

July 7, 2005

PRESENT: Dr. Charles W. Curry, Chairman
Charles C. Schooley, Vice Chairman
William Bashaw
Larry C. Howdyshell
Bruce M. Bowman
Mark Grove
Betty Jo Hamilton
Garland Martin
Dale L. Cobb
Beatrice B. Cardellicchio

OTHERS PRESENT: Ches Goodall, Albemarle County
Kay Frye, Board of Supervisor
Nancy Sorrells, Board of Supervisor

ABSENT: Kitra A. Shiflett
Clay Hewitt
Larry Shiflett

VIRGINIA: Meeting of the Agricultural Task Force Committee held on Thursday, July 7, 2005, at 7:00 P.M., in the County Government Center, Verona, Virginia.

Chairman Curry asked if there was a motion or any changes to the minutes of the June 16, 2005 meeting?

Mr. Bashaw asked that a change be made to page two. He stated that he asked if it was against the law to shoot the vultures. He also made a change on page four. He stated that many historic sites have disappeared from Augusta County.

Mr. Bowman moved to approve the minutes of the June 16, 2005 meeting as revised.

Mr. Martin seconded the motion, which carried unanimously.

Chairman Curry stated that the next item on the agenda was the suggestion box. He stated that the committee recommends that the County obtain fiscal impact tools that will project the cost for services of each rezoning.

Ms. Sorrells stated that the consultant for the Comprehensive Plan would be looking at that.

Mr. Cobb introduced Ches Goodall who is the Coordinator of the Albemarle County ACE (Acquisition of Conservation Easements) program. He stated that Mr. Pickering from Fauquier County would not be able to make it this evening. He stated that after Mr. Goodall speaks on PDRs, Kay Frye the Middle River Board of Supervisor and Nancy Sorrells the Riverheads Board of Supervisor would like to address the committee on PDRs as well.

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Chairman Curry stated that the Board of Supervisors appointed this committee. He stated that the committee had a brainstorming session and PDRs were one of the tools on the list that the committee wanted to learn about. He stated that recently the Board of Supervisors put some money aside for PDRs.

Mr. Goodall stated that Clarke County has a PDR program that this committee might be interested in. He stated that Albemarle County is very different than Augusta County. He stated that Albemarle County was the second county to put a PDR program into place. He stated they were after Virginia Beach. He stated that in 1992 the county was concerned that they were losing a lot of farmland. He stated that 25,000 acres of farmland was lost to other non-farm uses. He stated that in the late 1990s a Task Force was appointed to investigate and come up with a PDR program. He stated that in 2000 the program was approved. He stated that he was hired to handle the program. He stated that Albemarle County's PDR program is voluntary. He stated that they do not force a landowner to apply. He stated that if it is voluntary it seems to be a lot more acceptable to people. He stated that every year this matter has to go back before the Board of Supervisors to get the funding for the PDR program.

Ms. Hamilton asked why was the program set up that way?

Mr. Goodall stated that the Board of Supervisors was uncertain of its popularity. He stated that they had a number of applicants during the first year. He stated that it does take some time to get the word out to people. He stated that the people seem to understand what the program is about. He stated that they have a unique program in which they look at the person's income and decide how much they will pay. He stated that the easement gets appraised and then the county would take the average annual adjusted gross income and if it were \$0 - \$50,000 then the landowner would receive 100% of the appraised value. He stated that easements are not for the wealthy.

Chairman Curry asked if this was only the income of the farm or everything?

Mr. Goodall stated all income. He stated that the PDRs appeal to all landowners. He stated that they are for farmland as well as open land.

Chairman Curry asked if the spouse's income would count?

Mr. Goodall stated yes.

Chairman Curry asked what about a corporation?

Mr. Goodall stated that a corporation is a little tricky. He stated that a corporation is shielded by a bunch of right offs. He stated that it would depend on what type of corporation it is. He stated that if there were a partnership of ten people you would take the average of all landowners. He stated that when that came up Albemarle County changed the wording in the ordinance to cover this. He stated that some farmers are apprehensive in signing up with government programs. He stated that it might take a while to get the program going. He stated that sometimes landowners apply but then withdraw at the last minute. He stated that PDRs are not for everyone. He stated that

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Jimmy Powell put his land into an easement. He stated that Mr. Powell could not pay his inheritance tax on the land. He stated that by putting the land in an easement he was able to pay his taxes and the entire farm is intact.

Mr. Howdysell asked about the matching funds?

Mr. Goodall stated that there are many sources available.

Ms. Hamilton asked how many easements has Albemarle County done?

Mr. Goodall stated that they have done fourteen easements in three years. He stated that they get eight to ten applications a year. He stated that since 2001 they have received 45 applications.

Ms. Hamilton asked how many were offered but not accepted?

Mr. Goodall stated about three more. He stated that five to six withdrew the application or there were some other complicating factors.

Ms. Hamilton asked if they were working farmers?

Mr. Goodall stated that between two to five of them were working farmers and the others were leasing.

Mr. Goodall stated that they use a ranking system when rating the applications.

Mr. Martin asked about the tourism value?

Mr. Goodall stated that they factor in if it is a scenic highway or major entrance corridor. He stated that they factor in if it is in a historic district. He stated that they look at mountain top protection as well. He stated that if the property had any one of those factors they would be eligible for consideration. He stated that they do not target a specific landowner. He stated that the committee is made up of ten people. He stated that there are farmers, realtors, etc. on the committee.

Chairman Curry asked if they did not target people because it is unethical or illegal?

Mr. Goodall stated that to target specific land is unethical.

Ms. Hamilton stated that farmers are very independent. She stated that farmers like to make decisions on their own. She stated that the programs should be voluntary.

Ms. Sorrells stated that the values of \$800-\$900 an acre are very low.

Mr. Goodall stated that the average was \$811 in Albemarle County. He stated that some land is valued low and some high. He stated that it depends on the location.

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Chairman Curry asked if the land is looked at by the development value?

Mr. Goodall stated that the appraisers focus on the development rights that are eliminated.

Mr. Bashaw asked if the easement affects the water and mineral rights on a property?

Mr. Goodall stated that a sample deed is in your packets. He stated that mining is prohibited unless it is in a normal operation of a farm or forestry program. He stated that a lot of easements affect the ability to subdivide land.

Mr. Bashaw asked if a landowner could sell or lease the mineral rights to an oil company?

Mr. Goodall stated that there was an easement in Highland County that stated no drilling. He stated that the landowner may have to show sufficient proof that it will not alter the property.

Chairman Curry stated that this might have to be looked at on an individual basis to see if it is allowed or not.

Mr. Goodall stated that the committee could review that but in the end the IRS may look at it and the landowner may need proof that it will not alter the land in any way.

Ms. Hamilton asked who applies for these easements?

Mr. Goodall stated that there are two types of people that apply for easements. He stated that the ideal applicant is one who wants to preserve farmland for their children. He stated that the second group of people is in it for the money.

Vice Chairman Schooley asked if the easements are permanent?

Mr. Goodall stated yes forever.

Mr. Bashaw asked who holds the easements?

Mr. Goodall stated that the County of Albemarle is a holder as well as the Public Relation Authority and the Virginia Outdoors Foundation among others.

Mr. Bashaw asked what happens if the landowner sells the land?

Mr. Goodall stated that the easement is recorded one time at the courthouse and the language is on the deed. He stated that the easements go with the property.

Mr. Bashaw asked if the easement could be bought back?

Mr. Goodall stated that once the money has changed hands there is no buying it back. He stated that easements offer protection. He stated that it even offers protection from other state

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agencies. He stated that if the land is in an easement another state agency could not do anything to jeopardize the easement.

Mr. Bashaw stated that after the easement is created they couldn't control what politicians will do one hundred years from now.

Mr. Goodall stated that they couldn't control the future. He stated that it is impossible to know what will happen in the future.

Vice Chairman Schooley stated that in other states they have a forty-year easement and they get paid more than one time. He asked if Albemarle County did this or is it a one-time payment?

Mr. Goodall stated that this program has a one-time payment.

Ms. Sorrells stated that each locality is different.

Mr. Goodall indicated that Albemarle County's Board of Supervisors set aside \$1,000,000 for PDRs a year.

Ms. Hamilton asked if they would have more than one million dollars for their PDRs?

Mr. Goodall stated that hopefully someday they would. He stated that the Board does not want to get into debt. He stated that the Board thinks that unless there is a huge demand for PDRs they would not increase the funds.

Ms. Hamilton asked if an applicant applied and then was turned down could they reapply?

Mr. Goodall stated that they could enroll in the next cycle. He stated that the committee has the ranking criteria in their packet of information. He stated that fifteen points are the minimum amount of points in order to be eligible. He stated that they couldn't fund all of them. He stated that they usually request an appraisal of the top six landowners.

Chairman Curry asked if the committee adds other criteria to the ranking often?

Mr. Goodall stated that they have added some criteria to the rankings including agricultural forestal districts. He stated that Augusta County's criteria would be different than Albemarle County because of the different landscape.

Mr. Bashaw asked if a big farm could be bought and then sold with a huge profit by creating little farms? He asked if that could happen with this easement?

Mr. Goodall stated not by density. He stated that the landowner is allowed one development right per one hundred acres.

Ms. Sorrells stated that most easements could limit the amount of subdividing that takes place.

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Mr. Goodall stated that the Virginia Outdoors Foundation allows one per one hundred acres and that is where Albemarle County based their figure on.

Ms. Hamilton asked if a landowner had a 400 acre farm and wanted to put 380 acres in a conservation easement and keep the other 20 to sell if they needed to would that be able to be done?

Mr. Goodall stated that could be done. He stated that the average easement is 100 acres.

Mr. Bowman asked what the \$1,000,000 cover?

Mr. Goodall stated that in addition to the ACE program they also have expenses for advertising costs, full-time staff, appraisers, lawyers, etc.

Vice Chairman Schooley asked if they would pay more do you think there would be a greater interest in the program?

Mr. Goodall stated yes. He stated that a \$15,000,000 bond would help.

Chairman Curry thanked Mr. Goodall for speaking to the committee.

Ms. Sorrells stated she wanted to speak briefly about the Comprehensive Plan process. She stated that they hired a consultant to help out with the Comprehensive Plan. She stated that it is important that everyone in the County fills out the survey. She stated that she has some that she will pass around to the committee. She stated that the survey is also available online as well.

Ms. Sorrells stated that PDRs are the paid difference in land. She stated that when a PDR is placed on land there is a deed attached to it. She stated that other localities use term easements. She stated that Tracy Pyles spoke about PDRs and TDRs. She stated that in a TDR you are transferring the rights to another piece of property. She stated that TDRs are private and it legally cannot be done in Virginia. She stated that this committee needs to find tools that can be used right now. She stated that people should speak with the legislators so that we can have more tools. She stated that with the updating of the Comprehensive Plan they want to strengthen the ordinances so that it matches the Comprehensive Plan. She stated that in the 1994 Comprehensive Plan one item that needed to be addressed was to put forth a need to explore PDRs. She stated that the County is just now beginning to explore those options. She stated that the Task Force was appointed to get the ball rolling. She stated that the Board of Supervisors put the money aside for PDRs when they did because if they did not do it at that time, they would have to wait another four years for the money. She stated that the money is there whether there is a recommendation or not. She stated that with the reassessment the Board of Supervisors saw what agriculture land was worth. She stated that if land is kept in farmland there will be no development costs that will help hold on to the quality of life in Augusta County. She stated that if they just help one 200 acre farm in Augusta County with PDRs they are helping everyone because there will not be a need for bigger schools, roads, etc. She stated that there is a lot of housing on farmland. She stated that most of the property is too much to mow and not enough to farm.

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Chairman Curry asked if it was illegal to target property?

Ms. Sorrells stated that the County could setup a checklist. She stated that the County could use the points system and create an ordinance.

Mr. Bowman asked if this money was allocated at one time or on a four-year budget?

Ms. Sorrells stated that the Board of Supervisors will consider this item every year. She stated that a PDR program makes economic sense.

Ms. Frye stated that with the high value of land many farmers are tempted to sell their land. She stated that she thinks this Board of Supervisors is for agriculture and they want to keep it in Augusta County. She stated that when a pro-development Board of Supervisors leads the County taxes will go up because there would need to be more facilities. She stated that PDRs are the only tool that will address that issue. She stated that areas that need protection need to be targeted. She stated that with PDRs the water services could be protected.

Chairman Curry asked if they could charge a fee for development?

Ms. Frye stated that the Virginia Home Builders Association is fighting that.

Chairman Curry stated that he would like to hear from everyone on the committee on the pros and cons of PDRs.

Ms. Hamilton stated that she is not for PDRs or against it. She stated that she likes that the landowner chooses to put their land in a PDR or not. She stated that she would not like to target specific areas. She stated that the contract should have more flexibility. She stated that a farmer would like the idea of the contract being flexible versus forever.

Mr. Bashaw stated that with a PDR program they could save five to six farms but in Augusta County dozens of farms are in danger. He stated that realtors look at the farms that are in danger and think how much money they could get out of them. He stated that they should treat all farms equally so that they could all benefit. He stated that Mr. Pyles' idea of eliminating taxes for farmers are better than targeting four to five farms.

Mr. Martin asked if the PDRs would be permanent?

Chairman Curry stated that he thinks in Virginia PDRs are permanent.

Ms. Frye stated that in Virginia Beach after 25-30 years the easement could be bought back.

Chairman Curry stated that staff should research what is allowed in Virginia. He asked if they were only limited to permanent PDRs? He stated that maybe the County Attorney could come and speak to the committee.

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Mr. Bowman stated that PDRs are a tool for the toolbox that this committee could look at. He stated that farmers could have a lot of opportunities with the program. He stated that the setup process would be essential.

Vice Chairman Schooley stated that a permanent easement is a long time. He stated that he has mixed emotions on this subject. He stated that he agrees with Mr. Bashaw's comments.

Mr. Howdyshell stated that with the lump sum PDR payment wealthy people would use the money for things other than farming. He stated that with PDRs, the property is tied up for other family members to take over the land. He stated that PDRs could work but it depends on how the program was structured. He stated that farmers do have a lot of pressure to hold on to their farms.

Mr. Grove stated that there was a large influx with interest. He stated that things did not go so well down the line. He stated that the County would need a really good program. He stated that certain farmland is more beneficial than others.

Mr. Martin stated that some land will qualify for PDRs. He stated that he does not think his land will work. He stated that he is surrounded by industrial land.

Ms. Sorrells stated that Mr. Martin probably would not be a candidate for PDRs.

Chairman Curry stated that staff should include PDRs on the recommendations list. He stated that this committee still has a lot of work to do. He stated that this is a public venture and it is important to transfer money to the people who rightfully deserve it.

Mr. Bowman asked if Mr. Goodall was a full time employee?

Mr. Cobb stated yes. He stated that his position is under Community Development. He stated that a PDR program utilizing points would be a way to rank the land.

Ms. Frye stated that if the land is in a watershed area they could receive points. She stated that if a PDR program is created the County could use the points system so that there is no deviation.

Ms. Sorrells stated that they are looking at proffer guidelines that encourage developers to put money towards the property.

Chairman Curry asked if there were any other questions?

There being none, Chairman Curry asked what was on the agenda for the next meeting?

Mr. Cobb stated that Chris Saxman will speak on agriculture enterprise zones and Jean Shrewsbury will speak to the committee on tax issues. He stated that it is up to the committee if they would like to have Ray Pickering come back for the next meeting.

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Chairman Curry asked the committee and they decided to move on and not have Mr. Pickering speak. He stated that they are looking forward to going over sliding scale. He asked if there was a speaker lined up for that?

Mr. Cobb stated that he may have a commitment for the first meeting in August.

Chairman Curry asked if the County Attorney could research PDRs and speak to the committee about limiting the timeframe on PDRs in Virginia.

Mr. Bashaw stated that the County should tax all real estate and development profits significantly.

Ms. Sorrells stated that would never happen in Virginia.

Chairman Curry stated that to change the tax structure would involve a constitutional amendment.

Chairman Curry asked Mr. Cobb to put a time limitation on all speakers so that the committee has time for a discussion after each meeting.

Mr. Cobb stated that all of the speakers were informed on the time limit that they were supposed to speak.

There being no further business, the meeting was adjourned.

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Chairman