

STAFFORD COUNTY
PURCHASE OF DEVELOPMENT RIGHTS
COMMITTEE MINUTES
April 28, 2009

The meeting of the Stafford County Purchase of Development Rights Committee for Tuesday, April 28, 2009, was called to order at 7:07 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:

Staff Present: Baker, Smith, Stinnette, Schultis, Keyes and Lott

1. Call to Order
2. Approval of Minutes – October 28, 2008 and December 9, 2008

Mr. Coen asked if there were any additions, deletions, alterations of October 28 or December 9.

Ms. Kurpiel moved to approve the minutes.

Mr. McClevey seconded.

With a vote of 6-0, Mr. Coen stated the motion to approve passed.

Mrs. Baker stated they hoped to be totally caught up on minutes by the next meeting.

3. Staff Update
 - Pilot Program update

Mrs. Baker stated they had received a total of five applications with a total acreage of 580 and one application was for 375 acres. She stated staff was completing their evaluations and would be going to visit the sites over the next couple of weeks and take photographs to document what was on the property and would be getting that information together. She stated Thursday was the final deadline and would give a final update on Friday on the number of applications if anymore were received between now and then.

Ms. Kurpiel stated she would like to make the visits with staff if there was no problem with that.

Mrs. Baker stated she would defer to the attorney on that. She stated she was not sure how staff would be handling the information, because she did not know if they would be disclosing the locations or what they would be doing when they present this information back to the Committee. She stated staff would discuss that further and let Ms. Kurpiel know. Staff had discussions about how they would proceed with submitting and bringing the information to the Committee and to the Board of Supervisors as well. She stated she would get back on that. She asked if there was anything else on the applications.

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Ms. Clark asked if folks felt like they had a hard time with the applications and if staff received any verbal comments.

Mrs. Baker stated she had not had a lot of feedback since the initial questions. People were not sure if they were going to apply or not. The applications had just been coming in by mail.

- Virginia Association of Counties presentation on Transfer of Development Rights

Mrs. Baker stated with regard to the presentation on transfer of development rights, she wanted to let the Committee know that Ted McCormack from Virginia Association of Counties (VACO) was coming to the Board meeting on May 5 and would be giving a presentation in the afternoon, including the current legislation that had been passed and an overview of how the Transfer of Development Rights (TDR) Program worked and what Counties needed to do. She stated it would also be broadcast on the Boards' afternoon session at 1:00 on May 5. She stated she also wanted to let everyone know, it was not on the agenda, for those that were interested there was a Virginia United Land Trust Conference being held at Wintergreen Resort June 10 through 12. She stated the Committee could check the website to see what was being presented. The PDR Managers Meeting was supposed to actually be held on that Friday at the conference and you would not have to actually pay the conference to attend that. She stated she was not certain if she would be able to make that but if anyone else went she would get an update and let the Committee know. She asked if anyone had questions.

4. Unfinished Business

- Easement form - eminent domain

Mr. Smith stated as everyone had already seen, the VOF revised their Deed of Easement and so he incorporated the changes into the current revised Deed of Easement that we had. He stated he would look for some feedback from the Committee how they felt about the substantial changes. The minor changes he went ahead and made on his own and did not note those but if there was anything of real substance he tried to note it for them so that way they could give him some feedback on what they thought. He stated he found it recently and did not know if they had an opportunity to go through it as thoroughly as they would have liked. He knew there was a lot there to digest.

Ms. Clark stated she had a question that she was not sure if it was part of the revision or not. On pages 8 and 9 they talked about the percent of surface area of the property to be covered with roads and buildings and on page 8, number 3, it said 10 percent and on page 9, number IV, it said 1 percent.

Mr. Smith stated number 3 on page 8 was what they had in the current revised Deed and IV was part of the revisions that the VOF apparently adopted in early February of this year.

Ms. Clark stated that was a big discrepancy.

Mr. Smith stated he thought some of the changes were significant.

Mr. Coen asked Mr. Smith to run over some of the ones that he felt were significant. He stated Mr. Apicella said there was one about dwellings that he felt he was not sure they should have in there.

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Mr. Smith stated they revised the dwelling language and that was why he put in the entire language because he changed it a bit. He did not want to try to summarize it and miss something and he wanted to bring that to the Committee's attention.

Mrs. Baker stated just for their information, with regard to the dwellings, she had been having some meetings with VOF on some proposed conservation easements in the county that they were looking to obtaining and in all the Deeds she had seen all of this language almost word for word. Part of their reasoning for doing that was because there had been some question on some of their easements on specifically what is and what is not allowed out there. The VOF was really trying to pin it down so the people would not try to get around it.

Ms. Kurpiel stated so there would be no misunderstandings. She thought unless we had a problem with the language that she thought we should follow their advice. The VOF had the experience and they were the biggest easement holder in the country and so she thought that they knew what could happen and it probably had happened to them and so that was why the language was proposed.

Mr. Ritterbusch asked what percent of 100 acres is what acres, that was 44,000 square feet and that was a huge amount of space.

Ms. Clark stated for 50 acres it was much less, then you would be down to .5 acres. She stated she did not know that she would agree with that 1 percent.

Ms. Kurpiel stated the reason VOF may have been using 1 percent could be because they generally did not accept easements that were less than 100 acres. She stated that might have been a good standard for their 100 acres.

Mr. Coen stated that was a good point.

Ms. Clark stated she was just thinking of all the little outbuildings here and there that a lot of these older farmsteads had. On the smaller parcels she thought that might have been a problem.

Ms. Kurpiel asked what they thought would be reasonable. She asked if they could they just add up a house, a barn, a road, add up all those features and come up with a number of square feet.

Mrs. Baker asked if they wanted to be restrictive or did they want to do it case by case. The VOF was following certain guidelines just because it was statewide and whether they were averaging what they had gotten or what, but we may want to leave it open ended.

Ms. Kurpiel stated and just fill in the blank with the circumstance that is presented to us and if it seemed excessive we could address it in the yea or nay column. She stated she was just throwing that out.

Ms. Clark stated she was thinking in terms of a small place that had an equine establishment. You could have a covered riding range with a couple lines of stalls and then have a fairly decent sized hay barn and machine shed on 30 acres and you probably would go over the 1 percent, and your house and a garage.

Mr. Keyes stated there were a couple examples of a riding range that were very large.

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Ms. Clark stated maybe you would not want them but she was just saying she could see several instances where it could go over.

Mr. Ritterbusch stated when you get to the point where you were negotiating this reasonable, that was the point where you would sit down and say how many acres did you have and what was a reasonable amount of square footage.

Ms. Kurpiel stated in other words we could leave it blank which would be a fill-in for the person. Page 8 had 10 percent and page 9 had 1 percent. She stated "shall not exceed _____ to be negotiated". And then it would be looked at as the function of the property that was being considered and the acreage that was coming forward. She stated 10 percent on the other page also made a statement that we might not like either. It seemed like a lot to her.

Ms. Clark stated she agreed.

Ms. Kurpiel stated she thought they should have a blank and to be negotiated on page 8 and 9. That would be her suggestion and asked staff if they saw any downside to that.

Mrs. Baker stated it depended on if she wanted to use this template for guidance or not. She stated if you were just leaving this open they may come in with some crazy ideas.

Ms. Kurpiel stated you would ask them, what do you have now, and what would you be thinking of having. She thought it did the right thing by being there because it would have the owner think about these things, about what he might want and disclose to us what he might want so there would not be any surprises down the road.

Ms. Clark stated greenhouses were another issue.

Mr. Coen stated he thought it was up front which was good and would make people think. If it was a certain percentage, someone might be turned off where if it was a blank we were not alienating the process.

Ms. Kurpiel stated you could tell them what we were thinking.

Mr. Ritterbusch stated on page 9 you left in there the ability to negotiate.

Mr. Smith stated he did not think legally it had an affect in how they would go about trying to get their benefits potentially.

Mrs. Baker asked if we were leaving in the reference to VOF where it had the one part "see VOF guidelines" or were we taking that out.

Mr. Smith stated he tried to catch it where he would see it and he thought they could take it out.

Ms. Kurpiel stated we did not want them running to VOF to negotiate their contract with us.

Mrs. Baker stated she did notice in that one where it said "general maximum two dwellings per parcel". She stated ours were not per parcel but per acreage in the way that our ordinance read.

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Mr. Lott stated it shall not exceed one percent. In negotiations we could calculate what percentage they had and then set that at whatever you thought it was based on their existing conditions.

Ms. Kurpiel stated she thought we wanted to ask them what else they might want to add in the future.

Mr. Lott stated there may be some that were already over one percent. He asked if we wanted a limit.

Ms. Kurpiel stated yes we do want a limit.

Mr. Coen asked if everyone was all right on that one.

Mr. Smith stated on page 9 where it discussed protecting the scenic value and limiting how close it was to the state route, limiting the square footage in regard to the scenic value.

Ms. Kurpiel stated she thought that would have to be a judgment call by staff after they make a visit. First of all, there might not be a scenic value. But where these potential improvements were going to go was a big issue for us in her view because we wanted them in the least obtrusive place that would do the least damage to our open space. She asked if they saw what she was saying.

Mr. McClevey stated we could add a section as a no-build zone sketch that would be attached to the deed or something.

Ms. Kurpiel asked if that was in there, that she did not see that.

Mr. McClevey stated add "or above the contour elevation or within the designated no-build area shown on the sketch attached hereto as Exhibit". He stated if we wanted to restrict where it went or something like that, we could negotiate and make that sketch and put it in there. He stated he agreed with the scenic easement because we were preserving the open space.

Ms. Kurpiel asked if the scenic easement should be considered on the site visit.

Mrs. Baker stated we would not know at the time of the site visit whether they would want to construct something new or not.

Ms. Kurpiel stated you would have photographs of what it would look like and she thought we would want a sketch of what they were thinking of doing.

Mrs. Baker stated we talked about a sketch previously back under buildings, structures, roads, and utilities, where they talked about the location "one dwelling unit per one hundred acres shall be identified on a plat". She stated we have already asked them if they were having additional dwellings and whether it was on the existing plat but it would be drawn in conceptually as to where it was going to go. She stated the only problem with the plats was they did not have contours on them so we would have to make an assessment based on the site, the contour elevation, where the other locations were and everything else. She stated not every survey was going to have the structures, they would only have the boundary. She stated if they had to do this anyway and we had already indicated we wanted to know where any new buildings were going to go anyway so we could tie that into this section as well.

Ms. Kurpiel asked if this was onerous.

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Mrs. Baker stated it might be onerous. She stated if we were already requiring a plat of some kind to show the building location we just might need to be a little more accurate as to where that building location is. She stated it would take some determining based on the lay of the land and what was out there but we were not going to know that on our first visit to the property. She stated but it could be done.

Ms. Kurpiel asked if she thought it should be done.

Mrs. Baker stated to her it was going to be a case by case situation. If you had 100 acres did we really care if it was going to the back, did we really care where in the back it was going.

Ms. Kurpiel stated she did because if we were going to have a road 3 miles long she cared.

Mrs. Baker stated that is what she was saying and she thought it was a case by case situation. She did not think that just by saying that we were in an area just off the top of her head, what was a good location on any of these until we actually go up to the site, look at all of the associated features on the site, RPAs, streams, where you have got trees that were going to help shield it. She stated it would take some doing but we could do it and if that was something that you all wanted to consider than leave it in there.

Ms. Kurpiel asked if she thought there was a downside to doing it.

Mrs. Baker stated personally no.

Ms. Kurpiel stated she did not either, she thought there was an upside to doing it.

Mrs. Baker stated she was telling you up front when we present this information to you we may not know that until we would get into negotiations with the property owner. She stated it may be down the road that we were going to have any of that spelled out.

Mr. McClevey stated he thought Gail had a concern about this. He stated he thought it could be a distinction between active farming operations. In an active farm farmers did have the tendency of putting up silos, barns and storage facilities, so he thought there had to be enough language in it that a farmer could come back and have some sort of leeway in negotiating an improvement to his operation.

Ms. Clark stated because in perpetuity how would you know what somebody would want 200 years from now. She stated there was some language in there about actively farmed parcels she thought.

Mr. McClevey asked Ms. Clark if that helped.

Ms. Clark stated yes.

Mr. McClevey stated he thought there was a distinction. He stated yes we wanted to work with the farmer to determine we wanted the buildings going in the future but we also wanted to leave it open to the farmers to be able to tear down a structure. He stated if they had the language in it that we could sit down and they could come back to the table with the county and say here is what I would like to do.

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Mrs. Baker stated this was going to be a judgment call as to what was the scenic value of the property. To her a big red old barn was part of the scenic value of the property. Was somebody going to reconstruct or move an old barn onto a property to store the tractors or equipment.

Ms. Clark stated if they tried to build a big chicken house then they would have a problem. She was thinking 100 years down the line, could whoever the owner was come and negotiate with staff and say they would like to change this. She stated she was beginning to think this was not good for farmers.

Mr. Ritterbusch stated what he did not see in there was a lot of farmers that actively harvest their wood for lumber and he did not think we addressed that.

Ms. Kurpiel stated it was addressed in a later section where it talked about the BMPs and she thought that was on page 12.

Mr. Ritterbusch stated he did not see in there as far as they talk about a pre-harvest up to 10 acres and he thought a lot of these guys did more than 10 acres at a time. He stated you were precluding someone who may have a lot of acreage they planted trees in and would harvest 50 years down the road.

Ms. Kurpiel stated this said it was for his pre-harvest plan. She stated it said “without limiting the foregoing requirement regarding submission of pre-harvest plans, Grantee shall be notified 30 days prior to the clearing of over 10 acres...”.

Mr. Ritterbusch stated for conversion into grassland or crop land or construction, not harvesting trees.

Ms. Kurpiel asked if they should be able to clear more.

Mr. Ritterbusch stated you were saying you wanted to have everybody able to try to apply for this program. He stated if someone put in 50 acres of trees, planted them 10 years ago, and he wanted to harvest it for his grandchildren’s education down the road then he would not apply for this program because this specifically does not say he is allowed to do it is how he read it.

Ms. Kurpiel stated that if you liked this paragraph that 10 acres was probably too large because we were talking about acquiring only 20 acre parcels. So this basically said you could clear the woods off of half.

Ms. Clark stated it said “all material timber harvest activities on the Property shall be guided by a Forest Stewardship Management Plan...” so they could harvest it, they would just have to have the Plan and asked if that was right.

Ms. Kurpiel stated that was the way she read it.

Ms. Clark stated she did not know how hard it was to get a plan.

Ms. Kurpiel stated she thought it was pretty easy to get a plan, you would just call the Virginia Department of Forestry and they would come out and help you write a plan.

Mr. Lott stated he thought it was pretty easy to do timbering but he did not know about the plan.

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Ms. Kurpiel stated she thought the plan just had to do with the season of the year that you bring in those things that you drag around, skids. She did not think they let you bring in skids, for example, in the rainy season because of the erosion potential that that causes and the other thing was they did not allow you to remove stumps. She stated that was part of what kept the land in tact but she would not think any landowner would want to remove stumps anyway because that had to cost about two or three times more than leaving them.

Mr. Lott stated with the Department of Forestry, once you started ripping stumps out of the ground it was no longer forestry activity.

Mr. Coen asked if they could go back to 9 so we could clarify where we were. He asked if we wanted to keep 4 and 3 and the scenic value or did we want to take it out.

Mrs. Baker stated we could keep all of this in as a template and things could be removed as you came to each individual property if they did not feel that it was appropriate or if we did not feel it was appropriate.

Ms. Kurpiel stated or if there was some reason why it should not be there.

Ms. Clark stated you did say at the beginning it was a template.

Mr. Apicella stated he thought the only thing was that when they see this it established some kind of expectation so if it was there, and then the county would come in and take it out, it might have a chilling affect on that particular landowner plus future landowners.

Mr. Coen stated if it was a template, in staff's mindset it was negotiable in that it was in there for a reason so we can not touch it. He stated a lot of it sounded like that discussion about that part was repetitive for stuff that was already in there and to be subjective about the scenic value so to him if it was already being covered by what we were discussing on something else he felt it would not need to be in there. He stated he would feel bad if down the road somebody would say well it was in here and it had to stay in here and if they did not want it out they would not have taken it out.

Ms. Kurpiel asked if we had any criteria for scenic value. She stated she thought there was some criteria in the ranking.

Mr. Coen stated he did not remember. He asked if there was anything else on the 8 and 9 business.

Mr. Apicella stated he wondered whether it was even appropriate to suggest, even in a template, that dwellings within a protected area were permissible. He stated if the whole purpose of this program was to save land, presumably the person has X number of acres. He stated that kind of went against the whole program and in his view, if he tried to sell this to somebody, their view might be what a great deal for this person, they get to have this land protected and I get to put a house somewhere on that protected property at taxpayers expense. He stated he just thought it was counter-productive to what they were trying to achieve here. He stated it only raised his attention when he saw the VOF changes and he was not sure what the pros and cons were of amending the document. He stated some of them seemed pretty good but some of them he was not quite sure what the benefit was at this point in the process.

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Mrs. Baker stated the only other thing she would add was that VOF dedicated people did this for a living, they would go out and do calculations on every property. She stated they go out and they monitor properties every year.

Mr. Apicella stated but their goal was to, he thought it was a little bit different from our goal, their goal was to create conservation easements with whatever money they had. Our goal was to do a Purchase of Development Rights program for the purposes of potentially limiting growth. He would rather set up the expectation from the get-go that unless it was a building or structure that was going to be beneficial for the purposes of land why were we allowing it.

Mr. Coen asked if it was really just the 2-A that he was concerned about.

Mr. Apicella stated yes.

Ms. Kurpiel stated she heard something tonight that she found troubling. She had been suffering under the delusion that these were small parcels that they were dealing with and that theoretically some of them would have one house on them. Tonight she heard that the owners were reserving a place for another house on these small parcels and that was like development. In other words, they were saying if there were ten development rights on the parcel, they would want to reserve twenty percent, the house that was already there plus another house.

Mrs. Baker stated the way they presented that to the public was that if they had one structure on there already, if they planned to reserve another structure then they would need to exclude that from the easement area. So that if they had 100 acres and they already had one house on that, if they wanted to save another building lot for a family member then they would only put an easement on 97 acres.

Mr. Apicella stated he thought they were saying the same thing. He stated in their minds it would allow them to put another unit on the protected area. They would have the area that was not protected that they owned that they were going to keep and the area that was protected and the way he read this language was it was somehow implying, if not allowing, for them to put a house on the protected area. His view was that if they wanted another house, just as you said, they should not include it.

Ms. Kurpiel stated they should subdivide three acres off. It should be covered. The only way you could really protect that would be if they did a subdivision and take those three acres or ten acres or however many acres it is off.

Mr. Apicella stated that part may be tough and it would come at a cost.

Ms. Kurpiel asked to draw a line and record it at the courthouse.

Mr. Apicella stated yes, if there was some way they could expedite that process.

Mr. Smith stated it would have to be accepted by the County to be a subdivision.

Ms. Kurpiel asked somebody could not cut off a lot without coming to you.

Mr. Smith stated no, to be a true subdivision. You could carve off your own little portion, record it and say it was a subdivision but it would have to be accepted by the County.

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Mr. Schultis stated if they were going to put on an additional unit every unit would have to be in a lot.

Ms. Kurpiel stated she was not talking about doing it now. She stated you were telling her that if she owned ten acres and wanted to cut off three acres, she could not do that without coming to you.

Mrs. Baker stated not at all.

Mr. Apicella stated but you could say within a twenty acre parcel I have a house and I am only going to ease, that was probably not the right word, ten acres, the future subdivision could happen down the road. You would still have your lot just at that point in time you would not go through the process of subdividing the ten acres that you kept so that you could put another unit or two on it.

Mrs. Baker stated if we were recording a conservation easement over the property, we would need to know the area that that conservation easement was going. If you were leaving out a three acre or ten acre piece, that would need to be known now so that that could be excluded from the recording.

Mr. Apicella stated he thought that was a requirement anyhow. You were going to have to map out what you were going to keep versus what the parcel was going to be physically.

Mr. Smith stated what Kathy was just saying he thought in this case you would have to be especially clear because it was not the whole parcel.

Mr. Ritterbusch stated we were talking about dwellings on property and on page 8 it talked about underground dwellings. He asked if you were going to allow underground homes as long as they were built in caves. People build homes in caves too. He did not think you ought to have this for just above-ground dwellings.

Mr. Apicella stated he did not think we should have it at all. That was his point.

Mr. Coen stated he leaned towards taking out the (a) part. We were okay with the (b) and the (c). He asked if it was something that you think you needed to, before we scratched it out completely, to figure out the parameters of it and get back to us or is that something we could say we did not like it and we wanted to kill it.

Mr. Smith stated if he understood you correctly, you were saying if you have an existing dwelling on the property, that was fine. You could put the conservation easement over the property, including an existing dwelling unit, but you could not have any future dwelling units. He asked if the Committee was you saying you had an existing dwelling unit, you would have to carve that out as well.

Mr. Apicella asked if you would carve that out, would it not be to your advantage because you were putting restrictions on your piece of the property. If he had twenty acres, why would he not want to have his own set of requirements on his three acres versus the other.

Ms. Clark stated it looked to her like you were pretty lenient about what you did to your own dwelling. She asked if you could actually even tear down the house and replace it with another house as long as it was already there. It did not look like it was too restrictive.

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Mr. Apicella stated he thought for the calculation purposes you ought to exclude whatever the normal requirements were for your unit. If your house was on what would normally be required to be a three acre lot, that area should be excluded from the calculations.

Ms. Kurpiel asked from the calculation of development rights.

Mr. Apicella stated right.

Ms. Kurpiel stated in other words, if there were twenty acres and your house was on three and there were no other constraints, it would be twenty minus three which would leave seventeen.

Mrs. Baker stated we have not done that in our methodology..

Ms. Clark stated when you get land use taxation, it was house plus one acre was considered for your house, not three and asked if that was right.

Ms. Kurpiel stated yes, that was true, it was house plus one but that did not have anything to do with the calculation of development rights. That was just how they do the calculations for land use.

Mr. Apicella stated looking at it from a taxpayers perspective what a boondogle this was for somebody to have a house and then save their property in perpetuity at taxpayer expense. He stated it was going to be a tough sell, especially as they go to a bond referendum. He thought it was a great program but he was looking at it from a taxpayer's perspective. Here a person was going to have this wonderful protected yard forever at taxpayers' expense.

Mrs. Baker stated that was how we had been presenting it to the public, that you were allowed to maintain your existing prime dwelling on your property, the conservation easement on your property. That was standard for all of these easements. If you were preserving the farm, part of that farm was your farm dwelling where your landowner lives. She stated if we needed to revisit that, that was fine but that was not how we presented it to the public.

Ms. Kurpiel stated they ought to think about this. If there was going to be a subdivision of that land and they were in A-1, the house and three acres would come off first and then the rest would be subdivided. She thought they needed to be consistent in the way they calculated the development units. She asked why would we be willing to give more development units that we were now paying for that they could not have gotten anyway.

Ms. Clark asked if they would have to pay for a survey to actually take the acres off where the house was because it was probably going to cut through the garden, through the back pasture field and through the hay and maybe through the middle of the hay barn.

Ms. Kurpiel stated why did they not just take off three acres period.

Mrs. Baker stated if they were taking it off it would still have to be surveyed and recorded.

Ms. Kurpiel stated she did not mean take it off in the sense of subdivided. She meant just in the calculation of a development unit.

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Mr. Apicella stated they already had that development unit and asked why should the county pay for a development unit that we already had. That was not fair to the taxpayers.

Ms. Kurpiel stated she agreed.

Mrs. Baker stated that should have been addressed during the methodology. The methodology did not tell you to subtract out a three acre lot if you have a house on the property.

Ms. Kurpiel stated if you thought the public would view that as us not being fair with them then that was something that would have to be addressed the next time.

Ms. Clark stated we took out the slopes. You were just ripping development left and right out of this piece of property. You even took out the hydric soils which she could live with. Then we took out the slopes which was just sort of slid in there and now she had real questions about whether this horrible 10,000 square foot piece if that was to be passed by the Board of Supervisors would that go into play in this too because she had a real problem with that.

Mr. Apicella stated his idea was they already had the house there, that was the difference. He asked why would the County pay them for their overall property that was already developed. That just did not seem fair or right.

Ms. Kurpiel stated they were getting \$30,000 plus the development rights.

Mr. McClevey stated if he was developing the property he would obliterate the whole property anyway. The whole farmhouse would be a development unit.

Ms. Kurpiel stated it was not going to be an additional development unit.

Mr. Coen suggested the Committee put that whole issue of what to do with the existing property and three acre thing on the list and revisit. This language was eliminating (a) which was about building a new dwelling.

Ms. Kurpiel stated she had a problem with eliminating any of this language and the reason, why was VOF had the experience that we do not have. Obviously, between the committee and staff, we did not have a clear understanding of what all of the rules were. And we probably were not going to have even by the time we get through the first trial run. She stated she was concerned if we eliminate this, what it says. To her what it would say was hey, I can have as many houses as I want, there is no limitation.

Mr. Apicella stated he had a question for our Commissioner of Revenue guy. He asked what the best scenario for the county in terms of collecting revenues if it were to, in theory, separate out the two pieces, the part that was protected versus the part that was not protected.

Mr. Keyes stated if he was saying separate out the two pieces as in to survey out, to cut out the farmhouse or the three acre lot, he thought that was a terrible idea.

Ms. Kurpiel asked why.

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Mr. Keyes stated because you have now created two tax map parcels. The other piece would be completely encumbered by an easement that would be totally unbuildable. Two hundred years from now someone would sell just the farmhouse, that would remain a lot, and the other would become a lot, nobody would want it. It would need to stay intact as it is and then there would be one development right to that property on whether you tear down the farmhouse and build a new one or whatever, there was one development right. It would not become abandoned property then.

Mr. Apicella stated he did not understand why it would become abandoned property.

Mr. Keyes stated because if there was a piece of property that was not buildable, at some point...

Mr. Apicella asked why it was not buildable.

Mr. Keyes stated you just put a conservation easement on it and did not allow any building rights.

Mr. Apicella stated you had a parcel, you split it into two pieces, one would have a house on it and it would be assessed at whatever that house value and land value was separately from the remaining parcel that was under a conservation easement which really had almost no real value because you could not do anything with it.

Mr. Keyes stated it absolutely would have value when attached to the farmhouse. He thought what they were confusing was if you actually split it, in order to do the split you have created a separate tax parcel. Then it could be sold in two separate pieces and that was where your problem would come in. Then the value of it would become much less if it did not have a building site any longer and that would be where your problem would come in. He stated there were conservation easements in place right here in this County. There are a couple farms that were in place that he was sure was by a VOF type of easement. There was a farmhouse there and a fifty acre farm. You are not dividing out the farmhouse in any way, you would just only have one development right to that property. If the house were to burn down you could replace it.

Mr. Apicella asked why could you not replace it if you separated it out into two pieces.

Mr. Keyes stated you could but what would be the advantage of separating it into another piece. He was not sure what you were looking to gain.

Mr. Apicella stated what he was looking to gain was from a taxpayers perspective, thinking that this was a boondogle for that farm owner to have this huge lot. We were looking at it in terms of a development lot. He was just saying that what a nice estate that he would not have protected by the County and he had been paid to do it.

Mr. Keyes asked what did the Committee want to separate out. It was still the same thing. It was one house on a fifty acre parcel and you wanted to separate out the house and a three acre lot and have forty-seven acres left that would be in the conservation easement. He asked what was different in that than a fifty acre lot with a house on it that could never be divided anymore. There was no way to divide it without making two separate tax map parcels, that was how you divide it. And once you did that it could be sold separately and then that other piece would become, the value of it would diminish greatly and why would you want to own that.

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Mr. Apicella stated he did not understand how it would diminish it greatly because you could not do anything with it.

Ms. Kurpiel stated it had great value down the road if someone would want to buy that farmhouse and it was one unit.

Ms. Clark stated if someone just bought the farmhouse... it was in two different pieces so you could just sell the farmhouse. Now, nobody would want that other piece.

Mr. Keyes asked who would come along and want to buy the other piece.

Ms. Clark stated if they did not stay together.

Mr. Keyes stated then that would be why you would not want to divide them. You would want it to transfer together.

Ms. Clark stated because if they could be sold separately, somewhere along the line they would be sold separately.

Mr. McClevey stated he supposed you could rent the property for hay or something, but that may not be a good thing. The advantage was that there was a value to these parcels after they were in easements.

Mr. Keyes stated there were certain buyers that would want a fifty acre home site. There was a market for that. But there was not a market for a fifty acre abandoned tract of property.

Ms. Clark stated if the homeowner died and the kids wanted it or did not want it, they would want to be able to sell it.

Mr. Apicella stated he did think on the protected parcel, he still thought the Committee should eliminate (a).

Mrs. Baker asked if he was just saying to eliminate it out of the deed itself because our Ordinance allowed one lot.

Mr. Apicella stated you could keep what you had but you could not put a house on it if you did not have a house.

Mr. Coen stated the way that it was worded it sounded like you could add another home, or another dwelling like a garage apartment, you could do new living units.

Mr. Lott stated there are applications that do not have any homes and we presented it one home per one hundred acres. The landowner was allowed to put a home on the parcel they are making application for.

Ms. Kurpiel stated so in other words be specific. So you would have a twenty acre, a thirty acre and a forty acre parcel that would have an application on it and each of these people have applied to take one development right out of that.

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Mrs. Baker stated not taking a development right out but allowing them to build one dwelling on the entire acreage.

Ms. Kurpiel stated she would have to say she really objected to paying for their... we were now giving them \$30,000, it was a gift.

Mrs. Baker stated that was how it was in the ordinance and that was how they presented it from day one. We could not switch horses in mid stream when these people have submitted applications based upon that. If it wanted to be changed you all would need to just take it out of the next ordinance when we do the round and say there shall be no new dwellings constructed on the property.

Mr. McClevey stated his biggest concerns out of all the meetings they have had was the ability to put in a dwelling or something for family members. So taking it out would be a big (52:40).

Mr. Apicella stated he understood that but he was going back to Patricia's point which he agreed with. That was fine but it should be counted in the calculation. You should not be paid to put a house on property that was protected.

Mr. Coen stated we could not change that now. He was going to recommend that issue go on the list of what we should address when we revisit the whole Ordinance. For this pilot program we could not change that. It was certainly a legitimate issue to raise and discuss.

Ms. Kurpiel stated she agreed. But now we needed paragraph (a) in there because we were on a hook to allow a house and we certainly should limit how big it should be.

Mr. Coen asked if there were any big issues that we would need to address or was this a template and could it be used for the pilot program as it was today knowing that the staff would look at it and pull things out of it if it was just a template.

Ms. Kurpiel asked who would have the final say on this whole thing. She stated we were going to make a recommendation to the Board, the Board would then either accept it or reject it or change it and then there would be negotiation with the owner and who would have the final say that this language that the owner would want would be okay.

Mrs. Baker stated the Board would just authorize the PDR Administrator and the County Attorney and the landowner.

Ms. Kurpiel asked if they would have the final say on what language would be acceptable.

Mr. Coen stated it should go on the list of things to revisit.

Ms. Kurpiel stated she thought it was something we should talk about. If we had a standard template that was one thing, but if we had this document that was so incredibly inflexible who would know what was happening when it would get down to final negotiation. You could be held up and it would get worse the closer we would get to the deadline, or the more people we go through that we would not be able to reach agreement with.

Mr. Coen asked if there were any other changes.

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Mr. Smith stated he wanted to bring some to the attention of the Committee, because they knew more about agriculture than he did. If the Committee did not see anything that immediately jumped out at them then he was okay.

Mr. Ritterbusch stated on page 14, number 7, it said junk. He stated one man's junk was another man's treasure. Old tractors, cars, things like that, he was sure they had a definition in the County about what constitutes junk.

Mrs. Baker stated she did not think we had a definition of junk.

Ms. Kurpiel stated she thought it was interesting that we had that lengthy discussion about eminent domain and then it was eliminated.

Mr. Smith stated he thought so too and he was going to bring that to the attention of the Committee. If VDOT came in and took this piece of property it would default to the other provision which simply said whatever proportion the County owned it would be compensated for whatever portion the property owners it would be compensated for. He asked if there were any more questions on the deed itself.

Ms. Kurpiel stated as a matter of interest, she asked if he had spoken with the VOF attorney about the changes.

Mr. Smith stated no, not yet. He stated he was asked last month about whether the County could condemn its own easement and it was addressed in the deed and it must be done consistent with the State Code, which would happen anyway, and the Internal Revenue Code Provisions that would address what would be a qualified conservation contribution, a qualified organization, qualified interest. Essentially the State Code process was difficult. Essentially the County would have to insert an equally valuable piece of property in lieu of this piece. He thought that was a pretty high standard if the County wanted to do away with an existing easement. He stated he could pass around copies of the Code section if they wanted to take a look.

Mr. Coen asked Mr. Smith, from his perspective, where would the Committee need to go and at what point would we need to have a draft deed of easement ready to go so it did not slow down the process any.

Mr. Smith stated the latest would be the meeting before the Board would select their choice, that way we would be ready to negotiate with them.

Mrs. Baker stated to add to that if the PDR Committee had made recommendations to go to the Board and the applicants, they were going to want to see what kind of a deed they would need to be preparing and would want their attorney to be looking at it. She stated to her the sooner the better so it would be out there for folks to look at. For our purposes she did not care if they got it until the Board made their recommendation.

Ms. Kurpiel asked if anyone had asked for it.

Mrs. Baker stated yes, we had been referring people to the VOF website.

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Ms. Kurpiel asked why not put it on their website and if everybody was satisfied that we had a document that would be used for the first round.

Mr. Coen asked if there was a unanimous consent on 8 and 9 we take out the percentages and add “to be negotiated” and if everybody was okay with that. He stated there were issues they would want to revisit and asked if anyone had any issues in the draft that they felt needed to be addressed before we vote on it that would not affect people who have already been in the system and making the application, if that made sense. He stated like the dwelling unit, we already advertised and cannot talk about it anymore, but the percentage one we had not advertised so we could make that change. He asked if anybody had any changes or whatnot that should be addressed that they did not think would really mess up the applications that were already in the mix.

Ms. Kurpiel stated if Kathy had been sending them to the VOF website she assumed as soon as VOF approved this they put this up so this was what they would be seeing. She thought we were covered.

Mr. Ritterbusch stated he thought the draft contained the crux of the spirit of the program and he was in favor of moving forward.

Mr. Coen asked if there was a second.

Ms. Kurpiel seconded.

Mr. Coen stated all in favor of accepting this for the pilot program only and to revisit other issues say aye.

The motion passed 6-0.

- Ballot initiative

Maria Perrotte stated she made a few copies of the latest adopted CIP and basically the Board would adopt the CIP once a year. In that it would list all the projects that were planned and this was a scheduling for the plan. How we determine what was affordable would be determined by debt ratios and financial policies which were used to re-estimate every year. She stated basically in a nutshell it was tied to the level of expenditures in the county and the revenues coming into the county. What had happened in the recent years was the economy had slowed down, the projections of future growth had slowed so affordability had shrunk. Also the assessed value is reduced, the last assessment it went down about twenty-some odd percent and it was expected next January when we re-assess it would go down again. She stated it has further constrained what is affordable. And then there was just the old practical what could we really pay for in the budget. Those things were all acting right now to constrain what we can sell in bonds. Within that there was still flexibility and the Board would determine on a year by year basis what they would actually sell bonds for. We first plug in all the anticipated bonds sales, for example, right now we know within the next year we would be selling \$10 million to complete the radio relocation project that was under way. That was a project that was underway so obviously we needed to finish it. She stated right now we were not in that situation with the schools but usually if the schools was building a new high school you would have to keep selling the bonds to fund that because they would be in the middle of a project. So we would first account for anything that we would know was going to happen and then what was left would get allocated through the CIP process. What we did for this year was PDR was on there but with no funding. Should there be a successful referendum then that

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would get plugged in. She stated but then the Board of Supervisors still would determine what amount would get put in for each year and then, again, that was just for the plan. Then each year would have to determine what was actually going to be sold. Like the Transportation Bond Referendum that just passed, we had not sold any bonds, we did not have any money yet, but at some point in time we would start spending those according to a schedule that the Board of Supervisors would approve. She stated that was kind of how it worked. It would be revisited every year for a five year planning projection but then also to actually sell the bonds, that did also, even after the voters had approved the referendum, there were still steps that the Board of Supervisors needed to take to actually sell bonds each time they would sell them.

Ms. Kurpiel stated the other thing was in our plan, even after we would sell the bonds that was just going to pay the owner twenty years out, we would still have the interest associated with that. So there would be two parts that would have to be considered as soon as the Board would agree.

Ms. Perrotte stated this would be a little different from signaling the road, there was that whole other component that did complicate it.

Ms. Kurpiel stated the only other thing that happened at the PDR Managers meeting we were informed that interest rates were at three percent and so there was that inverse relationship between the interest rates and principle, and that would create a really interesting dynamic.

Ms. Perrotte stated the interest rate would spread on what was earned versus what was paid and could have unintended consequences depending on how that was spread and we have seen it really fluctuate. Up until about a year and a half ago, for example, we were actually in a situation where we were earning more on bond proceeds than we were paying in interest. She stated we sold bonds a few years ago at 4 ½ percent but for a while short-term rates were high and we were earning 5 percent. According to IRS Regulations we would have to pay that back to the Federal Government. But because it was a cumulative calculation we could probably break even on it. So the timing of projects was not as critical. She stated now we were in a situation where on some of our investments the treasury was earning less than 2 percent. She stated the rate on a lot of our bonds has been going up. It had come back down but for a while we were not selling any. Some localities that were selling them were selling at 5-5 ½ percent. She stated that was just a market condition that fluctuated pretty continually but it would have an affect on your program so we could have some strategic decisions as to when to sell the bonds that were a little more complicated than what we might just look at for regular projects.

Ms. Kurpiel stated she would think we would offer the owners an interest rate that we would get in the market.

Ms. Perrotte asked if there were any other thoughts or comments and if so, just send an email.

Mr. McClevey asked if we were in a situation where we cannot do a bond.

Ms. Perrotte stated no, we were not in that situation. There was a certain amount of money you could borrow, there would be limits, but the Board of Supervisors then prioritizes projects. Basically the PDR Program would be in the mix and the Board of Supervisors would prioritize and decide how much could get sold this year for these different uses. We could still sell bonds. She stated a few years ago we could not estimate high enough as to what we would be able to afford out in the future. Now each year seems to be going down as growth was going down. She stated we still had the capacity to sell bonds, it

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was very restricted and the Board would choose what to fund and what not to fund. That would be a decision that would get made every year based on affordability and based on the Board of Supervisors.

Mr. Coen stated they would move on to the next part of the bond initiative and asked who wanted to go first.

Mr. Apicella stated he tried to put something together based on some of the stuff that he saw from what was originally recommended and what Patricia had in her email. He was not sure if he captured it but tried to, although he did not separate it out in the way it was originally phrased about \$2 million every other year and that very reason that we would not know for certain what amounts would actually occur because we had no control over that. He asked if everyone had a copy of his email. He did not know if that could be a starting point or not. His other thought was when he saw a bond referendum that would go on for ten lines his head would start to spin and he could imagine a lot of voters saying no, not understanding what we were asking them to do. At minimum, he would strongly recommend that we try to separate out sentences what we were trying to achieve here.

Ms. Kurpiel asked if we could do that.

Mr. Smith stated there were really very, very basic requirements for a ballot initiative. Basically it was brief, it was in plain English or something approaching plain English, it was neutral and it was informative. He had never seen or heard of a ballot initiative in Virginia that used some of the style and format that some of these other states did. He stated he did not know that legally it would be impermissible, he thought a bond counsel was likely to push back and want to go with a more traditional, simpler, shorter bond question. He brought an example from James City County from a few years ago. He stated every word that we put into this we essentially would have to be able to defend, if and when it would go to Circuit Court. Any claims that we would make or imply we would have to be able to substantiate it and anything we would say that implied or did lock us into something, we would be stuck by if we wanted to change something in the future. He stated there would be a careful balance between providing enough information that the citizens would have a good idea of what they would be voting for and a good idea of what this would actually do for the community.

Mr. Apicella stated the important thing was the voters would not have an information sheet like we had here, they would just have the actual ballot language. He thought you needed to have enough sale in the ballot language to get people to want to do this.

Ms. Kurpiel asked if we could use more than one line.

Mr. Smith stated he had not found a legal prohibition to do it.

Ms. Kurpiel stated that was why she wrote it as one line as she liked it much better than concept form.

Mr. Smith stated that could be why he was not aware and that would be something that bond counsel would probably advise us of when we get to that point.

Ms. Kurpiel stated it was one long question.

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Mr. Smith stated it was one long question that was usually pretty dry, often wordy, but that was what the courts and bond counsel and citizens were use to seeing. It did not mean that it was the best way to do it, but it was probably the safest way to go about doing it.

Mr. Apicella stated it might be the safest way but could be a factor that could derail it because people would not understand what we were trying to achieve here.

Ms. Kurpiel stated we go forward with a number of sentences and see what bond counsel would say and if they say no we would put it in a run-on.

Mr. Smith stated we would take the recommendation to the Board if that was what you wanted to do. Of course, the Board and then Circuit Court will have to be the final say, or bond counsel.

Ms. Kurpiel stated or bond counsel would get in the act. If they came back and said sorry we cannot have more than one one-line question, that was all Stafford had ever had, then we would rewrite it. She agreed with Steve, she thought we needed to say what the benefits were.

Mr. Smith stated we would have to be careful with that. He stated we should be fair and accurate in what will come of the money but it would still have to remain neutral.

Ms. Kurpiel stated we should talk about the elements and see if you thought these were neutral.

Ms. Clark stated she thought a lot of it was interesting but as a person going to the ballot box she thought she would lose interest halfway through it. She did think there were some things you did need to include into it, the bond \$10 million used over a 10 year period. You probably would need to mention Purchase of Development Rights Program but she did not know if you needed to explain it as long as you had Steve's first sentence or something like that from his email. She stated she understood why he talked about all the approval but she did not know that they would go that far.

Mr. Apicella stated the only reason he included that was he wanted folks to understand this was not some hap-hazard program and that we just get applications and say we like that one.

Ms. Clark stated that was why we needed to get a sheet like this together and get it out to as many people as possible.

Mr. Apicella stated if you thought words could be taken out it was long. He did not want to cause more of a problem by adding too much information and lose people because they would get lost in sentence four.

Mrs. Baker stated with the road one you may recall they did have public information sessions about it. They sent out flyers to voters and went into detail what each road project was.

Ms. Clark asked who sent those out.

Mrs. Baker stated the County Administration. She stated we had no money right now.

Ms. Kurpiel asked about the first line, if it was neutral enough to preserve forever.

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Mr. Smith stated yes. The forever part he would not be surprised if bond counsel would say to stay away from that for the simple reason that we would never know when the state would come in and say yes we would like that piece of property or, even though he thought it would be difficult, the Board would say go ahead and do away with the easement and put it elsewhere. He stated they may take that out. He thought we would probably need to put the actual amount and the period as the very first thing out of the box.

Ms. Clark stated \$10 million over ten years.

Mr. Smith stated yes.

Ms. Kurpiel stated should the county issue a bond for \$10 million which may be used over a ten year period to preserve approved parcels of land from development and asked if that was neutral enough. She asked how about mitigate sprawl.

Mr. Smith stated he thought we would probably have to do away with sprawl because it was very difficult to say what mitigated sprawl actually was.

Ms. Kurpiel asked how about protect wildlife areas and natural resources.

Mr. Smith stated he thought that was probably fair and accurate.

Ms. Kurpiel asked how about to seek matching funds from state for land conservation.

Mr. Smith stated his only question with that was would that really be important enough to include and was it integral to the purpose of the bond.

Mrs. Baker asked if it would bind us to do that.

Mr. Smith stated yes.

Ms. Clark asked if we were just preserving from development, agricultural, forested or open space land.

Mr. Smith stated yes.

Ms. Clark stated to just stop there, that you were preserving open space, forested or agricultural land from development.

Mr. Smith stated that was pretty consistent.

Ms. Clark stated through a PDR program, because we would have to say PDR in it and asked if that was correct.

Ms. Kurpiel stated we did not have to say PDR in it and she thought that was very confusing because nobody knew what it was. With Quantico, they thought it was a government scheme to get your land.

Mr. Smith stated he did not think we would have to put PDR in it.

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Mr. Coen stated we could say through a voluntary program.

Ms. Kurpiel stated she thought voluntary was an important word.

Ms. Clark stated to protect agricultural, open space and forested land from development through a voluntary program. And there could be more different types of land there.

Mr. McClevey stated the ordinance said the PDR program would help address the problems of sustainable growth, preservation of rural lands and promotion with the facilitation of agriculture, environmental integrity and land values.

Ms. Kurpiel stated those were a little not neutral. She thought it was easier to use the words that Gail used. She stated if we could not say forever in the first line we would have to say in perpetuity a little further down because she thought people would need to know that this was not...

Ms. Clark stated this was a huge big deal for the people doing this perpetuity. And that was why some people would refuse to do it.

Mr. Coen stated he would put it after the word preserve.

Mr. Smith stated we may run into the same issue with forever.

Ms. Kurpiel stated perpetuity was more legal sounding than forever. She asked what they all thought of the merits of saying how the properties were chosen.

Mr. Smith asked the selection process.

Ms. Kurpiel stated here he said the selection of properties was based on a recommendation of a citizen's advisory committee consistent with...

Mr. Smith stated this was one area where he certainly did not want to think there was a reason to change the existing situation but if we put this in there he thought we would be locked into this process.

Ms. Kurpiel asked forever.

Mr. Smith stated at least until we spend this money.

Ms. Kurpiel stated we may end up with another process.

Mr. Smith stated we could.

Mr. Apicella asked if we could say based on the county's Purchase of Development Rights Program because he assumed the program itself would exist even if we did not exist.

Ms. Kurpiel stated she had a problem using those words because we had not explained what it meant and the people did not know what that was.

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Mrs. Baker stated the only thing she would throw in was that five years down the road and we had a new Board of Supervisors that may want to revamp the Purchase of Development Rights Program and they may want to turn it into an overall conservation easement program.

Ms. Kurpiel stated the selection of properties, the way that it was done, was sort of questionable

Mr. Smith stated he knew the Committee thought that sounded a little heavy-handed. He agreed that it may have sounded a little onerous and it may run against the voluntariness of the program.

Ms. Kurpiel stated there were two words in there that bothered her. She did not like the use of agricultural and forestall properties. In the code that had a special meaning. There was a special program that the State had for what they call agricultural and forestall and it was not our program. It was usually in lieu of the land use taxation program and she asked if we could use a different word for agricultural and forestall.

Mr. McClevey stated he got rid of agricultural and forestall and just said qualifying properties.

Ms. Kurpiel asked what that meant.

Mr. Coen asked what we did in the first sentence, open space...

Mr. Smith stated agricultural and forestall.

Mr. Apicella stated he added open space, agricultural and forestall.

Mr. Smith asked if they were talking about instead of using agricultural and forestall, use agricultural, forestall and open space land.

Ms. Kurpiel stated agricultural, forest and open space.

Mr. Coen asked if it was up in the beginning did we need it again down lower. The very first line was agricultural and forest lands and asked if we needed to put it again later on.

Ms. Clark stated she did not think there was a later on.

Mr. McClevey stated he thought people were rushed when voting and he thought they would want to read through something quickly like preserving, protecting, resource words.

After a brief discussion on how the sentence should read, committee and staff came up with "Should Stafford County issue up to \$10 million in GO Bonds to be used over 10 years to preserve in perpetuity through a voluntary program approved agricultural, forested and open space parcels from development?".

A brief discussion ensued on what to title it and a decision was made on "Land Preservation Bond Referendum".

Mr. Coen asked if we were set with the ballot initiative. He stated we would move on to title policy.

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- Title policy

Mr. Smith stated unfortunately he did not have any news on that front. He asked Mrs. Mitchell in his office to check with our company and they have not gotten back to her. He stated hopefully he would have an answer the next time.

- Conflict of interest

Mr. Smith stated he spoke with Joe and he did not think this was a situation that was appropriate for a conflict of interest opinion and there were a couple of reasons for that. The first was because Jerry was no longer a member of the committee he could not have a conflict. A conflict for the purposes of a Conflict of Interest Act was a current financial personal interest in the matter before the body on which that person would serve. Also our office would issue opinions when they would be requested by an individual because that was the way the Act was written. A conflict of interest opinion could be used as a political issue if someone else could request a conflict of interest opinion about another member. He stated for those reasons Joe did not feel like this was an appropriate situation to issue an opinion. As to the body as a whole, the Conflict of Interest Act was not written to address an entire body having a conflict with a former member. None of you, as far as he was aware, had a conflict under the Act because you did not have a personal financial stake in the matters before you and that was what the Act was written to address.

Mr. McClevey asked when we would have a personal financial...

Mr. Smith stated if Jerry had voted on his own application.

Ms. Clark stated there were two possibilities. She asked what if Jerry had stayed on the committee but abstained from that vote.

Mr. Smith stated he did not want to speculate on that but if Jerry had stayed on the committee and his application had been before the committee, as to him that would have been a different situation.

Ms. Kurpiel stated she would, at some time, like to talk further about conflicts of interest and who should serve on the committee.

5. New Business

- Pilot program policy issues

Mrs. Baker stated this went back to what she mentioned at the beginning about we had been trying to talk specifically with Isle of Wight because they did have an attorney on board and they presented their rankings differently than Fauquier. Fauquier would take everything to the public, it was all put out in front of the committee as well as the Board of Supervisors. The only thing they would keep confidential would be somebody's income on the property. Isle of Wight would go into closed session with their committee and their Board until they would get to a certain point because there would be things that someone may perceive as favoritism. If these folks who had submitted applications would come in and watch these proceedings and there were discussions that may not have been specifically spelled out in our ranking criteria but may have had some factor in how you all end up ranking, is that something we

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would want to be presented or would we want to keep that information confidential in our discussions within a closed session. She stated we were still trying to determine how the information would be presented to the committee and what steps for the final rankings. There were, as we were finding out with some of these applications, issues that go down the ranking criteria that may affect how these were ultimately ranked. So we were still trying to determine how it would be presented to the committee and how the discussions were going to proceed.

Ms. Kurpiel asked why we would not want that to be discussed in an open forum.

Mrs. Baker stated it would be whether someone would listen to the conversation and would take part of the discussion may be out of context and say that was not in the ranking criteria, why were you considering that.

Mr. Apicella asked if she was saying there was some subjectivity still within the ranking criteria.

Mrs. Baker stated not in the ranking criteria. The Board of Supervisors, the way the ordinance was written, it said that they could basically make their decision on anything. Especially for the purpose of the State money we would have to be very transparent but if there were things that someone would perceive as to why did I not rank. Staff was ranking strictly based on criteria. She stated we were going to include information that you may want to consider when you would make your recommendations to the Board. So how much of that would be there for the public to hear when we would specifically talk about their properties, that was what we still wanted to make that final determination on. The County Attorney's Office was going to be advising us over the next couple of days.

Ms. Kurpiel stated to the extent that we turn this into a secret process she thought we would have problems.

Mrs. Baker stated it was not necessarily secret but right now when the County would be looking into land acquisition they go into closed session to have those discussions because there were certain things not to be disclosed during that discussion. And that was all we were talking about here.

Ms. Kurpiel stated they usually were not talking about price though. There were other things they were probably talking about but she imagined the price issue was the issue. She thought we would have issues if we turned this into a secret process.

Mrs. Baker stated again it was not the process itself but there were some aspects of it that we may or may not want to keep confidential until it would get to the Board level.

Ms. Kurpiel stated she thought it would be a mistake to be taken into closed session in the Board also.

Ms. Clark asked then why would we be needed at all. She thought the discussions might have brought out ways that later we might want to change the criteria.

Mr. Apicella stated he wondered, to be truly fair, maybe we should not know the name of the person who submitted the application.

Ms. Kurpiel stated we did not need the parcel number or the name.

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Mr. Apicella stated if we were really looking at this objectively, it would win or lose on its own merits just based on the application and the information that had accrued.

Mr. Smith stated he would raise that you all knew the county much better than he did and parcels may not stay secret for long and may not be secret to everyone. There may be characteristics about the parcel that give it away to you all for whatever reason.

Ms. Clark stated she might know three of them right now.

Mr. Smith stated and especially in this process where there was not a lot of parcels in the mix. In that case, he thought it might be better that everyone was aware of who it was instead of just a few people knowing who it was and others not.

Mrs. Baker stated we knew there were certain Board members that already knew because it would be in their district and the landowner had contacted them. There was nothing restricting them from doing that.

Mr. McClevey asked if the process would be that staff would bring the parcels to our eyes ranked and we would concur. We would concur on the selection. But if we did not it would be just a matter of them going back to themselves and presenting new properties or bring new reasoning in the record.

Mr. Coen stated it would be whatever we determined. He asked if we did it in closed session, would we sit there and say which of that information we would send forward.

Mrs. Baker stated that was what we were determining. Isle of Wight kept it all confidential until it was presented to the Board for them to take the final vote on. But they were different because they did have negotiations going on the price itself.

Ms. Kurpiel stated we did not have that.

Mr. Smith stated the deliberations would still be in closed session but the materials would never be made public. The idea was that they would remain confidential until the Board had made their determination.

Ms. Kurpiel asked what materials he was referring to.

Mr. Smith stated the rankings, your recommendations.

Ms. Kurpiel stated she wanted to see all of that. She would want to know how those rankings were derived.

Mrs. Baker stated we would definitely do that.

Ms. Clark stated if she was the person that did not get selected she would want to see it.

Mrs. Baker stated that certainly would be available just at what point

Mr. Apicella asked from her perspective was there any information within the application that a private citizen would not want to have disclosed to members of the public. He did not have an example, he was just throwing that out there.

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Mr. Smith stated he had not seen them yet and asked if there was any information related to the income.

Ms. Kurpiel stated no.

Mrs. Baker stated the application itself and all the information was all public information basically.

Mr. Apicella asked what if someone had an unlisted number. He stated we ought to at least look at it in the context of maybe there was something in there we had not thought about that an average person just might not want out there in the public domain.

Mr. Smith stated this eventually would have to be made a public record, it was just a matter of how long. Unless we could find a reason to exempt it from the document once we make it a public record.

Mr. Coen asked what type of information was general.

Ms. Kurpiel stated she thought Kathy was talking about the potential risk. In the course of our discussion we would raise issues that were not part of the ranking and then our view of a property would be colored by this issue that we had raised, either positively or negatively. She thought we ought to use this to learn and we needed to talk about these issues. If we tried to keep it under wraps or not make it available to the public she did not think that was right.

Mrs. Baker stated she was not saying either way we had a preference, we were looking at all avenues and making sure all our bases were covered.

Ms. Clark stated she thought ultimately we were going to have to pick the high score, however, she thought there were some discussions that could change the scores. Some of the scores were very quantitative but others were not, they were more subjective. After discussion we might choose to change a number which would then change a ranking. But she did not know if we were going to have any other options as far as picking unless it had to do with the amount of money we had.

Mrs. Baker gave an example of a property that may not rank out and may be undevelopable.

Ms. Kurpiel stated those things should be discussed fully and publicly.

Mr. Coen stated he would err on the side of open but would not mind looking into the situation. From day one he wanted to make this as public as possible.

Mr. Smith stated we just wanted to research the issues that had arisen in other localities and how they have gone through it.

Mr. Coen stated he thought that was fair.

Mr. Apicella stated he agreed, but he would ask staff directly if they could rate in a public forum. He stated we might not have that kind of visibility or knowledge about a specific parcel. As a staff person were they saying they might be a little less likely to bring those things up.

Mrs. Baker stated not necessarily.

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Ms. Clark stated she had one quick question and it was a what if. We knew we had a formula for determining the number of development rights. If that 10,000 contiguous fairly flat square feet goes into affect, will that affect the determination of the development rights.

Mrs. Baker stated not in this round.

Mr. Lott stated on a 3 acre it would never have any affect.

Mr. Coen stated we did have the issue about the other agricultural land.

Mr. Lott stated he looked at what subdivisions he could find as an issue. All 3 acre subdivisions in A-1 would not have any affect. The A-2, the ones he looked at, would also not have any affect. That did not mean there could not be any individual situations where there would not be an issue.

6. Next Meeting

- May 26, 2009 Regular Meeting

Mr. Coen stated the only thing so far was about the title policy. He asked at that juncture, was there any update on if we got any more than 5 on where the process would stand with that.

Mrs. Baker stated it was very possible we would be ready to present to you our rankings unless we get hit with a whole deluge of them over the next couple days.

Mr. Ritterbusch asked when she was going to visit the properties.

Mrs. Baker stated between now and the next meeting.

Mr. Coen asked if there was any new business.

Ms. Kurpiel stated she thought this was going to the Board in May for their decision on the ballot issue.

Mrs. Baker stated Mr. Neuhard indicated the second meeting in May that we could potentially take that.

Ms. Kurpiel asked if she had all the materials done.

Mrs. Baker stated since you all had agreed upon that language then that would be what we present to the Board of Supervisors.

Mr. McClevey stated he contacted Bob Zepp from the Chesapeake Bay Field Office on the exemplary wetlands designation and he knew of no such designation. He stated he sent it on to Kathy for her information.

7. Adjournment

With not further business to discuss Mr. Apicella made a motion to adjourn. Mr. Ritterbusch seconded. The meeting was adjourned at 9:13 pm.