

MEMORANDUM REPORT

August 1, 2006

TO: County Council

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Office of Legislative Oversight

SUBJECT: **OLO Memorandum Report 2006-10: Implementation of OLO's 2002 Evaluation of the County's Sign Approval and Enforcement Process**

This memorandum report responds to the Council's request to review whether the Council's recommendations for action on previous years' Office of Legislative Oversight (OLO) projects have been implemented. This report reviews the implementation status of recommendations from OLO Report 2002-4, *An Evaluation of Montgomery County's Sign Approval and Enforcement Process*. It is organized as follows:

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PART A: INTRODUCTION

Authority. Council Resolution 15-1092, FY 2006 Work Program of the Office of Legislative Oversight, adopted July 26, 2005.

Scope of Assignment. This report responds to the Council's request to review whether the Council's recommendations for action on previous years' OLO project have been implemented. This particular follow-up assignment was to track the implementation of recommendations that the Council endorsed as a result of a 2002 OLO evaluation of the sign approval and enforcement process (OLO Report 2002-4).

Methodology and Acknowledgements. OLO gathered information for this follow-up project through document reviews and interviews with Department of Permitting Services (DPS) staff. OLO circulated a draft of the report to Executive Branch staff for review; this final report incorporates all technical edits received.

OLO greatly appreciates the time and contributions made by the Department of Permitting Services staff including Robert Hubbard, Director of Department of Permitting Services; Reginald Jetter, Division Chief, Casework Management Division; and Susan Scala-Demby, Manager, Zoning.

PART B: OVERVIEW OF THE 2002 EVALUATION REPORT

Chapter 59, Article F (Sign Ordinance) of the Montgomery County Code governs the type, size, number, location, and construction of all signs for public view. OLO's review of the sign approval and enforcement process found that the County Government:

- Processes sign permit and sign variance applications within acceptable time frames;
- Responds efficiently to complaints about signs; and
- Generally receives favorable ratings from customers.

The Department of Permitting Services is the lead agency for the County's sign approval and enforcement process. The Sign Review Board is a quasi-judicial body of County residents, responsible for hearing and deciding on variances from the County's Sign Ordinance.

Specific findings from OLO Report 2002-4 included that in FY01 and FY02:

- DPS received approximately 560 sign permit applications per year, of which, over 75% were approved;
- The Sign Review Board heard and granted 90% of approximately 100 sign variance applications;
- Three quarters of sign variance applications were scheduled in time for the Sign Review Board's next available hearing; and
- For the majority of sign complaints received, DPS staff met the Department's performance target of three days to respond to complaints.

In the spirit of continuous improvement, OLO recommended a number of process changes in the short-term and structural changes to consider in the longer-term. The short-term recommendations related to both the general management of the County's sign approval process and the sign variance process. The longer-term structural changes related to exploring the feasibility of: (1) conducting more proactive sign enforcement; and (2) changing the existing structure for hearing and deciding on sign variances.

PART C: COUNCIL ACTION

The Council released OLO Report 2002-4 on September 17, 2002. The Council's Transportation and Environment (T&E) Committee held a worksession on the report on October 14, 2002. The T&E Committee reviewed the report and endorsed recommendations related to the sign approval and enforcement process.

On October 29, 2002, the County Council formally approved the T&E Committee's recommendations on OLO Report 2002-4. The Council endorsed the following package of four recommendations to the Chief Administrative Officer for implementation:

Recommendation #1: To improve the general management of the County's sign approval process:

- a) **Conduct inspections to ensure sign installation meets conditions of approval.** DPS should conduct compliance inspections to ensure the installation of a sign is in accordance with the conditions of approval. With the relatively small number of approximately 550 sign permit applications per year, DPS should be able absorb the workload with existing staff.
- b) **Make better use of sign-related data for performance monitoring and evaluation.** DPS should establish and implement standard procedures for entering sign-related data in the automated system. DPS should track the time it takes to review sign permit applications, hear and decide on variance applications, and respond to and resolve sign complaints. DPS should use these data for evaluation purposes.

Recommendation #2: To improve the County's sign variance process:

- a) **Draft procedures that define the Sign Review Board's powers and duties.** In accordance with the Sign Ordinance, DPS should establish (in consultation with the Sign Review Board) procedures that set out the Board's authority and duties for adoption by the Council.

- b) **Provide variance applicants with a written copy of the Sign Review Board's decision and conditions of approval.** The Board's conditions of approval are handwritten on the variance application form at the time of the hearing and handed directly to the applicant (if requested). To enhance the efficiency of the sign variance process, DPS should provide a formally typed copy of the conditions of approval.
- c) **Schedule regular meetings between DPS staff and the Sign Review Board to discuss policy.** DPS should schedule two meetings per year with the Sign Review Board to formally discuss issues affecting the sign variance process, such as: training for current and future Sign Review Board members; the number of Sign Review Board hearings; keeping records of the Sign Review Board's decisions, and discussing County initiatives.
- d) **Establish performance targets for hearing and deciding on variances.** In order to maintain the current efficient rate of hearing and deciding on variance applications, DPS should formally set a performance target on processing variance applications. Specifically, the target should be that 75% of variances are heard at the next available hearing.

Recommendation #3: Develop and report back to the Council on a plan for proactive sign enforcement, including potential fiscal impact.

Under current practices, sign enforcement is largely driven by complaints. DPS should develop a plan for proactive sign enforcement to include:

- Expanding the sign sweep program to include illegal signs on private property;
- Monitoring areas that generate repeat sign complaints; and
- Providing incentives to inspectors to investigate illegal signs.

Recommendation #4: Examine and report back to the Council on the feasibility of:

- **Using Department staff or a hearing examiner to review and decide on sign variance requests; or**
- **Expanding the Sign Review Board's membership to facilitate more frequent hearings.**

During the course of the original study, OLO heard several structural alternatives to hearing and deciding on sign variance requests. Two alternatives are to assign DPS staff or the hearing examiner the authority to decide on variance applications instead of the Sign Review Board. Another alternative is to expand the number of Sign Review Board members to increase the frequency of hearings.

PART D: RELEVANT ZONING TEXT AMENDMENTS (ZTA)

Since the release of OLO Report 2002-4, the Council adopted two zoning text amendments that have affected the sign review and approval process.

Zoning Text Amendment 05-03. This ZTA was adopted on September 27, 2005 and took effect on October 17, 2005. ZTA 05-03 revised Chapter 59 of the County Code to increase the number of Sign Review Board members from three to five and to provide flexibility in the approval of sign permits. The amendment outlined the duties and responsibilities of DPS and the Sign Review Board. It also transfers authority for sign variance approval from the Sign Review Board to the Department of Permitting Services. The amendment further stated that any permanent sign located in an approved urban renewal area does not have to conform to the required design elements and limitations if the Sign Review Board approves the sign as part of a sign concept plan.

Zoning Text Amendment 05-14. This ZTA was adopted on January 24, 2006 and took effect on February 13, 2006. ZTA 05-14 amended Chapter 59 of the County Code to modify provisions related to limited duration signs including the elimination of the permit required for such signs. As amended, the Code now states that a permit is not required for limited duration signs on private property. The ZTA further outlined what information is required on applications for limited duration signs that still require a permit.

PART E: CURRENT IMPLEMENTATION STATUS

This section details the current implementation status of each of the four Council-endorsed recommendations from OLO Report 2002-4. The table below summarizes the overall status, followed by detailed information on each recommendation.

Recommendation		Implementation Status
#1a	Conduct inspections to ensure sign installation meets conditions of approval.	Completed on a complaint basis only
#1b	Make better use of sign-related data for performance monitoring and evaluation.	Ongoing
#2a	Draft procedures that set out the Sign Review Board’s powers and duties for adoption by the Council.	Completed
#2b	Provide variance applicants with a written copy of the Sign Review Board’s decision and conditions of approval.	Completed
#2c	Schedule regular meetings between DPS and Sign Review Board members to discuss policies and procedures.	Completed
#2d	Establish performance targets for hearing and deciding on sign variance.	Ongoing
#3	Executive staff should develop and report back on a plan for proactive sign enforcement, including potential fiscal impact.	Ongoing
#4	Examine the feasibility of: <ul style="list-style-type: none"> • Using Department Staff or a hearing examiner to review and decide on sign variance applications; or • Expanding the Sign Review Board’s membership to facilitate more frequent hearings. 	Completed

Status of Recommendation #1a: Conduct inspections to ensure sign installation meets conditions of approval.

DPS staff still do not conduct compliance inspections on all newly-installed signs. According to DPS staff, adding staff to conduct sign inspections has not been a priority for the County Executive. Inspections of signs are done by DPS inspectors on a complaint basis.

Status of Recommendation #1b: Make better use of sign-related data for performance monitoring and evaluation.

As part of its automated data tracking system, DPS now tracks the time it takes to review sign permit applications, hear and decide on variance applications, and respond to and resolve sign complaints. DPS staff report that they do not use these data as part of the Department's formal performance measures as published in the County Executive's budget.

However, the Department does report using the sign-related data as part of an informal evaluation of the entire staff. In addition, DPS tracks the data by staff member and includes that data as part of employee performance evaluations.

Status of Recommendation #2a: Draft procedures that set out the Sign Review Board's powers and duties for adoption by the Council.

Zoning Text Amendment 05-03, adopted by the Council in September 2005, outlines the duties of both DPS and the Sign Review Board. The ZTA transferred authority to prepare and decide on sign variances from the Sign Review Board to DPS.

Status of Recommendation #2b: Provide variance applicants with a written copy of the Sign Review Board's decision and conditions of approval.

DPS now provides applicants with a typed copy of the Sign Review Board's decision and conditions of approval. This document is also scanned and stored with DPS' documents. All Sign Review Board decisions and conditions of approval are available upon public request.

Status of Recommendation #2c: Schedule regular meetings between DPS and Sign Review Board members to discuss policies and procedures.

The Director of DPS annually meets with Sign Review Board members and the County Executive to discuss matters affecting the sign variance process including work plan, new initiatives, and budget. DPS also currently has one employee who staffs the Sign Review Board and regularly attends Sign Review Board meetings.

Status of Recommendation #2d: Establish performance targets for hearing and deciding on sign variance.

The Council recommended that DPS aim to process sign variance applications such that 75% of variances are heard at the next available hearing. DPS reports that in the past several years, the Sign Review Board heard approximately 90% of sign variance applications at the next available hearing.

Status of Recommendation #3: Develop and report back to the Council on a plan for proactive sign enforcement, including potential fiscal impact.

DPS developed a proactive sign enforcement program by assigning existing staff to different areas of the County. DPS sign inspectors now regularly complete a geographically-based sign sweep to check for illegal signs. They also randomly conduct a Countywide sign enforcement sweep if they are receiving significant complaints about illegal signs.

DPS reports that while inspectors do conduct sweeps to identify illegal signs, by law, they cannot remove a sign from private property without a court order. When an inspector finds an illegal sign on private property, the offender is fined. If the problem persists, then DPS seeks a court order to remove the sign.

Status of Recommendation #4: Examine the feasibility of using Department Staff or a hearing examiner to review and decide on sign variance applications or expand Sign Review Board's members to facilitate more frequent hearings.

The Department of Permitting Services has taken numerous steps to facilitate more frequent sign variance hearings. The membership of the Sign Review Board was expanded from three to five members in September 2005 by Zoning Text Amendment 05-03. DPS and the Sign Review Board are in the process of developing and implementing a consent calendar format for sign variance hearings by the Sign Review Board; variances are placed on the consent calendar and if any member is opposed to the variance, the Sign Review Board hears the variance arguments and if not, the variance is approved on the consent calendar without argument. Further, if there are more variances that need to be heard than the schedule can fit, the Sign Review Board will schedule a special hearing.

PART F. DISCUSSION ISSUES

The implementation of the Council-endorsed recommendations by the Department of Permitting Services meets the Council's goal of improving upon the sign approval and enforcement process. To both acknowledge these efforts and discuss opportunities for further improvements, OLO recommends the Transportation and Environment Committee hold a worksession to discuss the implementation status and the general management of the sign approval and enforcement process with DPS staff.

OLO recommends that the Committee discuss the following issues:

- DPS informally uses sign-related performance data for Department and employee evaluation. Should the Department create a more formal performance measures and evaluation system? Does the Council want to receive annual updates of performance measures and evaluation practices of the sign approval process?

- DPS is currently in the process of updating its website. What type of information and documents should be available on the Department of Permitting Services' website concerning the sign approval process?
- Zoning Text Amendment 05-03 outlined the duties and responsibilities of DPS and the Sign Review Board. What were the effects of the adoption of ZTA 05-03 on the Sign Review Board and the Department of Permitting Services? How was the transition of sign variance approval authority from the Sign Review Board to DPS?
- Zoning Text Amendment 05-14 modified provisions related to limited duration signs and includes the elimination of the permit required for such signs on private property. How did the adoption of ZTA 05-14 impact DPS' resource allocation and workload?
- DPS continues to conduct sign installation inspections primarily on a complaint basis. Is this practice adequate for ensuring that newly installed signs are meeting all conditions of approval?