

for want of a Working



Thanks to its public access authority and generous land donations, Virginia's Middle Peninsula is restoring derelict wharves for watermen and recreational boaters alike.

Waterfront

by Marty LeGrand | photographs by Jay Paul



WHEN BLUE CRABS MIGRATE UP THE YORK RIVER EVERY summer, Gloucester County watermen follow. For more than 70 years, their workboats have slipped in and out of Aberdeen Creek, a small, sheltered waterway tucked into the middle York's rural east shore. Here the watermen use a turning basin and public wharf that, despite their modest size, make Aberdeen the county's second-busiest commercial seafood harbor, landing \$3.5 million worth of oysters and crabs last season. ¶ Late on a brisk March afternoon the creek rests quietly, muffled by islands of ice as thick as a fisherman's forearm. A dead-

rise slowly makes its way along the ice-cleaved channel toward the wharf, a pair of creaky L-shaped piers that don't quite meet in the middle. Local waterman Rob Rowe ties off and climbs onto what appears to be the older (but perhaps sturdier) structure where he'll wait for a truck from Gwynn's Island to offload his boat full of bushel baskets heaped with goodly sized York River oysters.

A year-round oysterman and summer crabber, Rowe says business was hopping at this wharf 10 or 15 years ago. That's when the crab- and oyster-processing house next door was going full-tilt, and the harbor teemed with workboats at the height of the season.

"This was a jammin' place," he says. "I remember when I first started working there'd be forty boats in here."

Now there may be seven or eight on a busy day. The processing plant—the only commercial establishment on the creek—closed five years ago after six decades in operation. The abandoned building's windows are boarded up. Its gutters haven't fallen. A seawall sags creek-

ward. Watermen used to dock and fuel their boats at the plant. Now several of them lease the roughly one-acre property, but only to store gear and pile up the oyster shell they use to replenish the oyster beds.

Adding insult, the entrance to Aberdeen Creek has shoaled tremendously since the Corps of Engineers stopped maintaining the waterway. Commercial traffic once helped keep it clear, but there aren't enough workboats these days to sweep the silt away. Rowe's 35-foot boat draws three feet. At low tide, he says, he barely gets into the creek.

How long Aberdeen Creek maintains its seafood hub status may depend upon the diligence, persuasiveness and altruistic craftiness of the Chesapeake Bay's first local government entity devoted solely to protecting public access to the water.

Eighteen months ago, the Middle Peninsula Chesapeake Bay Public Access Authority—which manages to function without local tax dollars or a salaried staff—revived a run-down watermen's wharf on the Perrin River at the mouth of the York. Now the authority is trying to help Aberdeen Creek's watermen. It's proving to be a tougher challenge—although nothing new for an entity born of challenging circumstances.

When retirees and Hampton Roads commuters began flocking to Virginia's Middle Peninsula in the late 1990s, the region's southernmost county, Gloucester, found itself in the crosshairs of cultural conflict, much of it along the water. To a Gloucester native, a tumbledown wharf at the end of a country road traditionally represented a public portal for fishing or hunting trips. To many new waterfront property owners, however, it meant an open invitation to trespassers. Disputes arose, often followed by lawsuits.

In a landmark case ultimately decided by the Virginia Supreme Court, Mathews County spent six years and nearly \$500,000 successfully defending the public's right to use an old steamboat landing on the North River after a private landowner challenged the terms of the original deed. With at least 300 government-owned, end-of-the-road wharves to defend, it seemed clear the Middle Peninsula's municipalities needed to mediate access issues *before* lawyers did it for them.

Lewis Lawrence III, director of the Middle Peninsula Planning District Committee, proposed a solution: a separate, self-funded

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public access authority that wouldn't compete for tax dollars with essential local government services. A board representing each of the peninsula's nine counties and three towns would govern the authority. The Public Access Authority (PAA) would act only when asked and fund projects through whatever means (federal or state grants, donations, user fees) didn't require local tax revenue.

The authority works on a project-by-project basis, using Planning District staff and the resources of partners such as the Virginia Coastal Zone Management Program, a network of state agencies and local governments tasked with protecting and managing natural resources in coastal Virginia.

Elected officials never disagreed that public access was a priority, Lawrence explains. They just didn't know how to administer or pay for protecting it. "We needed a way to extract it out

of local government affairs and get it into an entity that deals with those issues," he says. The commonwealth passed PAA-enabling legislation in 2002 and the authority got to work in June 2003, identifying, acquiring and managing public access lands and infrastructure along the peninsula's 1,056 miles of shoreline. (There are now two public access authorities in the commonwealth. The Northern Neck Planning District established one in 2006.)

A Mobjack Bay native who combines a deep appreciation for Tidewater culture with a geeky devotion to coastal planning and a knack for problem solving, Lawrence was well suited to oversee the Middle Peninsula Planning District Commission's new offshoot. One of its fundamental missions is to uphold Virginia's Colonial-era public trust doctrine, which protects pursuits Lawrence and other Virginians hold dear: "fishing, fowling, hunting and

ABOVE: Billy Kellum, 63, who has worked on the water since he was 15, on the public dock with a crab pot he found.

OPPOSITE PAGE: A working skiff moored at the dilapidated waterfront on Aberdeen Creek.

PRECEDING PAGES: Workboats along the Perrin River Wharf and (inset) Lewis "Lewie" Lawrence, the head of the access authority and an innovative thinker on access issues.

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taking of oyster and other shellfish.”

“Lewie’s the guy. He’s in this thing with both feet,” says Donald McCann, a marine surveyor from the Northern Neck. As president of the Virginia Marine Trades Association (VMTA), he’s worked with Lawrence on coastal planning policy. “Lewie was born and raised on the Middle Peninsula and he knows the issues.”

Lawrence’s family has lived on the Ware River since the late 1700s, oystering there for centuries. “I’ve got family oyster books that start in the late 1800s and go to the late 1960s, when the industry collapsed,” he says.

Although the authority’s initial focus was preserving end-of-the-road wharves, Lawrence sees the government body as an all-purpose tool (his favorite analogy), a sort of administrative Swiss Army knife that can be used for a variety of purposes: rebuilding a hurricane-ravaged pier in Mathews County, improving access to the ethereal Piankatank River tributary Dragon Run, or figuring out where and how to dredge the peninsula’s shallow waterways (like Aberdeen

Creek) forsaken by the Corps of Engineers.

Even the most forward-thinking planners did not envision what began in 2006, however: People started giving away land to the access authority. To date, the Middle Peninsula Chesapeake Bay Public Access Authority has received 136 acres of waterfront property valued at \$3.5 million, with another \$173,000 in pending land donations.

“In the last two years, 2.6 million dollars worth of property has been donated. The landscape of landholding has completely changed almost overnight,” Lawrence says. “Our portfolio keeps growing and growing and growing.” The authority assesses each new holding and decides how best to use it.

By far the largest gift is a 97-acre low-lying tract on the Severn River off Mobjack Bay. Worth \$1.6 million, the property came with a 400-foot dock/fishing pier and boatlift, a rather gaudy estate house, a modest brick rancher, two barns, a pool, a bathhouse and a boat ramp. (The authority has named it Captain

Public Access

Virginia isn’t alone in dealing with soaring demand for coastal property, which is pricing traditional users off the waterfront. In Maryland, the Department of Natural Resources and partner agencies are advocating changes to protect two economically important industries: commercial fishing and recreational boating. And at the local level, several municipalities are grappling with how best to accommodate and preserve working waterfronts. These initiatives bear watching:

Maryland Working Waterfront Initiative—Maryland took up the working waterfronts cause in 2007 with the creation of a special task force. The group’s report, issued a year later, spurred legislation granting tax incentives to commercial marinas that set aside slips for watermen, and recommended that coastal communities incorporate working waterfronts in their comprehensive planning. The Department of Natural Resources’ Chesapeake

and Coastal Service is currently compiling an inventory of the state’s working waterfronts and will hold a working waterfronts strategy session this summer in Cambridge. A separate task force studying boating industry enhancement is due to issue its findings in September.

Annapolis Maritime Zoning—Maryland’s boating capital took the first step in preserving working waterfronts by creating maritime zoning districts in 1987, one of the few Bay municipalities to codify maritime uses into its zoning. But the proposed rezoning of City Dock now pits the maritime business community against city planners who favor demolishing a vacant building (a former grocery store that many boaters knew as Fawcett Boat Supplies) currently zoned exclusively for maritime use. The city seeks to rezone the area for mixed use (including maritime) while making way for enhanced pedestrian waterfront access and flood mitigation. Opponents of the 2013 City Dock Master Plan argue

it constitutes selective rezoning and rolls back protection for traditional maritime uses. Meanwhile, efforts to develop and implement a maritime business retention program have stalled after the city cut economic development funding.

Cambridge Waterfront Revitalization—The city negotiated a deal with the state of Maryland to acquire a 12-acre tract on the Choptank River formerly used as the Cambridge Marine Terminal. For the sum of \$5 and a promise to develop the site according to the terms of its maritime-centric Waterfront 2020 comprehensive plan, Cambridge took over the so-called Sailwinds property last August. In addition, the city will receive \$4 million in assistance to rebuild the old terminal wharf, which could become a cruise ship port. The city’s agreement with the tract’s would-be developer has expired, however, forcing officials to negotiate a new deal or return the property to the state.

— M.L.

Sinclair's Recreational Area in honor of an 18th-century landowner renowned for his privateering.) The Gloucester High School crew team uses the facility gratis in exchange for grounds-keeping help. They keep their shells in one of the barns and practice on the river before a stoic audience: statues of gods and goddesses that adorn the estate house roof.

Last winter, duck hunters eagerly put the site's four waterfowl blinds to use, the only public blinds in the Mobjack area. (They can now be reserved via an online reservation system the authority implemented last year for its recreational holdings.) Other citizen-suggested uses are being considered at the Severn River site, from a canoe/kayak launch to a community oyster garden to an aquaculture training facility.

Why would anyone donate valuable waterfront property? Some gifts are purely magnanimous. Others represent more calculated generosity, a way of writing off a pricey piece of land. Harrison Bresee, a planner with the Middle Peninsula Planning District and project manager for Captain Sinclair's Recreational Area, says factors such as high property taxes, soaring flood insurance premiums, stricter regulations governing septic systems and the prospect of rising sea level sometimes sour the dream of waterfront living.

Why give to the access authority? "There are people who donate land to us because they know we're water-focused," Bresee says. "If they give [land] to the county they're not necessarily sure what will happen to it."

Recently, the authority has responded to another distress call: protecting water-dependent businesses from extinction-by-residential-sprawl. "When the issue of working waterfronts began to heat up in the lower Bay we said we should own this because it's an access issue," Lawrence says.

In 2007, Norfolk hosted the first national Working Waterfront Symposium, sponsored by the Virginia Coastal Zone Management Program. So began a national discussion on an issue Tidewater Virginia was already grappling with: the disappearance of traditional waterfronts and what can be done about it.

"Our big partners starting out were the commercial seafood industry and the recreational boating industry," says Tom Murray, a marine business and coastal development specialist with the Virginia Institute of Marine Science who conceived the symposium. "They

were concerned about being displaced from the waterfront by other users. Their industry or clientele were being pushed aside. We wanted to characterize what the reasons were."

Murray knew they didn't have to look far for answers. A special committee appointed by the Middle Peninsula Planning District was already studying waterfront use conflicts on the York in Gloucester County. Among their conclusions: Escalating waterfront property values driven by residential development were pushing out commercial marinas, boat-yards, boat storage facilities, fishhouses, commercial seafood docks and other water-dependent businesses.

Recreational boating generates \$1 billion annually for Virginia, but VMTA president McCann says marine trades remain underappreciated. "Our elected officials are not looking at that as an industry as yet," he says. "It's easier to zone for highest and best use." In other words, waterfront housing.

In a region where generations of families have worked the water, the disappearance of commercial wharves, seafood plants and marine railways is akin to losing one's identity. "There's the social value," says planner Bresee. "If you lose watermen, do you lose the character of your region? In the Middle Peninsula we do."

You're apt to lose visitors as well, argues Lawrence, who says the region's salty charm relies on maritime relics like weathered wharves and rustic oyster-shucking shacks. "How do you keep sustainable dilapidation on the waterfront?" he quips. "That's why people come down here."

Out of the symposium and the Congressional attention it attracted came Virginia's working waterfront initiative, namely a five-year effort to preserve infrastructure, administered by the Coastal Zone Management Program.

Step one was obvious: Define "working waterfront."

"We left it open for each region to determine what a working waterfront was," explains Beth Polak, a coastal planner who oversees the



Local waterman Tommy Leggett holds a fresh tagged rockfish.

initiative. (The Middle Peninsula's definition covers property that provides access to coastal waters for commercial and recreational fishing, boatbuilding, aquaculture and other water-dependent enterprise.)

Economist Murray coordinated step two, compiling regional inventories of waterfront infrastructure, and is completing the next crucial step, crunching numbers on several case studies to quantify the value of Virginia's working waterfronts, particularly hard-pressed commercial fisheries.

"The main thing is what's the profitability of these facilities? They're not going to survive because of their cultural significance," he says. "They've got to be viable."

Every dollar of seafood landed in Gloucester County generates slightly more than \$2 in revenue, he says, even more if the product is sold to in-county wholesalers, retailers or restaurants. "If all of the product stayed in Gloucester it would add up to six dollars," Murray

calculates. Those numbers could help sway local governments to step in on behalf of at-risk facilities.

The first working waterfront project funded under Virginia's initiative was Perrin River Wharf near Gloucester Point, the center of the county's seafood industry. Using its power to acquire property for public use, the Middle Peninsula PAA negotiated the ownership transfer of an aging wharf from the Virginia Department of Transportation. (Virginia's highway department has inherited hundreds of old wharves—many of them former steamboat landings—because the structures were considered at the time extensions of the roads that accessed them.)

With a Coastal Zone Management Program grant, volunteer help and bonus material scrounged from another county agency, the authority was able to upgrade a portion of the 320-foot wharf to accommodate more than 15 watermen displaced by the

closing of a seafood plant and docks on nearby Sarah Creek.

Where once they rafted up their boats, sometimes three deep, watermen can now use the nine slips, three finger piers and several mooring poles the county installed in September 2013. The authority charges \$100 per month for Perrin Wharf slip rentals and, unlike commercial marinas, doesn't require boat insurance, an expense most watermen can't afford. Unfortunately for the authority's maintenance budget, the Guineamen (as local watermen are known here) apparently can't afford the slip rentals either, although it doesn't prevent them from using them.

"It's a learning process," Lawrence says, hopeful that watermen will come to value the upgrades enough to support them financially. Crabbers and oystermen used the wharf without charge for nearly a century while the state owned it, patching it themselves when necessary. The goal at Perrin,

Lawrence says, is to create a PAA-watermen partnership to jointly manage and pay for what he calls this “orphaned infrastructure.”

For every thorny problem the public access authority solves, however, another presents itself. The York River Use Conflict study sought to address working waterfront decline by recommending tax incentives and/or special-use zoning districts supportive of marine business. Gloucester’s primary and secondary seafood hubs respectively, Perrin River and Aberdeen Creek now have master plans that propose such protections.

Of five commercial facilities operating on the Perrin a decade ago, only three remain: Crowne Pointe Marina and two seafood plants, one of which may be in jeopardy following the owner’s death. All predate the county’s zoning laws and exist as “non-conforming uses” in an area zoned residential, a protection they would forfeit (effectively forever) if they

allow their business license to lapse for more than two years. (One of the ex-fishhouses is already a condominium site.) A special commercial waterfront district could protect the surviving businesses, although local officials have yet to enact one.

Gloucester watermen were impressed enough with the authority’s accomplishments at Perrin Wharf to ask the agency to intervene at Aberdeen Creek, also residentially zoned. It’s likely too late to rescue the old processing plant itself, but the authority’s Aberdeen master plan recommends a commercial district that permits use of the site by watermen, a takeover of the state-owned wharf and a plan for opening up the channel, which hasn’t been dredged in 40 years. At a high-end cost of \$1.5 million, channel maintenance will probably require impressive seafood revenue figures from Murray (Aberdeen Creek is one of his case studies) and some extremely creative funding formulas on Lawrence’s part to win

county approval.

Murray believes local governments are getting more proactive about the issue. “There’s more of a desire to do things now,” he says, “than to turn around later and say, ‘What happened?’”

The Middle Peninsula’s and the Northern Neck’s public access authorities may start a trend. The two counties on Virginia’s Eastern Shore are already considering forming a joint PAA. Although the population in some rural coastal communities is leveling out or beginning to decline, the stakes for waterfront access remain higher than ever: Virginia has more than 7,000 miles of shoreline, of which only 1 percent is thought to be publicly controlled. ↴

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