

**VIRGINIA:**

A meeting of the Lancaster County Board of Supervisors was held in the courthouse of said county on Thursday, July 26, 2007.

Present: Peter N. Geilich, Chair  
Jack S. Russell, Vice Chair  
B. Wally Beauchamp, Board Member  
F.W. Jenkins, Jr., Board Member  
William H. Pennell, Jr., County Administrator

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

Mr. Pennell explained that state law requires that announcements for public hearings must take place each of the two weeks preceding the public hearings before any action can be taken by the Board of Supervisors. He said two weeks ago there was an announcement in the Rappahannock Record of the two public hearings scheduled tonight; unfortunately the announcements did not appear last week for reasons unknown to the county. Thus, no action can be taken at this meeting, however; the recommendation to the board to is conduct a public hearing for the people in attendance tonight, but next month there will need to be a public hearing properly advertised and the same items will appear on the agenda.

Mr. Geilich stated a public hearing would be conducted at this meeting and continued to the next regular Board of Supervisors meeting to be held August 30, 2007. He asked citizens to decide whether they would like to make comments at this meeting or the August 30, 2007 meeting but not at both. Citizen's comments will be heard by the Board of Supervisors and be reflected in the minutes.

**PUBLIC INPUT**

None

## **PRESENTATIONS**

None

## **VIRGINIA DEPARTMENT OF TRANSPORTATION**

Mr. Geilich stated Tommy Purcell, former Middlesex Superintendent of Schools, passed away about one week ago while vacationing in Nags Head. His wife is employed by Wachovia Securities in Kilmarnock. Please keep that family in your thoughts and prayers.

### **Traffic Light Study**

Mr. Balderson said the request for traffic light study at the intersection VSH 688/James Jones Memorial Highway and VSH 200/Irvington Road was reviewed and approved.

### **Indiantown Road**

Mr. Balderson said Indiantown Road will have gravel added and surface treatment after Labor Day.

### **Maintenance**

Mr. Balderson stated mowing on the primary system was currently being done and the secondary system will be performed next week.

Mr. Balderson said the local highway superintendent was working on VSH 600 to get some low shoulders corrected which is an ongoing process.

### **Speed Study Request/Town of Weems**

Mr. Balderson said the speed study request on VSH 666/Benson Road in Weems has not been completed yet.

Grand Villa Drive/VSH 630

Mr. Balderson stated a resolution needed to be adopted in order to accept Grand Villa Drive, in the Grand Villa Subdivision, into the Virginia Secondary system of Highways. VDOT have confirmed that the roadway meets its requirements for acceptance and the necessary rights-of-way have been recorded in the clerk's office.

Mr. Beauchamp made a motion to Adopt the following Resolution Accepting Grand Villa Drive into the Virginia Secondary System of Highways:

**GRAND VILLA DRIVE**

**WHEREAS**, the Board of Supervisors has this day decided to establish as part of the State Secondary System of Highways the following road in the Grand Villa Subdivision in the White Stone Magisterial District.

Street Name:	Grand Villa Drive
From:	Route 630
To:	Dead End
Length:	0.38 Miles
Right-of-Way:	50'

**WHEREAS**, the plats conveying the necessary clear and unencumbered 50' right-of-way along with the required drainage easements were duly recorded in the Clerk's Office of Lancaster County on June 22, 1989 in Plat Book 1, Pages 16 to 20.

**NOW THEREFORE BE IT RESOLVED**, that the Lancaster County Board of Supervisors guarantees the said clear and unencumbered 50' right-of-way and drainage easements and request the Department of Transportation, pursuant to Section 33.1-229 of the Code of Virginia, as amended, accept.

Street Name: Grand Villa Drive  
From: Route 630  
To: Dead End  
Length: 0.38 Miles  
Right-of-Way: 50'

**BE IT FURTHER RESOLVED**, that a certified copy of this resolution be forwarded to the Resident Engineer of the Virginia Department of Transportation.

VOTE:	Peter N. Geilich	Aye
	Jack S. Russell	Aye
	B. Wally Beauchamp	Aye
	F. W. Jenkins, Jr.	Aye

**PUBLIC HEARINGS**

1. Request for Bay Act Formal Exception – Kenneth D. and Evelyn A. Sausser – Mr. Larson present a request for Bay Act Formal Exception by Kenneth D. and Evelyn A. Sausser to construct a breezeway of 502 square feet of impervious cover inside the 100’ protective buffer on property described as Tax Map #20-160A/160E. This property is at the end of Kelley Neck Road near Merry Point, Virginia and is in Voting District 2.

Mr. Larson said prior to the Sausser’s closing on their property in March 2004, they met with him to determine whether or not the requested breezeway was permissible. He advised them that, under the regulations in effect at that time, it was permissible with a Bay Act site plan that showed adequate mitigation for the new impervious cover. With the change of regulations in June 2005 this type of project was no longer permissible since it did not constitute a legitimate hardship. The Sausser’s did not submit a site plan for consideration prior to June 1, 2005 and only recently submitted the attached site plan dated April 17, 2007.

Mr. Larson stated the Saussers maintain that they should be given favorable consideration for this request because they were not advised that the regulations were changing, that their closing attorney did not advise them of a pending change in the regulations, that their architect delayed the process, and that the preparing their site plan should have been completed and submitted it prior to the change in regulations. As change in regulations was not planned at the time of the meeting, there would have been no notification of pending change. Mr. Larson said he has no reason to dispute the other assertions, but strongly disagrees that any should serve as a basis for relief. His request for review by the Chesapeake Bay Local Assistance Division and their response supporting his position are attached.

Mr. Matt Terry, legal counsel for Mr. and Mrs. Sausser stated he would give his full presentation at the August 30, 2007 Board of Supervisors meeting. He asked the board to go by and view the site or call should they have any questions or concerns.

No action taken.

2. Comprehensive Plan, Chapter 7 (5-31-07 Draft) – Mr. Larson presented the update to the Lancaster County Comprehensive Plan, Chapter 7.

Mr. Larson said this draft is the remaining chapter of the Comprehensive Plan to be considered for approval and it reflects corrections and modifications identified during the review and public hearing conducted by the Planning commission at its May 17, 2007 regular meeting. A hard copy of the May 31, 2007 draft Chapter 7 was given to the Board of Supervisors at the June 28, 2007 regular meeting along with an executive summary dated June 26, 2007 signed by the Chairman of the Planning Commission, Mr. David Jones.

Lee Acors said he lives in Chesapeake, Virginia and has owned his Lancaster County property in District 2 for 45 years. He is unsure to whether or not he will be able to attend the August 30, 2007 meeting, so he would like to make his comments at this meeting. He said his family has lived here since colonial times, his mother lives in a house that was built in 1832 on a farm that has been in their family for more than 100 years. It appears that the Planning Commission believes taking the right and ability to develop land from current property owners and hiding new development behind trees, it would entice new retirees to come and repopulate the county. While retirees maybe enticed to come to Lancaster County, they will more likely want waterfront property, rather than a shielded subdivision tract. A number of the retirees will spend winters in Florida, Texas, or other non-tax state, so Lancaster County will only collect real estate taxes. He stated he was the Director of Finance for the City of Suffolk in the mid 1990's during a growth period. He said the Lancaster County Board of Supervisors has a couple of choices, they can pass the Highway Corridor Overlay Setback Ordinance and place undue burden on the current citizens, prevent them from pursuing reasonable development of their own property with the hope that some pretty open fields or hidden property will entice retirees to move here. The board could choose to support the people who live here, encourage reasonable and affordable development. He asked the Board of Supervisors not to approve the Highway Corridor Overlay Setback Ordinance.

Tommy Kellum asked if there were any setback provision in the Comprehensive Plan.

Mr. Geilich said no.

Dave Parker said his family owns a farm on Orcan Road and said he had questions concerning the Comprehensive Plan, it appears a if the Planning Commission would like to become the Bay Act. He thought that was covered under the Wetlands Board.

Mr. Pennell stated the Wetlands Board only deals with construction on the water essentially between high and low tide. With respect to the Bay Act, the Planning Commission and the Board of Supervisors have authority to adopt these provisions in Lancaster County.

No action taken.

### **CONSENSUS DOCKET**

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

A. Minutes for June 28, 2007

Recommendation: Approve the minutes as amended.

B. Ordinance to Control Burning During Emergencies

Recommendation: Directed the County Administrator to advertise an ordinance

C. Community Services Board – FY08 Performance Report

Recommendation: Adopt the following resolution approving the FY08 Performance Contract:

**Middle Peninsula-Northern Neck Community Services Board  
FY 2008 Performance Contract and Operating Budget**

**WHEREAS**, §37.2-508 of the *Code of Virginia* [1950] as amended, requires each Community Services Board to submit, to the governing body of each political subdivision that established it, an annual performance contract for community mental health, mental retardation and substance abuse services for its approval prior to submission of the contract to the Virginia Department of Mental Health, Mental Retardation and Substance Abuse Services, and

**WHEREAS**, the Middle Peninsula – Northern Neck Community Services Board has put forward its proposed Performance Contract for Fiscal Year 2008, for approval by the Boards of Supervisors of its governing counties of Essex, Gloucester King and Queen, King William, Lancaster, Mathews, Middlesex, Northumberland, Richmond, and Westmoreland.

**NOW, THEREFORE, BE IT RESOLVED**, by the Board of Supervisors of Lancaster County, Virginia, that the Performance Contract prepared by the Middle Peninsula-Northern Neck Community Services Board for Fiscal Year 2008 and presented to the Board is hereby approved and may be forwarded to the Department of Mental Health, Mental Retardation and Substance Abuse Services as further required.

D. Disaster Declaration – Agriculture and Silviculture Lack of Rainfall

Recommendation: Adopt the following resolution:

**DROUGHT DISASTER DECLARATION**

**WHEREAS**, the industries of agriculture and silviculture annually contributes over \$2 million to the economy of Lancaster County; and

**WHEREAS**, agricultural and silvicultural lands are recognized as natural resources which must be conserved and protected, and

**WHEREAS**, agriculture and silviculture are important to the environment, water resources and wildlife; and

**WHEREAS**, the continuing lack of significant, timely rainfall has and will inflict heavy financial losses on the agricultural and silvicultural community; and

**WHEREAS**, the yields of the principal crops produced in the County of Lancaster, including corn, soybeans, and forages, have been significantly reduced.



**NOW, THEREFORE BE IT RESOLVED** that the Lancaster County Board of Supervisors declares there to be a State of Emergency in Lancaster County by virtue of the impact on agricultural and silvacultural of a lack of crop sustaining rainfall; and

**BE IT FURTHER RESOLVED**, that the Lancaster County Board of Supervisors requests Governor Kaine to have Lancaster County, Virginia, designated as an agricultural and silvacultural disaster area.

VOTE:	Peter N. Geilich	Aye
	Jack S. Russell	Aye
	B. Wally Beauchamp	Aye
	F. W. Jenkins, Jr.	Aye

**CONSIDERATION DOCKET**

The Board considered the following items on its Consideration Docket:

1. Approval of June 2007 Salaries and Invoice Listings

Motion was made by Mr. Jenkins to approve the Salaries for July 2007 in the amount of \$181,649.73 and Invoice Listings for July 2007 in the amount of \$748,376.89.

VOTE:	Peter N. Geilich	Aye
	Jack S. Russell	Aye
	B. Wally Beauchamp	Aye
	F. W. Jenkins, Jr.	Aye

2. Floating Houses – Mr. Larson said concern has been raised as to the potential for persons placing “floating houses” in Lancaster County, and a request has been made that action be taken to modify the Zoning Ordinance as appropriate to prevent such use.

Mr. Larson stated he provided the Board of Supervisors with a memorandum along with pictures of floating structures designed to be used as full-time or near full-time residence that he received from Mr. Fred Ajootian.

Mr. Larson asked the Board of Supervisors if it wished the Lancaster County Planning Commission to review this issue.

Mr. Jenkins stated the county already has people living on sail boats and the Planning Commissions needs to contact the county attorney to obtain more information about any type of regulation that may prohibit people from living on boats.

The board agreed, by consensus, to have the Planning Commission consider these concerns and take whatever action it deems as appropriate.

3. Request for Pump and Haul – William A. McCarty, III, Bar Point Seafood – Mr. Pennell said the Board of Supervisors has received a summary of a the situation in which Mr. McCarty finds himself. Mr. and Mrs. McCarty have been preparing a new restaurant in the old gas station immediately to the east of the Chris Mart in Lancaster Courthouse. As they continue to prepare the building and land for this restaurant, the need for wastewater treatment has become an issue.

Mr. McCarty stated he began renting the building in January with a working septic system with the intention to open a retail food establishment. Mr. Bennett, Soil Consultant was hired to determine necessary upgrades to allow seating for the restaurant and his first determination was that a grease trap would need to be added to the system already in place. Mr. Bennett and Mr. Tommy Beasley, Septic Contractor met to check the current system and determined that system had been crushed. The health department performed a soil analysis and determined the property had a suitable area for an absorption field, but the area was not large enough which means an engineered system would be necessary.

Mr. Christopher owns the property and the price quoted for the engineered system was higher than he is willing to pay. As a renter with a short term lease it is not feasible to spend the amount quoted. They would like to install a two thousand gallon tank with an alarm, and pump the waste as needed.

Mr. Jenkins made a motion to Approve the Request for Pump and Haul System for William A. McCarty, III, Bar Point Seafood with three year renewals and \$1,000 bond.

VOTE:	Peter N. Geilich	Aye
	Jack S. Russell	Aye
	B. Wally Beauchamp	Aye
	F. W. Jenkins, Jr.	Aye

4. IDA Master Lease and Sublease Agreement – Rappahannock General Hospital – Mr. Pennell stated at the July 16, 2007 meeting of the Lancaster County Industrial Development Authority unanimously approved a bank qualified Master Lease and Sublease Agreement for Rappahannock General Hospital. He said this action must be approved by the Lancaster County Board of Supervisors by the adoption of the resolution.

Mr. Pennell said presentation was made by the attorneys for Rappahannock General Hospital and Siemens Building Technologies. Following a question and answer period, the IDA unanimously approved the requested \$1.4 million master lease and sublease agreement.

Mr. Beauchamp made a motion to adopt a resolution approving the Execution and Delivery by the Lancaster County Industrial Development Authority of a Master lease and Sublease Agreement for Rappahannock General Hospital.

VOTE:	Peter N. Geilich	Aye
	Jack S. Russell	Aye
	B. Wally Beauchamp	Aye
	F. W. Jenkins, Jr.	Aye

5. Expiration Dates for Industrial Development Authority Members – Mr. Pennell stated as the required documentation was being prepared for the recent Rappahannock General Hospital Master Lease and Sublease Agreement, the county attorney’s office noted the expiration dates of the members of the Industrial Development Authority seemed unusual.

Mr. Pennell said the original seven members of the Industrial Development Authority took office on November 12, 1974. Two of the seven members were appointed for one year, two for two years, two for three years and one for four years to create staggered terms for the Authority. Thus, the expiration dates of the current IDA members should read as follows:

District 1 – Edward R. Pittman	Term Expiration – November 11, 2008
District 2 – Jackie R. Barrack	Term Expiration – November 11, 2008
District 3 – Howard Kyzer, Jr.	Term Expiration – November 11, 2007
District 4 – Caroline Veney	Term Expiration – November 11, 2007
District 5 – Alexander McD. Fleet	Term Expiration – November 11, 2010
At-Large – Weston F. Conley	Term Expiration – November 11, 2009
At-Large – Jeffrey Szyperski	Term Expiration – November 11, 2010

Mr. Jenkins made a motion to approve the amendment of the recorded expiration dates of the current Industrial Development Authority members.

VOTE:	Peter N. Geilich	Aye
	Jack S. Russell	Aye
	B. Wally Beauchamp	Aye
	F. W. Jenkins, Jr.	Aye

6. 2007 Tax Anticipation Note – Mr. Pennell said at the June 28, 2007 meeting of the Board of Supervisors, the members agreed to permit me to solicit bids to provide a \$3 million tax anticipation loan to be used in the event county expenditures exceed the cash balance until tax receipts are received later this calendar year.

Mr. Pennell stated requests for bids were sent to the four banks doing business in Lancaster County and to other banks doing business in other Virginia localities as recommended by the county attorney. The results of the bidding are as follows:

1. Carter Bank and Trust – 3.44%
2. Bank of Lancaster – 3.80% + \$100 documentation fee
3. SunTrust Bank – 3.84%
4. BB&T – 4.12% + \$3,400 legal expenses
5. Chesapeake Bank – 4.50%
6. EVB – 4.69%
7. Northern Neck State Bank – 4.75%

Mr. Pennell asked the Board of Supervisors to accept the bid from Carter Bank and Trust to provide a \$3 million line of credit for a fixed interest rate of 3.44% which was the lower bid.

Mr. Jenkins made a motion to adopt a resolution to accept the bid from Carter Bank and Trust to provide a \$3 million line of credit for a fixed interest rate of 3.44%, authorize the county administrator and county attorney to proceed to close on this loan and Adopt the Resolution Authorizing the issuance of up to \$3 million Revenue Anticipation Note.

VOTE:	Peter N. Geilich	Aye
	Jack S. Russell	Aye
	B. Wally Beauchamp	Aye
	F. W. Jenkins, Jr.	Aye

**BOARD REPORTS**

Appointment

Mr. Jenkins made a motion to reappoint Kenneth M. Knull to the Workforce Incentive Board as a business representative for Lancaster County.

VOTE:	Peter N. Geilich	Aye
	Jack S. Russell	Aye
	B. Wally Beauchamp	Aye
	F. W. Jenkins, Jr.	Aye

**COUNTY ADMINISTRATOR REPORT**

None

**ADJOURNMENT**

Motion was made by Mr. Jenkins to adjourn.

VOTE:	Peter N. Geilich	Aye
	Jack S. Russell	Aye
	B. Wally Beauchamp	Aye
	F. W. Jenkins, Jr.	Aye