

VIRGINIA

TOWN & CITY

The magazine of the Virginia Municipal League

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JULY/AUGUST 2018

THE ULTIMATE CHALLENGE

Providing educational opportunity
for Virginia's low-income children

Inside:

Annual Conference
Preliminary Agenda
on page 22

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About the cover

Creating a learning environment for economically-disadvantaged students, particularly where those students are concentrated in low-income schools, requires good leadership and hard work. The ability to provide quality leaders, engaged teachers, and additional services requires additional funding and creativity. There will be a high return on investment if the state can improve the education of its economically-challenged students and schools. The story starts on page 14.

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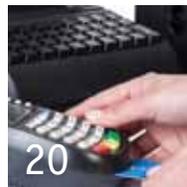
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Vote where you sleep - But vote!

WHEN I WENT TO MY POLLING place on the evening of the primary, I was number 300 that day to vote. I recall being over number 700 when I voted in November. Voting is an important part of being a responsible citizen and we must exercise our ability to decide on people and issues that can better our communities. However, as a voter, I want to know that I am voting in the correct place so that I made a difference in my locality. VML has been made aware of the fact that mis-assigned voters exist in Virginia and this is truly a frustrating matter. It is estimated that more than 260 residences were assigned to the wrong congressional district in Virginia with over 180 of them in Suffolk.

VML became aware of this issue when some registrars asked questions and then the State Board of Elections held a meeting where the topic was discussed. Before we talk about the meeting, I want to give a little context about the players in dealing with election issues. Each county and city has an electoral board which is appointed by the chief judge of the circuit court. The board is comprised of three people, two of whom are of the prevailing political party having the highest number of votes in the Commonwealth for the last election for Governor, and the third from the party receiving the second highest number of votes. The Electoral Board appoints a general registrar. Then there is the State Board of Elections, which is made up of three members appointed by the Governor from qualified voters, again with the political party representation the same as for the local electoral board. The members of the state board are subject to confirmation by the General Assembly.

For the law, the Code of Virginia does not provide any single entity the authority to modify local election district lines. The General Assembly draws the Congressional, House and State Senate District lines, the localities draw local office district lines and voting precincts (not the Registrar, the governing body). To add to the mix, changes to locality lines or precincts after 2011 cannot be considered when looking at voting precincts. (See VA Code 24.2-302.2(c)

The Department of Elections (ELECT) is the conduit for the district lines and voting precincts but has no authority or oversight in ensuring that voters are properly placed. ELECT uses GIS mapping software along with the US Census block data to assist in this process. The study identifying potential mis-assigned voters were mostly "edge cases," meaning that they were on the outer limits of the districts. Reasons for the mis-assignments appear to be human error, historical disputes of county lines and a misunderstanding of the use of precinct descriptions, along with informal agreements between localities or the incorrect use of county information (where taxes are paid, or utilities are servicing a property). There is regulation that says that you "vote where you sleep" (1 VAC 20-40-



30(E)); if your house straddles a jurisdictional boundary line that you vote where your usual sleeping area is.

At the end of the June 19th meeting of the State Board of Elections, it was clear that the board wanted to fix this matter but pondered who ultimately was responsible for the errors--there was no answer. Chris Piper, commissioner of ELECT, committed to working with localities and the board on this issue but indicated that the responsibility currently lies in a lot of places. Stay tuned for more on this issue and let's not even begin to discuss redistricting! 

Ackerman joins VML staff



- Ackerman -

VML is delighted to announce that **Jessica Ackerman** began working Monday, July 9 as the league's policy and advisory relations manager. Since 2007, she has developed and analyzed policy at the local, state and federal levels. Most recently, Jessica was senior fiscal policy analyst to the New York City Council, advising committees focused on community development, education, higher education and youth services. Her earlier career includes state and federal policy research with MDRC (formerly the Manpower Development and Research Corporation), policy management with the Association of Children's Museums, and research and coordination with the U.S. Department of State. She holds a bachelor's degree in political science from Dickinson College and a master's degree in public policy from George Mason University. She is a native of Norfolk.

Flanagan-Watson named Arlington deputy county manager

Arlington County Manager Mark Schwartz has appointed **Shannon Flanagan-Watson** as deputy county manager, effective May 21.



- Flanagan-Watson -

She has nearly 25 years of combined experience working in and with local governments and has worked in Arlington County for more than 13 years. She has served as assistant manager since 2005, and also was acting director of the county's parks and recreation program. Before coming to Arlington, Flanagan-Watson was the director of business development for the International City/County Management Association. She is the current chair of the Alliance for Innovation.

Governor appoints local officials to state boards

Galax Vice Mayor **Willie Greene** has been appointed to the State Executive Council (SEC) for the Children's Services Act (CSA). Greene is the chair of the City Section for VML and is a member of the league's executive committee. The SEC is the supervisory body that oversees the administration of the Children's Services Act (formerly known as the Comprehensive Services Act).

Roanoke Mayor **Sherman P. Lea, Sr.** has been reappointed to the Virginia Parole Board, where he has served since 2014. Mayor Lea has served on the Roanoke council since 2004 and was elected mayor in 2018. He previously served in the Virginia Department of Corrections for 35 years before retiring in January 2012. The board's mission is to grant parole to those offenders whose release is compatible with public safety.

Mimi Milner Elrod and **Andrew M. Friedman** have been appointed to the Board of Housing and Community Development. Elrod is a former mayor of Lexington and a former member of VML's executive committee. Friedman is the director of the Virginia Beach Department of Housing and Neighborhood Preservation. The board advises the Governor and state agencies on housing and community development issues.

Norfolk Deputy Attorney **Cynthia B. Hall** has been appointed to a seat on the Virginia Housing Commission. VML nominated Hall for the position. As deputy attorney, Hall handles all code and regulatory issues including environmental compliance, environmental criminal enforcement, code enforcement issues, and blight eradication efforts. The commission studies and provides recommendations to ensure and foster the availability of safe, sound and affordable housing.

Thrower appointed manager in Smithfield

Brian Thrower was named town manager in Smithfield at the June 5 meeting of the Smithfield Town Council. He assumed the post in the first part of July.

Prior to the move to Smithfield, Thrower was the city manager in Emporia for the past ten years. He also has been the assistant city manager in Emporia, the business relations manager in the city of Lynchburg, and a management assistant in Charlotte NC.

Drew tapped as Newport News police chief

Newport News City Manager Cindy Rohlf on May 24th announced her selection of **Steven R. "Steve" Drew**



- Drew -

for the position of Chief of Police. Drew assumed his new position July 2. He was the deputy chief of patrol operations and business services in the Richmond police department.

Drew has 24 years of progressively responsible experience in local law enforcement. He began his career as a Richmond police officer moving up through the ranks to deputy chief position in April 2015. He is credited with creating and implementing the 4th Precinct Community Response Team, the Organized Crime Street Level Narcotics Unit and a Plain Clothes Street Crimes Unit.

Tyree assumes Buchanan position

Buchanan Mayor Craig Bryant and the town council announced the appointment of **Jason Tyree** as the new town manager effective June 18.

Tyree most recently served as the property maintenance official and supervisor in Lynchburg's Department of Community Development. Prior to working for Lynchburg, he spent over ten years in the insurance industry, leading training and customer service programs in his division.

Lewis tapped as assistant county administrator



Anne Lewis began work June 21 as the assistant county administrator in Loudoun County. County Administrator Tim Hemstreet announced the appointment June 4.

- Lewis -

Before taking the job in Loudoun County, Lewis was an executive search consultant with Springsted | Waters, specializing in executive leadership positions in local governments and nonprofit organizations. Prior to that, Lewis was the deputy city manager in Harrisonburg and the assistant city manager in Winchester.

Didawick named as Leesburg HR director



Leesburg Town Manager Kaj Dentler announced that he has hired **Joshua Didawick** as Leesburg's new human resources director. He begins his new job on August 13.

- Didawick -

Didawick currently is the benefits manager in Memphis, Tennessee. Prior to joining Memphis in 2016, he served as human resources director in Staunton from 2011 to 2016. Didawick worked for the city of Winchester from 2004 to 2011, holding a variety of roles in tax administration, public information, and human resources. He is an ensign in the United States Navy Reserve, serving as a human resources officer.

Campbell receives Lifesaving Hero Award

Lebanon Public Works Employee **Chase Campbell** received a Lifesaving Hero Award from the American Red Cross Mountain Empire Chapter Celebration of Heroes event in Abingdon last April. Campbell received the award in recognition of his role in reviving a two-year old.

Campbell, a member of the town street crew, was filling in on the garbage

truck detail last February. After picking up the garbage at one address, a father came running out of a house calling for help and holding a young child, who was unresponsive and limp. Campbell began compressions while other crew members called emergency services. After a few minutes of compressions, the child started crying. The child had had a seizure but was taken to the local medical center and released. The father did not know CPR and did not have a telephone.

Fowler named deputy Gloucester manager

Gloucester County Administrator J. Brent Fedors announced in June that **Reed Fowler** would come on board as the new deputy county administrator effective July 23. Fowler was the public works director in Newport News, and served within the department since 1984.

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Save the dates!

Learn about these opportunities and more at www.vml.org/events-list.

Sept. 16-18: VBCOA 89th Annual School and Conference

Sept. 29-30: Virginia Mayors Institute

Sept. 30 - Oct. 2: VML Annual Conference



News & notes

Richmond selected to participate in Mayor's Challenge to Prevent Suicide

THE CITY OF RICHMOND has signed onto the Mayor's Challenge to Prevent Suicide Among Service Members, Veterans and their Families (SMVF). The challenge is a process to help communities develop, implement and measure comprehensive suicide prevention efforts. Richmond is one of eight cities from across the U.S. to be selected to participate in the challenge, which is spearheaded at the federal level by several federal agencies.

Mayor Levar Stoney and city staff are working with

the River City Warriors, an inter-agency team of federal, state and local partners, to develop a plan on reducing suicides through a comprehensive public health approach.

Additional information is posted at <https://bit.ly/2yorG6X> and <https://bit.ly/2Mpruwj>.



Managers go for the win in Woodbooger Chase Triathlon



BIG STONE GAP MANAGER Stephen Lawson, Norton Manager Fred Ramey and Pennington Gap Manager Keith Harless joined forces on June 10 as "The Misfit Mountain Managers Chasing the Woodbooger." They competed in the second annual Woodbooger Chase Triathlon held during the 2018 Best Friend Festival.

The Misfits finished first place with a time of 39:57 minutes. All the managers felt this was a great opportunity to show surrounding towns and communities how working together allows great things to happen in the mountains of Southwest Virginia.

The Best Friend Festival, sponsored by the city of Norton and the Wise County Chamber of Commerce, was a week-long celebration of athletic events, music, entertainment and more.

Learn more about the woodbooger at www.nortonva.gov/455/Woodbooger-Sanctuary.

(L-R) Ramey, Harless and Lawson hold the Woodbooger medal, which was crafted in clay by local art students.

Virginia Beach Wins 2018 IDC Smart Cities North America Award

VIRGINIA BEACH RECEIVED a Smart Cities North America award, in the category of smart water, at the IDC Government Insights' 2018 Smart Cities North America Awards (SCNAA) program held May 18 in New York City. The awards, which were new for this year, were designed to recognize the progress North American communities have made in

executing smart cities projects, as well as provide a forum for sharing best practices. Virginia Beach was the only winner from Virginia and joined 16 other cities for the award ceremony.

The winners illustrated best practice examples of urban innovation with a particular focus on the use of technology and data, unique partnerships, funding models and/or community involvement.

IDC is a global provider of market intelligence, advisory services, and events for the information technology, telecommunications, and consumer technology markets.



Portsmouth seeks public input on how to decrease poverty

THE CITY OF PORTSMOUTH held a public forum on June 21 to discuss poverty in the city. A consultant is heading up a study on the issue; in addition to the public forum, individual stakeholders will be interviewed to get feedback on their views on the causes and conditions of poverty that are specific to the city and on assets and gaps in services to Portsmouth residents. Further, citizens have a third route to participate, by completing a survey that is available on-line or at the public forum.



Capitalsville celebrates Stanley Cup win

THE TOWN OF LOVETTSVILLE temporarily changed its name to Capitalsville for the duration of the 2018 Stanley Cup finals, following the Washington Capitals advancing to the playoffs last May.

Mayor Robert J. Zoldos II, an avid Capitals fan, came up with the name change idea as a way to give the town's economy a boost.

Not to be left out, the Lovettsville Historical Society adopted a new temporary name: the Capitalsville Historical Society.

The playoffs were held May 28 through June 7, with the Capitals winning four of the best-of-seven series.





Dayton sponsors Silver Lake races

FOR THE SECOND YEAR in a row, a good time was had by all at the Silver Lake Boat Races, sponsored by the town of Dayton, with the proceeds from entry fees and donations benefitting Camp Holiday Trails in Charlottesville. Boats have to be made prior to the event, and must be made entirely of cardboard, duct tape, glue, water-soluble caulk and /or silicone sealant, and decorative paint. Two-person crews make their stabs at paddling across the lake, with awards for the fastest boat, the best theme and the “best “swimmers,” since some boats do not make it back to shore! The race was held July 14.

The contest is held in memory of Gabe Chester, a high school freshman from Dayton who passed away in April 2016 due to a heart condition.

A video of the race can be seen at <https://bit.ly/2LMWGFk>.

Richmond institutes live feed of emergency events in the city

POLICE, FIRE AND PUBLIC WORKS events are now listed on the City of Richmond’s Department of Emergency Communications website at <https://bit.ly/2Ni5yDX>. The live feed lists emergency events that have been reported to the Richmond Department of Emergency Communications through calls and text messages to 911.

The chief law enforcement officers of Chesterfield, Henrico and Richmond began encrypting police radio frequencies as of July 2, so that only authorized public safety personnel can monitor them. The live feed is an alternative to police radio transmissions in the city.



Virginia Beach looks to help residents live longer, healthier lives

VIRGINIA BEACH RESIDENTS had the chance to learn the secret to longevity at a June 6 community interest meeting at the Virginia Beach Convention Center. According to a May 24 city media release, researchers have identified five areas around the world, dubbed “Blue Zones®,” that are home to the most centenarians – people who live to be 100 years old or more. The researchers’ work has evolved into an initiative to help communities transform to help people live longer, healthier lives by optimizing their lifestyle and environment.

More than 30 cities throughout the United States have earned or are in the process of earning a Blue Zones designation. Some have experienced double digit drops in obesity, smoking and body mass index (BMI), saved millions in health-care costs and experienced measurable drops in employee absenteeism.

More information is available at <https://bit.ly/2JWnHrS>.



Staunton council approves biking, pedestrian plan

THE CITY OF STAUNTON is moving forward with a comprehensive bicycle and pedestrian plan with the goal of making the city friendlier to cyclists and pedestrians. City staff, the Bicycle and Pedestrian Advisory Committee and the Bicycle and Pedestrian Plan Steering Committee presented the plan at the May 24th council meeting.

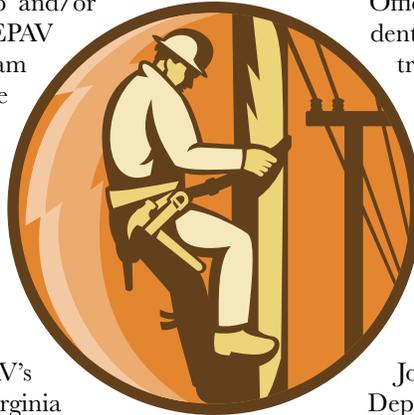


MEPAV chips in for Fallen Line Worker program

THE BOARD OF DIRECTORS of the Municipal Electric Power Association of Virginia (MEPAV) voted to provide annually scholarship funds for the Fallen Line Worker program, which provides financial support to electric utility line workers injured on the job and/or supporting organizations. Further, MEPAV will contribute to a scholarship program for students, including children of line workers, entering the electrical worker program. The proceeds of the 8th Annual Fallen Lineman Golf Tournament, to be held September 20 at the Lake Chesdin Golf Course in Chesterfield, will be dedicated to burn centers, families, and/or the scholarship program.

The board took the actions at MEPAV's annual meeting held May 23-25 in Virginia Beach. Approximately 100 attendees attended sessions focused on emerging issues, social media and the fallen line worker program. In addition, a representative from Southside Community College gave an update on the Southside Virginia Community College Power Line

Worker Training School and about the partnership with utilities that allow apprentices to be eligible for up to 35 college credits that can be applied towards an associate's degree.



Officers elected at the meeting include President A.K. Briele (director of the Salem Electric Department) and Vice President Mike Stover (director of Culpeper Town Light & Power). Executive committee members elected at the meeting include Gregory Disher (director of the Danville Power & Light Division), Tim Logwood (director of the Radford Electric Department) and Brian O'Dell (general manager of the Harrisonburg Electric Commission). Durwin Joyce, director of the Martinsville Electric Department, will chair the Engineering and Operations Committee and Tom Dick will continue to be the legislative consultant.

MEPAV is an affiliate organization of VML; Sandra Harrington serves as the executive secretary-treasurer. For more information visit the website at www.mepav.org.

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Virginia declares war on running bamboo, vows to punish collaborators

WHEN THE DOOLEYS found the disease in the backyard, they didn't remove it. They put it in their garden. Their morbid decoration soon became fashionable. Many thought it to be exotic and decorated their land with it as well. It grew a full thirty feet tall, and around three inches

drug deals. Environmentalists have also raised concerns about the invasive nature of bamboo, whose rapid spreading capacity has the potential to take over habitats for native animals, sending ripples through the local ecosystem.

Regrettably, the Commonwealth of Virginia won't help with the removal. The reason? The state regulates noxious weeds, and even though people may argue that running bamboo is noxious, it does not fit the state legal definition because plants that are produced commercially are specially excluded from the definition. The solution? The state granted local governments the authority to regulate running bamboo.

This authority is contained in Virginia Code Section 15.2-901.1, which allows localities to adopt ordinances that direct landowners to control the bamboo forests before they spread to other properties. The section also provides for multiple fines which can be given for subsequent violations. A property owner can be fined up to \$3000 a year for failing to curb the spread of running bamboo. This authority stems from bills adopted in the 2017 session of the General Assembly. The bills also directed the Virginia Department of Agriculture and Consumer Services

to develop a model local ordinance, which can be found at <https://bit.ly/2J1R5N7>.

If you have bamboo on your property, and are worried about the spread, fear not, there are a few ways to contain a thicket if you move quickly. The first method is by digging a trench about two feet deep. The roots of the bamboo, "rhizomes," will grow from the thicket into the newly dug trench, where they can be pruned. This will usually stop the spread. If you're not in the mood to prune roots every few months, then bricks, stones, or a plastic barrier can be laid inside the trench to prevent the rhizomes from spreading the thicket. A

less effective method would be herbicides, which are known to be spotty at best. The last method is good old fashioned hard work, with a saw and a shovel. Make sure to dig deep to get all the roots. 

About the author: Max Halbruner is an intern at VML. He will be a second year student at the University of Virginia this fall.



thick, casting the ground below it in darkness and condemning the very grass below it to wither and die. Then it escaped those spots where it was left to live in a chaotic diaspora. Now it sits in clusters across the state, staining the Commonwealth with its green splotches of disease.

It is, of course, running bamboo. The stuff is everywhere.

From Mecklenburg to Shenandoah, invasive bamboo spread like wildfire. Anybody who has had a neighbor with a small forest knows how easily it can spread. Anybody who tries to purge their property of a thicket learns that sprouts always seem to survive. No matter if you throw down pesticides or dig up the yard with a steam shovel, sprouts always seem to remain, shooting up within a few weeks and starting the cycle all over again. The plant is even resistant to drought, with roots that extend more than a foot underground.

Thickets of bamboo pockmarking a city or town can cause much unease for local residents. The compact forest can provide a space to hide homeless populations, who can live there with a measure of privacy until eviction or plant removal. In today's opioid epidemic, concerns have also risen about the forests as spaces for drug use, or even more worrying, spaces for



Lessons learned over 35 years

IN 1983, I had been attending Wytheville Town Council meetings questioning some of the actions Council had taken. Chuck Lacy, a then-council member, was elected to the state legislature and had to resign to assume the legislative position. Council asked me to take Chuck's seat, because obviously, I thought I knew more than Council did. I accepted the challenge and was appointed. I was elected during the next election and have served on Town Council ever since. My current term ended June 30, 2018 and I chose not to run.

During my 35 years of service to the citizens of the Town of Wytheville, it's been a sincere honor and a blessing to both me and my family. I believe that I have made at least a small difference in the lives of the citizens during my tenure. Mayors need to be able to respond to the citizens as well as to the municipal employees. Everybody has to work together in order to accomplish the common good. There are frequently disgruntled people who tend to be not very nice. It takes a special talent to

IN 1988, MAETTA AND I got married and bought a house with almost 20 acres. The Town of Wytheville and Wythe County had already entered into an agreed boundary line change that would, on January 1, 1990, put Reed Creek within the town limits. The town line entered our 20 acres in a straight line and exited our 20 acres in a straight line, but within our border it zigzagged. A dispute arose between the then-Wythe County Administrator and myself. The County Administrator told funding agencies not to make grants, awards, etc. to the Town of Wytheville because I was illegally sitting on Council and did not live in town. I had researched the issue before we bought the house, Town Attorney Jimmy Gleaves likewise researched it, and agreed that I lived within the town limits. At least two other attorneys reached the same conclusion. However, at the County Administrator's urging, State Senator Danny Bird sought an Attorney General's opinion. That opinion was less clear. Rather than jeopardize anything for the citizens of Wytheville, I resigned from Town Council in 1989. When the boundary line adjustment became effective the following January, all our property was then clearly located within the town limits. I decided to run for Mayor against long-time Mayor Carl Stark in 1990. I believe that he had served the citizens of Wytheville for 34 years at that point. I was fortunate enough to defeat him in the election by a fairly significant margin. I ran unopposed in 1994. Then Carl ran against me again in 1998. Once again, I was able to defeat him. I then ran unopposed in 2000, 2004, 2008, 2012 and 2014.



avoid responding to those folks in the same manner. Elected officials, particularly the Mayor, need to be even-tempered, understanding, responsive and informative. Mayors must stand their ground, but do so in a pleasant manner.

The most difficult meeting over which I ever presided was the hearing during which Wytheville Town Council considered the rezoning of a dairy farm to allow it to become a Walmart shopping center. We had to move the public hearing to the high school auditorium to accommodate the crowd. Nevertheless, we maintained decorum. We allowed people to voice their concerns in an orderly fashion, made sure that everyone who wanted to speak was afforded the opportunity, and even allowed people to speak multiple times, after everyone had at least one chance. The hearing took several hours. At the conclusion of the meeting, Council engaged in our own discussions and then

voted in an open session – in front of the entire group. Obviously, not everyone was happy. But I tried to make sure that everyone knew what we had done, and the reasons stated for doing so.

In my 35 years as Mayor, we have faced many difficult decisions. I have been blessed to serve with extremely capable councilmembers, none of whom was ever shy. Over the years, we debated in many frank, blunt, and sometimes heated discussions. I believe that my job as Mayor is to ensure everyone remains civil and listens to the other viewpoints. I always tried to steer us towards the common ground to reach a consensus. I have frequently reminded people that God gave us two ears and one mouth to reflect the fact that we should listen more than we

talk. Sometimes that's been more of a challenge than others.

As Mayor, you often receive the credit for something your municipality has done well. I have always reminded people

BECAUSE I HAD UNDERGONE National Incident Management training, I was called upon to be the public information officer in a hostage standoff at our post office. An armed man took several postal customers and employees hostage and threatened to blow up the post office and several blocks surrounding it. The first call came into our 911 center and a command post was mobilized. Our police officers were dispersed to maintain traffic control and safety. As they put it, our entire public safety department was "locked and loaded." I manned the telephones giving out the information fed to me by our commander. During the ensuing hours, control of the command shifted to the county, then the state, and ultimately, federal agencies took over. Fortunately, the situation was resolved with no physical damage or injury to anyone. The hostage taker was apprehended and arrested.

WE HAD AN EMPLOYEE KILLED in a work-related accident. The entire Council attended the visitation and funeral together. I spoke at length with the family, very difficult though it was. I tried to be comforting and to explain the intricacies of Worker's Compensation and the paperwork needed to file a claim.

that I am only one of five councilmembers and have never been able to accomplish anything without a lot of help from a lot of people, elected and employed. The Town of Wytheville has always had excellent employees who put aside their own personal differences to accomplish the tasks at hand. It is a blessing to our citizens to have our capable, dedicated, talented employees.

I have traveled the state, worked my way through the chairs of the Virginia Municipal League committees and boards, and made friends all across Virginia. Local government really is "where the rubber meets the road" where one can see the effects of one's efforts fairly quickly. My biggest frustration with government is that it takes so long to accomplish anything inasmuch as the planning, deliberative processes, and decision making adds many layers of complication. Nevertheless, I



firmly believe that the overall process of local government generally works and favorable results usually occur. Mayors have to keep everyone focused on the goal at hand, avoid personality conflicts in the organization, and make sure that every voice is heard, even those voices with which the Mayor disagrees. 

About the author: *Trent Crewe is a former mayor of the Town of Wytheville and a former president of VML.*



Mayors need to be able to respond to the citizens as well as to the municipal employees. Everybody has to work together in order to accomplish the common good.

Financial stability – a benefit you can count on

WHEN PURCHASING INSURANCE coverage, it's easy to focus on the bottom line; however, that should not be the only factor considered.

The financial stability of a pool impacts the pool's ability to maintain stable rates, negotiate reinsurance costs, add new coverages, services and resources, and most importantly – pay costly claims without having to raise rates or assess members.

Currently, VMLIP has more than \$107 million in members' equity, making it, by far, the most financially-secure self-insurance pool in the Commonwealth.

This significant financial strength has allowed VMLIP the ability to maintain nearly flat rates for property, liability, and workers' compensation coverages for the last ten years. This, in turn, has allowed members to count on budget stability for annual contributions.

VMLIP has the strategic goal of providing rate stability to its members, and it's managed to do that for more than ten years, due to the focus on building and maintaining members' equity.

VMLIP's financial strength allows the pool to leverage members' equity whenever necessary to maintain stable rates. The pool is able to draw from this equity to maintain rates despite losses, market volatility, or increases in reinsurance

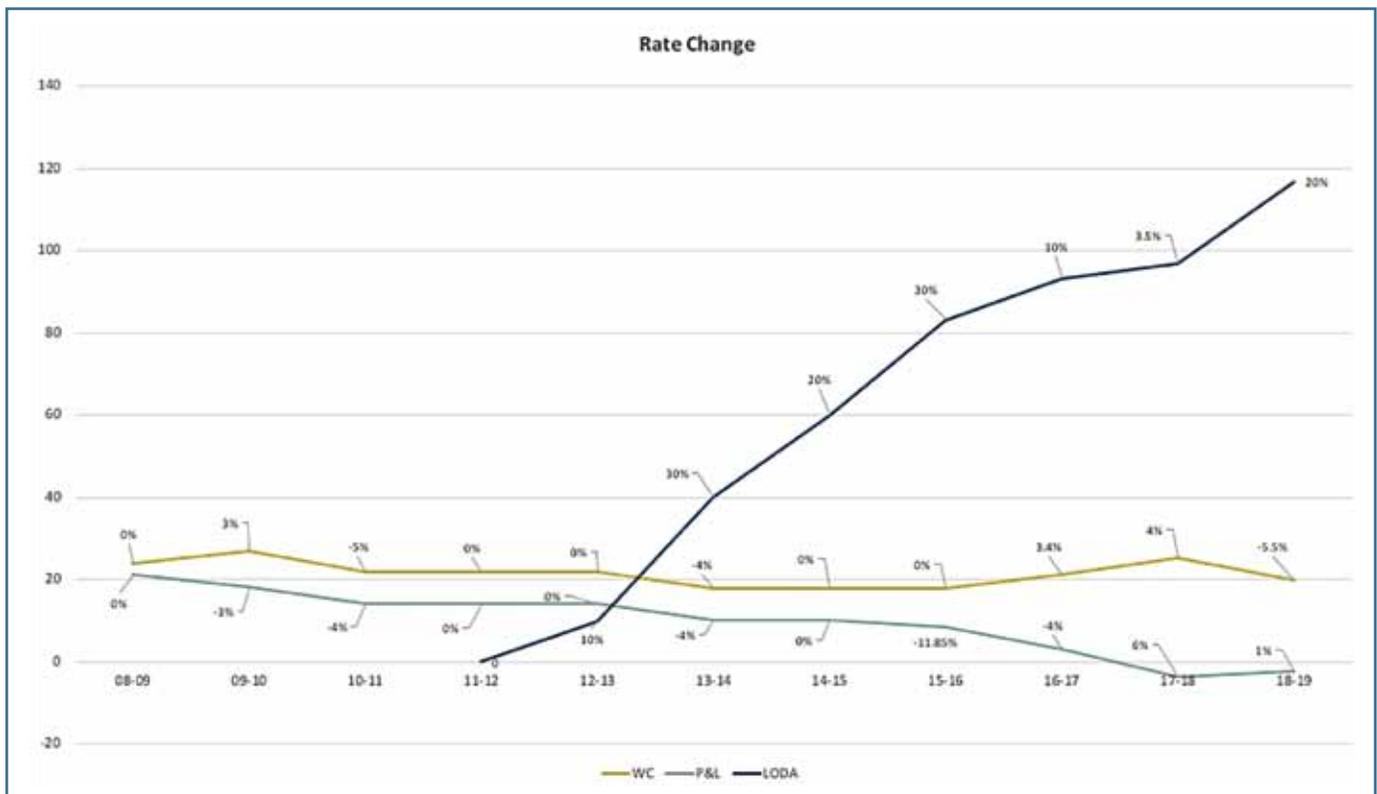
rates; and rebuild equity during years with less than anticipated losses.

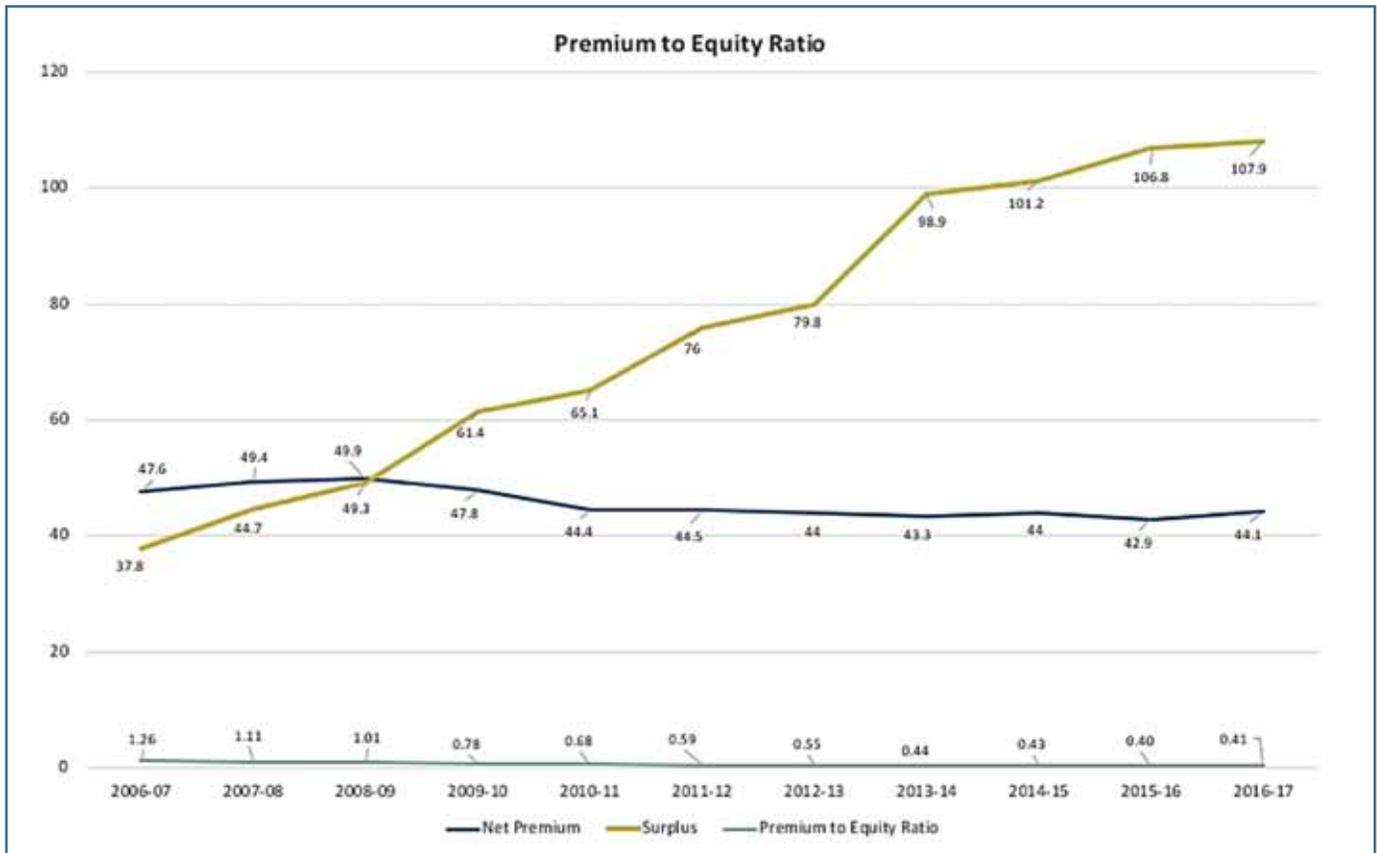
While Line of Duty Act (LODA) coverage rates continue to increase – mostly due to recent General Assembly directives to place all LODA claimants into one health plan, dramatically increasing future expected costs – VMLIP members' who purchased all lines of coverage through VMLIP saw only a nominal rate change overall.

The pool's financial strength means VMLIP is also better positioned to weather legislative changes to workers' compensation.

Expansions of the workers' compensation presumptions by the Virginia General Assembly, combined with a liberalized interpretation of the statute by the Virginia Workers' Compensation Commission and increased healthcare costs means that the actual cost of workers' compensation coverage continues to rise. However, leveraging members' equity has allowed VMLIP to maintain stable rates despite these changes to ensure members continue to receive quality coverage for their injured employees.

Financial strength helps protect VMLIP and our members against significant loss years. For example, following significant loss years that included the 2011 earthquake in Mineral, VM-





LIP was able to maintain stable rates by drawing from members' equity.

Significant workers' compensation claims or liability awards, medical expense inflation, and other events such as extensive storm/wind damage, hail, tornadoes and more can also significantly affect losses for the pool; however, with adequate members' equity VMLIP can weather those literal and metaphorical storms.

Financial strength helps buffer VMLIP from reinsurance market instability. Typically, VMLIP purchases reinsurance to assume risk over the pool's self-insured retention, which is generally \$1 million. However, major events worldwide – such as increased storm activity - can have significant effects on the reinsurance market and result in increasing costs for VMLIP.

Because of significant members' equity, VMLIP can absorb these increased reinsurance costs to prevent immediate increases for members and ensure that rate stability continues.

VMLIP also places a strong emphasis on risk management to reduce the frequency and severity of losses. The company focuses on fostering a pool-wide culture of risk management, and has in-house safety, human resources, law enforcement and communications consultants who work closely with members to help prevent losses and find ways to create safer workplaces to reduce injuries.

In addition to consultants, VMLIP offers online training through the VMLIP Online University and VMLIP Law Enforcement Academy; monthly live and recorded webinars; and a plethora of online safety resources including bulletins, modules, DVD's, video shorts, safety kits and more.

VMLIP also focuses on reducing risks by partnering with external organizations to offer risk management resources

to members either free or at a reduced cost. An example is member access to YourCISO, a service providing information security resources and consulting to assess member weaknesses and strengthen their cyber security programs and policies. Members are able to take security health checks and implement controls that prevent a cyber breach – and that deter significant claims, which positively affects the stability of rates.

Another example is the partnership with STOPit Educational Solutions. Through STOPit, members can negotiate reduced rates to access an application designed to deter inappropriate behaviors, such as bullying, at school.

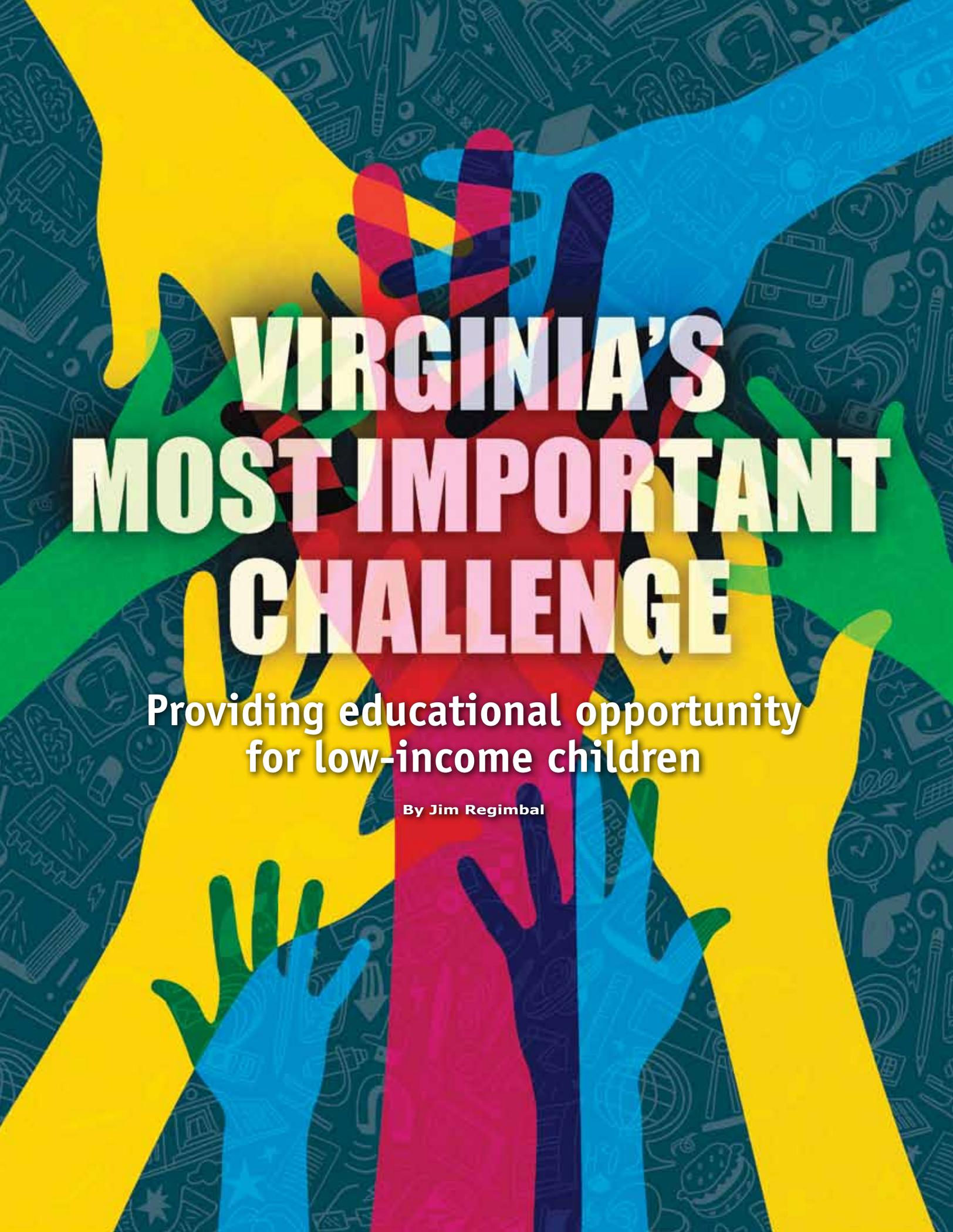
VMLIP also focuses on reducing operational costs that can lead to rate increases by relying on investment income.

Altogether, the efforts undertaken by VMLIP to maintain rate stability are in line with the strategic goals of the pool and are of substantial benefit to members who rely on the stability of their premiums in their budgeting process year after year.

For more than 38 years VMLIP has provided auto, property, liability, and workers' compensation coverage to more than 480 local political subdivisions across Virginia. VMLIP's programs are designed to meet the needs of all Virginia local governments – from the smallest to the largest. VMLIP's staff includes safety professionals, a former police officer, one certified human resources professional, an accredited public relations specialist, and a team of seasoned claims representatives and underwriters.

If you would like more information about VMLIP, visit: www.vmlins.org. 

About the author: *Hollie S. Cammarasana is the director of communications for VMLIP.*



VIRGINIA'S MOST IMPORTANT CHALLENGE

**Providing educational opportunity
for low-income children**

By Jim Regimbal

IMPROVING THE EDUCATIONAL outcomes of Virginia’s students is a critical component for economic development in Virginia. There is a clear and consistent correlation between income and education levels of a population. As education levels increase, incomes rise, the need for government assistance decreases, and crime rates decline. Census figures show that a person with a bachelor’s degree has a median income of \$55,858. The median income for a person with an associate degree is \$36,317, while the high school dropout’s is \$22,423.¹

A quality education is the primary means of breaking the cycle of poverty. Therefore, the question is – what is needed to create a culture of learning in high-poverty communities and provide a quality education to concentrations of economically-disadvantaged students? To break the cycle of poverty, successful schools must have strong leadership, quality teachers, enrichment activities, and a stable, respectful learning environment. To achieve these objectives while attracting quality individuals who put extra time and effort in a challenged school environment requires additional amounts of funding.

Standards of Learning testing clearly demonstrates the gaps in student performance. Overall, about 80 percent of Virginia’s K-12 students pass the reading and other SOL tests (see Table 1). However, the overall pass rate masks the difference in failure rates by socioeconomic class. As seen in Table 1, the highest performing student groups had passage rates 20 percentage points or higher than other minority and economically-disadvantaged students.

research literature documents the negative effects of poverty on students... Compared to children from higher income families, children from lower income families are less likely to live in a stimulating environment that promotes cognitive development and readiness for school.” The biggest challenge facing Virginia’s educators is how to improve the performance of its impoverished students, particularly in those schools with significant levels of low-income children.

Virginia currently targets about 16 percent of state funding, or \$1.1 billion, to various special education and at-risk student funding programs (see Table 2). If special education programs for disabled children are excluded, about 8 percent of total state K-12 funding is directed to challenged schools and students. Most studies and real-world experiences have found that it requires significant amounts of additional funding to provide a quality education to at-risk students. A recent study conducted by a well-respected consulting firm for Maryland’s Department of Education² found at least a 30 percent boost in funding is needed for these schools to be able to provide an adequate educational support structure for success.

Improving Virginia’s At-Risk Student Funding Programs

Targeted assistance for Virginia’s at-risk students include programs for at-risk four-year olds, smaller class sizes in kindergarten through third grade, extra reading and math tutoring in early grades, targeted English language learning, and remedial education and summer school programming. All these actions require more state funding.

The state also provides additional flexible funding to help address the myriad of issues in challenged schools, including dropout

Table 1				
2016-17 SOL Pass Rates				
K-12 SOL Subject	All Students	Asian Students	White Students	Economically-Disadvantaged
English: Reading	80	91	86	67
Mathematics	79	93	86	68

Source: VA Dept. of Education

The task to reform and improve K-12 education grows more difficult each year as the number of economically disadvantaged students continually increases. In the 2017-18 school year, 39 percent of regular school division K-12 students qualified for the federal free lunch program and another 5 percent qualified for reduced-price lunch. This is about ten points higher than a decade ago. Free lunch qualification is based on federal family-size poverty guidelines and is a good proxy for children in low-income homes. With few exceptions, performance on Standards of Learning tests is particularly poor in schools with high concentrations of economically-disadvantaged students. Of the state’s 132 school divisions, 77 have 50 percent or more students who qualify for free or reduced lunch, while 29 school divisions have higher than a 70 percent concentration.

The Joint Legislative Audit and Review Commission (JLARC) noted in a June 2014 report on *Low Performing Schools in Urban High Poverty Communities* that: “More than 50 years of

Table 2	
Virginia At-Risk/Special Education Student Funding as a Percent of Total State K-12 in FY 2019	
At-Risk Student/Special Education Funding	\$1,124,012,272
Total State K-12 Funding	\$7,080,234,149
At-Risk Student % of Total State K-12 Funding	15.9%

and truancy prevention, mentoring, and teacher quality programs. The 2018 General Assembly increased the amount of additional flexible funding for each free lunch eligible pupil in FY 2020, strengthened the Virginia Preschool Initiative (VPI), and provided modest additional funding for master teacher residency programs.

Improving education for challenged students begins at an early age. Experts now realize that most brain development occurs prior to entering school. The development that occurs as a result of early experiences, whether positive or negative, sets the foundation for future success. High-quality early childhood



A recent JLARC report on Virginia's early childhood development programs found that more than one-third of Virginia children are not ready for kindergarten.

development programs improve children's odds of success in school and life. Unfortunately, many students start school lacking the social, self-regulation, literacy, or math skills needed for kindergarten. Certain factors--such as poverty, low birth weight, and maternal substance abuse--place a child's healthy development at risk and can strongly influence whether a child is ready for school. Therefore, it is vital for Virginia to improve its early childhood development programs, particularly for children in poverty.

A recent JLARC report on Virginia's early childhood development programs found that more than one-third of Virginia children are not ready for kindergarten, and that the true scope of the problem isn't known because less than half of the state's school divisions participate in the assessment of critical skills to determine children's readiness for kindergarten classes.³

JLARC's report also noted a number of design and implementation concerns about the state's at-risk four-year old program (VPI). Minimal state staffing resources are inadequate to help administer the program. Further, the program has few evaluative features to ensure the program is providing high-quality pre-K experiences statewide. In addition, the state exercises minimal controls over the quality of the curricula used by VPI providers.

The 2018 General Assembly did adopt several reforms to early childhood education efforts in Virginia, including:

- Strengthening new parent home visiting programs;
- Requiring all school divisions to assess kindergarten readiness and conduct classroom observations in all VPI classrooms by the end of the 2019-20 school year;
- Funding to help provisionally licensed teachers obtain their license, professional development for VPI teachers, and how best to use the kindergarten assessment tool to improve instruction.

- Funding for a private and faith-based child care pilot program;
- Increasing the VPI per pupil rate from \$6,125 to \$6,326.

It is well-established by numerous studies that a third grader's reading and comprehension abilities are a strong predictor of educational success in later grades. Research reveals that an important component of early reading success is attributable to the quality of teaching and the institutional support received by teachers. In classrooms with highly effective teachers, students are more engaged, the learning environment is richer, and students learn more. Virginia does invest limited resources for additional early reading intervention and specialists. However, the Virginia Standards of Quality provide less than minimal support for teacher aides beyond kindergarten and special education. A strong argument can be made for having two adults in all classrooms through the third grade to help provide necessary classroom management, especially in classroom environments with increasing numbers of children diagnosed with significant disability and behavioral issues.

New teaching models are also being developed to help create a culture of learning for economically-disadvantaged students. Virginia has been funding an extended day/year program since fiscal year 2014. Schools in twelve school divisions are currently taking advantage of this state program to provide creative learning environments for at-risk students. These include extending the school day for afternoon reading programs, Saturday and summer learning programs, and extending the school year into the summer to allow for more intercession periods to provide extra help to students who are falling behind.

Other models include An Achievable Dream Middle and High School in Newport News. This is a partnership between Newport News Public Schools, the City of Newport News, and the local business community to give students who are at risk of

failure in school due to socioeconomic factors a real chance to succeed. The Achievable Dream model has been expanded to include schools in Virginia Beach and Henrico County. Due to its partnership with the business community and the availability of additional state aid and tax credits, as well as help from local law enforcement and the military, these schools have a budget that is 20 percent higher than other public schools in order to provide more mentoring and enrichment opportunities, smaller class sizes, a high level of technology, food security to combat hunger, and intercession periods for struggling students.

The Academies of Hampton is another innovative model designed to engage and stimulate high school students into a more effective, active learning environment. The Academies is building on a model developed and funded by the Ford Foundation. “Each Academy provides a highly personalized, small learning community, where students learn English, science, math, and social studies within the theme of their Academy. Through their Academy experiences, students are exposed to a multitude of careers and opportunities, industry skills, and potential employers by way of classroom speakers, site visits, job shadowing, and internships.”⁴

Even with modern improvements to learning environments, Virginia needs to address its teacher attrition and quality shortages – particularly in challenged schools. New teachers entering the profession are in short supply for many school divisions and quality teachers are in high demand everywhere. Consequently, the use of provisionally licensed and substitute teachers is rising. Part of the problem is that Virginia, with an average teacher salary of \$53,000, ranks 31st among all states, according to a 2016 National Education Association salary survey. In fact, if Northern Virginia was excluded from the Virginia average, Virginia would rank in the bottom five states, with average pay of about \$47,000 -- which is \$13,000 less than the national average of about \$60,000. Instructional salary increases in Virginia have slowed dramatically since the recession of 2009. Average instructional pay would have been \$62,000 in 2017 instead of less than \$58,000, if salary increases had just kept pace with the rate of inflation.

The General Assembly took only a small step in addressing

teacher salaries in the 2018 Session by providing the state portion of a three percent salary increase beginning July 1, 2019. It is also important to remember that localities will have to provide about sixty percent of any state-funded salary increase because the Standards of Quality fund only about two-thirds of school division employees. Localities have to provide 100 percent of the compensation for teachers above the teacher number recognized for each school division under the state’s Standards of Quality funding formula.

Other reforms in addition to increasing teacher salaries are also necessary if the state is to address its teacher shortage and quality issues, including:

- Providing better local leadership by investing in development of high quality principals;
- Creating new pipelines into the teaching profession and “grow your own” models that recruit talented individuals from the community and support them in training to become a teacher;
- Creating more master teacher residency programs for urban school divisions to reduce beginning teacher attrition and increase competence and effectiveness;
- Offering more service scholarships, loan forgiveness, and housing incentives for new teachers;
- Creating salary incentives for teacher training, and for taking on additional responsibilities.

In summary, creating a learning environment for economically-disadvantaged students, particularly where those students are concentrated in low-income schools, requires good leadership and hard work. The ability to provide quality leaders, engaged teachers, and additional services mean additional funding and creativity is required for these schools. Empirical evidence strongly suggests engaged students are far more likely to become responsible, tax paying, community-caring adults. In short, there will be a high return on investment if the state can improve the education of its economically-challenged students and schools.

For local elected officials, the puzzle is how to develop a stronger relationship with the General Assembly to increase the state’s political and funding support for educational opportunity for all of Virginia’s children.

About the author: *Jim Regimbal is the principal in Fiscal Analytics, Ltd, which provides research on state and local budget and tax policy issues to local governments, business groups, trade associations, and nonprofit organizations. Regimbal has 34 years of experience in state and local budget and tax policy analysis, including 12 years on the staff of the Virginia Senate Finance Committee.* 

¹Source: United State Census Bureau, American Fact Finder, “2016 American Community Survey.”

²Final Report of the Study of Adequacy of Funding for Education in Maryland, Augenblick, Palaich and Associates, November 30, 2016.

³JLARC, Improving Virginia’s Early Childhood Development Programs, December 2017.

⁴<http://www.hampton.k12.va.us/schools/academies.php>.



New teachers entering the profession are in short supply for many school divisions and quality teachers are in high demand everywhere.

New life for an old school

How former halls of learning are being transformed into a community hub

ITS HALLS NO LONGER ECHO with school bells and children's laughter, but the old Prices Fork Elementary School is more alive than ever. Located in Montgomery County's Prices Fork Historic District on the outskirts of Blacksburg, the former classrooms have been reborn as Prices Fork Village Apartments, a community of 16 homes for adults 55 and older. And that's just the beginning.

The one-story red brick building was originally constructed in 1950, with sections added in 1961 and 1971. While educating children from pre-kindergarten through fifth grade, the school remained a central part of the community until 2011, when a new school was built to replace it.

The transformation of the old school is the work of Joe Fortier of the Radford-based Taylor Hollow Construction LLC, which has completed approximately 15 historic renovations in the New River Valley – and counting. This year, Fortier intends to finish phase 2 of the three-phase, \$7 million Prices Fork Elementary revitalization.

In 2013, Fortier's company purchased the roughly 24,000-square-foot school and its 8.3 acres from Montgomery County for \$850,000. Decisions were made on how to best repurpose the property, and by late 2016, construction had begun.

Financing for this project required many sources, including \$2.5 million in support from the Vibrant Community Initiative (VCI) from the Virginia Department of Housing and Community Development (DHCD) as well as funds from the

Virginia Housing Development Authority's (VHDA) REACH Virginia program. Since 2006, the REACH program has used a portion of VHDA's net revenues to support communities and provide safe, affordable housing. The Old Prices Fork Elementary revitalization team was instrumental in obtaining the VCI fund-

Other municipal partners include:

- Appalachian Regional Commission
- Town of Blacksburg
- Montgomery County Board of Supervisors
- New River Valley Regional Commission

ing for this project.

VHDA's REACH Virginia program is also providing a mixed-use/mixed-income loan. Additional construction financing was provided by Virginia Community Capital and the New River Valley HOME Consortium, which allocated a portion of its federal funding. In addition, HUD and private financing contributed \$2.4 million. To round it out, in 2016 Fortier's firm matched a \$500,000 Appalachian Regional Commission grant.

The project was designed specifically to qualify for historic tax credits by maintaining certain features of the original building. One was the school's sign, which remains on the wall outside.



The appearance of the old school was maintained in order to qualify for historic tax credits.

Fortier has said that historic renovation takes longer than new construction because you must be careful to maintain the structure's original character. In Prices Fork's case, replacing the original electrical, plumbing, heating and air conditioning systems alone took six months.

In addition to the residents enjoying the 16 apartment homes, the entire Prices Fork community will soon have on the premises a new farm-to-table restaurant, a brewery and pub, a professional-grade incubator kitchen, and a market for locally produced goods.

Apartments have two bedrooms, 718 to 834 square feet, and the enormous original windows on the outer walls. Window panes were replaced with more energy-efficient glass, but the frames and oak windowsills remain. As of this writing, four apartments were still available for lease.

On Dec. 20, 2017, Stephanie Gilmore was one of the first residents to move into her apartment, which will be just steps

VHDA: A Solid Partner for Local Governments

VHDA is dedicated to revitalizing communities by increasing access to safe, affordable housing, and driving local economies by finding innovative ways to transform disused or historical buildings.

VHDA guides municipalities who want to turn ideas into reality from initial blueprints through construction, offering a variety of funding, either directly or through partnerships with local, state and federal agencies and private investors. They also have a network of reliable resources on tap when construction and technical expertise are needed.

VHDA representatives recognize great development opportunities and can assemble the team and resources needed for successful completion. Localities wishing to discuss a project may contact VHDA's Director of Strategic Housing Chris Thompson at chris.thompson@vhda.com or 804-343-5692.

VHDA and DHCD: Partners in Community Revitalization

The Virginia Department of Housing and Community Development's Vibrant Communities Initiative (VCI) allows applicants seeking financing to apply for multiple funding resources at once. A single initial application may spark ideas within DHCD and its partner VHDA about additional funding opportunities to pursue.

Funding for VCI comes from a portion of DHCD's federal Community Development Block Grant program, HOME allocations, the Virginia Housing Trust Fund and other sources. VHDA also provides money from their REACH Virginia program, which is funded by VHDA's own net revenues, through a substantial donation each year.

For more information, contact VHDA's Director of Strategic Housing Chris Thompson at chris.thompson@vhda.com or 804-343-5692.

School transformed

ments also have original built-in oak storage cabinets. All have walk-in showers with pull-down seating.

The hallways still feature the original classroom doors, brick and tile. Skylights were added to give them a more open feel.

One thing Stephanie savors in her new home is "the big windows. I love sitting here and seeing trees and sky and clouds. There's a tree right outside my window, and I have bird feeders in it. I love my apartment. I'm so happy to be here."

All the apartments are EarthCraft-certified as healthy, energy-efficient and environmentally friendly. Ten of the homes are reserved for residents with low to moderate incomes under the Virginia HOME program; the remaining six units do not have income restrictions.

There are also 9,500 square feet dedicated to the Old School Food Center. Former kindergarten classrooms will house the Moon Hollow Brewery, set to open later in 2018. It's owned by Rising Silo Brewery in Blacksburg, which is also a 48-acre farm growing organic produce to supply the Blacksburg Farmers Market and the Eats Natural Food and Oasis World Market groceries.

Beans and Rice Inc., a Radford-based nonprofit that works with low-to-moderate income populations and small businesses, is leasing 1,900 square feet of the kindergarten area for the incubator kitchen, a fully-equipped commercial facility where entrepreneurs can produce edible products that meet Health Department regulations.

Beans and Rice will also oversee the market space for these businesses and other locals wishing to sell their wares. They will hold workshops and seminars to educate the community and raise awareness about local food sourcing. These endeavors are expected to create dozens of jobs and are also scheduled to open later in 2018.

The former gymnasium/cafeteria will become the farm-to-table restaurant with indoor and outdoor seating, launching in early 2019. It will be run by Kind Roots Café from Lexington and is tentatively named the Elementary Café.

Other on-site amenities include laundry facilities and storage for the commercial kitchen users.

Once Food Center phase 2 of the school renovation is complete, phase 3 will begin in 2019. This will comprise 16 additional homes in a separate building. Ten will also be income-restricted, but they will be available to residents of all ages.

After all construction is complete in 2020, the remaining land will have a public walking trail and a community garden where Old School Food Center occupants can plant and harvest ingredients and community members may have plots to grow their own food.

Joe Fortier said, "When you get people to work together, the end result can be way more than the sum of the parts. Together, it's possible to do something absolutely wonderful for the community. But it also requires mountains of patience."

It's taking a village – the Prices Fork Village – to complete this mammoth undertaking. Community members are creating a bustling destination whose offerings of local foods will change with the seasons. In addition to becoming a regular stop for them, it's sure to attract visitors to the region. 

from the new Moon Hollow Brewery. When she first heard that the school was being converted to housing for those 55+, her home lacked accessibility features, so she put her background in urban studies and planning to use to get involved.

Stephanie is originally from Sonoma, California, but her family's ties to this school go back three generations. Her daughter-in-law's mother was a student there in the '50s when the school was new. Her daughter-in-law also went there, and then her child, Stephanie's grandson, attended.

Stephanie informally surveyed neighbors and learned that everyone wanted the building to continue being a community focal point. She passed this wish along to the advisory committee of 12 community members that Fortier had assembled.

Stephanie said, "What I liked the most was that they were taking an existing building and renovating it so that it could serve a new purpose. I absolutely love that idea. Joe Fortier has done a beautiful job here. We've got to do more of that."

During construction, the chalkboards were downsized and refitted in their original oak frames to hang in all but the more greatly modified ADA-compliant units occupying the 1971 addition, which has no historical requirements. Other apart-



Resident Stephanie Gilmore enjoys the massive classroom windows in her apartment, complete with their original oak sills.

About the author: Karen E. Wormald is a freelance writer, editor and owner of KEW Publications. Photography is by Doug Buerlein.

States and local governments win online sales tax case

IN *SOUTH DAKOTA V. WAYFAIR* (view online at <https://bit.ly/2lmAMwR>) the U.S. Supreme Court in June ruled that states and local governments can require vendors with no physical presence in the state to collect sales tax in some circumstances. In a 5-4 decision, the Court concluded that Wayfair's "economic and virtual contacts" with South Dakota are enough to create a "substantial nexus" with the state allowing it to require collection.

As the Court pointed out in its majority opinion, it is estimated states and local governments lose between \$8 billion to \$33 billion annually because they haven't been able to collect sales tax owed on purchases from out-of-state sellers.

As a result of this decision, state legislatures are likely to pass laws like South Dakota's, if they haven't already.

In the 1967 case *National Bellas Hess v. Department of Revenue of Illinois*, the Supreme Court held that per its Commerce Clause jurisprudence, states and local governments cannot require businesses to collect sales tax unless the business has a physical presence in the state.

Twenty-five years later in *Quill v. North Dakota* (1992), the Supreme Court reaffirmed the physical presence requirement but admitted that "contemporary Commerce Clause jurisprudence might not dictate the same result" as the Court had reached in *Bellas Hess*.

Customers buying from remote sellers still owe sales tax, but they rarely pay it when the remote seller does not collect it. Congress had the authority to create solutions that would overrule *Bellas Hess* and *Quill* but never did so.

In March 2015 Justice Kennedy wrote a concurring opinion stating that the "legal system should find an appropriate case for this Court to reexamine *Quill*." Justice Kennedy criticized *Quill* in *Direct Marketing Association v. Brohl* for many of the same reasons the State and Local Legal Center (SLLC) stated in its amicus brief in that case. Specifically, internet sales have risen astronomically since 1992 and states and local governments had been unable to collect most taxes due on sales from out-of-state vendors.

Following the 2015 Kennedy opinion a number of state legislatures passed laws requiring remote vendors to collect sales tax in order to challenge *Quill*. South Dakota's law (posted at <https://bit.ly/2u0EAst>) was the first ready for Supreme Court review. It requires out-of-state retailers to collect sales tax if they annually conduct \$100,000 worth of business or 200 separate transactions in South Dakota.

South Dakota v. Wayfair was a nail biter. After oral argument it looked like South Dakota had four votes: Justices Kennedy,

ALL SALES FINAL



Ginsburg, Gorsuch, and Thomas (who has long since disavowed dormant Commerce Clause jurisprudence). Justice Alito provided the fifth vote to overturn *Quill* – perhaps in part because he was going to write an opinion overturning union dues precedent a week later.

In an opinion written by Justice Kennedy the Court offered three reasons for why it was overruling *Quill* and abandoning the physical presence rule. "First, the physical presence rule is not a necessary interpretation of the requirement that a state tax must be 'applied to an activity with a substantial nexus with the taxing State.' Second, *Quill* creates rather than resolves market distortions. And third, *Quill* imposes the sort of arbitrary, formalistic distinction that the Court's modern Commerce Clause precedents disavow."

Overturning precedent isn't something the Supreme Court does often or lightly. But the Court noted the internet's "prevalence and power" has dramatically changed the national economy since 1992. The Court pointed out that in 1992, less than two percent of Americans had internet access. Today that number is about 89 percent. In 1992, mail-order sales in the United States totaled \$180 billion. Last year, internet retail sales were estimated at \$453.5 billion. In 1992, it was estimated that the states were losing between \$694 million and \$3 billion per year in sales tax revenues as a result of the physical presence rule. Now estimates range from \$8 to \$33 billion.

Justice Kennedy noted that forty-one States, two Territories, and the District of Columbia joined an amicus brief asking the Court to overturn *Quill*. It is remarkable to get so many state attorneys general (from different political parties) to agree to the same position on any issue.

While the dissenting Justices, in an opinion written by Chief Justice Roberts, would have left it to Congress to act, Justice Kennedy opined the Court should be "vigilant" in correcting its error. "Courts have acted as the front line of review in this limited sphere; and hence it is important that their principles

be accurate and logical, whether or not Congress can or will act in response.”

The dissent also questioned whether the Court needed to act urgently given the fact that states and local governments are currently collecting approximately 80 percent of the tax revenue that would be available if there were no physical-presence rule. The dissent also criticized the majority opinion for “breezily” disregarding the costs that the decision will impose on small businesses. It noted that “[o]ver 10,000 jurisdictions levy sales taxes, each with ‘different tax rates, different rules governing tax-exempt goods and services, different product category definitions, and different standards for determining whether an out-of-state seller has a substantial presence’ in the jurisdiction.”

Although *Wayfair* overturned precedent, it is not without limitations. In 1977 in *Complete Auto Transit v. Brady* the Supreme Court held that interstate taxes may only apply to an activity with a “substantial nexus” with the taxing State. *Quill*’s physical presence test was seen as an addition to the “substantial nexus” requirement. Post-*Quill*, the “substantial nexus” requirement remains.

The Court found a “substantial nexus” in this case based on the “economic and virtual contacts” *Wayfair* has with South Dakota. A business could not do \$100,000 worth of sales or 200 separate transactions in South Dakota “unless the seller availed itself of the substantial privilege of carrying on business in South Dakota.” “And [*Wayfair*, etc.] are large, national companies that undoubtedly maintain an extensive virtual presence.”

Finally, the Court acknowledged that questions remain whether “some other principle in the Court’s Commerce Clause doctrine might invalidate” South Dakota’s law. The Court could have (but didn’t) say that South Dakota’s law (including its small seller exception of \$100,000 worth of business or 200 separate transactions) is constitutional in every respect and that if every state passes a law exactly like South Dakota’s they will be in the clear. Instead, the Court cited three features of South Dakota’s tax system that “appear designed to prevent discrimination against or undue burdens upon interstate commerce. First, the Act applies a safe harbor to those who transact only limited business in South Dakota. Second, the Act ensures that no obligation to remit the sales tax may be applied retroactively. Third, South Dakota is one of more than 20 States that have adopted the Streamlined Sales and Use Tax Agreement.”

In conclusion the opinion highlighted several aspects of the South Dakota tax system that may outline a successful legislative or regulatory roadmap for other states to follow including: not requiring small businesses to collect; not collecting online sales tax retroactivity; and adopting a standardized tax system that reduces administrative and compliance costs. 

About the author: *Lisa Soronen is the executive director of the State & Local Legal Center in Washington, D.C. The State and Local Legal Center (SLLC) files amicus curiae briefs in support of state and local governments in the U.S. Supreme Court, conducts moot courts for attorneys arguing before the Supreme Court, and provides other assistance to states and local governments in connection with Supreme Court litigation.*

Policy questions remain in Virginia

WHILE GOVERNMENTS IN VIRGINIA welcomed the *South Dakota v. Wayfair* decision, it’s too early to start budgeting any additional sales tax collections.

In a presentation to the Senate Finance Committee earlier in June, Secretary of Finance Aubrey Layne said a favorable ruling could boost Virginia tax revenue by up to \$300 million a year. In 2013, a fiscal impact statement prepared by the Virginia Department of Taxation estimated that local sales tax revenues could increase by \$60 million a year, should remote sales tax collections become a reality. The FIS was prepared on HB 2313, the legislation that changed several revenues collected by the state and the distribution of such revenues, primarily for the benefit of transportation.

It is important to note that this is not a new tax. Under existing state law, consumers already owe the tax. It is too impractical for the state tax department to collect sales taxes if an on-line retailer without a physical presence in Virginia chose not to do so. The Court’s decision removes the collection hurdle.

Before the new money makes its way into the state treasury, however, there are other obstacles and policy questions.

First and foremost is the possible action that Congress could take. Congress could write its own rules that define

what goods or services are subject to taxation; exempt small businesses from collecting the taxes by establishing a minimum threshold of sales transactions and/or gross dollar sales; junk the various states’ sales tax rates in favor of a single interstate tax rate; or set up accounting, auditing and recordkeeping requirements different from state standards and practices. And, any federal law would pre-empt a state statute.

At the state level, Governor Northam and the General Assembly would have to decide in the 2019 session or in a special session in the fall if the allocation formulae for the on-line sales tax revenues in current law remain relevant; if the additional money should go to the state general fund or be dedicated for transportation purposes; or if any action taken on this issue be built into an overall tax reform initiative. The tax changes made at the federal level, the provider taxes approved by the General Assembly for Medicaid expansion, and the revenue surplus realized for FY 2018 might persuade state legislators (in an election year) that a reduction in motor fuels taxes would be a good policy objective.

About the author: *Neal Menkes is a consultant with the Virginia Municipal League. He formerly was the director of fiscal policy for VML, a staff member with the Virginia Senate Finance Committee and a Virginia deputy secretary of natural resources.*

By Neal Menkes



All conference activities, including general sessions, break outs, and the exhibit hall, will take place at the Hampton Roads Convention Center located at 1610 Coliseum Drive, Hampton, VA 23666.

Register now at www.vml.org

Network with hundreds of colleagues from around Virginia while learning about the latest issues facing local governments.

Preliminary Agenda

Saturday, September 29

9 a.m. – 5:30 p.m. Virginia Mayors Institute*

Sunday, September 30

8 a.m. – noon Virginia Mayors Institute* concludes
 Noon – 5 p.m. Registration
 1 p.m. Exhibit hall opens
 4:30 – 5:30 p.m. Opening Reception
 5:45 – 8:30 p.m. Host City Night

Monday, October 1

8 – 9 a.m. Continental breakfast / Exhibit Hall
 8 a.m. – 4 p.m. Registration
 8 a.m. – 6 p.m. Exhibit hall
 9 a.m. – noon Opening Session
 12:15 – 1:45 p.m. Lunch in the Exhibit Hall
 12:15 – 1:15 p.m. VLGMA luncheon*
 12:15 – 1:15 p.m. NBC-LEO program and luncheon*
 1 – 3 p.m. Mobile workshop
 1:30 – 5 p.m. VLGMA board meeting
 2 – 3:15 p.m. Section elections and meetings
 3:30 – 5 p.m. Concurrent workshops
 5 – 6 p.m. Virginia First Cities meeting
 5:15 – 6:30 p.m. Awards reception / Exhibit Hall
 • Go Green Certificates
 • Stairway to Success Awards



The Virginia Mayors Institute exposes mayors and vice mayors to issues essential to their roles as local government leaders.



Host City Night will take place at the historic Fort Monroe in Hampton.

Tuesday, October 2

8 – 10 a.m. Continental breakfast / Exhibit Hall
 8 a.m. – noon Registration
 9 – 10:15 a.m. Concurrent Sessions
 10:30 a.m. – noon Concurrent Sessions
 11:45 a.m. Spouse/Guest Lunch activity
 Noon – 1 p.m. Women in Local Government Lunch*
 Noon – 1 p.m. Lunch in the Exhibit Hall
 1:15 – 3:15 p.m. General Session
 3:30 – 5:30 p.m. Business meeting
 6 – 10:30 p.m. Reception and Banquet
 • Remarks from outgoing president Dr. Patricia Woodbury
 • Remarks from incoming president Anita Price
 • Innovation Awards Presentations
 • Musical entertainment by Slapnation

*additional registration fee

Setting out on the road to recovery



IN THE SUMMER of 2016, the city of Petersburg was facing a financial and public perception crisis. The council took action by removing the city manager and other city officials, but this meant there were resulting holes in the leadership as well as no process for communicating positive information on the city. Petersburg was on the verge of collapse and faced the reality of reverting from a city to a town. By October 2016, the city's checking account had less than \$75,000 to cover the next payroll due in less than three weeks. Standard and Poor's bond rating for Petersburg was downgraded from "stable" to "negative."

A new city council was elected in November 2016. The outgoing council had to make difficult decisions. In January 2017 Sam Parham was elected by his peers to become the new mayor and thus the public face of the city.

Mayor Parham's newly elected position was not going to be an easy one. He realized the city needed fresh leadership. He knew that citizens were tired of hearing excuses about lost revenues and misappropriated expenses and were frustrated by the level of city services. He led the charge to convince council to seek outside help who would be more willing to make major policy changes. Parham realized the city was suffering from the lack of new and fresh influences.

The council couldn't snap its fingers and fix all its problems

at once. It would take time, leadership, and citizen involvement to repair the years of damage which started in 2009.

One of the first steps, citizen engagement

In July 2016, after the city announced it would be closing its tourism department and all city owned museums, a group of citizens united to stop the shutdown. The Petersburg Preservation Task Force (PPTF), a 501(C)3 or nonprofit group, was officially formed and by December had entered into a memorandum of understanding with the city to operate two of the city's museums, the historic Blandford Church and Cemetery and Centre Hill Museum. Blandford is internationally known for its 15 Tiffany windows and Centre Hill Museum was one of the locations for the filming of the PBS miniseries *Mercy Street*. The MOU allows the PPTF to operate the museums on a yearly basis with renewals each year for up to four years.

Hire an outside consultant

In early November 2016, city council realized it could no longer manage the day to day operations of the city without a city manager. Mayor Sam Parham and former Mayor Howard Myers led the charge to retain an outside group to assume the roles of city manager, finance director and information

technology director. The consulting firm included a former city manager from Virginia as well as a team of professionals who could tackle the quagmire of fiscal problems facing the city, coupled with a declining population and a lack of a predominant industry.

Lack of communication with the media and public was apparent as the media reported only the failures of the city government and city council. A public relations firm was brought on to develop policies and procedures for handling media relations and media relations began to improve.

Seek statewide assistance

In November 2016, the city was unable to make payroll; had misappropriated employee retirement funds; was unable to pay \$6 million due to vendors and was essentially bankrupt. City officials and the consultants met with state officials to remedy as many of these fiscal ailments as possible within a five-month period. The first task was to deal with the lawsuit by the Virginia Retirement System (VRS) for not making required retirement contributions. Ric Brown, who was then the state Secretary of Finance, and Petersburg officials negotiated a plan to remove the lawsuit, which freed approximately \$1 million in immediate access to Virginia Resource Authority (VRA) utility bond funds. Payroll for the month could be made.

Through a series of financial maneuvers like this, council and the new city management were able to work through its immediate financial woes. By the end of summer 2017, the city's bond rating with Standard and Poor's had been upgraded from "negative" to "stable."

Knowledge base increased

With the help of an outside employment firm, many of the city's vital positions began to be filled, including the positions of city manager, deputy city manager, police chief, fire chief, transit director and social services director. The knowledge base of the city manager's office was elevated incrementally as new employees from around the country were hired.

Improved brand awareness

With better management, the city has benefited from increased and improved brand awareness. In the fall of 2017, the PPTF, the group operating the museums, made a successful application for a marketing grant focusing on the Tiffany windows at historic Blandford Church from the Virginia Tourism Corporation. The campaign uses the Virginia is for Lovers branding elements with the goal of increasing the number of visitors to Old Towne Petersburg.

With continued leadership, Petersburg is on the road to success. The road has been difficult and filled with potholes, detours and delays, but the goal is for those successes to continue! 

About the authors: *Clay Hamner and Leslie Strickler were the communication consultants retained by the city of Petersburg via the Robert Bobb Group in November 2016 through September 2016 to help the city communicate to the public, the government employees and the media. They continue to work for the city indirectly through a memorandum of understanding with the Petersburg Preservation Task Force and the city of Petersburg*

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Home for the Holidays

Local ornaments for Governor's mansion are back by popular demand

In the past three years, nearly 200 communities created stunning handmade ornaments that adorned the holiday tree at the Governor's Mansion. Thousands of visitors from across the world toured the mansion and viewed the ornaments, learning about the diverse heritage of the Commonwealth's cities, towns, and counties.

The tree was so popular that the Governor's Mansion has asked VML to once again collect local heritage ornaments from its members to hang on the 2018 holiday tree.

Visit www.vml.org for complete guidelines for submitting your 2018 local heritage ornament.

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Bay watch goes local

How rolling out a Chesapeake Awareness Bay Week campaign showcases the impact of local outreach

FEW CAUSES IN THE COMMONWEALTH trigger more universal approval than preserving the health of the Chesapeake Bay. It's a no-brainer: The cause crosses political and demographic boundaries, and efforts to save the Bay reach into nearly every jurisdiction in Virginia.

What can cities, towns and counties do to raise awareness about the cause locally? And, even more, what can jurisdictions do to shine a light on their Bay-saving efforts and get some attention via traditional and social media? In short, plenty – here's a quick overview of our experiences in the cities of Fairfax and Falls Church this spring.

First, traditional media outlets typically need a so-called news peg or a hook to give a story relevance, which is where the third annual Chesapeake Bay Awareness Week (June 2-10) came into play.

To roll out this public-awareness campaign in our area, the Metropolitan Washington Council of Governments (COG) partnered with the Chesapeake Bay Program, Alliance for the Chesapeake Bay, Choose Clean Water Coalition, Pennsylvania Department of Environmental

Protection, Virginia Conservation Network and Virginia Department of Environmental Quality.

Our respective cities received a boost from COG's team with what we affectionately called a digital-media campaign in a box. It included important facts about the Bay to use with media, logos for all material we produce, sample press releases and a range of regional success stories via video and print.

In short, it inspired us. The easiest first step was to ask our respective jurisdictions to make proclamations for Chesapeake Bay Awareness Week. In Fairfax City, the communications team then ramped up its efforts to reel in a number of media hits, with a targeted focus on how schools are making a local impact through hands-on education in the Bay's watershed. The media-coverage included a local TV story about the amazing work being done by the city's elementary-school science teachers and students (the story was filmed in the "living lab" of a nearby stream), as well as two stories in local newspapers about watershed programs in middle school. Icing on

the media cake was the rollout of messaging on Twitter, Facebook and Instagram that included everything from "watershed selfies" (a COG-inspired idea) to easy-to-produce infographics about four everyday ways to save the Bay. All of these efforts received heavy engagement on social media, and the payoff, of course, was raised awareness.

This wasn't a one-and-done campaign, of course – nor should it be. While Chesapeake Bay Awareness Week only pops up in June, the estuary's health will be front and center all year long. Through a range of sustainability programs and efforts in our schools, our respective cities will continue to remind citizens that the Bay's health truly impacts all of us. 

About the authors: *Dan Sze is a council member for the city of Falls Church and the chair of VML's Environmental Quality Development Policy Committee. Jon Stehle is a council member in the city of Fairfax and the vice-chair of VML's Environmental Quality Development Policy Committee. Both serve on the Chesapeake Bay & Water Resources Policy Committee for the Metropolitan Washington Council of Governments.*

Elementary and middle-school students took part in watershed programs as part of the campaign to restore the Chesapeake Bay.



4 WAYS TO SAVE THE BAY

With Chesapeake Bay Awareness Week coming up, here are six things you can do to save the Bay.

- 1 PICK UP AFTER PETS**
Pet waste contains harmful nutrients and bacteria that can pollute local waterways.
- 2 PLANT NATIVE TREES & SHRUBS**
The roots hold soil in place, preventing soil erosion which runs into the Bay. They also filter the water as it runs off the ground surface.
- 3 AVOID POURING TOXIC SUBSTANCES DOWN STORM DRAINS**
Don't dump hazardous materials like solvents, paints, and preservatives down the storm drains, which go directly into streams and waterways to pollute the Bay.
- 4 MAKE YOUR LAWN BAY-FRIENDLY**
Planting native grasses and plants that don't require watering or fertilizing.
Reducing or eliminating the use of chemical herbicides and pesticides which pollute waterways.
Reducing or eliminating the use of fertilizer. Fertilizer is full of nutrients, which fuel the growth of algae blooms that block sunlight from reaching Bay grasses and rob the water of oxygen.

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