MINUTES OF
PLANNING COMMISSION MEETING
MARCH 26, 1992

PRESENT: Lawrence C. Baldwin, Commissioner At-Large
David P. Bobzien, Centreville District
John R. Byers, Mount Vernon District
Suzanne F. Harsel, Braddock District
Stephen J. Hubbard, Dranesville District
Maya A. Huber, Commissioner At-Large
Ronald W. Koch, Sully District
Peter F. Murphy, Jr., Springfield District
Carl L. Sell, Jr., Lee District
Alvin L. Thomas, Commissioner At-Large

ABSENT: Patrick M. Hanlon, Providence District
Henry E. Strickland, Mason District

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The meeting was called to order at 7:46 p.m. by Chairman Peter F. Murphy, Jr.

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COMMISSION MATTERS

Commissioner Huber announced the following meetings:

1. Chesapeake Bay Preservation Ordinance Workshop, 7:30 p.m., Wednesday, April 15, 1992.

2. Environmental Committee meeting, 7:00 p.m., Wednesday, April 22, 1992.

3. Chesapeake Bay Preservation Ordinance Markup, 7:30 p.m., May 21, 1992.

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ORDER OF THE AGENDA

Secretary Harsel established the following order for tonight's agenda:

1. ZONING ORDINANCE AMENDMENT – Chesapeake Bay Ordinance

Without objection, it was so ordered.

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CHAPTER 118 – CHESAPEAKE BAY PRESERVATION ORDINANCE – On the matter of an amendment to the Code of the County of Fairfax, VA, creating a new Chapter 118, Chesapeake Bay Preservation Ordinance. The proposed amendment will implement provisions of Title 10.1, Chapter 21, Sect. 10.1-2100 et. seg. of the Code of Virginia, the Chesapeake Bay Preservation Act & the Final Regulations ("Regulations") adopted by the Chesapeake Bay Local Assistance Board pursuant to the Act, Sect. 1.3 of the Regulations, "Purpose of regulations," provides as follows: "The purpose of these regulations is to protect & improve the water quality of the Chesapeake Bay, its tributaries, & other State waters by minimizing the effects of human activity upon these waters & implementing the Act, which provides for the definition & protection of certain lands called Chesapeake Bay Preservation Areas, which if improperly used or developed may result in substantial damage to the water quality of the Chesapeake Bay & its tributaries. These regulations establish the criteria that counties, cities & towns shall use to determine the extent of the Chesapeake Bay Preservation Areas within their jurisdictions. These regulations establish criteria for use by local governments in granting, denying, or modifying requests to rezone, subdivide, or to use & develop land in Chesapeake Bay Preservation Areas. These regulations identify the requirements for changes which local governments shall incorporate into their Comprehensive Plans, Zoning & Subdivision Ordinances to protect the quality of State waters pursuant to §§10.1-2109 & 10.1-2111 of the Act."

Pursuant to the Act & the Regulations, two versions of the proposed Ord. have been authorized for advertisement by the Board of Supervisors. The first version contains the text & map of the Ordinance. which was endorsed by the Board of Supervisors on May 20, 1991, with subsequent revisions by County staff in response to comments by the Chesapeake Bay Local Assistance Dept., The Chesapeake Bay Preservation Areas, as follows: certain areas of the County to be within Resource Protection Areas & the remainder of the County to be within a Resource Management Area.

The second version of the proposed Ord. contains the text & map of the version of the Ord. which was presented by County staff to the Board of Supervisors on February 10, 1992, in response to the Board of Supervisors' request that County staff prepare a version of an Ord. which contained the minimum state requirements for an Ord. adopted pursuant to the Act & Regulations. A copy of this version is set forth in a Staff Report which references on its cover

the "State Minimum Ordinance." This version designates Chesapeake Bay Preservation Areas as follows: certain areas of the County to be within Resource Protection Areas, certain areas of the County to be within Resource Management Areas, & the remainder of the County to not be subject to the provisions of the Ordinance.

Both versions of the proposed Ordinance establish performance criteria for development, redevelopment, & use of land within Resource Protection Areas & Resource Management Areas as well as contain provisions regarding the implementation & administration of the proposed Ord. The specific land areas which would constitute Resource Protection Areas & Resource Management Areas pursuant to each of these two versions of the proposed Ord. are set forth in the text of the respective versions. PUBLIC HEARING.

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Mr. Bruce Douglas, Planning Division, Office of Comprehensive Planning, stated that the Board of Supervisors had directed staff to produce a State minimum version of the Chesapeake Bay Preservation Ordinance. He gave a brief overview on the subject, noting that both the 1991 version, modified by staff, and the minimum version were before the Commission for discussion.

Chairman Murphy called the first listed speakers and explained the rules and procedures for addressing the Planning Commission.

There were thirty-five listed speakers; thirty-one speakers addressed this application and seven did not appear to be heard. A complete list of those individuals may be found in the date file. The names of those individuals who furnished copies of their statements are annotated with an asterisk (*).

Ms. Vivian Lyons, President, Great Falls Citizen Association, suggested that by combining the existing County practices with the minimum requirements mandated by the Commonwealth of Virginia, there would be a strong framework for an effective Ordinance. She stated that she was referring to existing Environmental Quality Controls (EQC) and the existing Best Management Practices (BMPs). She suggested converting the existing EQCs in their current boundaries to RPAs; application of BMPs should be extended to all development throughout the County and added to the State minimums; and, the development or redevelopment to be prohibited only when there was no possibility of mitigating potential damage.

Ms. Sally Ormsby, Chairman, Citizens Committee on Land Use and Transportation, stated that her committee had met on March 21, 1992, and recommended the following alternatives to the version of the Ordinance accepted by CBLAB and the version which reflected the State minimums: *

- The County should establish the Resource Protection Area (RPA) boundaries synonymous with the EQC boundaries. Should the EQC boundary be less than 100 feet from the resource, the 100-foot State minimum would apply.

- The Resource Management Area (RMA) boundary should meet the State minimum requirement and the boundary should be set at the extremity of the EQC or 600 feet from the water resource, whichever is greater.

- There should be a Countywide BMP policy.

- Exceptions for hardship cases should be considered on a case-by-case basis.

David Stroh, Esquire, with Hogan and Hartson, for Fairfax County Chamber of Commerce, stated that the Chamber believed that the Ordinance should be revised at this time for the following reasons: *

- Many features of the endorsed version focused more on growth control than on water quality.

- They questioned the cost-to-benefit ratio of the endorsed version.

- They also questioned the merits of the RPA and RMAs that exceeded the specific elements identified in the State regulations.

Ms. Brigitte Laffitte-Smith, Chantilly Coalition for Planned Growth, stated that the Coalition supported the draft Ordinance as recommended by the Planning Commission; the State minimum version was not acceptable. *

Mr. Michael Rolband, National Association of Industrial and Office Parks (NAIOP) referred to a study he had done in January, 1992, entitled: "Fairfax County Chesapeake Bay Preservation Ordinance Projected Economic and Fiscal Impacts and a Comparative Cost-Benefit Analysis." He suggested that the Ordinance be changed in accordance with that study.

Mr. Jonathan Rak, Esquire, with McGuire, Woods, Battle and Boothe, agreed with Mr. Rolband's comments.

Mr. Paul Kraucunas, Christopher Consultants, concurred with the Rolband Study.

Miss Keiarin Wilcox, Miss Laura Wyatt, and Miss Tara Rithem, with the Green Coalition, each stated that they had worked to save the Bay and thought it was better to do it now rather than to clean up later.

Commissioner Murphy complemented the Green Coalition for their presentation and Commissioner Sell noted that anything worth fighting for was worth hanging in there for.

Ms. Merrily Pierce, 1063 Carper Street, spoke in favor of the Board endorsed, revised Ordinance of May, 1991, and saw no need for further changes.

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In the temporary absence of Chairman Murphy, Secretary Harsel took the Chair.

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Ms. Connie Houston, League of Women Voters, stated that the League had always stressed the importance of protecting the quality of our water and their position had been that the RPAs should be coterminous with the EQCs; that the remaining land in the County should be the RMA. She noted that since the 1991 version had already contained several compromises, the League could not endorse any additional compromise language.*

Ms. Mary Dunn, President, Citizens for Balanced Growth, endorsed the approved 1991 version of the Ordinance.

Ms. Barbara Coen, 11698 Fox Glen Drive, Oakton, stated that the endorsed version of the Ordinance was the environmental way to go.* She also included with her statement a critique of the Rolband Study.

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The gavel was returned to Chairman Murphy.

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Mr. Al Hagelis, Supervisor of Architecture and Design, for Reston Land Corporation, supported the goal of improving water quality for Fairfax County as well as for the Chesapeake Bay. He noted the need to amend Section 118-6-10 to request that the Director of DEM waive regulations for PRC Districts with regional stormwater systems already in place. *

Ms. Rena Tidwell, Homeowners Against Neighborhood Destruction, urged the Planning Commission to endorse the approved 1991 Ordinance.*

Carson Lee Fifer, Jr., Esquire, with McGuire, Woods, Battle and Boothe, stated that he was a part of the NAIOP group and agreed with Mr. Rolband's recommendations.

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In the temporary absence of Chairman Murphy, Secretary Harsel took the gavel.

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Mr. Ray Pelletier, Fairfax County Federation of Citizens Association, stated that the State minimum requirements were unacceptable and approved the endorsed version.

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The gavel was returned to Chairman Murphy.

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Ms. Stella Koch, for the Audubon Naturalist Society, stated that they wanted to preserve the water quality in Fairfax County and the Chesapeake Bay. Her organization approved the version endorsed in May 1991.

Ms. Jean Packard, 4058 Elizabeth Lane, Fairfax, agreed and concurred with the statements made by Ms. Ormsby.

Ms. Marsha Stanley, 3245 History Drive, Oakton, stated that the minimum State Ordinance did not designate a Countywide RMA and was inadequate.

Mr. Edward Mainland, on the Board of Directors, McLean Citizen's Association, supported the Board endorsed version of the Ordinance from 1991.

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Secretary Harsel took the Chair in the temporary absence of Chairman Murphy.

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Ms. Laurie Perl, 1401 Park Lake Drive, supported the endorsed 1991 version of the Ordinance.

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The gavel was returned to Chairman Murphy.

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Mr. Girard Gurgick, Sequoia Building Corporation, stated that if development continues the Bay will be better protected; regional stormwater management ponds would really remove pollutants and clean up the Bay.

Mr. John DeNoyer, Environmental Quality Advisory Council, urged the Planning Commission to recommend that the Board of Supervisors retain the May 20, 1991 version of the Chesapeake Bay Ordinance. *

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Secretary Harsel took the Chair during a brief absence of Commissioner Murphy.

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Sarah Reifsnyder, Esquire, for the Mount Vernon Ladies Association of the Union, recommended that the Board of Supervisors retain the May 20, 1991 version of the Chesapeake Bay Ordinance. She also suggested that they recommended the inclusion of the term "historic preservation and related heritage education activities" rather than simply "historic preservation activities." *

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The gavel was returned to Chairman Murphy.

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Ms. Ann Csonka, for Tree Action, stated that her organization believed that the endorsed 1991 version of the Ordinance should be retained. *

Mr. James Collins, 8460 Thames Street, Springfield, stated that it would be short-sighted to pass a different Ordinance; that the existing Ordinance should be retained. *

Mr. Ervin Bedker, for Paciulli, Simmons and Associates, stated that his firm supported the May 1991 version. He noted that they would furnish additional comments and recommendations on that version at a later date.

Mr. Alexander Keyes, 2411 Rocky Branch Road, Vienna, stated that they supported the already endorsed version of the Ordinance.

John Farrell, Esquire, with Odin, Feldman and Pittleman, stated that Commissioner Huber had asked what was the legal basis for imposing BMPs countywide. He noted that the citation for that was Section 15.1, 489, the Public Facilities Manual, the last sentence which read: "Such Ordinances may also include reasonable provisions not inconsistent with applicable State water quality standards to protect surface water and groundwater." He stated that the Public Facilities Manual had been incorporated by reference into the Zoning Ordinance. He agreed with comments made by Mr. DeNoyer and Mr. Collins.

Mr. William Plissner, owned six acres on Accotink Creek, and stated that he believed the State minimum requirements should be approved.

Ms. Sandra Metzger, Conservation Chair, Great Falls Sierra Club, was a listed speaker, had to leave early but left copies of her statement, which may be found in the date file.

The there being no additional speakers and no further questions or comments, Chairman Murphy closed the public hearing and stated that the record would remain open for written testimony.

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Following the close of the public hearing, Commissioner Huber stated that she disagreed with Mr. Rolband's study because, in her opinion, it contained erroneous figures and/or fact. She furnished, for the record, a copy of a letter dated January 16, 1992, which she had written to Supervisor Gerry Hyland, which pointed out the deficiencies in Mr. Rolband's study. (A copy of that letter may be found in the date file.)

Commissioner Hubbard stated that he also objected to the Rolband Study and suggested that the Planning Commission discuss it with Mr. Rolband at a later time.

Without objection, Chairman Murphy stated that they would meet at 7:30 p.m., Monday, March 30, 1992, prior to the C&I Workshop, to discuss this matter.

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The meeting was adjourned at 11:33 p.m.
Peter F. Murphy, Chairman
Suzanne F. Harsel, Secretary

For a verbatim record of this meeting, reference may be made to the audio and video recordings which may be found in the Office of the Planning Commission of Fairfax County, Virginia.

Minutes By: Dorothy E. Brittingham

Approved On: February 11, 1993

Mary A. Pascoe

Mary A. Pascoe, Clerk to the
Fairfax County Planning Commission