

**VIRGINIA:**

A meeting of the Lancaster County Board of Supervisors was held in the Administrative Building Board/Commission Meeting Room of said county on Thursday, February 23, 2017.

Members Present: William R. Lee, Chair  
Ernest W. Palin, Jr., Vice Chair  
F. W. Jenkins, Jr., Board Member  
Jason D. Bellows, Board Member  
B. Wally Beauchamp, Board Member

Staff Present: Frank A. Pleva, County Administrator  
Don G. Gill, Planning and Land Use Director  
Crystal Whay, Building/Land Use Secretary

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

**PUBLIC INPUT**

Ms. Lisa Carol Rose, a District 3 citizen, stated that she was a fifth generation commercial waterman. She stated that she has been working with Delegate Helsel from Poquoson and they have presented four bills to the General Assembly this year. She stated that three of those bills passed the sub-committees and the Senate last Tuesday. She stated that the one bill that she is asking for support for is House Bill 1573, which states “provides that when the Virginia Marine Resources Commission (VMRC) revokes fishing privileges for a violation of the tidal fisheries law, it shall only revoke the particular type of license that is applicable to the fishery in which the violation occurred.” Under current law, the Commission is authorized to revoke all of the fishing privileges a person has been granted, irrespective of the location and type of fish described in the license. The bill also reduces the maximum duration of the license revocation from five years to two years and requires the Commission to accept credit card payment of any civil penalty it assesses for fishing under a revoked license.

Ms. Rose stated that VMRC violations can be as minor as not reporting, leaving the dock a minute early or not having your tag on the boat. She stated that VMRC can look at those simple violations as repeat offenders. She stated that, in her opinion, repeat offenders do the same offense over and over with such violations as stealing from the sanctuary or harvesting undersized oysters. She gave an example of a waterman who had

two violations, twenty-five years apart, and VMRC classifies him as a repeat offender. She stated that she is not in support of watermen who commit felonies, but this bill is to protect the good guys. She stated that the passing of this bill would give watermen a little less to worry about. She stated that she was asking the Board to support the bill, which will help support the local watermen and the local seafood industry.

Mr. Jenkins stated that, in his opinion, VMRC is one of the most corrupt agencies in the Commonwealth of Virginia. He stated that VMRC does not help the citizens of the state, but rather represents special interests. He stated that he wished the Board could help Ms. Rose's bill more, but the representatives in the General Assembly "tie their hands". He stated that bad government is bad government and while our Commonwealth is blessed with much good government, VMRC is an area that is not, in his opinion.

Mr. Beauchamp stated that if Ms. Rose came to the Board at the beginning of January, the Board could have passed a resolution. He stated that since the bill passed the Senate on February 21<sup>st</sup>, he was not sure what the Board could do for her now.

Ms. Rose stated that she had been told that the Governor may veto the bill.

Mr. Lee suggested that the Board authorize Mr. Pleva to draft a letter in support of the house bill.

Mr. Pleva stated that the General Assembly adjourns on Saturday and the veto session is April 5<sup>th</sup>. He stated that he would draft a letter to the Governor on the Board's behalf. The Board was in consensus to send a letter of support.

Mr. Ernest Kallus, a District 2 citizen, stated that there is a swale at about 4000 Merry Point Road that is full of junk and trash. He stated that you have to look over the side to see a mass of trash that looks like a dumping site that goes into John Creek. He stated that he lives on John Creek and would like to see something done. He stated that he was concerned about the aquatic life and would like to see the water tested there. He stated that maybe the County can weigh in on the issue.

Mr. Jenkins asked Mr. Kallus for suggestions. He asked if Mr. Kallus wanted someone from the County stationed there twenty-four hours a day.

Mr. Palin asked exactly where the site was located.

Mr. Kallus replied the site is approximately a half mile from the ferry.

Mr. Jenkins asked if Mr. Kallus had spoken to the compliance office.

Mr. Gill replied that Mr. Kallus had recently reported the issue to him.. He stated that they needed to determine the ownership of the parcel and stated that there may also be a drainage easement for VDOT. He stated that the clean-up would ultimately fall on the property owner.

Mr. Lee stated that the County would look into the issue and thanked Mr. Kallus for bringing it to the Board's attention.

### **PRESENTATIONS**

None.

### **VIRGINIA DEPARTMENT OF TRANSPORTATION**

Mr. Pleva stated that there was no representative from VDOT at the meeting.

Mr. Bellows asked Mr. Pleva if he could ask Robert Harper, Brookvale Superintendent for VDOT, about litter pick-up on Route 3. He stated that he had received several calls.

Mr. Pleva stated that he would be in touch with Mr. Harper.

### **PUBLIC HEARING**

1. Application for Change of Zoning District Classification-Carolyn Quinn (Dug In Farms, LLC)

Mr. Lee asked Mr. Gill to present the issue.

Mr. Gill stated that the issue was an Application for Change of Zoning District Classification from R-1, Residential, General to A-2, Agricultural, General by Carolyn Quinn ( Dug in Farms, LLC) for a 7.553-acre parcel described as Tax Map #29-37 and a 1.208-acre adjoining parcel described as Tax Map #29-37C. He stated that these adjacent parcels are located at 155 Fleets Bay Road in District 4. He stated that the Planning Commission had unanimously forwarded this request to the Board of Supervisors recommending approval.

Mr. Gill stated that the applicant wishes to expand her current vegetable, flower and egg farm to include larger livestock, but cannot do so under the current R-1 zoning since animal and poultry husbandry on a commercial basis requires a special exception from the Board of Supervisors in the R-1 district. He stated that a special exception is limited to the proposal presented at the time of the request, so if her livestock operation further expanded in the future, she would have to come back to the Board of Supervisors to revise that special exception at the time of each expansion. He stated that, as a result, the applicant decided to seek rezoning to A-2, Agricultural General instead of seeking the special exception under R-1. He stated that the A-2 zoning will permit animal and poultry husbandry on a commercial basis without a special exception, so she would not have to come back for multiple revised approvals should her livestock operation expand in the future.

Mr. Gill stated that the applicant had provided a survey and narrative explaining her current operation and the future livestock expansion plans for her 8.761-acre farm. He stated that these parcels have a history of traditional crop farming, but not for raising larger livestock.

Mr. Gill stated this rezoning request can be considered reasonable and appropriate given these parcels' location. He stated that a 69-acre parcel in close proximity to these parcels was rezoned to A-2, Agricultural General in October 2015. He stated that this would also be a downzoning, as uses in the A-2 district are generally considered to be less intense than those of the R-1 District.

Mr. Gill stated that while these parcels are in close proximity to the Kilmarnock town limits and our Primary Growth Area, the major theme expressed during the last two revisions of the Comprehensive Plan was to retain the rural character and heritage of Lancaster County. He stated that staff believes that expanding this small farm market to include larger livestock conforms to that theme. He stated that, just as her produce stand has done, this action could also provide local residents with access to locally produced meat, filling a niche created by a local foods movement that has gained momentum over the past several years.

Mr. Gill stated that the Planning Commission conducted its public hearing on this matter on January 19, 2017 and has unanimously recommended approval.

Mr. Gill stated that adjoining property owners had been notified and advertising conducted as required by law and to date, other than the discussion at the Planning Commission meeting, there have been 2 responses from adjoining property owners who supported this request.

Mr. Lee opened the public hearing.

Ms. Quinn thanked the Board for their consideration and thanked Mr. Gill for presenting the application.

Mr. Jenkins asked if Ms. Quinn was considering any limits on produce and livestock.

Ms. Quinn replied that the only good growing land for produce on her property is the front two acres. She stated that she runs the operation by herself and uses volunteers in the summer. She stated that her principal limitation is that it is a single owner operation. She stated that she has chickens towards the back part of her property as well as honeybee hives. She stated that she has no plans of getting any larger than having a few hogs.

Mr. Lee stated that he was very familiar with the piece of property and grew up near there. He stated that the property is very low and water stands on the back side

between the farmhouse and Boys Camp Road. He stated that when he was growing up, Dr. Norris had cows on the property and it has always been a farm, so this request is keeping with what has traditionally been there.

Mr. Jenkins asked Mr. Gill if, with the zoning change, there was anything that could control the number of livestock.

Mr. Gill replied that the size of the parcel would be the only limiting factor on the number of livestock.

Mr. Jenkins asked if it could be guaranteed that this property not have a more extensive breeding and growing operation with this zoning change.

Mr. Gill stated that the only thing that would limit it would be the size of the land, unless the applicant wished to voluntarily proffer limits.

Mr. Palin stated the applicant only has eight acres and there is only so much she can do with it.

Mr. Lee stated that he did not think the land would be suitable for more expansion than what is being requested.

Mr. Bellows stated that he was fully in support of Ms. Quinn's effort. He stated that he did not see a slaughterhouse going there.

Mr. Jenkins stated that he was on the applicant's side, but he wanted to avoid setting a precedent that cannot later be taken back. He stated that he thought the larger issues were not addressed at the Planning Commission level. He stated that he thought what Ms. Quinn wanted to do was more than legitimate, but wanted to make sure that someone else did not try to abuse the decision at a later time.

Mr. Lee asked if Mr. Jenkins meant if someone else was to buy Ms. Quinn's property at a future date with the new zoning.

Mr. Jenkins replied yes. He stated that the zoning goes with the land, not with the applicant.

Mr. Gill stated that the size of the parcel and the fact that it stays wet in the back were limiting factors. He stated that the only way that a control could be placed on a rezoning is through a voluntary proffer.

Mr. Jenkins asked Jim Cornwell, County Attorney, for his opinion.

Mr. Cornwell stated that once the land is zoned to A-2, there would be no control over the number of livestock that could be raised there. He stated that there were two options. He stated that the first would be to deny the rezoning and the applicant could

come back with a special exception request or to approve the rezoning with the understanding of the uses available to the applicant.

Mr. Jenkins asked if proffers could be made at tonight's meeting, if the applicant chose to do so.

Mr. Cornwell replied that he was not sure, and that it may have to go back to the Planning Commission.

Mr. Jenkins asked Ms. Quinn how urgent her request was. He said the timeline could take a month or two.

Ms. Quinn replied that she was not in a hurry and that nothing would change in a month or two.

Mr. Bellows stated that he thought the limiting factor was the size of the property and did not see it becoming a major operation. He stated that there are neighboring A-2 parcels that could do the same thing that Ms. Quinn is considering without consent from the Board.

Mr. Gill stated that he did not think the application would have to go back to the Planning Commission. He stated that it could be tabled, readvertised and come back to the Board of Supervisors at next month's meeting.

Mr. Beauchamp stated that he wanted Ms. Quinn to know that he thought every Board member was in favor of what she wanted to do.

Ms. Quinn stated that she would consider her options.

Mr. Lee closed the public hearing.

Mr. Lee made a motion to table the Application for Change of Zoning District Classification-Dug In Farms, LLC-Carolyn Quinn.

VOTE:	William R. Lee	Aye
	Ernest W. Palin, Jr.	Aye
	F. W. Jenkins, Jr.	Aye
	Jason D. Bellows	Nay
	B. Wally Beauchamp	Aye

VOTE: 4-1

**CONSENSUS DOCKET**

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

1. Minutes for January 26, 2017 Regular Meeting and February 9, 2017 Joint Budget Work Session with the School Board

Recommendation: Approve minutes as submitted

VOTE:	William R. Lee	Aye
	Ernest W. Palin, Jr.	Aye
	F. W. Jenkins, Jr.	Aye
	Jason D. Bellows	Aye
	B. Wally Beauchamp	Aye

**CONSIDERATION DOCKET**

The Board considered the following items on its Consideration Docket:

1. Approval of February 2017 Salaries and Invoice Listings

The motion was made by Mr. Palin to approve the salaries for February 2017 in the amount of \$ 260,939.55 and invoice listings for February 2017 in the amount of \$ 539,131.80\*.

\*Greentown/Gaskins Road - \$19,075.00

VOTE:	William R. Lee	Aye
	Ernest W. Palin, Jr.	Aye
	F. W. Jenkins, Jr.	Aye
	Jason D. Bellows	Aye
	B. Wally Beauchamp	Aye

2. Greentown-Gaskins Road Sewer System Project-Establishment of USDA Funds Reserve Accounts

Bonnie Dickson, County Treasurer, stated that a few years ago, she had been requested to open four separate, non-interest bearing checking accounts to receive funds from the USDA for the Greentown/Gaskins Road Sewer Project. She stated that those accounts were opened in the amount of \$5,000 each. She stated that she was not sure about the delay, but those accounts have sat dormant for the last few years since the funds from the USDA have been received as reimbursement for the completed work.

Ms. Dickson stated that the USDA representative, Tara Delaney, had recommended that the four existing checking accounts be closed and open three savings accounts as reserve funds. She stated that the three accounts would be for Operations and Maintenance, Short-Lived Asset Fund, and Debt Service.

Mr. Jenkins asked about the amounts in each account.

Ms. Dickson replied that the Operations and Maintenance Account needs \$5,134.00, the Short-Lived Asset Account needs \$19,060.00 and the Debt Service Reserve Account needs \$6,400.00.

Mr. Bellows asked if the accounts would be closed after the Greentown/Gaskins Road Sewer Project had been completed.

Ms. Dickson replied no and that the three accounts would be permanent.

Mr. Lee asked what the Short-Lived Asset Account would cover.

Ms. Dickson replied that Ms. Delaney's explanation for that account's use was if there was a large expenditure, such as a pump replacement, that the normal budget could not handle for some reason.

Mr. Jenkins stated that he thought the Board needed an accounting of the Greentown/Gaskins Road Sewer Project. He stated that the County got involved for the best of reasons, but it has been a tremendous cost to the taxpayers for just one project. He stated that he would like to know how many people have been helped versus the cost to the taxpayers.

Ms. Dickson stated that the County would be on the hook to fix things, such as pumps, but the County is also supposed to be receiving income from billing each month.

Mr. Jenkins asked if Ms. Dickson knew the amount of the monthly income yet.

Ms. Dickson replied that she did not know at this time.

Mr. Bellows made a motion to Approve the Request to close the four non-interest bearing checking accounts and open the three new savings accounts and

appropriate the reserve funds as requested for the Greentown/Gaskins Road Sewer Project.

VOTE:	William R. Lee	Aye
	Ernest W. Palin, Jr.	Aye
	F. W. Jenkins, Jr.	Aye
	Jason D. Bellows	Aye
	B. Wally Beauchamp	Aye

3. Middle Peninsula Juvenile Detention Center Revised Service Agreement and Resolution

Mr. Pleva stated that Lancaster County, along with eighteen other jurisdictions, are members of the regional juvenile detention facility located in Williamsburg. He stated that the revised agreement includes removing King George because they are no longer involved and recalculation of how the budget request will be done, since it will be based on five years instead of the current three years. He stated that one of the benefits of the change is that it would equal out the highs and lows when trying to project a number for the County to set aside during the budget process. He stated that other localities, such as King and Queen, Middlesex and Mathews Counties have already approved the agreement and resolution.

Mr. Lee made a motion to Approve the Middle Peninsula Juvenile Detention Center Revised Service Agreement and Resolution.

VOTE:	William R. Lee	Aye
	Ernest W. Palin, Jr.	Aye
	F. W. Jenkins, Jr.	Aye
	Jason D. Bellows	Aye
	B. Wally Beauchamp	Aye

**BOARD REPORTS**

Mr. Jenkins stated that he had found out that the Coast Guard is no longer going to maintain the buoys in Greenvale Creek. He stated that Greenvale Creek is an historic creek that used to be called Fairweather Creek. He stated that the creek has always had

problems with silting and has, at times, a treacherous entrance to a safe harbor. He stated that the creek has a public boat ramp and commercial fishermen use it as well. He stated that he was not sure what could be done about it, but it concerned him.

Mr. Pleva stated that he would contact the Portsmouth Coast Guard District office and ask them about reconsideration of the decision on Greenvale Creek.

**COUNTY ADMINISTRATOR**

None.

**CLOSED MEETING**

Motion was made by Mr. Lee to enter into closed meeting to discuss matters exempt from the open meeting requirements of the Virginia Freedom of Information Act. The subject matter to be discussed in the closed meeting is Legal Consultation, § 2.2-3711.A. 7 of the Code of Virginia, 1950, *as amended*. The purpose of the closed meeting is to discuss legal consultation. The subject and purpose falls within the following exemption(s) under § 2.2-3711.A.7 (consultation with legal counsel and briefings by staff members pertaining to actual litigation where such briefings in open meeting would adversely affect the negotiating or litigating posture of the public body regarding 1) the State Corporation Commission application submitted by Dominion Virginia Power and 2) pending actions to enforce county zoning and building codes.)

VOTE:	William R. Lee	Aye
	Ernest W. Palin, Jr.	Aye
	F. W. Jenkins, Jr.	Aye
	Jason D. Bellows	Aye
	B. Wally Beauchamp	Aye

**RECONVENE**

Motion was made by Mr. Bellows to reconvene the open meeting.

VOTE:	William R. Lee	Aye
	Ernest W. Palin, Jr.	Aye
	F. W. Jenkins, Jr.	Aye
	Jason D. Bellows	Aye

B. Wally Beauchamp                      Aye

**CERTIFICATION**

**WHEREAS**, the Lancaster County Board of Supervisors convened in a closed meeting on February 23, 2017 pursuant to an affirmative recorded vote on the motion to close the meeting for Legal Consultation, § 2.2-3711.A.7 of the Virginia Freedom of Information Act;

**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 Mr. Palin 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 comment, Mr. Lee called the question. A roll call vote was taken:

**ROLL CALL**

VOTE:	William R. Lee	Aye
	Ernest W. Palin, Jr.	Aye
	F. W. Jenkins, Jr.	Aye
	Jason D. Bellows	Aye
	B. Wally Beauchamp	Aye

This certification resolution is adopted.

No action taken on the closed meeting matters.

**ADJOURNMENT**

Motion was made by Mr. Bellows to adjourn.

VOTE:	William R. Lee	Aye
	Ernest W. Palin, Jr.	Aye
	F. W. Jenkins, Jr.	Aye
	Jason D. Bellows	Aye
	B. Wally Beauchamp	Aye