

Open Work Section

Rural Legacy Easement Acquisition – 396.98 Acres

March 6, 2018

Mr. Jack Lennox, Director of Planning, Zoning, and Community Development, and Ms. Kate Patton, Executive Director of the Lower Shore Land Trust, came before Council. Mr. Lennox said, Ms. Patton, through her organization, has been working with the County for a number of years in terms of negotiating land easement purchases not only in the Rural Legacy area, but, actually other portions of the County as well. He said tonight they are here in Work Session form prior to requesting Council's formal action. He said the Executive has agreed to forward to Council the report Mr. McKenzie put together in working closely with Ms. Patton, and some other professionals who are referenced in the report, in recommending to Council that they move ahead with the purchase of development rights. He said Council has been at this for a while now with the Quantico Creek Rural Legacy area being established in 2002, and just this past year, with Council's support, they are pleased to report the area has more than doubled. He said the Department of Natural Resources has continued to see the Quantico Creek area, and now the expansion, to include additional protection of the Paleo Channel as being a really high quality area that was worth a lot of investment dollars. He said, in addition to the Rural Legacy money, through multiple sources, basically, over \$9 million dollars have been spent since 2002. He said that is not just Rural Legacy area money because it goes to leverage others as well, and one of the opportunities they have right now in front of them, and have now for a couple of years, is partnering with the Navy. He said they are concerned, clearly, about the potential impact from the Patuxent River. He said the last page in the report actually shows the area the Navy is concerned about, and, in fact, it is great to see they are not only telling people what they would prefer they not do with their personal property, but they are actually willing to come up with the money to do that. He said the State, DNR, and Rural Legacy have been very open to partnering with. He said they have, in the past, teamed up with some MELF money in terms of State agricultural preservation. He said different properties meet different criteria. He said Mike Phillips is the owner of the property they are discussing this evening, which is almost 400 acres, and he has probably been on their list longer than anyone. He said Mr. Phillips has been very interested in doing this, but there have been a number of complications involving family owned land. He said he thinks they all know that, as close as one can be with family, they do not always agree on some of the details, particularly when it involves how to divide up some assets. He said they have sorted things out among the family, and Mr. Phillips controls this property now, and, again, has been on the County's pending list longer than most. He said they then have to make the details work, so various appraisals are done, two formal appraisals, and another analysis called an environmental easement valuation system which then takes those numbers and puts in environmental criteria because it is not just how many houses they can keep out, but also what they are trying to protect. He said they have reached some numbers, and they have to find something that meets the various criteria of the different State agencies, which, in this case, literally, is the Federal Government. He said they are now to a point where the proposal is being evaluated, and they are recommending that property. He said, just for Council's ease, essentially, Attachments B and C show where the property is located off of Nanticoke Road, and Page 5 gives a very detailed breakdown of where the money comes from showing the big number zero on the line for Wicomico County. He said it just happened to work out that way. He said, obviously, he will defer to Ms. Patton for hands-on information Council may want in terms of the request, but they are recommending Council forwards this for formal action.

Ms. Patton said this is a very exciting project to have a nice large property in the existing Rural Legacy Area. She said the property would eliminate close to 22 development rights and protect over 3,000 linear feet along Quantico Creek. She said that allows for additional buffer, and the landowner has been great to work with through this process. She said they are, basically, requesting the County's support on the purchase of the conservation easement under the Rural Legacy Program.

Mr. Dodd asked why the Navy is willing to offer \$900,000, to which Ms. Patton responded, their REPI Program, which is their Readiness and Environmental Protection Integration Program, comes up with funding to support the purchase of easements. She said the Navy is not as concerned with the environmental side as they are with protecting their flyover zone out of Patuxent River, yet they do this throughout the Country. She said the Navy works with the Sentinel Landscape Program so they can protect larger tracts of land, and that coincides with her organization's goals to reduce fragmentation of farmlands and working forests. She said maintaining a strong agricultural base is really important, not just for Wicomico County, but the whole Lower Shore. She said it is really important to be able to leverage additional funding so they can maintain those landscapes, and it just so happens that it benefits the Navy's desire to limit some of the development. She said farmers complain about development, and the Navy does too when they do flyovers. Mr. Lennox said some of the impact closest to Wicomico County is down in the Virginia Beach area and Hampton Roads. He said the Navy learned some important lessons there with a major facility that then got more and more encroached upon, and they are trying to head off high intensity developments near installations in the future.

Mr. Cannon asked where this will go from here, to which Mr. Lennox responded, he recommends Council schedules it for formal action by Resolution as soon as their next meeting. Ms. Patton said things are already going through the process with the Department of Natural Resources and the Navy, and they approved the concept similar to the grant application coming before Council. She said, when they received notification that they received grant funding, they had a list of projects that were agreed upon. She said this was one of those projects that, in concept, was approved, and they have gone through the rigorous process of the appraisals. She said they are at that point right now where they are just finalizing all of the details, and it is a great project if Council will approve it.


Mr. Matt Holloway asked, with these preservation funds, does this also have the impervious surface requirements, to which Ms. Patton responded, all of DNR right now is asking for either impervious surface, or some type of ability to reduce impacts to the soils. She said the north side of Nanticoke Road has some really good soil, and they have identified that in the project. She said Mr. Phillips has agreed to a 2.5 percent impervious surface clause, which, on 400 acres, is about 11 acres that would be allowed to be built out if needed. Mr. Matt Holloway asked if that would be limited as far as solar panels or chicken houses, to which Ms. Patton responded, up to 11 acres would be allowed, regardless of whether it is greenhouses or poultry. She said they could fit in four poultry houses, maybe more, depending, again, on if it included the buildout of other structures on the property, or paved roads. She said anything that provides that impervious surface all gets counted in there. Mr. Lennox said they are retaining the right for one house and one caretaker residence, which would count towards the impervious surface. Mr. Matt Holloway asked if this is on the north side of Nanticoke, to which Ms. Patton responded, the way it looks out, the north side would be the primary, and the south side would be the accessory. Mr. Cannon said he was surprised to see that part of this is on the south side of Nanticoke Road. He said he would have thought that maybe, taking what funds they do have, some of this would have been used for territories closer to the actual creek itself, as opposed to this area on the south side of Nanticoke. He said it seems a pretty odd piece of land, to which Ms. Patton responded, it is pretty normal to do that when they can count the whole project because there would be some development potential on the

south side, but it also allows them to put some of the conservation protections on the forestry areas. She said, to be able to ensure there is the forest management in place, that is pretty critical to protecting the overall water quality of the watershed. Mr. Cannon asked if part of this arrangement was that the County either takes the entire piece, or none at all, to which Ms. Patton responded, they would be in a situation where they would be open for additional development, and additional actions that could, in the future, impact that forest area, so this allows for better protection overall. She said she thinks that is a great question, but it is important to retain the whole parcel intact.

Mrs. Hurley said, due to the size of the easement, Council may want to consider having a Public Hearing on this. She said it is not a legal requirement, but it is certainly something Council can do if they so desire. Mr. Hall said he has a question based on Mrs. Hurley's statement. He then asked Ms. Patton how much public outreach she has done, to which Ms. Patton responded, they have done a lot. She said she thinks, going into this round, they did regular mailings, targeted landowners within the Rural Legacy area about the availability, and they have done workshops. She said, generally, they try to do one about every year in terms of holding public opportunities. She said they are voluntary programs, so landowners who are interested in looking at conservation easement programs would look to Rural Legacy, or to the MELF Program. She said the CREP program is one of the more restrictive programs. She said this would be the first time she has ever heard of any precedence on Public Hearings, not just on the Lower Shore, but across the Upper Shore. She said, in terms of going forward with these projects, she thinks landowners are taking a big step in signing up for this and protecting their land. She said it allows them to invest back into the County, and retain the agricultural land. Mr. Hall said he thinks the issue is how it impacts the surrounding farms, or the surrounding people around them, and if they need a Public Hearing because it impacts them, but, from what Ms. Patton is saying, it would not really impact them. Mr. Lennox said it would protect them, actually, for whatever their interests are. Ms. Patton asked if a Public Hearing was held when the initial Quantico Creek Rural Legacy area was established in determining all of the area, to which Mr. Lennox responded, he just cannot conceive how this would adversely affect someone in the area. He said he is trying to be creative, and he is having problems. Mr. Joe Holloway said he does not see it either. Mr. Cannon said they will move ahead with the Resolution. Mr. Matt Holloway said he just sees where some landowners might actually hesitate to sign up for the program if they know they have to go through the Public Hearing, to which Ms. Patton responded, that is her concern. Mr. Lennox said he will point out, since they are on the record, that any property owners who are in the area, near the area, or think they might be near the area, may contact them. He said they are hoping to have additional funds, and try to help as many folks as they can. Ms. Patton said, as a matter of fact, for a number of years prior to the expansion, they had landowners coming to them saying they are just outside of the area, and they want to participate. She thanked Council for going forward with this. Mr. Cannon thanked Mrs. Hurley for her consideration, and asked her to put it on the Agenda for the next meeting. There was no further discussion.

Signatures on next page

**Open Work Session Minutes
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John T. Cannon, President



Larry W. Dodd, Vice President, District 3



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Marc Kilmer, District 2



John B. Hall, District 4



Joe Holloway, District 5



Matt Holloway, At-Large



Laura Hurley, Council Administrator