

MEMORANDUM

DATE: July 25, 2006
TO: The Board of Supervisors
FROM: Kathryn Sipes, Planner
SUBJECT: 2006 Agricultural and Forestal District (AFD) Renewals

Agricultural and Forestal Districts

In 1977, the Virginia General Assembly created a process to “provide a means for a *mutual* undertaking by landowners and local governments to protect and enhance agricultural and forestal land as a viable segment of the Commonwealth’s economy and an economic and environmental resource of major importance.” The process also provides land owners an opportunity to try to protect their land from the pressure to develop. This process is known as the Agricultural and Forestal Districts (AFD) Act. The Act gives local governments authority, upon landowners’ voluntary application, to establish Agricultural Districts, Forestal Districts, and Agricultural and Forestal Districts.

Land within a District is directly affected in three ways:

1. District land qualifies for the benefits of use-value taxation, subject to local regulations; and
2. Restraints are imposed on government, as it may affect a property. More specifically, local governments may not restrict farming or forestry practices, except to protect public health or safety. Local comprehensive plans and zoning/subdivision ordinances apply to District land only to the extent that they do not conflict with either the conditions of the District or the purposes of the AFD Act. Local plans, ordinances, and decisions affecting land adjacent to a District must take into account both the District and the AFD Act. State agencies must modify regulations and procedures to encourage farming and forestry within Districts. Land acquisition by agencies, political subdivisions, or public service corporations (including acquisition by eminent domain) must be reviewed by the Board of Supervisors if the land acquisition in question exceeds 10 acres from the District or one acre from any one District farm or forestry operation. Finally, no special purpose assessments or taxes may be imposed on the basis of frontage, acreage, or value of land used for agricultural or forestal production within a District; and
3. A property owner wishing to keep his land in farming or forestry is protected from adjacent incompatible uses when his neighbors join with him in an AFD.

Current AFD statistics and facts

State code specifies a minimum acreage for each District of 200 acres. As shown in the following spreadsheet, there are currently 18,080± acres of land within the AFD program. This acreage represents approximately 20 percent of the total land area of the County. The AFD program began in James City County in 1986 and there have been four previous major review periods of AFD Districts (1990, 1994, 1998, and 2002).

Of the 14 Districts, nine are set to expire in August. The Districts set to expire are highlighted in bold print below.

Agricultural and Forestal Districts (As of July 2006):

<u>District Name and Term of District in Years ()</u>	<u>Acres</u>	<u>Exp. Date</u>
AFD 1-94 Wright's Island (8)	1,454.41	8/13/2010
AFD 2-86 Croaker (4)	1,078.00	8/13/2006
AFD 3-86 Hill Pleasant Farm (4)	573.62	8/13/2006
AFD 4-86 Pates Neck (6)	624.30	11/17/2006
AFD 5-86 Barne's Swamp (4)	1,875.00	8/13/2006
AFD 6-86 Cranston's Pond (4)	1,087.81	8/13/2006
AFD 7-86 Mill Creek (4)	3,346.00	8/13/2006
AFD 9-86 Gordon Creek (4)	3,343.00	8/13/2006
AFD 10-86 Christenson's Corner (4)	562.16	8/13/2006
AFD 11-86 Yarmouth Island (4)	2,031.40	8/13/2006
AFD 12-86 Gospel Spreading Church (4)	1,190.76	8/13/2006
AFD 1-89 Armistead (4)	311.54	11/17/2010
AFD 1-93 Williamsburg Farms (4)	280.04	11/17/2010
AFD 1-02 Carter's Grove (4)	320.37	10/8/2006

	<u>Acres</u>	<u>Sq. Miles</u>
AFD Total	18,078.41	28.25
Total County Area: Land	92,224.00	144.10
Total County Area: Water	20,224.00	31.60
Total County Area: Land & Water	112,448.00	175.70

AFD percentage of Total County Area	16.08 percent
AFD percentage of Total Land Area	19.60 percent

Length of terms for individual Districts

Of the 14 AFD's in existence today, 12 have four-year terms, one has a six-year term, and one has an eight-year term. The State Code governing AFD's allows the establishment of a District for a minimum of four years and to a maximum of ten years. The Code also provides the Board of Supervisors (the Board) discretion to establish Districts for any term it deems appropriate, which may be from four-year to ten-year terms. In the past, the length of the term has been left up to the property owner. Staff is recommending that if continued, Districts be re-established for a term of four years and three months. The additional three months are a one-time addition allowing the County to synchronize the terms of all Districts so that they expire in the same month. Synchronizing the Districts will not only make it easier to administer the renewal process but also allow the Board to review the AFD program and associated policies as a whole in 2010.

When an AFD comes up for renewal

The review process is similar to other land use cases that come before the Board with several exceptions. The review of Districts begins at least 90 days before the expiration date of the District or Districts.

If there are any proposed changes to the AFD policy or to the conditions of any of the Districts, the County must convey those proposed changes to the affected property owners. During this review period the County sends notice of the renewal to all affected property owners. During this time, the County must give all AFD

property owners the opportunity to withdraw any or all of their property from the AFD. Owners do not need the Board approval to withdraw at this time. If the Board chooses to renew or “continue” the particular District, the Board simply renews the District without the acreage that has been voluntarily withdrawn.

Owners who choose to add more land to an AFD, either during the review period or during the term of the District, must file a written application to do so. The AFD Advisory Committee, the Planning Commission and the Board of Supervisors review these requests. Other agencies involved in the review process include the

Virginia Department of Forestry, and the Soil and Water Conservation Service. The AFD Advisory Committee and the Planning Commission review each new District, and any addition to, or withdrawal from, any existing District. The County notifies adjacent property owners, posts signs, and places public hearing ads in the local newspapers for renewals and additions as required by State Code. While the District renewals require public hearings, voluntary withdrawals of individual properties *during the review period* do not require the Board approval or public hearing.

Withdrawal of property from an AFD

Before a proposed District is created, and during the review of an existing District, landowners may withdraw their land simply by filing a written request. Also, when a landowner dies, the heirs may withdraw the land from a District at any time within two years of the date of death. Land withdrawn from a District by these two methods neither terminates a District nor causes a rollback tax to become due. The District continues at least until the time of its expiration date. The rollback tax (five years worth), becomes due only if the use of the withdrawn land is changed to a non-qualifying use (i.e., non-agricultural or non-forestal) during the six succeeding tax years. At other times, withdrawals must be approved by the Board, which has established withdrawal policies.

Conditions of approval on the Districts up for renewal

When AFD’s 2-86, 3-86, 5-86, 6-86, 7-86, 9-86, 10-86, 11-86, and 12-86 were last renewed in 2002, the following conditions were placed on the Districts:

1. The subdivision of land is limited to 25 acres or more, except where the Board of Supervisors authorizes smaller lots to be created for residential use by members of the owner’s immediate family, as defined in the James City County Subdivision Ordinance. Parcels of up to five acres, including necessary access roads, may be subdivided for the siting of communications towers and related equipment, provided, a) The subdivision does not result in the total acreage of the District to drop below 200 acres; and b) The subdivision does not result in a remnant parcel of less than 25 acres.
2. No land outside the Primary Service Area (PSA) and within the Agricultural and Forestal District may be rezoned and no application for such rezoning shall be filed earlier than six months prior to the expiration of the District. Land inside the Primary Service Area (PSA) and within the Agricultural and Forestal District may be withdrawn from the District in accordance with the Board of Supervisors’ policy pertaining to Withdrawal of Lands from Agricultural and Forestal Districts within the Primary Service Area, adopted September 24, 1996.
3. No special use permit shall be issued except for agricultural, forestal or other activities and uses consistent with the State Code Section 15.2-4301 et. seq. which are not in conflict with the policies of this District. The Board of Supervisors, at its discretion, may issue special use permits for wireless communications facilities on AFD properties which are in accordance with the County’s policies and ordinances regulating such facilities.

Also, generally any land within the District that is within 25 feet of an adjoining public road is excluded from the District. This exclusion allows for possible future road and/or drainage improvements.

Summary of changes to Districts during this renewal period and staff recommendations

AFD 2-86 Croaker

- Taskinas, LLC would like to remove Parcel (14-4)(1-3) consisting of 29 acres.
- After the withdrawal, the size of the District will be approximately 1,049 acres.
- Staff recommends continuation of the remainder of the District.

AFD 3-86 Hill Pleasant Farm

- Mr. Don Hunt would like to withdraw six acres from Tax Map (24-1)(1-5).
- After the withdrawal, the size of the District will be approximately 567.62 acres.
- Staff recommends continuation of the remainder of the District.

AFD 5-86 Barnes Swamp

- Toano Business Center would like to remove Parcels (4-1)(5-1); (4-1)(5-2); (4-1)(5-3); (4-1)(5-4); and (4-1)(5-5) formerly listed as (4-1)(1-8), totaling 88.376 acres.
- After the withdrawals, the size of the District will be approximately 1,786.13 acres.
- Staff recommends continuation of the remainder of the District.

AFD 6-86 Cranston's Pond

- Withdrawal requests include all six Marston properties, totaling 85.61 acres and identified as Parcels (1-90), (1-33), (1-34), (1-35), (1-36), (1-37) on Tax Map (22-2); and both Heath properties, totaling 25.91 acres and identified as Parcels (22-3)(1-33), and (21-4)(1-39). In addition, the Ripley parcel, identified as Parcel (31-2)(1-3), was approved for a family subdivision earlier this year, and the two-acre subdivision is being withdrawn from the District at this time.
- After the withdrawals, the size of the District will be approximately 974.239 acres.
- Staff recommends continuation of the remainder of the District.

AFD 7-86 Mill Creek

- The Cowles Family Limited Partnership would like to remove Parcel (20-1)(1-1) consisting of 433 acres.
- After the withdrawal, the size of the District will be 2,913 acres.
- Staff recommends continuation of the remainder of the District.

AFD 9-86 Gordon Creek

- W.A. Thompson and Charles Flemming will be removing three acres from Parcel (36-2)(1-40). The size of the remaining parcel will be 136.96.
- David and Stephanie Allen will be removing 25 acres from Parcel (34-2)(1-2). The size of the remaining parcel will be 132.98.
- John Carswell will be adding 28.36 acres of land at 2743 Jolly Pond Road. The property can also be identified as Parcel (35-2)(1-10). Parcel (43-2)(1-3), which is approximately 210 acres, has been added from the Barrett's Ferry AFD.
- After the withdrawals and with the addition, the size of the District will be 3,343.804 acres.
- Staff recommends continuation of the remainder of the District.

AFD 10-86 Christenson's Corner

- No changes are currently proposed.
- Staff recommends continuation of the District.

AFD 11-86 Yarmouth Island

- No changes are currently proposed.
- Staff recommends continuation of the District.

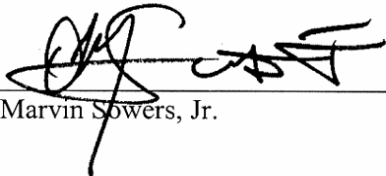
AFD 12-86 Gospel Spreading Church

- Mr. Lyman Hall, Jr. would like to remove Parcels (47-4)(1-13) consisting of 39.11 acres and (47-4)(1-11) consisting of 17.89 acres, for a total of 57 acres.
- After the withdrawal, the size of the District will be 1,133.76 acres.
- Staff recommends continuation of the remainder of the District.

Attached to this report are memorandums containing the detailed reports for each District that is up for renewal. In total, approximately 755.36 acres of land will be removed from the James City County AFD program during this renewal period, leaving approximately 17,354 acres (18.82% of Total Land Area) remaining in AFDs.

Kathryn Sipes

CONCUR:



O. Marvin Sowers, Jr.

MCB/nb

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Attachments:

1. Overall AFD Map
2. Unapproved AFD Advisory Committee Minutes from June 27, 2006
3. Unapproved PC Minutes from July 10, 2006