

FAIRFAX COUNTY
FEDERATION
of Citizens Associations Established 1940

P.O. Box 3913, Merrifield, VA 22116-3913

October 28, 2016

Fairfax County Delegation to the Virginia General Assembly
Cc: Fairfax County Board of Supervisors

Dear Fairfax Delegation Member,

The Fairfax County Federation of Citizens Associations forwards to you its 2017 Legislative Issues for your consideration, use and action. We will assist you on any Issue.

The Issues were compiled from opinions about two specific Issues affecting Fairfax residents and from over 450 open-end comments. All were consolidated, researched, and evaluated by Federation committees representing nine different services and resulted in thirteen proposed Issues. The Federation board and membership approved the enclosed final nine 2017 Legislative Issues.

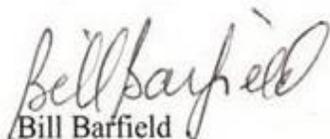
Of the specific Issues, potential provisions of the pending Limited Residential Lodging Act were asked to be rated. The two most agreed upon provisions were that 77% of respondents agree that AirBnB-like short-term rentals should be considered businesses that pay taxes and fees and that 68% agree that AirBnB owners should have a minimum of \$500,000 liability insurance. This Issue is now embodied in a separate Federation resolution approved for public release on October 27th. The second specific Issue pertained to the recently-in-effect law on development proffers, in which 47% of respondents agreed that the proffers law should be overturned while 29% had no opinion.

The Fairfax County Federation of Citizens Associations membership is 89 home owner, civic, and condo associations representing over 59,500 households throughout Fairfax County. Respondents to the survey live in at least 34 of the 44 Fairfax County zip codes.

The Federation officers and members appreciate you representing our communities. We know you understand our citizens' concern about these issues and will give them your qualified attention while communicating their status to the Federation.

Queries regarding a specific issue may be directed to the respective Issue preparer on the bottom of each Issue page, or to the Legislative Committee at FedLegislationChr2016@fairfaxfederation.org.

Respectively submitted,



Bill Barfield
2nd Vice President
Legislative Committee Co-Chair



Tim Thompson
President

Enclosures: Nine 2017 Legislative Issues

Fairfax County Federation of Citizens Associations 2017 Legislative Issues

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17C02	Conservation / Environment	Stormwater Controls Grant local jurisdictions authority to require developers to demonstrate that new projects will neither increase the stormwater runoff volume nor decrease water quality.	<u>4</u>
17E01	Education	County–City Revenue Equalization Grant counties equivalent revenue-generating authority as cities.	<u>5</u>
17E02	Education	ESOL and FRM per student funding Provide state funding on a per student basis to support the additional needs of students enrolled in ESOL (English for Speakers of Other Languages) and FRM (free & reduced meals) programs.	<u>6</u>
17E03	Education	School Opening Date Permit local school boards to set the opening date of the school year.	<u>7</u>
17G01	Governance / Legislation	Modify the Dillon Rule Allow counties to adopt home-rule government structures and policies they determine would be the most effective in performing local functions.	<u>8</u>
17L02	Land Use	In-Fill and Redevelopment Repeal and replace § 15.2-2303.4 . Standardize developer requirements across localities that would adequately fund infrastructure development in support of increased density while protecting developers from abusive proffer requirements.	<u>9</u>
17P02	Public Safety	Hands Free Driving Make illegal the use of a telephone while driving unless employing “hands free” technology.	<u>10</u>
17P03	Public Safety	Law Enforcement VFOIA Revoke governments’ authority to exempt from FOIA release under the currently allowed nine categories of exception (1) reports of incidents involving police shootings and (2) other law enforcement records.	<u>11</u>

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Fairfax County Federation of Citizens Associations

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Issue ID: 17C01-Renewable Power
Issue: Virginia needs to increase the generation of electric power from renewable sources.
Background: Opening the solar market to private sector competition and larger amounts of customer-owned generation is a cost-effective approach to accelerate solar development in a way that builds on Virginians' preference for competitive, market-based solutions. Solar energy can keep power bills low both for homeowners and businesses who install solar systems and for customers who don't. Private investment in solar benefits all of us by potentially reducing strain on the distribution and transmission grids and by avoiding or delaying the need for costly new power plants. All Virginians should be able to benefit from clean energy, regardless of their income, where they live, or whether they own their home. (This was taken from the Virginia Conservation Network's 2017 Environmental Briefing Book, page 21).
Existing Conditions/Impacts: Virginia lags behind our neighboring States largely because Dominion Virginia Power has been able to block third party energy providers. This has made it difficult to install solar power on or in residences.
Preferred Position: The Virginia General Assembly should support measures that encourage innovative solar companies to compete fairly and lower the cost of electricity for us all. These measures include: <ul style="list-style-type: none">• Stopping power companies from attempts to block private, third-party financing of electricity generated by solar or wind energy through Power Purchase Agreements (PPAs) or solar leases;• Eliminating standby charges, project size caps, and other barriers to customer-sited electricity generation;• Permitting customers to share the benefits of solar energy through Community Solar projects; and• Protecting 1:1 net metering credits, so solar customers receive fair value for all of the solar energy they provide to their power company. (This was taken from the Virginia Conservation Network's 2017 Environmental Briefing Book, page 22).
Benefits: <ol style="list-style-type: none">1. Allows homeowners and businesses to generate their own power or to hire a third party solar power provider.2. Ensures that homeowners and businesses get a fair rate for the power they generate absent of unreasonable fees.3. Improves the resiliency of the system by allowing local electricity generation when elements of the distribution system are damaged.4. Reduces the need for additional power plants.
Potential Supporters (Community leaders, Public/Private Partnership Opportunities, Organizations): Virginia Conservation Network (which includes 98 organizations throughout Virginia, including the Virginia Chapter of the Sierra Club, Chesapeake Bay Foundation, Virginia League of Conservation Voters, Natural Resources Defense Council, and the Audubon Naturalist Society)
Prepared by: Flint Webb, Environment Committee Co-Chair
Email: FedEnvironmentChr2017@FairFaxfederation.org

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Issue ID: 17C02-Stormwater Controls
Issue: Local Governments need the authority to require developers to prove that new developments will not impair or degrade Waters of the State.
Background: The rapid development in Fairfax County has had a major impact on the groundwater and surface water problems we face today as a result, most of the streams in Fairfax County are designated as impaired and most of the County has already been built up. The comprehensive plan process is inadequate for improving the water quality of our streams. The County needs additional authority to require redevelopment and/or new projects do no further damage to impaired waters of the State.
Existing Conditions/Impacts: The Comprehensive planning process focuses on individual projects rather than looking holistically at impaired streams. Watershed management plans are focusing on improving existing remediating major stream impairments but do not look at new projects. County ordinances are state-of-the-art but will not be sufficient to address problems in impaired watersheds. New development and redevelopment activities often offer opportunities to design and implement modern, permanent site and building features that may reduce or eliminate stormwater pollution throughout the lifetime of a facility or development. On the other hand, construction activities associated with development can contribute significant amounts of pollutants if best management practices (BMPs) are not properly executed. Prior to the recent legislation prohibiting the use of proffers, the Board of Supervisors could use the proffer process to ensure better stormwater controls.
Preferred Position: Local communities, (Counties and Cities) need authority to require that developers demonstrate that new projects will not increase the stormwater runoff water quality or volume from their property. We call on elected officials to give local Governments authority to use the proffers to require stormwater controls on new developments or redevelopments. Infiltration and volume reduction is critical and should be a requirement for all projects.
Benefits: Allowing Counties and Cities to require developers demonstrate that new projects will not worsen the impaired status of waterways will decrease the need for County funds for remediation of stormwater impairments. Encouraging/requiring LID projects would create smaller overall development footprints, reduce the amount of runoff generated and increase the amount of natural areas on a site, thereby reducing costs when compared to traditional stormwater management and flood control. Besides reducing the capital and other actual costs, using LID practices provide: improved aesthetics for communities, expanded recreational opportunities, increased property values due to the desirability of the lots and their proximity to open space, increased marketing potential and faster sales for residential and commercial properties, and reduced stream channel damage and pollutant loadings in downstream waters.
Potential Supporters (Community leaders, Public/Private Partnership Opportunities, Organizations): The many steam friends of organizations such as the Friends of Accotink Creek, Sierra Club, Audubon Society, Tree stewards, Coalition for Smarter Growth.
Prepared by: Flint Webb & Monica Billger, Environment Committee Co-Chairs
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Issue ID: 17E01-County –City Revenue Equalization
Issue: Equalizing the revenue-generating authority of counties with that of cities.
Background: The distinction between the taxing authority of Virginia’s cities and counties has been a source of contention for many years. Many believe the distinction has lost any rational basis. Fairfax County serves over one million citizens, and yet is tightly constrained in its ability to address the fiscal needs of its community, whereas municipalities serving a fraction of that number enjoy much greater flexibility
Existing Conditions/Impacts: Virginia caps the tax rate that counties (but not cities) can apply to meals, lodging, cigarettes, and admissions, and requires that meals taxes in counties (but not cities) be subject to approval by referendum. This produces stark differences between adjacent jurisdictions. For example, while Fairfax County has been authorized by the Commonwealth to charge a county tobacco tax up to the state amount of \$0.30 per package of cigarettes, the city of Alexandria charges \$1.15 per package, the city of Fairfax charges \$0.85 per package, and the city of Falls Church charges \$0.75 per package. Counties have become increasingly reliant on real estate taxes for their revenues. As the state’s financial support for K-12 education has shrunk, county school systems are particularly vulnerable to relying on counties for funding, and counties are (in turn) limited in their ability to raise taxes other than real estate taxes.
Preferred Position: Equalize the revenue-generating authority of counties with that of cities.
Benefits: Counties increasingly experience the same kinds of pressures as urban areas, such as higher poverty levels and crime, and the costly solutions require a more flexible revenue-generating approach. Equalizing the tax treatment of counties and cities would permit a much-needed diversification of revenue streams in county budgets, and would better allow counties to match their communities’ needs with appropriate resources.
Potential Supporters (Community leaders, Public/Private Partnership Opportunities, Organizations): Educational organizations and county governments
Prepared by: Nancy Trainer, Judy Harbeck and Ed Saperstein, Education Committee
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Issue ID: 17E02-ESOL and FRM
Issue: Providing educational funding from the Commonwealth that takes into account two indicators of higher educational costs: (1) The number of students who require instruction in English for Speakers of Other Languages (ESOL), and (2) The number of students who receive Free and Reduced-Price Meals (FRM).
Background: Students who require instruction in ESOL and/or who receive FRM are among the populations most at risk of educational failure. Both student groups require additional time, attention, and resources. FCPS estimates that the cost of providing ESOL services adds 30 percent to the cost of educating a student. Low-income students often require additional instruction and remediation, and their lack of at-home resources and support place them at a well-documented disadvantage when they enter the classroom. Meanwhile, the achievement gap between various groups of students has proven difficult to narrow, let alone close.
Existing Conditions/Impacts: Fairfax County Public Schools (FCPS) serve a diverse student population, in which approximately 52,000 (or 28% of the total student population) are eligible for FRM and approximately 32,000 (or 17% of the total population) receive ESOL services. The percentage of students in these two categories have grown significantly since the major recession, while overall state aid levels for education have declined. Title I federal funds (for children in poverty) and Title III federal funds (for children receiving ESOL services) make up little of the difference between children's needs and the funding required to meet those needs.
Preferred Position: We support legislation to create educational funding that addresses the needs of ESOL and FRM students. We propose focusing on per-student funding for students in these two categories in order to provide these students with the resources they need to be successful, throughout the Commonwealth.
Benefits: Targeting educational funding for students in the categories of ESOL and FRM will help address the achievement gap that has long existed among students whose demographic characteristics vary. In addition, by basing funding on a per-student basis, we ensure that these funds are properly reaching at risk children in all Commonwealth communities.
Potential Supporters (Community leaders, Public/Private Partnership Opportunities, Organizations): Educational organizations and county governments, particularly in areas with greater numbers of ESOL and FRM-eligible students.
Prepared by: Ed Saperstein and Nancy Trainer, Education Committee
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Issue ID: 17E03-School Opening Date
Issue: Local school boards are generally not permitted to set their own opening date of the school year
Background: The “Kings Dominion” Law was adopted by the Virginia General Assembly in the 1980s to help amusement parks and other tourism attractions staff their businesses with a summer labor pool of high school age workers. Today’s economy has changed; the tourism industry is attracting various workers in other age groups. But now the tourism industry contends that a change of law would hurt tourism. Almost all states allow schools to start before Labor Day, including states whose economies are heavily dependent on tourism such as Florida and California. As Virginia Beach Public Schools said in supporting a change in law, “If a pre-Labor Day start was really damaging to a state’s economy, it would have been banned across the country a long time ago.”
Existing Conditions/Impacts: The Code of Virginia mandates under the so-called “Kings Dominion” Law that schools open after Labor Day. As a result, FCPS students have less classroom time before standardized tests such as Virginia’s Standards of Learning (SOL) exams, and nationwide Advanced Placement (AP) and International Baccalaureate (IB) tests. The AP and IB tests figure substantively in college admissions, scholarships, course selection and advanced standing. The current law puts our students at a competitive disadvantage as almost all states allow schools to start before Labor Day. There is a limited waiver that FCPS normally cannot qualify under. Due to all the snow days over the last several years FCPS will qualify for the waiver for the next 3 school years.
Preferred Position: Support legislation permitting local school boards to set the opening date of the school year without need for the limited waiver.
Benefits: It would help our FCPS students as it would most likely provide more instructional time before standardized tests such as the SOL, AP and IB.
Potential Supporters (Community leaders, Public/Private Partnership Opportunities, Organizations): FCPS and about 120 of the 130+ school districts in Virginia, the Virginia PTA and Fairfax County PTA
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Issue ID: 17G01-Modify the Dillon Rule
Issue: Dillon Rule limits Commonwealth Counties' authority to make legislative decisions regarding growth management, transportation, education, environmental, elections, financing and public safety issues. Any policy changes require an act of the General Assembly.
Background: Dillon Rule allows state legislature to make local grassroots-level decisions for local jurisdictions. Commonwealth Counties are unable to enact a respective ordinance unless it is clearly granted by the General Assembly.
Existing Conditions/Impacts: Commonwealth Counties are unable to respond to their residents' goals and demands in a timely manner. This restriction impedes the County from diversifying their tax base to relieve pressure on the real property tax, adhere to sensible school rules and regulations, implement community-based growth management tools to name a few.
Preferred Position: All Commonwealth Counties should be granted the opportunity to identify the most appropriate form of Home-Rule government that would be the most effective in conducting day-to-day and long-term operations and to fulfill important local functions. At a minimum, the following issues should be addressed: Impact Fees, Education (start time and programs), local revenue authority, state income tax revenues, local and regional growth management tools such as planning, and zoning, short-term rental, transportation, public facilities, taxing authority and real estate transfer tax rate.
Benefits: No one is more equipped than local governments to determine the needs and prioritization of available resources. Increasing authority would allow for a more robust and diverse tax base, more sensible school start times for students and parents, stronger ability to control rampant growth and improve economic vitality.
Potential Supporters (Community leaders, Public/Private Partnership Opportunities, Organizations): All residents of Fairfax County; many Commonwealth counties.
Prepared by: Karen Campblin, Bill Barfield, Legislative Committee
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Issue ID: 17L02-In-Fill and Redevelopment
Issue: In-Fill and Redevelopment with increased zoning densities in areas of school crowding and/or traffic congestion or traffic safety issues.
Background: Due to the recent passage of proffer prohibition on residential and mixed-use property development (§ 15.2-2303.4). Provisions applicable to certain conditional rezoning proffers), localities will have to bear the burden of resolving school and traffic related impacts of requested development. Localities, especially in Northern Virginia and Hampton Roads, already do not receive fair and reasonable allocation of school and transportation dollars from the existing Commonwealth allocation formulas. New in-fill and redevelopment projects that increase zoning density place further stress on already challenging conditions. Reference: http://scholarscompass.vcu.edu/cgi/viewcontent.cgi?article=3922&context=etd and http://www.coopercenter.org/sites/default/files/publications/Virginia%20News%20Letter%202011%20Vol.%2087%20No%208.pdf
Existing Conditions/Impacts: Developers are reluctant to submit residential and mixed-use projects in localities with existing high population densities as local governing bodies are less likely to approve such projects due to anticipated impacts that could exacerbate traffic issues and school crowding. Localities are prohibited from requiring or discussing proposal of proffers as conditions to development decisions. Unfair additional taxes have been imposed on certain local jurisdictions to fund impacts due to Commonwealth funding inadequacies.
Preferred Position: Repeal and replace § 15.2-2303.4. Standardize developer requirements across localities that would adequately fund infrastructure development in support of increased density while protecting developers from abusive proffer requirements. Consider imposing a statewide real estate sales tax of no more than 5% of the selling price of each new residential unit for each documented impact area (school/traffic), the proceeds of which would be designated for use only for school improvements at affected public feeder schools and/or traffic capacity improvements on roadways within 1 mile of the approved development.
Benefits: Strike a balance between locality infrastructure needs and developer costs, setting/limiting the financial requirements beyond the cost of land acquisition and construction of residential and mixed-use developments. Standards would place developers and legislative project approvers in a position of consistency in project budgeting estimates and project submissions and the requirements for project approval. Protection of existing property owners' lifestyle, community desirability, and other factors that are in the vicinity of proposed development projects.
Potential Supporters (Community leaders, Public/Private Partnership Opportunities, Organizations): Local governing body members, developer community, and citizenry.
Prepared by: Vicki Hall, Land Use Committee Chair
Email: FedLandUseChr2017@fairfaxfederation.org

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Issue ID: 17P02-Hands-Free Device use during Driving
Issue: Distracted Drivers are a recognized lethal threat to themselves, vehicle occupants, cyclists, and other motorized vehicles and pedestrians, police and road-workers while driving. In fact, DISTRACTION is the Number 1 cause of motor vehicle accidents in the US. (Texting and driving is 6 times more likely to cause an accident than drunk driving.) Although cell phone conversations/texting, navigation gear data entry, and adjusting 'map' displays will occur while driving, such events should be performed only under special circumstances. To increase safety to the citizens and property of the Commonwealth, the Fairfax County Federation of Citizens Associations requests Legislative action to make the use of Hands-Free devices MANDATORY.
Background (Previously submitted as 15P01 on 1 Oct 2014): Currently, full restrictions only address young drivers, who are not permitted to text or use a cell phone while driving. Restrictions addressing adult drivers ONLY prohibit TEXTING while driving.
Existing Conditions/Impacts: This initiative aims at prohibiting the use of all hand-interaction devices for drivers, unless using such devices in a hands-free mode. No impacts are seen in terms of costs. However, saving even one life will have a great, positive impact and will relieve the social burdens resulting from accidental loss of life or injury.
Preferred Position: Distracted Drivers are a danger to themselves, vehicle occupants, other vehicles on the road and pedestrians. Legislation should require that cell phone equipment, etc., be usable or used as hands-free in order to address USE OF HANDS-FREE EQUIPMENT WHILE DRIVING.
Benefits: Increased safety on the roads. Decreased number of accidents with consequent loss of life, property, and work productivity. NOTE: Psychological impacts on the individuals affected and social burdens resulting from loss of life or injury are not addressed in this Issue.
Potential Supporters: (Community leaders, Public/Private Partnership Opportunities, Organizations): Fairfax County Board of Supervisors'; Fairfax County State Senators and Delegates; Fairfax County Federation of Citizens Associations (FCFCA) Members, Public safety officials, citizens
Prepared by: Patrick Smaldore, Public Safety Committee Chair
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Issue ID: 17P03-Law Enforcement VFOIA
Issue: Amend the Virginia Freedom of Information Act (VFOIA) consistent with the Federal FOIA to: 1. Specifically allow Law Enforcement (LE) reports of incidents involving LE shootings to be released with legally required redactions of sensitive information, and 2. Specifically allow the release of all LE records, unless an Exemption 7 item (A) through (F) of the Federal FOIA (see below) is specifically named, is evident, and is demonstrable.
Background: (Previously submitted as 16P01 on 10-22-2015): The Federal Freedom of Information Act (FOIA) in 5 U.S. Code §552 (https://www.law.cornell.edu/uscode/text/5/552) allows any person—individual or corporate, citizen or not—to request and obtain, without explanation or justification, existing, identifiable, and unpublished agency records on any topic. Pursuant to the Federal FOIA, the public has presumptive access to agency records unless the material falls within any of FOIA’s nine categories of exemption. Exemption 7 [5 U.S. Code § 552(b) (7) (A) - (F)] permits withholding investigatory records or information compiled for law enforcement purposes where: (A) Interference with law enforcement proceedings can be reasonably expected; (B) A person would be deprived of a fair trial or an impartial adjudication; (C) An unwarranted invasion of personal privacy could reasonably be expected; (D) Revealing a confidential source or information provided by a confidential source could reasonably be expected; (E) Techniques and procedures for law enforcement investigations or prosecutions would be disclosed or guidelines for law enforcement investigations or prosecutions would be disclosed, provided such disclosure could reasonably be expected to risk circumvention of the law; or (F) Endangering the safety or life of any individual could reasonably be expected. The Virginia FOIA (VFOIA) in <i>Code of Virginia</i> § 2.2-3700 et seq., (see http://law.lis.virginia.gov/vacode/title2.2/chapter37/) guarantees citizens of the Commonwealth and representatives of the media access to public records held by public bodies, public officials, and public employees. A public record is any writing or recording -- regardless of whether it is a paper record, an electronic file, an audio or video recording, or any other format -- that is prepared or owned by, or in the possession of, a public body or its officers, employees, or agents in the transaction of public business. All public records are presumed to be open and may only be withheld if a specific statutory exemption applies.
Existing Conditions/Impacts: Pursuant to the VFOIA, all public records are presumed to be open to the public and may only be withheld if a specific statutory exemption applies; however, on many occasions, police records have been withheld on the basis of a “statutory exemption” regarding the release of Law Enforcement information. Such lack of openness has created an atmosphere of deep distrust of Police and open resentment within the media and other public.
Preferred Position: Amend the VFOIA to <i>specifically allow</i> release of information related to LE-involved shootings and other LE practices and procedures related to LE activities while allowing the redaction of sensitive information. The amended act should additionally encourage transparency and accountability by establishing a culture of disclosure within the organizations.
Benefits: The purpose of the VFOIA is to promote increased awareness of governmental activities. In furthering of this policy, VFOIA already requires that the law be interpreted liberally and in favor of access, and that any exemption must be interpreted narrowly. However, in many cases, access to police records has been denied due to embedded easily redactable information or other exceptions and exemptions. The amendments would ensure the specific release of certain non-sensitive information, thus encouraging renewed public trust in LE activities and policies.
Potential Supporters: Fairfax County Board of Supervisors’ Ad Hoc Police Practices Review Commission’s Communications Subcommittee; Fairfax County State Senators and Delegates; FCFA
Prepared by: Patrick Smaldore Email: FedPublicSafetyChr2017@fairfaxfederation.org

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