

COUNTY OF HENRICO, VIRGINIA  
BOARD OF SUPERVISORS  
SPECIAL MEETING  
December 9, 2019

The Henrico County Board of Supervisors convened a special meeting on Monday, December 9, 2019, at 7:30 a.m. in Café 1611 located on the second floor of the Administration Building at the Henrico County Government Center, Parham and Hungary Spring Roads, Henrico, Virginia.

**Members of the Board Present:**

Tyrone E. Nelson, Chairman, Varina District  
Patricia S. O'Bannon, Tuckahoe District  
Daniel J. Schmitt, Brookland District  
Frank J. Thornton, Fairfield District

**Member of the Board Absent:**

Thomas M. Branin, Vice Chairman, Three Chopt District

**Members of the General Assembly Present:**

Jennifer L. McClellan, Senate of Virginia, 9<sup>th</sup> District  
John J. McGuire, III, House of Delegates, 56<sup>th</sup> District  
Schuyler T. VanValkenburg, House of Delegates, 72<sup>nd</sup> District  
Lamont Bagby, House of Delegates, 74<sup>th</sup> District (*arrived at 8:17 a.m.*)

**Member-Elect of the General Assembly Present:**

Rodney T. Willett, House of Delegates, 73<sup>rd</sup> District

**Members of the General Assembly Absent:**

Siobhan S. Dunnavant, Senate of Virginia, 12<sup>th</sup> District  
Dawn M. Adams, House of Delegates, 68<sup>th</sup> District  
Delores L. McQuinn, House of Delegates, 70<sup>th</sup> District  
Debra H. Rodman, House of Delegates, 73<sup>rd</sup> District

**Other Officials Present:**

Heidi S. Barshinger, Circuit Court Clerk  
Shannon L. Taylor, Commonwealth's Attorney  
John A. Vithoulkas, County Manager  
Lee Ann Anderson, Senior Assistant County Attorney  
Marissa D. Mitchell, Senior Assistant County Attorney  
Barry R. Lawrence, CMC, Assistant to the County Manager/Clerk to the Board  
Tanya B. Harding, Administrative Assistant/Deputy Clerk to the Board  
Timothy A. Foster, P.E., Deputy County Manager for Community Operations

W. Brandon Hinton, Deputy County Manager for Administration  
Anthony E. McDowell, Deputy County Manager for Public Safety  
Randall R. Silber, Deputy County Manager for Community Development  
Cari M. Tretina, Assistant to the County Manager – Chief of Staff  
C. Michael Schnurman, Jr., Assistant to the County Manager for Intergovernmental Relations  
Humberto I. Cardounel, Jr., Chief, Police Division  
Christopher D. Pomeroy, President, AquaLaw PLC  
Hannah Kovitz, Legislative Assistant to Senator Dunnavant

Mr. Nelson called the meeting to order at 7:54 a.m. following a welcome by Mr. Schnurman, an invocation by Mr. Thornton, and breakfast. Mr. Schnurman introduced Ms. Mitchell, whom he noted will be helping him in the background during the 2020 Session of the Virginia General Assembly.

### **Legislative Briefing with General Assembly Delegation**

Mr. Schnurman narrated a slide presentation titled *2020 – Legislative Request & Issues*. He began by reviewing specific legislative requests pertaining to wireless provider small cells and cemeteries. Mr. Schnurman explained the County's existing authority to 1) disapprove an application for wireless support structure in neighborhoods where utility services are underground and 2) revoke a "Permit to Work in Right-of-Way" where an applicant did not provide specified information to adjacent property owners. He stated the County is seeking legislation to allow it to revoke an application where the applicant has not given written notice to an adjacent landowner of at least 15 days before the applicant applies to locate a new structure in an area where utility facilities are underground. Mr. Schnurman next explained the County's existing authority to 1) allow a cemetery and any associated perpetual care fund to be conveyed to Henrico; 2) acquire abandoned, unused, and neglected cemeteries by condemnation and then maintain them; 3) make appropriations of public funds to any charitable institution; and 4) make donations of in-kind resources to a donee hosting an event. He stated the County is seeking legislation that would apply its existing authority to require the owners of real property to maintain their grass and lawns to cemeteries not owned by individuals, families, or churches. Mr. Schnurman noted some of the African American cemeteries in Henrico have fallen into disrepair and the County has no authority to regulate the height of the grass in these cemeteries as it can in residential neighborhoods.

The presentation next shifted to legislative issues. Mr. Schnurman recognized Chief Cardounel, who provided background information on grey area gaming and elaborated on the County's concerns with computer-generated games where the outcome is based on chance, not skill, and the player has little or no ability to alter the predetermined odds of winning that are set by the manufacturer. These games have become popular within convenience and grocery stores. The retail establishments that have these games do not post the actual odds of winning, thereby giving the player a false impression of his or her chances of winning or losing money. Chief Cardounel also referred to the number of mental health crisis calls for service the County receives each year and pointed out there is insufficient bed space to handle emergency placements. He introduced Lt. Cindy Wood, who heads up the County's Services to Aid Recovery (STAR) team. Lieutenant Wood asked the County's legislative delegation to be mindful of both the gaming problem and shortage of emergency mental health beds.

Senator McClellan pointed out several bills are being introduced during the 2020 Session addressing gaming and she would like to get Henrico's position on this matter sooner rather

than later. Mrs. O'Bannon expressed concern about young men and children playing these games, which are currently wide open and unregulated. Senator McClellan informed Mrs. O'Bannon that bills coming forward during the Session will regulate grey area gaming. She noted these games are also diverting revenues away from the state lottery. Mr. Nelson advised Senator McClellan that the Board has not yet taken a position on this issue. In response to a question from Delegate VanValkenburg, Chief Cardounel suggested the games need to be regulated but it is up to lawmakers to decide whether they should be regulated or banned. He responded to questions from Mr. Nelson and Mr. Schmitt regarding the widespread proliferation of these games in Henrico.

Mr. Schnurman returned to the podium and introduced Mr. Pomeroy, who serves as General Counsel and a registered lobbyist for the Virginia Association of Municipal Wastewater Agencies (VAMWA). Mr. Pomeroy provided background information on Virginia's Chesapeake Bay Total Maximum Daily Load (TMDL) Phase III Watershed Improvement Plan (WIP3). Mr. Pomeroy pointed out the plan was adopted by the state in August 2019 and sets forth previously unanticipated major revisions to a 15-year plan adopted in 2010. Mr. Pomeroy voiced concern that compliance with the additional issues outlined in the revised plan would require expensive wastewater upgrades for localities and significantly stress the Commonwealth's Water Quality Improvement Fund cost-share grant program. Henrico would be faced with another Water Reclamation Facility upgrade at a cost of \$34 million. He explained that although WIP3 has achieved excellent wastewater results to date, the Commonwealth is initiating actions to achieve additional nutritional reductions from significant municipal treatment facilities and has surprised localities by moving the reduction goalposts late in the process. It will especially hurt facilities that were recently upgraded. Mr. Pomeroy elaborated on the impacts the change would impose on local governments, why the change is unnecessary, and how it would make localities in the James River basin pay for a Potomac River problem. Mr. Pomeroy identified ways Chesapeake Bay Nitrogen reduction goals can be achieved without hurting Henrico and other localities and reviewed recent activity by the Virginia Municipal League, Virginia Association of Counties, and VAMWA to oppose this unnecessary wastewater mandate. He reviewed potential legislation to set a more cost-effective course to meet the same Chesapeake Bay goals. At Mr. Vithoukas' request, Mr. Pomeroy clarified which industrial wastewater facilities are exempt from the new regulations.

Mr. Schnurman recognized Mr. Hinton, who narrated a slide presentation titled *Impact of State Funding Decisions*. Mr. Hinton began by noting that although the local and statewide economy is doing well, the economy operates in cycles and the nation is now in the eleventh year since the end of the "Great Recession." He further noted that state aid accounts for over one-third of the County's general fund revenues, with 75 percent of state aid going towards education. The split of funding for many shared expenses has shifted heavily towards local reliance and taxing authority changes being considered by the General Assembly could negatively impact Henrico citizens. Mr. Brandon shared slides illustrating the major general fund revenue sources in the County's Fiscal Year (FY) 2020 budget and historical trends in the County's projected, approved, and actual general fund revenues since FY98. He also explained a bar graph comparing the disparity between state versus local funding for annual teacher pay raise since FY15. Mr. Vithoukas encouraged members of the legislative delegation to call County staff if there are further questions regarding this information.

Mr. Hinton continued his presentation by reviewing a graph documenting the state versus local share of funding for the Commonwealth's Attorney's Office since FY16. He pointed out the County has funded 91.5 percent of the overall increase in the Commonwealth's Attorney's

Office budget during the past five fiscal years and the Board will approve three new locally funded positions for the Commonwealth's Attorney's Office at its December 10 meeting. Ms. Taylor commented that her office is operating at only 80 percent of the Commonwealth's staffing standards because of insufficient state funding. Mr. Hinton advised the delegation that Henrico has one of the five most understaffed General District Courts in Virginia, which has created unnecessary delays in cases and in some instances has kept people in the local jail unnecessarily. Due to high staff turnover, the County has implemented a \$4,000 per year pay supplement for District Court clerks. Mr. Vithoulkas remarked that Henrico's General District Courts have a 50 percent turnover rate. He expressed frustration that the County has been picking up the cost of positions or paying supplements for positions that are supposed to be entirely state funded and asked for the delegation's assistance in addressing this issue.

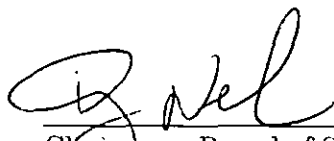
Mr. Hinton continued the presentation by identifying pre-recession, recession, and FY19 unfunded state mandates and their effect on the local real estate tax rate. He next informed the delegation that the County has identified nearly \$1.5 billion in unfunded transportation infrastructure needs. Mr. Hinton pointed out that Henrico has applied for SMART SCALE funding for 17 projects, totaling more than \$225 million and has been approved for \$29.1 million associated with seven of those projects. Senator McClellan noted Central Virginia does not currently have a regional transportation funding mechanism but the City of Richmond and the Richmond Metropolitan Transportation Authority (RMTA) have initiated talks pertaining to the creation of a new transportation authority for the region. She stated the delegation would like to have confirmation of Henrico's position on the establishment of such an authority prior to January 8. At Mr. Vithoulkas' request, Public Works Director Steve Yob elaborated on how Henrico can maximize SMART SCALE funding by participating in a new regional transportation authority. Mr. Vithoulkas advised that SMART SCALE funding has been siphoned from Central Virginia by existing transportation authorities in Hampton Roads and Northern Virginia. Mr. Nelson clarified that conversations relating to a new regional transportation authority for Central Virginia have been occurring among localities in the region in addition to Richmond. In response to an inquiry by Delegate Van Valkenburg, Senator McClellan remarked that the localities in the region need to be more vocal regarding how the authority will be structured and funded unless they are willing to leave those decisions entirely to the General Assembly's discretion. Mrs. O'Bannon assured Senator McClellan that Henrico has been discussing and developing a plan for a new authority with the Richmond Metropolitan Transportation Authority (RMTA), other localities, and Delegate McQuinn. Mr. Vithoulkas informed the delegation that legislation is being drafted and Henrico and other localities in the region will be reaching out to legislators in the region. He commented that traffic congestion in the region is worsening and there needs to be a solution to this problem. Senator McClellan replied that it is a complicated issue and given the volume of legislation being introduced and the number of new members in the General Assembly the sooner, more forcefully, and more succinct the County can communicate its position the better. Mr. Nelson responded that the County has been reluctant to discuss this matter publicly and reiterated that the County has had conversations with transportation entities and other localities relating to an appropriate funding mechanism for addressing regional transportation needs. Mrs. O'Bannon explained the composition and responsibilities of the Richmond Regional Transportation Planning Organization and its role in these discussions. Mr. Vithoulkas pointed out that RMTA will also have a role in the discussions and the drafting of legislation. In response to a question from Delegate Bagby, Mr. Yob identified the specific projects that the County is attempting to fund through SMART SCALE. At the request of Delegate Bagby and Mr. Nelson, Mr. Yob reported on the status of the Richmond-Henrico Turnpike project.

Mr. Hinton resumed his presentation by explaining a graph that predicts the probability of a national recession within the next 12 months. He noted most economists and analysts are predicting a recession within the next two years in light of weak economic data and the ongoing trade war with China. Mr. Hinton commented on the Commonwealth's structural imbalance between its growing revenues and growing expenditures and the Northam administration's challenges in preparing a budget that is increasingly driven by the cost of public education and health care. He next reviewed the history and original intent of the Personal Property Tax Relief Act and the financial impact it has had on Henrico as a result of the cap on the amount of relief paid to localities by the Commonwealth. Mr. Hinton explained a graph that provided an historical analysis of Virginia's Communication Sales Tax (House Bill 568) and this legislation has resulted in lost revenue to the County since FY08. He concluded his presentation with the following statements: the economy is doing well, but it is a matter of how soon, not if, a recession comes; the County understands the Commonwealth will have to make adjustments to balance the budget as the County will have to do; costs to provide mandated services have shifted to localities, and taxing authority changes have minimized the County's ability to provide services; and the Commonwealth should be mindful that localities are partners in providing services to residents.

Mr. Vithoulkas pointed out the Board changed the timing and format of the annual legislative briefing this year from a dinner that was held a day or two after Election Day in November to a breakfast meeting that is held in December. He informed the delegation that the County has retained the services of Marianne Radcliff, a private government relations consultant who will assist in representing the County at the General Assembly during the 2020 Session. Senator McClellan re-emphasized the large number of bills that have already been filed for the 2020 Session and the need to communicate with the delegation and members of key legislative committees on priority issues before the Session begins on January 8. In response to a question from Mr. Nelson, Senator McClellan explained in detail the process for filing legislation and how a bill becomes law. Mr. Nelson pointed out that many bills that are introduced do not make it into law. Delegate Bagby referred to the Second Amendment "sanctuary cities" issue that has been brought forward to local governing bodies by gun rights advocacy groups. There was discussion by Delegate Bagby, Senator McClellan, and Mr. Nelson concerning this issue. Senator McClellan pointed out that localities have limited authority on issues of this type because of the Dillon Rule. She further pointed out there will be more than one bill introduced during the 2020 Session pertaining to gun control and all legislation is subject to the amendment process. Mrs. O'Bannon voiced concerns relating to the legislation adopted by the General Assembly during the 2017 and 2018 Sessions that facilitate small cell approvals. She remarked that although citizens support better telecommunication services, they would like to have more say in the placement of small cells and feel like their voice was taken away by this legislation.

Mr. Nelson thanked the members of the delegation who were present for attending and wished everyone a happy Christmas and great General Assembly Session.

There being no further business, the meeting was adjourned at 8:59 a.m.



Chairman, Board of Supervisors  
Henrico County, Virginia