STAFFORD COUNTY
PURCHASE OF DEVELOPMENT RIGHTS
COMMITTEE MINUTES
December 9, 2008

The meeting of the Stafford County Purchase of Development Rights Committee for Tuesday, December 9, 2008, was called to order at 7:03 p.m. by Chairman Tom Coen in the County Administration Conference Room.

Members Present: Coen, Apicella, McClevey and Kurpiel

Members Absent: Clark and Silver

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

1. Approval of Minutes – July 22, 2008

Mr. Apicella made a motion to approve the minutes. Mrs. Kurpiel seconded. The motion passed 4-0. (Ms. Clark and Mr. Silver absent)

2. Staff Update

- PDR Managers meeting

Mrs. Baker stated she had passed out information from the PDR Managers meeting and stated the Committee could read over the information at their convenience. She discussed some of the highlights of the meeting, some of the problems other jurisdictions had such as fiscal year change and the delay for reimbursements.

- Pilot Program public information meeting

Mrs. Baker stated a draft PowerPoint presentation had been printed out and distributed to the Committee for their review. She stated the presentation was basic and tailored to the Pilot Program with a question and answer period at the end. She briefly discussed the agenda, brochure, frequently asked questions (FAQ) and the ranking criteria which were available to the public as a handout. She suggested the Committee have a sign up sheet which would have the name and contact information of citizens interested in additional information. She asked if a newspaper ad would be done and stated Cathy Riddle was good at doing press releases. She discussed the one page letter that would be sent to the property owners and stated the Committee was given a list of the property owners. She stated currently the list included property owners with twenty (20) acres or more which totaled eight hundred six (806) parcels in the A-1 zoning district with six hundred and twelve (612) owners and thirty-three (33) parcels with twenty-four (24) owners in the A-2 zoning district. She state the radio would also do public service announcements at no charge. She stated there had been previous discussion concerning the Farm Bureau assisting with notification.

Mr. Neuhard stated Ms. Kurpiel had some examples and illustrations of the possible tax credits. He stated during the question and answer period if tax questions came up, that information could be introduced and used to illustrate to the land owners, not committing to any specifics, just illustrate what might occur. He suggested the meeting date be moved to February not January. He stated the Commission would need one more meeting to review the materials and after advertising the meeting the timeframe would be February.

Mrs. Baker stated it would have to be the second or forth week in February because of the Board of Supervisors and Planning Commission meetings.

Ms. Kurpiel asked if the plan was to hand out the FAQ sheets.

Mr. Neuhard stated they would review them briefly.

Ms. Kurpiel asked if they would be reviewed in addition to the PowerPoint presentation.

Mr. Neuhard stated, in his opinion, the PowerPoint presentation sets up the program very well and covers all items from A to Z. He stated critical questions from the list would need to be picked out that are not answered in the PowerPoint. He stated then the citizens would have the sheet and the discussion concerning the questions.

Mrs. Baker stated the FAQ's were specific to the PDR program not the pilot program.

Mr. Apicella stated in addition to the advertising and press release he asked the Chairman if he would do a column to pump up the program and encourage people to come to the meeting.

Mr. Coen stated he did not have a problem with that.

Mr. Neuhard asked the Commission if there was a date to shoot for.

Ms. Kurpiel stated the earliest date that could be met.

Mr. Neuhard asked if any of the proposed dates would cause a problem.

Mrs. Baker stated she checked the availability for the Board Chambers, and that was why the dates were chosen.

Ms. Kurpiel stated if staff preferred to go with a PowerPoint presentation instead of the Questions and Answers (Q&A), she did not have a problem with that.

The Committee had a detailed discussion concerning the materials that would be presented to the public at the public information meeting and who would be presenting the information and overviews.

Mr. Neuhard suggested if everyone was present at the public information meeting the questions could be answered quickly and knowledgeably.

Ms. Kurpiel asked if a landowner with a one hundred (100) acre parcel could take a portion off and put it into the easement.

Mr. Keyes stated his first thought would be yes, and it would need to be identified by a survey. He stated there are parcels all over the county that have some type of easement on it.

Mr. Apicella stated he thought the understanding was that a landowner could take a portion of the property and not the entire property.

Mr. Keyes stated the area in the easement would have to be identified by a survey.

Mr. Coen asked if there was any more discussion concerning the pilot program.

- Pilot Program timeline

Mr. Neuhard stated the timeline was handed out at the last meeting. He stated the new date would have to be inserted.

Mrs. Baker asked if the Committee wanted to send out notices first so landowners would have an idea and announce the date the public meeting would be held.

Mr. Neuhard stated advertisement and letters would need to start going out in January to hold a meeting in February.

Mr. Coen asked if on the timeline, the application period would begin January 1, 2009.

Mr. Neuhard stated the timeline for the applications would be open after the first public meeting. He stated the Committee was going to the Board of Supervisors at the next Board meeting with authorization to change the ordinance and hold a public hearing. He stated if all goes well the appraisal information will be removed and the administrator could establish the open periods. He stated currently the plan would be to open the application period and close it the end of March. He stated evaluations would start after March 30, 2009, which would be a three month open period, unless the Committee thought that would be too aggressive. He stated the grant had to be used by April 2010, which would only give the Committee a year.

Mr. McClevey asked Mr. Keyes if there was a particular time of year a landowner should have made a change concerning their property in order to have a change on their tax assessment.

Mr. Keyes stated the land would be reassessed every two years and if any type of land cut or change were to happen, it would not take effect until the beginning of the following year.

Ms. Kurpiel stated all properties were in land use, so there would not be a change anyway.

Mr. McClevey stated we are assuming they would be in land use.

Mr. Keyes stated there were some parcels that are not in land use.

Mr. Coen stated, he did not want to change any dates, but if the meeting was held February 10, 2009 and the application open period closed March 31, 2009, that would give the Committee about fifty days not three months.

Mr. Neuhard stated the pilot program and the meeting would begin to be publicized in January, the public meeting would be held around February 10, 2009, a one to two week follow-up with those that are truly interested and application would need to be submitted by March 31, 2009. He asked if the Committee wanted to change to April 30, 2009.

Ms. Kurpiel stated in her opinion, April 30, 2009 would be the better date. She stated the landowner would be making a huge decision and it may take time to get thing straight with their families, like step one – talk to your family about what you are thinking about doing without even talking to an attorney or accountant. She stated they would then need to talk to an appraiser.

Mr. Neuhard stated, in his opinion, when the landowner finds out they are high on the list of applications, they may have to talk to your advisors because this may be a real possibility. He stated then the County would say you have this number of development rights and we are going to offer you this amount of money for each development right. Then the landowner would have to go back to their advisors and evaluate all the pieces again, then go back to the County for the final negotiations. He stated the Committee would need a commitment letter from the landowner, in order to present it to the Board. He stated that was the reason for a pilot, to see what works and what does not work. He stated it was a serious decision to make because it was a perpetual easement on the property.

Mrs. Baker stated other information required with the application would be a deed to the property, a deed of trust, survey or plat, pending liens, judgments or deed of easements.

Ms. Kurpiel stated those item were available in land records, and the landowner could get them so they should not be a delaying item.

Mr. Neuhard stated to move the closing date to April 30, 2009.

The Committee had a brief discussion concerning the number of days the applicant would have to turn the application in.

Mr. Neuhard stated the actual start date would be January 2009, but the public meeting would be held February 10 or 11, 2009. He stated the advertising would publicize the program of which there would be a public meeting.

Mr. Apicella suggested the Committee should build some time in the process to allow for a second round of applications, if none were received the first round. He stated the Committee would have about two and a half months for their review, which could possibly be reduced.

Mr. Coen asked the Committee if they wanted to stay with the date of April 30, 2009.

Ms. Kurpiel suggested the Committee stay with the April 30, 2009 date and stay with the timeline as it is and understand some changes may have to be made.

Mr. Neuhard stated if the Ordinance can be changed, then the Committee would have some flexibility.

Mr. Coen state the Committee would stay with April 30, 2009. He asked if there were any other changes concerning the timeline that would need to be discussed.

- IRS tax free interest letter

Mr. Coen stated the Committee would move on to the IRS tax free interest letter.

Mr. Smith stated he contacted Virginia Beach, at Ms. Kurpiel request, and their contact person provided him with some good information which included the form letter that they send out along with their agreement from their bond counsel, which is a fill in the blank letter. He stated the letter lists the tax benefits that the individual would receive. He stated he would have to contact her again to see if they had received an actual IRS tax letter to work off of.

Ms. Kurpiel stated the bond counsel stated it would be tax deferred for federal and state taxes. She stated she read the code for federal and state and it was very clear it was not taxable.

- Bond referendum

Mr. Neuhard stated Mr. Smith has written the first question and has received some feedback. He stated the schedule was to present it to the Board at the end of February or first of March and once the Board gives authorization, it will be held until August to go to Circuit Court and Cathy Riddle will be brought in for a meeting to discuss the public information to be distributed. He stated then the Committee would have to schedule a public information meeting to discuss the bond referendum.

There was a brief discussion concerning the bond referendum and the ability to give the public information concerning the bond. Mr. Neuhard stated the public could be advised that the Board has given the Committee direction to pursue a bond referendum.

Ms. Kurpiel asked for a copy of the question.

Mr. Smith stated yes. He stated it would also be brought to the Committee for review and comments.

- Easement form

Mr. Smith stated Ms. Kurpiel gave him a copy of the latest Virginia Outdoor Foundation (VOF) draft in which he and Mrs. Roberts reviewed and found no problem with the easement form. He asked if the Committee would like to revise the current form to look more like the VOF form or use the VOF draft easement and revise it to meet the needs of Stafford County.

Ms. Kurpiel stated the easement prepared by Mr. Judy was very easy to read, but when compared to the annotated Deed of Easement used by VOF, a lot of language was used to give the donor confidence that he would qualify for federal and state credits. She stated Mr. Judy did not use that language and she thought he was under the impression the Committee would pay full price for the easement and there would not be any credits or deductions. She stated now only offering the owners only part of the value, this becomes a very important issue and she thinks the Committee should follow the VOF easement and delete the parts that are not relevant.

Mrs. Baker stated if the Committee changed the Deed of Easement it would have to be approved by the State, because they have approved the draft template.

Mr. Apicella asked if that decision could hold off until the next meeting to allow time for the committee members to review the two.

Mr. Smith stated he could send copies of both to the Committee members.

Mr. Neuhard stated in his opinion, the Deed of Easement would have to change periodically.

Mr. Smith stated, in his opinion, the current Deed of Easement was based on the old VOF Deed. He stated the current VOF Deed came out in February.

Mr. Coen asked Mr. Smith to get those copies to the Committee.

Mrs. Baker stated from a timing standpoint, it would be nice to have the Deed of Easement complete before the public information meeting.

Ms. Kurpiel suggested having it available on the website.

Mr. Neuhard stated it should be in the packages for the second meeting for sure.

3. Unfinished Business

- Valuation of easements

Mr. Neuhard gave a summary of the valuation of easements based on a meeting with Mr. Keyes, he stated currently there was no need to the change the thirty thousand dollar value based on the comp sales. He stated valuation should be reviewed before each open period because it could change with the economy and do not recommend it be done on the assessment cycle. He stated based on the development units of three (3) acres in A-1 Zoning District and one (1) acre in A-2 Zoning District the Committee felt thirty thousand dollars ($30,000) per development unit was a fair price. He stated there was not a good basis to change that amount, but should be reviewed on a regular basis.

Mr. Keyes stated in his opinion the revision of the valuation should stay with the timeline of the application process, he stated if it was connected with a reassessment cycle it could cause a change in the valuation, or the thought process of the valuation during negotiations with landowners. He stated you would want to advertise this amount was being paid on this application process, and once that application process was complete the Committee could than review the fee.

Mr. Neuhard stated when assessment is done, you would have to look at the economy and comps in the area. He suggested the Committee could review the valuation on an annual basis, the process would not change, just the value to be paid for each development unit. He stated, in his opinion, once the administrative items get worked out, the process would be better and quicker.

Mr. McClevey stated with review on an annual basis, it may stop people from holding out from one year to another.

Mr. Neuhard stated that would be his recommendation and if does not work, then the Committee can revisit.

- PDR ordinance changes

Mr. Neuhard stated the Committee should have received a copy of the Ordinance changes and asked the Committee to take a few minutes to review. He reminded the Committee the changes were basic changes, the valuation process was not changed. He stated some of the language was update, such as growth area would now be referred to as Urban Service Area (USA), the June 30th deadline has been eliminated for application and allows the administrator to set the deadline dates, and the reference to the appraisal process has been deleted.

Mrs. Baker stated Ms. Kurpiel had additional comments from the original meeting, and those changes have not been made yet because there were additional questions.

Mrs. Kurpiel stated she tried to track the changes she recommended to the document, but it is now formatted differently and she could not follow it to identify the suggested changes.

Mrs. Baker stated she pulled the codified version in Section 22A.

Ms. Kurpiel stated she worked off of the old ordinance O07-02. She stated there was a conflict in the documents, as one stated the Committee would not accept properties with mortgages and the other states properties with mortgages would be accepted.

Mrs. Baker stated she did not know the answer to that question, she stated in the actual application it asks for a list of liens on the property, which would include mortgages. She stated she was not aware of any place it specifically states properties with mortgages were not accepted.

Ms. Kurpiel stated she would try to find that statement in section 3Q. She stated this was important because the mortgage had to be subordinate to the Deed of Easement and most lenders would not subordinate.

Mr. Smith stated page 5 has the definition of landowner.

Ms. Kurpiel read the definition which stated “parcel not encumbered by a deed of trust”. She stated this document states not encumbered and another document suggests a mortgaged property was alright.

Mrs. Baker stated it was specifying equitable owner simple title to a parcel of land or with respect to a property that is not encumbered is the legal owner. She stated she was not sure it that was restricting someone with a mortgage.

Mr. Smith stated it sounds like it could be both, someone with a fee simple title and there may be some type of mortgage or deed of trust or someone who owns the property outright.

Ms. Kurpiel asked if that would be the equitable loan of a fee simple title. She stated the next line states “with respect to a parcel not encumbered by a deed of trust”.

Mr. Smith stated the second portion stated yes.

Ms. Kurpiel asked if the first portion meant the owner does have a deed of trust.

Mr. Smith stated yes.

Mrs. Baker stated that was her understanding.

Ms. Kurpiel stated this was an issue that the Committee would need to discuss. She asked the legal implications if the Committee were to say they were not accepting any applications for properties that are encumbered or if that would create a problem.

Mr. Smith stated in his opinion, if the Committee was not going to accept any applications from landowners that had property encumbered by a lien, deed of trust or mortgage, because the Committee would feel it would be a problem getting the lien holder/mortgage holder to sign off, and would not be feasible for the Committee to review and rate the property.

Ms. Kurpiel stated on the bottom of the new trust document it states "I am the lien holder and I hereby agree to subordinate". She stated if this issue was not resolved, when the first application comes in and shows the property has a mortgage, the Committee must immediately get in touch with the applicant and tell them their lender would have to subordinate. She stated the Committee would supply the applicant with a copy of the trust document that would be put on the land records and the landowner would have to sign off and start working with the lender to sign off. The Committee would have to make a decision, that if the mortgage company had not subordinated by the time the application goes to the Board of Supervisions, the application would be withdrawn from the pool of applications.

Mr. Neuhard stated the Committee would have to have an obligation at that point of assurance from the lien holder that they would subordinate. He stated at that point a second letter would be required from the lien holder stating they understand what the land owner was proposing and that they would sign the deed of easement.

Mr. Coen stated on page 5, item Q, of the proposed ordinance was talking about the landowner. He asked Mr. Smith to review the legal requirement for the property in question.

Ms. Kurpiel stated she thought the Committee could clean this up at a later date, but needs to understand there needs to be another step in the process to deal with any properties with mortgages.

Ms. Kurpiel stated page 16 of the draft ordinance, item D states "the submission of an application shall not be deemed a conflict to the binding contract or offer to convey any interest in the landowner's property, but shall be revocable at will by the landowner prior to the execution of a conservation easement agreement".

Mr. Neuhard stated the Board packages were due Thursday, and these changes need to be moved forward. He stated there would be a lot of opportunity after the pilot to review the process including the evaluation criteria as well as everything else.

Mr. Coen asked the Committee if they felt comfortable giving staff the authorization to move forward with the changes.

Mr. Apicella made a motion to move forward with the changes.

Mr. McClevey seconded.

The motion to make changes to the Ordinance and give staff the authorization to move forward to the Board of Supervisors passed 4-0 (Ms. Clark and Mr. Silver absent).

Mr. Neuhard stated a Resolution to authorize a public hearing for the first Board meeting in January would be included.

- Potential impact of new ordinances

Mr. Neuhard stated staff reviewed the existing Ordinances and there was one item that was a concern. He stated there were some Ordinances that would need to be continually watched and would have to adjust what the Committee determines what a development unit was. He stated the issue to be discussed was the twenty-five (25) per cent slope. He stated that was now a part of the Potomac River Protection Overlay District and the Buildable Lot Area, which uses the same number and applies countywide. He stated staff recommends twenty-five (25) percent slopes be included and subtracted out as developable area.

Mr. McClevey asked if it was all twenty-five (25) percent slopes or just those associated with a stream.

Mrs. Baker stated she provided copies of both Ordinances to the Committee. She stated O08-75 was countywide and the Potomac River was basically the northeast portion of the county and adds intermittent streams, that Ordinance was specific to twenty-five (25) percent slopes adjacent to Resource Protection Area (RPA). She stated the other was a twenty-five (25) percent slope anywhere on the property, so the Committee would have two sets of figures to think about. She stated the Committee would need to talk about how they would determine the twenty-five (25) percent slopes. She stated it was not discussed how to determine if there was a twenty-five (25) percent slope on the property, typically that would be something determined by the engineer, and asked if staff was to make that determination on every application submitted.

Ms. Kurpiel stated the soils map have an elevation associated with it, so if the soil on the parcel that comes in and you read the soil booklet, it will tell you what was over twenty-five (25) percent slope and she would recommend that technique be used because it was easy.

Mrs. Baker asked if it was easy to plot the soils over a parcel.

Ms. Kurpiel stated GIS had the soils plotted and she was sure they could get down to a particular parcel.

Mrs. Baker stated that would have to be discussed.

Mr. Neuhard stated regardless of the methodology, if the Committee was buying land to put an easement on that could potentially be developed, this would take away from that. He stated a similar methodology for twenty-five (25) percent slopes would have to be determined just like the methodology for hydric soils as part of the consideration. He stated the Ordinance was countywide and his recommendation would be to insert that into the formula, so everyone would have to decide on a methodology.

Mr. Apicella stated when he reads the Ordinance he understands if you have an area within the lot that allows you to comply with the requirements, you would be okay. He stated if it just states a twenty-five (25) percent slope, it may be too excessive. He asked if it could state consistent with minimum lot sizes.

Mr. Neuhard stated you are taking a piece of land and asking how many development units are on this land. He stated to determine that, first you look at hydric soils because they can not be built on anyway, so you subtract that out and you have X number of development units. He stated then, you would have to determine where the twenty-five (25) percent slopes were, because you can not develop on those and that would have to subtract out and drew an illustration to the Committee.

Ms. Kurpiel stated the Committee was going to subtract acreage. She stated calculate however you wanted and subtract how much of the parcel was twenty-five (25) percent slopes just like hydric soils were subtracted. She stated in some cases you may be giving some away because they may not be able to get all the lots, but the Committee was not going to do the engineering.

Mr. Neuhard stated it was the same way with hydric soils, sometimes we would end up giving and sometimes we would end up getting. He stated that would be the new factor, because if you can not build on it, why would we want to pay for it. He stated there were other Ordinances that would have to be dealt with when they are passed. He stated whatever the period was entered with would have to be dealt with.

Mr. Coen asked how often the hydric soils and twenty-five (25) percent slopes would be in the same area.

Mrs. Baker stated you could quantify it by saying twenty-five (25) percent slopes that are located outside of the hydric soil designation.

Mr. Neuhard stated hearing no objection, staff would put that into the formula stating twenty-five (25) percent slopes that are located outside of the hydric soil designation.

Ms. Kurpiel asked if there were any other GIS tools to calculate twenty-five (25) percent slopes.

Mrs. Baker stated not accurately.

Ms. Kurpiel stated when Wetland Solutions was analyzing one of the County Ordinances, they used the soils and there was an elevation associated with them.

Mr. Coen asked if there was anything else to be discussed under new ordinances.

Ms. Kurpiel stated we were going to talk about A-2 Zoning Districts.

Mrs. Baker stated on the summary of properties with the A-2, looking at he numbers the Committee has, there are nineteen (19) parcels between twenty (20) and forty-nine (49) acres. She stated if the formula was changes to accommodate the A-2 parcels which would be dividing by one (1) acre to determine the ability to develop of the A-2 property. She stated you would pay more for A-2 property, and now you can get more lots on A-2 property than A-1 property.

Mr. Neuhard stated everything else would be the same, just divide by one (1).

Ms. Kurpiel stated that would be most fair to the landowner, but would be preserving a lot fewer acres in A-2 zoning.

Mr. Apicella stated it could be more critical acreage, depending on the attributes.

Mr. Neuhard stated in the criteria, A-1 and A-2 land gets different points.

Mrs. Baker stated A-1 land was ranked higher. She stated the idea was to rank the A-1 properties higher. She stated because of the Crows Nest potential, A-2 land was written into the Ordinance.

Mrs. Kurpiel stated A-2 was written into the original Ordinance.

Mrs. Baker stated yes, A-1 or A-2 properties.

Ms. Kurpiel stated there was a conflict with land in the USA.

Mr. Neuhard stated it was in the Ordinance.

Mr. Smith read "however, if the property within the designated USA meets the intent of the program the landowner may apply to the program and the Board shall consider the merits of the application".

Mr. Neuhard asked Mr. Smith to read the sentence before that sentence.

Mr. Smith read "The program shall be directed toward property that lies outside the designated USA as depicted on the most recent Land Use Map, except in those areas under ownership or control of the US or Commonwealth".

Mrs. Baker stated the reason that was put in was because the growth area boundary and gave any example of an area that the Committee may want to be included.

Ms. Kurpiel stated in her opinion that would not meet the guidelines. She stated when you start looking at the tax criteria, it states you need specifics in the policy or the Comprehensive Plan. She asked where the specificity was in the documents to help the landowner get the tax credits. She stated as she reads it, more specificity was required based oh her read of the IRS code.

Mr. Neuhard asked Ms. Kurpiel if she was referring to more specificity than the A-1 and A-2 or the farmland silvaculture.

Ms. Kurpiel stated yes.

Mr. Neuhard stated Ms. Kurpiel was talking about the tax credits.

Mrs. Baker asked why more specific than and A-1 or A-2 property.

Ms. Kurpiel stated there are four reasons why a property would be eligible for the conservation easement federal deductions. She stated as she read it, one reason stuck out as the reason why our properties would go under a certain classification. She stated she did not have it with her, but would send it to the Committee.

Mr. Apicella stated that would be the property owner's issue, not the Committee's. He stated the Committee's issue was about land preservation and the question was do we also want to preserve A-2 land, and it may have a less ranking than A-1, but he did not know that the Committee would necessarily want to rule it out, there might be circumstances where it has a great deal of merit.

Ms. Kurpiel stated she was talking about in general, she was not sure just saying A-1 or A-2 was good enough to qualify for the tax credits under the code.

Mr. Apicella stated it was a bigger issue than just deciding weather or not we want to have specific criteria for A-1 or A-2.

Ms. Kurpiel stated it was a bigger issue, in her opinion, the Committee was asking the taxpayers of Stafford to pay for land that does not meet the guidelines for deduction under the federal and state code.

Mr. Apicella stated that was a federal and state issue and the goal of the Committee was to preserve land, not to abide by the federal and stated requirements for tax credits.

Ms. Kurpiel stated that was a major part of it and in her opinion, if a landowner finds they can not get the state credits because certain criteria was not met. She stated in her opinion the rankings of Stafford should be consistent with the state and federal rankings have in their law.

Mr. Apicella stated he was not sure he agreed with that, again the goal was to preserve land.

Ms. Kurpiel stated the taxpayers were paying for this.

Mr. Apicella stated it was relative to the applications received, it was not as if an A-2 parcel would rise to the top automatically, it would be based on the criteria.

Ms. Kurpiel stated she was not talking about the distinction between A-1 and A-2 property. She stated she was talking about both properties.

Mr. Neuhard stated what he thought Ms. Kurpiel was saying was in order to encourage or interest the landowner to participate in the program, they may receive tax credits. He stated that being said, if language can be in the program that helps make it clear to the landowner that the program qualifies them for the tax credit, it would not affect how the Committee would determine what was being paid.

Mr. Apicella asked if the Ordinance would be where that fix would be made, because the Committee was talking about making the changes by Thursday.

Ms. Kurpiel stated in her opinion the fix would be made in the Comprehensive Plan and make sure it was tight enough in the documentation given to the landowner, the deed of easement and the ranking criteria.

Mr. Coen stated it may all fit into the criteria when they reassess the criteria. He stated part of the selling point would be the tax credits, but he did not believe the Committee could do it tonight.

Ms. Kurpiel stated she agreed.

Mr. Neuhard stated the state was looking over the program, Ordinance and deed of easement and in his opinion the Committee was doing the best they could to get where they need to be. He stated certainly the changes in the Ordinance would insure what the Committee was getting ready to do, which was basically meets the fundamentals.

Mr. Apicella stated the original question was about A-2.

Mr. Coen stated for the pilot, the way the criteria would work would give more weight to A-1 and by leaving the A-2 in the Ordinance, if by chance no A-1 property applications were to come in and only A-2 applications were to come in, it would still qualify. He stated as the program goes forward it could be reevaluated. He suggested it be left as is.

Mr. Neuhard asked the downside to keeping A-2. He stated in the current Ordinance there was not a proposal to change it and asked the Committee how they would deal with A-2, which was why it was suggested to go through the same process but divide by one (1) to determine the number of development units. He stated if there were no objections or further questions, staff would put that in. He stated he did not feel a motion was necessary, but he did need concurrence.

Mr. Coen advised Mr. Neuhard to proceed as discussed.

5. New Business

Mr. Coen asked if there was any new business.

Mr. Neuhard stated he wanted the Committee to be aware there were proposed changes to TDR. He stated his position was that TDR was not a PDR issue, but a Planning Commission issue and has to be in the Comp Plan and a whole process that goes far beyond trying to save land by putting conservation easement on it. He stated he wanted the Committee to be aware and advised that he, Kathy Baker and David Gayle were monitoring for changes, as well as several Board members, and was sure the Committee would here about it as early as the next Board meeting. He stated he was not going to recommend it would be part of the charge for PDR.

Mr. Coen asked if anyone had any comments about TDR. He stated he did not mind anything to do with TDR as he was on the Committee and if it did get put on this Committee he did not have a problem with that. He stated in his opinion it was all under the same broad umbrella.

Ms. Kurpiel stated she was at a state legislative conference on Saturday, and because of the budget shortfall, there was some conversation about reducing the hundred million dollar cap on land

preservation credits. She stated if that were to happen, that would not be good. She stated landowners would have to register the credits the year they get the easement, but would not have to use them that year. She stated currently there are two hundred million credits registered that have not been used and the legislature was looking at that as a way to save money. She stated in her opinion, this was something that should be followed and would send information to the Committee if so desired.

6. Next Meeting

- January 26, 2009

Mr. Coen stated the next meeting would be January 26, 2009 which was two week before the public meeting.

Mr. McClevey asked if he should contact Mr. Woodson and ask him to attend the pilot meeting.

Mr. Neuhard stated the Board members will be informed in writing, so they will not be surprised.

Mr. McClevey asked when Mr. Woodson would be aware of the upcoming meeting.

Mr. Neuhard stated in January.

Ms. Kurpiel stated the suggestion by Mr. Apicella to contact some of the landowners was a good idea and asked how the committee should go about contacting them. She asked if Mrs. Baker could provide a list of landowners to the Committee members who could then locate phone numbers and contact the landowners.

After a brief discussion between the Committee members concerning contacting landowners, Mr. Coen suggested having Ms. Clark and Mr. Silver look at the list first, because they may be able to fine tune the list to people they already know that have an interest, then the Committee could contact others on the list. Mr. Coen asked Mrs. Baker to send the list to the Committee members and he would contact Ms. Clark and Mr. Silver.

7. Adjournment

With no further business to discuss, the meeting was adjourned at 9:05 p.m.