

WORK SESSION MINUTES

**ECONOMIC DEVELOPMENT AUTHORITY
OF JAMES CITY COUNTY
BUILDING C CONFERENCE ROOM, 101 MOUNTS BAY ROAD
3:00 PM, TUESDAY, AUGUST 16, 2005**

1. CALL TO ORDER

The meeting was called to order by Chairman Hartmann at 3:10 PM

2. ROLL CALL

A roll call identified the following members present:

Mr. Vincent Campana, Jr.
Mr. Michael J. Diedzic, Jr
Ms. Virginia Hartmann
Mr. Bernard Ngo
Mr. Mark G. Rinaldi
Mr. Thomas G. Tingle

Also Present:

M. Anderson Bradshaw, BOS Liaison
Sandra Barner, OED Project Coordinator
Marce Musser, EDA Recording Secretary
Keith A. Taylor, EDA Secretary

Absent:

Mr. Alvin Bush
Mr. Leo Rogers, EDA General Counsel

3. ACTION ITEM

Mr. Taylor briefly explained the second performance agreement between the EDA and Wal-Mart. He pointed out there is one modification still to be made. The State wants a date certain of the first hire inserted in the agreement.

Mr. Tingle, having never seen a performance agreement before, asked if this was standard. Mr. Taylor responded that the State typically looks at a thirty month window for a company to ramp up to full employment.

Mr. Bradshaw added that Mr. Rogers had reviewed the agreement and approved it, which protects the EDA and the County from the same fate other jurisdictions have faced should a business leave the County before the terms of the agreement are fulfilled.

Mr. Campana made a motion to authorize the EDA Chair to sign Wal-Mart Second Expansion Performance Agreement. Mr. Ngo seconded the motion, which passed unanimously.

4. DISCUSSION ITEM

Ms. Hartmann introduced the discussion on topics for the September 27 Joint EDA/BOS Work Session by reading Jamestown District Supervisor John McGlennon's response to Mr. Bradshaw's request for topics from the BOS. Then Ms. Hartmann handed out a copy of BOS Chairman Michael Brown's response for the Directors to read.

Mr. Campana, in recalling Mr. Ngo's "Open for Business" idea at the July EDA Meeting, suggested the EDA work with the private sector to come up with "ground rules" for land use and zoning, and be proactive in making it encouraging for applicants. He does not believe we should limit our focus to one type of business or industry.

Mr. Tingle stated that the County's attitude in these matters needed to change. Times change. Types of businesses that made sense for James City County ten years ago are different than those that make sense today. Those that make sense today are different than those that may make sense ten years in the future. When a business wants to come in to the county or expand, and it is decided this is good for the County, how do you ease the process and make it as easy as possible for this to happen. The BOS had made it clear that they want to review this process at certain levels, but other than that, the normal process is well in to a year before these businesses can get through the permit process. There needs to be a blue ribbon committee that brings BOS and senior development staff into the process to identify projects potentially good for the County. If there was a way to bring this kind of weight to a project, then it would get streamlined.

Mr. Diedzic asked what were considered good projects for the County and who decides?

Mr. Taylor answered that the BOS adopted an incentives policy over ten years ago stating compatible (consistent with the community's character, in keeping with what the citizens want, etc.), capital intensive projects that provide job opportunities for the County's citizenry were businesses to be incented. Only the Enterprise Zone incentives have been codified, which are restricted to a specific geographic area.

Mr. Diedzic asked what businesses the County wants to target.

Mr. Campana stated that traditionally it has been the capital intensive companies and industries, which does not take in to account all the pieces needed to make up a community.

It all goes back to attitude. Mr. Campana gave an example of a small business not recognized or given the same consideration as big businesses by the County. He stated that the EDA needs to be helping small businesses, especially the 4000 square foot business who wants to expand in the County and cannot find space and/or get help from the County.

Mr. Diedzic asked Mr. Campana if he thought the County was not open for business for small business.

Mr. Campana objected that the question was not fair. Mr. Campana was stating that we need to improve what we have and provide for healthy commerce by establishing a balance.

Mr. Tingle asked if it was time to revisit the ten-year old BOS incentive policy.

Mr. Taylor explained the incentive process, the reasoning behind it, and explained the "expedited review" decision was made by County Administrator Sandy Wanner after consultation with Development Management Manager John Home, and that it is traditionally not done for retail.

Ms. Barner explained that once expedited review was used, and then everyone wanted it. There is no place it is stated clearly that it is reserved for the businesses most important to the County.

Mr. Ngo stated that if we saved all the rewards for the illusive perfect business yet to come, we will have missed many other small and medium sized opportunities.

Mr. Campana stated open for business means we also set guidelines to help small business with preliminary plans, site decisions, etc.

Mr. Ngo said the EDA has an obligation to businesses that have been invested here for 10-20 years to assist them as our loyal clients. Open for businesses means we need to take care of our own.

Ms. Hartmann asked Mr. Tingle if the County process has improved at all

Mr. Tingle said the process is good in that it is predictable. You always know where the process is and what's going to happen. Other localities give a time line which is more often than not inaccurate. The process is bad in that other localities can accomplish in 30-60 days what it takes James City County much, much longer to accomplish, due in part to not enough staff (especially in Code Compliance) available for the amount of work. He explained the attitude of staff in recommending portions of projects to the Planning Commission. Big businesses have the funds to hire engineers, consultants, lawyers, etc. to get through the process. Small businesses, on the other hand, do not have the funds and therefore their expansions, new buildings, etc. can not even begin until after a year or more of wading through the process. Mr. Tingle suggests to small business to figure in to their budgets a professional outside consultant approved by the County, to review building plans in order to get their process through the system faster. A private entity can take the process from three

to four months down to three to four weeks at a cost of \$3,000-\$4,000

Mr. Tingle asked how the most "economically desirable" are identified. Using "capital intensive" as criteria misses the companies of 50-80 employees making \$60,000-\$70,000 per year each. These companies are not capital intensive in that the BPOL taxes they pay are high, but they are capital intensive as to what they provide the community in the way of increased commerce.

Mr. Diedzic stated there was a major trend to move capital intensive companies off shore and it is difficult to fight that trend.

Mr. Ngo shared that the Finances Committee had discussed how historically James City County has been anchored by capital intensive companies, and the remainder has been made up of the service sector, the retail sector, the professional sector, etc. The major element of a healthy economy is that diversity and having a balance between industry and diversity.

Mr. Bradshaw stated a good attitude serves all businesses, and that it is perhaps time to re-examine the criteria set forth previously, as it overlooks small to medium sized businesses, as well as the existing business. He also asked for ways to narrow the focus from all businesses to the businesses wanted because they are good for the County: an attitude that helps everybody, how to identify businesses that should get special assistance, and decide what that special assistance should be.

Mr. Taylor shared that the office buildings cost \$135/sq2uare foot now, which is not an insignificant taxable base. We have not paid enough attention to the trickle down from those \$60,000-\$80,000 jobs in the County. It is difficult to evaluate, and the fiscal impact model does not pay attention to payroll and trickle down effect.

Mr. Tingle stated that Newtown can become the urban area that will attract young professionals making the \$60,000+/year wage.

Mr. Ngo shared that the EDA is fortunate in that it has the resources to assist small to medium sized businesses, and the finances committee is working on what projects would be best with which to accomplish this.

Mr. Bradshaw suggested the EDA come up with criteria for capturing the small to medium businesses we want to attract/retain/revitalize/grow. It would be helpful to present some of those identifying characteristics to the BOS to get their reaction.

Ms. Hartmann shared that the EDA was asked to do a study on small and existing businesses which has gone to Mr. Wanner (who asked for the study). Ms. Hartmann asked that Ms. Musser email that white paper to the Directors and Mr. Bradshaw. Mr. Taylor stated that Mr. Wanner presently had the White Paper in the hands of Senior Staff for review.

Mr. Rinaldi said one thing missing was the special element, the "not in my backyard syndrome." When deciding whether we want sprawl or focused development, we must

combine geographic areas with economic development policies. James City County needs to be involved in wholesale looking at where things go; identify areas, such as has been done with Newtown, provide the infrastructure needed for the uses we designate, and appropriate businesses/industry will locate there. This needs to be done quickly as there is a finite life span to any economic development activity right now and things are compressing. Our processing times need to be shorter and we need to be looking at adaptation and reuse, high intensity use. and transportation issues with respect to light rail and interstate highways.

Another problem is the environmental component in our regulations. The easiest to identify is the absolutely arbitrary requirement that no more than 60% impervious be included in any site. Many other jurisdictions are subject to the same Chesapeake Bay rules we are and do not have that requirement. There are structural controls and engineering solutions to achieve the water quality coming out of the pipe or leaving the site that are just as good or better than what James City County is accomplishing without the 60% rule. It is driving business to other jurisdictions where they can get 85% impervious, because they automatically get 25% more in terms of their land use and cost.

We have no idea how many people won't even look here because of this attitude toward business, and what they have heard about the difficulty in dealing with James City County.

Mr. Campana asked who imposed the 60% rule. Mr. Rinaldi responded that it is an ordinance so it was passed by the BOS fifteen or more years ago.

Another issue is the regional stormwater management, the funding for which has been a source of frustration for the BOS. York County has initiated a plan to assist businesses which predate stormwater management by putting a regional stormwater pond in these areas. James City County could look at ways to fund regional stormwater management so the loyal business owner who has been here for 20 years can expand without fear of the 60% rule.

Ms. Hartmann described the past Joint BOS/EDA Work Session processes, which were intended to start dialogue with the BOS but did not. Mr. Ngo suggested every EDA Director have a part of the presentation to share. Mrs. Hartmann reiterated that all Directors need to attend if the EDA is to be taken seriously.

Ms. Hartmann asked the Directors' wishes on the Joint Task Force proposed at last years Joint Work Session and discussed at the previous EDA meeting. Mr. Rinaldi stated at least one directive for the Joint Task Force would need to be proposed before the BOS would be willing to appoint the Joint Task Force. If the Joint Task Force is successful with that directive, then the scope and control of the Joint Task Force could be expanded by the BOS. Mr. Bradshaw concurred.

Mr. Rinaldi asked Mr. Bradshaw if materials needed to be given to the BOS in advance. Mr. Bradshaw said it would be helpful.

Ms. Hartmann will work with staff to pull together notes from today's discussion, then circulate those via email for Directors' comments before the September 22 EDA Meeting,

where things will be finalized for the September 27 Joint BOS/EDA Work Session.

5. OTHER BUSINESS

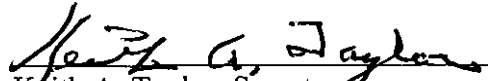
Mr. Taylor related that the Clerk to the BOS has relayed that the BOS strongly suggest that all commissions, committees and authorities come up with an attendance policy. This will help give each of the commissions, committees and authorities a basis for which to approach the BOS with any problems with members who do not attend, putting a quorum in jeopardy. Mr. Rogers has crafted a preliminary policy, which Mr. Taylor and Ms. Hartmann will look at, finalize, and bring to the EDA at its September meeting.

6. ADJOURNMENT

There being no further business, Chairman Hartmann entertained a motion by Mr. Carnpana to adjourn. The motion was approved by unanimous voice vote, and the meeting adjourned at 4:17 PM.



Virginia B. Hartmann, Chairman



Keith A. Taylor, Secretary

PERFORMANCE AGREEMENT

This Performance Agreement made and entered this _____ day of _____, 2005, by and between the ECONOMIC DEVELOPMENT AUTHORITY OF JAMES CITY COUNTY, VIRGINIA, a municipal corporation, hereinafter called "EDA" and WAL-MART STORES, EAST LP, a Delaware limited partnership, hereinafter called "WAL-MART."

WITNESSETH:

That whereas the EDA has received a grant of and expects to receive the sum of \$100,000.00 from the Governor's Opportunity Fund through the Virginia Economic Development Partnership for the purpose of inducing WAL-MART to locate in the COUNTY OF JAMES CITY, VIRGINIA, build a facility, and employ a significant number of persons, and

Whereas the EDA is willing to provide the funds to WAL-MART provided WAL-MART meets certain criteria relating to employment projections and capital investment, and

Whereas the EDA is required to return all or a portion of the funds so received to the Commonwealth of Virginia if the performance criteria of WAL-MART are not met,

Now the parties hereto, in consideration of the foregoing, and the disbursement of Funds, hereafter provided, agree as follows:

1. The EDA will disburse the entire amount of funds provided to it from the Governor's Opportunity Fund, expected to be the sum of \$100,000.00, to WAL-MART to be used by WAL-MART in site acquisition cost off-set, site improvements, and utility extension at the properly upon which WAL-MART shall construct and operate an additional new 1,000,000 square foot facility (the "New Facility") in the COUNTY OF JAMES CITY, VIRGINIA.
2. WAL-MART will construct and operate the New Facility on the site in the COUNTY OF JAMES CITY, VIRGINIA, with an investment of at least \$28,500,000 in excess of such investment existing there, in land acquisition, improvements, machinery, and equipment, and will create an additional new 125 jobs in excess of those jobs existing there, at said facility, all over a 30-month time period measured from the date the first employees are hired to staff the New Facility.

If WAL-MART does not meet 90 percent of its capital investment and new jobs commitment set forth in paragraph 2 above, WAL-MART shall repay to the EDA that part of the Governor's Opportunity Fund grant that is proportional to the shortfall, as provided by the following example:

The grant of \$100,000.00 is considered to be \$50,000.00 for the capital investment commitment by WAL-MART and \$50,000.00 for the employment commitment. If the capital investment of WAL-MART is at least \$25,650,000 to construct the New Facility and the number of new jobs created by WAL-MART, during the 30 months referenced above, is at least 112, no refund is required. If the capital investment is only \$14,250,000 to construct the New Facility, and the new jobs created are 75, WAL-MART shall refund to the EDA 50 percent of the fund related to capital investment; i.e., the sum of \$25,000

and 40 percent of the fund related to job creation--i.e., the sum of \$20,000, for a total of \$45,000.

WAL-MART shall pay such amount within sixty days of WAL-MART receiving written notice from the EDA that WAL-MART has failed to fully perform under this Agreement. The amount of principal paid by WAL-MART to the EDA hereunder shall be repaid by the EDA to the Governor's Opportunity Fund.

3. If WAL-MART has met 90 percent of the investment and employment goals set forth in Paragraph 2 hereof within the 30-month period, then and thereafter WAL-MART is no longer obligated to repay any portion of the grant provided to it hereunder.

4. Provided WAL-MART is progressing significantly towards achieving the investment and job creation requirements set forth in Paragraph 2 above, it may request that the EDA, with the concurrence of the Virginia Economic Development Partnership, grant an extension of six months in order to complete performance. Approval of such request will not be unreasonably withheld.

5. WAL-MART agrees to provide the EDA and the Commonwealth whatever documentation may be required to verify the investment and employment figures.

Witness the following signatures and seals the day and year first above written.

AUTHORITY ATTEST:

ECONOMIC DEVELOPMENT
AUTHORITY OF JAMES CITY
COUNTY, VIRGINIA

By _____
Secretary

By _____
Chairman

(Seal)

Commonwealth of Virginia, at large

This day _____, Chairman of the Economic Development Authority of James City County, Virginia, appeared before me, a notary public for the State of Virginia, at large, and did acknowledge his signature above fixed all in my state aforesaid.

My commission expires _____

Given under my hand this _____ day of _____, 2005.

(Seal) Notary Public

WAL-MART STORES EAST LP

By: WSE Management, LLC, its General Partner

By _____
Shannon Letts
Title: Director of Distribution Center

(Seal)

This day _____, Shannon Letts, Director of WSE Management, LLC as the general partner of Wal-Mart Stores East LP, appeared before me, a notary public for the State of _____, at large, and did acknowledge his/her signature above fixed all in my state aforesaid.

My commission expires _____

Given under my hand this _____ day of _____, 2005.

Notary Public (Seal)

**JOINT BOS/EDA WORK SESSION
DISCUSSION NOTES**

1. Joint Task Force

- a. Work with the private sector to come up with "ground rules" for land use and zoning
 - i. Be proactive in making the Development Review (DR) process encouraging for applicants
- b. Streamline the DR permit process
 - i. Make it unnecessary for companies to have to hire private plan review consultants to get through the process
 - ii. Code Compliance backlogged
 - iii. Set guidelines to help small business with preliminary plans, site decisions, etc

2. Re-evaluate Incentives Policy

- a. Types of businesses that made sense for James City County ten years ago may be different than those that make sense today
 - i. Blue Ribbon Committee that brings BOS and senior development staff into the process to identify projects potentially good for the County
 - ii. Change of attitude toward business needed
 - 1. Small and medium-sized businesses not recognized or given the same consideration as big businesses by the County
- b. No place is it stated clearly that expedited review is reserved for the large businesses most important to the County.
 - i. How are the most "economically desirable" identified?
 - ii. What about companies of 50-80 employees making \$60,000-\$70,000 per year each?
 - 1. Newtown can become the urban area that will attract young professionals making the \$60,000+/year wage. Is Newtown identified as "economically desirable"?

3. Obligation to businesses that have been invested here for 10-20 years

- a. Assist them as our loyal clients
- b. Major element of a healthy economy is that diversity and having a balance between industry and diversity
- c. Criteria for capturing the small to medium businesses we want to attract/retain/revitalize/grow

4. Combine geographic areas with economic development policies

- a. Wholesale look at where things go
 - i. Identify areas, such as has been done with Newtown
 - ii. Provide the infrastructure needed for the uses we designate, and appropriate businesses/industry will locate there
 - iii. Adapt and reuse, high intensity use, and transportation issues with respect to light rail and interstate highways

- b. Get rid of arbitrary requirement that no more than 60% impervious be included in any site
 - i. Look at other jurisdictions that are subject to the same Chesapeake Bay rules and do not have that requirement
 - ii. Look at ways to fund regional stormwater management so the loyal business owner who has been here for 20 years can expand without fear of the Chesapeake Bay Act