OFFICE OF FINANCIAL & PROGRAM AUDIT

May 2012

Quarterly Report - DRAFT

FAIRFAX COUNTY BOARD OF SUPERVISORS

AUDITOR OF THE BOARD

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Office of Financial & Program Audit

QUARTERLY REPORT

EXECUTIVE SUMMARY

Dulles Metrorail Project

OFPA continues to monitor Phase I of the Dulles Corridor Metrorail project. As of the February 2012 MWAA Monthly Progress Report, approximately $1.88 billion of the total $3.2 billion ($2.7 billion in construction, plus $.5 billion in finance costs) Phase I budget had been expended. The Design Build Contract has recorded change orders of approximately 4.6% of the contract amount. MWAA has recognized projected cost overruns of $150 million, which bring the estimated construction cost of the Project to $2.85 billion. MWAA assesses this main construction component of the Project as 67% complete.

The overall project schedule, as projected by DTP, changed from a 20 day schedule lapse in December 2011 to a 27 day projected lapse in February 2012. The date for the official start of revenue service has not been changed by MWAA.

Parking Enforcement Review

The County has established a dedicated unit of parking enforcement officers within the Police Department to monitor and enforce parking violations. Parking tickets generate approximately $3 million per year in revenue for the county. OFPA reviewed parking citation data provided by the parking enforcement unit for calendar years 2006 through 2011 and noted an overall decline in the total number of parking citations from 73,523 in calendar year 2006 to 61,719 in calendar year 2011. To help enhance parking enforcement activities, the Police Department should consider expanding the use of volunteers, establish a formal method to broadly track and monitor the time parking enforcement officers spend on other assigned duties, develop more complete budget performance measures, and continue to work with the Department of Transportation to develop a strategy for dealing with the increased workload when the new metro stations for the Silver Line become operational.

Status of Cable Revenue Verifications

The County receives cable revenues from two primary sources: (1) Communications Sales and Use Taxes and (2) Public, Education, Governmental (PEG) access grants. Although the communications tax replaced the franchise fee system in 2007, the county's franchise agreements with Verizon, Cox, and Comcast remain in effect until their expiration dates. It is important to periodically audit the cable providers because their payments are prone to errors and omissions. For communications taxes, the Virginia Department of Taxation is responsible for distributing revenues to localities based on a pre-determined distribution percentage. Even minor adjustments to the distribution percentages are significant because the total state-wide communications tax distribution is typically between $430,000,000 and $440,000,000 per year. Fairfax County's distribution percentage has been adjusted at least six times since the inception of the communications tax. However, the Virginia Department of Taxation has not published an updated distribution schedule, which makes it difficult to verify the accuracy of the adjusted distribution percentages. The Department of Cable and Consumer Services should initiate periodic audits during fiscal year 2013.

Collection of Non-Tax Receivables and Returned Check Fees

The County has transitioned the responsibility for the review and monitoring of the collection of non-tax receivables from the Department of Finance to the Department of Tax Administration. In addition, the County is developing improvements to the administration of returned check fees related to non-tax payments.

STUDY BRIEFINGS

DULLES METRORAIL PROJECT

The Audit Committee requested that OFPA monitor Phase I of the Dulles Corridor Metrorail Project (Project) with a focus on the project costs and project timeframes. OFPA is tracking the following areas: 1) Project Cost, 2) Start of Revenue Service and 3) Funding Obligations.

Information used in this OFPA report is based on the February 2012, MWAA Monthly Progress Report, dated March 29, 2012 and the Comprehensive Monthly Report issued by the Project Management Oversight Contractor (PMOC) for the FTA dated March 26, 2012.

I. PROJECT COST STRUCTURE

A. Phase I Budget

Phase I of the project has a total budget of approximately $3.2 billion. As of February 2012 approximately $1.88 billion of the Project funds have been expended.[1] The Project team assesses Phase I as 67% complete.[2] The overall project expenditure and construction completion rates are running roughly in parallel. The Allowance budget of $485.7 million and the Contingency budget of $297.7 million are 15% and 9% of the total Phase I budget respectively. MWAA has recognized $150 million in forecasted cost overruns.[3] The Project faces challenges in containing the usage rates of the Allowance and Contingency budgets.

B. Change Orders

The MWAA report divides change orders into two broad categories: (1) Amended and Restated Design Build and (2) Utility Relocation. Through February 2012, there were $79 million in total changes to the Design Build category[4] which represent approximately 4.6% of the original total contract amount.

There have been $22.9 million in total changes to the Utility Relocation category, which represent 17.7% of the total original contract amount.[5] MWAA assesses this project phase as 99% complete.[6] The Utility Relocation category data has been unchanged for approximately one year.

[1] MWAA February Monthly Progress Report: Table 8, Page 21
[2] MWAA February Monthly Progress Report: Page 4
[3] MWAA February 2012 DCMP Phase 1, Monthly Cost Summary: Page 4.
[4] MWAA February Monthly Progress Report: Table 11, Page 30
[5] MWAA February Monthly Progress Report : Table 12, Page 31
[6] MWAA February Monthly Progress Report : Page 4

C. Allowance Items

There is a $485.7 million budget for allowance items. As the table below shows, there are 17 major allowance item categories, each of which may contain multiple sub-projects. Overruns of Allowance Items are funded through drawdowns in the contingency budget. The table below shows the allowance items which have been awarded.

Allowance Items Costs, *February 2012*

ALLOWANCE ITEM #	DESCRIPTION	ALLOWANCE ITEMS AWARDED AND TRANSFERRED TO FIRM FIXED PRICE				
		ALLOWANCE BUDGET W/COMMODITY ESCALATION	BUDGET AWARDED	PERCENT COMPLETE	AWARDED COST	BUDGET AWARDED/ AWARDED COST VARIANCE
C-1	Trackwork[1]	$81,431,330	$81,431,330	100.00%	$82,209,767	$778,437
C-3	Station Finishes and MEP	$88,834,891	$51,369,004	57.83%	$91,414,465	$40,045,461
C-4	WFCY Sound and Box Platforms	$6,686,211	$6,686,211	100.00%	49,677,348	$23,337,985
C-12	WFCY S&I Building (excludes Site	$21,078,576	$19,653,152	93.24%		
C-5	Pedestrian Bridges	$13,614,891	$3,591,557	26.38%	$3,591,557	$-
C-6	Site Development	$44,898,579	$3,708,114	8.26%	$6,746,657	$(4,921,896)
C-12	WFCY S&I Building (Site Work only)	$7,960,439	$7,960,439	100.00%		
C-7	Installation of Public Art	$633,862	$-	0.00%	$-	$-
C-8	Communications and Security	$25,827,090	$25,827,090	100.00%	$26,104,556	$277,466
C-9	Fire Suppression	$2,667,214	$	0.00%	$-	$-
C-10	Elevators and Escalators[4]	$38,732,282	$38,732,282	100.00%	$36,972,266	$(1,760,016)
C-11	Spare Parts	$5,515,011	$-	0.00%	$-	$-
C-13	Traction Power Supply	$59,318,269	$53,145,620	89.59%	$73,359,035	$20,213,415
C-14	ATC Supply[3]	$27,944,840	$26,918,698	96.33%	$39,938,522	$13,019,824
C-15	Corrosion & Stray Currents	$1,579,685	$1,579,685	100.00%	$6,918,927	$5,339,242
C-16	Contact Rail[1]	$10,555,341	$10,555,341	100.00%	$-	$(10,555,341)
C-17	Replacement Parking at Wiehle Avenue	$ -	$-		$-	$-
	D-B Allowances Subtotal - Fed	$437,278,511	$331,158,523	75.73%	$416,933,100	$85,774,577
C-2	Wiehle Parking Garage (By others)	$29,091,684	$-	0.00%	$-	$-
	Total Allowance Items - Fed	$466,370,195	$331,158,523	71.01%	$416,933,100	$85,774,577
C-6A	Site Development - Non Fed	$18,687,604	$-	0.00%	$-	$-
C-8A	Communications and Security - Non	$-	$-	NA	$-	$-
C-13A	Traction Power Supply - Non Fed[2]	$716,079	$-	0.00%	$10,114,784	$10,114,784
C-14A	ATC Supply - Non Fed[3]	$-	$-	NA	$-	$-
	Total Allowance Items - Non Fed	$19,403,683	$-	0.00%	$10,114,784	$10,114,784
TOTAL ALLOWANCE ITEMS - FEDERAL and NON-		$485,773,879	$331,158,523	68.17%	$427,047,883	$95,889,361

1. Trackwork and Contact Rail are awarded as one Subcontract. The awarded cost of $82,209,767 is shown in item # 1 in the above table.
2. This amount is subject to adjustment pending the Airports Authority's decision on the FTA directive to fund the costs associated with reintroduction of TPSS # 7 and #9 from nonfederal funding.
3. ATC Cables - portions of C-14, was revised from $6,638,205 to $6,395,889 due to reduction in quantities. The credit of $242,316 has not been processed as of *February 29, 2012*.
4. Elevators and Escalators C-10 was revised from $36,972,266 to $36,200, 322 due inadvertent double counting of sales tax by DTP. The credit of $771,944 has not been processed yet.
5. Awarded Cost (Allowance Items Recommended for Award and Not Transferred to Firm Fixed Price) contains 10% markup on the recommendation for award amounts for subcontracts for which Price Adjustment Request from DTP is not received.

SOURCE:MWAA Monthly Progress Report, February 2012 – Table 9, p. 25

Total committed allowance item funds through the February 2012 MWAA Progress Report is $427 million, representing 88% of the allowance budget. Overruns are funded by contingency drawdowns. There have been $96 million in overruns through February 2012. Not reflected on the above chart is another $130 million of Allowance Items recommended for award. When these items are transferred it will represent an additional $40.8 million in cost variance which will further impact the contingency budget.

D. Contingency Utilization

The tracking of contingency fund use is helpful in monitoring the progression of a project and its financial commitments. Contingency funds are classified as federal and non-federal and are tracked separately by MWAA. In the event there are unspent contingency funds in one project phase, those funds are moved to the Project's contingency reserve account. Any positive amount in that reserve account is used prior to the contingency allocation for the next phase. The federal contingency had a starting balance of $297.7 million. Of this amount, $234 million has been utilized through project phases 1- 7, as noted in the table below.

Federal Contingency Utilization Summary, *February 2012*

CONTIN. PHASE #	CONTIN. RESERVE	DESCRIPTION	PHASE AUTHORIZATION	CONTINGENCY RESERVE	UTILIZED	REMAINING
1		FFGA	$ 59,000,000		$ 22,179,347	$ 36,820,653
	1R	Contingency Reserve From Phase 1		$ 36,820,653	$ 36,820,653	$ 0
2		Station Design Complete	$ 40,000,000		$ 4,429,829	$ 35,570,171
	2R	Contingency Reserve From Phase 2		$ 35,570,171	$ 32,457,931	$ 3,112,240
3		Utility Relocation Complete	$ 40,000,000		$ -	$ 40,000,000
	3R	Contingency Reserve From Phase 3		$ 43,112,240	$ -	$ 43,112,240
5		NATM Tunnel Mined	$ 38,000,000			$ 38,000,000
	5R	Contingency Reserve From Phase 5		$ 81,112,240	$ 81,112,240	$ 0
4		Aerial and Station Foundations Complete	$ 23,000,000		$ 12,617,195	$ 10,382,805
6		Complete crossover and turn outs at K-Line	$ 18,000,000		$ -	$ 18,000,000
	6R	Contingency Reserve From Phase 6		$ 28,382,805	$ 28,382,804	$ 0
7		Complete Running Rail - Tysons Tunnel	$ 18,500,000		$ 15,563,421	$ 2,936,579
8		Stations Electrical Energization - Tysons West	$ 14,500,000			
9		Ready for Interlocking Testing - Tysons 123 to Tysons West.	$ 10,000,000			
10		Substantial Completion	$ 10,000,000			
11		Project ROD	$ 20,000,000			
12		FFGA ROD	$ 6,762,579			
		TOTAL[1]	$ 297,762,579		$ 233,563,420	$ 64,199,159

1. This amount is subject to adjustment pending the Airports Authority's decision on the FTA directive to fund the costs associated with reintroduction of TPSS #7 and #9 from nonfederal funding.

Source: MWAA Monthly Progress Report, February 2012 – Table 17, p.37

There is an additional $53.4 million of Federal Contingency that has been obligated for Project phases 8 through 12.[7] Since those obligations have not been utilized they are not included in the above MWAA table. To summarize the status of the Federal Contingency, of the original $297.7 million budget, $234 million has been utilized and $53.4 million obligated – leaving a balance of $10.8 million as of February 2012, or 4% of the original allocation. This is down from a remaining balance of $34.1 million or 14% from December 2011. The following MWAA table shows the contingency balance after utilized and obligated amounts have been subtracted. These figures do not include contingency amounts which are under review and/or negotiation by MWAA.

[7] MWAA February 2012 – Monthly Progress Report, Table 20, Page 42

Federal Contingency Utilized and Obligated Summary, *February 2012*

	BUDGET	TO-DATE		REMAINING
Phases 1 through 7	$ 236,500,000	$ 233,563,420	(Utilized)	$ 2,936,580
Phases 8 through 12	$ 61,262,579	$ 53,401,942	(Obligated)	$ 7,860,637
TOTAL	$ 297,762,579	$ 286,965,362		$ 10,797,217

Source: MWAA Monthly Progress Report, February 2012 – Table 20, p 42

There is approximately $29.4 million in additional Contract Change Orders currently under evaluation by MWAA.[8] Depending on the outcome of these evaluations all or a portion of these change orders could be applied against the contingency budget.

II. START OF REVENUE SERVICE FOR PHASE I

Overall Project Schedule

Two key milestone definitions have been redefined. These new definitions do not make any material changes in the status of the Project. However, it is important to understand the definitions in the context of current and future MWAA and PMOC reports. What had commonly been referred to as Revenue Operations Date or ROD (established as 12/16/2013) is now referred to as Project ROD. This differentiates it from the revenue operations date established by the FTA in the FFGA. That date is now referred to as the FFGA ROD (established as 12/1/2014). OFPA has reported on the Project ROD in this and prior reports and will continue to do so.

The MWAA report for February 2012 now anticipates a lag of 27 days with the start of revenue operations in January 2014.[9] (<u>Note the official schedule has not been changed, this is a DTP projection.</u>) The prior 161 day lapse reported as of September 2011 has been closed through an agreement between DTP and MWAA on a mitigation schedule. The cost of the mitigation schedule is not available. The previous mitigation schedule dated December 15, 2010 was settled at a cost of $7.2 million in September 2011. The current mitigation schedule does not relieve DTP from their obligations in the earlier mitigation schedule.[10]

Previous PMOC reports noted the ongoing disagreements between MWAA and DTP related to the West Falls Church rail yard (WFCY) and the railcar delays caused by the March 2011 earthquake in Japan. The DTP schedule projections do not include the rail yard or rail car delivery risks.

The PMOC reports that the WFCY completion date appears to be close to resolution. MWAA reports that the WFCY Service and Inspection Building can be substantially complete in October 2013 and all WFCY work complete by December 2013.[11] It is unclear what the impact will be on interoperability testing with WMATA. The PMOC status and confidence is related to achieving the FFGA ROD.

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[8] MWAA February 2012 – Monthly Progress Report, Tables 13 & 14, Pages 32 & 33
[9] MWAA December 2011 – Monthly Progress Report, p. 44
[10] PMOC March 26, 2012 – p 17.
[11] PMOC March 26, 2012 – p 18.

WMATA has developed a fleet plan to use excess rail cars from within the existing fleet to mitigate the impacts of a delivery delay. This plan will need to be monitored and revised as the rail car delivery schedule develops.

III. FUNDING OBLIGATIONS OF FAIRFAX COUNTY

Based on the current funding agreement, Fairfax County is obligated to pay 16.1% of the total project costs. Total project costs will be better analyzed in July 2012, once all the original funding partners have formally stated their Phase II intentions.

PARKING ENFORCEMENT REVIEW

Overview

The county has established a dedicated unit of parking enforcement officers within the Police Department to monitor and enforce parking violations. There are 10 at-large parking enforcement officers in the Traffic Division who operate throughout the county and 8 parking enforcement officers who are assigned to each police district station. Police officers, police volunteers, fire marshals, sheriff's deputies, and Metro transit police officers from the Washington Metropolitan Area Transit Authority (WMATA) are also authorized to issue parking citations for county violations. The county contracts with a private vendor to provide handheld ticket writers and to manage and process parking citations.

As shown on the table below, 61,719 parking citations were issued in calendar year 2011. 36 percent (22,394) were written by the Traffic Division's parking enforcement officers, 30 percent (18,395) were written by the 8 traffic enforcement officers stationed at each district, 24 percent (14,982) were written by patrol police officers in each district, and 10 percent (5,948) were written by other sources as noted below.

Parking Citations by Police District and Other Sources
Calendar Years 2006 – 2011

DISTRICT/SECTOR	2006	2007	2008	2009	2010	2011
Traffic Division Parking Unit	38,584	28,282	28,979	25,891	23,354	22,394
Fair Oaks District	4,839	8,559	8,291	8,531	6,151	5,310
Franconia District	4,470	4,856	4,452	4,395	4,238	3,758
Mason District	2,984	3,283	3,534	4,076	7,346	8,088
McLean District	2,790	2,896	2,671	3,007	2,658	3,136
Mount Vernon District	4,089	4,000	4,233	4,460	4,671	4,035
Reston District	3,453	2,221	2,723	3,075	4,724	3,603
Sully District	3,487	4,470	4,819	4,382	2,950	3,228
West Springfield District	3,449	3,112	3,482	3,376	3,363	3,651
Metro Transit Police	4,402	3,406	3,801	4,765	4,442	4,293
Fairfax Fire Marshal	111	107	54	103	137	125
Fairfax Police Motorcycle Unit	14	16	17	22	16	3
Other	851	967	513	474	107	95
TOTAL	**73,523**	**66,175**	**67,569**	**66,557**	**64,157**	**61,719**
Warnings Included in Total	*669*	*1,395*	*3,306*	*3,339*	*4,207*	*3,187*

Source: AutoProcess Citation Processing System – ad hoc reports provided by the Traffic Division Parking Enforcement Unit.

Parking ticket fines generate approximately $3 million per year in revenue. The fine for most county parking violations is $50. However, the fines for certain types of parking violations are higher. For example, the fine for illegally parking in spaces designated for persons with disabilities is $500, the fine for parking a commercial vehicle in a residential area is $100, and parking in an area designated as a residential parking district without the required decal is $75.

In fiscal year 2010, the County raised the fines for most parking violations and implemented new parking requirements. The fines charged for parking violations within Fairfax County are either similar or slightly higher than the fines charged in neighboring jurisdictions.

Jurisdiction Comparison of Fine Types

	Parking in Accessible Reserved Space	Meter Violations	Fire Code Violations	Residential Area Violations	Stopping on the Highway	Late Fee
Fairfax County	**$500**	**$50**	**$50**	**$75 ($100 for commercial vehicles)**	**$50**	**$25**
Alexandria	$201	$35	$48	$40	$40	$25
Arlington	$500	$35	$50	$50	$50	$25
Loudoun	$100	none	$40	$50	$50	$25

Source: *Response to Questions on the Fiscal Year 2013 Budget*, prepared by the Department of Management and Budget.

The Department of Tax Administration is responsible for overseeing the collection of unpaid parking tickets. Parking enforcement officers assist DTA by identifying and ordering the impoundment of vehicles with excessive unpaid parking tickets. The parking enforcement officers use a Department of Tax Administration database of scofflaws and reports generated from the vendor's citation processing system to identify vehicles with excessive unpaid parking tickets. In fiscal year 2011, parking enforcement officers in the Traffic Division and district offices reported impounding 566 vehicles representing approximately $173,000 in unpaid parking tickets.

As shown on the table below, the most common types of violations are expired or missing license tags and state vehicle inspections. In fiscal year 2011, expired or missing license tags and state vehicle inspections each accounted for 26 percent and 23 percent of the total citations issued. Other common violations include parking in a no-parking zone, violations of WMATA parking rules, and fire lane violations.

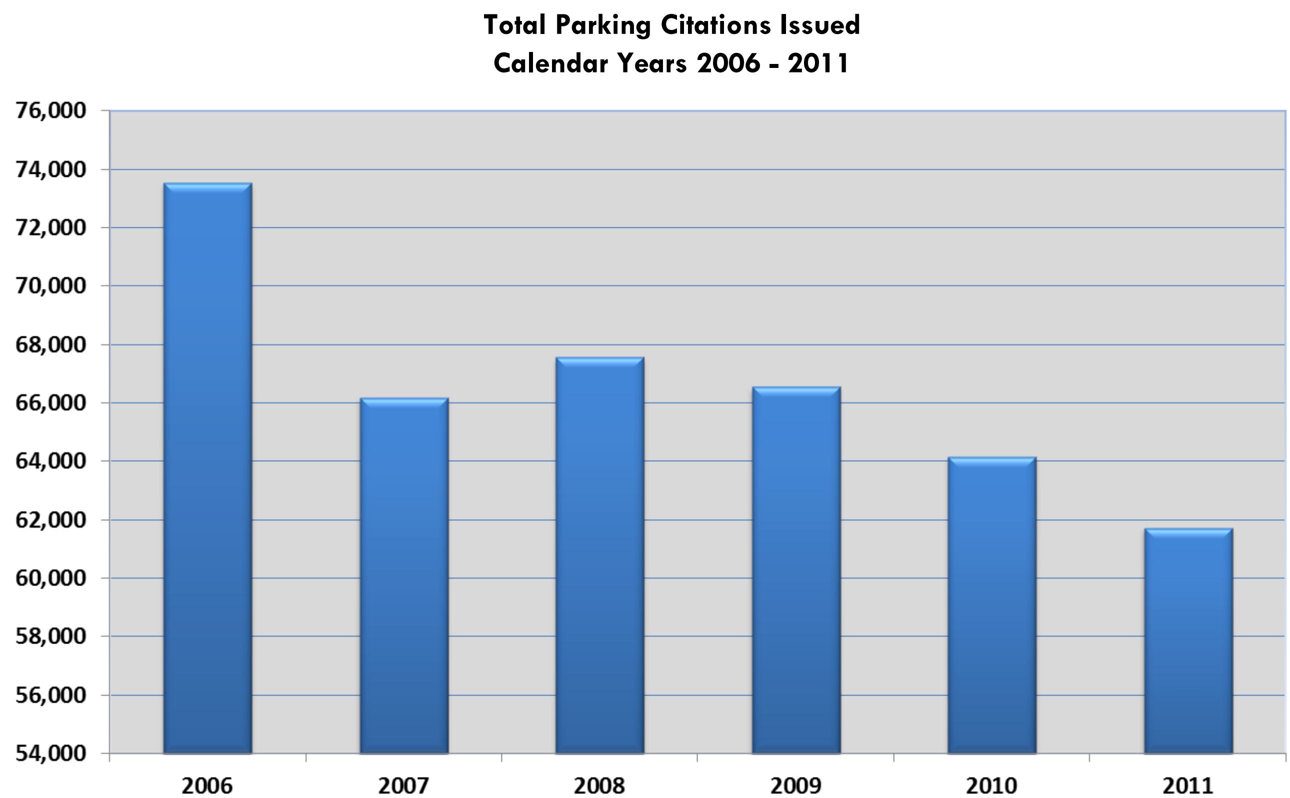
Parking Citations by Violation
Calendar Years 2006 - 2011

VIOLATION	2006	2007	2008	2009	2010	2011
License Tags (Expired/Missing)	16,001	14,495	16,598	15,804	15,765	15,972
State Inspection	22,139	16,846	16,065	15,818	14,969	14,022
Official No Parking Sign	8,272	9,781	9,395	8,034	7,249	8,552
WMATA Parking Violation	3,235	5,123	4,768	6,851	5,237	3,205
No Fairfax County Decal	5,653	N/A	N/A	N/A	N/A	N/A
Fire Lane Violation	3,393	3,144	1,738	3,309	2,334	2,650
Residential Parking District	1,958	2,140	3,117	2,803	3,119	2,598
Commercial Vehicle	646	578	768	565	2,736	2,062
Right Side not to Curb	1,728	2,228	2,179	2,434	1,953	1,953
Blocked Driveway	906	1,210	1,257	1,311	1,408	1,706
Stopping on the Highway	2,184	2,468	1,855	1,091	1,198	1,185
License Plate Improperly Secured	334	742	600	650	985	1,049
Parked with a For Sale Sign	1,435	1,342	1,232	921	790	781
Accessible Parking	707	823	635	782	833	719
Expired Meter (Metro Stations)	504	544	1,352	1,328	697	661
Abandoned Vehicle	896	758	586	470	392	487
Community Parking District	0	9	101	338	519	398
Other	3,532	3,944	5,323	4,048	3,973	3,719
TOTAL	**73,523**	**66,175**	**67,569**	**66,557**	**64,157**	**61,719**
Warnings Included in Total	*669*	*1,395*	*3,306*	*3,339*	*4,207*	*3,187*

Source: AutoProcess Citation Processing System – ad hoc reports provided by the Traffic Division Parking Enforcement Unit.

Parking Citations Have Declined Over the Past Six Years

OFPA reviewed parking citation data provided by the parking enforcement unit for calendar years 2006 through 2011 and noted an overall decline in the total number of parking citations. As shown on the next page, the total number of parking citations issued per year decreased from 73,523 in calendar year 2006 to 61,719 in calendar year 2011, an overall decline of 11,804.



Source: AutoProcess Citation Processing System – ad hoc reports provided by the Traffic Division Parking Enforcement Unit.

The decline in parking citations is also reflected in the Traffic Division's parking enforcement budget measures. Specifically, the Traffic Division parking unit's budget performance measures decreased from 504 tickets per 10,000 registered vehicles in 2006 to 298.4 tickets per 10,000 registered vehicles in 2011.

We also noted an overall $175,389 decrease in parking ticket revenues from $3,304,380 in 2006 to $3,128,991 in 2011. The potential reduction in parking ticket revenues related to the decrease in citations was mitigated by the increase in parking fines and expanded parking ordinances in fiscal year 2010.

At least three factors appear to have contributed to the decline in parking citations: (1) time spent by parking enforcement officers on other assigned duties, (2) vacant positions, and (3) other mitigating factors.

- Other assigned duties - Parking enforcement officers perform a wide range of duties. For example, they testify at court hearings, address citizen inquiries and complaints, transport and operate speed radar trailers, work at child seat safety check events, serve as crossing guards, direct traffic at various functions, transport vehicles to the repair shop, transport property and evidence, perform administrative and courier duties for the Police Department, and work with other agencies and county departments as needed. There is currently no formal method in place to determine how much time parking enforcement officers spend on collateral duties that are unrelated to parking enforcement, but the Traffic Division's parking enforcement manager estimated that, on average, these types of duties consume approximately 30 to 40 percent of his staff's time.

- Vacant positions - The County's budget authorizes 10 at-large parking enforcement officer positions within the Traffic Division and 8 district parking enforcement officer positions. During 2010, the Traffic Division parking enforcement unit had two vacant positions. Currently, the Traffic Division parking enforcement unit has one vacant position. Since parking enforcement officers each average about 2,500 tickets per year, unfilled positions have an impact on the total number of citations issued.

- Other mitigating factors - Other factors have also impacted the number of parking citations issued. For example, prior to 2007, failure to display a valid Fairfax County personal property tax decal on the windshield of the vehicle was one of the top five parking violations. However, the County eliminated the personal property tax decal requirement in 2006. Since 5,653 citations were issued for county decal violations in calendar year 2006, this change may have contributed to the decline in citations from 2006 to 2007. Special events involving national security may also limit parking enforcement activities.

Opportunities to Enhance Parking Enforcement Activities

Over the next several years, the parking enforcement unit will face new opportunities and challenges. For example, the county continues to establish new residential parking districts and has increased the number of areas designated as community parking districts. In addition, the new Dulles Metrorail Silver Line metro stations that are scheduled to open in 2013 will create the need for additional parking enforcement and monitoring.

To help enhance parking enforcement activities, the Police Department should consider expanding the use of volunteers. Virginia Code § 46.2-1242 allows volunteers to issue citations for accessible parking space violations. Although the Police Department has established a volunteer program to assist with regular police duties (including writing parking tickets)[12], the department has not established a dedicated unit of volunteers for parking enforcement. Other counties and local jurisdictions throughout the country have established volunteer parking enforcement programs and many of these programs focus on accessible parking space violations (a $500 fine in Fairfax County). For example, the City of Phoenix established a "*Save Our Space*" outreach program to educate the public on the importance of saving accessible parking spaces for people with disabilities. The program promotes enforcement of the city's disabled parking ordinance and supports the Police Department's Accessibility Compliance Enforcement (ACE) volunteers in issuing citations for accessible parking violations. Within Virginia, the City of Virginia Beach has also established a similar program.

The Traffic Division and district parking units should also consider establishing a formal method to broadly track and monitor the time parking enforcement officers spend on other assigned duties. While a detailed minute-by-minute accounting of these other duties is not necessary, a broad tracking of these activities would help identify ancillary duties that could be assigned to other non-revenue generating personnel, as appropriate, to ensure that parking enforcement officers can dedicate more time to their primary duties.

[12] The Police Department currently has two volunteer programs: (1) Volunteers in Police Service (VIPS), which provides residents with the opportunity to serve in unpaid, administrative non-uniformed positions and (2) the Auxiliary Police Unit, which provides trained volunteers with the opportunity to assist patrol officers with their regular police duties.

In addition, the Police Department should consider expanding the budget performance measures to include the 8 district parking enforcement officers. Currently, the Police Department's budget includes performance measures for the 10 Traffic Division parking enforcement officers that operate throughout the county, but does not include performance measures for the 8 parking enforcement officers in the district stations. To more completely measure the performance of parking enforcement, the Police Department should consider including the 8 district parking enforcement officers in the budget performance measures for parking enforcement.

Finally, the Traffic Division parking enforcement unit should continue to work with the Department of Transportation to develop a strategy for dealing with the increased workload when the new metro stations for the Silver Line become operational.

Recommendations

- The Police Department, in collaboration with the County's Disabilities Services Planning and Development Office, should consider establishing a dedicated group of volunteers for parking enforcement. The Police Department should collaborate with the County's Disabilities Services Planning and Development Office to identify opportunities to use volunteers to enforce accessible parking space violations.

- The Traffic Division and district parking enforcement units should consider establishing a formal method to broadly track and monitor the time parking enforcement officers spend on other duties and identify opportunities to reassign ancillary duties to other non-revenue generating personnel, as appropriate, to ensure that parking enforcement officers can dedicate more time to their primary duties.

- The Traffic Division parking enforcement unit should continue to work with the Department of Transportation to develop a parking enforcement plan for the opening of the Silver Line in 2013.

- The Police Department should consider including the 8 district parking enforcement officers in the budget performance measures for parking enforcement.

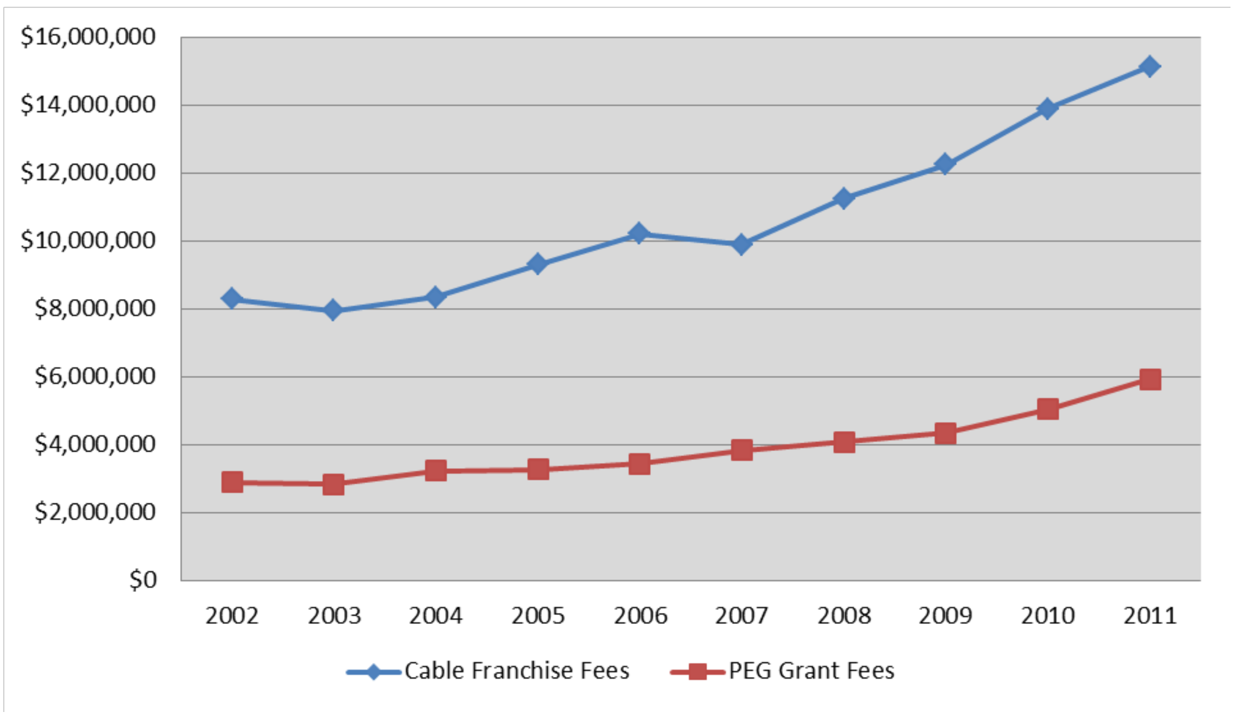
STATUS OF CABLE REVENUE VERIFICATIONS

Overview

The County receives cable revenues from two primary sources: (1) Communications Sales and Use Taxes and (2) Public, Education, Governmental (PEG) access grants. Although the Communication Sales and Use Tax replaced the franchise fee system in 2007, the county's franchise agreements with Verizon, Cox, and Comcast remain in effect until their expiration dates. The county's franchise agreements require the cable providers to pay franchise fees calculated at 5 percent of gross revenues and Public, Educational, and Governmental (PEG) access grants calculated at 3 percent of gross revenues (less franchise fees) for Verizon and Cox and a per-subscriber charge for Comcast.[13]

Since the inception of the communications tax in 2007, cable franchise fee amounts have represented a subset of the communications tax distribution, approximating 5 percent of gross revenues. For accounting purposes, the county deposits cable franchise fees and PEG grant revenues in a special revenue fund (Cable Communications Fund). As shown on the chart below, the county's cable revenues have increased over the past 10 fiscal years.

Fairfax County Cable Revenues
Fiscal Years 2002 - 2011



Source: Department of Management and Budget (DMB) Cable Communications Fund statements. Cable franchise fee amounts reported for fiscal year 2007 and beyond are a subset of the communications tax distribution. The cable franchise fees represent estimated amounts reported by the cable providers to the Virginia Department of Taxation.

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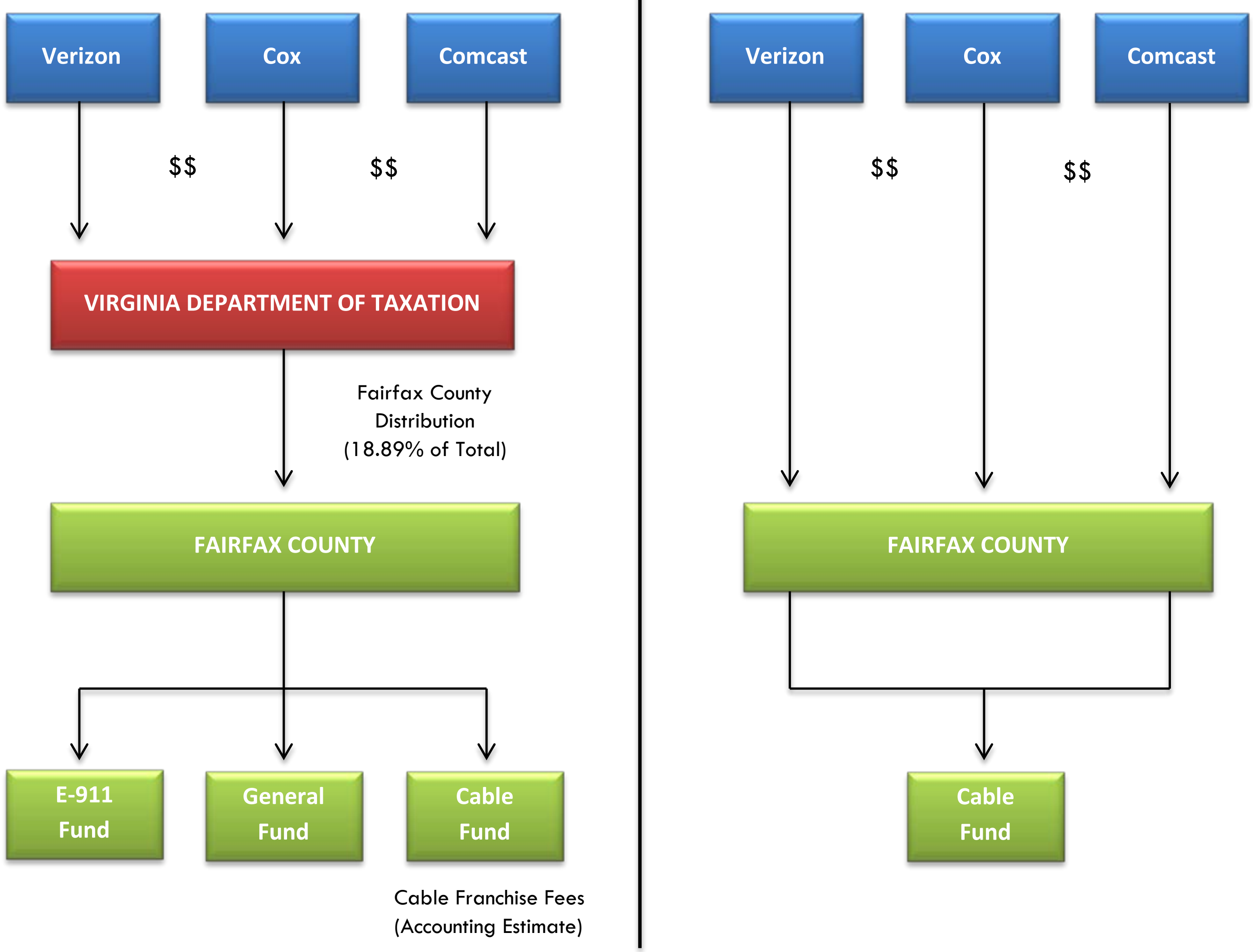
[13] 2006 House Bill 568 (Acts of Assembly 2006, Chapter 780) replaced the local cable franchise fees with a state-wide communications sales and use tax. Effective January 1, 2007, cable providers stopped making franchise fee payments directly to localities. Instead, cable providers report these amounts to the Virginia Department of Taxation on a schedule submitted with their communications tax return. In accordance with the franchise agreements, cable providers continue to make PEG grant payments directly to localities.

The county allocates communication tax revenues to three funds: (1) General Fund, (2) E-911, and (3) Cable Communications. Communications taxes as a whole represent a substantial source of revenue for the county. In fiscal year 2011, the county received $83.5 million in communication tax revenues from the Virginia Department of Taxation. Of the total $83.5 million, the county deposited $50.7 million in the General Fund, $17.6 million in the E-911 Fund, and $15.2 million in the Cable Communications Fund. As shown below, the cable providers continue to pay PEG grant fees directly to the county.

COMMUNICATIONS SALES AND USE TAX
Revenue Distribution to Fairfax County

PUBLIC EDUCATIONAL GOVERNMENTAL (PEG)
Revenue Distribution to Fairfax County



Verification of Cable Revenues is Important

Under the terms of the existing franchise agreements, the county has the right to audit the cable provider payments. Although the cable franchise fees were replaced by the communications tax in 2007, the county still has the right to audit the estimated cable franchise fees reported by the cable providers. The Virginia Department of Taxation conducts periodic audits of the communications taxes reported by the cable providers. From January 2011 through January 2012, the Virginia Department of Taxation reported receiving $2 million from the cable providers as a result of audits.

As noted in the previous section, cable providers pay PEG grant fees directly to the county. The franchise agreements require the cable providers to provide supporting detail with each franchise fee payment and a statement certified by an authorized financial agent or an independent certified public accountant. The agreements also specify that the county shall have the right to require further documentation to verify the accuracy of the payments. However, one cable provider currently provides the county with a check and no supporting documentation. The two remaining cable providers provide high-level summary schedules that do not provide sufficient detail to verify the accuracy of the PEG payments.

It is important to periodically audit the cable providers because their payments are prone to errors and omissions. In February 2012, Cox notified the county that it had underpaid its PEG grant fees by a total of $919,000 over a period of six years. In a letter to the county, Cox attributed the mistake to a "miscoding in our accounting system." In June 2009, Verizon notified the county that it had overpaid its PEG grant fees by approximately $407,000 and the county subsequently returned the money to Verizon.

Although other localities in Northern Virginia have audited cable provider PEG grant payments, Fairfax County has not conducted these types of audits. However, the Fairfax County Department of Cable and Consumer Services recently initiated contact with the cable providers in an effort to verify the accuracy of their PEG payment calculations. In addition, the Department has acknowledged the importance of audits and plans to initiate periodic audits of the cable providers in fiscal year 2014.

Distribution of Communications Tax Revenue Lacks Transparency

The Virginia Department of Taxation is responsible for distributing communications tax revenues to localities. That basis for the communications tax distribution was determined by the Virginia Auditor of Public Accounts (APA). In 2006, the APA published a report that contained a schedule of fiscal year 2006 communications tax and fee revenues for 288 counties, cities, and towns and the percentage distribution of total reported revenues calculated for each locality in Virginia.[14] Using the revenue data provided by the localities, the APA set Fairfax County's original communication tax distribution at 18.925064 percent.

Although the APA established clear deadlines for the reporting of communications tax and fee revenues, some localities did not provide the required information in time to be included in the original distribution and, in some cases, did not accurately report their revenues to the APA. The Virginia General Assembly periodically grants some of these localities the right to be included in the communications tax distributions. According to the Virginia Department of Taxation, as new localities are added to the distribution, the localities that were already included in the original 2006 APA report must take a deduction from their distributions.

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[14] *Report of State and Local Communications Service Taxes and Fees for the year ended June 30, 2006* – Auditor of Public Accounts.

As shown on the table below, Fairfax County's distribution percentage has been adjusted at least six times since the inception of the communications tax. However, neither the APA nor the Virginia Department of Taxation has published an updated distribution schedule, which makes it difficult to verify the accuracy of the adjusted distribution percentages. Even minor adjustments to the distribution percentages can be significant because the total state-wide communications tax distribution is typically between $430,000,000 and $440,000,000 per year.

Fiscal Year	Basis for Distribution %	Fairfax County Distribution %	Change in % Allocation
2007	2006 APA Report*	18.925064	N/A
2008	2006 APA Report*	18.925064	N/A
2009	Not Published	18.919835	-0.005229
2010	Not Published	18.919713	-0.000122
2011	Not Published	18.816201	-0.103512
2011	Not Published	18.906129	0.089928
2011	Not Published	18.905959	-0.000170
2011	Not Published	18.894646	-0.011313

* *Report of State and Local Communication Service Taxes and Fees for the Year Ended June 30, 2006* - Auditor of Public Accounts (APA).

In addition to adjustments to the distribution percentages, the Virginia Department of Taxation has made annual state-wide distribution reductions totaling over $10 million for tax refunds and other administrative fees. However, the basis for these reductions is not always clear.

Recommendations

- The County should request the supporting schedules for the communication tax distribution percentages from the Virginia Department of Taxation and verify the factor used to distribute communication tax revenues.

- In accordance with the terms of the franchise agreements, the Department of Cable and Consumer Services should ensure that it receives sufficient documentation to verify the cable provider payments and should initiate periodic audits of the cable providers during fiscal year 2013.

COLLECTION OF NON-TAX RECEIVABLES AND RETURNED CHECK FEES

Collection of Non-Tax Receivables

OFPA's February 2012 Quarterly Report provided follow up recommendations designed to improve the collection of delinquent non-tax receivables. The Audit Committee and the Board of Supervisors accepted the following recommendations made in the February 2012 report:

1. Prepare a draft county ordinance for the Board's consideration that is consistent with *Code of Virginia § 15.2-105: Penalty and interest for failure to pay accounts when due*. The proposed ordinance will clarify the imposition of penalty and interest on unpaid non-tax accounts and allow for the waiver of penalties and interest if failure to pay was not in any way the fault of the debtor.

2. Define 'due date' in the proposed ordinance as the original date of the bill. This further clarity will make the day after the due date, the first day of delinquency.

During the last several reporting quarters, OFPA and the County's Chief Financial Officer (CFO) have considered approaches to providing consistent and robust collections across all departments. These considerations were mindful that an overall organization approach was needed, but flexibility must be retained to accommodate specific departmental needs.

Effective April 2, 2012, the CFO transferred the collection oversight of all non-tax receivables from the Department of Finance to the Department of Tax Administration (DTA). In alerting agencies to this transfer, the CFO noted: "Our goal in this effort is, to the extent possible, to ensure a consistent and robust collection approach across all departments". [15] DTA, in its new oversight role, and the County Attorney's Office are currently working on draft ordinances addressing both of the above recommendations.

DTA has begun the transition planning for these new duties. The department is developing a methodical approach, which acknowledges the need to remain flexible and accommodate the underlying principles on which some fees were established. DTA is beginning its non-tax oversight efforts with a focus on General Fund receivables. An initial step will be to establish updated collection standards. Two vacant staff positions in DTA are being reassigned to this effort. DTA will review and monitor department billings, previous collection efforts and outstanding receivables countywide. Working with staff in other departments, DTA will seek to address billing data integrity and assist in identifying systems issues to improve overall collections. Standardization plans include:

- billing communication
- due date enforcement
- application of statutory collection fees (administrative fees, penalties, interest, collection agent fees, returned check fees)
- use of delinquent collection tools as appropriate

DTA anticipates continued coordination with the County Attorney and other Boards and Authorities as they look forward to developing and implementing their non-tax receivable oversight program. OFPA will continue to monitor and provide updates to the Audit Committee.

[15] Memo dated April 2, 2012 from Chief Financial Officer, to agency contacts countywide; Subject: Collection of Non-Tax Receivables.

Returned Check Fees

OFPA noted inconsistent returned check fee charges across several departments for bad checks written on non-tax accounts. DTA, the County Attorney's Office and OFPA agreed that additional local ordinance clarity would be beneficial in standardizing returned check fees for non-tax accounts. (Sufficient County ordinance language exists for returned checks presented for tax payments.)

General Assembly action in 2011, amending the enabling state legislation, allows the County to charge a $50 fee for all returned checks. This is an increase from the $35 fee previously allowed by state code and adopted by the County for tax payments. DTA and the County Attorney's Office were already preparing a draft ordinance to be considered by the Board, updating the returned check fee charged for tax payments to $50. Based on our discussions with DTA and the County Attorney's Office, that draft ordinance will be modified to also apply to non-tax payments countywide. Based on the number of non-tax returned checks (reported by the Department of Finance) in the last 12 months, OFPA estimates that fees charged for returned checks on non-tax accounts could net approximately $100,000 per year.

Recommendation

The Board of Supervisors should support the advertisement of the upcoming County Code amendments to adopt a returned check fee of $50, the maximum now allowed by state code, for all tax and non-tax payments. The amendment will provide consistency in County policy across all departments.

OTHER PERTINENT INFORMATION

To identify opportunities for the County to enhance revenues, OFPA reviewed recent General Assembly action which enhanced or established a local jurisdiction's authority. We noted two specific pieces of legislation and conducted preliminary evaluations on both.

DUI Fees

The 2010 Session of the General Assembly amended the *Code of Virginia § 15.2-1716*. This legislation allows the Board to adopt an ordinance providing that a person convicted of driving under the influence (DUI) and other enumerated offenses such as reckless driving shall be liable to the county for restitution of reasonable expenses incurred by the county in responding to an accident or an incident related to such violation. Specifically the 2010 amendment increased the permissible flat response fee from $250 per incident/accident to $350 per incident/accident. There have been numerous amendments made by the General Assembly since the bill was first introduced in 1994. OFPA reviewed two previous requests by the Board of Supervisors to study this enabling legislation.

The most recent request to evaluate § 15.2-1716 was made in 2009 and was responded to by a December 3, 2009, memo to the Board of Supervisors from the County Attorney. The County Attorney concluded that while the Board may adopt such an ordinance, "reimbursement for the costs of providing law enforcement, fire-fighting, rescue, and emergency medical services may only be sought in cases where the DUI or other enumerated offense resulted in an accident or incident related to such violation and the accident or incident required an emergency response."[16] This conclusion was consistent with the 2004 opinion issued by the Virginia Attorney General. A recurring question over the years has been whether a jurisdiction can assess the fee upon conviction of a DUI/Reckless citation alone (traffic stop) or must there be an emergency response to an accident or incident followed by a citation that results in a conviction.

In follow up discussions with the County Attorney, it was noted that the General Assembly has made many changes to this Code section over the years and has not expanded the definition of incident or accident to be inclusive of DUI related violations resulting from traffic stops or DUI check points. Even with the recent increase of the fee from $250 to $350, the numbers of DUI convictions that include accidents requiring an emergency response do not appear to make implementation of the fee cost effective at this time.

Returned Check Fees

As noted earlier in this report, the 2011 Session of the General Assembly amended the *Code of Virginia §15.2-106* to increase the returned check fee localities are allowed to charge from $35 to $50. While researching the relevance of this change for the County, OFPA determined there was an opportunity to not only implement the increased fee but also improve the clarity of non-tax returned check processing. Working with the County Attorney's Office and the Department of Tax Administration an opportunity was identified to address non-tax returned checks while the County Code update for tax-related returned checks was being prepared. Hence, as noted earlier, this became a recommendation in this quarterly report.

[16] Memo dated December 3, 2009 to: Members, Board of Supervisors; from: David P. Bobzien, County Attorney; Subject: Driving While Intoxicated Cost Recovery Under Va. Code Ann. §15.2-1716

PRIOR STUDIES FOLLOW-UP

Emergency Medical Services Transport Fee Revenue Analysis

Emergency Medical Services (EMS) transport fees were implemented in April of 2005 after the recognition that health insurance providers anticipate such fees and pay them in whole or in part on a regular basis. The March 2011 Quarterly Report recommended that the Fire and Rescue Department (FRD) maximize opportunities to increase collections from insurance carriers by improving insurance information retrieval from hospitals. FRD agreed to a FY 2012 goal of a 5-10% increase in insurance collections.

Since OFPA's March 2011 Report, FRD staff developed and implemented a plan to improve retrieval of patient insurance information from hospitals that has increased the number of transports billed to insurance carriers. FRD reports that the process now in place with Inova Fairfax Hospital has facilitated a marked improvement in the insurance information retrieval rate and has resulted in an increase in payments for transports from insurance carriers. FRD is on target to meet and even exceed the increased collection goals established for FY 2012. FRD continues to work with other hospitals to implement improvements and is in direct contact with Reston Hospital representatives to institute a secondary search process for records missed in the regular weekly insurance data transfer from that facility.

OFPA's last update to the Audit Committee noted a claim issue with an insurance carrier that was ongoing. FRD continues to work with the County Attorney's Office, the County's privacy officer and the Center for Medicare and Medicaid Services (CMS)[17] to resolve outstanding claims issues with one insurance carrier. Due to those efforts, FRD is making positive progress with the carrier. Beginning late April 2012, the carrier has agreed to comply with the *Code of Virginia* requiring that insurance carriers pay claims directly to FRD[18].

[17] The Centers for Medicare & Medicaid Services (CMS) is a branch of the U.S. Department of Health and Human Services. CMS is the federal agency which administers Medicare, Medicaid, and the Children's Health Insurance Program and provides information for health professionals, regional governments, and consumers.

[18] *Code of Virginia* § 38.2-3407.9 (Reimbursement for ambulance services).

LIST OF ACRONYMS

ACE	Accessibility Compliance Enforcement
APA	Auditor of Public Accounts
CFO	Chief Financial Officer
CMS	Centers for Medicare and Medicaid Services
DMB	Department of Management and Budget
DTA	Department of Tax Administration
DTP	Dulles Transit Partners
DUI	Driving Under the Influence
EMS	Emergency Medical Services
FFGA	Full Funding Grant Agreement
FFGA ROD	Full Funding Grant Agreement Revenue Operations Date
FMD	Fairfax County Facilities Management Department
FRD	Fire and Rescue Department
MWAA	Metropolitan Washington Airports Authority
OFPA	Fairfax County Office of Financial and Program Audit
PEG	Public, Education, Governmental
PMOC	Project Management Oversight Contractor
ROD	Revenue Operations Date
WFCY	West Falls Church Yard
WMATA	Washington Metropolitan Area Transit Authority