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)

November 20, 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 final meeting on November 20 in Richmond.

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 the consideration and development of legislative recommendations.

Presentations

Staff presentations –

Staff began the meeting by providing an update to the estimated cost of preserving 20% of Virginia's portion of the Chesapeake Bay watershed by 2010. In prior meetings staff guesstimated that it would cost an additional $167.4 million to $278.9 million to reach the 20% goal, taking into consideration the number of acres that could be expected to be preserved under existing tax credit programs and general fund appropriations. This guesstimate was based upon an estimate developed by the Department of Conservation and Recreation that an additional 238,944 acres were needed to be preserved to reach the goal. However, in a letter to the joint subcommittee members on November 16, the Department revised its estimate of the acreage left to be preserved. The Department stated that an additional 359,931 acres were needed to be preserved as of June 20, 2007, to reach the goal. With this new estimate staff revised its guesstimate from a range of $167.4 million - $278.9 million to a range of $348.8 million - $581.4 million.

The increase in the estimate by 121,000 acres was the result of a recently completed quality control review undertaken by the Department that revealed an error in the original baseline estimated developed in 2000. The baseline estimate prepared by the Department in 2000 was, in part, based upon a GIS shapefile for the George Washington National Forest supplied by the U.S. Forest Service. The shapefile included 116,511 preserved acres that are actually located in West Virginia. The Department stated that the shapefile obscured this fact. As a result, the Department inadvertently included this acreage in Virginia's total preserved acreage in 2000. The error came to light during the quality control review.

Staff also presented several funding and other options for the joint subcommittee's consideration. While the Virginia Resources Authority (VRA) can currently issue bonds and other debt to provide funds to finance local land conservation programs, it is unclear whether VRA has the authority to provide funds for the acquisition of parks and parks facilities. Such clarification would require an amendment to the Code of Virginia. Another consideration for the joint subcommittee was whether to provide a "credit" to those localities that rely heavily on use value assessment. The credit would take the form of a reduction in the amount of the matching funds required from the locality in order to receive a grant from the Commonwealth for land conservation.

Several options for funding of land conservation were presented by staff. These options included dedicating existing revenue sources to local land conservation programs and a review of new fees, taxes, and charges that could be implemented and dedicated to funding local land conservation programs.

Staff indicated that revenues from existing state recordation, insurance license premium, and sales taxes could be dedicated for funding of land conservation. This is because much of the revenues collected from these taxes are deposited into the general fund of the state treasury and are not earmarked for a specific or particular program by the Code of Virginia. For the 2006-2007 fiscal year, $438 million of the $583 million collected from recordation taxes and $257 million of the $385 million collected from insurance license premium taxes were not earmarked for a specific or particular program by the Code of Virginia. An additional option for funding of local land conservation programs would be 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 for funding of local land conservation programs.

Tipping fees for the disposal of municipal solid waste and surcharges on homeowner, farmowner, and commercial multi-peril insurance policies are two options for new revenue sources that can be dedicated for the funding of local land preservation programs. Each $1 per ton in tipping fees would generate $12 million on an annual basis. Each 1% charged on the amount paid for homeowner, farmowner, and commercial multi-peril insurance premiums would generate $21 million on an annual basis.

Staff also reviewed options for funding land conservation programs with local sources of revenue. If each county were authorized to impose a local cigarette tax at the state cigarette tax rate of $.30 per pack and each county actually imposed the tax at that rate, $88 million in new revenue would be generated on an annual basis which could be used for funding local land preservation programs. Staff stated that authorizing water and sewer authorities to charge a premium for land conservation is another potential new source of local revenue for land conservation.

Particularly in regard to provide funding for the acquisition of parks and parks facilities, increasing the land preservation tax credit percentage from 40% to 60% for land donated for a park or trail access easement is one option for encouraging landowners to donate land for parks and trail access easements. The vast majority of donations under the land preservation tax credit are conservation easements restricting development rights, with few, if any, donations for parks or trail access easements. In addition, dedicating revenues from existing tourism-related taxes and fees is another option for funding the acquisition of parks and parks facilities. These two options were also presented to the joint subcommittee by representatives of Northern Virginia park directors.

Staff concluded its presentation by noting that the issuance of bonds, regardless of repayment source, would allow the Commonwealth to more quickly generate funds to meet the Commonwealth's cost share in any state and local land preservation program.

Mr. Bill Lee, Trust for Public Land; Ms. Helen C. Tansey, Virginia*forever*; and Mr. Andy Tuck, The Nature Conservancy –

Mr. Lee, Ms. Tansey, and Mr. Tuck reported on the work of Virginia's Conservation Finance Work Group. The Nature Conservancy, the Trust for Public Land, the New River Land Trust, the National Wild Turkey Federation, the Virginia Farm Bureau, the Virginia Association of Counties, the Virginia Municipal League, the Virginia Conservation Network, and Virginia*forever* are the member organizations of the work group. The work group conducted a statewide land conservation needs assessment and performed feasibility research of funding mechanisms for land conservation. The work group also financed a poll, the subject of which was conservation in Virginia. The work group believes that Virginia's land preservation tax credit, the Virginia Land Conservation Foundation, and local purchase of development rights programs are all critical elements for land conservation in Virginia.

Between 2000 and 2005 the number of vehicle miles traveled by Virginians increased by more than 10%, and over the same period the Commonwealth's population increased by roughly 7%. Between 1992 and 2002, the average cost per acre of natural areas increased from $956 to $1,374 (43.7%), the average cost per acre of state parklands increased from $3,172 to $5,576 (75.8%), and the average cost per acre of land purchased under a 1992 bond issue and a 2002 bond issue increased from $1,904 to $3,718 (95.3%).

In looking at the feasibility of funding mechanisms for land conservation, the Trust for Public Land assesses any potential funding mechanism for its financial feasibility, political feasibility, and public favorability.

Mr. Lee reported that the annual per capita spending by the Commonwealth between 1998 and 2005 for land conservation equaled $0.91. This was well below the per capita spending for land conservation by Delaware ($30.29); North Carolina ($12.26); New Jersey ($10.59); Maryland ($9.22); and Pennsylvania ($4.57). Only West Virginia ($0.58) trailed the Commonwealth in annual per capita spending for land conservation between 1998 and 2005. Mr. Lee indicated that the per capita spending statistic for Virginia did not include the amount of revenue forgone by the Commonwealth for conservation easements under Virginia's land preservation tax credit.

The poll financed by the work group was conducted by Fairbank, Maslin, Maullin & Associates and Public Opinion Strategies. Telephone interviews were conducted with 600 registered Virginia voters likely to vote in the 2008 general election. The first poll was conducted between September 29 and October 2. Ninety-four percent of those polled agreed that Virginia's natural lands and waters are essential to the quality of life in the Commonwealth and part of the Commonwealth's heritage that must be preserved for future generations. Ninety-percent agreed that protecting natural lands and forests in Virginia will help to keep the state's waters clean; eighty-six percent agreed that having clean air and water and undeveloped lands are critical to a strong economy; and seventy percent agreed that government should purchase more land in Virginia for conservation. Finally, a total of seventy-eight percent either strongly supported or somewhat supported the idea of dedicating additional public funding to protect Virginia's lands, waters, and wildlife.

Mr. Paul A. Gilbert, Executive Director, Northern Virginia Regional Park Authority; and Mr. Dinesh V. Tiwari, Director of Parks, Recreation and Cultural Resources, Arlington County –

Mr. Gilbert and Mr. Tiwari presented to the joint subcommittee recommendations for funding the acquisition of parks and parks facilities. The recommendations were developed by a working group that included Northern Virginia park directors (the park directors) and have the support of several park directors.

To encourage landowners to donate land for parks or trail access easements, the park directors recommended that the land preservation tax credit percentage be increased from 40% to 60% for land donated for a park or trail access easement (discussed above). The park directors also recommended that water and sewer authorities be authorized to charge a "watershed protection fee" tied to water and sewage usage with the revenues from the fee to be used to acquire parklands abutting rivers and other waters. The park directors support a new bond package with a portion of the proceeds of the bonds to be used as the Commonwealth's match in a partnership with local governments to acquire parks. The park directors suggested that revenues from existing state tourism-related taxes and fees could be dedicated to developing or expanding parks or historical sites, which would attract visitors and revenues from nonresidents as well as residents. The park directors also support allowing the Virginia Resources Authority to issue bonds and other debt to provide funds for the acquisition of parks and parks facilities (discussed above).

Recommendations of the joint subcommittee

The joint subcommittee voted on and approved the following recommendations:

– The Virginia Resources Authority should be authorized to issue bonds and other debt to provide funds for the acquisition of parks and parks facilities.

– In general, any grants provided by the Commonwealth to fund local purchase of development rights programs should require a $1 for $1 match from the recipient local governments. However, those localities that rely heavily on use value assessment would be provided a “credit” against the local matching funds required, which would reduce the $1 match required from such localities to something less than $1. Localities that rely heavily on use value assessment are those localities with 70% or less of the total fair market value of all land in the locality taxed, because of use value assessment.