



MEMORANDUM

To: Members of the Rappahannock-Rapidan Regional Commission
From: Patrick L. Mauney, Executive Director
Date: December 2, 2020
Subject: Regional Legislative Platform

As you may recall from previous years, Mr. Eldon James has provided a draft legislative platform for the region ahead of the 2021 General Assembly session. The Commission may wish to express its support of the legislative platform at this time. If action is taken, I will submit a letter to Mr. James expressing such.

REQUESTED ACTION: The Commission is asked to consider endorsement of the Regional Legislative Platform

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PRIORITY ISSUES

Children's Services Act

Since its foundation in 1992, the Virginia Children's Services Act has led the nation by consolidating funding sources and carefully coordinating treatment services for children with severe and significant needs. This care coordination has proven successful in both meeting needs for individual children, and in proving that state and local responsibility and cost sharing can and does work.

It is critical that when the General Assembly or the State Executive Council (SEC) directs changes in CSA law, policy or implementation guidelines the outcomes benefit those served and respects the shared-cost relationship of the Commonwealth and localities. When cost savings decisions are made, they must show savings for both funding partners. Furthermore, the General Assembly and the SEC must direct the state Office of Children's Services staff to work closely with local governments in a manner that further enhances the collaborative partnership established in the CSA and improves the outcomes observed in this special population of children.

The Region supports the current structure under the CSA law that vests with the local Family Assessment and Planning Team (FAPT) and Community Policy and Management Team (CPMT) the responsibility to ensure that the proper services are selected for each child, to be provided by properly licensed providers, and at reasonable costs to the public.

The Region strongly supports the recent JLARC recommendation to modify the policy of barring the use CSA funds to provide services in any public school setting during the school day. The use and cost of private day placements for students has skyrocketed across the Commonwealth for many years, highlighting the need to consider policy changes to encourage innovative approaches to educating these youths within the community school system. **The Region supports the establishment of therapeutic public day schools pilot programs supported by CSA funds and continuation of the 2% per year cap on increases in private therapeutic day treatment.**

Broadband

A large portion of the residents of the Region have no or very limited access to broadband. Residents in every jurisdiction, even in the most urban, lack access. Broadband access strengthens k-12 education, essential healthcare delivery including telemedicine, economic development and lessens stress on the transportation network. For many years the applications for Virginia Telecommunications Initiative (VATI) have been more than twice the funding available. **The Region strongly supports enhanced state funding for expanded broadband capacity as well as strengthened local authority to deploy broadband directly or through public-private partnerships.**

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Education Funding and the Pandemic

The Region continues to be concerned by the trend of declining state financial support for K-12. The Region encourages the Commonwealth to reverse this trend including among other things important school safety efforts such as the funding of School Resource Officers in all schools. The Region also supports the protection of local governing body authority to evaluate and approve any reallocation of year-end fund balances.

In response to the pandemic, during the recent Special Session, the General Assembly provided replacement funds for loss of sales tax revenue to schools and that semi-monthly payments to school divisions would not be reduced in January as a result of potential reductions in September average daily membership counts (ADM). This language prevents school divisions from experiencing reductions in state payments in the middle of the fiscal year and allows the issue to be revisited after average daily membership is calculated in March. The region strongly encourages the Assembly to consider extension of this “hold-harmless” until at least the end of FY21 and through FY22 is at all possible.

OTHER ISSUES

Improving Virginia’s Smart Scale Program

The Region supports changes to Smart Scale --

1. Improve the Smart Scale Scoring Process:
 - a. Include traffic for all 7 days
 - b. Use total cost versus smart scale request costs
 - c. Change accessibility measure threshold from 45 minutes to 90 minutes
 - d. Restrict Statewide High Priority Program funding to Highway and Transit projects on a Corridor of Statewide Significance costing at least \$10 Million.
2. Smart Scale Funding Process:
 - a. Request a study to review and potentially change the District Grant Allocation Formula - specific issues of concern:
 - Created for a different purpose in 1986 for Primary-Secondary-Urban allocation (40/30/30)
 - Interstates not included in formula but eligible to receive funding
 - Not consistent with national standard of 2010 Federal Functional Classification
 - Urban component of population based on city & town population instead of national standard of urbanized area
3. State Transportation Funding Study Request.
 - a. Current system based on gas taxes is failing due to emergence of hybrid and alternative fuel vehicles.
 - b. Need for a study to develop a new sustainable system less reliant on gas taxes.

Transportation Generally

The Region applauds the efforts made over the past several years to adequately fund our growing

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transportation needs, including the I-81 package approved in 2019, but the job is not done. Sound decision-making must continue to recognize the linkage between land-use and transportation decisions to achieve cost-effectiveness and to retain quality of life. **The Region supports efforts to enhance transportation funding, including support for the secondary road system.** Growing transportation needs and the deterioration of critical transportation infrastructure, e.g., roads and bridges, is creating detrimental impacts to economic vitality and safety across the region.

The Region strongly encourages VDOT to fully utilize its funding authorization for the Revenue Sharing Program.

We recognize that the General Assembly and the Administration will continue to review the structure of our transportation system and may consider the potential for devolution of certain functions that have been the responsibility for the Commonwealth for almost a century, such as the secondary road network. **The Region is opposed to devolution of state transportation responsibilities to counties** and we urge the Administration and the General Assembly to work collaboratively with local governments during such reviews.

The Region supports efforts to improve rail service along the the Route 29 corridors. As part of this effort the Region encourages the Commonwealth to work cooperatively with the Region's localities to identify potential alternatives and to consider the potential impacts such efforts can have on property owners in or near the corridor.

The region supports efforts to maintain safe and reliable transit services and encourages the Commonwealth to take steps to address the pending decrease in funding to the State Transit Capital Program. The region supports efforts to identify a steady, reliable transit capital program revenue stream in support of safe and efficient transit operation.

Viability of Cash and Off-Site Proffers

Conditional zoning was authorized by the Virginia General Assembly over 30 years ago. The goal was to address the rigidity of traditional zoning methods to address conflicts between competing and incompatible land uses.

As designed and utilized for decades, conditional zoning allows reasonable conditions, known as proffers, to be offered by the applicant during a rezoning process as a way of mitigating the impacts of the proposed rezoning. Proffers could include land, infrastructure, cash or other conditions or constraints on the use of the property. These proffers, if accepted by the governing body as part of the rezoning approval, become part of the zoning ordinance as it applies to that property. In theory, conditional zoning allows land to be rezoned that might not otherwise be rezoned because the proffers can address community concerns arising from the rezoning. In the 2016 session SB549 created a new section, 15.2-2303.4, which dramatically changed the way off-site and cash proffers can be offered, considered, accepted and used to support public facilities. The change disrupted the balance that had been achieved over the previous three decades. In the 2019 session revisions were enacted to address some of the most problematic elements of the 2016 legislation. These revisions were intended to restore the ability of the locality and the property owner/developer to have essential discussions about

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a proposal without unreasonably exposing the locality to liability. It is hoped that these revisions will begin to rebalance the process, but the region is concerned that other revisions are still needed.

Continued concerns include:

- What is the definition of “specifically attributable” and how does this impact a proposed rezoning that generates a need for “some” capacity improvement?
- In the case of some capacity improvement need it must be an “identifiable portion of a need.” What does this mean and how is it determined?
- Should utility facilities be included as a category of public facility that may be addressed through proffers?
- The uncertainty regarding the reasonableness of proffers, coupled with the loss of the presumption of validity, the “clear and convincing” standard of proof, and the potential award of attorneys’ fees, has caused localities to limit proffer discussion during the rezoning process, or to forego proffer authority altogether.

When the Code of Virginia creates uncertainty local government attorneys, cautious by nature, advise their clients to err on the side of caution. We are uncertain to what degree the 2019 changes will rebalance this important zoning tool. **The Region therefore supports efforts to continue the address the negative impacts of SB549 (2016).**

Tax Reform and Local Revenues Generally

Local taxes such as the Business Professional and Occupational License tax (BPOL) and the Machinery and Tools tax (M&T) are frequently mentioned as taxes the General Assembly should consider for elimination. We recognize the need to promote business growth and support efforts to do so but those that can result in reducing local services that support economic development or raising other taxes will undermine the intended purpose. **Before further tax system changes are enacted the Region supports thorough study of the entire system and the consequences, both intended and unintended, associated with potential changes.**

Exemption from Local Real Estate Tax

The definition of total and permanent disability for purposes of granting Totally Disabled veterans an exemption for local real estate taxes should be the Total Disability Individual Unemployability (TDIU) rating given by the U.S. Department of Veterans Affairs rather than the Schedule Rating per 38 CFR Part 4.

Chesapeake Bay Restoration and Stormwater Management

The proposed Chesapeake Bay TMDL and Virginia’s Watershed Implementation Plan (WIP) requires 2-year milestones for the Commonwealth and its MS-4 localities. Without aggressive state investment in meeting these milestones Virginia localities will be under the threat of limited economic growth, including non-MS-4 localities. The Region urges the Governor and the General Assembly to be actively involved in identifying and resourcing proven traditional as well as innovative solutions. **The Region supports enhanced state financial support for implementing WIP III requirements including increased**

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funding for the Stormwater Local Assistance Fund (SLAF) and continued efforts to improve administrative efficiencies of the state-local relationship. As experience is gained, we believe needed enhancements will be identified and following the principles of adaptive management we can respond with appropriate legislative or regulatory revisions. The Region supports coordinated planning for meeting Chesapeake Bay Program goals and appreciates the Commonwealth's recognition and planning goals or targets are for planning purposes only if not specific to an MS-4 permit.

Alternative On-Site Septic Systems (AOSS)

AOSS are an important means of safely treating wastewater in areas where traditional septic treatment systems will not work. With regulation of these systems vested largely with the Virginia Department of Health localities have limited ability to respond when an AOSS unit does not meet treatment standards. **The Region encourages the General Assembly to provide adequate authority for VDH or localities to respond to AOSS failures** to protect the public health and water quality especially in circumstances where an AOSS owner refuses to properly care for the system or when the owner cannot afford to make needed repairs or improvements.

Water Supply

The Region is concerned about safe, adequate and affordable water supply for human consumption and economic development. The Region supports policies and financial investments by the Commonwealth that promotes long-term solutions to the needs of our communities for a safe and reliable water supply. Private water systems must be properly regulated to protect citizens' needs for safe, reliable and affordable drinking water.

State Funding for Local and Regional Jails

In 2010, the General Assembly reduced the amount paid to local jails for local inmates from \$8 per day to \$4 per day and reduced the amount for state responsible inmates from \$14 per day to \$12 per day. This saved the state over \$19 million annually by transferring the cost to local taxpayers.

The Region urges the General Assembly to return to paying \$14 per day for all state responsible inmates for whom they are now paying \$12 per day, the additional cost to the state would be approximately \$6 million annually. At this time the \$4 per day payment for local inmates would not be changed.

Economic and Workforce Development

The Region supports continued efforts by the Commonwealth to enhance a broader-based economy and increase private sector employment opportunities. The Region further supports enhanced funding of workforce training programs to support credential attainment by workers who support businesses and industries essential to the new Virginia economy.

Local Land Use Authority and Affordable Housing

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The Region strongly supports the maintenance of all existing authority of local government for planning, zoning and related activities. While efforts to enhance a broader-based economy rightly include examination of local rules and regulations that can impact private investment decisions, such examination must balance the economic goals with the goals of protecting existing communities and property rights. Decisions impacting our neighborhoods and communities are most appropriately made at the neighborhood and community level. Enhanced local authority to promote affordable housing and inclusionary zoning is important to facilitating workforce housing, a key element of local economic development.

Mental Health Services

The Region strongly supports a sustained focus by the state on Virginia's mental health services system to ensure, through evaluation and investment, that appropriate and effective outpatient and in-patient services are available across the Commonwealth. The Region encourages reforms that provide alternative placement of local jail inmates with serious mental health issues.

Substance Abuse

According to the American Public Health Association (APHA), every 19 minutes, someone in the United States dies from an unintentional prescription drug overdose. This epidemic is having devastating impacts on families and communities. The Region supports legislative and educational efforts to emphasize prevention and address misuse. The APHA recommends legislation to address physical and mental status examination, doctor shopping, tamper-resistant prescription form requirements, regulation of pain management clinics, prescription drug monitoring, prescription drug overdose emergency response immunity and access to naloxone. Emergency community-based support systems need strengthening to enable local agencies to respond to the needs of impacted families.

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