

Document Title

Development and Land Use Tools in Virginia's Localities

Author

Joint Subcommittee

Enabling Authority

HJR 178/SJR70 (2008)

Executive Summary

Joint Subcommittee Studying Development and Land Use Tools in Virginia's Localities
(HJR 178/SJR70 (2008))

During the 2008 Session of the General Assembly, the General Assembly passed both HJR 178 and SJR 70, which established a joint subcommittee to study development and land use tools in Virginia's localities.

Delegate Athey, the patron of HJR 178, served as chairman of the joint subcommittee, and Senator Vogel, the patron of SJR 70, served as vice-chairman of the joint subcommittee. Other legislative members of the joint subcommittee were Delegates Orrock, Oder, Miller, and Toscano and Senators Lucas and Herring. The Secretary of Transportation, Pierce R. Homer, or his designee, and the Secretary of Commerce and Trade, Patrick O. Gottschalk, or his designee also served as the ex officio members of the joint subcommittee. The joint subcommittee met three times on January 13, 2009, June 18, 2009, and December 4, 2009.

The joint subcommittee was instructed to "examine and monitor the transition to channeling development into Urban Development Areas, and determine if additional legislation is needed to help localities as they transition to Urban Development Areas."

In addition, the joint subcommittee was requested to "make a comprehensive evaluation of all existing land use planning tools and infrastructure financing options and make any recommendations deemed appropriate."

In furtherance of the resolutions' aims, the joint subcommittee studied "development and land use tools in Virginia's localities." To that end, the joint subcommittee heard testimony on January 13, 2009, from Ms. Bonnie France, a partner at McGuire Woods. Ms. France's presentation, entitled "Community Development Authorities," included a discussion of the legislative history, statutorily prescribed characteristics, creation, purposes, powers, benefits of, and proposed legislation affecting, community development authorities. Dr. Sheryl Bailey, Executive Director of the Virginia Resources Authority, delivered remarks to the joint subcommittee relating to the financing of community development authorities in urban development areas. Specifically, Dr. Bailey explained that allowing VRA to assist in the financing of community development authorities could create competition between community development authorities and local governments over the financial resources provided by VRA. Finally, the three work groups

established by the joint subcommittee made recommendations to the joint subcommittee; the recommendations related to the work groups' subject matter jurisdiction [Work Group # 1 - (Proffers vs. Impact Fees); Work Group # 2 - (Cooperation with State/Regional/Local Public Entities; Cooperation with Utilities); Work Group # 3 - (Enforcement/Clarification of UDA Statute)].

At its meeting on June 18, 2009, the joint subcommittee heard testimony from Mr. Eric Lawrence, Director of the Department of Planning and Development for Frederick County. Mr. Lawrence talked to the subcommittee about the urban development area Frederick County has had for about 20 years and how proposed legislation (created to foster discussion about possible amendments to the statute governing urban development areas) would affect the county. In addition, Ms. Mary Ann Curtin, Director of Intergovernmental Relations for Chesterfield County, provided the report of the joint subcommittee's Workgroup # 1, the group charged with discussing the legislation relating to conditional zoning and impact fees. According to Ms. Curtin, the general consensus of the members of Workgroup # 1 was that the proposed legislation (created to foster discussion about possible amendments to the statutes governing impact fees), as written, needs to be completely reworked. Furthermore, Ms. Lisa Guthrie, Executive Director of the Virginia League of Conservation Voters, provided a detailed report of the work done by Workgroups # 2 and 3. These workgroups went through the proposed legislation (created to foster discussion about possible amendments to the statute governing urban development areas) line by line to propose changes.

On December 4, 2009, the joint subcommittee heard testimony relating to impact fees. Mr. James B. Duncan, FAICP, President of Duncan Associates, described the evolution of impact fees in America and then detailed the elements, in his opinion, of the perfect legislation authorizing impact fees. In addition, Mr. Arthur C. Nelson, Ph.D., FAICP, *Presidential Professor* at the University of Utah College of Architecture & Planning, also presented an overview of impact fees. He noted safeguards that must accompany the use of impact fees, discussed the use of impact fees, and explained that local impact fees may be imposed to promote infill and redevelopment, economic development, and workforce housing. Finally, Mr. Carson Bise, AICP, *President* of TischlerBise, discussed the current funding options for local capital improvements in Virginia, gave an overview of cash proffers, discussed his perceived challenges of current road impact fee authority, and suggested that the collection of impact fees and the collection of cash proffers can be both done in a single locality.

At its January 12, 2010, meeting, the joint subcommittee will likely discuss and vote upon legislative recommendations.

No formal report embodying any legislative recommendations of the joint subcommittee will be submitted as a House or Senate Document to the 2010 Session.

The joint subcommittee's Internet website can be found at: <http://dls.virginia.gov/DLUT.htm>.