

ITEM FOR CONSIDERATION
IN PREPARATION OF THE FAIRFAX COUNTY LEGISLATIVE PROGRAM
2022 VIRGINIA GENERAL ASSEMBLY

September 21, 2021

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ITEM FOR INITIAL CONSIDERATION

Environment – Electric Vehicles and Infrastructure

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ENVIRONMENT – ELECTRIC VEHICLES AND INFRASTRUCTURE

PROPOSAL:

Proposal A: Initiate legislation to amend the Code of Virginia to allow the Fairfax County Park Authority to resell electricity through electric vehicle (EV) charging stations.

Proposal B: Provide state monetary incentives for electric vehicles (EVs).

Proposal C: Provide EV charging stations in multifamily buildings and businesses.

SOURCE:

Fairfax County Park Authority
July 6, 2021

Environmental Quality Advisory Council (EQAC)
August 12, 2021

BACKGROUND:

Fairfax County has long been committed to environmental sustainability and addressing the impacts of global climate change, including conserving limited natural resources and protecting the environment. Transportation is a notable source of CO₂ emissions, and as a result, the benefits of EVs in the effort to combat climate change are increasingly and widely recognized. According to the US Department of Energy, EVs can “reduce the emissions that contribute to climate change and smog, improving public health and reducing ecological damage.” The vehicles themselves produce zero emissions, and their increased adoption could help improve air quality for both the County and the Commonwealth. Reducing pollution not only promotes sustainable mobility, it also provides local and regional health benefits. Initiatives to assist residents and the County in transitioning to EVs will help reduce both direct emissions (those emitted from the vehicle tailpipe) and life cycle emissions (those related to fuel and vehicle production, processing, distribution, use, and recycling/disposal).

Recent General Assembly Actions

In recent years, the General Assembly (GA) has taken several actions in support of EVs and EV infrastructure. The GA has enacted several bills allowing certain entities to provide retail fee-based EV charging service without additional regulations, assuming certain conditions are met. This list has expanded over time to include localities, school systems, and state agencies. However, the Fairfax County Park Authority (FCPA) does not fall within any of these authorized groups (because it is an authority it does not fall under the definition of a locality under the Code of Virginia). As a result, the FCPA cannot

provide retail fee-based EV charging service to its visitors, customers, and staff at present. **Proposal A is aimed at addressing this issue.**

The 2021 GA took a variety of actions aimed at expanding EV infrastructure and EV adoption. First, the GA codified support for expanding EV infrastructure by adopting **SB 1223** (Boysko), which amends the Virginia Energy Plan to include an analysis of EV charging infrastructure and other infrastructure needed to support the state target of reaching net-zero for carbon by 2045 in the transportation sector. The GA also approved **HB 2282** (Sullivan), directing the State Corporation Commission (SCC) to develop a report recommending policy proposals for public electric utility programs to accelerate widespread transportation electrification. The report is due to the GA by May 1, 2022. The GA also passed **HB 1965** (Bagby), directing the State Air Pollution Control Board to implement a low-emissions and zero-emissions vehicle program, making Virginia the first state in the South to direct automakers to provide the state higher inventories of cleaner, fuel-efficient vehicles and EVs.

The final proposal enacted by the 2021 GA in this area was **HB 1979** (Reid). This bill establishes the Virginia Electric Vehicle Rebate, which provides a \$2,500 rebate for the purchase or lease of new or used EVs. Under the program, purchasers or lessees with an annual household income up to 300 percent of the federal poverty level would be entitled to an additional \$2,000 rebate. The legislation is scheduled to go into effect on October 1, 2021, and will expire on January 1, 2027. Though the House included \$5 million in their budget to fund the program, the funding was not included in the final budget adopted by the GA. **Proposal B is aimed at addressing the lack of funding for this program.**

Additionally, the 2020 GA approved legislation related to the installation of EV charging stations and common interest communities. Restrictive covenants related to common interest communities frequently receive substantial discussion at the GA, as competing interests struggle to navigate these contractual relationships that were often crafted without anticipating newly emerging technologies or other aspects of modern life. This has been especially true as the GA has sought to update the law to account for a wave of green energy initiatives. **SB 630** (Surovell) prohibits certain common interest community associations from restricting residents from installing EV charging stations unless explicitly addressed in the declaration or other recorded governing documents. The legislation sets requirements regarding the installation or removal of the charging stations on a member's property, or a shared lot owned by the association. The legislation also requires the association member installing an EV charging station to indemnify and hold the association harmless from all liability resulting from a claim arising out of the installation, maintenance, operation, or use of such charging station. **SB 630** does include some safeguards, allowing common interest communities to prohibit the installation of an EV charging station when it is not practicable due to safety risks, structural issues, or certain engineering conditions. The balanced approach included in

the final legislation is likely why it was successful at the GA. **Proposal C seems to be aimed at taking this issue much further by ensuring that EV charging stations are provided in multifamily buildings and businesses.** It is unclear what mechanism proposal C might utilize to implement such a change, but it would be important to consider all potential consequences of such a proposal – as previously mentioned, the SCC is currently developing policy proposals for public electric utility programs to accelerate widespread transportation electrification, as directed by the passage of **HB 2282 (2021)**. Those proposals could be very helpful in examining any unintended consequences, while recommending plans that balance the need for resource conservation and climate policy with realistic implementation and financial solutions.

RECOMMENDATION:

Proposal A: Initiate legislation to amend the Code of Virginia to allow the FPCA to resell electricity through EV charging stations.

Recommendation: Initiate legislation to amend the Code of Virginia to allow the FPCA to resell electricity through EV charging stations.

Proposal B: Provide state monetary incentives for EVs.

Recommendation: Although the GA passed legislation to authorize the establishment of the Virginia Electric Vehicle Rebate Program which will be effective October 1, 2021, the Commonwealth did not provide funding for the program. Direct staff to add language to the “Global Climate Change/Environmental Sustainability Initiatives” position in the 2022 legislative program in support of funding for EV incentives. Also, direct staff to monitor for specific budget actions or legislation in 2022, in order to bring related items to Legislative Committee for consideration by the Board of Supervisors.

Proposal C: Provide EV charging stations in multifamily buildings and businesses.

Recommendation: Direct staff to monitor the current SCC policy development process. Also, direct staff to monitor for introduction of specific legislation in 2022, in order to bring related bills to Legislative Committee for consideration by the Board of Supervisors.