

**VIRGINIA:**

**IN THE CIRCUIT COURT FOR THE CITY OF CHARLOTTESVILLE**

**JASON KESSLER**

Petitioner,

v.

**CITY OF CHARLOTTESVILLE,**

**Al THOMAS**, in his official capacity as  
Chief of Police,

**MAURICE JONES**, in his official capacity  
as City Manager,

and

**BRIAN WHEELER**, in his official capacity  
as Director of Communications

Respondents.

Case No: CL20000692-00

---

**PETITION FOR DECLARATORY, MANDAMUS, AND INJUNCTIVE**

**RELIEF**

1. This is an action under the Virginia Public Records Act, Va. Code Ann. § 42.1-76 to 91 ("PRA") and Virginia Freedom of Information Act, Va. Code Ann. § 2.2-3700 to 3714 ("FOIA"), seeking declaratory, mandamus, and injunctive relief against Respondents City of Charlottesville ("City" or "Respondent"), Director of Communications Brian Wheeler, former Police Chief Al Thomas and former City Manager Maurice Jones (in their official capacities), for failure to preserve and/or make available for inspection public records in the form of text messages in violation of the PRA and FOIA.

2. As described herein, the City has repeatedly and unlawfully destroyed public documents which Jason Kessler ("Petitioner") has later requested under FOIA.

3. This action is **not** seeking the production of documents currently in possession of Respondents. Production of those documents were sought and obtained via a separate action. Rather, the instant action seeks remedies for failure by Defendants to properly archive and preserve documents from destruction as required under the FOIA and PRA.

### **JURISDICTION AND VENUE**

4. This Court has personal jurisdiction over this matter pursuant to Va. Code Ann. § 2.2-3713(A)(1).

5. This Court has subject matter jurisdiction over this matter pursuant to Va. Code Ann. § 2.2-3713(A)(1).

6. This Court is the proper venue for this matter pursuant to Va. Code Ann. § 2.2-3713(A)(1).

### **PARTIES**

7. Petitioner Jason Kessler is an adult male resident of the Commonwealth of Virginia.

8. Respondent City of Charlottesville is a political subdivision of the Commonwealth of Virginia.

9. Respondent Maurice Jones is an adult male resident of North Carolina. During all relevant times he served as City Manager for the City of Charlottesville. He is sued in his official capacity only.

10. Respondent Brian Wheeler is an adult male resident of the Commonwealth of Virginia. During all relevant times he served as a Communications Director for the

City of Charlottesville and their authorized FOIA representative. He is sued in his official capacity only.

11. Respondent Al Thomas is an adult male resident of the Commonwealth of Virginia. During all relevant times he served as a Chief of Police for the City of Charlottesville. He is sued in his official capacity only.

## **LEGAL FRAMEWORK**

### **The Virginia Public Records Act**

12. The PRA defines "public record" or "record" to mean "recorded information that documents a transaction or activity by or with any public officer, agency or employee of an agency. Regardless of physical form or characteristic, the recorded information is a public record if it is produced, collected, received or retained in pursuance of law or in connection with the transaction of public business. The medium upon which such information is recorded has no bearing on the determination of whether the recording is a public record." Va. Code Ann. § 42.1-77.

13. The PRA states that "[n]o agency shall destroy or discard a public record unless (i) the record appears on a records retention and disposition schedule approved pursuant to §42.1-82 [Duties and powers of Library Board] and the record's retention period has expired; (ii) a certificate of records destruction, as designated by the Librarian of Virginia, has been properly completed and approved by the agency's designated records officer; and (iii) there is no litigation, audit, investigation, requests for records pursuant to the Virginia Freedom of Information Act... or renegotiation of the relevant records retention and disposition schedule pending at the expiration of the retention period for the application records series." Va. Code Ann. § 42.1-86.1(A).

14. The Library of Virginia Board, through the authority granted to it by Va. Code Ann. §42.1-82(a)(2), has promulgated a records retention schedule which mandates that all correspondence of city officials must be retained for at least two years. This includes:"incoming and outgoing letters, memoranda, faxes, notes, and their attachments, in any format including, but not limited to, paper and e-mail." Correspondence of City Managers must be retained "Permanent(ly), In Agency". Library of Virginia, Records Retention and Disposition Schedule, General Schedule No. GS-19, County and Municipal Governments, Administrative Records, Series 010038 and 010006. **[EXHIBIT 1]**

15. "Any custodian of any public records shall, at the expiration of his term of office, appointment or employment, deliver to his successor, or, if there be none, to The Library of Virginia, all books, writings, letters, documents, public records, or other information, recorded on any medium kept or received by him in the transaction of his official business; and any such person who shall refuse or neglect for a period of ten days after a request is made in writing by the successor or Librarian of Virginia to deliver the public records as herein required shall be guilty of a Class 3 misdemeanor" Va. Code Ann. § 42.1-88.

16. While the Public Records Act itself does not confer a private cause of action, Virginia courts have held that mandamus can provide a private cause of action to enforce the Public Records Act when no other legal remedy exists. *PETA v Norfolk* (2014) The function of mandamus is to enforce duties growing out of public concern, or imposed by statute, or in some respect involving a trust or official duty. *T.D. Bank N.A. v. Frey*, 83 Va. Cir. 68, 71 (Cir. Ct. 2011); *Carolina, C. & O. R. Co. v. Bd. of Supervisors*, 109 Va. 34, 37 (1909) (citing *Richmond Ry. & Elec. Co. v. Brown*, 97 Va. 26 (1899)).



17. To issue a writ of mandamus, a court must find: (1) the existence of a clear right in plaintiff to the relief sought, (2) the existence of a ministerial legal duty on the part of defendant to do the thing that the plaintiff seeks to compel, and (3) the absence of another adequate remedy at law. *Cartwright v. Commonwealth Transp. Comm'r*, 270 Va. 58, 63-64 (2005); *Hertz v. Times-World Corp.*, 259 Va. 599, 608 (2000) (quoting *Tyler v. Taylor*, 70 Va. (29 Gratt.) 765, 766-67 (1878)); *Accord Town of Front Royal v. Front Royal and Warren County Indus. Park Corp.*, 248 Va. 581, 584 (1994); *Greyhound Lines, Inc. v. Davis*, 200 Va. 147, 152 (1958); *Hall v. Stuart*, 198 Va. 315, 323-24, (1956).

18. This case meets all of these conditions.

### **The Virginia Freedom of Information Act**

19. The FOIA defines public records as "all writings and recordings... however stored, and regardless of physical form or characteristics, prepared or owned by, or in the possession of a public body or its officers, employees or agents in the transaction of public business." Va. Code Ann. § 2.2-3701.

20. The FOIA requires that custodians of public records "take all necessary precautions for their preservation and safekeeping." Va. Code Ann. § 2.2-3704(A).

21. The FOIA requires that "all public records shall be available for inspection and copying upon request," unless release is prohibited by law or the custodian has properly invoked one of the limited exceptions set forth in the FOIA. Va. Code Ann. § 2.2-3700(B).

22. The FOIA requires that a public body inform a requestor in writing when public records are being withheld in part and mandates that the public body's response

"identify with reasonable particularity the subject matter of withheld portions, and cite, as to each category of withheld records, the specific Code section that authorizes the withholding of the records." Va. Code Ann. § 2.2-3704(B)(2).

23. Upon receiving a FOIA request, a public body that is the custodian of the requested records has five (5) business days to respond to the request. Va. Code Ann. § 2.2-3704(B).

24. A single instance of denial of the rights and privileges conferred by the FOIA shall be sufficient to invoke the remedies provided in the FOIA. Va. Code Ann. § 2.2-3713(D).

25. The FOIA provides that the petitioner is entitled to recover reasonable costs, including costs and reasonable fees for expert witnesses and attorneys' fees from the public body if the petitioner substantially prevails on the merits of the case, unless special circumstances would make an award unjust. Va. Code Ann. § 2.2-3713(D).

### **STATEMENT OF FACTS**

26. On August 12, 2017, a protest known as "Unite the Right" was held in Charlottesville, Virginia.

27. On August 12, 2017, the following persons served in these respective official capacities for the City of Charlottesville: Maurice Jones, City Manager; Mike Signer, Mayor; Al Thomas, Police Chief.

28. Numerous lawsuits were filed directly and peripherally involving the events of Unite the Right. These include, but are not limited to: Turner v Thomas (August 31, 2017-June 21, 2019), Kessler v Charlottesville (March 6, 2018-August 3, 2018),

Kessler v Charlottesville (November 7, 2018-March 4, 2019), Sines v Kessler (October 11, 2017-Present) and Kessler v Charlottesville (August 12, 2019-Present).

29. Public documents related to Unite the Right, including e-mails and text messages of Maurice Jones and Al Thomas, were collected by the IT and eDiscovery firm Cognicion, LLC as part of an Independent Review of the events of August 11 and 12, 2017.

30. After Unite the Right, Respondent Al Thomas and Charlottesville Police Department (“CPD”) command staff destroyed relevant evidence by deleting text messages and other electronic information.

31. Thomas lied about using personal e-mail to discuss City of Charlottesville planning for Unite the Right in response to a direct FOIA request from Petitioner Kessler. **[EXHIBIT 2]**

32. On March 7, 2019, Petitioner Kessler transmitted a written FOIA request for public records to City of Charlottesville and Communication Director Brian Wheeler **[EXHIBIT 3]**. In doing so, Petitioner requested:

“the deleted text messages of Chief Al Thomas and 'other command staff' identified by Tim Heaphy in the Charlottesville Independent Review.”

The request included the following passage from the Charlottesville Independent Review:

In our interviews with CPD personnel, we learned that Chief Thomas and other CPD command staff deleted text messages that were relevant to our review. Chief Thomas also used a personal e-mail account to conduct some CPD business, then falsely denied using personal e-mail in response to a specific FOIA request. Chief Thomas and the commanders with whom we spoke denied any effort to hide information from our review team. Conversely, they indicated that we received everything in the Department’s possession that bears upon the issues at stake in our evaluation.

33. On March 14, 2019, Wheeler responded, “The City has no records responsive to this request.” No records were produced for inspection.

34. On April 25, 2019, Petitioner transmitted a written FOIA request for public records to City of Charlottesville and Communication Director Brian Wheeler.

**[EXHIBIT 4]** Petitioner requested the following public records:

“emails and text messages sent and received by Maurice Jones on August 11 and 12, 2017”

35. On May 2, 2019, City of Charlottesville responded to Kessler’s FOIA request (“response”) in a letter signed by Director of Communications Brian Wheeler.

36. In his response, Wheeler asserted that, “The City of Charlottesville has no records responsive to that request”. In response to numerous requests for clarification, including inquiry as to whether the requested text messages had been deleted, Wheeler failed to provide any additional information as to their whereabouts.

**Former Charlottesville Mayor Mike Signer Reveals Existence of Responsive Documents**

37. Mike Signer served as Mayor of the City of Charlottesville during the Unite the Right protest on August 11-12, 2017 and related events.

38. On March 10, 2020 Signer published a book (“Cry Havoc”) in which he described his experience working for the City of Charlottesville at the time of the protest.

39. Within his book, Signer described the existence of multiple text message exchanges with Maurice Jones on August 11 and 12, 2017. **[EXHIBIT 5]**

## **Freedom of Information Act Lawsuit Filed**

40. On October 23, 2020, in response to Signer revealing the existence of those text messages, Kessler filed a lawsuit in Charlottesville General District Court naming the City of Charlottesville and Communications Director Brian Wheeler as defendants and alleging violations of the Virginia Freedom of Information Act.

41. On November 24, 2020, Wheeler responded to Kessler's original FOIA request with a partial production including 1121 pages of emails and 38 pages of texts which were responsive to his request and in possession of the City.

42. Crucially, many text messages from August 12, 2017 were still missing from the production, including those messages referenced in Signer's book.

43. Addressing those missing text messages, Wheeler wrote a letter explaining that:

“The City does not have the original text messages sent and received by Maurice Jones. Consistent with City practice at the time of his departure, Mr Jones's (sic) text messages were not retained by the City and the cell phone issued to him was wiped upon his departure in 2018.” **[EXHIBIT 6]**

44. Brian Wheeler became Director of Communications in February 2018. Maurice Jones was City Manager until July 2018. Wheeler took no action during those five months towards the “preservation and safekeeping” of public documents on Jones' cell phone.

45. The Library of Virginia confirmed that they haven't received legally required Certificate of Record Destruction (“RM-3”) forms for destroyed public records on Respondents Jones and Thomas' cell phones. **[EXHIBIT 7]**

46. On information and belief, Maurice Jones had many more responsive text messages from August 11-12, 2017 which were destroyed in violation of the PRA and FOIA.

47. At trial on November 30, 2020, Wheeler testified that he never obtained access to the cell phone containing Maurice Jones text messages.

48. Respondent Wheeler testified that Jones' executive assistant informed him that the phone had been wiped before being handed over to the incoming City Manager, Tarron Richardson.

49. Maurice Jones and the Office of the City Manager remained custodian of the relevant public records in the form of text messages until their destruction.

50. On information and belief, the Office of the City Manager ordered Jones' cell phone to be wiped, spoliating evidence in numerous lawsuits and in clear violation of the PRA.

51. At the conclusion of Kessler's FOIA lawsuit in General District Court on November 30, 2020, Judge Downer awarded court costs for FOIA violations by City of Charlottesville.

**Respondents Are Aware of Their Obligations Under PRA and FOIA**

52. In 2014, Maurice Jones was previously admonished by the Library of Virginia for failing to preserve incriminating public records, in violation of the PRA.

“...under the provisions of Code of Virginia § 42.1-86.1, no public records may be destroyed without the completion of a Certificate of Records Destruction (RM-3 Form) and the approval of a designated records officer. All records destruction must be reported to the Library of Virginia through the submittal of the RM-3 form.” **[EXHIBIT 8]**

53. Referring to the Public Records Act as “VPRA”, Charlottesville Chief Deputy City Attorney Lisa Robertson stated in 2014, “There persists an incorrect assumption that records created or stored on personal devices, even if such records discuss public business, aren’t subject to VPRA. VPRA requires certain correspondence of city councils and boards of supervisors, and of local administrators, to be *permanently* maintained — regardless of where created or stored. At the expiration of their terms, public officials must deliver public records in their possession to successors.” [EXHIBIT 9]

54. Respondents, despite being aware of their statutory obligation to preserve the public records described herein, destroyed them in violation of the PRA.

## **ARGUMENT**

### **I. RESPONDENTS VIOLATED THE PUBLIC RECORDS ACT**

55. Petitioner reasserts and adopts by reference paragraphs 1 - 54.

56. Respondents have failed, and on information and belief continue to fail, to prevent the destruction and ensure the preservation of public records related to Unite the Right before the expiration of the two year retention period promulgated by the Library of Virginia, in violation of Va. Code Ann. §§ 42.1-86.1(A) and 42.1-85(B).

57. Respondents have repeatedly destroyed public documents which are critical evidence in ongoing litigation, in violation of Va. Code Ann. § 42.1-86.1(A)(iii).

58. Respondents have failed to permanently preserve public records related to communications of the Charlottesville City Manager as dictated by

the Library of Virginia, in violation of Va. Code Ann. §§ 42.1-86.1(A) and 42.1-85(B).

59. Upon the expiration of his term, Respondent Jones failed to deliver to his successor public documents in the form of text messages, in violation of Va. Code Ann. § 42.1-88.

60. Respondents failed to document destruction of public records with RM-3 forms, in violation of Va. Code Ann. § 42.1-86.1(A)(ii).

## **II. RESPONDENTS VIOLATED THE VIRGINIA FREEDOM OF INFORMATION ACT**

61. Petitioner reasserts and adopts by reference paragraphs 1 - 60.

62. Respondents have failed to take all necessary precautions, and on information and belief continues to fail to take all necessary precautions, for the preservation and safekeeping of public records related to Unite the Right, in violation of Va. Code Ann. § 2.2-3704(A).

## **III. PETITIONER HAS NO LEGAL REMEDY BUT MANDAMUS**

63. Respondents Wheeler and City of Charlottesville failed to preserve public documents on the phones of Maurice Jones, Al Thomas and CPD command staff, in violation of the FOIA and PRA.

64. Respondents Jones and Thomas destroyed public documents on their cell phones, in violation of the FOIA and PRA.



65. On February 21, 2020, a lawsuit filed by Kessler regarding City of Charlottesville's response to Unite the Right was dismissed, in part, because of lack of evidence regarding Maurice Jones' conduct on August 12, 2017.

66. Kessler has no legal remedy other than mandamus to recover the requested public documents in the form of Maurice Jones and Al Thomas' text messages.

### **PRAYER FOR RELIEF**

Wherefore, Petitioner prays that this Court will:

1. Hold a hearing on this matter within seven days of the date of the filing of this Petition, as required by FOIA. See Virginia Code § 2.2-3713(C).

2. Issue a declaration that Respondents have violated the FOIA by failing to take all necessary precautions to preserve public records in the form of text messages related to Unite the Right.

3. Issue a declaration that Respondents have violated the PRA by failing to ensure the preservation of public records in the form of text messages, failing to preserve public records in the form of text messages relevant to ongoing litigation, failing to permanently preserve City Manager correspondence documents and by failing to abide by the two year retention period applicable to public records in the form of text messages promulgated by the Library of Virginia.

4. Enjoin Respondents from further destruction of public documents relevant to litigation involving the Unite the Right rally.

5. Issue a writ of mandamus ordering Respondents to recover the public documents in the form of text messages by a) retrieving them from Cognicion or other custodian of public documents who inherited files from the Charlottesville Independent Review b) checking the phones of third parties who texted with Maurice

Jones, Al Thomas and CPD command staff on August 12, 2017 c) retrieve documents stored in iCloud or other backup d) hire, at City of Charlottesville's expense, a computer forensics firm to recover the illegally spoliated documents from the phones of Maurice Jones, Al Thomas and CPD command staff.

6. Issue a writ of mandamus ordering Respondents to reveal all known information about the spoliated public documents which would have been revealed in the text messages subject to FOIA including: which members of the CPD command staff deleted public documents in the form of text messages relevant to the Unite the Right rally, which cell phone providers Maurice Jones, Al Thomas and members of CPD command staff were using on August 12, 2017, which members of CPD were on duty that day and which members of CPD on duty that day are still employed by City of Charlottesville.

7. Issue a writ of mandamus ordering Respondent City of Charlottesville to establish procedures within thirty (30) days of the date of such writ to preserve public documents until their retention period has expired, the destruction has been approved by the Library of Virginia and the destruction has been properly documented.

8. Order Respondents to pay Petitioners' costs, including costs and reasonable fees for expert witnesses, if any, and attorneys' fees. See Virginia Code § 2.2-3713(D).

9. Any such further relief as this Court deems just and proper.

Respectfully submitted,

JASON KESSLER, Petitioner

A handwritten signature in blue ink, appearing to read "Jason Kessler", with a stylized flourish at the end.

# **EXHIBIT 1**



## LIBRARY OF VIRGINIA

Archives, Records, and Collections Services  
800 E. Broad St., Richmond VA 23219  
(804) 692-3600

# RECORDS RETENTION AND DISPOSITION SCHEDULE

## GENERAL SCHEDULE NO. GS-19

### COUNTY AND MUNICIPAL GOVERNMENTS

#### Administrative Records

The schedule on the attached page(s) is approved with agreement to follow the records retention and disposition policies listed below:

APPROVED:

EFFECTIVE SCHEDULE DATE: 4-13-2017

#### POLICIES FOR RECORDS RETENTION AND DISPOSITION

1. This schedule is continuing authority under the provisions of the Virginia Public Records Act, § 42.1-76, et seq. of the Code of Virginia for the retention and disposition of the records as stated on the attached page(s).
2. This schedule supersedes previously approved applicable schedules.
3. This schedule is used in conjunction with the Certificate of Records Destruction (RM-3 Form). A signed RM-3 Form must be approved by the designated records officer and on file in the agency or locality before records can be destroyed. After the records are destroyed, the original signed RM-3 Form must be sent to Library of Virginia (LVA).
4. Any records created prior to 1913 must be offered, in writing, to LVA before applying these disposition instructions. Offered records can be destroyed 60 days after date of the offer if no response is received from LVA. A copy of the offer must be attached to the RM-3 Form when it is submitted to LVA.
5. All known audits and audit discrepancies regarding the listed records must be settled before the records can be destroyed.
6. All known investigations or court cases involving the listed records must be resolved before the records can be destroyed. Knowledge of subpoenas, investigations, or litigation that reasonably may involve the listed records suspends any disposal or reformatting processes until all issues are resolved.

7. The retentions and dispositions listed on the attached page(s) apply regardless of physical format, i.e., paper, microfilm, electronic storage, optical imaging, etc. Unless prohibited by law, records may be reformatted at agency or locality discretion. Microfilming must be done in accordance with 17VAC15-20-10, et seq. of the Virginia Administrative Code, "Standards for the Microfilming of Public Records for Archival Retention." All records must be accessible throughout their retention period in analog or digital format. Whether the required preservation is through prolongation of appropriate hardware and/or software, reformatting, or migration, it is the obligation of the agency or locality to do so.
8. Custodians of records must ensure that information in confidential or privacy-protected records is protected from unauthorized disclosure through the ultimate destruction of the information. Ultimate destruction is accomplished through shredding, pulping, burning, and overwriting or physically destroying media.
9. Deletion of confidential or privacy-protected information in computer files or other electronic storage media is not acceptable. Records containing Social Security numbers must be destroyed in compliance with 17VAC15-120-30.
10. Under the Virginia Public Records Act, § 42.1-79, LVA is the official custodian and trustee of all state agency records transferred to the Archives, Library of Virginia. LVA may purge select records in accordance with professional archival practices in order to ensure efficient access.
10. Unless otherwise directed, files are closed out at the end of each calendar or fiscal year as appropriate. Retention periods start at that time.



## LIBRARY OF VIRGINIA

Archives, Records, and Collections Services  
800 E. Broad St., Richmond VA 23219  
(804) 692-3600

## RECORDS RETENTION AND DISPOSITION SCHEDULE

### GENERAL SCHEDULE NO. GS-19

### COUNTY AND MUNICIPAL GOVERNMENTS

#### Administrative Records

EFFECTIVE SCHEDULE DATE:			
RECORD SERIES AND DESCRIPTION	SERIES NUMBER	SCHEDULED RETENTION PERIOD	DISPOSITION METHOD
<u>Acknowledgment and Referral Files</u>  This series documents receipt of an item or forwarding of an item to another office when no other action is taken or expected of the forwarding office.	010021	3 Months after end of calendar year	Non-confidential Destruction
<u>Agenda and Supporting Documentation Files</u>  This series documents the publishing of public notices of meetings and proposed schedules. This series may include, but is not limited to: materials reviewed or used by the board, commission, or conference, and items presented to or introduced by the board, commission, or conference. COV 2.2-3707	010024	3 Years after end of calendar year	Non-confidential Destruction
<u>Agreements, Memorandums of Understanding (MOU) and Non-Fiscal Contracts</u>  This series documents agreements, other than contracts involving procurement or payment of monies, between departments within the locality, other localities, other government agencies, business entities or an individual or group of individuals.	010025	3 Years after termination	Non-confidential Destruction
<u>Annexation/Consolidation Files</u>  This series documents locality arguments, fact finding, and actions on agreements or disputes among counties, cities and towns, or decisions of the Commission on Local Government boundary changes to cities and towns. COV 15.2-3200 - 3244f	010002		Permanent, In Agency
<u>Annual Disclosure of Economic Interests</u>  This series consists of the disclosure of economic interest forms filed by members of governing bodies, commissions, and boards. COV 2.2-3115; COV 2.2-3117; COV 2.2-3115C	010008	5 Years after end of calendar year	Confidential Destruction
<u>Appointment Calendars</u>  This series documents the agenda of public officials. This series may include, but is not limited to: printed or published calendars intended for limited or general distribution.	010027	1 Year after end of calendar year	Non-confidential Destruction



## LIBRARY OF VIRGINIA

Archives, Records, and Collections Services  
800 E. Broad St., Richmond VA 23219  
(804) 692-3600

## RECORDS RETENTION AND DISPOSITION SCHEDULE

### GENERAL SCHEDULE NO. GS-19

### COUNTY AND MUNICIPAL GOVERNMENTS

#### Administrative Records

EFFECTIVE SCHEDULE DATE:			
RECORD SERIES AND DESCRIPTION	SERIES NUMBER	SCHEDULED RETENTION PERIOD	DISPOSITION METHOD
<u>Approved Forms Masters and Supporting Documentation</u>	010091	0 Years after superseded, obsolete, or rescinded	Non-confidential Destruction
This series documents the development, design, approval, and use of forms.			
<u>Citizen Complaint Files</u>	010004	1 Year after last action	Confidential Destruction
This series documents citizen complaints, preliminary investigations, findings, background material and responses.			
<u>Citizen Petitions</u>	010005		Permanent, In Agency
This series documents receipt of a petition from citizens, preliminary research, and responses. COV 15.2-301			
<u>Consultants' Reports and Related Documents</u>	010033	5 Years after end of calendar year	Non-confidential Destruction
This series documents the work of consultants hired by the locality. This series may include, but is not limited to: consultant reports and notes.			
<u>Contract Records</u>	200101	5 Years after termination	Confidential Destruction
This series documents the performance and conformance of contractual obligations of the locality or owed to the locality.			
<u>Correspondence/Subject Files: Board Members - Except Chairpersons</u>	100893	3 Years after end of calendar year	Non-confidential Destruction
This series documents incoming and outgoing letters, memoranda, faxes, notes, and their attachments, in any format including, but not limited to, paper and e-mail.			
<u>Correspondence/Subject Files: Board/Council - Mandated by Code of Virginia or Virginia Administrative Code - Chairpersons</u>	100891		Permanent, Archives
This series documents the correspondence of code mandated boards. This series may include, but is not limited to: letters, memoranda, faxes, notes, e-mail and attachments.			



## LIBRARY OF VIRGINIA

Archives, Records, and Collections Services  
800 E. Broad St., Richmond VA 23219  
(804) 692-3600

## RECORDS RETENTION AND DISPOSITION SCHEDULE

### GENERAL SCHEDULE NO. GS-19

### COUNTY AND MUNICIPAL GOVERNMENTS

#### Administrative Records

EFFECTIVE SCHEDULE DATE:			
RECORD SERIES AND DESCRIPTION	SERIES NUMBER	SCHEDULED RETENTION PERIOD	DISPOSITION METHOD
<u>Correspondence/Subject Files:</u> <u>Boards/Commissions/Conferences</u>  This series documents incoming and outgoing letters, memoranda, faxes, notes, and their attachments, in any format including, but not limited to, paper and e-mail.	100892	3 Years after end of calendar year	Non-confidential Destruction
<u>Correspondence/Subject Files:</u> <u>City Manager/County Administrator</u>  This series consists of incoming and outgoing letters, memorandum, faxes, notes and their attachments, in any format including, but not limited to, paper and electronic mail.	010006		Permanent, In Agency
<u>Correspondence/Subject Files:</u> <u>Department or Division Heads</u>  This series consists of incoming and outgoing letters, memoranda, faxes, notes, and their attachments, in any format including, but not limited to, paper and e-mail.	010037	3 Years after end of calendar year	Non-confidential Destruction
<u>Correspondence/Subject Files:</u> <u>Other Officials</u>  This series consists of incoming and outgoing letters, memoranda, faxes, notes, and their attachments, in any format including, but not limited to, paper and e-mail.	010038	2 Years after end of calendar year	Non-confidential Destruction
<u>Correspondence/Subject Files:</u> <u>Routine, Administrative - Not Specified Elsewhere</u>  This series consists of incoming and outgoing letters, memoranda, faxes, notes, and their attachments of a routine administrative nature, in any format including, but not limited to, paper and e-mail.	010039	0 Years after no longer administratively useful	Non-confidential Destruction
<u>Deeds and Property Files</u>  This series documents local government ownership of real property. COV 15.2-1800 to 1814	010007	10 Years after equipment, facility, or property sold or no longer in use	Non-confidential Destruction



## LIBRARY OF VIRGINIA

Archives, Records, and Collections Services  
800 E. Broad St., Richmond VA 23219  
(804) 692-3600

## RECORDS RETENTION AND DISPOSITION SCHEDULE

### GENERAL SCHEDULE NO. GS-19

### COUNTY AND MUNICIPAL GOVERNMENTS

#### Administrative Records

EFFECTIVE SCHEDULE DATE:			
RECORD SERIES AND DESCRIPTION	SERIES NUMBER	SCHEDULED RETENTION PERIOD	DISPOSITION METHOD
<u>Directives</u>  This series documents directives from the city council, city manager, county administrator, or board of supervisors outlining policy to lower levels of authority.	010040		Permanent, In Agency
<u>Directory Listings and Files</u>  Lists of current or former employees and/or phone listings, office listings or lists of contacts or service providers.	010041	0 Years after superseded, obsolete, or rescinded	Non-confidential Destruction
<u>Drafts</u>  This series consists of materials produced during the planning, designing and composing of a public record. This series includes recordings of meetings used to create minutes.	200102	0 Years after superseded, obsolete, or rescinded	Non-confidential Destruction
<u>Employee Suggestion Program Files</u>  This series documents the implementation and control of an employee suggestion plan.	010043	3 Years after last action	Non-confidential Destruction
<u>Environmental Impact Studies</u>  This series documents the environmental impact of major projects proposed by localities or reviewed by locality officials. COV 15.2-2202	010044		Permanent, In Agency



# RECORDS RETENTION AND DISPOSITION SCHEDULE

## LIBRARY OF VIRGINIA

Archives, Records, and Collections Services  
800 E. Broad St., Richmond VA 23219  
(804) 692-3600

## GENERAL SCHEDULE NO. GS-19

## COUNTY AND MUNICIPAL GOVERNMENTS

### Administrative Records

EFFECTIVE SCHEDULE DATE:			
RECORD SERIES AND DESCRIPTION	SERIES NUMBER	SCHEDULED RETENTION PERIOD	DISPOSITION METHOD
<p><u>E-Rate Program: After June 30, 2015</u></p> <p>This series documents a school or library's eligibility, competitive bidding process, discount calculation, compliance with the Children's Internet Protection Act (CIPA), and fund disbursements related to the Schools and Libraries Program (aka E-Rate Program) of the Universal Service Fund administered by the Universal Service Administrative Company (USAC) under the oversight of the Federal Communications Commission (FCC). This series includes, but is not limited to: accreditation, charter, or Library Services and Technology Act (LSTA) Block 4 documentation; procurement documentation, worksheets, reports, bills, invoices, and receipts. FCC 14-189 ¶1144</p>	200426	10 Years after last action	Non-confidential Destruction
<p><u>E-Rate Program: Before July 1, 2015</u></p> <p>This series documents a school or library's eligibility, competitive bidding process, discount calculation, compliance with the Children's Internet Protection Act (CIPA), and fund disbursements related to the Schools and Libraries Program (aka E-Rate Program) of the Universal Service Fund administered by the Universal Service Administrative Company (USAC) under the oversight of the Federal Communications Commission (FCC). This series includes, but is not limited to: accreditation, charter, or Library Services and Technology Act (LSTA) Block 4 documentation; procurement documentation, worksheets, reports, bills, invoices, and receipts. FCC 14-189 ¶1144</p>	200427	5 Years after last action	Non-confidential Destruction
<p><u>Executive Orders</u></p> <p>This series documents orders of the city manager or county administrator.</p>	010045		Permanent, In Agency
<p><u>Feasibility Studies</u></p> <p>This series documents feasibility studies created by or for a locality.</p>	010046		Permanent, In Agency



## LIBRARY OF VIRGINIA

Archives, Records, and Collections Services  
800 E. Broad St., Richmond VA 23219  
(804) 692-3600

## RECORDS RETENTION AND DISPOSITION SCHEDULE

### GENERAL SCHEDULE NO. GS-19

### COUNTY AND MUNICIPAL GOVERNMENTS

#### Administrative Records

EFFECTIVE SCHEDULE DATE:			
RECORD SERIES AND DESCRIPTION	SERIES NUMBER	SCHEDULED RETENTION PERIOD	DISPOSITION METHOD
<u>Finding Aids or File Locators</u>  This series consists of lists created to locate files, records, or artifacts.	010047	0 Years after no longer administratively useful	Non-confidential Destruction
<u>Freedom of Information Act (FOIA) Requests</u>  This series documents responses to requests to view official records or retrieve information from official records. This series may include, but is not limited to: requests, response, and billing information. COV 2.2-3700 to 3714	010049	3 Years after last action	Non-confidential Destruction
<u>Grant Records: Funded</u>  This series documents grant acceptance or approval, completion and conformance with grant stipulations that are not of a fiscal nature.	010051	5 Years after project completion	Confidential Destruction
<u>Grant Records: Unfunded</u>  This series documents grant proposals that did not receive funding. This series may include, but is not limited to: letter of intent, application, budget, and notification of denial.	000182	1 Year after decision	Non-confidential Destruction
<u>Hearings: Administrative</u>  This series documents administrative hearings not listed on another records retention schedule.	010054	3 Years after last action	Non-confidential Destruction
<u>History Files</u>  This series documents the history of the locality, its government, its accomplishments, its officials, or employees. This may include material of an exceptional nature that is listed as disposable in this or other general schedules. This series may include, but is not limited to: scrapbooks; photographs; articles; program notes; documentation of events sponsored or funded by the locality; narratives; and printed, audio, or audiovisual histories.	010064		Permanent, Archives

# RECORDS RETENTION AND DISPOSITION SCHEDULE

## LIBRARY OF VIRGINIA

Archives, Records, and Collections Services  
800 E. Broad St., Richmond VA 23219  
(804) 692-3600

GENERAL SCHEDULE NO. GS-19

COUNTY AND MUNICIPAL GOVERNMENTS

Administrative Records

EFFECTIVE SCHEDULE DATE:			
RECORD SERIES AND DESCRIPTION	SERIES NUMBER	SCHEDULED RETENTION PERIOD	DISPOSITION METHOD
<u>Indexes, Checklists, and Control Lists</u>	010055	0 Years after superseded, obsolete, or rescinded	Non-confidential Destruction
This series consists of forms, books, or computer records used for internal control of a process or action that does not act as the only record of final approval of the action or process.			
<u>Industrial/Economic Development Authority</u>	200131	6 Years after final payment	Confidential Destruction
This series documents the work of the authority to acquire, own, lease, and dispose of property, as well as make loans, to promote industry and develop trade. This series may include, but is not limited to: bond transcripts, correspondence, and legal documents.			
<u>Information and Public Education Records: Other Records</u>	010057	0 Years after superseded, obsolete, or rescinded	Non-confidential Destruction
This series documents public information or education campaigns and materials or items collected from various sources about the locality.			
<u>Information and Public Education Records: Pamphlets, Visual Aids and/or News Clippings Regarding Historically Significant Events</u>	010056		Permanent, In Agency
This series documents public information or education campaigns and materials or items about the locality, collected from public sources.			
<u>Investigative Reports</u>	010058	3 Years after last action	Non-confidential Destruction
This series documents internal investigations of incidents, local officials, employees, departments or operations and policies not covered by another general or specific schedule.			
<u>Legal Case Files</u>	010061	10 Years after last action	Confidential Destruction
This series documents status of legal cases involving the locality, its officials, employees, or departments.			



## LIBRARY OF VIRGINIA

Archives, Records, and Collections Services  
800 E. Broad St., Richmond VA 23219  
(804) 692-3600

## RECORDS RETENTION AND DISPOSITION SCHEDULE

### GENERAL SCHEDULE NO. GS-19

### COUNTY AND MUNICIPAL GOVERNMENTS

#### Administrative Records

EFFECTIVE SCHEDULE DATE:			
RECORD SERIES AND DESCRIPTION	SERIES NUMBER	SCHEDULED RETENTION PERIOD	DISPOSITION METHOD
<u>Legal Opinions</u>  This series consists of opinions requested by the locality, its officials, employees, or departments, from the city or county attorney or the Attorney General's office on matters of law.	010059		Permanent, In Agency
<u>Locality Annual Reports</u>  This series consists of reports prepared by or for the locality addressing the "state" of the locality, including goals, targets, objectives, and finances.	010063		Permanent, Archives
<u>Management Reports</u>  This series consists of reports created for internal control or management of a specific function of the local government.	010065	0 Years after no longer administratively useful	Non-confidential Destruction
<u>Microform Records: Inspection Reports</u>  This series documents the inspection and approval of microform prepared by or for locality. This series may include, but is not limited to: copies of background densities and inspection reports. 17VAC15-20-70	010093	3 Years after end of calendar year	Non-confidential Destruction
<u>Microform Records: Processing or Methylene Blue Tests</u>  This series documents testing required to validate the correct processing and development of microform. 17VAC15-20-70	010094	0 Years after superseded, obsolete, or rescinded	Non-confidential Destruction
<u>Minutes: Entity Having Enforcement, Regulatory, or Decision Powers</u>  This series documents the proceedings of meetings of boards, councils, conferences, committees, offices, and other groups having enforcement, regulatory or decision powers. This series includes indexes to minutes.	010029		Permanent, In Agency



## LIBRARY OF VIRGINIA

Archives, Records, and Collections Services  
800 E. Broad St., Richmond VA 23219  
(804) 692-3600

## RECORDS RETENTION AND DISPOSITION SCHEDULE

### GENERAL SCHEDULE NO. GS-19

### COUNTY AND MUNICIPAL GOVERNMENTS

#### Administrative Records

EFFECTIVE SCHEDULE DATE:			
RECORD SERIES AND DESCRIPTION	SERIES NUMBER	SCHEDULED RETENTION PERIOD	DISPOSITION METHOD
<u>Minutes: Entity Without Enforcement, Regulatory or Decision Powers</u>  This series documents proceedings of various meetings of advisory boards, councils, conferences, committees, offices, and other groups that do not have enforcement, regulatory, or decision making powers.	010030	3 Years after end of calendar year	Non-confidential Destruction
<u>Motion Pictures: Locality Produced or Sponsored</u>  This series documents motion pictures or videos, other than training material and temporary recordings of minutes, prepared by or for locality for a specific purpose.	010068		Permanent, In Agency
<u>Office Instructions or Procedures</u>  This series documents internal guidelines, policies, or instructions for the operation of an office or a function.	010069	0 Years after superseded, obsolete, or rescinded	Non-confidential Destruction
<u>Ordinances and Resolutions</u>  This series documents the adoption of ordinances and resolutions by the board of supervisors or city/town council. COV 15.2-1433; COV 15.2-1425	010017		Permanent, In Agency
<u>Organization Files: Administrative Structure and Management</u>  This series documents organization or functions of the locality's major administrative units; also, material about the reorganization of the departments or management structure.	010070		Permanent, In Agency
<u>Organization Files: Other Records</u>  This series consists of files not directly related to the organization or reorganization of the locality's management structure.	010071	0 Years after superseded, obsolete, or rescinded	Non-confidential Destruction
<u>Photographs and Negatives: Historically Significant</u>  This series documents the locality's organization, special ceremonies, occasions, events, and facilities. This series includes photographs or negatives created by or for locality.	010073		Permanent, Archives



## LIBRARY OF VIRGINIA

Archives, Records, and Collections Services  
800 E. Broad St., Richmond VA 23219  
(804) 692-3600

## RECORDS RETENTION AND DISPOSITION SCHEDULE

### GENERAL SCHEDULE NO. GS-19

### COUNTY AND MUNICIPAL GOVERNMENTS

#### Administrative Records

EFFECTIVE SCHEDULE DATE:			
RECORD SERIES AND DESCRIPTION	SERIES NUMBER	SCHEDULED RETENTION PERIOD	DISPOSITION METHOD
<u>Photographs and Negatives: Other Material</u>  This series consists of photographs, negatives, image files, filmstrips, or slides produced by the locality, not considered historically significant.	010075	0 Years after no longer administratively useful	Non-confidential Destruction
<u>Photographs and Negatives: Personnel Identification</u>  This series documents photographs used for identification of employees, contractors, or vendors. This series may include, but is not limited to: negatives, imaging files, requesting paperwork or documentation.	010074	1 Year after separation	Non-confidential Destruction
<u>Planning Files: Administrative</u>  This series documents the planning of administrative changes or projects, major purchases, significant events or occasions not requiring board or council approval of the details.	010076	0 Years after superseded, obsolete, or rescinded	Non-confidential Destruction
<u>Policy and Procedure Records</u>  This series documents guidance issued or approved by the city council, city manager, board of supervisors and/or county administrator.	010018		Permanent, In Agency
<u>Presentation Materials</u>  This series documents presentations given by locality employees. This series may include, but is not limited to: slides, overheads, flip charts, and handouts.	010079	0 Years after no longer administratively useful	Non-confidential Destruction
<u>Proclamations</u>  This series documents the honoring of specific groups, associations, or people by the Mayor or Board of Supervisors. The series consists may include, but is not limited to: formal proclamation signed by the Mayor or Board of Supervisors.	101211	2 Years after end of calendar year	Non-confidential Destruction

# RECORDS RETENTION AND DISPOSITION SCHEDULE

## LIBRARY OF VIRGINIA

Archives, Records, and Collections Services  
800 E. Broad St., Richmond VA 23219  
(804) 692-3600

GENERAL SCHEDULE NO. GS-19

COUNTY AND MUNICIPAL GOVERNMENTS

Administrative Records

EFFECTIVE SCHEDULE DATE:			
RECORD SERIES AND DESCRIPTION	SERIES NUMBER	SCHEDULED RETENTION PERIOD	DISPOSITION METHOD
<u>Program and Event Registration</u>	200564	0 Years after superseded, obsolete, or rescinded	Non-confidential Destruction
This series documents registration and attendance for events, workshops, conferences, and programs offered by an agency. This series may include, but is not limited to: applications, registration and payment information, release forms, and attendance records.			
<u>Project Documentation Files</u>	010082	0 Years after superseded, obsolete, or rescinded	Non-confidential Destruction
This series documents the design, development, control, or monitoring of a specific project or group of projects.			
<u>Public Hearing Notices</u>	010019	1 Year after last action	Non-confidential Destruction
This series documents issuance and publication of notices of public hearings, other than board of supervisors or city/town council meetings. COV 2.2-3707			
<u>Public Relations Files: Historically Significant</u>	010083		Permanent, In Agency
This series documents information provided to the public at large or specific elements of the public, business, or government communities. This series may include, but is not limited to: pamphlets, speeches, visual aids, news releases and clippings, and publications.			
<u>Public Relations Files: Other Items</u>	010084	0 Years after no longer administratively useful	Non-confidential Destruction
This series documents routine information provided to the public at large or specific elements of the public, business, or government communities. This series may include, but is not limited to: speeches and graphic arts material.			
<u>Publication or Duplication Masters or Proofs</u>	010086	0 Years after superseded, obsolete, or rescinded	Non-confidential Destruction
This series consists of materials used to produce publications.			

# RECORDS RETENTION AND DISPOSITION SCHEDULE

## LIBRARY OF VIRGINIA

Archives, Records, and Collections Services  
800 E. Broad St., Richmond VA 23219  
(804) 692-3600

GENERAL SCHEDULE NO. GS-19

COUNTY AND MUNICIPAL GOVERNMENTS

Administrative Records

EFFECTIVE SCHEDULE DATE:			
RECORD SERIES AND DESCRIPTION	SERIES NUMBER	SCHEDULED RETENTION PERIOD	DISPOSITION METHOD
<u>Publications: Locality Produced or Sponsored</u>  This series consists of official publications of locality meant for public distribution or general internal distribution. COV 42.1-94	010085		Permanent, In Agency
<u>Recordings, Audio and Visual: Historically Significant</u>  This series consists of audio or visual recordings, created by or for a locality, that are of an enduring historically significant nature or that describe the current function or organization of the locality's major administrative units.	010087		Permanent, In Agency
<u>Recordings, Audio and Visual: Other Recordings</u>  This series consists of audio or visual recordings created by or for the locality that are not historically significant.	010089	0 Years after no longer administratively useful	Non-confidential Destruction
<u>Records Management Files: Approved Certificates of Records Destruction (RM 3 Form)</u>  This series documents the locality's records destruction. This series includes Records Officer's copies of approved destruction certificates.	010090	3 Years after end of calendar year	Non-confidential Destruction
<u>Records Management Files: Archival Transfer Forms</u>  This series documents the transfer of permanent records to the Archives at the Library of Virginia. This series includes: Archival Transfer List and Receipt (ARC-1 Form), Archival Transfer Folder List (ARC-2 Form), and Archival Microform Transfer List and Receipt (ARC-3 Form).	200081		Permanent, In Agency
<u>Release Forms: Adults</u>  This series documents individual liability release statements for adults that are required for participation in various programs.	010022	5 Years after end of calendar year	Confidential Destruction
<u>Release Forms: Minors</u>  This series documents individual liability release statements for children under the age of 18 required for participation in various programs.	010026	23 Years after birth	Confidential Destruction



# RECORDS RETENTION AND DISPOSITION SCHEDULE

## LIBRARY OF VIRGINIA

Archives, Records, and Collections Services  
800 E. Broad St., Richmond VA 23219  
(804) 692-3600

GENERAL SCHEDULE NO. GS-19

COUNTY AND MUNICIPAL GOVERNMENTS

Administrative Records

EFFECTIVE SCHEDULE DATE:			
RECORD SERIES AND DESCRIPTION	SERIES NUMBER	SCHEDULED RETENTION PERIOD	DISPOSITION METHOD
<u>Reports</u>	010096	0 Years after no longer administratively useful	Non-confidential Destruction
This series documents routine reports not listed on any general or special schedule.			
<u>Safety Records</u>	010097	3 Years after last action	Non-confidential Destruction
This series documents accident investigations. This series may include, but is not limited to: accident reports and safety policy statements except those records required by OSHA or the Department of Labor and Industry.			
<u>Schedule of Daily Activities: Required by Law or Regulation</u>	010099	2 Years after end of calendar year	Non-confidential Destruction
This series documents the control or recording of the activities of employees other than payroll/hourly-wage records. This series may include, but is not limited to: diaries, logs, and registers.			
<u>Service Recognition Program</u>	200428	3 Years after event	Non-confidential Destruction
This series documents the process and events for recognizing the service and accomplishments of employees and volunteers. The documentation of the recognition itself should be placed in the individual personnel record. This series may include, but is not limited to: nomination forms, correspondence, reports, and lists.			
<u>Surveys: Administrative</u>	010105	2 Years after end of calendar year	Non-confidential Destruction
This series documents surveys produced by or for the locality for administrative, informational, or research purposes.			
<u>Telephone Logs and Messages</u>	010106	0 Years after no longer administratively useful	Non-confidential Destruction
This series documents incoming or outgoing routine telephone calls. This series may include, but is not limited to: message slips, voicemail messages, and call logs.			



## LIBRARY OF VIRGINIA

Archives, Records, and Collections Services  
800 E. Broad St., Richmond VA 23219  
(804) 692-3600

## RECORDS RETENTION AND DISPOSITION SCHEDULE

### GENERAL SCHEDULE NO. GS-19

### COUNTY AND MUNICIPAL GOVERNMENTS

#### Administrative Records

EFFECTIVE SCHEDULE DATE:			
RECORD SERIES AND DESCRIPTION	SERIES NUMBER	SCHEDULED RETENTION PERIOD	DISPOSITION METHOD
<u>Vacation or Work Schedules</u>  This series documents employee's time off from work, not created specifically for payroll purposes.	010109	2 Years after end of calendar year	Non-confidential Destruction
<u>Voice Mail/Answering Machine Messages: Relevant to Specific Actions</u>  This series consists of recordings and message slips documenting incoming telephone calls. These messages have a bearing on actions or decisions taken or not taken.	010111	0 Years after no longer administratively useful	Non-confidential Destruction
<u>Work or Production Control Records</u>  This series consists of records, not related to any other existing locality records series, created to project, monitor, control, tabulate, or report the daily work activities of an individual or group other than payroll records.	010113	0 Years after no longer administratively useful	Non-confidential Destruction
<u>Work Orders: Administrative Copies</u>  This series documents work orders or production orders submitted by locality employees.	010114	3 Years after end of calendar year	Non-confidential Destruction

# EXHIBIT 2

From: **Thomas, Al** thomasa@charlottesville.org  
Subject: RE: FOIA Request 2  
Date: August 30, 2017 at 12:57 PM  
To: Sandridge, Cheryl sandridge@charlottesville.org, Lewis, Wendy lewis@charlottesville.org  
Cc: Pleasants, Gary pleasntg@charlottesville.org

---

I have no private emails that are job related to release.

Al S. Thomas  
Chief of Police  
Charlottesville Police Department  
(434) 970-3289

---

**From:** Sandridge, Cheryl  
**Sent:** Wednesday, August 30, 2017 11:22 AM  
**To:** Thomas, Al; Lewis, Wendy  
**Cc:** Pleasants, Gary  
**Subject:** FW: FOIA Request 2

This is just FYI.

Please call me if you have any questions. This one is connected to another request from him for e-mail, and it will require a deposit.

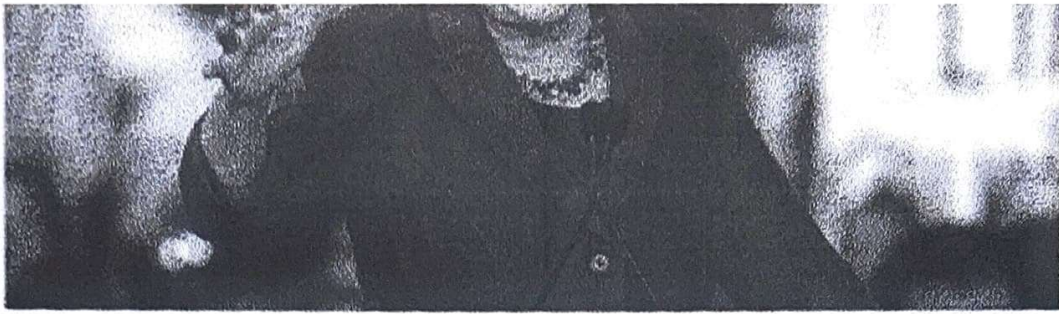
*Lieutenant C. S. Sandridge  
Professional Standards Unit  
Office of Internal Affairs  
Charlottesville Police Department  
[sandridge@charlottesville.org](mailto:sandridge@charlottesville.org)  
434-970-3600*

---

**From:** Jason Kessler [mailto:jason@unityandsecurity.org]  
**Sent:** Thursday, August 24, 2017 10:56 PM  
**To:** Dickler, Miriam  
**Subject:** FOIA Request 2

I also want to FOIA request all records from PRIVATE emails of Captain Wendy Lewis, Police Chief Al Thomas, Vice-Mayor Wes Bellamy, Mayor Mike Signer and City Manager Maurice Jones pertaining to Unite the Right.





A federal appeals court issued a ruling that could complicate and prolong a slew of ongoing civil lawsuits over access to the messages Hillary Clinton and her top aides traded on personal accounts. | AP Photo

## **Court: Private-account email can be subject to FOIA**

By JOSH GERSTEIN | 07/05/2016 12:00 PM EDT | Updated 07/05/2016 02:29 PM EDT

--

Regards,

Jason Kessler, President  
Unity & Security for America  
[www.JasonKessler.net](http://www.JasonKessler.net)



# EXHIBIT 3



Jason Kessler <themaddimension@gmail.com>

---

## FOIA Request: Text Messages

15 messages

---

**Jason Kessler** <themaddimension@gmail.com>  
To: Foia <FOIA@charlottesville.org>

Thu, Mar 7, 2019 at 3:14 PM

I would like to FOIA the deleted text messages of Chief AI Thomas and 'other command staff' identified by Tim Heaphy in the Charlottesville Independent Review.

In our interviews with CPD personnel, we learned that Chief Thomas and other CPD command staff deleted text messages that were relevant to our review. Chief Thomas also used a personal e-mail account to conduct some CPD business, then falsely denied using personal e-mail in response to a specific FOIA request. Chief Thomas and the commanders with whom we spoke denied any effort to hide information from our review team. Conversely, they indicated that we received everything in the Department's possession that bears upon the issues at stake in our evaluation.

Regards,

Jason Kessler  
[www.jasonkessler.us](http://www.jasonkessler.us)

---

**Jason Kessler** <themaddimension@gmail.com>  
To: Foia <FOIA@charlottesville.org>

Thu, Mar 14, 2019 at 8:27 AM

Checking on the status of this FOIA which should be due today.

On Mar 7, 2019, at 3:14 PM, Jason Kessler <themaddimension@gmail.com> wrote:

I would like to FOIA the deleted text messages of Chief AI Thomas and 'other command staff' identified by Tim Heaphy in the Charlottesville Independent Review.

[Quoted text hidden]

---

**FOIA** <foia@charlottesville.org>  
To: Jason Kessler <themaddimension@gmail.com>

Thu, Mar 14, 2019 at 12:46 PM

Jason - The City has no records responsive to this request.

Brian

**BRIAN WHEELER**  
FOIA Officer & Director of Communications  
[City of Charlottesville](http://City of Charlottesville)  
605 E. Main St.  
Charlottesville, VA 22902  
434-970-3129  
[foia@charlottesville.org](mailto:foia@charlottesville.org)  
[www.charlottesville.org/foia](http://www.charlottesville.org/foia)

# **EXHIBIT 4**





## FOIA: Jones Text Messages

20 messages

**Jason Kessler** <themaddimension@gmail.com>  
To: Foia <FOIA@charlottesville.org>

Hi,

It's come to my attention that many of the August 12th planning communications were done through text messages.

Therefore I would like to FOIA emails and text messages sent and received by Maurice Jones on August 11 and 12, 2017.

Regards,

Jason Kessler

**Jason Kessler** <themaddimension@gmail.com>  
To: Foia <FOIA@charlottesville.org>

Checking on the status of this request that should be due today.

[Quoted text hidden]

**FOIA** <foia@charlottesville.org>  
To: Jason Kessler <themaddimension@gmail.com>

The City of Charlottesville has no records responsive to this request.

Brian Wheeler

**BRIAN WHEELER**

FOIA Officer & Director of Communications

City of Charlottesville

605 E. Main St.

Charlottesville, VA 22902

434-970-3129

foia@charlottesville.org

www.charlottesville.org/foia

# EXHIBIT 5

There were bandannas and tattoos, and also pepper spray, lighters, spray cans, and plastic bottles full of urine. There were “medics”—that is, counterprotesters volunteering as medics—ready with containers of milk to wash down the faces of anyone who was pepper-sprayed or tear-gassed. The members of a group called Redneck Revolt, headed by a liberal college professor from North Carolina, were dressed in fatigues and holding AR-15s. They were there, they said, to protect the city.

It was a warm, clear August day. Councilors were receiving updates via email from Maurice Jones about the increasing violence at the park. I called him to again request that I be in the command center. He said, tensely and tersely, that they were about to call an unlawful assembly.

At about 11:00 a.m., with the rally scheduled to begin at noon, I watched video of alt-right members bearing Confederate and neo-fascist flags beating up counterprotesters on Market Street, in open view of hundreds. It was nauseating. There was a degree of premeditation and monstrous bigotry that made it seem worse than even the average street riot, more like *Kristallnacht*. At 11:03 a.m., the ACLU of Virginia put up an alarming tweet: “Clash between protesters and counter protesters. Police say ‘We’ll not intervene until given command to do so.’ #Charlottesville.” This gave the decided impression that the police were refusing to stop the violence.

All hell was clearly about to break loose. The police were supposed to have provided clear lanes of entry for the rally attendees, but that plan had begun to fall apart when some protesters and counterprotesters parked in the same parking garage, mingling and conflicting even as they proceeded to Emancipation Park. Months later, Vegas Tenold, a journalist who had been embedded during the rally with the alt-right leader Matthew Heimbach and his Traditionalist Workers Party, told me the chaos had its roots in the prior night. According to Tenold, the faction calling itself the “hard right”—including the Traditionalist Workers Party, the League of the South, and the Hammerskins—clashed with Richard Spencer and Jason Kessler over their plans to hold the tiki torch march at UVA without a permit, fearing it could lead to arrests. The next morning, those groups decided to march to the rally separately from Spencer and Kessler. Heimbach said he tried to reach the police for advice on an alternative route to the park but could not get through. They parked in the lot on Market Street—where many counterprotesters were also parked—and walked to the rally on their own, mingling and

*Siege*

clashing with counterprotesters along the way.<sup>2</sup>

That was just the start of the havoc. Around Emancipation Park, waves of hundreds of protesters and counterprotesters surged against and into each other before the rally could even start. Officers stood nearby, many behind barricades, not intervening. People were beaten with flagpoles and kicked in the street. There were screams and pepper spray. The volunteer medics rushed to alleviate the pain of pepper spray by pouring milk on people's faces. Residents came up to the police to scream at them in shock and agony. A shocked nation was glued to their television screens, watching the mayhem unfold.

The event, scheduled for noon, hadn't even begun yet. I was sitting at City Hall, in the same room I had converted into a working office nineteen months earlier. My inbox was being flooded with requests from representatives of the media and citizens who wanted to know what was happening. I had no answers. There was nothing happening at City Hall. I felt utterly cut off from the city's government. At 11:19 a.m., I sent Jones a text saying, "I need to come up at Wells Fargo. Won't be in the way but I need to be here." He responded, "I'm concerned about your safety getting here." Chaos was taking over in the streets, and our government was silent. At 11:40 a.m., I responded to Maurice Jones: "Al works for you. You have barred me from the center. We are not together. I don't know what's happening. We are not unified. We can't say no comment or it has to wait. I'm at city hall." Two minutes later, Jones responded, "It has to wait. We have to let this play out for a bit before going in front of the cameras."

Isolated from the nerve center, I felt unable to do my job as the city's titular leader and public face. I looked down at my desk, said, "Fuck it," and went over to the command center. The officer at the front called up to Jones, and after a pause, looked at me and said, "You can go up to the eighth floor." I knew nothing was on the eighth floor except a conference room. I was infuriated. I called Jones, and we had a tense exchange. I briefly lost my temper: he and the police chief worked for me (as a member of the council), I snapped, not the other way around. Twenty minutes later, he wrote, "Mr. Mayor, we are not disorganized. This is a hyper fluid situation. We need to let this play out. And the media can wait for an hour or so." I responded, "Elected officials like me can't [be] barred from necessary information and how to talk about it. That's disorganized. I'm headed to Zehmer [Hall] now."



*Siege*

a tweet calling it an accident. I received a few angry messages saying that it was not an accident, it was intentional—it was terrorism. I could not wrap my mind around that possibility. Maybe the driver had had a seizure. Maybe he or she was elderly and had hit the accelerator accidentally. But then I was able to watch the video more carefully, and I saw how the driver had aimed at a crowd of counterprotesters, with their signs and banners and T-shirts for progressive causes. He then slammed his car into the crowd, methodically backed up the long street, and drove away, trying to escape.

We would soon learn that there had been one fatality: Heather Heyer, a thirty-two-year-old anti-racist activist who worked at a law firm in town, who had chosen to counterprotest with friends, while, ironically, avoiding the center of the action. She had been mowed to the ground and died at UVA Hospital soon after, before her mother, Susan Bro, could arrive.

Chaos and silence followed. The city still wasn't communicating. People were going crazy on social media, demanding to know what was happening, why we were silent. A colleague from the county looked at me, frantic. "*What are we doing?*" she gasped, in reference to our seeming inability to put up a tweet, send out a press release. "This is crazy!" "I know," I told her. "I can't believe it either." There were hourly meetings, run by Fire Chief Baxter. At the 3:00 p.m. meeting, our lead consultant from the PR firm, Emil Hill, spoke. "There needs to be a press conference," he said. "Today. Not tomorrow. It has to be today. Everyone should be represented there. The public needs to hear from us." We determined it should be the city manager, the police chief, and myself. Heads nodded. At last the public would hear from us.

Hill and I headed over to City Hall to press the request directly with the city manager. There was a sense that we needed to fight for this—that the city was so afraid of stepping out in front of the public that we might delay any statement at all until the next day, leaving a frantic public bereft and rudderless. Rumors were spreading that the dispersed white supremacists were lying in wait, and that they would be back that evening to terrorize the city again. If my position as mayor meant anything, I felt it should be to speak to the public now, when it mattered most, and let them know what had happened, what we were doing about it, and what they could expect next.

At 4:09 p.m., I sent Jones a text: "We are headed to command center

*Siege*

now. Conclusion of principals and policy group was we needed to be onsite to develop message and framing. Obviously will need to be able to come in." He responded, "There is plenty of space in the 8th floor conference room." We got word that Governor McAuliffe was coming to town. He would obviously lead the press conference.

I met with Maurice Jones and Al Thomas in that conference room at about 4:45 p.m. Thomas did not want to be there. He was visibly frustrated to have been required to be at a meeting about a press conference. While we were sitting around the conference table, he looked down at his phone. His face went blank. Tersely, he said, "A helicopter has just gone down. I have to go." We found out later that two Virginia state troopers, Jay Cullen and Berke Bates, were killed in the crash. After Thomas left, we talked about messaging and the structure of the press conference a bit, and Jones left quickly, too.

Jones then sent the city councilors an update telling us that three arrests had been made. *Three arrests?* I thought. How was that even possible, when there had been near-riots in the street, when gangs had been assaulting each other, when hundreds of clear assaults had occurred in view of thousands of officers?

Of course, one of those arrests included James Alex Fields Jr., the young neo-Nazi who had driven his Dodge Challenger around a wooden sawhorse blocking Fourth Street, aimed his car at a group of counterprotesters gathered there, and sped across the Downtown Mall's pedestrian crossing, plowing into the people, tossing bodies in the air, and killing Heather Heyer. He had then backed up back across the Downtown Mall at a furious speed, turning back out onto Market Street, before fleeing under the eye of helicopters overhead. He was arrested on a neighborhood street minutes later.

RICHARD SPENCER, SHIRTLESS, HIS SKIN RED AND SLOTCY, PUT up a video from a room somewhere. Defiant and agitated, he bragged about being maced by the police. He crowed about the ACLU taking their side in the court battle earlier in the week. He said, "We are going to make Charlottesville the center of the universe... Your head is going to spin." He taunted me and the city's leadership: "You looked like stupid little provincial tyrants who don't understand the law." He concluded: "This was a propaganda victory, a moral victory. I'm proud of everyone."

That afternoon, I also learned that, in making his first public

# EXHIBIT 6



# CITY OF CHARLOTTESVILLE

*"A World Class City"*

Office of The City Manager

P.O. Box 911 • Charlottesville, Virginia 22902

Telephone 434-970-3101

Fax 434-970-3890

[www.charlottesville.org](http://www.charlottesville.org)



November 24, 2020

Jason Kessler  
2308 Mt. Vernon Ave. #108  
Alexandria, VA 22301

Dear Mr. Kessler:

In response to your April 25, 2019 FOIA request, please find via the link below the communications of Maurice Jones on August 11 and 12, 2017.

<https://www.charlottesville.gov/20190425-Kessler-FOIA-records>

Redactions have been made in accordance with exemptions allowed by the Virginia Freedom of Information Act. Specific exemptions are noted on each page in the area of the redaction.

Your original request was titled "Jones Text Messages" and we inadvertently overlooked that your request for text messages included emails; the true scope of your request was not realized until your Writ of Mandamus was reviewed. We are producing those emails now.

The City does not have the original text messages sent and received by Maurice Jones. Consistent with City practice at the time of his departure, Mr. Jones's text messages were not retained by the City and the cell phone issued to him was wiped upon his departure in 2018. My original response to you was accurate in that regard.

Your Writ identifies text messages received by former Mayor Signer. Based on this, the City has done an additional search within Mr. Signer's records, and also of previous FOIA requests responded to by the City prior to Jones' departure, and we have located a few screen shots that appear to include texts of Mr. Jones. We are producing them to you now.

Based on the footnotes of the Heaphy Report (which reference only one Jones text) and our review of prior FOIA responses from 2017 and 2018, we believe that the City does not have any other records responsive to your request for Maurice Jones' text messages.

Sincerely yours,

Brian A. Wheeler

FOIA Officer & Director of Communications

cc: Elizabeth Southall



# EXHIBIT 7



Jason Kessler <themaddimension@gmail.com>

---

## FOIA Request: Maurice Jones Text Messages

7 messages

---

**Jason Kessler** <themaddimension@gmail.com>

Sun, Dec 6, 2020 at 10:27 AM

To: "Owen, Chadwick" <chad.owen@lva.virginia.gov>

Hi,

I would like to request any public documents in the form of text messages turned over to the Library of Virginia by Charlottesville City Manager Maurice upon his departure from office in 2018.

According to the current Director of Communications, Jones' phone was wiped upon his departure. See attached.

Regards,

Jason Kessler



**20201124-Kessler-FOIA-letter.pdf**

99K

---

**Owen, Chadwick** <chad.owen@lva.virginia.gov>

Mon, Dec 7, 2020 at 8:18 AM

To: Jason Kessler <themaddimension@gmail.com>

Mr. Kessler,

The Library of Virginia is in receipt of your FOIA request, to wit:

any public documents in the form of text messages turned over to the Library of Virginia by Charlottesville City Manager Maurice upon his departure from office in 2018

No text messages have been transferred to the LVA by the City of Charlottesville. As such, we have no records responsive to your request.

Chad Owen  
Records Management Coordinator  
Library of Virginia  
800 East Broad Street  
Richmond VA 23219  
804-692-3807  
[chad.owen@lva.virginia.gov](mailto:chad.owen@lva.virginia.gov)

[Quoted text hidden]

---

**Jason Kessler** <themaddimension@gmail.com>

Mon, Dec 7, 2020 at 8:32 AM

To: "Owen, Chadwick" <chad.owen@lva.virginia.gov>

Thank you for your timely response. In that case please let me submit a different FOIA request for any RM-3 forms submitted to the Library of Virginia regarding the destruction of public documents on Charlottesville City Manager Maurice Jones' cell phone upon his departure from office in 2018.

Regards,

Jason K

[Quoted text hidden]

--

Regards,

Jason Kessler

---

**Owen, Chadwick** <chad.owen@lva.virginia.gov>  
To: Jason Kessler <themaddimension@gmail.com>

Mon, Dec 7, 2020 at 11:21 AM

Mr. Kessler,

For your follow-up request, we checked for RM3's for the City of Charlottesville, FY 2017-18 to the present. We found no forms from the City Manager's office.

Chad Owen  
Records Management Coordinator  
Library of Virginia  
800 East Broad Street  
Richmond VA 23219  
804-692-3807  
[chad.owen@lva.virginia.gov](mailto:chad.owen@lva.virginia.gov)

[Quoted text hidden]

---

**Jason Kessler** <themaddimension@gmail.com>  
To: "Owen, Chadwick" <chad.owen@lva.virginia.gov>

Mon, Dec 7, 2020 at 11:50 AM

Thank you. Happy Holidays!

Jason K  
[Quoted text hidden]

---

**Jason Kessler** <themaddimension@gmail.com>  
To: "Owen, Chadwick" <chad.owen@lva.virginia.gov>

Mon, Dec 7, 2020 at 3:02 PM

I have one last FOIA request. I would like any RM-3 forms submitted to the Library of Virginia regarding the destruction of public documents in the form of text messages on Charlottesville Police Chief Al Thomas' cell phone from 2017 or 2018.

[Quoted text hidden]

--  
Regards,

Jason Kessler

---

**Owen, Chadwick** <chad.owen@lva.virginia.gov>  
To: Jason Kessler <themaddimension@gmail.com>

Tue, Dec 8, 2020 at 10:48 AM

We likewise were unable to find any RM3's from the Charlottesville Police, FY2017-18 to the present.

Chad Owen  
Records Management Coordinator  
Library of Virginia  
800 East Broad Street  
Richmond VA 23219  
804-692-3807  
[chad.owen@lva.virginia.gov](mailto:chad.owen@lva.virginia.gov)

[Quoted text hidden]

# EXHIBIT 8



## LIBRARY OF VIRGINIA

**Sandra Gioia Treadway**  
*Librarian of Virginia*

P.O. Box 911  
Charlottesville, VA 22902

March 29, 2012

Dear Mr. Jones,

It has been brought to my attention that the Procurement & Risk Management Services in the City of Charlottesville may not be properly following the General Schedules established by the Library of Virginia. The specific concern raised is that email pertaining to contact negotiations has been improperly managed and destroyed.

According to the Virginia Public Records Act, Code of Virginia § 42.1-76 et seq., each agency, here defined as, "all boards, commissions, departments, divisions, institutions, authorities, or parts thereof, of the Commonwealth or its political subdivisions and include[ing] the offices of constitutional officers," must designate a records officer to serve as a liaison to the Library of Virginia for the purposes of implementing and overseeing a records management program, and coordinating legal disposition, including destruction, of public records.

Furthermore, under the provisions of Code of Virginia §42.1-86.1, no public records may be destroyed without the completion of a Certificate of Records Destruction (RM-3 Form) and the approval of a designated records officer. All records destruction must be reported to the Library of Virginia through the submittal of the RM-3 form.

Effective management of public records is a matter of the utmost concern to the Library of Virginia. Improper management of public records may lead to civil penalties under the Freedom of Information Act, Code of Virginia §2.23714, or criminal penalties under Code of Virginia §18.2-472 and Code of Virginia §42.1-88.

Please contact the Records Analysis Section at (804) 692-3600 to arrange for a Records Analyst at the Library of Virginia to assist you in complying with the commonwealth's records management policies and procedures.

Sincerely,

John Metz

Director, Archives, Records, and Collection Services

Cc: Craig Brown, City Attorney

Dr. Sandra G. Treadway, Librarian of Virginia & Virginia State Archivist

800 East Broad Street  
Richmond, Virginia 23219

[www.lva.virginia.gov](http://www.lva.virginia.gov)

804.692.3500 phone  
804.692.3976 v/tty

# EXHIBIT 9

# Electronic Communications:

## Special Legal Requirements for Public Records and Meetings

by Lisa Robertson

Some of us remember when push-button telephones and fax machines were new technology. Today's technologies offer an unprecedented number of means by which people may discuss and follow the operations of local government. In this article, I offer information regarding the relationship of electronic communications technology to the means by which the conduct of public business must be recorded.

### The Virginia Public Records Act (VPRA).<sup>1</sup>

All attorneys struggle to determine whether, and for how long, client records should be preserved and stored. Should tangible files be eliminated if they are converted into electronic files? Should electronic files be moved to external devices or "the cloud"? Legal counsel for public bodies must assist clients with consideration of these questions in accordance with the VPRA. Lack of familiarity with VPRA can lead to public embarrassment or even criminal consequences.<sup>2</sup> Every elected and appointed public official must be given a copy of the VPRA by legal counsel or a locality's administrator within two weeks of election or appointment, and must become familiar with its requirements.<sup>3</sup>

The definition of "public record" under the VPRA encompasses e-mail, text messages, voice messages, and any other form of technology that records the discussion or transaction of public business.<sup>4</sup> VPRA prohibits a public record from being deleted or destroyed prior to expiration of a specifically-designated "retention period."<sup>5</sup> Retention periods are assigned by the Library of Virginia, according to "schedules."<sup>6</sup> Each retention schedule covers multiple categories of records. During a retention period, no particular means of storage is

prescribed; however, each public record must remain accessible, in one form or another, throughout its life-cycle. If electronic storage is chosen, records must be converted and migrated as often as necessary so that information is not lost due to hardware, software, or media obsolescence or deterioration.<sup>7</sup> Even a public body's computer system must be documented: one schedule covers retention of "information technology," including network diagrams, system access records, and system maintenance records.<sup>8</sup>

Public officials with only a passing familiarity with VPRA may make improper choices regarding deletion of e-mails and other electronic records. There persists an incorrect assumption that records created or stored on personal devices, even if such records discuss public business, aren't subject to VPRA.<sup>9</sup> VPRA requires certain correspondence of city councils and boards of supervisors, and of local administrators, to be *permanently* maintained — regardless of where created or stored.<sup>10</sup> At the expiration of their terms, public officials must deliver public records in their possession to successors.<sup>11</sup> Thus, legal counsel for public bodies should be prepared to discuss with clients the answers to questions such as: are officials preserving e-mail and other electronic correspondence as required? If a board member and county administrator correspond with each other via e-mail, which copy will be maintained as the permanent record, and where? Is the public body's IT staff cognizant of VPRA's requirements? Are backup copies of electronically stored records maintained to protect against computer crashes and other disasters?<sup>12</sup> (Consider IRS official Lois Lerner, criticized for claiming to have lost e-mails due to a computer crash).

### The Virginia Freedom of Information Act (FOIA).<sup>13</sup>

The FOIA requires public records and public meetings to be open for public viewing.

*Electronic Records.* When a citizen seeks electronically-stored records, public bodies must produce them in any tangible medium requested.<sup>14</sup> Because of this, regardless of whether stored on public officials' personal or public devices, public records must be maintained in a format that can be accessed, read, converted to other formats, and e-mailed to others throughout VPRA retention periods. When assisting public clients in responding to a FOIA request, before responding on behalf of a client that "the requested records could not be found or do not exist,"<sup>15</sup> legal counsel may want to verify that clients have searched personal and public devices and relevant external storage locations — particularly if the requested records' VPRA retention periods have not expired. If public records are in the custody of a third party for storage, maintenance, or archiving, the public body remains the legal "custodian" under FOIA.<sup>16</sup>

*Electronic Meetings.* FOIA allows any local public body to implement interactive audio and visual means to expand public participation in meetings;<sup>17</sup> however, during those meetings the members of the local public body must themselves be physically assembled.<sup>18</sup> Generally, local public bodies remain prohibited from conducting electronic meetings, except: (1) in limited circumstances, during a state of emergency declared by the governor, an electronic meeting may be conducted without assembling a quorum in one location;<sup>19</sup>

Communications continued on page 55

and health, the interaction between federal and state highway safety regulations, and grand larceny thresholds.

The course has been a success. Students have received enthusiastic reviews from their respective organizations, including invitations to present their findings and papers to larger meetings and audiences even after the semester had concluded. Students also had the opportunity to engage with their nonprofit organizations' broader collaborations. Several students have created long-lasting networking connections, resulting in summer fellowships as well as permanent employment.



**Tara L. Casey** is director of the Carrico Center for Pro Bono Service.



**Suzanne B. Corriell** is associate director for reference, research, and instructional services at the University of Richmond's Muse Law Library. She is past president of the Virginia Association of Law Libraries.

or (2) when a formal written policy is in place, subject to strict procedural requirements,<sup>20</sup> an individual member may participate remotely, when attendance is not possible due to an emergency personal matter, disability, or medical condition.<sup>21</sup> If remote participation is authorized for an individual, a quorum must be physically assembled at a central location, and arrangements must be made for the voice of the remote participant to be heard by everyone at the central location.<sup>22</sup>

Endnotes:

- 1 Va. Code § 42.1-76 et seq.
- 2 See Va. Code § 42.1-88
- 3 Va. Code § 42.1-76.1 (legal counsel or a public body's administrator must provide the copies)
- 4 Va. Code § 42.1-77.
- 5 Va. Code § 42.1-86.1(A)
- 6 See Va. Code § 42.1-82(B) and see <http://www.lva.virginia.gov/agencies/records/>
- 7 Va. Code § 42.1-85(B)
- 8 See General Schedule 33 (County and Municipal Governments), Information Technology (eff. March 19, 2009)

- 9 See Va. Code § 42.1-77, definition of "public record" (noting that, regardless of physical form or characteristic, recorded information is a public record if it is produced, collected, received or retained in pursuance of law or in connection with the transaction of public business. The medium upon which such information is recorded has no bearing on the determination).
- 10 See General Schedule GS-19 (County and Municipal Governments), Administrative Records (eff. 8/21/2014)
- 11 Va. Code § 42.1-88
- 12 See Va. Code § 42.1-86
- 13 Va. Code § 2.2-3700 et seq.
- 14 Va. Code § 2.2-3704(G)
- 15 See Va. Code § 2.2-3704(B)(3)
- 16 Va. Code § 2.2-3704(J)
- 17 Va. Code § 2.2-3708(A)
- 18 *Id.*
- 19 Va. Code § 2.2-3708(G)
- 20 Va. Code § 2.2-3708.1(B)
- 21 Va. Code § 2.2-3708.1
- 22 Va. Code § 2.2-3708.1(B)(2) and (B)(3)



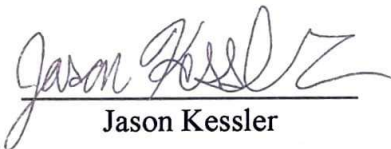
**Lisa Robertson** is the chief deputy city attorney for Charlottesville. She is a member of the Technology and the Practice of Law Committee of the VSB, and her practice includes all aspects of local government operations and administration, including VPRA and FOIA.




**AFFIDAVIT**

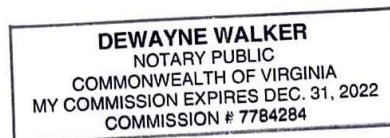
Jason Kessler, being duly sworn, states under penalty of perjury that the following is true:

1. I am Jason Kessler, a resident of the Commonwealth of Virginia. I make this affidavit to show good cause pursuant to Va. Code Ann. § 2.2-3713(A).
2. I have read the attached Petition and know its contents.
3. The statements in the Petition are true to my knowledge, or upon information and belief. As to those statements that are based upon information and belief, I believe those statements to be true.

  
Jason Kessler

Sworn to before me this 7th  
day of December, 2020

  
\_\_\_\_\_  
NOTARY PUBLIC



Co. of Arlington, Commonwealth of Virginia  
The foregoing instrument was acknowledged  
before me this 7th day of December, 2020  
by: Dewayne Walker

Notary Public's Signature: 