

COUNTY OF HENRICO, VIRGINIA  
BOARD OF SUPERVISORS  
SPECIAL MEETING  
September 8, 2009

The Henrico County Board of Supervisors convened a special joint meeting with the Planning Commission on Tuesday, September 8, 2009 at 4:30 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

**Members of the Planning Commission Present:**

Bonnie-Leigh Jones, Chairman, Tuckahoe District  
Ernest B. Vanarsdall, Vice Chairman, Brookland District  
Chris W. Archer, Fairfield District  
Thomas M. Branin, Three Chopt District  
E. Ray Jernigan, Varina District

**Other Officials Present:**

Virgil R. Hazelett, P.E., County Manager  
Joseph P. Rapisarda, Jr., County Attorney  
J. Thomas Tokarz, Senior Assistant 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  
Jennifer K. Acker, Assistant Director of Public Relations & Media Services  
C. Michael Schnurman, Jr., Legislative Liaison  
John A. Vithoulikas, Director of Finance  
Ralph J. Emerson, Jr., Director of Planning  
David D. O'Kelly, Jr., Assistant Director of Planning for Plan Review and Code Support  
Benjamin W. Blankinship, Principal Planner for Code Support  
Leslie A. News, Principal Planner for Development and Review  
Timothy A. Foster, P.E., Director of Public Works

Mr. Kaechele called the meeting to order at 4:40 p.m. He thanked the Planning Commission and staff for being present.

Mr. Hazelett briefly reviewed the agenda. He advised that both items being presented were in response to actions taken by the Virginia General Assembly during the 2008 and 2009 Sessions. Staff was prepared to make written note of questions from the Board and Planning Commission and provide answers. Mr. Hazelett remarked that the items on the agenda exemplified an apparent intrusion by the General Assembly into local government ordinances. Mr. Rapisarda commented that they were at least partially designed to give relief to developers and home builders in view of recent economic circumstances.

### **Proposed Zoning and Subdivision Ordinance Amendments**

Mr. Hazelett introduced Mr. Foster, who narrated the first portion of a Power Point presentation titled "Amendments to Subdivision and Zoning Ordinances to Address Recent Statutory Changes. Mr. Foster reviewed developments in dam safety triggered by a new State law that became effective July 1, 2009 requiring localities to modify permitting procedures for certain new developments in identified "dam break inundation zones." He pointed out that the new law does not apply to developments with one or two residential units or to agricultural production. Mr. Foster then explained dam regulations, dam break inundation zone maps, and requirements of developers under the new legislation. He, Public Works Design Engineer David Gunn, Mr. Tokarz, Mr. Emerson, Mr. Archer, Mr. Pinkerton, and Mr. Hazelett responded to a number of questions and comments from the Board and Planning Commission regarding dam heights, the number of dams in the County, the costs of dam permit inspections and dam inundation zone maps, the level of authority exercised by the Virginia Department of Conservation and Recreation (DCR), how costs for necessary upgrades to dams are shared between dam owners and developers, how prospective homebuyers know whether they are purchasing a house in a dam break inundation zone, the Planning Commission's responsibilities under the proposed ordinance, the number and location of dams in the County, factors that precipitated the General Assembly to enact new dam safety legislation, the legislators responsible for introducing the legislation, whether citizens residing within dam inundation safety zones will have to obtain flood insurance, criteria used in dam safety inspections, and the impact of the new State legislation and proposed County ordinance on existing dams in the County. Mr. Gunn distributed a map to each member of the Board depicting state regulated dams in Henrico County by district. Mrs. O'Bannon expressed concerns about the costs of State dam safety inspections, permits, and maps coupled with federal Environmental Protection Agency regulations. Mr. Glover stated that he believes owners of defective dams should be required to correct the problems. He noted that the primary responsibility of County staff will be to determine whether DCR dam safety permits have been properly issued. Mr. Foster confirmed that the onus for dam safety will be placed on the dam owner and the State under the new legislation. Mr. Hazelett advised that Delegate Beverly Sherwood of Winchester sponsored this legislation in the House of Delegates.

Mr. Foster recognized Ms. News, who continued the presentation by discussing ordinance amendments now required by the State Code in the area of review timelines and extension of

validity for subdivisions and plans of development (PODs). She began her presentation by briefly explaining the current process followed by County staff in reviewing subdivision and POD application. Ms. News advised that the General Assembly has enacted new provisions regarding subdivision plat and POD review in two categories – timelines for review and action on plats and PODs, and periods of validity of plats and PODs, and extensions of approval. She noted that procedural changes required by the new State legislation distinguish between special provisions for commercial and industrial uses and projects involving State agency reviews. Ms. News explained the process for reviewing plats and PODs applying to commercial and industrial uses, the timelines for localities to act on subdivision plats subject to State agency approval and those not subject to State agency approval, current ordinance extension timelines for conditional subdivision plats, new State legislation addressing extensions for the validity of preliminary subdivision plats, and a new one-time extension for approved subdivision plats and PODs during the current housing crisis. She and Mr. Hazelett clarified that this State legislation was intended to prevent extended development review delays that had been occurring in some other localities. Ms. News, Mr. Rapisarda, and Mr. Foster responded to questions from the Board pertaining to the purpose of the legislation, how the new extension timelines would apply to deferrals, the Virginia Department of Transportation (VDOT) 527 review process applicable to certain land development applications, and how the new extension timelines would impact the County’s current review process.

Ms. News recognized Mr. Blankinship, who narrated the final segment of the presentation by reviewing those areas of the new State legislation addressing nonconforming structures, Board of Zoning Appeals (BZA) powers and duties, and family divisions. He defined nonconforming structures, explained the circumstances under which owners may now legally restore damaged nonconforming structures, identified several specific areas where BZA powers and duties have changed, and noted how the definition of family divisions has been broadened. He responded to questions and comments from the Board concerning enlargement of nonconforming structures, the meaning of the term “approaching confiscation” when BZAs rule on variances, current setback provisions in the County’s ordinance, and how zoning requirements apply to family divisions.

Mr. Blankinship referred to the proposed schedule for bringing all of these proposed zoning and subdivision ordinances forward, which would include public hearings by the Planning Commission on October 15, 2009 and Board of Supervisors on November 10, 2009. Mr. Hazelett noted that staff was presenting the proposed ordinances to the Board and Planning Commission at the same time in order to move them ahead as soon as possible.

Two members of the Planning Commission, Mr. Branin and Mr. Jernigan, departed the meeting. The Board recessed for dinner at 5:56 p.m. and reconvened at 6:05 p.m.

### **Proposed Ordinance Amendments Pertaining to Spot Blight Abatement**

Mr. Hazelett recognized Mr. Tokarz, who reviewed proposed spot blight ordinance revisions recommended by staff that would incorporate legislative amendments passed by the General Assembly. He reviewed a handout provided to the Board containing a new definition for blight and summarizing a change to the procedure for declaring blight that would remove the

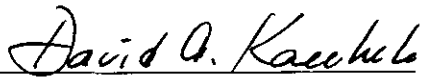
requirement for a public hearing by the Planning Commission prior to the Board of Supervisors determining that the property is blighted. Mr. Tokarz clarified that the proposed ordinance would not apply to unsafe structures. Mr. Revels, Building Official, commented that the proposed ordinance will be a tool of last resort once other tools are exhausted and is expected to be rarely used. Mr. Tokarz, Mr. Rapisarda, Mr. Hazelett, and Community Revitalization Director Mark Strickler responded to questions from the Board relating to the procedure for determining that property is blighted, the recourse of property owners whose property has been declared blighted by the Board, the County's authority to enforce the Building Maintenance Code under the proposed ordinance, the rationale for eliminating the requirement for a public hearing by the Planning Commission in determining that a property is blighted, the extent to which the State legislation was targeted at inner city blight, and the number of houses in Henrico that have been painted in recent years by volunteers in the County's Community Maintenance program. Mr. Glover indicated he did not object to the ordinance as long as the County can continue to use the provisions of the Building Maintenance Code. Mr. Kaechele remarked that there may be some value in having a public hearing by the Planning Commission prior to the Board determining that property is blighted. Mrs. O'Bannon and Mr. Rapisarda responded that the point of the ordinance was to speed up the blight declaration process. Mr. Tokarz pointed out that often the availability of a remedy is an effective way to achieve compliance by a property owner. There was concurrence by the Board to go forward with the ordinance as proposed by staff.

At the conclusion of the formal agenda, Mr. Hazelett asked Mr. Vithoukas to provide the Board with highlights of the Governor's speech given earlier in the day to the House Appropriations and Senate Finance Committees concerning FY10 State budget reduction strategies. Mr. Vithoukas noted that the Governor is projecting a \$1.35 billion State revenue shortfall for the current biennium. To make up the anticipated deficit, the Governor has proposed a number of cost-cutting measures including suspending for one quarter the State's contribution for employees to the Virginia Retirement System. The Governor also plans to make heavy use of the Commonwealth's revenue stabilization fund and to supplant general fund revenues with non-general fund resources. Mr. Vithoukas reviewed several other specific areas where the Governor has proposed reductions that will impact local governments, House Bill 599, Compensation Board, and Circuit Court funding. At Mr. Hazelett's request, Mr. Vithoukas explained how the Commonwealth supplanted Compensation Board funds in the previous year's budget. There was extended discussion by Mr. Vithoukas, Mr. Glover, and Mr. Hazelett regarding the Commonwealth's use of federal stimulus funds to supplant general fund revenues and how this will subject local governments to additional federal auditing requirements. Mr. Vithoukas pointed out that the nation is 18 months into the worst recession since the Great Depression. He and Mr. Hazelett responded to questions from the Board relating to the impact of the Governor's proposal on the State's bond rating and on local governments, the status of the County's residential/commercial real estate assessment ratio, how revenue neutral tax rates have been implemented in other localities, how the County's revenues are currently being invested, and the financial impact and timing of the Governor's intended use of an unpaid furlough day for State employees. Mr. Hazelett advised that it would take two to three weeks for the County to gain a full understanding of the Governor's proposed reductions and pointed out that the devil is in the details of the proposal.

Mr. Hazelett briefly reviewed the agenda for the evening meeting. He noted that Mr. Thornton would be requesting a two-week deferral for zoning case C-11C-09 in the Fairfield District. He also referred to a general agenda item introducing a resolution for receipt of requests for amendments to the FY 2009-10 fiscal plan. The Board previously received a letter from the Manager explaining this resolution. Mrs. O'Bannon advised Mr. Hazelett that staff had not contacted her about the resolution on the agenda for the award of a construction contract for the Challenger Field at Tuckahoe Park.

There was further discussion by Mr. Hazelett and the Board pertaining to State budget reductions and mandates.

There being no further business, the meeting was adjourned at 6:52 p.m.

  
Chairman, Board of Supervisors  
Henrico County, Virginia