

STAFFORD COUNTY PLANNING COMMISSION MINUTES
October 9, 2013

The Special Meeting of the Stafford County Planning Commission of Wednesday, October 9, 2013, was called to order at 6:31 p.m. by Chairman Michael Rhodes in the Board of Supervisors Chambers of the George L. Gordon, Jr., Government Center.

MEMBERS PRESENT: Rhodes, Hirons, Apicella, Coen, English, Boswell, and Gibbons

MEMBERS ABSENT: None

STAFF PRESENT: Harvey, McClendon, Stinnette, and Zuraf

DECLARATIONS OF DISQUALIFICATION

Mr. Rhodes: Are there any declarations of disqualification on the agenda this evening? Hearing none, I will now proceed to the public presentations. This is an opportunity for members of the public to speak on any item that is not listed as a public hearing. We have none listed as a public hearing so you have an opportunity to discuss any item that is of interest... that you have of interest to present to the Planning Commission as a whole. So you may come forward at this time and do so. When you do I'd ask that you state your name and your address. Once you do so a green light will come indicating that you have 3 minutes to speak. A yellow light will come on when there is 1 minute remaining and then a red light will start blinking and that we would ask you then to start summarizing, wrapping up your comments at that point in time. So, anyone wishing to come forward may do so at this time.

PUBLIC PRESENTATIONS

Mr. Waldowski: Paul Waldowski. I see we have a new Commissioner. So, that's good; we got that stipeden paycheck going. My shirt says, um, theoretically, um, if you're a scientist the glass is always full. That's means it's half water and half air. And if you get two scientists and they both have a glass that's half full, well then they have a full glass. And then if one of them gives 10%, then you can get 110% on a project. Now, if I was a politician, my shirt would say half water, half hot air. Yesterday I was at the Utility Commissioners and I told them that their shirt should be half water and half sewer... because I don't get a water and sewer bill in the Griffis-Widewater District for 30 years. Now, if I was a Planning Commissioner, my shirt would say stormwater and UDA. Now UDA is an Undeveloped Downtown Area, it's not an Urban Development Area. That's what it is, it's an Undeveloped Downtown Area. Now, if I was on the BZA, I'd probably try to be a Planning Commissioner and on the BZA just because the laws in Virginia say that that's okay. But the laws in Virginia also say that in 1961, if you have a radar detector which detects a signal, that's against the law. But if you have a loaded gun with a permit, that's permitted. Now, if I was a BZA member, my shirt would say half water and half mold. Now the reason it would say half mold is because the BZA is the only one through the Circuit Court who can approve a variance through perpetuity. If you don't know what a variance is, as a Planning Commissioner, it's one of those aspects that pushes the setback that's already in the code so now you can make additions and other aspects and create a public safety hazard in another aspect. Now, I was at the School Board meeting but I didn't say to them, if it was half water, well what their other piece of the glass be? Well, obviously there's 5 high schools in this County and there are 7 School Board members. They did spend \$28,000 for a 20 page report. I wish you'd send me \$28,000; I could do a 20 page report in a half a day. No problem. I have all the templates. I've been a consultant. And, by the way, there are 25 schools built from 1990 to 2006; it's in the real estate records.

Mr. Rhodes: Is there anyone else who would like to come forward?

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Mr. Alexion: My name is John Alexion. Silver's request for 192 apartments seems a bit odd. When I drive by, I seldom see more than 40 to 50 cars and on a few occasions 75 to 90. This would require only 50 apartments. It would be uneconomical to manage 50 units. Obviously Silver hopes that the units would return to market rate sooner than 3 years and he would make more money renting and/or selling the apartments. During the first hearing of Silver's request for market rate apartments and government unit, this committee specifically asked if it could be separated into two different requests. Both Silver and the manager of the government unit stated that the instructors and students were not allowed to reside in the same facility. The instructors would reside in the market rate apartments. Now it seems as though then can. Did they lie then or are they lying now? Realizing that his case was weak, Silver hired a shill to present his request. This shill made it obvious who he was and indirectly carried the strength of his office. Unfortunately, in my opinion, he proved to be a failure since he was unable to answer most of the questions. The financing of the parkway was done through bonds, with the residents paying the interest and principle. The issuance of the bonds is described in the indenture. This indenture specifically states the purpose of the bonds, how it will be financed, and finally and most importantly the zoning of the road. If you change the zoning, you are penetrating the indenture. These bonds could then default, the County would then have to cover said bonds, or the default could cause bankruptcy of the road. This would entail a judge to determine after many years the outcome. Meanwhile, the good credit rating of Stafford would be tarred. It would deter business and individuals from moving to Stafford for fear of a sharp rise in taxes. In addition, the County could be held responsible for authorizing an illegal zoning change. The further you look into this proposal the more it smells. When you penetrate an indenture, all hell could break loose. Thank you.

Mr. Rhodes: Thank you sir. Anyone else like to speak on any item?

Dr. Fetterolf: Mr. Chairman, members of the Commission, Dr. Dean Fetterolf. There are a number of very disturbing trends and decisions coming out of this Commission with grossly inadequate proffers that ignore the proffer guidelines. Proffers as low as 10% have been offered, with developers then requesting unrelated credits and the valuation of land at some future value. Our high schools are at capacity yet there's very little cash being proffered for schools. Plastic grass seems to be more important to this Commission and Supervisors than classroom space. (Inaudible) projects, specific Comp Plan amendments, and definition changes seem to be the way for, well, I guess you could call it spot zoning for the majority party's favorite campaign contributors, the developers. The ever growing crawl of traffic seems to be of little interest to this Commission. TDRs will double the Comp Plan approved area and the number of residential units, but there was no traffic impact analysis. Abberly developments is proffering 25 acres for a college campus but there was no traffic impact analysis. Silver is trying to disguise an apartment complex as "secure law enforcement housing" whose students are travelling on per diem and have no requirement to stay there and will have to drive elsewhere for 3 meals a day. To make matters worse, there is now Planning Commission approval for double-dipping on road proffers. In 2009, Old Potomac Church, LLC, South Campus rezoning, already has an approved proffer for South Campus Boulevard. Now, H.H. Hunt in their Abberly apartment rezoning is also requesting South Campus Boulevard, and wants a credit on top of that. How can two separate interests come before the Board and both get an approved proffer for the same road? Finally, in the interest of full disclosures, members of any County Board or Commission seeking elected public office have an ethical and moral obligation to disclose campaign contributions before they vote on matters from the contributor. Thank you.

Mr. Rhodes: Anyone else?

Mr. Ferris: Thank you. My name is Ed Ferris. I'm here to talk a little bit about the misinformation that I think that the Board is laboring under when it comes to GSA contracts for the properties that Silver runs on Celebrate Parkway. A contract can have a period of performance of 1 to 15 years. But it's only funded on an annual basis, which says they can terminate for convenience at any time or don't opt to renew an option year. So, when we talk about 15 years or 3 years, the contracts that GSA lets for properties will give them an out

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whenever they want out. So, there is no set or firm contract for 15 years or 3 years. Many of the contractors in the Washington area right now are suffering under the fact that the contracts have been terminated due to the situation with our government. So, I just wanted to help and expose the information of contracts. Thank you.

Mr. Rhodes: Thank you sir. Anyone else that would like to speak on any item? Okay, very good, I will close the public presentations and move on to... move beyond public hearing items since there are no public hearing items scheduled and into unfinished business. The first item of unfinished business is item number 1, Celebrate Virginia North, Zoning Ordinance Amendment, Reclassification and Conditional Use Permit. Mr. Harvey?

PUBLIC HEARINGS

UNFINISHED BUSINESS

1. Celebrate Virginia North – Zoning Ordinance Amendment, Reclassification and Conditional Use Permit - The Planning Commission is to consider making recommendations on the following items: a zoning ordinance amendment to allow multi-family dwellings in the Recreational Business Campus, RBC, Zoning District, pursuant to proposed Ordinance O13-50; a reclassification from M-2, Heavy Industrial to RBC, Recreational Business Campus pursuant to application RC1300345 and proposed Ordinance O13-49; and a Conditional Use Permit for multi-family dwellings in a RBC zoning district pursuant to application CUP1300346 and proposed Resolution R13-274. **(Time Limit: December 30, 2013)**

Mr. Harvey: Thank you Mr. Chairman. Mr. Zuraf will give the staff update.

Mr. Rhodes: Very good, thank you.

Mr. Zuraf: Good evening Mr. Chairman and members of the Planning Commission, Mike Zuraf with the Planning and Zoning Department. As you mentioned Mr. Chairman, this request includes three parts: the Zoning Ordinance Amendment to allow multi-family dwellings in the RBC Zoning District; the second part is a reclassification from the M-2 Zoning District to the RBC Zoning District; and then the last part is a Conditional Use Permit that would allow multi-family dwellings in a RBC Zoning District, should the Ordinance change and be amended. This issue was last heard on October 1st at a joint public hearing with the Planning Commission and the Board of Supervisors. During the public hearing the applicant proposed two modifications to the proffers. Those include a new... and then also a new condition for the Conditional Use Permit and so at the time the case was deferred to this meeting. You received revisions on the proffers before you tonight and also some modifications to those changes. The two changes proposed would first stipulate that the proposed multi-family dwellings would not convert from law enforcement trainee housing to market rate housing for at least three years from the date of the occupancy of the units. So there would be a three year time horizon where it would have to remain as law enforcement housing. The second revision created a new proffer, proffer number 3. That proffer stipulated that the applicant would pay the transportation impact fee of \$2,500 per unit. When we were working through the details, and I think it may have been mentioned at the public hearing that the traffic impact fees actually are, for multi-family, \$2,999 per unit. In the end the applicant modified that proffer number 3, you received a new version of that tonight which basically says that the applicant would comply with the Impact Fee Ordinance as it is written, which would require the \$2,999 per multi-family unit. Staff does note though that the Impact Fee Ordinance does not go into effect until May of next year, and so should a site plan be approved in advance of that May startup date, then the impact fees would not apply, because of the May start date.

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Mr. Gibbons: Can you repeat that one more time?

Mr. Zuraf: The impact fees do not take effect until May of next year, so the proffer as written basically would... it's just basically saying that they are going to go along with the Impact Fee Ordinance as it is. So if the... say a site plan for the project was approved in advance of the May start-up date, they would not be required to pay the impact fees.

Mr. Gibbons: Yes, but Cord did not want that. He wanted specific.

Mr. Zuraf: Right.

Mr. Rhodes: So the other alternative, I think, would be if there was language at the end of that sentence that said, should this fee not be applicable then the owner commits to a sum of \$2,999 per unit, or something like that.

Mr. Zuraf: Right.

Mr. English: And that is not written?

Mr. Rhodes: No.

Mr. Zuraf: And the applicant's representative is here so you may want to discuss that with him.

Mr. Rhodes: Yes. Something like that could address that and that way you could have it locked in one way or the other.

Mr. Zuraf: Right.

Mr. Rhodes: Okay.

Mr. Zuraf: So those were the changes with the proffers that were provided. Also, the new condition to Resolution R13-274 would require construction of a pedestrian crosswalk across Celebrate Virginia Parkway between the dwelling units and the training facility. This was provided and proposed condition 17, the new condition. We also did include a new modification to the Resolution that you also received this evening that added a... and modified another condition. That is the copy that you have where the changes are highlighted in yellow. The additional change would modify condition number 6 to exclude aluminum or vinyl siding along the façades of the buildings. So those are the two changes to the Resolution. And there were not suggested changes to the Zoning Ordinance Amendment. I'll take any questions at this time.

Mr. Rhodes: Okay, questions?

Mr. Gibbons: Mr. Chairman?

Mr. Rhodes: Yes, Mr. Gibbons, please.

Mr. Gibbons: Well I asked you before about the issue that I came up with. What my concern is that they don't be constructed until there is a contract in place.

Mr. Rhodes: Okay.

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Mr. Gibbons: In other words, the way it is now he could build the apartments and he could... there is nothing in there to stop it... on the three year... (Inaudible) shall operate for three years. But, I would like to have something in place where he has to have a contract in hand before the construction starts or the site plan... whatever is the legal. And Jeff, you jogged my memory and were right on the cell towers. Did you ask Rysheda what she thought?

Mr. Harvey: Yes Mr. Gibbons. For Conditional Use Permits for cell towers, as a standard condition, what the Commission has asked for in the past is that the applicant provide copies of either letters of intent or contracts for those providers to locate on a tower before a building permit is issued. And you asked if a similar provision could be included in the proffers that would stipulate that a building permit would not be issued until a contract to construct apartments for the purpose of trainee housing was in place. That would be something that the applicant would have to consider in the proffer statement.

Mr. Rhodes: If I recall, just to make sure I can characterize this correctly, Mr. Gibbons. I think the point was, I think there was a belief that part of the purpose for this request and this application was to be able to pursue and close a potential negotiation on a longer term governmental contract for expanded training capability and this was one of the enhancements. And a concern was if that should fall through and not materialize and they have already starting building this, suddenly we are going to be inheriting rental apartments in the middle of an area that is really more commercial and not really structured for it and it is in an awkward setting. And so what you are suggesting for consideration of the applicant is some structure whereby if this were to be successfully approved they would have to first go and conclude that negotiation, that contract, to show that they are really going to be able to use them for trainee housing before they start to be able to construct.

Mr. Hirons: Okay.

Mr. Rhodes: We will have to take that back up with the applicant when they come forward in just a moment.

Mr. Gibbons: Yes sir.

Mr. Rhodes: Very good. Other questions for staff? Ms. McClendon I did have... just wanted to raise one thing. There was a comment during the public presentations about a... if going forward and approval of these that it would compromise the bond issuance that is associated with the road. Does that sound like an issue of concern from your perspective?

Ms. McClendon: That is not an issue that has been previewed with my office, so this is the first time I am hearing of it so I am not prepared to give an opinion on it.

Mr. Rhodes: Okay, understood. Alright, thank you. So any other questions for staff before we have the applicant come forward? Okay, thank you very much. Applicant please.

Richard Stuart: Thank you Mr. Chairman. And please let me first just make perfectly clear that I am here as a private attorney. In no way is my office represented here.

Mr. Gibbons: Sir, what was your rank in the Marine Corp? Weren't you a Corporal?

Mr. Stuart: I was a Corporal, yes sir.

Mr. Gibbons: Okay, thank you.

Mr. Stuart: Yes sir.

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Mr. Gibbons: I don't want to call you Private if you are a Corporal.

Mr. Stuart: That is okay, I have been called worse in the Marines.

Mr. Rhodes: Okay, there was an earlier question sir that... there is concern about... I think there is a general concern about commercial rental apartments in that area. It's just not really what the area is for. We understand the concept and the construct to which you are trying to develop here and so while there is the three year... and that's why I think you inserted a three year minimum for use as a purpose to show it's not going to jump straight in to that, but still to further reinforce it there was a thought that Mr. Gibbons had presented that possibly there be additional language in the proffer whereby you won't start construction until after you have a longer term commitment governmental contract commitment, to use it for student housing.

Mr. Stuart: Mr. Chairman, we believe that this proffer did that and of course you would have to consult with your council, but it says that it could only be constructed if operated as such for a minimum of three years. And if any of that is violated then the CUP would be revoked. As I understand it the way it's phrased not. I am not sure what else we can do with regard to that. I think it is pretty well locked in.

Mr. Rhodes: I guess the thought, and we're just trying to see if we can perfect it a little further, is that this will be constructed for the purpose of housing. But if you started constructing and you get 6 months into it and you haven't closed, I am just going hypothetical now, I apologize. And you haven't closed the deal with GSA but you really feel you are close and then it all falls apart 6 months in. Well you are already constructing a building so your clock is already starting. Just trying... a thought was if you would... if there was a way to wait to actually do the physical construction, to starting to commit your resources and the funding and everything along until after you had a contract in place, was the added refinement to that proffer thought.

Mr. Stuart: Mr. Chairman, I am happy to try to figure out something there, although I think this covers it. I guess practically speaking if that were to occur, they would have to come back before this Commission and the Board because they wouldn't be able to qualify under the terms of the proffer, having not been operating for three years. So you at that point would have the ability to place whatever restrictions, I should not say it that way. You would have the ability at that point to review this for necessary restrictions and other things that you would want...

Mr. Rhodes: So what I think I hear your saying is that, they have... the way you read this and I will ask Ms. McClendon if this sounds right, is that it is constructed to provide short term housing for law enforcement trainees and until it is actually been used as short term housing for law enforcement trainees for three years, than it can't be used for anything else.

Mr. Stuart: That is what we intended, Mr. Chairman. I will tell you that, that is what we were signing up for.

Mr. Rhodes: Okay, and I can see that read. I just... Ms. McClendon, so if something were to happen 8 months into their construction and they are almost...

Mr. Gibbons: Or even before.

Mr. Rhodes: Yes anywhere in there. So if something happens and they have built this stuff but they no longer have a contract or it gets cancelled and it hasn't been used for the first law enforcement trainee or it has only been used for six months as that, by this because they haven't used it for three years in that manner then they can't use it for any other purpose.

Ms. McClendon: Mr. Chairman, I am not sure I would exactly interpret it that way. I think it is open for interpretation. At best, I guess, in looking at this I would say they could construct the multi-family dwellings

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and then from there if they then get the occupancy permit, that is what generally is the timing that would go forward, so from occupancy to three years. I know it says operate, but I am not exactly sure what operate means. Generally we would look at that for three years from occupancy permit. So whether or not someone actually moves in is not generally how we look at the term operates. So I think if that is the intent it can be clearer.

Mr. Rhodes: Okay.

Ms. McClendon: And it actually needs to... more than just be occupied for three years or not occupied, but three years after occupancy.

Mr. Rhodes: So I think it would be perfecting the language there where right now it is just saying operate, but...

Mr. Stuart: Be occupied as?

Mr. Rhodes: Shall be used and occupied as housing by law enforcement trainees for a minimum of three years.

Ms. McClendon: I guess the question would be what happens if there is an interim break in there? Are we talking 3 consecutive years? Or is it 3 years in total? It is still just not very clear to me. I think it is open to too much interpretation.

Mr. Rhodes: Okay.

Mr. Harvey: Mr. Chairman, a suggestion could be that it would operate as such for a minimum of 3 years from the date of the issuance of an occupancy permit.

Mr. English: Occupancy for law enforcement?

Mr. Rhodes: So Mr. Harvey, so I guess I am just trying to think through here. I think everybody's intent is that it would be a successful venture for a long time as a training center. But should that all fall through, don't want it to be able to just sit there fallow for 3 years and immediately go on the market as multi-family housing, but that they have actually had to make the deal work as a training center for at least 3 years and so actually be used and occupied for that purposes. Meaning they have gotten the contract in place, it's been going, you know we have at least gotten that far down the road with the whole endeavor. We have been able to get the tax revenues and benefits from it and it was positive activity. So I guess, I am trying to think through some quick language that clarifies that intent. That is has actually been used as that purpose, occupied as that purpose, not just built for that purpose but never got used that way.

Mr. Stuart: Mr. Chairman.

Mr. Rhodes: Yes sir.

Mr. Stuart: What if the applicant were to proffer and shall be used and occupied as such for 3 years from date of the certificate of occupancy. I think that covers it pretty clearly.

Mr. Harvey: Yes Mr. Chairman, from a staff administration stand point it would be difficult for us to verify on a regular basis that someone is living in one of those individual units.

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Mr. Rhodes: Yes that is fair. That's fair. I think maybe this gets us closer... the intent is that we've made it down the road and it hasn't just been built and suddenly just a 3 year clock starts and it is going to convert immediately to what will not be very appealing or workable, or properly located commercial residential dwellings. But that it is actually at least started down the road initially as a going venture for the purpose of training.

Mr. English: So when do we say the clock starts.

Mr. Rhodes: Well it says here, I think he started the clock there, the occupancy... so shall be used and occupied as such for a minimum of 3 years...

Mr. English: After occupancy.

Mr. Rhodes: ... as such for that purpose for a minimum of 3 years from the date of the occupancy...

Mr. Stuart: Certificate of occupancy...

Mr. Rhodes: Certificate.

Mr. Stuart: ... I think is the magic word. But you need to ask your staff.

Mr. Harvey: That's correct.

Mr. Rhodes: Okay.

Mr. Stuart: Sorry, I used to be a County Attorney and I'm free with advice sometimes, I shouldn't do that.

Mr. Rhodes: The other thing that had been brought up, sir, was, and I'll just throw it out there, was item number 3. I think your intent was to have it cover the full value of what had been a transportation impact fee which is the \$2,999. But should things go quickly and go well, there is a technical possibility that you could preclude paying that by having a site plan approved and ready to go by May of next year, not that things would go that fast. Would you be willing to have language added to the end of that sentence which acknowledges your commitment to pay the \$2,999 to support transportation even should there not be a transportation impact fee that enforced at the time?

Mr. Stuart: Mr. Chairman, we had a lot of discussion on this issue and I know it's my client's position that if they are supposed to pay this fee, they want to pay the fee. And they're not asking for any deduction. We said \$2,500 that night because honestly that's what we thought the fee was. I didn't realize it was \$2,999; I don't think they ever intended to proffer to pay something that they weren't obligated to pay. There was a question about whether or not this multi-family would qualify for it, so our proffer was to say look, we believe we're obligated to pay this as multi-family. It's not an extended stay hotel unit which I think some could argue that it is even though it's kind of like that. I'm a little bit uncomfortable to say I want to add language to that because I just don't have that authority.

Mr. Rhodes: I sensed from the joint public hearing that there was absolute full commitment to pay that, that it was never intended not to be avoided and they added the language just to make it clear. So the thought here being that should there be a technicality that the transportation impact fee is not applicable because it's not yet gone to the date of enforcement in May, that you'd still pay the \$2,999 per unit should the transportation impact fee not apply.

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Mr. Stuart: I'm very uncomfortable in changing this language Mr. Chairman. I apologize for that but I can work on that depending upon how things go. They believe they're obligated to pay it; they're willing to pay it. But I know... the reason I say this is because Mr. Hornung and Jeff went back and forth on this today and there was several recitations about it. And this is what was decided upon, so I really am uncomfortable in changing this.

Mr. Rhodes: Okay.

Mr. Stuart: And I think there were multiple reasons for that. You know, the other was if we... if it was a credit and it was changed, it could be less, it could be more. We just felt like a statement that we acknowledged. We were due to pay it and it was sufficient. And I know what you're asking for, I'm afraid to take that step without the authority to take it.

Mr. Rhodes: Gotcha.

Mr. English: When could you take that step? And how long will it take to figure that out?

Mr. Rhodes: Is Mr. Hornung reachable? We don't have a lot of items on the agenda tonight but we do have a couple others.

Mr. Stuart: He is in a EDA meeting for the city and I don't know if I can get him or not. I can certainly try. I'm happy to leave this language as it is and maybe we can flag that as an issue for the next hearing. I don't know how you all feel about that but we could have further discussions with staff about this.

Mr. Rhodes: Well, that's certainly...

Mr. Gibbons: Well, Jeff, in your discussions today did you bring that up that there was a time limit?

Mr. Harvey: Yes sir. Mr. Hornung expressed to me his understanding that they would pay the impact fee amount for the multi-family units. He was concerned that the wording would be specific to multi-family, because if, what he told me, is they're looking at their financing. At first they thought multi-family housing would be easier to get financing for than an extended stay hotel. But if that changed, they may build an extended stay hotel. If that were the case then they wouldn't want to necessarily have to pay impact fees because, based on our ordinance, an extended stay hotel is a commercial use and would not be paying impact fees because the County would pay that part because it's commercial development. So, he asked that the proffers stay the way it's worded here and that he had some concerns about adding additional language.

Mr. Gibbons: But the language that's being asked for is that up until the schedule becomes effective that they agree to pay the same amount. We're not trying to change the word multi-family to extended stay. All we're trying to say is that this thing isn't effective until what, May of next year? From this point until May of next year he agrees to still pay them. I don't see what's wrong with that.

Mr. Stuart: I don't think you have to worry about us starting before the impact goes into action, but I'm just uncomfortable in changing that at this point in time. I can't see how it could because this is a process of responding to RFPs and you guys are government contractors, you know this better, and it's a long process to do it. But I'm stuck on that one.

Mr. Rhodes: Okay.

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Mr. Stuart: I think they have made the representation that they believe they're obligated to pay it under the fee, the time before them starting now and before it actually is enacted. It's not an issue I discussed with them quite frankly.

Mr. Rhodes: Okay. And just to clarify, you would be comfortable with the modification to the first one, you would be willing to sign or initial where it would read: any multi-family housing unit constructed within the property shall be constructed to provide short-term housing (less than 3 months) for law enforcement trainees and shall be used and occupied as such for that purpose for a minimum of 3 years from date of the occupancy certificate.

Mr. Stuart: Yes, Mr. Chairman, I'm confident that I have the authority to do that.

Mr. Rhodes: Okay. Other questions?

Mr. Gibbons: I'm confused now because, I've got a lot of respect for you, but why don't we just put a period after the impact fee period. You only acknowledge is that the proposed multi-family units is subject to a transportation impact fee period.

Mr. English: Can you do that?

Mr. Gibbons: So, you're saying you're obligated to it, instead of saying under the code. Would that represent a problem Jeff?

Mr. Harvey: Well, the code help citation clarifies as to what fee they're going to be paying, because they're going to be paying the fee that's listed in the ordinance schedule.

Mr. Stuart: It would be undefined and I'm not sure it would be enforceable from my perspective, for anybody, because you wouldn't know what you had to pay if you didn't recite the code.

Mr. Apicella: I'm trying to understand the issue here, because the way I see it, they're not multi-family units at this point in time; they're trainee units. And, so, at such a point in time when they become multi-family units, that's when they would pay. That could be 20 years from now and the rate could be significantly different 20 years from now. So, I think...

Mr. Rhodes: For the purpose of this action and these ordinance amendment, reclassification, conditional use permit, they are multi-family units. Right Mr. Harvey?

Mr. Harvey: Yes, Mr. Chairman, pursuant to our Zoning Ordinance these would be classified as multi-family units.

Mr. Stuart: That's the whole reason we're making the acknowledgement, Mr. Chairman.

Mr. Rhodes: The 3 year piece is whether they'll be commercial rental multi-family units versus for the purpose of student trainee.

Mr. Apicella: Okay.

Mr. Stuart: The whole reason we made the acknowledgement because there was some question, as Mr. Apicella brings up.

Mr. Rhodes: Okay. Other questions for the applicant? Mr. Coen?

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Mr. Coen: If I could... in pouring through various past meetings and data and reports, it looked as though the instructors would be staying there. But the other night at the public hearing (inaudible) of hearing that the inference that the instructors would not be. And I just was... one question is, is just some clarification on that. Can I rattle off a bunch or do you want to do it one at a time?

Mr. Stuart: Whatever your pleasure is.

Mr. Coen: It's up to you boss.

Mr. Rhodes: Why don't we just do one at a time.

Mr. Stuart: My understanding this is almost entirely for the trainees. There may be an occasion when an instructor may stay there, but it would not happen very often. That is what my client has told me.

Mr. Coen: Okay. And then in the conversation about the financing, it percolated that right now it's a question whether this would be easier to finance as an extended stay hotel type entity or by multi-family units. And so my question would be, if it were definitely or if it's up in the air right now which way it could go, that would mean a total different view to everybody. And so, I guess the question would be when would you find out whether it's going to be one way or the other? Or was that just sort of conversations and we're already down that road?

Mr. Stuart: Again, this will be the subject of answering an RFP to have a training facility. They're trying to expand this facility. They believe there's an opportunity out there and there could be requirements within that national training, law enforcement training agency, that may shift that. If I'm correct, and Jeff can correct me if I'm wrong, they may be able to do extended stay by-right already under the RBC. Is that correct?

Mr. Harvey: That's correct. Under the RBC, hotels are a by-right use.

Mr. Stuart: Right, that's what I thought. So, we're here because we anticipate it's going to be multi-family. And before they proceed to try to answer this proposal and expand this facility, they need this approval in order to do that. Then the financing would be based upon the specifications, the requirements, of the law enforcement agency.

Mr. Coen: A question that Mr. Apicella brought up last week was sort of are these going to be luxury apartments? And the answer was they're going to be high quality. Having lived in Arlington, the Windsor at Shirlington is high quality. Those right in Ballston are luxury. And in the middle, along Columbia Pike there's loads of apartment that will say they're high quality but they're not the same. And I think it would help us to have some idea, you know... and I know it's farther down the line where you get into specificity about what will be in each unit and whatnot. But if they were going to have washers and dryers in each unit, that would be one type of apartment, whereas, if it's going to be a common laundry area, that's another. Marble countertops versus just whatever, that would give us a feel for if this was going to flip over in 4 or 5 years, as Mr. Gibbons was excellently pointing out it could be whenever, it would give everyone a feel for what it is you're really looking for. I would think that even though later on is when you'd have specificity just to do all the loans and whatnot you'd have to have some idea what type of equipment you're going to buy. So, can you give us any guidance as to that because I think that would be helpful.

Mr. Stuart: Well, I can tell you that these are not luxury apartments that they were proposing in the other proposal, the 400 and some odd units; that's not what they're proposing. They are proposing a Class A unit. The problem with that is that definition is undefined and it is extremely subjective and you can't nail that down. But to give you an example, their exteriors are all 30% brick or stone, no vinyl or aluminum siding, which leaves them with hardy plank which is a concrete siding or some other attractive material for the

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outside. They've completely excluded any sort of chain link fencing from this project and proffered wrought iron fencing, which is extremely expensive. Any of the trash receptacles have to be screened with a masonry building and heavy gates, attractive things. And the recreation amenities that they have, pool, fitness center, athletic courts... all those things take you to that being a top of the market apartment and that's what they intend them to be. I anticipated your question on the interior of it. The difficulty we have there again, we respond to a proposal, an RFP, and they have specific requirements according to the contract for this law enforcement agency. And honestly, Mr. Coen, it may be that they want a washer and dryer in each apartment, and there'll be one. Maybe they only want a washer and dryer in every 2 apartments. It really depends on their specific requirements for the contract. That's the only way these are going to be built. If they don't have a contract going into this, they're not going to be built. If they have a contract with specific requirements, then these will be built. Now, of course, that could terminate. It could go south and the deal could end. But they will be a Class A; my client intends it to be a Class A and then the County has certain development guidelines too that I believe are within the conditions of it. But that is the best I can tell you with regard to that. It comes down to what their specific requirements in the contract are.

Mr. Rhodes: Mr. English?

Mr. English: Yeah, there was a question also brought up of whether they could be one bedroom or two bedroom. Did you all...?

Mr. Stuart: They're two bedroom.

Mr. English: See, you all never did look at doing one bedroom... they wouldn't go for just the one bedroom because it...

Mr. Stuart: It's a shared per diem according to these contracts. And this is a... it's more like an extended stay unit. There's sort of a living room with a kitchenette in it, and then you have a bedroom on either side is the way they do these. And there are specific requirements for that. But that's what it ended up, was all two bedrooms. And we thought that was important too; you didn't want any three bedrooms for other reasons.

Mr. Rhodes: Okay. Other questions?

Mr. Gibbons: I got one.

Mr. Rhodes: Mr. Gibbons.

Mr. Gibbons: And it's not comical but I think it's ironical that you want to have extended living facility, but yet you want to shoehorn it into multi-family in case you get in trouble. And yet I don't know... Jeff, I've never seen what the requirements for an apartment are when you construct apartments. Can this unit be shoehorned into the wording of an apartment? I mean, all the amenities are there. Do they meet the square footage? I mean, do you have to have a refrigerator, dryer... you know, that's what gets me. But I'm not going to hold it up because I hope we do get the training facility. But to take something and then try to shoehorn it into an ordinance has been amazing to me. I read this over the weekend, that's why I called you today. There's no time limit. If this doesn't work out for 7 or 8 years, does this go on forever? I mean, this could sit idle because it's permanently zoned.

Mr. Rhodes: Fair point.

Mr. Gibbons: Okay, thank you.

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Mr. Stuart: I think there was time limit on it Mr. Chairman. If it wasn't built within a certain amount of time, then the CUP was revoked. They have 3 years to build it or it's revoked.

Mr. Coen: One more.

Mr. Rhodes: Please Mr. Coen.

Mr. Coen: Just one more issue, and this was brought up by Mr. Rhodes the other night about the \$7,500 for schools. Best case scenario, you have 3 years to build it. And then you promise 3 more years, so we're talking 6 years into your... plus the 3 years you're already in... so 9 years into your 15 year contract. So we'll even say it stays this way for the full 15 years of your contract so we're into the future. Then the one concern would be that when it flips over to multi-use, it's only \$7,500 per unit for the schools. When, by 2023, maybe the proffer for the schools is actually \$10,000 or \$11,000, but we've already locked you into a lower amount. And so, that just jumped at me. It just seems as though when it happens, if it happens, we're actually shortchanging the County. I mean, I understand how you all want to make sure that if worst case scenario you can use this facility for something, that you're not building it for trainees and then 5 years, 6 years down the line you're stuck with a building you can't use anymore. Hence the two bedrooms rather than going for a one bedroom... I understand that. But then we would want to understand and plan for the future that if this flips, at the time when we need extra money for whatever, we're actually going to get it. And so that's one of... I don't know if anybody else feels that way, but that screamed at me that we're locking into something that 10, 15 years down the line is actually not going to fund what we need it to fund.

Mr. Stuart: Do you want me to respond, Mr. Chairman?

Mr. Rhodes: Yes please.

Mr. Stuart: There is an inflationary mechanism in the proffer that allows the County to increase this annually to be adjusted for inflation according to the Consumer Price Index. The problem is, and that would be a good problem to have, frankly, if this contract were to last for 15 years. We hope it'll last for 50. But if it lasted for 15, the County's getting about two and a half million dollars in tax revenue from this facility every year and really has to provide no service to it. And that is just one part of this expansion of another hundred thousand square feet of commercial training space and all the residual effect that goes into the community and the money that's being spent. So while I understand, and I agree with you, the 15 years presents about \$30 million in tax revenue for which the County really has to provide no service for. May Fire and Rescue, I'm sorry.

Mr. Apicella: Mr. Chairman?

Mr. Rhodes: Yes, please Mr. Apicella.

Mr. Apicella: Do you know what the per diem rate is in Stafford County?

Mr. Stuart: I do not.

Mr. Apicella: I think it's \$85 a day.

Mr. Stuart: I was told it's \$85.

Mr. Apicella: So, I've got to think that \$85 times 30 days is a pretty significant amount and probably a heck of a lot more than you could get by renting it as an apartment.

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Mr. Stuart: A hundred and twenty for shared is what I've been told.

Mr. Apicella: A hundred and twenty per day times 30... that's not a bad sum of money. Again, I think that probably beats what you could get renting it out as an apartment. So, certainly you would have an economic interest to try to keep this as a trainee complex as long as possible.

Mr. Stuart: That's what they want to do Mr. Apicella. We try to give a failsafe in case the deal goes south.

Mr. Apicella: I imagine that failsafe is to get the loan you would need some kind of back-up plan.

Mr. Stuart: Part of it's for that and part of it's for protection of the County and the County's taxpayers to make sure that they have planned for an alternative event, even though they don't want it to happen, just in case it does.

Mr. Apicella: Thanks.

Mr. Rhodes: Okay, anything else for the applicant? Just procedurally, just so I've got it straight, is this new information tonight then? This is not what we had, so if we were to proceed, we'd have to vote to accept the new information?

Ms. McClendon: Yes, Mr. Chairman, you would.

Mr. Rhodes: And further, because he did agree, at least on item number 1 to what was read into the record, would we need an initial on that or something?

Ms. McClendon: The current proffers you have are unsigned and since it was agreed to on record, I think you would be fine. As long as when it's presented to the Board there's a signed copy available to them.

Mr. Rhodes: Okay, with our added language that we just talked about for item number 1.

Ms. McClendon: That's correct.

Mr. Rhodes: Okay, good. And I would read that again for the record before we were done if we proceed on this. Okay. I'll bring it back to other discussion by the Planning Commission. So we had a modified proffer number 1 that was agreed to which, again, I'll read just for all: any multi-family housing units constructed within the property shall be constructed to provide short-term housing (less than 3 months) for law enforcement trainees, and shall be used and occupied as such for that purpose for a minimum of 3 years from date of the occupancy certificate. And then there were no other modifications agreed to.

Mr. English: Do you need a motion to accept this?

Mr. Rhodes: We would need a motion to...

Mr. English: Accept the proffer statement?

Mr. Rhodes: Yeah, first we need a motion to accept the new information as presented tonight as modified.

Ms. McClendon: Mr. Chairman, just to kind of stay in procedural order, I would suggest the Commission act on the zoning text amendment first, and then proceed to the reclassification and the CUP last.

Mr. Rhodes: So, it'd be first the zoning text amendment. Okay.

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Mr. English: So, just make a motion on that one which would be, I make a motion to accept the ordinance...

Mr. Rhodes: Recommend approval.

Mr. English: ... recommend approval for Ordinance O13-50, reclassification.

Mr. Apicella: Second.

Mr. Rhodes: Okay, so there's a motion to recommend approval of the proposed Ordinance O13-50 by Mr. English; second by Mr. Apicella. Further comments Mr. English?

Mr. English: No sir.

Mr. Rhodes: Further comments Mr. Apicella?

Mr. Apicella: Mr. Chairman, I'm going to make my comments after we get all 3 in play.

Mr. Rhodes: Okay, we'll vote each individually, but okay. Any other member? Okay, all those in favor of the motion recommending approval of proposed Ordinance O13-50 signify by saying aye.

Mr. Apicella: Aye.

Mr. Coen: Aye.

Mr. Hirons: Aye.

Mr. English: Aye.

Mr. Boswell: Aye.

Mr. Gibbons: Aye.

Mr. Rhodes: Aye. Are there any opposed? None opposed; that one passes 7-0. Next is dealing with the reclassification from M-2, Heavy Industrial to RBC pursuant to application RC1300345.

Mr. English: I make a motion to accept that Ordinance O13-49.

Mr. Rhodes: So, it's a motion to recommend approval of the reclassification...

Ms. McClendon: Mr. Chairman, I'm sorry to interrupt but you need to accept the new information first and then act on the reclassification.

Mr. Rhodes: Okay.

Ms. McClendon: Because the proffers...

Mr. Rhodes: So we first got... now you want...

Ms. McClendon: Right, the proffers go with the reclassification, not the zoning text.

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Mr. Rhodes: I appreciate our Parliamentarian; she keeps us straight. Okay. So that motion can't be on the table because we first have to accept the new information as amended. Do we accept first and then amend it? Or do we accept it as amended?

Ms. McClendon: You would be accepting it as amended.

Mr. Rhodes: Thank you very much. Okay. So we need a motion to accept the proffer statement as amended read into the record tonight.

Mr. English: I'll make that motion to accept it.

Mr. Gibbons: Second.

Mr. Rhodes: Motion by Mr. English; second by Mr. Gibbons. Further comment Mr. English?

Mr. English: No sir.

Mr. Rhodes: Further comment Mr. Gibbons? Any other member? Please Mr. Coen.

Mr. Coen: Just some clarification... granted, I'm a newby. So, we're voting with number 3 still up in the air about what is exactly going to happen with the transportation.

Mr. Rhodes: That is what we would be voting on, yes sir.

Mr. Coen: Okay.

Mr. Rhodes: And, in fact, that would be my comment. In fact, I would just...

Mr. Gibbons: Why don't we add that to the motion and send it to the Board (inaudible - microphone not on)?

Mr. Rhodes: My point and comment would be, at minimum for the applicant's awareness and for my fellow Commissioners is I know that, if nothing else, I would be having a conversation with my Supervisor to recommend that they address item number 3 to at least suggest clarity and an absolute element to the commitment of the \$2,999 for the transportation per unit regardless of how the timing might work, that that is the net effect to the County. So I do know that if we pass this as it is, my intent would be to highlight this one to my Supervisor to raise that as an issue to be readdressed when they get to the next session along. So I would just share that.

Mr. English: Do I need to add that to the motion?

Mr. Rhodes: Well, we could... hmmm...

Ms. McClendon: Mr. Chairman, I suggest acting on the motion on the floor which is regards to accepting the proffers as offered tonight. And then, in the next motion, which you determine recommending or... recommending approval or denial of the actual reclassification, attaching it to that recommendation.

Mr. Rhodes: Thank you very much. She's good. Okay. So, we have a motion to accept the new information as presented tonight as amended. All those in favor signify by saying aye.

Mr. Apicella: Aye.

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Mr. Coen: Aye.

Mr. Hirons: Aye.

Mr. English: Aye.

Mr. Boswell: Aye.

Mr. Gibbons: Aye.

Mr. Rhodes: Aye. Any opposed? None? So now we have a modified proffer statement that is before us and we are... wherever we are...

Mr. English: So we need to make a motion that we get clarification on number 3?

Mr. Rhodes: Well, what I think we would be doing is making a motion to recommend approval or denial of the reclassification, and then, as part of that, also encourage or highlight to the Board of Supervisors our belief that they ought to address any modification necessary to proffer 3 to make sure that that's an absolute commitment to the County.

Mr. English: Okay, how would you write down the motion?

Mr. Rhodes: So I would just...

Mr. English: Make that a motion that we...

Mr. Rhodes: So your second motion, I think, consistent with the first then would be to recommend approval of the reclassification?

Mr. English: Exactly.

Mr. Rhodes: Additionally, with advice to the Board of Supervisors that they consider strengthening... a discussion to strengthen proffer 3 to ensure that commitment absolutely comes to the County.

Mr. English: Yep.

Mr. Rhodes: So that is your motion?

Mr. English: Yep.

Mr. Rhodes: That's a motion by Mr. English.

Mr. Gibbons: Second.

Mr. Rhodes: Second by Mr. Gibbons. Further comment Mr. English?

Mr. English: No sir.

Mr. Rhodes: Further comment Mr. Gibbons? Any other member?

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Mr. Apicella: Mr. Chairman, I'm going to support this motion. I believe that members of the Planning Commission were generally supportive of the trainee housing when a previous version of this application was before us, when it had a larger R-2 phase, or two-prong approach. I believe the proffers and CUP conditions are even better than they were before, albeit not perfect and not the total amount that are in the guidelines. But, I think it's fairly close. And it's rare that we ever get exactly what we want in terms of proffers although I wish we did. I'm also very concerned about what could go in that area under the M-2 zoning by-right and the capability of those potential allowable uses in concert with what's already there and what could potentially be there. And lastly, I think the trainee housing will facilitate the goals and objectives of this applicant and furthering that kind of industry here in Stafford County and economic development in general in Stafford County. This is the kind of business that we'd like to see even more of and this will help spread that on. So for those reasons, Mr. Chairman, that's why I'm supporting this motion.

Mr. Rhodes: Very good. Any other members? I would just share that I'll support this one. And I do appreciate the comments raised by Commission Gibbons, because that was an area I was concerned with; how are we ensuring their at least going down that path. I don't think personally that they'll be able to get their financing without some degree of a commitment or contract in place that's going to take them there, but I believe that that modification helped to reinforce and get to that point. Because that was an area this is a little awkward with the ability for it to convert over. I don't know how marketable it would be as a purely residential element in this construct, but still that would be an awkward thing to be (inaudible). But I do like the modified proffer of 1 so I appreciate the discussion tonight and I will be supporting it as well. So, all those in favor of the motion which is the reclassification from M-2, Heavy Industrial, to RBC for application RC1300345 with the added stipulation of the advice to the Board of Supervisors that they dialogue on proffer 3 to strengthen it and ensure it's an absolute commitment to the County please signify by saying aye.

Mr. Apicella: Aye.

Mr. Coen: Aye.

Mr. Hirons: Aye.

Mr. English: Aye.

Mr. Boswell: Aye.

Mr. Gibbons: Aye.

Mr. Rhodes: Aye. Any opposed? None opposed; passes 7-0. And now we are onto the CUP. Do we have to accept the modifications to the CUP as well?

Ms. McClendon: No, Mr. Chairman, conditions are imposed (inaudible).

Mr. Rhodes: Because those are ours, yeah, that's right. Thank you very much. Okay. So, CUP1300346; we'll need a motion to act on that one as well.

Mr. English: I make a motion to accept it.

Mr. Apicella: Second.

Mr. Rhodes: Motion to recommend approval of the CUP1300346 by Mr. English; seconded by Mr. Apicella. Further comment Mr. English?

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Mr. English: No.

Mr. Rhodes: Further comment Mr. Apicella?

Mr. Apicella: No sir.

Mr. Rhodes: Any other member? All those in favor signify by saying aye.

Mr. Apicella: Aye.

Mr. Coen: Aye.

Mr. Hirons: Aye.

Mr. English: Aye.

Mr. Boswell: Aye.

Mr. Gibbons: Aye.

Mr. Rhodes: Aye. Any opposed? None opposed; passes 7-0. Thank you all very much. And we're now moving onto item number 2, Mr. Harvey. Did we get a letter on this one? Did we already act on this?

2. RC1300296; Reclassification – Colonial Forge Proffer Amendment - A proposed amendment to proffered conditions on Assessor's Parcels 28-94, 28-94A, 28-100, 29-27, and 29-31, a portion of the original development known as Augustine, consisting of 110.17 acres, zoned R-3, Urban Residential – High Density Zoning District, to remove phasing requirements for the commercial development. The Property is located on the south side of the intersection of Courthouse Road and Woodcutters Road, within the Hartwood Election District. **(Time Limit: December 10, 2013)**
(History: Public Hearing continued from September 11, 2013 to October 9, 2013)

Mr. Harvey: Mr. Chairman, this was originally scheduled for a continued public hearing tonight. The Commission heard from the applicant and the applicant requested that the continued public hearing be cancelled and that a new public hearing be scheduled.

Mr. Rhodes: Okay.

Mr. Harvey: So, really, the Commission I'm not aware of needs to take any other action other than just reminding the public that the continued public hearing...

Mr. Rhodes: Was cancelled.

Mr. Harvey: ... was cancelled.

Mr. Rhodes: Okay. And then we're waiting to vote on a new date for a new public hearing.

Mr. Harvey: This would be coming back to the Commission on November 13th.

Mr. Rhodes: And they were paying for the cost of the advertising, right?

Mr. English: Yes.

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Mr. Harvey: That is correct.

Mr. Rhodes: Okay, that's right.

Mr. Gibbons: Don't we have to vote to cancel?

Mr. Rhodes: Probably.

Ms. McClendon: I believe the Commission voted at the last meeting to do that.

Mr. Rhodes: Because they made the request here, right?

Ms. McClendon: Yes, they made the request...

Mr. Rhodes: We voted. All we needed to do tonight, and that's why it wasn't advertised as public hearing, all we needed tonight was just to make sure there was no confusion in the public. There is no confusion in the public. But, that's good; okay, gotcha. Okay, so item 2 is taken care of and we are now onto item number 3. Oh no, this is the one we voted last time to ask the Board to give us an extension to January, otherwise we would have to act on it our next meeting.

3. COM1200323; Comprehensive Plan Compliance Review, Clift Farm Quarter - A request for review to determine compliance with the Comprehensive Plan, in accordance with Virginia Code, Section 15.2-2232, for the extension of public water and sewer outside of the Urban Services Area, to serve up to 108 lots on Assessor's Parcels 38-123A and 38-124 (portion), located along Eskimo Hill Road, approximately 2,000 feet east of State Shop Road, within the Aquia and Falmouth Election Districts. **(Time Limit: October 31, 2013) (History: Deferred on June 26, 2013 to July 10, 2013) (Deferred on July 10, 2013 to August 14, 2013) (Deferred on August 14, 2013 to September 11, 2013) (Deferred on August 28, 2013 to September 25, 2013) (Deferred on September 25, 2013 to October 9, 2013)**

Mr. Gibbons: (Inaudible - microphone not on).

Mr. Rhodes: Yeah, I think they take it up next Tuesday?

Mr. Harvey: That is correct. It's on the agenda for discussion next Tuesday.

Mr. Rhodes: So they will consider how they want to go. If they give us the extension then there it is. If they don't then we will have to act on it on our October 23rd session. Okay. Very good. And 610 was deferred to October 23rd though I think they're coming in with a letter to ask for a little more time. Have they yet?

4. RC1300001; Reclassification – 610 Park Ridge - A proposed reclassification from the A-1, Agricultural Zoning District to the B-2, Urban Commercial Zoning District to allow for the development of a commercial retail, service, and office complex on Assessor's Parcel 20-20A, consisting of 9.24 acres, located on the south side of Garrisonville Road and east side of Parkway Boulevard, within the Garrisonville Election District. **(Time Limit: November 26, 2013) (History: Deferred on August 28, 2013 to September 11, 2013) (Deferred on September 11, 2013 to October 23, 2013)**
5. CUP1300002; Conditional Use Permit – 610 Park Ridge - A request for a Conditional Use Permit to allow (1) motor vehicle fuel sales in a B-2, Urban Commercial Zoning, within the Highway Corridor Overlay Zoning District, (2) an automobile service facility in a B-2, Urban Commercial Zoning, within

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the Highway Corridor Overlay Zoning District, (3) a convenience store within the Highway Corridor Overlay Zoning District, and (4) three drive-through facilities within the Highway Corridor Overlay Zoning District. The drive-through facilities are for a proposed bank, pharmacy, and gas station with convenience store. The site is on Assessor's Parcel 20-20A, consisting of 9.24 acres, and located on the south side of Garrisonville Road and east side of Parkway Boulevard, within the Garrisonville Election District. **(Time Limit: November 26, 2013) (History: Deferred on August 28, 2013 to September 11, 2013) (Deferred on September 11, 2013 to October 23, 2013)**

Mr. Harvey: Yes, Mr. Chairman, that was in your packet. So the Commission would need to consider accepting the deferral.

Mr. Apicella: So moved Mr. Chairman.

Mr. Gibbons: Second.

Mr. Rhodes: Okay, so motion to accept the request for deferral. Did they extend the time limit as part of that?

Mr. Apicella: To November 13th Mr. Chairman.

Mr. Rhodes: Okay, thank you. I'm just off tonight, I'm sorry. Yes, okay they did extend it. So a motion and a second to accept their request to move it to November 13th; any further discussion by any member? All those in favor signify by saying aye.

Mr. Apicella: Aye.

Mr. Coen: Aye.

Mr. Hirons: Aye.

Mr. English: Aye.

Mr. Boswell: Aye.

Mr. Gibbons: Aye.

Mr. Rhodes: Aye. Any opposed? None, except for Mike needs to tell us something.

Mr. Zuraf: Just to clarify, the time limit is November 26th on this, so they're not requesting any action on the 90 day time limits.

Mr. Rhodes: Okay, thank you. I just don't have my act together tonight, I'm sorry.

Mr. Gibbons: (Inaudible - microphone not on).

Mr. Rhodes: On November 23rd.

Mr. Zuraf: The 13th.

Mr. Rhodes: Oh, no, November 11th, excuse me.

Mr. Harvey: Thirteenth.

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Mr. Rhodes: Yeah, one of those days. November 13th. I'm sorry sir.

Mr. Gibbons: (Inaudible - microphone not on).

Mr. Rhodes: Well, no. If we are not able... we would have to act on it that night or make a definitive action based on the current time limit, up or down, or they would have to be willing to extend or some combination there.

Mr. Gibbons: Why don't we make that part of the motion tonight (inaudible)? Why would we accept a new letter with changes to the application (inaudible - microphone not on)?

Mr. Rhodes: So, as an additional suggestion is that we have staff contact them about extending the deadline even further so it takes us through at least the meeting in November? Is that the suggestion? Can you do that Mr. Harvey?

Mr. Harvey: Yes Mr. Chairman, staff can request the applicant to consider extending the time...

Mr. Rhodes: Just highlight to them the fact that there is only one more meeting and that is in December.

Mr. Harvey: Yes.

Mr. Rhodes: Okay, thanks. Alright, very good. Now we're onto...

Mr. Gibbons: Number 5 gets extended too, right?

Mr. Rhodes: Yes. Do we need to do anything separate for 5 Ms. McClendon?

Ms. McClendon: No Mr. Chairman.

Mr. Rhodes: We accepted the letter right? Okay. Okay, so proffer guidelines is the 23rd. Nothing on 7. Nothing on 8. So we're onto 9, right? Mr. Harvey.

6. Proffer Guidelines - Discuss proposed amendments to the County's proffer guidelines for zoning reclassifications. **(History: Deferred on May 8, 2013 to June 26, 2013) (Deferred on June 26, 2013 to July 10, 2013) (Deferred on July 10, 2013 to August 28, 2013) (Deferred on August 28, 2013 to September 11, 2013) (Deferred on September 11, 2013 to September 25, 2013) (Deferred on September 25, 2013 to October 23, 2013)**
7. Comprehensive Plan Amendment; Urban Development Areas - Amend the Comprehensive Plan recommendations for Urban Development Areas and targeted growth areas in the County. **(History: Deferred on February 27, 2013 until further information from staff)**
8. Discussion of Public Notification Requirements **(History: Deferred on February 13, 2013 until further information from staff)**

NEW BUSINESS

9. Lot size and open space requirement for A-1, Agricultural zoned cluster-designed subdivisions

Mr. Harvey: Yes Mr. Chairman. At the last Board meeting, the Board of Supervisors adopted a cluster design standards ordinance and asked the Commission to take a look at the lot size and open space ratio requirements.

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A comment was made that there is a possibility to possibly reduce the lot size even further in the A-1 zoning category and, in doing so, you could increase the open space. There was some commentary that 50% open space was nice but there's a possibility of getting more open space if the lot size is reduced. The Board made it clear though that there was no interest in increasing the number of dwelling units that could be achieved, just possibly looking at adjusting the lot sizes and open space ratio. So the Board has asked the Commission to study the issue and come up with recommendations.

Mr. Gibbons: What time limit (inaudible - microphone not on)?

Mr. Harvey: There's 90 days.

Mr. Gibbons: (Inaudible - microphone not on).

Mr. Apicella: If I may...

Mr. Rhodes: Please Mr. Apicella.

Mr. Apicella: When we were looking at a previous cluster proposal, specifically Brooke Village, myself and I believe other members were concerned about the layout of the parcel in terms of the open space versus the residential units. There was some back and forth; they did modify their approach. But, nonetheless, a lot of what was... a portion of what was proposed there in terms of open space was land that, from my vantage point, wasn't really open space; it was on the back parts of parcels and hidden areas, what have you. I don't think that's the intent of clustering. From my vantage point, I think clustering is really about congregating development units in one part of a parcel and keeping open space, contiguous open space in another part of the parcel. That wasn't achieved in that case. I kind of think of Belle Plains as an example of what I consider good clustering, where the houses are not taking up a lot of space and there's a huge swath of open space. I think that's the desired end state. I don't think we got there. I don't think we realized that it would be a problem until we actually got an application in front of us with the new ordinance in play. So, I'm hopeful that as part of this process, even though it's just about A-1 parcels, that we can at least address the issue in that context and maybe apply it more broadly down the road after going back to the Board and requesting some additional policy changes. Again, I think clustering is good. It's required in the case of Stafford County. I just don't know that we're exactly where we want to be with the cluster ordinance as it's been redesigned.

Mr. Rhodes: And I think you're... so, what I think I understood your point to be was particularly what is counted as part of open space.

Mr. Apicella: It's not just what is counted, but where they allocate the open space.

Mr. Rhodes: Right.

Mr. Apicella: Again, in the case of Brooke Village, they took some open space and put it around the back end of the parcel, which wasn't even close to where the other open space was. I don't think that's what we were trying to achieve. I mean, it got them where they needed to be, they met the letter of the law, but I don't think they met the spirit of the law which was really, let's have a nice portion of the parcel as open space rather than allocate it throughout the whole...

Mr. English: You said Belle Plains is like that?

Mr. Apicella: I think it's called Belle Plains? Yeah, it's on the water.

Mr. English: And it's like that?

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Mr. Apicella: It's very nice. I don't know if it was planned as a cluster development but that's what they ultimately (inaudible - microphone not on).

Mr. Rhodes: Okay. Mr. Harvey, how do we define open space for calculation currently? Is that state defined or is that our defined?

Mr. Harvey: The state defines it; it's either open lands, it's lands used for agricultural or forestry or some other open... or recreation.

Mr. Rhodes: Can we further define it to address those... I know what you're talking about... the little slivers that are just kind of adding up enough to get right to the minimum amount of acreage?

Mr. Harvey: I haven't had a chance to consult with Ms. McClendon. My first reaction was we may be able to create guidelines but not necessarily ordinance requirements. We may run into issues if we get too far afield of the state law, because state law's very specific.

Mr. Rhodes: I just seem to recollect a number of years ago that we had a couple of these come up and they barely got the amount of open space and it was because they counted all these things up and down the entry road and other stuff. And I thought at that time when they had looked into it, we didn't have the authority to further define it. But I guess it would be good to learn or know.

Mr. Apicella: And if that's the case, well, you know we might seek out our legislative delegation for some changes. Because I don't think that's their intent either, but maybe it is. I don't of it (inaudible).

Mr. Rhodes: Oh no, I understand your point; I think there was a challenge. So, the action before us tonight is to...

Mr. Harvey: Possibly schedule it for the next meeting for further discussion. Staff can see if we can get some feedback from the Health Department as far as lot sizes for well and septic.

Mr. Rhodes: Okay. And how does the next meeting look? Pretty light, right?

Mr. Harvey: Right now there's no public hearings scheduled so yes.

Mr. Rhodes: Good, okay.

Mr. Harvey: We will be talking about proffer guidelines and possibly the Comp Plan.

Mr. Rhodes: Okay, that sounds good. What say you? Ms. McClendon, if we could just look a little more as to what authority we do or do not have dealing with the definition of open space. I do understand the point, and this is a fairly narrowly scripted direction to us from the Board. It may not fit in there but it'd be good that just as part of that staff report if we can just get a better sense as to what authority we have or not to structure. Okay? Very good. So we'll take this... everybody okay with taking this up at the next session? Okay. So concurred with by the world. Okay, that takes us to Planning Director's Report.

PLANNING DIRECTOR'S REPORT

Mr. Harvey: Thank you Mr. Chairman. For the Commission's information, the Board of Supervisors on October 1st passed the CVS Conditional Use Permit and the Reclassification and CUP for Walgreens. And that concludes my report.

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Mr. Rhodes: Very good. County Attorney's Report.

COUNTY ATTORNEY'S REPORT

Ms. McClendon: I have no report at this time Mr. Chairman.

Mr. Rhodes: You're so kind. Committee Reports. I don't think we've got anything hanging out there right? Chairman's Report. I do have a couple items...

COMMITTEE REPORTS

CHAIRMAN'S REPORT

Mr. Apicella: You might bring it up under your report, Mr. Chairman, but I believe the Board gave us an action item to appoint members to a new Board/Planning Commission committee.

Mr. Rhodes: Yeah, the Community and Economic Development Committee wants to start working on shoreline development. And they have asked for Planning Commissioners that are interested to be appointed to work with them to assist with the planning of the future of the County's shorelines. I know Mr. Apicella has an interest in participating and I would just open up if there's any other Planning Commissioner that is interested to also be appointed to work with this.

Mr. Apicella: If I may add to that. This stems from our June 1 ABC room or basement retreat...

Mr. Gibbons: With no donuts.

Mr. Apicella: With no... well, with some donuts.

Mr. Rhodes: There were donuts all over the place. And bagels. Coffee.

Mr. Apicella: It was a nice spread Mr. Chairman. Again, if you recall, we had a discussion about Stafford having a significant amount of shoreline. I think that's something Mr. Gibbons had mentioned; in fact, we may have the most in Virginia, yet we don't really have a plan for how we're going to deal with that shoreline. I think this is an opportunity to really kind of address that and have a sort of master planning process for how we best utilize and protect our shoreline. So that's kind of the discussion that I think ensued amongst the Board to bring this forward.

Mr. Rhodes: And again, the CEDC typically meets the first Tuesday of the month at noon in the ABC Conference Room. So, if there is any other Planning Commissioner that's interested at this time.

Mr. English: When do they meet?

Mr. Rhodes: The first Tuesday of the month at noon. If not, I'll certainly appoint Mr. Apicella and would leave the door open if others...

Mr. Apicella: I think those representatives who are by the water might want to consider. I'm not sure... I hope it's not at noon on Tuesdays because I obviously work in DC so I'll have to find out whether that's going to be the case. But Mr. Boswell may be interested.

Mr. Boswell: If they're evening meetings, yes.

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Mr. Rhodes: Right now the announcement said they typically meet the first Tuesday of the month at noon in the ABC Conference Room.

Mr. Apicella: I don't think it's that specific committee. I think it's a new joint Board of Supervisors/Planning Commission meeting.

Mr. Rhodes: I don't have anything else on it in that regard, and that's very likely it's a separate working group that's going to meet separately on it. Certainly we'll refer back to them. Mr. Apicella and I... I had the opportunity to dialogue with Mr. Apicella in advance but if there are others that would be interested.

Mr. Boswell: Yeah, I would, sure.

Mr. Rhodes: Okay, Mr. Boswell. Mr. Coen, okay. Very good. If we have multiple, does that complicate life? Just when they meet they've got to advertise?

Ms. McClendon: No, Mr. Chairman, this would already be an advertised and noticed meeting because it is a committee. So the number of Planning Commissioners is irrelevant.

Mr. Rhodes: Very good, okay.

Mr. Gibbons: Mr. Chairman, can I make a suggestion?

Mr. Rhodes: Please, please Mr. Gibbons.

Mr. Gibbons: We did have a Shoreline Advisory Committee years ago, so Jeff, if you could get all of the studies and the documentation out of that to give it to the members, it would help.

Mr. Harvey: Yes Mr. Gibbons, at the last Community and Economic Development Committee we indicated that staff would provide the Committee with the information on available resources based on existing plans and everything. So, as a starting point, what do we have today and find out where the Committee wants to go.

Mr. Rhodes: Okay, very good. So, Mr. Harvey, if you could let them know the three Commissioners that are interested in assisting in that effort.

Mr. Harvey: Yes, Mr. Chairman, I'll try to flush out specifically when this Committee is interested in meeting. My understanding, sitting at the Community and Economic Development Committee it was intended that the Commissioners would join in that meeting, but I'll clarify whether that's going to be a separate meeting or during the daytime.

Mr. Gibbons: Well, see, the Board meets on that day Mr. Chairman.

Mr. Rhodes: Yeah. But maybe they'll set something else for us so we'll just have to see how they need to do it.

Mr. Harvey: I'll express the desire to meet in the evening.

Mr. Rhodes: Okay, very good. Okay, and the one other thing that had carried over after one of our discussions on microbreweries, Mr. Hirons had some discussions with other individuals and other Commissioners on exploring some other options that might be available in the County to cause less of an impact. But I'll handle it over to Mr. Hirons, if you'd to discuss this some more.

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Mr. Hirons: Yeah, that was really kind of the crux of it. There have been a couple cases since I've been on the Commission where the applicants are small businesses and businesses that want to get going in Stafford County. But they faced a CUP fee and the only fee, as I understand it, starts at a minimum of around \$10,000... I think it's a little bit less... which is kind of a major impediment to a small business trying to get up and running. There's a Bed & Breakfast in the Falmouth District a couple years ago; the applicant really struggled with that fee. Fortunately she was able to come up with it and then got into business and got rolling, and she's doing well now except for she's still concerned because she still has that debt to pay off. And then most recently we had the microbreweries come before us and one of the applicant's there... or obviously the potential applicants there expressed concern about the CUP fee as well, being an impediment for them being able to start up. Fortunately, we were able to work with that particular ordinance and use another mechanism to get them; however, I'm not certain that's the best route for them, a precedent that we really want started. So, what I would suggest and I know it's not necessarily in the purview of the Planning Commission to be involved with setting fees, but because we have that visual... the vantage point of seeing what the folks are representing to us and telling us about the issues they have, I think it would be smart for us to express that to the Board of Supervisors and come up with some suggestions on either a different fee schedule or a permitting process so these types of small businesses that have a small impact on the County, you know, they're not facing that daunting fee and keeps them from going into business. Obviously I personally don't think it's the role of government to keep people out of business. We should be doing things to keep businesses going and encouraging business to happen. It really concerns me greatly when someone tells me, I want to be in business, I want to employ people, I want to provide services to the County, but I can't because of your fees... because of the government fee. So that's just where we're at. I'm not sure where the direction would be going from here, outside of perhaps maybe asking staff for some guidance on how some other jurisdictions, neighboring jurisdictions handle various permitting fees. I know in Prince William County they have a Conditional Use Permit but they also have Special Use Permits and some other things where their fees vary in that it depends on types of businesses and the districts obviously they're in. So that I think might be a good starting point if the Commission is agreeable to that to ask staff to give us some education on various opportunities, various routes we might be able to go, with the ultimate goal of making a recommendation from this Commission to the Board of Supervisors on ideas on different permitting, different fees that could help (inaudible).

Mr. Rhodes: So, if I might just twist it just a little bit, Mr. Hirons... a thought. Again, it is not traditionally our role in the setting fees so I'd be less, personally, just one individual, I'd be less inclined to try and propose fees or other things but I'd... certainly it's our place to forward observations and considerations of areas that they might want to look into. And so, consistent with the possibility that we might consider having staff pull up some data that might be informative on the topic as to how burdensome these are; for example, if you've got the \$10,000 CUP that's applying to, you know, 15 acre and ½ acre. Or, I'm trying to think of some variables to show an order of magnitude, order of scale application but a singular fee setting there. Our fees can't be greater than the cost of undertaking the effort, but they can be less than; right Mr. Harvey?

Mr. Harvey: That is correct.

Mr. Rhodes: Okay. So, I do recall that the Board actually was attacking a lot of fees and some cost structures. A few years ago they had several proposals brought forward and didn't... I thought you all had a pretty good listing of neighboring counties because I think that fed their... what peaked their interest. Do you still have that available, Mr. Harvey, where you've got the side by side of several counties and kind of how the fee structures work?

Mr. Harvey: Mr. Chairman, we would need to update information. I believe we may have had some of that for a specific issue rather than broader context, but we can take a look at how other localities structure their applications and the processes and also talk about the fees in relationship to it. I know that Albemarle County,

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that was one of the counties that we studied several years ago, and they selected specific uses that they thought were lower impact uses and had a lower fee rate for them.

Mr. Rhodes: Hearing your points, Mr. Hirons, the thought to me was that if we could get a couple sets of data and just see if something jumps out at us. And if it does then that's what we might refer forward for their consideration. Does this jump out at you as well and would you want to consider referring an approach back.

Mr. Hirons: Absolutely. I didn't mean to suggest we say, hey this is what we think you should do. I think it's more of highlighting the issues that we hear but also providing the data behind some suggestive routes or ideas on where they might be able to go and make things better.

Mr. Rhodes: Thoughts by others? Mr. Apicella?

Mr. Apicella: I absolutely agree with Mr. Hirons' request. I think the CUPs, while the intent is to recover costs associated with the review process, I think it's an impediment to economic development in Stafford County and not all CUP requests are equal. Some are, as you I think used the right word or Mr. Harvey used, very low impact or very low intensive in terms of the review process. And so \$10,000 for a minimal review or, you know, something that doesn't take a lot of effort to decide, hey, this is a good idea and here's the minimal kind of conditions we might want to impose versus a big project that really should necessitate a \$10,000 fee. So, I think there's got to be a better way ahead that we could inform the Board's decision process going forward.

Mr. Rhodes: Other thoughts? Mr. English?

Mr. English: Does that have to be in the form of a motion to do that or can we just ask them to...

Mr. Rhodes: I don't think so. I think we can just ask staff to explore gathering up some of the information on the fees.

Mr. Harvey: We'll take it as direction from the Commission.

Mr. English: On these fees and stuff, how is that set? Do you set those things or is it just like a sliding scale?

Mr. Harvey: Well, the Board of Supervisors sets the application fees. The staff will prepare proposed amendments to the fee schedule and the Board will look at them and authorize a public hearing if they feel its appropriate.

Mr. English: Okay.

Mr. Harvey: And the Board is required to have a public hearing to change fees and there's certain parameters that have to go into the advertisement to show what the change in the fee is relative to the current situation.

Mr. Rhodes: And again, the fees can be made as low as they as want to, to nothing; they just can't be higher than the cost of performing the service on behalf of the applicant.

Mr. Harvey: Correct. And our fee structure for Conditional Use Permits is based on our typical application. Because you will have some that can be very intense and can take a lot more time and effort, and others less intense.

Mr. Rhodes: So, if the County wanted to and if the Board of Supervisors wanted to find a, by some criteria, some differentiation in CUPs, they could always choose to and apply a lower fee to it. It's their purview.

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Mr. Harvey: Yes. Currently there's a lower fee for certain proffer amendments and also I don't recall if there's CUP amendments that has a lower fee. But there are some ways to differentiate it.

Mr. Rhodes: Okay.

Mr. Apicella: Mr. Chairman, I don't know if this would be helpful and I'm not trying to put more work onto the staff, maybe as we go forward it might be something that's pertinent then, but maybe we can just get a list of the CUP requests that have come to us in the last couple of years with a general discussion of what the magnitude might have been. That could also help inform us as to what we're seeing and generally how much time it might take to review those packages. I think maybe charging by the hour, you know, of staff time might be one way forward. I'm not saying that's the right way but that's one way, you know, if it's up to 10 hours or up to 25 hours here's the fee. Again, you won't know going into it what the cost is going to be but it seems maybe a little bit more fair.

Mr. Rhodes: Mr. Harvey, so do you think it might be reasonable to ask, if you could, over the last year to get the CUP requests. And then, in staff's judgment, find one or two criteria that you might differentiate then so you can show us different ways that we might consider, different ways of looking what are significant effort workload or impact and what are not, in your individual judgment as you look at them?

Mr. Harvey: Mr. Chairman, we can come up with something.

Mr. Rhodes: Yeah, we'll just see what it looks like.

Mr. Harvey: Or give you a couple variables to look at.

Mr. Rhodes: That's great.

Mr. Harvey: We'll probably need to go more than just one year; we'll probably have to go back 5 years or so just to give you good flavor because...

Mr. Rhodes: Mike's cringing over there.

Mr. Harvey: ... last year we only had 3 new applications whereas this year we have a lot more.

Mr. Rhodes: Okay, that's fair. Whatever you think is reasonable; we'll leave it to your judgment. And then the one other area of information I think would be useful is any observations, especially if you already have it from past efforts, but of what interesting or different approaches are used by some of our neighboring counties. If there are some distinctly different ways than we're addressing it, it just might be helpful to be informed by that and we'll see what comes of it.

Mr. Gibbons: Mr. Chairman?

Mr. Rhodes: Mr. Gibbons, please.

Mr. Gibbons: I think I've always been amazed and admirable of the staff that we have. So I don't want to leave tonight because I've never really heard this Commission direct you to do anything. We've always requested it. So I always want to (inaudible)...

Mr. Rhodes: That's fair. We can ask the staff.

Mr. Gibbons: ... Jeff that we always request data, we don't direct it.

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Mr. Harvey: Understood.

Mr. Rhodes: Very good. Any other discussion on that topic under the Chairman's Report? Because I've got nothing else. Okay, that's it for the Chairman's Report. Other business, TRC... who's got TRC items? Do I have one?

OTHER BUSINESS

10. TRC Information – Meeting October 23, 2013

Mr. English: I know I do.

Mr. Rhodes: Urg. Yeah, I do too. So, we've got... how many of them do we have? Just the 2?

Mr. Coen: On the 23rd I have 2.

Mr. Rhodes: Four? Oh, you've got 2; good, keep him busy. New guy. Do we know the times?

Mr. Coen: They sent that out last week I believe. I know I got an email.

Mr. Rhodes: I should have paid more attention.

Mr. Coen: I'm at 9 and 10.

Mr. Rhodes: Okay, so that means we've got 11 and 1, right, probably? Yeah, I think they stop from 12 to 1. I'll be dialing in. Okay, well we'll call in and find out when the time is. Okay, so we've 4 of them for the 23rd, very good. Also there's approval of minutes. I'd entertain a motion for approval of the August 28th minutes.

APPROVAL OF MINUTES

August 28, 2013

Mr. Gibbons: Approved.

Mr. Rhodes: Moved by Mr. Gibbons. Second by?

Mr. Hirons: Second.

Mr. Rhodes: Second by everybody... second by Mr. Hirons, he hasn't gotten a second tonight. Any other comment? All those in favor signify by saying aye.

Mr. Apicella: Aye.

Mr. Coen: Aye.

Mr. Hirons: Aye.

Mr. English: Aye.

Mr. Boswell: Aye.

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Mr. Gibbons: Aye.

Mr. Rhodes: Aye. Any opposed? None opposed. And, is there anything we've missed? Any other alibis by folks? Surely we can drag this out a little longer. No? Okay, then we will say we're adjourned. Thank you all very much.

ADJOURNMENT

With no further business to discuss, the meeting was adjourned at 8:02 p.m.