

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)

October 24, 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 third meeting on October 24 at Pocohontas State Park in Chesterfield County.

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 primary focus of the meeting was funding considerations for land conservation.

Presentations

Mr. Michael Kane, Land Conservation Officer, Piedmont Environmental Council -

Mr. Kane indicated support for a three-pronged approach to preserve land: appropriations to the Virginia Land Conservation Foundation for land preservation, a state and local partnership to make funds available for local purchase of development rights programs, and continued use of the Virginia land preservation tax credit. These three conservation tools have accounted for over 300,000 acres being preserved in just the last 10 years. Mr. Kane stated that since the enactment of the land preservation tax credit in 2000, the Virginia Outdoors Foundation (an eligible holder of conservation easements granted pursuant to the tax credit program) has tripled the amount of land it has preserved from 135,000 acres to close to 400,000 acres. With regard to purchase of development rights programs, Mr. Kane noted that of the 20 local purchase of development rights programs in effect in the Commonwealth, 19 have been created since 2000. Finally, since 2000, the Virginia Land Conservation Foundation has awarded 84 grants that will ultimately conserve more than 31,000 acres.

Mr. Kane testified that ninety percent of all easements held by the Virginia Outdoors Foundation include land that has been designated as an ecological core by the Virginia Land Conservation Needs Assessment.

Under the Chesapeake 2000 Agreement, the Commonwealth committed to preserving at least 20 percent of its portion of the Chesapeake Bay watershed by January 1, 2010. Mr. Kane noted that of the land preserved through the Virginia land preservation tax credit, at least 80 percent is situated in the Chesapeake Bay watershed.

Mr. Kane pointed out that tourism is a leading industry in Virginia accounting for \$16 billion in expenditures in the Commonwealth annually. Land conservation is key to tourism as vacationers are attracted to historical sites, parks, and nature preserves. For instance, 34 percent

of visitors to the Commonwealth visited small towns and 28 percent visited historic sites and monuments. Agriculture and forestry are the top industry in Virginia accounting for \$47 billion in expenditures annually. Agricultural land and forest land are the foundation of this industry. However, between 1992 and 1997, approximately 68,000 acres per year of farmland and forest land were developed for more intensive uses.

Looking forward, Mr. Kane recommended that Virginia (i) meet its commitment to preserve 20 percent of its portion of the Chesapeake Bay watershed by 2010; (ii) continue to conserve lands to support its tourism and agriculture and forestry industries; and (iii) continue to preserve lands that are necessary for public drinking water, parks and trails, scenic landscapes, and diverse natural landscapes and communities. These goals can be achieved by maximizing Virginia's three-pronged approach to preserve land: appropriations to the Virginia Land Conservation Foundation for land preservation, a state and local partnership to make funds available for local purchase of development rights programs, and continued use of the Virginia land preservation tax credit.

Mr. Kane asked the joint subcommittee to support funding of local purchase of development rights programs at a level of \$30 million in state funds per year over the next 10 years, or a total of \$300 million. He also asked the joint subcommittee to support funding to the Virginia Land Conservation Foundation at the same level, \$30 million in state funds per year over the next 10 years. Increased funding to the Virginia Land Conservation Foundation will result in the leveraging of state funds with non-state funds. Increased funding for purchase of development rights programs will present an opportunity to at least double Virginia's conservation funding. In 2007, Virginia committed \$4.25 million to local purchase of development rights programs, yet local governments were ready to match upwards of \$45 million in state funding. Lastly, Mr. Kane asked the joint subcommittee to support retaining the land preservation tax credit in its current form. He indicated that if the land preservation tax credit is not retained its current form it is unlikely that the Commonwealth will be able to meet its commitment under the Chesapeake 2000 Agreement. Moreover, the tax credit program is the most cost-effective and efficient program for conserving land in the Commonwealth accounting for over 260,000 acres conserved since 2000.

Mr. Kane suggested that the Commonwealth could issue bonds to meet the funding objectives described above. One advantage of using bonds is that capital is quickly raised, which will allow Virginia's conservation programs to move forward without delay. Data from the Trust for Public Land indicates that 25 state-wide bond referendums in the United States for funding land conservation have passed since 1998. Specifically in the Commonwealth, 69 percent of voters voted for the Commonwealth of Virginia Parks and Natural Areas Bond Act of 2002.

Mr. Kane concluded by emphasizing the costs to the Commonwealth from not funding land conservation: (i) a strong likelihood of not meeting land conservation commitments under the Chesapeake 2000 Agreement; (ii) the loss of basic inputs for Virginia's agriculture and forestry industries; (iii) the loss of scenic and historic landscapes that support tourism; and (iv) the costs relating to degraded watersheds, especially those that are critical for public drinking water.

Staff presentations -

The staff to the joint subcommittee began by reviewing the guesstimated cost to meet the Commonwealth's commitment of preserving 20 percent of Virginia's portion of the Chesapeake Bay watershed by January 1, 2010. The guesstimated cost to achieve this objective is between \$167.4 million and \$278.9 million over the next two years. Assuming a 50/50 cost share with local governments, the Commonwealth and local governments each would be responsible for an additional \$83.7 million to \$139.5 million over the next two years. The guesstimates assumed that 111,578 acres would need to be preserved, which is in addition to the number of acres likely to be preserved under current appropriations for land conservation and through conservation easements donated under the land conservation tax credit.

Next, staff reviewed funding sources that have been previously looked at by the General Assembly for funding land conservation. These revenue sources include current or existing sources of revenue, new sources of revenue, a mix of current and new sources of revenue, and bonds. State recordation taxes on home sales and license taxes on insurance premium receipts might have a natural nexus for funding land preservation. In 2007, state recordation tax revenues totaled \$583 million. Of this amount, \$145 million currently is taken off the top and dedicated under law for transportation purposes. This would leave \$438 million for the funding of other programs and services in the Commonwealth, including land conservation. In 2007, state license taxes on insurance companies totaled \$385 million. Of this amount, \$128 million or one-third is taken off the top and dedicated under law for transportation. This would leave \$257 million for the funding of other programs and services, including land conservation. Finally, staff indicated there may be a means to capture the unsubscribed or unallocated portion of the \$100 million in tax credits set aside on an annual basis under the land preservation tax credit program. Thus, in a particular calendar year, if there is less than \$100 million in new tax credits subscribed or allocated under the tax credit program, the amount of the deficiency could be used to appropriate funds for land conservation.

With regard to new sources of revenue to fund land conservation, staff reported that tipping fees and surcharges on farmowner, homeowner, and commercial multi-peril insurance policies are potential new sources of revenue that have been previously discussed by members of the General Assembly. Staff also explained that the issuance of bonds, regardless of repayment source, would allow the Commonwealth to more quickly generate funds to meet the Commonwealth's share in any state and local land preservation program.

Turning to local sources of funding for land conservation, staff reported that authorizing all counties to impose cigarette taxes and authorizing water and sewer authorities to charge a premium for land conservation are potential new sources of local revenue that have been previously discussed by members of the General Assembly.

Staff concluded its presentations by reviewing land use and zoning statutes and legislation that could be used to promote land conservation by limiting development. As an example, House Bill No. 1858 (2007) would have provided that a locality that had established a purchase of development rights program would be authorized to accept proffers of cash for local

purchase of development rights that would be dedicated as easements for conservation, open space, or other conservation purposes. In addition, House Bill No. 3202 (2007), which became law, allows certain counties to establish urban transportation service districts (i.e., districts within counties whose roads would be maintained by the county) and to impose broad impact fees on by-right development on agriculturally zoned land located outside of the urban transportation service district. The impact fees could be assessed for parks, open space, and recreation areas.

Dr. Sheryl D. Bailey, Executive Director, Virginia Resources Authority -

Dr. Bailey concluded the presentations by summarizing how the Virginia Resources Authority (VRA) could raise funds for land conservation.

Dr. Bailey began by focusing on the mission of VRA, which is to provide low-interest loans to local governments to finance municipal facilities, equipment, and infrastructure needs including: airports, transportation, wastewater, water, solid waste, flood prevention, brownfield remediation, federal facility development, public safety, wireless broadband, and, pursuant to legislation enacted in 2007, land conservation. Dr. Bailey reported that in 2007 VRA invested over \$377.5 million impacting 51 communities, and since its inception has funded more than 750 projects across the Commonwealth. Financing options offered by VRA include revolving loan funds, pooled financing programs, and equipment and term financing.

Dr. Bailey suggested that with regard to land conservation financing, VRA could establish a revolving loan fund for land conservation projects. It could then combine an initial capital investment in the revolving loan fund with an existing pooled financing program to maximize impact. Dr. Bailey explained that under this approach an initial \$10 million capital investment would generate \$100 million of below-market loans in the first five years and over \$200 million of below-market loans in twenty years. A one-time capital investment would provide long-term sustainable funding for land conservation.

Dr. Bailey concluded by stating that existing VRA financing tools can be used to promote land conservation and to expedite land conservation projects by providing timely low-cost financing.

Next meeting

The next meeting of the joint subcommittee is November 20 at 1:00 p.m. in the State Capitol.