

COMMONWEALTH OF VIRGINIA

HOUSE OF DELEGATES

RICHMOND



WILLIAM J. HOWELL
SPEAKER

TWENTY-EIGHTH DISTRICT

COMMITTEE ASSIGNMENTS:
RULES (CHAIRMAN)

May 1, 2008

Virginia Association of Counties
Virginia Municipal League
Coalition of High Growth Communities
Home Builders Association of Virginia

Virginia Association of Realtors
League of Conservation Voters
Piedmont Environmental Council
Coalition for Smarter Growth

Dear Friends:

One of the most challenging issues facing the General Assembly in recent years has been how best to approach providing public facilities and services needed to serve new development in growing localities. For over 20 years, most Virginia localities have been authorized to accept proffered conditions on rezoning applications, including voluntary cash proffer payments, as a way for developers to mitigate the impact of development on public infrastructure like schools, public safety buildings, road projects and water and sewer facilities.

Concerns have been expressed over the years by homebuilders, localities, the conservation community and lawmakers about the current system. For example, both local governments and the conservation community are frustrated that the current system allows no means of getting contributions from "by-right" large lot residential developments being built in the rural areas of counties. At the same time, homebuilders have contended that the dollar level of voluntary cash proffers in some of Virginia's larger localities is negatively impacting their businesses. In recent months, moreover, the national crisis concerning home mortgage financing and the resultant declining real estate values in some markets have made the latter concerns more acute and not coincidentally have affected state and local tax revenues.

During the 2008 Session, Senator John Watkins and the Virginia Homebuilders' Association advanced Senate Bill 768. It would have replaced the current cash proffer system with impact fees on all new development, including by-right construction, but would have capped cash proffers at per-unit levels significantly lower than some localities' current cash proffer guidelines. Unfortunately, the bill did not directly address concerns about urban sprawl raised by many, including the conservation community.

After SB 768 passed the Senate by a narrow margin, it was referred to the House Committee on Rules, which I chair. Ultimately, that committee voted to adopt a substitute bill incorporating some constructive changes to the original bill that were agreeable to negotiators for local governments and developers. Then the committee agreed to "carry over" the substitute version of SB 768 for subsequent consideration in the 2009 Session of the General Assembly.

In connection with that Rules Committee decision, I agreed to write this letter urging all interested parties to continue meeting in a good-faith effort to find common ground on this issue as well as other issues related to unbridled residential growth. After being approved by the House

Rules Committee, the General Assembly also created a joint legislative committee, through HJR 178 and SJR 70, to study newly created urban development areas as well as current and proposed land use tools addressed in SB 768. In addition, I agreed to include a request that local governments consider postponing any increases in their present cash proffer guideline amounts prior to the 2009 Session in order to facilitate more fruitful discussions on cash proffers, impact fees and any other legislative proposals that may arise out of the joint study committee. It is my understanding that the Virginia Association of Counties, the Virginia Municipal League, the Coalition of High Growth Communities and others have agreed to pass this request along to their affected members.

I believe it is fair to say that members of the House Rules Committee, and indeed members of the entire House of Delegates, understand and are sympathetic with industry concerns about housing affordability and the affects of the current cash proffer system. Members also recognize, however, that local governments may have few alternatives to replace the cash proffer payments they are now receiving, and that any change in the existing proffer system must therefore provide an effective avenue to meet infrastructure requirements. Further, the ongoing strain on existing infrastructure and land conservation efforts caused by increased sprawl bring additional challenges to the table which, in my opinion, must be a part of any solution. Any balanced legislative proposal should take into account all of these concerns. That is one reason why the House Rules Committee voted to broaden the purview of the two-year study created in HJR 178 / SJR 70 to encompass all of the aforementioned concerns and to provide a public forum so all interested and affected parties may have a voice and participate in any solution crafted for legislative consideration next year.

To be truly successful, I believe the outcome of the discussions should recognize what the General Assembly was trying to accomplish when it passed the forward-looking land-use portions of the Comprehensive Transportation Funding and Reform Act of 2007 (House Bill 3202), which I patroned last year. Specifically, we charted a new way forward toward more efficient and compact growth management, which preserves open space outside of designated urban development areas. Virginia state law and public policy now embraces the fact that neither the state nor local governments can afford to continue development practices of the past that sometimes resulted in unbridled sprawl. Accordingly, I respectfully suggest that your efforts proceed with an acknowledgement that we must further develop and refine such policies and not reverse the positive new direction imbedded in HB 3202.

Thank you, in advance, for working to seek consensus on this difficult but important issue. Please keep me advised of your progress. I am sure that Senator John Watkins, as patron of SB 768, also would appreciate the same courtesy.

Sincerely,



William J. Howell
Speaker, Virginia House of Delegates

cc: House Committee on Rules
Chair, Senate Committee on Local Government
Chair, Senate Committee on Finance
Senator John C. Watkins, patron of SB 768
Senator Jill Holtzman Vogel, patron of SJR 70
Delegate Clifford "Clay" L. Athey, Jr., patron of HJR 178