



Date of Council Meeting: February 8, 2016

**TOWN OF LEESBURG
TOWN COUNCIL WORK SESSION**

Information Memo

Subject: Update on 2016 Legislative Agenda

Staff Contacts: Keith Markel, Deputy Town Manager
Betsy Arnett, Public Information Officer
Tom Mason, Assistant Town Manager
Barbara Notar, Town Attorney

Council Action Requested: None

Staff Recommendation: Not Applicable

Commission Recommendation: Not Applicable

Fiscal Impact: Not Applicable

Executive Summary: The 60 Day 2016 Virginia General Assembly Session convened Wednesday, January 13 and is anticipated to conclude on March 12, 2016. VML Day at the Capitol was held on Wednesday, January 27, 2016. Council Members Martinez and Hammler attended the event, along with Assistant Town Manager Tom Mason and Town Attorney Barbara Notar.

Senator Wexton and Delegate Minchew have both introduced legislation based on items in the Town's Legislative Agenda. Below is a brief synopsis of several bills that were introduced by Senator Wexton and Delegate Minchew on the Town's behalf along with several other pieces of legislation that reflect items in the Town's legislative agenda or may have an impact on the Town's policies and procedures.

- **City Charter Moratorium:** Delegate Minchew's bill HB 192 that would have provided an exception to the current moratorium on the granting of new city charters to Town's over 40,000 in population was tabled by the House Counties, Cities, and Towns Committee after it was passed by Subcommittee #1 on a 6-5 vote. This bill was strongly opposed by Loudoun County.
- **Trespassing with Unmanned Aircraft:** Delegate Minchew's HB 538 bill dealing with trespassing issues of unmanned aircraft was laid on the table by the Criminal Law Subcommittee of the Courts of Justice Committee. This bill would have allowed localities to prohibit the use of unmanned aircraft to trespass upon the property of others.
- **Fines and Fees:** Delegate Minchew's HB 537 would direct the Clerk of the Circuit Court to pay all local fines and fees collected by the general district or

juvenile and domestic relations district courts directly to the local government. This bill has received unanimous support from the House Committee for Courts of Justice and its subcommittees. The bill was unanimously approved by the full House on February 2.

- **Proffers:** Two bills (SB 549; HB 770) were introduced to the General Assembly at the request of Home Builders Association of Virginia (HBAV). A group on behalf of VACo, VML, Planners Association and High Growth Localities met with HBAV and coordinated a local government effort to develop an alternative proposal. There are six issues addressed in the proposal. They are: (1) limitations on categories of public facilities for off-site proffers; (2) required nexus between new residential and development and proffer; (3) credits or offsets; (4) proffer limitations on building materials and finishes; (5) developer remedy for locality violating law; and (6) impact on existing proffer agreements. The local government alternative proposal included the following:
 - (1) limitations to libraries, parks, stormwater and water/wastewater, along with the already-proposed public safety, roads and K-12
 - (2) changed the proposed nexus (between new residential development and proffer) of “specifically and uniquely attributable” to “directly attributable”
 - (3) changed from no credits or offsets to allowing credits/offsets against proffers for affordable housing, senior housing, development densities, energy efficiency and water conservation
 - (4) limited to historic, economic development/revitalization districts, noise attenuation (airport or proximity to industry), flood zones
 - (5) current law and attorney’s fees/costs at court’s discretion, and 90 day remand for reconsideration by local governing body
 - (6) prospective only; would not disrupt existing agreements or developments.

Currently, the amended bill is headed to a vote by the full House of Delegates this week. If it passes the House, it still faces the Senate.

- **Vultures:** Senate Bill 37 seeks to add a section – 29.1-502.1 – to the Virginia Code. The proposed bill seeks to exempt the black vulture from its current protection by the Virginia Department of Game and Inland Fisheries. It also would prohibit the department from using any state resources to enforce federal rules that protect the black vulture. Finally, it would permit the Department of Game and Inland Fisheries to kill black vultures, as permitted by the U.S. Department of the Interior, Fish and Wildlife Service, and support the issuance of a permit in the Commonwealth, among other things. Essentially, this bill could allow farmers to obtain a permit in order to legally kill vultures that damage their livestock. The Senate voted 39-1 in favor of the bill; it will now go to the House of Delegates for consideration.
- **Predatory Lending:** A bill to tighten rules for high interest rates, such as payday loans and car title loans, by capping both interest and fees at 36 percent, was rejected in the House of Delegates last week. Two of the largest title lenders in Northern Virginia (names are undisclosed) said they would promise to stop their

business practices which provide consumers with fewer protections and higher interest rates. This conversation was had with Senate Minority Leader Dick Saslaw, D-Springfield.

- **Tree Conservation:** Senator Wexton's SB 80 would have expanded the number of localities that could adopt an ordinance for tree conservation. Leesburg already qualified for (and has in its Town Code) ordinance language for the preservation of trees. This bill would not have strengthened any of the existing controls. The bill was withdrawn by Senator Wexton once it reached the Committee on Local Government.
- **AirBnB:** House Bill 812 and Senate Bill 416 establish the Limited Residential Lodging Act, under Title 55 of the Virginia Code (adding Chapter 13.4, consisting of sections 248.53 through 248.57) that allows property owners to rent out their homes or portions of their homes for charge for periods of less than 30 consecutive days, or do so through a hosting platform (i.e., AirBnb). The hosting platform may register with the Department of Taxation, in which case the hosting platform is responsible for the collection and remittance of all applicable taxes on behalf of the property owner.

Senate Bill 416 is in the Senate Finance Committee, and House Bill 812 was passed on second reading; it will now be eligible for a final vote. Significant concerns from VML and VACo are:

- (1) The ability of local governments to collect taxes. The bills, as they stand, place the receipt of taxes in the hands of the State Department of Taxation. VML and VACo propose that hosting platforms follow the same process as hotels, motels and BnBs, by remitting sales taxes directly to the state and transient occupancy taxes to localities, or information provided to the Department of Taxation be provided to local finance directors/commissioners of revenue with the same confidentiality protections.
- (2) The ability of local governments to pass ordinances to regulate limited residential lodging. The bills exclude the provision of any registration information, including the name and address of the limited residential lodging operator. VML and VACo propose that the Department of Taxation be authorized to share the "anonymous numbered account basis" with local finance directors/commissioners of revenue. Another concern is the need for a mechanism for the local zoning officials to be aware of the addresses so they can enforce zoning regulations.
- (3) The ability of local governments to prohibit landowners and certain apartment dwellers from engaging in limited rental activities. The bills seem to give home owners and condo associations more rights than the locality, and there is no mechanism for determining whether or not the residence is the person's primary residence. VML and VACo propose to amend the bill to:
 - a. Declare that limited residential lodging is a legal activity,
 - b. That residential lodging operators must comply with local ordinances, and
 - c. That limited residential lodging operators must register with their localities if required by ordinance

- **Dam Safety Funding:** Senator Wexton's SB 698 would expand the authorization of the Director of the Department of Conservation and Recreation to disburse money from the Dam Safety fund to now include homeowners' associations and planned unit developments. The bill was unanimously supported by the Committee on Agriculture, Conservation and Natural Resources and has been referred to the Finance Committee for further consideration.
- **Newspaper Advertising:** Senator Wexton's SB 371 would have allowed town's within Fairfax, Loudoun, and Prince William County to advertise their town's legal notices on their locality's website if it did not have a newspaper of general circulation located within its boundary. This bill was withdrawn by Senator Wexton once it reached the Committee on Local Government.

Staff is able to provide additional information should the Council wish to discuss these items further.