

MEMORANDUM
COUNTY OF LOUDOUN

DATE: April 21, 2010

TO: Department and Agency Heads

FROM: Tim Hemstreet, County Administrator

SUBJECT: Action Report of the April 20, 2010 Board of Supervisors' Business Meeting

Listed below is a summary report of the Board's action taken at its April 20, 2010 Business Meeting. On items requiring follow up, the staff person responsible is noted. Please work with your staff to follow through on the Board action as noted.

- ADOPTION OF CONSENT AGENDA
Supervisor Miller moved that the Board of Supervisors adopt the consent agenda to include the following items: #2, #4, #8, #12, #14a, #14b, and #14c. (Item #13 pulled from consent) (Seconded by Supervisor Burton. The motion passed 9-0.)

- CLOSED SESSION (I)
Vice Chairman Buckley moved that the Board of Supervisors recess this business meeting and enter into closed session. The authority for this closed session is Section 2.2-3711(A), Subsection (3), and the purpose of the closed session is the discussion and consideration of the acquisition of real property for public use, where discussion in open session would adversely affect the bargaining position or negotiating strategy of the Board. The subjects are:
 1. The acquisition of school sites in Western Loudoun (HS-10, MS-10 and ES-25).
 2. The acquisition of school sites in the Ashburn Area (HS-8, MS-6 and ES-22).

Vice Chairman Buckley moved that the Board of Supervisors adjourn the closed session and that the Board of Supervisors reconvene its business meeting and that the minutes of the business meeting should reflect that no formal action was taken in the closed session. (Seconded by Supervisor Burk. The motion passed 9-0.)

Vice Chairman Buckley moved that the Board of Supervisors approve the following Resolution Certifying the Closed Session and that this be reflected in the Minutes of this business meeting. (Seconded by Supervisor Waters. The motion passed 9-0.)

Resolution Certifying Closed Session

WHEREAS, the Loudoun County Board of Supervisors, this 20th day of April, 2010, reconvened in closed session by an affirmative vote and in accordance with the provisions of the Virginia Freedom of Information Act:

Now, therefore, be it resolved that the Board of Supervisors does hereby certify that to the best of each member's knowledge, (1) only public business matters lawfully exempted from open meeting requirements under the Freedom of Information Act were discussed in the closed session to which this certification applies; and (2) only such public business matters as were identified in the motion by which the said closed session was convened were heard, discussed or considered by the Board of Supervisors.

Staff Contact: Jack Roberts, County Attorney

1. WELCOME STUDENTS TO YOUTH IN GOVERNMENT DAY
Chairman York welcomed the students from Loudoun County Schools to Youth in Government Day. Board members introduced students who would be shadowing them during the meeting. Chairman York noted that other students were in attendance and would be involved in several break-out sessions.
Staff Contacts: Diane Ryburn, Director, and Dave Carver, Department of Parks, Recreation and Community Services

2. ADMINISTRATIVE ITEMS REPORT/APRIL 20, 2010
Supervisor Miller moved that the Board of Supervisors approve the Administrative Items Report of April 20, 2010. (Consent Item) (Seconded by Supervisor Burton. The motion passed 9-0.)
 - a. BUDGET ADJUSTMENTS
The Board of Supervisors moved to (1) approve the FY 10 budget adjustments as set out in the April 20, 2010 Administrative Items Report, (2) recognize an increase in revenue in the amount of \$347,650 in the General Fund for FY 10, and (3) make an increase in FY 10 appropriations of \$1,269,619 in the General Fund:
BA-104817, BA-105437, BA-105493, BA-105624, BA-105632, BA-105636, BA-105650, BA-105651, BA-105657, BA-105674, BA-105681, BA-105696, BA-105698, BA-105699, BA-105708, BA-105713, BA-105719, BA-105745, BA-105749, BA-105755, BA-105757, BA-105758, BA-105760, and BA-105765.
Staff Contact: Ben Mays, Deputy Chief Financial Officer, Department of Management and Financial Services

 - b. BOARD OF SUPERVISORS' MINUTES

The Board of Supervisors moved to approve the December 14, 2009 Public Input Minutes; the January 4, 2010 Public Input Minutes; the January 19, 2010 Public Input & General Business Meeting Minutes; the March 8, 2010 Public Hearing Minutes; and the March 16, 2010 Business Meeting Minutes.

There were no Committee Summaries included in the Board's packet.
Staff Contact: Jeanette Gilbert, Office of the County Administrator

c. DEEDS FOR APPROVAL

The Board of Supervisors moved to approve the following Deeds for Approval:

- 1) SBRD-2009-0006 – Ziai Family Limited Partnership Division;
- 2) ESMT-2008-0024 – Brambleton ES-9; and
- 3) N/A – Deed of Gift for a Park & Ride lot and a public park.

Staff Contacts: William M. Himel, Department of Building and Development; and Ronald J. Brown, Assistant County Attorney

d. PURCHASE OF REAL ESTATE FOR THE NEIGHBORHOOD STABILIZATION PROGRAM (NSP)

The Board of Supervisors moved to approve and ratify the contract to purchase the property at 4 Carousel Court in Sterling and that the Chairman of the Board of Supervisors, the Vice Chair, the County Administrator or his designee be authorized to execute the Deed to the property as being accepted by the Board pursuant to Virginia Code §15.2-1803. Said deed shall be approved by the County Attorney, who shall be authorized to execute any collateral documents required at settlement.

Staff Contact: Kelly Marrocco, Department of Family Services

3. METROPOLITAN WASHINGTON COUNCIL OF GOVERNMENTS REGIONAL INITIATIVE, "GREATER WASHINGTON 2050"

Dave Robertson of the Metropolitan Council of Governments made a brief presentation on Greater Washington 2050. (To view the powerpoint presentation, visit www.loudoun.gov Board Packets and select the 04-20-10 Packet.)

Supervisor McGimsey moved that the Board of Supervisors endorse the Greater Washington 2050 Compact. (Seconded by Supervisor Burk. The motion passed 7-2, Supervisors Delgaudio and Waters voted no.)

Staff Contact: Keith Nusbaum, Staff Aide to Chairman York

4. RESOLUTION CELEBRATING THE LIFE AND SERVICE OF GEORGE W. TITUS

Supervisor Miller moved that the Board of Supervisors endorse and adopt Virginia General Assembly Resolution Number 170, "*Celebrating the Life of*

George William Titus,” and present this resolution with State Senator Mark Herring to the Titus Family at the Board’s General Business Meeting on Monday, May 3, 2010. (Consent Item) (Seconded by Supervisor Burton. The motion passed 9-0.)

This item was initiated by Chairman York.

Staff Contact: Keith Nusbaum, Staff Aide to Chairman York

5. BOARD MEMBER INITIATIVE: COUNTY APPOINTEES PARTICIPATING IN CIVIC ASSOCIATIONS

Supervisor Miller moved that the Board of Supervisors direct the County Attorney to render a written opinion as to whether or not participation by more than two appointees to a given County board, agency, commission, or other body prohibits participation in civic associations that meet to discuss public business when the meetings of those associations are not convened in accordance with the Virginia Freedom of Information Act. (Seconded by Supervisor Burton. This motion did not receive a vote.)

Supervisor Delgaudio moved an amendment to the motion to include “any two Board of Supervisors” participation. (This motion died due to lack of a second.)

Supervisor Delgaudio moved an amendment to include Board of Supervisors’ membership on regional commissions and bodies. (This motion died due to a lack of a second.)

Vice Chairman Buckley moved a substitute motion that the Board of Supervisors direct the County Attorney to prepare a memo which presumes a legal opinion as the basis of that memo to distribute to all members appointed to County boards and commissions; that the memo detail the requirements of FOIA; and set forth the nature of discussions and activities as a result of the appointees’ membership in civic associations that may or may not violate FOIA. (Seconded by Supervisor Waters.)

Vice Chairman Buckley accepted Supervisor Waters’ friendly amendment that the Board of Supervisors direct Jack Roberts, County Attorney, to hold one or two sessions in the Board Room to educate the appointees on this issue and other related FOIA issues.

Vice Chairman Buckley’s motion, as amended, passed 5-4, Supervisors Burton, Kurtz, McGimsey and Miller voted no.

Staff Contact: Valerie Suzdak, Staff Aide to Supervisor Miller

6. BOARD MEMBER INITIATIVE: LOUDOUN VALLEY ESTATES III REZONING FROM PD-G1 TO R-1

Supervisor Miller moved that the Board of Supervisors direct staff to process a rezoning of Loudoun Valley Estates III from PD-G1, Planned Development

General Industrial District to the R-1 Single Family Residential District.
(Seconded by Chairman York. The motion passed 9-0.)

Staff Contact: Valerie Suzdak, Staff Aide to Supervisor Miller

7. BOARD MEMBER INITIATIVE: BELLE TERRA HOA PEDESTRIAN PATHWAY

Supervisor Miller moved that the Board of Supervisors direct staff to review the proposal from the Belle Terra Homeowners Association to determine project costs and to review the ability of applying available proffer funds for a pedestrian pathway along Ryan Road. Staff is directed to provide the results to the Transportation and Land Use Committee. (Seconded by Chairman York. The motion passed 9-0.)

Staff Contact: Valerie Suzdak, Staff Aide to Supervisor Miller

8. BOARD MEMBER INITIATIVE: RESOLUTION COMMEMORATING THE 40TH ANNIVERSARY OF THE VIRGINIA SCENIC RIVERS PROGRAM IN 2010

Supervisor Miller moved that the Board of Supervisors approve the resolution commemorating the 40th anniversary of the Virginia Scenic Rivers Program. (Consent Item) (Seconded by Supervisor Burton. The motion passed 9-0.)

This item was initiated by Supervisor Sally Kurtz.

Staff Contact: Naomi Lithgow-Foidl, Staff Aide to Supervisor Kurtz

9. ROLE OF THE COURTHOUSE GROUNDS AND FACILITIES COMMITTEE

Chairman York moved that the Board of Supervisors forward this item to the Finance /Government Services and Operations Committee meeting for further discussion. (Seconded by Supervisor Delgaudio.)

Chairman York accepted Supervisor Miller's friendly amendment that the Board of Supervisors schedule a Committee of the Whole discussion at a future Board meeting.

Chairman York asked that County staff have a discussion with representatives from the Courthouse Grounds and Facilities Committee regarding potential issues for the month of December.

Supervisor McGimsey asked that the issue of re-enactors using the Courthouse grounds and facilities during Court Days in October be included in the discussion during the Committee of the Whole.

Chairman York requested that Jack Roberts, County Attorney, research what is being done by the National Park Service with respect to the display issue on the National Mall.

The motion to forward to a Committee of the Whole discussion passed 9-0.

Staff Contact: Julie Withrow, Office of the County Administrator

10. ZMAP 2009-0005, SPEX 2009-0009 & CMPT 2009-0001/GREEN ENERGY PARTNERS/STONEWALL HYBRID PARK

Supervisor Kurtz moved that the Board of Supervisors ratify CMPT 2009-0001, Green Energy Partners/Stonewall Hybrid Energy Park, and approve ZMAP 2009-0005 and SPEX 2009-0009, Green Energy Partners/Stonewall Hybrid Energy Park, subject to the April 19, 2010 Proffer Statement and the April 5, 2010 Conditions of Approval and based on the Findings for Approval. (Seconded by Supervisor Miller.)

Supervisor Burk moved that the Board of Supervisors enter into a Committee of the Whole for discussion. (Seconded by Supervisor Kurtz. The motion FAILED 3-6, Supervisors Buckley, Burton, Delgaudio, Miller, Waters and York voted no.)

Supervisor Kurtz's motion passed 9-0.

Staff Contacts: Julie Pastor, Director, and Judi Birkitt, Department of Planning

11. ZOAM 2007-0004/FARM MARKETS IN VARIOUS ZONING DISTRICTS AND REDUCE MINIMUM ACREAGE REQUIREMENTS FOR AGRICULTURE, HORTICULTURE, AND ANIMAL HUSBANDRY USES

Chairman York moved that the Board of Supervisors approve ZOAM 2007-0004 regarding permitting Farm Markets (off-site production) in various zoning districts and to reduce the minimum acreage required to establish Agriculture, Horticulture and Animal Husbandry uses, as contained in Attachment 2.

Chairman York further moved that the Board of Supervisors find that this Amendment is required by the public necessity, convenience, general welfare and good zoning practice. (Seconded by Supervisor Burton. The motion passed 9-0.)

Staff Contacts: Terrance Wharton, Director, and Michelle Lohr, Department of Building and Development

12. RURAL RECREATIONAL ESTABLISHMENT, OUTDOOR – RESOLUTION OF INTENT TO AMEND THE ZONING ORDINANCE

Supervisor Miller moved that the Board of Supervisors adopt the Resolution of Intent to Amend the Zoning Ordinance in Attachment 1 to change the Use Type "Rural Recreational Establishment, Outdoor" from being a use permitted as a matter of right (permitted use) to a use that is allowed as a minor special exception use in the Agricultural Rural-1 (AR-1), Agricultural Rural-2 (AR-2), Joint Land Management Area-20 (JLMA-20), and Transitional Residential-10 (TR-10) zoning districts and to establish new Additional Regulations for the "Rural Recreational Establishment, Outdoor" use. (Consent Item) (Seconded by Supervisor Burton. The motion passed 9-0.)

Staff Contacts: Terrance Wharton, Director, and Michelle Lohr, Department of Building and Development

13. JOINT BOARD OF SUPERVISORS AND SCHOOL BOARD COMMITTEE REPORT / LOUDOUN COUNTY PUBLIC SCHOOLS CAPITAL FACILITIES PLANNING GUIDELINES

Supervisor Kurtz moved that the Board of Supervisors approve the recommendation by the Joint Board of Supervisors and School Board Committee to adopt the Loudoun County Public Schools' Capital Facilities Planning Guidelines. (Seconded by Vice Chairman Buckley. The motion passed 8-1, Supervisor Miller voted no.)

Staff Contacts: Supervisor Sally Kurtz, Catoctin District; John Stevens, Loudoun County School Board Chairman; and Lewis Rauch, Director, and Paul Brown, Department of Construction and Waste Management

14a. FINANCE/GOVERNMENT SERVICES AND OPERATIONS COMMITTEE REPORT / CONTRACT RENEWAL/OPERATION AND MAINTENANCE OF THE COMMUTER BUS SYSTEM

Supervisor Miller moved that the Board of Supervisors approve the recommendation by the Finance/Government Services and Operations Committee to authorize the Purchasing Agent to renew the Operation and Maintenance of the Commuter Bus System contract with VEOLIA Transportation Services, Inc. in the estimated amount of \$20,356,296. (Consent Item) (Seconded by Supervisor Burton. The motion passed 9-0.)

Staff Contacts: Terrie Laycock, Director, and Nancy Gourley, Office of Transportation Services; and Philip Butterfass, Department of Management and Financial Services

14b. FINANCE/GOVERNMENT SERVICES AND OPERATIONS COMMITTEE REPORT / CONTRACT AWARD/CONSTRUCTION OF THE LEACHATE SYSTEM PUMP STATIONS, FORCED MAIN AND SCADA SYSTEM

Supervisor Miller moved that the Board of Supervisors approve the recommendation by the Finance/Government Services and Operations Committee to authorize the Purchasing Agent to award a contract for the Construction of the Leachate System Pump Stations, Forced Main, and SCADA System to Mid-State Construction Company in the amount of \$648,000. (Consent Item) (Seconded by Supervisor Burton. The motion passed 9-0.)

Staff Contacts: Lewis Rauch, Director, Department of Construction and Waste Management; and Christopher Bresley, Department of Management and Financial Services

14c. FINANCE/GOVERNMENT SERVICES AND OPERATIONS COMMITTEE REPORT / AWARD AUTHORITY INCREASE/ARCHITECTURAL AND ENGINEERING SERVICES FOR THE LEESBURG PARK-AND-RIDE FACILITY

Supervisor Miller moved that the Board of Supervisors approve the recommendation by the Finance/Government Services and Operations Committee

to authorize the Purchasing Agent to increase the award authority for the Architectural and Engineering Services for the Leesburg Park-and-Ride Facility contract by \$12,177 for a new contract total of \$510,560. (Consent Item)
(Seconded by Supervisor Burton. The motion passed 9-0.)

Staff Contacts: Lewis Rauch, Director, Department of Construction and Waste Management; Terrie Laycock, Director, Office of Transportation Services; and Cheryl Middleton, Department of Management and Financial Services

15. ASHBURN AREA SCHOOLS – SITE ASSESSMENT STUDIES

Supervisor Waters moved that the Board of Supervisors proceed with the County/School Board owned site assessments identified in this item for the Ashburn area schools.

Supervisor Waters further moved that the Board of Supervisors approve Budget Adjustment #105796, which transfers \$485,000 from the County Land Acquisition capital project to the School Capital Fund. (Seconded by Supervisor Miller. The motion passed 8-1, Supervisor Burton voted no.)

Staff Contacts: Lewis Rauch, Director, and Paul Brown, Department of Construction and Waste Management; and Dr. Sam Adamo, Director, Loudoun County Public Schools

16. APPL 2010/0003/ZEBRA VENTURES LLC

Supervisor Miller moved that the Board of Supervisors uphold and wholly affirm the December 15, 2009 proffer determination issued by the Zoning Administrator. (Seconded by Supervisor McGimsey. The motion passed 8-1, Chairman York voted no.)

Staff Contacts: Terrance Wharton, Director, and Susan Glass, Department of Building and Development

AMENDMENT:

17. RESOLUTION OF ENDORSEMENT TO THE NATIONAL CAPITAL REGION LAND CONSERVATION ACT

Supervisor McGimsey moved that the Board of Supervisors suspend the rules. (Seconded by Supervisor Kurtz. The motion passed 9-0.)

Supervisor McGimsey moved that the Board of Supervisors adopt a resolution endorsing the National Capital Region Land Conservation Act.

Supervisor McGimsey further moved that the Chairman be authorized to sign the resolution on the Board's behalf. (Seconded by Supervisor Burk. The motion passed 6-3, Supervisors Delgaudio, Waters and York voted no.)

- AUTHORIZATION FOR THE SCHOOL BOARD TO PROCEED WITH ENGINEERING ASSESSMENTS FOR EVALUATION OF LAND SITES FOR

WESTERN LOUDOUN SCHOOL SITES HIGH SCHOOL-10, MIDDLE SCHOOL-10 AND ELEMENTARY SCHOOL-10

Supervisor Kurtz moved that the Board of Supervisors authorize the School Board to proceed with engineering assessments to evaluate land sites purchased for Western Loudoun School Sites, High School-10, Middle School-10, and Elementary School-10.

Supervisor Kurtz further moved approval of Budget Adjustment #105791 which transfers \$372,000 from the HS-10 County Land Acquisition capital project account to the HS-10 School capital project account to conduct land site assessments for HS-10. (Seconded by Supervisor Burton. The motion passed 9-0.)

- AUTHORIZATION FOR THE LOUDOUN COUNTY SCHOOL BOARD TO PROCEED WITH LAND SITE EVALUATIONS IN ASHBURN AREA

Supervisor Waters moved that the Board of Supervisors authorize the Loudoun County School Board to proceed with land site evaluations in the Ashburn area for schools.

Supervisor Waters further moved approval of Budget Adjustment #105797 which transfers \$109,000 in state lottery proceeds from the County Land Acquisition capital project to the School Capital Fund. (Seconded by Supervisor Kurtz. The motion passed 8-1, Supervisor Burton voted no.)

- CLOSED SESSION (II)

Vice Chairman Buckley moved that the Board of Supervisors recess this business meeting and enter into closed session. The authority for this closed session is Section 2.2-3711(A), Subsection (7), and the purpose of the closed session is consultation with legal counsel on pending legal matters. The subjects are:

1. The Limestone Overlay District lawsuits; and
2. Giordano et al v. Town of Leesburg (Leesburg water rates litigation).

(Seconded by Supervisor McGimsey. The motion passed 9-0.)

Chairman York moved that the Board of Supervisors adjourn the closed session and that the Board of Supervisors reconvene its business meeting and that the minutes of the business meeting should reflect that no formal action was taken in the closed session. (Seconded by Supervisor Waters. The motion passed 8-0-1, Vice Chairman Buckley absent for the vote.)

Chairman York moved that the Board of Supervisors approve the following Resolution Certifying the Closed Session and that this be reflected in the Minutes of this business meeting. (Seconded by Supervisor Waters. The motion passed 8-0-1, Vice Chairman Buckley absent for the vote.)

Resolution Certifying Closed Session

WHEREAS, the Loudoun County Board of Supervisors, this 20th day of April, 2010, reconvened in closed session by an affirmative vote and in accordance with the provisions of the Virginia Freedom of Information Act:

Now, therefore, be it resolved that the Board of Supervisors does hereby certify that to the best of each member's knowledge, (1) only public business matters lawfully exempted from open meeting requirements under the Freedom of Information Act were discussed in the closed session to which this certification applies; and (2) only such public business matters as were identified in the motion by which the said closed session was convened were heard, discussed or considered by the Board of Supervisors.

Staff Contact: Jack Roberts, County Attorney