



County Executive John R. Leopold
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410-222-1821

March 31, 2011

James H. DeGraffenreidt, Jr.
President
Maryland State Board of Education
200 West Baltimore Street
Baltimore, Maryland 21201

Dear Mr. DeGraffenreidt:

Pursuant to Section 5-202(d)(7) of the State Education Article, Anne Arundel County is requesting a waiver from the State's Maintenance of Effort (MOE) requirements as defined under Section 5-202(d)(1)-(6). The basis for this request is that the cumulative impact of the current economic recession prevents Anne Arundel County from funding the MOE requirement for FY12..

As defined under the Education Article, the County's local funding obligation for K-12 Public Education in FY12 would be \$568,069,300 in order to maintain per pupil spending at \$7,713. The County's Proposed FY12 Operating Budget, which is to be submitted to the County Council on April 15, will include \$553,069,300. Therefore, we are requesting the State Board of Education waive the \$15,000,000 difference as otherwise required under the Education Article.

The County Executive's total FY12 recommended operating budget for Anne Arundel County Public Schools, including local funding, State education aid, federal grants, and other revenues is anticipated to be \$935,933,800. This amount is still subject to final action of the Maryland General Assembly that may affect State aid.

Although the County Council has not yet met to consider this request, it is being submitted in accordance with statutory and administrative deadlines. A resolution supporting and approving this waiver will be introduced at the County Council's next meeting on April 4, 2011. A public hearing on the resolution and vote will occur on April 19, 2011. The County Council's action on the resolution will be forwarded to the State Board of Education the following day.

Overview

As previously stated, the County's fiscal condition has been significantly impacted by the cumulative impact of the recent recession. Specifically State support of county programs over recent years has been significantly reduced through reductions in the following programs and amounts:

- Highway User Revenue \$30 million
- Health Department Reimbursements \$1.8 million
- Police Aid \$2.2 million
- Detention Center Reimbursement \$2.8 million

The County's own revenue collections have been impacted as a consequence of the current economic situation, particularly the County's Recordation & Transfer Tax collections. In FY06 the County's collections from this source peaked at \$129.9 million. In FY2010 only \$59.7 million was realized in Recordation and Transfer Tax collections, or an annual reduction of more than \$70 million in County revenue (See Appendix).

In total, the recession's impact has meant that Anne Arundel County's annual revenue stream has suffered a reduction of over \$106 million due to reductions in State aid and Recordation and Transfer Tax collections. The economic factors at the heart of the decline in the County's revenue collections include:

- The unemployment rate was 6.8% in January, 2011 and remains above the 2.9% rate of December 2007
- DLLR reported 190,244 private sector jobs in the third quarter of 2010 compared to 198,031 private sector jobs in the same period of 2008.
- The number of home sales in CY10 remained at less than 50% of the pre-recession levels, and average prices have fallen 15%.
- Home foreclosures still remain high at 1.5 %
- In March 2011 Northrop-Grumman the County's largest private sector employer, announced that it will eliminate more than 600 local jobs.
- In March 2011 ITT in Hanover Maryland, announced the shuttering of its operation, eliminating 48 jobs.

To produce a balanced budget, and fund essential services including K-12 Education, the County has already made significant budgetary reductions in FY09, FY10 and FY11 and anticipates proposing a number of additional significant budgetary reductions for FY12. It is important to note that aside from this waiver request, all of these reductions have been borne by Anne Arundel County Government alone.

Also it should be noted that in both FY09 and FY10, the County was required to tap into its Revenue Stabilization Fund (Rainy Day Fund) in order avoid a budgetary deficit in those years. Prior to utilizing the Rainy Day Fund in FY09, the fund was at its maximum level of \$49 million. After utilizing \$16 million in FY09 and an additional \$16 million in FY10, the balance in the fund now is at \$17 million. The utilization of this source of funds as well as the County's significant reliance on-one time funding sources as noted later in this waiver request, has raised the concern of the bond rating agencies. Specifically, last year Fitch Rating downgraded the County's credit rating to AA from AA+, and this year both Moody's Investors Service and Standard & Poor's, while maintaining their ratings of AA1 and AAA respectively, have indicated a negative outlook for the County's finances.

FY11

For the current fiscal year the County is managing its expenditures so as to lessen the likelihood of generating an operating deficit. As part of this management, a hiring freeze on non-public safety positions was implemented in the fall. This was necessitated as revenue shortfalls are anticipated as a consequence of the continuing weak economy. Estimates in early March indicate a \$10 million overall revenue shortfall is likely as property tax revenue has not grown as anticipated from new construction in FY11, and income tax realizations are falling below estimates, again traceable to the weak recovery and the fact that the State is recouping an over distribution of income tax revenue made in the previous year. Additionally investment income is below estimates as well as shortfalls are anticipated in the Interfund Reimbursement category. This may result in the need to utilize some of the County's available budgetary fund balance of \$33.1 million to offset any shortfall. The details of the County's FY11 revenue position are shown in the table below.

FY2011 Revenue (Millions of Dollars)		
	<u>Budget</u>	<u>Revision</u>
Property Taxes	553.8	551.0
Income Taxes	363.0	358.0
State Shared Revenue	9.3	9.3
Recordation & Transfer Taxes	60.0	60.0
Local Sales Taxes	31.8	31.8
Licenses & Permits	16.1	16.1
Investment Income	0.8	0.5
Other Revenue	51.7	51.7
Interfund Reimbursements	82.9	80.8
Total	1,169.4	1,159.2

Additionally, from a financial management standpoint, it should be understood that nearly half of the Interfund Reimbursement funds shown in the above table are attributable to one-time funding sources. This means that while these funds are supporting operating expenses in the County's General Fund, these funds will not be available to support the County's operating expenses in FY12. The sources of these one-time funds and the amounts are detailed in the following table:

FY2011 Interfund Reimbursement – One Time Revenue	
Bonds/PayGo Switch	\$7.1 million
Return of Prior Year OPEB Funds	\$5.0 million
Health Insurance – Fund Balance	\$3.0 million
Central Garage (Operating) – Fund Balance	\$1.5 million
Central Garage (Replacement) – Fund Balance	\$10.2 million
Bond Premium	\$5.5 million
Laurel Race Track Fund – Fund Balance	\$1.0 million
Developer Street Light fund – Fund Balance	\$0.4 million
Golf Course Reserve	\$1.1 Million
Community College – Fund Balance	\$5.0 million
Total	\$39.9 million

Balancing the FY11 budget was a particularly difficult task given the stagnant revenue situation; the need to fund built in increases like Maintenance of Effort for the Anne Arundel County Public School System and debt service attributable to increased borrowing, the majority of which is traceable to school construction; and the need to replace \$87.5 million of one-time funding sources used to balance the FY10 budget. Consequently in FY11, the County was required to implement additional position eliminations beyond those implemented in the two previous years, and also implemented an across the board pay reduction program for all County employees that averaged to be a 4.6% less take home compensation.

FY12

The outlook for next year's budget is particularly daunting as the remnants of the recession continue to impact both the State and local governments. For Anne Arundel County, the FY12 budget presents a \$75 million structural shortfall. In order to address this the County will have to rely on the continuation of many of the tactics employed in the current fiscal year such as re-imposing furloughs, pension contribution increases and allowance reductions equivalent to a 4.6% pay reduction in order to cut this shortfall in half to a level of \$37.5 million. In order to balance the budget, the County will have to further expand budgetary reductions, including the elimination of over 50 more County positions, some of which will result in layoffs.

While budget-to-budget operating revenue promises marginal growth in FY2012, the need to backfill the heavy reliance on one-time funding sources relied upon in FY11 (as previously noted) and the need to fund built-in cost increase like debt service, pension costs and health insurance costs, more than consumes the revenue increase. Current revenue estimates for FY2012 are:

FY2012 Revenue (Millions of Dollars)			
	FY2011 Budget	FY2012	Increase
Property Taxes	553.8	566.0	12.2
Income Taxes	363.0	371.1	8.1
State Shared Revenue	9.3	17.6	8.3
Recordation & Transfer Taxes	60.0	65.0	5.0
Local Sales Taxes	31.8	33.0	1.2
Licenses & Permits	16.1	17.0	0.9
Investment Income	0.8	0.6	-0.2
Other Revenue	51.7	53.0	1.3
Interfund Reimbursements	82.9	46.5	-36.4
Total	1,169.4	1,169.8	0.4

As noted in the following section, the County is subject to statutory limitations concerning property tax and income tax revenue. The FY12 property tax revenue shown above is the maximum allowed under the County's Property Tax Revenue Cap, and will result in an increase in the property tax rate from \$0.88 to \$0.91 per \$100 assessed valuation. Also of note is that the increase in State Shared Revenue is due to the anticipated opening of the Arundel Mills video lottery facility which will generate local impact aid under the State law authorizing the facility. The opening of that facility, while anticipated to occur in FY12, may still be subject to further legal and administrative challenge.

Built-in increases facing the County in FY12 are detailed in the following table:

FY12 Built-in Expenditure Increases (\$ Millions)	
MOE	5.7
SDAT Cost Passed to County	3.5
Debt Service	14.0
Pension Contribution	3.1
Health Insurance	3.0
Energy	2.0
Self Insurance	2.6
PayGo Restoration	4.0
	37.9

The net result of the previous two tables showing incremental budget-to-budget revenue for FY12 of \$0.4 million and incremental expenses of \$37.9 million results in \$37.5 million shortfall for FY2012.

Since Anne Arundel County has already made significant budgetary reductions in previous years, particularly through the elimination of positions, further savings through position eliminations are difficult if the county is to continue to provide required services to the public. The reductions to County Government for FY12 include the following to partially meet budgetary limits:

- re-imposing on employees, for a second year, both furloughs, pension contribution increases and allowance reductions resulting in \$13 million of decreased employee personal income (equivalent to a 4.6% pay reduction);
- continuing purchase deferrals of fire apparatus of nearly \$2 million;
- deferring nearly \$7 million of critical PAYGO capital maintenance projects that protect the public welfare;
- continuing deferral of \$1 million of necessary repairs to public buildings and deferring the purchase \$1 million of road repair equipment;
- laying off approximately 10 current County employees and eliminating another 40 vacant positions.

The County Council has concurred with the County Executive's budgets from FY2008 through FY2011 in eliminating 4.3 percent of its General Fund workforce by eliminating 162 positions in those four years as detailed in the following table.

Agency	Fiscal Year				Change	
	2008	2009	2010	2011	08 to 11	%
Police	933	938	894	892	-41	-4.4%
Fire	860	861	859	855	-5	-0.6%
Detention	415	412	408	402	-13	-3.2%
Sheriff	101	101	99	99	-2	-2.0%
Total Public Safety	2,309	2,312	2,260	2,248	-61	-2.6%
Non-Uniform	1,487	1,479	1,426	1,386	-101	-6.8%
Total County	3,796	3,791	3,686	3,634	-162	-4.3%
Public Safety %	61%	61%	61%	62%		

The specific options for Maryland counties to reduce their workforce are limited because counties are responsible for local public safety and emergency responses. Fully 62 % of Anne Arundel County's employee's work in agencies with permanent service responsibilities spanning year round, 24 hours, seven days per week.

As a consequence of the mission of public safety agencies, reductions in staffing have mostly been limited to 38% of the workforce not employed in public safety. As depicted above, the County has reduced total workforce in total by 4.3% but by 6.8% in non-public safety agencies. It is noteworthy that of the 1,386 non-public safety jobs available in the workforce, 204 are State mandated but County funded positions. In brief, the pool for further reductions is not 1,386 jobs but effectively 1,182 jobs or 32% of County employees.

After making these additional reductions for FY12 to the County Government, a budgetary shortfall still exists, and if the entire County budgetary fund balance were applied to this shortfall, a deficit of \$15 million remains. Again, this deficit remains after having reduced County Government expenditures through position eliminations, furloughs, allowance reductions and now layoffs and employing its entire available fund balance. The Education Article's local funding requirements would, therefore, require the County to make further service reductions to County residents and unlike our past reductions, public safety, social and health services to the most vulnerable residents would have to be reduced. Therefore, the only available avenue to balance the County's budget in FY12 is to reduce the MOE requirement by the requested \$15 million waiver.

The County is applying for this waiver as a means of securing the State aid provided by State law. Denial of this waiver application by the State Board of Education would consequently result in funding reductions from both the State as well as the County.

Statutory Prohibitions for Raising Revenue

Anne Arundel County's ability to raise revenue from additional taxes has two major constraints:

1. Section 710(d) of the Anne Arundel County Charter imposes a property tax revenue cap:

"...revenues derived from taxes on properties existing on the County property tax rolls at the commencement of the County fiscal year shall not increase, compared with the previous year, more than the Consumer Price Index percentage of change, or by 4.5 percent, whichever is the lesser."

The rate of inflation for purposes of this limitation is 2.27% for FY12. The County's Charter limitation provides for no waiver of any sort to this restriction. Consequently, this restriction will limit property tax revenue growth for FY12 to \$12.5 million, exclusive of new construction. Consistent with County financial policies, it is anticipated that in FY12 the County will again maximize its property tax realization under the property tax revenue limitation Charter provision. In order to do so, the County's real property tax rate will increase from \$0.88 to \$0.91 per \$100 of assessable value.

2. While the County's income tax rate, at 2.56%, is currently below the maximum local income tax rate of 3.2% of taxable personal income, the recently-elected Council will not support an increase to the income tax rate.

It is noteworthy that the State of Maryland has not resorted to general tax increases during the current recession, despite it's nearly \$2 billion budgetary deficit. Instead the State has

relied on federal funds, cut aid to counties, passed on mandated costs to the counties, and implemented furloughs and benefit reductions. The Governor and the General Assembly are well aware of the negative economic consequences of implementing a tax increase during an economic downturn and consequently have not employed that tactic in order to solve the State's budgetary problem.

Background: Anne Arundel County's funding of Public Schools

With the exception of FY92 when Maryland permitted a State-wide waiver of the MOE requirements, Anne Arundel County has not only met the MOE requirement, but significantly exceeded the State requirement. Since FY02, Anne Arundel County has increased its non-debt service contribution to K-12 Education by over \$207 million in excess of MOE during the decade. This represented a 64 percent increase in County funding during the same period when student enrollment increased 2.6 % percent. The County contribution represents a substantial and ongoing local commitment to investing taxpayer funds in educating children. The excess amount accounts for 94% of the growth in the County's contributions.

Anne Arundel County Maryland
Analysis of County Contributions Exceeding State Maintenance of Effort
Fiscal Years FY2002 through FY2011

Fiscal Year	Highest Total County Contribution	FTE Students Sept 30th	Per FTE County Contribution	Calculated Maintenance of Effort	Amount Exceeding MOE	Excess MOE %
FY2011 Approved	562,360,000	72,914.5	7,712.6	\$562,359,958	\$42	0%
FY2010 Adj Budget	554,026,500	71,834.0	7,712.6	\$553,104,043	\$922,457	0%
FY2009 Adj Budget	551,340,800	71,605.0	7,699.8	\$513,791,310	\$37,549,490	7%
FY2008 Adj Budget	514,347,400	71,682.5	7,175.4	\$487,978,696	\$26,368,704	5%
FY2007 Adj Budget	488,254,400	71,723.0	6,807.5	\$449,756,419	\$38,497,981	9%
FY2006 Adj Budget	449,214,000	71,636.5	6,270.7	\$412,730,832	\$36,483,168	9%
FY2005 Adj Budget	414,260,500	71,902.0	5,761.5	\$391,520,238	\$22,740,262	6%
FY2004 Adj Budget	390,600,000	71,733.0	5,445.2	\$384,638,952	\$5,961,048	2%
FY2003 Adj Budget	383,840,000	71,584.0	5,362.1	\$370,422,385	\$13,417,615	4%
FY2002 Adj Budget	367,581,500	71,035.0	5,174.7	\$342,034,972	\$25,546,528	7%
2002-11 Increase	194,778,500	1,879.5	2,537.9	220,324,986	207,487,295	94%

This information is well known by the State Board of Education. In its Opinion 2010-1 wherein the Board granted an MOE waiver to Montgomery County, Maryland, the State Board of Education cited Anne Arundel County for history of exceeding MOE. Pages 8, 9 and 12 of that opinion (Attachment #1) show a variety of indicators of Anne Arundel County excess contribution. For example one such exhibit by MSDE shows that Montgomery County exceeded MOE by 4.8% from FY03-09; Anne Arundel County exceeded MOE 5.75%, or **at a rate nearly one fifth greater than the State's wealthiest jurisdiction.**

Another feature of MOE not addressed by the State Board is the non-recurring cost feature codified at Education Article § 5-202 (d) 6. In sharp contrast to many Maryland's counties, Anne Arundel County has never requested exclusion of certain school funding under that subsection. Had the County done so over the past two decades, those exclusions would have lowered the County's MOE liability. Specifically, the County, over several decades, has funded and not applied for exclusion for:

- Start-up and training costs of innumerable new instructional programs (for example, the international baccalaureate program; Science Technology Engineering and Math –STEM– programs; as well as a host of reading programs).
- Funding for innumerable depreciable equipment items (computer labs, white boards, lap-top computers)
- Administrative enhancements as well (such as the LEA's human resources system).

In each instance, although a portion of these costs qualified for exclusion from MOE, the County has never asked for any such exclusion. Because the County has never requested the exclusion, Anne Arundel County Public Schools has never had to "revert" a portion of the County contribution within the calculations of MOE for these items.

The LEA has benefited from this increase of County funds and has had the latitude to spend in subsequent years, County dollars that were ostensibly committed for new program start-ups, technology improvements, and other items that would have been deemed "non-recurring" and therefore excludable under the Education Article.

In effect, the County's MOE requirement is significantly higher than it might have been. In fact the State Board of Education's own comparative data show that Anne Arundel County had the 5th best performance in exceeding MOE

The County's approved FY11 Capital Improvements Program (CIP) provides \$112 million or 58% of the capital budget is for school construction, renovation, information technology, and other capital improvements in support of K-12 public education. The non- K-12 public education portion of that budget, or \$79.9 million, includes \$12.9 million for the County's other education programs, the Library system and Anne Arundel Community College.

Finally, the County's direct contribution to AACPS, the County Government also funds over \$64 million to operate programs that directly and solely support Anne Arundel County Public Schools. These include:

- School Safety:
 - Providing Crossing Guards and Police Officers as School Resource Officers at a cost of \$4.4 million; this amount for the services dedicated solely to Anne Arundel County Public Schools is almost the annual operating cost of the County's Department of Social Services.
- School Health:
 - Providing nurses, health room staff, and flu mist vaccine at a locally funded cost of \$11.6 million; this amount of funding for this singular school system function exceeds the County's annual contribution to the operations of the entire Library system.

- Debt Service:
 - The current debt service payment of \$42.6 million is the annual cost of Anne Arundel County Public Schools; this amount for the singular purpose of retiring the annual cost of the school's capital program. For FY12 the debt service for the Board's school construction projects will increase by \$13.2 million, nearly the amount of the County's \$15 million waiver request.

It is somewhat ironic, that even after requesting a \$15 million waiver for MOE, the county's total support for the Anne Arundel County Board of Education will increase year-to-year as a result of increases in K-12 funding support outside of the MOE calculation.

Why the State Board of Education Should Grant Anne Arundel County a Waiver.

The primary rationale for granting Anne Arundel County the waiver is because the County has demonstrated that meeting the statutes requirements would do excessive harm to the County because, as the statute has provides, "the county's fiscal condition significantly impedes the county's ability to fund the maintenance of effort requirement".

The secondary rationale for granting Anne Arundel County the waiver is one closely related to the primary one; that is, in the absence of an ability to increase revenues, the County has taken appropriate cost cutting steps to meet Maintenance of Effort each year.

The County has not reduced any direct support to AACPS nor any "on-behalf" of funds supporting AACPS; the County has only reduced General Government spending and done so in significant lengths over four years with:

- Elimination of positions
- Utilization of furloughs
- Maximization of one time funding sources
- Deferral of capital projects and maintenance of critical public buildings.

It is also critical for the State Board to understand what Anne Arundel County is **not** doing. The Maintenance of Effort requirement is intended to prevent local jurisdictions from reducing financial support to LEAs by supplanting local school funding with state funds. As such, the requirement is similar to many other state aid requirements which prohibits local governments from switching increases in State aid for reductions in local liability. The practical effect of the \$15 million waiver on the Anne Arundel County Board of Education is that it will preclude the granting of a pay increase to its employees. However, as previously stated, County employees are taking a second year of a 4.6% compensation reduction, while Board employees would simply see no increase in compensation in FY12.

In closing, we want to stress that education, especially K-12 Education, is one of the most important priorities for the residents of Anne Arundel County. We are very proud of the accomplishments of our Public School system in reducing class size, significantly improving test scores, and preparing our children to be productive, well-educated, and responsible citizens.

We realize and are committed to investing the resources necessary to achieve those important results for our County and the State. The severity and duration of the current economic recession and the consequent reduction in resources has forced us to temporarily and reluctantly reduce the County's local contribution. We respectfully urge the State Board of Education to approve this waiver request.

We reserve the right to supplement this request with additional supportive documentation, and would be pleased to present any supplemental material your Board may require.

Sincerely,



John R. Leopold
County Executive
Anne Arundel County

Attachments:

Appendix: Recordation and Transfer Tax Graphs

Attachment #1 Maryland State Board of Education Opinion 2010-1

Annual Financial Reports are attached and on-line at: <http://www.aacounty.org/Finance/CAFR.cfm>

Budget Highlights FY11,

FY12 Budget Outlook Update

Approved Budgets are on-line at: <http://www.aacounty.org/Budget/index.cfm>

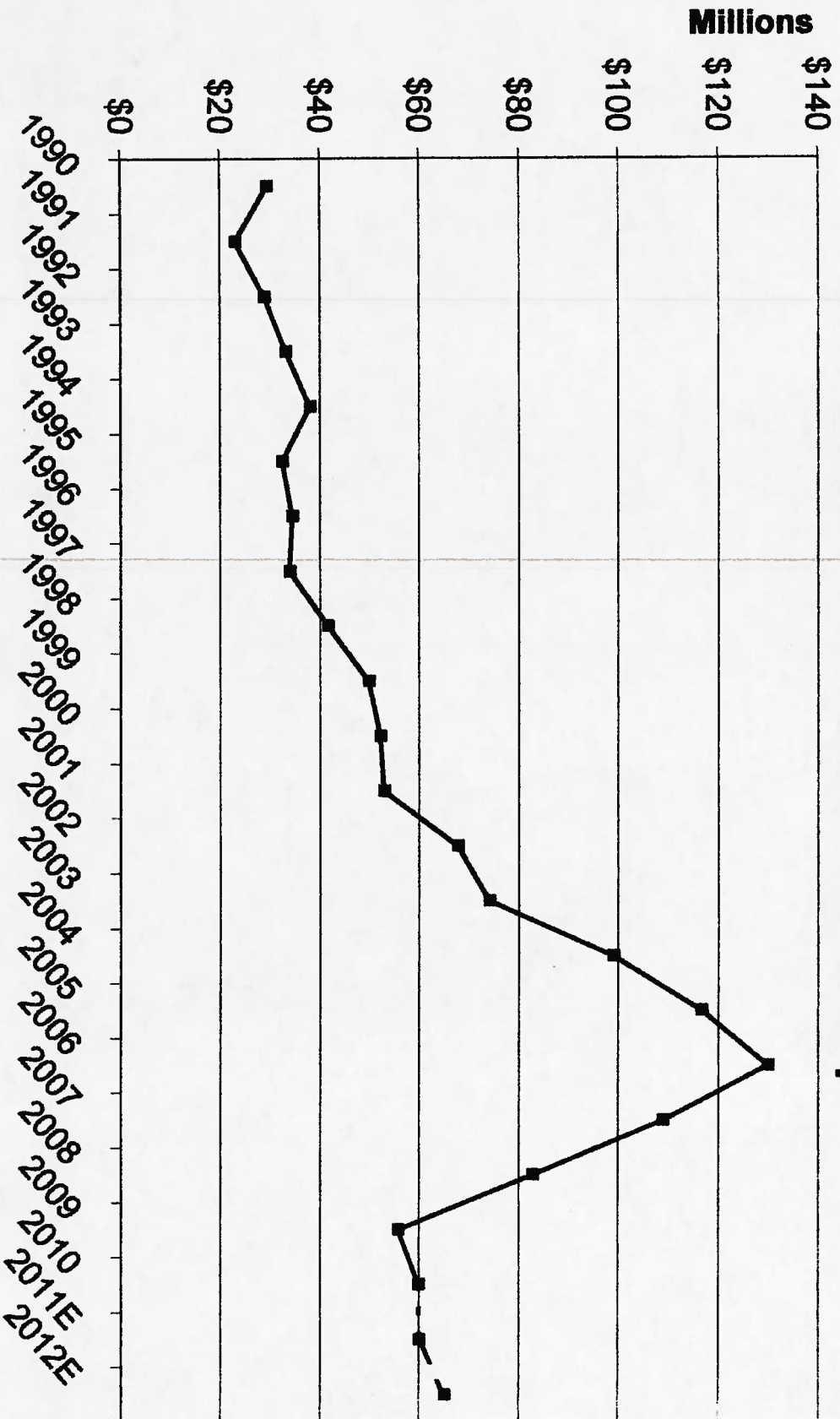
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Anne Arundel County Council

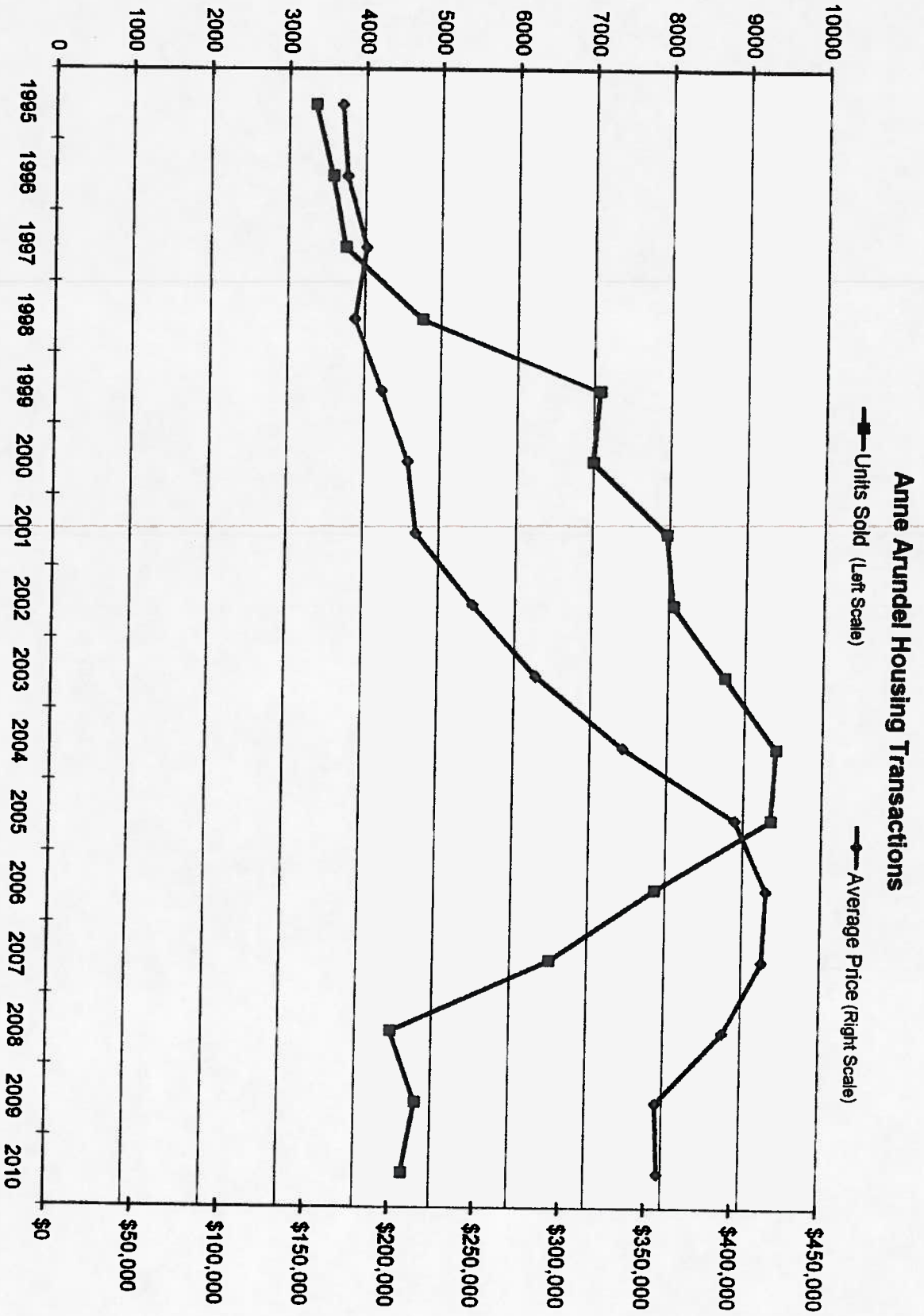
Patricia Nalley, President, Anne Arundel County Board of Education

Kevin M. Maxwell, Superintendent, Anne Arundel County Public Schools

Recordation & Transfer Tax Receipts



Appendix 1B
 Md Assn of Realtors Data Chart 4



Attachment #1 can be found at

<http://www.marylandpublicschools.org/NR/rdonlyres/65DF3678-F5D2-401D-A516-A2AD50098AED/24345/Montg20101.pdf>