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July 5, 2007

Agenda Date: July 10, 2007

TO: BOARD OF COUNTY SUPERVISORS

FROM: ROSS G. HORTON *RGH*
County Attorney

RE: ILLEGAL IMMIGRATION POLICY ISSUES

The Board has before it a draft resolution proposed by Supervisor Stirrup that proposes changes to the County Code and the adoption of County policy with respect to how County employees will respond to some of the many serious issues raised by illegal immigration. To the extent that the proposed resolution seeks to amend the County Code, that can only be accomplished, on a permanent basis, following the drafting of the proposed amendment(s) and a public hearing as required by law.

In its administrative capacity, the Board has discretion to enact various policies with respect to its own employees. That discretion is, however, limited by federal and state law when the proposed County policy implicates issues or concerns that have been addressed by the federal government or by the Commonwealth of Virginia. While there is no doubt that the County can adopt policies that its employees comply with federal law regulating illegal immigration, if the Board wishes to go farther, the actual wording of those policies and their method of implementation require careful thought to avoid falling afoul of constitutional, statutory and regulatory strictures.

The Board has received a memorandum from this Office preliminarily addressing some of the legal concerns that should be considered in conjunction with the adoption of any proposed policy with respect to illegal immigration. I propose to discuss these legal issues with you in closed session.

Cc: Craig S. Gerhart