

# STUDY OF PURCHASE OF DEVELOPMENT RIGHTS: UNRESOLVED ISSUES

Presentation: Joint Subcommittee Studying Long-term Funding  
Sources for the Purchase of Development Rights to Preserve  
Open-space Land and Farmlands

Virginia Division of Legislative Services

November 28, 2006

A stylized, layered mountain range graphic in shades of teal and blue, located in the bottom right corner of the slide.

# Several Issues and Difficult Decisions

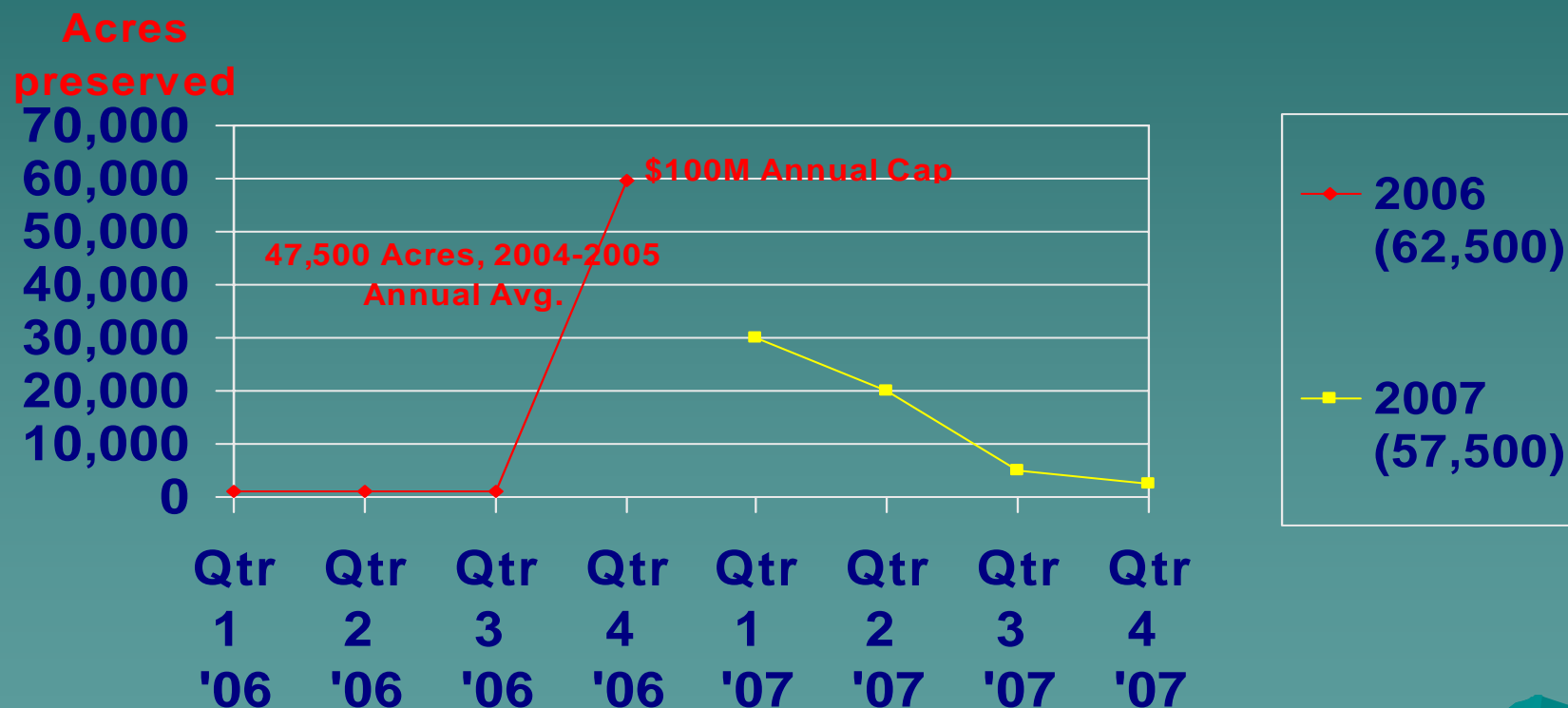
- ◆ Setting objective standards for a purchase of development rights program.
- ◆ Level of cost sharing between the Commonwealth and local governments.
- ◆ Financing of the Commonwealth's cost share in a statewide purchase of development rights program.
- ◆ Financing of local governments' cost share in a statewide purchase of development rights program.
- ◆ Interim steps.
- ◆ Additional study time is needed.

# Setting Objective Standards

- ◆ Unlike many government programs, preservation or conservation programs have a finite end.
- ◆ Should there be some objective goal or should Virginia's PDR program be more open-ended?
  - A little less than 308,451 additional acres need to be preserved by January 1, 2010, to meet the Chesapeake 2000 objective (20% of the Watershed).
  - What conservation objectives should be set for land situated outside the Chesapeake Bay watershed?
  - Allocation of state PDR match to different regions of the Commonwealth? Priority to land situated in the Chesapeake Bay watershed or first-come, first-served?

# Setting Objective Standards

## Illustrative Example of Land Preservation Tax Credit - Virginia's Version of the January Effect?



# Setting Objective Standards

Status for 01/01/10 Preservation Goal; Chesapeake 2000 Agreement

Remaining Acres to be Preserved as of June 30, 2006	308,451
Acres Protected in 2006 Equaled $49,837.41 \times 3.5 \text{ years} = 174,431$	(174,431)
Expected Shortfall that could be Preserved through a PDR Program	134,020
Less any Bubble Effect in 4 <sup>th</sup> Quarter of 2006 and 1 <sup>st</sup> Half of 2007	(25,000)?
Net Balance	109,020?

# Setting Objective Standards

## Guesstimate of Remaining Cost to Preserve 20% of Chesapeake Bay Watershed

- ◆ At a conservation cost of \$1,500 to \$2,000 per acre for 109,020 acres: \$163,530,000 - \$218,040,000.
- ◆ At a conservation cost of \$2,500 to \$3,000 per acre for 134,020 acres (no bubble effect): \$335,050,000 - \$402,060,000.
- ◆ Note: The joint subcommittee has heard testimony that \$6,000 per acre may be required under a PDR program. This may have been for fee simple acquisitions and not the purchase of development rights.
- ◆ Uncertainty as to cost estimates because of the transition to the annual \$100 million cap in land preservation tax credits and variability in estimates of the per acre preservation cost.
- ◆ Conclusion: To get the best estimates, more study time will be needed.

# Commonwealth's Cost Sharing

- ◆ At what level should the Commonwealth share in a statewide PDR program?
  - A 50-50 cost sharing is an initial place to start.
  - Commonwealth's contribution most likely in the form of grants. Allocation of state PDR match to different regions of the Commonwealth?
  - VDACS Farmland Preservation Task Force model PDR program has an objective that by 2007 the Commonwealth will make \$1M available annually to each locality with a PDR program.

# Financing of the Commonwealth's Cost Share

- ◆ Options remain the same.
  - Existing sources of revenue.
    - Annual surplus? First cut of the surplus is for the Rainy Day Fund and the Virginia Water Quality Improvement Fund.
    - General fund appropriation?
    - Dedication of an existing tax? State recordation tax has a nexus.
  - New sources of revenue?
    - Example: A 1% state lodging tax would generate \$32 million per year.
  - Commonwealth may have to issue bonds to raise up front capital to meet January 1, 2010, Chesapeake Bay preservation objective.



# Financing of Local Governments' Cost Share

- ◆ Counties cannot borrow for land preservation without a referendum.
  - This may stop some counties from participating in a PDR program.
  - Article VII, Section 10 of the Constitution of Virginia would need to be amended to create an exception to the referendum requirement.
- ◆ Article X, Section 6 of the Constitution of Virginia would need to be amended to allow the purchase of development rights by means of a multi-year waiver or exemption of real estate taxes.
- ◆ Other options.
  - All counties can impose a 2% lodging tax. About one-third can impose a 5% lodging tax with all revenues over 2% dedicated for tourism.
    - Authorize all counties to impose a 5% lodging tax, with all revenues over 2% dedicated for tourism or land preservation?

# Financing of Local Governments' Cost Share

- ◆ Smaller counties may wish to borrow from the Virginia Resources Authority (VRA) under a PDR program.
  - VRA can borrow at more favorable rates and pass the savings along to these counties.
  - VRA is not authorized to raise capital solely for land preservation. VRA's statutes would need to be amended.

## Interim Steps

- ◆ Reauthorization of PDR study.
- ◆ Authorize VRA to raise capital for land preservation.
- ◆ Amend Constitution to allow counties to borrow for land preservation without a referendum?
- ◆ Start-up appropriation in 2007 for a statewide PDR program?
- ◆ Office of Farmland Preservation and Virginia Farm Link program funding?