

**VIRGINIA:**

A meeting of the Lancaster County Board of Supervisors was held in the courthouse of said county on Thursday, May 30, 2002.

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

Others

Present: Jack Larson, Planning/Land Use; Joe Staton and Robert Harper, Department of Transportation; Charlie Pruett, Surveyor; Keith Hogge; Joan Wenner, Northern Neck News; Robert Mason, Rappahannock Record

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

**PUBLIC INPUT**

Animal Control Ordinance Revision

Laura Stoddard stated her pet dog was mauled to death in his own back yard. It was an attack of an “ill bred” dog, who’s owner not only felt no responsibility to control his animal and keep him off of other people’s property, but apparently feels no accountability for his animal’s actions. Unfortunately, because Ms. Stoddard’s dog falls in the category of “animal companion” and, according to the Magistrate, Lancaster County, for some reason, did not use the suggested language from the Virginia Code when it adopted an ordinance about dangerous animals, she would like the county to fix the law so that if this happens to someone else the individual who hasn’t controlled his animal will be held accountable.

Mr. Pennell responded that he has been working with the county attorney to draft the appropriate ordinance and a copy will be available to the Board of Supervisors at its next meeting.

#### Rappahannock Rifle and Pistol Club

Mr. Ryan stated he spoke to Mr. Larson and understood that the Rappahannock Rifle and Pistol Club would be on the agenda.

Mr. Larson said he informed Mr. Ryan that he would bring this issue to the attention of the Board of Supervisors during the “board reports” portion of the meeting and never indicated that it would be a docketed agenda item.

#### **PRESENTATION**

1. Resolution of Appreciation – W. Keith Hogge – Mr. Beauchamp stated the Board of Supervisors has prepared a resolution of appreciation to commemorate Keith Hogge’s 21 years of service as Lancaster County’s Animal Control Officer.

Mr. Frere made a motion to adopt the following resolution of appreciation and presented Mr. Hogge with a plaque/clock for his 21 years of service as Lancaster County’s Animal Control Officer.

**WHEREAS**, W. Keith Hogge was employed as the Lancaster County Animal Control Officer on February 1, 1981; and

**WHEREAS**, W. Keith Hogge’s service as Lancaster County’s Animal Control Officer was instrumental in bringing the Lancaster County Animal Shelter into compliance with the requirements of the Virginia Department of Agriculture and Consumer Services;

**WHEREAS**, W. Keith Hogge had the opportunity to work with many citizen volunteers to improve the quality of life of abandoned companion animals; and

**WHEREAS**, W. Keith Hogge's dedication to his employment improved the public safety in Lancaster County due to his actions with rabid and dangerous animals; and

**WHEREAS**, W. Keith Hogge worked many hours past the regular working hours to which he was assigned, including many late night callbacks to handle emergency situations; and

**WHEREAS**, W. Keith Hogge resigned his employment as Lancaster County's Animal Control Officer on April 17, 2002.

**NOW THEREFORE BE IT RESOLVED**, that the Lancaster County Board of Supervisors commends W. Keith Hogge for his twenty-one years of service to the citizens of Lancaster County; and

**BE IT FURTHER RESOLVED**, that the Lancaster County Board of Supervisors wishes W. Keith Hogge good luck and prosperity in his future.

VOTE:	B. Wally Beauchamp	Aye
	Patrick G. Frere	Aye
	F. W. Jenkins	Aye
	Cundiff Simmons	Aye

## **VIRGINIA DEPARTMENT OF TRANSPORTATION**

Mr. Staton stated at the last financial meeting he attended, it was stated that there would be a three million dollar cut for the secondary road allocation to the four counties of the Northern Neck.

Mr. Staton said the Route 3 project was set to start July 2003 has been cut from the plan, however; VDOT would continue the process of buying the rights-of-way. He said the four counties have no budgeted funds in the plan for the primary system of highways.

Mr. Staton stated there's a tentative six-year plan public hearing scheduled for June 5, 2002 in Richmond and the adoption of a tentative six year plan would be June 20, 2002.

### **Secondary System**

Mr. Staton said Lancaster County will suffer a \$1.6 million cut and Mr. White has the revised copy of the six-year plan. The secondary system construction programs:

1. Route 630 Taylors Creek Road was scheduled for August 2002 has been moved to December 2003;
2. Route 611 Merry Point Project was scheduled for July 2004 has been moved to July 2006;
3. Route 614 Devils Bottom Road was scheduled for July 2006 has been moved to July 2013; and
4. Route 604 Lankford's Corner, Route 607 Good Luck Road and Route 642 Little Bay Road will fall off the plan.

Mr. Staton asked if the Board of Supervisors wanted to go to public hearing in the fall and approve this revised six-year plan until the next cycle.

Mr. Jenkins made a motion to go to public hearing in the fall for VDOT Six-Year Plan.

VOTE:	B. Wally Beauchamp	Aye
	Patrick G. Frere	Aye
	F. W. Jenkins	Aye
	Cundiff Simmons	Aye

Route 200 Carters Creek Bridge

Mr. Staton stated that a concrete test will be done on June 7, 2002 to determine the condition of the bridge.

Intersection of Regina Road and Mary Ball Road

Mr. Staton said because of the Route 3 project delay, the engineer would have to look at other alternatives for that intersection to try to reduce the incidence of motor vehicle accidents.

Pinckardsville Road

Mr. Pennell asked if a study can be done at the Pinckardsville Road and Mary Ball Road intersection because of the number of accidents at that location also.

Mr. Staton said there is High Accident Revenue Fund available and he would get a report from the sheriff/local official to see if he can show the need for the funding to improve the accident prone areas.

### Speed Limit Studies

Mr. Staton stated the Town of Kilmarnock has requested a speed limit study on James B. Jones Highway outside of the Town. The road seems to have more activity but VDOT will hold off on the request until approved by the Board of Supervisors.

Mr. Jenkins requested a speed limit study for Route 610 Oak Hill Road because there are no shoulders and a number of curves and some of the residents believe the existing speed limit is too high.

### Hospital Signs

Mr. Staton stated that the hospital signs have been erected on Rt. 3 at the bypass.

### LOCAL REPORT

Mr. Harper said the speed limit sign has been erected on James Wharf Road, the second phase of mowing will start July 1, 2002, and Route 687 will get hard surface.

### **PUBLIC HEARINGS**

1. VDOT Purchase of Right-of-Way for Route 3 Improvement – Mr. Pennell stated that VDOT has made an offer to Lancaster County to purchase sufficient right-of-way to make the four lane improvements on Route 3 across from Lancaster County property at the social services/health department building.

Ms. Ella Davis said she has concerns about her mother's property just beyond social services/health department building. She stated the road would come too close to the house and because it is an old house, the increased traffic would shake and damage the structure of home. She asked VDOT to reconsider or make other provisions.

Mr. Staton stated he would stay in contact with Ms. Davis to see if he can be of assistance.

Mr. Simmons made a motion for VDOT to purchase the right-of-way on Route 3.

VOTE:	B. Wally Beauchamp	Aye
	Patrick G. Frere	Aye
	F. W. Jenkins	Aye
	Cundiff Simmons	Aye

2. Ordinance to Assess \$5 in Court Costs, Following Conviction, in any Criminal or Traffic Case – Mr. Pennell stated the 2002 session of the Virginia General Assembly adopted enabling legislation that permits local governing bodies to assess \$5.00 in court costs, following conviction, in each criminal or traffic case in the District and Circuit Courts of Lancaster County. The costs collected in this manner are reserved for the funding of court security personnel.

Mr. Pennell said the general assembly reduced the commonwealth's contribution to the sheriff's office by 5% this fiscal year and proposes to do the same in FY 04. The general assembly adopted several pieces of enabling legislation to permit local governing bodies to recoup these lost funds by user fees. This ordinance is one of those pieces of enabling legislation.

Mr. Jenkins made a motion to adopt the following Ordinance to Assess \$5 in Court Costs, Following Conviction, in any Criminal or Traffic Case.

**ORDINANCE ESTABLISHING AN ASSESSMENT  
TO PROVIDE FOR COURTHOUSE AND COURTROOM  
SECURITY IN THE COUNTY OF LANCASTER, VIRGINIA**

**WHEREAS**, it is the public policy of the County of Lancaster, Virginia to provide for the health, safety, and welfare of its citizens; and,

**WHEREAS**, the General Assembly of the Commonwealth of Virginia has required that additional security be provided in all courthouses and courtrooms throughout the Commonwealth; and,

**WHEREAS**, the Board of Supervisors of Lancaster County, Virginia have determined that it is necessary to provide additional funding for such security for the Lancaster County Courthouse and the courtrooms therein; and,

**WHEREAS**, Virginia Code §53.1-120 grants the County of Lancaster authority to levy an assessment against criminal and traffic violations to finance additional security for the courthouse and courtrooms of the County.

**NOW, THEREFORE BE IT ORDAINED** by the Board of Supervisors of Lancaster County, Virginia, that, effective July 1, 2002, there shall be an additional assessment of Five Dollars (\$5.00) on all traffic and criminal violations in which the Defendant is convicted in the County of Lancaster, Virginia of violating an ordinance or statute of the County or the Commonwealth of Virginia. The fee assessment shall be Five Dollars (\$5.00) for convictions in both the Circuit Courts and the District Courts of Lancaster County, Virginia.

Said fee assessment shall be collected by the Clerk of the respective Court and shall be remitted to the Treasurer of Lancaster County and disbursed subject to the appropriation by the Lancaster County Board of Supervisors to the Lancaster County Sheriff's Office to be used for the funding of courthouse security.

(Code of Virginia §53.1-120, 1950, as amended.)



VOTE: B. Wally Beauchamp Aye  
Patrick G. Frere Aye  
F. W. Jenkins Aye  
Cundiff Simmons Aye

3. Ordinance to Impose a Processing Fee on any Individual Admitted to the County Jail Following Conviction – Mr. Pennell stated the 2002 session of the Virginia General Assembly adopted enabling legislation that permits local governing bodies to impose a \$25 processing fee on any individual admitted to the county jail following conviction.

Mr. Pennell said the general assembly reduced the commonwealth's contribution to the sheriff's office by 5% this fiscal year and proposes to do the same in FY 04. The general assembly adopted several pieces of enabling legislation to permit local governing bodies to recoup these lost funds by user fees. This ordinance is one of those pieces of enabling legislation.

Mr. Jenkins made a motion to adopt the following Ordinance to Impose a Processing Fee on any Individual Admitted to the County Jail Following Conviction.

**ORDINANCE ESTABLISHING A PROCESSING  
FEE TO INDIVIDUALS CONVICTED IN THE  
COUNTY OF LANCASTER, VIRGINIA  
AND ADMITTED TO A LOCAL OR REGIONAL JAIL**

**WHEREAS**, criminal convictions requiring admission to jails in the County of Lancaster and the regional jails of Southwest Virginia require considerable resources of the County Sheriff's Office; and,

**WHEREAS**, Virginia Code §15.2-1613.1 provides that a locality may, by Ordinance, authorize a processing fee to any individual admitted to a county or regional jail, following conviction, to defray costs associated with admitting convicted individuals to jail.

**NOW, THEREFORE, BE IT ORDAINED** by the Board of Supervisors of Lancaster County, Virginia, that, effective July 1, 2002, there shall be a processing fee of Twenty Five Dollars (\$25.00) assessed against any individual convicted to serve any time in jail by any Court sitting in the County of Lancaster, Virginia. Said processing fee shall be collected by the Clerk of the Court that rendered the conviction and deposited into such account that the Treasurer of the County of Lancaster shall designate for the collection of the processing fee. Monies collected pursuant to this Ordinance shall be disbursed subject to the appropriation of the Lancaster County Board of Supervisors to the Sheriff of Lancaster County to defray the processing costs of admitting arrested persons to the local or regional jail.

(Code of Virginia §15.2-1613.1, 1950, as amended.)

VOTE:	B. Wally Beauchamp	Aye
	Patrick G. Frere	Aye
	F. W. Jenkins	Aye
	Cundiff Simmons	Aye

4. Deborah B. Sommer - Request for Bay Act Waiver – Mr. Larson stated the applicant is requesting a Chesapeake Bay Act waiver to permit construction of a 1,128 square foot pool/deck combination within 25’ of mean high water of Tabbs Creek. The property on which this would occur is described as Tax Map #35-111B which is located near the terminus of Route 749 near White Stone, VA and is in Voting District 3.

Mr. Larson said according the site plan, current encroachment of impervious cover is within 8’ of tidal water. Additionally, a large one-story frame dwelling is as close as 28’ to tidal waters. Total impervious cover as proposed would constitute 14% of total lot area, a relatively high number for a residential property but under the maximum allowed by the Bay Act. However, in spite of all these conditions that may bring this project into disfavor, it should be noted that the proposal provides for the installation of Best Management Practices for not only the proposed pool, but also existing impervious cover. In view of the actions being taken to obtain better overall mitigation of storm water runoff than presently exists, approval is recommended.

Mr. Larson said adjoining property owners have been notified and advertising as required by law has been conducted. As of this date, staff has received no phone calls from adjoining property owners or other interested members of the public concerning this application.

Mr. Simmons made a motion to approve the Chesapeake Bay Act Waiver for Deborah B. Sommers with the condition of making the dry wells wider and shallower to ensure the runoff is contained above the groundwater level.

VOTE:	B. Wally Beauchamp	Aye
	Patrick G. Frere	Nay
	F. W. Jenkins	Aye
	Cundiff Simmons	Aye

5. Julian Irvin/Bay Specialties – Application for Change of Zoning Classification –  
Mr. Larson stated the applicant, represented by Mr. Arthur Roberts of Bay Specialties, is requesting to rezone property described as Tax Map #14-99L/99M from R-1, Residential, General, to C-1, Commercial. This property is occupied

by Bay Specialties and is on Lively Oaks Road, near the intersection with Route 3, in Lively, VA. This property is in Voting District 1.

Mr. Larson said while zoning on adjacent parcels, or parcels in close proximity, is inexplicably varied (A-2, R-3, C-1), the parcels for which rezoning is requested are directly across the street from another parcel zoned C-1 (Tax Map #14-30). Further, the building located on this property and used by Bay Specialties is clearly a commercial or industrial building that precedes zoning with the County. Also of note is the fact that buffering is being proffered on the two sides that adjoin Lively Oaks, a residential subdivision. It was the feeling of the Planning Commission that this request is consistent with the Comprehensive Plan, corrects a currently nonconforming situation, and does not negatively impact residentially zoned properties in the area.

Mr. Larson stated adjoining property owners have been notified and advertising as required by law has been conducted. As of this date, staff has received no phone calls from adjoining property owners or other interested members of the public concerning this application.

Mr. Jenkins made a motion to approve Julian Irvin application for Change of Zoning Classification.

VOTE:	B. Wally Beauchamp	Aye
	Patrick G. Frere	Nay
	F. W. Jenkins	Aye
	Cundiff Simmons	Aye

**CONSENSUS DOCKET**

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

A. Minutes for April 9, 2002, April 16, 2002, April 25, 2002, May 7, 2002, May 14, 2002 and May 21, 2002

Recommendation: Approved with amendments to April 16, 2002

B. Abstract of Votes – Town Elections – May 7, 2002

Recommendation: Approved for inclusion in the minutes of the Board of Supervisors.

VOTE:    B. Wally Beauchamp    Aye  
          Patrick G. Frere        Aye  
          F. W. Jenkins            Aye  
          Cundiff Simmons        Aye

**CONSIDERATION DOCKET**

The Board considered the following items on its Consideration Docket:

1. Approval of May 2002 Salaries and Invoice Listings

Motion was made by Mr. Simmons to approve the Salaries for May 2002 in the amount of \$128,151.87 and Invoice Listings for May 2002 in the amount of \$590,365.76.

VOTE:    B. Wally Beauchamp    Aye  
          Patrick G. Frere        Aye  
          F. W. Jenkins            Aye  
          Cundiff Simmons        Aye

2. Bertie Mae Kellum Bryant Subdivision Application – Mr. Larson stated

Paragraph 3-7 of the Subdivision Ordinance requires that the preliminary plat for all subdivisions that are six lots or more be submitted to the Board of Supervisors for their approval or disapproval.

Mr. Larson said the preliminary plat for the requested subdivision, a copy of which is included, meets all of the requirements for such a plat with the exception of a traffic impact study. Such study is required by paragraph 5-22 of the Subdivision Ordinance for proposed subdivisions of ten or more lots. The results of this study to be conducted in conjunction with VDOT may result in a recommendation to decrease the number of proposed lots. Additionally, suitable septic locations as determined by the Health Department must be obtained before final approval could be given to this request.

Mr. Larson stated all lots depicted meet or exceed the minimum area requirements of 30,000 square feet or .69 acres and are configured in such a manner as to facilitate the location of a home footprint. Adjoining property owners have been notified by certified mail as required.

Mr. Beauchamp made a motion to approve Bertie Mae Kellum Bryant – Subdivision Application, Preliminary Plat.

VOTE:	B. Wally Beauchamp	Aye
	Patrick G. Frere	Aye
	F. W. Jenkins	Aye
	Cundiff Simmons	Aye

3. Courthouse Landing – Subdivision Application, Preliminary Plat – Mr. Larson stated the applicant has provided the county with a written request to remove this from the agenda and reschedule the matter for the regular Board of Supervisors meeting on June 27, 2002.
4. Changes to the Zoning Ordinance/Subdivision Ordinances – Mr. Larson said a draft of the subject changes was first considered at the April 25, 2002 meeting of the Board of Supervisors. The Board directed that three areas be addressed in the changes: 1) economic burden of increased lot sizes, 2) an exception for family

subdivisions reducing the area requirement, and 3) the provision that agriculture is allowed in open spaces for all affected districts.

Mr. Larson stated the revised draft specifically provides that general farming/agriculture is a permitted use in open space easements created as part of a cluster development. An exception to the area requirement is made for family subdivisions.

Mr. Larson said the area requirement for family subdivisions would stay the same as it is now for each respective zoning district. To keep subdivisions from being wrongly represented as a way around the new area requirement, it is proposed that grantors and grantees associated with the subdivision execute an affidavit. In the affidavit, they will attest that they will not sell or transfer the property within three years of creation of the subdivision and that they will adhere to other conditions (some of which we already require). This requires minor rewording to the family subdivision section in the Subdivision Ordinance, and that is included for consideration, along with an affidavit used by York County which is recommended as a model for ours.

Mr. Larson said he do not have a solution to the concern relative to economic burden of larger lot sizes in the R-1, Residential, General zoning district. He offered the following arguments for not making this an overriding consideration:

- 1) If we are to protect open space in the County, an objective we set forth in the Comprehensive Plan, he does not know any other way to go about it other than to increase the size of individual lots while creating incentives for cluster development by offering greater density (cluster development, if pursued, could lead to much more economical housing than development of individual lots);

- 2) Until we have wide-spread sewage treatment, we increase the potential for contamination of ground water with more and more individual septic systems (protection of potable water supplies is another objective in our comprehensive plan).

Mr. Jenkins made a motion to take the Changes to the Zoning Ordinance/Subdivision Ordinances to public hearing.

VOTE:	B. Wally Beauchamp	Aye
	Patrick G. Frere	Aye
	F. W. Jenkins	Aye
	Cundiff Simmons	Aye

5. Proposed Rural Village Overlay, All Districts, RV-1 – Mr. Larson stated a proposed Mix Use, Residential and Commercial, zoning district ordinance was presented to the Board of Supervisors for public hearing in November 2001. At the time it was planned that this new district would replace the current C-2, Commercial, Limited, district and would provide for mutually compatible residential and commercial uses. The Board rejected replacement of the C-2 zoning district and referred the ordinance back to staff for more work. Board members have received a copy of these changes for their consideration.

In returning this ordinance for more work, the Board directed the following:

- 1) the process by which an area covered by this ordinance is to be approved must be defined;
- 2) define a village;
- 3) rezoning in this district could not be individually requested; and
- 4) separate waterfront commercial activities from others uses.



Mr. Larson said the process by which the area would be defined is to identify each tax map parcel that would be included in the overlay, much in the same fashion as the Enterprise Zone was identified. A village would be what the Board of Supervisors would define it to be. Mr. Jenkins has done this for District 1, and it could be done for other rural villages as desired by each supervisor and later approved by ordinance. Identified parcels would then be mapped and put before a public hearing. Since individual requests for rezoning under this district would not be accepted, new properties would be added only as a defined village area.

The rural village concept would only provide for commercial water related activities to the degree that a village such as Morattico was identified and included in the overlay. This would seem insufficient to meet one of the key objectives set for this initiative which was to provide for economic opportunity throughout the County. To that end, modification of the current Waterfront Residential Overlay, All Districts, W-1, is recommended. It is proposed that the following uses be added to this district and that it be renamed the Waterfront Overlay, All Districts, W-1:

- hotels, motels, tourist homes
- restaurants
- lodges
- county sanctioned public facilities
- marine sales
- boat building and repair
- commercial marina including boat and accessory sales, boat storage, engine and boat repairs with master plan
- finfish and shellfish processing, packaging, compounding, or treatment
- bait and tackle, and fishing and boating supplies store
- yacht club

Mr. Jenkins made a motion to take the Proposed Rural Village Overlay, All Districts, RV-1 to public hearing.

VOTE:	B. Wally Beauchamp	Aye
	Patrick G. Frere	Abstain
	F. W. Jenkins	Aye
	Cundiff Simmons	Aye

Mr. Frere leaves the Board of Supervisors table.

6. Approve FY03 Schools Budget – Mr. Beauchamp made a motion to table the reapproval of FY03 Schools Budget and continue the matter for consideration at the regular Board of Supervisors on June 27, 2002.

VOTE:	B. Wally Beauchamp	Aye
	F. W. Jenkins	Aye
	Cundiff Simmons	Aye

Mr. Frere returns to the Board of Supervisors table.

## **BOARD REPORTS**

None

## **COUNTY ADMINISTRATOR REPORT**

### **Rappahannock Rifle and Pistol Club**

Mr. Pennell asked Mr. Larson to give the Board an update.

Mr. Larson stated he has received phone calls and visits from concern citizens about the Rappahannock Rifle and Pistol Club improvements to the property. He said the club was improving the site not expanding the use.

By consensus of the board they believe the improvements to the property will make the range safer and do not appear to be an expansion of the nonconforming use.

### **APPOINTMENT**

Mr. Beauchamp made a motion to appoint Cathy Williams to the Northern Neck Regional Disabilities Services Board as an individual with disabilities representative.

VOTE:	B. Wally Beauchamp	Aye
	Patrick G. Frere	Aye
	F. W. Jenkins	Aye
	Cundiff Simmons	Aye

### **ADJOURNMENT**

Motion was made by Mr. Simmons to adjourn the meeting to June 4, 2002 at 6:00 p.m. for the budget work session.

VOTE:	B. Wally Beauchamp	Aye
	F. W. Jenkins	Aye
	Cundiff Simmons	Aye
	Patrick G. Frere	Aye