

**VIRGINIA:**

A meeting of the Lancaster County Board of Supervisors was held in the Administrative Building Board/Commission Meeting Room of said county on Thursday, May 26, 2016.

- Members Present: William R. Lee, Chair  
Ernest W. Palin, Jr., Vice Chair  
F. W. Jenkins, Jr., Board Member  
Jason D. Bellows, Board Member  
B. Wally Beauchamp, Board Member
- Staff Present: Frank A. Pleva, County Administrator  
Don G. Gill, Planning and Land Use Director  
Crystal Whay, Building/Land Use Secretary

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

**PUBLIC INPUT**

Mr. George Bott, a District 1 citizen, stated that he had five items to discuss. He stated that he had given Mr. Pleva his extensive comments on the County’s website. He referred to the “contact us” section of the website and stated that the email form to contact County staff has been suspended and he wanted to point that out to the Board. He stated that his second comment was about the Merry Point Ferry. He stated that the Memorial Day weekend was coming up and the ferry plays a big part with tourism and wanted to know when it would be back in service. He stated that he had reviewed the Route Three Northern Neck Corridor Improvement Study and the conclusions seemed sound in his opinion. He stated that his fourth item was that he had requested a copy of the application for the Virginia Department of Emergency Management pet sheltering grant. He stated that he wanted to know what the requirement was for the trailer that was received. He stated that his fifth comment was to say that sailing resumes Wednesday.

Mr. Charlie Costello, a District 2 citizen, referred to a newspaper article and stated that by the Board not considering a tax increase, the reserve will diminish. He stated that the tax rate will eventually have to be increased on property taxes and the longer they wait, the more difficult it will be. He stated that, in his opinion, the real estate tax needs to be increased about five cents to offset the boat and farm equipment taxes being eliminated. He stated that the County’s fund reserve decrease will translate into poorer credit ratings. He stated that his recommendation was that the Board make a

motion to readvertise the proposed tax ordinance with a tax increase. He stated that, on another subject, he attended the Lancaster High School Spring Band Concert last Friday and the students did a great job and he understood that all of the twenty eight seniors who performed were going on to college.

**PRESENTATIONS**

1. Recognition of Chief Terrence McGregor for VDEM Grant Procurement for Emergency Shelter Support Trailers

Chief Mark Nugent of Middlesex County stated that he was present to give Chief Terrence McGregor a plaque of recognition. He stated that Chief McGregor was responsible for the development, management and fiscal responsibilities for a VDEM grant proposal for the procurement of providing emergency shelter support trailers for the counties of Lancaster, Middlesex and Gloucester. He stated that the three trailers would be supplied with the critical equipment required to allow each jurisdiction to efficiently and effectively assist individuals in need of shelter assistance in the event of a natural or manmade disaster in their community.

Chief Nugent stated that Chief McGregor works hard to have regional cooperation, which makes all of the communities involved safer.

Mr. Lee stated that he would like to commend Chief McGregor on his work and it is good to hear that neighboring counties are working together.

2. Recognition of Louise DeJarnette Jesse

Mr. Beauchamp stated that he had a plaque of recognition for Louise DeJarnette Jesse, who could not attend the meeting. He stated that the plaque read in part that Ms. Jesse was the chairwoman for the Lancaster County 350<sup>th</sup> Anniversary Committee and served for many years as a member and chairwoman on the Lancaster County Historic Resources Commission.

Mr. Beauchamp made a motion to unanimously express the Board’s sincere appreciation for Ms. Jesse’s dedication to Lancaster County for many years.

VOTE:	William R. Lee	Aye
	Ernest W. Palin, Jr.	Aye
	F. W. Jenkins, Jr.	Aye
	Jason D. Bellows	Aye
	B. Wally Beauchamp	Aye

## **VIRGINIA DEPARTMENT OF TRANSPORTATION**

### **1. Public Hearing-Six Year Plan-Secondary System of Highways**

Mr. Carter White, Acting Northern Neck Residency Administrator for VDOT, stated that he wanted to respond to the earlier comment regarding the Merry Point Ferry. He stated that his department is planning on having the ferry back in service by late June. He stated that the wet weather has caused delays in painting.

Mr. White stated that David Brown, the former Residency Administrator, has moved to another state and left the Virginia Department of Transportation. He stated that he had been his assistant for many years.

Mr. White stated that the Code of Virginia requires the Board of Supervisors and the Virginia Department of Transportation to formulate a six-year secondary improvement plan each year. He stated that tonight's public hearing is being conducted for the years of 2017-2022 for the proposed secondary six-year plan and the secondary system construction budget for fiscal year 2017 in Lancaster County. He stated that the proposed plan does not include maintenance on secondary roads or have anything to do with the primary roads in the County.

Mr. White stated that his department was seeking guidance on any changes that the Board of Supervisors may want to make to the proposed plan. He explained the funding for the plan and the secondary system construction program.

Mr. Bellows stated that he had asked David Brown to get some figures together for Boys Camp Road improvements and asked about the status of that request.

Mr. White replied that he did not know of that request, but would look into it.

Mr. Lee stated that Boys Camp Road is approximately one mile, very narrow and has no shoulders.

Mr. White stated that he would have Boys Camp Road assessed to see what widths would be needed.

Mr. Bellows asked if the Boys Camp Road project would be the type of project to be placed on the secondary six-year plan.

Mr. White replied that he would like the road assessed by the district before he answered that question. He stated that project would be costly.

Mr. Lee stated that several big events go on at the end of Boys Camp Road that put a lot of traffic on essentially a single lane road and he would like to see a ball-park figure for improvements on that road.

Mr. Lee opened the public hearing.

There was no public input.

Mr. Lee closed the public hearing.

Mr. White stated that the Board can change the secondary six-year plan at any time. He stated that another public hearing would need to be held if that decision is made.

**VIRGINIA DEPARTMENT OF TRANSPORTATION SECONDARY SIX YEAR  
PLAN (SSYP)  
FY 2017-2022**

**WHEREAS**, Sections 33.1-23 and 33.1-23.4 of the Code of Virginia, 1950, as amended, provides the opportunity for each county to work with the Virginia Department of Transportation in developing a Secondary Six-Year Road Plan; and

**WHEREAS**, the Lancaster County Board of Supervisors previously agreed to assist in the preparation of the Plan, in accordance with the Virginia Department of Transportation's policies and procedures, and participated in a public hearing on the proposed Plan (2017 through 2022) as well as the Construction Priority List (2017) on May 26, 2016, after being duly advertised so that all citizens of the County had the opportunity to participate in said hearing and to make comments and recommendations concerning the proposed Plan and Priority List; and

**WHEREAS**, Carter White, Acting Residency Administrator, Virginia Department of Transportation, appeared before the Board of Supervisors and recommended approval of the Six-Year Plan and budget for Secondary Roads (2017-2022) and the Construction Priority List (2017) for Lancaster County.

**NOW, THEREFORE BE IT RESOLVED**, that since said Plan and budget appear to be in the best interest of the Secondary Road System in Lancaster County and of the citizens residing on the Secondary System, said Secondary Six-Year Plan (2017-2022) and Construction Priority List (2017) are hereby approved as presented at the public hearing by the Lancaster County Board of Supervisors.

Mr. Beauchamp made a motion to Adopt the Secondary Six-Year Plan for Fiscal Years 2017-2022.

VOTE:                      William R. Lee                      Aye

Ernest W. Palin, Jr.	Aye
F. W. Jenkins, Jr.	Aye
Jason D. Bellows	Aye
B. Wally Beauchamp	Aye

Robert Harper, VDOT Brookvale Headquarters Superintendent, stated that the paving contractor will be starting in the Browns Store area and moving around the County in the next two to three weeks. He stated that his department will start mowing on the secondary roads on June 6<sup>th</sup>. He stated that the heavy amounts of rain have affected both the paving and mowing schedules.

### **PUBLIC HEARING**

#### **1. Application for Special Exception – Stacey R. Taylor**

Mr. Lee asked Mr. Gill to present the issue.

Mr. Gill stated that the issue was an Application for Special Exception by Stacey R. Taylor to place an individual manufactured home on Tax Map #34-182. He stated that the property is zoned R-1, Residential General and is located at 139 Old Town Lane off of Newtown Road in District 4.

Mr. Gill stated that the applicant's individual manufactured home, which is a 28' x 60' double wide, meets all requirements of the Zoning Ordinance Article 5-1-3 for "by-right" placement except a roof pitch of 3.25:12 or greater and therefore requires a special exception. He stated that the roof pitch, as stated by the applicant and verified by the manufacturer's specifications, is only 3:12. He stated that the property has an existing on-site septic and well, but the Health Department has designed a new septic system for the applicant. He stated that the proposed home will replace an existing home that is already on-site. He stated that all front, rear and side setbacks can be met and similar individual manufactured homes exist in this neighborhood.

Mr. Gill stated that the issue had been advertised and adjoining property owners notified as required by law and to date, he had had two phone calls from adjoining property owners requesting additional information. He stated that originally the applicant was going to be given one acre of the family property, but now will be given the entire parcel. He stated that the arrangements were to be made before tonight's hearing, but have not been completed, so he suggested if the Board decides to grant the special exception, they make it contingent on the satisfactory conveyance of the property to Ms. Taylor.

Mr. Lee opened the public hearing.

There was no public input.

Mr. Lee closed the public hearing.

Mr. Lee asked if the two adjoining property owners that called for more information were satisfied.

Mr. Gill stated that he did not speak to them directly. He stated that Pete Ransone, Zoning Officer, took the calls and did not give any indication that the adjoining property owners were upset. He stated that both parties were advised of the public hearing date and time.

Mr. Lee made a motion to Approve the Application for Special Exception by Stacey R. Taylor with the contingency of the satisfactory conveyance of the parcel to her.

VOTE:	William R. Lee	Aye
	Ernest W. Palin, Jr.	Aye
	F. W. Jenkins, Jr.	Aye
	Jason D. Bellows	Aye
	B. Wally Beauchamp	Aye

2. Amendments to the Zoning Ordinance Article 3-Agricultural Limited District A-1 and Article 4-Agricultural General District A-2

Mr. Lee asked Mr. Gill to present the issue.

Mr. Gill stated that the issue was the proposed amendments to Articles 3 and 4 of the Zoning Ordinance. He stated that one concurrent public hearing may be held for both related districts instead of two separate public hearings, but a separate vote is required for each Article.

Mr. Gill stated that at last month's meeting, the Board of Supervisors had issues with two of the proposed amendments that were recommended by the Planning Commission and tabled action on these articles until this meeting to allow staff time to conduct further research.

Mr. Gill stated that the first issue dealt with the amount of time a portable sawmill should be allowed, by right, before a special exception is required for that

use. He stated that the Planning Commission had recommended fifteen days, but the Board, and at least one citizen, did not feel that was an adequate amount of time for that use, by right. He stated that after further research and correspondence with peers in adjoining counties, a time frame ranging between 90 and 180 days seems more appropriate. He stated that ninety days has been advertised, but the Board could increase that time as that change would be less restrictive and would not require readvertising.

Mr. Gill stated that the second issue dealt with the permitted height of accessory structures. He stated that, currently, our zoning ordinance will not allow accessory structures to exceed the main structure in height. He stated that he has had many requests over the past ten years by citizens with one-story homes who wanted to build accessory structures that would be taller than their home, but could not do so based on the current language in our zoning ordinance. He stated that the Planning Commission wanted to rectify that problem and recommended that accessory structures could exceed the main structure in height, but with a special exception, which would allow adjoining property owners the opportunity to voice their concerns if they had any. He stated that the Board, and at least one citizen, felt that there was still inequity with that proposal, since one-story homeowners would be required to seek a special exception for something that two-story or more homeowners could have by right. He stated that after further research and correspondence with peers in adjoining counties, staff learned that no adjoining county had the requirement that accessory structures not exceed the main structure in height. He stated that, accordingly, staff has advertised that the requirement for a special exception, in order for accessory structures to exceed the main structure in height, be stricken. He stated that, as a result, accessory structures would be subject to the same height limitations of main structures, which is thirty-five feet.

Mr. Gill stated that currently, our zoning ordinance allows one-story accessory structures to be as close as five feet to side and rear property lines, but requires accessory structures that are more than one-story to be twenty feet off side and rear lines. He stated that since the proposed amendments will allow accessory structures to exceed the main structure in height and will subject accessory structures to the same thirty-five feet height limit as main structures, staff recommends that accessory structures exceeding one-story be subject to the same setbacks as main structures. He stated that one-story accessory structures would still be able to be as close as five feet to side and rear property lines.

Mr. Gill stated that advertising had been conducted as required by law and other than the discussion at the prior Planning Commission meetings and last month's Board of Supervisor's meeting, there has been no response from the public.

Mr. Lee opened the public hearing.

Mr. Costello asked about specifics on the time restrictions, in case more than 180 days would be needed.

Mr. Gill replied that because it is a portable sawmill, he did not think more time would be needed.

Mr. Jenkins stated that portable sawmill work is selective cutting and weather would be the only factor to stop the operation from being completed in a short period of time.

Mr. Bellows stated that he had done some research on the issue and found that it is basically a band saw on wheels.

Mr. Lee closed the public hearing.

Mr. Bellows made a motion to Approve the Proposed Amendments to the Zoning Ordinance Article 3, Agricultural Limited District A-1.

VOTE:	William R. Lee	Aye
	Ernest W. Palin, Jr.	Aye
	F. W. Jenkins, Jr.	Aye
	Jason D. Bellows	Aye
	B. Wally Beauchamp	Aye

Mr. Bellows made a motion to Approve the Proposed Amendments to the Zoning Ordinance Article 4, Agricultural General District A-2.

VOTE:	William R. Lee	Aye
	Ernest W. Palin, Jr.	Aye
	F. W. Jenkins, Jr.	Aye
	Jason D. Bellows	Aye
	B. Wally Beauchamp	Aye

**CONSENSUS DOCKET**

Motion was made by Mr. Jenkins to approve the Consensus Docket and recommendations as follows:

1. Minutes for April 28<sup>th</sup> Regular Meeting and April 26<sup>th</sup>, May 2<sup>nd</sup> and May 10<sup>th</sup> Budget Work Sessions

Recommendation: Approve minutes as submitted

2. Abstract of Votes – Town Elections held on May 3, 2016

Recommendation: Approve abstract as submitted

VOTE:	William R. Lee	Aye
	Ernest W. Palin, Jr.	Aye
	F. W. Jenkins, Jr.	Aye
	Jason D. Bellows	Aye
	B. Wally Beauchamp	Aye

### **CONSIDERATION DOCKET**

The Board considered the following items on its Consideration Docket:

1. Approval of May 2016 Salaries and Invoice Listings

The motion was made by Mr. Palin to approve the salaries for May 2016 in the amount of \$241,863.83 and invoice listings for May 2016 in the amount of \$920,650.85\*.

\*Capital Improvements - \$192,359.73

VOTE:	William R. Lee	Aye
	Ernest W. Palin, Jr.	Aye
	F. W. Jenkins, Jr.	Aye
	Jason D. Bellows	Aye
	B. Wally Beauchamp	Aye

2. Consideration of Setting a Public Hearing on a Proposed Amendment to Lancaster County Code of Ordinances Section 2-53 for the Restitution Procedure Instead of the Civil Remedy Procedure for Reimbursement of Expenses Incurred in Responding to DUI and Related Incidents

Mr. Lee asked Mr. Pleva to explain the issue.

Mr. Pleva stated that the County, if it chose, could recoup costs that are associated with the enforcement of the DUI process through a restitution process and would make the fee an automatic cost. He stated that something similar has been done with costs associated with methamphetamine lab enforcement. He stated that Jan Smith, Commonwealth Attorney, is present to answer any questions that the Board may have.

Mr. Smith stated that the statute allows counties to recover reasonable expenses with a DUI (driving under the influence) charge and conviction. He stated that the way it works in Westmoreland County is upon conviction of a DUI, a fine of \$350 is automatically assessed solely for the benefit of the County. He stated that Westmoreland County drafted an ordinance that deemed \$350 to be a reasonable expense, so the court automatically fines that amount.

Mr. Smith stated that there had been some discussion on whether or not the fine would include charges made in the different towns, such as Kilmarnock and whether or not it would include stops made by state troopers as opposed to the local deputies. He stated that his interpretation of the statute is that the fines would be applicable to all of the charges made because County resources are used in every case. He stated that he wanted to put the issue in front of the Board of Supervisors because it could be an additional revenue source. He stated that some consideration would be needed to come up with a reasonable fee, if the Board decides to go forward with the amendment. He stated that, at the present time, the civil remedy is in the County ordinance. He stated that the civil remedy requires a separate civil litigation be filed and he did not know of anytime that it had been done.

Mr. Beauchamp asked how many DUI arrests were made in Lancaster County in a twelve-month period.

Mr. Smith replied that he believed there were as many as ten arrests a month and a minimum of five. He stated that the state troopers generate half of the arrests.

Mr. Lee asked what the amount of the fee would be based on.

Mr. Smith replied that he would try to find out from Westmoreland County how they arrived at the \$350 fee. He stated that he would also speak to the Sheriff's Office and EMS to find out their expenses associated with such

incidents. He stated that he would try to have that information before the public hearing.

Mr. Lee asked Mr. Pleva about the fee amount that would be advertised for the public hearing.

Mr. Pleva replied that they could advertise a certain amount and the Board could set it at a lower rate, if they deemed it necessary.

The consensus of the Board was that the fee amount should be included in the public hearing advertisement.

Mr. Smith stated that he thought Mr. Pleva should contact the County Attorney about the advertisement language.

Mr. Beauchamp asked at what point are the fees considered “piling on”. He stated that there are numerous fees and fines that are already associated with a DUI conviction.

Mr. Smith stated that on a first offense DUI conviction, there is a \$500 fine assessed with \$250 being mandatory. He stated that the convicted individual must attend VASAP classes, which is approximately another \$1,000. He stated that an interlock must be installed in the individual’s car for a six-month period and that is approximately \$200. He stated that attorney’s fees can be in the thousands, unless a court appointed attorney is used and the cost of court is \$180. He stated that piling on may be the incentive not to drive drunk, in his opinion.

Mr. Pleva stated that one of the biggest costs associated with a DUI conviction is the increased insurance rates.

Mr. Beauchamp stated that he would like the Commonwealth Attorney to do some more research on the issue before considering a public hearing.

Mr. Smith stated that he would come back to the Board with more information at a later date.

### 3. Emergency Services Radio System Change Orders #4 and #5

Chief McGregor stated that his department had received change orders #4 and #5 from Radio Communications of Virginia. He stated that change order #4 provides credits for costs that were incurred by the County for tower mapping at the Litwalton and White Stone sites and for hardware discounts. He stated that after reviewing the data available at the Sheriff’s Office tower, it was determined that they were not sure whether the tower could support the additional equipment. He stated that the charge for the geotechnical and foundation analysis had been included in change order #4. He stated that, also included in change order #4 is

the charge for mapping, inspection and structural analysis of the Kilmarnock tower.

Chief McGregor stated that change order #5 is for the cost of repairs to the Sheriff's Office tower, including plumb and tension. He stated that, as requested by the Board, personnel from Radio Communications were present to answer technical questions.

Mr. Will Smithson of Radio Communications of Virginia stated that the Sheriff's Office tower was built a long time ago and there are certain things they have to do to make sure the site is safe. He stated that there are no records on the tower, so an engineer has to evaluate it as if it was a new tower. He referred to the radio station site and stated that the old tower had to be mapped and there were no records for that tower either. He stated that the old tower was also not rated to hold anything else, so they had to move the additional equipment to the new tower.

Mr. Lee stated that his question was why the figure was the same for both towers.

Mr. Smithson replied that change order #4 was actually \$6322, which was different from change order #5. He stated that with the credits, the figures came out the same.

Mr. Smithson explained the tower inspection process in detail to the Board. He stated that there may be a bent anchor on the Sheriff's Office tower, but they will not know for sure until the inspection has been completed. He further stated that the radio system project is on schedule.

Mr. Beauchamp made a motion to Accept the Radio System Change Orders #4 and #5.

VOTE:	William R. Lee	Aye
	Ernest W. Palin, Jr.	Aye
	F. W. Jenkins, Jr.	Aye
	Jason D. Bellows	Aye
	B. Wally Beauchamp	Aye

4. Consideration of Setting a Public Hearing to Lease Ground Space at the Lancaster Sheriff's Office to Virginia Broadband to Erect a Pole for Wireless Internet

Chief McGregor stated that some deficiencies were found with the tower at the Sheriff's Office. He stated that it will support the equipment necessary for the public safety radio system. He stated that there is a lot of out of service equipment presently located on the tower that will come off as part of the radio system project. He stated that Virginia Broadband has three microwave dishes on the tower that need to be relocated. He stated that he met with a Virginia Broadband representative last week to discuss the viability of relocating their antennas. He stated that Virginia Broadband believes that a standard ninety foot utility pole with a ten foot mast will meet their needs.

Mr. Jenkins suggested that they set the public hearing.

Mr. Pleva stated that he would like to set it for June 9<sup>th</sup>.

Chief McGregor stated that the lease agreement is being reviewed by the County Attorney.

Mr. Bellows made a motion to set the Public Hearing to Lease Ground Space at the Lancaster Sheriff's Office to Virginia Broadband to Erect a Pole for Wireless Internet on June 9, 2016.

VOTE:	William R. Lee	Aye
	Ernest W. Palin, Jr.	Aye
	F. W. Jenkins, Jr.	Aye
	Jason D. Bellows	Aye
	B. Wally Beauchamp	Aye

5. FY 16 Budget – Grant Programs Funds Appropriations

Mr. Pleva referred to the spreadsheet in front of the Board that shows the types of grants received by the County, how much those grants were and where the funds originated. He stated that the spreadsheet shows the local match that is in the existing budget.

Mr. Pleva stated that Bonnie Haynie, County Treasurer, would like the Board to appropriate the bond proceeds and approve the transfer from the Capital Improvement Fund to the General Fund in the amount of \$3.1 million dollars. He stated that it is basically a “housekeeping” issue.

Mr. Lee made a motion to Appropriate the Grant Funds and Capital Improvement Expenditures and approve the Transfer from the Capital Improvement Fund to the General Fund.

VOTE:	William R. Lee	Aye
	Ernest W. Palin, Jr.	Aye
	F. W. Jenkins, Jr.	Aye
	Jason D. Bellows	Aye
	B. Wally Beauchamp	Aye

**BOARD REPORTS**

Mr. Jenkins made a motion to reappoint Edna Revere to the Wetlands Board as the District 1 representative.

VOTE:	William R. Lee	Aye
	Ernest W. Palin, Jr.	Aye
	F. W. Jenkins, Jr.	Aye
	Jason D. Bellows	Aye
	B. Wally Beauchamp	Aye

Mr. Palin made a motion to reappoint Vera Lee to the Social Services Board as the District 4 representative.

VOTE:	William R. Lee	Aye
	Ernest W. Palin, Jr.	Aye
	F. W. Jenkins, Jr.	Aye
	Jason D. Bellows	Aye
	B. Wally Beauchamp	Aye

**COUNTY ADMINISTRATOR**

Mr. Pleva reminded the Board of the June 15<sup>th</sup> deadline for the return of the mandatory Statement of Economic Interests forms.

Mr. Pleva stated that the Windmill Point Public Boat Ramp project has begun. He stated that some changes have been needed, including having the utilities marked in greater detail before they start digging the parking lot area. He stated that Mr. Gill has met on site with the contractor from Earth Resources and Ben Burton from Bay Design.

Mr. Gill stated that a lot of clearing had been completed and approximately eighty percent of the access road to the Beach Cove Villas had been done. He stated that the contractor had run into some soft ground, so they had to excavate deeper than anticipated and bring in better sand, install fiber cloth and cover with stone. He stated that the proposed parking area was once the site of the old clubhouse for the golf course and there are many old utility lines that need to be located. He stated that the project remains on schedule and he had been in touch by email with some of the Beach Cove Villa residents and they are satisfied with the project so far.

**ADJOURNMENT**

Motion was made by Mr. Jenkins to adjourn.

VOTE:	William R. Lee	Aye
	Ernest W. Palin, Jr.	Aye
	F. W. Jenkins, Jr.	Aye
	Jason D. Bellows	Aye
	B. Wally Beauchamp	Aye