

VIRGINIA:

A meeting of the Lancaster County Board of Supervisors was held in the courthouse of said county on Thursday, July 27, 2006.

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

Others

Present: Sean Trapani, Virginia Department of Transportation; Charles Costello, Friends of Lancaster County; Jack Larson, Planning/Land Use; Randolph Latimore, Lancaster County School Board; Ann T. Carter, Lancaster County Treasurer; Joan McBride, Rappahannock Record; Starke Jett, Northumberland Echo

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

PUBLIC INPUT

Warren Sellew stated he represents the Waverly Avenue citizens against the proposed Kilmarnock Boundary Line Extension. He presented the board with signed petitions from the Waverly Avenue citizens in opposition to the Kilmarnock Boundary Line Adjustment.

PRESENTATION

None

VIRGINIA DEPARTMENT OF TRANSPORTATION

Six Year Plan/Budget

Mr. Trapani stated they have an approved budget and with all the projects intact. He said Taylor's Creek Project would start on Monday, July 31, 2006 and would be paved all the way thorough.

VSH 638/Blueberry Point Road

Mr. Trapani said the speed limit study of VSH 638/Blueberry Point Road has been completed and the speed limit is 25 mph. Signs will be posted.

Request for a Speed Study on the county portion of James Jones Memorial Highway from the Kilmarnock Town Line to Irvington Road

Mr. Trapani stated they have not received the study results for James Jones Memorial Highway from the Kilmarnock Town Line to Irvington Road.

Maintenance

Mr. Trapani said mowing of the primary and secondary system will start on August 7, 2006.

Mr. Trapani stated maintenance received level funding this year, however; the cost of asphalt and other supplies continue to double.

PUBLIC HEARINGS

1. Boat Pier, Private – Proposed Revised Definition, Lancaster County Zoning Ordinance – Mr. Larson stated the revision to definition for **Boat Pier, private** to

read “A pier six feet wide or less, not to exceed one-fourth the width of its waterway, unless otherwise approved by proper authority (such as Virginia Marine Resources Commission), and elevated no less than four feet above wetland substrate, with up to 250 square feet for an “L” or “T” or other structural configuration, for private use to which a boathouse is not attached. Other structures such as fish cleaning stations, benches, low profile boat lifts, and handrails are permitted if the height of these structures does not exceed four and one-half feet above the pier.”

Mr. Larson said he provided the Board of Supervisors with a draft copy of minutes for the June 15, 2006 regular meeting of the Planning Commission.

Advertising has been conducted as required by law for this hearing of the issue. To date, there has been input from one interested member of the public who has stated the need for a maximum height limit applied to boats placed on a lift in addition to, or in lieu of a maximum height limit on the lift itself. That person resides in District 3 and is expected to appear at the public hearing citing his experience with a neighbor's sailboat that rises well above the pier when placed on a lift.

Chairman Jenkins opened the public hearing.

Mr. Conley stated the definition as written with the 250 square feet has been discussed with Mr. Larson and the Planning Commission members. A couple members of the Planning Commission actually had piers with “L” that would have had “T” if the law had not been the 10' probably defined about 15 – 20 years ago prior to the boat lift era. All boat lifts require at least 11 ½ feet, therefore with the 10' width citizens had if a lift was put in, they could not get to their motor. Consequently, anyone that wanted a boat lift to be able to get to their motor, would have to put an “L” on their dock, in order to have a long side on the deck to put the boat lift on. He stated that if the board approves the proposed revision it should work for everyone.

A citizen asked what the difference between the existing and proposed definition is.

Mr. Larson read the current definition: **Boat pier, private.** A pier six feet wide or less with an additional 250 square feet for an "L" or "T" or other structural configuration not to exceed ten feet in width for private use to which a boathouse is not attached. Other structures such as fish cleaning stations, benches, low profile boat lifts, and handrails are permitted if the height of these structures does not exceed four and one-half feet above the pier.

Mr. Freeman Thomason stated he lives on Tabbs Creek asked the board to consider increasing the size of the "L" or "T" to 400 square foot maximum currently adopted by the Commonwealth of Virginia. He believes that the 250 square foot addition is not adequate for use. There are two reasons: 1) safety issue and 2) access to the water.

Chairman Jenkins closed the public hearing.

Mr. Geilich asked about the issue on Fleet's Bay Road, where there is a pier with a sail boat on the lift which is obstructing the view of others. It's the property owner's right but not good for other residents. Does this definition determine the total height of the pier off the water? He believes this issue needs to be sent back to the Planning Commission to reword and include a maximum height.

Mr. Jenkins stated that the proposed revised definition on boat pier, private before the board should be acted upon. The concerns of a maximum height would need to be sent to the Planning Commission for consideration.

Mr. Jenkins made a motion to Approve the Revised Definition for Boat Pier, private in the Lancaster County Zoning Ordinance.

A roll call vote was taken:

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

By consensus of the board, the Planning Commission is asked to consider height concerns on private boat piers.

2. Guesthouse/Guest Quarters – Proposed Definition to be added to the Lancaster County Zoning Ordinance – Mr. Larson stated the definition and limitations for **Guesthouses/Guest Quarters** to read “*An accessory structure or part thereof which is physically detached from a principal dwelling, not to be used as a rental unit, and intended for occupancy only by guests of the family residing in the principal dwelling. Guesthouses/Guest Quarter shall be limited to 900 square feet of living space, one per lot or parcel, and occupancy not exceeding six months except for immediate family members.*”

Mr. Larson said he has provided the Board of Supervisors with an excerpt of the draft minutes for the June 15, 2006 regular meeting of the Planning Commission. As indicated, there was considerable input on this issue, most of it in support of an even more restrictive definition in terms of allowable size and length of stay by occupants.

Mr. Larson stated advertising has been conducted as required by law. Several interested members of the public have contacted the county staff with concerns as to the impact the proposed definition and limitations will have on their individual plans. Some have highlighted implementation difficulties with the size limitation and have suggested that there be no limitation on size. That argument

would seem to have some merit since a guesthouse is an accessory structure and will therefore always be smaller than the principal structure. Whereas most of those providing input before the Planning Commission supported a more restrictive definition, the opposite may be true with this public hearing.

Dr. Russell said he is not discussing the merits of the definitions but he is concerned about the implications this might have for the overall zoning ordinances and subdivision ordinances. He asked if the county would be boxing themselves in one way or the other in terms of dealing with the guest house issue. There are ordinances that relate to parking, traffic, and other zoning ordinances that will be impacted by the guesthouse ordinance.

Mr. Larson said there are restrictions and limitations and if they become a part of the definition they would be enforced. There will be a significant impact because there are a number of situations whereby people have already built accessory structures for habitation that exceed 900 square feet. If they would like to build a house later, he said they could not build because it would make their guesthouse non-conforming. As the Zoning Administrator, he would not be able to allow the zoning action which would create a non-conforming situation.

Chairman Jenkins opened the public hearing.

Bill Warren stated he attended the Planning Commission meetings which address the guesthouse/guest quarters issue. There could be questions about the square footage, but the Planning Commission did a good job with the ordinance. There are no rules in the county that would prevent an owner from building more than one guesthouse on a property. He believes a guesthouse is subject to abuse in a low intense residential area with no limitation on the length of time of occupancy. An accessory structure and the guesthouse can not be used to generate profit. He said the limitation of 1200 square feet and/or 30% of the principle residence is not

adequate. One guesthouse per lot is reasonable but the size of 900 square feet is not.

Sam Nuckols stated he attended the Planning Commission and is not satisfied with what the commission came up with. He does not believe the definition is totally appropriate to the tone of the ordinance that the county has had for the past thirty years. The commission did not define the difference between guesthouse, studio, office, shed, etc. There are a number of concerns:

- Not to be used as a rental unit, there are no restrictions on the rental of the primary residential structure in the county, so why should there be any restriction on an accessory structure as a rental unit. An elderly couple may need to supplement their income or use it for an assistant.
- For agricultural use, a farmer or an equine facility, there may be the need to have a trainer or barn help when housing is provided by the employer.
- Based on the review of the zoning ordinance there are only size limitations in C-2. There is no current size limitation in residential zoning.
- A 3,000 square foot accessory structure such as a storage building can be built on a property but a 1200 square foot guesthouse can not be built.
- He has designed about four guesthouses in the county at 800 – 1500 square feet and all complied with setbacks with no negative impact
- There are no limitations on the number of people occupying the main structure - why on guesthouse?
- Who will enforce this?

Mr. Nuckols stated he is not in favor a size restriction, but does agree with one per parcel. He said the definition should read “an accessory structure or part

thereof containing one or more rooms designed for living or sleeping purposes with related sanitary facilities and guesthouses shall be limited to one per parcel".

Ralph Baylor said his concern is that a tool shed which is an accessory structure can be as little as 5' from the property line. He believes a guesthouse/living quarter should be at least 25' from the property.

Gordon Smith, a Crab Point Road resident, said there would be an enforcement problem. He has concerns about the size limitations which seem to be unfair. He said by adding on line to the definition, "nothing in this definition should apply to primary structures built after its effective date".

Jack Hanky, a Crab Point Road resident stated his major concern was with the square footage. He said he worked hard all his life to have a nice house and guesthouse for his family to visit. He stated he has four acres to build and would not be able to comply with the proposed definition.

Mr. Beauchamp said he met with Mr. Hanky who has four acres and informed him if he subdivides the property he would not have a problem.

Mac Davis, a Blueberry Point Road resident stated he acquired property and the covenants recorded allow for accessory structures, garage and a guesthouse. He has concerns with the size limitations.

G.C. Dawson said there should be set a minimum size not maximum. The more square footage of a home the more taxes for the county.

Peggy Thomason said her concern is that the 900 square foot limitation is not feasible, because the size of the property is not being taking into consideration. Also, limiting occupancy to a six month stay is a concern. There are special

exceptions for who the guests are and how long a person can stay. This definition is taking away the property owner's freedoms.

Greg Rehak said this should go back to the Planning Commission for further review. He said one size does not fit all. He stated the definition needs to be more clearly specified, the limitations of square footage, usage since the definition of family has changed, period of occupancy, and only allowing one per lot. He asked the board not to approve the definition.

Thomas Smith stated he has two concerns which are the last five words of the proposed definition which reads "except for immediate family members." The concept of "Guest Quarters" implies strongly that guests are only expected to stay a brief period of time. There should be some consideration of a setback requirement other than five feet as required for other accessory structure. He asked the board not to approve the proposed definition as presented.

Wayne Cannon echoed the concerns of Mr. Smith and stated the county staff may not be able to enforce the ordinance as proposed. He does not believe that the five foot sideline is adequate.

Bud Ward, a Windmill Point resident said there are no real problems with guesthouses and they should be addressed in the Comprehensive Plan. There are concerns about the size limitation and neighborhood enforcement.

Jill Anderson stated people buy property and would like to build a guesthouse. She doesn't believe size limitations should be a factor. There is a need for rental property here in the county and it could be an important source of income for older people.

Beth Nelson said she did some research and she agreed with Mrs. Anderson that affordable housing for teachers, etc. is needed. The guesthouse may be needed

to house a caretaker. She has concerns about the enforcement and management of the definition.

Chairman Jenkins closed the public hearing.

Mr. Beauchamp said if something is not broken, its does not need to be fixed.

Mr. Geilich said the issue of enforcement concerns him. The issue to the number of structures on one lot is also a concern.

Dr. Russell said he has a number of concerns with the definition and does not see the urgency and this should be taken care of in the Comprehensive Plan.

Mr. Palin stated he echoed the comments of his fellow board members regarding the size limitations, enforcement, etc. Again, if it's not broken why try to fix it.

Mr. Jenkins made a motion not to approve the Proposed Definition for Guesthouses/Guest Quarters to be added to the Lancaster County Zoning Ordinance.

A roll call vote was taken:

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

CONSENSUS DOCKET

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

A. Minutes for June 22, 2006, June 29, 2006 and July 11, 2006

Recommendation: Approve the minutes as amended

B. Tri-Rivers Alcohol Safety Action Program

Recommendation: Adopt the following resolution:

TRI-RIVER ALCOHOL SAFETY ACTION PROGRAM

WHEREAS, the Commonwealth of Virginia, in the interest of highway safety, has provided for probation, education and rehabilitation of persons charged with a violation of §18.2-266 of the Code of Virginia; and

WHEREAS, §18.2-271.1 of the Code of Virginia authorizes any county, city or town or any combination thereof to establish and, if established, to operate alcohol safety action programs or driver alcohol treatment and rehabilitation programs or driver alcohol education programs in connection with highway safety; and

WHEREAS, §15.1-21 of the Code of Virginia Joint Exercise of Powers Act authorizes local units of government to exercise their powers, privileges and authorities jointly for the operation of a multi-jurisdictional venture.

NOW THEREFORE BE IT RESOLVED, by the Lancaster County Board of Supervisors that there be established the TRI-RIVER ALCOHOL SAFETY ACTION PROGRAM to provide probation, education and rehabilitation of those persons charged with a violation of §18.2-266 of the Code of Virginia and

referred from the courts of this jurisdiction and other jurisdictions as the Supervisory Board shall approve; and

1. A Supervisory Board shall be established consisting of the General District Court judges appointed to each of the participating jurisdictions and other bar members, law enforcement or governmental officers or treatment persons as this Board may deem appropriate. Excluding the judiciary, each board member shall serve a term of three years;

2. The Board shall hire and supervise an Executive Director who shall be responsible for establishing operational policies for the program, hiring and supervising the staff of the program and controlling all revenues and expenditures for the operation of the program;

3. An operating budget shall be prepared by the Executive Director and submitted for approval to the Supervisory Board for each fiscal year which will include client fees and other available funds as deemed appropriate by the Board but will include no costs to the participating jurisdictions;

4. An annual report shall be prepared under the supervision of the Supervisory Board and presented to the governing body of each participating jurisdiction indicating the activities of the ASAP;

5. This agreement shall remain in effect for three years commencing immediately and thereafter shall be automatically renewable from year to year. The withdrawal of any unit of government or units of government from this agreement shall not alter the terms of this agreement except that only those local units of government participating in the agreement may have representation on the Supervisory Board.

6. A participating county may withdraw at any time by official action of its governing body; and

7. Title to all property acquired by the Tri-River Alcohol Safety Action Program shall be vested with the ASAP so long as it continues to function in accordance with the appropriate statutes of the Code of Virginia. In the event that the ASAP ceases to function as aforementioned, all proceeds of such sale shall be paid to the Department of Transportation Safety, Division of Motor Vehicles, to be used in its operation of such alcohol safety programs.

C. Appointment to Middle Peninsula Juvenile Detention Commission

Recommendation: Approve Reappointment of William H. Pennell, Jr.

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

CONSIDERATION DOCKET

The Board considered the following items on its Consideration Docket:

1. Approval of July 2006 Salaries and Invoice Listings

Motion was made by Mr. Geilich to approve the Salaries for July 2006 in the amount of \$174,748.29 and Invoice Listings for July 2006 in the amount of \$696,915.07.

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

Jack S. Russell	Aye
Ernest W. Palin, Jr.	Aye

2. Supplemental Budget Request – Lancaster County Schools – Mr. Pennell said in October 2005, Lancaster County Schools' administration informed the Board of Supervisors that sewage system repairs were needed at the high school. The Board of Supervisors authorized a supplemental appropriation for engineering work to be performed to estimate the scope and cost of the work required to fix the system.

Dr. Latimore now asks for a supplemental appropriation of \$358,000 to repair the septic system, \$27,488.72 for architectural/engineering services and \$50,000 to construct a canopy over a stairwell entrance.

The board stated they had concerns about the procedures followed by the School Board and School Administration. Discussions concerning the high school septic system were bought before the Board of Supervisors, however; the appropriation was never approved. The board further believes that bids should be opened in the presence of the School Board or Board of Supervisors in Lancaster County.

Mr. Geilich made a motion to approve the transfer of \$358,000 for the repair of the high school septic system and \$27,488.72 for Rancorn Wildman Architects for professional services from the Capital Improvement Fund to the School Fund.

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

Dr. Russell made a motion to approve the transfer of \$50,000 from the Capital Improvement Fund to the general funds to pay for the construction of a canopy over the band room entrance at the high school.

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

3. County Cash Flow – Mr. Pennell stated he received a memorandum from the Treasurer with an updated accounting of the county's predicted cash flow position at the end of July/beginning of August 2006. Mrs. Carter, Treasurer, expects a deficit of \$294,410 following payment of first of the month checks. Mrs. Carter has asked for a deposit of \$500,000 to ensure that salaries and invoices are paid over the next couple of weeks.

Mr. Pennell stated there have been some informal discussions of this year's strategy to deal with the county's annual cash flow requirements. There seems to be two options:

1. Advertise to financial institutions for the usual tax anticipation note to provide sufficient cash flow until Lancaster County receives tax payments beginning in November 2006; or
2. Utilize cash in the county's capital improvement account from recent bond issues (May 31, 2006 balance = 2,042,175) to provide cash flow during the months prior to receipt of 2006 tax revenues. This money would be reimbursed back to the capital improvement fund upon receipt of sufficient tax revenue to accommodate the repayment.

Mr. Jenkins made a motion to Approve utilizing cash in the county's Capital Improvement account from recent bond issues.

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

4. Assign-A-Highway Litter Control Program – Mr. Pennell stated the Lancaster County Board of Supervisors has asked him to pursue strategies to abate the litter problems that exist along Lancaster County's highways, streets and roads. In Southwest Virginia, the jurisdictions in that region have made litter control progress through the use of the Commonwealth's Assign-A-Highway Program.

Mr. Pennell said recently, the county administrators of the Northern Neck counties attended a discussion on the benefits of an Assign-A-Highway Program in which probationers are assigned to remove litter from state highways, roads and streets. This presentation was made by Mr. Bobby L. Justus, Jr., Regional and State Assign-A-Highway coordinator.

Mr. Pennell stated the same discussion was held by the Northern Neck Community Criminal Justice Program and received unanimous approval by the members including the Circuit Court Judge and the General District Court Judge. Mr. Jerry Davis, Executive Director of the Northern Neck Planning District Commission indicated his support. Other Northern Neck county Boards of Supervisors are pursuing their involvement in this regional effort and it is expected that litter control grant funding will assist in developing and maintaining this project.

Mr. Beauchamp made a motion to adopt the following resolution indicating the Lancaster County Board of Supervisors support for the Northern Neck Regional Assign-A-Highway Program and authorize the county administrator to pursue litter control grants for funding:

NORTHERN NECK REGIONAL ASSIGN-A-HIGHWAY PROGRAM

WHEREAS, the Board of Supervisors of Lancaster County has made it a priority to clean up Lancaster County's highways, streets and roads; and

WHEREAS, the Board of Supervisors of Lancaster County believes that the Assign-A- Highway Program will improve the quality of life and the natural beauty of the Northern Neck and that the proposed Assign-A-Highway Program will protect the health, safety and welfare of the citizens of Lancaster County; and

WHEREAS, the Lancaster County Circuit Court, based upon its constitutional and statutory powers and authorities, has given preliminary assurances that it will assign criminal defendants and probationers to pick up litter along Lancaster County's highways, streets and roads as part of the court's probation powers; and

WHEREAS, the Lancaster County Board of Supervisors strongly believes that a Northern Neck Regional Litter Control Officer working in conjunction with the Lancaster County Circuit Court can develop a program to abate litter on Lancaster County's highways, streets and roads.

NOW THEREFORE BE IT RESOLVED, that the Lancaster County Board of Supervisors hereby establishes the Northern Neck Assign-A-Highway Program, in cooperation with the Boards of Supervisors of Northumberland County, Richmond County, Westmoreland County and the Northern Neck Planning District Commission, for the health, safety and welfare of their citizens and as

outlined in a court order to be entered by the Circuit Court of each of the aforementioned counties; and

BE IT FURTHER RESOLVED, that the Assign-A-Highway Program shall be modeled and authorized pursuant to the prospective court order and that the prospective court order shall be incorporated into the resolution by reference.

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

BOARD REPORTS

Request for Funding for 2007 NACo Conference

Mr. Geilich said the county has received a request from funding in the amount of \$1,000 for the 2007 NACo conference to be held in July 2007 in Richmond.

By consensus of the board, Lancaster County will not contribute at this time.

COUNTY ADMINISTRATOR REPORT

Town Councils Retreat

Mr. Pennell said he received a call from Lee Capps, Kilmarnock Town Manager indicating that the Kilmarnock Town Council would like to meet with the Lancaster County Board of Supervisors.

Mr. Pennell stated the board will be meeting with the Planning Commission on August 19, 2006 and it would be better if the board met with the towns in September.

By consensus of the board a retreat with the Town Councils will be scheduled for September 16, 2006 in the Conference Room of the Bay Trust building on Main Street in Kilmarnock.

ADJOURNMENT

Motion was made by Mr. Beauchamp to adjourn to Saturday, August 19, 2006 at 9:00 a.m. for a retreat with the Lancaster County Planning Commission to be held in the Community Room of the Bank of Lancaster, Northside Branch.

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