

**ADDRESSING SUSTAINABLE PUBLIC ACCESS IN THE VIRGINIA  
COASTAL ZONE**

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**Introduction**

In the diverse Virginia coastal zone, only one percent of the shoreline is publicly owned. Providing residents and visitors with sufficient public access to natural resources is therefore challenging. It is important not only to offer access points through publicly owned land, but also to give the public meaningful coastal experiences incorporating Virginia's maritime heritage and natural wonder. The Middle Peninsula Chesapeake Bay Public Access Authority (MPCBPAA or PAA), a Virginia political subdivision, was established in 2003 to identify, acquire, and manage regional water access opportunities that can be used by the general public for passive and low-impact recreation. Since its inception, the PAA has leveraged almost \$3 million dollars in state and federal funds to address public access issues, incorporating such innovative solutions as utilizing inmates to construct and maintain public access projects and leveraging local disability services boards to enhance disabled features in PAA-managed areas. It frequently partners with the public, governmental agencies, non-governmental organizations, and private citizens to respond quickly to acquire land that can be used by the public in perpetuity; develop management plans that support long-term public access, resource protection, and traditional uses; manage user conflicts within existing access sites; coordinate with regional localities to maximize conservation efforts in sensitive areas; and procure sustainable funding for PAA activities. This presentation will address the utility of an innovative government entity that functions to provide focused attention to public access issues and solve a multitude of local concerns.

**Background**

In 2003, the Virginia General Assembly approved House Bill 619, creating the institutional framework for Middle Peninsula local governments to address public access on a regional basis and enabling the creation of the Middle Peninsula Chesapeake Bay Public Access Authority (MPCBPAA or PAA). Composed of elected officials and local government administrators from five counties and three towns, the MPCBPAA is a political subdivision that serves the public access needs of the encompassed communities along more than 1,000 square miles of the Virginia coastal zone. The PAA was enabled to identify, acquire, and manage water access opportunities that could be used by the general public for passive and active activities. It frequently partners with state and federal agencies, non-governmental organizations, and private citizens to promote land acquisition and

the enhancement of public access in the Middle Peninsula region. Since its inception, the MPCBPAA has leveraged almost \$3 million for public access acquisitions and improvements. The PAA has incorporated such inventive measures as using local inmates for construction and renovation of public access projects; leveraging local disability services boards to improve disabled features in PAA-managed areas; and utilizing itself as a tool to create public wetlands banks.

The MPCBPAA recognizes that shorelines are high priority natural areas. As the Middle Peninsula becomes more densely populated and development along the waterfront intensifies, it is critical that localities conserve public access sites for all types of recreational activities. These activities associated with Chesapeake Bay rivers, embayments, tidal creeks, lakes, and marshes are vital to the citizens, economy, and natural maritime heritage of the Commonwealth. Sustainability and expansion of sites across the region is critical due to the scarcity of prime access sites and the time required to develop new sites. The MPCBPAA continues to acquire and manage fee simple or public access rights on small, medium, and large parcels, thus creating or enhancing access points to Middle Peninsula waterways.

### **Public Land Acquisition, Conservation, and Restoration**

#### **The Browne Tract**

Regarded as the region's first multi-use public access facility, the Browne Tract is a 274-acre parcel of land straddling Essex and King & Queen counties in the Dragon Run watershed. The MPCBPAA owns and manages 137 acres of the tract as public open space; the residual 137 acres are managed by the Virginia Department of Forestry as a state forest. Presently, on its parcel, the PAA is implementing strategies from the Browne Tract Management Plan, which provide for long-term, passive and low-impact public access; natural resource protection; and sustainable, traditional uses, such as forestry and hunting. In the near future, the PAA looks to develop a Browne Tract Aquatic and Wildlife Habitat Management Plan. The plan should, among other things, identify, quantify, and characterize key and sensitive habitats and species present; categorize extant invasive species and provide for management techniques; discuss creation of resource protection areas and "special management areas" to demonstrate Best Management Practices (BMPs) for timber harvesting; present a plan for wildfire prevention and control; and discuss strategies to monitor and protect water and sediment quality through the implementation of agriculture and forestry BMPs.

Since purchasing the Browne Tract in 2003 with grants from the Virginia Coastal Zone Management (CZM) Program at the Department of Environmental Quality, the PAA has completed a number of enhancement projects on the tract. A gravel parking lot designed to reduce soil erosion and create a buffer to nutrient and sediment overloading in the Dragon Run Swamp has been added. Two duck blinds and eight, double-occupancy deer hunting stands have been established along the hunting trails. Inmate crews participating in the PAA's work program with the regional jail successfully cut and temporarily demarcated the property's nature

trails, cleaned the Browne Family cemetery, and rebuilt the footbridge and nature viewing area leading onto the parcel. In the near future, work crews may be utilized to establish wood duck nesting boxes and install a Dragon Run Public Access Informational Kiosk. The kiosk will contain information about public access, appropriate conduct on the tract, and the physical dangers of boating in a wilderness area. Site-specific information, such as fishing restrictions, species guides, and on-site activities of interest also will be posted.

As the number of visitors frequenting Browne increases, the MPCBPAA recognizes the potential for competitive uses, such as hunting, hiking, and horseback riding, to conflict. Until recently, there were a number of trails running throughout the parcel, which were marked with yellow flagging tape, making it difficult to differentiate multiple zones. In order to minimize conflicts among users, the PAA chose to improve Browne's trail demarcation system. A grant from the Chesapeake Bay Restoration Fund and labor provided by a local Boy Scout troop permitted the PAA to create an effective, permanent demarcation system in February 2008. This was accomplished by applying reassurance markers, or blazes, to trees along all trails of Browne. Currently, the MPCBPAA is evaluating the efficacy of the new trail system by surveying local users of the tract.

#### CELCP Acquisitions

In September 2007, a federal grant from the Coastal and Estuarine Land Conservation Program (CELCP), distributed through the Virginia CZM Program, permitted the MPCBPAA to acquire and open to public access 357 acres in the Dragon Run watershed, specifically the Dragon Bridge, Jackson, and Haworth Tracts. Again in early 2008, CELCP funding was used to acquire a fourth parcel, the 209-acre Clay Tract, which abuts Dragon Bridge and Jackson in the center of the watershed. All four holdings will be linked with the Browne Tract in the upper portion of Dragon Run and with currently-protected neighboring forest and swamp lands to expand the zone of conservation within, stabilize, and protect the entire watershed. Additionally, commencing with the Haworth Tract in February 2008, the PAA will utilize input from the public, local and state government, and non-governmental organizations in the region to develop a stakeholder-driven, long-term stewardship plan for each of the four CELCP parcels. The land management plans will incorporate passive and low-impact, active public access to associated land- and water-based ecosystems, habitat core conservation, and multiple, traditional uses. These uses may include walking, fishing, paddling, bicycling, hunting, forest and habitat management, water quality monitoring, and educational opportunities. An aquatic and wildlife habitat management plan similar to that for the Browne Tract but specific to each CELCP property also will be developed.

#### Land Donations

In 2008, the MPCBPAA will have conserved and opened to public access more than 1,000 acres of land with waterfront access in the Middle Peninsula. Early this year, the PAA, working with The Nature Conservancy (TNC), will partner to transfer 350 acres of waterfront property in Mathews, King William, King and

Queen, and Gloucester Counties for conversion to public lands for passive and low-impact, active recreational uses. Phase I of the TNC land donations will focus on the PAA acquiring Guinea Marshes – 189 acres of islands with high ecotourism potential at the tip of Gloucester County and the Garrett Tract – a 12.5 acre island on the Mattaponi River in King William County. Acquisition of the Garrett Tract, an area prime for waterfowl hunting, will give the PAA a significant presence in King William and provide much needed public access to the community.

#### Wetlands Banking

The Virginia Marine Resources Commission recently circulated a Mitigation-Compensation Policy to address the net loss of wetlands due to construction and repair projects. Constituents have three options to mitigate wetlands loss: onsite mitigation, offsite mitigation within the watershed, or pay a fee-in-lieu to the county for mitigation. For certain rural localities in the Middle Peninsula, however, there are few to no private wetlands banks available from which residents can purchase credits, making mitigation difficult. The MPCBPAA has proposed addressing this local public access issue by using itself as a tool to create and manage wetland banks. This ensures consistency in the delivery of services, lowers the cost to citizens and localities of mitigating the net loss of wetlands, and enhances passive public access to the York River and small coastal basins region. Beginning this year with Gloucester County, the PAA looks to acquire and convert local land holdings, including potentially six Gloucester-owned FEMA buyout parcels, and portions of the Shenk property – a 14-acre, PAA-owned parcel on the southwest branch of the Severn River, to create bank credits and build a public wetlands bank. The PAA will then establish strategies, through the development of a wetlands bank management plan, to manage the properties cohesively.

#### VDOT Landing and Road Ending Transfers

Pursuant to Virginia State Code 15.2-6600 through 15.2-6625, the MPCBPAA has been charged with identifying land owned by the Commonwealth or private holdings that could be secured for use by the general public as public access sites. Funding from the Virginia CZM Program allowed the MPCBPAA to identify 300 roadways with public access capabilities running to or near waterways in the Middle Peninsula. Five properties representative of a broad range of landings in the region were then investigated. The PAA commissioned Beale, Davidson, Etherington, & Morris, P.C. to develop a report entitled “Landing and Road Ending Acquisitions” that identified ownership of each site, obstacles that could impede easement conveyance to or acquisition of the sites by the MPCBPAA, and solutions to those obstacles. Recommendations presented in the report suggested that legislative action was necessary to permit the transfer of ownership interests in Virginia Department of Transportation (VDOT) road endings, without the requirement of abandonment or discontinuance, to any Public Access Authority. These recommendations were presented to the General Assembly (GA) as House Bill 2781 in January 2007. The bill, sponsored by Delegate Harvey Morgan, unanimously passed the GA and was approved by Governor Kaine in March 2007.

Currently, the MPCBPAA is working with VDOT to acquire the first of the five road endings, Lower Guinea Landing, at the end of Kings Creek Road in Gloucester County. The PAA looks to finalize the landing transfer later this year and begin development of a road ending management plan for the parcel.

### **Summary**

The Middle Peninsula Chesapeake Bay Public Access Authority was enabled to identify, acquire, and manage water access opportunities in the Middle Peninsula and throughout the Virginia coastal zone that could be used by the general public for passive and low-impact activities. Given the unique utility of the MPCBPAA, the program and its projects are constantly evolving, keeping the provision of public access a high priority in the Middle Peninsula without expending any local dollars. Efforts by the MPCBPAA to promote land acquisition, conservation, and restoration; enhance sustainable public access to regional waterways; and encourage public appreciation for and education about the natural environment continue to be successful due to collaborations with and generous funding from a number of state and federal agencies, non-governmental organizations, and private citizens. The PAA recognizes that effective land management requires development of site-specific, comprehensive stewardship and wildlife/habitat management plans. Therefore, the PAA, with input from its network of partners, continues to draft such plans for each property it acquires. The management plans are designed to conserve wildlife and habitat corridor connectivity and quality; maintain passive public access to associated land- and water-based ecosystems; support multiple, traditional uses; and minimize conflicts among competitive uses.

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