

LAND USE POLICIES

**INTERIM REPORT OF THE
VIRGINIA ADVISORY LEGISLATIVE COUNCIL**

To

THE GOVERNOR

And

THE GENERAL ASSEMBLY OF VIRGINIA



**COMMONWEALTH OF VIRGINIA
Department of Purchases and Supply
Richmond
1973**

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LAND USE POLICIES
INTERIM REPORT OF THE
Virginia Advisory Legislative Council

Richmond, Virginia

January 11, 1973

To: HONORABLE LINWOOD HOLTON, *Governor of Virginia*
and

THE GENERAL ASSEMBLY OF VIRGINIA

In the 1972 Session of the General Assembly, House Joint Resolution No. 44 was adopted, which directed the Virginia Advisory Legislative Council to study land use policies, economic and population growth and changing population patterns of the Commonwealth.

House Joint Resolution No. 44

Directing the Virginia Advisory Legislative Council to study
land use policies, economic and population growth and
changing population patterns of the Commonwealth.

Whereas, the use of land and other natural resources are primary factors in determining economic development and environmental quality; and

Whereas, Virginia needs to increase the acreage of land devoted to parks and open space areas, schools, housing, transportation, industrial location, and sites for dams to provide flood control, water storage, and generation of hydroelectric power while preserving prime agricultural land; and

Whereas, conflicts in land use arise when major shifts in population settlement patterns occur and policies should be developed to determine the manner of making decisions as to where and under what circumstances certain kinds of land uses and developments are beneficial; and

Whereas, policies should be developed as to the nature and extent of authority, if any, to be vested in appropriate governmental units for the influencing or control of the changing character of many communities and changing population settlement patterns; and

Whereas, the rights of the owners of the property must be considered and fairly protected in a legal manner; and

Whereas, important ecological, historic, and aesthetic values of critical environmental concern are being irretrievably lost through conversions of land use; and

Whereas, certain key facilities such as major airports, highway interchanges, and recreational facilities have widespread impact on the land use of the surrounding region; and

Whereas, all of the foregoing matters affect the public interests; and

Whereas, there is a need to determine the role of the State or its political subdivisions in enacting legislation and assuming responsibilities for land use and development in general and particularly in relation to its impact upon the policies and considerations stated above; now, therefore, be it

Resolved by the House of Delegates, the Senate of Virginia concurring, That the Virginia Advisory Legislative Council is directed to make a study and report on land use policies, economic and population growth, and changing population patterns in the Commonwealth.

The Council shall consider the most appropriate means and policies for the State and its political subdivisions in fulfilling their proper responsibilities in promoting and governing the wisest and most beneficial use and development of land and shall review all legislation pertaining to land use and development including relevant laws concerning transportation, utilities, zoning, taxation, building codes, and shall recommend such legislation as it deems advisable in connection therewith.

It shall consider the effect of land use and development and the requirements of law applicable thereto in relation to its influence or control upon changing population settlement patterns, the changing character of communities and the appropriate roles of any governmental authority with relation to these matters.

It shall take into account considerations of public interest and the rights of the owners of property and the means considered most desirable for the protection of such rights.

It shall consider the feasibility and desirability of legislation or policies to provide for the balanced and harmonious development of rapidly changing areas, the preservation and protection of the quality of the natural environment, preservation of prime agricultural land, the location of major facilities of substantial regional or Statewide significance, the desirable distributions of population settlement patterns and the fostering of a desirable urban-rural population balance. The Commission may also consider procedures for protecting the proper use of critical land areas deemed to be of irreplaceable value.

It may consider the long-range requirements for land in meeting future needs for housing, transportation, agricultural production, industrial sites, commercial facilities, open space and recreation.

It may further consider such other matters in connection with the policies and considerations mentioned above as it may consider pertinent.

All officers and agencies of the Commonwealth and of its political subdivisions shall assist the Council in this study upon request.

The Council shall complete its study and report to the Governor and the General Assembly not later than September one, nineteen hundred seventy-three.

The Virginia Advisory Legislative Council appointed Delegate D. French Slaughter, Jr. of Culpeper to chair the Committee making the initial study and report to the Council. Appointed to serve on this Committee were: Former Senator FitzGerald Bemiss of Richmond; Senator Elmon T. Gray of Waverly; Delegate Joseph A. Leafe of Norfolk; Mr. John T. Hazel, Jr. of Fairfax; Delegate W. L. Lemmon of Marion; Mr. Rosser H. Payne, Jr. of Warrenton; Delegate Thomas J. Rothrock of Fairfax; Delegate Frank M. Slayton of South Boston; Senator David F. Thornton of Salem; and Mr. Hiram Zigler of Richmond.

The Division of Statutory Research and Drafting and the Virginia Advisory Legislative Council is making staff and facilities available for the study.

Representatives of the Governor's Council on the Environment and the Division of State Planning and Community Affairs are working with the Committee in its study.

The Committee has met to consider the subject of its study during the past five months and has held four public hearings throughout the Commonwealth to seek the views of the public on the subject.

The Committee is continuing to conduct the study but feels that there are certain matters under consideration which need prompt action by the General Assembly in its 1973 Session. The several recommendations of the Committee follow.

Recommendation 1: Funds should be appropriated by the General Assembly to continue the soil survey and mapping of the Commonwealth.

In 1972, the General Assembly approved a master plan for the soil survey and mapping of the Commonwealth prepared by the Virginia Soil and Water Conservation Commission. However, it did not appropriate funds to carry out this plan for the present biennium.

Your Council feels that the soil survey and mapping of the Commonwealth is an essential tool in wise land use planning. Soil is the component of land primarily used by man and must be considered a basic factor in all planning of proper land use. The soil survey allows us to become more knowledgeable of the capabilities of our land and to avoid the consequences of further misuse of it. Your Council, therefore, urges the General Assembly to approve the proposed appropriation of \$222,400 for the second year of the current biennium to further the work of the soil survey and mapping.

Recommendation 2: Funds should be appropriated to the Commission on Outdoor Recreation to provide staff to administer the Open-Space Land Act.

In 1966, the General Assembly passed the Open-Space Land Act which provided that a landowner in Virginia could give an easement to a public or quasi-public agency "to provide or preserve permanent open-space lands". The tool of the open-space easement can be effective in preserving the natural, historic and scenic areas of our Commonwealth at little cost to its taxpayers; but these easements are not being used to their fullest potential. Reasons for this failure to use the open-space easement include the fact that there has been a lack of understanding and knowledge of it and the fact that no provision was made for coordination of the agencies involved. Consequently a valuable tool in preserving open spaces has been wasted.

Your Council feels that there is a compelling need to provide for the coordination of the open-space land program and the promotion of the use of these easements.

The Commission on Outdoor Recreation should be provided with the necessary staff support and facilities to solicit easements and coordinate the activities of other agencies involved in the Open-Space Land Act within the Virginia Commission on Outdoor Recreation.

Recommendation 3: The Commissioner of Conservation, Development and Natural Resources should be given the duty to review the environmental impact of all new major State facilities.

Your Council recognizes that wise use of land is essential to the future well-being of the Commonwealth. The government of the Commonwealth cannot expect its citizens to use land wisely unless the government, itself, uses land wisely. There is only a limited amount of land in our Commonwealth and it is desirable that it be used in the wisest manner possible by all its citizens including its State government.

Your Council, therefore, recommends that the executive branch of the State government be required to review the siting of all its new major facilities to determine the environmental impact it will have on the Commonwealth. There are certain things which Virginians hold in high regard and among these things are the beauty of its land and the historical background of the Commonwealth. All State agencies, boards and commissions in the executive branch of government in deciding on the location of their new facilities should, at least, have a duty to take into consideration the impact it will have on the natural, scenic and historic environment of our Commonwealth.

Your Council has chosen the Commissioner to administer the act as it would not require the creation of a new State agency and the nature of the duties of the Commissioner makes it especially suited for the review of environmental impact of major State facilities in the executive branch of State government.

Your Council feels that the practice which the act requires will not be too time-consuming or burdensome on the State agency which is required to file such a statement. Further, the Council feels that the sixty-day period will expedite the review process.

In some cases, State agencies are already required to file environmental impact statements with the federal government when federal funds are involved in their projects. For this reason, your Council feels that the State Department of Highways should be exempt at the present time from this act, pending further study, because it is required to review many of its major construction projects when federal funding is involved.

In conclusion, your Council feels that the act which it proposes will effectively bring environmental impact considerations into the process of deciding where a State facility will be located. Your Council concludes that the proposed act is a practical solution to promoting wise land use in the Commonwealth by giving its government the tools to set the example for the private citizen.

For the foregoing reasons, your Council respectfully presents this interim report and respectfully requests that you adopt its contents and the legislation embodied hereafter.

Respectfully submitted,
LEWIS A. MCMURRAN, JR., *Chairman*
WILLARD J. MOODY, *Vice Chairman*
RUSSELL M. CARNEAL
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* Delegate Thomson concurs with Recommendation #1 and #2 but does not concur in Recommendation #3.

A B I L L

To appropriate funds for the purpose of the soil survey to the Virginia Soil and Water Conservation Commission.

Be it enacted by the General Assembly of Virginia :

1. § 1. In addition to any other appropriation to the Virginia Soil and Water Conservation Commission, there is hereby appropriated from the general fund of the State treasury the sum of two hundred twenty-two thousand four hundred dollars for the second year of the 1972-1974 biennium to the Commission to be used solely for the purpose of the soil survey and mapping.

A B I L L

To appropriate funds to the Commission on Outdoor Recreation for the purpose of providing a staff therefor.

Be it enacted by the General Assembly of Virginia :

1. § 1. In addition to any other appropriations to the Commission on Outdoor Recreation, there is hereby appropriated from the general fund of the State treasury to the Commission on Outdoor Recreation the sum of eighteen thousand dollars for the second year of the 1973-1974 biennium for the purposes of employing an executive director and secretary to administer the Open-Space Land Act.

A B I L L

To require the filing of an environmental impact report on a major State facility with the Commissioner of Conservation, Development and Natural Resources; definitions; to require all State agencies, boards and commissions to file such statements; to require Commissioner to comment thereon; to require Governor's approval of such facilities; to require reports be available to General Assembly and the general public; to repeal all laws inconsistent herewith.

Be it enacted by the General Assembly of Virginia :

1. § 1. For the purposes of this act, the following words shall have the meanings ascribed to them by this section :

(a) "Environment" means the natural, scenic and historic attributes of the Commonwealth ;-

(b) "Major State facility" means any State facility construction of which is hereafter undertaken by a State agency, board or commission in the executive branch of the State government and construction of which costs fifty thousand dollars or more to complete; provided, this term shall not apply to any highway or road construction or any part thereof.

(c) "Commissioner" shall mean the Commissioner of Conservation, Development and Natural Resources.

§ 2. All agencies, boards and commissions within the executive branch of the Commonwealth shall prepare and submit a report to the Commissioner on each major State facility which they propose to construct. Reports by such agencies, boards and commissions shall include, but shall not be limited to, the following :

- (1) The environmental impact of the proposed construction ;
- (2) Any adverse environmental effects which cannot be avoided if the proposed construction is undertaken ;

- (3) Measures proposed to minimize the impact of the proposed construction;
- (4) Any alternatives to the proposed construction; and
- (5) Any irreversible environmental changes which would be involved in the proposed construction.

For the purposes of subsection (4), the report shall contain all alternatives considered and the reasons why the alternatives were rejected. If a report does not set forth alternatives, it shall state why no alternatives were considered.

§ 3. Within sixty days of the receipt of the environmental impact report by the Commissioner, the Commissioner shall review and make a statement to the Governor commenting on the environmental impact of each major State facility within the executive branch of State government. The statement of the Commissioner shall be available to the General Assembly and to the general public at the time of submission by the Commissioner to the Governor.

§ 4. The State Comptroller shall not authorize payments of funds from the State treasury to a State agency, board or commission for construction of a major State facility unless such request is accompanied by the written approval of the Governor after his consideration of the comments of the Commissioner on the environmental impact of such facility. Provided, however, this section shall not apply to funds appropriated by the General Assembly prior to the effective date of this act or any reappropriation by the General Assembly of such funds.

§ 5. The Commissioner shall, in conjunction with other State agencies, coordinate the development of objectives, criteria and procedures to assure the orderly preparation and evaluation of environmental impact reports required by this act. These procedures shall provide for submission of impact statements in sufficient time to permit any modification of the proposed construction which may be necessitated because of environmental impact.

§ 6. All departments, commissions, boards, agencies, offices and institutions within the executive branch of the Commonwealth shall cooperate with the Commissioner in carrying out the purposes of this Chapter.

§ 7. Any existing law or parts of existing law inconsistent with any provision of this act are hereby repealed.

