

COUNTY OF HENRICO, VIRGINIA
BOARD OF SUPERVISORS
SPECIAL MEETING
February 10, 2009

The Henrico County Board of Supervisors convened a special meeting on Tuesday, February 10, 2009 at 5:00 p.m. in the County Manager's Conference Room, Administration Building, Henrico County Government Center, Parham and Hungary Spring Roads, Henrico County, Virginia.

Members of the Board Present:

David A. Kaechele, Chairman, Three Chopt District
Patricia S. O'Bannon, Vice Chairman, Tuckahoe District
James B. Donati, Jr., Varina District
Richard W. Glover, Brookland District
Frank J. Thornton, Fairfield District

Other Officials Present:

Virgil R. Hazelett, P.E., County Manager
Joseph P. Rapisarda, Jr., County Attorney
Barry R. Lawrence CMC, Assistant to the County Manager/Clerk to the Board
Tanya B. Harding, Administrative Assistant/Deputy Clerk to the Board
George T. Drumwright, Jr., Deputy County Manager for Community Services
Angela N. Harper, Deputy County Manager for Special Services
Leon T. Johnson, Deputy County Manager for Administration
Robert K. Pinkerton, P.E., Deputy County Manager for Community Operations
Randall R. Silber, Deputy County Manager for Community Development
Tamra R. McKinney, Director of Public Relations & Media Services

Mr. Kaechele called the meeting to order at 5:05 p.m.

Mixed Use Development – Water and Sewer Connection Fees

Mr. Hazelett recognized Mike Jackson of KBS Contractors, who addressed the Board on behalf of the West Broad Village project and presented the developer's views on how water and sewer connection fees should be applied to mixed use development. Mr. Jackson summarized the types of uses in West Broad Village and contended that there is ambiguity in the Henrico County Code regarding this matter. He referred to a dispute with the County administration over interpretation of the Code and specifically suggested that an existing mixed use building in West Broad Village should be reclassified as "other building" for purposes of calculating connection fees rather than categorized by specific use. This change would reduce the connection fees owed to the County by the developer from \$3.4 million to \$589,000. Mr. Jackson asked the Board for an interpretation of the pertinent ordinance that is favorable to the

developer's position and acknowledged that the developer has struggled to obtain financing to finish the project.

Chuck Whitall of Unicorp National Developments, Inc. and Mr. Hazelett responded to questions from members of the Board regarding how water and sewer usage is metered for West Broad Village's businesses and residents. There was considerable discussion among Board members, Mr. Whitall, Mr. Jackson, and Mr. Hazelett concerning the notification process and timeframe followed by the County to inform the developers and the project's engineers, Timmons Group, of the water and sewer connection fees being applied to the project. Mr. Rapisarda stated he agreed with the developer that the section of the County Code pertaining to connection fees and service charges does not contain a specific category for mixed use.

Art Petrini, Director of Public Utilities, presented a Power Point presentation addressing the County's computation of water and sewer connection fees. He showed how the County calculates these fees for mixed use buildings, provided examples of mixed use projects in Henrico, offered computation examples of water and sewer connection fees, explained connection fee methodology used by other jurisdictions for mixed use development, highlighted the connection fees charged to West Broad Village on October 1, 2008 and revisions to these fees made on November 25, 2008 as the result of an ordinance approved by the Board delaying a fee increase previously approved by the Board, reviewed a project timeline for the West Broad Village project, and clarified the County's method for developing connection fees.

The Board recessed for dinner at 6:11 p.m. and reconvened at 6:17 p.m.

Mr. Petrini returned to the podium to respond to questions and comments from Board members, Mr. Jackson, and Mr. Whitall. Mr. Rapisarda advised that although he agreed with the developer that the County Code does not include a specific category for mixed use development he did not agree that the Code is ambiguous as to how the County applies connection fees to this type of development. He characterized the County's position on this matter as reasonable. Mr. Petrini, Mr. Rapisarda, and Mr. Hazelett responded to further questions relating to the dialogue that takes place between developers and County staff on connection fees and the procedure the County would follow to recalculate fees and issue refunds to developers should its ordinance be amended. There was also additional discussion regarding how representatives of West Broad Village received notification of the water and sewer connection fees for their project. Mr. Rapisarda suggested that any discussions relating to Code interpretation be conducted in a closed meeting.

On motion by Mr. Glover, seconded by Mr. Donati, the Board approved going into a Closed Meeting at 6:35 p.m. for the following purpose:

Consultation with the County Attorney Regarding Specific Legal Matters Requiring the Provision of Legal Advice Pertaining to Utility Connection Fees for West Broad Street Village, Pursuant to Section 2.2-3711(A)(7) of the Code of Virginia, 1950, as amended.

The vote of the Board was as follows:

Yes: Kaechele, O'Bannon, Donati, Glover, and Thornton

No: None

On motion of Mr. Glover, seconded by Mr. Donati, the Board approved going out of the Closed Meeting at 6:53 p.m.

The vote of the Board was as follows:

Yes: Kaechele, O'Bannon, Donati, Glover, and Thornton

No: None

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

The vote of the Board was as follows:

Yes: Kaechele, O'Bannon, Donati, Glover, and Thornton

No: None

Board Meeting Video Streaming and Minutes

Mr. Hazelett advised the Board that staff had identified alternative means of alerting citizens that written summary minutes of regular Board meetings will be provided in accordance with the State Code in addition to live and archived video web streaming of the meetings. He suggested the following alternatives in response to a request made at the Board's previous work session: 1) place a notation on the video streaming web page; 2) read a statement during the meeting into the meeting minutes; 3) provide a ticker across the bottom of the video streaming screen as the meeting begins and as it ends; and 4) provide a slate page notification on the video at the end of each meeting.

Mixed Use Development – Water and Sewer Connection Fees (continued)

There was renewed discussion on the water and sewer connection fee item. Mr. Kaechele advised Mr. Jackson and Mr. Whitall that the Board had not taken formal action on the developer's request and would be following the recommendation of the County Manager and County Attorney. Mr. Whitall responded that the developer's lender will not fund further construction of the project until County liens for unpaid water and sewer connection fees are removed. Mr. Glover and Mr. Thornton left the meeting. Mr. Jackson asked if the County could provide the developer with a 60-day reprieve on the liens so that the developer could try and get financing to pay the project's contractors. Mr. Rapisarda agreed to review this issue with Mr. Hazelett. Mr. Kaechele said that staff would get back with Mr. Jackson and Mr. Whitall.

There being no further business, the meeting was adjourned at 7:03 p.m.

David A. Kaschel
Chairman, Board of Supervisors
Henrico County, Virginia