



Executive Committee Meeting  
Williamsburg Lodge

October 1, 2017 at 11:00 a.m.

Action Agenda

- I. Call to Order
- II. Additions to Agenda
- III. Consideration of Minutes from May 6th, August 12th, and August 29<sup>th</sup> [Tab 1]
- IV. Certify Election that was conducted via U.S. Mail
- V. Update from VML/VACo Finance – Bob Lauterberg, Managing Director
- VI. Review of RFP for Executive Director Search Firm [Tab 2]
- VII. Review of Resolution for Authorization to sign checks [Tab 3]

Information/Discussion Agenda

- VIII. Acting Executive Director's Quarterly Report [Tab 4]
- IX. Staff Report on 2017 General Assembly [Tab 5]
- X. Staff Report on GoGreen [Tab 6]
- XI. Staff Report on Leadership Academy [Tab 7]
- XII. Update on Request for Amicus Brief [Tab 8]
- XIII. Outreach to Members
- XIV. Closed Session – General Counsel Confidential Memorandum
- XV. Future Meetings:
  - a. January 31, 2018 Richmond
- XVI. Items Proposed for Discussion
- XVII. Other Matters
- XVIII. Adjournment



Executive Committee Meeting  
Gordonsville Town Hall  
112 S. Main St., Gordonsville  
May 6, 2017

***In attendance:*** Jill Carson, Bob Coiner, Laurie DiRocco, Willie Greene, Ophie Kier, Christina Luman-Bailey, A.D. "Chuckie" Reid, Tommy Smigiel, and Pat Woodbury.

***Staff:*** Michelle Gowdy, Kim Winn

**Call to Order.** At 8:57 a.m. President Coiner called the meeting to order and informed the group that the Executive Committee would be taking up the issue of the Executive Director's evaluation first.

**Executive Director's Evaluation.** There was an extensive discussion by the Executive Committee regarding concerns about the turnover in personnel at VML, among other issues. Upon the Executive Director's return to the room, she was informed that the following motion was approved on a 7-1 vote. Motion: The chair will select a personnel committee to hire a firm to do an assessment on VML's strengths, weaknesses, and the areas needing the most attention. The chair established a committee of Ophie Kier, Staunton, Tommy Smigiel, Norfolk, and Pat Woodbury, Newport News. The chair will serve as an ex-officio member of the committee.

**Additions to Agenda.** There were none.

**Consideration of Minutes from January 25, 2017.** Luman-Bailey moved and Carson seconded a motion to approve the minutes from January 25, 2017, as presented. Motion approved without objection.

**Approval of Financial Report as of March 31, 2017.** Kier moved and Carson seconded a motion to approve the Financial Report as of March 31, 2017, as presented. Motion approved without objection.

**Consideration of 2017 – 2018 Budget.** Winn reviewed the proposed 2017 – 2018 budget. President Coiner asked that the proposed capital expenditure regarding the basement at 13 E. Franklin be postponed. Woodbury moved and Luman-Bailey seconded a motion to approve the 2017 – 2018 budget as presented. Motion approved without objection.

**Executive Director's Report.** Winn reviewed the Executive Director's report.

**Staff Report on 2017 General Assembly.** Gowdy presented a review of the 2017 legislative session.

**Report on Federal Issues.** Winn reviewed key issues at the federal level along with recent activities of the Federal Advisory Council.

**Staff Report on Amicus Briefs.** Gowdy reviewed the request from the City of Fredericksburg to file an amicus brief regarding notices prior to a decree of sale for

distressed property. Staff recommendation was to decline this request and no motion was offered.

**Stairway to Success.** Winn reviewed the Stairway to Success plans for 2017 and indicated that Michelle Gowdy had been asked to handle this program at this time.

**Go Green Update.** Luman-Bailey provided an update on the activities of the Go Green Advisory Committee and the annual awards program.

**Future Meetings.** The dates and locations of future meetings were reviewed.

- a. August 11/12 Virginia Beach
- b. October 1 Williamsburg (with the conference)

**Items Proposed for Discussion at August and October Meetings.** None.

**Adjournment.** There being no other business to come before the body, the meeting was adjourned at 12:46 p.m.

Respectfully Submitted,

Kimberly A. Winn  
Executive Director

TO: VML Executive Committee  
FROM: Michelle Gowdy, Acting Executive Director  
RE: Minutes from August 12th Meeting  
DATE: August 22, 2017

Enclosed please find the minutes for the August 12, 2017 meeting of the Executive Committee.

**MINUTES**  
**VML Executive Committee**  
**August 12, 2017**  
**Virginia Beach Hilton**

President Coiner called the meeting to order. All the members of the executive committee were present; there is one seat currently vacant. Kim Winn, Michelle Gowdy, Jack Tuttle and Kimball Payne were present as well.

President Coiner asked if there were additions to the agenda and asked that a discussion of at large appointments be added to the agenda. All of the Executive Committee members agreed.

There was a motion and vote to go into executive session to consider the report entitled "An Evaluation and Assessment of the Virginia Municipal League's Strengths, Weaknesses and Areas needing the most improvement" dated August 9, 2017. Kim Winn, Michelle Gowdy, Jack Tuttle and Kimball Payne all were in attendance for the first portion of the executive session.

After a discussion, Kim Winn, Michelle Gowdy, Jack Tuttle and Kimball Payne were asked to leave the executive session. While out of the room, the Executive Committee ended the executive session and addressed a motion. The motion was to either terminate Ms. Winn's contract or to allow her to resign; the motion passed 8-3-1.

Ms. Gowdy was asked to enter the open session and a motion was made and passed to authorize Mr. Coiner to explain the earlier motion to Ms. Winn. A second motion was made to pay Ms. Winn her salary through December 31, 2017 which is more than the contractual 3 months' severance. This motion also passed.

The Executive Committee recessed for a short time.

When the Executive Committee returned, they entered into a second executive session. This session included only the Executive Committee. While out of the room, the Executive Committee ended the executive session and addressed a

motion to appoint Michelle Gowdy as Acting Executive Director and her salary would be that of Ms. Winn.

Ms. Gowdy asked that the Executive Committee vote to approve the GO Green Resolution; there was a motion and it was agreed to unanimously.

There being no further business, the meeting was adjourned at approximately 12:40.

Respectfully submitted,

Michelle Gowdy  
Acting Executive Director

**MINUTES  
VML EXECUTIVE COMMITTEE  
CONFERENCE CALL MEETING  
AUGUST 29, 2017**

The conference call meeting began at 3:32 p.m.

Participants included: President Coiner, Patricia Woodbury, Anita James-Price, Doris Carson, Laurie DiRocco, Willie Green, Ophie Kier, Christina Luman-Bailey, A. D. "Chuckie" Reid, Ron Rordam, Thomas Smigiel and Gene Teague.

President Coiner gave an overview of the purpose of the meeting. He asked for support in changing the VML Constitution and By Laws by inserting in Article VI, page 5, section (d) **"with the approval of the Executive Committee"** (see below).

(d) The President. The President shall be the principal officer of the League and shall preside at all Annual and Special Meetings of the League and all meetings of the Executive Committee. Except as hereinafter otherwise provided, the President shall appoint all committees **with the approval of the Executive Committee** and shall have the powers and duties prescribed herein and by resolution of the Executive Committee.

He noted that the amendment needs to present to the full membership at the October Business meeting but also 30 days prior to such meeting.

Motion was made and seconded to accept this amendment.

After further discussion by President Coiner and several members of the VML Executive Committee, the motion to accept this amendment was passed unanimously.

The meeting concluded at 3:55 p.m.

Respectfully submitted,

Joni Terry  
Office Coordinator, VML

# **Request for Proposals Executive Director Search October 1, 2017**

**Contact:  
Virginia Municipal League  
Michelle Gowdy  
mgowdy@vml.org  
804-523-8525**

## **I. INTRODUCTION**

## **A. General Information**

The Virginia Municipal League is seeking written proposals from executive search firms to assist in the recruitment of candidates qualified to serve as the League's next executive director.

The proposal must be submitted via email to [mgowdy@vml.org](mailto:mgowdy@vml.org)

OR

Hard copy:  
Virginia Municipal League  
Attn: Michelle Gowdy, Acting Executive Director  
P.O. Box 12164  
13 E. Franklin Street  
Richmond, VA 23219

Proposals must be received at the Virginia Municipal League no later than noon on November 3, 2017, and may be emailed, mailed or filed in person at the address listed above. All inquiries regarding this Request for Proposals should be directed to Michelle Gowdy at [mgowdy@vml.org](mailto:mgowdy@vml.org) and must be in writing.

## **B. Background Information**

On August 12, 2017, the Virginia Municipal League ("VML") appointed Michelle Gowdy as the Acting Executive Director. The Executive Committee directed Ms. Gowdy to draft a request for proposals for a search firm and the Executive Committee will then choose a path forward based upon the information gathered.

The new executive director will be appointed by the 13-member executive committee, comprised of mayors, vice mayors and councilmembers. VML's annual budget is approximately \$2.8 million dollars with about \$2.6 million dollars in reserves.

Since it was founded in 1905, the Virginia Municipal League's history has been linked inextricably to the fortunes of its member local governments. The league and its member cities, towns and counties have worked together to improve the quality of life in communities across Virginia.

VML is a non-profit, non-partisan association. The authority for the organization derives from Section 15.2-1303 of the state code, which authorizes the governing bodies of political subdivisions to form associations to promote their welfare. Its official name before 1960 was the League of Virginia Municipalities. The membership has grown from 16 in 1921, when VML hired its first staff members, to 206 today. That number includes all 38 cities in the state, 160 towns and eight counties.

The league has a full-time staff of 13. In addition, it contracts for services to assist with research and advocacy efforts. The league's headquarters is located at 13 E. Franklin St. in downtown Richmond. VML Insurance Programs is located near the intersection of Interstate 295 and Woodman Road in Henrico County.

An article written in the early 1930s by Newport News Mayor Samuel R. Buxton, the first president of the league, spelled out what the founders of the organization hoped to accomplish. Buxton described the league's mission as follows:

- to bring into a united whole the several cities and sections of the Commonwealth for the larger glory of Virginia;
- to exchange ideas and experiences to secure a better administration of municipal affairs; and
- to secure helpful legislation.

In the article Buxton explained that in 1905, when the league was founded, the progress and development of Virginia was impeded by sectional selfishness and independence. "The great Southwest (Virginia) was the big bad wolf of whom the other sections of the state, from a political and economic stand-point, stood in awe," Buxton wrote.

Since that time, the league has evolved into a voluntary nonprofit, nonpartisan organization created to improve local government in urban communities; an agency designed to promote the interest and welfare of municipalities through investigation, discussion and cooperative effort; an organization designed to promote closer relations between cities, towns and urban counties; a clearinghouse for information; a municipal consulting service; and a medium through which local officials of all cities, towns and urban counties can cooperate in improving municipal administration. Its primary mission throughout its history has been to serve as a legislative advocate for Virginia localities.

Although the purpose of the league has been expressed in many different ways over time, its underlying missions and programs have remained constant. Among the important services provided over the years are representation of local governments before the General Assembly, training of newly elected local government officials, publication of a monthly magazine for members and provision of responsive member inquiry services. Since 1980, the league has provided self-insurance programs for public entities across Virginia. It continues to pride itself on its comprehensive service program.

Over the years, the league has been well served by exceptional leaders and high-quality staff. In return, residents of Virginia and local democracy have benefited greatly from the organization. Its success has been founded on the concept of local governments working together for the betterment of the lives of their citizens – finding new and better ways to deliver essential services and making sure that people have the governmental resources necessary to live safe and productive lives.

Virginia local governments have earned national reputations for their effective and efficient delivery of services. From providing safe drinking water, educating children and keeping people safe, to paving streets, operating libraries and ensuring that people with mental disabilities live as fulfilling lives as possible, local governments make a difference in the lives of Virginians. VML is proud to play a part in that continuing legacy.

*“The Virginia Municipal League is a statewide, nonprofit, nonpartisan association of city, town and county governments established in 1905 to improve and assist local governments through legislative advocacy, research, education and other services.”*

### **Vision Statement**

VML Shall:

- Work to build strong relationships among local, state, and federal officials;
- Serve as a communications hub for local governments;
- Facilitate the engagement of our members with the organization and facilitate the engagement of citizens with their local governments; and
- Maintain a financially stable organization that is staffed to serve the needs of the membership.

### **Strategic Goals**

#### **Building Relationships**

Relationships are the critical foundation upon which successful organizations must be built. VML is committed to forming and maintaining relationships in order to provide excellent service to the membership and to promote the principles of good government.

- VML will develop and maintain strong working relationships with members of the General Assembly, the State Administration, and the Federal Delegation.
- VML will facilitate networking among the membership and between VML and local government officials.
- VML will build and maintain partnerships with peer associations, the business community, and other groups with mutual interests.
- The VML Executive Committee will promote and implement principles of ethical and effective leadership throughout the organization.

#### **Communications**

Timely and substantive communication is critical to the overall mission of VML. As such we are committed to establishing both print and electronic communications to achieve the research, training, and advocacy goals of the organization.

- VML will develop a comprehensive communications strategy in order to tell the local government story and to establish VML as the primary information hub for local government officials.
- VML will explore and maximize ways to use communications in order to promote the legislative agenda of the organization.
- VML will develop a comprehensive marketing strategy in order to build stronger relationships with the business community and to provide appropriate avenues for businesses to offer their services to the VML membership.
- VML will work to educate and assist the membership in learning to tell their story in a manner that effectively demonstrates the community building accomplished by local governments.

## Engagement

Developing and maintaining an engaged membership is vital to both the short and long-term success of VML. We will actively seek ways to engage our membership and to support citizen engagement in our local governments.

- VML will evaluate new ways to demonstrate the value of membership in VML along with the value of being an active participant in the association and our conferences.
- VML will work to identify ways to improve citizen engagement, including ways to enhance the civics knowledge of Virginia's students.
- VML will identify and implement programs to encourage the membership to play a more active role in advocacy at both the state and federal level.

## Finance

In order to evaluate existing programs and plan for the future of the organization, VML must maintain a strong financial position. VML is committed to maintaining and modernizing accurate and appropriate financial systems.

- VML will evaluate existing programs, seek efficiencies, and make recommendations for staffing changes in order to accomplish the strategic goals of the organization.
- VML will seek strategic partnerships, where possible, in order to enhance our ability to provide top quality programming and services for the membership.
- VML will enhance financial reporting and modernize financial systems where appropriate.

## **II. SCOPE OF SERVICES**

Through this RFP, VML is seeking to retain a firm with extensive executive search experience. The executive search firm will:

- work closely with the executive committee and other parties identified by the executive committee to identify expected qualifications, traits and management style of the executive director;
- coordinate a schedule for recruitment, review and selection with the executive committee;
- conduct a state and national recruitment effort utilizing a variety of diverse resources, including targeted, personal recruitment of potential candidates;
- review all resumes submitted and recommend candidates for preliminary interview;
- conduct preliminary interviews of candidates recommended by the search firm and executive committee and verify credentials, qualifications and recommendations.
- gather additional information to assist the executive committee in its evaluation of the candidates;
- define/brief the executive committee on the format of the interview process, the development of interview questions and other techniques to evaluate candidates; and conduct background checks on candidates selected for interview;
- coordinate the interview process with candidates and executive committee;
- attend candidate interviews;
- assist as appropriate with offer negotiations.

Ideally, the new executive director will be hired and have a start date by May 1, 2018

The selected firm will act as an ambassador and representative of VML. The recruiter in charge of the search will be responsible for providing bi-weekly updates to the executive committee, as well as monthly conference calls to report on the status of the search. The weekly and monthly updates will be the minimum required, but more frequent contact may be necessary. At the board's discretion, the recruiter may be required to attend periodic meetings to discuss performance at VML's Richmond, VA location.

### **III. PROPOSAL REQUIREMENTS**

Executive search firms interested in performing this work should submit a proposal that contains the following information:

- A. A history of the executive search firm, including, but not limited to, length of time in existence, length of time conducting public sector executive recruitments, experience conducting executive recruitments for non-profit associations and any other relevant information.
- B. A list of key personnel of the firm who will be directly or indirectly involved in working with the executive committee during the recruitment process, specifying the role each will play. For each staff member, provide a brief resume, including years employed by the

executive search firm, and specific search and outreach processes that the individual has coordinated.

- C. A list of the firm's current and past clients for which executive searches have been recently conducted specifically noting those conducted for association or municipal, state or federal positions. This list should provide the name, title, and contact information (telephone and e-mail addresses) of references for a least five clients for whom searches were successfully completed.
- D. A detailed list of services that the firm will provide, including number of meetings with the executive committee, search budget, and any optional services not otherwise noted in this Request for Proposals that the executive committee may wish to consider.
- E. A timetable to finalize the selection of the executive director with a recommended target date.
- F. The process and methods that will be utilized to conduct the recruitment for executive director.
- G. Samples of materials used in two executive searches.
- H. The complete cost of services for the firm's submitted proposal. A breakdown of these costs is desirable.
- I. A copy of the firm's proposed contract for these consulting services.
- J. A Certificate of Insurance is requested evidencing the coverage types.

#### **IV. EVALUATION PROCEDURES**

##### **A. Review**

The executive committee reserves the right to reject all proposals, to request additional information concerning any proposals for purposes of clarification, to accept or negotiate any modification to any proposal following the deadline for receipt of all proposals and to waive any irregularities if such would serve the best interest of VML as determined by the executive committee. When reviewing the proposals, the executive committee may seek additional input from any other person the committee deems appropriate.

##### **B. Selection Criteria**

The executive committee will use broad parameters to select the executive search firm to conduct the executive director recruitment. The selection process will include, but is not limited to, a comprehensive review of the detailed information provided in response to Section III.

#### **V. TIMELINE**

Proposals must be received no later than **Friday, November 3, 2017 at 12 p.m.** and may be emailed, mailed or filed in person at the address listed on page two of this RFP. Proposals

received after that time and date will not be considered. The executive committee will review all proposals received and a few finalists **may** be selected. These finalists **may** be invited to an oral interview.

## **VI. WITHDRAWAL OF PROPOSAL**

Submission of a proposal shall constitute a firm offer to VML for 60 days from the submission deadline for proposals.

A proposal may be withdrawn any time before the date and time when proposals are due, without prejudice, by submitting a written request for its withdrawal to the VML's general counsel.

## **VII. SPECIAL CONDITIONS**

The executive committee reserves the right to negotiate or modify any element of the proposal to ensure that the best possible arrangements for achieving VML's objectives are obtained.

The executive committee reserves the right to reject any or all proposals received as a result of this request. The executive committee retains the right to award the contract for the bid that it considers to be in the best interest of VML.

The executive committee reserves the right to cancel this request at any time. In addition, the executive committee reserves the right to cancel any contract by giving written notice.

VML is not liable for any cost incurred during the preparation of a response to this request and prior to the issuance of a contract.

**RESOLUTION AUTHORIZING SIGNATORY AUTHORITY TO SIGN CHECKS, INITIATE WIRE TRANSFERS AND EXPENDITURES OVER \$10,000 FOR THE VIRGINIA MUNICIPAL LEAGUE**

Article VI of the Virginia Municipal League (“VML”) Constitution outlines the duties of the Executive Director. Those duties include “collect and deposit and keep accurate accounts of all dues and other League monies; make all proper disbursements in accordance with the League’s budget and the directors of the President and Executive Committee...”

This resolution is to grant authorization to Michelle Gowdy, Janet Areson and Michael Polychrones to act on behalf of VML to sign checks and make disbursements that are appropriate. Furthermore, if a check is over \$5,000.00 two of the above-listed individuals shall sign the check.

This resolution also allows Lisa Davis, Jeff Nickey and Michelle Gowdy to complete wire transfers on behalf of VML. Lisa and Jeff are VML’s contract financial department at this time.

Any expenditure that is over \$10,000 must be approved by the Executive Committee unless exigent circumstances exist and then notice must be provided to the Executive Committee immediately.

This resolution was passed by the Executive Committee on \_\_\_\_ day of October, 2017 at their regularly scheduled meeting.

\_\_\_\_\_  
Signature of President

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date

## **Acting Executive Director's Report**

Here is a summary of things that have occurred since your last meeting as well as some recommendations moving forward.

### **OPEN POSITION – FINANCIAL SERVICES**

There is currently an opening in our Finance Department, this is Paulette's old position and most recently Rhakeba's role. VML Insurance is handling this function for us now and can do so for a short period of time. If we choose to utilize their services permanently we will have to renegotiate the cost. VML is paying them on an hourly basis. In talking with our IT person, there is a goal of changing financial systems next fiscal year. Karen Inman has been acting as our Chief IT Officer and in speaking with her, she has a clear vision of where VML's IT systems need to be. She has the similar role at VML Insurance. Our current system is outdated and it is difficult to find persons qualified on that system. As we talked through the timeline, it is my recommendation that in the spring a VML finance position is advertised with the thought that the person be hired just prior to the transition to the new system.

In addition, SunTrust and VML are in talks to upgrade our credit cards; Ms. Winn had signed a contract which will have agreed suspend for now. The upgrade would allow better electronic tracking of expenses and an ability to have verification of charges before they are incurred. I also recommend that this transition occur when VML hires for the finance position.

With this will also come new financial policies; there is no good guidance on what employees can use the VML funds for and I will be proposing better guidance on this issue.

### **IT UPDATE**

After asking staff to identify their concerns with VML, the biggest concern was the current database that tracks our members. It is also outdated and the functionality is very low. Staff indicated that this has been their number one priority for a long time. I asked Karen to begin determining that cost for this change given that it is staff's biggest concern. She indicated that she has found a program for our consideration and the information should be available at the meeting.

### **LOBBYING**

Regarding Lobbying Activities, Neal Menkes has been hired as a consultant in his former capacity to assist with Taxation and other related issues. He has already touched base with Senate Finance and members of the General Assembly to reconnect.

The meetings over the summer have been well-attended by VML staff. It is anticipated that there will be bills related to Wireless, Solar and Wineries which may conflict with the policy statements of VML. As these groups finish their work in the next month or so, proposed bills will begin to emerge. It is our goal to educate our members early on to prepare for the legislative session.

### **HANDBOOK**

Mary Jo Fields will be doing special projects for VML. She will be working on a new and updated version of the Handbook for Virginia Mayors and Councilmembers. Currently, we are discussing if it should be a shorter version or the "big book" with summaries and if it should be updated annually (we don't know

who would be responsible for such) or a 2018 version. Any input you could provide would be most appreciated. She would like some product to be available in July.

### **VML DAY AT THE CAPITOL**

This is something that the Executive Committee should discuss. The Clerk of the House of Delegates is asking groups who hold lobbying days that involve visiting the General Assembly facilities to cease until the new building is constructed. Facilities at the Pocahontas building are not ideal and trying to accommodate large groups of people will be challenging. Having said that, the space for VML Day at the Capitol is already under contract and the Conflict of Interest rules have changed making it easier for legislators to attend such events.

It may be useful to hold an education session in the afternoon about legislative issues and provide information that can be mailed or emailed to local delegations and then hold a reception. We may wish to advise that the Pocahontas building is small and recommend that localities send one representative instead of a larger group.

### **FINANCE FORUM**

The Finance Forum is currently scheduled for the week of January 2<sup>nd</sup>. This is necessary because the General Assembly starts on January 10<sup>th</sup> this year. Neal and I met with Bob Lauterberg of VML/VACo Finance and discussed the program. We have also spoken with Dean Lynch of VACo regarding the program. The four of us will meet after this Annual Conference to set the program.

### **NEWLY ELECTED OFFICIALS AND LEADERSHIP ACADEMY**

Mike Polychrones is working on holding a one-day Newly Elected Officials seminar in early January as well. Several of our members have elections in November and VML can assist in providing the necessary tools for their success.

The VML Leadership Academy will hold a December event on transportation. The Leadership Academy is going to change strategies beginning in January; there will no longer be a fee for webinars. This should help increase the involvement and provide better service to our members.

### **REGIONAL MEETINGS IN NOVEMBER**

VML wants to do outreach in November and December to the various regions of the state. It is my recommendation that it not be evening meals, but rather education sessions during the day that are targeted to the localities that we visit. One thought that we have kicked around is attempting to host something regional in conjunction with a council meeting of one locality that night so that VML interacts with members in different ways. Input from the Executive Committee on what you find most effective would be appreciated.

### **IF I WERE MAYOR**

As I indicated a couple of weeks ago, VML is going to change the If I Were Mayor contest this year. The contest will still be for 7<sup>th</sup> graders, but the children will be rewarded in front of their Council instead of coming to Richmond. This will be part of VML's outreach to their members and an opportunity for the

children to be recognized by their own community. The deadline for submissions will be in December and the awards will be handed out just after the General Assembly session.

### **PERSONNEL POLICY MANUAL**

I have attached a copy of the personnel policy manual in your notebook. There will be several proposed changes to the manual at your next meeting which will bring it into compliance with the law. No person hired after October 1, 2017 will be subject to the new vesting period; the change has been made to revert to the 6-year vesting period.

### **CONDITION OF THE BUILDING**

President Coiner toured the building while he visited in August. Attached to this report is a list of items that staff has identified need to be considered.

### **FEDERAL ADVISORY COUNCIL**

A reception and meeting was held on May 17<sup>th</sup> of this year. The reception was in honor of the Virginia Congressional Delegation. I cannot find minutes from the May 17<sup>th</sup> meeting and will continue to reach out to members of this council to determine what their next steps are.

### **SUMMARY**

Once the Annual Conference is complete, VML will conduct a review of the conference and make any necessary changes. It is also a goal to have October a time when staff can begin to identify other issues that need to be addressed and work on an action plan.

Please let me know if you have any questions or other items that should be addressed.



**OFFICERS**

**PRESIDENT**

ROBERT K. COINER  
GORDONSVILLE MAYOR

**PRESIDENT-ELECT**

PATRICIA P. WOODBURY  
NEWPORT NEWS COUNCIL MEMBER

**VICE PRESIDENT**

ANITA JAMES PRICE  
ROANOKE VICE MAYOR

**PAST PRESIDENT**

RON RORDAM  
BLACKSBURG MAYOR

**MAGAZINE**

VIRGINIA TOWN & CITY

To: VML Executive Committee  
From: Michelle Gowdy  
General Counsel  
Re: General Assembly/Legislative Report  
Date: September 15, 2017

Attached to this document is the proposed legislative program for the 2018 General Assembly Session. In the setting of priorities, it seems that funding for schools, transportation and law enforcement are the number one priorities of the members of the legislative committee.

Given the comments that VML has received, it is expected that there will be amendments and proposed additions to the legislative program which I will attempt to summarize here.

The first anticipated amendment is the lottery proposal that the Town of Crewe has been circulating. The proposal is to use Virginia prize money and disburse a portion to localities based upon sales. When speaking with the Virginia lottery, they could provide data from Texas who attempted a similar change and lottery sales suffered. Further, a four-fifths vote of each house of the General Assembly would be required to implement this proposal, which is a very high bar. This proposal was considered by the General Assembly in 2017 and was not successful.

In an effort to update you on the summer workgroups, VML continues to participate in negotiations related to Wineries, Wireless Communications and a lot of mental health groups. These groups continue to meet and discuss the various issues; I do expect that by November there will either be proposed legislation or an impasse. Regarding Wireless Communications; there is a meeting on September 25<sup>th</sup> and I can provide further updates at the meeting.

There is also Senator Hangers group on Fiscal Stress which is causing a lot of angst for localities. Neal and Dean (VACo) have been asked to present at their October meeting. It is anticipated that these presentations will help provide the locality's perspective on this workgroup.

Please let me know if you need anything further. Thank you.

P.O. Box 12164  
RICHMOND, VIRGINIA 23241

13 EAST FRANKLIN STREET  
RICHMOND, VIRGINIA 23219

804/649-8471  
FAX 804/343-3758  
[www.vml.org](http://www.vml.org)

## Memorandum

**To: VML Executive Committee**

**From: Christina Luman-Bailey, Councilor, City of Hopewell & Chair Virginia GoGreen Advisory Committee**  
**Michael Polychrones, Director of Member Services, VML**

**Date: July 10, 2017**

**RE: 2017 Virginia GoGreen Challenge Update**

As the title of the memo suggests, I am writing to provide a brief update on the status of the Virginia GoGreen Challenge. The committee did quite a bit of work this winter and spring revising and updating the challenge to include some of the major water issues that localities deal with on a day-to-day basis. Specifically, we added opportunities to report on local initiatives that assist in managing and cleaning of stormwater thereby reducing the TMDL's which assists in efforts to comply with the federal Clean Water Act and the Chesapeake Bay "Save the Bay" initiative. Also, we added opportunities to recognize local efforts to improve the water supply and water loss control plans. Efforts to minimize water infiltration into the sewer system by implementation of a I & I (infiltration / inflow) plan this would work to minimize sewer overflows, implementation of waste reduction plan at the waste water plant. Additional credit has been added to implement programs that go above what is required by statute, especially those who face MS-4 requirements.

Small changes and improvements were done in the other challenge areas that made the challenge better and encourage more localities to become involved in this vital program. Certain figures to consider:

### **Participating municipalities as a % of all municipalities in state**

14%

#### **# of participating municipalities & # of municipalities in state**

32 participate out of 223

#### **% of state population residing in participating municipalities**

23%

#### **# of people in participating municipalities & total state population**

2,501,375 in participating localities out of a total state population of 8,411,808

These were last year's figures and the level of participation we had and the number of citizens and localities who benefitted from these important improvements that their localities are doing. In an effort to increase participation reminders will be included in VML enews and VML magazine. Also, to spark further interest VML, in conjunction with VACo, will be holding a GoGreen Challenge seminar on August 2 at the Richmond Convention Center with the following list of presenters:

Bob Lazaro, Executive Director, Northern Virginia Regional Commission

Joe Lerch, Director of Local Government Policy, Virginia Association of Counties

Russ Baxter, Deputy Secretary of Natural Resources, Chesapeake Bay  
Scott Kudlas, Director of Water Supply, Virginia Department of Environmental Quality

The 2017 Challenge is underway, it was unveiled to VML membership during the first full week of June. The final date for all submissions is September 8<sup>th</sup>, with awards to given at the Annual Conference in Williamsburg.

Thank you for your time and attention on this important ongoing program. I believe it will be a great year for this effort and for our members.

Memorandum

To: VML Executive Committee

From: Christina Luman-Bailey, Councilor, City of Hopewell & Chair Virginia GoGreen Advisory Committee  
Michael Polychrones, Director of Member Services, VML

Date: September 14, 2017

RE: 2017 Virginia GoGreen Challenge Update

The 2017 Virginia GoGreen Challenge ended with final submissions being due on September 8 for this year's competition. A total of 15 VML localities participated this year and here is the award breakdown:

Arlington County	425	Platinum
City of Alexandria	300	Platinum
City of Charlottesville	325	Platinum
City of Fairfax	125	Silver
City of Hopewell	180	Platinum
City of Lynchburg	175	Platinum
City of Newport News	330	Platinum
City of Radford	225	Platinum
City of Richmond	290	Platinum
City of Williamsburg	230	Platinum
Prince George County	168	Gold
Town of Ashland	176	Platinum
Town of Herndon	235	Platinum
Town of Purcellville	183	Platinum
Town of Vienna	114	Silver

This is just VML members only. Total number of participants (VACO and Virginia School Boards Association) is over 30. It is interesting to note that both VACO and VSBA challenges ran longer this year. It is our hope to unveil the 2018 challenge earlier in the year to allow more members time to submit and better market the challenge to increase participation.

**To: Michelle Gowdy, Acting Executive Director & Executive Committee**

**From: Michael Polychrones, Director of Member Services**

**Date: September 14, 2017**

**RE: Report of Virginia Leadership Academy**

The VML Virginia Leadership Academy has had a good first year. The 2016-2017 year had monthly events that were both in person and webinars to assist our local and appointed officials in stay up to date on the most current information and provide the necessary tools to serve their communities. Total attendance at VML events in which VLA credit was given is 710 attendees to date. The list of events so far:

VML Finance Forum – 138

Institute for Local Officials – 104

Legislative update – 15 (registered phone lines)

FOIA/COIA - 47 (total for both locations)

Ask the Lawyer – 5

Budgeting – 38 (was oversubscribed)

Public Private Partnerships 18 (registered phone lines)

The last events to wrap up this year will be Regional Meetings in November and a webinar on Transportation in December.

The purpose of the Academy is to provide an interactive curriculum of specialized instruction that will develop the knowledge and enhance the leadership abilities of those who serve the localities of the Commonwealth of Virginia.

There are three levels of achievement in the Leadership Academy. Level 1 is the Local Government Basics level and focuses on attendance at various training events offered by the League and other organizations. Level 2 is the Advanced Training level and focuses on continuing education as well as participation in various government-related activities, such as serving on a regional board or task force. Level 3 is the Leadership level focusing on leadership activities and leadership positions held in various organizations.

It is also worth noting that all the credits from the previous program (VEOLA) will add credit to the Virginia Leadership Academy. This will give prior participants a good start to attaining the levels within the VLA program and there will be certificates awarded at the Annual Conference.

VML will continue to provide this and other opportunities to stay up on the latest information on municipal leadership trends and will also be a resource for legislative information to our member localities. There will be a list for the 2017-2018 VLA seminars and webinars in your conference packet so be sure to find and get the dates on your calendar to take advantage of these informative sessions.

To: VML Executive Committee  
From: Michelle Gowdy  
Date: September 15, 2017  
Subject: January 2016 request for Amicus Brief

In January of 2016, I send a memo regarding a request for an amicus brief for a case that was challenging the constitutionality of the statute enacted to limit the frequency of biennial review proceedings in the State Corporation Commission (SCC) for utilities. The challenge was brought by the Old Dominion Committee for Fair Utility Rates. I recommended that we not participate and the Executive Committee agreed.

This case was decided by the Virginia Supreme Court on September 14, 2017. The Supreme Court found the statute (58-585.1:1) to be constitutional. Justice Mims wrote a very strong dissent; however no one joined with him.

Here is the Article from the RICHMOND TIMES DISPATCH dated September 14, 2017 which describes the case far better than i:

The Supreme Court of Virginia has upheld a hotly disputed state law that suspends regulatory reviews of electric utility rates and, according to reports prepared by state regulators, will allow the state's large utilities to pocket hundreds of millions in earnings they would otherwise have to return to customers.

Justice William C. Mims dissented from the majority's 6-1 decision on Thursday in a lengthy opinion that says the ruling would allow the General Assembly to permanently block the State Corporation Commission from exercising regulatory authority enshrined in the state Constitution.

"That sobering outcome thwarts the purpose behind creating the commission in the first place," said Mims, a former legislator who, as deputy attorney general in 2007, played a critical role in the creation of the system of rate reviews that the General Assembly suspended in 2015 for seven years.

The majority opinion, written by Justice Elizabeth A. McClanahan, cites the presumption that legislative actions, such as the 2015 suspension of rate reviews, are constitutional unless "plainly repugnant" to the Virginia and U.S. constitutions.

"This strong presumption reflects the breadth of legislative power in Virginia," McClanahan wrote.

Sen. Frank W. Wagner, R-Virginia Beach, who sponsored the legislation that led to the law, said he wasn't surprised by the decision. "There was never a question of constitutionality," Wagner said.

The ruling upholds a decision by the SCC that was appealed by the Old Dominion Committee for Fair Utility Rates, which represents large industrial customers of Appalachian Power Co., but Dominion Energy Virginia also was a party to the case.

“We are disappointed in today’s ruling and we disagree with the majority opinion,” said Edward L. Petrini, a lawyer for Old Dominion and the Virginia Committee for Fair Utility rates, which represents big Dominion customers.

The appeal had relied heavily on a dissenting opinion last year by SCC Judge James C. Dimitri that concluded the suspension of two-year rate reviews blocked the commission from exercising its constitutional duty to regulate electric rates that monopoly utilities charge.

Dimitri estimated that the law would cost customers of Dominion more than \$1 billion over seven years by allowing the company to keep earnings in excess of its regulated rate of return.

Dominion welcomed Thursday’s ruling as affirming the need for utility rate relief in the face of potential regulatory restrictions on power plant emissions of carbon dioxide and other greenhouse gases under the stalled federal Clean Power Plan. Gov. Terry McAuliffe, who leaves office in January, has convened a state panel tasked with developing carbon regulations for Virginia’s power plants.

“We are pleased the court affirmed the constitutional and statutory authority of the General Assembly to make policy decisions for the commonwealth,” said Dominion spokesman David Botkins. “It looks as if Virginia is headed toward a state version of the Clean Power Plan, which makes (the law suspending rate reviews) all the more relevant and appropriate.”

Consumer advocates assailed the decision, citing a recent SCC report that concluded that Dominion Energy Virginia had overearned by at least \$133 million.

“This ruling means that Dominion Energy Virginia will continue to pocket hundreds of millions of dollars owed to Virginia families who were overcharged for several years,” said Shannon Baker-Branstetter, policy counsel for Consumers Union.

“The decision also means the Virginia State Corporation Commission, charged with protecting the consumer interest, will continue to be constrained in their ability to regulate the state’s largest utility monopoly,” Baker-Branstetter said.

#### GA or SCC?

McClanahan’s majority opinion relies on a court ruling in a 1974 case involving Virginia Electric & Power Co., which now operates as Dominion Energy Virginia. She said the court concluded then that the constitutional revision in 1971 “does indeed grant to the General Assembly such broad legislative power over the commission’s authority to regulate the rates charged by electric utility companies.”

“In light of this authority of the General Assembly, we have repeatedly stated in other cases since the passage of the 1971 Constitution of Virginia that the commission’s authority to regulate the rates of electric utility companies has been ‘delegated’ to it by the General Assembly under various legislative enactments,” she wrote.

Mims, a Republican former member of the Virginia Senate and House of Delegates, strongly disagreed and asserted that the Supreme Court ruled in error in the 1974 case. “I reject the premise that the rate-making authority granted to the commission by the Constitution is subordinate to the General Assembly,” he wrote.

The SCC was created as an independent body under the 1902 state Constitution to ensure regulatory oversight of rates charged by public service corporations, especially railroad companies, which then politically dominated the General Assembly.

The legislature expanded the commission’s power to regulate electric rates in 1914, but the 1971 constitutional revision enshrined its regulatory authority to set electric rates, subject to “such criteria and requirements as may be prescribed by law,” a phrase at the heart of the legal dispute.

Mims argued that the court misinterpreted the constitutional provision in the 1974 case and warned that the majority decision “restores the precise evil that led the people to create the commission in 1902; they did so to ensure that *someone* was exercising the power to set the rates of public service corporations.”

“The conclusion that the General Assembly has the power to suspend the commission’s authority indefinitely, which follows inexorably from the majority’s opinion, would thwart that will,” he wrote.

As deputy attorney general, Mims oversaw a complex series of negotiations in 2007 over a Dominion-led attempt to re-regulate electric utilities on new terms after the failure of deregulation to produce retail competition that would effectively regulate rates.

The re-regulation law included a requirement for biennial reviews of monopoly electric rates, but with limits on the SCC’s ability to reduce rates when utilities earn more than the approved return on equity. The law adopted in 2015 suspends those reviews through 2022.

Dimitri, in his dissent on the commission’s ruling upholding the law, said, “The commission’s authority to set base rates, affecting millions of customers of the utilities, has been prohibited by the General Assembly.”

However, SCC Judges Mark C. Christie and Judith W. Jagdmann, in the 2-1 majority opinion, said that under Dimitri’s reasoning the legislature could not have approved electric deregulation in 1999 and the deregulation of local telephone service earlier in the decade.

“There is no historical evidence that those who adopted the 1971 Constitution intended such a grant of plenary policymaking power to the commission,” they said.

RICHMOND TIMES DISPATCH ARTICLE