

MINUTES FOR THE WEEKLY MEETING OF THE STEERING COMMITTEE ON MONDAY, DECEMBER 1, 2008 AT 4 PM IN THE COUNTY GOVERNMENT CENTER BOARD ROOM, BUILDING F.

PARTICIPANTS:

MEMBERS PRESENT:

Chris Henderson
George Billups
Bill Porter
Mary Jones
Vaughn Poller
Rick Krapf
Julie Leverenz
Tom Tingle
Jack Fraley

NOT PRESENT:

Mark Wenger
James Nickols

STAFF PRESENT:

Tammy Rosario, Planning
Sarah Propst-Worthley, Planning
Jennifer VanDyke, Planning
Allen Murphy, Development Mgmt.
William Cain, Environmental
Steven Hicks, Development Mgmt.
John Horne, General Services
Ellen Cook, Planning
Mike Woolson, Environmental
Fran Geissler, Stormwater Mgmt.

I. CALL TO ORDER

Mr. Jack Fraley called the meeting to order at 4:10 p.m.

Mr. Fraley announced that Mr. James Nickols has resigned his position on the committee. The Board of Supervisors will make an appointment to replace Mr. Nickol's position.

II. PUBLIC COMMENT

Ms. Sarah Kadec of 3504 Hunters Ridge spoke. Ms. Kadec suggested some wording changes for the Goals, Strategies, and Actions to strengthen the language. Ms. Kadec stated that these suggestions have been posted to the blog. Ms. Kadec stated that she felt that there were specific areas that require a 200 or 300-foot buffer rather than the 100-foot buffer that is currently required. Ms. Kadec suggested that the *Cool Counties* initiative be referenced within the Comprehensive Plan. Ms. Kadec suggested that Neighborhood Connections work with the Peninsula Homebuilders Association and individual Home Owner Associations to allow measures agreed to in ordinances to existing and new covenants. Ms. Kadec recommended having the ordinance amended to allow rain barrels and solar panels.

Ms. Barbara Fifer of 103 Links of Lee spoke. Ms. Fifer stated that clear cutting is a problem within the County. Ms. Fifer stated that addressing this issue within Community Character and buffers would be a mistake. She stated this issue needs to be addressed within the Environment section. Ms. Fifer stated that the citizens of the County want water quality and the protection of greenspaces to be recognized as a top priority, as the practice of clear cutting affects both it needs to be addressed appropriately. At the Community Conversations residents also identified saving trees as a top priority. The Landscape Ordinance has ten references to "save existing trees." The Chesapeake Bay Ordinance states: "land disturbance shall be limited to the area necessary to provide for the proposed use or development" and "existing vegetation shall be preserved to the maximum extent possible". In January of 2004 a Roundtable Committee was formed to discuss these issues. Despite these efforts there are still developments that are clear cutting. Ms. Fifer stated that currently there are too many loop holes within the ordinance that allows clear cutting to take place. The Comprehensive Plan needs to provide clear language that prohibits the practice of clear cutting.

Mr. Mark Rinaldi of the Economic Development Authority spoke regarding the Environment section.

Mr. Rinaldi stated that James City County is the only locality in the state that sets an arbitrary maximum impervious surface standard in its Chesapeake Bay Preservation Ordinance. The existence of such a cap represents a potentially significant deterrent to the types of quality economic development the County wishes to attract. The impervious cap is apparently intended to address both water quality and water quantity considerations; however, last week it was acknowledged that no empirical data exists to confirm that either water quality or water quantity are better managed under JCC's framework than in other jurisdictions across the Commonwealth. He stated that we require more empirical data when the consequences of guessing can be significant. Arbitrary thresholds of maximum impervious cover are a prescription for sprawl. Mandating less than optimal land use efficiency within the Primary Service Area will result in the premature consumption of the PSA lands and an accelerated schedule of predictably increasing pressures for more intense development outside the PSA. If we accept the recently described "controversial findings" of the various watershed plans as fact, we must then share a more thorough understanding of how parcel-specific limits of imperviousness will lead us to a sustainable watershed imperviousness ratio.

Mr. Rinaldi stated that from a purely economic development perspective, precluding optimal land use efficiency makes James City County less competitive for economic development prospects. This is because for a given physical plant a prospective business will have to purchase more land in JCC than in neighboring jurisdictions to accommodate the imperviousness required to build the physical plant.

Mr. Rinaldi stated that the EDA recommends two action items for the Comprehensive Plan: (1) swiftly implementing the Builders for the Bay recommendations; and (2) immediately following the Comprehensive Plan, establishing a complementary working group charged with expanding the analysis to non-residential uses and subsequent recommendations to the Planning Commission and the Board of Supervisors of the regulatory changes necessary to address the finding of the group.

Mr. Rinaldi stated that perhaps this Comprehensive Plan can include language which specifically encourages and incentivizes redevelopment that effectively addresses existing inadequacies in water quality protection from surrounding development that offers little or no stormwater management protections.

Mr. Rinaldi stated that the EDA wishes to express a concern with the language of action item 1.3.9 related to requiring environmental site assessments based on the anticipated use of the property. As it is now written, it is not clear how the existence of a required Phase 1 environmental site assessment, and the data it reveals, would be used any differently by the County or by the developer than is currently the case.

III. APPROVAL OF MINUTES

Mr. Chris Henderson motioned adoption of the November 17th minutes with amendments, with a second from Ms. Julie Leverenz. In a unanimous voice vote, the minutes were approved.

IV. ENVIRONMENTAL

Ms. Sarah Propst-Worthley reviewed additional materials brought forward to address questions the committee members had regarding the Environmental Section. Ms. Propst-Worthley provided information on the PRIDE program. Ms. Propst-Worthley reviewed some emissions data. Ms. Propst-Worthley reviewed practiced stormwater management methods to include impervious cover limitations. Ms. Propst-Worthley reviewed data on septic systems within the County. Ms. Propst-Worthley reviewed measures being taken to reduce runoff of fertilizers. Ms. Propst-Worthley reviewed actions the County is taking to address regional scale resource planning. Ms. Propst-Worthley provided more information regarding tree canopy legislation currently being reviewed. Ms. Propst-Worthley provided greater data regarding impaired waterways. She spoke on the Transfer of Development Rights. An action was added to address the recommendation of cost/benefit analysis to be completed for new construction of public buildings using environmentally friendly methods and features. Actions were added to address stormwater master planning for the County and for specific areas. Areas addressing water quality and stormwater management have been reworded at the Committee's request. Habitat fragmentation has been addressed within the Goals Strategies and Action's at the Committee's request. A reference to the County's Strategic Management Plan has been added.

Mr. Fraley asked for clarification regarding action 1.1.7 and related SMP items. Mr. Fraley stated that the word "consider" does little to speak to the action being taken.

Ms. Fran Geissler described how this illustrates the Stormwater division's efforts to identify a framework to implement a fee to inspect private Best Management Practices that have already been built, to ensure their proper maintenance.

Mr. Chris Henderson stated he would prefer to have these specific items included within the Comprehensive Plan text.

Ms. Rosario stated staff will take this into consideration. Staff will work on a proposal for the Committee to consider.

Ms. Propst-Worthley reviewed other language changes applied to the GSA's.

Mr. Fraley asked for more information on the JCC 10-point system in use.

Mr. William Cain provided a description of the 10-point system.

Mr. Fraley asked if the County is interested in moving away from the 10-point system.

Mr. Cain stated that the state is looking to revise the way stormwater credits are given. Mr. Cain stated that the County is open to consider new techniques for stormwater management.

Mr. William Porter stated that currently applicants submitting plans with new and innovative techniques have to provide data substantiating the effectiveness of the techniques.

Mr. Tom Tingle asked if the 10-point system is applied to each project regardless of the size of the site and project.

Mr. Cain stated that any new construction would have to adhere to the 10-point system, though redevelopment sites are treated differently.

Mr. Tingle stated that the small business owner may have some difficulty navigating the system.

Mr. Fraley stated that the 10-point system may be limiting in that it is not site specific.

Mr. Henderson stated it may be useful to better understand what the County wants to encourage and develop incentives to promote those outcomes.

Mr. Tingle stated that the cost for obtaining the engineering requirements for this process even for a small site plan may prohibit the small business owner from being capable to invest in environmental improvements.

Mr. Richard Krapf asked for clarification regarding the role of the Steering Committee in developing stormwater management procedures.

Mr. Porter asked what the state's role is regarding a particular locality's water quality.

Mr. Cain articulated the relationship shared between the state and the locality regarding water quality.

Ms. Leverenz asked if the state requires the use of the 10-point system.

Mr. Cain stated that the state does not require the use of the 10-point system.

Mr. Steven Hicks stated that staff would look into providing new measures regarding the 10-point system and stormwater management.

Mr. Tingle asked for more information on the Impaired Waterways table referenced and the Total Maximum Daily Load.

Ms. Geissler defined the TMDL, and further described the information available on the known sources of pollution.

Mr. Tingle asked what factors were taken into consideration when the County required 100-foot buffers.

Ms. Geissler stated that when dealing with water quality issues there is for each problem a different solution. Buffers do not address fecal coliform. Buffers address the health of a stream.

Mr. Tingle stated that he was pleased to see the inclusion of Transfer of Development Rights within the technical report. Mr. Tingle stated that by designating certain areas as "sending" and "receiving" the community can benefit from protecting those areas of interest. By encouraging higher-density development in designated areas the County can better restrict development in other chosen areas.

Mr. Vaughn Poller stated it may useful to articulate those goals the County wants to attain by eliminating clear cutting trees. By eliminating clear cutting trees is the County attempting to improve water quality or improve the aesthetics of the community? If the concern is strictly aesthetics trees can be replaced.

Mr. Fraley stated that trees and soil are clearly useful as BMP's. Mr. Fraley stated that the County should move to minimize clear cutting practices for both environmental reasons and aesthetics. Mr. Fraley stated that trying to recreate the effects of trees lost by replacing them would not meet the needs one could reach by retaining trees already in place.

Ms. Leverenz concurred; she also added that it is in the County's interest to not disturb wildlife habitats.

Mr. Porter asked if the local government can restrict clear cutting.

Mr. Fraley stated that the Planning Commission has worked to create proffers to phase development and the cutting of trees.

Mr. Porter stated that it is important to recognize that the County would have to pursue state enabling legislation at this level to be able to regulate clear cutting.

Ms. Mary Jones stated that it may be helpful to get away from using the "clear cutting" language and in its place discuss the preservation of trees.

Ms. Leverenz stated that number 10 does provide the tree preservation language.

Mr. Fraley stated that what he is talking about specifically speaks to those cases that come in for rezoning or Special Use Permits.

Mr. Porter stated it is important to make that distinction because clear cutting could refer to the harvesting of trees versus tree removal for development purposes.

Mr. Tingle stated that he does not want to promote clear cutting practices, but he does see the benefit in recognizing those areas where the County wants higher-density development and those the County wants to protect.

Ms. Mary Jones cited 1.3.6 as a possible place to add more specific language to take steps necessary for issuance of a bond referendum for funding to be relegated to flood control and drainage corrective measures. Using language referring to "large scale water resource projects" should be further defined.

Ms. Rosario asked if this would also apply to water quality in addition to flooding.

Ms. Jones stated that priorities would be put in place to elevate health and safety issues above water quality.

Ms. Geissler stated that staff had intended to be broad within the text cited.

Mr. Henderson suggested using "including but not limited to".

Mr. Henderson asked staff if prioritization has been applied to areas in the County that most need stormwater management infrastructure put in place.

Ms. Geissler stated that there are flood studies being conducted at this time, though more information is needed before any determinations are made. Currently the identified needs of stormwater management would require approximately ten million dollars.

Ms. Propst-Worthley proceeded with reviewing the GSA's for the Environment section.

Ms. Leverenz stated that she has found places within the text that require some attention such as acronyms that need to be spelled out.

Ms. Propst-Worthley returned to the GSA's for the Environment section.

Ms. Leverenz suggested to change the language of 1.1 to "Protect and improve the quality of water in county watersheds, wetlands, and waterways." This language would better incorporate the inclusion of stormwater.

Ms. Propst-Worthley stated that "water bodies that discharge into the Chesapeake Bay" may be required for the County's compliance with the Chesapeake Bay Preservation Act.

Ms. Leverenz suggested moving this to an action item.

Ms. Rosario stated that the state may require this phrase to remain in the more prominent location with the text.

Ms. Leverenz then suggested: "Protect and improve the quality of water in county watersheds, wetlands, and waterways including bodies of water that discharge into the Chesapeake Bay" as strategy 1.1.

Mr. Fraley asked for clarification on the word "reducing" within 1.1.1 e-h.

Ms. Leverenz noted that Ms. Kadec had recommended using the word "prohibit" in place of "reducing".

Mr. Tingle and Mr. Fraley jointly stated that "prohibit" would be too strong of a word.

Mr. Mike Woolson stated that by using the word "reducing" a baseline and a rate of change would have to be created to better understand the context. The County does not regulate the disturbance of wetlands, this is a state regulation.

Mr. Fraley asked how the ordinance reads in regards to the wetlands.

Mr. Woolson stated the ordinance prohibits disturbance on 25% slopes. The highly erodible soils, the wetlands, and Resources Protected Areas are required to be shown on the environmental inventory and any impacts need to be accounted for.

Ms. Jones suggested using the word "avoiding" in place of "reducing."

Mr. Fraley asked Ms. Rosario to consider different language to be placed within the text.

Mr. Fraley suggested striking "wherever feasible" within 1.1.1 i.

Mr. Tingle spoke on 1.1.1 h and suggested providing language “to encourage the use of pervious and other cover.”

Ms. Leverenz stated that items 1.1.1e-h sound to be a goal rather than an action item. Ms. Leverenz stated within the actions she wants to understand how the goals are to be achieved.

Mr. Allen Murphy stated he agreed with Ms. Leverenz, staff will consider some language to amend the actions under discussion.

Mr. Fraley stated he would like to include language within 1.1.1 about trees as they are BMP’s.

Ms. Fifer suggested omitting the word “encourage” in 1.1.1.

Mr. Fraley noted the text would become: “Use Better Site Design, Low Impact Development, and BMP’s”.

Mr. Murphy stated that removing the word may be problematic as it may eliminate the possibility to provide incentives to reach a certain density and provide certain public benefits. Placing within the text absolute requirements may preclude the use of incentives.

Ms. Leverenz suggested replacing “encourage” with “promote”.

Mr. Tingle asked if 1.1.2 is Chesapeake Bay Ordinance requirement.

Ms. Propst-Worthley stated it is.

Ms. Leverenz asked how 1.1.3 has to do with the preservation of the environment.

Ms. Propst-Worthley stated it is a Chesapeake Bay Ordinance requirement.

Ms. Leverenz asked why the item is place in the Environment section rather than Parks and Recreation.

Ms. Propst-Worthley stated the text illustrates that the County will provide safe “public access” by using scientific methods to ensure the safety.

Ms. Leverenz suggested the text be rephrased as: “when we provide new we will use these methods.”

Ms. Jones asked for more information on bathymetric data.

Mr. Fraley asked if the committee members were okay with the language in 1.1.5 and 1.1.9 to include the word “ensure.”

Ms. Leverenz suggested 1.1.5 could begin with “locate water dependent activities...” rather than “ensure.”

Ms. Jones suggested striking the words “ensure that” within 1.1.5.

Mr. Tingle stated that this text does not only speak to the location but also to how marinas and docks are designed. The design of the marina is important as to how it will impact the environment.

Ms. Jones suggested the text reading as: “Water dependent activities such as marinas and docks shall be located and conducted in an environmentally sensitive manner and include adequate marine sanitation facilities.”

Mr. Fraley suggested that “ensure” be removed from the text in 1.1.9. The text would read as: “Protection of water resources...”

Mr. Fraley suggested the word “ensure” be removed from the text in 1.1.7.

Mr. Fraley spoke on 1.1.15. Mr. Fraley stated he would prefer it be reworded to make it positive rather than “Minimize negative...”

Mr. Fraley stated that the word “ensure” should be struck from 1.1.14.

Mr. Tingle stated that an understanding of how to fund the initiatives listed in 1.1.7 is needed. Placing in text references to a user fee without a clear understanding is not appropriate. Mr. Tingle stated that the small business owner needs to be thought of within this context. Mr. Tingle stated that imposing user fees for small business owners that had put in place BMP’s years ago is not business friendly.

Ms. Jones asked for clarification regarding where the text would be added regarding the bond referendum previously discussed. Ms. Jones asked if the text would be placed within 1.1.14 or 1.3.4.

Ms. Leverenz suggested placing items 1.3.2-1.3.6 under strategy 1.1.

Ms. Leverenz stated that members of the J4C provided very specific suggestions about ways the County could insert measurable action items within the Comprehensive Plan. Ms. Leverenz asked if the committee members felt comfortable with including the suggestions.

Mr. Krapf discussed that the committee and staff had already agreed to use the Roanoke City Plan as a way to identify some general time frames and action agencies. Mr. Krapf stated that once the committee has completed the current process underway the committee will return to the timeline for all the sections.

Ms. Rosario concurred with this statement.

Mr. Fraley asked if there was an alternative to “encourage” for the text in 1.2.8.

Mr. Murphy suggested the word “promote”.

Ms. Leverenz suggested beginning with the word “develop”.

Ms. Rosario stated that using the word develop may be misperceived as strictly a County action as opposed to actions that could be done by the private sector as well.

The committee agreed with replacing “encourage” with “promote” within the 1.2.8 text.

Mr. Fraley suggested that the word “promote” is more action oriented.

Mr. Billups stated the Committee members should be cautious when developing the language within the text. Mr. Billups stated that using the word “promote” within the text 1.1.1e-h may place staff in an inextricable position.

Ms. Leverenz stated that the committee is attempting to keep a balance between creating GSA’s that would require great effort on the part of the County and creating a Comprehensive Plan that is more action-oriented than previous Comprehensive Plans. Ms. Leverenz stated that the state requires general policies be put in place by the Comprehensive Plan, but it does not prohibit the committee from providing specific guidance.

Ms. Leverenz stated that action items 1.3.2-1.3.6 should be moved to 1.1.

Mr. Krapf asked for clarification on 1.3.9.

Mr. Woolson stated that staff will reword 1.3.9 to provide better clarity, though 1.3.9 does not propose imposing a requirement for a Phase 1 environmental site assessment.

Mr. Fraley noted that within 1.3.5 he would like to have “begin to” removed.

Ms. Geissler stated that “begin” was placed within the text due to the “hydraulic studies” not being available for several years.

V. PUBLIC COMMENT

Ms. Chris Johnson of 210 Reddick Landing Road spoke. Ms. Johnson commented on the high quality of the technical report. Ms. Johnson stated that the shoreline development within the County is of great importance. The erosion of wetlands is evident. Ms. Johnson stated that the actions proposed within the technical report provide directives the County should take.

Mr. Tingle asked if there had been a date established for Economic Climate to be discussed further.

Ms. Rosario stated that there was no definitive date established yet.

VI. ADJOURNMENT

Mr. Billups made a motion to adjourn, with a second from Mr. Poller.

There being no objections, the meeting was adjourned at 6:15 p.m.

Mr. Jack Fraley, Chair