who are homeless and unsheltered. This contract will begin on date of award and terminate on June 30, 2013. The contract is a four year contract with five one-year renewal options.

Supervisor Gross raised a question regarding a fulltime dentist for the Northern Virginia Dental Clinic. Discussion ensued, with input from Cathy Muse, Director, Department of Purchasing and Supply Management.

Supervisor Gross asked unanimous consent that the Board direct staff to report with information regarding the options available for getting a fulltime dentist into this program. Without objection, it was so ordered.

The staff was directed administratively to proceed as proposed.

15. **ADDITIONAL DISCUSSION OF I-3 – CONSOLIDATED PLAN CERTIFICATION FOR THE FAIRFAX COUNTY REDEVELOPMENT AND HOUSING AUTHORITY (FCRHA) PUBLIC HOUSING AND HOUSING CHOICE VOUCHER ANNUAL PLAN UPDATE FOR FEDERAL FISCAL YEAR (FY) 2009** (11:16 a.m.)

(NOTE: Earlier in the meeting, this item was considered. See Clerk's Summary Item #12.)

Supervisor Smyth called the Board's attention to I-3 and raised a question regarding whether the Department of Housing and Urban Development is

requiring the County to have a variety of income levels in the affordable housing program. Discussion ensued, with input from John Payne, Deputy Director, Real Estate and Development, Department of Housing and Community Development.

NV:nv

ADDITIONAL BOARD MATTERS

16. **SEXUAL ASSAULT AWARENESS MONTH** (11:20 a.m.)

Chairman Bulova noted that Sexual Assault Awareness Month is a critical opportunity to increase the public's understanding of sexual violence in today's society. This April there will be coordinated activities planned by the Office for Women and Domestic and Sexual Violence Services for raising awareness about this issue, and she asserted that this effort can help communities support rape and sexual assault survivors, victims, and their families. She also said that it is also a time to encourage the public to take active steps to address sexual violence.

Accordingly, Chairman Bulova relinquished the Chair to Vice-Chairman Gross and asked unanimous consent that the Board support these efforts and direct staff to invite Ina Fernandez, Director, Office for Women and Domestic and Sexual Violence Services, and other representatives of that office to appear before the Board on March 30 to receive a proclamation declaring the month of April as "*Sexual Assault Awareness Month*" in Fairfax County. Without objection, it was so ordered.

17. **EARTH HOUR/CLIMATE CHANGE** (11:21 a.m.)

Chairman Bulova said that climate change is a growing international problem that needs to be addressed at every level of society. Significant reductions in carbon emissions can be achieved through more responsible usage of energy and other resources. Many emission reductions can be made through simple changes in habit such as turning off lights when leaving a room or walking on short trips instead of driving. The consequences of inaction are serious and carry potentially disastrous consequences for wildlife and weather patterns.

To highlight the importance of addressing climate change, Chairman Bulova proposed that the County join with governments worldwide in the Earth Hour 2009 event organized by the World Wildlife Fund. In a powerful international gesture, participating governments will shut off all non-essential lighting visible outside public buildings on March 28, cascading around the world at 8:30 p.m. in every time zone.

Accordingly, Chairman Bulova asked unanimous consent that the Board join her in proclaiming 8:30 p.m. on March 28 as Earth Hour 2009 in the County and:

- Reaffirm the County's commitment to responsible, progressive, environmental stewardship by turning off all non-essential lights visible from outside County buildings for one hour.
- Direct the Office of Public Affairs to publicize this event and encourage County residents to participate as well.

Without objection, it was so ordered.

Vice-Chairman Gross returned the gavel to Chairman Bulova.

18. **TRANSPORTATION UPDATES** (11:23 a.m.)

In a joint Board Matter with Chairman Bulova, Supervisor McKay, Chair, Board's Transportation Committee, reported that the committee met on March 6 and received reports from the Virginia Department of Transportation (VDOT) and County staff on a number of critical transportation issues within the County.

With reference to the written Board Matter that was distributed around the dais as a summary, Supervisor McKay provided updates on the following:

- Capital Beltway (I-495) High Occupancy Toll (HOT) Lanes Project: additional sound walls; landscaping; pedestrian and bicycle facilities; commendation of VDOT staff, Commonwealth Transportation Board, and the County's Delegation to the State Legislature; public notice of traffic changes; and regular updates.
- I-95/395 High Occupancy Vehicle (HOV)/Bus/HOT Lanes Project: project typical sections and improvement of transit and HOV access and service, a future Action Item concerning public hearing testimony on this project, and possible road closures.
- Residential Parking: focus on commercial and large vehicle complaints and impacts.
- Dulles Rail Project Update: finance plan and tax district revenue collections and bond issuances, design 60 percent complete, utility work moving to completion in the first quarter of 2010, rail construction to begin in third quarter of 2009, passenger service expected to begin November 2013.

Supervisor Smyth noted for the Dulles Rail Project, the full funding grant agreement is scheduled for signature March 10.

Regarding the Beltway HOT lanes, Supervisor Smyth expressed appreciation to the following State Delegates for their assistance regarding reforestation and sound walls: Delegate Margaret Vanderhye, Delegate Jim Scott, and Delegate

Vivian Watts. Supervisor McKay expressed appreciation to Supervisor Smyth and Supervisor Foust for their efforts in working with the State legislators.

Supervisor Gross expressed appreciation to Delegate David Bulova in addressing spillover traffic issues.

In addition to the previously mentioned legislators, Supervisor Foust expressed appreciation to State Senator Janet Howell for her efforts. He also expressed special appreciation to Nick Nicholson, the VDOT mega-project coordinator.

Supervisor Hudgins asked unanimous consent that the Board direct staff to prepare a letter from the Board expressing appreciation of Mr. Nicholson's efforts.

Chairman Bulova relinquished the Chair to Vice-Chairman Gross and asked to amend the request to also recognize Steve Titunik, and this was accepted. Without objection, the request, as amended, was so ordered.

Vice-Chairman Gross returned the gavel to Chairman Bulova.

Discussion continued briefly regarding the progress of these projects.

19. **FAIR HOUSING MONTH** (11:37 a.m.)

Chairman Bulova noted that April is traditionally celebrated throughout the nation as Fair Housing Month and this April is particularly important in the County. This year marks the thirty-fifth anniversary of the enactment of the County's Human Rights Ordinance, which provides equal housing opportunities for all residents of the County regardless of race, color, national origin, sex, religion, disability, familial status, elderliness, or marital status.

Accordingly, Chairman Bulova relinquished the Chair to Vice-Chairman Gross and asked unanimous consent that the Board support the Human Rights Commission and commend its efforts to recognize the value of equal housing opportunities for all persons and direct staff to invite Victor Dunbar, Chairman, Human Rights Commission, and other representatives of the commission to appear before the Board on March 30 to receive a proclamation declaring the month of April as "*Fair Housing Month*" in Fairfax County. Without objection, it was so ordered.

Vice-Chairman Gross returned the gavel to Chairman Bulova.

20. **SMART SAVINGS/SMART SERVICES TASK FORCE** (11:38 a.m.)

Chairman Bulova briefed the Board regarding the first meeting of the Smart Savings/Smart Services Task Force composed of herself, Supervisor Gross, Supervisor McKay, School Board Chairman Daniel Storck, Dranesville District

School Board Representative Janie Strauss, and Lee District School Board Representative Brad Center. She explained that the task force discussed services that the two entities are currently providing together and it directed staff to provide a list of items that have been consolidated over the years. Other issues discussed were: the School Age Child Care (SACC) program and reducing the waiting list, cost, and freeing up classroom space; collaboration on human resources; landscaping and maintenance (especially of non-school buildings); and legal services. The task force plans to meet again in about a week.

Supervisor Gross asked unanimous consent that the Board direct staff to provide the history of the SACC program including how it was set up and how the classrooms were built. Without objection, it was so ordered.

Following further discussion about information technology upgrades, Supervisor Hudgins asked unanimous consent that the Board direct staff to circulate any task force materials to all Members of the Board. Without objection, it was so ordered.

21. **GEORGETOWN PIKE/WALKER ROAD TURN LANE PUBLIC HEARING AUTHORIZATION (DRANESVILLE DISTRICT)** (11:44 a.m.)

- (A) Supervisor Foust stated that the Board has a road improvement project identified as Georgetown Pike/Walker Road Turn Lane, Project Number R19301. This project consists of the construction of a right turn lane from southbound Walker Road to westbound Georgetown Pike, an improvement of approximately 250 linear feet. This project also includes construction of concrete sidewalk, curb and gutter, and relocation of traffic control boxes.

Supervisor Foust said that this project requires the acquisition of one Deed of Dedication, one sight distance easement, and two grading agreement and temporary construction easements on a single property. The Land Acquisition Division (LAD), Department of Public Works and Environmental Services, has been negotiating to acquire these land rights since January 21, 2009, and has been unable to reach resolution due to property owner concerns about the project. Thus, condemnation is necessary. Pursuant to Section 15.2-1904 and 1905 (Supp. 2007) of the Virginia Code, a public hearing is required before property interests can be acquired by eminent domain proceedings.

Accordingly, Supervisor Foust moved that the Board direct staff to advertise a notice of public hearing to be held before the Board for the land rights necessary for the construction of Project R19301, Georgetown Pike/Walker Road Turn Lane, Fund 124, County and Regional Transportation Projects, and that LAD provide documents necessary for the advertisement of a public hearing on **March 30, 2009, at 4 p.m.** Supervisor McKay seconded the motion, which carried by a vote of eight, Supervisor Hyland not yet having arrived.

22. **GALLOWS ROAD ON-ROAD BICYCLE LANES (PROVIDENCE DISTRICT)** (11:47 a.m.)

Supervisor Smyth said that the Department of Transportation (DOT) has been working with the Virginia Department of Transportation (VDOT) to implement a plan for on-road bicycle lane improvements on Gallows Road, which would run from just north of I-66 to the southern end of Tysons Corner at Old Courthouse Road. This project is part of the County's Comprehensive Bicycle Initiative approved by the Board in 2006 and included in the 2007 transportation bond.

As this project moves through the official VDOT public notification process, DOT and VDOT officials will additionally conduct a community information meeting at Kilmer Middle School at 7:30 p.m. on April 14 to ensure that the public is adequately notified of the project and its benefits. Some of those benefits include another way of approaching Tysons from the south during construction of the Beltway High Occupancy Toll (HOT) Lanes, avoiding construction at the Lee Highway and Gallows Road intersection, and a connection to the upcoming pedestrian and bicycle bridge on Wolftrap Road near Kilmer Middle School.

Therefore, Supervisor Smyth moved that the Board direct:

- DOT to communicate to VDOT the County's support for the project.
- The Office of Public Affairs to publicize the community information meeting.

Supervisor Foust seconded the motion and it carried by a vote of eight, Supervisor Hyland not yet having arrived.

23. **SENIOR TAX RELIEF WORKSHOPS** (11:48 a.m.)

Supervisor Smyth announced that her office will be hosting senior tax relief workshops for the sixth consecutive year on Tuesday, April 7 and again Thursday, April 11, from 10 a.m. until 2 p.m. The workshop will be held at her office located at 8739 Lee Highway, Fairfax, Virginia 22031. This is a one-on-one workshop and Providence District residents are welcome to call her office to make an appointment for this event by calling 703-560-6946.

Therefore, Supervisor Smyth asked unanimous consent that the Board direct the Office of Public Affairs to publicize the workshop events as soon as possible. Without objection, it was so ordered.

Supervisor Gross commended this program and Kevin Greenlief, Director, Department of Tax Administration (DTA), and his staff who administer it.

Supervisor Foust asked unanimous consent that the Board direct Office of Public Affairs (OPA) staff to advertise the availability of this program. Supervisor Hudgins asked to amend the request to also publicize the disability and rental subsidy. Without objection, the request, as amended, was so ordered.

Supervisor McKay announced that in Lee District on Tuesday, March 24 and Friday, March 27, the DTA will be providing tax relief assistance for eligible senior citizens in the community room of the Franconia Governmental Center from 10 a.m. until 2 p.m. No appointments are necessary. He asked unanimous consent that the Board direct OPA staff to publicize these workshops. Without objection, it was so ordered.

Supervisor Herrity announced that DTA will be providing tax relief assistance for eligible senior citizens in the West Springfield Governmental Center from 9 a.m. until 1 p.m. on March 20. He asked unanimous consent that the Board direct OPA staff to publicize this event and the application deadline for filing. Without objection, it was so ordered.

Chairman Bulova relinquished the Chair to Vice-Chairman Gross and asked unanimous consent that the Board direct staff to work with the new Braddock District Supervisor (to be elected March 10) to set up tax relief workshops in that district. Without objection, it was so ordered.

Vice-Chairman Gross returned the gavel to Chairman Bulova.

EBE:ebe

24. **PROFFERED CONDITION AMENDMENT APPLICATION**
PCA 78-S-063-06 AEROSPACE CORPORATION – CORRECTION TO
PROFFERS (SULLY DISTRICT) (11:52 a.m.)

Supervisor Frey said that on February 23, 2009, the Board approved Proffered Condition Amendment Application PCA 78-S-063-06 in the name of the Aerospace Corporation. Subsequent to the approval, he was informed that a typographical error exists in the approved proffer statement. In the third line of the February 10, 2009, proffers, the property is misidentified as Tax Map 44-1 ((1)) 35. The appropriate reference should be Tax Map 44-1 ((4)) 35.

To clarify the record, Supervisor Frey moved that the Board direct the Clerk to the Board to make the correct reference in an amended approval letter. A revised set of proffers with the correct tax map reference will be submitted and attached to the revised Clerk's letter. Chairman Bulova seconded the motion and it carried by a vote of eight, Supervisor Hyland not yet having arrived.

25. **EVOLUTION CYCLING CLUB'S REQUEST TO CONDUCT A BICYCLE RACE (SULLY DISTRICT)** (11:53 a.m.)

Supervisor Frey said that the Evolution Cycling Club, in collaboration with the Mid-Atlantic Racing Association and USA Cycling, has requested permission from the Board to conduct a bicycle race on Avion Parkway and Virginia Mallory Drive on Saturday, April 18, from 7 a.m. to 5 p.m. During that timeframe, two interior lanes of Avion Parkway and Virginia Mallory Drive will be closed to the public. The Cycling Club will provide three flagmen and two "Caution Bike Race" signs within the right-of-way and will coordinate additional security with the Police Department.

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

Therefore, Supervisor Frey moved that the Board authorize staff to grant permission to the Evolution Cycling Club to utilize Avion Parkway and Virginia Mallory Drive from 7 a.m. to 5 p.m. on April 18, for the bicycle race event. Chairman Bulova seconded the motion and it carried by a vote of eight, Supervisor Hyland not yet having arrived.

26. **SAINT BALDRICK'S DAY CHARITY (SULLY DISTRICT)** (11:55 a.m.)

Supervisor Frey announced that the Police Department will be hosting its Saint Baldrick's Charity event and the Centreville community is hosting its event on March 15, 2009 from 3 p.m. to 6 p.m. at Fast Eddies Restaurant. The event is to raise funds to support research for pediatric cancer cure. Further information can be found at www.stbaldricks.org.

27. **ZONING ENFORCEMENT ISSUE (MASON DISTRICT)** (11:57 a.m.)

Supervisor Gross said that a constituent has brought to her attention a problem that may be allowing overcrowding in County neighborhoods, by using County rules and regulations in a manner for which they were not intended.

Supervisor Gross said that Zoning Enforcement issued a violation for a second kitchen in the basement of a single family home. Originally, the owner had two renters, his in-laws, and his wife living in the house. He was told to remove the kitchen, and instead he filed for a special permit. His first Board of Zoning Appeals (BZA) hearing was scheduled for March 2008, but postponed to June 2008 because he did not have the proper paperwork. It was again postponed to December, and still no papers. The BZA scheduled another hearing, in

February 2009, which was again postponed with no paperwork. The next hearing is scheduled for April 2009.

Supervisor Gross reported that sometime during that schedule, the in-laws moved out, and another couple rented the basement, with the second kitchen which was the subject of the original zoning violation. The owner has been able to rent the basement and make money, knowing that he is in violation. To top it off, the owner will turn 55 this spring, and can have a permit for a second kitchen based on his "senior" status for a granny flat. The neighbors doubt that the owner will live in a basement with the second kitchen when he has a perfectly good full-size legal kitchen upstairs. The neighbors are rightfully concerned that the owner may be "gaming the system," and that unnecessary delays and deferrals have been granted to accommodate illegal and dishonest behavior by using existing County rules.

Accordingly, Supervisor Gross moved that the Board direct staff to review the issue and provide recommendations. Supervisor McKay seconded the motion, and it carried by a vote of eight, Supervisor Hyland not yet having arrived.

28. **CONGRESSIONAL SCHOOL (MASON DISTRICT)** (12 noon)

Supervisor Gross said that the Congressional School was founded in Arlington in 1939, and grew substantially over the years. During the 1950s, it developed a new 40 acre campus in the County, on Sleepy Hollow Road. In 1979, it was reorganized as the Congressional Schools of Virginia, a non-profit corporation governed by a board of trustees. This year will mark the fiftieth anniversary of the Congressional Schools of Virginia opening its campus in the County.

Therefore, Supervisor Gross moved that the Board direct staff to prepare a Certificate of Appreciation, signed by the Chairman and the Mason District Supervisor, to be presented to the School at a gala celebration on May 9, 2009. Chairman Bulova seconded the motion, and it carried by a vote of eight, Supervisor Hyland not yet having arrived.

29. **SMALL BUSINESS COMMISSION PRESENTATION** (12:01 a.m.)

(BACs) Supervisor Gross asked unanimous consent that the Board direct staff to invite the Small Business Commission to appear before the Board to make a presentation. Without objection, it was so ordered.

30. **MASON DISTRICT PRINT NEWSLETTER** (12:03 p.m.)

Supervisor Gross distributed copies of her Mason District newsletter and called the Board's attention to the inside page that lists the schedule of the Starlight Summer Concert series.

A brief discussion ensued about possible cuts to the funding for the concert series.

31. **UNITED CHRISTIAN PARISH OF RESTON – REQUEST FOR CONCURRENT PROCESSING (HUNTER MILL DISTRICT)** (12:05 p.m.)

Supervisor Hudgins said that the property identified as tax map reference 017-2((01)) Parcel 13 and 017-2 ((1)) Parcel 6 is zoned to the Planned Residential Community (PRC) and is known as United Christian Parish of Reston (UCP) “Redeemer Site.” The parcels have been used and occupied for religious purposes since the initial development. The proposed application is to expand the church building and expand the physical size of the nursery school with a current enrollment of 135 students. The process has taken longer than anticipated by the applicant and the expedition of the Board public hearing date will greatly assist the applicant in meeting construction date projections.

Therefore, Supervisor Hudgins moved that the Board direct the Department of Planning and Zoning to expeditiously process Special Exception Application SE 2008-HM-024 and Planned Residential Community Application PRC A-502 including scheduling of a Board public hearing, and direct the Director of the Department of Public Works and Environmental Services to accept a site plan, and any other plans as may be necessary, for concurrent and simultaneous processing with the pending special exception and PRC. Chairman Bulova seconded the motion, and it carried by a vote of eight, Supervisor Hyland not yet having arrived.

32. **SUNOCO, INCORPORATED (R&M) – REQUEST FOR CONCURRENT PROCESSING (HUNTER MILL DISTRICT)** (12:07 p.m.)

Supervisor Hudgins said that the property identified as tax map reference 16-3 ((1)) 38 is zoned to the C-6 District and has been developed with a service station, service bays, and quick service food store. Due to changing market conditions and the need to better serve customer demands, Sunoco, Incorporated (R&M) has filed a special exception amendment application to convert the quick service food store and service bays to a larger quick service food store that contains a total of 2,765 square feet of gross floor area. The enlarged quick service food store will be constructed within the same footprint as the existing quick service food store and the service bays combined, thus there is no additional impervious surface added to the subject property. The applicant does not propose to modify the location of the service station canopy, the existing fuel dispensers, or points of access.

Therefore, Supervisor Hudgins moved that the Board direct the Department of Planning and Zoning to expeditiously process Special Exception Amendment Application SEA 95-H-066-02, including scheduling of a Board public hearing, and direct the Director of the Department of Public Works and Environmental Services to accept a site plan, and any other plans as may be necessary, for concurrent and simultaneous processing with the pending special exception

amendment application. Chairman Bulova seconded the motion, and it carried by a vote of eight, Supervisor Hyland not yet having arrived.

33. **ORACLE, USA – REQUEST FOR CONCURRENT PROCESSING (HUNTER MILL DISTRICT)** (12:08 p.m.)

Supervisor Hudgins stated that the Board originally rezoned the Oracle property to the Planned Residential Community (PRC) in 1987 by approving Rezoning Application RZ 1986-C-121. Pursuant to a proffered condition, Conceptual Plan Application CP 1986-C-121-8 was submitted to, and approved by, the Planning Commission in 1997. The conceptual plan was subsequently amended three times, mostly recently in 2006 with the approval of Conceptual Plan Amendment Application CPA 86-C-121-8 3. Supervisor Hudgins said the pending PRC application seeks final approval to construct a third office building and second parking garage, consistent with the amended conceptual plan. In an effort to expedite the review of site plans and building plans to be prepared to commence construction as quickly as possible, the applicant has requested concurrent processing.

Therefore, Supervisor Hudgins moved that the Board direct the Department of Public Works and Environmental Services to accept any site plans and building plans for concurrent processing with Planned Residential Community Application PRC 86-C-121. Chairman Bulova seconded the motion, and it carried by a vote of eight, Supervisor Hyland not yet having arrived.

34. **CONSISTENT TRAFFIC CALMING FOR OLD COURTHOUSE ROAD (HUNTER MILL DISTRICT)** (12:10 p.m.)

Supervisor Hudgins said that Old Courthouse Road, posted with a speed limit of 25 miles-per-hour, is classified as a minor arterial, but like many other roads, has traffic that exceeds the speed limit. In recent years, the road has become a major commuter cut through route to Tysons Corner. The Hunter Mill District office has been working with staff from Virginia Department of Transportation (VDOT), Department of Transportation, McLean District Police Station, and the Town of Vienna's mayor and town staff to address traffic calming efforts on Old Courthouse Road on behalf of the community. The road does not meet VDOT's guidelines for acceptance into the traffic calming program because of the road classification. Within the limits of the Town of Vienna, in an effort to calm traffic, the Town has placed two speed humps. The roadway characteristics do not change between the residential areas within the Town and County and yet the County is limited, because of the road classification, on its options to address the issue.

Therefore, Supervisor Hudgins moved that Board direct staff to ask VDOT to consider an exception to the State's traffic calming policy in this case allowing for Old Courthouse Road to be included in the traffic calming program so that implementation of methods being employed by one jurisdiction on the road can be

consistently applied on the same road in the County. Supervisor Gross seconded the motion, and it carried by a vote of eight, Supervisor Hyland not yet having arrived.

35. **THE CLOSET INCORPORATED CELEBRATES THIRTY-FIFTH ANNIVERSARY** (12:12 p.m.)

Supervisor Hudgins said that in April, the Closet, Incorporated of Herndon will celebrate its thirty-fifth anniversary. The Closet was founded in 1974 by a handful of churches to assist low-income families by selling used clothing at a nominal price. Over the years, the mission has expanded and it has become a significant resource for the greater Herndon area. Not only does it continue to be a source of low-cost clothing and household necessities for those on a tight budget, it gives away clothing to truly needy individuals and uses its profits to support community programs.

Supervisor Hudgins added that, every year the Closet donates approximately 90 percent of its proceeds after expenses to a variety of worthwhile causes in the community including Herndon Free Medical Clinic, FISH, and scholarships to students at local high schools. The Closet is more than a thrift-store – it is a community partner, a generous contributor and a testament to the community it supports so well. Today’s economic times demonstrate more than ever the importance of The Closet to the community.

Therefore, Supervisor Hudgins moved that the Board direct staff to prepare a certificate for presentation at the anniversary celebration to be held on April 4, 2009, recognizing the exceptional role The Closet plays in supporting the Herndon-Reston community. Chairman Bulova seconded the motion, and it carried by a vote of eight, Supervisor Hyland not yet having arrived.

PMH:pmh

36. **LYME DISEASE AWARENESS MONTH** (12:13 p.m.)

Supervisor Herrity said that Lyme Disease affects many families in this County and beyond. Several hundred cases alone were reported in the County in 2008 and many more went unreported as doctors often treat potential victims before all signs and symptoms appear.

Therefore, Supervisor Herrity asked unanimous consent that the Board direct staff to invite Dr. Arias of the Health Department and his co-workers to appear before the Board in April for a resolution to declare May 2009 as “*Lyme Disease Awareness Month*” in Fairfax County. Without objection, it was so ordered.

37. **LIGHTING THE FAIRFAX COUNTY PARKWAY/FAIR LAKES PARKWAY INTERCHANGE (SPRINGFIELD DISTRICT)** (12:14 p.m.)

Supervisor Herrity said that over the past 15 months, his office has been working jointly with the Virginia Department of Transportation (VDOT), the Department of Transportation (DOT), the Department of Public Works and Environmental Services (DPWES), the County Park Authority (FCPA), local civic groups, businesses, and utility companies to advance construction of the Fairfax County Parkway/Fair Lakes Parkway Interchange.

The most prominent and complex issue has been the Fair Lakes League's agreement to permit VDOT to utilize its existing lakes/ponds for storm water management in conjunction with the proposed interchange. This agreement will result in substantial savings in right-of-way acquisition and project schedule. However, as a condition of the agreement, the Fair Lakes League has requested that certain aesthetic and pedestrian-friendly enhancements be included in the portion of the interchange that is a "gateway" to the Fair Lakes community - the Fair Lakes Parkway bridge and the ramps in the immediate vicinity of the bridge. The Fair Lakes League has requested that pedestrian-scale acorn style luminaries be provided on the bridge and along the ramps of the interchange - the same type of luminaries currently in use in several commercial revitalization areas in the County.

VDOT does not stock or maintain acorn pedestrian lights, but has agreed to incur the up-front installation cost within the construction of the interchange project. However, subsequent monthly operating and maintenance will need to be provided by the County under the municipal agreement with Dominion Virginia Power (DVP). The proposed lighting of the interchange includes 83 VDOT-maintained streetlights for vehicular traffic and 35 acorn luminaries for pedestrian traffic proposed to be maintained by the County through its contract with DVP. Anticipated operating and maintenance cost to the County under the present municipal agreement with DVP is \$9,825 per year.

Supervisor Herrity noted that DOT staff is in support of this proposal and has been involved in the dialogue on this issue with VDOT and the Fair Lakes League since it was first presented.

To facilitate completion of the interchange project schedule and allow the project to be advertised for construction at the end of 2009, 18 months ahead of schedule, Supervisor Herrity moved that the Board endorse the installation of acorn pedestrian lights at the Fairfax County Parkway/Fair Lakes Parkway Interchange within the Fair Lakes Community limits and accept future operation and maintenance responsibility for these pedestrian luminaries under the County contract with DVP. Supervisor Frey seconded the motion.

Following discussion regarding the lighting, with input from Karen J. Harwood, Deputy County Attorney and Jane Rosenbaum, Transportation Planner, DOT, the question was called on the motion and it carried by a vote of eight, Supervisor Hyland not yet having arrived.

38. **CONSIDERING HOME HELP PROGRAM FOR COUNTY EMPLOYEES**
(12:25 p.m.)

Supervisor Herrity said that last year the Prince William Board of County Supervisors unanimously approved a program called "Home Help." This program is a first of its kind in the nation and represented a partnership with SunTrust Bank to provide assistance for full time County employees to purchase homes in the County. No taxpayer dollars are used for this program and the County does not purchase any property.

Supervisor Herrity noted that he has been following this program since it was first approved last May. In February of this year they had the first lottery and about half of the 320 employees that participated were winners. By all accounts the program has been a success.

Therefore, Supervisor Herrity asked unanimous consent that the Board direct the County Executive investigate Prince William County's Home Help Program to see if Fairfax could offer its employees a similar program and report his findings. Without objection, it was so ordered.

39. **COMMONWEALTH OF VIRGINIA AS A RIGHT TO WORK STATE**
(12:26 p.m.)

Supervisor Herrity said that on September 8, 2008, he presented a Board Matter, *Economic Development as Board Priority* which was unanimously approved. The purpose of the Board Matter was to stress the importance of achieving a 25 percent commercial tax base in the County.

Supervisor Herrity noted that one of the big competitive advantages the County has over other jurisdictions in attracting companies to the County is that Virginia is a Right-to-Work State. It has been a long standing policy of the Commonwealth of Virginia that "the right of persons to work shall not be denied or abridged on account of membership in any labor union or labor organization." (Enacted 1947; amended 1970).

Supervisor Herrity asserted that the Employee Free Choice Act, also known as Card Check, is legislation that jeopardizes this long standing policy in the Commonwealth of Virginia and most importantly in the County. Card Check will take away workers' rights and will remove a major plus for those businesses that are interested in relocating to the County when determining what localities are best suited for their workers. Supervisor Herrity said that he supports the right of workers to join a union under their own free will. He added that the secret ballot

has always been a very important part of elections in the country; to take that right away from workers would be a terrible mistake. Passage of Card Check legislation would remove one of the competitive advantages the County has when attempting to recruit and retain businesses. This will make it more difficult to continue to attract new businesses and reach the goal of a 25 percent commercial tax base. The local business organizations are on record stating they expect that the Employee Free Choice Act will negatively impact the local business community.

Therefore, Supervisor Herrity moved that the Board affirm its position in support of the Commonwealth of Virginia as a Right to Work State, state its opposition to the Employee Free Choice Act, and ask that the Chairman write a letter to the Congressional Delegation reflecting the Board's position on this important matter. Supervisor Frey seconded the motion.

Following discussion of the motion, the question was called on the motion and it **FAILED** by a recorded vote of six, Supervisor Frey and Supervisor Herrity voting "AYE," Supervisor Hyland not yet having arrived.

40. **LETTERS TO GOVERNOR KAINE REGARDING ENERGY EFFICIENCY INCENTIVES FOR ELECTRIC UTILITIES AND RESTRICTIONS ON THE COUNTY'S COMMERCIAL AND INDUSTRIAL PROPERTY TAX FOR TRANSPORTATION** (12:38 p.m.)

Supervisor McKay referred to energy efficiency incentives for electric utilities and said that during the 2007 General Assembly, legislation was passed which effectively ended the State's experimental deregulation of electricity which began in 1999. However, the 2007 legislation did not return Virginia to the more traditional rate regulation which governed the cost of electricity for years, but instead developed a hybrid regulatory model which safeguarded the industry's interests. As a result, low electricity prices, which have contributed to Virginia's economic success, have risen recently as utilities begin to recover their increased fuel costs and investment in infrastructure investment. Substantial near-term increases are expected as State regulators authorize utilities' 2009 fuel factors and begin to apply statutory re-regulation provisions adopted in 2007.

Supervisor McKay said that the reregulation law enacted in 2007 created a process through which utilities may petition the State Corporation Commission (SCC) to recover the projected and actual costs of providing incentives to design and operate "fair and effective" energy efficiency programs. By substantially changing this process, there is concern that HB 2506 and Senate Bill SB 1248 could have the effect of requiring the SCC to reward a utility at a rate significantly higher than its authorized return. Because such a short time has elapsed since the 2007 law was enacted, it is difficult to have a clear understanding of the effect of the existing incentives for energy efficiency and any necessary changes that may be required. Additionally, as decisions about

these complicated issues are weighed, it is important to preserve the ability of the SCC to be the final arbiter in assessing the appropriate outcome for Virginia.

Supervisor McKay noted that the Board has strongly supported and promoted energy efficiency - in County facilities, among residents and businesses, and for the greater community. The goal of RB 2506 and SB 1248 as introduced was to encourage widespread adoption of energy efficiency programs for consumers and businesses in the Commonwealth.

Supervisor McKay referred to the commercial and industrial property tax for transportation and said that also during the 2009 General Assembly session, two bills (RB 2480 and HB 2479) were passed imposing restrictions on the County's commercial and industrial property tax for transportation. This tax was authorized by the passage of RB 3202 during the 2007 General Assembly session, and is one of only two local revenue sources, for Northern Virginia localities, remaining after a successful Supreme Court challenge to portions of that legislation. RB 2480 would restrict the County's ability to use these funds for safety improvements, and HB 2479 would cap the tax rate at \$0.125 per \$100 valuation, significantly below that allowed by HB 3202. Capping the tax rate at \$0.125 per \$100 valuation will make it more difficult for the County to proceed with a \$50 million bond issue planned for this spring.

Supervisor McKay pointed out that the Board discussed these issues at length in the Legislative Committee on March 6, and agreed to send letters to Governor Kaine, asking him to amend these bills. The energy efficiency letter has been revised somewhat, to make it less technical, to emphasize the need for regulatory oversight, and a balancing of the various customer interests while also reiterating the Board's support for increased energy efficiency programs.

Therefore, Supervisor McKay moved that the Board:

- Approve sending a letter to the Governor, signed by the Chairman, recommending amendments to HB 2506 and SB 1248 (energy efficiency incentives for electric utilities).
- Direct staff to provide suggestions and amendments to ensure that the legislation strikes an appropriate balance between the various customers' interests.
- Approve sending the letters regarding RB 2480 and HB 2479 (restrictions on the County's commercial and industrial property tax for transportation) to the Governor, signed by the Chairman, recommending amendments to the bills.

Supervisor Smyth seconded the motion.

Discussion ensued regarding the motion, with input from Susan Mittereder, Director of Legislative Services, and Tom Biesiadny, Chief, Coordination and Funding Division, Department of Transportation, regarding the proposal.

The question was called on the motion and it **CARRIED** by a recorded vote of seven, Supervisor Herrity voting “NAY,” Supervisor Hyland not yet having arrived.

41. **DANCING AND/OR LIVE ENTERTAINMENT IN EATING ESTABLISHMENTS** (12:55 p.m.)

Supervisor McKay expressed concern about restaurants in Lee Districts that serve food by day and become bass booming dance clubs by night.

Supervisor McKay pointed out that entertainment, specifically dancing by patrons, is considered an accessory use to an eating establishment in the Zoning Ordinance. He explained that the Dance Permit is issued administratively by Zoning and is required by the Code of the County of Fairfax, Chapter 27 (Establishments Permitting Dancing) not the Zoning Ordinance. Chapter 27 has few regulations limiting this use and does not provide for public input before the permit is issued. Safety is also a concern.

Therefore, Supervisor McKay moved that the Board:

- Include that dancing and/or live entertainment in eating establishments be included on the 2009 Zoning Ordinance Work Program for special permit consideration.
- Direct staff to include a review of Chapter 27 to coincide with the special permit consideration to ensure all regulatory alternatives are fully vetted.

Supervisor Smyth seconded the motion.

Following discussion regarding the motion, with input from Karen J. Harwood, Deputy County Attorney, the question was called on the motion and it carried by a vote of eight, Supervisor Hyland not yet having arrived.

42. **HIGH SPEED CHASE (LEE DISTRICT)** (12:58 p.m.)

Supervisor McKay referred to a high speed chase in Lee District and he commended Officer Grim of the Police Department for his efforts in handling this situation.

43. **CONSIDERATION ITEMS - MOUNT VERNON SATELLITE INTAKE FACILITY AND MAGISTRATE PAY SUPPLEMENT** (1:01 p.m.)

On behalf of Supervisor Hyland, Supervisor Frey moved that the Board add to its list of Consideration Items to the Fiscal Year 2010 Budget the following items:

- The amount of \$240,407 to the Office of the Sheriff to staff the Mount Vernon Satellite Intake Facility during the day.
- Retaining the current magistrate salary supplement. Current estimates put that figure at \$218,000.

Supervisor McKay seconded the motion and it carried by a vote of eight, Supervisor Hyland not yet having arrived.

44. **RECESS/CLOSED SESSION** (1:02 p.m.)

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

- (a) Discussion or consideration of personnel matters pursuant to Virginia Code § 2.2-3711(A) (1).
- (b) Discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body, pursuant to Virginia Code § 2.2-3711(A) (3).
- (c) Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, and consultation with legal counsel regarding specific legal matters requiring the provision of legal advice by such counsel pursuant to Virginia Code § 2.2-3711(A) (7).
 1. *Louise Root v. D.L. Cook*, Case No. 08-2254 (Va. Sup. Ct.)
 2. *Advanced Towing Company, LLC, Roadrunner Wrecker Service, Inc., and King's Towing, Inc. v. Fairfax County Board of Supervisors*, Case No. CL-2008-0011827 (Fx. Co. Cir. Ct.)
 3. *Fairfax County Redevelopment and Housing Authority v. James C. Riekse, Rajesh Kapani, Rajinder P. Kapani, Frederick L. Shreves, II*,

Trustee, Vincent J. Keegan, Trustee, Mortgage Electronic Registration Systems, Inc., and Weichart Financial Services, Case No. CL-2007-0011400 (Fx. Co. Cir. Ct.) (Mount Vernon District)

4. *Eileen M. McLane, Fairfax County Zoning Administrator v. Carion Lee Woodson and William Henry Woodson, Case No. CL-2008-0004628 (Fx. Co. Cir. Ct.) (Springfield District)*
5. *Eileen M. McLane, Fairfax County Zoning Administrator v. Scott W. Pruitt and Paula E. Pruitt, Case No. CL-2008-0001802 (Fx. Co. Cir. Ct.) (Sully District)*
6. *Eileen M. McLane, Fairfax County Zoning Administrator, Michael R. Congleton, Property Maintenance Code Official for Fairfax County, Virginia, and Ronald L. Mastin, Fairfax County Fire Marshal v. Adela Cuellar Taylor, Case No. CL-2008-0001917 (Fx. Co. Cir. Ct.) (Braddock District) (Strike Team Case)*
7. *Eileen M. McLane, Fairfax County Zoning Administrator, and Michael R. Congleton, Property Maintenance Code Official for Fairfax County, Virginia v. Beltran Sanchez Carbajal, Sulma Patricia Flores de Sanchez, and Evelin Y. Mendoza, Case No. CL-2007-0013442 (Fx. Co. Cir. Ct.) (Mason District) (Strike Team Case)*
8. *Eileen M. McLane, Fairfax County Zoning Administrator, and Michael R. Congleton, Property Maintenance Code Official for Fairfax County, Virginia v. Edward L. Miller and Virginia P. Miller, Case No. CL-2008-0010203 (Fx. Co. Cir. Ct.) (Lee District)*
9. *Eileen M. McLane, Fairfax County Zoning Administrator v. Jose A. Rodriguez and Doris Garcia Cordova, Case No. CL-2007-0012673 (Fx. Co. Cir. Ct.) (Lee District)*
10. *Michael R. Congleton, Property Maintenance Code Official for Fairfax County, Virginia v. Cesia C. Rivera, Case No. CL-2008-0011521 (Fx. Co. Cir. Ct.) (Lee District)*

11. *Eileen M. McLane, Fairfax County Zoning Administrator v. Ola M. Coalson*, Case No. CL-2008-0010794 (Fx. Co. Cir. Ct.) (Lee District)
12. *Eileen M. McLane, Fairfax County Zoning Administrator v. Derlis A. Arnez, Rosario Arnez, and Carmen R. Arnez*, Case No. CL-2008-0016093 (Fx. Co. Cir. Ct.) (Lee District)
13. *Eileen M. McLane, Fairfax County Zoning Administrator v. Rodney C. Smith and Pamela W. Smith*, Case No. CL-2008-0016978 (Fx. Co. Cir. Ct.) (Mount Vernon District)
14. *Eileen M. McLane, Fairfax County Zoning Administrator v. Tua Anh Ngo and Ngocnga T. Nguyen*, Case No. CL-2008-0016331 (Fx. Co. Cir. Ct.) (Providence District)
15. *Eileen M. McLane, Fairfax County Zoning Administrator, and Michael R. Congleton, Property Maintenance Code Official for Fairfax County, Virginia v. Luis F. Becerra Barba*, Case No. CL-2008-0014599 (Fx. Co. Cir. Ct.) (Lee District) (Strike Team Case)
16. *Michael R. Congleton, Property Maintenance Code Official for Fairfax County, Virginia v. Susan W. Butler*, Case No. CL-2008-0015767 (Fx. Co. Cir. Ct.) (Mount Vernon District)
17. *Michael R. Congleton, Property Maintenance Code Official for Fairfax County, Virginia v. Thomas R. L'ecuyer*, Case No. CL-2008-0015328 (Fx. Co. Cir. Ct.) (Sully District)
18. *Eileen M. McLane, Fairfax County Zoning Administrator v. Ominex, Inc., and Belleview SC Co., LLC*, Case No. CL-2008-0016278 (Fx. Co. Cir. Ct.) (Mount Vernon District)
19. *Eileen M. McLane, Fairfax County Zoning Administrator, and Michael R. Congleton, Property Maintenance Code Official for Fairfax County, Virginia v. Gerald M. Bowen*, Case No. CL-2009-0001835 (Fx. Co. Cir. Ct.) (Sully District)

20. *Eileen M. McLane, Fairfax County Zoning Administrator, and Michael R. Congleton, Property Maintenance Code Official for Fairfax County, Virginia v. Sonia Marlene Lopez De Cejas*, Case No. CL-2009-0002076 (Fx. Co. Cir. Ct.) (Mason District) (Strike Team Case)
21. *Eileen M. McLane, Fairfax County Zoning Administrator v. Juvenal Meneses*, Case No. CL-2009-0002075 (Fx. Co. Cir. Ct.) (Mason District) (Strike Team Case)
22. *Eileen M. McLane, Fairfax County Zoning Administrator v. Rafael S. Chavarria*, Case No. CL-2009-0002074 (Fx. Co. Cir. Ct.) (Mason District)
23. *Eileen M. McLane, Fairfax County Zoning Administrator, and Michael R. Congleton, Property Maintenance Code Official for Fairfax County, Virginia v. Ercilia Vargas and Walter Vargas*, Case No. CL-2009-0002073 (Fx. Co. Cir. Ct.) (Lee District)
24. *Eileen M. McLane, Fairfax County Zoning Administrator v. Mauricio E. Villegas*, Case No. CL-2009-0001974 (Fx. Co. Cir. Ct.) (Mason District) (Strike Team Case)
25. *Eileen M. McLane, Fairfax County Zoning Administrator v. Teresa Van Huet*, Case No. CL-2009-0002258 (Fx. Co. Cir. Ct.) (Lee District)
26. *Eileen M. McLane, Fairfax County Zoning Administrator v. Ruben Blanco and Steven N. Blanco*, Case No. CL-2009-0002257 (Fx. Co. Cir. Ct.) (Lee District)
27. *Eileen M. McLane, Fairfax County Zoning Administrator, and Michael R. Congleton, Property Maintenance Code Official for Fairfax County, Virginia v. Juana E. Flores*, Case No. CL-2009-0002349 (Fx. Co. Cir. Ct.) (Mason District)
28. *Eileen M. McLane, Fairfax County Zoning Administrator v. Jose R. Melgar*, Case No. CL-2009-

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

Supervisor Foust seconded the motion and it carried by a vote of eight, Supervisor Hyland not yet having arrived.

DMS:dms

At 3:42 p.m., the Board reconvened in the Board Auditorium with all Members being present, and with Chairman Bulova presiding.

ACTION FROM CLOSED SESSION**45. CERTIFICATION BY BOARD MEMBERS REGARDING ITEMS DISCUSSED IN CLOSED SESSION (3:42 p.m.)**

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

DET:det**AGENDA ITEMS****46. 3:30 P.M. – PH ON THE WAIVER OF THE BOARD OF SUPERVISORS' REVERSIONARY INTEREST IN PROPERTY OWNED BY THE BAILEY'S CROSS ROADS VOLUNTEER FIRE DEPARTMENT AT 3601 FIREHOUSE LANE, FALLS CHURCH (MASON DISTRICT) (3:43 p.m.)**

(R) A Certificate of Publication was filed from the editor of the *Washington Times* showing that notice of said public hearing was duly advertised in that newspaper in the issue of February 26, 2009.

Michael Long, Senior Assistant County Attorney, presented the staff report.

Following the public hearing, which included testimony by one speaker, Supervisor Gross moved adoption of the Resolution stating that the Board agrees that the proposed lease to Cricket and assignment and easement to Cell Tower Lease Acquisition (CTLA), LLC, will not cause title to the property to revert to the Board. Supervisor Smyth seconded the motion and it carried by unanimous vote, Supervisor Foust, Supervisor Frey, Supervisor Gross, Supervisor Herrity, Supervisor Hudgins, Supervisor Hyland, Supervisor McKay, Supervisor Smyth, and Chairman Bulova voting "AYE."

47. **3:30 P.M. – PH ON SPECIAL EXCEPTION APPLICATION SE 2008-PR-033 [METROPOLITAN WASHINGTON AIRPORTS AUTHORITY (MWAA) AND THE VIRGINIA DEPARTMENT OF RAIL AND PUBLIC TRANSPORTATION (VDRPT) ON BEHALF OF WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY (WMATA)] (PROVIDENCE DISTRICT)**

AND

PH ON SPECIAL EXCEPTION APPLICATION SE 2008-MD-034 (MWAA AND VDRPT ON BEHALF OF WMATA) (HUNTER MILL AND PROVIDENCE DISTRICTS) (3:46 p.m.)

(NOTE: On February 23, 2009, the Board deferred the public hearing on Special Exception Application SE 2008-PR-033 and Special Exception Application 2008-MD-034 until March 9, 2009.)

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

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

Mr. Jonathan P. Rak reaffirmed the validity of the affidavit for the record.

Supervisor Herrity disclosed that he received the following campaign contributions in excess of \$100 from:

- Mr. Theodore J. Georgelas (Tysons Spring Hill Station LLC)
- West Group Properties, LLC

Discussion ensued and Supervisor Herrity withdrew the West Group properties disclosure.

Supervisor Frey noted that he had the same West Group Properties disclosure and asked for clarification of the amended affidavits with input from Mr. Rak and Mr. James L. Van Zee, MWAA.

Supervisor McKay disclosed that he is an Alternate Director for WMATA.

Supervisor Foust disclosed that he received the following campaign contributions in excess of \$100 from:

- Mr. Peter T. Halpin (through his company, World Resources Corporation, which is not a party to this Special Exception)
- Mr. John C. Ulfelder

Chairman Bulova disclosed that she received the following campaign contributions in excess of \$100 from:

- Theodore J. Georgelas (Tysons Spring Hill Station LLC)
- Jonathan K. Cherner (Cherner Family LLC)

Supervisor Hudgins disclosed that she is a Principal Director for WMATA.

Suzianne Lin, Staff Coordinator, Zoning Evaluation Division, Department of Planning and Zoning, gave a brief description of the application and site location.

Discussion ensued concerning:

- Special exceptions for uses in a flood plain with the exemption of railroads.
- Review of stormwater management by the Virginia Department of Conservation and Recreation.

Discussion continued concerning the site location in a flood plain, with input from Richard F. Stevens, Dulles Rail Project Manager, Department of Transportation, concerning the exclusion under the Chesapeake Bay Ordinance for public utilities, railroads, public roads, and their facilities in both the State and County Codes.

Discussion continued concerning:

- The effect of passage of the special exceptions on a full-funding grant agreement.
- Noise analysis and the agencies and departments responsible for reviews.
- The distribution of copies of two new development conditions.
- Street grids prepared by the Tysons Land Use Task Force.
- Possible design modifications.

- Virginia Department of Transportation (VDOT) approval of any proposals that would affect Route 123.

Further discussion ensued, with input from Ms. Lin and Mr. Stevens, who noted that major concerns were:

- How public access would be maintained to the station.
- Proposed grades in excess of five percent.

(NOTE: Later in the meeting, the Board continued this public hearing. See Clerk's Summary Item #49.)

ADDITIONAL BOARD MATTER

48. **INTRODUCTION OF A DELEGATION FROM HARBIN, CHINA**
(4:12 p.m.)

Chairman Bulova interrupted the public hearing to introduce a delegation from Harbin, China, who were here as part of the National Association of Counties (NACo) visit. She advised the Board that:

- The delegation was interested in signing an agreement to work together on a relationship.
- It had been provided copies of a pre-agreement Memorandum of Understanding (MOU) which she would sign on the Board's behalf.

Chairman Bulova invited the Deputy Mayor to give remarks.

Supervisor Hyland stated that earlier today the Mayor entered into a similar agreement with NACo and that the delegation was interested in speaking with the Economic Development Authority (EDA) about Tysons and the County's ability to attract significant companies. He noted that four companies from Harbin were currently located in the County.

Following remarks by the Deputy Mayor, Supervisor Gross moved that the Chair be empowered to sign the MOU between the County and the City of Harbin, China, as presented to the Board today. Supervisor Hyland seconded the motion.

Chairman Bulova stated that:

- The MOU had been reviewed and amended by the County Attorney.

- This was an agreement to review in more detail a future agreement and would need to be translated into Chinese.

Supervisor Hyland asked unanimous consent that the Board share information on the agreement with the EDA. Without objection, it was so ordered.

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

AGENDA ITEMS

49. **CONTINUATION OF THE PUBLIC HEARING ON SPECIAL EXCEPTION APPLICATIONS SE 2008-PR-033 AND SE 2008-MD-034**
(4:23 p.m.)

(NOTE: Earlier in the meeting, this public hearing began. See Clerk's Summary Item #47.)

Mr. Rak 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, which included testimony by three speakers, Ms. Lin presented the staff and Planning Commission recommendations.

Tyson's East Station

Supervisor Smyth moved:

- Approval of Special Exception Application SE 2008-PR-033, subject to the development conditions dated February 23, 2009.
- Waiver of the transitional screening and barrier requirements along the property boundaries of the site.

Supervisor Hudgins seconded the motion and it **CARRIED** by a recorded vote of seven, Supervisor Foust voting "NAY," Supervisor McKay being out of the room.

(NOTE: On February 18, 2009, the Planning Commission approved Public Facilities Application 2232-P08-10. The Commission noted that the proposed Tyson's East Station satisfied the criteria of location, character, and extent, as specified in Sect. 15.2-2232 of the Code of Virginia, as amended.)

Tysons West Station

Supervisor Hudgins moved:

- Approval of Special Exception Application SE 2008-MD-034, subject to the development conditions dated February 23, 2009.
- Waiver of the transitional screening and barrier requirements along the property boundaries of the site.

Supervisor Hyland and Supervisor Smyth jointly seconded the motion and it **CARRIED** by a recorded vote of eight, Supervisor Foust voting “NAY.”

(NOTE: On February 18, 2009, the Planning Commission approved Public Facilities Application 2232-MD08-13. The Commission noted that the proposed Tysons West Station satisfied the criteria of location, character, and extent, as specified in Section 15.2-2232 of the Code of Virginia, as amended.)

Supervisor Foust stated his reasons for opposing approval of the special exception applications.

Chairman Bulova stated that the Board was sensitive to the concerns raised by Supervisor Foust and that a number of them had been addressed through a condition to which the applicant has agreed. She also noted tomorrow’s signing ceremony for the full-funding federal grant agreement which will put all of the funding components into place and that within the next weeks the Board will start to see the extension being built. She added that approval of the stations is a major accomplishment and is critical so that as landowners are ready to go forward with the development of their properties, it is done in concert with the stations to integrate things as fully as possible and to make sure that aesthetics and functionality are addressed.

Following further discussion, Chairman Bulova noted that any significant changes would be shared with the Chairman and the Supervisors in whose districts the projects are in, as well as any other interested Board Members, so that they could weigh in on the changes.

50. **3:30 P.M. – PH ON REZONING APPLICATION RZ 2004-LE-042 (JAMES PURYEAR) (LEE DISTRICT)** (4:42 p.m.)

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

Mr. Ronald J. Keller reaffirmed the validity of the affidavit for the record.

Mr. Keller 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, St. Clair Williams, Staff Coordinator, Zoning Evaluation Division, Department of Planning and Zoning, presented the staff and Planning Commission recommendations.

Supervisor McKay moved that the Zoning Ordinance, as it applies to the property which is the subject of Rezoning Application RZ 2004-LE-042, be amended from the R-1, C-5, and HC Districts to the C-5 and HC Districts, subject to the proffers dated February 17, 2009. Supervisor Herrity and Supervisor Hyland jointly seconded the motion and it carried by unanimous vote, Supervisor Foust, Supervisor Frey, Supervisor Gross, Supervisor Herrity, Supervisor Hudgins, Supervisor Hyland, Supervisor McKay, Supervisor Smyth, and Chairman Bulova voting "AYE."

51. **3:30 P.M. – PH ON REZONING APPLICATION RZ 2008-LE-001 (HILLTOP SAND AND GRAVEL COMPANY, INCORPORATED) (LEE DISTRICT)**

AND

PH ON SPECIAL EXCEPTION AMENDMENT APPLICATION SEA 2005-LE-027 (HILLTOP SAND AND GRAVEL COMPANY, INCORPORATED) (LEE DISTRICT)

AND

PH ON REZONING APPLICATION RZ 2008-LE-002 (HILLTOP SAND AND GRAVEL COMPANY, INCORPORATED) (LEE DISTRICT)

AND

PH ON SPECIAL EXCEPTION AMENDMENT APPLICATION SEA 78-L-074-06 (HILLTOP SAND AND GRAVEL COMPANY, INCORPORATED) (LEE DISTRICT)

AND

PH ON REZONING APPLICATION RZ 2008-MD-003 (HILLTOP SAND AND GRAVEL COMPANY, INCORPORATED) (LEE AND MOUNT VERNON DISTRICTS) (4:48 p.m.)

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

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

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

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

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

Ms. Lynne J. Strobel reaffirmed the validity of the affidavit for the record.

Ms. Strobel 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.

Following the testimony of Mr. Matt Szramoski (Speaker 2), discussion ensued concerning the location of the Newington Civic Association and conformity to the Comprehensive Plan, with input from Catherine E. Lewis, Branch Chief, Zoning Evaluation Division, Department of Planning and Zoning.

Following the testimony of Ms. Cynthia Smith (Speaker 3), discussion ensued concerning consideration of tax revenue in a land use case.

Supervisor McKay asked unanimous consent that the Board direct the County Attorney to review the matter and respond to the Board later in the meeting. Without objection, it was so ordered.

Following the testimony of Mr. Tony Perez (Speaker 5), discussion ensued concerning:

- An independent traffic analysis with input from Chuck Almquist, Transportation Planner II, Site Analysis Section, Department of Transportation.
- Conformance to the big box ordinance contained in Section 9-533 of the Zoning Ordinance, with input from Ms. Lewis.
- Size generating the need for the special exception.

Following the testimony of Mr. Glenn Overvik (Speaker 6), discussion ensued concerning:

- The Zoning Ordinance with input from Elizabeth Teare, Assistant County Attorney, regarding the legal issues addressed by the speaker.
- Stormwater management, the dam embankment and possible rupture, with input from Ms. Lewis detailing changes that have been made.
- Comments presented in Mr. Overvik's written presentation concerning pre-landfill conditions, with input from Ms. Lewis.

Karen Harwood, Deputy County Attorney, responded to an earlier question concerning the consideration of tax revenue in land use cases.

Chairman Bulova closed the public hearing, which included testimony by 13 speakers.

Supervisor Hudgins, Supervisor McKay, and Chairman Bulova submitted items for the record.

Following rebuttal by Ms. Strobel, additional information was provided by Douglas P. Kennedy, Traffic Engineer, Patton, Harris, Rust and Associates, Incorporated, concerning the traffic impact study prepared on behalf of the applicants.

Following the public hearing, Ms. Lewis presented the staff and Planning Commission recommendations.

Supervisor McKay moved:

- Amendment of the Zoning Ordinance, as it applies to the property which is the subject of Rezoning Application RZ 2008-LE-001, from the I-3 and NR Districts to the R-1 and NR Districts.
- Approval of Special Exception Amendment Application SEA 2005-LE-027, subject to the development conditions dated February 12, 2009.
- Modification of the transitional screen yard requirement along all boundaries of the property and waiver of the barrier requirement along all boundaries, in favor of that shown on the Generalized Development Plan (GDP), Special Exception Amendment (SEA) Plat, and referenced in the development conditions.

- Modification of the requirement for golf course parking areas to allow the parking area to be set back 50 feet from the property line of residentially zoned property and allow the parking area across from Fort Belvoir to be set back 25 feet from the right-of-way for Telegraph Road.
- Amendment of the Zoning Ordinance, as it applies to the property which is the subject of Rezoning Application RZ 2008-LE-002, from the I-3 and NR Districts to the R-1 and NR Districts.
- Approval of Special Exception Amendment Application SEA 78-L-074-006, subject to the development conditions dated March 6, 2009.
- Waiver of the transitional screening yard and barrier requirements along all boundaries of the landfill to that depicted on the GDP/SEA Plat.
- Approval of the construction of the proffered recreational facilities and the proposed parking lot on the closed landfill no sooner than 20 years after closure of the landfill, pursuant to Paragraph 9 of Section 9-205 of the Zoning Ordinance.
- Amendment of the Zoning Ordinance, as it applies to the property which is the subject of Rezoning Application RZ 2008-MD-003, from the I-3, R-1, and NR Districts to the PDC and NR Districts, subject to the proffers dated March 6, 2009.
- Modification of the transitional screening yard requirements and the barrier requirements along all boundaries, in favor of that shown on the Conceptual Final Development Plan, referenced in the proffers, and required by the proposed development conditions.
- Approval of the P-District variance, in accordance with Paragraph 8, Section 16-401, of the Zoning Ordinance, to allow the proposed secondary uses in the Hilltop Village Center to exceed 25 percent of the proposed principal uses.
- Direction to the Director of the Department of Public Works and Environmental Services to approve waiver of the required loading spaces for the two proposed drive-in financial institutions and a modification to allow the loading spaces for the retail uses, as shown on the proffered Conceptual and Final Development Plan.
- Approval of the construction of the proposed parking lot for the Hilltop Village Center on the closed landfill sooner than 20 years

after closure of the landfill, pursuant to Paragraph 9, Section 9-205, of the Zoning Ordinance.

Following clarification by Ms. Lewis, Supervisor McKay amended bulleted item eight of his motion, by deleting the word “no”, to read as follows:

- Approval of the construction of the proffered recreational facilities and the proposed parking lot on the closed landfill ~~no~~ sooner than 20 years after closure of the landfill, pursuant to Paragraph 9 of Section 9-205 of the Zoning Ordinance.

Supervisor Herrity seconded the motion.

Supervisor Smyth stated, for the record, that given the communities’ concerns about transportation, she would vote to abstain on Rezoning Application RZ 2008-MD-003.

Discussion ensued concerning the dam breach analysis and the Overvik property, with further input from Ms. Lewis.

The question was called on the motion, as amended, and it **CARRIED** by a recorded vote of eight, Supervisor Foust, Supervisor Frey, Supervisor Gross, Supervisor Herrity, Supervisor Hudgins, Supervisor Hyland, Supervisor McKay, and Chairman Bulova voting “AYE,” Supervisor Smyth abstaining.

(NOTE: On February 12, 2009, the Planning Commission approved Final Development Plan Application FDP 2008-MD-003.)

52. **4 P.M. – PH ON PROPOSED POLICY PLAN AMENDMENT S08-CW-1CP CONCERNING ROADWAYS BY FUNCTIONAL CLASSIFICATION TABLE** (6:36 p.m.)

A Certificate of Publication was filed from the editor of the *Washington Times* showing that notice of said public hearing was duly advertised in that newspaper in the issues of February 19 and February 26, 2009.

Michael W. Garcia, Transportation Planner II, Department of Transportation, presented the staff report.

Following the public hearing, Supervisor Hudgins moved approval of the Planning Commission recommendation for S08-CW-1CP, as set forth in the staff report. Supervisor Gross seconded the motion and it carried by a vote of seven, Supervisor Frey and Supervisor Hyland being out of the room.

53. **BOARD ADJOURNMENT** (6:38 p.m.)

The Board adjourned.

Index

AGENDA ITEM	Page
Presentations: Certificates/Awards	2-3
Items Presented by the County Executive	
Administrative Items	3-12
Action Items.....	12-13
Information Items	14-15
Board Matters	
Chairman Bulova	16-19
Supervisor Foust	19
Supervisor Frey	21-22
Supervisor Gross.....	2, 22-23
Supervisor Herrity	26-29
Supervisor Hudgins	24-26
Supervisor Hyland	32
Supervisor McKay	17-18, 29-31
Supervisor Smyth.....	20-21
Actions from Closed Session	37
Public Hearings	37-47