

An adjourned meeting of the Board of Supervisors of Albemarle County, Virginia, was held on December 4, 2015, at 12:00 p.m., Room 241, County Office Building, McIntire Road, Charlottesville, Virginia. The meeting was adjourned from December 2, 2015.

PRESENT: Mr. Kenneth C. Boyd, Ms. Ann Mallek, Ms. Diantha H. McKeel, Ms. Liz A. Palmer and Mr. Brad L. Sheffield.

ABSENT: Ms. Jane D. Dittmar.

OFFICERS PRESENT: County Executive, Thomas C. Foley, County Attorney, Larry W. Davis, Clerk, Ella W. Jordan, and Senior Deputy Clerk, Travis O. Morris.

Agenda Item No. 1. The meeting was called to order at 12:26 p.m., by the Vice-Chair, Ms. Palmer. She stated that she will be filling in for Chair Dittmar, who could not attend. She introduced County staff, welcomed everyone present and thanked them for attending this joint session. She then asked everyone present to introduce themselves.

(Note: Prior to the meeting starting, the Board members, School Board members and Legislators ate lunch.)

Agenda Item No. 2. Meeting with Area Legislators. State Legislators Present: Senator Creigh Deeds from the 25th District, Delegate Steve Landes from the 25th District, Delegate Rob Bell from the 58th District, Delegate David Toscano from the 57th District, and Ms. Cassy Horn, Legislative Director for Senator Bryce Reeves.

Also present: Legislative Liaison for the Thomas Jefferson Planning District Commission (TJPDC), Mr. David Blount.

Recognition of Mr. Boyd

Mr. Sheffield said he had spoken with Delegate Rob Bell about recognizing Mr. Boyd for his years of service on the Board.

Delegate Bell stated he has spoken with Mr. Boyd once a week for almost a decade, as Mr. Boyd was the Supervisor of his district before redistricting.

Senator Deeds said there are only three ways to leave public office, to die, resign, or lose, and Mr. Boyd is leaving in the only acceptable way.

Delegate Landes said he had never represented Mr. Boyd's district, but wants to thank him for pushing economic development and serving Albemarle County and the Commonwealth.

Delegate Toscano stated that Mr. Boyd has been a constituent in his district for many years and said they had both spent a long time in local government, which is very rewarding, but also very challenging.

Thomas Jefferson Planning District Legislative Program, David Blount.

Mr. Blount stated he will present the regional legislative priorities and said the top priority as approved by localities in the planning district is K-12 education funding. He noted that in their position for the region the amounts of money the localities have been putting in and some of the policy changes that have resulted in less state money, many school divisions have been faced with having to provide additional duties to staff or increase class sizes. Mr. Blount said last year they had put a lot of energy and focus on the effort for counties to have equal revenue-raising authority with that of cities, and while they did not realize any success with that in the 2015 General Assembly session, localities feel it is important to continue in that stead. He stated the third priority position is their somewhat perennial position urging the state to actually fund the programs it requires of localities, to not shift cost to local governments, and to not impose unfunded mandates on localities.

Mr. Blount reported there are three other priority items in the 2016 program including transportation, and TJPDC localities are grateful of the action taken several years ago in House Bill 2313 to provide additional revenues for transportation, which was an important step but just a first step, with other pressing needs for transportation infrastructure. He stated the second new priority focuses on the importance of supporting efforts to reduce pollution in the state's waterways, and to provide some financial support to the Virginia Department of Environmental Quality as well as to localities as they are dealing with stormwater requirements. Mr. Blount said the final priority item is related to land use and growth management, asking the General Assembly for additional tools and to not take away existing tools.

Mr. Blount said that to focus in more on education, he has provided them with information on the localities and the schools in the region, with Albemarle County spending about \$12,800 per pupil and most regions funding education at a greater level than what is required by the state.

Senator Deeds asked what Charlottesville and Albemarle are in terms of free and reduced lunch, as he had heard figures at a meeting recently that those numbers were as high as 40% statewide. Mr. Blount responded that Albemarle has 28% of students on free and reduced lunch, with Charlottesville at around 50%.

Board members commented those numbers have increased considerably in recent years.

Ms. Palmer and Ms. McKeel noted there are several schools in the County that have a much higher percentage of free and reduced lunch population.

Mr. Foley mentioned that Superintendent Pam Moran often points out that the County has more kids on free and reduced lunch than the City has kids in the entire school system.

Mr. Blount stated the General Assembly will be addressing re-benchmarking of public education costs during the 2016 session for the two-year biennial period, and presented numbers from House appropriations committee staff that initially showed a preliminary estimated cost of under \$400 million, but now with additional data are looking more like \$500 million in increased funding required from the state over the next two years.

He reported the Joint Legislative Audit Review Committee (JLARC) has been discussing the efficiency and effectiveness of education spending, with a September report showing that for FY14 in comparison to FY04, school divisions were spending less per pupil and non-instructional spending, during a time when healthcare costs were increasing dramatically. He stated that JLARC also found that there may be some impact on instructional effectiveness when compensation is being limited, when there are problems with recruitment and retention of teachers or high teacher turnover, and when instructional support services are being hurt. Mr. Blount said that JLARC had a number of recommendations, a lot of them targeted at the Department of Education, including the need to track teacher turnover and the reasons for it, and also provide technical assistance to local school divisions in the areas of facility and transportation management. He said the State Board of Education has also been talking about the challenges faced by public education, and every year release a report on the condition and needs of public school, with this year's report focusing on fewer personnel at a time when student enrollment has been growing, and a lack of professional development support for teachers.

Mr. Blount reported that for the last few years while the state has been focusing on K-12 education in its budgeting, it provided a share of a small salary increase for teachers and support staff, provided some targeted funding for attracting STEM teachers, and offered some funding for the Department of Education for professional development for principals and teachers focused at needy students and struggling or underperforming schools. He said there is also some additional funding for year-round and extended-year programs, as well as funding in the virtual education program, with the DOE piloting the first full-time online high school in the state. Mr. Blount noted the TJPDC had asked at its recent legislative meeting where K-12 education will land on the priority list during the session and what some of the related funding items are to help address it, with VML and VACO also having education as a top priority.

2016 Legislative Priorities, Larry Davis.

- Shared Priorities with the School Board
- Albemarle County Legislative Requests

Mr. Davis reported that Albemarle County's legislative priorities include four new priorities under growth management and land use. One has to do with noxious weeds. Legislation on the books currently does not provide a lot of protection for new and emerging species. He said that Arlington County is initiating some legislation in this session that would address this issue, and Albemarle would like its legislators to support those efforts to expand the controls that might be brought forward to address the issue. Mr. Davis said the second and third new priorities are water quality resources and stormwater management issues. Stormwater control is a high priority for the County, but the tools and funding for that are always an issue. He stated the Chesapeake Bay Foundation has brought forward an initiative where they want to stress state funding for agricultural best management practices, stormwater grant initiatives and wastewater treatment plan upgrades. He said the VACO Environmental and Agriculture Steering Committee has also brought focus on legislation that might be in the works that would impact the resources and funding of the DEQ, and the County fully supports funding of the DEQ to administer, enforce and maintain existing stormwater management laws. Finally, Mr. Davis stated the County is studying broadband locally and would support any state legislation that would support deployment in the rural areas where it is currently a challenge.

Mr. Davis reported there are new priority items in the Local Government Administration and Finance section, one relating to body-worn police cameras emerging from a legal opinion issued in Henrico County stating that information captured by cameras is subject to the Freedom of Information Act and would have to be released, even if it contains images that reveal a person's personal, medical, or financial information or identity. He said if body-worn cameras are implemented, it would increase the opportunity for that type of information to be captured on cameras, even if it is not related to criminal investigations. Mr. Davis said this is a big issue because if it is subject to FOIA it will have to be reviewed or redacted, with that cost being excessive and impractical. He stated that another priority item raised is due to tragic data in Albemarle County, with 16 of 29 motor vehicle fatalities in the County last year being people not wearing seatbelts. Mr. Davis said the County would encourage legislators to support any revival of HB-482, which makes the failure to use a seatbelt a primary offense, a bill that failed in 2014.

Mr. Davis reported that another emerging issue is the use of drones, and the federal government is struggling with how to regulate them, with the legislature providing some guidance in limited circumstances, but no enabling legislation for localities to regulate them. He stated this is an issue for which there are anticipated conflicts between the use of drones, public safety, privacy and other issues, and the County would like to have enabling legislation that allows it to address this at a local level. Mr. Davis said another issue that was on their agenda last year, and is on the 2016 agenda as well, is a joint matter with the school system. The County encourages support of legislation that allows summonses for passing stopped school buses to be issued by mail rather than just in person by Police officials, similar to how red-light camera violations are issued. He stated the Attorney General has issued an opinion that said the legislation does not allow for that type of service. Legislation has already been introduced by Delegate Kory in HB-50, and there will likely be some other bills to address this issue. Mr. Davis noted there were three or four localities that were implementing the school bus ticketing program that have since ceased it, as it is not practical for it to continue with the in-person summons restriction.

Senator Deeds asked what is in the bill to ensure that people receive their summons by mail. Mr. Davis responded that he can provide that information, but what is being sought is the same structure as the red-light camera program, which has been on the books for a number of years and has addressed those issues.

Mr. Davis stated that another issue shared with the school system relates to the June primary elections, to move the primary date from the second Tuesday to the third Tuesday to eliminate conflicts with the school calendar for schools used as polling places. He reported that another school matter relates to composite index and the local true value of real property, which uses fair market assessed value rather than land use tax value. Mr. Davis said a study done by the Department of Education in 2014 estimated that if Albemarle County's composite index had been based on the value of property actually taxed, an additional \$2.9 million in funding would have been provided to the school system.

Senator Deeds commented that this is an issue the Board of Supervisors can consider when enacting land use legislation. Mr. Davis agreed, but emphasized this is an important conservation and growth management program for the state. Albemarle County has been a champion of the state's initiative and would appreciate the recognition this puts the County in an unfavorable position to other localities because of the local tax impact.

Ms. Palmer mentioned the program also supports farmers being able to keep their land.

Ms. McKeel said that being able to add some nuances and improvements to the program would be helpful.

Senator Deeds stated that when localities enacted land use tax, they knew it would have an impact on the bottom line for education because of the way the formula worked, so to then come back and say "change the formula" seems contradictory.

Ms. Mallek commented that circumstances have changed since 1973.

Mr. Davis added that the composite index is supposed to be a determination of ability to pay, but without the full revenue they do not have the money to pay for the school system.

Delegate Bell asked if they had done any calculations as to how it would work through the system, and who the "losers" would be. Mr. Davis responded the Department of Education had done a comprehensive study with impacts on all individual localities, and he can provide that information.

Senator Deeds stated that when money is given to a locality it has to come from another. Mr. Davis said that is what makes this such a difficult issue, and noted that another issue with the schools is full funding of state mandates.

Mr. Davis stated the Board had adopted a resolution last year supporting the One Virginia 2021 initiative to depoliticize the redrawing of legislative district lines, which continues to be a priority of the Board.

Mr. Davis reported that another legislative priority for the County, Planning District and VACO this year was support of legislation to grant counties equal taxing authority of cities and towns, and referenced information he had provided to them on excise taxes that cities have the greater ability to levy. He stated that cities and towns have the authority to levy meals taxes without any restriction on the rate of the tax, whereas counties are limited to not more than 4% charged for food or beverage, and all but five counties are required to hold referendums. Mr. Davis said that Albemarle County had a referendum in 1997 and has imposed the tax at the 4% maximum it has the authority to regulate, but there are 32 cities and 68 towns that levied the meals tax at greater than 4%, with 14 cities and towns levying a tax greater than 7%, with Charlottesville levying at 5%. He stated this could be an important mechanism by which the County could help offset the burden now only supported by personal property and real property taxes, and having additional options is an advantage the County would like to have.

Mr. Davis stated the same holds true for transient occupancy tax (TOT), as cities and towns have no limit on that tax, but counties cannot levy the tax unless it is specifically enabled. He said that generally counties can enable a maximum TOT of 2%, but some additional legislation allows 50 counties to levy the 2% tax, plus an additional 3% tax if it is spent on tourism matters, and Albemarle is in that class. Mr. Davis said his fact sheet points out the other counties that have been granted some variation

of that, but overall there are 73 towns that have imposed a TOT with a median tax of 5%, and 37 cities with a median of 6% with 17 of those cities having a tax greater than 6%, and 12 having between 5% and 6%. He noted that Charlottesville has a current TOT of 6%, so it might make sense to provide Albemarle some flexibility.

Mr. Davis reported that cities and towns have no limitation on the amount of cigarette tax charged, but only two counties, Fairfax and Arlington, have enabling authority to levy a cigarette tax with a limitation that they cannot have a tax greater than the state tax, currently at 30 cents per pack. He said Charlottesville raised its cigarette tax in 2013 to 55 cents per pack, and Albemarle would be interested in pursuing that tax, if given the authority to impose it.

Senator Deeds asked if the County has done any kind of analysis on what that would mean in terms of revenue. Mr. Davis responded that an analysis had been done, and if County smokers smoke at the same rate as the City, a 55-cent tax would generate about \$1.6 million annually, and a 30-cent tax would generate about \$900,000 annually.

Mr. Davis reported that the final tax is an admissions tax, and cities and towns do not have limits on the amount of tax they can impose, and the General Assembly has granted 13 counties enabling authority up to 10% of the cost of admissions to events to impose an admissions tax. He noted the structure for admissions tax allows counties to break the tax into five different categories plus a general category based on the type of event. Charlottesville does not have an admissions tax, but the County has an ongoing discussion with the University on a potential partnership for taxing events. Mr. Davis said, as indicated in his fact sheet, they would need additional authority to require the University to collect the tax, which the County is not asking for this year but is interested in exploring further.

Mr. Davis stated the County's legislative position is for counties to have equal taxing authority as towns and cities, but would also welcome any support for enabling authority for counties on these specific excise taxes.

Mr. Foley added that last year they had discussed a unique approach for pursuing equal taxing authority for localities based on population density and eligibility for city status under current state code, and referenced a list of 16 localities that would be eligible for city status based on population density. He said the County has been working with Delegate Landes to look into this further with a focus on meals and TOT tax, and have had contact with the other 15 localities, with some discussion among those local boards about a new approach that recognizes with higher density comes a greater demand for services such as fire, rescue and police.

Delegate Landes stated that one of the concerns he has had over the years is the fact that cities are allowed certain authorities, yet urbanized localities that would qualify for city status are not given that same opportunity. He said he has discussed with County staff how to achieve that in a fair and equitable way, and while he has not made any commitment on specific legislation at this point, he feels they should pursue it and see if there would be support for such a measure. Delegate Landes emphasized that it would be limited, adding that they have looked at meals and transient occupancy with public safety and other services needed when a county is urbanized. He said he had made a commitment to Mr. Foley and County staff, so he would follow up on that and hopefully have some input prior to the General Assembly session. Delegate Landes added that he would also reach out to other legislators representing other areas, especially those sitting on the Senate and House Finance Committees, and so far they have not said "no," they just want more information.

Ms. Palmer stated she really appreciates his efforts, and asked if he is talking about tying those taxes to the services mentioned, such as police and fire and rescue. Delegate Landes responded he is not tying the tax revenues to those things specifically, but in conversations with Albemarle and other localities, there has been a general understanding that police and fire/rescue are the most important priorities, especially in urbanizing areas, other than public education. He stated there have not been discussions with legislators as to designating the taxes for a particular purpose, but in his conversations with them they had mentioned those pressures as localities urbanize.

Mr. Sheffield stated that in looking at funding allocations for things like transit, census data was used rather than city/county lines, and federal agencies do not really care about where lines are drawn, only what the census blocks indicate.

Senator Deeds asked if VACO had been included in these discussions. Mr. Foley responded that he will be discussing this with Jim Campbell later in the day, but VACO's position has been "all localities."

Senator Deeds stated that going at it from that angle is probably a losing proposition, but if they can tie it to density, which would probably require a joint Finance Committee and Appropriations Committee review, it would be worth pursuing, although it would likely be a multi-year process.

Delegate Landes said that no one has said "no" yet, and his contacts on the Finance Committee have indicated they would be willing to look at it from a fiscal standpoint in terms of urbanizing counties.

Mr. Sheffield stated the General Assembly is creating some context with the urban development areas legislation, which is on the land use side. With House Bill 2 there is transportation funding tied to these UDAs, and there is some history of recognizing urban density.

Senator Deeds said this recognition is not new, and years ago a different form of government was authorized for counties, and what worked at one point may not work today. He stated the General Assembly session is only 60 days and they will need consensus, and he feels it will be a multi-year process.

Delegate Landes said that in discussions with County staff, they all realize this will not be an immediate thing but he has been willing to move the concept forward in a way to build consensus among the other 15 localities, while helping to solve an issue that they continue to discuss at the legislative level.

Ms. Palmer asked legislators to let the Board know if there is anything they can do to help build a coalition over the course of the year.

Delegate Toscano asked Delegate Landes if the issue of referendum had emerged in their conversations. Delegate Landes responded that it has not, but they just started the discussion in earnest a few weeks earlier, and with most legislators he has reached out to, it has taken them some time to get back. He added that while it has not come up yet, it might in the future.

Ms. Mallek asked if it is better to limit their coalition to those counties that have already reached a population density that qualified them for city status, rather than waiting for very small localities to reach that level. Delegate Landes responded that he will let them know once he hears feedback from those jurisdictions, and perhaps this year will not have actual legislation but instead would yield a study on this, so that the issue is looked at more in depth and a discussion can get underway as to why the funds are needed. He added that he represents two towns, one with a population of 2,000 and another of 7,000, and he would not consider these to be "urbanizing" areas, yet they have the taxing authority.

Ms. Mallek commented that having that authority does not have a big negative impact of any kind, so that should be noted.

Delegate Toscano asked if there will be a public hearing before the Board approves the legislative agenda. Mr. Davis explained the process was to bring it to the Board in August with a preliminary list, then a final list in November, so there were two public meetings with this agenda item.

Delegate Toscano asked if it was passed as a resolution, and whether it was a unanimous vote. Mr. Davis responded affirmatively in both cases.

Mr. David Blount asked what the density threshold is that authorizes city status. Mr. Davis responded that there is a statute that provides what is necessary for a county to qualify to become a city, and for localities with more than 50,000 it requires a density of at least 140 people per square mile, and the 16 localities identified are those that met that benchmark based on the latest Weldon Cooper Center information. He stated the densest is Arlington County, with the least dense being Albemarle County, primarily because it has 726 square miles, but the density of the urban ring as 5% of land area would qualify it as one of the densest localities.

Ms. McKeel stated that many of the localities on the list have a special authority of some kind, which indicates they all are experiencing the same kinds of problems, and she would love to have this list and a breakdown of which localities have what provisions.

Mr. Foley said that a more comprehensive approach might help reduce the number of bills to be introduced.

Delegate Bell stated it would also be useful to know the total revenue raised by a locality divided by its total number of people to get an idea of overall tax burden.

Ms. Palmer said that some localities also have service districts so they have a different tax rate for urban areas, which Albemarle has also considered.

Mr. Foley noted those are typically for specific services and would not address things like public safety that are driving the density issues, but staff will do some follow up on that.

Legislator's Priorities/Questions and Answers, Legislators.

Ms. Palmer asked legislators to discuss their priorities for the upcoming session.

Senator Deeds stated that his priorities will not change much, and he and Delegate Bell will continue to work on mental health initiatives, the bulk of which will probably not come to fruition in the form of legislation for another two years. He stated they are at a difficult time in Virginia because of sequestration, and job loss in Northern Virginia affects this region in two ways: they have been paying all the money to fund everything around the state; and those workers are suddenly providing competition to this region, as they have more highly trained workers and potential assets. Senator Deeds stated that he represents six counties, four cities, and at least six towns, and small cities are in a particularly difficult situation because they cannot grow, so the only strategy to expand their tax base is to redevelop property. He said it is important to take a comprehensive look at local government and to raise tax dollars as wisely as possible, and the state's problems go far beyond the list of 16 localities. Senator Deeds stated that Transportation Bill 2013 had to be passed because it is the only option, but it has some major flaws as it does not raise enough money statewide and only provides enough money to do maintenance.

He said the state mandated Hampton Roads and Northern Virginia to raise their own money, but by doing so they cut off funding to and from the wealthiest localities in the state. Senator Deeds said he would not introduce a bill to allow Albemarle County to set up its own taxing authority for transportation, but the legislature would be charged with figuring out how to address the significant transportation problems before them.

Delegate Toscano stated he will support as many initiatives as he can to give them taxing authority, and he had carried the bill previously to give a designated source of revenue for a transportation authority, but would not do so again given its unlikely success. He said that education will continue to be his top priority and what comes out of the budget will be critical because of the relative lack of education funding due to limited revenue flow. Delegate Toscano stated that re-benchmarking will have to occur and there are a lot of initiatives probable for the Governor's budget for public education, particularly pre-K. He stated he will also prioritize creating economic opportunities for as many Virginians as possible, and said the Governor has proposed reducing the corporate tax rate, which does not raise that much for the budget and might be a good symbolic action to demonstrate that the state is open for business. Delegate Toscano said there will likely be other incentives for economic niches like bio-sciences and for regional cooperation, and said that he hopes to advance the ball on the previous issues discussed.

Delegate Landes stated that he agrees with education and economic development as the top two issues, with funding and re-benchmarking being very important. He said they had held a great discussion with the School Board about the high school experience as they move away from the standardized test, and he hopes that Albemarle can play a role in that, which will be tied to community workforce needs. Delegate Landes stated there will be House and Senate initiatives combining workforce with economic development for all parts of the Commonwealth, and said that he will be working with the Virginia Biotech Association on bioscience initiatives that will benefit the state and Albemarle/Charlottesville. He said that legislators have not yet seen the details on the "GO Virginia" legislation, but there will be an emphasis from the business community related to economic development efforts. Delegate Landes stated that he feels there is a way to proceed differently from what the Virginia 2021 group has proposed for redistricting, and he will introduce legislation as such, as he does not support having that process handled by a non-elected body. He stated that Albemarle has a reputation as not being business-friendly, which concerns him, and they must be able to grow the local economy with bioscience, agribusiness, and other niches. Delegate Landes noted that he has been told that by economic developers and legislators around the state, and University students want to be able to stay in the community, so he wants to work with them to help change and overcome that perception.

Delegate Bell stated that he and Senator Deeds will continue to work on mental health and have done trips around the state, with two primary ideas being provision of resources for early self-detection of mental health issues, and engaging the family directly, as well as addressing the provision that allows case workers to override and veto the family's wishes. He said the Crime Commission will look again at stalking laws, which need to be refined, and it is hard to get those laws right because what constitutes stalking to one person might not to another.

Ms. Palmer asked about a mental health court at the state level. Delegate Bell responded that it has come up, but this also means different things to different people and has some built-in assumptions.

Senator Deeds stated there are 12-14 different models in Virginia alone, and they will continue to look at it over the next several years in hopes of getting it right, but until then the local courts will have that purview.

Ms. Horn stated that Senator Reeves is attending his sister's wedding. Ms. Horn said that Senator Reeves' priorities are going to stay the same, with a focus on veterans' bills and one on behalf of the National Guard, as well as budget issues pertaining to education, transportation and health. Ms. Horn encouraged Board members to reach out to Senator Reeves' office during the year.

Ms. McKeel asked for a moment of silence in observance of victims of violence in the community, both locally and on a broader scale.

Adjourn Board of Supervisors to December 9, 2015, 3:30 p.m., Room 241.

At 1:37 p.m., Ms. McKeel **moved** to adjourn the meeting to December 9, 2015 at 3:30 p.m. Ms. Mallek **seconded** the motion. Roll was called, and the motion passed by the following recorded vote:

AYES: Mr. Sheffield, Mr. Boyd, Ms. Mallek, Ms. McKeel and Ms. Palmer.

NAYS: None.

ABSENT: Ms. Dittmar.

Chairman

Approved by Board
Date: 03/02/2016
Initials: EWJ