

# Fairfax County Federation of Citizens Associations

## 2005 LEGISLATIVE PROGRAM

### PRIORITIES, POSITIONS AND PROPOSALS

#### PRIORITIES

*(in alphabetical order)*

1. Conservation - Tree preservation and open space conservation
2. Education – Funding of state and federal mandates for K-12 education
3. Governance - Reversal of the strict interpretation of the “Dillon Rule”
4. Infrastructure - Funding of critical local transportation and education infrastructure needs
5. Land use - Protection of local land use authority
6. Tax structure – Modernization of the state and local tax structure
7. Taxation authority - Equal taxing authority for counties, cities and towns

#### 1. CONSERVATION

**a. LAND CONSERVATION.** Support establishment of annual dedicated funding of \$50 million, without jeopardizing funding for education and transportation, for acquisition of land and conservation easements to be used as open space, such as natural areas, watersheds, farmland, forests, parks, and historic sites. (Continued from 2000)

*Rationale: Virginia is the **only** state on the East Coast without dedicated funding for acquisition of open space. Among the 50 states, Virginia ranks last in public spending on natural resources less than 1 percent of the overall state budget. Of the more than 1,400 critical natural areas throughout Virginia identified by state biologists, only 36 have been dedicated natural area preserves.*

**b. TREE PRESERVATION.** Support Fairfax County’s initiative for legislation enabling urbanized jurisdictions to require preservation of trees on development sites to meet tree canopy requirements in proportion to pre-development canopy, to permit increasing the amount of tree canopy required 20 years after development on residential sites, and to allow the designation of native species of new trees that could earn tree canopy credits. (2003)

*Rationale: The goal is the preservation, rather than replacement, of trees during the development process and a specified degree of tree canopy on site. This supports a Fairfax County 2005 legislative initiative.*

**2. FUNDING FOR K-12 MANDATES.** Support legislation requiring funding to reflect realistic costs for meeting state mandates such as the Standards of Quality (SOQ), the Standards of Learning (SOL), and the Standards for Accreditation (SOA) as well as federal mandates such as the Individuals with Disabilities Education Act (IDEA) and the No Child Left Behind (NCLB) Act. (2005)

*Rationale: The SOQ funding is deficient because (1) it fails to recognize many teaching personnel employed by school divisions and (2) it uses a weighted measure that depresses salary calculations below what most of Virginia’s teachers are paid. The JLARC study (HD 39), updated in February 2002, documented these problems and others related to unfunded mandates imposed by the SOLs and SOAs.*

*Federal funding for IDEA is less than one-fourth of the 40 percent promised when the mandate to educate all children with disabilities was legislated, and the funding for NCLB is significantly less than what is needed to raise the achievement of all students. In addition, NCLB is being funded at the expense of other federal programs designed to strengthen American education, particularly for poor children and communities.*

### **3. GOVERNANCE**

**DILLON RULE.** Support modification of the “Dillon Rule” to grant to local jurisdictions those governing powers not expressly reserved to the Commonwealth or the federal government. (Continued; revised 2002)

*Rationale: The Commonwealth of Virginia practices a strict interpretation of the decision of federal Judge John F. Dillon of Iowa more than a century ago whereby local governments have only those powers expressly granted by the state or “indispensable to the declared objects and purposes of the corporation” (locality). Considering the significant growth in population and local jurisdictions in Virginia over the past century, this parsimony in local governing powers prevents local elected officials from being able to enact local ordinances to manage their communities effectively and efficiently.*

### **4. INFRASTRUCTURE**

#### **a. STATE SUPPORT FOR SCHOOL CONSTRUCTION**

(1) Virginia should increase its insignificant financial support for school construction, renovation, and debt service and allow localities to approve alternative sources of funding such as impact fees in addition to land proffers or increases in sales tax after approval by referendum.

*Rationale: Virginia ranks near the bottom of states in financial support for school capital improvements although mandated and incentive programs require additional space or renovations, i.e., special education, reduced class size, ESL services, alternative programs for disruptive students, and applications of instructional technology.*

(2) Support legislation for the use of Virginia’s unallocated Tobacco Master Settlement Agreement Fund to be expressly used for state school capital construction and renovation of elementary, secondary and high schools with such funds to be distributed to local school districts on the basis of average daily membership.

*Rationale: The Tobacco Master Settlement Fund is intended to reimburse the taxpayers for the past expenditures for medical treatment of tobacco-related illnesses. The reimbursement of expenditures*

for school construction would guarantee the return of the Fund to the local communities and aid the increased education programs to deter smoking by children.

**b. TRANSPORTATION FUNDING.** Support legislative action at the federal, state and local levels to obtain the necessary funding from a variety of sources to allow for implementation of currently adopted transportation plans. (Continued)

*Rationale: The transportation funding shortfall in Northern Virginia in 1993 was \$5.6 billion. The shortfall in funding to implement the Northern Virginia 2020 Transportation Plan is an estimated \$17 billion, which will require funding from multiple sources to implement that Plan. The 2001 Alternative Transportation and Land Use Activity Strategies (ATLAS) Study suggests the following potential funding strategies for Northern Virginia: split-rate tax districts; tax increment financing; distance-based fees; regional funding authority; priority funding areas; congestion pricing; parking pricing; proffers; and community development authorities. The Metropolitan Washington Transportation Planning Board has recommended several potential sources: increased fuel tax; tolls on new highways; increased sales tax; 1.0 percent income tax; and a payroll tax.*

**c. TRANSPORTATION FUNDING FORMULA.** Support state and local legislative actions to assure increased state transportation funds for Northern Virginia in general and to Fairfax County in particular. (Continued)

**d. METRO FUNDING**

- (1) Support an increase in the state's share of funding for Metro capital and operating costs. (Continued from 2001)

*Rationale: The state of Maryland pays the full cost of Maryland's share of the Metro system whereas Virginia pays only a small part of Northern Virginia's share. There is an additional 2-cent gasoline tax in Northern Virginia, the proceeds of which are dedicated to Metro funding.*

- (2) [NEW] Support a regional dedicated funding source for the Metro system capital, operations and maintenance programs. (2005)

*Rationale: The Washington area is the only region in the country without a dedicated funding source for its Metro system. Portions of the Washington Metro rail system are now 30 years old and badly in need of major maintenance. The Red and Orange lines are at capacity during commuting hours. The \$1.5 billion Metro Matters capital program will provide 185 new buses and 120 rail cars, but the 10-year program calls for 300 rail cars and 460 buses to serve the system adequately.*

## **5. LAND USE**

**LAND USE AUTHORITY.** Oppose any diminution of local land use authority, either by further limiting the scope of local regulatory authority or by creating new and more elaborate land use regulatory structures. (Continued from 1999)

*Rationale: Land use authority should remain with the local jurisdictions. At the same time, there should be regional consideration of land use plans and issues. This supports a Fairfax County legislative position.*

## **6. TAX STRUCTURE**

**a. LOCAL AND STATE TAX POLICIES.** Support a comprehensive restructuring and modernization of the Commonwealth’s state and local tax policies. (Continued from 1999)

*Rationale: Reform of the state-local tax system, a long-standing Federation position and priority, is necessary to relieve heavy dependence on the real property tax. While studied by legislative committees for many years, no real solution has been forthcoming. The 2004 General Assembly increased the general sales tax by half a cent and reduced the sales tax on food but gave counties only an increase in one revenue source—the tax on cigarettes.*

**b. LOCAL SHARE OF STATE TAX REVENUES.** Support the enactment of legislation to revise the state and local tax structure in Virginia to return a portion of state income tax revenue to local governments for their unrestricted use until such time as the General Assembly revises the taxation structure in the Commonwealth to ensure fairness to local governments. (1999; revised 2001 and 2002)

*Rationale: One method for localities to receive revenues through other than real and personal property taxes is through a share of the state income tax.*

**c. LIMITATION.** Oppose state-imposed limits on local real property taxing authority. (2004)

*Rationale: There was much discussion during the 2003 political campaigns about “capping” the annual increase in residential real estate taxes. With the current heavy dependency on real property tax revenue to fund local government operations, such a limitation could have severe consequences in the provision of services by the County.*

## **7. TAXATION**

**a. LOCAL TAXING AUTHORITY.** Support state legislation to grant counties the same taxing authority as cities and towns but oppose requiring counties to assume responsibility for construction and maintenance of roads. (Continued from 1998; revised in 2004)

*Rationale: Currently cities and towns can increase sales and use tax on certain products and services without conducting a voter referendum, as must be done by counties before taking such action. This legislation would enable counties to increase taxes on transient occupancy (hotels and motels), food and beverage (restaurants), and admissions without referendum, thereby enabling them to reduce reliance on property taxes for revenue. The 2004 General Assembly increased the transient occupancy tax but dedicated the revenue to tourism and economic development (EDA in Fairfax County).*

**b. LOCAL INCOME TAXES** (1) Support rescission of the current state legislation authorizing a local income tax for transportation purposes only. (2) Support legislative action to authorize local government bodies to levy a piggy-back income tax to reduce reliance on the real and personal property taxes as the primary local revenue base. (1998 and 2003)

*Rationale: (1) Enacted in 1991, the legislation authorizing a local income tax for transportation purposes, through referendum, requires that the tax supplement, not supplant, current local investment in transportation projects. (2) The two property taxes currently comprise about three-quarters of the County's revenue stream. The real property tax is no longer the primary indicator of a person's wealth as it was many decades ago.*

## **OTHER LEGISLATIVE ISSUES**

### **CITIZEN INTERESTS**

**VIRGINIA FREEDOM OF INFORMATION ACT.** Support assurance of open government and citizen access to government, its administration and operations. (Continued from 1999)

*Rationale: Supports an open governmental process with access by citizens to all aspects of its operation except for those areas expressly exempt.*

### **COMMUNITY ASSOCIATIONS**

**COMMERCIAL VEHICLES IN NEIGHBORHOODS.** Support amendment of *Virginia Code 46.2-1224* to expand the types of commercial vehicles subject to local prohibition of parking on public streets in residential neighborhoods. (Continued from 1998; revised 2005)

*[NEW] Rationale: Fairfax County would support legislation to enable it to restrict parking of mid-size commercial vehicles on neighborhood streets.*

**OFFICERS, DIRECTORS AND TRUSTEES.** Strongly oppose legislation that imposes unreasonable limitations on volunteer directors or trustees of homeowner associations or that imposes state authority upon associations other than that imposed by state corporation law. (Continued from 2001)

### **EDUCATION**

**FUNDING FOR HIGHER EDUCATION.** Support efforts to provide adequate and equitable funding for all state institutions of higher education. In addition, fund NVCC and George Mason University at a level equivalent to that for other state institutions. In addition, the state should develop and fund a higher education Capital Improvement Program to support growth projected through 2010. (Revised 2002 and 2005)

*Rationale: Access to higher education is essential for economic development, preparing a skilled work force, and the continuing education needed for global competition in an information society. GMU and NVCC impact significantly the economic, educational, and cultural vitality of Northern Virginia, but should be funded at a level equivalent to similar state institutions. GMU is funded at a level less than for other doctoral-degree granting, research institutions in Virginia. Lack of adequate funding has caused increased costs of tuition and fees, an economic burden on families. Additional facilities are badly needed to accommodate a greatly increased number of students within the coming decade.*

**REFORM OF STATE AND FEDERAL ACCOUNTABILITY SYSTEMS.** Align and revise the state and federal accountability system to ensure that high stakes decisions for students

and schools are made on the basis of valid tests and procedures, reasonable SOL passing scores, and professional judgment; and that the analyses of data required by NCLB are used to help rather than punish students and schools. (2002; revised 2005)

*Rationale: Although SOL test scores have risen as a result of curriculum alignment, familiarity with the tests, and intensive remediation efforts, there is evidence that students and schools in poor and minority communities are more likely to fail to graduate and their schools to lose accreditation and federal funding.. Such results will punish these students, schools and communities without eliminating the causes of failure and will doom the standards movement, which has the potential to strengthen education at every level. In addition, the requirements of NCLB for meeting Adequate Yearly Progress (AYP) have created situations where schools that meet Virginia's high standard are subject to federal sanctions, such as loss of funding, because of unreasonable requirements such as standardized testing of students who understand little English or children with severe disabilities.*

**[NEW] PUBLIC SCHOOL CALENDAR.** Support legislation permitting local school boards to set the opening day of school in accordance with the consensus of the local community. (2005)

*Rationale: The Code of Virginia mandates that schools open after Labor Day although, for the 2004-05 school year, 71 of Virginia's 132 school divisions received waivers to open as much as three weeks earlier. Repeal of the "King's Dominion" law would allow setting the school calendar to allow additional instruction prior to assessments of academic achievement, extended-year calendar options, and provision of stronger summer programs for student remediation and professional development.*

**[NEW] COLLEGE CREDIT INITIATIVE.** Support legislation that will encourage and help fund partnerships between school divisions and high education to allow high school students to earn college credit and facilitate their pursuit of technical training for industry certifications. (2005)

*Rationale: Growth of the Governor's Commonwealth College Course Collaborative and FCPS partnerships with NVCC and GMU will require state and/or federal funding to minimize the financial burdens on students and families of such enriched high school opportunities.*

**[NEW] AFTER-SCHOOL PROGRAMS/AT-RISK YOUTH/GANG PREVENTION.** Support coordination of resources and activities among local, state, and federal agencies and with local nonprofit and community organizations aimed at prevention of gang violence and in support of comprehensive after-school programs, other prevention measures and academic enrichment programs. (2005)

*Rationale: Two of the strongest predictors of adolescent substance abuse and other behavioral disorders are academic difficulties and unsupervised time after school. Although gang activity predominantly occurs in the community, it spills back into the schools and constitutes safety threats to students and staff.*

## **ENVIRONMENT**

## **CHESAPEAKE BAY PRESERVATION ACT.**

(a) Oppose any legislation that weakens the Act. (Continued)

(b) **[NEW] Perennial streams.** Seek a Fairfax County policy change to require approval by the Board of Supervisors of removal of the designation of a perennial stream on the Resource Protection Area (RPA) map after analysis of stream utilizing accepted County or state protocol . (2005)

*Rationale: The approval of the Board of Supervisors is required to place a perennial stream, determined by following established protocol, on the RPA map, but according to the Public Facilities Manual a perennial stream may be removed from the RPA map administratively based on "observational information."*

(c) **[NEW] Permit fees.** State environmental permit fees should be set to fully cover the direct costs of administering the waste and water permit programs. (2005)

*Rationale: The Department of Environmental Quality (DEQ) administers Virginia's waste and water permit systems. The projected program costs of these permitting programs for FY 2005 total \$15.4 million, which are borne primarily by Virginia's taxpayers. Although in 2004 the General Assembly raised the permit fees, revenues from these fees still cover only 39 percent and 35 percent of the costs of these programs, respectively.*

(d) **[NEW] Urban BMPs.** Support legislation to provide state funding and tax credits for urban Best Management Practices (BMPs). (2005)

*Rationale: Virginia currently funds agricultural BMPs on a cost-share basis but provides no financial assistance for the provision of urban BMPs to combat non-point pollution, Virginia's #1 water quality problem. Such action by the General Assembly would help implement the requirements of the Chesapeake Bay Agreement and state regulations for a specific rate of Bay tributary cleanup by 2010.*

**SOLID WASTE.** Support federal legislation that would allow states and localities to place restrictions on interstate solid waste, including medical and nuclear waste. (Continued)

**STREAM AND GROUNDWATER PROTECTION.** Support legislation requiring the state to - require pollution prevention measures, erosion and sedimentation controls and storm water management facilities in state projects and programs. (Continued with expansion)

**UNDERGROUND UTILITIES.** Support legislation to allow and encourage financial incentives for utility companies to convert aerial utility lines to underground facilities.

*Rationale: This would reduce the number of power and other utility outages created by storms breaking overhead utility lines and would improve the appearance of our communities.*

**UTILITY EASEMENTS.** Support legislation that would require new or replaced utility lines (subsurface and aerial) to be located in commonly shared easements and to be balanced in

consideration of both aesthetic and economic impacts, with siting approved in consultation with local officials. (Continued from 1999)

## **HUMAN SERVICES**

**[NEW]** Support adequate state funding for essential human services programs that offer protection from abuse, neglect and exploitation and assist people to achieve and maintain independence and self-sufficiency. (2005)

*Rationale: Federal or state statutes mandate many of these programs while other, non-mandated programs provide assistance for County residents who lack the resources to help themselves. Parenting classes and respite services for caregivers intervene to protect individuals at risk of abuse and might prevent a demand for more costly services. A JLARC report in 2002 ranked Virginia 42<sup>nd</sup> in the nation in state and local spending on public welfare, hospitals and health. Virginia's economic conditions have prevented improvement in state funding for these essential services.*

## **LAND USE**

**ADEQUATE PUBLIC FACILITIES ORDINANCE.** Support legislation to enable Fairfax County to adopt an Adequate Public Facilities Ordinance to assure an orderly and coordinated land development and supportive infrastructure program, including transportation and schools. Oppose any effort to add language obligating local governments to provide such facilities within a restrictive time frame set by the General Assembly. (Continued)

*Note: The Fairfax County 2005 legislative program supports this position.*

**ARCHITECTURAL STANDARDS.** Support legislation to enable Fairfax County to consider architectural standards as part of development proposals. (Continued from 2001)

*Rationale: Counties are authorized to have Architectural Review Boards for consideration of architectural features in historic districts only.*

**PRIVATE PROPERTY RIGHTS.** Support the existing legal process that reviews protection of private property rights on a "case by case" basis. (Continued)

**PURCHASE OF DEVELOPMENT RIGHTS.** Support a state Revolving Fund for the acquisition of historic properties, environmentally significant areas and natural open spaces and the application of protective easements prior to their resale. (Continued from 2000)

*Rationale: This would enable and ensure protection of these valuable properties without requiring them to be owned and maintained by the public sector over the long term.*

**TRANSFERABLE DEVELOPMENT RIGHTS.** Support legislation that would authorize Fairfax County to enact an ordinance allowing the transfer of development rights, provided that the development rights sold can never be reinstated. (Continued)

*Note: This basic position is included in the Fairfax County's 2005 Legislative Program with the caveat that applicable legislation not include disincentives such as a prohibition on the rezoning of the property in the sending and receiving areas after adoption of a TDR program.*

## **NORTHERN VIRGINIA REGIONAL ISSUES**

**REGIONAL PLANNING.** Support legislation to strengthen regional planning and cooperation through Regional Commissions by amending *Virginia Code 15.2, Chapter 42*, to delete the exclusion of planning districts which have multi-state councils of government. (Continued from 1998)

## **PUBLIC SAFETY**

**ASSAULT WEAPONS.** Support ban on sale of assault weapons ~~in Virginia~~. (Continued)

**DANGEROUS WEAPONS.** Support ban on dangerous weapons ~~in or upon~~ public parks and County-owned or leased facilities or properties. (Continued from 2000)

**FIREARMS.** Support increased penalties for illegal gun sales and for gun sales to minors. Also, support background checks for all gun sales, including sales at gun shows. (Continued; amended in 2004)

## **TAXATION AND FINANCE**

**BUSINESS, PROFESSIONAL AND OCCUPATIONAL LICENSE (BPOL) TAX.** Ensure that any state or local legislation that might eliminate exemptions to the BPOL tax does not remove the current exemptions for non-profit organizations. (Continued from 1998)

**[NEW] PERSONAL PROPERTY TAX.** Support action by the General Assembly to repeal the personal property tax cap on reimbursement to localities of \$950 million per annum. (2005)

*Rationale: The General Assembly tax changes in 2004 included the cap on personal property tax reimbursement to localities at \$950 million, which is soon have an impact on local revenues because of inflation. The Commonwealth must act to ensure that localities have a revenue source to replace this loss.*

**STATE MANDATES.** Support full funding by the State of all State mandates. (Continued from 1999)

**[NEW] TWO-YEAR BUDGETING.** Support allowing local governments and school divisions to adopt biennial (two-year) instead of annual operating budgets. (2005)

*Rationale: A biennial budget process for localities and school divisions would mirror the state's two-year budget, afford a longer time frame for financial planning, allow more time for program review and evaluation, and could be less expensive and time consuming than annual budgeting.*

## **TELECOMMUNICATIONS**

**TELECOMMUNICATIONS FACILITIES.** Ensure that any legislation protects the zoning powers of local government, ensures the public's right to be heard on proposed facilities regardless of whether the land is publicly or privately owned, protects the environment and communities, and restricts VDOT's ability to allow construction of telecommunications facilities without prior approval of the affected locality's land use and/or zoning authority. (Continued)

## **TRANSPORTATION**

**PLANNING.** Support legislation to ensure consistency and conformity among local, subregional, Washington metropolitan regional and state short- and long-range transportation plans local and federal/state public land use plans. (Continued)

**TEA 21 AND CLEAN AIR ACT AMENDMENTS (CAAA).** Support implementation strategies to assure efficient and cost effective compliance with all mandated Transportation Efficiency Act (TEA 21) and CAAA requirements; assure adoption of all necessary actions to prevent potential loss of federal transportation funds, including support for Air Quality/Congestion Management Plans developed by the Metropolitan Planning Organization (MPO), i.e., the Metropolitan Washington Council of Governments. (Continued)

**TRUCK SAFETY.** Support increased enforcement of truck safety laws, including inspections. (Continued from 1999; revised 2005)