



## MIDDLE PENINSULA CHESAPEAKE BAY PUBLIC ACCESS AUTHORITY

### MEMORANDUM

**TO:** MPCBPAA  
**FROM:** Lewis L. Lawrence, *Acting-Executive Director*  
**DATE:** April 4, 2012  
**RE:** April 13, 2012 PAA Meeting

#### MEMBERS

##### Essex County

Mr. David Whitlow

##### Gloucester County

Hon. Louise Theberge  
(Chair)

##### King and Queen County

Hon. Doris Morris

##### King William County

Mr. Trenton Funkhouser

##### Mathews County

Vacant

##### Middlesex County

Hon. Carlton Revere

##### Town of Tappahannock

Mr. G. Gayle Belfield, Jr.

##### Town of Urbanna

Vacant

##### Town of West Point

Mr. John B. Edwards, Jr.

#### Saluda Professional Center

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Saluda, VA 23149-0286

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PublicAccess@mppdc.com

This announcement serves as notice to call a meeting of the Public Access Authority on Friday, **April 13, 2012** at or about **12:15 p.m.** **\*\*Please note the delayed start time\*\***. A joint Middle Peninsula and Northern Neck local government administrators meeting is scheduled for 10:00 a.m. at the PDC. The PAA meeting will be held in the MPPDC Regional Board Room in Saluda. Staff will see that lunch is provided.

The PAA agenda and meeting material can be found below and attached. If you have any questions, please call (804-758-2311) or email me at ([LLawrence@mppdc.com](mailto:LLawrence@mppdc.com)) at your convenience.

### AGENDA

1. Welcome and Introductions
2. Approval of March 2012 Minutes
3. Financial Report
4. Public Comment
5. Discussion of Williams Wharf Easement
6. Discussion of 58.1-2289 (motor fuel tax and Commercial Wharfs)
7. VDOT Transfer Update
  - a. Prince Street Landing - Tappahannock
  - b. Perrin Wharf - Gloucester
8. Update on Legal Issue: CELCP ROW
9. Other Business
10. Chairman Observations
11. Next Meeting – June 8, 2012
12. Adjourn

**MIDDLE PENINSULA CHESAPEAKE BAY PUBLIC ACCESS AUTHORITY**  
**MINUTES**  
**March 16, 2012**  
**Middle Peninsula Planning District Commission**  
**Saluda, Virginia**

**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 9 a.m. on March 16, 2012.

**Attending:** Doris Morris King and Queen County, Louise Theberge Gloucester County, Carlton Revere Middlesex County, Mr. Jimmy Sydnor Town of Tappahannock, Mr. David Whitlow Essex County, and, from MPPDC Staff, Lewis Lawrence, Clara R. Cieri Meier, and Harrison Bresee.

**2. Approval of December, 2011 Minutes**

Chairman Louise Theberge requested a motion to approve the December 2011 minutes. Mr. Whitlow moved that the minutes be approved. Mrs. Morris seconded the motion. Chairman Theberge asked for any discussion. Motion carried by unanimous vote.

**3. Financial Report**

Chairman Theberge requested a motion to approve the December 2011 Revenue and Expenditure Report. Mr. Whitlow moved that the minutes be approved. Mrs. Morris seconded the motion. Chairman Theberge asked for any discussion. Motion carried by unanimous vote.

**4. Public Comment**

None.

**5. Discussion on Williams Wharf Easement**

Mr. Lawrence discussed the current Mathews Board of Supervisor's position towards the Williams Wharf Easement based on public input and legal counsel. At this moment, the proposed easement is "in limbo" pending further action by the Mathews Board of Supervisors. The PAA will update the PAA Board on an as needed basis. No action needed/taken.

**6. Update on Mathews Heritage Park Management Plan**

Mr. Bresee updated the members. On February 28, 2012, Ms. Ursula Lemanski of the National Park Service visited the site, met an adjacent landowner, and discussed the mediation process with staff. The issue of the Right of Way to the property and the potential uses of the property were discussed. Ms. Lemanski reiterated her approach: 1) A local stakeholders committee needs to be appointed; 2) Stakeholder meetings will be held in 2012 with the professional assistance of the National Park Service (as mediator); and, 3) The goal of the project is to develop a public use plan for the Mathews Heritage Park. No action was taken.

## **7. Prince Street Landing**

Mrs. Clara R. Cieri Meier updated the members. Background: The Town of Tappahannock is considering conveying control of Prince Street from Newbill Drive to the Rappahannock River to the PAA for the enhancement of the public's use of Prince Street as a boat landing or public landing. The Town desires to have the PAA request that VDOT or the CTB transfer all of their rights and interests in the last 180 linear feet of Prince Street from Newbill Drive up to its termination at the Rappahannock River. Mr. Sydnor gave local insight on the background information. Mr. Revere stated that he would like to see a resolution from the Town of Tappahannock and the County of Essex. No action taken.

## **8. Perrin River Wharf Project**

Mr. Lawrence and Mr. Bresee provided background information on the project. The Perrin River Wharf is currently owned by VDOT. Watermen use the wharf but would like to see a more useable space (i.e. more slips) due to the continued loss of commercial water access in the county and region. They would also like to have some assurance that the property will be protected for use for public access in the future. Mr. Bresee discussed his January 25, 2012 meeting with three watermen; Billy Bonnaville, Edward Hogge, and Ronny Green. Mr. Lawrence discussed the fact that the State would be able to provide property insurance for the wharf at a reasonable price, provided information on how this project fits into a broader Working Waterfronts Initiative for the region, and discussed the transfer of ownership potential to the PAA. Mr. Revere mentioned that he would like to see a Hold Harmless Liability clause in a contract with future regular users of the wharf. No action taken.

## **9. Working Waterfronts**

Mr. Lawrence asked members to comment on the definition of a Working Waterfront. Three definitions were provided and the members all liked the third definition the best. Definition number 3: *"The term 'working waterfront' means real property (including support structures over water and other facilities) that provides access to coastal waters to persons engaged in commercial fishing, recreational fishing businesses, boatbuilding, aquaculture, or other water-dependent, coastal-related business and is used for, or that supports, commercial fishing, recreational fishing businesses, boatbuilding, aquaculture, or other water-dependent, coastal-related business."*

## **10. Update on Legal Issue: CELCP ROW**

Mr. Lawrence updated the members on the issue. Both groups of lawyers are currently very close to an out-of-court settlement. No action taken.

## **11. Other Business**

The PAA discussed two items:

- A) The PAA members discussed VA Code 58.1-2289 (Fuel Tax Support for Commercial Infrastructure). The original vision of the tax has been lost at the State level. Mr. Revere would like Staff to research where the Fuel Tax dollars went (and are going) when the code was changed and would like to get detailed information on the legal aspects of the fuel tax.
- B) Discussion on the rules for public comment. Mr. Whitlow made a motion to have the following rules: 1) each person would be limited to 3 minutes of public comment; 2) the public comment would have to relate to a subject on the current month's agenda; 3) total public comment period would be 15 minutes. Mrs. Morris seconded the motion. Chairman Theberge asked for any discussion. Motion carried by unanimous vote.

**12. Chairman Observations**

None

**13. Next Meeting**

The next meeting of the Middle Peninsula Chesapeake Bay Public Access Authority is scheduled for Friday, April 13, 2012 at 11:30am. Mr. Revere stated that he would be out of town.

**14. Adjournment**

Chairman Theberge requested a motion to adjourn the meeting. Mr. Revere moved that the motion be approve; Mr. Whitlow seconded the motion. Meeting was adjourned.

## Revenue and Expenditure Report by Project

Middle Peninsula Planning District Commission

Run Date: 04/03/2012  
Run Time: 3:33:35 pm  
Page 1 of 1

Period 07/01/11 to 03/31/12

Project Code & Description	Budget	Prior Year	Current	YTD	Proj Tot	Un/Ovr	% Bud
<b>32007 PAA Administration</b>							
				<b>Project Period</b>	07/01/2007	to	06/30/2012
<b>Revenues</b>							
41700 VDCR	75,900.00	75,900.00	0.00	0.00	75,900.00	0.00	100.00%
42001 US Dept. of Commerc	0.00	0.00	-0.06	0.00	0.00	0.00	0.00%
44010 MPLT/BFI Award	12,160.27	12,160.27	0.00	0.00	12,160.27	0.00	100.00%
44012 PAA Prior Year's Un	9,782.58	-17,188.92	0.00	26,996.50	9,807.58	-25.00	100.26%
44200 Interest Income	8.15	7.21	0.12	0.73	7.94	0.21	97.42%
44300 PAA Hunting License	4,150.00	3,450.00	0.00	1,100.00	4,550.00	-400.00	109.64%
44900 Miscellaneous Incom	1,342.25	1,342.25	0.00	1,000.00	2,342.25	-1,000.00	174.50%
Revenues	<u>103,343.25</u>	<u>75,670.81</u>	<u>0.06</u>	<u>29,097.23</u>	<u>104,768.04</u>	<u>-1,424.79</u>	<u>101.38%</u>
<b>Expenses</b>							
50000 SALARIES	18,727.66	16,802.66	0.00	0.00	16,802.66	1,925.00	89.72%
50500 FRINGE BENEFITS	6,246.16	5,591.67	0.00	0.00	5,591.67	654.49	89.52%
52251 website	91.51	91.51	0.00	0.00	91.51	0.00	100.00%
53100 Equipment	57.54	57.54	0.00	0.00	57.54	0.00	100.00%
53400 Office Supplies	2,335.32	2,335.32	0.00	207.10	2,542.42	-207.10	108.87%
53500 Meeting Supplies	4,058.18	1,471.66	0.00	116.64	1,588.30	2,469.88	39.14%
54100 Private Mileage	385.19	489.69	0.00	22.20	511.89	-126.70	132.89%
54500 Lodging/ Staff Expen	93.68	152.32	0.00	0.00	152.32	-58.64	162.60%
54900 Travel Expense Other	2,000.00	0.00	0.00	0.00	0.00	2,000.00	0.00%
55150 Subscriptions/Publica	29.95	29.95	0.00	0.00	29.95	0.00	100.00%
55300 Conferences	325.00	940.25	0.00	0.00	940.25	-615.25	289.31%
56300 Legal Services	13,960.69	10,362.63	245.00	6,511.82	16,874.45	-2,913.76	120.87%
56400 Consulting/Contractur	22,379.55	13,749.08	0.00	0.00	13,749.08	8,630.47	61.44%
56600 Construction	2,694.21	694.21	0.00	0.00	694.21	2,000.00	25.77%
56700 Contractural Other	500.00	500.00	0.00	0.00	500.00	0.00	100.00%
57100 Postage	154.00	169.95	0.00	35.72	205.67	-51.67	133.55%
57300 Promotion/Advertisin	47.50	47.50	0.00	0.00	47.50	0.00	100.00%
57400 Public Officials Insur	5,472.00	5,472.00	0.00	1,264.00	6,736.00	-1,264.00	123.10%
57500 Miscellaneous Other	6,363.58	6,363.58	0.00	0.00	6,363.58	0.00	100.00%
59700 INDIRECT COSTS	11,768.29	10,349.29	0.00	0.00	10,349.29	1,419.00	87.94%
Expenses	<u>97,690.01</u>	<u>75,670.81</u>	<u>245.00</u>	<u>8,157.48</u>	<u>83,828.29</u>	<u>13,861.72</u>	<u>85.81%</u>
<b>Project Revenues:</b>	<u>103,343.25</u>	<u>75,670.81</u>	<u>0.06</u>	<u>29,097.23</u>	<u>104,768.04</u>	<u>-1,424.79</u>	<u>101.38%</u>
<b>Project Expenses:</b>	<u>97,690.01</u>	<u>75,670.81</u>	<u>245.00</u>	<u>8,157.48</u>	<u>83,828.29</u>	<u>13,861.72</u>	<u>85.81%</u>
<b>Project Balance:</b>	<u>5,653.24</u>	<u>0.00</u>	<u>-244.94</u>	<u>20,939.75</u>	<u>20,939.75</u>		

**EMAILS ON FUEL TAX ISSUE**

\*\*\*\*\*

Good morning PAA folks-

At the last PAA meeting we discussed 58.1-2289 (motor fuel tax). Under this section of code, a portion of the fuel tax was intended to help repair commercial wharfs owbed by VDOT. I found the email chain that explains what happened to the \$.

Please see below for an explanation of how the fuel tax has been diverted to other uses.

**58.1-2289**

D. One and one-half cents of the tax collected on each gallon of fuel used to propel a commercial watercraft upon which a refund has been paid shall be paid to the credit of the Game Protection Fund of the state treasury to be made available to the Board of Game and Inland Fisheries until expended for the purposes provided generally in subsection C of § 29.1-701, including acquisition, construction, improvement and maintenance of public boating access areas on the public waters of this Commonwealth and for other activities and purposes of direct benefit and interest to the boating public and for no other purpose. However, **one and one-half cents per gallon on fuel used by commercial fishing, oystering, clamming, and crabbing boats shall be paid to the Department of Transportation to be used for the construction, repair, improvement and maintenance of the public docks of this Commonwealth used by said commercial watercraft.** Any expenditures for the acquisition, construction, improvement and maintenance of the public docks shall be made according to a plan developed by the Virginia Marine Resources Commission.

Lewis L Lawrence  
Acting-Executive Director  
Middle Peninsula Planning District Commission  
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\*\*\*\*\*

-----Original Message-----

From: [hmorgan28@va.metrocast.net](mailto:hmorgan28@va.metrocast.net) [<mailto:hmorgan28@va.metrocast.net>]  
Sent: Wednesday, May 26, 2010 11:08 AM  
To: Lewis Lawrence  
Subject: Fw: Route 1101- Perrin

Lewie, this explains it. Perhaps we can tinker during next session. Harvey Sent from my Verizon Wireless BlackBerry

\*\*\*\*\*

-----Original Message-----

From: Anne Oman <AOman@hac.virginia.gov>

Date: Wed, 26 May 2010 09:09:25

To: <hmorgan28@va.metrocast.net>

Subject: Fw: Route 1101- Perrin

Harvey:

I spoke with the folks at DPB and did some historic research, and this transfer of the unrefunded motor fuels has been transferred to the GF in the "name" of funding Chesapeake Bay clean up since at least 1994. It is essentially a general fund supplant, similar to saying that ABC profits go to substance abuse treatment - in essence the availability of those monies allow for the reduction of other GFs that would be needed to fund the same activities.

In terms of the marine fuel, this would be especially hard to "un-do" given that since fuel taxation has been moved to the terminal rack, it is difficult to estimate how much is going for such purposes. And because a set amount is transferred each year (that may or may not correlate to the unrefunded marine fuels taxed) no estimates have been done for years.

I know this doesn't help in terms of funding the projects your PDC is looking at, but hope it provides the historic perspective - essentially there is has been no funding for this since efforts were begun in earnest to clean up the Chesapeake Bay and additional funds were required for that purpose.

Let me know if you have any further questions.

Anne

\*\*\*\*\*

---- Original Message ----

From: Harvey Morgan

To: hmorgan28@va.metrocast.net

Sent: Tuesday, May 18, 2010 9:53 PM

Subject: Fw: Route 1101- Perrin

-----Forwarded by Harvey Morgan/HDel/HOD on 05/18/2010 09:52PM -----

To: <DelHMorgan@house.virginia.gov>

From: "Lewis Lawrence" <LLawrence@mppdc.com>

Date: 05/18/2010 12:32PM

Subject: Route 1101- Perrin

Harvey-

As I continue to work towards a solution for the Perrin landing at the end of route 1101, a side issue has arisen and I am interested in your legislative perspective. According to 58.1-2289, section D (see below for section D) One and one-half cents of the tax collected on each gallon of commercial waterman fuel used to propel a commercial watercraft should be directed to VDOT to maintain the state owned VDOT commercial public wharfs on the Middle Peninsula. I spoke with a very helpfully John Lawson Deputy CFO for VDOT (786-2454) and Mr Lawson reports that no revenue in the last seven or so years has been dedicated to this purpose under 58.1-2289 section D. It appears that during the appropriations process, the gas tax revenue has been dedicated to other priority issue. DGIF is suppose to also receive funds. I have not inquired if DGIF has received funds.

Since our commercial watermen are paying the tax, how might the Middle Peninsula obtain a pro-ratta share of this tax revenue to ensure that VDOT has access to funds needed to repair these facilities? It's a shame that the boys pay this tax for the purpose of upkeep and it goes to other initiatives? VDOT maintains 4 state piers in the Middle Peninsula: 3 in Gloucester and one in Middlesex.

PERRIN CREEK RD. WHARF  
WILLIAMS LANDING WHARF @ TIMBERNEK CK  
BROWNS BAY ROAD PED WHARF @ BROWN BAY  
Jackson Creek DOCK @ JACKSON CREEK

Thoughts

Lewie

D. One and one-half cents of the tax collected on each gallon of fuel used to propel a commercial watercraft upon which a refund has been paid shall be paid to the credit of the Game Protection Fund of the state treasury to be made available to the Board of Game and Inland Fisheries until expended for the purposes provided generally in subsection C of § 29.1-701, including acquisition, construction, improvement and maintenance of public boating access areas on the public waters of this Commonwealth and for other activities and purposes of direct benefit and interest to the boating public and for no other purpose. However, one and one-half cents per gallon on fuel used by commercial fishing, oystering, clamming, and crabbing boats shall be paid to the Department of Transportation to be used for the construction, repair, improvement and maintenance of the public docks of this Commonwealth used by said commercial watercraft. Any expenditures for the acquisition, construction, improvement and maintenance of the public docks shall be made according to a plan developed by the Virginia Marine



Resources Commission.

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\*\*\*\*\*

From: Lewis Lawrence  
Sent: Tuesday, May 11, 2010 3:46 PM  
To: 'cborden@gloucesterva.info'; 'csteele@gloucesterva.info'  
Cc: 'Parker, Marcie, PE'; 'Gary.Shelor@VDOT.Virginia.gov'  
Subject: route 1101- Perrin

Afternoon all-

I believe I have made substantial progress in understanding some of the options for the landing at Route 1101. This is what's known: Gary Shelor in the VDOT Structure & Bridge Division in Fredericksburg District office reports the following. Gary please correct any factual errors or omissions:

1. As a general practice, VDOT treats commercial piers and wharfs the same as bridges. The implications of this designation: no tie-ups are allowed. The wharf at 1101 is a VDOT asset and is classified within the "bridge" designation. Given that this pier is used for commercial purposes, there might be several approaches to allow for tie-ups. These solutions are just ideas and only been discussed between Mr Shelor and myself. They are just strategies to consider and need more discussion.

- a. VDOT might consider issuing a "land use permit" that would allow for commercial tie ups under certain conditions
  - i. VDOT might issue the permit directly to each waterman desiring to tie up
  - ii. The county could be issued a vdot permit and be responsible for tie ups etc
  - iii. The PAA could be issued a permit and manage the landing- tie ups
  - iv. If tie-ups are granted, VDH will have sanitary concerns over 5 vessels. There is grant funding available to address this issue.
- b. Utilize the new enabling authority to transfer the pier and road landing to the PAA

- i. The PAA could then take over management of the site
  - ii. The PAA could lease the site to the County for management
  
2. Under 58.1-2289, VDOT should have a fund established to maintain all public commercial landings and wharfs. It is unknown what and how these funds have been used in the past.
  - a. We should determine the current status of this VDOT fund and how it is being used.
  - b. Discuss with VDOT if the Middle Peninsula pro-rata share could be assigned to the PAA and the PAA becomes the responsible agent for upkeep of VDOT commercial public piers, Wharfs and landing in the middle peninsula.

Thoughts-

Lewie

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Middle Peninsula Planning District Commission  
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# **Middle Peninsula Chesapeake Bay Public Access Authority**

## **Rules for Public Comment\***

- 1) Each person shall be limited to 3 minutes of public comment
- 2) The public comment must relate to a subject on the CURRENT month's agenda
- 3) The total public comment period shall be 15 minutes

\*March 2012