

## VIRGINIA:

A meeting of the Lancaster County Board of Supervisors was held in the courthouse of said county on Thursday, September 24, 2009.

Members Present: Jack S. Russell, Chair  
Ernest W. Palin, Jr., Vice Chair  
Peter N. Geilich, Board Member  
B. Wally Beauchamp, Board Member  
F.W. Jenkins, Jr., Board Member

Staff Present: William H. Pennell, Jr., County Administrator  
Jack D. Larson, Assistant County Administrator  
Don G. Gill, Planning and Land Use Director

Dr. Russell called the meeting to order at 7:00 p.m.

## **PUBLIC INPUT**

Dana Gilmore, Ocran Road resident stated there are still concerns with the Sheriff's Office's continually exceeding its appropriation in violation of the law. He said wanted to keep this subject on the front burner. He stated, according to the Code of the Commonwealth Virginia, Section 15.2-1231. Centralized competitive purchasing by chief administrative officer is permitted. The governing body of any county having a chief administrative officer may provide for the centralized competitive purchasing of all supplies, equipment, materials and commodities for all departments, officers and employees of the county. If any department or agency purchases or contracts for any supplies or contractual services contrary to the provisions of this article, the head of such department or agency shall be personally liable for the costs of such order or contract. This provides an opportunity to recover some of the \$116,000 and prior year third of a million dollars that the Sheriff's office went over the budget. Section 15.2-2511.2 Duties of local government auditors. He stated, without question, this has become a recurring problem.

## **PUBLIC COMMENTS**

1. **Public Access – Chesapeake Bay: Proposed Boat Ramp and Fishing Pier** – Mr. Pennell stated for some time, Mr. Geilich, Mr. Palin and county staff have been negotiating with Mr. David George (trustee for the estate of Mr. Roland W. George) to lease a portion of his property at 202 Antirap Drive, White Stone, Virginia for the purpose of providing public access to the waters of the Commonwealth. Mr. George is willing and prepared to build the public access infrastructure as indicated on the design provided to the board for its review.

Mr. Pennell said the property in question is a parcel zoned M-1 (Industrial) off Windmill Point Road in Palmer, Virginia. This parcel has traditionally been used as a menhaden processing plant with ancillary industrial/manufacturing/seafood uses. The proposed use qualifies as a County Sanctioned Public Facility (9-1-27).

Mr. Pennell stated as a result of market conditions, Mr. George is no longer able to use this plant to its full capacity and wishes to enter into an agreement to provide public access to the waters of the Commonwealth.

Mr. Pennell provided the Board of Supervisors with a copy of the design showing a 297 foot public fishing pier which will be handicapped accessible and goes out to a 10 foot depth of water in Antipoison Creek, shoreline hardening, concrete boat ramp which would accommodate as many as 3 simultaneous boat launchings, as well as parking for 30 vehicles and boat trailers and additional parking for vehicles without boat trailers. In addition, the site plan calls for areas where fuel sales and a ship's store would exist, owned and managed by the owners or their agents.

The committee negotiating this lease recommends the following lease payments:

|                      |                   |
|----------------------|-------------------|
| Year 1 through 5 -   | \$5,000 per month |
| Year 6 through 10 -  | \$5,500 per month |
| Year 11 through 15 - | \$6,000 per month |
| Year 16 through 20 - | \$6,500 per month |

Mr. Pennell said the lease could be written to prorate the lease payments as portions of the infrastructure become available to citizens. Mr. Matson C. Terry, II, was drafting a lease for county approval following a meeting with the county's committee regarding details of the plan. Unfortunately, just before this meeting, Mr. Terry learned that another of his clients was a neighboring property owner who has objections to the proposed project. Thus, Mr. Terry must remove himself as Mr. George's representative for this remainder of this consideration. The real estate and personal property taxes will continue to be paid by the lessors.

Mr. Pennell provided the Board of Supervisors with copies of the Lancaster County Comprehensive Plan, Chapter 5, Access to State Waters and the Lancaster County Zoning Ordinance, Article 9, Industrial, Limited, District M-1 for their information.

Chairman Russell opened meeting for public comments.

John O'Shaughnessy stated he has lived on Antiposion Creek for 25 years and certainly there has been a lot of change on the creek. He said he loved the creek the way it uses to be but know things change. While he may not think that the expenditure by the county is the wisest use of county funds. You have to be careful what you ask for, this is an industrially zoned parcel and it seems that a boat ramp and fishing pier that may get used three days a week, eight months a year is a whole lot less intense use than what it could be. Granted this is an extremely example but an industrially zoned parcel could allow all kinds of uses which are a lot more intense. Just next door to the property in question used to be a herring factory that ran around the clock during the season. He thinks for those

opposed to this pier, “I would rather fight the devil I know, than the devil I don’t know” and you need to be very careful as to what you ask for.

Jim Schmidt, White Stone resident said he and some other citizens find the proposed boat ramp and fishing pier appealing. There is only one public boat ramp in the county at this time which is located at Greenvale Creek about 20 miles from the Bay. There are 11,500 plus citizens living in the county and most do not live on the water. There is no public fishing pier and one public beach which is approximately 50 feet wide. There are miles of privately owned shoreline in Lancaster County. He said “we deserve better”. The proposed location on Antiposition Creek is off Windmill Point Road and offers the following advantages; access to the site by land is directly off a major county road which is well maintained, intersects VSH 3 at a traffic light and serves commercial establishments including restaurants, industrial facilities, banks and other businesses. The location of the proposed boat ramp and fishing pier will be on property presently zoned commercial or industrial. The present and past use of this property was a menhaden plant where large vessels entered Antipoison Creek with no objections. The location has deep water, the creek is wide, and it is marked with public maintained navigational aids and a very short distance to the Bay. The agreement that is being proposed should provide additional business and maybe even additional jobs in the community. He said VMRC stated that if boat ramps are to be allowed they should be public which will reduce the effect on the environment. There are some people who have installed their own private ramps on their private property, legally and illegally, to access the waterway. If the county has a public ramp this type of activity would probable cease because even the people who live on the water will have a better way of getting their boat out of the water. He asked the Board of Supervisors to approve the agreement.

Charles E. Hock, Jr., lives at 274 Majors Cove Road in White Stone he stated he is a full time resident, voter and taxpayer who lives on Antipoison Creek. He said he was speaking to the Board of Supervisors to express an opinion

on a difficult decision. The decision of whether to commit valuable tax dollars to rent a boat ramp and pier for the use of the public and more importantly the residents of Lancaster County. The call for action on the subject at the August 27, 2009 Board of Supervisors meeting was sobering. He said many were aware of a filing of permits for a boat ramp and pier by David George but were of the opinion that this was an application by a waterman to improve his location for use of a menhaden fishing operation. He polled citizens up and down Antipoison Creek to determine public awareness and only one of numerous residences was aware of the proposed public boat ramp and 347' fishing pier. The question he posed to the board is why would this not withstand public opinion and according to two of the Board of Supervisors they were not required by law to discuss this matter with the public. If the law does not require this to be discussed with the public is there an ethical requirement of public information on a decision to spend \$1.56 million dollars. The dissatisfaction with the board's process is his first reason for opposing the proposal.

The second is a financial arrangement that gives a landowner who by his own admission at the last meeting has no business plan and just wants to see how far the money will go. The proposal has not long term solution for the public needs for service and this is a dangerous way to spend \$1.56 million dollars. He assured the Board of Supervisors that no sportsman would stop in front of Mr. Georges' site to fish. He stated the proposed fishing pier is a placation of a genuine need for those who are land bound. The public deserves better fishing opportunities. It should be noted that the Comprehensive Plan for Lancaster County specifically provides that above all, potential site for fishing pier be located along a body of water that has a sufficient population of game fish. This location does not qualify for that. Let's not make this a pier to "no-where", he said he reviewed the proposed lease and noticed that the county has required peaceful enjoyment of this new site under its terms, but no consideration has been given to the disruption of a neighborhood subdivision. The consideration of this site also ignores the inadequacies of the Antirap Road width, the entrance from

Windmill Point Road and the environmental concerns that were expressed in the public disclosures by the Department of Game and Inland Fishiers and concerned residents on the use of this site. He believes that this proposal is a rush to judgment to provide the board relief on a subject of public access to the Chesapeake Bay. He said this is a poor use of tax dollars with no permanent benefit for the taxpayer past the lease term and urges the board to oppose this proposition.

Jimmy Whitten, lives on Blue Fish Lane (Antipoison Creek) said as he traveled toward the upper end of the county he saw three car dealership that have closed in the last six months, restaurants and businesses have closed, foreclosure, houses for sale and said the economic area is much like all others. There is a need for money and income and its not coming through business, so to take this large amount of money that the county and put it in this project does not make financial sense. He does not believe a boat ramp is needed at Antipoison Creek as there is a boat ramp approximately 1 mile down the road which gets used every weekend. At Mrs. Robbins ramp which costs \$8.00 to launch, he wonders why the county has to spend \$1.45 million dollars. He believes this is a waste of taxpayer money and fishing is not good at the proposed site. He asked how the board could justify spending such a large amount of money on the proposed boat ramp and fishing pier when The Robbins location can accommodate 40 – 60 cars.

John Towns, who lives at 152 Deep Water Drive on Antipoison Creek, thanked Mr. Jenkins and other board members for giving the public an opportunity to speak. He said there is a boat ramp on the property of Meredith Robbins approximately 1,000 yards from the proposed site. Why does the board need to spend taxpayer money to build a boat ramp and fishing pier? The taxpayers of this county are burdened with enough taxes in our current economic times and to add this burden is irresponsible. He said \$60,000 per year lease to pass on to our children is unfair. We all know times are tough for many living on fixed incomes and life savings. The Washington approach by some are to rush to

conclusion is unacceptable. Each member of this board, by their own choosing, is a public servant and has the responsibility to serve the citizens of Lancaster County and not special interest.

Hubbard Davis, who lives on Jack Cove Lane, White Stone, said its \$60,000 per year over the course of 20 years. The Georges plan to improve the property and taxes will go back to the county and the expenditures are very reasonable. He said no one owns the creeks or rivers and they should be for the enjoyment of all not just a few. What would happen if the Robbins closed their ramp? The citizens of this county need a public boat ramp.

Joseph Curry said he was born in 1933 and is a life long resident of Lancaster County. He asked the board to remember that the vocal minority may out voice the majority and the board needs to look out for those who can not get to the water. Someone stated the Board of Supervisors are rushing and he stated he was a member of the Planning Commission in 1976 and wanted to assure everyone that this is an issue that has been worked on for years, so this board is not rushing. He said in the past, every time this issue comes before the board, the minority speaks and the majority loses. For the last 40 years he has kept abreast of how the Board of Supervisors and structure works in Lancaster County. This is one of the most intelligent and educated boards this county has ever had, however; the only thing missing is a backbone. He asked to the Board of Supervisors to think about the rest of the citizens who do not have the money to have their own docks and/or waterfront property and can not depend on private citizens to supply places for people to get the water.

Charles Costello, lives on Merry Point Road said the Comprehensive Plan which was approved two years ago and had a number of sessions leading up to the adoption of the Comprehensive Plan. One of the major things discussed at all five sessions was public access to the water. Public access is needed, however; there are some concerns. Some believe the county should be purchasing property vs.

leasing. The question would then be where to purchase property. There are concerns with the way the proposed lease is set up, what would be the liability of having a business share the space with a public access facility, the county should apply for the fees for salt water fishing license, what are the promised amenities and how long can a boat be left at the location. The lease should include an option for the county to renew the lease and/or negotiate the possible purchase of the property, a provision that states the property could not be used for personal business in a way that would infringe on public use, specify if there will be public restrooms, if there will be a picnic area available, specify that no one can live aboard a vessel at this location and comply with all regulations covering public piers. He said Windmill Point was promised and proffered and understands that will be followed though. Maybe the county could consider a voucher system where citizens could purchase at a nominal fee and use existing commercial boat ramp would be a lot cheaper than the lease cost.

Jim Council said he read about the August 27, 2009 Board of Supervisors meeting in the Rappahannock Record regarding the proposed boat ramp and fishing pier. He said he received everything he requested under the Freedom of Information Act and the county administrator has been very cooperative. In the packet of information there were two draft leases and now understands the lease is being negotiated which leads to the question as to what was being voted on at the August meeting.

Mr. Geilich stated the consideration was to authorize the County Administrator, County Attorney and two board members to negotiate a lease.

Mr. Council asked if there would be a public hearing on the proposed site once a lease is negotiated.

Mr. Pennell said there would probably not be a public hearing

Mr. Council asked how the public will be informed about the Board of Supervisors decision.

Mr. Pennell stated he would follow the direction of the Board of Supervisors and there would probably be a notice on the county website and any lease approval will be scheduled for a public meeting but not at public hearing.

Mr. Jenkins said he has the document from the August 27, 2009 Board of Supervisors meeting and the recommendation from county staff to the board was to review the design plan and lease recommendations and authorize a 20 year lease of the property containing the public access infrastructure, conditioned upon the final approval of the lease upon the review and concurrence of Mr. Geilich, Mr. Palin, the county administrator and the county attorney. Not the full board or bringing it back to the public.

Mr. Council stated the voucher system makes good sense and said he is not sure that anyone has given thought to how much additional traffic there would be on Antipoison Creek. He said for one year lease of \$5,000 per month with an estimate of 3,000 boats the county would be paying \$29.00 for each boat that goes in and out of the water. He stated the cost to launch a boat for the Robbins is \$8.00, from Carter Creek for \$10.00 and there is a boat ramp at Indian Creek. He believes there is a ready opportunity available for the county to implement a voucher system and achieve the same results for about a third of the cost and have the benefit of spreading some of the boat traffic around three or more creeks. He said the expenditures are annual lease payment, but has he reviewed the drafts of the lease which also had the county making a loan up front for the development cost.

Mr. Geilich stated that is not correct, the discussions are for a straight lease with no up front capital expenditures by the county. The cost of \$5,000 per month for the first five years and the private party do all the improvement at the site.

David Rose, who lives on Windmill Point Road, said he has two boats at Meredith Robbins location which is on Antipoison Creek. He stated he has grandchildren who live on Windmill Point Road and without a doubt there is a need for public access for the youth and adults of the county who do not have the means to do so. Whether that means taking their fishing pole out on the end of a pier or launching their boat. He hopes that at some point and time there will be a fishing pier at the end of Windmill Point Road which would be far more conducive to fishing, but the county settled for a canoe/kayak facility which it not used a lot. He said he does not know a lot about the plan in place or the financial arrangement, but does feel the plan is a bit too much for what the county needs at this time. He stated the Robbins runs a clean shop, people seem to come and go safety and everything is available. The width of the road is a concern as two trailers hauling boats would be a problem.

Ken Sparks, lives at 80 Antipoison Creek, works in Washington DC since 1964 in a variety of jobs with one being in the Public Affairs Director at Office of Economic Opportunity. He stated he just heard about this issue a week ago. He commended to board on trying to get this project done in difficult economic times. He understands this goes back to the early 1970's when the board began discussing public access. He stated a well thought though partnership of this nature should have both a short and long term benefit to the county. After 20 years and \$1.5 million dollars, the county will have nothing to show for it and the short term benefits are questionable as the Georges do not have a business plan. There should be some specificity as to the clean up of the site, what type of amenities will be provided and have time lines in place. The lower end of the county does need public access but rethink this proposed project. He asked the board not to short change the citizens with a limited vision of what is needed. Possibly have a task force and report back to the board after six months.

Lloyd Hill, lives in White Stone stated he is in total support of this proposal for a boat ramp and fishing pier. He believes that a number of the

citizens in attendance who are opposed to this proposal are because they already have access to the water. The inland citizens of Lancaster County deserve an opportunity to enjoy public access to state waters. The county prides itself in advertising the miles and miles of shoreline and then the citizens of the county are not able to get access the water. We have simply allowed too much time to go by and too many opportunities have been passed by. If the Board of Supervisors does not do it now then when, if not this place then where and if not this board then what Board of Supervisors will have the wherewithal to face up to the opposition and do the right thing. He said this is not a perfect plan, however; this plan is good enough. He wishes that all the neighbors had been notified of what was taken place and hear the proposal for the first time last month. But there will always be opposition whether it is the wild life being destroyed or the serenity of their peace and quiet neighborhoods being destroyed, we need to understand the Antipoison Creek is a working creek where big vessels enter and for some, 20 years is a lifetime. All the neighboring counties provide public access to their residents and visitors. He stated he was born here, joined the military and has fished all over the world and came back home and can't find a public pier to fish and something is wrong with that. He said he "would hate for perfection to be the moral enemy of good enough". Many opportunities have since passed and asked the Board of Supervisors to do the right thing and approve the proposed boat ramp and fishing pier. He said he is 69 years old, was born and raised here in Lancaster County and never had an opportunity to go to a public fishing pier. The money being spent may be a concern and many say education is expensive but try ignorance, recreational is expensive but try incarceration, so maybe by having a fishing pier, a father will get to know his children, maybe families come together more, we always talk about out people leaving the county and not coming back, maybe this can give them something to come back to. They will have a greater pride in their county and want to come back to something, what does the county offer to young people. As the concerns of the money being spent he does not see the same argument when the county contributes \$50,000 or 60,000 to the YMCA. What happens after 20 years, he hopes for better and healthier citizens. What

happens after 20 years, the youth are better adjusted. The money that the county contributes to recreational facilities hopefully means families will stay together; fathers will get to know the children better, keep youth out of incarceration and its money well spent. Again, he stated he supports the board's efforts and hopes they do not give into the desires of the opposition because this plan is good enough.

Lee Stephens said he was speaking on behalf of his client Charles Marchetti who has lived on Antipoison Creek for 30 years. There are some concerns with the public/private partnership after studying the materials. He could not find the authorization where the county could enter into a public/private agreement. He said the Virginia Procurement Public Act which requires any government entity entering into something with a private party to have public comment. He also review the Virginia Private/Public Education and Infrastructure Act of 2002 he does not believe that people are saying don't put it here, but if it goes here it should go through a process. Before a qualified project can be approved, a public/private Advisory Board has to be set up to review the project such as the permit review process and financial plans. In essence, a full business plan needs to lay out for the board and public. He asked the board to table the decision until there has been an opportunity to review this issue.

Kyle Willfork, who lives at 256 Fisherman Bend Road, has lived there for about 17 years and has had a boat since he was two years old and has been boating for about 50 years. Everyone should have an opportunity to fish off a pier, but at what point and who will determine boat traffic. For 90% of boaters, including those with smaller personal water craft, the length of the western part of the creek has become the "turning basin" and since most boaters can not make a 180 degree turn at speed, this is something that most of the residents on Antipoison Creek have become used to. The time and use of the ramp and pier usage which will mostly be summer, early fall, late spring and weekend and Antipoison Creek water level rises dramatically during times when the winds are out of the north/north east. Most docks on this creek are basically at sea level

during these periods, Little Bay and Fleets Bay can actually be white capping while the creek can be at a dead calm. If the weather is less than perfect then it does not take much for that to happen, then beach goers and recreational boaters and fishermen become trapped inside the creek with nowhere to go but to burn gas and run up and down the creek. He stated he is not denouncing the good intent of the county over the property rights of the lessor to improve his property, its just not practical for this proposed located.

Bob Glaze, lives at 160 Blue Fish Road on Antipoison Creek stated he has listened to both the pros and cons and simply has to ask why, why there, and why now. The creek is not that large, you can see four or five boats going in and out, some on a runabout and some jet skis. The creek is already crowded, why invite more. Let's think about the future. He said he has traveled the state and there are people without jobs, people losing their homes and people with no health insurance. Why spend money for pleasure use when it could be put to better use.

Donald McLain, an Antipoison Creek resident, said people should not be deprived of the pleasure of having access to the water. Already on the creek especially on weekends, there are terrible things, such as boaters racing back and forth, with increased boating activities there will certainly have to be an increase in law enforcement. There is already a lot of wake and distress of the shoreline. As the board looks toward the future he hopes the board includes marine police. He said people using the Robbins location are generally not from here and very often go out to Pirates Island (i.e. Cedar Island or North Point) and more traffic there will be, the more debris will be left on the beach. The goal of this board is a commendable one to provide recreational access to the water for all citizens, but consider all the things that will come along with it, such as policing, pollution, trash and fuel tanks.

James Vick stated he lives at the upper end of the county and does not oppose the boat ramp or fishing pier, but does have concerns about the cost. The

cost to lease the property over 20 years is \$1.3 million dollars and asked why not just purchase property. He said if the county purchased property at a cost of \$400,000, building a 5' dock for \$1 a foot, build a 300' pier for \$90,000 and can do all the development for half the cost of \$1.3 million dollars. His next concern is the fishing pier and this pier would be at the end of a mud creek. He said Belle Isle State Park built two fishing piers and the piers are not used because they were placed on the wrong side of the park. The piers should have been built on the river side of the park, but they did it the cheapest way not the best way.

Clyde Thomas said he currently lives in Richmond but hope to become a resident of Lancaster County as he has purchased property adjacent to this proposed project. He believes the county should have public access. The proposed project is a classic example of a much needed project but some say "not in my back yard". There have been good points from both sides. He said for obvious reasons he would prefer that it be somewhere else, but believes it a great deal and needs to happen in the best place possible. He stated he opposes the location but not the plan.

Donald Downs has a residence at 85 Camp Drive in Foxwell known as Camp Little Bay and stated his father was a waterman. He believes the location and cost is all wrong. He said there is a for sale sign at Camp Little Bay which could be a better location. He thinks that a task force should be formed with knowledgeable individuals for implementing such a plan. There is a great need for public access but the proposed location does not support the plan. He said Antipoison Creek is not a desired location to go fishing because there are no game fish. Again, he stated there is a great need for public access but believes the board should look at other options.

C.D. Hathaway stated he and his family live on a wooded lot off Taylors Creek Road near Weems. In September 2001 the State of Virginia recognized public access to its waterways as a concern and drafted its 2001 Virginia outdoors

plan. The following April, Essex, Gloucester, King and Queen, King William, and Mathews Counties along with the Towns of Tappahannock, Urbanna and West Point entered into the Middle Peninsula Chesapeake Bay Public Access Authority to acquire their own land and manage public access within that region. Lancaster County should have responded to the issue of public access to its waterways years ago before land values soared and property was heavily developed along its shores. His research shows that Middlesex County has 8 public access points, Northumberland County has 10 public access points, Mathews County has 13 public access points and Westmoreland has 6 public access points spread evenly throughout their counties and Lancaster County has one which is on Greenvale Creek. The county was fortunate to receive fees from a federal stimulus package to dredge Greenvale Creek, but how long will it be before the creek is closed again. Some members of the public want to include Belle State Park as a public boat ramp but that is not accurate, in addition to the parking fee there is a launch fee. He agreed that he is perfectly content paying the \$8 to launch his boat from the Robbins' on Antipoison Creek, but what happens if the Robbins sell or no longer wish to allow the public to use their ramp. He said Chesapeake Boat Basin is a nice facility but one would have to back down a narrow, crooked ramp, drive back to the other side of the grainery and walk back. He said Gaskins ramp in Irvington has too little parking. There has been some concern about the road leading to proposed location is not accurate, he can not think of any secondary road in the county that is as suitable as Windmill Point Road. The proposed location has been a port for commercial fishing vessels and across the creek two commercial fishing vessels regularly tie-up to unload at the Pride of Virginia. He said he can not speak to the environmental impact, however; no matter what the location, there will be objections. He stated he does not care if a boat ramp is built at this location or not, but there must be public access available in the southern end of Lancaster County. Someone has to be the voice for residents who pay taxes in Lancaster County but don't live on the water; this board should be that voice.

Dana Gilmore said in order to make the voucher system work, the current existing marina owners must agree, administratively that would be a headache (who will distribute the vouchers and maintain the inventory). He stated the last two Comprehensive Plans over the last eleven years have said there is a need for public access and it has not happened yet. This seems to be an ideal location, the zoning is appropriate, will provide access and recreational opportunities to at least 11,000 within the county and majority of whom do not have that access. What the county is doing is simply contracting out for recreational opportunity, but doing in this fashion and not hiring another county employee, the county is not locked in to more personnel cost. If the source of funds is an easy solution, the county has been contributing \$75,000 to the YMCA for years, they service a relatively small portion of the citizens of this county, cut the funding from \$75,000 to \$60,000 which would pay this bill and still giving the YMCA funding as, technically, this a faith based organization.

Lee Anne Washington said she has lived here on and off since she was 12 years old. She said she remembers the day when there was a lot of private property available for public use but are is longer available. Public access is desperately needed because many citizens in Lancaster County do not have access. As a member of the White Stone Town Council and citizen member of the Northern Neck Public Access Authority, she realizes it is difficult for any governing body to find property available for public access, for some of the very reasons mentioned such as no one wants to live near a public boat ramp and/or no one wants to have their beach used by the public. She can not say whether or not this is the perfect piece of property or best pier of property but she commended the Board of Supervisors for finding a piece of property. She is delighted to see so many citizens attending the meeting to talk about the need for public access and discuss their concerns and ideas. She does encourage the board to put together a citizen board like the Northern Neck Public Access Authority and gather more information and ideas. Possibly get people competing into the

purchase of property. She said she has heard a lot of the pros and cons and stated the Board of Supervisors has done a great job.

Chairman Russell closed the public comment session.

Mr. Beauchamp thanked all the citizens who attended and there were some excellent comments. He stated it's a difficult decision and strongly support public access and has served on this board for 12 years. The board has been trying to find public access for citizens and it needs to be done. Again, he stated he strongly supports public access, but in light of Commonwealth of Virginia budget cuts to the localities, this issue needs to be carefully reviewed.

Mr. Beauchamp made a motion to table the proposed public access in order to further review the information and digest some of the comments and suggestions.

Mr. Geilich said the \$1.38 million being discussed is over a 20 year period, but to have public access the county we will have to spend out some money. If the county purchased property on the water at a suitable location at a cost of approximately \$750,000 plus \$250,000 to build the infrastructure for a cost of \$1 million dollars at 4.5% interest, it equals \$45,000 per year multiplied that by 20 years equaling \$900,000. If the county owns the facility there is a cost of maintenance at approximately \$5,000 per year which is a low estimate. If the county owns the facility it has to hire staff. In order for the county to purchase property, build the infrastructure, staff and maintain the cost would be well over \$2.2 million over 20 years which are conservative numbers. As others have already noted, the county makes annual contributions \$75,000 to the YMCA, \$15,000 and to the Boys and Girls Club. In addition, the county has donated \$200,000 to Dream fields all for recreational purposes for the citizens because the county does not have a recreational facility like a lot of other localities. There will be moderate tax increases and the added enjoyment of public access for all

the citizens of the county is priceless. There was a task force formed in 2002, nothing happened and he does not believe that is the way to go. This works out to about \$6 per citizen per year of the 20 year period, which comes out to be about the cost of a first class stamp per month. He said he is not a boater or fishermen but would he be willing to pay the cost of first class stamp for fellow citizens to enjoy public access.

Mr. Jenkins said he has also noted the comments about the county contribution to the YMCA, Boys and Girls Club and Dream fields but there is a sufficient difference because those organizations are private non-profit. If they were to change in any way their assets have to go to a similar organization. The difference with this partnership is at the end of the 20 years and benefits will go the property owner. He said he has been working to try to figure out if this is a good deal and does not have a good feeling, but it is clear that the deal is how much it would cost to run, maintain and staff the facility. Clearly, a responsible business case to be made, that purchasing a piece of property and investing approximately \$275,000 to build an infrastructure, without the need to maintain it would be much cheaper on a 20 years basis and the property and improvement become assets of the taxpayers of the county. He questions whether a fishing pier belongs on Antipoison Creek because a fishing pier needs to be located where there are fish. He said he supports the motion to table this issue.

Mr. Geilich suggested that this board agree to move forward with this proposed project and, as a board, continue to discuss this issue some of which will be in closed session because contract issues are being discussed. As a whole board we need to come up with a better plan and come back in public session and discuss the merits of what the board has come up with, tabling this issue would be too negative and we need to keep this process moving. He said this has been one of the best sessions the board has even had by getting comments and suggestions, however; we as board members represent all citizens of Lancaster County not just in our respective districts.

Mr. Palin stated he has received a number of emails, phone calls, and letters and heard all the comments. There are some expressed concerns about the proposed 20 year lease to provide public access to the state waters for the inland citizens of Lancaster County. He will answer those concerns by stating the following: the provision of public recreation opportunities require some investment of county funds. For instance, the count devotes \$75,000 per year for the YMCA to provide recreation for youth, the Boys and Girls Club is currently receiving \$15,000 per year to provide services for our youth, and in the past Lancaster County has contributed \$200,000 to the Youth Club for Dream Fields. What does the county own as a result of these investments? At the end of this proposed 20 year lease, the county could end up with the same return as from the YMCA, the Boys and Girls Club, and the Youth Club for Dream Fields which are recreational opportunities for both the youth and families. This agreement would be renewed because of the mutual benefit of this public access to the state waters and to the lessor.

Mr. Palin stated a number of people were concerned with trash, loud noise and confusion. When he hear those buzz words this paints a picture in his mind that you are talking about a certain group of people and that will be the case. Wherever or whatever you do there will always be something negative to arise, but there are ways to handle those issues. After hearing the comments he believes that everyone agrees that public access is certainly needed, but the main concern is not in this neighborhood, if not in your neighborhood where? Because no matter where a location is, it will be in someone's neighborhood. If we said because now is not the time, when will be the right time? Public access has been an issue for this county since the early 1970's. There have been advisory boards and task forces formed over the years. He said Fred Adjootan served on an advisory board and one of his comments is - what are we going do and when are we going do it. When are we going to stop talking and do something about it? Finally, we are moving forward on doing something about public access to the

water for people who live inland. There are not too many people in attendance at this meeting who live inland, so he is speaking on behalf of that silent majority.

Mr. Palin stated over 97% (approximately 258 miles) of land adjacent to tidal shoreline in Lancaster County is privately owned land. The April 1994 Lancaster Shoreline Inventory conducted by the Northern Neck Planning District Commission found that there were 2,713 residential parcels In Lancaster County. But by 2004 (U.S. Census Bureau) there were 6,854 dwelling units in Lancaster County. This growth has occurred primarily on the shoreline. As more land is devoted to residences, less land is available for other uses.

He said the large majority of access to the state waters in Lancaster County is private. These are some of, not all of, the same people who oppose public access to the state waters. Private access includes private waterfront, private boat ramps, private piers, private docks, private boathouses, and private beaches. Impacts of private access to the water can clearly be seen in the results of the June 2001 Lancaster County Shoreline Situation Report. The inventory shows there are 1,690 private piers in the waters of Lancaster County, and is now estimated to be over 1,750 private piers.

He stated the majority of these piers are located at residential parcels along the shoreline. These property owners are guaranteed rights to access state waters, but some oppose this same access for inland citizens. These private piers are often used for long-term boat mooring, not just for day use of boats. The cumulative effect of high pier densities and long-term boat mooring can result in decreased water quality within that body of water. The proposed public access to the state waters can be beneficial in that an in-out ramp as opposed to long-term mooring at private piers helps to minimize the negative impacts on the water from boating.

Mr. Palin said in the past, much of the general public was able to access state waters through informal arrangements. This is no longer the case. Access has become very limited for non-waterfront residents. Currently, there is not one public pier for fishing in Lancaster County, but Lancaster County has a number of private piers from which one could fish.

Mr. Palin stated of the two public boating access sites, Greenvale is located away from the majority of the population in Lancaster County, and is not near the Chesapeake Bay. Future opportunities to expand the variety and the number of public access sites in Lancaster County are jeopardized by the expanding use of shoreline for residential purposes, and could become nonexistent in the future, which is why we must do something now.

Mr. Palin stated the average Tidewater County has approximately four public boat ramps and eight total public access sites to the water. Lancaster County has Greenvale Creek Public Boat Landing, Windmill Point's 50' beach area in the approximate 258 miles of waterfront, the Windmill Point Canoe/Kayak Launching Facility, and not one public fishing pier. This is why it is of utmost importance to approve this public/private partnership that will provide public access to the state waters for our inland citizens.

Mr. Beauchamp said he did not mean his motion to be negative, he meant to consider everything. He is in full support of public access, but just believes we need to consider some comments and suggestions given at this meeting.

Dr. Russell thanked all the citizens for attending the meeting and will be the first to admit that the process may have been lacking in some ways. He said when he puts this in perspective, this is about community development and enhancement. When you talk about community development and enhancement you talk about improving the lives and opportunities of people in this community. When he ran for the Board of Supervisors three years ago he was concerned about

the Comprehensive Plan and meeting some of those goals. He said one goal of the Comprehensive Plan was to provide public access to the water. We have been blessed with a beautiful county surrounded by water and we have visionary leaders in this county and some great community organizations. As result of that visionary leadership, the county has the YMCA, the Boys and Girls Club, the Free Health Clinic, Dream Fields, Bay Transit, etc. Those visionary leaders did not do things without getting a lot of opposition, but those things that were accomplished are now a source of pride. The one thing we all must remember is that no one has to move to Lancaster County, but what draws people here is the beautiful and good quality of life. He stated he believes in the culture of the community and he was elected to serve, not just his district, but the county as a whole and that is what he intends to do. He said we need to do something and now is the time. The proposed cost annually is \$5,000 which may equal a .2% of the county budget. We are all in the same boat.

Mr. Beauchamp made a motion to refer this matter to a committee of the whole on Proposed Public Access – Chesapeake Bay in order to further review the information and process some of the comments and suggestions.

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

## **PRESENTATIONS**

None

## **VIRGINIA DEPARTMENT OF TRANSPORTATION**

None

## **PUBLIC HEARING**

1. Northern Neck Broadband Authority – Mr. Pennell said the Northern Neck Planning District Commission and the Northern Neck – Chesapeake Bay Region Partnership have voted to recommend to the Board of Supervisors of the Northern Neck counties that a Northern Neck Broadband Authority be established in order to manage broadband resources that may result as part of an ARRA (Stimulus) Grant for which application was made on behalf of the Northern Neck and Middle Peninsula counties.

Mr. Pennell stated this action has/is being presented to each of the Board of Supervisors of the Northern Neck counties. As of this date Northumberland County, Richmond County and Westmoreland County have approved the establishment of a regional Broadband Authority. For some time, a subcommittee of the Region Partnership “NeckTech” has endeavored to be in the forefront of broadband access issues in the Northern Neck. The establishment of a Broadband Authority will take the next logical step in the development of government oversight of the acquisition of regional broadband infrastructure.

Mr. Pennell said at the public hearings held in the aforementioned counties, the Board of Supervisors received public inquiry as to the dates and techniques by which broadband access to their homes/business may be provided. **The broadband authority is not for this purpose.** The authority is intended to manage the resources that will be obtained as a result of an ARRA Broadband Grant, if approved. It is the method by which local governments can assure all interested broadband providers have equal access to the infrastructure. The authority also manages the public/private partnerships that have been/will be developed to encourage the U.S. Department of Agriculture and U.S. Department of Commerce to approve the grant application.

Mr. Pennell said in addition to the draft resolution, he provided the board with two documents prepared by Mr. Jeffrey S. Gore, Hefty & Wiley, P.C., an attorney with experience in this subject, who has been hired to assist the Planning District Commission and Economic Development Partnership. The *Northern Neck Broadband Authority – Issues for Consideration by the Lancaster County Board of Supervisors and Wireless Service Authorities and the Virginia Wireless Service Authority Act* should prove help in your consideration of this request.

Chairman Russell opened the public hearing.

Mr. Gore stated Richmond, Westmoreland and Northumberland Counties have already conducted their public hearings and approved the concurrent resolution. He said state law requires a public hearing before the resolution can be acted upon. If the Board of Supervisors approved this resolution the paperwork will be filed with the State Corporation Commission and get the authority “official.” However, there is no business at the point until we find out what happens with the federal stimulus application that was filed by the Northern Neck Planning District Commission on behalf of the four counties of the Northern Neck and the six Middle Peninsula counties. This authority is an entity that would allow the four counties to jointly manage any network that is deployed and allow them to negotiate contracts with private providers and/or own and operate all or part of the network. The only commitment being made with the approval of the resolution is to approve the formation of the authority. The authority would be run by the board that is appointed which includes the county administrator from each of the four counties and one at-large member. The goal is to get broadband throughout the four counties and even down to the middle peninsula. There is no financial obligation. The authority can then appoint any Technical Advisory Committee(s).

Mr. Jenkins asked if this entity once formed have any taxing authority under the Code of the Commonwealth.

Mr. Gore said they cannot impose any taxes but can impose fees and incur debt.

Mr. Jenkins asked if there was any provision for the removal of an appointed member before their term expires.

Mr. Gore stated that is set out in statute and could be incorporated in the by-laws and terms can not exceed four years.

Mr. Foulkes asked who manages the network

Mr. Gore said the authority would have to go through a procurement process that would go out for bid and that has not been set at this point.

Mr. Foulkes asked would this be to run and/or manage the fiber.

Mr. Gore said it could be multiple companies because the goal is to have an open access fiber network that is managed by an entity but also other providers that want to provide services on that fiber.

Mr. Foulkes asked what about the build out of fiber which is for ISP and businesses? He asked who incur the cost of \$32,000. There are a lot of funds being requested to build out when the services are already here and available. Why do we need this and what will this do for the county.

Mr. Gore stated there was a needs assessment completed with state grant money the counties obtained, which was done over the last two years.

Joe Urban said Lancaster County may not need this but what about the other counties included. He said he used to build networks but we don't know what we are getting into at this point. He stated he reviewed the report and

reports of other authorities. When they got to the point of the final study they had real business plans and we do have a business plan. The Lancaster Community Library was just upgraded and we pay exactly for DSL in Kilmarnock that they pay in Richmond. The problem is that the studies are two years out of date. Other areas had a firmer plan and there is no incentive.

Mr. Pennell stated this public hearing is only to establish the Broadband Authority which will look into those very issues.

Dr. Russell stated we need an authority to get the money and the answers.

Jerry Davis, Director of the Northern Neck Planning District Commission said the counties and committees that have been involved for a number of years have been focused on broadband for some time. The last two years they have been involved in a formal planning study under the direction of the Commonwealth of Virginia and its broadband planning effort. He said two years ago no one envisioned there would be money available to actually implement a plan. The whole purpose is to build an open access system in the Northern Neck-Middle Peninsula.

Dr. Russell asked where and how will the money be spent?

Mr. Davis said to run the backbone of fiber optic within all the counties and there will be some towers strategically located so that the last mile providers can access the backbone.

Mr. Urban said he does not understand the term “open access” and how it applies to fiber optic network.

Mr. Davis stated open access means that anybody and any service provider the service can be sold to everyone that want it.

Mr. Urban said you are selling a package without all the facts.

Mr. Pennell again stated the purpose of this public hearing is to form a Broadband Authority.

Mr. Pleasants said once a Broadband Authority is established, and then form sub-committees.

Chairman Russell closed the public hearing.

Mr. Geilich made a motion to adopt the Resolution and authorize the Chairman of the Board of Supervisors to sign the concurrent resolution.

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

2. Amend Article 8 of the Zoning Ordinance to revise permitted uses in the C-1, Commercial District – Mr. Gill presented request to amend Article 8 of the Zoning Ordinance to revise permitted uses in the C-1, Commercial District. Revisions are in the form of deletions and modifications to permitted uses and are intended to make permitted uses more consistent with the spirit and intent of this zoning district.

Mr. Gill said the Comprehensive Plan requires the Planning Commission to review the permitted uses in each zoning district to verify that the permitted uses are compatible with the intent of each zoning district. As you will recall, the Agriculturally zoned A-1 and A-2 Districts were reviewed and changes were recommended, forwarded and passed by the Board of Supervisors in December

2007. The Residentially zoned R-1 and R-3 Districts have also been reviewed with no changes recommended. He provided the Board of Supervisors with the revised C-1 Commercial District ordinance with the recommended changes. The changes include removing the special exception from post offices in Section 8-1-31, adding “pet store” in Section 8-1-36 and deleting Section 8-1-37, which was a duplicated “church” permitted use. Text additions are in bold print and deletions have been lined through. Applicable Planning Commission meeting minutes were provided to the board for their review.

Mr. Gill said this issue has been advertised as required by law. To date, there has been no input from the public

Chairman Russell opened the public hearing.

Hearing no comments, Chairman Russell closed the public hearing.

Mr. Geilich made a motion to Approve and Amend Article 8 of the Zoning Ordinance to revise permitted uses in the C-1, Commercial District as presented.

## ARTICLE 8. COMMERCIAL, DISTRICT C-1

### Statement of Intent

Generally this district covers those areas of the county intended for the conduct of general business to which the public requires direct and frequent access, but which is not characterized either by constant heavy trucking other than stocking and delivery of light retail goods, or by any nuisance factors other than occasioned by incidental light and noise or congestion of people and passenger vehicles. This includes such uses as retail stores, banks, theaters, business offices, restaurants and taverns, and garages and service stations.

#### 8-1. Use regulations.

In business district C-1 structures to be erected or land to be used shall be for one or more of the following uses:

- 8-1-1. Retail food stores.
- 8-1-2. Bakeries.
- 8-1-3. General stores.
- 8-1-4. Dry cleaners.
- 8-1-5. Laundries.
- 8-1-6. Wearing apparel stores.
- 8-1-7. Drug and variety stores.
- 8-1-8. Barber and beauty shops.
- 8-1-9. Home appliance sales and service.
- 8-1-10. Theaters, assembly halls.
- 8-1-11. Hotels, motels, tourist homes.
- 8-1-12. Office buildings, business offices, and banks.
- 8-1-13. Churches.
- 8-1-14. Libraries.
- 8-1-15. Hospitals, general.
- 8-1-16. Funeral homes.
- 8-1-17. Printing offices.
- 8-1-18. Restaurants.
- 8-1-19. (Repealed 12-4-92.)
- 8-1-20. Service stations (with major repair under cover).
- 8-1-21. Clubs.
- 8-1-22. Auto sales and service.
- 8-1-23. Lumber and building supply, farm and home supplies.
- 8-1-24. Contractors' equipment storage yards.
- 8-1-25. Plumbing and electrical supply.
- 8-1-26. Retail, wholesale and processing activities not objectionable because of dust, noise or odors.
- 8-1-27. Machinery sales and service, welding and machine shops.
- 8-1-28. County-sanctioned public facility.

- 8-1-28A. Public utilities.
- 8-1-29. Offstreet parking as required by this ordinance.
- 8-1-30. Public billiard parlors and pool rooms, bowling alleys, dancehalls, and similar forms of public amusement, with a special exception.
- In approving any such application, the board of supervisors may establish special requirements and regulations for the protection of adjacent property, set the hours of operation, and make requirements as it may deem necessary in the public interest.
- 8-1-31. Post office, ~~with a special exception~~.
- 8-1-32. Major recreational equipment in accordance with article 19 of this ordinance.
- 8-1-33. Miniwarehouses.
- 8-1-34. Horticultural nurseries and greenhouses with garden supplies.
- 8-1-35. Child care or day care centers.
- 8-1-36. Veterinary hospital and/or kennel **or pet store**.
- ~~8-1-37. Churches.~~
- 8-1-38. Disposal of dredge spoils, with a special exception.  
(Ord. of 7-25-91; Ord. of 12-4-92; Ord. of 2-25-93; Ord. of 1-25-96(1); Ord. of 11-28-05(1))
- 8-2. Requirements for permitted uses.
- 8-2-1. For permitted uses utilizing individual sewage disposal systems, the required area for such shall be approved by the health official. The administrator may require a greater area if considered necessary by the health official and approved by the board of supervisors. Conditional septic disposal system permits which limit the use of the subject property to a specified portion of the year are hereby strictly prohibited.  
(Ord. of 1-30-92; Ord. of 2-4-92; Ord. of 8-94)
- 8-3. Setback regulations.

Buildings shall be located 40 feet or more from the centerline of any street or road right-of-way, but in no event less than 15 feet from the edge of the right-of-way. This shall be known as the "setback line."

#### 8-4. Yard regulations.

For permitted uses, the minimum side yard adjoining or adjacent to a residential or agricultural district shall be ten feet, and offstreet parking shall be in accordance with the provisions contained herein.

#### 8-5. Height regulations.

Buildings may be erected up to 35 feet in height from grade, except that:

8-5-1. The height limit for buildings may be increased up to 45 feet and up to three stories if approved by the board of supervisors.

8-5-2. A public or semipublic building such as a school, church, library, or general hospital may be erected to a height of 60 feet from grade, subject to such conditions deemed necessary by the board of supervisors.

8-5-3. Church spires, belfries, cupolas, monuments, water towers, chimneys, flues, flagpoles, television antennae, and radio aerials are exempt. Parapet walls may be up to four feet above the height of the building on which the walls rest.

8-5-4. No accessory structure which is within ten feet of any property lot line shall be more than one story high. All accessory structures shall be less than the main structure in height.

#### 8-6. Sign regulations.

Sign regulations shall conform to article 11 of this ordinance.

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

3. Amend Article 8A of the Zoning Ordinance to revise permitted uses in the C-2, Commercial Limited District – Mr. Gill presented the Amended Article 8A of the Zoning Ordinance to revise permitted uses in the C-2, Commercial Limited District. Revisions are in the form of deletions and modifications to permitted uses and are intended to make permitted uses more consistent with the spirit and intent of this zoning district.

Mr. Gill stated as previously stated, the Comprehensive Plan requires the Planning Commission to review the permitted uses in each zoning district to verify that the permitted uses are compatible with the intent of each zoning district. He provided the Board of Supervisors with the revised C-2 Commercial Limited District ordinance with the recommended changes. The changes include adding post offices as a permitted use in Section 8A-1 and deleting it from Section 8A-1-7 where a special exception was required. Also, in Sections 8A-1-1 and 8A-1-2, the 2,000 square footage limitation has been eliminated and in Section 8A-1-8, the 5,000 square footage limitation has been eliminated. Text additions are in bold print and deletions have been lined through. Applicable Planning Commission meeting minutes were also provided to the board for their review.

Mr. Gill said this issue has been advertised as required by law. To date, there has been no input from the public.

Chairman Russell opened the public hearing.

Hearing none Chairman Russell closed the public hearing.

Mr. Jenkins made a motion to Approve and Amend Article 8 of the Zoning Ordinance to revise permitted uses in the C-1, Commercial District as presented.

## ARTICLE 8A. COMMERCIAL, LIMITED, DISTRICT C-2

### Statement of Intent

This district is intended to provide areas near present and future residential areas where groups of small retail and service establishments may be appropriately located to serve the needs of local residents. It is the intent of this zoning district to allow only commercial establishments of limited floor size, which would not produce excessive or offensive dust, noise, or odor. Businesses permitted within this district are required to conduct all aspects of their operations enclosed under roof.

(Ord. of 12-4-92)

#### 8A-1. Use regulations.

In commercial, limited, district C-2, structures to be erected, limited to 4,000 square feet of floor area, to be used for one or more of the following uses:

General businesses, enclosed; under roof; having no outside storage; as follows:

1. Antique shops, and art galleries.
2. Appliance sales and service.
3. Banks, savings and loan, finance, professional offices, and consultant offices.
4. Barber and beauty shops.
5. Bookstores, stationery and office supply stores.
6. Building contractors.
7. Camera and photography sales and service.
8. Drugstores.
9. Exterminating companies sales and service.
10. Furniture stores, and carpet stores.

11. Hardware, paint, floor covering and fabric stores.
12. Hobby and craft shops.
13. Insurance agencies.
14. Interior decorating and home improvement stores.
15. Jewelry and gift shops, sales and service.
16. Locksmiths.
17. Mail order and catalogue stores.
18. (Repealed 12-4-92.)
19. Music stores.
20. Optical sales and service.
21. Plumbing, electrical, heating and air conditioning sales and service.
22. Printing and framing shops.
23. Real estate sales offices and other brokerage sales offices.
24. Retail grocery and food stores.
25. Retail lawn and garden and plant and flower sales.
26. Sporting goods stores.
27. Swimming pools sales and service.
28. Television and radio sales and service, stereo sales and service.
29. Travel agencies.
30. Wearing apparel stores and shoe stores.
31. Major recreational equipment in accordance with article 19 of this ordinance.
32. Public utilities.
33. County-sanctioned public facilities.

34. Horticultural nurseries and greenhouses with garden supplies.
35. Disposal of dredge spoils, with a special exception. (Ord. of 1-25-96)
36. Churches

### **37. Post Office**

Special exceptions. General businesses, enclosed; under roof; having no outside storage; with a special exception; as follows:

8A-1-1. Coin-operated laundry and dry cleaning, ~~limited to 2,000 square feet of floor area~~.

8A-1-2. Restaurants, excluding drive-in type, ~~limited to 2,000 square feet of floor area~~.

8A-1-3. Automobile repair, farm vehicle repair, including sale of gasoline, and other farm-related repair shops limited to 2,000 square feet of floor area.

8A-1-4. Child care or day care center.

8A-1-5. Club.

8A-1-6. Offstreet parking as required by this ordinance.

#### **~~8A-1-7. Post office.~~**

8A-1-8. Veterinary or dog and cat hospital and/or kennels ~~limited to 5,000 square feet of floor area~~.

8A-1-9. Marine sales and service.

(Ord. of 7-25-91; Ord. of 12-4-92; Ord. of 1-25-96(1))

8A-2. Requirements for permitted uses.

8A-2-1. For permitted uses utilizing individual sewage disposal systems, the required area for such shall be approved by the health official. The administrator may require a greater area if considered necessary by the health

official and approved by the board of supervisors. Conditional septic disposal system permits which limit the use of the subject property to a specified portion of the year are hereby strictly prohibited.

(Ord. of 1-30-92; Ord. of 2-4-92; Ord. of 8-94)

#### 8A-3. Setback regulations.

Buildings or structures, excluding signs, shall be located no less than 60 feet from the nearest edge of the right-of-way of any street or road. This shall be known as the "setback line."

#### 8A-4. Yard regulations.

For permitted uses, the minimum side yard adjoining or adjacent to a residential or agriculture district shall be ten feet and offstreet parking shall be in accordance with the provisions contained herein.

#### 8A-5. Height regulations.

Buildings may be erected up to 24 feet in height from grade, except that:

8A-5-1. Chimneys, flues, flagpoles, television antennae, and radio aerials are exempt. Parapet walls may be up to four feet above the height of the building on which the walls rest.

#### 8A-6. Sign regulations.

Sign regulations shall conform to article 11 of this ordinance.

### ROLL CALL

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

4. Amend Article 1 of the Zoning Ordinance to include a Definition of “Windmill” –

Mr. Gill presented the Amended Article 1, Definitions, of the Zoning Ordinance by adding the following definition:

*Windmill – A small, latticework mill or machine operated by the wind, usually acting on oblique vanes or sails that radiate from a horizontal shaft, serving a single function as a dedicated energy source for a wind-driven water pump or electric generator. This definition does not include wind turbines.*

Mr. Gill stated he has had two requests from different landowners inquiring about the placement of windmills/wind turbines on their property. Given the current concern for alternative energy sources and our county's favorable coastal location for winds capable of powering a windmill/wind turbine, these requests could become common in the future. The requests to date have been for single windmills/wind turbines 30-40 feet in height to generate electrical power for individual needs, with excess power sold back to the power company.

Mr. Gill said currently, a “*windmill*” is only permitted, with a special exception, in the R-1, Residential General District. *Wind turbines* are not specifically permitted in any zoning district. Neither windmill nor wind turbine is defined in our zoning ordinance. The Planning Commission has determined that there *is* a difference between a windmill and a wind turbine. Further research and study of wind turbines is necessary to have control over controversial issues such as height or how large a potential “wind farm” could be.

Mr. Gill stated the discussion at previous months' Planning Commission meetings determined that the first step in this windmill/wind turbine issue was to define a typical “*windmill*” since it was already permitted, but not defined in our Zoning Ordinance. A definition for “*wind turbine*” and a determination of which zoning districts each would be permitted would follow in the coming months. Applicable Planning Commission meeting minutes were provided to the Board of Supervisors for review.

Mr. Gill said this definition of “windmill” has been advertised as required by law. To date, there has been no input from the public.

Chairman Russell opened the public hearing.

Hearing none Chairman Russell closed the public hearing.

Mr. Palin made a motion to approve and amend Article 1 of the zoning Ordinance to include a definition of “Windmill” as presented to the Board.

#### ROLL CALL

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

#### **CONSENSUS DOCKET**

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

##### **A. Minutes for August 27, 2009 and September 10, 2009**

Recommendation: Approve minutes as submitted

|       |                      |     |
|-------|----------------------|-----|
| VOTE: | Jack S. Russell      | Aye |
|       | Ernest W. Palin, Jr. | Aye |
|       | Peter N. Geilich     | 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 September 2009 Salaries and Invoice Listings**

Motion was made by Mr. Beauchamp to approve the salaries for September 2009 in the amount of \$214,042.01 and Invoice Listings for September 2009 in the amount of \$676,579.03.

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

2. **Second Quarter, FY 2009-2010 Appropriation** – Mr. Larson

stated the Board of Supervisors needs to approve a second quarter (October 1, 2009 – December 31, 2009) appropriation for County and School Board operations in the amount of \$6,575,109.

Mr. Larson said with the exception of unplanned expenditures for storm operations and prisoner medical expenses, budget execution for the first quarter was within assigned limits and anticipated requirements. The Board of Supervisors is therefore being asked to approve one fourth of the total annual appropriation for the second quarter.

Mr. Larson stated recent additional cuts in anticipated state revenue, especially for constitutional officers, will force reductions in future quarterly appropriations unless the Board of Supervisors elects to fund shortfalls in state funding from the fund balance. He provided the board with a spreadsheet detailing the requested quarterly appropriation, which is a copy of the press release from last year when the Board of Supervisors was faced with the same

situation. It is recommended that a course of action similar to that underlined in the press release be approved for this year. It is also recommended that an extensive midyear review be conducted by the Board of Supervisors at the December regular meeting, or a special meeting in the third week of December when six months of revenue and expenditure data are available.

Mr. Beauchamp made a motion to approve the Second Quarter of the FY 2009 -2010 Appropriation in amount of \$6,575,109 for operation of the county and school board.

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

## **BOARD REPORTS**

None.

## **COUNTY ADMINISTRATOR**

### Juvenile Detention Commission Meeting

Mr. Pennell stated he would be out of the office on Friday, August 28, 2009 at Juvenile Detention Commission meeting at the Merrimac Center in Williamsburg.

### Out of the office

Mr. Pennell stated he would be on vacation from October 5 – 16, 2009 and Mr. Larson will be in charge.

## **ADJOURNMENT**

Motion was made by Mr. Geilich to adjourn to the meeting.

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