

VIRGINIA:

A meeting of the Lancaster County Board of Supervisors was held in the courthouse of said county on Thursday, November 29, 2007.

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

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

Introduction of the Honorable Richard H. Stuart, Senator-Elect (28th District)

Senator-Elect Stuart stated he wanted to take this opportunity to introduce himself to those he may not have had an opportunity to meet. He said he was very eager to get to work on the objectives set forth. He looks forward to working with the Lancaster County Board of Supervisors. He told the board whatever they had for the legislative agenda, he would like to get to work on that and will support Lancaster County in any way possible. He thanked the Board of Supervisors for allowing him the opportunity to introduce himself and looks forward to assisting Lancaster County and its citizens.

PUBLIC INPUT

Proposed Ashley Cove Project

Edward Andrews stated he lives on Ashley Cove at 105 Dymer Beach Drive and presented the Board of Supervisors with a petition signed by property owners on Ashley

Cove who oppose Lancaster County's proposed public water access project. First, Parcel No. 35 96B (the "Property") is currently subject to frequent flooding and is an unsuitable location for the Project. The Property lies at the end of Ashley Cove. It is a low lying parcel that naturally floods during severe tides. To complicate matters, the Property contains an existing canal, which runs from the shoreline to the rear of the property near Bald Eagle Road. The canal is open to the tidal waters of the cove, and the water level in the canal rises and falls with the tide. Because of the Property's low-lying situation and the canal, the Property was almost if not completely submerged in approximately two to three feet of water during Tropical Storm Ernesto. Second, the Project will not only increase the damage caused to the Property by future flooding, but will also increase the risk of flooding and damage to neighboring properties. The Project will decrease the Property's natural defenses against flooding by removing or filling vital marshes at the shoreline. The Property shoreline currently consists of marsh, which acts as a natural sponge or buffer against rising tides. The filling of this marsh removes that natural buffer, leaving the Property open to increased flooding during severe tides and an increased risk of flooding during less severe tides. In addition, the proposed plan will pave a significant portion of the Property, which increases the impervious cover and creates a problem of run-off. The loss of marsh, as well as the addition of pavement, will mean that neighboring properties must absorb more water or be subject to increased flooding. Third, the Project will increase soil erosion on the Property and the neighboring properties. The removal of marsh and many of the trees located near the shoreline will lead to increased erosion at the shoreline of the Property and the adjacent properties by destroying the Property's naturally protective barrier. In addition, increased boat traffic in the narrow confines of the cove will increase the amount of wake and cause erosion problems for neighboring properties. Fourth, the Project includes plans to place a public restroom on the Property, which will be a sanitation hazard in an area prone to flooding. The Property lacks sufficient space to allow for an adequate setback of the septic system from the shoreline. The septic system must be at least 200 hundred feet from the shoreline, which is not possible in light of the tidal canal that runs through the property. In addition, the increased size of flooding brought about by the removal of the wetlands on the Property will naturally lead to more septic back-up even if the setback

requirements are followed; back-up will increase significantly if the County obtains a variance from the setback requirements. Fifth, the intent of the Project is to bring more people to Ashley Cove. This will dramatically increase the amount of boat traffic and congestion. Unless the County actively regulates the number of public visitors to the Property, the increased boat traffic will lead to dangerous conditions for all users of the already narrow cove, both public visitors and private residents. Sixth, the Project will overburden Bald Eagle Road. Bald Eagle is a small rural road, designed for minimal traffic. Not only would the Project increase the number of vehicles on the road but there would also be a problem regarding the size of the vehicles. The road is too narrow as currently constructed to safely maneuver large boats and trailers into the Property. Seventh, the Project is not in keeping with the residential character of the surrounding properties. A private developer would not be permitted to place an identical project on the Property because the property is zoned R1. R1 zoning does allow for County sanctioned public facilities and community piers, but this implies that the Project is sanctioned. There have been no public hearings on whether this site is appropriate nor has the County shown why this site is appropriate for such a project.

Mr. Andrews stated the property owners on Ashley Cove strongly urge the County to reconsider its plans to develop the Property. If, however, the County proceeds with the Project, they respectfully ask that the County provide them with copies of (i) the erosion and sediment control plan it intends to submit with the Project, as required by Virginia Code § 10.1-563, (ii) its application to the Army Corps of Engineers for a dredging permit under Section 4040 of the Clean Water Act, (iii) any proposed variances or other changes to the zoning of the Property, (iv) a plan for addressing the persistent flooding of the Property to ensure that a public access beach is a viable use of the Property, (v) a detailed plan on how the County intends to prevent sewage spillover onto neighboring properties, (vi) a plan for addressing the increased traffic, both boat and automobile, in the cove and Bald Eagle Road including the proposed location of all new traffic signs and signals, (vii) all studies of the estimated impact of the Project on local wildlife and fauna, and (viii) any other plans the County may have for ensuring that the Project will benefit all residents of the County, including neighboring property owners.

Mr. Andrews said this list is not exhaustive of all the environmental and logistical considerations the County will evaluate before beginning the Project. The property owners on Ashley Cove trust that the Board of Supervisors will keep them informed as each such consideration is evaluated. If there is anything they can provide to the contacts at the Environmental Protection Association, the Virginia Department of Conservation and Recreation, the Virginia Department of Transportation, the Virginia Marine Resources Commission, the Department of Environmental Quality, or any other state or federal agency, please let them know. He thanked the Board of Supervisors for their time and consideration.

Mr. Blaine Lainer stated he was speaking on behalf of the Tabbs Creek Civic Association. The Tabbs Creek Civic Association applauds the County for its interest in supplying water access to all of our county citizens. However, the Association feels the proposed site off Ocran and Bald Eagle Road is not the right place for adequate access. The proposed site raises many safety issues for all Ocran Road users and ecological and environmental concerns. The primary safety issues and concerns are that Ocran and Bald Eagle Roads currently are too narrow for cars that meet and the curve on Bald Eagle which doesn't let two cars pass on the curve, let alone while trailering boats. He explained that Ocran Road narrows to 16.5 feet at its intersection with Holly Cove; 15.0 feet at Plainfield Road and Bald Eagle is only 14.2 feet wide at the intersection with Squires Lane. Two trailered boats cannot meet on Bald Eagle and parts of Ocran Road without one or both moving off the pavement. Both Ocran and Bald Eagle Roads are flooded approximately four – six times a year during major rain events; the water is especially deep at the subject site, and often covers the proposed site by as much as two feet. The overflow parking on Bald Eagle and Squires Roads will be common. There is no turnaround on Bald Eagle for boaters who get there and find the area is already full. The environmental concerns are the perk rating of the property to handle public toilets is doubtful. The county health officer at that time (Mr. Mays) stopped development of this property in the early sixties, the only reminder of which is the subject canal dug there at the that time. There are concerns with after-hours gathering since that has been a problem in Lancaster County. The permitting questions and concerns is whether the

County can arbitrarily re-zone this property – treating their own leased property differently than that owned or leased by citizens? What studies or analyses were conducted of environmental, traffic, and public safety concerns? Is there a due process for the county to lease lands, and was it followed? Does this use call for a zoning variance? Does the signing of the lease without public hearings/notification/input mean that the Board of Supervisors intends to go ahead with the development regardless of any issues that might be raised as the public becomes aware of the proposed development? Does this lease in essence gift the development to the owners when the lease expires – an allocation of public money and a development/use of value to the Hubbards on land currently of marginal value? The site plan issues are that the fishing pier is located adjacent to the runway for boats and jet skis entering and leaving the water ditch. Ashley Cove has a muddy bottom and the water depth at the pier end is 4.7 feet at high tide (3 feet at low tide). This is not a well located fishing pier. Most waters in this area, including Ashley Cove, have higher than healthful E-Coli levels, resulting in signs that prohibit harvesting shell fish. Is this a good place for a beach for swimming? The schematic show parking for ten vehicles and trailer, with 40 feet provided for each in parallel parking. An average vehicle with trailer is about 43 feet in length. Trying to parallel park a vehicle and trailer 43 feet in length into a 40 feet of linear space will be extremely difficult. Sixty feet would be the realistic minimum for most drivers; this means there will be room for only six or seven vehicles with trailers. All this expenditure of money and time, then, is for six or seven motorboats. The water depth at the entrance to the existing canal is 2.8 feet at high tide (one foot at low tide); the dept at the end of the proposed fishing pier is 4.7 feet at high tide (3 feet at low tide). Both depths were measured at high tide on November 8, 2007 (10:28 a.m.).

Mr. Lanier asked should this proposed project move forward, they look forward to the studies performed by State Agencies, i.e. VIMS (Karen During), VMRC (Jay Woodard) and other Regulatory Agencies as necessary.

Mr. Lanier said should the Association understand that the lease has been signed, a site plan prepared, and up to \$50,000 has been made available and the county wants to

move quickly? Signing and approving the lease seems to be tacit approval of the planned development in advance of any public discussion. It seems to us that routine public administration policy normally provides public hearings before this kind of a decision. All the public expenditures and the approval of the land as a public launch site likely would never be approved if the Hubbards had applied for the permits. Because the county is now the applicant for the permits (some from agencies the county controls) from higher levels of government, a bias toward approval is obvious. At the end of the lease period, the land owners would benefit by this proposed project that was developed at great public expense. The Tabbs Creek Civic Association opposes this boat launch project and hopes that the Board of Supervisors considers their comments and concerns.

Douglas Chapel stated he lives on Ashley Cove at 267 Dymer Beach Drive and flooding is a major concern. He said the Board of Supervisors has not done their homework; otherwise they would be aware of the fact that there could be no swimming at the ramp. If the county cut trees on the shoreline will they have to replace them? Citizens can only have pier with an "L" and the county will have a 250' pier with a "T". Building in wetlands and marsh area are going against what was established by the Chesapeake Bay Act. He provided the board with pictures of the area as it was flooded. The county is being ill advised on the proposed project site.

Frank Schwall, 28 Ashley Cove Lane stated he has been visiting Ashley Cove for well over 50 years. He remembers when a great variety of fish were plentiful in the cove, when bountiful loads of crabs could be caught in a short period of time, his father harvesting oysters from the end of his dock, when Ashley cove was bathed in peace and tranquility on summer days and covered with ice on winter nights and even with development over the years, the cove remains a place of pristine beauty. Since the time when his family came to love the cove, pollution has ravaged the Bay which has killed our fish, crabs and oysters. He said over development threatens our shorelines.

Mr. Schwall stated the proposed project by the County only means further deterioration of the cove. He believes the County officials and other government entities

should be dedicated to protecting our land and water and should committed to preserving our great natural resources. He asked the Board of Supervisors to carefully consider the great harm, havoc and devastation a public boat ramp, fishing pier, and beach will bring to this quiet, peaceful, wildlife-rich, protected paradise off of the Bay. Ashley Cove has an extremely narrow entrance will not tolerate the kind of activity for the proposed project. He asked the Board of Supervisors to reconsider the location and preserve what is left of our cove, which is a natural treasure.

Capt. Henry Dickson said he has lived on Ashley Cove his entire life and in 1964 Leo Mays was with the Health Department and stopped the process because the property consisted of swampland. If you meet a truck on any of the narrow roads leading to the proposed project, it's a game to see who can get in the ditch the quickest. There are four 90 degree turns to get to the proposed site, which is a safety and traffic problem. Who will be responsible for cleaning Ocran Road of trash? He said Ashley Cove is 90 feet at the mouth and 150 feet from shore to shore.

Jim Schmidt said he lives on Beach Road and applauds the Board of Supervisors for the proposed Ashley Cove project plan as the county has a great need for public access to the water. He also submitted a petition to the board in favor of the proposed project.

Susan May stated she lives on Ashley Cove, where she purchased her property 12 years ago. There has been a need and desire for public assess to water documented back to 1989. The Board of Supervisors can not wait 17 years and finally do something about public access and move forward in the manner this board has chosen to do. She was concerned that the Board of Supervisors secretly negotiated with the Mayor of the Town of White Stone. The survey and plans shows a boat ramp, fishing pier, sand beach, restrooms, picnic pavilion and canoe launch on a three acre parcel. The size of this property does not support the proposed use. The board introduced the lease and site plan with any prior notice and plans to move forward without any public comments and lastly, telling the residents "it's a done deal". She asked the Board of Supervisors to suspend all

plans for development and consider a more methodical approach finding public access sites. The Virginia Coastal Zone Management grants money to the Northern Neck Planning District Commission and the Northern Neck Public Access Authority. This program has been successful in the Middle Peninsula, by using grants they were able to conduct a study of road ending to water, look at the feasibility of developing sites, obstacles to overcome and even purchase land. Finally, she asked the Board of Supervisors to do this in a methodical well-planned way that takes into account the environmental impacts and appropriate use of the land and involves the citizens of this county.

Joe Curry stated he was a member of the Lancaster County Planning Commission from 1978 – 1982 and Parks and Recreation from 1982 – 1986 and the script was always the same “not in my back yard,” which is what we have here. There are 300 miles of shoreline in this county and one place to get to the water. Everyone in this county can not afford waterfront property and the Board of Supervisors was elected to do what is best for everyone in this county and to think about all the citizens in the County and asked the board to do the right thing.

Mr. Geilich thanked everyone who spoke about the proposed project. The Board of Supervisors has listened and will consider each comment and concern.

December Board of Supervisors Meeting

Kendall Acors asked if the board will meet in December and if the Agricultural issue will be heard at that meeting?

Mr. Geilich said yes.

Windmill Point Road Public Water Access Site

Mr. Witmore stated he lives on Ashley Cove and asked about the .38 acres owned by the county at the end of Windmill Point Road.

Mr. Geilich said the county owned property at the corner of Brightwaters Drive and Windmill Point Road, however; unsure of the acreage.

Mr. Jenkins stated there are two facilities near and at the end of Windmill Point Road. There is a public Kayak launch site on Windmill Point Creek and the county was deeded what was than the State Highway Department property which is the Old Westland Beach. The board attempted to put a fishing pier there and tried to get funds from VMRC on separate grant funds just for fishing and recreation. The fact is that people who lived in the adjacent condos had more clout in Richmond; the county was beaten by the political system.

Mr. Witmore asked if the community objected to the project.

Mr. Jenkins said yes.

Mr. Witmore asked if commercial property or site that is not located in the center of R-1 zoning would be a better site.

Mr. Schmidt said there is one public beach which is 50' wide in the county with no signage informing the public of its location.

Michael O'Ryan stated he just purchased property here in the area and asked if the board had considered hiring a consultant firm to research and gives possible sites and get public feedback prior to making a decision without public knowledge.

David Parker asked why not use the old ferry dock down at Windmill Point?

Proposed Ashley Cove Project Concerns

Edward Gorman said this project is not in his backyard but he would like to know about the sewage concerns since the area is always flooding and there is a concern over the destruction of wetlands. The project will have a huge impact on the land.

Rick Power stated he owns property on Ashley Cove and works in Washington D.C. as a land developer. The project appears to be a non-conforming use; he said R-1 zoning is residential. The county is creating a pocket park if this proposed project is placed in the center of R-1 zoning. He stated it is unfair and unjust to the property owners on Ashley Cove.

PRESENTATIONS

None

VIRGINIA DEPARTMENT OF TRANSPORTATION

Mr. Trapani provided the board with a new Board of Supervisors manual to each member.

New Ferry

Mr. Trapani stated they have been successful in securing new funds for a new ferry. The contract has been signed for both Lancaster and Northumberland Counties and the delivery date is schedule for May 2008.

VSH 666/Benson Road Speed Study

Mr. Trapani said the speed study on VHS 666/Benson Road in Weems was completed and a sign has been erected.

VSH 200/Irvington Road and Harris Traffic Light Update

Mr. Trapani stated the time frame on the traffic light installation is scheduled for February 1, 2008. The plans are 70% completed, all the rights-of-way are straight, he has

met with Dominion Virginia Power and the electrical service is arranged, and VDOT has trimmed and removed trees.

Black Stump Road Update

Mr. Beauchamp asked about the speed study request for Black Stump Road.

Mr. Trapani stated the speed study request was not completed yet.

Traffic Light at Wal-Mart

Mr. Trapani said everything is working well at the Wal-Mart light. The size of the sign will be enlarged. There has not been any negative comments or concerns from the Hawthorne community at this point.

Taylor's Creek Road

Dr. Russell thanked VDOT with fixing the drainage problem in such a timely fashion on Taylor's Creek Road.

PUBLIC HEARINGS

1. Floating Houses – Mr. Gill presented To take public comment on the following proposed definition to be added to the Lancaster County Zoning Ordinance:

Floating House. A structure or device, regardless of any registration attached, that is primarily intended for habitation and is not primarily intended for recreational cruising, fishing, or navigation across water bodies. It is further identified as lacking a source of propulsion and/or navigation device such as rudder or steering mechanism that is an integral part of the structure or device. Floating structures are allowed

for marine construction or repair, or hauling and/or distribution of cargo, or for boat repair or service, and for no other purpose. Floating Houses are not a permitted use in Lancaster County.

Mr. Gill stated at the direction of the Board of Supervisors to review possible regulatory control of floating houses, the Planning Commission crafted the proposed definition at its September meeting and has forwarded it to the Board of Supervisors with a favorable recommendation following the public hearing at its October meeting. This definition has also been provided to Mr. Cornwell, the County Attorney, who agreed that it was a good definition as well.

Mr. Gill said this request has been advertised as required by law. To date, the primary opposition has been from Mr. Barry Miller, owner of Aqua Lodge, who is generally opposed to any action that would serve to prohibit or otherwise limit the placement of his product in Lancaster County. Attached to the agenda item are copies of correspondence and information provided to the Planning Commission by Mr. Miller's counsel, Mr. James H. Ward, Jr. Also attached are comments from Mr. Fred Ajootian, who aided the Planning Commission in drafting the proposed definition. Finally, the approved minutes from the three Planning Commission meetings dealing with this issue are also attached.

Chairman Geilich opened the public hearing.

Mr. Ajootian said the existence or absence of power or steering is irrelevant; the problem is the use as a dwelling. You could take a house boat and put a horse and a half electric trolling motor on the back and take five minutes to clamp it on giving it power.

Floyd Hollister stated he has he lives in Kilmarnock and has been a boater for 50 years, a captain and has taken his sail boat to the Bahamas twice. He does not understand why it's necessary for the county to pass this type of ordinance.

People live on boats and they come and go. There has been a legal issue with every area that has attempted to pass such an ordinance. Why is the county spending so much time on something that appears to be a non-problem? He again said he does not understand the motivation for the proposed changes.

Edward Gorman said he has a Captains license and lived on his sail boat in 2001 for three years on Carters Cove. He is confused and does not understand why this is such an issue. There are a lot of people who lives on board boats. He agreed with Mr. Ajootian's statement.

Mr. Ajootian said this ordinance is not to prevent people from living on a boat (sail boats, cruisers, vessels). At the end of Deltaville you will see a row of floating houses on the water and they are not boats. They will overrun all the county waterways if left unregulated.

Mr. Jenkins said as the ordinance reads "*...It is further identified as lacking a source of propulsion and/or navigation device such as rudder or steering mechanism that is an integral part of the structure or device.*" That precludes someone from putting an outboard motor, he said an outboard motor will never be an integral part that vessel.

Mr. Beauchamp stated this ordinance is not to prohibit people for living on their boats.

Dana Gilmore asked do we want houseboats in Lancaster County? The Commonwealth of Virginia Code said that a houseboat is a vessel that is used primarily as a residence and is not used primarily as a means of transportation. By definition it is under state code as a dwelling unit defined as a structure that is used as a home or residence; single-family residence dwelling unit which has direct access to a street that shares neither heating facilities, hot water equipment nor any other essential facility or service with any other dwelling unit. Which

means it would fall under the building or housing code and the county can regulate it under the building code. As a water dependent facility this means a development of land that cannot exist outside the RPA and must be located on the shoreline by reason of its intrinsic nature as docking structure. The beneficial use is off-stream uses including domestic water supply and sewerage. As a marine sanitation device is the equipment installed on a boat to receive, retain, treat, or discharge sewage and there are special regulations pertaining to houseboats. Sewage treatment works including (i) an integral part of the treatment process (ii) used for the ultimate disposal of effluent. State-of-the-art nutrient removal technology means technology that will achieve at least a 3 mg/L total nitrogen concentration or at least a .3 mg/L total phosphorus concentration in effluent discharges. The local government authority gives counties the authority to exercise their police and zoning powers to protect the quality of state water. And there are civil penalties that counties may incorporate the following penalties into their ordinances not to exceed \$5,000 for each day of violation. He said Lancaster County has many, significant bases in state law to regulate and control “houseboats” if it so chooses under existing statutory authority of the Commonwealth of Virginia.

Joe Conkle stated he has a 50’ houseboat and there is no definition or reason why he does not have the same rights to live on his houseboat as everyone else does. What is the real issue or problem that the county is trying to resolve?

Mr. Jenkins stated if the definition is read it is talking about a floating house. When drafting this legislation it was never intended that as a boater what is generically called a houseboat, it is a boat primarily used for recreation and cruising, but you can live on it. The county is looking at a structure that happens to float, that is a cottage. It is not intended for anything other than what it is, a cottage as a second or full-time house which sits at the end the dock or a marina.

Mr. Gorman asked if citizens were asked to assist with this ordinance.

Barry Miller with Bay Marine said his product will be affected. His product meets the same criteria in Lancaster County as a sail boat and power boat. They have not gotten any answers as to why his product should not be allowed in Lancaster County.

Jimmy Ward, Attorney that represents Mr. Miller, owner of Aqua Lodge. Mr. Ward stated he has been practicing law in Saluda for the past 30 years and both his father and grandfather were watermen. He said this ordinance is to exclude Mr. Miller's Aqua Lodge boats. This issue came before the Virginia Marine and Resources Commission on October 31, 2006 and after a number of meetings Steve Bowman, Chairman of the Commission stated *"We can charge the Committee with doing that just to get an idea, I know, just because one state does on thing with...I think what you're saying is it at least gives you idea to look at what's going on. In...Bob, I think you all have done a good job in going and looking at the ...these concerns. What causes me, just something to ponder, is that first and foremost, we did not go looking for this dog to catch...it came to us. I want to make sure that it's perfectly clear. And we've done a good job in examining, "Is it a boat?" Who has responsibility once it...I mean...it's almost like if you get to number one, you go to number two, is it a boat? Now if DGIF, which is the regulatory entity that defines boats, license boats, or whatever, says it's a boat, it's a boat. VMRC does not have the authority to determine whether or not it is a boat. Then you get to several water quality issues. Certainly the Code is rife with language that we look at water quality issues in making determinations under specific circumstances. But I think in this sort of circumstance, we're talking about discharges and things like that and it's DEQ's responsibility to look at water quality and discharges..."* The Board of Supervisors does not have the authority to change a boat to a structure. He said the memorandum submitted to Mr. Pennell and Mr. Larson stated that VMRC has absolved itself from any regulatory control over this modern houseboat and the

Board of Supervisors asked the Planning Commission to review this matter completely, including the legal aspects of these boats being used as houseboats. He does not believe VMRC absolved themselves of the responsibility, but believes based on the statement they made the determination that they had no authority. He has not heard that there has been an issue with houseboats or otherwise in Lancaster County that has caused anyone problems. You can anchor a boat in any of the waters in Lancaster County except in a channel and there is nothing this board can do about it. It is his and his client's position that if it's a boat, it's a boat. On March 20, 2006 for official determination by DGIF, Aqua Lodge will be considered a boat. In a memorandum from Matthew Higgins, County of Middlesex Planning Director he stated "During the week of March 20, 2006, I contacted the Virginia Marine Resource Commission (VMRC) for their official determination as to how the proposed "aqua lodges" would be classified as boats. Based on their response, the County will officially consider the "aqua lodges" as boats, and the "aqua lodge" would be subject to the same use restrictions and regulations under the Middlesex County Zoning Ordinance as boats." Again, he does not think the Board of Supervisors has the right to do something that DGIF said is a boat and regulate it and make it a structure to therefore control it. This is an important issue for him, his client, the Lancaster County Board of Supervisors and its citizens but it does not appear that that you should act quickly upon or under political pressure.

Mr. Ward suggested that rather than passing this ordinance. He requested the Board of Supervisors to take time and reevaluate all the information presented and look at the zoning ordinances to see what can be done. He asked the board not to adopt this ordinance tonight.

Chairman Geilich closed the public hearing.

Mr. Beauchamp asked if Department of Game and Inland Fisheries had classified "Aqua Lodge" as a boat.

Mr. Ward said yes they are assigned registration numbers.

Mr. Beauchamp state he spoke to Larry Harden, with DGIF Boating & Licensing Division and he never heard of Aqua Lodge.

Mr. Ward read Section 29.1.700 definition of the Code of Virginia which was provided to the Board of Supervisors. "Vessel" means every description of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water. This is definition that DGIF should follow.

Dr. Russell stated he understands what the County is trying to do, but not sure if we are getting the intent with the proposed definition. There have been some interesting points made and he would be unable to vote on the proposed ordinance as it currently reads.

Mr. Gill stated this issue was discussed in great lengths at three Planning Commission meetings. The Planning Commission was directed by the Board of Supervisors to explore regulatory control of floating houses. The Planning Commission did that and it was their position to be proactive rather than reactive in a situation whereas these cottages could show up on our waterways. The Planning Commission decided they would try to regulate what is attached to the dock which the county does have the authority to do. Take note that Middlesex County in their own ordinance stated "that aqua lodge can not be used as a permanent residence in Middlesex County." This definition is consistent with Lancaster County's previous position on boathouses and the ill-fated houseboats of the past.

Dr. Russell asked how can the County regulate floating houses if they do not approve this ordinance.

Mr. Gill said they can not.

Mr. Jenkins stated they need more time to review the proposed ordinance and its definition.

Mr. Jenkins made a motion to table the proposed Floating Houses definition.

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

Mr. Ward thanked the Board of Supervisors for taking their time on this issue and hearing all their concerns. Again, he thanked the board for their time and patience.

2. Application for Special Exception – Glenn D. Rowe – Mr. Gill presented an application for Special Exception by Glenn D. Rowe to place a data antenna on property described as Tax Map #22-50C. This property is located at 395 Nugent Lane off VSH 675, Black Stump Road, near its intersection with Lumberlost Road and is in Voting District 5.

Mr. Gill stated 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 antenna up to 85 feet tall at various locations within the county to provide wireless broadband Internet access in areas lacking that capability.

Mr. Gill said this request has been advertised and adjoining property owners notified as required by law. To date, staff has received one call from an adjoining property owner requesting additional information, and one fax from an

interested member of the public who lives in the vicinity of Mr. Rowe and supports his request.

Chairman Geilich opened the public hearing.

Tom Patton, owner of Northern Neck Wireless Internet stated they have a potential list of sixteen people in that area to use the services provided by this antenna. The antenna will be less than 85' and believes it will be good service for that area.

Dr. Russell asked if that will help the residents on Cox Farms Road?

Mr. Patton said not sure because of the line of site issues.

Chairman Geilich closed the public hearing.

Mr. Beauchamp made a motion to approve the Application for Special Exception for Glenn D. Rowe.

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

CONSENSUS DOCKET

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

A. Minutes for October 25, 2007

Recommendation: Approve the minutes with amendments

B. Resolution Commending Joanne Smith, Executive Director Merrimac Center

Recommendation: Adopt the following resolution:

**JOANNE SMITH
EXECUTIVE DIRECTOR, MERRIMAC CENTER**

WHEREAS, eighteen Northern Neck, Middle Peninsula, Central Virginia and Peninsula counties and cities participate in a Juvenile Detention Commission which owns and operates a 48 bed, secure juvenile detention facility known as “The Merrimac Center”; and

WHEREAS, Joanne Smith has been the Executive Director of the Merrimac Center from its beginning and was hired even prior to the construction of the building; and

WHEREAS, Joanne participated in the design development and review; oversaw all aspects of the construction of the facility; developed all operations policies and procedures; developed and implemented a staffing plan, to include assuring the superior training of all employees; and

WHEREAS, she has operated this 48 bed, secure, coed facility since it opened in 1996, and has done so to standards of excellence and without serious incident, protecting the residents and the public, working to assure that time spent by juveniles will be productive and involve increased health, mental health and educational achievements and offer each youth the potential for a better future and productive lives; and

NOW THEREFORE BE IT RESOLVED, that the Lancaster County Board of Supervisors commends Joanne Smith for her accomplishments, her commitment to the community and her lifetime of service to troubled young people.

BE IT FURTHER RESOLVED, that the Lancaster County Board of Supervisors conveys its heartfelt gratitude to Joanne Smith and wishes her a rewarding retirement and continued success in all her endeavors.

C. Abstract of Votes – General Election – November 6, 2007

Recommendation: Accept the Abstract of Votes for the November 6, 2007 General Election as submitted by the Lancaster County Elections Board.

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

CONSIDERATION DOCKET

The Board considered the following items on its Consideration Docket:

1. Approval of November 2007 Salaries and Invoice Listings

Motion was made by Mr. Palin to approve the Salaries for November 2007 in the amount of \$188,338.93 and Invoice Listings for November 2007 in the amount of \$630,250.77.

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

2. White Hall Farm Subdivision Road Bond – Mr. Gill said there has been a reduction in the need for the bond issued for the White Hall Farm subdivision road. White Hall Farm subdivision is located at the end of VSH 689 in the Ottoman area, and is in Voting District 1.

Mr. Beauchamp informed the board of supervisors that he will abstain from any involvement with this item because of his past professional involvement with the subdivision.

Mr. Gill stated the attached bond/irrevocable letter of credit was properly renewed in the original amount of \$47,500 and the expiration date extended to May 21, 2008. The owners Mr. and Mrs. Van Ness have inquired about reducing the bond for this subdivision road in the future. Mr. Mark Fridenstine with the Virginia Department of Transportation (VDOT) has viewed the road to determine any corrections still needed to bring it into the secondary system. As a result of his review, VDOT has issued a letter, which was submitted to the board recommending that Lancaster County consider reducing the bond to one-half or \$20,000, which they believe is sufficient to cover the remaining improvements.

Mr. Jenkins made a motion to approve the White Hall Farm Subdivision Road Bond reduction to \$20,000.

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

3. Grass Cutting – Lara Landfill – Mr. Pennell stated the previous contract for the twice annual cutting of the Lara Landfill site has expired and he has advertised for bids for the continued cutting of this site as required by the Virginia Department of Environmental Quality and the Engineering Consultants for the tri-county site.

Mr. Pennell said the following bids were received in response to the request for bids. This request was advertised in the Rappahannock Record, Northern Neck News and the Northumberland Echo.

McD. Fleet	\$ 974.00 per cut
Dix's Landscaping	1,082.50 per cut
River View Landscaping	2,250.00 per cut
C & F Bushhogging	1,470.00 per cut
Moore's Excavating	4,975.00 per cut

Mr. Palin made a motion to approve the bid from McD. Fleet and authorize the county administrator to execute a five-year contract, renewable three times, with Mr. Fleet.

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

4. Installation of Generator at County's Recovery Center (Northern Neck Family YMCA/American Red Cross Facility) - Mr. Pennell said the Lancaster County Department of Emergency Services has partnered with the Northern Neck Family YMCA and the American Red Cross to use their facilities as the Emergency Recovery Center for Lancaster County. The Recovery Center will be used after declared emergencies to provide the citizens of Lancaster County with updated information on sheltering and mass feeding locations, in addition to, using the facility for hygiene purposes and distribution of supplies.

Mr. Pennell stated the Department of Emergency Services requested proposals for the installation and service of a generator that would service the facility as a result of this partnership.

Mr. Pennell said the American Red Cross acquired a grant from the Jessie Ball duPont Religious, Charitable and Educational Fund in the amount of

\$72,659. Lancaster County has offered \$10,000 from Homeland Security funds towards the completion of this project, in addition to, arranging for the services of an electrical engineer for the design of the project.

Mr. Beauchamp made a motion to approve the proposal by Paul A. Ryan, Inc. and authorize the county administrator to proceed with a contract for the installation and service of the generator.

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

5. Lancaster Primary School – Bus Loop/Parking Project – Ms. Sciabbarrasi stated at the last board meeting she submitted a letter to the Board of Supervisors requesting assistance in planning for the capital improvements to the Lancaster Primary School to improve the bus loop and parking conditions.

Ms. Sciabbarrasi stated the school board scheduled a work session and met with Mr. Jenkins and Dr. Russell to discuss the cost and other concerns. As a result of this meeting there were some cost savings. The project will be divided into two sections which will be the back lot where more parking is needed and front lot to start in order to get the bus loop to the back. There were two bids that were submitted and the low bid was \$57,740 from Moore’s Construction. This does not include the parking lot bumpers which will be in the range of \$2,500 to \$2,900. She stated Bay Design will be doing the surveys and plans for \$5,400. After the surveys and plans for the bus loop is completed they will come back to the board.

Mr. Jenkins asked if \$34,000 included the loop.

Ms. Sciabbarrasi said it only included the parking in the back not the loop.

Mr. Guill said the \$34,000 is to put the gravel down and create space for the loop. The buses can not be taken on the loop because a site plan is needed at the intersection at Devil's Bottom Road to widen the access road to get the buses back to the loop. The cars will pack the gravel down over the next year and once everything can be brought up to VDOT standards the buses can then come in. The only thing left to do will be adding asphalt. This request does not include access from Devil's Bottom to the loop.

Both Mr. Jenkins and Dr. Russell stated they thought this included everything including gravel to the road and ready to where the entrance would be.

Mr. Guill stated he only said all this would solve is the car parking and told everyone at the meeting this would not solve the entire problem.

Mr. Pennell stated he also believed that gravel would run from Devil's Bottom Road to the loop creating the road, but understood that VDOT approval was required for the commercial entrance.

Mr. Jenkins stated the county needed to act with some speed, one of the reasons we are getting such a good price is because of the time of year.

Mr. Jenkins made a motion to approve and transfer \$32,000 from the capital improvement fund and begin the work on the front lot of Lancaster Primary School – Bus Loop/Parking Project. The \$32,000 will cover Bay Design, front parking lot and the parking lot bumpers.

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

BOARD REPORTS

APPOINTMENTS

Board of Equalization

Mr. Geilich made a motion to appoint Ty Brent to the Lancaster County Board of Equalization of real estate assessments as a representative for District 3.

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

Mr. Beauchamp made a motion to appoint Don Caskie to the Lancaster County Board of Equalization of real estate assessments as a representative for District 5.

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

Mr. Jenkins made a motion to appoint Henry Cathey to the Lancaster County Board of Equalization of real estate assessments as a representative for District 1.

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

Dr. Russell made a motion to appoint William Lee to the Lancaster County Board of Equalization of real estate assessments as a representative for District 4.

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

Historic Resources Commission

Mr. Geilich made a motion to reappoint Irvin Owings to the Historic Resources Commission to represent Lancaster County District 3 for a three year term beginning January 1, 2008 and ending December 31, 2010.

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

Mr. Jenkins made a motion to reappoint Louise Jesse to the Historic Resources Commission to represent Lancaster County District 1 for a three year term beginning January 1, 2008 and ending December 31, 2010.

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

Planning Commission

Dr. Russell made a motion to reappoint Rodney Waller to the Planning Commission to represent Lancaster County District 4 for a four-year term beginning November 1, 2007 and ending October 30, 2011.

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

99th House of Delegates District

Dr. Russell stated that in all likelihood Delegate Robert Wittman will be elected to the U.S. Congress in the December 11, 2007 special election and Lancaster County will be without a delegate. He would like to authorize the county administrator to draft a resolution or write a letter to the Governor and Speaker of the House voicing our concerns, so that we will not be without a delegate for the entire session of the General Assembly.

Mr. Jenkins said also send a copy of the letter to each of the Board of Supervisors in the 99th District asking for similar action.

By consensus of the board, the county administrator will write a letter to the Governor, Speaker of the House and each Board of Supervisors in the 99th District.

Affordable Housing

Mr. Palin stated the Planning Commission has starting discussing affordable housing. At the last meeting open space, minimum lot size, location (Planned Growth

Area), and regulation on resale of the property was discussed. He asked the board for their input, in order to have something to present to the Planning Commission.

Dr. Russell said the county will be getting money from the Jesse duPont Foundation to conduct a housing study for the entire Northern Neck next year. This study will assist in providing workforce housing.

Mr. Jenkins stated that right now the county has a dilemma that workforce housing and affordable housing will have to allow for clustered development and right now the county does not allow for clustering. The Land Use Administrator will have to begin research if and when the county can designate a sub-zone within R-2 or R-3 that is for a specific purpose.

Mr. Gill stated he has already begun to research this issue. There will be a workforce housing workshop for the county which is tentatively scheduled for Saturday, February 16, 2008 from 9:00 a.m. – 12:00 p.m. possibly at Lancaster Middle School.

COUNTY ADMINISTRATOR REPORT

Assign-A-Highway Litter Totals

Mr. Pennell said he included the latest litter collection report for the Northern Neck's Assign-A-Highway Program. He said Lancaster County funds its share of this program through the annual state Litter Grant funds it receives.

CLOSED SESSION

Motion was made by Mr. Jenkins to enter into closed meeting to discuss matters exempt from the open meeting requirements of the Virginia Freedom of Information Act. The subject matters to be discussed in the closed meeting is Real Property, §2.2-3711.A.3 of the Code of Virginia. The purpose of the closed meeting is to discuss acquisition of

real property for public purpose or the disposition of government owned property where public discussion would jeopardize the County's bargaining or negotiating position. The subject and purpose falls within the following exemption(s) under §2.2-3711.A.3 of the Code of Virginia.

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

RECONVENE

Motion was made by Mr. Palin reconvene open meeting and certification of closed meeting.

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

CERTIFICATION

WHEREAS, the Lancaster County Board of Supervisors convened in a closed meeting on this date pursuant to an affirmative recorded vote on the motion to close the meeting to discuss Real Property for the purpose to discuss acquisition of real property for public purpose or the disposition of government owned property where public discussion would jeopardize the County's bargaining or negotiating position in accordance with §2.2-3711.A.3 of the Virginia Freedom of Information;

WHEREAS, §2.2-3712 of the Code of Virginia requires a certification by the board of supervisors that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE BE IT RESOLVED that the Lancaster County Board of Supervisors hereby certifies that, to the best of each member's knowledge, (1) only public business matters lawfully exempted from open meeting requirements under the Virginia Freedom of Information Act were heard, discussed or considered in the closed meeting to which this certification applies and (2) only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed or considered in the meeting to which this certification applies.

Motion was made by Dr. Russell to certify the closed meeting.

Before a vote is taken on this resolution, is there any member who believes that there was a departure from the requirements of number 1 and number 2 above? If so, identify yourself and state the substance of the matter and why in your judgment it was a departure. There was no comment.

Hearing no further statement, Mr. Geilich called the question. A roll call vote was taken:

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

This certification resolution is adopted.

PRIMARY SCHOOL BUS LOOP

Following the closed session, the Board of Supervisors returned to open session and continued discussion about the need to fund the construction of a bus loop at the Primary School in a timely fashion.

Mr. Jenkins made a motion to approve an additional \$50,000 from the Capital Improvement Fund to provide funding to complete the bus loop at its earliest possible time.

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

ADJOURNMENT

Motion was made by Mr. Beauchamp to adjourn.

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