

A REGULAR MEETING OF THE PLANNING COMMISSION OF THE COUNTY OF JAMES CITY, VIRGINIA, WAS HELD ON THE FIFTH DAY OF MARCH, TWO-THOUSAND AND EIGHT, AT 7:00 P.M. IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, 101-F MOUNTS BAY ROAD, JAMES CITY COUNTY, VIRGINIA.

1. ROLL CALL

Planning Commissioners

Present:

George Billups  
Reese Peck  
Jack Fraley  
Tony Obadal  
Rich Krapf  
Chris Henderson

Staff Present:

Marvin Sowers, Director of Planning  
Adam Kinsman, Deputy County Attorney  
Matthew Smolnik, Senior Planner  
Luke Vinciguerra, Planner  
Kate Sipes, Senior Planner  
Terry Costello, Development Management Assistant

Absent:

Joe Poole III

2. PUBLIC COMMENT

Mr. Fraley opened the public comment period.

There being no public comments, Mr. Fraley closed the public comment period.

3. MINUTES

A. February 6, 2008 Regular Meeting

Mr. Henderson had two corrections to the minutes.

Mr. Krapf made a motion to approve the minutes as amended.

Mr. Henderson seconded the motion.

In a unanimous voice vote the minutes with the corrections stated above were approved (6-0). Absent: Poole.

4. COMMITTEE AND COMMISSION REPORTS

B. Comprehensive Plan Update

Mr. Vaughn Poller gave a report as the Chairman of the Citizen Participation Team (CPT). Mr. Poller gave a listing of events that have occurred to date, starting in January with the

JCC 102 presentation and in February with the survey results presentation and the press conference. He mentioned the Speakers Bureau with that being a list of CPT members who are willing to go out and make presentations to civic organizations and citizen's groups. Mr. Poller stated the first round of Community Conversation meetings will be in April. He stated these dates are April 1<sup>st</sup> at Stonehouse Elementary School from 6:30 – 8:30 p.m., April 14<sup>th</sup> at the Williamsburg/James City County Recreation Center from 11:30 a.m. – 1:30 p.m., April 17<sup>th</sup> at Warhill High School from 6:30 – 8:30 p.m., and April 24<sup>th</sup> at James River Elementary School from 6:30 – 8:30 p.m. Mr. Poller mentioned the publications printed or in process, to include comment cards, posters at local businesses, advertisements in newspapers, etc. He also stated that members have been leaving comment cards at the Recreation Center, both Libraries, and at the EOC building. He stated the CPT meets on Thursdays in Building A at 4 p.m. and meetings are open to the public. Mr. Pollard stated visitors to the website so far total 415 with an average stay of 8.42 minutes. He said that if any organizations or groups are interested in having a speaker talk about the Comprehensive Plan to call Christy Parrish at 253-6685.

Mr. Henderson asked if the hotline was established.

Mr. Poller answered that yes it was. He stated citizens are able to leave messages and this information will be incorporated with other comments received.

Mr. Henderson asked whether the CPT have any performance measure matrix established for the number of citizen comments that it would like to achieve during the process and can this information be benchmarked against the last Comprehensive Plan update.

Mr. Poller stated that information is available concerning comments from last time and the committee will be benchmarking that.

Mr. Henderson asked if the CPT had a program to target the business community.

Mr. Poller stated the CPT is looking at the business community and businesses will be asked to hang flyers in their establishments in regards to the Comprehensive Plan update.

Mr. Henderson stated that the Chamber of Commerce has a group of individuals that will be working with the County during the process.

Mr. Obadal asked what has been done to reach out to the homeowner's associations and to those who are not part of an association.

Mr. Poller stated that the CPT is working closely with James City County Neighborhood Connections in using their databases on connected neighborhoods. He stated that information will be forwarded to neighborhood groups for insert into their own newsletters and publications.

Mr. Obadal stated that it was important to use all avenues to reach the citizenry and the business community, such as through the Chamber of Commerce.

A. Development Review Committee

Mr. Krapf gave the report and stated that the Committee met on February 27, 2008 to discuss three cases. The first case was C-0008-2008, Wythe-Will Commercial Complex which was a request to revise the approved master plan that would relocate 2,235 square feet of commercial space to a location that is identified as office space, and relocate 2, 235 of office space to a location that is currently identified as commercial space. The Committee granted approval for the reallocation. The next case was SP-0013-2008, 9<sup>th</sup> Elementary School/4<sup>th</sup> Middle School, which was required to be reviewed by DRC, and the applicant requested a sidewalk modification. The DRC granted preliminary approval subject to agency comments. The final case was S-0039-2006/SP-0069-2006, Settlement at Powhatan Creek, Phase II, was deferred due to three new members being on the DRC. A special meeting will be held to review this with a request from the Committee to provide additional information and answer any questions members may have.

Mr. Henderson made a motion to approve the DRC minutes.

Mr. Peck seconded the motion.

In a unanimous voice vote the minutes were approved (6-0).

## 5. PUBLIC HEARINGS

### A. Z-0008-2007 / MP-0006-2007 Ford's Colony Section 37

Mr. Sowers stated staff's concurrence with the applicant's request for a deferral to the March 5, 2008 Planning Commission meeting.

Mr. Fraley asked for public comment. There being none, he left the public hearing open.

Mr. Krapf made a motion to approve the deferral with a second from Mr. Henderson.

In a roll call vote the deferral was approved. (6-0) AYE: Billups, Krapf, Peck, Henderson, Obadal, Fraley. Absent: Poole.

### B. AFD-5-86-4-2007 Barnes Swamp Agricultural and Forestal District – Pamaka Addition

Mr. Luke Vinciguerra stated Ms. Pamela Moore has applied to add approximately 1.34 acres of land located at 9238 Barnes Road to the existing Barnes Swamp Agricultural and Forestall District. He stated the parcel is zone A-1, General Agricultural, is designated rural lands on the Comprehensive Plan and is outside the PSA. Mr. Vinciguerra stated Ms. Moore has another property totaling 22 acres enrolled in the Barnes Swamp AFD immediately adjacent to the parcel. He stated that if this application is approved, the parcel will be added to the Barnes Swamp AFD under the same restrictions as the other parcels already enrolled. Mr. Vinciguerra asked that the Planning Commission recommend approval of this application to the Board of Supervisors.

Mr. Fraley opened the public hearing.

There being no comments, the public hearing was closed.

Mr. Billups asked what the total acreage was for the Barnes Swamp AFD.

Mr. Sowers stated the total is 1787 acres.

Mr. Krapf made a motion to approve the application.

Mr. Henderson seconded the motion.

In a roll call vote the application was approved. (6-0) AYE: Billups, Krapf, Peck, Henderson, Obadal, Fraley. Absent: Poole.

C. ZO-0001-2008 Zoning Ordinance Amendment – Kennels in B-1, General Business

Mr. Smolnik gave staff's report on a request to amend the Zoning Ordinance to allow for kennels in the B-1, General Business zoning district. He stated that currently the B-1 district does not permit kennels as a by-right or specially permitted use. He stated that at the Policy Committee meeting on February 19, 2008, the Policy Committee determined that kennels should be considered a specially permitted use in this district. Mr. Smolnik stated based on this information staff recommends that the Planning Commission recommend approval of the Zoning Ordinance amendment to the Board of Supervisors.

Mr. Fraley opened the public hearing.

There being no comments, the public hearing was closed.

Mr. Henderson made a motion to approve the application.

Mr. Krapf seconded the motion.

Mr. Billups asked a procedural question, as to whether the memorandum from the Policy Committee needed to be approved also.

Mr. Sowers stated the memorandum does not require action.

In a roll call vote the application was approved. (6-0) AYE: Billups, Krapf, Peck, Henderson, Obadal, Fraley. Absent: Poole.

D. FY-2009 – 2013 Capital Improvements Program

Ms. Kate Sipes presented the Capital Improvements Program rankings and explained the process as to how the rankings were determined. She also stated that the Policy Committee and

Planning Staff recommend that the Planning Commission endorse the evaluation of the process currently used to develop the Capital Improvements Program.

Mr. Fraley opened the public hearing.

Ms. Kinset Teller, 126 Lake Drive, spoke on behalf of the James City County Citizens' Coalition. She stated the Coalition supports the stormwater utility and feels that its projects should be adequately funded. She stated that the Coalition would like to raise again the need for correct measures in some areas such as Jamestown 1607, Fieldcrest, Peleg's Point, and St. George's Hundred. Ms. Teller stated that her group met on February 19, 2008 to address problems and to attempt to develop solutions. She stated their report should be completed within the next two weeks. She stated the James City County Citizens' Coalition feels that stormwater projects slated for FY09-FY10 should be given a high priority. Ms. Teller stated that the Coalition submitted a request to Mr. Wanner in January for \$200,000 for a study of drainage problems and \$1.1 million in FY09 for operational engineering corrections. She stated these funds are in addition to the stormwater management funds that were originally requested as part of the CIP budget. She stated the Coalition requests that the County approve a capital improvement plan that reflects their responsibility for decisions that cause health and safety issues for residents. Ms. Teller also said that the group feels that flood control should be a part of every rezoning application.

Mr. Fraley clarified that the dollar amount requested \$4,880,000 that was requested for stormwater.

Mr. Fraley closed the public hearing.

Mr. Obadal stated that in reviewing the Capital Projects, the County needs to be frugal in new projects due to the serious loss in revenue. He felt that the current CIP program does not reflect problems in current revenues. He referred to the State Code 22-39 where it states that revenues and costs need to be considered. Mr. Obadal felt that the Neighborhood projects for the Stormwater Division, and the Water Quality requests were extremely important. He stated with the Stormwater Utility fee, 60% is paid by the business interests, while 40% is paid by the residential community. He feels that if the Utility fee were to be dissolved the percentages may change, and the burden may shift more toward the residential community to fund these projects which are mandated by Federal Law. He felt that the split may be closer to 60% residential and 40% business as far as fiscal responsibility. Mr. Obadal did not feel that these projects should be included in the Capital Improvements Program but should come out of the General Fund. He stated that the request for the Land Preservation Fund in the amount of \$600,000 should not be included in the Capital Improvements Program. He stated that there were several projects under \$600,000 that were more important.

Mr. Peck asked whether the 60% residential/40% business assertion include all the fees in the general fund collected such sales taxes, business taxes, and meals tax.

Mr. Obadal stated he does not know and felt that it was not basically relevant since citizens pay all kinds of taxes.

Mr. Peck wanted to make the point that businesses generate other taxes other than property tax and he just wanted to ensure that the information was valid and accurate.

Mr. Henderson stated that the Policy Committee rated the Land Preservation Fund as a medium priority not as a high priority. He stated the Policy Committee did not feel that it was a high priority at this time. He understood this Fund to be an opportunistic program to act as an economic development stimulus that would promote business development and therefore increase revenue. Mr. Henderson stated there was a revenue assumption attached to it and was not a purely speculative investment in land for investment purposes to hold. He personally did not rate it high because he does not like to see government compete with the private sector that is capable of finding good development sites and bringing them to the marketplace.

Mr. Obadal stated that the County has good development sites, and these sites are already zoned commercial. He stated the County has approximately 6,685 acres that is zoned business and industrial with 3,212 acres undeveloped. He also stated that 42% of land that is designated in business parks is still available for development.

Mr. Henderson stated that the question should be whether the infrastructure is in place today for business development without significant public or private investment.

Mr. Obadal asked whether the County should be responsible for building this infrastructure to make it available for business.

Mr. Henderson stated the County has done this in other circumstances. He would like to see utilities extended such as water and sewer, possibly the building of roads. He made the point that even though so many acres are available, it is the number that is buildable that is relevant. Mr. Henderson gave the example of the BASF property which is 700 acres. He stated that once the environmental issues are addressed there is only 250 acres that is developable.

Mr. Krapf added as a member of the Policy Committee, he stated the Economic Development office cited that they equated the Land Preservation Fund to that of the Greenspace Fund that is used to preserve open space. He stated that the justification was to secure land to have future economic development and without this preservation, land could be developed counter intuitive to the County's revenue generation strategy. He stated the criteria for which the Policy Committee operated on which ranking these projects, was service needs, conformance to the Comprehensive Plan, and other County plans and policies such as master water and sewer plans.

Mr. Billups commented that it might be relevant to review these CIP requests from a needs assessment viewpoint. He stated there should be some control over the money that is spent. He would like to see the County define the locations of ideal economic corridors. Mr. Billups believes that guidance should be given as to the definition of these economic corridors. He felt that the Planning Commission should be involved in the beginning of this process of reviewing CIP requests.

Mr. Fraley clarified that the Planning Commission is not reviewing a capital budget, but

reviewing requests for capital expenditures. He stated the \$600,000 fund that was developed when the Business Climate Task Force recommendations were made. He also stated that the Board of Supervisors issued guidance in January on the capital budget process. Mr. Fraley stated the Board expects a budget proposal without any reassessment, without an increase in the tax rate, and funding for stormwater programs with the County's General Fund rather than the separate fee.

Mr. Peck wanted to note that Planning staff did a scoring of capital projects based on the Comprehensive Plan and other factors. He stated that Land Preservation Fund received a score of 65 which is on the border of low and medium. He further stated he would not be opposed to changing the ranking from medium to low if the Commission felt the need.

Mr. Obadal suggested giving the public an opportunity to comment on the rankings. He would like the opportunity to revisit the rankings after the Board of Supervisors to review the potential revenue loss. He stated some CIP requests are related to safety such as the Police and Fire departments, those need to be ranked high. Mr. Obadal felt that the area of stormwater management should be a high priority also. He also expressed concerns about the ranking placing wants ahead of needs.

Mr. Fraley clarified the departmental rankings versus the Policy Committee rankings. He stated the Policy Committee ranked flood control and water quality high.

Ms. Sipes further clarified by stating that the projects are ranked high, medium and low and those projects listed are in no particular order. The numbering system was strictly an order number so as to refer to the different projects more easily.

Mr. Krapf stated that each department would have a total number of projects and they had prioritized their requests as to which projects they felt were more important to their specific department.

Mr. Peck discussed how the Policy Committee determined the ranking. For instance, a recreational facility that will be jointly used by the schools, County and other programs may get a high ranking due to the fact of the groups that it will be serving. He stated that projects were ranked based on Recreational Master Plan, Comprehensive Plan and other factors.

Mr. Henderson then stated that the CIP requests had two large projects associated with it, the new schools and the new police facility. He stated these requests totaled \$95,000,000, and the total CIP requested budget was \$109,000,000.

Mr. Obadal asked whether the Policy Committee had access to revenue projections.

Mr. Henderson answered that information was made available with regards to existing revenue sources of the funds that are currently available. He stated that projected revenues for the next five years were not available.

Mr. Kinsman wanted to make a clarification on a point made earlier concerning a legal

case where the municipality was facing legal action with regards to providing adequate stormwater management. He stated that counties and cities have different immunities when it comes to legal actions.

Mr. Sowers suggested to the Commission to determine whether the ranking of the CIP projects should change or whether some things should be added or adjust in other areas as needed. He stated that the Policy Committee determined these rankings and recommended it to the Planning Commission. He suggested that if there were a few items that it may be possible to send its recommendations to the Board minus those few items that warranted further investigation. Mr. Sowers stated the due to time limits with the budget, Financial Management Services and County Administration was waiting on this information.

Mr. Fraley asked about the economic development land bank balance of \$600,000 which was ranked medium by the Policy Committee. He made a suggestion to move the ranking from medium to low.

Mr. Peck stated he would have no issue reducing the rank.

Mr. Krapf wanted to clarify the projects listed under Stormwater Management. He stated that the Division had identified over \$700,000 in projects but that due to staff constraints, it was determined that \$400,000 of that was manageable.

Mr. Henderson made a motion to approve the ranking of the CIP projects as completed by the Policy Committee.

Mr. Krapf seconded the motion.

In a roll call vote the application was approved. (5-1) AYE: Billups, Krapf, Peck, Henderson, Obadal, Fraley. NAY: Obadal. Absent: Poole.

## 6. PLANNING DIRECTOR'S REPORT

Mr. Sowers stated that there will be a series of training sessions for Planning Commissioners similar to those that were offered last year when new members were appointed. He stated that this program was designed based on input from the Commissioners themselves. He stated that there are four modules to include legal, environmental, water and sewer, and planning. Mr. Sowers stated a fifth module has been added for plan review taught by Ms. Shereen Hughes.

## 7. COMMISSION DISCUSSION AND REQUESTS

Mr. Billups asked Mr. Sowers to distribute information on the VA CPEAV seminars and training sessions to the Commissioners. He stated he would fax Mr. Sowers the information he had. He stated that that organization has legal and zoning seminars with respect to planning.

Mr. Henderson asked about the CCRC case where additional information was requested

by the Commissioners for review. He asked whether an additional worksession would be scheduled to review this.

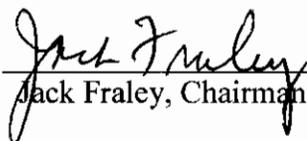
Mr. Fraley stated that he asked Mr. David German of the Planning Division, for a list of action items resulting from that initial worksession and focusing on requests made by the Planning Commissioners for information and follow-up. Mr. Fraley stated he received an email from Mr. Drew Mulhare concerning two items he had questions on. He stated one was to add traffic counts for Old News Road, and the other was the corridor wide impact on projects approved but not yet built. He also stated that the applicant was accessing cash contributions to go towards a potential redesign of the Powhatan Secondary intersection to address the citizen's needs at that intersection. Mr. Fraley stated he will send all this information out to the Commissioners.

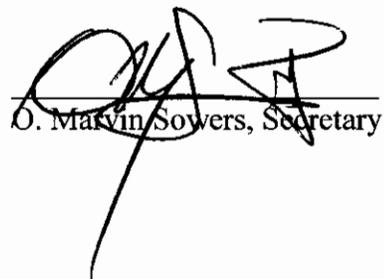
Mr. Fraley then mentioned a committee that was formed led by Mr. Allen Murphy, on direction from the Board of Supervisors, to work on process improvements with the application process. He stated that he was assured that the Planning Commission would be informed of their work and recommendations. He also said he was asked by Mr. Porter and Mr. Murphy for one suggestion on how to improve the process. Mr. Fraley stated he was working on a paper and will be forwarding it to the Commissioners for their input.

Mr. Krapf made a motion to continue the meeting until March 6, 2008 at 1:00 p.m. in Building A.

Mr. Henderson seconded the motion.

The meeting was continued until March 6, 2008.

  
\_\_\_\_\_  
Jack Fraley, Chairman

  
\_\_\_\_\_  
O. Marvin Sowers, Secretary