MEMORANDUM

TO: MPPBPA
FROM: Lewie Lawrence, Director of Regional Planning
DATE: July 27, 2009
RE: August 10th PAA Meeting

This announcement serves as notice to call a meeting of the Public Access Authority on Friday, August 14th, 2009 at 11:00 a.m. The meeting will be held in the MPPDC Regional Board Room. Lunch will be provided.

All materials related to this agenda are attached. If you have any questions, please call (804-758-2311) or e-mail (LLawrence@mppdc.com) me at your convenience.

AGENDA

1. Welcome and Introductions
2. Approval of April 2009 Minutes (July meeting was cancelled)
3. Financial Report (annual work plan)
4. Public Comment
5. Scenic Rivers Designation Presentation by Lynn Crump, Environmental Programs Planner DCR
6. Discussion and Adoption of the Annual Work Plan
7. Update on the VA Sea Grant PAA Public Access Website
   a. Public access master plan
   b. Mathews County Public Access Summit
8. Update on hunting violations policy
9. Update on the claim of a prescriptive ROW across the Haworth land
10. Wetlands Banking Update
11. VDOT Road Ending Transfer Update- Bill Hoggs Landing
12. Fee Based Hunting Discussion- revenue generator
13. Update on a possible TNC land donation
14. Other Business
15. Chairman Observations
16. Next Meeting
17. Adjourn
1. Welcome and Introductions
The Middle Peninsula Chesapeake Bay Public Access Authority held its meeting in the Middle Peninsula Planning District Commission Board Room in Saluda, Virginia, at 11 a.m. on April 10, 2009.

Chairman Pleva called the meeting to order. Members and Alternates present were Steven Whiteway, Mathews County Administrator; Louise Theberge, Gloucester County Board of Supervisors; Terri E. Hale, King William County Assistant County Administrator and David Whitlow, Essex County Administrator. Also present were Lewis Lawrence, Director of Regional Planning MPPDC; and Jackie Rickards, Regional Projects Planner I.

2. Approval of February 2009 Minutes
Chairman Pleva requested a motion to approve the February 2009 minutes. Mr. Whitlow moved that the minutes be approved. Mr. Whiteway seconded the motion. Motion carried by unanimous vote.

3. Financial Report
Chairman Pleva requested a motion to approve the February 2009 Revenue and Expenditure Report. Mr. Whiteway moved that the Report be approved. Mr. Whitlow seconded the motion. Motion carried by unanimous vote.

4. Public Comment
None

5. Report on the Clay Tract – Boy Scout trail project
Mr. Lawrence shared that the Eagle Scout Project on the Clay Track was been complete. The scout created a trail around the demarked trails on the track and blazed a trail around the cypress bowl (See attached pictures). Prior to this project this area was not accessible. The group discussed the idea of providing a letter of recognition from the PAA or certification. According to Mr. Lawrence the PAA tracts are ideal areas for Eagle Scout Projects and hopes that there can be more projects in the future.

6. Discussion of PAA Project- American Recovery and Reinvestment Act
Mr. Lawrence shared that at the end of March, the American Recovery and Reinvestment Act was passed. This generated an opportunity of the PAA to apply for Federal stimulus money for projects that encompassed job creation and restoration projects. Mr. Lawrence submitted an application on behalf of the PAA titled Coastal Tidewater Virginia Eco-Employment Project – Restoration and Enhancement of Our Traditional Natural Resource Based Economy in the Middle Peninsula. The project intends to create 56 jobs through three habitat restoration projects: (1) Dragon Run Coastal Habitat Improvement Project, (2) Middle Peninsula Marine Debris Removal Imitative and (3) Severn River Wetland Restoration Project. In all the PAA is requesting $1,358,760 of Federal Funds. Over all the project cost is estimated at $1,673,718 which includes $314,958 of non-federal match funds.
7. VA Sea Grant Application for Public Access Website

Maine Sea grant in regards to accessing the Maine coastal. Maine is a national leader in public access issues and currently has a website (http://www.seagrant.umaine.edu/accesslaw/coastal_access_toolkit/coastal_access_toolkit.shtml), “for the people of Maine”, to convey the rights and responsibilities of accessing the coast of Maine. Mr. Lawrence shared his interest in obtaining the Public Access Web Template for the Middle Peninsula Chesapeake Bay Public Access Authority/Virginia Sea Grant. He believes that this is comprehensive tool that would be ideal for public education about accessing Virginia’s coast. Originally the Maine Sea Grant was looking for grant applicants interested in implementing this website tool. Along with this tool Maine Sea Grant would offer staff time to assist with integrating the tool with state specific information. However, through a conference call, it was determined that the web framework is available to the public. Mr. Lawrence did submit an application and will hear by May if the PAA will be funded. If the PAA is not funded, the website framework will be requested from Maine Sea Grant.

8. Update on hunting violations penalty schedule

Miss. Rickards shared the game law violation schedule currently implemented in the Commonwealth of Virginia. Staff will continue to work on a draft policy based on the following criteria/steps: 1. If hunter receives a game law violation while hunting PAA land, the hunter must notify PAA administrative staff of violation by the close of business the next business day, the hunter is temporarily suspended from using PAA land for any hunting until the Court rules on the violation. Once the court has ruled, the hunter must notify the PAA administrative staff of the court ruling. If found innocent, the hunters suspension is lifted, upon a request by the hunter to the PAA administrative staff. If the hunter does not request the suspension to be lifted, the hunter continues to be suspended for the remainder of the season, plus the next full season upon which hunters use the PAA lands. If convicted, the hunter loses the rights for the remainder of the season plus the next full season upon which hunters use PAA lands. A hunter may request an appeal of the suspension and make a plea to the PAA Directors at the next meeting of the PAA.

- If convicted of a Class 4 offences, the PAA Directors may determine the length of the suspension and or abate the suspension.
- If convicted of Class 3,2 or 1 offence, an automatic suspension follows for the remainder of the season, plus the next full season upon which hunters use the PAA lands.
- If convicted of multiple violations or any other violations the PAA directors deem valid on a repetitive or non repetitive schedule, the PAA may suspend hunting rights indefinitely.

PAA staff may consider fee schedule for violations to assist with future land and game management.

9. Wetlands Banking Update

Mr. Lawrence updated that there is some concern from Gloucester County about the benefits of wetland banks within Gloucester County accruing for other counties within the regional. There was discussion of possibly redistributing the wetlands of the Shenk parcel amongst the Middle Peninsula Counties, while allowing Gloucester County to benefit from all other wetlands within the county boundaries.

10. VDOT Road Ending Transfer Update

Bill Hogs Landing – Mr. Lawrence explained that this land remains available. A process should be developed to bring this piece of land to public hearing so that the PAA can proceed with acquiring this land.
Request for information on 12 road endings – Mr. Lawrence explained that that information from VDOT was requested about 12 road ending sites, however the initial response did not provide the desired information. The PAA is still waiting for the appropriate information.

11. Other Business
Mr. Whiteway suggested that the group consider the financial and funding sustainability of the PAA.

12. Chairman Observations
None

13. Next Meeting
The next meeting of the Middle Peninsula Chesapeake Bay Public Access Authority is scheduled for Friday, June 5, 2009 at 12:00pm.

14. Adjournment
Chairman Pleva requested a motion to adjourn the meeting. Mr. Whitlow moved that the motion be approve; Ms. Theberge, seconded the motion. Meeting was adjourned.
In addition to the Scenic Rivers program, Virginia offers a number of programs to assist riparian landowners.

Virginia Outdoors Plan:  
www.dcr.virginia.gov/prt/vopfiles

Virginia Office of Land Conservation:  
www.dcr.virginia.gov/olc

Virginia Land Conservation Foundation:  
www.dcr.virginia.gov/vlcf

Conservation Reserve Enhancement Program (CREP):  
www.dcr.virginia.gov/sw/crep

Riparian Forest Buffer Tax Credits:  
www.dof.virginia.gov/rf

For further information:  
(804) 786-5054 
www.dcr.virginia.gov/prt/ssmain
Virginia Scenic River Board at DCR  
203 Governor Street, Suite 302,  
Richmond, Virginia 23219.

SCENIC RIVER DESIGNATION

DOES NOT …

× provide additional authorization to any state agency to condemn land or to acquire real property or interest therein for the purpose of providing additional access to the river. In fact, use of the power of eminent domain is specifically prohibited (section 10.1-405).

× impose any land use controls or regulations. Land use controls are the discretion of the locality. While DCR may assist in the development of river corridor protection measures, any such measures are implemented at the discretion of the local government (section 10.1-405).

× affect a riparian landowner’s right to use the river or its banks for grazing, irrigation, hunting, fishing, etc. (section 10.1-408).

× bring any federal control, rules or regulations.

× affect tributary streams or branches.

× promote increases in the recreational use of the river.

× give the general public the right to use privately owned riparian lands. Landowners maintain all their lawful rights, including the right to post their property against trespass.

× impose any restrictions on hunting, fishing and boating on the river or adjacent lands.

VIRGINIA’S SCENIC RIVERS PROGRAM

... its mission and process
HISTORY
The Virginia Scenic Rivers program began in 1970 with passage by the General Assembly of the Virginia State Scenic River Act (Code of Virginia: Title 10.1, Chapter 4 Sections 10.1-400 through 10.1-418). Since then, 20 river segments totaling approximately 474 miles have been designated state scenic rivers. The Virginia Department of Conservation and Recreation (DCR) administers the Virginia Scenic Rivers program and it is assisted and advised by the Scenic River Board.

PROGRAM INTENT
The intent of the Virginia Scenic Rivers program is to identify, recognize and provide a level of protection to those rivers whose scenic beauty, historic importance, recreational value and natural characteristics make them resources of particular importance. State designated scenic rivers possess these outstanding characteristics.

STUDY REQUEST
Before a river or river segment can be designated, DCR staff must first study the waterway to determine if it qualifies for scenic river status. Scenic river studies are usually initiated at the request of local governments. However, the General Assembly and state agencies can also request an evaluation.

EVALUATION PROCESS
Upon receiving a request, DCR conducts a river evaluation, beginning with an assessment that includes a map survey, related literature review and field study to validate existing land use or quality. A field evaluation is then conducted—staff, local residents and others canoe or boat the stretch of river and rate its characteristics. Each river or river segment is evaluated using 11 factors or criteria; these were established to provide a uniform gauge by which all waterways are measured. Some of the major factors include water quality, corridor development, historic features, natural features, visual appeal, quality of fisheries and the presence or habitat of unique species.

QUALIFICATION PROCESS
If a river qualifies, DCR staff then prepare a scenic river report describing the waterway. The report includes resolutions of support from local governments and comments from state agencies. The report also serves as a multi-purpose planning document for future stewardship of the river. The final step is passage by the General Assembly of a bill designating the waterway a state scenic river.

ADMINISTERING AGENCY
As the administering agency for the Virginia Scenic Rivers program, DCR periodically assesses conditions along each scenic river segment. DCR prepares comments on projects that may impact a designated scenic river. DCR also serves as the support agency for the program’s advisory board, informing the board on issues related to the Virginia Scenic Rivers program.

VIRGINIA SCENIC RIVER BOARD
The Scenic River Act establishes a governor appointed 15-member citizen advisory board that includes riparian landowners and other citizens from throughout Virginia. The board’s purpose is to promote citizen stewardship of scenic rivers and to assist and advise DCR and local governments concerning protection and management of scenic rivers.

VIRGINIA SCENIC RIVER DESIGNATION DOES …

- require the Federal Energy Regulatory Commission to consider the impact of proposed hydropower or related projects on a designated scenic river using the scenic river report developed in the qualification process.
- require all state agencies to consider the visual, natural and recreational values of a scenic river in their planning and permitting process (section 10.1-402).
- give riparian landowners, local citizens and local governments a greater voice in the planning and implementation of federal and state projects that might affect the river (section 10.1-406).
- require authorization by the General Assembly for the construction, operation and/or maintenance of a dam, or similar structure, that will impede the natural flow of the river (section 10.1-407).
- allow riparian landowners to continue using their land as they did before designation, except for the section 10.1-407 provision (section 10.1-408).
PROGRAMS WILL BE OPERATED IN THE FOLLOWING GENERAL AREAS:

(1) MPCBPAA ADMINISTRATION and LOCAL PUBLIC ACCESS TECHNICAL ASSISTANCE
(2) PUBLIC ACCESS LAND TRANSFERS
(3) ACCESS INFRASTRUCTURE MANAGEMENT and IMPROVEMENTS
(4) WATER ACCESS STRATEGIC PLANNING
(5) TIDAL WETLANDS MITIGATION BANKING
(1) Program: General PAA Administration and Local Technical Assistance $2,400

Description: This program allows the Overall Program to function by supporting the individual projects and operation of the Authority, as well as by responding to daily requests for assistance from local government staff. In order to properly manage the workload, requests should be channeled through Authority members to PAA lead staff.

Activities: Personnel administration; financial management; administrative grant reporting; and other general Authority functions. Consultation on public access related issues; review of local public access projects; GIS and other public access technical assistance provision as necessary.

a. Liability Insurance FY11 ($1,400 PAA General Fund)
b. Direct project expense ($1,000 PAA General Fund)
c. Direct PAA staff time (As needed- staff time from MPPDC Coastal Technical Assistance Program)

Responsibility: Director of Regional Planning, Regional Planner

Support: PAA General fund and DEQ Coastal Zone Management Program

(2) Program: Public Access Land Transfer $10,000

Description: This program responds to a number of VDOT road ending acquisition opportunities in the Middle Peninsula. The transfer of certain county road endings will begin with Lower Guinea Landing (Bill Hogg’s Landing) in Gloucester County. These public donations will be assessed, coordinated with member localities to ensure compatibility with local planning initiatives, and administered. Strategic acquisition planning may also be included.

Activities:

a. Bill Hogg’s Road Ending Transfers ($5,000 PAA General Fund -anticipated legal services)
b. Private-Public-NGO land transfer ($5,000 PAA General Fund -anticipated legal services)

Responsibility: Director of Regional Planning, Regional Planner, PAA Legal Assistance

Support: PAA General Fund
(3) **Program: Access Infrastructure Management and Improvements** $18,500

Description: Those activities, which promote and support efforts to study and plan for local and regional water access needs including: access studies; infrastructure planning and development; project coordination assistance to the Authority and local governments in public access grant funding programs; as well as project administration and coordination of public access infrastructure improvement projects.

Activities:

a. Ongoing Acquisition Planning and Management
   
i. Access Master Plan Development
      
   - $4,000 PAA General Fund for PAA staff support
   - $1,000 Consulting Contractual- National Sea/VA Sea Grant Public Access Project (PAA General Fund)
   - $1,000 Consulting Contractual- National Sea Grant Public Access Project (VA Coastal Program)

   ii. Working Waterfront-Coastal Cultural Identity
      
   - $2,000 participation in and on the Working Waterfront and Public Access National Symposium (PAA General Fund)
   - $500 sponsor for the National Symposium (PAA General Fund)
   - $10,000 in staff time under the DEQ Coastal Program for coordination with Mathews initiative

Responsibility: Director of Regional Planning, Regional Planner, Consulting Services

Support: PAA General Fund DEQ Coastal Zone Management Program

(4) **Program: Tidal Wetlands Mitigation Banking** $22,800

Description: This program includes analysis of Tidal Wetlands Mitigation Banking opportunities and development of a MPCBPAA-managed mitigation banking program to lower the cost of mitigation, ensure consistency in the delivery of services to each locality, and increase passive public access in the region.
Activities:
  a. Wetlands Mitigation Banking
     i. $2,800 Consulting work-DEQ Coastal Program Support
     ii. $10,000 Consultant design work- PAA General Fund
     iii. $10,000 PDC staff time under the DEQ Coastal Program for wetland mitigation bank development.

Responsibility: Director of Regional Planning, Regional Planner, Consultant

Support: DEQ Coastal Zone Management Program, PAA General Fund

*NOTE
PROPOSED RESERVE FUND BALANCE $9,500
Since the inception of the Scenic River System program in 1970, 24 river segments totaling 529 miles of river have been added to the System.

WHAT SCENIC RIVER DESIGNATION DOES

- Designation encourages protection and preservation of the river.
- Designation declares the protection of a river’s scenic values to be a beneficial purpose of water resource policy.
- Designation requires appointment of an administering agency, usually the Department of Conservation and Recreation (DCR).
- Designation requires the Virginia Scenic Rivers Advisory Board, whose members are appointed by the Governor, to advise the Director of DCR on the federal, state or local plans that impact the designated river segment and to give local citizens a voice in river-related issues.
- After designation, the General Assembly must approve construction of any dam that would result in an impediment to the natural flow of the river.
- For properties along designated scenic rivers, a special tax assessment may be given to reduce the tax liability, as valued by the State Land Evaluation Advisory Council, if adopted by the locality.
- The Federal Energy Regulatory Commission (FERC) recognizes Virginia’s designated Scenic River System. This acknowledgement of the program ensures that the qualities of the designated river are considered during licensing or relicensing of federal projects on that river.

WHAT SCENIC RIVER DESIGNATION DOES NOT DO

- Designation does not give the state control over land use.
- Designation carries with it no land use controls.
- Designation does not give the public any right to use privately owned land.
- Virginia does not commercially promote its scenic rivers.
- Recreational use of the rivers currently in the Scenic Rivers System has not increased any more than the use of high quality streams that are not in the system.

In a nutshell, Scenic River designation constitutes official recognition of the natural, scenic, historic and recreational values of some of Virginia’s most valuable riverine resources and provides them with a measure of protection not afforded other rivers. In addition, it gives riparian landowners and other local citizens a stronger voice in any government action or decisions that have the potential to impact ‘their’ river.

Planning and Recreation Resources
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The Working Waterways and Waterfronts National Symposium on Water Access

September 27-30, 2010, Portland, Maine

The Working Waterways and Waterfronts National Symposium on Water Access 2010 will help communities, organizations, businesses, and individuals address waterfront access challenges by showcasing successful models and tools from around the country. Building on the inaugural symposium in Norfolk, Virginia in 2007, participants in 2010 will increase awareness of the economic, social, cultural, and environmental values of waterfronts and how water-dependent uses play an integral part in the sustainability of coastal communities.

Who Should Attend?
This Symposium will provide a forum for diverse users to meet, address common dilemmas, and share solutions. This collaborative problem-solving approach promises to provide unique and innovative approaches to address water access needs. We invite government officials and decision-makers, members of the commercial fishing, marine and tourism industries, developers and property owners, business owners, community planners, activists, and others to join the discussion.

The Symposium steering committee is being formed and already includes national representation from state Sea Grant programs, the National Sea Grant Law Center, national stakeholder organizations like Boat US, as well as Maine Coastal Program and Island Institute.

For more information, to join the steering committee, or to become a Symposium sponsor please contact:
Natalie Springuel, Maine Sea Grant
on behalf of the Symposium Steering Committee

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