

COUNTY OF HENRICO, VIRGINIA
BOARD OF SUPERVISORS
SPECIAL MEETING
February 26, 2008

The Henrico County Board of Supervisors convened a Special Meeting on Tuesday, February 26, 2008 at 4:45 p.m. in the County Manager's Conference Room, Administration Building, Henrico County Government Center, Parham and Hungary Spring Roads, Henrico County, Virginia. The Chairman called the meeting to order at 4:49 p.m. Those present at the meeting were:

PRESENT

The Honorable David A. Kaechele, Chairman
The Honorable Patricia S. O'Bannon, Vice-Chairman
The Honorable James B. Donati, Jr., Varina District Supervisor
The Honorable Richard W. Glover, Brookland District Supervisor
The Honorable Frank J. Thornton, Fairfield District Supervisor
Mr. Virgil R. Hazelett, P.E., County Manager
Mr. George T. Drumwright, Jr., Deputy County Manager for Community Services
Ms. Angela N. Harper, FAICP, Deputy County Manager for Special Services
Mr. Leon T. Johnson, Deputy County Manager for Administration
Mr. Robert K. Pinkerton, P.E., Deputy County Manager for Community Operations
Mr. Randall R. Silber, Deputy County Manager for Community Development
Mr. Barry R. Lawrence, Assistant to the County Manager/Clerk to the Board
Mrs. Linda B. Jones, Deputy Clerk to the Board
Mr. Joseph P. Rapisarda, Jr., County Attorney
Mr. J. Thomas Tokarz, Senior Assistant County Attorney
Ms. Rhysa G. South, Assistant County Attorney
Mrs. Tamra R. McKinney, Director of Public Relations & Media Services
Mrs. Jennifer K. Acker, Assistant Director of Public Relations & Media Services
Mr. John A. Vithoulkas, Director of Finance
Mr. Eugene H. Walter, Acting Director of Management and Budget
Chief Edwin W. Smith, Division of Fire
Mr. Paul N. Proto, Director of General Services
Ms. Cynthia B. Smith, Risk Manager, General Services
Mr. Steven M. Lewis, Director of Information Technology
Mr. Arthur D. Petrini, Director of Public Utilities
Mr. Edward L. Priestas, Director of Public Works
Mr. E. Todd Eure, Transportation Development Engineer
Mr. Willis W. Pope, Director of Real Property (Retired)
Mr. Steve Price, Assistant Director of Real Property
Mrs. Karen K. Mier, Director of Recreation and Parks
Ms. Cindy Jo P. Daniel, Management Specialist, Recreation and Parks
Mr. Frank Flanagan, Belmont Golf Course Maintenance Supervisor
Mr. Daniel L. Plaughter, Executive Director, Virginians for High Speed Rail

Mr. Francis A. "Sandy" Cherry, Jr., Attorney, Randolph Boyd Cherry and Vaughan
Mr. C. Warren Wakeland, Director of Government Affairs, Home Building Association of
Richmond
Mr. Will Jones, *Richmond Times-Dispatch*
Mr. Tom Lappas, *Henrico Citizen*

After reviewing the special meeting agenda, Mr. Hazelett advised that he would be asking the Board to consider adding two Board papers by unanimous consent to the regular meeting agenda pertaining to the Kain Road land acquisition and Belmont Maintenance Facility fire damage.

Virginia High Speed Rail Update

Mr. Hazelett recognized Mr. Plaugher, who after thanking the Board for its past support narrated a Power Point presentation on Virginians for High Speed Rail (VHSR) (see enclosed copy). Mr. Plaugher's presentation provided background information on the organization and its vision for future high speed rail in Virginia, statistics on passenger train usage in Virginia, how rail is funded in Virginia, the current status of State legislative amendments to the Rail Enhancement Fund (REF) and of the Federal Passenger Rail Investment and Improvement Act, short and long-term goals for VHSR, updates for 2008, and a preliminary study to look at having passenger trains bypass Acca Yard.

During Mr. Plaugher's presentation, he and Mrs. O'Bannon discussed right-of-way ownership of a third track between Washington, D.C. and Richmond and the prospects of a turnkey rail operation by an interested private corporation. Mrs. O'Bannon also commented on a recent presentation to the Richmond Regional Planning District Commission pertaining to barge service at the Port of Richmond. She also expressed concern about the limited parking at Main Street Station and preliminary plans to bypass the Ashland and Main Street stations and asked about right-of-way ownership along the eastern route on the Buckingham Branch Railroad. Mr. Hazelett suggested that staff could bring a resolution to the Board expressing opposition to the elimination of passenger trains at Staples Mill Station and noted that there was a huge cost associated with the Acca Yard Bypass plan. In response to further questions about the study from members of the

Board, Mr. Hazelett advised that staff would obtain additional information and could bring this topic back to the Board at a later date.

Following Mr. Plaugher's presentation, Mr. Donati expressed concerns about providing public funding to CSX and Norfolk-Southern. Mr. Plaugher responded to questions from Board members relating to the status of federal and state rail legislation, the amount of rail right-of-way owned by the State, and whether VHSR has looked at how European and Asian countries encourage the public to use high speed rail. Mrs. O'Bannon referred to a visit she made to Germany in 2005 as part of a National Association of Counties delegation that looked at how high speed rail had been developed in that country. She commented on the interest by a Siemens-affiliated private company in bidding on a high speed rail operation between Richmond and Atlanta if the right-of-way can be provided. Mr. Plaugher responded to further questions from Board members regarding the current level of support in the House of Representatives for dedicating funds to passenger rail through the Passenger Rail Investment and Improvement Act of 2007; where funding from this Act would be distributed; the estimated cost of providing high speed rail in the I-95 corridor between Richmond and Washington, D.C.; the number of persons who could be moved daily on a third passenger rail track in this corridor; and the gas mileage for trains. Mr. Hazelett reiterated that he could bring this matter back to the Board if necessary.

**Draft Resolution Authorizing the County
Manager to Sign Options and Rights of
First Refusal**

Mr. Hazelett noted that the use of options and rights of first refusal for land purchases had been discussed at the Board's February 12, 2008 special meeting. He advised that a draft resolution authorizing the County Manager to sign options and rights of first refusal for land purchases had been placed on the preliminary Board agenda for the February 26, 2008 regular meeting but had been removed after concerns were expressed by Mrs. O'Bannon. He thanked Mrs. O'Bannon for sharing her concerns, which

provided him with an opportunity to re-evaluate his own concerns with the paper.

Mr. Hazelett explained his reservations about the recommendation from the Independent Land Commission pertaining to the use of options and rights of first refusal for County land purchases, noting that although the Commission was sincere from a business standpoint he did not believe this was an appropriate position for Henrico County. His belief is that the County should not proceed with options or rights of first refusal unless a price for the property has already been established through an appraisal. Mr. Hazelett pointed out that he would be glad to have another work session with the Board on this matter. He indicated that he had discussed other alternatives at length with Mr. Rapisarda and outside counsel that would enable the County to avoid the use of options and rights of first refusal on a routine basis. He expressed concern about Henrico County's reputation should the County walk away from an option based on a later appraisal.

After Mrs. O'Bannon stated that she had been unable to get an advance copy of the draft Board paper and therefore did not know what was in it, Ms. Harper distributed copies to the Board (see enclosed copy). In response to a question from *Mrs. O'Bannon*, *Mr. Hazelett revisited the Commission's recommendations regarding options and rights of first refusal*. Mr. Rapisarda pointed out that government and private entities do not buy land the same way. He clarified that the County is legally required to obtain an appraisal if it initiates the land acquisition process but not if the seller initiates the process. Mr. Hazelett stated that his intent was to make this process as transparent as possible. He concluded that in today's market and for general government land acquisitions, options and rights of first refusal are not a pressing need.

Mr. Rapisarda confirmed for Mr. Kaechele that rights of first refusal must be approved by the Board, either through a blanket authority given to

the County Manager or on a case-by-case basis. Mr. Rapisarda also responded to a question from Mr. Glover concerning whether an option can include caveats stating the County's right to pull out of an option and initiate eminent domain if the price determined by an appraisal obtained after the option is lower than the asking price. There was some discussion of this issue by Mr. Glover, Mr. Rapisarda, and Mr. Hazelett. Mr. Glover remarked that he did not see a reason why the Board would not want Mr. Hazelett to have the authority to exercise options. He said that he was in favor of using options to hold property until appraisals can be obtained. Mrs. O'Bannon noted that her concern was the possibility of the County losing option fees. Mr. Rapisarda reviewed the option fees of other localities. Mrs. O'Bannon indicated that she favored using rights of first refusal.

In response to questions from Mr. Kaechele, Mr. Rapisarda acknowledged that the County Manager could come to the Board on a case-by-case basis to obtain the authority to exercise options or rights of first refusal but pointed out that the more real estate deals are private, the faster they move. He stated that he did not wish to criticize the Independent Land Commission but did think that the County had received a bad rap. Mr. Rapisarda asserted that although the County had not done anything wrong in the past concerning land purchases, the process can always be improved upon and should be made as transparent as possible to the public without jeopardizing negotiations. He suggested that more appraisals would cure a lot of the land purchase issues. Mr. Kaechele proposed that the Board table this matter for the time being in view of concerns expressed by Mr. Hazelett and members of the Board. Mr. Hazelett commented that the draft resolution would be discussed again at a future special meeting of the Board.

On motion of Mrs. O'Bannon, seconded by Mr. Thornton, the Board approved going into a Closed Meeting at 5:56 p.m. for the following matter:

Discussion and Consideration of the Potential Acquisition of the Kain Road Property in the Three Chopt District for Public Purposes Relating to Education, Parks and Recreation, Fire Safety and a Fueling Facility, Pursuant to Section 2.2-3711(A)(3) of the Code of Virginia, 1950, as amended.

The vote of the Board was as follows:

<u>Aye</u>	<u>Nay</u>
David A. Kaechele	
Patricia S. O'Bannon	
James B. Donati, Jr.	
Richard W. Glover	
Frank J. Thornton	

On motion of Mrs. O'Bannon, seconded by Mr. Thornton, the Board approved going out of the Closed Meeting at 6:45 p.m.

The vote of the Board was as follows:

<u>Aye</u>	<u>Nay</u>
David A. Kaechele	
Patricia S. O'Bannon	
James B. Donati, Jr.	
Richard W. Glover	
Frank J. Thornton	

In open session, on motion of Mr. Donati, seconded by Mrs. O'Bannon, the Board approved the attached Certificate of Closed Meeting.

The vote of the Board was as follows:

<u>Aye</u>	<u>Nay</u>
David A. Kaechele	
Patricia S. O'Bannon	
James B. Donati, Jr.	
Richard W. Glover	
Frank J. Thornton	

Mr. Hazelett briefly reviewed the two Board papers that he would be requesting the Board add to the evening's regular meeting by unanimous consent – Authorization to Retain Outside Counsel in Connection with Acquisition of the Kain Road Property and Award of Construction Contract for the Belmont Maintenance Building. Mrs. Mier showed Power Point slides that depicted the location and impact of a fire that occurred on January 27, 2008 at the Belmont Maintenance Facility (see enclosed copy). Mrs. Mier noted that the fire originated in a diesel vehicle and resulted in approximately \$80,000 in equipment damage. She clarified for Mrs. O'Bannon that the vehicle was a Cushman utility cart. After providing a fire restoration project timeline, Mrs. Mier recognized Mr. Flanagan,

Ms. Smith, and Mr. Proto in the audience. She clarified for Mr. Kaechele that the fire occurred at 2:12 a.m. and along with Mr. Hazelett responded to a couple of questions from Mr. Glover pertaining to the status of plans to move the maintenance facility and expand parking on the site. Chief Smith commented on the nature and extent of the fire.

There being no further business, the meeting was adjourned at 6:56 p.m.


Chairman, Henrico County Board of Supervisors