

**Goochland County
2019 Legislative Agenda**

Priority Requests – County

1. Clarify “Capacity” of Public Facilities as used to Evaluate Proffer Submissions in Residential Rezoning Requests

Requested Action

Goochland County requests legislation to amend *Va. Code* § 15.2-2303.4: (a) to remove the words “to accept” and “or in part” from subsection (B) to reduce the exposure of localities to frivolous lawsuits and (b) to clarify that the term “capacity” in subsection (C) may include those approved residential rezoning cases that have not yet been built in order to more accurately assess the actual impacts of new residential development on public facilities. Currently, the statute limits the ability of developers to proffer cash for capital improvements only when the proposed development will result “*in excess of existing public facility capacity at the time of the rezoning.*” In order to address these issues, the County is requesting amendments to *Va. Code* § 15.2-2303.4.

(a) To reduce the risk of frivolous lawsuits against localities, the County proposes the following deletions from *Va. Code* § 15.2-2303.4(B):

(1) The County requests the removal of the words “to accept” in subsection (B)(i). This change would still prohibit localities from *requesting* unreasonable proffers, but would reduce the liability to localities that accept proffers voluntarily submitted with a rezoning case.

(2) The County also requests the removal of “or in part” from subsection (B)(ii) that prohibits localities from denying an application due to an applicant’s failure to submit an unreasonable proffer. Currently, the statute reads that a locality cannot deny an application “in whole or in part” because of the failure to submit an unreasonable proffer. Retaining only the “in whole” language will still provide a check on localities that engage in the prohibited behavior (requiring unreasonable proffers in exchange for the rezoning) without opening up all zoning decisions to lawsuits.

(b) To address the capacity issue in *Va. Code* § 15.2-2303.4(C), the County proposes the following amendment, otherwise known as Amendment Proposal #2 from the County’s Analysis of the Proffer Law and Amendment Proposals (with one alternative otherwise known as Amendment Proposal #3 from the analysis and proposal):

The County proposes adding a definition for “committed public facility capacity” that would compare the current functional capacity of public facilities (i) to the locality’s current population; (ii) anticipated future use by approved residential projects not yet constructed—limited to a maximum equivalent to the total number of certificates of occupancy issued for residential units within the previous five years; and (iii) projected impacts specifically attributable to the residential use that is the subject of the rezoning application.

The alternative simply removes “capacity” from subsection (C) entirely.

Background

In 2016, the General Assembly substantively changed, 1) what proffers may be submitted to and accepted by localities to offset some of the capital impacts caused by new residential development and 2) how any cash proffer amounts may be calculated. In order to comply with the requirements of that legislation, Goochland County invested significant staff time, effort, and money to develop a capital impacts model (“CIM”) to determine the specifically attributable impacts for each proposed rezoning containing new residential development. Through our analysis and creation of the CIM, it became abundantly and painfully clear that the current law (that does not account for previously-approved residential rezonings that are not completed), imposes a significant financial burden on our local taxpayers.

Under current law, localities and developers may only look at the then *current* capacity of public facilities (*e.g.*, open seats remaining in an elementary school) and may only consider the projected impact *the* proposed new development will have on the County’s public facilities (*e.g.*, whether the number of elementary students to be generated by the new development will exceed the number of open seats remaining in the elementary school). Then cash proffers are only permitted when the projected impact of the individual development exceeds the current capacity of the public facility at the time of the rezoning.

This means that when several rezoning applications are before the locality, all applications are evaluated using the *same* existing public facility capacity to compare with the projected impact of each development. These several applications may result in multiple projects that when considered in total *will require* capital improvements. But the locality and developers are not permitted to consider the total impact of all the applications before it and also may not consider approved, but yet to be completed developments. In the case where each project individually does not meet the minimum requirements to allow the locality to accept cash proffers for the improvements required when the projects are considered in total, the taxpayers alone will bear the cost of public facility improvements for the new residential development.

2. Expand Broadband

Requested Action

Goochland County supports the Commonwealth dedicating additional funding to the Virginia Telecommunication Initiative (VATI) for broadband expansion. We are supportive of efforts to make it feasible for broadband providers and localities to expand broadband service into unserved and underserved areas. The County also supports dedicating a portion of any revenue collected from remote sellers, as a result of the United States Supreme Court’s *South Dakota v. Wayfair, Inc.* ruling, to the existing Virginia Telecommunication Initiative (VATI) for broadband expansion. Further, Goochland County supports improvements to existing state law to make it easier for wireless communication companies to either use existing tall structures or build communication structures so long as localities ability to regulate land use is preserved. The County is not opposed to the adoption of new technology that will improve our citizens access to broadband internet. We are not opposed to additional towers within Goochland County.

Background

Goochland County is a unique and beautiful place that makes it very attractive to residents and businesses alike. However, without reliable internet access in large areas of the County, we miss out on commercial development opportunities, and home-based business opportunities,

and our families miss out on critical educational opportunities. The County continues to look into and seek opportunities to expand broadband throughout the County for the benefit of its residents and businesses.

3. Transportation of Sludge

Requested Action

Goochland County requests legislation, (1) regulating farm vehicles transporting fertilizers, chemicals, sewage sludge, and industrial sludge, including, requirements that adequate liability insurance be maintained by the operators of these vehicles and (2) allowing localities to impose limitations on times of the day and days of week when sewage and industrial sludge may be transported on roads in the County.

Background

Goochland County residents have expressed significant concerns regarding the safety of the above-referenced substances, especially as it relates to its transport through the County. There have been three accidents in the County since September 2015 by individuals transporting sewage sludge and industrial sludge to and through Goochland County. Regulations shall include the requirement that individuals transporting fertilizers, chemicals, sewage sludge and industrial sludge shall maintain adequate liability insurance coverage during transportation.

4. Reimbursement for the Compensation and Expense of the Electoral Board and the General Registrar

Requested Action

Goochland County requests legislation for the full compensation and expenses of the Electoral Board and the General Registrar.

Background

The Appropriations Act has previously reduced the funds available to localities for Financial Assistance for General Registrar Compensation (78001) and for Local Electoral Board Compensation and Expenses (78002).

5. Reimbursement for Political Party Primaries

Requested Action

Goochland County requests legislation to amend Section 24.2-518 and Section 24.2-545(F) of the Code of Virginia to require full compensation from political parties for primary elections conducted by localities at the direction of the Commonwealth.

Background

Currently, Section 24.2-518 of the Code of Virginia requires localities to pay the costs of political party primaries, with the exception of presidential primaries. In the past seventeen (17) years [2001-2018] Goochland County has been required to hold thirteen (13) primaries not including presidential primaries. The average cost to the County of conducting a primary in recent years has been \$26,000. This expense should be borne by the political parties.

Priority Requests – Schools

1. Amend the Standards of Quality (SOQ) to include dedicated funding for mental health student support positions and school security personnel

Currently funding for mental health professionals like social workers and school psychologists is included in funding for “Student Support Positions” that includes other positions related to truancy, homebound instruction, etc. Funding for security personnel is included in “Operation and Maintenance Positions”. The Standards of Quality do not reflect the current needs of school divisions. They are archaic standards that have not kept pace with the needs of students today. It is our belief that the Standards of Quality need to be amended to include specific funding for mental health professionals and school security personnel at a rate that is commensurate with the current needs of our Commonwealth’s school divisions.

2. Adjust the funding formula for Regional Governor’s Schools to accommodate the needs of full-day programs

Currently, full day Governor’s Schools programs like the one at Maggie L. Walker are funded using the same mechanism as are partial day programs. Full day programs require greater funding needs from an administrative, maintenance, operations, security, and programmatic standpoint. However, the nature of the full day program is not accounted for in budget appropriations. It is our belief that the needs of full day programs should be accounted for in future appropriations for the Commonwealth’s Regional Governor’s Schools.

3. Eliminate the requirement for school to begin after Labor Day

The School Board seeks legislation to amend *Va. Code* § 22.1-79.1 to allow local school boards to be responsible for determining the opening day of school. Even though Goochland receives this waiver now, we could face the potential for losing our waiver in the future and the current schedule is better for our community. We believe that the tourism industry could see as much financial gain in the first two weeks of June as they see in the final two weeks of August.

4. Support any Legislation that moves the state closer to fully funding the Standards of Quality (SOQ)

The School Board believes that the cap on support positions nearly 10 years ago has prevented necessary state funding. The School Board believes the state should begin funding critical positions not covered in the Standards of Quality (SOQ), such as reading specialists, math specialists, and elementary assistant principals.

5. Oppose any legislation that requires a redistribution of local dollars when establishing State-Wide virtual schools/programs

The School Board requests that the General Assembly oppose any legislation that requires a redistribution of local dollars when establishing state-wide virtual schools/programs.

Even when considering the bills proposed last year, we would also encourage the General Assembly to require residents to enroll in high quality local virtual schools when the programs are comparable or better than the state program. Local school divisions frequently have to support these students with their enrollments and process in the course, the state

funding is necessary to manage this process; otherwise, local dollars are inherently going to support this state program.

6. Oppose any bill that creates Parental Choice Educational Savings Accounts

The School Board believes that these accounts would be considered unconstitutional under Article VIII, Section 10 of the Constitution of Virginia.

7. Oppose any bill that would allow the Board of Education to establish regional charter school divisions that would be governed by a separate board appointed by the Board of Education.

8. Initiate legislation that would require local school divisions to report both a letter grade and a specific numerical values earned by students on all official transcripts.

Divisions across the Commonwealth struggle with the idea of 10-point grading scales to best serve their students in applying for post-secondary schools. Reporting of numerical grade values removes the need to “normalize” grading scales and provides more exact data for post-secondary applicants.

2019 County Policy Positions

- ✓ **Support** amendments to the provisions of the Code of Virginia regarding the acceptance of proffers in residential rezonings to (1) clarify that localities can accept proffers reasonably calculated to mitigate the pro-rated impact of new development on existing public capital facilities, (2) remove provisions related to the award of attorneys' fees, (3) remove "or in part" language related to decision making.
- ✓ **Support** the presumption that County assessments (or as adjusted by the Board of Equalization) are correct and the preservation of the "manifest error" evidentiary requirement for assessment appeals.
- ✓ **Support** eliminating or significantly restructuring the Certificate of Public Need (COPN) process which is currently extremely lengthy and costly. The desired outcome of the COPN can be achieved more easily, leaving the medical industry to focus on health care and access rather than battling each other over advances in these areas.
- ✓ **Support** recommendations and efforts resulting from the Joint Legislative Audit and Review Commission (JLARC) study of Industrial Residuals & Biosolids outlined in HJ 120 passed by the General Assembly during the 2016 Session.
- ✓ **Oppose** any legislation amending Department of Professional and Occupational Regulation specifically pertaining to regulation of land surveyor photogrammetrists and local geographic information system (GIS) staff.
- ✓ **Oppose** any legislation requiring the recording and keeping of written or audio minutes of a closed meeting of a public body for discussions of delicate topics specifically identified and authorized by Virginia law. Requiring such a record would negate the very purpose for authorizing closed meetings on such sensitive matters.
- ✓ **Oppose** any legislation eliminating the sum sufficiency of the state's share of funding for private educational day placements for children with disabilities receiving services through the Children's Services Act (CSA); or any effort to reallocate special education funding through a new formula that would shift costs onto local governments.
- ✓ **Support** Regional County Transportation Priorities – Smart Scale Projects
 - 288 @ Broad Street (Rt. 250) – Intersection Improvements & Signals, North & South
 - I-64 & Ashland Rd (Rt. 623) – Traffic Signal
 - Tuckahoe Creek Parkway Bridge – bridge connecting to Ridgefield Parkway (Henrico)
- ✓ **Support** granting counties equal taxing authority to that of cities and towns.
- ✓ **Support** the requirement that bills with a local fiscal impact must be introduced by the first day of the General Assembly session.
- ✓ **Oppose** any financial policies or regulations that harm or impose burdens upon localities.
- ✓ **Support** the full funding of education for localities and public schools.

- ✓ **Support** the prohibition of new unfunded mandates and the implementation of a “Sunset Clause” on existing unfunded mandates imposed upon localities.
- ✓ **Support** any legislation that enhances or strengthens the Commonwealth’s ranking for doing business in Virginia.
- ✓ **Support** funding and upgrades to critical state software that local government offices and agencies rely on and interact for day-to-day business (*e.g.*, Medicaid Cases – Social Services, State Electoral Board).
- ✓ **Support** the utilization of a portion of any new revenues collected from remote sellers, as a result of the United States Supreme Court’s *South Dakota v. Wayfair, Inc.* ruling, to benefit localities and citizens, particularly in the areas of education and broadband expansion.

2019 County Advocacy Positions

Regional County Transportation Priorities

Goochland County is advocating to move up funding and completion of the County's regional transportation priorities funded through Virginia Department of Transportation's (VDOT) "Smart Scale" process. The two (2) high priority projects are planned for major intersection access points to Route 288/Route 250 and I-64.

1. UPC #109315 – Rte. 288/Rte. 250 Interchange

Intersection of NB Route 288 on/off ramps with Broad Street Rd.:

- i. Install traffic signal
- ii. Add 2nd lane on NB Route 288 to EB Broad Street Rd. off-ramp, with new traffic signal
- iii. Construct 2nd WB left-turn lane onto Broad Street Rd.
- iv. Widen south leg of intersection onto ramp

Project Cost: \$4,270,000

Start Development: 10/17/16 – Determine Requirements: 9/11/17

Start Delivery: 11/19/20 – Complete Delivery: ????

2. UPC #109313 – I-64 Ramp Signalization at Ashland Road (Rte. 623)

Install 1 Traffic Signal at Route 623 (Ashland Road) for Eastbound on/off ramps

Project Cost: \$766,837

Start Development: 10/03/16 – Determine Requirements: 12/31/19

Start Delivery: 03/21/23 – Complete Delivery: ????

These major intersection access points are highly traveled by citizens from throughout the Richmond Region; heading to and from work, on their way to go shopping, or simply passing through the region. The locations are experiencing traffic accidents on an increasing basis; in the case of the Route 288/Route 250 Interchange, over two dozen accidents have occurred since 2015 in this area alone.

It is imperative that funding for completion of these projects be moved up earlier in the Six-Year Improvement Program.

Approved by the Goochland County Board of Supervisors – November 7, 2018