

On January 13, 2009, the joint subcommittee studying development and land use tools in Virginia's localities (House Joint Resolution 178/Senate Joint Resolution 70 - 2008) held its fourth meeting at 2:00 p.m. in House Room C of the General Assembly Building in Richmond, VA.

According to House Joint Resolution 178 and Senate Joint Resolution 70, the joint subcommittee is charged with examining and monitoring "the transition to channeling development into Urban Development Areas, and" determining "if additional legislation is needed to help localities as they transition to Urban Development Areas." Moreover, the aforementioned resolutions require the joint subcommittee to "make a comprehensive evaluation of all existing land use planning tools and infrastructure financing options and make any recommendations deemed appropriate." The relevant statutory provision of the Code of Virginia governing urban development is § 15.2-2223; also, the tenth enactment of Chapter 896 (2007)/House Bill 3202, as reenrolled, prescribes a deadline by which counties must adopt urban development areas.

Ms. Bonnie France
Partner
Williams Mullen LLC

Ms. France delivered a presentation to the joint subcommittee entitled "Community Development Authorities." To begin, Ms. France spoke about the legislative history of the statutes authorizing community development authorities in Virginia and other special tax/assessment district financing in other states. Ms. France then discussed the statutorily-prescribed characteristics, purposes, powers, and benefits of community development authorities. She likewise explained, in detail, the statutory procedures by which community development authorities are created. In addition, Ms. France discussed the facilities undertaken, revenue bonds issued, and special taxes levied by community development authorities. Furthermore, Ms. France listed notable services and facilities undertaken by community development authorities throughout the Commonwealth. Finally, Ms. France concluded her presentation by discussing proposed legislation before the 2009 Session of the Virginia General Assembly relating to community development authorities.

Ms. France's presentation can be found online at
<http://dls.state.va.us/GROUPS/dlut/MEETINGS/011309/CDAs.pdf>.

Dr. Sheryl Bailey
Executive Director
Virginia Resources Authority

Dr. Bailey 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. Further, she shared a press release regarding the Virginia Resources Authority's (VRA) planned investment of more than \$200 million in local projects statewide.

Work Group # 1

Work Group #1 delivered recommendations for the joint subcommittee when developing its work plan for 2009. Specifically, a majority of the members of Work Group # 1 decided that the joint subcommittee should continue studying whether the collection of impact fees and/or the acceptance of proffers could, simultaneously, promote dense urban population areas in urban development areas and promote large farmlands, open space lands, and forestal lands outside urban development areas. Moreover, the work group recommended that the joint subcommittee should continue studying the effect that the collection of impact fees and/or the acceptance of proffers would have, generally, on development in urban development areas. Furthermore, the work group recommended that the joint subcommittee should, in 2009, consider studying whether an infrastructure financing that includes both the acceptance of non-cash proffers and the assessment of impact fees (and excludes cash proffers) can promote the purposes of and survive in an urban development area. Finally, Work Group # 1 recommended that the joint subcommittee should, in 2009, consider studying whether community development authorities can provide adequate financing for infrastructure in and/or near urban development areas.

It should be noted that there was general agreement that the workgroup wanted to study expanding the use of development agreements to fund infrastructure.

Work Group # 2

Below is a report of the recommendations for the joint subcommittee. The questions in bold type were questions the joint subcommittee asked the workgroup to answer. Immediately beneath each question is the recommendation of the workgroup.

Recommendations of Joint Subcommittee - Workgroup #2 Tuesday, January 12, 2009 – 1 p.m.

In 2009, should the joint subcommittee continue studying the effect of statutorily expanding the duties of the Commission on Local Government to include assisting localities in their establishment of urban development areas?

There was more agreement to look to the regional Planning District Commissions because they may be better positioned to represent the various local governments than any single state agency. That said, we agreed that they would need additional resources to provide data and technical assistance to the localities.

There needs to be some “central repository” authorized to track UDAs and provide information requested by local governments such as which agencies have which resources.

In 2009, should the joint subcommittee continue studying the appropriate role of state agencies in establishing and furthering urban development areas?

A point was raised regarding the importance of retaining local government authority when issues arise that could impact growth patterns which could in turn impact the feasibility of UDAs. An example given was the legislation giving the State Health Department whole authority to permit those without local oversight. This could inadvertently prevent or delay the implementation of a centralized sewer system to service UDAs.

Again, there is a need to coordinate agencies and local governments to prevent barriers to the creation of UDAs.

In 2009, should the joint subcommittee examine whether the Virginia Employment Commission or the Weldon Cooper Center for Public Service of the University of Virginia is the more appropriate entity to make official estimates and projections of future growth?

In 2009, should the joint subcommittee examine whether localities could, statutorily, assist or provide information to the entity that makes official estimates and projections of future growth used by such localities in designating their urban development areas?

We concluded that neither the Virginia Employment Commission nor Weldon Cooper currently provide all the information needed to plan for future growth. Localities need more specialized information from their PDC to update their comprehensive plans.

Accurate data is needed in order for localities to take the next step of conducting build-out analyses and fiscal infrastructure projections- both advantages for good planning and right-sizing UDAs in times of budget shortfalls.

Mr. Chairman, our group continues to emphasize the need for cooperation and communication. We look forward to continuing to work with the Joint Subcommittee throughout the next year.

Work Group # 3

Furthermore, Work Group # 3 made recommendations for the joint subcommittee when developing its work plan for 2009. The work group first recommended that the joint subcommittee should continue exploring legislation necessary to promote urban development areas in municipalities as areas for redevelopment. Work Group # 3 also decided that the joint subcommittee should consider studying the replacement of the nomenclature "urban development area" with a term more acceptable to rural localities that fear a statutorily-mandated loss of their rural characteristics. Further, Work Group # 3 recommended the joint subcommittee consider studying the effect of a statute requiring localities that have adopted zoning to incorporate language relating to urban development areas into their zoning ordinances, if such localities are otherwise required to incorporate urban development areas into their

comprehensive plans. It also recommended the joint subcommittee consider studying the effect of a statute prescribing inclusion of the following principles into comprehensive plans: (i) pedestrian-friendly road design, (ii) interconnection of new local streets with existing local streets and roads, (iii) connectivity of road and pedestrian networks, (iv) preservation of natural areas, (v) satisfaction of requirements for stormwater management, (vi) mixed-use neighborhoods, including mixed housing types, (vii) reduction of front and side yard building setbacks, and (viii) reduction of subdivision street widths and turning radii at subdivision street intersections. Work Group # 3 recommended that the joint subcommittee consider studying the role that the Commission on Local Government or the Virginia Department of Housing and Community Development, either or both, should have with respect to localities establishing urban development areas, provided that a discussion of funding of such state agencies is included in such study. Finally, it decided the joint subcommittee should consider studying the density requirement established in the statute mandating urban development areas in comprehensive plans.

The joint subcommittee entertained public comment and discussed and adopted a work plan for its remaining four meetings in 2009. In formulating its work plan, the joint subcommittee accepted the work group's recommendations.

The joint subcommittee has not scheduled its next meeting.