

BOARD OF SUPERVISORS WORK SESSION

GOVERNMENT CENTER BOARD ROOM

NOVEMBER 25, 2008 - 4 P.M.

A. Call to Order

B. Roll Call

C. Board Discussions

1. Legislative Program ([Memorandum](#)) ([Resolution](#)) ([Attachment](#))
2. Vehicle Sales ([Memorandum](#))

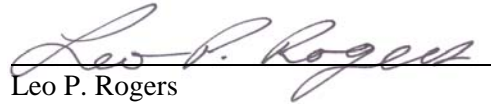
D. Adjournment

MEMORANDUM

DATE: November 25, 2008
TO: The Board of Supervisors
FROM: Leo P. Rogers, County Attorney
SUBJECT: Approving the County's 2009 Legislative Program

Attached for your consideration is a resolution approving James City County's 2009 Legislative Program. Also attached is the 2009 Legislative Program. The Program was carefully reviewed at the November 25, 2008, Board Work Session through the comments of Board members and the County's legislative delegation.

I recommend adoption of the attached resolution.


Leo P. Rogers

LPR/nb
09LegProg_mem

Attachments

RESOLUTION

APPROVING THE COUNTY'S 2009 LEGISLATIVE PROGRAM

WHEREAS, James City County has developed a Legislative Program for the consideration of the 2009 session of the General Assembly which outlines certain legislative policies which the Board believes ought to guide the General Assembly and proposes certain legislation that would benefit the County; and

WHEREAS, the Board has carefully considered its legislative program and believes that it is in the best interest of the citizens of James City County.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby approves the County's 2009 Legislative Program and commends it to the County's representatives in the General Assembly for action.

BE IT FURTHER RESOLVED that a copy of the County's 2009 Legislative Program be forwarded to the County's elected representatives to the General Assembly.

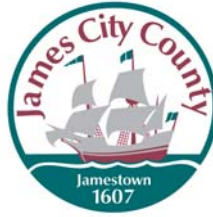
Bruce C. Goodson
Chairman, Board of Supervisors

ATTEST:

Sanford B. Wanner
Clerk to the Board

Adopted by the Board of Supervisors of James City County, Virginia, this 25th day of November, 2008.

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**JAMES CITY COUNTY
2009 DRAFT LEGISLATIVE PROGRAM**

Part I. Legislation to be Introduced on Behalf of the County

1-1. AMEND THE JAMES CITY COUNTY CHARTER TO AUTHORIZE THE IMPOSITION OF A TAX ON CIGARETTES

Amend the James City County Charter, Section 2.2. Additional Powers, to add the authority to impose a tax on cigarettes in accordance with Article 7, Cigarette Tax, of Chapter 38, Miscellaneous Taxes, of Title 58.1, Taxation, of the Code of Virginia.

1-2. AMEND VA. CODE SECTION 15.2-5139 REQUIREMENT FOR WATER AND SEWER LIENS TO ACCOUNT FOR QUARTERLY BILLING CYCLES

Change the requirement that water and sewer liens may be filed for “three or fewer delinquent billing periods not exceeding thirty days each” to “three or fewer months.” This will accommodate water and sewer authorities that bill their customers on a quarterly basis.

1-3. AMEND VA. CODE SECTION 51.1-603 TO ALLOW AUTOMATIC ENROLLMENT OF LOCAL GOVERNMENT EMPLOYEES IN A DEFERRED COMPENSATION PLAN

Similar to the authority in Virginia Code Section 51.1-601.1 which allows for automatic enrollment of State employees in a deferred compensation plan unless the employee decides to opt out, Virginia Code Section 51.1-603 should be amended to authorize a locality or political subdivision to provide for automatic enrollment in a deferred compensation plan unless its employee decides to opt out.

1-4. AMEND VA. CODE SECTION 18.2-308.1 TO PROHIBIT THE POSSESSION OF PNEUMATIC WEAPONS ON SCHOOL PROPERTY

Add pneumatic weapons to the list of weapons in Virginia Code Section 18.2-308.1.A which may not be possessed on school property. Possession of a pneumatic weapon would constitute a Class 1 misdemeanor subject up to a \$2,500 fine and up to 1 year in prison.

1-5. AMEND VA. CODE SECTION 18.2-271.1(B) TO INCREASE THE MAXIMUM FEE CHARGED TO PERSONS ENTERING VASAP FROM \$300 TO \$360

The supervision fee of no less than \$250 or more than \$300 which is imposed by courts for participants in VASAP hasn't been increased since 1985. Local VASAPs rely on this fee to provide services. The maximum supervision fee that a court can charge should be increased to \$360. In addition, this fee should be increased each biennium beginning in 2012 by a percentage equal to the increase in the Consumer Price Index calculated from the time the fee was last set or adjusted.

**JAMES CITY COUNTY
2009 DRAFT LEGISLATIVE PROGRAM**



Part II. Position/Legislation to be supported by the County

2-1. STATE FUNDING FOR TOURISM

The County urges the General Assembly to increase funding for the Virginia Tourism Corporation (“VTC”) to promote tourism in Virginia generally, and the Historic Triangle in particular.

2-2. AUTHORITY TO IMPOSE IMPACT FEES

Amend Title 15.2, Chapter 22, to authorize localities to impose impact fees in order to fairly fund public infrastructure costs caused by new residential development.

2-3. RESTORING VDOT’S REVENUE SHARING PROGRAM

James City County supports restoring VDOT’s Revenue Sharing program to the structure which existed prior to the 2006 General Assembly session with robust funding, elimination of the statutory cap, and matching up to \$1 million per locality without any restriction on local in-kind and monetary matches.

2-4. BEHAVIORAL HEALTH AND COMPREHENSIVE SERVICES ACT (“CSA”) FUNDING

James City County urges the General Assembly to: 1) adequately fund the Medicaid waiver program to reduce the waiting list of individuals and families now eligible for services; 2) provide services to children with serious emotional disorders; and 3) to cover reasonable administrative costs for CSA programs. Adequate funding and services will help prevent the mentally ill from being released early from treatment, living on the streets, going to jail, or being inappropriately placed in residential facilities or other government programs.

2-5. SUBSTANCE ABUSE AND MENTAL HEALTH TREATMENT

James City County supports maintaining State funding for mental health and substance abuse treatment in jails and juvenile detention facilities given the overwhelming percentage of adults and juveniles in the system diagnosed with mental health and/or substance abuse conditions.

2-6. CONTINUE SERVICE LEVELS AT EASTERN STATE HOSPITAL (“ESH”)

James City County urges the General Assembly to delay the downsizing of ESH by retaining existing buildings and staff until State Department of Mental Health, Mental Retardation and Substance Abuse Services has a plan in place, including funding, for alternative community services for the patients that are currently at ESH in State custody.

2-7. AMEND THE CERTIFICATE OF PUBLIC NEED (“COPN”) CRITERIA FOR MEDICAL CARE FACILITIES TO FOCUS ON COMMUNITY AND HEALTH CARE NEEDS

James City County supports amending the current criteria for medical care facilities in obtaining a Certificate of Public Need. The criteria for a COPN should be based on citizen accessibility to medical care, community support, impacts on service costs, benefits and detriments of increased competition, the promotion of cost effective health care and the ability to provide health care service to indigent people.

2-8. STATE FUNDING FOR PUBLIC EDUCATION, PRE-K, K-12 AND HIGHER EDUCATION

The County supports maintaining the gains made in recent years for pre-K and K-12 funding. In addition, the County supports restoring the cuts made to higher education which could cripple some of the most prestigious higher education institutions in the world, including the College of William & Mary.

2-9. ADEQUATE FUNDING FOR PUBLIC LIBRARIES

James City County supports the State maintaining funding to public libraries to make sure that State and localities maintain their proportionate share of funding.

2-10. FOIA EXCLUSION FOR IDENTITY OF BUILDING CODE AND ENVIRONMENTAL COMPLAINANTS

James City County supports expanding the FOIA exclusion provided in Virginia Code Section 2.2-3705.3(10) to include complainants who report violations of the building code and environmental laws.

2-11. RESTRICTION ON IMPOSING REAL ESTATE TAXES

James City County opposes any legislation restricting local taxing authority to establish real estate tax rates or place artificial limits on the assessment of real property at its fair market value.

2-12. OPPOSE PUBLICLY FINANCED MARKING OF PRIVATE UTILITY LINES

James City County opposes requiring public water and sewer providers to mark privately owned and maintained water, sewer and storm water lines on private property.

2-13. THE DILLON RULE

James City County supports legislation consistent with that which exists in the majority of states, to provide counties, cities and towns greater local autonomy over matters within the purview of local governments.

2-14. LEGISLATIVE PROGRAMS OF THE VIRGINIA MUNICIPAL LEAGUE AND THE VIRGINIA ASSOCIATION OF COUNTIES

James City County supports the legislative programs of the Virginia Municipal League and the Virginia Association of Counties.

MEMORANDUM

DATE: November 25, 2008

TO: The Board of Supervisors

FROM: Melissa C. Brown, Deputy Zoning Administrator

SUBJECT: Vehicle Sales

This material is provided to the members of the Board of Supervisors for informational purposes regarding the state and local ordinance requirements for sale of vehicles from private property in James City County. What follows is a summary and discussion of applicable State and local ordinances. Included in the discussion are possible amendments to the Zoning Ordinance should the Board believe that they are warranted after discussion.

State Code Regulations

If you sell more than five motor vehicles within any 12 consecutive months you are defined by the Virginia Code as a dealer and need to be licensed as such. An individual who sells more than five motor vehicles within any 12 consecutive months without first obtaining a dealer license is known as a “curbstoner.” “Curbstoners” typically sell vehicles on vacant lots with high visibility from a well traveled right-of way. Section 46.2-1508.2 of the Virginia State Code provides the following:

- *“no owner or lessee of any real property shall permit the display or parking of more than five used motor vehicles within any 12 month period on such real property for the purpose of selling or advertising the sale of such used motor vehicles by the owner or lessee of such vehicles unless exempted pursuant to this section.”*

Officers employed by the Virginia Motor Vehicle Dealer Board and the Virginia Department of Motor Vehicles enforce these regulations. They are assigned a specific district within the State to monitor for “curbstoning” violations. These officers are empowered to pursue violations against “curbstoners.” Response time varies from seven to 45 days depending on enforcement officer workloads.

Local Code

The James City County Zoning Ordinance references vehicle sales and service as a use permitted in the M-1 district and specially permitted in the MU and B-1 districts. While there is no specific definition of vehicle sales in Section 24-2, Definitions, of the Zoning Ordinance, the Zoning Administrator has consistently interpreted “vehicle sales” to reference a permanent location where new or used vehicles are continuously displayed for sale. These facilities may include additional bays for major or minor repair and other accessory uses. Because the location of vehicles displayed for sale frequently changes and there are varying intervals where no vehicles are offered for sale from a particular property, the Zoning Administrator’s interpretation of “vehicle sales” rarely, if ever, encompasses “curbstoning.”

Because “curbstoning” is an activity that is not regulated by the County Code, Zoning staff depends on the State ordinance requirements for resolution. When a complaint is received regarding vehicles for sale from property within the County, a staff member first contacts the vehicle owner using the number listed on the vehicle to make them aware of State regulations and ask that the vehicle be removed from the property. Also, the staff member may send an informational letter to the property owner to make them aware of the State requirements and the possibility that the issue may be referred to the enforcement agent for the Motor Vehicle Dealer Board for further action. Once reported to the Motor Vehicle Dealer Board, staff relies upon the State agent to take action against the individual. As previously mentioned, the agent’s response time varies depending upon his or her workload.

Discussion of Ordinance Amendment

Staff contacted several localities of similar size and departmental arrangement to James City County to determine how they addressed “curbstoning.” These included Albemarle County, Hanover County, Chesterfield County, Gloucester County, York County, and the cities of Newport News and Hampton. It appears that this is a frustrating issue for many localities. Like James City, the majority of localities depend on Motor Vehicle Dealer Board agents to prosecute “curbstoners.” Each of these localities follows the same procedural steps as employed by James City. The surveyed localities reported mixed success with this system since this type of violation is more prolific in some regions than others. The response time is directly related to the number of complaints that are received by the agent. For example, Albemarle County has relatively few complaints that are resolved quickly while localities in our region such as Gloucester, Newport News, and Hampton have more extended response times.

One alternative to improve response time and resolution would be to amend the Zoning Ordinance to include a definition for vehicle sales which limits the total number of vehicles to be sold from a property within any 12-month period. Chesterfield County included such a definition in their ordinance with relative success. For example, the sale of more than three vehicles in any 12-month period would constitute “vehicle sales” which would require the appropriate approvals for the specific zoning district. In instances where the established number was exceeded, zoning staff could then pursue the issue as a violation of the zoning ordinance.

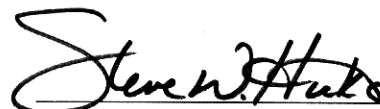
Another alternative would be to amend the ordinance to completely prohibit vehicle sales from any parcel that does not have the appropriate zoning approval. This approach may be construed as overly restrictive by local citizens as this would limit the ability of an individual to sell their personal vehicle from their property should the need arise.

Conclusion

The existing State regulations related to “curbstoning” set a maximum number of vehicles (five) that may be sold from a given property before requiring licensure. This regulation is enforced by Motor Vehicle Dealer Board staff; however, the enforcement agent responsible for James City is overtaxed by the number of violations creating a long average response time. This response time generally varies from seven to 45 days. Should the Board wish for staff to assume local enforcement of this activity, the Zoning Ordinance must first be amended. The amendments may include a new definition for “vehicle sales” limiting the total number of vehicles to be sold prior to zoning review, or an outright prohibition on vehicle sales except in limited circumstances.

Melissa C. Brown

CONCUR:



Steven W. Hicks