

Minutes of Albemarle County NHC Policy Group Meeting
November 30, 2021 – Virtual Meeting on Zoom

Members Present: Nancy Weiss, Lonnie Murray, Kennon Williams, Kate Mallek
Staff: Carolyn Schaffer

Carolyn read the proclamation to begin the meeting.

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Special sites

Don't need a scoring system, but should have a set list of questions and then test them with known-quality existing sites. Create a baseline to exceed, not necessarily a ranking. Leave open the possibility for tracking unique sites. Consider invasive species at a given site and that it not be overwhelmed by them.

Nancy and Lonnie will review this issue and put together materials for review in advance of the next meeting.

Solar

Provide recommendations from our group. We see great value in having an ordinance in place prior to big applications coming to Albemarle. The best results will happen if developers and property owners considering solar farms have a clear set of guidelines that they understand and can use as a basis for planning. Set in stone some requirements. Make requirements transparent and better able for applications to meet expectations. If we tell them what we want, they will plan how to do it.

Review Louisa ordinance. Could adopt a version of that. Make sure to include pollinator friendly best practices and other considerations on the front end.

Important to limit forest removal, specifically old growth forest. Consider productive farmland. Many farming best practices going on around and under solar, especially in Pacific NW, look for ideas.

- Pollinator friendly, require pollinator smart guidelines.
- Discourage removal of forests, and specifically prevent removal of old growth forests, highly ranked forest blocks as identified in the BAP.
- Require 100 ft natively-vegetated setback from streams, ag. conversion might not have buffers, reconcile and restore if necessary.
- Require vegetated setback from neighboring properties to prevent stormwater and sediment flow off property.

- Consider experience in other localities, many of which wished they had an ordinance established prior to large scale solar applications. Learn from others' mistakes; no need to reinvent the wheel or to experience same issues.
- Decommissioning funds required and held in escrow from beginning.
- Consistent and clear regulation, avoid vague language. Requirements up front.
- We can prevent these problems by proactive planning and with a comprehensive ordinance:
 - <https://www.wtvr.com/news/problem-solvers/problem-solvers-investigations/virginia-farmers-and-dominion-energy>

Stream Health

We strongly support adoption of the full Chesapeake Bay Act rather than unique, County-created versions of specific pieces. We believe in the intent and direction of the Act, and we do not encourage the expenditure required to craft and regulate a unique program, when a viable and largely effective legislative and regulatory paradigm already exists. The Bay Act provides a basis for quality regulation in support of biodiversity, climate change mitigation, and appropriate protection of natural resources. Adoption has worked well for other counties. In a Dillon Rule state, using the language of the Bay Act may be more legally defensible than independently crafted alternatives.

But this is not just about the Bay; this is about the future and younger generations having access to a healthy environment. The time is well past to implement big changes and make hard choices. Implementing the Bay Act would be a positive step in the right direction for the future. **If not now, when?**

In what County forum have the benefits of adoption of the Chesapeake Bay Act been discussed? Did we miss it?

We recommend implementing the Bay Act in a way that allows gradual adoption and avoids undue stress on the current market. One way this can be achieved is by including grandfathering options for existing conditions and applying new regulations to new permitting and new development. It is very appropriate, doable, and would not impact wide swaths of properties at once. This would engender more support from those who might fear regulation.

Participating in the Bay Act provides immediate efficiencies. Changes of any kind will have up front costs, but implementing the Act allows for long term streamlining of recognizable services. The Bay Act would also provide a firm and verifiable definition for "agriculture," the current lack of which is a gaping loophole that encourages abuse and provides no mechanism for staff to manage it. Agricultural entitlements must require proof with valid documentation.

County stream regulations in place use different terms than state regulations, rendering it impossible for Albemarle to use DNR or other materials created for public, education, and other uses. This causes unnecessary duplication and expenditure of local public funds. For ex., water protection ordinance vs resource protection areas.

Regarding the Stream Health Initiative Phase II Proposals:

- Of the 14 initiatives proposed, we favor the ones that do not demand much expenditure of County funding or staff time, but rather set up codes, requirements, and education for the public.
- Of the initiatives proposed, we believe the following are the most important to implement and in this order of importance: #1, 2, 11, 14, 13, 12.
- #1 Stream Buffer Overlay District sounds like a positive step, but all it does is return us to an ordinance we had in 2008. This should be the default starting point.
- #2 Strengthen Restoration & Mitigation Requirements is progress and will help close the loophole. It removes the incentive to put “farm roads” in buffers or clear buffers, if people knew that buffers had to be restored once a property is converted to residential use.
- Also requiring addressing is non-agricultural use of otherwise agricultural properties. Currently, buffers are only enforced within the development footprint of the building site. Given that you cannot get land use for the two acres surrounding your home, when a building permit is issued on an agricultural property, the construction site, plus a minimum of two acres, should be brought into compliance.
- #11 Low Impact Development Study is worth supporting too and will have one of the biggest positive effects on water quality. We have authority under the Bay Act to require Low Impact Development (LID), and it makes sense to do that, particularly near already impaired waterways. Design features like green roofs and biofilters also look more attractive and are better for biodiversity. If we want a growth area people want to live in, it should have LID (and more green space).
- #14 Expand Watershed Education in Schools - low cost, high return on investment in education of younger generations on important environmental topics.
- #13 New Landowner Education Project - low cost, informed landowners are better able to understand and meet requirements.

- #12 Stream Quality Assessment Program - low cost, good return on investment, partnership with reliable nonprofit providing high quality data longevity.
- #4 do not support as written. It is expensive and we would rather put County funds and staff time into other work to benefit the environment. When property transfers there should be a requirement for full pump out and repair of the septic system(s), or documentation that same has been recently completed.

With the climate crisis concurrent with one of earth's largest extinction events, which is entirely human-caused, we need bold action and not merely a return to the policies of 2008. Let's start with adoption of the full Chesapeake Bay Act and move forward positively from there.

Adjourn.