

# County of Dinwiddie Board of Supervisors

## MINUTES

Workshop Meeting – September 6, 2016, 4:04 PM

Multipurpose Meeting Room, Pamplin Administration Building  
14016 Boydton Plank Road, Dinwiddie, Virginia

### Supervisors Present:

Brenda Ebron-Bonner, *Chair*  
Harrison A. Moody, *Vice Chair*  
Dr. Mark E. Moore  
William D. Chavis  
Daniel D. Lee Election District 4

Election District 5  
Election District 1  
Election District 2  
Election District 3

### Administration Present:

W. Kevin Massengill, *County Administrator*  
Anne Howerton, *Deputy County Administrator,  
Finance and General Services*  
Tyler Southall, *County Attorney*

## 1. ROLL CALL

Mr. Moody arrived at 4:06 PM.

## 2. AMENDMENTS TO AGENDA

There were no amendments to the agenda.

## 3. NEW LAWS UPDATE

Tyler Southall, County Attorney, and Raven Baugh, Intern, presented the below to the Board.

**New Laws Presentation**  
Dinwiddie County Attorney's Office  
September 6, 2016  
Presenters:  
Raven Baugh, Intern  
Tyler C. Southall, County Attorney

**Guide to Symbols in Presentation**

- MUST**: The "MUST" symbol means that you must adopt an ordinance related to this matter.
- MAY**: The "MAY" symbol means that you may adopt an ordinance related to this matter.
- INFO**: The "INFO" symbol means that this slide is included for informational purposes only, although many of these slides address laws with which you or the County must comply, either now or in the future.

**HB 367 - Certain Zoning Application Fees Eliminated** (MUST)

- ca If an establishment has a function that is not permitted by the Zoning Code, the business can apply for a special use permit or a rezoning without charge for filing if:
- ca 1) A business license was issued for the function of the establishment, and
- ca 2) The owner of the business license has operated the establishment for 15 years or more (while also paying local taxes related to the business).

**SB 416 - Limited Residential Lodging Act** (INFO)

- ca The bill directs the Virginia Housing Commission to create a work group to study the issues in the bill and make recommendations that will be considered by the 2017 Session of the General Assembly.
- ca The bill contains a reenactment clause, so in order for this bill to become law, it must be approved again next year by the General Assembly.

**SB 416 - Limited Residential Lodging Act (Cont.)** (INFO)

- ca Allows individuals to rent out part or all of their primary residences, as limited residential lodging.
- ca Limited residential lodging is defined as the house or portion of the house that will be rented for less than 30 consecutive days.
- ca If the limited residential lodging is for less than 45 days a year, then localities would not be allowed to require a business license.
- ca Localities are prevented from approving ordinances or zoning restrictions for these rentals.
- ca Localities are also prevented from prohibiting, imposing additional regulations on, or otherwise restricting the operation of a hosting platform. A website that allowed for bookings of limited residential lodging would be a hosting platform.

**SB 416 - Limited Residential Lodging Act (Cont.)** (INFO)

- ca However, localities may adopt ordinances that:

  1. require limited residential lodgings to have "a minimum of \$500,000 of liability insurance";
  2. prohibit "persons from renting their primary residences if they fail to pay applicable taxes"; and
  3. require limited residential lodgings to register with the locality.

**SB 549 - New Rules re: Residential Proffers** (INFO)

- ca For residential rezonings, states that "no locality shall

  1. request or accept any unreasonable proffer...in connection with a zoning or proffer condition amendment...or
  2. deny any rezoning application or proffer condition amendment...where such denial is based in whole or in part on an applicant's failure or refusal to submit an unreasonable proffer or proffer condition amendment."

**SB 549 - New Rules re: Residential Proffers** (INFO)

- ca What makes a proffer condition "unreasonable"?
- ca Any proffer condition is "unreasonable" if it does not address an impact that is "specifically attributable" to the new residential use.
- ca An offsite proffer condition is "unreasonable" if it does not:

  1. the new residential use "creates a need" or "an identifiable portion of a need" for the proffer condition; AND
  2. each new residential use receives a "direct and material" benefit from the proffer condition.

## SB 549 - New Rules re: Residential Proffers

INFO

- ☞ If locality loses suit brought under SB 549:
  1. Applicant may be entitled to reasonable attorney's fees; and
  2. Applicant may be entitled to an order remanding the matter to the government body with a direction to approve the rezoning or proffer condition amendment without the inclusion of the unreasonable proffer.
- ☞ SB 549 is "prospective only and shall not be construed to apply to any application for rezoning or proffer amendment case filed prior to July 1, 2016."

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## HB 283 - Hearings on Electrical Transmission Line

INFO

- ☞ If requested by "the governing body of any [county, city, or town] through which an electrical transmission line of 138 kV or more is proposed to be built," the State Corporation Commission must hold one or more hearings in the affected area.
- ☞ The affected areas receive the same protections if a considerably different route is chosen by the SCC.

INFO

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## HB 283 - Hearings on Electrical Transmission Line (Cont.)

INFO

- ☞ Before the change in law, the SCC had to hold a public hearing in the affected area upon written request by 20 or more interested parties.

INFO



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## HB 883 - Telecommunications Towers and Comprehensive Plan

INFO

- ☞ Under previous law, telecommunications towers and certain other facilities had to be substantially in accord with the comprehensive plan.
- ☞ Under the new law, a telecommunications tower or facility is not subject to the substantially in accord test if it is in a zoning district that allows such use by right.



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## HB 148 - Date Requirement Changed for Tax Rate

INFO

- ☞ May 15 will be the new date by which a county, city, or town is required to set the real property tax rate.
- ☞ Previously, the deadline had been April 15.
- ☞ Based on practical timeline constraints, the County will continue to have to approve a tax rate by early April as is current practice.



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## HB 865 - Real Property Tax Exemptions

INFO

- ☞ Calls for voters to vote at the November 8, 2016, election to approve or reject an amendment to Article X of the Constitution of Virginia.
- ☞ This amendment allows the General Assembly to provide an option to localities to exempt from taxation the real property of the surviving spouse of any law-enforcement officer, firefighter, search and rescue personnel, or emergency medical services personnel who was killed in the line of duty.

## HB 865 - Real Property Tax Exemptions (Cont.)

INFO

- ☞ It also states that the surviving spouse must live in the real property as his or her main residence. The exemption ends if the spouse remarries.



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## HB 1032 - Vehicle Registration; Penalty on Owner Annually as Long as Vehicle Unregistered.

MAY

- ☞ "a locality may impose a penalty of up to \$250 upon the resident owner of a motor vehicle annually for as long as the motor vehicle remains unregistered in Virginia."
- ☞ This provision amended section 46.2-662, which allowed a penalty to be imposed on vehicle owners who did not register their vehicle within 30 days of moving to the Commonwealth.
- ☞ Dinwiddie has not adopted such an ordinance.



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## SB 690 - Emailing Certain Tax Information

INFO

- ☞ This bill clarifies that tax documents may be sent through email from the Commissioner of the Revenue, Treasurer, or other taxing official.
  - ☞ Permission from the recipient is required first.
- ☞ Previously, tax bills could be sent via email by the Treasurer if written permission had been obtained.



INFO

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## HB 1305 - Details on Solar Equipment Tax Exemptions

INFO

- ☞ M&T used to generate energy from sun and wind exempt until 6/30/2027.
- ☞ Provides further details on exemptions for solar power equipment.

INFO

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## HB 1250. Erosion and Stormwater Management



- ☞ If a locality operates a Virginia Stormwater Management Program (VSMP), then it will be required to adopt a Virginia Erosion and Stormwater Management Program (VESMP) that regulates any land-disturbing activity of 10,000 square feet or more.
- ☞ Takes effect the later of July 1, 2017 or 30 days after adoption of regulations.
- ☞ We will be following this and probably recommending changes to the County Code.

**MUST**

## SB 288 – Conflict of Interests Act, State and Local Government; advisory opinions for local officers.



**INFO**

- ☞ Removes the provision that allows a county, city, or town attorney to issue to a local officer or employee an advisory opinion that would shield that officer or employee from future prosecution for knowing violations of the State and Local Government Conflict of Interests Act.
- ☞ An advisory opinion from the Commonwealth attorney or the Virginia Conflict of Interest and Ethics Advisory Council is still valid.
- ☞ The bill provides that an advisory opinion issued to a local officer or employee by his county, city, or town attorney may be introduced at a trial for a knowing violation as evidence that he did not knowingly violate the Act.

## HB 1362 – Conflicts of Interests Acts, State & Local Government & General Assembly, etc. lobbyist reporting.



**INFO**

- ☞ Gifts with a value of less than \$20 are now excluded from the definition of gift under the State and Local Conflict of Interests Act ("COIA").
- ☞ Members of the Board of Supervisors must now turn in annual COIA disclosure forms, which will be due January 15 of each year. Previously semi-annual forms had been required.
- ☞ The details of the COIA disclosure forms have been removed from the Code of Virginia, and are now to be written by the Conflict of Interest and Ethics Advisory Council.

## HB 818 – Virginia FOIA; Posting of Rights and Responsibilities.



**INFO**

Requires:

- ☞ 1) any county or city; and any town with a population of more than 250, to post a FOIA rights and responsibilities document on the homepage of their government website.
- ☞ 2) all state public bodies created in the executive branch of state government, including state authorities, and all local public bodies that are subject to FOIA to designate and publicly identify one or more FOIA officers whose responsibility is to serve as a point of contact for members of the public in requesting public records and to coordinate the public body's compliance with the provisions of the FOIA.

## HB 818 – Virginia FOIA; Posting of Rights and Responsibilities (Cont.)



**INFO**

- ☞ 3) that the FOIA officer shall possess specific knowledge of the provisions of FOIA and be trained at least annually by legal counsel for the public body or the Virginia [FOIA] Advisory Council.

The bill states that the FOIA officer's contact information is to be posted "in a way reasonably calculated to provide notice," including posting at the public body's place of business, posting on its website, or including such information in its publications.

## HB 821 – Fraud and Abuse Whistle Blower Protection Act



**INFO**

- ☞ This change now includes local government and public school divisions under the Fraud and Abuse Whistle Blower Protection Act. Previously, it was limited to state government and citizens.
- ☞ The bill states that if the disclosure from a whistle blower results in at least a \$5,000 savings, then the whistle blower may be compensated.



## HB 527 – Bomb Threats; Reimbursement of Expenses In An Emergency.



**MAY**

- ☞ Authorizes any locality to provide by ordinance that a person convicted of a felony violation of the bomb threat statute or the statute that penalizes the incitement of a bomb threat shall be liable for the reasonable expense, not to exceed \$1,000, of an appropriate emergency response to the threat.
- ☞ Current law allows such an ordinance to subject a person to liability for the expense of the emergency response to an imitation version of a weapon of terrorism or fire bomb or other explosive device.



## HB 412 – Certain Aircraft Regulation



**INFO**

- ☞ "No locality may regulate the use of privately owned, unmanned aircraft systems within its boundaries. The provisions of the bill expire on July 1, 2019."



<h3 style="text-align: center;">HB 1250. Erosion and Stormwater Management</h3> <p style="text-align: center;">☞</p> <ul style="list-style-type: none"> <li>☞ If a locality operates a Virginia Stormwater Management Program (VSMP), then it will be required to adopt a Virginia Erosion and Stormwater Management Program (VESMP) that regulates any land-disturbing activity of 10,000 square feet or more.</li> <li>☞ Takes effect the later of July 1, 2017 or 30 days after adoption of regulations.</li> <li>☞ We will be following this and probably recommending changes to the County Code.</li> </ul> <p style="text-align: center;"><b>MUST</b> 19</p>	<h3 style="text-align: center;">SB 288 - Conflict of Interests Act, State and Local Government; advisory opinions for local officers.</h3> <p style="text-align: center;">☞</p> <p style="text-align: right;"><b>INFO</b></p> <ul style="list-style-type: none"> <li>☞ Removes the provision that allows a county, city, or town attorney to issue to a local officer or employee an advisory opinion that would shield that officer or employee from future prosecution for knowing violations of the State and Local Government Conflict of Interests Act.</li> <li>☞ An advisory opinion from the Commonwealth attorney or the Virginia Conflict of Interest and Ethics Advisory Council is still valid.</li> <li>☞ The bill provides that an advisory opinion issued to a local officer or employee by his county, city, or town attorney may be introduced at a trial for a knowing violation as evidence that he did not knowingly violate the Act.</li> </ul> <p style="text-align: right;">20</p>
<h3 style="text-align: center;">HB 1362 - Conflicts of Interests Acts, State &amp; Local Government &amp; General Assembly, etc. lobbyist reporting.</h3> <p style="text-align: center;">☞</p> <p style="text-align: right;"><b>INFO</b></p> <ul style="list-style-type: none"> <li>☞ Gifts with a value of less than \$20 are now excluded from the definition of gift under the State and Local Conflict of Interests Act ("COIA").</li> <li>☞ Members of the Board of Supervisors must now turn in annual COIA disclosure forms, which will be due January 15 of each year. Previously semi-annual forms had been required.</li> <li>☞ The details of the COIA disclosure forms have been removed from the Code of Virginia, and are now to be written by the Conflict of Interest and Ethics Advisory Council.</li> </ul> <p style="text-align: right;">21</p>	<h3 style="text-align: center;">HB 818 - Virginia FOIA; Posting of Rights and Responsibilities.</h3> <p style="text-align: center;">☞</p> <p style="text-align: right;"><b>INFO</b></p> <p>Requires:</p> <ul style="list-style-type: none"> <li>☞ 1) any county or city; and any town with a population of more than 250, to post a FOIA rights and responsibilities document on the homepage of their government website.</li> <li>☞ 2) all state public bodies created in the executive branch of state government, including state authorities, and all local public bodies that are subject to FOIA to designate and publicly identify one or more FOIA officers whose responsibility is to serve as a point of contact for members of the public in requesting public records and to coordinate the public body's compliance with the provisions of the FOIA.</li> </ul> <p style="text-align: right;">22</p>
<h3 style="text-align: center;">HB 818 - Virginia FOIA; Posting of Rights and Responsibilities (Cont.)</h3> <p style="text-align: center;">☞</p> <p style="text-align: right;"><b>INFO</b></p> <ul style="list-style-type: none"> <li>☞ 3) that the FOIA officer shall possess specific knowledge of the provisions of FOIA and be trained at least annually by legal counsel for the public body or the Virginia [FOIA] Advisory Council.</li> </ul> <p>The bill states that the FOIA officer's contact information is to be posted "in a way reasonably calculated to provide notice," including posting at the public body's place of business, posting on its website, <u>or</u> including such information in its publications.</p> <p style="text-align: right;">23</p>	<h3 style="text-align: center;">HB 821 - Fraud and Abuse Whistle Blower Protection Act</h3> <p style="text-align: center;">☞</p> <p style="text-align: right;"><b>INFO</b></p> <ul style="list-style-type: none"> <li>☞ This change now includes local government and public school divisions under the Fraud and Abuse Whistle Blower Protection Act. Previously, it was limited to state government and citizens.</li> <li>☞ The bill states that if the disclosure from a whistle blower results in at least a \$5,000 savings, then the whistle blower may be compensated.</li> </ul>  <p style="text-align: right;">24</p>

## THE END

☞

- ☞ Thank you for your attention.
- ☞ Please advise if you have any questions or would like to adopt any of the ordinances other than the zoning fee elimination ordinance (HB 367).

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#### 4. **CLOSED SESSION**

At 4:56 PM, upon the motion of Mr. Chavis, seconded by Mr. Moody,

The Board convened into a closed meeting under:

**A. §2.2-3711 (A) (7) Consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel:**

- Zoning Code Compliance

AYES: Dr. Moore, Mr. Chavis, Mr. Lee, Mr. Moody, Ms. Ebron-Bonner  
 NAYS: None

At 5:53 PM, upon motion of Mr. Chavis, seconded by Mr. Lee, the Board reconvened into open session.

AYES: Dr. Moore, Mr. Chavis, Mr. Lee, Mr. Moody, Ms. Ebron-Bonner  
 NAYS: None

**CERTIFICATION**

**Whereas**, this Board convened in a closed meeting under section

- A. **§2.2-3711 (A) (7) Consultation with legal counsel employed or retained by a public body regarding specific legal matters requiring the provision of legal advice by such counsel:**
  - Zoning Code Compliance

**And whereas**, no member has made a statement that there was a departure from the lawful purpose of such closed meeting or of the matters identified in the motion discussed.

**Now be it certified**, that only those matters as were identified in the motion were heard, discussed or considered in the meeting.

*Upon motion of Dr. Moore, seconded by Mr. Chavis, the Certification Resolution was adopted.*

AYES: Dr. Moore, Mr. Chavis, Mr. Lee, Mr. Moody, Ms. Ebron-Bonner  
NAYS: None

**5. ADJOURNMENT**

*Upon motion of Mr. Chavis, seconded by Dr. Moore, the meeting was adjourned at 5:54 PM.*

AYES: Dr. Moore, Mr. Chavis, Mr. Lee, Mr. Moody, Ms. Ebron-Bonner  
NAYS: None

\_\_\_\_\_  
Brenda Ebron-Bonner  
Chair

ATTEST: \_\_\_\_\_  
W. Kevin Massengill  
County Administrator  
Clerk to the Board

/sbw