

## **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 - 2006)**

October 10, 2006

The 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 - 2006) held its second meeting on October 10, 2006.

### **Presentations**

Ms. Jenny McPherson, Agricultural Reserve Program Coordinator, City of Virginia Beach Agriculture Department -

Ms. McPherson updated the joint subcommittee on Virginia Beach's local purchase of development rights program established in 1995. The goals of the program are to: (i) maintain agriculture as a viable industry; (ii) preserve the resource base for farming and to acquire the development rights to 20,000 acres of land; (iii) maintain an infrastructure for agriculture; (iv) defer the cost of urban infrastructure; (v) preserve open space and rural culture; and (vi) enhance the environmental aspect of Virginia Beach. Landowners participating in the program can still farm their land, rent or sell their land, hunt on their land, and harvest timber growing on their land. However, land for which development rights have been purchased may not be developed for residential, commercial (other than farming), industrial, or similar purposes. The City of Virginia Beach has purchased the development rights to approximately 7,100 acres, which otherwise could have supported 623 development units under the City's zoning ordinances. The total value of the development rights purchased for the 7,100 acres is \$22,643,000.

Virginia Beach's purchase of development rights program is funded by a portion of the City's real estate tax. The City's real estate tax rate in general is \$0.99 per \$100 of assessed value of which \$0.009 per \$100 is dedicated for funding of the program. The dedicated portion of the real estate tax generates approximately \$4 million on an annual basis. In the City's 2006 fiscal year, \$3.7 million was transferred from the program to acquire property bordering Naval Air Station Oceana. The current balance of the agricultural reserve program is \$14,598,762. This amount is needed to (i) purchase 25-year United States Treasury Strips that, upon maturity, are used to make balloon payments to landowners participating in the program; (ii) make nontaxable semi-annual interest payments to such landowners in June and December; and (iii) fund the operational expenses of the program.

Ms. Suzanne Wescoat and Mr. Jeff Walker, Supervisors, Northampton County Board of Supervisors -

Ms. Wescoat and Mr. Walker presented demographic information on Northampton County and discussed the County's purchase of development rights program. The entire County is covered under the Chesapeake Bay Preservation Act. The County currently has 52,459 acres of farmland and 30,000 acres of woodland. Aquaculture and commodity farming are important industries for the County. The County's current annual budget is \$39.3 million with the school budget making up 55% of the County budget. The County already has 5,600 acres protected from development through property rights held by The Nature Conservancy, the Virginia Outdoors Foundation, and the Virginia Eastern Shore Land Trust.

The County has adopted a purchase of development rights ordinance that has been approved by the Virginia Department of Agriculture and Consumer Services. One way in which the County is funding its purchase of development rights program is by dedicating to the program one-half of all rollback taxes collected, which are imposed upon landowners who are not in compliance with use value taxation agreements. New legislation increasing the County's lodging tax from 2% to 5% with the additional revenues being used to fund the County's program is another option that the County may pursue to fund its purchase of development rights program.

Mr. Melvin Atkinson, Rural Community Coordinator, City of Virginia Beach Agriculture Department -

Mr. Atkinson presented information on the work being done by a statewide purchase of development rights managers' group that is, among other things, studying funding issues for local purchase of development rights programs. Currently, there are 10 localities that have established and provided some funding for a local purchase of development rights program. Additionally, 6 counties have established a purchase of development rights program but have not funded the program while 28 other localities are interested in establishing a local purchase of development rights program.

Mr. Atkinson stated that of all the land developed in Virginia since the founding of Jamestown, more than 25% has been developed in the last 15 years. He noted that successful land conservation requires the protection of a diversity of lands including working farms, forests, scenic landscapes, natural areas, wildlife habitat and game lands, historic resources, and parks and recreational areas. In terms of conservation, priorities for the Commonwealth would include (i) ensuring an adequate land base of working farm and forest land so that agriculture remains an economic leader in Virginia, (ii) permanently protecting an additional 358,000 acres of land from development by 2010 to meet conservation goals and objectives of the Commonwealth under the Chesapeake Bay Agreement, and (iii) protecting natural resources.

The statewide purchase of development rights managers' group estimates an average statewide cost of \$6,000 per acre to purchase development rights to land. If the Commonwealth were to fund one-half of the estimated cost per acre, then the cost to the Commonwealth for the preservation of 300,000 acres is \$300 million.

Mr. Atkinson stated that the Office of Farmland Preservation should be fully staffed, including staffing for the Virginia Farm Link Program. He also stated that localities should be able to issue debt for farmland preservation without voter approval. Finally, preserving diverse lands requires a variety of programs at the state and local level including, but not limited to, state tax credits for voluntary donations of conservation easements under the Virginia Land Conservation Incentives Act of 1999, state matching funds to match local moneys under purchase of development rights programs, and state appropriations for the Virginia Land Conservation Foundation.

Mr. Kevin Schmidt, Mid-Atlantic States Director, American Farmland Trust-  
Mr. Schmidt provided information to the joint subcommittee on purchase of development rights programs in other states. As of June 2006, a total of 27 states have state-level purchase of development rights programs with 21 of these programs having funding or having been used to purchase easements. These programs have the protection of agricultural lands as a core principle. Under these state-level programs, almost 1.5 million acres have been protected from development with spending under these programs approximately equal to \$2 billion. In addition to these state-level programs, there currently exist 55 independently funded, local programs in 18 states. These local purchase of development rights programs have accounted for an additional 273,000 acres protected from development at a cost of \$764 million.

Maryland's purchase of development rights program is funded primarily from a real estate transfer tax. Other funding comes from and agricultural transfer tax, proceeds from bonds, appropriations, and funding from the Federal Farm and Ranch Lands Protection Program. For its 2007 fiscal year, Maryland has \$115.5 million in its purchase of developments rights programs with \$89.5 appropriated to the Maryland Agricultural Land Preservation Foundation (MALPF) and \$26 million appropriated to the Rural Legacy program. One-half of MALPF funds are split equally among Maryland's 23 counties and the remaining one-half of MALPF funds are used for matching local source funds on a 60 percent state/40 percent local cost share. Funds appropriated to the Rural Legacy program are allocated to approved Rural Legacy areas based on a local government's history of acquiring conservation easements.

Pennsylvania has funded its purchase of development rights program through the issuance of \$100 million in bonds in 1987; the dedication of cigarette

tax revenues in 1991 generating approximately \$20 million per year; a one-time appropriation of \$43 million in 1999; a "Growing Greener" bond program established in 1999 providing for the sale of \$646 million in bonds over 5 years with \$100 million of the proceeds dedicated for farmland preservation; a "Growing Greener II" bond program established in 2005 providing for the sale of \$625 million in bonds over 6 years with \$80 million dedicated for farmland preservation; and the dedication of 14.5% of the revenues in Pennsylvania's Environmental Stewardship Fund. In 2006, Pennsylvania has approximately \$102 million available for distribution to local county purchase of development rights programs. One-half of these moneys will be distributed to counties based on real estate activity in Pennsylvania's counties and the remaining one-half will be distributed based on county matching funds and agricultural productivity.

Delaware has funded its purchase of development rights program using \$60 million received under a lawsuit against the state of New York; a state transfer tax established in 2005 that generates approximately \$10 million per year; \$17.6 million in funds received since 1996 under the Federal Farm and Ranch Lands Protection Program; transportation funds; and Farmland preservation license plates. In 2006, Delaware has approximately \$13.6 million in funds to purchase development rights to land.

#### **Joint subcommittee web page**

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