

Sunshine Report



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Can you find your local budget?

VCOG survey grades Virginia's counties and independent cities on ease of access to the current fiscal-year budget

The City of Fairfax rated the highest score of all 134 counties and independent cities in Virginia when it comes to locating and using the current fiscal-year budget for that locality, according to a survey conducted by the Virginia Coalition for Open Government. Fairfax City garnered an A+ rating, while 17 other localities received an A or A-: Bedford County, Caroline County, Dinwiddie County, Fairfax County, Fluvanna County, Franklin, Franklin County, Fredericksburg, Hanover County, James City County, Lancaster County, Manassas, Northampton County, Orange County, Shenandoah County, York County and Waynesboro.

Twenty-six localities received a grade of F. Eleven of these localities posted proposed budgets or prior-year budgets but not the current operating budget, even though the Code of Virginia urges localities to post their budgets online by the start of each new fiscal year (July 1). Those 11 were Amherst County, Appomattox County, Essex County, Greene County, Henry County, Hopewell, Louisa County, Middlesex County, Nottoway County, Prince Edward County and Sussex County.

Fifteen localities, most of which, but certainly not all, are among the smallest localities in the state, had no budget data available on their websites: Covington, Emporia, Galax, Norton, Alleghany County, Bath County, Buchanan County, Craig County, Giles County, Grayson County, Greensville County, Highland County, Lee County, Lunenburg County and Mecklenburg County.

Websites were graded on the number of mouse clicks (or hovers) it took to get to the budget, as well as what labels those links had along the way. The budgets posted were given more or less credit depending on whether they were searchable, provided context or were all in one document.

Larger localities did not always rate well, perhaps victims of their own success. Their websites were so stocked full of information that a user has to wade through several layers of links to get to the budget, and sometimes once located, the budget was of limited use to any citizen who wanted to dig deeper into the numbers.

The survey took place in October, with results updated and analyzed in December. The survey was made possible by a grant from the John S. and James L. Knight Foundation and the National Freedom of Information Coalition. The survey was created with the help of Dr. Quentin Kidd of the Wason School for Public Policy at Christopher Newport University and VCOG summer intern Peter Dansie, currently a second-year law student at William & Mary. Students in Dr. Kidd's political science class collected the data.

The full report and the rankings can be found on VCOG's website.



FOIA, from UVA to Podunk

By MEGAN RHYNE
VCOG Executive Director



There was nothing special about Teresa Sullivan's firing.

Well, sure, we're talking about the state's flagship university, and she

is one of the state's highest paid employees, and she holds one of the most coveted jobs in American academia.

But for all that, in the eyes of the Freedom of Information Act's meeting provisions, President Sullivan was no different from Bob the city parking attendant. And the Board of Visitors (BOV) at Mr. Jefferson's University was no different from the Town of Podunk or any other local government, regional authority or state board when it forced her resignation.

Like all public bodies, the BOV is required to give three working-days notice of regularly scheduled meetings. Like all public bodies, the BOV is required to give "notice reasonable under the circumstances" when calling a "special or emergency meeting," and that notice must be given to the public at the same time the members of the board get it.

Like all public bodies, the BOV may go into closed session to talk about one of the topics enumerated in section 2.2-3711 of Virginia's FOIA. The BOV must first convene in an open public meeting before it votes by motion to go into closed session.

There are three exemptions that apply only to the BOV and a few select entities, and not to ordinary public bodies. But mostly, the BOV has the same exemptions at its disposal as a small-town council. One of those exemptions is the personnel exemption, where boards can talk about the "assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of" public employees.

If it's not the *most* common exemption invoked by all public bodies, it has to be in the top three (attorney-client and student discussion being the others).

What was going on in Charlottesville in June was in many ways not so different from what we see all over the state: public bodies orchestrating the removal of a high-level employee. It may be the town manager, the city attorney, the school superintendent or the university president.

Time and again, we see these maneuvers orchestrated by just a few members of a larger board taking advantage of the gaps and spaces in FOIA.

Anyone remember Gloucester County circa 2007? After the November elections that year, but before newly elected members had been sworn in, three sitting members and two elected members met and talked two-by-two, as is allowed by FOIA to plan the removal of both the county administrator and the county attorney. And that's what they did at their first official meeting, literally at the midnight hour, after a long closed session. The other members of the board, not to mention the administrator, attorney and public were stunned.

A failed court action confirmed that what they'd done was technically OK under FOIA, and the supervisors were very public in proclaiming their vindication. They insisted the blowback from the community was all political. Some of it could have been, no doubt, but the supervisors never seemed to get that the public was angry over the secrecy and manipulation.

And where are those supervisors now? The leader was trounced in her reelection bid, and the remaining four did not seek reelection when their terms expired.

It's not for me to say whether BOV Rector, Helen Dragas, should or should not have been reappointed. But it is for me to say that she and other associated with this and similar decisions should not underestimate the public's frustration. They should not assume that people were angry because they supported Sullivan or disagreed with Dragas' philosophy of higher education. Some may have been, but certainly not all. The public didn't like feeling as if they'd been hoodwinked.

So, whether it's the Town of Podunk, Gloucester County or the UVA Board of Visitors, there is a duty to the public to be forthright.

Compliance with the letter of the law is not something to aspire to, it is something to exceed.

VCOG Bulletin Board

Craig Fifer, Deputy Communications Director for the City of Alexandria, has been elected to be VCOG's sixth president. He succeeds Dorothy Abernathy of the Associated Press at the end of her two-year term. A former (and longtime) member of the FOIA Council, Fifer has been a member of the VCOG board since 2005 and its secretary since 2009.

Dick Hammerstrom of the *Free Lance-Star* and Paul Casalaspi of the Library of Virginia remain as vice president and treasurer, respectively, while Olga Hernandez, past president of the League of Women Voters, will be the next VCOG secretary.



VCOG's Board of Directors has undergone several changes over the past year. Founding director John Edwards of *The Smithfield Times* stepped down this year, as did Matt Paxton, of the *Lexington News-Gazette*, both designees of the Virginia Press Association. VPA then named Jeff Lester of the *Coalfield Progress* to the board.

Lucy Dalglish, formerly of the Reporters Committee for Freedom of the Press, left the board when she took the job as dean of the journalism program at the University of Maryland. Mark Carmanica, RCFP's FOI director, filled her seat.

Waldo Jaquith left the board to take a job at the White House creating an ethics database, and citizen activist Lee Albright stepped down, saying he was a firm believer in term limits.

Recently, VCOG has named to its board Bob Gibson, director of the Sorensen Institute, and Del. Jim LeMunyon, R-Chantilly.

If you are interested in being a VCOG board member, please submit your name and any relevant information to Megan Rhyne, who will forward it to VCOG's Nominating Committee.

VCOG annual conference features hot-button issues

Nearly 60 people gathered at the old Craddock Terry shoe factory in Lynchburg to talk about open-government news of the day, including such hot-button current issues like the ins and outs of the UVa/BOV leadership crisis over the summer and the use of sectarian prayer at public meetings.

During the panel on UVa, activist Joan Fenton said she got involved in part because she realized that she could help without personal risk. That is, she

wasn't a student, professor or anyone else who could suffer reprisals for speaking out against the Board of Visitors. Professor Walter Heinecke, who now teaches a course on the incident at UVa, speculated that because BOV members hail from business backgrounds, many aren't well versed in the requirements of public meetings laws. *The Cavalier Daily's* Matt Cameron said the paper he edits was able to mobilize quickly, even though the staff was on summer break, and by keeping their FOIA requests narrowed, they were able to get documents quickly.

Roger Christman, the point-person for the Library of Virginia's project to archive the Kaine administration's email, gave an

noted that while poring over the hundreds of thousands of messages, he is constantly reminded that the people writing them are human, not just caricatures of politicians.

At lunch, VCOG recognized its annual FOI, open-government award winners. In the government category, Sen.

Harry Blevins, R-Chesapeake, was recognized for his efforts in brokering a deal with the Department of Health and Human Services that will place many of the Commonwealth's vital records in searchable indexes at the Library of

Virginia. The deal also allows for a contract with a third party, such as Ancestry.com, that will create an index of records that will be available free of charge, supplemented by subscription-based links to copies of the actual records.

Vernon Kelley accepted the Laurence E. Richardson citizen's award for open government on behalf of the Concerned Citizens of Giles County. The group sued the Town of Glen Lyn when it found out the town had withheld a lease they requested several years prior. The district judge imposed fines under FOIA, though the ruling and the fines are being appealed.

The Cavalier Daily was recognized in the media category for its coverage of and use of FOIA during the UVa leadership crisis. The paper was instrumental in informing the larger school community about what was happening, even though the paper

was shuttered during the summer break.

National Freedom of Information Coalition Executive Director Kenneth Bun-

ting gave the keynote address in which he touted the national organization's litigation reimbursement fund and explained how sometimes litigation is the only way to move the ideals of open government forward.

A roundtable discussion on FOIA litigation against localities followed, with a newspaper editor, local government attorney, FOIA ombudsman, city manager and citizen activist sharing war stories. Joe Stinnett, from Lynchburg's *News & Advance*,

Access A2012



Kenneth Bunting, executive director for the National Freedom of Information Coalition, speaks to conference attendees during lunch at VCOG's conference at the Craddock Terry Hotel in Lynchburg about why it's important to push for access to public records.

and Lynchburg City Manager Kimball Payne were collegial, which they noted is not always the case in a locality. Payne also noted that, for better or worse, sometimes a FOIA request is perceived as hostile. Instead, he urged people to just talk to him and ask him questions.

The day wrapped up with review of what the state and federal courts covering Virginia have to say about sectarian prayer during public meetings. Washington & Lee law professor Ann Massie cited a 4th U.S. Circuit Court of Appeals case that makes it clear that praying on behalf of a particular religion violates the Establishment Clause of the First Amendment. She questioned whether the new policy of non-sectarian prayer adopted by Roanoke County would survive legal review, but also noted that a moment of silence would likely withstand a challenge.

VCOG's annual conference raised over \$7,500 and was supported by more than three dozen sponsors.



Matt Cameron, editor of *The Cavalier Daily*, UVa's student newspaper, accepts VCOG's 2012 FOI award for media from VCOG president Dorothy Abernathy.

update on the task, which has taken far longer than anyone imagined. He shared samples of many of the messages and

What's coming up in the 2013 General Assembly?



New bills are being added to the General Assembly's website every day, but the huge majority of them won't be posted until next week at the earliest. So far, only a handful of bills affecting FOIA has been introduced. SB802 would allow two members of local electoral board to telephone each other to schedule meetings without triggering FOIA's meeting provisions. The bill appears aimed at an opinion of the attorney general that confirmed FOIA's application to all conversations between any two of the three members of the electoral board in Goochland County.

HB1524 would change the presumption for disclosing certain park and recreation records of minors. Current law says they are open unless a parent opts out from disclosure. The bill by Del. Ronald Villanueva, R-Virginia Beach, would change it so that the records are exempt unless a parent has opted in to disclosure.

As expected, bills to remove public notices from newspapers are steadily trickling in. Companion bills HB1426 and SB765 would allow the Towns of Damascus and Glade Spring to publish public notices on the towns' websites or on television instead of the newspaper. (Currently neither town has public notices prominently displayed on its site, even though putting public notices online is allowable under current law.)

HB1373 would allow localities of more than 50,000 people to use websites, radio or television instead of newspapers, while HB1378 would allow for website publication in lieu of newspapers for all localities. The governor's Local Government Mandate Review Task Force is also expected to put forth bills eliminating the newspaper requirement.

VCOG opposes these proposals on public-access grounds. Should newspaper notice be eliminated, the elderly, poor and those intimidated by new technology would be adversely affected. And, as VCOG's "How Many Clicks?" survey has demonstrated, local websites have little in the way of consistency from jurisdiction to jurisdiction. While publication online should be encouraged, it should not serve as a substitute for notice in what has for

decades been the traditional forum for public notices.

In past years, there have been bills to close off access to concealed handgun permits (CHPs) and VCOG has no reason to think this year will be different, especially after a newspaper in New York ran not only a list of local permit holders, but also a map pinpointing where they lived. CHPs are currently available at local courthouses, though access to a centralized database of CHPs has been off limits to the public for several years.

The FOIA Council will be recommending two pieces of legislation, each having to do with when and how public bodies can hold electronic meetings. One bill would give members of any state, regional and local public bodies a "personal matters" excuse for participating via electronic means, though there would be a two-per-year limit. Another would allow certain committees of state agencies to meet electronically without a quorum in one location, provided they use audio and visual technology and provided that a central location for public participation is designated. The proposal will have a one-year sunset clause attached to it. The Council rejected both a two-year sunset and a proposal by the Virginia Press Association to create a pilot program limited to a select few agencies designated by the governor.

VCOG will be tracking access-related legislation with the help of Christopher Newport University student Kelli Montgomery. And, as always, VCOG will be lobbying for and against bills.

Please let us know of your availability to testify at committee meetings and/or to write or call your legislators to voice your opinion about pending legislation. YOUR VOICE MATTERS!!



Facebook, Google+: Virginia Coalition for Open Government; Twitter: @opengovva; LinkedIn: Megan Rhyne

Virginia FOIA case headed to the U.S. Supreme Court

Can a state tell citizens of every other state in the union that they cannot have access to its state and local government public records?

That is the question now before the U.S. Supreme Court in a case called *McBurney v. Young*, which originated in Virginia, interpreting Virginia's Freedom of Information Act.

Virginia is only one of a small number of states nationwide that says its open records law is for use only by its own citizens. In other words, citizens in border towns like Bristol, Tenn., or border states like North Carolina, Kentucky or Maryland, can be refused records requested under FOIA by Virginia state and local governments because they are not Virginia citizens.

A similar restriction in Delaware's public records act was struck down in 2006 by the 3rd U.S. Circuit Court of Appeals, based in Philadelphia, on the ground that it was unconstitutional under the Privileges & Immunities Clause.

The 4th Circuit, which is the federal appellate court covering Virginia, reached a different conclusion, however, in 2012, on

slightly different grounds. The 4th Circuit determined that the restriction did not unduly burden the plaintiffs' right to pursue a common calling under the Privileges & Immunities and the Dormant Commerce Clauses.

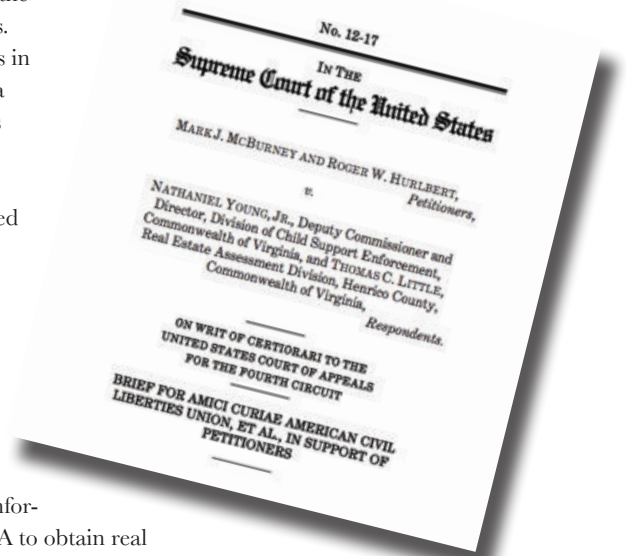
One of the two plaintiffs in the case is Mark McBurney, a Rhode Island father who was denied access by the state's Division of Child Support Enforcement to records related to a child support dispute with his Virginia-based ex-wife. (A separate statute says parents like McBurney are entitled to such records, but the case started out as a FOIA request.)

The other plaintiff is Roger Hulbert, a California information broker who uses FOIA to obtain real property assessments, who was denied access to records by Henrico County because he was not a Virginia resident. The county later did provide the records he sought.

The U.S. Supreme Court agreed in October that it would hear the case, pre-

sumably to resolve the differences between the 3rd and 4th Circuit cases.

VCOG joined with several other



state and national access advocacy groups in filing a friend of the court brief, urging the high court to strike down the limitation. Those joining the brief, which was filed in early January, include the ACLU, the ACLU of Virginia, the American Library Association, Citizens for Responsibility and Ethics in Washington, the Center for Media and Democracy, the Electronic Frontier Foundation, the Electronic Privacy Information Center, the National Freedom of Information Coalition, OpenTheGovernment.org, the Project on Government Oversight, the Sunlight Foundation, the Tennessee Coalition for Open Government and the Washington Coalition for Open Government.

A coalition of journalists and media interests filed a brief also asking the court to strike the provision, as did a group of data and information brokers.

Judicial Watch and Allied Educational Foundation filed a brief at the stage when the Supreme Court was being asked to take the case.

Though no amici briefs were filed on the state's behalf when the Supreme Court was being asked to take the case, it was unclear at press time whether any would be filed prior to oral arguments on Feb. 20. A decision is expected by the end of June.

The FOIA Council in brief

The Virginia Freedom of Information Advisory Council issued seven formal opinions during 2012. Also this year, the council elected Sen. Richard Stuart, R-Montross, as chair and Del. Sal Iaquinto, R-Virginia Beach, as vice chair. Longtime council member (and current VCOG president) Craig Fifer stepped down from the council in July after serving the statutory maximum of two consecutive terms.

AO-01-12: 911 records are public records. Whether any exemptions apply to 911 records must be determined on a case-by-case basis.

AO-02-12: When responding to a FOIA request, the government must provide records it prepares, owns or is in possession of, but no additional response is required.

AO-03-12: A public official cannot charge his rate of salary for his private employment when responding to requests for public records.

AO-04-12: A telephone billing record paid for by a public official in his personal capacity and that was not prepared for or used in the transaction of public business is not a public record.

AO-05-12: Agenda packets must be made available for public inspection at the same time they are given to members of the public body.

AO-06-12: A mug shot cannot be withheld as a noncriminal incident record, but it may be withheld if its release would jeopardize a felony investigation. Further, it may also be withheld if the subject of the photo is also a witness.

AO-07-12: The Crooked Road, a musical heritage nonprofit in Southwest Virginia, is subject to FOIA as an instrumentality of the Southwest Virginia Cultural Heritage Foundation, itself a public body.

CHARLOTTESVILLE: Charlottesville's director of communications stepped down from his job of six years soon after The Schilling Show broke a story -- largely based on records obtained by FOIA -- showing irregularities in how the city awarded contracts. An independent investigator confirmed that the employee had also intentionally deleted records sought under FOIA.

FRANKLIN COUNTY: Credit card receipts obtained via FOIA showed the superintendent of the Franklin County Schools spent \$44 each for three cheesecakes, plus shipping, from the famous Carnegie Deli in New York City to show his staff how much he appreciated their work. His contract was not renewed.

HAMPTON: Trespassing charges against former delegate, and former Hampton City Council member, Tom Gear were dropped in late November. Gear was charged when he refused to leave the podium of a public meeting after his speaking time was up and he continued to demand when the mayor first learned of a troubled undercover cigarette smuggling sting operation being run by the city police department.

HAMPTON: The Hampton city manager withheld a survey conducted by an outside attorney of the city's police force to gauge leadership, morale and other matters. The city cited the personnel matters, attorney-client privilege and attorney work product exemptions.

LYNCHBURG: A board member of the Greater Lynchburg Transit Company filed a FOIA lawsuit against the board's vice president, claiming several deficiencies in following FOIA's meeting requirements. The suit resulted in a settlement where the board agreed to receive FOIA training. Lynchburg City Manager Kimball Payne later announced he would distribute copies of FOIA to all members of appointed boards.

NEWPORT NEWS: After *the Daily Press* reported that the Newport News mayor sought a compromise for his anti-gang initiative during the dinner hour between its work session and formal meeting, the city's attorney reminded the council that public business is not to be discussed during such informal gatherings.

PATRICK COUNTY: Former Attorney General Mary Sue Terry filed a FOIA lawsuit against Patrick County schools, saying the responses she received to a request for credit card purchases, supporting documentation, salaries, leases and rentals, and travel vouchers were "contradictory and non-compliant." At a court hearing Sept. 10, the school superintendent said he would turn over more records, and a judge asked a retired teacher to monitor the school district's compilation of additional records.

PORTSMOUTH: Rather than have a reporter from the *Virginian-Pilot* sit in on its meeting about the proposed budget, the Portsmouth School Board's finance committee canceled it.

PRINCE GEORGE COUNTY: The Board of Supervisors came out of a closed meeting on July 10, and after hearing public comment, suddenly and without warning, announced it would add an agenda item to consider the \$239,000 purchase of a piece of property. Without hearing comment from the public and without discussion, the board then approved the purchase.

SHENANDOAH COUNTY: Irked that "a tremendous amount of time" had been "wasted" by processing FOIA requests for records related to issues "that have transpired many years ago" and that are on the county's website, Shenandoah County Supervisor Sharon Barocelli joined a board colleague in asking for a detailed record of how many FOIA requests the county has processed this summer.

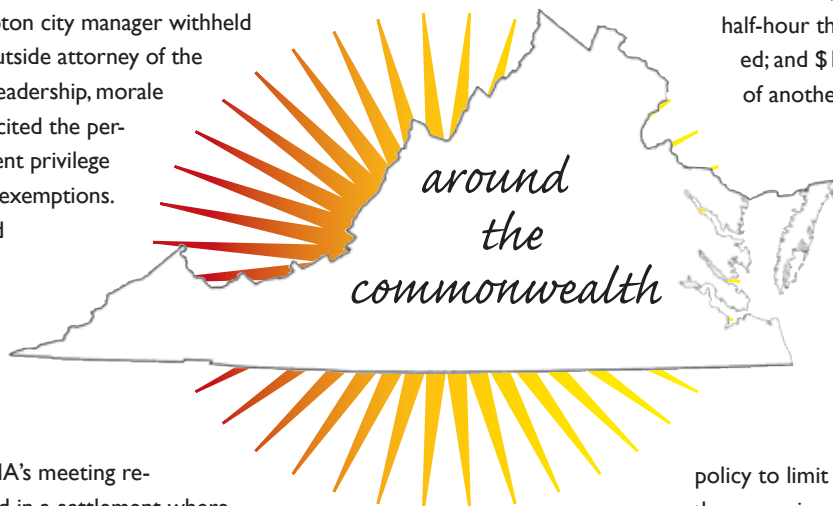
STAFFORD COUNTY: When a local citizen asked the board of supervisors for various email related to the budget, he received an itemized breakdown of what his request would cost:

\$9.85/hour for two hours of the chair's time to search; \$72.12/hour for the half-hour the county attorney needed; and \$155/hour for eight hours of another supervisor's time.

The \$155/hour presumably reflected the rate of pay for the supervisor's day job; he said he'd have to take a day off from work to comply with the request. The board soon revised its policy to limit charges to the rate of pay the supervisor receives as a supervisor.

VIRGINIA BEACH: Almost lost in the exciting news that the Sacramento Kings would consider moving the NBA franchise to Virginia Beach was this detail: the economic development authority had agreed -- largely in secret -- to pay a Dallas company up to \$895,000 in contracts to woo the team. The authority has already spent \$678,400, as detailed by the *Virginian-Pilot*. Even city council members were kept in the dark, or at least were unaware of the sums being spent by the authority. Maria Everett of the FOIA Council said that while it was OK for the authority to discuss terms of the contracts in private, the members should not have voted to approve them until they were in an open, public session.

YORK COUNTY: When the *Daily Press* asked for records of county employees' overtime pay, York County initially balked, citing a FOIA Council opinion that said overtime records could be withheld. The chair of the board of supervisors quickly changed course, directing the county attorney to turn the records over, noting "the bottom line" was that citizens know the government is "upfront about the information."



The Year in FOIA Litigation

An general district court judge in Accomac ruled in January 2012 that the Onancock town manager/attorney's employment contract must be released in full. Tom Robinett released only a redacted copy of the contract to Charles Landis.

Robinett blacked out his signature and the date on the contract and argued in court that the material, written in his personal handwriting, was exempt from disclosure as personal information.

According to the *Delmarva Daily Times*, Judge Gordon Vincent noted that anyone who signs a check "exposes their signature to the world." Furthermore, "people who serve in public life have to sign public documents."

Vincent awarded costs to Landis and ordered Robinett to personally reimburse him approximately \$80.

A Loudoun judge said the Board of Equalization did not violate the Freedom of Information Act when it asked Beverly Bradford to leave the room after snapping a flash photograph during a meeting. The judge did not believe BOE member Scott Littner's account of the incident -- he denied walking over to Bradford and angrily demanding she stop taking pictures -- but nonetheless ruled it was OK that she be asked to stop because the BOE had internal rules banning flash photography.

The 4th U.S. Circuit Court of Appeals ruled June 15 that the Norfolk voter registrar violated the federal Voter Registration Act by refusing to release rejected voter application records to the

non-profit organization Project Vote/Voting for America Inc.

VCOG joined the Reporters Committee for Freedom of the Press and several media outlets in filing a friend of the court brief in support of the lower court ruling.

The Virginia Supreme Court ruled on June 7 that the exchange of hundreds of email messages by members of the Fairfax County Public School Board in the run-up to their decision to close a local elementary school did not violate FOIA's open-meeting requirements.

The plaintiffs -- a group of concerned parents and residents -- wanted the school-closing decision overturned and so sought to prove that the exchange of email within a short period of time and within hours of the decisional meeting was more like a meeting -- held without notice -- than it was the exchange of letters.

The Supreme Court unanimously rejected that suggestion and instead reaffirmed its 2004 ruling in *Beck v. Shelton* that the use of email doesn't become a meeting unless three or more members of the board are involved in a simultaneous exchange.

A judge in Giles County ruled on the last day of August that the Town of Glen Lyn and its town manager willfully withheld records from a citizens group who requested them under FOIA. And in a move rarely seen in FOIA court cases in Virginia, the judge imposed a \$1,000 fine on the town, which is to be paid into the State Literary Fund.

According to *The Roanoke Times*, a citizens group asked to inspect records in 2009 and specifically asked for a specific lease agreement. The citizens were told it did not exist. In 2012, the group learned that the lease did in fact exist but was not disclosed.

The group sued to recoup the money it paid to review the records. The town argued that the group should have sued within two years of the 2009 review, while the plaintiffs said they couldn't have

sued until this year, which is when they learned of the lease's existence.

The judge sided with the plaintiffs, rejecting the town's testimony at trial that the lease did not in fact exist until this year.

The town is appealing the ruling.

The emails of Michael Mann, the former UVa professor, now at Penn State University, and author of the so-called hockey-stick graph depicting recent changes in the earth's climate, do not have to be released in response to a FOIA request because they are exempt as research records, said Prince William Judge Paul Sheridan on Sept. 17.

The exemption for such records has always been there, and yet -- for reasons yet unknown -- UVa did not assert the exemption when it first received ATI's request in January 2011, and it still hadn't six months later when it went to court to broker a deal to let ATI -- but not others -- see the records.

The judge did not balance the interests of academic freedom versus the public's right to know, as many in the scientific community would have liked.

A Loudoun County district judge gave the government the benefit of the doubt in a FOIA dispute when he ruled it was OK for Loudoun Board of Supervisors Chair Scott York to withhold records related to complaints that his fellow board member, Eugene Delgaudio, improperly used a county aide for campaign work.

County Attorney Jack Roberts argued that York could withhold the records because there is an ongoing investigation into Delgaudio's conduct. But the plaintiffs, Liz and Stevens Miller, said that when they originally requested the records, the investigation had not yet been launched. Instead, their request was simply ignored. FOIA says a failure to respond within five working days is a violation of the statute.

Judge Dean Worcester nonetheless ruled that because the documents are exempt from disclosure now, York's failure to respond then was excused.



VCOG's Coalition Partners Advisory Panel

— A newly created board of VCOG supporters that advises the Executive Director, who reports to the VCOG Board of Directors

Peter Broadbent, Partner at Christian & Barton

Clyde Christofferson, Partner at Whitham, Curtis, Christofferson & Cook

Butch Davies, Partner at Davies, Barrell, Will, Lewellyn & Edwards

Phyllis Errico, General Counsel at the Virginia Association of Counties

Chaz Evans-Haywood, Rockingham County Clerk of Circuit Court

Paul Fletcher, Publisher and Editor in Chief of Virginia Lawyers Weekly

Ernie Gates, Stars & Stripes ombudsman

Chris Gatewood, Threshold Counsel

Gary Grant, retired teacher, reporter and public official in Earlysville

Lawrence Hincker, Associate Vice President for University Relations at Virginia Tech

Mabel Washington Jenkins, Clerk to the Newport News City Council

Quentin Kidd, Director of the Wason Center for Public Policy at Christopher Newport University

Kandise Lucas, activist for education in Richmond

Eileen McAfee, activist in Richmond

Ryan Nobles, NBC 12-TV anchor/reporter

Ryan Parkhurst, Assistant Professor at James Madison University School of Media Arts & Design

Rebecca Quinn, activist in Charlottesville

Elizabeth Schultz, Fairfax County School Board Member

Christian Trejbal, The Roanoke Times editorial writer

Anita Vannucci, Records and Information Analyst at the Library of Virginia

Chris Whyte, Principal at The Vectre Corporation

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