

Comments of the Virginia Association of Counties
RE: “Policy Options for Secondary Road Construction and Management in the
Commonwealth of Virginia” draft dated March 12, 2011

The Virginia Association of Counties (VACo) is most appreciative of the opportunity to comment on the draft report entitled “Policy Options for Secondary Road Construction and Management in the Commonwealth of Virginia” dated March 12, 2011.

VACo staff has reviewed the document and finds that it is a good summary of the current problems facing the Commonwealth with respect to secondary road construction and maintenance. Overall, the report reviews the vast amount of evidence and documentation produced over the past few decades demonstrating that our transportation infrastructure continues to deteriorate and raises the question if revenues sufficient to address the problems will ever be available.

The report also correctly notes that a significant concern of counties with regard to any discussion of devolution has to take into consideration the Commonwealth’s history of reducing financial support for locally provided services. That well documented history provides little reason for confidence by county officials.

As a prelude to VACo’s comments, it is important to reiterate three long-standing legislative priorities of the association:

“VACo opposes any legislation or regulations that would require the transfer of responsibility to counties for construction, maintenance or operation of new and existing roads.”

“VACo contends that an efficient transportation network is critical to a healthy economy, job creation, a cleaner environment, enhanced public safety and a better quality of life. To eliminate the revenue shortfalls that have caused Virginia’s transportation infrastructure to deteriorate at an alarming rate, VACo urges the governor and the General Assembly to enact a funding package for transportation with new revenues that are separate from the general fund; and are stable, recurring and sufficient to meet Virginia’s well-documented transportation needs for highways, transit and all other modes. New revenues should include, but not be limited to, gas tax revenues. Transferring state general funds to transportation neither adequately supports documented and recurring transportation infrastructure investment needs, nor serves to protect the Commonwealth’s additional core services including public education, health care, mental health and retardation, and public safety. VACo is also alarmed by the elimination of formula allocations for secondary roads, and contends that these funds must be restored.”

“VACo opposes unfunded mandates by the Commonwealth. When funding for a mandated program is altered, the mandate should be suspended until full funding is restored. When legislation with a cost to localities is passed by the General Assembly, the cost should be borne by the state, and the legislation should contain a sunset clause providing that the mandate is not binding on localities until funding by the Commonwealth is provided. Furthermore, VACo opposes the shifting of fiscal responsibility from the state to localities for existing programs. Any unfunded mandate or shifting of responsibility should be accompanied by a full fiscal and program analysis to

Comments of the Virginia Association of Counties
RE: “Policy Options for Secondary Road Construction and Management in the
Commonwealth of Virginia” draft dated March 12, 2011

determine the relative costs to the state and to the locality and to assure the state is meeting its full funding responsibility before taking effect.”

Therefore, given the legislative priorities above, VACo is unalterably opposed to any option that would transfer responsibility for the construction and/or maintenance of the secondary road system to Virginia’s counties.

Further, it should be emphasized from the outset that none of the policy options contained in the report beginning on page 28 is consistent with VACo’s legislative priorities.

GENERAL COMMENTS

The report fails to address the question of whether certain economies of scale are achieved if the state continues to maintain secondary roads. It may be appropriate to examine whether a single state agency responsible for maintaining the secondary system is less costly for Virginia’s taxpayers than a devolved system managed by various local and regional bureaucracies.

In addition, there is little or no discussion in the report as to what role VDOT would play under any devolution scenario. That role is important because the guidelines and regulations established by the Commonwealth with respect to the secondary road system that may become a local responsibility will affect significantly the financial liabilities assumed by counties.

The report cites as one of the reasons the Commonwealth enacted the Byrd Road Act in 1932 was to “...free counties to spend more on education and other public services.” VACo notes that such reasoning still holds true today: if counties must pay to maintain a network of roads, there will be less money available for education and other services.

In the discussion of report’s findings, it should be emphasized that any proposals to shift secondary road construction and maintenance funding responsibilities to localities also shifts political liability for unpopular tax increases to local officials. Further, among localities and regions within Virginia, such an approach could result in qualitative differences among existing road systems. These qualitative differences could place Virginia at a competitive economic disadvantage with other states in terms of business recruitment, shipping and other functions.

SPECIFIC COMMENTS

Page 10 – in the third full paragraph on that page, the following phrase discusses the absence of coordination between county land use planning and the state’s transportation function (“...that county land use planning functions and VDOT transportation planning functions often conflicted, with VDOT taking the regional view and counties a local view...”). Nowhere mentioned in the report, however, are recent legislative and regulatory enactments that significantly strengthen that coordination and influences the expansion of the secondary road system. Those enactments include:

Comments of the Virginia Association of Counties
RE: “Policy Options for Secondary Road Construction and Management in the Commonwealth of Virginia” draft dated March 12, 2011

- i. Chapter 527 of the Acts of Assembly of 2006 and Chapter 563 of the Acts of Assembly of 2007 concerning traffic impact analysis, promulgated by VDOT as the Traffic Impact Analysis (TIA) Regulations (Beginning at [24VAC30-155](#));
- ii. Chapter 382 of the Acts of Assembly of 2007 concerning secondary street acceptance requirements, promulgated by the CTB as the Secondary Street Acceptance Requirements (SSARs) (Beginning [24VAC 30-92](#)) and
- iii. Chapters 863 and 928 of the Acts of Assembly of 2007, as amended by Chapter 274 of the Acts of Assembly of 2008, concerning access management standards, promulgated by VDOT's Commonwealth Transportation Commissioner as Access Management Regulations: Principal Arterials (Beginning [24VAC 30-72](#)) and Access Management Regulations: Minor Arterials, Collectors, & Local Streets (Beginning [24 VAC 30-73](#)).

Page 11 – In the above-mentioned section, the paragraph concerning Urban Transportation Service Districts (UTSD) may be misleading to the reader because of its limited applicability. The UTSD provisions, found in §§[15.2-2328](#), [15.2-2329](#) and [15.2-2403.1](#), Code of Va., applied to only six counties (Chesterfield, Fairfax, Loudoun, Prince William, Spotsylvania and Stafford Counties) and the authorization to designate the districts expired on December 31, 2008, or only 18 months after authorization.

Pages 16-17 and 30 – In the discussion of a proposed system reclassification to designate a “core network” that would include 11,440 miles of the current secondary system, the only discussion of the 36,849 remaining miles of secondary roads is a potential for “...outsourced maintenance and snow and ice removal.” VACo is concerned because the report does not discuss how the roads outside of the “core network” would be classified and managed. Further, the report is not clear whose responsibility it would be to maintain the non-core network, and a reclassification of this type could have a very severe impact upon rural areas that rely on such roads to support their local economy.

Pages 17ff – The report does not describe revenue options available to counties to enhance VDOT’s construction and maintenance of secondary roads. For example, 45 “high growth” counties (i.e., any county that has adopted zoning and with either a population of at least 20,000 persons and a decennial growth rate of at least 5%, or any county with a decennial growth rate of 15% or more) may adopt road impact fees (Beginning at §[15.2-2317](#), Code of Va.). While far from a perfect instrument, road impact fees may be used to expand existing roads or construct new roads in order to meet increased demand attributable to new development. Further, VDOT’s successful but over-subscribed [Revenue Sharing Program](#) enables counties to match funds from the Commonwealth and provide additional financial resources for immediately needed road improvements or to supplement funding for existing projects. It should be noted, however, that maintenance work is not eligible for revenue sharing funds.

Pages 26-27 – Item Eight contains the following sentence: “Examining the types of revenue authorizations available to cities could provide a basis for evaluating revenue raising mechanisms for counties.” That sentence is not entirely accurate and could lead the reader to

Comments of the Virginia Association of Counties
RE: “Policy Options for Secondary Road Construction and Management in the Commonwealth of Virginia” draft dated March 12, 2011

infer that significant additional revenue-raising instruments may be available to counties. With respect to city “revenue authorizations,” the following are the only [difference between municipalities and counties in Virginia](#) when it comes to locally imposed taxes:

- Food and Beverage tax – no limit on the rate established by cities; in counties, the rate is established by the General Assembly in statute and the tax may be imposed only after approval in a voter referendum;
- Transient Occupancy tax – no limit on the rate established by cities; in counties, the rate is established by the General Assembly in statute; and
- Admissions tax – no limit on the rate established by cities; in counties, the rate is established by the General Assembly in statute.

Those few differences between city and county revenue authority would be woefully insufficient to address the magnitude of existing and future secondary road needs that would fall to counties under devolution.

Pages 30-31 – It is not clear in the report what advantage the Commonwealth or localities would derive from performance-based maintenance contracting on the secondary system.