

1 Minutes of the regular monthly meeting of the Planning Commission of the
2 County of Henrico held in the County Administration Building in the Government
3 Center at Parham and Hungary Spring Roads, beginning at 7:00 p.m. August 9,
4 2012. Display Notice having been published in the Richmond Times-Dispatch on
5 July 23, 2012 and July 30, 2012.
6

Members Present: Mr. Tommy Branin, Chairman (Three Chopt)
Mrs. Bonnie-Leigh Jones, C.P.C., Vice Chairman (Tuckahoe)
Mr. C. W. Archer, C.P.C. (Fairfield)
Mr. Eric Leabough (Varina)
Mr. Robert H. Witte, Jr. (Brookland)
Mr. R. Joseph Emerson, Jr., AICP,
Director of Planning, Secretary

Members Absent: Mr. Frank J. Thornton,
Board of Supervisors' Representative

Also Present: Ms. Jean M. Moore, Assistant Director of Planning
Mr. Dave O'Kelly, Assistant Director of Planning
Mr. James P. Strauss, CLA, Principal Planner
Mr. Benjamin Blankinship, AICP, Principal Planner
Mr. Benjamin Sehl, County Planner
Mrs. Lisa T. Blankinship, County Planner
Mr. Mike Jennings, Assistant Director of Public Works
Mr. Eric Dykstra, Recording Secretary

7 Mr. Branin - Good evening and welcome to the Henrico County
8 Planning Commission meeting for August 9, 2012. If everybody would give the
9 courtesy of turning your phone off or putting it to vibrate so it doesn't disturb the
10 meeting. And now if everyone would please stand for the Pledge of Allegiance.

11
12 I don't think we have any media in the room. Our supervisor is—do you know if
13 Mr. Thornton is coming?

14
15 Mr. Archer - I'm not sure.

16
17 Mr. Branin - I think he may be running late. We have a very light
18 agenda, so let's get started, Mr. Secretary.

19
20 Mr. Emerson - Yes sir, Mr. Chairman. First on your agenda are the
21 requests for withdrawals and deferrals. Those will be presented by Mr. Jim
22 Strauss.

23
24 Mr. Strauss - Good evening members of the Commission. We
25 received to two requests for deferral. The first one is in the Fairfield District on

26 page one of the agenda. It's Weatherfield Farms, LLC. The applicant is
27 requesting a deferral to the September 13, 2012 meeting.

28
29 **C-17C-12 Jennifer D. Mullen for Weatherfield Farms, LLC:**
30 Request to conditionally rezone from R-3C One-Family Residence District
31 (Conditional) to R-5AC General Residence District (Conditional) part of Parcel
32 811-732-3013 containing 31.02 acres located on the north line of Creighton Road
33 at its intersection with Carolee Drive and from R-3C One-Family Residence
34 District (Conditional) to C-1 Conservation District part of Parcel 811-732-3013
35 containing 21.22 acres located approximately 1,500' north of Creighton Road at
36 its intersection with Carolee Drive. The applicant proposes no more than 81
37 residential lots and a conservation district. The R-5A District allows a minimum of
38 5,625 square feet and a maximum density of 6.0 units per acre. The uses will be
39 controlled by zoning ordinance regulations and proffered conditions. The 2026
40 Comprehensive Plan recommends Suburban Residential 2, density should not
41 exceed 3.4 units per acre, and Environmental Protection Area.

42
43 Mr. Branin - Is anyone in opposition to the deferral of C-17C-12,
44 Jennifer D. Mullen for Weatherfield Farms, LLC? No one?

45
46 Mr. Archer - Mr. Chairman, with that I will move for deferral of C-
47 17C-12, Jennifer D. Mullen for Weatherfield Farms, LLC, to the September 13th
48 meeting at the applicant's request.

49
50 Mrs. Jones - Second.

51
52 Mr. Branin - Motion made by Mr. Archer, seconded by Mrs. Jones.
53 All in favor say aye. All opposed say no. The ayes have it; the motion carries.

54
55 At the request of the applicant, the Planning Commission deferred C-17C-12,
56 Jennifer D. Mullen for Weatherfield Farms, LLC, to its September 13, 2012
57 meeting.

58
59 Mr. Strauss - The next request for deferral is in the Three Chopt
60 District on page two of your agenda. It is C-18C-12, Atack WB Investors, LLC.
61 The applicant is requesting deferral to the September 13, 2012 meeting.

62
63 **C-18C-12 James Theobald for Atack WB Investors, LLC:**
64 Request to rezone from A-1 Agricultural District to B-2C Business District
65 (Conditional) part of Parcel 730-765-7288 containing 5.0 acres located along the
66 north line of W. Broad Street (U.S. Route 250) at the Goochland County line;
67 from A-1 Agricultural District to O-3C Office District (Conditional) part of Parcels
68 730-765-7288, 730-766-8989, 731-766-6068, and 731-766-8757 containing 16.6
69 acres located along the north line of W. Broad Street (U.S. Route 250)
70 approximately 730' east of the Goochland County line; from A-1 Agricultural
71 District to R-6C General Residence District (Conditional) part of Parcels 730-766-

72 8989, 731-766-6068, 731-766-8757, and 730- 765-7288 containing 38.0 acres
73 located on the north line of W. Broad Street (U.S. Route 250) bounded by the
74 Goochland County line to the west and Interstate 64 to the north; and from A-1
75 Agricultural District to RTHC Residential Townhouse District (Conditional) part of
76 Parcel 730-766-8989 containing 10.7 acres located 1000' north of the north line
77 of W. Broad Street (U.S. Route 250) bounded by the Goochland County line to
78 the west and Interstate 64 to the north. The applicant proposes a development
79 consisting of office, retail, residential townhouses, and multifamily dwelling units.
80 The R-6 District allows a maximum gross density of 19.8 units per acre. The RTH
81 District allows a maximum gross density of nine (9) units per acre. The uses will
82 be controlled by zoning ordinance regulations and proffered conditions. The 2026
83 Comprehensive Plan recommends Urban Mixed-Use and Environmental
84 Protection Area. The site is in the West Broad Street Overlay District.

85
86 Mr. Branin - Is anyone in opposition to the deferral of C-18C-12,
87 James Theobald for Attack WB Investors, LLC? No one? Then I would like to
88 move that C-18C-12, James Theobald for Attack WB Investors, LLC, be deferred
89 to the September 13th meeting per the applicant's request.

90
91 Mrs. Jones - Second.

92
93 Mr. Branin - Motion by Mr. Branin, seconded by Mrs. Jones. All in
94 favor say aye. All opposed say no. The ayes have it; the motion carries.

95
96 At the request of the applicant, the Planning Commission deferred C-18C-12,
97 James Theobald for Attack WB Investors, LLC, to its meeting on September 13,
98 2012.

99
100 Mr. Emerson - Mr. Chairman, that completes the requests for
101 withdrawals and deferrals unless the Commission has any deferral requests.

102
103 Mr. Branin - None? Okay.

104
105 Mr. Emerson - Next item on your agenda are requests for expedited
106 items and those will also be presented by Mr. Jim Strauss.

107
108 Mr. Strauss - We have a request for expedited approval this
109 evening and it's in the Fairfield District on page two of the agenda. It is C-23C-12,
110 Dana's Habitat Incorporated/Unique Lessons. This is request for an amendment
111 of Proffer 2 to allow adult day services. Staff is recommending approval. Staff is
112 not aware of any opposition.

113
114 **C-23C-12 Delores Johnson for Dana's Habitat, Inc./Unique**
115 **Lessons:** Request to amend proffered conditions accepted with Rezoning Case
116 C-35C-93 on Parcel 783-762-9328 located on the west line of Brook Road (U.S.
117 Route 1) between New York and Pennsylvania Avenues. The applicant proposes

118 to amend Proffer 2 related to prohibited uses to allow for adult day services. The
119 existing zoning is O-1C Office District (Conditional). The 2026 Comprehensive
120 Plan recommends Office.

121
122 Mr. Branin - Is anyone in opposition to C-23C-12, Delores
123 Johnson for Dana's Habitat Incorporated/Unique Lessons? No one?

124
125 Mr. Archer - Mr. Chairman, before we vote on this, I have a
126 declaration I need to read into the record.

127
128 Mr. Branin - Okay.

129
130 Mr. Archer - This is a declaration of personal interest in the
131 transaction considered by the Planning Commission.

132
133 Pursuant to the requirements of Section 2.2-3112(A)(1) and 2.2-3115(E) of the
134 Code of Virginia, 1950, as amended, I hereby declare my personal interest in a
135 transaction considered by the Planning Commission of Henrico County, Virginia,
136 on August 9, 2012, as follows:

137
138 (1) The transaction involved is the Planning Commission's
139 consideration of rezoning case C-23C-12. The applicant is Delores
140 Johnson for Dana's Habitat, Incorporated/Unique Lessons, and the
141 subject of the rezoning application is 9220 Brook Road. (2) My
142 personal interest in the transaction arises because I am a member
143 of the Planning Commission, which is considering the rezoning
144 application, and Ms. Johnson is a client of C W Archer Insurance
145 Agency Incorporated, 3108 North Parham Road, Suite 302A,
146 Henrico, Virginia, 23294. I would like the secretary to record that I
147 am neither participating in nor voting on this transaction. C. W.
148 Archer.

149
150 Mr. Branin - Thank you, Mr. Archer. I will be handling the case for
151 you.

152
153 Mr. Archer - You're very kind, sir.

154
155 Mr. Branin - Yes. So since there is no opposition I would like to
156 move that C-23C-12, Delores Johnson for Dana's Habitat Incorporated/Unique
157 Lessons, be approved on the expedited agenda and move forward to the Board
158 of Supervisors with a recommendation for approval.

159
160 Mr. Witte - Second.

161
162 Mr. Branin - Motion by Mr. Branin, seconded by Mr. Witte. All in
163 favor say aye. All opposed say no. The ayes have it; the motion carries.

164

165 So we have four votes for approval and one abstain.

166

167 Mr. Branin - Yes

168 Mrs. Jones - Yes

169 Mr. Archer - Abstain

170 Mr. Leabough - Yes

171 Mr. Witte - Yes

172

173 **REASON:** Acting on a motion by Mr. Branin, seconded by Mr.
174 Witte, the Planning Commission voted 4-0 (one abstention one absent) to
175 recommend the Board of Supervisors **grant** the request because the changes do
176 not greatly reduce the original intended purpose of the proffers and it is not
177 expected to adversely impact surrounding land uses in the area.

178

179 Mr. Emerson - Mr. Chairman, that now takes you to your regular
180 agenda on page one for C-22C-12.

181

182 **C-22C-12 HHHunt Communities for HHHunt Homes, LC:**
183 Request to amend proffered conditions accepted with Rezoning Case C-24C-04
184 on Parcels 761-769-5168 and 761-769-5274 located on the south line of
185 Springfield Road (State Route 157) approximately 260' west of its intersection
186 with Staples Mill Road (U.S. Route 33). The applicant proposes to amend Proffer
187 22 related to garages. The existing zoning is R-5AC General Residence District
188 (Conditional). The 2026 Comprehensive Plan recommends Urban Residential,
189 density should range from 3.4 to 6.8 units per acre. The staff report will be
190 presented by Mr. Ben Sehl.

191

192 Mr. Branin - Good evening, Mr. Sehl. How are you?

193

194 Mr. Sehl - I'm well, thank you.

195

196 Mr. Branin - Good. Is anyone in opposition to C-22C-12, HHHunt
197 Communities for HHHunt Homes LLC? No opposition? Okay.

198

199 Mr. Sehl - Proffer #22 accepted with rezoning case C-24C-04
200 requires all homes in Linden Pointe to have front-loaded detached garages.
201 Almost all of the homes in the development have been constructed with this style
202 garage; however, the subject lots will be accessed by a rear shared driveway,
203 unlike other homes in the development. Because the required front-loaded
204 garage would require a large driveway area to access the garage door, the
205 applicant proposes to amend Proffer #22 to allow rear-loaded garages on the
206 subject lots, as shown on Exhibit A.

207

208 The proposed revision to Proffer #22, which was further revised yesterday and
209 has been distributed to you this evening, commits to serving the garages as

210 shown on this exhibit. The shared driveway and garage aprons would be
211 constructed of exposed aggregate concrete, and the garage aprons would be a
212 minimum of 20 feet long to ensure no conflicts with parked vehicles exist. The
213 revised proffer also commits to providing additional landscaping as shown here,
214 and decorative doors as shown on Exhibit B.

215
216 Overall the proposed revisions are not anticipated to negatively impact other
217 homes in the area or the rest of the Linden Pointe subdivision. The remaining
218 proffers of C-24C-04 would continue to ensure a high-quality development in
219 keeping with the area, and the commitments regarding decorative doors and
220 additional landscaping could enhance the subject properties. For these reasons
221 staff supports this request and recommends its approval. Time limits would need
222 to be waived on the proffers as they were handed out to you this evening and
223 signed yesterday afternoon.

224
225 That concludes my presentation and I'd be happy to try to answer any questions
226 you might have.

227
228 Mr. Branin - Thank you, Mr. Sehl. Does anybody have any
229 questions for Mr. Sehl?

230
231 Mr. Witte - No. I've spoken to him several times on the issue.

232
233 Mr. Branin - You've worn him out?

234
235 Mr. Witte - I've worn him out. He's tired of hearing me.

236
237 Mr. Branin - All right. If there are no questions for Mr. Sehl, would
238 you like to hear from the applicant or would you like to forego that formality?

239
240 Mr. Witte - I think we can forego that formality.

241
242 Mr. Branin - Okay.

243
244 Mrs. Jones - I do have a quick question. I'm sorry. Mr. Sehl, I'm
245 looking for the phrase here. When I went out looking at it there was a question of
246 the access and having that either dedicated or changed. It looks to me like this is
247 changed around from the original staff report, so the access issue is no longer a
248 problem.

249
250 Mr. Sehl - We had questions about the construction methods
251 and materials of the access drive. The applicant has clarified that with the revised
252 proffers to commit to the exposed aggregate concrete.

253
254 Mrs. Jones - Okay. And in your view that will not, then, be a
255 problem at all? It satisfies your concerns?

256
257 Mr. Sehl - Yes ma'am.
258
259 Mrs. Jones - Okay.
260
261 Mr. Witte - Mrs. Jones, I had a concern because they didn't list
262 the aggregate and every other driveway in the neighborhood is aggregate.
263
264 Mrs. Jones - It's a lovely neighborhood.
265
266 Mr. Witte - It is.
267
268 Mrs. Jones - I just was hoping that this would fit right in and it
269 seems like it will.
270
271 Mr. Witte - I think it will.
272
273 Mrs. Jones - All right, thanks.
274
275 Mr. Branin - Mr. Witte, I would like to remind you to waive the time
276 limits.
277
278 Mr. Witte - Yes. Mr. Chairman, I'd like to propose we waive the
279 time limits on C-22C-12, HHHunt Communities for HHHunt Homes LLC, for
280 proffers on the rear garage, and the minimum 20 feet in length, and the
281 aggregate concrete on lots 32 and 33.
282
283 Mr. Branin - Okay. First we'll vote on waiving the time limit. Can I
284 get a second.
285
286 Mr. Archer - Second.
287
288 Mr. Branin - Motion by Mr. Witte and seconded by Mr. Archer. All
289 in favor say aye. All opposed say no. The ayes have it; the motion carries. Time
290 limit is waived.
291
292 Mr. Witte - Okay. Now I'd like to propose we approve C-22C-12,
293 HHHunt Communities for HHHunt Homes LLC, with the amended proffers
294 concerning the driveway length, and aggregate, and garage door, and window
295 treatments on lots 32 and 33.
296
297 Mrs. Jones - Second.
298
299 Mr. Branin - Motion by Mr. Witte, seconded by Mrs. Jones. All in
300 favor say aye. All opposed say no. The ayes have it; the motion carries.
301

302 **REASON:** Acting on a motion by Mr. Witte, seconded by Mrs.
303 Jones, the Planning Commission voted 5-0 (one absent) to recommend the
304 Board of Supervisors grant the request because the changes would allow
305 additional development flexibility and the proffers continue to assure a quality
306 form of development with maximum protection afforded the adjacent properties.

307
308 Mr. Branin - Mr. Secretary, that takes us past all of our cases now,
309 correct?

310
311 Mr. Emerson - Yes sir. It takes us to page two where we're moving
312 into a public hearing on zoning ordinance amendments.

313
314 **PUBLIC HEARING ON ZONING ORDINANCE AMENDMENTS** - To Amend and
315 Reordain Section 24-106 Titled "Plan of development (POD), administrative and
316 schematic site plans" and Section 24-106.2 Titled "Landscaping, tree cover,
317 screen and buffer requirements, transitional buffering and design standards" of
318 the Code of the County of Henrico to Repeal Provisions for Appealing to the
319 Board of Supervisors.

320
321 Mr. Branin - Good evening, Mr. Blankinship.

322
323 Mr. Blankinship - Good evening, Mr. Chairman.

324
325 Mr. Branin - Very handsome tie you have on this evening.

326
327 Mr. Blankinship - Thank you, sir.

328
329 Mr. Branin - You received the memo, I see.

330
331 Mr. Blankinship - Good evening members of the Commission. As Mr.
332 Emerson said, we are here this evening to propose an amendment to the Zoning
333 Ordinance regarding the POD appeal process.

334
335 As you know, the current regulations provide for either the applicant or an
336 affected property owner adjacent to the subject property to appeal either the
337 approval or denial of a plan of development. That appeal, according to our code
338 today, would go to the Board of Supervisors and must be filed within 15 days.
339 There is a similar provision in the Landscape Ordinance, 24-106.2, providing for
340 appeals under that section of the Code to follow the same process, 24-106(p).

341
342 There is an inconsistency between those provisions in the County Code and the
343 provision in the State Code that has to do with the same subject. The State Code
344 for final plats is in front of you now on the screen and it states that if the
345 Commission disapproves a plat-or a plan of development follows the same
346 process—it can be appealed by the developer to the circuit court within 60 days.
347 So it goes to the circuit court rather than to the Board; 60 days rather than 15;

348 and it only provides for an appeal by the developer. The Code is silent as to an
349 adjoining property owner who wishes to appeal. The parallel provision for a
350 preliminary plat, or a POD, is the following Section of the Code, 22-60, in
351 paragraph E. and as you see, it has the same provisions there.

352

353 So on the advice of the County Attorney, we have recommended to you a very
354 simple amendment that would simply repeal and reserve paragraph 24-106(p),
355 and would simply repeal 24-106.2(e)(5)d. That's the last subsection of that
356 section, so there's no need to reserve it.

357

358 And finally after discussing concerns particularly expressed by Mrs. Jones, and
359 by Mrs. O'Bannon on the Board of Supervisors, we worked out with the County
360 Attorney's office a provision at the end of this ordinance that it would only affect
361 plans of development that entered the pipeline after its date of approval. We're
362 assuming that date is going to be September 11, 2012. If it's not, then we'll need
363 to change that date to match whatever the date of adoption by the Board of
364 Supervisors would be. But the idea is that any POD that is in the pipeline today
365 would be under the current rules for appeal. But after that date any new POD that
366 comes in after that date would be handled under this new procedure.

367

368 We held a work session on this last month. Tonight, of course, is the public
369 hearing. We would like to present this to the Board of Supervisors in a work
370 session next Tuesday and have it prepared for them for public hearing on
371 September the 11th. With that, I'll be happy to answer any questions.

372

373 Mr. Branin - Fantastic. Does anybody have any questions for Mr.
374 Blankinship at this time?

375

376 Mrs. Jones - I do.

377

378 Mr. Leabough - I have one question as well. Go ahead, Mrs. Jones.

379

380 Mrs. Jones - Sure? Okay.

381

382 Mr. Leabough - Yes.

383

384 Mrs. Jones - One, thank you. I appreciate the nod to the cases
385 already in the pipeline. I think that's fair and done correctly.

386

387 I do have a quick question about the proposed change. Who, then, would be able
388 to initiate an appeal?

389

390 Mr. Blankinship - As the State Code reads now—well, I should preface
391 by saying by removing this subject completely from the County Code, we would
392 fall back on the State Code. And as the State Code has provided for quite some
393 time, the appeal is only open to a developer whose plan has been denied. There

394 is no provision for appeal of an adjoining landowner who feels aggrieved
395 because a plan is approved.

396

397 The reason for that, I believe, is because site plans and subdivisions, the
398 approval and review of them is an ministerial act. It's not a legislative act. So
399 you're really not supposed to be applying discretion in those decisions. If it meets
400 the requirements of the code, you're required to approve it. So if the developer
401 feels that he has met the code and you have denied it anyway, he has a recourse
402 to appeal. But if a neighbor is just displeased with the fact that something is
403 being done the way it is, as long as it meets the requirements of the code the
404 neighbor really has no basis for appeal anyway. So I suspect that that's why the
405 State Code doesn't provide for such an appeal.

406

407 Mrs. Jones - All right. I wanted to make sure I knew that the scope
408 was exactly as you presented it. Thank you.

409

410 Mr. Leabough - I had the exact same question.

411

412 Mr. Blankinship - All right. If that answers that, that's fine.

413

414 Mr. Witte - If a property owner was displeased and was adamant
415 about it, couldn't they file an injunction to have it stopped and then proceed
416 though court?

417

418 Mr. Blankinship - If they believe that the action of a developer is in
419 some way harming their property interest, then yes, they would have a civil suit.

420

421 Mr. Witte - So they still have some recourse?

422

423 Mr. Blankinship - Yes sir.

424

425 Mr. Witte - Okay.

426

427 Mrs. Jones - But it would have nothing to do with our process?

428

429 Mr. Blankinship - Exactly.

430

431 Mrs. Jones - Completely gone?

432

433 Mr. Blankinship - Yes.

434

435 Mr. Emerson - I think you always have an opportunity to appeal
436 various interpretations made during the process to potentially the BZA or the
437 Board of Supervisors. So I don't think this completely eliminates the possibility of
438 someone other than the applicant actually filing an appeal. Because within your
439 approvals there are always interpretations of the Code that could be appealed to

440 the Board of Zoning Appeals, and interpretations of proffers that could be
441 appealed to the Board of Supervisors. So there are other avenues to appeal the
442 decision-making process without specifically going in as it's currently set up.

443

444 Mrs. Jones - Okay.

445

446 Mr. Emerson - Does that make sense?

447

448 Mrs. Jones - It does. Thank you.

449

450 Mr. Branin - Any other questions? I would like to state that this is a
451 public hearing, so if there is anyone in the audience that would like to make
452 comment or come up and ask any questions at this time, feel free. Anyone?
453 Okay, then we'll move on.

454

455 Mr. Emerson - Mr. Chairman, we need a motion for a
456 recommendation on this item.

457

458 Mr. Branin - Commission, are you comfortable with it moving
459 forward at this point?

460

461 Mrs. Jones - I will be happy to move that the Planning Commission
462 recommend to the Board of Supervisors the ordinance changes amending and
463 re-ordaining Section 24-106 of the Code and Section 24-106.2.

464

465 Mr. Leabough - Second.

466

467 Mr. Branin - Motion by Mrs. Jones, seconded by Mr. Leabough. All
468 in favor say aye. All opposed say no. The ayes have it; the motion carries.

469

470 Thank you so much, Mr. Blankinship.

471

472 Mr. Blankinship - Thank you, Mr. Chairman.

473

474 Mr. Emerson - Mr. Chairman, that now takes us to a discussion that
475 was continued from your last agenda on the 2013 Planning Commission agenda.
476 I have some copies for you, additional, if you don't have—

477

478 Mr. Branin - Oh, additional ones. Good.

479

480 Mr. Emerson - This has highlighted what I believe might be one of
481 the topics you wish to discuss, which would be if you restored the August Plan of
482 Development meeting. It's highlighted in red when it would fall, just for the sake
483 of your discussion so you'd be aware of what would happen there.

484

485 Mrs. Jones - I would like to make a comment, if I may, at this time.

486

487 Mr. Branin - Absolutely.

488

489 Mrs. Jones - This was not discussed at the last meeting because
490 two out of our five commissioners were not here. And the reason I wanted to
491 bring this up and just discuss it for one moment is because we do have two new
492 members of the Commission who are, at this time, looking at the calendar for the
493 first time as a vote. This has come up before. I wanted to introduce you to an
494 idea and a thought. I'd like you to give it your consideration and see what you
495 think about this. I have not discussed this with anybody or put any undue
496 pressure on anyone. But it's always seemed to me—and I think it's just a fair
497 point of discussion—the calendar is set up to accommodate a number of things.
498 There are changes in the calendar for holidays. There are changes that work
499 around certain national planning conferences and other things. And those are
500 fairly standard year to year. Also, year to year since I've been involved in 2005—
501 and Mr. Archer is our veteran Commissioner; he may have some more history on
502 this. But there has never been a POD meeting in August. And that means that
503 there are 12 zoning meetings, but only 11 POD meetings.

504

505 I have always asked every year why that is so. I have always received the
506 answer every year, "Because that's the way we've always done it," which is fine; I
507 understand tradition. But I just want us to give a little bit of thought because this
508 year it has been evident to me very personally because of one of my cases what
509 kind of a convoluted pressure that puts on discussions about cases because you
510 don't have that meeting available to be used for any scheduling purpose. It puts,
511 in my view, an unnecessary stress on the discussion of cases because all of a
512 sudden instead of deferring, if we must, for four weeks, all of a sudden we're into
513 eight weeks.

514

515 Now, that raises the question is this a good thing? It does pile on the September
516 agenda for the POD/Subdivision meetings in some cases. Do we have
517 quantitative data? Maybe, maybe not. But anecdotally I can tell you this year it
518 has been a factor, and I'm sure other commissioners may have experience with
519 that. All I'm saying is we have one of three choices. We can leave it. I'm in big
520 favor of vacations—I love it—and this is quite nice. But it does put a wrench in
521 the progress of cases. Our question is do we leave it as it is because that's how
522 we've always done it; do we keep the zoning meeting and add a POD meeting in
523 August; or do we take August off?

524

525 Mr. Leabough - I was going to say take it all off.

526

527 Mrs. Jones - There are three possibilities that I see. All of them
528 have grave consequences and I'm not sure that there would be any consensus.
529 Zoning has certain ramifications if it doesn't happen, as do POD/Subdivision
530 cases. So I'm simply asking that I'd like for especially the new commissioners to
531 give it some thought, talk to anyone you think you'd like to talk to about their

623 Mr. Branin - I would add also—I understand Mr. Archer’s personal
624 feelings in taking two months in a row, but I truly believe that as a Commissioner
625 you can handle your cases and work with your developers with such things as
626 expedited or deferred. Your fellow Commissioners can always pick up the load
627 for you. Like I said, we’ve had this discussion every single year and it usually
628 comes down to—well, you know, it’s six one way, half a dozen the other. It’s
629 been this way since we’ve been here so we all just move forward with it and then
630 we don’t change it. Having two new members, if you guys would like to table this
631 to next meeting and vote on it then, we can do that. If you would like to vote on it
632 now, we can do that.

633
634 Mr. Leabough - I don’t think we need to table it.

635
636 Mr. Witte - Just for point of reference, my golf vacations are the
637 end of March and the beginning of October.

638
639 Mr. Branin - So we should take those months off, too? Okay then.

640
641 Mrs. Jones - Mr. Chairman, I think a decision on this needs to be
642 based on some thought. There may be some discussions that commissioners
643 may want to have with staff and try to figure out exactly what they want to do with
644 this. I would suggest that we vote on this in September. If that is not agreeable to
645 the Commission, we can vote on it tonight. I’ll be happy either way.

646
647 Mr. Branin - Then I will leave it up to the fellow Commissioners.
648 Would you like to move forward with this or table it?

649
650 Mr. Emerson - This is nothing pressing on this. It’s fine if you want to
651 leave it until next month. It’s not going to cause us any problems.

652
653 Mr. Leabough - We didn’t hold the August meeting, right?

654
655 Mrs. Jones - Next time.

656
657 Mr. Emerson - This is next year.

658
659 Mr. Leabough - So we’re not going to have it this year anyway.

660
661 Mr. Emerson - Correct, you won’t be having it this year. It doesn’t
662 impact you this year. We do need to know by September or October so people
663 can begin to plan for their submission dates for the beginning of the year. But you
664 can hold this until September or October to make a decision. I can put together
665 some more information for you in regards to what caseload has been like in the
666 past. It’s whatever you desire. We put that information together previously; I just
667 didn’t pull it back up for tonight.

668

669 Mr. Witte - Personally, it seemed to work pretty well for the last
670 eleven years. I don't have a problem with it.

671
672 Mr. Leabough - I think we're over-thinking this thing. If it's not broke,
673 why fix it.

674
675 Mr. Witte - But that's just my own opinion.

676
677 Mr. Branin - Mr. Archer, we have two that are saying let's just
678 move forward with this calendar, they're fine with it.

679
680 Mr. Archer - Well my answer is going to be the same as it's been
681 for the last eleven years.

682
683 Mr. Branin - Okay. Then I'll entertain a motion to accept this
684 calendar and move forward.

685
686 Mrs. Jones - Which calendar are you talking about? We have two
687 calendars.

688
689 Mr. Leabough - I move that we approve the 2013 meeting schedule
690 with no POD meeting being held in August.

691
692 Mr. Archer - Second.

693
694 Mr. Branin - Motion by Mr. Leabough, seconded by Mr. Archer. All
695 in favor say aye. All opposed say no. The ayes have it; the motion carries.

696
697 Mr. Branin - Yes

698 Mrs. Jones - No

699 Mr. Archer - Yes

700 Mr. Leabough - Yes

701 Mr. Witte - Yes

702

703 Mrs. Jones - My influence on this Commission is not much, I can
704 tell. All right.

705

706 Mr. Branin - Is there any other business that we need to conduct?

707

708 Mr. Emerson - Yes, yes, Mr. Chairman. You need to consider
709 approval of your minutes from the July 12, 2012, meeting. You did receive an
710 errata sheet and you also received at your chair this evening a corrected copy of
711 the minutes based on the errata sheet.

712

713 Mr. Branin - Does anybody have any additional changes to the
714 minutes? Then I'll entertain a motion to accept the minutes with the errata sheet.

532 feelings about this, and I'd hope that we could have a final vote on this
533 September 13th. Not looking to get up on my bully pulpit anymore, but it has
534 always seemed like a somewhat odd calendar to me.

535

536 Mr. Branin - And with those comments I will also say to the new
537 fellow commissioners this discussion, for as long as you serve, will happen every
538 year. We have this discussion every year.

539

540 Mr. Emerson - Mr. Chairman, if I could add. I did look into the
541 background. We just began doing this in 2001. The first time you did not have a
542 second meeting in August was 2001.

543

544 Mrs. Jones - Why?

545

546 Mr. Emerson - It was not at the request of staff. It does create some
547 logjam issues. The best I understand it is that the Commission felt they needed
548 some time in their schedule to be able to plan for vacations and things. But it
549 does create some logjams on July and then in September. We've been able to
550 work around it. So it's purely up to the Commission what you choose to do. But
551 it's been since 2001.

552

553 Mr. Archer - Mr. Chairman, I can clarify that a little bit since I'm the
554 veteran.

555

556 Mr. Branin - Since you're the grandfather of the Commission.

557

558 Mr. Archer - As Mr. Emerson said, prior to that time we did meet
559 all of the year. There were several of us—they tried to blame it on me. They call
560 this the Archer Rule, but it's not. There were some of us who had vacations that
561 coincided with this meeting. And this is just me now. I can't speak for the entire
562 Commission, but just me. I take two vacations, one in July and one in August.
563 The one in July I get somebody to cover for me. And the one in August, it creates
564 a real bad feeling for me when I miss two months in a row. And there were some
565 others. And I don't know, but I think Mr. Vanarsdall and Ms. Dwyer were here
566 then and had the same concerns. It wasn't something that was just done
567 overnight because we had to get the Board to approve it before anything could
568 be done. I think there was some sort of informal survey done with the
569 development community to see if this is something that would cause them any
570 severe heartburn and we didn't get any responses back that it would. So that's
571 how all of this was initiated in the first place. I remember one time we had a
572 meeting and I was relatively new then, but I was at a convention at the
573 Homestead. I drove all the way back down here to have a meeting that lasted
574 about ten minutes, I think, and gave up one of my free days at the Homestead.

575

576 But in any event, like I say, this is just me. We have five members of the
577 Commission that would and should vote on this as to the way they prefer. But

578 that's how this whole situation came about. We did, at one time, meet every
579 month. And then somebody brought forth the idea that the Board meets only
580 once, I believe, in August, and only once in December. And I guess they must
581 have seen it our way because they approved of it. So that's how the whole thing
582 started. So since I'm the only one that's here, I'm the only one to throw rocks at.

583

584 Mrs. Jones - Our job is a part-time job and we can adjust
585 schedules usually. So I don't see that as an issue, but.

586

587 Mr. Branin - Mr. Leabough?

588

589 Mr. Leabough - In terms of the log-jamming you mentioned, Mr.
590 Emerson, what are you talking about? On average, are we looking at—does it
591 give staff time or room to breathe, or it actually creates more work in July and
592 then in September? I guess it would do that, but does it give staff any opportunity
593 to kind of come up for air? I guess I'm trying to ask how burdensome is it? I
594 would suggest that we look at the whole month of August, to be honest.

595

596 Mr. Emerson - For staff I think we can work with it either way. The
597 last couple of years it hasn't been that big of an issue, but when we're really,
598 really busy, yes, it's been an issue. You would have a lot of people rushing, it
599 creates a pretty big workload on staff to get things ready for that July meeting
600 because everybody is trying to get in. And then of course, you know, in
601 September you have that backed-up situation as well. But it hasn't been
602 unmanageable, is what I would tell you. It's worked fine for what, eleven years—
603 ten, eleven years.

604

605 Mr. Leabough - Can we manage the caseload that we have? Sure.
606 So, I mean, we could cut off a number of cases that we have on any given
607 agenda.

608

609 Mr. Emerson - Well, that's set by your rules.

610

611 Mr. Leabough - So that kind of addresses the issue of having too
612 many cases.

613

614 Mr. Emerson - That deals with new cases coming in; it doesn't deal
615 with the number of cases that are deferred. So we've had agendas with as many
616 as 22 and 25 items on them before even though you can only accept nine or ten
617 new cases at a time. Again, that was at a time we might not see again.

618

619 Mr. Archer - Not for a while anyway.

620

621 Mr. Emerson - I don't think it's going to be any time soon.

622

715

716 Mrs. Jones - I so move.

717

718 Mr. Leabough - Second.

719

720 Mr. Branin - Motion by Mrs. Jones, seconded by Mr. Leabough. All
721 in favor say aye. All opposed say no. The ayes have it; the motion carries.

722 Is there any other business, Mr. Secretary?

723

724 Mr. Emerson - Mr. Chairman, I guess I will just remind you that you
725 do have a work session scheduled for 5:30 at your September 14th meeting,
726 which will be the next time that we meet. That will appear on your agenda, but
727 just to remind you. We will provide food. That work session will be to discuss the
728 changes in the County zoning code brought to us by the General Assembly.

729

730 Mr. Branin - Mr. Vanarsdall would be very appreciative of that.
731 Does anybody else have any other comments or questions?

732

733 Mr. Leabough - Quick question. I'm not sure if this is the appropriate
734 time to ask it. A few months ago there was a code update, a code amendment—
735 code assessment. Is that ongoing? Where are we in that process?

736

737 Mr. Emerson - It's ongoing. We have not received the first draft from
738 the consultant yet, but we're anticipating that.

739

740 Mr. Leabough - So that will be brought before the Commission at
741 some point.

742

743 Mr. Emerson - At some point. The first draft will come back to staff
744 and we'll work on it. It'll probably be several months before we have it to where
745 we'll be ready to present it to you.

746

747 Mr. Leabough - But it's in progress?

748

749 Mr. Emerson - It is in progress, yes sir.

750

751 Mr. Branin - Mr. Secretary, just for the fact of record, since the
752 minutes are taken down. The fourteenth would be a Friday, so it would be the
753 thirteenth.

754

755 Mr. Emerson - The thirteenth; I'm sorry.

756

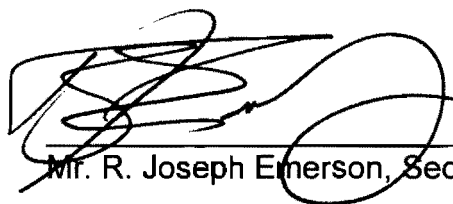
757 Mr. Leabough - I thought he said fourteenth.

758

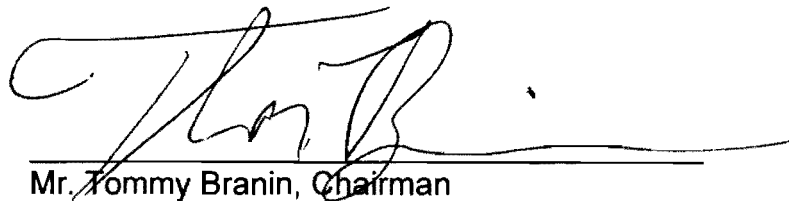
759 Mr. Emerson - I did say the fourteenth.

760

761 Mr. Archer - And that will be in the manager's conference room?
762
763 Mr. Emerson - I believe that we were successful in scheduling that,
764 but that will be on your agenda. I'm not totally certain if it will be in that room. I
765 believe we are.
766
767 Mr. Branin - Is there any other business? None? I'll entertain a
768 motion for adjournment.
769
770 Mr. Archer - I move for adjournment, Mr. Chairman.
771
772 Mr. Leabough - Second.
773
774 The meeting adjourned at 7:40 p.m.
775
776
777
778
779



Mr. R. Joseph Emerson, Secretary



Mr. Tommy Branin, Chairman

798