

**Report of the Center for Rural Virginia
On the Expansion and Promotion of Farm Businesses and Rural
Enterprises**

Submitted to:

**Chairmen of the House Committee on Agriculture, Chesapeake and Natural
Resources Senate Committee on Agriculture, Conservation and Natural Resources
Secretary of Commerce and Trade
Secretary of Agriculture and Forestry
The Lieutenant Governor**



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Rural Enterprise Opportunities Task Force Members

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EXECUTIVE SUMMARY

Chapters 797 and 833 of the *2010 Virginia Acts of the Assembly* directed the Center for Rural Virginia to facilitate the creation of a rural enterprise opportunity task force to develop strategies that expand and promote economic opportunities of the agriculture industry throughout the Commonwealth. The legislation also called for the task force to examine and make recommendations on the issues related to expansion and promotion of farm businesses or rural enterprises.

The legislation provided that the members of the task force include the Deputy Secretary of Commerce and Trade for Rural Economic Development, representatives from the Virginia Farm Bureau, the Virginia Agribusiness Council, the Virginia Department of Agriculture and Consumer Services, the Virginia Association of Counties, the Virginia Chapter of the American Planning Association, and an owner of a farm business or rural enterprise interested in expanded economic opportunities.

In accordance with its legislative directive, the Center for Rural Virginia convened the initial meeting of the Rural Enterprise Opportunities Task Force on June 14, 2010. The Task Force held a total of five meetings and concluded its deliberations at the end of October 2010. All of its meetings were open to the public and interested parties participated in the Task Force's discussions. Each meeting also included presentations on farm business, rural enterprise, and related topics.

The Task Force's report includes three recommendations that the members feel will have a positive impact on the expansion and promotion of rural enterprise opportunities in the Commonwealth if implemented.

Those recommendations include:

1. Adopt various process streamlining to the Agricultural and Forestal Districts Act (Chapter 32, Title 15.2, Code of Virginia).
2. Adopt legislation modeled on the Agricultural Enterprise Act of 2005 with proposed additional provisions.
3. Encourage local governments to use the checklist "Is Your Community Planning for Agriculture" to help local leaders determine if their locality is supportive of both traditional agriculture and farm based value-added enterprise.

BACKGROUND

Chapters 797 and 833 of the *2010 Virginia Acts of the Assembly* directed the Center for Rural Virginia to facilitate the creation of a rural enterprise opportunity task force to develop strategies that expand and promote economic opportunities of the agriculture industry throughout the Commonwealth. (See Appendix 1)¹ The legislation also called for the task force to examine and make recommendations on the issues related to expansion and promotion of farm businesses or rural enterprises, specifically:

- Local ordinances that may be unreasonably restrictive and efforts by localities to lessen such restrictions;
- Provisions in law or regulation that may be unreasonably restrictive;
- Innovative approaches taken to expand economic opportunities while preserving the rural character of the surrounding area;
- Best management practices and successful strategies adopted in other states;
- Model ordinances and regulations that allow the marketing and sale of products or services;
- Tax, regulatory, and other incentives;
- The structure and organizational design of a program that could encourage expansion and opportunity on an ongoing basis;
- The definition and eligibility of a qualified rural enterprise; and
- Any other issues the task force deems relevant to meet the objectives of the study.

The legislation provided that the members of the task force include the Deputy Secretary of Commerce and Trade for Rural Economic Development, representatives from the Virginia Farm Bureau, the Virginia Agribusiness Council, the Virginia Department of Agriculture and Consumer Services, the Virginia Association of Counties, the Virginia Chapter of the American Planning Association, and an owner of a farm business or rural enterprise interested in expanded economic opportunities.

¹ As used in this report, the term “agriculture” or “agricultural” generally means any operation devoted to the bona fide production of crops, or animals, or fowl including the production of fruits and vegetables of all kinds; meat, dairy, and poultry products; nuts, tobacco, nursery, and floral products; and the production and harvest of products from silviculture activity. It may also include aquaculture activities and the processing of agricultural or silvicultural products. This definition is adapted from §32.-300, Code of Virginia.

INTRODUCTION²

Agriculture is Virginia's largest industry. A 2008 study by the Weldon Cooper Center for Public Service revealed that the total annual impact of the state's agriculture-related industries was over \$55 billion in total industry output and the sector provided more than 357,000 jobs to the Commonwealth.

In 2007, production agriculture employed nearly 60,000 farmers and workers in Virginia and generated approximately \$2.9 billion in total output. Further, value-added industries, or those that depend on farm commodities, employed an additional 76,000 workers and generated almost \$26 billion in total industrial output. Finally, agriculture-related industries contributed an additional 221,000 jobs and nearly \$26 billion in total output.

Several Virginia-produced commodities rank among the top 10 in U. S. markets. These include fresh tomatoes, cucumbers and snap beans; tobacco; apples; turkeys; wine; summer and sweet potatoes; peanuts; and grapes. Virginia is also among the top equine states in the nation. Nearly three-fifths of agricultural receipts come from livestock and poultry. Field crops account for 15 percent of total cash receipts.

The top five counties in Virginia in farm employment are Rockingham, Washington, Augusta, Pittsylvania, and Scott, which collectively accounted for approximately one-fifth of the state's agricultural employment in 2006. While agricultural employment was strongest in the southwestern and southern parts of the Commonwealth, there is an overall diversity in other regions of the state due to specialization by farms in such commodities as poultry, vegetable production and fruit production.

According to the 2007 Census of Agriculture, farms cover approximately 8.5 million acres or 34 percent of the state's land area. Despite the significance of this statistic, rapid population growth continues to increase urban encroachment on farmland. Moreover, many of these new residents moving into rural areas from suburban or urban locations desire the "rural character" without the operational impacts of agriculture and seek additional zoning and other regulatory restrictions on farming, silviculture and rural enterprises.

Although population growth and accompanying urban encroachment are challenges on the agricultural sector, farmers are also presented with opportunities such as increased demand for locally grown foods and horticultural and nursery products, and for agritourism.

² Major portions of this section were excerpted directly from Rephann, Terrance J., The Economic Impact of Agriculture and Forestry on the Commonwealth of Virginia, Weldon Cooper Center for Public Service, University of Virginia, 2008.

The statistics cited above, however, do not fully capture the contribution of agritourism to the state's economy because of the difficulty of measurement by traditional economic impact analysis. As noted in the 2008 Weldon Cooper study, however, such activities are becoming another source of income for farmers "... by offering visitor attractions such as on-farm festivals, on-farm markets, pick-your own, hayrides, corn mazes, pumpkin patches, tours, petting zoos, food services, and lodging services."

In sum, while Virginia has a diverse economic base, agriculture remains its largest industry and one that is important to many of the state's localities. In addition, agricultural activities provide significant societal and ecological benefits that improve the quality of life in the Commonwealth. Therefore, it is necessary to protect and enhance this valuable resource.

ACTIVITIES OF THE RURAL ENTERPRISE OPPORTUNITIES TASK FORCE

In accordance with its legislative directive, the Center for Rural Virginia convened the initial meeting of the Rural Enterprise Opportunities Task Force on June 14, 2010. The Task Force held a total of five meetings and concluded its deliberations at the end of October 2010. All of its meetings were open to the public and interested parties participated in the Task Force's discussions. Each meeting also included presentations on farm business, rural enterprise, and related topics, which are summarized below.

Craig Nargi, Owner, Hermitage Hill Farm, Augusta County

Mr. Nargi explained the process that he had to go through with Augusta County in order to establish an operation in an agricultural area that ultimately encompassed a horse stable and a 4,000 square foot banquet facility with two overnight accommodations. He started the process to obtain County approval in 2005, and Augusta County ultimately issued a special use permit, which enabled his enterprise to become operational in 2010.

Mr. Nargi stated that because there was no blueprint in Augusta County for his type of facility, it took five years of work before he could open his facility. He also pointed out that despite receiving permission for his agritourism business, he remains limited by the number of special events that are allowed on the farm.

Mr. Nargi concluded that he would like localities to create a process and criteria for agritourism in their ordinances so that other farms and businesses do not have to go through the hurdles that he encountered. He also indicated that there should be state incentives to encourage other agritourism ventures. These efforts would support the preservation of agricultural lands.

Dennis Burnett, Economic Development Director, Augusta County

Mr. Burnett explained the process that Augusta County went through to change its zoning ordinances to better reflect the varying uses of agricultural lands in the County. In 2005 the county began to review its ordinances and decided to eliminate its exclusive agriculture zoning district and convert the property formerly in that district into its general agriculture zoning district. These changes were intended to reduce costs to farmers and remove one step in the process in seeking permission for value-added operations. Changes were also made to the County's farm stand ordinance allowing 25% of products sold to be from off the farm. Although the County has incentives for manufacturing enterprises, there are no similar incentives at the local level to encourage agritourism activities.

Robins Buck, Project Manager, Agriculture and Forestry Development Services, Virginia Department of Agriculture and Consumer Services

Mr. Buck gave a detailed presentation that covered three agriculture enterprises that the Agriculture and Forestry Development Services of the Virginia Department of Agriculture and Consumer Services (VDACS) has assisted. VDACS has provided critical assistance for new and expanded rural enterprises by coordinating efforts with other state agencies and localities. He noted that while VDACS does not have any funds to provide financial incentives or support for such enterprises, the Department works with interested parties to apply to the U.S. Department of Agriculture for funds.

Freddie Wydner, Agriculture Development Officer, Pittsylvania County

Mr. Wydner works with the County and its Agriculture Development Board to promote agriculture businesses. He is one of 12 Agricultural Development Officers in Virginia. In his view, there seems to be a divide between economic development and agriculture economic development. While agriculture might not bring 200 jobs into the County like a new manufacturing facility, the agriculture sector currently represents 3,000 jobs in his locality.

Mr. Wydner also noted many of the successes that had occurred in Pittsylvania County related to fostering agriculture, such as updates to County land-use policy; additional recognition of farmer achievements by the Board of Supervisors; creation of a local farmer focused website and new markets like aquaculture; connecting farmers and local schools for produce sales; providing valuable resource information during prospective industry visits with the Economic Development team; enhanced and expanded marketing opportunities for the cattle farmers in the area; and marketing of 10,000 acres of carbon credits.

Robin Sullenberger, President, Shenandoah Valley Economic Development Partnership and Member, Highland County Board of Supervisors

Mr. Sullenberger discussed energy production on farms and other related issues. He noted the problem of encouraging an industrial-type operation on a farm without restrictions as well as

determining whether energy production is an industrial operation or a farming activity. In addition, while many on-farm agricultural activities are considered by-right in local zoning ordinances, energy production is not. One of the concerns about by-right energy production is the size and scale of the operation. He also spoke of the need to have state and local incentives for energy entrepreneurs, because rural localities are not prepared for “aggressive entrepreneurs.” He pointed out that energy production from food processing byproducts being transported off of the farm often creates citizen complaints.

With respect to rural enterprise in general, Mr. Sullenberger noted that there is an absence of regulatory consistency from locality to locality. While zoning can be a roadblock, localities have the authority to amend their ordinances to remove barriers. In addition, existing special uses and exemptions do not address the change in rural enterprise, but localities are realizing the need to amend those processes where appropriate. He concluded that there needs to be a balance between the need to assist the agricultural community to be sustainable and what is acceptable within the locality. He concluded that the key to local success in fostering agricultural enterprise is to provide options and be flexible.

Hunter Moore, Assistant Deputy County Manager, Arlington County

Mr. Moore discussed Arlington County’s efforts to promote farmers markets in an urban county. He noted that the six markets in Arlington County are located near transit or transportation hubs. Each market has a manager, and in five of the six, that position is funded by the private sector. Five of the six markets are operated by a partnership or Business Investment District (BID) and the County would like the private sector to take over the sixth one. The County provides partial funding to the partnerships, and the BIDs are funded by additional taxes on commercial properties within the district. The current zoning regulations allow for two types of markets: fruits and vegetables only or open markets also sell meat, cheeses, and other products. The weekly farmers markets are allowed under a County special event permit issued for one year, but that may change to a special use permit that will allow the County flexibility to manage and support the markets. Each market has its own set of rules, but the County may work with the market managers to develop a standard set of rules for all markets. In closing, he noted that the County would like to allow the markets to do food demonstrations and serving, but that is not economically feasible to do so each week because of the health department fee structure.

Liz Povar, Vice President, Virginia Economic Development Partnership

Ms. Povar stated that while the roots of the Virginia Economic Development Partnership are in manufacturing, understanding a locality’s situation and matching that with business is a common theme with agricultural enterprise. Businesses look at regional assets when making location or expansion decisions and the Partnership engages localities in the development of the message/shared vision to businesses. In response to a question regarding which issues the Task Force should focus on, she suggested the Task Force engage local governments and focus on the

work force because the linkage between education and business is important. Ms. Povar also noted that there is a growing interest in agricultural-based products, such as alternative energy.

EXPANSION AND PROMOTION OF FARM BUSINESS OR RURAL ENTERPRISE

Law or Regulation That Restrict Rural Enterprise

Over the course of its deliberations, the Rural Enterprises Opportunities Task Force was made aware of some local ordinances that have restricted the expansion of rural enterprise. The principal reason for such restrictions was, in part, that local land use regulations have not kept pace with the changing nature of agriculture. Traditional agriculture has evolved so that today, farmers seek to capture more of the income generated by their products through packaging, processing, marketing, direct sales or other value-added ventures that can take place on the farm.

Local governments are given three principal tools to regulate the use of land, including agricultural operations, within their jurisdiction – the comprehensive plan, the zoning ordinance and the subdivision ordinance. Agricultural operations, be it the production of food or fuel, or value-added activities, are regulated generally by those local tools as summarized below.

Comprehensive Plan. The comprehensive plan establishes principles guiding which farms, existing developments and public and private investments are protected and where future development is encouraged. Many comprehensive plans contain goals, objectives and strategies to promote agriculture and related activities; conserve natural resources that are important to farming such as soils, water quality and forest; and protect agricultural resources from incompatible development.

Zoning Ordinance. Zoning divides a community into districts, or zones, that specify allowable or conforming land uses. A local zoning ordinance can be the most powerful and flexible tool available to protect agriculture. Almost all county and some municipal zoning ordinances have at least one zone where general agricultural activities are authorized by-right (e.g., without seeking governmental approval) and are to be protected from other incompatible land uses. In addition, many agricultural zoning districts allow certain types of agriculturally related activities by-right, while other similar activities in other jurisdictions require a special regulatory approval from the local government.

Subdivision Ordinance. Subdivision regulations control how property owners divide land into smaller parcels. The subdivision ordinance includes requirements related to public utilities, road construction, and other public safety considerations. Many localities use their subdivision regulations to protect agriculture by requiring buffers between residential developments and existing agricultural uses.

Conflicts between local governments and farmers seeking to establish a new agricultural enterprise often arise in the application of zoning regulations. In at least one example made known to the Task Force and noted in the previous section, a land owner in Augusta County located in an agricultural zoning district was seeking to establish an agritourism operation consisting of a horse stable, banquet hall, and limited overnight accommodations. Such uses were not allowed by right within one of the county's agricultural zoning district, and thus, he was required to obtain a special use permit for the activity. While the landowner was ultimately successful in obtaining the necessary local zoning and other regulatory approvals, the process was costly and time consuming.

This one example pointed out that local regulations often do not directly address value-added agricultural activities, such as farm stands or agritourism, or treat such activities in the same by-right manner as commercial businesses in an urban setting. Further, the regulations can be unduly complex or not appropriate for new farm enterprises. In the example presented to the Task Force, however, the county was not fully aware of the impact of such restrictions on the agricultural community and, when it was brought to the attention of the elected governing body, the regulations were subsequently amended to accommodate rural enterprise opportunities. Appendix 3 – Resources contains examples of some counties in Virginia that have revised their local regulations or are in the process of considering changes to their ordinances to lessen restrictions on agricultural enterprise.

Innovative Approaches to Preserve Rural Character

The Task Force is aware that in addition to comprehensive planning, and zoning and subdivision regulation, the General Assembly has authorized or required other tools for localities to assist the Commonwealth's agricultural community, protect farm operations from incompatible development, and help maintain the local agricultural economy. Those additional programs are described below.

Purchase of Development Rights. Local governments can establish a purchase of development rights program, which is designed to compensate landowners who voluntarily place a conservation easement on their property. A conservation easement is a deed restriction designed to protect a specific conservation purpose, such as agricultural operations, from future development. At the present time, 20 counties and two cities have such a program.

Transfer of Development Rights. The Code of Virginia also permits localities to establish a program that transfer the development rights from a "sending" property (property that the locality is trying to protect, such as farmland or agricultural operations) to one or more "receiving" properties (properties where the locality is trying to encourage development). In

2010, Frederick County became the first locality to adopt a transfer of development rights program under the revised state legislation, and several other counties are currently reviewing this option.

Cluster Development. In 2006, the General Assembly required that counties and cities meeting a certain decennial population growth standard amend their zoning or subdivision ordinances to allow by-right the clustering of single-family dwellings on 40% of the unimproved land in residential and agricultural zoning districts. All other localities have the option of including cluster requirements in the development control regulations. One of the intents of this law, which is currently mandated for 63 counties and two cities by July 1, 2007, is to promote the clustering of homes on agricultural lands in order to protect adjacent farms and retain more land for conservation and agricultural purposes.

Urban Development Areas. Although mandated for 57 counties, 12 cities, 45 towns, all localities have the explicit authority to include in their comprehensive plans one or more Urban Development Areas (UDAs). Under this statute, UDAs must be appropriate for compact, high density development due to proximity to transportation facilities, the availability of central water and sewer systems, or location adjacent to towns, cities or other developed territory. While the purpose of the UDA requirement is to help to direct future growth into areas best suited to accommodate it, this requirement will also serve to protect agricultural lands from development pressures. Counties are required to adopt UDAs by July 1, 2011, while cities and town have an additional year to comply with this law.

Members of the Task Force are aware that no one approach is the simple guaranteed solution to preserving rural character and protecting farming from encroachment. Cluster provisions, for example, can protect “rural character” as viewed from the road and in some localities also allow for some continued agricultural use of the remaining land, but because development still occurs in the rural part of the locality, cluster provisions do not completely protect agricultural land from encroachment of potentially conflicting land uses. However, if a locality implements a combination of the programs available that are most appropriate to the community and its farmers, agriculture can remain viable, even while the expected development is accommodated.

Best Management Practices and Model Ordinances

Research by the Task Force revealed that there are many examples of programs implemented by local governments in other states to promote rural enterprises and protect agricultural resources. One of the best sources for local programs and model ordinances is the Farmland Information Center. The Center, a partnership between the U. S. Department of Agriculture’s Natural Resources Conservation Services and the American Farmland Trust, is a clearinghouse for information about farmland protection and stewardship. On its website (See Appendix 3 –

Resources) a search can be made in all states for local ordinances related to agricultural economic development. Examples for the promotion of rural enterprise found on the Farmland Information Center's website include:

- Sierra Nevada Business Council's case studies and model ordinances on the use zoning codes to implement agricultural goals and policies;
- Smart Communities Network's model agricultural zoning ordinance from Lancaster, Pennsylvania;
- Michigan's Agricultural Tourism Local Zoning Guidebook with model ordinance;
- Oregon's model ordinance for renewable energy products that is applicable to agriculture;
- Larimer County, Colorado Rural Land Use Center and ordinances for agricultural accessory uses such as value-added agricultural processing, agritourism, and farmstead accessory dwellings; and
- Pennsylvania's First Industries Fund that provides loans, loan guarantees and grants for agriculture and tourism industries.

The Task Force also spent considerable time discussing a "best practices" checklist for rural enterprise that was a component of the Farmland Preservation Guide produced by the American Farmland Trust for the North Carolina Department of Agriculture and Consumer Services. The checklist contains a series of questions concerning land use policy, local regulations, encouraging farming and forestry, and farm profitability that help local leaders determine if their community is supportive of both traditional agricultural operations and farm based value-added enterprise. Task Force members determined that such a checklist adapted for Virginia would be a useful tool to guide local decision makers, and accordingly, we have included an example as one of our recommendations. (See Appendix 2 – Recommendations)

Incentives

The Commonwealth, along with most other states, offers a number of tax incentives that help promote rural enterprise, preserve land devoted to agricultural production, and offset additional burdens on farmers caused by urbanization. The Virginia programs are described below.

Use Value Assessment. Any locality may adopt an ordinance providing special assessments of agricultural, horticultural, forestal, and open space real estate, and may elect to include any or all of the four classifications of property in the local ordinance. Once a program is adopted, qualifying properties are assessed on the basis of use in accordance with state guidelines in order to reduce local real estate taxes. For the 2009 tax year, 118 localities reported land use assessment ordinances in effect (19 cities, 75 counties, and 24 towns) for at least one type of property, with the agricultural assessment ordinance the most prevalent.

Sliding Scale Property Tax Rate. Local governments are also authorized to include in their use value assessment ordinance an option for landowners enrolled in the program to defer, for up to 20 years, a portion of the use value taxes otherwise assessed. This deferral of additional taxes requires a recorded commitment to keep the property in a qualifying agricultural use for the term of years prescribed in the program. Currently, Loudoun County is the only jurisdiction to take advantage of this provision.

Agricultural and Forestal Districts. Local governments are permitted to enact an ordinance providing for the creation of Agricultural and Forestal Districts. Once the program is established, qualifying landowners can apply to have their property designated as an agricultural and forestal district. Land devoted to agricultural and forestal production within a district qualifies for land use assessment whether or not a special assessments ordinance has been adopted by the locality. In addition, property within a district receives protection from nuisance ordinances and enhanced eminent domain protection, and local governments must take districts into account in planning decisions. Six cities, 32 counties and three towns reported having an agricultural and forestal district program in effect for the 2009 tax year.

Agricultural Conservation Easements. A conservation easement is a deed restriction landowners voluntarily place on their property to protect productive agricultural land and other natural or historical resources. The donation of an easement in perpetuity to a qualified conservation organization or public agency, such as the Virginia Outdoors Foundation, may qualify as a non-cash charitable gift which may yield a deduction for federal income tax purposes and a credit for state income tax purposes. In addition, there may be local property tax reductions and federal estate tax exemptions.

The Task Force observes that there has been much research on the assets and liabilities of the various tax incentives offered in Virginia and other states that reduce the economic burden on farmers brought on by development pressures. For example, while a conservation easement ensures that the land will not be developed, it does not ensure that agriculture will continue on the property in the future if economic conditions change. In addition, the easement may limit use of the property for future agritourism activities, as well as alternative enterprises such as a bed and breakfast.

The Task Force members concluded that while Virginia's tax incentives for agricultural retention are generally working as intended, it has been brought to our attention that certain aspects of the Agricultural and Forestal District Act are complex to implement and continue once in place. Therefore, another of our recommendations includes various process streamlining amendments to the Agricultural and Forestal District Act. (See Appendix 2 – Recommendations) This

recommendation will continue to be discussed with interested parties prior to the 2011 General Assembly session.

In addition to the tax incentives for agricultural operations, the General Assembly has provided other legislation to promote rural enterprise. Just to cite a few examples, beginning in 2007, state statutes have been amended to promote farm wineries, including the requirement that local zoning provision on licensed farm wineries' activities and events be reasonable and take into account the agricultural nature of such activities and events. Further, in 2010 legislation was enacted to provide incentive grants for biofuel from agricultural feed stock; and exempting certain farms that produce electricity from waste-to-fuel technology from public utility regulation, the alternative fuel tax, and local special use permit requirements.

Evidence was presented to the Task Force that while Virginia offers generous incentives to promote manufacturing in the state, those inducements far outweigh any that are available to encourage new agricultural operations. Therefore, the members concluded that more could be done to encourage agricultural enterprise in the Commonwealth and we recommend the adoption of a program modeled, in part, on the state's existing enterprise zone statutes. Our recommendation is similar to the Agricultural Enterprise Act passed by the General Assembly in 2005 but with additional features as noted in Appendix 3, Recommendation 2.³

We are fully aware that the Commonwealth and its localities are enduring the most significant fiscal crisis since the Great Depression that has reduced both state and local revenues. We also recognize that the enactment of legislation that provides new state financial incentives will have a fiscal impact on the Commonwealth's budget. However, the recommended Agricultural Enterprise Act is an important step to promote and expand the state's largest industry. In addition, such legislation is in keeping with Governor Robert F. McDonnell's initiatives in the 2010 General Assembly to enhance economic development and job opportunities in the Commonwealth, including rural Virginia. Further, the expansion of rural enterprise is one of the recommendations of the Governor's Commission on Economic Development and Job Creation. Moreover, the inclusion of optional local incentives as a component of the Agricultural Enterprise Act gives local governments the flexibility to adopt such provisions as conditions warrant.

Program to Expand Rural Enterprise

During its meetings, the Task Force was made aware of some obstacles facing rural enterprise in Virginia. As noted previously, the challenges confronted by farmers seeking to increase farm

³ The 2005 legislation, however, contained a delayed effective date contingent on funding being included in the subsequent appropriations act. Because of the potential fiscal impact of the 2005 legislation on the state's budget, no funds were appropriated for the program.

profitability through agritourism or value-added processing more than likely occur due to the changing nature of agriculture that has not been reflected in local ordinances and regulations. In addition, “non-traditional” activities on farms, such as corn mazes, pick-your-own operations, farm stands, home occupations, or festivals, present localities with a whole host of issues related to traffic, parking, sanitation, signage, and other concerns. Further, on-farm processing or waste-to-energy production raise another set of potential problems with respect to noise, storage of materials, increased truck traffic, and real or perceived health hazards. Moreover, recent residential developments in agricultural areas bring new residents; some who want to retain or strengthen local regulatory restrictions on farming operations, while others wish to retain the rural character of the area that first attracted them. Any program to encourage rural enterprise, however, must recognize that local elected officials must weigh these and other issues, as well as input from the public, in deciding what is best for the community at large.

The Task Force also heard of instances where the state and local governments are encouraging additional rural enterprise opportunities in Virginia. The Agriculture and Forestry Development Services of the Virginia Department of Agriculture and Consumer Services has worked with farm entrepreneurs and local governments to create new business models for the agricultural community in localities such as Albemarle, Loudoun and Isle of Wight Counties. When made aware of the barriers to rural enterprise in its zoning regulations, Augusta County revised its ordinance to foster agritourism and other value-added activities. Other counties, such as Albemarle, Bedford, Loudoun, Rockingham, and Montgomery, have followed suit or are in the process of revising their regulations in a similar manner. Approximately 12 localities in the state employ one or more persons whose duties include the promotion of agricultural enterprise within their respective jurisdiction. Programs, such as the Piedmont Environmental Council’s “Buy Fresh Buy Local” or Albemarle County’s Food Policy Council, are just two of many examples in Virginia that also promote value-added agriculture.

One important component necessary for the addition of new enterprises to existing agricultural operations is beyond direct control of any level of government – is the proposed activity economically viable? Entrepreneurs, regardless of location, must assess personal and family objectives; have business, financial, and marketing plans; and determine risks. While there are many resources available to assist farmers in measuring the potential economic success of a proposed value-added agricultural venture, this is an important initial step that must be completed regardless of state or local incentives.

The information presented to the Task Force indicated that the Commonwealth has most of the state-level components of an overall program to expand rural enterprise. Those components include not only local planning and development control authority to regulate land use and preserve farm land, but also tax incentives that, when appropriately applied, reduce the economic burden on the farmer.

In reviewing efforts in other states that foster the expansion of rural enterprise opportunities, the evidence suggests that most programs result from local initiative. In those instances, the existing state legislative framework was in place, as it is in Virginia, and the local agricultural community worked with elected officials to change zoning regulations or develop other programs to encourage value-added agricultural processing and agritourism.

The Task Force is aware that one alternative to expand rural enterprise opportunities in the Commonwealth would be for the General Assembly mandate a specific and detailed program applicable to every locality, or a subset of localities, in the state. Such a “top-down” solution, however, creates numerous concerns. First, mandating a “one-size, fits all” program does not recognize that localities have unique concerns based on their particular situation and needs. What may be an appropriate program in a leading agricultural county may not work for urban or suburban localities or even within specific areas of a particular jurisdiction. Second, elected officials must balance a whole host of public concerns in their land use decisions that require flexibility in order to decide what is best for the community overall. Finally, a mandate to elevate rural enterprise over other issues may create a local backlash against such efforts.

The Task Force acknowledges, however, that additional efforts to increase the awareness by local governments that rural enterprise can be a valuable part of a locality’s economic base while at the same time provide major quality of life benefits is needed. Alternative agricultural enterprises, such as agritourism, nontraditional crops, and direct marketing, provide additional income for the farmer as well as more revenue for a locality. Helping to make a farming operation economically viable reduces the pressures to sell agricultural land for development and preserves rural character. Agritourism, whether roadside stands, corn mazes, or festivals, provide urban dwellers opportunities to learn about food production, the rural life-style, agricultural preservation, and the value of agriculture to the area. Furthermore, produce purchased on the farm can be a less expensive alternative to the selection at urban grocery stores.

Therefore, rather than propose detailed legislative program, we recommend that efforts be taken by the state, representatives of agriculture, the local government associations, planning officials, and other interested parties to increase awareness of the beneficial aspects of rural enterprise and how local ordinances and regulations can be amended to foster such efforts. This can be accomplished by additional public education efforts; bringing to the attention of local elected officials the check list “Is Your Community Planning for Agriculture.” (See Appendix 2 – Recommendations); publication of examples where local governments and the agriculture community collaborated successfully on rural enterprise opportunities; and making available local ordinances and regulations promoting value-added agriculture that can be used as models for other jurisdictions.

EXAMPLES OF ACTIVITIES THAT LOCALITIES AND THE AGRICULTURAL COMMUNITY COULD CONSIDER TAKING TO FOSTER AGRICULTURAL ENTERPRISE

Encourage Localities to:

- Include processes in their ordinances for rural entrepreneurial activities
- Visit other localities that have proactively addressed agricultural enterprise and/or contact one of the 12 existing Agricultural Economic Development Officers in the state for information and assistance
- Establish a local agricultural advisory committee or agriculture industry board to advise on rural enterprise activities
- Prepare for agricultural enterprise activities in their rural areas by reviewing and, if appropriate, amending their comprehensive plan, ordinances and regulations

Encourage the agriculture industry to:

- Actively participate in a locality's efforts to address agricultural enterprise issues
- Be a good neighbor recognizing the impact of agricultural activities on adjacent property owners
- Partner with localities in the development of a vision for future economic growth

SUMMARY OF RURAL ENTERPRISE OPPORTUNITY TASK FORCE RECOMMENDATIONS

1. Adopt various process streamlining amendments to the Agricultural and Forestal Districts Act (Chapter 32, Title 15.2, Code of Virginia).
2. Adopt legislation modeled on the Agricultural Enterprise Act of 2005 with proposed additional provisions.
3. Encourage local governments to use the checklist "Is Your Community Planning for Agriculture" to help local leaders determine if their locality is supportive of both traditional agriculture and farm based value-added enterprise.

CONCLUDING COMMENT

In the preceding sections of this report, the Rural Enterprise Opportunities Task Force has proposed three recommendations that address the issues referred to us for consideration. We trust that those recommendations, if implemented, will have a positive impact on the expansion and promotion of rural enterprise opportunities in the Commonwealth. The Task Force expresses its

gratitude to all of the parties and individuals for the assistance that they provided during the course of this study.

APPENDIX 1

CHAPTERS 797

An Act to amend and reenact § 2.2-2723 of the Code of Virginia, relating to the Center for Rural Virginia; expansion and promotion of agricultural opportunities; report.

Approved April 21, 2010

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-2723 of the Code of Virginia is amended and reenacted as follows:

§ 2.2-2723. Powers and duties of the Board of Trustees and the Center.

A. The Board of Trustees shall have the following powers and duties:

1. Manage, control, maintain, and operate the Center;
2. Take all actions necessary to qualify the Center as exempt from taxation pursuant to § 501 (c) (3) of the Internal Revenue Code and operate the Center in accordance with the provisions governing nonstock corporations as set out in Chapter 10 of Title 13.1, provided that, in the event of the dissolution of the Center, assets shall be distributed for one or more exempt purposes within the meaning of § 501 (c) (3) of the Internal Revenue Code, or corresponding section of any future federal tax code, or shall be distributed to the Commonwealth or a local government for a public purpose;
3. Establish bylaws as may be necessary for the governance and conduct of business of the Board;
4. Employ and establish the qualifications and duties, and fix salaries and compensation of staff of the Center from such funds as may be available to the Center;
5. Seek federal funds available to state rural development councils, pursuant to the Farm Security and Rural Investment Act of 2002, P.L. 107-171;
6. Seek, accept, administer, and expend gifts, grants, donations, bequests, and any other funds on behalf of the Center to support and facilitate its work;
7. Accept, administer, and expend donations, bequests, or devises of real and personal property for the endowment of the Center or for any special purpose designated by the donor that is consistent with the purposes of the Center set forth in this article;
8. Have, in addition to its other powers, all the corporate powers given to nonstock corporations by the provisions of Title 13.1. The Board shall also have the power to accept, execute, and administer any trust in which it may have an interest under the terms of the instrument creating the trust;
9. Enter into contracts with respect to the duties and responsibilities imposed upon the Center herein;
10. Report annually concerning the status, needs, and accomplishments of the Center to the Governor and the General Assembly; and
11. Perform any lawful acts necessary or appropriate to carry out the purposes of this article.

B. The Center shall have the following powers and duties:

1. Develop a broad-based constituency to advocate for the interests of rural Virginia in the formulation of the Commonwealth's public policies;
2. Coordinate and facilitate research on rural issues and analyze the effect of public policies and private sector interests on rural communities;
3. Prepare a detailed analysis of rural Virginia economies annually for submission to the Board, together with feasible and appropriate alternatives designed to sustain economic growth in rural areas of the Commonwealth;
4. Facilitate public-private investments in the infrastructure of rural Virginia;
5. Develop programs designed to train local elected officials and community leaders for effective leadership in rural communities;
6. Foster innovative strategies that promote the development and prosperity of rural communities in the Commonwealth;

7. Facilitate the development of incentives and provide a forum for competing interests to allow for job creation and expanded economic opportunities for farm businesses and rural enterprises while ensuring the rights of localities to develop reasonable regulations of such farm businesses and rural enterprises to protect the health, safety, and welfare of residents;

8. Provide for the collection, organization, storage, and dissemination of documents, data, and other information concerning issues relevant to the needs and continuous development of Virginia's rural areas, including technical and research assistance to rural localities in the development and implementation of their strategic plans;

9. Identify potential public and private resources for the Board's consideration and review that may be used to generate additional funds to support and facilitate the Center's work and foster the development of rural communities;

10. Submit to the Board of Trustees such reports regarding the Center's work, including, but not limited to, programs, activities, policy analyses, and financial statements, as may be requested by the Board; and

11. Perform such other acts as may be necessary to accomplish the objectives of this article.

2. That the Center for Rural Virginia shall facilitate the creation of a rural enterprise opportunity task force to develop strategies that expand and promote economic opportunities of the agriculture industry throughout the Commonwealth. The task force shall be comprised of the Deputy Secretary of Commerce and Trade for Rural Economic Development, and at least one representative from the Virginia Farm Bureau, the Virginia Agribusiness Council, the Virginia Department of Agriculture and Consumer Services, the Virginia Association of Counties, and the Virginia Chapter of the American Planning Association, and shall include at least one owner of a farm business or rural enterprise interested in expanded economic opportunities. The task force shall examine and make recommendations on the following issues as such issues are related to the expansion and promotion of farm businesses or rural enterprises: (i) local ordinances that may be unreasonably restrictive and efforts by localities to lessen such restrictions; (ii) provisions in law or regulation that may be unreasonably restrictive; (iii) innovative approaches taken to expand economic opportunities while preserving the rural character of the surrounding area; (iv) best management practices and successful strategies adopted in other states; (v) model ordinances and regulations that allow the marketing and sale of products or services; (vi) tax, regulatory, and other incentives; (vii) the structure and organizational design of a program that could encourage expansion and opportunity on an ongoing basis; (viii) the definition and eligibility of a qualified rural enterprise; and (ix) any other issues the task force deems relevant to meet the objectives of the study. The task force shall complete its work and provide, by November 1, 2010, its written recommendations in a report to the chairmen of the House Committee on Agriculture, Chesapeake and Natural Resources and the Senate Committee on Agriculture, Conservation and Natural Resources, the Secretary of Commerce and Trade, the Secretary of Agriculture and Forestry, and the Lieutenant Governor.

APPENDIX 2

RECOMMENDATIONS

RECOMMENDATION 1

Proposed Amendments to the Agricultural and Forestal Districts Act (Chapter 32, Title 15.2, Code of Virginia)

§ 15.2-4300. Short title.

This chapter shall be known and may be cited as the "Agricultural and Forestal Districts Act."

§ 15.2-4301. Declaration of policy findings and purpose.

It is the policy of the Commonwealth to conserve and protect and to encourage the development and improvement of the Commonwealth's agricultural and forestal lands for the production of food and other agricultural and forestal products. It is also the policy of the Commonwealth to conserve and protect agricultural and forestal lands as valued natural and ecological resources which provide essential open spaces for clean air sheds, watershed protection, wildlife habitat, as well as for aesthetic purposes. It is the purpose of this chapter to provide a means for a mutual undertaking by landowners and localities to protect and enhance agricultural and forestal land as a viable segment of the Commonwealth's economy and as an economic and environmental resource of major importance.

§ 15.2-4302. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Advisory committee" means the agricultural and forestal districts advisory committee.

"Agricultural products" means crops, livestock and livestock products, including but not limited to: field crops, fruits, vegetables, horticultural specialties, cattle, sheep, hogs, goats, horses, poultry, furbearing animals, milk, eggs and furs.

"Agricultural production" means the production for commercial purposes of crops, livestock and livestock products, and includes the processing or retail sales by the producer of crops, livestock or livestock products which are produced on the parcel or in the district.

"Agriculturally and forestally significant land" means land that has recently or historically produced agricultural and forestal products, is suitable for agricultural or forestal production or is considered appropriate to be retained for agricultural and forestal production as determined by such factors as soil quality, topography, climate, markets, farm structures, and other relevant factors.

"Application" means the set of items a landowner or landowners must submit to the local governing body when applying for the creation of a district or an addition to an existing district.

"District" means an agricultural, forestal, or agricultural and forestal district.

"Forestal production" means the production for commercial purposes of forestal products and includes the processing or retail sales, by the producer, of forestal products which are produced on the parcel or in the district. "Forestal products" includes, but is not limited to, saw timber, pulpwood, posts, firewood, Christmas trees and other tree and wood products for sale or for farm use.

"Landowner" or "owner of land" means any person holding a fee simple interest in property but does not mean the holder of an easement.

"Program administrator" means the local governing body or local official appointed by the local governing body to administer the agricultural and forestal districts program.

§ 15.2-4303. Power of localities to enact ordinances; application form and fees; maps; sample form.

A. Each locality shall have the authority to promulgate forms and to enact ordinances to effectuate this chapter. The locality may charge a reasonable fee for each application submitted pursuant to this chapter; such fee shall not exceed \$500 or the costs of processing and reviewing an application, whichever is less.

B. The locality shall prescribe application forms for districts that include but need not be limited to the following information:

1. The general location of the district;
2. The total acreage in the district or acreage to be added to an existing district;
3. The name, address, and signature of each landowner applying for creation of a district or an addition to an existing district and the acreage each owner owns within the district or addition;
4. The conditions proposed by the applicant pursuant to § 15.2-4309;
5. The period before first review proposed by the applicant pursuant to § 15.2-4309; and
6. The date of application, date of final action by the local governing body and whether approved, modified or rejected.

C. The application form shall be accompanied by maps or aerial photographs, or both, prescribed by the locality which a United States Geological Survey 7.5 minute topographic map that clearly shows the boundaries of the proposed district and each addition and boundaries of properties owned by each applicant, and any other features as prescribed by the locality. ~~A Department of~~

Transportation general highway map for the locality that shows the general location of the proposed district shall also accompany each application form.

D. The following sample form illustrates the minimum requirements of this section:

~~APPLICATION FOR THE CREATION OF OR ADDITION TO AGRICULTURAL, FORESTAL OR AGRICULTURAL AND FORESTAL DISTRICT~~

~~(A copy of this completed form and required maps shall be submitted by the applicant landowners to the local governing body. This form shall be accompanied by United States Geological Survey 7.5 minute topographic maps that clearly show the boundaries of the district or addition and the boundaries of the property each applicant owns within the district or addition. A Department of Transportation general highway map for the locality that shows the general location of the district or addition shall also accompany this form.)~~

~~SECTION A: TO BE COMPLETED BY APPLICANT~~

~~1. GENERAL LOCATION OF THE DISTRICT (CITY, COUNTY OR TOWN)~~

~~2. TOTAL ACREAGE IN THE DISTRICT OR ADDITION~~

~~3. LANDOWNERS APPLYING FOR THE DISTRICT~~

NAME	SIGNATURE	ADDRESS	WITNESS	TOTAL	LAND BOOK
		(current		ACREAGE	
		REFERENCE			
		legal		OWNED IN	NUMBER
		residence)		THE DISTRICT	
				OR ADDITION	

~~4. THE PROPOSED CONDITIONS TO CREATION OF THE DISTRICT PURSUANT TO § 15.2-4309~~

~~of the Code of Virginia~~

~~5. THE PROPOSED PERIOD BEFORE FIRST REVIEW~~

~~SECTION B: TO BE COMPLETED BY LOCAL GOVERNING BODY~~

~~1. Date submitted to the local governing body~~

~~2. Date referred to the local planning commission~~

~~3. Date referred to the advisory committee~~

~~4. Date of action by the local governing body~~

~~-~~
 ~~Approved Modified Rejected~~

ED. For each notice required by this chapter to be sent to a landowner, notice shall be sent by first-class mail to the last known address of such owner as shown on the application hereunder or on the current real estate tax assessment books or maps. A representative of the local planning commission or local governing body shall make affidavit that such mailing has been made and file such affidavit with the papers in the case.

§ 15.2-4304. Agricultural and forestal districts advisory committee.

A. Upon receipt of the first agricultural and forestal districts application, the local governing body shall establish an advisory committee which shall consist of four landowners who are engaged in agricultural or forestal production, four other landowners of the locality, the commissioner of revenue or the local government's chief property assessment officer, and a member of the local governing body. The members of the committee shall be appointed by and serve at the pleasure of the local governing body. The advisory committee shall elect a chairman and a vice-chairman and elect or appoint a secretary who need not be a member of the committee. The advisory committee shall serve without pay but the locality may reimburse each member for actual and necessary expenses incurred in the performance of his duties. The expenditures of the committee shall be within the amounts appropriated for such purpose by the local governing body. The committee shall advise the local planning commission and the local governing body and assist in creating, reviewing, modifying, continuing or terminating districts within the locality. In particular, the committee shall render expert advice as to the nature of farming and forestry and agricultural and forestal resources within the district and their relation to the entire locality.

B. The local governing body may designate the planning commission to act for and in lieu of an agricultural and forestal districts advisory committee if the membership of the planning commission includes at least four landowners who are engaged in agricultural or forestal production.

§ 15.2-4305. Application for creation of district in one or more localities; size and location of parcels.

On or before November 1 of each year or any other annual date selected by the locality, any owner or owners of land may submit an application to the locality for the creation of a district or addition of land to an existing district within the locality. Each district shall have a core of no less than 200 acres in one parcel or in contiguous parcels. A parcel not part of the core may be included in a district (i) if the nearest boundary of the parcel is within one mile of the boundary of the core, (ii) ~~or~~ if it is contiguous to a parcel in the district the nearest boundary of which is within one mile of the boundary of the core, or (iii) if the local governing body finds, in consultation with the advisory committee or planning commission, that the parcel not part of the core contains agriculturally and forestally significant land . No land shall be included in any district without the signature on the application, or the written approval of all owners thereof. A district may be located in more than one locality, provided that (i) separate application is made to each locality involved, (ii) each local governing body approves the district, and (iii) the district meets the size requirements of this section. In the event that one of the local governing bodies disapproves the creation of a district within its boundaries, the creation of the district within the

adjacent localities' boundaries shall not be affected, provided that the district otherwise meets the requirements set out in this chapter. In no event shall the act of creating a single district located in two localities pursuant to this subsection be construed to create two districts.

§ 15.2-4306. Criteria for evaluating application.

Land being considered for inclusion in a district may be evaluated by the advisory committee and the planning commission through the Virginia Land Evaluation and Site Assessment (LESA) System or, if one has been developed, a local LESA System. The following factors should be considered by the local planning commission and the advisory committee, and at any public hearing at which an application that has been filed pursuant to § 15.2-4303 is being considered:

1. The agricultural and forestal significance of land within the district or addition and in areas adjacent thereto;
2. The presence of any significant agricultural lands or significant forestal lands within the district and in areas adjacent thereto that are not now in active agricultural or forestal production;
3. The nature and extent of land uses other than active farming or forestry within the district and in areas adjacent thereto;
4. Local developmental patterns and needs;
5. The comprehensive plan and, if applicable, the zoning regulations;
6. The environmental benefits of retaining the lands in the district for agricultural and forestal uses; and
7. Any other matter which may be relevant.

In judging the agricultural and forestal significance of land, any relevant agricultural or forestal maps may be considered, as well as soil, climate, topography, other natural factors, markets for agricultural and forestal products, the extent and nature of farm structures, the present status of agriculture and forestry, anticipated trends in agricultural economic conditions and such other factors as may be relevant.

§ 15.2-4307. ~~Planning commission r~~Review of application; notice; hearing.

Upon the receipt of an application for a district or for an addition to an existing district, the program administrator ~~local governing body~~ shall refer such application to the advisory committee, ~~which shall:~~

The advisory committee shall review and make recommendations concerning the application or modifications to the local planning commission which shall:

1. Provide notice of the application by publishing a notice in a newspaper having general circulation within the district and by providing for the posting of such notice in five conspicuous places within the district. The planning commission shall notify, by first-class mail, adjacent property owners as shown on the maps of the locality used for tax assessment purposes. The notice shall contain: (i) a statement that an application for a district has been filed with the program administrator local governing body and referred to the local planning commission pursuant to this chapter; (ii) a statement that the application will be on file open to public inspection in the office of the clerk of the local governing body; (iii) where applicable a statement that any political subdivision whose territory encompasses or is part of the district may propose a modification which must be filed with the planning commission within thirty days of the date that the notice is first published; (iv) a statement that any owner of additional qualifying land may join the application within thirty days from the date the notice is first published or, with the consent of the local governing body, at any time before the public hearing the local governing body must hold on the application; (v) a statement that any owner who joined in the application may withdraw his land, in whole or in part, by written notice filed with the local governing body, at any time before the local governing body acts pursuant to § 15.2-4309; (vi) a statement that additional qualifying lands may be added to an already created district at any time upon separate application pursuant to this chapter; (vii) a statement that the application and proposed modifications will be submitted to the planning commission; and (viii) a statement that, upon receipt of the report of the advisory committee, a public hearing will be held by the planning commission on the application and any proposed modifications; in lieu of the notice required herein, the program administrator may publish a notice in a newspaper having general circulation within the district and by providing for the posting of such notice in five conspicuous places within the locality of the willingness to consider applications for participation in an existing or new district and thereafter provide notice, by first-class mail, to adjacent property owners of parcels for which applications are received as shown on the maps of the locality used for tax assessment purposes and containing the information required above.

~~2. Refer such application and proposed modifications to the advisory committee;~~

~~32. Report its recommendations to the local governing body including but not limited to the potential effect of the district and proposed modifications upon the locality's planning policies and objectives;~~

~~43. Hold a public hearing as prescribed by law; and~~

~~54. Publish in a newspaper having general circulation within the district a notice describing the district or addition, any proposed modifications and any recommendations of the planning commission and the advisory committee and send the notice by first-class mail to adjacent property owners and to those political subdivisions whose territory encompasses all or is any part of the district or addition.~~

~~**§ 15.2-4308. Advisory committee review of application.**~~

~~The advisory committee shall review and make recommendations concerning the application and modifications to the local planning commission.~~

§ 15.2-4309. Hearing; creation of district; conditions; notice.

The local governing body, after receiving the report of the local planning commission and the advisory committee, shall hold a public hearing as provided by law, and after such public hearing, may by ordinance create the district or add land to an existing district as applied for, or with any modifications it deems appropriate. The governing body may require, as a condition to creation of the district, that any parcel in the district shall not, without the prior approval of the governing body, be developed to any more intensive use or to certain more intensive uses, other than uses resulting in more intensive agricultural or forestal production, during the period which the parcel remains within the district. Local governing bodies shall not prohibit as a more intensive use, construction and placement of dwellings for persons who earn a substantial part of their livelihood from a farm or forestry operation on the same property, or for members of the immediate family of the owner, or divisions of parcels for such family members, unless the governing body finds that such use in the particular case would be incompatible with farming or forestry in the district. To further the purposes of this chapter and to promote agriculture and forestry and the creation of districts, the local governing body may adopt programs offering incentives to landowners to impose land use and conservation restrictions on their land within the district. Programs offering such incentives shall not be permitted unless authorized by law. Any conditions to creation of the district and the period before the review of the district shall be described, either in the application or in a notice sent by first-class mail to all landowners in the district and published in a newspaper having a general circulation within the district at least two weeks prior to adoption of the ordinance creating the district. The ordinance shall state any conditions to creation of the district and shall prescribe the period before the first review of the district, which shall be no less than four years but not more than ten years from the date of its creation. In prescribing the period before the first review, the local governing body shall consider the period proposed in the application. The ordinance shall remain in effect at least until such time as the district is to be reviewed. In the event of annexation by a city or town of any land within a district, the district shall continue until the time prescribed for review.

The local governing body shall act to adopt or reject the application, or any modification of it, no later than 180 days from (i) November 1 or (ii) the other date selected by the locality as provided in § 15.2-4305. Upon the adoption of an ordinance creating a district or adding land to an existing district, the local governing body shall submit a copy of the ordinance with maps to the local commissioner of the revenue, and the State Forester, and the Commissioner of Agriculture and Consumer Services for information purposes. The commissioner of the revenue shall identify the parcels of land in the district in the land book and on the tax map, and the local governing body shall identify such parcels on the zoning map, where applicable and shall designate the districts on the official comprehensive plan map each time the comprehensive plan map is updated.

§ 15.2-4310. Additions to a district.

Additional parcels of land may be added at any time to an existing district by following the process prescribed for the creation of a new district. ~~Such additions shall be reviewed at the time previously established for review of the district to which they are added.~~

§ 15.2-4311. Review of districts.

The local governing body may complete a review of any district created under this section, together with additions to such district, no less than four years but no more than ten years after the date of its creation and every four to ten years thereafter. If the local governing body determines that a review is necessary, it shall begin such review at least ninety days before the expiration date of the period established when the district was created. In conducting such review, the local governing body shall ask for the recommendations of the local advisory committee and the planning commission in order to determine whether to terminate, modify or continue the district. When each district is reviewed, land within the district may be withdrawn at the owner's discretion by filing a written notice with the local governing body at any time before it acts to continue, modify or terminate the district. The local planning commission or the advisory committee shall schedule as part of the review a public meeting with the owners of land within the district, and shall send by first-class mail a written notice of the meeting and review to all such owners. The notice shall state the time and place for the meeting; that the district is being reviewed by the local governing body; that the local governing body may continue, modify, or terminate the district; and that land may be withdrawn from the district at the owner's discretion by filing a written notice with the local governing body at any time before it acts to continue, modify or terminate the district. The local governing body shall hold a public hearing as provided by law. The governing body may stipulate conditions to continuation of the district and may establish a period before the next review of the district, which may be different from the conditions or period established when the district was created. Any such different conditions or period shall be described in a notice sent by first-class mail to all owners of land within the district and published in a newspaper having a general circulation within the district at least two weeks prior to adoption of the ordinance continuing the district. Unless the district is modified or terminated by the local governing body, the district shall continue as originally constituted, with the same conditions and period before the next review as that established when the district was created.

If the local governing body determines that a review is unnecessary, it shall set the year in which the next review shall occur.

§ 15.2-4312. Effects of districts.

A. Land lying within a district and used in agricultural or forestal production shall automatically qualify for an agricultural or forestal use-value assessment pursuant to Article 4 (§ 58.1-3229 et seq.) of Chapter 32 of Title 58.1, if the requirements for such assessment contained therein are satisfied. Any ordinance adopted pursuant to § 15.2-4303 shall extend such use-value assessment and taxation to eligible real property within such district whether or not a local ordinance pursuant to § 58.1-3231 has been adopted.

B. No local government shall exercise any of its powers to enact local laws or ordinances within a district in a manner which would unreasonably restrict or regulate farm structures or farming and forestry practices in contravention of the purposes of this chapter unless such restrictions or regulations bear a direct relationship to public health and safety. The comprehensive plan and zoning and subdivision ordinances shall be applicable within said districts, to the extent that such

ordinances are not in conflict with the conditions to creation or continuation of the district set forth in the ordinance creating or continuing the district or the purposes of this chapter. Nothing in this chapter shall affect the authority of the locality to regulate the processing or retail sales of agricultural or forestal products, or structures therefor, in accordance with the local comprehensive plan or any local ordinances. Local ordinances, comprehensive plans, land use planning decisions, administrative decisions and procedures affecting parcels of land adjacent to any district shall take into account the existence of such district and the purposes of this chapter.

C. It shall be the policy of all agencies of the Commonwealth to encourage the maintenance of farming and forestry in districts and all administrative regulations and procedures of such agencies shall be modified to this end insofar as is consistent with the promotion of public health and safety and with the provisions of any federal statutes, standards, criteria, rules, regulations, or policies, and any other requirements of federal agencies, including provisions applicable only to obtaining federal grants, loans or other funding.

D. No special district for sewer, water or electricity or for nonfarm or nonforest drainage may impose benefit assessments or special tax levies on the basis of frontage, acreage or value on land used for primarily agricultural or forestal production within a district, except a lot not exceeding one-half acre surrounding any dwelling or nonfarm structure located on such land. However, such benefit assessment or special ad valorem levies may continue if imposed prior to the formation of the district.

§ 15.2-4313. Proposals as to land acquisition or construction within district.

A. Any agency of the Commonwealth or any political subdivision which intends to acquire land or any interest therein other than by gift, devise, bequest or grant, or any public service corporation which intends to: (i) acquire land or any interest therein for public utility facilities not subject to approval by the State Corporation Commission, provided that the proposed acquisition from any one farm or forestry operation within the district is in excess of one acre or that the total proposed acquisition within the district is in excess of ten acres or (ii) advance a grant, loan, interest subsidy or other funds within a district for the construction of dwellings, commercial or industrial facilities, or water or sewer facilities to serve nonfarm structures, shall at least ninety days prior to such action notify the local governing body and all of the owners of land within the district. Notice to landowners shall be sent by first-class or registered mail and shall state that further information on the proposed action is on file with the local governing body. Notice to the local governing body shall be filed in the form of a report containing the following information:

1. A detailed description of the proposed action, including a proposed construction schedule;
2. All the reasons for the proposed action;
3. A map indicating the land proposed to be acquired or on which the proposed dwellings, commercial or industrial facilities, or water or sewer facilities to serve nonfarm structures are to be constructed;

4. An evaluation of anticipated short-term and long-term adverse impacts on agricultural and forestal operations within the district and how such impacts are proposed to be minimized;
5. An evaluation of alternatives which would not require action within the district; and
6. Any other relevant information required by the local governing body.

B. Upon receipt of a notice filed pursuant to subsection A, the local governing body, in consultation with the local planning commission and the advisory committee, shall review the proposed action and make written findings as to (i) the effect the action would have upon the preservation and enhancement of agriculture and forestry and agricultural and forestal resources within the district and the policy of this chapter; (ii) the necessity of the proposed action to provide service to the public in the most economical and practical manner; and (iii) whether reasonable alternatives to the proposed action are available that would minimize or avoid any adverse impacts on agricultural and forestal resources within the district. If requested to do so by any owner of land that will be directly affected by the proposed action of the agency, corporation, or political subdivision, the Director of the Department of Conservation and Recreation, or his designee, may advise the local governing body on the issues listed in clauses (i), (ii) and (iii) of this subsection.

C. If the local governing body finds that the proposed action might have an unreasonably adverse effect upon either state or local policy, it shall (i) issue an order within ninety days from the date the notice was filed directing the agency, corporation or political subdivision not to take the proposed action for a period of 150 days from the date the notice was filed and (ii) hold a public hearing, as prescribed by law, concerning the proposed action. The hearing shall be held where the local governing body usually meets or at a place otherwise easily accessible to the district. The locality shall publish notice in a newspaper having a general circulation within the district, and mail individual notice of the hearing to the political subdivisions whose territory encompasses or is part of the district, and the agency, corporation or political subdivision proposing to take the action. Before the conclusion of the 150-day period, the local governing body shall issue a final order on the proposed action. Unless the local governing body, by an affirmative vote of a majority of all the members elected to it, determines that the proposed action is necessary to provide service to the public in the most economic and practical manner and will not have an unreasonably adverse effect upon state or local policy, the order shall prohibit the agency, corporation or political subdivision from proceeding with the proposed action. If the agency, corporation or political subdivision is aggrieved by the final order of the local governing body, an appeal shall lie to the circuit court having jurisdiction of the territory wherein a majority of the land affected by the acquisition is located. However, if such public service corporation is regulated by the State Corporation Commission, an appeal shall be to the State Corporation Commission.

§ 15.2-4314. Withdrawal of land from a district; termination of a district.

A. At any time after the creation of a district within any locality, any owner of land lying in such district may file with the program administrator ~~locality~~ a written request to withdraw all or part of his land from the district for good and reasonable cause. The program administrator ~~local~~

~~governing body shall refer the request to the advisory committee for its recommendation. The advisory committee shall make recommendations concerning the request to withdraw to the local planning commission which shall hold a public hearing and make recommendations to the local governing body. local planning commission and the advisory committee for their recommendations and shall hold a public hearing.~~ Land proposed to be withdrawn may be reevaluated through the Virginia or local Land Evaluation and Site Assessment (LESA) System. The landowner seeking to withdraw land from a district, if denied favorable action by the governing body, shall have an immediate right of appeal de novo to the circuit court serving the territory wherein the district is located. This section shall in no way affect the ability of an owner to withdraw an application for a proposed district or withdraw from a district pursuant to clause (v) of subdivision 1 of § 15.2-4307 or § 15.2-4311.

B. Upon termination of a district or withdrawal or removal of any land from a district created pursuant to this chapter, land that is no longer part of a district shall be subject to and liable for roll-back taxes as are provided in § 58.1-3237. Sale or gift of a portion of land in a district to a member of the immediate family as defined in § 15.2-2244 shall not in and of itself constitute a withdrawal or removal of any of the land from a district.

C. Upon termination of a district or upon withdrawal or removal of any land from a district, land that is no longer part of a district shall be subject to those local laws and ordinances prohibited by the provisions of subsection B of § 15.2-4312.

D. Upon the death of a property owner, any heir at law, devisee, surviving cotenant or personal representative of a sole owner of any fee simple interest in land lying within a district shall, as a matter of right, be entitled to withdraw such land from such district upon the inheritance or descent of such land provided that such heir at law, devisee, surviving cotenant or personal representative files written notice of withdrawal with the local governing body and the local commissioner of the revenue within two years of the date of death of the owner.

E. Upon termination or modification of a district, or upon withdrawal or removal of any parcel of land from a district, the local governing body shall submit a copy of the ordinance or notice of withdrawal to the local commissioner of revenue, the State Forester and the State Commissioner of Agriculture and Consumer Services for information purposes. The commissioner of revenue shall delete the identification of such parcel from the land book and the tax map, and the local governing body shall delete the identification of such parcel from the zoning map, where applicable.

F. The withdrawal or removal of any parcel of land from a lawfully constituted district shall not in itself serve to terminate the existence of the district. The district shall continue in effect and be subject to review as to whether it should be terminated, modified or continued pursuant to § 15.2-4311 of this chapter.

Recommendation 2

Proposed Agricultural Enterprise Act of 2011

The Task Force recommends that the Agricultural Enterprise Act of 2005 be reevaluated for adoption and implementation with the following additional provisions:

- Amend the definition of “qualified agricultural businesses” included in the 2005 Act to include value-added agricultural products.
- Allow local governments to create either location-specific Agricultural Enterprise Zones or one zone to encompass the entire jurisdiction
- Provide additional state financial incentives to farmers or farm businesses located in an Agricultural Enterprise Zone, such as income and investment tax credits and job grants
- Permit optional local economic incentives similar to those found in the Enterprise Zone Act, such as reduced permit and user fees; reduced business, professional, and occupational license tax; and partial exemption from taxation of substantially rehabilitated real estate
- Permit optional local regulatory incentives similar to those found in the Enterprise Zone Act as long as such incentives do not compromise local ordinances, regulations, or other programs that protect farmland from urban encroachment
- Reconcile of any potential conflicts between Agricultural Enterprise Zones and Agricultural and Forestal Districts
- Provide grants to develop and implement business plans for new rural enterprise
- Provide support for Agricultural Enterprise Zones from state agencies, such as the Department of Agriculture and Consumer Services, Department of Forestry, Virginia Economic Development Partnership and other appropriate agencies

Recommendation 3

Is Your Community Planning for Agriculture? A Checklist

Practical Land Use Policy

Does your locality...

- Have a detailed section on agriculture and forestry in the comprehensive plan? The comprehensive plan is the big picture view of what land uses will be encouraged, protected or excluded in the future. Does the plan refer to “maintaining rural character,” but overlook agriculture and forestry as the primary component? Agriculture and forestry should not be an afterthought!
- Have a completed a separate plan to protect areas important to agricultural uses, such as prime soils? These plans identify the important challenges that the agricultural sector will face in the future, designate areas where agriculture should be encouraged, and identify investment and infrastructure needs for increased profitability.
- Define and allow production agricultural uses under more than one land use classification? Production agricultural is not the same as other commercial development.
- Require buffer zones between production agricultural and residential uses? New development should not place the burden on existing farms to give up productive land as a buffer zone between agricultural and residential uses. Buffer zones and/or landscape plantings for screening should be provided for in new residential development when necessary.
- Encourage the agricultural use of open space land created by innovative residential subdivisions? Some localities have adopted innovative subdivision regulations like cluster housing that set aside significant open space around new residential development. This land can be productive agricultural land and at the same time contribute to the ecological health and scenic quality of the area—instead of becoming grown over with brush. Ideally, such land would have productive soils, be big enough for commercial agricultural purposes, provide separate access for farm/forestry equipment, and allow long-term agricultural use that provides consistent resource management.
- Acknowledge and accommodate the changing nature of agriculture? Farms are becoming more than just production centers of commodities and specialty agricultural products, they are also centers for the transformation of organic materials into various forms of energy (e.g. anaerobic digesters), centers for recycling and adding value to organic wastes (e.g. composting), as well as providers of ecosystem services (e.g. nutrient credits). Further, new and intensive production facilities, such as aquaculture and greenhouse operations, are becoming more commonplace. These activities are a natural extension of traditional farming practices, they reflect our more comprehensive embrace

of environmental stewardship, and are increasingly important to farm profitability; therefore they should be considered as an ordinary part of agriculture.

Reasonable Local Regulations

Does your locality...

- Have a mechanism and appropriate staff in place to facilitate approvals and permits needed for agritourism, and value-added processing, as appropriate?
- Allow roadside stands or pick-your-own operations by right? Consider amending the local zoning ordinance so that certain production agriculture is allowed by right and are not considered nonconforming uses. Production agriculture needs to be (1) defined in the zoning ordinance, (2) listed as permitted uses and (3) allowed in districts throughout the planning jurisdiction wherever reasonably possible. Write flexibility into ordinances or regulations that may apply to agricultural land uses so the intent is clearly to promote such use, not to deny it because the rules don't fit the unique situations that frequently arise with agricultural businesses.
- Allow businesses necessary to support production agriculture as well as value-added business? Remember, it's not just the farmland that makes production agriculture farming possible: businesses related to agriculture (veterinarians, equipment and supply dealers, custom farm providers, feed milling and delivery, etc.) have to be close enough to serve the needs of production agriculture. Value-added processing also should be accommodated. Flexible ordinances and regulations can help farmers diversifying their operations.
- Allow energy production to mitigate energy costs associated with production agriculture? Small scale systems that use agricultural products or wastes enable farmers to reduce costs and increase profitability.
- Have local ordinances that focus on the impact of production agriculture on the community and not on specific activities, equipment, or structures. If the activities and structures involved do not substantially differ from what is currently allowable, in both the type and scale of facility, or the intensity of use as it relates to sound, odor, emissions, and traffic, then the activity should be allowed as a normal part of a farming enterprise.
- Have definitions of home occupations or small business that are appropriate and compatible with agricultural areas? Home occupations and small businesses such as farm machinery repair shops, sawmill and other rural businesses are an important piece of the income stream for many farms today.
- Allow simpler design standards for site plan review regulations on agricultural businesses limited to seasonal use? Simpler standards for certain aspects of site plan review regulations make sense for agricultural uses, such as parking requirements for seasonal retailing or events. When agricultural uses are limited in scope and impact, they need not

be treated as if they were year round permanent businesses. Does your planning department apply the same site design requirements to a seasonal farm stand, open for only a few months in the daylight hours, as to a 24-hour grocery store?

- Allow flexibility to accommodate the unusual needs of on-premise production agriculture businesses? Do local regulations provide farm retailers with reduced restrictions on hours of business operation, temporary signs, parking near pick-your-own fields or on-street parking? Both the land use impact and the off-site impact of a seasonal farm business are much less than that of a full-time business. Pick-your-own strawberries or Christmas tree farm businesses will have a tough time surviving when required to meet the same standards as full-time retail establishments.
- Allow temporary off-site signs to attract and direct farm stand customers? Farm stands are often seasonal businesses that need to capture potential sales at harvest time. Signs that give directions to the farm stand and let customers know what items are available are vitally important.

Encouraging Farming and Forestry

Does your locality...

- Have a good idea of how much agriculture there is in your community? Consider preparing an agricultural profile to demonstrate the economic, cultural and natural resource value of agriculture in your locality. People often carry the misconception that “there is no agriculture in our county” if they do not see cows and barns on their daily commute. The changing nature of agriculture in Virginia needs to be accurately understood.
- Promote and encourage good stewardship of the land, including purchase of development rights, agricultural conservation easements, and other programs? There is a range of financial and technical assistance programs that can help landowners achieve their goals for the land, while protecting the natural resource base. These programs can help by establishing a stable and affordable block of land that will forever be available for farming.
- Have a local agricultural advisory committee or agricultural development office? These programs inform county leadership and the public about the location and needs of active agricultural communities. County-established programs should provide feedback to the local elected officials on the impact of policies on the farming sector.
- Promote local food security? Ensuring that local food production is safe, abundant and accessible are important to community sustainability and agricultural viability. Therefore, a locality should plan for and actively support a robust and resilient local food system that protects against local threats and insulates it from disruptions in food and transportation networks outside the community.

- Have any visible demonstration of the value of agriculture? Local events, such as Agriculture Appreciation Week, fairs, tours, farmer's markets, and regular media coverage keep the public aware of the farm sector. Making agriculture visible to the general public helps establish the economic, cultural and resource stewardship value of having active farms in the community.
- Have farmers serve on local boards and commissions? There are few better ways to incorporate agricultural concerns into local land use ordinances and regulations than having farmers serve on local boards. Help decision-makers keep a broad perspective by asking, "Have you thought of the consequences..."

Supporting Farm Profitability

Does your locality...

- Offer tax incentives that support farmers? Use-value taxation for agricultural, horticultural, forestall and open space land allows for land to be taxed at its use value or farming, rather than its market value for development. Localities can exempt farm machinery and farm implements from local taxes. Knowledge of these incentives can be very important to the viability of farm operations and the Commissioner of Revenue can help landowners understand the requirements for eligibility.
- Support the purchase of local foods? Farmer's markets, farm to school programs and farm to institution sales all support farmers by increasing demand for products. Local sales with some farm products minimize travel and also connect the community with farmers, strengthen the relationship between farmers and the community.
- Support the manufacture, production and distribution of local foods? Food distribution centers, community kitchens, canneries, and slaughterhouses provide farmers with additional ways to connect with their community and make it easier for consumers to purchase local foods.
- Include agriculture and forestry as part of the local economic development plan? Most economic activity generated by farms stays in the community. Public and private economic development efforts should consider adding value to farm products, agritourism promotion, transportation, handling sites and providing needed infrastructure for the farm economy.
- Thought about the role agriculture can play in community sustainability? Information on existing and potential capabilities of local farmers to offer waste-to-energy systems (e.g. anaerobic digesters), nutrient recycling (e.g. composting), and ecosystem services (e.g. nutrient credits) should be included in a community's economic development recruitment efforts as local sources of green energy, low tipping fees for organic waste streams, and a sophisticated approach to community sustainability is highly attractive to many companies.

- Employ an Agricultural Economic Development Officer? Agricultural Economic Development Officers or similar local positions have as their focus to support and increase the local agriculture economy.
- Know where to go to get assistance on agriculture issues? Make the connection to resources such as the Virginia Department of Agriculture and Consumer Services, Cooperative Extension Service, and Farm Bureau. They provide a range of services for farmers, citizens and policymakers that can increase the long-term benefits and viability of agriculture for everyone.

This checklist was adopted from a questionnaire included in the report “Planning for an Agricultural Future: A Guide for North Carolina Farmers and Local Governments” which was produced by the American Farmland Trust for the North Carolina Department of Agriculture and Consumer Services

APPENDIX 3

SOME SUGGESTED RESOURCES

Examples of actions by Virginia Counties to promote rural enterprise

Albemarle County – zoning ordinance revisions concerning farm wineries, farm stands, farm sales and farmer’s markets. Zoning ordinance amendments under consideration concerning home occupations in rural areas.

<http://www.albemarle.org/department.asp?department=cdd&relpage=3195>

Augusta County – zoning ordinance revisions to allow farmers to do more with their property to remain economically viable.

ftp://www.co.augusta.va.us/Advertised%20Draft/Clean%20Versions/VII_General%20Agriculture_adv_draft_v12%20with%20changes%20accepted.pdf

Bedford County – zoning ordinance amendments under consideration to address agritourism (e.g., festival uses, roadside agriculture sales of varying size, winery and pick your own refinements), and enhance sustainable agricultural lands.

Loudoun County – zoning ordinance allows “for a broad range of rural economy uses, including traditional and new agricultural uses (agriculture, horticulture and animal husbandry), agriculture support and basic services directly associated with on-going agricultural activities, and low impact non-rural uses that can be developed in ways that are consistent with the rural character of the rural economy uses through mitigation or other standards.”

See: Loudoun County Zoning Ordinance

http://www.loudoun.gov/Default.aspx?tabid=310&fmpath=/1993_Zoning_Ordinance_Revised
Article 2 (Non-Suburban District Regulations) and Article 6, Part 5 (Development Process and Administration)

Montgomery County – amended zoning ordinance to define “Farm Enterprise” and added new regulations. <http://www.montgomerycountyva.gov/content/1146/98/167/1905.aspx>

Some Resources in Virginia

Virginia Department of Agriculture and Consumer Services

<http://www.vdacs.virginia.gov/>

Office of Farmland Preservation

<http://www.vdacs.virginia.gov/preservation/>

Virginia Department of Forestry

<http://www.dof.virginia.gov/>

Virginia Division of Conservation and Natural Resources

<http://www.dcr.virginia.gov/>

Virginia Cooperative Extension
<http://www.ext.vt.edu/>

Virginia Farm Bureau
<http://www.virginiafarmbureau.com>

Virginia Agribusiness Council
<http://www.va-agribusiness.org/>

Virginia Outdoors Foundation
<http://www.virginiaoutdoorsfoundation.org/>

Piedmont Environmental Council
<http://www.pecva.org/>

Virginia Chapter of the American Planning Association
<http://apavirginia.org/>

Valley Conservation Council
<http://www.valleyconservation.org/>

Some National Resources

American Farmland Trust – Farmland Information Center
<http://www.farmlandinfo.org/>

Crossroads Resource Center
<http://www.crcworks.org>

Land Trust Alliance
<http://www.landtrustalliance.org/>

Rural Advancement Foundation International – USA
<http://www.rafiusa.org/>

USDA Farm and Ranch Lands Protection Program
<http://www.nrcs.usda.gov/programs/frpp/>

USDA Farm Service Agency
<http://www.fsa.usda.gov/va/>

USDA Natural Resources Conservation Service
<http://www.va.nrcs.usda.gov/>

Planning for an Agricultural Future: A Guide for North Carolina Farmers and Local Governments

http://www.farmlandinfo.org/documents/31721/FINAL_NCP4Ag_AFT.pdf