

VA FOIA Council
June 7, 2007 Meeting
Richmond, VA

The Freedom of Information Advisory Council (the Council) held its second meeting of 2007 to receive progress reports from its two subcommittees. The Council also commended Council member Nolan Yelich, Librarian of Virginia, for his distinguished service to the Council and to state government generally. Mr. Yelich is retiring from state service effective July 1, 2007. The Council presented a resolution to Mr. Yelich describing his long and illustrious career as an exemplary public servant. The Council praised Mr. Yelich's leadership, marked by his geniality, insight, flexibility, and uncompromising integrity, and noted that his leadership in the preservation of public records has resulted in changes that will continue to benefit the citizens of Virginia.

Subcommittee Reports

Electronic Meeting Subcommittee

John Edwards, chair of the subcommittee reported that the subcommittee held its first meeting on May 10, 2007. Of the three bills referred to the subcommittee,¹ only one patron, Delegate McClellan, was able to be present to discuss her bill (HB 2293). Delegate McClellan indicated that the bill was requested by the chair of the Richmond City School Board and would allow a local governing body, school board, or any subcommittee thereof to meet by electronic communication means provided (i) no purpose of the meeting is to take action on any matter before the governing body, school board, or subcommittee, or to otherwise transact any business of the governing body, school board, or subcommittee; (ii) the meeting is not called or prearranged with any purpose of transacting any business of the local governing body, school board, or subcommittee; and (iii) the local governing body, school board, or subcommittee otherwise complies with the electronic communication meetings law. Delegate McClellan stated that local government officials are part time, volunteer members with other jobs. She indicated that the goal of the bill is to allow locally elected officials to take advantage of technology like businesses do currently. She reiterated that the bill would authorize teleconferencing only for receiving information by the local public body and for no other purpose. She urged the subcommittee to keep practical realities in mind. Local elected officials serve part time while juggling jobs in the private sector. She reiterated that the bill is narrowly drawn to limit use of teleconferencing to information gathering only.

¹ **HB 2293 (McClellan)**--teleconferencing for local bodies ONLY when gathering information and no action will be taken. **HB 2553 (Ebbin)**--Allows a local governing body to meet by electronic communication means when a local state of emergency has been declared; and **SB 1271 (Whipple)**--Eliminates the requirement that a quorum of a state public body be physically assembled in one primary location in order for the public body to conduct a meeting through electronic communications means. Instead of the quorum, the bill provides that at least two members of the public body be physically assembled at one location.

Mr. Edwards noted that opposition to HB 2293 had been expressed at the meeting, but because a quorum of the subcommittee was not present, further consideration of HB 2293 will occur at the next meeting of the subcommittee. He stated that over the course of the subcommittee's study of electronic meeting issues over the last several years, the one constant is a predisposition to retain the face-to-face quorum requirement. The subcommittee, however, will keep an open mind as it considers the bills before it. Further, the patrons who were unable to attend the meeting will be given the opportunity to present their bills at future meetings of the subcommittee.

Personal Identifying Information Subcommittee

Senator Houck reported that the subcommittee has held one meeting to date to begin its deliberations on the nine bills referred for study².

Senator Houck stated that a number of bills introduced during the 2007 Session concerned public access to personal identifying information, including social security numbers; addresses of citizens; rabies vaccination information; and holders of boat, fishing, and hunting licenses. Each bill represents a differing, piecemeal approach and it is the intent of the Subcommittee to devise a uniform rule concerning access to personal identifying information after careful consideration of all sides. Additionally, public access to holders of concealed weapons permits, will be included as part of the subcommittee's work. Although this was not the subject of legislation in the 2007 Session, it came to light following the publication of the names and addresses of holders of concealed weapons permits in the Roanoke Times and the resulting controversy.

The next meeting of the Subcommittee is schedule for Thursday, July 12, 2007 at 1:00 p.m. in the Speaker's Conference Room, sixth floor of the General Assembly Building. The Subcommittee will meet with the members of Joint Commission on Technology and Science concerning HB 2821.

Of Note

Staff briefed the Council on the upcoming 2007 Statewide FOIA Workshops scheduled for the weeks of June 11 and June 18 to be held in Wise, Danville, Staunton, Manassas, Norfolk, and Richmond.

Ginger Stanley, Executive Director of the Virginia Press Association (VPA), recapped for the Council the media events held during Sunshine Week (March 11-17, 2007), which was

² **HB 2821 (Sickles)**--Access to Social Security Numbers.

HB 2558 (Brink)--Release of rabies certificate information.

HB 3097 (Cole)/SB 1106 (Chichester)--Release of constituent contact information.

HB 3118 (Carrico)/SB 883 (Deeds)--Release of the names, addresses, and social security numbers of holders of boat, fishing, hunting, and other licenses/permits issued by the Department of Game and Inland Fisheries.

HB 3161 (Marshall, D.W.)/SB 1404 (Hanger)--Expansion of complainant information for violation of any local ordinance (currently only protected for zoning violations).

SB 819 (Cuccinelli)--Release of personal information concerning an identifiable individual, including date of birth, social security number, driver's license number, bank account numbers, credit or debit card numbers, personal identification numbers, electronic identification codes, automated or electronic signatures, biometric data, or fingerprints.

not only in Virginia, but across the nation. Almost three dozen newspapers ran articles, columns or editorials that week on Sunshine Week and public access. The newspapers ran the gamut in size, from the state's major and mid-major dailies to small weeklies in far-reaching portions of Virginia.

Barrett Hardiman of the Virginia Association of Broadcasters reported that the broadcast media also participated in Sunshine Week by conducting news programs. He noted that participation by his association members was not as extensive as that of VPA.

Public Comment

Frosty Landon, Executive Director of the Virginia Coalition for Open Government, told the Council that he was retiring. He noted that what the Coalition had envisioned for the Council in 2000 has happened. The Council brings differing viewpoints together and has been recognized by the legislature for its in depth consideration of access issues. He stated that as a result of the Council, there is a better understanding of access laws. He suggested that perhaps it is time for the Council to begin formalized mediation of FOIA disputes.

Phyllis Errico of the Virginia Municipal League praised Mr. Landon for coming to each issue with respect and trust. She noted that this is why the Council is so important because solutions to access issues are coming from a place of respect and trust.

The Council also praised Mr. Landon for his contributions to public access and for his unwavering support of the Council's work.

Future Meetings

The next meeting of the Electronic Meeting Subcommittee is Thursday, July 12, 2007 at 12:00 p.m. The next meeting of the Personal Identifying Information Subcommittee has also been set for Thursday, July 12, 2007 at 1:00 p.m. The next meeting of the Council is scheduled for September 10, 2007.