STAFFORD COUNTY
PURCHASE OF DEVELOPMENT RIGHTS
COMMITTEE MINUTES
August 3, 2009

The meeting of the Stafford County Purchase of Development Rights Committee for Monday, August 3, 2009, was called to order at 7:04 p.m. by Chairman Tom Coen in the County Administration Conference Room of the County Administration Building.

Members Present: Coen, Apicella, Clark, Kurpiel, McClevey and Ritterbusch

Members Absent: None

Staff Present: Baker, Neuhard, Lott, Smith, Keyes and Hamock

Others Present: Jeff Adams and Nan Rollison

1. Approval of Minutes

- *April 28, 2009*
- *May 26, 2009*
- *June 23, 2009*

Mr. Coen: The first order of business is item number two (2) on the agenda, which is the approval of minutes from April, May and June. Are there any changes, corrections, or deletions for either?

Ms. Kurpiel: I would like to make a motion that we approve the April minutes. May was sort of the shortened version, there are only six (6) pages and there was a lot of information at that meeting, I don't know how you all feel about it. I thought there would be a lot more detail but I don't know if there was difficulty hearing that night, so I will throw that open. And then for June, I do have some additions of a section that was left out and I would like to have it put in.

Mrs. Baker: While you are looking I would like to point out that they are changing the format of the minutes. This is a policy change that is occurring across the board with all boards and commission meetings. They are going to be verbatim now. They used to try and paraphrase what people were saying and now they will be verbatim.

Ms. Kurpiel: I think that is great, particularly for these minutes. If someone were to read our minutes they would get a real education. On the June 23rd minutes, at the top of page fourteen (14) the minutes read "Ms. Kurpiel: I would like to know how he dealt with the check mark that this application put on the box". Mr. Neuhard now, "I did not talk to the applicant but my staff did", and then there were three pages of discussion that was inadvertently left out and I will pass it around for you all to look at, if you would like.

Mrs. Baker: If I recall, when we are down in the big room, they have a difficult time hearing the tape and some of the information may be garbled and they do not include it.

Ms. Kurpiel: Yes, you can have that if you want, I am sorry that I did not make copies for everybody but I can send them to you by email if you would like.

Mr. Neuhard: Is this verbatim from the recording?

Ms. Kurpiel: Almost verbatim from my recorder. It is as verbatim as I could make it by my recording.

Mr. Coen: Alright, I will take it bit by bit; are there any changes or amendments for the April minutes? If not, is there a motion that we accept April by itself?

Ms. Kurpiel: I will make that motion.

Mr. Coen: Okay, second?

Mr. McClevey: Second.

Mr. Coen: All in favor of accepting April?

The motion passed 6-0.

Mr. Coen: Okay, so April is accepted. For the June, can I suggest that you send that to us, she has that copy, that way we can see the minutes that were omitted, so we can defer on June. Is there something in particular about May that was missing?

Ms. Kurpiel: Well, just almost all of the discussion. If you look at the May minutes, they were six (6) pages and usually our minutes are twenty-eight (28) pages.

Mr. Coen: Okay.

Ms. Kurpiel: And that was the meeting where the properties were first discussed and introduced by staff, Kathy and Mike gave all that background.

Mr. Coen: Okay, so is there a motion to defer May and June until we can get those flushed out.

Mr. McClevey: Motion to defer.

Mr. Coen: Is there a second?

Mr. Ritterbusch: Second.

Mr. Coen: All in favor.

The motion passed 6-0.

Mr. Coen: If I could ask, can we put a note on the website that says that the May and June, just a status, that we are in the process of getting them… Making sure they are verbatim or as close to verbatim, or something like that. Some of you know that we had a request in February or March from somebody wondering why our minutes were not up to date and I would like it noted on our website that we do have them and we are in the process of examining them accurately.

Ms. Kurpiel: Nothing is on the website, in minutes beyond December of 2008. Maybe we could just put up the drafts and when they are approved take the draft off.

Mrs. Baker: Well, they should have them updated through March now.

Mr. Coen: They should be because that is what we were told.

Ms. Kurpiel: I just looked this weekend and I did not see them on the website unless I looked in the wrong place.

Mr. Coen: Okay, just check on that.

Mrs. Baker: I know that was brought to my attention and I thought we had taken care of that. I will check it out.

Mr. Coen: Thank you. So that takes care of item number two (2), moving onto item number three (3) on the agenda, the staff update.

2. Staff Update

- State matching funds
- Federal Farm and Ranch Lands Protection – program changes

Mrs. Baker: Just a couple of items that have come from Virginia Department of Agricultural (VDACS) regarding our state matching funds. This won't affect us this round but they wanted to let us know that they have made a determination from the Attorney General's Office that any reimbursable funds have to be funds that are spent by the locality. So if we were to get money from another entity for our program, we could not count that money toward our portion of the funds and ask for that to be reimbursed. One of the localities did that this last round and they used a federal grant as part of their money, the county put up money and federal put up money and then they requested the state to reimburse that. They were not going to reimburse the federal portion of that. They made that determination now in the Attorney General's Office, so they have sent us a new inter-government agreement for future, it is not going to affect us this round. Since federal Farm and Ranch Land Protections Program had been brought up, just wanted to let you all know that the state also let us know there is a public comment period and that closes tomorrow, and is on the changes to the Farm and Ranch Land Protection Program. Basically, in 2008 there was a new ruling made that instead of the folks who oversee the program, instead of them purchasing easements or land, they are switching now to overseeing the program and doing a reimbursement program, more or less. So, some of these, they have reopened the comment period on that and there were some issues with how that dealt with federal lands acquisition and criteria that you have to follow being under a federal land acquisition program. They are tidying up the entire process. They just wanted to let us know that the public comment period closes, it actually closed today. We may receive some updates on that in the future and that is about it.

Mr. Coen: Okay, if are there no comments or questions, we can move to the unfinished business, which is the pilot program.

3. Unfinished Business
- Pilot program applications
    - Staff report

- ***Mortgage liens***

Mr. Neuhard: We have gone back from the last meeting and identified the open questions and issues and we are trying to provide you tonight, to the best of our ability, the answers to these issues and discuss them so you are in a position to finalize your rankings tonight. I will just go right down the line, they are not in any particular order and we will see how they unfold. Alan, you want to start with the mortgage liens questions and issues.

Mr. Smith: There were some questions about the mortgage liens and how that might affect the eligibility of the properties. It looks like there were questions specifically about one (1) of the properties that had a mortgage lien on it. After going back and looking at the criteria, we don't believe that the existence of the mortgage itself affects the eligibility of the property. When the time comes for the Board to consider the property, it may affect their decision about the desirability of the property but we do not believe that it affects the eligibility as far as consideration.

Ms. Kurpiel: I thought the question was about subordination.

Ms. Smith: Yes, there was a follow-up question about subordination.

Ms. Kurpiel: Okay, sorry.

Mr. Smith: We will address subordination after the Board has made its decision with the individual property owner. At this point, we thought it was premature to contact each property owner and have them begin that process when they haven't been chosen. It certainly would be important, that there is a payoff in place or a subordination agreement in place before the County signs off on any final agreement. We have to have our deed, our easement, free and clear of any other interest. We thought that it was premature at this time to ask each of the parties to pursue that, which it will potentially be a process depending on how there lender works with them, but it was considered premature at this point.

Mr. Coen: And there is only one parcel that falls under that?

Mr. Smith: I believe so.

Mr. Coen: Okay.

Ms. Kurpiel: Well, there are three (3) that would need to subordinate and there is only one (1) where there is another kind of lien besides a mortgage on it.

Mr. Smith: Yes, there is one additional interest that would have to be addressed.

Mr. Coen: You say three (3), you say there is one (1) with a mortgage and has something else that is two (2).

Ms. Kurpiel: There are three properties (3) with mortgages, SE property, the Silver Property and the Adams property and the Adams property also has an IRS lien on it as he disclosed in his application.

Mr. Coen: Any other question about mortgages? Okay, Century Farms.

- ***Century Farms***

Ms. Baker: We spoke with the folks who run the Virginia Century Farms Program which is through the VDACS and there are five (5) century farms in Stafford County. The Chichester Property, there are two (2) properties on White Oak Road just before you enter King George, another one down along the river and the Silver Property. The farm on White Oak Road is owned by brothers that own two (2) portions of the farm, so there are five farms in Stafford County. This gives you an idea of what the Century Farm program does do and is basically honoring Virginia Farm families. It talks about how they are recognized and goes through the application process and that is basically the information. We did speak with them; the Century Farms are not necessarily parcel specific, they are more related to the farm itself and the information does not include specific parcels of land, it is based on the family and location of the property. I guess that is about it unless you have any questions. It is for farms that have been in operation for more than 100 consecutive years within the same family.

Ms. Clark: I don't know what we are looking for but I would like to move that the Silver Property be given points for historical importance based on Century Farm.

Mr. Coen: Okay, is there a second?

Mr. McClevey: I would like to second that.

Mr. Coen: Is there any discussion?

Ms. Kurpiel: Discussion, please. Has this parcel that Mr. Silver has put in, the 48-15, been owned for 100 years.

Ms. Clark: No, it has not. Not by the Silvers.

Ms. Kurpiel: So what is the… I guess I do not understand what the basis would be for putting this in at this point or awarding points to Silver, to this farm at this point. Since we have, I thought, we deferred any action on any other changes.

Mr. McClevey: I think it is, if I may speak?

Mr. Coen: Yes Sir.

Mr. McClevey: This is Marty speaking; I think that it has in reviewing any historical ranking. I do not think we have to amend anything; it is something in awareness that in ranking we were not aware of and certainly significant to Stafford County.

Ms. Baker: If you look under Cultural Resources, the top one is not necessarily worth two (2) points but if you look at the second bullet, the properties associated with an important historic place, event or activities, or you could also consider, properties in an established and familiar visual feature. So, one of those two categories is what staff decided might fall under one of those two and felt it was up to the committee to make that determination whether you all wanted to include it as a historical and cultural resource. Isle of Wight County does use Century Farms as a ranking criteria as a separate line item and not part of the historic and cultural resources.

Mr. McClevey: Not only with the ranking from VDACS for farms, I also think it fits well with the ranking for cultural resources.

Ms. Kurpiel: I think that it is wonderful that the Silvers have farmed this area for 100 years but I am concerned about putting it in at this point, particularly since it took three years to write this ordinance and three of you Mr. Silver, Tom and Gail were on that Commission and it certainly could have been recognized as an item at that time. I think it should have been. Finally, I want to say that I did go to the… I am not an expert on the IRS code but I did go to the IRS and State Code to see how you establish these values for tax credits. It is quite specific and it talks about the National Register, it does not talk about anything that would be as soft as this. I was hoping that the direction that this committee would go in after this round, when we revise and look at the ranking criteria, would be to go in the direction of looking at what the IRS and the State want to see in these easement. That would give our applicants the most chance to get the best value and I do not think that that putting this in at this point without further research is a step in that direction.

Mr. Coen: Comments? My attitude at this point is, in looking at the Cultural and Historical category, I think that farming, particularly in that end of the county, in Stafford County is a Cultural and Historical activity. I think, to me, the fault lies not in so much the drafting but I think staff just overlooked this as something. The designation of a Century Farm is not Stafford just does, it is something that goes to the Governor and it is something that is more of a higher statute then we will it and we are going to make it. I would have thought that this would have been included in the first wave of doing this and I think it was just an oversight. I think this is as much, the fact that this land is being farmed and will continue to be farmed, is as historical and culturally important as a possible cemetery because I think that is part of what our community is. I am in favor of putting it there, certainly I agree with it, when we revisit this in September, we start looking at what we have learned as far as the process and revisiting the ranking. We can look at a lot that we could do differently, but I think it does qualify under that and I favor of putting it in there. Anybody else?

Ms. Kurpiel: Well, I will just make one final comment and that is there was a large discussion last month, if we went out to the applicants and asked them what their intentions were on some of these questions where we do not have answers, so that was considered by the committee an opportunity for the applicant to game our system and this seems to be gaming the system by the committee.

Mr. Apicella: I am not sure that I agree with that, I think that what I am hearing is, if everything had worked out the right way and staff had taken into consideration the status of this farm or another farm with a specific designation, it would have been included and may have been an error on their part. It is not a gaming of the system; it would be a correction by adding that value to the ranking system. That is kind of what I thought I heard.

Mr. Coen: In part, that was sort of the point of us going through the ranking to see if there was anything that was omitted what not in our last meetings. This was not going back to the applicant to push this issue, as far as I know of.

Ms. Clark: I knew that about the property and I thought it was very important and very pertinent.

Mr. Neuhard: Mr. Chairman, if I could make a couple quick comments. One is the process as you all know, this has been an intricate process in that we have, staff did the initial recommendations, we came to the committee and asked for clarification on things and then we presented it to the committee. There

is a possibility in the end that staff and the committee are not in the same place and your charge is to advise me and the Board of the rankings and issues, etc. As I would advise you on certain things as well, which I think we have gone through that process. It is true that we did our rankings in good faith, we used clarity from the committee and where we thought appropriate, and we altered the scores. On this matter, we have not placed our final score there, we gave you what we thought in the beginning, you did bring up something that was appropriate for us to consider and there are good arguments on both sides. I think from staff's point, you all had that discussion in good faith and caused us to do some research and we were waiting until tonight to hear, in terms of our fate. Now the committee, what I am saying to you is that I am not committing to you that staff is going to change the score on this but obviously, you have your recommendations and going forward as they are along with staff's comments. If there is any difference, we will certainly show that in the process and will take everything into consideration for you tonight on deciding whether to send it to the Board like it is or change it to reflect the one (1), six (6) or eight (8). Where we have been talking about, if we were to do this that may be where we come up. I just want to make that clear, first of all, this is the first time through this, and there have been questions and issues that have been raised that the committee and staff both have worked through to provide clarity to and some things that will cause us to change the ordinance in the future. In the end, in this last step, we really only have two jobs, one is to make sure we have what we believe to be the appropriate scoring of these and then any other recommendations or concerns that you have that might affect the Board's ultimate decision in the final decision to purchase and easement on one of these properties. You have raised issues and question over the last three meetings, which I think are going to be important to add. It is critical that this scoring, you as a committee have a sense that that scoring is as correct as it can be with the current configuration because that is what, by the ordinance, you are guided be in terms of priorities.

Mr. Apicella: I am a little confused by what you said there, in terms of process. As I recall from the last meeting, you asked us if we thought the scores were right.

Mr. Neuhard: Yes.

Mr. Apicella: If we thought there was anything that was missing based of our knowledge of the circumstances and so now what I am hearing you say, potentially, is there is going to be two (2) submissions, a staff report and committee report and I thought they were one in the same. We were going to give our overlay over what you all presented, so in respective of this specific property, I thought the committee owned whatever was sent forward and the rankings that are given to the properties.

Mr. Neuhard: Yes and no, we have a duty to provide you with the ranking, which we did. We also have a duty to advise you on this, you have the duty to advise both me the administrator and the Board. The extent that we have through this process yielded largely to the committee, because we believe that there is collective wisdom here that we can benefit from and we have tried to provide information back to you. If there is a difference, and I believe that I indicated this early in the process, we are certainly going to reflect it the differences, if there are some places that there is some. Just like you will, you may not agree with what we have done and there are a number of issues that you have raised, which you as the committee want us to make sure that you will make sure when you present to the Board what your position is on it. There are other considerations, perhaps, that are not a part of the ranking which you may want to make a statement on. The Board, ultimately has the decision making process and as staff, in places where we need to provide advice, we will provide advice as we do everyday. Now, I will say that we have been pretty much in concert with where you all have gone and this dialogue has been there

but if you look purely at the ordinance and what our responsibilities are, there are places where that could diverge ultimately because the persons making the final decisions on this are the Board and we work for the Board. I do not know where the negotiations will occur; the Board will take your recommendations, which you are obligated to give them, however will they go with that, I do not know because as you know… I would prefer that it go to the Board in the same position, I would rather not be in the position where we have a disagreement. When we start having conversations, I do not know where the conversation is going to go. Thus far, everything that we have done, this is the only place where we have not come to you with a firm recommendation because we did not recognize it when we did the original score. We have not, until you all have decided and made a recommendation on it, which I would hope you would do tonight, we have not had the opportunity to fully consider it. We have done the research, we have listened to what you are saying and we may come into the place that you are. We have largely with all the other information you have provided, we relied very heavily on your insight. I do not think this will change tonight but on the other hand, I do not want to lead you down the road saying there is not something that we might diverge on. It may not be this, it may be something else.

Mr. Ritterbusch: My opinion of the Silver property is, this property was bought in 1978 at $37,000 and it was a speculative effort and not part of the original homestead, he has gotten his recognition from the Governor already so I do not think that it really warrants Historical conservation.

Mr. Coen: Okay, I guess we should put it to a vote. Do we have a motion for the six (6) points or the eight (8) points?

Ms. Clark: I think the six (6) points would be appropriate.

Mr. Coen: Okay, so the motion is to accept the Silver Farm under the Historic ranking for six (6) points. All those in favor?

Mr. McClevey: I would like that what we put to staff, that we clarify and we suggest that we let staff use discretion on whether, what the ranking is in an unbiased manner using their good wisdom and judgment rather than us determining which ranking eight (8) or six (6). I would like to make a motion that we would approach staff to amend their ranking on the Silver property given the new knowledge we have for the designation of a Century farm.

Mr. Coen: And they would decide which of the…

Mr. McClevey: And they, therefore, award the points in their wisdom and judgment.

Ms. Clark: I withdraw my motion.

Mr. Coen: Is there a second for the motion.

Ms. Clark: I will second it.

Mr. Coen: The Committee feels that the ranking for the Silver property should consider the Century Farm and that staff would decide which of the points to award. Any other questions on the motion?
Mr. Neuhard: So, what I understand is that we should consider Century Farms under the Virginia Century Farm program as a part of Cultural Resources to the appropriate level of points. That is what I am hearing.

Mr. Smith: I believe so, and that is on your ranking and if we should feel differently with our ranking? If we determine that it would be zero, would you want to send a different ranking to the Board as your recommendation? If they still diverge, just to be clear, it would be conveyed to the Board.

Mr. Neuhard: What I am hearing very clearly is that they are saying it is a cultural resource and they are not saying what point value it is. A minimum of six (6) and maximum of thirteen (13) under their particular view. They are asking us to determine what that is, that is what I am hearing.

Ms. Kurpiel: I thought the motion said six (6) or eight (8), I did not hear any thirteen.

Mr. McClevey: My motion was to allow staff to make the determination of points. I did not want us haggling over six (6) or eight (8), let staff find it as they see, but most important part on this vote is that this committee will go on record as having recognized Century Farms as a Cultural Resource and we are leaving that to staff to consider the ranking.

Mr. Coen: We will do a roll call vote. Yes.

Mrs. Hamock: Okay. Tom Coen.

Mr. Coen: Yes.

Mrs. Hamock: Steven Apicella.

Mr. Apicella: Yes.

Mrs. Hamock: Marty McClevey.

Mr. McClevey: Yes.

Mrs. Hamock: Gail Clark.

Ms. Clark: Yes.

Mrs. Hamock: Rob Ritterbusch.

Mr. Ritterbusch: Yes.

Mrs. Hamock: Patricia Kurpiel.

Ms. Kurpiel: No.

Mrs. Hamock: That is a 5-1 vote.

Mr. Coen: Okay. Thank you.
Mrs. Hamock: You are welcome.

Mr. Coen: Okay, thank you very much. Now we move to Tri-County Plans.

- ***Tri-County plans***

Mr. Neuhard: Mike, do you want to take that one? The research and letters from Tri-County.

Ms. Baker: We did speak with Tri-county and confirmed that the submitted information on the program indicated on the application were indeed with Tri-County. They would not share any specific plans with us. They did confirm that the Adams farm and the Silver farm do have Tri-County plans and did maintain those.

Ms. Kurpiel: The question that leads to the point in the application, says the owner has implemented or agrees to implement. However, the question from the application, excuse me that is what the Ordinance says, the owner has implemented or agrees to implement. But our questions only asked that they checked what they were doing; it did not ask what they were willing to do in the future. The question asked what practices have been implemented not what they agreed to implement. So, the question is a little light, but that having been said, let me say this, I did the research on this and it is clear in the law. It is clear that the Chesapeake Bay regulations require these plans, it is the law and so I assume that everyone or anyone that we go to deed with will implement these practices to the full extent of the law. In other words, it is going to be in the deed of easement.

Ms. Baker: What do you mean they are required by law to do what?

Ms. Kurpiel: Did you get the Chesapeake Bay law that I sent you? I am sorry I did not bring a copy of it with me tonight, the Chesapeake Bay law under; I sent you all the code in an email and said this was the topic of our conversation. If I had the code, I could probably find it pretty quickly. There was an interim email that I sent about the Chesapeake Bay law.

Mrs. Baker: This is the one that says "land upon which agricultural activities are being produced"?

Ms. Kurpiel: Yes.

Mrs. Baker: Including but not limited to crop production, pasture, diary and feed lot operations or land otherwise defined as agricultural by the local government.

Ms. Kurpiel: No, you are not in the Chesapeake Bay law. I am sorry but I do not have it with me, but… I mean, let's put it this way, all applicants had an opportunity to say what they had on their property, what they did not have an opportunity to say is what they would do but I would like to suggest that they will follow the law and that being said, I think we can dispense of this one. In other words, I want to see in the deed of easement the language that those practices will be there, it is already in the deed of easement.

Ms. Baker: But there are certain practices that are, the BMP's and things like that through Tri-County are only recommendations and there certain things, not just silvaculture, that allow you to be exempt from those Chesapeake Bay activities.

Ms. Kurpiel: This is the law specifically around the Chesapeake Bay though Kathy. I pulled out and sent you the Chesapeake Bay law as it pertains to agriculture. It is the law that all of the agricultural and forestry operations already should have these.

Mrs. Baker: But what I am saying is those regulations that they put in place differ somewhat and allow exemptions from certain Chesapeake Bay requirements. The 100 foot buffers can be reduced down to a fifty foot buffer. They can clear land we do not let them do.

Ms. Kurpiel: I am not arguing about that, all I am saying is that the applicant that we go to deed with needs to have in their deed of easement the fact that they will follow all of the practices in Chesapeake Bay, whatever they are. I am not arguing about whether they are 100 feet or fifty (50) feet.

Ms. Clark: Are you saying Patricia, that you would like to just negate that particular line item? Than later on when we redo this, if we want to give people credit for already having those BMP's in place, that we do so, but right now you are saying that this is a moot point because they by time they go to easement, they would have to have it.

Ms. Kurpiel: They would have to have them in place that is correct.

Mr. Lott: I would suggest that we change the scores based on that.

Ms. Kurpiel: Well, that is something that the committee could consider, I had not considered that but it certainly could be considered. I think it is a value to note that people who have practices and have implemented them. That is a good thing and not everybody can implement them but that does not matter, the point is if you have… I am just saying that I think we can drop this question if the committee agrees that the law will be followed when we go to easement with the applicant.

Mr. Coen: You mean drop this issue?

Ms. Kurpiel: Drop the issue that is on the agenda. The discussion of Tri-County Plans could be over if the committee agrees that the easement will include the fact that all practices that can be implemented will be implemented.

Mr. Apicella: I thought there was a general statement in the easement already that said all applicable laws, statute, regulations will be followed. I think it is in there.

Ms. Kurpiel: It is, but there seems to be some confusion even at this table about what is required. I mean that is why I sent the statute, so everybody could see what the law said. It does not look like anybody read it, except me. Here is my proposal, anybody that we execute a deed with, the deed will have in it practices that are appropriate for that property. That is the law and I am not asking for anything that is unusual.

Mr. Neuhard: It seems to me there are two (2) issues, one is the question of scoring because this is in the ordinance and it needs to be scored and the first has to be answered, the way that we interpreted it and scored it, does the committee have any recommendation and are they okay with that or not. That aside, the next issue is giving your information Patricia, is that something that you recommend explicitly be in the deed or not? If you are saying that you all are satisfied with the way we have scored this in regards to our interpretation to this point than that is fine and those scores stand. We would not change anything for the ranking process but then we have an additional recommendation that we have to make sure it goes in that says, that in the deed it will be explicit or it could say, in the deed it would explicitly state that you will…

Ms. Kurpiel: Follow the Chesapeake Bay practices.

Mr. Neuhard: For Agriculture.

Ms. Kurpiel: It is not just Agriculture; there is also one for Forestry that must be followed also. Do you want me to send that you again?

Mr. Coen: I do not think that is necessary. Is everyone alright that this is not a ranking issue at this point, it is a deed of easement issue, is everyone alright with that?

Mr. McClevey: I have a question for Mike, when the properties were ranked, did we rank them based on what was in the book with Tri-County rather than intent?

Mr. Lott: Well, it was based on the application and they confirmed it in Tri-County that they had because I was concerned that they could check off anything they wanted so I went to Tri-County to confirm it.

Mr. Neuhard: So the answer to this is that the application was confirmed with Tri-County and that is how you based your points.

Mr. Lott: Yes.

Mr. Neuhard: Which was now and not the future?

Mr. Lott: Yes.

Ms. Kurpiel: Well, this is something that needs to be fixed in the future because there is a big inconsistency in our Code and with our questionnaire.

Mr. Coen: Okay, so we are all in agreement that the points are alright as is?

The Committee confirmed that the points were alright as is.

Mr. Coen: Okay, so that takes care of that issue. I think that at least two (2) of us were under the belief that it was in the easement, that they would follow applicable law anyway. I think the committee is in agreement that we feel that the deed of easement should follow all applicable elements of laws, which would include the Chesapeake Bay Act. Is that fair to say?

The committee agreed with Mr. Coen.

Mr. Coen: My College professor said that silence means assent.

Mr. McClevey: I think Patricia has a point that and it was a concern of mine as we went through the ranking that intent is different from what is actually on the books. When we go to the writing of the deed of easement, I am sure that Alan, Mike and whoever is in the process will use their wisdom and the best of their knowledge to address issues as they come up. That is an assumption that I am making, I

think it is a good assumption and meaning that Patricia, your concerns can and will be dealt with on a parcel by parcel basis.

Ms. Kurpiel: I expect to see them dealt with in any deed of easement, even if we move on from here. Otherwise, if we are not in agreement on that than I want to make an issue about this question but I think it could be resolved in this way.

Mr. Coen: Anything further? Okay, nothing further, a lot of us felt that mentally that was there. Okay, moving on to deed restrictions.

- ***Deed restrictions***

Mr. Neuhard: Are there any other issues beside the one house issue?

Ms. Kurpiel: Yes, that is the big issue.

Mr. Neuhard: The one house that was less than 100 acres.

Mr. Smith: Our interpretation, what we spelled out is if you show it on a plat or some other representative drawing recorded with the deed of easement you can reserve one additional home site for future use.

Ms. Clark: And am I also correct though in saying that the county wants to see at least one house or one reserved lot on each piece, they do not want to see a piece without any house on, is that correct?

Mrs. Baker: That came from Mike Keyes.

Mr. Keyes: This is really more of my opinion; I am not saying that every piece of property needs a house on it. I am saying that if you have 100 acres sitting there that could never be built on, at some point down the road you have to think, another 100 years from will that just become obsolete and no one would want it. What is the market for an unusable 100 acres?

Ms. Kurpiel: I disagree with that. First of all, we are talking about a piece property, let's take our theoretical, we can buy twenty (20) development units right and we estimated they were worth approximately $30,000 a development unit, right? That was fifty (50) percent of the value. So the total value of our theoretical property would be like 1.2 million. Now if this property was not in land use, that property would pay taxes annually of $10,800, now all of our properties are in land use and this property will be too. The tax bill for that property in land use is $134, so I really take issue with the fact that this would be abandoned and will have no value. It will have a lot of value with a tax bill of $134 associated with it.

Mr. Apicella: I agree with you in large part, I just have a problem with the same scenario if they chose to put a house on one of those development units, us paying for that development unit. I would deduct that development unit from the overall price that we would pay them. So if we had twenty development units and they decide to put a house on one of those development units, then we should only pay them for nineteen development units. That just seems fair.

Ms. Kurpiel: That is not how we…

Mr. Apicella: I understand and maybe it is something that we can fix, I hear what you are saying. I really have heartburn for paying somebody for property that they are ultimately going to develop and put a house on it. I understand what you are saying; I did not quite buy into it for long term purposes and the County recouping revenue from that parcel. It may make a lot of sense to have one house on that property but I do not see taxpayers wanting to pay that person to be able to put a house on that development unit.

Mr. Keyes: I agree with you, if you limit that ability to never be able to build a house on it and follow up to land use is not a hundred percent guarantee for every program. So we have to look beyond the next ten (10) years, fifteen (15) years, and 100 years. I think that is a little bit short sighted to just use that as a means, I think you are absolutely right, one hundred, two hundred in taxes, I don't think on a piece of property is very small. If you look at it on the side of, I would give you a piece of property that you cannot do anything with except go out and stand on it and say I own this property, would you pay $100 for it. Today you can but in looking for long term, once again 100 years from now, is there going to be a need for a farm at that location. Who is going to come out and do it? Where is the local farmer that is going to go that 100 acres?

Ms. Kurpiel: Well, then it will be flat out open space for the benefit of the public.

Mr. Keyes: But the public does not own it.

Ms. Kurpiel: I know, but the fact that it is open space does convey a benefit to the public that it is open space and that it does have all these restrictions on the resources that are in the deed of easement.

Mr. Keyes: I agree with everything in that statement, until you get to the point where one house on 100 acres would make that dramatic of a difference to the public when they drive by and see that farm with one house? I do not think one house would upset the public, I think fifty (50) houses across that farm would bother the public. I think it just increases the overall worth, not only to the community but to those land owners to have that ability for that parcel to have a home site.

Mr. Kurpiel: Our ordinance says one house per 100 acres and that ordinance trumps whatever we might have told the public. I think we also did tell them that it was one house per 100 acres, if I recall your presentation to the public; it was one house per 100 acres. Now somehow that deed of easement has some parenthetical phrase in it that say it could be a property where the 100 acres would permit one single family dwelling, location approved. The ordinance trumps that.

Mrs. Baker: What about the properties that are already less than 100 acres and already have a home on it. Is there any difference in that?

Ms. Kurpiel: We cannot ask them to remove it, it is there.

Mrs. Baker: I am just saying, in that instance you might want to increase your property size to 100 acres.

Mr. Apicella: I think we can argue either side of it, your interpretation, I am not saying I disagree with it, is that you have to have at least 100 acres to get a house. Some people may interpret it that up to the first 100 acres you can get a house and then more than 100 acres, you get to have something else.

Mr. Kurpiel: Again I am going to say you all spent three years devising this ordinance or maybe more and apparently you thought it was important enough to put it in. It is a recommendation of DOF, and trust me they know a lot more than we do.

Mr. Apicella: Patricia, we cannot even buy 100 acres. So we are telling somebody that under no circumstances are you going to be able to put a house on it because we have a program that is smaller than buying 100 acres.

Ms. Kurpiel: Well, what can I say.

Mr. Apicella: I just see both sides of the equation here. I think we have to be fair, at least in terms of the pilot. We are only doing one; we can try and fix it down the road. That is part of why we are doing the pilot see what we can do better down the road.

Ms. Kurpiel: I am here to tell you the ordinance in place allows one dwelling unit per 100 acres and there are two (2) submissions that ask for one dwelling per less than 100 acres. How is the public going to have confidence that we know what we are doing if we at the drop of a hat change anything?

Ms. Clark: However, I do think that it was assumed that you could have at least one (1) house on any size piece of property, not multiple houses. I understand why you are upset about an additional house site, I can give you that, but I think it is unrealistic to not allow any house site on big piece. Some of these pieces already have a house on them and some of them do not, I think the parcels that do not have one (1) home on them, that they should be allowed to put one (1) house on them. I think that maybe we can discuss additional house sites.

Ms. Kurpiel: Nobody has requested an additional house site, no one has asked for that. Two (2) applicants have asked for houses.

Mr. McClevey: I thought Silver did.

Ms. Kurpiel: Silver and Wilson are the two (2) that have asked for houses but the other four (4) have houses on them. If you are saying the SE house is…

Ms. Clark: It is a house site.

Ms. Kurpiel: No, it is not a house site; it is a house that has potential for the National Register. It is not a house that is being occupied.

Mr. Neuhard: Let me make sure I understand where we are at on this. The first discussion I heard was about land that does not have a dwelling on it, that has no impact and is not against the current ordinance and we rank it and it all falls into the ranking system and there is a decision to be made. Ultimately the Board, whether that is of interest to them, keeping in mind all these kinds of terms have been raised, I do not think really that piece is not germane. I am a little confused on, if you go to page thirteen (13) of our ordinance, it talks about restriction on dwellings, "no new dwellings may be constructed on the parcel except as provided or after", that means that the structure is already going to be there. "The deed of easement may allow one new dwelling per 100 acres, the location of the dwelling and (inaudible) specified on plat or subdivision" so that is an additional dwelling, no more than one (1) per 100 acres. That is where the interpretation form this discussion comes from, correct?

Ms. Kurpiel: Exactly.

Mr. Neuhard: Okay and we have a VOF approved deed, and how does it read in the deed?

Mr. Smith: Well, it references existing dwellings first and then it moves onto "the following structures may be established, one single-family dwelling per 100 acres with the location approved by the grantee" and then it goes into how it would be approved by us. I think the way that reads is there is the potential for an additional dwelling site.

Mr. Neuhard: Per 100 acres.

Mr. Smith: Per 100 acres

Mr. Neuhard: The new dwelling site, not what is on there, if there is a house already on there and it is twenty (20) acres, it is there.

Ms. Clark: That is what Patricia said, per 100 acres.

Mr. Neuhard: To add a new dwelling.

Mr. Smith: Right.

Mr. Neuhard: Your interpretation Alan is, it is any portion thereof.

Mr. Smith: Yes.

Ms. Kurpiel: In the VOFD, 100 acres, they will not. I think they want more than 100 acres even to allow one (1).

Mr. Smith: I completely agree with that argument both ways, I think it could be read to say "some fraction up to 100, you could still get.

Ms. Kurpiel: You could get a fractional house.

Mr. Smith: Well, you can get it. I can also understand why you viewed it… Why it can be read to say that you have to have that minimum of 100 acres.

Mr. Neuhard: Let us do some work on this one, I mean this is not something we have to decide tonight in terms of ranking. We certainly hear what you are saying, if there is a consistent direction you would like to give us, we would certainly take that. Let us go back and do some more on this and we will talk some more with the VOF and see if where they are coming down on that interpretation.

Mr. Coen: Am I correct, when they would go forward with this, before January or February, they would have to come forward and say we looked at a good chunk of the data and this is where the house would be and all that. I mean they almost have to have a good chuck of this all set up, so in the negotiations between the properties selected and it moves forward, it may be a moot point. The applicant may say I

checked it because of theory but I am not there and I will not have it done it time and it may be a moot point by then.

Mr. Smith: It could be. They do need to tell us where they plan on putting the site to be recorded with the deed.

Mr. Coen: Right.

Mr. Neuhard: How many have said they are interested in other…

Mr. Coen: Two (2).

Mr. Apicella: When we had the public meeting, how was this issue dealt with? How did we frame it or describe it?

Ms. Kurpiel: Kathy gave the presentation

Ms. Baker: What was the question?

Mr. Apicella: I was curious how this issue was addressed in the public meeting? I cannot remember if any questions were asked or if you offered, this is the interpretation of that specific sentence.

Mrs. Baker: I can check in my notes, our intention when we presented it was one per 100 or fraction thereof because we knew we had limited money and the size of the parcels would be smaller than 100 acres.

Mr. Apicella: I would just make a motion for the sake of the pilot because it is only a pilot to accept that notion, I do not like this but again I think we offered the public a certain set of parameters and I do not want to undercut the program by confusing people and make them believe that we are pulling the rug out from under them, that the interpretations of that sentence be that you get to have one additional development unit up to 100 acres or however you just phrased it, or fraction thereof.

Ms. Clark: I will second it.

Mr. Coen: Okay, discussion?

Ms. Kurpiel: I think you are really… I think the integrity of our program is at stake here. We cannot even follow what we have written in our ordinance.

Mr. Apicella: I think it is a matter in interpretation. You are deciding what the word per means.

Ms. Kurpiel: Why don't you let staff do the research?

Mr. Apicella: But what research, defining the word per. I think a reasonable person, two (2) reasonable persons can have different interpretations of the word per.

Ms. Kurpiel: I could not disagree more.

Mr. Apicella: Well, that is why I put it to a motion and let the committee decide.

Mr. McClevey: I need to here the motion again.

Mr. Apicella: My motion is, for the purpose of this pilot to interpret the authorization to have one (1) additional development unit for a parcel up to 100 acres.

Mr. Keyes: Can I ask a question real quick to clarify something, you said one (1) additional. Is that really correct? Or is it to have at least one (1).

Mr. Apicella: At least one (1). I am sorry.

Mr. Coen: My question would be, is it something, because I do not know if this might be a moot point, is this something we need to have a motion on or is this something we give staff direction to and then when they are in negotiations, they say…

Mr. Apicella: I think it can make a difference to deciding who might be picked.

Mr. Coen: Okay, because I do not think it will decide the ranking.

Ms. Clark: The Wilson property already has a house on it, right? But they want one (1) additional?

Ms. Kurpiel: No, they do not.

Ms. Clark: Okay, so they have none. Cattle barn and equipment shed.

Mr. Apicella: We have a certain amount of time to make a decision here and so if we make a decision that we are going to go here and that here is somebody who would be authorized to have a development unit if one does not currently exist, start negotiating with them and it becomes a big issue for them. I do not want the clock to run out, I just want to move forward with the pilot, see how it goes and not jeopardize it because there is a different interpretation of what this one sentence means for this one pilot. We are not talking about and the world is not going to end in my view if we have one more additional development unit in Stafford County. I think we sold these people a bill of goods, I do not want anymore development units as a result of this program but nonetheless I do not want to, as you say, jeopardize this program because now we are telling the applicants that we have a different interpretation than we offered in the proffers when they signed up for this program.

Ms. Kurpiel: I would like to know where we offered or proffered anything other than one (1) per 100 acres.

Mr. Apicella: I think a reasonable person can come to the interpretation that per means up to 100. I will say it one more time Patricia, we do not have enough money to buy 100 acres.

Ms. Kurpiel: I am aware of that.

Mr. Apicella: So, again this program would never allow, if we were funded at the same level all the time, a person to have a development unit. That is simply, patently, unfair.

Mr. Coen: Any other discussion? Thank you.

Mr. McClevey: I need clarification, if a property does not have a dwelling on it, we would allow one (1) dwelling. Does that require, they have to go the county and they have to get a subdivision?

Mrs. Baker: Just a permit.

Mr. McClevey: Just a permit on it, okay. If it is A-1, a three (3) acres building site.

Mrs. Baker: Minimum.

Mr. McClevey: A minimum three (3) acres dependent upon septic fields and so on.

Mrs. Baker: But they would not be required to subdivide it out, we are requiring them to show the general location on a plat and where they are going to put the house site. For instance, the Wilson case is forty-nine (49) acres, if they were showing to put a house on it, they would not have to designate a minimum of three (3) acres because you are not subdividing this property any further. They could put it anywhere they wanted on the fifty (50) acre parcel as long as it had a perk site. For the purpose of the easement, you would want it shown on plat but not a three (3) acres site necessarily. Did I answer your question?

Mr. McClevey: Yes you did. So there could be, potentially, more of our ranked properties under 100 acres, twenty (20) acres in which a house site will not perk? I am going to defer my opinion again to the interpretation by Alan as he comes to the parcel. I was so glad that we discussed this in the April minutes and that Steve and Patricia had brought this up because I had forgotten all about his discussion until I read the minutes. I do not know where I was at the meeting but apparently I just did not pay attention to it. It is an important issue and I do not want to drag this out but I think the ordinance is clear. I understand what Patricia is trying to say on that, I think that we have to defer to the interpretation of the ordinance and how it reads when he writes the deed o f easement. I think that when the people check off that they were requesting a dwelling unit that as some point in time, we might just say that it is not going to work in the negotiations. It could come where in the opinion of the committee, I would suggest that with each tract, if we have knowledge or a committee member has knowledge of a particular tract, that we should be able to provide staff or provide Alan with information and suggestions. In those negotiations with the property, Alan can make the discernment and present to the property owner or development unit and according to the ordinance you can do that. According to what we provided the public, we are entitling property owners to do that, but in this case for a particular parcel, it is not going to work. You cannot build on it and that would be our recommendation in the negotiations. Therefore, if a property owner says, then I am out of the program, then that is their choice and they choose to drop out of the program. I think what we are haggling over this, and I understand Patricia's perspective and I agree, I was also one of the individuals that was staunch on allowing a property owner to be able to put a housing unit on it, but as we go along, I am seeing more and more that there is a lot that depends on situations and there is going to be negotiation between the County and the property owner. That would be clarified at the time. I just wanted to say I think it all comes down to how we write the particular deed of easement for each tract and that at some point in time, even if we said they could have sixteen (16) houses on a particular parcel, that they are entitled to sixteen (16) units, we as part of the County's program in looking at a particular parcel might make the recommendation to the property owner that we do not believe that this is going to work for this particular tract of land. Therefore, we are going to tell you that you cannot build this house at this

particular location. You sent us a plat with the house location on it and we do not like that location or we do not like the house period. The property owner can say, well I want it there and I will only be in the negotiations if I could put my house on point x. We have that right as a county and a program to say no, it is not going to work. We can justify that through our conservation program and the fact that they might have to build a three (3) mile access road or whatever. My comfort and fall back is in the deed agreement, how it is written up per property owner. Does that make sense?

Mr. Coen: Yes.

Mr. McClevey: I do not want us to get hung up on how many house per twenty (20) acres or 100 acres. I think by allowing them to do that, we have certainly incurred a lot more houses, a lot more property owners to apply to the program. The bottom line is, we say yea or nay to a property. In other words, it is not done until the signatures are on the deed agreement.

Mr. Coen: Okay.

Mr. Apicella: You talk about the viability of this program and the long term interest of Stafford County and I was persuaded by what you said in terms of the County recouping revenue from this property and there would be a huge delta between a property that disallows any development on it versus a parcel that has one (1) house on it. So, over the 500 years period or 1000 year period, that is a lot of lost income for the county and the tax payers. That is how my opinion was changed. We are not talking about one (1) house per twenty (20) acres, we are talking about trying to interpret this one sentence and what does "per 100 acres" means and that is why I offered up this motion to try to find what that phrase means. I think it means something different than what Patricia thinks it means and I want to give the applicants the benefit of the doubt that they interpreted the same way, I believe staff interpreted the same way and I believe it was sold to the public that way. Hence the six (6) applicants that we got and the two (2) applicants that offered in good faith the notion that they wanted to have based on their interpretation. I think it is almost a universal interpretation that they could have one (1) development unit per 100 acres or a fraction there of.

Mr. Coen: Any other discussion? Okay, so we have a motion on the floor and we should take a vote. Would you read back the wording of the motion? I think it got changed from an additional to up to.

Ms. Hamock: Ok, so I have the is motion for the purpose of the pilot, I think I am missing some wording, that the interpretation is at least one development unit per 100 acres.

Mr. Coen: I think it was up to one development unit. I believe that is what he said.

Ms. Kurpiel: Per 100 acres or fraction thereof.

Mr. Coen: Okay, all those in favor say aye.

Mr. Ritterbusch: Aye.
Mr. Apicella: Aye

Ms. Clark: Aye.

Mr. McClevey: Aye

Mr. Coen: Aye. All those opposed?

Ms. Kurpiel: No.

Mr. Coen: Okay, that is a 5-1 vote. Okay, Ordinance, advice on selection.

Ms. Kurpiel: Excuse me; we still have two (2) more issues.

Mr. Coen: Pertaining to these?

Ms. Kurpiel: No, not pertaining to these but pertaining to the ranking. Are we off the rankings?

Mr. Coen: Well, we were going down the agenda, which the next thing was the Ordinance, advice on selection, but… We can certainly manage it.

Ms. Kurpiel: Do you want to talk about the ranking before we go onto Ordinance, advice of selection.

Mr. Coen: Go right ahead. What are your two (2) issues?

Ms. Kurpiel: The first issue has to do with item number 3B; this is the item that talks about proximity to conservation easements. There are at least three (3) different kinds, first of all, let me say that being contiguous to an existing conservation easement is very desirable because it create a large assemblage of property, which is then conserved. Now, there are conservation easements and there are conservation easements. A VOF conservation easement and a Department of Forestry conservation easement. These easements actually restrict development like we are going to do and they also provide protection for resources. However, there are other easements out there that do not do that. I am referring specifically to Corp of Engineers easements, these easements are actually put on property that has already been developed and the terms of the easements say, or what it protects is a resource that is in fact already protected. Two (2) of our properties have a proximity to corps easements and these easements are not the same value as VOF or DOF easements and I do not think that the points awarded for proximity to these core easements should be the same. The Corps easements that I looked at on the two (2) properties in question protect perinneal streams, which are already protected by Chesapeake Bay law and wetlands.

Mr. Lott: The Resource Protection areas do go beyond that.

Ms. Kurpiel: These two specifically?

Mr. Lott: I believe so. The easements from those were a little different because they were easements that were done that required perennial flow studies. The Army Corps of Engineers will not allow you to put an easement on an RPA buffer, because it already has a buffer on it. So some of easements within those two (2) are on perennial streams that would have had RPA anyway. I would have to look it up to see if they extend up some intermittent streams as well.
Ms. Kurpiel: I looked at the two (2) easements and I did not determine that there were any intermittent streams that were protected. Also, there is an easement on another property that was not an easement at all, where an applicant was given points. Actually, what it was was the privilege of walking on a piece of land to look at a Civil War memorial, and that is certainly no easement that conveys value that we should take into account here.

Mr. Coen: So what is it that you are trying to do?

Ms. Kurpiel: I am suggesting that the easements that are Corps easements not be given the same number of points as the VOF and DOF easements because they are not the same value.

Mr. Lott: I think the way that it got recorded for the Civil War one was that it somehow came up in the Commissioner of the Revenue or Land Records office as a conservation easement, when in reality it came in the GIS as a parcel with a conservation easement on it. I found it met the criteria so I gave it that score. Yes, when you go back and research it this would show up as a historic site.

Ms. Baker: But there is area reserved on that property that cannot be developed because of the easement that we are recognizing.

Mr. Apicella: I get your point on that one, utility companies have easements, right? You would not knock off the value because, or even the county has transportation easements on part of the property that is on the road side, I can see your point on that one. The other one I have to think about a little bit more.

Ms. Kurpiel: Well, they are just not the same value and for example, when an applicant… Quite honestly, if an applicant goes to the request for the tax credits and federal deductions, I certainly do not think they are going to be listing a Corps easement because when you get down into looking at it, there is no substance there. The county already affords that protection, that is my point.

Mr. Neuhard: I think it is a significant issue to the way the ordinance is written. I think it is problematic and because the ordinance has proximity to parcel and the other properties with PDR or other perpetual easements on it does not differentiate but I think it is a very legitimate issue and it either can apply to an interpretation of how we do that now, as long as we are consistent across the board for this pilot, that is important. I certainly think that it is one of those things that will work in the future. I think it is appropriate if you have some discussion on that, if there is a need to relook at that, then we can do that. We certainly need to reserve this for further discussion and some changes; this is what this all about. I think the question is how do you deal with other perpetual easements and should the just be conservation easements that are at a certain standard.

Ms. Kurpiel: So the sense of this committee is you are not willing to adjust any points for that. Is that what I am taking away from this?

Mr. Coen: My question is, at this juncture, I would like a specific, and you have thought this through so there must be something specific that you are trying to change. I would like to hear what your proposal is before I decided that I am in theory, in favor of something.

Ms. Kurpiel: Are there any other thoughts from this Commission about this point.

Mr. Apicella: Can we deal with the first one? Because I think that is easy, the one where it may have been misidentified as a conservation easement. Can we agree on that one?

Mr. Coen: The Civil War…

Mr. Apicella: The Civil War sign. It seems to me that is pretty clear cut.

Mr. Coen: If you knew the full information you are saying you probably would not have given it the points, right?

Mr. Lott: I certainly would have brought it up for conversation and how we wanted to deal with it. I think they basically awarded them two points for that particular question.

Ms. Kurpiel: That is correct.

Mr. Lott: Well, it is not even close. There was some debate in that one also whether they should get the points for being next to Crows Nest if you consider that an easement. That shows that they got points for that elsewhere and we are not giving them points for that.

Ms. Kurpiel: But the other issue on that particular property is they got no points because they were A-2.

Mr. Lott: After we had these discussions I was extremely liberal with these things or even as a perpetual easement I just gave them the point. I recognize that there is variation in the value of any easement certainly, but I took it as a literal interpretation.

Mr. Coen: So, is there a feeling from the committee to basically take the two points away?

Mr. Apicella: I make that motion.

Mr. Coen: Is there a second?

Mr. Ritterbusch: Second.

Mr. Coen: All in favor of making the correction of the two points on that one property for the easement that really was not and we never fully understood what it really was.

Mr. McClevey: We are making a motion to staff…

Mr. Coen: Right, to alter the points that much. All in favor?

Mr. Apicella: Aye.

Ms. Clark: Aye.

Ms. Kurpiel: Aye.

Mr. McClevey: Aye.

Mr. Ritterbusch: Aye.

Mr. Coen: Aye. Voting against? Okay, so now the second easement.

Ms. Kurpiel: So now on the Corps easements, what is your sense about this? Why are we giving points for something that is already protected? I honestly do not think we should be giving any points for easements that are not easements in the sense that we think of them.

Ms. Baker: I have one comment on that. As far as the way they are recorded, I believe it says there shall be no disturbance. So, that even means that they are not allowed to put utility lines or road crossings which are things that are allowed under your RPA and your Chesapeake Bay provisions. But the intent of those easements, platting them the way that they were on the existing lot, was defective. They were not going to be able to do any disturbance in there. They would not even be able to clear and put a shed up or anything like that. So, there are some restrictions that go over and above. You are looking at a migration corridor that may connect to different property but you are not going to have a road crossing put in at a later date that may impact that corridor.

Ms. Kurpiel: That is a good point.

Mr. Lott: I did not think of that. I did not pull the plat for each of those two subdivisions where those easements exist and compare those to our perennial flow study or Chesapeake Bay or RPA maps to see if they match. If those buffers are where they have buffers anyway or did they extend it well beyond. You would have to actually look at it on the plat.

Ms. Kurpiel: I have the plats.

Mr. Coen: So, Patricia, what you are saying is that for those two properties it is all or nothing. We keep it…

Ms. Kurpiel: Well, based on the information we just got from Kathy apparently there is some value. Maybe this is something that should just be looked at.

Mr. Lott: I knew there was something I wanted to bring up to change next time because I do not think they are all the same.

Ms. Kurpiel: Those applicants will not be using those easements to get any tax credits in my view because I think it would be… Let's just let that go and I would also, if we are going to let this go, I would like to go back and reinstate the two points for Wilson because he has already gotten it, so to speak, because he is the only A-2 applicant that we have. You know, on the question 1C where it says active A-1 land and he is A-2 and our discussion was that was an inadvertent error not to change the code. So if you all are okay with that let us just put this to bed. But it does need to be looked at.

Mr. Coen: Right.

Ms. Clark: So you would like to reinstate the two points…

Mr. Coen: The two points for the Civil War…

Ms. Kurpiel: The two points for the Civil War and have this whole easement issue researched in depth.

Mr. Coen: Is there a second to reinstate the two points and having all easement issues dealt with when we revisit the next ranking?

Ms. Clark: I will second that.

Mr. Coen: All in favor say aye.

Mr. Apicella: Aye.

Ms. Clark: Aye.

Ms. Kurpiel: Aye.

Mr. McClevey: Aye.

Mr. Ritterbusch: Aye.

Mr. Coen: Aye. Opposed? Okay, that passes.

Ms. Kurpiel: And then I have one final issue and that is the issue on the SE Estates where, this is on question number B, it is the fifth question on your ranking sheet. This is where there is a possibility of 10 points here and SE Estates; you see no points for this. The question is about harvesting, and new houses for their subdivision and what they marked on their application is they would like additional information from the PDR Administrator. And we confirmed last month that while they talked to the PDR Administrator about the size of the parcel, it could be 375 acres as opposed to something smaller, these items were not discussed. And I still think this is unfair treatment of this applicant not to have contacted them to begin with and then not to have contacted them during the month. Is that correct that we did not contact them during the month?

Ms. Baker: We contacted them prior to…

Ms. Kurpiel: Oh, so you have some information about this?

Ms. Baker: No, I am saying we contacted them prior to the issue you raised and we spoke to them even before we brought these rankings to you all. We spoke to them and we asked them and their only questions were not specific to that question on the application. They had questions in general about the process, etcetera, and when we went through these issues them…

Ms. Kurpiel: That is in the minutes Kathy, I agree with that conversation, but it looks to me like they are asking they would like information about these three or four issues, and harvesting, and new dwellings for the division of a parcel…

Ms. Baker: I asked them questions regarding when they went into questions that they had specifics on and it was not in regard to these areas. They said they did not know what they wanted to do with the property. They talked about giving it to the County as a park. They did not have any idea; he did not know at the time what they wanted to do with the property other than get money for it. So, he did not go into any details about the specifics of that question.

Mr. Neuhard: He had the opportunity. He was contacted, he had the opportunity, and he chose not to address those questions. He addressed other ones because he does not know what he wants to do with the property.

Ms. Baker: I told him you checked that you had additional questions, what are those questions. We went through the questions he had and he did not talk about any additional restrictions but he does not know what he wants to do with the property.

Ms. Kurpiel: So, we still do not know the answer on is he going to harvest timber, is he going to have another new dwelling, is he going to further subdivide. He did mark down here, he wrote no where it says are the owners interested in doing additional research into the deed of dedication beyond those described in the PDR Ordinance. No.

Ms. Baker: Because he does not know what he wants to do with it. At the time he was not looking to do any additional restrictions.

Ms. Kurpiel: But you think he understood the implications of this? You think it is his responsibility to have understood.

Ms. Baker: That is a subjective question. We have spoken. We had a couple conversations.

Mr. Coen: Okay, we have dealt with the various issues that either we brought up last meeting or brought up subsequently, so that moves us to Ordinance Advice on Selection.

- ***Ordinance - advice on selection***
  - Final criteria rankings and recommendations by Committee

Mr. Neuhard: What we want to do, as you move toward your final determinations and your recommendations, we just wanted to bring you back to the ordinance to remind you of what guidance is in the ordinance about this. There are two places that I think are applicable here and needs to have some thought and consideration. The first one is on page 6 of the ordinance, it is under Purchase of Development Rights Committee established; powers and duties, and it reads under powers and duties, number 2, review rankings of applications recommended by the Administrator, which is what you have been doing, and make recommendations to the Administrator and now to the Board as to which conservation easements would be purchased as determined by the property ranking system, and other applicable information. You then go to 22A-8 which is the property ranking system and (a) states that the property ranking system is hereby adopted. The system shall be the sole means by which the priority of acquisition of development rights under the program is determined when available funding is insufficient, as it is in this case, to purchase the development rights on all property that is the subject of received applications for the sale of development rights. The number of property ranking system points assigned to a particular property shall not be used in determining the value of development rights, which our program structure does not allow for, and/or the amount of any offer to purchase such rights but used solely as a means for establishing a means of prioritizing the properties for further consideration. So, with that, it seems like there are two important aspects that come out of this to both of the bodies, myself and the Board, which you need to make recommendation determination. First of all, which much of the discussion has been focused on is the ranking and what those scores are and the order of priorities which are here. And second is the other applicable information which is many of the discussions we have been having and you all have been deciding on that you need to provide if there are considerations

that the Board should be aware of in regards to the purchase of any of these properties. That is your opportunity to provide that information. And so, in essence you will have the rankings, here are the Committee's ranking recommendations to us and the Board and any additional considerations or information you think appropriate in the Board considering what they should ultimately purchase here. So, I just want to remind you of those things and hopefully any way we can help you get there we will certainly provide that support.

Mr. Coen: Okay, just one question that I would have logically at this juncture would be the status of the ranking. In discussing deliberations I do not know if that would necessarily (inaudible) but that would certainly be relevant.

Mr. Neuhard: Well, let us go back and review what you have. Any changes in the scoring based on what the discussion has been, the only changes in scoring is the recommendation on the point value for Century Farms, is that correct?

Mr. Coen: That is correct.

Mr. Neuhard: Which would be somewhere between 6 and 13. The only Century Farm we have is for the Silver property, correct?

Mr. Coen: Yes.

Mr. Neuhard: Which, assuming that any point value given to that is going to push it into 1 and put the S. E. Estates into 2. That would be the only change in the ranking, based on what I heard tonight. Did anyone hear differently? So in essence, your rankings would become, because you have left to us somewhere between 6 and 13 points, but regardless of what we give it for you it would flip flop those two properties and everything else remains the same. Looking at everyone, and staff will make sure that what I am looking at, the calculations are correct. So that would then, as I hear it the Silver property would be ranked number 1. The S. E. Estates would be ranked number 2. The Adams would be ranked number 3. The Wilson number 4. The Druiett number 5 and the Johnson number 6, based on the scoring criteria. Does anybody have anything different than I have? That would mean we would prepare for your presentation to the Board. Now the additional recommendations that you would make for consideration, would be what you would need to decide on at this point are the critical things that the Board should be aware of in their deliberations.

Mr. Clark: The issue I have with the Silver property. They have 22 developments and even if we took out 1 that would be 21. We know that we are able to buy 20 lots, I know the Silvers are willing to put the entire 97 acres, under easement for the price… in other words they are willing to put 21 or 22 development units under easement for the price of 20, so you would be getting a little bit more bang for your buck.

Mr. Neuhard: So you are suggesting that we consider heavily those properties that would provide additional development units retired for the same price of the 20 development units.

Mr. Apicella: I wrote down a return on our investment, so for the same dollars you are getting more than you would otherwise get.

Mr. Neuhard: Any other ones?

Ms. Kurpiel: Yes, I have a few.

Mr. Apicella: Overall number of development units to be retired.

Mr. Neuhard: Would you say that again for me.

Mr. Apicella: Overall number of development units to be retired.

Ms. Kurpiel: I think that number of units is an issue that staff needs to confirm. I intentionally did not go out and speak with S. E. Associates about a lot of questions that I have about the property because I did not think it was proper. But now we have a member coming in and saying that I know that Silver will do this or that… It is like who is doing the negotiation here, staff or the members…

Ms. Clark: I apologize. I understand what you are saying. I did not call Jerry, he did call me.

Mr. Neuhard: We will ultimately be doing the negotiation as prescribed and we will also any negotiation we do, based on what I just heard, you want us…the recommendation is that we try to get the most units for the amount of money we have and there may be some parties in here which we have the order we go down and will advise the Board that we need to be looking at that and negotiating perhaps more units, that is possible.

Ms. Kurpiel: I have a question about S. E., if you told them we have six hundred thousand, how they ended up only offering a portion. Did they really not want six hundred thousand; they only want four hundred and twenty. How did that come about?

Mrs. Baker: Again, when we spoke they were asking about that and he indicated they already had sections of the property already divided out and 3C was a section. And they know that we did not have more money than we had, they recommended going with that portion of it since it had been surveyed and subdivided and they could still if they had to continue development on the rest of their property, if there was an additional PDR funding in the future. So they recommended we just go with 3C which already had the area surveyed out.

Ms. Kurpiel: Well, I have a copy of the plat there and I do not see it marked at 3C, it just said section 3 and I see the lots that they would be allocating to this program.

Mrs. Baker: I am sorry, which plat do you have?

Ms. Kurpiel: I believe this is the construction plat.

Mrs. Baker: But we actually have a final plat that they submitted as section 3C.

Ms. Kurpiel: And that is these properties?

Mr. Lott: Let me see, I can tell you. This has not been recorded.

Ms. Kurpiel: I realize that. I guess my question is there are a number of lots going down these steep slopes on one side of the road that…

Mr. Lott: It is a separate plat for 3C.

Ms. Kurpiel: Is there any reason why we could not talk to them about an additional…there are a lot of questions here on their case too. When Mike ran the number on his, he came up with 15 development units and they only… Have I got it right?

Mr. Lott: They have 14.

Ms. Kurpiel: You came up with 15 and they offered 14 or is it the other way. You came up with 15 and they only have 14 lots, so a question on their case is would they be willing to give up that 1 development unit. Also I would be interested, if we talked to them, about increasing the number of lots, if possible, up to 20.

Mrs. Baker: Increasing the acreage?

Ms. Kurpiel: The acreage and the development units. If anybody would like to look at the, apparently this is not the final, but it must be pretty close.

Mr. Lott: There are different plats for each section. That might cost them money.

Ms. Kurpiel: That might and they might not be willing to do that. But I think that is an issue. Also, this is probably the second time I heard it tonight, I did not know that they were willing to or would consider deeding to the County, so that would be a simple transaction. That would be much more than an easement. That would be a deed of the entire interest of the property. There is a lot of flexibility of who would ultimately end up owing this property, it could be the Homeowners Association, S. E. could hold it themselves and manage it for perpetuity, the County or if they were willing to consider a fee simple land trust.

Ms. Clark: However, I will say that we need to remember that our matching funds require that this parcel either be currently farmed or be able to be farmed. If you turn it over to the County, I am not sure that is the case.

Ms. Kurpiel: Well, I would not recommend the County quite honestly. I would recommend if they wanted to, it is not there business, there are land trusts out there where this is their business, if they would consider that.

Mr. Apicella: The land trust would not be farming the property; they would be managing the property.

Mr. Coen: If I understand, the other recommendation, out of the interest for going forward, is the fact that the matching funds from the State is for farms and that should be one of the criteria that we are looking at. If I understand you correctly, you would like staff to talk to S. E. Estates and see if they are welcome to other avenues.

Mr. Ritterbusch: I do not know if that is appropriate.

Mr. Coen: That is what I am trying to get at.

Mr. Ritterbusch: They submitted an application, based upon a presentation and it is what is. We should not be going back and saying if you want to do this or do that. I do not think that is right.

Ms. Kurpiel: We are going to have to ask some questions. If we go with Silver we are going to have to ask questions.

Mr. Ritterbusch: That would be in negotiations, not up front like that.

Ms. Kurpiel: Well, alright then I would like to put on the list of things is talking to S. E. as a plus is the possibility of ownership. I would also like to mention that on S. E. there is another advantage which is the flexibility in use, the ultimate use of the property. There is no reason why the property could not revert to forest, that could be done. Or it could be used in other ways. It could even possibly be used as limited public access which is a big plus in the tax code.

Mr. Coen: So your items are if we end up going forward since Silver is the number 1 property in the rankings and that would fall through and we move forward to S. E. these would be items that would be talking points or other recommendations.

Ms. Kurpiel: I guess what I would like to say is I do not think the rankings are so definitive, because of the change that was made, that we should recommend one property to the Board. I think that maybe we should recommend that they consider these two properties and give them a list of what we see as the pluses and minuses, and I have been laying out what I see as some of the pluses.

Ms. Clark: And if we are going to lay those out then I have another issue that is a little softer, not quite so hard core as far as ranking and what not go. This is our pilot program, it is our one shot. This is the only transaction that we are going to have in order to use, to sell this program later on down the line. You know where I stand, I said I wanted a working farm saved, that is my whole point in being here, but I just feel it is much easier to sell the County that we have put aside a working farm then we have putting aside a piece in the middle of a subdivision which then just increased the value of the subdivision around it. The lots around this piece are not moving, if you preserve that piece…this may be wrong, but I think public perception would be, oh you put that piece in the middle that will be forever green and you give that money to a developer and immediately all the land around it becomes more valuable. I have a hard time selling that, I do not think that is the spirit of the program.

Ms. Kurpiel: I think that is a good point, but I want to correct a couple of things that you said. First of all this property will be surrounded on one side by lots, the other side is connected to a thirteen hundred acre perpetual easement. That is pretty massive, so it is not like it is completely surrounded. Also, when you guys were developing the program, I would have been happy to discriminate against developers if you had written that in, but you did not write it in, so I do not think we should discriminate against a developer just because he is a developer.

Ms. Clark: That is why I said this is a very soft issue, but I think public perception may be important when we are trying to sell this program down the line. So do you give the money to a developer or do you give it to a farmer? Which is going to be easier to sell down the line?
Ms. Kurpiel: That is a good point.

Mr. Coen: Patricia, would you like to make it in the form of a motion about whether or not we put forward a recommendation for one property, do we put forward this is the ranking criteria this is all the

information, you make the choice or do we put up a recommendation for more than one property and as Patricia wanted to do with the pluses and minuses for each of those. I think we need to decide which of the three avenues we want to take. I would say at this junction that is where we are at, to decide which of those three we feel comfortable moving forward, just the ranking, a recommendation of one property or a recommendation of more than one property.

Ms. Clark: Well, I think, playing devils advocate here, if S.E. was selected then that would leave extra property rights left over that we could still can purchase…what am I trying to say. I guess we need to decide what to do with the rest of those property rights, which would mean looking at two properties, whether that is Silver or Adams.

Ms. Kurpiel: I would have to ask S. E. then to figure out some way to get to 20, I am not in favor of choosing one of these properties and one of the lower ranked properties. I am not in favor of doing that. I do not know how you all feel about it.

Mr. Ritterbusch: The only problem I see of giving the Board of Supervisors a selection of two or three properties, is then they will get into an argument about making a decision. If you give them the one choice that we made, then it is either an up or a down vote.

Ms. Kurpiel: I do not think it is going to be an up or down vote, I think they are going to raise all sorts of questions. They are going to ask the kind of questions that I tried to get you all to ask of all of these applicants.

Mr. Apicella: I am not going to try to guess that the Board is going to do or not going to do. I think our responsibility is to make a recommendation rather than multiple recommendations. If they choose to look further down the list. That is their prerogative. The rankings are what the rankings are, plus the additional thoughts and considerations that we think that they should keep in mind in trying to evaluate other paths forward. I am with you, that we should come up with one parcel to recommend.

Mr. McClevey: I concur with that. I agree that is a good place to be and let them decide if they reject it and want to look at the next.

Mr. Ritterbusch: They can always come back and say, what is your second choice?

Mr. Coen: As Mike mentioned at the last meeting we can always say this is our first, second, and third choice. We could show them the rankings. I am sort of getting the feel that the four of you want to recommend one property; we give them the ranking and these other issues and let them go from there.

Mr. McClevey: I do have a question. What if they reject that property or what if that property owner backs out?

Mr. Coen: Then we would be giving them the ranking.

Mr. McClevey: Just tell them that we would then defer to the next.
Mr. Coen: The ranking is a major criteria. But we also put in these other elements and if for some reason if Silver was number one and backed out it would automatically go to S.E. If S.E. said they do not want to do it, then it would go on to the next.

Ms. Kurpiel: If that happens, at that point, I would like it to come back to this body for an additional recommendation because the monies are a little…You can give them the rankings for all of them. I would like it to come back to this Committee before we go beyond 2. For example if negotiations fail with 1 and 2.

Mr. Apicella: If you go down the list and add of the dollar value of the next two, you can keep going down and find a grouping that is going to get you the next 600 thousand dollars. I am not sure how much more we can do.

Ms. Kurpiel: If you are going to do that, then I have to raise another issue. This is about the third rank property, the Adams property. This has to do with whether it is actually developable at this point in time. If you read the deed in your package, the prior owner limited development of that parcel to family subdivisions. Family subdivisions may only be developed after the owner, Mr. Adams, has held it for fifteen years. At this point he has only held that parcel for seven years, so my interpretation is that you are paying for something that…his application needs to come in, in seven years. That is when it is timely. I do not feel that it is timely now and that is not the staff's position. The staff says that if it is ever developable or if the Board wants to interpret it some other way. It is up to them to make that interpretation. I am not trying to be difficult, but I do read my stuff.

Mr. Coen: I lean towards, looking for the greater number of lots to be saved is important. The family farm aspect is important. That issue to me, by them getting into a program, they are going to be in that program for the remainder of those fifteen years. I do not think it is going to happen, but if number 1 falls and number 2 falls my personal feeling is if you take number 3 and number 4 and put them together that is 19 units. That is close to six hundred thousand, so that would be, to me I would say we do that as a way to save…it is a farm and development units get saved it is going right down the criteria. I also think like some of the other things that were raised, it may be a moot point by the time the negotiations go through. I do not know if we go to the Board and the Board contacts number 1 and they decide to negotiate and talk and that falls through and they contact number 2, they talk to them and that falls through. How much time will be left to come back to us? That would be my concern that we are pushing the window of the time frame. We need to talk about trying to come back after 1 and 2, is that something that the Board will be warm and fuzzy about?

Mr. Neuhard: That would be up to the Board, if they would come back to you or not once you provided…if that is your recommendation that they should come back after those two, we have reasons that ring true to them, then they will send it back and we are going to work as quickly as we can on doing this. Obviously all of this will be shared with the Board in terms on making a decision on how to proceed. To staff it does not matter, we are going to present all this information and certainly I would think that the properties you recommend will be consenting and if it breaks down and they need to come back to you, if you make that recommendation, I do not know whether they will or not but we certainly will not say no to it unless we were at the eleventh hour and we would say here it is for consideration.

Mr. Coen: So do we have a motion.

Ms. Kurpiel: I am sorry, I have one more. I also have an issue with the last property, Mr. Johnson. There is a question in my mind whether that property can be developed because it is on a private access easement. This is actually more complicated, I have to say that I would like it noted that at least one member has a question about whether that property is developable at all.

Ms. Clark: I do agree with that one.

Mr. Coen: Several of us have made mention of that, it is not just one member. I believe, correct me if I am wrong, when we first discussed it was said considering the ranking it is not one of our major issues that we are worrying about at this point because it was ranked so far down in the system it is not something that we have to deal with. Am I remembering that fairly accurately?

Mr. Lott: This issue was brought up at the time.

Mr. Coen: I remember you brought that up. You brought that up when you were showing the map and stuff.

Ms. Kurpiel: These would only be issues if we get down to that level, but I do see it as an issue when we get down to number 3 through 6.

Ms. Baker: But the property is eligible to subdivide. It is capable of a family subdivision which does not have the private road standards as a typical subdivision does. He could go out and give it to family members for them to build homes on. He could go ahead and subdivide it and build homes and keep it within the family for another fifteen years.

Ms. Kurpiel: Is that true even if he has to build another PAE?

Ms. Baker: He does not have to build…

Ms. Kurpiel: Yes he does, it ends and it is about this wide.

Mrs. Baker: He has access to the property.

Ms. Kurpiel: He has access to his property, but he would have to extend that PAE in order to accommodate any other lots.

Ms. Baker: The term we use, private access easement, deals with when you subdivide property that is not a family subdivision. Family subdivisions are exempt from any of the private access easement requirements. A family subdivision has less restrictions. You have a lesser width and you do not have a minimum number of lots. You can have as many lots as you want on this easement, the only thing they would need is permission, if there is any limited access through their deed, which I do not think we saw any of that. The easement itself would be extended across his own property. It is already extended to his property.

Ms. Kurpiel: To his property, I am aware of that.

Mrs. Baker: He would just be extending the easement across his own property to subdivide that further if he were to give it to his kids or spouse or family members such as grandchildren. So if he has that numbers of family members, he could go out and divide it as is on that existing private road. He would not have to make any improvements to the road, he would not have to do anything else other than extend the easement to the lots he created.

Ms. Kurpiel: And he can do that without any restrictions?

Ms. Baker: Yes.

Ms. Kurpiel: I am sorry, that is not the way I read the code, sorry.

Mr. Coen: Well again, it is near the bottom. Is there a motion?

Ms. Clark: I move that we recommend to the Board the Jerry Silver property as our number one choice to receive the PDR.

Mr. Coen: Is there a second? I will second then so at least we can discuss it. Any discussion? Do we want to add to the language of that?

Mr. Apicella: I will make an amendment that we recommend should that property not come to fruition that the Board considers, in descending order, the remaining properties.

Mr. Coen: That is a friendly amendment, are you conducive to that amendment?

Ms. Clark: Okay.

Mr. Coen: As the second, I am okay with that. Is there anything else that you would want to add about if it goes to number 3, to come back to us?

Ms. Kurpiel: I am not making any additions.

Mr. Coen: Okay. Alright the motion is that we recommend the Silver property for PDR to the Board of Supervisors and should that fall through the properties go through in descending order from there. Okay, any other discussion on that? Just for the record we will do a roll vote.

Mrs. Hamock: Okay. Tom Coen.

Mr. Coen: Yes.

Mrs. Hamock: Steven Apicella.

Mr. Apicella: Yes.

Mrs. Hamock: Marty McClevey.

Mr. McClevey: Yes.

Mrs. Hamock: Gail Clark.

Ms. Clark: Yes.

Mrs. Hamock: Rob Ritterbusch.

Mr. Ritterbusch: Yes.

Mrs. Hamock: Patricia Kurpiel.

Ms. Kurpiel: No.

Mrs. Hamock: That is a 5-1 vote.

Mr. Coen: Okay. Thank you.

Mrs. Hamock: You are welcome.

Mr. Coen: Okay, any new business not on the agenda?

4. Next Meeting

- August 25, 2009 Regular Meeting

Mr. Coen: Okay, our next regular scheduled meeting is for August 25th - I will throw it out to people - is there a feel for us to meet in August or to come back in September? Either way, I think our next order of business, if memory serves, we go before the Board of Supervisors on September 1st to present our recommendation and answer the information. I think our next main order of business is to start going back over and looking at the ranking, the applications etcetera and deal with all those idiosyncrasies and things that we need to perform, that to me is the next order of business unless somebody sees something else that they would like to…yes Marty.

Mr. McClevey: Tom, do we need to supplement our ranking to the Board with recommendations on the property? Do we need to write some sort of position paper just stating alternates? Did you ask for that Mike? You suggested that we send a ranking form.

Mr. Apicella: Should we have a discussion on that, if there is any need to do that or there is not a need to do that.

Mr. Neuhard: Well I think that you, first of all there will be a Board package prepared taking this to the Board. I would presume that the Committee would want to be there in case there are questions that are raised by the Board that you feel was in your purview to answer. I think there are recommendations that you have around this portion, specific to the purchase of development rights on these properties, now is the time to make it and you need to make sure your recommendations are heard.

Mr. Coen: So far we have got the possibility of getting more units; the number of units to be saved is certainly one item. And the fact that the State matching funds is dealing with farms and this is a farm property and will continue to be farmed. Are there other ones that we want to bring forward?

Mr. McClevey: Nothing comes to mind now, but I would suggest that each Committee member provide you Tom, the Chairmen, with our individual suggestions and that you represent this Committee to the Board rather than the whole Committee show up. We do not want to be in a position of us countering with each other either. I think it would be better represented if you represented us with our suggestions.

Mr. Neuhard: Are you intending to have a meeting on the 25th or not?

Mr. Coen: What is the feeling on that?

Mr. Apicella: Do we need to?

Mr. Neuhard: The only thing I would say, on the 25th we would have the Board package completed and if there are additional thoughts you would have about recommendations that would need to be included, that would be the meeting that you would determine. We do not want to just put random recommendation, we want them from the Committee and that would be your opportunity to finish that up. That would be the focus.

Mr. Coen: Most of the recommendations would be sent ahead of time so we would be cognizant of them. Yes, no maybe so, no meeting, yes meeting?

Ms. Kurpiel: Yes, I think we should meet. I think we should see what is being presented to the Board.

Mr. Coen: Okay, we will meet on the 25th. I think probably, unless somebody brings up something, that would be the main focus of that night. To just go over what is being presented to the Board the following week. What I would ask the Committee to do and I know staff is already making a list of things to be discussed in September. If you could send them, bring them on the 25th so we can share them with the staff and that way by the September meeting, I would envision that would take more than one meeting to go over and hash out.

Ms. Kurpiel: You told staff to produce a list back in February, so I would presume they have a list they could send to us and we could add to it.

Mr. Neuhard: We would not be able to get to that until after the 1st.

Mr. Apicella: At some point would it be worthwhile to go back to the six applicants and ask them based their experience, the material or if they have any thoughts, suggestions or recommendations to help us make this process better?

Mr. Coen: Any other business?

Ms. Kurpiel: I would just like to make a statement. I would just like to say I think both of the top two ranked properties are excellent properties and I do think the Silver property is an excellent property. My only objection, and the reason I did not vote yes is because I do not like some of the decisions that this Committee made. I think they were not entirely fair and somewhat arbitrary, but I think if we end up with the Silver property we will end up with a very good property.

Mr. Coen: I see Nan waving around in the back, so I will open the public comment.

Nan Rollison: I appreciate that Tom, thank you. I just wanted to thank, first of all, the PDR Committee and the staff for all your work on this program. It has been a phenomenal amount of work. I have not been here a lot, but I have been keeping tabs. All of this stuff gets sort of uncomfortable and splitting hairs and I really feel like you all have tried to do the very best and I appreciate that both as a person that supports agricultural and natural resources and as a taxpaying citizen. So with that said I just have a couple of points that I would really like to get into the record. Something that has always concerned me,

and I notate this as a point of education for maybe some of the Committee members that were not here in the beginning when we sort of started talking about the value of what we were trying to do in preserving land. I have always been a little uncomfortable of this issue of how much do we give to preserve farm land, how much to we give to preserve air and water. I think I personally feel like we are trying to choose children, all are in my mind are equally important. Before we need anything else we have got to have clean air, stable climate and clean water. Then we need food. If we do not have local food production we are going to be, I think we would be doing a disservice to our citizens. We have got some resources and one of them is an issue of oil depletion, what are we going to do for transportation and what not. Are we going to be able to ship food across the country like we do now and another was is, there were some points brought up about the value of land. Quite frankly, in my mind, in theory if you cut down three hundred acres of forest you basically reduced the amount that our county has of producing oxygen, absorbing carbon dioxide and protecting water sheds. That may seem like an intangible, innocuous little thing, but think of it this way. That is what climate change is all about right now. Climate change is basically the situation where we are putting stuff in the atmosphere and we are losing a very free negation opportunity. We could preserve forest and farms to an extent that is opportunities to stabilize the climate. When we lose those values, we are basically handing an invoice to the taxpayers of this county and saying, okay we have made a public decision and we want buildings on this structure. So therefore we are going to have to figure out another way to pay for the services that we just lost and that is what it is going to come down to and I think that is important going forward and trying to recommend to the Supervisors, why conserving land is important. It is not just about limiting development units, yes that is an important part of community growth patterns, but it is actually more important than growth. So enough of the soap box, but the other thing I am very concerned about…so anyway I would like to have you all look at the difference between how we are ranking agricultural value and how we are ranking environmental value. We have got fifty points and fifty points on A and B and then it drops down to thirty-two and thirty and thirteen for cultural. I know we had this discussion but, I would argue that we need to tighten up those two or three. Finally, I have a real problem with this decision of the Committee to change the wording on this ordinance on 22A-9A the restrictions on new dwellings. I think you all have significantly stepped beyond what is appropriate here in changing this language. It said no new dwellings may be constructed on a parcel except as provided hereafter, the deed of an easement may allow one new dwelling per one hundred acres. It does not say per ninety acres, it does not say per eighty acres, it says per one hundred acres. I believe that is the same language that you used in one of our ordinances for construction specifications for building. I think by changing it the way you have, a fraction or a portion thereof, if I were a land owner and I had based my application on reading this, I think we are opening up the County for a legal challenge. I think that also possibly jeopardizing the grant money, because as a state employee that is responsible for administering VDACS grant monies to have a County come back and change this amount of language after the PDR program has been offered publicly, I think is a serious breech. So I would just offer that. Again I think I agree that all of these properties were very good. I liked all of the properties, but I think in my mind both the Silver and the S. E. rose to the top very obviously and I think you all made a good decision. I just think what is most important to take away from this is that we try our best to convince the citizens and Supervisors that continuing this program shows the imagination of this counties leadership basically and understanding that we need to go forward and keep funding. Thank you very much.

Mr. Adams: Let me apologize for being late, we intended on being here on time, but we had a head on collision on Kellogg Mill Road and our car has been destroyed. So apologize for being late, but I have just one question based on what I interpret the motion to be with the descending order. Does that mean that somebody here will negotiate with us since we are in the third position now, so if 1 and 2 falls through, it could fall to us or based on what the Board said there is no need even us starting negotiations at the last minute if 1 and 2 fell out.

Ms. Kurpiel: You have run out of time is what you are saying?

Mr. Adams: Yes.

Mr. Coen: That was one of our concerns and staff said they were going try to deal with it in a timely fashion so it would not be.

Mr. Neuhard: We are going to the Board with everything, the recommendations and the discussion with. I would be very surprised if we are not in negotiations with multiple people at the same time. It is no different than if we are buying land, but we will expedite everything and if we can break off negotiations at any point to if we see things are not proceeding. That is just my initial feel; the Board may give us a different direction on that, they have before. What happened, everything that has happened here is advisory to the Board and so they will be making the final decisions although they will be weighing very heavily what they here from this Committee and from staff.

Mr. Coen: I just want to thank staff for all their work and thank the Committee for all their work. The process has been very open. People have been able to bring things to the table and people have been able to discuss them and in a respectful manner, which I think is very important. It is a learning process and I think that everybody that has come in here with an attitude of trying to do what is best for the County and follow the Ordinance the best way they know who and I really respect you for doing that and I thank you for all of your work. If there is no more I will take a motion to adjourn if there is no other discussion.

5. Adjournment

Mr. Ritterbusch: I move.

Mr. Coen: Thank you Rob. Is there a second to adjourn?

Mr. Apicella: Second.

Mr. Coen: Thank you, all those in favor of adjourning say aye.

Mr. Ritterbusch: Aye.

Ms. Kurpiel: Aye.

Ms. Clark: Aye.

Mr. McClevey: Aye.

Mr. Apicella: Aye.

Mr. Coen: Aye. Thank you very much.

With no further business to discuss, the meeting was adjourned at 9:32 p. m.