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Board Meeting Minutes

September 22, 2016

Approved October 20, 2016

The September meeting of the Board of the Fairfax County Federation of Citizens Associations was called to order on September 22, 2016, by President Tim Thompson at 7:35 p.m. at Dunn Loring Center, Room 108, 2334 Gallows Road, Dunn Loring, VA 22027.

Present:

Officers: Tim Thompson (President), Ed Wyse (First Vice President/Springfield/Membership), Bill Barfield (Second Vice President/Co-Chair Legislation), Matt Bell (Corresponding Secretary), and George Becerra (Recording Secretary).

<u>District Council Representatives</u>: Art Wells (Braddock), Peter Sitnik (Mount Vernon/Co-Chair Legislation), Flint Webb (Providence/Co-Chair, Environment), and Jeff Parnes (Sully/Co-Chair, Transportation).

Committee Chairs: Donald Hinman (Citizen Association Services), Ed Saperstein (Co-Chair, Budget; Education), Monica Billger (Co-Chair, Environment), Morgan Jameson (Co-Chair, Human Services; Revenue), Vicki Hall (Land Use), Patrick Smaldore (Public Safety), and Karen Campblin (Co-Chair, Transportation).

Visitor: None

Administrative and Organizational Topics: None

Bulletin/Newsletter: No report.

Meeting Minutes: May, June, and August 2016 Board Minutes were passed unanimously by voice vote (with June and August 2016 minutes having modifications).

Treasurer's Report: No report.
Unfinished Business: None.

New Business:

1. Short Term Rental/Air BnB:

Citizen Association Services Chair, Don Hinman, presented this topic and provided 3 attachments.

- a) Short Term Rental Resolution (Attachment 1).
- Board of Supervisors Governance Document on Limited Residential Lodging (Attachment 2).
- c) Mason Hill Citizens Association Resolution submission to Federation concerning to Amend Virginia Senate Bill 416 (Attachment 3).

After the initial presentation on the topic was made by Hinman, which included the explanation of the 3 attachments, discussion was started if this issue should be brought up now because of all the moving parts. Motion was made by Morgan Jameson and seconded by George Becerra to table the topic until we get more information. Extensive discussion ensued where Hinman was given guidance and finite direction of how to pursue the topic. One request was to invite Mason Hill Citizens Association President, Mike Rioux, to the next Board meeting to present and answer questions on this topic. Another request was for Hinman to work with Vicki Hall and Karen Campblin to get their input and advice on this issue.

Bill Barfield presented some Legislative Package Survey results that supported certain kinds of regulation on Limited Residential Lodging/AirBnB:

- (1) 76% of respondents agree or strongly agree that AirBnB be considered a business and be subject to taxes and fees,
- (2) 68% agree or strongly agree that AirBnB should carry at least \$500,000 liability insurance, and
- (3) 57% agree or strongly agree that local government (not the Commonwealth) should control AirBnB-like rentals.

After the discussion was completed the Motion was passed unanimously by voice vote.

2. Meals Tax Resolution:

1st VP Ed Wyse presented a Resolution for a YES Vote on the Meals Tax (Attachment 4). After presenting the Resolution it was seconded. Then 3 Motions were made. The 1st Motion was made and seconded to amend #6. Discussion was had. During discussion, #6 was amended. After discussion, the Motion, as amended, passed unanimously by voice vote. Then the 2nd motion was made and seconded on striking #7. Discussion was had. After discussion, the Motion carried by voice vote. Then the 3rd Motion was made and seconded to strike the 2nd Resolve. Discussion was had. After discussion, the Motion carried by voice vote.

Finally, a vote was taken on the Resolution for a YES Vote on the Meals Tax (as amended). The Resolution was carried by voice vote.

Board & Committee Reports

1. <u>Budget</u> – No report.

- 2. Citizens Association Services Donald Hinman See New Business #1.
- 3. <u>Education</u> –Ed Saperstein Discussed the resignation of Superintendent Garza and possible next steps the School Board will do to hire a new Superintendent.
- 4. Environment Flint Webb and Monica Billger Talked about the Virginia Conservation Assistance Program, provided the Legislative dates for the Virginia Conservation Network, talked about the Plant NoVA Natives, and mentioned that on September 25 the movie "Hometown Habitat" will be shown in Herndon.
- 5. <u>Human Services</u> Cherie Tripp Lejeune & Morgan Jameson Mentioned that Cherie presented the County's Neighbor to Neighbor program at the Membership Meeting on September 15.
- 6. <u>Land Use</u> No report. 2nd VP Barfield said that Braddock's Land Use Committee is a model for the County; Jeff Parnes stated that Sully District has created a web form to inform its residents of all Land Use issues/applications.
- 7. <u>Library</u> No Report.
- 8. <u>Legislation</u> Bill Barfield and Peter Sitnik– Results of Legislative Package Survey are in.
- 9. Membership Ed Wyse Stated that currently we are comprised of 57 Associations (38 of which are renewals) and 3 more have submitted checks. Monica Billger suggested that the Federation should do a survey asking the members what do they see is the added value of joining the Federation.
- 10. Public Safety Patrick Smaldore Report submitted (Attachment 5).
- 11. Resolutions No report.
- 12. Revenue No report.
- 13. <u>Transportation</u> Jeff Parnes and Karen Campblin Mentioned about the Dedication of the West Ox Road Bus Maintenance Facility and that the Better Bicycling Alliance is having events throughout the County.
- 14. Website No report.

District Council Reports

(Dranesville & Hunter Mill - N/A)

- 1. Braddock Art Wells Report Submitted (Attachment 6).
- 2. <u>Lee</u> Vacant Ed Wyse mentioned that groundbreaking has occurred on the National Museum of the U.S. Army. Dedication will occur in 2019.
- 3. <u>Mason</u> No report Donald Hinman mentioned that the Mason District Council is sponsoring a Panel discussion on Short-Term Rentals/Air BNB on October 5th.
- Mt. Vernon Peter Sitnik Topics discussed at their Council meeting were Short-Term Rentals/Air BNB, Land Use, Embark, and that the Council will have a Sept. 28th Meals Tax Forum
- Providence Flint Webb At their Sept. 14th meeting the topic of Land Development services came up; Mentioned that on Sept. 26th, the Fairfax 100 will have a Meals Tax panel discussion; Council will have on October 12th a Meals Tax discussion.
- 6. Springfield No report.
- 7. Sully No report

Fairfax County Federation of Citizens Associations Minutes of Board Meeting September 22, 2016

Announcement (potential future New Business): Morgan Jameson wants the Federation to pay for an email address provider company, so we can reach more people/members than what we have now.

Adjournment - The meeting adjourned at 9:45 p.m.

Next Meetings:

Membership Meeting – October 27, 2016 at 7:30 p.m., at the Providence Community Center, Classroom #2, 3001 Vaden Drive, Fairfax, VA 22031.

Board Meeting – October 20, 2016 at 7:30pm, at the Providence Community Center, Classroom #2, 3001 Vaden Drive, Fairfax, VA 22031.

Minutes prepared by George Becerra, Recording Secretary

Short Term Rental Resolution

For Consideration by the FCFCA Board on Sept. 22, 2016

(This draft is based on a resolution adopted by the Mason Hills Citizens Associations, and which is currently being considered by the Mount Vernon Council of Citizens Associations.)

Background

Sharing homes has been commonplace for as long as there have been spare rooms. Whether through word of mouth, ads in newspapers or flyers on community bulletin boards, renters and homeowners alike have always managed to rent or share rooms in their living spaces. Traditionally these transactions were local and limited in nature, with the internet and the rise of the sharing economy has brought dramatic change. Online resources, such as Airbnb.com and HomeAway.com, have become mainstream for people to advertise and rent out their entire home or spare bedrooms with a few mouse-clicks or taps on a smartphone. The number of homes listed for short-term rental has grown to about 4 million, a 10-fold increase over the last 5 years.

With the rapid growth of AirBnB and other similar platforms, communities across the country are experiencing the effects of transient occupants in residential communities. How to effectively regulate home-sharing and short-term rentals has become one of the hottest topics among government leaders across the country.

Why regulate home-sharing and short-term rentals in the first place?

- Increased traffic from short-term renters can transform residential communities into
 "communities of transients" impacting the fabric of communities where people are less
 interested in investing in one another's lives, be it in the form of informal friend groups
 or church, school and other civic and community organizations.
- 2. Short-term renters are unlikely to be knowledgeable and follow local rules, resulting in public safety risks, noise issues, trash and parking problems for neighboring residents.
- 3. Homes that are rented to larger groups of people with the intent to hold parties can severely impact neighbors and drive down home values.
- 4. Conversion of residential units into short-term rentals can result in fewer affordable housing options and higher rents for long-term renters in the community.
- 5. An estimated that 70 to 80% of short-term rental operators fail to remit taxes. (most often referred to as Transient Occupancy Tax / Hotel Tax / Bed Tax or Transaction Privilege Tax).
- 6. Short Term Rentals in residential neighborhoods are often in violation of existing local zoning ordinances. Lack of regulation or enforcement of existing ordinances causes tension between short-term landlords, their neighbors, and local government.

- 7. Home sellers may have more difficulty closing a sale if prospective home buyers become aware that a short term rental property is next door or across the street. What is the obligation of the homeowner or agent to reveal that a short term rental property is nearby?
- 8. Some Economists have determined that, on average, property values in neighborhoods with commercial operations such as short term rentals drop by 7.3 percent for every one percent increase in commercial activity.
- 9. AirBnB plans to offer a new service this year to book concierge-like services, including personal chefs, restaurant reservations, tours, and theater tickets, making AirBnB nearly equivalent to hotels in service offerings.

While it may be very lucrative for private citizens to become part-time "innkeepers", the negative effects are borne by neighbors and the surrounding community.

The big question is not whether it makes sense to regulate short-term rentals, but *how* to do it to preserve communities and neighborhoods.

Resolution

Whereas, the Virginia General Assembly passed legislation in the 2016 session known as SB416, The Limited Residential Lodging Act ("Act"), on April 1, 2016; and

Whereas, the "Act" requires the Virginia Housing Commission to convene a Working Group of interested parties to consider issues related to short term rentals who need to complete their work by December 1, 2016; and

Whereas, the "Act" creates a statutory mechanism for the regulation and taxation of short term rental transactions by allowing home owners and residents to rent out all or a portion of their homes on a temporary basis and provide procedures to collect and remit sales and uses taxes and transient occupancy taxes; and

Whereas, the "Act" provides no equivalent Virginia licensing, inspection and tax requirements that are mandated for traditional, Bed and Breakfast facilities; and

Whereas, there is no one-size-fits-all regulatory approach that will work for all communities in Virginia; local regulations should be written and adapted to fit county, city and municipality circumstances and objectives; and

Whereas, the "Act" proposes to preclude county, city and municipal localities from enacting local ordinances that prohibit the use of a residential dwelling as short term or limited residential lodging or that would impose additional regulations on host homeowners; and

Whereas, § 15.2-2200 of the Code of Virginia states the General Assembly's legislative intent that localities are encouraged to improve the public health, safety, convenience and welfare of its citizens and that residential areas shall be provided with healthy surroundings for family life; and

Whereas, § 15.2-2283 of the Code of Virginia authorizes localities to enact zoning ordinances for the general purpose of promoting the health, safety or general welfare of the public and of further accomplishing the objectives of § 15.2-2200. Furthermore, the zoning ordinance is to give reasonable consideration to reduce or prevent congestion in public streets, facilitate the creation of a convenient, attractive and harmonious community, protect against overcrowding of land; and

Whereas, we support the ability of Fairfax County to maintain local authority to plan and regulate land use within its boundaries with input of its residents; and

Now, Therefore Be It Resolved, that the Fairfax County Federation of Citizens Associations expresses its opposition to SB 416, Limited Lodging Act as currently written and supports the following revision to the "Act":

- Permit local county, city or municipality to exercise discretion and authority to enact local
 ordinances that regulate the short term rental of residential dwellings and inspect and tax
 each dwelling or facility that rents or lease short term rental accommodations.
- Require any dwelling or facility in Virginia that rents or leases accommodations for over 15 days per year to register as a business.
- Require full, open and transparent identification of every Virginia facility, listed on any on line short term rental platform, such as AirBnB, with the full identification of the owner/operator.
- Require that all dwellings and facilities that rent or lease accommodations for more than 15 days per year meet applicable State and local requirements and codes for Buildings, meet applicable State and local Fire and Safety requirements and codes, applicable State and local Health Department Regulations and meet applicable State ABC laws and Regulations.
- Require all short term rental online platforms, or the actual host owner/operator, to collect and pay all applicable state and local sales taxes and transient occupancy taxes.
- Require all short term rental online platforms to provide a full accounting of all income/revenue collected by its dwellings or facilities, and account for any taxes collected and paid by the hosting "platform".
- Permit Home Owner Associations (HOAs), Condominium Associations and similar organizations to maintain their authority (through their governing documents) to have leasing restrictions, such as minimum leasing periods of six months.
- Require that all facilities that rent or lease accommodations for more than 15 days per year money have appropriate commercial business insurance.

(Note from Don: Possibly remove this last bullet point as possibly not being consistent with requirements for many other businesses)

GOVERNANCE—LIMITED RESIDENTIAL LODGING

PROPOSAL:

Monitor issues related to the local regulation of limited residential lodging, including the ongoing study by the Virginia Housing Commission.

SOURCE:

Board of Supervisors March 15, 2016

BACKGROUND:

As allowed by current state law, Fairfax County places reasonable restrictions on the short-term rental of residential dwelling units. According to the County's Zoning Ordinance, the use of a dwelling unit for short-term (less than 30 days) rental is considered to be transient occupancy, which is not permitted unless the Board of Supervisors has approved a special exception to allow the dwelling to be used as a bed and breakfast (which can only occur in a single-family, detached dwelling located in one of the following zoning districts: R-1, R-2, R-E, R-C, R-P, PRC, and PDH).

Legislation was considered by the 2016 General Assembly – SB 416 (Vogel) and HB 812 (Peace) – that would have established a state law governing short-term rentals in residential areas through hosting platforms such as Airbnb, FlipKey and other websites. Though the proponents of the bills presented them as being helpful to local governments by allowing for state collection and remittance to localities of local transient occupancy taxes on short-term rentals, the bills would not have actually required companies like Airbnb to collect and remit such taxes (they would have simply authorized it). And, though the bills would have allowed the state Department of Taxation some authority to audit such rental units, they also would have prohibited the Department from sharing any information about the transactions with localities.

The anonymity of which locations were being used as short-term rentals and who was actually staying in such short-term rentals and for what period of time, would have made any enforcement of local ordinances impossible. The enactment of the bills as written would have prevented local governments from being able to ensure that the commercial use of residential property was not adverse to neighborhoods and surrounding communities. It is important to note that SB 416 and HB 812 would not have simply allowed a person to rent out a room in his or her primary residence – the bills would have allowed one person to own multiple "primary residences" if a landlord lived in each of those residences.

Because the bills would have preempted state and local taxation and land use

ordinances governing such rentals, local governments throughout the state, including Fairfax County, were united in their opposition. Ultimately, the issue was sent for study to the Virginia Housing Commission (similar to the statewide study done in 2014 relating to Uber/Lyft and other transportation network companies) – the work group includes representatives from the hotel industry, hosting platform providers like Airbnb, local governments, state and local tax officials, common interest communities, and other interested parties to explore issues related to registration, land use, taxation, and other items of public interest tied to short-term rentals. The work group has a December 1, 2016, deadline to complete its work (with the goal of developing recommendations and draft legislation for the 2017 session).

RECOMMENDATION:

Direct staff to continue to participate in the ongoing work group on short-term rentals, and to work with the Virginia Association of Counties and other local governments to preserve local land use and taxing authority to the extent possible. Also direct staff to add a position to the 2017 legislative program – a draft position is below:

Limited Residential Lodging

Efforts to encourage the new "sharing economy," including short-term rentals in residential areas, must balance the interests of entrepreneurs with those of the community, safeguarding local revenue sources and land use authority.

Local authority over limited residential lodging should be preserved, as local governments and communities are best able to consider the benefits and consequences of such rules in widely differing local contexts. Residential areas across the Commonwealth, and even within a particular locality, can differ in terms of population density, public utilities and resources, traffic patterns, and other relevant considerations like the availability of parking and transit options. Business enterprises emerging from the new sharing economy can bring positive innovation to Virginia's struggling economy, spurring a new kind of economic development activity; however, it is essential that such economic development be well-integrated into the existing character of the community, in order to avoid inadvertently providing protections to illegal boardinghouses or making code enforcement efforts more difficult. Additionally, state legislation must preserve related local taxing authority without pre-emption, including applicable real estate, personal property, transient occupancy and Business, Professional and Occupational License (BPOL) taxes (especially rental by owners, a BPOL category for which certain localities are able to levy based on "grandfather" provisions under existing law). Any state legislation governing this topic must include some form of registration or licensing of limited residential lodging operators, to ensure that relevant health and safety codes are met, along with the payment of relevant taxes and fees.

September 12, 2016

From: Mike Rioux, President Mason Hill Citizens Association

To: Fairfax County Federation of Citizens Associations

Subject: Resolution to Amend Virginia Senate Bill 416

Attached please find background information and a draft resolution for consideration by the Fairfax County Federation of Citizens Association to send to the Delegates and Senators representing Fairfax County, the Fairfax County Board of Supervisors and the Virginia Housing Commission.

In 2016 the Virginia legislature passed the Limited Residential Lodging Act SB 416 and HB 812. The Act will remove the authority for local county, city and municipal governments to regulate or restrict short term rentals and nullify the authority of homeowner associations and covenants. If unchanged before the Act becomes law on July 1, 2017 it essentially means anyone would be able to do anything with property anywhere. SB 416 included a provision to convene a work group, subsequently named short term rental work group, to explore issues related to expansion of the framework set forth in the Act related to the registration, land use, tax, and other issues of public interest associated with the short-term rental of dwelling and other units. The short term rental work group, which started in May 2016 is tasked to complete its work by December 1, 2016, with the goal of developing recommendations and draft/revised legislation for consideration by the 2017 Session of the General Assembly that meets in January 2017.

Mason Hill has attended the Short Term Rental Work Group meetings and presented its recommendations at the August 25, 1016 meeting. It is expected that the last Short Term Rental Work Group meeting will be held in early October after which the draft/revised legislation will be written and forwarded to the Virginia Housing Commission for disposition and or adoption by the General Assembly.

The members of the Virginia Housing Commission include:

Daniel W. Marshall III, Delegate Republican, District 14
Barry Knight, Delegate Republican, District 81
Christopher Peace, Delegate Republican, District 97
David Bulova, Delegate Democrat, District 37
Betsy Carr, Delegate Democrat, District 69
Mamie Locke, Senate Democrat, District 2
George Barker, Senate Democrat, District 39
William Stanley Jr., Senate Republican, District 20

There are three citizen members who are appointed by the governor including:

Laura Lafayette Chief Executive Officer at Richmond Association of REALTORS® Mark Flynn, General Counsel Virginia Municipal League T.K. Somanath, CEO Better Housing Coalition

Thank you for your support in reviewing and presenting the attached Resolution.

Sincerely,

Mike Rioux

mf. Rioux

Fairfax County Federation of Citizens Associations

Resolution for a YES Vote on the Meals Tax

Approved by the Membership on October 27 (or whatever our standard text is)

- (1) WHEREAS sound tax structure depends upon diversified sources of revenue, and
- (2) WHEREAS the county's present tax structure derives 65% of general fund revenue from real property tax, both residential and commercial (including restaurants); and
- (3) WHEREAS counties are constrained by Virginia law in the types and rates of taxes they may impose, and
- (4) WHEREAS Virginia Code empowers counties to implement a sales tax on prepared food ("Meals Tax") if such authority is granted by the citizens by referendum, and
- (5) WHEREAS the Fairfax County Board of Supervisors have placed authority to implement a Meals Tax of up to 4% on the November 8, 2016 ballot, and
- (6)WHEREAS a Meals Tax of 4%, which would be paid by residents, commuters, and tourists in Fairfax County, is projected to generate \$ 99 million annually, of which an estimated 28% would be paid by non-county residents, and
- (7) WHEREAS each one percent on the meals tax rate would raise slightly more revenue than one percent on the real estate tax rate, and
- (8) WHEREAS meals taxes at various rates have been implemented by many neighboring jurisdictions without adverse effect on their restaurant businesses,
- (A) **THEREFORE BE IT RESOLVED** that the Fairfax County Federation of Citizens Associations (FCFCA) urges Fairfax County citizens to vote YES to authorize the Board of Supervisors to implement a Meals Tax of not more than 4% on specified prepared foods and beverages.
- (B) **BE IT FURTHER RESOLVED** that FCFCA asks the leaders of its member citizens associations to distribute this recommendation to their individual members.

FCFCA Membership Meeting

Patrick Smaldore

Fri 9/23/2016 9:59 AM

To:'Daniela D. Cockayne' <d3a1@aol.com>; 'Gabe Goldberg' <gabe@gabegold.com>; 'John Cockayne' <john_cockayne@yahoo.com>; wsbarfield@cox.net <wsbarfield@cox.net>; 'Ed Wyse' <ejwyse@yahoo.com>; 'Tim Thompson' <tctthompson@msn.com>; 'Jeffrey Parnes' <jparnes@cox.net>; 'George Becerra' <george_becerra@hotmail.com>;

Cc:taniahossain@aol.com <taniahossain@aol.com>;

2 attachments (311 KB)

Action15REVISED(Completewithattachment1).pdf; Re: New Criminal Processing Center at Cedar Lane & Gallows Road;

Hello Everyone!!

From last night's FCFCA Board Meeting

Per Public Safety Report:

- As Information The Sully District Station located at 4900 Stonecroft Blvd, Chantilly, VA 20151, has a new Commander, Captain Dean Lay, 703-814-7000
- Per the attached email from PDC Chair Tania Hossian discussing a community meeting about the New Criminal Processing Center at Cedar Lane & Gallows Road. FCFCA Public Safety Co-Chair will be participating in those efforts
- As Information Tim Thompson is arranging a meeting with FCFCA Public Safety Co-Chair and the new OEM Coordinator Seamus Mooney
- · As information Steve Souder Fairfax County 9-1-1 Call Center Director retired September 9th
- FCFCA Environmental Committee Co-Chair from the PDC requested FCFCA Public Safety Co-Chair about putting together an FCPD Presentation to the FCFCA Board about what to do when being pulled over
 - o Please see the link below to an FCPD Video about Ride Along with Us; What to Expect on a Traffic Stop https://www.youtube.com/watch?v=rcnrszOQlcQ#action=share
- Fairfax County Cable Channel 16, "On The Beat" showing a training video on dealing with Police being videotaped. Please check out the link below, this could also be used as an FCPD Presentation to the FCFCA Board
 - http://www.ebmcdn.net/fairfax/fairfax-cable-viewer.php?w=768&h=432&viewnode=on_the_beat_may_16
- Per the attached FCFCA Recording Secretary George Becarra suggested FCFCA Public Safety Committee Co-Chair to look at putting together a Fairfax County Presentation to the FCFCA Board about the BOS Unanimously Approving the Recommendation of the Independent Oversight and Investigations Subcommittee of the Ad Hoc Police Practices Review Commission to Establish an Office of Independent Police Auditor
 - Per the Establishment of Independent Police Auditor Office Suggest that Braddock District Supervisor, and Fairfax County Public Safety Committee Chairman John Cook come to the FCFCA and provide the presentation at a future FCFCA Board Meeting
- FCFCA Public Safety Committee Co-Chair announced that he has been accepted into the Leadership Fairfax Lifetime Leaders Program (LLP) which deals in the areas of Civic Engagement, and suggested that at a Future Date, FCFCA President Tim Thompson consider making a presentation to the LLP Cohort about the FCFCA. This probably won't happen until after the November elections
- As Information Ad Hoc Police Practices Review Commissioner Delegate Marcus Simon who was Chair of the Mental Health & Crisis Intervention Subcommittee will speak to the FCFCA Membership Meeting on November 17th

Take care and talk to you all soon

Regards,

Patrick Smaldore

Braddock District Activities

The Braddock District Council (BDC) and the Supervisor's office jointly sponsored the annual "year end" picnic and the "Best of Braddock" awards on July 13th. A large turnout attended the event which featured both good food and the awards. The latter recognized the contributions that organizations, business firms and individuals made to the District during the past year.

The BDC's next meeting will be on October 12th. The principal topic of discussion will be the proposed meals tax.