



**Stafford County**  
 1300 Courthouse Road  
 P.O. Box 339  
 Stafford, Virginia 22555-0339

**Stafford County Public Schools**  
 31 Stafford Avenue  
 Stafford, Virginia 22554



Joint FAB Committee Meeting  
 AGENDA

June 29, 2017 – Time: 6:00 p.m.  
 Executive Session Room - Alvin York Bandy Administrative Complex

Board of Supervisor Committee Members:  
 Chairman Wendy Maurer, Jack Cavalier and Bob Thomas

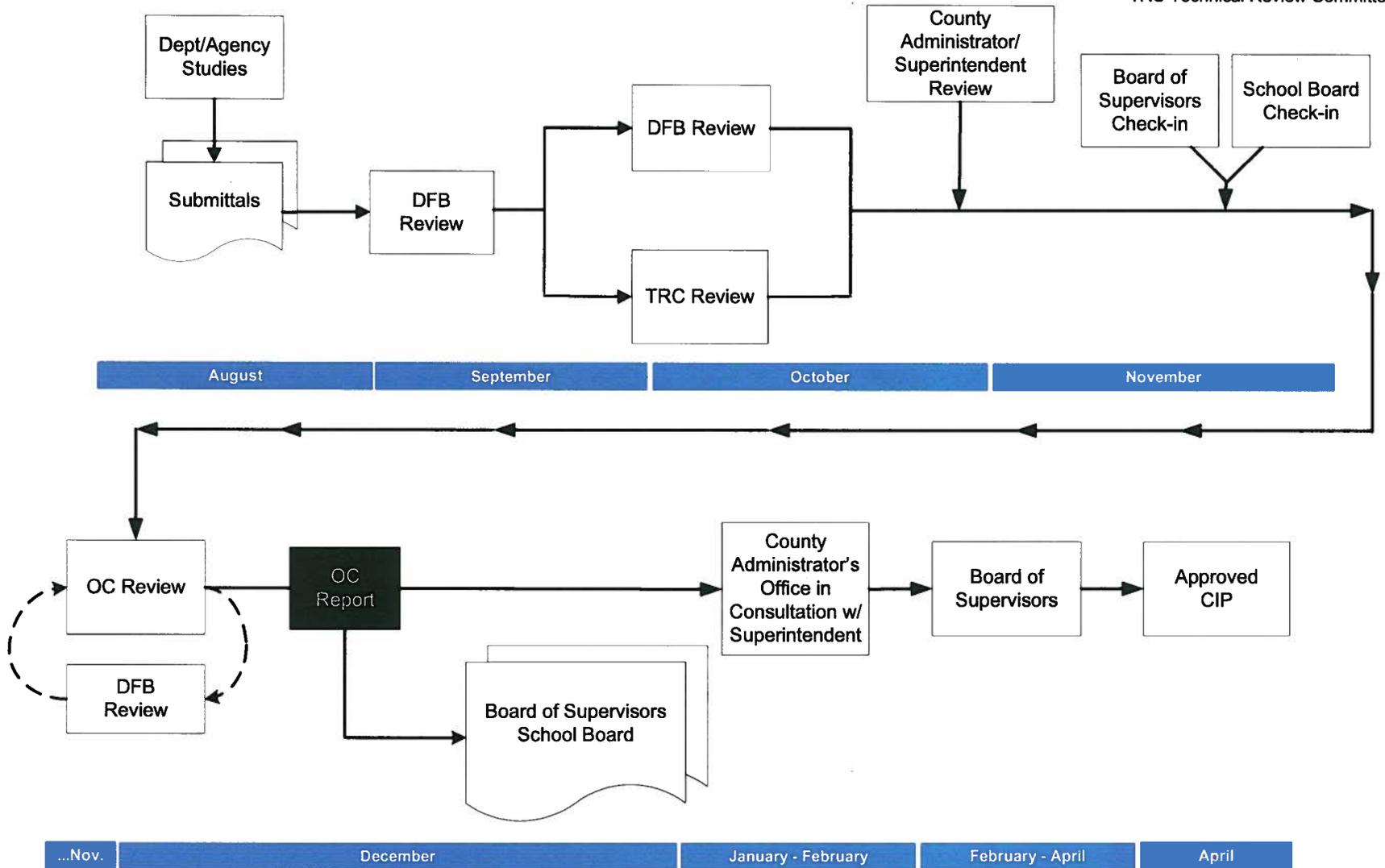
~

School Board Committee Members:  
 Chairman Scott Hirons, Chris Connelly and Dewayne McOsker

Agenda Item		
1.	Joint CIP	Tom Foley Bruce Benson
2.	Moncure ES deficit funding strategy	Wendy Maurer
3.	Discussions regarding Appropriation and Expenditure of School Proffer Funds	Wendy Maurer
4.	Impact Aid	Scott Hirons

# “Revised Final Draft” CIP Development Flowchart

CIP Capital Improvement Program  
 OC Oversight Committee  
 DFB Department of Finance and Budget  
 TRC Technical Review Committee



**'Revised Final DRAFT'**  
**May 2017**

**Joint Capital Improvement Program Process**

1. Joint CIP Process Flow Chart
2. CIP Budget Calendar
3. Review Process for Joint County/School CIP
4. Capital Improvement Program Project Evaluation
5. Project Scoring Guide
6. Proposed Next Steps

FINAL DRAFT

## CIP Budget Calendar

### April – June

- Development, review and revision to standards, metrics, studies, and methodologies for justifying capital improvement requests

### June

- Post CIP Instructions and Forms

### July

- CIP Process Overview/Q & A (Attendance Optional)

### August

- All requests for Department, Agency, and School Project Justifications & Cost Data Due
- Department of Finance and Budget (DFB) begins review with assistance from the Public Works Department (PW), the Department of Parks, Recreation and Community Facilities (PRCF) and appropriate school divisions (SD).
- School system submits confirmation/adjustments based on any final review by School Board

### September

- PW/PRCF/SD Sends Updates, Revisions, and Comments to DFB for Department and Agency Project Requests
- In one or more sessions, CIP Representatives from all Departments, Agencies, and Schools will meet with DFB to review submittals

### October

- CIP Project Requests Sent to the CIP Technical Review Committee (TRC)
- TRC Meetings – Review and begin ranking of project requests
- Departments, Agencies, and Schools Respond to TRC Questions and Comments
- TRC Meeting – Review project ranking, available revenues, and finalize recommendation
- County Administrator and Superintendent Review

### November

- Check-in with Board and School Board
- CIP Project Requests and TRC Recommendations sent to CIP Oversight Committee
- Meeting #1 - CIP Oversight Committee Meeting (CIP Projects Overview and Project Review )
- Meeting #2 - CIP Oversight Committee Meeting (CIP Revenues Overview, Project Review and Finalize Recommendations)
- Meeting #3 - CIP Oversight Committee Meeting (if needed)

### December

- Joint Meeting of Board of Supervisors and School Board to Review CIP Recommendations of the CIP Oversight Committee
- Final Recommended CIP Document Prepared and send to County Administrator for consideration in the recommended budget

### January

- In consultation with the Superintendent, County Administrator review of recommended CIP based on final review of revenues and finance policies

**February**

- County Administrator's Recommended Budget & CIP presented to Board of Supervisors

**March**

- Board/FAB CIP Work Session
- Public Hearing on the Proposed Operating and Capital Budgets and CIP

**April**

- BOS Adopts Operating and Capital Budgets & CIP

DRAFT

## **Review Process for Joint County/Schools CIP**

Capital Improvement Projects are generally broken into two main categories: large projects such as new infrastructure or major renovations, and small projects such as repair, replacement and rehabilitation (3R). It is important to consider these two categories separately to ensure adequate resources are allotted to maintain existing infrastructure and facilities. The intent of this policy and process is to apply only to major projects and not 3R projects. Review of the 3R projects, including project criteria, standards and funding, will be considered in the development of the FY20-29 CIP.

### **1) Basis and Justification for Capital Project Submissions**

Capital project submissions should be based on standards, comparisons, metrics, methodologies and objective study to the greatest extent possible to justify the need and timing for capital improvements. Examples of this justification include:

- a) Comprehensive Plan – Public Facilities Plan
- b) School capacity projections
- c) Vehicle and apparatus replacement criteria
- d) Facility maintenance and replacement needs assessments
- e) Standards/metrics for maintenance & replacement (infrastructure) need and timing
- f) Long range space studies, facility master planning, etc.
- g) Strategic plans, special studies and service plans

### **2) Initial Staff Review**

DFB staff compiles the submitted project requests and verifies the accuracy of the anticipated project costs and operating impact. The requests are extensively reviewed by the County Public Works Department (PW), Department of Parks, Recreation and Community Facilities (PRCF) and appropriate school divisions (SD) to verify the accuracy, adequacy and completeness of project descriptions, project cost, and funding requests. The Capital Improvement Program review schedule provides for a four week review period for any project in the CIP requiring construction. However, departments and agencies are encouraged to consult with PW, PRCF and SD as early as possible in the capital planning cycle regarding the engineering requirements for new projects under consideration or being proposed for the capital plan, and for any revisions to existing projects. Consultation should continue throughout the CIP preparation and review process.

### **3) Technical Review Committee (TRC)**

The TRC ranks the projects based on established criteria. The ranking process allows projects to be added in a systematic, objective manner. Available revenues, the Board's Guiding Principles and Priorities, and financial policies guide project inclusion in the Capital Improvement Program. The Technical Review Committee reports its recommendations to the Oversight Committee.

#### **a) TRC Charge:**

The Capital Program Technical Review Committee will assist the County in the Capital Program process by assuring that the technical aspects and costs of each of the requested projects have been well researched and documented. The team will also review, evaluate and document the need for each project and make recommendations for priority funding based on the established Capital Project Evaluation Criteria (Attachment\_\_\_\_). The Capital Program Technical Review Committee will report their recommendations to the County Administrator and the Capital Program "Oversight Committee."

**b) Technical Review Committee Member Responsibilities:**

- i) Review all project requests for clarity, accuracy and appropriate timing;
- ii) Meet with project submitters to clarify requests and propose revisions, if needed;
- iii) Rank requested projects based on established evaluation criteria;
- iv) Review available revenues and debt service requirements for project requests based on approved County financial policies;
- v) Prioritize projects based on their ranking and available revenues;
- vi) Together with the DFB develop a recommended CIP based on revenue projections provided by DFB;
- vii) Forward the joint recommendation to the Capital Program Oversight Committee for its review.

**c) Technical Review Committee Members:**

- i) County Budget Director, Department of Finance and Budget (Member/Facilitator)
  - ii) Title - Senior Project Management staff, Department of Public Works
  - iii) Title - Senior Planning staff, Department of Planning & Zoning
  - iv) Title - Senior Project Management staff, Stafford County Schools
  - v) Title – Planning/Budget/Finance staff, Stafford County Schools
- \*Support staff: Budget staff/analyst, Department of Finance and Budget

**4) Board of Supervisors/School Board Initial Policy Review**

Just prior to the Oversight Committee's Review, the two Boards (the Board of Supervisors and the School Board) review the project requests and initial financial forecast provided by the TRC. This initial review provides the Boards an opportunity to provide feedback to its respective members serving on the Oversight Committee.

**5) Oversight Committee Review**

The Oversight Committee reviews the Technical Review Committee's ranking and Capital Program recommendation adjusting the projects as necessary. The Oversight Committee provides a recommended CIP to the County Administrator and reviews the recommendation with the Board of Supervisors and School Board at a joint meeting in December of each year.

- a) **Oversight Committee Charge:** "The Capital Improvement Program (Capital Program) is the planning guide for County expenditures for major capital facilities and equipment and includes a ten-year approved Capital Improvement Plan (CIP) balanced to revenues. The Capital Program Oversight Committee will assist the County in the Capital Program process by reviewing and evaluating the recommended Capital Improvement Program brought forward by the Technical Review Committee. The Committee will assure that the proposed Capital projects are aligned with County policies, established priorities, guiding principles and long term vision. The Committee will also assure that the recommended ten-year CIP is aligned with approved financial policies and that the County's financial stability is maintained through the prudent use of its revenues. The Capital Program Oversight Committee will report its recommendations directly to the County Administrator as a part of preparation for the annual budget recommendation to the Board of Supervisors.
- b) **Oversight Committee Member Responsibilities:**
- i) Review the recommended Capital Improvement Program presented by the Technical Review Committee;
  - ii) Ensure that the proposed project ranking is properly and consistently applied;
  - iii) Propose modifications/improvements to the project ranking system;

- iv) Ensure that all Capital projects carry out the County's long-range goals and objectives;
  - v) Ensure that the recommended ten-year CIP addresses County needs through the proper timing, prioritization and balance of local government and school division projects;
  - vi) Ensure that County revenues are used wisely to address the County's capital needs and that the recommended CIP conforms to approved financial policies, including the use of on-going revenues and borrowed funds;
  - vii) Propose revisions or adjustments to the ten-year CIP proposed by the Capital Program Technical Review Committee, if needed;
  - viii) Submit a recommended CIP to the County Administrator with any documented revisions to the plan submitted by the Technical Review Committee.
- c) **Oversight Committee Members:**
- i) Members of the Board of Supervisors' Finance, Audit and Budget Committee (FAB)
  - ii) Members of the School Board Finance, Audit and Budget Committee (FAB)
  - iii) 1 Citizen Representative. Selected by Superintendent and County Administrator with business and construction experience
  - iv) County/School Staff Support includes: Deputy County Administrators, Deputy Superintendents, the Director of Finance and Budget (Facilitator)

**6) Final Recommendation and Approval of the Capital Improvement Program**

The County Administrator will consider the recommendation of the Oversight Committee as part of the overall consideration in recommending a proposed budget to the Board of Supervisors which considers available revenues and adherence to County financial policies, parameters and goals. The County Administrator's Recommended Capital Improvement Program is reviewed and considered by the Board of Supervisors and subsequently approved, along with the annual Capital Budget for projects to be funded in the upcoming fiscal year.

## Capital Improvement Program Project Evaluation

Project evaluation criteria have been established and are used by the committees to review and evaluate all capital projects and their cost estimates. All CIP projects are evaluated against various factors which the submitting department/agency is asked to address on each of the applicable CIP Forms, such as the Project Request Form, the basis of cost estimates provided on the Project Cost Summary Form, and the several project cost detail forms, all of which are fully described in the instructions.

### Project Ranking Criteria for Large Projects

All submitted or proposed Capital Improvement Projects will be subject to ranking in accordance with the criteria and scoring system below. Areas of emphasis will include the following 8 categories:

- 1) Health and Safety (15%)
- 2) Education (15%)
- 3) Impact on Operational Budget (15%)
- 4) Special Considerations/Regulatory Compliance/Timing/Location (15%)
- 5) Economic/Community Development (15%)
- 6) Quality of Life (10%)
- 7) Infrastructure (10%)
- 8) Sustainability/Energy Efficiency (5%)

Each project will be evaluated against each area of emphasis and scored on a scale of 1 through 4 based on the degree to which the project addresses the attributes of the particular area of emphasis.

Descriptions of each area of emphasis and the attributes or considerations that will determine the score are as follows:

#### 1) Health and Safety (15%)

Health and safety typically involves such things as fire service, police service, emergency response and communications, safe roads, public health, and flood control, as examples. A health clinic, fire station or police station would directly impact the health and safety of citizens, thus scoring high in this category. Similarly, safety improvements in a school or public building might score points in this category while adding concession stands to an existing facility would probably not. Considerations would include the following:

- a) Is the project in conformance with and supportive of the goals, objectives and strategies of the Comprehensive Plan?
- b) Is the project supported by County sponsored service plans, master plans, strategic plans or special studies?
- c) Does the project relate to the results of the citizen survey, Board of Supervisors policy, or appointed committee or board?
- d) Does the project directly reduce risks to people or property (i.e. flood control)?
- e) Does the project directly promote improved health or safety?
- f) Does the project mitigate an immediate risk?

## **2) Education (15%)**

This category relates to education and learning. New facilities, renovations or technologies that create or enhance educational opportunities are included in this category. Items addressed would also include major renovations or facility maintenance improvements to preserve assets or upgrade school or other educational facilities. Finally, this category would also include technological upgrades or improvements and facility improvements designed to improve or enhance the learning environment. A project to add a classroom wing to replace temporary trailer facilities at a public school would score high in this category. Considerations in establishing the score include:

- a) Is the project in conformance with and supportive of the goals, objectives and strategies of the Comprehensive Plan?
- b) Is the project supported by School Board sponsored service plans, strategic plans or special studies?
- c) Is the project supported by special surveys or community input?
- d) Does the project address an immediate and necessary space need?
- e) Does the project accommodate an essential program, or is it a program enhancement?
- f) Is the project mandated?
- g) Is the project intended to bring parity and consistency among similar facilities?

## **3) Impact on Operational Budget (15%)**

Some projects may affect the operating budget for the next few years or for the life of the facility. A fire station or library must be staffed and supplied; therefore these projects have an impact on the operational budgets for the life of the facility. Replacing a storm water line will not require any additional resources from the operational budget. The score will be based on considerations such as:

- a) Is the project in conformance with and supportive of the goals, objectives and strategies of the Comprehensive Plan?
- b) Is the project supported by County sponsored service plans, master plans, strategic plans or special studies?
- c) Does the project relate to the results of the citizen survey, Board of Supervisors policy, or appointed committee or board?
- d) Will the facility require additional personnel to operate?
- e) Will the project lead to a reduction in personnel or maintenance costs or increased productivity?
- f) Will the facility require significant annual maintenance?
- g) Will the new facility require additional equipment not included in the project budget?
- h) Will the new facility reduce time and resources of County or School staff maintaining current outdated systems?
- i) Will the efficiency of the project save money?
- j) Is there a revenue generating opportunity (e.g. user fees)?
- k) Does the project minimize life-cycle costs?

## **4) Special Considerations/Regulatory Compliance/Timing/Location (15%)**

This criterion includes projects that because of special circumstances or emergencies must be undertaken immediately or in the very near future, regulatory mandates, or connection with other projects which have been selected for completion. The score will be based on considerations such as:

- a) Does the project address a legislative, regulatory or court-ordered mandate (0 – 5 years)?
- b) Will the future project impact foreseeable regulatory issues (5 – 10 years)?
- c) Does the project promote long-term regulatory compliance (>10 yrs.)?
- d) Will there be serious negative impact on the County if compliance is not achieved?
- e) Are there other ways to mitigate the regulatory concern?
- f) Is the project required to protect against an immediate and significant health, safety or general welfare hazard/threat to the County?
- g) Is there a significant external funding source that can only be used for this project and/or which will be lost if not used immediately (e.g. proffers, grants through various federal or state initiatives, and private donations)?
- h) When is the project needed?
- i) Do other projects require this one to be finished first?
- j) Does the project require others to be completed first? If so, what is the magnitude of potential delays?
- k) Can this project be done in conjunction with other projects?
- l) Will it be more economical to multiple projects together?
- m) Will it help in reducing repeated neighborhood disruptions?
- n) Will there be a negative impact of the construction and if so, can this be mitigated?
- o) Are there inter-jurisdictional considerations?
- p) Does the project use an existing County-owned or controlled site or facility?
- q) Will delay of the project result in significantly higher construction costs in the future?
- u) Does the project involve external funding or partnership where funds will be lost if not constructed?

#### **5) Economic/Community Development (15%)**

Economic/community development considerations relate to projects that foster the development, re- development or expansion of a diversified business/industrial base or designated growth area. Projects that will help create jobs and generate a positive financial contribution to the County would be included in this category, as would a new park or streetscape project in a targeted growth area. Providing the needed infrastructure to encourage redevelopment of a shopping center would score high in this category. Reconstructing a storm drain line through a residential neighborhood would likely score low in the economic development category. The score will be based on the following attributes or considerations:

- a) Is the project in conformance with and supportive of the goals, objectives and strategies of the Comprehensive Plan?
- b) Is the project supported by County sponsored service plans, master plans, strategic plans or special studies?
- c) Does the project relate to the results of the citizen survey, Board of Supervisors policy, or appointed committee or board?
- d) Does the project have the potential to promote economic/community development in areas where growth is desired?
- e) Will the project continue to promote or enhance economic/community development in an already developed area?
- f) Is the net impact of the project positive (total projected tax revenues of economic/community development less costs of providing services)?
- g) Will the project produce desirable jobs in the County?
- h) Will the project rejuvenate an area that needs assistance?

## **7) Quality of Life (10%)**

Quality of Life is a characteristic that makes the County a desirable place to live and work. For example, public parks, libraries, schools, multi-use trails, open space, and preservation of community character enhance the quality of life for citizens. A County maintenance building is an example of a project that may not directly affect the citizen's quality of life. The score will be based on the following attributes or considerations:

- a) Is the project in conformance with and supportive of the goals, objectives and strategies of the Comprehensive Plan?
- b) Is the project supported by County sponsored service plans, master plans, strategic plans or special studies?
- c) Does the project relate to the results of the citizen survey, Board of Supervisors policy, or appointed committee or board?
- d) Does the project increase or enhance educational opportunities for County citizens generally?
- e) Does the project increase or enhance recreational opportunities and/or green space?
- f) Does the project target the quality of life of all citizens or does it target one demographic? Is one population affected positively and another negatively?
- g) Does the project preserve or improve the historical or natural heritage of the County?
- h) Does the project affect traffic positively or negatively?
- i) Does the project improve, mitigate and or prevent degradation of environmental quality (e.g. water quality, improve or reduce pollution including noise and/or light pollution)?

## **8) Infrastructure (10%)**

This element relates to basic or core infrastructure needs of the County. Typical projects in this category would include utility/service infrastructure such as storm water systems, underground utilities, sidewalks, streets/transportation facilities, broadband or wireless communication systems, streetscapes, and County service facilities. Buildings would also be included to the extent they address a basic functional need of the County. Constructing a facility in excess of facility or service standards would score low in this category. The score will be based on the following attributes or considerations:

- a) Is the project in conformance with and supportive of the goals, objectives and strategies of the Comprehensive Plan?
- b) Is the project supported by County sponsored service plans, master plans, strategic plans or special studies?
- c) Does the project relate to the results of the citizen survey, Board of Supervisors policy, or appointed committee or board?
- d) Is there a facility being replaced that has exceeded its useful life and to what extent?
- e) Do resources spent on maintenance of an existing facility justify replacement?
- f) Does this replace an outdated system?
- g) Does the facility/system represent new technology that will provide enhance service?
- h) Does the project extend service for desired growth?

## **8) Sustainability/Energy Efficiency (5%)**

This criterion relates to the Board's objective to build in a sustainable and energy efficient manner. Projects in this category will be those that directly involve energy savings, LEED certification or reduced carbon emissions. A project that directly reduces energy use or

achieves silver LEED certification would score high in this category; a project that involves negative impacts to the environment or an increase in the carbon footprint will score low. Consideration in this area of emphasis would include:

- a) Will the project result in a reduction or increase in energy use?
- b) Does the project involve specific energy reduction strategies or features?
- c) Will the project achieve LEED certification?
- d) Will the project have a long-term positive impact on the environment?
- e) Will the project negatively impact the environment?
- f) Is there a reasonable payback period for the project's investment?
- g) Is the project designed to promote or encourage sustainable development?
- h) Is special consideration be given to energy conservation including total life-cycle costs?
- i) Does the building acheive an energy star rating of 75 or better per EPA Energy Star Guidelines.

### **Proposed Next Steps**

1. **March-April** - Development of 'Final Draft' by County and School staff based on Joint Working Group feedback on 3/21
2. **April – May** - Joint Working Group consideration of "Final Draft"
3. **June** - Joint FAB consideration of Working Group recommendation
4. **July** - Review and consideration of Joint FAB recommendations by Board of Supervisors and School Board; Board of Supervisor's final approval of Joint CIP Process

W. BRUCE BENSON  
Superintendent



## STAFFORD COUNTY PUBLIC SCHOOLS

31 Stafford Avenue  
Stafford, Virginia 22554-7246  
Phone: 540-658-6000  
www.staffordschools.net

SCHOOL BOARD  
Holly H. Hazard, Chairman  
C. Scott Hiron, Vice-Chairman  
Christopher Connelly  
Jamie Decatur  
Irene M. Egan  
Patricia A. Healy  
Dewayne McOsler, Jr.

### Office of the Superintendent

June 28, 2017

Mr. Tom Foley  
County Administrator  
County of Stafford  
P.O. Box 339  
Stafford, Virginia 22555

Dear Mr. Foley:

At its meeting on June 27, 2017, the School Board approved submitting a request to the Board of Supervisors to appropriate proffers funds in the amount of \$149,298.29 to the Stafford County Public Schools' Construction Fund from the areas identified below. The entire amount will be used for one-time expenditures as follows:

<u>Project Name</u>	<u>Amount</u>	<u>Use</u>
Southgate Development	\$146,213.11	Rebuild Stafford High School (SHS)
Cranewood	<u>3,085.18</u>	Rebuild SHS
<b>TOTAL:</b>	<b>\$149,298.29</b>	

I request that the School Board's action be placed on the Board of Supervisors' agenda as soon as possible.

Respectfully,

W. Bruce Benson, Ed.D.  
Superintendent

cc: Scott Horan  
Kate Gilliam  
Jennie Piccoli  
Chris Fulmer

W. BRUCE BENSON  
Superintendent



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Patricia A. Healy  
Dewayne McOsker, Jr.

June 28, 2017

Thomas C. Foley, County Administrator  
1300 Courthouse Road  
Stafford, Virginia 22554

Dear Mr. Foley:

As we discussed this morning, the School Board approved yesterday the below motion in regard to the Rebuild Moncure Elementary School Project. As you see, the School Board decided that, if the Board of Supervisors approves BOS resolution R17-195 *without edits*, then the School Board shall authorize staff to adjust the project's current funding strategy to meet the strategy laid out in BOS resolution R17-195. The School Board passed this motion unanimously.

Excerpt from June 27, 2017 Stafford County Public School Board Meeting:

- 12.02 Approve the Award of a Construction Contract to Sorenson Gross Company of Sterling, Virginia, in the Amount of \$28,247,475 Using a Combination of Virginia Public School Authority (VPSA), Proffer, Capital Reserve, and Annual Operating Funds for the Rebuild Moncure Elementary School Project.

Ms. Egan moved, and Ms. Decatur seconded, that the School Board approve the award of this contract with the proposed funding strategy as laid out by the executive director of operations; Ms. Egan further moved that if the Stafford County Board of Supervisors (BOS) approves BOS resolution R17-195, without edits, the School Board shall authorize staff to adjust the funding strategy to meet the strategy laid out in BOS resolution R17-195. The motion passed unanimously.

Attached for your reference is the version of BOS resolution R17-195 stipulated by the School Board in the above decision.

Sincerely,

W. Bruce Benson, Ed.D.  
Superintendent

Attachment

PROPOSED

BOARD OF SUPERVISORS  
COUNTY OF STAFFORD  
STAFFORD, VIRGINIA

RESOLUTION

At a regular meeting of the Stafford County Board of Supervisors (the Board) held in the Board Chambers, George L. Gordon, Jr., Government Center, Stafford, Virginia, on the 5<sup>th</sup> day of July, 2017:

MEMBERS:

Paul V. Milde, III, Chairman  
Meg Bohmke, Vice Chairman  
Jack R. Cavalier  
Wendy E. Maurer  
Laura A. Sellers  
Gary F. Snellings  
Robert "Bob" Thomas, Jr.

VOTE:

On motion of , seconded by , which carried by a vote of , the following was adopted:

**A RESOLUTION AUTHORIZING THE COUNTY ADMINISTRATOR  
TO BUDGET AND APPROPRIATE PROFFER FUNDS FOR THE  
ANNE E. MONCURE ELEMENTARY SCHOOL REBUILD**

WHEREAS, the construction bids for Anne E. Moncure Elementary School rebuild project (Project) exceed the available Project budget; and

WHEREAS, Schools category proffer funds from the Embrey Mill and Westgate developments, in the amount of \$535,332, are available; and

WHEREAS, although the Embrey Mill and Westgate developments are outside of the Anne E. Moncure Elementary School (Moncure ES) attendance zone, the Board believes that the impacts and mitigation of those impacts are collective, and capacity added at Moncure ES will likewise make capacity more available at other schools; and

WHEREAS, Schools category proffer funds are available from The Town Center at Aquia development, in the amount of \$323,974, which is in the Moncure ES attendance zone;

NOW, THEREFORE, BE IT RESOLVED by the Stafford County Board of Supervisors on this the 5<sup>th</sup> day of July, 2017, that the County Administrator be and he hereby is authorized to budget and appropriate \$859,306 from the Schools Proffer Fund, as follows, to the Schools Construction Fund for the Anne E. Moncure Elementary School rebuild project:

The Town Center at Aquia	\$323,974
Embrey Mill	\$283,955
Westgate	<u>\$251,377</u>
Total:	\$859,306

TCF:aml

W. BRUCE BENSON  
Superintendent



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### Office of the Superintendent

June 28, 2017

Mr. Tom Foley  
County Administrator  
County of Stafford  
P.O. Box 339  
Stafford, Virginia 22555

Dear Mr. Foley:

At its meeting on June 27, 2017, the School Board approved submitting a request to the Board of Supervisors to appropriate proffer funds in the amount of \$593,768.60 to Stafford County Public Schools' Construction Fund from the areas identified below. The entire amount will be used for one-time expenditures as follows:

<u>Project Name</u>	<u>Amount</u>	<u>Use</u>
Town Center at Aquia	\$323,974.00	Rebuild Moncure Elementary School (MES)
Westgate	\$148,300.00	High School Additions - Colonial Forge High School
Shelton Woods	<u>\$121,494.60</u>	High School Additions - Mountain View High School
<b>TOTAL</b>	<b>\$593,768.60</b>	

The School Board also approved submitting a request to the Board of Supervisors to appropriate Capital Reserve Funds to Stafford County Public Schools' Construction Fund in the amount of \$319,904. The entire amount will be used for a one-time expenditure as follows:

<u>Project Name</u>	<u>Amount</u>	<u>Use</u>
Capital Reserve	\$319,904.00	Rebuild MES

I request that the School Board's action be placed on the Board of Supervisors' agenda as soon as possible.

Respectfully,

W. Bruce Benson, Ed.D.  
Superintendent

cc: Scott Horan  
Kate Gilliam  
Jennie Piccoli  
Chris Fulmer

# APPROPRIATION AND EXPENDITURE OF SCHOOL PROFFER FUNDS

## **BACKGROUND:**

As the Board of Supervisors and School Board embark on developing a Joint CIP for determining the prioritization of capital projects in the County, there has been renewed interest in discussing the appropriation and expenditure of proffer funds toward capital projects. Monetary proffers are voluntary agreements made by developers to off-set the capital facility impacts of their proposed projects in consideration for an increase in zoning density. These agreements are binding and become part of the zoning for the property. Monetary proffers are typically paid on a per unit basis at the time of issuance of an occupancy permit for each new home. As such, the collection of funds is dependent upon construction activity and should not be considered to be a reliable source of revenue.

The US Constitution and State laws directly influence how proffers can be administered and expended. This legal framework gives us general guidance as well as specific requirements to be met in order to collect and expend proffer funds. Expenditure of proffer funds is limited to capital facility improvements that add capacity to accommodate the new development providing the proffer contribution. As such, they can only be used in the context of the CIP as a funding strategy to lessen the tax burden of existing residents as new development occurs.

## **LEGAL FRAMEWORK:**

Proffers are considered to be voluntary conditions placed on a development in order to mitigate impacts from the proposed development, such that it receives legislative approval by the Board of Supervisors. Three U.S. Supreme Court directly apply to proffers, *Nollan*, *Dolan*, and *Kuntz*. The Constitutional background of these cases is equal protection and the unlawful taking of property. *Nolan* requires a “rational nexus” between the proffer condition and the project being constructed. *Dolan* requires that the proffer condition be “proportional to the impact” of the development to avoid an unlawful taking of private property for a public purpose. *Kuntz* states that a proffer condition must have both a rational nexus and be proportional to the impact of the development.

Virginia is a “Dillon Rule State,” meaning a locality can only enact those laws which are specifically authorized by the state, and those laws which are necessary and implied from a specific grant of authority. Some state code provisions are very specific with little latitude for local adjustment, while other provisions are more general and give the locality flexibility in how they are applied.

In the context of the State Code, proffers are enabled by the term “conditional zoning.” Virginia Code § 15.2-2296 explains that conditional zoning is intended to provide a more flexible and adaptable zoning method whereby a zoning reclassification may be allowed subject to certain conditions proffered by the zoning applicant for the protection of the community.

Proffer Authority:

The County has chosen to utilize the conditional zoning authority granted under Virginia Code § 15.2-2303. (*See Stafford County Code Sec. 28-161*). That provision established broad for the acceptance of cash proffer and the construction of substantial public improvements. The broad authority provided by that provision is limited, however, by the U.S. Supreme Court opinions discussed above, and other applicable State Code provisions.

Other Virginia Code provisions establish administrative standards for the acceptance and/or use of cash proffer payments.

- Section 15.2-2303.1.1 stipulates that the payments can only be collected or accepted by the County after final inspection of the home and prior to issuance of an occupancy permit.
- Section 15.2-2303.2 dictates how cash proffer expenditures can be used.
  - Collected funds must be spent within 12 years or must be turned over to the Commonwealth Transportation Board for reallocation to the County’s secondary road construction program.
  - The use of proffered funds must be identified in the CIP and Capital Budget.
  - Proffered funds, if not restricted in the agreement, can be used for alternative improvements in the same category upon notice to the parties that made the cash payment(s) and after a public hearing.
  - Proffer funds cannot be used for improvements to an existing facility unless used for a capital improvement which expands capacity for use of the facility.
  - Annually, the County reports to the Commission on Local Government all cash proffers pledged, collected, and expended. The Commission on Local Government compiles and publishes an annual report from all localities and makes it available to the public.
- Section 15.2-2303.3 further regulates the payments of cash proffers.
  - Payments cannot be made prior to issuance of a certificate of occupancy unless there was a prior proffer agreement as part of an approved rezoning and the applicant voluntarily agrees to that term in the original proffer agreement.
  - Automatic proffer value escalations cannot exceed the annual rate of inflation as calculated by either the Consumer Price Index, or Marshall and Swift Building Cost Index.
  - A locality cannot accept a proffer statement in which the proffesor waive any future legal rights against a locality.

### Proffer Statements Accepted Beginning July 1, 2016:

The above referenced Virginia Code sections with regards to proffers are still on the books and applicable legal provisions. With the adoption of Virginia Code § 15.2-2304.4 (New Proffer legislation), the General Assembly significantly affected the County's ability to negotiate, collect, and expend monetary proffer payments. For new developments with proffer statements accepted on or after July 1, 2016, the County's previously broad proffer authority has been substantially limited.

Under the New Proffer legislation, monetary proffer payments are classified as "off-site proffers" and subject to a heightened level of review. Any off-site proffer requested or accepted must be analyzed to ensure that it is reasonable. The following criteria must be met to find a proffer as reasonable: 1) the monetary proffer for school capital facilities addresses an impact that is specifically attributable to the new residential development; 2) the monetary proffer addresses a current, at the time of the rezoning request, capacity issue and only addresses the proposed developments proportional share of the capacity issue; and 3) the school facility improvements must provide a direct and material benefit to the development paying the proffer.

### Proffer Guidelines:

For rezoning applications with proffers submitted prior to July 1, 2016, the County adopted proffer guidelines as a means to standardize monetary proffers. The guidelines provided developers with an objective standard when determining impacts to schools when considering their zoning reclassification application for increased residential density. The guidelines looked at all three school types, elementary, middle and high. CIP costs of constructing new schools were used to determine a proportional per-student impact based on the future design capacity by school types. County-wide student generation rates were derived based on actual student populations by dwelling unit types. The dwelling unit type-student generation rates were multiplied by the per student costs of construction for each school type. The recommended school proffer was derived by adding the calculated costs for each school type. There were three different proffer rates for single family detached, townhouse and multi-family dwelling units.

Monetary proffers for schools for the most part had been very general. The guidelines recommended a proffer payment for the category of schools. They acknowledged that every new home built in the County had a proportional impact on school capacity. The guidelines did not specify what schools proffer payments would go towards. This allowed the County flexibility to apply monetary proffer payments to any one of the three school types that may have a related CIP project that expanded capacity in proximity of the project paying the proffer.

In recent years, there had been some projects that earmarked proffer funds for specific schools and/or specific school improvements. They include the Leeland Station, Shelton Woods, Shelton Knolls and Winding Creek projects.

The Board of Supervisors repealed the Proffer Guidelines for any zoning reclassification application filed on or after July 1, 2016. This was due to the fact that Virginia Code §15.2-2303.4 requires a site specific school capacity analysis at the time of application; therefore, capacity can no longer be generalized on a County-wide basis.

#### Appropriation and Expenditure of School Proffer Funds:

Proffer contributions are paid directly to the County. The Departments of Finance and Planning and Zoning catalog and track proffer payments made for developments. The Finance Department accounts for the proffer funds by use category. School Division Staff identify capital facility projects that need additional funding. Staff from the County Attorney's Office, Finance, and Planning and Zoning (County Staff) reviews the funding request. The source of the proffer funds is analyzed to see if the funds were earmarked for a specific purpose other than the requested improvement. If not, staff would review the location of developments where the available funds originated and make a recommendation to School Division Staff.

Once the source of funds and capital projects are agreed upon, County staff proceeds with the appropriation process. A staff report and resolution are drafted, identifying the amount of proffer funds to be appropriated and the applicable project. The Board of Supervisors ultimately determines if the funds are to be appropriated and for which project. Upon approval of the resolution by the Board, the funds are transferred to the School Division for expenditure. The transaction is accounted for in the Report to the Commission on Local Government.

#### RECOMMENDATIONS:

Recently there has been discussion by the Board of Supervisors as to the allocation of funds for future school capital projects. Currently, there is no Board of Supervisors policy regarding the process to determine which projects should be prioritized for the use of proffer funds. County Staff has developed recommendations for criteria that can be used towards that purpose.

- CIP - The project is fully funded in the adopted CIP with proffers identified as a potential funding source.
- Capital Budget - Available funds have been identified.
- Attendance Zone - The school serves the development that paid the proffer.
- Capacity Expansion - It increases classroom seats or ability to serve students and does not involve maintenance or technology upgrades, or general operation costs.
- Effectiveness - Bids have been submitted for contracts and costs are known.
- Timeliness - The funds should be expended within the same fiscal year as appropriated or returned for future re-appropriation.