

Joint Subcommittee to Study Long-Term Funding Sources for the Purchase of Development Rights to Preserve Open-Space Land and Farmlands (HJR 692/SJR 401 - 2007)

June 19, 2007

The Joint Subcommittee to Study Long-Term Funding Sources for the Purchase of Development Rights to Preserve Open-Space Land and Farmlands (HJR 692/SJR 401 - 2007) held its first meeting on June 19, 2007.

The members of the Joint Subcommittee are: Senator Emmett W. Hanger, Jr. (Chairman); Senator John Watkins; Senator Mark R. Herring; Delegate Robert D. Orrock, Sr.; Delegate Thomas C. Wright, Jr.; Delegate Benjamin L. Cline; Delegate Edward T. Scott (Vice-Chairman); Delegate Lynwood W. Lewis, Jr.; and Delegate Albert C. Eisenberg.

The first order of business was the nomination and election of Senator Emmett W. Hanger as Chairman and Delegate Edward T. Scott as Vice-Chairman.

Presentations

Staff presentations -

Staff began the meeting with an overview of the mission and accomplishments of the 2006 Joint Subcommittee to Study Long-Term Funding Sources for the Purchase of Development Rights to Preserve Open-Space Land and Farmlands (HJR 133/SJR 94). To begin, staff explained that the Commonwealth's loss of land and its commitment to a multilateral agreement contributed to the establishment of the Joint Subcommittee. In particular, staff stated that the Commonwealth lost 343,500 acres of land due to development between 1992 and 1997. Moreover, the Commonwealth lost 480,000 acres of cropland between 1982 and 1997 and 490,000 acres of forestland between 1992 and 200. Furthermore, under the Chesapeake 2000, the Commonwealth committed to preserving 20% of the Virginia portion of the Chesapeake Bay watershed by January 1, 2010. Resultantly, the General Assembly, in 2006, charged the Joint Subcommittee with studying long-term funding sources for the purchase of development rights to preserve open-space land and farmlands. Specifically, the General Assembly directed the joint subcommittee to identify programs, including purchase of development rights programs, to meet future open-space and other conservation needs of the Commonwealth. The Joint Subcommittee's duties also included developing a plan for the sharing of the costs of land preservation between the Commonwealth and local governments. Furthermore, the Joint Subcommittee was responsible for identifying strategies for increasing land preservation and water supply protection.

Over the course of the 2006 study, the Joint Subcommittee heard testimony that most preserved land in Virginia is obtained through the use of conservation easements. Under the principles of a conservation easement, an owner of undeveloped land gives up the right to develop his/her land for an agreed upon amount; the restriction on land development runs with the land. However, the landowner does not give up the right to live on or farm the land. Under

Virginia law, Virginia's land preservation tax credit provides transferable income tax credits to taxpayers donating land through conservation easements. The credit is set at 40% of the fair market value of the donated easement, and in the last few years, the tax credit has accounted for approximately 80% of the annual acreage preserved in the Commonwealth (52,696 acres in 2005 and 71,686 in 2006).

Staff later discussed several legislative accomplishments of the Joint Subcommittee. Namely, the Joint Subcommittee recommended, and the 2007 General Assembly agreed to: (1) a reauthorization of the study (HJR 692/SJR 401 - 2007); (2) an authorization for the Virginia Resources Authority to raise capital for land preservation (HB 2694; SB 1211); (3) start-up appropriation in 2007 for a statewide purchase of development rights program (\$3,550,000 in fiscal year 2007 and \$700,000 in fiscal year 2008); and (4) additional appropriation act funding. The additional appropriation act funding specifically included \$950,000 in fiscal year 2007 for the Virginia Outdoors Foundation to provide assistance to landowners executing conservation easements and \$500,000 in fiscal year 2007 and \$500,000 in fiscal year 2008 for matching grants from the Virginia Land Conservation Fund to promote conservation.

In 2007, House Joint Resolution 692 and Senate Joint Resolution 401 provided that the Joint Subcommittee to Study Long-Term Funding Sources for the Purchase of Development Rights to Preserve Open-Space Land and Farmlands be continued. Note, however, that the General Assembly further charged the Joint Subcommittee with identifying strategies for increasing the availability of large parks to serve Northern Virginia.

Staff explained that the several issues and difficult decisions are before the Joint Subcommittee established under House Joint Resolution 692 (2007) and Senate Joint Resolution 401 (2007). These issues include setting objective standards for a statewide purchase of development rights program, the level of cost sharing between the Commonwealth and local governments in a statewide purchase of development rights program, financing of the Commonwealth's cost share in a statewide purchase of development rights program, and financing of local governments' cost share in a statewide purchase of development rights program.

Mr. Kevin Schmidt, Coordinator, Office of Farmland Preservation, Department of Agriculture and Consumer Services -

Mr. Schmidt addressed the guidelines for Virginia's new purchase of development rights program and proposed changes in the federal Farm and Ranch Lands Protection Program.

Mr. Schmidt's presentation began with a brief overview of the Office of Farmland Preservation, established in 2001. The Office of Farmland Preservation is charged with creating public education programs about farmland preservation, providing technical assistance on farmland preservation, administering the Virginia Farm Link program, and developing model policies, certification criteria, and methods and sources of funding for local purchase of development rights programs.

Next, Mr. Schmidt described the development of a model purchase of development rights program for Virginia. First, the Virginia Department of Agriculture and Consumer Services Farmland Preservation Task Force was established; the diverse group of Task Force members then agreed to several fundamental positions at the outset. In June 2004, the Task Force completed the first part in developing a model purchase of development rights program and entitled such part, "Part 1: Suggested Components of Local PDR Programs." In November 2005, the Task Force completed the second part and entitled such part, "Part 2: A Proposed State-Level Program to Complement Local PDR Programs."

Mr. Schmidt then gave testimony regarding the Office of Farmland Preservation's funding and its use of such funding. In furtherance of the goals of the Office of Farmland Preservation, the General Assembly recently appropriated funding for the Office of Farmland Preservation in an amount of \$305,000 for the 2006-2008 biennium. Moreover, the General Assembly appropriated state matching funds for local purchase of development rights programs in an amount equal to \$4.25 million for the 2006-2008 biennium. Mr. Schmidt testified that the Office of Farmland Preservation certifies local matching fund and local program elements. The Office of Farmland Preservation also equally distributes available funds on a 50% match; any remaining funds are redistributed amongst the certified programs. Chairman Hanger questioned whether the distribution formula would be altered in the future if additional money is appropriated for state matching funds for local purchase of development rights programs. Moreover, Mr. Schmidt told the Joint Subcommittee that local governments have two years to use allocated funds, and the allocation is "drawn down" upon closing of an easement. Furthermore, other state funds cannot be used as a part of the local match component.

Finally, Mr. Schmidt detailed proposed changes to the Federal Farm and Ranch Lands Protection Program, a program for which up to \$300 million has been federally authorized. Under the proposed changes, grants are given to qualified entities, a category of eligible entities under the program, based on need and on state/local contributions; moreover, no pending offers are needed. In addition, funds that are not granted to qualified entities are available for individual projects by eligible entities, another category of eligible entities under the program. Furthermore, the U.S. Secretary of Agriculture establishes a process for certifying eligible entities, and qualified entities can use their own criteria, easement, etc. Notably, there is no federal contingent right or reversionary interest if an easement is held by a state/local/qualified entity.

Mr. William C. Dickinson, Chairman, Northern Virginia Regional Park Authority Board

Mr. Dickinson's presentation centered on the history of and services offered by the Northern Virginia Regional Park Authority (NVRPA), which is currently the largest regional park authority in Virginia and one of the most self-sufficient park agencies in the country. To begin, six localities (Arlington County, Fairfax County, Loudoun County, City of Alexandria, City of Falls Church, and City of Fairfax) established the NVRPA in 1959 pursuant to the Virginia Park Authorities Act, an act that allows one or more local governments to create a park

authority. The purposes for creating the NVRPA were manifold. Namely, the six localities (1) recognized that open space and natural areas were critical to quality of life; (2) understood that Northern Virginia was growing fast, and natural areas needed to be acquired before they were lost to development; (3) recognized a need to protect the drinking water supplies of the region; (4) appreciated that a regional authority would have better economics of scale to protect natural resources and provide unique recreational opportunities that would complement local recreational offerings. In addition, the smaller localities recognized that they did not have the land base to provide all the natural and recreational opportunities to which their citizens needed access. As such, the mission of the NVRPA is to "enhance the communities of Northern Virginia and enrich the lives of their citizens through the conservation of regional natural and cultural resources" by providing "diverse regional recreational and educational opportunities, and [fostering] an understanding of the relationships between people and their environment."

According to Mr. Dickinson, however, the NVRPA faces specific challenges. Specifically, Mr. Dickinson stated that the Virginia Land Conservation Fund is not fully funded and that a lack of federal and state financial support and increased real estate values have effectively stopped the NVRPA's purchases of significant new parkland. Nonetheless, Mr. Dickinson espoused several, potential opportunities for parkland funding. One involved the creation of a new funding source that would tie funds for riparian parkland to water-related utilities. Another potential opportunity involved the consideration of population density in Virginia Land Conservation Foundation funding. Lastly, Mr. Dickinson suggested that other non-traditional funding streams could be sought to support parkland expansion.

Chairman Hanger concluded the meeting by tentatively scheduling the Joint Subcommittee's next meeting for late August.

Joint subcommittee web page

The joint subcommittee's Internet web page is at:
<http://dls.state.va.us/land.htm>.