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Sensible Growth in Virginia

By

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Foreword

Virginia, like other states that enjoy economic expansion, are faced with the conflicting goals of enticing new businesses into our state while managing that growth in a way that best protects our environment.

This conflict has caused divisions within our communities and a desire by our elected officials to reach some sort of “balanced approach” to keep our standard of living improving through economic growth and develop policies that will reasonably protect our environment and the esthetic vision of our communities.

Economic growth brings with it more people and the need for more roads, more schools, more stores, more homes and more office buildings. Indeed, the history of the world since the Middle Ages has been one of cities and towns expanding beyond their walls into the surrounding countryside. Since the first settlers landed at Jamestown, American history has been one of expansion. As long as our population increases, we must face the reality that our economic needs and our desires to keep our more rural areas pristine will be in conflict. But, with realistic policies based on fact and not emotion we can work together to make this continued expansion better meet the goals of the community.

This issue paper outlines some ideas worth considering by our elected and business leaders as they try to confront the seemingly conflicting goals of managed growth and economic development. As the author maintains in this paper, working together is not out of the question. But we must proceed based on reality and based on facts. If we do this, we can move ahead with continued economic expansion and with better policies to keep our environmental desires in balance.

This issue paper is published by the Thomas Jefferson Institute for Public Policy. It is part of its *Campaign 2001 Briefing Series* of papers sent to all candidates running for elective office this year and to hundreds of business and political leaders around our state and to the media. The ideas presented in this issue paper, and the papers in this series, will give our leaders some good ideas to discuss in the campaigns and to use in crafting legislation in the years ahead. Nothing in this paper should be construed as official policy of the Thomas Jefferson Institute or its Board of Directors, nor is it meant to influence specific legislation.

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SENSIBLE GROWTH IN VIRGINIA

BY DR. DAVID SCHNARE, PHD

This paper discusses the competing challenges of sensibly managing community growth and economic development. Many of the ideas outlined herein were taken from the testimony I gave to the first meeting of the General Assembly-created Commission on Growth and Economic Development on August 1, 2001.

Although I only touch on the contents of the attached chart, let me outline what you will find there. In preparation for this meeting, I examined those bills and resolutions the General Assembly had before it over the past two years that are associated with growth. The attachment identifies the policies proposed, and in some cases enacted; offers analysis of those policies; and, makes recommendations on how to address the underlying problems. Also in that attachment is an examination of the “evaluation criteria” used by one influential Northern Virginia transportation council and others used in the VDOT 2020 Plan. Both read as though written by liberal environmental causes that have no sensitivity to local interests or broader public concerns for economic viability. Our elected leaders, and others, could profitably comment on the inherent weaknesses of those criteria.

The General Assembly’s Commission on Growth and Development has before it an impossible task – to address in some unified manner the challenge of expanding economic development while maintaining the quality of life sought by the citizens of the Commonwealth. This is a challenge that urban planners using comprehensive plans admit they have been unable to fully accomplish over the past 30 years. The Legislature asked the Commission to examine this challenge because Delegates and Senators have offered a potpourri of legislative proposals aimed at “fixing” “the problem.”

THE GROWTH AND ECONOMIC DEVELOPMENT “PROBLEM”

Let me begin by discussing “the problem.” Citizens want a “city in the garden.” They want their own home, a patch of grass, decent schools, a good car and a job to pay for it all. Among this list you may immediately ask, “why the car?” Our citizens want the car because they want the freedom to take advantages of the enormous breadth of opportunities only available by personal vehicle. Those opportunities include a broader array of job opportunities; access to cultural, historic and natural resources; and especially, access to the commercial venues where they buy food, drink, clothes and nearly every other product that comes into their homes. Together these opportunities comprise the basket of goods they consider the measure of their lifestyle. In short, they want, in fact we all want, the “American Dream,” or as close to it as we can get.

Since the end of the Second World War, we have defined the “American Dream” as a house, a job, good schools and a car. Many of us had once achieved the dream, but now have lost a part of it in some way. Others still strive for it, but confront seemingly insurmountable barriers. By asking, “What happened in the last 25 years?” we begin to understand the nature of the problem and the nature of the solutions we need.

Please don’t think I have the solution. There is no magic bullet and I’m no policy sharpshooter with perfect aim. I can merely offer some insight into the problem from the perspective of a fiscally responsible environmental manager – that is, the views of an environmentalist, attorney and comptroller all in one. My opinions are my own and I represent no cause, no government, no “issue” and no organization.

The challenges of growth and economic development seem to reflect four intertwined phenomena: a loss of social capital, the growth in lifestyle opportunities, the expansion of gender equality and the growth in economic opportunity. These dry concepts take very familiar forms. Each contributes to the “problems” of suburban growth.

Social Capital Compared with our parents, we don’t talk to each other and we don’t trust each other anymore. We see a loss of social capital as a loss of civility and a loss of interest in community affairs. In 1965, two out of three people trusted others. In 1999, only one out of three had this trust. In 1970, 39 lawyers served 10,000 people. Today the number is 120 lawyers per 10,000. In 1971, one-fourth of adults (25%) participated in monthly meetings to discuss political issues. Today only 9 percent do. In the past 20 years “group” participation is down by 50%, far more than the reduction in voting turnout. And, in 1975 families invited others to their homes 14 times a year. Today we invite others over only 8 times a year, down 40%.

When we don’t talk to each other and don’t trust each other, we can’t learn about problems, help craft solutions and reach consensus. Any legislative proposal must recognize and account for this changing condition in our society. Later in this paper, I propose one mechanism to help rebuild our social capital – one that takes advantage of the fact that people still care about the problems associated with growth and economic development, even if they have lost some of the tools their parents used to deal with these problems.

Lifestyle Opportunities Today, people want “*à la carte*” cities - an individualized set of community-based opportunities that include work, home, daycare, school, entertainment, athletics, nature, stores, medical care, car repair, restaurants and a modicum of privacy. In addition, they want a complementary set of regional opportunities that include additional historic and natural resources and recreation. Individuals assemble all these elements into a daily and monthly travel package to create their own personal “community.”

Suburban communities now provide this lifestyle. Some 80 percent of suburbanites are satisfied with the quality of their life in their neighborhoods. Over 70

percent of adults believe the growth of the suburbs has created a change for the better or not caused a change for the worse. Sixty percent believe their communities' quality of life will be better by the year 2020.

Somewhere along the line, liberal groups formerly concerned with environmental causes realized that they could generate money and support by capitalizing on citizens' frustration with traffic congestion. They transformed predictions about the effects of growth from an interesting social science hypothesis (unproven and probably unprovable) into a belief system – “one that politicians must indiscriminately honor if they know what's good for them. A turning point comes when it's no longer good manners to argue against a phony consensus.”¹ One of our challenges as a community and as a state is to avoid succumbing to this phony consensus.

Thus, part of the growth and economic development challenge is promoting expansion of the lifestyle people already have, rather than reducing lifestyle opportunities. As Alan Ehernhalt (Editor of *Governing Magazine*) put it: “In criticizing sprawl, you have to be careful not to argue that people who are happy living in the suburbs really ought to be miserable.”

Proposed legislation and land-use policies that force homeowners to suffer a return to high-density urban landscapes are all too frequent. Calls for growth boundaries around cities, like those used in Portland, cause housing prices inside the boundary to skyrocket.² We can already see this happening in Alexandria and Arlington where there is little land left to develop. There, an extremely modest thirty-year-old three-bedroom home will cost well in excess of \$300,000, and in some cases nearly a million dollars.

Efforts to provide low-cost housing through high-density infill have little success. In Portland, apartment occupancy is at an all time low. Condominiums don't provide the “private home and yard” that families want and the costs of Portland's existing private homes are far far beyond the reach of the middle-class. Some have called high-density requirements racial discrimination. Because of the association between race and wages, they are correct. High-density requirements disadvantage lower income Hispanic, African-American and Asia immigrants, workers essential to economic development because these restrictive densities inflate the price of housing. Unless our elected leaders wish to be labeled discriminatory, they should reject demands for growth boundaries and high-density development on the order proposed by the Sierra Club and other groups that want to close the door to future development in suburbia.

Gender Equality Increasing gender equality has caused perhaps the biggest change in our urban/suburban demography. In Virginia today, over half of all adult

¹ Wall Street Journal columnist Holman W. Jenkins described climate change in these terms. I reuse the words because they so completely describe what has happened to concerns about “sprawl.”

² Notably, higher residential densities cause several other problems. Because people refuse to give up their cars, higher density produces greater congestion and worse air pollution. As well, higher densities increase the cost of municipal services. The most cost-efficient residential density is one house per 1.25 acres. The cost of service to municipalities increases by approximately 10% when densities grow to urban levels.

women work outside the home. In Northern Virginia, two career families are the norm. This shift from “stay at home Moms and Wives” has caused big effects on transportation and community involvement.

Women workers are now on the road during rush hour, increasing the number of vehicles well in excess of population growth, but in keeping with general economic growth. Planners and road engineers understandably failed to predict this change twenty years ago. Unfortunately, the increase in the number of women entering the work force has shifted travel within communities (errand travel) from mid-weekday to the afternoon commuting period and to Saturday mornings. The period of highest traffic congestion in many metropolitan areas is no longer the morning commute. It is now Saturday mornings.

Loss of family knowledge about the community and loss of discussions about the community also result from this demographic shift. No longer do women congregate in social settings that, in past years, provided a forum for debate about community problems. The bridge clubs, sewing circles, and coffee klatches have gone the way of the black and white TV. Women hardly have enough time for both work and children, much less volunteerism on the Welcome Wagon. Nor have men shifted their habits to ameliorate this loss of social capital. The focus of the family is now on the family and the parents' careers. Geography no longer defines the “community” unit. Adults participate in professional and hobby communities, many operating as electronic communities. The number of picnics families attend each year has dropped from 5 in 1975 to 2 in 1999, and those two are usually associated with the workplaces of the two family wage earners rather than the neighborhood.

Loss of the “homemaker” social capital that we once depended upon so heavily contributes to the challenge of addressing the tension between growth and economic development. We cannot turn back the clock, but we need not. The electronic age has already provided the tools that permit men and women to spend more weekday time within their communities. Our elected leaders should seriously consider incentives to increase the level of “telework” within the work force if they want to address the loss of traditional community involvement stemming from increasing gender equality.

Economic Development Businesses need a trained or trainable workforce and want a location that will attract high-value workers. Although various economic and financial incentives will help attract new businesses, they will not come and will not stay if they cannot find and keep workers. High-employment levels for educated workers have exacerbated the problems associated with a lack of affordable housing near businesses and result in long commuting times that drive employees to search for better work opportunities. Businesses will move to more employee-favorable locations, much as did the American Automobile Association when it left Northern Virginia for Texas recently.

The market response to this problem has been the creation of “edge cities,” employment destinations outside the central city and near or within suburbia. Northern

Virginia now has a dozen of these business locations. Counties that refuse to create the elements of successful edge cities, by refusing to provide residential densities amenable to the necessary workforce, simultaneously alienate their economic base and may well have taken themselves out of future competition for economic growth.

Local governments that construct barriers to suburban growth also face serious economic threats. Cities and counties must subsidize services to residential communities using revenues collected from commercial and business entities. Policies that increase residential density without increasing commercial density only increase the cost per household of community services while decreasing the economic base that subsidizes residential community services.

Regardless of economic incentives, the locale must provide a workforce the opportunity to achieve its version of the “American Dream,” or economic development will seek a more hospitable location.

VIRGINIA SUCCESSES

Organizations and activities within the Commonwealth have proved able to confront challenges of growth and economic development while remaining sensitive to the loss of social capital, the growth in lifestyle opportunities, the expansion of gender equality and the growth in economic opportunity. I recommend four such examples.

The Occoquan Watershed Leadership Model The press for economic development and residential growth in Northern Virginia has exacerbated the loss of social capital and trust among the citizens and created a battleground for opposing forces rather than a peace table at which parties with competing interests can find common ground. Elected officials watched needed development brought to a standstill by nearly endless and combative planning processes extended by local and non-local parties. These Supervisors saw two (generic) groups oppose economic and residential development: (1) the NIMBY crew (not in my backyard) and (2) the NOTE crew (not on this earth).

Frustrated with this enduring situation, a few elected Fairfax County officials turned the problem over to their constituents, many of who had served at high levels in private, local, state and federal organizations. These elected officials asked a simple question, “How can we get consensus on where to place new transportation corridors that link areas of suburban residential growth with employment destinations, without compromising protection of the Occoquan Watershed, a major source of drinking water for two counties and a critical nature reserve for Northern Virginia?”

Leaders among the constituents crafted an approach that built trust among the warring parties and placed reliance on existing governmental agencies, but bound the land-use and transportation decision process to the consensus among the parties. In brief, the leadership brought representatives of local stakeholders to the table with a tractable mission. Rather than attempt to agree on the location of new transportation corridors, the leadership asked the group to select criteria by which to evaluate alternatives, and thus by

which to identify the transportation corridor that best served the needs of the region and also best reflected the many interests and values of the citizens.

As expected, members of the task force voiced support for multiple values. In the final call, not one outside interest group could claim their values went unrepresented. Consensus arose as individuals recognized the need to base decisions on sound factual information and sensitivity to a robust set of interests, some which they did not personally embrace. By forcing the task force members to draft the actual criteria and gain full concurrence from all members, the leadership created an environment in which former combatants were forced to get beyond rhetoric and build trust - or fail. The task force members were willing to reach a consensus, in part because they would otherwise be left out of the process and in part because the leadership had extracted a promise from the elected officials to force government organizations to fairly apply the consensus principles and evaluation criteria rising from the task force.

This leadership model worked, in part, because the local constituent leadership understood that consensus rises only when participants know the organizing leaders, managers and moderators will not bias the proceedings and will honor the values of the participants. The General Assembly could profitably apply this model to recalcitrant regional and local problems by mandating local governments to employ this leadership-consensus model to major cases appealed from the zoning commissions or boards of zoning appeal and to all major regional transportation corridor or investment decisions. In so doing, localities could profitably be required to: (1) create task forces made up only of participants living in the affected locale; (2) require the task forces to identify and weight project evaluation criteria, to justify the criteria and the weighting, and to explain the exclusion of criteria brought to their attention by outside interests; (3) use neutral, unbiased facilitators to ensure robust assessment of values, use of efficient task force processes and consideration of non-participants' values (e.g. environmental causes); and, (4) require governmental bodies to either apply the consensus evaluation criteria, or provide a judicially reviewable explanation of why it did not, judicial review to be expedited, exclusively on the administrative record and against an arbitrary and capricious standard of review.

Telework in place of Transit Rail-based mass transit costs tremendous sums and doesn't solve the congestion problem. Rail systems are expensive and only "work" in highly compact population areas where roads cannot service commuters. In Northern Virginia, the rail-based mass transit carries only five percent of commuters, but gets 30 percent of the transportation funds. The total daily demand on the best new American light rail system could be accommodated in a single hour on a 10-mile stretch of urban highway at one-fourth the cost of light-rail and one-tenth the cost of heavy rail like the Washington area Metrorail system. Rail-transit costs exceed 50 cents per passenger mile, three times as great as the cost of driving per passenger mile.

Additional highway lanes and improved bus service provides the second most cost-efficient means for reducing congestion and allowing for further suburban growth

and economic development. In many established suburban communities, however, there is no place left to put new lanes, regardless of how cost-efficient this approach may be.

The emerging 21st century solution to part of our traffic “crisis” and our environmental concerns is broad-band Internet service to the work force – telework.³ While five percent of commuters ride Metrorail, 15 percent of the private sector workforce works from home at least one day a week, *at no cost to the government*. If 15 percent of the total work force, including federal, state and local government employees, teleworked, state and local transportation officials might be able to extend the lifespan of existing transportation facilities at significantly improved service for up to a decade.

The General Assembly could play an important role in promoting expanded telework. It could require localities to ease restrictions on construction and placement of telework-necessary infrastructure. It could follow the federal lead and require state and local governments to make telework available to the entire work force. A serious investigation into the barriers of expanded telework would uncover additional opportunities for Legislative leadership that could provide for cost-effective promotion of economic development in concert with enhanced quality of life for growing residential communities.⁴

A specific idea the Virginia legislature might consider is to forcefully negotiate with the federal government managers of the current \$60 a month transit subsidy, used to reimburse its employees for taking the Metro to and from work. This subsidy encourages Metro use, although the employee must still drive to the Metro station and get there early enough to find a parking place. The Legislature should demand that this subsidy be expanded to cover the cost of high speed broad band computer connections so that the worker can stay home and work one or more days a week, taking them off the road altogether during the rush hour.

A Commitment to Highways Construction As previously discussed, sufficient highway lanes offer the most cost-efficient transportation solution to the challenge of ensuring growth in the quality of life for Virginia citizens in places that will support economic development. Had the General Assembly required Northern Virginia to build its planned highway system, rather than stand by as it removed 1,500 miles of roadbed

³ Telework does not mean working every day from home. It could involve one or more days at home, rather than in the office. More often, it means work at home during commuting hours, with the teleworker commuting to the office during non-rush hours.

⁴ One notable problem the Commonwealth will have to confront within the next two years will be non-attainment with provisions of the Clean Air Act in the Northern Virginia area and possible in the Tidewater and Richmond airshed. When the federal government threatens withholding of federal transportation funds, the Commonwealth can counter, in part, with a demand that federal workers significantly increase their telework levels so as to reduce air pollution associated with traffic congestions and overall vehicle use. Further, the Commonwealth could petition the federal government to permit government employees receiving transit subsidies to apply those subsidies to the cost of broad-band Internet access, so as to significantly improve telework efficacy. The federal government has shown the least willingness to offer telework opportunities to its employees, despite the highly-cost effective nature of this alternative.

from the map 30 years ago, the transportation and air quality crisis would be substantially less.

When local officials buckle under developers' pressure to put houses on land intended for roads, or take roads off the plans to "buy off" anti-growth advocates, only the Commonwealth has the power to prevent such an ill-advised action. The Commonwealth already requires development of comprehensive plans. Although I generally eschew state control over local decision-making, the failure of local authorities to zone for future roads and then protect planned transportation rights-of-way demands some form of state discipline.

Reliance on Market Forces The marketplace offers the best measure of citizens' demand for quality of life opportunities and the most efficient means for supplying that demand. The design of new communities reflect the citizens' interest in greater open space, more recreational space, reservations for schools and concentrated commercial venues that offer an efficient mix of stores.⁵ Zoning and comprehensive plan requirements should allow creativity in design of new residential, commercial and business developments.

The willingness of private investors to build and maintain major commuter highways demonstrates the power of consumer demand in congested metropolitan areas. Government Partnerships with private firms could allow for creation of new transportation corridors that would require some taking by eminent domain, allowing extremely efficient use of state revenues and trust monies. The Greenway in Northern Virginia, a private toll road build with state approval, is one example.

Road construction provides only one outlet for private entrepreneurship dedicated to significantly improved traffic flow. Because poor road maintenance alone can decrease traffic performance by two levels and because competitive bidding for private maintenance of roads (pot holes and plowing) can reduce maintenance costs by over 25 percent, while improving performance, the General Assembly should seriously investigate means to promote greater reliance on private, competitive road maintenance markets.

Private construction of schools, with rent-to-purchase contracts, would allow counties to build new facilities in one-third the time or less and at 85 percent of the cost or less. The Legislature would, however, have to restructure its accounting for local debt to facilitate this kind of financial arrangement. Considering the large cost savings and significantly reduced use of capital resources, the General Assembly may wish to expend considerable effort examining these kinds of approaches.

⁵ In passing, I note that if a developer would put a grocery store at the mall, citizens would faint in delight and Saturday morning congestion would ease by 10 percent. I loath to suggest the state should mandate such a commercial design, but I remain amazed that developers of commercial properties have such a tin ear when it comes to grocery stores.

Efficient Zoning Sizes And as counties such as Loudoun dramatically downzone huge areas of privately owned land in a desperate hope to restrict “sprawl,” our local governments need to look at areas that have successfully managed to maintain a rural setting without the draconian measures taken in Loudoun County. While this county has downzoned much of its land from one home per ten acres to one home per fifty acres, it is clear when driving through the Fairfax Station-Clifton area of Fairfax County that rural Virginia can be maintained very nicely at one home per five acres. Counties faced with the desire to maintain some of its land in a more rural setting should take time to visit this “oasis” in Fairfax County. A great deal can be learned from such an effort.

Further, the Fairfax Station-Clifton model is economically efficient, as compared to the Loudoun mode. The cost of government services per household decreases as zoning is reduced to 1.25 acres, but then it increases thereafter. Hence the 1 – 5 acre plot is the most economically efficient zoning available. Both high-density housing and mini-farm zoning hurt counties in the pocketbook and should be used only for limited purposes.

Notably, those who zone for “green space” often demonstrate a deep misunderstanding of the term. “Green space” means several things. It may be farmland, but such private land has next to no value as a community resource. It is, after all, private land not open to the public. Rather, the public wants green space in the form of recreational fields, nature reserves and public parks – all useful for public recreation. Zoning requirements for preservation or creation of these kinds of green space should be the first to receive subsidies, rather than preservation of farmland, especially when such farmlands have small economic significance to the state or the community.

CONCLUSION

The General Assembly and the Commission on Growth and Development face a daunting task. Those of us who daily suffer the problems arising from the challenges of providing for residential growth and economic development look to our elected leadership and foresight. We do not seek quick fixes and will not countenance a “phony consensus” built on a miasma of rhetoric. We look to you for sensible approaches that empower the citizens and generally leave the decisions to our local governments. We need evolutionary approaches that do not replace a flawed system with an untested one.

Appendix

| Growth and Transportation Policies | Analysis | Recommendations |
|--|---|--|
| Adequacy of Revenue Resources to Meet Infrastructure Needs | | |
| <ul style="list-style-type: none"> - Proposal: Examine and consider expected growth and environmental impacts when evaluating economic development measures (01 HJR 603) | <ul style="list-style-type: none"> - Government agencies need more than a general prescription to examine potential collateral effects. Further, the agency's enabling legislation may not permit modification of policies based on potential collateral effects | <ul style="list-style-type: none"> - Require robust analysis of major economic development actions and authorize consideration of collateral effects. - Limit analysis to major actions and limit judicial review of analyses. |
| <ul style="list-style-type: none"> - Authorize community development authorities to finance, fund, plan, establish, acquire, construct or reconstruct, enlarge, extend, equip, operate, and maintain the infrastructure improvements enumerated in the ordinance or resolution establishing the district, as necessary to meet the increased demands placed upon the locality as a result of development within the district. (15.2-5158) | <ul style="list-style-type: none"> - Correctly limits authorities of CDAs - Fails to limit authorities of regional transportation authorities in the same manner. | |
| <ul style="list-style-type: none"> - Proposal: rail service using independent, self-propelled rail cars and potential private funding (00 HJR 174) | <ul style="list-style-type: none"> - This proposal contains the best and worst of a much-discussed mass transit solution. - Light-rail (street cars) take up highway lanes, slow traffic, require subsidies and cost many times the cost of bus service. - Privately funded proposals reflect serious consideration of the economic viability of a project, something routinely ignored by transportation authorities. | <ul style="list-style-type: none"> - To conserve transportation resources, every rail proposal should be rigorously compared with the cost-efficiency and self-sustainability of non-rail mass transit, as well as increased lane miles and traffic control and management systems. |

| Growth and Transportation Policies | Analysis | Recommendations |
|--|---|---|
| Revitalization of Inner-City Areas - Rely on existing (urban) infrastructure (TCC resolution & 2020 Plan Evaluation Criteria) | <ul style="list-style-type: none"> - Wrongly assumes adequacy, lifespan and efficiency of existing infrastructure. - Fails to recognize the need for new kinds of infrastructure (e.g., glass fiber cable, ultra-small vehicles). - Wrongly assumes increased physical and cost efficiencies with higher densities. Municipal service costs per household increase as densities increase from 1 household per 1.25 acres, as does crime. - Wrongly assumes existing transit and transportation can accommodate more concentrated development. | <ul style="list-style-type: none"> - Authorize and require multi-utility trenching. - Increase parking facilities at terminal destinations - Create incentives to expand telework. |
| - Create incentives to concentrate residential and commercial development along transportation & transit corridors. (TCC resolution & 2020 Plan Evaluation Criteria) | <ul style="list-style-type: none"> - See above - Empowers the politically savvy (developers and single-issue lobby groups) while disenfranchising the inexperienced (minority & middle class/poor). - Causes economic and ethnic discrimination by causing increased housing costs (greenlining). - Reduces viability and service level of small business (e.g. Old Town Alexandria). - Ultimately requires high-cost remedial action to accommodate the auto-oriented population (e.g. Shirlington). | <ul style="list-style-type: none"> - Encourage commercial development that would reduce the number of "errand" trips (e.g. put the grocery store in the mall and mini-grocery, video rental, laundry and child care pick-up at mass-transit parking facilities). - Concentrate on the causes of traffic congestion rather than on the automobile. (see above) |
| - Strictly enforce zoning regulations to concentrate development and force a pedestrian orientation (TCC resolution) | <ul style="list-style-type: none"> - Ignores questions of citizens' concerns about compatibility with existing uses | <ul style="list-style-type: none"> - Memorialize the "compatibility" criterion for changes to comprehensive plans and other land use decisions. |
| - Promote mixed use of land (2020 Plan Evaluation Criteria) | <ul style="list-style-type: none"> - Wrongly assumes pedestrian enhancements actually increase pedestrian activity. | <ul style="list-style-type: none"> - Target pedestrian enhancement on safety measures |
| - Enhance pedestrian environment (2020 Plan Evaluation Criteria) | | |

| Growth and Transportation Policies | Analysis | Recommendations |
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| <ul style="list-style-type: none"> - Open space easements (28.2-1300) | <ul style="list-style-type: none"> - Open space easements constitute purchase of development rights. - Historically, negotiations between the seller/donor and the buyer/recipient do not reflect fair bargaining between parties of equal sophistication. The hallmark of these transactions is "seller's remorse." | <ul style="list-style-type: none"> - Amend the current authority to limit easement lifespan to 10 years. Taking land out of development should never be perpetual. If used, development rights should expire within 10 years, resulting in a new auction open to all parties. Increased gains in value of the development right should inure to the current holder of the underlying deed. |
| <p>Exploiting Brownfields</p> <ul style="list-style-type: none"> - Development of brownfields entails resolution of liability under federal and state law. Only in the rarest of cases do brownfields engender any form of private liability, typically because of the extremely small risk to human health and the environment from these sites. - These sites have extremely high potential for mixed (and pedestrian friendly) residential, commercial and recreational development. Although the mix of residential, commercial and recreational development may be pedestrian friendly to residents on the site, these sites are not self-dependent and must also be designed as a private vehicle destination (adequate parking) in order to support the commercial development. These sites can accommodate non-commercial (light industrial or white-collar) business, which supports the commercial development and further increases the need for adequate parking. - A large brownfield site, such as the former downtown Denver airports (Stapleton and the former Air Force base), is often already served by core transportation facilities, including rail. Of all sites, these offer the greatest potential for reasonably high density development, because of existing transportation resources. Development can also underwrite the cost of connection to adjacent rail, when available. - Because such sites often are geographical close to urban employment destinations, or can serve in part as such destinations, the value of residential development on part of these sites can be extremely high. Thus, residential development should provide for a significant mix in economic value. Failure to provide some lower-cost housing in the residential mix will cause institutional economic and racial discrimination. | | |

| Growth and Transportation Policies | Analysis | Recommendations |
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| <p>Preserving Open Space and Property Rights</p> <ul style="list-style-type: none"> - Protect "sensitive" environmental, cultural, historical and neighborhood locations (TCC resolution & 2020 Plan Evaluation Criteria) | <ul style="list-style-type: none"> - This policy, while easy to embrace, fails to address three inter-related questions: <ol style="list-style-type: none"> 1. How much protection do we need; 2. When does cost limit protection; and, 3. Whose decides what is "sensitive." | <ul style="list-style-type: none"> - Require compatibility with existing uses, reviewed on a decade-long cycle - Rely on local decision-making processes, coupled with analysis and local leadership model actions. |
| <ul style="list-style-type: none"> - Proposal: Virginia Natural Resources Council (State NEPA and God Squad on every major local/state action) (01 HB 2796) | <ul style="list-style-type: none"> - This proposed council would have regulatory control over every local jurisdiction. - The regulatory program would effectively limit the discretion and responsiveness of localities struggling with transportation and land use issues. - Similar attempts to create a similar federal authority, vested in OMB, failed for the same reasons this proposal should fail - too much power taken from local authorities and state agencies. | <ul style="list-style-type: none"> - Expand the scope of required studies to include statements of project objectives (including collateral growth and environmental objectives) and analysis of cost-effectiveness among alternative approaches to achieving the primary and collateral objectives) - Disallow judicial review of the analysis, but permit challenges to final decisions under an arbitrary and capricious standard. |
| <ul style="list-style-type: none"> - Proposal: Create a Hampton Regional Authority to subsume basic infrastructure services and also control land use through growth controls. (01 SJR 372) | <ul style="list-style-type: none"> - This would be one of the first efforts to limit local control over land use decisions. It would have every flaw of a regional authority and no limitation on its reach. | <ul style="list-style-type: none"> - Require localities to study and consider potential regional effects of local land use decisions, but leave local decisions in the hands of localities. - Allow veto of regional authority proposals by localities (require unanimous consent on regional investments) that would limit land use within the locality beyond that defined in the locality's comprehensive plan. |

| Growth and Transportation Policies | Analysis | Recommendations |
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| <p>- Proposed: Zoning require transportation systems be carefully planned; that new community centers be developed with adequate highway, utility, health, educational, and recreational facilities; that the need for mineral resources and the needs of agriculture, industry and business be recognized in future growth; that residential areas be provided with healthy surroundings for family life; that agricultural and forest land be preserved; and that the growth of the community be consonant with the efficient and economical use of public funds. (01 SB 1381)</p> | <ul style="list-style-type: none"> - This proposal identifies many of the factors that should be considered during zoning, but fails to indicate how "compatibility" should factor into decision-making. - The state prescription fails to require an open process and fails to provide means to protect local interests from outside groups (e.g. environmental causes). - The proposal appears to wrongly assume value in agricultural land beyond it's agricultural productivity. | <ul style="list-style-type: none"> - In addition to a statement of purpose for zoning activities, the Commonwealth should provide for periodic reports on the effectiveness of zoning with regard to the multiple purposes of zoning. - The bill should also require localities to employ the highly successful Occoquan Watershed Leadership model in major cases appealed from the zoning commissions or boards of zoning appeal: <ol style="list-style-type: none"> 1. Empower local task forces to identify and weight project evaluation criteria, and to justify the weighting. 2. Use neutral, unbiased facilitators to ensure robust assessment of values. 3. Require consideration of non-parties' values (e.g. environmental causes). 4. Require application of evaluation criteria by governmental units. |

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| <p>Other Underlying Assumptions and Policies</p> <p>- Proposal: Northern Virginia Regional Transportation Authority (01 HJR 610)</p> | <ul style="list-style-type: none"> - This proposal is an open attempt to take power away from localities and place it in the hands of a Regional authority (and its bureaucracy) in a manner not accountable to the local citizens or their elected officials. - Regional authorities add layers of bureaucracy and have not proven successful in preventing or curing the problems associated with growth. | <ul style="list-style-type: none"> - Limit the authority of a regional organization to study of regional problems, to include robust analysis that describes the cost-effectiveness and efficacy of alternative transportation approaches as regards achieving not only transportation objectives, but land use and environmental objectives identified by local residential leadership processes. - Create a binding arbitration process for intra-state (regional) disputes regarding transportation. Require local leadership processes (like the Occoquan Watershed Leader model) to precede an arbitration process. |
| <ul style="list-style-type: none"> - Reduce automobile dependency | <ul style="list-style-type: none"> - Assumes government can successfully impose major lifestyle changes - Public will not walk more than 600 yards | <ul style="list-style-type: none"> - Provide incentives to workforce managers that build on favorable lifestyles - specifically, telework. |
| <ul style="list-style-type: none"> - Reduce vehicle miles traveled and VMT per capita (TCC resolution) | <ul style="list-style-type: none"> - This assumes VMT are the problem, when congestion is the problem. - This is a code word for reducing automobile dependency. | <ul style="list-style-type: none"> - Sensible growth would have among its goals: <ol style="list-style-type: none"> 1. Reduction of traffic congestion in a manner consonant with citizens values 2. Improvement of environmental quality to a degree consonant with citizens willingness to pay for it |

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| <ul style="list-style-type: none"> - Reduce regional VMT (2020 Plan Evaluation Criteria) | <ul style="list-style-type: none"> - A subtle distinction from the TCC formulation, this policy ignores the worst congestion problem, end-of-workday and Saturday short local "errand" trips. - Assumes mass transit is an adequate replacement for personal vehicles. Greater reliance on "regional" mass transit forces increased regional travel to regional destinations not adequately served by mass transit (entertainment, child extracurricular activities, businesses not within 600 yards of a "friendly" mass transit stop). - The question should never be "who tried it." The correct question is "did it work under conditions similar to ours." | <ul style="list-style-type: none"> - Promote cost-effective VMT (time and money to be considered) - Concentrate VMT reduction (mass transit replacement of personal vehicles) only when cost-effective in comparison to personal vehicles. |
| <ul style="list-style-type: none"> - Evaluate options based on where else they have been attempted. (2020 Plan Implementation Criteria) | | <ul style="list-style-type: none"> - Require evaluation of every large capital project intended to address growth and every major land use policy change against whether the approach was successful in like circumstances. - Require evaluation of existing projects and post-implementation of new projects to determine efficacy and efficiency, with results to be made available publicly. |
| <ul style="list-style-type: none"> - What level of government applies the tool? (2020 Plan Implementation Criteria) | <ul style="list-style-type: none"> - The more important question is whether the tool disenfranchises or emboldens players. Not all players are parties and not all values deserve parity in decision-making. Weighing conflicting values is best done in a manner insulated from mischief. | <ul style="list-style-type: none"> - Employ the highly successful Occoquan Watershed Leadership model: 5. Empower local task forces to identify and weight project evaluation criteria, and to justify the weighting. 6. Use neutral, unbiased facilitators to ensure robust assessment of values. 7. Require consideration of non-parties' values (e.g. environmental causes). 8. Require application of evaluation criteria by government units. |

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| <ul style="list-style-type: none"> - Does the tool apply to both transit & roads? (2020 Plan Implementation Criteria) | <ul style="list-style-type: none"> - The more appropriate question is whether a land use policy undermines an honest comparison of mass transit and roads. | <ul style="list-style-type: none"> - Require a robust consideration of alternatives when evaluating mass transit. (Note, for example: One lane of limited access highway in Northern Virginia carries as many people in one hour at Level D service as the total ridership on the two MetroRail lines during the entire day. |
| <ul style="list-style-type: none"> - Proposal: Fund, plan and build transportation corridor that integrates transportation web design, reservation of road rights-of-way, economic growth needs, and local growth plans. (00 SB 310) | <ul style="list-style-type: none"> - Transportation-based planning that would plan for distant out-year development in an area and require reservation of lands needed to create a web of roads that would prevent congestion under full development. | <ul style="list-style-type: none"> - Such funding should require 25 year reservation of rights-of-way and a high hurdle for disposal of such reserved lands. |

About the Author

Mr. David Schnare is an attorney and Senior Environmental Specialist in the Office of Enforcement and Compliance Assurance (Compliance) at the United States Environmental Protection Agency (EPA). He is Vice Chair of the Regulatory Initiatives Committee for the American Bar Association.

Bringing his “balanced” environmental views to his community, Mr. Schnare is the Chairman of the Environmental and Land Use Committee of the Occoquan Watershed Coalition, an organization of 143 homeowners associations in western Fairfax County, Virginia. He also serves as a Member of the Fairfax County Environmental Quality Advisory Council and on the Citizens’ Advisory Council of the Virginia-Maryland Regional College of Veterinary Medicine at the Virginia Polytechnic Institute and State University (Virginia Tech).

Mr. Schnare holds many honors including: Law Review at George Mason University School of Law; Inns of Court (GMUSL); Sigma Xi (Science Honorary); Delta Omega Service Award (Public Health Honorary); National Science Foundation Research Fellowship; LEGIS Fellowship; and the U.S. Public Health Fellowship. He was awarded the EPA Bronze Medal on four occasions, the EPA Assistant Administrator for Enforcement’s Personal Recognition Award, the Vice President’s Hammer Award. He is an Honorary Member of the Water Quality Association.

Mr. Schnare earned his JD in 1999 from George Mason University School of Law. While attending law school (and working full-time at EPA) he was the Hogan (Environmental) Essay winner and served on the Law Review and the Inns of Court. He graduated Cum Laude (Order of the Coif). He holds his PhD in Environmental Management from the University of North Carolina-Chapel Hill, a Master of Science in Public Health-Environmental Science from the University of North Carolina School of Public Health, and a Bachelor’s Degree from Cornell College in Mt. Vernon, Iowa where he majored in chemistry and mathematics.