

Legislative Agenda 2009
Goochland County Board of Supervisors

Bills Sought by the Board

The Board specifically seeks the following legislation for the 2009 General Assembly session:

1. **Widening of U.S. Route 250 (Broad Street Road) to four lanes, from State Route 623 to past State Route 621.** This item has been the first priority on Goochland County's list of primary road projects for many years, as Project # 52448. A significant amount of the money necessary for the project has been available from the federal government for many years. The state has not budgeted the remainder of the money necessary to widen this important roadway. In addition to serving as an east-west corridor parallel to I-64, it serves as a critical commercial corridor in the developing Centerville Village, served by the County's Tuckahoe Creek Service District with water and sewer. Further development of the village with commercial retail and higher density development is now dependent upon improved roadways.

We ask that the money be placed in the budget to complete this critical road improvement and economic development project.

2. **Transportation Funding.** The Board SUPPORTS additional state funding for local transportation improvements to benefit Goochland County citizens, including funds for primary and secondary roads in Goochland County. The state budget lacks proper funding for transportation, which has been under-funded for many years. The General Assembly should not fail to address the needs of the citizens of Goochland County and the Commonwealth.
3. **Broadband Infrastructure and Network Initiatives.** Four related items:
 - a. The Board SUPPORTS increases in the current grant funding for localities which would be available for broadband infrastructure needs.
 - b. The Board SUPPORTS treating broadband communications as an essential utility needed for our 21st century infrastructure.
 - c. In addition to increasing funding, the Board also SUPPORTS the full funding of the Office of Telework Promotion and Broadband Assistance which was created by Governor Kaine. The additional grant funding and the funding of the office will be helpful to localities, such as Goochland, that lack adequate high speed broadband networks in significant areas.
 - d. Lastly, the Board SUPPORTS and calls on the General Assembly to make relevant changes to the State Code of Virginia to allow localities to provide broadband network services to residents and businesses where

there is not an adequate or practical high speed broadband service provider currently operating.

4. **Urban Development Areas.** The Governor’s Substitute to HB 3202 (2007)— later accepted by the General Assembly — contained amendments to then-proposed Virginia Code § 15.2-2223.1 that mandated Urban Development Areas (UDAs) in Goochland County and many other localities that meet relatively low growth and population thresholds. Most of the UDA statutory provisions are acceptable. In fact, Goochland County already follows them. Goochland County’s comprehensive plan for many years has featured areas of higher density (“villages”) surrounded by substantial rural areas (“rural enhancement areas”).

However, one feature of the 2007 bill, as amended by the Governor, causes *very real problems* for Goochland County. The law now requires Goochland County’s “urban development area” to have a residential density of at least 4 units per acre. Goochland County does not allow more than 2.5 units per acre anywhere in Goochland County. Our public utilities rely solely upon water and sewer capacity purchased from other localities or the state. Even in the Tuckahoe Creek Service District — planned to be the most dense area of the County — we do not have sufficient capacity to provide for the industrial, commercial and retail growth, and also allow 4 units per acre residential density. We currently limit residential densities there to a maximum of 2.5 units per acre.

One size does not fit all, and many counties like Goochland County have a rural comprehensive plan and limited water and sewer capacities. Allowing 4 units an acre simply does not fit.

Goochland County asks for the language be reinstated from the bill that passed the House and the Senate, which would have permitted localities to allow a residential density of 4 units per acre *OR a density of at least three times greater than the area outside the UDA*. This language was acceptable to both houses of the General Assembly, and we believe that after a proper explanation, the Governor would also agree that a residential density of 4 units per acre does not fit every rural county in Virginia.

Here is the language underlined that Goochland County asks be added back to Virginia Code § 15.2-2223.1:

The comprehensive plan shall provide for commercial and residential densities within urban development areas that are appropriate for reasonably compact development at a density of at least four residential units per gross acre or a density at least three times greater than the area outside the urban development area and a minimum floor area ratio of 0.4 per gross acre for commercial development.

This underlined language passed both houses of the General Assembly in 2007, and should be passed again.

5. **Ordinance Cable Franchises.** Amend Virginia Code § 15.2-2108.21 to allow localities to initiate an ordinance cable franchise. Goochland County's incumbent cable provider is operating under a franchise that expired in 2007, Goochland County has been unable to obtain a new franchise agreement, and has been unable to initiate an ordinance cable franchise because of the wording of this statute. Local governments should jointly share the ability to initiate an ordinance cable franchise with cable providers in order to create a more even negotiating position for traditional cable franchises. It would also avoid the current situation in which unless the incumbent cable franchisee agrees, the locality may not replace an expired and outdated cable franchise with a more-up-to-date ordinance cable franchise under terms previously approved by the General Assembly. An amendment of Virginia Code § 15.2-2108.21 could state as follows:

§ 15.2-2108.21. Ordinance cable franchises.

A. This section shall govern the procedures by which a locality may grant ordinance cable franchises.

B. An ordinance cable franchise, which shall have a term of 15 years, may be initiated by the governing body of the locality or be requested through application by (i) a certificated provider of telecommunications services with previous consent to use the public rights-of-way in a locality through a franchise; (ii) a certificated provider of telecommunications services that lacked previous consent to provide cable service in a locality but provided telecommunications services over facilities leased from an entity having previous consent to use of the public rights-of-way in such locality through a franchise; or (iii) a cable operator with previous consent to use the public rights-of-way to provide cable service in a locality through a franchise and who seeks to renew its existing cable franchise pursuant to § 15.2-2108.30 as an ordinance cable franchise. A cable operator with previous consent to use the public rights-of-way to provide cable service in a locality through a franchise may opt into the new terms of an ordinance cable franchise under § 15.2-2108.26.

C. In order to obtain an ordinance cable franchise, an applicant shall first file with the chief administrative officer of the locality from which it seeks to receive such ordinance cable franchise a request to negotiate the terms and conditions of a negotiated cable franchise under § 15.2-2108.20. An applicant shall request and make itself available to participate in cable franchise negotiations with the locality from which it seeks to receive a negotiated cable franchise at least 45 calendar days prior to filing a notice electing an ordinance cable franchise; this prerequisite shall not be applicable if a locality refuses to engage in negotiations at the request of an applicant or if the applicant already holds a negotiated cable franchise from the locality. Thereafter, an applicant, through its president or chief

executive officer, shall file notice with the locality that it elects to receive an ordinance cable franchise at least 30 days prior to offering cable in such locality. The notice shall be accompanied by a map or a boundary description showing (i) the initial service area in which the cable operator intends to provide cable service in the locality within the three-year period required for an initial service area and (ii) the area in the locality in which the cable operator has its telephone facilities. The map or boundary description of the initial service areas may be amended by the cable operator by filing with the locality a new map or boundary description of the initial service area.

D. The cable operator shall assure that access to cable services is not denied to any group of potential residential cable subscribers because of the income of the residents of the local area in which such group resides. The local franchising authority shall have the right to monitor and inspect the deployment of cable services and the cable operator shall submit semiannual progress reports detailing the current provision of cable services in accordance with the deployment schedule and its new service area plans for the next six months. The failure to correct or remedy any material deficiencies shall be subject to the same remedies as contained in the cable television franchise of the existing cable operator as that franchise existed at the time of the grant of the ordinance franchise.

E. The locality from which the applicant seeks to receive an ordinance cable franchise shall adopt any ordinance requiring adoption under this article within 120 days of the applicant filing the notice required in subsection C. Any ordinance adopted under this section that relates to a cable operator's provision of cable service shall apply to such cable operator retroactively to the date on which the cable operator began to offer cable service in the locality pursuant to this article.

F. Notice of any ordinance that requires a public hearing shall be advertised once a week for two successive weeks in a newspaper having general circulation in the locality. The advertisement shall include a statement that a copy of the full text of the ordinance is on file in the office of the clerk of the locality. All costs of such advertising shall be assessed against the operator or applicant.

G. If the governing body of any town adopts an ordinance pursuant to the provisions of this article, such town shall not be subject to any ordinance adopted by the county within which such town lies.

6. **Cash Proffers.** Goochland's current conditional zoning authority is important to good planning and ensuring that growth pays at least a portion of its way. Given shortfalls in state funding, Goochland citizens expect that new development will have to support more of the resulting infrastructure costs in the future. Therefore, Goochland asks that its current cash proffer authority, provided as part of the budget compromise of 2007, be preserved.

Legislative Policies

The Board of Supervisors adopts these legislative policies, and asks its legislators to adopt positions on bills that come before them consistent with these policies:

Tax Assessments. The Board OPPOSES any proposed legislation that would reduce the presumption accorded local government assessments, or expands the right to challenge local government tax assessments.

Local Taxes for State Programs. The Board OPPOSES funding mechanisms that may result in Goochland County's local tax dollars being paid to the state for statewide programs or obligations. Such programs or obligations should be paid from state tax dollars. An example of this is the per-ton tipping fee, recently proposed. The County would have to pay this charge since its solid waste is deposited in a landfill in Virginia. Since the County does not collect a tipping fee on nearly all of its waste, the County citizens would have to pay this charge through their general taxes.

Land Use and Zoning Authority. The Board OPPOSES any reduction in its land use and zoning authority, including without limitation its conditional zoning authority. The Board SUPPORTS additional land use and zoning authority for growth management purposes, including without limitation impact fees and authority to adopt adequate public facilities ordinances at the subdivision and plan of development stage. Given the extreme level of growth that Goochland County is facing in its coming years, the citizens of the County expect the Board to manage development in a meaningful way, and to have developments properly address their effect on public infrastructure and services. The Board of Supervisors needs the authority to carry out this mandate from the voters of Goochland County.

Eminent Domain Authority. The Board OPPOSES any reduction in its authority to utilize the power of eminent domain, or changes in the laws that make the process longer, more expensive, or more difficult. The County is facing demands from its growth that require the use of the power of eminent domain from time to time. The statute was greatly amended in the last few years to make the process more landowner-friendly and to react to concerns raised by the *Kelo* decision. The statutes should not be further amended to make the process more difficult and expensive to the detriment of Goochland County citizens.

Unfunded Mandates. The Board OPPOSES any mandate from the state or federal governments to conduct programs or incur expenses without the full funding to accompany such a mandate. The Board further OPPOSES the shifting of fiscal responsibility from the state to localities for existing programs.

Taxing Authority. The Board OPPOSES any legislation that would reduce its ability to raise revenue to pay for needed services for the citizens of Goochland County. Given the need for transportation, education and other government facilities and services, now is

not the time to reduce local government's ability to raise money to fund its budget from local sources.

State Budget. The Board SUPPORTS the state paying its fair share of programs, including education, CSA and transportation, and OPPOSES requiring local government to pay an increasing proportionate share of government programs and costs. The Commonwealth should not pass on the need for additional funding on to the local level, or to "take" traditional sources of local revenue to balance the state budget. Existing budget requirements for local governments to assist in funding state government should be reversed and replaced with traditional sources of state revenue. Future requirements that local governments fund state government should be avoided. State government should fund itself through traditional sources of state revenue.

Revenue-Neutrality. The Board OPPOSES any legislation that is not at least revenue-neutral for Goochland County.

The County Attorney and the County Administrator are authorized to represent Goochland County and its Board of Supervisors for the purposes of communicating these legislative policies and to assert positions on bills consistent with these policies on their behalf.

Approved by Board of Supervisors September 2, 2008.