

**Northumberland County Planning Commission**  
**May 19, 2022**  
**Minutes**

The regular monthly meeting of the Northumberland County Planning Commission was held on May 19, 2021 at 7:00 p.m. in person at the Northumberland Courts Building and using Zoom (telephonic meeting) with the following attendance:

Chris Cralle	Present	Garfield Parker	Present
Vivian Diggs	Present	Roger McKinley	Present
Alfred Fisher	Present	Heidi Wilkins-Corey	Present
Ed King	Present	Charles Williams	Present
Richard Haynie	Absent	Patrick O'Brien	Present

Others in attendance:  
Stuart McKenzie (County Planner)

**RE: CALL TO ORDER**

The meeting was called to order by Chairman Fisher.

Mr. King gave the invocation, followed by Mr. Fisher leading the commission in the Pledge of Allegiance.

**RE: AGENDA**

Mr. O'Brien made a motion to accept the agenda as is, and Mr. King seconded the motion. All voted in favor of accepting the agenda.

**RE: MINUTES- April 21, 2022**

Mr. O'Brien motioned to accept the minutes, and that was seconded by Ms. Diggs. All voted in favor of accepting the minutes from April 21, 2022.

**RE: COMMISSIONERS' COMMENTS**

There were no Commission member comments.

**RE: STAFF MEMBERS' COMMENTS**

Staff did not have any comments.

**RE: CITIZENS' COMMENTS**

There were no citizens comments.

## **RE: PUBLIC HEARINGS**

There were no public hearing scheduled.

## **RE: WORK SESSION ITEMS**

There were no work session items scheduled.

## **RE: DISCUSSION ITEMS**

Mr. McKenzie stated that he has asked Mr. Tadlock to ask the Board of Supervisors for a replacement for Mr. Shirley, but at this time the Board is working on the Budget, and that will likely be the priority for the next month or so. Mr. McKenzie also informed the Commission that he did not have the May 5 Special Meeting minutes, but that he would have them at the June meeting. Mr. McKenzie then stated that the commission would be to discuss changes to Chapter 5, Water Quality and Shoreline Protection, of the Comprehensive Plan. Mr. McKenzie stated that this chapter has a lot of policy information in it as well as boilerplate language that is required by the State's Chesapeake Bay Preservation Act, and that he is reticent to make any large scale changes to the Chapter, lest the county run afoul of Virginia's water quality comp plan language requirements. Mr. McKenzie stated that there was language in this chapter that discussed best management practices when building on slopes, as well as septic suitability of soils. Mr. McKenzie stated that on page 5:10, (1) Surficial Aquifer, e. stated that the County should not allow Chesapeake Preservation Act reserve septic drainfields that are smaller than the existing drainfields, as that could potentially force homeowners to have to invest in an engineered alternative septic system if their conventional septic system fails. That could create financial hardship on the owner, especially if he is on a fixed income. Mr. McKenzie thought that this was good public policy.

Mr. McKenzie then pointed the Commission to page 5:11, (1) Surficial Aquifer, v. Increase the knowledge of citizens concerning the advisability of testing individual wells on a regular basis. Mr. McKenzie stated that here we can place the information about the Virginia Cooperative Extension well testing workshops that they have every year, and a link to the webpage to learn more about the household well testing program. Mr. McKenzie stated that the program tests for iron, manganese, sulfate, hardness, sodium, copper, nitrate, arsenic, fluoride, pH, total dissolved solids, coliform bacteria, e. coli bacteria and lead. Mr. McKenzie stated that the website for more information is <http://www.wellwater.bse.vt.edu>. Mr. McKenzie stated the new language will say something like the county encourages citizens to test their well water periodically, and the Virginia Cooperative Extension office can assist in this endeavor, and then list all the contaminants they test. Mr. Fisher asked how much that program costs, and Mr. McKenzie stated when he participated in the program a few years ago, it was \$60. Mr. McKenzie also pointed out the advantages of a shallow well vs. a deep artesian well are illustrated on page 5:10, that the shallow wells do not have a high salt content like artesian wells, and that one can obtain water from a shallow well when there is no electricity, which is exactly what was discussed at the last Planning Commission Meeting. Mr. McKenzie stated that is good information for the citizens to know when considering abandoning a shallow well. Mr. McKenzie stated that he checked the website cited in the Comp Plan for the Surprise Hill monitoring well, and that when he clicked on it took him to

the DEQ well monitoring website, which is good, as it is something that does not need updating.

Mr. McKenzie stated the next section of Chapter 5 talks about reservoirs, and the Commission has had numerous discussions regarding potable water freshwater reservoirs, and he realizes how the expensive such an undertaking would be, as does the Chairman. Mr. McKenzie referenced page 5:14, section 3 (b) that states “By 2017, the County should conduct a comprehensive study and develop a detailed economic and financial plan and determine the feasibility of a reservoir system. This will provide the ability to expand the system of reservoirs as the supply from the current deep aquifer is depleted or becomes too saline.” Mr. McKenzie stated that at the last Planning Commission meeting, the commission discussed that building multiple reservoirs to serve the citizens of the county water is likely not feasible, as the costs are exorbitant, so spending money on a study for an economically unviable project is probably not in the best interest of the citizens. For historical purposes, Mr. McKenzie stated, during the last Comprehensive Plan review, the county had just entered into the Eastern Virginia Groundwater Management Area, as required by DEQ, and there was a lot of concern about having enough potable water in the future. Mr. McKenzie stated that there may have been a sense of urgency about water availability at that time, but noted that Northumberland County has deep aquifers that cover many hundreds of feet, which means there is a lot of volume of water underneath the county, as compared to some of the Virginia counties near the Fall Line. Mr. McKenzie noted that those counties along the I-95 corridor (the approximate location of the Fall Line) will have groundwater availability problems long before we have those types of problems here. Mr. McKenzie stated he would entertain how the Commission would like to revise section 3 (b) to better to reflect reality. Mr. McKinley asked if there has been a study about whether the salt levels in artesian wells has been increasing. Mr. McKenzie stated that DEQ should be monitoring that. Mr. McKinley stated that he was just wondering if the salt content could become too high to use the water. Mr. McKenzie stated that in Hampton Roads, the HRSD draws water from an artesian well, and then desalinate the water before adding it into the water system. Mr. McKenzie also stated, as he has informed the Commission before, that the HRSD injects treated waste water into the deep aquifer in Hampton Roads to help keep salt water at bay, which has been used throughout the world in coastal cities (such as Singapore) and is quite proven technology. Chairman Fisher stated that leaving the section regarding a water reservoir study should stay in the Comp Plan, but that the date should be removed, that way we are keeping our options open. Mr. McKenzie stated that would be fine, and stated that the beginning of section 3 (b) should read “The county should consider conducting a comprehensive study... and then leave the rest of the language as is as a placeholder, and the commission agreed.

Mr. McKenzie then stated the next part of the chapter deals with watershed protection for the Bay, and talks about pollution going into the Bay, from stormwater systems, from septic systems, soil erosion, fertilizer on farm fields, and Virginia is currently under the Bay wide TMDL, which is to be completed in 2025, where Virginia meets currently nutrient reduction targets, not necessarily cleaning up the Bay, but meeting nitrogen and phosphorus goals by 2025. Mr. McKenzie stated that Virginia did very good in the beginning of the EPA Bay TMDL because we funded best management practices for farmers and put millions of dollars towards upgrading sewer plants (point sources), but now that we have taken a dent out of those, non-point urban stormwater runoff has become the main sector where the state is not making a lot of progress an actually has gotten worse. Mr. McKenzie stated that is runoff from construction sites, from parking

lots, from roads and sidewalks, so there is a big push to do urban stormwater practices. The problem is that urban properties are comparatively small, so you have to contact a large number of property owners to get any kind of measurable benefits, and the more individuals you have to interact with raises the cost of implementation. Mr. McKenzie stated that with our erosion and sediment ordinance, our zoning ordinance and our 100 foot Resource Protection Area, the county should be holding the line. Mr. Williams asked if there was any research on people's yards? Mr. McKenzie stated yes, that is one of the things they are looking at, are urban nutrient management plan for lawns to hopefully reduce the amount of fertilizer going on a yard. Mr. McKenzie added that having a nutrient management plan for a yard could actually cause an increase in fertilizer usage, because if there any bare spots in the lawn, it would call for more fertilizer to get the bare spots covered in grass in order to hold the soil. So in actuality, an urban nutrient plan could actually increase fertilizer usage in certain instances. Mr. McKenzie stated when he was a the PDC, the state wanted us to engage with residential landowners to get homeowners to put less fertilizer on their yard. Mr. McKenzie pushed back and said #1 people don't like the state telling them what they can and can't do on their land, and #2 we are dealing with small residential lots, 1 acre in size. That means you have to convince 100 residential property owners they need to create an urban nutrient plan and follow it to get 100 acres covered, when you could work with one (1) farmer and get the same amount of land, 100 acres under an agricultural nutrient management plan. Mr. McKenzie rhetorically asked the commission, which approach do you think is more cost effective? Mr. Williams states that it seems to him that the state is targeting the farmers. Mr. McKenzie stated that they are giving the farmers financial incentives as well. Mr. Williams continued that there are more yards than farms on the Chesapeake Bay, and that everyone wants a green yard, in addition, they put herbicide to get rid of the dandelions, and when it rains all that stuff goes in the Bay. Mr. McKenzie stated the state needs to maximize the amount of land in the state that is covered by Best Management Practices and targeting large landowners is the most cost effective way of doing this. Mr. McKenzie stated that the State is working towards reducing residential lawn fertilizer runoff in different ways, DCR creating an advertising campaign, "Fertilizer in the Fall, if at All", because in the Spring it rains much more and washes more of the fertilizer off the land, and in the Fall, more of the fertilizer gets used up by the lawn. Mr. McKenzie also said that Virginia enacted a law that reduced the amount of phosphorous in retail lawn fertilizer for citizens, unless they are establishing a new yard, which they have to attest to, to obtain the higher phosphorous fertilizer. With the majority of citizens using the low phosphorous fertilizer, we reduce the amount going into the waterways. Mr. McKenzie asked if anyone remembers in the 1970's when they took out the phosphates from laundry detergent? At first it seemed to be problematic, but we have made do in the decades since and still have clean clothes, this is the same type of thing, reducing our nutrient impact on the waterways. Mr. McKenzie stated that personally he does not fertilize his lawn, because the more you fertilize, the more you have to mow, and he tries to minimize mowing.

Mr. McKenzie moved on to page 5:15 8 (d), there is reference to two water monitoring group associations, the Dividing Creek Association and the Cubbitt Creek Monitors. Mr. McKenzie stated he went on the Dividing Creek Homeowners Association website and it stated that the water quality monitoring ended in 2013 due to lack of funding, and he could not find any information about the Cubbitt Creek Monitors, so Mr. McKenzie

proposed to remove the section referencing these groups and asked the commission members opinion if that was their desire as well. Mr. O'Brien stated that he thought that was a good idea, and the remaining members agreed.

The rest of the chapter deals with shoreline protection, and Mr. McKinley can speak to this, the state is discouraging bulkheads and rip rap and want you to protect your shoreline with living shorelines (marsh grass). Mr. McKenzie stated it is very hard to get rip rap permitted by the VMRC unless you are on the main stem of the Bay or on the Potomac River, both are areas with very high shoreline energy. Mr. McKenzie stated since this is a required component of Comprehensive Plans in Virginia, he did not want to make any substantial changes to this chapter so as to not become out of compliance with the mandate.

Mr. O'Brien stated they have been talking about shoreline erosion, rising water levels, and has noticed a lot of shoreline erosion. Mr. O'Brien stated that the previous state administration has reduced the options landowners have to protect their property. Mr. O'Brien asked if we should warn people in this section of the Comp Plan that shoreline erosion is a problem, and you may have to deal with limited ways to protect that shoreline? Mr. McKenzie stated that he takes calls from citizens every day that have decided they need to protect their shoreline. Mr. McKenzie stated that the VMRC guidelines regarding living shorelines is that in a couple of decades, all of our marshes will be flooded out (by sea level rise), and that by having gradual slopes with marsh grass at the base, the marsh grasses can "march up" the slope as the sea level rises, thus keeping the vital marshes that serve as the nurseries for our fish and crabs alive and providing habitat and nourishment. Mr. O'Brien stated that in the Middle Peninsula, if the swamp grass marches up the hill, you cannot cut it. Mr. O'Brien thought that was absurd. Mr. McKenzie stated the last he heard from VMRC on marsh grass cutting is you can cut it, but not use mechanized equipment in the marsh (tractors, etc). Mr. O'Brien thought this was a conflict. Mr. McKenzie stated it is always a conflict when the state imposes restrictions, the state calls 100 foot Chesapeake Bay Resource Protection Area a buffer, but those of us that live on the water call it our front yard. Mr. O'Brien states that in Northumberland County, through the Comp Plan, we could warn our citizens of the shoreline problem, or we could kick the can down the road. Mr. McKenzie asked how other Commission members feel about adding language warning of shoreline erosion, as he has heard what Mr. O'Brien has to say. Mr. O'Brien clarified that the last state administration made these changes and the new governor may go in a different direction and perhaps we should say that the issue has not been resolved, and there may be changes. Mr. McKinley pointed out that rip rap is an integral part of a living shoreline, as a rock sill that protects the toe of the marsh. Mr. McKinley also stated that he works with ten wetlands boards and that the boards have come to realize recently that living shorelines may not be the best management practice for a property. Mr. McKinley stated there has been a tremendous amount of shoreline erosion in the last 18 months in this area. Mr. O'Brien had two questions for Mr. McKinley, how much does it cost to complete the permitting process, and how do you account for sea level rise (assuming you believe in global warming), and wouldn't it be better to warn citizens that this issue is still up in the air? Mr. McKinley replied around \$1500-\$2000 for permitting, to get you to a point where you can hire a contractor to do the actual shoreline work. The cost of the structure is added to that. Mr. McKinley stated that people know about shoreline erosion, and it is not necessary to warn people about that. Mr. Williams stated that it is not like

people are losing shoreline every day, it is only when there is a Nor'easter and the tide is up, and that wave action takes the soil away. Mr. O'Brien stated the question before the Commission now is should we say this is an issue, or should we ignore it, and if we ignore it, it doesn't seem fair. Mrs. Wilkins-Corey stated she doesn't think we are ignoring it, we have several pages of this chapter devoted to shoreline erosion in this county. This Comprehensive Plan, in Mrs. Wilkins-Corey's opinion, is that we have shoreline erosion, we have VIMS guidance we have to follow, she is not sure the Comprehensive Plan is the place to make recommendations to citizens on a course of action to take. Ms. Wilkins-Corey stated that the Comp Plan states that the county's hands are tied, as the state is the one who permits shoreline projects, and that is an accurate reflection of the position we are in, not that we are ignoring shoreline erosion, as we are addressing it in three pages in Chapter 5. Mr. O'Brien asked Mrs. Wilkins-Corey if she felt that is an adequate alert for developers and homeowners? Mrs. Wilkins-Corey stated that developers will go before the Board of Supervisors, and they will use this guidance to inform them of potential shoreline erosion problems and gauge whether the developer will do what they say they will do. Ms. Wilkins-Corey stated the Comp Plan is a guidance document, and we have addressed shoreline erosion, and you have to do your due diligence whether you are buying a house, property a car or anything else. Mr. McKenzie asked Chairman Fisher what he thought, and he said he has to agree with Mrs. Wilkins-Corey, we cannot try to solve every homeowners potential problems in the Comp Plan, but stick to the facts, the best we know them. Mr. McKenzie stated that there are difficulties with getting marsh grass to grow on living shorelines, and the marine contractors cannot guarantee the marsh grass will protect your shoreline, but they can with appropriately sized granite rock in a conventional rip rap revetment. Mr. Fisher asked Mr. McKinley on the failure rate of living shorelines. Mr. McKinley did not know if there is a VIMS study or not, but with the new version of living shorelines, where you incorporate a rock sill or breakwater, they have a much better chance of protecting the shoreline that the old coir (coconut) logs, or oyster shell bags they used to use. Mr. Fisher asked if there were any last comments on this issue. Mr. O'Brien spoke and asked are people aware of what it costs to repair a shoreline if we get a nor'easter? And are they aware that shoreline protection is not on your homeowners insurance, and that shoreline protection measures are not insurable? Mr. McKinley stated that a lot of people are just finding out how much it will cost now that the storms have passed. Mr. O'Brien states his only point is should we include something in this plan about the possible costs of shoreline repair? Mr. McKenzie stated that docks are not covered by homeowners' insurance either, should we include that? Mr. O'Brien stated he would not be averse to that. Mr. McKenzie stated he did not think the Comp Plan is the place we should hand hold people to try to cover all the decisions that a waterfront homeowner has to make. Mr. McKenzie stated that people buy property and do not check the zoning, or whether the property is in the flood zone, so you can't prevent people from making dumb decisions. Mr. Fisher stated we could add to the Comp Plan, "Historically speaking, shoreline erosion has always been a problem in Northumberland County." Mr. McKenzie stated that at the beginning of the chapter there is a paragraph in italics, and he felt that would be an appropriate place to put whatever warning language you want to put there. Mrs. Wilkins-Corey stated on the Chapter 5 #9 bullet point the Comp Plan states: "Shoreline erosion documented by VIMS in its 2014 Shoreline Situation Report is significant within Northumberland County." She stated she doesn't know how more plain language will convey the idea. Mr. McKenzie stated that at the end of that paragraph the Comp Plan

language states “Greater rates of erosion have occurred as a direct result of northeaster storms and hurricanes.” Mr. Fisher stated he is satisfied by those statements in the chapter.

Mr. McKenzie stated the next item on the agenda is the Great Wicomico Canoe\Kayak Launch update. Mr. McKenzie stated it was understood that the VDOT Land Use Permit requires the applicant to either post a bond, or in the case of a local government, a Board of Supervisors Resolution, which we have obtained, that will assure that the VDOT land in the right of way will be put back to its original form if the applicant violates the permit conditions. Mr. McKenzie stated that when filling out the permit there were some red flags that he thought that the County Administrator and possibly the County Attorney should look at, specifically a check box that says something like the applicant agrees to pay for a VDOT engineer to go to the site and approve that what we constructed matches what we proposed to build. Mr. McKenzie said that once the County Administrator clears me to send the Land Use Permit application to VDOT, I will let the commission know. Mr. McKenzie stated he did not know how long the VDOT review would take. Mr. McKenzie stated he was in contact with the NNPDC and they have funding to replace the sign at the fishing pier, as the current sign does not have logos, only the names of the organizations that helped fund the pier. Mr. McKenzie stated there might be more funding to allow for a directional sign on the Rt. 200 to point to the fishing pier access road. Mr. McKenzie stated that to erect that sign, the county would have to apply again for a Land Use Permit to put the sign in the VDOT right of way. Mr. O’Brien suggested that we not check the box and see what happens when we submit it. Mr. O’Brien stated by checking the box we are essentially writing a blank check, and he did not think we should do it. Mr. Fisher stated we have gotten these permits in the past, what did we do then? Mr. McKenzie stated that the gateway sign on Rt. 360 outside of Callao certainly required a permit, but that was before his time. Mr. McKenzie stated he would work with Luttrell to get more information about the permit from VDOT. Mr. O’Brien stated that perhaps we can cap the costs, if possible. Mr. McKenzie stated he would update the Commission on the status of the permit application at the next meeting.

Mr. McKenzie stated that at the next meeting there will be a public hearing for a rezoning application for a parcel to go from its existing R1 to A1, so we hope to have another quorum at the June 16<sup>th</sup> meeting. Mr. McKenzie stated he would be sending out information on the rezoning in a couple of weeks to Commission Members and interested parties.

Mrs. Wilkins-Corey asked to go back to the Comprehensive Plan and asked what are the plans regarding Appendix A of the Comprehensive Plan? Mr. McKenzie stated that the data is so old, it is not really able to be revised, without a wholesale overhaul. Mr. McKenzie stated that the Appendix dates from two revisions ago, was completed by a generous volunteer, Dr. Haughan, and now is very much out of date. Mr. McKenzie stated he would confer with the County Administrator to see if he would be ok with deleting the entire Appendix, because at this time, we do not have the resources to allocate to the research to do a rewrite of that section. Mr. Wilkins-Corey stated that she is find with removing it from the Comprehensive Plan.

## **RE: BOARD OF SUPERVISORS REPORT**

Mr. McKenzie reported on the previous months Board of Supervisors meeting, where the Friends of the Northumberland County Animal Shelter requested to be exempt from property taxes, which the Board agreed to, as their efforts provide needed funding for the county animal shelter to operate. Mr. McKenzie stated that the May 12 Board of Supervisors hearing, there was an application from Hacks Neck Farms, applicant Myles Cockrell at a site across from the Great Wicomico Fishing Pier, for commercial aquaculture activities where the restaurant/hotel/marina was supposed to be build a couple of decades ago. The Board did approve this request with conditions. One of the conditions was to secure the floating piers so there would be not be any more navigation problems and that the four upwellers would be placed within the existing boat slips, again to reduce any chance of navigation issues.

**RE: PUBLIC COMMENTS**

There were no public comments.

**RE: ADJOURNMENT**

Mr. O'Brien made a motion to adjourn that was seconded by Mr. Fisher and the meeting was adjourned at 8:15 pm. The adjournment vote was as follows:

Chris Cralle	Aye	Garfield Parker	Aye
Vivian Diggs	Aye	Roger McKinley	Aye
Alfred Fisher	Aye	Heidi Wilkins-Corey	Aye
Ed King	Aye	Charles Williams	Aye
Richard Haynie	n/a	Patrick O'Brien	Aye