

COUNTY OF HENRICO, VIRGINIA
BOARD OF SUPERVISORS
SPECIAL MEETING
November 27, 2007

The Henrico County Board of Supervisors convened a Special Meeting on Tuesday, November 27, 2007 at 3:45 p.m. in the County Manager's Conference Room, Administration Building, Henrico County Government Center, Parham and Hungary Spring Roads, Henrico County, Virginia. The Chairman called the meeting to order at 3:55 p.m. Those present at the meeting were:

PRESENT

The Honorable James B. Donati, Jr., Chairman
The Honorable David A. Kaechele, Vice-Chairman
The Honorable Richard W. Glover, Brookland District Supervisor
The Honorable Patricia S. O'Bannon, Tuckahoe District Supervisor
The Honorable Frank J. Thornton, Fairfield District Supervisor
Mr. Virgil R. Hazelett, P.E., County Manager
Mr. George T. Drumwright, Jr., Deputy County Manager for Community Services
Ms. Angela N. Harper, FAICP, Deputy County Manager for Special Services
Mr. Harvey L. Hinson, Deputy County Manager for Community Development
Mr. Leon T. Johnson, Deputy County Manager for Administration
Mr. Barry R. Lawrence, Assistant to the County Manager/Clerk to the Board
Mrs. Linda B. Jones, Deputy Clerk to the Board
Mr. Joseph P. Rapisarda, Jr., County Attorney
Mr. John L. Knight, Deputy County Attorney
Mrs. Karen M. Adams, Senior Assistant County Attorney
Mr. J. Thomas Tokarz, Senior Assistant County Attorney
Mrs. Tamra R. McKinney, Director of Public Relations & Media Services
Mrs. Jennifer K. Acker, Assistant Director of Public Relations & Media Services
Mr. Fred C. James, Media Specialist, Department of Public Relations & Media Services
Mr. Gregory H. Revels, Building Official
Mr. S. Mark Strickler, Director of Community Revitalization
Mr. Paul N. Proto, Director of General Services
Mr. William L. Smith, Deputy Director of General Services, Facilities Management
Mr. Jerry Walker, Sr., Energy Manager
Dr. Mark J. Levine, Director of Public Health
Mr. George H. Cauble, Jr., Director of Human Resources
Ms. Paula G. Reid, Assistant Director of Human Resources
Ms. Katherine B. Roach, Assistant Director of Human Resources
Ms. Frances W. Schley, Manager of Recruitment, Human Resources
Mr. Michael D. O'Connor, Executive Director of Mental Health & Retardation Services
Mr. Randall R. Silber, Director of Planning
Mr. David D. O'Kelly, Jr., Assistant Director of Plan Review and Code Support
Mr. Michael Kennedy, County Planner III
Mr. Paul M. Gidley, County Planner II/Code Administration Manager

Col. Henry W. Stanley, Jr., Chief of Police
Lt. Col. Douglas A. Middleton, Deputy Chief of Police
Mr. Arthur D. Petrini, Director of Public Utilities
Mr. Edward L. Priestas, Director of Public Works
Mr. Tim Foster, Assistant Director of Public Works
Mr. Samuel W. Amos, Jr., Chief Design Engineer, Public Works
Mr. Alfredo C. Frauenfelder, GIS Coordinator, Public Works
Mr. William J. Benos, Attorney, Williams Mullen
Mr. Will Jones, *Richmond Times-Dispatch*
Mr. Tom Lappas, *Henrico Citizen*

Immigration Basics for Counties and Localities

Mr. Hazelett briefly reviewed the special meeting agenda and noted that this critical topic had recently been presented by Mr. Benos at the Virginia Association of Counties (VACo) Annual Conference held earlier in the month in Hot Springs, Virginia. He noted that Mr. Benos needed to leave the meeting by 5:15 or 5:30 p.m. to teach a class at the University of Richmond. Mr. Hazelett reviewed Mr. Benos' considerable expertise in the area of immigration policy and reform, which included chairing the Williams Mullen Immigration Team and the firm's Immigration Practice Group as well as representing businesses on inbound investment needs and strategic management of their immigration requirements. Mr. Benos distributed copies of discussion topics from the October 16, 2007 meeting of the Virginia State Crime Commission Illegal Immigration Task Force (see enclosed copy). He then narrated a Power Point presentation that identified five key questions relating to immigration issues faced by Virginia localities and that provided "not-so-easy" answers to these questions (see enclosed copy of presentation). Mr. Benos' presentation examined how the United States immigration system currently works, the difference between a legal and an illegal alien, the responsibilities of the various branches of government for immigration-related laws, the areas in which localities may pass laws or ordinances relating to immigration, and how Virginia localities can address immigration challenges.

During his presentation, Mr. Benos responded to questions and comments from Board members pertaining to the types of benefits issued to immigrants by the U.S. Citizenship and Immigration Services (USCIS); the responsibility of localities for educating children of illegal aliens in public schools and the source of funding for providing this service; whether illegal immigrants are documented in school enrollment data; the penal system's ability to identify the status of immigrants who have been arrested for a crime; whether immigrants are required to possess a social security number for employment; whether green cards are included in immigration quotas; the approximate number of documented and undocumented immigrants currently residing in this country; the past relationship between amnesty and immigration reform; the present status and focus of the Virginia Immigration Commission; an employer's obligation in reporting undocumented workers; the authority of local law enforcement agencies, under the Immigration and Nationality Act Section 287(g) that allows agreements with Immigration and Customs Enforcement (ICE), to arrest and detain illegal aliens before turning them over to federal authorities; government assistance to immigrants seeking emergency medical attention; whether state legislatures have faced the same challenges and limitations as localities in addressing immigration issues; and to what extent the American Civil Liberties Union (ACLU) has been involved in challenging immigration rules.

Mr. Benos noted that the I-9 system used by the Department of Homeland Security to verify employment eligibility has not been very effective in identifying undocumented workers. He commented on a movement toward using the "E-Verify" program, a computerized system that could be used more efficiently for registering and tracking new hires for employment. Mr. Benos acknowledged the extreme difficulty in establishing whether an immigrant is in this country legally. Mr. Rapisarda pointed out that Henrico County and other Virginia localities

operate under the Dillon Rule, which creates a double hurdle in matters concerning immigration. At Mr. Hazelett's request, Mr. Benos reviewed the benefits that illegal aliens are entitled to other than education. Mr. Drumwright commented on the documentation required for persons to qualify for Medicaid or other health-related benefits. Mr. Benos passed along the observation that although individual localities have taken different approaches to immigration challenges, public safety issues are usually the catalyst that triggers debate. He concluded that no effective formula has come out of case law to test local ordinances that address immigration-related concerns.

Mr. Benos emphasized throughout his presentation that immigration issues are at this time primarily a federal matter.

The Board recessed at 5:26 p.m. and reconvened at 5:34 p.m.

**Proposed Ordinance Amendments to Revise
County Zoning Requirements to Maintain
County Eligibility for the Federal Flood
Insurance Program**

Mr. Hazelett advised that this topic was being brought back to address questions from Board members that had been raised at the November 13, 2007 Special Meeting. He noted that a substitute paper had been drafted for consideration at the Board's evening meeting that included minor technical changes to the language of the originally proposed ordinance. Mr. Hazelett recognized Mr. Tokarz, who reported that the Federal Emergency Management Agency (FEMA) had given its approval to the proposed substitute ordinance. Mr. Tokarz noted that a benefit of local participation in the Federal Flood Insurance Program is the availability to citizens of Federal Housing Administration (FHA), Virginia Housing Development Authority (VHDA), and Veteran's Administration (VA) loans on their property. He pointed out that because the proposed ordinance would exceed FEMA's minimum requirements, citizens would qualify for discounts in their flood insurance rates through the program's Community Rating System. Mr. Tokarz and Mr. Hazelett responded to questions from Board members regarding the likely percentage range of discounts

that would be offered and the length of time the discounts would be in effect.

Mr. Tokarz pointed out that the Board had recently received a letter from the Manager summarizing and responding to a couple of questions that the Board had asked about the proposed ordinance at the previous special meeting. He clarified that if the damages to a residential structure in a floodplain exceeded 50 percent of the home's value, the owner would have to bring the entire structure into compliance with federal requirements and in most such cases would probably have to raze the structure. Also, although the proposed ordinance would not change side yard or rear yard setback requirements, there was a change in terminology. Mr. Amos and Mr. Hazelett addressed questions relating to federal requirements for reconstructing homes and accessory structures in federal floodplains. In response to a request by Mr. Thornton, Mr. Hazelett agreed that an information sheet could be prepared to assist Board members with questions from floodplain residents. In response to a concern that Mrs. O'Bannon indicated had been voiced to her by citizens, Mr. Priestas advised that approximately 11,000 County residents had previously received written notices of five community meetings that were held to answer questions about the new FEMA floodplain maps. Mr. Tokarz advised that he would provide the Board with more information on the Community Rating System.

The Board recessed for dinner at 5:54 p.m. and reconvened at 6:07 p.m.

Green Building Initiatives

Mr. Hazelett recognized Jerry Walker, who distributed a fact sheet on *Green and Sustainable Technology* and narrated a Power Point presentation on *Green Initiatives in Henrico* (see enclosed copies). His presentation included a perspective on green initiatives, current Henrico County green initiatives, green initiatives in the Commonwealth and other municipalities, and potential Henrico green initiatives. During


his review of the green initiatives perspective, Mr. Walker responded to questions from Board members pertaining to the cost and status of local carpet recycling efforts. At Mr. Hazelett's request, he revisited the County's recent lighting retrofit project at New Bridge School and answered questions from Board members about the type of lighting that was used.

There was discussion by Board members, Mr. Walker, Mr. Hazelett, Mr. Revels, and Mr. Rapisarda regarding the City of Charlottesville's Leadership in Energy and Environmental Design (LEED) certification program for residential construction and the logistical challenges of implementing such a program in the County given constraints imposed by the Uniform Statewide Building Code. In response to a question from Mr. Glover, Mr. Walker elaborated on the Solar Education and Weather Program currently in place at Mills E. Godwin High School. Mr. Hinson pointed out that the present Philip Morris headquarters on West Broad Street was the first environmentally sensitive building constructed in Henrico and that the textbook *Design by Nature* by Ian McHarg was the bible for green type development when it was first published 25 years ago. Mr. Glover commented that green initiatives were a good idea and would save the County money in the long run. Mr. Walker responded to a couple of additional questions and comments from Mr. Kaechele concerning green buildings at West Creek in Goochland County and the merits of conducting an economic analysis of the energy payback before undertaking green initiatives.

Mr. Hazelett reviewed items on the evening's public hearing agenda and noted that the applicant was requesting a deferral to the December 11, 2007 meeting for the Tree Hill, LLC zoning and provisional use permit cases. He noted that substitute papers would be brought forward for the proposed ordinances addressing requirements for the Federal Flood Insurance Program and construction of certain mixed use structures in special flood hazard areas. In response to questions from Board members, Mr. Hazelett noted the positive impact of the economy on

construction contract bids and offered a brief update on the status of the John Rolfe Parkway contract. Mr. Hazelett advised the Board that he expected there would be a number of speakers during the public hearing on the proposed ordinance addressing Federal Flood Insurance Program requirements. In response to a question from Mr. Kaechele, he advised that the citizens who would be speaking had concerns with drainage and flooding issues. Mr. Rapisarda responded to a couple of questions from Mr. Kaechele regarding the status of litigation involving the County and Norair Engineering.

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


Chairman, Henrico County Board of Supervisors