

**LEGISLATIVE AGENDA
GENERAL ASSEMBLY
2017 SESSION**

October 4, 2016

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CITY OF VIRGINIA BEACH – CITY COUNCIL

[Mayor William D. Sessoms, Jr.](#)
[Vice Mayor Louis R. Jones - Bayside](#)
[Shannon DS Kane – Rose Hall](#)
[Benjamin Davenport – At Large](#)
[Amelia N. Ross-Hammond - Kempsville](#)
[Bob Dyer - Centerville](#)
[Barbara M. Henley - Princess Anne](#)
[John D. Moss - At Large](#)
[John E. Uhrin - Beach](#)
[Rosemary Wilson - At Large](#)
[James L. Wood - Lynnhaven](#)

CITY OF VIRGINIA BEACH – GENERAL ASSEMBLY DELEGATION

[Senator Lynwood W. Lewis, Jr. – Senate District 6](#)
[Senator Frank W. Wagner – Senate District 7](#)
[Senator William R. DeSteph, Jr. – Senate District 8](#)
[Senator John A. Cosgrove, Jr. – Senate District 14](#)
[Delegate Ronald A. Villanueva – House District 21](#)
[Delegate Barry D. Knight – House District 81](#)
[Delegate Jason R. Miyares – House District 82](#)
[Delegate Christopher P. Stolle – House District 83](#)
[Delegate Glenn R. Davis – House District 84](#)
[Delegate Scott W. Taylor – House District 85](#)
[Delegate Joseph C. Lindsey – House District 90](#)
[Delegate Robert S. Bloxom – House District 100](#)

SECTION 1.1 – CITY OF VIRGINIA BEACH LONG TERM POLICY P OSITIONS



1. POST LABOR DAY OPENING FOR SCHOOLS

SPONSORED BY THE VIRGINIA BEACH CITY COUNCIL

Background Information:

The total spending from the tourism industry in Virginia Beach for 2015 was \$1.4 billion, stimulating 12,924 jobs. Starting schools in Virginia Beach and other localities in the Commonwealth prior to Labor Day would have significant financial consequences on the tourism industry in the long term. Beginning schools prior to Labor Day would effectively reduce the available vacation time in August by two weeks, which is prime family vacation time that cannot be replaced. If the Virginia Beach school system begins before Labor Day and other localities follow our lead, it will have a negative effect on the economic impact of the tourism industry cutting short the critical summer season which will hurt small businesses, hardworking families and their employees. To a lesser extent, this will also have an impact on this industry by affecting the labor pool available prior to Labor Day.

Request:

The General Assembly is requested to maintain the existing legislation concerning post Labor Day opening of schools. This allows all schools to open after Labor Day except those given exemptions by the State Board of Education.



2. MORATORIUM ON URANIUM MINING

SPONSORED BY THE VIRGINIA BEACH CITY COUNCIL

Background Information:

Virginia has had a moratorium on uranium mining since the 1980s. A large deposit of mineable ore has been found in Pittsylvania County. This deposit is upstream of the John H. Kerr Reservoir, which provides 93% of the inflow to Lake Gaston, which provides water directly to Virginia Beach, and indirectly to most of Southside Hampton Roads. A study prepared by the National Academy of Sciences (NAS) indicates that uranium tailings disposal cells represent long-term risks for contamination, that limited data exist to confirm the long-term effectiveness of those disposal cells, and that extreme natural events combined with human errors have the potential to lead to the release of contaminants. The NAS study concludes that Virginia has no experience with uranium mining, that the federal government has little or no experience with wet climates and extreme precipitation events, and that there are gaps in legal and regulatory coverage for uranium mining and steep hurdles to be overcome before mining could be established in Virginia within a regulatory framework that is protective of health, safety, and the environment.

The City contracted with nationally prominent experts to prepare a study of the downstream water quality impacts that would occur from a hypothetical, catastrophic breach of an above-grade, uranium mine tailings disposal cell. The study indicates that in the aftermath of an assumed catastrophe, radioactivity in the main body of Lake Gaston would remain above state and federal regulatory levels for up to two months during wet years and six to sixteen months during dry years. The only practical response during this time would be to shut down the Lake Gaston project. Depending upon the weather, this could have significant consequences to all of Southside Hampton Roads, but particularly, Chesapeake, Norfolk, and Virginia Beach.

The Cities of Chesapeake, Norfolk, Suffolk, Virginia Beach, and the Hampton Roads Planning District Commission have all passed resolutions opposing uranium mining in Virginia and lifting the legislative moratorium on uranium mining.

Request:

The General Assembly of Virginia is requested to maintain the existing moratorium on uranium mining in Virginia. Also, the Commonwealth is requested to vigorously oppose federal court actions to overturn the Uranium Mining Moratorium. (See attached resolution by City Council)



*****Please find attached a resolution adopted by City Council on September 1, 2015*****



Resolution Page 1

1 A RESOLUTION REQUESTING THE
2 ATTORNEY GENERAL TO OPPOSE
3 VIRGINIA URANIUM'S LAWSUIT SEEKING
4 TO INVALIDATE THE COMMONWEALTH'S
5 LONGSTANDING MORATORIUM ON
6 URANIUM MINING IN VIRGINIA
7

8 WHEREAS, the Virginia General Assembly enacted a Moratorium on Uranium
9 Mining in the early 1980's; and

10 WHEREAS, this Moratorium was established based on scientifically
11 demonstrated environmental concerns relating to Uranium Mining; and

12 WHEREAS, Virginia Uranium, Inc. and its affiliated companies own mineral
13 rights to a potentially large uranium deposit in the Roanoke River Basin; and

14 WHEREAS, Virginia Uranium has repeatedly attempted through the General
15 Assembly to have the Moratorium lifted; and

16 WHEREAS, The General Assembly has maintained the Moratorium on Uranium
17 Mining; and

18 WHEREAS, Uranium Mining was opposed by multiple jurisdictions and
19 organizations, such as the Roanoke River Basin Association, Hampton Roads Planning
20 District Commission, and the cities of Virginia Beach, Norfolk, and Chesapeake, among
21 many others, several of which obtain their drinking water from Lake Gaston, which is in
22 the Roanoke River Basin and downstream from the Virginia Uranium site; and

23 WHEREAS, Virginia Uranium recently filed suit in Federal Court to challenge the
24 legality of the Moratorium; and

25 WHEREAS, Virginia Uranium claims that the moratorium on mining was enacted
26 solely because of concerns arising from the disposal of uranium mining by-products and
27 that regulation of the disposal of uranium mining by-products has been pre-empted by
28 Federal law and that, therefore, the moratorium on uranium mining is invalid; and

29 WHEREAS, Virginia Uranium requests the court to order the applications for the
30 licenses and permits needed to commence mining operations to be accepted and
31 processed in the same manner as they would if those permits and licenses pertained to
32 any other mineral that may be legally mined; and

33 WHEREAS, Virginia Uranium's assertions are inimical to sound public policy
34 and contrary to settled principles of law, inasmuch as the several states, including
35 Virginia, clearly retain the authority to regulate uranium mining within their respective
36 borders;



Resolution Page 2

46 NOW, THEREFORE, BE IT RESOLVED BY THE VIRGINIA BEACH CITY
47 COUNCIL:

48 That for the foregoing reasons, on behalf of the Citizens of Virginia Beach, it is
49 respectfully requested that the Attorney General, on behalf of the Governor and other
50 officials of the Commonwealth who have been named as defendants, vigorously oppose
51 Virginia Uranium's lawsuit seeking to invalidate the Commonwealth's longstanding
52 moratorium on uranium mining in Virginia.
53

54
55 Adopted by the City Council of the City of Virginia Beach on the 1st day of
56 September, 2015.

APPROVED AS TO LEGAL SUFFICIENCY:

City Attorney's Office

CA13427
R-1
August 26, 2015



3. MEDICAID EXPANSION POSITION

SPONSORED BY THE VIRGINIA BEACH CITY COUNCIL

*****Please find attached a resolution adopted by City Council*****



Resolution Page 1

1 A RESOLUTION REQUESTING THAT THE GENERAL
2 ASSEMBLY AND GOVERNOR ACCEPT AND IMPLEMENT
3 THE FULL EXPANSION OF MEDICAID AS PROVIDED BY
4 THE AFFORDABLE CARE ACT
5

6 WHEREAS, the Patient Protection and Affordable Care Act ("Affordable Care
7 Act") is a 2010 federal law which, among other things, expands the availability of health
8 care through an expansion of Medicaid;
9

10 WHEREAS, as a result of the United States Supreme Court's decision in a case
11 in which it upheld the constitutionality of the Affordable Care Act, states now have the
12 option to chose whether to accept and implement the Act's Medicaid expansion;
13

14 WHEREAS, the Affordable Care Act's Medicaid expansion establishes a new
15 income eligibility criterion of 133% of the federal poverty level and provides 100%
16 federal funding for the expansion in the first three years, after which time the federal
17 funding will be reduced to no less than 90% of the cost;
18

19 WHEREAS, the projected cost to Virginia is dwarfed by the billions of federal
20 dollars which will flow into the state, and Medicaid expansion will not only provide
21 citizens with greater access to health care but will also support the state's health care
22 industry, employment, and Virginia's overall economy;
23

24 WHEREAS, although 47,775 Virginia Beach residents currently receive Medicaid
25 benefits, 51,730 additional adult City residents who are under the age of 65 remain
26 uninsured;
27

28 WHEREAS, an estimated additional 14,650 Virginia Beach residents will be
29 eligible for Medicaid expansion under the federal law, including a significant number of
30 single persons and couples with incomes between \$15,415 and \$20,879, as well as
31 certain families (depending on family size) with incomes up to \$53,668;
32

33 WHEREAS, a significant number of uninsured Virginia Beach residents who
34 suffer from mental health or substance abuse disorders will be eligible for health care
35 coverage through Medicaid expansion; and
36

37 WHEREAS, the expansion of Medicaid will increase local employment in medical
38 services and other supportive health care industries (especially technology);
39

40 NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF
41 VIRGINIA BEACH, VIRGINIA:
42

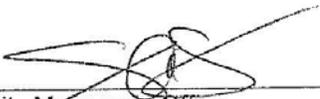


Resolution Page 2

43 That the City Council requests that the Governor and the General Assembly take
44 the steps necessary to accept and implement in the Commonwealth of Virginia the full
45 Medicaid expansion as provided by the Affordable Care Act.

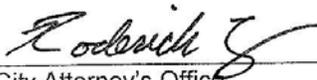
Adopted by the City Council of the City of Virginia Beach, Virginia, on this 11th
day of December, 2012.

APPROVED AS TO CONTENT:



City Manager's Office

APPROVED AS TO LEGAL
SUFFICIENCY:



City Attorney's Office

CA12482
R-2
December 5, 2012



4. INCREASED FUNDING FOR MENTAL HEALTHCARE

SPONSORED BY THE VIRGINIA BEACH CITY COUNCIL

Background Information:

People with serious mental illness, as well as their loved ones, and people with addiction disorders and their families face a crisis when it comes to accessing services they need. Decades of neglect to the mental health system, plus an increased need from people who are uninsured, underinsured, or facing economic hardship, have exacerbated the problem. According to the Virginia Department of Behavioral Health and Development Services, almost 4,500 Virginians are waiting to receive community-based services for mental health alone, and almost 1,500 of those have waited for services longer than four months. The well-being of families and our community is seriously threatened by the failure of those in need to receive timely and effective mental healthcare...

Request:

The City requests that the General Assembly provide significant increases to funding for mental healthcare services beyond that provided in 2016. The City supports the Virginia Association of Community Services Board (VACSB) budget priorities for 2017-2018 and requests funding to include, but not limited to the following:

- Workforce development with a focus on recruiting and are retaining licensed or license-eligible staff by offering tuition reimbursement and clinical supervision financial incentives-- \$3,991,000
- The VACSB Emergency Services and Substance Abuse Councils are seeking expansion of medical detoxification to improve our crisis response system for individuals with substance use dependence and ensure that resources are available for safe detoxification during a crisis episode -- \$16,000,000.
- Reintegration services for high-risk youth and adults to expand capacity for the purchase of community-based services and treatment to address youth and adults who are high-risk for re-hospitalization or re-offense due the severity of their behavioral health challenges -- \$7,000,000
- Additional Waiver Slots: The VACSB Developmental Services Council is supporting The ARC's Waiver Waiting List Reduction Package to reduce the ID/DD Waiver waiting list by 50%. Waiver slots build capacities that will enable individuals who need developmental services and supports, including those with multiple disabilities, to live a life that is fully integrated in the community.
 - Fund 200 Developmental Disability Waiver slots as part of the DOJ settlement agreement in FY16
 - Fund 800 Individual and Family Support Waiver slots in both FY 2017 & FY 2018
**Each ID waiver slot costs approximately \$45,000 a year*



SECTION 1.2 – CITY OF VIRGINIA BEACH NEW POLICY INITIATIVES



5. AMEND THE VIRGINIA CODE SECTION §42.170 TO INCREASE THE CIVIL CASE FILING FEE ASSESSED IN 1988, FROM \$4.00 TO \$5.00

SPONSORED BY CITY COUNCIL MEMBER, AMELIA N. ROSS-HAMMOND

Background Information:

The Wahab Public Law Library (WPLL) is under the governance of the Department of Public Libraries, however, all operational funding, including that for personnel, is not derived from the City's General Fund, but from civil cases filed in the Virginia Beach Circuit and General District Courts. The Circuit Court Clerk takes 5% out of each \$4.00 filing fee as a commission, as provided for in §17.1-289 of the Code of Virginia, with WPLL receiving a total of **\$3.80** per each \$4.00 filing fee.

WPLL ensures free access to a significant collection of current and accurate resources, specifically for the purpose of providing legal information. It is open to anyone in need of legal information for research and the practice of law in the community.

WPLL has been a part of the Virginia Beach Public Library since 1971. The library is, as the name states, a Public Law Library. Our customers include citizens; employees in city and state agencies such as the City Attorney, Public Defender, Commonwealth's Attorney, Circuit Court; members of the legal profession; and students who are researching legal topics or studying legal writing and research as part of their certification or degree coursework.

WPLL has evolved over the years from a small room near the Circuit Court Building in the early 1970's to the current location in the Court Support Building of the Judicial Center. The 5,000 square foot facility houses a collection of nearly 14,000 print volumes, and microform. The WPLL public computer lab features free Internet access for the public, legal research databases Lexis and Westlaw, and a microform reader printer. The WPLL staff consists of two full-time and two part-time employees.

Request:

The City requests the General Assembly to increase the filing fee to \$5. With a \$1 increase, all funding will go to support the Law Library.

Operation and maintenance of the Wahab Public Law Library cannot be sustained on the revenue it currently receives. Since 1995, WPLL relied upon financial assistance from both the General Fund and its revenue fund balance. The budget was reduced by nearly half in FY 2008, including a reduction in hours for the general public. In FY 2009, the WPLL budget was reduced again to balance expenditures with court revenue only and eliminate the need to obtain support from the General Fund. The lack of funding has resulted in inadequate staffing levels to cover all service points and a reduction in hours of operation to the general public. Insufficient operating costs to cover the purchase of legal resources have compounded. With the additional cost of a rent increase in FY16 from \$12 per square foot to \$19.28 per square foot to be paid over a three-year period, the fund balance continues to diminish. By FY 2018, the fund balance will be below the required 10% balance that must be maintained per Management Services.



6. VOTING RIGHTS

SPONSORED BY CITY COUNCIL MEMBER, AMELIA N. ROSS-HAMMOND
& THE HUMAN RIGHTS COMMISSION

Background Information:

The right to vote is a fundamental right of every citizen of our Commonwealth and nation and it is the foundation of our democracy. Barriers to the ballot box harm our state and our nation and are inconsistent with the ideals and principles upon which our great nation and our Commonwealth were founded. Increased voter participation, on the other hand, strengthens our democracy and results in leaders who are responsive to the diverse needs of all of our citizens.

Request:

The City requests that the General Assembly support legislation that removes barriers to voter participation and improves the ability of all Virginia citizens to exercise their fundamental right to vote.

In particular, it is requested that the Right to Absentee Voting be offered to any person qualified to vote in person without providing a reason. Currently, there are specific excuses for voting early that limit turnout.



7. SOLUTION TO COASTAL FLOODING REGIONAL GREENHOUSE GAS INITIATIVE

SPONSORED BY CITY COUNCIL MEMBER, BARBARA HENLEY

Background Information:

The Hampton Roads Region (along with New Orleans) is the most at risk for coastal flooding and Sea Level Rise in the country. Recurrent Flooding and Sea level rise is a reality, as can be evidenced by tide gauges kept by National Oceanic and Atmospheric Administration and others since the early 1900's. Sea Level Rise is real, and much of Virginia Beach is low and drains poorly. Storms that were small nuisances just 10-15 years ago, now caused major destruction of roadways and damage homes.

The City Council has embarked on a strategy of studying the various watersheds within the City, which will in the end provide plans on how to address Recurrent Flooding and Sea Level Rise. The other localities in the region are doing similar efforts. This is a regional effort, which will take actions by the state, federal, and local government. It will also be a very expensive endeavor.

The Regional Greenhouse Gas Initiative as it currently exist in states from Maryland and New York north, allows carbon allowances to be purchased for every ton of CO2 emitted. Companies decide how to stay below a cap that is set through the region, and these allowances are sold at quarterly auctions. The proceeds are then returned to the state for reinvestment. It's projected that roughly \$200M in auction revenues through 2030 could be provided to Virginia. This could also help address the administration "Clean Power Plan".

Request:

The General Assembly is requested to adopt legislation as was introduced by Delegate Ron Villanueva of Virginia Beach and Chesapeake in the 2016 Session. This would allow Virginia to join with the Northeast RGGI. This would allow us to manage cuts in carbon emission, while at the same time providing revenue to address Sea level Rise and Recurrent Flooding. Currently the nine RGGI states represent 25% of the U.S. population. They have had \$1.3B in net positive economic impact, have cut pollution three times faster than non-RGGI states, and have had lower bills for power than other areas.



8. USE OF OYSTER LEASES FOR NAVIGATION PROJECTS

SPONSORED BY CITY COUNCIL MEMBERS, JAMES L. WOOD & JOHN E. UHRIN

Background Information:

The City has numerous rivers and tributaries that require maintenance dredging. This includes both the main channels of the Eastern and Western branches of the Lynnhaven River and multiple navigation channels serving the multitude of neighborhoods of the fully developed watershed. Not only do these waterways provide access for homeowners to utilize their waterfront property, but these navigation channels support recreational boating for residents and visitors to the City in addition to serving water-dependent local businesses and watermen. Virtually all of the coves of the Lynnhaven were developed with navigation channels.

With the support of General Assembly legislation, Special Service Districts (SSDs) are being created to formulate neighborhood navigation dredging projects to reclaim those navigation channels that have filled with silt, mud and sediment foreign to the Lynnhaven's past. Restoring navigable channels for these waterfront neighborhoods is a critical goal for the City, and the Navigation SSD program provides a venue to accomplish this. The silt, mud and sediment that have inundated this body of water contribute to degradation of the water quality of the Lynnhaven, which is condemned or restricted to oyster production in many areas. As a result of contamination, most oyster leases are unproductive or have costly restrictions and compliance measures before a harvest can be brought to market.

Restoring navigation channels is a part of the City's effort to cleaning up the Lynnhaven River, but the widely popular SSD neighborhood navigation dredging program has been placed at risk due to 2014 legislation barring localities from exercising eminent domain to acquire portions of oyster leases of state-owned bottomlands, even if the purpose is navigational dredging. Due to guarantees made by the Commonwealth to the holders of oyster leases, consent from the oyster lease holder is required for any dredging permit issued by the Virginia Marine Resources Commission. The legal result of this requirement is that a single oyster lease holder with a nonproductive, vacant oyster bed in a condemned creek retains veto power over a navigation dredging project affecting hundreds of waterfront property owners and recreational boaters. The oyster leases cost \$1.50 per acre/per year for a 10-year lease, and although there is a requirement that leases be worked for oyster production, there are generous exceptions for rivers like the Lynnhaven, where such production would not likely yield oysters. The proposed legislation is to promote a balance that allows the municipality and its property owners to maintain the navigation channels while providing fair treatment to active producing oyster lease holders.

**Request:**

The General Assembly is requested to amend the code of Virginia §28.2-618

§ 28.2-618. Commonwealth guarantees rights of renter subject to right of fishing.

The Commonwealth shall guarantee to any person who has complied with ground assignment requirements the absolute right to continue to use and occupy the ground for the term of the lease, subject to:

1. Section [28.2-613](#);
2. Riparian rights;
3. The right of fishing in waters above the bottoms, provided (i) that no person exercising the right of fishing shall use any device which is fixed to the bottom, or which, in any way, interferes with the renter's rights or damages the bottoms, or the oysters planted thereon, and (ii) that crab pots and gill nets which are not staked to the bottom shall not be considered devices which are fixed to the bottom unless the crab pots and gill nets are used over planted oyster beds in waters of less than four feet at mean low water on the seaside of Northampton and Accomack Counties;
4. Established fishing stands, but only if the fishing stand license fee is timely received from the existing licensee of the fishing stand and no new applicant shall have priority over the oyster lease. However, a fishing stand location assigned prior to the lease of the oyster ground is a vested interest, a chattel real, and an inheritable right which may be transferred or assigned whenever the current licensee complies with all existing laws; and
5. *In navigable waters that are located in the Lynnhaven River and its creeks and tributaries, the right of navigation, including dredging projects to improve, deepen or restore existing navigation channels in areas approved by the Virginia Marine Resources Commission, so long as the person dredging designs the project to minimize affecting active, producing beds and, to the extent any such beds cannot be avoided, the dredger relocates the oyster material that would be disturbed at its sole cost or the Virginia Marine Resources Commission includes in its permit a condition that the person dredging will pay the holder for any losses of oysters in production in an amount to be determined by agreement of the oyster holders or, if no agreement can be reached, by a court of competent jurisdiction as of the date the oysters are first disturbed.*

This change would allow the City to compensate for loss of use while allowing much needed projects to go forward.



9. REMOVE PREQUALIFICATION REQUIREMENT FOR BOND WAIVER PROGRAM

SPONSORED BY CITY COUNCIL MEMBER, BOB DYER

Background Information:

The City of Virginia Beach has undertaken many efforts to further equal opportunity and non-discrimination in City procurement. In 1995, the City Council created the region's first Minority Business Council (the "MBC"). The City and the MBC have worked over the years to further programs and efforts to reduce barriers in City procurement to include:

- The City Council establishing a goal of 10% minority participation in City Contracts;
- De-bundling of City contracts to better enable small, woman-owned, and minority-owned ("SWaM") businesses to compete;
- Utilization of a comprehensive database of SWaM businesses and the types of goods or services that each business provides;
- Enactment of a Small Business Enhancement Program requiring contractors to utilize at least 50% SWaM businesses in subcontracting plans;
- Implementation of a City Administrative Directive to require solicitations of SWaM, including minority-owned and woman-owned, vendors for City contract of less than \$50,000.
- Entry into a Memorandum of Understanding with the Virginia Department of Small Business and Supplier Diversity (through its predecessor, Department of Minority Business Enterprise) to develop a productive and mutually beneficial working relationship;
- City Council adoption of a bond waiver program to the extent authorized by the General Assembly on Feb 7, 2006, which includes a prequalification process.

The City of Virginia Beach has found that the prequalification process is time consuming for small business and as a result the bond waiver program has not been as successful as intended. Since inception, this program has only been used eight times by: 3 small businesses, 4 woman-owned businesses, and 1 minority owned business.

Request:

The City of Virginia Beach urges the General Assembly to adopt legislation to remove the prequalification process for waiving the bid bond for non-transportation projects between \$100,000 and \$500,000.



10. ONLINE RENTAL PLATFORMS/AIRBNB AND OTHERS

SPONSORED BY VIRGINIA BEACH CITY COUNCIL,

Background Information:

City Council adopted a Resolution in January 2016 requesting the General Assembly to give localities authority to regulate online platforms such as Airbnb. This is a growing issue for Virginia localities, in that property owners list their homes on the internet through these online platforms for rental. The City has little authority to regulate these enterprises, which compete with the conventional hotel and bed and breakfast business. Conflicts also occur at the neighborhood level as the legal right of quiet enjoyment by adjoining property owners is impeded, and parking, health safety and welfare issues continue to grow.

Additionally, the City and State are unable to collect the State Sales Tax and Local Transiency Occupancy Tax from these properties as currently required by law. This means that these properties are being illegally rented out (either whole house, or room), and compete directly against conventional hotels that must comply with health safety and welfare regulations, and collect and remit taxes due directly to the locality and state. Every hotel is required by law to create a folio on every guest that shows the number of nights, money spent, etc., which is auditable by the state. No such audit train exists for the online rental platforms.

The General Assembly referred this issue during the 2016 Session of General Assembly to the Virginia Housing Commission. A special workgroup, the Short-Term Lodging Workgroup, has been working on this issue, and is expected to produce recommendations by December 1st.

Request:

The City of Virginia Beach requests the General Assembly to adopt legislation during the 2017 Session of General Assembly that requires these online rental platforms operate with the same requirements as the Traditional Lodging Industry does such as:

- Collection of the taxes due and remittance directly to the state and local governments,
- Regulation by localities for issues such as health, safety, and welfare including adequacy of parking,
- Control on where these properties are allowed to be located,
- Requirement of platforms to delist non-compliant properties.

Furthermore, some penalties for violating the above requirements, and also causing harm to quality of life in existing to neighborhoods that have the expectation of quiet enjoyment of their properties should be included in the legislation.



11. COASTAL PRIMARY SAND AND BEACHES ACT: AUTHORIZING VIRGINIA BEACH WETLANDS BOARD TO ISSUE SAND MANAGEMENT GENERAL PERMIT

SPONSORED BY CITY COUNCIL MEMBERS, BARBARA HENLEY

Background Information:

Sandbridge Beach is a nourished beach consisting of residentially zoned property in Virginia Beach. Although portions of the beach are privately owned, they are subject to recreation and construction easements authorizing public use and sand replenishment. Many of the properties have bulkheads along the western easement lines. Beach restoration projects have addressed erosion but over time, sand has migrated inland from the beach and in many cases overtopped the bulkheads, causing interference with fences, gates, swimming pools, decks and other structures. This migrating sand creates safety hazards and interferes with the enjoyment and use of the owners' property.

Under the current provisions of the Coastal Primary Sand Dune and Beaches Act, property owners cannot move sand that is oceanward of their bulkhead (or if no bulkhead, oceanward of the nearest impervious surface) and cannot place and spread any sand removed from their property upon the beach without obtaining a permit from the Virginia Beach Wetlands Board ("the Board"). There are numerous properties along Sandbridge Beach that are affected by the accumulation of migrating sand. It is cumbersome, costly and inefficient for each property owner to obtain an individual permit for the management of this nuisance sand. A general permit process would benefit the public, the property owners and the City while allowing appropriate protection of the beach.

Request:

The City requests that the General Assembly amend the Coastal Primary Sand Dune and Beaches Act, Section 28.2-1408.2 to add provisions authorizing the Board to issue a general permit for the management of nuisance sand ("Sand Management General Permit") in the Sandbridge Beach Subdivision and to provide a reasonable, timely and cost effective process for property owners in the Sandbridge Beach Subdivision to become covered under the Sand Management General Permit. A draft of the proposed amendment is attached.



Va. Code Ann. § 28.2-1408.2

§ 28.2-1408.2. Exemptions

- A. Notwithstanding the requirements of § 28.2-1408 or any other provision of this Code, the Virginia Beach Wetlands Board (Board) shall make an ongoing determination in the Sandbridge Beach Subdivision to determine which structures or properties are in clear and imminent danger from erosion and storm damage due to severe wave action or storm surge. The owners of such structures or properties shall not be prohibited from erecting and maintaining protective bulkheads or other equivalent structural improvements of the type, size and configuration as approved by the Board. As used in this section, the "Sandbridge Beach Subdivision" means the area that is bounded on the north by Dam Neck Naval Base, on the west by Sandpiper Road, and on the south by Little Island Park.

The Board shall not impose arbitrary or unreasonable conditions upon its approval of any such bulkhead or other structural improvement. The Board shall maintain a continuing responsibility to ensure that each bulkhead or structural improvement constructed under the authority of this section is maintained in a condition that is safe, structurally sound, and otherwise in conformity with the conditions imposed by the Board.

Upon submission of an application to the Board pursuant to this section, as a requirement for approval, the applicant must consent in writing to any subsequent construction approved by the Board whereby an adjacent property owner desires to tie in a bulkhead at no additional cost with the bulkhead proposed by the applicant. Such consent shall constitute a waiver of property line defenses relating to the bulkhead line.

- B. The Board may develop and adopt, after holding a public hearing, a General Permit for Sand Management for properties in the Sandbridge Beach Subdivision along with appropriate Placement Profiles. The Board shall cause notice of the hearing to be published at least once a week for two (2) consecutive weeks prior to such hearing in a newspaper having general circulation in the City of Virginia Beach. Any Sand Management General Permit and Placement Profiles adopted by the Board shall set forth sand management practices that encourage owners of real property in the Sandbridge Beach Subdivision to undertake responsible, cost-effective sand management practices that protect and enhance the value and use of their property and that preserve and protect coastal primary sand dunes and public beaches and prevent their despoliation and destruction. The Sand Management General Permit and Placement Profiles shall specify all permissible sand management practices including, but not limited to, the manner in which sand removed from said properties shall be transported to and placed upon an appropriate sand placement and spreading zone as may be designated in the Placement Profiles promulgated by the Board, and the requirement that such sand shall be in the condition of clean beach sand prior to such transport and placement. The Board may from time to time revise the Sand Management General Permit and Placement Profiles as appropriate, in accordance with this subsection.

Following adoption, the owner of real property in the Sandbridge Beach Subdivision, or the designee of such owner, may obtain coverage under the applicable Sand Management General Permit and Placement Profile by submitting a registration statement to the Board on a form to be promulgated by the Board requiring the following information: (i) Owner's name; (ii) Owner's address; (iii) Owner's telephone number and email address; (iv) Address of property or properties; (v) Designee's name; (vi) Designee's address; (vii) Designee's telephone number and email address; (viii) Identification of applicable Placement Profile for the property or properties; (ix) Signature of applicant or designee; and (x) Date of application. The Board may impose a reasonable fee in connection with processing the registration statement.



The Board shall within thirty (30) days of receipt of a registration statement notify the applicant in writing whether the registration statement is approved or disapproved. The Board's written notice of approval or disapproval may be delivered to the applicant via email at the email address stated in the registration statement or it may be delivered via U.S. Mail at the address stated in the registration statement, or both. If the Board fails to notify the applicant in writing within thirty (30) days of receipt of a registration statement, then the registration statement it is deemed approved. If the registration statement is disapproved, the Board shall provide in its notification to the applicant a complete statement of the reason(s) for the disapproval. Notwithstanding the requirements of § 28.2-1408 or any other provision of this Code, if the registration statement is approved, then the applicant is authorized to manage sand in accordance with the applicable Sand Management General Permit for a period of three (3) years from the date of the application. The approval or disapproval of a registration statement submitted by an applicant is a decision of a wetlands board that is reviewable pursuant to §28.2-1411 of the Code.



12. ROAD MAINTENANCE FUNDING FORMULA REVISION (ROAD DIETS)

SPONSORED BY CITY COUNCIL MEMBER, ROSEMARY WILSON

Background Information:

The General Assembly created the roadway maintenance funding formula in the 1970s. VDOT uses this formula to determine how much money to pass thru to localities that maintain their own roads:

“For the purpose of calculating allocations and making payments under this section, the Department shall divide affected highways into two categories, which shall be distinct from but based on functional classifications established by the Federal Highway Administration: (1) principal and minor arterial roads and (2) collector roads and local streets. Payments made to affected localities shall be based on the number of moving-lane-miles of highways or portions thereof available to peak-hour traffic in that locality.” (Code of Virginia §33.2-319, emphasis added)

Absent an explicit definition for “moving-lane-miles”, VDOT has interpreted the term as lanes of any width that are open for thru motor vehicle use, thus excluding turn lanes, on-street parking, and bike lanes.

“Road diets” reconfigure the lanes of an existing road to improve the safety and efficiency of the road, often without changing the curb lines or edges. Road diets usually reduce the number of lanes but add other features such as center turn lanes and bike lanes. The prototypical road diet converts a 4-lane road to have 2 thru lanes, a center turn lane, and 2 bike lanes. Such a conversion would reduce a locality’s inventory of “moving-lane-miles” and thus also the funds received for maintenance, but there would still be just as much asphalt to maintain.

In 2015, HB1402 was introduced to adjust the formula so that localities conducting road diets would not suffer reduced maintenance payments. The final form of HB1402 as adopted was limited to the City of Richmond for 2015 only, but it also required VDOT to prepare a report on how to include bike lanes.

In 2016, SB669 was introduced in response to the VDOT report, with the same goal of preserving funding for localities that conduct road diets. SB669 applied only to bike lane conversions conducted after July 1, 2014; limited localities to 50 moving lane miles or 3% of the locality’s total; and required that a Professional Engineer (PE) assess the conversion for adequate capacity and compliance with the “Urban Bikeway Design Guide” of the National Association of City Transportation Officials (NACTO).

Request:

The General Assembly is requested to revise the roadway maintenance funding formula to accommodate the conversion of moving-lane-miles to bike lanes without reducing the maintenance funding provided to localities after the conversion, perhaps along the lines of SB669 (2016).



13. MENHADEN FISHING REGULATION

SPONSORED BY CITY COUNCIL MEMBERS, MAYOR WILLIAM D. SESSOMS, JR., .LOUIS R. JONES, JAMES L. WOOD
JOHN E. UHRIN & BENJAMIN DAVENPORT

Background Information:

A small fish- Menhaden- is often referred to as “the most important fish in the sea”. Because it is close to the bottom of the food chain, the populations of many species rely on the Menhaden as a source of food. These include important commercial fisheries and tourism such as: blue crab, rock fish, speckled trout, mackerel, flounder, tuna, and shark. Over fishing of Menhaden affects those populations, and hurts many people’s income that rely on the sale of seafood to make a living. Tourism also suffers if the top of the food chain species go elsewhere in search of food.

The importance of Menhaden is not solely founded on the population of other species. Menhaden also provide a service in filtering the Bay, second only in importance to the oyster. As they filter the Bay they return much needed oxygen to the waters for life to flourish.

The Chesapeake Bay and the near shore Atlantic Ocean waters of Virginia Beach are commonly referred to as the “Menhaden Nursery”. Maturation of the Menhaden primarily happens in the Bay which provides the Atlantic Coast with these important fish. Keeping the Menhaden population flourishing is not only healthy for the bay and for the entire Atlantic coast, but for the businesses that are such a part of the economic engines known as tourism and commercial fishing.

Menhaden fishing is currently regulated by the General Assembly. Although the General Assembly’s knowledge of many issues is both wide and deep, regulation of fisheries is best left to those more knowledgeable of the science. Menhaden is also a multi-state resource that needs to be looked at as a whole, rather than the needs of few. The General Assembly has removed itself from the regulation of most other fish & game species, and the regulation of Menhaden needs to be placed with the Virginia Marine Resources Commission where the technology and science exist to best manage it. Also, the current regulation of Menhaden does not require those fishing for this species to operate at a reasonable distance from shore either on the Bay or the Ocean. Breakage in nets leads to regular pollution of the Bay and Atlantic Ocean beaches with deposits of dead fish.

Request:

The City of Virginia Beach requests the General Assembly to adopt Legislation introduced during the 2016 legislative session similar to HB-150 introduced by Delegate Barry Knight, and SB-98 introduced by Senator John Cosgrove. This would require the Virginia Marine Resource Commission to adopt regulations to implement the Interstate Fishery Management Plan for Atlantic Menhaden. It would also require any moratorium on the fishery to be subject to legislative review. Additionally, as was proposed in HB-151 by Delegate Knight, in the 2016 legislative session, fishing for Menhaden with purse nets in the Chesapeake Bay would be prohibited within one mile and within three miles of the shore lines of Virginia Beach extending from the North Carolina border. This common sense legislation would allow this very important resource to be managed for the overall health of the Bay, the Atlantic Ocean, and Virginia’s economy based on science and facts.



14. A GOVERNOR'S CABINET LEVEL STATE RESILIENCY OFFICER FOR RECURRENT FLOODING

SPONSORED BY CITY COUNCIL MEMBER, JAMES L. WOOD

Background Information:

Hampton Roads is identified as one of the most flood prone areas in the nation. This is due to the combination of sea-level rise, subsidence of land, and construction in tidal areas over the last 400 years. That development has reduced natural drainage areas and the ability to absorb flooding along with a host of other reasons. To address these issues the General Assembly created the Joint Sub-Committee on Coastal Flooding. This is chaired by Delegate Chris Stolle of Virginia Beach. They have met multiple times over the last several years, and have identified a number of issues that need to be addressed by the General Assembly. One recommendation that was suggested, but not adopted, was that a State Resiliency Officer position be created. Currently, Secretary of Public Safety, Brian Moran is acting as the Commonwealth's Resiliency Officer by agreement with the Governor's office. Unfortunately, the issue of recurrent flooding is in need of constant attention due to its threat to the economy of Virginia, particularly in Hampton Roads, and the wellbeing of all of our citizens. Recurrent flooding for instance is a threat to major military installations in Hampton Roads, which was identified by the Hampton Roads Planning District Commission. The City of Norfolk is recognized as one of the most flood plain areas in the nation, second only to New Orleans, Louisiana. The ports of Virginia could become more susceptible to recurrent flooding, and their beneficial impact to the Commonwealth could be reduced if this issue is not addressed. Also there is an impact on almost every citizen in tidal Virginia because of the increase in nuisance flooding. Rain events that were unnoticed now create impassable streets and destroy property. Furthermore many insurance companies are reluctant to write homeowners policies because of increased risk/claims. Currently, the state lacks a single point of contact charged with identifying and addressing recurrent flooding issues and proposing methods to counter them.

Request:

The City of Virginia Beach requests the General Assembly to create a stand-alone cabinet level secretariat State Resiliency Officer, and program. This program should be identified as the lead in order to give direction, and ensure accountability to possibly one of the most important issues facing all of tidal Virginia. Furthermore, the Resiliency Secretariat should be closely aligned with the Secure Commonwealth Panel, and be sufficiently supported with staff and resources from other state agencies.

The current operation of having this as a subordinate duty for the Secretary of Public Safety will likely prove to be ineffective in the long term for bringing resources to bear on this important issue. Recurrent flooding affects all of Coastal Virginia, and Hampton Roads especially. Even in times of scarce resources, as the Commonwealth is currently facing, this clear threat to the wellbeing of the Commonwealth's citizens and our businesses should be addressed effectively and resourced as needed



15. ANIMAL CRUELTY

SPONSORED BY CITY COUNCIL MEMBER, JAMES L. WOOD

Background Information:

State law sets the penalties for cruelty to animals. Currently, Virginia Code § 2.2-6570 provides that an abuser can only be charged with felony animal abuse if (1) the animal dies as a result of torture or severe abuse; or (2) the abuser previously had been convicted within the last five years of cruelty to animals. Accordingly, if a Virginia court concludes that a defendant tortured or severely abused an animal, but the animal survived the abuse, the court cannot sentence the defendant to more than one year in jail unless the abuser had been convicted of the same offense within the past five years. If the defendant instead could be found guilty of a Class 6 felony, the court would have the discretion to sentence the abuser to up to five years imprisonment. Amending the law to allow a felony charge would enable our courts to better address severe instances of animal abuse.

Request:

The City Council requests that the General Assembly amend Virginia Code § 3.2-6570 to allow persons who severely abuse companion animals to be charged with a Class 6 felony, regardless of whether the animal survives or whether the defendant had been previously convicted of the same crime within the past five years.



16. CERTIFICATE OF PUBLIC NEED

SPONSORED BY CITY COUNCIL MEMBER, BOB DYER

Background Information:

The Certificate of Public Need (COPN) has been used for many years to manage expensive healthcare delivery facilities in the Commonwealth. This means that when hospitals wish to expand adding new beds or equipment they must go to a state body to receive permission to do so. The Certificate of Public Need is seen as a way to reduce duplication of expensive services and facilities, and also to make sure that facilities constructed are not just those that profit the hospitals and other individuals the most. The COPN is seen as a way to reduce healthcare costs and make services available as widely as possible. However, many in the medical services delivery field see the COPN as an unwarranted intrusion into the free market. During the 2016 session of the General Assembly, multiple bills were introduced to either outright repeal or other adjustments/modifications to the existing law. Delegate Chris Stolle, of Virginia Beach, who is not only a medical doctor but a Hospital Administrator, introduced House Bill-1083. HB-1083 would have modified the COPN while maintaining the bedrock of the process. Delegate Stolle's bill was defeated; however, other legislation is being studied over the period between the 2016 session and the 2017 session. There will most assuredly be legislation introduced in the 2017 session that again ranges from outright repeal to modifications as needed.

Request:

The City of Virginia Beach requests the General Assembly retain COPN in its current form with process reforms similar to those recommended by Delegate Chris Stolle (HB 1083) in the 2016 session. This legislation addresses concerns surrounding the COPN process while maintaining the integrity of the program. Additionally, any legislation to deregulate COPN must be coupled with polices to promote access to care, ensure provision of essential health services, fund graduate medical education, and maintain the fiscal stability of Virginia's community.



17. EXPANSION OF THE VIRGINIA HUMAN RIGHTS ACT

SPONSORED BY CITY COUNCIL MEMBER, BOB DYER &
REQUESTED BY THE VIRGINIA BEACH HUMAN RIGHTS COMMISSION

Background Information:

The Virginia Human Rights Act (Va. Code § 2.2-3900 et seq.) currently prohibits discrimination based on race, color, religion, national origin, sex, pregnancy, childbirth or related medical conditions, age, marital status, or disability. The City of Virginia Beach has prohibited the aforementioned since 1994.

Request:

The City of Virginia Beach requests the General Assembly amend the Virginia Human Rights Act (i) to also prohibit discrimination based on sexual orientation or gender identity; and (ii) to explicitly prohibit racial profiling.