



VIRGINIA FREEDOM OF INFORMATION ADVISORY COUNCIL

COMMONWEALTH OF VIRGINIA

Senator Richard H. Stuart, Chair
Delegate Luke E. Torian, Vice-Chair

Alan Gernhardt, Esq., Executive Director
Ashley Binns, Esq., Attorney

Pocahontas Building ~ 900 East Main Street, Pocahontas Building, 8th Floor ~ Richmond, Virginia 23219
foiacouncil@dls.virginia.gov ~ 804-698-1810 ~ (Toll Free) 1-866-448-4100 ~ (Fax) 804-698-1899 ~ <http://foiacouncil.dls.virginia.gov>



VIRGINIA FREEDOM OF INFORMATION ADVISORY COUNCIL

Wednesday, September 18, 2019 - 1:00 PM

Senate Room A, Ground Floor

Pocahontas Building

PROPOSED AGENDA

- 1. Call to Order, introduction of members.** *Welcome to new FOIA Council members Matthew A. Conrad, Executive Director of Government and Board Relations, Virginia Commonwealth University (appointed by the Governor to fill the seat for a citizen member who is a state employee formerly held by Stephanie Hamlett, as Ms. Hamlett has served two full four-year terms and is therefore ineligible for reappointment), and Bruce Potter, Chief Operating Officer, InsideNoVa/Rappahannock Media (appointed by the Speaker of the House to fill the vacant seat for a citizen member who is a news media representative).*
- 2. Subcommittee Reports.** *At its meeting on May 8, 2019, the FOIA Council assigned the bills referred by the 2019 Session of the General Assembly to three subcommittees for further study. The Forestry Records and Donor Records Subcommittees completed their work as reported to the Council at its meeting on July 17, 2018. The work of the Phishing Study Subcommittee is described below.*

Phishing Study Subcommittee

- HJ 628 (Heretick); **Study; Virginia Freedom of Information Advisory Council; threat of phishing attacks; report.** Directs the Virginia Freedom of Information Advisory Council (FOIA Council) to study the threat of phishing attacks on citizens and public employees whose contact and private information is legally obtained as a result of a Freedom of Information Act (FOIA) request. The study further directs the FOIA Council to examine the current FOIA provisions and make recommendations on ways to address

the threat of phishing attacks on citizens and public employees of the Commonwealth. *The Subcommittee met on July 15, 2019, and August 21, 2019. The Subcommittee heard from Delegate Heretick and representatives of the City of Portsmouth who described their concerns about phishing attacks and presented suggestions for legislative change for the Subcommittee's consideration; from representatives of the Virginia State Police and the Virginia Information Technologies Agency who provided additional background information regarding phishing and other cybersecurity threats; and from representatives of the Virginia Coalition for Open Government and Virginia Press Association who spoke and submitted written remarks in opposition to the proposed legislative changes. The Speaker of the House has directed the Council to report back on this study by November 1, 2019. Given the breadth and importance of the issues presented, the Subcommittee intends to meet again on October 8, 2019, and, with the concurrence of the Council, to continue studying the relationship between phishing and FOIA through next year. The Subcommittee also considered legislative proposals to address the response timing when a requester asks for an estimate in advance and directed staff to prepare amended draft legislation on this issue for the Subcommittee's consideration at its next meeting.*

3. **Legislative Preview.** *Each year the Council makes itself available to interested parties as a forum for legislative proposals involving FOIA or other access-related issues. By acting as a forum, the FOIA Council hopes that all persons interested in proposed FOIA amendments will be informed of these proposed amendments well in advance of the next session of the General Assembly and have the opportunity to address any disagreements or other issues before the next session.*
4. **FOIA training and reporting requirements.**
 - *Training for local elected officials (SB 1431, effective July 1, 2020). At its last meeting, the Council directed staff to prepare a draft for consideration that will amend § 2.2-3704.3 to allow for live, in-person training as well as online training, and to include constitutional officers explicitly in the training requirements.*
 - *Training for FOIA officers. At its last meeting, the Council voted to recommend a draft that would change the frequency for required FOIA officer training from annually to once every two years and change the reporting requirement from once every year to by July 1 of the year an officer is initially trained and thereafter only if the reported information changes. The Council also directed staff to amend the recommend draft to include regional public bodies in addition to state and local public bodies.*
5. **Other Business.**
 - *Update: Current FOIA training and plans to implement new online training programs next year.*
 - *Update: Statistics on formal and informal requests for advisory opinions this year.*
6. **Public Comment.**
7. **Future Meetings.**
8. **Adjournment.**

Council Members

Senator Richard H. Stuart, Chair
Senator Mamie E. Locke
Sandra G. Treadway
Matthew A. Conrad
Mark Vucci
Michael Stern
Cullen Seltzer

Delegate Luke E. Torian, Vice-Chair
Delegate Glenn R. Davis, Jr.
Lee Bujakowski
Sterling Rives
Shawri King-Casey
William "Billy" Coleburn
Bruce Potter

Staff

Alan Gernhardt, Executive Director
Ashley Binns, Attorney

The FOIA Council's web site is: [http:// foiacouncil.dls.virginia.gov](http://foiacouncil.dls.virginia.gov). To assist us in providing Internet dissemination of materials, presenters are requested to submit written comments and handouts in electronic format by email to staff prior to meetings. Presenters are also requested to bring 20 copies of their remarks or handouts to meetings. These copies will be provided to FOIA Council members and the public.
E-mail: foiacouncil@dls.virginia.gov.