GO Item 3
September 26, 2011
Worksession 2

MEMORANDUM

TO: Government Operations and Fiscal Policy Committee

FROM: MF Michael Faden, Senior Legislative Attorney
GO Glenn Orlin, Deputy Council Staff Director

SUBJECT: **Worksession 2:** Bill 21-11, Taxes – Transportation Impact Tax - Credits

Bill 21-11, Taxes – Transportation Impact Tax - Credits, sponsored by Councilmembers Floreen and Rice, was introduced on June 21, 2011. A public hearing was held on July 12 (see testimony, ©9-21).

Background. Bill 21-11 would implement recommendations 3-6 of the Clarksburg Infrastructure Working Group, submitted to the Council on April 13 (see report excerpts on ©5-6). All recommendations apply to the credits allowable to developers under the transportation impact tax, but most of the recommendations would apply only to the Clarksburg impact tax district.

The Clarksburg Infrastructure Working Group, an 11-member committee of Clarksburg residents, developers, and County officials, was directed by Council Resolution 16-1544 "to review and prioritize the necessary infrastructure items for the Clarksburg area and propose suitable mechanisms to finance the recommended infrastructure items". After prioritizing the unbuilt master planned projects, the Working Group tried to find suitable ways to generate new revenue for Clarksburg's infrastructure but it came up empty.

The Working Group then turned its attention to the funding of infrastructure that was already the responsibility of the Clarksburg Town Center and Clarksburg Village/Arora Hills developers to build under their respective subdivision approvals. For the Town Center, the Working Group recommended (see recommendation 7 on ©6) amending the impact tax law to allow the developer of Clarksburg Town Center to claim impact tax credits that it would have been entitled to if it had not expected the now-terminated Clarksburg Town Center development district to reimburse the cost of certain roads the developer built. This recommendation would allow a near-$2 million credit against future transportation impact taxes.

However, Bill 21-11 would not implement recommendation 7. After the Working Group submitted its report, attorneys for the developer, NNP II – Clarksburg, LLC, filed a notice of claim with the County. This notice is required under state law before the developer can sue the

County for damages claimed as a result of the County's termination of the development district. Council staff advised, and lead sponsor Councilmember Floreen concurred, that it would be imprudent for the County, through legislation or otherwise, to offer this reimbursement while the potential lawsuit is unresolved.

In Clarksburg Village and Arora Hills, the developers included conditions in homeowners' sales contracts and placed liens on property deeds that would allow the imposition of a private infrastructure charge if a development district is not established there. The private charge varies by housing type, ranging from $600-1,500 annually in December 2003 dollars. Local residents, including resident members of the Working Group, said they would challenge the legality of this charge. During a Working Group meeting, these developers offered to reduce the amount of their private charges to collect no more than $25 million, noting that their public infrastructure costs far exceed this amount, but that they would begin to collect this charge in 2012. The Working Group recommended additional ways to provide more impact tax credits for these developments with the understanding that the private charges would be reduced by the aggregate amount the developers would benefit from these additional credits. Each credit provision is described and analyzed below:

Testimony from developer representatives (see Orrick and Flanagan testimony on ©11-14) noted that the developers may propose "minor changes" to this Bill, but did not specify what those amendments would be. Councilmember Rice recently received a letter from the developers stating their conditions for support of Bill 21-11 (©27-28).

Fiscal impact The OMB fiscal impact statement on ©7-8 does not estimate the revenue loss resulting from each of the impact tax credit changes proposed in this Bill.

Issues/First Committee worksession

At its worksession held on September 12, this Committee discussed the following issues and made some tentative recommendations, all of which are subject to review at this worksession. The Committee asked Executive staff to clarify the Executive's position on the issues raised below; his September 22 response is on ©22-23. The Committee also directed Council staff to redraft certain parts of Bill 21-11 (see staff redraft on ©24-26).

1) Should the life of a transportation impact tax credit be extended from 6 to 20 years? From 1986 (when the first impact tax law was enacted) until early in the last decade, there was no deadline by which an impact tax credit must be used. In 2003 County Department of Transportation staff raised concerns about credits that were granted many years before; they argued that credits, like subdivision approvals themselves, should expire if not used within a reasonable time. The Council concurred and set a limit of 6 years for credits certified on or after March 1, 2004. Developer members of the Working Group argued that the 6-year rule unfairly penalizes larger developments that have an extended buildout period, and they would build their required road improvements sooner if they know their credits will not expire so quickly. Ultimately the Working Group unanimously recommended a 20-year limit. However, as far as Council staff knows, none of Clarksburg Village's or Arora Hills' impact tax credits have expired to date. Each developer has synchronized the construction of its roads to the pace of buildout, so that no credits have expired.

The Executive recommends lengthening the expiration period but to 10 or 12 years. He believes that the 20 years recommended by the Working Group is unnecessarily long.

This provision of Bill 21-11 (see ©2, lines 19-21) differs from others in that it would apply countywide. The consequence for County impact tax revenue can only be negative, since there certainly would be some situations where credits would expire in 6 years but not in 20. However, it is impossible to determine how much revenue loss is involved: it could be relatively small or quite large. In any event, the loss would be magnified if this extension is applied countywide.

Council staff recommends extending the deadline for credits from 6 years to 20 years only for developments located in the Clarksburg impact tax district. The Working Group's discussions were centered solely on Clarksburg issues, residents, and developers. Before approving policy changes that will affect other parts of the county — including the municipalities of Rockville and Gaithersburg — the Council should have a wider discussion and analysis of this issue.

For this and the report's other impact tax credit recommendations, the broader development and civic communities could question why any Clarksburg-specific measures are warranted. Council staff's response is that the Clarksburg situation already differs from the rest of the County in a very significant way: Clarksburg's transportation impact tax rates are higher -- 50% higher for residential development and 20% higher for non-residential development, compared to the other non-Metro Station Policy Areas in the County. This was part of the Council's 2003 decision to eliminate the Policy Area Transportation Review test from the Growth Policy. At that time the Council agreed with the Planning Board that eliminating PATR would reduce the amount of road construction required of developers in Clarksburg, so the Council compensated by setting higher impact tax rates there. However, in 2007 the Council reinstated a Policy Area Review test (PAMR), so the policy rationale for higher tax rates in Clarksburg no longer applies. Council staff explained this history to the Working Group, but the developers members preferred to have broader impact tax credits rather than reduce the tax rates.

Tentative Committee recommendation: extend the deadline for credits from 6 years to 20 years only for developments located in the Clarksburg impact tax district. The Committee may discuss further whether 20 years is too long an extension, as County Department of Transportation staff argued at the first worksession.

2) Should impact tax credits be allowed in Clarksburg for arterial improvements that do not add capacity but bring roads to current standards? A basic tenet of impact taxes is that new development should pay all, or a large share of, the cost of infrastructure that is needed because of higher demand generated by that development. That is why transportation (and school) impact tax revenue is only used for improvements that add capacity. A corollary of this tenet, therefore, is that credits against impact taxes should be granted only for developer-funded improvements that add capacity.

Currently, the law defines the type of projects that are eligible for impact tax credits as those County roadway or intersection improvements that add capacity. This excludes projects that improve an existing road by bringing it up to current standards. In Clarksburg, for example, some roads — such as Skylark Road and Snowden Farm Parkway (between Clarksburg and Stringtown Roads) — were upgraded from a rural byway to suburban standards without adding travel lanes.

An 8-3 majority of the Working Group felt that these roads have been made safer and, although through lanes were not added, their capacities have also increased by straightening them and widening lanes. The Bill extends credits to these non-capacity improvements, only for developments located in the Clarksburg impact tax district, on ©2, lines 7-10. The Working Group minority pointed out that these types of improvements have always been required of developers of new subdivisions and have never been creditable against the impact tax. The minority were also concerned about providing a different credit standard for Clarksburg.

Any new credit granted means that the Clarksburg Impact Tax District will collect so much less revenue in the future that can be used towards future road improvements, such as the extension of Observation Drive, which is essential for construction of the Corridor Cities Transitway (which will run in the median) and other development between I-270 and MD 355 in Clarksburg. Two specific road improvements cited by the Working Group would be eligible for credit under this provision: Skylark Road between MD 27 and Piedmont Road, and Snowden Farm Parkway between Stringtown and Clarksburg Roads. Each was an existing two-lane road upgraded to suburban standards; their additional credit values (developers' estimates) are $4 million for Skylark Road to Clarksburg Village/Arora Hills and $2.4 million for Snowden Farm Parkway to Clarksburg Town Center. There would likely be other credits in the future for improvements by other developments yet to occur.

The Executive opposes this proposal. He notes that the current impact tax rates are based on the cost of building County master planned road improvements that add capacity, which did not include these.

Council staff recommends this provision as long as it is restricted to the Clarksburg impact tax district.

Tentative Committee recommendation: allow credits for non-capacity-adding improvements only in the Clarksburg impact tax district. The Committee directed Council staff to draft language to cover specific improvements to part of Skylark Road; for that provision, see the staff redraft on ©25.

3) Should impact tax credits be allowed for State road improvements? Since 1988 the County has not allowed transportation impact taxes to be used to build State road improvements that add capacity. Historically this policy was adopted for two reasons: (1) the State should be responsible for funding improvements to its system; and (2) since the County's impact tax is set to cover most of the costs of capacity-adding County transportation projects, adding the State system to the mix would require raising the impact tax rates by several orders of magnitude.

Nevertheless, credits were granted to developers who provided capacity-adding improvements to State roads until the Council changed the law effective in March 2004.

Within Clarksburg, therefore, the current impact tax law does not allow credits for capacity-adding improvements to State roads such as MD 27, MD 121, and MD 355. An 8-2 majority of the Working Group (with one abstention) recommended allowing State road improvements located in or adjacent to Clarksburg (see ©2, lines 15-17) to be credited, since they add capacity just as County road improvements do and all such capacity benefits County travelers. This would arguably result in more State road improvements being built. (Councilmember Floreen has expressed her intent to consider expanding the availability of impact tax credits for capacity improvements to State roads outside the Clarksburg impact tax district.) A concern of opponents was that this would further deplete impact tax revenue for new transportation facilities. Specific road improvements eligible for credit under this provision are the widening of MD 27 from Observation Drive to Snowden Farm Parkway and the MD 355/Brink Road intersection, which together are valued by the developers at about $12 million.

The Executive opposes this proposal for the same reason as for the prior proposal.

Council staff disagrees with the Group's majority opinion that allowing State road credits would result in more State road improvements being built. Developers do not built off-site improvements, on State or County roads, because they are *incentivized* to do so, but only because they are *required* to do so as a condition of their subdivision approvals. Nevertheless, if the Council decides to grant this relief for the Clarksburg Village/Arora Hills developers (and some other future developments), it would come at the cost of reducing the same amount of revenue for future County capacity-adding improvements and thus slowing down their implementation.

Council staff recommends this provision as long as it is limited to the Clarksburg impact tax district.

Tentative Committee recommendation: no recommendation made yet.

4) Should impact tax credits be transferable, either inside Clarksburg or County-wide? A small majority of the Working Group (see ©5) recommended that developers in Clarksburg be allowed to sell excess credits (credits that exceed the amount of transportation impact tax due on the building permits in that development) to developers in Clarksburg and any other impact tax district in the County. A 10-1 majority of the Working Group recommended that the transfer of excess credits be limited to other developments in the Clarksburg impact tax district. The Bill reflects the Group's broader (but less supported) recommendation (see ©2-3, lines 24-32).

Here again, there has been no discussion of a broader transferability of impact tax credits, which the law had permitted for several years until the Council repealed that authority in 2003. Councilmember Rice would amend ©2, line 27, to replace <u>any</u> with <u>the Clarksburg</u>, so that impact tax credits could be transferred only to other properties in the Clarksburg impact tax district, rather than County-wide. The Executive agrees with Mr. Rice's amendment.

Council staff recommends Councilmember Rice's amendment to limit this provision to the Clarksburg impact tax district.

Tentative Committee recommendation: no recommendation made yet.

5) Should these expanded credits apply to transportation improvements made before the amendments take effect? This issue was not discussed previously. Normally an amendment to the impact tax law that expands the availability of credits would only apply prospectively – that is, it would only cover improvements completed after the amendments take effect.

To achieve the purposes of the Working Group's recommendations, a different provision would be necessary because some of the improvements which the Group wanted to credit have already been completed. If the Committee agrees with that goal, Council staff recommends a further amendment to clarify that these credits, along with applying to future improvements as they otherwise would, would also apply to already-completed improvements that otherwise qualify for a credit. See ©26, lines 40-44.

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Bill No. 21-11
Concerning: Taxes – Transportation Impact Tax - Credits
Revised: 6-15-11 Draft No. 1A
Introduced: June 21, 2011
Expires: December 21, 2012
Enacted:
Executive:
Effective:
Sunset Date: None
Ch. _____, Laws of Mont. Co. ________

COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND

By: Councilmembers Floreen and Rice

AN ACT to:

(1) modify the credits which apply to the transportation impact tax;
(2) allow certain excess credits to be transferred; and
(3) generally amend County law regarding transportation impact taxes.

By amending
Montgomery County Code
Chapter 52, Taxation
Section 52-55

Boldface	*Heading or defined term.*
Underlining	*Added to existing law by original bill.*
[Single boldface brackets**]**	*Deleted from existing law by original bill.*
Double underlining	*Added by amendment.*
[[Double boldface brackets**]]**	*Deleted from existing law or the bill by amendment.*
* * *	*Existing law unaffected by bill.*

The County Council for Montgomery County, Maryland approves the following Act:

Sec. 1. Section 52-55 is amended as follows:

52-55. Credits.

* * *

(b) A property owner must receive a credit for constructing or contributing to an improvement of the type listed in Section 52-58 if the improvement reduces traffic demand or provides additional transportation capacity except (for a development that is located in the Clarksburg impact tax district) an improvement to a County arterial road that does not add traffic capacity but brings the road to current road design standards. However, the Department must not certify a credit for any improvement in the right-of-way of a State road, except a transit or trip reduction program that operates on or relieves traffic on a State road, [or] an improvement to a State road that is included in a memorandum of understanding between the County and either Rockville or Gaithersburg, or (for a development that is located in the Clarksburg impact tax district) an improvement to a State road that is located in or adjacent to the Clarksburg impact tax district.

* * *

(4) Any credit that was certified under this subsection on or after March 1, 2004, expires [6] 20 years after the Department certifies the credit.

* * *

(e) A refund must not be granted when any credit certified under this Section exceeds the applicable tax. However, the owner of a development that is located in the Clarksburg impact tax district may transfer any unusable credit against the development impact tax to another property owner in any impact tax district. The transferee is

<u>entitled to the amount of credit transferred to it, up to the amount of unpaid impact tax the transferee owes. The transfer of any credit is not effective until the transferor notifies the Department of Permitting Services of the transfer. The transfer of any credit under this subsection does not extend the expiration date of that credit under subsection (b).</u>

* * *

Approved:

Valerie Ervin, President, County Council   Date

Approved:

Isiah Leggett, County Executive   Date

This is a correct copy of Council action.

Linda M. Lauer, Clerk of the Council   Date

LEGISLATIVE REQUEST REPORT

Bill 21-11

Impact Tax - Amendments

DESCRIPTION:	Extends the time period that a developer can use transportation impact tax credits from 6 years to 20 years. For Clarksburg developments only, grants impact tax credits for capacity improvements to State roads. Establishes a credit/exchange system for impact tax credits. . For Clarksburg only, allows credits for other types of roads that are not currently eligible for impact tax credits.
PROBLEM:	Sufficient financing is not available to build needed transportation improvements in the Clarksburg area.
GOALS AND OBJECTIVES:	To allow enhanced use of transportation impact tax credits, among other solutions, to stimulate funding of needed transportation improvements in the Clarksburg area and elsewhere.
COORDINATION:	Departments of Finance, Transportation, Permitting Services
FISCAL IMPACT:	To be requested.
ECONOMIC IMPACT:	To be requested.
EVALUATION:	To be requested.
EXPERIENCE ELSEWHERE:	To be researched.
SOURCE OF INFORMATION:	Michael Faden, Senior Legislative Attorney, 240-777-7905
APPLICATION WITHIN MUNICIPALITIES:	Applies only to County transportation impact tax.
PENALTIES:	Not applicable.

2. Do not establish a special taxing district for the Clarksburg Town Center (2-9-0). Those opposing a special tax district for AH/CV oppose a special tax for CTC for the same reasons. Many of those supporting the special tax for AH/CV did so only because of the prospect of the higher private infrastructure charge; but there is no such prospect for CTC, so they do not support a special tax here. A small minority believe that a special tax for CTC is equitable considering the expectations raised over the years by the then-pending development district, and since the revenue from a special taxing district is the only way that the rest of CTC—and especially its retail core—can be re-started.

3. Extend the time period that a developer can use impact tax credits from 6 years to 20 years (11-0-0). Currently the law requires that any credit be applied within 6 years after DOT has certified it. The Group unanimously believes that the 6-year use-it-or-lose-it provision should be extended to 20 years, which is the expiration period for WSSC's System Development Charge credits. The current rule unfairly penalizes larger developments that have an extended buildout period. The developers will feel more assured to build their required road improvements sooner if they know their credits will not expire so quickly.

4. For Clarksburg developments only, grant impact tax credits for capacity improvements to State roads (8-2-1). The impact tax law allows credits for capacity-adding improvements to County roads, but not to State roads such as MD 27, MD 121, and MD 355. The majority of the Group would allow State road improvements to be credited, since they add capacity just as County road improvements do, and all such capacity benefits county travelers. This would also result in more State road improvements being built. A concern of those opposed is that this would further deplete impact tax revenue for building new transportation facilities.

5. Establish a credit/exchange system for impact tax credits. The impact tax law does not allow credits earned from transportation projects built by a development to be used against anything but the impact tax payments to be made by the development itself. Allowing Clarksburg developments to sell any excess credits to other Clarksburg developments would recoup some of its costs; allowing them to sell excess to other developments elsewhere in the County would broaden the opportunity for cost savings.

A small majority (6-4-1) would allow Clarksburg developers to sell their excess credits to any willing buyer in the County. It is a matter of fairness: if a developer is spending more on roads than his impact taxes would be, then he should be able to recoup some of the difference by selling the excess credits. The larger the universe of potential buyers, the more likely the developers will be able to benefit from their excess credits, which would reduce the special district tax (see Recommendation #1).

The minority point out that impact tax revenue would be depleted countywide, meaning less funds for future improvements. A more restrictive version of this concept—limiting the sale of excess credits to other developments in Clarksburg—enjoys much broader support (10-1-0). While there would be fewer "buyers" of excess credits, the lost impact tax revenue would be limited to Clarksburg, and so only Clarksburg's future transportation revenue would be affected.

5

6. For Clarksburg only, designate other types of roads for impact tax credits that are not eligible currently (8-3-0). Currently, the law defines the type of projects that are eligible for impact tax credits as those County roadway or intersection improvements that add capacity. This excludes projects that improve an existing road by bringing it up to current standards. In Clarksburg, for example, some roads—such as Skylark Road and Snowden Farm Parkway (between Clarksburg and Stringtown Roads)—were upgraded from a rural byway to suburban standards, even without adding travel lanes.

A majority of the Group feels that these roads have been made safer and, although through lanes were not added, their capacities have also increased by straightening them and providing wider lanes. The minority point out that these types of improvements have always been required of developers of new subdivisions, and they have never been creditable against the impact tax. They are also concerned about providing a different credit standard for Clarksburg.

7. Grant CTC a credit equal to the nearly $2 million in transportation impact taxes it has paid (11-0-0). CTC's point is that if it knew there would be no development district, it would have applied for credit for the capacity-adding roads it built. The Group unanimously agrees that this would be a just resolution of the matter.

8. Forgive the $1.6 million that would have been paid by the CTC Development District for its share of the construction of Stringtown Road from I-270 to MD 355 (8-1-2). The General Fund advanced the $1.6 million to allow the project to be completed several years ago. Most of the Group agrees that without a development district, this obligation should be forgiven.

D. <u>Future Steps</u>

Should the Council concur with the Group's proposals, it would enact a bill amending the Development Impact Tax law to incorporate the recommended provisions. Furthermore, once there is a determination as to the monetary benefit of these provisions to Arora Hills and Clarksburg Village, a special taxing district should be established that would, over time, collect the balance of $25 million for these two developments.

As for Clarksburg Town Center, the nearly $2 million of credits the Group believes it is owed will also require a special provision in the Development Impact Tax Law. The $1.6 million obligation toward the cost of Stringtown Road Extended can be forgiven administratively by the Department of Finance, if the County Executive approves.

The Working Group acknowledges the support of County staff, including: Glenn Orlin, Michael Faden, and Susan Mabie, Council staff; Sue Richards, Office of Legislative Oversight; John Carter, Ron Cashion, Steve Carey, and Christopher McGovern, M-NCPPC; Michael Coveyou, Department of Finance; and Bob Simpson, Department of Transportation.

The Group particularly expresses its gratitude to Nate Betnun and Kojo Asiedu of Stone & Youngberg, who performed the analysis of several special taxing district options *pro bono*.

(6)

BILL 21-11

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OFFICE OF MANAGEMENT AND BUDGET

Isiah Leggett
County Executive

Joseph F. Beach
Director

MEMORANDUM

July 12, 2011

TO: Valerie Ervin, President, County Council

FROM: Joseph F. Beach, Director

SUBJECT: Bill 21-11, Impact Tax – Amendments

The purpose of this memorandum is to transmit a fiscal and economic impact statement to the Council on the subject legislation.

LEGISLATION SUMMARY

By amending Chapter 52, Section 52-55 of the Montgomery County Code, the proposed legislation implements four recommendations of the Clarksburg Infrastructure Working Group, submitted to the Council on April 13, 2011:

- Extends the time period that a developer can use transportation impact tax credits from 6 to 20 years, to align with the expiration period for WSSC's System Development Charge credits, and avoid unfairly penalizing larger developments that have an extended build out period; *REC #3*
- For Clarksburg developments only (perhaps outside the Clarksburg impact tax district depending upon final Council action), grants impact tax credits for capacity improvements to State roads such as MD 27, MD 121, and MD 355 as improvements to State roads can also add transportation capacity and benefit county travelers; *REC #4*
- Establishes a credit/exchange system for impact tax credits to allow Clarksburg developments to sell any excess credits to other Clarksburg area developments (perhaps outside the Clarksburg impact tax district depending upon final Council action), to broaden the opportunity for cost savings to developers; *REC #5*
- For the Clarksburg Development District, allow impact tax credits for other types of County arterial road safety (as opposed to capacity) enhancements that are not currently eligible; by bringing them up to current standards (e.g., upgrading from a rural byway to suburban standards with improvements such as curb/gutter, shoulders, wider lanes, improved site lines); *REC #6.*

FISCAL AND ECONOMIC SUMMARY

Enacting this legislation (in combination with Bill 22-11 establishing a Clarksburg special taxing district) is expected to have a localized fiscal impact that would over time generate approximately $25 million to help defray transportation infrastructure construction and improvement costs in the Arora Hills and Clarksburg Village geographic areas.

The legislation has no quantifiable impact on employment, personal income, investment, or other economic variables to the Montgomery County economy as a whole.

The following contributed to and concurred with this analysis: Michael Coveyou, Department of Finance, Bryan Hunt, Office of Management and Budget.

JFB:bh

c: Kathleen Boucher, Assistant Chief Administrative Officer
Lisa Austin, Offices of the County Executive
Karen Hawkins, Acting Director, Department of Finance
Michael Coveyou, Department of Finance
Bryan Hunt, Office of Management and Budget
Amy Wilson, Office of Management and Budget

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Good Afternoon:

I am Jennifer Russel, Principal at Rodgers Consulting, and I am here today in my capacity as Chair of the Clarksburg Infrastructure Working Group. I have a history with Clarksburg, given that I was the first Clarksburg Ombudsman, so I would like to witness a solution for Clarksburg that will move it towards completion.

I am pleased to see that the recommendations of the Working Group have so quickly become pending legislation. I thank you and the Council's staff, who were so instrumental in the thought processes associated with our work earlier this year, for bringing our suggestions to reality. The legislative package that the Working Group came up with is fairly reflected in the series of bills pending before you today. I am well aware of the fact that there were varying viewpoints amongst the members of the Working Group; however everyone wants special consideration for Clarksburg so that we can all realize the Master Plan vision favored in the 1994 Plan, an effort that requires the construction of much needed infrastructure. All of our efforts underscored this acute need to get roads and allied infrastructure built as soon as possible, along with identifying the means to do so.

Bill 21-11 would implement fully three recommendations made by the Working Group. The underlying initiative behind these recommendations was to make impact tax credits more valuable in the marketplace in order to incentivize the development community to utilize them. It was our unanimous belief that moving in this direction would get more roads built, our number one goal. The extension of the time period that developers can use impact tax credits from 6 to 20 years will encourage developers to build required roads sooner, knowing that the credits won't expire, will work more efficiently with larger developments and will actually be a return to the practice in the County prior to 2003 when credits were good until they were used.

The legislation's intent to grant tax credits for capacity improvements to State roads is viewed as an advantageous move that will result in more State road improvements being completed. While the legislation currently suggests limiting this incentive to State roads that are located in or adjacent to the Clarksburg impact tax district, I believe that part of the GO Committee's evaluation of the proposed legislation should consider expanding this incentive to the entire County. If these private funds are used more zealously to build State roads, this would simply give us an opportunity to move more State-funded projects in Montgomery County up on our priority list. The companion concept to expand the definition of road improvements beyond "capacity-increasing" within Clarksburg only, in order to accrue additional tax impact credits should indeed be included in the legislation, for the simple reason that developers will be more inclined to make these improvements, many of which are safety-oriented.

The establishment of a credit/exchange system for impact tax credits is the final lynchpin in the package presented by the Working Group. The ability to sell excess credits to any willing buyer in the County was supported by a small majority of the group. It does appear that if there is a larger pool of potential buyers, this concept might be more feasible.

The establishment of a Special Tax District per Bill 22-11 was endorsed by a small majority of the working group as an alternative to the private infrastructure charge. Some concerns were voiced at a recent Clarksburg meeting as to the amount of the yearly charge, projects to be funded and other details. It is important to note that this bill merely establishes the framework for a future district with subsequent public hearings required to establish a rate and an approved listing of infrastructure.

The proposed district described in Bill 22-11 is viewed as an integral part of the mechanism needed to make Clarksburg whole, with respect to infrastructure. With companion Bill 21-11 increasing the financial value of the impact tax credits through the various means previously endorsed, this carefully crafted package could have a profoundly beneficial effect on Clarksburg's future. Thank you for the opportunity to comment.

15

LINOWES AND BLOCHER LLP

MEMORANDUM

TO: County Council Members

FROM: John R. Orrick, Jr.

DATE: July 12, 2011

RE: Testimony on Bill Numbers 21-11 (Taxes - Transportation Impact Tax - Credits) and 22-11 (Clarksburg Area Special Taxing District)

My name is John R. Orrick, Jr. of Linowes and Blocher LLP and I am appearing on behalf of Beazer Homes and Elm Street Development Company in support of Bills 21-11 and 22-11, with amendments, as I will describe herein.

A brief word of background on these Bills. The developers on whose behalf I am testifying are the original property owners or their successors in interest to two subdivisions in Clarksburg, Maryland: Arora Hills and Clarksburg Village. Each of these subdivisions received its Site Plan approvals with the MNCPPC based on an express understanding that a development district would be formed under Chapter 14 of the Montgomery County Code to pay for a substantial portion of the public infrastructure improvements required as a condition to such Site Plan approvals. As you are aware, due in part to the controversies raised over the use of Chapter 14 development districts by citizens in Clarksburg, neither of these development districts has ever been implemented. A working group was formed this past fall which was comprised of representatives of citizens living within the impacted developments, the developers, County Staff and outside experts (the "Clarksburg Infrastructure Working Group") to evaluate the best course of action for proceeding with a plan to fund the public infrastructure which has largely, but not entirely been completed, by the developers of Arora Hills and Clarksburg Village. The two Bills in question arose out of recommendations which were adopted by such Clarksburg Infrastructure Working Group in April 2011.

During the discussions of the Clarksburg Infrastructure Working Group, representatives of the two developers consistently indicated that, if a solution to funding a significant portion of the infrastructure costs they had incurred were arrived at, they would not insist on the imposition of a private infrastructure charge which they had recorded against their properties prior to the sale of the lots to homebuyers. Various options were discussed by the Infrastructure Working Group to finance this infrastructure, and Bill Nos. 21-11 and 22-11 represent an amalgam of several of these recommendations.

At this time, the developers believe that with some modifications, Bill 21-11, which provides amendments to the County's Transportation Impact Program, may generate sufficient revenues so as to significantly repay the portion of infrastructure that they had originally looked to the Chapter 14 Development District and/or the private infrastructure charge to recoup. While the developers have not had detailed discussions with representatives of the County Government, and would need to do so prior to making a firm determination as to the reliance on impact tax credits as a means of recoupment of their infrastructure charges, the developers believe that with certain modifications, there may be potential to avoid the need for either a special taxing district as contemplated by Bill 22-11 or a private infrastructure charge to be imposed.

We urge the Council to adopt Bill No. 21-11 with amendments, and also ask that the Council do so prior to taking action on Bill 22-11, the Clarksburg Area Special Taxing District . The specifics of the amendments will be addressed in the work sessions on this Bill. Should the impact tax credits allowable by Bill No. 21-11 not be sufficient to allow the developers to recoup the infrastructure investment they have made in substantial part, they would support Bill 22-11 with the additional caveat that the County adopt a resolution which states the actual list of infrastructure that would be subject to reimbursement through the taxing district.

ELM STREET DEVELOPMENT

July 12, 2011

Montgomery Council
Office of Legislative Information Services
100 Maryland Avenue
Rockville, MD 20850

Re: Bills 22-11, 21-11 & 23-11

Dear President Ervin and Council Members,

This letter is to serve as my written testimony in the public hearings for bills 21-11, 22-11 and 23-11.

I have been working on our Clarksburg Village development for the past 27 years. As a member of the Citizens Advisory Committee for the 1994 Master Plan, I am very aware that future development districts were always planned to be a major component of the creation of Clarksburg. It was clear in the early 1990's that the County would not split the cost of the transportation infrastructure with developers as was done in Germantown. We were following this Master Plan blueprint when we requested the County Council to authorize a development district for Clarksburg Village prior to our selling a single home. At that time, we also recorded documentation notifying future homeowners that Clarksburg Village would be subject to a future development district, either a public district or a private district. The transportation infrastructure we agreed during the preliminary plan process to build was based on the fact that a development district would help us fund the improvements.

I have served on the Clarksburg Development District Task Force this Spring. During those negotiations, we committed that if the impact fee law could be modified, we would lower the amount of funds to be repaid to us through a development district. We ask, therefore, that you address Bill 21-11 first before you address Bill 22-11. Except for minor changes we will discuss during the planned work sessions, we strongly support the adoption of both bills.

Bill 23-11 is acceptable to us in concept but needs to be re-worded. We certainly do not request duplication of any county funding for our improvements. We do think, however, that if impact taxes reimburse only a portion of the costs of any infrastructure

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improvement, the remaining costs should be eligible for reimbursement through a development district. As drafted, Bill 23-11 does not seem to allow for partial payments from different sources to pay for the total cost of an infrastructure improvement.

We look forward to working with you during the work sessions to achieve an outcome that is as fair as possible to all parties.

Sincerely,

David D. Flanagan

7/12/2011

Hello,

My name is Barry Fantle. I am a Clarksburg Town Center Resident, President of the Clarksburg Civic Association and was a member of the Clarksburg Infrastructure Working Group.

I would like to offer my support of Bill 21-11. If approved this bill should allow the developer to apply enough impact tax credits to effectively nullify any additional amounts they are asking for via their private infrastructure agreement or the proposed special taxing district. About 13 million in impact credits have been claimed by Arora Hill and Clarksburg Village. They have roughly another 65 million available for transportation projects and about 72 million available for school projects.

I will quickly go over the items in 21-11 and give my rationale for voting for them while on the infrastructure group.

3) I agree 100% with extending the time period for which credits can be used. This seemed like a no brainer especially for larger developments. The developers also stated that it would let them build infrastructure more quickly if they knew the credits would not expire.

4) I believe if a developer makes an improvement to an arterial road that effectively changes the classification, then they should be allowed to claim an impact tax credit. For instance, both Snowden Farm Pkwy and Skylard Rd were improved. While capacity may not have been added, the roads were made safer and can safely handle a greater capacity. Allowing the developers of Arora Hills and Clarksburg Village to get credit for this type of improvement means that no argument can be made to include it in a Special Taxing District.

5) Credits for State roads. – State roads serve more than just the travelers of a particular community, so to me this is good policy that will also have the benefit of encouraging more roads to get built. This will also reduce the amount that the Arora Hills and Clarksburg Village developers could ask for in the Special Tax District. For instance, before this bill, the developer would not be able to claim 4.5 million in credits for the widening of 27 since it is a state road. Under this bill the developer will now be able to. This means that no argument can be made to put this amount into a special taxing district. I agree with Councilmember Floreen that this suggestion should be expanded beyond Clarksburg. This also has the effect of encouraging more developers to do state projects and as a result the county will be able to prioritize other roads that do not have the benefit of being built by a developer.

6) Establish a credit/exchange system for impact tax credits. – I did support this, but I do not know how you can put a dollar amount on the credits or regulate the exchange. I do agree with Councilmember Rice that impact taxes paid in Clarksburg should stay in Clarksburg. Especially with all the infrastructure that is needed.

I believe that the suggestions by the working group will greatly reduce if not totally wipe out the amount of money that could be placed in a Special Taxing District.

I think it is premature to even consider setting up a Special Taxing District given it is unknown what projects would or could be placed. Of 26 million in items that the Executive recommended for original development district, I estimate that 23 million would be covered by credits. The remaining may or may not be eligible depending if they are considered transportation. Of the 72 million that the developer originally petitioned, but was not recommended, about 90% of that would have been covered by impact tax credits. The other items being trails and such.

I have provided the Council with my dollar estimates regarding impact taxes collected and to be collected. However, the council should obviously do their own analysis.

I believe the council should support items 3-6 from the Working Group, with the proposed changes by Councilmember Floreen and Rice.

I do not believe the council should approve bill 22-11. Impact tax credits should cover any amounts the developers think they are entitled to. And as Jennifer Barett said in one of our last infrastructure working group meetings, "this money was never promised".

Impact Tax Calculation for Elm Street/Artery based on unbuilt units and retail.

Unit Type	Units	Transportation Impact Tax Rate	Potential Transportation Impact Tax	School Impact Tax Rate	Potential School Impact Tax
Single Family Detached	1907	$17,116	$32,640,212	$21,920	$41,801,440
Single Family Attached	**1360**	**$14,005**	**$19,046,800**	**$16,503**	**$22,444,080**
Garden Style	816	$10,891	$8,887,056	$10,431	$8,511,696
Retail	**129000**	**$11**	**$1,444,800**		**$0**
Total			62,018,868		72,757,216
Transportation Impact Tax					
Credit previously used			13,000,000		
Total			**75,018,868**		**72,757,216**

Notes:

1) The actual number would be slightly lower depending on MPDUs

2) Thirteen million in credits have already been used for built units. There may be more outstanding.

3) The transportaion impact tax rate for retail is $11/SF

4) There will also be a senior housing building. This was not included in the calculations

Elm Street/Artery County Executive Recommended Infrastructure List

Improvement	**County Executive** Recommended	**Transportation** Credit	**Petitioned** Difference
Stringtown(along Cl Vill Frontage)	**$1,600,000**	**$1,600,000**	**$0**
A-305 from Foreman Blvd to A-302	$6,300,000	$6,300,000	$0
A-305 from A-302 to MD27	**$11,300,000**	**$11,300,000**	**$0**
MD27 Widening	$4,500,000	$4,500,000	$0
Clarksburg Village South Park	**$1,500,000**		**$1,500,000**
Trail Crossing Foreman	$200,000		$200,000
Trail Crossing at A-305	**$600,000**		**$600,000**
Trail Gap	$200,000		$200,000
	$26,200,000	**$23,700,000**	**$2,500,000**

Notes:

1) All items were part or Planning Board requirements

2) Library has been removed from the list.

3) The bottom four items might be eligible for credits thus reducing the difference.

4) The Transportation Credit column assumes eligibility based on CIWG recommendations.

Elm Street/Artery Infrastucture List - Petitioned

Improvement	Petitioned Amt	Transportation Credit	School Credit	Petitioned Difference
Stringtown(along Cl Vill Frontage)	$1,600,000	$1,600,000		$0
A-305 from Foreman Blvd to A-302	$6,300,000	$6,300,000		$0
A-305 from A-302 to MD27	$11,300,000	$11,300,000		$0
MD27 Widening	$7,210,000	$7,210,000		$0
Clarksburg Village South Park	$1,500,000			$1,500,000
Trail Crossing Foreman	$200,000			$200,000
Trail Crossing at A-305	$600,000			$600,000
Trail Gap	$200,000			$200,000
Skylark	$4,980,000	$4,980,000		$0
Middle School Site Grading	$1,130,000		$1,130,000	$0
Skylark Local Park	$1,750,000			$1,750,000
Greenway Trail(Skylark)	$920,000			$920,000
Liltle Seneca Parkway (A-302)	$19,560,000	$19,560,000		$0
A-305 from Stringtown to Foreman	$6,500,000	$6,500,000		$0
MD355/MD27 Intersection	$1,150,000	$1,150,000		$0
MD27/Brink Rd Intersection	$300,000	$300,000		$0
Foreman Blvd	$3,850,000	$3,850,000		$0
Elementary School Grading(Cl Village)	$690,000		$690,000	$0
Ele School/North Park Grading	$750,000		$750,000	$0
Cl Village South Local Park Grading	$630,000		$630,000	$0
Greenway Trail(Cl Village segment)	$1,820,000			$1,820,000
Total	$72,940,000	$62,750,000	$3,200,000	$6,990,000

Notes:
1) All items were part of Planning Board requirements
2) Library has been removed from the list.
3) Some park and trail items may be elilgible for credits thus reducing the difference.
4) The Transportation Credit column assumes eligibility based on CIWG recommendations.
5)A305 - Snowden Farm
6)A302 - Little Seneca Pkwy
7)A304 - Foreman

Testimony before the Montgomery County Council to Question the Clarksburg Special Taxing District and Developer Tax Credit proposed legislation 22-11 and 21-11

July 12, 2011

by

Lisa Winstel, resident of Clarksburg, MD

Good afternoon. My name is Lisa Winstel and I am a current resident of the Arora Hills subdivision of Clarksburg, MD.

Yesterday evening, I had the "opportunity" to drive home via Great Seneca Highway (Interstate 270 was experiencing a considerable amount of traffic due to the burst gas main, necessitating my alternative route). As I drove home, at an extremely "leisurely" pace, I had ample time to consider my testimony before you this afternoon – and, indeed, to rewrite my opening comments.

I found myself wondering, as I crawled along, if the lovely communities I passed had paid a special tax to reimburse the developers of *their* communities for the lovely boulevard I was traveling. I asked myself - Do the residents of Kentlands pay an additional *ad valorem* property tax such as the one you are considering today? How about the residents of Lakelands? I passed community after community. I passed retail establishments! Developed intersections! Perhaps the residents of Germantown paid for all the lovely transportation improvements I had the time to admire!

My thoughts then turned to Interstate 270 (there was a lot of traffic and I had plenty of time for these thoughts). I reflected on my youth. When I was growing up in Montgomery County, I270 (then called 70S) was as narrow as Great Seneca Highway. But someone, somewhere, had the foresight to project a need for a wider 270 that could handle projected capacity. Many of us at the time made fun of the newly widened 270. We used to joke about watching out for approaching jumbo jets when driving. But no one paid an extra, special property tax to make the necessary infrastructure happen. Someone, somewhere, some courageous planner or politician knew – had the foresight to understand – that infrastructure is necessary to create a thriving community.

My rush hour musings are now concluded.

Ladies and Gentlemen I am here today to speak in favor of a thriving community – a thriving Clarksburg. In fact, if we must pay an additional, special *ad valorem* property tax to create the community we all bought into, then so be it. But I stand opposed to the legislation in front of you today.

I have yet to discover what specific projects are to be funded by 22-11. And, without a list of projects, there is no cap to the cost, hence no limit to the amount of the tax or the duration of the provision.

Line 106 on circle 6 item 68 D 4 goes on to state that the Council

> "may approve a resolution that lists each transportation infrastructure improvement that would be entirely or partly paid for by a tax imposed under Section 68D-3."

Regarding expiration, line 232 on circle 10 item 68D7 states that

> "Any special taxing district created under this Chapter expires by operation of law 30 days **after the cost** of all transportation infrastructure improvements **identified in a Council resolution** approved under Section 68D-4, including all outstanding bonds and cash advances made by the County, have been paid."

In other words, as long as the Council continues to approve resolutions for infrastructure, the taxing can continue. This proposed legislation authorizes the Council to continually approve projects and assess additional taxes.

I have yet to sign a blank check and I will not condone the Council doing so with my special tax dollars in Clarksburg.

On circle 12, we find an excerpt from the Clarksburg Infrastructure Working Group report. In this excerpt there is mention of a $25 million benefit "goal". The report invokes the notion of offsetting the $25 million goal with tax credits: potentially further reducing the amount to be raised by the special taxing district.

Now, please bear with me as I do a bit of "back of the envelope" math.

At a March 23, 2011 meeting of the Clarksburg Infrastructure Working Group, David Flanagan, president of Elm Street Development of McLean, Va., offered to reduce the total estimate of the amount to be spent by developers on road infrastructure to $25 million and divide it into two pools, with current residents responsible for $12.5 million and future residents responsible for $12.5 million.

In the Planning Board draft of the Limited Amendment to the Clarksburg Master Plan and Hyattstown Special Study Area, it is stated that there are currently "approximately 5,200 dwelling units built in the Plan area, with a total of approximately 9,900 dwelling units approved."

5,200 units sharing $12.5 million = $2,404 per household total
or
9,900 units sharing $12.5 million = $1,262 per household total

What is the $25 million figure referenced in the report? How does this translate into an estimated 30 year in duration *annual* tax of a few hundred dollars per household? Surely this cannot all be due to interest and debt service costs! I thought that one of the reasons for the County to provide the funding mechanism was to reduce these expenses.

All I ask for is a list of the proposed projects and an estimate of the costs. Provided with that factual information, residents of Clarksburg can make an informed decision to either support or oppose 22-11. Without that level of detail, this legislation is not worthy of your consideration and not worthy of my support.

Without sufficient detail to properly consider 22-11, we must simultaneously table consideration of 21-11. It is my fervent hope and belief in the reasonableness of the developers of Clarksburg Village and Arora Hills, that they will not view defeat of these two proposed bills as cause to immediately impose a private tax and perhaps launch an endless legal battle that will only serve to delay needed improvements. I think that the developers may be willing to wait for a meaningful, detialed piece of legislation that has a better chance of earning popular support.

I hope that your thoughtful considerations of the shortcomings of the legislation before you today will earn the respect of the residents and developers alike and that together we can solve these problems and come before you at a later date with a more acceptable, informed and viable solution.

Thank you.

OFFICE OF THE COUNTY EXECUTIVE
ROCKVILLE, MARYLAND 20850

Isiah Leggett
County Executive

RECEIVED
MONTGOMERY COUNTY

MEMORANDUM

September 22, 2011

TO: Valerie Ervin, President
Montgomery County Council

FROM: Isiah Leggett, County Executive

SUBJECT: Bill 21-11, Impact Tax – Amendments

The purpose of this memorandum is to share my recommendations regarding Bill 21-11, Impact Tax – Amendments.

Bill 21-11 amends the current impact tax law by allowing impact tax credits to be certified, solely in the Clarksburg impact tax district, for improvements to County arterial roads that do not add traffic capacity but bring the roads to current road design standards. The bill also permits a credit for improvements for State roads within the Clarksburg Impact Tax District. Bill 21-11 further extends the life of a credit from six (6) years to twenty (20) years, for all impact tax districts, and authorizes an owner of a development in the Clarksburg impact tax district to transfer any usable credits against the development impact tax to another property owner to be used in any impact tax district within the County.

While extending the life of the credits beyond the current six-year maximum and allowing developers with excess credits to transfer them to other developers makes sense from an economic development perspective, the twenty-year term for the life of the credit is unnecessarily long. I ask that you consider extending the credit life to ten years, or possibly doubling it to twelve years. Regarding the transfer of excess credits, I believe it would be wise to allow the transfer to occur only within the Clarksburg area, as suggested by Councilmember Rice. This would ensure an economic boost within Clarksburg, and may serve as a pilot for potentially extending the ability to transfer credits to other parts of the County or County-wide.

I recommend that the Council not extend impact tax credits to State road projects or to County arterial projects that do not add transportation capacity. These two changes would undermine both the structure of the tax rates and negate one of the main reasons for impact taxes – i.e., ensuring that new development helps to pay for the additional burden that the new development places on County infrastructure. Regarding the extension of the credits to State roads, the tax rates currently in place are based on the County's costs for the County's road system. Therefore, authorizing impact tax credits for State road projects would undermine the purpose of the County impact tax and require an increase in impact tax rates to account for the addition of the new credits for State road projects. Likewise, allowing impact tax credits for County projects that do not add transportation capacity negates the reason for impact taxes, which is to help pay for the additional capacity added by new development. I strongly recommend that you do not adopt either of these provisions.

If you have questions or need further clarification, please contact Mike Coveyou, Department of Finance, at 240-777-8878.

c: Joseph Beach, Finance Director
Arthur Holmes, DOT Director
Jennifer Hughes, OMB Director
Diane Schwartz Jones, ACAO
Hadi Mansouri, Acting DPS Director
Steve Silverman, DED Director

Bill No. 21-11
Concerning: Taxes – Transportation Impact Tax - Credits
Revised: 9-21-11 Draft No. 2
Introduced: June 21, 2011
Expires: December 21, 2012
Enacted: ______
Executive: ______
Effective: ______
Sunset Date: None
Ch. ____, Laws of Mont. Co. ______

COUNTY COUNCIL
FOR MONTGOMERY COUNTY, MARYLAND

By: Councilmembers Floreen and Rice

AN ACT to:
(1) modify the credits which apply to the transportation impact tax;
(2) allow certain excess credits to be transferred; and
(3) generally amend County law regarding transportation impact taxes.

By amending
Montgomery County Code
Chapter 52, Taxation
Section 52-55

Boldface	*Heading or defined term.*
Underlining	*Added to existing law by original bill.*
[Single boldface brackets**]**	*Deleted from existing law by original bill.*
Double underlining	*Added by amendment.*
[[Double boldface brackets**]]**	*Deleted from existing law or the bill by amendment.*
* * *	*Existing law unaffected by bill.*

The County Council for Montgomery County, Maryland approves the following Act:

24

Sec. 1. Section 52-55 is amended as follows:

52-55. Credits.

* * *

(b) A property owner must receive a credit for constructing or contributing to an improvement of the type listed in Section 52-58 if the improvement reduces traffic demand or provides additional transportation capacity [[except]] and (for a development that is located in the Clarksburg impact tax district) [[an]] if the improvement to a County arterial or minor arterial road [[that]] (or to Skylark Road between Ridge Road and Piedmont Road) does not add traffic capacity but brings the road to current road design standards. However, the Department must not certify a credit for any improvement in the right-of-way of a State road, except a transit or trip reduction program that operates on or relieves traffic on a State road, [or] an improvement to a State road that is included in a memorandum of understanding between the County and either Rockville or Gaithersburg, or (for a development that is located in the Clarksburg impact tax district) an improvement to a State road that is located in or adjacent to the Clarksburg impact tax district and adds traffic capacity.

* * *

(4) Any credit that was certified under this subsection on or after March 1, 2004, expires [6] [[20]] 6 years after the Department certifies the credit. However, if the development for which the credit was certified on or after March 1, 2004, is located in the Clarksburg impact tax district, the credit expires 20 years after the Department certifies the credit.

* * *

(e) A refund must not be granted when any credit certified under this Section exceeds the applicable tax. However, the owner of a development that is located in the Clarksburg impact tax district may transfer any unusable credit against the development impact tax to another property owner in [[any]] the Clarksburg impact tax district. The transferee is entitled to the amount of credit transferred to it, up to the amount of unpaid impact tax the transferee owes. The transfer of any credit is not effective until the transferor notifies the Department of Permitting Services of the transfer. The transfer of any credit under this subsection does not extend the expiration date of that credit under subsection (b).

* * *

Sec. 2. Applicability.

The Department of Transportation may certify an impact tax credit under County Code Section 52-55, as amended by Section 1 of this Act, for a development that is located in the Clarksburg impact tax district for an improvement completed before this Act takes effect if that improvement otherwise qualifies for a credit.

Approved:

Valerie Ervin, President, County Council — Date

Approved:

Isiah Leggett, County Executive — Date

This is a correct copy of Council action.

Linda M. Lauer, Clerk of the Council — Date

September 19, 2011

Re: Impact Tax Modifications

Dear Councilmember Rice,

During the Clarksburg Infrastructure Working Group meetings, we made commitments to Clarksburg residents concerning development tax districts. Our agreement was to limit any public or private district proceeds to $25,000,000 for Clarksburg Village and Arora Hills combined. Further, we agreed to reduce this maximum proceeds based on the outcome of the impact fee legislation modifications. We would like to go on record now with possible actions which would result in the elimination of our need for any tax district for Clarksburg Village or Arora Hills, either through a private district or the public district contemplated in draft Bill 22-11.

These requested actions are:

1. Adoption of the provisions in Bill 21-11 including:

    - Impact Tax Credit for State Roads
    - Extension of Credit expiration from 6 years to 20 years
    - Marketability of excess credits to other developers throughout the County
    - Credits for the re-building of existing small major/minor arterial roads and Skylark Road in Clarksburg which bring them up to current capacity and safety design standards

2. Directive to staff that the master planned Clarksburg Greenway Bike Trails are eligible for transportation impact tax credit. This eligibility is already allowed by law if determined that the trails are "52-58 (e) hiker-biker trails used primarily for transportation".

Thank you for your consideration of these actions. If the County Council finds them acceptable, there will be no need to process Bill 22-11 any further.

Sincerely,

Clarksburg Village Investments, Inc.

David D. Flanagan
President

Clarksburg Skylark, LLC

Donald W. Knutson
Manager