

# THE CAROLINE Progress

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Inside Today: **Caroline Community Theatre holiday play review • p2**   /thecarolineprogress

## Neighbors file complaint over vote on Chaney mine

By Sarah Vogelsong | CP Reporter

The fight over the digging of the Chaney mine on Moss Neck Manor Plantation isn't over yet.

Four county residents on Dec. 12 filed a complaint in Caroline Circuit Court against the Caroline County Board of Supervisors, Moss Neck Manor Plantation, Inc., and Chaney Enterprises to appeal the Board's Nov. 13 decision to grant a special excep-

tion permit to Chaney Enterprises to establish a sand and gravel mine on a 544-acre parcel of land south of Route 17 owned by developer Larry Silver.

All four complainants are landowners whose property lies close to the site in question. Gilbert and Judy Shelton are the owners of Moss Neck Manor, a historically significant site that adjoins Silver's property. Joseph and Patricia Parker own 5.5 acres of land on the opposite side of

Route 17 about 500 feet south of the site's southern border.

In a 42-page complaint, the Sheltons and the Parkers ask the Circuit Court to declare the supervisors' approval of the special exception permit to be "in violation of law, exceeding authority and arbitrary and capricious, contrary to good zoning practice, subject to improper voting and in violation of Complainants' due process rights, and therefore illegal and void."

Eleven charges are levied against the three defendants. Several address such matters as compliance with regulations governing resource protection areas and concerns regarding noise.

Others are more far-reaching.

The fifth count, for example, claims that the supervisors' approval of the permit was "arbitrary and capricious" and that "the failure of the BOS to consistently apply

*see Mine page 2*

## Farm Bureau asks for claims to be dismissed

By Sarah Vogelsong | CP Reporter

The Virginia Farm Bureau Federation and Williams Mullen law firm are asking that the claims filed by a New Kent County theme park operator this past November be dismissed.

In three documents filed in Richmond City Circuit Court Dec. 23, the defendants request that the court require that the plaintiff, Mini-USA, produce an alleged nondisclosure agreement between Mini-USA and the Farm Bureau and permanently dismiss all eight counts against them.

The case, which surfaced when Mini-USA filed a civil complaint Nov. 14, concerns Farm Bureau's acquisition of the State Fair from Universal Fairs. Universal, through its owner Mark Lovell, had purchased the Fair for \$5.3 million at an auction held at Caroline's Meadow Event Park in May 2012.

In the company's complaint, Mini-USA states that it hired Williams Mullen in the summer of 2011 to assist it in acquiring the Fair. Part of this work involved the gathering of "information and materials" that "needed to remain confidential if their value was to be maintained."

Because Mini-USA lacked the necessary funds to purchase the Fair outright, the company approached Farm Bureau in April 2012 to discuss its possible investment in Mini-USA's efforts to acquire and operate the Fair.

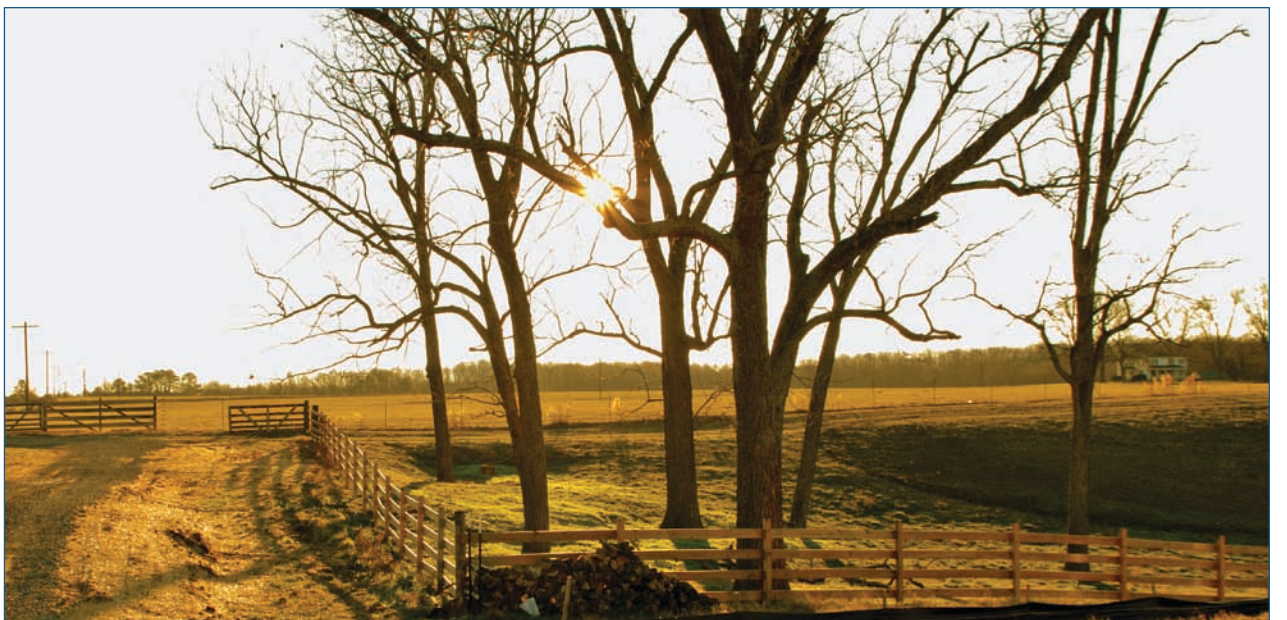
*see Farm Bureau page 2*



### Up, up, and away!

The Lady Cavaliers basketball team lost a nail-biter at home Dec. 29, ending a six-game winning streak. The J.R. Tucker Tigers defeated the Cavs 57-54, though the outcome remained in doubt until the final seconds of the game, which was tied 37-37 at the start of the fourth quarter. The match brought the Lady Cavs' season record to 6-3. Above, Caroline's Hope Toliver leaps into the air for a shot, one of several she made that evening. More photos on page 5. CP photo by Daniel Sherrier

### MORNING SUNRISE ON ANTIOCH ROAD



The morning sun has been a rare sighting in our area the past week, but on this particular Monday morning the day started with a cheery sight popping over a hillside on Antioch Road in Milford. CP photo by Dawn Haun

## B.G. Town Council approves permit for bed-and-breakfast

By Daniel Sherrier | Editor

The Bowling Green Town Council didn't wait long to get started on the new year, approving the first special use permit of 2015 on New Year's Day.

Council conducted a public hearing on an application to operate a bed-and-breakfast within the town, at a property located at 115, 117, and 119 E. Broadus Avenue.

The property includes three structures—a single-family house and two smaller dwelling units—and is zoned R-1, residential.

Mark Gaines, the applicant, told Council the business would not only provide additional income for his family, but "we're here to help the town as well."

Gaines added, "I love the town of Bowling Green, but we all need to do some work to it. That's what I'm here to try to do."

The Gaines family has already moved into the main structure at 115 E. Broadus Avenue, which will include one room for rent. One additional rental suite will be in each of the two smaller structures, for a total of three rental units.

The name of the business will either be Magnolia Morning Inn or Magnolia Morning Suites, Gaines said, adding that he's leaning toward the latter.

No one else came forward during the public hearing.

Town Manager Stephen Manster read a letter from adjacent property owners, the Hoffers, who indicated they had no objections to the proposal. Manster said all adjacent property owners were notified of the special use permit application.

Councilwoman Jean Davis said the town planning commission had recommended approval of the permit, and she made a motion to that effect, which was supported by all councilmembers in attendance.

In other business that evening, Manster informed Council—*see Bowling Green page 5*



Caroline High School consolidated the former Ladysmith and Bowling Green Senior high schools when the current building opened in 1977. CP photo by Dawn Haun

## LOOKING BACK: Years of debate and labor led to CHS's 1977 opening

By Sarah Vogelsong | CP Reporter

As construction on Caroline High School remains in limbo thanks to new statewide stormwater management regulations, the Progress took advantage of the pause to reflect on the long process that led to the present building.

School buildings are some of the biggest capital projects that local governments undertake. Virginia Department of Education data show steadily rising school renovation costs over the years, with the statewide average total cost per square foot rising from \$107 in 2012-13 to \$139 in 2013-14.

Because education is considered a public good, taxpayers carry the burden of such work. In Caroline, residents are forking over an extra 8 cents on the real estate tax rate to finance the CHS and Madison Elementary School projects.

But building construction isn't merely a matter of financials. Education is the number-one concern of many citizens, and school buildings often function not just as places for teaching youth but also as hubs for the larger community. Because a single school building tends to serve residents for decades, it offers a picture of where the community has been, where it is, and where it's going.

Nowhere may this be more true than in Caroline. Looking back at the five years of debate and labor that led to the opening of CHS's doors in 1977, the parallels between the past and the present are striking. But that 40-year retrospective also reveals how far the county has come.

Caroline's educational landscape in the early 1970s was dramatically different than it is today. Seven schools—four elementaries, a junior high, and two high schools—served county students. Their populations were determined by a desegregation court order issued by U.S. District Judge Robert R. Merhige, Jr., in 1969 that aimed to correct what was termed a "racial imbalance" in the system.

Under that order, students in grades 9 through 12 were divided between Bowling Green Senior High School, housed in the former Union High School, and Ladysmith High School, housed in the former C.T. Smith High School

*see Caroline High School page 8*

### INSIDE THIS WEEK

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Cavaliers boys basketball wins two games—page 5



### LOCAL PUBLIC SERVANT SPOTLIGHT

## Justin Cecil: 'I was always taught to give back'

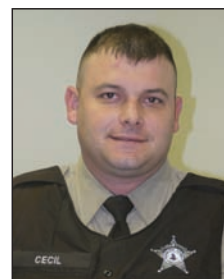
By Daniel Sherrier | Editor

While much of the county is sleeping, Deputy Justin Cecil is patrolling the streets and trying to keep everyone safe.

Cecil has been with the Caroline Sheriff's Office for 14 years—as an auxiliary officer, a patrol deputy, a narcotics investigator, and once again as a patrol deputy

working the night-shift.

He's served the community even longer than that. At 16, he joined the Bowling Green Volunteer Fire Department—*see Spotlight page 3*



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THE CAROLINE Progress

# Caroline Community Theatre commits 'Homicide'

## THEATRE REVIEW



"Homicide" actors, front row left: Jo-Elsa Jordan, Bryan Hall, and Ashley Taylor. Back row left: Jon Quandt, Justin Smith, and Joel McCormick. CP photo by Dawn Haun

By Scott Richards | CP Correspondent

Christmas is over, the wrapping paper has been thrown away, and the cookies and candy have been eaten. All that remains of the 2014 Christmas is memories. One of the memories I will carry fondly into 2015 is the Caroline Community Theatre's production of "Holiday Homicide."

An interactive play, it not only brought the audience into the story, it made them forget they were attending a stage production.

"Holiday Homicide," by Nita Hardy, is a spoof on Charles Dickens' "A Christmas Carol," which is a breath of fresh air in itself considering the several hundred versions (or so it seems) of this classic that run on television from Thanksgiving until the very late hours of Christmas Eve. In addition, the plot involves a murder, with every type of comedic hilarity thrown in, raising exponentially the level of amusement for this production.

As the play opens, a group of actors are

putting on "A Christmas Carol" when the main character, Sir Richard Deadgrave (played by Jon Quandt), who was to play the part of Scrooge, is found dead, killed by a large ham. Fearing the production would have to be cancelled, one of the players suggests using the audience to fill in as needed.

Upon arrival, everyone in the audience was given a part in the play from speaking to singing stupid songs. The comfort level in the theater allows for the zaniest things to be done by participants with no fear of embarrassment. Set up as a dinner theater with courses served between acts, everyone soon relaxed, and camaraderie ensued.

Using the simplest of props allows the audience to utilize their imaginations as they are led by the actors. Justin Smith, in his role as Bruce, a gay utility thespian in the play's company, joined with Joel McCormick as Detective Columbo and Bryan Hall as Sydney Fish to present to those watching a very professional and entertaining evening. The vivaciousness of Jo-Elsa Jordan and the solid acting of Ashley Taylor whetted appetites to see more of their craft.

The next production of the Caroline Community Theatre will not be a dinner theater, but will be the comedy "Boeing, Boeing," which is scheduled to run April 10-12. Auditions will be held Jan. 12-13 at the Caroline Community Theatre (formerly the Ladysmith Elementary School).

## ARREST:

### Man arrested in shooting incident



Walter A. Rodriguez

A man is recovering from a non-fatal gunshot wound reportedly inflicted in the county Monday evening.

Caroline County Sheriff's Office deputies

responded to Ryland Road at 10:10 p.m. Jan. 5 for a male subject reported to have been shot during a physical altercation with a known subject.

The accused is 21-year-old Walter Alexander Rodriguez of Ruther Glen. The victim is a 20-year-old male from Spotsylvania County.

Shots were fired during the physical confrontation with one striking the victim in the abdominal area. Caroline deputies and investigators were able to locate and arrest Rodriguez without further incident. The male victim was transported to Mary Washington Hospital with non-life-threatening injuries.

The investigation is ongoing, and the Sheriff's Office will release no further information at this time.

## Farm Bureau responds from page 1

During these discussions, according to the Nov. 14 filing, Farm Bureau and Mini-USA signed a non-disclosure agreement that, among other provisions, stated that Farm Bureau would "not use confidential information in competition with [Mini-USA]."

It is this document, which was not included in full in the Nov. 14 filing, that Farm Bureau has asked the court to demand that Mini-USA produce, claiming that it "forms the basis of, and is necessary to, certain claims set forth in Plaintiff's Complaint."

Mini-USA claims that Farm Bureau in May 2012 agreed to commit \$1.5 million or more to its acquisi-

tion efforts but in June, after Universal Fairs abruptly raised its asking price for the Fair to \$11 million, suddenly withdrew this commitment.

Later that month, Williams Mullen, which also represented Farm Bureau, registered with the State Corporation Commission a partnership between Farm Bureau and Universal Fairs called Commonwealth Fairs and Events, LLC. This entity acquired the State Fair for \$5.6 million. In March 2013, Farm Bureau bought out Universal's share of the partnership and assumed full control of the Fair, which it retains today.

Mini-USA's complaint alleges that the confidential

information it had gathered and that was protected under the nondisclosure agreement was illegally accessed on Williams Mullen's computer system and server "on Farm Bureau's behalf," causing it to lose its chance to acquire the Fair.

Charges levied by Mini-USA against Williams Mullen and Farm Bureau include intentional interference with a business expectancy, conspiracy, and violation of the Virginia Uniform Trade Secrets Act.

But Farm Bureau and Williams Mullen, in separate filings with the Richmond City Circuit Court, dispute portions of this account. Farm Bureau does not mention the nondisclosure agreement at all in its statement of facts, while Williams Mullen states that "there was no deal

reached between Farm Bureau and Mini-USA when Farm Bureau walked away from Mini-USA in June of 2012."

Both Farm Bureau and Williams Mullen deny that Mini-USA has reasonable grounds for its claim of intentional interference with a business expectancy.

Mini-USA, the Farm Bureau filing states, "fails to allege, based on objective facts, that [it] possessed any business expectancy with a probability that an economic benefit would accrue to it at some point in the future. ... Rather, at most, the Complaint alleges Plaintiff's subjective hope and belief that it could acquire the State Fair."

Both Farm Bureau and Williams Mullen argue that Mini-USA's claims are unsupported by specific, factual evidence. Coun-

tering a charge of "unjust enrichment," Farm Bureau states that Mini-USA "fails to plead any facts showing what information Plaintiff deems confidential or whether Farm Bureau used any of the confidential information provided to it and how such information would have helped Farm Bureau acquire or operate the State Fair."

On the charge of conspiracy, both defendants argue that legally, Williams Mullen was acting as an agent for Farm Bureau, and thus the two could not be considered "separate entities."


"An agent acting within the scope of its agency cannot form a conspiracy with its principal because a single person or entity cannot conspire with itself," Farm Bureau's filing concludes.

In response to Mini-

USA's request for damages of at least \$14 million, Farm Bureau states that under Virginia law, Mini-USA would have to show that Farm Bureau acted with "actual malice or willful or wanton conduct"—a point that Farm Bureau disputes, contending that "at most, Plaintiff's allegations show acts of commercial 'hard ball' that are not malicious or wanton."

Counsel for Williams Mullen is William D. Bayliss, an attorney with the firm. Richmond firm Christian and Barton, LLP, is acting as counsel for Farm Bureau.

When contacted about the organization's response to the complaint, Greg Hicks, Farm Bureau's director of communications, stated that he was unable to comment because of the legal nature of the matter.




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Happy birthday Kenne.  
Gone, but alive in our hearts.

*We Love and Miss You,*  
Dad, Mom and Sister Tia  
January 4, 1974–June 25, 1995

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**JAMES H. HUNTER JR.**  
February 2, 1935–December 28, 2013



God gave us strength to face it  
And courage to bear the blow  
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No one but God will ever know.

*Love and miss you,*  
Eva M. Hunter  
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## Mine lawsuit from page 1

the comprehensive plan ... indicates an illegal disregard for the comprehensive plan."

Fort A.P. Hill is the subject of the eighth count, which claims that the county has failed to protect the installation's operations in violation of Virginia code that states that zoning ordinances should give reasonable consideration to a variety of purposes, including providing "reasonable protection against encroachment upon military bases, military installations, and military airports and their adjacent safety areas."

The ninth count is arguably the most serious charge, alleging that Madison Supervisor Wayne Acors and Port Royal Supervisor Calvin Taylor had conflicts of interest related to their involvement with the Caroline Family YMCA that should have forced them to recuse themselves from the vote.

This issue was raised at the Nov. 13 meeting, at which Shelton, through Da-

vid Bailey, an attorney with the Environmental Law Group, PLLC, representing Shelton, submitted a petition for Acors' and Taylor's recusal from the vote. That petition contends that Silver was approached as a possible donor to help pay off the roughly \$6 million debt incurred in the construction of the YMCA and that because Acors has been involved in fundraising activities for the YMCA, his participation in the vote created the "appearance of impropriety."

Taylor, the petition states, has served on the YMCA Board of Directors and thus "could be involved in accepting donations or funneling contributions to retire the County debt."

"There is or was the clear appearance, if not actual expectation, of a qui pro quo vote for the Chaney mine to provide millions of dollars in revenues to the Chaney and Moss Neck Manor Plantation owners in exchange for a large gift to the YMCA proper, and

the County debt retirement directly or indirectly," the complainants conclude.

Both Acors and Taylor dismissed the charges at the Nov. 13 meeting, with Taylor in particular plainly stating, "I didn't do anything inappropriate." Both also stated that they had been advised by county attorney Ann Neil Cosby that no conflict of interest existed.

In a phone conversation, Cosby stated that the allegations against Acors and Taylor have no merit whatsoever and are "particularly troublesome."

"There is no conflict of interest at all that would have kept them from voting, and the allegation that they should not have voted because of some 'appearance of impropriety'—that's not even a claim in Virginia," she said. "You can't bring suit against somebody for an appearance of impropriety."

The 10th count addresses the petition circulated in favor of the mine that became the subject of a criminal investigation by the Caroline Sheriff's Office after the discovery that a large number of names had been fraudulently signed to it. The complaint argues that "there is no fair decision process when tainted by such criminal activity involving an applicant."

Representatives from Chaney Enterprises disavowed any involvement in the petition at the Nov. 13 meeting, and no evidence has been released connecting them to the fraudulent names.

The final count asserts that citizens affected by the

decision were not granted their due process right to timely notice of a decision or a fair opportunity to be heard, because they were "forced to assert their comments ... in a climate tainted, if not controlled, by conflicts of interests, appearance of impropriety, criminal acts and secret solicitations of gifts from the pending applicant or owner to retire a county debt."

To ensure this right, the complainants are asking that their complaints be heard "by an independent court of competent authority."

Cosby, however, contested the grounds for the litigation.

"The county is disappointed that the Sheltons and the Parkers felt the need to file the litigation," she said, noting that the complaint would tie up county resources and funds. "I don't think it's well grounded in fact or law."

This is not the first suit filed by Shelton in conjunction with other landowners. In 2008, he filed a complaint against the Board of Supervisors in relation to the Clark's Cut mine. Bailey, the attorney for the Sheltons and the Parkers in the current case, was also involved with a different group of residents in litigation involving the Vulcan mine at Black Marsh Farm. The court ruled against the suits in both cases.

Cosby stated that the county intends to file a response, but that they have not yet been served the complaint. The county will have 21 days to file once they are served.

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