

VIRGINIA:

A meeting of the Lancaster County Board of Supervisors was held in the courthouse of said county on Thursday, July 25, 2002.

Present: B. Wally Beauchamp, Chair
Donald O. Conaway, Vice Chair
F. W. Jenkins, Board Member
Cundiff H. Simmons, Board Member
Patrick G. Frere, Board Member
William H. Pennell, Jr., County Administrator

Others

Present: Jack Larson, Planning/Land Use; Joe Staton, Carter White and Robert Harper, Department of Transportation; Joan Wenner, Northern Neck News; Robert Mason, Rappahannock Record

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

PUBLIC INPUT

None

PRESENTATIONS

1. Lancaster County Anti-Littering Poster – Mr. Beauchamp stated the board has reviewed ten Anti-Littering Posters submitted by Lancaster High School students. Kyle Seright’s poster entitled “Littering Is For The Birds” was selected as the winner. Kyle Seright was present at the meeting and he was awarded a \$100.00 check from the county for his work on the anti-littering poster.

Mr. Frere arrived at the meeting.

VIRGINIA DEPARTMENT OF TRANSPORTATION

Mr. Staton stated there was a traffic study completed at the intersection of Irvington Road and the James Jones Memorial Highway. There are eleven conditions an intersection must meet to be qualified for a traffic light. The subject intersection did not meet any of these conditions. Signs would be erected on Rt. 3 at the James Jones Memorial Highway instructing trucks to use the alternate route.

Mr. Staton said Devils Bottom Road would be closed for repairs on July 29th and 30th.

Mr. Staton stated on Route 604 and Route 3 the signs and flashing lights were all in place.

Mr. Staton said a speed study was done on Gaskins Road and the speed limit would be reduced from 55 mph to 35 mph.

PUBLIC HEARINGS

1. Ordinance – Dangerous/Vicious Dogs - Mr. Pennell stated at the June 27, 2002 meeting of the Lancaster County Board of Supervisors, the members directed him to advertise a draft ordinance for the regulation of dangerous and/or vicious dogs in Lancaster County.

Mr. Conaway made a motion to adopt the following ordinance for the regulation of dangerous and/or vicious dogs in Lancaster County.

Authority to Control Dangerous or Vicious Dogs

The Lancaster County Board of Supervisors hereby enacts the following ordinance regulating dangerous dogs and vicious dogs.

Definitions:

Dangerous Dog: As used in this ordinance, "dangerous dog" means a canine or canine crossbreed which has bitten, attacked, or inflicted injury on a person or companion animal, other than a dog, or killed a companion animal.

Vicious Dog: As used in this ordinance, "vicious dog" means a canine or canine crossbreed which has (i) killed a person; (ii) inflicted serious injury to a person, including multiple bites, serious disfigurement, serious impairment of health, or serious impairment of a bodily function; or (iii) continued to exhibit the behavior which resulted in a previous finding by a court that it is a dangerous dog, provided that its owner has been given notice of that finding.

Provisions:

The Lancaster County Animal Control Officer may determine, after investigation, whether a dog is a dangerous dog. If the animal control officer determines that a dog is a dangerous dog, he may order the animal's owner to comply with the provisions of the ordinance. If the animal's owner disagrees with the animal control officer's determination, he may appeal the determination to the general district court for a trial on the merits. The animal control officer shall confine the animal until such time as evidence shall be heard and a verdict rendered. The court, through its contempt powers, may compel the owner, custodian or harbinger of the animal to produce the animal. If, after hearing the evidence, the court finds that the animal is a dangerous dog, the court shall order the animal's owner to comply with the provisions of this ordinance. If, after hearing the evidence, the court finds that the animal is a vicious dog, the court shall order the animal euthanized in accordance with the provisions of § 3.1-796.119, Code of Virginia, 1950, as amended.

Exceptions:

No canine or canine crossbreed shall be found to be a dangerous dog or vicious dog solely because it is a particular breed, nor shall the Lancaster County Board of Supervisors prohibit the ownership of a particular breed of canine or

canine crossbreed. No animal shall be found to be a dangerous dog or vicious dog if the threat, injury or damage was sustained by a person who was (i) committing, at the time, a crime upon the premises occupied by the animal's owner or custodian, (ii) committing, at the time, a willful trespass or other tort upon the premises occupied by the animal's owner or custodian, or (iii) provoking, tormenting, or physically abusing the animal, or can be shown to have repeatedly provoked, tormented, abused, or assaulted the animal at other times. No police dog which was engaged in the performance of its duties as such at the time of the acts complained of shall be found to be a dangerous dog or a vicious dog. No animal which, at the time of the acts complained of, was responding to pain or injury, or was protecting itself, its kennel, its offspring, or its owner or owner's property, shall be found to be a dangerous dog or a vicious dog.

Registration and Control of Dangerous Dogs:

1. The owner of any animal found to be a dangerous dog shall, within ten days of such finding, obtain a dangerous dog registration certificate from the Lancaster County Animal Control Officer for a fee of fifty dollars in addition to other fees that may be authorized by law. The Lancaster County Animal Control Officer shall also provide the owner with a uniformly designed tag which identifies the animal as a dangerous dog. The owner shall affix the tag to the animal's collar and ensure that the animal wears the collar and tag at all times. All certificates obtained pursuant to this subdivision shall be renewed annually for the same fee and in the same manner as the initial certificate was obtained.

2. All certificates or renewals thereof required to be obtained under this section shall only be issued to persons eighteen years of age or older who present satisfactory evidence (i) of the animal's current rabies vaccination, if applicable, and (ii) that the animal is and will be confined in a proper enclosure or is and will be confined inside the owner's residence or is and will be muzzled and confined in the owner's fenced-in yard until the proper enclosure is constructed. In addition, owners who apply for certificates or renewals thereof under this section

shall not be issued a certificate or renewal thereof unless they present satisfactory evidence that (i) their residence is and will continue to be posted with clearly visible signs warning both minors and adults of the presence of a dangerous dog on the property and (ii) the animal has been permanently identified by means of a tattoo on the inside thigh or by electronic implantation.

3. While on the property of its owner, an animal found to be a dangerous dog shall be confined indoors or in a securely enclosed and locked structure of sufficient height and design to prevent its escape or direct contact with or entry by minors, adults, or other animals. The structure shall be designed to provide the animal with shelter from the elements of nature. When off its owner's property, an animal found to be a dangerous dog shall be kept on a leash and muzzled in such a manner as not to cause injury to the animal or interfere with the animal's vision or respiration, but so as to prevent it from biting a person or another animal.

4. If the owner of an animal found to be a dangerous dog is a minor, the custodial parent or legal guardian shall be responsible for complying with all requirements of this section.

5. After an animal has been found to be a dangerous dog, the animal's owner shall immediately, upon learning of same, notify the local animal control authority if the animal (i) is loose or unconfined; (ii) bites a person or attacks another animal; (iii) is sold, given away, or dies; or (iv) has been moved to a different address.

Penalties:

The owner of any animal which has been found to be a dangerous dog who willfully fails to comply with the requirements of this ordinance shall be guilty of a Class 1 misdemeanor.

Fees:

All fees collected pursuant to the ordinance, less the costs incurred by the animal control authority in producing and distributing the certificates and tags required by the ordinance, shall be paid into a special dedicated fund in the treasury of Lancaster County for the purpose of paying the expenses of any training course required under § 3.1-796.104:1.

VOTE:	B. Wally Beauchamp	Aye
	Donald O. Conaway	Aye
	Patrick G. Frere	Aye
	F. W. Jenkins	Aye
	Cundiff Simmons	Aye

The Board of Supervisors agreed by consensus that the county administrator contact Delegate Albert C. Pollard, Jr. and Senator John H. Chichester to ask them to sponsor amendments to control dogs attacking other dogs without killing them.

2. Changes to Master Plan Requirement – Mr. Larson stated several citizens involved in the development of property in Lancaster County have made the observation that “up front” requirements for master plans are unnecessarily demanding to obtain a change of zoning decision. They further maintain that the risk of substantial unrecoverable costs stifles development. The Planning Commission is forwarding recommended changes to master plan requirements that would lessen the expense of preparation while still obtaining the information necessary to make a decision on a request for zoning change.

Mr. Larson said the changes to master plan requirements focuses primarily on the design of such infrastructure as a sewage disposal system, a solid waste disposal system, and a water supply and distribution system. Whereas, the existing requirements are for detailed design that can be quite expensive, the proposed requirements would require a more general or conceptual design.

Design details would still have to be of sufficient detail to allow responsible approval authorities to determine feasibility for rezoning; a provision is made for requiring additional detail if necessary to make such determination. However, it is envisioned that detailed designs would be required after the zoning decision is made as a condition for issuing permits. Applicants would have assurance of zoning prior to incurring the additional costs. This issue has been advertised as required by law. To date, staff has received no input from interested members of the general public concerning this matter.

Mr. Larson said the Planning Commission was forwarding the recommended rewrite of paragraph 6-7 of the Zoning Ordinance, recommending approval by a vote of 4-0.

Mr. Simmons made a motion to table the Changes to the Master Plan Requirement until Mr. Larson has an opportunity to consult with the county attorney to determine what effect this action would have if the master plan was not complete in all of its details.

VOTE:	B. Wally Beauchamp	Aye
	Donald O. Conaway	Aye
	Patrick G. Frere	Aye
	F. W. Jenkins	Aye
	Cundiff Simmons	Aye

3. Robert W. Kuletz – Request for Bay Act Waiver – Mr. Larson stated the applicant was requesting a Chesapeake Bay Act Waiver to add 134 square feet of impervious cover to the 50’ seaward portion of the 100’ buffer of a Resource Protected Area for a gazebo and deck enlargement. The property on which this would occur is described as Tax Map #25D-1-30 which is located in the Salt Aire subdivision near Bertrand. This property is in Voting District 1.

Mr. Larson said much of the proposed deck would go over an existing deck. Only a portion would be added and would not intrude any further than the existing intrusion. As discussed with Mr. Kuletz, there is no compelling reason/justification for placing the gazebo in the 50' seaward portion of the 100' buffer. It could be moved back behind the 50' buffer and still meet the needs of the applicant. The issue has been advertised and adjoining property owners have been notified as required by law. To date, staff has received no input from adjoining property owners or other interested members of the general public.

Mr. Jenkins made a motion to grant approval of Robert W. Kuletz request for Bay Act Waiver for the deck enlargement not to intrude any further than the existing intrusion, establish best management practices for all the storm water from the existing structure as well as the addition. Mr. Jenkins' motion specifically excludes the approval of the gazebo.

VOTE:	B. Wally Beauchamp	Aye
	Donald O. Conaway	Aye
	Patrick G. Frere	Abstain
	F. W. Jenkins	Aye
	Cundiff Simmons	Aye

CONSENSUS DOCKET

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

A. Minutes for June 27, 2002 and July 9, 2002

Recommendation: Approved

B. Resolution – Drought Disaster Area

Recommendation: Adopt the following resolution:

DROUGHT DISASTER AREA

WHEREAS, Lancaster County is experiencing a severe drought which has greatly affected agricultural production in the County; and

WHEREAS, agriculture is a mainstay of the economy of Lancaster County;

NOW, THEREFORE, BE IT RESOLVED, that the Board of Supervisors of Lancaster County, Virginia, hereby requests the Honorable Mark R. Warner, Governor of the Commonwealth of Virginia, to declare Lancaster County a drought disaster area, thereby making Lancaster County farmers eligible for financial assistance or other aid available from state and federal agencies.

C. Appointment to Middle Peninsula Juvenile Detention Commission

Recommendation: Reappoint William H. Pennell, Jr. until June 30, 2006

VOTE:	B. Wally Beauchamp	Aye
	Donald O. Conaway	Aye
	Patrick G. Frere	Aye
	F. W. Jenkins	Aye
	Cundiff Simmons	Aye

CONSIDERATION DOCKET

The Board considered the following items on its Consideration Docket:

1. Approval of July 2002 Salaries and Invoice Listings

Motion was made by Mr. Jenkins to approve the Salaries for July 2002 in the amount of \$129,743.19 and Invoice Listings for July 2002 in the amount of \$584,558.65.

VOTE:	B. Wally Beauchamp	Aye
	Donald O. Conaway	Aye
	Patrick G. Frere	Aye
	F. W. Jenkins	Aye
	Cundiff Simmons	Aye

2. Private Airstip – Richmond County – Mr. Larson stated the Director of Planning of Richmond County sent the county notice of a pending action on property that borders Lancaster County. The property is across from Lancaster Creek near the intersection of Route 3 and Route 354.

Mr. Larson said there would be a public hearing held Monday, August 5, 2002, in the General District Courtroom, County Office Building, Warsaw, Virginia.

3. Courthouse Landing – Subdivision Application, Preliminary Plat – Mr. Larson stated consideration of this preliminary plat has been continued since May 2002 at the request of the applicant. He said the applicant, F & J Holdings and John Martin, the applicant’s attorney, were available for questions.

Mr. Larson said paragraph 3-7 of the Subdivision Ordinance requires that the preliminary plat for all subdivisions of six lots or more be submitted to the Board of Supervisors for its approval or disapproval. The lots were reconfigured to address VDOT concerns about private entrances onto Route 3. While confirmation from VDOT could not be obtained, it would appear that, given the newly proposed lot configuration, this concern could be put to rest. The issue of the private road(s) remains. Applicant does not have fee simple title to Avis Road. He is also proposing private interior subdivision roads as can be seen from the plat. Applicant intends to ask for private road exceptions for this subdivision, citing economic hardship (paragraph 7-1 of the Subdivision Ordinance permits an exception when “substantial hardship to the subdivider because of unusual topography” would

result). The Board of Supervisors has not been inclined in the past to grant private road exceptions. The plat meets all other requirements for preliminary plat consideration.

Jerome Hoffman, Avis Trail resident, stated that Mr. Puffenbarger should meet and explain his project to the residents. He does not believe that any of the residents would be against the project if there would be an improvement made on the road. Mr. Hoffman said there were two eagles nesting on Mr. Puffenbarger's property, which might pose a problem.

At the request of the applicant's attorney, Mr. Martin, Mr. Jenkins made a motion to continue the Courthouse Landing – Subdivision Application, Preliminary Plat consideration until the August 29, 2002 Board of Supervisors meeting to allow time to determine if fee simple title to Avis Road could be obtained.

VOTE:	B. Wally Beauchamp	Aye
	Donald O. Conaway	Aye
	Patrick G. Frere	Aye
	F. W. Jenkins	Aye
	Cundiff Simmons	Aye

4. 2002 Tax Anticipation Loan – Mr. Pennell said the Treasurer has previously informed him that the county would require a tax anticipation loan to cover salaries and invoices through the Fall until taxes can be collected in November/December. At the July 9, 2002, Board of Supervisors work session, the members voted to authorize the issuance of the Request for Proposals to acquire interest rates for a \$3 million tax anticipation loan.

Mr. Pennell stated the county received two bids from the Request for Proposals: (1) Bank of Lancaster, 3.63% +\$35 loan documentation fee and (2)

Northern Neck State Bank, 4.24% fixed rate or 2.2% above LIBOR (total of 4.09% on date of bid).

Mr. Simmons made a motion to award the 2002 tax anticipation loan to the Bank of Lancaster at the quoted interest rate.

VOTE:	B. Wally Beauchamp	Aye
	Donald O. Conaway	Aye
	Patrick G. Frere	Aye
	F. W. Jenkins	Aye
	Cundiff Simmons	Aye

BOARD REPORTS

Mr. Beauchamp stated he received a letter of resignation from David Jones for the Northern Neck Planning District Commission.

Mr. Beauchamp made a motion to accept the David Jones resignation from the Northern Neck Planning District Commission.

VOTE:	B. Wally Beauchamp	Aye
	Donald O. Conaway	Aye
	Patrick G. Frere	Aye
	F. W. Jenkins	Aye
	Cundiff Simmons	Aye

Mr. Beauchamp made a motion to appoint Donald F. Caskie to the Northern Neck Planning District Commission.

VOTE:	B. Wally Beauchamp	Aye
	Donald O. Conaway	Aye
	Patrick G. Frere	Aye

F. W. Jenkins Aye
Cundiff Simmons Nay

COUNTY ADMINISTRATOR

Agricultural Extension Agent Report

Mr. Pennell stated that Ginny Barnes, Lancaster County Agricultural Extension Agent submitted a report about the severe drought Lancaster has experienced this year.

Pledge of Allegiance

Mr. Pennell stated Mecklenburg County has adopted a resolution so that their public schools can continue to recite the Pledge of Allegiance including the words “One Nation Under God” and the Mecklenburg County Board of Supervisors asks the Lancaster County Board of Supervisors to adopt a similar resolution.

Mr. Frere made a motion to adopt the following resolution:

PLEDGE OF ALLEGIANCE

WHEREAS, the Lancaster County Board of Supervisors is concerned about a recent court ruling in California regarding the Pledge of Allegiance; and

WHEREAS, the Pledge of Allegiance is a symbol of patriotism for the United States of America; and

WHEREAS, the wording of the Pledge of Allegiance is designed to promote patriotism; and

WHEREAS, due to the events of September 11, 2001, our Nation is under attack by forces bent on the destruction of our Country; and

WHEREAS, the Pledge of Allegiance does not promote any specific religion; and

WHEREAS, in this time of crisis, our citizens want and need to show their faith in our Country and the ideals for which it was created.

NOW THEREFORE BE IT RESOLVED, that the Lancaster County Board of Supervisors wishes to express its desire that the Pledge of Allegiance continue to be recited as it is currently written; and

BE IT FURTHER RESOLVED, that the Lancaster County Board of Supervisors asks each of Virginia's elected state and federal officials to take whatever action is necessary to ensure that the wording of the Pledge of Allegiance is not changed.

VOTE:	B. Wally Beauchamp	Aye
	Donald O. Conaway	Aye
	Patrick G. Frere	Aye
	F. W. Jenkins	Aye
	Cundiff Simmons	Aye

APPOINTMENTS

Mr. Conaway made a motion to appoint Christian C. Crowther to the Northern Neck Regional Disabilities Services Board as a business representative.

VOTE:	B. Wally Beauchamp	Aye
	Donald O. Conaway	Aye
	Patrick G. Frere	Aye

F. W. Jenkins	Aye
Cundiff Simmons	Aye

Mr. Frere made a motion to appoint Robert Mason, Jr. to the Social Services Board.

VOTE:	B. Wally Beauchamp	Aye
	Donald O. Conaway	Aye
	Patrick G. Frere	Aye
	F. W. Jenkins	Aye
	Cundiff Simmons	Aye

ADJOURNMENT

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

VOTE:	B. Wally Beauchamp	Aye
	Donald O. Conaway	Aye
	F. W. Jenkins	Aye
	Cundiff Simmons	Aye
	Patrick G. Frere	Aye