

VIRGINIA:

A meeting of the Lancaster County Board of Supervisors was held in the courthouse of said county on Thursday, April 26, 2001.

Present: F. W. Jenkins, Jr., Chairman
Cundiff H. Simmons, Vice Chair
Donald O. Conaway, Board Member
Patrick G. Frere, Board Member
B. Wally Beauchamp, Board Member
William H. Pennell, Jr., County Administrator

Others

Present: Dean Lynch, Virginia Association of Counties, J.F. Staton,
Virginia Department of Transportation, Roger Parry,
Rappahannock Westminster-Canterbury, Jack Larson, Planning
and Land Use, Robert Mason, Rappahannock Record

Mr. Jenkins called the meeting to order at 7:00 p.m.

PUBLIC INPUT

SCHOOL BUDGET - Diane Ryan, Director of the GOAL Program stated that within the past few weeks, residents of Lancaster County received the Lancaster County Public Schools Report to the Community. She said it's hard to believe that the Lancaster County Public Schools ranked number 3 in the Mid-Atlantic Region after Chappaqua, New York and Princeton, New Jersey. She continued to say it is equally hard to believe that Lancaster County Public Schools ranked 99th in academic performance. She said that if the facts are not true or can not be proven, then they should not have appeared in the report.

She stated that the Standards of Learning scores do not correspond with those official scores provided to her under the Freedom of Information Act. She said the English scores for Grades 5, 8, and 11 were inflated in the Lancaster County Public Schools Report to the Community as shown on page four. The official score for Grade 5 was 59.8% not 67.4%, Grade 8 official score was 53.2% not 62.2% and Grade 11 official score was 70.6% not 74.6%. Furthermore, the high school Math scores were lumped together and misleading. She said, for example, when only 10% of the students pass Algebra I and 25% pass Algebra II, it is important to lump those scores with the 43% that passed Geometry in order to arrive at a score for high school Math of 26%.

She asked the Board of Supervisors that before funding, don't you think the figures need to be checked and if the public is being misled, she doesn't think the Board of Supervisors would want to be a party to it.

Mrs. Ryan stated they are in support of education and have tolerated much abuse at the hands of the school system and now The GOAL Program is not permitted on school property. She said they support good teachers and believe they are entitled to good pay, however, they are not in favor of a school administration which is not forthcoming and accountable and does not direct taxpayer dollars where it would do the most good. If the school system is not setting high standards, then it is the administrative staff that should be held accountable. She said furthermore that administrative salaries in Lancaster County are very high and there are a large number of school administrators and if additional monies are needed to pay good and qualified teachers, we should look to a reduction of administrative staff and salaries.

Mrs. Ryan stated that most people do not realize that school systems with elected school boards are autonomous once the Board of Supervisors grants them funding. It is, therefore, vital that the public elects school board members who are committed to the children's education and also to the community as a whole. There is only one school board member up for reelection this year and we must consider his service, voting record and whether he has served the children, parents and taxpayers. She said if we are not satisfied, the public must vote for someone who is committed to better education and who will have the courage to vote his or her conscience.

HOWARD LANE - Ruth Caldwell stated she is a resident of Lancaster County and asked what the status is of the Howard Lane project?

Mr. Pennell informed her that Howard Lane was at the bottom of the rural addition priority list because they were the last to come in. There are currently four or five ahead of the Howard Lane project. There is \$32,000 available per year to the rural addition program and when the money is available and the Howard Lane project is next on the list, it will be done.

Mrs. Caldwell asked how long has the Howard Lane project been on the list?

Mr. Pennell said from the date it was placed on the list has been approximately two or three years.

Mrs. Caldwell asked if this project would ever move up on the list?

Mr. Pennell stated yes, as soon as the other projects are completed.

Mrs. Caldwell asked if any of the other projects been completed yet?

Mr. Pennell said no, because when you were placed on the list Heritage Point was just being completed and Hunton Lane was next on the list. The funds for the Hunton Lane project are currently being pulled together.

Mr. Jenkins stated the Hunton Lane project has been on the list for approximately six years.

Mr. Conaway stated when he first brought this to the board and because of the minimum amount that it would cost to get Howard Lane paved, he had the understanding that because of the minimum cost of this project, once the right of way was obtained, which it has been, the project would be moved up on the list and not have to wait five or six years.

Mrs. Caldwell asked who set the priorities?

Mr. Jenkins explained the Board of Supervisors sets the priorities each year in public hearing. We try to meet the needs of every constituent with a very limited funding amount of \$32,000. He stated he has had projects on the list at the request of constituents from when he first got on the board and some of those projects were just completed within the last two years. Unfortunately, everyone on this list has to wait for available funding.

Mrs. Caldwell stated she has been waiting for six years and nothing has been done. She said the road was a hazard for all the citizens who live there.

Mr. Jenkins said he understood and that it's a private road. He stated that the road was like many other private roads in the county, where the citizen living on that road has done what they need to do to maintain at a minimum. At least, until their time has come to get the funding to have the road paved and taken into the state system. He understands the frustration of the citizens on Howard Lane and other private roads currently on the list, however the funds are not available.

Eva Howard asked if VDOT could do something to assist prior to coming up on the list. She explained there are a lot of elderly persons and a sick child living on this road and if there were an emergency, the rescue squad vehicles would not be able to get to the homes.

Mr. Jenkins asked if there was any maintenance being done on road?

Mrs. Caldwell stated that her husband does what he can and the senior citizens that live on that road are on a fixed income and can not afford to contribute.

Mr. Beauchamp asked Mr. Staton was there anything that VDOT can do in a case such as this?

Mr. Staton said that was not possible because the monies are allocated for each project and a precedent has been set and can not be changed for that because of the guidelines set forth.

Mr. Jenkins stated that according the laws set by the General Assembly, VDOT would not be able to do so.

Mr. Conaway stated he has explained to the citizens that they could come every month to have the concerns heard by the board. He said they have tried to help maintain the road but the cost was too great and as the 2nd District representative he will do all he can to assist the citizens with this issue.

Mrs. Howard stated her husband used to help maintain the road. He has gotten older and unable to do what he used to do. She thanked the board for their time and asked if there was anything that could be done to assist the citizens on Howard Lane, please do so.

Carter White said he would like to commend Mrs. Caldwell who obtained the number of signatures needed in order to get the right a way.

PRESENTATIONS

Virginia Association of Counties Activities Update – Dean Lynch, Director of Local Government Affairs, explained that his purpose for this visit was to report on VACo activities and to get feedback on how we can better serve the county. He stated this past year, VACo provided individualized board training to several counties. Most of these individualized sessions focused on singular items identified by the board chair. They have included budgeting, freedom of information act, conflicts of interest, procurement and contracting.

Staff has also provided technical assistance in every imaginable program area, including the development of requests for proposals, provided sample ordinances, hiring, board organization and research and data gathering.

Another charge of VACo, in working with counties, is to promote educational opportunities. Educational opportunities exist annually at the Local Government

Officials Conference and at the VACo Annual Meeting. Every other year VACo conducts a Supervisor's Forum, which is designed to go back to the basics. We jam pack county government basics into this two-day conference. VACo staff has participated in many seminars and educational forums through out the year in every corner of the state.

VACo has numerous publications available covering topics associated with leadership and government. We produce a semi-monthly newsletter called County Connections, which highlights government activities in the varying program areas. We give legislative updates electronically through the Capital Contact when the General Assembly is in session. The latest revision in 1998 of the Virginia County Supervisors Manual is available for distribution from our office in Richmond. Our current project is completing a new local government directory.

VACo provides advocacy on behalf of all counties throughout the Commonwealth. We represent county interests in state regulatory matters and in the Virginia General Assembly. We are your lobbyists in Richmond.

VACo continues to respond to the needs of counties through our insurance programs. VACo insurance programs include property and liability and risk management through VACorp. In July 1996, at the request of local government, VACo developed a health insurance trust as an option to the few choices available in the market. The Trust was structured to provide group purchasing power while maintaining the financial stability offered by a health insurance company. The Trust is owned by the membership and all surplus funds in the Trust are used for the sole benefit of the membership.

VACo also offers an Equipment Maintenance Insurance Program. The program is designed to provide a means for local government to gain greater control over their maintenance budget.

He said that other ways that VACo services its member counties is by offering a leasing program, deferred compensation program, and office supply procurement program through the National Association of Counties (NACo).

VACo wants to work for Lancaster County and he encouraged the county administrator and staff to continue to be active in your state association.

He stated he would be glad to answer any questions or take feedback on what we can do to be of assistance to you and your county administrator or staff. Thank you for giving VACo time on your busy agenda. He presented Mr. Jenkins and the board with a Certificate of Appreciation to Lancaster County as a member in good standing with Virginia Association of Counties.

Mr. Pennell stated that Teresa Altemus, VACo Region I Representative, did an outstanding job of putting together a regional forum. However, as constructive criticism during the question and answer period, only members of the VACo board were recognized during the questions and answers session. He stated he had his hand up trying to be recognized and of the people who asked the questions, none of those were of the counties involved in Region I; they were all VACo board members from outside the area.

Mr. Jenkins stated that this happens because Lancaster County is in a region small in population. We are accustomed to people in other regions out voting us, which was his concern with VACo. He said he understands that you have to be responsive where the larger number of people live, but, in actuality, rural counties, if we had an issue that was critical to us that was little understood or feared by the larger counties, we would lose every time. So you do lobby sometimes but you lobby for the larger counties when we just happen to have the same interest. If we disagree with the executive director's statement, even when they go to the political side, which he thinks it never should, but he has done in the past, my telephone call would not mean anything to him. Because we are one vote among 17 counties, he believes there should be a separate association for rural counties to specifically address our issues. He stated he had the opportunity to sit on a commission and talk with legislators directly on issues related to the Rappahannock River and they are often misled, thinking that when VACo speaks, they are speaking for all counties. This is not true because the numbers don't allow you to. If we are members in good standing, find a way to assist us better, because we are members of this organization and tired of getting out voted.

Mr. Lynch said he would take the concerns back to the executive committee.

Mr. Beauchamp stated Mr. Pennell was right on target. He said he has served three years on the VACo Administration Government Committee and it was a good representative for both large and small counties. However, our concerns are not the same as Fairfax, Henrico and Chesterfield Counties. We have totally different problems and are out numbered and when we have a concern, because it's not a major issue for the larger counties it doesn't get the attention it deserves but to us it's very important.

Mr. Lynch stated he understands, he said he staffed the Community Planning Steering Committee some years ago and the growth issues were not the same throughout the state. There were the rural counties that could not understand why you wanted to stop or have slow growth and Southside and Southwest Virginia wanted growth. They are a huge organization with 95 counties.

VIRGINIA DEPARTMENT OF TRANSPORTATION

Designating Signs - Mr. Staton stated there were some issues on a sign that designated where Lancaster started and Middlesex ended. VDOT signs based on how we maintain the road and this created some problems with Water Companies, State Police and county officials. We placed the signs back where they were originally. Mr. Pennell assisted after an agreement from both sides of the river was reached and everyone was satisfied.

Mr. Staton stated there was also a request to place a sign at Brookvale to designate it as an entity. The sign will be placed where the old original post office was located; however, he needs the board of supervisors support. The reason for having the sign located as close to the post office was because normally that was the focal point of the community.

The boards agreed by consensus to place the sign across from the old post office.

Bridge Work Update - Mr. Staton stated the bridgework was still going along smoothly. He said the pre-cast slabs that were used are reinforced with five inches of steel and concrete and the most time consuming portion of the job is the type of handrails that have been accepted for rural communities. The grading work has been done to widen the road and hopefully the weather would continue to be beautiful and the project would be completed by the first or mid part of June.

Public Hearing Update on Widening Route 3 - Mr. Staton stated there was a good turnout for the public hearing on Route 3. He has met with a few people to determine what type of impact this would have on the entrance to their buildings and the meeting was well received. With the feedback from the public hearing it will now go before the Transportation Board for approval of the location and design. He stated construction would begin early 2003 and end mid 2003, which is subject to the flow of funds and priority. He said there is another contract on Route 3 from Kilmarnock to White Stone because of pavement failure and VDOT has done some patch work on the northbound side. They would remove the asphalt and go down to the base material and repave the right lane from White Stone to Kilmarnock which will cost approximately \$500,000.

Litter Concerns – Mr. Staton said that citizens from all the counties, within the last few months have voiced their concerns about the litter on roadways. They have explained to the citizens that they have programs in place, however, he does not understand why people throw trash on the roads. He stated that the four counties of the Northern Neck are in the top five or six in the state with the volume of lane miles adopted on the “adopt a highway” program. There is a reporting system where the organization or club sends in a postcard stating how many people worked, the number of hours worked and the number of bags collected. He stated VDOT spends four to five million dollars a year picking up trash. In the past three or four years, they have had contract mowing on

the primary system and the contractor must pick up the trash before mowing. Unfortunately the secondary roads do not have those provisions on the contract and VDOT encourages people to “adopt a highway”. For those roads not adopted they use their staffing and inmates from the camp when available. He stated people should take pride and appearance of their county to heart. In Lancaster County there are 58 groups or organizations that have adopted 34 miles of primary and 87 miles of secondary highway. He stated he had two years of reports on trash pick up and 33 groups reported pick ups, 273 people, 417 man hours and 405 bags of trash. Normally a group would pick up trash and a week later the trash is back along the roadways.

Mr. Beauchamp asked Mr. Staton if he could provide that information to Mr. Pennell. He also asked was there a commitment the group or organization makes or guideline set?

Mr. Staton said the program states that trash should be picked up four times a year with special emphasis on May, for spring and Garden Week, and October but it is strictly a volunteer program. There are a number of groups or organization that pick up and just don't take time to fill out the postcard. He stated they do send out promotional letters twice a year giving encouragement. The groups or organizations know what the expectations are and, when that sign has their name on it, we hope they will take pride in that.

Mr. Conaway said the youth at his church would like to get together and pick up trash in designated areas where it's need. He asked if VDOT provided the bags, vests and any other necessary items.

Mr. Staton stated they provide bags, vests, signs and the group's name would be placed on the “adopt a highway” sign. He said that a VDOT staff member could come out to do a presentation.

Mr. Conaway said that would be greatly appreciated. He stated that the youth would like to get started as soon as possible. This community service project was something that they have talked about for some time and Route 622 secondary road was a heavily littered area.

Mr. Staton stated that is a good community service project.

Mr. Frere said at the last meeting that he understood that as staff time and money permitted, there would be some VDOT assistance in cleaning the litter along the major secondary roads. He said along Windmill Point Road there were two complaints about litter along the farm fields. He said Majors Cove Road and in the area after you leave Palmers there is a wooded area near Ospery Lane and he told his constituents he would

relay this information to VDOT for assistance. He stated he applauds VDOT's efforts and whatever can be done will be greatly appreciated.

Mr. Burgess reported that they picked up bags almost every day for the last few weeks. He said starting Monday, patchwork would be done and they would continue with maintenance work on the road, drainage issues and etc.

Mr. Beauchamp asked about inmates at Haynesville and within the last 2 weeks he has seen inmates picking up trash in Lancaster County. He said there were two letters in the Rappahannock Record today about litter pick up by communities; Taylor's Creek Road citizens organized by John and Susan Woodard and a neighborhood cleaned up near Slabtown Road. This is a beautiful county and we would like to see it remain this way and he commends the effort of every person who helps pick up trash.

Mr. Simmons stated there was a hole in the road on Route 3 on the northbound lane in the Town of White Stone, which may or may not be included in the scheduled repairs. He said this hole is apparently the result of a waterline break repair that was done over a year ago. He said it had been patched; however, the patched area has sunken significantly.

Mr. Burgess said yes, he is aware of the spot.

Mr. Staton said they have had a lot of discussions with Sydnor in the last year. There have been a couple of major water line breaks in the Town of Heathsville, which have caused problems. He said that Sydnor had changed hands and now the Richmond office has a contract to perform maintenance. VDOT has requested their long-range plan for capital improvement to their system and they responded by stating they have a plan and Lancaster Courthouse and Heathsville have top priorities and had upgrades coming in the near future. He stated they have had a program for the past 15 years that water lines must be placed outside the right of way.

PUBLIC HEARINGS

Reuben G. Cox – Bay Act Waiver Request – Mr. Larson stated Mr. Cox was requesting a Chesapeake Bay Act waiver to allow an additional 1400 square feet of impervious cover to the 100' buffer of a Resource Protected Area. The property on which this would occur is described as Tax Map 5-43M, which is located in the Edgewater Subdivision off Route 742 near Morattico. The property is located in voting district 1.

Mr. Larson stated the staff recommends disapproval of this request because Mr. Cox was asking to expand the amount of impervious cover granted in a 1997 Board of Zoning Appeals (BZA) variance which was in response to the claim of an undue

hardship. Mr. Larson informed the board that in the package they would find information that would state his case. He said Mr. Cox states that he “designed a home that he believed met the restriction of the property with the variance.” However the variance is very specific stating the amount of area that can be covered by impervious cover, and the statement made was that “no more than a 50’ square area (i.e. 2500 square feet) may be used.” Mr. Cox has been well informed of this determination. In addition, the correspondence documenting the Board of Zoning Appeals action and the specifics of it are in fact recorded in Deed Book 425, Pages 189-192 which was part of the sale to Mr. Cox. The Board of Zoning Appeals determination and the specifics of it were a part of his deed at the time he purchased the property.

Mr. Larson stated Mr. Cox’s site plan has been approved to the extent that it does not exceed the limitations placed by the Board of Zoning Appeals. He said the site plan has been approved for a footprint of 2500 square feet. Mr. Cox had full understanding of the limitations placed on him and therefore can not claim hardship. Approval of his request would run contrary to well-documented Board of Zoning Appeals and staff action that was totally consistent with implementation of the Chesapeake Bay Act and its objective of restricting impervious cover within the 100’ buffer of the Resource Protected Area.

Mr. Larson stated that this matter has been advertised in the local paper for two weeks and certified mail has been used to notify adjoining property owners. He further stated that no input was received from adjoining property owners or members of the general public concerning this application.

Mr. Simmons asked Mr. Larson if the yellow highlighted area on the attachment represented the additional space?

Mr. Larson said yes, a covered deck.

Mr. Frere stated that the proposed house shows 50’ going down the north east side of property of that structure. Was that the proposed house dimensions 50’ x 50’?

Mr. Larson said yes.

Mr. Frere asked if the house was 50’ x 50’ and the deck was all additional to the 2500 square feet?

Mr. Larson said yes.

Mr. Beauchamp stated the concern was originally the 50 feet square area which was approved by the Board of Zoning Appeal in 1997.

Mr. Larson stated yes, and that was considered an adequate footprint to place a home on this property.

Mr. Beauchamp asked if there was a possible misunderstanding because the roof extends over that proposed deck outside 50 square feet area?

Mr. Larson said there was not a misunderstanding on his part and believes Mr. Cox would be able to speak on that. However, in a letter Mr. Cox does make reference to the fact that it's a covered deck.

Mr. Frere stated that Mr. Larson was being consistent with the way decks have been treated in the county since the Chesapeake Bay Act was implemented, and decks are counted as impervious cover. As far as the roof overhang of the 50' x 50' structure, the zoning ordinance states that roof overhangs 3 feet or less measured from the side of the structure to the drip line are not part of the setback from the drip edge of the overhang.

Mr. Larson said he's not aware of this provision. He stated that since he has been the Planning and Land Use Director there has been a policy that any over hang counts as impervious cover. We have had a number of issues similar to this and handled them all consistently.

Mr. Frere stated in implementing the ordinance, that the drip line of the roof was the outer edge of the proposed house.

Mr. Larson said yes.

Mr. Frere asked if the site plans meet the other requirements about not entering into the side setbacks, 10 feet to the right, 10 feet to the front and no point closer than 50 feet to the water?

Mr. Larson said yes.

Mr. Stad, representing Mr. Cox, stated he would like to first clarify that they are asking for an additional 2000 square feet not 1400 square feet. He said he's not sure how that was misinterpreted.

Mr. Larson said that he had given Mr. Cox the benefit of the doubt but that better information was now available.

Mr. Stad said this property was purchased by Mr. Carter having been previously subdivided. If they had been here and done this about 10 years later, Mr. Cox would not

have this lot nor would anyone else because of the way it is laid out. It would no longer meet any of the requirements. He said that back in 1997 based on a hardship request, the Board of Zoning Appeals granted a 2500 square foot variance. According to the minutes, only 50 square feet was granted, however it was cleared up by Mr. Pennell in a letter dated October 22, 1999 prior to purchase of the property. Prior to Mr. Cox purchasing the lot, Mr. Pennell provided him with a great deal of information. Mr. Cox, being an architect, designed the house, however, he did make the mistake. He said that this was a Lowcountry Carolina style home being on piles. The elevation has been changed and there is no roof over the deck. Recognizing that was impervious cover, however he would like to have the deck area. He believes that Lancaster County has never adopted an ordinance stating a deck would be part of the impervious cover. The design has been changed and ready to begin construction. The one thing they felt was really important was the design of the house on stilts. He said the original design had crushed oyster shells underneath the house but at the request of the county, they would add two inches of washed gravel along with the oyster shells as BMP. It would cut down on wash and serve as a filter, and there are two swales that have been identified by the engineer that would take the run off rain water away from going directly into the creek and would give proper filtration. He stated Mr. Cox is an environmentalist and the house was designed with the lowest possible environmental impact. This was not like a house with a basement or sitting on a slab. It would be their suggestion that because of the open nature, that the additional filtration would be available and he believes our own common practice would tell us that even though there was an overhang from the building and deck some water would go through, but underneath will be the washed gravel and oyster shells which would increase the amount of filtration. In addition, anything that would run off at least three sides would go underneath the house thorough the additional washed gravel, something it would not do with a regular footprint home. Because of the unusual nature of this lot he does not believe that the board would be setting a precedent because of the design of the building. It was a special plan done by Mr. Cox and he does not think another building would be built like this one. Because of the design, the house would be self-mitigating for the purposes of BMP because it does have the additional space underneath that would allow filtration from the deck. He pointed out the house was actually designed with the roof covering all of the deck. He now proposes to remove all of the deck.

Mr. Frere asked what the footprint would be with the attached deck when it's completed?

Mr. Cox stated 67' x 67' which includes the deck.

Mr. Frere said there are two different issues here. The Board of Zoning Appeals ruling looked at 50 feet square not a 50 square foot area, which talks about the house site, whereas impervious cover was not mentioned. He believes when they talked about a 50

feet square they were talking about the footprint of the house. He believes this would include the house and any attached structure such as a deck and the issue of if it is in excess the 50 feet square which would be the footprint of the house.

Mr. Frere said that honestly the issue with the county is one of consistency in allowing encroachment of structures toward mean high water and the edge of wetlands. The decision should be made based on consistency as far as how other encroachments toward the water have been allowed. This subdivision was exempted from the subdivision requirements at the time, which were lots over 5 acres did not have to go thorough the subdivision process. However, from May 11, 1988 to September 30, 1998 there was a waterfront overlay ordinance enacted. Any subdivision that was recorded at that time had 75-foot setback and after that time frame the Chesapeake Bay Act required 100-foot setback. The county had gone from 25 foot to 75 foot setbacks and the state had gone from what we had at 25' to 100' after the Chesapeake Bay Act was enacted. The county Board of Supervisors said they would honor the 75 foot setback thorough September 20, 1990. This subdivision was recorded within that time frame even though it was exempt from the subdivision process, it had a 75-foot setback.

Mr. Frere stated the original Board of Zoning Appeals determination was more than fair allowing a 25 foot encroachment into the required 75 foot setback. With the waterfront overlay there was no room to allow for encroachments, 75' is set in stone whereas the Chesapeake Bay Act allows 50 feet for encroachment. Again, he stated the original Board of Zoning Appeals determination was more than fair and believes it looked at a reasonable size structure and at the same time allowed a reasonable encroachment into the 75' setback.

Mr. Stad said he agreed, however they would suggest this was unreasonable because of the unique nature of structure of the house. He stated this was not likely to be repeated in Lancaster and recognized that development was going on in Lancaster County at a rapid pace. Another reason they have made this request was that it makes best use of the lot size available. The place he has designed does sit off the ground and at a story and a half. Certainly, they could accommodate through a redesign and go up and still keep the same footprint. However, this would increase construction costs and decrease the resale value of the home. Constructing it in that manner also does not make the best economic use of the lot. This would not be a vacation home, but Mr. Cox's primary residence and he would like to have the best economic use of the property available. He would think that a house being built in this area without a deck reduces the value. They are asking the board to grant their request based on these reasons.

Mr. Pennell stated you have described some very elaborate BMP's, and he believes that whatever the board's decision may be, they would have to look into the BMP designs in much greater depth later.

Mr. Stad stated that would be fine.

Mr. Frere asked how close would the structure be to each side of the property line?

Mr. Cox said 33 feet to the closest property line.

Mr. Jenkins said the problem was that if they go back to far, it would affect the swale. He has looked at the property at Mr. Cox's request and if you go further back it would become a problem because it is downhill.

Mr. Simmons asked if BMP calculations had been done for this lot?

Mr. Larson said BMPs have been done and would need to be reviewed.

Mr. Simmons said he doubts that the swale would provide the removal that was required for the overall lot. The swale would only remove 5 to 20 percent. He stated he does these plans on a regular basis and could not remember a single case whereas the swale would suffice as a BMP.

Mr. Cox said that washed gravel would help.

Mr. Pennell stated he has the very same concerns as Mr. Simmons. He's concerned about the swale and that Mr. Keyser designed the swale because his license did not permit underground designs. He stated that the washed gravel allows people to add a deck without going through the major expense of a site plan.

Mr. Cox stated the washed gravel was added after the site plans were done.

Mr. Pennell said there are BMPs that can make this work, but he was very concerned with what was seen as being adequate.

Mr. Stad stated this was a major economic impact on Mr. Cox's life and that sort of change would not be as expensive as redesigning the entire house.

Mr. Pennell said most people don't like swales that close to the house because when it rains there are mosquito problems.

Mr. Simmons asked what was the surface of the driveway?

Mr. Cox said there is no driveway.

Mr. Simmons asked if his plans were to drive on the grass?

Mr. Cox said yes.

Mr. Simmons asked if there would be any stones in place for a driveway?

Mr. Cox said no; he would park under the house.

Mr. Simmons asked there were no plans for a driveway or parking area.

Mr. Cox again stated there were no plans for a driveway and he would park underneath the house.

Mr. Simmons asked if there was sufficient elevation?

Mr. Cox said yes.

Mr. Jenkins asked if the vehicles would compact the washed gravel?

Mr. Pennell said the only washed gravel would be underneath the house, and there would still be a BMP problem. He asked if there would be no driveway leading to the parking space and if Mr. Cox would drive over the grass. He stated that the grass wouldn't last very long, and the reason for asking this question was because it would become impervious cover.

Mr. Simmons said he still did not believe BMPs would be adequate and if the board approves this with what was shown, the plans still may not be approved.

Mr. Pennell said remove 16% or 60% from your mind because that does not apply in this case. If there was any impervious coverage in the RPA then BMPs would be required.

Mr. Stad stated they would like an opportunity to make it work, to allow Mr. Cox to build his home and when it becomes necessary for him to provide BMPs he would do whatever was necessary.

Mr. Jenkins stated that's not the process.

Mr. Simmons said he understands that the applicant believes that this was a unique situation. However, it's not a unique situation and this would apply to any lot prior to September of 1990. Anyone in the county would be able to come before the

board of supervisors asking for an exception on the Chesapeake Bay Act requirements. He does not believe that the board wants to set a precedent. When a buyer has known prior to purchasing property just how much coverage they would be allowed. He cannot design a house as large as he wants and claim hardship.

Mr. Stad said part of his first statement was that they did not know about the decks or about Lancaster County including decks as part of the impervious cover.

Mr. Jenkins said that when this plan was developed, it was developed with a porch being called a deck which was impervious cover.

Mr. Frere made a motion to deny the request. The Board of Zoning Appeals ruling was very fair and allows them to encroach 25 feet into the 100-foot setback. He stated he also believes it was a reasonable and buildable area in scale for the size of the lot and is consistent with the way other site plans have been approved by the county.

Mr. Beauchamp said being involved in real estate in the county for the past seven or eight years he has never seen the restrictions set forth by the Board of Zoning Appeals on a site being recorded on the deed. Therefore, Mr. Cox knew what his footprint was as authorized by the Board of Zoning Appeal and he accepted the ruling at that time.

Mr. Cox stated he believed he was meeting the restrictions on the property with the variance. He said he did not fully understand that the covered deck would be considered impervious cover. If the home were built without the cover he would be unable to get the best use of the property. He believes that this would be a hardship that could be rectified by this request waiver.

VOTE: 5 – 0 Aye.

FY02 SCHOOL BUDGET

Mr. Chamberlain, School Board Member, stated they know where the funds come from and there is a limited amount to work with. The main concern this year was teacher salaries. He said Lancaster is near the bottom when comparing teachers' salaries. The school system would lose a number of good qualified teachers because they would move to another area with better salaries. He said if he had prioritized the budget-teachers' salaries, preschool teacher, psychologist, an additional maintenance person and the secretary at Lancaster Middle School would be at the top of the list. The Lancaster School System would fall further behind without good teachers. We are not perfect yet but we are getting better.

Mr. Jenkins asked why would this year be the best to increase the salaries with the new proposed salary scale?

Dr. Latimore said it would be best to increase the salaries this year as part of a new salary scale because of the number of new teachers that are in the school system.

Mr. Jenkins asked how much would that cost?

Mr. Latimore stated between \$375,000 and \$575,000.

Dr. Latimore said for the school board perspective he should explain the priorities which are; raises for employees, preschool teacher, psychologist, maintenance and the Lancaster Middle School secretary. The Standards of Learning (SOL) scores are improving and there was improvement on the Stanford 9 test. There were fewer athletes unable to play sports because of improved academic progress and the school received a good report from the best practice center. They would review a plan of action for the Math Department at Lancaster High School, Lancaster Middle School and Lancaster Primary School. He said the school system salaries were not compatible and they would lose good qualified teachers to other school systems and that would be a tragedy to the students and system. Education is our number one priority.

Mr. Mann said if you have ever had a chance to sit in the back of a first grade classroom and see how that teacher involves each student, to see good qualified teachers like that leave the next year and wonder if it's because of the salary.

Mr. Ryan said he believes the school board thinks that money takes care of everything. The administrative staff is being highly overpaid for the job they do. They are not here to make them happy, they have a real goal that should be to provide the best educational environment for the students. He urges the board not to give the entire amount requested to the school board.

Mr. Conaway stated he was very concerned that this was a public hearing for the school budget and he has to wonder why parents, students and teachers are not present. Are they not concerned or do they feel that the school board would represent them. He said he would like to see more of an interest shown or maybe they are losing confidence.

CONSENSUS DOCKET

A. The motion was made by Mr. Frere to approve the Consensus Docket and recommendations as follows:

Minutes of March 29, 2001

Recommendation: Approve the minutes.

Minutes of April 3, 2001

Recommendation: Approve the minutes

Minutes of April 10, 2001

Recommendation: Approve the minutes with amendment

B. Multiple Sclerosis Awareness Month – Adopt the following resolution.

WHEREAS, approximately one-third of a million Americans, including 10,000 Virginians, have multiple sclerosis, a chronic, often disabling and unpredictable autoimmune disease that currently has no know cause or cure; and

WHEREAS, in multiple sclerosis, the body's immune system attacks and eats away the myelin, or protective insulation of nerve fibers, causing a short circuit and scars on the central nervous system; and

WHEREAS, symptoms of multiple sclerosis can include muscle stiffness or spasms, visions problems, memory loss, weakness, numbness or tingling, loss of bladder or bowel control, or poor balance and coordination; and

WHEREAS, the National Multiple Sclerosis Society, founded in 1946, has as its mission to end the devastating effects of multiple sclerosis; and

WHEREAS, the National Multiple Sclerosis Society is the largest private nonprofit funding support of MS related research in the world; and

WHEREAS, anyone interested in more information about multiple sclerosis can contact the National Multiple Sclerosis Society at www.nationalmssociety.org 1-800-FIGHT-MS; and

WHEREAS, the Central Virginia Chapter of the National Multiple Sclerosis society educates and provides assistance to people with multiple sclerosis, their families and healthcare professionals within 31 counties and four cities in Virginia, including Lancaster County.

NOW THEREFORE BE IT RESOLVED, that the Lancaster County Board of Supervisors proclaims May 2001 to be Multiple Sclerosis Awareness Month in Lancaster County, Virginia.

VOTE: 5 – 0 Aye.

CONSIDERATION DOCKET

The Board considered the following items on its Consideration Docket:

1. Approval of April 2001 Salaries and Invoice Listings

Motion was made by Mr. Beauchamp to approve the Salaries for April 2001 in the amount of \$124,102.57 and Invoice Listings for April 2001 in the amount of \$472,483.16.

VOTE: 5 – 0 Aye.

2. Rappahannock Westminster-Canterbury – Tax-Exempt Request - Mr. Parry stated that he has been the President and CEO at RW-C since January 2000. He has come on behalf of the Board of Trustees to make a request for exemption of real estate and property taxes. He stated that RW-C opened in 1985 and is known as a continuing care facility. In way of support for this request, he stated that they are a non-profit 501-(c)-(3) corporation and have received tax exempt status for federal taxes. They were originally sponsored by the church as a not for profit retirement community. RW-C employs over 200 full and part-time employees. They have employees who range from unskilled to semi-skilled up to highly skilled nurses, dietitians and accountants and have an annual payroll in excess of \$4,400,000. With that payroll, they are putting money back into the community, primarily into the Northern Neck. He said furthermore, they operate a very active fellowship fund that is used to subsidize the patient who needs to come in and can not afford all or part of the admission and/or the monthly fees. RW-C does this anonymously and confidentially for those who are referred to the fund. This is a resident who might not otherwise have the available funds. They currently have 12 residents in their facility that are called fellowship residents. The fund pays approximately \$165,000 to subsidize their care at RW-C and he stated no resident has been or ever will be evicted from RW-C because they are unable to pay. RW-C operates a certified health care facility and nursing home and they are certified for Medicaid and Medicare and both of those rate reimbursements that are received are less than the costs are (i.e. if it cost \$100.00 per day to care for a resident, Medicaid or Medicare may pay \$85.00). He said for the last year that they filed a cost report with the Medicare and Medicaid agencies they wrote off \$121,000 in expenses that they incurred and were not compensated for. Several of their sister facilities in the State of Virginia are tax exempt and he believes that there is a precedent to consider that for their facility. RW-C does social accountability, which

keeps track of what they are doing as a facility to be a good neighbor and to help the people in the community. There is a list of things they do for the community. They open the building for various groups to use their meeting space without cost. They have allowed the Northern Neck Free Health Clinic to use the grounds for a picnic. They provide meals to the Northern Neck Free Health Clinic volunteers a couple of nights per week and work with a number of community organizations.

Mr. Simmons asked how many residents there are at RW-C.

Mr. Parry stated that there are 230 residents. This includes the nursing facility and assisted living residents.

Mr. Simmons stated that there are 218 residents that pay and 12 that are non self-supporting.

Mr. Beauchamp asked what are the annual real estate taxes.

Mr. Parry said \$80,000.

Mr. Frere asked if there trash pick up for those residents in the cottages and free standing homes or is it on site disposal.

Mr. Parry stated they have a contract with a company to pick up trash and take it to the dump.

Mr. Frere asked “for each of the residents”?

Mr. Parry said yes.

Mr. Simmons asked how many visits does RW-C get annually from the local rescue squad.

Mr. Parry said he guesses that it is two or three times a month.

Mr. Simmons stated that was an extremely low number according to his information.

Mr. Parry said he would have to get that information.

Mr. Simmons said the point was that the county is providing a considerable service to RWC at a cost to the county. He stated that although

the rescue squads are volunteer organizations, the county subsidizes those organizations.

Mr. Parry said he would like to know what the next step would be.

Mr. Simmons made a motion to deny the request to conduct a public hearing for tax exempt status for RW-C.

Mr. Conaway asked if the board decided to do a public hearing would the board have to approve prior to a public hearing.

Mr. Jenkins said no.

Mr. Conaway stated the reason for this question was because he believes it would give the public an opportunity to voice its opinion and naturally, the board would have the final say to deny or accept this request.

Mr. Frere stated that he believes the Board of Supervisors must treat everyone consistently and a similar request was denied at the last meeting.

VOTE: 4 – 1 (Conaway)

3. Telecommunications Towers – Emergency Ordinance to Control – Mr. Pennell explained that there is a new change in technology that is ahead of our zoning ordinance and he originally asked the board to adopt a model ordinance for the interim. He stated he contacted the county attorney and was informed that they could adopt interim ordinances for everything except for zoning in Virginia. However, there are other things that can be done. He explained that wireless communication was expanding a great deal and most was expanding away from cellular which is analog to PCS which is digital. The county attorney has suggested that they declare that PCS is not cellular and ask the planning commission to look into a possible new ordinance for the zoning ordinance to control towers. He said one of the differences was that cellular has about a 6.7 miles radius off the tower and PCS has about 3.2 miles, which would mean more towers.

Mr. Jenkins said he was sure that he gets more than the 3.2-mile radius with his Sprint PCS service on the highway.

Mr. Pennell stated that if you were traveling on the highway that VDOT has towers all along the highways and that would be the reason.

Mr. Jenkins stated he does not see the towers.

Mr. Pennell stated that because the towers look like pine trees and are in church steeples and these would be some of the things he would like to bring back to the board. There a lot of ways to do this with existing towers, water tanks, public property and the county could get the lease of the tower. There are so many new things that technology has brought about and our ordinance is so old and he asked that they declare PCS not cellular and send it to the planning commission.

Mr. Jenkins asked how would this request help?

Mr. Pennell stated if it is for a PCS tower, it is not in the zoning ordinance. He said PCS towers are not permitted in the zone. He would need about 60 to 90 days to bring the information back to the board of supervisors. The four county administrators have recently heard a presentation at Sands Anderson, they learned a great deal about this matter, and he believes that they can maximize the use of towers. He said they want the towers, but they simply need to control where they go. What is happening now is that Verizon, GTE and Bell Atlantic are not building towers. Speculators come in. In fact, Northumberland has had five spec towers this month. Once the speculator gets the permit/special exception, they never intend to build a tower. They then sell to Verizon, GTE or other companies in the cellular business. The true goal would be to maximize the tower by not having just one company there. This would also be a way to assess the true value of the equipment (i.e. Litwalton site has more equipment on the tower then they know about). The question is if the property was properly assessed. He has discussed this with Mr. Thomas, the Commissioner of the Revenue, and he admits that it is a problem. He also said that the little trailer at the bottom of the tower has about \$500,000 worth of equipment and the county should be getting the personal property taxes. He believes what will come, will be a suggestion that they bring on board, at no cost, a company that can do this for us and the application fee for the applicant would cover the cost of a consultant. He would like to work together with the four counties of the Northern Neck. Clearly, there will be some interaction, because if there is a tower near the line, we need to work together as a region to maximize the benefits from the towers. He requested the board send this to the planning commission to come up with a model ordinance.

Mr. Simmons made a motion to give the planning commission charge to come up with a model ordinance.

VOTE: 5 – 0 Aye.

Mr. Beauchamp asked as part of the motion, instruct Mr. Pennell to work with the Commissioner of the Revenue on this matter to find out if the equipment was assessed properly.

BOARD REPORTS

Redistricting - Mr. Conaway asked where are we with redistricting?

Mr. Pennell handed out redistricting packets that included the existing plan and proposed plan one and plan two. He stated that the Redistricting Committee has had three meetings to come up with two proposed plans for the board of supervisors. The existing plan is what it has been since 1991, Plan 1 was the first one finished and the attempt was to meet three goals. These goals are community of interest, to consider racial ratios and keeping the districting within 5% plus or minus in population and both plans have that. The difference is that in Plan 1 White Stone has a small section of District 5 below it. That was a concern and they tried to remove that. On Plan 2, they would see that Irvington, White Stone, and Kilmarnock are all in separate districts. When doing Plan 2, they were unable to bring District 4 into a majority minority district up to and over 50%. They stated that it was at 46%. District 2 was still a minority majority district in both plans. On Plan 1, they would find that there is a minority majority in District 2 and District 4. The difficulty was the blocks where people live and being able to move them into another district without creating islands or doglegs. However, one of the outcomes of the plans was that one of the precincts will move. The next step for the board of supervisors would be to consider the plans and conduct work sessions or hold public hearings. He stated that there is software available if they would like to see how it was done and make changes that would be done instantly. The latest that they would have to have the redistricting plans would be 45 days before the next election. For Lancaster County, this will be November 6, 2001. The justice department needs 60 days before that which will be by the first week of June for adoption.

Mr. Conaway asked if Plan 1 has two majority black districts and Plan 2 only has 46% which does not qualify them for a minority majority black district?

Mr. Pennell said that was correct.

Mr. Conaway stated according to the justice department in the plan they have to have two minority majority black districts.

Mr. Pennell stated he does not have the answer yet.

Mr. Jenkins said the constitution requests a census every ten years and redistricting is based on the census data.

Mr. Pennell stated that the one thing that hurts Plan 2 in keeping District 4 a minority majority district; if you notice on the existing plan, District 4 lost the most people.

Mr. Conaway asked Mr. Pennell if he assumed that the minorities decrease.

Mr. Pennell stated that the people decreased and because this is a minority district, it led one to believe that it was probably the minority population that decreased.

Mr. Conaway asked if this meant more whites are moving into this district.

Mr. Pennell stated this was the number of people not the relationship.

Mr. Conaway asked if Plan 2 lowers the number of minority.

Mr. Pennell stated that both Plans do lower the number of the minority.

Mr. Conaway asked again according to the justice department should they have two minority majority black districts.

Mr. Pennell said he suggested having Jim Cornwell at the next meeting to answer these types of questions.

Mr. Simmons stated he would be the only one without a district.

Mr. Beauchamp asked what was the total population with the census?

Mr. Pennell stated there were 11,567.

Mr. Beauchamp asked if the map would be enhanced with road names with this computerized programming.

Mr. Pennell said yes, this package is only here for information. He stated the board would receive a larger copy.

Mr. Jenkins asked if the board wished to work on this before having a public hearing or go to public hearing and based on that input then have a work session.

Mr. Beauchamp suggested having the board go over the plans first with the larger printouts.

Mr. Conaway asked Mr. Pennell if he could have some information on the questions before the meeting.

Mr. Pennell stated he would have an answer.

Mr. Beauchamp asked if they could have Jim Cornwell attend the meeting?

Mr. Pennell said Mr. Cornwell could attend.

Mr. Frere stated that he would prefer to meet on the county budget before looking at approving the school budget. He said he would like to see revenues versus expenses for the Constitutional Officers and administrative offices.

Mr. Jenkins said that he would like to meet on May 2, 2001 at 5:30 p.m. and would review the School Board Budget and redistricting. No action will be taken.

Floyd Clark Adult Home - Mr. Simmons received a call about the Floyd Clark Adult Home. They are seeking help right now because they are basically relying on Medicare payments to keep the home functioning and gets subsidies from other places and due to a number of circumstances the population is down. They are looking for whatever help the county could provide. He said he would like the board and the public to consider some way that the facility could be helped with in-kind donations from businesses or whatever it takes to bring the facility to a reasonable standard and keep it operating on a basis reasonable for the residents there.

Mr. Conaway stated he stopped by and talked to the administrator who stated the count was down to less than half. The facility can house 11 people and they are down to 5 or 6 residents. The residents get older and weaker and have to move to acute care facility.

Mr. Simmons stated that the Floyd Clark Adult Home has served Lancaster County for a long time and their market is different from some of the other facilities offered in the county. He said that if some charitable organizations within the county will do something to improve the facility then they may be able to get resident population up to a point where they can continue to operate.

Mr. Beauchamp asked if ownership had changed recently?

Mr. Simmons stated it was the Masonic Lodge.

Mr. Pennell said he spoke to Louis Lee and believed it was a Newport News Lodge.

Mr. Simmons asked if we could help get community support and look into applying for grants.

Mr. Pennell stated that Interfaith and Marilyn Hollingsworth would be looking into other options.

COUNTY ADMINISTRATOR REPORT

None

ADJOURNMENT

Motion was made by Mr. Frere to adjourn the meeting until May 2, 2001 at 5:30 p.m. in the General District Courtroom for a School Board work session.

VOTE: 5 – 0 Aye.