

**STAFFORD COUNTY  
PURCHASE OF DEVELOPMENT RIGHTS  
COMMITTEE MINUTES  
May 26, 2009**

The meeting of the Stafford County Purchase of Development Rights Committee for Tuesday, May 26, 2009, was called to order at 7:04 p.m. by Chairman Tom Coen in the A,B,C 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 and Knighting

Others Present: Rebecca Reed, Jeff Adams and Virginia Adams

1. Approval of Minutes

Mr. Coen stated the first item on the agenda was the approval of the minutes for February 24 and March 24, 2009. He asked if there were any comments, additions or deletions.

- February 24, 2009

Ms. Kurpiel stated on line 794 she made a request to put in the stimulus project associated with the trees and she thought it was actually a vote not to do that or at least there may have been consensus, that it just sort of stopped without coming to a conclusion. She stated if someone remembered if there was a vote we could put in a vote not to go forward with that or there was consensus not to go forward with that, either one would describe what happened.

Mr. Coen stated he thought it was a consensus.

- March 24, 2009

Ms. Kurpiel stated she would make a motion to approve the minutes with a notation that the Committee reached a consensus concerning the application of stimulus money on the February 24, 2009 minutes.

Mr. Ritterbush seconded.

The motion passed 6-0.

2. Unfinished Business

Mr. Coen stated the Committee would move on to the unfinished business.

- Ballot Initiative

Mr. Coen stated he felt rushed concerning the wording for the initiative.

Mr. Smith stated he did not see anything that immediately jumped out at him.

*Purchase of Development Rights  
Committee Minutes  
May 26, 2009*

Ms. Kurpiel stated she wanted to ask a question about the second one where we said it was partial compensation. She had a thought about that actually after she sent it out. The intent was that it be partial compensation and that the landowner use the tax credits if they wished and if they qualified, but in this market there was always the possibility that it might not be partial compensation, that it could turn out to be more than partial compensation. Maybe it would 100 percent compensation. She stated she wanted to ask everyone's opinion about that.

Ms. Clark asked if they kept it in as partial would that mean would there ever be an evaluation of it, an assessment.

Ms. Kurpiel stated yes, if the applicant decided to apply for tax credit they must get an appraisal. She stated it would be possible he could find out he was paid more than the value.

Ms. Clark asked if that would be after-the-fact.

Ms. Kurpiel stated yes it would be after-the-fact, but she understood that Bond Counsel would actually challenge every word that was written. She asked if that was correct, if they would know if that was the case or not.

Mr. Neuhard stated yes and you must be specific to a point to understand.

Ms. Kurpiel stated she thought it was desirable to tell the public that it was not our intent to pay full value of these easements.

Ms. Clark stated she liked the phrase to voluntarily agree not to develop their farms, woodland and natural areas and to maintain the property in perpetuity in there existing form. She stated the piece she did not like about it was the very last sentence, and unless they included working farmland she could never vote for that.

Mr. Apicella stated when she said develop their farms he did not know what she meant. He knew what a development meant but in terms of developing their farms he did not know what it meant.

Ms. Clark stated by development, did we mean to subdivide. She stated it should say "to voluntarily agree not to subdivide".

Mr. Apicella stated he thought there was something missing. He asked what the benefit would be should the average tax payer spend money to preserve land? They are going to preserve it because the benefit of preserving it is better.

Ms. Kurpiel stated and not subdivide.

Mr. Coen stated right now, we start off by saying we are not to develop that land.

Ms. Clark asked if we need more development?

Mr. Apicella stated he thought that was the underlying theme of this program to preserve land and protect development.

*Purchase of Development Rights  
Committee Minutes  
May 26, 2009*

Ms. Kurpiel asked if the committee would require an applicant to voluntarily agree not to develop?

Mr. Coen stated yes.

Mr. Apicella asked if we are going to pay them not to work their farm? He stated that is how I would read that. He stated there was a difference in developing a farm and development.

Ms. Clark stated it could say, "to keep it from development" or some phrase. She asked if "to prevent development" was the phrase he wanted.

Mr. Apicella stated yes.

Ms. Clark stated okay. She asked since it was all A-1 and A-2, could it ever be commercial?

Ms. Kurpiel stated no.

Ms. Clark asked if it could be stated to prevent residential development? She stated it would mean that we would not put a subdivision there.

Mr. Apicella stated yes.

Ms. Kurpiel stated they she felt the committee was more or less in agreement of what they wanted but was not able to capture it in words.

Mr. Ritterbusch stated since the bond meeting it should be the way it is.

Ms. Kurpiel asked be the way it is up there?

Mr. Ritterbusch stated yes.

Ms. Kurpiel stated keeping it short but meaningful was very difficult because there were a number of concepts that they would like to get across. She stated she did not know who would like to be in charge of getting this done. She asked the committee if this could be discussed by email?

Ms. Kurpiel stated we could discuss this by email.

Mr. Coen stated if we could effectively do that, that would be the question.

Ms. Kurpiel stated that someone would have to take the responsibility to find two or three alternatives.

Ms. Clark stated we could create a sub-committee.

Mr. Coen stated that would be a good idea.

The Committee and staff had further discussion concerning the ballot initiative and after several attempts to rewrite the initiative, Mr. Neuhard suggested the Committee allow staff time to work on the question and send it to the Committee members or have a sub-committee of two people to wordsmith and work with staff.

*Purchase of Development Rights  
Committee Minutes  
May 26, 2009*

Ms. Kurpiel stated we have to move on.

Mr. Coen stated okay, we have to pick one of these and form a committee.

Mr. Apicella stated we still need to get together as a group to vote on it and we cannot vote by email.

Ms. Kurpiel stated we cannot vote by email.

Mr. Coen stated he would appoint Ms. Kurpiel and Ms. Clark as a sub-committee to work with staff and report back at the June meeting.

3. New Business

Mr. Coen stated the Committee would move on to new business, and asked Mrs. Baker for an update.

- Pilot Program Applications Review

Mrs. Baker stated she would review the applications in alphabetical order and would not be going over the rankings.

Mr. Neuhard stated staff would send the rankings to the Committee before the next meeting so they could be discussed at that time.

Mr. Coen asked if staff could send that information with the agenda to allow the Committee time to review.

Mr. Neuhard stated each member had a package in front of them and could follow along with the PowerPoint presentation.

Mrs. Baker stated in the package in front of you, the first two pages were a summary of the key points of the application and the sub-headings follow along the criteria. She stated the attachments were the application, the plat of the property, the deed, an aerial photograph of the property, the soils map and environmental features and cultural resource maps. She stated the first application was for the Adams Property and the primary use was a working farm, primarily raising livestock which includes American Milking Devon Cattle, Milking Oxen, Chickens, Tamworth pigs and Hog Island Sheep which are an endangered heritage species. She stated there were several structures on the property which include a 2-story residence, a stable, a storage shed, a hay storage barn and a hoop barn. She stated the property has 1,200 feet of frontage on Kellogg Mill Road and showed photographs of the property.

Mr. Lott gave a brief analysis of the soils on the property and stated 72 percent of the soils were identified as either well- or moderately well- drained. He stated under environmental quality, the property has not been given an Ecological Core score and approximately 31 percent of the parcel contains upland forest. He stated the property was within 1 mile of a Landscape Corridor and a perennial stream crossed the northern portion of the property.

Mrs. Baker stated there is a conservation easement in proximity to this property.

*Purchase of Development Rights  
Committee Minutes  
May 26, 2009*

Mr. Lott stated for Cultural Resource, the property was the location of an earlier farm home and was identified as DHR identification #089-0088 and adjacent to the existing home was the Blackburn Cemetery and there was a potential of a slave cemetery on the property.

Mrs. Baker stated another note was the deed restricts further subdivision of the property except for family subdivisions; however, the restriction would not apply if the property was sold. She stated she would be happy to answer any questions.

Ms. Kurpiel asked if the deed restriction regarding the family subdivision was in the current deed.

Mr. Smith stated the restriction applies specifically to the current owner.

Ms. Kurpiel asked if a family LLC was recorded in the land records? She stated it was her understanding those were vehicles to address the tax issues associated with the property and she would not think it would be recorded in land records. She asked if that would have any kind of impact on the Committee and stated she was concerned if the Family LLC was not recorded, would that get underneath the need for title insurance.

Mrs. Baker stated the deed received has been recorded.

Ms. Kurpiel stated there was a disclosure from the applicant which stated "we are now in the process of setting up the property as part of a family LLC", so her question was about the family limited partnership. She stated in her opinion it was a legal question.

Mr. Smith stated he did not see how that would effect the application.

Ms. Kurpiel stated in her opinion family limited partnerships are to cover future tax issues. She stated she did not know why this one was set up. She stated she did not think they were recorded in the land records because it was a private document. She asked if the document was recorded after the easement, what was the potential impact? She stated we did not know who was listed in the family LLC and asked if those family members knew this was being done. She stated years down the road we do not want family members showing up with the document and make some type of claim that would challenge the conservation easement.

Mr. Smith stated the agreement travels with the property.

Mr. Coen asked if there were any other questions.

Ms. Kurpiel asked if there was a mortgage on the property. She asked what page the mortgage question was on in the questionnaire.

Ms. Clark stated page 4 stated there was a mortgage.

Ms. Kurpiel asked about the junk yard and tanks either above ground or underground and suggested that may be a question we would want to ask the landowners.

Mr. Coen stated that would be something to bring up when the application is revisited.

*Purchase of Development Rights  
Committee Minutes  
May 26, 2009*

Mrs. Baker stated the second application was for the Druiett property. She stated the applicant was proposing a conservation easement on a 25-acre portion of the overall 64-acre property, and the primary use of the 25-acre portion of the property was hay pasture. She stated the remainder of the property, outside the limits of the proposed easement, contains a dwelling currently occupied by the property owners, a farm building and a shed. She stated the remainder of her report would refer to the 25-acre portion that would be subject to the conservation easement. She stated there were currently no structures on the 25-acre portion and the property had approximately 780 feet of frontage on Shackelford Well Road and 180 feet of frontage on Poplar Road and showed photographs of the property

Ms. Clark asked if the applicant would want 1 building lot on the 25-acre parcel.

Mrs. Baker stated the applicant agreed there would be no additional building sites on the easement property.

Mr. Lott stated in the report, at the bottom of page 5, the owner stated there would be no further restrictions.

Mrs. Baker stated if this property was chosen, that would be part of the discussion.

Mr. Lott stated there were no hydric soils within the 25-acre parcel and approximately 97 percent of the soils are identified as either well- or moderately well- drained. He stated the property was within 1 mile of a landscape corridor and there were no known cultural resources.

Ms. Kurpiel asked if the property had any liens.

Mrs. Baker stated there was a mortgage on the house and 10 acres.

Mr. McClevey asked if there was a cell tower on the property.

Mrs. Baker stated no, the tower was on another property. She stated the third application was for the Johnson property. She stated the primary use of the property was a hayfield and there were two existing structures on the site, which include a 1-story residence and a barn. She stated the property was served by a private access easement, Homers Lane, off of Hollywood Farm Road. She stated Homers Lane serves several other properties and showed photographs of the property.

Mr. Lott stated approximately 84 percent of the soils are identified as either well- or moderately well-drained. He stated the property was greater than a mile from any other perpetual conservation easements and was within close proximity to 13 to 18 other dwelling units. He stated approximately 35 percent of the property contained upland forest and the property was located within one mile of the extensive wetland system located along Muddy Creek. A perennial tributary of Muddy Creek crossed the northern portion of the property. The property is not in proximity of or associated with any known cultural resources.

Mrs. Baker stated the landowner would have to construct a state road to further subdivide the property.

Ms. Kurpiel asked if the property was sub-dividable.

*Purchase of Development Rights  
Committee Minutes  
May 26, 2009*

Mrs. Baker explained the regulations concerning a private access easement and the property owner would have to do certain things to make that happen and currently construction of a state maintained road was required in order to subdivide the property. She stated the property could currently be subdivided as a family subdivision of 6 lots.

Ms. Kurpiel stated she had questions concerning the deed of trust and when walking the property she noticed some dumping on the property.

Mrs. Baker stated the deed had been addressed.

Mr. Smith stated the Committee could tell the landowner to mitigate the dump site, if the application was chosen.

Mrs. Baker stated the next application was for S. E. Estates LLC. She stated a preliminary subdivision plan had been submitted and approved by the County and construction plans have been approved for the area proposed for conservation easement. In addition, final subdivision plats have been submitted for review. She stated the overall property was 375 acres and currently there was no active use on the property and it appears that the property may have been farmed in the past. Farm fields are becoming overgrown, and structures are abandoned and the majority of the overall 375 acres was wooded. She stated because this would exceed the available funding for the PDR program, staff reviewed the total acreage, as well as a 58-acre portion in which the applicant indicated he would be interested in placing an easement. She stated that area was referred to as Section 3C, as proposed with the final subdivision plat. She stated currently located on the Section 3C property there were 3 existing structures, including a vacant house, shed and barn. She stated the overall property had 4,800 feet of frontage on Richards Ferry Road and Section 3C had approximately 1,200 feet of frontage and showed photographs of the property.

Mr. Lott stated approximately 70 percent of the soils in Section 3C were identified as either well- or moderately well- drained. He stated there were between 13 and 18 dwelling units located within a half mile of Section 3C and it was contiguous with other perpetual conservation easements, specifically a Virginia Outdoors Foundation open space conservation easement. He stated approximately 52 percent of the Section 3C property contained upland forest while approximately 90 percent of the overall parcel was upland forest. A natural heritage resource, specifically habitat for rare or sensitive species, was located within the overall parcel and was within one half mile of Section 3C. He stated the stream located below the pond becomes perennial within Section 3C and there were several other perennial streams located within the overall parcel. He stated a portion of Section 3C property has been identified as C-1, Outstanding Conservation Significance within the Ecological Cores portion of the Virginia Conservation Land Needs Assessment (VCLNA) Model. A Phase I cultural resources survey was conducted on the property in 2006, which identified avoidance or further evaluation of 4 sites. He stated those sites include 2 gold mines, a camp, and a home site with an associated cemetery and these four sites were identified as potentially eligible for the National Register of Historic Places.

Ms. Clark asked if the parcel had been approved for a subdivision.

Mrs. Baker stated the applicant submitted the application but decided to pursue the PDR Program and the subdivision has not been recorded. She stated there was a 50 foot gas easement on the property and the property was not actively being farmed.

*Purchase of Development Rights  
Committee Minutes  
May 26, 2009*

There was a brief discussion between the Commission and staff concerning the topography of the property and the possibility of the landowner crossing the perennial stream with a road.

Mrs. Baker stated the next application was for Silver property and the primary use was cropland and timber. She stated currently, the majority of fields were planted with corn and there were no existing structures on site. She stated the property had 1,800 feet of frontage on Belle Plains Road and there was a private driveway serving the adjacent property on the western edge of the property and showed photographs of the property.

Mr. Lott stated approximately 86 percent of the soils were identified as either well- or moderately well-drained and the property was within a quarter mile proximity to a perpetual conservation easement located on the proposed Wood Landing subdivision. The easement was a condition of a wetland permit written by the Virginia Department of Environmental Quality. He stated the property was in proximity to 13 to 18 dwelling units and approximately 68 percent of the property contained upland forest. He stated the property was contiguous to a Landscape Corridor identified in the VCLNA Model and was also contiguous to a large forested wetland associated with the perennial stream located on the eastern side of the property. He stated the property was not in the proximity of or associated with any known cultural resources.

Mrs. Baker stated the property owner wanted to retain one future dwelling site on the property.

Ms. Kurpiel asked about the slopes on the property.

Mr. Lott stated 10 to 15 acres did have slopes greater than 25 percent, but those were deducted.

Mr. Apicella asked how much land the landowner was proposing to put in the easement.

Mrs. Baker stated all of the land and reserve 1 future dwelling site.

Mr. McClevey asked how many development units there were.

Mr. Neuhard stated staff would give that information to the Commission for all the properties at a later date.

Mrs. Baker stated the last application was for the Wilson property. She stated the primary use of the property was the raising of cattle and a hayfield. She stated there were two existing structures on site, a cattle barn and an equipment shed and the property had approximately 165 feet of frontage on Brooke Road and approximately 735 feet of frontage Marlborough Point Road. She also showed photographs of the property.

Mr. Lott stated approximately 32 percent of the soils were identified as either well- or moderately well-drained and the property was within a mile of other conservation easements, specifically an easement for protection of a historic resource in Poplar Hills subdivision. He stated the property was also in close proximity to 13 to 18 dwelling units. A portion of the property had been identified as C-2, Very High Conservation Significance within the Ecological Cores portion of the Virginia Conservation Land Needs Assessment Model and less than 20 percent of the property contained upland forest. He stated the property was contiguous to the Crows Nest Natural Area Preserve and contained tidal wetlands

*Purchase of Development Rights  
Committee Minutes  
May 26, 2009*

associated with Accokeek Creek. He stated Historic sites associated with the Civil War are located north of the property while Crows Nest was located to the south and west.

Mrs. Baker stated the property does contain an access easement which serves a lot located southwest of the property and the landowner wants to retain one future dwelling site on the property.

Mr. Neuhard stated staff will provide the calculation of number of development units and at the next meeting staff will review of the scoring. He stated that meeting will be opened with questions and he would suggest that the Committee wait until the following meeting to make any decisions.

Mr. Lott stated the Adams property was 11 lots. The Druiett property was 8 lots. The Johnson property was 6 lots. He stated S. E. Estates was 15 lots and the Silver property was 22 lots. He stated the Wilson property was calculated differently because it was zoned A-2, and that was 8 one acre lots.

Ms. Kurpiel stated staff did a great job.

4. Next Meeting

- June 23, 2009 Regular Meeting

Mr. Coen stated the next meeting was scheduled for June 23, 2009. The Committee had a brief discussion concerning vacation schedules and the dates for the July and August meetings.

Mr. Neuhard stated the Board of Supervisors and the Planning Commission would be on their summer schedule in July and August. He stated they would hold the first meeting in July and the last meeting in August. He stated this Committee did not have to meet in July.

After a brief discussion the Committee decided it would not have a meeting in July and the August meeting would be held August 3, 2009. That would allow time for the sub-committee and staff to meet concerning the bond initiative.

Mr. Coen stated since some members of the public were present he would like to allow them time to speak.

Mr. Adams stated that Albemarle County was auditing the taxpayers that have their property "in land use" for potential abuse. He stated that if Stafford did the same, perhaps land that was not in production would go into production and that would benefit operators that could farm more land.

Ms. Reed stated she thought the information presented tonight was good information and suggested the Committee show on the ballot that land was being kept from being developed.

5. Adjournment

With no further business to discuss the meeting was adjourned at 9:34 pm.