

COUNTY OF HENRICO, VIRGINIA  
BOARD OF SUPERVISORS  
SPECIAL MEETING  
September 22, 2009

The Henrico County Board of Supervisors convened a special meeting on Tuesday, September 22, 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

**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  
Tamra McKinney, Director of Public Relations & Media Services  
C. Michael Schnurman, Jr., Legislative Liaison  
John A. Vithoukias, Director of Finance/Special Economic Adviser

Mr. Kaechele called the meeting to order at 4:47 p.m.

Mr. Hazelett briefly referred to the two items listed on the agenda.

**Residential Dwelling Occupancies**

Mr. Hazelett recognized Ben Blankinship, Principal Planner for Code Support, who narrated a Power Point presentation titled "Discussion of Proposed Limitation of Occupancy of Dwellings." Mr. Blankinship began his presentation with a statement of concern, in which he noted that excessive occupancy of dwellings has serious public policy implications. He then reviewed pertinent state and federal laws, applicable Virginia Maintenance Code provisions, the County's current enforcement approach, how other localities address this issue, an

ordinance under consideration by Chesterfield County, three alternatives for the Board to consider in Henrico County, and examples of how each of these alternatives would limit residential occupancies. Mr. Blankenship recommended that the Board continue to rely on the occupancy limits in the Virginia Maintenance Code (Alternative 1 – Status Quo) and consider amending the zoning ordinance to limit adult occupancy by total floor area (Alternative 3). He concluded his formal presentation by comparing Alternative 3 to the proposal under consideration by Chesterfield County.

During his presentation, Mr. Blankenship responded to questions from the Board regarding the criteria in the Virginia Maintenance Code for limiting occupancy and whether bathrooms were included in the minimum floor area requirements. Following his presentation, Mr. Hazelett and Community Revitalization Director Mark Strickler assisted Mr. Blankenship in responding to questions concerning the square footage requirements for Alternative 3, square footage criteria used by the Virginia Department of Corrections in housing inmates, and the number and types of citizen complaints received by staff in recent years relating to residential occupancies. Rebecca Worley, a resident of 902 Bonita Road in the Chamberlayne Farms subdivision, addressed the Board regarding a residential dwelling next door to her home that is owned by a contractor and was recently inhabited by 22 male workers. Mr. Hazelett advised that staff has been trying to address this situation under current ordinances and acknowledged that it has been a very frustrating case. Mr. Blankenship, Planning Director Joe Emerson, Mr. Hazelett, and Mr. Hazelett responded to further questions and comments by the Board pertaining to the feasibility of regulating the number of children in a residential dwelling, how *septic systems can limit occupancies in rural areas without public utilities*, how the three alternatives identified by staff would apply to Mrs. Worley's situation, the definition of children for purposes of regulating residential occupancies, trends in residential occupancies, the impact of the federal Fair Housing Act on local government ordinances aimed at limiting residential occupancies, and the adequacy of the County's existing ordinances in regulating de facto college student boardinghouses. There was discussion among Board members, Mr. Hazelett, and Mr. Blankenship relating to the implications posed by each of the three alternatives.

Mr. Hazelett suggested that staff bring this matter back to the Board after re-examining the alternatives and double-checking the experiences of other localities. He stated that he does not yet have a specific timetable in mind for moving forward with a zoning ordinance amendment and indicated that the Board and staff need to achieve a greater level of comfort with the proposed alternatives before proceeding.

### **Proposed Ordinance Amendments Pertaining to the Daily Rental Property Tax**

Mr. Hazelett recognized Ed Trice, Revenue Division Director, who narrated a Power Point presentation on the short-term rental property tax, formerly known as the daily rental tax. He explained that 2009 Virginia General Assembly has made a variety of changes to the State Code relating to this tax, which has precipitated the need to amend the Henrico County Code. Mr. Trice reviewed the significant changes, identified the 30 companies currently impacted by the tax, and offered an assessment of the fiscal impact of the legislation.

Mrs. O'Bannon asked why the General Assembly was changing the ordinance for short-term rental. Mr. Trice explained that there had been some problems with other localities, but that Henrico had not had any problems. He and Mr. Hazelett responded to questions from the Board regarding the rationale for the new State legislation, the rental periods covered by the legislation, how heavy equipment companies will be affected by the proposed ordinance, the amount of annual revenue that the County will lose as a result of the State Code changes, the type of companies subject to daily rental tax, and the cost to the County of advertising the proposed ordinance. Mr. Hazelett advised that the ordinance will appear on the Board's October 13, 2009 regular meeting agenda for introduction for a November 10, 2009 public hearing.

Mr. Trice narrated a second Power Point presentation addressing a proposed revision to the County Code relating to the business, professional, and occupational license (BPOL) tax. In April 2009, the Virginia Supreme Court issued an opinion in favor of English Construction Company, Inc. in its suit against the City of Lynchburg. Mr. Trice explained the case and the Virginia Supreme Court's ruling, which found that the City had no statutory authority to assess license taxes on the gross receipts of contractors derived from business done within any Virginia locality outside the City when the contractor had a definite place of business in such locality. He then reviewed how the decision impacts Section 20-599 of the Henrico County Code and also reviewed a proposed revision to the Code to bring it in line with the Virginia Supreme Court decision. Mr. Trice concluded his presentation by displaying a slide depicting the 14 Virginia localities with no business license requirements for contractors. He responded to several questions from Mr. Kaechele regarding the business practices of contractors and how their proceeds will be taxed under the proposed ordinance. Mr. Hazelett advised that this ordinance will also appear on the Board's October 13, 2009 regular meeting agenda for introduction for a November 10, 2009 public hearing.

The Board recessed for dinner at 5:53 p.m. and reconvened at 6:10 p.m.

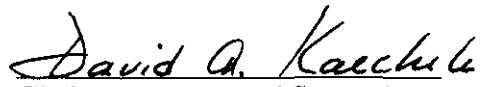
Mr. Pinkerton and Mr. Hazelett updated the Board on a press conference scheduled the following morning at The Diamond, at which time the new double-A baseball team for the region would be announced. They responded to questions from the Board pertaining to the cost of renovating The Diamond and whether localities will be asked to make a financial commitment. There was then discussion by the Board and Mr. Hazelett concerning private and public sector representation on the Greater Richmond Partnership and a new initiative by former members of the Greater Richmond Chamber of Commerce to form a separate organization for Henrico business leaders.

Mr. Hazelett announced that he recently appointed Mr. Vithoukias as Special Economic Advisor. Mr. Vithoukias will have a temporary office in the County Manager's Office but will continue to serve as Director of Finance. There was lengthy discussion by Mr. Hazelett, Mr. Vithoukias, and the Board regarding a proposal by the Governor to increase contribution rates for the Virginia Retirement System (VRS) and the financial impact of this proposal on the County if implemented. There was also lengthy discussion concerning VRS actuarial studies and possible major changes to VRS. Mr. Hazelett speculated that the General Assembly will try to shift the responsibility for many public services to localities during the upcoming session

because of State budget revenue shortfalls. He noted that Mr. Vithoukas will be closely monitoring this situation.

In response to a question from Mr. Kaechele, Mr. Vithoukas updated the Board on the status of the commercial real estate market and commercial real estate tax assessments. Mr. Drumwright responded to a question from Mr. Kaechele relating to unemployment rates and State payments for unemployment benefits. Mr. Hazelett and Mr. Vithoukas responded to further questions from the Board regarding the County's hiring freeze, revenue trends, business foreclosures, and real estate assessment practices. Mr. Hazelett stated that although Northern Virginia localities are facing large real estate tax increases the County staff would look at a tax increase only as an absolute last resort.

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

  
Chairman, Board of Supervisors  
Henrico County, Virginia