



Date of Council Meeting: April 25, 2016

**TOWN OF LEESBURG
TOWN COUNCIL WORK SESSION**

Subject: 2016 Legislative Agenda Final Report

Staff Contact: Barbara Notar, Town Attorney

Council Action Requested: None. Information only.

Staff Recommendation: Not applicable.

Commission Recommendation: Not applicable.

Fiscal Impact: The fiscal impact of the bills passed by the General Assembly in 2016 has not yet been determined.

Work Plan Impact: Not yet been determined.

Executive Summary: Each year at this time, Council is briefed on bills passed by the year's General Assembly Session which may pertain to the Council's Legislative Agenda and Position Statement, and those which may affect the Town.

Background: Below is a breakdown of the Town's Legislative Agenda issues, Town's Position Statement issues and bills affecting the Town:

Town's Legislative Agenda

City Status: Despite efforts to provide an exception to the moratorium on new city charters which was tabled by the House Counties, Cities and Towns Committee, separate bills (SB 309 and HB 945) extends the current moratorium on city annexations and county immunity actions by six (6) years to 2024. The Commission on Local Government (CLG) is directed to evaluate the structure of cities and counties in the Commonwealth and the impact of annexation upon localities, and to consider alternatives to the current moratorium. The CLG must issue its findings and recommended policy changes to the General Assembly no later than December 1, 2018.

Dam Safety: This bill, entitled "Dam Safety, Flood Prevention and Protection Assistance Fund", was an attempt to allow private landowners to apply for grants for the retrofitting and construction of high hazard dams in addition to the design of these dams. The bill was continued to 2017. Additionally, a budget request to increase the funding for dam construction was rejected by the General Assembly.

Drones: HB 412, to become effective on July 1, 2016, added Virginia Code §15.2-926.3 stating “No locality may regulate the use of privately owned, unmanned aircraft system as defined in § 19.2-60.1 within its boundaries.” The provisions will expire on July 1, 2019.

Fines and Fees: HB 537 directs the Clerk of the Circuit Court to pay local fees and fines collected by the General District or Juvenile and Domestic Relations District Courts directly to the local government. HB 30, which is pending, is the budget bill. The Virginia Sheriff’s Association supports the Governor’s amendment (#29), which removes the fine and fee language related to deposit of local fines and fees from HB 30, because without the removal of such language, localities will lose revenue to enforce local programs that boost and improve public safety.

Bicyclist Safety (“Dooring”): Adds § 46.2-818.1. Opening and closing motor vehicle doors; penalty. No operator shall open the door of a parked motor vehicle on the side adjacent to moving vehicular traffic unless it is reasonably safe to do so. A violation of this section shall constitute a traffic infraction punishable by a fine of not more than \$50. No demerit points shall be awarded by the Commissioner for a violation of this section. The provisions of this section shall not apply to any law-enforcement officer, firefighter, or emergency medical services personnel engaged in the performance of his duties.

Tree Save: SB 80, which would authorize any locality in Planning District 8 to adopt certain ordinances providing for the conservation of trees during the land development process was stricken in January 2016 at the request of the Patron.

Line of Duty Act: HB 1345 transfers overall administration of the Act to the Virginia Retirement System and the Department of Human Resource Management and creating the Line of Duty Health Benefits Plan, a separate health benefits plan for beneficiaries under the Act. The bill has a delayed effective date of July 1, 2017.

Advertisement of Legal Notices: SB 251/HB 956/HB 286 attempted to allow towns with populations over 50,000 to advertise on the localities websites and towns within the counties of Fairfax, Loudoun and Prince William that does not have a newspaper of general circulation located within its boundary to be published on the locality’s website. All bills were unsuccessful.

Town’s Position Statement

Predatory Lending: Bills to cap the maximum interest rate that a licensed consumer finance company can charge on any loan at 36 percent annually failed in the Senate’s Commerce and Labor Committee.

Proffers: SB 549 amends the Code of Virginia by adding § 15.2-2303.4 which provides that no locality shall (i) request or accept any unreasonable proffer in connection with a

rezoning or a proffer condition amendment as a condition of approval of a new residential development or new residential use or (ii) deny any rezoning application, including an application for amendment to an existing proffer, for a new residential development or new residential use where such denial is based on an applicant's failure or refusal to submit, or remain subject to, an unreasonable proffer. A proffer shall be deemed unreasonable unless it addresses an impact that is specifically attributable to a proposed new residential development or other new residential use applied for. An offsite proffer shall be deemed unreasonable pursuant to the above unless it addresses an impact to an off-site public facility such that (a) the new residential development or new residential use creates a need, or an identifiable portion of a need, for one or more public facility improvements in excess of existing public facility capacity at the time of the rezoning or proffer condition amendment and (b) each such new residential development or new residential use applied for receives a direct and material benefit from a proffer made with respect to any such public facility improvements. In any action in which a locality has denied a rezoning or an amendment to an existing proffer and the aggrieved applicant proves by a preponderance of the evidence that it refused or failed to submit, or remain subject to, an unreasonable proffer that it has proven was suggested, requested, or required, formally or informally, by the locality, the court shall presume, absent clear and convincing evidence to the contrary, that such refusal or failure was the controlling basis for the denial.

Bills affecting the Town

"AirBnB": SB 416 establishes the "Limited Residential Lodging Act" allows persons to rent out their primary residences or portions thereof for charge for period of less than 30 consecutive days or do so through a hosting platform. Localities are preempted from adopting ordinances or zoning restrictions prohibiting these short-term rentals, but are authorized to: (1) adopt ordinances requiring persons renting their primary residences to have a minimum of \$500,000 of liability insurance; and (2) prohibit persons from renting their residences if they fail to pay applicable taxes; and (3) require persons renting their primary residences to register with the locality. Hosting platforms must register with the Department of Taxation to collect and remit all applicable taxes on behalf of the property owner using the hosting platform. A work group is to be convened by the Housing Commission to further study the issues presented in the bill and make recommendations for consideration by the 2017 General Assembly.

Non-Partisan Elections: SB 767, which would have provided that, except where the provisions of a local charter provide to the contrary, any candidate nominated by a political party or at a primary election shall be identified on the ballot by the name of his political party, was vetoed by the Governor.



Town of Leesburg 2016 Legislative Agenda

FINAL

1 *(Issues are not arranged in priority order)*
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3 **A. Restoration of HB 599 Law Enforcement Assistance Funding**

4 The Town Council requests the General Assembly fully restore HB 599 Law Enforcement
5 Assistance Funding to funding levels per the established formulas. The Town has lost
6 approximately \$171,000 each year since 2009 in reduced funding from the state.

7 **B. Revision of the Local Fines & Fees Distribution**

8 The Town Council requests a revision of the local fines and fees distribution that allows
9 localities to retain all fines and fees resulting from citations issued by local law enforcement
10 officers.

11 **C. City Status**

12 The Town Council requests amendment of State Code Section 15.2-3201 and Section 15.2-3800
13 to eliminate restrictions on the granting of city charters to towns with populations more than
14 40,000.

15 **D. Private Unmanned Aircraft – Drones**

16 The Town Council requests the expansion of the criminal trespassing statutes to prohibit the
17 unauthorized entry of private drones upon the property of another.

18 **E. Business, Professional and Occupational License (BPOL) Taxes**

19 The Town Council opposes legislation that would eliminate the BPOL tax, unless current
20 revenue from the BPOL tax is replaced with new local revenue that is distributed directly to each
21 locality based on point of sale. Further, the Town Council requests that if the BPOL tax is
22 eliminated, localities be granted the authority to issue an annual license to businesses physically
23 located within the locality for a nominal fee.

24 **F. Water Quality Funding**

25 The Town Council urges the federal government and the Commonwealth of Virginia to provide
26 adequate funding for capital improvements for sewage treatment plants, Total Maximum Daily
27 Loads (TMDLs) requirements, MS-4 Permits, and other stormwater systems.

28 **G. Tree Save Efforts**

29 The Town Council requests amendments to Virginia Code Section 15.2-961.1 that would
30 strengthen localities' ability to require private new construction projects to save existing trees.

31 **H. Bills of Financial Impact to the Town**

32 Reinstating the requirement that bills resulting in a net expenditure and/or net decrease in revenue
33 for local governments be filed on or before the first day the legislature convenes.

34 **I. Procurement**

35 Supports the Virginia Association of Government Purchasing's position to re-establish
36 authority for cooperative purchasing for construction contracts under \$200,000.

37

38 **J. Advertisement of legal notices on web sites.**

39 The Town Council supports legislation that would allow towns located in Fairfax, Loudoun, and
40 Prince William Counties to advertise legal notices on the locality's website instead of the public
41 notice section of the newspaper.

42 *Recommended Text:*

43 § 15.2-107.1 In addition to any requirements that a locality advertise legal notices in a newspaper
44 having a general circulation in the locality, such notices may also be published on the locality's
45 ~~World Wide Web site.~~website. *However notwithstanding any other provision of law, general or*
46 *special, in any town within the counties of Fairfax, Loudoun and Prince William legal notices*
47 *may be published on the locality's website instead of in a newspaper having general circulation*
48 *in the locality.*

49 **K. Bicyclist Safety("Dooring")**

50 The Town Council supports legislation that would require drivers and passengers of vehicles to
51 look for oncoming cyclists before opening vehicle doors and supports treating a violation of this
52 requirement as a traffic infraction.

53 **L. Dam Safety Funding and Regulations**

54 The Town Council urges the federal government and the Commonwealth of Virginia to provide
55 adequate funding for high hazard dam inspection, maintenance, and reconstruction.

56 **M. Chesapeake Bay TMDL and State Water Quality Management Planning Regulation**

57 The Town Council supports the Virginia Municipal Wastewater Association's position opposing
58 revision of existing nutrient allocation of dischargers (local governments, authorities and
59 industrial facilities) for the purpose of transferring allocation to new facilities.



Town of Leesburg

2016 Legislative Positions Statement

GENERAL POSITIONS

(Issues are not arranged in priority order)

A. Oppose any reduction of local taxing authority

The Town Council opposes any reduction or narrowing of the taxing authority of local governments, including but not limited to business license tax, machinery & tools tax and meals tax. Further, the General Assembly should take no action to restrict the use of current local revenue sources.

B. Oppose any reduction of local land use authority

The Town Council opposes legislation that weakens local authority to plan and regulate land use, zoning and property maintenance. This authority should remain with local governing bodies.

The Town Council generally supports the granting of additional land use, zoning and property maintenance authority to localities, especially in areas experiencing high rates of sustained growth, and as a means to address the fiscal burdens experienced by localities in providing needed public services to local residents.

C. Oppose any unfunded mandates

The Town Council opposes any new state mandates that are not fully funded by the Commonwealth, and opposes the shifting of fiscal responsibility from the state to localities for existing programs.

D. Support revenue sharing with state

The Town Council supports any state revenue sharing formula to assist local governments with public infrastructure needs, so long as the formula includes recognition of the needs in high growth localities.

POSITIONS ON SPECIFIC ISSUES

(Issues are not arranged in priority order)

E. Transportation Funding

i The Town Council supports state policy changes to reduce state oversight of locally administered transportation projects. Such oversight is duplicative, cumbersome, and inefficient, and results in unnecessary delays and costs. Periodic state audits of locally administered projects would be more efficient and better policy than constant, day to day oversight.

ii The Town Council supports state policy changes to mandate further refinement of VDOT cost estimates for transportation projects in an effort to improve accuracy and thus reduce time lost due to the accumulation of unnecessary excess funds. In those circumstances when excess funds are unavoidable, allow those funds to be allocated to other projects more efficiently.

37 iii Construction of Grade-Separated Interchanges

38 The Town Council requests dedicated funding for the construction of grade-separated
39 interchanges to replace the current at-grade signalized intersections in the following
40 locations:

- 41 (a) Edwards Ferry Road at the Route 15 Bypass, incorporating the intersection of Fort
42 Evans Road and the Route 15 Bypass, as well as facilities that will allow safe
43 pedestrian passage across the Bypass

44 *Status:* Interchange Justification Report (IJR) underway. This VDOT managed
45 project has \$2 million in NVTA funds allocated for study and design work.

- 46 (b) Battlefield Parkway at Route 7 (East Market Street)

47 *Status:* NVTA and VDOT agreement complete. \$13 million in NVTA funds secured.
48 County and Town have requested \$37 million in 2017 NVTA Funds

- 49 (c) Battlefield Parkway at the Route 15 Bypass

50 *Status:* Town has applied for \$50 million in HB-2 funding from VDOT. IJR has not
51 been funded

52 **F. Transient Occupancy Tax**

53 The Commonwealth should not allow online travel companies to avoid paying the full transient
54 occupancy tax and the Town Council supports legislation to clarify this in the state code.

55 **G. Civil Zoning Fines**

56 The Town Council supports legislation that grants localities the authority to collect unpaid and
57 delinquent civil zoning fines in the same manner as real estate taxes and levies are collected.

58 **H. Conditional Zoning (Cash and In-Kind Proffers)**

59 The Town Council supports existing local authority to accept cash and in-kind proffers from
60 developers to assist localities in financing the capital facilities and infrastructure needed to serve
61 new development and opposes legislation to eliminate or restrict that authority.

62 **I. Local Authority to Prohibit Firearms on Public Property**

63 The Town Council supports legislation that authorizes localities to adopt ordinances that prohibit
64 firearms and ammunition on property owned or leased by the locality.

65 **J. Prohibit Predatory Lending Practices (Council Resolution, July 13, 2010)**

66 The Town Council supports legislation that prohibits all predatory, usurious lending practices,
67 including but not limited to provisions that would:

- 68 i. Impose an interest rate cap of eighteen percent (18%) above the prime lending rate,
69 calculated as an effective annual percentage rate including all fees or charges of any kind, for
70 any consumer credit extended in the Commonwealth of Virginia;
- 71 ii. Incorporate into the Virginia Code the protections regarding consumer credit to military
72 personnel as reflected in the Military Lending Act, 10 United States Code, Section 987.

73 **K. Utility Rates & Connection Fees**

74 The Town Council supports the existing authority of localities or locally created authorities to
75 impose utility rates and connection fees adequate to support the full cost of water, wastewater
76 and stormwater utility systems, and opposes any legislation that would limit that authority.

77 **L. Higher Education Presence in Leesburg**

78 The Town Council requests funding for a state-supported higher education presence in the Town
79 of Leesburg.

80 **M. Independent Consumer Advocate for Transmission Line Issues**

81 The Town Council supports legislation that creates an independent office of the consumer
82 advocate within State government to actively participate in transmission lines issues before the
83 State Corporation Commission.

84 **N. Enforcement of Recycling Regulations**

85 The Town Council supports legislation that grants localities the authority to enforce compliance
86 with recycling regulations.

87 **O. Line of Duty Act**

88 The Town Council supports the Virginia Municipal League's position that funding responsibility
89 for the Line of Duty program should be returned to the Commonwealth.

90 **P. Legal Notice Publication**

91 The Town Council supports legislation that would give localities the authority to post legal
92 notices on websites as a substitute for publishing legal notices in newspapers.

93 **Q. State Funding for School Resource Officers**

94 The Town Council supports legislation that would provide state funding for school resource
95 officers at all public elementary, middle, and high schools.

96 **R. Virginia Public Procurement Act**

97 The Town Council supports the positions of the Virginia Association of Governmental
98 Purchasing on legislation regarding the Virginia Public Procurement Act.

99 **S. Non-partisan Redistricting that Preserves Jurisdictional Boundaries**

100 The Town Supports redistricting reform, including the use of a non-partisan independent
101 commission to draw state legislative and Congressional lines based on specified and consistent
102 criteria, including insofar as possible preservation of the integrity of existing city, town, county,
103 and precinct lines.

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106 **T. Regional Greenhouse Gas Initiative and Commonwealth Resilience Fund**

107 The Town Council supports VML in urging the General Assembly to address greenhouse gas
108 emissions targets through a Regional Greenhouse Gas Inventory (RGGI) carbon credit auction,
109 and/or a carbon emissions tax. All proceeds derived from the auction of credits should be used
110 to establish the “Commonwealth Resilience Fund”, a special state dedicated fund to assist
111 localities in addressing flooding, energy efficiency improvements, and economic development.

112 **U. Chesapeake Bay TMDL and State Water Quality Management Planning Regulation**

113 The Town Council supports the Virginia Municipal Wastewater Association’s position opposing
114 revision of existing nutrient allocation of dischargers (local governments, authorities and
115 industrial facilities) for the purpose of transferring allocation to new facilities.