

**AT A WORK SESSION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF JAMES CITY,
VIRGINIA, HELD ON THE 25TH DAY OF OCTOBER 2011, AT 4:00 P.M. IN THE COUNTY
GOVERNMENT CENTER BOARD ROOM, 101 MOUNTS BAY ROAD, JAMES CITY COUNTY,
VIRGINIA.**

A. CALL TO ORDER

B. ROLL CALL

Mary K. Jones, Chairman, Berkeley District
Bruce C. Goodson, Vice Chair, Roberts District
James G. Kennedy, Stonehouse District (absent)
James O. Icenhour, Jr., Powhatan District
John J. McGlennon, Jamestown District

Robert C. Middaugh, County Administrator
Leo P. Rogers, County Attorney

C. TRANSFER OF DEVELOPMENT RIGHTS FEASIBILITY STUDY

Ms. Leanne Reidenbach, Senior Planner, introduced Mr. Aaron Engstrom from the consulting firm Design, Community & Environment (DC&E) who was in attendance and Mr. Bill Fulton, also of DC&E and available by video conference.

Mr. Engstrom explained that a Transfer of Development Rights (TDR) program is a market-based program to conserve open spaces in exchange for allowing extra development in a receiving area, an area planned for growth. He shared the results of the market analysis conducted by DC&E. The analysis concluded that a TDR program could complement the County's Purchase of Development Rights (PDR), greenspace, and Agricultural and Forestal District (AFD) programs. The analysis also concluded that a TDR is valued at \$40,000 each in the sending area and TDRs are valued between \$350 and \$15,000 each in the receiving area.

Mr. Engstrom and Mr. Fulton recommended two strategies for sending areas: permit landowners to exercise all development rights or cap on-site density below current zoning. They recommended three strategies for receiving areas: require developers to provide TDRs to achieve density up to the currently permitted maximum, require developers to provide TDRs to receive bonus densities beyond currently permitted maximums, or incorporate TDRs as a requirement in the rezoning process.

The analysis concluded that a TDR program is feasible, that demand would be weak now, but may increase in the future.

Mr. Engstrom shared a list of criteria for a successful TDR program, all of which were present in the County: adequate sending and receiving areas, adequate incentives for landowners and developers, and a clear process for participants to follow. He noted that in order for the County to meet all of the criteria, the Board would need to make some critical decisions regarding program implementation.

Ms. Reidenbach outlined some of the challenges that the County would need to address to implement a successful TDR program. She noted that one of the strategies proposed by the consultant, to require TDRs as part of a rezoning, is not currently legally allowed in Virginia. She stated that staff also noted the high transfer ratios would not fulfill the Board's initial guidance to not increase development potential within the County as a whole. She stated that staff also believes proffer waivers would shift the cost of a TDR program from the private sector to the public. Ms. Reidenbach also noted that floor area ratio caps would have to be added into the County's ordinances. She also noted the imbalance between the sending area and receiving areas and that State Code requires that the County establish enough receiving areas to be able to hold all the development rights that could be generated from designated sending areas and that staff recommended the Board not pursue a TDR program at this time.

Mr. McGlennon noted that he had spoken with Mr. Kennedy and that Mr. Kennedy hoped a final decision on a TDR program would not be made at the work session.

Mr. McGlennon stated that Mr. Kennedy had been interested in pursuing this and he has not changed his mind.

Ms. Jones said that she was respectful of Mr. Kennedy's desire not to make a final decision.

The Board agreed that they did not need another presentation on the issue.

Mr. Icenhour thanked Ms. Reidenbach for responding to his questions quickly and thoroughly. Mr. Icenhour noted that he hoped a TDR program would prevent the rural areas from being divided into three acre lots. He stated that he does not want to completely reject the idea at this time and suggested that a larger minimum lot size (such as 21 acres) could be used to determine and further narrow sending areas.

Mr. Middaugh asked the Board what they viewed as the next step and asked about the Rural Lands study.

Mr. Goodson stated that he feels the reason the Rural Lands study was not successful was because the discussion needs to take place at the Board level.

Mr. Icenhour agreed and stated that he also thought the non-residential component should have been discussed at the same time as the residential component. He also said that stakeholders should have been more involved.

Ms. Jones stated that it is vital to get the input of property owners.

Mr. McGlennon stated that he favored beginning a process to discuss the issue again and would involve those who do not own land in the rural areas.

The Board by consensus agreed that the previous study could be a good starting point, and that there are components of the previous study that it would like to retain.

Mr. Icenhour suggested a work session that would review the previous study.

D. LEGISLATIVE AGENDA

Mr. Leo Rogers, County Attorney, led discussion of the preliminary draft of the Legislative Agenda in preparation for the Board's meeting with the General Assembly members.

Mr. Middaugh noted that the Historic Triangle is seeking a more coordinated regional legislative agenda.

Mr. Goodson suggested removing the cigarette tax from the agenda. He suggested removing general items and keeping items more focused on the County.

The Board by consensus agreed to remove the cigarette tax.

Mr. Rogers noted that an item has been added to the Agenda that prevents the Virginia Department of Transportation (VDOT) from forcing localities to administer local projects. He noted another addition that the County opposes legislation that requires counties to assume responsibility for construction and maintenance of roads.

The Board by consensus agreed to remove an item supporting the ability to levy impact fees. The Board asked for more information about the item on Main Street Fairness.

Mr. McGlennon suggested that the priorities of the agenda be State funded for tourism, substance abuse and mental health treatment, and behavioral health and Comprehensive Services Act (CSA) funding.

The Board agreed to eliminate the items on restricting local taxing authority on real estate, changing the presumption of correctness for tax assessments, and the Dillon Rule.

Mr. McGlennon asked to add the High Growth Coalition to the legislative programs that the County supports.

The Board agreed to move the item regarding the maintenance of medians into Section 1 of the agenda. The Board also agreed to remove the item regarding increasing funding for substance abuse treatment.

Mr. Rogers raised the issue of the constitutional amendment on imminent domain. This amendment would consider issues such as lost access and lost profits in the determination of value. Mr. Rogers noted that this could be accomplished by law. A constitutional amendment would be much more difficult to change once approved.

The Board agreed to discuss this issue with the General Assembly.

E. CLOSED SESSION

Mr. McGlennon moved that the Board go into Closed Session for consultation with legal counsel and staff member pertaining to actual or probable litigation, pursuant to Section 2.2-3711(A)(7) of the Code of Virginia.

Following Closed Session at 6:24 p.m., Ms. Jones reconvened the Board.

Mr. McGlennon made a motion to adopt the Closed Session resolution.

On a roll call vote, the vote was: AYE: Goodson, McGlennon, Icenhour, Jones (4). NAY: (0).

RESOLUTION

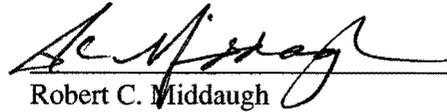
CERTIFICATION OF CLOSED MEETING

WHEREAS, the Board of Supervisors of James City County, Virginia, (Board) has convened a closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3711 of the Code of Virginia requires a certification by the Board that such closed meeting was conducted in conformity with Virginia law.

NOW, THEREFORE, BE IT RESOLVED that the Board of Supervisors of James City County, Virginia, hereby certifies that, to the best of each member's knowledge: i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies; and ii) only such public business matters were heard, discussed, or considered by the Board as were identified in the motion, Section 2.2-3711(A)(7) of the Code of Virginia, consultation with legal counsel and staff members pertaining to actual or probable litigation.

At 6:26 p.m., the Board took a break.


Robert C. Middaugh
Clerk to the Board

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