

A Regular Meeting of the County Board of Arlington County, Virginia, held in Room 307 of 2100 Clarendon Boulevard thereof on Saturday, June 13, 2009 at 8:30 a.m.

PRESENT: BARBARA A. FAVOLA, Chairman
JAY FISETTE, Vice Chairman
MARY HUGHES HYNES, Member
J. WALTER TEJADA, Member
CHRISTOPHER ZIMMERMAN, Member

ALSO PRESENT: RON CARLEE, County Manager
STEPHEN A. MacISAAC, County Attorney
AUBRYN BEDNAR, Acting Clerk
and other staff

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*** PUBLIC COMMENT**

The Chairman recognized Sammy Patsel with Boy Scout Troop 648. Mr. Patsel is working on his citizenship badge.

Ashton Lee Owen spoke about the Ballston Volunteer Fire Department.

Robert Atkins spoke about the sign ordinance.

Lulite Mengiste spoke about contract negotiations at the Hilton Crystal City Hotel.

David Briggs spoke about the Signature Theatre and the Tony Award the theater received for Regional Theatre of the Year.

Jim Hurysz spoke about fiscal responsibility.

June O'Connell spoke about Woodbury Park North and the Vista Hotel complex.

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MARY MARSHALL SCHOLARSHIPS

The Chairman announced the recipients of the Mary Marshall Scholarship awards. The Mary Marshall Scholarship was established in 1994 by the Arlington County Board to honor the memory of Mary Marshall. Mary Marshall was an outstanding public servant who represented Arlington County for 24 years as a delegate to the Virginia General Assembly. The Scholarship program provides funds to students attending Northern Virginia Community College in studies leading to careers in public service. The Board was grateful to the Commission on the Status of Women for evaluating the scholarship applications. The Chairman recognized Ms. Bruchillica Jones, Chairman of the Commission on the Status of Women, and invited her to the podium.

Ms. Jones, Ms. Tracy Gorman, Ms. Caroline Gary, and Ms. Nell Marshall announced the following eight recipients who were awarded scholarships ranging from \$1,200 to \$2,000:

1. Angela Estrada
2. Denisse Levano
3. Yobel Fissahatsion
4. Alan Kurtado
5. Anette Levano
6. Keyanah Williams
7. Bill "Kevin" Martinez
8. Chaturong Wachirawanich

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*** CONSENT ITEMS (ITEMS 1-44) CITIZENS INTERESTED IN REMOVING AN ITEM FROM THE CONSENT AGENDA MUST SUBMIT A SPEAKER SLIP TO THE CLERK AT THE SATURDAY, JUNE 13, 2009, MEETING BEFORE 9 A.M. PUBLIC TESTIMONY ON REMOVED ITEMS WILL OCCUR AT THE RECESSED MEETING ON TUESDAY, JUNE 16, 2009, AT 6:30 P.M. (NO TESTIMONY TAKEN ON SATURDAY).**

On motion by CHRISTOPHER ZIMMERMAN, Member, seconded by J. WALTER TEJADA, Member and carried by a vote of 5 to 0, the voting recorded as follows: BARBARA A. FAVOLA, Chairman - Aye, JAY FISETTE, Vice Chairman - Aye, MARY HUGHES HYNES, Member - Aye, J. WALTER TEJADA, Member - Aye, CHRISTOPHER ZIMMERMAN, Member - Aye, the County Board approved consent items #9, #24 through #30, #32, and #40. All other items were pulled from the consent agenda and scheduled for hearing at the June 16, 2009 County Board Recessed Meeting.

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SITE PLANS/AMENDMENTS/REVIEWS

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- 1. **SP #95 FOR A SPECIAL EXCEPTION SITE PLAN AMENDMENT FOR A RESIDENTIAL ADDITION IN A CLUSTER DEVELOPMENT, MODIFICATIONS FOR SETBACK, LOT COVERAGE; LOCATED AT 4722 40TH STREET NORTH (RPC: 03-071-063).**

This item was removed from the consent agenda and will be heard at the June 16, 2009 County Board Recessed Meeting.

[Board Report #1](#)

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- 2. **SP #211 SITE PLAN AMENDMENT OF TOUCH OF ASIA, LLC, TO CONVERT RETAIL SPACE TO A MEDICAL OFFICE/TRADE SCHOOL USE; LOCATED AT 1211 N. GLEBE ROAD (RPC#)**

This item was removed from the consent agenda and will be heard at the June 16, 2009 County Board Recessed Meeting.

[Board Report #2](#)

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- 3. **SP #231 SITE PLAN AMENDMENT TO REVISE CONDITION #84 ALLOWING MODIFICATION OF THE TIMING AND REQUIREMENTS FOR THE GARAGE CLOSURE AND BICYCLE STORAGE FACILITY; LOCATED AT 1401 NORTH ADAMS STREET (RPC: 18-005-042, -053).**

This item was removed from the consent agenda and will be heard at the June 16, 2009 County Board Recessed Meeting.

[Board Report #3-Revised](#)

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- 4. **SP #307 SITE PLAN AMENDMENT BY MR BOUNDARY CHANNEL LLC, TO AMEND CONDITION #1 TO EXTEND THE TERM OF THE SITE PLAN; PREMISES KNOWN AS 333 AND 355 OLD JEFFERSON DAVIS HIGHWAY (RPC# 34-023-001, -002).**

This item was removed from the consent agenda and will be heard at the June 16, 2009 County Board Recessed Meeting.

[Board Report #4](#)

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- 5. **SP #357, SITE PLAN AMENDMENT TO MODIFY SITE PLAN CONDITION #67 REGARDING PUBLIC ACCESS TO PLAZA, AND CONVERSION OF RETAIL SPACE TO INCLUDE CONSUMER AND BUSINESS SERVICE USES; LOCATED AT 1601 CLARENDON BLVD. AND 1650 WILSON BLVD.. (RPC #17-010-037).**

This item was removed from the consent agenda and will be heard at the June 16, 2009 County Board Recessed Meeting.

[Board Report #5](#)

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- 6. **SP #371 SITE PLAN AMENDMENT TO MODIFY THE CONDITION REGARDING LEED COMPLIANCE; LOCATED AT 1800 WILSON BLVD. (RPC #17-010-038, -040 THROUGH -194).**

This item was removed from the consent agenda and will be heard at the June 16, 2009 County Board Recessed Meeting.

[Board Report #6](#)

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USE PERMITS REQUEST/REVIEWS/AMENDMENTS

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- 7. **THE APPLICATION FOR THIS ITEM HAS BEEN WITHDRAWN. U-1146-54-2 USE PERMIT AMENDMENT FOR CLUBHOUSE ADDITION TO EXISTING POOL BATHHOUSE, PARKING REDUCTION, MODIFICATION OF REQUIRED PARKING IMPROVEMENTS; PROPERTY LOCATED AT 411 N. JEFFERSON ST. (RPC # 13-043-018, -019, -050).**

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- 8. **U-2670-90-5 USE PERMIT RENEWAL FOR A SERVICE STATION AND PUBLIC GARAGE; LOCATED AT 6720, 6730 LEE HIGHWAY (RCP #11-005-001, -042).**

This item was removed from the consent agenda and will be heard at the June 16, 2009 County Board Recessed Meeting.

[Board Report #8](#)

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- 9. **U-2895-96-1 USE PERMIT RENEWAL FOR A GROUP HOME FOR SUBSTANCE ABUSING WOMEN AND THEIR DEPENDANT CHILDREN; BARCROFT CIVIC ASSOCIATION AREA.**

On consent agenda vote, after a duly advertised public hearing, the Board adopted the following ordinance:

BE IT ORDAINED that, pursuant to application U-2895-96-1 on file in the Office of the Zoning Administrator for renewal of a special exception for a use permit for a group home for substance abusing women and their dependant children for the parcel of real property in the Barcroft Civic Association, approval is granted and the parcel so described shall be used according to the use permit approval requested by the application, subject to all previously approved conditions, with a County Board review in five (5) years (June 2014).

[Board Report #9](#)

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10. **U-2979-0-1 USE PERMIT RENEWAL FOR FAMILY DAYCARE; 2014 S. LANGLEY ST. (BEATRICE ODEDIRAN, RPC #31-013-032).**

This item was removed from the consent agenda and will be heard at the June 16, 2009 County Board Recessed Meeting.

[Board Report #10](#)

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11. **U-3019-01-1 USE PERMIT AMENDMENT TO INCREASE ENROLLMENT AND BUILD OUT A NEW CLASSROOM AT 923 AND 935 23RD ST. SOUTH (POTOMAC CRESCENT WALDORF SCHOOL, RPC #S: 36-032-023, 36-032-013, AND 36-032-001).**

This item was removed from the consent agenda and will be heard at the June 16, 2009 County Board Recessed Meeting.

[Board Report #11](#)

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12. **U-3144-05-1 USE PERMIT AMENDMENT TO INCREASE THE NUMBER OF RESERVED COMMERCIAL PARKING SPACES AND TO MODIFY SIGN REQUIREMENTS FOR RETAIL TENANT SIGNS, DIRECTIONAL SIGNS AND BUILDING IDENTIFICATION SIGNS; LOCATED AT 2301 COLUMBIA PIKE (RPC#: 27-017-098).**

This item was removed from the consent agenda and will be heard at the June 16, 2009 County Board Recessed Meeting.

[Board Report #12](#)

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13. **THE APPLICATION FOR THIS ITEM HAS BEEN WITHDRAWN. U-3148-05-1 USE PERMIT AMENDMENT: EXTEND THE TIME PERIOD TO ESTABLISH THE USE FOR THE UNIFIED COMMERCIAL/MIXED USE DEVELOPMENT (UC/MUD) LOCATED AT 2515/2525 LEE HIGHWAY (RPC: 15-007-005, -006).**

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14. **U-3197-08-4 USE PERMIT RENEWAL FOR LIVE ENTERTAINMENT AND DANCING; LOCATED AT 5169, 5171, 5173 LEE HIGHWAY (YORKTOWN BISTRO, RPC #02-082-026).**

This item was removed from the consent agenda and will be heard at the June 16, 2009 County Board Recessed Meeting.

[Board Report #14](#)

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15. **U-3215-09-1 USE PERMIT FOR ACCESSORY PARKING USE AT A PLACE OF WORSHIP FOR TEMPORARY CONSTRUCTION WORKERS, LOCATED AT 1961 N. CULPEPER ST. (RPC #07-006-129).**

This item was removed from the consent agenda and will be heard at the June 16, 2009 County Board Recessed Meeting.

[Board Report #15](#)

[Board Report #15-Supplemental](#)

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16. **U-3221-09-1 USE PERMIT TO INSTALL UP TO SIX (6) ANTENNAS ON EXISTING PENTHOUSE WALL AND PLACE UP TO TWO (2) EQUIPMENT CABINETS ON EXISTING ROOF FOR PURPOSES OF OPERATING A TELECOMMUNICATIONS FACILITY LOCATED AT 4343 LEE HIGHWAY (RPC: 06-001-036 - 06-001-077).**

This item was removed from the consent agenda and will be heard at the June 16, 2009 County Board Recessed Meeting.

[Board Report #16](#)

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VACATIONS, EASEMENTS, RIGHTS OF WAY, ENCROACHMENTS & LEASES

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17. **AUTHORIZATION TO ACCEPT A DEED OF EASEMENT FOR PUBLIC SIDEWALK, UTILITIES AND DRAINAGE PURPOSES ASSOCIATED WITH THE DEPARTMENT OF ENVIRONMENTAL SERVICES PROJECT PD72 ON REAL PROPERTY LOCATED AT 733 SOUTH WAYNE ST. (RPC # 25001002).**

This item was removed from the consent agenda and will be heard at the June 16, 2009 County Board Recessed Meeting.

[Board Report #17](#)

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18. **ENACTMENT OF AN ORDINANCE TO VACATE EASEMENTS FOR PUBLIC STREET AND UTILITIES PURPOSES, AND EASEMENTS FOR PUBLIC SIDEWALK AND UTILITIES PURPOSES ON PARCELS 1, 2A, 3, AND 4, LIBERTY CENTER, 875 NORTH RANDOLPH ST., 888 NORTH QUINCY ST., 818 NORTH QUINCY ST., AND 4075 WILSON BLVD., SUCH PARCELS BOUNDED ON THE NORTH BY 9TH STREET NORTH, ON THE EAST BY NORTH QUINCY STREET, ON THE SOUTH BY WILSON BOULEVARD AND ON THE WEST BY NORTH RANDOLPH STREET, (RPC NOS. 14044018, 14044PCA, 14044021 AND 14044022), WITH CONDITIONS.**

This item was removed from the consent agenda and will be heard at the June 16, 2009 County Board Recessed Meeting.

[Board Report #18](#)

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19. **APPROVAL OF A RESOLUTION GRANTING DENSITY CREDIT FOR 984 SQUARE FEET TO THE PROPERTY KNOWN AS MACEDONIA BAPTIST CHURCH, LOCATED AT 2237, 2229 AND 2219 SHIRLINGTON ROAD, RPC NOS. 31025047, 31025048 AND 31025049 ("CHURCH PROPERTY"), IN EXCHANGE FOR A 984 SQUARE FOOT PORTION OF SAID CHURCH PROPERTY TO BE DEDICATED IN FEE SIMPLE TO THE COUNTY BOARD OF ARLINGTON COUNTY, VIRGINIA, FOR PUBLIC STREET AND UTILITIES PURPOSES.**

This item was removed from the consent agenda and will be heard at the June 16, 2009 County Board Recessed Meeting.

[Board Report #19](#)

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ORDINANCES, PLANS AND POLICIES

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- 20. ENACT AMENDMENTS TO THE SUBDIVISION ORDINANCE, CHAPTER 23, OF THE CODE OF ARLINGTON COUNTY, VIRGINIA, CONCERNING PLAT REVIEW/APPROVAL AND PUBLIC IMPROVEMENT BOND ADMINISTRATION FEES.**

This item was removed from the consent agenda and will be heard at the June 16, 2009 County Board Recessed Meeting.

[Board Report #20-Revised](#)

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CAPITAL PROJECTS

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- 21. APPROVAL OF THE AWARD OF A CONSTRUCTION MANAGEMENT BUDGET FOR ROSSLYN STATION ACCESS IMPROVEMENTS PROJECT ("RSAIP") AND THE AWARD OF CONTRACT NUMBER 458-08 BETWEEN THE COUNTY BOARD OF ARLINGTON COUNTY, VIRGINIA AND STV, INC. TO PROVIDE CONSTRUCTION MANAGEMENT SERVICES FOR THE RSAIP.**

This item was removed from the consent agenda and will be heard at the June 16, 2009 County Board Recessed Meeting.

[Board Report #21](#)

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- 22. APPROVAL OF THE AWARD OF A CONTRACT FOR THE CONSTRUCTION OF THE POTOMAC INTERCEPTOR SEWER SYSTEM IMPROVEMENTS PROJECT, INVITATION TO BID NO. 345-08, PROJECT NO. 07-465-S.**

This item was removed from the consent agenda and will be heard at the June 16, 2009 County Board Recessed Meeting.

[Board Report #22](#)

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- 23. APPROVAL OF THE AWARD OF A CONTRACT BETWEEN THE ARLINGTON COUNTY BOARD AND KIMLEY-HORN AND ASSOCIATES, INC. TO PROVIDE TRANSPORTATION ENGINEERING SERVICES FOR THE COLUMBIA PIKE MULTIMODAL IMPROVEMENTS.**

This item was removed from the consent agenda and will be heard at the June 16, 2009 County Board Recessed Meeting.

[Board Report #23](#)

[Board Report #23-Attachment](#)

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APPROPRIATIONS, GRANT APPLICATIONS & OTHER CONTRACTS

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24. APPROPRIATION OF FEDERAL EMERGENCY MANAGEMENT AGENCY MITIGATION FUNDS FOR AN UPDATE OF THE NORTHERN VIRGINIA HAZARD MITIGATION PLAN.

On consent agenda vote, the Board appropriated, in FY 2010, \$260,000 from the U.S. Department of Homeland Security to the Office of Emergency Management for the revision of the regional Hazardous Mitigation Plan.

[Board Report #24](#)

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25. APPROPRIATION OF A VIRGINIA WIRELESS E-911 SERVICES BOARD SAFETY GRANT FUNDS FOR EQUIPMENT TO THE EMERGENCY COMMUNICATIONS CENTER'S (ECC) CAPABILITIES AND PERSONNEL TRAINING.

On consent agenda vote, the Board appropriated, in FY 2010, \$92,463 from the Virginia Wireless E-911 Services Board to the Office of Emergency Management for equipment to enhance ECC's capability and staff training.

[Board Report #25](#)

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26. URBAN AREA SECURITY INITIATIVE FUNDS TO SUPPORT PUBLIC HEALTH EMERGENCY PLANNING.

On consent agenda vote, the Board appropriated \$100,000 in federal Urban Area Security Initiative funds to the Department of Human Services for Fiscal Year 2010 to conduct emergency preparedness training and planning activities.

[Board Report #26](#)

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27. WOMEN, INFANTS AND CHILDREN (WIC) STATE OPERATIONAL ADJUSTMENT FUNDS.

On consent agenda vote, the Board appropriated \$14,755 in Virginia Department of Health WIC funds to the Department of Human Services in FY10 to hire a contract dietitian and install WIC client education equipment.

[Board Report #27](#)

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28. VIRGINIA DEPARTMENT OF HEALTH CITIES READINESS INITIATIVE FUNDS.

On consent agenda vote, the Board appropriated \$25,842 from the Virginia Department of Health to the Department of Human Services in FY10 to support medication dispensing planning.

[Board Report #28](#)

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29. VIRGINIA TOBACCO SETTLEMENT FOUNDATION FUNDS.

On consent agenda vote, the Board appropriated \$53,294 from the Virginia Tobacco Settlement Foundation to the Department of Human Services for implementation of substance abuse prevention programming.

[Board Report #29](#)

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30. FISCAL YEAR 2009 GRANT FOR THE DEPARTMENT OF HUMAN SERVICES.

On consent agenda vote, the Board appropriated \$33,916 in federal Center for Substance Abuse Treatment funds to the Department of Human Services in FY 2009 for the Nuevo Dia residential substance abuse treatment program.

[Board Report #30](#)

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31. GRANT AWARD TO THE DEPARTMENT OF PARKS, RECREATION AND CULTURAL RESOURCES (PRCR) SUMMER CAMP PROGRAM FROM THE UNITED STATES DEPARTMENT OF AGRICULTURE (USDA).

This item was removed from the consent agenda and will be heard at the June 16, 2009 County Board Recessed Meeting.

[Board Report #31](#)

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32. ACCEPT AND MANAGE A REGIONAL \$5,638,000 FY 08 URBAN AREAS SECURITY INITIATIVE BOMB SQUAD ENHANCEMENTS SUB-GRANT FROM THE NATIONAL CAPITAL REGION (NCR) SENIOR POLICY GROUP AND CHIEF ADMINISTRATIVE OFFICERS.

On consent agenda vote, the Board accepted and managed the regional FY 08 Urban Areas Security Initiative Bomb Squad Enhancements sub-grant from the National Capital Region Senior Policy Group and Chief Administrative Officers.

[Board Report #32](#)

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33. ENERGY EFFICIENCY AND CONSERVATION BLOCK GRANT (EECBG) FUNDS UNDER THE AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA) OF 2009.

This item was removed from the consent agenda and will be heard at the June 16, 2009 County Board Recessed Meeting.

[Board Report #33](#)

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REQUESTS TO ADVERTISE

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- 34. REQUEST TO ADVERTISE "ON THE COUNTY BOARD'S OWN MOTION" A REZONING FROM "R-5" ONE FAMILY DWELLING DISTRICTS TO "CP-FBC" COLUMBIA PIKE - FORM BASED CODE DISTRICTS FOR THE PROPERTIES LOCATED AT 1036, 1100 AND 1106 SOUTH HIGHLAND STREET (RPC # 32-007-167, -168, -022).**

This item was removed from the consent agenda and will be heard at the June 16, 2009 County Board Recessed Meeting.

[Board Report #34](#)

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- 35. REQUEST TO ADVERTISE PUBLIC HEARINGS ON PROPOSED ZONING ORDINANCE AMENDMENTS TO SECTION 20. "CP-FBC" COLUMBIA PIKE FORM BASED CODE DISTRICTS, SECTION 20. (APPENDIX A) "CP-FBC" COLUMBIA PIKE-FORM BASED CODE DISTRICTS, SECTION 26. "C-2" SERVICE COMMERCIAL - COMMUNITY BUSINESS DISTRICTS, SECTION 26A. "C-TH" COMMERCIAL TOWN HOUSE DISTRICTS, AND SECTION 27A. "C-R" COMMERCIAL REDEVELOPMENT DISTRICTS, TO REQUIRE USE PERMITS FOR BUSINESSES PROVIDING CLASSES AND/OR INSTRUCTION TO CHILDREN WHERE TWENTY PERCENT OR MORE OF THE TOTAL ENROLLMENT IS CHILDREN UNDER EIGHTEEN YEARS OF AGE OR THE TOTAL NUMBER OF CHILDREN UNDER EIGHTEEN YEARS OF AGE ENROLLED IN CLASSES SCHEDULED AT THE SAME TIME IS TEN OR MORE.**

This item was removed from the consent agenda and will be heard at the June 16, 2009 County Board Recessed Meeting.

[Board Report #35](#)

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- 36. REQUEST TO ADVERTISE PUBLIC HEARINGS ON A PROPOSED ZONING ORDINANCE AMENDMENT TO SECTION 3. "S-3A" SPECIAL DISTRICTS TO PERMIT CHILD CARE AND OTHER PROGRAMS LICENSED PURSUANT TO CHAPTER 52 OF THE COUNTY CODE AS A SPECIAL EXCEPTION USE.**

This item was removed from the consent agenda and will be heard at the June 16, 2009 County Board Recessed Meeting.

[Board Report #36](#)

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- 37. THIS ITEM WAS REMOVED.**

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- 38. REQUEST TO ADVERTISE AN ORDINANCE TO AMEND CHAPTER 20-2 (BOARD OF EQUALIZATION OF REAL ESTATE ASSESSMENTS ESTABLISHED; POWERS; COMPENSATION) OF THE CODE OF ARLINGTON COUNTY, VIRGINIA ("CODE").**

This item was removed from the consent agenda and will be heard at the June 16, 2009 County Board Recessed Meeting.

[Board Report #38](#)

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OTHER

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39. EXTENSION OF THE BUCKINGHAM VILLAGES APARTMENTS TENANT ASSISTANCE FUND (TAF).

This item was removed from the consent agenda and will be heard at the June 16, 2009 County Board Recessed Meeting.

[Board Report #39](#)

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40. ADOPTION OF (HUD) SECTION 3 EMPLOYMENT AND TRAINING OPPORTUNITIES POLICY FOR ARLINGTON COUNTY.

On consent agenda vote, the Board authorized the resolution, as set for in the document entitled "Addendum 6-13-09-A – Resolution Section 3 Plan" attached for the public record to these minutes, for the adoption of a Section 3 Employment and Training Opportunities Policy for Arlington County, as required by the U.S. Department of Housing and Urban Development (HUD).

[Addendum 6-13-09-A – Resolution Section 3 Plan](#)

[Board Report #40](#)

[Board Report #40 - Attachment](#)

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41. THIS ITEM WAS REMOVED.

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42. ARLINGTON TRANSIT (ART) BUS PURCHASE

This item was removed from the consent agenda and will be heard at the June 16, 2009 County Board Recessed Meeting.

[Board Report #42](#)

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43. DECLARATION OF BLIGHT AND PLAN FOR REPAIR, DEMOLITION OR OTHER DISPOSITION: "C-O-1.0" COMMERCIAL OFFICE BUSINESS AND APARTMENT DISTRICTS, 4- STORY, MIXED-USE RESIDENTIAL STRUCTURE, PREMISES KNOWN AS 3800 LEE HIGHWAY. (RPC #06-026-052).

This item was removed from the consent agenda and will be heard at the June 16, 2009 County Board Recessed Meeting.

[Board Report #43](#)

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44. MINUTES.

This item was removed from the consent agenda and will be heard at the June 16, 2009 County Board Recessed Meeting.

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REGULAR HEARING ITEMS

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45. PROPOSED ARLINGTON CULTURAL CENTER:

- A. Approval of the First Amendment to Deed of Lease for the Arlington Cultural Center Space.
- B. Request to Advertise "On the County Board's Own Motion" a public hearing at the July 11, 2009 County Board meeting for site plan amendments for Site Plan 18 (1812 N. Moore St.) to modify site plan conditions #92 and #96 and Site Plan 89 (1101 Wilson Blvd. / Newseum) to modify site plan conditions #1 and #2 concerning the lease by the developer to the County of the former Newseum space relative to the conversion option and to provide for lease amendments; 1850 N. Moore St., 1815 N. Fort Myer Dr., 1101 Wilson Blvd. (RPC #16-037-004, -005,16-039-002).
- C. Award of an Agreement on a sole source basis between Arlington County and The Lukmire Partnership (TLP) for Design Services to perform interior renovation of 1101 Wilson Blvd for the Arlington Cultural Center.
- D. Information from the County Manager regarding proposed County Board actions related to the Cultural Center to be presented at the July 11, 2009 County Board Meeting.

On motion by J. WALTER TEJADA, Member, seconded by CHRISTOPHER ZIMMERMAN, Member and carried by a vote of 5 to 0, the voting recorded as follows: BARBARA A. FAVOLA, Chairman - Aye, JAY FISSETTE, Vice Chairman - Aye, MARY HUGHES HYNES, Member - Aye, J. WALTER TEJADA, Member - Aye, CHRISTOPHER ZIMMERMAN, Member - Aye, after a public hearing, at which the public spoke, the Board took the following actions and scheduled a public hearing on all items necessary for the County Board to consider at its July 2009 meeting the creation of the Arlington Cultural Center in the space formerly occupied by the Newseum in Rosslyn:

- 1. Approved an extension of the County's right to terminate the Deed of Lease between 1101 Wilson Owner, LLC and the County Board for a portion of 1101 Wilson Blvd, so as to extend the time within which the County can decide whether to terminate the lease and forfeit the right to use the Newseum space for a Cultural Center, through the approval of the First Amendment to Deed of Lease ("First Amendment"), attached hereto as "Attachment 1" of the County Manager's June 9, 2009 report, between 1101 Wilson Owner, LLC, as Landlord, and The County Board of Arlington County, Virginia (the "County Board"), as Tenant, for 53,826 square feet of space in a portion of a building located at 1101 Wilson Boulevard, Arlington, Virginia (RPC # 16-039-002); and authorized the County Manager of Arlington County, Virginia, or his designee, to execute on behalf of the County Board, the First Amendment and all related documents, subject to approval as to form by the County Attorney.
- 2. Approved on the County's own motion a public hearing at the July 11, 2009 meeting on amended site plan conditions that provide the County additional free rent for the Newseum space and relieve the site plan holders of certain obligations if the County terminates the Lease of the Newseum space. Specifically, approved the following Resolution, authorizing advertisement of a public hearing by the County Board on July 11, 2009 to consider "On the County Board's Own Motion" site plan amendments for Site Plan 18 (1812 N. Moore St.) to modify site plan conditions #92 and #96 and Site Plan 89 (1101 Wilson Blvd./Newseum) to modify site plan conditions #1 and #2 relative to the conversion option and to provide for lease amendments; 1850 N. Moore St., 1812 N. Moore St., 1101 Wilson Blvd. (RPC #16-037-004, -005,16-039-002):

RESOLUTION TO AUTHORIZE ADVERTISEMENT FOR A PUBLIC HEARING (JULY 11, 2009 COUNTY BOARD MEETING):

Whereas, conditions #92 and #96 of SP #18 (1812 N. Moore St.) provide for the developer of SP #18 to lease space to the County under certain terms and conditions; and

Whereas, conditions #1 and #2 of SP #89 (1101 Wilson Blvd. / Newseum) provide additional lease terms and conditions; and

Whereas, the developer and the County have agreed to change the terms and conditions of the lease.

Therefore, the County Board of Arlington County hereby resolves that a public hearing should be advertised for the July 11, 2009 County Board meeting to consider "On the County Board's Own Motion" the following: Site plan amendments for Site Plan 18 (1812 N. Moore St.) to modify site plan condition #92 and #96 and Site Plan 89 (1101 Wilson Blvd. / Newseum) to modify site plan conditions #1 and #2 concerning the lease by the developer to the County of the former Newseum space relative to the conversion option and to provide for lease amendments; 1850 N. Moore St., 1815 N. Fort Myer Dr., 1101 Wilson Blvd. (RPC #16-037-004, -005, 16-039-002).

3. Approved the award of a contract for architecture and engineering services for the interior renovation of 1101 Wilson Blvd, including a base contract of \$383,078 and a contingency of \$40,000 for a total contract authorization of \$423,078; authorized the Purchasing Agent to execute on behalf of the County Board, the contract documents, subject to legal review by the County Attorney; and authorized the County Manager or his designee to issue a notice to proceed for discrete and sequential design phases.
4. Received advance information from the County Manager regarding the following proposed County Board actions related to the Cultural Center to be presented at the July 11, 2009 County Board Meeting:
 - Second Amendment to the Deed of Lease between 1101 Wilson Owner, LLC and the County Board ("Second Amendment") to provide for additional abated rent and other provisions at 1101 Wilson Boulevard for the Newseum space.
 - Approval of a Memorandum of Understanding ("M.O.U.") with the Rosslyn Business Improvement Corporation ("RBIC") for the joint funding and operation of the Cultural Center.
 - Approval for the internal reallocation of currently authorized funds within the Cultural Affairs budget for operating support of the Arlington Cultural Center: approximately \$186,000 in FY 2010 during construction for pre-opening programmatic support and approximately \$719,000 in FY 2011 during the first year of operation (subject to appropriation).
 - Approval of \$6.7 million in capital funds to transform the former Newseum into the Arlington Cultural Center, from the following sources: \$1,100,000 from the Rosslyn Fund and \$5.6 million from County pay as you go (PAYG) capital funds. No currently approved capital projects would be deferred or eliminated.
 - Approval of \$50,000 from the Rosslyn Fund to support the operating cost of the leased space during FY 2010. A majority of the FY 2010 operating and pre-opening expenses will come from the Rosslyn Business Improvement Corporation, as detailed in the projected operating budget of the Cultural Center below.

[Board Report #45 A-D](#)

[Board Report #45 A-D-Attachment 1](#)

[Board Report #45 A-D-Attachment 2](#)

[Board Report #45 A-D-Attachment 3](#)

[Board Report #45 A-D-Attachment 4](#)

[Board Report #45 A-D-Attachment 5](#)

[Board Report #45 A-D-Attachment 6](#)

[Board Report #45 A-D-Attachment 7](#)

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46. **AN ORDINANCE TO AMEND CHAPTER 25 (TAXICABS) OF THE CODE OF ARLINGTON COUNTY, VIRGINIA ("CODE") AND ADOPT IT AS A NEW CHAPTER 25.1 (TAXICABS) OF THE CODE, CONCERNING THE REGULATION, OPERATION AND CONTROL OF TAXICAB SERVICE, TAXICAB BUSINESSES, OWNERS, DRIVERS, PASSENGERS, INCLUDING THE ESTABLISHMENT OF RATES AND CHARGES FOR TAXICAB SERVICE, TO BE EFFECTIVE UPON ENACTMENT.**

After a duly advertised public hearing, at which the public spoke, CHRISTOPHER ZIMMERMAN, Member, made a motion, which was seconded by JAY FISETTE, Vice Chairman, to approve the County Manager's three recommendations, as set forth in the County Manager's report dated June 4, 2009 with the following modifications:

1. Amend §25.1-4(a) to replace the word biennial with the word annual; and
2. Delete all of section §25-1(16)(h).

CHRISTOPHER ZIMMERMEN, Member, then asked for and received unanimous consent from his colleagues to amend his original motion based upon the County Manager's alternative language for §25.1-4(a) which would leave the word biennial in the section and insert the following language:

The number of Taxicabs for which Certificates are proposed to be authorized shall be determined by the County Manager, on a biennial basis, not later than July 1 of each even-numbered year, or as may be directed by the County Board, after considering for the immediately preceding two (2) years:

After considerable discussion regarding §25.1-1(a) JAY FISETTE, Vice Chairman, offered an amendment to the motion, to delete the clause after the word large in §25.1-1(a) to read as follows:

The purpose of this Chapter is to regulate and control Taxicab Service in Arlington County, the operation of Taxicabs for hire, rates and charges for service, and the character and qualifications of operators through the issue of Certificates of public convenience and necessity, in order to preserve the health, safety, welfare and property of Arlington County citizens and the public at large, ~~and recognizing the importance of addressing the disadvantageous effects on competition, the quality of Taxicab Service, and the public, health, safety, and welfare resulting from a concentration of the total authorized Certificates in any one Certificate holder.~~

Mr. Fisetete's motion was denied for lack of a second.

MARY HUGHES HYNES, Member, then offered an amendment to the motion which was seconded by CHRISTOPHER ZIMMERMAN, Member, and carried by a vote of 4 to 1, the voting recorded as follows: BARBARA A. FAVOLA, Chairman - Aye, MARY HUGHES HYNES, Member - Aye, J. WALTER TEJADA, Member - Aye, CHRISTOPHER ZIMMERMAN, Member - Aye, JAY FISETTE, Vice Chairman - No, to amend the motion in the following two ways:

1. Amend §25.1-1(a) to read as follows:

The purpose of this Chapter is to regulate and control Taxicab Service in Arlington County, the operation of Taxicabs for hire, rates and charges for service, and the character and qualifications of operators through the issue of Certificates of public convenience and necessity, in order to preserve the health, safety, welfare and property of Arlington County citizens and the public at large, ~~and recognizing the importance of addressing the disadvantageous effects on competition, the quality of Taxicab Service, and the public, health, safety, and welfare resulting from a concentration of the total authorized Certificates in any one Certificate holder~~ as well as assuring robust competition among providers that results in quality Taxicab service throughout Arlington.

2. Amend §25.1-4(a)(3) to read as follows:

Competition, including consideration of the number of Taxicabs authorized to be operated by any Certificate-holder in relation to the total number of Taxicabs authorized to be operated under all Certificates, ~~and of the goal of preventing the any disadvantageous effects on competition, the quality of Taxicab service, and the~~

public health, safety, and welfare resulting from a concentration of the total authorized Certificates in any one Certificate-holder; and

CHRISTOPHER ZIMMERMEN, Member, then asked for and received unanimous consent from his colleagues to amend the motion on the table based upon Mr. Charlie King's recommendation for §25.1-19(n) which would insert the following language:

The average fuel efficiency (based on the United States Environmental Protection Agency combined (city/highway) fuel-efficiency ratings for driving), during the specified twelve (12) month period, among all Taxicabs placed into service as additional and replacement vehicles ("New Taxicabs") by such Certificate-holder shall be the following or after July 1, 2012, any more stringent federal Corporate Average Fuel Economy standard in effect at that time:

The remainder of §25.1-19(n) not printed here and shall continue as printed in the County Manager's June 4, 2009 report

CHRISTOPHER ZIMMERMEN, Member, then asked for and received unanimous consent from his colleagues to amend the motion on the table based upon staff's recommendation for §25.1-23(f) which would delete and insert the following language:

~~A Certificate shall be neither assigned, leased, or sold.~~ As provided in section 25.1-23(a)(1), a Certificate is personal to a Certificate-holder. A Certificate shall not be assigned, leased, or sold. A Certificate may be Transferred as provided in, and upon compliance with, the requirements of this section. It is not the intention of this subsection to prohibit any lease, contract, or other permission between a Certificate-holder and a Driver to operate a Taxicab authorized under a duly issued Certificate, or between a Certificate-holder and a Vehicle Owner, provided that such lease, contract, or other permission is not otherwise inconsistent with the other provisions of this Chapter.

CHRISTOPHER ZIMMERMEN, Member, then asked for and received unanimous consent from his colleagues to amend the motion on the table based upon Mary Hughes Hynes' recommendation for §25.1-16(a) which would insert the following language:

Rate adjustment process. The County Board may, from time to time, after public notice, and after a public hearing, prescribe just and reasonable rates of fare, changes in rates, and other charges or surcharges. The rates so prescribed may be maximum rates or rates certain. Members of the public seeking a change in rates of fare and other charges or surcharges may request the County Board to consider approving such changes and other charges and surcharges.

The motion on the table made by CHRISTOPHER ZIMMERMAN, Member, seconded by JAY FISETTE, Vice Chairman and carried by a vote of 5 to 0, the voting recorded as follows: BARBARA A. FAVOLA, Chairman - Aye, JAY FISETTE, Vice Chairman - Aye, MARY HUGHES HYNES, Member - Aye, J. WALTER TEJADA, Member - Aye, CHRISTOPHER ZIMMERMAN, Member - Aye, the Board took the following actions:

1. Enacted an ordinance to amend Chapter 25 (Taxicabs) of the Code of Arlington County, Virginia ("Code"), and adopt it as a new Chapter 25.1 of the Code, as set forth in the document entitled "Addendum 6-13-09-B – Chapter 25 and Chapter 25.1" attached for the public record to these minutes, with amendments made by the Board at the June 13, 2009 County Board meeting, concerning regulation, operation and control of taxicab service, taxicab businesses, owners, drivers and passengers, to be effective upon enactment.
2. Authorized an additional (1.0) FTE in the FY 2010 operating budget, supported by revenue from a per-taxicab fee on certificate-holders.
3. Appropriated \$115,000 in revenue to the FY 2010 Transportation Division, Transportation Planning Bureau.

[Addendum 6-13-09-B – Chapter 25 and Chapter 25.1](#)

[Board Report #46](#)

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47. ADOPT AN AMENDMENT TO THE COUNTY COMPREHENSIVE PLAN TO ADD A TRANSIT ELEMENT ENTITLED "MASTER TRANSPORTATION PLAN TRANSIT ELEMENT."

On motion by CHRISTOPHER ZIMMERMAN, Member, seconded by JAY FISETTE, Vice Chairman and carried by a vote of 5 to 0, the voting recorded as follows: BARBARA A. FAVOLA, Chairman - Aye, JAY FISETTE, Vice Chairman - Aye, MARY HUGHES HYNES, Member - Aye, J. WALTER TEJADA, Member - Aye, CHRISTOPHER ZIMMERMAN, Member - Aye, after a duly advertised public hearing, at which the public spoke, the Board amended the County Comprehensive Plan to add a Transit Element entitled "Master Transportation Plan Transit Element", dated March 2009, to be included in the Amended MTP, as set forth in the document entitled "Addendum 6-13-09-C – Master Transportation Plan Transit Element" attached for the public to these minutes, with amendments and direction provided by the Board at the June 13, 2009 County Board Meeting included in the attached addendum, and deleted the Master Transit Plan adopted in 1976 and the Paratransit Element adopted in 1989.

[Addendum 6-13-09-C – Master Transportation Plan Transit Element](#)

[Board Report #47](#)

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48. AUTHORIZE THE COUNTY MANAGER TO APPROVE BONDS TO FINANCE THE UPGRADE AND EXPANSION OF THE WATER POLLUTION CONTROL PLANT ("WPCP") IDENTIFIED IN THE DEPARTMENT OF ENVIRONMENTAL SERVICES MASTER PLAN 2001 UPDATE ("MP01").

On motion by MARY HUGHES HYNES, Member, seconded by CHRISTOPHER ZIMMERMAN, Member and carried by a vote of 5 to 0, after a duly advertised public hearing, at which there were no speakers, the roll call voting as follows:

Member & Vote

- Ms. Favola – Aye
- Mr. Fisetete – Aye
- Ms. Hynes – Aye
- Mr. Tejada – Aye
- Mr. Zimmerman - Aye

The Board took the following actions:

1. Approved the following Resolution by roll call vote authorizing the County Manager to approve long-term fixed rate bonds of up to \$35.0 million to finance the improvements identified in MP01:

**RESOLUTION OF THE COUNTY BOARD OF ARLINGTON COUNTY, VIRGINIA
AUTHORIZING THE ISSUANCE AND SALE OF A WASTEWATER AND WATER SYSTEM
REVENUE BOND AND SETTING FORTH THE FORM, DETAILS AND
PROVISIONS FOR THE PAYMENT THEREOF**

WHEREAS, the County Board of the County of Arlington, Virginia (the "County" or "County Board") has determined that it is necessary and desirable to undertake certain improvements to its wastewater system (the "Project") as set forth in the County's Water Pollution Control Master Plan and to issue its wastewater and water system revenue bond, in the maximum aggregate principal amount of \$35,000,000 (the "Bond"), and to use the proceeds thereof, along with other available funds, if any, to pay the costs of the Project.

WHEREAS, the Bond will be sold by the County to or at the direction of the Virginia Resources Authority, as Administrator of the Virginia Water Facilities Revolving Fund ("VRA"), pursuant to the terms of a Financing Agreement (the "Financing Agreement"), between the County and VRA.

WHEREAS, the County Board has held a public hearing on June 13, 2009, on the issuance of

the Bond in accordance with the requirements of Section 15.2-2606 of the Code of Virginia of 1950, as amended.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNTY BOARD OF ARLINGTON COUNTY, VIRGINIA:

1. **Authorization of Bond and Use of Proceeds.** The County Board hereby finds and determines that it is advisable and in the best interest of the County to contract a debt and to issue the Bond in the maximum principal amount of \$35,000,000, and to sell the Bond, to or at the direction of VRA, all pursuant to the terms of (i) this Resolution and (ii) the Financing Agreement. Such issuance and sale of the Bond are hereby authorized and approved. The Bond shall be designated the "Arlington County, Virginia Wastewater and Water System Revenue Bond," or such other designation as may be approved in the discretion of the County Manager and shall include an appropriate series designation. The proceeds from the issuance and sale of the Bond shall be used, together with other available funds, if any, to pay the costs of the Project.

2. **Details of Bond.** The Bond shall be issued as a single bond (or in more than one series in the discretion of the County Manager) in fully registered form and shall be dated the date of its issuance and delivery. The County Manager and the Director of the Department of Management and Finance, or either of them, are authorized and directed to determine and approve all of the other final details of the Bond, including without limitation, the maximum principal amount authorized to be advanced thereunder, the Cost of Funds, the maturity or payment dates and amounts, series designation, the optional redemption provisions and the final maturity date; provided, however, that (i) the maximum principal amount authorized to be advanced under the Bond shall not exceed the amount set forth in paragraph 1 of this Resolution, (ii) the Cost of Funds (as defined in the Financing Agreement) on the Bond shall not exceed three and thirty-five hundredths percent (3.35%) per annum, and (iii) the final maturity date of the Bond shall be no later December 31, 2031. The approval of such details shall be evidenced conclusively by the execution and the delivery of the Bond.

3. **Pledge of Revenues.** The Bond shall be a limited obligation of the County and, except to the extent payable from the proceeds of the sale of the Bond or the income, if any, derived from the investment thereof, is payable exclusively from the Revenues (as defined in the Financing Agreement), which the County hereby pledges to the payment of the principal of, premium, if any, and Cost of Funds on the Bond pursuant to the terms of the Financing Agreement. Neither the Commonwealth of Virginia nor any of its political subdivisions, including the County, shall be obligated to pay the principal of, premium, if any, or Cost of Funds on the Bond or other costs incident to it except from the Revenues and any other money or property pledged for such purpose, and neither the faith and credit nor the taxing power of the Commonwealth of Virginia or any of its political subdivisions, including the County, is pledged to the payment of the principal of, premium, if any, or Cost of Funds on the Bond or other costs incident to it. The issuance of the Bond does not directly, indirectly or contingently obligate the Commonwealth of Virginia or any of its political subdivisions, including the County, to levy any taxes for the payment of the Bond.

4. **Form of Bond.** The Bond shall be in substantially the form presented at this meeting, with such variations, insertions or deletions as may be approved by the County Manager and the Director of the Department of Management and Finance, or either of them, which approval shall be evidenced by the execution and delivery of the Bond. There may be endorsed on the Bond such legend or text as may be necessary or appropriate to conform to any applicable rules and regulations of any governmental authority or any usage or requirement of law with respect thereto.

5. **Execution and Delivery of Bond.** The County Manager is authorized and directed to execute the Bond. The Clerk of the County Board is authorized and directed to affix the seal of the County to the executed Bond and to attest it and such officers are authorized and directed to deliver the Bond or to cause the Bond to be delivered to or at the direction of VRA upon payment of the first principal advance thereunder. An authorized representative or other designee of VRA shall enter the amount and date of each principal advance as provided in the Certificate of Advances attached to the Bond when the proceeds of such advance are delivered to the County.

6. **Registration, Transfer and Exchange.** The County appoints the Director of the Department of Management and Finance as its registrar and transfer agent (the "Registrar") to keep books for the registration and transfer of the Bond and to make such registrations and transfers on

such books under such reasonable regulations as the County may prescribe.

Upon surrender for transfer or exchange of the Bond at the office of the Registrar, the County shall cause the execution and delivery in the name of the transferee or registered owner, as applicable, a new Bond for a principal amount equal to the Bond surrendered and of the same date and tenor as the Bond surrendered, subject in each case to such reasonable regulations as the County may prescribe. If surrendered for transfer, exchange, redemption or payment, the Bond shall be accompanied by a written instrument or instruments of transfer or authorization for exchange, in form and substance reasonably satisfactory to the Registrar, duly executed by the registered owner or by such owner's duly authorized attorney-in-fact or legal representative.

A new Bond delivered upon any transfer or exchange shall be a valid limited obligation of the County, evidencing the same debt as the Bond surrendered and shall be entitled to all of the security and benefits of this Resolution to the same extent as the Bond surrendered.

7. Charges for Exchange or Transfer. No charge shall be made for any exchange or transfer of the Bond, but the Registrar may require payment by the holder of such Bond of a sum sufficient to cover any tax or any other governmental charge that may be imposed in relation thereto.

8. Mutilated, Lost, Stolen or Destroyed Bond. If the Bond has been mutilated, lost, stolen or destroyed, the County shall execute and deliver a new Bond of like date and tenor in exchange and substitution for, and upon delivery to the Registrar and cancellation of, such mutilated Bond, or in lieu of and in substitution for such lost, stolen or destroyed Bond; provided, however, that the County shall execute, authenticate and deliver a new Bond only if its registered owner has paid the reasonable expenses and charges of the County in connection therewith and, in the case of a lost, stolen or destroyed Bond (i) has filed with the Registrar evidence satisfactory to him or her that such Bond was lost, stolen or destroyed and that the holder of the Bond was its registered owner and (ii) has furnished to the County indemnity satisfactory to the Registrar. If the Bond has matured, instead of issuing a new Bond, the County may pay the Bond without surrender upon receipt of the aforesaid evidence and indemnity.

9. Approval of Financing Agreement. The County Manager and the Director of the Department of Management and Finance, or either of them, are authorized to approve the Financing Agreement and to execute and deliver the Financing Agreement and such other documents and certificates as either such officer may consider necessary in connection therewith.

10. Disclosure Documents. The County Manager and the Director of the Department of Management and Finance and such officers and agents of the County as may be designated by either of them, are hereby authorized and directed to prepare, execute and deliver any appropriate disclosure documents regarding the County as may be necessary in connection with the public offering and sale of bonds to be issued by VRA to finance the purchase of the Bond. The distribution and use by VRA of such disclosure in connection with such public offering and sale are hereby authorized and approved. The County Manager and the Director of the Department of Management and Finance, or either of them, are authorized and directed to take whatever actions with respect to such disclosure documents as are necessary and/or appropriate to ensure compliance with Securities and Exchange Commission Rule 15c2-12.

11. Tax Documents. The County Manager and the Director of the Department of Management and Finance are authorized to execute a Tax Compliance Agreement or any related document (the "Tax Documents") setting forth the expected use and investment of the proceeds of the Bond and containing such covenants as may be necessary in order to comply with the provisions of the Internal Revenue Code of 1986, as amended (the "Code"), including the provisions of Section 148 of the Code and applicable regulations relating to "arbitrage bonds." The County covenants that the proceeds from the issuance and sale of the Bond will be invested and expended as set forth in the Tax Documents, to be delivered simultaneously with the issuance and delivery of the Bond and the County shall comply with the other covenants and representations contained therein.

12. Further Actions; Authorized Representative. The County Manager, the Director of the Department of Management and Finance and such officers and agents of the County as may be designated by either of them are authorized and directed to take such further actions as they deem necessary regarding the issuance and sale of the Bond and the execution, delivery and performance of the Financing Agreement, including, without limitation, the execution and delivery of

closing documents and certificates. All such actions previously taken by such officers and agents are ratified and confirmed. The County Manager is authorized to designate the County's Authorized Representatives for purposes of the Financing Agreement.

13. Filing of Resolution. The County Attorney is authorized and directed to file a certified copy of this Resolution with the Circuit Court of Arlington County, Virginia, pursuant to Sections 15.2-2607 and 15.2-2653 of the Code of Virginia of 1950, as amended.

14. Reimbursement. The County Board adopts this declaration of official intent under Treasury Regulations Section 1.150-2. The County reasonably expects to reimburse advances made or to be made by the County to pay the costs of the Project from the proceeds of its debt or other financings. The maximum amount of debt or other financing expected to be issued for the Project is set forth in paragraph 1 of this Resolution.

15. Effective Date. This Resolution shall take effect immediately

- 2. Appropriated up to \$35.0 million to be received from bonds to provide funding for MP01.
- 3. Authorized the County Manager and the Director of Management and Finance to negotiate any changes to the bond agreements that are to the benefit of the County with the approval of the County Attorney.

[Board Report #48](#)

[Board Report #48 - Attachment](#)

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49. GENERAL OBLIGATION BONDS

- A. Amendment to the resolution authorizing sale of General Obligation Public Improvement and Refunding Bonds, Series 2008.

On motion by CHRISTOPHER ZIMMERMAN, Member, seconded by MARY HUGHES HYNES, Member and carried by a vote of 5 to 0, after a public hearing, at which the public spoke, the roll call voting as follows:

Member & Vote

- Ms. Favola – Aye
- Mr. Fisetto – Aye
- Ms. Hynes – Aye
- Mr. Tejada – Aye
- Mr. Zimmerman - Aye

The Board adopted, the following resolution amending the resolution adopted by the County Board on April 19, 2008 authorizing the sale of General Obligation Public Improvement and Refunding Bonds, Series 2008:

**AMENDMENT TO THE RESOLUTION OF THE COUNTY BOARD OF
ARLINGTON COUNTY, VIRGINIA
AUTHORIZING THE ISSUANCE AND SALE OF
GENERAL OBLIGATION PUBLIC IMPROVEMENT AND REFUNDING BONDS,
SERIES 2008**

WHEREAS, the County Board adopted resolutions on July 20, 2002, requesting the Circuit Court of Arlington County to order elections to be held on November 5, 2002, on the questions of contracting debt and issuing bonds for community projects, public school projects and utilities (the "2002 Projects") in an aggregate principal amount not to exceed \$158,766,500.

WHEREAS, at referenda held on November 5, 2002 (the "2002 Elections"), the voters of the County approved the issuance of the County's general obligation bonds for the 2002 Projects.

WHEREAS, the Circuit Court of the County entered an order on November 21, 2002 confirming the favorable vote of the voters as expressed at the 2002 Elections.

WHEREAS, a portion of the bonds authorized at the 2002 Elections have been issued in the amount of \$156,746,646.

WHEREAS, the County Board adopted resolutions on July 10, 2004, requesting the Circuit Court of Arlington County to order elections to be held on November 2, 2004, on the questions of contracting debt and issuing bonds for local parks and recreation, transportation and community infrastructure, Metro facilities, and public school projects (the "2004 Projects") in an aggregate principal amount not to exceed \$208,003,000.

WHEREAS, at referenda held on November 2, 2004 (the "2004 Elections"), the voters of the County approved the issuance of the County's general obligation bonds for the 2004 Projects.

WHEREAS, the Circuit Court of the County entered an order on February 9, 2005 confirming the favorable vote of the voters as expressed at the 2004 Elections.

WHEREAS, a portion of the bonds authorized at the 2004 Elections have been issued in the amount of \$141,621,954.

WHEREAS, the County Board adopted resolutions on July 11, 2006, requesting the Circuit Court of Arlington County to order elections to be held on November 7, 2006, on the questions of contracting debt and issuing bonds for local parks and recreation, Metro and transportation projects, community infrastructure, utilities, and public school projects (the "2006 Projects") in an aggregate principal amount not to exceed \$207,062,000.

WHEREAS, at referenda held on November 7, 2006 (the "2006 Elections"), the voters of the County approved the issuance of the County's general obligation bonds for the 2006 Projects.

WHEREAS, the Circuit Court of the County entered an order on January 11, 2007 confirming the favorable vote of the voters as expressed at the 2006 Elections.

WHEREAS, a portion of the bonds authorized at the 2006 Elections have been issued in the amount of \$72,008,000.

WHEREAS, on April 19, 2008 the County Board (the "County Board") adopted a resolution (the "Original Resolution") authorizing the issuance and sale of general obligation public improvement bonds (the "Series 2008 Bonds") for purposes of financing certain capital improvements.

WHEREAS, in the Original Resolution the County Board approved the issuance of general obligation

bonds in the aggregate principal amount of \$121,185,000, of which (i) \$2,019,854 consisted of the unissued bonds authorized by the 2002 Elections, (ii) \$42,822,574 consisted of the unissued bonds authorized by the 2004 Elections, (iii) \$76,342,572 consisted of the unissued bonds authorized by the 2006 Elections.

WHEREAS, the Board has determined it is necessary to reallocate which projects within the 2004 Projects and the 2006 Projects are to be financed with the proceeds of the Series 2008 Bonds.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNTY BOARD OF ARLINGTON COUNTY, VIRGINIA:

1. Amendment of Resolution. The County Board hereby amends the chart in paragraph 1 of the Original Resolution to read as follows:

<u>2002 Elections</u>	
Community Projects	\$ 2,019,854
<u>2004 Elections</u>	
Local Parks and Recreation	\$ 5,000,000
Transportation & Community Infrastructure	6,120,000
Metro	5,922,574
Public Schools Projects	25,780,000
<u>2006 Elections</u>	
Local and Parks and Recreation	\$ 11,700,000
Metro and Transportation Projects	4,838,572
Community Infrastructure	7,100,000
Utilities	27,408,000
Public Schools Projects	<u>25,296,000</u>
TOTAL:	<u>\$ 121,185,000</u>

2. Ratification. Except as amended hereby, the Original Resolution is hereby ratified and confirmed.

3. Filing of Resolution. The County Attorney is authorized and directed to file or cause to be filed a certified copy of this Resolution with the Circuit Court of Arlington County pursuant to Sections 15.2-2607 and 15.2-2641 of the Code of Virginia of 1950, as amended.

4. Effective Date. This Resolution shall take effect immediately.

[Board Report #49.A.](#)

B. Sale of General Obligation Bonds.

On motion by CHRISTOPHER ZIMMERMAN, Member, seconded by MARY HUGHES HYNES, Member and carried by a vote of 5 to 0, after a public hearing, at which there were no speakers, the roll call voting as follows:

Member & Vote

Ms. Favola – Aye
 Mr. Fisetto – Aye
 Ms. Hynes – Aye
 Mr. Tejada – Aye

Mr. Zimmerman - Aye

The Board adopted the following resolution authorizing the sale of General Obligation Public Improvement and Refunding Bonds in an amount not to exceed \$139.2* million:

**A RESOLUTION OF THE COUNTY BOARD OF
ARLINGTON COUNTY, VIRGINIA
AUTHORIZING THE ISSUANCE AND SALE OF
GENERAL OBLIGATION PUBLIC IMPROVEMENT AND REFUNDING BONDS,
SERIES 2009**

WHEREAS, the County Board adopted resolutions on July 10, 2004, requesting the Circuit Court of Arlington County to order elections to be held on November 2, 2004, on the questions of contracting debt and issuing bonds for local parks and recreation, transportation and community infrastructure, Metro facilities, and public school projects (the "2004 Projects") in an aggregate principal amount not to exceed \$208,003,000.

WHEREAS, at referenda held on November 2, 2004 (the "2004 Elections"), the voters of the County approved the issuance of the County's general obligation bonds for the 2004 Projects.

WHEREAS, the Circuit Court of the County entered an order on February 9, 2005 confirming the favorable vote of the voters as expressed at the 2004 Elections.

WHEREAS, a portion of the bonds authorized at the 2004 Elections have been issued in the amount of \$184,444,528.

WHEREAS, the County Board adopted resolutions on July 11, 2006, requesting the Circuit Court of Arlington County to order elections to be held on November 7, 2006, on the questions of contracting debt and issuing bonds for local parks and recreation, Metro and transportation projects, community infrastructure, utilities, and public school projects (the "2006 Projects") in an aggregate principal amount not to exceed \$207,062,000.

WHEREAS, at referenda held on November 7, 2006 (the "2006 Elections"), the voters of the County approved the issuance of the County's general obligation bonds for the 2006 Projects.

WHEREAS, the Circuit Court of the County entered an order on January 11, 2007 confirming the favorable vote of the voters as expressed at the 2006 Elections.

WHEREAS, a portion of the bonds authorized at the 2006 Elections have been issued in the amount of \$138,350,572.

WHEREAS, the County Board adopted resolutions on July 22, 2008, requesting the Circuit Court of Arlington County to order elections to be held on November 4, 2008, on the questions of contracting debt and issuing bonds for Metro, community infrastructure, public school projects and utilities (the "2008 Projects") in an aggregate principal amount not to exceed \$170,225,000.

WHEREAS, at referenda held on November 4, 2008 (the "2008 Elections"), the voters of the County

approved the issuance of the County's general obligation bonds for the 2008 Projects.

WHEREAS, the Circuit Court of the County entered an order on December 11, 2008 confirming the favorable vote of the voters as expressed at the 2008 Elections.

WHEREAS, none of the bonds authorized at the 2008 Elections have been issued.

WHEREAS, the County Board has now determined that it is advisable to issue general obligation bonds in the aggregate principal amount of \$39,217,322, consisting of (i) a portion of the unissued bonds authorized by the 2004 Elections in the amount of \$2,817,322, (ii) a portion of the unissued bonds authorized by the 2006 Elections in the amount of \$12,050,000 and (iii) a portion of the unissued bonds authorized by the 2008 Elections in the amount of \$24,350,000 (collectively, the "New Money Bonds").

WHEREAS, the County has issued the following general obligation bonds (the "Prior Bonds"): General Obligation Public Improvement and Refunding Bonds, Series 1998; General Obligation Public Improvement Bonds, Series 2001; General Obligation Public Improvement Bonds, Series 2002; General Obligation Public Improvement and Refunding Bonds, Series 2003; General Obligation Public Improvement and Refunding Bonds, Series 2004; General Obligation Public Improvement Bonds, Series 2005, General Obligation Public Improvement and Refunding Bonds, Series 2006, General Obligation Public Improvement Bonds, Series 2007, and the General Obligation Public Improvement Bonds, Series 2008.

WHEREAS, the County Board proposes to authorize the issuance of general obligation refunding bonds (the "Refunding Bonds") to refund all or a portion of the Prior Bonds.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNTY BOARD OF ARLINGTON COUNTY, VIRGINIA:

5. Authorization of Bonds and Use of Proceeds. The County Board hereby determines that it is advisable to contract a debt and to issue and sell, in one or more series, the New Money Bonds in the maximum aggregate principal amount of \$39,217,322 and the Refunding Bonds in the maximum aggregate principal amount of \$100,000,000 (the New Money Bonds and the Refunding Bonds referred to herein as the "Bonds").

The proceeds from the issuance and sale of the New Money Bonds shall be used to (a) pay a portion of the costs of issuing the Bonds and (b) pay the costs of certain of the 2004 Projects, the 2006 Projects and the 2008 Projects in the amounts shown below:

<u>2004 Elections</u>	
Transportation & Community Infrastructure	\$ 2,817,322
 <u>2006 Elections</u>	
Local Parks and Recreation	\$2,050,000
Metro and Transportation Projects	8,000,000
Community Infrastructure	2,000,000

<u>2008 Elections</u>	
Public School Projects	\$24,350,000
	TOTAL: <u>\$ 39,217,322</u>

The proceeds from the issuance and sale of the Refunding Bonds shall be used to pay the costs of issuing the Refunding Bonds and to refund all or a portion of the Prior Bonds. The authorization of the issuance and sale of the Refunding Bonds in an original aggregate principal amount not to exceed \$100,000,000 contained in this Section 1 shall expire on June 30, 2010.

6. Pledge of Full Faith and Credit. The full faith and credit of the County are hereby irrevocably pledged for the payment of the principal of, premium, if any, and interest on the Bonds as the same become due and payable. The County Board shall levy an annual ad valorem tax upon all property in the County, subject to local taxation, sufficient to pay the principal of, premium, if any, and interest on the Bonds as the same shall become due for payment unless other funds are lawfully available and appropriated for the timely payment thereof.

7. Details and Sale of Bonds. The Director of the Department of Management and Finance or his designee is authorized to determine and approve the final details of the Bonds, including without limitations, the aggregate principal amount of the Bonds, the series designation of the Bonds, the maturity date of the Bonds, the redemption provisions of the Bonds, the sale price of the Bonds, the interest rates and interest rate provisions on the Bonds, and any elections under the federal tax code; provided that (i) the maximum aggregate principal amount of New Money Bonds shall not exceed \$39,217,322, (ii) the maximum aggregate principal amount of Refunding Bonds shall not exceed \$100,000,000, (iii) the final maturity of the Bonds shall not be later than 21 years from the date of issuance of the Bonds, and (iv) the maximum true interest cost of any series of Bonds bearing interest at a tax-exempt fixed rate shall not exceed five and a half percent (5.5%) per annum.

The Bonds shall be issued, in one or more series, upon the terms established pursuant to this Resolution and upon such other terms as may be determined in the manner set forth in this Resolution. The Bonds shall be issued in fully registered form, shall be dated such date as the Director of the Department of Management and Finance may approve, shall be in the denominations of \$5,000 each or whole multiples thereof, may be issued at one time or from time to time in one or more series (with appropriate series designations), and the Bonds of any series shall be numbered from R-1 upwards consecutively.

The Bonds shall be offered for sale in such manner as the County Manager or his designee may determine to be in the best interests of the County. The County Manager or his designee are authorized and directed to accept the bid or proposal for the purchase of all or a portion of the Bonds, provided such bid

results in the lowest true interest cost to the County, and that the true interest cost of the Bonds does not exceed the maximum true interest cost set forth above. The County Manager reserves the right to reject any or all bids. If the County Manager or his designee determines that it is in the best interest of the County to sell all or a portion of the Bonds in a negotiated sale, then the County Manager or his designee are hereby authorized to enter into a bond purchase agreement with an underwriter or group of underwriters with demonstrated experience in underwriting municipal securities to be selected by the County Manager or his designee.

8. Redemption of Bonds. The Bonds shall be subject to optional redemption on such terms as the Director of the Department of Management and Finance may approve.

The Bonds may also be subject to mandatory sinking fund redemption at the option of the successful bidder. In such case, the successful bidder shall specify not more than three term bonds which will be required to be redeemed before maturity in the years and amounts equivalent to the corresponding principal maturities for each such year determined by the Director of the Department of Management and Finance, at a redemption price equal to the principal amount to be redeemed, plus accrued interest to the redemption date.

9. Form of Bonds. The Bonds shall be in substantially the form attached to this Resolution as Exhibit A, with such appropriate variations, omissions and insertions as are permitted or required by this Resolution or subsequent resolution of the County Board. There may be endorsed on the Bonds such legend or text as may be necessary or appropriate to conform to any applicable rules and regulations of any governmental authority or any usage or requirement of law with respect thereto.

10. Book-Entry-Only Form. The Bonds shall be issued in book-entry-only form. The Bonds shall be issued in fully-registered form and registered in the name of Cede & Co., as nominee of The Depository Trust Company, New York, New York ("DTC") as registered owner of the Bonds, and immobilized in the custody of DTC. One fully registered Bond in typewritten or printed form for the principal amount of each maturity of the Bonds shall be registered to Cede & Co. Beneficial owners of the Bonds shall not receive physical delivery of the Bonds. Principal, premium, if any, and interest payments on the Bonds shall be made to DTC or its nominee as registered owner of the Bonds on the applicable payment date.

Transfer of ownership interest in the Bonds shall be made by DTC and its participants (the "Participants"), acting as nominees of the beneficial owners of the Bonds in accordance with rules specified by DTC and its Participants. The County shall notify DTC of any notice required to be given pursuant to this Resolution or the Bonds not less than fifteen (15) calendar days prior to the date upon which such notice is required to be given. The County shall also comply with the agreements set forth in the County's Letter of Representations to DTC.

Replacement Bonds (the "Replacement Bonds") shall be issued directly to beneficial owners of the Bonds rather than to DTC or its nominee but only in the event that:

- (i) DTC determines not to continue to act as securities depository for the Bonds; or
- (ii) The County has advised DTC of its determination not to use DTC as a securities depository; or
- (iii) The County has determined that it is in the best interest of the beneficial owners of the Bonds or the County not to continue the book-entry system of transfer.

Upon occurrence of the events described in (i) or (ii) above, the County shall attempt to locate another qualified securities depository. If the County fails to locate another qualified securities depository to replace DTC, the appropriate officers and agents of the County shall execute and deliver Replacement Bonds substantially in the form set forth in Exhibit A attached hereto to the Participants. In the event the County Board, in its discretion, makes the determination noted in (iii) above and has made provisions to notify the beneficial owners of the Bonds by mailing an appropriate notice to DTC, the appropriate officers and agents of the County shall execute and deliver Replacement Bonds substantially in the form set forth in Exhibit A attached hereto to any Participants requesting such Replacement Bonds. Principal of, premium, if any, and interest on the Replacement Bonds shall be payable as provided in this Resolution and in the Bonds and such Replacement Bonds will be transferable in accordance with the provisions of paragraphs 10 and 11 of this Resolution and the Bonds.

11. Appointment of Bond Registrar and Paying Agent. The County Manager, the Deputy County Managers, and the Director of the Department of Management and Finance, or any of them, are authorized and directed to appoint a Bond Registrar and Paying Agent for the Bonds and as long as the Bonds are in book-entry-only form the County Manager, the Deputy County Managers, or the Director of the Department of Management and Finance may serve as Bond Registrar and Paying Agent.

The County Manager, the Deputy County Managers, and the Director of the Department of Management and Finance, or any of them, may appoint a subsequent bond registrar and/or one or more paying agents for the Bonds upon giving written notice to the owners of the Bonds specifying the name and location of the principal office of any such bond registrar or paying agent.

12. Execution of Bonds. The County Manager and the Clerk of the County Board are authorized and directed to execute appropriate negotiable Bonds and to affix the seal of the County thereto and to deliver

the Bonds to the purchaser or purchasers thereof upon payment of the applicable purchase price. The manner of execution and affixation of the seal may be by facsimile, provided, however, that if the signatures of the County Manager and the Clerk of the County Board are both by facsimile, the Bonds shall not be valid until signed at the foot thereof by the manual signature of the Bond Registrar.

13. CUSIP Numbers. The Bonds shall have CUSIP identification numbers printed thereon. No such number shall constitute a part of the contract evidenced by the Bond on which it is imprinted and no liability shall attach to the County, or any of its officers or agents by reason of such numbers or any use made of such numbers, including any use by the County and any officer or agent of the County, by reason of any inaccuracy, error or omission with respect to such numbers.

14. Registration, Transfer and Exchange. Upon surrender for transfer or exchange of any Bond at the principal office of the Bond Registrar, the County shall execute and deliver and the Bond Registrar shall authenticate in the name of the transferee or transferees a new Bond or Bonds of any authorized denomination in an aggregate principal amount equal to the Bond surrendered and of the same form and maturity and bearing interest at the same rate as the Bond surrendered, subject in each case to such reasonable regulations as the County and the Bond Registrar may prescribe. All Bonds presented for transfer or exchange shall be accompanied by a written instrument or instruments of transfer or authorization for exchange, in form and substance reasonably satisfactory to the County and the Bond Registrar, duly executed by the registered owner or by his or her duly authorized attorney-in-fact or legal representative. No Bond may be registered to bearer.

New Bonds delivered upon any transfer or exchange shall be valid obligations of the County, evidencing the same debt as the Bonds surrendered, shall be secured by this Resolution and entitled to all of the security and benefits hereof to the same extent as the Bonds surrendered.

15. Charges for Exchange or Transfer. No charge shall be made for any exchange or transfer of Bonds, but the County may require payment by the registered owner of any Bond of a sum sufficient to cover any tax or other governmental charge which may be imposed with respect to the transfer or exchange of such Bond.

16. Non-Arbitrage Certificate and Tax Covenants. The County Manager and such officers and agents of the County as he may designate are authorized and directed to execute a Non-Arbitrage Certificate and Tax Covenants setting forth the expected use and investment of the proceeds of the Bonds and containing such covenants as may be necessary in order to comply with the provisions of the Internal Revenue Code of 1986, as amended ("Code"), including the provisions of Section 148 of the Code and applicable regulations relating to "arbitrage bonds." The County Board covenants on behalf of the County that the proceeds from the issuance and sale of the Bonds will be invested and expended as set forth in the County's Non-Arbitrage

Certificate and Tax Covenants, to be delivered simultaneously with the issuance and delivery of the Bonds and that the County shall comply with the other covenants and representations contained therein.

17. Refunding of Prior Bonds. If it is determined by the County Manager, the Deputy County Managers, or the Director of the Department of Management and Finance to be in the best interest of the County, the County Manager, the Deputy County Managers, and the Director of the Department of Management and Finance, or any of them, is authorized to (a) approve the issuance of the Refunding Bonds and the aggregate principal amount of such Refunding Bonds (not to exceed the amount set forth in paragraph 1) sufficient to provide for the refunding of such maturities of the Prior Bonds as such officer or officers may determine (provided that the aggregate net present value savings as a percent of the refunded par amount shall be not less than three percent (3%)) and to pay the costs of issuing the Refunding Bonds and (b) enter into an escrow agreement with an escrow agent to be selected by the Director of the Department of Management and Finance providing for the deposit and investment of such portion of the proceeds of the Refunding Bonds to be applied to the redemption or payment of the portion of the Prior Bonds to be refunded on the earliest practicable date.

18. Disclosure Documents. The County Manager, the Deputy County Managers, and the Director of the Department of Management and Finance, or any of them, and such officers and agents of the County as any of them may designate are hereby authorized and directed to prepare, execute, if required, and deliver an appropriate notice of sale, preliminary official statement, official statement and such other offering or disclosure documents as may be necessary to expedite the sale of the Bonds, including such documentation as may be necessary to provide for the submission of electronic bids for the Bonds if electronic bidding is determined by such officer or officers to be advantageous. The notice of sale, preliminary official statement, official statement or other documents shall be published in such publications and distributed in such manner, including by electronic distribution, and at such times as the County Manager, or such officers and agents of the County as he may designate, shall determine. The County Manager, or such other officer or agent of the County as he may designate, is authorized and directed to deem the preliminary official statement "final" for purposes of Securities and Exchange Commission Rule 15c2-12.

19. Continuing Disclosure. The County Manager is authorized and directed to enter into a Continuing Disclosure Agreement for the benefit of the owners of the Bonds to assist the underwriter for the Bonds in complying with the provisions of Section (b)(5) of Securities and Exchange Commission Rule 15c2-12.

20. Further Actions. The County Manager, the Deputy County Managers, and the Director of the Department of Management and Finance, or any of them, and such officers and agents of the County as any of them may designate are authorized and directed to take such further action to improve or clarify the County's

position or make adjustments to account for force majeure as they deem necessary regarding the issuance and sale of the Bonds and all actions taken by such officers and agents in connection with the issuance and sale of the Bonds are ratified and confirmed.

21. Filing of Resolution. The County Attorney is authorized and directed to file or cause to be filed a certified copy of this Resolution with the Circuit Court of Arlington County pursuant to Sections 15.2-2607 and 15.2-2641 of the Code of Virginia of 1950, as amended.

22. Effective Date. This Resolution shall take effect immediately.

[Board Report #49.B.](#)

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ADJOURNMENT

Before adjourning, the Chairman announced that the Gulf Branch Nature Center will hold its picnic from 2:00 p.m. – 5:00 p.m. today.

Without objection, at 2:01 p.m., the Board recessed until the June 16, 2009 Recessed Meeting.

BARBARA A. FAVOLA, Chairman

ATTEST:

AUBRYN BEDNAR, Acting Clerk
Approved: September 26, 2009