

## MEMO

City of Charlottesville  
David E. Brown  
Jason Pearson, Treasurer

Albemarle County  
Sally H. Thomas  
Ann H. Mallek

Fluvanna County  
Charles W. Allbaugh, Vice Chair  
Chris Fairchild

Greene County  
Carl Schmitt, Chair  
Andrea Wilkinson

Louisa County  
Richard Havasy  
Jackson Wright

Nelson County  
Fred Bager  
Connie Brennan

Executive Director  
Stephen Williams

**To:** TJPD Commissioners  
**From:** Stephen Williams, Executive Director  
**Date:** December 10, 2009

**Re:** Alternative Approaches to Intergovernmental Reviews

**Purpose:** Members of the Commission have asked that we review our current approach to the Intergovernmental Review process. This memo presents issues related to the current approach to Intergovernmental Reviews and an alternative approach to review of the IGRs that could be utilized by TJPDC.

**Background:** The process that we now call Intergovernmental Review was initiated during the 1960's as the A-95 Clearinghouse process. It was put in place and funded by HUD through the 1960's and 1970's to inform local and regional government agencies about all types of state and federal discretionary processes and to provide a process for comment on those discretionary processes. President Reagan cut the funding for the program early in his administration. At that point the federal government gave the states the option to decide how they wanted to proceed with the clearinghouse process. Virginia and nearly every other state chose to continue with the process. But over the course of nearly 30 years since federal support for the program ended there have been a number of changes that have led to decreasing emphasis and interest in the IGR or clearinghouse process. In general, public notices and notices to local governments have greatly expanded from what was available in the 1960's and 70's. The much broader availability of all types of public records and the advent of the internet and electronic record availability has also resulted in reduced dependence on the formal clearinghouse process. In addition, over the course of 30 years the process has gradually shifted to something that is viewed as a bureaucratic formality on the part of the state agencies that are required to submit actions for IGR review.

There are several types of actions that are subject to Intergovernmental Review. In general the list includes the following:

1. Discretionary applications for federal funding
2. All actions that will impact waters of the US
3. Any actions subject to state or federal environmental review
4. Acquisition or sale of property or easements
5. Special regulatory actions such as those associated with nuclear power plants

It should be noted that the Intergovernmental Review process is a notice and input process for local and regional governments on discretionary actions by the state and federal government, it is not a decision making process. In other words the state and federal agencies are required to inform the PDCs about upcoming actions and to take the input that is provided by the PDCs seriously. But they are not required to do what we request.

**Issues:** Staff believes that there are two main values to the IGR process at this point. The simple purpose of public notice to local elected officials is still appropriate. We have noticed that although your local governments may be informed about the actions that we also receive as IGRs, that information about those actions does not always get to you as local elected officials. We also think that there are still situations in which specific comment from the Commission is still appropriate. However, we think that the number of actions that actually rise to the level of regional concern and merit comment by the Commission is very small.

We also think there are some issues in the manner in which we have been conducting the IGR process at TJPDC. It is difficult for us as regional staff members to adequately judge whether there are issues that merit comment by the Commission in many of the IGRs that we review. Since we simply bring everything to your attention now, this leads to frustration on the part of Commissioners who are not directly affected. In addition, we think timeliness is also an issue. Since we are tied to a fixed meeting date and the agencies that submit items for review are often not very timely in getting us the notice, more often than not we either don't have adequate time to assemble the information you need or the comment period is over by the time we get the item to you.

We would like to suggest the following revised IGR process:

1. As soon as we received an IGR notice, we as staff would email it out to our Commissioners from the affected member governments and ask them if they thought the item merited comment on the part of the region.
2. If the affected Commissioners replied in the affirmative we would schedule it for the next TJPCD agenda. We would then also contact the appropriate local staff members to discuss the issues and prepare a suggested letter of comment.
3. We would split the current Consent Agenda into two parts – Items for Action, and Items for Information.
4. IGRs which had been identified by Commissioners as meriting comment would be placed on the Consent Agenda as an Item for Action for the next commission meeting along with the suggested letter of comment.
5. IGRs that were not identified by Commissioner as meriting comment would be placed on the Consent Agenda as an Item for Information.

We think the above approach will allow us to focus the Commissions attention on the IGRs that the impacted Commissioners view as the most important, and also allow us to keep all the Commissioners informed about Intergovernmental Reviews.