

APPENDIX A

EQAC RESOLUTIONS AND POSITIONS JANUARY, 2003 THROUGH NOVEMBER, 2003

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ENVIRONMENTAL QUALITY ADVISORY COUNCIL

**RESOLUTION ON THE PROPOSED REVISIONS
TO THE
CHESAPEAKE BAY PRESERVATION ORDINANCE**

January 8, 2003

Whereas, revised State laws known as Chesapeake Bay Preservation Area Designation and Management Regulations (9 VAC 10-20) became effective March 1, 2002; and

Whereas, local governments throughout Virginia were given until March 1, 2003, to bring their ordinances and regulations into conformity with the new State laws; and

Whereas, Fairfax County has circulated draft revisions to Chapter 101 (the Subdivision Ordinance), Chapter 104 (the Erosion and Sediment Control Ordinance), Chapter 112 (the Zoning Ordinance), and Chapter 118 (the Chesapeake Bay Preservation Ordinance) of the County code and draft revisions to the Public Facilities Manual (PFM) that will be presented to the Planning Commission on January 15, 2003 and to the Board of Supervisors on January 27, 2003; and

Whereas, the draft revisions are extremely thorough and very well conceived except for following points that require further amendment; and

Whereas, in Article 7 an Exception Review Committee is proposed that will, in public hearings, consider applications for exceptions to any provisions of the revised ordinance, with this committee to be comprised of five members of the County staff appointed by the Director of Public Works and Environmental Services, which creates an inherent question of the independence and objectivity of a committee so constituted; and

Whereas, in Article 8, Appeals, item 8 (a) is presently worded so that only an applicant aggrieved by the decision of the Director, Department of Public Works and Environmental Services, the Director, Department of Health, or the Exception Review Committee may appeal to the Board of Supervisors, which does not provide for appeal by any other interested party with legitimate grievance; and

Whereas, the definition of floodplains continues to be based on a drainage area of 360 acres for major floodplains (which have one set of restrictions) and a drainage area of 70 to 360 acres for minor floodplains (which have a lesser set of restrictions), while EQAC has recommended that a drainage area of 50 acres or more define a floodplain and that the restrictions and requirements now applied to major floodplains be applied thereto; and

Whereas, the Infill Development Study has shown that the regulatory requirements for all development within the County needs to be made consistent, explicit language needs to be incorporated in each of the relevant chapters of the County Code to require that all site plans, minor site plans, and any grading plan for each and every parcel of land in the County undergoing development, redevelopment, or other land disturbance clearly delineate the boundaries of the Resource Protection Area (RPA) for any water body with perennial flow located within 100 feet of the site;

Therefore, be it resolved, that Section 118-7-3 (a) be modified as follows, "The Exception Review Committee shall be composed of ~~five (5)~~ seven (7) members who shall ~~be County employees with~~ have demonstrated knowledge of and interest in environmental issues and shall be appointed by the ~~Director~~ Board of Supervisors, with no more than three (3) to be County staff, nominated by the Director of Public Works and Environmental Services, and at least four (4) to be drawn from, or nominated by, the Northern Virginia Soil and Water Conservation District, the Environmental Quality Advisory Council, and the Wetlands Board; and

Be it further resolved, that Section 118-7-3 (b) be modified as follows, "Members shall ~~exempt~~ recuse themselves from voting on any action in which their financial interests or those of their immediate family or employer are directly involved."; and

Be it further resolved, that Section 118-7-4 second paragraph be modified as follows, "The Chairman, Vice-Chairman, and Secretary shall be ~~designated by the Director~~ elected annually by the Committee members."; and

Be it further resolved, that Chapter 118, Article 8 (a) be amended to include the following language shown in italics, "(a) An applicant *or other interested party* aggrieved by any decision of the Director of the Department of Public Works and Environmental Services, Environmental Management or the Director of the Department of Health Services, or the Exception Review Committee in the administration of this Chapter may, within fifteen (15) days of such decision, appeal the decision to the Board of Supervisors. Such appeal shall be filed with the Clerk to the Board of Supervisors and shall state with specificity the provisions of this Chapter which the applicant *or other interested party* alleges to have been violated by the decision and the reasons therefor. A copy of the appeal shall; also be delivered to the Director of the Department of Public Works and Environmental Services ~~Environmental Management~~ within such fifteen (15) day period"; and

Be it further resolved, that Chapter 118, Section 118-1-6, Item (o) be changed to read, ""~~Major~~ Floodplain" means those land areas in and adjacent to streams and watercourses subject to continuous or periodic inundation from flood events with a one (1) percent chance of occurrence in any given year (i.e., the 100-year flood frequency event) and having a drainage area equal to or greater than ~~three hundred and sixty (360)~~ fifty (50) acres and that such areas be governed by the regulations and requirements heretofore applied to major floodplains." and that other chapters of the County Code and sections of the PFM be made consistent with this revised definition; and

Be it also resolved, that explicit language be included in each of the relevant Chapters of the Code and Sections of the PFM requiring that for each and every development site or site where more than 2500 square feet of land disturbance is proposed, a plan must be submitted stating whether there is within 100 feet of any boundary of the site any water body with perennial flow, how this has been determined and, if such is present, clearly delineating on the plan the boundaries of the Resource Protection Area (RPA).

ENVIRONMENTAL QUALITY ADVISORY COUNCIL

RESOLUTION REGARDING A ZONING ORDINANCE AMENDMENT FOR THE R-C DISTRICT

January 8, 2003

Whereas, a Zoning Ordinance Amendment has been proposed to allow public/private partnerships to create, through special exception, extensive athletic facilities consisting of fields, associated parking, bleachers, buildings, etc. concentrated in complexes in the R-C District; and

Whereas, the complexes contemplated would cover substantial fractions of the area of such sites with impervious and semi-pervious surfaces, would remove natural vegetation which currently serves to protect water quality and to prevent erosion and would greatly increase stormwater runoff into adjacent streams; and

Whereas, the R-C District was established in order to protect waterways, stream valleys, forest cover, marshes, areas of natural scenic vistas, and aquifer recharge areas; minimize impervious surface and protect the quality of water in public water supply watersheds; and promote open space and agricultural/horticultural uses; and

Whereas, twenty years ago the Board of Supervisors rezoned roughly 41,000 acres of land to the R-C District in order to protect one of the County's major drinking water sources; and

Whereas, the R-C District has the additional benefit of providing habitat for wildlife and plants that need large greenways in which to survive; and

Whereas, this proposed Zoning Ordinance amendment would allow uses that are totally inconsistent with the objectives for the R-C District, threaten substantial harm to waterways, stream valleys, forest cover, and aquifer recharge areas and will contribute to the continued loss of natural open space in Fairfax County;

Therefore, be it resolved that the Environmental Quality Advisory Council strongly opposes any relaxation of the Zoning Ordinance for the R-C District, and strongly opposes the proposed addition of uses incompatible with the original intent of the Ordinance.

ENVIRONMENTAL QUALITY ADVISORY COUNCIL

RESOLUTION REGARDING THE CHESAPEAKE BAY PRESERVATION ORDINANCE REVISION

May 14, 2003

Whereas, the revisions to the Chesapeake Bay Preservation Ordinance (Chapter 118 of the Fairfax County Code) and related chapters of the County Code and sections of the Public Facilities Manual, after a long and arduous process of refinement, have come to the Board of Supervisors for adoption; and

Whereas, EQAC strongly endorses the revisions, with one exception; and

Whereas, Alternative 2 of the April 10, 2003 version of the revisions provided for a balanced right of appeal in which, "An applicant or any other party aggrieved by any decision of the Director of the Department of Public Works and Environmental Services (DPWES), the Director of the Department of Health, or the Exception Review Committee may, within fifteen (15) days of such decision, appeal the decision to the Board of Supervisors, . . ."; and

Whereas, the Planning Commission's recommended language permits appeal from decisions of the Director of DPWES and the Director of the Department of Health only by an aggrieved applicant but not by any other affected party; and

Whereas, all aggrieved parties should have an equal right to appeal; now therefore

Be it resolved, that EQAC strongly recommends that the Board of Supervisors strike paragraphs (a), (b), and (c) of the new version of Article 8, Appeals, and replace them with the language of Alternative 2 of the April 10, 2003, re-advertised version; and

Be it further resolved, that EQAC strongly endorses the remainder of the Planning Commission's recommended revisions and recommends their prompt adoption.

ENVIRONMENTAL QUALITY ADVISORY COUNCIL

RESOLUTION REGARDING SCHOOL BUSES

May 14, 2003

WHEREAS, Air Quality is a major environmental issue facing Fairfax County; and

WHEREAS, A major source of air pollution is mobile transportation, and contributing factors include fuel type, traffic congestion, and vehicle miles traveled; and

WHEREAS, It is well known that school buses are contributors to this problem due to the age and condition of the buses, the type of fuel they use, the routes in which they operate and the manner in which they are operated; and

WHEREAS, Buses idling for long periods of time add unnecessary atmospheric pollution and waste fuel; now therefore

BE IT RESOLVED, That EQAC recommends that the Fairfax County Public School System consider the following:

1. Convert all buses currently using regular diesel fuel to using ultra low sulfur diesel or bio (green) diesel fuel and EPA-certified particulate matter filters.
2. Replace buses that, due to their age or condition, cannot be converted.
3. Review the current (and planned) bus routes in an attempt to avoid highly congested thoroughfares, particularly since buses operate during rush hour.
4. Avoid buses idling for long periods of time prior to picking up their passengers. This is of particular concern on the school grounds at the end of the school day.
5. Develop an all inclusive plan to make the Fairfax County School System's transportation program more environmentally friendly.

BE IT FURTHER RESOLVED, That, in recognition that most of these recommendations have significant budgetary ramifications, and in recognition of the time it will take put some of these recommendations into action, EQAC recommends that the School Board place a high priority on these recommendations and include them in its long range budget plan.

ENVIRONMENTAL QUALITY ADVISORY COUNCIL
RESOLUTION FOR RECYCLING PROGRAMS WITHIN
FAIRFAX COUNTY PUBLIC SCHOOLS

June 11, 2003

WHEREAS, The Fairfax County Public School system produces a lot of waste, predominately paper waste; and

WHEREAS, Countless studies have demonstrated that there is a negative impact of waste on the environment, whether from the creation of the products being wasted or from the actual consumption of those products—for example, the production of excess paper products means that an excess of trees were harvested and there is excess paper in trash dumps; and

WHEREAS, Fairfax County educators stress the importance of recycling to their students; and

WHEREAS, Students from some Fairfax County public schools recognize the importance of recycling and show an interest in, with limited success, creating recycling programs within their own schools; and

WHEREAS, Fairfax County government centers all have recycling opportunities available but the public schools do not; and

WHEREAS, Fairfax County would benefit from a system-wide recycling program in the public schools; now therefore

BE IT RESOLVED, That the Fairfax County Public School system should:

1. k to implement a cost effective recycling program, so that students can participate in a recycling program and not only learn the importance of recycling first hand but also form healthy habits of recycling, which could expand to their homes;
2. Involve students in this effort, e.g., ensure that an environmental club or service club manages the recycling program instituted within the school; and
3. Create a volunteer panel of students and teachers to monitor the recycling program.

FAIRFAX COUNTY ENVIRONMENTAL QUALITY ADVISORY COUNCIL

June 23, 2003

**Board of Supervisors
County of Fairfax
12000 Government Center Parkway
Fairfax, VA 22035**

Dear Madam Chairman and Members of the Board:

We at EQAC have concerns about the present languishing status of the revisions to the Chesapeake Bay Preservation Ordinance. We urge the BOS to adopt the revisions to the Bay Ordinance as recommended by the Planning Commission and to take up the issue of designating Intensely Developed Areas (IDAs) as a subsequent matter.

Subsequent to the Planning Commission's January 15, 2003 public hearing on the proposed revisions to the Ordinance, the Planning Commission referred some of the issues that were raised by various interest groups at the public hearing to the Environment Committee of the Commission. The Environment Committee worked jointly with EQAC, over the course of several meetings that included representatives from the development community and other stakeholders, to review these issues, and the Chairman of the Environment Committee prepared recommendations to the full Planning Commission based on these discussions. The Planning Commission subsequently voted unanimously to recommend approval of the proposed Chesapeake Bay Preservation Ordinance revisions. At the Board of Supervisors' public hearing on May 19, some members of the development community again spoke of their problems with this proposed Ordinance and asked for delay of implementation until December and to consider the possibility of IDA designations. The vote was deferred until Monday, June 2. At its June 2 meeting, the Board of Supervisors again deferred action on the Ordinance revisions and asked staff to provide guidance regarding the IDA designation issue.

At the Board of Supervisors' public hearing on May 19, the Ordinance under discussion did not include designation of IDAs. The Ordinance was not advertised with IDA designations and citizens have not had the opportunity to comment on IDA designation proposals either before the Planning Commission or the Board of Supervisors. Furthermore, the process of designation of an IDA is not a simple task. Up for discussion would be where IDAs would be designated and what the ramifications of those designations would be. The public and EQAC certainly deserve the opportunity to participate in that process.

The entirety of the Chesapeake Bay Preservation Ordinance revisions should not be held up by this latest request. The present Chesapeake Bay Preservation Ordinance allows for the creation of IDAs at a later date. There is no reason to delay passage of the proposed revisions to the Ordinance. These proposed revisions to the Ordinance have the backing of the Planning Commission and EQAC. We again urge the BOS to adopt the revisions to the Ordinance as recommended by the Planning Commission and to take up the issue of IDA designations as a subsequent matter.

I thank you for your attention and consideration.

Sincerely,

(signed by Chairman)

Robert D. McLaren, Chairman
Environmental Quality Advisory Council

ENVIRONMENTAL QUALITY ADVISORY COUNCIL

RESOLUTION ON THE ADVISABILITY OF DESIGNATING INTENSELY DEVELOPED AREAS (IDAs) UNDER THE CHESAPEAKE BAY PRESERVATION ORDINANCE

August 13, 2003

Whereas, the Chesapeake Bay Local Assistance Board (CBLAB) issued revised Chesapeake Bay Preservation Area Designation and Management Regulations with an effective date of March 1, 2002; and

Whereas, both the former and present CBLAB Regulations contained a provision allowing, at the discretion of localities, the designation of Intensely Developed Areas (IDAs) under certain formulaic conditions; and

Whereas, the Board of Supervisors in 1991 studied the advisability of incorporating IDAs, and provisions therefore, in Fairfax County's first Chesapeake Bay Preservation Ordinance and decided that the Ordinance as drafted provided ample flexibility and fairness in the exceptions process to eliminate the need for such blanket designations; and

Whereas, Fairfax County brought its ordinances into compliance with the revised CBLAB regulations by enactment on July 7, 2003, of revisions to four chapters of the County Code and the Public Facilities Manual; and

Whereas, Fairfax County took great care to make such revisions comprehensive and to provide thorough exception review processes to ensure the fairness and reasonableness of their application; and

Whereas, the Ordinance revision process included a series of workshops jointly hosted by the Planning Commission and the Environmental Quality Advisory Council at which all "stakeholders" were given the opportunity to fully express concerns over any and all proposed draft revisions; and

Whereas, the matter of IDAs received only minimal expressions of interest and concern in the course of the workshops, even from members of the development community; and

Whereas, on June 2, 2003, while considering the proposed revisions to the Ordinance, the Board of Supervisors asked staff to: (1) investigate whether IDAs should be designated for Tysons Corner and for Revitalization Areas and Districts; and (2) draft such language as might be required for their implementation; and

Whereas, the revised Ordinance, as adopted on July 7, 2003, without inclusion of IDAs, contained even greater flexibility and fairness-of-process than the original Ordinance, including provisions for review of exceptions on a case-by-case basis; and

Whereas, on July 21, 2003, the Board of Supervisors authorized the advertisement of public hearings to consider the addition of text to the Chesapeake Bay Preservation Ordinance regarding IDAs and to consider the designation of an IDA in the Tysons Corner Urban Center; and

Whereas, the Board of Supervisors requested EQAC's review of this matter prior to its consideration by the Planning Commission; and

Whereas, the present CBLAB Regulations (9 VAC 10-20-100) state: "Areas of existing development and infill sites where little of the natural environment remains may be designated as Intensely Developed Areas . . ."; and

Whereas, there is still significant natural environment in the stream valleys of Tysons Corner; now therefore

Be it resolved, that the Environmental Quality Advisory Council strongly supports the revised Chesapeake Bay Preservation Ordinance as adopted on July 7, 2003; and

Be it further resolved, that EQAC particularly supports the provision approved on July 7, 2003 for review of exceptions on a case-by-case basis and further supports the concept of no net loss of RPAs in the stream valleys in Tysons Corner; and

Be it further resolved, that EQAC regards further revision of the Ordinance to provide for designation of IDAs as wholly unnecessary and strongly recommends against such inclusion and designations.

ENVIRONMENTAL QUALITY ADVISORY COUNCIL

TESTIMONY REGARDING CHESAPEAKE BAY PRESERVATION AREA MAPS

November 12, 2003

After discussion of the revised Chesapeake Bay Resource Protection Area (RPA) maps that are to be considered by the Board of Supervisors at a public hearing on November 17, 2003, the Council designated member Frank Crandall to testify at the public hearing on behalf of EQAC. The points to be covered in the testimony are:

1. The Stream Remapping Study, which the Board initiated in response to an EQAC resolution, has resulted in a revised set of RPA maps that represent an enormous step forward in stream protection.
2. The staff is to be commended for accomplishing the major phase of this study, resulting in the revised maps before you today, on a very tight time schedule in order to meet the mandate of CBLAD.
3. EQAC recommends the immediate adoption of the revised maps.
4. As with any complex activity of this kind, the Stream Remapping Study has now entered into the "quality control" phase, which the Board very wisely mandated.
5. Already, several instances have been identified where small tributary streams or upper reaches were missed or some reaches of streams were inaccurately characterized as non-perennial due to unusual hydrologic, geologic, and topographic factors. As these cases are resolved, they will require further minor amendments to the maps on a periodic basis.
6. The scientific protocol developed by the County for evaluating streams is generally excellent, but it has been discovered that, in some cases, it leads to mischaracterization of the spring-fed headwaters reaches of small streams. As this problem is resolved it will require a minor amendment to the text of the Ordinance relating to the protocol.
7. EQAC will continue to monitor the quality control efforts and work with the staff to identify any areas needing further evaluation and amendment.