

# VIRGINIA

TOWN & CITY

The magazine of the Virginia Municipal League

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SEPTEMBER 2016

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**Inside:**

Highlights of the upcoming  
VML Annual Conference

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## Cover story

*The 2017 General Assembly won't convene until January, but VML members have already drafted the legislative agenda based on issues likely to affect local governments in the coming session. Page 15.*

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## Features



### Closer to home

The scarcity of affordable housing in Virginia has forced many low and moderate income workers to live outside of the communities where they work, resulting in long commutes that, in turn, require more time away from their families and contribute to a lower quality of life. Here's how two different communities in Virginia are tackling the problem.

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### Quenching Virginia's food deserts

From the busy cities to remote rural areas, 1.7 million Virginians live in low income areas with limited supermarket access. The health consequences are well-known and affect the overall quality of life in a town. Likewise, communities without full service grocery stores miss out on job opportunities, local revenue and other benefits. The food desert crisis is on the state's radar but it needs local champions to fight for funding.

By Allie Atkeson

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### State Budget needs a reboot

The Governor now expects a total revenue shortfall from the adopted 2016-18 General Fund budget of nearly \$1.5 billion, due to the lowered revenue base going forward, revised lower growth rates and the loss of carryforward unspent revenues. With more state budget cuts looming, locality budget decisions will only get harder.

By Jim Regimbal

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### 2016 Annual Conference in Virginia Beach



A phenomenal lineup of national speakers will cover issues ranging from racial equity to federal advocacy. Breakout sessions and roundtables give local officials the chance to share best practices in economic development, education, employment, tourism and much more. And prepare to be dazzled by our host city of Virginia Beach.

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# History, theatre and off-road adventures

**T**HIS IS PART TWO recounting my trip to the far reaches of the state. One of the things that has amazed me the most about Virginia is how beautiful each region is in its own right. From beaches to mountains and everything in between, there is a unique look and feel in various areas throughout the state and Southwest Virginia is no exception. The majesty of the mountains there is breathtaking. And the communities nestled into those mountains are fascinating and special.

On the second day of our adventure, our tour guide, Art Meade of the Weldon Cooper Center, took us to Pennington Gap to visit the community and see the projects that have been going on there. We first met up with Council member Jill Carson who gave us a tour of the Appalachian African American Cultural Center.

This project has been a labor of love for Jill Carson and her husband, Ron. The center is housed in what was once a one-room schoolhouse, founded by Ron's great-great-grandmother in 1939 to serve African American children in the area. Today the center includes a variety of artifacts including musical instruments, pictures, documents, oral histories, and much more. To learn more about the center and its history, there is a great article written about it at [www.themightybuffalos.com/blog/1505595](http://www.themightybuffalos.com/blog/1505595).

Preserving history is so important, but it can often get lost in the bustle of taking care of everyday business. The Carsons have been intentional when it comes to preserving history and we can all learn from their fine example.

Next, we met up with Pennington Gap Town Manager Keith Harless, Mayor Larry Holbrook, and Theatre Manager Tony Lawson. We toured the completely renovated and absolutely beautiful Lee Theatre. Like many theatres in small communities, the theatre had fallen on hard times




**The Lee Theatre was restored and reopened by the town of Pennington Gap in 2013. It hosts musical groups, plays and movies. It has become the hub of revitalization for the town.**

until the town purchased it and took on the revitalization. In addition to the support of the town, the theatre has benefitted from the energy and dedication of Theatre Manager Tony Lawson. All of this effort has paid off as the theatre serves as an anchor for downtown development efforts. For more about the theatre and a list of upcoming events, go to [www.leetheatre.org](http://www.leetheatre.org).

Finally, we went out to Leeman Field Park to see the newest development in Pennington Gap, an off-highway vehicle (OHV) trail and RV park. The Stone Mountain Trailhead is designed to bring in those with a desire for outdoor adventure. The RV park is located at the bottom of the trail, providing easy access to the "blue and black" trails for both intermediate and advanced riders. For more information, go to [www.spearheadtrails.com/trail/stone-mountain](http://www.spearheadtrails.com/trail/stone-mountain).

With all of these wonderful developments going on, we couldn't overlook a recent challenge faced by the town. We drove by Lee Regional Hospital which was forced to close after changes in health care generally and, more specifically, the failure of Virginia to expand Medicaid under the Affordable Care Act (ACA). Regardless of your views on the ACA, it is impossible to ignore the fact that the changing landscape of health care has had a dramatic impact in some areas.

Despite losing an important employer that provided critical health services to their citizens, the Town of Pennington Gap has made a conscious decision to forge ahead. I am always amazed and impressed by what a small community can do when it doesn't view itself as "small." And, Pennington Gap is one of those towns that sees itself as a regional center and can envision a bright future for itself. I look forward to visiting again and maybe next time, I will be brave enough to get on an OHV! In the next issue, join me in Big Stone Gap! 



**A sunset view from the Stone Mountain Trailhead. The trail is for off-highway vehicles. An RV park is at the base of the trail.**

## VML congratulates its newest VEOLA graduates

THE VIRGINIA MUNICIPAL LEAGUE is pleased to announce the 2016 graduates of the Virginia Elected Officials Leadership Academy. The Academy is a voluntary certification program open to elected officials in VML-member cities, towns and counties. The purpose is to encourage continuing education, promote excellence in local governance and recognize local elected officials who take advantage of training opportunities.

### Advanced Certified Local Government Officials

**Bob Coiner**, Mayor, Town of Gordonsville  
**Timothy Darr**, Mayor, Town of Front Royal

### Certified Local Government Official

**Bill Hartley**, Vice Mayor, City of Bristol

### VEOLA



The Virginia Elected Officials Leadership Academy uses existing opportunities such as conferences and seminars along with courses offered through universities to offer meaningful, informative and useful information on topics that will expand the knowledge and capabilities of local officials. For more information about VEOLA certification, go to [www.vml.org](http://www.vml.org).



- Coiner -



- Darr -



- Hartley -

## Front Royal promotes interim to finance director

**BJ Wilson** was named Director of Finance for the town of Front Royal. He had served as Interim Finance Director since the retirement of Kim Gilkey-Breedon in March. Wilson has 18 years of finance and accounting experience and is certified as a Virginia Contracting Associate for Governmental Purchasing.



- Wilson -

## Staunton names city engineer

**Nickie Mills** has been named City Engineer for the city of Staunton. He succeeds James Davis, who retired in July after serving as the city's engineer for 32 years. Mills comes to Staunton with more than 20 years of experience in engineering, project management and surveying and is licensed as a Virginia Professional Engineer. Most recently, Mills worked as an engineer and surveyor for BPG, Inc. in Kitty Hawk, NC. Previously, he worked as a transmission line engineer for Appalachian Electric Power in Roanoke and then as Engineering and Surveying Manager for Abbott Engineering & Surveying in Catawba, Va.



- Mills -

## Lynchburg appoints deputy city manager

**Charles Hartgrove** will be the new Deputy City Manager of Lynchburg, effective November 1. Hartgrove currently serves as the Town Manager in Ashland, Virginia. Hartgrove fills the deputy position vacated by Bonnie Svrcek in July when she was promoted to City Manager. Hartgrove has over 18 years of experience in local government management including serving as Town Manager in three Virginia localities – Gate City, Middleburg, and the last 13 years in Ashland.



- Hartgrove -

## Albemarle appoints new clerk

The Albemarle County Board of Supervisors has unanimously appointed Claudette Borgersen as the Board's new Clerk. Most recently, Borgersen was

Operations Assistant at Old Dominion University. She has also served as the Executive Assistant to the CEO of the Charlottesville Area Association of Realtors and Administrative Assistant to the Dean of Piedmont Virginia Community College. Borgersen has a bachelor's degree in government from Shippensburg University in Pennsylvania and served 13 years in the U.S. Army specializing in personnel systems management.

## Governor appoints several municipal leaders

Governor Terry McAuliffe recently announced additional appointments to his administration, including:

**Erik D. Curren**, Councilmember, City of Staunton  
 Board of Trustees of the Virginia Frontier Culture Museum

**John Taylor Chapman**, Councilmember, City of Alexandria  
 Advisory Board on Service and Volunteerism

**Terry C. Frye**, Commissioner of Revenue, City of Bristol  
 Advisory Board on Service and Volunteerism

**Earl B. Reynolds, Jr.**, Deputy City Manager, City of Danville  
 Board of Housing and Community Development

**Norfolk Waste Management ranks tops in the nation**

The Solid Waste Association of North America (SWANA) recently awarded the Bronze Excellence Award in Collection Systems to the city of Norfolk's Waste Management Division. The award represents the most innovative and dynamic organizations throughout North America. Under Superintendent Harvey E. Howard's leadership, the Division assessed the workforce, fleet, routes, accident rates and customer service performance and accounting practices. In recent years, new automated trucks replaced older vehicles. GPS transponders were added to all collection vehicles for real-time tracking and feedback. In addition to the Bronze Excellence Award in Collection Systems, Norfolk's Waste Management will also receive recognition for their safety program which includes an apprentice training program.



(L to R) Harvey Howard, Norfolk Waste Management Superintendent and Richard Allen, Incoming President of SWANA.

**Harrisonburg Fire Dept. promotes two**

The Harrisonburg Fire Department (HFD) announces the promotion of two of its own. Deputy Chief **Mike Brady** will transition from the Deputy

Chief of Training to the Deputy Chief of Operations, which serves as the second in command of the department. The position of Deputy Chief of Operations was left vacant after Ian Bennett was promoted to Fire Chief with the retirement of longtime Fire Chief Larry Shifflett. Deputy Chief Brady started his career with HFD in 1995 and was promoted to Lieutenant in 2001. In 2007, he was promoted to Captain and then Deputy Chief of Training in 2011.

Captain **Steve Morris** is being promoted to Deputy Chief of Training. Captain Morris currently oversees Station 4 on Rock Street. In 1998, Captain Morris started his career with HFD and was promoted to Lieutenant in 2005. He was then promoted to Captain in 2010.

**Suffolk appoints director of planning**

The city of Suffolk has announced the appointment of **David Hainley** as Di-

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VIP is rated "AAf/S1" by Standard & Poor's.





- Hainey -

rector of Planning & Community Development effective October 31. Hainley comes from Glynn County, Georgia, where he served for 10 years as the Community Development Director.

Hainley will not be new to Virginia, as he served for eight years as a Planning Administrator and then Assistant Director of Planning for Chesterfield County. Prior to that position, he held various positions from designer to vice president with multidiscipline engineering firms in Georgia and Pennsylvania, performing

planning and design work on subdivisions and parks, commercial, industrial and multifamily developments, military installations and community infrastructure improvement projects.

**Alexandria names CIO and Director of IT Services**

The city of Alexandria has announced that **Vanetta Pledger** is Chief Information Officer and Director of Information Technology Services. Pledger will manage the city's 10-year, \$52 million IT capital investment plan and lead a department of 56 employees. Pledger joined the city in 1999 as an email sup-



- Pledger -

port engineer, and was later promoted to database administrator. In 2007, she was named Director of Information Technology for Orange County, Va. She returned to Alexandria in 2010 to lead the city's IT operations division, and was promoted in 2013 to Chief of the Network Management Division. In 2014, Pledger became the Director of Information Technology for the city of Bowie, Md.

News & notes

**GerryRIGGED documentary coming to your community**

RICHMOND'S PUBLIC TELEVISION Community Idea Stations and OneVirginia2021 are joining forces to produce a statewide public television documentary, *GerryRIGGED: Turning Democracy On Its Head*. This one-hour documentary will bring awareness to the impact of gerrymandering, and explore how Virginia can progress from a system where legislators create their own districts toward a system that makes sense for true representative government.

Gerrymandering is the deliberate manipulation of legislative district boundaries for political gain. In Virginia, both Democrats and Republicans have engaged in this practice to distort the electoral process, promote the party in power, and turn competitive districts into non-competitive ones. The Washington Post has called ending gerrymandering "the biggest ethics issue facing the state."

*GerryRIGGED: Turning Democracy On Its Head* will examine the historical context and consequences of gerrymandering through a multi-partisan lens that includes Republicans, Democrats, Independents, Libertarians and the Tea Party. The documentary will explore the impact on communities and individual lives by including testimonials from strategists, political consultants, and map drawers, and by incorporating interviews with the men and women in politics who have the most to win – and perhaps lose – through reform.

**Where to watch**

The documentary will be shown both on PBS station and in theatres throughout the state in the months of October and November.

**Coming to a theatre near you**

**Fredericksburg**

Wednesday, October 26, 7:30 p.m.  
Mary Washington University

**Williamsburg**

Tuesday, November 1, 6 p.m.  
Williamsburg Regional Library Theatre

**Martinsville**

Thursday, November 3, 6 p.m.  
Rives Theatre

**See it on your local PBS station**

**WBRA Roanoke**

Tuesday, October 18, 7 p.m.

**WHRO Norfolk**

Sunday, October 23, 7 p.m.

**WHUT Howard (D.C.)**

Monday, October 24, 9 a.m.  
Monday, October 30, 7 p.m.

**WHTJ Charlottesville**

Monday, October 24, 9 p.m.

**WCVB Richmond**

Monday, October 24, 9 p.m.

**WCVW Richmond**

Thursday, October 27, 8 p.m.

**WVPT Harrisonburg**

Thursday, October 27, 8 p.m.

**Want to show it in your town?**

OneVirginia 2021 is working to add showings throughout the state. Contact Brian Canon at [director@onevirginia2021.org](mailto:director@onevirginia2021.org).



## Tech tools for better customer service

### Virginia Beach launches property search app

Virginia Beach Property Search, the city's new online tool and mobile app, provides information on all 159,000-plus properties throughout Virginia Beach. Users can get real estate data quickly and easily for every residential and commercial property at [vbgov.com/property-search](http://vbgov.com/property-search) or via the mobile app for iOS and Android.

Users can search by street address, neighborhood name or ZIP code. The app includes more information than most commercial search sites. For every property, the tool offers a detailed sales history, year-by-year assessments, tax rates, annual taxes, year built, square footage, number of rooms, aerial images, zoning, watershed, soil type, flood and noise zones, a downloadable plat, nearest police station, trash collection days, voting location and districts for the City Council and state legislature. Users can view subdivision boundaries and get sales information for homes within a subdivision and surrounding area.

This new property search application ensures that anyone who may be interested in purchasing property in Virginia Beach has the tools and information to help them do so.

### Loudoun County launches real-time bus tracking system

Loudoun County has launched a new web-based "Bus Time" information system for commuters to know the arrival times of their buses. Bus Time uses GPS technology

and schedule/arrival data to calculate the arrival time for specific stops and routes to provide real-time information for all of Loudoun's commuter buses. The information system includes routes from the Pentagon and Washington, D.C. as well as routes to and from the West Falls Church Metro stations. Riders can view the web-based tool using their mobile devices or laptop.

### Abingdon unveils budget transparency system

The town of Abingdon's new budget system on the open-gov website allows residents full access to the town's budget information for the last three years. The program shows all information in both visual formats such as graphs and in list formats that show the numbers town officials typically work with. The site, according to Mayor Cathy Lowe, is intended to provide more transparency to citizens and allow access to information that previously was only accessible through a Freedom of Information Act request.



## Winchester calendar turns heads

WINCHESTER'S 2016 Annual Informational Calendar has received first place in graphic design at the Savvy Awards earlier this month. The city's website took third place in the best overall website category. The Savvy Awards competition recognizes outstanding local government achievements in communications, public-sector marketing and citizen-government relationships. The Savvies salute skilled and effective city, county, agency or district professionals who have creatively planned and carried out successful innovations in communications and marketing.





## Vienna earns national certification as wild-life friendly community

VIENNA IS ONE of less than 10 communities in Virginia and less than 100 nationwide to earn certification as a Community Wildlife Habitat from the National Wildlife Federation (NWF). Vienna is now nationally recognized as a community where people and wildlife can flourish – a community that is effectively addressing the issue of habitat loss.

The NWF Community Wildlife Habitat certification effort was led by a volunteer certification team operating under the auspices of the town's Community Enhancement Commission (CEC). Partners in the effort included the town's Parks and Recreation Department and Ayr Hill Garden Club.

Vienna is making progress in addressing habitat loss and the decline in songbird species as well as pollinators, such as bees and butterflies,

which are essential to our food system.

The NWF certification process typically takes two to five years, while Vienna achieved certification in about 10 months.

Approximately 150 homeowners, businesses, schools, churches, and community organizations participated in the program by having their properties individually certified.

In addition, the town had to demonstrate a wide range of educational and outreach activities related to enhancing Vienna's wildlife habitats. These efforts included removing invasive species from town properties, restoring local streams, and facilitating the Vienna Learning Garden.



## City of Alexandria finds substantial gender equity in employee compensation

**Women earn 94% of what men do and in some cases are paid more**

YES, IT'S STILL LESS, but the city is outpacing the national average by a mile. An analysis of pay by gender found that the city of Alexandria's male and female employees are compensated with far greater equity than the national average. Studies by the U.S. Department of Labor show women nationwide earn approximately 79% what men do, for a national pay gap of 21%. By contrast, female city employees earn an average of 94% compared to their male colleagues, for a pay gap of 6%. For job titles held by more than one employee (which is the case for three quarters of the city's workforce), women earn approximately 1% more on average than men.

"I'm pleased to have statistically confirmed that our employees are compensated according to the work they do, with relatively little disparity by gender," said City Manager Mark B. Jinks. "Fair compensation is a critical factor in our ability to attract and retain the best talent to serve our community, and we will continue to work towards the goal of full gender equity."

The city undertook this analysis on its own accord in light of national concern about the pay gap between men and women. The study looked at 2,812 regular full-time and part-time positions and did not account for differences in career selection between men and women. Fifty-two percent of city employees are male, and 48% are female.

The city's relative pay equity can be attributed in large part to the use of an established merit pay system, which provides pay increases at regular intervals to employees with satisfactory performance. Equity across city government is also supported by parity in staff leadership positions. On average, female officials and administrators earn 2% more than their male peers. The 123 city employees classified by the federal government as "officials and administrators" are almost equally divided by gender.

When broken down by category of job, the average pay gap varied from 2% to 10%. In three of the seven categories, women are paid more than men. The study also looked at pay gaps by age, years of employment, and grade.





# CLOSER TO HOME

## The struggle to find affordable housing near work

THE SCARCITY of affordable housing in Virginia has forced many low and moderate income workers to live outside of the communities where they work, resulting in long commutes that, in turn, create road congestion and contribute to a lower quality of life. Likewise, companies find it hard to attract and retain workers to places lacking affordable housing options. Here's how two different communities in Virginia are tackling the problem.

# Falls Church creates opportunities for moderate income workers to rent and own

**D**UE TO GREATER DEMAND for housing in recent years and the rapid increase in land values, Falls Church is faced with limited opportunities to develop housing affordable to households in the low to medium income ranges. Both rental and for sale properties have been affected. Despite the challenges, redevelopment has provided the city with the opportunity to expand housing options and support an inclusive community.

“The rapidly rising costs of housing are squeezing out seniors, families, and young professionals from being able to afford to live in Falls Church,” said Council Member Letty Hardi. “Affordability is not just a present day values issue – it’s a concern for our long term sustainability as an independent city. Our ability to attract businesses and employers depends on the economic and generational diversity of our residents.”

According to U.S. Department of Housing and Urban Development (HUD) guidelines, households should not pay more than 30% of their gross monthly income to their rent or mortgage. For renters, this amount includes rent as well as utilities; for homeowners, mortgage, interest, taxes, and homeowners insurance are all a part of this cost. According to the U.S. Census, in the city of Falls Church, 41% of renters and 20% of homeowners are cost burdened. A recent affordable housing survey conducted by the city housing staff bears these numbers out. There is a gap between what people can afford and available housing units. The Census shows that numbers of cost-burdened renters and homeowners are similar across the region.

## Income Necessary to Rent Various Size Apartments

Unit Type	Average Rent in City	Minimum Income Required to Rent
Efficiency/ Studio	\$1,527	\$61,080
1 BR	\$1,635	\$65,400
2 BR	\$2,127	\$85,080
3 BR	\$2,540	\$101,600

## Making room for moderate incomes

But what is the City of Falls Church doing to alleviate the housing burden for its residents and provide much needed workforce housing? That’s where the Affordable Dwelling Unit (ADU) program comes in. This program allows specific units in a development to be set aside for qualified moderate income in-

dividuals and families who will then pay below-market rents or purchase prices. In the city of Falls Church, moderate income or “workforce” housing is developed to house families whose income is between 50% and 80% of the Area Median Income (AMI). That would be \$54,600 to \$87,360 for a family of four. This could include new graduates, retail managers, teachers, police officers, healthcare workers and others.

**In the city of Falls Church, moderate income or “workforce” housing is developed to house families whose income is between 50% and 80% of the Area Median Income.**

Rent amounts and sales prices for the rental and homeownership units are approved annually by the city-appointed housing commission and are made affordable to households at 60% AMI.

In general, approximately 6% of new units are provided by developers as ADUs in each new housing development, but every project is evaluated individually. To qualify, households must meet income restrictions, that is, income must be between 50% - 80% of AMI. Participants are selected through a lottery process whereby priority is given to seniors and people with disabilities, city of Falls Church residents, and people who work in and for the city of Falls Church. Most properties also require a criminal background and credit check.

The same income and priority guidelines are used for ownership ADUs, but additionally applicants must be able to secure a mortgage. At the time of resale both the owner and the city share the proceeds.



**There are 25 ownership homes like this one that are part of the Affordable Dwelling Unit program. For the owned (not rented) homes, applicants must be able to secure a mortgage. They can receive down payment assistance from the city.**

Opened this year, the West Broad residences provide more than 20 Affordable Dwelling Units. Below: Interior of a West Broad apartment.



posed for recruiting and retaining employees, and commuters expressed the desire to move closer to work if more affordable housing were available.

According to the George Mason University Center for Regional Analysis report, “half a million new workers will commute to their jobs from places outside the region creating unsustainable levels of traffic congestion...”

The Metropolitan Washington Council of Governments made the case that, “by increasing the supply of affordable housing near job centers, the region will make progress on three important issues: the scarcity of affordable housing, the congestion on roads, and the quality of the region’s air.”

## Changing lives

Currently, four properties in the city provide a total of 63 rental ADUs. Additional rental ADUs are planned in developments now under construction.

The ADU program helps real people make life changes. “The ADU program has helped me by getting my first place I call my own and independence,” said one city government employee. “I have been afforded the opportunity to not only live a block from where I work but enjoy Harris Teeter being in my building.”


“I want to thank you and the city of Falls Church for the incredible opportunity you offered me through the ADU program over nine years ago,” said a former ADU homeowner. “I never would have been able to purchase a home at that time in my life if it hadn’t been for that program. It contributed to a newfound confidence that helped launch me into a new career path and much happiness in the subsequent years. I am so very grateful to you all. I wish the new owner the same joy and peace of mind that I experienced in that beautiful condo.”

Twenty-five ownership ADUs are spread out in several communities throughout the city and many of the homes were purchased using down payment assistance funds provided by the city. Most of the buildings with rental and ownership ADUs are mixed use developments with retail, restaurants, and office space serving as commercial tenants.

Workforce housing is a key component of the Falls Church economic development strategy. Several studies have shown the connection between affordable housing, transportation, and economic development. The Urban Land Institute published a study that gauged, “perceptions by employers and commuters regarding the impact of long distances between housing and jobs on business operations and workers’ quality of life.” Employers noted the difficulty that a lack of affordable housing



Also, a study by the Terwilliger Center for Workforce Housing found that there was a shortage of housing opportunities for two-, three-, and four-person households in all six major employment cores in the DC area for those workforce households whose incomes fell in the 60%-100% range of Area Median Income Range. This undersupply has been forcing workers to seek affordable housing further and further from where they work, which in turn affects commute times and quality of life.

Housing Commission Chair Julio Idrobo is proud of the ADU program and the difference it is making in so many lives. “When I talk to ADU tenants,” he said, “the feedback I get is that they are grateful to have a chance to live near excellent schools, shop in their community, have the benefit of living where they work and being able to spend more quality time with their families. They are also saving money that could be used to buy a house. It may be temporary, but we are providing the possibility to have increased opportunity.” 

**About the authors:** *Dana Lewis, Roxana Kazemi, Paul Stanford, and Nancy Vincent of the Falls Church Department of Housing and Human Services are the co-authors of this article.*

# Front Royal works to keep new employee population living locally

SIXTY MILES DUE WEST of Falls Church, the town of Front Royal is also making great strides in workforce housing. With a population that has recently topped 15,000, the community has a quickly expanding commercial and industrial base to serve and employ its residents.

Thanks in part to incentive programs such as tourism zones and technology zones, two major employers are making the move to Front Royal. Rural King, a farm and home store based in Illinois, will open its first Virginia store in Front Royal in September 2016. The 84,000 square-foot store will employ sixty associates. In addition, IT Federal, a technology firm serving numerous federal government departments, has announced development of a \$40 million project on a 30-acre site in Front Royal.

Redevelopment of this former Superfund site has been a major initiative by the Town of Front Royal and the Front Royal & Warren County Economic Development Authority (EDA) for over 30 years. This phased technology complex is anticipated to bring 600 new jobs to the area.

## The problem

Even now, the town is challenged to provide affordable housing for young professionals such as police officers, nurses, fire fighters and teachers.

**“When our workforce lives in adjacent areas, our community suffers. Sometimes those workers leave their jobs here to be closer to where their families live, work, and play.”**

**- Jennifer McDonald, Executive Director of the Front Royal & Warren County Economic Development Authority**

Greg Drescher, Superintendent of Warren County Public Schools, reported that 65% of the new teachers hired for the current school year do not live in Warren County. With the growing school population, the school system has recently completed construction of a second high school and is building a second middle school. The school system has an ever expanding need for teachers and staff.

Jennifer McDonald, Executive Director of the EDA said that the proposed workforce housing project will “reach the town’s teachers, nurses, deputies and police officers. We are losing these folks to surrounding communities because there is nothing currently available and they are working here and we want to keep them here.”

**Workforce housing is market-rate housing that is affordable to households with families that are in the lower-middle or working classes. Occupants of workforce housing generally do not qualify for subsidized housing programs, but are neither ready nor able to purchase a new home.**

Throughout the nation, workforce housing is a mounting concern due to the growing shortage of available rental units. In fact, the number of available rental units is at the lowest threshold it has been in the past decade.

Virginia’s rental vacancy rate is 7.8%, but in the Washington, D.C. metro area and in other urban areas, the rate is substantially lower. A low rental vacancy rate means that the demand for rentals are high, which drives up rental prices. It also forces families to settle for housing that is either substandard and/or

more expensive than they can afford.

The estimated median home price in Front Royal is \$175,000, which limits the ability of recent high school or college graduates to purchase a home.

The town does have several apartment complexes, but these are regularly fully rented. This results in younger workers having to find homes in the surrounding communities with greater rental opportunities.

“When our workforce lives in adjacent areas, our community suffers,” says McDonald. “Sometimes those workers leave their jobs here to be closer to where their families live, work, and play.”

Workforce housing initiatives reduce traffic congestion by shortening commute distance for employees who work in their community. These complexes also promote the use of alternative transportation such as bicycling or walking.

## The solution

For the past ten years, the EDA has been working to identify a site that could be developed for appropriate housing facilities. They have acquired a 3.60-acre site on the southeast side of the town to construct three apartment buildings. Work-

ing with the town of Front Royal, the EDA plans to develop a 36-unit apartment complex to meet some of the need for workforce housing.

Each unit will include two bedrooms, two bathrooms, living room, kitchen, dining room, and a porch. The development will include parking, a playground, and sidewalks to connect the development to the surrounding shopping opportunities. The apartment complex is conveniently located near three shopping centers and a walking trail.

The Front Royal Planning Commission worked with the EDA to ensure that the development not only complied with the Front Royal Comprehensive Plan, but also was a quality addition to the town. Director of Planning and Zoning Jeremy Camp says the new development will be a welcome addition to the community. The development is also expected to serve as a model for other future developments in Front Royal.

The EDA has been able to advance this project through financial assistance from the Virginia Department of Housing and Community Development (DHCD). Working with the Northern Shenandoah Valley Regional Commission (NSVRC), the EDA was awarded a \$301,000 grant from the HOME Funds



**Working with the town of Front Royal, the local economic development authority plans to develop the Royal Lane Apartments, a 36-unit apartment complex. The EDA will manage the development and will market the apartment complex to young professionals with an anticipated monthly rent between \$800 to \$900 per month.**

program to advance the affordable housing project. The EDA will fund the remainder of the estimated \$3,500,000 project cost through its own funds. The EDA is anticipated to receive final approval for the project in October 2016.

Once approved, construction should be completed in late 2017 or early 2018. The EDA will manage the development and will market the apartment complex to young professionals with an anticipated monthly rent of between \$800 to \$900 per month.

This will be the first dedicated workforce housing project in Front Royal to assist young professionals in making Front Royal their home. The town is also pursuing a Community Development Block Grant (CDBG) for its downtown to facilitate facade and building improvements to provide additional workforce housing.

The town of Front Royal and Front Royal & Warren County Economic Development Authority will continue to work together to identify other opportunities to promote housing opportunities for young professionals. It's part of the town's larger plan to provide homes for residents at all stages of their lives to enjoy the benefits of Shenandoah Valley at its finest.



**About the author:** *Steven Burke is Town Manager of Front Royal.*



**Outdoor movie night in Front Royal.**

# 2017

LOCAL





# LEGISLATIVE AGENDA

By Michelle Gowdy and Janet Areson

## Step up to the plate

### Making local needs known to state lawmakers

HOW DOES VML DECIDE what legislation to support or oppose during the General Assembly session? The League's legislative agenda is driven by our members. Twenty-four local officials from diverse localities are appointed each year by the president to serve on VML's legislative committee. Committee members develop positions on legislation and urge the enactment, amendment or opposition to a variety of legislative initiatives. Another 163 local officials work on the VML policy committees. They help to shape the broader policies and make specific legislative recommendations to the Legislative Committee.

Though the 2017 General Assembly won't convene until January, VML's member-driven legislative and policy committees spent the summer defining key opportunities and threats on the legislative horizon and formulating VML's legislative strategy for 2017.

The legislative agenda must be adopted at the Annual Business Meeting by a vote of the voting delegates attending the VML Annual Conference. This year, that happens October 11 in Virginia Beach. Once approved by members, the agenda becomes the strategy playbook for the 2017 General Assembly that begins January 11.

The committees began their policy development this summer with briefings from experts on key issues. In a special joint session, the Transportation, Finance and Environmental Quality Policy Committees received briefings on broadband expansion, water quality, bonding and public-private partnerships.

Other committees researched and were briefed on the Freedom of Information Act, short-term lodging (such as Airbnb), proffers, GO Virginia, telecommunications, non-partisan re-districting/elections, workforce development, access to healthy foods, childhood cancer and research, and school bullying.

The Legislative Committee also addressed driving under suspension, specifically, the inability of persons to pay fines. This presentation happened prior to the lawsuit filed by the Legal Aid Justice Center. Typically, the General Assembly will defer legislative action while an issue is under litigation. VML will continue to monitor this emerging issue.

## Issues in the proposed 2017 Legislative Agenda

For the 2017 VML agenda, the Legislative Committee recommended three new legislative items:

- **Stormwater utility charges** Oppose initiatives that would require a locality to waive stormwater charges.
- **Landscape materials** Support the ability of local government to regulate the use of landscape cover materials for the health, safety and welfare of its citizens.
- **Access to healthy food** Support state assistance to help address food deserts. (See article on page 22)

The Legislative Committee agreed to maintain the following legislative positions from 2016:

- **State assistance to local police departments (HB 599)** Support for the State funding the State Assistance to Local Police Departments Program (HB 599) at the level stipulated in state statute.



### Ophie Kier

Chair of VML Legislative Committee  
Vice Mayor, City of Staunton

#### *What do you see as the value of serving on a VML committee, such as the Legislative Committee?*

“I’ve learned so much about a variety of topics from serving on the Legislative Committee, and I’ve taken the opportunity, too, to share my knowledge about topics that are important to Staunton.”

## Good Call

IN THE LAST few years alone, the following local government wins happened, in large part, because of contacts that local officials made with their state representatives. These are just a few highlights.



- Defeat of legislation eliminating or drastically reducing BPOL and machinery and tools taxation authority.
- Defeat of legislation exempting different types of property owners from paying stormwater utility fees.
- Elimination of the “Local Aid to the Commonwealth” program in which cities and counties had to return a portion of state aid to the state treasury.
- Defeat of legislation invalidating local grievance processes.
- Defeat of legislation that would have put the burden of proof for challenging assessments on the local government.
- Veto of legislation requiring party identification for candidates for local offices.
- Removal of language from an omnibus procurement bill that would have inserted the state into the local government procurement process.
- Retention of the process for local government officials to file disclosure statements with the municipal clerk instead of with the state.
- Passage of legislation that allows social services employees to file routine petitions with juvenile and domestic relations courts.
- Defeat of legislation that would have removed local authority to operate photo red systems.
- **State and local government fiscal relationship** Support preservation of local revenue authority and opposition to additional mandates on local governments.
- **Education funding** Support state funding for public education and opposition to approaches that result in a shift of funding responsibility from the state to localities.
- **Taxing, Licensing and Regulating Internet-based Businesses & Services** Support protecting local governments’ zoning, land use and revenue authority.
- **Water quality funding / Wastewater discharge and pollutant allocation limits** Support sufficient state funding for the Water Quality Improvement Fund and the Stormwater Local Assistance Fund (SLAF).
- **Transportation and transit funding** Support state funding for transportation and transit needs.
- **Price floor for regional gas taxes** Support legislation to establish a protective floor price for the 2.1 percent regional gas tax, much as was done for the statewide fuels tax.
- **State Corporation Commission jurisdiction over local utilities** Oppose legislation that would grant the SCC any regulatory powers over local utilities.

- **Regional Greenhouse Gas Initiative & Commonwealth Resilience Fund** Support a Regional Greenhouse Gas Inventory carbon credit auction, and/or a carbon emissions tax with the proceeds to go in a “Commonwealth Resilience Fund” that would help localities address flooding and other issues.
- **Local authority to regulate plastic bags** Support the authority of local governments to regulate and curtail the use of retail plastic bags.

The proposed 2017 legislative program and the policy statements can be found on the VML website at [www.vml.org](http://www.vml.org). Please take the time to read the proposed 2017 legislative program as it will be discussed and adopted at the Annual Conference.



**Don Harris**  
Vice Chair of VML Legislative Committee  
Mayor, Town of Bluefield

*Why is it important for VML members to communicate with members of the General Assembly?*

“Calls and emails from local officials last year persuaded legislators to uphold the veto of the party ID bill. We have to make our voices heard!”


Local governments role in state and federal advocacy will also be the focus of keynote presentations at the Annual Conference.

## Batter up: The local official’s role

Your approval of the 2017 legislative agenda is just the beginning. The 2017 General Assembly session begins January 11.



Although VML advocacy staff do the day-to-day work during session, legislators want to hear from local officials in their districts. The greatest impact we have on the outcome of a bill is when our members call, write and visit their legislators.

To make our collective voice louder, we host VML Day at the Capitol each year in January. All members are asked to attend and make personal visits to their legislators. We need to let them know how their votes will actually affect local communities. If we don’t tell them, they won’t know about the unintended consequences of legislation that, on the surface, seems logical. Likewise, they may not fully understand the potential local benefits of proposed legislation unless you tell them. 

**About the authors:** *Michelle Gowdy is VML’s General Counsel and Janet Areson is VML’s Director of Policy Research.*

## VML’s Policy Committees

VML’S POLICY COMMITTEES develop broad policy statements and submit specific legislative recommendations to the Legislative Committee.

### Why have policy statements?

Despite the best crystal ball, it is impossible to predict exactly what legislation will be introduced each session. The policy statements, which are broad in nature, help VML staff in working with legislation that crops up but that is not specifically addressed in the legislative program.

### What issues does each policy committee cover?

**Community & Economic Development:** Authority, administration, and funding of local governments to manage a full range of community and economic development issues, including business development and retention, international competitiveness, infrastructure development and investment, planning, land use and zoning, blight, enterprise zones, housing, workforce development and historic preservation.

**Environmental Quality:** Natural resources and the authority of local governments to manage the environment, including water resources and quality, solid and hazardous waste management, air quality and the Chesapeake Bay.

**Finance:** Powers, organization and administration of local government financing, including taxing authority, debt financing, state aid to local governments and federal policies affecting local finance issues.

**General Laws:** Powers, duties, responsibilities, organization and administration of local governments, including state-local and inter-local relations, conflicts of interest, freedom of information, information management and personnel, telecommunications, utilities, law enforcement, jails and courts issues.

**Human Development and Education:** Management and funding of social services, the Children’s Services Act, pre-K-12 education, health, behavioral health, juvenile justice, recreation and aging.

**Transportation:** Development, maintenance, and funding of a comprehensive land, sea and air transportation system for the Commonwealth, and federal, state and local roles in the provision and regulation of transportation.

### Interested in shaping policy?

All member localities are encouraged to participate in one or more policy committees. Nomination forms are sent to each locality in the spring. If you’re attending the VML conference, just let a VML staff member know of your interest and we’ll follow up with you.

# Virginia's economy and budget need a reboot

## What the Governor's comments to the money committees mean

**O**N AUGUST 26, the Governor announced that despite a fiscal year 2016 state General Fund budget that was built on fairly conservative revenue growth of 3.2 %, revenues grew only 1.7% – a decline of \$269 million from the official forecast.

Other transfers to the General Fund (primarily other sales taxes) also declined an additional \$10 million, leaving a total shortfall of \$279 million from the adopted FY 2016 General Fund budget.

Fortunately, FY 2016 appropriations were still covered because there were \$265 million in unappropriated General Fund revenues in the adopted FY 2016 budget, plus some additional available unspent appropriations at fiscal yearend.

The Governor also announced a new “interim” General Fund revenue forecast that assumes 1.7% growth instead of 3.2% for FY 2017, and 3.6% growth in FY 2018 instead of 3.9%. The Governor now expects a total shortfall from the adopted 2016-18 General Fund budget of nearly \$1.5 billion – due to the lowered revenue base going forward, revised lower



### The Governor now expects a total shortfall from the adopted 2016-18 General Fund budget of nearly \$1.5 billion – due to the lowered revenue base going forward, revised lower growth rates, and the loss of carryforward unspent revenues.

growth rates, and the loss of carryforward unspent revenues in FY 2016 for expenditure in the 2016-18 biennium budget.

The General Fund revenue decline for FY 2016 was caused primarily by a shortfall in individual income and sales taxes. Individual income taxes (67% of the General Fund) grew 2.4% and sales taxes (20% of the General Fund) grew 1.9%, versus the forecast growth of 4.1% for each source.

While the Secretary of Finance explained that employment and wages met their forecasted growth targets, the growth was concentrated in lower paying jobs that do not produce the same amount of tax revenue. The new lower 2016-18 biennium revenue forecast – while still using underlying economics that do not forecast a recession – attempts to capture this new phenomenon of growth in lower paying jobs.

The nearly \$1.5 billion biennium General Fund shortfall is comprised of an \$843 million forecasted shortfall for FY 2017

and a \$633 million shortfall for FY 2018. The Governor announced that he will start to address the FY 2017 shortfall prior to the introduction of the amended budget in December, including suspending \$125.1 million in state employee, state-supported local employee and teacher salary increases as required by law. Another \$221 million in contingent salary increases are currently cancelled for FY 2018.

The reduced revenue for appropriation has also triggered the ability to use the state’s “Rainy Day” fund. About \$845 million is currently in the Rainy Day Fund – with an option of withdrawing \$378 million in FY 2017 another \$230 million in FY 2018 to help cover the above forecasted shortfalls. After available balances are taken into account, about \$300 million for FY 2017 and \$200 million for FY 2018 in budget reductions still need to be

Key Economic Indicators Versus General Fund Growth Forecast				
	FY 16 Forecast	FY 16 Actual	FY 17 Forecast	FY 18 Forecast
VA Employment	1.5%	2.3%	1.5%	1.0%
VA Wages and Salaries	3.9%	4.2%	4.3%	3.9%
Withholding Income Tax	4.1%	2.4%	3.0%	3.4%
Non-withholding Income	1.9%	0.9%	-1.2%	8.2%
Sales Tax	4.1%	1.9%	2.6%	2.9%
Total General Fund	3.2%	1.7%	1.7%	3.6%

**This table presents “standard” economic outlook growth scenario that was ultimately adopted by the Governor’s team versus the August interim General Fund growth forecast. What stands out in the table is the disconnect between growth in jobs and wages versus growth in tax revenues. The explanation is that a much higher degree of job and wage growth occurred in lower paying jobs (with lower tax rates) in the past year.**

addressed – assuming that the contingent salary increases are not restored and all available Rainy Day Funds are used.

## Virginia's revised economic outlook

The Governor's economic forecasting team consists of a national forecasting firm that provided a most likely (standard) economic outlook and a more pessimistic outlook calling for a mild recession during the 2016-18 biennium forecast period. The forecasting firm's economic outlook was then vetted by a Board of Economists and then by a group of business leaders attuned to the economy.

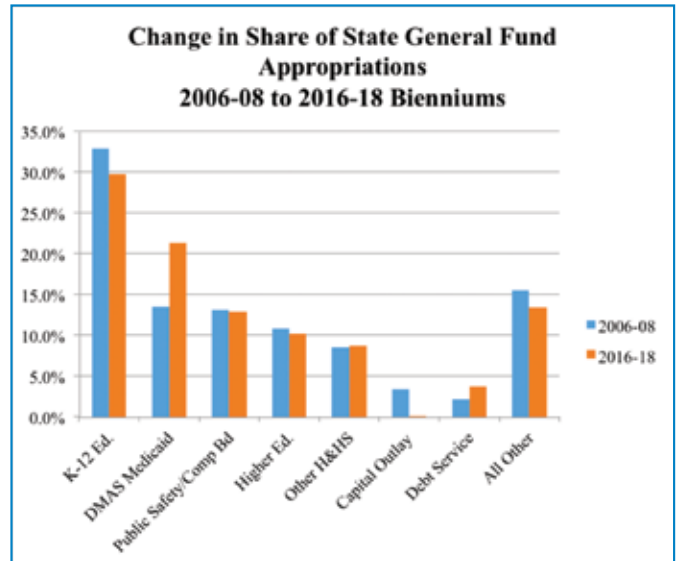
The table on the previous page presents the "standard" economic outlook growth scenario that was ultimately adopted by the Governor's team versus the August interim General Fund growth forecast. What stands out in the table is the disconnect between growth in jobs and wages versus growth in tax revenues. While job and wage growth were actually higher than expected in FY 2016, tax revenue growth was significantly lower than expected. Put simply, the explanation is that a much higher degree of job and wage growth occurred in lower paying jobs (with lower tax rates) in the past year.

General Fund Appropriations (\$ Mil.)			
	2006-08	2016-18	Growth
K-12 Ed.	11,567.1	12,090.6	4.5%
DMAS Medicaid	4,760.0	8,685.5	82.5%
Public Safety/Comp. Board	4,617.2	5,225.7	13.2%
Higher Education	3,819.1	4,127.8	8.1%
Other Health & Human Ser	3,007.5	3,553.4	18.2%
Capital Outlay	1,203.2	12.3	-99.0%
Debt Service	752.9	1,501.2	99.4%
All Other	5,469.6	5,438.1	-0.6%
<b>Total General Fund Appropriations</b>	<b>35,196.6</b>	<b>40,634.6</b>	<b>15.5%</b>

In previous years, it was normal for low paying jobs to comprise about one-third of job growth. In FY 2016, low paying jobs comprised almost 50% of the job growth. The August interim revenue forecast assumes the low-paying job trend continues through fiscal year 2017, with a normalization of low-wage job growth occurring by fiscal year 2018. The forecasted normalization of low-paying to higher paying jobs is what explains the expected rebound in General Fund growth in FY 2018.

## Budget options painful


General Fund budget reductions facing the Commonwealth will be painful since the state was just beginning to restore deep cuts from the 2009-10 Great Recession. As seen in the following chart, General Fund appropriations have increased only 15.5% from the final 2006-08 budget to the adopted 2016-18 budget – or an average of 1.5% per year. With the 2016-18



budget having to be reduced by about \$900 million (including the loss of the teacher and state employee salary increases), 10-year growth will be even more meager.

For state program funding other than Medicaid or debt service, the lack of funding increases over the last 10 years has been even more painful. Net of Medicaid and debt service, General Fund appropriations have experienced essentially no growth at all over the last 10 years. Furthermore, when inflation and population growth is considered, state General Fund appropriations have declined in real terms by about 30% over the last 10 years, net of Medicaid and debt service.

These state budget realities over the last 10 years have significantly altered where state General Funds are going – as seen in the chart above. State K-12 public education funding comprises approximately two-thirds of all state funding for locally-administered programs and a large chunk of local budgets. Therefore, with 30% combined growth in students and inflation over the last 10 years, the flat funding and lower relative share of state K-12 funding (and other state aid for local governments) is a major reason for the severe budget pain felt at the local government level. Local governments have had to increase real estate and other taxes and fees in a slow growing economy to try and maintain service levels the public expects.

Since 2009, cities' median level of real estate taxes has increased by 14 cents per hundred and counties by 9 cents per hundred dollars of assessed value. Despite these painful tax increases, local source revenue has still grown less than the rate of population and inflation. With more state budget cuts looming, locality budget decisions will only get harder. 

**About the Author:** *Jim Regimbal, Fiscal Analytics, LTD. has been a fiscal policy advisor to VML since 2002.*

# Supreme Court wrap-up

## Decisions impacting local governments

**L**AST TERM THE SUPREME COURT decided six – arguably seven – “big” cases. Five of those big cases impacted local governments in some way. In some of these cases, being down a Justice made all the difference – in at least two cases it made no difference at all. Beyond the big cases, the Court decided a number of “bread and butter” issues – qualified immunity, public employment, and Fourth Amendment searches – affecting local governments.

### The big cases

#### 14th Amendment - One person, one vote

In *Reynold v. Sims* (1964), the Supreme Court established the principle of “one-person, one-vote” requiring state legislative districts to be apportioned equally.

The question in *Evenwel v. Abbott* was what population is relevant – total population or voter-eligible population.

The maximum total-population deviation between Texas Senate districts was about 8 percent; the maximum voter-eligible population deviation between districts exceeded 40 percent.

The Court’s unanimous opinion concluded Texas may redistrict using total population “based on constitutional history, this Court’s decisions, and longstanding practice.”

Over the last 25 years, the Supreme Court refused to decide this issue at least three times (all the previous cases involved local governments).

#### Immigration

The Supreme Court split 4-4 in *United States v. Texas* on whether the President’s deferred action immigration program violates federal law.

As a result, the Fifth Circuit’s nationwide temporary stay of the program remains in effect.

The Deferred Action for Parents of Americans (DAPA) program allows certain undocumented immigrants who have lived in the United States for five years, and either came here as children or already have children who are U.S. citizens or permanent residents, to lawfully stay and work temporarily in the United States.

The National League of Cities and the U.S. Conference



of Mayors joined an amicus brief in this case supporting the United States.

#### Race-conscious admissions

In *Fisher v. University of Texas at Austin*, the Court ruled 4-3 that the University of Texas at Austin’s race-conscious admissions program is constitutional.

Per Texas’s Top Ten Percent Plan, the top 10 percent of Texas high school graduates are automatically admitted to UT Austin, filling up to 75 percent of the class. Other students are admitted based on a combination of their grades, test scores, and “personal achievement index.” Race is considered as one factor in one of the two components of an applicant’s “personal achievement index.”

The Court rejected Abigail Fisher’s argument that the university’s use of race is unnecessary. This is the first time an education institution has won an affirmative action case since *Grutter v. Bollinger* (2003).

#### Reversing McDonnell’s bribery conviction

In *McDonnell v. United States*, the Court unanimously reversed former Virginia Governor Robert McDonnell’s federal bribery conviction.

While in office McDonnell accepted more than \$175,000 in loans, gifts, and other benefits from Jonnie Williams. Williams wanted a Virginia state university to test a dietary supplement, Anatabloc, which his company had developed.

The federal government claimed McDonnell committed at least five “official acts” of bribery, including arranging for Williams to meet with Virginia government officials and hosting and attending events at the Governor’s mansion designed to encourage Virginia university researchers to study Anatabloc.

The Court held that setting up meetings, calling other public officials, and hosting events do not alone qualify as “official acts.”

The lower court will decide whether charges against

McDonnell should be dismissed based on its new definition of “official acts” or whether McDonnell should receive a new trial.

UPDATE: There is an unopposed motion pending in federal court to dismiss charges against McDonnell and his wife.

## Union dues

In *Friedrichs v. California Teachers Association*, the Supreme Court issued a 4-4 opinion affirming the lower court’s decision to not overrule *Abood v. Detroit Board of Education* (1977).

In *Abood*, the Supreme Court held that the First Amendment does not prevent “agency shop” arrangements – where public employees who do not join the union are still required to pay their “fair share” of union dues for collective-bargaining, contract administration, and grievance-adjustment.

In two recent cases in 5-4 opinions written by Justice Alito and joined by the other conservative Justices, the Court was very critical of *Abood*. The Court heard oral argument in *Friedrichs* in January before Justice Scalia died, and the five more conservative Justices seemed poised to overrule *Abood*. Justice Scalia, who ultimately didn’t participate in this case, likely would have voted to overrule *Abood*.

## Bread and butter cases

### Qualified immunity and law enforcement

Local government officials can be sued for money damages in their individual capacity if they violate a person’s constitutional rights. Qualified immunity protects government officials from such lawsuits where the law they violated isn’t “clearly established.”

In *Mullenix v. Luna*, Israel Leija, Jr. led officers on an 18-minute chase at speeds between 85 and 110 miles an hour after officers tried to arrest him. Leija called police twice saying he had a gun and would shoot police officers if they did not abandon their pursuit. While officers set up spike strips under an overpass, Officer Mullenix decided to shoot at Leija’s car to disable it.

Officer Mullenix killed Leija but did not disable his vehicle. Leija’s estate sued Officer Mullenix claiming that he violated the Fourth Amendment by using excessive force.

The Court concluded Officer Mullenix should be granted qualified immunity, stating: “Given Leija’s conduct, we cannot say that only someone ‘plainly incompetent’ or who ‘knowingly violate[s] the law’ would have perceived a sufficient threat and acted as Mullenix did.”

### First Amendment and public employees

In *Heffernan v. City of Paterson, New Jersey*, the Court held 6-2 that a public employer violates the First Amendment when it acts on a mistaken belief that an employee engaged in First Amendment protected political activity. (SLLC filed an amicus brief in this case.)

Police officer Jeffery Heffernan worked in the office of the police chief. The mayor was running for reelection against a friend of Heffernan’s, Lawrence Spagnola. Heffernan was demoted after another member of the police force saw Heffernan picking up a Spagnola yard sign and talking to the Spagnola

campaign manager and staff. Heffernan was picking up the sign for his bedridden mother.

The Court agreed that Heffernan has a First Amendment claim even though he engaged in no political activity protected by the First Amendment, because the City’s motive was to retaliate against him for political activity.

### Search warrants

A police officer stopped Edward Streiff after he left a suspected drug house. The officer discovered Streiff had an outstanding warrant, searched him (legally), and discovered he was carrying illegal drugs.

The Court held 5-3 in *Utah v. Streiff* that even though the initial stop was illegal, the drug evidence could be admissible against Streiff in a trial.

The Court first concluded that the discovery of a valid, pre-existing, untainted arrest warrant triggered the attenuation doctrine, which is an exception to the exclusionary rule. The Court then concluded that the discovery of the warrant “was [a] sufficient intervening [attenuating] event to break the causal chain” between the unlawful stop and the discovery of drugs.

### Invasive blood test vs. non-invasive breath test


In *Birchfield v. North Dakota*, the Court held 5-3 that states may criminalize an arrestee’s refusal to take a warrantless breath test. If states criminalize the refusal to take a blood test, police must obtain a warrant. (SLLC filed an amicus brief in this case.)

Per the search-incident-to-arrest exception to the Fourth Amendment, police officers are allowed to search an arrestee’s person, without first obtaining a warrant, to protect officer safety or evidence. To determine if this exception applies, the Court weighed the degree to which the search “intrudes upon an individual’s privacy” with the need to promote “legitimate government interests.”

The Court concluded the privacy intrusion of breath tests was minimal but the privacy intrusion of blood tests was not.

## Cases on the horizon for next term

The Supreme Court has accepted three cases of interest to local governments to be decided in its 2016-2017 term. The issue in *Wells Fargo v. City of Miami* and *Bank of America v. City of Miami* is whether cities have standing to sue banks under the Fair Housing Act over losses cities have experienced caused by discriminatory lending practices.

In *Manuel v. City of Joliet* the Court will decide whether it is possible to bring malicious prosecution claims under the Fourth Amendment possible. The question in *Murr v. Wisconsin* is whether merger provisions in state law and local ordinances, where nonconforming, adjacent lots under common ownership are combined for zoning purposes, may result in the unconstitutional taking of property. 

**About the author:** Lisa Soronen is the Executive Director of the State and Local Legal Center (SLLC), Washington D.C.

# Closer to my grocer

## Food deserts and the campaign for the Virginia Grocery Investment Fund

**I**N RURAL AND URBAN areas of all sizes, from large swaths of southern and southwestern Virginia, to Richmond, to Martinsville, and Norfolk, residents must travel excessive distances to purchase the foods necessary to maintain a healthy diet. While localities are uniquely aware of the challenges within their own communities, food access has gained significant attention at the state level in the recent years. In 2012 and 2013, Delegate Delores McQuinn of Richmond introduced House Joint Resolutions to direct the General Assembly to examine the issue of food deserts in Virginia. Virginia's Food Desert Task Force released a report in January 2014 which documents food access issues across Virginia.

In November 2014, Governor McAuliffe signed Executive Order 34 to create the Commonwealth Council on Bridging



children obese, more must be done to help all children grow up at a healthy weight.

While grocery stores contribute positively to public health, they also serve as important community anchors and economic development institutions for localities. Councilman Phil Mis-

kovic of Crewe, VA says that “with no anchor business like a full-service grocery store, the whole community suffers. The newspaper loses weekly ad revenue, other stores lose customer traffic, and people are less likely to make Crewe

their permanent home. If we can help our entrepreneurial neighbors succeed and expand their mom-and-pop grocery shops to full-service stores, we’d be helping everyone.”

Over the years, grocery stores have left communities due to factors unrelated to customer demand. The average grocery store hires 90 people from the neighborhood where it operates and provides private sector, entry level jobs with room for growth.<sup>3</sup> Furthermore, increased healthy food retail will expand opportunities for Virginia’s farmers and Virginia Grown products.

The Closer to My Grocer campaign is working to increase healthy food retail in underserved areas. The campaign is supported by a diverse coalition of business, health, child advocate and locality groups, like the Virginia Municipal League, that have an interest in improving food access. Ultimately, the campaign seeks to establish a Healthy Food Financing Initiative, the Virginia Grocery Investment Fund.

**More than 1.7 MILLION Virginians, including 480,000 children, live in lower income communities with limited supermarket access.**

the Nutritional Divide. Chaired by the First Lady Dorothy McAuliffe, one of the council’s main objectives is to “encourage the development of innovative and sustainable retail models to provide access to healthy foods in areas classified as food deserts.” A July 2015 report from the American Heart Association finds that 1.7 million Virginians, including 480,000 children, are living in low income areas with limited supermarket access.<sup>1</sup>

A growing body of research shows that access to nutritious food is unequally distributed in Virginia and that increasing access to healthy food retail, like grocery stores, can help. People who live in communities with limited supermarket access suffer disproportionately high rates of diet-related health problems like obesity, diabetes and heart disease.

Conversely, when a community has access to a grocery store, they are more likely to consume fruits and vegetables and maintain a healthy weight.<sup>2</sup> With nearly 30% of Virginia’s



## Healthy Food Financing Initiatives and the Pennsylvania Model

The Virginia Grocery Investment Fund is an example of a Healthy Food Financing Initiative (HFFI). HFFI is a unique private-public model that encourages healthy food retail to locate in underserved communities that need it most.

The first HFFI program was created in Pennsylvania in the early 2000s. Representative Dwight Evans, a Pennsylvania lawmaker representing Philadelphia, sought a solution to the food access issues faced by his constituents. In 2004, Representative Evans helped launch the Pennsylvania Fresh Food Financing Initiative (FFFI) with \$30 million from the state's Department of Community and Economic Development.

### Case Study: Bloss Holiday Market Blossburg, Pennsylvania

WHEN THE OWNER of Bloss Holiday Market in Blossburg, Pennsylvania, decided to retire, the 1,400-resident rural community faced the loss of its only store in town and the only supplier of groceries and fresh produce for nearly eight miles. The Pennsylvania Fresh Food Financing Initiative provided Ryan and Melanie Shaut, a young entrepreneurial couple from the community, with the financing they needed to purchase and renovate the store, thus preserving the only retailer within 11 miles to accept both food stamps and Salvation Army grocery vouchers for families in need. This project also aids food pantry patrons who receive vouchers that enable them to supplement the pre-packaged foods they get from the pantry with fresh produce at Bloss Holiday Market. In addition to providing nearby access to fresh, healthy foods in a region without a strong public transit system, this project has saved 30 quality jobs for local residents.

**Source:** *Waldoks R., Lang B., Treering D. (2015). Food for Every Child: The Need for Healthy Food Financing in Virginia. Philadelphia, PA: The Food Trust. Copyright The Food Trust 2015.*

The FFFI is a partnership between the Commonwealth of Pennsylvania, Reinvestment Fund, the Food Trust and the Urban Affairs Coalition. The Reinvestment Fund, a Community Development Financial Institution (CDFI), serves as the administrator of the program and leveraged the \$30 million dollar state investment for an additional \$90 million to create a \$120 million dollar fund. The fund is used to provide low interest loans and grants to encourage development of new healthy food retail and to support existing operators in underserved low income communities.

Since 2004, the program has seen incredible success in Pennsylvania. After five years of implementation, FFFI supported 88 fresh food retail projects in rural and urban areas, created or retained more than 5,000 jobs and secured healthy food access for over 400,000 state residents.

The Pennsylvania FFFI program is considered a best practice in efforts to increase healthy food retail in underserved

communities and received Harvard's Innovations in American Government Award.

With the success of the Pennsylvania HFFI model, other states including California, Colorado, Illinois and New Jersey have established HFFI programs. Additionally, in 2011 the federal government started a HFFI program through the Departments of Treasury, Agriculture and Health and Human Services.

## The Virginia Grocery Investment Fund

The Virginia Grocery Investment Fund is a public-private partnership modeled after Pennsylvania's Fresh Food Financing Initiative. The Fund is designed to be seeded with state dollars and operated by a Community Development Financial Institution that has a strong track record of work in low income communities. The CDFI will receive project applications from communities and score them based on:

- The level of need in the area to be served;
- The degree to which the project requires an investment of public financing to move forward, create impact, or be competitive;
- The degree to which the project will have a positive economic impact on the underserved community, including creating or retaining jobs for local residents;
- The degree to which the project will participate in state and local health department initiatives to educate consumers on nutrition and promote healthier eating; and
- Priority will be placed in projects committed to sourcing Virginia Grown products when available.

To learn more about the program, visit [healthyfoodva.heart.org/vagroceryinvestmentfund](http://healthyfoodva.heart.org/vagroceryinvestmentfund).

## Funding from General Assembly

The Closer to My Grocer coalition was formed just prior to the 2016 General Assembly Session. In December 2015, Governor McAuliffe included \$10 million in his budget for the Virginia Grocery Investment Fund. During session, the Senate appropriated \$2.5 million for a pilot of the Virginia Grocery Investment Fund while the House of Delegates did not include any funding for it in their budget. Therefore, the final 2016-2018 biennium budget did not include any funding for the

**More than 80% of Virginia's voters believe that supermarkets create jobs and revitalize communities, serving as retail anchors and sparking complementary development nearby.**

Virginia Grocery Investment Fund. Advocates are aware of the current budget challenges, but will continue to advocate for increased access to healthy food retail in underserved communities.

## What Virginia voters say

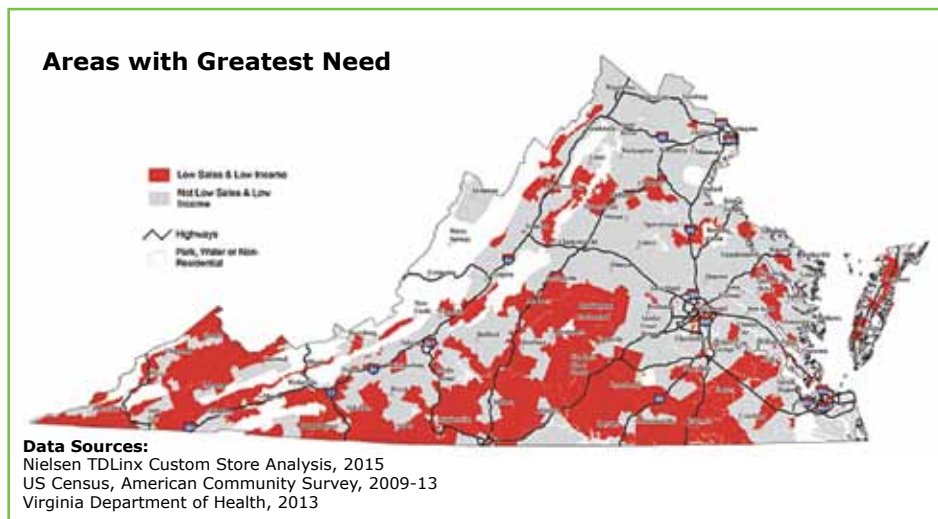
In May 2016, the American Heart Association's Mid-Atlantic Affiliate conducted a poll of 500 registered Virginia voters. Our findings indicate:

- 9 out of every 10 voters in Virginia believe that unhealthy

## Food deserts

eating and childhood obesity are serious issues for children growing up in the United States today.

- 88% of voters are concerned that 480,000 of Virginia's children do not have access to healthy foods such as fresh fruits and vegetables.
- 55% of Virginia voters believe state and local governments should do more to improve access to neighborhood stores where people can buy healthy foods.
- Virginia's voters identified affordability, poor economic conditions and a lack of nutritional education as barriers to healthy food access in both rural and urban areas.
- 82% of voters support a state program to help make healthy foods available to more of Virginia's children by giving low interest loans and grants to businesses to open grocery stores, farmer's markets, and other places that provide healthy food in communities without them.
- 83% of Virginia's voters are convinced that supermarkets



**This map displays lower-income communities where there are low supermarket sales and a high number of deaths due to diet-related disease in Virginia. These areas have the greatest need for more supermarkets and other fresh food retail. To provide affordable and nutritious food in these neighborhoods, Virginia needs to encourage new supermarket and other fresh food retail development in lower-income areas.**

create jobs and revitalize communities, serving as retail anchors and sparking complementary development nearby.

These results indicate that Virginia voters overwhelmingly support the Virginia Grocery Investment Fund and that the majority of voters believe that state and local governments should do more to improve access to healthy food.

## Restock our future: Providing healthier options in public spaces

THE DEMAND FOR HEALTHIER FOOD and beverage options is increasing. In America, more and more people want healthier food where they work, play, and live. Right now, there are few, if any, healthy food and beverage options available in many public places, like parks, recreation centers, libraries, and other city buildings. Municipalities have the opportunity to be a leader in their community by changing the food environment and offering healthier food choices.

Access to healthier food and beverages benefits public health. What we eat and drink directly impacts our health, but we tend to eat out of convenience. Ensuring that nutritious foods are readily available and accessible in public places allows children and families to choose healthy options. This decreases their risk for heart disease and diabetes in the long run. A small change can make a world of difference.

Cities and towns can implement healthy vending or healthy food service policies to provide options to employees and the public. Vending machines, cafeterias, concession stands, and snack or coffee shops are just a few places to start offering additional healthier options. Changing to a healthier vending policy in your community helps make the healthy choice the easy choice for employees, children, and their families.

The American Heart Association is working in Virginia to encourage private businesses and local governments to


adopt healthy vending and service guidelines. To learn more about healthy vending and food service or to get involved, contact Melissa Assalone with the American Heart Association at [Melissa.assalone@heart.org](mailto:Melissa.assalone@heart.org).



## Add your voice

Localities have a lot to gain from the creation of the Virginia Grocery Investment Fund! You can help support the creation of the Virginia Grocery Investment Fund in the following ways:

- Share your story. Does your locality suffer from limited access to fresh foods? Join us in writing an op-ed in your local newspaper.
- Learn more. Do you know an individual or organization that should learn more about the Virginia Grocery Investment Fund? If so have them contact Allie Atkeson at [allie.atkeson@heart.org](mailto:allie.atkeson@heart.org) or visit [healthyfoodva.heart.org](http://healthyfoodva.heart.org).
- Help educate our General Assembly members about the

need for healthy food access and ask for their support of the Virginia Grocery Investment Fund. 

**About the author:** *Allie Atkeson is the Campaign Manager for the American Heart Association in Virginia.*

<sup>1</sup> Waldoks R., Lang B., Treering D. (2015). *Food for Every Child: The Need for Healthy Food Financing in Virginia*. Philadelphia, PA: The Food Trust. Copyright The Food Trust 2015.

<sup>2</sup> Bell J., Mora G., Hagan E., Rubin V., Karpyn A. (2013). *Access to Healthy Food and Why It Matters: A Review of the Research*. Oakland, CA: PolicyLink and The Food Trust. Retrieved from: [http://thefoodtrust.org/uploads/media\\_items/access-to-healthy-food.original.pdf](http://thefoodtrust.org/uploads/media_items/access-to-healthy-food.original.pdf)

<sup>3</sup> Food Marketing Institute (2011). [http://www.fmi.org/docs/health-wellness-research-downloads/access\\_to\\_healthier\\_foods.pdf](http://www.fmi.org/docs/health-wellness-research-downloads/access_to_healthier_foods.pdf)

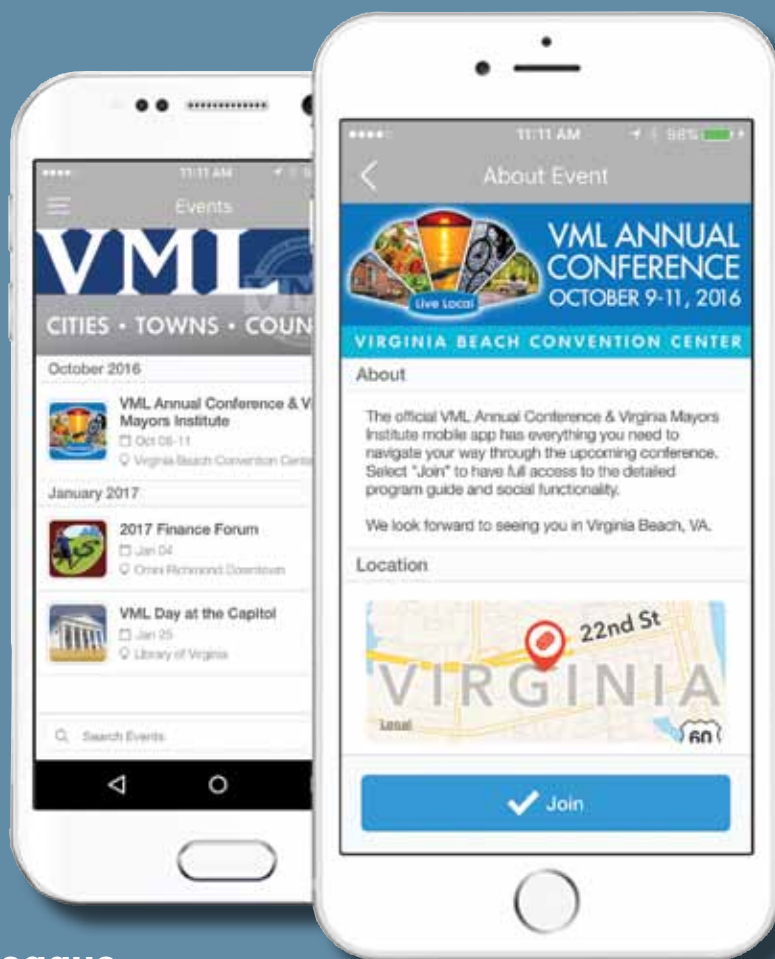
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## Event Highlights

The complete agenda can be found at [vml.org](http://vml.org), including dozens of break-out sessions and roundtables with your colleagues.

### Sunday, October 9

- Noon - 2:45 p.m. **Solution Sessions in the Exhibit Hall**
- 2 - 2:45 p.m. **Mobile Workshop**
- 3 - 4:15 p.m. **Opening Session - Race, Equity And Leadership**  
**Keynote Speaker and Moderator** - Antoinette A. Samuel  
 Deputy Executive Director, National League of Cities  
**Panelists:**  
 Charlene Green, Program Coordinator, Dialogue on Race, City of Charlottesville  
 Captain Rick Morrison, Roanoke Police Department



Military Aviation Museum

- 6 - 9 p.m. **Host City Night**  
 Includes a reception on the tarmac of the **Military Aviation Museum**, a flight demonstration, live entertainment by the 504 Supreme band and an all-American buffet.

### Monday, October 10

- 7:45 - 8:45 a.m. **Women in Local Government Breakfast**
- 8 - 9 a.m. **Continental Breakfast**
- 9 - 10:15 a.m. **General Session: Advocacy in Action**  
**Keynote speaker:** Matt Zone, Councilmember, Cleveland, Ohio; First Vice President, National League of Cities  
 This session will also offer the opportunity for attendees to see VML's legislative committee in action.
- 10:45 - 11:45 a.m. **Breakouts**
- 10:45 a.m. - Noon **Mobile Workshop**
- 11 a.m. - 1 p.m. **Spouses Tour of the Sandler Center for Performing Arts and Lunch**
- Noon - 1 p.m. **NBC LEO Luncheon**
- Noon - 1:15 p.m. **VLGMA Luncheon**
- 1:15 - 2:30 p.m. **Section Elections & Workshops**
- 1:45 - 3:15 p.m. **Local Government Roundtables and Concurrent Sessions**  
 Conflict of Interest Act OR Proffers
- 6 - 6:45 p.m. **Reception**
- 6:45 p.m. - 8 p.m. **Annual Banquet and Presentation of Innovation Awards**
- 8 - 10 p.m. **Dessert Reception & Entertainment**

### How to Register

VML now offers online registration at [www.vml.org](http://www.vml.org). You can pay online via credit card or you can request to be invoiced.



**BACK BY POPULAR DEMAND:** After the Annual Banquet, guests are invited to a dessert reception featuring boardwalk favorites and after dinner drinks. **Landsharks**, one of the most well-known and in-demand bands in the country, will provide the entertainment in true Jimmy Buffet and Beach Boys style.

### Tuesday, October 11

- 8 - 9 a.m. **Continental Breakfast**
- 9 - 10:30 a.m. **Business Meeting & Closing General Session**  
 Keynote Speaker: Leland Melvin, Retired Astronaut

## Closing General Session – New This Year

**Tuesday, October 11**

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This closing session also features our business meeting and honors our colleagues for accomplishments in elected leadership, environmental initiatives, and healthy communities.

Our keynote speaker will be Lynchburg native Leland Melvin. You may recognize the retired astronaut from his famous 2009 NASA portrait with his two dogs, Jake and Scout. Or maybe you’ve seen him on the Lifetime channel hosting Child Genius. However, his first claim to fame wasn’t in space or on screen – it was as an NFL player. Hear his fascinating story of perseverance and how he ultimately traveled off-planet twice on Space Shuttle Atlantis to help build the International Space Station.



**Leland Melvin**

Following Melvin’s address, join us in honoring the new graduates of the Virginia Elected Officials Leadership Academy. We will also recognize the newest members of the Go Green Challenge and the Healthy Eating Active Living Campaign.

## Opening General Session

**Sunday, October 9**

**Race, Equity & Leadership:  
What can local officials do?**

Over the past few years, we have witnessed several events in cities and towns and across the nation that force each of us to examine more critically the issues of race and equity and how they impact so many facets of our society. Locally elected officials have been called to show leadership on these issues. This panel discussion is your opportunity to hear from the National League of Cities about the Race, Equity and Leadership (R.E.A.L.) program. This program provides local leaders with effective tools to drive structural inclusion for all groups. You will hear from two localities in Virginia that are addressing racial equity through municipally-driven solutions.

## About our Presenters



**Charlene Green**  
Panelist

Charlene Green is the Program Coordinator for the Dialogue on Race for the City of Charlottesville. She has over 25 years of experience in

education as a teacher in elementary and secondary schools. She worked for seven years as the Equity and Diversity Coordinator for the Albemarle County Public Schools. She has worked on diversity and cultural competency with numerous schools in Virginia, Maryland and Pennsylvania as well as with organizations such as the FBI and the U.S. Department of Education.



**Captain  
Rick Morrison**  
Panelist

Captain Morrison has served in the Roanoke Police Department since 1996. He oversees the Community Response Bureau,

which includes the Downtown Beat, the School Resource Officers, and the Animal Protection and Services Unit. Morrison also supervises the department’s crime analysis unit, ISTAR. He is a graduate of the Professional Executive Leadership School [PELS], a certified Crime Prevention Specialist, and a Department of Homeland Security Instructor. Morrison attended the first Law Enforcement Leadership Training Seminar sponsored by the FBI National Academy.



**Antoinette  
Samuel**  
Moderator

Antoinette Samuel has been the Deputy Executive Director of the National League of Cities (NLC) since 2013. She

is responsible for applied research, digital engagement, marketing, membership development, conferences, administration and talent management. Samuel has 20 years of association management experience, with a focus on organizations in the public service sector. Before joining NLC, Samuel was Executive Director of the American Society of Public Administration. She is a Certified Association Executive (CAE) and was inducted as a Fellow of the American Society of Association Executives in 2012. She is a Fellow of the National Academy of Public Administration.



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