

LANCASTER COUNTY PLANNING COMMISSION

Minutes

November 15, 2012

The regularly scheduled meeting of the Lancaster County Planning Commission was called to order at 7:00 p.m. in the Board meeting room of the Lancaster County Administration Building, Lancaster, Virginia.

Present were David Jones, Chairman, Robert Smart, Tara Booth, David Chupp, Steve Sorensen, Glenn Pinn and Thomas "Ty" Brent.

Also present were Butch Jenkins, Board of Supervisors Representative, Don Gill, Planning/Land Use Director, Frank Pleva, Lancaster County Administrator, Stuart McKenzie, Northern Neck Planning District Commission, Lewie Lawrence, Middle Peninsula Planning District Commission, Charlie Costello, Audrey Thomasson and others.

Mr. Jones asked if there were any corrections or additions to the minutes of the October 18, 2012 regular meeting.

Mr. Jones moved to approve the October 18, 2012 minutes as submitted. **VOTE: 7-0.**

PRESENTATION

Mr. Gill stated that Lewie Lawrence was in attendance to make a presentation. He stated that Mr. Lawrence is the Executive Director of the Middle Peninsula Planning District Commission. He stated that it had been requested that Mr. Lawrence speak since the Commission is revising Chapter Five of the Comprehensive Plan that deals with public access to the water.

Mr. Gill stated that Frank Pleva, Lancaster County Administrator, and Stuart McKenzie of the Northern Neck Planning District Commission were also present.

Mr. Jones welcomed Mr. Lawrence to the meeting.

Mr. Lawrence stated that he had worked with Mr. Pleva when he was the County Administrator in Mathews County. He stated that Mr. Pleva was the first chairman of the Middle Peninsula Public Access Authority.

Mr. Lawrence stated that the tools they have used in gaining public access for the Middle Peninsula do not always fit all communities. He stated that the Middle Peninsula's success over the years took a lot of time and effort to achieve.

Mr. Lawrence stated that he wanted to give some historical background on public access to the water. He stated that in 1933, a storm destroyed the steamboat infrastructure in the Chesapeake Bay. At the same time, the road infrastructure that had been previously maintained by the counties, was transferred over to the Virginia Department of Transportation. He stated that a lot of the road endings became the responsibility of VDOT to maintain and by statute, VDOT was supposed to maintain the steamboat landings and access areas as well. He further stated that around the same time, the interstate transportation system was beginning to blossom, so goods were beginning to be shipped via the interstate system and the water-based transportation system was not utilized as much.

Mr. Lawrence stated that when Mr. Pleva was the Mathews County Administrator, Auburn Landing, a historical steamboat landing, was sold. He stated that because of the transfer of ownership, the access to the water via Auburn Landing that the public had enjoyed was no longer available. He stated that the issue eventually went to the Virginia Supreme Court, which ruled in favor of the County, in that a public right of way exists forever.

Mr. Lawrence stated that there are approximately three hundred road endings in the Middle Peninsula area. He stated that with that large of a number, it would be expensive to deal with each one on an individual basis. He further stated that the localities in the Middle Peninsula came to the Planning District Commission with the problem of how to manage public access in their region. There needed to be a body that could create public access policies and implement those policies, so they came up with the Public Access Authority. He stated that local governments have larger issues, such as the school system and the police department to deal with, and public access to local waters is often put on the back burner.

Mr. Lawrence stated that they approached Delegate Harvey Morgan about creating a political subdivision that only deals with public access issues. He stated that the only controversial issue when going through the General Assembly was eminent domain, so it was decided that the Public Access Authority would not pursue that. He stated that the Authority was created in 2003 and that the counties in the Middle Peninsula joined the Public Access Authority at various times and all are on board at the present time.

Mr. Lawrence stated that a big job of the Public Access Authority has been to research the correct owners of the road endings in the area. He stated that whatever one may think they know about road endings is probably not true. In many cases, VDOT assumes they own the road ending, but after research is conducted it is found that the county had never transferred the land.

Mr. Lawrence stated that after much research on public road endings, they have a much better understanding of what can and cannot be done on the issue of public water access.

Mr. Lawrence talked about several projects that the Public Access Authority has undertaken since 2006. He stated that part of their success is saying “yes” to virtually all offers of potential public access property and working on the details of developing that property later.

Mr. Lawrence stated that the Public Access Authority must protect the public’s interest and be trusted by potential funding sources. He stated that the Authority relies on its staff to work with communities and local governments to see what the public wants in a particular area. He further stated that part of their success is building a management plan that is compatible to what the neighbors of a potential public access site want, to try to eliminate some of the “nimby” effect.

Mr. Jones asked Mr. Lawrence what happens if there is an impasse due to the “nimby” effect, in that, it doesn’t matter what is offered, the neighbors of a potential site do not want to see it near their property.

Mr. Lawrence replied they would not open the site. He further stated that they have several properties that will stay closed until the time is right. He stated that there is no crisis in this situation because the property is held in the public trust.

Mr. Jones asked how it is handled if a property owner wants to give land for public access, but his or her neighbors do not want the site developed for public access. He wanted to know what is said to that property owner in that case.

Mr. Lawrence replied that all of the scenarios need to be talked about up front and trust needs to be built. He stated that the property owner needs to know that the public access to their land may not happen overnight. He further stated that mediation might be needed to find common ground between property owners.

Mr. Lawrence stated that they started to consider marketing the public access sites in 2008. He stated that they thought about word of mouth or publication strategies. He stated that he decided to go to the local host localities to see what they had in mind.

Mr. Chupp asked Mr. Lawrence what he meant by marketing.

Mr. Lawrence replied that he meant letting people know that there is land available for public use, such as kayaking, hunting, and canoeing. He stated that the use level is commensurate with the people that know about it. He stated that you can say nothing at all or you can actively advertise it.

Mr. Lawrence stated that the Middle Peninsula Public Access Authority’s local governments decided to do no marketing in 2008.

Mr. Lawrence stated that also in 2008, they started to see a shift in how “working waterfronts”, such as commercial fish houses, were being managed at the local level. He stated that communities up and down the east coast were losing these sites due to development or that the seafood companies were closing. He further stated that he went to the Public Access Authority Board and told them that the protection of working waterfronts is of equal importance to public access as a boat ramp. He stated that it provides access for the watermen and helps make the economy function. He stated that the Board agreed that public policy should address this issue as well.

Mr. Lawrence stated that in an effort to educate localities and the general public, the Virginia Coastal Access website was developed. He stated that the website deals with just about any question that could be asked concerning public access. He added that a citizen can go to the website to find out what can be done on the different public access sites, such as horseback riding or hunting.

Mr. Lawrence stated that in 2009 and 2010, the Public Access Authority worked on the issue of dredging. He stated that working waterfronts and recreational access depend on the issue of dredging. He further stated that there is no more federal money for dredging and all localities are facing the same dilemma of who will pay for dredging and whose responsibility it is. He stated that the Public Access Authority Board decided that it would be in the best interest of all localities if everyone knew when dredging projects were coming up so they could work on things together.

Mr. Lawrence stated that they are now creating a master plan for public access. He stated that he told his Board that it needed to be county by county, specific and virtual, not a paper document, so it can be changed as needed.

Mr. Lawrence stated that the Middle Peninsula Public Access Authority has been recognized for three national awards for innovation and delivery of governmental services. He stated that when he is asked about the success of the Authority, he says it is because year in and year out, the same staff is working on the problems and complexities of public access.

Mr. Lawrence asked the Commission to look at the table ending with the year 2011 and stated that the Middle Peninsula Public Access Authority had brought in over three million dollars and had not spent any local tax dollars.

Mr. Smart stated that it is very clear that the Middle Peninsula has been more proactive than the Northern Neck has on the issue of public access, even though it has been a part of Lancaster County’s Comprehensive Plan for over a decade.

Mr. Smart asked Mr. Lawrence what suggestions he might have for the Northern Neck. He further stated that he thought research on the history of road endings would be a good start.

Mr. Lawrence replied that he would start with the road ending that had the biggest potential for a success story. He stated that he would be selective at first, because nothing builds credibility like having successes.

Mr. Smart asked who had the responsibility in the Northern Neck Planning District Commission to work on public access issues.

Mr. McKenzie stated that he had that responsibility.

Mr. Chupp asked if Mr. Lawrence worked part-time for the Public Access Authority.

Mr. Lawrence replied that he was the only staff to the Middle Peninsula Public Access Authority and that it is run out of the Middle Peninsula Planning District Commission. He stated that clerical support comes from the Planning District Commission because they are all working on the same types of projects.

Mr. Smart stated that it was very interesting to hear the history of water access from Mr. Lawrence. He stated that there seemed to be better water access before the storm of 1933 because of the steamboat and ferry landings.

Mr. Jenkins stated that, in the past, public access to water was a benefit to many waterfront property owners because they wanted people to come to their adjacent businesses, such as a general store and spend money. He stated that after the steamboats stopped and the stores eventually closed and it became the property of someone generations later, that is when the public was not wanted there.

Mr. Jenkins stated that the County has very few road endings. He stated that one of those is Westland Beach and the County owns the beach. He further stated that another one is Bertrand. He stated that a lot of road endings ended at a store or a canning factory and not the water.

Mr. Pleva agreed and stated that people assume that all the road endings run straight to the water, but he stated that after doing much research when he was in Mathews County, he found that they did not and the parcels that did were not very wide.

Mr. Pleva stated that there are also private beaches that property owners would allow the public to use as a public asset even if they were not in the public domain. He stated that once that land is sold and posted, then that asset is lost to the public because it is no longer accessible.

Mr. Lawrence stated that he has found that there are a lot of altruistic people out there that would like to do good things with their money or property and just need to be asked or shown a way to do it.

Mr. Chupp stated that he thought that Lancaster County has an advantage in that they have their fair share of wealthy people. He stated that he agreed with Mr. Lawrence, that those folks would have an interest in doing something good for the community.

Mr. Chupp asked if Mr. Lawrence's organization was just for waterfront property.

Mr. Lawrence replied that it could be any property, but it has to have some connection with water.

Mr. Smart stated that he was glad that imminent domain was not granted to the Authority because he thought that that would raise the resistance level and things might not have progressed as well.

Mr. Brent asked if there were tax benefits of donating land to the Authority.

Mr. Lawrence replied yes since they would be donating to a political subdivision.

Mr. Jenkins added that the Authority is a qualifying, non-profit organization.

Mr. Lawrence stated that he is partnering with Mr. McKenzie from the Northern Neck Planning District Commission to do a working waterfront symposium in March at VIMS. He stated that the purpose of the meeting is to reach out to the working waterfront business owners to help solve the current issues they are facing.

Mr. Jones thanked Mr. Lawrence for a great presentation.

Mr. Jones asked Mr. McKenzie if he would like to add anything concerning local public access.

Mr. McKenzie replied that when the Northern Neck Public Access Authority was formed in 2005, they received \$75,000 from the General Assembly to start the program. He stated that Lancaster County received \$22,500, which was used for a dredging study and preliminary studies of the Ashley Cove project. He further stated that they have tried some things, but have continued to get the "nimby" backlash.

Mr. Jones asked about the Ashley Cove project.

Mr. Jenkins replied that the County leased that parcel for \$10 a year for twenty-five years. He stated that it was intended to be a kayak launching area.

Mr. Pleva stated that another thing to consider with public access is that it is not always actually about being able to put a boat overboard. He stated that he has been a part of projects where there were walkways, sometimes with historical information, that were near the water. He stated that these walkways or boardwalks can be very popular and citizens enjoy them.

Mr. Chupp stated that Lancaster County is woefully deficient when it comes to public access as compared to other areas in the state. He further stated that what is stated in the Comprehensive Plan has not been accomplished. He stated that after he had done some research on the subject, he found out about the Middle Peninsula Public Access Authority, which has been so successful in helping the counties gain public access.

Mr. Lawrence stated that the successes of the Middle Peninsula Public Access Authority took a lot of time and did not happen overnight. He stated that it takes time to promote awareness and for people to become accustomed to the ideas of gaining public access.

Mr. Jenkins stated that Lancaster County has not received outside funds for public access. He stated that an elected official is not going to want to raise taxes and have to fight a political fight in order to have public access. He stated that when they tried to have a fishing pier at Westland Beach, the residents and property owners in that area called in every political favor they could to make sure it did not happen.

Mr. Pleva stated that in Middlesex County when residents could not get their recreational boats out of their creek because the creeks were silting in, that is when some embraced public access. They needed dredging and the issue was perceived as a crisis and they became more agreeable to the idea of public access to help get the dredging done.

Mr. Lawrence added that it is also advantageous to have dedicated dredge spoil sites in place.

Mr. Jones thanked everyone for their input.

OTHER BUSINESS

Mr. Jones suggested that the discussion on Chapter Three and Chapter Five of the Comprehensive Plan be postponed to the January meeting. The Commission agreed.

Mr. Jones thanked everyone for another successful year and wished everyone a Happy Thanksgiving and Merry Christmas, as there would not be a December meeting of the Planning Commission.

ADJOURNMENT

The November 15, 2012 regular meeting of the Lancaster County Planning Commission was adjourned at 8:45 p.m.

