

BACON'S REBELLION

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The Devolution Solution

Any meaningful transportation reform would make fast-growth counties responsible for their secondary roads. The trick is coaxing them into going along.

By James A. Bacon

On July 1, the City of Suffolk took over from the Virginia Department of Transportation the job of maintaining more than 1,490 lane-miles of roadway and 50 traffic signals. With VDOT reimbursing about \$16 million per year, Suffolk now is filling the potholes, repaving the roads, plowing the snow, maintaining the drainage ditches and making sure the grass gets cut. Only the Interstate highways remain under VDOT control.

In Virginia, cities normally handle their own street maintenance but Suffolk was an unusual case. In the early 1970s, the city had merged with the surrounding county of Nansemond and kept the city form of government. But the combined jurisdiction was largely rural and lacked the capacity to take over the roads, so VDOT continued maintaining them.

Over the years, commercial and residential development spilled into Suffolk, and residents began agitating for better services. After months of negotiations, VDOT handed the roads – and funds to take care of them – over to Suffolk. When citizens have complaints, says Eric Neilson, director of public works, "We don't have VDOT to blame anymore. It used to be, we'd say, 'It's VDOT's fault, what can you do?' ... Now the buck stops

here."

The transfer of road operations from VDOT to City Hall is part of a broader trend: Fast-growth localities are assuming greater responsibility for building and maintaining their own roads. Prince William County, for instance, is in the midst of a \$1.5 billion, 15-year road-building plan, while the voters of Spotsylvania County have approved a \$144 million expansion of its secondary road network. Counties like Loudoun and Chesterfield are financing upgrades to their roads through proffers and impact fees.



During the September special session on transportation, the House Republican leadership made secondary roads a focus of its transportation reform package. Virginia's system for building and maintaining roads has changed little since 1932, argued House Republicans, and road-maintenance expenses have spiraled out of control. The answer, they said, is to accelerate the shift in responsibility back to the localities.

The transportation crisis, contends Del. Clay Athey, R-Front Royal, is largely a maintenance crisis. "The real problem," he says, "is the growth of the maintenance budget," which is consuming dollars that otherwise would be spent on new con-

struction. By 2018, according to projections in the VTrans2025 study published two years ago, there will be no state money left for construction – all of it will be consumed by maintenance.

Out-of-control maintenance costs are due to two main things, Athey contends: the ill-considered addition of subdivision roads to the state road system and the inefficiencies inherent in a centralized bureaucracy based in Richmond making decisions that should be made locally.

Despite his conflict with the House over the taxes-for-transportation issue, Gov. Timothy M. Kaine also has fixed on secondary roads as a culprit in escalating maintenance costs. New subdivision streets increase the state's ongoing obligations by roughly \$1.5 million per year.

"As you go into the outer years, costs grow with inflation," says Secretary of Transportation Pierce Homer. "There is a compounding effect. I think of highway maintenance as a little like a pension fund. ... We're accruing liabilities every year. Resources are falling short over the long term. From an actuarial perspective, we cannot keep on this path."

Secondary roads and maintenance funding would appear to be an area where the Governor and House Republicans can find common ground in the transportation debate. Both sides agree that the incentives in the current system are all wrong. Local governments can approve new subdivisions served by miles of new roads knowing that the state will

get stuck with the cost of maintaining them. Likewise, local officials blithely approve subdivision streets that contribute nothing to an interconnected road network. If cul de sacs funnel traffic into already-congested collector roads, that's the state's problem. Bottom line, says Athey: "We've built in no incentives to plan development intelligently."

The obvious solution is to make local governments responsible for both approving new roads and maintaining them. But there is one practical problem, and it's a big one: Local governments don't want the streets without the money to take care of them. And without support from the powerful local-government lobby, no legislation is likely to pass.

Planning land use and transportation at the same level of government "would be a more sensible system," observes Jim Regimbal, a government-finance consultant who has studied local road-funding issues. "The sticky wicket" is persuading local governments that it's in their financial interest to do so.

As I outlined in Part I of this series, "[Seventy-five Years](#)," Virginia's system for building and maintaining roads has changed little since 1932, when the Byrd organization orchestrated a takeover of county roads in the midst of the Great Depression. Cities continued to run their own operations, as did Arlington and Henrico Counties. Otherwise, VDOT took over the entire road system – not just primary roads (and, later, Interstates) but secondary roads as well.

The system worked reasonably well for a few decades but began breaking down in the 1970s when cities lost the right to an-

nex developed areas in neighboring counties, and counties became magnets for development. Scattered, low-density growth leapfrogged into the countryside, and VDOT played perennial catch-up, upgrading country roads to accommodate transportation-inefficient development beyond its power to control.

The mismatch between Virginia's governance structure and its land use patterns went largely unaddressed at the state level until Gov. Timothy M. Kaine campaigned on the issue last year. This spring, lawmakers passed a number of modest measures addressing the problem, most notably a provision that requires rezoning requests in fast-growth counties to undergo VDOT traffic-impact analysis. However, a companion measure, which would have let counties reject rezoning requests where infrastructure was inadequate, went nowhere.

In the special transportation session last month, the House Republican Caucus broadened the argument. Speaker William J. Howell, R-Stafford, argued that the system was hopelessly antiquated and in desperate need of reform. In place of higher taxes, he offered multi-hundred million dollar injections from the General Fund. But more money was only part of the answer. The state, he argued, needed to prioritize its road improvements and set performance standards for transportation projects. VDOT also needed to pursue privatization, outsourcing and public-private partnerships more aggressively, and it needed to put secondary roads back in the hands of local governments whose zoning decisions were creating so many traffic problems to begin with.

Among the slew of bills the

House Republicans introduced during the special session, several would have affected the way Virginia builds and maintains its secondary roads. Measures included:

- **Stop taking secondary roads into the state system.**

According to VDOT, 3,200 line-miles of subdivision streets have been added to the state system since 1997. That compares to roughly 60,000 center lane-miles in the total system. Under this bill, if county governments approved subdivisions, they would have to maintain the roads themselves or require homeowners associations to do so. In either case, the cost would no longer be passed onto the state.

- **Reclassify state roads.**

VDOT's road classification system, which dates back to the 1930s, often does not reflect contemporary traffic patterns. Clarifying the differences between "primary" and "secondary" roads is a prerequisite for devolving secondary roads to local governments.

- **Create Urban Transportation Service Districts.**

Urbanizing counties would be allowed to create special districts where they take over responsibility for maintaining secondary roads. VDOT would pay them an amount equal to VDOT's urban allocation formula for cities and towns -- significantly more than VDOT normally spends on county roads. If counties can save money on maintenance, they can spend it on road construction. Further, as an incentive to keep growth within the districts, counties would be empow-

ered to levy impact fees on development outside the districts.

None of these bills were passed into law during the short, tempestuous special session, but House Republicans vow to resurrect them.

Athey sees the service-district idea applying to a dozen or so of Virginia's high-growth counties - Fairfax, Prince William, Chesterfield and the like -- where development is becoming increasingly dense and urban. Instead of forcing these counties to take over the roads, however, his bill creates incentives to make it worth their while. "We've got to give them a carrot," he says. "We're saying, if you can maintain the roads cheaper, you get to keep every penny."

Given the difficulties associated with a transfer of control, Athey doesn't expect a wave of applications. He'd be happy if one county were gutsy enough to set up an Urban Transportation Service District and see how much it could save. "If it works," he says hopefully, "other counties would try it."

There's enough inefficiency in the system, Athey argues, that devolution can become a fiscal win-win for the state and localities. VDOT, he says, is "vastly inefficient." Local governments keep their overhead down: In a city like Richmond, "there is one guy who is the head of the public works department, a couple of supervisors and a bunch of employees." In his VDOT district, by contrast, there's a local maintenance staff, an administrative layer in Luray, another layer in Staunton and one more in Richmond. "You have a system maintained by the old, top-down method."

Localities, Athey believes, can do the job cheaper and more responsively.

Not everyone shares Athey's faith in a win-win outcome. Complicating issues include:

Economies of scale. VDOT enjoys economies of scale, observes Anthony Clatterbuck, president of Graystone Homes in Culpeper and the current president of the Virginia Home Builders Association. He sees fragmenting responsibility for road maintenance as a move in the wrong direction. "If you realign responsibility, you will set up a lot of small entities to do in redundant fashion what VDOT has done on a large scale. ... There won't be any consistency at county/city boundaries. It'll break into a piecemeal approach. I'm afraid that will cost more in the long run."

The counter argument is that the counties likely to set up Urban Transportation Service Districts are large enough that they'd enjoy most of the economies of scale that VDOT does. Additionally, they would have the flexibility to solicit competitive bids and outsource maintenance work to private contractors.

Transition costs. Nearly everyone agrees that the transition from a VDOT administration to local administration of roads will be difficult. Counties will have to expand their public works departments dramatically, in some cases creating them from scratch. That means hiring employees, making large investments in equipment and organizing the maintenance program. Acknowledging the concern, Athey includes provisions in his bill that would allow for the distribution of VDOT equipment and the paying of signing bonuses to VDOT employees

who make the switch

Of course, those measures would prove disruptive to VDOT, which still would be responsible for non-urban roads outside the special districts. Further, the upfront expenses associated with the equipment and sign-up bonuses would have to come from somewhere -- if not from the affected locality, then from VDOT.

Maintenance standards. Michael Edwards, deputy director for legislative affairs for the Virginia Association of Counties, worries that counties would wind up spending more than VDOT because they'd set higher standards. Many cities already spend more money per lane-mile than VDOT compensates them for, he notes. Just as cities raise their maintenance standards, so might counties.

Is that a valid comparison? It's not clear whether counties, even urbanizing ones, would confront the same challenges as older cities.

"The challenge of urban roads is more complicated" than rural roads, says Diane Linderman, a consultant with Vanasse Hangen Brustlin, Inc., and former public works director for the City of Richmond. City roads are more likely to have curbs, gutters and underground storm-sewer systems, not to mention fiber-optic cable, traffic signals, signs and other assets. "It's going to cost more to maintain that kind of system than a ditch-lined, two-lane road."

Fiscal assumptions. Jim Regimbal, with Fiscal Analytics, worked with Virginia cities several years ago to update the Maintenance Cost Index that VDOT used to calculate what it pays cities to maintain their streets. VDOT adjusted its pay-

ments every year, adjusting the index for its costs of labor, materials and equipment. But it didn't take into account critical factors such as the age of the streets, traffic volumes or weather. The General Assembly agreed that cities were getting short-changed and made a significant adjustment to state payments. But Regimbal contends that the index is still flawed.

The idea of aligning transportation and land use decisions is a good one, Regimbal says. Also, he adds, elected local officials will be more responsive to citizens than unelected VDOT administrators. But the fiscal issues need to be solved for local governments to buy in to program.

The fact is, no one knows what the House devolution plan would cost -- either up front, or over the long term -- or even whether local governments would find it attractive. "We're trying to chase the numbers down," says House Speaker Howell. "Are we comparing apples to apples? It surely wouldn't surprise [if we weren't]."

Howell also concedes that there's a trust issue to surmount: "[Localities] don't trust the state, and I can't blame them. When times get tough, the state cuts back. I'm sure that's what the counties are afraid of. We have to make a commitment that we won't."

Howell emphasizes that he's willing to discuss the legislation. He's open to other points of view, and he'd like to see more "dialogue" with local governments and other parties in the growth debate.

The Governor's Office won't comment on the details of the House legislation. "We haven't gotten into the weeds on the

specific issues," says spokesman Kevin Hall. But, he adds, "We welcome the discussion."

One way the House could improve upon its secondary-roads package is to address the issue of subdivision connectivity. "Secondary roads built by developers should be interconnected," says Stewart Schwartz, executive director of the Coalition for Smarter Growth. "What VDOT is doing is maintaining private cul de sacs."

Boards of supervisors like cul-de-sac subdivisions because homeowners like them, preferring them to through streets where cars rush along at high rates of speed. If the dead-end subdivisions dump traffic onto overloaded collector roads rather than provide alternate routes, that's someone else's problem: VDOT is responsible for fixing the bottlenecks.

The Kaine administration would like to see counties make greater efforts to create networks of interconnected roads. "We have guidelines for connectivity. Creating alternatives is one of the things you can do to maintain traffic flow," says Homer, the transportation secretary. "There is a thing called an inter-parcel connector. There are numerous instances where those interconnectors have not occurred, and aren't even planned for."

In my conversations with sundry legislators, lobbyists, consultants and experts, I found a widespread sentiment that devolution of secondary roads to local governments does make sense. Boards of supervisors would be more reluctant to approve sprawling, low-density subdivisions served by miles of roadway if they, not VDOT, were accountable for money spent on maintenance. Supervisors might

be more willing to insist upon subdivision connectivity if they, not VDOT, were accountable for the resulting congestion on collector roads.

Aligning transportation and land use at the same level of government is only one piece of the House's proposed transportation reform package. And the House's legislative package is only part of what ultimately needs to be done. But Virginia needs to start somewhere. Given the general agreement that devolution is a good idea in theory, even if the particulars need to be worked out, it seems like a good place to start.

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