

VIRGINIA:

A meeting of the Lancaster County Board of Supervisors was held in the new Judicial Center of said county on Monday, November 29, 2010.

- 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

None

PRESENTATIONS

None

VIRGINIA DEPARTMENT OF TRANSPORTATION

Countywide Maintenance

Mr. Balderson said they were currently patching potholes and getting ready for any major snow event should that occur.

Mr. Balderson stated after two and a half years the Brookvale Station is fully staffed.

1. Resolution to Accept “Golden Tale Lane” into the State Secondary System of Highways – Mr. Gill stated VDOT requests a resolution from the Board to add “Golden Tale Lane” located in the Oestreich Subdivision in District 3 to the State Secondary System of Highways.

Mr. Gill said “Golden Tale Lane” is located in the Oestreich Subdivision off of Dungeon’s Thicket Road (VSH 645) as evidenced by the attached plat. VDOT has verified that “Golden Tale Lane” meets all the requirements for acceptance to the State Secondary System of Highways. The VDOT Form AM-4.3 assigns the designation of VSH 1085 to “Golden Tale Lane”.

Mr. Geilich made a motion to adopt the Resolution to Accept “Golden Tale Lane” located in the Oestreich Subdivision into the Virginia Secondary System of Highways.

RESOLUTION TO ACCEPT “GOLDEN TALE LANE” INTO THE VIRGINIA SECONDARY SYSTEM OF HIGHWAYS

WHEREAS, “Golden Tale Lane” in the Oestreich Subdivision in the Bayside Magisterial District, as described on the attached VDOT Form AM-4.3 fully incorporated herein by reference, is shown on a plat recorded in the Clerk’s Office of the Circuit Court of Lancaster County on October 21, 2010 at Instrument # 100002001 and Plat #138, 139 and 140, and

WHEREAS, the Residency Administrator for the Virginia Department of Transportation has advised the Board that “Golden Tale Lane” meets the requirements established by the Subdivision Street Requirements of the Virginia Department of Transportation, and

WHEREAS, Lancaster County and the Virginia Department of Transportation have a comprehensive agreement for storm water detention in Lancaster County through the Erosion and Sediment Control Law, Code of

Virginia Section 10.1-560 et seq, as amended, and the Chesapeake Bay Preservation Act, Code of Virginia Section 10.1-2100 et seq, as amended, adopted locally on July 31, 2008 and June 1, 2005 respectively.

NOW, THEREFORE BE IT RESOLVED, that the Lancaster County Board of Supervisors requests the Virginia Department of Transportation to add “Golden Tale Lane” as described on the attached VDOT Form AM-4.3, to the secondary system of state highways, pursuant to Section 33.1-229 of the Code of Virginia, as amended, and the Department’s Subdivision Street Requirements, and

BE IT FURTHER RESOLVED, the Board guarantees a clear and unrestricted right-of-way, as described, and any necessary easements for cuts, fills and drainage, and

BE IT FURTHER RESOLVED, that a certified copy of this resolution be forwarded to the Residency Administrator for the Virginia Department of Transportation.

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

VSH 641/Mosquito Point Road Speed Study Request

Mr. Beauchamp asked about the status on the VSH 641/Mosquito Point Road Speed Study request made at the October 28, 2010 meeting.

Mr. Balderson stated he had not received anything back on the request to date, but would follow up.

Merry Point Ferry

Mr. Beauchamp asked about the Merry Point Ferry because he had a concerned citizen stating they were at the ferry on three separate occasions and the ferry was not running.

Mr. Balderson stated the ferry was currently being operated by contractors and local people have been hired to run the ferry service. There has been no major break down of ferry service, however; the ferry does not run during extremely high or low tides.

PUBLIC HEARING

1. Application for Special Exception – Frank R. and Barbara M. Wood – Mr. Gill presented an Application for Special Exception by Frank R. and Barbara M. Wood to place an 80 foot data antenna/pole for wireless Internet access on a 2.114-acre parcel described as Tax Map #20E-1-154. This property is zoned R-1, Residential General and is located at 369 Lonesome Pine Trail in Heritage Point in District 1.

Mr. Gill said Article 5-1-23 of the Lancaster County Land Development Code allows the placement of data antennas with a special exception. This is a continuation of requests for special exception consideration to locate data antennae at various locations within the county to provide wireless broadband Internet access in areas lacking that capability.

Mr. Gill said there are no zoning issues with the location of this antenna/pole. It has the potential to serve many homes in the Heritage Point area.

Mr. Gill stated this request has been advertised and adjoining property owners notified as required by law. To date, staff has received 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 the Application for Special Exception by Frank R. and Barbara M. Wood to place an 80 foot data antenna/pole for wireless Internet access on a 2.114-acre parcel described as Tax Map #20E-1-154 located at 369 Lonesome Pine Trail in Heritage Point in District 1.

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. Beauchamp to approve the Consensus Docket with recommendations as follows:

A. Minutes for October 28, 2010

Recommendation: Approve minutes as submitted

B. Resolution for Northern Neck Boundary Integrity in the 2011 Redistricting Deliberations

Recommendation: Adopt the following resolution as submitted:

NORTHERN NECK – REDISTRICTING REQUEST

WHEREAS, the counties of Lancaster, Northumberland, Westmoreland and Richmond are a distinct community of interest known as the Northern Neck; and

WHEREAS, the Northern Neck has been defined as the land between the Potomac and Rappahannock Rivers since the mid-17th century; and

WHEREAS, it has been well documented that this area has historically been separate and distinct within Virginia because of its unique geography, bounded on the north by the Potomac River, the east by the Chesapeake Bay and the south by the Rappahannock River; and

WHEREAS, these counties have been in the same House of Delegates legislative district since 1962 and have always been represented in a single Virginia Senatorial and United States Congressional District; and

WHEREAS, the Northern Neck defines its needs not by political or county lines but by cultural values that extend through the communities and families of the region; and

WHEREAS, this region self-identifies as the Northern Neck with over 87 businesses and civic organizations listed in the local telephone book as being Northern Neck; and

WHEREAS, a “Google search” brings up over 360,000 unique references to this geographic region; and

WHEREAS, the counties of the Northern Neck share a Planning District Commission, a regional jail, an electric cooperative, a vocational school, a Soil

and Water Conservation District, a tourism council and numerous church and civic associations, and

WHEREAS, because this region has been represented by members of various political parties, keeping these counties within the same House of Delegates, Virginia Senatorial and United States Congressional district does not benefit one political party over another.

NOW, THEREFORE BE IT RESOLVED that it is the desire of the Lancaster County Board of Supervisors that it be kept entirely within the same Virginia legislative and United States congressional districts as the other counties of the Northern Neck.

C. Abstract of Votes – General Election – November 2, 2010

Recommendation: Accept the abstract of votes as submitted

D. Amend the Northern Neck Enterprise Zone

Recommendation: Adopt the following resolution as submitted:

AMEND THE NORTHERN NECK REGIONAL ENTERPRISE ZONE

WHEREAS, the Counties of Lancaster, Northumberland, Richmond and Westmoreland, and the Towns of Kilmarnock and Warsaw (localities) comprise the Northern Neck Regional Enterprise Zone; and,

WHEREAS, the localities have designated and authorized the Northern Neck Planning District Commission to serve as Enterprise Zone Program Administrator and to carry out all program administration and reporting requirements on their behalf; and,

WHEREAS, Westmoreland County and the Town of Kilmarnock propose to amend the enterprise zone areas to include and/or replace additional property as outlined on Attachments 1 & 2 to this resolution; and,

WHEREAS, Westmoreland County and the Town of Kilmarnock have conducted the required public hearings and adopted resolutions endorsing and authorizing the proposed amendment.

NOW, THEREFORE, BE IT RESOLVED THAT the Board of Supervisors of Lancaster County, Virginia, hereby endorses and approves of the proposed amendment to the Northern Neck Regional Enterprise Zone and authorizes the County Administrator to execute FORM EZ-2-JA.

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 November 2010 Salaries and Invoice Listings
Motion was made by Mr. Palin to approve the salaries for November 2010 in the amount of \$220,917.17* and Invoice Listings for November 2010 in the amount of \$884,565.54*.

*Judicial Center Expenses \$140,834.24

*Capital Improvements \$221,843.00

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

2. Waiver of Future Permit Fees – Interfaith Service Council – Mr. Pennell stated he received correspondence from Mrs. Jeannie Kling, President of the Lancaster/Northumberland Interfaith Council asking the Lancaster County Board of Supervisors for a blanket waiver of fees for construction permits for projects the council undertakes in Lancaster County. He said Mrs. Kling stated she would attend this meeting and present this issue. She was not present at the time this issue was brought forward.

Mr. Palin made a motion to table the Request for Waiver of Future Permit Fees for Interfaith Service Council.

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

Mrs. Kling arrived to make her presentation.

Mr. Palin made a motion to withdraw the tabling of Request for Waiver of Future Permit Fees for Interfaith Service Council.

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

F. W. Jenkins, Jr.

Aye

Mrs. Kling states that the Lancaster/Northumberland Interfaith Council is asking the Lancaster County Board of Supervisors for a blanket waiver of fees for construction permits for projects the council undertakes in Lancaster County. Those projects generally consist of roof repairs, wheelchair ramps, interior repair of problems putting the health and safety of the resident in jeopardy, windows and floor replacement. She stated that a majority of the citizens/clients are elderly or disabled. She said last year they built 17 wheel chair ramps, very few repairs because of the associated cost, lots of windows and floor replacements.

Mr. Pennell explained that they will still have to apply for the permit and get an inspection when required.

Mr. Geilich said the process will remain the same as they still have to apply for the permit and get inspections on the work if required. This request is only to waive the permit fees.

Dr. Russell made a motion to approve the Request for Waiver of Future Permit Fees for Interfaith Service Council.

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

Motion passed 3 – 2.

3. Oestreich Subdivision Road Bond Release – Mr. Gill presented a release of the road bond issued for “Golden Tale Lane” in the Oestreich Subdivision located off Dungeon’s Thicket Road (VSH 645) in District 3.

Mr. Gill said an \$86,634.50 cash bond (Plus accrued interest since 11/7/10) is currently held by the County to guarantee the construction of this subdivision road to VDOT specifications. VDOT has verified that “Golden Tale Lane” meets all the requirements for acceptance to the State Secondary System of Highways with the issuance of its Form AM-4.3 which was provided to the Board of Supervisors for their review, which assigns the designation of VSH 1085 to “Golden Tale Lane”. The Board of Supervisors approved and adopted the resolution accepting “Golden Tale Lane” into the State Secondary System of Highways. With the passage of that resolution, the bond can now be released.

Mr. Geilich made a motion to Release the Oestreich Subdivision Road Bond issued for “Golden Tale Lane” designation of VSH 1085 located off Dungeon’s Thicket Road.

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

4. Modification of Wood and Wood Waste Disposal Contract – Mr. Larson requested the deletion of the provision for “wood waste” disposal in the current contract with R.L. Self Timer, Incorporated. All other provisions such as disposal of wood (brush, natural debris) and tires will remain the same.

Mr. Larson said wood waste as defined in the subject contract is intended to mean lumber scraps, rotten finished wood, salt-treated lumber and other debris

or waste composed of wood of a non-commercial nature. Historically, this debris was deposited at the collection points with other debris or garbage. At the time the subject contract was rewritten and advertised in June 2009, it was felt that the winning bidder could process wood waste at lower cost to the County. This has not proven to be the case with costs in this last year of over \$34,000 for this one line item. This is largely the result of processing commercial debris such as significant numbers of pallets.

Mr. Larson stated the request should result in greater convenience for Lancaster County citizens who will once again be able to deposit wood waste at the same location as other waste. R.L. Self Timber also supports the request because of an expressed inability to stop commercial debris from being deposited.

Mr. Jenkins made a motion to approve the request to delete the provision for “wood waste” disposal in the current contract with R.L. Self Timber, Incorporated.

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

5. Planning Commission Request – Proposed Ordinance to Co-Hold Conservation Easement – Mr. Gill stated the Planning Commission has forwarded this request to the Board of Supervisors to determine whether the Proposed Ordinance to Co-Hold Conservation Easements is necessary.

Mr. Gill said the Northern Neck Land Conservancy (NNLC) recently entered into cooperative agreements with Northumberland, Richmond and King George counties to co-hold conservation easements and made a presentation at

our March 25, 2010 Board of Supervisors meeting seeking a similar arrangement with Lancaster County. The cooperative agreements in the other counties were done by resolution, but the Lancaster Board of Supervisors requested it be by ordinance in our county and directed staff and the Planning Commission to draft such an ordinance.

Mr. Gill said he searched for a similar ordinance from across the state, but was unable to find a model and then drafted one using the NNLC's Cooperative Agreement as a guide. The Planning Commission has reviewed and discussed this document since its September meeting. Applicable meeting minutes were provided for the Board of Supervisors review.

Mr. Gill said James Cornwell; County Attorney has reviewed the proposed ordinance and offered written comments. Mr. Cornwell points out that under Section 10.1-1013(7) of the Code of Virginia, Lancaster County currently has the right, but not the obligation, to take action affecting conservation easements located in Lancaster County and thus, the NNLC does not need to enter into a co-holding arrangement with Lancaster County to accept conservation easements and Lancaster County can enforce conservation easements without being a holder of the easement. He further points out that this arrangement, whether a cooperative agreement by resolution or an ordinance, could conceivably be an open ended and expensive process for Lancaster County with no limitation on staff time or expense.

Mr. Gill stated the NNLC's attorney has also offered written comments. He points out that conservation easements have traditionally been held by organizations such as the Virginia Outdoors Foundation and The Nature Conservancy, but these large organizations will not usually accept easements on parcels less than 100 acres. This leaves a void in the system for those parcels less than 100 acres which may be equally deserving of preservation. The NNLC hopes to fill this void with cooperative agreements with neighboring counties. He

also makes it clear that the ordinance would obligate the County to pay for the defense of conservation easements from future unauthorized development by its owner, but that scenario would be rare. He also points out that if Lancaster County would not commit to serve as holder responsible for the legal defense of challenges to the deed of easement in the future, the NNLC would simply go to another holder. He suggests that the County needs to decide if this is a premium it is willing to pay or a risk it is willing to take to ensure that its citizens enjoy open space views forever.

Mr. Gill said the Planning Commission decided at its November 18, 2010 meeting that an ordinance of this nature was not needed at this time. Lancaster County already encourages the use of conservation easements in Chapter Two of our Comprehensive Plan and specifically mentions the NNLC by name. The County already has the authority, but not the obligation, to enforce conservation easements on a case-by-case basis, as it sees fit, under the Code of Virginia Section 10.1-1013 without the proposed ordinance.

Mr. Gill stated the Planning Commission now seeks direction from the Board of Supervisors. The Board asked the Planning Commission to draft an ordinance to co-hold conservation easements with the NNLC, but after studying the issue, the Planning Commission does not believe an ordinance is needed at this time. As that is a policy decision that can only be made by the Board, the Planning Commission needs to know how to proceed - either continue work on a proposed ordinance or let the issue die.

Mr. Beauchamp asked what would be the advantage verses the disadvantage and would this be more effective as an ordinance verses a resolution.

Mr. Gill asked the Board of Supervisors to table this issue to the regular December 30, 2010 meeting, in order for him to do further research.

Mr. Beauchamp made a motion to table the Planning Commission Request of a Proposed Ordinance to Co-Hold Conservation Easement until the next regular Board of Supervisors meeting to be held December 30, 2010.

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

2011 Organizational Meeting

Mr. Pennell informed the Board of Supervisors that the next scheduled regular Board of Supervisors meeting would be held on December 30, 2010 and asked the board if they would like to have the 2011 Organizational Meeting immediately following this meeting which has been done in the past.

By the consensus the Board of Supervisors will hold the 2011 Organizational Meeting immediately following the regular December 30, 2010 board meeting.

Drought Declaration

Mr. Pennell stated Lancaster County received the drought status and low interest loan can be applied for by anyone affected by the drought.

Northern Neck Planning District Commission Quarterly Meeting

Mr. Pennell reminded the Board of Supervisors of the Northern Neck Planning District Commission quarterly meeting will be held January 25, 2010 at 5:30 p.m. Board members agreed by consensus to inform the Planning District Commission to contact the management of the Kilmarnock Entertainment Center to provide space and catering services for this meeting and have Rappahannock Westminster-Canterbury as a second choice should there be a conflict with the first choice.

ADJOURNMENT

Motion was made by Mr. Beauchamp to adjourn.

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