FAIRFAX COUNTY
BOARD OF SUPERVISORS
June 17, 2014

AGENDA

9:00	Reception for A. Heath Onthank Award Recipients Conference Center Area
9:30	Presentations
10:30	Presentation of the A. Heath Onthank Awards
10:40	Report From the Task Force to Consider a Meals Tax Referendum
10:55	Appointments to Citizen Boards, Authorities, Commissions, and Advisory Groups
11:05	Items Presented by the County Executive

ADMINISTRATIVE ITEMS

1	Approval of "$200 Additional Fine for Speeding" Signs and "Watch for Children" Signs as Part of the Residential Traffic Administration Program (Braddock, Dranesville and Providence Districts)
2	Authorization to Advertise a Public Hearing to Consider Modifications to the County's Solid Waste Ordinance, Chapter 109.1
3	Streets into the Secondary System (Mount Vernon District)
4	Authorization to Advertise a Public Hearing on Proposed Amendment to Chapter 61 (Building Provisions), of The Code of the County of Fairfax, Virginia Re: Civil Penalty for Unlicensed Contractors
5	Authorization to Advertise Public Hearings on a Proposed Zoning Ordinance Amendment Re: Food Trucks

ACTION ITEMS

1	Approval of the Agreement Between the County of Fairfax and the Lorton Volunteer Fire Department
2	Approval of the Department of Transportation's (FCDOT) Fare Equity Analysis for Fairfax Connector Fare Increase
3	Authorization of a Fall 2014 Transportation Bond Referendum

FAIRFAX COUNTY
BOARD OF SUPERVISORS
June 17, 2014

ACTION ITEMS
(Continued)

4		Authorization for the Office of Elections to Insert a Flyer into the Department of Tax Administration's Car Tax Bills to all County Vehicle Owners
11:15		Matters Presented by Board Members
12:05		Closed Session

PUBLIC HEARINGS

3:30		Public Hearing on SEA 78-D-075-02 (Crown Real Properties, L.C.) (Providence District)
3:30		Public Hearing on SE 2014-MV-002 (Nagma F. Ali D/B/A The Magic Forest Academy) (Mount Vernon District)
3:30		Public Hearing on PCA 2012-MV-007 (CRP Belvoir, LLC)(Mount Vernon District)
3:30		Public Hearing on SE 2014-SP-007 (Fairfax Company of Virginia L.L.C.) (Springfield District)
3:30		Public Hearing on RZ 2009-HM-017 (Nugget Joint Venture L.C.)(Dranesville District)
3:30		Public Hearing on PCA C-696-10 (Dulles Rockhill Partners Limited Partnership) (Dranesville District)
4:00		Public Hearing on SEA 01-M-036-02 (Pinecrest School, Incorporated) (Mason District)
4:00		Public Hearing on SE 2013-PR-021 (Trustees of Bruen Chapel United Methodist Church and Montessori School of Cedar Lane, Inc.) (Providence District)
4:00	**To be withdrawn**	Public Hearing on the Acquisition of Certain Land Rights Necessary for the Construction of the Sydenstricker Road Walkway from Briarcliff Drive to Galgate Drive (Springfield District)
4:00		Joint Public Hearing on the Proposed Virginia Department of Transportation Six-Year Secondary System Construction Program for Fiscal Years 2015 through 2020 and FY 2015 Budget

FAIRFAX COUNTY
BOARD OF SUPERVISORS
June 17, 2014

PUBLIC HEARINGS
(Continued)

4:00	Public Hearing on a Proposed Amendment to Section 3-7-24 of the Fairfax County Code to Reduce the Employee Contribution Rate to the Police Officers' Retirement System
4:30	Public Hearing on the Proposed Interim Agreement between the Board of Supervisors and Wesley Hamel Lewinsville, LLC for the Redevelopment of the Lewinsville Senior Center and Daycare Property (Dranesville District)
4:30	Decision Only on PCA 2000-MV-034 (Furnace Associates, Inc.) (Mount Vernon District)
4:30	Decision Only on SEA 80-L/V-061-02 (Furnace Associates, Inc.) (Mount Vernon District)
5:00	Public Comment

Fairfax County, Virginia

BOARD OF SUPERVISORS AGENDA

Tuesday
June 17, 2014

9:30 a.m.

Presentation of the Colors by the U.S. Army Continental Color Guard
and an element of the Old Guard Fife and Drum Corps

PRESENTATIONS

- PROCLAMATION – To designate June 13-21, 2014, as Army Strong Week in Fairfax County. Requested by Chairman Bulova.

- RESOLUTION – To recognize Colonel Gregory D. Gadson, Commander, U.S. Army Garrison, Fort Belvoir, for his contributions to Fairfax County and wish him well on his next assignment. Requested by Chairman Bulova.

- RESOLUTION – To recognize Donald N. Carr, director of Public Affairs for Fort Belvoir, for his years of service. Requested by Chairman Bulova.

RECOGNITIONS

- RESOLUTION – To recognize Melissa Porfirio for being named a finalist for the national Teacher of the Year award. Requested by Supervisor McKay.

- CERTIFICATE – To recognize Lee District RECenter employees who took a "polar plunge" to raise funds for the Virginia Special Olympics. Requested by Supervisor McKay.

— more —

Board Agenda Item
June 17, 2014

- CERTIFICATE – To recognize Ed Clark when he was the superintendent of Manassas National Battlefield for his assistance on land use applications, Park Authority plans and transportation issues affecting western Fairfax County. Requested by Supervisor Frey.

- CERTIFICATE – To recognize Volunteers of America Chesapeake for Bailey's Crossroads Community Shelter's 20th anniversary. Requested by Chairman Bulova.

- RESOLUTION – To recognize the Mount Vernon-Lee Chamber of Commerce for its 60th anniversary. Requested by Supervisors McKay and Hyland.

STAFF:
Tony Castrilli, Director, Office of Public Affairs
Bill Miller, Office of Public Affairs

Board Agenda Item
June 17, 2014

10:30 a.m.

Presentation of the A. Heath Onthank Awards

ENCLOSED DOCUMENTS:
None

PRESENTED BY:
Honorable Rosemarie Annunziata, Civil Service Commission
Ernestine Heastie, Onthank Award Committee Chairman
Sharon Bulova, Chairman, Board of Supervisors
Edward L. Long Jr, County Executive
Susan Woodruff, Director, Human Resources

Board Agenda Item
June 17, 2014

10:40 a.m.

Report From the Task Force to Consider a Meals Tax Referendum

ENCLOSED DOCUMENTS:
None. To be distributed under separate cover.

PRESENTED BY:
The Honorable Katherine K. Hanley, Co-chair and former Secretary of the Commonwealth and former Chairman of the Board of Supervisors
The Honorable Tom Davis, Co-chair and former Member of Congress and former Chairman of the Board of Supervisors

Board Agenda Item
June 17, 2014

10:55 a.m.

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

ENCLOSED DOCUMENTS:
Attachment 1: Appointments to be heard June 17, 2014
(An updated list will be distributed at the Board meeting.)

STAFF:
Catherine A. Chianese, Assistant County Executive and Clerk to the Board of Supervisors

APPOINTMENTS TO BE HEARD JUNE 17, 2014

(ENCOMPASSING VACANCIES PROJECTED THROUGH JULY 1, 2014)

(Unless otherwise noted, members are eligible for reappointment)

A. HEATH ONTHANK MEMORIAL AWARD SELECTION COMMITTEE (1 year)

Incumbent History	Requirement	Nominee	Supervisor	District
Charles T. Coyle (Appointed 2/13 by Hyland) Term exp. 1/14	Mount Vernon District Representative	**Charles T. Coyle**	Hyland	Mount Vernon

ADVISORY SOCIAL SERVICES BOARD (4 years – limited to 2 full consecutive terms)

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Edwina Dorch; appointed 2/13 by Hyland) Term exp. 9/16 *Resigned*	Mount Vernon District Representative		Hyland	Mount Vernon
VACANT (Formerly held by Sosthenes Klu; Appointed 12/05-9/08 by Frey) Term exp. 9/12 *Resigned*	Sully District Representative		Frey	Sully

AFFORDABLE DWELLING UNIT ADVISORY BOARD (4 years)

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Arthur R. Genuario; appointed 4/96-5/12 by Hyland) Term exp. 9/13 *Resigned*	Builder (Single Family) Representative		By Any Supervisor	At-Large
VACANT (Formerly held by James Francis Carey; appointed 2/95-5/02 by Hanley; 5/06 by Connolly) Term exp. 5/10 *Resigned*	Lending Institution Representative		By Any Supervisor	At-Large

AIRPORTS ADVISORY COMMITTEE (3 years)

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

ATHLETIC COUNCIL (2 years)

Incumbent History	Requirement	Nominee	Supervisor	District
James Pendergast (Appointed 7/12 by Cook) Term exp. 6/13	Braddock District Alternate Representative		Cook	Braddock
Jane Dawber (Appointed 9/13 by Hudgins) Term exp. 6/14	Women's Sports Alternate Representative		By Any Supervisor	At-Large

BARBARA VARON VOLUNTEER AWARD SELECTION COMMITTEE (1 year)

Incumbent History	Requirement	Nominee	Supervisor	District
Glenda DeVinney (Appointed 5/12-6/13 by McKay) Term exp. 6/14	Lee District Representative		McKay	Lee
Brett Kenney (Appointed 10/13 by Hyland) Term exp. 6/14	Mount Vernon District Representative	**Brett Kenney**	Hyland	Mount Vernon
Emilie F. Miller (Appointed 7/05-6/13 by Smyth) Term exp. 6/14	Providence District Representative		Smyth	Providence

BOARD OF BUILDING AND FIRE PREVENTION CODE APPEALS (4 years)
(No official, technical assistant, inspector or other employee of the DPWES, DPZ, or FR shall serve as a member of the board.)

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Wayne Bryan; appointed 1/10-2/13 by Bulova) Term exp. 2/17 *Resigned*	Alternate #2 Representative		By Any Supervisor	At-Large

BOARD OF EQUALIZATION OF REAL ESTATE ASSESSMENTS (BOE) (2 years)

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by William C. Harvey; appointed 9/05-12/06 by DuBois; 1/09-11/12 by Foust) Term exp. 12/14 *Resigned*	Professional #2 Representative		By Any Supervisor	At-Large

CHESAPEAKE BAY PRESERVATION ORDINANCE EXCEPTION REVIEW COMMITTEE (4 years)

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Kanthan Siva; appointed 1/13 by Frey) Term exp. 9/15 *Resigned*	Sully District Representative		Frey	Sully

CHILD CARE ADVISORY COUNCIL (2 years)

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Eric Rardin; appointed 4/13 by Hyland) Term exp. 9/15 *Resigned*	Mount Vernon District Representative		Hyland	Mount Vernon
VACANT (Formerly held by Joan C. Holtz; appointed 5/09 by Smyth) Term exp. 9/11 *Resigned*	Providence District Representative		Smyth	Providence

CITIZEN CORPS COUNCIL, FAIRFAX COUNTY (2 years)

Incumbent History	Requirement	Nominee	Supervisor	District
Robert Mizer (Appointed 10/08 by Bulova; 5/10-5/12 by Cook) Term exp. 5/14	Braddock District Representative		Cook	Braddock
Wes Callender (Appointed 7/12 by Foust) Term exp. 5/14	Dranesville District Representative		Foust	Dranesville
Adeel Mufti (Appointed 7/06-5/12 by Hudgins) Term exp. 5/14	Hunter Mill District Representative		Hudgins	Hunter Mill
VACANT (Formerly held by Asif Akhtar; appointed 7/12 by McKay) Term exp. 5/14 *Resigned*	Lee District Representative		McKay	Lee

Continued on next page

CITIZEN CORPS COUNCIL, FAIRFAX COUNTY (2 years) continued

Incumbent History	Requirement	Nominee	Supervisor	District
Charles Sneiderman (Appointed 9/10-5/12 by Gross) Term exp. 5/14	Mason District Representative		Gross	Mason
Al Bornmann (Appointed 10/06-5/12 by Hyland) Term exp. 5/14	Mount Vernon District Representative	**Al Bornmann**	Hyland	Mount Vernon

COMMISSION ON AGING (2 years)

Incumbent History	Requirement	Nominee	Supervisor	District
Glenda DeVinney (Appointed 7/12 by McKay) Term exp. 5/14	Lee District Representative		McKay	Lee
Nazir Bhagat (Appointed 4/10-5/12 by Gross) Term exp. 5/14	Mason District Representative		Gross	Mason
Julie Bloom Ellis (Appointed 5/09-5/12 by Hyland) Term exp. 5/14	Mount Vernon District Representative	**Julie Bloom Ellis**	Hyland	Mount Vernon
VACANT (Formerly held by Maureen Renault; appointed 7/10-5/12 by Frey) Term exp. 5/14 *Resigned*	Sully District Representative		Frey	Sully

COMMISSION ON ORGAN AND TISSUE DONATION AND TRANSPLANTATION (4 years)

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Howard Leroy Kelley; Appointed 8/01-1/13 by Hudgins) Term exp. 1/17 *Resigned*	At-Large Representative		By Any Supervisor	At-Large
VACANT (Formerly held by Benjamin Gibson; appointed 4/11 by McKay) Term exp. 1/15 *Resigned*	Lee District Representative		McKay	Lee

CRIMINAL JUSTICE ADVISORY BOARD (CJAB) (3 years)

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Michael Birch; appointed 1/08-4/10 by Frey) Term exp. 4/13 *Resigned*	Sully District Representative		Frey	Sully

ECONOMIC DEVELOPMENT AUTHORITY (EDA) (4 years)

Incumbent History	Requirement	Nominee	Supervisor	District
Arthur Morrissette (Appointed 6/10 by Bulova) Term exp. 7/1/14	At-Large #3 Citizen Representative		By Any Supervisor	At-Large
Ronald C. Johnson (Appointed 11/01-6/02 by Hanley; 7/06 by Connolly; 6/10 by Bulova) Term exp. 7/1/14	At-Large #4 Citizen Representative		By Any Supervisor	At-Large

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

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Chuck Caputo; appointed 1/10-11/10 by Bulova) Term exp. 11/13 *Resigned*	At-Large #1 Business Community Representative		Bulova	At-Large Chairman's
Ann Pimley (Appointed 9/03&11/06 by Frey) Term exp. 11/09 ***Not eligible for reappointment***	Sully District Representative		Frey	Sully

FAIRFAX COUNTY CONVENTION AND VISITORS CORPORATION
BOARD OF DIRECTORS (3 years)

Incumbent History	Requirement	Nominee	Supervisor	District
David Eisenman (Appointed 8/04-6/11 by Hudgins) Term exp. 6/14	Hunter Mill District Representative		Hudgins	Hunter Mill

FAIRFAX-FALLS CHURCH COMMUNITY SERVICES BOARD
(3 years – limited to 3 full terms)
[NOTE: In accordance with *Virginia Code* Section 37.2-501, "prior to making appointments, the governing body shall disclose the names of those persons being considered for appointment." Members can be reappointed after 3 year break from initial 3 full terms, per CSB By-laws.

Incumbent History	Requirement	Nominee	Supervisor	District
Gary Ambrose (Appointed 3/13 by Bulova) Term exp. 6/14	At-Large #3 Representative	**Gary Ambrose** (Bulova) *(Nomination announced on May 13, 2013)*	By Any Supervisor	At-Large
Willard Kenneth Garnes (Appointed 11/12 by Bulova) Term exp. 6/14	At-Large #4 Representative	**Willard Kenneth** (Bulova) *(Will be confirmed on July 29, 2014)*	By Any Supervisor	At-Large
Juan Pablo Segura (Appointed 10/12 by Foust) Term exp. 6/14	Dranesville District Representative		Foust	Dranesville
Jeffrey Wisoff (Appointed 6/13 by Smyth) Term exp. 6/14	Providence District Representative	**Jeffrey Wisoff** *(Nomination announced on May 13, 2013)*	Smyth	Providence
Lori Stillman (Appointed 10/05 by McConnell; 6/08-7/11 by Herrity) Term exp. 6/14	Springfield District Representative	**Lori Stillman** *(Nomination announced on May 13, 2013)*	Herrity	Springfield

HEALTH CARE ADVISORY BOARD (4 years)

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Judith Beattie; appointed 6/96-9/12 by Frey) Term exp. 6/16 *Resigned*	Sully District Representative		Frey	Sully

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

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Andrew A. Painter; appointed 2/11 by Smyth) Term exp. 6/13 *Resigned*	Consumer #4 Representative		By Any Supervisor	At-Large
VACANT (Formerly held by Carol Ann Coryell; appointed 6/05-6/08 by Frey) Term exp. 6/11 *Resigned*	Consumer #6 Representative		By Any Supervisor	At-Large
VACANT (Formerly held by Samuel Jones; appointed 12/09 by Gross) Term exp. 6/12 *Resigned*	Provider #1 Representative		By Any Supervisor	At-Large

HUMAN SERVICES COUNCIL (4 years)

Incumbent History	Requirement	Nominee	Supervisor	District
Richard Gonzalez (Appointed 7/97-7/05 by Kauffman; 8/09 by McKay) Term exp. 7/13	Lee District #1 Representative		McKay	Lee
VACANT (Formerly held by Richard Berger; appointed 2/06-8/09 by Frey) Term exp. 7/13 *Resigned*	Sully District #1 Representative		Frey	Sully

JUVENILE AND DOMESTIC RELATIONS COURT CITIZENS ADVISORY COUNCIL (2 years)

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Paul Langley; appointed 4/10-1/12 by Cook) Term exp. 1/14 *Resigned*	Braddock District Representative		Cook	Braddock
VACANT (Formerly held by Bernard Thompson; appointed 6/10-2/12 by Gross) Term exp. 1/14 *Resigned*	Mason District Representative		Gross	Mason

NORTHERN VIRGINIA COMMUNITY COLLEGE BOARD
(4 years – limited to 2 full terms)

Incumbent History	Requirement	Nominee	Supervisor	District
Jennifer McGarey (Appointed 1/13 by Cook) Term exp. 6/14	Fairfax County #2 Representative		By Any Supervisor	At-Large

OVERSIGHT COMMITTEE ON DRINKING AND DRIVING (3 years)

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Eileen Nelson; appointed 3/04-6/07 by Connolly; 6/10 by Bulova) Term exp. 6/13 *Resigned*	At-Large Chairman's Representative		Bulova	At-Large Chairman's
VACANT (Formerly held by Adam Parnes; appointed 9/03-6/12 by Hudgins) Term exp. 6/15 *Resigned*	Hunter Mill District Representative		Hudgins	Hunter Mill
VACANT (Formerly held by Richard Nilsen; appointed 3/10-6/10 by McKay) Term exp. 6/13 *Resigned*	Lee District Representative		McKay	Lee
Tina Montgomery (Appointed 9/10-6/11 by Smyth) Term exp. 6/14	Providence District Representative		Smyth	Providence

ROAD VIEWERS BOARD (1 year)

Incumbent History	Requirement	Nominee	Supervisor	District
John W. Ewing (Appointed 2/11-11/02 by Hanley; 1/04-12/08 by Connolly; 12/09-11/12 by Bulova) Term exp. 12/13	At-Large #2 Representative		By Any Supervisor	At-Large
VACANT (Formerly held by Stephen E. Still; appointed 6/06-12/11 by Smyth) Term exp. 12/12 *Resigned*	At-Large #4 Representative		By Any Supervisor	At-Large

SOUTHGATE COMMUNITY CENTER ADVISORY COUNCIL (2 years)

Incumbent History	Requirement	Nominee	Supervisor	District
Lilia Jimenez-Simhengalu (Appointed 4/10-9/12 by Hudgins) Term exp. 3/14	Fairfax County #3 Representative		By Any Supervisor	At-Large
Robert Dim (Appointed 3/05-3/12 by Hudgins) Term exp. 3/14	Fairfax County #5 Representative		By Any Supervisor	At-Large
VACANT (Formerly held by Natasha Hoyte; appointed 4/08-3/12 by Hudgins) Term exp. 3/14 *Resigned*	Reston Association #2 Representative		By Any Supervisor	At-Large

TENANT LANDLORD COMMISSION (3 years)

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Sally D. Liff; appointed 8/04-1/11 by Smyth) Term exp. 1/14 *Deceased*	Condo Owner Representative		By Any Supervisor	At-Large
VACANT (Formerly held by Evelyn McRae; appointed 6/98-8/01 by Hanley; 12/04-1/08 by Connolly; 4/11 by Bulova) Term exp. 1/14 *Resigned*	Tenant Member #2 Representative		By Any Supervisor	At-Large
VACANT (Formerly held by Kevin Denton; appointed 4/10&1/11 by Smyth) Term exp. 1/14 *Resigned*	Tenant Member #3 Representative		By Any Supervisor	At-Large

TRAILS AND SIDEWALKS COMMITTEE (2 years)

Incumbent History	Requirement	Nominee	Supervisor	District
Jan Reitman (Appointed 3/08-1/12 by Gross) Term exp. 1/14	Mason District Representative		Gross	Mason

TRANSPORTATION ADVISORY COMMISSION (2 years)

Incumbent History	Requirement	Nominee	Supervisor	District
Michael Champness (Appointed 9/13 by Foust) Term exp. 6/14	Dranesville District Representative		Foust	Dranesville
Frank Cohn (Appointed 7/08-6/12 by Hyland) Term exp. 6/14	Mount Vernon District Representative	**Frank Cohn**	Hyland	Mount Vernon
VACANT (Formerly held by Michal D. Himmel; appointed 6/13 by Smyth) Term exp. 6/14 *Resigned*	Providence District Representative		Smyth	Providence

TRESPASS TOWING ADVISORY BOARD (3 years)

[NOTE: Advisory board created effective 7/1/06 to advise the Board of Supervisors with regard to the appropriate provisions of Va. Code Section 46.2-1233.2 and Fairfax County Code 82.5-32.]
Membership: Members shall be Fairfax County residents. A towing representative shall be defined as a person who, prior to the time of his or her appointment, and throughout his or her term, shall be an operator of a towing business in Fairfax County.

Incumbent History	Requirement	Nominee	Supervisor	District
VACANT (Formerly held by Ronald P. Miner; appointed 6/06 by Connolly; 9/09 by Bulova) Term exp. 9/12 *Resigned*	Citizen Alternate Representative		By Any Supervisor	At-Large

UNIFORMED RETIREMENT SYSTEM BOARD OF TRUSTEES (4 years)

CONFIRMATION NEEDED:

- Lieutenant Richard L. Merrell as the Fire and Rescue #2 Representative

WATER AUTHORITY (3 years)

Incumbent History	Requirement	Nominee	Supervisor	District
Joseph Cammarata (Appointed 10/12 by Hyland) Term exp. 6/14	Mount Vernon District Representative	**Joseph Cammarata**	Hyland	Mount Vernon

WETLANDS BOARD (5 years)

Incumbent History	Requirement	Nominee	Supervisor	District
Elizabeth Martin (Appointed 11/09 by Gross) Term exp. 12/13	At-Large #1 Representative	**Elizabeth Martin** (Hyland) *Deferred 12/3/13*	By Any Supervisor	At-Large

Board Agenda Item
June 17, 2014

11:05 a.m.

Items Presented by the County Executive

Board Agenda Item
June 17, 2014

ADMINISTRATIVE - 1

Approval of "$200 Additional Fine for Speeding" Signs and "Watch for Children" Signs as Part of the Residential Traffic Administration Program (Braddock, Dranesville and Providence Districts)

ISSUE:
Board endorsement of "$200 Additional Fine for Speeding" signs and "Watch for Children" signs, as part of the Residential Traffic Administration Program (RTAP).

RECOMMENDATION:
The County Executive recommends that the Board approve a resolution (Attachment I) for the installation of "$200 Additional Fine for Speeding" signs on the following road:

- Paynes Church Drive from Ox Road to End of Road (Braddock District).

The County Executive further recommends that the Board endorse the installation of "Watch for Children" signs on the following road:

- Magarity Road (2) (Dranesville and Providence Districts)

In addition, the County Executive recommends that the Fairfax County Department of Transportation (FCDOT) be requested to schedule the installation of the approved "Watch for Children" signs as soon as possible. The County Executive also recommends that the Fairfax County Department of Transportation (FCDOT) request VDOT to schedule the installation of the approved"$200 Additional Fine for Speeding" signs as soon as possible.

TIMING:
Board action is requested on June 17, 2014.

BACKGROUND:
Section 46.2-878.2 of the *Code of Virginia* permits a maximum fine of $200, in addition to other penalties provided by law, to be levied on persons exceeding the speed limit on appropriately designated residential roadways. These residential roadways must have a posted speed limit of 35 mph or less. In addition, to determine that a speeding problem exists, staff performs an engineering review to ascertain that additional speed

and volume criteria are met. Paynes Church Drive from Ox Road to End of Road (Attachment II) meets the RTAP requirements for posting of the "$200 Additional Fine for Speeding Signs" (Braddock District). On April 30, 2014, FCDOT received written verification from the appropriate local supervisor confirming community support.

The RTAP allows for installation of "Watch for Children" signs at the primary entrance to residential neighborhoods, or at a location with an extremely high concentration of children relative to the area, such as playgrounds, day care centers, or community centers. FCDOT reviews each request to ensure the proposed sign will be effectively located and will not be in conflict with any other traffic control devices. On May 6, 2014, FCDOT received written verification from the appropriate local supervisors confirming community support for the referenced "Watch for Children" signs on Magarity Road.

TIMING:
Board action is requested on June 17, 2014.

FISCAL IMPACT:
Funding in the amount of $300 for the "Watch for Children" signs associated with the Magarity Road project is available in Fund100-C10001, General Fund, under Job Number 40TTCP. For the "$200 Additional Fine for Speeding" signs an estimated cost of $300 is to be paid out of the VDOT secondary road construction budget.

ENCLOSED DOCUMENTS:
Attachment I: "$200 Additional Fine for Speeding" Signs Resolution – Paynes Church Drive
Attachment II: Area Map of Proposed "$200 Additional Fine for Speeding" Signs – Paynes Church Drive

STAFF:
Robert A. Stalzer, Deputy County Executive
Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)
Eric M. Teitelman, Chief, Capital Projects and Operations Division, FCDOT
Neil Freschman, Chief, Traffic Operations Division FCDOT
Steven K. Knudsen, Transportation Planner, Traffic Operations Section, FCDOT

Attachment I

RESOLUTION

FAIRFAX COUNTY DEPARTMENT OF TRANSPORTATION
RESIDENTIAL TRAFFIC ADMINISTRATION PROGRAM (RTAP)
$200 ADDITIONAL FINE FOR SPEEDING SIGNS
PAYNES CHURCH ROAD
BRADDOCK DISTRICT

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium of the Government Center in Fairfax, Virginia, on Tuesday, June 17, 2014, at which a quorum was present and voting, the following resolution was adopted:

WHEREAS, Section 46.2-878.2 of the *Code of Virginia* enables the Board of Supervisors to request by resolution signs alerting motorists of enhanced penalties for speeding on residential roads; and

WHEREAS, the Fairfax County Department of Transportation has verified that a bona-fide speeding problem exists on Paynes Church Road from Ox Road to end of Road. Such road also being identified as a Local Road; and

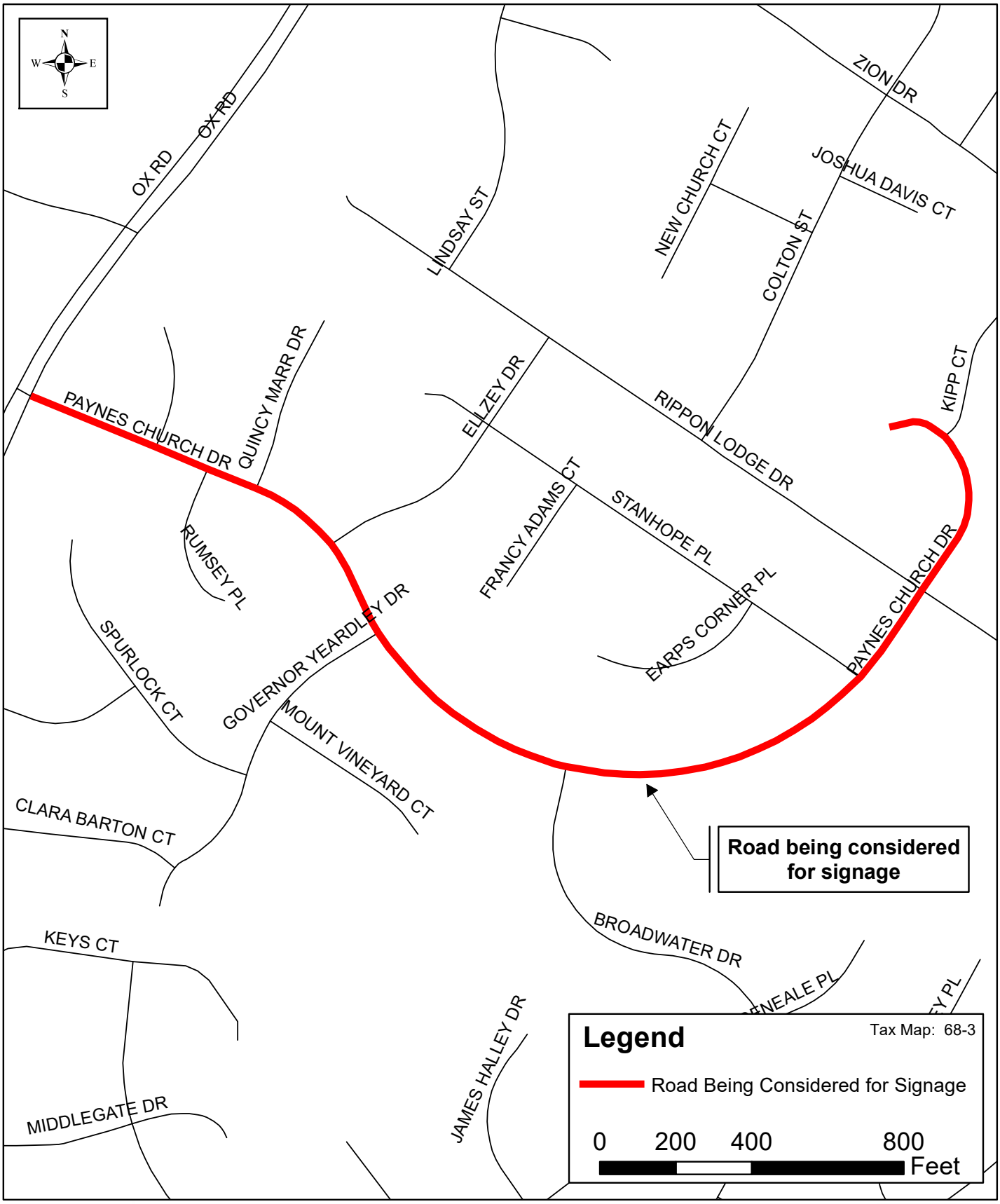
WHEREAS, community support has been verified for the installation of $200 Additional Fine for Speeding" signs on Paynes Church Road to end of Road.

NOW, THEREFORE BE IT RESOLVED that "$200 Additional Fine for Speeding" signs are endorsed for Paynes Church Road from Ox Road to end of Road.

AND FURTHER, the Virginia Department of Transportation is requested to allow the installation of the "$200 Additional Fine for Speeding", and to maintain same, with the cost of each sign to be funded from the Virginia Department of Transportation's secondary road construction budget.

A Copy Teste:

_____
Catherine A. Chianese
Clerk to the Board of Supervisors



Fairfax County Department of Transportation
Residential Traffic Administration Program (RTAP)
PROPOSED $200 FINE FOR SPEEDING
PAYNES CHURCH DRIVE
Braddock District

A Fairfax County, Va., Publication

MAY 2014

Board Agenda Item
June 17, 2014

ADMINISTRATIVE – 2

Authorization to Advertise a Public Hearing to Consider Modifications to the County's Solid Waste Ordinance, Chapter 109.1

ISSUE:
Board of Supervisors' authorization to advertise a Public Hearing to consider modifications to the County's solid waste ordinance, Chapter 109.1 of the Code of the County of Fairfax.

RECOMMENDATION:
The County Executive recommends that the Board of Supervisors authorize advertisement of a public hearing at 4:30 p.m. on July 29, 2014, to consider modifications to the county's solid waste ordinance, Chapter 109.1 of the *Code of the County of Fairfax*.

TIMING:
Board of Supervisors' authorization to advertise on June 17, 2014, is required for a Public Hearing on July 29, 2014 at 4:30 p.m.

BACKGROUND:
Fairfax County Department of Public Works and Environmental Services (DPWES) regulates the collection, recycling and disposal of municipal solid waste from residents and businesses within the county. Proposed modifications to this ordinance, Chapter 109.1, are necessary to clarify existing requirements and streamline portions of the code to aid collection companies and other businesses in complying with county requirements. Attachment 1, Staff Report, provides a listing of the proposed modifications that are included in this revision to Chapter 109.1.

FISCAL IMPACT:
None

ENCLOSED DOCUMENTS:
Attachment 1 - Staff Report
Attachment 2 - Markup of proposed changes of *Code of the County of Fairfax*, Chapter 109.1, Solid Waste Management

Board Agenda Item
June 17, 2014

STAFF:
Robert A. Stalzer, Deputy County Executive
James W. Patteson, P.E., Director, Department of Public Works and Environmental Services (DPWES)
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Staff Report on Proposed Modifications to Chapter 109.1, June 17, 2014

Article 1 – General Requirements

1. Adds several definitions including "community association", "property manager", and "solid waste broker" and the term "registered agent", as defined by the Commonwealth of Virginia.
2. Incorporates by reference a new guidance document for such parties as part of new regulatory action.

Article 2 – Recycling

1. Incorporates Section 10-0300 of the Public Facilities Manual (PFM) by reference.
2. Gives specific size and capacity requirements for recycling systems at multi-family and non-residential properties so that adequate service can be provided to users.
3. Adds the term "designee" (not just the property owner) to the list of entities required to provide recycling systems to tenants.
4. Requires all multi-family properties to recycle the same materials, no matter when the building was constructed.
5. Creates a new requirement for collection companies to provide customers with CTO. documentation and for property managers to share contract terms with the agency
6. Codifies the current operating procedure that non-residential tenants who provide their own trash service (as opposed to the property owner providing such service) are also responsible for providing a recycling system to tenants.
7. Specifies, that for the purposes of recycling reports, quantities and material types are nonproprietary information.
8. Provision for collection companies to leave behind materials set out improperly.
9. Prohibits the collection of refuse and recyclables in the same container.
10. Limits the collection of recyclables in open-top containers, with some exceptions.

Article 3 – Pre-collection and Storage

1. Adds the term "designee" (not just the property owner) to the list of entities required to have Municipal Solid Waste Management (MSW) Management and Recycling Plans.
2. Defines when the plans need to be updated.

Article 4 – Required Permits, Registrations, and Certifications (new title)

1. Deletes specifics of the permit and CTO processes from County code and will now be maintained in administrative documents which are incorporated by reference
2. New regulatory action regarding property managers (PMs), solid waste brokers, and community associations: associations and PMs that do not allow a hauler to communicate with residents to provide the annual statement of service to such residents on behalf of the hauler;
3. Associations, PMs and solid waste brokers who arrange for service that violates Chapter 109.1 are also in violation of the chapter and subject to enforcement.
4. Solid waste brokers must register with the Solid Waste Management Program (SWMP) and contracting with an unregistered broker is a violation.
5. All brokers must provide information to customers on the recycling and solid waste requirements in the county and a statement of service.
6. CTO applicants must be in good standing with the County Department of Taxation and the Virginia State Corporation Commission.
7. Operating without a CTO may be grounds for denial of a future CTO for up to one year.

Article 5 – Collection of Solid Waste

1. Makes willfully contracting with an unpermitted hauler illegal.
2. Specifies that the following are prohibited: collecting refuse and recycling in the same container, collecting less frequently than once a week, and collecting putrescible refuse and certain recyclables in an open-top container.
3. Sets a minimum level of service for non-residential customers.
4. Requires haulers to make up for missed collection due to inclement weather or holidays within the same week.
5. Prohibits non-residential properties from setting out trash in bags.
6. Limits container retrieval fees.
7. Major topical reorganization of sections 5-5 (collection points and set-out) and 5-6 (renamed to collection containers and vehicles) and other administrative revisions/updates.

Article 6 – Transportation

Minimal

Article 7 – Disposal of Solid Waste

Minimal

Article 8 – Emergency Provisions

Minimal

Article 9 – Enforcement

1. Makes disposal of out-of-county waste at a county facility grounds for denial, suspension, or revocation of CTO.
2. Repeats that operating without a CTO is grounds for denial of future CTO;
3. Increases possible fines to $1000.
4. Creates a fine of $200 for dumping illegally at a disposal facility.
5. Clarifies that general violations of Chapter 109.1 are a Class II misdemeanor punishable with a fine up to $1000.

AN ORDINANCE AMENDING CHAPTER 109.1OF THE FAIRFAX COUNTY CODE, RELATING TO SOLID WASTE MANAGEMENT

...

Draft of June 17, 2014

AN ORDINANCE to amend the Fairfax County Code by amending and readopting Sections 109.1-1-1 through 109.1-1-3; Sections 109.1-2-1 through 109.1-2-6; Sections 109.1-3-1 through 109.1-3-2; Sections 109.1-4-1 through 109.1-4-16; Sections 109.1-5-1 through 109.1-5-10; Sections 109.1-6-1 through 109.1-6-3; Sections 109.1-7-1 through 109.1-7-5; Sections 109.1-8-1 through 109.1-8-3; Sections 109.1-9-1 through 109.1-9-11;

Be it ordained by the Board of Supervisors of Fairfax County that:

1. Sections 109.1-1-1 through 109.1-1-3; Sections 109.1-2-1 through 109.1-2-6; Sections 109.1-3-1 through 109.1-3-2; Sections 109.1-4-1 through 109.1-4-16; Sections 109.1-5-1 through 109.1-5-10; Sections 109.1-6-1 through 109.1-6-3; Sections 109.1-7-1 through 109.1-7-5; Sections 109.1-8-1 through 109.1-8-3; Sections 109.1-9-1 through 109.1-9-11 are amended and re-adopted to read as follows:

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CHAPTER 109.1 OF THE FAIRFAX COUNTY CODE
Solid Waste Management

ARTICLE 1. General Requirements.

Section 109.1-1-1. Statement of Policy.

(a) The purpose of this Chapter is the furtherance of effective solid waste management, as provided for and authorized by the Code of Virginia (e.g., Titles 10.1 and 15.2). Consistent with the Code of Virginia, and complementary to its intent, the efficient management of ~~the~~ municipal solid waste (MSW) ~~management system~~ (e.g., recycling, collection, transfer, and disposal ~~of solid waste~~) with as few negative environmental and economic impacts as possible is an essential and integral part of promoting public health and welfare. This Chapter therefore intends to protect life, property, and the general environment, by establishing standards and procedures for the administration and enforcement of such standards as they relate to the control, collection, transportation, and disposal of MSW, and to promote source reduction and recycling as means of reducing the amount of MSW that has to be disposed.

To these ends, this Chapter acknowledges and/or authorizes the following supporting documents that further describe critical elements of the County's solid waste management system that may be updated or revised from time to time:

(1) The County's Solid Waste Management Plan;

(2) The County's Recycling Program Requirements; ~~and~~

(3) Solid Waste Advisories;

(4) Other County Solid Waste Management Program guidance and requirements, as they are developed by the Director.

(b) Applicability.

Except as otherwise provided, this Chapter, and any regulations or administrative directives or procedures issued under its authority, apply to all residents and commercial, industrial, and institutional establishments within or doing business within the County, and any person or entity who collects, transports, disposes, or otherwise manages ~~solid waste, and/or recyclable materials as defined elsewhere in this Chapter.~~ or arranges for management of MSW.

Section 109.1-1-2. Definitions.

For the purpose of this Chapter, the following words and phrases shall have the meanings ascribed to them in this Section:

Authorized Agent means the individual designated by an entity to act on its behalf. This individual must have the authority and control to ensure compliance with this Chapter.

Brush means shrub and tree trimmings arising from i) general residential landscape maintenance and ii) similar non-residential landscape maintenance. ~~For the purpose of this Chapter, brush shall be limited to individual pieces or bundles of no greater than 50 pounds in weight, four feet in length, and no piece larger than six inches in diameter. Christmas trees of no more than eight feet in length are exempt from these size limitations.~~

Certificate-to-Operate is the permit/approval for any person to engage in the business of

collecting MSW in Fairfax County.

Collection means the collection and transportation of ~~municipal solid waste.~~MSW.

Collection vehicle means any vehicle used to collect and/or transport ~~municipal solid waste.~~MSW.

Collector means any person engaged in the regularly-scheduled commercial collection and/or transportation of ~~municipal solid waste~~MSW from two ~~(2)~~ or more residential, commercial, industrial, institutional or other establishments.

Community Association or Homeowners' Association means an unincorporated association, corporation or other organization that owns or has under its care, custody, or control real estate subject to a recorded declaration of covenants that obligates a person, by virtue of ownership of specific real estate, to be a member of the unincorporated association, corporation or other organization. For the purposes of this Chapter, an unincorporated association, corporation or other organization representing residents are considered to be designees when acquiring solid waste services.

Compensation means any type of consideration paid for the collection, transportation or disposal of ~~solid waste and/or recyclables~~MSW, including, but not limited to, direct or indirect compensation by tenants, licensees, or similar persons.

Composting facility means a permitted facility producing a stabilized organic material.

Construction/Demolition Debris (CDD) means solid waste generated during construction, remodeling, repair, or demolition of pavements, houses, commercial buildings or any other structures. CDD includes, but is not limited to: lumber; wire; sheetrock; brick; shingles; glass; pipes; concrete; paving materials; metals; and plastic; if part of the materials of construction and/or empty containers for such materials.

Construction/Demolition Debris (CDD) landfill means a land burial facility which accepts CDD for disposal.

Customers means anyone providing compensation to collectors and/or recycling or disposal facilities. Persons using County drop-off facilities shall also be considered customers.

Department means the Fairfax County Department of Public Works and Environmental Services.

Director means the Director of the Fairfax County Department of Public Works and Environmental Services or his/her designee.

Disposal means the final placement or destruction of ~~solid waste~~MSW.

Disposal site means a facility at which ~~solid waste~~MSW is disposed.

Energy/Resource Recovery Facility (E/RRF) means a disposal site designed for the purpose of reducing the volume of ~~solid waste~~MSW through incineration. The process further produces steam, and/or ~~possibly~~ electricity, as a result of the combustion process.

Hazardous waste means a ~~"~~"hazardous waste~~"~~" as ~~described~~defined by the Virginia Hazardous Waste Management Regulations (9 VAC 20-60).

Household Hazardous Waste (HHW) means discarded household products that contain corrosive, toxic, ignitable, or reactive ingredients, or are otherwise potentially harmful if released to the environment. Products that fall into this category include, but are not limited to certain paints, cleaners, and pesticides. Latex paint is not HHW.

Materials Recovery Facility (MRF) means a facility where source-separated recyclables are either stored until large enough volumes are collected to be shipped to a buyer or processor, or they are processed to meet the specifications of recycling markets.

Mixed paper means ~~flattened~~ corrugated cardboard, magazines, catalogues, envelopes, office

paper, brochures, phone books, junk mail, food boxes (such as cereal and cracker boxes), shoe boxes, and any other clean paper product without food residue.

Municipal Solid Waste (MSW) means that waste which is normally composed of residential, commercial, non-residential and institutional solid waste and residues derived from combustion of these wastes, as defined in ~~Virginia's~~Virginia's solid waste management regulations at 9 VAC-20-~~80~~81-10~~, Part I~~. MSW includes recyclable materials.

Person means and includes an individual, designee, corporation, association, firm, partnership, joint stock company, county, city, town, school, or any other legal entity.

Pipestem driveway means an extension off of a public road where one or more houses share a private drive to which their own driveways connect.

Principal Recyclable Material (PRM) means the recyclable material from the following list that comprises the majority of a business or commercial ~~property's~~property's waste stream: newspaper, ferrous scrap metal, non-ferrous scrap metal, used motor oil, corrugated cardboard, kraft paper, container glass, aluminum, ~~high-grade office~~mixed paper, ~~tin~~metal cans, cloth, automobile bodies, plastic, clean wood, brush, leaves, grass and other ~~arboreal~~vegetative materials. "Principal recyclable materials" do not include large diameter tree stumps.

Property Manager (PM) means a company, employee, or individual employed or otherwise engaged, including as a volunteer, by a property owner or a community association to manage day-to-day operations at one or more locations on the owner or owners' behalf and is considered to be a designee when acquiring solid waste services.

Putrescible material means organic material that can decompose.

~~*Recyclable materials*~~***Recyclables*** means any of the materials that are or may be recycled, including but not limited to those listed in Article 2 – Recycling and the Recycling Program Requirements.

Recycling means the process of separating a material from the waste stream with the intent of diverting it from disposal~~ as solid waste~~.

Recycling center means a facility used for the collection of source-separated recyclable materials.

Recycling route means the route a collector follows to collect source-separated recyclable materials from customers.

Recycling system means the means by which recyclable materials are separated from the waste stream at the point of generation, and may include the means of delivering source-separated materials to a recycling center or MRF.

Refuse means all ~~solid waste~~MSW having the character of solids rather than liquids and which are composed wholly or partially of materials such as garbage, trash, rubbish, litter, residues from ~~clean up~~cleanup of spills or contamination, or other discarded materials.

Registered agent means the same individual with statutory duties defined by the Commonwealth of Virginia's State Corporation Commission.

Regulations means rules, guidance, and/or requirements issued by the Director pursuant to this Chapter.

Responsible company official means the individual designated by an entity to act on its behalf. This individual must have the authority and control to ensure compliance with this Chapter.

Sanitary landfill means a land burial facility for the disposal of ~~solid waste~~MSW which is so located, designed, constructed and operated to contain and isolate the ~~solid waste~~MSW so that it does not pose a substantial present or potential hazard to public health or the environment; provided, however,

that the term "sanitary landfill" shall not mean a land burial facility which only accepts non-putrescible ~~solid waste~~MSW (such as a CDD landfill, as defined in this Chapter).

Significant Modification means any physical change in or change in the method of operation of a commercial establishment that has the potential to result in a change in the quantity or characteristics of ~~solid waste or recyclable materials~~MSW being generated or managed by the establishment or facility.

Solid waste means any material defined as ~~'solid waste'~~"solid waste" in 9 VAC 20-~~80-140~~81-10 et seq., of ~~Virginia's~~Virginia's solid waste management regulations.

Solid waste broker means a person or entity that, for a fee or other consideration, brokers, acts as a designee or otherwise arranges agreements between solid waste generators (including property owners, community/homeowner's associations, property managers or other entities) and providers of municipal solid waste collection, recycling, or disposal services.

Solid waste generators includes any persons that produce solid waste.

Source reduction is the reduction or elimination of the quantity or toxicity of waste being generated, which can be achieved through changes within the production process, including process modifications, feedstock substitutions, improvements in feedstock purity, shipping and packing modifications, housekeeping and management practices, or increases in the efficiency of machinery and recycling within a process. The term does not include dewatering, compaction, or waste reclamation.

Source separation is the process of removing recyclable materials from the waste stream at the point where the material is generated. For residential material, the source is considered the household and contiguous residential property such as lawns or yards. For commercial material, the source is considered the commercial premises in which business is conducted and contiguous property such as storage yards.

Tare weight means the operating weight of a fully-fueled vehicle with no payload but includes the driver; i.e., the empty weight of the vehicle.

Transfer station means any ~~solid waste~~MSW storage or collection facility at which ~~solid waste~~MSW is transferred from collection vehicles to other vehicles or means of transportation, for shipment to another site for permanent disposal.

Tree removal means any activity which generates ~~solid waste~~MSW from the maintenance, trimming, or removal of trees or shrubs where any individual piece or bundle exceeds 50 pounds in weight, is longer than four feet in length, or larger than six inches in diameter. Christmas trees are exempt from these size limitations if they are less than eight feet in length.

Unacceptable waste means ~~solid~~ waste which is prohibited from disposal at Fairfax County facilities by Fairfax County Code, rules or regulations, the ~~*Code of*~~ *Virginia Code* and/or the Code of Federal Regulations.

Waste collection route means the route a collector follows to collect any ~~solid waste~~MSW set out by customers for collection.

Yard waste means the organic fraction of ~~municipal solid waste~~MSW that consists of grass clippings, leaves, vines, and brush arising from general landscape maintenance. Yard waste also includes similar materials collected from non-residential landscape maintenance, such as maintenance of streets, parks and recreational areas. Yard waste does not include any materials arising from tree removal, land clearing, or development activities.

Section 109.1-1-3. Statement of Policy and Administration.

(a) The Director shall be responsible for the administration and enforcement of this Chapter. Fairfax County Departments that shall assist in enforcing this Chapter, in cooperation with the Director, include but are not limited to, the Health Department, the Police Department, the Fire and Rescue

Department, the Department of Planning and Zoning, the Department of Code Compliance, and the Park Authority.

(b) The Director shall have the power to make and issue fair and reasonable rules and regulations which will carry out the purposes and intent of this Chapter; the right to enter and inspect the business premises and collection vehicles of any collector and of any solid waste management facility; the right to require reasonable conditions in the application for a solid waste permit; the right to prohibit disposal of certain unacceptable waste at the I-66 Transfer Station, I-95 Sanitary Landfill or I-95 Energy/Resource Recovery Facility; and the right to adopt reasonable application forms and permit forms; provided that nothing herein contained shall in any way affect the authority of any other County agency as otherwise provided by the *Code of the County of Fairfax*.

(c) The Director shall determine solid waste permit fees, and set fees to be charged for the disposal of ~~solid waste~~MSW at all Fairfax County owned, operated, or associated ~~disposal sites~~solid waste management facility. The Director may change, at any time, the fees charged for the solid waste permits and for the disposal of ~~solid waste~~MSW at the I-66 Transfer Station, I-95 Sanitary Landfill, I-95 Energy/Resource Recovery Facility, or other associated solid waste management facility.

(d) The Director shall be responsible for implementing a recycling program, and shall have the authority to enforce compliance through use of civil penalties as authorized by this Chapter.

ARTICLE 2. Recycling.

Section 109.1-2-1. ~~Statement of Policy~~Administration.

(a) This Article defines the recycling system for the residences and non-residential properties in Fairfax County, and identifies and describes the following elements of the recycling system:

(1) Materials that must be source-separated for recycling at both residences and non-residential properties (defined for the purposes of this Chapter as *recyclable materials*);

(2) Parties responsible for the provision of certain residential and non-residential recycling systems; and

(3) Required recycling reports to the County.

(b) Methods available for implementation and enforcement of this Article are described elsewhere in this Chapter as follows:

(1) Article 3 addresses pre-collection and storage;

(2) Article 5 describes collection requirements; ~~and~~

(3) Article 9 presents the means and process of ~~Code~~ enforcement for this Chapter~~.~~; and

~~(c~~ (4) The Recycling Program Requirements.

(c) Section 10-0300 of the Fairfax County Public Facilities Manual (PFM) describes design requirements for the placement of both refuse and recycling containers on properties where commercial-style collection is provided.

(d) The Director may approve alternative recycling systems that can demonstrate compliance with the intent of this Article to the satisfaction of the Department. All requests for alternative recycling systems must be submitted in writing to the Department. Approval must be granted by the Director prior to implementation.

(~~d~~e) The Director may designate or alter which of the recyclable materials identified in Sections 109.1-2-2 and 109.1-2-3 which must be source separated.

(~~e~~f) The provisions of this Chapter shall not affect the right of any person to sell or otherwise dispose of ~~solid waste~~MSW material as provided in the Code of Virginia, Section 15.2-933, nor permitted under any other law of the Commonwealth of Virginia.

(~~f~~g) For purposes of this Article, non-residential properties shall specifically include schools and other institutions.

Section 109.1-2-2. Recycling ~~for~~at Residential ~~Solid Waste~~Properties.

(a) Occupants of single-family homes and townhouses shall source-separate: container glass; metal food and beverage containers; plastic bottles and jugs; yard waste; scrap metal; and cardboard and mixed paper, including but not limited to corrugated cardboard ~~(that must be flattened), magazines, newspaper, office paper, and miscellaneous paper products.~~

~~(b) Within one year of the effective date of this Chapter, owners of existing multi-family dwelling units shall provide, or cause to be provided, a recycling system for their residents to source-separate cardboard and mixed paper (including but not limited to corrugated cardboard, magazines, newspaper, office paper, and miscellaneous paper products), and must provide each unit with notification regarding the use and participation in such system upon occupancy and at least once annually thereafter. Notification may be in the form of community newspapers or other outreach techniques.~~

~~(c) Owners of multi-family dwelling units constructed on or after July 1, 2007, shall provide, or cause to be provided, a recycling system for their residents to source-separate container glass, metal food and beverage containers, plastic bottles and jugs, scrap metal, cardboard and mixed paper (including but not limited to corrugated cardboard~~, magazines, newspaper, office paper, and miscellaneous paper products~~), and~~.

(b) Owners of multi-family dwelling units or their designees shall, within 30 days of taking ownership of these units, provide or cause to be provided a recycling system for residents to source-separate cardboard and mixed paper (including but not limited to magazines, newspaper, office paper, and miscellaneous paper products), container glass, metal food and beverage containers, plastic bottles and jugs, and scrap metal. The recycling system must also comply with the items listed below:

(1) The size of any collection containers and the frequency with which they are collected must combine to create a recycling system of sufficient capacity that there is no need for residents to deposit material on the ground or put their recyclables in a refuse container.

(2) All refuse and recycling containers must be emptied at least once weekly unless a reduced collection frequency application or an alternative recycling system has been approved in writing by the Director.

(3) On or before January 1, 2015, any refuse collection container with a capacity of 2 cubic yards or greater must be accompanied by one or more recycling collection containers with volume equal to or greater than 25% of that of the refuse container.

(4) Recyclables collection containers must be clearly labeled with regards to what materials are accepted for recycling and must meet applicable portions of Article 5 of Chapter 109.1.

(5) Owners or their designees must provide each unit with notification regarding the use and participation in such system upon occupancy and at least once annually thereafter. Notification may be in the form of community newspapers or other outreach techniques.

~~(d~~(6) Owners or their designees are responsible for keeping the area around collection containers free from litter.

(c) The provisions ~~at~~of 109.1-2-2 do not impose any liability upon any multi-family dwelling unit owner (or designee) for failure of residents to comply with the requirements for the separation of recyclable materials nor upon any collector or transporter of recyclable materials for failure of its customers to comply with such regulations. However, all multi-family dwelling unit owners (or their designees) must provide a recycling system for their residents that conforms to the County requirements for such systems, and must provide such residents with regular notifications, as specified herein.

(d) To ensure compliance with applicable Code provisions, owners of multi-family dwelling units or their designees must maintain for a period of three years and make available to the Department

for inspection and copying during normal business hours, upon request, any contracts and invoices for collection of materials to be disposed of or recycled. Contract prices and other such financial information may be deleted from materials provided.

Section 109.1-2-3. Recycling ~~from~~at Non-Residential Properties.

(a) ~~Within one year of the effective date of this Chapter,~~ Owners of non-residential properties or their designees shall, within 30 days of taking ownership of these properties, provide~~,~~ or cause to be provided~~,~~ a recycling system for their tenants, occupants, employees, and vendors to source-separate ~~the establishment's~~ cardboard and mixed paper (including but not limited to ~~corrugated cardboard,~~) magazines, newspaper, office paper, and miscellaneous paper products~~). Owners must also~~. Any such system must include the following:

(1) Recyclables must be collected in a container specifically designed for the purpose of containing municipal solid waste and must comply with applicable portions of Article 5 - Collection.

(2) The size of any collection containers and the frequency with which they are collected must combine to create a recycling system of sufficient capacity that there is no need for tenants to deposit material on the ground or put their recyclables in a refuse container.

(3) All refuse and recycling containers must be emptied at least once weekly unless a reduced frequency application or an alternative recycling system has been approved in writing by the Director.

(4) On or before January 1, 2015, any refuse collection container with a capacity of 2 cubic yards or greater must be accompanied by one or more recycling collection containers with volume equal to or greater than 25% of that of the refuse container.

(5) All collection containers must be clearly labeled with regards to what materials are accepted for recycling and must meet applicable portions of Article 5 of Chapter 109.1.

~~(1)~~(6) Property owners or their designees must provide ~~system users~~each tenant with notification regarding the use and participation in such system upon occupancy and at least once annually thereafter.

(7) Owners or their designees are responsible for keeping the area around collection containers free from litter.

(b) ~~Owners~~Within 30 days of taking ownership, owners or their designees of non-residential properties that meet or exceed the size thresholds defined in the ~~County's~~County's Recycling Program Requirements shall also provide, or cause to be provided, a recycling system for their tenants, occupants, employees, and vendors to source-separate the ~~establishment's~~establishment's Principal Recyclable Material (PRM). ~~Owners must also provide system users with notification regarding the use and participation in such system upon occupancy and at least once annually thereafter.~~

~~(c)~~ Non-residential properties which generate cardboard and mixed paper as their PRM need only recycle those materials.

~~(d) Within one year of the effective date of this Chapter,~~ (c) Construction and demolition contractors shall source-separate ~~corrugated~~and recycle cardboard.

~~(e~~(d) The provisions ~~at~~of 109.1-2-3 do not impose any liability upon any non-residential property owner for failure of tenants, occupants, employees and/or vendors to comply with the

requirements for the separation of recyclable materials, nor upon any collector or transporter of refuse or recyclable materials for failure of its customers to comply with such regulations~~. However, all non-residential property owners must provide, or cause to be provided, a recycling system for their tenants, occupants, employees, vendors, and/or customers in conformance with the County requirements for such systems, and must provide such tenants, occupants, employees, vendors, and/or customers notification regarding the use and participation in such system, as specified herein~~.

(e) To ensure compliance with applicable Code provisions, owners of non-residential properties or their designees must maintain for a period of three years and make available to the Department for inspection and copying during normal business hours, upon request, any contracts and invoices for collection of materials to be disposed of or recycled. Contract prices and other such financial information may be deleted from materials provided.

(f) If a tenant contractually assumes responsibility for refuse and recyclables management, the responsibilities placed on the property owners or their designees in this Article will also apply to the tenant.

Section 109.1-2-4. ~~Annual~~Recycling Report Required.

The owners or their designees of all non-residential properties that meet or exceed the size thresholds defined in the ~~County's~~County's Recycling Program Requirements, and companies that collect or manage ~~municipal solid waste or recycle materials~~MSW generated in Fairfax County, shall annually report, by March 1 for the previous calendar year, such nonproprietary information regarding waste generation, waste management, and recycling as is necessary to facilitate County compliance with regulations adopted pursuant to the ~~*Code of*~~ *Virginia Code*, Section 10.1-1411.

All reports required by this section shall be based on volume or weight of each material recycled, provided that where such measurements cannot be accurately determined, the report may be based on carefully estimated data. Where estimates are submitted, they must contain sufficient detail to reasonably describe how the estimate was prepared, including but not limited to such data as container volume, frequency of collection, percent full when collected, and the type of material collected for recycling.

When information is withheld as proprietary, the report shall specify the nature of the information withheld and the basis for its proprietary determination. Annual recycling reports shall be submitted on a standardized form to be provided by the Director, and shall be signed by a responsible company official. Said reports shall include but not be limited to the name and address of the reporting entity, period of time covered by the report, and type and weight/volume of each material reported. Supporting documentation used in preparation of the report shall be retained for audit and clarification of reported data for a period of two (2) years following submissions of said report.

Section 109.1-2-5. Removal of Recyclable Materials.

It shall be unlawful for any person to salvage or otherwise remove any recyclable materials from recycling routes, private recycling containers, Fairfax County recycling centers, or any other County solid waste management facility without the authorization of the Director.

Section 109.1-2-6. Maintenance of Recycling System.

(a) No solid waste permit shall be issued to a collector or continue in effect until and unless the collector provides a written statement indicating that it: maintains a recycling system for residential customers~~,~~ in accordance with this Chapter~~,~~ and offers and/or maintains a recycling system to multi-family and non-residential customers~~.~~ in accordance with this chapter.

(b) Recycling containers shall be subject to the requirements of Article 5 ~~–~~ Collections, Section 109.1-5-~~5~~6 (a~~) through~~).

(c) The mixing of refuse with any recyclables required to be source-separated or that have been source separated, except as provided for in 109.1-5-3 (d) (3), is prohibited.

(d) Where source-separated recyclable materials are set out for collection on a scheduled refuse-only collection day, collectors shall not collect those recyclables and said recyclables will be collected on the next scheduled recyclables or yard waste collection day. Collectors shall leave information for the for the customer to inform them about why those materials were not collected.

(e) Construction and demolition debris cannot be collected in the same container with MSW and/or recycling.

(f~~).~~) Only certain recyclables as designated by the Director can be collected in an open-top container. They are: white goods, scrap metal, Christmas trees, or cardboard at construction and demolition sites. This shall not apply to construction and demolition debris that is collected for recycling rather than disposal.

ARTICLE 3. Pre-collection and Storage

Section 109.1-3-1. Storage.

All occupants of single-family homes and townhomes, and owners or their designees of multi-family dwelling units or non-residential properties in the County shall maintain secure, safe, and sanitary facilities for storage of ~~municipal solid waste (~~MSW~~) and~~, including recyclables. Such facilities shall be convenient to inspection and collection, ~~being appropriate as to~~and shall incorporate design features that consider the ~~type of collection system, size of containers, and frequency of collection.~~following factors:

(a) Access for the type of collection vehicle or system to be used;

(b) Ease of use for tenants;

(c) The size, design, signage and proper care of containers; and

(d) The frequency of collection.

Section 109.1-3-2. MSW Management and Recycling Plans.

(a) The owner of any non-residential property or any multi-family dwellings ~~subject to the source separation requirements of Article 2~~or their designees shall develop a MSW Management and Recycling Plan consistent with the requirements of this Chapter, and make these Plans available to the Director for review and approval upon request. The Plan shall describe, at minimum:

(1) Facility name and street address;

(2) Name(s) of collection company(ies) providing refuse and recycling collection;

(3) Number, location, and size of refuse and recycling containers or equipment;

(4) Recyclable material(s) collected;

(5) Frequency of ~~MSW~~refuse and recycling ~~collection~~collections; and

(6) Name and telephone number of the ~~responsible~~ company official or property owner's representative responsible for implementing the plan.

(b) The MSW Management and Recycling Plan shall be updated and operational changes made concurrent with the following events:

(1) Construction of a new facility or significant modification to an existing facility;

(2) ~~Change~~Occupancy by new tenants that materially change the function of the property resulting in changes in the MSW generated therein;

(3) Change of ownership or property management firm; and

~~(3~~(4) Change of ~~solid waste~~MSW collection vendor(s) or every five years, whichever comes first.

(c) The MSW Management and Recycling Plan shall be provided to Fairfax County within 30 days of receiving a written request from the Director.

(d) The MSW Management and Recycling Plan shall be implemented within 30 days of occupancy or as required by item (b) above. The Director may also request proof that any MSW Management and Recycling Plan has been implemented and become operational.

ARTICLE 4. Required Permits, Registrations, and Certifications

Section 109.1-4-1. General.

(a) The County shall regulate certain aspects of its integrated solid waste management system through the following programs:

(1) Municipal Solid Waste (MSW) Collector Certificate to Operate (CTOs);

(2) Other Solid Waste Permits, including:

(i) MSW Collection Vehicle Permit;

(ii) MSW Disposal Permit; andPermits,

(iii(ii) Special Waste/Use Permits, including Commercial Cash Accounts, Tire Disposal Accounts, Special Waste and Other Accounts; and

(iii) Vehicle permits issued that correspond to waste permits and/or customer accounts. Vehicle permits are issued to a specified vehicle and must remain with the vehicle.

(3) Recycling Business Registration.

(4) Regulation of community/homeowners associations, property managers, and solid waste brokers or other entities or designees inasmuch as they arrange for residential or non-residential refuse and recyclables collection/ management services.

(5) The Solid Waste Management Program guidance documents.

(b) Any person providing regularly-scheduled solid wasterefuse collection services is required to maintain a CTO and one or more collection vehicle permits. at least one vehicle designed and manufactured specifically for the collection of MSW. Each vehicle shall have a county-issued MSW collection vehicle permit. Any person providing solid wasterefuse collection services on an ad-hoc basis is required to maintain the appropriate disposal or special waste/use permit (i.e., no CTO is required). This provision shall not apply to any business or vehicle which is solely transporting solid wasteMSW which has originated and was generated from a site outside Fairfax County to a cooperative, inter-jurisdictional disposal site; provided that the business and/or collection vehicle is duly licensed and/or permitted by a respective member of the disposal site cooperative.

(b(c) Government entities are exempt from the bonding requirements of this Article.

Section 109.1-4-2. MSW Collector Certificate to Operate (CTO) Application and Recycling Registration Requirements.

(a) No person shall engage in the business of collecting, transporting, MSW without a valid and disposing of current CTO or appropriate solid waste in Fairfax County without first obtaining a CTO permit from the Director; provided, however,.

(b) No person shall engage in the business of collecting recyclables without first registering with the County as a recycling business. However, CTO holders that this provisionalso collect recyclables are exempt from the requirement to register as a recycling business.

(c) The provisions of 109.1-4-2 (a) and (b) shall not ~~be deemed to~~ apply to the County, nor employees for the holder of any ~~such~~ CTO or permit/approval, nor shall this provision prohibit any ~~individual~~person from collecting, processing, recycling, or disposing of their own household solid waste.

~~(b) The Director~~(d) A CTO or permit shall ~~issue a CTO~~only be issued upon receipt of a complete application and upon a finding that the applicant has complied with all applicable sections of ~~this Chapter;~~ the Fairfax County Code~~, including the Zoning Ordinance,~~ and the *Code of Virginia*. This includes proof of payment of other fees required by Fairfax County required under other codes. CTO Permit holders will be invoiced monthly for disposal charges incurred during the month.

~~(c~~(e) Applicants for a CTO shall provide the Director ~~an application which shall contain at least the following information and documents to ensure that the individual or company is competent to satisfactorily and lawfully perform the proposed service. The application shall include:~~

~~(1) Name of business;~~

~~(2) Type of business (single propriety, partnership, corporation, etc.);~~

~~(3) Name of parent company (if applicable);~~

~~(4) Owner(s) or Authorized Agent;~~

~~(5) Business address;~~

~~(6) Mailing address;~~

~~(7) E-mail address (if available);~~

~~(8) Business telephone number(s) and emergency contact information;~~

~~(9) A certification that the applicant will maintain a business office in accordance with Section 109.1-4-5;~~

~~(10) A complete list of minimum and maximum rates for various residential collection services, and the level of service to be provided for each rate.~~

~~(11) Details of the surety to be used. In the case of a bond, the application shall include the name, address, and phone number of the bonding agency that holds the required solid waste collection, transportation and disposal bond, the amount of bond, the bond duration, and the bond number;~~

~~(12) Name and address of liability insurance company and policy number;~~

~~(13) Name and telephone number of another collector holding an MSW Collector CTO from the Director, which will act in backup capacity if collector has only one (1) permitted collection vehicle;~~

~~(14) Name and address of collection vehicle washing facility where applicant will have collection vehicles washed;~~

~~(15) Street address(es) of collection vehicle parking location(s);~~

~~(16) Residential customer service area by U.S. Postal zip code, and type of service arrangements (e.g., subscription or contract);~~

(17) with a copy of the Statement of Service for residential customers;

(18) Certificationrequired by the applicant that, at all times, the operation of the business will be in conformance with all applicable statutes, ordinances and court orders, including, but not limited to all applicable sections of this Chapter, the Fairfax County Code, including the Zoning Ordinance, and the *Code of Virginia*, as a condition to the issuance and continued validity of the CTO;

(d) A CTO application shall be approved or denied by the Director within thirty (30) days of the receipt of a complete application.

(e) Upon approval of the CTO application, the following must be provided to the Director prior to issuance of the CTO:

(1) The applicable solid waste permit fees;

(2) A bond or alternate suretyCounty Solid Waste Management Program Permit Manual, accompanied by proof acceptable to the County;

(3) For collectors which permit only one (1) collection vehicle, the collector must provide the name, telephone number, and written commitment of another collector with a CTO in Fairfax County that customers are or will be furnished with the Statement of Service upon occupancy and at least annually thereafter.

(f) MSW collectors with only one permitted collection vehicle shall provide written certification to be included with the CTO application that another collector holding a current CTO is committed to act in a backup capacity. should the permitted vehicle become unusable. The applicant must immediately notify the Director concerning any change in this backup collection vehicle capabilityarrangement during the term of the CTO. Backup collection vehiclesarrangements obtained by the CTO holder may not be used by the CTO to avoid payment of delinquent disposal fees.

(4) Proof acceptable to the County of a public liability insurance policy covering all operations of such applicant pertaining to such business and all collection vehicles to be operated in the conduct thereof, as a minimum, in the amount required by the Commonwealth of Virginia. The collector shall provide notification to the Director of any new or replacement policy not less than 30 days prior to the effective date of current policy cancellation.

(5) Certification that all existing customers are or will be furnished with a statement of service at least annually. This statement of service shall include the following:

(g) The Director may require additional information of any applicant or holder of a CTO, permit, or registration as is necessary to ensure that the individual or company is competent to satisfactorily and lawfully perform or continue to perform the proposed service.

(h) Applications shall be approved or denied by the Director with 30 days of the receipt of a complete application.

(i) Name of company, address, and phone number;

(ii) Notice of any particular company rules and regulations concerning collection, consistent with the provisions of this Chapter;

(iii) Notice of company policy concerning collection of solid waste on observed holidays;

(iv) Notice of company policy concerning collection of solid waste on days

~~when any natural (e.g., inclement weather) or manmade event interferes with routine collections;~~

~~(v) Notice to all residential customers that the County Code requires the storage of household solid waste in a water-tight, insect-proof container, which is equipped with a tight-fitting lid, except that household solid waste in plastic garbage bags with closed tops may be placed outside for collection for a period of not more than twelve (12) hours.~~

~~(vi) Instructions on~~Applicants operating without the appropriate ~~manner for customers to prepare and set out all materials to be collected, including waste and recyclables including, as a minimum, the County's base recycling requirements.~~

~~(6) Evidence that at least one collection vehicle~~CTO or other permit(s), or operating while a CTO or permit has been ~~inspected and approved in accordance with Section 109.1-4-3.~~

~~(f) Any collector illegally collecting solid waste without a CTO~~suspended, may~~, in addition to any other penalties described in this Chapter,~~ be denied renewal of a CTO or other required permit(s) for a period of up to one ~~(1)~~ year from the time of the offense, in addition to any other penalties described in this Chapter.

~~(g) The~~(j) All CTO ~~holder~~and permit holders shall pay solid waste disposal fees and abide by the rules and regulations of the facility at which ~~waste~~material is being discharged.

Section 109.1-4-3. MSW Collection Vehicle Permit.

~~(a) All solid waste~~(a) No company shall operate any vehicle to provide regularly-scheduled refuse collection without first obtaining a collection vehicle permit.

(b) All MSW collection vehicles operating under a CTO shall be inspected on a schedule set by the Director, who shall designate a reasonable time and place for collection vehicle inspections. All vehicles operating under a CTO shall meet the requirements of Section 109.1-5-6 (~~a) and (~~b).

~~(b~~(c) A vehicle permit shall be issued by the Director for each collection vehicle that ~~meets~~passes inspection and for which the ~~requirements of Section 109.1-4-3 (a) upon payment of a~~permit fee ~~per vehicle.~~ has been paid.

~~(c~~(d) The Director shall assign a permit number to each approved collection vehicle, and provide a visible permit (e.g., plate, sticker) that shall be permanently affixed by the applicant to both sides of the collection vehicle on the door of the cab or at the farthest point forward on the truck body.

~~(d) Vehicle tare weights may be reestablished at any time.~~

(e) Vehicle permits shall expire ~~annually, on fixed dates, or~~ according to ~~another~~a schedule specified by the Director, and shall not be transferred or prorated.

(f) In the event that any permitted collection vehicle is removed from service or sold, the permit holder shall notify the Director and the permit for that collection vehicle shall be removed and returned to the Director no less than 10 business days following the ~~vehicle's~~vehicle's removal from service or sale. This shall be done before any permit is issued to the new vehicle owner.

(g) In the event that ~~the~~a permit is ~~not recoverable~~lost, stolen or otherwise unrecoverable, the permit holder shall notify the Director in writing of the permit number of said collection vehicle and the

circumstances of loss within ~~30~~10 business days. This shall be done, as well as payment of a lost permit fee, before a replacement permit will be issued.

Section 109.1-4-4. Temporary ~~Collection~~ Vehicle ~~Permit~~Permits.

(a) A temporary vehicle permit must be ~~approved by the Director~~obtained for any additional collection vehicle not identified in the application for a CTO which is used or intended to be used by a collector already operating under a CTO. The temporary permit authorizes the collector to use a new, borrowed, rented or demonstrator collection vehicle not currently permitted ~~in~~by Fairfax County

(b) The Director may issue a temporary vehicle permit to any person who may need a temporary vehicle permit to collect or dispose of waste using a vehicle that is not otherwise permitted for that use by the County~~ of Fairfax.~~.

~~(a)~~(c) The temporary collection vehicle permit shall ~~be valid for ten (10) working days from date of issuance~~expire according to a schedule specified by the Director, cannot be transferred or prorated, and may not be renewed without the specific approval of the Director. After the expiration of the temporary permit, the collector may use the collection vehicle only if it is permitted in accordance with ~~the~~ provisions of this Chapter.

Section 109.1-4-5. Vehicle Permit Exemption.

Vehicles used exclusively for the collection of recyclables, when clearly identified a such with signs approved by the Director, are exempt from the permitting and bonding requirements of this Article. If the same the vehicle uses Fairfax County designated disposal facilities, the permit and bonding requirements for collection vehicles shall apply. All recycling collection businesses and vehicles are subject to the registration requirements of Section 109.1-4-(4).

Section 109.1-4-6. Collector Business Office Location and Contact Information.

No CTO shall be issued to a collector or continued in effect until and unless the applicant maintains an office that is located and operated in compliance with all laws and regulations applicable to the business. The office shall be used for the transaction of business, such business to include, but not be limited to, the receipt of correspondence and the maintenance of records. In addition, the collector shall maintain a telephone system for receipt of complaints. Any change of address, telephone number, or authorized agent or registered agent shall be reported to the Director within twenty-four (24) hours.

~~**Section 109.1-4-6. Vehicle Permit Exemption**~~

~~Vehicles used exclusively for the collection of recyclables are exempt from the permitting and bonding requirements of this Article, unless the vehicle uses Fairfax County designated disposal facilities, in which case the permit and bonding requirements for collection vehicles shall apply. All recycling collection vehicles shall, however, be subject to the registration requirements of Section 109.1-4-16~~

Section 109.1-4-7. ~~Collection~~Collector Bonding Required; Condition; Term Renewal.

(a) Any person seeking a CTO to collect ~~solid waste~~MSW as described herein shall furnish a bond or other financial instrument acceptable to the County~~ for each permitted collection vehicle~~. The surety shall be payable to the County of Fairfax in an amount deemed adequate by the Director and conditioned to indemnify and save harmless said County, as well as any person, firm, or corporation, from

all fees, charges, expenses, or damages that may be incurred by such entity, caused by any failure to comply with the provisions of this Chapter, neglect in the handling of ~~solid waste~~MSW, or nonpayment of fees imposed for the disposal of ~~solid waste~~MSW at any County-designated solid waste management facility. Handling of ~~solid waste~~MSW shall be deemed neglected when the CTO holder fails to meet the frequency and/or quantity of collection required by this Chapter and contracted for by the customer. If the CTO holder fails to correct any such neglect or noncompliance with this Chapter within forty-eight (48) hours after receipt of written notice from the Director, the bond/surety shall be forfeited and the principal and/or surety on said bond shall be required to reimburse the County of Fairfax or any customer of such CTO holder for any expense or damage incurred as a result of such neglect or failure.

(b) The said bond shall be deposited with the Director. Any such bond shall be for a term at least equal to the duration of the ~~permit~~CTO. Cancellation of the bond, for any reason, prior to the date of expiration of the ~~permit~~CTO shall require a written notification to the Director at least 30 days prior to said cancellation. The collector's ~~permit~~CTO will be revoked if an alternate bond, meeting the requirements of this section, is not provided.

(c) The Director may increase the bond amount for any CTO holder, or allow alternate financial assurance mechanisms, if deemed necessary to protect the financial interests of the County or to address chronic failure to comply with Chapter 109.1.

(d) CTO holders shall provide to the Director with a copy of any current and active surety bond applicable to Fairfax County which must include the following details: name, address, e-mail address, and telephone number of the bonding agency, the amount of the bond, the bond duration, and the bond number.

Section 109.1-4-8. MSW Disposal Permits.

(a) No person shall dispose of ~~municipal solid waste (~~MSW~~)~~ at Fairfax County disposal facilities without first obtaining a MSW Disposal Permit, or other appropriate permit, from the Director; provided, however, that this provision shall not be deemed to apply to the County, nor employees for the holder of any such permit, nor shall this provision prohibit any individual from collecting, processing, recycling or disposing of their own household MSW. Non-residential establishments engaged in disposing of their own MSW shall be subject to this provision.

(b) The Director shall issue a permit for MSW disposal upon receipt of a complete MSW Disposal Permit application. The applicant must certify that ~~it has and~~ , at all times, the operation of the business will ~~comply~~be in conformance with all applicable statutes, ordinances and court orders, including, but not limited to all applicable sections of the Fairfax County Code~~, including but not limited to, this Chapter, the Zoning Ordinance,~~ and the *Code of Virginia*~~.~~ as a condition to the issuance and continued validity of the Disposal Permit.

(c) ~~Applicants for a MSW Disposal Permit shall provide the Director an application which shall contain at least the following information and documents:~~

~~(1) Name of company;~~

~~(2) Owner and, if applicable, Authorized Agent;~~

~~(3) Photocopy of drivers license for owner/authorized agent;~~

~~(4) Type of business;~~

~~(5) Business address;~~

~~(6) Mailing address;~~

~~(7) E-mail address (if available);~~

~~(8) Business telephone;~~

~~(9) Name and address of bonding company;~~

~~(10) Bond duration and bond number;~~

~~(11) Truck information, including a photocopy of the vehicle registration.~~

~~(d)~~ The disposal permit holder shall ~~pay~~ be responsible for payment of solid waste disposal fees and ~~abide by~~for compliance by its employees and vehicles with the rules and regulations of the facility at which waste is being discharged.

(d) Disposal permits shall expire according to a schedule specified by the Director, and shall not be transferred or prorated.

Section 109.1-4-9. Disposal Bonding Required; Condition; Term Renewal.

(a) Any person seeking a permit only for the disposal of ~~solid waste~~MSW shall furnish a bond, or other financial instrument acceptable to the County for each permitted vehicle disposing of ~~solid waste~~MSW at Fairfax County owned, operated, or controlled disposal sites. The surety will be payable to the County of Fairfax in an amount deemed adequate by the Director and conditioned to indemnify and save harmless the County from all charges, expenses, damages, or nonpayment of charges imposed for the disposal of ~~solid waste~~MSW at any site designated by the County.

(b) The Director may increase the bond amount for any permit holder, or allow alternate financial assurance mechanisms, if deemed necessary to protect the financial interests of the County or to address chronic failure to comply with Chapter 109.1.

(c) The bond shall be deposited with the Director. Any such bond shall be for a term at least equal to the duration of the permit. Cancellation of the bond, for any reason, prior to the date of expiration of the permit shall require a written notification to the Director a minimum of 30 days prior to said cancellation. A disposal permit shall be revoked if an alternate bond or alternate financial assurance mechanism meeting the requirements of this section is not provided.

Section 109.1-4-10. ~~Temporary disposal permit.~~

~~The Director may issue a temporary disposal permit to any person seeking solid waste disposal only. The purpose of the temporary disposal permit is to allow said person time to obtain the disposal permit. The temporary disposal permit shall be valid for ten (10) working days from the date of issuance and shall not be renewed or extended without the specific approval of the Director. Prior to issuance of a temporary disposal permit, the applicant's driver's license and vehicle registration with the person's name, mailing address, and phone number is required.~~

~~Section 109.1-4-11. Special Wastes/Uses Permitting;~~Other Permits: General.

In addition to the permitting programs for waste collection and disposal companies described above, the County may require and issue permits for the ~~following special waste~~other disposal activities and system users~~,~~ as ~~described in Sections 109.1-4-12 through 109.1-4-15:~~necessary.

~~1)~~ **Section 109.1-4-11. Commercial Cash Accounts~~;~~.**

~~2) Tire Disposal Accounts;~~

~~3) Special Waste Accounts; and~~
~~4) Other Account Types~~

~~Special Waste/Uses permit holders shall pay solid waste disposal fees and abide by the rules and regulations of the facility at which waste is being delivered.~~

~~Section 109.1-4-12. Commercial Cash Accounts~~

~~(a)~~
(a) Commercial cash accounts are issued to businesses that generate waste at their business and need to dispose of it by paying at the time of disposal rather than being billed for disposal services according to procedure set by the county. No bond is required to secure payment to the county.

(b) The Director shall issue a ~~permit for a~~ Commercial Cash Account upon receipt of a ~~complete~~completed application.

(c) Failure to pay for service is a violation that incurs a penalty for nonpayment and other fees if not paid timely after notification by the County of the nonpayment.
(d) In order to use the commercial cash account, companies must obey all facility rules and regulations and ~~upon a finding that the applicant has complied with all applicable sections of this Chapter, the Fairfax County Code, including the Zoning Ordinance, and the *Code of Virginia*.~~

~~(b) Vehicles eligible for~~ keep the ~~Commercial Cash Program shall have a gross vehicle weight~~county notified of ~~less than five tons, and shall not include vehicle/trailer combinations too large to be accurately weighed on all County facility vehicle scales.~~

~~(c) Applicants for a Commercial Cash Account shall provide the Director an application which shall contain at least the following information and documents:~~

~~(1) Name~~changes of ~~company;~~

~~(2) Owner and, if applicable, Authorized Agent;~~

~~(3) Photocopy of drivers license for owner/authorized agent;~~

~~(4) Type of business;~~

~~(5) Business~~ address;

~~(6) Mailing address;~~

~~(7) E-mail address (if available);~~

~~(8) Business telephone;~~

~~(9) Truck information, including a photocopy of the vehicle registration.~~

~~(10) Certification by the applicant that, at all times, the operation~~, vehicles or status of the business ~~will be in conformance with all applicable statutes, ordinances and court orders, including all zoning and building requirements, as a condition to the issuance and continued validity of the permit.~~

~~**(d)**~~ . The commercial cash account ~~holder shall pay solid waste disposal fees at the time of service, and shall abide by the rules and regulations of the facility at which waste is being discharged.~~

may be rescinded upon failure to comply with this code and other applicable portions of Fairfax County code.

~~(e) A Commercial Cash Account application shall be approved or denied by the Director within thirty (30) days of the receipt of a complete application and required documents.~~

~~(f) Commercial Cash Account permits shall expire annually, on fixed dates, or according to another schedule specified by the Director.~~

Section 109.1-4-~~13.~~12. Tire Disposal ~~Accounts~~Permits.

(a) No person shall dispose of tires at a County solid waste management facility without first obtaining a Tire Disposal Permit~~, or other permit acceptable to the Director~~; provided, however, that this provision shall not be deemed to apply to the County, nor employees for the holder of ~~any such~~a county disposal permit, nor shall this provision prohibit any individual resident or business from collecting, ~~processing,~~recycling or disposing of their own tires.

(b) The Director shall issue a permit for a Tire Disposal ~~Account~~Permit upon receipt of a ~~complete~~completed application and ~~upon a finding that the applicant has complied with all applicable sections~~proof of ~~this Chapter, the Fairfax County Code, including the Zoning Ordinance, and the *Code of Virginia.*~~

~~(c) Applicants for a Tire Disposal Account shall provide the Director an application which shall contain at least the following information and documents:~~

~~(1) Name of business;~~

~~(2) Owner(s) or Responsible Company Official;~~

~~(3) Type of business;~~

~~(4) Mailing address;~~

~~(5) Business telephone number;~~

~~(6) E-mail address (if available);~~

~~(7) Photocopy of owner or responsible company official's drivers license;~~

~~(8) Photocopy of registration for any vehicle used under the Tire Disposal Account;~~

~~(9) Certification by the applicant that, at all times, the operation of the business will be in conformance with all applicable statutes, ordinances and court orders, including all zoning and building requirements, as a condition to the issuance and continued validity of the permit; and~~

~~(10) Details of the surety to be used for permitted operations. In the case of a bond, the application shall include the name, address, and phone number of the bonding agency that holds~~ the required bond~~, the~~ amount ~~of bond, bond duration, and bond number.~~.

~~(d) A permit shall be issued or denied by the Director within thirty (30) days of the receipt of a complete application and required documents.~~

~~(e) Tire Disposal Account permits shall expire annually, on fixed dates, or according to another schedule specified by the Director.~~

~~(f) Prior to disposal of tires, Tire Disposal Account holders shall furnish a bond, or other financial instrument acceptable to the County, for each permitted vehicle disposing of tires at Fairfax County owned, operated, or controlled disposal sites. The surety will be payable to the County of Fairfax in an amount deemed adequate by the Director and conditioned to indemnify and save harmless the County from all charges, expenses, damages, or nonpayment of charges imposed for the disposal of solid waste at any site designated by the County.~~

~~(g) The Director may require a higher bond amount, or allow alternate financial assurance mechanisms, if deemed necessary to protect the financial interests of the County or to address chronic failure to comply with Chapter 109.1.~~

~~(h) The bond shall be deposited with the Director. Any such bond shall be for a term at least equal to the duration of the permit. Cancellation of the bond, for any reason, prior to the date of expiration of the permit shall require a written notification to the Director a minimum of 30 days prior to said cancellation. A Tire Disposal Account shall be revoked if an alternate bond or alternate financial assurance mechanism meeting the requirements of this section is not provided.~~

(c) Companies will be invoiced for tire disposal for remittance to Fairfax County.

Section 109.1-4-~~14. Special Waste Accounts~~

~~(a) The Director shall issue a special waste account upon receipt of a complete application and upon a finding that the applicant has complied with all applicable sections of this Chapter, the Fairfax County Code, including the Zoning Ordinance, and the *Code of Virginia*.~~

~~(b) The purpose of the special waste account is to allow for disposal at County facilities of materials or products that may require special review or handling prior to acceptance for disposal.~~

~~(c) Applicants for a Special Waste Account shall provide the Director an application which shall contain at least the following information and documents:~~

~~(1) Name of business;~~

~~(2) Owner(s) or Authorized Agent;~~

~~(3) Type of business;~~

~~(4) Mailing address;~~

~~(5) E-mail address (if available);~~

~~(6) Business telephone number;~~

~~(7) E-mail address (if available);~~

~~(8) Photocopy of owner or responsible company official's drivers license;~~

~~(9) Photocopy of registration for any vehicle used under the Special Waste Account; and~~

~~(10) Certification by the applicant that, at all times, the operation of the business will be in conformance with all applicable statutes, ordinances and court orders, including all zoning and building requirements, as a condition to the issuance and~~

~~continued validity of the account.~~

~~(d) A Special Waste Account permit shall be issued or denied by the Director within thirty (30) days of the receipt of a complete application and required documents.~~

~~(e) Special Waste Account permits shall expire annually, on fixed dates, or according to another schedule specified by the Director.~~

~~(f) Prior to acceptance for disposal, the Director may require additional information on special waste, including but not limited to origin, and physical and chemical characteristics, if deemed necessary to protect the interests of the County.~~

~~(g) Prior to disposal of special waste, the Director may require that Special Waste Account permit holders furnish a bond, or other financial instrument acceptable to the County, for each permitted vehicle disposing special waste at Fairfax County owned, operated, or controlled disposal sites. The surety will be payable to the County of Fairfax in an amount deemed adequate by the Director and conditioned to indemnify and save harmless the County from all charges, expenses, damages, or nonpayment of charges imposed for the disposal of solid waste at any site designated by the County.~~

~~(h) The Director may require a higher bond amount, or allow alternate financial assurance mechanisms, if deemed necessary to protect the financial interests of the County or to address chronic failure to comply with Chapter 109.1.~~

~~(i) The bond shall be deposited with the Director. Any such bond shall be for a term at least equal to the duration of the permit. Cancellation of the bond, for any reason, prior to the date of expiration of the permit shall require a written notification to the Director a minimum of 30 days prior to said cancellation. A Special Waste Account permit shall be revoked if an alternate bond or alternate financial assurance mechanism meeting the requirements of this section is not provided.~~

~~Section 109.1-4-15~~13. Other ~~Account~~Permit Types (reserved~~)~~).

Section 109.1-4-~~16~~14. Recycling Business Registration.

(a) ~~Effective July 1, 2007,~~ No person shall engage in the business of collecting recyclable materials in Fairfax County as a commercial enterprise without first registering their organization and all vehicles used for this purpose with the Director; provided, however, that this provision shall not be deemed to apply to employees of the business owner, nor prohibit any individual from collecting, processing, or transporting recyclable materials generated within their own household or commercial establishment. Companies with active CTOs which have identified all vehicles used to collect MSW in their current CTO application need not register under this requirement.

(b) Persons registering their recycling business shall provide the Director with at least the following information and documents annually, upon request:

(1) Name of business;

(2) Type of business (single propriety, partnership, corporation, etc.);

(3) Name of parent company (if applicable);

(4) Owner(s) and Authorized Agent (if applicable);

(5) Business address;

(6) Mailing address;

(7) E-mail address (if available);

(8) Business telephone number;

(9) A complete list of vehicles to be used in the collection of recyclable materials, including manufacturer, model, and body capacity/style.

(10) Street address(es) of collection vehicle parking location(s);

(11) Customer service area by U.S. Postal zip code, and type of service arrangements (e.g., subscription or contract); and

(12) The types of recyclable material being collected (by established commercial grade), the anticipated quantity to be collected, and the final market, interim processor, or MRF to which collected materials are to be delivered and to provide compliance with section 109.1-2-4.

(c) Recycling companies will provide an update of any of the above information to the Director within 30 days of a change.

Section 109.1-4-15. Community Associations and Property Managers.

(a) Community associations and/or property managers or their designees that arrange for MSW collection service must provide communication between residents of the community and/or their tenants and the collection company providing MSW collection service through a Statement of Service upon occupancy and at least annually thereafter, as described in the Fairfax County Solid Waste Management Program Permit Manual.

(b) Any community association and/or property manager or his/her designee that arranges for MSW collection service which service is not in compliance with Chapter 109.1, shall be in violation of, and subject to enforcement action, as provided in Article 9 of this Chapter.

(c) Any community association or property manager or his/her designee that knowingly or willfully contracts with a solid waste broker or a MSW collection company that is not registered or permitted to operate in Fairfax County as described above shall be in violation of this chapter.

Section 109.1-4-16. Solid Waste Brokers.

(a) All businesses operating in Fairfax County as a solid waste broker on behalf of customers must register annually as such with the Solid Waste Management Program.. The registration must be completed in the provided format and include the following information:

(1) Virginia State Corporation Commission ID number;

(2) Contact information for all employees operating as a solid waste broker on behalf of customers that are located in Fairfax County, including for each such employee:

(i) Name.

(ii) Address.

(iii) Telephone number.

(iv) E-mail address.

(3) List of contractors with whom the solid waste broker arranges collection service.

(b) All businesses operating as a solid waste broker shall pay an annual registration fee specified by the Director.

(c) Any solid waste broker operating without such registration is in violation of Chapter 109.1 and subject to enforcement action as provided in Article 9.

(d) Any business or individual who knowingly or willfully contracts with a solid waste broker that is not registered to operate in Fairfax County as described above shall be in violation of this Chapter.

(e) All solid waste brokers operating in Fairfax County must provide the following information, including but not limited to, all entities for which the broker has arranged solid waste services:

(1) Information on the applicable recycling and refuse requirements in Fairfax County as described in Chapter 109.1 of the Codified Ordinances and in the Recycling Program Requirements, which are incorporated by reference.

(2) A Statement of Service defining what service will be provided to the customer, including days and frequency of service, type of containers, materials accepted, set-out instructions, and contact information. A completed "MSW Management and Recycling Plan" may be used in place of a statement of service; however, distribution of such must be accompanied by explanatory information such as a cover letter.

(f) In the event that a solid waste broker arranged for MSW and/or recycling collection service on behalf of a customer for which service is not in compliance with Chapter 109.1, both the broker and the customer, except as provided by Article 2 of this Chapter, shall be in violation of Chapter 109.1 and subject to enforcement action as provided in Article 9.

ARTICLE 5. Collection of Solid Waste.

Section 109.1-5-1. Intent

In the interest of public health, public safety, environmental quality, and the safeguarding of public and private property, this Article describes the manner in which ~~solid waste~~MSW shall be collected. Lawful storage, set-out, collection, vehicles, and service levels are also addressed.

This Article is intended to specify the minimum or base levels of service to be provided by permitted ~~solid waste~~MSW collectors in Fairfax County. Nothing in this Article is intended to prevent a collector from providing a level of service greater than the minimum levels required by this Article, at such rates and charges as agreed between the collector and customer.

Section 109.1-5-2. Manner of Collection.

(a) No person shall knowingly or willfully contract with ~~a solid waste~~any MSW collector ~~(s)or recycling business~~ who does not possess a County-issued Certificate-to-Operate for collection services or with any recycling business that is not registered with Fairfax County. For purposes of this Section, evidence of a ~~willful~~knowing violation is the voluntary contracting by a person after having received written notice from the County that the ~~solid waste~~MSW collector is not authorized to operate within the County or that the recycling business is not registered in the County.

(b) ~~Solid waste~~MSW collection shall be conducted in such a manner that it does not create a nuisance~~, a~~ or safety hazard, adversely affect public health, ~~or~~ violate any ordinance or Code of the County of Fairfax~~.~~, nor allow such conditions to continue. This includes, but is not limited to, obeying all applicable speed limits and other traffic controls in transit to, from, and while serving collection routes, operating the vehicle on the correct side of the street at all times, giving way to oncoming traffic where it is required by law to do so, picking up litter that may have gathered around the collection container or been released during transportation, and returning empty containers so that they do not interfere with pedestrian or vehicular traffic.

(c) Collection of ~~solid waste~~MSW shall be by permitted collection vehicles and shall be conducted in such a manner that it is not dumped, spilled, stored or thrown into any street, court, lane, alley, sewer inlet, vacant public lot, stormwater structure, public way, ~~or~~ private property, or any area not designated as a lawful disposal site.

(d) In the event any ~~solid waste~~MSW spills or falls into a street, public way, court, lane, or alley during the process of collection, it shall be deemed the responsibility of the collector to immediately correct such conditions.

(e) ~~Solid waste~~MSW shall be completely emptied at a lawful disposal or recycling site as soon as possible after the completion of any daily ~~solid waste~~ collection route, and shall not be stored in ~~solid waste~~MSW collection vehicles for a length of time exceeding ~~twenty-four (24)~~ hours, excluding Sundays.

(f) Collection vehicles shall not be parked overnight anywhere other than in properly zoned locations. Parking of collection vehicles on the public right-of-way, other than temporary stops during the collection route, is a ~~public nuisance per se.~~ violation of 109.1-6-2 (a).

(g) The following collection methods are prohibited unless specifically approved in writing by the Director:

(1) Commingling refuse and recyclables in one collection container.

(2) On-call service or collection of refuse or recyclables less frequently than once per

week.

(3) Collection of refuse or recyclables in an open-top container, other than white goods, scrap metal, Christmas trees, or cardboard at construction and demolition sites. This shall not apply to construction and demolition debris that is collected for recycling rather than disposal.

Section 109.1-5-3. Solid Waste to be Collected.

(a) ~~Municipal solid waste~~MSW generated by normal household or commercial activities from premises to which collection services are being provided shall be collected in accordance with the requirements of this Chapter.

(b) The following materials are not subject to the collection requirement of 109.1-5-3~~ (a) is not intended to include to the following materials:~~:

(1) Dead animals and pets;

(2) Manure;

(3) Tree stumps;

(4) Dirt, stone, rock, and brick;

(5) Containerized liquids;

(6) Friable asbestos;

(7) Lead-acid batteries;

(8) ~~Freon~~ Appliances containing ~~appliances~~ozone-depleting chemicals;

(9) Scrap metal and discarded appliances that are over 50 pounds in weight or 48 inches in length; and

(10) Poisons, corrosives, flammables, explosives or other unacceptable or hazardous waste. It should be noted that items considered to be household hazardous waste (HHW) are subject to the collection requirements of 109.1-5-3.

(c) For materials required to be collected curbside under this Article~~, no single container or bundle shall exceed fifty (50) pounds gross weight; provided, however, that~~ : (1) materials too large for containers ~~may~~shall be collected if tied securely in bundles not exceeding four feet in length~~. Corrugated cardboard shall be collected~~; and (2) no single container or bundle shall exceed 50 pounds gross weight.

(d) The base price for ~~recycling when prepared in accordance with the Recycling Program Requirements.~~

~~(d) Collection requirements~~ any collection contract shall include the minimum level of service unless otherwise approved by the Director. The minimum level of service for ~~specific~~collection by material ~~types~~type shall be as follows:

(1) *Refuse:* ~~minimum level of service shall include the~~ For residential customers, weekly removal of all refuse that is set out ~~on a weekly basis,~~ and prepared in accordance with Section 109.1-5-3(c~~)~~). For non-residential customers, weekly collection is required unless specifically approved by the Director in writing.

(2) *Recyclable Materials:* ~~minimum level of service shall include the~~ weekly removal of all recyclable materials ~~that are set out curbside on a weekly basis.~~from residential and non-residential customers properly prepared and set out. Other collection frequencies may be adopted for containerized and non-residential recycling service~~.~~ through application for and approval of an alternative recycling system.

(3) *Yard waste from single-family and townhouse residential units, including brush:* from March 1 to December 24, ~~minimum level of service shall include separate weekly collection~~ weekly removal for recycling of up to ten ~~(10)~~ individual bags, containers, or bundles. Brush may be limited to individual pieces or bundles of no greater than 50 pounds in weight, four feet in length, and no piece larger than six inches in diameter. Outside this period, yard waste may be collected with refuse.

(4) *Christmas trees:* ~~minimum level of service shall include the removal~~ *from single-family and townhouse residential units:* removal and recycling of all trees of less than 8 feet in length that are set out during the first two weeks of January.

(e) Nothing in this Chapter shall preclude the collector from providing a higher level of service than required, with regard to frequency, quantity, size, material type, or other factor.

(f) All ~~solid waste~~MSW collected by the collector, upon being loaded into the collection vehicle, shall become the property of the collector.

~~(g) Non-residential municipal solid waste that includes containerized liquids, friable asbestos, lead acid/wet cell batteries, or other unacceptable waste shall not be disposed at Fairfax County solid waste management facilities.~~

Section 109.1-5-4. Frequency of Collection.

(a) ~~Municipal solid waste~~MSW shall be collected no less than once weekly from single-family residences and townhouses.

(b) ~~Municipal solid waste~~MSW from all other sources shall also be collected ~~not~~no less than once weekly~~.~~, unless a reduced collection frequency or alternative recycling system is approved in writing by the Director.

(c) ~~Municipal solid waste~~MSW shall be collected more frequently, as may be fixed by the Director ~~of the Health Department, upon a determination that more collections are necessary for the preservation of the public health with respect to any particular establishment producing solid waste,~~ or collected more frequently as may be fixed by the Fire ~~Marshall~~Marshal or Chief of Fire and Rescue Department upon a determination that more frequent collections are necessary for the preservation of the public safety with respect to any particular establishment producing flammable ~~solid waste.~~MSW

(d) Any solid waste management bond or other surety held by Fairfax County as required by Article 4 may be used to pay for collection of waste where the collector for whom the bond/surety was issued has failed to meet the minimum collection frequency specified in this Article.

Section 109.1-5-5. Collection Points and Set-Out Restrictions.

(a) ~~(a) Solid waste~~Set-out of **residential** refuse and recycling shall comply with the following:

(1) Containers for residential use shall be stored upon the residential premises.

(2) ~~Solid waste containers shall be of sturdy, rodent and insect resistant and watertight construction with tight fitting lids sufficient to prevent leakage or spillage of the disposed materials contained therein.~~ The outside storage of ~~household waste~~refuse and recyclables in plastic bags with closed tops for not more than 12 hours is allowed~~.~~ by residential customers only.

~~(2)~~(3) Loose, bulky non-putrescible materials which are too large to fit into mechanically dumped containers may be set out, provided that they are: 1) securely bundled;

or 2) completely contained ~~in cardboard boxes or plastic bags which are~~and adequately secured to prevent leakage or spillage; and~~;~~, 3) individual bundles, bags, boxes or other containers do not exceed four feet in length and ~~fifty~~50 pounds in weight.

~~(b) Solid waste and recycling containers for all other uses shall be stored upon private property, at points which shall be well drained and fully accessible to collection vehicles and to public health inspection, fire inspection, and solid waste inspection personnel.~~

(4) ~~(c)~~ Yard waste may only be set out in bags, reusable containers, or in piles as instructed by the company which will be collecting them.

~~(3)~~(5) Recyclable materials shall be set out separately from ~~solid waste~~MSW intended for disposal~~, bundled,~~ and contained ~~in plastic or metal bins, kraft paper bags, or transparent plastic bags, and adequately secured~~so as to prevent leakage or spillage~~,~~ but not to preclude visual identification and inspection. Recycling shall be set out as described in subsections (3) and (4) above. Individual containers, bundles, bags, and/or boxes of recyclable materials set out for collection shall not exceed four feet in length and ~~fifty~~50 pounds in weight.

~~(4)~~(6) ~~(d)~~ On each scheduled collection day, residential ~~solid waste~~refuse and recyclables shall be placed at the curb line or at a point on the property line at the edge of pavement or terminal point of a pipestem driveway easement, adjacent to the public right of way where the collection vehicle stops. Residential ~~solid waste~~refuse and recyclables shall not be set out for curbside collection on any sidewalks or any other portion of the public right of way where they could interfere with pedestrians or vehicular traffic.

~~(e) No collection vehicles of any type are required to enter into any pipestem driveway for the purpose of conducting solid waste or recycling collection operations or turning around.~~

~~(5)~~(7) ~~(f)~~ If ~~waste and/or recyclables~~ MSW placed at the curb or in the public right-of-way ~~are~~by a residential customer is not picked up within ten days, the County may remove them and recover the costs of removal.

~~**Section 109.1-5-6. Collection vehicles and containers.**~~

(b) ~~(a) All collection vehicles and~~ Set-out of **non-residential** refuse and recycling shall comply with the following:

(1) All containers shall be stored upon private property, at points which shall be well drained and fully accessible to collection vehicles and to public health inspection, fire inspection, and solid waste inspection personnel, in addition to complying with Section 109.1-5-6.

(2) Non-residential customers are only permitted to store refuse and recyclables outdoors inside of an approved container as described in Section 109.1-5-6. Non-residential customers are not permitted to store refuse or recyclables in bags, boxes or bundles outside unless specifically approved in writing by the Director.

(3) Recyclable materials shall be set out separately from MSW intended for disposal and contained as described in Section 109.1-5-6 so as to prevent leakage or spillage but not to preclude visual identification and inspection. Co-collection of recyclables and refuse in a single container is not permitted and does not comply

with the recycling requirements in Article 2 of this Chapter.

(4) If MSW is placed at the curb or in the public right-of-way by a non-residential customer is not picked up within ten days, the County may remove it and recover the costs of removal from the customer, collection company and/or designee.

Section 109.1-5-6. Collection Containers and Vehicles.

(a) Containers (including compactors, front-end containers ~~to be~~ and roll-off containers) used ~~in the~~ to collect refuse and recycling shall comply with the following:

(1) All refuse containers shall be of sturdy, rodent and insect resistant and watertight construction with tight fitting lids sufficient to prevent leakage or spillage of the disposed materials contained therein.

(2) Any dumpster, front-loading container, compactor or wheeled cart provided for collection of recycling shall be of sturdy, rodent and insect resistant and watertight construction with tight fitting lids sufficient to prevent leakage or spillage of the recyclables contained therein but not to preclude visual identification and inspection.

(3) Collectors who provide refuse and/or recycling containers shall be responsible for maintaining up-to-date name and contact information on these containers. Where a collector chooses to change this information, the collector must either correct the changes on every container (except containers used for collection at single-family homes or townhouses), or remove that container from service. Collectors may not charge a fee for updating containers in this manner.

(4) Open-top containers may not be used to collect, store, or transport refuse or any other putrescible items.

(5) Yard waste may only be set out in bags, reusable containers, or in piles as according to Section 109.1-5-5 (a) (4).

(6) All roll-off containers and compactors shall have safety reflectors affixed to both sides and ends of container. Safety reflector requirements for said roll-off container or compactor shall include the use and/or combination of reflective tape, reflective paint, or reflective glass

~~(1)~~(7) All solid waste ~~shall be kept and maintained in~~collection containers with a ~~manner that prevents spillage~~capacity of two cubic yards or larger and are used for the ~~types~~collection of solid waste ~~to be collected therein,~~shall be clearly marked with the owner's name and ~~provides proper control of odors, vermin,~~telephone number and ~~liquid waste leakage~~the type of material acceptable for the container.

~~(b) All collection vehicles for which a collection vehicle permit is being sought must be designed and manufactured specifically for the collection of municipal solid waste. Design and manufacture shall include automatic dumping capabilities, watertight body, and additional requirements as determined by the Director in the collection vehicle inspection. All collection vehicles shall display the current name and telephone number of the company operating the vehicle.~~

~~(2)~~(8) ~~(c)~~ In the event of ~~solid waste~~refuse or recycling collection service cancellation by a customer, the owner of the ~~solid waste~~refuse or recycling collection container shall be responsible for removing the container(s). All such containers shall be removed within ten ~~(10)~~ business days of customer service cancellation. Any container ~~with a capacity of two (2) cubic yards or larger~~ which

is not removed within ten ~~(10)~~ business days of service cancellation shall be deemed abandoned~~,~~ and subject to removal by the County. The Director must make a reasonable attempt to notify the owner of the container prior to removal by the County. Containers removed by the County will be ~~removed,~~ emptied, and stored at the owner's expense, including the cost for disposal of waste contained therein, and may not be reacquired until all such expenses have been paid. Any container not reacquired within ~~thirty (30)~~ days will be forfeited to the County of Fairfax and sold at public auction~~,~~ or added to the ~~County's~~County's assets.

~~(d) All roll-off containers used for collection or transportation of solid waste shall have safety reflectors affixed to both sides and ends of container. Safety reflector requirements for said roll-off container shall include the use and/or combination of reflective tape, reflective paint, or reflective glass.~~

(9) ~~(e) All solid waste~~The County can require the owner of any container to remove that container if it is found to create a nuisance, traffic impediment or adversely affect public health or safety.

(b) All vehicles used to collect refuse and recycling ~~containers~~shall comply with ~~a capacity of two (2) cubic yards or larger which are~~ the following:

(1) All collection vehicles to be used ~~for the collection of solid waste or for the source separation of recyclable materials shall be clearly marked as to their capacity~~ in ~~cubic yards,~~ the collection of MSW must have a collection vehicle permit (see Article 4).

(2) All collection vehicles for which a collection vehicle permit is being sought must be designed and manufactured specifically for the ~~type(s) of materials acceptable for the container,~~collection of MSW.

(i) Design and manufacture shall include a completely enclosed and watertight truck body with automatic dumping capabilities; and additional requirements as determined by the Director in the ~~owner's~~collection vehicle inspection and as described in this Chapter and in the Fairfax County Solid Waste Management Program Permit Manual.

~~(i)~~(ii) All collection vehicles shall display the current name and telephone number~~.~~ of the company operating the vehicle.

(iii) ~~(f) Open-top roll-off containers may not~~ Vehicles permitted to collect recyclables must be clearly identified as such. Such signage shall be removed if the vehicle is used to collect~~, store,~~ refuse.

(iv) The Director may consider the use of vehicles not specifically manufactured for the collection of MSW under emergency conditions or ~~transport municipal solid~~for other reasons as determined by the Director. The vehicles must receive a temporary vehicle permit prior to being put into service.

(3) All collection vehicles to be used in the collection of MSW shall be maintained in a manner that prevents spillage of the types of MSW to be collected therein, and provides proper control of odors, vermin, and liquid waste ~~or~~ leakage.

~~(3)~~(4) No collection vehicles of any ~~other putrescible items~~type are required to enter into any pipestem driveway for the purpose of conducting refuse or recycling collection operations or turning around.

Section 109.1-5-7. Alteration of Collection Service; Required Notices.

(a) Any collector shall give written notice of intent to alter collection service to residential customers in the following manner:

(1) *Sale or transfer of business*: the Director and all customers shall be notified within thirty (30) days of such sale or transfer, if no change or interruption in service will occur.

(2) *Termination of service for nonpayment by customer*: the Director and all affected customers shall be notified no less than ten (10) days prior to the termination.

(3) *Termination of service for any other reason*: the Director and all affected customers shall be notified no less than thirty (30) days prior to the change.

(4) *Alteration of service or change in collection schedule*: the Director and all affected customers shall be notified no less than thirty (30) days prior to the change, except on cases of emergencies as declared by the Director.

(b) Any prepaid customer account will be either refunded by the collection company to the customer or transferred to the subsequent collector.

(c) All notifications to the Director required by this Section to customers whose service has been changed shall include ~~a demonstration~~evidence that all affected customers have been notified.

Section 109.1-5-8. Advance Billing of Customer.

Advance billing of residential customers shall not be permitted more than ninety (90) days in advance of delivery of collection service.

Section 109.1-5-9. Rates and Charges for Residential Collection.

~~(a) Rates and charges shall be changed~~ (a) Collection companies shall notify residential customers in writing of all rates, charges, and fees (including, but not limited to, fuel surcharges, environmental fees, equipment recovery fees, and service cancellation fees) that will be billed as part of the service provided or at termination of that service. Such notification shall be made prior to commencement of service.

(b) Rates and charges shall be increased only after each residential customer and the Director have been given thirty (30) days' written notice in advance. Such notice shall include the amount of the increase. A rate change shall be deemed invalid if the collector fails to provide this notification.

(~~b~~c) All notifications to the Director required by this Section shall include ~~a demonstration~~evidence that all affected customers have been notified.

(d) No refuse or recycling collector shall charge a fee greater than twenty-five dollars to remove its containers from a customer's residence.

Section 109.1-5-10. Assignment of Customer.

The Director shall have the authority to assign a specific customer to a collector; provided that the assigned customer shall first have paid any outstanding collection charges properly due any collector; and provided further that the collector assigned by the Director shall be one currently providing collection service in the area in which the assigned customer is located. The collector to whom any such customer

is assigned shall, upon receipt of notice of assignment, commence rendering of collection service as assigned.

ARTICLE 6. Solid Waste Transportation

Section 109.1-6-1. Manner of Operation.

(a) Any vehicle used to transport ~~solid waste or recyclable~~MSW materials in or through Fairfax County shall be operated in such a manner as not to create a nuisance or adversely affect public health.

(b) ~~Solid waste and recyclables~~MSW shall not be spilled, dumped, or thrown onto any street, court, lane, alley, sewer inlet, stormwater structure, vacant lot, ~~or~~ public way, ~~or~~ private property, or any area not designated as a permitted and authorized disposal site or recycling center.

(c) All vehicles used to transport liquid and semi-liquid wastes with non-watertight vehicle bodies shall carry said wastes in watertight containers.

(d) Any vehicle used to transport ~~solid waste or recyclable materials~~MSW and its contents shall not produce foul odors nor leak any fluids while parked or moving.

(e) Violation of this section shall constitute a nuisance per se.

Section 109.1-6-2. Parking on Public Rights-of-Way Prohibited.

(a) It is unlawful to park a vehicle which is being used to transport ~~solid waste~~MSW in or through Fairfax County on a public right-of-way. ~~This prohibition does not apply to temporary or emergency stops during a collection route and shall not apply to the rights-of-way of interstate highways, arterial highways or extensions of arterial highways.~~ Violation of this section shall constitute a nuisance per se.

(b) This section shall be enforced by ~~uniformed~~Fairfax County law enforcement officers ~~as set forth in Chapter 82 of this Code. The County Police Department is~~. Those officers are hereby authorized to immediately remove, or cause to be removed, any vehicle parked in violation of this section. The owner or operator of any such vehicle shall be required to pay, in addition to any fine, the charges for such removal and storage.

Section 109.1-6-3. Parking on Private Property.

It is unlawful to park a loaded or partially loaded collection or transfer vehicle which is being used to transport ~~solid waste~~MSW in or through Fairfax County on any private property unless: (1) the owner has consented in writing, (2) the written consent has been furnished to the Director, and (3) the site is a lawful place to store ~~solid waste~~MSW collection and/or transfer vehicles in accordance with the County Zoning Ordinance.

ARTICLE 7. Disposal of Solid Waste

Section 109.1-7-1. Disposal Site Designation.

(a) All ~~solid waste~~refuse collected under the provisions of this Chapter shall be disposed of only at disposal sites designated by the Director.

(b) It shall be unlawful for any person to dispose of ~~solid waste~~MSW in or at any disposal site other than those designated by the Director pursuant to paragraph (a) above. This provision shall not apply to the occupants of single-family residences or family farms disposing of their own ~~solid waste~~MSW if such occupants have paid the fees, rates and charges of other single-family residences and family farms in the same service area.

(c) Nothing contained in previous subsections shall be deemed applicable to:

(1) ~~Solid waste~~ Garbage, trash, and refuse generated, purchased or utilized by an entity engaged in the business of manufacturing, mining, processing, refining or conversion except for an entity engaged in the production of energy or ~~solid waste~~refuse-derived fuels for sale to a person other than any entity controlling, controlled by or under the same control as the manufacturer, miner, processor, refiner or converter.

(2) Recyclable materials which are those materials that have been source-separated by any person or materials that have been separated from ~~solid waste~~garbage, trash, and refuse by any person for ~~the subsequent~~ utilization in both cases as a raw material to be manufactured into a new product other than fuel or energy, except that yard waste must be delivered to a yard waste management facility legally permitted to operate in the Commonwealth of Virginia.

(3) Construction/demolition debris to be disposed of in a ~~CDD~~ landfill.

~~(4) Solid waste destined for out-of-state disposal.~~

~~(4)~~ (4) Waste oil.

(d) All ~~solid waste and recyclable materials~~MSW disposed of at solid waste management facilities operated by the County of Fairfax shall become the property of the County.

Section 109.1-7-2. Hazardous Waste Prohibited.

No hazardous waste shall be disposed of at the I-66 Transfer Station, the I-95 Sanitary Landfill, the I-95 Energy/Resource Recovery Facility, or any other disposal site in Fairfax County. The Director may request an analysis by a certified laboratory deemed acceptable by the Director of any ~~solid waste~~MSW requested for disposal. The purpose of the laboratory analysis is to ensure that the ~~solid waste~~MSW does not contain any hazardous ~~contaminants~~constituents. The laboratory analysis must be submitted to the Director in advance and in writing. Only after favorable review by the Director may the ~~solid waste~~MSW be accepted for disposal.

Section 109.1-7-3. Out-of-County Waste Prohibited.

It shall be unlawful for any person to use a Fairfax County Certificate to Operate and/or permit for the disposal of ~~solid waste~~MSW originating outside the County of Fairfax, at the I-66 Transfer Station, I-

95 Sanitary Landfill or I-95 Energy/Resource Recovery Facility, unless previously approved by the Director.

Section 109.1-7-4. Use of County Solid Waste Management Facilities.

(a) ~~(a)~~ The Director may establish rules and regulations~~, including disposal charges,~~ for the use of Fairfax County solid waste management facilities~~.~~, including specifying the types and characteristics of waste which are unacceptable, and disposal charges.

(b) ~~(b)~~ Use of County facilities shall be limited to the purpose for which access is granted.

(c) ~~(c)~~ All persons disposing of ~~solid waste~~MSW shall be charged, billed or invoiced for the disposal fees owed for use of County facilities. Any person failing to pay an account when due may incur a monthly charge of ten percent ~~(10%)~~ on the outstanding balance, annualized, from the first day following the day such account is due, or ten dollars ~~($10.00),~~, whichever is greater. An account shall be paid when payment has been received by the County.

Section 109.1-7-5. Permit for Solid Waste Management Facility--Required.

No person shall locate, operate, conduct or maintain a storage or disposal site (temporary or permanent), transfer station, ~~MRF~~recycling processing, landfill or any other type of solid waste management facility in the County unless all applicable state, federal and local laws, regulations, permits, and zoning requirements are met. Any facility must also be consistent with the County's Solid Waste Management Plan.

ARTICLE 8. Emergency Provisions

Section 109.1-8-1. Emergency Management.

(a) This Article sets forth specific solid waste management requirements that shall take ~~effect~~affect during an emergency as determined the county's emergency manager or other situations identified by the Director. It is intended that the following take place with respect to solid waste management during emergency circumstances:

(1) that the County will take the lead in coordinating emergency or disaster clean-up efforts countywide; and

(2) that private collectors shall not be required to provide collection services in excess of the base levels of service defined elsewhere in this Chapter.

(b) At the Director's discretion, to the extent allowable by State and Federal law, specific requirements of this Chapter may be waived or suspended during a local emergency.

Section 109.1-8-2. Operation of Essential Facilities.

(a) During a local emergency, the Director shall authorize, as necessary, the operation of primary and temporary solid waste management sites by the County, including the provision of equipment and personnel support to maintain the functionality of essential County services and support emergency response and disaster recovery operations.

(b) The Director shall provide refuse collection and disposal services as necessary to support operation of essential facilities used to receive and care for evacuees, volunteer workers, emergency responders, and maintenance and support personnel.

(c) Specifics of operations described in this Section shall be further described in the County's Emergency Operations, Continuity of Operations, and Debris Management Plans.

Section 109.1-8-3 Emergency Debris Management.

Management of debris from areas impacted by an emergency shall continue to be a shared responsibility between the County and permitted private ~~solid waste~~MSW collectors. However, at the Director's discretion, the County may elect to provide solid waste removal and disposal services in any area where the County deems that existing permitted waste collection resources are overwhelmed and/or improperly trained and/or inadequately equipped for the prevailing emergency conditions.

ARTICLE 9. Enforcement.

Section 109.1-9-1 Enforcement Authorities.

(a) The Director shall have and is hereby vested with the authority to pursue administrative, civil, or criminal enforcement actions on any entity that violates this Chapter.

(b) The Director may also undertake the following actions:

(1) Issue notices of violations for violations of any provision of this Chapter.

(2) Issue regulations and/or procedures to provide for administration, policy direction, and implementation of this Article.

(3) Make and enter into consent agreements incidental to the performance of the Director's duties and the execution of the Director's powers under this Article.

(4) Impose penalties for violations of this chapter as described herein and in the Solid Waste Management Program Enforcement Manual.

Section 109.1-9-2 Definition of Violation.

Except as otherwise provided (and regardless of the availability of other civil or administrative remedies and procedures for enforcing this Chapter), every act or condition prohibited by this Chapter, and every failure or omission to act as required herein, is a violation of this Chapter.

Section 109.1-9-3 Requirements for Written Notice

For the purpose of enforcing this Chapter, written notice may be provided by certified mail or by any appropriate method specified in ~~VA~~Virginia Code Ann. § 8.01-296.

Section 109.1-9-4 CTO and/or Permit Suspension and Revocation.

(a) Violation of any requirement of this Chapter, the Fairfax County Code, the Fairfax County Zoning Ordinance, or any court orders relating thereto, shall be grounds to deny, suspend, or revoke any solid waste CTO and/or permit.

(b) ~~Specific~~ Examples of grounds for CTO and/or permit denial, suspension or revocation include, but are not limited to, the following:

(1) Disposal of unacceptable or hazardous waste.

(2) Collection services fail to meet any applicable Fairfax County Code requirement.

(3) Failure to pay solid waste disposal fees.

(4) Use of a Fairfax County-issued permit for the disposal of waste from outside the County without prior authorization.

~~(5~~(5) Disposal of county waste at sites other than those designated by the Director.

(6) Storage or consolidation of waste fails to meet any applicable Fairfax County

Code requirement.

~~(6~~(7) Failure to abide by the rules and regulations of a Fairfax County solid waste management facility.

~~(7~~(8) Failure to submit an accurate permit application.

(c) Further, it shall be unlawful, and grounds for CTO and/or permit denial, suspension or revocation, for any person to ~~willfully~~ misuse a collection vehicle, permit, and/or CTO. Misuse includes, but is not limited to, operating while CTO is suspended, any switching of permits between collection vehicles, any use of a permit in an unpermitted collection vehicle or by an unpermitted collector, and/or any use of a discontinued CTO and/or permit.

(d) It shall be unlawful, and grounds for CTO and/or permit denial, suspension or revocation, for any company which is delinquent in its payment of the disposal bill to Fairfax County to use the collection vehicle and/or permit of another company to gain access to any County solid waste management facility. It shall be unlawful for any company to allow another company to use its collection vehicle and/or permit in the aforementioned manner.

(e) In the event the Director elects to consider suspending or revoking an issued CTO and/or permit, except in instances involving the nonpayment of ~~solid waste disposal fees~~fees, charges, fines, or civil penalties, or the disposal of unacceptable or hazardous waste, the permit holder will be notified by certified mail that said CTO and/or permit is under review. The CTO/permit holder will have ~~forty-eight (48)~~ hours after receipt of the letter of notification to correct any deficiencies and to notify the Director of the corrective action taken. If satisfactory corrective action is not taken within ~~forty-eight (48)~~ hours, the CTO and/or permit may be suspended or revoked by the Director. This shall not be construed to limit the authority of the Director to immediately suspend without notice any CTO/permit holder for the nonpayment of solid waste disposal fees or the disposal of unacceptable or hazardous waste.

(f) Any revocation, suspension or denial of a CTO or permit, other than those related to the nonpayment of solid waste disposal fees or the disposal of unacceptable or hazardous waste, shall be in writing and may be appealed to the County Executive or his designee within ten ~~(10)~~ days of the date of revocation, suspension or denial. Any appeal shall be in writing and filed with the County Executive or his designee. Thereafter, the County Executive~~,~~ or his designee~~,~~ shall promptly schedule a hearing at which the applicant and all interested parties, which may include but are not limited to the Director~~,~~ of the ~~Division of~~ Fairfax County Solid Waste ~~Collection and Recycling, Division of Solid Waste Disposal and Resource Recovery~~Management Program, the Zoning Administrator, the Health Officer, the Police Department, the Department of Code Compliance, the Department of Tax Administration and the Board of Supervisors of Fairfax County, Virginia, may present testimony or evidence. Any interested party or the applicant may be represented by counsel at the hearing.

Section 109.1-9-5 Penalties ~~–~~ Recycling Violations.

Violation of any provision of the recycling requirements of this Chapter, or any rule or regulation adopted hereunder, including but not limited to the required registration of a recycling business, shall be punishable by a ~~civil penalty not to exceed Five Hundred Dollars ($500.00)~~fine for each offense as prescribed in the Solid Waste Management Program Enforcement Manual. No criminal penalties shall be imposed for such violations. Each household, business, or collection point at which a violation of any provision of the recycling requirements of this Chapter occurs shall constitute a separate offense.

Section 109.1-9-6 Penalties – Disposal Violations.

(a) Except as provided for in 109.1-9-6 (b), any disposal of waste at an improper or prohibited site shall be subject to a ~~civil penalty not to exceed Five Hundred Dollars ($500.00)~~fine for each offense as prescribed in the Solid Waste Management Program Enforcement Manual. Each day any

violation continues shall constitute a separate offense. Violators may also have their CTO and/or collection/ disposal permits denied, suspended, restricted or revoked, and denied a CTO and/or permit for a period of up to one (1) year from the time of the offense.

(b) Any person who disposes of ~~solid waste~~MSW originating outside the County of Fairfax at a County facility where such waste is prohibited shall be subject to suspension from use of said facility for a period of time not to exceed one hundred twenty (120) calendar days and a ~~civil penalty not to exceed Five Hundred Dollars ($500.00)~~fine for each offense as prescribed in the Solid Waste Management Program Enforcement Manual.

(c) Disposing of waste at a County solid waste management facility without having paid the required disposal fee will be considered a violation, and may subject the person to a ~~civil penalty of up to Two Hundred Dollars ($200.00).~~fine for each offense as prescribed in the Solid Waste Management Program Enforcement Manual.

Section 109.1-9-7 Penalties ~~--~~ Contracting With Unauthorized Collector

Contracting with a ~~solid waste collector~~ person not authorized to perform refuse and/or recycling collection services within Fairfax County shall be subject to a ~~civil penalty not exceeding Five Hundred Dollars ($500.00) per offense.~~fine for each offense as prescribed in the Solid Waste Management Program Enforcement Manual. For purposes of this Section, evidence of a ~~willful~~ violation is the voluntary contracting by a person, business, property owner, property manager, solid waste broker, or community/homeowners' association with ~~a solid waste~~an MSW collector after having received written notice from the Director that the ~~solid waste~~refuse or recycling collector is not authorized to operate within the County.

Section 109.1-9-8 Penalties ~~--~~ Violations Not Otherwise Specified

~~The penalty for~~ Violation of any provision of this Chapter ~~not~~, unless otherwise specified in this Article, shall be punishable ~~by~~as a Class II misdemeanor, with a fine ~~or civil penalty not to exceed Five Hundred Dollars ($500.00)~~ for each offense~~.~~ as prescribed in the Solid Waste Management Program Enforcement Manual.

Section 109.1-9-9 Penalties ~~--~~ Escalation of Penalty for Repeat Offenders

(a) Except as otherwise provided by Federal ~~or Commonwealth statute or this Chapter~~, state or local law, the Director shall have the authority to recommend leniency in the event of first violations, and to seek escalating penalties for repeated violations in a 12 month period.

(b) In circumstances where a person or business has violated one or more provisions of this Chapter on at least three separate occasions within 12 months, the Director shall pursue an additional ~~civil charge~~financial penalty equal to a reasonable estimate of the financial benefits of non-compliance as described in the Solid Waste Management Program Enforcement Manual.

Section 109.1-9-10 Continuing Violations.

Except as otherwise provided (and regardless of the availability of other civil or administrative remedies and procedures for enforcing this Chapter), acts, omissions, or conditions in violation of this Chapter which continue, exist, or occur on more than one day constitute separate violations and offenses on each such day.

Section 109.1-9-11 Consent Agreements

(a) As an alternative to pursuing criminal or civil remedies described elsewhere in this Section, the Director may make and enter into Consent Agreements with suspected violators as a means to resolve the violation(s).

(b) For the purpose of this Section, a Consent Agreement is an administrative order issued with the consent of both parties, to perform specific actions to come into compliance with this Chapter and any relevant rules and regulations.

(c) The Director shall develop Consent Agreements and generally draft them after one or more meetings with the alleged violator. Such agreements shall be developed cooperatively and entered into by mutual agreement, even though the Agreement shall effectively serve as a direct order to the alleged violator to comply.

(d) A Consent Agreement may be issued without an adversarial proceeding, and therefore need not include a determination that a violation has occurred.

(e) Consent Agreements issued pursuant to this Section shall include, at a minimum, the following:

(1) An established and enforceable course of action for bringing a suspected or alleged violator into compliance expeditiously, with explicit deadlines by which compliance must be achieved.

(2) The assessment and collection of a monetary penalty for the violation(s),consistent with the requirements of this Chapter and appropriate County policy and guidance.

(3) An explanation of what further actions the County may take if the violator fails to meet the terms of the Consent Agreement.

2. That the provisions of this ordinance are severable, and if any provision of this ordinance or any application thereof is held invalid, that invalidity shall not affect the other provisions or applications of this ordinance that can be given effect without the invalid provision or application.

3. That this Ordinance is effective upon adoption.

GIVEN under my hand this day of _____ 2014.

_____

Clerk to the Board of Supervisors

Board Agenda Item
June 17, 2014

ADMINISTRATIVE – 3

Streets into the Secondary System (Mount Vernon District)

ISSUE:
Board approval of streets to be accepted into the State Secondary System.

RECOMMENDATION:
The County Executive recommends that the street(s) listed below be added to the State Secondary System.

Subdivision	**District**	**Street**
Gunston Square Section Two	Mt. Vernon	Cranford Street (Route 3365)
		Gunston Hill Lane

TIMING:
Routine.

BACKGROUND:
Inspection has been made of these streets, and they are recommended for acceptance into the State Secondary System.

FISCAL IMPACT:
None.

ENCLOSED DOCUMENTS:
Attachment 1 – Street Acceptance Form

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

Print Form

Street Acceptance Form For Board Of Supervisors Resolution - June 2005

FAIRFAX COUNTY BOARD OF SUPERVISORS
FAIRFAX, VA

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

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

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

PLAN NUMBER: 5395-SP-02

SUBDIVISION PLAT NAME: Gunston Square Section Two

COUNTY MAGISTERIAL DISTRICT: Mount Vernon

ENGINEERING MANAGER: Terry L. Yates, P.E.

BY: Nadia Alphonse

FOR OFFICIAL USE ONLY

DATE OF VDOT INSPECTION APPROVAL: 02/12/2014

STREET NAME	LOCATION		LENGTH MILE
	FROM	TO	
Cranford Street (Route 3365)	Existing Cranford Street (Route 3365) - 245' N CL Gunston Cove Road (Route 1572/Old 600)	1,176' N to CL Gunston Hill Lane	0.22
Gunston Hill Lane	CL Cranford Street (Route 3365) - 1,421' N CL Gunston Cove Road (Route 1572)	434' W to End of Cul-de-Sac	0.08
		TOTALS:	0.30

NOTES:

Cranford Street: 4' Concrete Sidewalk on Both Sides to be maintained by VDOT.

Gunston Hill Lane: 4' Concrete Sidewalk on Both Sides to be maintained by VDOT.

Board Agenda Item
June 17, 2014

ADMINISTRATIVE – 4

Authorization to Advertise a Public Hearing on Proposed Amendment to Chapter 61 (Building Provisions), of *The Code of the County of Fairfax, Virginia* Re: Civil Penalty for Unlicensed Contractors

ISSUE:
Board of Supervisors' authorization to advertise a public hearing on adoption of a proposed amendment to Chapter 61 (Building Provisions) of *The Code of the County of Fairfax, Virginia*. The proposed amendment establishes a civil penalty for persons or businesses that falsely represent to customers or prospective customers that they are licensed contractors.

RECOMMENDATION:
The County Executive recommends that the Board authorize the advertisement of the proposed amendment to Chapter 61 (Building Provisions) of *The Code of the County of Fairfax, Virginia* as set forth in the Staff Report dated June 17, 2014.

The proposed amendment has been prepared by the Department of Public Works and Environmental Services (DPWES) and coordinated with the Office of the County Attorney.

TIMING:
Board action is requested on June 17, 2014, to provide sufficient time to advertise a public hearing on July 29, 2014, at 4:00 p.m.

BACKGROUND:
During its 2012 session, the Virginia General Assembly passed HB 1277, giving localities the authority to establish a civil penalty of up to $2,500 for individuals or businesses that falsely represent that they have a valid contractor's license. Therefore, an individual or a business would be in violation of the law at the time the false representation is made, even if the prospective customer never enters into a contract. This differs from current County Code provisions that only allow prosecution of unlicensed contractors when a written or verbal contract is in place. Under the current County Code, such a violation is a Class 1 misdemeanor, punishable by up to 12 months in jail and/or a fine of up to $2,500. The addition of a civil penalty pursuant to HB 1277 in the County Code for false representations by unlicensed contractors that they are licensed will provide an additional enforcement tool for the County, potentially

allowing it to prevent this type of fraud before contracts are signed and money changes hands. The proposed amendment is in response to the Board's July 30, 2013, directive to staff to explore ways in which the new authority provided by HB 1277 could be incorporated in the County Code to help curb the activity of unlicensed contractors. Staff was later directed to develop the proposed amendment at the Board Development Process Subcommittee meeting on February 18, 2014.

PROPOSED AMENDMENTS:
The proposed amendment to Chapter 61 (Building Provisions) incorporates the maximum allowed $2,500 civil penalty for any individual or business that falsely represents to a customer or prospective customer that such person or business has a valid contractor's license as shown in Attachment A of the Staff Report.

REGULATORY IMPACT:
The proposed amendment provides an additional tool in enforcing contractor licensing requirements by establishing the maximum allowable civil penalty of $2,500 for unlicensed contractors purporting to be licensed contractors. Summonses for civil penalties are issued by the Office of the County Attorney.

FISCAL IMPACT:
Staff anticipates that current personnel in the Land Disturbance and Post Occupancy Branch, Land Development Services, DPWES will be able to take on the initial case load. Staff will monitor and review the case load periodically to determine if additional staff resources are needed.

ENCLOSED DOCUMENTS:
Attachment - Staff Report Dated June 17, 2014

STAFF:
Robert A. Stalzer, Deputy County Executive
James Patteson, Director, DPWES
Audrey Clark, Acting Deputy Director, DPWES

DEPARTMENT OF PUBLIC WORKS AND ENVIRONMENTAL SERVICES

STAFF REPORT

- [x] PROPOSED COUNTY CODE AMENDMENT
- [ ] PROPOSED PFM AMENDMENT
- [ ] APPEAL OF DECISION
- [ ] WAIVER REQUEST

Proposed Amendment to Chapter 61 (Building Provisions), of *The Code of the County of Fairfax, Virginia* Re: Civil Penalty for Unlicensed Contractors

Authorization to Advertise	June 17, 2014
Planning Commission Hearing	
Board of Supervisors Hearing	July 29, 2014 at 4:00 p.m.
Prepared by:	Code Development and Compliance Division MS (703) 324-1780 June 17, 2014

STAFF REPORT

A. Issues:

Adoption of a proposed amendment to Chapter 61 (Building Provisions) of *The Code of the County of Fairfax, Virginia*. The proposed amendment establishes a civil penalty for persons or businesses that falsely represent to customers or prospective customers that they are licensed contractors.

B. Recommended Action:

Staff recommends that the Board of Supervisors (the Board) adopt the proposed amendment to Chapter 61 (Building Provisions) of The Code of the County of Fairfax, Virginia.

C. Timing:

Board of Supervisors Authorization to Advertise – June 17, 2014

Board of Supervisors Public Hearing – July 29, 2014

Effective Date – July 30, 2014, at 12:01 a.m.

D. Source:

Department of Public Works and Environmental Services (DPWES)

E. Coordination:

The proposed amendment has been prepared by the DPWES and coordinated with the Office of the County Attorney.

F. Background:

During its 2012 session, the Virginia General Assembly passed HB 1277, giving localities the authority to establish a civil penalty of up to $2,500 for individuals or businesses that falsely represent that they have a valid contractor's license. Therefore, an individual or a business would be in violation of the law at the time the false representation is made, even if the prospective customer never enters into a contract. This differs from current County Code provisions that only allow prosecution of unlicensed contractors when a written or verbal contract is in place. Under the current County Code, such a violation is a Class 1 misdemeanor, punishable by up to 12 months in jail and/or a fine of up to $2,500. The addition of a civil penalty pursuant to HB 1277 in the County Code for false representations by unlicensed contractors that they are licensed will provide an additional enforcement tool for the County, potentially allowing it to prevent this type of fraud before contracts are signed and money changes hands. The proposed amendment is in response to the Board's July 30, 2013, directive to staff to explore ways in which the

new authority provided by HB 1277 could be incorporated in the County Code to help curb the activity of unlicensed contractors. Staff was later directed to develop the proposed amendment at the Board Development Process Subcommittee meeting on February 18, 2014.

G. Proposed Amendment:

The proposed amendment to Chapter 61 (Building Provisions) incorporates the maximum allowed $2,500 civil penalty for any individual or business that falsely represents to a customer or prospective customer that such person or business has a valid contractor's license.

H. Regulatory Impact:

The proposed amendment provides an additional tool in enforcing contractor licensing requirements by establishing the maximum allowable civil penalty of $2,500 for unlicensed contractors purporting to be licensed contractors.

I. Fiscal Impact:

Staff anticipates that current personnel in the Land Disturbance and Post Occupancy Branch, Land Development Services, DPWES will be able to take on the initial case load. Staff will monitor and review the case load periodically to determine if additional staff resources are needed.

J. Attached Document:

Attachment A – Proposed Amendment to Chapter 61 (Building Provisions)

AN ORDINANCE RELATING TO CIVIL PENALTIES FOR UNLICENSED CONTRACTORS

AN ORDINANCE relating to civil penalties for unlicensed contractors, pursuant to the provisions of Va. Code § 54.1-1117(C) (2013).

Be it ordained by the Board of Supervisors of Fairfax County that there shall be added to the Fairfax County Code the following:

Section 61-7-2. Civil Penalties for Unlicensed Contractor's False Representation.

(a) There is hereby established a civil penalty of $2,500 that may be assessed when a person or business falsely represents to a customer or prospective customer for a home improvement, as defined below, that such person or business has a valid contractor's license issued pursuant to the provisions of Va. Code Ann. § 54.1-1106. To the extent allowed by law, the remedies provided for in this Section are cumulative and not exclusive and shall be in addition to any other remedies.

(b) Any person who is issued a Summons for a scheduled violation may make an appearance in person or in writing by mail as directed in the Summons prior to the date fixed for trial in court. Any person so appearing may enter a waiver of trial, admit liability, and pay the civil penalty established for the offense charged.

(c) If a person charged with a scheduled violation does not elect to enter a waiver of trial and admit liability, the violation shall be tried in the General District Court in the same manner and with the same right of appeal as provided for by law.

(d) For the purpose of this section the business of home improvement shall mean the contracting for and/or providing labor and material or labor only for repairs, improvements, and additions to residential buildings or structures accessory thereto where any payment of money or other thing of value is required.

The Building Official and/or his designee(s), in consultation with the County Attorney and/or his designee(s), is hereby authorized and delegated all necessary authority to effect this ordinance and assess this civil penalty on behalf of the Fairfax County Board of Supervisors.

This ordinance shall become effective on July 30, 2014, at 12:01 a.m.

GIVEN under my hand this 29th day of July, 2014.

_____

Catherine A. Chianese
Clerk to the Board of Supervisors

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Board Agenda Item
June 17, 2014

ADMINISTRATIVE - 5

Authorization to Advertise Public Hearings on a Proposed Zoning Ordinance Amendment Re: Food Trucks

ISSUE:
The proposed amendment is on the 2013 Priority 1 Zoning Ordinance Amendment Work Program and is in response to a Board of Supervisors' (Board) request to consider adopting provisions that would allow food trucks to locate in certain areas of the County subject to specific use limitations. The amendment was initiated in recognition of the increasing number and popularity of food trucks and would codify the existing practice of administratively reviewing food truck locations.

RECOMMENDATION:
The County Executive recommends the authorization of the proposed amendment by adopting the resolution set forth in Attachment 1.

TIMING:
Board action is requested on June 17, 2014, to provide sufficient time to advertise the proposed Planning Commission public hearing on July 30, 2014, at 8:15 p.m., and the proposed Board public hearing on September 9, 2014 at 4:00 p.m.

BACKGROUND:

The proposed amendment would add new provisions to recognize and regulate food trucks as a specific accessory use. Previously, a food truck was regulated as a free-standing fast food restaurant, which is a use that typically requires special exception approval from the Board. Given the increasing popularity of food trucks and the desire to accommodate the establishment of food truck locations, the Board requested staff in early 2013 to consider all issues associated with food trucks and to report back to the Board. On May 2, 2013 a Food Truck Work Group meeting with staff and food truck industry representatives was held to discuss how food trucks were regulated and what steps could be taken to regulate them in a fair and reasonable manner. As a result of the May 2, 2013 meeting, staff determined that food trucks could be permitted as accessory uses in commercial and industrial areas, subject to use limitations, and Zoning Administration staff has begun to issue approval letters to some food truck operators and private property owners as accessory uses. This process has the effect of creating many more opportunities for food truck locations, given that food trucks as

accessory uses serve a principal use and, with appropriate limitations, do not create the same level of impacts associated with free-standing fast food restaurants. Specifically, the amendment:

(1) Defines a food truck as any readily movable mobile food service establishment, to include vehicles that are self-propelled, pushed or pulled to a specific location.

(2) Revises Sect. 2-510 to (a) permit food trucks as an accessory use in any commercial or industrial district, in the commercial portions of a P district, or at any construction site with an active building permit and on-going construction activity; (b) requires the submission of a one-time food truck location permit by property owners who wish to have food trucks on their property and annually by food truck operators; (c) requires that the Zoning Administrator approves such permits provided that use limitations including the location of the food truck, hours of operation, number of food trucks and property owner consent are met, and provided that such food truck is associated with a principal use consisting of a building with a minimum gross floor area which could range from a minimum of 25,000 square feet to a maximum of 35,0000 square feet, or on a construction site with an active building permit and on-going construction activity.

(3) Notwithstanding the above, revises Sect. 2-510 to permit food trucks on County or Park Authority owned and controlled property or in conjunction with the approval of temporary special permit, provided that such food trucks comply with all applicable regulations, including the Health Department and the Department of Cable and Consumer Service requirements.

(4) Revises Sect 10-102 to add food trucks as a permitted accessory use and to clarify that food trucks are not permitted to be parked in residential districts.

(5) Establishes a $100 food truck permit application fee, which shall be issued to property owners on a one-time basis and to food truck vendors annually.

A more detailed discussion of the proposed amendment is set forth in the Staff Report enclosed as Attachment 2.

REGULATORY IMPACT:
The proposed amendment would facilitate the location of food trucks in the County by codifying an administrative process that allows food trucks to locate on certain properties subject to use limitations, in lieu of the food trucks being considered fast food restaurants requiring special exception approval from the Board in most instances. It is

anticipated that there will be approximately 20 applications each year and the review and processing of the food truck applications can be done by using existing staff resources.

Requiring both the food truck operator and the property owner to apply for a food truck permit from the Zoning Administrator is intended to address the Department of Code Compliance (DCC) enforcement issues with food trucks that locate on property without permission of the property owner and have caused problems in some neighborhoods. Often food trucks move from one location to another, thereby making enforcement difficult. By issuing permits to both the property owner and the food truck operator, DCC has more enforcement tools to address community concerns relating to food trucks; both the food truck operator permit and the property owner permit can be revoked, or either party may be issued notices of violation for not obtaining permits.

FISCAL IMPACT:
The proposed $100 application fee is a nominal one-time expense to the property owner and, although it would be required to be paid annually by the food truck operator, the fee could be applied to multiple locations, provided that the property owner on any additional sites has obtained a food truck location permit for that site, the food truck operator has written consent from the property owner or authorized agent to operate on that site, and the food truck is operating in conformance with that approval. A food truck operator would continue to be required to pay $40 each year to the Health Department for a Food Establishment Permit and to pay $35 each year to the Department of Cable and Consumer Services for a solicitor's license. Given that 15 food trucks and 15 food truck locations were permitted in the last year, it is estimated that approximately $3000 to $5000 in application fees will be generated each year by the County and these fees will cover staff costs.

ENCLOSED DOCUMENTS:
Attachment 1 – Resolution
Attachment 2 – Staff Report - Also available online at:
http://www.fairfaxcounty.gov/dpz/zoningordinance/proposed/foodtrucks.pdf

STAFF:
Robert A. Stalzer, Deputy County Executive
Fred Selden, Director, Department of Planning and Zoning (DPZ)
Leslie B. Johnson, Zoning Administrator, DPZ
Mavis Stanfield, Deputy Zoning Administrator, DPZ

ATTACHMENT 1

RESOLUTION

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium in the Government Center Building, Fairfax, Virginia, on June 17, 2014, at which meeting a quorum was present and the following resolution was adopted:

WHEREAS, food trucks have grown in popularity in Fairfax County and there is a desire to facilitate the location of food trucks within the County; and

WHEREAS, food trucks may cause adverse pedestrian and vehicular circulation, impede access, reduce parking availability and result in litter and other adverse impacts; and

WHEREAS, it may be appropriate to allow food trucks to locate on certain properties as an accessory use with Zoning Administrator approval and subject to certain location and operational limitations that mitigate any adverse impacts; and

WHEREAS, the public necessity, convenience, general welfare, and good zoning practice require consideration of the proposed revisions to Chapter 112 (Zoning Ordinance) of the County Code.

NOW THEREFORE BE IT RESOLVED, for the foregoing reasons and as further set forth in the Staff Report, the Board of Supervisors authorizes the advertisement of the proposed Zoning Ordinance amendment as recommended by staff.

A Copy Teste:

_____

Catherine A. Chianese
Clerk to the Board of Supervisors

FAIRFAX COUNTY

STAFF REPORT

V I R G I N I A

PROPOSED ZONING ORDINANCE AMENDMENT

Food Trucks

PUBLIC HEARING DATES

Planning Commission July 30, 2014 at 8:15 p.m.

Board of Supervisors September 9, 2014 at 4:00 p.m.

PREPARED BY
ZONING ADMINISTRATION DIVISION
DEPARTMENT OF PLANNING AND ZONING
703-324-1314

June 17, 2014

MES

Americans With Disabilities Act (ADA): Reasonable accommodation is available upon 7 days advance notice. For additional information on ADA call 703-324-1334 or TTY 711 (Virginia Relay Center).

STAFF COMMENT

The proposed amendment is on the 2013 Priority 1 Zoning Ordinance Amendment Work Program and is in response to a Board of Supervisors' (Board) request to consider adopting provisions that would allow food trucks to locate in certain areas of the County with specific use limitations. The amendment was initiated in recognition of the increasing number and popularity of food trucks and would codify the existing practice of administratively reviewing food truck locations.

Current Zoning Ordinance Provisions

It had been a longstanding interpretation that food trucks were deemed to be fast food restaurants which are defined, in pertinent part, in Article 20 of the Zoning Ordinance as follows:

> FAST FOOD RESTAURANT: Any establishment, which provides as a principal use, the sale of food, frozen desserts, or beverages in ready-to-consume state for consumption either within the restaurant, within a motor vehicle parked on the premises, or off-premises…

Further, pursuant to Sect. 2-510 of the Zoning Ordinance, food sales from vehicles must be regulated as a commercial use, subject to all the regulations prescribed for the zoning district in which the use is conducted. Food trucks were considered freestanding fast food restaurants in that they were a stand-alone use not located in a building with other uses. Freestanding fast food restaurants are permitted by-right in P districts when shown on an approved development plan and are permitted in the C-5 through C-9 Commercial Districts and in the I-5 and I-6 Districts with special exception approval by the Board of Supervisors. Food trucks are also permitted, subject to use limitations, in the I-5 and I-6 Districts as an accessory service use.

Background

Given the increasing popularity of food trucks and the desire to accommodate the establishment of food truck locations, the Board requested staff on January 13, 2013 to consider all issues associated with food trucks and to report back to the Board in the spring of 2013. On May 2, 2013, the Chairman and Supervisor Smith hosted a Food Truck Work Group meeting with staff from the Department of Planning and Zoning (DPZ), the Department of Tax Administration, Office of the County Attorney, the Department of Cable and Consumer Services, the Police Department, and the Health Department, along with industry representatives, to discuss how food trucks were regulated and what steps could be taken to regulate them in a fair and reasonable manner.

Prior to this meeting, Zoning Administration staff noted an increase in requests for food truck locations, as the Department of Cable and Consumer Services Regulation and Licensing Branch began requiring zoning approval prior to issuance of a Solicitor's License to food truck operators. The Solicitor's License is issued annually and provides a record of individuals selling products and services from temporary locations, including food sales from food trucks. It is noted that the Health Department also issues an annual permit to food trucks, to ensure proper food handling and service however their approval is independent of both zoning review and the Solicitor's License.

As a result of the May 2, 2013 meeting, staff determined that food trucks could be permitted as accessory uses in commercial and industrial areas, subject to certain use limitations, and began preparing a draft Zoning Ordinance amendment to codify this process. The proposed food truck amendment was discussed with the Board's Development Process Committee on October 22, 2013 and with the Food Truck Work Group on November 15, 2013. Since May 2, 2013, thirteen food truck operators have been approved as accessory uses to commercial property or at construction locations, subject to conditions that are intended to provide safe pedestrian access to the trucks and with limited hours of operation, among other things. DPZ staff has also met with industry representatives and other agency staff since the last Work Group meeting to address various issues regarding the proposed amendment.

Proposed Amendment

The proposed amendment adds a new food truck use to be defined in Article 20 as "any readily movable mobile food service establishment, to include vehicles that are self-propelled, pushed or pulled to a specific location". Food trucks would be permitted as an accessory use, subject to limitations, in any commercial or industrial district, in the commercial areas of a P district, or at any construction site with an active building permit and on-going construction activity. The food truck use limitations would be added to Sect. 2-510 of the Zoning Ordinance. In order to clearly distinguish between a food truck and a fast food restaurant, the fast food restaurant definition would be revised to clarify that a food truck that does not comply with Sect. 2-510 would be deemed a fast food restaurant and, therefore, subject to all requirements for a freestanding fast food restaurant.

The owner of property on which a food truck is to be located would be required to file a food truck application with the Zoning Administrator. A plan showing the layout of the property, including buildings, travel lanes, exits/entrances and parking spaces, and the proposed food truck location would be submitted as part of the application process to ensure safe access and adequate traffic circulation. Approval of food truck locations and operations would be subject to use limitations, including the specific locations where food trucks could be permitted. The amendment also proposes a one-time $100 application fee per location for permits issued to the property owner to cover staff processing costs. Food truck operators would also be required to obtain a food truck permit with an application fee of $100 on an annual basis, but only for the first location they identify. Given the transient nature of the food truck industry and that Department of Cable and Consumer Affairs requires food truck operators to obtain a new Solicitor's license each year requiring "sign off" from zoning, staff is recommending that the food truck operator be required to obtain a new food truck operation permit from the Zoning Administrator each year. If a food truck operator has received a food truck permit to operate at a location and that food truck operator wishes to locate at an additional property, they would only need to ensure the property owner has zoning approval for a food truck and obtain written consent from the owner to operate on his property. The food truck operator would not be required to obtain an additional food truck permit for the new location. This is recommended in recognition that a food truck typically locates on different sites on different days and to avoid multiple application fees for multiple locations, a concern raised by the food truck industry representatives. The proposed $100 fee along with the annual $40 Health Department fee for a Food Establishment Permit and the annual $35 Department of Cable and Consumer Services fee for a Solicitor's license is still less than the fee charged in Arlington County

which has an annual $500 "Vendor's Tag" fee and in the District of Columbia where food truck application fees range from $476 to $1200 for two years.

Requiring both the food truck operator and the property owner to apply for a food truck permit from the Zoning Administrator is intended to address the Department of Code Compliance (DCC) enforcement issues with food trucks that locate on property without permission of the property owner and have caused problems in some neighborhoods. Often food trucks move from one location to another, thereby making enforcement difficult. By issuing permits to both the property owner and the food truck operator, DCC has more enforcement tools to address community concerns relating to food trucks; both the food truck operator permit and the property owner permit can be revoked, or either party may be issued notices of violation for not obtaining permits.

Sect. 2-510 contains the following proposed food truck limitations:

Property Owner Consent.

As discussed above, the property owner must obtain a food truck permit from the Zoning Administrator in order to allow any food truck to locate on their property. In addition, a food truck operator must obtain a food truck permit from the Zoning Administrator to operate their food truck and the food truck operator must have the owner's consent from each property where they wish to operate their food truck. Therefore, the amendment requires that the food truck operator provide a letter of consent from the property owner in conjunction with the food truck operator's application. Property owner consent is a standard requirement for other jurisdictions and for other types of zoning applications within Fairfax County.

A minimum of 30,000 square feet of commercial space.

As proposed, food trucks would only be permitted as an accessory use in conjunction with a principal use containing at least 30,000 square feet of gross floor area. A food truck cannot be a principal use on a lot. The 30,000 square foot minimum requirement is intended to provide a threshold for defining the use as accessory. An accessory use, as defined in the Zoning Ordinance, "is clearly subordinate to, customarily found in association with, and serves a principal use; and is subordinate in purpose, area or extent to the principal use served; and contributes to the comfort, convenience or necessity of the occupants, business enterprise or industrial operation within the principal use served." The intent of regulating food trucks as accessory uses is to provide food options on-site where employees or customers associated with the principal use may otherwise need to drive to other locations for food. The opportunity to have food trucks not only affords mealtime options but also creates less traffic and the impacts associated with additional vehicles traveling on the roads.

The Zoning Ordinance currently requires a minimum of 30,000 square feet of gross floor area of commercial space to establish an office park. Therefore, it was determined that 30,000 square feet was an appropriate minimum threshold for a food truck to be considered an accessory use in an office park or other commercial or industrial enterprise. It has been suggested by some food truck representatives that a lower threshold number may be more reasonable given the number of commercial buildings that are less than 30,000 square feet and that a food truck operator may wish to locate at such a site. Alternatively, the Board may wish to increase the minimum threshold

beyond the 30,000 square foot limitation. Therefore, in order to provide the Board flexibility in considering this use limitation, staff is recommending that the amendment be advertised with a range of 25,000 to 35,000 square feet and the Board could adopt any number within that range.

Operational Limitations.

The maximum number of food trucks permitted at any one time at any location would be three, and the maximum time each day a food truck could operate at any one location would be four hours, including setup and take down. The proposed four hour timeframe is consistent with the recommendations of the National League of Cities, which published a report on food trucks in 2013. The maximum of three food trucks at any one time at any location is consistent with the accessory use definition and is intended to avoid creating a "food court" principal use. In addition, the vicinity around the food truck must be kept clean and free of debris and trash receptacles must be provided. The operational limitations are intended to minimize the impacts of the food truck on the property where it is located and on the surrounding properties, and to ensure that the food truck is serving the principal use on the property. It is noted that the amendment does not specifically address seating, which is not typically provided by food truck vendors. It is anticipated that the only seating associated with food trucks would be provided by the property owner at their discretion.

Location.

As previously discussed, food trucks would be permitted as an accessory use on commercial or industrial properties containing a principal use of at least 30,000 square feet of gross floor area, or on a construction site with an active building permit and on-going construction activity. Food trucks must also be located entirely on private property and not within road right-of-way. In addition, food trucks cannot be located in any fire lane, travel lane, entrance/exit or any required parking space. Furthermore, food trucks must be located on a level, paved or gravel surface with safe pedestrian access. The intent behind the location limitations is to ensure that a food truck is an accessory use that serves a principal use and does not adversely impact on-site circulation or cause safety hazards, such as blocked entrances or fire lanes. In addition, parking will be reviewed to ensure that adequate parking is available and that the proposed food truck will not take parking spaces that are required to serve other existing uses on the site.

Proffered/Development Conditions.

All food trucks must be in substantial conformance with any proffered condition, development plan, special permit or special exception approvals. If any zoning approval precludes a freestanding accessory use, prohibits a food truck, or otherwise regulates food trucks, including but not limited to the location, hours of operation and/or number of food trucks, the zoning approval would govern that aspect of the food truck location. Unless otherwise specified in any zoning approval, all provisions of Sect. 2-510 would apply to any food truck location. There are certain areas of the County, such as Tysons, where there will be large concentrations of people due to proximity to employment centers and Metrorail stations and it may be desirable to modify any or all of the proposed food truck limitations in such locations. The proposed language would allow such flexibility in conjunction with the approval of proffered conditions, development plans, special permits or special exceptions.

Revocation.

Any food truck permit would be revocable by the Zoning Administrator because of failure of the property owner and/or the food truck operator to comply with any of the provisions of Sect. 2-510.

Other Food Truck Locations.

In addition, certain short term special events, such as fairs, carnivals or grand openings, typically require temporary special permit (TSP) approval from the Zoning Administrator, and these events commonly include food trucks. Under this amendment, a food truck could still be approved in conjunction with a TSP. In addition, food trucks may be allowed on county owned property as part of events and activities taking place on those properties. The Park Authority is allowing food trucks to locate within some public parks, subject to limitations by the Park Authority. Therefore, the amendment would also allow food trucks to locate on County or Park Authority owned and controlled property or in conjunction with the approval of a temporary special permit, provided that such food truck complies with all applicable regulations, including the Health Department and the Department of Cable and Consumer Services requirements.

Prohibition of Food Trucks on Residential Property.

As defined by the Zoning Ordinance, a food truck is a commercial vehicle. Under Sect. 10-102 of the Zoning Ordinance, one commercial vehicle per dwelling unit is permitted in any residential district, provided that the commercial vehicle is owned or operated by the occupant of the dwelling unit at which it is parked. Furthermore, certain specific types of vehicles are prohibited, including but not limited to, trash trucks, construction equipment, dump trucks, and tractor trailers. Given that food trucks are not customarily found in residential areas, are specifically prohibited to be parked on a residential dwelling lot under the Health Code, and could change the character of a neighborhood, staff is recommending that food trucks be added to the list of commercial vehicles that are specifically prohibited on a residential dwelling lot.

Conclusion

The proposed amendment codifies the existing practice of regulating food trucks as an accessory use to the principal commercial use on a lot, and allows food trucks to locate in primarily non-residential areas of the county with use limitations that ensure safety of individual patrons of the food truck, while affording the community the opportunity to enjoy a variety of food choices. The amendment provides a process for food truck operators and private property owners to obtain food truck permits. The amendment also recognizes that food trucks may be located in other areas of the County where County agencies or specific legislative actions permit them. Therefore, staff recommends approval of the proposed amendment with an effective date of 12:01 a.m. on the day following adoption.

PROPOSED AMENDMENT

This proposed Zoning Ordinance amendment is based on the Zoning Ordinance in effect as of June 17, 2014 and there may be other proposed amendments which may affect some of the numbering, order or text arrangement of the paragraphs or sections set forth in this amendment, which other amendments may be adopted prior to action on this amendment. In such event, any necessary renumbering or editorial revisions caused by the adoption of any Zoning Ordinance amendments by the Board of Supervisors prior to the date of adoption of this amendment will be administratively incorporated by the Clerk in the printed version of this amendment following Board adoption.

Amend Article 20, Ordinance Structure, Interpretations and Definitions, Part 3, Definitions, by adding a new FOOD TRUCK definition in its proper alphabetical sequence and modifying the FAST FOOD RESTAURANT definition to read as follows:

<u>FOOD TRUCK: Any readily movable mobile food service establishment, to include vehicles that are self-propelled, pushed or pulled to a specific location.</u>

FAST FOOD RESTAURANT: Any establishment, which provides as a principal use, the sale of food, frozen desserts, or beverages in ready-to-consume state for consumption either within the restaurant, within a motor vehicle parked on the premises, or off-premises, and whose design or principal method of operation included one or more of the following characteristics:

1. Food, frozen desserts, or beverages are served in edible containers or in paper, plastic or other disposable containers. Eating utensils, if provided, are disposable.

2. Food, frozen desserts, or beverages are usually served over a general service counter for the customer to carry to a seating facility within the restaurant, to a motor vehicle or off-premises. If consumed on premises, customers generally are expected to clear their own tables and dispose of their trash.

3. Forty-five (45) percent or more of the gross floor area of the establishment is devoted to food preparation, storage and related activities which space is not accessible to the general public.

4. Food, frozen desserts, or beverages are served to the occupants of motor vehicles while seated therein, such as through a drive-in window.

For the purposes of this Ordinance, a fast food restaurant shall not be deemed an eating establishment. <u>A FOOD TRUCK that does not comply with the provisions set forth in Sect. 2-510 shall be deemed a fast food restaurant.</u>

Amend Article 2, General Regulations, Part 5, Qualifying Use, Structure Regulations, Sect. 2-510, Sales From Vehicles, to read as follows:

1. The sale or offering for sale of goods or services from any vehicle shall be deemed to be a commercial use ~~and~~. Food trucks shall be subject to Paragraph 2 through 4 below. All other sale of goods or services from any vehicle shall be subject to all the regulations prescribed for the zoning district in which the same is conducted, but this regulation shall not be deemed to prohibit any vending from vehicles on public streets that is not otherwise prohibited by law.

2. Food trucks shall be permitted as an accessory use in any industrial or commercial district, in the commercial areas of a P district, or at any construction site with an active building permit and on-going construction activity, subject to compliance with the provisions of this section. Any food truck shall be in substantial conformance with any proffered condition, development plan, special permit or special exception approval. If any proffered condition, development plan, special permit or special exception approval specifically precludes food trucks or otherwise regulates food trucks, including but not limited to the location, hours of operation and/or number of food trucks, the zoning approval shall govern that aspect of the food truck location or operation in lieu of the following provisions. Unless otherwise specified in any zoning approval, all provisions of this section shall apply to any food truck location. Food trucks may be operated from an approved location, subject to compliance with the standards set forth in Par. 3 below, and the following:

   A. The owner of property on which a food truck may be located shall file a food truck location permit application with the Zoning Administrator on forms furnished by the County.

   B. Each year, the owner and/or operator of any food truck doing business in the County shall file a food truck operation application with the Zoning Administrator on forms furnished by the County. Such permit application shall be accompanied by the written consent of the private property owner or authorized agent authorizing the food truck to be located on their approved food truck location and by a copy of the property owner's food truck location permit. If a food truck operates on more than one (1) site, only one (1) food truck operation application shall be required to be obtained from the Zoning Administrator for such food truck, provided that the property owner on any additional sites has obtained a food truck location permit for that site, the food truck operator has written consent from the property owner or authorized agent to operate on that site, and the food truck is operating in conformance with that approval. The operation of any food truck shall also be subject to all Health Department and Department of Cable and Consumer Services permits/licenses.

   C. Each food truck location and food truck operation permit application shall be accompanied by a filing fee of $100 made payable to the County of Fairfax. Upon the finding that the application complies with the standards set forth in Par. 3 below, the Zoning Administrator shall approve the permit application, setting forth conditions that protect the public health, safety and welfare and adequately protect adjoining properties from any adverse impacts of the food truck, which may include, but are not limited to, hours of operation, location, parking, vehicular access, and safety requirements.

D. Any food truck location permit or food truck operation permit shall be revocable by the Zoning Administrator because of the failure of the property owner and/or the food truck operator to comply with any of the provisions of this section.

3. In addition to Par. 2 above, food trucks shall be located and operated in compliance with the following standards:

A. Food trucks shall be located on private property with the written consent of the property owner or authorized agent holding an approved food truck location permit.

B. Food trucks shall only be permitted in conjunction with a principal use consisting of a minimum of **30,000** square feet of gross floor area or on a construction site with an active building permit and on-going construction activity. ***[The advertised range is 25,000 to 35,000 sq. ft.]***

C. Food trucks shall operate for a maximum of four (4) hours in any one (1) day at any one (1) location, including set-up and break-down.

D. A maximum of three (3) food trucks shall be permitted at any one (1) location at the same time, provided that additional food trucks may be permitted in conjunction with temporary special permits or other special events regulated by any proffered condition, development condition, special permit or special exception.

E. Food trucks shall not be located in any fire lane, travel lane, entrance/exit or any required parking space.

F. Food trucks shall be located on a level, paved, or gravel surface with safe pedestrian access. The vicinity around the food truck shall be kept clean and free of debris. Trash receptacles shall be provided.

4. Notwithstanding Paragraphs 2 and 3 above, food trucks may also be permitted on County or Park Authority owned and controlled property or in conjunction with the approval of a temporary special permit, provided that such food trucks comply with all applicable regulations, including the Health Department and the Department of Cable and Consumer Services requirements.

Amend Article 10, Accessory Uses, Accessory Service Uses and Home Occupations, Part 1, Accessory Uses and Structures, as follows:

- **Amend Sect. 10-102, Permitted Accessory Uses, by placing Par. 32 into its appropriate alphabetical sequence as a new Par. 5, adding a new Par. 9, renumbering the subsequent paragraphs accordingly, and modifying new Par. 18 to read as follows:**

Accessory uses and structures shall include, but are not limited to, the following uses and

structures; provided that such use or structure shall be in accordance with the definition of Accessory Use contained in Article 20:

~~32~~5. Child care centers for occasional care, only when located with the main structure of a regional or super-regional shopping center, and subject to the applicable provisions of Chapter 30 of the County Code and Title 63.2, Chapter 17 of the Code of Virginia.

9. Food trucks, as regulated by Sect. 2-510.

~~16~~18. Parking of one (1) commercial vehicle per dwelling unit in an R district subject to the following limitations:

A. No food truck, solid waste collection vehicle, tractor and/or trailer of a tractor-trailer, dump truck, construction equipment, cement-mixer truck, wrecker with a gross weight of 12,000 pounds or more, or similar such vehicles or equipment shall be parked in any R district.

B. Any commercial vehicle parked in an R district shall be owned and/or operated only by the occupant of the dwelling unit at which it is parked.

- **Amend Sect. 10-104, Location Regulations, by revising Par. 8 to read as follows:**

8. Wayside stands shall be located in accordance with the provisions of Par. ~~30~~ 32 of Sect. 102 above.

Amend Article 18, Administration, Amendments, Violations and Penalties, Part 1, Administration, Sect. 18-106, Application and Zoning Compliance Letter Fees, by modifying Par. 5 to read as follows:

All appeals and applications as provided for in this Ordinance and requests for zoning compliance letters shall be accompanied by a filing fee in the amount to be determined by the following paragraphs unless otherwise waived by the Board for good cause shown; except that no fee shall be required where the applicant is the County of Fairfax or any agency, authority, commission or other body specifically created by the County, State or Federal Government. All fees shall be made payable to the County of Fairfax. Receipts therefore shall be issued in duplicate, one (1) copy of which receipt shall be maintained on file with the Department of Planning and Zoning.

5. Fees for food trucks, home occupations, sign permits and site plans shall be as specified in Articles 2, 10, 12 and 17, respectively.

Board Agenda Item
June 17, 2014

ACTION - 1

Approval of the Agreement Between the County of Fairfax and the Lorton Volunteer Fire Department

ISSUE:
Board approval of the Agreement between the County of Fairfax and the Lorton Volunteer Fire Department (LVFD). The Agreement provides for conveyance of the Lorton fire station and transfer of property at 7701 Armistead Road to the County. The Agreement also defines the financial commitment of the County and the LVFD, the process to design and construct a new County owned and operated fire station, and describes the administrative and operational relationships between the County and the LVFD.

RECOMMENDATION:
The County Executive recommends that the Board of Supervisors approve the Agreement and authorize the County Executive to sign the agreement.

TIMING:
Board of Supervisors approval is requested on June 17, 2014. Assuming the approval of the *FY 2014 Carryover Review*, it is anticipated that construction would begin in 2016 and be completed in early 2018.

BACKGROUND:
The Lorton Fire Station (Station 19), constructed in 1961 as a volunteer station, is one of the oldest in the County and needs to be replaced to continue to effectively serve the community and to meet future demand for emergency services. The Lorton Fire Station is staffed 24/7 by the Fairfax County Fire and Rescue Department (FRD) with supplemental support from the LVFD.

Systems and infrastructure in the existing volunteer station are well beyond the end of their useful life cycle. Based on the 2013 Lorton Fire Station Study conducted by JBP Engineers, P.C., numerous deficiencies were identified in the building subsystems including the HVAC and ventilation system, the electrical and plumbing systems, the roofing system, elevator, fire protection system, parking lot asphalt surface condition, and evidence of structural damage in the building was identified.

A larger replacement station on the existing site is needed to meet current operational space and functional requirements of the FRD. Four drive-through apparatus bays are necessary to accommodate standard-size County apparatus. None of the existing apparatus bays accommodate either a standard-size County engine or rescue unit. In addition, the station lacks flexibility to add additional apparatus as needed. A Foam Unit is required at the Lorton Fire Station to align the hazardous materials resources together as part of the HazMat response to incidents in the surrounding area. The Foam Unit will not fit in the existing station. The current women's accommodations are woefully inadequate and new bunk rooms, bathrooms, and locker rooms are needed to bring these facilities up to County standards. In the existing fire station, a kitchen pantry was converted into a two person female bunkroom which does not provide adequate space or direct access to the apparatus bays for quick response to emergency incidents. Many other areas of the current station do not meet FRD's operational space requirements such as the control room, office space, protective gear locker rooms, the gym/workout room, decontamination room, and general storage.

The location of the Lorton fire station is critical for access to I-95 and for responding to emergency incidents in the Lorton area. In CY2013, units from the Lorton fire station responded to over 3,160 incidents. A new larger station will address the need for additional emergency responders and units at the Lorton Fire and Rescue Station to improve response times to emergency incidents and meet future demand for services from the community. The Lorton area is one of the areas in Fairfax County that is projected to experience the highest population growth (over 500 persons per census tract). Population growth, changing demographics, and increased commercial development will increase the demand for emergency medical, fire suppression, and all hazards services.

The LVFD, recognizes the need for a new station, but is unable to solicit sufficient funds to cover the projected cost to construct their station. The Fire and Rescue Department, working closely with the LVFD and the Department of Public Works and Environmental Services (DPWES), determined that the most effective solution was to transfer ownership of the property to the County, demolish the current structure and build a new facility. The new facility will be owned and maintained by the County and provide sufficient administrative space for volunteer operations. The Agreement provides for a joint operation similar to current agreements with the Great Falls Volunteer Fire Department, the McLean Volunteer Fire Department, and the Fair Oaks Volunteer Fire and Rescue Company who are tenants in County owned facilities. The volunteers will continue to provide supplemental staffing and apparatus for the station.

FISCAL IMPACT:
Funding in the amount of $13 million is estimated for the design and construction of the new fire station and will include all construction phasing needed to maintain fire and rescue service throughout the construction of the new station. Funding is available from savings associated with renovations of various public safety facilities associated with the 2006 Public Safety Referendum. These savings are directly related to the favorable construction environment over the past several years. A reallocation of project savings to the Lorton Fire Station will be included in the *FY 2014 Carryover Review* once the Agreement has been executed. It should be noted that at the time that the Agreement was negotiated, three alternative County financing mechanisms were identified for design and construction of the Lorton Fire Station. These County financing mechanisms included a possible 2014 Public Safety General Obligation bond referendum, a possible 2016 Public Safety General Obligation bond referendum, or other funding identified at the discretion of the County Executive. Assuming the Board of Supervisor's approval of the *FY 2014 Carryover Review*, the savings noted above and realized as a result of the favorable construction market will allow for the Lorton Fire Station to be constructed within existing Public Safety General Obligation bond appropriations and future bond referenda will not be necessary to complete this project.

ENCLOSED DOCUMENTS:
Attachment 1 – Agreement Between the County of Fairfax and the Lorton Volunteer Fire Department.

STAFF:
Dave Rohrer, Deputy County Executive
Fire Chief Richard Bowers, Fire and Rescue Department
James Patteson, Department of Public Works and Environmental Services
John Burton, Office of the County Attorney

County of Fairfax, Virginia

MEMORANDUM

DATE: January 29, 2014

TO: Edward L. Long Jr.
County Executive

THROUGH: David M. Rohrer
Deputy County Executive

FROM: Fire Chief Richard Bowers
Fire and Rescue Department

SUBJECT: Agreement between the Board of Supervisors and the Lorton Volunteer Fire Department

Attached, please find the above mentioned Agreement which has been executed on behalf of the Lorton Volunteer Fire Department. Your signature is required on behalf of the Board of Supervisors. This will ratify the agreement and place it in full force and affect.

This Agreement should reside with the Fire and Rescue Department. Please return the original, signed document to me and direct any questions you may have to my office.

RRB/dfp

AGREEMENT BETWEEN THE BOARD OF SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA, AND THE LORTON VOLUNTEER FIRE DEPARTMENT

THIS AGREEMENT (the "Agreement") is made by and between Fairfax County, Virginia (the "County"), by its governing body, the Board of Supervisors of the County (the "Board"), and the Lorton Volunteer Fire Department, a Virginia not-for-profit corporation (the "VFD"), regarding the fire and rescue facilities on property currently owned by the VFD located 7701 Armistead Road, Lorton, Virginia, and identified as Fairfax County Tax Map Number 1074 04 0010 (the "Property").

WITNESSETH:

WHEREAS, the VFD is a non-stock, non-profit corporation duly organized and existing in good standing under the laws of the Commonwealth of Virginia, and it has full legal right, power, and authority to provide firefighting services as a volunteer fire department in the general area of the County known as Lorton and any other areas of the County as deemed necessary by the Fairfax County Fire and Rescue Department (the "Department"); and

WHEREAS, it is the established policy of the County to encourage volunteer fire and rescue services in the County and to foster the coordination of the efforts of volunteer fire departments with the operation of the Department; and

WHEREAS, the VFD has been providing fire and rescue services in the Lorton area of Fairfax County for approximately 58 years, and in 1961 the VFD constructed a fire station with related fire and rescue facilities (the "Existing Station") on the Property, and it has since been expanded two times; and

WHEREAS, the VFD continues to own and maintain the Existing Station, which houses not only the VFD but also units of the Department and in which the VFD and units of the Department share certain space; and

WHEREAS, located on the Property is a County fueling depot with underground tanks which services vehicles owned by the County; and

WHEREAS, in addition to providing firefighting services and maintenance of the Existing Station, the VFD purchases firefighting and emergency rescue apparatus ("Apparatus") for its use and the use of the Department, the replacement value of the Apparatus currently owned by the VFD being approximately $2,660,000; and

WHEREAS, it is the desire of the VFD and the County (the "Parties") that the VFD convey the Property to the County and that the County, in consultation with the VFD, maintain the Existing Station, and, at a future date to be mutually agreed by the Parties, construct a new fire station (the "Future Station") on the Property which the County would own and maintain and which would house units of the Department and the VFD and from which the VFD would continue to operate, provide fire and rescue services in the Lorton area of Fairfax County,

conduct fundraising activities including two (2) evenings of bingo a week, and purchase Apparatus for its use and the use of the Department; and

WHEREAS, it is the purpose of this Agreement to set out a procedure for the maintenance of the Existing Station and an arrangement under which the VFD would operate out of the Existing Station and Future Station.

NOW, THEREFORE, for and in consideration of the sum of Ten Dollars ($10.00), cash in hand paid, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

Section 1. Conveyance of the Property. Within ninety (90) days after the County secures funding for the Future Station, the VFD will convey all its right, title, and interest in the Property to the County by Deed of Gift or Quitclaim Deed. For the purposes of this Agreement, funding shall be secured if and when a bond referendum passes in the November 2014 election or the November 2016 election that provides funding to the County to construct the Future Station, or if the County obtains funding by any other means as determined by the Fairfax County Executive in his sole discretion. This Agreement shall terminate on November 30, 2016, and the Property shall not be conveyed if by that date the County has failed to secure funding to construct the Future Station. Prior to the conveyance the VFD shall remove or have removed from the Property all boats and vehicles currently stored there which are not owned or operated by the VFD or the Department.

Section 2. Condition of the Property. The VFD makes no representation or warranty as to the condition of the Existing Station or the Property, both of which shall be conveyed "as is".

Section 3. Maintenance of the Existing Station. After conveyance of the Property to the County by the VFD, the Existing Station and the Property shall be maintained in a condition by and at the expense of the County that meets the minimum standards for such a facility. The VFD shall continue to have exclusive use of its offices and shared use of the community hall that it currently occupies, including for fundraising activities. The County shall be responsible for undertaking the necessary minimum health and safety maintenance of the Existing Station required before the construction of the Future Station.

Section 4. Future Station. The County shall design, finance, construct on its own Property, own and maintain a Future Station that meets all applicable federal, state, and County requirements for such a facility, including the Fairfax County Fire Station Design Manual, and that is adequate for the purpose of providing fire and rescue services to the Lorton area by personnel of the Department and of the VFD. In addition to facilities for Department personnel and equipment, the Future Station shall include space to accommodate the VFD's operational, administrative, and fundraising needs, including office space, meeting space, living quarters, parking, and storage. The Future Station shall also include a community hall for shared use by the VFD for fundraising activities, meetings, and training and by the Department. Sections 25 and 26 below set out in more detail the space needs of the VFD and the understanding between the Parties as to their shared use of the Future Station.

Section 5. Design of the Future Station. The design of the Future Station shall be prepared by an architectural firm which is selected by the County in participation with the VFD as provided in Section 9, below. The design shall include space for the VFD's operational and administrative needs as defined in Section 25 below. When the design of the Future Station begins, the County will review the status of the Department and the VFD, including operations, administration, and fundraising, and will determine whether requirements to accommodate Department personnel or the VFD have changed, and if so, will propose appropriate amendments to the Agreement. If the Deputy County Executive for Public Safety determines that the VFD is hosting bingo at the time design begins, the design shall include the additional space defined in Section 26 below. For the purposes of this Agreement, design shall begin on the date of a contract award to an architectural firm to design the Future Station.

Section 6. Construction of the Future Station. After the Department, in participation with the VFD, has selected a design for the Future Station, the County shall put the design and specifications out to bid as provided for in the Fairfax County Purchasing Resolution.

Section 7. Financing of the Future Station. The design and construction of the Future Station and the temporary relocation of the VFD and the Department activities shall be undertaken at the County's sole cost.

Section 8. Interim Arrangements. During construction of the Future Station the County at its sole expense shall in participation with the VFD provide an interim site ("Interim Site") for a temporary fire station to house both the Department units and the VFD. The Interim Site shall have space for VFD operations, including office space, storage space, and adequate parking.

Section 9. Volunteer Participation. The VFD shall appoint a representative or not more than two (2) representatives who shall participate in the design and construction of the Future Station. The VFD representative(s) shall be deemed an agent of a governmental agency subject to the State and Local Government Conflict of Interests laws and regulations. The VFD shall be a full partner in all facets of the design and construction process, including the design reviews, construction planning and progress meetings, and the Parties will work together diligently and in good faith in fulfilling their respective obligations and duties under this Agreement.

Section 10. Dispute Resolution. The Deputy County Executive of Public Safety shall be the arbiter of any dispute between the Parties. However, the Parties acknowledge that they will endeavor to resolve any such disputes quickly and in an amicable manner.

Section 11. Operation and Maintenance of the Future Station. The County shall be responsible for operating and maintaining the Future Station. Use of the Future Station by the VFD will be in accordance with Department policies, practices, and procedures for the operation and maintenance of facilities jointly occupied by the Department and the VFD. Those areas designated solely as volunteer space will be under the administrative control of the VFD. The area designated as shared space in Section 25, paragraph B. will be under the joint administrative

control of the VFD and the County. The Department and the County shall endeavor to ensure the VFD's full use and enjoyment of the facilities.

Section 12. Other Use of the Subject Property. Any use of the Future Station for purposes other than for fire and rescue services in operational areas of the Property shall be consistent with Virginia law, Department policies, VFD standard operating procedures, and station policies. Operational areas include areas of the Future Station where fire and rescue vehicles or equipment, Department personnel, or personnel of the VFD are housed or based. Uses in support of the community are permitted subject to the above limitations.

Section 13. Standards and Requirements. As long as it remains in operation, the VFD shall meet and maintain the standards and requirements for a volunteer fire department established by Title 27 of the Code of Virginia, as it may be amended from time to time, and by Chapter 62 of the Fairfax County Code and other applicable County ordinances that may, from time to time, be adopted or amended and that are applicable to volunteer fire departments within the County. If the VFD ceases to meet the requirements of this Section, or otherwise ceases providing fire and rescue services to the Lorton area, it can be decertified, that is, no longer be authorized to operate as a volunteer fire department or provide any services related to or pertaining to fire and rescue operations, provided the VFD is first given written notice by the County of its failure to meet the requirements or to provide services and does not correct the failure within ninety (90) days.

Section 14. Operations of the VFD. As long as it remains in operation, the VFD shall continue to provide fire and rescue services under the direction of an integrated volunteer/career officer structure in accordance with the standard operating procedures of the Department. The administrative functions of the VFD shall continue to be governed by the policies and procedures of the VFD and by its Constitution and Bylaws.

Section 15. Liability of the County. No activity assumed or undertaken by the County pursuant to this Agreement shall make the County or any of its officers or employees responsible for any action, decision, policy, or practice of the VFD or for any action, decision, policy or practice of any officer, member, or employee of the VFD.

Section 16. Liability of the VFD. No activity assumed or undertaken by the VFD pursuant to this Agreement shall make the VFD responsible for any action, decision, policy or practice of the County or for any action, decision, policy or practice of any officer or employee of the County.

Section 17. Duration of Agreement; Termination and Notice. This Agreement shall exist and continue in force provided the following conditions continue to be met: (a) the VFD maintains the Existing Station in its current condition and state of repair until the point of conveyance, as provided in Section 1 of this Agreement; (b) the VFD exists as a properly constituted volunteer fire department; (c) the VFD meets the standards and requirements for volunteer fire departments set forth in Title 27 of the Code of Virginia and in County ordinances as provided by Section 13 of this Agreement. The County at its sole option may elect to terminate this Agreement if any one of these conditions is not met at any time. The County shall

provide written notice to the VFD of its intention to so terminate this Agreement, and for a period of 90 days following the receipt of such notice the VFD shall have an opportunity to cure any deficiencies. If the VFD cures those deficiencies within that 90-day cure period, then this Agreement shall not be terminated. Furthermore, if the deficiencies reasonably cannot be cured within the 90-day period, but the VFD has commenced and is continuing a diligent effort to cure the deficiencies, then without otherwise waiving its right to terminate, the County may extend the time within which the VFD may effect a cure of the deficiencies. In the event of decertification, the VFD shall not remove or dispose of any equipment or apparatus owned by the County.

Section 18. Administration of Agreement. Except as otherwise specifically provided by this Agreement, this Agreement shall be administered and enforced on behalf of the County by the County Executive or by the designated agent or agents of the County Executive. Except as otherwise specifically provided by this Agreement, this Agreement shall be administered and enforced on behalf of the VFD by the President of the VFD or by the designated agent or agents of the President of the VFD.

Section 19. Notice. All notices, requests, or other communications hereunder shall be in writing and may be transmitted by hand delivery with receipt therefore, or by certified or registered mail, return receipt requested and first-class postage prepaid, or by Federal Express or similar reputable overnight courier service, as follows:

To the County:	County Executive 12000 Government Center Parkway, Suite 552 Fairfax, Virginia 22035
With a copy to:	Fire Chief Fire and Rescue Department 4100 Chain Bridge Road Fairfax, Virginia 22030
To the VFD:	Lorton Volunteer Fire Department 7701 Armistead Road Lorton, VA 22079 Attention: President
With a copy to:	Sarah E. Hall Blankingship & Keith P.C. 4020 University Drive, Suite 300 Fairfax, Virginia 22030

Either Party may furnish to the other notice of a change of its address in accordance with this Section. Notice shall be deemed effective when delivered if hand-delivered or delivered by overnight courier, and three (3) business days after posting if mailed by certified or registered mail.

Section 20. Headings. The headings of the sections of this Agreement are intended merely as informative catchwords to indicate the contents of each section. Those headings shall not be construed to modify or amend the text of any section.

Section 21. Virginia Law. Virginia law shall govern this Agreement without regard to its choice of laws statutes.

Section 22. Effective Date. This Agreement shall become effective when it has been executed by the authorized representative of each Party.

Section 23. Original Copies. This Agreement shall be prepared and endorsed in one or more duplicate originals. Each Party shall have an original copy of this Agreement, and each original shall represent a valid and enforceable agreement.

Section 24. Insurance. After the conveyance of the Property to the County, the County shall maintain commercial property insurance on the Existing Station and, at such time as it may be constructed, the Future Station at full replacement value. The County shall continue to maintain insurance for County-owned and VFD-owned apparatus and portable equipment installed or stored in such apparatus. The VFD shall maintain general liability insurance of $1,000,000 per occurrence/aggregate to cover its operation. The VFD will have Fairfax County added as additional insured on this policy and provide a certificate of insurance to that effect. Except as provided for apparatus and portable equipment in this section, the VFD shall be responsible for its own property, will maintain appropriate insurance coverage for such property and the County shall have no obligation to insure and shall not be responsible in any way for personal property of the VFD.

Section 25. VFD Requirements for the Future Station. The Parties agree that the Future Station shall include, at a minimum, the following:

A. Volunteer Office Spaces, equipped with telephone, cable TV, and Internet connections as set forth below, for the exclusive use of the VFD and under the administrative control of the VFD as follows:

   i. Two (2) offices, each with work space to accommodate two desks and a small round table (160 square feet per office), to be used for VFD administrative and operational leadership. Combined, the offices shall have file storage equivalent to six (6) standard file cabinets.

   ii. One (1) office with work space to accommodate three desks (150 square feet), to be used as a common office by members of the VFD in the performance of their duties.

   iii. If the County determines that there is sufficient space within the site to accommodate additional square footage, additional office space for the VFD or an increase in the size of the offices indicated above will be considered.

B. A community hall of at least 2,000 square feet to be shared by the Department and the VFD. The VFD and the Department shall cooperate with each other in coordinating their shared use of the community hall. The VFD will use the community hall for membership meetings and the Department and VFD will use the community hall for training. The community hall shall be equipped with:

   i. Collapsible tables and stackable chairs.

   ii. Standard County telephone, cable TV, and data connections.

   iii. A ceiling-mounted projector and recessed retractable projection screen.

   iv. Audio/visual equipment to support microphones, amplified audio, and video projection of computer, TV, and current state of the art audio/visual sources (such as DVD, Blu-ray, etc.).

C. Adequate secure storage space (approximately 80 square feet) for the exclusive use of and under the administrative control of the VFD, to be used for VFD operational equipment and supplies. The storage space may be located in shared storage space in or adjacent to the apparatus bays or other shared storage spaces included in the County's standard fire station design program, provided that the storage space may be secured by means of locking cabinets, cages, or an equivalent mechanism.

D. Access to and shared use of a photocopier provided and maintained by the County for general VFD use.

E. Adequate mailboxes for VFD membership equivalent to and located in the same place as mailboxes for Department personnel.

F. Sufficient bunk space to accommodate not only Department personnel but also eight members of the VFD at any one time.

G. Wall space and a display case under the control of the VFD for displaying memorabilia relating to the history and contributions of the VFD.

H. A refrigerator and a cabinet in the kitchen for the exclusive use of VFD members.

I. Twelve ready gear lockers for the exclusive use of VFD members, which will include 6 full size gear lockers for suppression personnel and 6 half size gear lockers for EMS personnel. In addition, personal locker space for the exclusive use of the VFD members, which shall not be fewer than 5 female lockers and 5 male lockers in the locker rooms.

J. Four apparatus bays to accommodate Department and VFD-owned equipment and apparatus.

K. The following dedicated telephone lines shall be provided for VFD use:

i. One general telephone line available from all telephones in Volunteer Office Spaces in addition to access to County-dedicated lines.
ii. One fax line
iii. One fundraising information line
iv. One line to support a VFD-supplied automated teller machine (ATM) in the community hall.

L. A message sign for use by the VFD and the Department for public service and similar announcements and a clearly visible ADA compliant sign which says, in equal sized, centered lettering:

Fairfax County Fire and Rescue Station #19
Lorton Volunteer Fire Department

M. A wireless network for VFD members to use with VFD-owned and personally-owned computers for Internet access with coverage including, at least, VFD office spaces, the kitchen and dining area, the dayroom, and the community hall. The VFD will be responsible for the cost of providing any wireless equipment and the Internet service, and the County will include data cabling infrastructure to provide wireless network coverage in the areas indicated.

N. Installation of a VFD-supplied drop box in the parking lot for collection of retired flags for proper and respectful disposal.

O. The VFD will be responsible for purchasing, maintaining, and meeting all regulatory requirements related to fundraising equipment and supplies.

Section 26. Additional VFD Requirements for Bingo. The parties agree that if the County determines that the VFD is hosting bingo at the time design begins, the Future Station shall include the following in addition to the requirements of Section 25:

A. One (1) office, with work space to accommodate two desks, to be used for VFD fundraising management. The office shall have two (2) standard file cabinets. This office should be located in close proximity to the community hall.

B. A suitable location to securely install a VFD-supplied automated teller machine in the community hall to support fundraising activities.

C. A service kitchen to support VFD fundraising and the community hall, accessible to the community hall through a service counter with a rollup window, equipped with:

i. A heavy duty stove with oven
ii. A large refrigerator

iii. A deep fryer
iv. An ice machine
v. A food heating/warming station
vi. A food preparation table
vii. A dishwasher
viii. A large sink with a garbage disposal
ix. Adequate pantry storage
x. An exhaust system appropriate for the cooking appliances to be installed
xi. A freestanding freezer

D. Adequate secure storage space for the exclusive use of and under the administrative control of the VFD, to be used for storage of VFD fundraising equipment and supplies. This storage space should be located in close proximity to the community hall and, preferably, accessible to the community hall through service counters with rollup windows.

E A suitable secure location (preferably the VFD fundraising management office or the VFD fundraising storage space) for the installation of a large VFD-supplied safe.

F. An additional 1,200 square feet of space for the community hall identified in Section 25, paragraph B. The VFD will use the community hall for fundraising activities, including bingo two (2) evenings a week.

G. Adequate space for a photocopier provided and maintained by the VFD for use supporting fundraising activities, preferably in the VFD fundraising management office, the VFD fundraising storage space, or the VFD fundraising administrative space.

H. The County shall have no obligation to purchase any furnishings or equipment other than as stated herein.

BOARD OF SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA

By: _____ _____

Edward L. Long, Jr., County Executive Date
Fairfax County, Virginia

COMMONWEALTH OF VIRGINIA
COUNTY OF FAIRFAX, to-wit:

Subscribed and sworn to before me a Notary Public in the Commonwealth and County aforesaid this _____ day of _____, 2013.

_____
Notary Public

My Commission Expires: _____

Registration Number: _____

LORTON VOLUNTEER FIRE DEPARTMENT

By: _____
Michael Snow, President
Lorton Volunteer Fire Department

22 January 2014
Date

COMMONWEALTH OF VIRGINIA
COUNTY OF FAIRFAX, to-wit:

Subscribed and sworn to before me a Notary Public in the Commonwealth and County aforesaid this 22nd day of January, 2014.

_____
Notary Public

Diana J. Looney
NOTARY PUBLIC
Commonwealth of Virginia
Reg. # 179672
My Commission Expires 6/30/2014

My Commission Expires: 6/30/2014

Registration Number: 179672

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Board Agenda Item
June 17, 2014

ACTION - 2

Approval of the Department of Transportation's (FCDOT) Fare Equity Analysis for Fairfax Connector Fare Increase

ISSUE:
Recipients of federal financial assistance (e.g., states, local governments, transit providers) are subject to Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) and the United States Department of Transportation's (USDOT) implementing regulations. Recipients must maintain a valid Title VI Plan that demonstrates how the recipient is complying with Title VI requirements, including prohibiting discrimination on the basis of race, color, or national origin.

RECOMMENDATION:
The County Executive recommends that the Board of Supervisors approve FCDOT's Fare Equity Analysis for the proposed FY 2015 Fairfax Connector fare increase which resulted in no disparate impacts on minority populations or disproportionate burdens on low-income populations (Attachment I – Fairfax Connector Title VI Fare Equity Analysis For July 2014 Fare Changes).

TIMING:
The Board of Supervisors is requested to act on this item on June 17, 2014, so that FCDOT can implement the proposed fare increases on July 1, 2014.

BACKGROUND:
The Board of Supervisors approved FCDOT's Interim Title VI Plan on January 28, 2014. FCDOT's Interim Title VI Plan prohibits discrimination on the basis of race, color, or national origin. Although not directly prohibited by Title VI, preventing discrimination on the basis of economic status is also a Title VI Plan[1] requirement. As part of FCDOT's efforts to develop a full Title VI Plan, the Board approved a Major Service Change, Disparate Impact, and Disproportionate Burden policy on April 29, 2014. The Major Service Change, Disparate Impact, and Disproportionate Burden policy requires additional Board approval of a Fare Equity Analysis for any proposed fare increase for Fairfax Connector services. Some Fairfax Connector fares are scheduled to increase

[1] *See* Executive Order 12898, Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations, signed by President Clinton on February 11, 1994.

on July 1, 2014, in concert with fare increases being implemented by the Washington Metropolitan Area Transit Authority. The FTA Circular requires the fare analysis include the following elements:

- An analysis of the usage of each fare medium and fare level generated from ridership surveys indicating whether minority and/or low-income riders are disproportionately more likely to use the mode of service, payment type, or fare media that would be subject to the fare increase or decrease;
- The number and percent of users of each fare media proposed for increase or decrease, including a profile of fare usage by group—minority, low-income, and overall ridership;
- For each fare medium and fare level, a table comparing the existing cost, the percent change, and the usage of minority groups as compared to overall usage and of low-income groups as compared to overall usage;
- Whether changes on a particular fare medium may lead to a disparate impact or disproportionate burden;
- Whether vendors that distribute/sell the fare media are located in areas that are convenient to impacted populations;
- If it is determined that a disparate impact exists, an analysis of modifying the proposal to mitigate impacts;
- If it is determined that a disparate impact exists and the agency will make the fare changes despite these impacts, an analysis that demonstrates a substantial legitimate justification for the proposed fare changes, including an analysis of alternatives to determine whether the proposed fare changes are the least discriminatory alternative; and
- If a disparate impact or a disproportionate burden is identified, an exploration of alternatives and mitigation strategies, including the timing of implementing the fare increases, providing discounts on passes to social service agencies that serve the impacted populations, and other alternatives as appropriate.

FCDOT's analysis of these items is included in Attachment I. No disparate impact or disproportionate burden was identified by the analysis.

FISCAL IMPACT:

The result of this fare equity analysis is that Fairfax County remains in compliance with Title VI, which allows Fairfax County to make the fare change on July 1, 2014, and to be eligible to receive future FTA grant and other USDOT funding, including Transportation Infrastructure Finance and Innovation Act (TIFIA) funding for the Silver Line. This funding is approximately $403 million.

Board Agenda Item
June 17, 2014

ENCLOSED DOCUMENTS:
Attachment I: Fairfax Connector Title VI Fare Equity Analysis For July 2014 Fare Changes

STAFF:
Robert A. Stalzer, Deputy County Executive
Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)
Dwayne Pelfrey, Director, Transit Services Division, FCDOT
Randy White, Countywide Transit Services Coordinator, FCDOT
Todd Wigglesworth, Acting Chief, Coordination and Funding Division, FCDOT
Brent Riddle, Coordination and Funding Division, FCDOT
Patricia McCay, Assistant County Attorney

Attachment I

Fairfax Connector
Title VI Fare Equity Analysis
For July 2014 Fare Changes

Requirement for a Fare Equity Analysis

The analysis was conducted in accordance with FTA Circular 4702.1B, *Title VI Requirements and Guidelines for Federal Transit Administration Recipients*. The Circular requires, under Title VI of the Civil Rights Act of 1964, that the Fairfax County Department of Transportation (FCDOT) undertake an evaluation of any proposed fare change to determine whether it has a discriminatory impact on Title VI protected minority populations or on low-income populations. The requirement applies to any and all fare media and fare level changes, whether increases or decreases, and applies to any transit operator with at least 50 vehicles in peak service.

The analysis is to be completed and approved by the operator's governing board during the planning stage, before the change is implemented, but is not submitted to FTA until the next Title VI Plan update submission is due. In summary, the FTA Circular states that the analysis should include:

- A statement of the agency's "disparate impact" and "disproportionate burden" policies and how the public was engaged in developing the policies.
- An analysis of the usage of each fare medium and fare level generated from ridership surveys indicating whether minority and/or low-income riders are disproportionately more likely to use the mode of service, payment type, or fare media that would be subject to the fare increase or decrease.
- The number and percent of users of each fare media proposed for increase or decrease including a profile of fare usage by group - minority, low-income, and overall ridership - in table format.
- For each fare medium and fare level, a table comparing the existing cost, the percent change, and the usage of minority groups as compared to overall usage and of low-income groups as compared to overall usage.
- Whether focusing changes on a particular fare medium may lead to a disparate impact or disproportionate burden.
- Whether vendors that distribute/sell the fare media are located in areas that would be convenient to impacted populations.
- An analysis of modifying the proposal to remove the impacts, if it is determined that a disparate impact exists.
- An analysis that demonstrates that there is a substantial legitimate justification for the proposed fare changes, including an analysis of alternatives to determine whether the proposed fare changes are the least discriminatory alternative, if it is determined that a disparate impact exists and the agency will make the fare changes despite these impacts.
- A documented exploration of alternatives and mitigation, including the timing of implementing the fare increases, providing discounts on passes to social service agencies that serve the impacted populations, and other alternatives as appropriate, if a disparate impact or a disproportionate burden is identified.

Relevant Fairfax County Title VI Program Elements

The FTA Circular requires that FCDOT establish policies for what constitutes a disparate impact and a disproportionate burden for use in service equity and fare equity analyses. FCDOT has adopted the following policies which were approved by the Fairfax County Board of Supervisors on April 29, 2014:

> *A **disparate impact** occurs when the difference between the system wide percentage of minority riders and the percentage of minority riders affected by a proposed service change or fare change is 10 percent or greater.*
>
> *A **disproportionate burden** occurs when the difference between the system-wide percentage of low-income riders and the percentage of low-income riders affected by a proposed service change or fare change is 10 percent or greater.*

To determine whether a fare change will cause a disparate impact, the percentage of the minority population served by Fairfax Connector using a particular fare medium and fare level is to be compared to the percentage of the total population served by Fairfax Connector using that fare medium and fare level. If the percentage of minority users using a particular fare medium and fare level exceeds the percentage of overall users by at least ten percent, then the change in fares for that fare medium and fare level must be examined. A disparate impact then occurs if the increase for that fare medium and fare level exceeds that for other media and levels. Minority riders were defined as any person identifying themselves as Latino or indicating a race of anything other than white on the survey.

To determine whether a fare change will cause a disproportionate burden, a similar process is used comparing the percentage of the low income population served by Fairfax Connector using a particular fare medium and fare level. The definition for low-income households to be used is all households below 50 percent of the County median income - currently households with an income of $53,650 or less. This is the same definition used by the Fairfax County Department of Housing and Community Development. Low income riders were defined as any person reporting a household income of $50,000 or less (the survey used income categories in $10,000 increments).

Description and Rationale for the Fare Change

FCDOT is proposing to equalize the cash and SmarTrip smart card fares for all Fairfax Connector services. This would increase fares for users of the SmarTrip smart card while maintaining or lowering cash fares. Local bus regular SmarTrip fares would increase 15 cents (9%) while most express bus SmarTrip fares would increase by 35 cents (10%). Senior/disabled SmarTrip fares would increase by 5 cents (6%) for local bus routes and 20 cents (11%) for most express bus routes. The only SmarTrip fare that would not increase would be the fare on the most expensive express services, Routes 595 and 597. Cash fares on local bus routes would *decrease* by 5 cents for all riders, while cash fares on all express bus routes would be unchanged. These changes are shown below in Table 1.

Table 1: Proposed Fare Changes

Fare Category			Fares		
Service Type	**Customer Type**	**Fare Medium**	**Current**	**Proposed**	**Percent Change**
Local Bus	Regular	SmarTrip	$1.60	$1.75	+9%
Local Bus	Regular	Cash	$1.80	$1.75	-3%
Local Bus	Senior/Disabled	SmarTrip	$0.80	$0.85	+6%
Local Bus	Senior/Disabled	Cash	$0.90	$0.85	-6%
Express Bus	Regular	SmarTrip	$3.65	$4.00	+10%
Express Bus	Regular	Cash	$4.00	$4.00	0%
Express Bus	Senior/Disabled	SmarTrip	$1.80	$2.00	+11%
Express Bus	Senior/Disabled	Cash	$2.00	$2.00	0%
Routes 595/597	Regular	SmarTrip	$7.50	$7.50	0%
Routes 595/597	Regular	Cash	$7.50	$7.50	0%

FCDOT chose to propose a fare change for several reasons. First, an increase will help to defray the increasing cost of providing Fairfax Connector bus service to its riders. Second, the Connector participates as a regional partner with the Washington Metropolitan Area Transit Authority (WMATA) in the use of the SmarTrip pre-paid fare card. The proposed Connector fare changes for local and express bus service match those proposed for similar WMATA Metrobus service in Fairfax County and the rest of the region.

Utilization of Survey Data for the Fare Equity Analysis

The FTA Circular requires that a transit operator use rider survey data that is no more than five years old to ascertain the percentage of users of each fare level and fare medium who are members of Title VI minority and low income protected classes.

FCDOT is currently undertaking a survey of riders on all Fairfax Connector services. The survey of riders on most of the South and West service division routes was completed in the fall of 2013. The County intended to complete the survey of remaining routes in the spring of 2014, after implementation of the planned restructuring of service around the opening of the Metrorail Silver Line Phase 1, originally scheduled for December 2013. With the delay of the Silver Line opening until the Summer 2014, the remaining portion of the rider survey, which consists largely of North Division routes, has been postponed until the Fall 2014.

The survey instrument was designed to support the Title VI analyses required by the FTA Circular. It includes questions on the fare paid, household income, English proficiency, race and Latino origin, as well as questions on trip origin/destination, frequency of use, availability of travel alternatives, opinions of service and other topics. Surveys were distributed to all passengers on the equivalent of one weekday, one Saturday and one Sunday of service on all routes surveyed to date.

FCDOT completed a similar survey in 2008 that covered all Fairfax Connector routes. While having more universal coverage than the more current survey, this survey is now six years old and therefore,

according to the FTA Circular, it is too old to be used for the Fare Equity Analysis. Nevertheless, it provides a useful comparison between the part of the service area that was surveyed in 2013 and the part yet to be surveyed in 2014.

Table 2 shows a comparison of South County and North County ridership from the 2008 survey; much of the West County service was operated in somewhat different form by Metrobus in 2008, and was not surveyed to the same level). Comparing the two groups of routes, minorities and low income riders comprised a somewhat smaller percentage of North County riders than they did of South County riders. SmarTrip usage in the north was slightly more prevalent among all riders and among minority riders, but lower than in the south among low income riders. Therefore, based on this 2008 survey, it should be reasonable to conclude that today, North County riders differ only slightly from South County riders, consisting of a slightly lower concentration of protected groups, and having a slightly greater propensity to use SmarTrip, except among low income riders.

Table 2: Comparison of South and North County Ridership - 2008 Survey

		South	North
Percent Low Income		58%	47%
Percent Minority		66%	62%
Percent Using SmarTrip	All Riders	35%	42%
	Low Income	29%	25%
	Minority	31%	36%

To develop current systemwide estimates of ridership by fare category for low income, minority, and all riders, the 2013 survey data was used as the basis. Survey responses at the route level were factored up to observed weekday, Saturday and Sunday daily ridership totals. The daily totals were then combined to produce an average weekly total, assuming five weekdays, a Saturday and a Sunday. Surveyed routes were then grouped by service type (express or local), and the service type totals were then factored up to current observed system wide (including North County) ridership totals for each service type. For express Routes 595 and 597 (which are North County routes and therefore there is no current survey for this service type), the express bus percentage distribution of ridership by customer type and fare media was applied to current observed ridership. Finally, the 3.5% of ridership using fare media issued by other agencies whose pricing is beyond the control of FCDOT was excluded from the analysis. Table 3 shows the resulting ridership data by fare category for low income, minority, and all riders.

Table 3: Ridership by Fare Category for Low Income, Minority and All Riders

Fare Category			Estimated Weekly Trips		
Service	**Customer Type**	**Fare Media**	**Overall***	**Low Income**	**Minority**
Local Bus	Regular	SmarTrip	179,837	83,573	91,315
Local Bus	Regular	Cash	12,386	7,988	5,149
Local Bus	Senior/Disabled	SmarTrip	5,740	2,980	1,841
Local Bus	Senior/Disabled	Cash	243	165	80
Express Bus	Regular	SmarTrip	2,466	28	596
Express Bus	Regular	Cash	0	0	0
Express Bus	Senior/Disabled	SmarTrip	89	0	18
Express Bus	Senior/Disabled	Cash	0	0	0
Routes 595/597	Regular	SmarTrip	1,965	23	475
Routes 595/597	Regular	Cash	0	0	0
TOTAL			202,725	94,758	99,473

* FY2013 ridership total excludes the 3.5% of riders using fare types not issued by Fairfax County, including VRE, MARC, DASH, and Regional Bus passes.

Profile of Fare Usage and Fare Changes by Group

Table 4 shows the percentage of low income, minority and all riders using each fare category alongside the fare changes proposed. It is clear from the table that the vast majority of all riders and riders in protected groups pay a regular fare on a local route using a SmarTrip card. Nearly 94% of all riders use SmarTrip. The figure is 91% for low income riders and 95% for minorities. That shows a dramatic increase from 2008 and little difference between groups. The use of 2013 survey data that excludes the North County may actually underrepresent SmarTrip use since the North County riders showed a greater tendency to use SmarTrip in 2008. Therefore, it would be safe to note that the fare categories that would increase (which are all the SmarTrip fare categories) are used by the vast majority of riders of all groups.

The first step in the determination of whether disparate impacts or disproportionate burdens exist is to compare the percent utilization of each fare category by the protected groups to the percent utilization among all riders. The final two columns in Table 4 show the difference between the percent utilization by all riders and the percent utilization by minorities and by low income persons.

The disparate impact analysis of the data in Table 4 shows that utilization of the various fare categories by minority riders ranges between 1.0% below and 3.1% above the utilization of the same fare category by all riders. The County's policy threshold to establish the potential for a disparate impact is triggered when utilization of any fare category by minority riders exceeds utilization of that same fare category by all riders by at least 10%. Therefore, no disparate impacts exist for the proposed fare changes.

The disproportionate burden analysis of the data in Table 4 shows that utilization of the various fare media by low-income riders ranges between 1.2% below and 2.3% above the utilization of the same fare category by all riders. The County's policy threshold to establish the potential for a disproportionate

burden is triggered when utilization of any fare category by low-income riders exceeds utilization of that same fare category by all riders by at least 10%. Therefore, no disproportionate burdens exist for the proposed fare changes.

Table 4: Percent of Ridership by Fare Category for Low Income, Minority and All Riders

Fare Category			Fares			Distribution			Difference	
Service	**Customer Type**	**Fare Media**	**Current**	**Proposed**	**Percent change**	**Overall**	**Low Income**	**Minority**	**Low Income**	**Minority**
Local	Regular	SmarTrip	$1.60	$1.75	9%	88.7%	88.2%	91.8%	-0.5%	+3.1%
Local	Regular	Cash	$1.80	$1.75	-3%	6.1%	8.4%	5.2%	+2.3%	-0.9%
Local	Senior/ Disabled	SmarTrip	$0.80	$0.85	6%	2.8%	3.1%	1.9%	+0.3%	-1.0%
Local	Senior/ Disabled	Cash	$0.90	$0.85	-6%	0.1%	0.2%	0.1%	+0.1%	0.0%
Express	Regular	SmarTrip	$3.65	$4.00	10%	1.2%	0.0%	0.6%	-1.2%	-0.6%
Express	Regular	Cash	$4.00	$4.00	0%	0.0%	0.0%	0.0%	0.0%	0.0%
Express	Senior/ Disabled	SmarTrip	$1.80	$2.00	11%	0.0%	0.0%	0.0%	0.0%	0.0%
Express	Senior/ Disabled	Cash	$2.00	$2.00	0%	0.0%	0.0%	0.0%	0.0%	0.0%
595/597	Regular	SmarTrip	$7.50	$7.50	0%	1.0%	0.0%	0.5%	-0.9%	-0.5%
595/597	Regular	Cash	$7.50	$7.50	0%	0.0%	0.0%	0.0%	0.0%	0.0%
TOTAL						100.0%	100.0%	100.0%	0.0%	0.0%

If any of the categories had shown differences of 10% or more, the relative differences in the percent of the fare increase would have to be examined to note whether those categories with a difference of 10% or more would have larger fare increases.

Findings

FCDOT is proposing to equalize fares for SmarTrip and cash paying riders by increasing fares for Smartrip use to match cash fares, with a small reduction in cash fares for local bus riders. The analysis of the available recent survey data, expanded to match observed ridership, shows that utilization of the various fare media and fare levels among minority and low income riders does not differ substantially from that of the overall ridership. **In summary, the finding of this analysis is that the proposed fare change would not result in disparate impacts on minority populations or disproportionate burdens on low income riders.** Given this finding, no further examination of alternatives is required by the FTA Title VI Circular.

Board Agenda Item
June 17, 2014

ACTION - 3

Authorization of a Fall 2014 Transportation Bond Referendum

ISSUE:
Board authorization for a transportation bond referendum in the amount of $100 million on November 4, 2014. These bond funds, if approved, could be used to construct and deliver new transportation projects throughout the County.

RECOMMENDATION:
The County Executive recommends that the Board:

1. Adopt the proposed resolution (Attachment I) directing the County Attorney to petition the Circuit Court to schedule a transportation bond referendum on November 4, 2014;

2. Approve a list of projects (Attachment II) that may be funded with the 2014 transportation bond funds; and

3. Authorize the preparation and distribution of an informational pamphlet about the bonds that is mailed to all county households.

TIMING:
Board authorization is requested on June 17, 2014, to direct the County Attorney to petition the Circuit Court to order the special election and to provide sufficient time for staff to prepare for the special election and provide information to the public. Attachment III is the proposed Fall 2014 Bond Referendum Schedule. Staff will return to the Board with a Board Administrative Item on September 9, 2014, for authorization to print and distribute an explanatory bond referendum statement (known as the “Plain English Statement”).

BACKGROUND:
On July 10, 2012, the Board approved its third Four-Year Plan (FY 2013 – FY 2016) for Transportation which included a proposed bond referendum for Fall 2014. This referendum has also been included in the County’s Capital Improvement Program (CIP), and reflected in bond capacity analysis for the past several years. Staff has identified Spot Roadway Improvements, and Bicycle and Pedestrian projects that may be implemented using the 2014 transportation bond referendum funds (Attachment II). In addition to projects included in the current Four-Year Plan, the proposed bond referendum contains projects that were included in the Countywide Dialogue on

Transportation (CDOT) and represent the County's priorities for Spot Roadway Improvements, and Bicycle and Pedestrian projects.

On January 28, 2014, the Board approved its transportation priorities for the next six years (Attachment IV). This list of priorities was the result of the CDOT effort and continued Board input. The six-year transportation priorities provide direction to staff as to how transportation revenues should be allocated through FY 2020. The tables below show the distribution of over $1.4 billion in anticipated funding by project category, including projects that were approved for additional funding.

Description	Amount ($millions)	Percent of Total
Interchanges	$ 195.0	15.0%
Roadway Extensions	115.3	8.8%
Spot Roadway Improvements	66.0	5.1%
Roadway Widenings	381.3	29.4%
Transit Capital/Operating	326.8	25.2%
Bicycle and Pedestrian Projects	204.0	15.7%
Reserve for Capital Projects	10.0	0.8%
Subtotal	**$1,298.4**	**100.0%**

In addition to the $1.3 billion in projects above, the Board also included funding for previously approved projects that need additional resources in the project priorities approved on January 28, 2014.

Description	Amount ($millions)
Interchanges/Extensions/Widenings/Spot Improvements	$68.60
Transit Capital/Operating	$60.98
Bicycle and Pedestrian Projects	$ 3.00
Subtotal	**$132.58**
Total	**$1,430.98**

The $100 million bond referendum is one of many funding sources identified to fund over $1.4 billion in transportation priorities over the next six years. Since other sources of revenue are more suited to the implementation of major roadway and transit projects, staff is not recommending the use of general obligation bond funds for these projects. In addition, the use of bond funds for spot roadway, bicycle and pedestrian projects allows these projects to be implemented as efficiently as possible, since general obligation bonds are the most flexible source of revenue. None of the projects previously approved by the Board as part of the Four-Year Program, and originally proposed to be funded by the 2014 bond referendum, are being delayed by the proposed change in funding source.

The project priorities approved by the Board included over $200 million in funding for bicycle and pedestrian projects. Since most transportation funding sources have many and varying constraints, there are few resources available for bicycle and pedestrian projects. For example, HB 2313 regional and local funding is not well suited for most bicycle and pedestrian projects, due to its restrictions. Currently, the Commercial and Industrial (C&I) Tax fund, bond funds, and some federal sources are the most flexible revenues available for bicycle and pedestrian projects. However, C&I revenues are committed to transit operations, debt service, and other roadway projects, and federal grants available for bicycle and pedestrian projects are nominal. Additionally, the use of federal funds for bicycle and pedestrian projects makes these projects more complicated and expensive to implement. The 2014 transportation bond referendum funds are important to ensuring spot roadway improvements and bicycle and pedestrian project priorities are fully funded.

Projects proposed to be funded by the 2014 bond were selected based on several criteria including: providing facilities along major roadways, arterials and collectors; connectivity to Fairfax County Public Schools, major or local activity centers and transit facilities; eliminating barriers to pedestrian/bicycle connectivity; feedback from the Board and citizens; and countywide balance. All criteria were included in the Cost Benefit Analysis (CBA) conducted on most of the projects that was presented to the public during CDOT public outreach efforts. Although countywide balance has not been fully achieved in the list of projects proposed to be funded by the 2014 bond referendum, overall countywide balance is realized in the aggregate of the six-year transportation priorities, not by individual sources of revenue.

In 2014, bicycle and pedestrian trips represent 9.3 percent of all trips in Fairfax County. This number is expected to grow to 12.3 percent of all trips (a 32 percent increase by 2040).

The Virginia Department of Transportation's (VDOT) draft Six-Year Improvement Plan (SYIP) was released on April 16, 2014, and indicates no new funding available for the Secondary Road Program. The previously adopted SYIP noted funds flowing into the Secondary Road Program starting in FY2017, but updated revenue projections have delayed the funding of this program until after 2020. Staff had originally planned to utilize SYIP Secondary Road funds for the implementation of some Spot Roadway Improvement projects (included in Attachment II). However, as no funding is available from this source, some of these projects have been included in the proposed list of bond-funded projects.

It is important to note that while the project list represents the current proposal regarding what projects to fund, the ballot question will be written more generally, to allow the Board flexibility as to precisely which projects to fund with the bond proceeds. The attached project list includes a large number of relatively small projects. Should circumstances change the scope of or the need for any of the listed projects, the Board

may use the bond proceeds for similar projects, so long as the projects are within the uses described in the ballot question.

The start dates for projects will be staggered to balance the project workload with implementation resources. Start dates will allow projects which can be completed most easily and offer the greatest impact on delivery, to be initiated immediately, followed by the projects that will be more complex to deliver due to design, land acquisition, utility, or other considerations.

As part of the public information outreach process, Department of Transportation staff will identify bicycle and pedestrian projects in the proposed list of bond funded projects that improve access to schools and Metrorail stations, and provide this information in materials provided to the public. As most roadway projects include a pedestrian and/or bicycle component, the list of total pedestrian and bicycle improvements included in the Board's six-year transportation priorities exceeds those specifically included in the bike and pedestrian section of the Board's transportation priorities. At the next Board Transportation Committee meeting, staff will provide for the Board a list of those roadway improvements that include bicycle and pedestrian facilities.

Public Information Materials

To help inform the public about the referendum, the Office of Public Affairs traditionally prepares and distributes an informational pamphlet that is mailed to all county households. The Board is asked to authorize this pamphlet's development and distribution.

The pamphlet will describe the intended use for the bond funds, as well as offer information on bond financing, the cost of borrowing, the effect of borrowing on the tax rate, and other financial information. A copy of the pamphlet used in 2012 is attached for reference (Attachment V).

Virginia law does not permit local governments to use the list of registered voters to provide information to voters on referendums, although it does permit parties and candidates to use the list. Therefore, the county will use a commercial mailing firm to deliver the pamphlet to all county households in October.

As in the past, the pamphlet will be translated into the most widely spoken non-English languages in the county, including Korean, Spanish, and Vietnamese. As required by Section 203 of the Voting Rights Act of 1965, as amended, and the 2011 designation of the Director of the Bureau of the Census, the County will provide all election information in Spanish, as well as in English.

Both the English and non-English language versions of the pamphlet will be posted on the county's Web site and distributed at county facilities. However, only the English language version of the pamphlet will be mailed to county households.

The Office of Public Affairs also will work with the Department of Transportation to provide information to the media, publish information in print and electronic newsletters,

outreach to residents, post information online and use social media sites, including blogs, Twitter and Facebook.

FISCAL IMPACT:
The bonds are expected to be sold according to actual cash requirements over the next several years as part of the County's annual general obligation bond sales. Financing costs associated with the Transportation Bond Referendum have been incorporated into the County's long term debt ratio projections, and are referenced in the FY 2015-FY 2019 Capital Improvement Program.

The Office of Public Affairs will pay for printing, translating and mailing the informational pamphlet out of its existing budget.

ENCLOSED DOCUMENTS:
Attachment I: Bond Resolution for Transportation Projects
Attachment II: Proposed Projects for 2014 Bond Referendum
Attachment III: Proposed Fall 2014 Bond Referendum Schedule
Attachment IV: Board of Supervisors Transportation Priorities (FY 2015 – FY 2020)
Attachment V: 2012 Bond Information Pamphlet

STAFF:
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Susan Datta, Chief Financial Officer
Joe LaHait, County Debt Coordinator, Department of Management and Budget
Tony Castrilli, Office of Public Affairs
Erin C. Ward, Office of the County Attorney
Todd Wigglesworth, Acting Chief, Coordination and Funding Division, FCDOT
Ray Johnson, Transportation Planner, Coordination and Funding Division, FCDOT

Attachment I

Resolution to Request the Fairfax County Circuit Court to Order a Referendum on the Question of Whether Fairfax County, Virginia, Should be Authorized to Contract a Debt, Borrow Money, and Issue Bonds in the Maximum Aggregate Principal Amount of $100,000,000 to Finance the Cost of Transportation Improvements and Facilities

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board auditorium in the Government Center at 12000 Government Center Parkway, Fairfax, Virginia on June 17, 2014, at which meeting a quorum was present and voting, the following resolution was adopted by roll call:

WHEREAS, the Board of Supervisors of Fairfax County, Virginia (the "Board of Supervisors"), has determined that funds in an amount not to exceed $100,000,000 should be provided to finance the cost of constructing, reconstructing, improving and acquiring transportation facilities, including improvements to primary and secondary State highways, improvements related to transit, improvements for pedestrians and bicycles, and ancillary related improvements and facilities (collectively "Transportation Improvements and Facilities"); and

WHEREAS, the Board of Supervisors has determined that the Transportation Improvements and Facilities cannot be provided from current revenues; and

WHEREAS, the Board of Supervisors has determined that for the purpose of providing funds, with any other available funds, to finance the cost of Transportation Improvements and Facilities, Fairfax County should contract a debt, borrow money, and issue bonds, in addition to the bonds previously authorized for transportation improvements and facilities and any other available funds, in the maximum aggregate principal amount of $100,000,000; and

WHEREAS, Virginia Code §§ 15.2-2610, 15.2-2611, and 24.2-684 provide the Fairfax County Circuit Court with the authority to issue an order for the conduct of a referendum on the question of approving such bonds; now therefore, be it

RESOLVED by the Board of Supervisors of Fairfax County, Virginia, that the Circuit Court of Fairfax County, Virginia, is hereby requested to order a referendum on November 4, 2014, on the question of whether the Board of Supervisors shall contract a debt, borrow money and issue bonds of Fairfax County, Virginia, in addition to bonds previously authorized for transportation improvements and facilities, in the maximum aggregate principal amount of $100,000,000 for the purpose of providing funds to finance the cost of constructing, reconstructing, improving and acquiring transportation facilities, including improvements to primary and secondary State highways, improvements related to transit, improvements for pedestrians and bicycles, and ancillary related improvements and facilities; and be it

RESOLVED FURTHER, by the Board of Supervisors of Fairfax County, Virginia, that the County Attorney is hereby directed to provide the Fairfax County Circuit Court with a certified copy of this resolution and to petition the Fairfax County Circuit Court asking for an order to conduct such a referendum as a special election in conjunction with the general election on November 4, 2014.

Given under my hand on this _____ day of June 2014.

_____
Catherine A. Chianese
Clerk, Board of Supervisors

Proposed Projects for 2014 Bond Referendum

Staff has identified the following projects within the Spot Roadway Improvements and Bicycle and Pedestrian Program in the current Four-Year Plan (FY 2013-FY 2016), and the Board's six-year transportation priorities approved January 28, 2014, that may be implemented using the 2014 transportation bond referendum funds. This specific list of projects is not binding and the Board may in the future alter its plans and use the bond proceeds for other transportation or transit related projects encompassed within the purposes described in the ballot question.

Project ID	Project Title	Total Bond Funds Needed	District
	Spot Roadway Improvement Projects		
B258	Braddock Road/Roberts Road		Braddock
B261	North Chambliss St/Beauregard St		Mason
B266	Lorton Road/Lorton Market Road		Mount Vernon
B267	Silverbrook Road @ Southrun Road		Mount Vernon
30	Fort Hunt Road and Collingwood Road		Mount Vernon
35	Old Courthouse Road and Besley Road		Hunter Mill
38	Route 123 (Dolley Madison) and Great Falls/Lewinsville Road Intersection		Dranesville
270	Shields Avenue Improvements		Lee
	Spot Roadway Improvements Total	**$15.970**	
	Pedestrian Improvement Projects		
B270	Braddock Road/Olley Lane		Braddock
B271	Burke Lake Road/Coffer Woods Road		Braddock, Springfield
B272	Lakepointe Dr/Guinea Rd		Braddock
B273	Highland St/Backlick Rd/Amherst Ave		Lee
B274	Annandale Road/Graham Road		Mason
B275	Backlick Road/Edsall Road		Mason
B276, B277	Columbia Pike (John Marr Dr, Gallows Rd)		Mason
B278	Pohick Road/Southrun Road		Mount Vernon
B279	Hooes Road/Newington Forest Ave		Springfield, Mount Vernon
B280	Route 50/Sullyfield Circle/Centerview Dr		Sully
B281	Centreville Road/Machen Road		Sully
B283	Old Keene Mill Rd Walkway		Braddock
B290, B291	Dolly Madison Blvd Sidewalk Improvements		Dranesville
B294	North West St Sidewalk		Dranesville
B295	Sunrise Valley Dr Sidewalk		Dranesville
B296	Franconia Road Walkway		Lee
B297	South Van Dorn St @ Franconia Rd Walkway		Lee
B298	Silverbrook Road Walkway		Mount Vernon
89, 90, 91	Backlick Road Walkway Improvements		Lee, Mason
95	Braddock Road Walkway		Sully
100	Center Road Walkway		Springfield
101	Chain Bridge Road (Route 123)/Boone Boulevard		Providence
102	Chain Bridge Road (Route 123) Walkway		Providence
108	Chichester Lane Walkway		Providence
113, 114	Edsall Road Walkway Improvements		Mason
116	Fair Lakes Boulevard Walkway		Springfield
119	Fleet Drive Walkway		Lee
120	Fort Hunt Road Walkway		Mount Vernon
121	Fox Mill Road Walkway		Hunter Mill
124	Gallows Road/Route 50		Providence
128	Glen Forest Drive Walkway		Mason
131	Gunston Cove Road Walkway		Mount Vernon
139	Jermantown Road/Oak Marr Recreation Center		Providence
140, 141, B293	Kirby Road Walkway Improvements		Dranesville
144	Lee Chapel Road Walkway		Springfield
145	Lee Highway (Route 29) Walkway		Providence
148	Little River Turnpike (Route 236)/Old Columbia Pike		Mason
151	Medford Drive Walkway		Mason

Proposed Projects for 2014 Bond Referendum

Project ID	Project Title	Total Bond Funds Needed	District
162	Pleasant Valley Road Walkway		Sully
164	Post Forest Drive Walkway		Braddock
165	Quander Avenue Walkway		Mount Vernon
166	Riverside Road Walkway		Mount Vernon
167	Rolling Road Walkway		Braddock
168	Rugby Road Walkway		Sully
169	Seminary Road Walkway		Mason
175	South Lakes Drive Walkways		Hunter Mill
176	Sunrise Valley Drive Walkway		Hunter Mill
179	Telegraph Road - Hayfield Secondary School Pedestrian Improvements		Lee
180	Telegraph Road Walkways		Lee
186	Westmoreland Street Walkway		Dranesville
188	Richmond Highway Public Transportation Initiative		Lee, Mount Vernon
189	Reston Metrorail Access Group (RMAG) Study Recommendations (Phase II)		Hunter Mill
191	Old Mount Vernon Road Walkway		Mount Vernon
202	Great Falls Street Walkway		Dranesville
234, 235	Little River Turnpike Walkway Improvements		Mason
	Pedestrian Improvements Total	**$77.560**	
	Bicycle/Trail Projects		
B284, B285	Wakefield Chapel Rd Walkway/Bike Lanes		Braddock
B287	Lake Braddock Drive Road Diet		Braddock
B288	Burke VRE Connector Ph. IV		Braddock
B289	Cross County Trail Upgrades		Braddock
B299	Burke Road Bike Lanes		Springfield
B300	West Ox Road Trail		Sully
B303	Route 50 Trail		Sully
115	Elm St/Dolley Madison Blvd Improved Pedestrian and Bicycle Crossing		Dranesville
123	Franconia-Springfield Metrorail Station/VRE Enhanced Bicycle Parking		Lee
129	Government Center Area Bicycle Demonstration Project		Braddock
138	INOVA Center Medical Education Campus		Lee
183	Vienna Metrorail Station Area Bicycle Connectivity Improvements		Providence
185	Westmoreland Street On-Road Bike Lanes		Dranesville
187	Westmoreland Street/Rosemont Drive		Dranesville
	Bicycle/Trail Total	**$6.470**	
	Grand Total	**$100.000**	

Pedestrian Improvements will improve capacity, enhance safety and complete missing pedestrian links that connect neighborhoods, improve access to schools, Metrorail stations and activity centers. These types of improvements include: constructing missing sidewalk and trail links; adding and improving signalized crosswalks; intersection improvements; signage; and enhancing accessibility.

Roadway Spot Improvement projects will increase capacity, reduce congestion, improve safety for vehicles and pedestrians, and improve transit access for commuters as well as transit vehicles. Spot roadway improvements may include: adding or lengthening turn lanes; upgrading traffic signals, and signage; constructing walkways and providing crosswalks; and enhancing accessibility.

Attachment III

PROPOSED
FALL 2014 TRANSPORTATION BOND REFERENDUM SCHEDULE

Date	**Item**
April 29, 2014	Board adopts Capital Improvement Program
May 6, 2014	Board Transportation Committee Meeting – Presentation on Fall 2014 Bond Referendum
June 17, 2014	Board Adopts County Bond Referendum Resolution
June 24, 2014	Petition filed with Fairfax County Circuit Court for Referendum on Bond Issue
July 1, 2014 (est.)	Circuit Court orders Referendum on Bond Issue
September 9, 2014	Board Consideration Item on Explanatory Bond Referendum Statement (Plain Language Text)
September 19, 2014	Absentee ballots available (required 45 days prior to election)
October 3, 2014	Publication of Notice of Election
November 4, 2014	Election Day; referendum held
November 12, 2014	Referendum results certified by the County Electoral Board by this date

Board of Supervisor's Transportation Priorities
FY 2015 - FY 2020

ID #	Project Name	District	Est Cost ($M)	6-Year Funding Recomm. ($M)	Remarks/Scope
Project Funding Recommendation - Interchanges					
1	**Fairfax County Parkway and Popes Head Road**	Springfield	$90.15	**$68.00**	-Construct a grade-separated interchange at the intersection of the Fairfax County Parkway and Popes Head Road, with shared use paths on both sides. Provide for future connection to Shirley Gate Road to the east. Completes signal free corridor between Burke Lake Road and Route 50 (7.75 miles). -Pursue NVTA Regional Funding.
3	**I-66 and Route 28**	Sully	$122.00	**$54.00**	-VDOT study underway; VDOT has $50M programmed already. VDOT Total project estimate: $122M. -Reconstruct portions of the existing interchange at Route 28 and I-66. Remove four traffic signals on Route 28 to enhance safety and improve capacity. Widen and reconstruct westbound I-66 off ramp to northbound Route 28. Realign Braddock Road/Walney Road and construct overpass with ramp connection from northbound Route 28 to new bridge. Provide new connections from Braddock Road to eastbound and westbound I-66, from Braddock Road to and from southbound Route 28, and from southbound Route 28 to eastbound I-66 (flyover). Also extends Poplar Tree Road across Route 28 from Stonecroft Blvd. to Walney Road and constructs new access road to EC Lawrence Park.
4	**I-95 and Fairfax County Parkway/NB Flyover**	Mt. Vernon	$83.00	**$59.00**	-VDOT has programmed $4.233M. Complements Project #27. -Construct a flyover ramp to carry traffic exiting northbound I-95 to westbound Fairfax County Parkway. The project would include construction of left turns at the Fairfax County Parkway off-ramp and Loisdale Road intersection. Reduces congestion on Fairfax County Parkway at Loisdale Road, and provides better access to the EPG area.
9	**Seven Corners Interchange Improvements**	Mason, Providence	TBD	**$3.00**	-FCDOT conducting initial studies. Partial Funding for study/alternatives analysis. -Improvements to existing interchange at Seven Corners to reduce congestion on Route 7, improve access between Seven Corners/Falls Church/Bailey's Crossroads, and facilitate redevelopment of the area. Improve safety, navigation of vehicles and pedestrians in and through the area
10	**South Van Dorn St. and Franconia Road**	Lee	$139.50	**$4.00**	-Prelim Study completed in 2010. Partial funding for updating study and interim improvements. - The study recommended constructing a grade-separated interchange at the intersection of South Van Dorn Street and Franconia Road. The project would include pedestrian and bicycle facilities.
N/A	**Cleveland Ramp**	Dranesville		**$2.00**	-Partial Funding for federal approvals/planning and preliminary design. Included and recommended as part of the Tysons East Central Consolidated Traffic Impact Analysis (CTIA)
N/A	**Route 7/Route 123 Rebuild**	Providence		**$5.00**	-Partial funding for preliminary design. Included and recommended as part of the Tysons Central CTIA.
	Total Interchanges			**$195.00**	

Project Funding Recommendation - Roadway Extensions					
12	**Dulles Toll Road - Rock Hill Overpass**	Dranesville	$218.20	**$0.50**	-Planning level funding only. Contingent on development. -Construct a 4-lane roadway over the Dulles Toll Road from Sunrise Valley Drive on the south, to Davis Drive extension in Loudoun County on the north side. The project would include pedestrian and bicycle facilities. Identified in Reston Comp Plan Amendment to be considered by the BOS on 1/28/14.
13	**Dulles Toll Road - South Lakes Drive Overpass**	Hunter Mill	$82.25	**$0.50**	-Planning level funding only. Contingent on development. -Construct 4-lane roadway over the Dulles Toll Road from Sunrise Valley Drive to Sunset Hills Road. The project would include pedestrian and bicycle facilities. Identified in the Reston Comp Plan Amendment to be considered by the BOS on 1/28/14.

Board of Supervisor's Transportation Priorities
FY 2015 - FY 2020

ID #	Project Name	District	Est Cost ($M)	6-Year Funding Recomm. ($M)	Remarks/Scope
14	**Dulles Toll Road - Town Center Parkway Underpass**	Hunter Mill	$157.00	**$13.85**	-Planning level funding only. Contingent on development. $6.148M already allocated under TMSAMS for use during Silver Line Phase II. Current estimate of underpinning necessary before rail construction, $20M. -Construct 4-lane divided roadway under the Dulles Toll Road from Sunrise Valley Drive to Sunset Hills Road. Identified in Reston Comp Plan Amendment to be considered by the BOS on 1/28/14.
15	**Dulles Toll Road - Soapstone Drive Overpass**	Hunter Mill	$91.75	**$2.50**	-Planning level funding only. Contingent on development. -Construct a 4-lane roadway over the Dulles Toll Road from Sunrise Valley Drive to Sunset Hills Road. The project would include pedestrian and bicycle and transit facilities. Identified in the Reston Comp Plan Amendment to be considered by the BOS on 1/28/14.
16	**Frontier Drive from Franconia Springfield Parkway to Loisdale Road plus braided ramps**	Lee	$84.50	**$63.00**	-Extend Frontier Drive from Franconia-Springfield Parkway to Loisdale Road, including access to Franconia-Springfield Metrorail Station and braided ramps to and from the Parkway. Provide on-street parking along Frontier Drive as well as pedestrian and bicycle facilities. Supports future relocation of the FBI to Springfield, and provides greater access between Loisdale Road, Medical Campus, and Franconia-Springfield Metrorail Station. Reduces congestion on Loisdale Drive.
18	**Shirley Gate Road from Braddock Road to Fairfax County Parkway/Popes Head Road**	Braddock, Springfield	$39.50	**$30.00**	Extend 4-lane divided Shirley Gate Road from Braddock Road to the Fairfax County Parkway, north of Popes Head Road. The project would include a raised median and pedestrian and bicycle facilities. Provides alternative/shorter route to/from GMU and Fairfax City via Route 50/Jermantown area and potentially reduces congestion on Braddock Road (west of Shirley Gate), Fairfax County Parkway (north of Popes Head), and Route 29 (west of Shirley Gate). Provides access to expanded Patriot Park.
19	**Stone Road Overpass over I-66 from Route 29 to Route 28**	Sully	$81.55	**$5.00**	-Partial Funding for alignment study, environmental analysis and Preliminary Engineering. Provides Alternative Route to VA 28 from Centreville to Westfields. -Construct 4-lane divided road between Stone Road at Route 29 and New Braddock Road. Includes curb and gutter, 5' concrete sidewalk on east side, and 10' shared use path on west side of Stone Road. Construct a bridge over I-66 and another bridge over Big Rocky Run. Re-stripe westbound New Braddock Road to provide 2 through travel lanes. Provides alternative route other than VA 28 between Centreville and Westfields area. Reduces congestion at I-66/VA 28 and I-66/Rte. 29 Interchanges. Future Metrorail station on Comp Plan near this location.
	Total Extensions			**$115.35**	

Project Funding Recommendation - Spot Improvements					
21	**Backlick Road and Industrial Road**	Lee, Mason	$2.09	**$2.09**	-Construct a left turn lane on northbound Backlick Road. This project would include sidewalk along the west side of Backlick Road, upgraded pedestrian signal, and drainage improvements.
22	**Balls Hill Road and Old Dominion Drive**	Dranesville	$9.00	**$0.20**	Partial funding for alternatives analysis.
23	**Burke Road from Aplomado Drive to Parakeet Drive**	Springfield	$7.00	**$7.00**	-Remove the sharp curve on Burke Road to improve safety. Raise profile and provide new stream crossing. Modify Heritage Square Drive alignment, and provide adequate sight distance. Provide 5' concrete sidewalk on one side, and 10' trail on the other. Improves access to Rolling Road VRE Station. -Complements Project 99 - Burke Road Lane Diet and On-Road Bike Lanes
26	**Electric Avenue and Cedar Lane NB Left Turn Lane**	Providence	$1.61	**$1.61**	-Add 250' of left turn lane on northbound Cedar Lane at Electric Avenue. The project would include curb and gutter and drainage improvements on the east side of Cedar Lane, 5' concrete sidewalk, crosswalks, and a new mast-arm signal.

Board of Supervisor's Transportation Priorities
FY 2015 - FY 2020

ID #	Project Name	District	Est Cost ($M)	6-Year Funding Recomm. ($M)	Remarks/Scope
27	**Fairfax County Parkway from I-95 to Telegraph Road**	Lee, Mt. Vernon	$19.25	**$19.25**	-Complements project #4. -Provide spot improvements along Route 286 (Fairfax County Parkway) from I-95 to Telegraph Road to provide additional capacity at intersections and reduce congestion in the through lanes. The project would include improvements currently being studied, and may include: lengthening the auxiliary lane on northbound Route 286 onto northbound I-95, lengthening turn lanes at Terminal Road, and widening the Backlick Road Bridge over the railroad tracks. With project #4, reduces congestion on Fairfax County Parkway between Telegraph Road and I-95; improves access to I-95 NB; and addresses safety concerns at Backlick Road.
30	**Fort Hunt Road and Collingwood Road**	Mt. Vernon	$2.22	**$2.22**	-Construct left turn lanes on both northbound and southbound Fort Hunt Road at Collingwood Road. The project would include a new traffic signal, pedestrian signals, and walkways on both sides of Fort Hunt Road.
31	**Georgetown Pike and Rte 123 (Dolley Madison Blvd.)**	Dranesville	$1.68	**$1.68**	Add right turn lane on Georgetown Pike in eastbound direction. This project would include signalization improvements as well as pedestrian facilities. ***Moved from unfunded list.***
32	**Hunter Mill Road and Lawyers Road**	Hunter Mill, Sully	$15.50	**$15.50**	Replace intersection with roundabout, provide 10' shared-used path and adequate pedestrian crossings throughout the roundabout, and relocate overhead utilities.
33	**Kirby Road and Old Dominion Road**	Dranesville	$10.70	**$0.50**	-Funding for Preliminary Engineering/Study Only. -Improve intersection safety and geometry, which may include adding or extending turn lanes. The project would include pedestrian facilities.
34	**Lewinsville Road and Spring Hill Road**	Dranesville	$15.80	**$0.10**	-Partial funding for alternatives analysis. Construct roundabouts to improve traffic flow. This project would include pedestrian crosswalks. Improves access to/from Tysons Corner area.
35	**Old Courthouse Road and Besley Road**	Hunter Mill	$3.30	**$3.30**	Improve alignment of Old Courthouse Road S-curve at Besley road. The project would include raising the road elevation to improve drainage and limit flooding. Includes bicycle/pedestrian facility. Addresses safety issues for vehicles, pedestrians and bicycles and reduces flooding problems.
38	**Route 123 (Dolley Madison) and Great Falls/Lewinville Road Intersection**	Dranesville	$6.90	**$6.90**	-Interim improvements ahead of potential grade separation per Tysons Neighborhood Study. -Add or extend existing turn lanes on all approaches, remove channelized islands, and construct missing sidewalk segments. Reduces congestion on Rte. 123 and improves access to/from Tysons and McLean Metrorail Station.
40	**Silverbrook Road and Lorton Road**	Mt. Vernon	$3.60	**$0.50**	-Funding for preliminary engineering and/or study only. -Construct an additional (triple) left turn lane from southbound Silverbrook Road onto eastbound Lorton Road. The project would include a new traffic signal and replacement of sidewalk on the west side of Silverbrook Road.
N/A	**Route 50 and Waples Mill Road**	Braddock, Providence		**$0.25**	Partial funding for study of potential interim/low cost improvements. TransAction 2040 calls for Interchange.
N/A	**Shields Avenue Improvements**	Lee	$5.00	**$0.20**	Partial funding for alignment study.
N/A	**Reserve for Future Spot Improvements**	Countywide	$4.72	**$4.72**	Set aside funding for projects.
	Total Spot Improvements			**$66.02**	

Project Funding Recommendation - Roadway Widenings					
45	**Braddock Road - Burke Lake Road to Guinea Road - 4 to 6 Lanes**	Braddock	$21.63	**$1.00**	Partial funding for study only. The project would also include pedestrian and bicycle facilities.
46	**Braddock Road - Burke Lake Road to I-495 - 6 to 8 Lanes**	Braddock	$63.00	**$47.00**	Widen Braddock Road from 6 lanes to 6 lanes plus 1-HOV lane in each direction, from I-495 to Burke Lake Road. The project would include intersection improvements such as turn lanes and signalization improvements, as well as pedestrian and bicycle facilities.
49, 50, 51, 52, 53	**Fairfax County Parkway Improvements** **- Lee Chapel to Rolling Rd - 4 to 6 Lanes** **- 123 to Lee Chapel - 4 to 6 Lanes** **- US 29 to VA 123 - 4 to 6 Lanes** **- Dulles Toll Rd to West Ox Rd - 4 to 6 Lanes** **- West Ox Rd to Rugby Rd - 4 to 6 Lanes**	Braddock, Dranesville, Hunter Mill, Springfield, Sully	$396.10	**$55.00**	-Partial funding for corridor study, environmental analysis, preliminary engineering, and/or construction. -Coordinate improvements with proposed VDOT study.

Board of Supervisor's Transportation Priorities
FY 2015 - FY 2020

ID #	Project Name	District	Est Cost ($M)	6-Year Funding Recomm. ($M)	Remarks/Scope
54	**Frying Pan Road - VA 28 to Centreville Road - 2 or 4 to 6 Lanes**	Dranesville, Hunter Mill	$54.30	**$40.80**	-Widen Frying Pan Road from 2 and 4 lanes to 6 lanes from Route 28 to Centerville Road. The project would include intersection improvements such as a turn lanes and signalization as well as pedestrian and bicycle facilities. Improves access to future Silver Line Metrorail Station and Dulles Airport. Provides relief to Centreville Road. Completes "missing" segments between existing sections of roadway already widened by development.
55	**Hooes Road - Fairfax County Parkway to Silverbrook Rd 2 to 4 Lanes**	Mt. Vernon, Springfield	$20.55	**$15.00**	-Widen Hooes Road from 2 to 4 lanes from Fairfax County Parkway to Silverbrook Road. The project would include pedestrian signals at Newington Forest Avenue, and pedestrian and bicycle facilities.
57	**Pohick Rd - US 1 (Richmond Hwy) to I-95 - 2 to 4 Lanes**	Mt. Vernon	$29.25	**$22.00**	-Widen Pohick Road from 2 to 4 Lanes from Route 1 (Richmond Highway) to I-95. The project would include intersection signalization improvements, and pedestrian and bicycle facilities. Eliminates choke point between Rte. 1 and I-95.
58	**Rolling Road - Old Keene Mill Rd to Franconia Springfield Pkwy - 2 to 4 Lanes**	Springfield	$35.20	**$27.70**	Completes funding for the project. VDOT has $7.5 M allocated thru FY19. -Widen Rolling Road from 2 to 4 lanes, including parking lanes in each direction for some sections of the roadway. The project would include an 8' asphalt trail along the west side and 5' concrete sidewalk along the east side of Rolling Road. Improves access to EPG and Ft. Belvoir.
59	**US 1 (Richmond Hwy) - Occoquan River to CSX Overpass - 4 to 6 Lanes**	Mt. Vernon	$85.20	**$5.00**	-Partial funding for study and environmental analysis. Complements project #60, and #61. Eliminates bottleneck at CSX RR underpass. Funding for EA/FONSI and Preliminary Engineering Only. -Widen Route 1 from 4 to 6 lanes from the CSX Railroad Underpass to the Occoquan River bridge. This project would include reconstruction of the CSX Railroad Underpass, and pedestrian and bicycle facilities. Provides improved access and reduces congestion between Prince William County (points south) to Ft. Belvoir.
60	**US 1 (Richmond Hwy) - Mt Vernon Mem Hwy to Napper Road - 4 to 6 Lanes**	Lee, Mt. Vernon	$90.00	**$68.00**	-Complements current project under construction from Telegraph to Mt. Vernon Mem. Highway/Mulligan Rd. -Widen Route 1 from 4 to 6 lanes from Mount Vernon Memorial Highway (VA 235) to Napper Road. This project would include pedestrian and bicycle facilities. Corridor of regional significance. Facilitates economic development and eliminates current choke point between Mulligan Road and Mt. Vernon Memorial Highway (north). Completes widening of Rte. 1 to 6 lanes from Ft. Belvoir to Alexandria. Project will include provisions for future transit.
61	**US 1 (Richmond Hwy) - Armistead Road to CSX Overpass - 4 to 6 Lanes**	Mt. Vernon	$84.75	**$5.00**	-Partial funding for study and environmental analysis. Complements project #60, and #61. Eliminates bottleneck at CSX RR underpass. Funding for EA/FONSI and Preliminary Engineering Only. -Widen Route 1 (Richmond Highway) from 4 to 6 lanes from Armistead Road to I-95 Ramps. The project would include a raised median, intersection signalization improvements, and pedestrian and bicycle facilities. Provides improved access and reduces congestion between Prince William County (points south) to Ft. Belvoir. With projects #60 and #61, completes widening of Rte. 1 to six lanes across entire County.
62	**VA 28 (Centreville Road) - Old Centreville to PW County Line at Bull Run - 4 to 6 Lanes**	Springfield, Sully	$47.35	**$47.35**	-Complements I-66/VA 28 Interchange, w/ Project #3, completes VA 28 corridor through entire County. -Widen Route 28 (Centreville Road) from 4 to 6 lanes from Old Centreville Road to Prince William County Line, including intersection improvements and pedestrian and bicycle facilities. Reduces significant congestion between Prince William County and Centreville. Corridor of Regional Significance and improves access to Dulles Airport, Reston and Herndon areas. Large development just south of County line will exacerbate existing congestion. On state Delegate/Senator radar. VDOT looking at interim safety and access improvements south of County line.

Board of Supervisor's Transportation Priorities
FY 2015 - FY 2020

ID #	Project Name	District	Est Cost ($M)	6-Year Funding Recomm. ($M)	Remarks/Scope
66	**US 29 (Lee Hwy) West of Fairfax - Union Mill to Buckley's Gate Drive - 4 to 6 Lanes**	Springfield, Sully	$32.70	**$25.00**	-Complements VDOT project at Little Rocky Run (Bridge Replacement) UPC 59094. Completes widening of Rte 29 from Shirley Gate to Centreville. -Widen Route 29 from 4 to 6 lanes from Union Mill Road to Buckley's Gate Drive and provide pedestrian facilities on the north side of Route 29. Last segment of Rte. 29 between Fairfax City and Centreville that is not 6-lanes. Eliminates last remaining bottleneck.
69	**US 50 (Arlington Blvd) Inside Beltway - Cedar Hill to Annandale Road - 4 to 6 Lanes**	Mason	$47.50	**$5.00**	-Partial funding for environmental analysis and preliminary engineering only. -Widen Route 50 (Arlington Boulevard) inside the Beltway from 4 to 6 lanes from Cedar Hill Road to Annandale Road. The project would include intersection improvements, including signalization improvements, and pedestrian and bicycle facilities. Reduces significant congestion on Route 50 inside the beltway. Provides improved access to Seven Corners area, and facilitates economic development.
N/A	**Jefferson Manor Neighborhood Improvements**	Lee	$14.50	**$1.00**	Partial funding for study, design, and/or construction. Cost estimates are for phase III and IV improvements.
N/A	**Route 236/Little River Turnpike - I-495 to John Marr - 4 to 6 Lanes w/Streetscape**	Braddock, Mason		**$2.50**	Partial funding for environmental analysis and preliminary engineering only. Improves access to Annandale and facilitates economic redevelopment
N/A	**Route 7 Widening - Dulles Toll Road Bridge**	Providence		**$13.90**	Shortfall in funding of existing VDOT Project
	Total Roadway Widenings			**$381.25**	

Project Funding Recommendation - Transit					
75	**Braddock Rd P&R Lot**	Braddock	$10.00	**$7.50**	-Project supports both transit and future HOV operation along Braddock Road between Burke Lake Road and I-495. -Construct commuter parking lot with approximately 500 spaces adjacent to Braddock Road near Kings Park West.
76	**Columbia Pike Transit Service**	Mason	$135.00	**$9.50**	-Estimated cost for capital and 2 year of operation for streetcar service.
	Capital			**$3.50**	$3.5M is balance needed for Fairfax County share of approximately $50M; remainder of share to be funded via CMAQ. Improves access to Baileys Crossroads and facilitates economic development and revitalization; encourages creation of a walkable, bikeable, Columbia Pike.
	Operating			**$6.00**	$3M per year operating.
81	**Fairfax County Parkway (Rt 286) Enhanced Bus Service**	Braddock, Hunter Mill, Lee, Mt. Vernon, Springfield, Sully	$47.00	**$7.10**	-Includes further study needed to identify sites and costs for potential transit stations and park-and-ride lots, and route-level planning. -Implement enhanced bus service in FY-20 between Herndon-Monroe Park-and-Ride and Fort Belvoir via Fairfax County Parkway. Provides significant missing cross-county transit link.
83	**South County Feeder Bus Service**	Braddock, Lee, Mason, Mt. Vernon	$106.50	**$24.90**	-Includes route-level planning. Project to be implemented in phases. Estimated cost of capital and 3 years of operating. -Purchase buses and improve service levels on bus routes serving Richmond Highway, Kingstowne, and Springfield.
	Capital			**$10.50**	$10.5M for 21 buses.
	Operating			**$14.40**	$4.8M per year operating.
84	**Vienna Metro Feeder Bus Service Expansion**	Braddock, Hunter Mill, Providence, Springfield, Sully	$132.50	**$46.80**	-Includes route-level planning. Project to be implemented in phases. Estimated cost of capital and operating for 3 years. -Purchase buses, add new routes, and improve service levels on existing routes that serve the Vienna Metrorail station.
	Capital			**$31.50**	$31.5M for 63 buses.
	Operating			**$15.30**	$5.1M per year operating.
85	**Vienna/Centreville Cross-County Bus Service**	Braddock, Dranesville, Hunter Mill, Providence, Springfield, Sully	$116.50	**$31.50**	-Includes route-level planning. Project to be implemented in phases. Estimated cost of capital and 3 years operating. -Purchase buses and implement new cross-county limited-stop/express bus service serving Vienna and Centreville.
	Capital			**$16.50**	$16.5M for 33 buses.
	Operating			**$15.00**	$5M per year operating.
N/A	**Transit Reserve**			**$199.46**	Reserve for future transit needs, these needs may include capital and operating costs, including: Metro 2025 (Momentum), Virginia Railway Express, Fairfax Connector; implementation of the Richmond Highway and Route 7 Alternatives Analyses, and implementation of the Countywide Transit Network Study.
	Total Transit			**$326.76**	

FAIRFAX COUNTY BOARD OF SUPERVISORS

2012 Bond Referenda Information for Residents

Four Bond Issues on the Ballot

In the Nov. 6 general election, Fairfax County voters will be asked to vote YES or NO on four individual bond questions. More specifically, the ballot will include questions on whether the county should be authorized to issue bonds for library, public safety, parks, and stormwater improvements. If the majority of voters approve these questions, the county would be allowed to issue bonds to construct or undertake improvements to the type of public facilities identified in each question.

Bonds allow the county to borrow money to pay for public facilities and infrastructure. The bond program is not designed to contribute to an increase in your tax rate, and the county can borrow money at a very low cost due to its triple-A credit ratings.

Public Libraries — $25 Million

This question seeks voter authorization for the county to issue $25 million of bonds for public library facilities. If approved, the county currently plans to use this bond money to renovate three libraries and renovate or build a fourth library.

John Marshall Library — $5 Million

This approximately 16,500-square-foot library opened in 1974, and customers borrow nearly 19,000 items per month. The building will be renovated to prolong its life, and the library may be expanded slightly to meet the changing needs of the community. Renovations will include adding a quiet and group study area, as well as a conference space. The number of public computers will be increased and wireless access will be enhanced. Upgrades will be made to the building systems for operations and energy efficiency. The library is located in the Lee District, which is expected to have a 17 percent growth in population by 2030.

Pohick Regional Library — $5 Million

Opened in 1986, this library loans out nearly 58,000 items per month, and the approximately 25,000-square-foot building will be renovated. The renovations will provide a more efficient use of the available space, meet customers' technological demands and better serve students and young children. The quiet study areas and group study rooms will be improved, the number of public computers will be increased, and wireless access will be enhanced. Upgrades will be made to the building systems for operations and energy efficiency. The library is located in the Springfield District, which is expected to have a 5.6 percent growth in population by 2030.

Reston Regional Library — $10 Million

Built in 1985, this approximately 30,000-square-foot library is located north of the Reston Town Center, and it circulates nearly 73,000 items per month. Because this area will be near the new Metro station in Reston, it may be redeveloped into a more urban, mixed-use center with government facilities. As part of the redevelopment, the library may be relocated within this area north of the town center. Bond funds will be used for the site studies, design and construction once the library location is confirmed. The library is located in the Hunter Mill District, which is expected to have a 19.6 percent growth in population by 2030.

Tysons-Pimmit Regional Library — $5 Million

Customers borrow nearly 43,000 items per month from this library, which opened in 1986. The approximately 25,000-square-foot interior will be renovated to provide more public space, and building systems will be upgraded to improve operations and energy efficiency. The number of public computers will be increased, and quiet and group study areas will be added. Wireless access will be enhanced. The library is located in the Dranesville District, which is expected to have a 12.9 percent growth in population by 2030.

For more information, contact the Fairfax County Public Library Public Information Office at 703-324-8319, TTY 711, or visit www.fairfaxcounty.gov/bond.

Public Safety — $55 Million

This question seeks voter authorization for the county to issue $55 million of bonds for public safety facilities. If approved, the county currently plans to use this bond money to renovate three fire stations and 22 courtrooms.

Fire Stations — $35 Million

Baileys Crossroads Fire Station — $9 Million

Built in 1974, the existing 11,000-square-foot station experienced a roof collapse over the apparatus bays during the blizzard in February 2010. Due to its age, inadequate size and outdated building systems, this station needs to be replaced with a new larger station to meet the current space and operational requirements. Through an agreement with the Baileys Crossroads Volunteer Fire Department, this station became county owned in fall 2010. Combining the current site of the Baileys fire station with adjacent county-owned land will provide for an approximate 16,900-square-foot, four-bay (two drive-through bays) fire station. Continuous fire and rescue service will be provided to the community during construction of the new station.

Herndon Fire Station — $12 Million

The existing 8,162-square-foot station, built in the 1950s, is one of the oldest in the county, and it does not have an apparatus bay that is large enough for future needs. Staffing is also limited due to the current size of the station. A new station will be constructed at the existing site to maintain the same response time and maintain service as now provided for downtown Herndon. The approximately 14,500-square-foot station will include three bays (with one bay sized to park vehicles in front of each other), as well as offer 20 underground parking spaces. It will accommodate shifts of 14. Continuous fire and rescue service will be provided to the community during construction.

Jefferson Fire Station — $14 Million

Now 48-years-old, the existing 14,670-square-foot fire station has far exceeded its useful life and needs to be replaced to meet current operational requirements. A 2005 study rated this station as in poor condition overall. The current station lacks sufficient space for apparatus and equipment for the Technical Rescue Operations Team, as well as adequate accommodations for female personnel. Continuous fire and rescue service will be provided to the community during construction.

For more information, contact Fairfax County Fire & Rescue Department Public Affairs at 703-246-3801, TTY 711, or visit www.fairfaxcounty.gov/bond.

Courthouse Renovations — $20 Million

Built in the early 1980s, the courtrooms in the original Jennings Judicial Center — now known as the Fairfax County Courthouse — have been in constant use by the public. Bond funds are currently planned to be used to renovate 22 courtrooms, nine for the General District Court and 13 for the Circuit Court.

The renovations will make all courtrooms safe, comfortable and compliant with the federal Americans with Disabilities Act (ADA). Renovations include security upgrades, wall and ceiling replacement, improved lighting, ductwork realignment, carpet replacement and ADA upgrades for juror deliberation rooms and restrooms. Modern technology also is needed to support increased public and judiciary demands, as well as offer cost savings. These technologies include digital evidence presentation capabilities and video conferencing to allow for video arraignments and testimony from remote witnesses.

For more information, contact the Fairfax County Office of Public Affairs at 703-324-7329, TTY 711, or 703fairfax@fairfaxcounty.gov, or visit www.fairfaxcounty.gov/bond.

Parks and Park Facilities — $75 Million

This question seeks voter authorization for the county to issue $75 million of bonds for parks and park facilities. If approved, the county currently plans to use this bond money to buy land, renovate and expand existing facilities, improve community parks and fund the county's contribution to the Northern Virginia Regional Park Authority's capital improvement plan.

Fairfax County Park Authority — $63 Million

The Fairfax County Park Authority administers 23,194 acres of parkland and 420 individual parks. These include parks that provide countywide services including golf; camping; ice skating; skate parks; boating; stream valley corridors; trails; equestrian facilities; natural resource areas and open space; historic and cultural resource treasures; archaeological sites; and lakefront parks. The Park Authority also offers district parks that provide diversified and specialized areawide services such as ball field complexes, RECenters, sport courts, off-leash dog exercise areas and neighborhood facilities such as playgrounds, multiuse courts and picnic areas.

To support park operating costs, the Park Authority charges user fees for the use of certain facilities such as RECenters and golf courses, as well as other facilities not funded by general taxes. Park fees cover approximately 60 percent of all park operating costs. The remaining operating funds are appropriated by the Fairfax County Board of Supervisors from the county's general fund derived from local tax revenues.

However, fees do not cover the cost for developing new facilities or major renovations at existing facilities. These improvements are funded primarily by general obligation bonds. The Park Authority, like other public agencies, faces

Some pro and con arguments about financing capital projects through bond funding:

PRO

Some people think that bond financing is a vital part of the county's comprehensive approach to the challenge of funding needed infrastructure and capital facilities. Here are some of the arguments used by proponents of bond funding:

- Bonding spreads the cost of major projects of general benefit to county residents over future years and ensures that both current and future residents and users share in the payment.
- Spreading the cost of major projects permits the county to accomplish more projects sooner than would pay-as-you-go using only current tax revenues.
- Constructing the proposed county facility improvement projects from current general tax dollars cannot be accomplished without substantial cuts to current programs or increased revenues from taxes and fees.
- Prudent use of long-term debt can be accomplished without having any adverse impact on the county's bond ratings or the tax rate.

CON

Some people think that the issuing of general obligation bonds is neither justified nor a viable solution to the county's capital infrastructure and facility needs. Here are some of the arguments used by opponents of bond funding:

- Issuing general obligation bonds results in a long-term future obligation for the county that may create an unmanageable burden on future taxpayers. Pay-as-you-go financing would not create long-term debt.
- Costs for infrastructure and facilities should be borne by those directly using or benefiting from them, not by all taxpayers.
- These facilities could be fully or partially paid for out of the current revenues by cutting or eliminating other programs.
- The funds otherwise spent on debt service could support a substantial pay-as-you-go program of capital construction adequate to meet the county's needs.

the challenge of updating aging facilities while providing new facilities to meet the park and recreation demands of residents. To accomplish this, a schedule of capital project needs is maintained and general obligation bonds are used for funding. Bonds ensure that current users are not burdened with the full cost of improvements. Projects are completed more quickly and the bonds spread the costs over an extended period of time.

The completion of a needs assessment in 2004, which identified resident demand, leisure trends and population growth, resulted in the development of a 10-year Park Capital Improvement Plan. That assessment initially identified $376 million in capital needs including land acquisition, new facilities and renovations. Since that initial assessment, more than $155 million of this need has been funded through general obligation bonds. Unfunded capital needs as of 2012 are estimated at $280 million when adjusted for inflation. A new needs assessment is currently underway and will help guide the Park Authority over the next decade.

Using the needs assessment 10-Year Capital Plan, facility condition assessments, park master plans and stakeholder input as tools for project selection, the allocation of the proposed park bond would fall into several categories: stewardship and land acquisition; existing facility renovations; community parks/new facilities and facility expansion. The project list balances priority needs, reinvestment in aging facilities, investments in land, natural and cultural resource protection, advancement of phased projects and improving the park experience.

Land Acquisition and Stewardship — $12.91 Million

The land acquisition program targets sites that meet established criteria adopted by the Park Authority Board and address areas of high deficiency, adjacency to existing parkland in order to expand recreational opportunities, as well as land that protects significant natural and cultural resources. This bond would provide countywide funding for the purchase of parkland as approved by the Park Authority Board.

Stewardship includes capital projects that promote the protection, enhancement, interpretation and education of natural and cultural park resources. At Colvin Run Mill, restoration of the miller's house to its period of significance is planned. Funding is also provided to renovate the tenant house at Historic Huntley, to provide wayfinding signage at Historic Centreville and Sully Woodlands and to build a shelter at Hidden Pond Nature Center. An environmental education center also is planned in Sully Woodlands.

Other stewardship initiatives include restoration measures for forested areas, meadow management, invasive plant control and boundary-marking activities in support of other capital projects.

Community Parks/New Facilities — $7.28 Million

A wide array of park and recreational facilities is included in this category such as the first phase of improvements at Monticello Park, Hartland Road Park and White Gardens and continued phased development at Laurel Hill Park and Patriot Park. Countywide improvements in park signage and funding of the popular Mastenbrook matching grant program are also included.

Facility Expansion — $19.49 Million

An expansion to Spring Hill RECenter features new fitness space, renovations to the locker rooms, the addition of multipurpose activity rooms and a new gym area. Twin Lakes Golf Course would expand its Oak Room facility to increase capacity for tournaments and an events pavilion would be built at Greendale Golf Course. Oak Marr RECenter would be expanded featuring new fitness spaces and improved facility flow. Additional features at the Water Mine at Lake Fairfax would be added to enhance the visitor experience and increase capacity.

Existing Facility Renovation — $23.30 Million

Renovations of existing facilities include paving of a portion of the Cross County Trail in Wakefield Park. An outlay of $2.2 million would fund trail upgrades and connections to the park

trail network. Lake Accotink Park would receive infrastructure improvements worth more than $1 million. Another $1 million would fund the replacement of playground equipment at parks. A fully accessible carousel would be added to enhance the visitor experience to Chessie's Big Backyard Family Recreation Area at Lee District Park. Energy saving improvements will continue to be implemented throughout the park system increasing efficiency.

Various existing athletic field improvements such as converting to synthetic turf, field upgrades and lighting improvements would be funded for existing athletic fields at Rolling Valley West, Arrowhead, Ellanor C. Lawrence, Langley Fork, Pine Ridge, McNaughton and Grist Mill parks to add capacity and playability for a growing number of sport teams. Athletic field capacity will be expanded by taking advantage of partnerships with the community to develop synthetic turf fields in the South Lakes area of Reston.

Irrigation, cart path and drainage improvements at Pinecrest, Greendale and Jefferson Golf courses would be funded as well as improvements to the driving ranges at Oak Marr and Burke Lake golf courses.

For more information, contact the Fairfax County Park Authority Public Information Office at 703-324-8622, TTY 711, or parkmail@fairfaxcounty.gov, or visit www.fairfaxcounty.gov/parks/2012bond.htm

Northern Virginia Regional Park Authority — $12 Million

The Northern Virginia Regional Park Authority (NVRPA) is a unique park agency. Founded in 1959 with a focus on land conservation, NVRPA is supported by Fairfax, Arlington and Loudoun counties, and the cities of Alexandria, Fairfax and Falls Church. These six jurisdictions have worked cooperatively to develop a regional park system encompassing 25 parks and more than 11,000 acres of land. In Fairfax County, NVRPA protects more than 8,000 acres – most of which protect environmentally sensitive watersheds along Bull Run and the Potomac and Occoquan rivers.

NVRPA manages more than 100 miles of trails, three golf courses, five marinas, youth and family camping areas, five historic parks, riverfront cottages, public meeting and reception facilities, nature centers and five outdoor pools/waterparks. Regional parks in Fairfax County include Bull Run, Hemlock Overlook, Pohick Bay, Meadowlark Botanical Gardens, Occoquan, Fountainhead, Sandy Run and the W&OD Trail.

NVRPA generates more than 83 percent of its operating budget through user fees and grants. The majority of NVRPA's capital improvement and land acquisition costs are shared by its six member jurisdictions. The parks bond question asks the voters whether to authorize Fairfax County to borrow money to fund its share of the costs of parks and park facilities to be acquired, constructed, developed and equipped by NVRPA.

The bond funds will be used in accordance with NVRPA's Strategic Plan and Capital Improvement Program and will include: expanding public open space and trails; protecting natural, cultural and historic resources; improving existing facilities; and providing additional recreational opportunities. Some specific projects planned include waterfront enhancements at Occoquan; W&OD Trail renovations and safety improvements; campground improvements at Bull Run and Pohick Bay; and renovations at Meadowlark Botanical Gardens.

For more information, contact the Northern Virginia Regional Park Authority at 703-352-5900, TTY 711, or feedback@nvrpa.org, or visit www.nvrpa.org.

Stormwater — $30 Million

This question seeks voter authorization for the county to issue $30 million of bonds for storm drainage improvements to prevent flooding and soil erosion, including acquiring any necessary land. If approved, the county currently plans to primarily use this bond money to prevent flooding in the Huntington community.

During the past 10 years, three floods have damaged homes, vehicles and other property in the Huntington neighborhood. In June 2006, 160 homes were flooded, and 161 homes were damaged in 2011 during Tropical Storm Lee. Today, there are 180 homes in the FEMA-designated floodplain that are at risk.

Homes in the area were built in the 1940s and 50s before regulations were enacted that prevented homes from being sited in floodplains.

At Fairfax County's request, the U.S. Army Corps of Engineers studied the best ways to protect Huntington from future floods. The study examined a number of options, including dredging Cameron Run, buying the flood-prone properties and flood proofing individual homes.

The study found that building a levee and a pumping station is the most cost-effective way to reduce flooding in the neighborhood. Bond funds are planned to pay to complete the design and build a 2,865-foot-long levee and pumping station, along with buying any land needed for this purpose.

While the levee can prevent flooding of houses from the types of storms that have happened in the past, it is not designed to offer protection from flooding that is caused by storms that are greater than a 100-year event (a storm that is statistically likely to occur once every 100 years). During major storms, street flooding may continue to occur in the Huntington area after the levee is built.

It is expected to take three to four years to complete the design of the levee and obtain the required permits. Construction may take another two to three years.

For more information, contact Fairfax County Stormwater Management Public Information Office, at 703-324-5821, TTY 711, or visit www.fairfaxcounty.gov/bond.

What Are Bonds?

Bonds are a form of long-term borrowing used by most local governments to finance public facilities and infrastructure. Bond financing makes it possible to build facilities and infrastructure with capacities based on future population estimates and to spread the cost equitably over the useful life of the facilities. This kind of financing allows the cost of a facility to be spread over a number of years so that each generation of taxpayers contributes a proportionate share for the use of these long-term investments.

Q Why referenda?

A Virginia law requires that voters in Fairfax County approve general obligation bonds through a referendum. You have the opportunity to vote either YES or NO on each of the four questions. If the majority votes YES on a question, then the Fairfax County Board of Supervisors will be authorized to sell bonds for the purpose described in the ballot question. If the majority votes NO on a question, the county cannot issue general obligation bonds to finance the purpose described in the question.

Q What is the cost of borrowing?

A Borrowing always entails interest costs. Since the interest earned by holders of municipal bonds is usually exempt from federal taxes, interest rates for these bonds generally are lower than the rate charged for private loans. Because of our county's reputation for sound financial management, Fairfax County has the highest credit rating possible for any government: triple-A from Moody's Investors Service Inc.; from Standard & Poor's Corp.; and from Fitch Ratings. As of May 2012, Fairfax County is one of only eight states, 39 counties, and 34 cities to hold a triple-A rating from all three rating agencies. For this reason, Fairfax County's bonds sell at relatively low interest rates compared to other tax-free bonds.

Q What are the benefits of Fairfax County's triple-A ratings?

A The county's triple-A ratings also lower the county's borrowing costs. The county's policy of rapid debt retirement and strong debt management guidelines serve to keep debt per capita and net debt as a percentage of estimated market value of taxable property at low levels. Since 1978, the county has saved over $543.28 million on bond and refunding sales as a result of the AAA ratings.

Q Will these bonds cause a tax rate increase?

A The bond program is not designed to contribute to an increase in your tax rate. Fairfax County has adopted a prudent financial management policy designed to protect its triple-A ratings. Under the program, the county's net long-term debt is not to exceed 3 percent of the total market value of taxable real and personal property in the county. It also provides that annual debt service (the cost of principal and interest payments) be kept below 10 percent of annual combined general fund spending, and that bond sales shall not exceed an average of $275 million per year or $1.375 billion over 5 years.

For Fiscal Year (FY) 2012, the county's actual net long-term debt is 1.26 percent of the market value of all taxable real and personal property. Debt service costs in FY 2012 are 8.52 percent of the combined general fund disbursements. The FY 2013-2017 Capital Improvement Program adopted by the Fairfax County Board of Supervisors on April 24, 2012, anticipates issuance of an average of $244 million of general obligation bonds per year. This policy is expected to keep debt service at lower than 9.0 percent of general fund disbursements, which will maintain a balance between operating expenses and long-term capital needs.

Q Why not pay for capital improvements on a pay-as-you-go basis?

A If capital construction were financed on a pay-as-you-go basis out of current tax revenues, expenditures would be paid for in a much shorter timeframe which could necessitate tax rate increases or a significant reduction in other county services. Bonding spreads the cost of major projects of general benefit to county residents over future years and ensures that both current and future residents and users share in the payment. Without bond funding, capital improvement budgeting also is less predictable.

Q What percentage of my taxes goes toward paying for the bonds?

A Over the past 20 years, the share of taxes used to pay debt service has fluctuated from 7.5 percent to a high of 9.3 percent. Currently, the rate is about 8.5 percent and is projected to remain under 9.0 percent based on current market and revenue forecasts even assuming passage of all four bond referenda.

Q What is the county's total bonded indebtedness?

A As of July 2012, the total of general obligation bond and other tax-supported debt from FY 2012 through FY 2042, or for the next 30 years, is $2.63 billion in principal and total interest payments on the outstanding debt is $0.98 billion. Over the next five years, $1.4 billion or approximately 39 percent of the total debt is scheduled to be paid off.

Q Can the proceeds of the bonds on the Nov. 6 ballot be used for other purposes?

A Proceeds of the sale of bonds authorized for a specific purpose may not, by law, be used for any purpose other than the purpose specified in the referendum question. In other words, the proceeds of the sale of library bonds may not be used to finance other projects, such as transportation or storm drainage projects.

Although this pamphlet describes the county's current plans for the use of the proceeds of bonds that may be authorized by the referenda, the county may in the future alter its plans and in such a case would be permitted to issue bonds for any purpose described in the related ballot question.

Q Why put forth additional referenda if there are still unsold bonds?

A Fairfax County bond packages are planned to fund specific projects. This means that all previous bond authorizations were planned for or are obligated to specific projects. These projects often take a number of years to complete. Bonds are sold only as the money is needed, resulting in substantial amounts of authorized but unissued bonds. Prudent financial management dictates bonds should not be sold until the actual cash is required.

FAIRFAX COUNTY BOARD OF SUPERVISORS

Sharon Bulova, Chairman, At-Large

Penelope A. Gross, Vice Chairman, Mason District

John C. Cook, Braddock District

John W. Foust, Dranesville District

Catherine Hudgins, Hunter Mill District

Jeffrey C. Mckay, Lee District

Gerald W. Hyland, Mount Vernon District

Linda Q. Smyth, Providence District

Pat Herrity, Springfield District

Michael R. Frey, Sully District

For contact information, visit www.fairfaxcounty.gov/government/board.

Fairfax County is committed to nondiscrimination in all county programs, services and activities. This document is available in alternative formats, and special accomodations/alternative information formats will be provided upon request. Please call the Office of Public Affairs at 703-324-7329, TTY 711.

FAIRFAX COUNTY BOARD OF SUPERVISORS

2012 Bond Referenda Information for Residents

Fall 2012

Fairfax County Office of Public Affairs
12000 Government Center Parkway, Suite 551
Fairfax, VA 22035

PRST STD
U.S. POSTAGE
PAID
PERMIT 722
MERRIFIELD VA

ECRWSS

RESIDENTIAL CUSTOMER

Board Agenda Item
June 17, 2014

ACTION - 4

Authorization for the Office of Elections to Insert a Flyer into the Department of Tax Administration's Car Tax Bills to all County Vehicle Owners

ISSUE:
Board authorization to allow the Office of Elections to insert a flyer into the Department of Tax Administration's (DTA) Car Tax bills to be mailed to all County vehicle owners.

RECOMMENDATION:
The County Executive recommends that the Board authorize the use of a tax mailing insert to disseminate election information and help recruit election officers.

TIMING:
Board authorization is needed on June 17, 2014, in order for the inserts to be printed and enclosed with the tax bills. Mailing of the first wave of bills begins in July.

BACKGROUND:
The Office of Elections would like to use the mailing of the 2014 Car Tax bills as a means to widely disseminate key election information this year such as dates of elections, registration deadlines, absentee voter information, the new voter photo ID requirements and to notify voters in advance about the new voting equipment and the opportunity to try it out before the fall elections. The proposed flyer would also be used to recruit election officers. Unless directed otherwise, staff will include this insert as noted.

In the past, bills have not been used to communicate non-tax information. However, the Office of Elections believes the timing of this mailing makes it prudent to do so for 2014, and to do likewise during Presidential election years (2016, 2020, etc.). Aside from this exception, the Office of Elections will begin to include a comparable information insert each January with DTA's mailing of the spring Filing By Exception (FBE) form. The FBE form is not a tax bill and simply provides information for taxpayers to validate their vehicles that may be subject to taxation. It has an equally wide distribution and already includes non-tax inserts soliciting donations for the Friends of the Animal Shelter, and for the Parks and Library foundations.

Board Agenda Item
June 17, 2014

FISCAL IMPACT:
The Office of Elections will absorb the cost of printing the double-sided color insert. The FY 2014 cost is estimated at $8,771. DTA has determined that this additional flyer will not result in increased postage costs.

ENCLOSED DOCUMENTS:
Attachment 1 – Proposed Insert from the Office of Elections

STAFF:
Cameron P. Quinn, General Registrar
Kevin C. Greenlief, Director, Department of Tax Administration

Voter Registration

- Update & Register Online:
  www.vote.virginia.gov
- Confirm your registration status:
  www.sbe.virginia.gov

Key Voting Deadlines—2014

General Election:	**November 4 - 6 a.m.- 7 p.m.**
Voter Registration:	**October 14 - 5 p.m.**
In-person Absentee Satellite voting begins:	**September 27 (Saturdays only until Oct 14)**
Last Day to request Absentee Ballot by mail:	**October 28 - 5 p.m.**

Election Officer Opportunities

Fairfax County needs 3,000 election officers to conduct elections. Please sign up to help!

Bilingual Citizens are Encouraged!
¡Se necesitan ciudadanos bilingües!
Ưu tiên cho Công Dân nói hai thứ tiếng.

이중언어 가능한 시민권자의 참여를 권장합니다

For more information:
www.fairfaxcounty.gov/elections/working

$175 stipend for full day

Para información y materiales en español visite nuestra página de internet: www.fairfaxcounty.gov/elections
O llame a la Oficina de Elecciones línea en español: 703-324-4766

Photo ID Required for Voting · Effective July 1, 2014

Take a Test Drive *Before* Election Day!

New **voting machines starting this fall.**

Voting machine roadshow begins in August!
See a schedule after August 1, at:
fairfaxcounty.gov/elections

Effective July 1, 2014

Voters must present one acceptable form of photo identification when voting.

- **Valid Virginia DMV-issued driver's license or photo ID card**
- **Valid US Passport or other government-issued photo ID**
- **Valid employee photo ID card**
- **Valid college student photo ID card (issuer must be a Virginia institution of higher education)**

If you do not have acceptable ID contact for assistance:
Fairfax County
Office of Elections
voting@fairfaxcounty.gov
703-222-0776

Fairfax County Office of Elections
12000 Government Center Parkway
Suite 323, Fairfax, VA 22035
Phone: 703-222-0776
Fax: 703-324-4706
TTY: 711 (Virginia Relay)
For further accommodations call:
703-222-0776

For more information go to sbe.virginia.gov

Board Agenda Item
June 17, 2014

11:15 a.m.

Matters Presented by Board Members

Board Agenda Item
June 17, 2014

12:05 p.m.

CLOSED SESSION:

(a) Discussion or consideration of personnel matters pursuant to Virginia Code § 2.2-3711(A) (1).

(b) Discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body, pursuant to Virginia Code § 2.2-3711(A) (3).

(c) Consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation, and consultation with legal counsel regarding specific legal matters requiring the provision of legal advice by such counsel pursuant to Virginia Code § 2.2-3711(A) (7).

1. In Re: *$6,086,310.50* (Fx. Co. Cir. Ct.)

2. Authorization to File Lawsuit Challenging Ruling by the State Tax Commissioner with Respect to Appeal by Verizon Online LLC of Determination by the Director of the Fairfax County Department of Tax Administration Regarding Taxability of Cable TV Set-Top Converter Boxes

3. *Angela Pledger v. Fairfax County*, Case No. 3:13-CV-740 JAG (E.D. Va.)

4. *Lawrence M. Frye v. Child Protective Services and Department of Family Services*, Case No. CL-2014-0002828 (Fx. Co. Cir. Ct.)

5. In Re: *November 20, 2013, Decision Of The Fairfax County Board of Zoning Appeals In BZA Appeal No. A-2013-SU-024*, Case No. CL-2013-0018953 (Fx. Co. Cir. Ct.) (Sully District)

6. *Michael R. Congleton, Property Maintenance Code Official for Fairfax County, Virginia v. Donald M. Douglas and Louise L. Douglas*, Case No. CL-2013-0003838 (Fx. Co. Cir. Ct.) (Springfield District)

7. *Leslie B.Johnson, Fairfax County Zoning Administrator v. Thinh V. Luong and Thuy T. Trinh*, CL-2010-0008779 (Fx. Co. Cir. Ct.) (Mason District)

8. *Board of Supervisors of Fairfax County, Virginia v. D and J Real Estate, LLC and L & M Body Shop, Inc.*, Case No. CL-2011-0016596 (Fx. Co. Cir. Ct.) (Lee District)

9. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Jaime R. Rueda*, Case No. CL-2009-0008709 (Fx. Co. Cir. Ct.) (Mason District)

10. *James W. Patteson, Director, Fairfax County Department of Public Works and Environmental Services v. R. Joun Enterprises, LLC, Roland G. Joun, Trustee, Maria Joun, Trustee, Roland G. Joun Revocable Living Trust, and Maria Joun Revocable Living Trust*, Case No. CL-2012-0011286; *Leslie B. Johnson, Fairfax County Zoning Administrator v. R. Joun Enterprises, LLC, Roland G. Joun, Trustee, Maria Joun, Trustee, Roland G. Joun Revocable Living Trust, and Maria Joun Revocable Living Trust*, Case No. CL-2012-0015804 (Fx. Co. Cir. Ct.) (Lee District)

11. *Jeffrey L. Blackford, Property Maintenance Code Official for Fairfax County, Virginia v. Gregg Riddiford*, Case No. CL-2013-0015905 (Fx. Co. Cir. Ct.) (Providence District)

12. *Leslie B. Johnson, Fairfax County Zoning Administrator, and Jeffrey L. Blackford, Property Maintenance Code Official for Fairfax County, Virginia v. Albert E. Mays*, Case No. CL-2013-0017866 (Fx. Co. Cir. Ct.) (Mount Vernon District)

13. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Trang P. Mai*, Case No. CL-2014-0001385 (Fx. Co. Cir. Ct.) (Mason District)

14. *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)

15. *Michael R. Congleton, Property Maintenance Code Official for Fairfax County, Virginia v. Tina M. Howard***,** Case No. CL-2011-0017608 (Fx. Co. Cir. Ct.) (Providence District)

16. *Leslie B. Johnson, Fairfax County Zoning Administrator, and Elizabeth Perry, Property Maintenance Code Official for Fairfax County, Virginia v. Jean E. Riggs, Trustee, or Successor Trustee(s), as Trustee(s) of The Jean E. Riggs Trust 16SEP10*, Case No. CL-2012-0006045 (Fx. Co. Cir. Ct.) (Providence District)

17. *Board of Supervisors of Fairfax County, Virginia v. Rixen Liao and Xiaoying Wang*, Case No. CL-2014-0006337 (Fx. Co. Cir. Ct.) (Dranesville District)

18. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Kwang Woo Kim and Eun Sook Kim*, Case No. CL-2014-0006957 (Fx. Co. Cir. Ct.) (Mason District)

19. *Jeffrey L. Blackford, Property Maintenance Code Official for Fairfax County, Virginia v. Michael Smith and Jeanice Warwick Smith*, Case No. GV14-008400 (Fx. Co. Gen. Dist. Ct.) (Springfield District)

20. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Edwin Hercules Funk, Jr.*, Case Nos. GV13-015379 and GV14-008403 (Fx. Co. Gen. Dist. Ct.) (Lee District)

21. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Gordon F. Crago and Bernadine H. Crago*, Case No. GV14-005404 (Fx. Co. Gen. Dist. Ct.) (Providence District)

22. *Jeffrey L. Blackford, Property Maintenance Code Official for Fairfax County, Virginia v. James Edward Beard*, Case No. GV14-008408 (Fx. Co. Gen. Dist. Ct.) (Springfield District)

23. *Jeffrey L. Blackford, Property Maintenance Code Official for Fairfax County, Virginia v. Beverly K. Lester*, Case No. GV14-005406 (Fx. Co. Gen. Dist. Ct.) (Braddock District)

24. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Pascal Sung-Won Hong and Agnes Song-Kyung Hong*, Case No. GV14-007987 (Fx. Co. Gen. Dist. Ct.) (Sully District)

25. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Jose O. Flores, Blanca H. Flores, Doris E. Villatoro, and Jose A. Villatoro*, Case No. GV14-007985 (Fx. Co. Gen. Dist. Ct.) (Lee District)

26. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Barbara Jean Oksanen*, Case No. GV14-007896 (Fx. Co. Gen. Dist. Ct.) (Mason District)

27. *Jeffrey L. Blackford, Property Maintenance Code Official for Fairfax County, Virginia v. Yurie C. Chigna*, Case No. GV14-007900 (Fx. Co. Gen. Dist. Ct.) (Hunter Mill District)

28. *Oscar Benitez v. Fairfax County Risk Management and Herbert Michael Napper*, Case No. GV14-008942 (Fx. Co. Gen. Dist. Ct.)

29. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Bong R. Suh*, Case No. GV14-003513 (Fx. Co. Gen. Dist. Ct.) (Lee District)

30. *Jeffrey L. Blackford, Property Maintenance Code Official for Fairfax County, Virginia v. Nazari Living Trust, Majid Nazari, Trustee, or his Successors in Trust Under the Nazari Living Trust*, Case Nos. GV14-007894, GV14-007895, and GV14-007988 (Fx. Co. Gen. Dist. Ct.) (Mason District)

31. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Norah Borda*, Case No. GV14-010710 (Fx. Co. Gen. Dist. Ct.) (Braddock District)

32. *Leslie B. Johnson, Fairfax County Zoning Administrator v. Daniel C. Robinson*, Case Nos. GV14-011327 and GV14-011328 (Fx. Co. Gen. Dist. Ct.) (Mount Vernon District)

Board Agenda Item
June 17, 2014

3:30 p.m.

Public Hearing on SEA 78-D-075-02 (Crown Real Properties, L.C.) to Amend SEA 78-D-075 Previously Approved for a Vehicle Sale, Rental and Ancillary Service Establishment to Permit Building Additions, Site Modifications and Associated Modifications to Site Design and Development Conditions, Located on Approximately on Approximately 8.72 Acres of Land Zoned C-7 and HC (Providence District)

This property is located at 8602 and 8610 Leesburg Pike, Vienna, 22182. Tax Map 29-1 ((1)) 15 and 16.

PLANNING COMMISSION RECOMMENDATION:
On Wednesday, May 7, 2014, the Planning Commission voted unanimously to recommend the following actions to the Board of Supervisors:

- Approve SEA 78-D-075-02, subject to the development conditions consistent with those dated May 5, 2014, with the correction to development condition number 14 to read:

  "Tysons Corner Transportation Fund Contributions. At the time of issuance of the first Non-RUP. the applicant shall contribute $4.19 for each new square foot of non-residential space to the Tysons Corner Transportation Fund in accordance with the Board of Supervisors' policy adopted on January 28, 2014. These payments may be made earlier than required pursuant to this Paragraph";

- Modification of the transitional screening and waiver of the barrier requirements along the northern property boundaries in favor of the landscaping depicted on the SEA plat;

- Modification to the peripheral parking lot landscaping requirements in favor of the landscaping depicted on the SEA plat; and

- Waiver of the Comprehensive Plan's Major Paved Trail requirement along Leesburg Pike in favor of the existing sidewalk.

ENCLOSED DOCUMENTS:
Attachment 1 – Planning Commission Verbatim
Staff Report previously furnished and available online at:
http://ldsnet.fairfaxcounty.gov/ldsnet/ldsdwf/4448458.PDF

STAFF:
Barbara Berlin, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
Suzanne Lin, Planner, DPZ

SEA 78-D-075-02 – CROWN REAL PROPERTIES, LC

After Close of the Public Hearing

Chairman Murphy: The public hearing is closed; recognize Mr. Lawrence.

Commissioner Lawrence: Thank you, Mr. Chairman. I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE SEA 78-D-075-02, SUBJECT TO THE DEVELOPMENT CONDITIONS CONSISTENT WITH THOSE DATED MAY 5TH, 2014, AS WILL BE AMENDED PER OUR DISCUSSION TONIGHT.

Commissioners de la Fe and Hedetniemi: Second.

Chairman Murphy: Seconded by Mr. de la Fe and Ms. Hedetniemi. Is there a discussion of the motion? All those in favor of the motion to recommend to the Board of Supervisors that it approve SEA 78-D-075-02, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Mr. Lawrence.

Commissioner Lawrence: I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE A MODIFICATION OF THE TRANSITIONAL SCREENING AND WAIVER OF THE BARRIER REQUIREMENTS ALONG THE NORTHERN PROPERTY BOUNDARIES IN FAVOR OF THE LANDSCAPING DEPICTED ON THE SEA PLAT.

Commissioners de la Fe and Hedetniemi: Second.

Chairman Murphy: Seconded by Mr. de la Fe and Ms. Hedetniemi. Is there a discussion? All those in favor, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Lawrence: I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE A MODIFICATION TO THE PERIPHERAL PARKING LOT LANDSCAPING REQUIREMENTS IN FAVOR OF THE LANDSCAPING DEPICTED ON THE SEA PLAT.

Commissioners de la Fe and Hedetniemi: Second.

Chairman Murphy: Seconded by Mr. de la Fe and Ms. Hedetniemi. Is there a discussion of that motion? All those in favor of the motion, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Lawrence: Lastly, Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE A WAIVER OF THE COMPREHENSIVE PLAN'S MAJOR PAVED TRAIL REQUIREMENT ALONG LEESBURG PIKE IN FAVOR OF THE EXISTING SIDEWALK.

Commissioners de la Fe and Hedetniemi: Second.

Chairman Murphy: Same seconds. Is there a discussion of that motion? All those in favor of the motion, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

//

(Each motion carried by a vote of 12-0.)

JN

Board Agenda Item
June 17, 2014

3:30 p.m.

Public Hearing on SE 2014-MV-002 (Nagma F. Ali D/B/A The Magic Forest Academy) to Permit a Home Child Care Facility, Located on Approximately 7,050 Square Feet of Land Zoned PDH-4 (Mount Vernon District)

This property is located at 8052 Paper Birch Drive, Lorton, 22079. Tax Map 107-2 ((8)) (F) 50.

PLANNING COMMISSION RECOMMENDATION:
On Wednesday, May 21, 2014, the Planning Commission voted 10-0 (Commissioners Hurley and Murphy were absent from the meeting) to recommend to the Board of Supervisors approval of SE 2014-MV-002, subject to the development conditions dated May 6, 2014, with the addition of Condition Number 12:

> *"All pick-up and drop-off of children shall take place in the driveway."*

ENCLOSED DOCUMENTS:
Attachment 1 – Planning Commission Verbatim
Staff Report previously furnished and available online at:
http://ldsnet.fairfaxcounty.gov/ldsnet/ldsdwf/4449733.PDF

STAFF:
Barbara Berlin, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
William Mayland, Planner, DPZ

Planning Commission Meeting
May 21, 2014
Verbatim Excerpt

SE 2014-MV-002 – NAGMA F. ALI, d/b/a THE MAGIC FOREST ACADEMY

After Close of the Public Hearing

Vice Chairman de la Fe: Okay, we will close the public hearing. And this is in the Mount Vernon District - Commissioner Flanagan.

Commissioner Flanagan: Thank you, Mr. Chairman. It's been a – just recently, we came to the conclusion that it would be possible here to have the parking in the driveway as a preferred access for the students to the daycare. And since it seems to be agreeable to everybody, I'M GOING TO MOVE, MR. CHAIRMAN, THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF SE 2014-MV-002, SUBJECT TO THE CONDITIONS DATED MAY 6, 2014, WITH THE ADDITION OF A CONDITION 12: "ALL PICK-UP AND DROP-OFF OF CHILDREN SHALL TAKE PLACE IN THE DRIVEWAY."

Commissioners Hart and Sargeant: Second.

Vice Chairman de la Fe: Seconded by Commissioners Hart and Sargeant. Any further discussion? Hearing and seeing none, all those in favor, please signify by saying aye.

Commissioners: Aye.

Vice Chairman de la Fe: Opposed? The motion carries unanimously.

//

(The motion carried by a vote of 10-0. Commissioners Hurley and Murphy were absent from the meeting.)

JLC

Board Agenda Item
June 17, 2014

3:30 p.m.

Public Hearing on PCA 2012-MV-007 (CRP Belvoir, LLC) to Amend the Proffers and Conceptual Development Plan for RZ 2012-MV-007 Previously Approved for Mixed Use Development to Permit Associated Modifications to Proffers and Site Design with a Total Density of 46.7 du/ac including ADUs and Bonus Density and a Waiver # 5294-WPFM-002-1 to Permit the Location of Underground Stormwater Management Facilities in a Residential Area, Located on Approximately 6.06 Acres of Land Zoned PRM (Mount Vernon District)

(Approval of this application may enable the vacation and/or abandonment of portions of the public rights-of-way for Anderson Lane to proceed under Section 15.2-2272 (2) of the Code of Virginia).

This property is located in the North West quadrant of the intersection of Richmond Highway and Backlick Road. Tax Map 109-1 ((1)) 5-9 and 13-16 and a portion of public right-of-way for Anderson Lane to be vacated and/or abandoned.

PLANNING COMMISSION RECOMMENDATION:
On Thursday, June 12, 2014, the Planning Commission voted 11-0 (Commissioner Litzenberger was absent from the meeting) to recommend the following actions to the Board of Supervisors:

- Approval of PCA 2012-MV-007 and the associated Conceptual Development Plan Amendment (CDPA), subject to the execution of proffers consistent with those dated May 16, 2014;

- Waiver #5224-WPFM-002-1 of Section 6-0303.8 of the Public Facilities Manual to locate underground stormwater detention facilities in a residential area, subject to the conditions contained in Attachment A of Appendix 9 of the staff report;

- Modification of Section 13-303 of the Zoning Ordinance for the transitional screening requirement along the eastern boundary subject to the landscaping shown on the CDPA/FDPA;

- Waiver of Section 13-304 of the Zoning Ordinance for the barrier requirement along the eastern boundary and modification of the barrier location along the northern boundary as shown on the CDPA/FDPA;

- Modification of the 75% tree canopy requirement and the large and medium tree requirement pursuant to Section 13-303.3.A(1) of the Zoning Ordinance to allow

understory trees in a portion of the buffer along Anderson Lane due to a potential overhead utility easement as shown on the CDPA/FDPA; and

- Modification of Section 11-203 of the Zoning Ordinance to permit three loading spaces instead of the required five spaces.

In a related action, on Thursday, June 12, 2014, the Planning Commission voted 11-0 (Commissioner Litzenberger was absent from the meeting) to approve FDPA 2012-MV-007, subject to the Development Conditions dated May 29, 2014, and the Boards approval of PCA 2012-MV-00 and the associated CDPA.

ENCLOSED DOCUMENTS:
Attachment 1 – Planning Commission Verbatim
Staff Report previously furnished and available online at:
http://ldsnet.fairfaxcounty.gov/ldsnet/ldsdwf/4451570.PDF

STAFF:
Barbara Berlin, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
Megan Duca, Planner, DPZ

PCA/FDPA 2012-MV-007 – CRP BELVOIR, LLC

After Close of the Public Hearing

Chairman Murphy: Public hearing is closed; recognize Commissioner Flanagan.

Commissioner Flanagan: Thank you, Mr. Chairman. I appreciate the comments of the – and the commitment on the part of the applicant, which was so recent that it didn't allow them to actually get it into the proffers in – previously. So therefore, I MOVE THAT THE PLANNING COMMISSIONER RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF PCA 2012-MV-007 AND THE ASSOCIATED CONCEPTUAL DEVELOPMENT PLAN AMENDMENT, SUBJECT TO THE EXECUTION OF PROFFERS CONSISTENT WITH THOSE DATED MAY 16, 2014.

Commissioners Hall and Sargeant: Second.

Chairman Murphy: Seconded by Mr. Sargeant and Mr. Hart is there a discussion – Ms. Hall – is there a discussion of the motion?

Commissioner de la Fe: We he's doing it now.

Commissioner Hart: Frank usually does it.

Chairman Murphy: I know. He's contagious. All those in favor of the motion, say aye.

Commissioners: Aye.

Commissioner Lawrence: Oh, I'm sorry.

Commissioner de la Fe: Ken.

Commissioner Lawrence: I just had a question for clarification.

Chairman Murphy: Go ahead.

Commissioner Lawrence: We have now a commitment for maximum possible recycling. Is that going to be entered in the proffers by the time the thing gets to the Board?

William O'Donnell, Zoning Evaluation Division, Department of Planning and Zoning: Commissioner Lawrence, what we can achieve is a conceptual development plan development condition that they can add before the decision of the Board.

Commissioner Lawrence: Excellent. Thank you very much. Thank you, Mr. Chairman.
Chairman Murphy: Further discussion? All those in favor of the motion, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Thank you very much.

Commissioner Flanagan: Wait a minute. I've got another motion.

Commissioner Hart: He's got waivers.

Chairman Murphy: Oh, the waivers.

Commissioner Flanagan: I have the second motion –

Chairman Murphy: Okay.

Commissioner Flanagan: -and a third motion. The second is I MOVE THAT THE PLANNING COMMISSION APPROVE FDPA 2012-MV-007, SUBJECT TO THE DEVELOPMENT CONDITIONS DATED MAY 29, 2014, AND THE BOARD'S APPROVAL OF PCA 2012-MV-007 AND THE ASSOCIATED CONCEPTUAL DEVELOPMENT PLAN AMENDMENTS.

Commissioner Sargeant: Second.

Chairman Murphy: Seconded by Mr. Sargeant. Is there a discussion of the motion? All those in favor of the motion to approve FDPA 2012-MV-007, subject to the Board's approval of the PCA, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries; Mr. Flanagan.

Commissioner Flanagan: Lastly, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF THE WAIVERS AND MODIFICATIONS, AS STATED IN THE HANDOUT DATED JUNE 10 [sic], 2014.

Commissioner Sargeant: Second.

Chairman Murphy: Seconded by Mr. –

Commissioners de la Fe and Hall: June 12th.

Commissioner Hart: June 12th, I think.

Commissioner Sargeant: JUNE 12TH? Oh yes, okay. Thank you.
Commissioner Sargeant: Second.

Chairman Murphy: Seconded by Mr. Sargeant. Is there a discussion of that motion? All those in favor of the motion, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Okay, now thank you.

//

(Each motion carried by a vote of 11-0. Commissioner Litzenberger were absent from the meeting.)

JLC

Board Agenda Item
June 17, 2014

3:30 p.m.

Public Hearing on SE 2014-SP-007 (Fairfax Company of Virginia L.L.C.) to Permit a Waiver of Certain Sign Regulations, Located on Approximately 109.56 Acres of Land Zoned C-7 and HC (Springfield District)

This property is located at 11750 Fair Oaks Mall, Fairfax, 22033. Tax Map 46-3 ((8)) 1C, 1A, 1D, 2, 4A, 5, 6, 6A, 7, 10, 11 and 13; 46-4 ((9)) 8, 18B1 pt.; 56-1 ((12)) 9 and 14.

PLANNING COMMISSION RECOMMENDATION:
On Thursday, June 12, 2014, the Planning Commission voted 11-0 (Commissioner Litzenberger was absent from the meeting) to recommend to the Board of Supervisors approval of SE 2014-SP-007, subject to the proposed Development Conditions dated June 10, 2014.

ENCLOSED DOCUMENTS:
Attachment 1 – Planning Commission Verbatim
Staff Report previously furnished and available online at:
http://ldsnet.fairfaxcounty.gov/ldsnet/ldsdwf/4452109.pdf

STAFF:
Barbara Berlin, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
Mike Lynskey, Planner, DPZ

SE 2014-SP-007 – FAIRFAX COMPANY OF VIRGNIA, LLC

After Close of the Public Hearing

Vice Chairman de la Fe: Therefore, I close the public hearing – Mr. Murphy.

Commissioner Murphy: Thank you, Mr. Chairman. This is a very straightforward application. The mall – Fair Oaks Mall – which is extremely well-run, and I want to recognize Robby Stark, who is here tonight, and he is the general manager of the mall. And he should be congratulated for running a great operation right in our backyard, quite frankly, and all the folks from the mall that are here this evening – and Brian Winterhalter, the attorney who brought this through the process – and also Michael Lynskey, who was the staff coordinator. And I understand that he and his wife are enjoying their newly born – their second son. Thank you. I'm sure they're watching tonight to see how this application –

Commissioner Hall: Yes.

Commissioner Murphy: -how this application turns out. But it's to improve the wayfinding signs, which is a ten dollar word for directional signs around the rim road of the mall. It does not affect any of the signage on the buildings. So therefore, Mr. Chairman, I WOULD MOVE THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THAT IT APPROVE SE 2014-SP-007, SUBJECT TO THE PROPOSED DEVELOPMENT CONDITIONS – which were circulated to the Commission last night – AND DATED JUNE 10TH, 2014.

Vice Chairman de la Fe: Is there a second?

Commissioner Hall: Seconded.

Vice Chairman de la Fe: Ms. Hall –

Commissioner Murphy: It's really not that difficult. It's just a bunch of signs.

Vice Chairman de la Fe: Is there any –

Commissioner Hall: I just wanted to make sure you were finished.

Vice Chairman de la Fe: Is there any discussion? All those in favor, please signify by saying aye.

Commissioners: Aye.

Vice Chairman de la Fe: Opposed? The motion carries unanimously.

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(The motion carried by a vote of 11-0. Commissioner Litzenberger was absent from the meeting.)

JLC

Board Agenda Item
June 17, 2014

3:30 p.m.

Public Hearing on PCA C-696-10 (Dulles Rockhill Partners Limited Partnership) to Amend the Proffers for RZ C-696 Previously Approved for Mixed Use to Delete Approximately 22,272 Square Feet and Include in Concurrent RZ 2009-HM-017 Application, Located on Approximately 4.27 Acres of Land Zoned PRM (Dranesville District)

This property is located in the North West quadrant of the intersection of Sayward Boulevard and Dulles Station Boulevard. Tax Map 15-4 ((5)) 5A. (Concurrent with RZ 2009-HM-017 and FDP 2009-HM-017)

and

Public Hearing on RZ 2009-HM-017 (Nugget Joint Venture L.C.) to Rezone from PDC and PRM to PRM to Permit Mixed Use Transit Oriented Development with an Overall Floor Area Ratio of 3.01 including Bonus Density Associated with ADU/WDU and a Waiver #6848-WPFM-005-1 to Permit the Location of Underground Storm Water Management, Located on Approximately 14.68 Acres of Land (Dranesville District)

This property is located on the South side of Dulles Airport Access Road and West side of Dulles Station Boulevard. Tax Map 15-2 ((1)) 13pt. and 15-4 ((5)) 5Apt. and 5B. (Concurrent with PCA C-696-10)

PLANNING COMMISSION RECOMMENDATION:

On Thursday, May 15, 2014, the Planning Commission voted 7-0 (Commissioners Flanagan, Hedetniemi, Hurley, Lawrence, and Litzenberger were absent from the meeting) to recommend the following actions to the Board of Supervisors:

- Approval of PCA C-696-10, subject to the Board's approval of the concurrent rezoning application RZ 2009-HM-017;
- Approval of RZ 2009-HM-017, subject to the execution of proffers consistent with those dated May 13, 2014;
- Modification of the loading requirement in favor of the loading spaces depicted on the CDP/FDP;
- Direct the Director of DPWES to permit a deviation from the tree preservation target percentage in favor of the proposed landscaping shown on the CDP/FDP and as proffered;

- Modification of the Use Limitations on Corner Lots in Section 2-505 of the Zoning Ordinance to permit the proposed building, landscaping and sign locations within the Zoning Ordinance sight triangles formed by the streets along the corner lot as shown on the CDP/FDP and as proffered;

- Waiver of the Board of Supervisor's policy to permit the location of the underground stormwater management facilities in a residential area (PFM Section 6-0303.8), subject to Waiver #6848-WPFM 005-1 Conditions, dated April 10, 2014;

- Modification of the peripheral lot landscaping and screening requirements in favor of that shown on the CDP/FDP as proffered and conditioned;

- Modification of the private street limitations of Section 11-302 of the Fairfax County Zoning Ordinance; and

- Modification of PFM Standard 12-0702.1B2 to permit the reduction of the minimum planting width requirement from eight feet as shown on the CDP/FDP and described in the proffers;

In related actions, on Thursday May 15, 2014, the Planning Commission voted 7-0 (Commissioners Flanagan, Hedetniemi, Hurley, Lawrence, and Litzenberger were absent from the meeting) to approve CDP 2009-HM-017, subject to the development conditions dated April 30, 2014 and to approve FDP 2009-HM-017, subject to the Board's approval of the concurrent rezoning application RZ 2009-HM-017.

ENCLOSED DOCUMENTS:
Attachment 1 – Planning Commission Verbatim
Staff Report previously furnished and available online at:
http://ldsnet.fairfaxcounty.gov/ldsnet/ldsdwf/4449127.PDF

STAFF:
Barbara Berlin, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
William O'Donnell, Planner, DPZ

RZ/FDP 2009-HM-017 – NUGGET JOINT VENTURE, LC
CDP 2009-HM-017 – NUGGET JOINT VENTURE, LC
PCA C-696-10 – DULLES ROCKHILL PARTNERS LP

After Close of the Public Hearing

Chairman Murphy: The public hearing is closed; recognize Mr. de la Fe [*sic*].

Commissioner de la Fe: No.

Chairman Murphy: Oh, Mr. Ulfelder. Oh, I thought this was this was –

Commissioner de la Fe: No. This was – yes, this was – it will be mine again, in a few years.

Chairman Murphy: I never could keep them straight.

Commissioner Ulfelder: – in about six years.

Commissioner de la Fe: – in about six years, yes, and we'll trade again.

Commissioner Ulfelder: But yes, it's moved around a bit. Thank you, Mr. Chairman. I guess this site has been waiting a while and, hopefully, the wait will soon be over. There's a couple of – couple of steps that have to proceed here and I would make a motion. I MOVE THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF RZ 2009-HM-017, SUBJECT TO THE EXECUTION OF PROFFERS CONSISTENT WITH THOSE DATED MAY 13, 2014. I also move – shall I go ahead with the other –

Chairman Murphy: No, let's do the rezoning.

Commissioner Ulfelder: Let's do the rezoning first, yes.

Chairman Murphy: Is there a second?

Commissioner Sargeant: Second.

Chairman Murphy: Seconded by Mr. Sargeant. Discussion? All those in favor of the motion to recommend to the Board of Supervisors that it approve RZ 2009-HM-017, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Ulfelder: I MOVE THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF CDP 2009-HM-017, SUBJECT TO THE DEVELOPMENT CONDITIONS DATED APRIL 30, 2014.

Commissioner Sargeant: Second.

Chairman Murphy: Seconded by Mr. Sargeant. Discussion? All those in favor of the motion to recommend to the Board of Supervisors that it approve the CDP, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Ulfelder: I MOVE THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF PCA C-696-10, SUBJECT TO THE BOARD'S APPROVAL OF THE CONCURRENT REZONING APPLICATION.

Commissioner Sargeant: Second.

Chairman Murphy: Seconded by Mr. Sargeant. Discussion? All those in favor of the motion to recommend to the Board of Supervisors that it approve the PCA C-696-10, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Ulfelder: I MOVE THAT THE PLANNING COMMISSION APPROVE FDP 2009-HM-017, SUBJECT TO THE BOARD'S APPROVAL OF THE CONCURRENT REZONING APPLICATION.

Commissioner Sargeant: Second.

Chairman Murphy: Seconded by Mr. Sargeant. Discussion? All those in favor of the motion to approve FDP 2009-HM-017, subject to the Board's approval the rezoning and the Conceptual Development Plan, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Ulfelder: And there was a list of the waivers and modifications dated May 15th, 2014, that was handed out this evening, and I MOVE THAT THE PLANNING COMMISSION RECOMMEND APPROVAL OF THE LIST OF MODIFICATIONS AND WAIVERS DATED

MAY 15, 2014, THAT WERE PROVIDED TO YOU AND THAT THIS LIST BE MADE A PART OF THE RECORD OF THIS CASE.

Commissioner Sargeant: Second.

Chairman Murphy: Seconded by Mr. Sargeant. Discussion? All those in favor of the motion to approve – recommend to the Board of Supervisors that they approve all them there modifications, say aye.

Commissioners: Aye.

Chairman Murphy: Motion carries.

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(Each motion carried by a vote of 7-0. Commissioners Flanagan, Hedetniemi, Hurley, Lawrence, and Litzenberger were absent from the meeting.)

JN

Board Agenda Item
June 17, 2014

4:00 p.m.

Public Hearing on SEA 01-M-036-02 (Pinecrest School, Incorporated) to Amend SEA 01-M-036 Previously Approved for a Private School of General Education to Increase Enrollment and Grade Level, Permit the Addition of Child Care and Nursery School, Replace Existing Building and Associated Modifications to Site Design and Development Conditions, Located on Approximately 2.0 Acres of Land Zoned R-4 (Mason District)

This property is located at 7209 Quiet Cove, Annandale, 22003. Tax Map 60-3 ((14)) 2B.

PLANNING COMMISSION RECOMMENDATION:
On Wednesday, May 7, 2014, the Planning Commission voted unanimously to recommend the following action to the Board of Supervisors:

- Approve SEA 01-M-036-02, subject to the development conditions consistent with those dated May 7, 2014;
- Modification of transitional screening requirements along the north and west boundaries to utilize the existing and proposed vegetation, as shown on the SE plat and as conditioned; and
- Modification of the loading space requirements for the private school of general education and child-care/nursery school uses, in favor of one 15-foot by 25-foot bus parking space.

ENCLOSED DOCUMENTS:
Attachment 1 – Planning Commission Verbatim
Staff Report previously furnished and available online at:
http://ldsnet.fairfaxcounty.gov/ldsnet/ldsdwf/4448470.PDF

STAFF:
Barbara Berlin, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
Mike Lynskey, Planner, DPZ

Planning Commission Attachment 1
Verbatim Excerpt
May 7, 2014

SEA 01-M-036-02 – PINECREST SCHOOL, INC.

Decision Only During Commission Matters
(Public Hearing held on May 1, 2014)

Commissioner Hall: Last week, we had an application, SEA 01-M-036-02, Pinecrest School, and there were many, many people out here and it was wonderful because most of them chose to just stand and support the application and not speak, which I always appreciate. Therefore – oh, and I will say that I want to thank staff and the applicant for working diligently this week and addressing the concerns of the Commission and issuing the revised development conditions, which are now dated May 7th, 2014. Therefore, I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE SEA 01-M-036-02, SUBJECT TO THE DEVELOPMENT CONDITIONS CONSISTENT WITH THOSE DATED MAY 7TH, 2014.

Commissioner Hart: Second.

Chairman Murphy: Seconded by Mr. Hart. Is there a discussion of the motion? Mr. Flanagan?

Commissioner Flanagan: Yes, thank you, Mr. Chairman. I'm going to support the motion, but I did contact staff during this week and asked them about the issue that I had raised at the public hearing about busing as a final resort -- as a transportation solution of last resort, I guess. And it's on – I don't – the pages are not – yes, page 5 of the revised conditions that – under Monitoring, it's subparagraph iii, which establishes the busing, use of buses as a last resort. And we haven't made any changes to that particular provision, but one of the things which I want staff to, you know, comment upon is the fact that buses – from the site plan it didn't appear that buses would be able to make all the turns, you know, if they finally used buses, as the site plan. And I don't know whether we determined whether buses can make those turns or whether they would have to use smaller shuttle buses.

Michael Lynskey, Zoning Evaluation Division, Department of Planning and Zoning: Yes, this is Mike Lynskey from the Department of Planning and Zoning, and I did hear that concern and we at staff, we did not do a turn analysis on that. I believe the applicant might have mentioned at the last hearing that they had looked at that. I'm not 100 percent certain. But as the condition stands now, there's no proposal for busing at this point in time, so I think if that were to come into effect in the future those kind of details could be worked out with FCDOT prior to the – they would have to work out an arrangement for busing with all those kinds of details, and that could be worked out in the future.

Commissioner Flanagan: So in the event that that does occur, why, the type of buses will be downsized to be able to negotiate the turns, if that's warranted.

Mr. Lynskey: Yes, that's one option, or –

Commissioner Flanagan: I think we have a comment, coming down.

Chairman Murphy: Well, let's – we're on verbatim now. Ms. Strobel, can you clarify this please, quickly, so we can move ahead.

Commissioner Hall: Not too quickly, with a broken leg.

Chairman Murphy: Not too quickly with the cast on your leg.

Lynne Strobel, Esquire, Walsh, Colucci, Lubeley, Emrich & Walsh, PC: Thank you, Mr. Chairman, members of the Planning Commission. Again, my name is Lynne Strobel. I represent the applicant. The school would use smaller buses. They have a 23-passenger bus and the civil engineer did take a look at that in the context of the layout and all those radiuses would be able to accommodate that bus. Thank you.

Chairman Murphy: Okay. Further discussion of the motion? All those in favor of the motion to recommend to the Board of Supervisors that it approve SEA 01-M-036-02, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries. Ms. Hall.

Commissioner Hall: Thank you, Mr. – thank you, Mr. Chairman. I was remiss to start my motion without addressing the one letter we did receive from Mr. Dietz. Although it was quite a lengthy letter, his concern had to do with, specifically – what is that called? It's something from transportation and, if Mike, if you will address that very quickly so that he knows that we responded to his letter and that we considered it.

Mr. Lynskey: Sure. I think that Mr. Dietz's concern was that the applicant did not have to perform a Chapter 870 VDOT Transportation Impact Analysis. I think he – he was a little mistaken in that he was under the impression that they were – they requested some sort of exemption from that and they did not. They actually submitted the application, as normal, and they just did not meet the threshold – trip threshold to trigger a transportation impact analysis by VDOT which, there's a trip threshold of something like 5,000 trips a day. So the majority of these types of cases that come through here do not meet that threshold. But the application was reviewed by VDOT and by FCDOT and it wasn't exempt from any kind of – from the normal transportation review that happens on these sorts of cases.

Commissioner Hall: Thank you, Mr. Chairman. I just wanted to make sure that got on the record because a letter was also sent to the Board, and I wanted them to know that we had looked at it and it was addressed. So, I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE THE MODIFICATION OF TRANSITIONAL SCREENING REQUIREMENTS, PER SECTION 13-305, PARAGRAPH 3, ALONG THE NORTH AND WEST BOUNDARIES TO UTILIZE THE EXISTING AND PROPOSED VEGETATION, AS SHOWN ON THE SE PLAT AND AS CONDITIONED.

Commissioner Hart: Second.

Chairman Murphy: Seconded by Mr. Hart. Discussion? All those in favor of that motion, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Hall: And last but certainly not least, I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS APPROVE A MODIFICATION OF THE LOADING SPACE REQUIREMENTS FOR THE PRIVATE SCHOOL OF GENERAL EDUCATION AND CHILD-CARE/NURSERY SCHOOL USES, PER SECTION 11-202, PARAGRAPH 3B, IN FAVOR OF ONE 15-FOOT BY 25-FOOT BUS PARKING SPACE.

Commissioner Hart: Second.

Chairman Murphy: Seconded by Mr. Hart. Is there a discussion of that motion? All those in favor of the motion, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Hall:

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(The motion carried by a vote of 12-0.)

JN

Board Agenda Item
June 17, 2014

4:00 p.m.

Public Hearing on SE 2013-PR-021 (Trustees of Bruen Chapel United Methodist Church and Montessori School of Cedar Lane, Inc.) to Permit a Church with Child Care Center, Nursery School and Private School of General Education with a Total Enrollment of 104 Students, Located on Approximately 2.65 Acres of Land Zoned R-1 (Providence District)

This property is located at 3035 Cedar Lane, Fairfax, 22031. Tax Map 49-3 ((1)) 25A.

PLANNING COMMISSION RECOMMENDATION:
On Wednesday, May 14, 2014, the Planning Commission voted 11-0 (Commissioner Hurley was absent from the meeting) to recommend the following action to the Board of Supervisors:

- Approval of SE 2013-PR-021, subject to conditions consistent with those dated May 13, 2014;
- Modification of transitional screening and waiver of the barrier and interior parking lot landscaping requirements; and
- Direct the Director of DPWES to waive the dustless surface requirement for the portion of the rear parking lot depicted as gravel on the SE plat and waive the construction of a trail along cedar lane.

ENCLOSED DOCUMENTS:
Attachment 1 – Planning Commission Verbatim
Staff Report previously furnished and available online at:
http://ldsnet.fairfaxcounty.gov/ldsnet/ldsdwf/4449308.PDF

STAFF:
Barbara Berlin, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
Carmen Bishop, Planner, DPZ

Attachment 1

Planning Commission Meeting
May 14, 2014
Verbatim Excerpt

SE 2013-PR-021 – TRUSTEES OF BRUEN CHAPEL UNITED METHODIST CHURCH AND MONTESSORI SCHOOL OF EDUCATION OF CEDAR LANE, INC.

After Close of the Public Hearing

Chairman Murphy: Public hearing is closed; recognize Mr. Lawrence.

Commissioner Lawrence: Thank you, Mr. Chairman. Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF SE 2013-PR-021, SUBJECT TO CONDITIONS CONSISTENT WITH THOSE NOW DATED MAY 13TH, 2014.

Commissioner Flanagan: Second.

Chairman Murphy: Seconded by Mr. Flanagan. Is there a discussion of the motion? All those in favor of the motion to recommend to the Board of Supervisors that it approve SE 2013-PR-021, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries; Mr. Lawrence.

Commissioner Lawrence: Mr. Chairman, I FURTHER MOVE THE APPROVAL OF A MODIFICATION OF TRANSITIONAL SCREENING AND WAIVER OF THE BARRIER AND INTERIOR PARKING LOT LANDSCAPING REQUIREMENTS.

Commissioner Flanagan: Second.

Chairman Murphy: Seconded by Mr. Flanagan. Is there a discussion? All those in favor, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Lawrence: Finally, Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND THAT THE BOARD OF SUPERVISORS DIRECT THE DIRECTOR OF DPWES TO WAIVE THE DUSTLESS SURFACE REQUIREMENT FOR THE PORTION OF THE REAR PARKING LOT DEPICTED AS GRAVEL ON THE SPECIAL EXCEPTION PLAT AND WAIVE THE CONSTRUCTION OF A TRAIL ALONG CEDAR LANE.

Commissioner Flanagan: Second.

Chairman Murphy: Seconded by Mr. Flanagan. Discussion? All those in favor, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Lawrence: Thank you very much, Mr. Chairman. I would like to acknowledge of Ms. Bishop – and I think she's been very patient with me through this whole terrible ordeal. And thank you, Ms. Strobel, for working with me on the drivers.

//

(Each motion carried by a vote of 11-0. Commissioner Hurley was absent from the meeting.)

JLC

Board Agenda Item
June 17, 2014

4:00 p.m.

Public Hearing on the Acquisition of Certain Land Rights Necessary for the Construction of the Sydenstricker Road Walkway from Briarcliff Drive to Galgate Drive (Springfield District)

ISSUE:
Public hearing on the acquisition of certain land rights necessary for the construction of Project ST-000021-021 (4YP201-PB021) – Sydenstricker Road Walkway from Briarcliff Drive to Galgate Drive, in Fund 300-C30050, Transportation Improvements.

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

TIMING:
On May 13, 2014, the Board of Supervisors authorized advertisement of a public hearing to be held on June 17, 2014, at 4:00 p.m.

BACKGROUND:
The County is planning to complete pedestrian improvements along the north side of Sydenstricker Road from Briarcliff Drive to Galgate Drive. These improvements consist of the construction of approximately 1,350 linear feet of six-foot-wide asphalt trail, tie-ins to existing sidewalk, curb ramps, drainage improvements, and driveway entrances with related grading.

These improvements require land rights on 5 parcels, 2 of which have been acquired by the Land Acquisition Division (LAD). The remaining parcels require dedication, sidewalk easements, storm drainage easements, and grading agreement and temporary construction easements to accommodate the appropriate work area to construct the sidewalk.

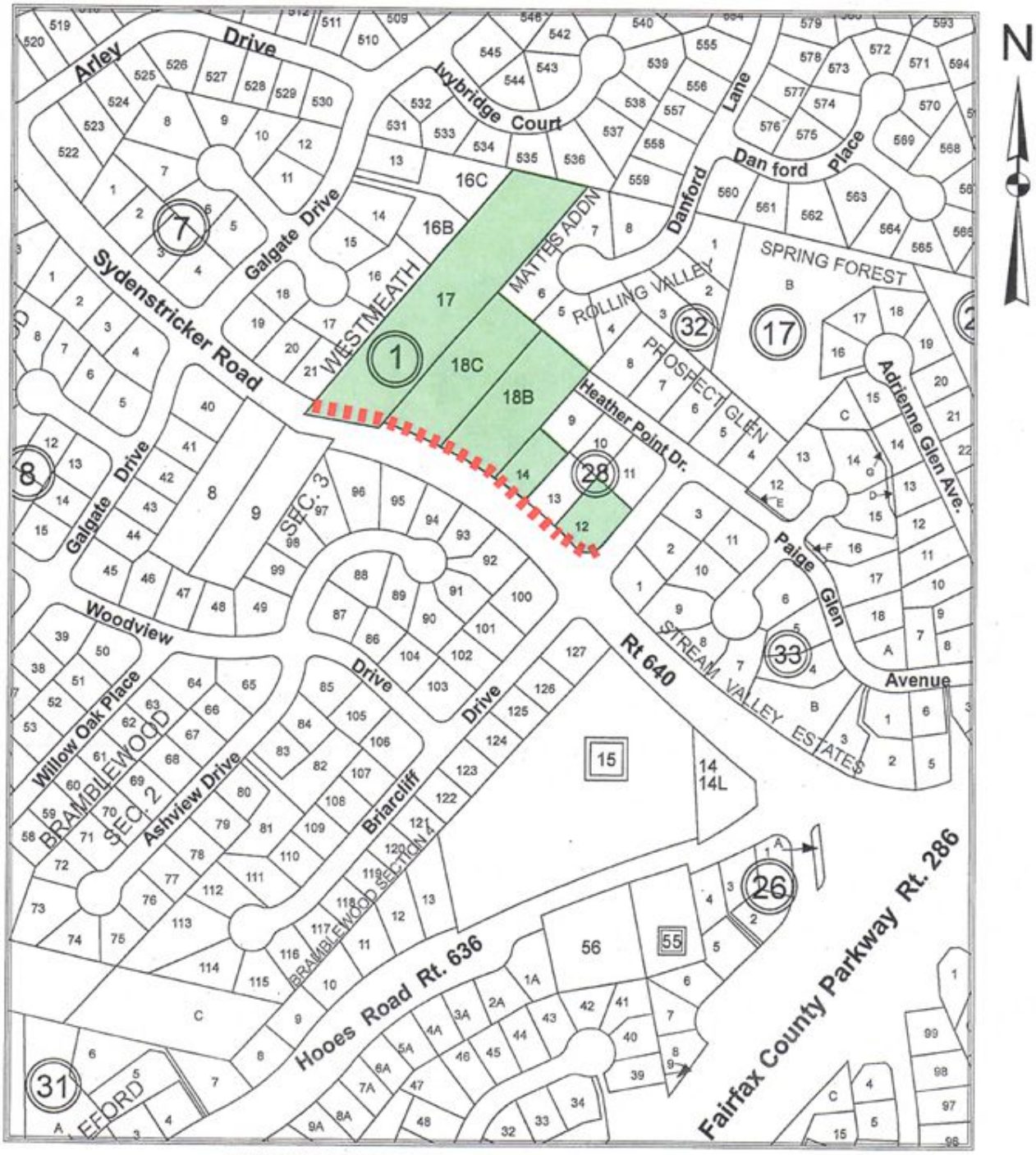
Negotiations are in progress with the remaining owners; however, resolution of these acquisitions is not imminent. Pursuant to Va. Code Ann. §§ 15.2-1902-1904 (as amended), a public hearing is required before property interests can be acquired by eminent domain.

FISCAL IMPACT:
Funding is available in Project ST-000021-021 (4YP201-PB021) – Sydenstricker Road Walkway from Briarcliff Drive to Galgate Drive, in Fund 300-C30050, Transportation Improvements. No additional funds are required at this time for land acquisition.

ENCLOSED DOCUMENTS:
Attachment A - Project Location Map
Attachment B – Resolution with Fact Sheet on each affected parcel with plat showing interests to be acquired (Attachments 1 through 3A).

STAFF:
James W. Patteson, Director, Department of Public Works and Environmental Services (DPWES)
Ronald N. Kirkpatrick, Deputy Director, DPWES, Capital Facilities

ATTACHMENT A



SYDENSTRICKER ROAD WALKWAY

Tax Map: 89-3 **Project ST-000021-021 (4YP201 - PB021)** **Scale: Not to Scale**

Springfield District

Affected Properties: **Proposed Improvements:**

ATTACHMENT B

RESOLUTION

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium in the Government Center at 12000 Government Center Parkway, Fairfax, Virginia, on Tuesday, June 17, 2014, at which meeting a quorum was present and voting, the following resolution was adopted:

WHEREAS, there exists a need for the construction of the Sydenstricker Road Walkway Project; and

WHEREAS, the property interests that are necessary have been identified; and

WHEREAS, the Board of Supervisors finds that it would be in the best interest of the citizens of Fairfax County to acquire portions of the parcels of land located along the north side of Sydenstricker Road from Briarcliff Drive to Galgate Drive, Springfield, Virginia; and

WHEREAS, it is necessary to expedite the acquisition of this land; and

NOW THEREFORE BE IT RESOLVED, that the County Attorney is hereby authorized and directed to institute the necessary legal proceedings to acquire the following land by the process of eminent domain:

PROPERTY OWNER(S)	TAX MAP NUMBER(S)	INTEREST(S) REQUIRED	ESTIMATED VALUE
1. John Kenneth Fols	089-3-01-0017	Dedication – 434 sq. ft. Sidewalk Easement – 1,214 sq. ft. Grading Agreement and Temporary Construction Easement – 3,669 sq. ft.	$8,500.00
2. Janice T. McCallum	089-3-01-0018-B	Sidewalk Easement - 1,121 sq. ft. Grading Agreement and Temporary Construction Easement – 2,829 sq. ft.	$14,200.00

3. John L. DeMaria Debra A. DeMaria	089-3-01-0018-C	Sidewalk Easement – 581 sq. ft. Grading Agreement and Temporary Construction Easement – 880 sq. ft.	$5,900.00

A Copy – Teste:

_____

Catherine A. Chianese
Clerk to the Board of Supervisors

ATTACHMENT 1

1. AFFECTED PROPERTY

Tax Map Number: 089-3-01-0017
Street Address: 7213 Sydenstricker Road

2. OWNER(S): John Kenneth Fols

3. INTEREST(S) REQUIRED (As shown on attached plat/plan)

Dedication – 434 sq. ft.
Sidewalk Easement – 1,214 sq. ft.
Grading Agreement and Temporary Construction Easement – 3,669 sq. ft.

4. VALUE

Estimated value of interests and damages:

EIGHT THOUSAND FIVE HUNDRED DOLLARS ($8,500.00)

ATTACHMENT 2

1. AFFECTED PROPERTY

Tax Map Number: 089-3-01-0018-B
Street Address: 7217 Sydenstricker Road

2. OWNER(S): Janice T. McCallum

3. INTEREST(S) REQUIRED (As shown on attached plat/plan)

Sidewalk Easement – 1,121 sq. ft.
Grading Agreement and Temporary Construction Easement – 2,829 sq. ft.

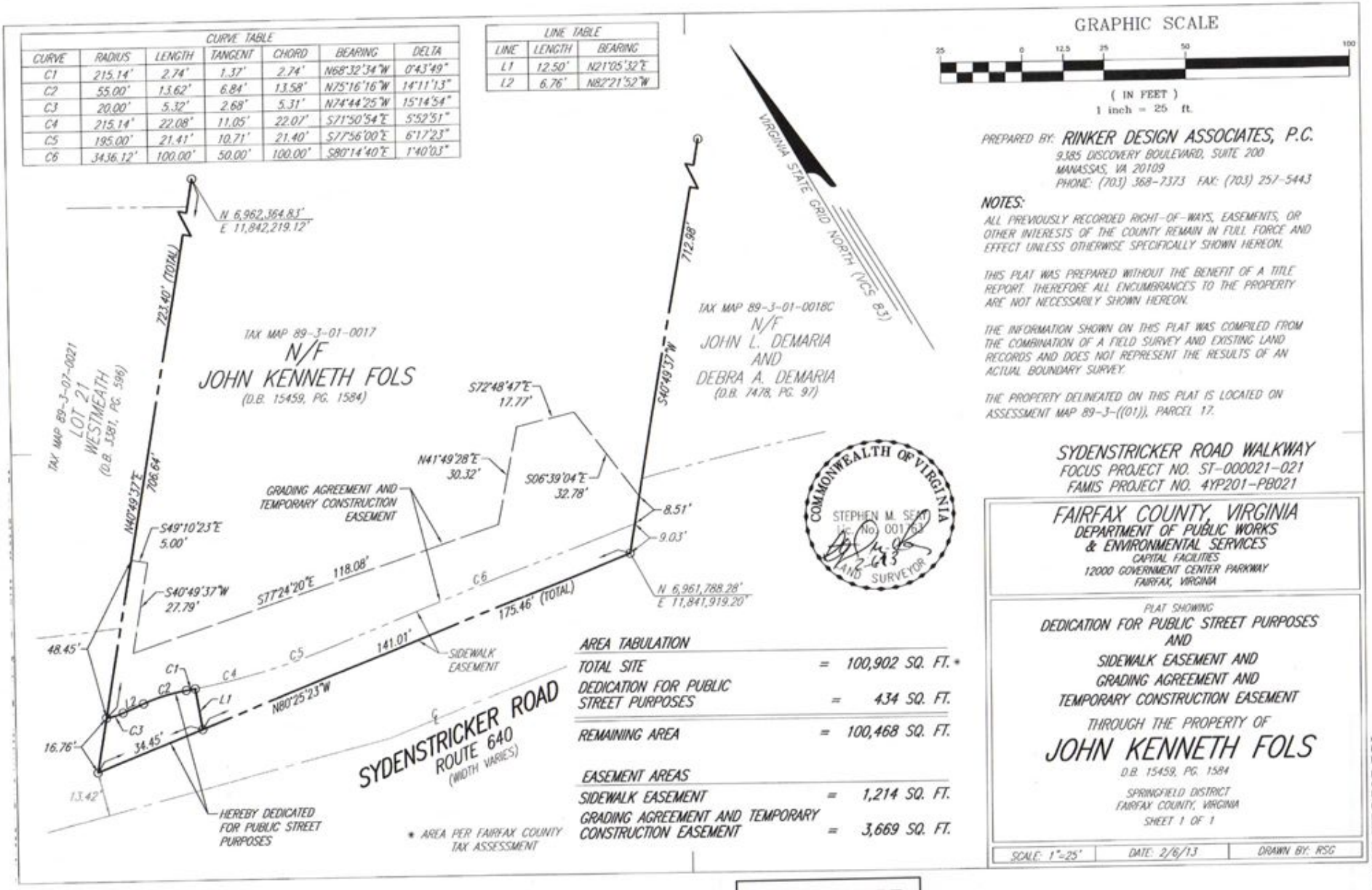
4. VALUE

Estimated value of interests and damages:

FOURTEEN THOUSAND TWO HUNDRED DOLLARS ($14,200.00)

CURVE TABLE						
CURVE	RADIUS	LENGTH	TANGENT	CHORD	BEARING	DELTA
C1	215.14'	2.74'	1.37'	2.74'	N68°32'34"W	0°43'49"
C2	55.00'	13.62'	6.84'	13.58'	N75°16'16"W	14°11'13"
C3	20.00'	5.32'	2.68'	5.31'	N74°44'25"W	15°14'54"
C4	215.14'	22.08'	11.05'	22.07'	S71°50'54"E	5°52'51"
C5	195.00'	21.41'	10.71'	21.40'	S77°56'00"E	6°17'23"
C6	3436.12'	100.00'	50.00'	100.00'	S80°14'40"E	1°40'03"

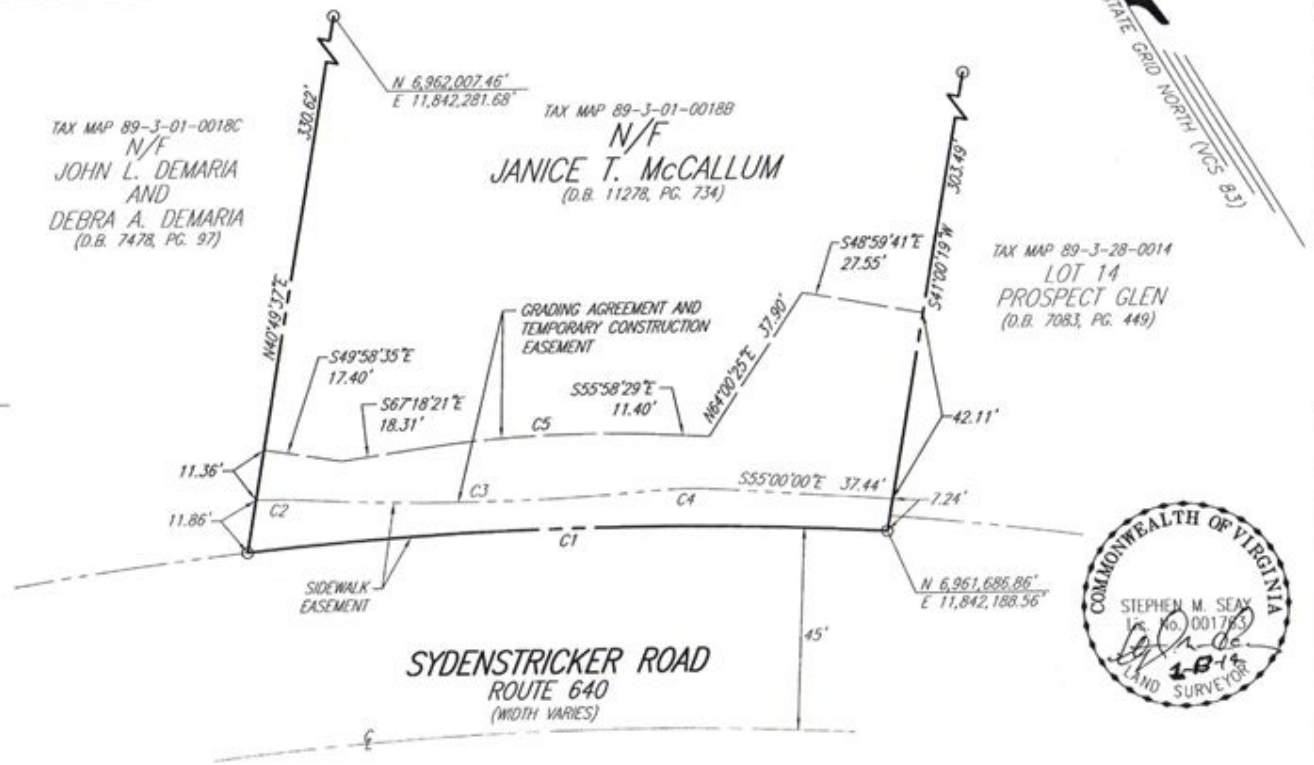
LINE TABLE		
LINE	LENGTH	BEARING
L1	12.50'	N21°05'32"E
L2	6.76'	N82°21'52"W



NOT TO SCALE

ATTACHMENT 1-A

CURVE TABLE						
CURVE	RADIUS	LENGTH	TANGENT	CHORD	BEARING	DELTA
C1	845.00'	141.93'	71.13'	141.77'	N60°12'19"W	9°37'26"
C2	105.00'	10.61'	5.31'	10.61'	S58°14'08"E	5°47'23"
C3	495.00'	76.31'	38.23'	76.23'	S59°45'25"E	8°49'56"
C4	105.00'	16.81'	8.42'	16.79'	S59°35'11"E	9°10'23"
C5	263.00'	52.01'	26.09'	51.93'	S61°38'25"E	11°19'52"



VIRGINIA STATE GRID NORTH (VCS 83)

PREPARED BY: RINKER DESIGN ASSOCIATES, P.C.
9385 DISCOVERY BOULEVARD, SUITE 200
MANASSAS, VA 20109
PHONE: (703) 368-7373 FAX: (703) 257-5443

NOTES:

ALL PREVIOUSLY RECORDED RIGHT-OF-WAYS, EASEMENTS, OR OTHER INTERESTS OF THE COUNTY REMAIN IN FULL FORCE AND EFFECT UNLESS OTHERWISE SPECIFICALLY SHOWN HEREON.

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

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

THE PROPERTY DELINEATED ON THIS PLAT IS LOCATED ON ASSESSMENT MAP 89-3-((01)), PARCEL 18B.

SYDENSTRICKER ROAD WALKWAY
FOCUS PROJECT NO. ST-000021-021
FAMIS PROJECT NO. 4YP201-PB021

FAIRFAX COUNTY, VIRGINIA
DEPARTMENT OF PUBLIC WORKS
& ENVIRONMENTAL SERVICES
CAPITAL FACILITIES
12000 GOVERNMENT CENTER PARKWAY
FAIRFAX, VIRGINIA

PLAT SHOWING
SIDEWALK EASEMENT
AND
GRADING AGREEMENT AND
TEMPORARY CONSTRUCTION EASEMENT
THROUGH
PARCEL B-2
D.B. 5877, PG. 57
PROPERTY BEING IN THE NAME OF
JANICE T. McCALLUM
D.B. 11278, PG. 734
SPRINGFIELD DISTRICT
FAIRFAX COUNTY, VIRGINIA
SHEET 1 OF 1

SCALE: 1"=25'	DATE: 1/13/14	DRAWN BY: RSG

COMMONWEALTH OF VIRGINIA
STEPHEN M. SEAX
Lic. No. 001783
1-8-14
LAND SURVEYOR

GRAPHIC SCALE
25 0 12.5 25 50 100
(IN FEET)
1 inch = 25 ft.

EASEMENT AREAS

SIDEWALK EASEMENT	=	1,121 SQ. FT.
GRADING AGREEMENT AND TEMPORARY CONSTRUCTION EASEMENT	=	2,829 SQ. FT.

NOT TO SCALE

ATTACHMENT 2-A

ATTACHMENT 3

1. AFFECTED PROPERTY

Tax Map Number: 089-3-01-0018-C
Street Address: 7215 Sydenstricker Road

2. OWNER(S): John L. DeMaria
Debra A. DeMaria

3. INTEREST(S) REQUIRED (As shown on attached plat/plan)

Sidewalk Easement – 581 sq. ft.
Grading Agreement and Temporary Construction Easement – 880 sq. ft.

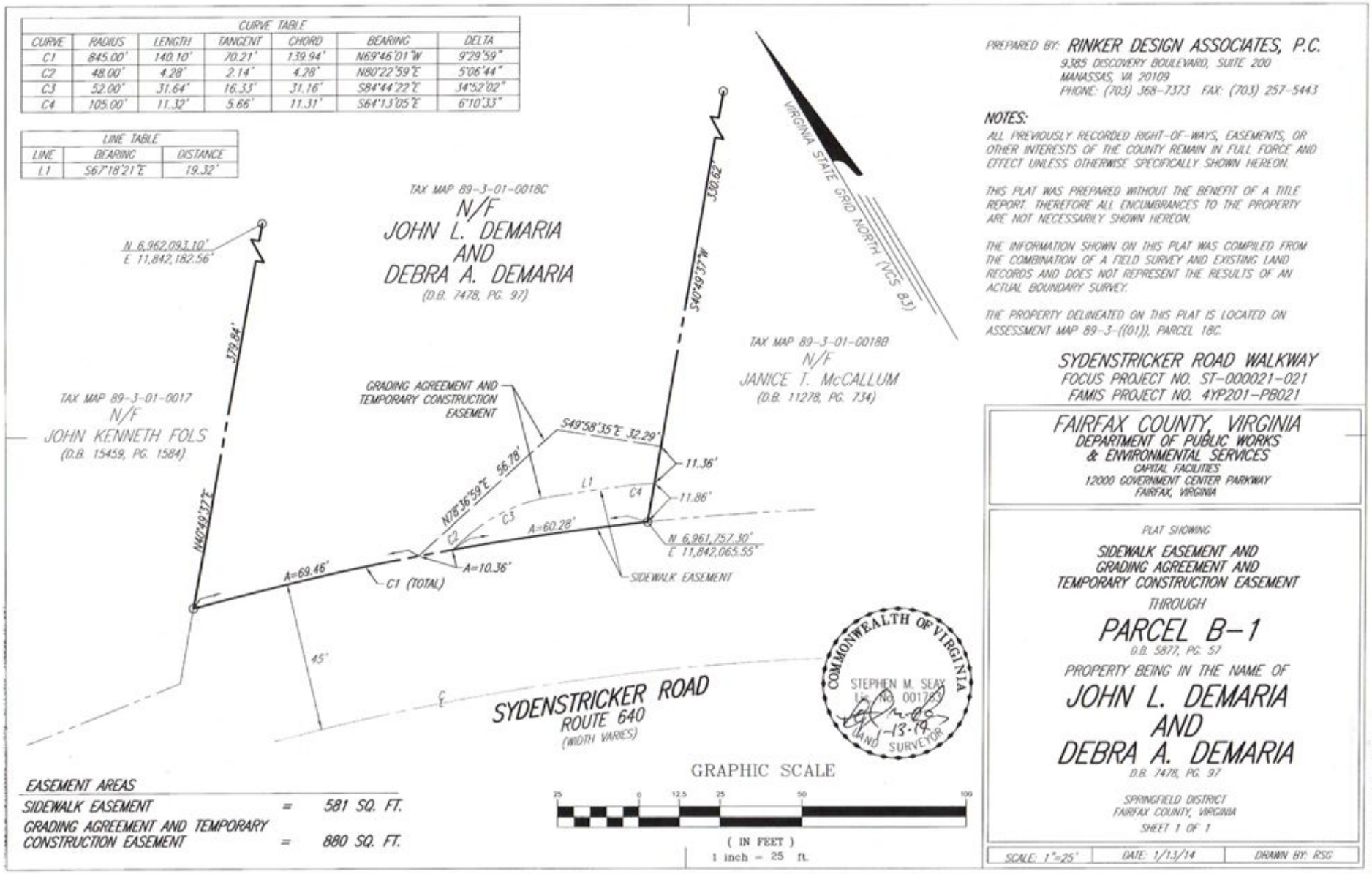
4. VALUE

Estimated value of interests and damages:

FIVE THOUSAND NINE HUNDRED DOLLARS ($5,900.00)

CURVE TABLE						
CURVE	RADIUS	LENGTH	TANGENT	CHORD	BEARING	DELTA
C1	845.00'	140.10'	70.21'	139.94'	N69°46'01"W	9°29'59"
C2	48.00'	4.28'	2.14'	4.28'	N80°22'59"E	5°06'44"
C3	52.00'	31.64'	16.33'	31.16'	S84°44'22"E	34°52'02"
C4	105.00'	11.32'	5.66'	11.31'	S64°13'05"E	6°10'33"

LINE TABLE		
LINE	BEARING	DISTANCE
L1	S67°18'21"E	19.32'



EASEMENT AREAS

SIDEWALK EASEMENT	=	581 SQ. FT.
GRADING AGREEMENT AND TEMPORARY CONSTRUCTION EASEMENT	=	880 SQ. FT.

GRAPHIC SCALE

25 0 12.5 25 50 100

(IN FEET)
1 inch = 25 ft.

NOT TO SCALE

PREPARED BY: RINKER DESIGN ASSOCIATES, P.C.
9385 DISCOVERY BOULEVARD, SUITE 200
MANASSAS, VA 20109
PHONE: (703) 368-7373 FAX: (703) 257-5443

NOTES:

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THE PROPERTY DELINEATED ON THIS PLAT IS LOCATED ON ASSESSMENT MAP 89-3-((01)), PARCEL 18C.

SYDENSTRICKER ROAD WALKWAY
FOCUS PROJECT NO. ST-000021-021
FAMIS PROJECT NO. 4YP201-PB021

FAIRFAX COUNTY, VIRGINIA
DEPARTMENT OF PUBLIC WORKS
& ENVIRONMENTAL SERVICES
CAPITAL FACILITIES
12000 GOVERNMENT CENTER PARKWAY
FAIRFAX, VIRGINIA

PLAT SHOWING
SIDEWALK EASEMENT AND
GRADING AGREEMENT AND
TEMPORARY CONSTRUCTION EASEMENT
THROUGH
PARCEL B-1
D.B. 5877, PG. 57
PROPERTY BEING IN THE NAME OF
JOHN L. DEMARIA
AND
DEBRA A. DEMARIA
D.B. 7478, PG. 97

SPRINGFIELD DISTRICT
FAIRFAX COUNTY, VIRGINIA
SHEET 1 OF 1

SCALE: 1"=25'	DATE: 1/13/14	DRAWN BY: RSG

ATTACHMENT 3-A

Board Agenda Item
June 17, 2014

4:00 p.m.

Joint Public Hearing on the Proposed Virginia Department of Transportation Six-Year Secondary System Construction Program for Fiscal Years 2015 through 2020 and FY 2015 Budget

ISSUE:
Public hearing and Board approval of the proposed Virginia Department of Transportation (VDOT) Six-Year Secondary System Construction Program (SSYP) for Fiscal Years (FY) 2015 through 2020.

RECOMMENDATION:
The County Executive recommends that the Board approve the attached Secondary System Construction Program for FY 2015 through 2020 (Attachment 1), the FY 2015 Budget, and the resolution (Attachment 2) required by VDOT.

TIMING:
The Board is requested to act on this item on June 17, 2014, following the public hearing.

BACKGROUND:
The proposed SSYP has been prepared by VDOT, in coordination with County staff, pursuant to Section 33.1-70.01 of the *Code of Virginia*. This is an update of the previous Program which was the subject of a public hearing before the Board on June 3, 2013. Project schedule information is also included in the proposed program.

Last year, the board considered a SSYP in which VDOT had allocated new funds to the program. VDOT has since changed their revenue projections for future years, and the program has returned to a state of minimal funding levels. In addition, the CTB has the authority to allocate up to $500 million from the Transportation Trust Fund to priority projects before funds are provided to the construction fund. This continues to prevent any funds from flowing to the primary, secondary, and urban allocation formulas, despite the influx of transportation revenues provided by HB 2313. The new funds in Fairfax County's Secondary Road Program are only applicable to un-paved roads. Other than the un-paved road funds, there are no new construction funds for secondary roads in Fairfax County. Although the program has limited funds, there are several changes to the program.

The projects in the previously approved SSYP have undergone the following changes:

- $50,000 will be taken from Walney Road Bridge Replacement and Widening (UPC 104103) and moved to a new project for countywide drainage improvements on secondary roads. The Walney Road project is currently advertised as a design/build project, and County staff anticipates that the winning bid could come under the current project estimate. If this does not happen, the $50,000 will be returned to the Walney Road project.

- Colchester Road Pave Gravel Road (UPC 76256) will undergo a study to bring the project to 30% plans. Public input such as a Citizen's Information Meeting (CIM) or other public outreach will be involved with this study. This is the last state maintained unpaved road in Fairfax County, and the County will continue to receive a portion for the State Formula Un-Paved Road Funds until this section of road is paved.

Table A shows the annual VDOT Secondary System Construction Program for Fairfax County from FY 2005 through FY 2020.

Table A

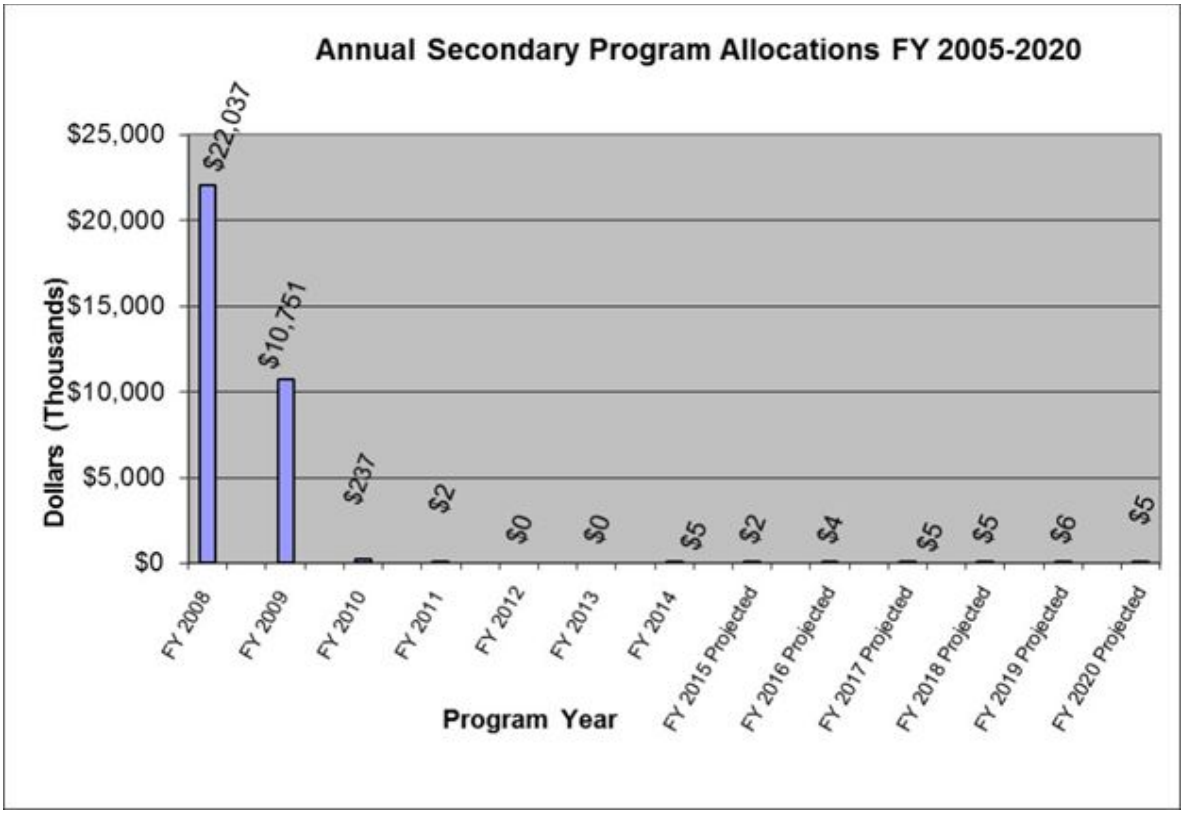

Table B shows the changes in the Six-Year Secondary Construction Program amounts from the FY 2003 to FY 2008 Program through the current Program.

Table B: Secondary Program Comparison

2003-2008	$138,335,526
2004-2009	$153,442,084
2005-2010	$113,686,186
2006-2011	$131,445,086
2007-2012	$78,270,291
2008-2013	$119,121,972
2009-2014	$10,994,320
2010-2015	$1,443,761
2011-2016 (revised)	$12,027
2012-2017 (revised)	$20,529
2013-2018 (revised)	$10,960
2014-2019 (revised)	$26,208
2015-2020 (projected)	$27,135

FISCAL IMPACT:
There is no impact to the Fairfax County budget at this time. However, there is a potential that the $50,000 for roadway drainage improvements may have to be reallocated to the Walney Road project. At such time as individual projects are constructed, the County may send VDOT any related funds that have been collected for a particular project by the County through proffers, construction escrows and/or other local funds.

ENCLOSED DOCUMENTS:
Attachment 1: Secondary System Construction Program for FY 2015 through FY 2020
Attachment 2: Resolution approving budget and program.
Attachment 3: Secondary Priority Road Widening Status Update

STAFF:
Robert A. Stalzer, Deputy County Executive
Tom Biesiadny, Director, Fairfax County Department of Transportation (FCDOT)
Eric Teitelman, Chief, Capital Projects and Operations Division, FCDOT
Karyn Moreland, Chief, Capital Projects Section, FCDOT
Todd Wigglesworth, Acting Chief, Coordination and Funding Division, FCDOT
Kenneth Kanownik, Coordination and Funding Division, FCDOT
Leonard Siegel, Arlington/Fairfax Preliminary Engineering Manager, VDOT
Bethany Mathis, Arlington/Fairfax Preliminary Engineering, VDOT

Secondary System
Fairfax County
Construction Program
Estimated Allocations

Fund	FY2015	FY2016	FY2017	FY2018	FY2019	FY2020	Total
CTB Formula - Unpaved State	$1,905	$3,565	$5,210	$5,281	$5,679	$5,495	$27,135
Secondary Unpaved Roads	$0	$0	$0	$0	$0	$0	$0
TeleFee	$0	$0	$0	$0	$0	$0	$0
Residue Parcels	$0	$0	$0	$0	$0	$0	$0
STP Converted from IM	$0	$0	$0	$0	$0	$0	$0
Federal STP - Bond Match	$0	$0	$0	$0	$0	$0	$0
Formula STP	$0	$0	$0	$0	$0	$0	$0
MG Formula	$0	$0	$0	$0	$0	$0	$0
BR Formula	$0	$0	$0	$0	$0	$0	$0
Other State Match	$0	$0	$0	$0	$0	$0	$0
State Funds	$0	$0	$0	$0	$0	$0	$0
Federal STP	$0	$0	$0	$0	$0	$0	$0
Total	$1,905	$3,565	$5,210	$5,281	$5,679	$5,495	$27,135

Board Approval Date:

Manager, Arl/Fairfax PE Date

County Administrator Date

Page 1 of 1

SSYP Budget Detail Report

Fairfax County

Fairfax County (029)

UPC	Description
100162	**COUNTYWIDE TRAFFIC SERVICES**

0000.03 Budget Item 1204007 VARIOUS LOCATIONS IN COUNTY VARIOUS LOCATIONS IN COUNTY

Funding Detail (in $1000s)		Previous	FY2015	FY2016	FY2017	FY2018	FY2019	FY2020
6030601	.Formula - Secondary :Federal/State - Fairfax (CNS601)	$96	$0	$0	$0	$0	$0	$0
6030601	Regular :Secondary :Fairfax (CNS601)	$17	$0	$0	$0	$0	$0	$0
6030623	Local Project Contributions - Secondary (CND247)	$45	$0	$0	$0	$0	$0	$0
6030672	Secondary Formula - State : Fairfax (CNS672)	$441	$0	$0	$0	$0	$0	$0

100373 **COUNTYWIDE RIGHT OF WAY ENGR.**

0000.04 Budget Item 1204008 VARIOUS LOCATIONS IN COUNTY VARIOUS LOCATIONS IN COUNTY

Funding Detail (in $1000s)		Previous	FY2015	FY2016	FY2017	FY2018	FY2019	FY2020
6030601	.Formula - Secondary :Federal/State - Fairfax (CNS601)	$0	$0	$0	$0	$0	$0	$0
6030672	Secondary Formula - State : Fairfax (CNS672)	$20	$0	$0	$0	$0	$0	$0

99180 **Countywide Traffic Calming**

0000.05 Project 9999029S37 Countywide Subdivision Streets

Previous	Budget	Projected	Total
$366,407	$0	$0	$366,407
		Total Estimate	$366,407
		Balance:	$0

	PE	RW	CN
Schedule:			10/01/17
Estimate:	$0	$0	$366,407

Funding Detail (in $1000s)		Previous	FY2015	FY2016	FY2017	FY2018	FY2019	FY2020
6030601	.Formula - Secondary :Federal/State - Fairfax (CNS601)	$366	$0	$0	$0	$0	$0	$0

60864 **STRINGFELLOW ROAD - RTE 645 - WIDEN TO FOUR LANES**

0002.01 Project 0645029384 Route 7735 Fair Lakes Blvd ROUTE 50 Lee Jackson Memorial Highway

Previous	Budget	Projected	Total
$74,442,023	$0	$0	$74,442,023
		Total Estimate	$60,986,722
		Balance:	-$13,455,301

	PE	RW	CN
Schedule:	11/17/04	05/07/10	07/24/12
Estimate:	$6,667,680	$24,698,583	$29,620,459

Funding Detail (in $1000s)		Previous	FY2015	FY2016	FY2017	FY2018	FY2019	FY2020
6030201	Revenue Sharing Funds :Local Match	$18,221	$0	$0	$0	$0	$0	$0
6030202	Revenue Sharing Funds :State Match (CNS202)	$18,221	$0	$0	$0	$0	$0	$0
6030620	Residue Parcel - Fairfax County (CNS620)	$0	$0	$0	$0	$0	$0	$0
6030622	Accounts Receivable - Secondary (CNL222)	$8,000	$0	$0	$0	$0	$0	$0

Fairfax County (029)

UPC	Description								
	6040000	Maintenance Funds :Statewide :Highway System Maintenance - State (MNS000)	$0	$0	$0	$0	$0	$0	$0
	9030623	Local Project Contributions - Secondary	$30,000	$0	$0	$0	$0	$0	$0

76256 **COLCHESTER ROAD - RTE 612 -RECON & PAVE GRAVEL ROAD**

0003.01 Project 0612029P87 CHAPEL ROAD (ROUTE 641) 0.24 MILE NORTHWEST OF ROUTE 641

Previous	Budget	Projected	Total
$76,844	$1,905	$25,230	$103,979

Total Estimate $445,000

Balance: $341,021

	PE	RW	CN
Schedule:	01/15/18	01/15/19	01/15/20
Estimate:	$60,000	$50,000	$335,000

Funding Detail (in $1000s)		Previous	FY2015	FY2016	FY2017	FY2018	FY2019	FY2020
3001500	CTB Formula: Unpaved - Fairfax	$4	$2	$4	$5	$5	$6	$5
6030605	Secondary Formula - Unpaved Roads : Fairfax	$72	$0	$0	$0	$0	$0	$0

104103 **WALNEY RD - RTE 657 - BRIDGE REPLACEMENT AND WIDENING - D/B**

5000.00 Project 0657029099 .083 MI. South of Flatlick Branch 0.033 MI. North of Dallas St

Previous	Budget	Projected	Total
$14,983,774	$0	$0	$14,983,774

Total Estimate $14,979,604

Balance: -$4,170

	PE	RW	CN
Schedule:	08/08/13	09/13/13	09/13/13
Estimate:	$235,064	$1,071,658	$13,672,882

Funding Detail (in $1000s)		Previous	FY2015	FY2016	FY2017	FY2018	FY2019	FY2020
6030473	RSTP - Primary : Northern Virginia MPO (CNF273)	$854	$0	$0	$0	$0	$0	$0
6030474	RSTP Match - Primary : Northern Virginia MPO (CNS273)	$214	$0	$0	$0	$0	$0	$0
6030601	.Formula - Secondary :Federal/State - Fairfax (CNS601)	$918	$0	$0	$0	$0	$0	$0
6030653	Federal Formula - Secondary Bond Match : Fairfax (CNB653)	$7	$0	$0	$0	$0	$0	$0
6030668	Secondary Formula - EB(MG) : Fairfax (CNF668)	$194	$0	$0	$0	$0	$0	$0
6030669	Secondary Formula - Bridge : Fairfax (CNF669)	$1,729	$0	$0	$0	$0	$0	$0
6030670	Secondary Formula - Match : Fairfax (CNB670)	$481	$0	$0	$0	$0	$0	$0
6030672	Secondary Formula - State : Fairfax (CNS672)	$2,479	$0	$0	$0	$0	$0	$0
6030673	RSTP - Secondary : Northern Virginia MPO (CNF273)	$13	$0	$0	$0	$0	$0	$0
6030673	RSTP :Secondary :Federal STP Regional - Fairfax (CNF273)	$6,452	$0	$0	$0	$0	$0	$0
6030674	RSTP Match - Secondary : Northern Virginia MPO (CNS273)	$3	$0	$0	$0	$0	$0	$0
6030674	Secondary :State Match Non-Formula - Fairfax (CNS273)	$1,613	$0	$0	$0	$0	$0	$0
6030675	Federal Formula STP - Secondary : Fairfax (CNF675)	$27	$0	$0	$0	$0	$0	$0

Fairfax County (029)

UPC	Description
97219	GUINEA ROAD - ROUTE 651 - REPLACE CULVERT OVER LONG BRANCH

5000.01 Project 0651029899 0.066 mi. S. of Long Branch 0.047 mi. N. of Long Branch

Previous	Budget	Projected	Total
$4,690,600	$0	$0	$4,690,600
		Total Estimate	$4,734,299
		Balance:	$43,699

	PE	RW	CN
Schedule:	03/29/11		08/23/11
Estimate:	$515,299	$0	$4,219,000

Funding Detail (in $1000s)		Previous	FY2015	FY2016	FY2017	FY2018	FY2019	FY2020
6030601	.Formula - Secondary :Federal/State - Fairfax (CNS601)	$564	$0	$0	$0	$0	$0	$0
6030620	Residue Parcel - Fairfax County (CNS620)	$2	$0	$0	$0	$0	$0	$0
6030653	Federal Formula - Secondary Bond Match : Fairfax (CNB653)	$46	$0	$0	$0	$0	$0	$0
6030668	Secondary Formula - EB(MG) : Fairfax (CNF668)	$396	$0	$0	$0	$0	$0	$0
6030669	Secondary Formula - Bridge : Fairfax (CNF669)	$7	$0	$0	$0	$0	$0	$0
6030670	Secondary Formula - Match : Fairfax (CNB670)	$93	$0	$0	$0	$0	$0	$0
6030672	Secondary Formula - State : Fairfax (CNS672)	$1,516	$0	$0	$0	$0	$0	$0
6030673	RSTP :Secondary :Federal STP Regional - Fairfax (CNF273)	$1,506	$0	$0	$0	$0	$0	$0
6030674	Secondary :State Match Non-Formula - Fairfax (CNS273)	$376	$0	$0	$0	$0	$0	$0
6030675	Federal Formula STP - Secondary : Fairfax (CNF675)	$184	$0	$0	$0	$0	$0	$0

UPC	Description
84383	WALKER RD - RTE 681 - REPLACE BRIDGE OVER PINEY RUN

5000.02 Project 0681029717 0.3 Mi. N of Route 743 (Colvin Run Road) 0.4 Mi N of Route 743 (Colvin Run Road)

Previous	Budget	Projected	Total
$378,215	$0	$0	$378,215
		Total Estimate	$378,215
		Balance:	$0

	PE	RW	CN
Schedule:	02/22/10		
Estimate:	$378,215	$0	$0

Funding Detail (in $1000s)		Previous	FY2015	FY2016	FY2017	FY2018	FY2019	FY2020
6030601	.Formula - Secondary :Federal/State - Fairfax (CNS601)	$303	$0	$0	$0	$0	$0	$0
6030672	Secondary Formula - State : Fairfax (CNS672)	$76	$0	$0	$0	$0	$0	$0

UPC	Description
84385	BEACH MILL ROAD - RTE 603 - BR. OVER NICHOLS RUN

5000.03 Project 0603029718 0.55 MI W. OF RTE 674 (SPRINGVALE RD) 0.45 MI W. OF RTE 674 (SPRINGVALE RD)

Previous	Budget	Projected	Total
$535,824	$0	$0	$535,824
		Total Estimate	$535,824
		Balance:	$0

	PE	RW	CN
Schedule:	07/23/09		04/10/12
Estimate:	$381,838	$0	$153,986

Funding Detail (in $1000s)		Previous	FY2015	FY2016	FY2017	FY2018	FY2019	FY2020
6030669	Secondary Formula - Bridge : Fairfax (CNF669)	$429	$0	$0	$0	$0	$0	$0
6030670	Secondary Formula - Match : Fairfax (CNB670)	$107	$0	$0	$0	$0	$0	$0

Fairfax County (029)

UPC	Description
76247	TOWLSTON RD - RT 676 - REPLACE BRIDGE OVER ROCKY RUN

5000.04 Project 0676029389 BRIDGE REPLACEMENT OVER ROCKY RUN (0.15 MILE FROM ROUTE 738) STRUCTURE # 6137

Previous	Budget	Projected	Total
$434,000	$0	$0	$434,000
		Total Estimate	$593,000
		Balance:	$159,000

	PE	RW	CN
Schedule:	05/21/07		02/11/14
Estimate:	$593,000	$0	$0

Funding Detail (in $1000s)		Previous	FY2015	FY2016	FY2017	FY2018	FY2019	FY2020
6030210	Federal Demonstration Funds :Access Demo (CNF210)	$240	$0	$0	$0	$0	$0	$0
6030669	Secondary Formula - Bridge : Fairfax (CNF669)	$155	$0	$0	$0	$0	$0	$0
6030670	Secondary Formula - Match : Fairfax (CNB670)	$39	$0	$0	$0	$0	$0	$0

UPC	Description
82213	RTE 702 BRIDGE REHAB - SCOUR COUNTERMEASURE

5000.04 Project 0702029395 0.70 miles E of intersection of Rte 7 and Rte 702 0.65 mile N of intersection of Rte 267 and Rte 702

Previous	Budget	Projected	Total
$738,571	$0	$0	$738,571
		Total Estimate	$950,000
		Balance:	$211,429

	PE	RW	CN
Schedule:	08/01/07		04/10/12
Estimate:	$336,425	$0	$613,575

Funding Detail (in $1000s)		Previous	FY2015	FY2016	FY2017	FY2018	FY2019	FY2020
6030669	Secondary Formula - Bridge : Fairfax (CNF669)	$183	$0	$0	$0	$0	$0	$0
6030670	Secondary Formula - Match : Fairfax (CNB670)	$46	$0	$0	$0	$0	$0	$0
6040000	Maintenance Funds :Statewide :Highway System Maintenance - State (MNS000)	($211)	$0	$0	$0	$0	$0	$0
6040300	Maintenance Funds :Statewide - State :Secondary Maintenance - State (MNS000)	$270	$0	$0	$0	$0	$0	$0
6040302	Maintenance Funds :Statewide - State :Federal Bridge Funds on Secondary System (MNF002)	$20	$0	$0	$0	$0	$0	$0
6040305	Maintenance Funds :Statewide - State :Federal STP Funds on Secondary System (MNF005)	$341	$0	$0	$0	$0	$0	$0
6040309	Maintenance Funds :Statewide - Match :Secondary Maintenance - Match (MNS000)	$90	$0	$0	$0	$0	$0	$0

UPC	Description
82214	WALNEY RD - RT 657 - BRIDGE REHAB OVER FLATLICK BRANCH

5000.05 Project 0657029396 0.42mi S INT Rte 6215 0.03mi N INT Rte 6755

Previous	Budget	Projected	Total
$810,000	$0	$0	$810,000
		Total Estimate	$833,740
		Balance:	$23,740

	PE	RW	CN
Schedule:	08/02/07		
Estimate:	$833,740	$0	$0

Funding Detail (in $1000s)		Previous	FY2015	FY2016	FY2017	FY2018	FY2019	FY2020
6030601	.Formula - Secondary :Federal/State - Fairfax (CNS601)	$810	$0	$0	$0	$0	$0	$0

Fairfax County (029)

UPC	Description
82215	COMPTON RD. - RTE. 658 - BRIDGE REHAB. OVER LITTLE ROCKY RUN

5000.06 Project 0658029397 0.12mi W INT Rte 8361 0.06mi E INT Rte 8617

Previous	Budget	Projected	Total
$158,950	$0	$0	$158,950
		Total Estimate	$158,950
		Balance:	$0

	PE	RW	CN
Schedule:	08/01/07		
Estimate:	$158,950	$0	$0

Funding Detail (in $1000s)		Previous	FY2015	FY2016	FY2017	FY2018	FY2019	FY2020
6030669	Secondary Formula - Bridge : Fairfax (CNF669)	$121	$0	$0	$0	$0	$0	$0
6030670	Secondary Formula - Match : Fairfax (CNB670)	$38	$0	$0	$0	$0	$0	$0

UPC	Description
92143	EXTEND BOX CULVERT TO WIDEN LEE ROAD

5000.07 Project 0661029831 0.3 mile North of Int. Willard Road 0.5 mile South of Int. Route 50

Previous	Budget	Projected	Total
$3,537,135	$0	$0	$3,537,135
		Total Estimate	$3,341,533
		Balance:	-$195,602

	PE	RW	CN
Schedule:	10/01/09	03/11/13	12/10/13
Estimate:	$750,000	$580,972	$2,010,561

Funding Detail (in $1000s)		Previous	FY2015	FY2016	FY2017	FY2018	FY2019	FY2020
6030473	RSTP - Primary : Northern Virginia MPO (CNF273)	$776	$0	$0	$0	$0	$0	$0
6030474	RSTP Match - Primary : Northern Virginia MPO (CNS273)	$194	$0	$0	$0	$0	$0	$0
6030672	Secondary Formula - State : Fairfax (CNS672)	$762	$0	$0	$0	$0	$0	$0
6030673	RSTP :Secondary :Federal STP Regional - Fairfax (CNF273)	$1,121	$0	$0	$0	$0	$0	$0
6030674	Secondary :State Match Non-Formula - Fairfax (CNS273)	$280	$0	$0	$0	$0	$0	$0
6040100	Maintenance Funds :Statewide - State :Interstate Maintenance - State (MNS000)	$3	$0	$0	$0	$0	$0	$0
6040106	Maintenance Funds :Statewide - State :Federal CMAQ Funds on Interstate System (MNF006)	$243	$0	$0	$0	$0	$0	$0
6040206	Maintenance Funds :Statewide - State :Federal CMAQ Funds on Primary System (MNF006)	$126	$0	$0	$0	$0	$0	$0
6040306	Maintenance Funds :Statewide - State :Federal CMAQ Funds on Secondary System (MNF006)	$31	$0	$0	$0	$0	$0	$0

UPC	Description
11012	TELEGRAPH RD -RTE 611 - WIDEN TO 4-LANES

9999.00 Project 0611029303 ROUTE 613 (BEULAH STREET) LEAF ROAD

Previous	Budget	Projected	Total
$24,868,000	$0	$0	$24,868,000
		Total Estimate	$24,868,000
		Balance:	$0

	PE	RW	CN
Schedule:	07/14/87	09/30/10	03/16/11
Estimate:	$1,225,000	$1,292,000	$22,351,000

Funding Detail (in $1000s)		Previous	FY2015	FY2016	FY2017	FY2018	FY2019	FY2020
6030601	.Formula - Secondary :Federal/State - Fairfax (CNS601)	$3,427	$0	$0	$0	$0	$0	$0

Fairfax County (029)

UPC	Description								
	6030620	Residue Parcel - Fairfax County (CNS620)	$14	$0	$0	$0	$0	$0	$0
	6030653	Federal Formula - Secondary Bond Match : Fairfax (CNB653)	$3	$0	$0	$0	$0	$0	$0
	6030667	Secondary Formula - STP : Fairfax (CNF667)	$410	$0	$0	$0	$0	$0	$0
	6030668	Secondary Formula - EB(MG) : Fairfax (CNF668)	$42	$0	$0	$0	$0	$0	$0
	6030670	Secondary Formula - Match : Fairfax (CNB670)	$113	$0	$0	$0	$0	$0	$0
	6030672	Secondary Formula - State : Fairfax (CNS672)	$2,274	$0	$0	$0	$0	$0	$0
	6030673	RSTP - Secondary : Northern Virginia MPO (CNF273)	$1,576	$0	$0	$0	$0	$0	$0
	6030673	RSTP :Secondary :Federal STP Regional - Fairfax (CNF273)	$2,600	$0	$0	$0	$0	$0	$0
	6030674	RSTP Match - Secondary : Northern Virginia MPO (CNS273)	$394	$0	$0	$0	$0	$0	$0
	6030674	Secondary :State Match Non-Formula - Fairfax (CNS273)	$747	$0	$0	$0	$0	$0	$0
	6030675	Federal Formula STP - Secondary : Fairfax (CNF675)	$11	$0	$0	$0	$0	$0	$0
	6030676	Equity Bonus (MG) - Secondary : Fairfax (CNF276)	$388	$0	$0	$0	$0	$0	$0
	6031204	.Bond Proceeds :NVTD Project Funds	$911	$0	$0	$0	$0	$0	$0
	9030211	Special Grants Projects : Federal : DOD Grants	$8,731	$0	$0	$0	$0	$0	$0
	9090623	Local Project Contributions - Urban (NO POST)	$3,227	$0	$0	$0	$0	$0	$0

103781 Bridge Replacement at Beach Mill Rd over Nichols Br

9999.99 Project 0603029718 0.55 Mi W of Rte 674 (Springvale Rd) 0.45 Mi W of Rte 674 (Springvale Rd)

Previous	Budget	Projected	Total
$1,246,248	$0	$0	$1,246,248
		Total Estimate	$1,246,248
		Balance:	$0

	PE	RW	CN
Schedule:			12/18/12
Estimate:	$0	$0	$1,246,248

Funding Detail (in $1000s)		Previous	FY2015	FY2016	FY2017	FY2018	FY2019	FY2020
6030601	.Formula - Secondary :Federal/State - Fairfax (CNS601)	$197	$0	$0	$0	$0	$0	$0
6030669	Secondary Formula - Bridge : Fairfax (CNF669)	$800	$0	$0	$0	$0	$0	$0
6030670	Secondary Formula - Match : Fairfax (CNB670)	$200	$0	$0	$0	$0	$0	$0
6030672	Secondary Formula - State : Fairfax (CNS672)	$49	$0	$0	$0	$0	$0	$0

Attachment 2

At a regular meeting of the Board of Supervisors of Fairfax County, Virginia, held in the Board Auditorium in the Fairfax County Government Center of Fairfax, Virginia on Tuesday, June 17, 2014, at which meeting a quorum was present and voting, the following resolution was adopted.

PROGRAM ENDORSEMENT RESOLUTION

WHEREAS, Sections 33.1-23 and 33.1-23.4 of the 1950 Code of Virginia, as amended, provides the opportunity for each county to work with the Virginia Department of Transportation in developing a Secondary Six-Year Road Plan,

WHEREAS, Leonard (Bud) Siegel, Arlington/Fairfax Preliminary Engineering Manager , Virginia Department of Transportation, appeared before the board and recommended approval of the Six-Year Plan for Secondary Roads (FY2015 through FY2020) and the FY 2015 Budget for Fairfax County,

NOW, THEREFORE, BE IT RESOLVED that since said Plan appears to be in the best interests of the Secondary Road System in Fairfax County and of the citizens residing on the Secondary System, said Secondary Six-Year Plan (FY2015 through FY2020) and FY 2015 Budget are hereby approved as presented at the public hearing;

Adopted this 17th day of June, 2014, Fairfax, Virginia

ATTEST _____

Catherine A. Chianese
Clerk to the Board of Supervisors

FY 2015 - 2020 Secondary Six Year Program Summary

Attachment 3

COST ESTIMATES IN THOUSANDS

#	SSYP Project	FY 2014 COST Jun-13	FY 2015 COST Jun-14	CHANGE/ COST INCREASE	PERCENT COST INCREASE SINCE Jun-13	Bid/Advertisement Date	
						FY14	FY15
1	STRINGFELLOW, U.S. RT 50 TO FAIR LAKES BLVD.	$63,326	$60,987	-$2,339	-3.7%	Under Construction	
2	COLCHESTER ROAD RECONSTRUCTION AND PAVE GRAVEL ROAD	$445	$445	$0	0.0%	N/A	January-20
3	WALNEY ROAD - BRIDGE REPLACEMENT AND WIDENING	$16,209	$14,980	-$1,229	-7.6%	Under Construction	
4	GUINEA ROAD - REPLACE CULVERT OVER LONG BRANCH	$4,478	$4,734	$256	5.7%	Complete	
5	WALKER ROAD- REPLACE BRIDGE OVER PINEY RUN	$378	$378	$0	0.0%	N/A	N/A
6	BEACH MILL ROAD - BRIDGE REPAIRS OVER NICHOLS RUN	$1,782	$1,782	$0	0.0%	Under Construction	
7	TOWLSTON ROAD - REPLACE BRIDGE OVER ROCKY RUN	$1,343	$593	-$750	-55.8%	Under Construction	
8	BEULAH ROAD - SCOUR COUNTER MEASURE	$950	$950	$0	0.0%	Complete	
9	COMPTON ROAD - BRIDGE REHAB OVER LITTLE ROCKY RUN	$159	$159	$0	0.0%	N/A	N/A
10	LEE ROAD - EXTEND BOX CULVERT TO WIDEN LEE ROAD	$3,485	$3,342	-$143	-4.1%	Under Construction	
11	TELEGRAPH ROAD - WIDENING BEULAH TO LEAF ROAD	$24,868	$24,868	$0	0.0%	Under Construction	
	TOTALS	$117,423	$113,218	-$4,205	-3.6%		

Board Agenda Item
June 17, 2014

4:00 p.m.

Public Hearing on a Proposed Amendment to Section 3-7-24 of the Fairfax County Code to Reduce the Employee Contribution Rate to the Police Officers' Retirement System

ISSUE:
Public Hearing to consider an amendment to Section 3-7-24 of the Fairfax County Code. This change to the Police Officers Retirement System ordinance reduces the employee contribution rate from 10% to 8.65%.

RECOMMENDATION:
The County Executive recommends that the Board of Supervisors approve an amendment to the Police Officers' Retirement System ordinance for the purpose of changing the employee contribution rate.

TIMING:
Board action is requested on June 17, 2014. A public hearing was authorized for advertisement on May 13, 2014.

BACKGROUND:
The proposed amendment to Section 3-7-24 of the County Code is consistent with Board action taken on April 29, 2014, in adopting the FY 2015 budget.

The employee contribution rate for police officers was reduced from 12% to 11% in FY 2008 and from 11% to 10% in FY 2009 in order to narrow the disparities between the public safety retirement systems within the County. As part of the development of the FY 2015 budget, staff of the Retirement Administration Agency and the County's actuary reviewed the contribution rates of the public safety retirement systems to attempt to provide a comparison. Decreasing the employee contribution rate for police officers from 10% to 8.65% beginning in FY 2015 will improve the competitiveness of the police officers' retirement benefits and make the benefits more comparable between the Police Officers' and Uniformed Retirement systems, recognizing that police officers do not participate in Social Security and the benefit structure and contribution rates are different between the two systems.

FISCAL IMPACT:
The reduction in the employee contribution rate to 8.65% requires an increase of 1.27% in the employer contribution rate to the Police Officers' Retirement System. The FY 2015 Adopted Budget Plan includes $1,226,003, the estimated cost of the amendment.

Please note that the May 13, 2014 Board Item requesting authorization for a Public Hearing included an incorrect amount for the employer contribution increase; 1.91% rather than the correct 1.27% provided in the prior paragraph above. Also, the estimated cost provided in the prior Board Item was $1.2 million, rather than the correct and precise amount of $1,226,003 provided in the prior paragraph above.

ENCLOSED DOCUMENTS:
Attachment 1: Amendment to Chapter 3, Article 7, Section 3-7-24
Attachment 2: Letter from Fiona Liston, Consulting Actuary, Cheiron, Inc. to Jeffrey Weiler dated April 24, 2014

STAFF:
Susan Datta, Chief Financial Officer
Jeffrey Weiler, Executive Director to the Retirement Boards

AN ORDINANCE TO AMEND AND REENACT SECTION 3-7-24 OF THE CODE OF THE COUNTY OF FAIRFAX.

BE IT ORDAINED that:

1. Section 3-7-24 of the Code of the County of Fairfax is hereby amended and reenacted to read as follows:

Section 3-7-24. - Member contributions.

(a) Contributions shall be made by each employee equal to ~~ten~~ eight and sixty-five one-hundredths percent (~~10%~~ 8.65%) of his creditable compensation per pay period.

(b) There shall be deducted or picked up from the compensation of each member for each and every payroll period subsequent to the date of the establishment of the System to contribution payable by such member as provided in this Section.

(c) Notwithstanding any other provisions of this Article, no deduction shall be made nor shall amounts be picked up from any member's compensation if the employer's contribution as required is in default.

(d) The Board of Supervisors may, from time to time, revise the rates at which members are required to contribute.

(e) Subsequent to December 22, 1984, Fairfax County shall pick up all employee contributions required herein, for all compensation earned on or after December 22, 1984. All amounts picked up by the County shall be treated as the employer's contribution in determining tax treatment under the United States Internal Revenue Code for federal tax purposes, pursuant to 26 USC, § 414(h)(2). For all other purposes, under this Chapter and otherwise, such pickup contributions shall be treated as contributions made by a member in the same manner and to the same extent as contributions made by a member prior to December 22, 1984. All picked up amounts shall be included in compensation for purpose of calculating benefits under Division 6. The County of Fairfax shall pay such picked up amounts from the same source of funds, which is used in paying earnings to the employee.

2. The effective date of this Ordinance is July 1, 2014. The change in the percentage member contribution is to be made starting with the first payroll period following the effective date of this Ordinance. The Ordinance is prospective and is not retroactive in application. The Board of Trustees of the System, the staff of Retirement Administration Agency, and the Director of Human Resources are hereby authorized and directed to take all necessary steps to implement the change in the percentage member contribution.

CHEIRON Classic Values, Innovative Advice

April 24, 2014

Mr. Jeffrey Weiler
Executive Director
Fairfax County Retirement Systems
10680 Main Street, Suite 280
Fairfax, Virginia 22030-3812

Re: Police Officers Retirement System, Change Employee Contributions

Dear Jeff:

As requested, we have updated the prior analysis that reduced the employee contribution rate in the Police Officers Retirement System in two steps; first from 10% of salary to 9.32% for FYE June 30, 2015 and then to 8.65% for FYE June 30, 2016. We have revised our analysis to reduce to 8.65% for FYE June 30, 2015. This letter replaces our prior letter dated February 4, 2014.

Because this change does not impact the benefit formula or eligibility ages, the total contribution (County plus member) remains essentially the same, however, there is a shift between the member and County allocations. Member money is subject to refund upon termination, while employer money is not. This means there is not a one-to-one correspondence between these sources of contributions. The costs reflected below shows a reduction of 1.35% in the employee contribution rate translated into a County contribution increase of 1.27%.

	2013 Valuation FY 2015 Budget Corridor Method	Change Employee Contributions from 10% to 8.65%
Normal Cost	20.09%	21.36%
UAL Amortization	4.24%	4.24%
Corridor Adjustment to 90%	7.19%	7.19%
Expenses	0.30%	0.30%
Total Budgeted Rate	31.82%	33.09%
Increase in Normal Cost		1.27%
Increase in UAL ($ in Millions)		$0.0
Funded Status		
- Actual	82.1%	82.1%
- Corridor	84.2%	84.2%

1750 Tysons Boulevard, Suite 1100, McLean, VA 22102 Tel: 703.893.1456 Fax: 703.893.2006 www.cheiron.us

These cost estimates were developed using the same data, assumptions and methods as used in the 2013 actuarial valuation. To the extent that actual experience deviates from those assumptions, the projections will be different from what is shown here.

To the best of my knowledge, this letter and its contents have been prepared in accordance with generally recognized and accepted actuarial principles and practices which are consistent with the Code of Professional Conduct and applicable Actuarial Standards of Practice set out by the Actuarial Standards Board. Furthermore, as a credentialed actuary, I meet the Qualification Standards of the American Academy of Actuaries to render the opinion contained in this letter. This letter does not address any contractual or legal issues. I am not an attorney nor does our firm provide any legal services or advice.

This letter was prepared exclusively for the Fairfax County Police Officers Retirement Systems for a specific and limited purpose. It is not intended to benefit any third party and Cheiron assumes no duty or liability to any such party.

Please call if you have any questions or comments.

Sincerely,
Cheiron

Fiona E. Liston

Fiona E. Liston, FSA, EA
Principal Consulting Actuary

cc: Christian Benjaminson, FSA, EA

Board Agenda Item
June 17, 2014

4:30 p.m.

Public Hearing on the Proposed Interim Agreement between the Board of Supervisors and Wesley Hamel Lewinsville, LLC for the Redevelopment of the Lewinsville Senior Center and Daycare Property (Dranesville District)

ISSUE:
Public Hearing on the Interim Agreement with Wesley Hamel Lewinsville LLC ("Wesley-Hamel") for the redevelopment of the Board-owned Lewinsville Senior Center and Daycare property (the "Lewinsville property"). The Interim Agreement would permit Wesley-Hamel to conduct due diligence on the site and file a rezoning action in the form of a Special Exception Amendment, to be followed by the filing of a Site Plan.

RECOMMENDATION:
The County Executive recommends that the Board hold the public hearing and defer decision on the Interim Agreement with Wesley Hamel, LLC until July 29, 2014.

TIMING:
On June 3, 2014, the Board authorized advertisement of a public hearing on this issue for June 17, 2014. Pursuant to Section 15.2-1800 of the Code of Virginia, a public hearing and a comment period are required prior to the Board entering into such agreement. Holding the public hearing on June 17, 2014, would facilitate the public comment period as required by the Code of Virginia and allow the Board to take action on the Interim Agreement at its meeting on July 29, 2014.

BACKGROUND:
The 8.65 acre Lewinsville property is located at 1609 Great Falls Street in McLean. The property's existing facility, formerly the Lewinsville Elementary School, was constructed in 1961 and contains approximately 38,355 square feet. Transferred from Fairfax County Public Schools to the Board of Supervisors in 1985, the building now houses a 22-unit senior independent residence, the Lewinsville Senior Center, an adult day health care center, and two separate private child day care centers. The site, which is currently zoned R-3, also contains athletic fields.

Prior Redevelopment Proposal: On February 9, 2004, the Board approved Special Exception Amendment SEA 94-D-002 and 2232 D-03-09, which permitted the construction of a redesigned 52,500 square foot building (the "Prior Proposal"), in addition to the existing 38,355 square foot facility. The Prior Proposal would have provided for, among other things, a 60-bed Assisted Living facility with commercial kitchen and dining facility. However, due to the costs to construct and operate such an

Assisted Living facility, the County elected to pursue the currently proposed independent living senior residential model that could be constructed and operated under a ground lease at no cost to the County.

Current Redevelopment Proposal; Selection Process and Recommendation: On May 14, 2012, the County publicly advertised Request for Proposal RFP- 2000000263: the Lewinsville Senior Center and Independent Living Residence Development (RFP) under the Public-Private Education and Infrastructure Act of 2002 (PPEA). Pursuant to the RFP, the County sought a developer to act as agent for the County to file another Special Exception Amendment to supercede the Prior Proposal. The Amendment would provide for the existing Senior Center and Daycare building to be razed and replaced with both a replacement public facility (the "Senior and Daycare Center"); and a new independent living senior residential building (the "Senior Independent Living Residence"). The PPEA solicitation further provided that the Senior Independent Living Residence must contain affordable units and be located on a portion of the property that will be subject to a long-term ground lease from the County.

Six (6) proposals were received in response to the PPEA solicitation. A Selection Advisory Committee (SAC) comprised of representatives from the County's Department of Housing and Community Development, the Department of Planning and Zoning, the Department of Management and Budget, the Department of Public Works and Environmental Services, the Department of Human Services, and the County Health Department was formed. A Technical Advisory Committee (TAC) was also formed to provide technical input. The TAC included County staff with technical expertise and the County's real estate advisor, Jones Lang LaSalle. The SAC evaluated the six proposals in accordance with the criteria and procedures established under PPEA. The SAC considered the technical and financial merits of proposals of each offeror, conducted oral interviews with top ranked candidates, and received written responses to clarification questions and negotiation points from the top ranked offerors. The SAC evaluated and ranked the proposals in accordance with the criteria and procedures set forth in the PPEA and concluded that Wesley Hamel best demonstrated the ability and capacity to meet the county's needs as identified in the PPEA. Based on this evaluation, the SAC recommends entering into an Interim Agreement with Wesley Hamel.

About the Proposed Interim Agreement: The proposed Interim Agreement establishes general terms and conditions that may lead to a Master Development Agreement between the County and Wesley-Hamel. Key components of the proposed Interim Agreement include:

- *Designating Wesley-Hamel as Board Agent for Land Use Purposes:* The proposed Interim Agreement designates Wesley-Hamel as the Board's agent for the limited purpose of pursuing the land use entitlements with respect to the property and permits Wesley-Hamel to file the necessary applications for zoning and land use

approvals (land use entitlements) prior to execution of a final, full Master Development Agreement for the redevelopment of the property.

- *Timing and Cost of Land Use Application:* Wesley-Hamel will be required to file the initial land use entitlement application for a Special Exception Amendment (SEA) within 120 days of date of the Interim Agreement and stipulates that Wesley-Hamel will be responsible for all costs associated with the SEA process.

- *Predevelopment Costs:* The proposed Interim Agreement establishes the predevelopment responsibilities and costs of each party with respect to the preparation and filing of the Site Plan (i.e. design, engineering, architectural, legal) for the Senior and Daycare Center and the Senior Independent Living Residence.

- *Responsibilities for Senior Independent Living Residence:* Wesley-Hamel shall, at no cost to County, design, develop, construct, own and operate the Senior Independent Living Residence under a long-term ground lease.

- *Responsibilities for Senior and Daycare Center:* The County, at its cost, shall design, construct, own and operate the Senior and Daycare Center; however, the proposed Interim Agreement also provides Wesley-Hamel the opportunity, at the County's sole discretion, to provide the County, in its proprietary capacity, with a bid to construct the Senior and Daycare Center.

- *Responsibilities for Site Infrastructure Construction and Cost:* Wesley-Hamel will be responsible, unless otherwise decided, for the construction of the entire site's infrastructure. Each party shall be responsible for the cost of its pro-rata portion thereof.

- *Master Development Agreement:* The proposed Interim Agreement stipulates that Wesley-Hamel and the County will pursue negotiations, diligently and in good faith, of a Master Development Agreement (MDA) that shall address the financial and transactional aspects of the redevelopment of the property. The MDA shall contain a negotiated Ground Lease. The proposed agreement also requires Wesley-Hamel to receive SEA approval and to have made its initial Site Plan submission and received staff comments prior to the Board of Supervisors entering into the MDA. Approval of the MDA shall occur concurrently with the approval of the SEA.

- *Project Design:* Wesley-Hamel is required to consult and coordinate with the County regarding the design of the Senior Independent Living Residence, so that its design is consistent with the design submitted in response to the RFP and homogeneous with the County's design of the Senior and Daycare Center.

- *Land Use Entitlement Cooperation:* The proposed Interim Agreement requires the parties to coordinate on and diligently pursue the land use entitlements, although the

County's approval and execution of the proffered conditions shall be in the County's sole and absolute discretion.

- *Residential Tenant Relocation Plan:* A relocation plan for the 22 current Lewinsville residents will be developed during the negotiations of the full Master Development Agreement and will be subject to the approval of the County and the Fairfax County Redevelopment and Housing Authority (FCRHA), which operates the current residential component of the Lewinsville property on behalf of the County. The relocation plan is intended to provide the option for current residents to be able to live at the new Senior Independent Living Residence when complete, if they meet eligibility requirements.

- *Tax Credit Financing:* The proposed Interim Agreement requires Wesley Hamel to prepare and submit an application to the Virginia Housing and Development Authority for 9% Low Income Housing Tax Credits in 2015 and again in 2016 if not initially awarded in 2015.

The Interim Development Agreement has been posted on the county web site by the Department of Purchasing and Supply Management and is available under PPEA Opportunities at: http://www.fairfaxcounty.gov/dpsm)

FISCAL IMPACT:
The total development cost of the Senior and Daycare facility is approximately $15 million, however a total amount of $1.6 million is required prior to providing permanent financing to perform preconstruction and engineering services.

Under the proposed Interim Agreement, the County would be obligated to pay its share of actual predevelopment costs with respect to the preparation and filing of the initial Site Plan (i.e. design and engineering), in an amount of up to $222,500. Additionally, the County will contribute $100,000 toward Site Plan costs, to be reimbursed in the event the parties reach agreement on a final Master Development Agreement. In addition, funding of $350,000 will be required to proceed with architectural design. The remaining amount of approximately $950,000 would be required prior to permanent financing for the balance of predevelopment costs. While the proposed Interim Agreement establishes the general parameters for the redevelopment of the property, final terms and conditions will be established in a Master Development Agreement negotiated between the County and Wesley-Hamel, subject to Board approval, currently anticipated to take place in the winter of 2014.

As part of the Adopted FY 2011 Capital Improvement Program, the Board of Supervisors approved the use of long term financing for capital renovations at Lewinsville, as discussed in the context of the Housing Blueprint. Funding for all costs associated with the preliminary design and predevelopment costs, which include funding required as part of the proposed Interim Agreement, are available in the Lewinsville Expansion Project (2H38-064-000) under the Housing Trust Fund (40300)

and project balances in County Construction (30010), which will be reallocated as part of FY 2014 Carryover. It should be noted that the design and predevelopment costs relate to the County Senior and Daycare Center, and not the Senior Independent Living Residence component; therefore, the Housing Trust Fund will be reimbursed from future financing.

Staff recommends approval of a reimbursement resolution for the aforementioned costs that would be included and coincide with Board approval of the proposed Interim Agreement, tentatively scheduled for July 29, 2014. These funds would be reimbursed as part of the bond financing for the project, which is currently scheduled for the spring 2016. The County will consider bond financing through the Fairfax County Economic Development Authority, the FCRHA or the Virginia Resources Authority's (VRA) Virginia Pooled Financing Program. The decision to sell the bonds through one of these entities will be determined based on market conditions in the months leading up to the bond sale. The future debt service payments on the Lewinsville project will be paid by the County from the Consolidated Debt Service Fund (20000). The financing cost of this project has been included as part of the County's out year financial forecast and debt ratio projections, as cited in the Adopted FY 2015-2019 Capital Improvement Program.

ENCLOSED DOCUMENTS:
Attachment 1: Interim Agreement (also posted online under PPEA Opportunities at: http://www.fairfaxcounty.gov/dpsm/solic2.htm#ppea)

STAFF:
Patricia D. Harrison, Deputy County Executive
Paula Sampson, Director, Department of Housing and Community Development (HCD)
John L. Payne, Deputy Director, Real Estate, HCD
Hossein Malayeri, Director, Design, Development and Construction Division, HCD
Joe LaHait, Debt Coordinator, Department of Management and Budget

INTERIM AGREEMENT

This **INTERIM AGREEMENT** ("Agreement") is made this ___ day of _____ 2014, by and between the **BOARD OF SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA**, a political subdivision of the Commonwealth of Virginia, in its proprietary capacity, and not in its governmental or regulatory capacity (the "County"), and **WESLEY HAMEL LEWINSVILLE LLC**, a Virginia limited liability company ("Master Developer"). Master Developer and the County may each be referred to individually, as a "Party", and collectively, as the "Parties" under this Agreement.

RECITALS:

R-1. The County is the fee simple owner of a 8.65 acre tract of land in McLean, Virginia, having an address located at 1609 Great Falls Street, McLean, Virginia, and further described as Fairfax County Tax Map ID number 0303 01 0042, upon which a senior center and day care center are built and which are commonly referred to as the Lewinsville Senior Center and Day Care Center (the "Property").

R-2. The Property currently consists of a twenty-two (22) unit senior living facility, an adult day care center, two separate child day care centers and adjacent athletic fields.

R-3. On February 9, 2004, the County, in its regulatory capacity, approved Special Exception Amendment SEA 94-D-002 and 2232 D-03-09 (collectively, the "2004 Special Exception Amendment"), which permitted the construction of a redesigned 52,500 square foot building (the "Originally Contemplated Senior Residential Facility"), in addition to the existing 38,355 square foot Lewinsville Senior Center and Daycare Center (the "Existing Senior and Daycare Center"). The Originally Contemplated Senior Residential Facility, if constructed, would have provided for a sixty (60) bed assisted living facility with commercial kitchen and dining facility. Additionally, the 2004 Special Exception Amendment provided: (i) that the facilities in the adult day care center within the Existing Senior and Daycare Center was to expand to accommodate an increase from sixty-five (65) to eighty (80) adults; and (ii) that the senior center within the Existing Senior and Daycare Center was to expand to accommodate an increase from seventy-five (75) to eighty (80) adults and provide a family respite center to serve seniors with Alzheimer's disease.

R-4. Pursuant to that certain Request for Proposal Number RFP-2000000263, issued May 14, 2012 in accordance with the provisions granted by the Public Private Education Facilities and Infrastructure Act of 2002, Virginia Code Ann. §§ 56-575.1 et seq. (2012) (such Request for Proposal, as subsequently amended by certain addendums, collectively, the "RFP"), the County desired to enter into a contract with a developer to: (i) act as agent for the County to take the necessary steps to file an amendment to the 2004 Special Exception Amendment that allows for the development described in (ii) and (iii) hereafter; (ii) raze the Existing Senior and Daycare Center and design and construct a replacement facility (hereafter referred to as, the "Senior and Daycare Center") on the Property to be owned and operated by the County; and (iii) design, develop, construct own and operate, as provided herein, a senior residential facility (hereafter referred to as the "RFP Senior Independent Living Residence") instead of the Originally Contemplated Senior Residential Facility,

which will contain up to eighty (80) affordable senior units on the Property under a long term ground lease from the County.

R-5. The RFP further provided that the County reserves the right to select a developer to design, develop and construct: (i) the infrastructure (including, without limitation, roads, drive aisles, parking, curb cuts, sewer, electricity and other utilities from the closest point of public access to the Property and storm water management facilities) for the entire Property (the "Infrastructure Improvements"); (ii) the Senior and Daycare Center; (iii) the RFP Senior Independent Living Residence; or (iv) any combination of (i), (ii) and (iii) herein. The term "Infrastructure Improvements," when referencing the portion of the Property that is allocated for the Senior and Daycare Center, means those improvements which are necessary to make that portion of the Property a "pad ready site" for the construction of the Senior and Daycare Center.

R-6. Master Developer submitted a response to the RFP (as amended, the "Master Developer Response") which was determined by the County to be the most responsive to the RFP. The Master Developer Response proposed up to eighty-two (82) affordable senior units (the "Senior Independent Living Residence").

R-7. Given the shared desire of the County and Master Developer to proceed with the design- and zoning-related work on the Property as soon as possible, the Parties agree that it is necessary to commence the design- and zoning-related work necessary to file the applications for zoning and land use approvals prior to execution of a final, master development agreement regarding the development of the Project (defined below).

R-8. The County and Master Developer desire to enter into this Agreement in order to initiate certain actions set forth in the Recital above and undertake certain other actions as set forth in this Agreement in furtherance of the Master Developer Response and the negotiations conducted to date.

R-9. Notwithstanding that a master development agreement regarding the Project has not been executed, and with full recognition that the Parties may be unsuccessful in concluding a final master development agreement regarding the Project, the County has agreed to allow Master Developer the exclusive right to pursue the land use planning, design, financing application(s), and other work activities referenced herein and necessary to obtain approval of the Development Approvals (as defined below) and shall appoint Master Developer its agent as provided in Section 2(a) and (b) with respect to the Project and the Property, and Master Developer has agreed to accept such agency and responsibilities outlined hereinabove, subject to and in accordance with the terms of this Agreement.

R-10. The County intends to engage Master Developer under the final master development agreement to (i) raze the Existing Senior and Daycare Center, (ii) design, develop and construct the Infrastructure Improvements (both (i) and (ii) being subject to Section 6(a)(vi) below), and (iii) design, develop, construct, own and operate the Senior Independent Living Residence (collectively, the "Project"); *provided however*, that the County desires to retain the right to elect, as provided in this Agreement, that Master Developer design, develop and construct the Senior and Daycare Center in addition to (and

to become part of) the Project, pursuant to the terms and conditions set forth in this Agreement.

NOW, **THEREFORE**, in consideration of the Recitals, which are hereby incorporated into this Agreement by reference, the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Term of Agreement. This Agreement shall commence on the date hereof and continue unless otherwise terminated in accordance with the terms hereof or superseded by the Comprehensive Agreement (defined below).

2. Designation of Master Developer as Agent.

a. The County hereby designates Master Developer as its agent for the limited purpose of pursuing the Development Approvals with respect to the Property that relate to the Project, subject to the terms and conditions set forth in this Agreement, and Master Developer hereby accepts such designation.

b. The County hereby acknowledges and agrees that Master Developer, as the County's agent, is hereby authorized to commence the land use planning, design, and other work activities necessary to obtain the following with respect to the Property that relate to the Project (collectively, the "Development Approvals"), which shall include, without limitation:

i. a Special Exception Amendment ("SEA") (as defined in the appropriate regulations promulgated by the Fairfax County Department of Planning and Zoning ("DPZ")) for the Project and the Senior and Daycare Center;

ii. an approved site plan for the Project (the "Site Plan"), which will incorporate the Senior and Daycare Center, subject to Section 3(e) below; and

iii. any other regulatory approvals necessary in connection with the above.

c. Master Developer hereby acknowledges and agrees that the agency created hereby is temporary and shall immediately terminate upon any termination of this Agreement in accordance with the terms hereof. Upon such termination of the agency created hereby, Master Developer shall immediately cease all work with respect to the Development Approvals and, thereafter, Master Developer shall have no further right, duty or obligation to pursue the Development Approvals on behalf of the County.

3. Agreement Regarding Development Approval Process.

a. Master Developer shall (1) consult and coordinate with the County regarding the design of the Project, and (2) provide prior written notice to the County and request for approval regarding all submissions to be made in connection with the Development Approvals. Master Developer shall submit within one hundred twenty (120) days of the date of this Agreement, for approval by the County, plans for relocation of the services provided by the Existing Senior and Daycare Center (the "Relocation Plan"), including without limitation, the housing of the residents therein, provided such residents meet any applicable eligibility requirements. The Relocation Plan will be subject to the County's review and approval, which approval will not be unreasonably withheld, conditioned or delayed.

b. Master Developer hereby acknowledges and agrees that the Development Approvals shall be sought after for the Project (subject to the County's election rights to modify the scope of work (and definition of "Project") under each Section 3(n) and Section 6(a)(vi) below) and that the Development Approvals shall be sought through concurrent processes.

c. Unless otherwise waived or modified in writing by the County, Master Developer shall provide the County a copy (in any format desired by the County (i.e. electronic, paper, or physical copies of documents due to size or volume)) of all submissions to be made in connection with the Development Approvals for the County's review and approval at least ten (10) business days prior to Master Developer's anticipated filing with or submission of the same to the applicable governmental agencies. All such notices and requests required of Master Developer by this Section 3(c) shall not be subject to the Notice provisions of Section 8 below; instead, all notices required in this Section 3(c) (including requests for approvals) shall be delivered to Rex Peters, Department of Housing and Community Development, and any other person(s) as may be delegated by the County and in such format as may be requested. Approval of such submissions shall be in the County's sole and absolute discretion; *provided however*, that the County's approval of any submissions will not be unreasonably withheld in circumstances where the County's review is the result of a refinement of the scope and substance of prior approved submissions (but excluding when such comments are in response to issues or questions raised by the County, in its governmental/regulatory capacity) as part of the Development Approvals process. If the County (1) notifies Master Developer in writing of its disapproval, or (2) fails to notify Master Developer of its approval or disapproval of any such submissions within ten (10) business days after its receipt of Master Developer's approval request; the following shall occur:

i. In the event of (1) hereinabove, the County shall state the reasons for its disapproval with reasonable detail in order for Master Developer to have sufficient information to correct, amend or alter any such submissions and resubmit the same to the County in accordance with this Section; or

ii. In the event of (2) hereinabove, Master Developer shall send a second notice to the County giving notice to the County of its failure to respond and the County shall respond within five (5) business days of such notice; and

Upon receipt of the County's approval, Master Developer may proceed with the submission. Notwithstanding any of the foregoing, the Parties agree that any approval of the County of

submissions by Master Developer pursuant to this Section 3(c) shall be in the County's capacity as land owner only, and shall not be construed to imply approval as a regulator.

d. Within one hundred and twenty (120) days after the date of this Agreement, Master Developer shall file an application for the SEA with the appropriate regulatory agencies.

e. The County shall provide to Master Developer any needs assessment and performance specifications for the Senior and Daycare Center which are necessary for its incorporation into the Site Plan within ninety (90) days after the date of this Agreement. In the event the County does not provide such needs assessment and performance specifications within such time period, the Master Developer may file an initial submittal of the Site Plan for the Project without incorporating the Senior and Daycare Center, *provided however*, that the Master Developer shall include the Senior and Daycare Center on subsequent submittals of the Site Plan in accordance with Section 3(n)(iii) below after the County delivers such drawings and performance specifications.

f. The County shall reasonably cooperate with Master Developer to obtain any consents or approvals from the Board of Supervisors that may be required in connection with the Development Approvals, and to otherwise reasonably cooperate with Master Developer in the pursuit of the Development Approvals.

g. The County shall prepare and complete the needs assessment and performance specifications for the Senior and Daycare Center. If the County desires to have Master Developer bid on the development and construction of the Senior and Daycare Center during the term of this Agreement, the County shall provide to Master Developer such needs assessment and performance specifications (including without limitation, any civil, architectural, structural, mechanical, electrical, plumbing, HVAC, technology and life safety performance criteria) that are to be incorporated into the Senior and Daycare Center design. The needs assessment and performance specifications to be delivered by the County in this Section 3 shall include (either in the same documents or by separate documents) any needs assessments that the County determines are necessary for the Senior and Daycare Center design, to be incorporated by Master Developer as provided in this Section 3. Master Developer agrees, that if the County elects for Master Developer to develop and construct the Senior and Daycare Center in accordance with Section 3(n) below, Master Developer will incorporate the needs assessment and performance specifications provided by the County for the Senior and Daycare Center into the documents for the Development Approvals and the rights and responsibilities in connection therewith will be incorporated therein and in the MDA (as defined below).

h. It is further acknowledged and understood that the entitlement of the Property will require execution of proffered conditions by Master Developer and the County. The County and Master Developer shall consult and coordinate as to the substance of such proffered conditions. The County's approval and execution of the proffered conditions shall be in the County's sole and absolute discretion; *provided however*, that such approval and execution shall not be unreasonably withheld, conditioned or delayed with respect to proffered conditions that (i) are reasonably related to elements of Development Approvals submissions previously approved by the County, and (ii) otherwise reflect the obligations of this Agreement and the MDA.

i. It is further acknowledged and understood that the County may decline to approve Master Developer's proposed Development Approvals submission(s) if they do not, in the County's reasonable determination, conform with the terms set forth in the RFP, including without limitation, Section 8 of the RFP, entitled, "*Project Vision, Components and Requirements*".

j. During the term of this Agreement, Master Developer and its agents may access the Property upon reasonable advance notice to the County – including, for purposes of this Section 3(j), notice to Rex Peters of the County's Department of Housing and Community Development, and any other person(s) as may be delegated by the County – in order to conduct such activities as Master Developer reasonably determines are necessary or appropriate in connection with the Development Approvals or any financing applications for the Project. Master Developer shall conduct such activities in a manner so as to minimize any disturbance to the residents and occupants of the Existing Senior and Daycare Center. Master Developer shall, and shall cause any of its employees or agents entering onto the Property to, deliver to the County certificates of insurance listing the County as an additional insured and evidencing general liability insurance coverage in the amount of at least $1,000,000. Master Developer shall further (i) repair and restore any damage to the Property or the improvements thereon caused by Master Developer's activities (or those of its employees or agents) under this subsection, and (ii) indemnify, defend, and hold the County harmless from and against any and all liability, cost, or expense, including any damage to the Property or the improvements thereon, resulting or arising from Master Developer's activities (or those of its employees or agents) under this subsection, except to the extent caused by the negligence or willful act or omission of the County, its agents, or employees. Notwithstanding anything herein to the contrary, neither this subsection, nor any portion thereof, nor any other provision in this Agreement shall constitute a waiver of the County's sovereign immunity. This subsection shall survive termination of this Agreement.

k. Master Developer shall be responsible for all costs, other than County Costs (as defined below), associated with the approvals for the Site Plan. In addition to the County Costs, the County shall pay up to One Hundred Thousand Dollars ($100,000.00) to Master Developer to be applied by Master Developer for costs of the preparation of the Site Plan related to the Infrastructure Improvements for the Project, subject to being reimbursed by Master Developer under the MDA in accordance with Section 6(a)(vii) below (if applicable).

l. A preliminary budget (the "Preliminary Budget") for the costs associated with the Development Approvals is attached hereto as Exhibit A, and made a part hereof. The Preliminary Budget shall set forth all costs, on a line-item basis. The Preliminary Budget shall set forth (where applicable) the County's pro-rata share of costs for the Site Plan, which are those costs for the Site Plan attributable to the Senior and Day Care Center, the adjacent athletic fields and the Infrastructure Improvements related thereto (the "County Costs"). Master Developer shall be solely responsible for any and all costs related to the SEA approval process and to the extent that any Development Approvals costs for the Site Plan exceed the line-item cost amounts set forth in the Preliminary Budget, unless (a) otherwise agreed to in writing by the County (which will not be unreasonably withheld) or (b) to the extent that other line-items contain savings and the work related to such line items have been completed, then such excess funds may be reallocated to other line items in the Preliminary Budget.

m. Master Developer and the County acknowledge and agree that the line-item amounts set forth on the Preliminary Budget, and the portions thereof which are County Costs, represent a fair and just compensation for the work to be performed by Master Developer during the Development Approvals process. Master Developer agrees that, pursuant to the terms and conditions of this Agreement, Master Developer shall (subject to any rights of reimbursement of certain costs as set forth in Section 7(d) of this Agreement) (i) assign all of its rights and interests (if any) in and to any obtained Development Approvals, and deliver (or cause to be delivered) originals or copies of any and all other documents related to the same to the County, and (ii) assign to the County all of its rights and interests (including all rights of ownership) to, and provide and deliver (or cause to be provided or delivered) to the County any and all work product produced by Master Developer or its contractors and consultants associated with the Project, together with any third-party consents necessary therefor (collectively, roman numerals (i) and (ii) in this sentence shall be referred to as the "Work Product"). The foregoing obligations shall survive the termination of this Agreement and shall be expressly conditioned upon termination of this Agreement.

n. Notwithstanding anything to the contrary set forth in this Agreement, Master Developer acknowledges and agrees that the County may elect to have Master Developer develop and construct the Senior and Daycare Center in accordance with the Development Approvals. The County will have the right to make such election at any time prior to submission of the Site Plan. In the event that the County makes such election, the County and Master Developer agree as follows:

i. The County shall provide written notice to Master Developer of its election to have Master Developer design, develop and construct the Senior and Daycare Center;

ii. The County shall provide Master Developer with the needs assessment and performance specifications described in Section 3(g) above for the Senior and Daycare Center. Master Developer and the County agree that such needs assessment and performance specifications are a pre-requisite to being able to agree on a Project Budget (as defined below) and enter into the Comprehensive Agreement;

iii. In the event the County had not previously submitted to Master Developer the needs assessment and performance specifications for the Senior and Daycare Center for inclusion in the initial submittal of the Site Plan as provided in Section 3(e) above, Master Developer shall have an additional sixty (60) days from the date the County delivers to the Master Developer such needs assessment and performance specifications to update and submit (or re-submit, if previously submitted) a revised Site Plan that includes the Senior and Daycare Center;

iv. Master Developer and the County will use their best good faith efforts to agree on a revised Preliminary Budget and revised County Costs, and the same will be included as part of this Agreement (by amendment or addendum to Exhibit A); and

v. Subject to satisfaction of the other conditions and modifications to the Agreement as set forth in this Section 3(n), the term "Project" as used in this Agreement shall be deemed to include the design, development and construction of the Senior and Daycare Center.

4. Security During Interim Agreement. As a material inducement to the County to enter into this Agreement and have Master Developer undertake the duties and obligations required hereunder, the County has required that Master Developer provide additional security to secure its payment and performance obligations hereunder. The Master Developer shall provide one of the following forms of security for its obligations under this Agreement:

a. each member of Master Developer (each, individually and collectively, as the context requires, a "Completion Guarantor") shall execute and deliver to the County a joint and several guaranty of completion for payment and performance of all of Developer's obligations under this Agreement (the "Completion Guaranty") . Developer shall provide the County with such financial and other information reasonably requested by the County for the proposed Completion Guarantors. The County will approve or disapprove such Completion Guarantors, collectively, in its sole, but reasonable discretion. Developer agrees to provide to the County updated financial information reasonably requested by the County (including, without limitation, financial statements which include the net worth, assets, liabilities (including any contingent liabilities) of such Completion Guarantor) on a quarterly basis in order to establish that such Completion Guarantors are in compliance to have the financial capability of paying and performing for all of Master Developer's obligations under this Agreement. The form of the Completion Guaranty executed by the Completion Guarantors shall be in substantially the same form set forth in Exhibit C attached hereto and made a part hereof; or

b. Master Developer may post a clean, unconditional and irrevocable letter of credit in a commercially reasonable form, subject to the County's approval, which approval shall not be unreasonably withheld, conditioned or delayed (the "Letter of Credit"), issued by a bank or similar financial institution (the "Bank") reasonably satisfactory to the County, in an amount equal to the costs to be incurred by Master Developer under the Preliminary Budget for the Development Approvals and any other obligations, the costs for which are the responsibility of Master Developer, as set forth in Exhibit A or elsewhere in this Agreement. The Letter of Credit shall have an expiration date no earlier than the first anniversary of the date of issuance thereof and it shall be automatically renewed from year-to-year unless terminated by the Bank by notice to the County given not less than sixty (60) days prior to the then expiration date therefor. It is agreed that in the event Master Developer has not paid, when due, any costs for which it is responsible under the Preliminary Budget or this Agreement, the County shall have the right to require the Bank to make payment to the County of so much of the proceeds of the Letter of Credit as shall be necessary to pay any such amounts then due and owing, and for any sum which the County may expend or may be required to expend by reason of Master Developer's failure to pay such amounts. If the County applies any part of the proceeds of the Letter of Credit, Master Developer, upon demand, shall deposit with the County promptly the amount so applied or retained (or increase the amount of the Letter of Credit) so that the County shall have the full amount required hereunder on hand at all times during the term of this Agreement. Master Developer shall have the right to substitute one Letter of Credit for another, provided that at all times the Letter of Credit shall meet the requirements hereunder.

5. Conditions Precedent to Comprehensive Agreement. The Parties agree to pursue negotiations, diligently and in good faith, of a comprehensive agreement (the "Comprehensive Agreement") for the design and development of the Project and the leasing, ownership, maintenance and operation of the Senior Independent Living Residence after its completion. The County and Master Developer's obligation to enter into the Comprehensive Agreement are conditioned upon the following:

a. The County's approval of Master Developer's proposed financing plan for the Project (the "Financing Plan"), which will set forth the funding sources for the Senior Independent Living Residence in specific detail, as proposed in the Master Developer Response and revised in subsequent discussions between Master Developer and the County, including whether and to what extent each will be financed by traditional bank financing, low income housing tax credits ("LIHTCs"), bond financing, state or federal economic development grants, equity contributions from Master Developer or its affiliates or other funding sources approved by the County. If the County elects to have the Master Developer develop and construct the Senior and Daycare Center, the County will provide a financing plan and identify funding sources for such costs as part of the Financing Plan. It is the express intent of Master Developer and the County in this Section 5(a) that the Financing Plan proposed by Master Developer and approved by the County will provide for the complete development and construction of the Senior Independent Living Residence portion of the Project, required proffered conditions and other development requirements related thereto in accordance with the MDA and the Project Budget, with no additional contribution being made by or requested of the County other than as provided in the approved Project Budget. Master Developer acknowledges and agrees that the foregoing requirement is a material inducement for the County to enter into a Comprehensive Agreement with Master Developer for the development of the Project.

b. The initial Site Plan has been submitted to the County's Department of Public Works and Environmental Services (DPWES) and an initial response with comments from the Department of Public Works Land Development Services has been returned to Master Developer with sufficient detail for Master Developer and the County (in each Party's reasonable discretion) to make a determination that the Project can be developed, designed and constructed within the parameters (i.e. design and cost) anticipated by the Parties under the RFP and the Master Developer Response.

The condition in subsection (a) is intended for the benefit of the County and the condition in subsection (b) is intended for the benefit of each Party. A condition precedent may be waived, in whole or in part, by the benefited Party, but only by an instrument in writing signed by such Party. In the event all of the conditions set forth in this Section 5 are not satisfied on or before 11:59 p.m. eastern time on July 31, 2015 (or such later date as may be mutually agreed upon in writing by the Parties, the "Outside Date"), Section 7 shall govern unless such condition is waived or extended in writing by the benefited Party.

6. Comprehensive Agreement. The County and Master Developer shall negotiate a full and final Comprehensive Agreement on or before the Outside Date. The Parties further agree that execution of the Comprehensive Agreement, by all Parties, and the approval of the Comprehensive Agreement by the Board of Supervisors of Fairfax County, Virginia are both to occur concurrently with the obtaining and approval by all applicable governmental authorities of

the SEA. The Comprehensive Agreement will consist of the following documents:

a. A master development agreement (an "MDA") to fully provide for the development of the Project generally consistent with the RFP, the Master Developer Response, and the negotiations conducted to date. The MDA will provide the rights and responsibilities of each Party regarding the entire development of the Project, including, *inter alia*:

i. The phasing of the Project and the projected timing of completion of each development phase (the "Project Schedule");

ii. A budget approved by the County and Master Developer for the Project (the "Project Budget"), which will contain a maximum dollar amount to be spent by the County for the Project (the "County Cap");

iii. The Financing Plan for the Project;

iv. The Relocation Plan;

v. In the event that Master Developer fails to obtain any LIHTCs that are necessary under the Financing Plan by the Outside Date, the MDA (and the Project Schedule under the MDA) shall be extended for a period of one (1) year (*i.e.* July 31, 2016, also being referred to below as the "Extended Outside Date") in order for the Master Developer to apply for LIHTCs in calendar year 2016;

vi. In the event that Master Developer fails to obtain any LIHTCs that are necessary under the Financing Plan by the Outside Date, the County may elect, in its sole and absolute discretion, to develop and construct, (A) the Infrastructure Improvements, or (B) the Senior and Daycare Center (if the County had previously elected to have Master Developer develop and construct the Senior and Daycare Center in accordance with Section 3(n) above), or (C) both (A) and (B) of this clause; and

vii. In the event that Master Developer obtains the LIHTCs that are necessary under the Financing Plan on or before the Extended Outside Date, the Master Developer shall reimburse the County for: (A) the One Hundred Thousand Dollars ($100,000.00) paid by the County in connection with the preparation of the Site Plan under Section 3(k) above; and (B) costs for Infrastructure Improvements incurred by the County in connection with Section 6(a)(vi)(A) that are not related to the Senior and Daycare Center (as will be more specifically set forth in the Project Budget). The Master Developer shall reimburse the County as provided herein at the time of closing of the sale of the LIHTCs to an investor or partner purchaser (or in the event the Master Developer elects to retain the LIHTCs, upon closing on the Property under the MDA).

The Parties agree that in the event of a change in the scope of the Project as the result of the County's election to exercise its rights under Section 3(n) or Section 6(a)(vi), the MDA, the Project Schedule, the Project Budget (including the County Cap) and related documentation will be revised, modified and amended as necessary to reflect such election(s). The Parties agree to

negotiate in good faith to agree upon revisions to the subject documents in order to proceed with the Project, as modified by such election(s). The County Cap will not include any change in scope or change orders requested by the County after approval of the Project Budget and the County agrees that it will be responsible for such changes to the extent they exceed the County Cap.

b. A ninety-nine (99) year ground lease for the Senior Independent Living Residence from the County to Master Developer (the "Ground Lease"), or its permitted assignee or designee, to own, operate and manage the Senior Independent Living Residence. The Parties may execute the Ground Lease or an option to lease that provides site control required by VHDA pursuant to the Qualified Allocation Plan and related VHDA Manual for tax credit applications. The Ground Lease will provide for the allocation of responsibilities associated with the Senior Independent Living Residence, including, *inter alia*:

i. Ground rent, maintenance for the interior and the structure of the Senior Independent Living Residence, payment of utilities, taxes, assessments and impositions related to the Senior Independent Living Residence; and

ii. Compliance with applicable affordable housing and senior independent living programs of the County or other governmental authorities having jurisdiction over such matters.

The Parties further agree that if they mutually elect to submit an option to lease for the purposes set forth herein, that the option must contain as an exhibit a copy of a Ground Lease (unexecuted) that contains all of the agreed upon material business and legal terms and is otherwise in a form to be executed, subject to non-material or other *de minimis* changes being incorporated therein.

7. Termination.

a. In the event that: (i) the Parties are unable to reach agreement upon the terms and conditions of the Comprehensive Agreement by the Outside Date, (ii) Master Developer is unable to meet the criteria in Section 5(a) or Section 5(b) by the Outside Date, or (iii) the County determines that the Project cannot be completed within the County Cap (provided, that Master Developer elects not to exercise its rights under Section 7(e) below), or (iv) the Master Developer is unable to obtain the LIHTCs necessary or required under the approved Financing Plan to complete the Project on or before the Extended Outside Date; this Agreement shall terminate and the Parties hereto shall have no further rights or obligations hereunder, except the terms of which shall expressly survive such termination, except as may be provided in subsection (d) below.

b. Intentionally Omitted.

c. In the event of any breach of this Agreement by either Party hereto which default is not cured by the defaulting Party within thirty (30) days after defaulting Party's receipt of written notice of such breach from the non-defaulting Party (or such longer period of time, provided the defaulting Party initiated a cure within such 30-day period and diligently and continuously pursues such cure until completion), the non-defaulting Party shall have the right to either (i) terminate this Agreement, or (ii) pursue any and all other remedies available at law or in equity (expressly excluding, however, rights to continued or specific performance (if any)).

d. To the extent this Agreement is terminated (i) for a Master Developer default under Section 7(a)(ii), Section 7(a)(iv) or Section 7(c), the County shall reimburse Master Developer for the cost of any Work Product that the County desires to use (and that is delivered pursuant to Section 3(m) above), less any County Costs previously paid by the County to (or for the benefit of) Master Developer; or (ii) a default by the County under Section 7(c), the County shall reimburse Master Developer for any work performed by Master Developer (regardless if the County desires to use it or not) prior to the date of termination of this Agreement, less any County Costs previously paid by the County to (or for the benefit of) Master Developer, and subject at all times to (X) the limits of each previously approved line-item of the Preliminary Budget (it being understood that the County shall not provide any reimbursement for any line-item cost which is in an amount greater than the previously approved line-item of the Preliminary Budget), and (Y) the costs for any such work being confirmed by an Audit (as hereinafter defined), if requested by the County. The County's obligation to reimburse Master Developer hereunder shall occur within thirty (30) days after the receipt of a reimbursement request from Master Developer accompanied by receipts and other documentation reasonably requested by the County to confirm the legitimacy of such reimbursement request. The County shall have the right to request an audit (individually or collectively, an "Audit"), of any and all Site Plan costs or other Development Approval costs if the County has agreed in this Agreement or otherwise to pay such costs. An Audit shall be conducted by an independent third-party auditor and may occur at any time, and may include multiple requests for information, and Master Developer shall be obligated to provide such reasonably requested information to the County and its auditor as soon as possible. The County shall be responsible for all out-of-pocket expenses incurred (including the costs of the auditor) with respect to such an Audit. Master Developer agrees to reasonably cooperate with the County or its agents (at no cost to the County) during any Audit. In the event of a termination under clause (i) herein, to the extent that the auditor determines that any County Costs previously paid by the County exceed the agreed upon portion of the costs to be paid by the County under the Preliminary Budget as of the date of termination, the Master Developer shall reimburse the County such excess County Costs paid by the County to Master Developer within thirty (30) days after the auditor sends notice of its determination thereof.

e. Notwithstanding the County's right to terminate set forth in Section 7(a)(ii) above, prior to exercising its rights thereunder, the County shall provide written notice to Master Developer of the County's intention to exercise such right at least [sixty (60) days] prior to the date that such termination is to take effect. In the event Master Developer receives notice from the County that the County cannot complete the Project under the County Cap, Master Developer may, in its sole and absolute discretion, either (i) allow the County to terminate the Agreement in accordance with Section 7(a)(ii) above as of the date set forth in such notice, or (ii) (A) identify an alternative source of funding to provide the funding for the Infrastructure Improvements that the County was otherwise obligated to provide for the Infrastructure Improvements related to the Senior Independent Living Residences and (B) seek modifications to the Development Approvals that will allow for the development and construction of the Senior Independent Living Residences and related Infrastructure Improvements without the development and construction of the Infrastructure Improvements or the Senior and Day Care Center. In the event that Master Developer elects its rights under this Section 7(e), Master Developer acknowledges and agrees that the design of the Infrastructure Improvements in any modified Development Approvals must take into consideration that the Senior and Day Care Center may be developed at a later date and need to access or tie-in to the Infrastructure Improvements being designed and constructed on the

Property. Any MDA and Project Budget entered into in connection with this Agreement shall take into consideration this Section 7(e) (*i.e.* if the County elects to terminate under Section 7(a)(ii), but Master Developer elects to develop the Project under this Section.)

The provisions of all of this Section 7 shall survive the termination of this Agreement.

8. Notice. Any notices required or permitted to be given hereunder shall be deemed to have been properly given when received or refused if sent by United States certified or registered mail, return receipt requested; national overnight courier service; or delivered in hand; in each case as follows (unless changed by similar notice in writing given by the particular person whose address is to be changed):

If to the County:

Board of Supervisors of Fairfax County, Virginia
12000 Government Center Parkway
Fairfax, Virginia 22035-0064
Attention: County Executive

With copies to:

Office of the County Attorney
12000 Government Center Parkway, Suite 549
Fairfax, Virginia 22035
Attention: County Attorney

If to Master Developer:

Wesley Hamel Lewinsville LLC
c/o Wesley Housing Development Corporation
5515 Cherokee Avenue, Suite 200
Alexandria, VA 22312
Attention: President & CEO

With copies to:

Klein Hornig LLP
1275 K Street NW, Suite 1200
Washington, D.C., 20005
Attention: Erik T. Hoffman

9. Miscellaneous Provisions.

a. Appropriations. Any and all of County's financial obligations under this Agreement are subject to appropriations by the Board to satisfy payment of such obligations.

b. Definition of the County. Whenever the term, the "County," is used in this Agreement, unless followed by, "in its governmental capacity," "in its regulatory capacity," or words of similar import, the term means, "the County, in its proprietary capacity."

c. Attorney's Fees. In the event there arises any disputes under this Agreement and said disputes result in litigation between the Parties, the prevailing Party shall be entitled to recover from the non-prevailing Party all reasonable attorney's fees incurred by the prevailing Party in any such litigation, including the value of legal services, if any, provided by the Office of the County Attorney of Fairfax County.

d. Binding Effect. This Agreement shall, be binding upon and inure to the benefit of the Parties hereto, their successors and permitted assigns. Neither Party hereto may assign its rights or delegate its obligations hereunder.

e. Counterparts. If this Agreement shall be executed in two or more counterpart originals, each counterpart original shall be for all purposes considered an original of this Agreement.

f. Further Assurances. At the request of either Party, Master Developer and the County shall promptly execute and deliver such other further instruments and documents as may from time to time be requisite in order to consummate the intent of the Parties provided herein.

g. Headings. The section headings are herein used for convenience of reference only and shall not be deemed to vary the content of this Agreement or the covenants, agreements, representations and warranties herein set forth or the scope of any section.

h. Incorporation. The Recitals and Exhibits are hereby incorporated into this Agreement as if fully set forth herein.

i. Governing Law. This Agreement shall be governed by and construed under the laws of the Commonwealth of Virginia.

j. Holidays, Business Days, etc. Whenever the last day for the performance of any act required by either Party under this Agreement shall fall upon a Saturday, Sunday, legal holiday, or day on which national banks doing business in the Washington D.C. area are generally closed for business, the date for the performance of any such act shall be extended to the next succeeding business day which is not a Saturday, Sunday, legal holiday, or day on which such bank is closed.

k. No Third Party Beneficiaries. No person or entity shall be a third party beneficiary of this Agreement.

l. Partial Invalidity. If any provision of this Agreement shall be determined to be void by any court of competent jurisdiction, then such determination shall not affect any other provision hereof, all of which other provisions shall remain in full force and effect; and it is the intention of all the parties hereto that if any provision of this Agreement capable of two

constructions, one of which would render the provision void and the other of which would render the provision valid, then the provision shall have the meaning which renders it valid.

m. Waiver, Modification. Failure by either Party to insist upon or enforce any of its rights hereto shall not constitute a waiver thereof. This Agreement shall not be modified, amended, or altered except by a written agreement signed by each of the Parties hereto.

n. Survival. Except as otherwise specifically provided herein, the provisions of this Agreement shall not survive termination hereunder.

o. Time. With respect to all time periods contained in this Agreement, it is expressly understood that time shall be of the essence.

p. Waiver of Jury Trial. Each Party hereby knowingly waives trial by jury in any action, proceeding, claim or counterclaim brought by either Party in connection with any matter arising out of or in any way connected with this Agreement, the relationship of the Parties hereunder, the Parties' ownership or use of the land subject to this Agreement, and/or any claims of injury or damage.

(*Remainder of Page Blank; Signatures Follow*)

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of the date first written above.

COUNTY:

BOARD OF SUPERVISORS OF FAIRFAX COUNTY, VIRGINIA, acting in its proprietary capacity and not in its governmental or regulatory capacity

By: _____
Name: _____
Title: _____

COMMONWEALTH OF VIRGINIA

COUNTY OF FAIRFAX, to-wit:

Subscribed and sworn to before me this ____ day of _____, 2014, by _____.

_____
Notary Public

My Commission Expires: _____
Registration Number: _____

ATTACHMENT 1

MASTER DEVELOPER:

WESLEY HAMEL LEWINSVILLE LLC, a Virginia limited liability company

By: _____
Name: _____
Title: _____

COMMONWEALTH OF VIRGINIA

COUNTY OF FAIRFAX, to-wit:

Subscribed and sworn to before me this ____ day of _____, 2014, by _____, _____ of Wesley Hamel Lewinsville LLC, a Virginia limited liability company.

_____
Notary Public

My Commission Expires: _____
Registration Number: _____

EXHIBIT A

PRELIMINARY BUDGET

(Attached)

Lewinsville Interim Agreement
Exhibit A
Preliminary Budget

	Total Costs	Cost Category	Residential	Cost Share	Public Facility	Cost Share
Landscape Architecture	$ 12,420	50/50	$ 6,210	50%	$ 6,210	50%
Civil Engineering Services						
Task I - Schematic / Design Development						
Preliminary Base Sheet	$ 1,500	50/50	$ 750	50%	$ 750	50%
Schematic / Design Development	$ 5,500	50/50	$ 2,750	50%	$ 2,750	50%
Initial County Coordination	$ 3,800	Residential	$ 3,800	100%	$ -	0%
Task II - Special Exception Phase						
Pre-Construction ALTA/ACSM Update	$ 5,500	50/50	$ 2,750	50%	$ 2,750	50%
Topographic Survey	$ 7,200	50/50	$ 3,600	50%	$ 3,600	50%
Limited Tree Survey	$ 6,500	50/50	$ 3,250	50%	$ 3,250	50%
Utility Designation	$ 3,300	50/50	$ 1,650	50%	$ 1,650	50%
Special Exception Plan (Initial Filing)	$ 10,500	Residential	$ 10,500	100%	$ -	0%
Preliminary SWM Plan	$ 5,200	50/50	$ 2,600	50%	$ 2,600	50%
Certified Plat	$ 1,100	50/50	$ 550	50%	$ 550	50%
Existing Vegetation Map	$ 3,500	50/50	$ 1,750	50%	$ 1,750	50%
Special Exception Plan (Revisions, Meetings)	$ 30,000	Residential	$ 30,000	100%	$ -	0%
Task III - Site Plan/Construction Documents						
Final Site Plan	$ 37,000	50/50	$ 18,500	50%	$ 18,500	50%
Erosion Control Plan	$ 5,500	50/50	$ 2,750	50%	$ 2,750	50%
Site Storm Drainage Study/Final Adequate Outfall Analysis	$ 4,500	50/50	$ 2,250	50%	$ 2,250	50%
On-Site Sanitary Sewer Plan	$ 3,500	50/50	$ 1,750	50%	$ 1,750	50%
Stormwater Management Plan	$ 15,500	50/50	$ 7,750	50%	$ 7,750	50%
Minimum Landscape Plan / Coordination	$ 6,200	50/50	$ 3,100	50%	$ 3,100	50%
Site Construction Details	$ 6,500	50/50	$ 3,250	50%	$ 3,250	50%
Tree Conservation Plan	$ 7,000	50/50	$ 3,500	50%	$ 3,500	50%
Sight Distance Profiles	$ 1,800	50/50	$ 900	50%	$ 900	50%
Roadway Improvement Plan	$ 9,600	50/50	$ 4,800	50%	$ 4,800	50%
Subdivision Plat	$ 4,200	50/50	$ 2,100	50%	$ 2,100	50%
Final On-Site Easement / Dedication Plat	$ 4,500	50/50	$ 2,250	50%	$ 2,250	50%
Geotechnical Plan Coordination	$ 1,400	50/50	$ 700	50%	$ 700	50%
Earthwork Analysis	$ 2,300	50/50	$ 1,150	50%	$ 1,150	50%
Plan Processing	$ 23,000	50/50	$ 11,500	50%	$ 11,500	50%
PFM Modifications / Waivers	$ 2,400	50/50	$ 1,200	50%	$ 1,200	50%
Specifications	$ 2,400	50/50	$ 1,200	50%	$ 1,200	50%
Site Plan Notices	$ 2,100	50/50	$ 1,050	50%	$ 1,050	50%
Dry Utility Coordination	$ 4,700	50/50	$ 2,350	50%	$ 2,350	50%
Meetings & Conferences	$ 8,000	50/50	$ 4,000	50%	$ 4,000	50%
Task IV - Additional Services						
Soil Borings Stakeout	$ 1,600	50/50	$ 800	50%	$ 800	50%
Alternate Pavement Design Revision	$ 3,500	50/50	$ 1,750	50%	$ 1,750	50%
Bidding Coordination	$ 2,500	50/50	$ 1,250	50%	$ 1,250	50%
Site Permit Processing after Plan Approval	$ 5,800	50/50	$ 2,900	50%	$ 2,900	50%
VDOT Permit Coordination	$ 4,500	50/50	$ 2,250	50%	$ 2,250	50%
Maintenance of Traffic (MOT) Plan	$ 4,100	50/50	$ 2,050	50%	$ 2,050	50%
Signing and Striping (S&S) Plan	$ 2,800	50/50	$ 1,400	50%	$ 1,400	50%
Construction Administration	$ 14,000	50/50	$ 7,000	50%	$ 7,000	50%
Bond Reduction	$ 1,200	Residential	$ 1,200	100%	$ -	0%
Bond Release Assistance	$ 5,000	Residential	$ 5,000	100%	$ -	0%
Fairfax County Site and Sanitary As-Builts	$ 8,200	50/50	$ 4,100	50%	$ 4,100	50%
LID / LEED and Additional 2014 SWM Compliance	$ 6,500	50/50	$ 3,250	50%	$ 3,250	50%
Final County Development Agreement Coordination	$ 4,800	Residential	$ 4,800	100%	$ -	0%
VSMP Permit Application	$ 1,800	50/50	$ 900	50%	$ 900	50%
Preliminary Erosion and Sediment Control Plan	$ 4,000	50/50	$ 2,000	50%	$ 2,000	50%
Task V - Reimburseables	$ 8,000	50/50	$ 4,000	50%	$ 4,000	50%
Soil Borings / Geotechnical Analysis	$ 15,000	50/50	$ 7,500	50%	$ 7,500	50%
County Land Use Application Fees	$ 18,375	Residential	$ 18,375	100%	$ -	0%
Dry Utility Design	$ 45,000	50/50	$ 22,500	50%	$ 22,500	50%
Dry Utility Fees	$ 75,000	50/50	$ 37,500	50%	$ 37,500	50%
Traffic Study - Preliminary Analysis	$ 6,000	Residential	$ 6,000	100%	$ -	0%
Traffic Study - TIS Option	$ 25,000	50/50	$ 12,500	50%	$ 12,500	50%
Wetlands Study - Preliminary Analysis	$ 6,000	50/50	$ 3,000	50%	$ 3,000	50%
Wetlands - Option	$ 7,875	50/50	$ 3,938	50%	$ 3,938	50%
Zoning and Entitlement Legal	$ 45,000	Residential	$ 45,000	100%	$ -	0%
Totals	**$ 569,670**		**$ 347,173**	***61%***	**$ 222,498**	***39%***

Board Agenda Item
June 17, 2014

4:30 p.m.

Decision Only on PCA 2000-MV-034 (Furnace Associates, Inc.) to Amend the Previously Approved Proffers and Generalized Development Plan for RZ 2000-MV-034 to Eliminate Mixed Waste Reclamation Facility and Instead to Permit Electric Generating Facilities and Associated Modifications to Proffers and Site Design with an Overall Floor Area Ratio of 0.013, Located on Approximately 8.86 Acres of Land Zoned I-6 (Mount Vernon District)

and

Decision Only on SEA 80-L/V-061-02 (Furnace Associates, Inc.) to Amend SEA 80-L/V-061 Previously Approved for a Landfill to Permit Landfill Expansion, Electrical Generating Facilities, Private Club/Public Benefit Association, Golf Driving Range and/or Outdoor Baseball Hitting Range and Associated Modifications to Site Design and Development Conditions, Located on Approximately 249.82 Acres of Land Zoned R-1 (Mount Vernon District)

This property is located on the West side of Furnace Road, approximately 2,693 Feet South of Lorton Road and 2,693 Feet North of I-95 underpass. Tax Map 113-1 ((1)) 12 and 13. and This property is located at 10001, 10201, 10209, 10215, 10219 and 10229 Furnace Road, Lorton, 22079. Tax Map 113-1 ((1)) 5pt., 7, 8; 113-3 ((1)) 1, 2 and 4.

The Board of Supervisors' public hearing was held on May 13, 2014; and, decision only deferred to June 17, 2014 at 4:30 p.m.

PLANNING COMMISSION RECOMMENDATION:
On Thursday, April 3, 2014, the Planning Commission voted 6-4 (Commissioners Commissioner Hall and Litzenberger were absent from the meeting) to recommend the following actions to the Board of Supervisors:

- Approval of PCA 2000-MV-034, subject to proffered conditions consistent with those dated February 10, 2014, and contained in Appendix 1 of the staff report; and

- Modification of Paragraph 11 of Section 11-102 of the Zoning Ordinance for a dustless surface to that shown on the Generalized Development Plan.

- Approval of SEA 80-L/V-061-02, subject the development conditions dated April 3, 2014, with the following waivers and modification:
    - Waiver of Paragraph 9 of Section 9-205 of the Zoning Ordinance to permit improvements less than 20 years after the termination of landfill operations;
    - Waiver of Paragraph 11 of Section 11-102 of the Zoning Ordinance for a dustless surface;
    - Waiver of the interior parking lot landscaping requirement pursuant to Paragraph 3 of Section 13-203 of the Zoning Ordinance;
    - Waiver of the peripheral parking lot landscaping requirement pursuant to Paragraph 6 of Section 13-202 of the Zoning Ordinance;
    - Modification of the transitional screening and waiver of the barrier requirements pursuant Section 13-305 of the Zoning Ordinance, as shown on the SEA Plat;
    - Waiver of the Countywide Trails Plan recommendation for an 8-foot wide major paved trail along the east side of Furnace Road;
    - Board of Supervisors' approval to permit off-site vehicular parking for the Observation Point on Tax Map Parcels 113-1 ((1)) 12 and 13 pursuant to Section 11-102 of the Zoning Ordinance;
    - Delete Development Condition 60 in its entirety;
    - Denial of a modification of the invasive species management plan requirement, pursuant to Section 12-0404.2C of the Public Facilities Manual; and
    - Denial of a modification of the submission requirements for a tree inventory and condition analysis, pursuant to Section 12-0503.3 of the Public Facilities Manual.

The Commission recognizes that although a consensus between the applicant and all citizens may not be possible, further refinements to staff's proposed development conditions, in consultation with the applicant, county staff and the community, may further improve the application, and provide reassurances regarding potential impacts from the application.

Therefore, the Planning Commission recommends that specific topics for the Board's consideration should include the following:

- A) That the Board consider deletion of the requirement, Development Condition 46 and elsewhere, that the applicant install wind turbines at this location and instead require a commitment by the applicant to install other green energy technology of an appropriate and equivalent nature;

- B) That the Board consider whether the applicant's $500,000 annual contributions between 2019 and 2038, as referenced in Development Condition 49, should be indexed to inflation or subject to cost of living increases, or some other incremental increases;

- C) That in addition to the potential meetings referenced in Development Condition 27, the Board consider a requirement that the applicant be required to designate an ombudsman or community liaison with contact information available to the supervisor's office and community to facilitate prompt dialogue regarding citizen complaints or fielding questions or concerns about the operations;

- D) That the Board consider additional clarification of the applicant's long term responsibility for the structural integrity and stability of the solar panels or other structures installed on top of the landfill, including post-closure;

- E) That the Board consider additional limitations on removal of vegetation, or supplemental vegetation as may be determined by DPWES, in the 5.2-acre private recreation area referenced in Development Condition 56 to reinforce the buffering in the direction of the Lorton Valley Community to the North; and

- F) That the Board consider whether the closure date could be sooner than 2034, referenced in Development Conditions 12 and 60 or the height of the final debris elevation be further reduced below 395 feet, referenced in Development Condition 12 or the height of the 70 foot berm, Development Condition 29, be reduced if determined to be structurally sound by all appropriate reviewing agencies; and

- G) That the Commission does not intend for the above suggestions for additional discussion to restrict or limit in any way appropriate topics to be considered by the Board for potential revisions to the development conditions.

In related actions, the Commission voted 6-4 (Commissioners Hall and Litzenberger were absent from the meeting) to approve 2232-V13-17 and 2232-V13-18. The

Commission noted that the applications, met the criteria of character, location and extent, and was in conformance with Section 15.2-2232 of the *Code of Virginia,* as amended.

ENCLOSED DOCUMENTS:
Attachment 1 – Planning Commission Verbatim
Staff Report previously furnished and available online at:
http://ldsnet.fairfaxcounty.gov/ldsnet/ldsdwf/4441477.PDF
http://ldsnet.fairfaxcounty.gov/ldsnet/ldsdwf/4448787.PDF

STAFF:
Barbara Berlin, Director, Zoning Evaluation Division, Department of Planning and Zoning (DPZ)
Mary Ann Tsai, Planner, DPZ

Planning Commission Meeting
April 3, 2014
Verbatim Excerpt

PCA 2000-MV-034/SEA 80-L/V-061-02/2232-V13-18/2232-V13-17 – FURNACE ASSOCIATES, INC.

Decision Only During Commission Matters
(Public Hearing held on February 27, 2014)

Commissioner Flanagan: Thank you, Mr. Chairman.

Chairman Murphy: Nice to see you with us this evening.

Commissioner Flanagan: Well it's nice to be here after having a few hours' sleep. But thank you, Mr. Chairman. First, I wish to thank the 56 citizens that signed up to speak and those that didn't sign up to speak, but stayed up anyway to speak and listen until 3:00 a.m. the next morning. And the reason for that is they recognize the huge long-term impact of this Special Exception Amendment that will be borne by the Lorton community. I think the 56 speakers set a record for the Planning Commission and I think we should all take note of the fact that this is a significant turnout by any community in Fairfax County. The decorum of the Lorton citizenry gave new meaning to why it's a good – it's to our good fortune to be an American. Their testimony presented new information, new viewpoints, and were supported with facts – facts that have been the basis for much post-hearing additional testimony and some changes to the application. Their testimony was a great help to we Commissioners in determining what we are sworn to do – make sure that all Special Exceptions are in harmony with the surrounding community with the Comprehensive Plan recommendations – and, third, with the Zoning Ordinance. I wish, however, that the Commission tonight was considering a compromise offered by the representatives of the Lorton community, who met with the applicant after the public hearing. Their compromise called for the certain closure of the landfill by the end of 2022 in order for the landfill to reach 412 feet; the elimination of the wind turbines' threat to wildlife; the elimination of the seven-story earth and berm wall threat to the adjacent RPA, floodplain, and Giles Run; and the alternate location of solar panes to the sites being served. In other words, instead of being a distance from the sites that will use the electrical energy, they would be moved, actually, to the sites where they would be using the electrical energy. I could have easily supported such a compromise. But that is not the application before us tonight for a decision. Instead, as you are aware, Furnace Associates has filed a Special Exception Amendment application – SEA 80-L/V-061-02 – seeking the expansion of their existing 250-acre construction demolition and debris landfill in Lorton and a continuation of its operation until the year 2034. The SE also seeks to add electrical generating facilities, a radio-controlled aircraft field – amateur, I mean a small aircraft field – hobby aircraft – a baseball hitting range, and a golf driving range to the site at the cessation of the landfill's operations. Concurrent with the SEA is a 2232-V13-18 for solar and wind electrical generating facilities on this 250-acre site. In addition, Furnace Associates have filed two applications that relate to its 9-acre property on the west site of Furnace Road. A Proffered Condition Amendment

application, PCA 2000-MV-034, proposes the deletion of a proffered mixed-waste reclamation facility that's there now. The PCA application also proposes to permit solar electrical generating facilities as the proffered use for that property. Concurrent with the PCA 2000-MV-034 is another 2232 application – it's actually number 2232-V13-17 – for the establishment of a solar electrical generating facilities. To say that these applications have been contentious would be a serious understatement. The Commission held its public hearing on these applications on February 27, 2014, and that public hearing did not conclude until 3:00 a.m. on the following day. Subsequently, over 200 members of the South County Federation attended a meeting to discuss these applications. The majority of the South County community associations have vehemently opposed this application. The issue has hit home for many community residents, as they participated in striking a bargain with this same applicant in 2007 to have the landfill close by the end of 2018, only to now be faced with an application seeking a substantial expansion of the landfill coupled with the request for an extension of the landfill's operations until 2034. I would like to first address the centerpiece of the applicant's proposal – the SEA application. The existing landfill is located on property that is comprised of approximately 250 acres with a permitted overall height of 412 feet. However, this SE application proposes to reduce the maximum height to 395 feet from 412 and to expand the currently-approved 4-acre platform on top to more than 40 acres. The 40-acre plus platform, in turn, would necessitate the continued – the construction of a 70-foot high – which is the equivalent of a 7-story building – high earth and berm or wall extending two miles around the entire perimeter of the landfill. If the berm wall, which would be seven stories high, were to fail, it would undoubtedly spill onto the nearby RPA, floodplain, and the Giles Run Stream. In addition, homeowners in the nearby Lorton Valley subdivision would be severely impacted. The standards for approval of this SEA are set forth in Zoning Ordinance Section 9-006. In my opinion, this application clearly fails to satisfy two such standards. First, Section 9-006 states that the Special Exception uses must be in harmony with the Comprehensive Plan. The Plan recommendations for this area of the County specifically call for gateway site building design. Gateway uses are supposed to create a sense of place in the community and should embody and announce the fabric of the community. This area of South County is rich with history, notable architecture, and a strong sense of community. Over the last 10 years, this body has helped to define, redevelop, and morph the South County area from heavy industrial uses into a newly developed, vibrant, and engaged community. An even larger landfill does nothing to announce South County as a place worth even visiting and is inconsistent with our vision to turn the Lorton community into a beautiful "gem" in Fairfax County. Quite simply, it is difficult to conceive of any land use that is more inconsistent with the notion of a gateway than a mountainous debris landfill. In addition, the construction of the 40-acre plus platform and the 7-story vegetated berm is inconsistent with the stated goal of protecting the ecological integrity of the streams in the County, as set forth in Objective 2 in the Environmental Section of the Policy Plan and General Standard Number 3 in the Zoning Ordinance, Section 9-006. Second, pursuant to General Standard Number 3, a Special Exception use should not adversely affect the use or development of neighboring properties and, further, shall not hinder or discourage the appropriate development and use of adjacent or nearby land and/or buildings or impair the value thereof – end of quote. We hear abundant evidence – we heard abundant evidence at the public hearing which supports the conclusion that the continued use of this site as

a landfill through 2034 would, in fact, adversely affect the use of – the use or development of the neighboring properties, including those in Lorton Valley, Shirley Acres, Sanger Street, Laurel Hill Subdivisions, the Workhouse Cultural Arts Center, Laurel Hill parkland, the nationally recognized championship public golf course, and the future development of the adaptive re-use site – that's the old maximum security prison. Without question, this current SEA application generates a substantial number of adverse land uses, transportation, visual, ad environmental impacts – which will only get worse if the proposed SEA is approved as that not – as not only adding seven – earth and wall, behind which trash will be piled upon existing landscaped mountain sides. At the present sides, there are two sides that are landscaped substantially. Further, there is no doubt in my mind that the proposed extension and expansion would hinder or discourage the continued revitalization of the South County community. I further recommend denial of the 2232 application for solar and wind electrical generating facilities on the existing landfill property. Again, these facilities are contrary to the provisions of the adopted Comprehensive Plan. Solar and wind facilities siding on top of a 395-foot tall mountain of debris, covering a 40-acre plus platform, does nothing to create a sense of place and is not a gateway use, as called for by the Comprehensive Plan. In addition, the facilities are poorly conceived. Among other things, there is no evidence that the wind conditions at this location are sufficient to generate enough electricity to support the installation cost of the wind turbines. Equally damaging to this application, the wind turbines would be a threat to the already threatened American bald eagle population that is, once again, resident in the Mason Neck area. This is not a mere apprehension of harm. Rather, staff from the US Fish and Wildlife Service have confirmed that it previously advised the applicant that this location was unsuitable for wind turbines due to the effect on the local and migrating natural wildlife. Interesting, the proposed development conditions also allow the applicant to buy out of the green energy components of this application for a sum that may very well be less than it will cost to build the improvements. I therefore have concluded that the location, character, and extent of the proposed solar and wind electrical generating facilities on the landfill property is not substantially in accord with the adopted Comprehensive Plan. Finally, we have – we also have a Proffered Condition Amendment application and a second 2232 application for the applicant – from the applicant, which proposes to eliminate the proffered recycling center on the applicant's property on the west side of Furnace Road to allow for the construction of a solar electrical generating facility. The applicant indicated that it would move to withdraw the PCA application in the event that its current SEA application is denied. Accordingly, consistent with my findings as to the SEA application, I have concluded that we should deny the 2232 application for the west side of Furnace Road and recommend to the Board of Supervisors that it deny the Proffered Condition Amendment application to eliminate the recycling center. In summary, Mr. Chairman, there are more benefits to the County by denying than approving this application. Some in addition to those that I've noted above are: one, denial of the application will benefit Fairfax County by improving air quality when the landfill is capped, as recommended by the Planning Commission in 2006. The Sierra Club testimony states that methane gas is a potent contributor to global warming – 25 to 75 – to 72 percent more potent than carbon dioxide. And only 20 to 75 percent of the methane gas is ever captured by most landfills. So in other words, we have 80 to 25 percent freely escaping. The increase – increasing the production of greenhouse gases by

expanding the landfill and delaying the capping to 2035 is contrary to the County air policy objective, number one. And two, denial will benefit Fairfax County by hastening recycling when the last landfill in Fairfax County is closed in 2018, as now wisely recommended by the Commission in 2006. The current Board of Supervisors solid waste management plan encourages recycling. It does not encourage landfill expansion. The County, the Virginia Department of Environmental Quality, and the EPA all consider landfills as a last resort and a dying industry as more debris is recycled. And three, denial will benefit Fairfax County by protecting a major Fairfax County asset and visitor attraction, the American bald eagle – one of our national symbols in addition to the American flag. Not to protect rare wildlife is contrary to the County Environmental Policy Objective 9. And four, denial will benefit Fairfax County by reducing the number of trucks with a Lorton destiny, as wisely recommended by the Planning Commission in 2006. To allow truck traffic for an additional 17 years, as requested, is contrary to Zoning Ordinance Section 9-006. Accordingly, Mr. Chairman, let me pull up here my motions. I seem to have lost my motions here. Okay – accordingly, Mr. Chairman, for these reasons and based on all of the evidence presented in the public hearings on these applications, I MOVE THAT THE PLANNING COMMISSION FIND THE SOLAR AND WIND ELECTRICAL GENERATING FACILITIES PROPOSED UNDER 2232-V13-18 DOES NOT SATISFY THE CRITERIA OF LOCATION, CHARACTER, AND EXTENT, AS SPECIFIED IN SECTION 15.2-2232 OF THE *CODE OF VIRGINIA*, AS AMENDED, AND IS NOT SUBSTANTIALLY IN ACCORD WITH THE PROVISIONS OF THE ADOPTED COMPREHENSIVE PLAN. I ALSO MOVE THAT THE PLANNING COMMISSION DENY SEA 80-L/V-061-02.

Commissioner Sargeant: Mr. Chairman?

Chairman Murphy: Is there a second? Seconded by –

Commissioner Sargeant: Mr. Chairman, I would like to make a few comments to go with my second.

Chairman Murphy: Okay, seconded by Mr. Sargeant.

Commissioner Sargeant: Mr. Chairman, thank you very much. And let me begin by first of all acknowledging the applicant's participation in recent meetings with representatives of the South County community and business leadership. That goal was to determine whether additional dialog was possible. But at the end of the process, the two sides agreed to disagree. Now even with some recent modifications, this application is still not ready for our support and here are some reasons. The applicant had included a covenant at its own offering to – in development conditions that would have provided greater certainty requiring a closure date. I'm told that this evening that that development condition will be removed for other reasons that Commissioner Hart can elaborate. We should know that this issue has been – we should know, quite simply, that this issue closure and that kind of certainty had been addressed to the satisfaction of all parties. The lack of certainty here has certainly been one of the foundations of dispute in the South County area. The applicant has now agreed to lower the final height of the landfill from 412 to

395 feet. However, the applicant says the revised SEA Plat to reflect this change will not be ready until a week after tonight's decision. As staff noted in response to one of my questions earlier today, in general staff would review a revised plan along with revised conditions or proffers. In a question to staff regarding the amended development condition, I asked staff whether they still agree with the statement on page 19 of the staff report that the applicant has only committed to providing the methane gas and geothermal infrastructures and installation of three wind turbines in phase one. According to the staff response dated today, "The applicant has only committed to provide methane gas and geothermal infrastructure and installation of three wind turbines in phase one for the SEA site. The applicant has committed to provide solar on the adjacent PCA side." This is one of those areas where we can provide better certainty and a better application. With regard to green energy, the applicant correctly notes the extension discussions and task force initiatives and leadership by the Board of Supervisors itself over time to promote alternative energy. And certainly, repurposing a landfill with green energy is not a unique or uncertain idea. We are likely to this – this concept go forward elsewhere as well as here. But in my response to whether the Board of Supervisors has approved any legislation to create a green energy triangle, staff responded today that they are not aware of any legislation to create a green energy triangle at this time. Yes, a green energy triangle can occur without legislation, but my question to gauge the Board's current involvement and commitment at this time. Is it lost on anyone here that the County's plan for green energy rests, perhaps, on a new bed of methane? At the end of the day, we should not forget that green energy and cash proffers may be the result of a landfill expansion and extension. We still have a 70-foot berm around the perimeter of the landfill and possibly until 2034 for landfilling activities. A better understanding about responsibility and liability for these structures and any public uses on this site are in the best interests of the County and its citizens. While the applicant's consultants do provide expertise and assurance regarding the stability and longevity of the berm, the County would be better served to provide its own third-party scrutiny regarding the future of the proposed structure. One engineer said to me, "Nothing lasts forever." So with this, Mr. Chairman, I second the motion to deny the SEA and 2232. Thank you.

Chairman Murphy: Further discussion of the motion? Mr. Hart.

Commissioner Hart: Thank you, Mr. Chairman. I agree with Commissioner Flanagan. This has been a contentious application and I would like to address, in part, why I think that happened and what we can do about it. I agree also that perhaps we can do better on this type of application. Never the less, I've reached a different conclusion than Mr. Flanagan regarding what our recommendation to the Board of Supervisors should be at this point. And earlier today, staff had circulated a series of motions – we received some motions last week – but I had circulated three motions today, the first of which would be what I think we should do on the SEA and the corresponding 2232. I'd like to address first why I think this particular application became so contentious and do so in an effort to try and extract from the land use decision some of the emotion – some of the emotional difficulties that we've had with this case. Several years ago, and I think there were four of us – Commissioner Lawrence, Commissioner de la Fe, Commissioner Murphy, and myself – voted on the previous iteration of the Special Exception,

which was praised and celebrated at the time as a win/win situation. It was going to provide this overlook park. It was going to provide certainty as to the closure of the landfill in 2018. And it also importantly contained a provision regarding the applicant's release from liability for the landfill – that it would be taken through – a dedication would be taken by the Park Authority. At the time, I think – I speak for myself, but I think my colleagues would agree – we did not know that the Park Authority might not end up taking the dedication. As it turned out, sometime after the approval, the Park Authority ultimately decided to not accept the dedication of the facility. That problem – that fiasco – has mushroomed into a lot of angst and complaints in the community, which I think contributed to the hostile reaction, at least, with the South County folks initially towards this application, the number of speakers we had, the length of the public hearing, the volume of the communications we've received, much of which communicates quite clearly anger over these disappointed expectations. That this was supposed to be a proffer, in fact it's been suggested to us by some that promises were broken or that the applicant should be held to these – to these promises or that there was a deal that the applicant somehow has broken. And from my perspective, that is absolutely not what happened. On a Special Exception, the applicant doesn't make promises. The Board of Supervisors, instead, imposes development conditions – the rules by which an application will be governed. What the Board of Supervisors is saying – we're approving this use, subject to the following terms. You will do this, this, this, and this. We found out, I think, as recently as last week if we – maybe we knew before or maybe I just didn't pick up on it – in one of the memoranda from staff, I learned I think for the first time that Development Condition 53, which was the key to the whole deal – which provided that at such time as the applicant was formally released from liability by DEQ, then some other things would happen. That would lead to the dedication of the facility as a public park. Well, we found out a few days ago – or at least I found out – that the County Attorney's office had never seen Development Condition 53 until long after the approval. And then this all blew up into something. I mentioned at the beginning that I had circulated some motions and the final motion, a follow-on motion, addresses my concern about what went wrong on this case and to make sure that this never happens again. And I hope it is something on which, no matter what our position is on the four applications in front us tonight, that going forward we can agree on this and that something positive can come out of this. And with respect to the follow-on motion, I think it is susceptible – that this situation is susceptible of repetition because we have repeatedly planned for innovative parks in Tysons. I think we will expect them, perhaps, in Reston as well and perhaps in other places – where we're putting parks in unusual places – on top parking garages, on tops of buildings. And we need to make sure that, going forward, the Park Authority's decision-making process is integrated into the land use decision – that it's not separated – that we not approve something that's dependent on the Park Authority doing something and that the whole approval is contemplating this is going to turn into a park and the Park Authority is going to take it. And secondly, that the County Attorney's office be integrated into the process so that where there are situations where we are contemplating dedication of land for a park or acceptance of land for a park or acceptance of maintenance responsibility or a transfer of liability or something like that – that before this is voting on – before its approved – the County Attorney's office has had an opportunity to vet those development conditions, make sure we're all on the same sheet of music, that the condition is going to work, and that the deal that we

contemplate is the deal that's going to happen. We'll get to that. Coming back to this particular application, I think if it hadn't been for the disappointed expectations about the failure of the previous package to work – to turn this into a park – to turn this into a situation where the applicant is being released from liability and the landfill is correspondingly closed in 2018 – it's a much easier case to resolve. I think that on a Special Exception, our function also is somewhat different. And it's different even still on a 2232. I would adopt, generally, for the purpose of the discussion – we don't want to be here until three in the morning again – the rationale in the staff report and staff's professional analysis regarding the provision in the Comprehensive Plan, the provisions in the Zoning Ordinance, and whether the applications each, I'll say, fall within the strike zone. On a 2232 in particular, we see this on telecommunications and we see it sometimes on Park Authority applications. Sometimes any number of things could fall within that strike zone. Any number of things might meet the criteria of location, character, and extent whether we agree with them or not – whether they would be our first choice – whether we would choose to do it in that way. And on these, I think staff has correctly analyzed them. With respect to the Special Exception, also, I will address briefly – Commissioner Sargeant had addressed Development Condition Number 60, which I had deleted in the motion on the – or if we get – depending on what happens. If we get to my motions, I am deleting Development Condition 60, which was – which did two things. It established a covenant at the end that would run through the Board of Supervisors and to an unnamed third party. In general, it would certainly be possible for an applicant to agree to a private covenant, a private agreement, a side-agreement of some sort. It might even be appropriate in a rezoning case where an applicant is making proffers. Where they're making proffers, they're saying, "Please rezone our property and here's what we're going to do if you do that." But on a Special Exception, our function is somewhat different. The General Assembly has set up a system whereby we evaluate whether certain non-residential uses of special impact are appropriate in certain areas. And if they are – if they meet certain other criteria – what development conditions are appropriate to mitigate the impacts running from the use? Those might address things like lighting and noise and transportation and buffering, landscaping, that sort of thing. To the extent that a development condition was designed to require a covenant to run to the benefit of a private third party, it's not mitigating any impact at all. It's not landscaping. It's not buffering. It's not dealing with noise. The reason that's in there is going back to this first problem with what went wrong with the park. The concern that's been expressed is that the Board of Supervisors cannot be trusted and there needs to be someone – some guardian at the gate besides the Board of Supervisors – some private party to control the destiny of this property down the road. That's not something we've ever done. That's not something the General Assembly has authorized. We can't impose, as a development condition, a requirement on a private party that they give up property rights to somebody else where it's not mitigating an impact. It's dealing with some political problem or some other issue. And again, if some private agreement were to be worked out between the parties, that's fine. But we're not in the business of telling those people what to do. That's – that's the problem with Development Condition 60. Otherwise, I think staff has correctly analyzed each of the uses and imposed a very rigorous set of development conditions, which impose also extraordinary financial contributions and requirements on this applicant over a course of many years. The applications also, I think, are – I would say – are not perfect. And in my discussions with several

of you, I think we were close to a consensus on some additional points. I had hoped very much, and I know that several of us did, that the committee that Commissioner Sargeant worked on – I think we appreciate the efforts by Commissioner Sargeant, Commissioner Flanagan, and the people who participated – to try and get a compromise – to try and get a consensus. And we hope to do that on most of our cases. It didn't work here for whatever reason. Nevertheless, the applicant had made voluntarily some changes to their proposal, which staff also supports – scaling it back someone, cutting six years off of their proposal – from 2040 to 2034 – reducing the height from 412 feet to 395 feet. I think there were several other points identified, sometimes simultaneously, by multiple commissioners on which we don't necessarily have a development condition. But at the same time, I think it is reasonable for us to look at these applications and say, "Yes, they fall within the strike zone." And the Board of Supervisors might have discretion to approve them. But at the same time, if the Board will work on these six items, they will be closer to a consensus. I think the application will be improved. I think with further discussions between staff and the applicant and the community – and the Board is sophisticated enough to do this – we can make this a better situation. We can road map for the Board how they get there. This is also, I think, an extraordinary application in terms of the time frame, as we've discussed briefly. The 2232 applications run out on Thursday. They are deemed approved as a matter of law if we take no action before then. The Board of Supervisors, theoretically, could extend them again. But there is no guarantee that they will. And we all know what happens in this building if there's a power outage, if there was a fire alarm, if there's a snowstorm again, and something happens – and even if the Board wanted to vote next week – if for some reason they don't, the applications are deemed approved. And we don't want to be in that situation. The Board has given us a deadline. I think we have done – we have rigorously vetted these applications. We have reviewed a great deal of material. Staff has been working day and night to try and digest all the stuff – answer all these questions. And I think in this extraordinary situation, we can identify for the Board suggestions for areas of improvement. And I've tried to do that. Rather than denying the whole thing – recognizing at the same time staff's careful analysis of this and the Board's commitment to any number of policies which are consistent with continuing to have a construction debris landfill within Fairfax County – whether that's for economic development purposes – whether it's for an industrial use continuing to contribute to the tax base – whether it's because we're going to need a place for construction debris for all the growth that's planned in Tysons and Reston and the revitalization areas. And if we don't have it here and the debris has to be shipped out of the County to somewhere in Maryland or Manassas or down the northern neck – wherever it's going, it's going to cost more and take longer – put more vehicles on the road for a longer period of time. And it frustrates, I think, our objectives for getting buildings to comply with, for example, LEED certification, which is going to require something like that. The Board will have the flexibility to determine these types of policy issues in that context. I think I would address, separately, when we get to the – if we get to the other motion – the particulars of that if there's a need for that. But where we are on the first – the SEA and the first 2232 – I think we shouldn't flat out deny it. I think what we should do is my motion, which recognizes that the applications fall within the strike zone, but identifies for the Board six points on which the Commission feels there could be improvement.

Commissioner de la Fe: Mr. Chairman, which motion are we talking about?

Commissioner Hart: I'm arguing why we shouldn't approve Mr. Flanagan's motion to deny the first – the SEA and the first 2232.

Commissioner de la Fe: You're talking about your motion. I haven't seen – you haven't made any motion.

Chairman Murphy: He's just giving you a preview.

Commissioner de la Fe: Oh – okay.

Commissioner Hart: I'm telling you why. Stay tuned we'll get there.

Chairman Murphy: Further discussion?

Commissioner Hart: Mr. Chairman, I had one more point.

Chairman Murphy: Okay.

Commissioner Hart: I wanted to address, also, the commitment to the future of Lorton. This is an issue with County – this is an application – these are applications with countywide implications. Lorton is an important part of the County and there was a lot of testimony about the history of Lorton or the problems with Lorton. We have had, I think – we are all aware of how Lorton was defined 20 or 30 years ago and perhaps by the major uses there. We had – overwhelming everything was the prison. We had the sewage plant, the landfill, the garbage incinerator, the quarry, Cinderbed Road, whatever else. We didn't have a lot of residential development. We didn't have a lot of investment and there were probably reasons for that. With the closure of the prison, however, Lorton got a second and a third look. And we've amended the Plan with the efforts of the Commission and some of the Commissioners participating in those planning activities. We have encouraged and seen a great deal of residential development. And I think Lorton is defined now by – not so much history – not so much the prison in the past – but the growth that we've seen in Lorton. And Lorton is recognized as a growth area. We anticipate there's going to be more growth in Lorton. And the Board has recognized that, which significant investments in schools and parks and public facilities and other things that are coming down the pike. The Lorton Arts Center – perhaps we've made a greater investment than we had intended. In any event, the Board is committed to Lorton. And the fact that an industrial use that's continuing, subject to rigorous development conditions is still there, is by no means an abandonment of the Lorton community or what it means. I think we should deny the – Commissioner Flanagan's motion and then we'll see what happens.

Chairman Murphy: Mr. Lawrence.

Commissioner Lawrence: Thank you, Mr. Chairman. Get my microphone on. I would like very much to go along with Commissioner Hart's proposals. And I do, in fact, plan to go along with the one that he has processed. I do agree that this kind of thing ought not to have happened in the first place and certainly ought not to happen again. However, I cannot agree to a motion for approval of this package, as presented to us tonight. I would like to say that I think we should start with a blank slate and the idea and understanding that the industrial use will, in fact, continue for an extended period of time – many years, that's what they're asking for. Now what do we do during that extended period of time? One of the things we can do is to assure ourselves as to the long-term stability of the mound of debris that they are building so that we don't run into liability problems later – and worse yet, functional problems with our energy generation system because the thing settled in the wrong way. Secondly, we will be able to hold close to the end of this extended period of operation, at a time of closure as that approaches, a design contest where we can look at the technology not as it is today, but as it will be decades from now. And we can build not a series of stove pipes with individual sources of energy, but a combination or hybrid of such sources. There is a plant now existing in Florida that's advertising itself on television, which is such a hybrid. They use solar steam rather than voltaic. Voltaic is 20 percent efficient – 20 percent. In the labs, they're now doubling that. It hasn't yet reached industrial capability, but we're talking decades. We have the time to do this right if what we want is green energy. Now absent that, I can't support the application as it's presented – not because of any expectation, but because of the – the merits and the flaws of what's within the four corners of the application. Let me illustrate my position with just a couple of examples. I believe that an acceptable land use application must meet two tests. First, a condition of necessity in that the application satisfies all applicable laws and regulations. Second, a condition of sufficiency in that the application is in conformance with the Comprehensive Plan and that, as a total package, the application provides for a balance between the impacts its approval creates and the public benefits offsetting and mitigating those impacts. I do not believe the Furnace Associates proposal presented for our vote tonight shows that required balance. I'll illustrate that with just a couple of examples. The application proposes wind turbines. The applicant's consultant pointed out in the report they – that conditions at the site are marginal for energy generation using this technology, as it stands today. And the most information I have seen from the Fish and Wildlife Service is that it's unlikely there is no threat to wildlife from the turbines. But the applicant insists they be a part of the package. Even though they commit only to three machines and also include provisions for a study on wildlife impact, providing a way to back out of the technology, but retain overall approval for the extension of operations as decided. Public benefit from this feature of the proposal would then consist of a one-time cash payment. In its proposal, the applicant envisions adding an additional layer to the mound of construction and demolition debris now to be seen at the site. Atop this second layer, large mounting pads for turbines and solar cells are to be put in place. The mass of the installed equipment plus the dynamic loads from wind effects will be transmitted through the debris mound through the pads and their pilots. A condition that has the potential to result in damage to the pads and the equipment and its output would be any significant uneven settling of the debris mount over time. The last proposed development conditions that I have seen included one to the effect that unless a written certification of the long-term stability of the debris mound after it is closed is given, no infrastructure will be build

atop the mound. Again, the green energy concept would be lost. In attempting to judge how likely it is that the debris mound will be stable over time, it comes quickly to mind that the debris pile was not originally intended to be in and of itself a load-bearing platform. And there is, thus, no reason to think that compaction of the pile has been a routine over the years of its operation, whatever may be done to the second layer to be added. In at least two particulars then, the value to the public of this green energy proposal is open to question. But the applicant does not want to consider leaving out the wind turbines and does not want any further deferral time to get a solid picture on the long-term stability of the debris pile and its top hamper. We are asked to vote the proposal as a package up or down. As it is presented to us tonight, I will vote against it. Thank you Mr. Chairman.

Chairman Murphy: Ms. Hedetniemi.

Commissioner Hedetniemi: Thank you Mr. Chairman. In the cacophony of the testimony that kept us here until 3:06 in the morning, one of the things that I remember most were the few people who spoke about the dream of green energy in this County. And the fact that we had the opportunity, if we could to be a leader and create something unusual and unique and valuable, but – Mr. – Commissioner Lawrence's point is very well-taken. I think Commissioner Hart made it also. In a number of years, we don't know what the technology is going to be. I don't think wind turbines are going to last – maybe in this situation – and maybe are not appropriate. But the green energy concept is something that I think we should not lose sight of. In some fashion or other, we should try to make it work on behalf of the County if nothing else.

Commissioner Migliaccio: Mr. Chairman?

Chairman Murphy: Mr. Migliaccio.

Commissioner Migliaccio: I'll try to be concise since we are on verbatim.

Chairman Murphy: We are on verbatim.

Commissioner Migliaccio: Yes.

Chairman Murphy: And I treasure every minute of it if our cacophony of our comments on the motion last as long as they have them, we will be here until 3:06 in the morning.

Commissioner Hedetniemi: You like that word.

Chairman Murphy: I love the word cacophony. Yes, go ahead. It's your turn for cacophony of the motion.

Commissioner Migliaccio: My goodness, the pressure. First, I would like to commend Mr. Flanagan and Mr. Sargeant for representing Mount Vernon in such a great manner on this

application. Normally, as Lee and Mount Vernon, we go back and forth on items. But on this one – looking at it, it's not just a Mount Vernon issue. Looking at it, this application in my opinion has regional and countywide implications. And, therefore, it's not just a Mount Vernon issue. And, therefore, I am not able to support Commissioner Flanagan's denial tonight. Hopefully, we have a – Commissioner Hart's motion coming through, depending on what happens now on this vote. I hope by supporting a denial on these applications – it will allow on a vote on a compromise that can be sent to the Board. I feel it serves no purpose leaving this here to die or leaving this – these applications here for a deferral. It does no good. I think it needs to get to the next step. We need to have a vehicle to send this to the Board to let them work on it, to tweak it, to work around the edges. We as a Planning Commission work on the land use issues only. And that's what we're – that's our mission. All those other issues that we hear from South County – and they're very valid issues – those are more the political arena and those are more appropriately addressed at the Board level. And I think by providing a vehicle that may not be perfect, but sending it up to the Board would be the best in this – for these four applications. Thank you Mr. Chairman.

Chairman Murphy: Further discussion of the motion? All those in favor of the motion, as articulated by Mr. Flanagan to deny 2232-V13-18 and SEA 80-L/V-061-02, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed?

Commissioners: Nay.

Chairman Murphy: Motion – we'll have a division; Mr. Ulfelder.

Commissioner Ulfelder: Nay.

Chairman Murphy: Ms. Hedetniemi.

Commissioner Hedetniemi: Nay.

Chairman Murphy: Mr. Flanagan.

Commissioner Flanagan: Aye.

Chairman Murphy: Mr. Lawrence.

Commissioner Lawrence: Aye.

Chairman Murphy: Mr. de la Fe.

Commissioner de la Fe: Aye.

Chairman Murphy: Mr. Hart.

Commissioner Hart: Nay.

Chairman Murphy: Mr. Sargeant.

Commissioner Sargeant: Yes.

Chairman Murphy: Mr. Migliaccio.

Commissioner Migliaccio: Nay.

Chairman Murphy: Ms. Hurley.

Commissioner Hurley: Nay.

Chairman Murphy: And the Chair votes nay and the motion is defeated 6 to 4; Mr. Flanagan.

Commissioner Hart: You want me to go? Or he wants to do his other motion?

Chairman Murphy: You want to do your other – you want continuity here?

Commissioner Flanagan: As long as he had – we're on the SEA. We might as well hear his motion.

Chairman Murphy: Okay.

Commissioner Hart: Thank you, Mr. Chairman. What I would like to do, if I may, is read the motion. If there's a second, I would speak briefly to it. I MOVE THAT THE PLANNING COMMISSION FIND THE SOLAR AND WIND ELECTRICAL GENERATING FACILITIES PROPOSED UNDER 2232-V13-18 SATISFY THE CRITERIA OF LOCATION, CHARACTER, AND EXTENT AS SPECIFIED IN SECTION 15.2-2232 OF THE *CODE OF VIRGINIA*, AS AMENDED, AND ARE SUBSTANTIALLY IN ACCORD WITH THE PROVISIONS OF THE ADOPTED COMPREHENSIVE PLAN. I FURTHER MOVE THAT THE PLANNING COMMISSION FIND THAT SEA 80-L/V-061-02 MEETS THE APPLICABLE LEGAL CRITERIA, SUBJECT TO STAFF'S PROPOSED DEVELOPMENT CONDITIONS WITH THE DELETION OF DEVELOPMENT CONDITION 60 FOR THE REASONS ARTICULATED IN THE STAFF REPORTS AND SUBSEQUENT MEMORANDA AND, THEREFORE, RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF SPECIAL EXCEPTION AMENDMENT SEA 80-L/V-061-02, SUBJECT TO STAFF'S PROPOSED DEVELOPMENT CONDITIONS DATED MARCH 28, 2014, WITH THE

FOLLOWING MODIFICATION: DELETE DEVELOPMENT CONDITION 60 IN ITS ENTIRETY. AND FURTHER, THAT THE COMMISSION'S RECOMMENDATION OF APPROVAL ON THE SPECIAL EXCEPTION IS COUPLED WITH THE FOLLOWING ADDITIONAL ITEMS FOR CONSIDERATION BY THE BOARD:

- THE COMMISSION RECOGNIZES THAT ALTHOUGH A CONSENSUS BETWEEN THE APPLICANT AND ALL CITIZENS MAY NOT BE POSSIBLE, FURTHER REFINEMENTS TO STAFF'S PROPOSED DEVELOPMENT CONDITIONS, IN CONSULTATION WITH THE APPLICANT, COUNTY STAFF AND THE COMMUNITY, MAY FURTHER IMPROVE THE APPLICATION, AND PROVIDE REASSURANCES REGARDING POTENTIAL IMPACTS FROM THE APPLICATION.

THE PLANNING COMMISSION RECOMMENDS THAT SPECIFIC TOPICS FOR THE BOARD'S CONSIDERATION SHOULD INCLUDE THE FOLLOWING:

- A) THAT THE BOARD CONSIDER DELETION OF THE REQUIREMENT, DEVELOPMENT CONDITION 46 AND ELSEWHERE, THAT THE APPLICANT INSTALL WIND TURBINES AT THIS LOCATION AND INSTEAD REQUIRE A COMMITMENT BY THE APPLICANT TO INSTALL OTHER GREEN ENERGY TECHNOLOGY OF AN APPROPRIATE AND EQUIVALENT NATURE;

- B) THAT THE BOARD CONSIDER WHETHER THE APPLICANT'S $500,000 ANNUAL CONTRIBUTIONS BETWEEN 2019 AND 2038, AS REFERENCED IN DEVELOPMENT CONDITION 49, SHOULD BE INDEXED TO INFLATION OR SUBJECT TO COST OF LIVING INCREASES, OR SOME OTHER INCREMENTAL INCREASES;

- C) THAT IN ADDITION TO THE POTENTIAL MEETINGS REFERENCED IN DEVELOPMENT CONDITION 27, THE BOARD CONSIDER A REQUIREMENT THAT THE APPLICANT BE REQUIRED TO DESIGNATE AN OMBUDSMAN OR COMMUNITY LIAISON WITH CONTACT INFORMATION AVAILABLE TO THE SUPERVISOR'S OFFICE AND COMMUNITY TO FACILITATE PROMPT DIALOGUE REGARDING CITIZEN COMPLAINTS OR FIELDING QUESTIONS OR CONCERNS ABOUT THE OPERATIONS;

- D) THAT THE BOARD CONSIDER ADDITIONAL CLARIFICATION OF THE APPLICANT'S LONG TERM RESPONSIBILITY FOR THE STRUCTURAL INTEGRITY AND STABILITY OF THE SOLAR PANELS OR OTHER STRUCTURES INSTALLED ON TOP OF THE LANDFILL, INCLUDING POST-CLOSURE;

- E) THAT THE BOARD CONSIDER ADDITIONAL LIMITATIONS ON REMOVAL OF VEGETATION, OR SUPPLEMENTAL VEGETATION AS MAY BE

DETERMINED BY DPWES, IN THE 5.2-ACRE PRIVATE RECREATION AREA REFERENCED IN DEVELOPMENT CONDITION 56 TO REINFORCE THE BUFFERING IN THE DIRECTION OF THE LORTON VALLEY COMMUNITY TO THE NORTH;

- F) THAT THE BOARD CONSIDER WHETHER THE CLOSURE DATE COULD BE SOONER THAN 2034, REFERENCED IN DEVELOPMENT CONDITIONS 12 AND 60 – and that's a correction from the text that was sent out earlier – it's 12 rather than 11 – OR THE HEIGHT OF THE FINAL DEBRIS ELEVATION BE reduced – FURTHER REDUCED BELOW 395 FEET, REFERENCED IN DEVELOPMENT CONDITION 12 – that's another correction, it's 12 rather than 11 – OR THE HEIGHT OF THE 70 FOOT BERM, DEVELOPMENT CONDITION 29, BE REDUCED IF DETERMINED TO BE STRUCTURALLY SOUND BY ALL APPROPRIATE REVIEWING AGENCIES;

- AND FURTHER, THAT THE COMMISSION DOES NOT INTEND FOR THE ABOVE SUGGESTIONS FOR ADDITIONAL DISCUSSION TO RESTRICT OR LIMIT IN ANY WAY APPROPRIATE TOPICS TO BE CONSIDERED BY THE BOARD FOR POTENTIAL REVISIONS TO THE DEVELOPMENT CONDITIONS.

I FURTHER MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF THE WAIVERS AND MODIFICATIONS THAT WERE DISTRIBUTED TO YOU IN STAFF'S HANDOUT DATED MARCH 28, 2014 AND:

- DENIAL OF A MODIFICATION OF THE INVASIVE SPECIES MANAGEMENT PLAN REQUIREMENT, PURSUANT TO SECTION 12-0404.2C OF THE PUBLIC FACILITIES MANUAL; AND A

- DENIAL OF A MODIFICATION OF THE SUBMISSION REQUIREMENTS FOR A TREE INVENTORY AND CONDITION ANALYSIS, PURSUANT TO SECTION 12-0503.3 OF THE PUBLIC FACILITIES MANUAL.

Commissioner Hart: I won't read the waivers and modifications that are in the attachment. But, Mr. Chairman, if the Chair will indulge me –

Commissioner Migliaccio: Second.

Commissioner Hart: Well I haven't finished, please. I neglected to ask that – at the County Attorney's suggestion – to have Mr. McDermott acknowledge the staff – or excuse me, the applicant is in agreement with the development condition package and less devout to Condition 60. If he could just acknowledge that on the record and then I'm done.

Chairman Murphy: Mr. McDermott, please come down and identify yourself for the record.

Francis McDermott, Esquire, Hunton & Williams, LLP: Mr. Chairman, members of the Commission, my name is Frank McDermott. I'm the attorney for the applicant. And we have certainly negotiated and are agreeable to the conditions as you propose to be modified.

Commissioner Hart: Thank you. That's my motion.

Chairman Murphy: Seconded by Mr. Migliaccio –

William Mayland, Zoning Evaluation Division, Department of Planning and Zoning: Excuse me, Commissioner?

Chairman Murphy: Is there a discussion of the motion?

Commissioner Sargeant: Mr. Chairman?

Mr. Mayland: Mr. Chairman?

Chairman Murphy: Yes, Mr. Sargeant.

Mr. Mayland: Mr. Chairman.

Chairman Murphy: Hello. Sorry, wait a minute. Hold on.

Mr. Mayland: Sorry, the motion's modifications – they're actually DATED APRIL 3rd, not March 28th. Sorry, I think that was – I think it was an older version. So it was our mistake. But April 3rd is we distributed today.

Commissioner Hart: Oh, I didn't intentionally change it, but –

Mr. Mayland: So if we can just correct that.

Commissioner Hart: If that date is incorrect – the April 3rd motion for waivers and modifications is attached to the text of my motion and if the date should be April 3rd rather than March 28th that – yes that's correct.

Chairman Murphy: Okay, Mr. Sargeant.

Commissioner Sargeant: Thank you, Mr. Chairman. Commissioner Hart referenced specific, I think, staff comments related to this deletion of Development Condition 60. Staff comments? Are there specific written comments somewhere with regard to this particular deletion proposal? You referenced some staff – I believe you referenced some staff comments or something text with regard to the issue of deleting Development Condition 60.

Mr. Mayland: Condition Number 60 was a recent addition that was just distributed on March 28th.

Commissioner Sargeant: In his comments, he talked about – I think you referenced particular text or something related to deletion of Development Condition 60. Maybe it was extemporaneous.

Commissioner Hart: Is that a question for me?

Commissioner Sargeant: Yes.

Commissioner Hart: Mr. Chairman, if I could answer his question.

Chairman Murphy: Please.

Commissioner Hart: The staff reports and subsequent memoranda I'm referring to are the – the – we got staff reports at the beginning. We got an addendum. We've gotten many, many memoranda from staff. It's not – it's – it meets the applicable legal criteria, subject to this package – except for Development Condition 60 as staff has articulated. The staff reports are not about Development Condition 60. The staff reports are about the applicable criteria.

Commissioner Sargeant: That's fine. I wanted to clarify that because I wanted to make sure there was not something other, text-wise, that was not related to the deletion of this that we had not seen yet. So you saying there's nothing else relating to that text regarding the deletion? If it was, I just wanted it included in the record so we all had it to look at. But if there's nothing specific to text relating to the development – deletion of Development – that's fine.

Commissioner Hart: There's nothing that's not attorney/client privilege that we can – I mean, we can't put in memoranda from counsel so it is what it is.

Commissioner Sargeant: All right, thank you. Mr. Chairman, just real quickly – I think – I certainly appreciate the comments we've heard and the initiatives regarding this motion. I think speaking to Commissioner Hart's and even Commissioner Migliaccio's comments about this being a regional and Countywide issue – I agree very much with that. And I think that's one of the challenges we have here with the issues related to the current – the current application with regard to the specificity and the certainty of the development conditions. That won't change moving it to the Board. However, with that comment, we can only hope that that will improve.

Chairman Murphy: Is there further discussion of the motion? All those in –

Commissioner Hart: Mr. Chairman?

Chairman Murphy: Yes, Mr. Hart.

Commissioner Hart: I didn't speak to it. I wanted to address one point that I didn't mention previously. With respect to Commissioner Lawrence's points – and I believe I had tried to incorporate in A and D the points that he had raised – specifically with reference to the structural stability of the pile and the berm. I believe that staff's conclusion, as supported by the applicant's technical submissions, confirm that the pile as a whole is more stable with the berm than without – and that the berm will be subject to rigorous and subsequent reviews by the Geotechnical Review Board, by the Department of Public Works and Environmental Services, and the Department of Environmental Quality. We're not really capable of – I'm not capable of doing a technical analysis of that sort of thing from a structural engineering standpoint. But I am satisfied that with the regulations that we have, this is going to be reviewed by multiple agencies who know what they're doing in a very rigorous way. But I will also call that out as an issue for the Board for further clarification, which I think would help reassure the citizens on that point. I've commented on the rest of it. I think it is more responsible for us to send a recommendation to the Board, seeing it the way it is and making these suggestions.

Commissioner Lawrence: Mr. Chairman?

Chairman Murphy: Mr. Flanagan? I mean Mr. Lawrence.

Commissioner Lawrence: A brief reply. I thank you Commissioner Hart for including that. I was not as concerned with the berm, which was designed with a fudge-factor of two and I think is probably going to hold up, as I was with the porosity of the pile. So that when I talk about settlement, what I'm talking about is it yielding under the weight of these concrete pads after some period of time when the wind loading has been at work being transmitted through the thing. Maybe I didn't make myself clear, but that's what I had in mind. I wasn't talking about berm failure.

Commissioner Sargeant: It – Mr. Chairman, if I may respond to that – the D is directed to the structures on the top – not the berm. I mean it may look at something with the berm also, but the point of D is dealing with the structural integrity and stability of the solar panels or other structures installed on the top. And that's what the Board can look at.

Commissioner Flanagan: Mr. Chairman?

Chairman Murphy: Mr. Flanagan.

Commissioner Flanagan: I'm not going to be able to support the motion, primarily because I think just from a political point-of-view – I think it's better always to move denial. I would've supported the considerations that Commissioner Hart brings up if they in amendment to my motion to deny. I think it's a stronger recommendation from the Planning Commission to the Board of Supervisors if it's a motion to deny with the investigation with all the subjects that he listed for his motion to approve. I wouldn't have had any objection if had amended my motion to attach them as considerations that he thought were worthwhile investigating after it gets over to

the Board of Supervisors. So I – I'm just – so I'm – as it is right now without that consideration, I'm going to have to continue to object to the motion.

Chairman Murphy: Further discussion? All those in favor of the –

Mr. Mayland: Mr. Chairman? I'm sorry.

Chairman Murphy: I'm sorry.

Mr. Mayland: We were unclear if there was a second to Mr. Hart's motion.

Chairman Murphy: Yes, seconded by Mr. Migliaccio.

Commissioner Migliaccio: I seconded it.

Mr. Mayland: Okay, thank you very much.

Chairman Murphy: Keep up straight over there, you know? Please. All right, all those in favor of the motion to recommend to the Board of Supervisors that they approve SEA 80-L/V-061-02 and 2232-V13-18, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed?
Commissioners: No.

Chairman Murphy: Motion carries. I believe we have the same division unless anyone changed his or her mind so it's approved 6 to 4. Mr. Flanagan. It's your turn.

Commissioner Flanagan: And that's again. Yes, thank you. Yes, Mr. Chairman, I also have a follow-on motion. I MOVE THAT THE PLANNING COMMISSION FIND THAT THE SOLAR ELECTRICAL GENERATING FACILITY PROPOSED UNDER 2232-V13-17 DOES NOT SATISFY THE CRITERIA OF LOCATION, CHARACTER, AND EXTENT AS SPECIFIED IN SECTION 15.2-2232 OF THE *CODE OF VIRGINIA* AS AMENDED AND IS NOT SUBSTANTIALLY IN ACCORD WITH THE COMPREHENSIVE PLAN. AND I ALSO MOVE THAT THE PLANNING COMMISSION DENY PCA 2000-MV-034.

Commissioner Sargeant: Second.

Commissioner Flanagan: Do I have a second? Did I get a second?

Chairman Murphy: Yes, hold on just a minute. You were going on 2232-V –

Commissioner Flanagan: This is the PCA motion.

Chairman Murphy: Okay – 2000-MV-034.

Commissioner Flanagan: Yes.

Chairman Murphy: Okay, all right. I'm sorry. Okay, and the 2232-V13-17.

Commissioner Flanagan: That's right.

Chairman Murphy: Okay, all those in favor – seconded by –

Commissioner Flanagan: Mr. –

Commissioner Migliaccio: Mr. Sargeant.

Chairman Murphy: Mr. Sargeant, okay. All those in favor of that motion, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed?

Commissioners: Nay.

Chairman Murphy: Same division? The motion failed 6 to 4. Mr. Hart, your turn.

Commissioner Hart: Thank you, Mr. Chairman. I MOVE THAT THE PLANNING COMMISSION FIND THAT THE SOLAR ELECTRICAL GENERATING FACILITY PROPOSED UNDER 2232-V13-17 SATISFIES THE CRITERIA OF LOCATION, CHARACTER, AND EXTENT AS SPECIFIED IN SECTION 15.2-2232 OF THE *CODE OF VIRGINIA*, AS AMENDED, AND IS SUBSTANTIALLY IN ACCORD WITH THE PROVISIONS OF THE ADOPTED COMPREHENSIVE PLAN. I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF PROFFERED CONDITION AMENDMENT PCA 2000-MV-034, SUBJECT TO THE EXECUTION OF PROFFERS CONSISTENT WITH THOSE DATED FEBRUARY 10, 2014 AND CONTAINED IN APPENDIX 1 OF THE STAFF REPORT. I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF A MODIFICATION OF PARAGRAPH 11 OF SECTION 11-102 OF THE ZONING ORDINANCE FOR A DUSTLESS SURFACE TO THAT SHOWN ON THE GENERALIZED DEVELOPMENT PLAN. I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL TO PERMIT OFF-SITE VEHICULAR PARKING FOR THE OBSERVATION POINT FOR SPECIAL EXCEPTION

AMENDMENT SEA 80-L/V-061-02, PURSUANT TO SECTION 11-102 OF THE ZONING ORDINANCE.

Commissioner Migliaccio: Second.

Chairman Murphy: Seconded by Mr. Migliaccio. Is there a discussion of the motion?

Commissioner Flanagan: Mr. Chairman?

Chairman Murphy: Yes, Mr. Flanagan.

Commissioner Flanagan: I'm not going to be able support the motion here because what this motion does is effectively – it takes away the one recycling piece of land that we have in Fairfax County. And I don't have any I – to my knowledge, there isn't an alternate site for recycling other than this particular site. So I think it violates the County's policy of encouraging recycling by taking away the one site that is now planned for recycling. I just – it just seems like we're going totally against our – the Policy Plan. I just – I can't believe that the Planning Commission is not going to support the Policy Plan.

Chairman Murphy: Okay, further discussion? Mr. Sargeant.

Commissioner Sargeant: Thank you, Mr. Chairman. I think one of the things to which Commissioner Hart is referencing is the opportunity to help further spark the recycling component of construction debris industry. And you had that opportunity there to keep not only the business of traditional construction debris going forward for a number of years, but also to help further serve as a catalyst to get the recycling of construction debris as well. Certainly, the option of solar panels in this area – it's nine acres. It sounds fun and it would be fine – except that you could move those solar panels elsewhere and still continue with your recycling and address the traffic issues that are associated with that. So you had some opportunities, which – to Commissioner Flanagan's point – will probably be lost in the future. Thank you.

Chairman Murphy: Further discussion? All those in favor of the motion to recommend to the Board of Supervisors that it approve PCA 2000-MV-034 and 2232-V13-17, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed?

Commissioners: No.

Chairman Murphy: Motion carries – same division. Did anyone switch? Okay, motion carries. Thank you very much – 6-4.

Commissioner Hart: Mr. Chairman, one more.

Chairman Murphy: Is that it? Mr. Hart.

Commissioner Hart: Yes, I got one more.

Chairman Murphy: Okay.

Commissioner Hart: Unless Earl's got something.

Chairman Murphy: You got another one?

Commissioner Flanagan: No.

Chairman Murphy: Did you run out?

Commissioner Hart: Okay, thank you. I've got one more. Thank you, Mr. Chairman. I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS THAT IT DIRECT DEPARTMENT OF PLANNING AND ZONING STAFF – IN CONSULTATION WITH THE PLANNING COMMISSION, PARK AUTHORITY AND OFFICE OF THE COUNTY ATTORNEY, AS APPROPRIATE – TO EVALUATE AND REPORT BACK TO THE BOARD, WITH APPROPRIATE RECOMMENDATIONS ON THE FOLLOWING TOPICS, WITHIN 18 MONTHS:

- A) IN LAND USE APPLICATIONS INVOLVING THE CREATION OF A PUBLIC PARK, INCLUDING INNOVATIVE OR UNCONVENTIONAL LOCATIONS FOR PARK FACILITIES, SHOULD ADDITIONAL PROCEDURES OR PROTOCOLS BE IMPLEMENTED, SO AS TO BETTER INTEGRATE, INTO THE COUNTY'S LAND USE DECISION MAKING PROCESS, THE PARK AUTHORITY'S DECISIONS ON ACCEPTANCE OF DEDICATION, OR RESPONSIBILITY FOR MAINTENANCE OR LIABILITY, PRIOR TO ACTION BY THE PLANNING COMMISSION AND/OR BOARD OF SUPERVISORS?

- B) IN LAND USE APPLICATIONS INVOLVING THE CREATION OF A PUBLIC PARK, INCLUDING INNOVATIVE OR UNCONVENTIONAL LOCATIONS FOR PARK FACILITIES, SHOULD ADDITIONAL PROCEDURES OR PROTOCOLS BE IMPLEMENTED SO AS TO ENSURE THE OFFICE OF THE COUNTY ATTORNEY HAS AN APPROPRIATE OPPORTUNITY TO REVIEW PROPOSED LANGUAGE OF ANY DEVELOPMENT CONDITIONS OR PROFFERS, SPECIFICALLY INCLUDING PROVISIONS FOR CONVEYANCE, ACCEPTANCE, OR DEDICATION OF LAND OR ASSOCIATED RESPONSIBILITY FOR MAINTENANCE OR LIABILITY AND ANY CONDITIONS PRECEDENT, PRIOR

TO ACTION BY THE PLANNING COMMISSION AND/OR BOARD OF SUPERVISORS?

Commissioner Hedetniemi: Second.

Chairman Murphy: Seconded by Ms. Hedetniemi. Is there a discussion of that motion?

Commissioner Sargeant: Mr. Chairman?

Commissioner de la Fe: Mr. Chairman?

Chairman Murphy: Mr. Sargeant, then Mr. de la Fe.

Commissioner Sargeant: If I could make a friendly amendment, just to add the words RECREATION FACILITIES as well – park and recreation.

Commissioner Hart: Where is that?

Commissioner Sargeant: You don't have it. That's why I would like to suggest putting it under – perhaps the second line, "Unconventional–" – in somewhere in here, I think you need to reference park and recreation facilities. That's what we've been working on for a number of months now.

Commissioner Hart: If staff is okay with adding that – FOLLOWING PARK FACILITIES IN THE SECOND LINE OF A AND THE LINE OF B – Mr. Mayland. If staff's okay with that –

Chairman Murphy: You okay?

Mr. Mayland: No issue.

Commissioner Hart: Then I'm okay with that.

Chairman Murphy: All right. Further discussion?

Commissioner de la Fe: Yes.

Commissioner Flanagan: Yes.

Chairman Murphy: I'm sorry, Mr. de la Fe. And then Mr. Flanagan.

Commissioner de la Fe: I respect Commissioner Hart's intent with this. But frankly, what he is recommending be studied is what I as a district Planning Commissioner assume happens in any case. So I just think that we are reacting as government often does to study something that should

not happen because it happened once and it will happen again – and whether we studied it to death or not. I just think we are reacting to one particular case and we probably will create another myriad of procedures that will fail once again and then we'll study it again. So I think we're just doing what government always does and that is react to a failure by creating a commission that will create procedures. Sorry, I'm – worked for the government for 45 years and that's what happens.

Chairman Murphy: I was going to say your government's showing.

Commissioner de la Fe: I know. I mean it's absurd. This should be happening and it's up to the local Planning Commissioner to make sure that it happens. And attorney's change, Park Authority Boards change, Board of Supervisors change, and Planning Commissioners change. And frankly, that's probably what happened here. And I – I don't agree that it was the Planning – the Park Authority's fault that this failed.

Chairman Murphy: Further discussion of the motion?

Commissioner Sargeant: Mr. Chairman.

Chairman Murphy: Yes, Mr. Flanagan.

Commissioner Flanagan: Thank you, Mr. Chairman. I too think this is a – sort of a feel good sort of a proposal here. I suppose it doesn't hurt. It doesn't do any harm, but I don't think we should be raising expectations. I would much prefer the previous suggestion about the covenant with the land. I think things of that sort are a much better way of gaining the ends that we're trying to achieve here. If there had been something of this sort done at the time that we had the agreement back in 2006, I think we wouldn't be in this pickle right now in my opinion. So and – I don't think this is – I don't disagree with Mr. – Commissioner Hart on this. This was a suggestion that came up in the – the idea of a covenant – using a covenant is a subject that came up in the group that studied it after the public hearing at the request of Chairman Bulova. In fact, I was the one who put it on the table at the group meeting. And it's – it was something that you can ask for and that the applicant could – this was voluntary. This was something that he – it wasn't required of him. It's something you can always bring up. And if the applicant is willing to do so, why you're that much ahead. So I – that was the only way the covenant got in there to begin with – because the applicant proposed putting it in there. So I don't understand why we're concerned about this covenant issue.

Chairman Murphy: Ms. Hedetniemi.

Commissioner Hedetniemi: At the risk of going on too long on this subject, I also was a fed. And I know that sometimes we tend to try to correct by adding more corrections and by becoming more involved. I would suggest possibly that the impact of this whole activity has been – has been noted and has been sufficiently concerning to a number of people that maybe we don't need

to have a regulation – a motion, in effect, to accomplish what Commissioner Hart has raised as something that we need to be conscious of. And we just keep it in mind and make sure that we don't over-extend ourselves beyond what could have been a good process initially.

Chairman Murphy: Further discussion of the motion?

Commissioner Sargeant: Mr. Chairman?

Chairman Murphy: Yes.

Commissioner Sargeant: Probably – this mission is fine. It – to your point, it won't solve a great deal. It will focus on one component of what was a far more complex mismatch of timing and everything else. So I think, probably, a broader review would appropriate, but this is a fine start.

Chairman Murphy: Further discussion? All those in favor of the motion, as articulated by Mr. Hart –

Commissioner Hart: If I could –

Chairman Murphy: Almost articulated by Mr. Hart.

Commissioner Hart: To Commissioner de la Fe's point, I wasn't meaning to blame to Park Authority necessarily. I don't know where this went off the rails. I just know that it did. And thought it would reasonable –

Commissioner de la Fe: You made it very clear in your statement that it was the Park Authority. You did. It's in the record.

Commissioner Hart: Everything I said – the Park Authority at the time of the approval, I thought, was on – and I thought all four of us thought that. Maybe everybody did – that the Park Authority was on board. We would never have done this if they were not going to do it after the fact this went wrong. We ought not be voting on things if their decision is subject to something else happening later. The Park Authority does an amazing job. They are the stewards of – they're perhaps the biggest landowner in the County. They're the stewards of many, many properties. And it may have been a reasonable decision in this instance –

Commissioner de la Fe: It was a different Park Authority Board.

Commissioner Hart: -to take a property that doesn't have – that it was an old landfill that maybe had liability. My problem is the process didn't work because we got left high and dry after the fact. Anyway, I don't mean to pass the blame on the Park Authority and I'm trying to make that clear.

Commissioner Migliaccio: Mr. Chairman?

Chairman Murphy: Mr. Migliaccio.

Commissioner Migliaccio: Mr. Hart, I know you were trying to end on a high note, as was everyone in here.

Commissioner Hart: I was. I thought – maybe in the middle.

Commissioner Migliaccio: Perhaps just withdrawing your motion and packing it up and let's go home.

Commissioner Hart: Let's see what happens.

Chairman Murphy: All those in favor of the motion as – I'm not going to ask if there's any more discussion, I guarantee you – all those in favor of the motion, as articulated by Mr. Hart, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed?

Commissioner Migliaccio: No.

Commissioner de la Fe: I abstain.

Chairman Murphy: Okay, the motion carries. Mr. Migliaccio votes no. Mr. de la Fe abstains.

Commissioner Flanagan: Mr. Flanagan votes no.

Chairman Murphy: And Mr. Flanagan votes no.

Chairman Murphy: Okay. Just a couple words, if I may. As Chairman of the Planning Commission, it is my honor when there are an even number of Commissioners to be the swing vote. I did that for many reasons. Mathematically, if I didn't swing the way I swung, the motion would have failed anyway and we would be stuck with a hung jury at 5 to 5 because there are only 5 – 10 Commissioners present tonight. But I didn't really do – and I thought that would send a bad motion – message to the Board because I don't think anyone here would have been willing to change the numbers. And we could have been here until 3:15 Sunday night trying to figure out how we were going to get a 6 to 5 vote. Also, I am not in favor of sending to the Board of Supervisors, no matter how awesome the task, a recommendation without a recommendation. We don't do that. But I look at it more as a challenge to both the citizens and Mr. McDermott and the applicant. This is not a free pass for the applicant. And it's not a free pass for the citizens either. I don't know what the Board is going to do, but if you want the best deal possible – if the

Board approves this – it is your time, both of you, to stop spinning your ties, work together, and come up with a meaningful compromise to present to the Board of Supervisors that they can act on with credibility and with what's best for Lorton and this County. Because I agree, this is not an MV application or an SP or a LE. It is a countywide application. It just happens to be in the Mount Vernon District. And I can remember back when – when I first started on the Planning Commission – and citizens from this area where you live now came to Elaine McConnell and me and said we're tired of living in an area that's known for a dump and a prison. What can you do about it? And lo and behold, Till Hazel came and said, "Let's do Crosspointe and I'll throw in a school." And that was really the first magnificent residential development Lorton had seen for years and years and years. And that kicked off, I believe, the residential development in that area of the County and what's gone on ever since. And I know their issues with what's going on with the dump and what's going on with this and that and the other thing on that parcel of land. But this is a time to work together. I want to thank Mr. Flanagan. He has done job at the tiller – sailing this ship again with some – on some rocky waters along with Mr. Sargeant and those other folks that served on the committee. I want to thank the staff, the backup singers who we didn't hear from this evening. And also, in particular, Mr. Mayland and Ms. Tsai. They have been tethered to bucking broncos for a long time and the ride ain't over yet. Because as this goes to the Board, and I think they're bringing some messages with them as to how not only the citizens but how the Planning Commission feels, that will be articulated when the Board of Supervisors gets together and find – find and determines what to do with this application – Mr. Flanagan.

Commissioner Flanagan: Thank you for allowing me to – to take the opportunity to thank the President of the South County Federation, the Vice President of the South County Federation, and the Chairman of the Land Use Committee who have come out this evening not to testify, but just to be sure that they fully understand the discussion that we have just now had. And so I really do thank them for being here this evening. That's Mr. – it's the three of those gentleman sitting back there.

Chairman Murphy: Thank you guys.

Commissioners: Yes, thank you for coming.

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(The first motion failed to pass by a vote of 4-6. Commissioners Hart, Hedetniemi, Hurley, Migliaccio, Murphy, and Ulfelder voted in opposition. Commissioners Hall and Litzenberger were absent from the meeting.)

(The second motion carried by a vote of 6-4. Commissioners de la Fe, Flanagan, Lawrence, and Sargeant voted in opposition. Commissioners Hall and Litzenberger were absent from the meeting.)

(The third motion failed to pass by a vote of 4-6. Commissioners Hart, Hedetniemi, Hurley, Migliaccio, Murphy, and Ulfelder voted in opposition. Commissioners Hall and Litzenberger were absent from the meeting.)

(The fourth motion carried by a vote of 6-4. Commissioners de la Fe, Flanagan, Lawrence, and Sargeant voted in opposition. Commissioners Hall and Litzenberger were absent from the meeting.)

(The fifth motion carried by a vote of 7-2-1. Commissioners Flanagan and Migliaccio voted in opposition. Commissioner de la Fe abstained. Commissioners Hall and Litzenberger were absent from the meeting.)

JLC

Board Agenda Item
June 17, 2014

5:00 p.m.

Public Comment from Fairfax County Citizens and Businesses on Issues of Concern