Fairfax County Affordable Housing Advisory Committee

Proposed Revisions to the "Guiding and Overriding Principles and Priorities" for the Penny for Affordable Housing Fund and Other Associated Recommendations

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Overview: The Affordable Housing Advisory Committee believes that Fairfax County's approach to affordable housing is now at an important crossroads. With an estimated 63,660 *net new* affordable housing units needed by 2025[1] and more than 12,000 households on waiting lists maintained by the Fairfax County Redevelopment and Housing Authority (FCRHA)[2], the Penny for Affordable Housing Fund is – *now, more than ever* – essential to meeting the county's current and future need for affordable housing. The Penny Fund is so valuable because of its flexibility to meet a variety of housing needs, especially when compared to federal and other non-local affordable housing resources. This document constitutes the Advisory Committee's recommendations to the Board of Supervisors for taking advantage of that flexibility, in the form of proposed changes to the Fund's Board-adopted guiding and overriding principles.

Background: On November 21, 2005, the Board of Supervisors adopted a set of guiding and overriding principles and priorities for the use of the Penny for Affordable Housing Fund (Consideration – 2). While the principles and priorities adopted by the Board provided for significant flexibility in the use of the Fund, the top priority was clearly the preservation of existing rental housing.

The Penny Fund has been a clear success: Since the beginning of the Board's Affordable Housing Preservation Initiative in April 2004, a total of 2,241 units have been preserved by the county and its private non-profit and for-profit partners, including 1,809 units preserved in transactions involving the Penny Fund. Without the Penny Fund, the 9,300 affordable rental units lost between 2002 and 2008[3] would have been closer to 11,500. The Board's proactive investment in preserving affordable rental housing prevented residents of the preserved units from facing potential displacement, and kept them off of the already lengthy waiting lists for Fairfax County's housing programs. Over time, the Board has also taken advantage of the flexibility of the Penny Fund to address emerging issues and opportunities, including funding for first-time homebuyers to purchase foreclosed homes, and the construction of the Olley Glen independent senior living development (Braddock District).

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[1] "*Linking Job Growth and Housing: Forecasts of the Demand for Workforce Housing in Fairfax County";* George Mason University, Center for Regional Analysis, June 2008.

[2] As of May 6, 2009; source: Fairfax County Department of Housing and Community Development.
[3] Source: Fairfax County Department of Housing and Community Development

Going into the Fiscal Year 2010 budget cycle, the Board faced unprecedented challenges due to the ongoing economic crisis. While the Board ultimately decided to reduce the Penny Fund by half in FY 2010, it also signaled that this action did not constitute a retreat from affordable housing as a priority. The Board has agreed to consider the future of the Penny Fund at its retreat planned for late June. The Advisory Committee recognizes this as a critical juncture for the Penny Fund and the county's approach to ensuring an adequate supply of affordable housing.

Proposed Amendments: The following is a description of the substantive amendments proposed to the Board-adopted guiding and overriding principles for the Penny for Affordable Housing Fund:

Amendment 1: *Add the following statement of purpose for the Penny Fund:* "To produce and preserve sustainable affordable housing in Fairfax County."

Discussion: The Advisory Committee recognizes, from the discussion leading up to the adoption of the FY 2010 budget, that there is a diversity of understanding on the Board in terms of the purpose of the Penny Fund. The proposed statement is intended to clarify and reaffirm the purpose of the Fund, while at the same time emphasize its flexibility.

Other issues for consideration include:

- Fairfax County is a leader in affordable housing; however, it is not alone in taking advantage of the flexibility provided by dedicating local revenue to the production and preservation of affordable housing. Approximately 600 states and local jurisdictions have established housing funds with local resources[4], including Montgomery County, Maryland and Arlington County, Virginia:
  - *Montgomery County:* The Housing Initiative Fund (HIF), created in 1988, is used to "make loans to the Montgomery County Housing Opportunities Commission (HOC), non profit organizations, and for profit owners to acquire, build, or renovate affordable housing units." The primary funding sources for the HIF are loan repayments and Montgomery County's general fund. FY 2002 funding level: $14,844,648.[5]
  - *Arlington County:* The Arlington County Affordable Housing Investment Fund is used to provide financing for development of affordable housing; prevent displacement of low and moderate income residents; and prevent the loss of affordable multifamily housing. The Fund receives $5.7 million in new funding annually plus loan repayments and payoffs.[6]
- There was considerable discussion among Board members that the affordable housing-related funds the county is receiving under the American Recovery and

[4] Source: *"Housing Trust Fund Progress Report 2007"*; Center for Community Change, no date reported.
[5] Source: *"Montgomery County's Housing Initiative Fund: Promoting Safe and Affordable Neighborhoods"; FY* Montgomery County Department of Housing and Community Affairs, FY 2002.
[6] Source: Arlington County Department of Community Planning, Housing and Development

Reinvestment Act of 2009 (ARRA) will substantially fill the gap left by the reduction to the Penny Fund in FY 2010; however, the vast majority of those funds are programmed for very specific purposes. The following chart describes the federally-mandated purpose of the direct affordable housing-related allocations Fairfax County will receive from HUD under ARRA:

Source	Federally-mandated Purpose	Amount
Capital Fund Program (direct allocation to the FCRHA)	Modernization and renovation of the FCRHA's 1,063 units of federal Public Housing.	$2,294,177
Community Development Block Grant (CDBG)	CDBG-eligible activities, which can include the renovation of FCRHA properties and the rehabilitation of affordable rental units by eligible non-profit organizations, which are shovel-ready and committed/completed in a very short timeframe.	$1,610,504
Homelessness Prevention and Rapid Re-housing Program (HPRP)	Homelessness prevention activities such as rental assistance, and housing relocation and stabilization services.	$2,462,398
Total		**$6,367,079**

While these funds provide an important, one-time affordable housing resource, they simply do not give the Board the flexibility to address emerging local priorities.

Amendment 2: *Add the following Overriding Principle:* "The Penny for Affordable Housing Fund will be spent on capital expenditures for the production and preservation of enduring physical affordable housing assets."

Discussion: There has been some discussion of the possibility of using the Penny Fund for purposes other than capital expenditures. The Penny Fund was originally conceived as a capital fund, with the intent of creating and preserving enduring physical affordable housing assets. The use of the Penny Fund for a rent subsidy, for example, has been evaluated by the Advisory Committee in the past and found to have two principal drawbacks:

- *Temporary benefit versus permanent asset.* A rental subsidy would provide only a temporary benefit, as opposed to an enduring physical asset for affordable housing. In addition, the cost of a rental subsidy will increase annually with inflation and rent increases. The purchase, construction or financing of a physical asset is the surest way to control costs, ensure long-term affordability and serve a far greater number of individuals over the long term. In addition, the asset will increase in value; that equity could be used either for that property or for other affordable housing purposes. The Penny Fund has been used by both the county and its non-profit and for-profit partners to finance long-term affordable housing projects: Of the 1,809 units preserved in transactions involving the Penny Fund to date, a total of 908 units (over 50 percent) were preserved by Fairfax County's private sector partners.

- *Requirement for an ongoing subsidy.* A rental subsidy would necessitate both an annual allocation by the Board and the creation of an administrative framework to monitor and evaluate the effectiveness of the program.

Amendment 3: *Add the following Overriding Principle:* "The Fund will be flexible and driven by local priorities to be recommended by the Affordable Housing Advisory Committee and approved by the Board of Supervisors on an annual basis."

Discussion: The Advisory Committee was appointed by the Board in 2005 to "make recommendations to the County Executive and the Board of Supervisors regarding … goals and priorities for the use of the [Penny] Fund … [and] monitor the effectiveness of the Fund … and suggest course corrections"[7]. In that spirit, the Committee seeks to assist the Board in identifying and updating annually the priorities for the use of the Fund based on the county's evolving affordable housing needs. The Advisory Committee has proposed a set of "current priorities", based on in-depth discussion of the challenges and opportunities that have emerged since the inception of the Fund in FY 2006, to be included in the new guiding and overriding principles for the Fund.

Amendment 4: *Add the following Overriding Principle:* "The Fund will focus on providing affordable housing for persons experiencing homelessness, extremely low income persons with disabilities and special needs, seniors and working households."

Discussion: The Advisory Committee recognizes the critical importance of serving the most disadvantaged in the county, while at the same time producing the supply of affordable workforce housing necessary to ensure the county's economic vitality. The Advisory Committee is committed to using the Penny Fund for capital expenditures in projects that will contribute to implementing "Housing First" and achieving the goals of the Implementation Plan to Prevent and End Homelessness in the Fairfax-Falls Church Community. The Advisory Committee also notes that there are 1,306 extremely low-income "disabled households" on the FCRHA-managed waiting lists for Fairfax County's affordable housing programs.[8]

The Advisory Committee believes, however, that capital investment in affordable housing for special needs populations is only part of the equation. Once persons with disabilities or who are experiencing homelessness are in housing, the availability and consistency of supportive services is essential to their continued self-sufficiency. The

[7] Board Agenda Item, Action – 2; May 23, 2005.
[8] As of May 6, 2009; source: Fairfax County Department of Housing and Community Development. "Disabled Household" means a household with one or more members claiming a disability.

Advisory Committee urges the Board to continue to provide the supportive service resources necessary to the successful implementation of Housing First *from non-capital sources*.

Amendment 5: *Amend the Guiding Principle concerning subsidy levels to read as follows:* "*Incomes served:* The Fund shall serve persons with low incomes of 80 percent of the Area Median Income (AMI) and below[9]. Projects serving the lower end of the income range may be eligible for an above-average subsidy, while those serving the higher end of the income range will be eligible for a lower subsidy."

Discussion: The Advisory Committee noted a significant amount of confusion about the income levels served by Fairfax County's affordable housing programs. The Advisory Committee recommends adding the limit of 80 percent of AMI – defined by the United States Department of Housing and Urban Development (HUD) as the upper limit of "low and moderate income" – in order to clarify its long-standing income policy for the Fund. Beginning teachers, firefighters and police assisted by the county's housing programs generally have incomes at 70 to 80 percent of AMI.

It should be noted that the average income served in the FCRHA's affordable rental housing programs – Housing Choice Voucher, Public Housing, and the Fairfax County Rental Program (FCRP) – is approximately $26,462, or 29.7 percent of the AMI for a family of three.[10] This meets the HUD definition of extremely low income. Units purchased by Fairfax County or the FCRHA with the Penny Fund are part of the FCRP. Of the 2,241 units preserved under the Board's preservation initiative to date, a total of 1,696 – or 75 percent – are affordable to households earning 60 percent of the AMI, including 635 units affordable at 50 percent of AMI and below.

Amendment 6: *Amend the Guiding Principle concerning the use of the Penny fund for new construction to read as follows:* "The Fund may be used for new housing production and the preservation of existing affordable housing, including rehabilitation.

Discussion: Affordable housing matters to Fairfax County's economic recovery. According to the George Mason University Center for Regional Analysis, Fairfax County's continued economic vitality is inextricably tied to its response to the need for affordable workforce housing; the county's growth is highly dependent on the availability of affordable workforce housing. Fairfax County is expected to need more than 63,000

[9] Note: Units may be provided in mixed-income communities.

[10] *"Facts about Fairfax County's 'Penny for Affordable Housing Fund' and Affordable Housing Programs"*; Fairfax County Department of Housing and Community Development, April 7, 2009

net additional units of housing affordable to a range of incomes up to 120 percent of AMI by 2025.[11]

The importance of investing in new affordable housing production will only grow over time. An October 2008 staff report on affordable workforce housing in Fairfax County estimated that the 1,877 new Workforce Dwelling Units, Affordable Dwelling Units and Magnet Housing Units in the development pipeline constituted only 2.9 percent of the 63,660 new units needed by 2025.[12] The flexibility inherent in the Penny Fund and reinforced by the proposed amendments to the Fund's principles allows the Board to make critical investments in new housing production, either by the county itself or leveraging the power of the private sector.

The Advisory Committee also felt that the definition of affordable housing "preservation" needed to be expanded. The Advisory Committee believes that existing owners of affordable multifamily rental properties could be persuaded to retain their properties as affordable if they had access to affordable rehabilitation financing. The Advisory Committee recommends that the rehabilitation of existing affordable multifamily housing, in exchange for a commitment to continued affordability, would be an appropriate use of the Penny Fund. A positive byproduct of investing Penny Fund resources in rehabilitation is its potential for job creation and retention.

Amendment 7: *Amend the Guiding Principle concerning leveraging to read as follows:* "Leveraging non-county funds will continue to be an important goal of the Fund. Levels of leveraging will vary based on the incomes of persons being served."

Discussion: The amendment of this Guiding Principle – which formerly mandated a leveraging ratio of $3 in non-county dollars for very county dollar expended – does not represent a retreat from the Advisory Committee's commitment to leveraging non-county resources with the Penny Fund. Rather, it is recognition that the enhanced focus on serving households with extremely low incomes will require levels of subsidy which may make a 3:1 leverage ratio infeasible in certain projects.

The Advisory Committee will continue to track and report the leveraging rate on an annual basis. It should be noted that, over the first three fiscal years of the Penny Fund (FY 2006 through FY 2008), the average leveraging rate was $3.84 in non-county funds for every dollar invested from the Penny Fund.[13]

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[11] "*Linking Job Growth and Housing: Forecasts of the Demand for Workforce Housing in Fairfax County";* George Mason University, Center for Regional Analysis, June 2008.
[12] *"Encouraging Private Sector Workforce Housing"*; Fairfax County Department of Housing and Community Development, October 27, 2008.
[13] Source: FY 2006, FY 2007 and FY 2008 annual progress reports; Fairfax County Affordable Housing Advisory Committee

Amendment 8: *Revise and re-state the top priorities for the Penny Fund as "Current Priorities"; and remove the reference to revitalization areas; with the priorities now reading as follows:*

- Preventing and ending homelessness by providing safe and affordable housing
- Accessible and special needs housing
- Affordable housing close to work centers and transit
- Providing a range of affordable housing for seniors
- Preservation of existing affordable housing
- Workforce housing
- Affordable housing on surplus public land

Discussion: The revision of the priorities for the Penny Fund reflects how the many housing-related issues facing Fairfax County have evolved since the Guiding and Overriding Principles were adopted by the Board in late 2005. For example, the county's housing and human services structures are now implementing Housing First and the Plan to Prevent and End Homelessness. The housing market has dramatically changed, with foreclosures becoming a serious problem for troubled homeowners but also an opportunity for potential first-time homebuyers. The Metrorail Silver Line to Dulles International Airport and the long-anticipated transformation of Tysons Corner into a true urban center are now an impending reality. Both now and in the future, the flexibility of the Penny Fund will allow the Board to invest in the priorities it deems to be the most pressing, unfettered by priorities imposed by funding sources like the federal government.

As stated earlier, the Advisory Committee proposes to recommend updates to the priorities for the Penny Fund – based on emerging local priorities – for Board consideration on an annual basis

Recommendation Concerning Allocation of the Penny Fund: *The Advisory Committee believes that the existing model for allocating the Penny Fund is flexible and responsive, has been a consistent success, and should be retained*. Under the current model, the FCRHA and other non-profit and for-profit affordable housing developers access the Penny Fund and Fairfax County's other affordable housing development resources in response to opportunities emerging in the market. For-profit and non-profit developers access the county's affordable housing development funds via the FCRHA's long-standing Affordable Housing Partnership Program (AHPP), which acts as the "gateway" to the Penny Fund, as well as the Housing Trust Fund, and federal CDBG and HOME Investment Partnership funds.

Non-profit and for-profit applicants to the AHPP are expected to have site control and the support of the district supervisor for a project. Staff from the Department of Housing and Community Development (HCD) evaluates each application for initial eligibility, including whether the project meets Board-adopted priorities. Staff then underwrites the proposed transaction for feasibility and sustainability, and makes a recommendation to the HCD Loan Underwriting Committee. If the project is approved at the staff loan committee level, it then goes for approval, first to the FCRHA, and then to the Board.

This process has a proven track record over the last nearly four years of helping non-profit and for-profit developers preserve affordable housing in large numbers. Since the inception of the Board's Affordable Housing Preservation Initiative in April 2004, a total of 2,241 units have been preserved to date, of which 1,281 units – or 57 percent – have been preserved by non-profit or for-profit organizations using all funding sources. Of these 1,281 non-profit and for-profit units, 908 were preserved via the AHPP process using the Penny Fund.

The Advisory Committee acknowledges the discussion concerning the possible distribution of Penny Fund resources through a structure similar to the Consolidate Community Funding Pool (CCFP). However, the Committee does not recommend this model for the Penny Fund. A CCFP model would simply not be able to respond with the speed and flexibility demanded by large-scale preservation and production opportunities emerging in the market. The CCFP is a bi-annual, single deadline application process which focuses mainly on non-capital services to eligible populations. (There is a set-aside within the CCFP for affordable housing capital, which generally is used by non-profits for single unit acquisitions that are neither time-sensitive nor competitive. The FY 2010 value of this set-aside is anticipated to be $1,113,445.)

Other Critical Recommendations:

- *Alignment with the Implementation Plan to Prevent and End Homelessness:* The Advisory Committee recommends that the county continue to work to align its approach to affordable housing with the homelessness plan. The Committee notes that the FCRHA's Strategic Plan – Action Plan for FY 2010 has been aligned with the homelessness plan. The Advisory Committee also notes that the FCRHA has made significant strides toward meeting the metrics set forth by the Implementation Plan for FY 2009: As of March 2009, the FCRHA is providing 30 HOME-funded Tenant-Based Rental Assistance (TBRA) vouchers and 74 federal Housing Choice Vouchers for "Housing First", and has funded the acquisition of 9 non-profit units (including 8 beds in a group home) for individuals and families experiencing homelessness.

- *Expansion of the Workforce Housing Policy:* In the fall of 2007, the Board of Supervisors created Fairfax County's groundbreaking new Workforce Housing Policy via amendments to the Comprehensive Plan and Zoning Ordinance. The amendment to the Comprehensive Plan created a proffer-based incentive system designed to encourage the voluntary development of new housing affordable to households earning between 80 and 120 percent of the AMI. In exchange, developers may receive bonus density potential equivalent to up to one unit for every workforce unit provided. However, the original recommendation of the Board-appointed High-Rise Affordability Panel, on whose work the Workforce Housing Policy was based, provided for an income tier at 60 percent of AMI as well. This tier was eliminated from the Panel's final recommendations to the Board as it might have necessitated a higher level of density bonus. **The Advisory Committee recommends that the Board re-visit this aspect of the Panel's recommendations to determine options for the market to provide additional units for lower income households.**

- *Affordable Housing in Commercial and Industrial Districts:* The Advisory Committee has previously recommended that the Board explore another important recommendation of the High-Rise Panel that has not yet been addressed: that affordable and workforce housing be designated as a Permitted Use in Commercial, Industrial, and Mixed-Use Districts. The Panel, in its final recommendations to the Board recommended the following: "Through a mechanism such as the Special Exception process or the development of a by-right prototype, Affordable and Workforce Housing should be permitted in commercial, industrial, and mixed-use districts, under certain conditions and restrictions. In addition, employers with campus-type facilities in commercial and industrial districts should be allowed to use a portion of their land to provide Affordable/Workforce Housing for their employees. In either case, the Panel recommends that the affordable/workforce component of any residential development permitted in commercial or industrial districts should not count against the planned density or intensity of the property, within reasonable limits." The High-Rise Panel, during its deliberations, reached a consensus that this recommendation was likely to produce the most significant numbers of affordable workforce housing over the long term.

- *Expanded Application of the Merrifield Area Plan Language Concerning Affordable Dwelling Units (ADU):* The Advisory Committee reaffirms its recommendations to the Planning Commission and the Board that the Comprehensive Plan be amended to ensure that new rezoning actions in revitalization and similar areas include both Workforce Housing and Affordable Dwelling Units (ADUs), similar to the policy previously approved for Merrifield. The Board's Workforce Housing Policy includes the expectation that at least 12 percent of the units produced in new developments in the County's mixed-use development areas be affordable/workforce housing. In the view of the Affordable Housing Advisory Committee, the Comprehensive Plan should now be amended to ensure that, as in Merrifield, future approvals in similar areas result in at least 5 percent ADUs and 7 percent workforce housing. Without such policy, it is unlikely that significant numbers of ADUs will be provided in other high-density areas of Fairfax County.

- *Zoning Ordinance Amendment Concerning Residential Studio Units (RSU):* The Advisory Committee is aware that the Department of Planning and Zoning (DPZ) been developing an amendment to the Zoning Ordinance which would better enable the development of the RSU/SRO housing model in Fairfax County; however, the amendment has not yet been advertised. As the Board is aware, the Fairfax County SRO (Single Room Occupancy) Task Force recommended this type of housing as an "opportunity to provide residential stability to individuals who otherwise would be unlikely to achieve that goal", including persons with low incomes and disabilities, and persons experiencing homelessness.[14] The SRO Task Force also recommended RSU housing as important to the implementation of the Housing First model.[15] The Advisory Committee recommends that the Board direct DPZ to bring the Zoning Ordinance amendment forward for advertisement for public hearing at the earliest possible date.

- *Dedicated Affordable Housing Funding Source:* As was discovered in FY 2010, the one weakness of the Penny Fund is that it is subject to annual appropriations. The Affordable Housing Advisory Committee recommends that the Board explore identifying a dedicated funding source for affordable housing capital – potentially such as the automobile decal fee or a portion of the recordation tax – in a manner similar to other jurisdictions with high housing costs, like the District of Columbia. The District's Housing Production Trust Fund has a dedicated stream of funding from the 15 percent real estate transfer tax; in 2005, this translated to about $50 million.[16]

- *Additional Federal Housing Choice Vouchers:* The Advisory Committee strongly recommends that the Board take the necessary steps to increase the county's allocation of federal Housing Choice Vouchers and the associated HUD budget authority. The county currently is authorized by HUD to lease up to 3,204 vouchers, within the allotted budget authority. The Housing Choice Voucher program is a critical housing resource the county's most disadvantaged households. The program:

    - Serves the lowest average income of the FCRHA's rental housing/tenant subsidy programs. The average income served in FY 2008 was $18,951, of 21 percent of AMI for a family of three.[17] And
    - Has the highest percentage of "disabled households" served; as of May 2008, 36 percent of all households served in the Housing Choice Voucher program had one or more people with disabilities.[18]

  The Housing Choice Voucher program is currently 100 percent leased-up, and the waiting list is closed except to those on homeless waiting lists maintained by the Department of Family Services and referred to HCD. As stated earlier, there are currently 1,306 extremely low-income "disabled households" on the FCRHA-maintained waiting lists for affordable housing. Increasing the number of vouchers and the budget authority would immediately increase Fairfax County's capacity to meet the housing needs of these most vulnerable citizens.

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[14] *"An Affordable Housing Solution for Low Income Single Residents: Single Resident Occupancy (SRO) Housing in Fairfax County, Virginia"*; Fairfax County SRO Task Force, July 2005.
[15] Ibid.
[16] Bendix Anderson, "DC Harnesses the boom"; *Affordable Housing Finance*, June 2005.
[17] Source: *Report on Fairfax County Affordable Housing Programs and Funding Sources in FY 2008;* Fairfax County Department of Housing and Community Development, March 3, 2009.
[18] Ibid.

- *Local Tax Credit for Private Real Estate Developers:* The Advisory Committee recognizes that the private development community will, by necessity, play the central role on producing the number of affordable units the county needs to remain economically healthy. In addition to the density incentives already provided for in Board policy, the Advisory Committee recommends that the Board explore a local tax credit for private developers providing affordable housing.

- *Real Estate Tax Exemption for Non-Profit Affordable Housing Providers:* The recommends that the Board consider lifting the moratorium on real estate tax exemptions for non-profit affordable housing providers.

- *Commercial Development Linkage:* The Advisory Committee notes that other jurisdictions, such as Marin County, California, require contributions from non-residential land uses for the purpose of workforce housing. The Advisory Committee recommends that the Board explore the linkage between non-residential development and the need for affordable workforce housing and develop a policy to foster a synergy between the two.

- *Affordable Housing on Public Land:* The Advisory Committee recognizes the planned development of the Residences at the Government Center as a significant step in using public land as an investment in affordable workforce housing. The Committee recommends that the Board continue to seek similar opportunities to leverage the capacity of the private development community with public land.