



City of Virginia Beach

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September 23, 2009

Members of the Virginia Beach General Assembly Delegation

Subject: 2010 Adopted Legislative Agenda

Dear Honorable Senators and Delegates:

Please find attached a copy of the 2010 Legislative Agenda that was adopted by the City Council on September 22nd. I think you will see a number of the issues that were brought up in the joint meeting we had with you, City Council, the School Board and community groups earlier this year.

Bob Matthias will be contacting you in the very near future in attempts to find patrons for the items. As you know, this year he will be assisted by Angie Bezik and Ann Flandermeyer of Principle Advantage, Ltd.

This will be very difficult for the General Assembly and Commonwealth. With the continued poor economic outlook for the State and localities, we must work together to address the needs of our citizens to the best of our collective ability.

Sincerely,

William D. Sessoms, Jr.
Mayor

WDS/RRM/amg

Cc: Honorable Members of the City Council
James K. Spore, City Manager
Bob Matthias, Assistant to the City Manager
Angela I. Bezik, Principle Advantage, Ltd.
Ann E. Flandermeyer, Principle Advantage, Ltd.
Ruth Fraser, City Clerk

**LEGISLATIVE AGENDA
GENERAL ASSEMBLY SESSION 2010**

CITY OF VIRGINIA BEACH



BUILDING “A COMMUNITY FOR A LIFETIME”

MUNICIPAL CENTER BUILDING ONE
2401 COURTHOUSE DRIVE, SUITE 234
VIRGINIA BEACH, VIRGINIA 23456

Adopted September 22, 2009

**2010 LEGISLATIVE AGENDA
CITY OF VIRGINIA BEACH
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2010 LEGISLATIVE AGENDA

CITY OF VIRGINIA BEACH

PREFACE

The 2010 Session of the General Assembly will be of vital importance to the Commonwealth of Virginia. Besides setting the budget for the next two years, the General Assembly Members and administration will also be faced with addressing unprecedented revenue shortfalls brought about by the worst financial setback in the economy since the Great Depression. Also other policy decisions affecting the daily lives of Virginians will be considered.

One of the overriding issues that must be addressed by the 2010 Session of the General Assembly is transportation. One example of the tremendous shortfall of transportation funding in Virginia is that just a few years ago, the City of Virginia Beach received over \$32 million a year in urban funding to build city streets. Starting in 2010 we will be receiving zero dollars from the Commonwealth. Moreover, it is probable that the Commonwealth is now unable to match every dollar in Federal Transportation dollars available to Virginia meaning that even the interstate system is suffering tremendous cutbacks. This shortfall in transportation funding becomes even more apparent because of the recent announcement by the Commonwealth that the current six-year plan will have to suffer another \$900 million cutback.

The General Assembly has attempted repeatedly to address transportation over the last several years. These attempts have fallen short. For instance, House Bill 3202's major revenue sources were found to be unconstitutional. Furthermore, the \$3 billion in debt authorized to be issued under that legislation has been substantially unused because of the Commonwealth's inability to provide the required debt service.

Although public-private partnerships i.e. toll roads, are key to addressing transportation shortfalls other revenues are needed. Very few of the projects proposed in the Hampton Roads Six Major Projects Plan for instance are stand alone toll feasible projects. They need other resources of money to make them feasible unless the tolls are so high as to be self defeating. For instance, the Rt. 460 Project has gone through multiple years of review as a public-private project. However, only one proposer is still in the game and it is estimated that over \$50 million a year in revenue is needed above and beyond fairly substantial tolls to make this project a reality. Obviously, those additional monies are not available within the current revenue structure.

While public-private partnerships will have a key in addressing transportation needs in the future, they are not a panacea. For instance, although it was estimated that the Mid-Town Tunnel Project could be completed as a stand-alone PPTA project as long as it was tolled along with the Downtown Tunnel, it now seems that although it will be toll feasible, the tolls will be considerably higher than what were projected a few short years ago.

Transportation must be addressed and addressed comprehensively, both state-wide and in the two areas of the State where transportation has become a quality of life issue; northern Virginia and Hampton Roads. In order for the timely movement of people, goods and services to continue and for Virginia to remain competitive, new revenues must be directed to transportation needs as soon as possible.

The City Council has also continued to be concerned about the level of funding available for basic services like education, social services and public safety. Although at the time of the adoption of this package, the proposed cuts to the budget in the current fiscal year and the Governor's proposal for the next biennium are unknown, it is likely that education, which has so far missed having substantial cuts, mainly through the intervention of Federal Stimulus funds, will likely be cut for FY10 and also in the upcoming fiscal year. There is also discussion by some General Assembly Members to redefine public school teachers as local government employees, pushing more of the responsibility for the cost of these employees back on the localities as a way of reducing the state cost.

Finally, other services, as mentioned above such as social services, public health, mental health and public safety have suffered under the budget cuts required by the current fiscal situation. The General Assembly is requested to ameliorate those cuts as soon as possible. City Council has repeatedly said, the State should fully fund the true cost of State government services such as courts, corrections, mental health services and public health. For several years the City has paid a larger and larger share of these state responsibilities in order to retain employees to provide critical services to our citizens.

Post Script:

The Virginia Beach City Council has not included any funding items for any non-state agencies or activities in this request other than transportation. Although there are certainly many requirements for expanded funding, the City Council recognizes the current circumstances that make extension of funding for non-state agencies impossible at the present time.

CITY OF VIRGINIA BEACH 2010 REQUESTED CODE OF VIRGINIA CHANGES

1. FOLLOWING TOO CLOSELY

Council Member Bill DeSteph

Background Information:

State law currently provides that a driver shall not follow a motor vehicle, trailer, or semitrailer more closely than is reasonable and prudent, having due regard to the speed of both vehicles and the traffic and highway conditions. The law does not, however, prohibit following too closely behind a bicycle.

Request:

Add bicycles to the list of vehicles for which it is illegal to follow too closely. See Appendix Item 1 (page 35) for text of the requested legislative change.

2. PASSING BICYCLES

Council Member Bill DeSteph

Background Information:

State law currently provides that a driver overtaking a bicycle shall pass at least two feet to the left of the overtaken bicycle and not proceed to the right side of the highway until safely clear of the overtaken bicycle. A nationwide movement on behalf of bicyclists has sought to broaden the clearing distance to three feet, and such changes have been enacted in several other states. This change would better protect the safety of both bicyclists and motorists.

Request:

Change the passing distance from two feet to three feet. See Appendix Item 2 (page 36) for text of the requested legislative change.

3. **AUTHORITY TO COLLECT THE COSTS INCURRED WITH THE ABATEMENT OF GRAFFITI AND OTHER DEFACEMENTS ON COMMERCIAL PROPERTY.**

*Andy Friedman
Department Director
Department of Housing and Neighborhood Preservation*

Background Information:

Section §15.2-908 of the Code of Virginia gives the City the authority to enact an ordinance to enforce the removal of graffiti and other defacements on private property when visible from the public right-of-way.

The city annually appropriates funding that is used to provide free graffiti abatement services to residents and property owners. The cost of abating graffiti on commercial property in 2008-2009 was \$15,357, which represented 58% of total abatement costs. In some cases vacant property can be the subject of multiple graffiti defacements, resulting in significant costs. For example, the vacant gas station at Laskin Road and Birdneck has had to be abated four times.

Although many commercial property owners have the financial capability of abating graffiti, and most do so quickly and on their own, the few who don't cause the public to incur significant costs. It is therefore requested that state authority be granted to charge owners who fail to remove it in a timely manner for the abatement costs. If this authority is obtained and then enacted into city code, it would provide an additional incentive for owners who currently do not conduct abatement to implement graffiti deterrence measures including security cameras, graffiti-resistant surfaces, or additional security patrols, as well as to abate the graffiti themselves when it occurs.

For FY 07/08, the city contractor abated 161 total cases of graffiti at a cost of \$36,791. Of those cases, 41 were commercial properties at a cost of \$14,634.

For FY 08/09, the city contractor abated 214 total cases of graffiti at a cost of \$26,203. Of those cases, 81 were commercial properties at a cost of \$15,357.

Request:

Commercial property owners have an obligation to, and generally do keep their properties maintained to attract tenants and customers, and often have the necessary maintenance staff and resources available to abate graffiti themselves. This request would provide a tool to address those few who do not abate the graffiti themselves.

The City requests the General Assembly amend Virginia Code §15.2-908 entitled "Authority of localities to remove or repair the defacement of buildings, walls, fences and other structures" to provide localities the authority to collect the costs incurred for the abatement of graffiti and other defacements on commercial property.

4. INDUSTRIAL REVENUE BONDS

Warren Harris
Department Director
Department of Economic Development

Background Information:

In the 2003 General Assembly session, the General Assembly approved an act to amend the definition of “eligible business” in the Virginia Small Business Financing Act (Va Code Sec. 2.2-2279) per the Virginia Small Business Financing Authority’s (VSBFA) request. This amended definition allows the VSBFA to issue bonds not only for small businesses, but also to 501(c)(3) organizations of any size. Prior to the amendment, the VSBFA could only issue bonds to for-profit entities meeting gross income, employment, and net worth limits. In contrast to those limits applicable to for-profit organizations, the amended definition includes all 501(c)(3) organizations.

Currently, the Virginia Beach Development Authority (Authority) has issued, and plans to issue, bonds for 501(c)(3) organizations, including Sentara’s current facilities as well as future facilities (Princess Anne Sentara Hospital) located in Virginia Beach. The Authority currently receives 1/8 of 1% of the outstanding principal of the bonds as an administrative fee on an annual basis. This is a major revenue stream used to fund the Authority’s operations. The VSBFA’s policy caps the administrative fees at \$75,000 per year for non-profits, which is forcing some Development Authority’s in Hampton Roads to reduce the 1/8 of 1% administrative fee that is currently in place. If larger non-profits begin to use the VSBFA, the revenue stream that is available for the Authority will be significantly reduced, which will negatively affect economic development activities in the community.

Request:

To resolve this issue, we request that this loophole be closed by executive action. We must revert back to the former definition of eligible business or at a minimum, apply some sort of cap for non-profits that the VSBFA can utilize without undermining local development authorities.

5. **ADMISSIBILITY OF SOUND METER CALIBRATION CERTIFICATES**

*Chief A.M. Jacocks
Chief of Police
Department of Police*

Background Information:

This recommendation provides for a new code section to allow sound meter calibration certificates to be introduced into evidence in court. The new section would provide additional authority for the Division of Purchases and Supply to establish standards for sound meters.

Request:

See Appendix Item 5 (page 37) for text of the requested legislative change.

6. AUTHORITY TO AMEND PHOTO-MONITORING SYSTEM PROCESSING

Chief A.M. Jacocks
Chief of Police
Department of Police

Background Information:

The City requests that the General Assembly change Sections G and H of Virginia Code §[15.2-968.1](#) to modify Sections G of the statute to allow the recipient of a summons up to 30 days to review the summons before making a response. Currently Section G provides the recipient of a summons up to 60 days to review the summons. This will expedite the closure of a case and allow quicker destruction of data as required by the statute.

Section H prohibits (restricts) photo red light enforcement vendors from directly accessing DMV files to obtain the registered owner info from license plates displayed on vehicles that violate the red light. Thus, police departments who manage these systems in VA must access that info and provide it to the vendor. As far as we know, this requirement exists only in VA. The proposal is to allow the vendors, who already have NLETS access, to use NLETS to directly access the DMV files themselves.

Request:

See Appendix Item 6 (pages 38-39) for text of the requested legislative change.

7. AUTHORITY TO USE PHOTO-MONITORING SYSTEM INFORMATION FOR EMPLOYEE DISCIPLINE PURPOSES

*Chief A.M. Jacocks
Chief of Police
Department of Police*

Background Information:

Under the current provisions of Code of Virginia Section 15.2-968.1.H. “Information collected by a traffic light signal violation monitoring system installed and operated pursuant to subsection ‘A’ shall be limited exclusively to that information that is necessary for the enforcement of traffic light violations. Notwithstanding any other provision of the law, all photographs, microphotographs, electronic images, or other personal information collected by a traffic light signal monitoring system shall be used exclusively for enforcing traffic light violations...” As such, a locality operating such a system may not use the photograph to discipline employees who are determined to be the drivers of locality-owned vehicles that are captured by the system running a red light.

Request:

The proposed amendment will allow such information to be used for locality employee discipline purposes.

See Appendix Item 7 (pages 40-43) for text of the requested legislative change.

8. CARRYING CONCEALED WEAPONS IN VEHICLES/BUTTERFLY KNIVES

*Chief A.M. Jacocks
Chief of Police
Department of Police*

Background Information:

Virginia Code §[46.2-373](#) does not currently provide for a violation for carrying weapons in vehicles which are hidden from common observation.

Request:

The City requests that the General Assembly change Section A of Virginia Code §[18.2-308](#) to incorporate butterfly knives into the code as illegal to possess and would provide enforcement for this violations.

See Appendix Item 8 (page 44) for text of the requested legislative change

9. DAILY PAWN REPORTS

*Chief A.M. Jacocks
Chief of Police
Department of Police*

Background Information:

The current statute allows towns with populations between 13,000-14,000 to adopt an ordinance requiring a pawnbroker to file daily reports electronically. The change would allow any locality, by adopting an ordinance, to require that pawnbrokers submit electronic reports. This would reduce workloads to process pawn records in compliance with state mandates and align with universal business practices of using computers in business transactions.

Request:

See Appendix Item 9 (page 45) for text of the requested legislative change.

**10. ISSUANCE OF A WARRANT IN A DUI CASE BY AN OFFICER BASED ON THE
OBSERVATIONS OF THE ARRESTING OFFICER**

*Chief A.M. Jacocks
Chief of Police
Department of Police*

Background Information:

The City requests that the General Assembly change Virginia Code §[19.2-81](#) to enable a police officer to stop and arrest an intoxicated driver and transfer that arrest to another police officer. This change would allow supervisors and specialized officers, such as K-9 and SWAT officers, to remain available. The arresting officer or supervisor would still appear in court to testify. This recommended change is similar to the modification that was made several years ago to allow marine police officers to transfer a boating under the influence violation to another police officer.

Request:

See Appendix Item 10 (pages 46-47) for text of the requested legislative change.

11. PROCESSING PRIOR TO RELEASE ON RECOGNIZANCE BONDS

*Chief A.M. Jacocks
Chief of Police
Department of Police*

Background Information:

The City requests that the General Assembly change Section 4 of Virginia Code §[19.2-123](#) to clarify that in the event a person is released on recognizance, such release shall be predicated upon mandatory processing procedures, such as fingerprinting.

Request:

See Appendix Item 11 (page 48) for text of the requested legislative change.

12. CIVIL PENALTIES FOR VIOLATIONS OF SEWER USE/FATS, OILS AND GREASE (FOG) ORDINANCES

*Thomas M. Leahy, III
Department Director
Department of Public Utilities*

Background Information:

The City of Virginia Beach, along with other Hampton Roads localities and sewer authorities, entered into a Regional Consent Order with the Virginia Department of Environmental Quality (VDEQ) requiring the City, among other things, to take affirmative measures to reduce sanitary sewer overflows. As a result, the City adopted ordinances in February 2009 governing discharges into the public sanitary sewer system. While the ordinances contain enforcement provisions, the City lacks the authority to impose civil penalties upon violators. Civil penalties are an effective enforcement tool, and are used in enforcing the City Zoning Ordinance, Chesapeake Bay Preservation Area Ordinance, Wetlands Ordinance, and other City ordinances.

Request:

The City requests the General Assembly to add language to the Virginia Code §[15.2-2122](#) that would allow the City to include civil penalty provisions in its Sewer Use and FOG Ordinances. See Appendix Item 12 (pages 49-50) for text of the requested legislative change.

13. PROHIBIT POSSESSION OF FIREARMS AND OTHER DELINEATED WEAPONS IN MENTAL HEALTH FACILITIES

*Bob Morin
Department Director
Department of Human Services*

Background Information:

The General Assembly passed legislation in 2003 (codified at Virginia Code §[15.2-915](#)) which prevents localities from prohibiting or restricting the carrying of weapons into City buildings. As a result, the City may no longer prohibit people from bringing firearms into the City's Mental Health and Mental Retardation and Substance Abuse Services facilities.

Request:

Code of Virginia §[18.2-308.1](#) prohibits the possession of firearms and other delineated weapons on school property. The City requests that the General Assembly enact a similar statute that would prohibit weapons on the premises of any Mental Health or Mental Retardation and Substance Abuse facility that is operated by a governmental entity, except when such weapons are in the possession of licensed security personnel or law enforcement officers.

14. JOB-RELATED DISABILITY RETIREMENT: ALTERNATIVE ELIGIBILITY GUIDELINES

Patti Phillips
Department Director
Department of Finance

Background Information:

The current VRS disability retirement code provisions provide for employees to retire on disability if they cannot perform the job for which they were hired and the disability is a result of a job-related injury. This is the case even if the employee is medically able to perform other work without diminution of salary or benefits within the local government.

Problem:

VRS' eligibility determination process for disability retirements does not afford localities the opportunity to provide employees an alternate position within the employee's medical capabilities.

Presently employees are entitled to disability retirement when an injury renders them unable to perform the essential functions of their specific job. In some cases; however, the employee is capable of performing other work and the locality may have alternate positions available for the employee within the parameters of the employee's medical restrictions.

Providing an option to employers to locate other jobs within the organization with comparable pay, and allowing or requiring employees who are medically able to perform work to accept an alternate position within the locality would be less expensive for the VRS system and the employer. Likewise, it would provide continuous employment and benefits for the employee.

Request:

The General Assembly is requested to amend Virginia Code § 51.1-156 Disability retirement to provide additional eligibility criteria for a job-related disability retirement to provide that employees must be totally and permanently disabled from their current job and other positions with comparable pay within their employer's organization or to allow a local government employer the option to review the knowledge, skills and abilities of employees with job-related injuries and advise VRS if alternate positions are available; and for VRS to deny an employee who is determined to be medically capable of performing an alternate position eligibility for job-related disability retirement pursuant to the following guidelines:

1. If the employee cannot perform the essential functions of the job for which he/she was hired and the local government cannot retain the employee in that position; THEN, the local government shall have the option of finding an available alternate position within its organization or affiliated organizations (locality, school board, development authority, constitutional offices) (a) for which the employee is qualified, or can be qualified, that is within the employee's medical restrictions; (b) that **does not result in a diminution of salary or**

benefits; and (c) that has been offered to the employee. IF the locality chose to and was successful in finding an alternate position, the employee is capable of performing other work, and the alternate position is offered, the employee would not be eligible for disability retirement. Rather he/she would be required to accept the alternate position.

2. a. In the case of law enforcement employees: if the local government chooses to find an alternate position within its organization or affiliated organization and one is available within the employee's medical restrictions, that would not result in a diminution of salary or benefits, then any person disabled in any covered public safety position who (1) has at least fifteen (15) years of service in a LEO covered position and (2) who takes municipal employment in a non-covered position with the same local government shall retain the rights to the annual allowance in Virginia Code § 51.1-217 when they qualify for a service retirement. In addition, if said member retires with a service retirement at 25 years or more the service retirements will be unreduced. [This would also require an amendment to 51.1-138 or creation of a 51.1-138.1.]

b. If the local government chooses to find an alternate position and one is available within the employee's medical restrictions, that would not result in a diminution of salary or benefits, then in the case of law enforcement employees with at least fifteen (15) years of service in a LEO position and who accept an alternate non-LEO position, upon service retirement from the same local government, the employee would be eligible, upon request, to obtain a retired law-enforcement officers photo identification card. [This provision would also require an amendment to §9.1-1000.]

Code provisions affected: § 51.1-156 Disability retirement; §51.1-138. Benefits, and §9.1-1000.

15. POST LABOR DAY OPENING FOR SCHOOLS

*Jim Ricketts
Department Director
Department of Convention and Visitors Bureau*

Background Information:

The total economic impact of the tourism industry in Virginia Beach for calendar year 2008 was \$1.42 billion, stimulating 13,600 jobs. Starting schools in Virginia Beach and other localities in the Commonwealth prior to Labor Day would have significant financial consequences 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. 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.

16. COURT FINES AND FEES

*James K. Spore
City Manager
City of Virginia Beach*

Background:

On April 3, 2007, Virginia Beach City Council appointed a Blue Ribbon Tax, Fee and Spending Task Force. It was created to identify alternative tax and fee funding sources and spending policies and strategies; moreover it was divided into revenue and expenditure committees.

On November 30, 2007, the Task Force presented revenue generating recommendations to City Council. In the final report, they indicated a need to increase court fines and fees to offset the cost of police officer court appearances and overtime associated with their presence.¹

Presently, the fines and fees offset 100% of the courts operating costs with an additional 2% for all other additional costs. While the 2% can be applied toward the cost of police officer presence, the offset is minimal.

Request:

Request that the General Assembly adjust the maximum misdemeanor fine schedule annually by the rate of inflation.

¹ Blue Ribbon Tax, Fee and Spending Task Force Report to Council, November 30, 2007, Sec. 7.4j, p. 19.

17. COURTHOUSE MAINTENANCE FEE

James K. Spore
City Manager
City of Virginia Beach

Background Information:

On April 3, 2007, Virginia Beach City Council appointed a Blue Ribbon Tax, Fee and Spending Task Force. It was created to identify alternative tax and fee funding sources and spending policies and strategies; moreover it was divided into revenue and expenditure committees.

On November 30, 2007, the Task Force presented revenue generating recommendations to City Council. In the final report, they indicated a need to increase the courthouse maintenance fee biennially to keep pace with the cost of maintaining the City's courthouse.²

Presently, the City of Virginia Beach's rate is \$2/criminal or traffic case, and the City's caseload is the highest in the state. The cost of maintaining this heavily used facility is increasing.

Request:

In accordance with the Blue Ribbon Committee's suggestion, the City of Virginia Beach requests the General Assembly allow localities to adjust the courthouse maintenance fee schedule to reflect a biennial increase based upon the rate of inflation.

If the fee would have been indexed against inflation five years ago, the City would have increased revenues 5.18% and generated an additional \$47,000. Table 1 indicates the adjusted fee based upon the rate of inflation for the past five years.

Courthouse Maintenance Fees							
Fiscal Year	CPI ¹	Inflation	Fee	Actual Revenues	Inflated Revenues	Revenue Change	Percent Change
2008	132.157	7.01%	2.29	\$ 152,422	\$ 174,706	\$ 22,284	14.62%
2007	126.204		2.14	149,636	160,278	10,642	7.11%
2006	123.5	7.11%	2.14	202,021	216,388	14,367	7.11%
2005	118.6		2.00	199,620	199,620	-	0.00%
2004	115.3		2.00	208,647	208,647	-	0.00%
Total				\$ 912,346	\$ 959,640	\$ 47,294	5.18%

Table 1

Source: Virginia Beach Department of Management Services

² Blue Ribbon Tax, Fee and Spending Task Force Report to Council, November 30, 2007, Sec. 7.4a, p. 16.

18. OWNERSHIP OF STATE-OWNED BOTTOMLANDS AFTER PLACEMENT OF FILL

*Mark D. Stiles
City Attorney
City Attorney's Office*

Background Information:

During the pendency of the City's application to the Virginia Marine Resources Commission (VMRC) to allow sand from the Army Corps of Engineers' Lynnhaven Inlet Federal Navigation Channel dredging project to be placed on Cape Henry Beach, the City agreed to sponsor legislation confirming that the Commonwealth's ownership of the submerged lands seaward of the mean low water mark would not change as a result of the placement of fill.

Request:

The City requests the General Assembly to amend Virginia Code Section 28.2-1200.1 to confirm that the Commonwealth's ownership of such lands does not change as a result of their being filled. The amendment would be declarative of existing law.

See Appendix Item 18 (page 51) for text of the requested legislative change.

**19. TECHNICAL AMENDMENT REGARDING VOTING REQUIRED FOR BOARD OF ZONING
APPEALS' ACTIONS**

*Mark D. Stiles/Jack Whitney
City Attorney/Department Director
City Attorney's Office/Department of Planning*

Background Information:

In 2009, the General Assembly adopted changes to Virginia Code §15.2-2308 requiring all actions of the Board of Zoning Appeals to be by a majority vote of those present and voting. By oversight, however, the General Assembly did not also amend Virginia Code §15.2-2312 which requires actions of the Board in appeals of determinations of the Zoning Administrator to be by a majority vote of the entire membership of the Board. This omission created a conflict between the two Code sections.

Request:

This request is for a technical amendment to conform the provisions of the two aforesaid Virginia Code Sections. The result would be that all actions of the Board of Zoning Appeals will require a majority of members present and voting.

See Appendix Item 19 (page 52) for text of the requested legislative change.

20. EXPANSION OF THE VIRGINIA HUMAN RIGHTS ACT

Virginia Beach Human Rights Commission

Background:

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 requests that the General Assembly amend the Virginia Human Rights Act to also prohibit discrimination based on sexual orientation.

21. TRANSPORTATION FUNDING

Council Member Rosemary Wilson

Request:

Transportation was partially addressed in the preface to the Legislative Agenda; however, City Council has specific requests that require immediate action by the General Assembly. At a minimum, the General Assembly should fully fund to a reasonable level the maintenance of our existing transportation infrastructure. This would include not only secondary roads but the interstate system and mean reverting back to reasonable mowing schedule, repaving schedule, bridge repair, etc. to preserve the existing public investment. Further, the General Assembly must provide funds to reopen the nineteen closed rest stops throughout the interstate system. This closure not only creates a great inconvenience for the motoring public but also reduces spaces for truckers to park their vehicles and rest as they must under federal regulations. Also the General Assembly must provide funding to match all federal transportation dollars since every one dollar of State investment is matched by four federal dollars. Virginians have paid into the Federal Treasury and we must receive our fair share for investment on Virginia's roads.

On a larger scale, the General Assembly should provide funding to replace the funding loss on urban secondary and primary systems. For instance, Virginia Beach went from approximately \$35 million a year in urban funding to zero dollars in the current fiscal year. If these funds are not replaced, traffic conditions will continue to deteriorate on the local street network and the quality of life and the timely movement of people, goods and services will also be negatively impacted.

22. STATE LEGISLATION THAT WOULD ENABLE LOCALITIES TO HAVE A CHOICE BETWEEN PROVIDING NEW EMPLOYEES WITH A DEFINED BENEFIT RETIREMENT PLAN OR A DEFINED CONTRIBUTION RETIREMENT PLAN

Council Member Glenn Davis

Background:

The City of Virginia Beach's employees participate in the defined benefit retirement plan that is offered by Virginia Retirement System ("VRS"). This defined benefit retirement plan is based on a formula that includes age at retirement, average final compensation, and years of service to calculate a retiree's benefit, but the benefit is not based upon accumulated contributions and gains or losses in each member's account;

Every two years VRS actuarially computes the annual required rates of contributions for the City of Virginia Beach, as a separately rated employer, based upon an actuarial valuation of the retirement allowances and other defined benefits payable on behalf of active Virginia Beach employees in VRS. The valuation includes actual service and disability retirements, assumptions on life spans, disability rates, and turnover of the workforce. The City of Virginia Beach contributes both the employee portion (5%) as well as the employer portion of the contributions. Current combined rates for the employer and employee portion of VRS rates totals 16.48% of total covered payroll, and is paid entirely by the City of Virginia Beach. This rate has increased substantially since Virginia Beach joined VRS in 1963, when the total rate was 10%. In addition, this rate is expected to increase further to compensate for market losses incurred by VRS.

Currently, an employee becomes vested in his or her VRS defined benefit account after five years of service. When a vested employee leaves City of Virginia Beach employment prior to retirement, the employee has two options: (1) maintain the VRS account to be accessed at retirement based on VRS formulas; or (2) seek a refund of the 5% employee contributions;

In a defined contribution plan:

- individual employee accounts would be maintained, and in creating the plan a cap on the contributions either by individual employees or by aggregate cost can be imposed, thereby eliminating uncertainty about the City of Virginia Beach's future benefits obligation and reducing the uncertainty associated with the fluctuation in employer contributions under the current VRS defined benefit plan;
- the benefit would be based upon the contributions, plus or minus any gains or losses in each employee's individual account. Accordingly, the amount of the City's employer contribution would not change due to losses or gains in the employee accounts;
- a defined contribution plan could provide employees with substantially more control over their investment options;
- employees can be immediately vested in the assets contained in their individual accounts;

- the assets have greater portability and allow increased options for employees who may leave City employment prior to retirement, including the potential capability of rolling over funds into a 401(k), 401(a), government 457, or IRA.

Request:

The City of Virginia Beach urges the General Assembly to amend the Code of Virginia to enable localities to have a choice between providing new employees with the current defined benefit retirement plan or a new defined contribution retirement plan to be administered by VRS; and that the new defined contribution retirement plan should be fully portable. Other localities have begun offering this to their employees, and Virginia localities should be able to offer similar benefits. In addition, the financial issues faced by VRS are burdensome.

CITY OF VIRGINIA BEACH 2010 FUNDING ITEMS

The City Council of Virginia Beach recognizes the Commonwealth, as well as the City, are facing very difficult and trying fiscal realities. Nevertheless, the City Council is including these requests for funding to the Commonwealth for non-state agencies, as well as State responsibilities that are underfunded. Many of these requests are long standing, others are new; all merit funding by the Commonwealth when resources are available.

1. SUPPORT FOR INCREASED FUNDING FOR THE GOVERNOR’S OPPORTUNITY FUND

*Warren Harris
Department Director
Department of Economic Development*

Background Information:

The General Assembly has for many years had a line item in the budget appropriating funds for the Governor’s Opportunity Fund (GOF). This fund, also known as the “Deal-Closing” Fund, provides loans and grants to political subdivisions for economic development purposes. These can be used for public or private utility extensions, capacity development for on or off site railroad or other transportation costs, site acquisition, training, etc. The City of Virginia Beach has used the GOF over the last five years to leverage over \$237 million in new capital investment. This investment created over 2,392 high paying jobs. Over the years, this fund has continued to shrink, to less than \$15 million for the entire State of Virginia. As other states have created, and robustly funded similar programs, the Commonwealth of Virginia has continued to cut this program, thus handicapping our state’s economic development efforts.

Request:

The General Assembly is requested to increase, by at least 100%, the amount of funds appropriated to the Governor’s Opportunity Fund or “Deal-Closing” Fund. This will allow jurisdictions like Virginia Beach to leverage local and private dollars to facilitate economic development growth within the Commonwealth. Over the years the leveraging of these funds will generate significant new revenues for the Commonwealth.

2. FUNDING FOR THE VIRGINIA TOURISM CORPORATION

Jim Rickets
Department Director
Department of Convention and Visitors Bureau

Background Information:

The tourism industry plays an integral role in the Commonwealth's economy. Travelers spent \$18.7 billion, which generated \$1.2 billion in State and local tax revenue in 2007. This spending accounts for over 210,000 jobs in Virginia. The City of Virginia Beach is greatly concerned over recent discussions regarding the possible further reductions of the budget for the Virginia Tourism Corporation (VTC). The VTC budget has already decreased over the past five years where many of our direct competitor States have increased their marketing budget. Further budget cuts would have a serious negative impact on tourism and its related tax revenue. It's important to note that the general fund dollars devoted to VTC making those efforts unlike most other State expenditures since they generate a strong return on investment yielding a \$5.00 return for every dollar invested.

Request:

The City of Virginia Beach encourages the General Assembly to preserve and enhance, when possible, the Virginia Tourism Corporation's current budget and further develop a long-term sustainable funding source for their marketing budget in order to protect this vital industry.

3. CONTINUED FUNDING FOR BRAC EFFORT

James K. Spore
City Manager
City of Virginia Beach

Background Information:

The City of Virginia Beach and the Commonwealth of Virginia have been partnering to address the concerns raised by the Base Realignment and Closure Commission (BRAC) in 2005. As required by the BRAC Commission, this partnership has included cost-sharing of a \$15 million annual purchase of property in the Accident Potential Zones NAS Oceana. In the current biennium, the City has been successful in receiving a grant for \$7.5 million per year from the Virginia National Defense Industrial Authority through its Military Strategic Response Fund Appropriations. The General Assembly has appropriated substantial funds to this organization which is used to address BRAC issues.

The City will continue its effort of spending \$7.5 million per year and requests that the General Assembly continue provide a matching amount as required by the BRAC Commission. Our partnership to date has been recognized as a leading effort nationally to protect and preserve a major military asset.

Request:

Request that the General Assembly provide funds either directly to the City of Virginia Beach for the BRAC Compliance Plan in the amount of \$7.5 million per year over the biennium or to direct that those funds flow through the Military Strategic Response Fund of the Virginia National Defense Industrial Authority. Providing these funds will continue to send a strong message to the U.S. Navy that the Commonwealth and City of Virginia Beach are serious about preserving NAS Oceana and complying with the conditions imposed by the BRAC Commission.

APPENDIX: DRAFTS OF PROPOSED LEGISLATION – KEYED TO
REQUESTED CODE CHANGES

LEGISLATIVE ITEM 1
FOLLOWING TOO CLOSELY

Council Member Bill DeSteph

§46.2-816. Following too closely.

The driver of a motor vehicle shall not follow another motor vehicle, **bicycle**, trailer, or semitrailer more closely than is reasonable and prudent, having due regard to the speed of both vehicles and the traffic on, and conditions of, the highway at the time.

LEGISLATIVE ITEM 2
PASSING BICYCLES

Council Member Bill DeSteph

§46.2-839. Passing bicycle, electric personal assistive mobility device, electric power-assisted bicycle, moped, animal, or animal-drawn vehicle.

Any driver of any vehicle overtaking a bicycle, electric personal assistive mobility device, electric power-assisted bicycle, moped, animal, or animal-drawn vehicle proceeding in the same direction shall pass at a reasonable speed at least ~~two~~ **three** feet to the left of the overtaken bicycle, electric personal assistive mobility device, electric power-assisted bicycle, moped, animal, or animal-drawn vehicle and shall not again proceed to the right side of the highway until safely clear of such overtaken bicycle, electric personal assistive mobility device, electric power-assisted bicycle, moped, animal, or animal-drawn vehicle.

LEGISLATIVE ITEM 5**ADMISSIBILITY OF SOUND METER CALIBRATION CERTIFICATES**

*Chief A.M. Jacocks
Department of Police*

§ ____: Determining certificate as to accuracy of Sound Level Meter device.

The noise/sound that is generated may be determined by the use of a Sound Level Meter device. The results of such determinations shall be accepted as rebuttable evidence of the decibel measurement of the noise/sound in any court or legal proceeding where noise/sound is at issue.

In any court or legal proceeding in which any question arises about the calibration or accuracy of any Sound Level Meter decibel reading, a certificate, or a true copy thereof, executed and signed under oath by the inspector calibrating or testing such device as to its accuracy and stating the date of such test and results of such testing, shall be admissible when attested by one such inspector who executed and signed it as evidence of the facts therein stated and the results of such testing.

§2.2-1112. Standardization of materials, equipment and supplies.

So far as practicable, all materials, equipment and supplies, purchased by or for the officers, departments, agencies or institutions of the Commonwealth, shall be standardized by the Division, and no variation shall be allowed from any established standard without the written approval of the Division. The standard shall be determined upon the needs of all using agencies, so far as their needs are in common, and for groups of using agencies or single using agencies so far as their needs differ. When changes or alterations in equipment are necessary in order to permit the application of any standard, the changes and alterations shall be made as rapidly as possible.

The Division shall determine the proper equipment or electrical devices used to monitor the speed of any motor vehicle pursuant to §46.2-882 and shall so advise the respective law-enforcement officials. Police chiefs and sheriffs shall ensure that all such equipment and devices meet or exceed the standards established by the Division. This provision shall apply only to equipment and devices purchased on or after July 1, 1986.

The Division shall determine the proper equipment used to measure noise/sound pursuant to § ____ and shall so advise the respective law-enforcement officials. Police chiefs and sheriffs shall ensure that all such equipment and devices meet or exceed the standards established by the Division. This provision shall only apply to equipment and devices purchased on or after July 1, 1986.

LEGISLATIVE ITEM 6**AUTHORITY TO AMEND PHOTO-MONITORING SYSTEM PROCESSING**

*Chief A.M. Jacocks
Department of Police*

§15.2-968.1. Use of photo-monitoring systems to enforce traffic light signals (Note: Only Sections G and H are provided)

G. A summons for a violation of this section may be executed pursuant to §19.2-76.2. Notwithstanding the provisions of § 19.2-76, a summons for a violation of this section may be executed by mailing by first class mail a copy thereof to the owner, lessee, or renter of the vehicle. In the case of a vehicle owner, the copy shall be mailed to the address contained in the records of the Department of Motor Vehicles; in the case of a vehicle lessee or renter, the copy shall be mailed to the address contained in the records of the lessor or renter. Every such mailing shall include, in addition to the summons, a notice of (i) the summoned person's ability to rebut the presumption that he was the operator of the vehicle at the time of the alleged violation through the filing of an affidavit as provided in subsection D and (ii) instructions for filing such affidavit, including the address to which the affidavit is to be sent. If the summoned person fails to appear on the date of return set out in the summons mailed pursuant to this section, the summons shall be executed in the manner set out in §19.2-76.3. No proceedings for contempt or arrest of a person summoned by mailing shall be instituted for failure to appear on the return date of the summons. Any summons executed for a violation of this section shall provide to the person summoned at **least 60 30 business days** from the mailing of the summons to inspect information collected by a traffic light signal violation monitoring system in connection with the violation.

H. Information collected by a traffic light signal violation monitoring system installed and operated pursuant to subsection A shall be limited exclusively to that information that is necessary for the enforcement of traffic light violations. ~~On behalf of a locality, a private entity may not obtain records regarding the registered owners of vehicles that fail to comply with traffic light signals.~~ Notwithstanding any other provision of law, all photographs, microphotographs, electronic images, or other personal information collected by a traffic light signal violation monitoring system shall be used exclusively for enforcing traffic light violations and shall not (i) be open to the public; (ii) be sold or used for sales, solicitation, or marketing purposes; (iii) be disclosed to any other entity except as may be necessary for the enforcement of a traffic light violation or to a vehicle owner or operator as part of a challenge to the violation; or (iv) be used in a court in a pending action or proceeding unless the action or proceeding relates to a violation of §§46.2-833, 46.2-835, or 46.2-836 or requested upon order from a court of competent jurisdiction. Information collected under this section pertaining to a specific violation shall be purged and not retained later than 60 days after the collection of any civil penalties. If a locality does not execute a summons for a violation of this section within ~~10-15~~ business days, all information collected pertaining to that suspected violation shall be purged within two business days. Any locality operating a traffic light signal violation monitoring system shall annually certify compliance with this section and make all records pertaining to such system available for inspection and audit by the Commonwealth Transportation Commissioner or the Commissioner of the Department of

Motor Vehicles or his designee. Any person who discloses personal information in violation of the provisions of this subsection shall be subject to a civil penalty of \$1,000.

LEGISLATIVE ITEM 7

**AUTHORITY TO USE PHOTO-MONITORING SYSTEM INFORMATION FOR EMPLOYEE
DISCIPLINE PURPOSES**

*Chief A.M. Jacocks
Department of Police*

§15.2-968.1. Use of photo-monitoring systems to enforce traffic light signals

A. The governing body of any county, city, or town may provide by ordinance for the establishment of a traffic signal enforcement program imposing monetary liability on the operator of a motor vehicle for failure to comply with traffic light signals in such locality in accordance with the provisions of this section. Each such locality may install and operate traffic light signal photo-monitoring systems at no more than one intersection for every 10,000 residents within each county, city, or town at any one time, provided, however, that within planning District 8, each such locality may install and operate traffic light signal photo-monitoring systems at no more than 10 intersections, or at no more than one intersection for every 10,000 residents within each county, city, or town, whichever is greater, at any one time.

B. The operator of a vehicle shall be liable for a monetary penalty imposed pursuant to this section if such vehicle is found, as evidenced by information obtained from a traffic light signal violation monitoring system, to have failed to comply with a traffic light signal within such locality.

C. Proof of a violation of this section shall be evidenced by information obtained from a traffic light signal violation monitoring system authorized pursuant to this section. A certificate, sworn to or affirmed by a law-enforcement officer employed by a locality authorized to impose penalties pursuant to this section, or a facsimile thereof, based upon inspection of photographs, microphotographs, videotape, or other recorded images produced by a traffic light signal violation monitoring system, shall be prima facie evidence of the facts contained therein. Any photographs, microphotographs, videotape, or other recorded images evidencing such a violation shall be available for inspection in any proceeding to adjudicate the liability for such violation pursuant to an ordinance adopted pursuant to this section.

D. In the prosecution for a violation of any local ordinance adopted as provided in this section, prima facie evidence that the vehicle described in the summons issued pursuant to this section was operated in violation of such ordinance, together with proof that the defendant was at the time of such violation the owner, lessee, or renter of the vehicle, shall constitute in evidence a rebuttable presumption that such owner, lessee, or renter of the vehicle was the person who committed the violation. Such presumption shall be rebutted if the owner, lessee, or renter of the vehicle (i) files an affidavit by regular mail with the clerk of the general district court that he was not the operator of the vehicle at the time of the alleged violation or (ii) testifies in open court under oath that he was not the operator of the vehicle at the time of the alleged violation. Such presumption shall also be rebutted if a certified copy of a police report, showing that the vehicle had been reported to the police as

stolen prior to the time of the alleged violation of this section, is presented, prior to the return date established on the summons issued pursuant to this section, to the court adjudicating the alleged violation.

E. For purposes of this section, "owner" means the registered owner of such vehicle on record with the Department of Motor Vehicles. For purposes of this section, "traffic light signal violation monitoring system" means a vehicle sensor installed to work in conjunction with a traffic light that automatically produces two or more photographs, two or more microphotographs, video, or other recorded images of each vehicle at the time it is used or operated in violation of § [46.2-833](#), [46.2-835](#), or [46.2-836](#). For each such vehicle, at least one recorded image shall be of the vehicle before it has illegally entered the intersection, and at least one recorded image shall be of the same vehicle after it has illegally entered that intersection.

F. Imposition of a penalty pursuant to this section shall not be deemed a conviction as an operator and shall not be made part of the operating record of the person upon whom such liability is imposed, nor shall it be used for insurance purposes in the provision of motor vehicle insurance coverage. No monetary penalty imposed under this section shall exceed \$50, nor shall it include court costs.

G. A summons for a violation of this section may be executed pursuant to § [19.2-76.2](#). Notwithstanding the provisions of § [19.2-76](#), a summons for a violation of this section may be executed by mailing by first class mail a copy thereof to the owner, lessee, or renter of the vehicle. In the case of a vehicle owner, the copy shall be mailed to the address contained in the records of the Department of Motor Vehicles; in the case of a vehicle lessee or renter, the copy shall be mailed to the address contained in the records of the lessor or renter. Every such mailing shall include, in addition to the summons, a notice of (i) the summoned person's ability to rebut the presumption that he was the operator of the vehicle at the time of the alleged violation through the filing of an affidavit as provided in subsection D and (ii) instructions for filing such affidavit, including the address to which the affidavit is to be sent. If the summoned person fails to appear on the date of return set out in the summons mailed pursuant to this section, the summons shall be executed in the manner set out in § [19.2-76.3](#). No proceedings for contempt or arrest of a person summoned by mailing shall be instituted for failure to appear on the return date of the summons. Any summons executed for a violation of this section shall provide to the person summoned at least 60 business days from the mailing of the summons to inspect information collected by a traffic light signal violation monitoring system in connection with the violation.

H. Information collected by a traffic light signal violation monitoring system installed and operated pursuant to subsection A shall be limited exclusively to that information that is necessary for the enforcement of traffic light violations. On behalf of a locality, a private entity may not obtain records regarding the registered owners of vehicles that fail to comply with traffic light signals. Notwithstanding any other provision of law, all photographs, microphotographs, electronic images, or other personal information collected by a traffic light signal violation monitoring system shall be used exclusively for enforcing traffic light violations and shall not (i) be open to the public; (ii) be sold or used for sales, solicitation, or marketing purposes; (iii) be disclosed to any other entity except as may be necessary for the enforcement of a traffic light violation or to a vehicle owner or operator as part of a challenge

to the violation; or (iv) be used in a court in a pending action or proceeding unless the action or proceeding relates to a violation of § [46.2-833](#), [46.2-835](#), or [46.2-836](#) or requested upon order from a court of competent jurisdiction. Information collected under this section pertaining to a specific violation shall be purged and not retained later than 60 days after the collection of any civil penalties. If a locality does not execute a summons for a violation of this section within 10 business days, all information collected pertaining to that suspected violation shall be purged within two business days. Any locality operating a traffic light signal violation monitoring system shall annually certify compliance with this section and make all records pertaining to such system available for inspection and audit by the Commonwealth Transportation Commissioner or the Commissioner of the Department of Motor Vehicles or his designee. Any person who discloses personal information in violation of the provisions of this subsection shall be subject to a civil penalty of \$1,000.

I. A private entity may enter into an agreement with a locality to be compensated for providing the traffic light signal violation monitoring system or equipment, and all related support services, to include consulting, operations and administration. However, only a law-enforcement officer employed by a locality may swear to or affirm the certificate required by subsection C. No locality shall enter into an agreement for compensation based on the number of violations or monetary penalties imposed.

J. When selecting potential intersections for a traffic light signal violation monitoring system, a locality shall consider factors such as (i) the accident rate for the intersection, (ii) the rate of red light violations occurring at the intersection (number of violations per number of vehicles), (iii) the difficulty experienced by law-enforcement officers in patrol cars or on foot in apprehending violators, and (iv) the ability of law-enforcement officers to apprehend violators safely within a reasonable distance from the violation. Localities may consider the risk to pedestrians as a factor, if applicable. A locality shall submit a list of intersections to the Virginia Department of Transportation for final approval.

K. Before the implementation of a traffic light signal violation monitoring system at an intersection, the locality shall complete an engineering safety analysis that addresses signal timing and other location-specific safety features. The length of the yellow phase shall be established based on the recommended methodology of the Institute of Transportation Engineers. All traffic light signal violation monitoring systems shall provide a minimum 0.5-second grace period between the time the signal turns red and the time the first violation is recorded. If recommended by the engineering safety analysis, the locality shall make reasonable location-specific safety improvements, including signs and pavement markings.

L. Any locality that uses a traffic light signal violation monitoring system shall evaluate the system on a monthly basis to ensure all cameras and traffic signals are functioning properly. Evaluation results shall be made available to the public.

M. Any locality that uses a traffic light signal violation monitoring system to enforce traffic light signals shall place conspicuous signs within 500 feet of the intersection approach at which a traffic light signal violation monitoring system is used. There shall be a rebuttable presumption that such signs were in place at the time of the commission of the traffic light signal violation.

N. Prior to or coincident with the implementation or expansion of a traffic light signal violation monitoring system, a locality shall conduct a public awareness program, advising the public that the locality is implementing or expanding a traffic light signal violation monitoring system.

O. Notwithstanding the provisions of subsection H or any other provisions of this section, if a vehicle depicted in images recorded by a traffic light signal photo-monitoring system is owned, leased, or rented by a county, city, or town, then the county, city, or town may access and use the recorded images and associated information for employee disciplinary purposes.

LEGISLATIVE ITEM 8**CARRYING CONCEALED WEAPONS IN VEHICLES/BUTTERFLY KNIVES**

*Chief A.M. Jacocks
Department of Police*

§18.2-308. Personal protection; carrying concealed weapons; when lawful to carry.

A. If any person carries about his person, **or in his vehicle**, hidden from common observation, (i) any pistol, revolver, or other weapon designed or intended to propel a missile of any kind by action of an explosion of any combustible material; (ii) any dirk, bowie knife, switchblade knife, ballistic knife, **butterfly knife**, machete, razor, slingshot, spring stick, metal knucks, or blackjack; (iii) any flailing instrument consisting of two or more rigid parts connected in such a manner as to allow them to swing freely, which may be known as a nun chahka, nun chuck, nunchaku, shuriken, or fighting chain; (iv) any disc, of whatever configuration, having at least two points or pointed blades which is designed to be thrown or propelled and which may be known as a throwing star or oriental dart; or (v) any weapon of like kind as those enumerated in this subsection, he shall be guilty of a Class 1 misdemeanor. A second violation of this section or a conviction under this section subsequent to any conviction under any substantially similar ordinance of any county, city, or town shall be punishable as a Class 6 felony, and a third or subsequent such violation shall be punishable as a Class 5 felony. For the purpose of this section, a weapon shall be deemed to be hidden from common observation when it is observable but is of such deceptive appearance as to disguise the weapon's true nature. **This section shall not apply to any person who conceals a weapon from common observation by keeping the weapon in a locked container such that the weapon is completely hidden from view.**

LEGISLATIVE ITEM 9
DAILY PAWN REPORTS

Chief A.M. Jacocks
Department of Police

§ 54.1-4010. Daily reports.

Every pawnbroker shall prepare a daily report of all goods, articles or things pawned or pledged with him or sold to him that day and shall file such report by noon of the following day with the chief of police or other law-enforcement officer of the county, city or town where his business is conducted designated by the local attorney for the Commonwealth to receive it. The report shall include the pledgor's or seller's name, residence, and driver's license number or other form of identification, and a description of the goods, articles or other things pledged or sold and, unless maintained in electronic format, shall be in writing and clearly legible to any person inspecting it. A pawnbroker may compile and maintain the daily report in an electronic format and, if so maintained, shall file the required daily reports electronically with the appropriate law-enforcement officer through use of a disk, electronic transmission, or any other electronic means of reporting approved by the law-enforcement officer. Any ~~town with a population between 13,000 and 14,000~~ locality may by ordinance require a pawnbroker to maintain and file a daily report electronically through the use of a disk, electronic transmission, or any other electronic means of reporting approved by the law-enforcement officer.

The Department of State Police shall adopt regulations for the uniform reporting of information required by this section.

Any person, firm or corporation violating any of the provisions of this section shall be guilty of a Class 4 misdemeanor.

LEGISLATIVE ITEM 10

ISSUANCE OF A WARRANT IN A DUI CASE BY AN OFFICER BASED ON THE OBSERVATIONS OF THE ARRESTING OFFICER

Chief A.M. Jacocks
Department of Police

§19.2-81. Arrest without warrant authorized in certain cases. The following officers shall have the powers of arrest as provided in this section:

1. Members of the State Police force of the Commonwealth;
2. Sheriffs of the various counties and cities, and their deputies;
3. Members of any county police force or any duly constituted police force of any city or town of the Commonwealth;
4. The Commissioner, members and employees of the Marine Resources Commission granted the power of arrest pursuant to [§28.2-900](#);
5. Regular conservation police officers appointed pursuant to [§29.1-200](#);
6. United States Coast Guard and United States Coast Guard Reserve commissioned, warrant, and petty officers authorized under [§29.1-205](#) to make arrests;
7. The special policemen of the counties as provided by [§15.2-1737](#), provided such officers are in uniform, or displaying a badge of office; and
8. Conservation officers appointed pursuant to [§10.1-115](#).

Such officers may arrest, without a warrant, any person who commits any crime in the presence of the officer and any person whom he has reasonable grounds or probable cause to suspect of having committed a felony not in his presence.

Any such officer may arrest without a warrant any person whom the officer has probable cause to suspect of operating **in his presence either a vehicle while intoxicated in violation of 18.2-266, 18.2-266.1, 18.2-272, or 46.2-341.24; or** a watercraft or motor boat (i) while intoxicated in violation of subsection B of [§29.1-738](#) or (ii) in violation of an order issued pursuant to [§29.1-738.4](#); ~~in his presence, and~~ may thereafter transfer custody of the person suspected of the violation to another officer, who may obtain a warrant based upon statements made to him by the arresting officer.

Any such officer may, at the scene of any accident involving a motor vehicle, watercraft as defined in §[29.1-712](#) or motorboat, or at any hospital or medical facility to which any person involved in such accident has been transported, or in the apprehension of any person charged with the theft of any motor vehicle, on any of the highways or waters of the Commonwealth, upon reasonable grounds to believe, based upon personal investigation, including information obtained from eyewitnesses, that a crime has been committed by any person then and there present, apprehend such person without a warrant of arrest. In addition, such officer may, within three hours of the occurrence of any such accident involving a motor vehicle, arrest without a warrant at any location any person whom the officer has probable cause to suspect of driving or operating such motor vehicle while intoxicated in violation of §[18.2-266](#), [18.2-266.1](#), [46.2-341.24](#), [18.2-272](#), or a substantially similar ordinance of any county, city, or town in the Commonwealth.

LEGISLATIVE ITEM 11

PROCESSING PRIOR TO RELEASE ON RECOGNIZANCE BONDS

*Chief A.M. Jacocks
Department of Police*

§19.2-123. Release of accused on bond. (Note: Only Section 4 is provided)

4. Impose any other condition deemed reasonably necessary to assure appearance as required, and to assure his good behavior pending trial, including a condition requiring that the person return to custody after specified hours or be placed on home electronic incarceration pursuant to §53.1-131.2.

Upon **completion of processing required under this title and** satisfaction of the terms of recognizance, the accused shall be released forthwith.

In addition, where the accused is a resident of a state training center for the mentally retarded, the judicial officer may place the person in the custody of the director of the state facility, if the director agrees to accept custody. Such director is hereby authorized to take custody of such person and to maintain him at the training center prior to a trial or hearing under such circumstances as will reasonably assure the appearance of the accused for the trial or hearing.

LEGISLATIVE ITEM 12

CIVIL PENALTIES FOR VIOLATIONS OF SEWER USE/FATS, OILS AND GREASE (FOG)
ORDINANCES

Thomas M. Leahy, III
Department Director
Department of Public Utilities

§ 15.2-2122. Localities authorized to establish, etc., sewage disposal system; incidental powers.

(a) For the purpose of providing relief from pollution, and for the improvement of conditions affecting the public health, and in addition to other powers conferred by law, any locality shall have power and authority to:

1. Establish, construct, improve, enlarge, operate and maintain a sewage disposal system with all the necessary sewers, conduits, pipelines, pumping and ventilating stations, treatment plants and works, and other plants, structures, boats, conveyances and other real and personal property necessary for the operation of such system, subject to the approvals required by § [62.1-44.19](#).
2. Acquire as permitted by § [15.2-1800](#), real estate, or rights or easements therein, necessary or convenient for the establishment, enlargement, maintenance or operation of such sewage disposal system and the property, in whole or in part, of any private or public service corporation operating a sewage disposal system or chartered for the purpose of acquiring or operating such a system, including its lands, plants, works, buildings, machinery, pipes, mains and all appurtenances thereto and its contracts, easements, rights and franchises, including its franchise to be a corporation, and have the right to dispose of property so acquired no longer necessary for the use of such system. However, any locality condemning property hereunder shall rest under obligation to furnish sewage service, at appropriate rates, to the customers of any corporation whose property is condemned.
3. Borrow money for the purpose of establishing, constructing, improving and enlarging the sewage disposal system and to issue bonds therefor in the name of the locality.
4. Accept gifts or grants of real or personal property, money, material, labor or supplies for the establishment and operation of such sewage disposal system and make and perform such agreements or contracts as may be necessary or convenient in connection with the procuring or acceptance of such gifts or grants.
5. Enter on any lands, waters and premises for the purpose of making surveys, borings, soundings and examinations for constructing and operating the sewage disposal system, and for the prevention of pollution.
6. Enter into contracts with the United States of America, or any department or agency thereof, or any person, firm or corporation, or the governing body of any other locality, providing for or relating to the treatment and disposal of sewage and industrial wastes.

7. Fix, charge and collect fees or other charges for the use and services of the sewage disposal system; and, except in counties which are not otherwise authorized, require the connection of premises with facilities provided for sewage disposal services. Water and sewer connection fees established by any locality shall be fair and reasonable. Such fees shall be reviewed by the locality periodically and shall be adjusted, if necessary, to assure that they continue to be fair and reasonable. Nothing herein shall affect existing contracts with bondholders which are in conflict with any of the foregoing provisions.

8. Finance in whole or in part the cost of establishing, constructing, improving or enlarging the sewage disposal systems authorized to be established, constructed, improved or enlarged by this section, in advance of putting such systems in operation.

9. Fix, charge and collect fees and other charges for the use and services of sanitary, combined and storm water sewers operated and maintained by any locality. Such fees and charges may be fixed and collected in accordance with and subject to the provisions of § [15.2-2119](#).

(b) Any locality under an order of the Virginia Department of Environmental Quality issued pursuant to the authority of Section 62.1-44.15 (8A) shall, in addition to any other powers or authority conferred by this section or by any other general or special law, may adopt an ordinance establishing a uniform schedule of civil penalties for violations of specified provisions of ordinance governing the introduction of pollutants and wastes into the locality's public sewer system. The schedule of civil penalties shall be uniform for each type of specified violation, and the penalty for any one violation shall be a civil penalty of not more than \$100 for the initial summons and not more than \$150 for each additional summons. Each day during which the violation is found to have existed shall constitute a separate violation; provided, however, that a series of specified violations arising from the same operative set of facts shall not result in civil penalties exceeding a total of \$3,000. Such penalties shall be paid into the treasury of the locality for the purpose of abating, preventing or mitigating environmental pollution.

The locality's director of public utilities or his designee may issue a civil summons ticket for a scheduled violation. Any person summoned or issued a ticket for a scheduled violation may make an appearance in person or in writing by mail to the treasurer of the locality prior to the date fixed for trial in court. Any person so appearing may enter a waiver of trial, admit liability, and pay the civil penalty established for the offense charged.

If a person charged with a scheduled violation does not elect to enter a waiver of trial and admit liability, the violation shall be tried in the general district court in the same manner and with the same right of appeal as provided for by law. In any trial for a scheduled violation, the locality shall have the burden of proving by a preponderance of the evidence the liability of the alleged violator. An admission of liability or finding of liability under this section shall not be deemed an admission at a criminal proceeding.

No civil action authorized under this section shall proceed while a criminal action is pending.

LEGISLATIVE ITEM 18**OWNERSHIP OF STATE-OWNED BOTTOMLANDS AFTER PLACEMENT OF FILL**

Mark D. Stiles
City Attorney
City Attorney's Office

§28.2-1200.1. Conveyance of state-owned bottomlands.

A. In order to fulfill the Commonwealth's responsibility under Article XI of the Constitution of Virginia to conserve and protect public lands for the benefit of the people, the Commonwealth shall not convey fee simple title to state-owned bottomlands covered by waters. However, the Commonwealth may grant a lease, easement, or other limited interest in state-owned bottomlands covered by waters pursuant to [§28.2-1208](#) or as long as the property is used by a governmental entity for the performance of a governmental activity, as defined in §§[28.2-1300](#) and [28.2-1400](#).

B. The Commonwealth may convey fee simple title to specified parcels of state-owned bottomlands that have been lawfully filled. For the purpose of this section, "lawfully filled" means the deposit of fill was (i) authorized by statute, (ii) pursuant to valid court order, (iii) authorized or permitted by state officials pursuant to statutory authority subsequent to July 1, 1960, or (iv) under apparent color of authority prior to July 1, 1960. In the absence of information to the contrary, it may be presumed that state-owned bottomlands filled prior to July 1, 1960, were filled under apparent color of authority and, it may also be presumed, that all of the fill on the specified parcel was lawfully authorized if a substantial portion of the fill on such parcel was authorized. Properties not qualified under clauses (i) through (iv) of this subsection shall not be eligible for conveyance under this section. *Except as provided herein, no person or entity, including a governmental entity, shall acquire the fee simple title to any state-owned bottomlands that have been filled, nor shall the Commonwealth be divested of any title to or interest in any such bottomlands except by its express consent.*

C. Except as provided in subsection D, the grantee shall compensate the Commonwealth in an amount commensurate with the property interest being conveyed, which shall be considered equivalent to 25 percent of the assessed value of the specified parcel, exclusive of any buildings or other improvements. The assessed value shall be established as the average of the local real estate tax assessments for the most recent 10 years available for the specified parcel. If no such assessments are available for the specified parcel, then the assessed value shall be calculated as the percentage, by square footage or acreage, that the specified parcel represents of the larger parcel for which such assessments are available.

D. If the Commission determines that unique circumstances exist, the Commission may allow the grantee to compensate the Commonwealth in an amount less than 25 percent of the assessed value of the specified parcel. Any such determination by the Commission shall be justified in writing and shall not be subject to judicial review.

2. That the provisions of this act are declarative of existing law.

LEGISLATIVE ITEM 19**TECHNICAL AMENDMENT REGARDING VOTING REQUIRED FOR BOARD OF ZONING
APPEALS' ACTIONS**

*Mark D. Stiles
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City Attorney's Office*

§15.2-2312. Procedure to Perfect an Appeal.

The board shall fix a reasonable time for the hearing of an application or appeal, give public notice thereof as well as due notice to the parties in interest and make its decision within ninety days of the filing of the application or appeal. In exercising its powers the board may reverse or affirm, wholly or partly, or may modify, an order, requirement, decision or determination appealed from. The concurring vote of a majority-of ~~those present and voting the membership of the board~~ shall be necessary to reverse any order, requirement, decision or determination of an administrative officer or to decide in favor of the applicant on any matter upon which it is required to pass under the ordinance or to effect any variance from the ordinance. The board shall keep minutes of its proceedings and other official actions which shall be filed in the office of the board and shall be public records. The chairman of the board, or in his absence the acting chairman, may administer oaths and compel the attendance of witnesses.