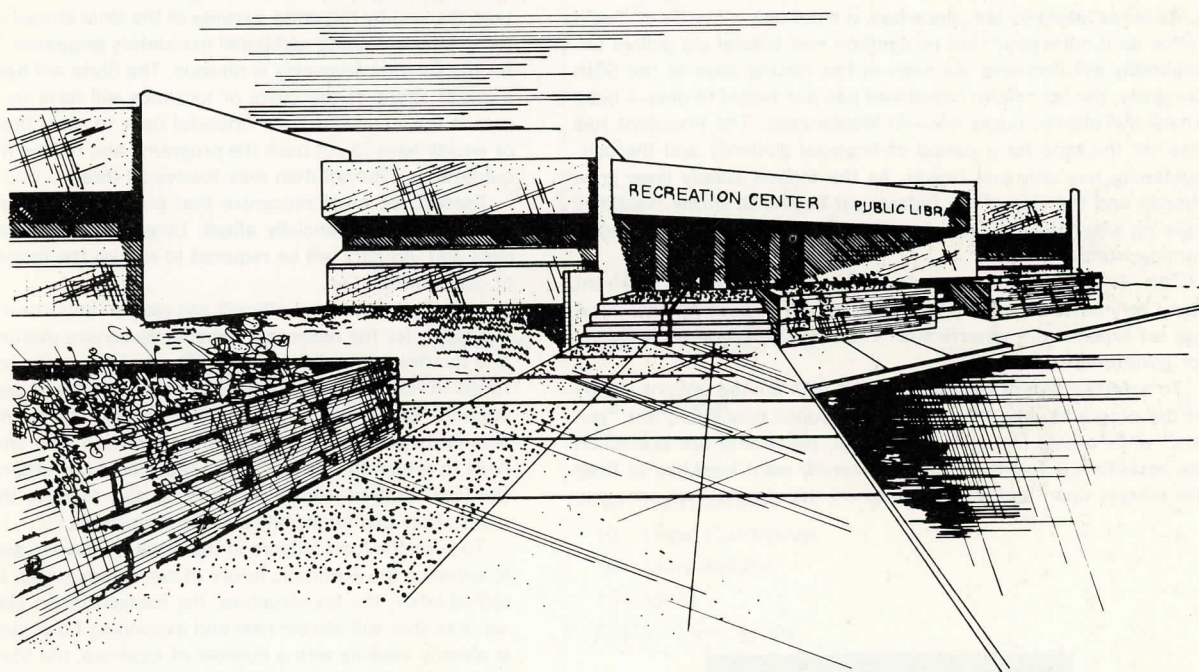


Virginia Town & City

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Editorial

WHERE'S THE MONEY COMING FROM?

Few Virginians were surprised when the national call was sounded urging the country to go "back to the basics". Most Virginians had clung to the basics all along, believing that budgets should be balanced, that government services could be delivered best at the local level and that while government was needed to provide essential needs, long-term economic solutions could only come from the private sector. But while we have clung to these principles of limited government, at least philosophically, a closer inspection of the situation reveals that we have become substantially dependent upon the federal dollar. Reluctant to accept federal assistance for many years, communities in the Commonwealth have come to help themselves to a piece of the federal pie.

As pointed out by Rochelle Stansfield in the *National Journal*, the federal aid habit for communities across the country has risen from about 2½¢ for every locally raised dollar in 1957 to 50¢ in 1978. Thus, in many cases, communities are only raising about half of what they need to support themselves.

As far as localities are concerned, it's not only a matter of "we'd rather do it ourselves," but recognition that federal aid dollars undoubtedly will decrease. As seen in the closing days of the 95th Congress, the tax reform movement has just begun to draw a bead where the big tax bucks are—in Washington. The President has also set the tone for a period of financial austerity and the belt-tightening has only just begun. As the federal supply lines grow shorter and the size of the federal pot begins to shrink, localities have no alternative but to take a long look at where the money is coming from.

This dollars and cents soul-searching brings to the forefront some very basic questions: What can we ask of government? What can we expect from government? What are we prepared to spend for government?

To a certain extent localities are left with limited options. Many of the programs, like the provision of public education, are "givens" while others like garbage pick-up, police and fire protection are essentials. I feel the citizens generally want localities to keep the schools open and the criminals off the streets. But once you

proceed beyond the basics, the going gets tougher. Momentum is growing to cut the fat and the frills and to find ways to get more from each tax dollar. It isn't easy to wrestle with the budget, our conscience, the cost of goods and services and then arrive at a compromise we can all live with.

So the challenge facing our communities is not only how to live within our territorial boundaries, but how to survive within our financial means. And without substantial foresight and hard-nosed planning, we stand to handicap those who can afford it least.

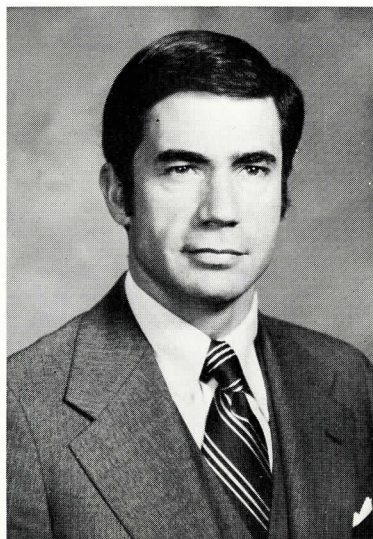
If we are to meet our social and fiscal goals in the long run, we must give cities the tools they need to stand on their own feet or with only limited assistance. First, we need to keep mandated state and federal programs to a minimum. As local officials are well aware, the programs continue to come down the pike at an increasing clip but funds have failed to keep pace with the costs. Recent estimates by the National League of Cities suggest that federal paperwork requirements alone cost state and local governments \$5 billion annually. It will be up to the federal government to get a handle on the problem in Washington, but at the state level we can take the lead by requiring a review of the local impact of state mandates before passing additional mandatory programs. The dilemma for the General Assembly is obvious. The State will have to assume a larger share of the costs or localities will have to be given the means for increasing their financial base to meet their obligations or we will have to cut back the programs and reduce mandatory requirements. The solution may involve all three.

Second, we must recognize that public assistance alone won't keep our cities financially afloat. Large scale investment by business and industry will be required to ensure the long-term viability of our communities.

Here State and local officials can play an important role in focusing funds for the necessary facilities to service existing businesses and to attract new development. There will never be enough federal funds to keep our cities financially solvent in the absence of private support. But creative, imaginative community development projects and strong neighborhood programs can help encourage business to return to the city and to rediscover our urban potential. In the final analysis, localities won't be able to solve their problems unless they can financially sustain themselves.

To keep the local ledgers in the black we have to search for ways to enhance the economic future of our communities, to provide the skilled labor, the tax structure, the transportation system and the services that will attract new and expanding businesses. My office is already working with a number of localities, the State Division of Industrial Development and state and local Chambers of Commerce to bring in new jobs.

I look forward to expanding this working relationship this year and to improving the economic climate in our communities. Our common goal is to ensure that cities and towns aren't places where people are forced to live, but places full of vitality where exciting ideas come together with the financial resources to build the foundation for the future. The prospect of limited public assistance doesn't make the task impossible but only makes it more imperative that we succeed in securing private sector support.



A stylized, handwritten signature of Charles S. Robb.

Charles S. Robb
Lieutenant Governor
Commonwealth of Virginia

Virginia Town & City

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4 THE AMBULANCE SERVICE DILEMMA

A Virginia locality makes the transition from private to municipal delivery of ambulance service.

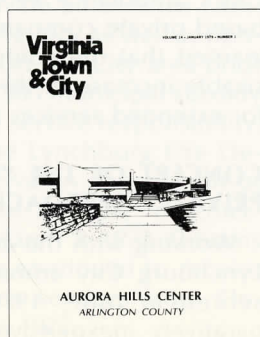
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Statements and opinions presented in this magazine do not necessarily reflect the editorial policy and opinions of VIRGINIA TOWN & CITY or the Virginia Municipal League.

ON THE COVER:
Arlington County's Aurora Hills Center was dedicated on February 26, 1978 and houses the recreation center, fire station #5, visitor's center, air pollution monitor station and a branch library.



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THE AMBULANCE SERVICE DILEMMA

by C. Reggie Whitley and William A. Anderson

The City of Lynchburg has confronted the community need for both public transit and ambulance transportation. While the Lynchburg approach to public transit was patterned after the successful effort of another Virginia locality, the events surrounding the transition from private to municipal delivery of ambulance services offer an insight into the responses of one community to an ambulance service dilemma.

HISTORY OF COMMUNITY AMBULANCE SERVICE

As in many municipalities, early ambulance transportation in Lynchburg has been provided by the mortuaries as a free public service. Multiple providers of community ambulance services existed during that period and their services were occasionally of a competitive nature. Although generally effective in fulfilling the most basic transportation need in emergency medical situations, these early activities probably lacked much of the professionalism and related medical skills which customarily are associated with ambulance services today.

With the demise of free ambulance transportation by mortuaries, a period came in which a rapid succession of varying service arrangements existed at short intervals, including an interval of emergency medical transportation by taxicab operators. Recognizing the medical transportation need of the community, a private company commenced operation on a fee basis in the mid-1960s as the sole provider of ambulance service. Apparently this venture functioned effectively until late 1972 when the owner notified the Lynchburg City Council of worsening company finances due to collection difficulties, and requested municipal assistance. In response to this appeal, the governing body agreed to subsidize the company with \$2,500 monthly. Simultaneous with the ongoing private ambulance operations, the Transportation Committee of Council began an investigation of alternative approaches.

Following months of research and discussion, the Committee recommended, and Council subsequently approved, a continuation of these monthly

subsidies to the private ambulance company through September 30, 1973. In conjunction with this, simultaneous municipal efforts began to seek competitive proposals from qualified parties throughout Virginia for providing quality ambulance service within the City of Lynchburg. Only two competitive service proposals were received, however, and the proposal of the existing private operator was ultimately approved. The resulting ambulance service contract, which became effective on October 1, 1973, included specific service requirements which the contractor was obligated to provide throughout the following three year period in return for a municipal subsidy of \$4,000 per month. Approximately half-way through the contract period, in March, 1975, the private ambulance company requested a sizable increase in the monthly service subsidy. While consistently refusing to consider increased subsidy payments during the term of the contract, the City Council eventually agreed to a \$5.00 increase in the ambulance user charge raising it to \$35.00 per call in late August, 1975.

IMPACT OF ANNEXATION

On January 1, 1976, the City of Lynchburg was expanded by approximately 14,000 citizens and 25 square miles into two adjacent counties as the result of a massive annexation award. Along with the major impact of annexation on all municipal functions, this event particularly affected the delivery of community ambulance services. Three volunteer organizations previously had provided no-charge ambulance/rescue services in the newly-annexed areas of the City prior to January 1, 1976, and upon request of City Council, all consented to continue their services at least temporarily in their respective areas. Hence, in spring 1976, pre-annexation City residents were receiving ambulance services from a private company at a rate of \$35.00 per call while residents in the newly-annexed area received free ambulance/rescue service from three volunteer organizations. In addition to these agencies, a highly-respected volunteer organization also existed within the pre-annexation City, providing rescue and first aid assistance only.

With four volunteer agencies and one private company providing differing ambulance and/or rescue services in segments of the City, and with some Lynchburg citizens receiving no-charge ambulance service while other citizens paid a user charge, the need for both coordination and equity in the delivery of community ambulance services became an important objective for the municipal government. Moreover, the September 30, 1976 expiration date of the City's ambulance service contract with the locally-based private company lay ahead; municipal officials learned that the company again intended to seek a sizable increase in the monthly subsidy in exchange for extended services to the newly-annexed area.

CONCEPT OF THE "VOLUNTEER/MUNICIPAL/PRIVATE" APPROACH

Working with the affected volunteer agencies, the Lynchburg City administration developed and presented in June, 1976, an imaginative, yet comparatively inexpensive, concept for the delivery of

ABOUT THE AUTHORS

C. Reggie Whitley is Deputy City Manager for Operations, Lynchburg and William A. Anderson is Lynchburg's Fire Chief. Chief Anderson is also an Executive Committeeman, State Fire Chiefs Association of Virginia.

community-wide ambulance and rescue services. Dubbed the "volunteer/municipal/private" approach, the arrangement would have combined all the existing community resources for the provision of (a) emergency ambulance and rescue services on a non-charge basis by municipal and volunteer forces and (b) non-emergency ambulance transportation by a private "ambulette" service on a per call, user fee basis.

In accordance with this 1976 plan, the Lynchburg Fire Department would have provided emergency ambulance services from 6:00 a.m. to 6:00 p.m. each day when volunteer personnel are less available; in the remaining interval from 6:00 p.m. to 6:00 a.m., two volunteer rescue organizations would have shared in the emergency services responsibility. Municipal and volunteer forces would have rendered back-up ambulance assistance in particularly critical, overlapping emergency situations. In order to fulfill the non-emergency ambulance transportation needs between private homes, hospitals, clinics and nursing centers, the 1976 service proposal recommended reliance upon private enterprise with appropriate user fees and a limited schedule of private operations (8:00 a.m. to 5:00 p.m., Monday through Friday) was envisioned to enhance profitability, thus eliminating the need for any ongoing municipal subsidy.

Despite initial optimism, a variety of problems and concerns developed to prevent implementation of the "volunteer/municipal/private" approach. One aspect of considerable misgiving to all parties focused upon the no-charge concept of emergency ambulance transportation with its negative potential of becoming a "free taxi" service if not monitored closely.

EMERGENCE OF A REVISED APPROACH

Following the preceding, unsuccessful attempt to facilitate an ambulance/rescue services arrangement, the municipal contract with the private ambulance company was extended through November 30, 1976. Throughout this period, both the Transportation Committee of Council and administration officials considered a variety of alternative service strategies. Following discussions with the representatives of the ambulance company, a revised approach was achieved in the fall of 1976 which incorporated a charge to all service users. As approved by the governing body in November, this approach included both transition and extended procedures for the shared municipal/private delivery of community ambulance services.

During the transition period for December, 1976, through February, 1977, the private ambulance company continued to provide emergency as well as non-emergency ambulance services in the City area prior to annexation in return for a \$6,500 municipal subsidy per month. Back-up ambulance service responsibility, however, was transferred to the Lynchburg Fire Department during this same interval in anticipation of the department's assumption of the role for emergency ambulance services on March 1, 1977. Citizens of the newly-annexed City area continued to receive no-charge volunteer ambulance services from December, 1976 through February, 1977.

In accordance with the extended service approach, March 1 marked the Lynchburg Fire Department's total assumption of the emergency ambulance responsibility on a per call fee basis to the entire City of Lynchburg, the pre-annexation area as well as the newly-annexed area. To perform this function on a twenty-four hour daily schedule, the Department employed fifteen EMT/Fire Cadets and acquired three modular ambulances. Simultaneously with the commencement of this municipal service, two volunteer organizations assumed responsibility for back-up ambulance services and full-time rescue assistance.

As another aspect of this extended service arrangement, the private ambulance operator was scheduled to discontinue all emergency ambulance activities on March 1, 1977, and to retain only the non-emergency portion of the former service. In accordance with the written agreement which preceded Council's authorization enterprise, all municipal subsidization ceased and the private operator agreed to provide advance written notice at least ninety days prior to any discontinuation of services. Following several months operating as a non-emergency service, the private company advised municipal officials of its intent to discontinue business.

On July 27, 1977, the Lynchburg Fire Department became the provider of emergency and non-emergency ambulance services throughout the City of Lynchburg. In view of this added service requirement, seven additional EMT/Fire Cadets and two additional ambulance units (van-type) were authorized in July, 1977. Rescue assistance and back-up ambulance services are shared by two capable volunteer agencies, the Lynchburg Life Savings Crew and the Campbell County Rescue Squad. Each organization receives a municipal contribution annually toward the costs of its support services.

INNOVATIVE ASPECTS OF APPROACH

To date, this approach has functioned effectively in responding to approximately 5,000-6,000 ambulance service requests annually. Some of its more innovative features or developments are as follows:

- *EMT/Fire Cadet Program*—By employing ambulance personnel initially as EMT/Fire Cadets, the municipality is able to provide training and opportunities for career progression into the municipal fire service. Moreover, this program allows the fire department to acquire talented individuals at a younger age than allowed by customary employment criteria for firefighter positions, and to maintain a more available supply of trained personnel when firefighter position vacancies occur.

Despite these position enhancements, some elevated turnover has occurred among personnel in this classification due to the very high working performance required in emergency situations. This same aspect has, nevertheless, served as a positive job factor for other EMT/Fire Cadets.

- *Ambulance Vehicle Types*—Through the acquisition and application of both modular and van units, department personnel intend to maintain accurate cost and performance records to evaluate these two vastly different types of ambulance vehicles. This data

will, in turn, greatly assist in the types of replacement equipment which are purchased.

- **Regional Cooperation**—The revised approach to ambulance/rescue services, as implemented in 1977, has improved the coordination of activities and, in turn, relationships among a variety of municipal, volunteer and non-profit agencies in the region. A regional, rescue services organization with multi-agency representation has subsequently emerged for the purpose of promoting cooperation and communications among member agencies.

- **Specialized Fee Schedules**—The application of incentive "waiting fees" by the municipal ambulance service has encouraged efficiency by hospitals in the processing of patients who require round-trip ambulance transportation. In considering frequent use and cost, major adjustments have occurred with regard to supplemental charges for specialized ambulance supplies.

- **Service Protocols**—Another innovative feature of the Lynchburg program focuses upon the "Pre-hospital and Inter-hospital Protocol Committee" which

was established in November, 1977. This committee is comprised of fifteen members, including physicians, nurses, staff representatives from two area hospitals, hospital "emergency room" personnel, several EMT/Fire Cadets and Fire Department administrators. To date, the committee has established service protocol procedures for EMT/Fire Cadets in the emergency medical care and ambulance transportation of patients in the following specialized circumstances: burn victims, possible spinal injuries, overdoses/poisoning, pediatric overdoses/poisoning, cardiac arrest stroke victim, attempted suicide, emotionally disturbed and dead-on-arrival.

As the municipal experience with community ambulance services expands, numerous other innovations will, no doubt, occur. Whether it be refinements to emergency ambulance dispatching, or coronary care capabilities, or other service enhancements—the Lynchburg municipal ambulance service, although in its infancy, is fulfilling an important community need in a positive and professional manner.

Places

JAMES CITY COUNTY—The County won a \$41,904 grant from the federal government to build 12 units of housing for the elderly in the Berkley district. The low income housing is being built under the auspices of the Mental Health and Mental Retardation Services Board.

MARION—Merchants recently spoke in favor of the revitalization of downtown Marion at a public hearing held by Council to discuss the Urban Development Action Grant. Citizens acknowledged the Council's help in enabling the merchants to coordinate several activities that had not been possible prior to the grant.

DANVILLE—The new Fire Station (No. 3) was recently dedicated by the City. The unique aspect of this station is its solar heating system, the first municipal building to use solar energy. The station was financed with community block grant funds at a cost of \$191,729.

BRISTOL—Two new additions in the city are nearing completion. The addition to the City Hall will include offices for the city registrar, juvenile and domestic relations court and the community development office. The expansion of the 2.3 million-gallon water reservoir should be finished this year.

It will bring the City's water storage capacity to 3.3 million gallons.

COEBURN—At a joint public hearing of the Town Council and the Planning Commission, officials were in favor of rezoning a portion of the Bondtown section for business but agreed to postpone a final vote until a larger area could be advertised for rezoning. Town Manager Terry Gibson emphasized that the rezoning was necessary in order to revitalize the Bondtown area, as did Mayor Harold Ringley.

WINDSOR—Town Council has unanimously approved an ordinance designed to deal with delapidated buildings. The ordinance will allow the Council to order a property owner to repair or remove any building or structure it feels constitutes a health or safety hazard.

HAYMARKET—Town Council voted to send a resolution to the Environmental Protection Agency requesting it to expedite approval of the facilities plan study for sewage in the Gainsville-Haymarket area. The EPA recognizes that the Town has a serious sewage problem and that the health hazard which exists should be remedied.

VINTON—Town Council authorized

Town Manager Ronald Miller to inquire about federal aid to develop a reservoir in order to set up an independent water system. Miller said the grant and loan funds are available through the Farmer's Home Administration for municipal water development by localities under 10,000 in population. In another matter, Council appointed a committee to study the feasibility of renovating the municipal building and to examine county/town fire, water and recreational cooperation.

CLARKSVILLE—Mayor Robert E. Buchanan recently thanked the Fidelity Corporation for making it possible for the Town to purchase the building they now occupy. In the near future the deed will be released to the Town, providing a savings of \$21,000. Town Manager David W. Reynal said that the \$833 savings per year can now be used to make necessary repairs to the building.

ROANOKE—City Council raised the possibility that it will sell up to \$15 million in short-term bonds to pay for several projects, including a new courthouse. The project will also provide money for storm drains, renovation of the old post office and highway improvements.



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People

Drumwright Named

GEORGE T. DRUMWRIGHT, JR. was appointed deputy county manager for human resources for the County of Henrico. He is responsible for public health, public welfare, recreation and parks, mental health and mental retardation and CETA. Drumwright first joined Henrico County as an administrative assistant in April, 1977 and has served as acting deputy county manager since July, 1978. A graduate of Old Dominion University, he also has a master's degree from The American University. Prior to employment at Henrico County, Drumwright worked for the City of Norfolk in the research division of the Department of Marketing, Information and Research as an administrative analyst. In 1975, he was promoted to intergovernmental relations coordinator, a position he held until his move to Henrico County. Drumwright's post was effective November 22.

Lambert Appointed

J. HAMILTON LAMBERT was appointed acting county executive pending appointment of a successor to Leonard Whorton, who resigned November 3. Lambert has been affiliated with the County since 1959 and has served as the assistant director of the Department of Public Works and director of General Services, among others. Lambert also served as acting county executive in 1976 prior to Whorton's appointment. Lambert received the A. Heath Onthank Award, the County's highest employee award, in 1970.

Pennino Named

MARTHA D. PENNINO, Vice Chairman, Fairfax County Board of Supervisors, has been named vice chairman of the subcommittee for Noise Abatement of the National Association of Counties (NACO) Environment and Energy Steering Committee. The appointment was made by NACO President, Charlotte Williams.

McCormick Honored

The American Public Works Association awarded **HERMAN M. McCORMICK, JR.** the Samuel A. Greeley Local Government Service Award. McCormick is the superintendent of public works for the Town of Abingdon. The

Greeley award was established to recognize public works administrators who have served a local government agency honorably and efficiently for at least thirty years. McCormick was presented the award at the APWA Awards Breakfast in Boston, Massachusetts.

Andrews Resigns

ELIZABETH L. ANDREWS, York Assistant County Administrator, resigned her post effective November 30. Ms. Andrews, who had been affiliated with the County since April, 1977, has held positions with the Virginia Association of Counties and the University of Georgia's Institute of Government. She also taught at the University of Virginia.

Front Royal Chief

Captain MILTON J. ROBERTSON, a 22-year veteran of the Falls Church Police Department, accepted the position of Police Chief of the Town of Front Royal. Captain Robertson joined the Falls Church Police Department in 1957 as a police officer and was later promoted to sergeant. His post in Front Royal was effective October 13.

Summers Elected

Virginia Assistant Chief Fire Marshal **HOWARD H. SUMMERS, JR.**, Richmond, has been reelected to the Executive Committee of the Fire Marshal's Association of North America (FMANA). FMANA, a section of the National Fire Protection Association, is comprised of more than 1,000 state, county and municipal fire marshals in the United States and Canada.

Povar Hired

TED E. POVAR, assistant city manager of Ashland, Kentucky, has been hired as assistant city manager of Emporia. Povar is a graduate of Lake Forest College in Lake Forest, Illinois and is currently working on his graduate degree at the University of North Carolina, Chapel Hill.

Murden Dies

XENOPHON D. MURDEN, retired Portsmouth director of utilities, died October 27, 1978. A native of Portsmouth, he retired from the city in 1968 after serving 51 years. Murden was a past president of the Virginia Section, American Society of Civil Engineers and of the Portsmouth Municipal Executive Club. The Virginia Municipal League extends sincere sympathy to the family of Xenophon Murden and the City of Portsmouth.

Blackmore Elected

ROB R. BLACKMORE, director of the Virginia Commission of Outdoor Recreation, has been elected President of the National Association of State Outdoor Recreation Liaison Officers. The Association, composed of the 50 state recreation directors, provides a unified state effort in presenting state views to the U.S. Congress on existing and proposed legislation, related regulations and appropriations affecting recreation programs across the nation.

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Commentary

Changes: Employee Grievance Procedure

By Mary Jo Fields,
Institute of Government,
University of Virginia

The expansion of local service responsibilities and the accompanying growth of municipal and county government have generated increasing concern with the problems of public personnel administration, particularly in the employee grievance procedures.

In 1973, the General Assembly enacted legislation requiring counties, cities and towns employing over fifteen persons to provide a grievance procedure for the impartial settlement of employee disputes. The 1978 General Assembly, acting upon recommendations submitted by a joint subcommittee studying the grievance procedure, substantially modified its scope and content. Localities must amend their procedures to comply with the changes by January 1, 1979, the effective date for the amendments.

The 1978 legislation, which supersedes charter provisions, defines a grievance and prescribes a minimum two-step procedure. Included as grievable complaints are disputes involving disciplinary actions (including dismissals, demotions and suspensions), the application and interpretation of personnel policies, complaints of discrimination and acts of reprisal resulting from the use of the grievance procedure. The required first step of the procedure is an informal processing of the complaint by the aggrieved employee's immediate supervisor. The final step must be a hearing on the grievance by an impartial, three-member panel. The locality and the employee each select a member of the panel and these two persons then select the third member. The decisions of the panel are binding. Localities may include other steps in the grievance procedure in addition to the required two. In every case, procedures must be submitted to the State Director of Personnel for approval.

Prior to the 1978 amendments, the city or town manager, the council, or, in a few instances, a civil service or personnel board had the final authority to rule on appeals of dismissals of municipal employees. The amendments to the grievance procedure will affect personnel administration in

most Virginia cities and towns; the magnitude of change, however, is not certain.

Some municipal administrators feel the required changes in the grievance procedure will make it more difficult to dismiss or discipline incompetent employees and will lengthen the already time-consuming disciplinary process. Supervisors will hesitate to take needed disciplinary actions because of a fear of the appeals process, and the end result will be the downgrading of public service through the retention of mediocre and incompetent employees. Some administrators go even further saying that the authority to dismiss and discipline employees is the cornerstone of the council-manager form of government. Allowing a grievance panel to overturn a decision to discharge an employee is, in their eyes, a serious threat to the manager's ability to administer municipal affairs. Finally, localities are prevented from finding their own solutions to local problems because of state requirements. For example, some managers advocate the use of a grievance panel with advisory powers, thereby ensuring the review of employee complaints by an unbiased body while at the same time protecting the administrator's ability to control the work force.

All administrators, however, are not opposed to the amendments to the grievance procedure. Instead, some consider them to be in tune with a progressive personnel policy. Allowing the panel to make final decisions on grievances stemming from disciplinary matters assures employees that administrators have a firm commitment to the impartial settlement of complaints. The additional powers assigned to the grievance panel do not alter significantly the lines of accountability in municipal administration and do not pose any real threat to managerial authority. Because high level officials such as department heads are not included in the procedure's coverage, the top administrator still can exercise control over persons with significant policy-making powers.

Some employees and state legislators feel the amendments to the grievance panel are necessary because no fair method for contesting dismissals presently exists. During public hear-

ings conducted by the joint subcommittee considering revisions to the grievance procedure, employees testified that arbitrary dismissals had occurred and that an impartial panel was needed to hear complaints involving disciplinary actions. In this way, employees who feel dismissals are unwarranted have the opportunity to present their cases to an unbiased body for review. Because dismissals and other disciplinary actions can have a substantial impact on the future career of an employee, some employees feel that an impartial body to review complaints is essential. Proponents of grievance panels with binding decision-making powers claim that dismissals based on just cause and backed by supporting documentation probably will be upheld by the panel. Therefore, according to this argument, the panel will not erode managerial responsibilities or make it impossible to fire a bad employee, but will protect employees from capricious action. A panel with only advisory powers, however, will not protect employees from arbitrary actions by the top administrator.

Perhaps the requirement for a grievance panel whose decisions are binding and final should be examined in the context of overall personnel management policies. Public sector employees often opt for union representation because of their perception that they do not receive fair treatment from administrators; sound personnel policies can dilute this contention. A comprehensive grievance procedure attempts to protect employees from arbitrary and capricious actions, while also enabling them to present their side of a controversy. If municipal employees perceive that they have no recourse to an impartial settlement of dismissal grievances, they may feel that their interests would be better protected in a union setting. Conceivably, the mandated grievance procedure could contribute to more stable relations between employees and administrators.

It should be made clear, however, that not all administrators agree that a grievance procedure will deter public employee unionization. In fact, some feel that the grievance panel with binding decision-making powers may

(Con't. on page 11)

Legal Guidelines

PRIVATE SCHOOLS AND A CONSTITUTIONAL RIGHT

By Howard W. Dobbins,
General Counsel

A recent case decided in Virginia which may interest local officials deals with a different subject—high school athletics.

Denis J. O'Connell High School (O'Connell), a state-accredited private non-profit Catholic high school located in Arlington County, Virginia, applied in February, 1977 for admission to the Virginia High School League, Northern Region (the League). The application was denied because the League's Constitution limits membership to public high schools.

The League is an unincorporated association of public high schools in Virginia under the sponsorship of the School of Continuing Education of the University of Virginia. The League is maintained by public funds derived in part from the University of Virginia, in part from local school boards and in part from gate receipts from League-sponsored tournaments. Private schools are excluded from League-sponsored tournaments involving such "major" sports as football, basketball and baseball although they are invited to participate as a distinct class in certain statewide tournaments, such as those involving tennis, debating and speaking.

O'Connell brought suit against the League pursuant to Section 1983, 42 U.S.C., alleging that the League's refusal to admit O'Connell on the sole basis that it is a private school was an arbitrary classification in violation of the Equal Protection Clause of the Fourteenth Amendment and alleging further that as a result of this exclusion, O'Connell's students' choice of private education denies them the right to compete on a tournament level in major sports, thus placing them in a less favorable competitive position than public high school students who receive athletic scholarships, professional bonuses and other benefits that accrue to gifted athletes.

At the trial in the United States District Court for the Eastern District of Virginia, the League asserted that because O'Connell had not been deprived of any federally protected right

there was no federal question presented to support federal jurisdiction under 28 U.S.C. §1343. Secondly, the League argued that its limitation of membership to public schools is rationally related to the League's interest in enforcing its eligibility rules concerning transfer students; the League then presented testimony to the effect that, because public schools draw students only from strictly defined zones, whereas private schools are not so limited, the League's transfer rules would be difficult to enforce with respect to private schools. Further, the League argued that admission of O'Connell, a parochial school, into the League would violate the Establishment Clause of the First Amendment. The District Court refused to accept any of the League's arguments and enjoined the League from denying O'Connell the membership it sought.

On appeal (*Denis J. O'Connell High School v. Virginia High School League*, 581 F. 2d 81, August, 1978), the Circuit Court of Appeals (majority opinion written by Justice Donald Russell) concluded that the gravamen of the case was the right of private school students to be treated similarly as public school students with regard to interscholastic competition without any rational basis for distinguishing the two classes of students. Moreover, the Court stated that such a claim of denial of equal protection by state action unless unsubstantial and frivolous would normally be under the District Court's jurisdiction under §1343. Determining that under the facts the claim was not unsubstantial or frivolous, the appellant court held that the District Court properly took juris-

diction. However, the appellant court did agree that the League's contention that there was a rational basis for limiting membership to public schools and therefore reversed the District Court on this basis. The Court of Appeals concluded that the District Court erred in failing to give credence to the League's assertion that public and private schools lack similar attendance zones and determined that the lack of specifically defined drawing areas with respect to many private schools would create difficulties in the enforcement of the League's transfer rule. Without an adequate transfer rule a student could presumably transfer back and forth between schools without suffering ineligibility, exposing himself to pressures and temptations against which the League attempts to protect its students.

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FALL WORKSHOPS

The Virginia Municipal League sponsored two workshops for local elected officials and staffed a workshop for town and city managers.

The LENOWISCO District Local Officials Workshop was held November 1-2. Officials were from the counties of Lee, Scott and Wise, the towns of Appalachia, Big Stone Gap, Coeburn, Gate City, Pound and St. Paul and the City of Norton. The first one of its type in the State, the workshop was co-sponsored by the LENOWISCO Planning District Commission and Virginia Polytechnic Institute and State University. Coeburn Town Manager Terry L. Gibson also provided assistance in planning the workshop.

The Shirtsleeve Session, a roundtable discussion for mayors and councilmembers, was held in Waynesboro on November 9-10. Gordonsville Mayor Arlie Payne was the facilitator and the localities of Elkton, Winchester, Grottoes, Staunton and Waynesboro were represented.

On November 2-3, the Managers Interchange Workshop was also held in Waynesboro. Charles Yancey, City Manager, Waynesboro, was the facilitator. The Interchange program is an informal workshop for the town and city managers who serve populations of less than 50,000. Managers from Staunton, Manassas, Bristol, Winchester, Elkton, Buena Vista, Clifton Forge, Culpeper and Lexington participated. Originally funded through a grant from the Intergovernmental Personnel Act, the workshop is now sponsored by the Virginia Section, International City Management Association and staffed by the League.

(COMMENTARY con't.)

be unnecessary in Virginia because of the professionalism of municipal administrators in the Commonwealth. In highly politicized localities, employees need the protection offered by grievance panels, but this situation does not apply in Virginia.

Literature on public personnel administration stresses the role of a

grievance panel as a safety valve for the expression of employee irritations and misunderstandings. Management actually can use the grievance procedure to pinpoint problem areas in personnel policies. Whether a grievance panel having the authority to make binding decisions will contribute to improved employee relations in Virginia remains to be seen.

LGOD Day

Local Government Officials Day will be held on Friday, February 2 at The John Marshall Hotel, Richmond. The conference coincides with the Governor's Prayer Breakfast and will feature key legislative speakers. The format of the League's mid-winter conference also allows local officials to meet with their representatives in Richmond. For more information, contact Brad Harnes, VML office.

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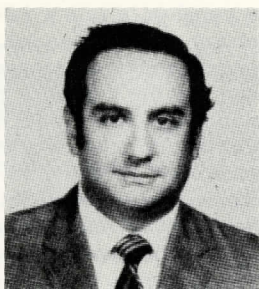
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DEEB TO LEAVE

MICHAEL S. DEEB, Research Director, with the Virginia Municipal League since 1971, has resigned his position with the League. As Research Director his responsibilities included the preparation of studies, reports and surveys and providing general information and technical assistance to member localities. In addition, he conducted a number of training programs for local government officials, and staffed three of the affiliate organizations of the VML—the Virginia Association of Chiefs of Police, the Virginia Building Officials Association and the Virginia Weights and Measures Association. A noted author, his articles on various local government issues have appeared in a number of state and national publications. Deeb received a bachelor's degree from the University of Rhode Island and a master's degree from the University of Connecticut. Prior to his employment at the League, he served as research assistant and executive assistant at the Institute of Government, University of Virginia, Charlottesville. Mr. Deeb plans to continue work in local government.



NICHOLS NAMED

MARGARET A. NICHOLS, VML administrative assistant since June 1975, has been promoted to Staff Assistant by League Director R. L. DeCair. In her new responsibilities, Ms. Nichols will serve as office manager and assist in coordinating the activities of the VML affiliated organizations. She will also continue to serve as the chief financial officer. Prior to her affiliation with the VML, she was employed by Bank of Virginia Mortgage Corporation. Her new League position was effective November 6.

ARSON PROGRAM

The Virginia State Crime Commission is sponsoring a statewide series of the workshop entitled "Arson Awareness Program". This seminar is aimed at public safety officials and the business community. Funded by a federal grant, the first workshop will be held January 11, 9:00 a.m.—1:00 p.m., Technology Building, Old Dominion University, Norfolk. The speakers are Wyatt G. O'Neal special agent, Insurance Crime Prevention Institute; Robert Wetherington, chief arson investigator, State Crime Commission; and Samuel S. Cobb, Jr., assistant director, Tidewater Regional Police Academy and formerly affiliated with the Norfolk Fire Department. For further information, contact Craig McCormick or Charlotte Kingery, VML office.

New Councilmembers

Glade Spring Council appointed **TRULA BROWNING** to fill the position on Council left vacant by the death of Thomas R. Sawyers. **RONNIE BOYD** is the newest member of Madison Town Council.

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MANKATO, MINNESOTA (31,900), has completed an experiment in which a telephone company computer automatically reads gas and water meters over telephone lines. While the field trial has proven that such a system can operate successfully, economic considerations do not make it practical at present. (Contact: City Manager, 202 West Jackson Street, Mankato, Minnesota 56001.)

DAVIS, CALIFORNIA (33,000), has incorporated energy conservation requirements into its building code to ensure the use of conservation techniques in the development of residential structures. (Contact: Building Official, 226 F Street, Davis, California 95616.)

CLEMSON, SOUTH CAROLINA (6,000), has replaced full-size police and fire sedans with subcompacts to

improve gas mileage and lower maintenance costs. (Contact: City Administrator, City Hall, Clemson, South Carolina 29631.)

CHULA VISTA, CALIFORNIA (68,000), has purchased a telephone answering device to handle requests for building inspections 24 hours a day. This reduces the number of inspection calls in the first hour after the office is open. Chula Vista has also established a two-way communications system between the inspectors' vehicles and the office. (Contact: Director of Buildings and Housing, City of Chula Vista, Chula Vista, California 92010.)

WORTHINGTON, OHIO (16,500), has converted an infrequently used three-wheel scooter into a valuable piece of equipment for summer use. A small trailer attached to the scooter hauls lawnmowers and related equipment

to neighborhood playgrounds. (Contact: Director of Services, 380 Highland Avenue, Worthington, Ohio 43005.)

WILLINGBORO, NEW JERSEY (43,000), uses a "disk harrow disk", a device which is attached to the front end bucket of a backhoe, enabling efficient and neat removal of grass, weeds and debris from curb sides. (Contact: Town Manager, Municipal Complex, Salem Road, Willingboro, New Jersey 08046.)

OXFORD, OHIO (15,900), keeps hand trimming and mowing to a minimum by placing wood chips around trees and bushes on public property. The use of wood chips produces an attractive visual effect and reduces the need for maintenance in these areas. (Contact: City Manager, Municipal Building, Oxford, Ohio 45056.)

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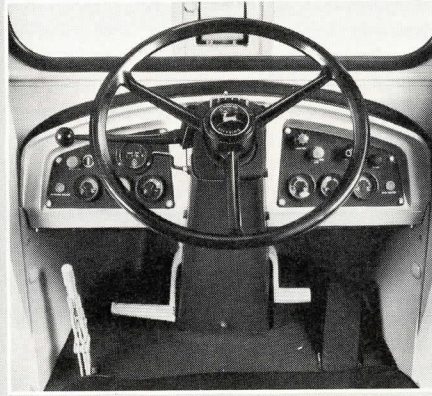
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