

MINUTES FOR APPROVAL

Attached for County Board consideration for approval are the minutes of the meeting date listed below:

June 19, 2012

Recessed Meeting

A Recessed Meeting of the County Board of Arlington County, Virginia, held in Room 307 of 2100 Clarendon Boulevard thereof on Tuesday, June 19, 2012 at 3:05 p.m.

PRESENT: MARY HYNES, Chair
J. WALTER TEJADA, Vice Chairman
JAY FISETTE, Member
LIBBY GARVEY, Member
CHRISTOPHER ZIMMERMAN, Member

ALSO PRESENT: BARBARA M. DONNELLAN, County Manager
STEPHEN MacISAAC, County Attorney
HOPE L. HALLECK, Clerk

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COUNTY BOARD RECESSED MEETING

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COUNTY BOARD BUSINESS AND REPORTS

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I. COUNTY BOARD REPORTS

Chair Mary Hynes noted that Peggy Fisher, community activist, passed away on June 7, 2012 and that John S. Bottum, another dedicated community activist, died on June 9, 2012.

The Chair introduced Tom Fonseca, Chairman of the Arlington Commission on Long-Term Care Residences. Together, Chair Hynes and Mr. Fonseca presented the Long-Term Care Residences Awards to employees who provide the day-to-day care for residents of nursing homes and assisted living residences in the County.

The Chair announced that she presented the State of the County address today at an annual event hosted by the Chamber of Commerce and Leadership Arlington. Highlights included a low unemployment rate of 3.1% for April 2012, and more than 5,500 jobs were added in 2011.

Chair Hynes reminded residents that the Capital Improvement Plan public hearing will be held on June 26, 2012 at 7 p.m.

The Chairman announced July 4, 2012 Independence Day events in Arlington and highlighted the Long Bridge Park celebration.

Board Member Zimmerman announced a public meeting on June 21, 2012 at Aurora Hills Community Center held jointly by County and WMATA for the Crystal City Metro Station Access and Second Entrance Study.

Mr. Zimmerman announced upcoming schedule changes to ART 45 and 61 which will go into effect on July 2, 2012. More information is available at www.arlingtontransit.com.

Board Member Zimmerman introduced Tom Scherer of the Department of Environmental Services Transit Bureau and Michael Elepano and Steve Chapman of the Redmon Group who made a presentation about RealTime, which is a technology tool for sharing information with commuting public.

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II. APPOINTMENTS

A motion was made by MARY HYNES, Chair to:

Arlington Community Services Board

Designate James Mack as Chair for a term ending June 30, 2013
Reappoint David Kidwell for a term ending June 30, 2015
Reappoint Scott Brannon for a term ending June 30, 2015
Reappoint Anne Marie Hermann for a term ending June 30, 2015

Board of Equalization of Real Estate Assessments

Reappoint David Gilson for a term ending June 30, 2013
Reappoint Michael Timpane for a term ending June 30, 2013

Clarendon Alliance Board of Directors

Appoint Paul LeValley for a term ending June 30, 2015

Commission for the Arts

Designate Mark Longo as Chairman for a term ending June 30, 2013

Commission on the Status of Women

Designate Sarah Mysiewicz as Chair for a term ending June 30, 2013
Appoint Sanam Toossi for a term ending June 30, 2015

Community Energy Advisory Group

Appoint David Garcia

Emergency Preparedness Advisory Commission

Appoint Erin Walsh for a term ending June 30, 2015

Information Technology Advisory Committee

Appoint Anita Nolen for a term ending June 30, 2015

Out-of-School Time Advisory Council

Appoint Rene Madigan and designate as Chair for terms ending June 30, 2014
Appoint Jennifer Endo to represent a provider organization for a term ending June 30, 2014
Appoint Erik Van De Poll to represent a provider organization for a term ending June 30, 2014
Appoint Alyssa Duda to represent a provider organization for a term ending June 30, 2015
Appoint Gabriela Uro to represent a provider organization for a term ending June 30, 2015
Appoint Courtney Reaves to represent a provider organization for a term ending June 30, 2015

Park and Recreation Commission

Reappoint Caroline Haynes for a term ending June 30, 2015
Reappoint Alonzie Scott for a term ending June 30, 2015
Reappoint Ashley Stafford for a term ending June 30, 2015

Rosslyn Business Improvement Corporation Board

Reappoint Stanley Karson for a term ending June 30, 2014

Sports Commission

Reappoint Craig Robert Esherick for a term ending June 30, 2015, and designate as Chairman for a term ending on June 30, 2013
Reappoint Benjamin T. Danforth for a term ending on June 30, 2015
Reappoint David Matthew Ernest for a term ending on June 30, 2015

Transportation Commission

Designate John Grant as Chairman for a term ending June 30, 2013

Workforce Investment Board

Appoint Corky Gardner for a term ending June 30, 2014
Reappoint Dr. Erik Pages for a term ending June 30, 2014
Reappoint Lee Coyle for a term ending June 30, 2014
Reappoint Chris Mallin for a term ending June 30, 2014
Reappoint Ann Randazzo for a term ending June 30, 2014

The motion was adopted and carried by a vote of 5 to 0. The voting recorded as follows: MARY HYNES, Chair - Aye, J. WALTER TEJADA, Vice Chairman - Aye, JAY FISETTE, Member - Aye, LIBBY GARVEY, Member - Aye and CHRISTOPHER ZIMMERMAN, Member – Aye.

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III. REGIONAL REPORTS

Chair Hynes provided an update on Metro, including the first day of RushPlus, a fare increase effective July 1 and new bus service connecting Crystal City to Rosslyn, which began on June 18, 2012.

A motion was made by JAY FISETTE, Member, seconded by CHRISTOPHER ZIMMERMAN, Member to endorse the letter dated June 19, 2012 to Sean Connaughton from the Northern Virginia Transportation Commission and its member jurisdictions regarding the new process that the Department of Rail and Public Transportation has described for transmitting state transit financial assistance to WMATA and other Northern Virginia transit systems. The motion was adopted and carried by a vote of 5 to 0. The voting recorded as follows: MARY HYNES, Chair - Aye, J. WALTER TEJADA, Vice Chairman - Aye, JAY FISETTE, Member - Aye, LIBBY GARVEY, Member - Aye and CHRISTOPHER ZIMMERMAN, Member – Aye.[Clerk’s note: as set forth in the document entitled “Addendum-6-19-12-A- NVTC Letter” attached for the public record to these minutes.]

Chair Hynes introduced Larry Land of the Virginia Association of Counties (VACO). Mr. Land addressed the Board to provide an update on VACO publications, upcoming events and the next legislative session.

Addendum-6-19-12-A- NVTC Letter

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IV. COUNTY MANAGER REPORT

County Manager Barbara Donnellan introduced Mary Ellen Baldwin, who gave an update on the Commissioning of the USS Arlington.

Ms. Donnellan announced the recent launch of a new Business Arlington website. She introduced Shahriar Amiri, Chief Building Official and Norma Cozart, Zoning Administrator, who provided an overview and demonstration of the website.

The Manager announced that, for the 12th consecutive year, the three global rating agencies have affirmed the County’s AAA rating, which is the highest rating possible.

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CLOSED MEETING; CERTIFICATION OF CLOSED MEETING DISCUSSIONS

A motion was made by MARY HYNES, Chairman, seconded by J. WALTER TEJADA, Vice Chairman, to convene a closed meeting as authorized by Virginia Code sections 2.2-3711.A.7 for the purposes of consultation with the County Attorney and appropriate staff concerning the County’s authority, as part of the

site plan process, to modify parking standards in the Zoning Ordinance and the circumstances that warrant modifications, and the meaning and application of the “best value” provisions of the Public Procurement Act. The motion was adopted and carried by a vote of 5 to 0. The voting recorded as follows: MARY HYNES, Chair - Aye, J. WALTER TEJADA, Vice Chairman - Aye, JAY FISETTE, Member - Aye, LIBBY GARVEY, Member - Aye and CHRISTOPHER ZIMMERMAN, Member – Aye.

The Board met in a closed meeting from 4:49 p.m. to 6:40 p.m.

A motion was made by MARY HYNES, Chairman, seconded by WALTER TEJADA, Vice Chairman to certify that to the best of each member’s knowledge that only public business matters lawfully exempted from open meeting requirements under Chapter 37, Title 2.2 of the Code of Virginia and only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed, or considered by the Board. The motion was adopted by a vote of 5 to 0 by roll call as follows:

Member & Vote

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

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THE FOLLOWING ITEMS TO BE HEARD BEGINNING AT 6:30 P.M.

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The Board recognized retiring Commission Members:

- Carol Skelly, Community Services Board
- Bill Gearhart, Transportation Commission
- Gail Raiman, Arlington Commission for the Arts

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CONSENT ITEMS (ITEMS REMOVED FROM THE CONSENT AGENDA SATURDAY, JUNE 16, 2012)

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SITE PLANS/AMENDMENTS/REVIEW

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1. **ON THE COUNTY BOARD’S OWN MOTION, TO AMEND THE CONDITIONS WHICH STIPULATE MINIMUM TREE CALIPER SIZE REQUIREMENTS FROM 4 TO 4 1/2 INCHES TO 3 1/2 INCHES, FOR SITE PLANS #13 (CRYSTAL HOUSES LOFTS, RPC# 35-011-007 AND -008, AND 36-018-014), 18 (1812 N. MOORE STREET, RPC# 16-037-004 AND -005), 51 (JEFFERSON PLAZA, RPC# 34-024-339, -340, AND -341), 105 (METROPOLITAN PARK 3, RPC# 35-003-009 AND -010), 297 (PENTAGON CENTER PHASE ONE, RPC# 35-004-001), 331 (ARLINGTON GATEWAY FAIRMONT, RPC# 14-051-019), 335 (ROSSLYN CENTRAL PLACE, RPC# 16-038-001, -002, -003, -004, -014, -015, AND -016), 346 (POTOMAC YARD BAY C, RPC# 34-027-071 AND -072; BAY D-EAST, RPC# 34-027-062; AND BAY D-WEST, RPC# 34-027-052 AND -065), 382 (NSTA, RPC# 17-011-019, -021 AND -023), 386 (3901**

[FAIRFAX DRIVE, RPC# 14-030-057 AND -058](#), [389 \(2000 WILSON BOULEVARD, RPC# 17-011-009, -013, -015 AND -016\)](#), [392 \(1200 N. IRVING STREET, RPC# 15-078-017\)](#), [395 \(DOMINION HEIGHTS, RPC# 05-056-002\)](#), [400 \(MONUMENT VIEW/BOEING, RPC# 34-025-007\)](#), [401 \(PECK/STAPLES/JORDAN MANOR, RPC# 14-053-058, -060, -061 AND -062, 14-054-001 AND -002\)](#), [403 \(2009 14TH STREET, RPC# 17-014-001\)](#), [405 \(BUCKINGHAM VILLAGE 1, RPC# 20-024-240, -241, -242, -243, -245, -246 AND 20-024-PCA\)](#), [406 \(2201 PERSHING DRIVE, RPC# 18-038-019, -020, AND -023\)](#), [409 \(1716 WILSON BOULEVARD, RPC# 17-010-008, -009, -022, -023 AND -030\)](#), [411 \(1900 WILSON BOULEVARD, RPC# 17-011-006, -007, -008, -017, -018, AND -019, AND PORTIONS OF -009\)](#), [412 \(ROSSLYN](#)

Following a duly advertised public hearing at which there were speakers, a motion was made by JAY FISETTE, Member, seconded by CHRISTOPHER ZIMMERMAN, Member to:

1. Adopt the attached ordinance to approve site plan amendments to Site Plans #13 (Crystal Houses Lofts), 18 (1812 N. Moore Street), 51 (Jefferson Plaza), 105 (Metropolitan Park 3), 297 (Pentagon Center Phase One), 331 (Arlington Gateway Fairmont), 335 (Rosslyn Central Place), 346 (Potomac Yard Bays C, D-East and D-West), 382 (NSTA), 386 (3901 Fairfax), 389 (2000 Wilson Boulevard), 392 (1200 N. Irving Street), 395 (Dominion Heights), 400 (Monument View/Boeing), 401 (Peck/Staples/Jordan Manor), 403 (2009 14th Street), 405 (Buckingham Village 1), 406 (2201 Pershing Drive), 409 (1716 Wilson Boulevard), 411 (1900 Wilson Boulevard), 412 (Rosslyn Commons), 413 (Founders Square), 416 (Virginia Square Towers), 417 (Wakefield Manor), and 418 (3001 Washington Boulevard) to amend the minimum tree caliper size requirements stipulated in site plan conditions from 4 to 4 ½ inches to 3 ½ inches. [Clerk's note: as set forth in the document entitled "Addendum-6-19-12-B- Tree Caliper" attached for the public record to these minutes.]
2. Approve the proposal to amend Use Permits U-1671-65-3 (Marymount University), U-2443-85-1 (Army Navy Country Club), U-3041-02-1 (Yorktown High School), U-3148-05-1 (2525 Lee Highway UCMUD), U-3155-06-1 (4520 N. Glebe/Barrett URD), U-3241-09-2 (Wakefield High School), and U-3242-09-1 (Buckingham Village 3) to amend the minimum tree caliper size requirements stipulated in conditions from 4 to 4 ½ inches to 3 ½ inches.

The motion was adopted and carried by a vote of 5 to 0. The voting recorded as follows: MARY HYNES, Chair - Aye, J. WALTER TEJADA, Vice Chairman - Aye, JAY FISETTE, Member - Aye, LIBBY GARVEY, Member - Aye and CHRISTOPHER ZIMMERMAN, Member – Aye.

[Board Report #1](#)

Addendum-6-19-12-B- Tree Caliper

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5. [SP #364 SITE PLAN AMENDMENT TO MODIFY SITE PLAN CONDITION #66 TO ALLOW FOR THE CHANGE IN USE OF AREA REQUIRED FOR CONVENIENCE SERVICE OR RETAIL TO A RESIDENTIAL CONDOMINIUM UNIT; LOCATED AT 2220 FAIRFAX DRIVE AND 2303 N. 11TH STREET \(RPC# 18-084-016\).](#)

Following a duly advertised public hearing at which there were speakers, a motion was made by J. WALTER TEJADA, Vice Chairman, seconded by LIBBY GARVEY, Member to defer the subject site plan amendment to the July 21, 2012 County Board meeting. The motion was adopted and carried by a vote of 5 to 0. The voting recorded as follows: MARY HYNES, Chair - Aye, J. WALTER TEJADA, Vice Chairman - Aye, JAY FISETTE, Member - Aye, LIBBY GARVEY, Member - Aye and CHRISTOPHER ZIMMERMAN, Member – Aye.

[Board Report #5 \(Revised\)](#)

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VACATIONS, EASEMENTS, RIGHTS OF WAY, ENCROACHMENTS & LEASES

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17. APPROVAL OF A DEED OF SUBTERRANEAN TELECOMMUNICATIONS LINE EASEMENT AND TEMPORARY CONSTRUCTION EASEMENT, BETWEEN THE COUNTY BOARD OF ARLINGTON COUNTY, VIRGINIA AND THE UNITED STATES OF AMERICA, FOR THE INSTALLATION AND MAINTENANCE OF AN UNDERGROUND TELECOMMUNICATIONS LINE ACROSS PORTIONS OF LONG BRIDGE PARK, RPC NOS. 34-23-001, 34-23-002, 34-024-349, 34-024-350 AND 34-024-351.

Following a duly advertised public hearing at which there were speakers, a motion was made by CHRISTOPHER ZIMMERMAN, Member, seconded by J. WALTER TEJADA, Vice Chairman, to:

1. Approve the attached Deed of Subterranean Telecommunications Line Easement and Temporary Construction Easement ("Easement"), between the County Board of Arlington County, Virginia and the United States of America ("USA"), for the installation and maintenance of an underground telecommunications line across portions of Long Bridge Park, RPC Nos. 34-23-001, 34-23-002, 34-024-349, 34-024-350 and 34-024-351. [Clerk's note: as set forth in the document entitled "Addendum-6-19-12-C- Subterranean Easement" attached for the public record to these minutes.]
2. Authorize the Real Estate Bureau Chief, Department of Environmental Services, or his designee, to execute the Easement and any related documents, on behalf of the County Board, subject to approval as to form of the deed and documents by the County Attorney.

The motion was adopted and carried by a vote of 5 to 0. The voting recorded as follows: MARY HYNES, Chair - Aye, J. WALTER TEJADA, Vice Chairman - Aye, JAY FISETTE, Member - Aye, LIBBY GARVEY, Member - Aye and CHRISTOPHER ZIMMERMAN, Member – Aye.

[Board Report #17](#)

Addendum-6-19-12-C- Subterranean Easement

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OTHER

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38. AUTHORIZE THE ARLINGTON COUNTY INDUSTRIAL DEVELOPMENT AUTHORITY (THE "IDA") TO ISSUE UP TO \$10,000,000 IN TAX-EXEMPT REVENUE BONDS FOR THE REFINANCING OF THE SIGNATURE THEATRE, INC. ("SIGNATURE") PROJECT.

Following a duly advertised public hearing at which there were speakers, a motion was made by CHRISTOPHER ZIMMERMAN, Member, seconded by MARY HYNES, Chair, to adopt resolution (Attachment A) authorizing the Arlington County IDA to issue up to \$10,000,000 in tax-exempt revenue bonds for the refinancing of the Signature Theatre, Inc. project. The motion was adopted and carried by a vote of 5 to 0. The voting recorded as follows: MARY HYNES, Chair - Aye, J. WALTER TEJADA, Vice Chairman - Aye, JAY FISETTE, Member - Aye, LIBBY GARVEY, Member - Aye and CHRISTOPHER ZIMMERMAN, Member – Aye.

RESOLUTION OF THE COUNTY BOARD OF ARLINGTON COUNTY, VIRGINIA WITH RESPECT TO INDUSTRIAL DEVELOPMENT AUTHORITY REFINANCING FOR SIGNATURE THEATRE, INC.

WHEREAS, the Industrial Development Authority of Arlington County, Virginia (the "Authority") has considered the request of Signature Theatre, Inc. (the "Borrower") that the Authority consent to modifications to its original aggregate principal amount \$10,000,000 Revenue Bond (Signature Theatre, Inc. Project), Series 2007 (the "Bond"), which was issued on June 29, 2007 to assist the Borrower in financing and refinancing certain of the costs of the acquisition, construction, renovation and equipping of its 4 story, approximately 46,891 square foot community theatre located at 2800 South Stafford Street, Arlington, Virginia, 22206 (the "Project"), and has held a public hearing with respect thereto on May 31, 2012;

WHEREAS, the modifications will constitute a reissuance and a current refunding of the Bond for Federal tax purposes;

WHEREAS, Section 147(f) of the Internal Revenue Code of 1986, as amended (the "Code"), provides that the governmental unit having jurisdiction over the issuer of private activity bonds and over the area in which any facility financed with the proceeds of private activity bonds is located must approve the issuance or, in this case, the reissuance, of the bonds;

WHEREAS, the Authority issues its bonds on behalf of the County of Arlington, Virginia (the "County"); the Project is located in the County and the County Board of Arlington County, Virginia (the "Board") constitutes the highest elected governmental unit of the County;

WHEREAS, the Authority has recommended that the Board approve the reissuance of the Bond; and

WHEREAS, a copy of the Authority's resolution approving the reissuance of the Bond, subject to the terms to be agreed upon, a certificate of the public hearing and a Fiscal Impact Statement have been filed with the Board.

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

1. The Board approves the reissuance of the Bond by the Authority for the benefit of the Borrower, as required by Section 147(f) of the Code and Section 15.2-4906 of the Code of Virginia of 1950, as amended (the "Virginia Code"), to permit the Authority to assist in the refinancing of the Project.
2. The approval of the reissuance of the Bond does not constitute an endorsement to the current holder of the Bond or any prospective purchaser of the Bond of the creditworthiness of the Project or the Borrower. The reissuance of the Bond as requested by the Borrower will not constitute a debt or pledge of the faith and credit of the Commonwealth of Virginia or the County of Arlington, Virginia and neither the faith and credit nor the taxing power of the Commonwealth of Virginia or any political subdivision thereof will be pledged to the payment of such Bond. Neither the County of Arlington, Virginia nor the Authority shall be obligated to pay the Bond or the interest thereon or other costs incident thereto except from the revenues and money pledged therefore by the Borrower.
3. This resolution shall take effect immediately upon its adoption.

[Board Report #38](#)

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THE FOLLOWING ITEMS TO BE HEARD NO EARLIER THAN 6:45 P.M.

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REGULAR HEARING ITEMS

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45. REQUEST TO ADVERTISE PUBLIC HEARINGS ON AMENDMENTS TO SECTIONS 20, 20 (APPENDIX A), 31A, 34 AND 37 OF THE ARLINGTON COUNTY ZONING ORDINANCE TO REVISE SIGN REGULATIONS.

Following a duly advertised public hearing at which there were speakers, a motion was made by MARY HYNES, Chair, seconded by LIBBY GARVEY, Member, to:

Adopt the resolution attached as Attachment A to authorize advertisement of public hearings by the Planning Commission on July 9, 2012 and the County Board on July 21, 2012 to consider proposed amendments to Sections 20, 20 (Appendix A), 31A, 34 and 37 of the Arlington County Zoning Ordinance to revise sign regulations, as shown in Attachments B and C, and corrections identified in Table 1 of the supplemental report dated June 13, 2012, and the supplemental report from the Planning Commission Recommendation for Advertising Summary Sheet, options #2 through #9, #11 through #14, and #16, and to amend regulations on amount of sign area, number of signs, distance signs may be placed from residential uses and/or zoning districts, direction signs may face and types of signs allowed. [Clerk's note: as set forth in the document entitled "Addendum-6-19-12-D- Zoning Ordinance" attached for the public record to these minutes.]

RESOLUTION TO AUTHORIZE THE ADVERTISEMENT OF PUBLIC HEARINGS TO CONSIDER AMENDING, REENACTING AND RECODIFYING THE ARLINGTON COUNTY ZONING ORDINANCE, SECTIONS 20, 20 (APPENDIX A), 31A, 34 and 37 AT THE JULY 9, 2012 PLANNING COMMISSION AND JULY 21, 2012 COUNTY BOARD MEETINGS, IN ORDER TO COMPREHENSIVELY REVISE THE SIGN REGULATIONS; AND TO REDUCE OR PREVENT CONGESTION IN THE STREETS; TO FACILITATE THE CREATION OF A CONVENIENT, ATTRACTIVE AND HARMONIOUS COMMUNITY; TO ENCOURAGE ECONOMIC DEVELOPMENT; AND FOR OTHER REASONS REQUIRED BY THE PUBLIC NECESSITY, CONVENIENCE AND GENERAL WELFARE, AND GOOD ZONING PRACTICE.

The County Board of Arlington hereby resolves to authorize advertisement of public hearings to consider amending, reenacting and recodifying Arlington County Zoning Ordinance provisions in Sections 20, 20 (Appendix A), 31A, 34 and 37 at the July 9, 2012 Planning Commission and July 21, 2012 County Board meetings, in order to comprehensively revise the sign regulations; and to reduce or prevent congestion in the streets; to facilitate the creation of a convenient, attractive and harmonious community; to encourage economic development; and for other reasons required by the public necessity, convenience and general welfare, and good zoning practice.

The motion was adopted and carried by a vote of 5 to 0. The voting recorded as follows: MARY HYNES, Chair - Aye, J. WALTER TEJADA, Vice Chairman - Aye, JAY FISSETTE, Member - Aye, LIBBY GARVEY, Member - Aye and CHRISTOPHER ZIMMERMAN, Member – Aye.

[Board Report #45](#)

[Board Report #45-Supplemental Report](#)

Addendum-6-19-12-D- Zoning Ordinance

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ADDITIONAL ITEMS

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41. REQUEST TO AUTHORIZE ADVERTISEMENT OF PUBLIC HEARINGS ON THE ADOPTION OF THE COLUMBIA PIKE NEIGHBORHOODS AREA PLAN (SEE ATTACHMENT 1 OF THE STAFF REPORT).

A motion was made by MARY HYNES, Chair, seconded by LIBBY GARVEY, Member to reconsider item #41: Request to authorize advertisement of public hearings on the adoption of the Columbia Pike Neighborhoods Area Plan. The motion was adopted and carried by a vote of 5 to 0. The voting recorded as follows: MARY HYNES, Chair - Aye, J. WALTER TEJADA, Vice Chairman - Aye, JAY FISETTE, Member - Aye, LIBBY GARVEY, Member - Aye and CHRISTOPHER ZIMMERMAN, Member – Aye.

A motion was made by MARY HYNES, Chair, seconded by JAY FISETTE, Member to amend the language being considered in the Columbia Pike Neighborhoods Area Plan on page 5.8, item #7 with the following amendment: [Clerk’s note: text to be added is shown in underline, text to be deleted is shown in strikethrough].

On page 5.8, amend item number #7 (added at the June 16 Regular Meeting) before the heading “Affordable Housing Tools” to change the word “how” to “weather” as follows:

- 7. Establish an automatic trigger to consider ~~how~~ whether to amend the form-based code to incorporate any significant new land use based policy that would be applied elsewhere in Arlington County.

The motion was adopted and carried by a vote of 4- 0 with one abstention. The voting recorded as follows: MARY HYNES, Chair - Aye, J. WALTER TEJADA, Vice Chairman - Aye, JAY FISETTE, Member - Aye, LIBBY GARVEY, Member - Abstain and CHRISTOPHER ZIMMERMAN, Member – Aye.

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ADJOURNMENT

Without objection, at 10:13 p.m., the Board adjourned the meeting.

MARY HYNES, Chair

ATTEST:

HOPE L. HALLECK, Clerk



June 19, 2012

The Honorable Sean Connaughton
Secretary of Transportation
Patrick Henry Building, Third Floor
1111 East Broad Street
Richmond, VA 23219

Dear Secretary Connaughton:

We are writing to explain to you and the Commonwealth Transportation Board (CTB) why the Northern Virginia Transportation Commission (NVTC) and its member jurisdictions strenuously object to the new process that the Department of Rail and Public Transportation (DRPT) has described for transmitting state transit financial assistance to WMATA and other Northern Virginia transit systems.

On May 15, 2012, DRPT Director Drake informed NVTC, its member jurisdictions, and the Washington Metropolitan Area Transit Authority (WMATA) that DRPT would no longer provide funding to WMATA and NVTC's jurisdictions through NVTC. Unless all of the entities agreed within ten days, transit funding allocated to our region by the Commonwealth Transportation Board (CTB) in the draft FY 2013 Six Year Improvement Program (SYIP) would be removed from the final SYIP to be presented to CTB on June 20, 2012. DRPT subsequently extended the deadline to June 8, 2012.

While NVTC and its member jurisdictions appreciate the importance of DRPT funding and value the role DRPT plays in delivering these services, we are concerned that DRPT's policy change could well undermine those services, require additional administrative expense, introduce other inefficiencies that would waste precious transit funding and potentially violate state law.

While taking into account these adverse consequences, we ask you to consider that Northern Virginia has by far the greatest transit ridership in the Commonwealth. We strongly believe that a collective focus on transit and continued collaboration is vital to the economic success in this region. Our concerns are outlined below.

1. Statutory Requirements Prohibit DRPT's Approach

Section 58.1-638.A.5 of the Virginia Code compels that DRPT's transit assistance for WMATA must be allocated in accordance with NVTC's Subsidy Allocation Model (SAM). Failure to do so would be a violation of state law. (Attachments explain the use of NVTC's SAM which shares state and regional transit financial resources to sustain the regional WMATA partnership).

2. Lack of Notice

NVTC has used its SAM in various forms since FY 1974 and no state representative to NVTC has ever voted against it. DRPT Director Drake voted for it as recently as June 2, 2011. This formula allows NVTC's jurisdictions to cushion the impact of abrupt changes in state aid and protects especially NVTC's smaller jurisdictions, as codified in state code Section 58.638.A.5.b. It is not reasonable to change NVTC's successful and long-standing process with only ten days notice after FY 2013 local budgets have been adopted and after NVTC had completed applications for the state aid documented in CTB's draft SYIP. NVTC's current formula is the result of significant regional negotiations and collaboration to develop effective transit operations that does not stop at jurisdictional boundaries. Unfortunately, this unexpected DRPT action occurred without any consultation, which would have quickly identified some serious concerns. The new policy will create local winners and losers with no time to identify other workable solutions to achieve DRPT's objectives. NVTC is not aware of any factor that necessitates this rush to action.

3. Failure to Understand WMATA's Role

While WMATA operates transit service, it is not the entity financially responsible for that service. NVTC's jurisdictions must pay WMATA's bills at the beginning of each quarter or lose access to that service. NVTC's WMATA-related collaborative application for state aid is submitted on behalf of NVTC's WMATA jurisdictions collectively and reflects the combined shares of the total WMATA subsidy eligible for DRPT funding. State aid now received through NVTC covers only a portion of each bill and each jurisdiction must assemble sufficient funds from a variety of sources (e.g. regional gas tax received by NVTC, other Trust Funds at NVTC, General Funds, General Obligation Bonds and credits at WMATA).

Since DRPT's capital assistance is provided on a reimbursement basis, if DRPT provides reimbursement directly to WMATA, WMATA will actually be paid twice for the same bill. Trying to track and correct this would be complicated, and less transparent than the current SAM. Similarly, DRPT's operating assistance is also not available for jurisdictions to use to pay WMATA's first quarterly billing each year.

4. Interference with General Assembly Delegation's Request

Elected officials and staff of Northern Virginia's transportation and planning agencies and its member jurisdictions are in the midst of an ambitious study to respond to a

written request signed by every member of Northern Virginia's General Assembly delegation. The mandate is to identify efficiency improvements to four Northern Virginia planning and transportation agencies as well as consider any benefits of possible consolidation of two or more of those agencies. The delegation has asked for a response to this request by this fall, and the agencies and member jurisdictions are acting vigilantly on the study and response. Regardless of DRPT's intent, the result of its new policy makes the task of completing the study on time even more difficult by suddenly shifting NVTC's role significantly and it doesn't allow the task force sufficient time to access any unintended consequences that could negatively impact the potential recommendations.

5. Administrative Costs

DRPT's policy change creates financial burdens for NVTC and its jurisdictions, because NVTC currently prepares grant applications, submits invoices and assures compliance with DRPT's complex rules. If DRPT requires WMATA and NVTC's member jurisdictions to separately accomplish these activities, additional administrative burdens would be created with no recourse within already approved local FY 2013 budgets for staffing as well as time consuming council/supervisor budget amendment to authorize localities to receive and expend this revenue. This will be even more of a strain on smaller jurisdictions like the cities of Fairfax and Falls Church. This approach causes unnecessary redundancy in administrative functions and reduces transparency, it may also be contradictory to the McDonnell Administration's ongoing efforts to improve government efficiency. Additionally, this proposal could be considered an unfunded mandate as localities must increase staffing and training to offset the efficient expertise currently provided by NVTC, and such action is also contradictory to the McDonnell Administration's unfunded mandates taskforce.

Additionally localities have learned that this policy change only applies to the funding in the SYIP and not to grant funding. Therefore DRPT's new policy will result in the establishment of two administrative processing methodologies, and make tracking the transit funds for the Northern Virginia region even more complex.

NVTC's SAM also provides for shared funding of NVTC's administrative budget and of several other regional projects including electronic transit schedules and data collection resulting in an additional \$6 million of federal funding for WMATA. Interference with these vital projects should have been considered and discussed, before DRPT took its recent action.

6. Consistency

At the NVTC meeting on June 7, 2012 Director Drake indicated that DRPT is simply ensuring that every transit system in the Commonwealth is treated equally. DRPT indicated that they send funds directly to all other jurisdictions. However, in the case of WMATA, they are in fact choosing to send funds to the operator instead of the jurisdictions who own the system and who pay for the service. Therefore, the budget language that DRPT is using to justify its funding policy change is in fact in direct

opposition to their stated policy of ensuring that every transit system in the Commonwealth receives their funding in the exact same manner.

7. Better Ways to Directly Achieve DRPT Objectives

In discussions with DRPT Director Drake, transparency has been cited as the motivation for the sudden policy shift. NVTC takes great pride in its stellar record of fiscal management, as reflected in a long history of clean annual external audits and DRPT audits. Because NVTC and its jurisdictions value DRPT's funding, it would be more productive to collaborate on mutually beneficial ways to increase transparency, without changing a highly efficient process that has been very effective and regionally supported since 1974.

8. Conclusion

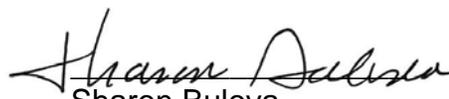
NVTC's WMATA jurisdictions have for decades utilized NVTC as their agent for grant purposes and their fiduciary for all grant funds received. This approach is embedded in the Virginia Code and has been consistently supported by DRPT Directors in the past. This approach is consistent with regional cooperation and has helped coordinate Northern Virginia's successful transit network. CTB should not alter its SYIP without a full understanding of the legal and other unintended consequences of DRPT's policy change. NVTC requests that all parties collaborate to develop a solution which will address DRPT's concerns regarding the transparency of transit funds provided to Northern Virginia.

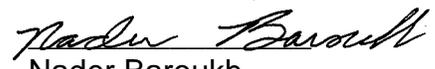
As stated at the June 7, 2012 NVTC meeting, NVTC is prepared to enhance communication efforts to acknowledge any funding that DRPT does provide.

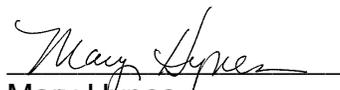
Furthermore, we respectfully request that you and the CTB continue the current process of distributing state funds for Northern Virginia's transit systems through NVTC. At the very least, the legal ramifications of changing NVTC's financial role should be fully understood before any action is taken to change the current process.

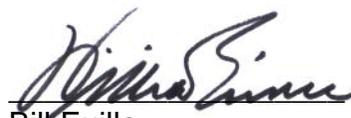
Sincerely,


Jay Fisetle,
NVTC Chairman


Sharon Bulova,
Fairfax County


Nader Baroukh,
City of Falls Church


Mary Hynes,
Arlington County


Bill Euille,
City of Alexandria


Robert Lederer,
City of Fairfax

Attachments Included

cc: The Honorable Robert F. McDonnell, Governor of Virginia
Members, The Commonwealth Transportation Board
Ms. Thelma Drake, Director of Virginia Department of Rail and Public
Transportation
The Honorable George Barker
The Honorable Richard Black
The Honorable Charles Colgan
The Honorable Adam Ebbin
The Honorable Barbara Favola
The Honorable Mark Herring
The Honorable Janet Howell
The Honorable David Marsden
The Honorable Chap Petersen
The Honorable Toddy Puller
The Honorable Richard Saslaw
The Honorable David Albo
The Honorable Richard Anderson
The Honorable Robert Brink
The Honorable David Bulova
The Honorable Barbara Comstock
The Honorable David Englin
The Honorable Eileen Filler-Corn
The Honorable Thomas Greason
The Honorable Charniele Herring
The Honorable Patrick Hope
The Honorable Timothy Hugo
The Honorable Mark L. Keam
The Honorable Kaye Kory
The Honorable James M. LeMunyon
The Honorable Scott Lingamfelter
The Honorable Alfonso Lopez
The Honorable Robert Marshall
The Honorable Joe May
The Honorable J. Randall Minchew
The Honorable Jackson Miller
The Honorable Ken Plum
The Honorable David Ramadan
The Honorable Thomas Davis Rust
The Honorable Jim Scott
The Honorable Mark Sickles
The Honorable Scott A. Surovell
The Honorable Luke E. Torian
The Honorable Vivian Watts



NVTC SUBSIDY ALLOCATION MODEL (SAM)

The data inputs of the SAM formula include:

- The budgeted operating subsidies for WMATA by jurisdiction
- The budgeted capital subsidies for WMATA by jurisdiction
- The budgeted local operating deficit for each system
- The budgeted local capital system needs

Those inputs are totaled for each jurisdiction, with the local capital system needs amortized over a 5 year period. The total for each jurisdiction is compared to the total for NVTC to arrive at a percentage, which is applied to the total state operating and capital assistance reimbursements actually received during the fiscal year.

Gas tax revenue is allocated among the jurisdictions using the previous year's collections on a point of sale basis compared to the NVTC total. That percentage is used to allocate the gas tax received during the fiscal year among the jurisdictions.

95% of WMATA debt service is taken off the top of capital assistance reimbursements as it is received. 5% of the WMATA debt service is taken off the top of the motor fuels tax. These funds are required to be withheld and remitted directly to WMATA by NVTC.

Revenue is taken off the top of the state assistance and gas tax revenue before allocating among the jurisdictions for certain expenses. These include a portion of NVTC's G&A budget, as reflected in the annual approved budget, the NTD bus data collection, and electronic schedule program.

The SAM formula includes several hold harmless mechanisms as explained in the "summary of the resolution #756..." document.

Allocated revenue is held in trust for each jurisdiction for their restricted use for transit purposes. Disbursements from the trust are made by written request by the jurisdiction. These disbursements include payments to WMATA and the local systems for operating and capital needs.



2300 Wilson Boulevard • Suite 620 • Arlington, Virginia 22201
 Tel (703) 524-3322 • Fax (703) 524-1756 • TDD (800) 828-1120
 E-mail nvtc@nvtc.org • Website www.thinkoutsidethecar.org

Site Plan Amendment Ordinance

WHEREAS, Site Plan Amendments for Site Plans #13, 18, 51, 105, 297, 331, 335, 346, 382, 386, 389, 392, 395, 400, 401, 403, 405, 406, 409, 411, 412, 413, 416, 417, and 418 was recommended for advertisement on the County Board's own motion on May 19, 2012; and

WHEREAS, as indicated in Staff Report[s] prepared for the June 16, 2012 county Board meeting and through comments made at the public hearing before the County Board, the County Manager recommends that the County Board approve the Site Plan Amendments, with each site plan being subject to all previous conditions and amended conditions as set forth in Table 1 of the Staff Report[s]; and

WHEREAS, the County Board held a duly-advertised public hearing on the Site Plan Amendments on June 16, 2012 and finds, based on thorough consideration of the public testimony and all materials presented to it and/or on file in the Office of the Zoning Administrator, that the improvements and/or development proposed by the Site Plans as amended:

- Substantially comply with the character of master plans, officially approved neighborhood or area development plans, and with the uses permitted and use regulations of the district as set forth in the Zoning Ordinance; and
- Functionally relate to other structures permitted in the district and will not be injurious or detrimental to the property or improvements in the neighborhood; and
- Are so designed and located that the public health, safety and welfare will be promoted and protected.

NOW THEREFORE, BE IT ORDAINED that for Site Plan Amendments for Site Plans #13, 18, 51, 105, 297, 331, 335, 346, 382, 386, 389, 392, 395, 400, 401, 403, 405, 406, 409, 411, 412, 413, 416, 417, and 418, approval is granted and the parcels so described shall be used according to the Site Plans as originally approved and amended from time to time as shown in the records of the Office of Zoning Administration, with the amended conditions (all conditions identified in Table 1 of the staff report) as shown and described in the Staff Report prepared for the June 16, 2012 County Board meeting.

The table below identifies the affected site plans and use permits, and the conditions and corresponding condition numbers that would be addressed by the new requirements.

Site Plan (SP)/Use Permit Name	Landscape Standards Condition #	Sidewalk Design & Improvements Condition #
SP #13-Crystal Houses Lofts	16	21
SP #18-1812 N. Moore Street	16	21
SP #51-Jefferson Plaza	8	12
SP #105-Metropolitan Park 3	16	21
SP #297-Pentagon Center	16	21
SP #331-Arlington Gateway Fairmont	14	18
SP #335-Rosslyn Central Place	16	21
SP #346-Potmac Yard Bay C	16	21
SP #346-Potomac Yard Bay D-East	16	21
SP #346-Potomac Yard Bay D-West	16	21
SP #382-NSTA	14	18
SP #386-3901 Fairfax	16	21
SP #389-2000 Wilson Boulevard	16	21
SP #392-1200 N. Irving Street	14	18
SP #395-Dominion Heights	14	18
SP #400-Monument View/Boeing	16	21
SP #401-Peck/Staples/Jordan Manor	16	21
SP #403-2009 14 th Street	16	21
SP #405-Buckingham Village	16	21
SP #406-2201 Pershing Drive	16	21
SP #409-1716 Wilson Boulevard	16	21
SP #411-1900 Wilson Boulevard	16	21
SP #412-Rosslyn Commons	16	21
SP #413-Founders Square	16	21
SP #416-Virginia Square Towers	16	21
SP #417-Wakefield Manor	16	21
SP #418-3001 Washington Blvd.	16	21
U-1671-65-3 Marymount University	12	17
U-2443-85-1 Army Navy Country Club	9	-
U-3041-02-1 Yorktown High School	7	-
U-3148-05-1 2525 Lee Hwy UCMUD	8	11
U-3155-06-1 4520 N. Glebe/Barrett URD	9	-
U-3241-09-2 Wakefield High School	8	14
U-3242-09-1 Buckingham Village 3	9	-

Grantee Address

When recorded return to:

Real Property Services Field Office
Corps of Engineers, Baltimore District
PO Box 548
Annapolis Junction, MD 20701

RPC Nos.: 34023001, 34023002, 34024349, 34024350 and 34024351

**DEED OF SUBTERRANEAN TELECOMMUNICATIONS LINE EASEMENT
AND TEMPORARY CONSTRUCTION EASEMENT**

This Deed of Subterranean Telecommunications Line Easement and Temporary Construction Easement (the “Deed”) is entered into this ___ day of _____, 2012, by and between THE COUNTY BOARD OF ARLINGTON COUNTY, VIRGINIA, a body corporate, GRANTOR, and THE UNITED STATES OF AMERICA, GRANTEE, whose mailing address is, United States Corps of Engineers, Baltimore District, Real Property Services Field Office, PO Box 548, Annapolis Junction, MD 20701.

Recitals

A. Grantor is the fee simple owner of those certain parcels of land known as Parcel 15-A and Parcel 15-B Potomac Yard Arlington (RPC Numbers 34024350 and 34024351). Parcel 15-A and Parcel 15-B Potomac Yard Arlington are portions of the land and improvements acquired by Grantor by Special Warranty Deed dated October 31, 2002, and recorded in Deed Book 3400, Page 734, among the land records of the Circuit Court of Arlington County, Virginia (the “Land Records”).

B. Grantor is the fee simple owner of that certain parcel of land known as Parcel 17 Potomac Yard North (RPC Number 34024349). Parcel 17 Potomac Yard North was acquired by Grantor by Special Warranty Deed dated October 23, 2009, and recorded in Deed Book 4318, Page 1754, among the Land Records

C. Grantor is the fee simple owner of those certain parcels of land referred to as the Twin Bridges Parcels (RPC Numbers 34023001 and 34023002), and more particularly described by the metes and bounds description in Exhibit A attached hereto and incorporated herein by this reference. The Twin Bridges Parcels were acquired by Grantor by Special Warranty Deed dated October 20, 2011, and recorded in Deed Book 4497, Page 1553, among the Land Records.

D. Parcels 15-A and 15-B Potomac Yard Arlington, Parcel 17 Potomac Yard North and the Twin Bridges Parcels are collectively hereinafter referred to as the “Grantor’s Property”.

E. Grantor’s Property is bounded, in part, on the east by Roaches Run.

F. Grantor’s Property is bounded, in part, on the west by the Old Jefferson Davis Highway, a public right of way owned by Grantor.

G. Grantee has requested and, by this Deed, the Grantor grants and conveys unto Grantee, a temporary construction easement and a subterranean telecommunications line

easement across portions of Grantor's Property. The temporary construction easement permits the Grantee to use a portion of the Grantor's Property for staging, construction and installation of a subterranean telecommunications line consisting of a 450 feet in length, 3-1.25" in diameter, high density polyethylene conduit containing fiber optic cable (collectively "Improvements") and the subterranean telecommunications line easement permits the use of such Improvements for telecommunications for the Government of the United States of America within the Grantee's Property as more particularly shown on a plat hereinafter described.

NOW, THEREFORE, for sum of Twenty-Five Thousand Eight Hundred Dollars (\$25,800.00) cash in hand paid by Grantee to Grantor, and other good and valuable consideration, the receipt and sufficiency of which are hereby expressly acknowledged, Grantor and Grantee covenant and agree as follows:

1. Temporary Construction Easement.

A. Grantor hereby grants and conveys unto Grantee a temporary, non-exclusive easement (the "Temporary Construction Easement") across, upon, under and through Grantor's Property, between Roaches Run and the Old Jefferson Davis Highway right of way, as spatially shown, in horizontal and vertical planes, on a Plat entitled "Plat Showing Subterranean Telecommunication Line Easements and Temporary Construction Easement Parcel 15A and 15B Potomac Yard Arlington, Deed Book 4464 at Page 1848, Parcel 17 Potomac Yard North, Deed Book 3754, Page 1825, Parcel B and Part of Parcel D R.F.&PRR Co. Property, Deed Book 4444 at Page 2608, Arlington County, Virginia", dated June 4, 2012, by Christopher Consultants, Ltd., attached hereto as Exhibit B (the "Plat"), and designated on the Plat as "Temporary Construction Easement Area". The purposes of the Temporary Construction Easement are for the Grantee and its contractors to use the Temporary Construction Easement Area solely for the staging, construction and installation of the Improvements, to be owned solely by the Grantee, and which Improvements solely serve the Government of the United States of America (and no other entities or persons), and for construction purposes reasonably related to the initial construction of the Improvements, but not for surface access from Old Jefferson Davis Highway to the CSX Rail Corridor or Roaches Run.

B. The Temporary Construction Easement shall commence on the effective date of this Deed and shall automatically expire at 12:00 PM on August 31, 2012. Upon the expiration of the Temporary Construction Easement, all of the rights of and benefits to Grantee in, to and under this Deed, with respect to the Temporary Construction Easement, shall automatically terminate and be of no further force and effect.

C. If any action of the Grantee's employees or agents in the exercise of the right-of-way results in damage to the Grantor's Property, the Grantee will, in its sole discretion, either repair such damage or make an appropriate settlement with the Grantor. In no event shall such repair or settlement exceed the fair market value of the fee title to the real property at the time immediately preceding such damage. The Grantee's liability under this clause is subject to the availability of appropriations for such payment and nothing contained in this agreement may be considered as implying that Congress will at

a later date appropriate funds sufficient to meet deficiencies. The provisions of this clause are without prejudice to any rights the Grantor may have to make a claim under applicable laws for any damages other than those provided for herein.

2. Subterranean Telecommunications Line Easement. Grantor hereby grants and conveys to Grantee, a non-exclusive subterranean easement (the “Subterranean Telecommunications Line Easement”) only under the surface of Grantor’s Property between the elevations below mean sea level indicated and/or depicted on the Plat, using North American Vertical Datum of 1988 (NAVD 88), within the areas designated “5’ Subterranean Telecommunications Line Easement”, as shown on the Plat. The purposes of the Subterranean Telecommunications Line Easement are for the Grantee to use the Subterranean Telecommunications Line Easement Area solely for the construction, installation, use, maintenance, operation, repair, replacement and removal of the Improvements, by subterranean access only, through the Subterranean Telecommunications Line Easement Area. The Subterranean Telecommunications Line Easement hereby granted specifically does not include the permission or the right of the Grantee or others to enter upon any portion of the surface of Grantor’s Property, after the expiration of the Temporary Construction Easement, or to enter the Grantor’s Property for access to the Subterranean Telecommunications Line Easement Area, or to perform any work outside the Subterranean Telecommunications Line Easement Area, except upon Grantee’s receipt of written authorization from Grantor. Upon termination or expiration of the Temporary Construction Easement granted by this Deed, the Grantee shall enter the Subterranean Telecommunications Line Easement Area, by subterranean access only, from Roaches Run, the CSX Rail Corridor Easement or, from the Old Jefferson Davis Highway public right-of-way, provided that the Grantee has obtained from Arlington County the required permits to perform work in the public right-of-way. The Subterranean Telecommunications Line Easement hereby granted shall automatically terminate, without the necessity of any further action by the Grantor or Grantee, upon abandonment or non-use of the Improvements by the Grantee for a period of sixty (60) days.

3. Reservations of Grantor Rights. Grantor specifically reserves to itself the right to use the Subterranean Telecommunications Line Easement Area for any reasonable purpose not inconsistent with the rights and permissions conveyed to Grantee by this Deed, provided that Grantor’s use does not invade the Subterranean Telecommunications Line Easement Area. The Grantor’s planned uses shall include, without limitation, the installation, maintenance, repair, relocation and replacement of structures and improvements of various nature, including, without limitation, a planned park berm, esplanade, esplanade wall, esplanade wall footers, fill, fencing, landscaping, asphalt, concrete, pavers, utilities, curb and gutter.

4. Grantee shall construct the Improvements in a workmanlike manner and in strict compliance with the applicable statutes, ordinances, rules and regulations of all governing public authorities as such statutes, ordinances, rules and regulations are amended from time to time. Neither the Grantee, its contractors, or any other persons or entities shall commence any work within the Temporary Construction Easement Area or the Subterranean Telecommunications Line Easement Area until the Grantee has complied with all applicable federal, state, and local statutes, ordinances, rules, and regulations required to be satisfied before commencement of such work.

5. Upon Grantor's request, within 10 (ten) business days after completion of all of the Improvements, Grantee shall deliver to Grantor copies of all design and site plans (as previously approved by the Grantor prior to the commencement of the construction and installation of the Improvements) and depicting actual, as built, the location, height, depth and width of the Improvements installed within the Subterranean Utility Easement Area.

6. Grantor makes no representations or warranties whatsoever to Grantee regarding the environmental condition of Grantor's Property. Grantor shall not be responsible or liable for death, injuries to persons, or damage to the Grantor's Property, when such death, injuries or damage are caused by, or result from, the Grantee's entry upon, work on, or use of the Grantor's Property as permitted by the terms of this Deed.

7. All notices, delivery of documents and all other matters which are or may be required to be given by the Grantor or Grantee (collectively, a "Notice") to the other party, shall be in writing, executed in the name of the entity giving the Notice by a person authorized to bind such entity, and delivered by United States certified mail, return receipt requested, addressee only, or by national overnight courier service (such as Federal Express or United Parcel Services) with receipt certification by addressee, or by an equivalent personal hand delivery service, addressed to the recipient party as follows:

If to Grantor:

Real Estate Bureau Chief
Arlington County, Virginia
2100 Clarendon Boulevard, Suite 800
Arlington, Virginia 22201

with copies to:

County Manager
Arlington County, Virginia
2100 Clarendon Boulevard, Suite 302
Arlington, Virginia 22201

and

Director
Department of Parks, Recreation and Cultural Resources
Arlington County, Virginia
2100 Clarendon Boulevard, Suite 414
Arlington, Virginia 22201

If to Grantee:

Corps of Engineers, Baltimore District
Real Property Services Field Office
PO Box 548
Annapolis Junction, MD 20701

Notice shall be deemed effective upon delivery. Either party may, by like notice given at least ten (10) days before such change becomes effective, designate a new address to which such notices shall be sent.

8. Nothing in this Deed, nor any action taken by Grantor pursuant to this Deed, shall constitute or be construed as a waiver of either the sovereign immunity, governmental immunity, or other immunity or rights of the Grantor, or of its elected and appointed officials, officers and employees.

9. No provision of this Deed shall create in the public, or in any person or entity other than the Grantee or the Grantor, rights as a third party beneficiary hereunder, or authorize any person or entity, not a party hereto, to maintain any action for personal injury, property damage, or breach of contract pursuant to the terms of this Deed or otherwise.

10. The Grantor's execution and delivery of this Deed shall neither constitute nor be deemed to be governmental approval for any actions or interests contemplated herein, nor any other governmental approval or consent required to be obtained by Grantee. Whenever, in this Deed, Grantor is required to join in, consent, give its approval, or otherwise act under this Deed, it is understood that such obligations apply to the Grantor acting in its capacity as a Grantor and not in its capacity as a governing authority. Nothing in this Deed shall be construed to waive any of Grantor's powers, rights or obligations as a governing authority or local governing body, whether or not affecting the Temporary Construction Easement or the Subterranean Telecommunications Line Easement Area, including, but not limited to its police power, right to grant or deny permits, right to collect fees, right to prevent, restrict or limit the entry upon and use of Grantor's Property, or any other power, right or obligation whatsoever.

11. Sovereign Immunity, Governmental Immunity; Supremacy; and Non-Appropriation

A. No provision of this Deed is intended to, or shall be construed as, abrogating, waiving or diminishing: (i) the sovereign or governmental immunity, under applicable federal or state law, of the Grantor or the Grantee; or (ii) the Supremacy Clause of the United States Constitution.

B. All obligations of the Grantor and the Grantee arising out of this Deed shall be subject to the appropriation of funds for such purpose(s) by the Grantor or the Grantee, as the case may be.

C. Grantee shall be liable from damages arising from or in connection with the use by Grantee to the extent allowed by law. Grantee shall not be liable for any loss, destruction or damages beyond Grantee's control and without the fault or negligence or willful misconduct of the Grantee, its employees, acting within the scope of their employment, or their contractors acting within their scope or work, including but not restricted to, acts of nature, such as fire, lightning, earthquakes, floods, or severe weather and acts of war or terrorism.

12. The rights granted and conveyed to the Grantee by this Deed are not assignable, except with the express prior written consent of Grantor.

13. No representation or statement, oral or written, other than those set forth in this Deed and documents incorporated herein by reference, shall be deemed to modify, add to, or change the terms of this Deed. All prior negotiations and discussions concerning the subject matter hereof shall be deemed superseded by, and integrated into, this Deed.

14. The agreements and covenants set forth in this Deed are not personal to the Grantee and Grantor. The burden of such agreements and covenants shall run with the Grantor's Property and Grantee's successors in interest, if any.

15. The Temporary Construction Easement and the Subterranean Telecommunications Line Easement are subject to the rights of other third parties with interests in, or prior permissions to use, whether recorded or unrecorded, the Temporary Construction Easement and the Subterranean Telecommunications Line Easement Area, respectively.

16. This Deed, and the rights and obligations of the Grantor and Grantee shall be governed by the laws of the Commonwealth of the Virginia, except to the extent federal law is controlling.

17. This Deed shall be first executed by the Grantee, and shall be effective, after approval by the Grantor, upon the date it is executed on behalf of the Grantor, and delivered to the Grantee ("Effective Date").

18. Each individual signing on behalf of a party to this Deed states that he or she is the duly authorized representative of the signing party and that his or her signature on this Deed has been duly authorized by, and creates the binding and enforceable obligation of, the party on whose behalf the representative is signing.

19. Notwithstanding any other provision in the Deed to the contrary, all of the Grantor's and the Grantee's obligations or liabilities, respectively, which may arise under this Deed, are subject to, and limited by, applicable law.

20. The Recitals and Exhibits are incorporated by reference into this Deed.

WITNESS the following signatures:

[Signature appear on the following pages]

GRANTOR:

THE COUNTY BOARD OF ARLINGTON COUNTY, VIRGINIA

By: _____
Name: _____
Title: _____

COMMONWEALTH OF VIRGINIA

COUNTY OF ARLINGTON

The foregoing instrument was acknowledged before me by _____,
_____ on behalf of The County Board of Arlington County,
Virginia, as its authorized representative.

WITNESS my hand and official seal this ____ day of _____, 2012.

Notary Public

[Notarial Seal]

My Commission Expires:

Approved as to form:

County Attorney

GRANTEE:

THE UNITED STATES OF AMERICA

By: _____
Name: _____
Title: _____

_____ of _____)

_____ of _____); to wit

The foregoing instrument was acknowledged before me by _____,
_____ on behalf of the United State of America, as its
authorized representative.

WITNESS my hand and official seal this ____ day of _____, 2012.

Notary Public

[Notarial Seal]

My Commission Expires:

Exhibit A

Legal Description of the “Twin Bridges Parcels” (RPC Numbers 34023001 and 34023002)

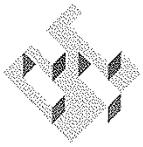
ALL that tract or parcel of land located in Arlington County, Virginia and described as a single, contiguous parcel as follows:

BEGINNING for the same at a point on the Easterly right-of-way line of Old Jefferson Davis Highway (50' R/W) said point also lying on the Northerly easement line for Rosslyn Connecting Railroad Company; thence running with said Easterly right-of-way line of Old Jefferson Davis Highway the following three (3) courses and distances:

1. North 17°34'43" East, 413.59 feet to a point; thence
2. 31.42 feet along the arc of a curve to the left having a radius of 20.00 feet and a chord bearing and distance of North 27°25'17" West, 28.28 feet to a point; thence
3. North 72°25'17" West, 30.00 feet to a point marking the lands of the United States Government; thence running with said lands of the United States Government the following five (5) courses and distances
4. North 17°34'43" East, 55.45 feet to a point; thence
5. North 47°16'33" East, 219.49 feet to a point; thence
6. North 32°40'42" East, 263.49 feet to a point; thence
7. North 83°50'15" East, 307.00 feet to point; thence
8. South 53°00'37" East, 99.02 feet to a point; thence leaving the lands of the United States Government and running with the westerly line of the Richmond Fredericksburg & Potomac railroad company
9. South 33°16'23" West, 861.25 feet to a point on the aforesaid northerly easement line for Rosslyn Connecting Railroad Company; thence running with said northerly easement line
10. 333.66 feet along the arc of a curve to the right having a radius of 1136.28 feet and a chord bearing and distance of South 71°31'47" West, 332.46 feet to the point of beginning containing 308,698 square feet or 7.08673 acres of land, more or less.

AND BEING THE SAME PROPERTY acquired by the County Board of Arlington County Virginia from MR Monument View LLC, a Delaware limited liability company, by Deed dated October 20, 2011, and recorded in Deed Book 4497, Page 1553, among the land records of Arlington County, Virginia.

Exhibit B



christopher consultants
engineering • surveying • land planning

**Description of
5' Subterranean Telecommunication Easement
On the land of
The County Board of Arlington County, Virginia
(Parcel 15-A and 15-B, Potomac Yard Arlington)
Arlington County, Virginia
June 6, 2012**

Beginning at the northwesterly corner of Parcel 15-A, Potomac Yard Arlington and the southwest corner of Parcel 15-B, Potomac Yard Arlington, said corner lies on the easterly right-of-way of Long Bridge Drive (formerly Old Jefferson Davis Highway);

Thence, departing Parcel 15-B, Potomac Yard Arlington and continuing with the easterly right-of-way of Long Bridge Drive and the westerly line of Parcel 15-A, Potomac Yard Arlington S 17°22'46" W, a distance of 2.99 feet to the true point of beginning;

Thence through Parcel 15-A and 15-B, Potomac Yard Arlington along the centerline of the 5' Subterranean Telecommunication Easement N 73°22'39" E, a distance of 442.04 feet to a point on the westerly line of Parcel 16, Potomac Yard North, Said point being N 33°04'26" E, a distance of 330.47 feet to the northeasterly corner of Parcel 15-A, Potomac Yard Arlington and the southeasterly corner of Parcel 15-B, Potomac Yard Arlington.

**Description of
5' Subterranean Telecommunication Easement
On the land of
The County Board of Arlington County, Virginia
(Parcel 17, Potomac Yard North)
Arlington County, Virginia
June 6, 2012**

Beginning at point being the northwest corner of the property herein described, said point also being common with the line of the Roaches Run Waterfowl Sanctuary (Property of the USA) and the southerly line of Parcel 16 Potomac Yard North;

Thence departing the line of the property of the USA and running with the southerly line of Parcel 16 Potomac Yard North S 33° 04' 26" W 904.43 feet to a point being the centerline of the 5' subterranean telecommunication easement;

Thence S 54° 54' 46" E 19.19 feet to an angle point; Thence S 50° 24' 02" E 71.29 feet to a point on the southerly line of Parcel 17 and the terminus of the said 5' subterranean telecommunications easement.

christopher consultants, ltd.
9417 Innovation drive
manassas, virginia 20110

voice 703.393.9887
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Option	x-ref. to PC motion (see PC letter)	Planning Commission recommendation for advertising (summary sheet – see attachment D for full analysis)	Staff recommendation regarding inclusion in advertisement? →
Modifications (subsection 34.3)			
1	1.a	Require civic association review of all proposed modifications to sign regulations.	No*
2	1.b.1	Allow modification of requirements to approve innovative elements of a sign and require such requests to be considered concurrently with a Zoning Ordinance amendment to allow similar signs elsewhere.	No
3	1.b.2	Allow “Jumbotrons” in Metro station areas by special exception approval.	No
Signs for public districts and uses (subsection 34.7)			
4	2.a and 2.b	Create a new, focused subsection regulating signs for public districts (S-3A, PS, and S-D) and uses (regardless of zoning district in which they are located)	No*
Signs placed above a height of 40 feet (subsection 34.7.O)			
5	3.a	Prohibit all signs placed above a height of 40 feet	Yes
6	3.b	Require that all signs placed above a height of 40 feet that are facing residential districts be turned off after 8:00 pm or, alternatively, after 10:00 pm.	Yes
7	3.c	Allow roofline signs of hotels to remain illuminated at all times.	No
8	3.d	Limit additional sign area above a height of 40 feet to no more than one sign.	Yes
9	8	Apply all restrictions for signs facing federal lands to all of the following areas (this would extend Line B as shown on the “option 9” version of Map 34-1): <ul style="list-style-type: none"> ▪ George Washington Parkway ▪ Monumental core ▪ Arlington cemetery ▪ Areas I and II as defined by the National Park Service and established by Congress by the Commemorative works Act of 1986 ▪ 9-11 Pentagon Memorial ▪ United States Air Force Memorial. 	Yes
10	5.a	Require removal of a sign placed above 40 feet if the tenant to which the sign refers no longer occupies the building (if the sign becomes nonconforming pending adoption of a revised ordinance).	No*
11	6.	Restrict placement of temporary signs to below a height of 40 feet in all locations	No
Signs in the public right-of way (subsection 34.9)			
12	4.a, 4.b, 4.c, 4.d	Allow 8.5” x 11” signs on utility poles and do not explicitly prohibit signs on utility poles	No
13	4.c	Allow signs in the ROW to be placed “up to 31 days before a party nominating caucus called by a political party registered in the state of Virginia”	Yes
Illumination standards (subsection 34.10)			
14	11	Permit lighted address signs in all zoning districts, regardless of other lighting restrictions	No*
15	7	Codify that the County Manager or her designee may work with the tenant or owner of the sign to achieve an acceptable illumination level	No*
16	9	Require that illuminated signs placed below a height of 40 feet and facing R and RA districts be allowed to be illuminated at no greater than the maximum allowable levels for R and RA districts and be turned off at 10 pm.	No
17	10	Defer consideration of parking sign provisions in the proposed FBC amendment	No

Option	x-ref to proposed amendment	Summary of OPTIONS included in staff proposal and corrections provided in the supplemental report	
Signs placed above a height of 40 feet			
A	34.7.O.2(e)	Signs above a height of 40 feet regulated based on Map 34-1: signs may face away from or perpendicular to Line A (blue line) but may not face toward Line A unless there is another structure of equal height to the height of the sign between the sign and the line.	
B	34.7.O.3(b)(1) and 34.7.O.3(b)(2)	Signs above a height of 40 feet regulated based on <i>hours of illumination</i> and <i>distance from residential districts and uses</i> .	
Signs placed above a height of 40 feet and facing Line B (federal lands)			
C	34.7.O.3(c)	No additional restrictions (e.g. Line B would not be necessary)	
D	34.7.O.3(d)	Signs facing Line B may not be lighted between 10 pm and 8 am	
E	34.7.O.3(e)	No illuminated signs above a height of 40 feet facing Line B	
F	34.7.O.3(f)	No signs at all above a height of 40 feet facing Line B	
Corrections in supplemental report dated June 13, 2012			
n/a	Supplemental report	Replace RA with RA14-26, RA8-18, RA7-16, RA6-15 in multiple places	
n/a		Insert diagram of way finding "P" signs for public parking facilities	
n/a		Allow County Board modification of hours of illumination for signs above a height of 40 feet	
n/a		Allow the County Manager to place both wall and freestanding signs for public parking facilities	
n/a		Sign removal provisions for signs in the public ROW	
n/a		Site plan conditions that either prohibit certain signs or require County Board approval for certain signs may not be overridden by Zoning Administrator approval of signs meeting the ordinance provisions	
n/a		One wall sign per entrance to shared parking facilities in Form Based Code projects	