

Virginia Town & City

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AUGUST 1983
NUMBER 8

Conference Information & Registration Inside

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The Attorney General's Law Conference

Inside:

- A Conflict of Interests Guide
- VML Policy Update
- Conference Registration and Information



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On the Cover:

The Attorney General Gerald L. Baliles addressed elected officials, municipal administrators and local attorneys from approximately 50 localities who attended the second annual Attorney General's Law Conference, co-sponsored by the Attorney General's Office and by the Virginia Municipal League.

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Commentary

The Challenge of Economic Development

By Carl Marshall

As economic conditions in the United States and around the commonwealth have become increasingly important to government leaders and administrators, more public attention has focused on problems associated with economic development and the proper role of national, state and local governments in this important policy area. This is illustrated by the increasing prominence of economic development issues in state and local elections across the country. Officials responsible for formulating effective public policy in economic development must be aware of the complexity of public and private sector relations and the importance of such key factors as incentive programs, the availability of suitable land resources, accurate community profiles and the necessity for dedicated and energetic program administrators.

Ways in which Virginia's policy-makers, at both state and local levels, have addressed issues surrounding the quest for economic prosperity have been as varied as the state's geographic, cultural and economic diversity, however, some general observations can be made.

First, localities concerned with promoting a community's financial health through local development efforts have identified some basic requirements for a successful economic development program. Chief among these are the following:

1. A community's chances for success are enhanced greatly if action can be taken to create a diversified economic structure. This is especially true in rural areas where single industry economies are vulnerable to dramatic changes in a narrow market. At the same time, one does not have to look far to find urban areas that are being con-

fronted by the disastrous consequences of an economy too heavily dependent on a limited economic base.

2. Localities must pay careful attention to the adequacy of their infrastructure if they want to attract new business and industry. The condition of a locality's existing water, sewer and transportation systems also will affect directly the capacity of existing business and industry to expand their facilities.

3. A recognized need exists to build public confidence about the advisability of government increases in funding for development activities in the face of rather uncertain national and local economic forecasts. While this situation may be alleviated if the economy continues to show signs of improvement, the questions of how much public assistance should go toward economic development activity and what form that aid should take will probably remain topics of discussion in the coming months.

4. Public and private sector cooperation is perhaps the most important factor in the success of economic development efforts. Mutual trust and open communication must exist if good relations are to be forthcoming. Some communities have difficulty fostering such relations, but their importance can hardly be overemphasized.

There is the danger, however, that communities might overextend the welcome they hold out for business. Localities could face unexpected problems if their economies expand too rapidly. Too rapid expansion can place severe strains on local schools, police and fire protection agencies and health care facilities unable to accommodate a large increase in population.

A second general observation is that certain industries offer greater promise to localities than others in terms of growth potential and therefore should be given greater consid-

eration. According to the Virginia Division of Industrial Development, the push to reindustrialize has been greatest in the fields of fabricated metals and electronic machinery. Metal works and the machine tools industries have received a good deal of attention recently and could be a lucrative revenue source for localities.

For the future, moderate growth is expected in the plastics and printing industries, while textiles and the apparel industry are not expected to show significant expansion. Real prosperity is foreseen for retail trade and services, and transportation, fabricated metals and food processing currently are expanding and are predicted to do so through 1990. In addition, the electronics industry, according to Labor Department statistics, will see continued increases in output and employment as the manufacture of components and electronic measuring devices continues to grow. The manufacture of medical and dental instruments also is expected to show gains.

Some industries, such as chemical production, should be viewed with caution by localities because of high energy requirements. Manufactured housing is struggling to recover from a recent slump and is not expected to fare well in the near future. Pharmaceuticals are expected to show improvement, however, as the population ages and the government relaxes restrictions on testing and marketing new drugs. All of these various industries presently are represented within the commonwealth.

The state's Division of Industrial Development is an active partner in the effort to promote Virginia's localities as attractive business and industrial centers. The division's 1982-83 fiscal year budget allocation for advertising was \$512,000. Many localities have not been content to allow the division to carry the responsibility for an effective

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About the Author

Carl Marshall is a graduate assistant at the Institute of Government, University of Virginia.

Environmental Planning

The EASe of It All

Environmental impact. These two words can bring a sigh of frustration as well as quite a few resulting headaches to many council members and land use planners. Environmental impact studies and controversies can stall projects and cost tremendous sums of money. Relief may be at hand however.

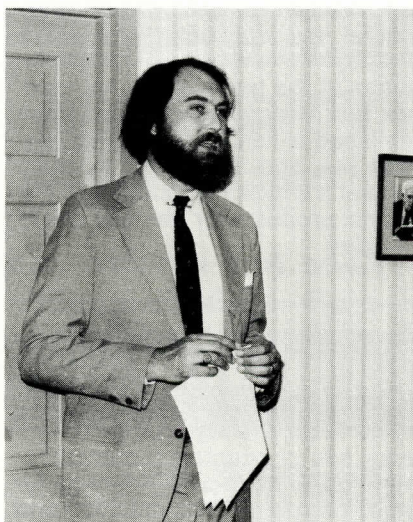
The city of Richmond and the University of Virginia have been working together in the development of a decision support system to assist local governments on environmental issues. They call it EASe, the Environmental Advisory Service.

The purpose of the service is to provide a means for reviewing industrial, commercial and residential development proposals in order to alert local planners to any potentially serious adverse environmental impacts. Charles T. Peters Jr. and Frederick A. Rodammer of Richmond's Department of Planning and Community Development, and K. Preston White Jr. of the University of Virginia's Department of Engineering Science and Systems talk about the development of the EASe system and how it works in the following article.

The concept of an environmental planning service began as a vague desire to address environmental issues consistently in the normal course of local land use planning. Given the national agenda for local initiatives, developing a systematic process for environmental review at the local level appeared to be a timely and potentially significant undertaking. Devising a practical means to accomplish this end would clearly be a challenge. It was apparent at the outset that local planning agencies typically are not adequately sized or staffed to undertake the time consuming and technically demanding task of environmental impact analysis. Adding to the challenge was the recognition that environmental issues could not be addressed in isolation. An acceptable process for review would need to envision tradeoffs between environmental quality and

a myriad of legitimate, competing local concerns.

EASe embodies a seriated procedure which offers guidance and a consistent framework for local review of industrial, commercial and residential development proposals. The procedure begins with a qualitative initial screening of proposals. This screening is fast, efficient, comprehensive and consistent. Consideration of the multiple objectives of local land use planning and the assumption that the planner



Charles T. Peters Jr. spoke to the Environmental Quality Policy Committee about the EASe procedure.

does not have technical expertise in environmental impact assessment are incorporated into the procedure.

If this initial screening alerts the planner to one or more potentially serious adverse impacts associated with a development project, the EASe procedure triggers one of several secondary review alternatives. These include provision for clarification and detailed investigation of suspected problems as well as the search for strategies and countermeasures aimed at resolving or mitigating unwanted impacts of otherwise desirable projects.

This "quick and dirty" initial review generates an overall score for a proposal, a set of sub-scores re-

lated to individual impact dimensions, and a priority listing of individual impacts that are potentially serious. Using this information, the planner can then classify the proposal into one of four categories for disposition under EASe.

Type 1 proposals are those with high overall scores, with uniformly high category scores and without serious individual impacts. These proposals are recommended to the city planning authority for immediate approval without further action. Type 2 proposals are those with high overall desirability, but with either an unusually low category score or with one or more identifiable adverse impacts. Under EASe, these proposals receive a second review to determine the seriousness of the perceived problems and to explore strategies and countermeasures that might mitigate the unwanted impacts. Often this second review will lead to negotiations with the developer in order to resolve the problem. A favorable second review or successful negotiations for mitigation will ultimately lead to reevaluation of the proposal and to a recommendation for its approval.

Type 3 proposals are those with low overall desirability or those which raise significant uncertainties concerning a range of impacts. Under EASe, Type 3 proposals (together with unresolved Type 2 proposals) result in requests to the developer from the planning agency for additional justification for the project. These requests for information are focused on and relate to problem areas elicited during screening. In extreme cases, a request might call for technical data such as that required in an environmental impact statement. A second review based on newly developed information would then result in either a favorable or unfavorable recommendation. Finally, Type 4 proposals are those which are found to be so wanting that the proposed project is clearly undesirable. Type 4 proposals are recom-

—Continued on page 10—

Preventive Medicine

"An ounce of prevention is worth a pound of cure," Attorney General Gerald L. Baliles told local officials and attorneys attending the Attorney General's Law Conference June 29 in Richmond.

The meeting was the second annual law conference co-sponsored by the Virginia Municipal League and the Attorney General's Office and was perhaps most significant in light of its appropriate timing.

The conference focused on the new Comprehensive Conflict of Interests Act which went into effect July 1, 1983, and which is applicable to every public officer or employee in local government. The new "comprehensive" law replaces the previous Virginia Conflict of Interests Act effective since 1970.

"The law needed changing," said Baliles. "Government officials of high quality and character, men and women of integrity, were confused over the standards of ethical conduct under the old conflicts law and concerned over potential personal and professional embarrassment and liability."

"What has been produced," he said, "is a tougher act, one that is more comprehensive, more realistic and more enforceable."

The new law is an effort to deal with the concerns of local officials

and to clarify the objectives of high standards and clearer standards of ethical conduct in government as set forth in the original legislation, said Baliles.

Conflict of interests is an area in which the Virginia Municipal League and the Attorney General's Office have taken an active interest. In 1982, the attorney general convened a series of law conferences on the subject for state and local officials. Advisory letters were sent to members of state boards, agencies and commissions and the attorney general met with commonwealth's attorneys to review their responsibilities at the local level. Last summer the Attorney General's Office published a handbook on the conflicts law, and it was the Attorney General's Office that submitted the original proposal for the new law to

"The law needed changing. Government officials of high quality and character . . . were confused over the standards . . ."

Gerald L. Baliles

the 1983 General Assembly.

The VML during the past two years has conducted a number of briefings on conflict of interests for local officials and has prepared and distributed substantial written materials on the former and the new

conflicts law. VML Executive Director R. Michael Amyx and Staff Attorney Clay L. Wirt co-authored the chapter on the Virginia Conflict of Interests Act for the "Virginia Local Government Attorney's Manual" published by the Municipal Code Corp. of Tallahassee, FL. In addition, the league was active in the

legislative process for the new conflicts act.

"The new law is the product of research and reflection," said Baliles. "Have the objectives been met? Only time will tell."

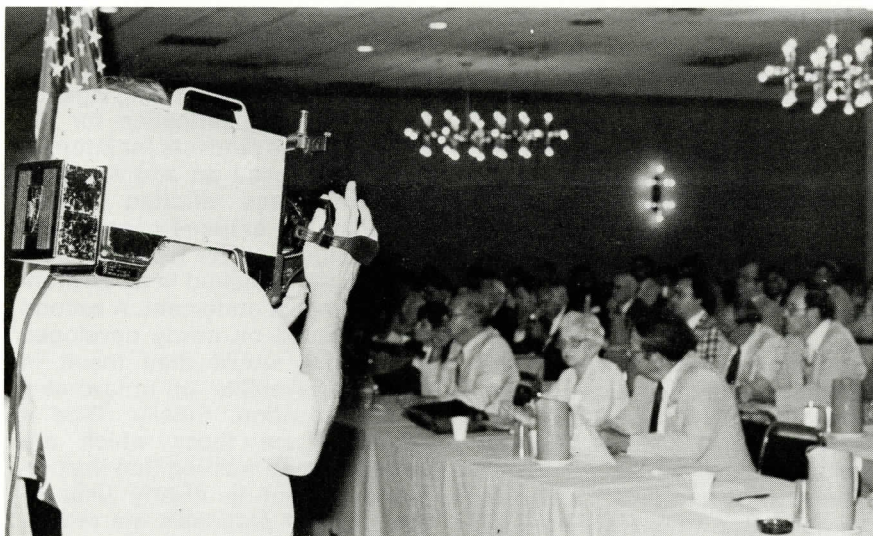
Baliles called the major thrust of the conference "one of preventive medicine, of anticipating legal problems and addressing them, when possible, without resort to costly and time-consuming litigation."

The day-long conference also dealt with other issues of concern to local officials—personal liability, freedom of information requirements, new rules for public purchasing and antitrust liability.

Francis C. Lee, senior assistant attorney general, reviewed the new conflict of interests act in detail and responded to questions from the audience. Assistant Attorney Generals John A. Gibney Jr., Vicki A. Leonhard and Craig Merritt as well as Senior Assistant Attorney General J. Westwood Smithers Jr. presented the other topics of the conference.



Francis C. Lee



The news media was also on hand at the law conference.

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Plan to Attend the 1983 VML Conference

James City County will host the 1983 VML Conference and the Williamsburg Hilton and National Conference Center will serve as conference headquarters. Other conference hotels include the nearby Fort Magruder Inn, the Best Western Williamsburg and the Quality Inn at Kingsmill. All are conveniently located on Route 60 East.

The deadline for reservations is **WEDNESDAY, AUGUST 17**, so if you haven't already made your room reservations, please do so immediately. Reservations may be made by contacting the following:

Williamsburg Area Tourism and
Conference Bureau
P.O. Box GB
Williamsburg, Virginia 23187
(804) 253-0192

Conference registrations are encouraged in advance, but can be made at the door. Many localities

designate one official to coordinate registration, so contact your clerk or manager concerning the registration procedure for your locality to avoid duplication. Registration this year costs \$90 for members, \$100 for non-members and \$40 for a spouse or guest and includes all conference activities except the ICMA Luncheon, the Prayer Breakfast and some guest activities. Partial registrations are also available at various rates (see the registration form).

Social functions during the conference will include cocktail receptions Sunday and Tuesday evenings, an enjoyable evening at the Busch Gardens Old Country Festhouse Monday evening planned by James City County, the host locality, and the banquet Tuesday evening which will feature the presentation of the 1983 VML Achievement Awards. There will be no planned luncheons this year, other than the

ICMA Luncheon, to allow guests an opportunity to sample the many fine restaurants in the area. More details on the conference and the guest's program will be included in the September issues of the VML LEAGUE LETTER.

Speakers will include the Honorable Mills Godwin E. Godwin Jr., former governor of Virginia, who will give the keynote address at the opening session; Robison B. James, professor of theology at the University of Richmond and former member of the Virginia House of Delegates, who will speak at the Prayer Breakfast; and Patrick Buchanan, syndicated columnist and prominent staff member in the Nixon White House, who will speak at the banquet.

The 1983 conference promises a rewarding mix of business, pleasure and education. Register today and plan to attend.

- Conference Schedule -

SUNDAY, SEPTEMBER 18

2:00 p.m. REGISTRATION
to
6:00 p.m.

3:00 p.m. **Legislative Committee**

5:00 p.m. **Nominations Committee**

5:00 p.m. EXHIBITS OPEN
to
7:00 p.m.

6:00 p.m. **Opening Reception**
to
7:00 p.m.

MONDAY, SEPTEMBER 19

7:30 a.m. **Women in Local Government Breakfast**

8:00 a.m. REGISTRATION AND EXHIBITS OPEN
to
4:00 p.m.

9:30 a.m. OPENING SESSION
to
11:30 a.m. Keynote Address
Hon. Mills E. Godwin, Jr.

11:30 a.m. **Lunch On Your Own**
to
1:30 p.m.

12:00 noon **ICMA Luncheon**

MONDAY, cont'd.

1:30 p.m. CONCURRENT SESSIONS

VMGSIA Annual Meeting
Cash Management for Small Towns
Administrative Analyst Workshop
Crisis in Education
Building Code and Rehabilitation

3:15 p.m. CONCURRENT SESSIONS

Virginia PRIMA Workshop
Conflict of Interests for Small Cities and Towns
Drafting Town Ordinances
Quality Circles
Municipal Bond Registration
Manufactured Housing

6:00 p.m. **Host Locality Event**
Busch Gardens, Old Country Festhouse

TUESDAY, SEPTEMBER 20

7:30 a.m. **Prayer Breakfast**
Robison B. James

8:00 to 12:00 Noon EXHIBITS OPEN

10:00 a.m. **Section Workshops**
to
11:30 a.m. Urban, City and Town

11:30 a.m. **Lunch On Your Own**
to
1:30 p.m.

1:30 p.m. CONCURRENT SESSIONS

Cable TV Deregulation
State Budget for 1984-86
Computer Application Development
JLARC Study of Local Government

3:30 p.m. **Business Session**

6:30 p.m. **Reception**

7:30 p.m. **Awards Banquet**
Featured Speaker—
Patrick Buchanan, Syndicated Columnist

1983 VIRGINIA MUNICIPAL LEAGUE ANNUAL CONFERENCE REGISTRATION FORM

NAME _____

TITLE _____

LOCALITY/AGENCY/FIRM _____

ADDRESS _____

CITY _____ STATE _____ ZIP _____

Spouse Attending? YES _____ NO _____

First Name of Spouse _____

Guest Attending? YES _____ NO _____

Name(s) _____

Please circle appropriate registration amount:

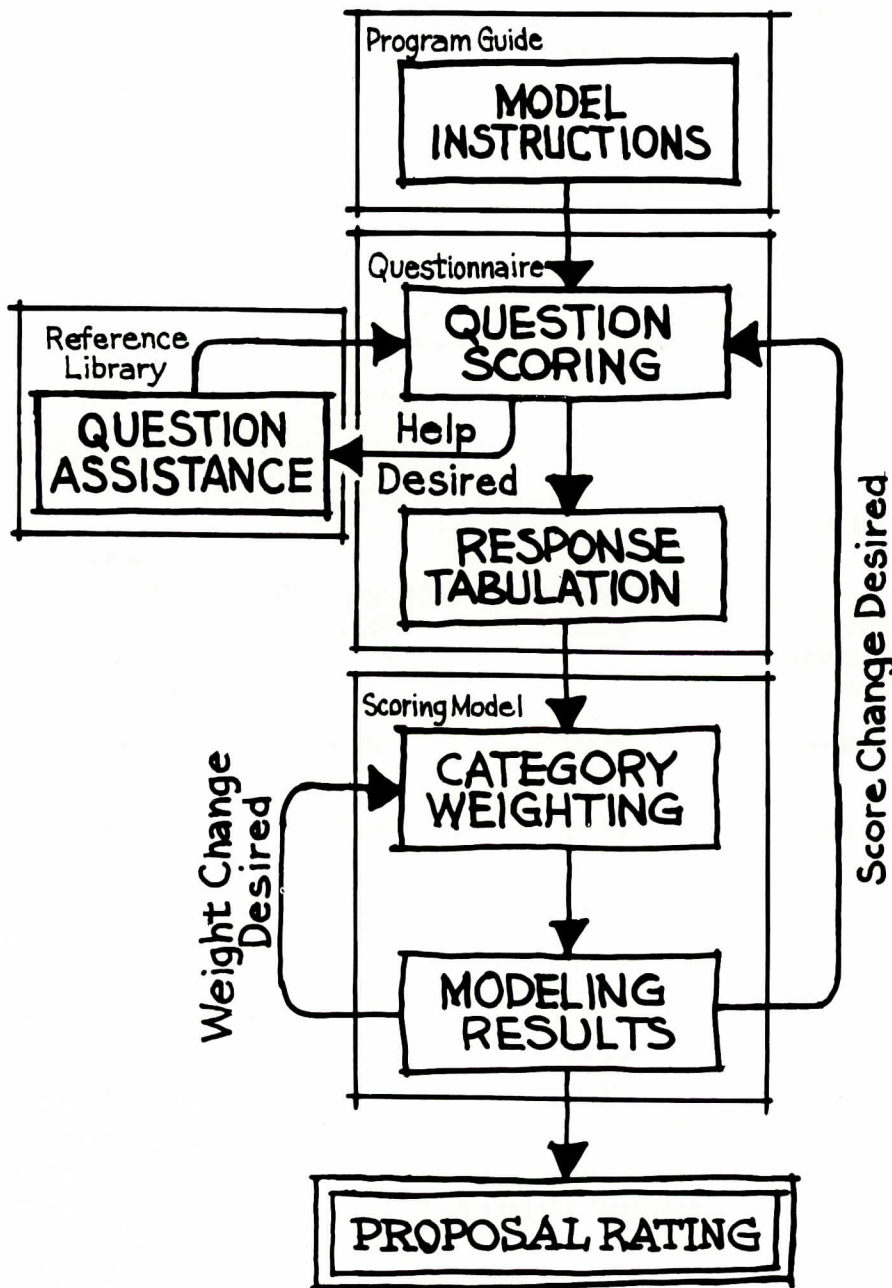
	MEMBER	NON-MEMBER	GUEST OR SPOUSE
PACKAGE REGISTRATION —includes activities for Sunday, Monday and Tuesday except ticketed functions listed below	90.00	100.00	40.00*
SUNDAY ONLY —includes all activities except ticketed functions listed below	25.00	35.00	15.00*
MONDAY ONLY —includes all activities except ticketed functions listed below	40.00	50.00	15.00*
TUESDAY ONLY —includes all activities except ticketed functions listed below	40.00	50.00	25.00*
TICKETED EVENTS			
ICMA Luncheon (Monday)	13.00		
Prayer Breakfast (Tuesday)	8.00	8.00	8.00

*Some guest activities may require an additional fee.

TOTAL CIRCLED AND ENCLOSED \$_____. AMOUNT TO BILL \$_____.

(Return completed form to Virginia Municipal League, P.O. Box 753, Richmond, Virginia 23206)

RATING A PROPOSAL USING THE SCREENING MODEL EASe



EASe

—Continued from page 5—

mended for disapproval without further action.

The EASe screening model plays a critical role in the environmental review process. Its importance is derived more from its pivotal position in the process, however, than from any inherent complexity or great sophistication. In truth, "EASe screening model" is a rather fancy name for what ultimately resembles an automated game of twenty (or in this case forty-seven) questions.

The model consists of four elements: a program guide, an environmental questionnaire, a reference or "help" library and a scoring submodel. A planner can use the system after reading the instructions and gaining some familiarity with the purpose and ground rules of the process.

The questionnaire consists of questions about the environmental and economic impacts of the proposed development project. Each question is related to a specific urban-environmental concern and questions are grouped into one of seven general categories or impact areas. These range from environmental concerns such as air quality to aesthetic concerns such as development in a historic area.

Responses range on a six point scale from "negative impact: project requires change" to "no impact or potentially beneficial impact: excellent project." If the planner is unsure of the response to a particular question, he can consult the model reference "help" library which provides more detail on the intent of the question and the meaning of the six responses. The library also contains a limited catalogue of information resources and contact agencies.

Any numerical rating system certainly must be interpreted with some caution, however, primarily because the precision typically associated with numbers can obscure the subjective nature of the judgment. In spite of this criticism, the numerical rating system appears valuable and is similar to the one used by the Department of Housing and Urban Development.

When fully developed, EASe will assist localities by providing the capability to anticipate present and long-range consequences of planning and development initiatives. The service will provide guidance in identification of policies, programs

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A Local Government Guide To Conflict of Interests

By Francis Lee and Clay Wirt

As an officer or employee of local government, you need not go around in the dark about how the new Comprehensive Conflict of Interests Act applies to you. You can not be prosecuted under this act for any action entered into (after a full disclosure of the facts) in reliance on a written opinion from your commonwealth's attorney that such action would not constitute a violation of the act. If you have any doubt whether your actions will violate the act, you are, therefore, encouraged to obtain a written opinion from your commonwealth's attorney before proceeding. We also suggest you inform your local government attorney before seeking an opinion. He or she could provide helpful feedback as you prepare a full disclosure of the facts.

The Comprehensive Conflict of Interests Act (hereafter the act) supersedes all general and special acts of the Virginia Code and any town and city charter provisions or ordinances which purport to deal with matters covered by the act. The act is "comprehensive" in the sense that no other public law establishes additional ethical standards in the area of conflict of interests.

You should be aware also that the act does not prohibit all conflict of interests between you and your local government. The act, in establishing a minimum standard of conduct for you, simply sets forth rules of inappropriate conflicts in your capacity as a local government officer or employee.

It is the intention of the General

About the Authors

Francis Lee is a senior assistant attorney general and is recognized as an authority on the new Comprehensive Conflict of Interests Act. He worked extensively on the development of both the old Virginia Conflict of Interests Act and the new comprehensive act and has addressed local government officials on the subject numerous times.

Clay Wirt, as staff attorney for the Virginia Municipal League, was also active in the legislative process developing the new comprehensive act and has spoken and written on the subject numerous times.

Assembly that this act be liberally construed to accomplish its purpose and that any exception or exemption to its applicability be narrowly construed. You need, therefore, to be conservative in your interpretations of the act. If you are wrong, it does not appear that you will be given the benefit of the doubt.

Definitions

Knowledge of the definition section of the act is critical to understanding the act. Article 1 defines nine terms: officer, employee, governmental agency, advisory agency, contract, transaction, personal interest, personal interest in a contract and personal interest in a transaction.

Personal Interest

The definitions dealing with "personal interest" are undoubtedly the most important. These definitions replace the term "material financial interest" used in the former conflicts act.

As an officer or employee of local government, you have a "personal interest" if a personal and financial benefit or liability accrues to you, your spouse or any relative residing in your household. Under the act, such "personal interest" exists by reason of: ownership in real or personal property, tangible or intangible; ownership in a business entity; income from a business entity; or personal liability on behalf of a business entity.

However, your interest in a business entity will not rise to a "personal interest" if you meet any of the following criteria:

- your ownership interest is 3 percent or less of the total equity
- your liability on behalf of the business is 3 percent or less of the total assets
- your annual income and/or property or use of such property is \$10,000 or less or may reasonably be anticipated to be \$10,000 or less including dividends and interest.

You have a "personal interest in a contract" if you, your spouse or any relative residing in your household

is a party to the contract or has a "personal interest" in a business entity which is a party to the contract.

You have a "personal interest in a transaction" if you, your spouse or any relative residing in your household has a "personal interest" in any matter considered by your governmental agency. This will be deemed to exist where the personal interest is the subject of the transaction, or will benefit or suffer from the action of your agency considering the transaction.

A "personal interest in a transaction" will also exist if you, your spouse or any relative residing in your household has a "personal interest" in a firm that represents any entity which is the subject of the transaction, or will benefit or suffer from the action of the agency considering the transaction.

Prohibited Conduct of an Unethical Nature

Article 2 sets forth prohibited conduct of an unethical nature and applies to all officers and employees in local government whether paid or volunteer.

You would probably know the prohibitions set forth in this section were wrong even if they were not listed in the act. For example, you can not use confidential information acquired by reason of your public position for your own economic benefit. Also, you may not accept any gift that might reasonably tend to influence you in the discharge of your public duties. (The act makes it clear that this limitation on gifts does not apply to campaign gifts actually used in your campaign or for constituent service.)

Limitations On Contracting With Your Own Local Government

Article 3 regulates contracting with your local government.

Officers and Employees of Advisory Agencies

If you are an officer or employee of an advisory agency (e.g. a study group or the planning commission),

—Continued on next page—

Conflict of Interests Facts You Should Know

1. July 1, 1983 was the effective date of the new Comprehensive Conflict of Interests Act passed by the 1983 General Assembly.

2. The new act supersedes the previous Virginia Conflict of Interests Act, 2.1-347 to 357, Code of Virginia, which became law June 25, 1970. The new act restructures and revises the former act. It is the general consensus that the new act is better organized and easier to read and understand.

3. The Comprehensive Conflict of Interests Act applies to all public officers and employees in local and state government as did the prior law. This includes officers and employees of independent agencies, authorities and advisory boards.

4. The standards of conduct vary for different classes of government officials. At the local level mayors and council members have the highest standards. They have the greatest number of prohibitions against contracting with their own governments and the most requirements regarding public disclosure. Members of advisory boards have fewer requirements. They are not, for example, prohibited from contracting with the county, city or town they serve.

5. Any action taken prior to July 1, 1983 remains under the governance of the former act.

6. The new act supersedes all general and special acts of the Virginia Code as well as town and city charter provisions and ordinances which purport to deal with matters covered by the act. In other words, your locality will no longer have the authority to impose higher ethical standards than those set forth in this statute.

7. Any local government officer or employee cannot be prosecuted under the new act for any action entered into (after full disclosure) in reliance with a written opinion of the commonwealth's attorney. Commonwealth's attorneys have a statutory duty to give advisory opinions. Opinions from sources other than commonwealth's attorneys will not protect you from future prosecution.

8. A copy of the entire act may be found in the 1983 supplement to the Code of Virginia, Section 2.1 - 599 to 2.1 - 634.

you are exempt from the requirements of this section.

Members of Local Governing Bodies

If you are a mayor, a council member or a member of a county board of supervisors, you are prohibited (subject to the exceptions noted below) from entering into any of the following contracts:

- Any contract with your own governing body.
- Any contract with any governmental agency which is a component of your local government subject to the ultimate control of your governing body.
- Any contract (other than in a contract of regular employment) with any other governmental agency if your governing body appoints a majority of members of the governing body of the other agency.

A business in which you have a "personal interest in a contract" also will be prohibited from contracting with your local government in each of these same three situations. For example, if you, your spouse or any relative residing in your household has a combined interest of at least 3 percent in a firm, the firm may not enter into a contract with a school board if the school board is appointed by your governing body. It makes no difference if you seek to abstain from voting.

All Other Officers and Employees

If you are an officer or employee other than a member of the governing body of your locality or an advisory agency, you, your spouse or any relative residing in your household is prohibited (subject to the exceptions noted below) from entering into any of the following contracts with your locality:

- Any contract with the agency of which you are an officer or employee—except of course your employment contract. (If you work in the public works department, you cannot contract with the public works department.)
- Any contract with any governmental agency which is a component of the same local government unless the contract is awarded (a) in compliance with competitive principles as required by the Virginia Public Procurement Act or (b) after a finding in writing by the administrative head of the agency you are contracting with that such competitive principles are not in the best interest of the public. (If you work for the public works department you may contract with the

fire department upon satisfying the conditions of this section. Other provisions of the act will require you also to disclose your personal interest and to disqualify yourself from participating as a public officer or employee in any aspect of the decision to contract.)

Any business entity in which you have a "personal interest in a contract" will also be prohibited from contracting in each of these situations.

Exceptions

For various public policy reasons several exceptions to each of the rules outlined above have been included in the act.

Smaller localities have one of the larger exceptions. In towns and cities less than 10,000 in population, officers and employees may contract with their local government when the total of such contracts in any year does not exceed \$10,000. The limit is \$25,000 if made on the basis of sealed bids. In all localities there is an exception for individual contracts under \$100.

Additional exceptions also are included for the following:

- goods or services offered to the general public at uniform prices
- sale, lease or exchange of real property
- publication of official notices
- mere employment by an officer or employee (or his or her spouse or relative living in the household) by an outside firm provided he or she does not participate and has no authority to participate in the letting of such contract on behalf of the contracting firm or on behalf of his or her own agency
- contracts with public service corporations, financial institutions or companies furnishing public utilities
- contracts entered into prior to July 1, 1983 as long as such contracts were in compliance with the former conflicts act.

Family Members Working for the Same Local Government

Rules for family members working for the same local government are also set forth in Article 3.

If you are a mayor, council member or supervisor of a county board, your spouse or a relative residing in your household may not be employed by an agency which is a component of your local government unless employment began prior to your becoming a member of the governing body. But if you are some other officer or employee of

local government your spouse or relative may work for the same local government as long as you do not exercise any control over his or her employment or employment activities and as long as you are not in a position to influence employment activities. Employment contracts entered into prior to July 1, 1983 which were in compliance with the former Conflict of Interests Act are governed by the former act.

If you are a school board member or a superintendent of schools, you should study Article 6 of the act. This article sets forth special rules which prevent immediate relatives of school board members and superintendents from working in your same school system unless employment began prior to your taking office. This basic rule for public schools has been in the Virginia Code for many years.

Conduct Regarding Transactions

The term "transaction" is a much broader term than the term "contract." Transactions include contracts as well as zoning actions and "any kind of matter on which official action is taken or contemplated."

The sections of the act dealing

with transactions (Article 4 and a portion of Article 5) start from a very different premise than the section of the act dealing with contracts.

The section on contracts focuses on the legality of any particular contract. The sections on transactions focus on disclosure and disqualification rules an officer or employee must adhere to if he or she has a "personal interest in a transaction." The issue is not whether the transaction (e.g. contract, zoning action, etc.) is legal, but whether the officer or employee has disclosed his or her interest and has refrained from participating as an officer or employee in any such transaction that has specific application to that personal interest.

Disclosure and Disqualification Rules

Disclosure Rule. If any officer or employee of a governmental or advisory agency has "a personal interest in any transaction of specific application" before his agency, he should disclose of the existence of the interest and it should be reflected in the public records of the agency for at least five years.

Disqualification Rule. In addition to disclosing the conflict you must disqualify yourself from participat-

ing in transactions on behalf of your agency. You "shall not vote or in any manner act on behalf of" your agency. Your disqualification should also be noted in the records of your agency.

"Specific Application"

The term "specific application" means a transaction which affects your personal interest specifically, as opposed to a transaction which affects the public generally, although in the latter situation your interest, as a member of the public, may also be affected.

To help clarify this meaning, the act gives an example of a transaction that has specific application. Amendment to a zoning map affecting fewer than ten parcels of land is a transaction having specific application to a person who has a "personal interest" in one of the parcels.

Rule of Thumb

This example suggests a rule of thumb (assuming you have a personal interest in a transaction with your agency). If more than one tenth of the transaction applies to you, your spouse or a relative who lives in your household, the transaction has specific application to you. You

—Continued on next page—

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need to disclose your interest at once and in your public capacity stay out of the transaction altogether. Your disclosure and disqualification must also be noted in writing in the records of your agency.

Yearly Disclosure Statements

Yearly disclosure form requirements are found in Article 5.

Financial Disclosure

If you are a member of a governing body of a locality with a population in excess of 3,500, you must file a financial disclosure form as a condition to assuming office by January 15 of each year. This form will be prepared by the secretary of the commonwealth and distributed to the clerk of the governing body by November 30 of each year. The clerk is required to distribute the form to you by December 10. The form will be maintained as a public record in the office of the clerk for at least five years.

The governing body of localities with populations in excess of 3,500 may by ordinance also require designated employees or persons occupying positions of trust appointed by the local government to file.

Real Estate Disclosure

If you are a member of a planning commission, board of zoning ap-

peals, a real estate assessor or a county, city or town manager (or executive officer (and serve a county, city or a town with population in excess of 3,500 persons, you are required to make annual disclosures of all your interests in real estate located in the county, city or town in which you are appointed or employed.

This includes any business in which you own an interest from which income is received, if the primary purpose of the business is to own or develop real estate in the county, city or town.

These real estate disclosures are filed as a condition to assuming office or employment, and must be filed annually with the clerk of the governing body on or before January 15 each year.

Penalties and Remedies

Penalties and remedies under the act are set forth in Article 8.

Any person who willfully violates any of the provisions of the act is subject to fines up to \$1,000 and one year in jail (the penalty for a Class I misdemeanor) and removal from office (the penalty for malfeasance in office or employment). Removal from office upon conviction of a willful violation is discretionary with the judge or the jury trying the

case. Under the former conflicts law, removal from office was automatic.

A willful violation would be one in which you engage in conduct, perform some act or refuse to perform some act in which you know, or should know, that the conduct is prohibited or required by the act.

Any offense committed prior to July 1, 1983, under the former Conflict of Interests Act, shall be subject to the penalty, forfeiture and punishment provisions of the former act (2.1-347 to 2.1-358 Code of Virginia).

Role of the Commonwealth's Attorney

Each commonwealth's attorney shall enforce the provisions of the act within the jurisdiction he or she serves. The commonwealth's attorney shall also render advisory opinions to your governing body and to you whether the facts in a particular case would constitute a violation of the act. You can appeal to the attorney general an advisory opinion indicating your action would violate the act. A conflicting opinion by the attorney general supersedes the opinion of the commonwealth's attorney. Irrespective of whether you have requested an advisory opinion or whether such opinion(s) have been rendered, you have the right to seek a declaratory judgment or other judicial relief as provided by law.

Statute of Limitations

The commonwealth's attorney may bring a criminal prosecution under the act up to one year from the time he or she has actual knowledge of the violation or five years from the date of the violation, whichever event occurs first. A prosecution for malfeasance in office may be brought up to two years after the willful violation.

Commentary

—Continued from page four—
outreach campaign. The city of Norfolk, Loudoun County and Fairfax County have inaugurated vigorous programs in addition to the division's activities.

Economic development in the commonwealth is complex, and communities have had varying degrees of success with the numerous programs used to spur development. While economic development involves different factors and interests from one locality to another, there is a unifying theme: economic prosperity generally results from close cooperation between public and private sectors.

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LOGIN Visits the League

Jacques Avent, Olivia Kredal and Brian Helvey recently visited the VML Office to tell staff as well as interested municipal representatives about LOGIN.

LOGIN may sound like the latest space age hero, and in a sense may be, but for now LOGIN is the Local Government Information Network, represented in the form of a computer terminal.

Whereas the term "communications" use to mean letters and mail, the term now implies the ever growing information business. LOGIN contains 15,000 to 20,000 units of information pertinent to local governments, information entered by various member localities, associations and the National League of Cities, and information offering possible solutions to an array of municipal or association problems.

In addition, LOGIN is an interactive system. That is, it allows you to communicate with other members of the network, privately on a one-to-one basis or openly in a mode available to all members of the communications network. And, what's best is that to use LOGIN you don't need to be a computer whiz kid. You need only to know how to type a bit and be familiar with local government terminology. Information is basically filed in topic categories and the computer will instruct you as you move through your search step by step.

To subscribe to LOGIN currently costs \$2,500 a year, but subscribers can earn \$40 credits for each unit of accepted input. Credit can be used against half of the first year's subscription or against subscription renewal. In addition, the first 100 municipal subscribers will receive a free terminal for use with only a \$225 maintenance and installation fee. And, the terminal is yours to keep if you renew the subscription.

Some of the organizations you will have access to through the network in addition to NLC and municipal subscribers are Public Technology Inc., International City Management Association, National Association of Counties, Municipal Finance Officers Association, U.S. Conference of Mayors, Princeton Energy Group, National Center for Public Productivity, U.S. Department of Housing and Urban Development and the Urban Institute.

For more information contact NLC, or call Olivia Kredal at (202) 626-3210.



Olivia Kredal (right) explains LOGIN (left).

Amyx, Wirt Serve as Models

Virginia Municipal League Executive Director R. Michael Amyx and Staff Attorney Clay L. Wirt were recently the subjects of impersonation. The impersonations were neither flattery nor jest, but part of the serious business of about 100 Virginia high school students who visited the state capitol in June to portray a number of key officials for the Model Executive Government Conference.

The conference, sponsored by the Virginia YMCA, simulates the executive branch decision-making process. Each year an issue is selected and the students act out the executive process representing legislators and members of committees, commissions and various interest groups.

This year's issue was hazardous waste management and disposal. Five students visited the VML Office for briefing and then returned to Capitol Hill with Tommy Brammer of Woolwine filling Clay Wirt's shoes and Christie Lewis of Staunton acting as Amyx.

The students are invited to participate in the conference by Gov. Charles S. Robb who was instrumental in its founding. They are nominated by their school administrators and screened by a YMCA selection committee. Participation is limited to 100 rising high school seniors. The purpose of the conference, in its fourth year, is to teach the theory and practice of the executive branch of state government.



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VML Develops Policy

VML's Michael Amyx (right) and Richard Weeks (left) ponder legislative issues along with policy committee chairman Jack Barnes of Portsmouth.



By Richard F. Weeks Jr.

The VML's policy committees have been hard at work developing policy positions on critical issues and problems currently facing Virginia local government. This is part of the process of updating the VML Municipal Policy Statement for presentation to the full membership at the VML's annual conference in September. This policy development process begins in early January each year with the mailing to each "full" member locality of a request for nominations to the policy committees. The membership of the policy committees is developed from these lists of nominations and the committees begin to meet in early May.

This year the league will use a new format for the policy development process. In past years the last meeting of the policy committees

was held the first day of the VML annual conference. At this meeting the policy committees made final changes in the Municipal Policy Statement. As a result of this late meeting, the preliminary policy statement was not available until noon the following Monday. This allowed only a very limited time for members to read the document prior to the Tuesday business session at which time the statement is formally adopted.

This year the process is scheduled to end by mid-August so that the preliminary policy statement can be mailed in early September allowing approximately two weeks for members to review the document prior to the business session. We consider this change in the process a considerable improvement, beneficial to the full participation of all members in the policy development process.

By August all policy committees will have completed their work. Attendance at the early meetings has been excellent. The committees

delted into many critical issues and problems facing local government and have arrived at productive and positive positions on which I am sure we can all agree.

The following is a summary of the major new policy positions adopted thus far by each of the policy committees. You should note that these are only summaries; if actual language is included it will appear in quotes. In addition, any policy position is subject to modification by the respective policy committee as well as by the voting members at the annual business meeting.

Community and Economic Development

The first change is the addition of a new paragraph in the first section concerning reenactment of the Community Development Block Grant Program. The position supports reenactment but opposes certain changes. These changes include one proposed by the Reagan administration to consolidate the

About the Author

Richard Weeks is VML's Director of Intergovernmental Relations. He is responsible for the coordination of the league's policy development process.

Hilda Traina of Hopewell and Richard Weeks, VML, discuss human development policy.



program with the General Revenue Sharing program. The other point of concern is new restrictions on the program being proposed in the House version of reenactment.

The next item is also the addition of a new paragraph in the first section. This paragraph praises Gov. Robb for his commitment to economic development and long-term planning. The latter is evident in the governor's establishment of the Governor's Commission on Virginia's Future.

In the second section of the CED Policy Statement the committee opposes efforts to increase the regulations and restrictions on the small cities program being considered in the reenactment of the CDBG program.

In the section on conservation, rehabilitation and historic preservation the committee has requested "the State Board of Housing and Community Development to conduct a broad review and study of the

Statewide Building Code to identify and eliminate unnecessary impediments to rehabilitation and to permit better use of existing buildings. VML also requests the board to develop an accepted practices manual to provide alternatives to strict application of the building code."

The last new position developed by the CED Policy Committee is an endorsement of a new intergovernmental review system to replace the current A-95 review process. The position goes on to say that the process should be streamlined by requiring comment on grants only when another locality requests the opportunity to comment.

Effective Government

The Effective Government Policy Committee developed a comprehensive position on the state's regulatory process, specifically concerning the Administrative Process Act. The committee has three prin-

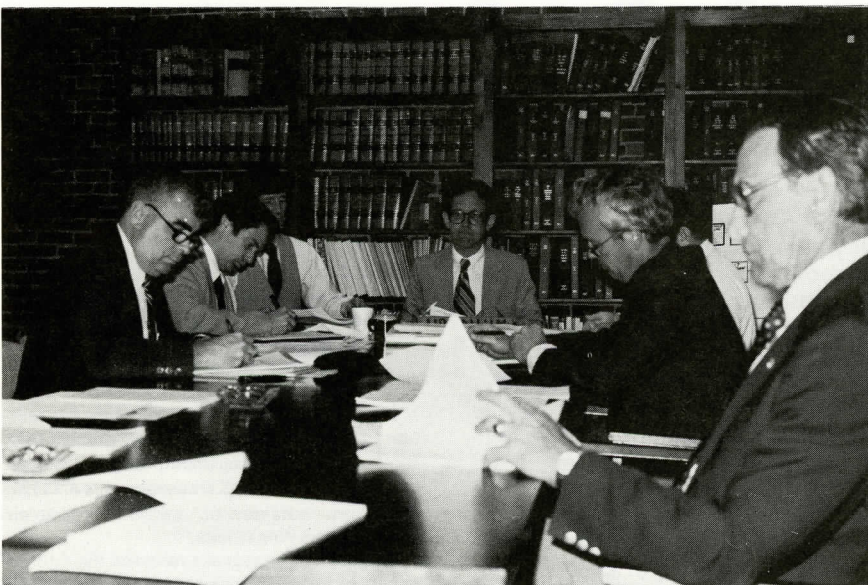
ciple areas of concern. The first is that no state governmental body with either real or quasi-regulatory authority should be exempt from the act. Secondly, if a proposed new or amended regulation affects local governments they should be notified directly and offered an opportunity to comment. Finally, any state agency developing or changing regulations should be required to involve local officials in the actual development of the regulations.

In addition, the committee took a position on the new requirement that localities use the state procedure for the procurement of professional services. The committee's first priority is to seek repeal of the requirement. Second priority is to seek a number of amendments to the state procedure. The first amendment would allow discussion of price up front. Currently price cannot be discussed until negotiations with the locality's first choice have begun. Secondly, the committee would like to limit the number of professionals a locality would have to interview. Thirdly, they would like the ability to go back to the number one choice after having failed to reach an agreement with the second choice. The committee's final concern is that the state procurement procedure not be expanded to require local compliance in other areas.

Environmental Quality

The Environmental Quality Policy Committee made several "house cleaning" amendments which will not only clarify VML's position on several issues but will also reduce the length of the statement. As you know keeping policy statements to a reasonable length is always beneficial. The committee also has been actively monitoring developments in uranium mining in Virginia but

—Continued on next page—



James N. McCord of Williamsburg (center) chairs the Environmental Quality Policy Committee as (left to right) Charles Vincent, Richard Weeks, Clay Wirt, Kit Kiser and Jim Bland study the issues.

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feels the statement from last year remains adequate.

Human Development

The Human Development Policy Committee continues to strengthen its statement concerning the administration of human resources block grants. This committee also has taken an active role in monitoring administration of human resources block grants resulting from Reagan administration initiatives.

In the area of employment and training, the committee has responded to the large reduction in funds that many Virginia localities are facing. The committee urges the governor to allocate money from the act's discretionary fund to those localities facing losses. The committee also is encouraging co-operation between private industry councils and localities to help provide employment for all Virginians.

Finally, the committee is urging the Virginia General Assembly to address discrepancies in funding between state and locally owned health facilities.

Public Safety

The Public Safety Policy Committee strengthened its statement on the improvement of fire services training facilities by setting this forth in a separate paragraph and by adding support for funding. Also in the area of fire safety, the committee urges the State Board of Housing and Community Development not to supercede local fire prevention codes with the adoption of the proposed building maintenance code.

Transportation

The Transportation Policy Committee expanded its position on state aid to public transportation indicating state aid should take into consideration growth potential measured by factors such as population density, automobile ownership, the number of elderly, and employment concentration. Further, the committee has taken the position that a formula for allocating state mass transit funds to local transit systems is needed to replace the discretionary and subjective methods used currently. VML urges the state to allow increased flexibility in support for mass transit, including the use of state funds to support operational costs as well as capital financing. The committee urges consideration of a block grant funding approach to meet this objective.

The committee would like establishment of a special fund for inter-

state roads to provide the entire amount required to match federal funds for all projects each year, establishment of a separate bridge fund, and a change in fund distribution between the three highway systems—urban, secondary and primary. The committee would like an equal distribution formula rather than the current 25-25-50 distribution formula. In addition, the committee urges the state to establish an equitable street maintenance payment that would more accurately reflect costs.

The committee also urges the state to take a stronger role in providing funding for bikeways, including overpasses or connectors where interstate highways bisect bikeways.

Marketplace

Town Manager

Pulaski, located adjacent to Interstate 81 in Southwest Virginia, is seeking applicants for the position of town manager. The town has a \$4.8 million operating budget, 115 employees and a population of 10,106. The manager is appointed by the mayor and an eight-member town council. Candidates should have knowledge of modern management techniques and experience in municipal management involving urban, residential and business development programs. Salary commensurate with qualifications and experience. Interested applicants should submit a resume to Mayor Raymond F. Ratcliffe, P.O. Box 660, Pulaski, VA 24301 by Aug. 22, 1983.

For Sale

The city of Chesapeake will accept sealed bids for the sale of the following:

- (1) 1961 C950 Ford tilt cab, serial #C95RU130063, engine V8-534 cubic inch, gasoline, 5-speed transmission, single speed rear end. Tires: 10:00 x 20, mud grip on rear, pump waterous 750 GPM, painted white, good condition. Minimum Bid—\$10,000 (F-139).
- (1) 1961 C950 Ford tilt cab, serial #C95RU130062, engine V8-534 cubic inch, gasoline, 5-speed transmission, single speed rear end. Tires: 10:00 x 20, highway tread, pump waterous 750 GPM, painted white, good condition. Minimum bid—\$10,000 (F-144).

Bids will be received until 10 a.m. September 12, 1983. Photos on request. Submit bids to: Purchasing Department, City of Chesapeake, P.O. Box 15225, Chesapeake, VA 23320. Mark on outside of envelope "Sealed Bid—Surplus Fire Trucks."

The city of Chesapeake reserves the right to accept or reject any or all bids or to accept any portion that will be in the best interest of the city and waive all informalities. For additional information, contact Fire Chief Bagley or Assistant Chief Slaughter at (804) 547-6497.

State Fire Chiefs Hold Conference

Chief Walter R. Stickel Jr. announced his plans to retire at the recent State Fire Chiefs Association of Virginia Conference held in Henrico County. Stickel, who served as the association's 1982-1983 president and presided at the conference, has been with the Henrico County Division of Fire 30 years and has served as chief since 1971. He will retire in December.

Alfred A. Savia of Fairfax County will serve as 1983-1984 association president. William A. Anderson of Lynchburg will serve as first vice president, and F. Wesley Dolezal of Chesterfield will serve as second vice president.



Chief Walter R. Stickel Jr., right, was honored with a gift of the Henrico County seal presented by Anthony P. Mefoud, a member of the county board of supervisors.

Preservation Is Scheduled Topic

The National Trust for Historic Preservation and the Virginia Historic Landmarks Commission are cosponsoring a conference for members of architectural review boards and city and county officials working closely with them in implementing local preservation ordinances. The conference will be held in Richmond Oct. 22 at the John Marshall Hotel.

Topics to be covered include the legal basis, powers and responsibilities of architectural review boards, how to establish workable design review standards, effective board administration and techniques for developing community support. Registration is \$20.

For more information contact the National Trust for Historic Preservation, Mid-Atlantic Regional Office, 1600 H St., NW, Washington, DC 20006, (202) 673-4203.

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People

Harmes Resigns

VML Deputy Director Bradley K. Harmes announced his resignation in July in order to accept a position as manager of benefits financing with the city of Austin, TX. In his new position Harmes will be working with three separate pension plans for a city with a workforce of 8,000. He also will be involved in funding arrangements for self insured health benefits and workers' compensation programs. Austin's city manager is Nicholas Meizer, former Chesterfield County administrator.

Harmes was appointed deputy director for the league in 1980 after serving in various other positions. He came to VML as a graduate school intern in 1976 while pursuing a master's degree in public administration at Virginia Commonwealth University. His major responsibilities have included coordinating the annual conference, editing the VML Legislative Bulletin and the Statewide Salary Survey and serving as administrator of the Virginia Municipal Group Self Insurance Association.

In recent years the scope of the league's insurance activities grew to demand a majority of his time. At a recent meeting of the VMGSIA board, Chairman Charles A. Robinson Jr. complimented Harmes on his efforts in implementing the workers' compensation program and supervising its growth over its three-year history.

In addition to the MPA degree, he holds a bachelor's degree from the University of Evansville, IN, and was

a Henderson Fellow at the Federal Executive Institute in Charlottesville.

VMGSIA Assistant Administrator Margaret Nichols was named acting administrator upon his departure.

Isman Appointed Chief

Warren E. Isman, former Montgomery County, MD, chief of Fire and Rescue Services, has been selected to head Fairfax County's Fire and Rescue Department. He replaces George Alexander who retired in December after 25 years with the department.

Isman has served as chief of the Montgomery County department since 1977. He first joined the department in 1972 as a captain and was promoted to assistant chief in 1975. He was instrumental in upgrading Montgomery County's training and paramedic programs and assisted with the implementation of a computerized communications system. As chief, he was responsible for overall operation of 1,300 employees and volunteers.

In addition, he has served as a consultant to a variety of agencies and organizations including the U.S. Fire Administration, Federal Department of Transportation, the Environmental Protection Agency and ABC News. He has written three textbooks on fire fighting and published numerous articles on the subject.

Isman, along with two other Virginia fire chiefs, has been selected to serve as a committee chairman for the International Association of Fire Chiefs. Isman serves as chairman of the hazardous materials committee while James W. Kerr of

Falls Church will serve as chairman of the research committee and Julian Taliaferro of Charlottesville will serve as chairman of the communications committee.

Schlanger Honored

Joel M. Schlanger, director of finance, Roanoke, received double honors recently. In June he was elected to the executive board of the Municipal Finance Officers Association (MFOA) and chairman of the National Council on Governmental Accounting (NCGA).

Schlanger is one of five elected to serve a three-year term as a member-at-large on the executive board governing MFOA. MFOA represents 9,000 state, provincial and local government finance professionals in the United States and Canada.

As chairman of NCGA, Schlanger will serve from July 1, 1983 through June 30, 1984. He has served as vice chairman of the council for two years and is a member of the executive committee. He has also served as chairman of the nominating committee and as the council's representative on the Governmental Accounting Standards Board Organization Committee. NCGA develops, promulgates and interprets principles of accounting, financial reporting and related financial management activity for governments in the United States and Canada.

Noel Taylor Receives Honorary Degree

Roanoke Mayor Noel Taylor has been awarded an honorary doctorate of laws degree by Bluefield State College, Bluefield, WV.

Taylor received a bachelor of science degree with honors from Bluefield State in 1949. He received a bachelor of divinity degree from Virginia Seminary and College in Lynchburg in 1955 and a doctor of divinity degree from the same school in 1959.

Taylor, who has been mayor of Roanoke since 1975, also has a



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master's degree in religious education from New York University and is pastor of High Street Baptist Church.

Lent Appointed

The Fairfax County Board of Supervisors has appointed Elinore Lent executive director of the Fairfax County Commission for Women. Lent previously served as director of the county Re-entry Women's Employment Center.

A graduate of Coe College in Cedar Rapids, IA, Lent has long been associated with programs which specifically address the needs and interests of women. Prior to setting up and directing the re-entry center, Lent helped develop and direct a training program for displaced homemakers at the Hannah Harrison Career Vocational School in Washington, DC. She has been a career counselor for Wider Opportunities for Women, a community outreach program for the American Association on University Women in Denver, CO.

She replaces Ester Ochsmann, who is now assistant to the county executive.

Federico Appointed

Jean Taylor Federico has been appointed director of historic resources for the city of Alexandria.

Federico was previously director/museum curator for the National Society Daughters of the American Revolution (DAR). She has served also as registrar for the University of Maryland Art Gallery and instructor of French at the same institution. She has authored articles addressing various aspects of American history and has conducted seminars on techniques for managing museums. She holds a master's degree from the University of Michigan in French literature.

League Hires Intern

Robert B. Feild, a third-year law student at T.C. Williams School of Law, University of Richmond, will be working with VML Staff Attorney Clay Wirt for the remainder of the summer and through the school year. He will assist with legal research and information organization as well as other duties as they arise. Feild is a native of Philadelphia currently from Covington.

EASe

—Continued from page 10—

and actions which provide the most acceptable tradeoffs in terms of cost, effectiveness and environmental impact.

The EASe screening model is currently being tested by the Richmond planning department. Funds are being sought for Phase II of the program's development which includes refinement of the questionnaire and scoring procedure, development of a complete reference library, development of software for computer implementation, development of a formal process for impact mitigation determination and environmental negotiation, trial use in cooperating localities and promotion and dissemination throughout the nation. Phase I was funded in part by the Virginia Environmental Endowment.

Your locality can experiment with the EASe screening model free of charge. For more information contact Charles T. Peters Jr., City of Richmond, Department of Planning and Community Development, 900 E. Broad St., Richmond, VA 23219, (804) 780-8033.



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