

**Meeting Notes**  
**York 2040 Committee**

Wednesday, March 1, 2023 – 5:00 p.m.

Senior Center of York

5314 George Washington Memorial Highway, Yorktown, Virginia

Members Present: Michael King, Gregory “Skip” Brooks, Chad Green, Eugene Seiter, Sheila Myers, Leigh Houghland, Rick Moberg, Cowles “Buddy” Spencer

Staff Present: Susan Kassel, Director of Planning and Development Services; Timothy Cross, AICP, Deputy Director of Planning and Development Services; Earl Anderson, AICP, Senior Planner; Cathy Tartabini, Planning Assistant; Jeanne M. Sgroi, Management Analyst; Gail Whittaker, Public Information Officer; Richard E. Hill, Deputy County Attorney; Kent Henkel, Public Works Environmental Engineer

Members Absent: Mark Bellamy, Rich Myer, Jacob Rizzio

Others Present: Douglas Holroyd

Call to Order

Chairman King called the meeting to order at approximately 5:00 p.m.

Opening Remarks

Chairman King welcomed everyone and stated that the purpose of the meeting was to discuss the draft Environment element of the Comprehensive Plan, which was distributed to the Committee members last week.

At Chairman King’s request, Mr. Cross introduced Kent Henkel, Environmental Specialist in the Stormwater Programs Division of the York County Department of Public Works. He explained that he had invited Mr. Henkel to attend the meeting as a subject matter expert. He stated that Mr. Henkel has significant experience and expertise in the environmental issues to be discussed tonight and will be able to answer questions and provide clarification as needed. Chairman King welcomed Mr. Henkel and thanked him for his attendance.

Ms. Myers commented that she read the draft Environment element three times and found it to be extremely well-done.

Approval of Meeting Notes

On motion of Ms. Myers, the meeting notes for January 4, 2023, were unanimously approved.

Committee Discussion of Draft Environment Element of the Comprehensive Plan

Chairman King asked Mr. Cross if he had any introductory comments to make before the Committee proceeds with its discussion. Mr. Cross stated that he found the Environment element to be the most difficult of all the elements to write. He stated that in the past few Comp Plan updates, staff relied heavily on a former Stormwater employee, Anna Drake, to write the bulk of this element. He added that Ms. Drake, who, together with another former employee, Amy Green, gave a presentation to the Committee on the County’s environmental programs early in this process and has a wealth of knowledge in this area, has since retired. Mr. Cross stated that Mr. Henkel was very helpful in putting the document together and that in addition, Committee member Jacob Rizzio served a summer internship in the Planning Division last

year and did the research and writing for most of the material on coastal resiliency. He added that Mr. Rizzio had hoped to attend this meeting but was unable to because of his mid-term exam schedule.

Chairman King opened the floor for comments on the draft document, beginning with the "INTRODUCTION" section on Page 1. Ms. Myers asked if air quality conformity designations are given to individual localities within a region or just to the region as a whole. Mr. Cross responded that the designations are applied to regions only. Chairman King added that he believes there are several air quality monitoring stations around Hampton Roads that provide the data for these designations, and he noted that a potential disadvantage of being in attainment with the air quality standards is that it can jeopardize a region's ability to obtain certain federal funds for transportation projects that are intended to improve air quality by reducing vehicle emissions, such as sidewalks and bicycle paths.

Mr. Spencer noted the exclusion of certain steep slopes from calculations of developable acreage and he stated that this might need to be reconsidered given the diminishing amount of developable land available. Chairman King and Mr. Cross responded that only a percentage of land with steep slopes is not counted as developable area. Mr. Seiter commented that he feels the discussion of topography in the draft document is very clear and well-written.

Mr. Cross commented that he inadvertently included two duplicate maps in the draft element that have different titles but show the same thing, which is the amount of land with an elevation of four feet or less above Mean Sea Level. He explained that the significance of this information relates to the issue raised by Mr. Spencer about steep slopes, which is that these low-lying areas are not included in the calculation of developable area. By way of example, he noted a large vacant parcel in the Baytree Beach area that contains more than one hundred acres, none of which has an elevation greater than four feet. For that reason, he explained, the property cannot be subdivided, so the most that can be built on it is one single-family detached home. Ms. Myers asked if federal regulations would prevent the property from being developed. Mr. Henkel responded that even if a lot consists entirely of non-tidal wetlands, an individual can obtain a permit to fill the wetlands and build a house with a driveway. He noted that this has happened in Baytree Beach, and he added that approval of the Chesapeake Bay Board would also be needed because the land is in the Chesapeake Bay Resource Protection Area (RPA). Mr. Henkel explained that with non-tidal wetlands, it is relatively easy to fill one-tenth of an acre, and he said this takes place every year or two with single-family detached homes. Ms. Myers asked if federally-owned property is subject to the same regulations. Mr. Cross responded that they are not subject to local regulations, and Mr. Henkel added that federal installations have environmental staffs that deal with these kinds of issues. Mr. Henkel stated that when the federal government wanted to perform shoreline restoration on Camp Peary, it submitted a Joint Permit Application, which goes through the County. Chairman King added that he works for the Navy and that it has environmental staffers who abide by the same state laws and try to be good partners and participate in environmental processes. Mr. Brooks added that the National Park Service complies with all federal Environmental Protection Agency (EPA) guidelines and also coordinates with the state Department of Environmental Quality (DEQ). Mr. Henkel noted that the National Park Service was recently issued a Joint Permit Application to perform shoreline work along the Colonial Parkway, and Chairman King added that the Yorktown Naval Weapons Station received a \$600,000 grant for a living shoreline and oyster bed.

Mr. Moberg asked what database was used for the Soil Erodibility map in the document. Mr. Cross responded that the information comes from a soil survey for York County, James City County, and the City of Williamsburg that was published in 1985 by the U.S. Department of Agriculture. Mr. Moberg commented that his entire property is shown on the map as having high erodibility potential but he has not observed any erosion in the forty or so years that he has lived there.

Regarding stormwater management, Chairman King commented that the County does a good job checking major drainage ditches and cleaning out leaves and performing preventative maintenance. Mr.

Henkel explained that this work is performed by the County's mosquito control crews that clean the ditches where the County has drainage easements recorded that give the County access to the property. Mr. Spencer asked how regional stormwater ponds compare to individual subdivision stormwater ponds. Ms. Kassel responded that no one is building regional ponds anymore. Mr. Spencer commented that a regional approach would seem to be more efficient for better utilization of land. Ms. Kassel said that might be true if land were available, and Chairman King added that constructing regional ponds would be difficult to do unless it were for a major development project. He noted all of the ponds that were built in connection with the widening of Interstate 64. Mr. Moberg stated that most of the projects he designs these days use underground water storage rather than ponds because of the high cost of land. Mr. Spencer stated that the real problem is in subdivisions when the pond has to be cleaned out after ten years or more because of sediment coming from adjacent neighborhoods that don't have stormwater facilities. Mr. Henkel commented that since there are not a lot of large parcels in the County that can be developed as stormwater ponds, most developers install stormwater management facilities to serve their individual developments. He added that to his knowledge no regional ponds have been developed in the County for a long time.

With regard to water quality, Chairman King stated that most York County residents receive their drinking water from Newport News Waterworks (NNWW). He asked about the upper County, to which Mr. Cross responded that some in the upper County are served by NNWW, some by the City of Williamsburg, some by Aqua Virginia – which is a private company that purchases its water from the City of Newport News – and some by the James City Service Authority, which serves a few small areas. Ms. Myers asked what determines if citizens are served by public water or wells. Mr. Cross responded that a lot of areas were developed before public utilities were available at a time when the County allowed lots as small as 15,000 square feet to be served by private wells and septic systems. He stated that in the 1990s the County undertook a water and sewer extension program called Target 2000, in which all unserved areas of the County were evaluated and ranked based on the cost-benefit of extending utilities. Ms. Myers noted that there are areas of the upper County that don't have public water and Mr. Cross said that is true, especially in the Skimino area. He explained that a property with no public utilities can be subdivided as long as each lot has at least two acres. He noted that all of the lots in Skimino Landing Estates are at least two acres in size because they are served by wells and septic systems. Mr. Spencer, who developed that subdivision, added that to extend water there would be cost-prohibitive.

Mr. Cross explained that the reason that the Environment element is unusually lengthy and contains a lot of detailed information is because the Code of Virginia spells out certain items that have to be specifically addressed in order to comply with the Chesapeake Bay Preservation Act. Ms. Myers noted that there are a lot of environmental regulations that must require a significant enforcement effort on the part of staff, and she asked if the County has staff who monitor, for example, if someone has an oil tank that is leaking. Mr. Cross responded that underground storage tanks are regulated at the state level and that there are state testing and reporting requirements for water quality. Mr. Henkel added that the County's Department of Public Works has a staff member designated for illicit discharges. He explained that if someone calls the County with a complaint, the County will investigate and contact the appropriate state agency.

Mr. Cross stated that the Oyster Beds map has been updated because a lot of new oyster leases have been approved since the last Comprehensive Plan. He stated that shoreline surveys are performed by the Health Department. Mr. Green added that the Health Department monitors active oyster grounds every thirty days and after major storm events. He also noted that beaches are checked by the state for water quality and that Yorktown Beach was temporarily closed at one time.

Chairman King commented that the Chesapeake Bay Preservation Act was adopted by the General Assembly in 1988, and Mr. Henkel added that the regulations were incorporated into the County Code in September 1990. Chairman King noted the Chesapeake Bay Preservation Areas map showing the

generalized location of the Resource Protection Areas (RPAs) and Resource Management Areas (RMAs), and he explained that when development is proposed, these areas have to be checked in the field to determine if they actually meet the criteria.

Chairman King noted that the draft document states that there are 1,200 docks and piers in the County and he asked Mr. Cross if that number includes residential as well as commercial docks. Mr. Cross said it does. Mr. Spencer commented that he believes the issue of non-tidal wetlands is misunderstood by a large proportion of the population. He opined that the distinction between lands that are or are not considered to be non-tidal wetlands is fairly arbitrary and that different wetland delineators will reach different conclusions as to whether or not non-tidal wetlands exist on a particular piece of property. He stated that some people are extremely zealous about protecting land and preventing development. Mr. Spencer stated that designating an area as wetlands can cost the developer hundreds of thousands of dollars per acre to disturb an area that might not even have wetlands. Mr. Henkel noted that wetlands delineations have to be approved by the U.S. Army Corps of Engineers (USACE). Mr. Spencer stated that environmental regulations can deprive a landowner of their property rights and that there needs to be a balance between environmental and economic interests. Chairman King responded that the environmentalists' counter-argument would be that there are developers who are over-zealous in their desire to develop property. Mr. Moberg commented that a wetlands assessment is required for almost all of his projects. He stated that developers can buy wetlands credits to mitigate the disturbance, but that is expensive. From the County's standpoint, Mr. Henkel explained that a Natural Resources Inventory is required for proposed development, and that includes Chesapeake Bay RPAs and wetlands, which have to be confirmed by the USACE. He stated that once the wetlands have been confirmed, the County's role is either to prohibit development in those areas or to require mitigation. Mr. Spencer responded that wetlands mitigation can be cost-prohibitive. He added that it can take a year or more for the USACE to make a determination, and Mr. Henkel responded that he hears similar complaints from developers but the County has no authority over the Corps and cannot expedite its reviews. Mr. Moberg added that sometime the USACE wants to do multiple tests over different seasons, which further delays construction projects.

Chairman King noted that coastal resiliency is a hot topic these days. He stated that the Sewells Point tide gauge is located at Norfolk Naval Base and has been there since in 1926. Since then, he said, the sea level has risen 18 inches. He stated that if that trend were to continue over the next 75 to 100 years, half the installation would be underwater. Ms. Myers noted that York County has a Community Rating System (CRS) rating of seven and asked why it isn't higher. Mr. Cross responded that a rating of seven is actually pretty good. She said that she understands the stated goal of improving the rating to six, but she felt that six seems low and that the ultimate goal should be to achieve a rating of one. Mr. Henkel responded that there are only two localities in the country that have a rating of one. Mr. Green added that a few years ago the County improved its rating from eight to seven. Mr. Henkel stated that most localities in Hampton Roads have ratings of either six or seven. He explained that localities are awarded points for certain actions, such as preserving open space in the floodplain through the cluster subdivision provisions of the Zoning Ordinance. Mr. Henkel stated that the County is working to improve its rating to six. He added that there are only few localities in the entire country that have ratings of four or better.

Chairman King asked Mr. Cross to comment on the material on Pages 18-19. Mr. Cross stated that as the Committee is aware, the Code of Virginia requires all the localities in Hampton Roads to address sea level rise and coastal flooding in their comprehensive plans. He stated that there is also a requirement that the localities in "Tidewater Virginia," which includes Hampton Roads and many other localities, to include guidance from Virginia Institute of Marine Science (VIMS) regarding coastal resource management. Mr. Cross explained that the VIMS website includes language that can be incorporated into the Plan in some way in order to meet this requirement. He stated that some of the language from the VIMS website is included on Page 19 and interspersed throughout the draft Environment element.

Chairman King opened the floor for comments on the “PLANNING ISSUES FOR THE FUTURE” section of the document. Mr. Spencer said he was pleased to see the language about reducing the minimum area for a cluster subdivision from ten to five acres, as he had recommended at a previous meeting. Ms. Myers noted that based on the previous discussion, making that change could also help the County improve its CRS rating. Mr. Cross added that the capital improvement projects listed on Page 20 can also help by enabling the County to meet its Total Maximum Daily Load (TMDL) targets.

Regarding Table 2, Ms. Myers asked why the groundwater demand in Gloucester is so high. Mr. Cross said he didn’t know. Chairman King asked if the SWIFT (Sustainable Water Initiative for Tomorrow) initiative is discussed in the draft document. Mr. Cross responded that there is significant discussion of SWIFT. Chairman King explained that the SWIFT initiative involves the injection of treated water into the ground, but he said that would only partially offset the growing demand for groundwater. Mr. Cross commented that according to the *State Water Resources Plan*, there is reason for concern about the long-term availability of groundwater, which is one of the reasons the draft Environment element discusses the SWIFT program to recharge the aquifer as well as other efforts, such as the State Water Control Board’s negotiations with heavy groundwater users to reduce their withdrawals. Ms. Myers asked if the County uses treated wastewater for irrigation or fountains. Mr. Green responded that the HRSD plant in Seaford treats wastewater such that it is deemed safe to drink.

Mr. Houghland asked if there is any concern about saltwater impregnation into the aquifer if the sea level continues to rise. Mr. Cross responded that saltwater intrusion is a concern, and Chairman King said it is already occurring and that he believes one of the objectives of the SWIFT program is to address this.

Chairman King explained that the region adopted guidance recommending that localities plan for certain rates of sea level rise measured at the Sewells Point Tide Gauge and make decisions based on those projected levels. Ms. Myers noted a typographical error on Page 24, line 31. Mr. Cross stated that it should read “2100” rather than “2011”.

Mr. Spencer asked Mr. Henkel how the County addresses the issue of homeowners whose property is located in the floodplain and want to mitigate flooding by building up their yards but are not permitted to fill because the property is in the Chesapeake Bay RPA. Mr. Henkel responded that the County allows fill in the RPA as long it does not kill all the vegetation. He added that the state is changing the Chesapeake Bay regulations to require that sea level rise and climate change be considered in every decision made regarding development in the RPA buffer.

In response to a question from Ms. Myers, Mr. Cross clarified that Resource Conservation (RC) is a zoning district that corresponds to the Conservation land use designation in the Comprehensive Plan.

Mr. Spencer asked Mr. Cross where he took the photo showing a piece of property with two signs, one expressing support for a proposed rezoning from Rural Residential to Resource Conservation and the other in opposition to the rezoning. Mr. Cross responded that to the best of his recollection, the property was located along Seaford Road. Mr. Green added that in 2006-07 when the rezoning was proposed, he was opposed, while some of his friends were in support. He said that after they discussed it, they realized they all wanted the same thing for Seaford. Mr. Cross added that the proposed rezoning is discussed on Page 26.

Chairman King opened the discussion of the proposed goal, objectives, and implementation strategies. Ms. Myers commented that she thinks this section is all very well-written. She asked about the intent of Strategy 2.2, and Mr. Cross explained that the Hazard Mitigation Planning Group is supposed to meet at least once a year and that the strategy is intended to convey that hazard mitigation planning needs to be an ongoing process.

Ms. Myers asked what can be done to prevent vehicles from sitting at red lights and producing tailpipe emissions. Chairman King spoke about the timing and synchronization of traffic signals. Mr. Brooks cited flashing yellow arrows as an example of an intersection enhancement that reduces emissions. Mr. Moberg commented that the country does not have the infrastructure to totally power electric vehicles from one end of the country to the other. Mr. Cross said that is correct and that implementation needs to be a gradual process, as is stated in the implementation strategy. Mr. Brooks and Chairman King agreed that it needs to be a slow process as described in the draft document. Mr. Seiter added that building more sidewalks and bike paths so that people don't have to drive their cars needs to be part of the solution as well. Mr. Cross agreed and noted that Strategy 3.3 says exactly that.

Chairman King noted that one of the strategies addresses the need to design resiliency into new construction. Mr. Moberg stated that architects have a program called Leadership in Energy and Environmental Design (LEED) that focuses on sustainable materials, recyclable materials, low VOC levels (volatile organic compounds that are not harmful to the environment), stormwater, and other requirements for LEED certification. Chairman King stated that he believes the federal government requires all new federal buildings to be constructed to the Gold level of LEED certification, which he said can be expensive. Mr. Henkel added that VDOT has recently developed draft resiliency guidelines for road infrastructure.

Mr. Spencer commented on Strategy 6.4, which is to "Utilize low-density zoning and other methods to limit development in areas vulnerable to flooding and sea level rise." He stated that there are other techniques besides low-density zoning, such as vertical construction, that can reduce the vulnerability of new construction. Mr. Cross responded that the strategy includes the words "and other methods" and therefore does not limit the range of options to low-density zoning.

#### Citizen Comments

Douglas Holroyd offered comments on the draft Environment element, which he said is very well-written. He stated that while he appreciates the County's initiative in installing charging stations for electric vehicles throughout the County, he questioned the policy of distributing the power for free, and he expressed concern that the County might be creating a sense of entitlement that it might regret later. Mr. Holroyd also noted that Table 1 on Page 6 mentions the Queens Lake ravine project but that the dam restoration and its cost are not included. Mr. Cross responded that what is shown in the table are projects that are in the current adopted CIP and not the proposed CIP. He stated that once the CIP for FY2024 through FY2029 is adopted, the table will be updated. With regard to the free charging stations, Mr. Green explained that one of the reasons is to encourage people to shop in York County while their vehicles are being charged. He added that at some point a future Board of Supervisors might want to reconsider that policy. He noted that the charging stations were provided free by Tesla and that it probably costs \$2 to \$3 dollars for a charge, and the average Tesla driver is likely to spend a lot more than that at the Yorktown waterfront.

Continuing with his comments, Mr. Holroyd stated that he believes the Lightfoot wells are having a negative impact on the aquifer that serves residential wells in that area. He also suggested that the document make reference to a compensation program that is available to property owners who need to have their wells re-drilled. Mr. Holroyd asked how violations regarding septic tanks are tracked and how the appropriate people are notified. He said his understanding is that they are handled by the Health Department but he has been having difficulty contacting that agency. Mr. Henkel responded that he would find the correct phone numbers to call and would provide them to Mr. Holroyd. Mr. Holroyd questioned Figure 4 on Page 23, which shows no change in the Peninsula's water supply from 2020 through 2040. He said he believes aquifer levels are declining, which should indicate a decrease in supply. Mr. Cross responded that the information in the table came from the Hampton Roads Planning District Commission's *Updates to the Water Supply Plan* document referenced on the same page. He agreed to

double-check that document to ensure that the numbers are correct. Lastly, with regard to air quality, Mr. Holroyd said he felt there should be some discussion of ways to reduce truck volumes on the County's roads.

#### Other Business

Chairman King asked Mr. Cross what the Committee's next step is. Mr. Cross responded that the Environment element is the final Plan element for the Committee to review and that staff is working on revisions to the draft elements and chapters that have been previously reviewed. He said staff plans to compile these into a single draft Comprehensive Plan document, which it hopes to distribute to the Committee within a couple of weeks so that it can be discussed at the April 5 meeting. He added that to assist the Committee members in their review, staff is also preparing a summary of all the changes to the previous drafts. In addition, he stated that the document will be posted on the project website for public review and comment and, once endorsed by the Committee, would be forwarded to the Planning Commission for its review. Mr. Houghland asked if the Committee will have completed its work once it has endorsed the draft Plan. Mr. Cross said that is correct. Chairman King added that even though the Committee's formal work will be finished at that point, he would encourage all of the members to stay engaged and involved in the process as the draft Plan works its way through the Planning Commission and the Board of Supervisors and to attend the meetings of those bodies when they discuss the draft Plan.

#### Adjournment

The meeting was adjourned at 6:48 p.m.