



CLERK'S BOARD SUMMARY

REPORT OF ACTIONS OF THE FAIRFAX COUNTY BOARD OF SUPERVISORS

**TUESDAY
July 12, 2011**

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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 Tuesday, July 12, 2011, at 9:36 a.m., there were present:

- Chairman Sharon Bulova, presiding
- Supervisor John C. Cook, Braddock District
- 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 Gerald W. Hyland, Mount Vernon District
- Supervisor Jeffrey C. McKay, Lee District
- Supervisor Linda Q. Smyth, Providence District

Others present during the meeting were Anthony H. Griffin, County Executive; David P. Bobzien, County Attorney; Cynthia Tianti, Deputy County Attorney; Catherine A. Chianese, Assistant County Executive; Angela Schauweker, Management Analyst II, Office of the 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 Hudgins asked everyone to keep in thoughts the family of Ms. Hale Almy Ament, a 40-year Reston resident who recently died. Supervisors Hudgins said that Ms. Ament was a “Best of Restonian” in 1992 and, most importantly, led the effort in the Reston community and beyond on dark skies.

Supervisor Hudgins asked everyone to keep in thoughts the family of Ms. Roberta Vest, also a long-time Reston resident, a County teacher, and a very active member of the Fairfax Education Association, who recently died.

Supervisor Hyland asked everyone to keep in thoughts the family of Mr. Thomas Wilson Chadwick, a stalwart member of the Mount Vernon community, who recently died. Supervisor Hyland said that Mr. Chadwick had an incredibly distinguished career working for many in Washington, including the late US Senator Owen Johnson of South Carolina, the presidential campaigns of Senator Adlai Stevenson, Senator Hubert Humphrey, President Kennedy, and President Johnson, as well as the US Postal Service. Mr. Chadwick also served as the Mount Vernon District representative and chairman of the Consumer Protection Commission.

2. **ORDERS OF THE DAY** (9:43 a.m.)

Chairman Bulova stated that a discussion and briefing had been scheduled for closed session on the Rail to Dulles project and a proposal that has been advanced by US Secretary of Transportation Ray LaHood. She added that Peter M. Rogoff, the Administrator of the Federal Transportation Administration, would be present to provide information.

Chairman Bulova announced that Mr. Rogoff’s presentation will be given publicly, and that there will be a brief period of time for questioning. She noted that it was important that the Board move through the morning’s agenda, break for lunch, hear Mr. Rogoff’s presentation at approximately 1:30 p.m., and then go into closed session to discuss items advertised in closed session, some of which could be also associated with the garages and the Rail to Dulles project.

(NOTE: Later in the meeting, there was discussion about the presentation and the presentation was held. See Clerk’s Summary Items #32 and #39.)

AGENDA ITEMS

3. **CERTIFICATES OF RECOGNITION PRESENTED TO MEMBERS OF THE 2011 ADVISORY CITIZEN REAPPORTIONMENT COMMITTEE** (9:44 a.m.)

(BACs) Supervisor McKay moved approval of the Certificates of Recognition presented to members of the Citizens Redistricting Committee for exemplary service and dedication in the process of redistricting. The motion was unanimously seconded and it carried by unanimous vote.

4. **RESOLUTION OF RECOGNITION PRESENTED TO MR. JAMES PERCOCO** (9:56 a.m.)

Supervisor Herrity moved approval of the Resolution of Recognition presented to Mr. James Percoco on his induction into the National Teachers Hall of Fame. Supervisor McKay seconded the motion and it carried by a vote of nine, Supervisor Smyth being out of the room.

5. **RESOLUTION OF RECOGNITION PRESENTED TO MS. MARY STEVENS** (10:02 a.m.)

Supervisor Hudgins moved approval of the Resolution of Recognition presented to Ms. Mary Stevens for 24 years of noteworthy and dedicated service to the County upon her retirement from the Department of Housing and Community Development as its deputy director. Supervisor Herrity and Supervisor Hyland jointly seconded the motion and it carried by unanimous vote.

6. **RESOLUTION OF RECOGNITION PRESENTED TO MR. TOM SCHAFFER** (10:14 a.m.)

Supervisor Herrity moved approval of the Resolution of Recognition presented to Mr. Tom Schaffer for his years of service at St. Bernadette's Catholic Church. Supervisor Cook and Supervisor McKay jointly seconded the motion and it carried by a vote of nine, Supervisor Frey being out of the room.

7. **PROCLAMATION DESIGNATING JUNE 2011 AS "REFUGEE MONTH" IN FAIRFAX COUNTY** (10:23 a.m.)

Chairman Bulova relinquished the Chair to Vice-Chairman Gross and moved approval of the Proclamation designating June 2011 as "Refugee Month" in Fairfax County and acknowledging the sixtieth anniversary of the Refugee Protection Act. Supervisor Foust and Supervisor Hyland jointly seconded the motion and it carried by unanimous vote.

Vice-Chairman Gross returned the gavel to Chairman Bulova.

EBE:ebe

8. **ADMINISTRATIVE ITEMS** (10:40 a.m.)

Supervisor Gross moved approval of the Administrative Items. Supervisor McKay seconded the motion.

Supervisor Gross called the Board's attention to Admin 2 – Authorization to Advertise a Public Hearing to Consider Proposed Amendments to the Code of the County of Fairfax, Chapter 7 (Elections), Relating to Election Precincts. Supervisor Gross asked to amend the motion that the proposed changes to the Skyline precinct boundaries be effective for the August 23, 2011, primary instead of September 1, 2011, pending pre-clearance by the Department of Justice. This was accepted.

Discussion ensued, with input from Erin C. Ward, Assistant County Attorney, regarding whether the advertisement will encompass the set-up of a separate voting place before the public hearing and whether the advertisement will be broad enough to cover portions of the original and revised changes to the proposed alignment.

Further discussion ensued, with input from Ms. Ward and Edgardo Cortes, General Registrar, regarding the possibility of authorizing voters in the Holling Hall precinct to vote there instead of the Sherwood Hall precinct.

The question was called on the motion, as amended, and it carried by unanimous vote, Supervisor Cook, Supervisor Foust, Supervisor Frey, Supervisor Gross, Supervisor Herrity, Supervisor Hudgins, Supervisor Hyland, Supervisor McKay, Supervisor Smyth, and Chairman Bulova voting "AYE."

ADMIN 1 – APPROVAL OF TRAFFIC CALMING MEASURES AS PART OF THE RESIDENTIAL TRAFFIC ADMINISTRATION PROGRAM (RTAP) (PROVIDENCE DISTRICT)

- Endorsed the following traffic calming measures for Washington Street and Jefferson Avenue in the Providence District as part of RTAP:
 - One speed hump on Marshall Street
 - Three speed humps on Jefferson Avenue
- Directed staff to install the approved measures as soon as possible.

ADMIN 2 – AUTHORIZATION TO ADVERTISE A PUBLIC HEARING TO CONSIDER PROPOSED AMENDMENTS TO THE CODE OF THE COUNTY OF FAIRFAX, CHAPTER 7 (ELECTIONS), RELATING TO ELECTION PRECINCTS

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

Authorized the advertisement of a public hearing to be held before the Board on **July 26, 2011, at 5 p.m.** to consider two proposed ordinance amendments to the Code of the County of Fairfax, Chapter 7 (Elections). The first proposed ordinance will be effective for the August 23, 2011, primary election and will permanently move the polling place for the Skyline precinct in Mason District. The second proposed ordinance will be effective for the November 8, 2011, general election and will:

- Create 14 new precincts.
- Rename 13 existing precincts.
- Adjust the boundaries of 58 precincts.
- Abolish 8 existing precincts through consolidations.
- Move 10 polling places to new locations.

ADMIN 3 – STREETS INTO THE SECONDARY SYSTEM (MOUNT VERNON, PROVIDENCE, AND SPRINGFIELD DISTRICTS)

- (R) Approved the request that the following streets be accepted into the State System:

<u>Subdivision</u>	<u>District</u>	<u>Street</u>
B.M. Smith Subdivision Walgreens Beacon Hill Road	Mount Vernon	Richmond Highway (Route 1) [Additional Right-of-Way (ROW) Only]
Boone Howard Associates (Hilton Garden Inn)	Providence	Boone Boulevard (Route 786) Howard Avenue (Route 1792) (Additional ROW Only)
Fairfax County Park Authority (Twin Lakes Golf Course)	Springfield	Union Mill Road (Route 659) (Additional ROW Only)

ADMIN 4 – AUTHORIZATION FOR THE McLEAN COMMUNITY CENTER TO GRANT A LICENSE TO THE SPECIALLY ADAPTED RESOURCE CLUBS (SPARC) TO USE THE TEEN CENTER LOCATED IN THE OLD FIRE STATION IN McLEAN DURING NON-SCHOOL HOURS (DRANESVILLE DISTRICT)

- (R) Adopted a Resolution granting the McLean Community Center the authority to sublicense the Teen Center located at the Old Fire Station in McLean to SPARC during non-school hours.

ADMIN 5 – AUTHORIZATION TO ADVERTISE A PUBLIC HEARING TO CONVEY BOARD-OWNED PROPERTY TO THE PARK AUTHORITY

- (A) Authorized the advertisement of a public hearing to be held before the Board on **July 26, 2011, at 5 p.m.** regarding the proposed conveyance of Board-owned property to the Park Authority and waive County policy requiring notification of adjacent property owners of the public hearing by certified mail.

ADMIN 6 – AUTHORIZATION FOR THE DEPARTMENT OF NEIGHBORHOOD AND COMMUNITY SERVICES (DNCS) TO APPLY FOR AND ACCEPT GRANT FUNDING FROM THE UNITED STATES CENTERS FOR DISEASE CONTROL AND PREVENTION (CDC) FOR A COMMUNITY TRANSFORMATION GRANT

Authorized DNCS to apply for and accept funding, if received, from the CDC in the amount of \$497,382 for a Community Transformation Grant to develop the County's capacity to implement policy, systems, and environmental change strategies designed to improve health.

ADMIN 7 – AUTHORIZATION TO ADVERTISE A PUBLIC HEARING ON PROPOSED AMENDMENTS TO THE CODE OF THE COUNTY OF FAIRFAX, CHAPTER 3 (COUNTY EMPLOYEES), SECTIONS 3-1-1 AND 3-1-21

- (A) Authorized the advertisement of a public hearing to be held before the Board on **September 13, 2011, at 4 p.m.** to consider proposed amendments to the Code of the County of Fairfax, Chapter 3 (County Employees), to update the term handicap and add genetic information as basis for protection from discrimination.

9. **A-1 – APPROVAL OF 2011 ZONING ORDINANCE AMENDMENT WORK PROGRAM** (10:47 a.m.)

Supervisor Frey moved that the Board concur in the recommendation of staff and approve the 2011 Zoning Ordinance Amendment Work Program, with minor changes to the child care ordinance which were sent to Board Members yesterday,

and set forth in the Board Agenda Item dated July 12, 2011. Supervisor Gross seconded the motion.

Supervisor Hyland made reference to a commentary by *Washington Post* reporter Frederick Kunkle alleging that he was conveniently absent from the Development Process Committee meeting in which this work program was considered. Supervisor Hyland stated that the article needs to be corrected, and he explained that his absence was because he was with hundreds of elementary school students at Waynewood for a Patriots Day celebration. Supervisor Hyland presented Mr. Kunkle, who was present at the meeting, with a “politician’s dozen” of eggs (minus one egg).

Supervisor Hyland moved to amend the motion to make the issue of keeping chickens a Priority One item in the work program. Supervisor Hudgins seconded the motion.

Chairman Bulova relinquished the Chair to Vice-Chairman Gross and moved a substitute motion to refer the discussion of chickens to the next Development Process Committee meeting. Supervisor Smyth seconded the motion.

Following discussion, Supervisor Hyland withdrew his motion and the substitute was accepted as an amendment to the main motion.

Vice-Chairman Gross returned the gavel to Chairman Bulova.

Supervisor McKay raised a question regarding vehicle alarms going off in the middle of the night and discussion ensued, with input from Eileen M. McLane, Zoning Administrator, Department of Planning and Zoning (DPZ), regarding whether changes can be made to the noise ordinance.

Supervisor McKay asked unanimous consent that the Board direct staff to analyze the problem and incorporate a staff recommendation on how to deal with the issue as part of the noise ordinance. Without objection, it was so ordered.

Further discussion ensued, with input from Ms. McLane, regarding outdoor construction starting hours on the weekends.

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

10. **A-2 – ENDORSEMENT OF THE PROPOSED COUNTY FAIR HOUSING ANALYSIS OF IMPEDIMENTS FOR FIVE-YEAR FAIR HOUSING PLANNING DOCUMENT [FISCAL YEARS (FYs) 2011-2015] (PROPOSED LOCAL PLAN)** (10:59 a.m.)

Supervisor Hudgins said that the Board is committed to both the principle and legal requirements of fair housing and consistent with the requirements of the US

Department of Housing and Urban Development, (HUD), and the laws of the Commonwealth of Virginia.

Therefore, Supervisor Hudgins moved that the Board direct staff to utilize the local plan to continue to ensure that the impediments to fair housing in the County are fully addressed. Supervisor Foust seconded the motion.

Discussion ensued, with input from Kenneth L. Saunders, Director, Office of Human Rights and Equity Programs, regarding deadlines and timing of the proposed local plan.

Further discussion ensued regarding the subject of overcrowding and what happens when the strike teams identify the problem.

Supervisor McKay asked unanimous consent that the Board direct staff to revise language on impediment 16 and make sure it has accurate information. Without objection, it was so ordered.

Further discussion ensued, with input from Audrey Spencer-Horsley, Associate Director of Real Estate Finance and Grants Management, Department of Housing and Community Development, regarding the recommendations and what is required by HUD.

Supervisor Smyth suggested that when Board items are presented to the Board in the future, staff should review at the wording specifically for clarity purposes.

The question was called on the motion and it **CARRIED** by a recorded vote of eight, Supervisor Cook, Supervisor Foust, Supervisor Gross, Supervisor Hudgins, Supervisor Hyland, Supervisor McKay, Supervisor Smyth, and Chairman Bulova voting "AYE", Supervisor Frey voting "NAY," Supervisor Herrity being out of the room.

11. **A-3 – APPROVAL OF THE FISCAL YEAR (FY) 2013 AND FY 2014 FUNDING PRIORITIES FOR THE CONSOLIDATED COMMUNITY FUNDING POOL (CCFP)** (11:21 a.m.)

On motion of Supervisor Hyland, seconded by Supervisor Gross, and carried by a vote of nine, Supervisor Herrity being out of the room, the Board concurred in the recommendation of staff and approved the FY 2013 and FY 2014 funding priorities for the CCFP, as recommended by the Consolidated Community Funding Advisory Committee.

12. **A-4 – ADOPTION OF A RESOLUTION FOR THE INDUSTRIAL DEVELOPMENT AUTHORITY (IDA) TO ISSUE HEALTH CARE REVENUE BONDS (INOVA HEALTH SYSTEM PROJECT)** (11:22 a.m.)

(R)

(BONDS)

Supervisor Gross moved that the Board concur in the recommendation of staff and adopt a Resolution approving the issuance by the IDA of its Health Care Revenue Bonds (Inova Health System Project) Series 2011, to be issued in one or more series, in an aggregate principal amount not to exceed \$60 million. The bonds will bear interest at a fixed rate or rates. Supervisor Hyland seconded the motion.

Discussion ensued, regarding the bonds and that as a refunding bonds, they have no fiscal impact on the County.

The question was called on the motion and it carried by unanimous vote, Supervisor Cook, Supervisor Foust, Supervisor Frey, Supervisor Gross, Supervisor Herrity, Supervisor Hudgins, Supervisor Hyland, Supervisor McKay, Supervisor Smyth, and Chairman Bulova voting “AYE,”

13. **A-5 – AUTHORIZATION TO TERMINATE THE AGREEMENT WITH THE TOWN OF HERNDON TO SHARE EXPENSES AND SPACE FOR THE HERNDON NEIGHBORHOOD RESOURCE CENTER (DRANESVILLE DISTRICT)** (11:22 a.m.)

On motion of Supervisor Foust, seconded by Supervisor Hyland, and carried by unanimous vote, the Board concurred in the recommendation of staff and authorized staff to execute an amendment to the Agreement with the Town of Herndon, substantially in the form of a Third Agreement Amendment to terminate the Agreement. Termination shall be effective upon the commencement date of a new lease between the County and the landlord, which is expected to occur on or about October 1, 2011.

14. **C-1 – AMENDMENTS TO THE BYLAWS FOR THE COMMISSION FOR WOMEN (CFW)** (11:23 a.m.)

(BACs)

The Board next considered an item contained in the Board Agenda dated July 12, 2011, requesting approval of amendments to the bylaws for the CFW. The amendments clarify the composition of the commission to include a student member selected through a competitive process and establishes biennial report to coincide with the terms of the officers.

Supervisor Gross moved approval of amendments to the bylaws for the CFW. Supervisor Hyland seconded the motion and it carried by unanimous vote.

15. **I-1 – CONTRACT AWARD – FINANCIAL CONSULTANT FOR THE WASTEWATER MANAGEMENT PROGRAM** (11:24 a.m.)

The Board next considered an item contained in the Board Agenda dated July 12, 2011, requesting authorization for staff to award a contract to Public Resource Management Group, Incorporated, to provide financial consulting services for the wastewater management program. The total five-year value of this contract is potentially \$600,000. Funding is available in Fund 401, Sewer Operation and Maintenance, to support the contract expenditures.

The staff was directed administratively to proceed as proposed.

NV:nv

ADDITIONAL BOARD MATTERS

16. **NATIONAL ASSOCIATION OF COUNTIES (NACo) AWARDS** (11:24 a.m.)

Chairman Bulova relinquished the Chair to Vice-Chairman Gross and asked unanimous consent that the Board direct staff to invite representatives of the following programs to appear before the Board to be recognized for their 2011 Achievement Awards from NACo:

- AED Check
- An American Future: Service Opportunities for Immigrant Youth
- Housing Blueprint
- Creative Corner
- Senior Center Without Walls
- Deer Management
- Pathway to Preschool

Without objection, it was so ordered.

Vice-Chairman Gross announced that she and Supervisor Hyland would be attending the NACo annual meeting on Sunday and would accept these awards on behalf of staff.

Vice-Chairman Gross returned the gavel to Chairman Bulova.

17. **PAKISTANI-AMERICAN DAY** (11:26 a.m.)

In a joint Board Matter with Supervisor Frey, Supervisor Herrity noted that for the last 25 years, Pakistan's Independence Day has been celebrated in the Washington metropolitan area by a large festival that attracts thousands of people from all over the country. The festival celebrates the transition of Pakistan from a country that was under imperial rule, to one that was founded on the principles of self-government and democracy on August 14, 1947.

In the past, the festival has been held at different locations in the Washington, DC area, including the campus of the County's George Mason University. The festival showcases a plethora of Pakistani foods, music, handicrafts, jewelry, and much more. This year the festival is headed back to the County to be held at Bull Run Regional Park on September 4. It should also be noted that this year's festival will be the twenty-fifth jubilee. Over the years the festival has grown tremendously, and it is recognized worldwide as Dish Network broadcasts it live to people in over 130 countries.

In honor of Pakistani-Americans in the local area, and in conjunction with Pakistan's Independence Day, Supervisor Herrity asked unanimous consent that the Board direct staff to prepare a resolution recognizing August 14 as "*Pakistani-American Day*" in Fairfax County to be presented at this year's festival. Without objection, it was so ordered.

18. **YOUTH RUGBY DAY** (11:27 a.m.)

Supervisor Herrity explained that the Coventry Commonwealth Games of Virginia is an Olympic-esque event that brings men, women, girls, and boys together from all corners of the State in the quest to compete in a range of sporting events and activities. The games promote healthy lifestyles, active minds, and positive personal development through the dedication of these young people who compete for that prestigious gold medal in their respective events.

Supervisor Herrity announced with pleasure that for the third year in a row the County will play a more active role in the Commonwealth Games with Rugby Virginia's Youth Rugby Tournament being the sole games event held in Northern Virginia. Hooes Road Park will play host to the rugby tournament hosted by Rugby Virginia and its sponsor, the Virginia National Guard, on both July 30 and 31. Over these two days, more than 500 boys and girls from ages 7 up to 17 will compete.

Supervisor Herrity asked unanimous consent that the Board:

- Acknowledge the Coventry Commonwealth Games Rugby Virginia Youth Rugby Tournament by proclaiming July 31 as "*Youth Rugby Day*" in Fairfax County.

- Direct staff to prepare a resolution for presentation at the games.

Without objection, it was so ordered.

19. **GOOGLE TRANSIT** (11:27 a.m.)

Supervisor Herrity said that in an ever-increasing age of technological advancement and sophistication, people are relying more and more on technology to help them do the routine things in their lives. One such area is travel technology. Already, many have a global positioning satellite (GPS) system, or a smart phone with GPS capabilities used from time to time for directions.

Supervisor Herrity announced that just this last week, Google rolled out a new feature on Google Maps, called Google Transit, which can be used on smartphones. Basically it is a tool for commuters who use public transportation like trains or buses. Users type in their destinations and Google Transit gives the riders their exact location, estimated time of arrival, how many stops are left before their departure points, and will even notify them when they are at their destinations.

Supervisor Herrity explained that the feature is free to consumers, and there is no cost for the County to sign up. Many of the County's surrounding transportation agencies have already enrolled in the program including Metro, Alexandria Transit Company, Loudoun County Transit, and Virginia Regional Transit. He noted that such a system would benefit the County, its residents, and those who pass through the County. He distributed copies of Hampton Roads Transit's success story for the Board to see the potential benefits.

Accordingly, Supervisor Herrity moved that the Board direct the County's Departments of Transportation and Information Technology to investigate the benefits and the cost, and provide their findings and recommendation on signing up for Google Transit. Chairman Bulova seconded the motion.

Following a brief discussion regarding Metro, the question was called on the motion, which carried by unanimous vote.

20. **MAXIMIZING THE COUNTY'S INVESTMENT IN AFFORDABLE HOUSING** (11:30 a.m.)

In a joint Board Matter with Supervisor Frey, Supervisor Herrity asserted that luxury amenities and high end homes have no place in taxpayer subsidized housing. However, he noted that several of the County's Redevelopment and Housing Authority (RHA)-owned properties include amenities such as "resort style swimming pools," billiard rooms, executive business centers, granite counter tops, ceramic tile, indoor basketball courts, and stainless steel appliances in addition to the normal trash pickup and landscape maintenance commonly found in homeowner association (HOA) and condo fees. He said that HOA/condo fees

cost County taxpayers nearly \$1.5 million dollars a year – mostly from the general fund. While many units have small or no HOA/condo fees, the units with luxury amenities have high condo fees including one unit which requires nearly \$6800 per year in fees according to the Board's auditor. The RHA also owns high end homes including three level brick townhomes with brick pavers for sidewalks and driveways and garages that would be worth nearly a million dollars without the deed restrictions.

Supervisor Herrity asserted that quality does not have to mean luxury and taxpayers are paying for luxury while people in need wait for resources to be available. He has heard repeatedly from taxpayers who believe that this is unfair. He stated his belief that the investment in these homes - in proffers, condo/HOA fees, and foregone taxes - could be used to serve many more people than are currently served with the high end RHA-owned homes.

Accordingly, Supervisor Herrity moved that an item be included on the agenda of the next Housing Committee meeting that would address options to prevent the inclusion of luxury units and amenities under the Affordable Dwelling Unit (ADU) ordinance and to maximize the developers' investment in affordable housing given the number of low income, disabled, and elderly that could be served with this investment. The staff presentation should also address the ongoing liability for the payment of condo/HOA fees for luxury amenities and the reduction in the tax base from the market values. Supervisor Frey seconded the motion.

A lengthy discussion ensued regarding the following:

- Condo fees and their full context
- “Outliers” and anomalies to the affordable housing program
- Affordable housing
- First-time homebuyers and the ADU ordinance

Supervisor Gross moved a substitute motion to place on the agenda of a Housing Committee meeting a discussion of the condo fees of ADUs. Supervisor Hudgins seconded the substitute motion.

Discussion continued regarding:

- Concentration of poverty in areas
- Deed restrictions on 20 percent of Tysons Corner for affordable housing

- Discussion of affordable housing at all meetings of the Housing Committee

The question was called on the substitute motion and it **CARRIED** by a recorded vote of six, Supervisor Cook, Supervisor Frey, Supervisor Herrity, and Supervisor Smyth voting “NAY.”

The question was then called on the main motion, as substituted, and it carried by unanimous vote.

21. **PRESCRIPTION DISCOUNT CARDS** (12:08 p.m.)

With an acknowledgement to Supervisor Hyland who actively pursued such a program, Supervisor Herrity announced that the County has selected a prescription discount card provider and he expressed appreciation to staff.

22. **TECHNOLOGY SUMMIT** (12:08 p.m.)

Supervisor Gross reported that a very successful Third Annual Technology Summit was held at the James Lee Community Center last month, focused on families and youth to embrace an "opportunity, motivation, innovation" learning ideology. The summit attracted 167 youth, and approximately 50 parents, who participated in a computer build competition, and a computer Jeopardy competition. Certificates were awarded to all competition participants, and the best in class received trophies.

This year's Technology Summit was cosponsored by the Department of Neighborhood and Community Services and The Rotary Club of Bailey's Crossroads, which donated \$500 for the awards and provided eight members to lead breakout sessions. Among the session topics were "Cyber bullying," "Succeeding in College when English is not Your First Language," and "A Physics Career Can Be Fun!" The Summit also served as a starting point for an ongoing mentor partnership between the Rotarians and the Computer Clubhouse program.

In acknowledgement of the Bailey's Rotary Club's outstanding contributions to the success of this year's Technology Summit, Supervisor Gross asked unanimous consent that the Board direct staff to invite Karey Starnes and Susan Lydick, outgoing and incoming president of the club, to appear before the Board to receive the Board's thanks. Without objection, it was so ordered.

23. **APPOINTMENTS TO THE BURGUNDY VILLAGE COMMUNITY CENTER OPERATIONS BOARD (LEE DISTRICT)** (12:10 p.m.)

(BACs)
(APPTS)

Supervisor McKay noted that each year since 1998, residents and homeowners in the Burgundy Village community have elected candidates to the Burgundy Village Community Center Operations Board by means of a preference poll. As

directed in its bylaws, the Operations Board holds its elections with assistance from the Department of Community and Recreation Services (now the Department of Neighborhood and Community Services).

The Burgundy Village Community Center recently conducted a preference poll to select three members to serve on its Operations Board. In accordance with the results of the preference poll, Supervisor McKay moved the confirmation of the following appointments, all of which are for five-year terms:

- Ms. Shirley Magalis
- Mr. Ronald Hearst
- Ms. Carol Shazer

Supervisor Foust seconded the motion, and it carried by unanimous vote.

24. **REZONING APPLICATION RZ 2011-LE-008 (LEE DISTRICT)**
(12:11 p.m.)

Supervisor McKay said that Loisdale 24, LLC filed Rezoning Application RZ 2011-LE-008 to rezone approximately 24 acres of land within Lee District from the R-1 zoning district to the C-3 zoning district to allow the development of office uses consistent with the Comprehensive Plan. He reminded the Board that it adopted a series of Plan amendments intended to facilitate the location of government contractors in the I-95 corridor as part of the Base Realignment and Closure (BRAC) relocation, and this application presents just such an opportunity.

Supervisor McKay said that several quality contractor tenants have expressed strong interest in having new office space available along the I-95 corridor in late 2012, including at this project. To meet this aggressive schedule, the applicant has requested that the Board authorize expedited processing of the zoning application, thereby permitting County staff to affirmatively establish and concurrently advertise public hearing dates before the Planning Commission and the Board.

Accordingly, Supervisor McKay moved that the Board direct staff to:

- Expedite processing for Rezoning Application RZ 2011-LE-008 in the name of Loisdale 24, LLC.
- Concurrently process the application and the site plan.
- Schedule a public hearing before the Board for October 18, 2011.

This motion should in no way prejudice the full review of this application and does not preclude the applicant from adherence to all adopted standards in any way.

Supervisor Foust seconded the motion, which carried by a vote of eight, Supervisor Herrity and Supervisor Hudgins being out of the room.

25. **REPORT ENTITLED “POLICY OPTIONS FOR SECONDARY ROAD CONSTRUCTION AND MANAGEMENT IN THE COMMONWEALTH OF VIRGINIA”** (12:12 p.m.)

Supervisor McKay announced that the McDonnell Administration recently commissioned a George Mason University report, “Policy Options for Secondary Road Construction and Management in the Commonwealth of Virginia.” This report analyzed challenges facing the State’s 98,000 miles of local roads and streets and identified several possible ways of addressing the problems.

Supervisor McKay said that there are no surprises in this report which finds that almost one-third of Virginia’s secondary road system is deficient, up from 24 percent in 2007, and that highlights the abject failure of transportation funding in Virginia. Among the report’s findings:

- The secondary road system as currently configured is an artifact of the Byrd Act of 1932.
- The condition of the secondary system is rapidly deteriorating, and the Virginia Department of Transportation (VDOT) needs \$405 million just to keep the system from getting worse.
- The VDOT secondary road construction program has provided minimal funding support for constructing new roads in the secondary system; in fact, in Fiscal Year (FY) 2010 and FY 2011, counties received no state allocations for building new secondary roads.

The report also finds that the secondary system is not a high budget priority for the State. Current State payments to localities to take over their roads are too low to incentivize participation, counties are reluctant to assume secondary maintenance programs for fear that the State will reduce payment rates in the future, and many counties have limited capacity to assume secondary maintenance responsibilities.

Supervisor McKay said that the issue is the lack of State revenues for transportation. While the report confirms that State revenues are down in recent years, it never examines whether State taxing levels are sufficient to meet the

State's transportation needs, nor does it compare taxing levels to other states – though Virginia ranks thirty-seventh in the gas tax rate and forty-second in per capita road expenditures, according to the Joint Legislative Audit and Review Committee (JLARC).

The report states that \$1.3 billion is needed just to bring current secondary roads to a state of good repair. However, based on the policy options outlined in the conclusion of the report, Supervisor McKay asserted that it is clear that the author provides veiled answers to the critical question of sufficiency of transportation revenue. Of the report's nine policy options, more than half involve shifting current State costs to localities – tacitly admitting that a higher level of funding is needed than what is currently provided.

Supervisor McKay stated his concern that this study provides a potential roadmap for action this General Assembly session to push the financial burden of road maintenance onto localities for either a partial or complete devolution. While asserting that the County could do a better job of maintaining its State roads, that responsibility would have to be contingent on a guaranteed transfer of funds from the State, along with additional local revenue authority. While there is agreement that finding solutions to local road problems is a priority, Supervisor McKay said that the solution is not for the State to shirk its responsibilities and shift the burden to localities.

Therefore, Supervisor McKay moved that the Board direct staff to:

- Review and analyze this report, particularly the cost implications to the County.
- Prepare comments on this report to be provided to the Secretary of Transportation.

Supervisor Foust and Supervisor Herrity jointly seconded the motion.

Following discussion regarding secondary road maintenance, the question was called on the motion, which carried by unanimous vote.

26. **INTRODUCTION OF LEE DISTRICT OFFICE INTERN** (12:19 p.m.)

Supervisor McKay introduced Ms. Jwalita Veeramachameni, a rising senior at Edison High School, who is interning in his office this summer. The Board warmly welcomed her.

27. **MESOTHELIOMA AWARENESS DAY** (12:20 p.m.)

Supervisor Hyland explained that mesothelioma is a malignant tumor of the lining of the lung, abdomen, or heart caused by exposure to asbestos. It is one of the most aggressive of all cancers, and approximately 3,000 Americans are diagnosed

every year. Thousands of men, women, and children are at risk for developing mesothelioma as asbestos is still present in homes, schools, city buildings, car brakes, and other household products. The Mesothelioma Applied Research Foundation is the national non-profit dedicated to ending the suffering caused by mesothelioma. Congress and other jurisdictions have passed resolutions proclaiming September 26 as Mesothelioma Day.

Therefore, Supervisor Hyland asked unanimous consent that the Board proclaim September 26, 2011, as “*Mesothelioma Awareness Day*” in Fairfax County and direct the staff of the Office of Public Affairs to invite representatives of the Mesothelioma Applied Research Foundation to appear before the Board to raise awareness about this devastating and preventable disease. Without objection, it was so ordered.

28. **REQUEST FOR INFORMATION REGARDING CHANGES TO REAL ESTATE TAX BILLING ADDRESSES** (12:20 p.m.)

With reference to his written Board Matter on the subject, Supervisor Hyland reported that recently he was copied on a letter from a Mount Vernon District constituent to the Department of Tax Administration (DTA) who had his mailing address changed involuntarily.

Accordingly, Supervisor Hyland asked unanimous consent that the Board direct the Director of DTA to send a memorandum to the Board addressing the questions raised in the constituent’s letter regarding how mailing addresses are changed. Without objection it was so ordered.

29. **LOCAL RESIDENTS’ USE OF GOLF COURSES AT FORT BELVOIR (LEE AND MOUNT VERNON DISTRICTS)** (12:21 p.m.)

Supervisor Hyland reported that recently he received a letter from the Directorate of Family and Morale, Welfare and Recreation (MWR) for Fort Belvoir asking the Board to respond with a letter of support or objection to its decision to allow local residents the use of its golf courses. Supervisor Hyland stated his belief that Fort Belvoir’s decision is on par with the Board’s priority of creating recreational and cultural opportunities for its residents. As noted in his written Board Matter, the golf courses would be limited to course play with the purchase of a membership or by paying a daily fee. MWR does not intend to compete with local private and public courses.

Supervisor Hyland moved that the Board support Fort Belvoir’s initiative to welcome local residents’ play on its golf courses and authorize the Chairman to send a letter stating that support to Fort Belvoir’s Directorate of MWR. Supervisor Herrity seconded the motion.

Supervisor McKay noted that he also received this request and forwarded it to the Park Authority for review.

Following a brief discussion regarding the location of commercial retail establishments on the base and golf course competition and waiting lists, Supervisor Herrity amended the request to defer sending the letter, pending the findings of the Park Authority and consistency with its position, and this was accepted.

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

30. **PNEUMATIC GUNS** (12:25 p.m.)

Supervisor Hyland noted that at the Board's last meeting, it amended the County Code to bring it into compliance with State law. The enactment of SB 757 stripped local governments of their ability to regulate pneumatic guns. The City Council of Roanoke passed a resolution expressing its extreme displeasure with the State legislation. He said that even the Board hesitated to fully revoke certain parts of the Code, given legal questions about SB 757, which were recently answered in an opinion from the County Attorney. The Board will have to take further action, removing prohibitions on the use of pneumatic ("BB") guns, to comply with the State law. While stating his support for the ability of organized teams to compete (such as at West Potomac High School), he asserted that the law, as enacted, goes too far. He expressed his hope that the General Assembly can revisit this matter and craft a law that local governments, public safety personnel, and sportsmen can all support.

Accordingly, Supervisor Hyland asked unanimous consent that the Board refer this matter to the Board's Legislative Committee for discussion at an appropriate time.

Supervisor Cook noted that he was contacted by the rifle team at Lake Braddock Secondary School and asked to amend the request to coordinate with the Schools so that students have the opportunity to participate on such teams. This was accepted as a clarification of the request.

Without objection, the request, as clarified, was so ordered.

(NOTE: Later in the meeting, following closed session, the Board took further action regarding pneumatic guns. See Clerk's Summary Item #44.)

PMH:pmh

31. **MOTION FOR CONCURRENT PROCESSING FOR PROFFERED CONDITION AMENDMENT APPLICATION PCA 2008-PR-009 AND SPECIAL EXCEPTION AMENDMENT APPLICATION SEA 80-P-078-16, INOVA FAIRFAX HOSPITAL (PROVIDENCE DISTRICT)** (12:28 p.m.)

Supervisor Smyth said that Inova Health Care Services has filed Proffered Condition Amendment Application PCA 2008-PR-009 and Special Exception Amendment Application SEA 80-P-078-16 for the Inova Fairfax Hospital Campus located in the Providence District. The applications propose the construction of a new parking garage to serve the hospital campus. While these applications are under review, Inova wishes to proceed at its risk with site plan review of the proposed garage. This concurrent processing of the site plan will allow Inova to deliver the parking garage earlier, which will be a benefit in terms of both parking supply at the hospital campus and the coordination of construction with other projects underway at the hospital campus.

Accordingly, Supervisor Smyth moved that the Board authorize the concurrent processing of the site plans for the proposed garage while the proffered condition amendment and special exception amendment applications are pending. This motion does not relieve the applicant from compliance with the provisions of all applicable ordinances, regulations, or adopted standards, nor does it prejudice in any way the consideration of the pending special exception and proffered condition amendment. Supervisor Gross seconded the motion and it carried by unanimous vote.

32. **MOTION TO ADOPT JUNE 2011 QUARTERLY REPORT OF THE OFFICE OF FINANCIAL AND PROGRAM AUDIT (OFPA)** (12:29 p.m.)

(BACs) Supervisor Foust noted that the Board has received the OFPA's Quarterly Report as of June 2011. Study areas addressed in the Auditor's report include the following:

- Dulles Metrorail Project
- Lorton Arts Foundation
- Future Construction Escrows
- Foster Children Transport

- Connector Bus Service
- Affordable Housing - Waiting List
- Affordable Housing - Property
- Fire and Rescue Absenteeism
- Telecommunications Costs
- Prior Studies Follow-up

The Auditor's findings and recommendations are set forth in detail in the report and several are summarized below.

Dulles Metrorail Project. The Auditor continues to monitor the cost and schedule for the Dulles Metrorail Project. In December, the overall project schedule for Phase I showed a delay of 113 days. Through schedule recovery efforts, the March 2011 schedule showed the project ahead of schedule by one day. The most recent schedule (April 2011) shows a delay of 71 days. However, the official projected start date for revenue operations has not changed. The Auditor continues to express concern that disagreements between the Metropolitan Washington Airports Authority (MWAA) and the Dulles Transit Partners concerning the schedule impact of the West Falls Church rail yard have not been resolved. The Audit Committee has directed the Auditor to investigate this issue and provide additional information to the Committee regarding the potential impact of the rail yard construction on the start of revenue operations. The report also discusses issues with the rail car procurement but those issues are not expected to have an adverse impact on the schedule. Regarding the project budget, the Auditor notes that Phase I funding obligations have not changed and that cost estimates for Phase II are still expected in the summer of 2011.

(NOTE: Later in the meeting, the Board received a briefing on efforts to reduce the cost of Dulles Rail Phase II. See Clerk's Summary Item #39.)

Lorton Arts Foundation. The Audit Committee directed the Auditor to make occasional reviews of nonprofit organizations that receive County support through the Contributory Fund. The report discusses significant accomplishments as well as significant challenges facing the Lorton Arts Foundation. The Auditor notes that the County Executive has implemented steps to increase the level of staff expertise available to the Foundation to ensure the County's interests are addressed.

Future Construction Escrows. The future construction escrow account (Account 1204) is maintained by the Department of Public Works and Environmental Services (DPWES) and contains money deposited by developers

for items related to a project that cannot be constructed at that specific time. Generally, future construction escrows are posted by a developer and released to the party that actually completes the designated project. When the Auditor reviewed Account 1204 he found that some proffer funds that belonged to the County had been accounted for in the future construction escrow account. He also found issues with the process used to monitor the application of the funds in the account to the projects for which they were intended. DPWES began a reconciliation of the account in May. This will enable DPWES to identify proffers and other deposits that were accounted for as future construction escrows so those funds can be reclassified for the appropriate purpose. Funds that are identified as proffers will be available for projects in accordance with the proffer language. The Audit Report contains recommendations for improving the administration of the future construction escrow account. DPWES has agreed with the recommendations and started the reconciliation process prior to the Auditor's report being finalized. They expect to have an interim analysis ready in approximately 30 days.

Foster Children Transport. The Audit Committee directed the Auditor to perform ongoing reviews of General Fund expenditures. The report contains a discussion of the mileage reimbursements paid by the Department of Family Services for use of personal vehicles. Most of those reimbursements have been for transportation of foster children clients. The report also discusses operational and program issues related to the use of personally owned vehicles for client transportation. The Auditor reports that when he began his review, the Department of Family Services had already begun a process to move responsibility for client transfers to the Department of Neighborhood and Community Services (DNCS). The implementation of this transfer is expected to be substantially complete this month. The transition eliminates the use of personal automobiles owned by County employees, and associated mileage reimbursements, and provides for vehicles that will be professionally inspected, maintained, and operated by the contractor who operates the county's FASTRAN service. The Auditor recommends that OFPA and DCNS monitor the performance and fiscal impacts of this transition during the one year addendum with the FASTRAN contractor and that OFPA then report to the Audit Committee as a follow-up item.

Connector Bus Service. The Auditor examined the contract for the operation of the Connector bus system and the procedures in effect for collecting and controlling revenues the system generates. The auditor found effective procedures in place and concluded that the contract for provision of Connector bus service has been written to protect the county's interests and is being actively monitored by staff.

Affordable Housing - Waiting List. As part of the ongoing review of the County's affordable housing programs, the Auditor looked at the process for selecting applicants from the Public Housing and Fairfax County Rental Programs. The Auditor recommends that the Department of Housing and

Community Development continue efforts to ensure that applicants are selected from the waiting lists in a timely manner and in accordance with federal and County standards and guidelines.

Affordable Housing - Property. *[Background not in report: The Redevelopment and Housing Authority (RHA) serves about 17,000 County residents. The average income of those residents is about \$25,000 per year, or about 27 percent of the Area Median Income. About one-third of households served include a person with a disability.]* To avoid creating pockets of poverty, the RHA has a practice of encouraging balanced distribution of affordable housing throughout the County. Many of the units owned by the RHA are condominiums and, as a result, the RHA is responsible for the condo fees on 577 units. As part of his on-going review of the County affordable housing programs, the Auditor found that the average assessed value of the 3,624 housing units in the Public Housing and Fairfax County Rental programs is \$81,539. The Auditor also found that the average per unit condo fee paid is \$208 per month.

(NOTE: Earlier in the meeting, the Board took action regarding condominium fees. See Clerk's Summary Item #20.)

Fire and Rescue Absenteeism. In a previous report, the Auditor reported that the Fire and Rescue Department (FRD) had appropriate controls in place to manage overtime costs and that the department had been successful in significantly reducing overtime costs. Subsequently, a member of this Board asked follow up questions regarding the department's "unscheduled" absentee rate and whether the Auditor recommended any strategies, not currently in use, that could limit the use of overtime for scheduled absences. The Auditor's review found no abuse of unscheduled overtime and that the County as well as the FRD compared favorably to the federal, state, and local governments and the private sector on a national level. The Auditor's recommendations are set forth in the report and include some definitional changes the department could adopt to make its terminology consistent with terminology used throughout the rest of County government to distinguish scheduled overtime from "call back" overtime, continued tracking of scheduled and unscheduled overtime, and exploring automated system capabilities to reduce manual report generation and ensure proper controls on call back policy usage.

Telecommunications Costs. The County contracts with several vendors to provide telecommunications services and equipment. The Department of Information Technology (DIT) oversees the County's largest telecommunications account with Verizon, but some departments enter into their own contracts with other vendors. As part of its ongoing review of County expenditures, the Auditor reviewed the Verizon account and found that DIT had already found that Verizon had overbilled the County by approximately \$900,000 and that DIT was in the process of negotiating an appropriate credit from Verizon. The Audit Committee has directed the Auditor to conduct a Countywide review of telecommunications

expenditures to determine whether there are additional opportunities to recover costs resulting from billing errors and unnecessary charges.

Prior Studies Follow-up. The Audit Report also includes follow-up information on several areas previously reviewed by the Auditor.

Therefore, Supervisor Foust moved adoption of the June 2011 Quarterly Report of the Office of Financial and Program Audit, including the recommendations set forth therein. Supervisor Gross seconded the motion.

Supervisor Smyth asked unanimous consent that the Board direct staff to alert the School Board to the possibility of billing errors and unnecessary charges. Without objection, it was so ordered.

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

33. **RIBBON CUTTING FOR THE DOLLEY MADISON LIBRARY (DRANESVILLE DISTRICT)** (12:40 p.m.)

Supervisor Foust announced that a ribbon cutting ceremony had been held for the Dolley Madison Library.

Supervisor Foust expressed his appreciation to Sam Clay, Director of the Libraries, the Library Board, staff, and the McLean community for working together to design a spectacular environmentally friendly library.

34. **REQUEST TO RECOGNIZE MS. NANCY MERCER AND MS. JILL EGLE FOR THEIR WORK AT THE ARC OF NORTHERN VIRGINIA** (12:42 p.m.)

Supervisor Cook said that Nancy Mercer and Jill Egle, the co-Executive Directors of the Arc of Northern Virginia, will soon be leaving their current positions to pursue other opportunities. He noted that the Arc plays an invaluable role in the County by promoting and protecting the rights of these individuals and actively supports their full inclusion and participation in the community throughout their lifetimes.

Therefore, Supervisor Cook moved that the Board direct staff to invite Ms. Mercer and Ms. Egle to a future Board meeting so that they may be recognized for their service to the residents of the County. Chairman Bulova, Supervisor Hyland, and Supervisor Gross seconded the motion and it carried by a vote of nine, Supervisor Gross being out of the room.

35. **HONORING "SAM" SAVIA FOR OVER 70 YEARS OF DEDICATED SERVICE WITH THE VIENNA VOLUNTEER FIRE DEPARTMENT (VVFD) (HUNTER MILL DISTRICT)** (12:44 p.m.)

Supervisor Hudgins said on July 25, Mr. Simone "Sam" Savia, a lifelong Town of Vienna resident will be honored for 70 years of service with the VVFD. Mr. Savia has served in many different capacities within the VVFD including President, Vice President, Lieutenant, and Board Director. He is an active leader in his community as he contributes his time to the Lions Club and Vienna Little League. Mr. Savia has witnessed the transition from a volunteer fire department into a successful hybrid of professional and volunteer staffed fire department. Very few individuals will ever achieve such a record of service and this will be the first member from the VVFD to receive the distinction.

Supervisor Hudgins asked unanimous consent that the Board direct the Office of Public Affairs to prepare a proclamation to be presented at the July 25 ceremony recognizing Mr. Savia for his years of service to the Town of Vienna and the County. Without objection, it was so ordered.

36. **REQUEST TO SCHEDULE A PUBLIC HEARING ON PROFFERED CONDITION AMENDMENT APPLICATION PCA 2009-SU-020 (SULLY DISTRICT)** (12:45 p.m.)

Supervisor Frey said that pursuant to Rezoning Application RZ 2009-SU-020, Atlantic Realty Companies has constructed the Pender Village Campus in the northwest quadrant of the intersection of Route 50 and Fair Ridge Drive. Subsequent to that approval, the owner has identified several potential tenants which would provide needed and desirable services to the community, but which were not contained in the list of permitted uses. Proffered Condition Amendment Application PCA 2009-SU-020 is a request to amend the list of permissible uses. The application proposes no new construction, however, internal tenant improvements are likely to require approval of building plans.

Supervisor Frey noted that the application is in the process of being accepted and the applicant has requested that the Board public hearing be scheduled to occur this fall. Staff has no objection to the request.

Therefore, Supervisor Frey moved that the Board direct staff to schedule a public hearing to be held before the Board on Proffered Condition Amendment Application PCA 2009-SU-020 to occur this fall. The applicants understand that this motion will not prejudice the consideration of the applications in any way. Supervisor McKay seconded the motion and it carried by unanimous vote.

37. **ORDERS OF THE DAY** (12:47 p.m.)

(NOTE: Earlier in the meeting there was discussion regarding Phase II of the Rail to Dulles funding package presentation.)

Chairman Bulova referred to the presentation regarding Phase II of the Rail to Dulles funding package and noted that Peter M. Rogoff, the Administrator of the Federal Transportation Administration, would be arriving after 1:30 p.m. She noted that the presentation would begin at 2 p.m.

She announced that following the presentation, the Board would recess and go into closed session.

38. **RECESS** (12:47 p.m.)

At 12:47 p.m., Chairman Bulova announced that the Board was in recess until 2 p.m.

Anthony H. Griffin, County Executive, announced that Peter M. Rogoff, the Administrator of the Federal Transportation Administration, would likely be referring to the “white paper,” which had been distributed to Board Members.

NV:nv

The Board reconvened at 2:04 p.m. with all Members present, and with Chairman Bulova presiding.

39. **BRIEFING ON RAIL TO DULLES PROJECT, PHASE II** (2:04 p.m.)

(NOTE: Earlier in the meeting, the Board discussed the Rail to Dulles project. See Clerk’s Summary Item #32.)

Chairman Bulova announced that the Board would proceed with a briefing on the Rail to Dulles Project, Phase II, and she introduced Peter Rogoff, Administrator with the Federal Transit Administration (FTA), US Department of Transportation (USDOT).

Anthony H. Griffin, County Executive, provided the background on the situation where rail to Dulles was planned in two phases with federal funding of \$900 million for Phase I. The preliminary estimate for Phase II was \$2.5 billion, but it is now in the \$3.8 billion range. Citing general agreement that that figure is too high, Mr. Griffin stated that US Transportation Secretary Lahood facilitated discussions of stakeholders to reduce the costs. The next meeting is scheduled for July 20.

With reference to a July 3 memorandum on the subject of “White Paper Regarding Secretary Lahood’s Proposed Scope Reduction,” copies of which were

distributed to the Board, Mr. Rogoff briefed the Board on ways to reduce the price by maintaining functionality of the system with shared sacrifices. He outlined the following:

	Cost Estimate of Original Locally Preferred Option (LPA)	\$3.825B
	<u>Initial Project Cost Savings</u>	<u>Identified Cost Savings</u>
1	Construct an Aerial Dulles Airport station near North Garage	-\$562M
2	Provide additional station amenities (windscreens, weatherization) for aerial station	+\$10M
3	Reduce yard and shop facilities to Dulles Phase 2 level	-\$81M
4	Transfer responsibility for Route 28 Station to Fairfax County	-\$136M
5	Transfer Responsibility for 5 parking facilities to Fairfax and Loudoun Counties	-\$235M
6	Reduce canopy design to Phase 1 requirements	-\$15M
7	Utilize steel structures in	-\$35M
8	Modify station finishes	-\$4M
	Initial New Cost Estimate	\$2.767B
	<u>Later Cost Saving Opportunities (July-August)</u>	
9	Value engineering by the Metropolitan Washington Airports Authority (MWAA)	Up to -\$75M
10	Donation of property to project in lieu of right of way (ROW) purchase	Up to -\$53M
11	Reduce the number of traction power substations (TPSS) by two [awaits Washington Metropolitan Area Transit Association (WMATA) simulation]	-\$34M
12	Estimating error in SCC50 (TPSS)	-\$15M
13	Reduce number of railcars (awaits WMATA Rail Fleet Plan)	Up to -\$24M

Discussion ensued regarding:

- USDOT Transportation Infrastructure Finance and Innovation Act (TIFIA) loans

- Possible State funding
- Federal Funding and current demands
- Eligibility for New Starts Program and cost-benefit analysis
- Tolls
- Project Labor Agreement
- The issue of shared sacrifice
- The County as a funding partner without representation

Chairman Bulova expressed appreciation to Mr. Rogoff for his appearance and extended appreciation to Secretary Lahood for facilitating discussions. She noted that the Board would have additional discussion on this issue in closed session.

40. **ORDERS OF THE DAY** (3:14 p.m.)

Following an inquiry to David P. Bobzien, County Attorney, who estimated that closed session would take 90 minutes, Chairman Bulova announced the Board's intent to defer the following two public hearings scheduled this afternoon:

- Special Exception Application SE 2011-MA-032
- Special Exception Application SE 2010-MA-031

(NOTE: Later in the meeting, the Board formally deferred those public hearings. See Clerk's Summary Item #47.)

41. **RECESS/CLOSED SESSION** (3:15 p.m.)

Supervisor Smyth 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. *Dunn, McCormack & MacPherson v. Gerald E. Connolly*, Record No. 100260 (Va. Sup. Ct.)
 2. *Board of Supervisors of Fairfax County, Virginia v. Xicheng Qi and Xiao Cai*, Record No. 110052 (Va. Sup. Ct.) (Dranesville District)
 3. Application of Verizon South Inc., PST-2009-00032 (Va. State Corp. Comm.); Application of Verizon Virginia Inc., PST-2009-00033 (Va. State Corp. Comm.) (Countywide)
 4. *Kaveh Sari v. Detective T.W. Bacigalupi, Officer L.A. Robinson, Ayah Wali, and Miriam B. Alwarith*, Case No. CL-2010-9956 (Fx. Co. Cir. Ct.)
 5. *Fairfax County Redevelopment and Housing Authority v. Shadowood Condominium Association, et al.*, Case No. CL-2010-0013282 (Fx. Co. Cir. Ct.) (Hunter Mill District)
 6. *Stacey Bailey v. Fairfax County, Virginia*, Case No.1:11cv624 (E.D. Va.)
 7. *Ulliman Schutte Construction, LLC, v. County of Fairfax*, Case No. CL-2011-0008422 (Noman M. Cole, Jr., Treatment Plant) (Mt. Vernon District)
 8. *Waverly West Home Owners Association v. Fairfax County* (State Technical Review Board) (Springfield District)
 9. *Latisa M. Head, Trustee v. The Fairfax County Redevelopment and Housing Authority, the Board of Supervisors of Fairfax County, Virginia, and Vicki L. Dodge*, Case No. CL-2011-0001752 (Fx. Co. Cir. Ct.) (Springfield District)

10. *Johnie R. Muncy, Trustee, and F & M Services, LC, Trustee v. The Fairfax County Redevelopment and Housing Authority, the Board of Supervisors of Fairfax County, Virginia, Albert A. Owusu, and Grace A. Owusu, Case No. CL-2011-0001751 (Fx. Co. Cir. Ct.) (Mount Vernon District)*
11. *Allen Schutz v. Fairfax County Redevelopment and Housing Authority, Case No. CL-2009-0003655 (Fx. Co. Cir. Ct.) (Mount Vernon District)*
12. *Andrea Brunk v. Fairfax County Board of Zoning Appeals and Fairfax County, Case No. CL-2010-0015244 (Fx. Co. Cir. Ct.) (Mount Vernon District)*
13. *SNSA, Inc., d/b/a Fast Eddies Billiard Cafe v. County of Fairfax, (Fx. Co. Bd. of Building Code Appeals and Bd. of Zoning Appeals) (Mount Vernon District)*
14. *Michael R. Congleton, Property Maintenance Code Official for Fairfax County, Virginia v. Guillermo Renato Garcia and Lenny Quiroz, Case No. CL-2010-0007947 (Fx. Co. Cir. Ct.) (Lee District)*
15. *Eileen M. McLane, Fairfax County Zoning Administrator v. Mounir Badawy, Case No. CL-2010-0010675 (Fx. Co. Cir. Ct.) (Dranesville District)*
16. *Eileen M. McLane, Fairfax County Zoning Administrator v. Pong Y. Oclarien, Case No. CL-2010-0013636 (Fx. Co. Cir. Ct.) (Mason District)*
17. *Michael R. Congleton, Property Maintenance Code Official for Fairfax County, Virginia v. Naomi E. Winkler, Case No. CL-2010-0007025 (Fx. Co. Cir. Ct.) (Braddock District)*

18. *The County of Fairfax, Virginia, and James W. Patteson, Director, Fairfax County Department of Public Works and Environmental Services v. Brian E. Bennett and Rebecca A. Crump*, Case No. CL-2010-0010469 (Fx. Co. Cir. Ct.) (Mount Vernon District)
19. *Eileen M. McLane, Fairfax County Zoning Administrator v. Henry Wilson and Mary R. Wilson*, Case No. CL-2010-0007946 (Fx. Co. Cir. Ct.) (Mount Vernon District)
20. *Eileen M. McLane, Fairfax County Zoning Administrator v. Abbas Y. Abutaa, a.k.a. Yousef Abutaa, Hamid R. Hosseinian, Hossein Goal, and Donna L. Goal*, Case No. CL-2010-0016245 (Fx. Co. Cir. Ct.) (Mason District)
21. *Eileen M. McLane, Fairfax County Zoning Administrator, and Michael R. Congleton, Property Maintenance Code Official for Fairfax County, Virginia v. Manote Auandee, Sandra Auandee, and Amnart Tic Auandee*, Case No. CL-2010-0014721 (Fx. Co. Cir. Ct.) (Mason District)
22. *Eileen M. McLane, Fairfax County Zoning Administrator v. Joanne E. Wright*, Case No. CL-2010-0014339 (Fx. Co. Cir. Ct.) (Mount Vernon District)
23. *Eileen M. McLane, Fairfax County Zoning Administrator v. Mohammad F. Azimi and Farida Azimi*, Case No. CL-2011-0003450 (Fx. Co. Cir. Ct.) (Sully District)
24. *Eileen M. McLane, Fairfax County Zoning Administrator v. Ahmed Rababeh*, Case No. CL-2010-0015230 (Fx. Co. Cir. Ct.) (Providence District)
25. *Eileen M. McLane, Fairfax County Zoning Administrator v. Delfin Farfan and Mary I. Farfan*, Case No. CL-2011-0002183 (Fx. Co. Cir. Ct.) (Providence District)

26. *Eileen M. McLane, Fairfax County Zoning Administrator v. Michael A. Gilmore*, Case No. CL-2011-0002184 (Fx. Co. Cir. Ct.) (Sully District)
27. *Eileen M. McLane, Fairfax County Zoning Administrator v. Patricia S. Cummings*, Case No. CL-2011-0005999 (Fx. Co. Cir. Ct.) (Lee District)
28. *Eileen M. McLane, Fairfax County Zoning Administrator v. Mehdi Molaei, a.k.a. Molaei Mehdi*, Case No. CL-2010-0017937 (Fx. Co. Cir. Ct.) (Hunter Mill District)
29. *Eileen M. McLane, Fairfax County Zoning Administrator v. Faical Rihane*, Case No. CL-2011-0005795 (Fx. Co. Cir. Ct.) (Providence District)
30. *Eileen M. McLane, Fairfax County Zoning Administrator v. Uyen Dieu H. Tran*, Case No. CL-2011-0002316 (Fx. Co. Cir. Ct.) (Mount Vernon District)
31. *Eileen M. McLane, Fairfax County Zoning Administrator v. Soledad Marreros*, Case No. CL-2011-0003848 (Fx. Co. Cir. Ct.) (Mason District)
32. *Eileen M. McLane, Fairfax County Zoning Administrator v. JMM, LLC, T/A Lake Anne Market*, Case No. CL-2011-0000051 (Fx. Co. Cir. Ct.) (Hunter Mill District)
33. *Michael R. Congleton, Property Maintenance Code Official for Fairfax County, Virginia v. Sheldon P. Ellison and Wauleah A. Ellison*, Case No. CL-2010-0017783 (Fx. Co. Cir. Ct.) (Mason District)
34. *Eileen M. McLane, Fairfax County Zoning Administrator v. John D. Cooper*, Case No. CL-2011-0008291 (Fx. Co. Cir. Ct.) (Springfield District)
35. *Eileen M. McLane, Fairfax County Zoning Administrator v. Oscar S. King*, Case No. CL-

- 2011-0008340 (Fx. Co. Cir. Ct.) (Mount Vernon District)
36. *Eileen M. McLane, Fairfax County Zoning Administrator v. Kenneth O. King and Doris F. King*, Case No. CL-2011-0008341 (Fx. Co. Cir. Ct.) (Mount Vernon District)
 37. *Eileen M. McLane, Fairfax County Zoning Administrator v. Marlon Carballo*, Case No. CL-2011-0008690 (Fx. Co. Cir. Ct.) (Lee District)
 38. *Michael R. Congleton, Property Maintenance Code Official for Fairfax County, Virginia v. Barbara Elizabeth Wilkinson*, Case No. CL-2011-0008835 (Fx. Co. Cir. Ct.) (Hunter Mill District)
 39. *Michael R. Congleton, Property Maintenance Code Official for Fairfax County, Virginia v. Anna Tran*, Case No. CL-2011-0008870 (Fx. Co. Cir. Ct.) (Sully District)
 40. *Michael R. Congleton, Property Maintenance Code Official for Fairfax County, Virginia v. Eric R. Kenney*, Case No. CL-2011-0009050 (Fx. Co. Cir. Ct.) (Providence District)
 41. *Michael R. Congleton, Property Maintenance Code Official for Fairfax County, Virginia v. Steven A. Weisberger and Carol L. Weisberger*, Case No. CL-2011-0009052 (Fx. Co. Cir. Ct.) (Sully District)
 42. *Michael R. Congleton, Property Maintenance Code Official for Fairfax County, Virginia v. Mohammad Koohkan*, Case No. CL-2011-0009049 (Fx. Co. Cir. Ct.) (Mount Vernon District)
 43. *Eileen M. McLane, Fairfax County Zoning Administrator v. John B. McCracken, Jr., and Mary C. McCracken*, Case No. CL-2011-0009048 (Fx. Co. Cir. Ct.) (Mount Vernon District)
 44. *Michael R. Congleton, Property Maintenance Code Official for Fairfax County, Virginia v. John A. Parrish and Maria P. Tungol*, Case

- No. CL-2011-0009121 (Fx. Co. Cir. Ct.) (Lee District)
45. *Michael R. Congleton, Property Maintenance Code Official for Fairfax County, Virginia v. Anil K. Sareen and Vandana Sareen*, Case No. CL-2011-0009277 (Fx. Co. Cir. Ct.) (Providence District)
46. *Michael R. Congleton, Property Maintenance Code Official for Fairfax County, Virginia v. Walter A. and Phyllis E. Knick*, Case No. CL-2011-0009274 (Fx. Co. Cir. Ct.) (Hunter Mill District)
47. *Michael R. Congleton, Property Maintenance Code Official for Fairfax County, Virginia v. Paul D. Robertson*, Case Nos. GV100021259 and GV100021260 (Fx. Co. Gen. Dist. Ct.) (Lee District)
48. *Eileen M. McLane, Fairfax County Zoning Administrator v. Zahir Ahmed*, Case Nos. GV11011613 and GV11011612 (Fx. Co. Gen. Dist. Ct.) (Mount Vernon District)
49. *Eileen M. McLane, Fairfax County Zoning Administrator v. Donald S. Evans*, Case Nos. GV11011614 and GV11011615 (Fx. Co. Gen. Dist. Ct.) (Lee District)

And in addition:

- *Commonwealth of Virginia, ex rel. FX Analytics v. The Bank of New York Mellon Corporation*, CL-2009-0015377
- *Board of Supervisors of Fairfax County, Virginia v. City of Falls Church*
- Fairfax County Code Section 6-1-2.1
- The Agreement to Fund the Capital Cost of Construction of Metrorail in the Dulles Corridor

Chairman Bulova seconded the motion and it carried by unanimous vote.

DAL:dal

At 5:03 p.m., the Board reconvened in the Board Auditorium with all Members being present, and with Chairman Bulova presiding.

ACTIONS FROM CLOSED SESSION

42. **CERTIFICATION BY BOARD MEMBERS REGARDING ITEMS DISCUSSED IN CLOSED SESSION** (5:03)

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 Hyland seconded the motion and it carried by unanimous vote, Supervisor Cook, Supervisor Foust, Supervisor Frey, Supervisor Gross, Supervisor Herrity, Supervisor Hudgins, Supervisor Hyland, Supervisor McKay, Supervisor Smyth, and Chairman Bulova voting "AYE."

43. **AUTHORIZATION TO DELEGATE SETTLEMENT AUTHORITY TO THE VIRGINIA ATTORNEY GENERAL IN THE CASE OF COMMONWEALTH OF VIRGINIA EX REL. FX ANALYTICS V. BANK OF NEW YORK MELLON CORPORATION** (5:04 p.m.)

Supervisor Gross moved that the Board authorize the County Attorney to delegate:

- Settlement authority to the Virginia Attorney General in the case of *Commonwealth of Virginia ex rel. FX Analytics v. Bank of New York Mellon Corporation*, CL-2009-15377 (Fx. Co. Cir. Ct.)
- Authority to negotiate and agree to a formula for the allocation of any recovery in said suit to the various retirement systems that are involved in the suit

on the terms and conditions discussed by the County Attorney in closed session. Supervisor Hyland and Chairman Bulova jointly seconded the motion and it **CARRIED** by a recorded vote of nine, Supervisor Cook abstaining.

44. **AUTHORIZATION TO ADVERTISE THE BOARD'S INTENTION TO PROPOSE AN ORDINANCE REPEALING FAIRFAX COUNTY CODE SECTION 6-1-2.1, REGARDING PNEUMATIC GUNS** (5:05 p.m.)

(A) Supervisor Herrity said that at the last Board meeting, on June 21, 2011, the Board held a public hearing on amendments to Chapter 6 and Appendix J of the Fairfax County Code, relating to firearms and pneumatic guns. During the public hearing, a discussion ensued about an existing provision in Section 6-1-2.1 which

staff proposed to repeal, and which prohibits persons from traversing a public school ground or a public park while in possession of a pneumatic gun. After discussion, the Board adopted the amendments as recommended by staff, except that the Board declined to repeal the prohibition on traversing public schools and parks while in possession of a pneumatic gun. Instead, the Board asked the County Attorney to provide additional information about the legal authority of that prohibition for the Board's further consideration. Supervisor Herrity said the County Attorney has now provided additional information about the background and authority for that provision.

Therefore, based on that information, Supervisor Herrity moved that the Board authorize staff to advertise the Board's intention to propose an ordinance for passage on July 26, 2011, that would repeal the prohibition in Section 6-1-2.1 on traversing a public school ground or a public park while in possession of a pneumatic gun. Supervisor Hyland seconded the motion and it carried by unanimous vote.

AGENDA ITEMS

45. **3:30 P.M. – BOARD DECISION ON PROPOSED AMENDMENTS TO THE PUBLIC FACILITIES MANUAL (PFM), REGARDING DESIGN OF PUBLIC STREETS AND SIDEWALKS** (4 p.m.)

(O) (NOTE: On June 7, 2011, the Board held a public hearing regarding this item and deferred decision until June 21, 2011. On June 21, 2011, the Board deferred decision regarding this item until July 12, 2011.)

Supervisor Frey moved:

- Adoption of the proposed provision to the PFM pertaining to context-sensitive design standards as contained in Attachment One of the Board Agenda Item dated July 12, 2011, to become effective at 12:01 a.m. on July 13, 2011.
- That the remainder of the PFM amendment, as outlined in the staff report dated March 29, 2011, be deferred indefinitely.

Supervisor Smyth seconded the motion and it carried by unanimous vote, Supervisor Cook, Supervisor Foust, Supervisor Frey, Supervisor Gross, Supervisor Herrity, Supervisor Hudgins, Supervisor Hyland, Supervisor McKay, Supervisor Smyth, and Chairman Bulova voting "AYE."

46. **3:30 P.M. – PH ON SPECIAL EXCEPTION APPLICATION SE 2011-MA-001(HOMAN SOLEMANINEJAD) (MASON DISTRICT)** (5:08 p.m.)

The application property is located at 6065 and 6067 Arlington Boulevard, Tax Map 51-4 ((2)) (A) 5 and 6.

Mr. Robert Kearney reaffirmed the validity of the affidavit for the record.

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

Mr. Kearney 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, Ms. Bader presented the staff and Planning Commission recommendations.

Supervisor Gross moved:

- Approval of Special Exception Application SE 2011-MA-001, subject to the development conditions dated June 22, 2011.
- Modification of the transitional screening yard and barrier requirement in favor of that depicted on the SE Plat, and as conditioned.

Supervisor McKay seconded the motion and it carried by a vote of nine, Supervisor Hyland being out of the room.

47. **3:30 P.M. – PH ON SPECIAL EXCEPTION APPLICATION SE 2010-MA-032 (HILLBROOK REAL ESTATE HOLDINGS, LLC) (MASON DISTRICT)**

AND

PH ON SPECIAL EXCEPTION APPLICATION SE 2010-MA-031 (HILLBROOK REAL ESTATE HOLDINGS, LLC) (MASON DISTRICT)
(5:15 p.m.)

Supervisor Gross moved to defer the public hearing on Special Exception Applications SE 2010-MA-031 and SE 2010-MA-032 until **July 26, 2011, at 3 p.m.** Supervisor Foust seconded the motion and it carried by a vote of nine, Supervisor Hyland being out of the room.

48. **4 P.M. – PH ON PROPOSED AMENDMENTS TO THE CODE OF THE COUNTY OF FAIRFAX, CHAPTER 82 (MOTOR VEHICLES AND TRAFFIC), SECTION 82-1-6, ADOPTION OF STATE LAW** (5:16 p.m.)

(O) 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 June 24 and July 1, 2011.

John R. Kapinos, Management Analyst, Chief's Office of Research and Support, Police Department, presented the staff report.

Supervisor Gross raised a question regarding citations for reckless driving on parking lots, with input from Mr. Kapinos.

Following the public hearing, Supervisor Gross moved adoption of the proposed amendments to the Code of the County of Fairfax, Chapter 82 (Motor Vehicles and Traffic), Section 82-1-6, Adoption of State Law. Supervisor McKay seconded the motion and it carried by a vote of nine, Supervisor Cook, Supervisor Foust, Supervisor Frey, Supervisor Gross, Supervisor Herrity, Supervisor Hudgins, Supervisor McKay, Supervisor Smyth, and Chairman Bulova voting "AYE," Supervisor Hyland being out of the room.

49. **BOARD ADJOURNMENT** (5:19 p.m.)

The Board adjourned.

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