

# **CITY OF LYNCHBURG 2019 LEGISLATIVE AGENDA**

**Adopted November 13, 2018**

The City of Lynchburg is a member of both the Virginia Municipal League and the Virginia First Cities Coalition and supports the legislative agendas of both organizations. The City of Lynchburg 2019 Legislative Agenda is meant to highlight those issues of particular importance to the City.

The Lynchburg City Council asks that legislators keep the following principles in mind as they evaluate and vote on legislation and the biennial budget.

## **PRINCIPLES**

- Local governments are instruments of the state, created in large measure to deliver state responsible services in a more efficient and effective manner. This state/local partnership requires an equitable allocation of costs between the two levels of government and across the various jurisdictions of the Commonwealth.
- The state must continue to meet constitutional and statutory responsibilities to adequately fund the state share of state/local services, especially in education, human services, and public safety. Any shortfall in state revenues should not be shifted to local governments.
- When the state experiences or anticipates a budget surplus, due to either increased revenues or reduced expenditures, it should relieve localities of funding responsibilities that have been shifted to them for state mandated/locally delivered services.
- Rather than shifting responsibilities for programs that the state is unwilling to fund down to the localities, the state should consider eliminating those programs.
- The state should explore ways to increase the efficiency and effectiveness of the delivery of state services at the local level including the regionalization of service delivery (e.g. Social Services) and the elimination of inefficient structures such as the Compensation Board.
- The General Assembly should defeat proposed legislation that would erode local taxing authority, cap or reduce local revenue sources or that would impose unfunded mandates on localities.
- The General Assembly should support legislation that provides greater authority to localities in implementing sustainability initiatives especially with regard to land use and transportation planning.

- The General Assembly should preserve local zoning and land use authority, allowing flexibility to meet the needs of individual communities.

## 2019 LEGISLATIVE PRIORITIES

**Filing of Bills with Local Fiscal Impact:** Support legislation that requires members of the General Assembly to file bills with local fiscal impacts as early as possible and no later than the first day of the legislative session, so that the appropriate fiscal impact analysis can be completed and reported in a timely manner.

**Taxes- Machinery and Tools:** Oppose legislation that would reduce or eliminate a locality's authority to impose a machinery and tools tax. The loss of \$5,136,658 in revenue from the Machinery and Tools Tax would equate to a 10.2 cent increase in the City's Real Property Tax rate.

**Taxes- Business License:** Oppose legislation that would reduce or eliminate a locality's authority to impose a business license tax. The loss of \$8,349,271 in revenue from the Business License Tax would equate to a 16.6 cent increase in the City's Real Property Tax rate.

**Children's Services Act (CSA):** CSA funding continues to be a serious concern. Actions taken by the General Assembly have increased mandated services and shifted costs to the localities. The General Assembly should refrain from adding additional mandated services and should fund its full share of the CSA program.

**Comprehensive Poverty Reduction:** Support continued funding of the Community Wealth Building state matching fund which partners with local programs that target intractable long-term pockets of poverty through combined education and job training, housing and transportation resources, mentoring and prisoner re-entry, childcare and early education, and workforce training and other programs that break the cycle of poverty. Preparing people for jobs in the new workforce is extremely important to a healthy community continuum. Prioritize the use of "Go Virginia" funding to create jobs for those in poverty.

**Disposal of Property Due to Eviction:** Support legislation to require that evicted tenants' personal property must remain inside the premises for a specified period time after which it becomes that landlord's responsibility to remove and properly dispose of the tenants' property at the landlord's expense.

The state code outlines what a landlord must do with an evicted tenant's personal property. Currently the state code says when evicting a tenant the landlord must set the tenant's personal property on the public right- of- way for at least 24 hours so that the evicted person may obtain their belongings. The code also says that tenants shall have 24 hours to remove the property and if the tenant does not remove the personal property within 24 hours, the landlord must remove the property within 48 hours. If the landlord fails to remove the property within 48 hours, the City can remove the property and bill the

landlord for the removal costs. The 24 hour and 48 hour removal periods are required by state law.

This places an undue burden on localities to collect and dispose of this debris from the public right-of way and causes unsightly and unsanitary conditions in neighborhoods. Landlords should be treated as businesses.

**Economic Development:** Preserve existing incentive and grant funds offered by the Virginia Economic Development Partnership, the Virginia Department of Agriculture and Consumer Services, the Department of Housing and Community Development, the Department of Environmental Quality, Virginia Tourism Corporation, and Virginia Commission for the Arts.

**Educational Funding:** Jobs are the key to economic recovery and adequate education is essential for preparing the current and future workforce. The State should fully fund the Standards of Quality (SOQ), including support staff costs and categorical incentive funds for At-Risk students and restore funding from cuts to education over the last biennium. The state has a constitutional duty to meet its education funding obligations and should refrain from changes in methodology and division of financial responsibility that result in a further shift of funding responsibility from the state to localities. These shifts do not change what it actually costs to provide education but simply transfers additional costs to local governments, and ultimately to the local real estate tax base.

**Emergency Management:** Support a dedicated revenue stream for the Virginia Department of Emergency Management's local support functions. Recent budgetary constraints have threatened pass-through funding available to localities from VDEM. Loss of local assistance funding would result in the City of Lynchburg's inability to maintain its Emergency Operations Plan, reduce readiness to open its Emergency Operation Center, and would limit the City's ability to engage in community outreach and disaster management.

**Historic Rehabilitation Tax Credits:** Support this financing tool which supports the development and redevelopment of historic buildings.

**Local Law Enforcement Funding:** The Commonwealth should be equitable in its support for local law enforcement funding both to those localities with police departments (HB 599 funding) and to those in which Sheriff's Departments provide law enforcement (through the Compensation Board). Cities should not bear a disproportionate burden for law enforcement funding through continued reductions in funds provided by HB 599.

**Proffers:** Request that the General Assembly monitor the impact the adoption of Section 15.2-2304.4 of the State Code will have on the use of proffers in conditional residential rezonings, with an eye towards identifying any uncertainties or confusion resulting from the implementation of the new legislation, and consider any amendments to Section 15.2-2304.4 that may be needed to further clarify the appropriate use of proffers in conditional residential rezonings.

**Revenue Sharing:** Preserve the Revenue Sharing program administered by the Virginia Department of Transportation. This program allows localities to leverage funds for needed projects that have no other source of funding.

**Sidewalks:** Support the General Assembly granting local governments the authority to enter into agreements with developers to have a payment in-lieu-of option for sidewalk installation. These agreements would be initiated at the request of the developer and include language allowing the locality to install a sidewalk that is required as part of a development project somewhere else that is beneficial to the community.

**Water Quality and Environment:** The City continues to face significant financial burdens in its efforts to comply with water quality regulations. The management of all the related water quality programs imposes high costs on sewer and stormwater rate payers. Continued Federal and State assistance is required to avoid an unreasonable economic burden on City residents and businesses. The City urges support for the following positions:

- **College Lake and College Lake Dam:** Support a request for an appropriation of \$8.0 million for the environmental restoration and improvement and dam removal components of the damage to College Lake and College Lake Dam resulting from the August 2, 2018 rain storm which has been estimated to be an approximately 150-year storm event. Preliminary estimates to replace the bridge and associated roadway work resulting from the same storm event exceed \$25.0 million.
- **Ammonia Reduction Phased Implementation:** Support legislation to further the implementation of SB 344 (2018) which authorized long-term phase-in of ammonia-related nitrogen requirements under consideration now by the State Water Control Board.
- **Wastewater Compliance Schedule Rule:** Conform Virginia's Compliance Schedule Rule to the Federal Rule for consistency to remove the 5-year ceiling on allowed schedules and instead adopt the Environmental Protection Agency's "As soon as possible" provision that allows for longer compliance schedules when appropriate.
- **Periodic Water Quality Improvement Fund (WQIF) & Stormwater Local Assistance Fund (SLAF) Grant Needs Assessment:** Support the Department of Environmental Quality (DEQ) conducting periodic WQIF and SLAF Needs Assessment and reporting results to the General Assembly to improve information supporting WQIF and SLAF appropriations.
- **Grant Funding:** Support appropriations for WQIF (Wastewater) and SLAF (Stormwater) grants to localities and related program enhancements including: (a) Annual Pay-for-Performance WQIF Grants for Additional Nutrient Removal and (b) Competitive Grants for Voluntary "Enhanced State-of-the-Art" Wastewater Chesapeake Bay Projects.
- Support efforts to fund the Stormwater Local Assistance Fund in the amount of at least \$50 million to help localities offset some of the multi-billion dollar cost attributed to stormwater through the Chesapeake Bay TMDL.
- Oppose any efforts to exempt certain properties from stormwater utility fees. Additionally oppose efforts to provide reduced stormwater fees for certain properties or situations. Equitable distribution of stormwater

program costs is essential to meeting regulatory requirements and minimizing stormwater rates.

- Oppose any efforts to increase DEQ's penalty authority against localities.
- Oppose any efforts to shorten Sanitary Sewer Overflow reporting deadlines. Currently the requirement is to notify DEQ within 24 hours of an overflow. A shorter timeline would significantly impact staffing needs.
- Oppose more stringent requirements and regulations associated with the land application of biosolids.

## **OTHER LEGISLATIVE POSITIONS**

**Binding Arbitration:** Oppose legislation that mandates binding arbitration, meet and confer requirements, and imposed grievance procedures for local employees.

**Communications Sales and Use Tax:** . The Virginia Communication Sales and Use Tax was enacted to establish a statewide tax rate and to preempt local taxes on communication sales and services. The City supports setting the tax rate at the same level as the state sales tax rate of 5.3 percent, and broadening the coverage of the tax to include audio and video streaming services and prepaid calling services.

**Exemptions:** Oppose any legislation that would exempt churches and other religious and non-profit organizations from neutral, generally applicable local ordinances, and in particular local health, safety and zoning ordinances.

**FOIA Exemption on the Release of Information Pertaining to Closed Criminal Justice Case Files:** Oppose legislative action to remove the current FOIA exemption on the release of information pertaining to closed criminal justice case files. While not preventing the disclosure of information from closed criminal case files, the exemption allows law enforcement agencies the option to decline disclosure in situations where such disclosure is deemed likely to compromise ongoing criminal investigations; to identify at-risk witnesses, informants or victims; or to otherwise jeopardize public safety. Beyond the scope of endangering witnesses, informants or victims in certain cases, indiscriminate release of all closed case information would significantly hamper current criminal investigations involving the same suspect, similar modus operandi, etc. A primary reason for keeping investigative details from public knowledge is to preserve investigators' ability to evaluate the validity of information gathered from various sources.

**Law Enforcement Data Collection and Retention:** The collection of data on citizen activities in the public rights of way is a sensitive matter and should be addressed with due caution to respect individual privacy rights. Access to data collected by devices such as Automatic License Plate Readers should be only for legitimate law enforcement purposes after a crime has been committed.

**Line of Duty Act:** Support initiatives that return program funding responsibility to the state. Should this unfunded mandate continue, support efforts to implement the recommendations of the 2014 Joint Legislative Audit and Review Commission (JLARC) "Line of Duty Act Report".

**Prevention:** Restore state funds for prevention services.

**Reimbursement for Political Party Primaries:** Support the full reimbursement to localities for the costs related to political party primaries.

**Reimbursement for General Registrar and Electoral Board Expenses:** Support the full reimbursement by the State to the localities for the compensation and expenses of the General Registrar and Electoral Board.

**Reimbursement for the Retrieval of Cellular Phone Information:** The General Assembly should amend §19.2-70.3 of the Code of Virginia to provide reimbursement for the costs of retrieving historic cellular tower information through a search warrant. Code of Virginia §19.2-70.2 has language in section G that allows localities to seek reimbursement for costs related to obtaining pen register information authorized through a court order. Such orders are traditionally used for real-time cellular phone information (pen register and trap & trace). Code of Virginia §19.2-70.3 does not currently have language to allow localities to seek reimbursement. This code section requires a search warrant for cellular phone information related to real-time location data (pinging a phone) or historic subscriber and billing information. United States v. Graham, decided August 5th by the 4th Circuit Court of Appeals, held that a search warrant is necessary for historic cellular tower information. This sort of information shows where a phone was at any relevant point in time. Without the reimbursement language being added to §19.2-70.3, localities will end up spending thousands of dollars a year through investigations involving the need for cellular phone information obtained through search warrants.

**Short-term Rentals:** Oppose short-term rental legislation that limits local government authority to require property owners to register locally and insure accessibility, zoning and life safety protections and equal taxing of all lodging facilities.

**Social Services:** Maintain funding for workforce re-training through appropriate agencies, retaining Virginia Initiative for Employment not Welfare (VIEW) staff and funding in Social Services. This program has successfully helped Temporary Assistance for Needy Families (TANF) recipients secure and maintain jobs.

**State Aid to Public Libraries:** Restore state aid for libraries to at least FY 2010 levels. Public libraries serve as resources for early childhood education and for the unemployed seeking job opportunities.

**Substance Abuse Treatment:** Restore state funding for substance abuse treatment programs. Such funding could be provided to Community Service Boards, programs such as “The Healing Place” or other pilot programs.

**Tax on Electronic Cigarettes and Vapor:** Support legislation to allow localities to tax electronic cigarettes and vapor in a manner similar to traditional cigarettes.

**Taxes on Local Services:** Oppose the imposition of a state fee, tax or surcharge on water, sewer, and solid waste or on any other local government funds or services.

**Telecommunications and Wireless Infrastructure Regulation:** Maintain local authority over zoning, land use, rights-of-way and taxation. Limit new state regulation preempting local authority regarding the use and compensation of local rights of way for telecommunications. Refrain from adopting any additional legislation that preempts local regulation of the placement of wireless infrastructure in the public rights of way or on public property.

**Workers Compensation Medical Fees:** Virginia should adopt Medicare-based fee schedules for setting medical provider fees in workers' compensation cases, instead of the prevailing community rate standard now used. This will make providing workers' compensation coverage more affordable and will adequately protect the financial interests of the medical providers of Virginia.