

VIRGINIA:

A meeting of the Lancaster County Board of Supervisors was held in the courthouse of said county on Thursday, May 31, 2001.

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

Others

Present: J.F. Staton, Virginia Department of Transportation; James Cornwell, County Attorney; Jack Larson, Planning and Land Use; Randolph Latimore, Lancaster County Schools; Weldon Howard, Weston Conley, Alex McD Fleet, Redistricting Committee Members; Robert Mason, Rappahannock Record

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

PUBLIC INPUT

Admiral Robert Fountain, introduced himself to the board and formally announced that he was running for the Virginia House of Delegates.

Bruce King said he had concerns about the six-foot path to the boat ramp being enlarged to a nine-foot path for trucks to service the porta-john. He asked what would stop a boat trailer from entering the path.

Mr. Pennell said they might need more than an ordinance. Perhaps a piling or something to stop trailers from entering would relieve Mr. King's concerns.

Mayor Fleet said at the public hearing in Irvington a number of concerns were heard from citizens about the volume of traffic traveling through town since the James Jones Memorial Highway was opened. He would like to know if VDOT could post a sign on James Jones Memorial Highway routing through traffic to Route 3.

VIRGINIA DEPARTMENT OF TRANSPORTATION

James Jones Memorial Highway Sign - Mr. Staton said if the Board would like VDOT to erect a sign routing traffic to Route 3, they can do that.

Mr. Beauchamp stated he did not have a problem with VDOT placing a sign on James Jones Memorial Highway routing the traffic.

By consensus the Board of Supervisors agreed to ask VDOT to erect the sign.

Bridge Work Update - Mr. Staton said the pouring of concrete began today on Route 600 bridge and they are doing a great job.

Virginia Transportation Program - The Virginia Transportation Program meeting which used to be called the Pre-Allocation hearing will be held July 12, 2001, and they have about a ten billion-dollar program. He said he would like to think that the Northern Neck would get its share. The Warsaw Residency was scheduled to begin about 11:00 a.m., and he would like a representative from each of the four counties to be present. He said the primary agenda for Lancaster County is Route 3. Lancaster County does have a four lane improvement project on Route 3 from Kilmarnock to the Courthouse. He said they have had the public hearing and are scheduled to begin construction during the summer of 2003. They would like to get the support of at least three of the four counties. There is a job which will begin construction in the town of Montross in July 2001 to straighten or soften a curve; a four lane project is also proposed from Oak Grove in Westmoreland County to Route 301 in King George County which is in the preliminary engineering phase. He said both Richmond and Westmoreland County would appreciate

Lancaster County support. He said they have been successful with Ben Humphreys' emphasis on the enhancement projects. He believed that all our counties and towns have at least one enhancement project and hopes to keep those projects on target. There was a public hearing held in regard to the Route 3 project in Lancaster County. They received input from the board of supervisors, school board and citizens and now the request was being considered, by the Commonwealth Transportation Board. The board of supervisors was supportive of the request for right turn lanes at Route 604 and Route 614. They are in the recommendation along with managing the traffic flow at the school. There have been some requests for crossovers and they will be added as appropriate, keeping in mind the spacing limitations that are set by federal and state guidelines.

Litter Clean Up – Mr. Staton said he had a proposal for the sheriff of the county to contract with the local jail to have inmates help with litter pick up and the sheriff asked if he could come up with a sample contract. He has some sample contracts and will meet with the sheriff and then bring the contract to the board of supervisors for approval. This has been implemented in the Hampton Roads District.

Mr. Conaway stated he called Mr. Staton's office to have someone from the VDOT office talk to the youth of his church about litter pick up. He would like to get someone from the VDOT to talk to the youth about roadside clean up while they are still interested.

Mr. Staton told Mr. Conaway to call and set up a time and date.

Mr. Beauchamp said he has received a number of concerns from his constituents about Black Stump Road and Rio Vista Drive. There is a very steep hill heading west on Black Stump Road. He said you could not see a vehicle approaching. The local citizens are fully aware and stay on the right side of the road, however visitors are almost always in the center of the road. He understands that the funds are not available to level the hill, however, perhaps VDOT can do some research to see how this can be fixed, maybe by

putting double lines. He said whatever VDOT could do to help would be greatly appreciated.

Mr. Staton said they would take a look and see what they can do.

PUBLIC HEARINGS

1. **Decennial Redistricting** – Mr. Pennell explained that the constitution of Virginia requires that following every decennial census, all localities and the state must redistrict. Voting districts must do three things: create communities of interest, maintain minority majority districts the best they can in comparison to the 1991 redistricting, and keep the population in each district as equal as possible. He said this is the way that Lancaster County looks today (showing the existing plan). What has happened is in District 4, which is a minority majority district, there is a loss of a number of people. Also you will see that District 1 has a big “crab claw” going in one direction and District 2 has a “crab claw” going in the opposite direction. That does not meet the standards of communities of interest. You will also notice that District 3 goes from Laurel Point down to Windmill Point. These are not communities of interest. So, the board of supervisors asked seven county citizens to get together. Some of them are present tonight, the Mayor of Irvington, the Honorable Alex McD. Fleet, Mr. Weston Conley who is the Chair of the Redistricting Committee and Mr. Weldon Howard the Vice Chair of the Redistricting Committee. Using the software that Mr. Rowe has just put on the screen, they were able to change district boundaries. Blocks in the new census mapping system are defined as being divided by roads, waterways or power lines. He said that back in the 1991 census, people’s property was divided in half in some places, ... the new census mapping allows you to move the blocks back and forth, district to district, and when you do that, the number will change. These numbers must give you the population within a 10% deviation, (5% above or 5% below) the magic number 2,313. If you take Lancaster County’s population (11,567) and divide by 5, the number of people

per district is 2,313. You need to have the total population in each of that districts. The next thing the committee had to look at was the relationship between the majority population and minority population, remembering that District 2 and District 4 have been minority majority districts. The first plan, which is Plan One, that the redistricting committee came up with puts Lively in District 1. The reason for that is there are two ways to create a minority majority district, add minorities to the district or remove majorities from the district. If you notice, the “crab claw” between District 1 and District 2 has been removed. District 3 no longer goes up to Laurel Point, and District 4 and District 5 are basically what they were before, noticing that they were able to keep minority majority relationships in District 2 at 57.8% and in District 4 at 53.08%. Those numbers are a little lower than the 1991 redistricting partly because of the lower percentage of minority people in Lancaster County. That percentage loss came from more majorities coming into the county rather than minorities moving out of the county. That is where the difference occurred. Plan One, therefore maintains this particular relationship. The board of supervisors indicated that it would like to have more than one plan to look at.

Plan Two created better communities of interest by keeping areas closer together. Mr. Pennell stated virtually all of Kilmarnock is located in District 4, all of White Stone is located in District 3, all of Weems and Irvington are located in District 5, Lively is in District 1 and Lancaster is in District 2. That made a stronger argument in the communities of interest area except one thing happened in District 4 which had been minority majority but dropped down to 46% minority. Mr. Frere had the opportunity to use the software and has submitted Plan Three, which the board of supervisors has agreed to review. Mr. Frere said Plan Three basically does the same thing as Plan Two, however there are a few things he was able to do. He picked up Lancaster Shores, a minority area, and was able to put that in District 2 which does not appear like that in the other plans. He also took the Corbin Lewis Estates area which is a minority area and put that in District 4 raising the

number in District 4 to 49.52%. However, if you actually look at it there are more minorities in District 4. If you add the Hispanic and Asian population you would be over 50%; in fact, it would be 50.65%. This would provide a little bit more integrity to the communities of interest. The board of supervisors has before them three plans. The board is interested in hearing comments from the public. There have been four meetings held throughout the county to allow people to come out and look at the plans and ask questions. The meetings were held at the Kilmarnock Town Office, White Stone Town Office, Irvington Town Office and Lancaster County Court House and this is the required public hearing for citizen input on the plans.

Mr. Conley stated that in all the plans District 2 has only one polling place. The benefit of that is the board does not have to use funds to purchase another voting machine. Mr. Pennell stated the software was available if the board or anyone had any questions about moving blocks. Mr. Rowe is available.

Mr. Conley stated they had a very cohesive group, having one representative from each district and two at-large members. At the first redistricting committee, the county attorney attended. Anything that is done at this meeting must still be approved by the Department of Justice. When the committee started, the county attorney set the legal ground rules for them, and one of the charges the committee had was trying to have boundaries that everyone would recognize. Another guideline was, to make the districts as consistent as we could.

Mr. Weldon Howard, Vice Chair of the Redistricting Committee, stated that in 1991 they sent to Justice a plan that had two very distinct minority districts. They spent 80% of their time trying to stay within those criteria and he went over all of the plans. He believes the committee understood all the legal advice and understood the upcoming election.

However, when we send this to Washington and if it does deviate or is not clear on this one issue, we have a problem. Because 80 – 90% of our time was to make sure that we do nothing to detract from that he wanted to make sure that the board understands that we had to deviate. We did not cause that but we don't have the liberty anymore to go in the back yard and grab somebody. We have to make things right, and the only way we can do that is to look carefully at the plans. The one that's clear without any questions is what we, the committee, have spent all of our time on because we tried every way to come up with two plans that met everything. Mr. Howard stated he didn't believe it can be done based on what Washington has locked us into. But, he does know and he will say to the entire board, as you look at the plans and vote, at least we who represent the citizens of Lancaster County made sure that they have a plan that is clear when we look at it.

Mayor Fleet said he would echo what Mr. Howard just said. The committee spent a lot of time, as the board knows. The committee was happy to have Mr. Pennell, and he too tried to meet all the criteria. We have done our best for the county.

Mr. Bruce King stated he's in District 3 and he would like any plan where he does not have to drive to Kilmarnock to vote. He believes that the committee has done a wonderful job.

Mr. Conaway said he has looked at the plans that have been submitted. He knows it's been tough for the committee to work on and appreciated Mr. Frere submitting Plan Three. He stated he has a couple of concerns on the other plans that are more political. The plan that is proposed as he understands it will take out Corbin Lewis Estates from District 2 and also takes the Mollusk area out of District 2. From the District 2 standpoint they have been over the past twelve years probably the strongest voting population during his three terms on the board. Whether he chooses to run again at the

end of his term, which is questionable, he feels this should be addressed. It's been said you have to move blocks and not people, but it brings disparity from the District 2 representative's standpoint. Even though District 2 still is a minority majority district, it takes the strongest voting population out of that district. He stated he does have questions on Plan One and Two.

Mr. Pennell stated you are correct by stating that Plan Three takes Corbin Lewis Estates out of District 2. However plans one and two do not. All three plans take Mollusk area out of District 2. Mr. Howard and the committee were sensitive to that and tried very hard to figure out a way to prevent it. It was very difficult to get Mollusk contiguous to the rest of District 2, and that's the reason that this is happening.

Mr. Conaway stated his other concern is that the Lively area has an island or finger coming through District 2. He stated that there has been much discussion, and he is still not satisfied as to why we would take Mollusk out of District 2 in one plan and Corbin Lewis Estates which is minority majority in those two areas.

Mr. Pennell said you are absolutely right and if there were some way of keeping Lively in the District 2 area to make it more contiguous, it would have been done. The problem is that it's predominately a majority district and, remember, the way you create the minority majority district is you need to add minorities to the district or take majorities out of the district. That's what that Lively finger does; it takes the majorities away from District 2 so that District 2 remains a solid minority majority district.

Mr. Conaway said that District 2 would remain a minority majority district the way it stood. Even if Lively were put in to District 2 it would not have brought it down below the 50%.

Mr. Pennell stated that yes it does.

Mr. Howard stated they could have gotten better numbers but we would have split right down on Route 201 and he would not allow that. We would have had one district on one side of the street, the south side, and the Chesapeake Bank on the north side and we would have had better numbers. He stated they could have gone back and split some other village and would not agree with that. They could have split Nuttsville or other village but if we did that they would have to go somewhere else to split numbers. He believes that the effort was there and in plan one is where 99% of the thought process went into. They took every one of those issues and addressed the political aspect. It is not something they should be dealing with, but they are people and all of that came into play. For instance, Mr. Conaway where you live it does not give you any voting leverage because there's a boundary we could not use. He said there is a lot of land and not a lot of people. There were a lot of things to take in consideration and as the representative for District 2, he knows they did their best.

Mr. Conaway stated he appreciated the hard work which he's sure was a difficult job but it still needs to be understood where he's coming from. It doesn't matter to him whether Lively is in District 1 or District 2. What he is saying is to balance it out if you are taking out a portion of District 2 and changing by putting part of it in District 1 and District 3, it brings the numbers down even farther from the 64% that it was originally. He understands it's still a solid minority majority district but again it was more land mass than people. Therefore you are taking chunks out which is where the people are in those areas. He just wanted to express his concerns.

Mr. Beauchamp asked where the 64% came from?

Mr. Conaway said the existing plan is 61.86%.

Mr. Pennell said that 1991 was higher when the same phenomenon that happened in District 4 happened to a lesser degree in District 2. They used to have about 33% minority population in Lancaster, and now it's 28%.

Mr. Frere said first we have to recognize the redistricting committee and what they tried to do with both Plan One and Plan Two. It is a tough task, and they had to address many issues. They both are really good plans. However, he has concerns with each of the plans. With Plan One you get two minority majority districts. The one issue is that you lose the community of interest near the Town of White Stone. Also, a quarter of Kilmarnock to the southeast is in District 3, which split Kilmarnock. White Stone is hanging on to District 3 by a triangle or thread. In that case, especially in White Stone, the people would still have to drive by their voting precinct if they live on Cherry Point Road, Mosquito Point Road and Beach Road. They would have to drive to a different precinct instead of voting in White Stone. He would like to note that the deviation in District 1 and District 5 is in the 3 to 5 percent range. There are two islands created with this, and the first one is the Laurel Point/Riverwood area. District 4 cuts across the river and again on Blueberry Point Road at the very end where District 5 comes across taking part of District 4. He stated on plan two, he believes that it was meant to recognize the community of interest and tried to be more contiguous and compact. However, you do lose the minority majority district, and he thinks it is a lower enough percentage that it would not fly with the justice department. It did well on the community of interest and contiguous and compact, but you do lose the minority majority district. Looking at what both plans tried to do, and his purpose in plan three was to try to balance those two things. Try to get the minority majority districts to two and also avoid loss of the community of interest issue by making Kilmarnock all one district and making White Stone and the surrounding area one district. Looking at the principle of one person one vote, if you look at plan three, all districts come within .5% which

was one goal he tried to address. Even though it's a bare majority it has two majority minority districts. He also recognized that it is low and at the public hearing in White Stone that was bought up by a number of people that the number was low and what he offers to the board is that you can add two other blocks to raise this percentage. He wants to first add one more thing; he tried to avoid islands, he did not count water as being contiguous and talking to the county attorney you can have any part of a district that is contiguous counting the water and in plan one there are two islands. If you adjust plan three you add one island by adding two block group to the southern portion of District 4 along Blueberry Point Road and Newtown Road. He believes you can up the minority majority percentage in District 4. The only down side of that is that you do up the deviation. He thinks that the benefits in plan three are that you have strong community of interest and you also boost the minority majority percentage in District 4 and Mr. Rowe can show you that by moving the blocks on the computer. Mr. Frere asked Mr. Rowe to move the two blocks west of White Stone between Blueberry Point Road and Newtown Road. He stated you have an island at the end of Blueberry Point Road but the same island appears in plan one and he not sure what the percentage would be.

Mr. Pennell stated that would put the percentage at 51.02%.

Mr. Frere said the deviations are still lower than plan one.

Mr. Pennell asked Mr. Rowe to move the next block down from the two blocks just moved.

Mr. Frere said it makes the numbers too low. Now if the board agrees to add those two blocks, that would answer his concerns and the other concerns he has heard.

Mr. Pennell asked if you put that back in District 4 and took Mr. Conaway's concern about Corbin Lewis Estates and put that back in District 2, does that help?

Mr. Frere said no it does not and asked Mr. Rowe to leave those two blocks in and take out Corbin Lewis Estates and the percentage would be 50.29%. But those percentages are better than before.

Mr. Frere stated you would get 51.35%, they gain 1% and if you put Corbin Lewis Estates you gain 2.5%.

Mr. Beauchamp asked James Cornwell, County Attorney, if plan one may be looked at more favorably by the federal department.

Mr. Cornwell said, as he indicated to the redistricting committee, the justice department will use the 1991 census as the benchmark and the closer you can get to that benchmark, the more favorably your plan will be viewed. Clearly, he does not think it was possible to get to the percentage under the 1991 plan.

Mr. Beauchamp said the existing figures are 61% and 57% compared to now on plan one 57.8% and 50.28%.

Mr. Cornwell said the only comment he has is based upon the information given to him by the state and federal authorities, they are going to look at compactness, communities of interest, incumbents and racial demographics. They will compare what you did in 1991 and any deviation on those numbers will have to be explained. All the plans would have to be explained and the closer you get to the 1991 figures the better/easier it will be approved. He would like to get the numbers to 61% or 57%, but you can not do that. You need to try and stay as close as you can.

Mr. Beauchamp asked what is the procedure if we submit something and there is a district at 50.28%, how long can that be dragged out.

Mr. Cornwell said we have to submit the ordinance you adopt to the justice department for pre-clearance. The justice department will do one of three things. They will send a letter saying it has been pre-cleared; second, they can send a letter saying that want further information or they may simply send a letter back saying your plan is not pre-cleared and these are the reasons why. Take another shot at it and if you can not come up with a plan, they will give you criteria. If you still can not come up with a plan to meet those criteria they will come in and help you redistrict. Every jurisdiction in the United States is redistricting. Where we will stand in the stack is anybody's guess; we do know that until we have personal contact with the justice department attorney and he may be able to give us direction. I think they will look at the 1991 redistricting and if you come close to that and there are no minority complaints and no serious deviation problems and the plans look reasonably compact they will probably approve it. If you differ substantially on any of those criteria, if you have minority complaints concerning the plan or non-compactness issues or if your deviate substantially from the 1991 racial plan they will question your plans. He thinks that Mr. Conaway has a very important point. One of the things they will look at and we need to demonstrate is not only the raw numbers but also the voting strengths of the minorities in the district. I think they would seriously question a minority of 60% if the minorities in that district simply did not turn out and actual voting strength would be reduced. Be there are also partitioning issues and he knows that the redistricting committee struggled very hard to physically to put districts together, they are spread out and there are places where there are lots of land and few people and there are places where there are lots of people and little land. He said he could not tell you if Justice will look askew at plan three as submitted or as modified or they would look askew at plan one as

submitted. He has told the board the criteria that were given to him that 1991 will be a benchmark to work toward.

Mr. Beauchamp said he would like to commend the citizens of this county who worked on this. It's always difficult and takes up time. Thank goodness we have citizens of this county who will agree when requested to take the time on this effort and he, for one, would like the committee to know that he as well as other board member appreciate this.

Mr. Beauchamp would like to make a motion this board accept and advertise a public hearing on Plan One that the committee recommended to the board.

Mr. Cornwell said that is sufficient language because what you are really doing is asking the board to approve for advertisement and public hearing the redistricting plan submitted by the redistricting committee entitled Plan One. He hopes everyone realizes that by going to public hearing there is another public input session and another opportunity to review and change.

Mr. Jenkins asked Mr. Beauchamp if his motion also embodies authorization for the county administrator with county attorney to draft an ordinance the public hearing.

Mr. Beauchamp said yes.

Mr. Jenkins asked if this public hearing would be held as a separate meeting or would this be part of the regular June meeting?

Mr. Cornwell said you would have difficulty advertising it twice, so the earliest would probably be at the regular June meeting.

Mr. Conaway asked Mr. Cornwell, what happens if this plan which is submitted goes to the justice department and they send it back. What would happen because there is election coming up and there are deadlines that would have to be met? Is there a plan or some type of action that will be taken to meet those deadlines?

Mr. Cornwell said the justice department has 60 days in which to review the plan. His understanding is that they will contact you by phone at first and tell you what the problems and concerns are, to give you the opportunity to act as soon as possible to reconsider that. That does not move any of the time tables back, the law said that the plan can not put into action until it's approved by justice. It would be his opinion that the election would be conducted in the existing districts but we are supposed to get the redistricting done no later than January 1st. The reason we are trying to get it submitted by the end of June to have an answer back by the end of August and, if there was a problem, we would have an opportunity to fix it during the month of September. That's the reason why we must move quickly.

Mr. Jenkins asked if everyone understood the motion before us? Just for clarification the motion is to publish and preparing an ordinance that adopts Plan One.

Mr. Jenkins said it just keeps the ball going toward the tight deadline we have.

Mr. Cornwell said, based on those public comments at the public hearing, the board could amend the ordinance that is before them.

Mr. Conaway said he wanted to understand that in Plan One, Corbin Lewis Estates stays in District 2 and Plan One also gives two minority

majority districts however Plan One loses the community of interest near White Stone.

Mr. Pennell said no those citizens near White Stone will have to go to Irvington to vote.

Mr. Beauchamp said he is still concerned about the G. C. Dawson subdivision near Kilmarnock.

Mr. Frere said the part of Kilmarnock he is concerned about is Route 200, Church Street south, Main Street east if you look at plan one it really takes a chunk out and divides the community of interest in District 3. He said District 5 has all of Weems, Irvington and the area surrounding White Stone and District 3 is left with White Stone itself and part of Kilmarnock.

Mr. Jenkins said that adds sufficiently to the majority minority.

Mr. Frere said about 2%.

Mr. Conaway asked if Mr. Frere suggest taking those two areas from his plan, which is, Plan Three.

Mr. Frere said, in Plan Three those areas fall in District 4 and in District 3.

Mr. Conaway asked what would happen if you incorporate that in Plan Three would the number change.

Mr. Frere said yes.

Mr. Conaway said he would be in favor of what the justice department is looking for.

Mr. Beauchamp said he thinks following the county attorney's advice that Plan One is the best of the three plans.

A roll call vote was taken:

Mr. Conaway	Aye
Mr. Frere	Nay
Mr. Jenkins	Aye
Mr. Beauchamp	Aye

2. Larry T. and Ophelia G. O'Bier – Special Exception Application – Mr. Larson stated the applicants have requested a special exception in order to allow the placement of an individual manufactured home on property located off Route 600, Lara Road, near Alfonso, VA. This property is described as Tax Map #7-88 and is zoned R-1 Residential General and located in Voting District 1.

Mr. Larson said Mr. and Mrs. O'Bier have met all the requirements to place an individual manufactured home which would include a Water Supply and Sewage Disposal System Construction Permit. He said adjoining property owners have been notified and advertising as required by law has been conducted. The staff received one phone call from an adjoining property owner concerning this application.

Mr. Conaway asked if this property was located in Voting District 1?

Mr. Larson stated that is correct.

Mr. Jenkins made a motion that the special exception application for Mr. and Mrs. O’Bier be approved.

VOTE: 4 – 0 Aye.

3. Kirk and Stephanie Bunns – Special Exception Application – Mr. Larson stated the applicants have requested a special exception in order to allow the placement of an individual manufactured home on property located off Route 354, River Road, near Litwalton, VA. This property is described as Tax Map #6-12G and is zoned R-1 Residential General and located in Voting District 1.

Mr. Larson said Mr. and Mrs. Bunns have been advised that they will need to obtain a Water Supply and Sewage Disposal System Construction Permit prior to obtaining a building permit for their home. They have a letter from the health department stating “the soil and site conditions... are suitable for the installation of a onsite sewage disposal system.”

He said adjoining property owners have been notified and advertising as required by law has been conducted. There is one neighbor present to speak on this application. Otherwise, he and staff received no phone calls from adjoining property owners or other interested members of the public concerning this application.

Doris Bowie said she spoke to Mr. Bunns and he indicated that the manufactured home would not be on the highway. She wondered where the entrance to his home would be.

Mr. Larson stated he would be required to comply with the zoning ordinances with respect to the setback from the highway.

Mr. Conaway stated he has worked with Mr. and Mrs. Bunns from the start and the property was approximately 3.6 acres. He said there was an old logging road that was on the far end of that property. After talking with Mr. and Mrs. Bunns he understood that they would use the old logging road and improve the road to get to the back of the property. The house will be a distance from Route 354.

Ms. Bowie asked if the logging road was on Mr. and Mrs. Bunns property?

Mr. Conaway said yes, the plat shows the logging road was on his property.

Ms. Bowie said she did not know if the logging road was part of their property.

Mr. Conaway stated that Mr. and Mrs. Bunns would not have a problem with the entrance to the property because of the amount of frontage. However he suggested they use the logging road because it was compact and has been used over a number of years.

Mr. Conaway made a motion that the special exception application for Mr. and Mrs. Bunns be approved.

VOTE: 4 – 0 Aye.

4. Bertha Gibson – Special Exception Application – Mr. Larson stated the applicant has requested a special exception in order to allow the placement of an individual manufactured home on property located off Route 654, Newtown Road, near White Stone, VA. This property is described as Tax

Map #34-159J, is zoned R-1 Residential General, and is located in Voting District 4.

Mr. Larson said Ms. Gibson has applied for and is awaiting a Water Supply and Sewage Disposal System Construction Permit. In a letter dated June 2, 1999 the Health Department stated that “a sewage disposal system construction permit would be issued provided there have been no substantial physical changes in the soil or site conditions where the system would be located”. He said adjoining property owners have been notified and advertising as required by law has been conducted. The staff received no phone calls from adjoining property owners or other interested members of the public concerning this application.

Mr. Beauchamp made a motion that the special exception application for Ms. Gibson be approved.

VOTE: 4 – 0 Aye.

5. Arthur and Margaret Peill – Special Exception Application - Mr. Larson stated the applicants have requested a special exception to have a bed and breakfast on property identified as Tax Map #5-36. This property is zoned A-2, Agricultural General, and located at 735 Norwood Church Road, near Morattico, VA. This property is located in Voting District 1.

Mr. Larson said the property is presently zoned Agricultural, General, Zoning District, A-2. A special exception may be granted as provided in paragraph 4-1-46 of the Zoning Ordinance. The applicants intend to make four bedrooms available for guests with renovations and additions. He said adjoining property owners have been notified and advertised as required by law has been conducted. Staff has received no phone calls from adjoining

property owners or other interested members of the public concerning this application.

Mr. Cornwell asked if staff has made any recommendations or conditions on this special use permit as far as amount of renovation/addition.

Mr. Larson said no, the staff recommend approval based on the plan that was submitted where it would be a total of five bedroom, four bedrooms being available for guests. This would require some renovation and additions. He does not believe that parking would be an issue because of the size of the property.

Mr. Cornwell suggested the board approve conditionally on construction in accordance with the plan of four bedrooms.

Mr. Larson agreed with this suggestion.

Mr. Conaway said that the property consists of 10 acres, so parking would not be an issue.

Mr. Larson said that is correct.

Mr. Jenkins stated while it's not on the application he believed that it should be amended to show that this bed and breakfast would contain no more than four guest bedrooms.

Mr. Frere stated we should have the health department permit to reflect the total number of bedrooms in the house and require an updated health department permit on the septic system.

Mr. Larson said when an application is made for a building permit to add bedrooms to any kind of residence that is one of the first things checked.

Mr. Jenkins made a motion to grant the special exception request with the condition that it be four guestrooms with a total of five bedrooms and that updated health department certificates be obtained.

VOTE: 4 – 0 Aye.

CONSENSUS DOCKET

The motion was made by Mr. Beauchamp to approve the Consensus Docket with the exception of the April 26, 2001 minutes and recommendations as follows:

- A. Minutes of April 26, 2001
Recommendation: Table the minutes.
- B. Internet Privacy Policy
Recommendation: Approve the Internet Privacy Policy
- C. Jacqueline A. Jensen – Resignation from the Board of Zoning Appeals
Recommendation: Accept the resignation of Jacqueline A. Jensen
- D. Judge Taliaferro – Appointment to Community Criminal Justice Board
Recommendation: Accept the appointment of Judge Taliaferro to the Community Criminal Justice Board
- E. Resolution Reinstating the Northern Neck Community Justice Board
Recommendation: Adopt the following resolution

WHEREAS, the Virginia General Assembly has adopted legislation entitled the Comprehensive Community Corrections Act for local Responsible Offenders (Sections 53.1-180 *et seq.* Of the Code of Virginia) which is effective July 1, 1995; and

WHEREAS, the Northern Neck Regional Jail Community Corrections Program has previously served the Counties of Richmond, Westmoreland, Northumberland, and Lancaster, and provided the judicial system with sentencing alternatives for certain misdemeanants and persons convicted of non-violent felonies: and

WHEREAS, Sections 53.1-183 and 19.2-152.5 of the Code of Virginia require that each county and city participating in Community Corrections Programs establish a Community Criminal Justice Board, and in the case of multi-jurisdictional efforts, that each jurisdiction mutually agree upon the appointments to said Board; and

WHEREAS, the establishment of a multi-jurisdictional Community Criminal Justice Board will result in a reduction in administrative costs to each locality, an increase in funding priorities and available grant dollars, promote efficiency in offender supervision.

NOW, THEREFORE, BE IT RESOLVED, that the Northern Neck Community Criminal Justice Board be established and that the following individuals be hereby appointed to said Board pursuant to Section 53.1-183 of the Code of Virginia:

A Circuit Court Judge of Richmond, Westmoreland, Northumberland, or Lancaster County;

A General District Court Judge of Richmond, Westmoreland, Northumberland, or Lancaster County;

A Juvenile and Domestic Relations Court Judge of Richmond, Westmoreland, Northumberland, or Lancaster County;

A Commonwealth's Attorney for Richmond, Westmoreland, Northumberland, or Lancaster County;

One Sheriff or the regional jail administrator responsible for jails serving Richmond, Westmoreland, Northumberland, or Lancaster County;

The Chief Magistrate for Richmond, Westmoreland, Northumberland, or Lancaster County;

One Chief of Police or the sheriff in a jurisdiction not served by a police department for Richmond, Westmoreland, Northumberland, or Lancaster County;

An administrator for the Middle Peninsula-Northern Neck Community Services Board;

An attorney who is experienced in the defense of criminal matters;

A representative of local education.

A person appointed by each governing body to represent the governing body.

BE IT FINALLY RESOLVED, that this Resolution provides for a joint exercise of powers, which will serve as documentation of a regional program service agreement between the County of Richmond, and the County of Westmoreland, and the County of Northumberland, and the County of Lancaster, and that the County of Westmoreland will act as the administrative and fiscal agent for the Northern Neck Regional Jail Community Corrections Program.

IN WITNESS WHEREOF, the foregoing was adopted by the Board of Supervisors of the County of Lancaster, Virginia on May 31, 2001.

VOTE: 4 – 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. Conaway to approve the Salaries for May 2001 in the amount of \$123,757.39 and Invoice Listings for May 2001 in the amount of \$356,882.20.

VOTE: 4 – 0 Aye.

2. FY01 County Audit – Mr. Pennell stated that the board has heard a presentation earlier on the GASB 34 requirements that would be coming in two years. He said Robinson, Farmer, Cox Associates, with long standing auditing experience has proposed to the board a contract to implement GASB 34 along with our county audits splitting the cost over two years. He recommended that the board of supervisors approve this contract and authorizes him to execute the necessary documents.

Mr. Beauchamp made a motion to approve the contract and authorize the county administrator to execute the necessary documents.

VOTE: 4 – 0 Aye.

3. Larry Lucas – Request for Board of Supervisors Approval of a “Pump and Haul” System – Mr. Pennell stated that Mr. Lucas was not present but his fiancée was available. He said Mr. Lucas and Ms. Johnson suffered a loss of their home after a house fire. The insurance paid for a replacement and they have purchased a doublewide. They have tried desperately to get a septic system for their property and even looked at alternative septic permits, they have not been able to get a permit. He said he has spoken with Marilyn

Hollingsworth to try to locate property where they can put their doublewide but Mr. Lucas feels like it has to go back on this piece of property.

Ms. Johnson stated they lost their home on January 5th to a fire and they had to work within the guidelines of the insurance company with a deadline to replace the home. She said the doublewide has been purchased and currently is in storage. There have been three tests by the health department and they do not qualify for a Pure Flow system, sand filter system or any other alternative because the soil doesn't qualify. She said they do not have the finances and it was devastating with the lost of their home. She was asking the board to approve a "pump and haul" system for this property until an alternative system becomes available.

Mr. Cornwell said that permits are issued to counties for this use and these people must reach an agreement with the county to do this along with a performance bond in case they fail to maintain it.

Mr. Pennell said the information was included in the board package.

Mr. Cornwell stated that permit would be issued in the name of the county and that was why we have to contract and bond. He said he does have the forms.

Mr. Frere asked if there were any estimates on how often this would have to be pumped?

Mr. Pennell said that Mr. Beauchamp made some telephone calls and it depended on how much water they would use and if they use as much water as the health department estimated they would have to pump the system every three to four days.

Mr. Frere said that would be very costly and asked if there was anything that Mrs. Hollingsworth could do to assist.

Mr. Pennell said unfortunately the indoor plumbing program requires you to have an approved septic system and the Pure Flow system won't work. He said there was another system that may work but it was not yet approved. It's going through the approval process with the health department now. Mr. Hollingsworth was working on the new system and getting close to approval.

Mr. Frere asked if anyone had asked the health department if there was any way the gray water could be separated so that only the sewage would go into the tank?

Mr. Pennell said he was not sure. He asked Ms. Johnson if that question had been asked of the health department about separating the black water from the gray water?

Ms. Johnson stated she talked to Mr. Fridley and he did not freely give her information. She had to inquire about the pump and haul system and did the work to get to this point. She stated they are down to the last 30 days and it's all or nothing because they are at the end of the guidelines issued by the insurance company. If they do not get the house out of storage they will lose the home.

Mr. Frere said he understood but his only concern is \$150 every four days. He said they would be faced with a monthly bill of \$1000 to \$1500 just to pump the septic system.

Ms. Johnson said it would be less costly than living with family or staying in a hotel.

Mr. Frere said he would not vote against the request, he simply wanted to let Ms. Johnson know how costly this pump and haul system would become.

Mr. Beauchamp asked Ms. Johnson if they had applied for a four bedroom septic permit?

Ms. Johnson said yes.

Mr. Beauchamp said at one point they had applied for a two bedroom septic system.

Ms. Johnson said the house that burned down was a two-bedroom home. She said the doublewide that has been purchased was a three bedroom with a den that could be used as bedroom.

Mr. Beauchamp asked how many would be living in the home?

Ms. Johnson said two adults and three children.

Mr. Beauchamp said he has spoken with someone at the Health Department, he gave his deepest sympathy and his heart goes out to Ms. Johnson with the loss of their home. His concern was that they would have to have this pumped every four days. The health department came up with the figure based on the size of the home and the number of people residing there. He said they would be walking into a potential cost of \$1000 a month expense because pumping and hauling was now \$185 per pump. He said you might be able to get a contract with a company that provides this type of service and if they know they would have to pump the system four

or five times a month, they could give you a lesser rate. He was very concerned because you may be getting yourself in deeper.

Mr. Frere said he was not sure if separating the effluent from the gray water was an option with health department regulations.

Mr. Conaway said to Ms. Johnson what she was hearing were concerns of the board being protective of your situation and what could possibly happen down the road. However, that was not to say that system would not be approved but they certainly don't want you to go into the situation blindly. He asked if this can be approved on a temporary basis or can limits be put on the contract?

Mr. Pennell said limits could be put on the contract.

Mr. Conaway said maybe having a porta-john for temporary use in case something happen with the system.

Mr. Beauchamp said without a sewage system you could not have water in the house.

Mr. Jenkins said you would not be able to do normal wash. He said a washing machine probably puts more water in the septic tank than anything.

Ms. Johnson said they are limited to showers because otherwise you would have a dry well. She was use to monitoring the use of water.

Mr. Conaway said you are still willing to go with the pump and haul system knowing the possible expense.

Ms. Johnson said yes her faith was strong and a new system was coming.

Mr. Beauchamp stated he believed under the county ordinance you would have to post a bond and if the health department said you are not pumping the tank when required, he understood that the county regulations are that your property can be condemned, simply for not having a functioning septic system.

Ms. Johnson said she understood the concerns of the board however it could not more inhabitable than it was now. We have nothing there now.

Mr. Cornwell said Mr. Lucas and Ms. Johnson would normally have a provision in the contract that they would have to have a contract with a pump and haul contractor and they would have to furnish that copy of the contract to the county. The contract has to provide that the pump and haul contractor would notify the county if they were not in compliance with the contract. If the contract was to provide pump and haul services for the next six months as needed and the hauler goes there and they do not pay or would not allow him to pump and the contractor notifies the county, the county would proceed by stating that the contract has been violated.

Ms. Johnson asked what measures are they going to use to determine if it needs to be pumped?

Mr. Cornwell said they would place an alarm on the system.

Mr. Jenkins said with the pump and haul system, if you buy a pump and you start pumping the water out onto the ground, he said the deal would be voided.

Ms. Johnson said she understood and that would not happen.

Mr. Beauchamp said his only concern was that she has her eyes wide open. He said follow the county attorney's advice and call a pump and haul company and get a quote and contract.

Ms. Johnson stated she would also inquire with the health department about separating the gray water from the black water.

Mr. Beauchamp stated he has the greatest sympathy for their situation. He made a motion to approve the pump and haul system with the exception that an alarm be placed on the tank to notify the pump and haul contractor. That the applicants execute a separate contract and posting of bond with the county and a copy of a contract with a pump and haul contractor be submitted to the county.

Mr. Cornwell stated he would mail or fax the contracts and bond to Mr. Pennell.

Mr. Conaway asked if that was one fee for the bond and one pump?

Mr. Cornwell said the recommendation was for one pump.

Mr. Frere asked if the pump and haul contractor said they had missed one payment?

Mr. Cornwell stated they would revoke the permit.

Mr. Frere said he would suggest two pumps, this would mean that you would have to put down a \$360 bond but it would buy you time.

Mr. Jenkins said he believed that if you violated the contract once it would be revoked.

Mr. Pennell said there would be no water and no electric.

Mr. Cornwell stated that would also give notice to vacate the premises immediately. He said because without water, electric and sewer the house would not be habitable.

Mr. Beauchamp said that none of the comments were in opposition, they are just concerned for their situation.

Mr. Conaway asked if this was a manufactured home?

Ms. Johnson said yes.

Mr. Conaway asked about the special exception for the placement of this manufactured home?

Mr. Pennell stated he does not know the zoning of this property.

Mr. Frere asked what was on the property before?

Ms. Johnson said it was a regular two-bedroom house.

Mr. Pennell asked where the property was located?

Ms. Johnson said on Route 222 which is Weems Road pass the Sharon Baptist Church intersection and it the first piece of property on the left.

Mr. Conaway said she might have to come back for a special exception for the placement of the home.

Mr. Frere said he believed that the board has allowed manufactured homes to be placed on the property prior to the approval of a special exception.

Ms. Johnson said she would like to get the home on the property because of the deadline was quickly approaching for getting the home out of storage.

Mr. Pennell stated that could be handled administratively.

Mr. Jenkins asked was this because the insurance would no longer pay for storage?

Ms. Johnson said yes.

Mr. Pennell said the insurance company put the restriction on Mr. Lucas and Ms. Johnson.

Mr. Cornwell said the board could go forward with the motion with the amendment to check for the zoning.

VOTE: 4 – 0 Aye.

4. Supplemental Funding – Primary School Sewer Repairs – Dr. Latimore presented a request for supplemental funding to put in a new sewage system at Lancaster Primary School. They had to do the emergency pump outs every other day and had to block the lines so the sewage could not go out into the drain fields. He said they had to have design work done at a cost of \$3800.

Once completed, the design has been approved by the health department and the health department would allow 30 days to get the job done. He stated the cost to do the job by Thomas W. Beasley, the accepted contractor, was \$30,200. The school system was asking for supplemental funding in the amount of \$36,760. They were advised to use the informal bid process to be in compliance with the procurement law. They faxed out the bid package, which was due by Tuesday, May 29, 2001 at 9:00 a.m., and they received no response for any of the companies contacted. The only proposal that came in was from Thomas W. Beasley.

Mr. Beauchamp made motion to grant the supplemental funding to repair the Lancaster Primary School Sewer System.

VOTE: 4 – 0 Aye.

Mr. Latimore thanked the members of the governing board for approving the school board budget.

5. Fuel Service Contract – Mr. Pennell stated the two bids were received and that it would be best for the county to split the bids this year. He recommends that Noblett Oil and Propane be awarded the unleaded gasoline contract and the diesel fuel and #2 fuel oil contract be awarded to Walter L. Kilduff Inc. We have not talked to the companies to see if this was acceptable with the split bid and should this not work, this would be bought back to the board.

Mr. Jenkins said if that should be a possibility we would have to calculate the cost for usage and size of the tank.

Mr. Jenkins asked why there was not a tank size for Lancaster High School?

Mr. Pennell said he was not sure because they still bid.

Mr. Frere asked if that was 55,000 the approximate number of gallons that they bid on?

Mr. Jenkins said it gives them an estimate on how many trips the truck would have to make.

Mr. Conaway made a motion to grant the unleaded gasoline contract to Noblett Oil and Propane and the diesel fuel and #2 fuel oil contract to Walter L. Kilduff Inc.

VOTE: 4 – 0 Aye.

6. Windmill Point Launch Site – Bid Consideration - Mr. Larson stated that the work would be funded by a combination of grant money and matching funds. He said the bids were put out with a due date of April 30th and in addition to advertising he went out and talked to some companies that do pier work. There are two components on the job, the pier, and construction of the footpath with renovation of the parking leading to the pier. He stated they received no bids for the advertisement, and he went back out to companies and encouraged them to bid. He received an inquiry from Glen Lester to meet and walk the site because he was interested in the land portion of this project. He met Mr. Lester and did a walkthrough of the project to determine where the path would go. The path would not be a straight path, but would be reasonably direct and would avoid the expense of clearing and moving large trees. Mr. Lester stated he could do the land portion of the job. Mr. Larson received information from D & L Construction for the pier work and also Cornwell Construction for the land portion, which was significantly higher than Mr. Lester. He believed that Mr. Lester would do a good job on the land portion of this project and D & L Construction would do a good job on the

pier. He recommended that the board accept the bid of D & L Construction, Inc. for the pier work and the bid of Glenn Lester Company for construction of the pathway. The only issue was the porta-john near the pier, Mr. Larson was not sure it needed to be there and servicing the porta-john with a truck was an issue. Mr. Lester agreed to build a nine foot pathway in order to get a truck down the path but Mr. King's concern was if you build a nine foot path that would encourage people to put boats down there. The other alternative was to move the porta-john back toward the parking lot, which in that case may be problematic. This issue of the porta-john should not stop the awarding of the two bids.

Mr. Frere said that Mr. Lester's bid included removal of an old boat. Is that the boat partially in the water?

Mr. Larson said yes.

Mr. Frere said Cornwell Construction did not include that in their bid.

Mr. Larson said no.

Mr. Frere said that it was an eyesore and was visible from the road.

Mr. Larson stated there are several boats in that water. He hoped they were talking about the same boat which you can see from the road. It was half submerged and has been there for some time and in very bad shape. It is right where he envisions the pier being. The boat would need to be moved for a number of reasons.

Mr. Jenkins asked Mr. Cornwell if there was some type of law that would prohibit removal of the assumed abandon boats?

Mr. Pennell said he believed that state law allowed the county to remove abandoned boats.

Mr. Cornwell said he believes it fits under the definition of abandoned property.

Mr. Jenkins said rather than just removing the abandoned boat there may be a process for the removal of assumed abandoned property.

Mr. Cornwell asked if the boat had a number on it.

Mr. Larson stated it's so rusted and below the water there was no number visible. A surveyor has gone out to mark the corner points and the boat would be right where the pier should go.

Mr. Jenkins stated in this county they have had lawsuits for destruction of boats assumed to be abandoned.

Mr. Frere said maybe put notice in the paper to remove the boat indicating the location and state they have two weeks to remove it from county property or the boat would be removed by the county.

Mr. Beauchamp said that raises another question whether or not that is county property.

Mr. Larson stated you are correct, that is not county property.

Mr. Frere asked if there would be a problem with splitting the bids with two different companies.

Mr. Cornwell said, given the amount of the job, he does not see that as a problem.

Mr. Pennell said looking at the drawing we could make the path six feet wide from the porta-john to the dock. Do you think that would satisfy Mr. King's concern?

Mr. Frere said he believed that would satisfy his concern.

Mr. Jenkins said not only to narrow the path but also to put barriers across with the porta-john just outside the barriers.

Mr. Cornwell discussed the way to get both canoes and kayaks into the water.

Mr. Larson said the project will have a floating dock.

Mr. Jenkins suggested a ramp.

Mr. Cornwell asked if this would be handicapped accessible?

Mr. Larson stated yes, that was a requirement of the grant.

Mr. Cornwell asked if narrowing down the path to six feet was going to stop someone needing vehicle access to the water?

Mr. Larson said they never intended to have vehicle access to the water. In the grant it stated six-foot path. However Mr. Lester thought a nine-foot path would be better to service the porta-john.

Mr. Cornwell asked if the path would be surfaced in a way that a wheel chair could use it?

Mr. Larson said he was not sure. However, he believed with small gravel that would be acceptable.

Mr. Beauchamp said, looking at the drawing, the center of the parking lot, would be 500 feet from the water. Will that prohibit individuals from carrying and utilizing the pier as far as getting canoes and kayaks to the water?

Mr. Cornwell said there are two ways to carry a kayak which was with a partner or pick it on your shoulder. Most kayakers are used to carrying their kayak a distance. If someone would be using a canoe, he believed they would carry it the same way. He agrees that it is a haul and he was not sure if the land would be flat.

Mr. Larson said the land was flat.

Mr. Beauchamp said the game department has numerous plans to launch areas for canoes and kayaks. Should we look at some of their plans?

Mr. Cornwell said again the easiest way to get in and out of a kayak is from a hard surface and it is difficult to get in and out of a kayak from a dock.

Mr. Frere made a motion to accept the split bid as recommended with a nine foot path narrowing down to a six foot path just past where the porta-johns are located along with two pilings installed.

VOTE: 4 – 0 Aye

BOARD REPORTS

Mr. Jenkins made a motion to appoint Robert Smart to the Lancaster Planning Commission replacing Thomas Gale.

VOTE: 4 – 0 Aye.

Mr. Frere made a motion to appoint Tara Booth to the Lancaster Planning Commission replacing Tim Booth.

VOTE: 4 – 0 Aye.

COUNTY ADMINISTRATOR REPORT

Mr. Pennell said he and the Industrial Development Authority has been contacted to help the Cape Henry Collegiate School with a bond issue. He said Mr. Cornwell was representing Middlesex County in this matter. They need about 11.5 million dollars and Middlesex County could do up to ten million and so could Lancaster County in the calendar year. He said Middlesex County would be contributing the bulk of the funding which would be between 8 – 10 million dollars and they have asked Lancaster County's IDA to pick up remaining amount. He has checked to make sure that this would not hinder this board's ability to get bond for a capital improvement program. The four million dollars they are asking for would still leave six million dollars in Lancaster's bank qualified borrowing. There was an advertisement in the paper to be heard on June 14, 2001. Mr. Conley and the IDA members have been notified and are prepared to go further.

Mr. Pennell said he has one request of the board which was an issue bought up at a previous session. In 1993 or 1994 this board chose to change the three magisterial districts into the five electoral districts to make them contiguous. The board did not realize that every 10 years the districts have to be changed which creates problems in the

deed books. He has asked Mr. Cornwell to research this issue and he has talked to Mr. Schmidt, Commonwealth Attorney, and also had Wes Edwards inquire about with local attorneys who do the deed work in Lancaster County. He believes that everyone is of the opinion that we do away with magisterial districts and just use the tax map and parcel numbers.

Mr. Jenkins said that we now have magisterial district names.

Mr. Pennell said the election districts could keep the same names or be changed at the Board's request.

Mr. Cornwell said they could advertise this as part of the public hearing for redistricting or you could do your district names instead of district numbers.

ADJOURNMENT

Motion was made by Mr. Frere to adjourn the meeting until June 6, 2001 at 6:00 p.m. in the General District Courtroom for a School Board Budget work session.

VOTE: 4 – 0 Aye.