

## APPENDIX B

# EQAC RESOLUTIONS AND POSITIONS NOVEMBER 2009 THROUGH OCTOBER 2010

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Due to formatting, the resolutions and positions may not appear precisely as they were originally transmitted.



# County of Fairfax, Virginia

## MEMORANDUM

DATE: April 7, 2010

**TO:** Board of Supervisors

**FROM:** Stella Koch, Chairman *Stella M. Koch*  
Environmental Quality Advisory Council

**SUBJECT:** EQAC budget testimony

EQAC has only one budget request this year. We ask the Board of Supervisors to increase the rate funding the stormwater program to a penny and a half.

The funding of the stormwater penny in FY 2006 by the Board of Supervisors was both an acknowledgment and a down payment on significant program needs within the stormwater program of the Department of Public Works and Environmental Services. This additional funding was used to begin addressing the huge backlog of infrastructure replacement needs and to begin the enormous task of implementation of watershed plans.

However in the declining economy of recent years, we have seen the complete transfer of funding for the stormwater program moved from the General Fund to the monies generated by the stormwater penny. This, once again, significantly reduced the total money available for infrastructure replacement and watershed project implementation.

The present proposal of funding the stormwater program by the rate of a penny and a half would result in the restoration of some funding for modest watershed improvement programs and some funds for infrastructure replacement. In terms of infrastructure replacement, the present level of funding is simply not acceptable. We also realize that there will likely be a need for additional increases for water quality projects to meet future permit conditions, and for replacement of aging infrastructure.

Therefore, EQAC recommends that the stormwater program continue to be funded by the Service District, and that the rate be increased to a penny and a half.

We thank you for this opportunity to comment.

cc: Anthony H. Griffin, County Executive  
Robert A. Stalzer, Deputy County Executive  
David Molchany, Deputy County Executive  
James W. Patteson, Department of Public Works and Environmental Services  
Randy W. Bartlett, Deputy Director, Stormwater and Wastewater Programs, DPWES  
Kambiz Agazi, Fairfax County Environmental Coordinator  
EQAC file, April 2010

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# **ENVIRONMENTAL QUALITY ADVISORY COUNCIL**

## **Recommendation Regarding Air Quality Monitoring in Fairfax County**

**April 14, 2010**

### **BACKGROUND:**

The Virginia Department of Environmental Quality (DEQ) has proposed to cease operation of the four air quality monitors that have historically been operated by Fairfax County and to continue to operate the DEQ monitor that is located at Lee District Park (within Fairfax County). In furtherance of ensuring protection of public health and the environment, it is EQAC's view that those monitors that report the highest ozone levels should be retained. Because the Mount Vernon monitor has reported the highest repeated ozone levels for more years than any other monitor in Fairfax County within the past 10 years, EQAC concludes that the Mount Vernon monitor should be used to assess whether we are or are not meeting the atmospheric ozone standard.

DEQ has posted its recommended changes to the air quality monitoring network on its Web site (<http://www.deq.state.va.us/air/permitting/monitoring.htm>) as part of its Annual Air Monitoring Network review. The review documents are available for public comment through April 30, 2010.

### **RECOMMENDATION:**

EQAC recommends that the Fairfax County Board of Supervisors provide comments to DEQ regarding its Annual Air Monitoring Network review. Specifically, EQAC recommends that the Board of Supervisors request that DEQ include one or more of the existing Fairfax County monitors in its future monitoring plans. Given the historically higher level of ozone concentrations at the Mount Vernon station, as compared to the other stations in the county, EQAC recommends that the Board of Supervisors request that DEQ include the Mount Vernon station in the regional monitoring plans.



# County of Fairfax, Virginia

## MEMORANDUM

**DATE:** April 21, 2010

**TO:** Board of Supervisors

**FROM:** Stella Koch, Chairman *Stella M. Koch*  
Environmental Quality Advisory Council

**SUBJECT:** EQAC recommendation regarding the draft Plan Amendment for the Tysons Corner Urban Center

As an advisory group that has been appointed by the Fairfax County Board of Supervisors to advise the board on environmental matters, the Environmental Quality Advisory Council (EQAC) has consistently advocated for better land use and transportation integration, which includes a complete multimodal transportation system with complimentary rail, bus, car, and pedestrian facilities that is greatly facilitated by a street grid and safe connecting pedestrian walkways. EQAC recommends that the planned development intensities in Tysons Corner be sufficient to achieve and sustain the essential elements envisioned by the Tysons Corner Land Use Task Force.

The Tysons Corner vision document presented by the Tysons Corner Land Use Task Force outlines the transformation of Tysons Corner from a predominantly work and retail center into a balanced mixed-use urban center. The transportation and environmental amenities that are included in the vision document are essential elements of a transformation from the existing conditions into an urban center. These essential elements include:

1. A grid of streets
2. A circulator bus system
3. Multi-modal transportation including safe and convenient walking and biking connectivity
4. Energy efficient buildings to LEED Silver and better standards
5. Stormwater management practices that improve the quality of Tysons Corner and protect the downstream watersheds
6. Open and public spaces that form the basis of a high quality urban park system
7. Affordable housing that enables people to both live and work in the urban center.

The realization of the transportation and environmental elements requires expenses that will be paid for by the public, future citizens living and working in Tysons Corner, and developers building the new urban center. The Tysons Task Force proposed an overall development intensity level that would enable the development community to build the transportation and

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environmental amenities as part of the construction process. That level was ambitious but kept the focus on enabling the full urban vision.

The demonstration project being pursued by the Georgelas Group will be a confirmation of the feasibility of the Tysons Corner plan to support the transportation and environmental amenities at a particular development intensity.

EQAC recommends that the planned development intensities in Tysons Corner be sufficient to maintain the essential transportation and environmental amenities envisioned by the Tysons Corner Land Use Task Force. This may be as high as that proposed by the Tysons Land Use Task Force or lower as verified by the demonstration plan. But the key element is that the levels be sufficient to provide the elements that enable a transformation into the vision of Tysons Corner as the urban center for Fairfax County.

This EQAC recommendation was supported by the following members at the Council's April 14 meeting: Stella Koch (Chairman, At-Large); George Lamb (Vice Chairman, At-Large); Linda Burchfiel (At-Large); Frank Divita (Braddock); Marie Flanigan (Providence); Ned Foster (Springfield); Johna Gagnon (Lee); Robert McLaren (At-Large); David Ouderkirk (Hunter Mill); Glen White (Mason); and Larry Zaragoza (Mount Vernon). The recommendation was opposed by Frank Crandall (Dranesville) as he is already on public record as supporting the alternative proposed by Planning Commissioner Walter Alcorn. Ben Swanson (Student Member) and Richard Weisman (Sully) were absent from the meeting.

We thank you for this opportunity to comment.

cc: Fairfax County Planning Commission  
Anthony H. Griffin, County Executive  
Robert A. Stalzer, Deputy County Executive  
David Molchany, Deputy County Executive  
James P. Zook, Department of Planning and Zoning  
EQAC file, April 2010

# **ENVIRONMENTAL QUALITY ADVISORY COUNCIL**

## **Recommendations/Questions Regarding Illegal Highway Signs and Cigarette Butt Litter in Fairfax County**

**July 12, 2010**

### **BACKGROUND:**

The twin litter plagues of illegal highway signs and cigarette litter have vexed Fairfax County for decades. Illegal highway signs, despite recommendations for controlling them from a county task force in 2001, continue to be a source of annoyance for the vast majority of county citizens. Meanwhile, no serious effort has ever been made to crack down on cigarette litter. However, while neither of these can ever be completely eliminated, there are things that the county can do that would substantially ameliorate both signs and cigarette butts, and at little or no cost to the county.

EQAC has identified two legislative changes that the Board of Supervisors could recommend to the General Assembly in regard to the illegal sign issue. We also feel that there are several goals that should be pursued to address both the sign and cigarette litter concerns, and we are seeking the Board's endorsement of these goals and assistance in developing approaches to meeting them.

### **LEGISLATIVE RECOMMENDATIONS:**

EQAC has two legislative recommendations; we will be pursuing these ideas as proposals that will be submitted for consideration through the County Executive's standard submission process. In brief, these ideas are as follows:

1. Remove Fairfax County's participation in state law §33.1-375.1. In EQAC's view, this law actually hinders Fairfax County from doing anything about illegal signs. This law also confuses uninformed people into thinking that it is legal to place signs in the VDOT Right-of-Way.
2. Modify state law §33.1-373 and return it to its 1993 provisions. Specifically, restore the penalty for illegal signs to a Class 1 misdemeanor. Also modify the law to allow equitable fine sharing between the state and the county.

### **LITTER REDUCTION GOALS:**

In addition to the above legislative ideas, we feel that a series of litter reduction goals should be established. We seek the Board's support in endorsing these goals and in developing approaches to meeting them. Our suggested goals, and possible actions that can be taken in support of them, are as follows:

**Goal 1: The county should set an example by limiting its own sign placements to the minimum extent necessary.**

We recognize that some county government signs serve important, and in some cases legally mandated, purposes. Signs advertising zoning hearings, for example, are essential to keeping the public informed of important land use processes and opportunities for participation in these processes. We seek the Board's support, however, in ensuring that signs that are more discretionary in nature (e.g., advertisements for Celebrate Fairfax) are limited to county property or private property with the permission of the land owner.

**Goal 2: The county should better publicize information pertaining to sign restrictions.**

The following are a couple of approaches that could be taken:

- Put stronger language on the county's Web site regarding illegal signs in the VDOT rights-of-way.<sup>1</sup>
- Provide clear information to applicants for permits to erect temporary political signs, within the permit application form, that these permits do not apply to the VDOT ROW and that these permits only pertain to signs placed on private property with the permission of the land owner<sup>2</sup>.

**Goal 3: Political signs should only be placed in a manner that adheres to state law; they should not be placed in VDOT rights-of-way.**

In EQAC's view, this is the single worst source of illegal signs, and we are concerned that the chronic and willful violation of state law may breed cynicism among voters. We ask that Board members consider limiting their signs to private property with the permission of land owners and that alternatives to littering local highways with signs be sought. For example, might more effective approaches to advertisement be available through the use of computers and/or mass communication tools?

**Goal 4: Participation in VDOT's Adopt-A-Highway program should be encouraged.**

The Adopt-A-Highway program is an effective mechanism through which illegal signs in highway rights-of-way can be removed. Fairfax County should consider the adoption of highway segments and should encourage its residents and employees to participate in this program.

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<sup>1</sup> <http://www.fairfaxcounty.gov/dpz/faqs/signsfaq.htm>

<sup>2</sup> [http://www.fairfaxcounty.gov/eb/sign\\_permit.pdf](http://www.fairfaxcounty.gov/eb/sign_permit.pdf)

**Goal 5: Fairfax County Public Schools should take an active role in supporting reductions in the illegal posting of signs.**

It is EQAC's view that public school groups are frequent violators of state sign laws but that these groups may not be aware of what the rules are. The Board could encourage the Superintendent of FCPS to:

- Develop and disseminate information to remind faculty, students and booster organizations that it is illegal to place signs in the VDOT Right-of-Way and to stress to our students, both by example and through guidance, the need to obey the law;
- Establish in-house penalties for violators; and
- Ensure that signs for school-sponsored events are restricted to school property or to private properties (with the permission of the land owners).

**Goal 6: Enforcement efforts regarding cigarette litter should be strengthened.**

County police could increase enforcement efforts for persons who violate the County's litter laws by improperly disposing of cigarette butts. EQAC recognizes that enhanced enforcement efforts would require resource dedication and that additional resources may not be available for this purpose. However, we are also aware that improper disposal of cigarette butts is a Class 1 misdemeanor and any fines imposed on violators charged with a violation of the County's litter laws would be sent to the County.



# County of Fairfax, Virginia

## MEMORANDUM

**DATE:** August 11, 2010

**TO:** Board of Supervisors

**FROM:** Stella Koch, Chairman *Stella M. Koch*  
Environmental Quality Advisory Council

**SUBJECT:** EQAC perspectives on the Virginia Department of Transportation's 527 review process

Per the request of the Fairfax County Board of Supervisors, EQAC reviewed impacts on Fairfax County operations and citizens from the passage of Chapter 527 of the 2006 Acts of Assembly, Traffic Impact Analysis Regulations, effective June 30, 2008. We invited the Virginia Department of Transportation (VDOT) to participate along with County staff. Unfortunately the VDOT representative was not able to attend so the briefing was presented by staff.

We were primarily interested in any burdens imposed or values gained from the VDOT 527 process based on the first-hand experiences of our staff. The general consensus is that, after working out initial start-up issues and adapting county procedures, the regulations have not added a significant burden and have provided a value to the County by improving the quality and consistency of proposals submitted for consideration by the development community.

County staff addressed concerns that the process could be burdensome, time consuming and intrusive. Fairfax had processes in place that were already performing the substance of the studies through various practices and timeframes that 527 would supplant. Through the startup phase, staff adapted their procedures to comply with the regulations while gaining value from the process. In practice, only very substantial changes to the Comprehensive Plan trigger the 527 review process, and a much lower threshold triggers it for rezonings and site plans. Furthermore, Fairfax County DOT and VDOT make the determination as to which specific activities trigger 527. VDOT reviews the study for technical compliance and makes advisory recommendations. According to VDOT's LandTrack system, the state has received 104 traffic impact analyses from Fairfax County to date.

The issue of adding time to county actions was addressed in part by adapting county processes to sequence them to 527 time frames. VDOT has a 90-day time-limit to approve or reject a package and staff noted that VDOT has been fairly good about meeting that limit. VDOT's view is that the 527 review does not lengthen the process, but in practice it does so in an

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indirect way. According to staff it adds about 6 months to the Area Plans Review (APR) process because the information that comes from the 527 traffic study is the best available. The increase in time is not from the process itself, but due to the fact that the Planning Commission, task forces, etc. want to see the information from the 527 studies before they make their decisions.

The general view is that the county has gotten through the bugs of implementation and now there is added value in the standardization of submissions. In addition, staff cited some examples where they were able to leverage the 527 process to improve the level of developer commitment.

The 527 process encourages developers to provide more rigorous transportation studies in a standardized system. Prior to the 527 process, staff requested such information but received studies that were inconsistent or incomplete. By having studies done up front, the county gets good information for the rezoning process, that is used to enhance the decision and negotiating process.

Thank you for your inquiry and please feel free to contact us with any follow-up questions or concerns that you may have.

cc: Anthony H. Griffin, County Executive  
David Molchany, Deputy County Executive  
Katharine D. Ichter, Director, Fairfax County Department of Transportation  
Leonard Wolfenstein, Chief, Transportation Planning Section, FCDOT  
Fred R. Selden, Director, Planning Division, Department of Planning and Zoning  
Paul J. Kraucunas, Land Development Program Manager, Northern Virginia District,  
Virginia Department of Transportation  
EQAC file, August 2010

# LEGISLATIVE INITIATIVE

(Completed form to be provided to the Board's Legislative Committee)

## **GENERAL SUBJECT AREA -- TITLE OF PROPOSAL:**

Sign enforcement in highway rights-of-way.

## **PROPOSAL:** *(Provide a brief description of the proposal)*

Strengthen § 33.1-373 by strengthening penalties and allowing local communities to share in fine revenue.

## **SOURCE:** *(Provide the name of the agency, board, or commission generating the proposal and the date of the proposal)*

Environmental Quality Advisory Council, August 11, 2010.

## **BACKGROUND:**

*(Succinctly summarize the current law and explain why the law needs to be changed; identify the issues involved; note the impact of the proposal or why the proposal is important to Fairfax County; include any other information that might be helpful to the Board in making a decision as to the merits of the proposal; note any previous Board of Supervisors' action or previous General Assembly study or action on this issue. **This section should provide a synthesis of the proposal and should be no more than one paragraph, two if necessary; the Board wants concise information in the Legislative Program. Please use "Additional Background Information" on the next page to more fully explain the proposal.**)*

Through independent research and communications with county and state staffs, EQAC has determined that § 33.1-373 is completely ineffective in helping to enforce penalties in regard to the placement of illegal signs in the highway rights-of-way. Penalties are now set by the Code of Virginia as \$100 civil penalties; EQAC proposes that any violation instead be classified as a Class 1 misdemeanor, as was the case prior to 1994.

## **RECOMMENDATION:**

*(Do not fill out-- This will be indicated by the Legislative Director and County Executive)*

# LEGISLATIVE INITIATIVE INFORMATION SHEET

(Supplemental background information to be used by staff to pursue actual legislation)

## GENERAL SUBJECT AREA -- TITLE OF PROPOSAL:

Sign enforcement in highway rights-of-way.

## PROPOSED NEW OR REVISED STATUTORY LANGUAGE:

*(Indicate actual wording change to Va. Code; use Code citation and please indicate whether you have had the County Attorney's office review the proposed new or revised statutory language; specific Code language can be copied from the web by typing the specific Section number at: <http://leg1.state.va.us/000/src.htm>)*

§ 33.1-373. Advertising on rocks, poles, etc., within limits of highway; ~~civil penalty.~~

Any person who in any manner (i) paints, prints, places, puts or affixes any advertisement upon or to any rock, stone, tree, fence, stump, pole, mile-board, milestone, danger-sign, guide-sign, guidepost, highway sign, historical marker, building or other object lawfully within the limits of any highway or (ii) erects, paints, prints, places, puts, or affixes any advertisement within the limits of any highway shall be charged with a Class 1 misdemeanor. Unless the local governing body has entered into an agreement with the Commonwealth Transportation Commissioner pursuant to § 33.1-375.1, half of all criminal penalties collected under this section shall be paid into the Highway Maintenance and Operating Fund, and half shall be paid to the affected locality. ~~assessed a civil penalty of \$100. Each occurrence shall be subject to a separate penalty. All civil penalties collected under this section shall be paid into the Highway Maintenance and Operating Fund.~~ Advertisements placed within the limits of the highway are hereby declared a public and private nuisance and may be forthwith removed, obliterated, or abated by the Commonwealth Transportation Commissioner or his representatives without notice. The Commonwealth Transportation Commissioner may collect the cost of such removal, obliteration, or abatement from the person erecting, painting, printing, placing, putting, affixing or using such advertisement. When no one is observed erecting, painting, printing, placing, putting, or affixing such sign or advertisement, the person, firm or corporation being advertised shall be presumed to have placed the sign or advertisement and shall be punished accordingly. Such presumption, however, shall be rebuttable by competent evidence. In addition, the Commissioner or his representative may seek to enjoin any recurring violator of this section.

The provisions of this section shall not apply to signs or other outdoor advertising regulated under Chapter 7 (§ [33.1-351](#) et seq.) of this title.

(Code 1950, § 33-319; 1970, c. 322; 1993, c. 538; 1994, c. [696](#).)

# LEGISLATIVE INITIATIVE

(Completed form to be provided to the Board's Legislative Committee)

## **GENERAL SUBJECT AREA -- TITLE OF PROPOSAL:**

Sign enforcement in highway rights-of-way.

## **PROPOSAL:** *(Provide a brief description of the proposal)*

Delete a provision in § 33.1-375.1 of the Code of Virginia establishing specific authorities, and associated limitations, allowing Fairfax County to assume responsibility for sign enforcement within highway rights-of-way. By doing so, Fairfax County would assume the same authorities all other localities have in this regard and would not be encumbered by limitations that are currently applicable only to Fairfax County.

## **SOURCE:** *(Provide the name of the agency, board, or commission generating the proposal and the date of the proposal)*

Environmental Quality Advisory Council, August 11, 2010.

## **BACKGROUND:**

*(Succinctly summarize the current law and explain why the law needs to be changed; identify the issues involved; note the impact of the proposal or why the proposal is important to Fairfax County; include any other information that might be helpful to the Board in making a decision as to the merits of the proposal; note any previous Board of Supervisors' action or previous General Assembly study or action on this issue. **This section should provide a synthesis of the proposal and should be no more than one paragraph, two if necessary; the Board wants concise information in the Legislative Program. Please use "Additional Background Information" on the next page to more fully explain the proposal.**)*

Through independent research and communications with county and state staffs, EQAC has determined that the authority granted in § 33.1-375.1 of the Code of Virginia actually hinders the county from enforcing prohibitions on the placement of signs in highway rights-of-way. Worse, it is EQAC's view that this authority confuses citizens because it makes it appear that broad categories of such signs are legal. By removing the language specifically related to Fairfax County's authority, Fairfax County would retain the authority that has been granted to all other Virginia localities to enter into an agreement with the Commonwealth Transportation Commissioner to enforce sign restrictions, without the specific limitations that currently apply only to Fairfax County.

EQAC would also retain text establishing that penalties and costs collected through these enforcement efforts would be paid to the affected locality. This text currently applies only to Fairfax County; the retention of this text and the

deletion of the Fairfax County-specific text would have the effect of expanding its applicability state-wide.

**RECOMMENDATION:**

*(Do not fill out-- This will be indicated by the Legislative Director and County Executive)*

# LEGISLATIVE INITIATIVE INFORMATION SHEET

(Supplemental background information to be used by staff to pursue actual legislation)

## GENERAL SUBJECT AREA -- TITLE OF PROPOSAL:

Sign enforcement in highway rights-of-way.

## PROPOSED NEW OR REVISED STATUTORY LANGUAGE:

*(Indicate actual wording change to Va. Code; use Code citation and please indicate whether you have had the County Attorney's office review the proposed new or revised statutory language; specific Code language can be copied from the web by typing the specific Section number at: <http://leg1.state.va.us/000/src.htm>)*

§ 33.1-375.1. Commissioner may enter into certain agreements; penalties.

A. ~~The Commonwealth Transportation Commissioner may enter into agreements with the local governing body of Fairfax County authorizing local law enforcement agencies or other local governmental entities to act as agents of the Commissioner for the purpose of (i) enforcing the provisions of § [33.1-373](#) and (ii) collecting the penalties and costs provided for in that section. However, no local governing body shall enter into any such agreement until it has held a public hearing thereon.~~

B. ~~Notwithstanding the provisions of § [33.1-373](#), the penalties and costs collected under this section shall be paid to the affected locality.~~

C. ~~Notwithstanding the foregoing provisions of this section, the following signs and advertising shall not be subject to the agreements provided for in subsection A:~~

~~1. Signs and advertising supporting an individual's candidacy for elected public office or other ballot issues, provided this exception shall not include signs and advertising in place more than three days after the election to which they apply.~~

~~2. Signs and advertising promoting and/or providing directions to a special event to be held at a specified date stated on the sign or advertising, provided this exception shall not include special event signs in place more than three days after the conclusion of the special event.~~

~~3. Other signs and advertising erected from Saturday through the following Monday.~~

D. ~~Notwithstanding the foregoing provisions of this section, the Commissioner may enter into agreements with the local governing bodies of localities to which~~

~~the foregoing provisions of this section do not apply to authorize those governing bodies to act as agents of the Commissioner and the Department in enforcing the provisions of § [33.1-373](#). The limitations applicable to agreements entered into under subsections A through C shall not apply to agreements entered into under this subsection.~~

B. Notwithstanding the provisions of § [33.1-373](#), the penalties and costs collected under this section shall be paid to the affected locality.

~~C. E.~~ If a county acts as an agent of the Commissioner under this section, the county shall require each of its employees and any volunteers who are authorized to act on behalf of the county to comply with the provisions of this section and any other applicable law. If a lawfully placed sign is confiscated by an employee or volunteer authorized to act for the county in violation of the authority granted under this section, the sign owner shall have the right to reclaim the sign within five business days of the date of such confiscation.

(1998, c. [835](#); 1999, c. [195](#); 2003, c. [311](#); 2010, cc. [497](#), [777](#), [832](#).)