

COUNTY OF HENRICO, VIRGINIA
BOARD OF SUPERVISORS
SPECIAL MEETING
August 14, 2012

The Henrico County Board of Supervisors convened a special meeting on Tuesday, August 14, 2012, at 4:30 p.m., in the County Manager's Conference Room, Administration Building, Henrico County Government Center, Parham and Hungary Spring Roads, Henrico, Virginia.

Members of the Board Present:

Richard W. Glover, Chairman, Brookland District
David A. Kaechele, Vice Chairman, Three Chopt District
Tyrone E. Nelson, Varina District
Patricia S. O'Bannon, Tuckahoe District
Frank J. Thornton, Fairfield District

Other Officials Present:

Virgil R. Hazelett, P.E., County Manager
Joseph P. Rapisarda, Jr., County Attorney
J. Thomas Tokarz, Deputy County Attorney
Jason M. Hart, Assistant County Attorney
Barry R. Lawrence, CMC, Assistant to the County Manager/Clerk to the Board
Tanya B. Harding, Deputy Clerk to the Board/Administrative Assistant
Timothy A. Foster, P.E., Deputy County Manager for Community Operations
Randall R. Silber, Deputy County Manager for Community Development
John A. Vithoulkas, Deputy County Manager for Administration
C. Michael Schnurman, Jr., Legislative Liaison
Tamara McKinney, Director of Public Relations & Media Services
Ralph J. "Joe" Emerson, Director of Planning
David D. O'Kelly, Jr., Assistant Director of Planning
Benjamin W. Blankinship, Principal Planner
Jane D. Crawley, Director of Social Services

Mr. Glover called the meeting to order at 4:34 p.m.

Mr. Hazelett briefly reviewed the three items listed on this agenda, noting that Mr. Blankinship would be making the presentation for all three items.

Zoning Ordinance Amendment Regarding Plans of Development

Mr. Hazelett recognized Mr. Blankinship, who narrated a slide presentation titled *POD Appeal Process*. Mr. Blankinship began his presentation by explaining that the County's zoning ordinance allows any applicant for a POD and anyone owning property immediately adjacent to

property subject to a POD to file a written appeal with the Board of Supervisors from a final decision of the Planning Commission within 15 days of the decision. With Mr. Rapisarda's assistance, Mr. Blankinship then reviewed a provision set forth in the Code of Virginia that allows property owners or developers to appeal a decision by a local planning commission on a preliminary plat or POD to the Circuit Court provided that the appeal is filed in writing within 60 days of the written disapproval by the planning commission. Mr. Blankinship explained that the proposed amendment would repeal sections of the County Code allowing for POD appeals to the Board but would not apply to applications that had satisfied all filing requirements as of September 11, 2012. He concluded his presentation by noting the schedule for consideration of the proposed amendment by the Planning Commission and Board of Supervisors and by also noting staff's recommendation that a public hearing by the Board on this matter be scheduled for the Board's September 11, 2012 meeting.

Mr. Rapisarda advised the Board that Jim Theobald, a local land use attorney, had asked him to share with the Board Mr. Theobald's concern over the proposed grandfathering provision. Mr. Theobald does not believe the County's current POD appeals process is legal and further believes that the proposed grandfathering provision should not be included in the proposed amendment to repeal the pertinent sections of the County Code. Mrs. O'Bannon expressed the view that it would not be proper to deny the right of an appeal to property owners with pending cases before the Planning Commission. Mr. Rapisarda confirmed the validity of the County's current ordinance and explained to Mrs. O'Bannon the Board's limited discretion and judgment in acting on POD appeals. There was extended discussion by the Board, Mr. Rapisarda, and Mr. Blankinship regarding the purpose of the proposed amendment and the County's current appeals process. Mr. Emerson, Mr. Tokarz, and Mr. O'Kelly also responded to questions from the Board. Mr. Hazelett reiterated the distinction between legislative authority and ministerial compliance and Mr. Blankinship elaborated on how this distinction applies to zoning cases and POD appeals. Mr. Hazelett also explained why he and Mr. Rapisarda feel that the Board should remove itself from the POD appeals process.

There was also discussion concerning the potential impact of the proposed ordinance amendment on a pending zoning case involving property within the Reynolds Crossing development. Mr. Hazelett concluded the discussions by restating his and Mr. Rapisarda's recommendation that the Board proceed with a public hearing on the proposed amendment on September 11, 2012, to repeal the County's current POD appeals process. As currently drafted, the amendment will not apply to POD applications filed as of that date. There was no objection voiced by the Board to proceeding with the public hearing.

Zoning and Traffic Code Amendments Relating to the Parking of Trucks and Commercial Vehicles in Residential Areas

Mr. Hazelett summarized staff's previous discussions with the Board and briefly shared his perspective on the appropriate roles of the Division of Police and Department of Community Revitalization in enforcing parking regulations. He recognized Mr. Blankinship, who narrated a slide presentation titled *Commercial Vehicles in Residential Areas*. Mr. Blankinship began his presentation by reviewing the County's current parking regulations that apply to trucks and commercial vehicles in residential districts and staff's concerns with these regulations. He then

provided examples of the empty weights and gross weights of various models of trucks and commercial vehicles and offered the following staff recommendations: remove parking from the list of principal uses in residential districts and leave it as an accessory use; change the weight limit from 5,000 pounds empty weight to 10,000 pounds gross weight; continue to allow one commercial vehicle; subject private, noncommercial trucks and all commercial vehicles to the weight limit; and continue to prohibit commercial trailers and wreckers.

Mr. Blankinship, Mr. Hazelett, and Community Revitalization Director Mark Strickler responded to a number of questions from the Board relating to weight levels of various commercial vehicles, how commercial vehicles are regulated in agricultural districts, the County's current enforcement procedures for commercial vehicle parking violations, and the justification for staff's recommendation to change the weight limit. Mr. Blankinship concluded his presentation by noting that the Planning Commission recommended approval of the ordinance amendment on March 15, 2012, and that the next step is to schedule a public hearing on this matter at the Board's September 11, 2012 meeting.

Amendment to the County Code Regarding Noncommercial Signs

Mr. Hazelett pointed out that this matter was also on the 7:00 p.m. regular meeting agenda as a public hearing item. It was being brought back to the Board again in work session because Mr. Kaechele continued to have concerns regarding the proposed ordinance change and was not present at the July 24, 2012, special meeting when the matter was previously discussed. Mr. Hazelett reminded the Board that it had received a citizen request to exempt noncommercial signs of up to 50 square feet from the County's sign permit requirements.

Mr. Hazelett recognized Mr. Blankinship, who narrated a slide presentation titled *Noncommercial Signs*. Mr. Blankinship began his presentation by reviewing the County's current regulations allowing noncommercial signs of up to 32 square feet in residential districts if a permit is obtained. He shared concerns regarding the current ordinance that have been expressed by candidates for public office and by other individuals who want to make political statements by installing signs. Mr. Blankinship then identified two questions that staff has received and answers that have been provided by the County Attorney's Office pertaining to the proposed ordinance, which would allow noncommercial signs not exceeding 32 square feet in total area on any lot in any zoning district without a sign permit.

Mr. Kaechele articulated his concerns, which were that eliminating the sign permit requirement for 32-square-foot signs would result in a proliferation of large and year-round noncommercial signs in residential districts. There was discussion between Mr. Kaechele and Mr. Rapisarda relating to pertinent case law and the constitutionality of the County's current ordinance. Mr. Blankinship, Mr. Rapisarda, and Mr. Hazelett responded to questions from the Board regarding the County's current sign permit requirements, how courts have viewed the imposition of time limits on noncommercial signs, and the rationale for the ordinance amendment proposed by staff. There was discussion by Mr. Nelson, Mr. Kaechele, and Mr. Hazelett concerning the potentially large number of noncommercial signs in the County that may not have the required permits. Mr. Hazelett suggested that the Board should resolve this

matter before the campaign season goes into full gear in the fall. Mr. Rapisarda stated that the proposed amendment would basically reflect what was already occurring in the County.

The Board recessed for dinner at 6:00 p.m. and reconvened at 6:11 p.m.

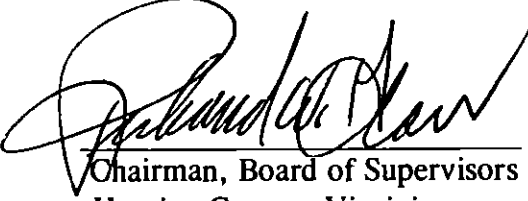
Mr. Hazelett advised the Board that he was unsure of its position on the proposed ordinance amendment regarding noncommercial signs. He and Mr. Rapisarda reiterated why staff was recommending the amendment, with Mr. Rapisarda noting that although he believes the County's current ordinance is legal it can be argued that the permit application process is cumbersome and the permit fee is expensive for someone of modest means. Mr. Kaechele once again voiced his concerns with the proposed amendment while Mrs. O'Bannon suggested that the Board consider it from the standpoint of facilitating free speech.

Mr. Thornton changed the subject by requesting that the Board have a discussion with the Registrar during an upcoming work session in regards to how the Registrar's Office is preparing for the upcoming national elections. He expressed concerns about community perceptions of current elections laws and procedures. Mr. Hazelett noted that he has had personal discussions with the Registrar on this matter and that the Registrar will address the Board at one of its special meetings in October. Mr. Hazelett advised the Board that it will be briefed on the Richmond 2015 bicycle race at its first special meeting in September.

Mr. Hazelett reviewed the agenda for the 7:00 p.m. regular meeting. He pointed out that he had spoken with each Board member regarding a correction to the draft minutes from the July 24 meeting and that the Board could now move forward with approval of the minutes. He also referred to a Board paper that he had discussed with the Board to be added to the agenda by unanimous consent. Mr. Hazelett, Mr. Rapisarda, and Assistant Police Chief Steve Alloway responded to questions from the Board pertaining to an ordinance on the public hearing agenda addressing concealed handgun permits that is required due to legislation passed by the General Assembly during the 2012 session. Mr. Hazelett responded to further questions from the Board relating to several general agenda items, including signatory authority for the Virginia Employment Through Entrepreneurship Grant, approval of Amelia Ambulance Service to operate a medical transport service in Henrico County, and permitting additional fines for speeding on Carterwood Road. Mr. Foster assisted Mr. Hazelett in responding to questions regarding the latter item.

Mr. Hazelett noted that the Board paper to be added by unanimous consent pertained to appointment of the next County Manager and that media representatives who had been alerted to attend the meeting would likely wish to interview the members of the Board on this matter. He distributed to the Board a copy of a press release prepared by staff announcing the appointment of his successor.

There being no further business, the meeting was adjourned at 6:36 p.m.



Chairman, Board of Supervisors
Henrico County, Virginia