

A REGULAR MEETING OF THE PLANNING COMMISSION OF THE COUNTY OF JAMES CITY, VIRGINIA, WAS HELD ON THE FIRST DAY OF APRIL, TWO-THOUSAND AND NINE, 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:

Deborah Kratter  
Chris Henderson  
Reese Peck  
Jack Fraley  
Rich Krapf  
Joe Poole III  
George Billups

Staff Present:

Allen Murphy, Director of Planning/Assistant  
Development Manager  
Angela King, Assistant County Attorney  
Melissa Brown, Zoning Administrator  
Leanne Reidenbach, Senior Planner  
Jason Purse, Senior Planner  
Jose Ribeiro, Senior Planner  
Terry Costello, Development Management Assistant

2. PRESENTATION – RECOGNITION OF MR. ANTHONY OBADAL

Mr. Rich Krapf read a resolution of appreciation for Mr. Anthony Obadal.

Ms. Deborah Kratter moved to approve the resolution.

Mr. Joe Poole III seconded the motion.

In a roll call vote the resolution was approved. (7-0) AYE: Poole, Fraley, Kratter, Henderson, Billups, Peck, Krapf.

Mr. Krapf then asked Mr. Jack Fraley to present a certification of appreciation.

Mr. Fraley spoke on Mr. Obadal's accomplishments during his tenure on the Planning Commission. He stated that Mr. Obadal developed the initiative to make improvements and changes to the Capital Improvements Program (CIP) process. Mr. Fraley gave an example of a case where Mr. Obadal made a suggestion to the applicant to install a stream monitoring system. He expressed his gratitude for all of the work that Mr. Obadal had done while on the Planning Commission. Mr. Fraley then presented a certificate of appreciation to Ms. Nancy Obadal, the wife of Mr. Obadal.

Ms. Nancy Obadal accepted the certificate on behalf of her husband. She stated that he enjoyed working with members of the Planning Commission and staff.

3. PUBLIC COMMENT

Mr. Krapf opened the public comment period. Seeing no one, he closed the public comment period.

4. MINUTES

A. March 4, 2009 Regular Meeting

Ms. Kratter had some additional information to add on page 14.

Ms. Kratter moved that the minutes be approved with corrections.

Mr. Henderson seconded the motion.

In a unanimous voice vote, the minutes were approved. (7-0)

5. COMMITTEE AND COMMISSION REPORTS

A. Development Review Committee (DRC)

Mr. Poole stated the DRC did not meet in March. There will be a special meeting on April 14, 2009 at 4 p.m. to review exterior elevations of a proposed drugstore in Norge.

B. Policy Committee

Mr. Chris Henderson stated the Policy Committee met on March 11, 2009 to discuss a variety of issues, some of which were on the agenda this evening. There was discussion on setback reductions in certain zoning districts, limitations on vehicle sales on certain corridors, sign illumination along Community Character Corridors, and the refinement of regulations regarding parking ratios for outlet malls. Discussion of setback reductions and CIP rating criteria will be discussed further at the April meeting.

Ms. Kratter moved to approve the report.

Mr. Poole seconded the motion.

In a unanimous voice vote the reports were approved. (7-0)

C. Other Committee / Commission Reports

Mr. Fraley gave a report on the progress of the Steering Committee. He stated the Committee continues to meet weekly and that the schedule for April and May have been posted on the website, jccplans.org. He stated that the Steering Committee has given preliminary approval to seven out of ten Comprehensive Plan sections. Mr. Fraley stated these included demographics, population needs, environment, economic development, housing, public facilities, and parks and recreation. The remaining sections included community character, transportation, and land use. He stated the current schedule is for the Committee's work to be completed by May 21, 2009 and for the plan to be presented to the Board of Supervisors and the Planning Commission at a joint work session on June 23, 2009. Mr. Fraley stated meetings will be

scheduled for the Planning Commission's consideration throughout July and the first meeting for the Board of Supervisor's consideration should take place in August. He encouraged the Board of Supervisors and Planning Commission to access materials, technical reports, and the goals, strategies and actions on [jccplans.org](http://jccplans.org).

6. PLANNING COMMISSION CONSIDERATIONS

A. Initiating Resolution – To amend the M-1 Zoning District to allow for front setback modifications

Mr. Jason Purse stated staff has received a request to amend the Zoning Ordinance to allow for front setback reductions to 20 feet in the M-1 Limited Business Industrial District. He stated similar language currently exists in the B-1, General Business District but currently allows reductions to 25 feet. Staff would also amend this section to have similar reduction standards. Mr. Purse stated this request is presented at this time because certain M-1 parcels are located in Community Character Areas where approved design guidelines suggest reduced front setbacks. Staff recommends that the Planning Commission adopt the resolution and refer this matter to the Policy Committee.

Ms. Kratter moved to approve the resolution.

Mr. Henderson seconded the motion.

In a roll call vote, the resolution was approved. (7-0) AYE: Poole, Fraley, Kratter, Henderson, Billups, Peck, Krapf.

Mr. Krapf clarified that approving the resolution was giving the authority to begin studying the issue before it comes before the Planning Commission.

B. Initiating Resolution – To amend Sections 24-2, 24-213, 24-349, and 24-521 of the Zoning Ordinance to replace the term “mentally retarded” with the term “intellectually disabled.”

Mr. Brandon Moon, of the County Attorney's office, stated that HB 760 was approved at the 2008 session of the General Assembly. This initiative removed the terms “mentally retarded” and “mental retardation” from the Virginia Code in favor of the more sensitive term “intellectually disabled.” He stated the term “mentally retarded” appears in the Zoning Ordinance. Staff recommends that the Planning Commission adopt the resolution to initiate consideration of the change to the Zoning Ordinance.

Mr. Krapf asked if it was a legal requirement to change the Zoning Ordinance.

Mr. Moon answered that it was not a legal requirement; however, it is recommended that where the public necessity, convenience, general welfare, or good zoning practice requires it, that these steps be taken. Staff believed that convenience, general welfare, and good zoning practices in this case would trend toward changing to the more sensitive term.

Mr. Fraley asked if any research was done regarding all of the other work done at the General Assembly session.

Mr. Moon answered that the County Attorney's office is reviewing other areas that need further review.

Mr. Henderson moved to approve the resolution.

Mr. Poole seconded the motion.

In a roll call vote, the resolution was approved. (7-0) AYE: Poole, Fraley, Kratter, Henderson, Billups, Peck, Krapf.

C. Initiating Resolution – to amend Section 24-7, Administrative Fees, of the Zoning Ordinance to establish fees for application for home occupations.

Mr. Krapf congratulated Ms. Melissa Brown on her appointment to Zoning Administrator.

Ms. Brown stated that the Planning and Zoning Divisions conducted a review of the fees to determine if changes needed to be made. Through this process, it was determined that the only change that needed to be made was the addition of the fee for home occupations. She stated due to the advertising deadlines and the public hearings associated with the budget, the ordinance amendment would also be heard later this evening.

Mr. Henderson moved to approve the resolution.

Mr. Poole seconded the motion.

In a roll call vote the resolution was approved. (7-0) AYE: Poole, Fraley, Kratter, Henderson, Billups, Peck, Krapf.

Mr. Fraley also congratulated Ms. Brown on her appointment as the Zoning Administrator.

7. PUBLIC HEARINGS

Mr. Krapf stated that case no. SUP-0007-2008, Relocation of Tewning Road Convenience Center had been moved to item no. E on the agenda.

A. ZO-0005-2008 Zoning Ordinance Amendment – Prohibition of Vehicle Sales in Certain Circumstances

Ms. Brown stated that on January 13, 2009 the Board of Supervisors passed an initiating

resolution directing staff to pursue prohibiting the parking of vehicles for sale on property not occupied by or legally titled to themselves or any immediate family member. This request was forwarded to the Policy Committee for review. Ms. Brown stated that currently there is no prohibition on parking vehicles for sale on lots vacant or otherwise in the County as long as the vehicle owner is compliant with State Code regulations and the location of the vehicle was not in conjunction with other unpermitted vehicle services. She stated that the sale of more than five vehicles in Virginia within a twelve consecutive month period qualifies an individual as a motor vehicle dealer per the Virginia Code, and requires licensure by the State Motor and Vehicle Board. Ms. Brown stated that staff's review consisted of contacting several localities to review their policies and procedures. She stated the majority of localities took action similar to the County by referring to State Code as opposed to instituting their own ordinances. Ms. Brown stated the proposed language is modeled after York County's policy because they have the most specific requirements and the longest standing enforcement history.

Ms. Brown stated the proposed policy would allow for two vehicles at any given time, with the stipulation of no more than five vehicles being sold from a property within a year. It would not permit the sale of vehicles on vacant land, and would not permit sales from non-owners or non-occupants of a parcel. She stated there were sign area limitations proposed and an immediate family requirement. She stated the proposed ordinance change would decrease the response time necessary to abate violations and as a result improve the appearance of roads and entrance corridors. Ms. Brown stated that at the Policy Committee's request, staff has incorporated changes that address the location of the vehicles in cleared areas in consideration of rural areas, and to preserve existing vegetation on wooded lots. She stated the thresholds were increased to permit two vehicles at a time and five vehicles within any twelve month period. She stated that alterations were not made to the permit of sale of vehicles from vacant or unoccupied parcels as it was staff's opinion that the change would be in conflict with the intent of the Ordinance which was to provide for sale of personal vehicles of residents at their homes while curbing the sale of vehicles on vacant parcels in the County.

Ms. Kratter asked about the reference in the current language concerning vehicles for rent or lease, and that in the proposed language these are not mentioned. She asked if there were other sections that referred to this, or was it language that is not needed.

Ms. Brown stated that originally that language was not included in any other section, but if the Commission feels it is necessary, staff is open to adding it.

Ms. Kratter stated that there was no discussion as to whether any of these limitations would in fact apply to vehicles for lease or rent, and if it is the intent to do that, then there should be some clarification that this condition applies.

Mr. Henderson stated that during the Policy Committee deliberations, there were to be two options that would be presented to the Planning Commission with regards to the limitations on the number of vehicles allowed for sale. There other option was one vehicle per sale at a given time, with a maximum of three during a consecutive twelve month period.

Ms. Brown stated it was staff's belief that after deliberations and a review of the minutes,

it had appeared that the decision was to go with the two vehicles at a given time, with a maximum of five. Staff would be more than willing to revisit the discussion for another option.

Mr. Krapf stated that one of his concerns was that by allowing two vehicles at a time, it could give the appearance of being cluttered and also what was the likelihood of a family selling two vehicles at one time. He felt that the one vehicle at a time with a maximum of three, would limit the preponderance of vehicles put on display.

Ms. Kratter stated she thought both options would be considered. She also expressed her preference for the one and three option as opposed to the two and five option. She was concerned about the effect on neighborhoods, and felt that it would benefit everyone if there is not a situation where too many vehicles are for sale.

Mr. Fraley stated he would prefer a one and three option also.

Mr. George Billups asked if there was any information as to the number of cars that the average family in the County owns, and that may be stored at any given time.

Ms. Brown stated that this information could probably be obtained from the Commissioner of Revenue. She stated that data is not available as far as the number of vehicles being stored.

Mr. Poole asked if there was any discussion about additional clearing that the owner might want to increase visibility of these vehicles for sale.

Ms. Brown answered that there was a discussion at the Policy Committee meeting about whether vehicles could be parked in areas of vegetation and trees, whether that would disturb the vegetation. She stated this ordinance does not prevent the clearing of trees unless there is some easement on the property that would prevent that.

Mr. Henderson stated that this discussion was initiated to address a problem on the commercial corridors where vehicles are being displayed by those who are not owners or occupants of property using commercial areas to display vehicles.

Ms. Brown stated it becomes an owner issue from the perspective that the majority of people displaying vehicles are not the owners of the property on the entrance corridors in the major thoroughfares. She stated when it becomes an enforcement issue it is often difficult to determine who owns the vehicles. She stated that contacting them takes some time also. Ms. Brown stated that what happens also is that once those vehicles are removed or in the process of being removed, others show up.

Mr. Krapf opened the public hearing.

Mr. Joseph Swedenborg, of 3026 The Point Drive, asked if this ordinance applies to boats, and how many boats one can sell before one is classified as a dealer. He does not agree with the one vehicle at one time, with three maximum option. He stated that there are many

homeowners' associations in the upper scale neighborhoods that have already addressed this issue. Mr. Swedenborg believed it would be detrimental to those in lower scale neighborhoods.

Ms. Brown stated that she was unsure as to whether the Motor Vehicle Dealer Board addresses the selling of boats.

There being no further public comments, Mr. Krapf closed the public hearing.

Ms. Kratter stated that in paragraph one under the heading of change #1; it does reference boats, so that when vehicles are mentioned throughout the ordinance, boats would be included in that reference.

Ms. Brown clarified that boats would be included in the County ordinance.

Ms. Kratter restated her request that the reference to "for sale or rent" be made throughout the ordinance so that it is consistent.

Mr. Billups expressed his concerns about the problems that other localities have had. He gave the example that in York County, those individuals who are overseas, have several parked cars at their residences. He asked if James City County was addressing issues about several cars parked in the yard.

Ms. Brown answered that this ordinance does not address vehicles that are parked on the property and legally registered and tagged. She stated that the current ordinance does address vehicles that are not property tagged, registered or inspection which is a separate enforcement issue.

Mr. Henderson suggested adding language that a boat may or may not include a trailer, so that the trailer is not counted as a separate component.

Mr. Krapf addressed a question that a citizen had with regards to construction equipment at the entrance of Mirror Lakes. He stated that was the intent of this ordinance, to address the community character corridors and other areas. He did state that this ordinance addresses vehicles for sale, but asked the question of how the County deals with equipment that may be stored in these areas.

Ms. Brown answered that staff would have to make a determination of whether it was a legal land use, such as a contractor's warehouse or storage yard. Otherwise if they were listed for sale, construction equipment is included in the proposed ordinance amendment. Ms. Brown asked for clarification with regards to boats with or without trailers.

Mr. Krapf stated that wording should be added that if the boat is listed with a trailer for sale, that it would be considered one item as opposed to two.

Ms. Kratter suggested that the wording state "a boat for sale with a trailer will be considered one vehicle." Otherwise there may still be some uncertainty as to what "with or



without" means.

Mr. Henderson agreed.

Mr. Krapf initiated the discussion as to what the Commission would prefer with regards to the number of vehicles for sale at one time, and the number allowed per year. The two options are two vehicles for sale at one time, with a maximum of five per year, with the second option being one vehicle at one time, with a maximum of three per year. He stated the first option mirrors language that the State Code has. He stated that if the intent of the ordinance is to reduce the appearance of vehicles on community character corridors that the option may be to reduce the total to three per year and no more than one vehicle at a time.

Mr. Poole stated that he was comfortable with staff's proposal of two vehicles for sale at one time, with a maximum of five per year. He stated vehicles are commodities that it is in the best interest of the owner to sell, and felt there were more important community character interests that need more attention.

Ms. Kratter stated she felt it was important to minimize the adverse effects on a neighborhood. She stated the County is a unique locality, and that the County needs to do everything it can to foster the idea that esthetics is important. She supports the option with one vehicle for sale at one time, with a maximum of three per year.

Mr. Fraley agreed with Ms. Kratter.

Mr. Henderson preferred option one, stating that his experience has been that with individuals who sell used vehicles are at the margin, and feels the County should help these people relieve themselves from whatever circumstance they may be in. He stated that with the restriction that the seller needs to be an owner or occupant, or immediate family member, living on the property, he felt these were sufficient.

Mr. Peck stated he was comfortable with both options. He would like to see consistency with other localities so as to have a regional approach.

Mr. Billups was in favor of option two, with one vehicle for sale at one time, with a maximum of three per year.

Mr. Fraley moved to approve the ordinance changes, but changing from option two to one, allowing one vehicle for sale at one time, with a maximum of three.

Ms. Kratter seconded the motion.

In a roll call vote the amendment was approved. (5-2) AYE: Fraley, Kratter, Billups, Peck, Krapf; NAY: Poole, Henderson.



B. ZO-0006-2008 Zoning Ordinance Amendment – Review of Signage Illumination

Ms. Brown stated that the Board of Supervisors passed an initiating resolution directing staff to pursue a review of the criteria for illumination of the gas pricing component of free standing signage in community character areas and along community character corridors. The proposed language is a working document that attempts to address changes in technology relevant to signs as utilized by the fuel sale's industry in the County and to address concerns expressed by the Policy Committee. She stated specific interests to the Policy Committee were that the signs be monument style and constructed of stone or brick, that the lighting colors be limited to red or white, and that light not generally trespass across property lines as a result of the sign location. She stated staff has worked at addressing these issues by including these as requirements and addressed the issue of crossing property lines by requiring no more than 0.1 foot-candles as measured at the property line. This would be verified by a submission of a diagram or the demonstration of an acceptable measurement with a light meter at the property line. Ms. Brown stated staff has made an alternative recommendation after discussion with staff and the County Attorney's office. It was suggested that the lights be of one color, and not conflict with emergency services lighting.

Mr. Fraley asked about the colors, in that the sign could be any color.

Ms. Brown stated the signage itself would be under the review of the Planning Director if it is in a community character corridor. However, color regulations can be addressed in the ordinance, but the legal issue was of a large concern.

Ms. Angela King stated that the specific color is not so much the issue, but the basis for choosing the colors. She stated it cannot be based on aesthetics, but rather based on health, safety or general welfare. She stated zoning ordinances may be based on these considerations.

Mr. Fraley asked about considerations such as fitting in with the community, the character, and the surroundings. He asked if this could be researched more.

Ms. King stated a color could be specified, but the basis needs to fit in the category of health, safety and general welfare. For example, some of the issues raised with the red color would be safety related issues and the confusion with emergency services lighting.

Ms. Brown suggested colors for readability could be red, orange, green, violet, blue or olive green. She stated that the color could be tied to a safety concern.

Mr. Fraley made the comparison that paint colors can be regulated.

Ms. Brown stated that the County has the ability to regulate paint colors in legislative cases.

Mr. Fraley asked about the restriction on the illumination and the brightness given the situation that gave reason for this change to the ordinance.

Ms. Brown answered that if the ordinance was adopted the lighting would first be tested with a light meter. She stated that if the test was inconclusive then the requirement would be to provide an iso-footcandle diagram to prove that light trespass was not greater than what was stated in the ordinance.

Mr. Peck stated that his suggestion would be white, since that is what is already in these areas.

Ms. Brown stated that it is more of a result that current requirements for community character corridors and community character areas require either backlit or lighted channel letters. She stated in channel lettering, white is a very vivid color and has a high level of readability. She said that bulbs used for this type of lettering are normally white also.

Mr. Peck questioned the fact that in regulating the type of systems allowed, it is in fact regulating the light.

Ms. King stated that the color of the light could be regulated so long as the decision is based on a safety concern or a general welfare concern. For example, if white were chosen, that could be tied to a safety concern since it may be more readable.

Ms. Brown stated that reasoning could also be used, that since white is most prevalent, that using other colors might be a distraction, and therefore a safety concern.

Mr. Krapf asked if there were examples of wording in ordinances from other localities that would allow for a certain latitude within the constraints that have been mentioned, but attempt to limit the available options.

Ms. King stated that she did not view ordinances from other localities.

Ms. Brown stated the ordinances that she has reviewed from other jurisdictions deal with intensity in terms of the iso-footcandle diagram. She stated that no locality limited the color of lights. She stated that the color of lights may be built into design guidelines for particular areas.

Mr. Krapf asked if the Planning Director would need to approve any LED sign before it was installed.

Ms. Brown stated that in community character corridors and in community character areas the Planning Director approves internally illuminated signage, other than the gas pricing component.

Ms. Kratter asked if the way the ordinance change is drafted, can the gasoline signage be any color.

Ms. Brown answered that the way it is drafted, the gasoline portion of the sign could be any color as long as it was not determined that it did not mimic emergency service lighting.

Ms. Kratter asked if the ordinance stated that white was the preferred color due to safety, would the County still be subject to challenges, if the applicant brought forth information that showed that other colors deemed to be safer.

Ms. King stated that it might be better to include various options in lighting, rather than just one color. For example, two colors might be listed as readable for LED signs.

Ms. Kratter asked if the County would still be subject to challenges, if two colors were stated, with the rationale that these two colors were chosen arbitrarily and that there might be others that serve the same purpose.

Ms. King stated there is a potential for the County to be challenged.

Ms. Kratter asked if these signs were not allowed at all, that the issue is not there.

Ms. King stated yes.

Mr. Henderson asked for clarification as to how staff would interpret a stagnant red or white light that does not flash, and does not scroll, as to mimic emergency services lighting.

Ms. Brown stated the height of the monument signs are typically the same as the vehicles going by. She said it is not necessarily just the signage that is not scrolling. At nighttime, if there are red and white bulbs, and metallic material moving, there is greater possibility of reflection and flashing, than with alternative colors.

Mr. Krapf opened the public hearing.

Ms. Barbara Pfeiffer of 103 Links of Leith questioned the intensity issue. She felt that sometimes until the sign is actually in place, that one can tell if it may be too bright. She also asked who would be responsible for monitoring the intensity. She asked if the signs can be built so that they can only give off the required intensity, or can the intensity be changed at any time. Ms. Pfeiffer addressed the issue that some say the County needs to modernize. She felt that the character of the area would be compromised if these signs were allowed.

Mr. Krapf closed the public hearing.

Mr. Poole did not feel that a change was necessary to address one error with a sign in the County. He does not feel the ordinance was broken, and does not feel that this is the avenue to take to remedy the situation. Mr. Poole feels the County has been diligent in trying to protect community character corridors previously with backlit and channel lit signs. He does not want to compromise further community character corridors. He also mentioned that many business owners in the County have been diligent in working with staff to uphold the intent of community character corridors.

Mr. Krapf stated that ordinances will be brought to the Commission for change and review as part of the Comprehensive Plan update

Mr. Peck agreed with the fact that action should not be taken just because a mistake was made. He asked whether the Commission has to report something back to the Board of Supervisors. He asked if the Commission denies this change, does it still get presented to the Board of Supervisors.

Mr. Murphy answered that the Commission could refer the matter back to the Policy Committee if they felt it was warranted. The Commission could vote to approve or deny, it would still be presented to the Board of Supervisors.

Mr. Peck stated that if the Commission denies it, and it is close to their opinion, then that is fine. He suggested though, if the Commission felt otherwise, then maybe it should be referred back to the Policy Committee.

Ms. Kratter felt that this would be a mistake to change the ordinances with relation to the community character corridors. She does not see the County gaining anything with a variety of signs that would be allowed. She does not support the change to allow digital signs, and does not feel that one problem should warrant a change in the ordinance.

Mr. Billups does not want to change the ordinance unless it affects the health, safety and welfare of the community.

Mr. Krapf believes there is merit for the Policy Committee to review. He stated he felt that during the day, the sign in question was less obtrusive than some other signs in the area. He stated digital technology is more prevalent now, and feels that this should be discussed at the Policy Committee level.

Mr. Henderson stated that this ordinance only applies to gas pricing signs. He said that during the Policy Committee discussion, it was decided that it was important to limit colors to those that are deemed traditional and accepted within the community. He also stated it has been his experience that these signs are easier to change the prices. Mr. Henderson asked if this ordinance changes does not go through, how the County effectively allows an internally illuminated sign that would then have some kind of opaque dollar sign as required by federal law, the pricing of gas.

Ms. Brown stated that if the ordinance amendment is not approved, the County would be bound by the current ordinance requirements which in community character areas, signs need to be backlit channel lettered or externally illuminated.

Mr. Poole moved to deny the ordinance amendment.

Ms. Kratter seconded the motion.

Mr. Peck recommended that the amendment changes be sent back to the Policy Committee either to attempt to work out a compromise that the Commission would feel was workable or put together language which proposes no changes at all.

Mr. Fraley asked Mr. Murphy to comment.

Mr. Murphy stated that to propose no changes to the ordinance would essentially be a denial. He stated the Board of Supervisors has initiated a resolution that asks for the consideration of an ordinance in this particular area. He stated he would expect that the Board of Supervisors would like some kind of recommendation from the Commission.

Ms. Kratter asked Mr. Peck if he was suggesting that forwarding a different resolution that says that the initiating resolution was considered, and the Commission resolves not to go further. She asked if this was a more conservative approach so that the Board of Supervisors does not have an ordinance to approve even if the Commission does not approve.

Mr. Peck answered in essence yes, but if the Commission is stating that the ordinance change is flawed, then maybe the Policy Committee needs to rework the wording and rationale. He thought it was more beneficial to send something to the Board of Supervisors that the Commission agreed upon.

Ms. Kratter felt that the motion intended to accomplish the idea of stating that the Commission has reviewed the ordinance and does not recommend any changes, and do not want to consider digital signs in the community character corridors.

Mr. Krapf stated that there is a motion, and a second, and a suggestion to modify the motion to refer back to the Policy Committee.

Mr. Poole stated he wanted to keep the initial motion, which was to deny the proposed changes.

In a roll call vote the motion was approved. (7-0) AYE: Poole, Fraley, Kratter, Henderson, Billups, Peck, Krapf.

C. ZO-0002-2009 Zoning Ordinance Amendment – Fee Addition Home Occupation

Ms. Brown stated that the proposed amendment will add a fee for applications for home occupations to recoup the costs of staff time dedicated to review and follow up inspections. This proposal is being made after a review of the surrounding localities' fee schedules and many jurisdictions have a fee for this process. The fee change represents an effort to satisfy pathways 1A and 1D of the Strategic Management Plan by evaluating service and delivery cost, and promoting revenue alternatives.

Mr. Henderson asked what types of inspections are being done.

Ms. Brown answered that for certain occupations, such as those that might have outdoor storage or employees on site, staff performs site inspections to make sure these situations do not occur. Staff also makes arrangements to meet with property owners to make sure they

understand the requirements.

Mr. Henderson asked if this fee will impact telecommuting.

Ms. Brown answered no, that typically the occupations that require the home inspections would be contractors that wish to have a home office, construction type work, mobile mechanics, etc.

Ms. Kratter asked if twenty five dollars compensates for staff time. She stated that other localities have higher fees, and considering the County's budget issues, then maybe a higher amount would be justified.

Ms. Brown answered that in providing information to the Financial Management Services (FMS) department; staff provided a range of the proposed fee. The fee was requested by FMS.

Ms. Kratter asked what the estimated revenue would be.

Ms. Brown answered that 720 applications were approved last year, so an estimate would be \$18,000.

Mr. Krapf felt it was important to realize that price level, that if the amount was too high, it might encourage more individuals not to apply for a home occupation, but engaging in the activity.

Ms. Brown stated there was sensitivity to that, along with the fact a majority of the home occupations are small businesses, and caution was made not to overly burden them. The home occupation application is generated when the business location provided for the business license application is a residential property.

Mr. Krapf opened the public hearing.

There being no comments, he closed the public hearing.

Mr. Henderson moved to approve the ordinance amendment.

Mr. Poole seconded the motion.

In a roll call vote the motion was approved. (7-0) AYE: Poole, Fraley, Kratter, Henderson, Billups, Peck, Krapf.

D. ZO-0003-2006 Outlet Mall Parking

Ms. Leanne Reidenbach stated the Board of Supervisors directed staff to amend the parking section of the Zoning Ordinance in order to clarify how non-retail space is considered when calculating off-street parking requirements for outlet malls. Currently, the parking requirement for outlet malls specifies five spaces per 1,000 square feet of building area, but does

not specify whether building square footage is based on gross or retail square footage. The parking requirements for other commercial use categories, such as planned shopping centers, specifies that building square footage is based off retail floor area. In past practice, staff has permitted deductions for non-retail space in outlet malls. Ms. Reidenbach proposed changes that would include a definition of "floor area, retail" to the definitions section of the ordinance, and clarification on what qualifies as an outlet mall and specifying that parking calculations are based on retail floor area in the highways, streets, parking, and loading section of the ordinance. Staff recommended that the Planning Commission recommend approval of these amendments to the Board of Supervisors.

Mr. Krapf opened the public hearing.

There being no comments, he closed the public hearing.

Mr. Poole moved to approve the ordinance amendment.

Ms. Kratter seconded the motion.

In a roll call vote the motion was approved. (6-1) AYE: Poole, Fraley, Kratter, Billups, Peck, Krapf; NAY: Henderson.

E. SUP-0007-2009 Relocation of Tewning Road Convenience Center

Mr. Jason Purse stated that Mr. Larry Foster of the James City Service Authority (JCSA) has applied for a Special Use Permit to allow for the relocation of the existing Convenience Center on Tewning Road. The parcels subject to the relocation are a combined 12.33 acres and are zoned PL, Public Lands.

Currently, the Convenience Center is located at 105 Tewning Road. The Center consists of refuse containers for the disposal of materials such as newspaper, cardboard, glass, and aluminum, as well as waste motor oil, antifreeze, and kitchen grease. The relocated Convenience Center will continue to collect the same products. Because of future expansion potential of this parcel for a JCSA building, the Convenience Center is being relocated to the far side of the existing parking lot on the adjacent parcel, 149 Tewning Road. This relocation will not result in any substantial change in size of the Convenience Center; it merely provides additional flexibility for future JCSA needs.

Mr. Purse stated conditions have been placed on this SUP that require the BMP design to address potential runoff contaminants from the Convenience Center, as well as one that ensures design of the BMP meets the requirements of the approved New Town storm water master plan, which references this existing basin. The design of this BMP was anticipated to support acreage from that section and the Environmental Division has requested that its design continue to support that additional acreage. Staff believes that these conditions will help to protect overall environmental quality of the area.

Mr. Purse stated this parcel is designated Federal, State, and County Land on the 2003



Comprehensive Plan Land Use Map. The relocated Convenience Center will continue to function as a County operation, and therefore continues to meet these standards. Overall, staff believes that this application, as proposed, is in general compliance with the Comprehensive Plan. Additionally, with the advantage of the new conditions, staff believes that the impacts created by this relocation will be better mitigated than those present with the existing service. Staff recommends the Planning Commission recommend approval of the special use permit application, with the attached conditions, to the Board of Supervisors.

Mr. Henderson asked if staff has identified adjacent property owners, specifically the parcel to the left of the subject parcel.

Mr. Purse stated the parcel on the left is owner by JCSA.

Mr. Henderson asked who the owner was across the street.

Mr. Purse stated he did not know.

Mr. Henderson stated his concern that if the property owner from across the street was not a County agency, they may disagree with the statement that the impacts are not greater in the relocated circumstance than they are in the original circumstance. He asked if this property owner was notified of the application.

Mr. Purse stated the owner was notified by mail and there is also a red sign posted in the area. He stated the owners of record are Mark Berry and Martha Kelly Berry. He stated that staff did not receive any communication from them.

Mr. Poole asked if the applicant was in agreement with the nine conditions attached to the application.

Mr. Purse stated yes.

Ms. Kratter asked what the time frame was for completion of the expansion.

Mr. Purse stated the JCSA is anticipating a building expansion on the parcel and in the general location of where the Convenience Center is currently.

Ms. Kratter asked if the plan was to begin construction immediately or to give flexibility to accomplish the expansion over a period of time.

Mr. Krapf opened the public hearing.

Mr. Foster, General Manager of the JCSA, answered that they are in the process of designing the building currently and plan to construct a new operations building to replace the existing building within the next year. He stated the intent would be to start construction within the next twelve months.

Mr. Fraley stated he appreciated the condition that addresses tree clearing. He stated the County should set a good example in this area. He would hope in the future that it would move beyond "shall be limited to the minimum necessary to accommodate" and state "to the minimum for what use that is meant." He would encourage the JCSA to utilize pre-construction meetings.

Mr. Foster stated they could accommodate that request.

There being no further comments, the public hearing was closed.

Mr. Henderson moved to approve the application.

Mr. Poole seconded the motion.

In a roll call vote the motion was approved. (7-0) AYE: Poole, Fraley, Kratter, Henderson, Billups, Peck, Krapf.

F. SUP-0006-2009 Sale and Repair of Lawn Equipment

Mr. Jose Ribeiro stated that Mr. Nick Cianelli, with the assistance of Ms. Carla Brittle, Business Facilitator for James City County, has applied for a special use permit to allow the sale and repair of lawn equipment and sale of plant and garden supplies on the property located at 8231 Richmond Road. The 2.11 acre property is zoned A-1, General Agriculture and is designated by the 2003 Comprehensive Plan as General Industry. The applicant proposes to remove the existing dilapidated residential structure and accessory buildings from the property, and redevelop the eastern end of the parcel with a single-story 7,500 square foot structure, 2,100 square foot of outdoor lawn equipment display area and 19 parking spaces. The site fronts on Richmond Road, which is designated by the 2003 Comprehensive Plan as a Community Character Road. Staff notes that a 50 foot landscape buffer along the right-of-way is being proposed by this request.

Mr. Ribeiro stated that all reviewing agencies have recommended approval of this SUP request with comments to be addressed during the site plan review process, should this request be approved. Staff finds this development, as currently proposed, to be generally consistent with surrounding land use, the Land Use policies of the Comprehensive Plan, and the Comprehensive Plan Land Use Map designation. Staff recommends that the Planning Commission recommend approval of the SUP application for this project with the attached conditions. Mr. Ribeiro stated that should this application be approved, that the applicant is considering applying for a sidewalk waiver along the front of his property. This request would be considered by the DRC during the site plan review for this project.

Mr. Billups asked what the length and width would be for the sidewalk waiver.

Mr. Ribeiro answered that sidewalks must be constructed according the VDOT's standards. It is his understanding that the width needs to be five feet, which also complies with the Americans with Disabilities Act. He stated the length would be the entire front length of the property.

Mr. Krapf opened the public hearing.

Mr. Joseph Swanenburg, 3026 The Pointe Drive, stated he was representing an adjacent property owner. He stated he is a member of Lifepoint Christian Church, which purchased the property at the northern part of the parcel in the application. He stated he has been in regular contact with the applicant and that the church membership sees it as a great opportunity. Mr. Swanenburg stated the church has no objection and felt that he would be a very good neighbor.

Ms. Carla Brittle, James City County Business Facilitator, spoke on behalf of Mr. Nick Cianelli. She stated that he has had a similar business in York County for over twenty years and decided to relocate in James City County.

Mr. Krapf closed the public hearing.

Mr. Poole, recognizing the redevelopment potential for the property, moved to approve the application with the conditions listed in the staff report.

Ms. Kratter seconded the motion.

Mr. Krapf wanted to mention that 78% of the site would remain pervious cover with the application, which he believed to be exceptional.

Mr. Henderson asked about the use of an underground storage tank.

Mr. Cianelli stated he would not have an underground storage tank. He agreed to have something in the conditions stating that he has agreed to this.

In a roll call vote the motion was approved. (7-0) AYE: Poole, Fraley, Kratter, Henderson, Billups, Peck, Krapf.

G. Z-0003-2008 / MP-0003-2008 The Candle Factory

Mr. Ribeiro stated that on January 7, 2009 the Planning Commission voted 4-2, with one member absent, to recommend approval of this application. However, staff was notified by the County Attorney's office that the applicant had notified them of a procedural error that occurred when the applicant turned in the rezoning application for this project. The signature of one of the original owners of the property, Mr. Jack Barnett, was missing from the application. Mr. Barnett is the owner of a 25-foot-wide access strip which runs north-south through the property. Mr. Ribeiro stated that to ensure that there would be no further procedural issues, staff was advised by the County's Attorney's office that the case needed to return to the Planning Commission prior to moving forward. At the March 10, 2009 meeting, the Board of Supervisors opened and closed the public hearing on the Candle Factory case and referred the case back to the Planning Commission for consideration.

Mr. Ribeiro stated this proposal had not changed much since its recommendation by the

Planning Commission on January 7, 2009. The pertinent modification pertained to a new proffer; proffer 21- *Right of Way Reservation*. This proffer was designed by the applicant to address comments made by the commission regarding connectivity with adjacent parcels. As highlighted in the staff report, staff finds that the proffer as written makes such connectivity difficult. As presented during the January 9, 2009 meeting, staff finds this proposal not acceptable and recommends that the Planning Commission recommend denial.

Ms. Kratter noted the overall negative impact on the economy if the proposed assisted living facility is not built. She also noted the report done by the Wessex Group, which proposed that there would be certain benefits to the County during the construction phase. Staff remarked that this may have been overstated. The Code Compliance and Environmental spending were not included with the figures. Ms. Kratter asked if staff knew what the diminution of the positive impact would be during that time period.

Mr. Ribeiro answered that he did not know. He stated he believed that building permits would be consistent with some of the positive aspects of this application. He did not know the exact numbers.

Mr. Henderson asked about the alignment of the twenty-five foot access strip and whether the master plan provided for its relocation. He stated that the road alignment shown as the proffered master plan differs from the twenty-five foot access strip that is reserved. He stated that without the property owner's compliance and agreement on the relocation, the proffered master plan would, in essence, be invalid.

Mr. Ribeiro deferred the question to the applicant.

Mr. Krapf opened the public hearing.

Mr. Vernon Geddy spoke on behalf of the applicant. He stated that the application presented is basically the same presented a few months ago. Mr. Geddy stated there is a contractual arrangement with Mr. Barnett, the owner of the twenty-five foot road access strip. He stated that as the public road is constructed, Mr. Barnett will release the easement. Mr. Geddy stated that the first phase for development, if approved, would be the townhouse section. It would be located on the left from the entrance road. Mr. Geddy stated that the applicant intends to begin construction immediately. He stated that it would also be the applicant's intentions to clear what is necessary to begin construction. He stated that the entire site would not be cleared but just the area necessary for construction. This would include the footprints of the buildings, roads, and utility connections that would be necessary.

Ms. Kratter asked what this developer could do, that other developers have not been able to do in the County. She was referring to the fact that land has been cleared in the County, but no construction has taken place.

Mr. Geddy answered that many developers have halted building due to financing and a number of other factors. He did not necessarily feel it was because a product would not sell in this market. He stated that the applicant has done research as to what will sell in this area and

they are willing to commit their capital in order to begin the project.

Ms. Kratter asked for clarification as to what phases would be cleared and when.

Mr. Geddy stated that the site plan would illustrate the exact limits of clearing for a particular phase, but it has not been prepared for this project yet. He did show the vegetation currently on site and the limits of clearing that are proposed. He pointed out the area where work would begin associated with that clearing and then construction.

Ms. Kratter asked how many units are in the initial area.

Mr. Geddy answered he was not sure if exact numbers have been determined yet.

Ms. Kratter stated that it is the assisted living portion of the project that makes this a positive benefit to the County from a monetary standpoint. She stated that it was her interpretation of the plan that the assisted living would be developed later, and her suggestion would be to have the assisted living portion developed first.

Mr. Geddy stated he could not commit to that section being one of the first to be developed. Currently, the plan is to have the assisted living section be part of the Crosswalk Community Church. He stated that it was in the plan to have the church build, own, and operate this section.

Ms. Kratter stated that it could potentially be an economic deficit for the County if that section is not built. She was inquiring as to what the applicant can do to mitigate this. Ms. Kratter made the point that the assisted living portion is a significant part of the application. If it changes, many aspects of the development would be affected, such as density. Ms. Kratter expressed concern should this section never be built. She understands that the applicant takes a risk, but she would like to do something to mitigate the risk for the County.

Mr. Geddy was not aware of anything that the applicant could do in this regard.

Ms. Kratter asked if there was any consideration given to increasing the school proffers since it was calculated using old standards, especially given the current economic conditions.

Mr. Geddy stated that the applicant has complied with the Board of Supervisor's adopted policies with regards to cash proffers that were in place at the time of the applications submittal. He envisions discussions taking place during the Board of Supervisor's meeting.

Ms. Kratter asked about the homeowner's associations (HOA) responsibility for the recreational areas and trails. She asked if there was a cost estimate associated with this.

Mr. Geddy stated that the numbers have been calculated but that he was just unsure what they were.

Ms. Kratter expressed her concern that because this would be a small HOA, it may be

difficult for them to maintain the recreational areas and trails. She wanted to protect the County in that they would not be responsible for items that the HOA may not be able to maintain.

Mr. Geddy stated that the applicant was aware of the importance of balance. He stated the applicant has done extensive research on these types of projects, and has one similar development in progress at West Point.

Ms. Kratter stated that the Commission is being asked to approve this application without knowing this study has been verified and deemed accurate.

Mr. Geddy stated the Homeowner's Association Act requires that a capital reserves study is done every five years in order to ensure sufficient funds area maintained to be able to provide maintenance for their facilities.

Ms. Kratter pointed out that while it is a homeowner's association issue, it becomes a community issue if it turns out that the maintenance cannot be performed. She asked about responsibility of maintenance, whereas if other sections are not built on a continual basis, will the maintenance of infrastructure that is already in place fall on those in sections already built.

Mr. Geddy stated that all the main streets are public and would fall under VDOT's responsibility. He stated homeowners would be responsible for their property and parking areas, etc.

Ms. Kratter expressed her concerns that in other areas of the County, the developer has turned areas over to the HOAs and even lent money to the HOA to handle maintenance until build out, and then build out is not reached. She is concerned with a small HOA being responsible for a very large expense.

Mr. Fraley asked if the applicant was willing to proffer the phased clearing and the purposes that the clearing would be done.

Mr. Geddy stated yes they would be willing to proffer this.

Mr. Henderson expressed his concern about the language concerning the right-of-way reservation to adjacent properties. He stated the practicality of getting a permit to construct the road would involve a court issue with the Resource Protected Area (RPA). He asked if the applicant would be securing a permit as a part of its development activities.

Mr. Geddy answered no, he did not believe so.

Mr. Rich Costello of AES Consulting Engineers stated that some permits would be required for the utilities. Permits from the Army Corps of Engineers may not be necessary. He sees a potential problem in obtaining these permits in that they have expiration dates.

Mr. Henderson stated that unless there was an agreement with the adjoining property owner to pursue it simultaneously and construct the access as part of the development of the site,

it would not make sense to pursue the permit. He asked if that is how the applicant would approach this.

Mr. Costello stated that only a certain number of units will be allowed per year.

Mr. Geddy stated that at this point the adjacent property is zoned A-1 and the applicant has attempted to design the connection at the narrowest point of the ravine. He was unsure of anything further proposed without knowing what would be developed on the adjacent property.

Mr. Henderson expressed his concern about this situation creating a right-of-way that may be relocated by an issue with the Army Corps of Engineers.

Mr. Geddy felt that this was the best the applicant could do at this time without knowledge of the adjacent property.

Mr. Henderson asked if the easement language provided some flexibility and whether the ability to cross the property owner's property would be noted.

Mr. Geddy stated yes.

Mr. Henderson did not want to create a circumstance where something is dedicated, but ultimately cannot be built.

Mr. Billups asked if the applicant was willing to abide by the conditions in the staff report, even though staff recommended denial.

Mr. Geddy stated that the basis of the denial was due to interpretation of the Comprehensive Plan, and not specific items that may have been suggested but that the applicant was not willing to do.

Mr. Billups asked about the interconnectivity standards, the road construction, and VDOT's involvement.

Mr. Geddy stated this plan will meet VDOT and the County's approval.

Mr. Billups asked about the timeline for the affordable housing units and the assisted living units. He asked if there was any flexibility in the timeline under which these sections were due to be constructed.

Mr. Geddy answered that it is possible.

Ms. Kratter expressed her concerns that this plan was being viewed in isolation without knowing the cumulative impact of what is planned for the future and the nature of those plans. She is concerned of the number of affordable homes and workforce housing units that are approved and yet to be built, given that the market has slowed and prices are decreasing. She stated it was difficult to determine the real public benefit without an ability to accurately assess



the need, especially since it appears that the project will not provide favorable benefits to the County during difficult economic times.

Mr. Geddy stated that the initial construction phase of the project is all favorable.

Ms. Kratter asked about the construction dollars generated in the initial phases, although it will dependent on how much of the materials and labor will utilize County resources.

Mr. Geddy answered that the owner, the site contractor, and the builder are based in the County.

Ms. Barbara Pfeiffer, 103 Links of Leith, questioned the number of units that are built in the different phases. She expressed her concerns of clearing the land, either in phases, or clear all in anticipation of building. She stated staff recommended denial of the application due to nonconformance with the Comprehensive Plan. Ms. Pfeiffer then questioned the need for a Comprehensive Plan if it were not followed.

Mr. Krapf closed the public hearing.

Mr. Murphy wanted to clarify the comment of funding for private streets. He stated there is a proffer provision that provides for seed money provided by the applicant for maintenance of all private streets.

Mr. Henderson mentioned that there is a land use application before the Steering Committee to change the land use designation. This change, if approved, would make the proposed development in compliance with the Comprehensive Plan. He stated that this change was brought forward by staff.

Mr. Poole mentioned that the revision to the Comprehensive Plan is not yet in place, and expressed his concerns about making a decision based on the fact that it may change in the future. He expressed his appreciation for the architectural designs and the applicant's interest in phased clearing. He did not, however, like the idea of leapfrogging of what he considered high density residential from Williamsburg, to Lightfoot, to Norge, to Toano, etc. Mr. Poole felt that this proposal continues this type of transformation of A-1 property into multi-family. He felt that the County should not continue to incrementally add residential units in addition to what has already been approved.

Ms. Kratter added her concern about the character of the County. She wanted to compliment the applicant on a very thoughtful plan that has some great environmental sensitivity. She stated overall, she did not feel that this was something that the County can risk from a financial standpoint.

Mr. Fraley mentioned that staff has allowed for work to be done in assessing cumulative impacts in the work management program. He stated some work has been done concerning this already. He stated the traffic study did and has included cumulative impacts over the last few years. Mr. Fraley stated that on principle he stands opposed to new residential development in

the County. He feels that there is a large inventory of homes currently existing. He feels that in this case, there are other considerations. Mr. Fraley stated that according to citizen input during the Comprehensive Plan update, citizens rated the availability of affordable housing as excellent or good by 23% of the respondents. It also showed the variety of housing options was rated excellent or good by 35% of respondents. Mr. Fraley stated these responses represent two of the three least positive ratings provided by the citizens. He stated the Virginia Tech survey showed the same questions decreasing in percentages as to being excellent or good from the survey conducted for the last Comprehensive Plan. He stated that the Community Participation Team determined housing as a topic of concern among the citizens that participated. Mr. Fraley stated the respondents wanted to see more mixed cost housing, more workforce and affordable housing, and have these types of housing integrated throughout the community. He stated he felt the benefits of the project were mixed cost housing, inclusion of affordable and workforce housing, unusual environmental protections, and adherence to the principles of open space design. These are all mentioned as public benefits in the current Comprehensive Plan. Mr. Fraley stated that these benefits will cost the County money. He felt the commercial component of the project has potential to make the project a positive benefit.

Mr. Krapf agreed with many of the comments from his fellow Commissioners. He stated the Comprehensive Plan is a guideline. He is very much against residential development until it is determined what is already planned, but felt that in this case, the positive benefits outweighed those concerns, such as the environmental protections, the quality of design, the low density, and the affordable and workforce housing proposed.

Mr. Billups expressed his concerns of approving an application that staff has recommended for denial. He would like to see the completion of the Comprehensive Plan update done before more residential developments are approved. He did not believe this application provided a public benefit to the County.

Mr. Poole moved to deny the application.

Ms. Kratter seconded the motion.

In a roll call vote the motion failed. (3-4) AYE: Poole, Kratter, Billups; NAY: Fraley, Henderson, Peck, Krapf.

Mr. Henderson moved to approve the application.

Mr. Fraley seconded the motion.

In a roll call vote the motion was approved. (4-3) AYE: Fraley, Henderson, Peck, Krapf; NAY: Poole, Kratter, Billups.

H. SUP-0024-2008 Windsor Meade Tower

Mr. Krapf stated the applicant had withdrawn the application.

There being no further public comments, the public hearing was closed.

8. PLANNING DIRECTOR'S REPORT

Mr. Murphy had no comments.

9. COMMISSION DISCUSSIONS AND REQUESTS

Mr. Krapf reminded that the Board of Supervisors representative for April was Mr. Henderson.

Mr. Krapf stated that there will be presentations at the May 6, 2009 meeting on two projects: the Shaping our Shores plan and the Parks and Recreation Master Plan. The meeting will begin at 6:30 p.m.

Mr. Fraley asked how long the presentations might take.

Mr. Murphy answered that it should last approximately 20 minutes with a question and answer phase after the presentation.

Mr. Krapf mentioned that the Planning Division has a resource of materials, publications, and books in the County Complex. He also thanked staff for purchasing two books that he requested to be added to this library.

Ms. Kratter questioned whether the Commissioners would like the Policy Committee to consider two housekeeping rules, one regarding ex-parte communications and the other regarding conflict of interest provisions.

Mr. Poole expressed his desire to look at the conflict of interest provisions since the Planning Commission is an advisory board. He also expressed his concerns about Commissioners having political party affiliations. He was not sure how one would regulate ex-parte communications. Mr. Poole felt that as a public servant, he was open to all citizens and all comments.

Mr. Peck believed that the party affiliation is not the conflict; the issue is with raising money. He believed limits should be set. He stated that in general, this all started with the suggestion of reviewing the by-laws and the charters of the committees.

Mr. Krapf stated the by-laws review is still pending. He felt it would be beneficial for the Policy Committee to review the mentioned topics. He is concerned about timing and believes that it should occur in the fall if possible.

Mr. Fraley stated he would not be able to devote time to reviewing these issues. He recommended the Commissioners read the Code of Ethics that was signed. Then additional review may or may not be warranted.

Mr. Henderson stated he could not support anything that limits a person right to free speech, free association, or free expression. He does not feel that the Commission can restrict conversations or associations. He stated that the Commission makes recommendations concerning land use. Mr. Henderson stated the statutes of Virginia and the Constitution of Virginia define conflicts of interest. He stated these laws apply to public officials, appointed and elected. He does not see the need for any further restrictions.

Mr. Krapf pointed out that Ms. Kratter suggested discussing this issue, not necessarily changing anything.

Mr. Fraley stated that Ms. Kratter has sent out suggested language.

Mr. Peck thought it would be beneficial to have something in writing to give guidance.

Ms. Kratter stated that in the conflict of interest statement there is nothing that limits the freedom of association, free speech, or free expression. She stated the only limit would be the right of any Commissioners to participate in a decision if money was received or raised by the Commissioner.

Mr. Peck questioned whether the purpose of raising money would be important.

Mr. Krapf suggested that the Policy Committee take up this discussion.

It was the consensus of the Commission for the Policy Committee to address these topics after July.

Mr. Poole questioned the need for a public comment period in the beginning of the meeting. He stated that most of the comments that are heard during that time are not concerning items that the Commission focuses on. He felt that this comment period might be more appropriate for an elected body.

Mr. Henderson mentioned the Steering Committee that was taking place on Monday and that the topic of discussion was transportation with the traffic consultant, if any Commissioners had any interest in this area.

Mr. Fraley mentioned that the materials are posted on the website.

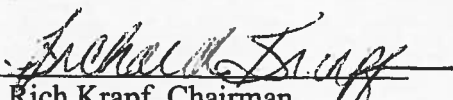
Ms. Kratter verified that the next Policy Committee would be on April 15, 2009 at 6:30 p.m.

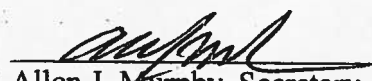
10. ADJOURNMENT

Ms. Kratter moved that the meeting be adjourned.

Mr. Poole seconded the motion.

The meeting was adjourned at 10:05 p.m.

  
Rich Krapf, Chairman

  
Allen J. Murphy, Secretary

