

A MEETING OF THE BOARD OF SUPERVISORS OF THE COUNTY OF NEW KENT WAS HELD ON THE 30TH DAY OF JUNE IN THE YEAR OF OUR LORD NINETEEN HUNDRED NINETY-SEVEN BEGINNING AT 6:00 P.M.

IN RE: ROLL CALL

Gary L. Green	Present
James H. Burrell	Present
Frederick G. Bahr	Present
Julian T. Lipscomb	Present
Mark A. Hennaman	Present

Mr. Burrell gave the invocation and lead the Pledge of Allegiance.

IN RE: REQUEST FROM DELMARVA PROPERTIES to amend Route 155 Providence Forge Area Management Plan.

Mr. Maloney gave his report: This request was made in conjunction with commencement of the formal public review of Delmarva's proposed Planned Unit Development application for a 3,165 acre tract in the general area of the Route 155 plan. The proposed amendment is merely a clarification to existing language, and does not alter the intent, goals, objectives, or policies of the plan. It will add greater development flexibility for the Route 155 planning area which will ultimately benefit the County and property owners, while protecting the public from unmanageable growth within the area. The Board of Supervisors held a public hearing in regard to this matter on March 10, 1997. The Planning Commission, during its January 21, 1997 meeting, voted to recommend the Comprehensive Plan amendment to the Board of Supervisors for its consideration and adoption. Discussion among the Members about infrastructure and future County growth followed. Mr. Lipscomb made a motion to approve the amendment requested by Delmarva Properties to amend the Route 155 Providence Forge Area Management Plan finding that public necessity, convenience, general welfare and good zoning practice require said amendment and that such amendment will improve the public health, safety, convenience and welfare of the citizens of New Kent County and provide for the future development of the Providence Forge area. There was no further discussion. The Members were polled:

Gary L. Green	Abstain
James H. Burrell	Aye
Frederick G. Bahr	Aye
Julian T. Lipscomb	Aye
Mark A. Hennaman	Aye

The motion was carried.

IN RE: PUBLIC HEARING - PUD-01-95 (Delmarva). The Board will hear public comment on the Delmarva Planned Unit Development.

Mr. Hennaman stated that the Board had received a letter signed by four Constitutional Officers. The letter explains that they have not had an opportunity to meet as a group and hope that the Board will ensure they have adequate staffing. The Commissioner of Revenue has corresponded with the Board on two occasions with his concerns. Mr. Maloney gave his report: Delmarva Properties, Inc. has applied to

rezone a 3,165 acre tract identified as Tax maps and Parcel Numbers 33-3, 4, 6, 7, 21, and 22, a part of 33-27, and a part of 43-28 generally located at the southeast quadrant of the intersection of Interstate Highway 64 and State Route 155. The applicant proposes to change the existing A-1, Agricultural zoning to Equestrian Village Planned Unit Development. The proposed use of a Planned Unit Development that will accommodate a variety of commercial and residential land uses. The development will contain approximately 3,271 dwelling units and 2,963,450 square feet non-residential development. The plan submitted by Delmarva Properties meets the goals, objectives, and policies set forth in the Route 155/Providence Forge Area Management Plan. The Planning Commission, during its March 17, 1997 meeting voted to recommend this Application to the Board of Supervisors for its consideration and approval.

Mr. Joel Mostrom, President of Delmarva Properties made the following comments: This project follows the County's goals for responsible County growth. The County's Comprehensive Plan was used to develop this project. It was designed to concentrate growth in the I64 area. They respect the open space and ruralness of the County and looked to the County's Area Management Plan for guidance. Their intent is to adhere to a plan for responsible growth that will provide for adequate infrastructure growth over the next twenty-five years. The whole project is 3,800 acres - 345 acres was conveyed to Colonial Downs, 283 acres was conveyed to the Legends Golf Group, 40 acres are for utilities. They have received a permit for 1.6 million gallons of water withdrawal per day permit for their well. The project provides for architectural guidelines and homeowners association as well as open space requirements. They have made a proffer statement.

Mr. Steve Jacobs of Robinson, Farmer, Cox Associates stated that he conducted a review of the applicant's fiscal statement and his estimates, while over, are not that different. The development as proposed will have a positive effect based upon the assumptions. The assumptions were read per Mr. Bahr's request. Mr. Burrell asked how it would pay for itself if you add 1,100 more children - there would need to be more schools. Mr. Burrell suggested that the project be voted on in phases rather than approved all together. Discussion followed on this topic.

Mr. Rick Carr with Greenhorn & O'Mera stated that the Proffers were typical and above average. The project did a good job in timing and phasing.

Mr. Steve Campitell discussed the water situation. He stated that they met the Health Department standards - provided four samples to only in regard to residential development. Everything else is fine. Over the next ten years 1.6 million gallons of water per day can be used. Discussion followed about the amount of the water that would be drawn from the aquifer and the problems this may cause.

Mr. Hennaman opened the public hearing. The first citizen to speak was Ms. Lisa Gill, School Board Representative, who thanked the Board for working with the School Board on this issue and keeping them up to date. The second citizen to speak was Mr. Ed Chmielinski, 7800 Deer Run Road. Mr. Chmielinski felt that the Board should leave some way to collect monies if they (Delmarva) doesn't do as they have stated. The third citizen to speak was Ms. Elizabeth Southworth, New Kent, who was in favor of the PUD. The fourth citizen to speak was Mr. Chap Harrison, New Kent, who was also in favor of the PUD. The fifth citizen to speak was Ms. Gloria Geiger, New Kent, who was concerned that it was too large and too soon - the County may not be able to handle the growth in the services and schools. The sixth citizen to speak was Mr. Louis Abrams, New Kent. Mr. Abrams stated that he voted against this PUD at the Planning Commission in March. He feels the taxpayers will be burdened by this project. The seventh citizen to speak was Mr. Tom Ballou, New Kent, who is an adjacent landowner who feels his lifestyle will be in danger. He also feels that it will not be a benefit for the County. He urged the Board to scrutinize and control their (Delmarva's) actions on the way some of the land will be utilized. He further stated that the Planning Commission had serious concerns, there was little information available, and it

was difficult to obtain documentation. He suggested that the project be split into smaller sections to approve and positioning of the green space should provide additional shelter and impact. The next speaker was Mr. O. J. Peterson, President of Colonial Downs, who spoke in favor of the project. The ninth citizen to speak was Mr. John Crump, New Kent, who expressed his concerns over the fiscal impact of the project, which he feels will cause an increase in property values for adjacent landowners, which will cause an increase in their taxes. He felt that the elderly and poor should not be affected by this project. The tenth citizen to speak was Ms. Betty Burrell, New Kent, who shared Mr. Crump's concerns. She asked the Board to carefully review every aspect before it's approved. She also requested the Board consider the spacing requirements for additional staff. She asked what would happen if the BPOL tax is phased out, what if the personal property tax is discontinued? Will this project change the Six Year Plan by VDOT? Will there be a special tax assessment for services? Will Delmarva be grandfathered if the plan is approved today? She doesn't want New Kent to end up like Hanover, Henrico and Chesterfield. The eleventh citizen to speak was Mr. G. G. Crump, New Kent, who stated that the time element bothered him. The track is three years late and the business structure is late too. It's a good plan, but it's the time element he's fighting. We don't have room to start a residential project of this size now - we won't have time to build schools before the residential homes are built. He stated approval in phases is only as good as your administration and as honest as your administration. The commercial end should be up and running. Industrial Park on Rt. 33 hasn't been started yet. We need this plan to control growth for the benefit of the County. He doesn't want to see any more taxes. The final speaker was Linda Lindenmuth, Woodhaven Water Company, who stated that the permitting of the new well Delmarva has proposed concerns her. She asked that they (Delmarva) put in monitoring wells also in the western end of the County, not only at Colonial Downs, to protect the citizens against adverse impact. Over the last five years there has been a five foot drop in the middle Potomac aquifer, which has resulted in a 25 foot drop in the last five years. Before a decision is made, she asked that they protect the natural resource of water by putting in monitoring wells in the western portion of the County, which will help residents and water companies monitor against adverse impact. Mr. Hennaman closed the public hearing.

Mr. Hennaman asked Mr. Maloney to give the Board and public comments on concerns raised. Mr. Maloney first addressed the concerns regarding public participation - about a month before the formal application was submitted to the Board - Delmarva Properties held a series of public meetings throughout the County - three public meetings at three separate locations to inform the citizens of the development proposal. In addition to those meetings, Delmarva also addressed the Board in a public information session in the Board Room. Copies of the application were available for public review in the Planning Office. Copies have been sent to Heritage Library for public viewing as well. Staff has taken numerous telephone calls from citizens over the past two years. The application was presented to the Planning Commission at a public meeting in September. A public hearing was held in January, which resulted in a work session of the Planning Commission to review and address specific concerns of the plan in February. The Planning Commission acted on this application in March. Regarding the concerns of the timing and phasing, Mr. Maloney went over the review process: Assuming the Board is to vote on this application, it would not eliminate the timed review of the proposal. Delmarva Properties would be required to submit a phasing plan to staff and the Planning Commission prior to commencement of any development. Part of the phasing plan would verify the number of residential units and number of commercial square footage proposed for that part of the phase does not exceed the limits outlined in the original application. Also it provides detail of public improvements in terms of infrastructure, road improvements, water, sewer, etc. In addition to the general phase plan they will also submit their first application for subdivision approval. All of this property will have to go through a formal site plan and subdivision review process. In addition to the first set of subdivision plans for that phase and site plan the general land use pattern for this particular phase would have to be identified showing the areas that will be developed as residential and commercial in the entire phase as well as the major spine and arterial roads that serve that development will all be reviewed. The Planning Commission with staff will make a determination whether or not that phase is in conformance with the approved development application. If

there are discrepancies in that phase, then there are options to rectify them - the developer can change their phase plan in accordance with the comments generated by staff and the Planning Commission, or the developer could submit an application for a zoning amendment, which would allow the County the opportunity to revisit the other supporting information - proffers and public dedications. As a last resort a formal appeal to the Board of Zoning Appeals can be filed by the developer to make a determination as to whether the phase plan is in conformance with the zoning ordinances in the development. Part of the review will ensure that the ratio of residential and commercial development as envisioned by the original proposal meet the ratios outlined. The County will maintain significant control primarily through the Planning Commission on the development of the property.

Mr. Burrell expressed concern that Delmarva would build a lot of houses causing rapid development. He thought it was imperative that the Board not rush into this decision. He also felt that the public is just now beginning to realize what is going on, despite Delmarva's attempts to keep the public informed and the public hearings. Mr. Burrell stated that he was not against this issue, but he is fearful of the speed in which they are going into it, and it should be looked at in more detail, a decision does not have to be made tonight. Mr. Bahr asked that the letter from the four constitutional officers be read into the record. Mr. Hennaman complied: The letter is dated June 30, 1997 and addressed to Mark A. Hennaman, Chairman of the New Kent County Board of Supervisors and is copied to each Board member. Dear Mr. Hennaman, Tonight you and the other members of the Board of Supervisors will hold a public hearing concerning the proposed Delmarva Planned Unit Development. This meeting and the resulting decision you make are extremely important. We believe, in fact, that your decisions regarding the Delmarva project are the most important decisions you will ever make as a member of the Board. We wish you the very best as you consider this issue and offer you our support. As you think about the development and its impact on our county, please ensure that opportunities for maintaining and improving county services are guaranteed. We believe that this project will stress our existing resources and may cause diminished performance if compensating financial support and staff are not readily available. Timing is very important. We have not had an opportunity to meet with the Board and county staff to review the phases and types of development expected. To our knowledge, no planning session has occurred with department heads to communicate information and develop a plan for addressing service needs. We hope that positive fiscal resources will be available early in the project to address required service levels. We also hope that mechanisms have been put in place to control growth of the project if impacts and solutions do not materialize as expected. Again, we wish you the best of luck and offer you our help and support. We all have the best interests of our citizens in mind and would like to ensure we arrive at the best decisions possible. Sincerely, signed by The Honorable Betty J. Burrell, Treasurer, The Honorable John Crump, Commissioner of Revenue, The Honorable Farrar W. Howard, Jr., Sheriff, and The Honorable C. Linwood Gregory, Commonwealth's Attorney.

Mr. Bahr stated that the part that bothered him was that "to our knowledge, no planning session has occurred with department heads to communicate information and develop a plan for addressing service needs." Mr. Emerson stated that early on in this process Mr. Jacobs was retained to do an impact study. Mr. Jacobs and I (Mr. Emerson) did meet with the Sheriff, and the current Commissioner of Revenue, Chuck Yeatts. This was before the current Board was in office. Also, the other impacts to courts are hard to determine, but have been taken into consideration. No, it has not been discussed directly with the Commonwealth's Attorney. The Treasurer's Office is mainly involved in investment of funds and collections at tax time. Staffing needs are always discussed with the Treasurer during the development of her annual budget. As the County grows these are things you will take under consideration. While he understands the concerns and needs of the constitutional officers, they normally are addressed at budget time. There has been considerable discussion and correspondence with the current Commissioner of Revenue concerning his issues with this project. Mr. Emerson said he took issue with the statement that no planning session has occurred - some had occurred prior to the current Commissioner coming into office, there has been discussion with other department heads. The planning consultants and the planning

department have taken into effect these impacts as well as this application was distributed not only amongst our department heads, but the constitutional officers at the time it was submitted in 1995 as well as the School Board. Discussion followed among the Board concerning these issues.

Mr. Lipscomb made a motion to table PUD-01-95 until the Board can address the concerns brought to the Board's attention tonight. Mr. Cornwell asked Mr. Lipscomb to clarify his motion - did he mean to continue the motion instead of table the motion? Mr. Lipscomb concurred. Discussion followed among the Board. Mr. Joel Mostrom stated that he really felt that they (Delmarva) had made themselves available to the citizens, staff, Planning Commission and the Board. There have been four formal public sessions and he didn't understand what the questions are. It's been two years and it's a big project, but they can't do anything until they get past the first hurdle. He respected the fact that there were a handful of people opposed to the project, but they will develop a good project - it's a long term project. This is the first step and they need the Board's support. He asked that the Board not let a few individuals hold up the project. Mr. Hennaman stated that he's heard comments from people around the county for both sides of this issue. The recurring themes are: the size or scope of the growth, importance for us to consider the people's feelings, and the thought that denying this project will stop the growth is inaccurate and totally unreasonable. New Kent County will grow with or without the Delmarvas in this world. This community is growing at a pace that exceeds the projected rate of growth. Many businesses have moved in with no proffers. There have been plenty of opportunities for public input and concerns. Even without this project New Kent County will change - what tools and opportunities can we take advantage of that will allow us to manage this the best way. The Board is not taking this lightly. Through staff and Delmarva, he believes that they have received plenty of opportunity to peruse the details of this plan and would like to see some form of resolution done as soon as possible. He would be ready to take a vote on this tonight.

Mr. Lipscomb stated that he has been going through this with the Planning Commission – it's the same questions at every meeting. He withdrew his motion.

Mr. Burrell stated that it was not a dire need to vote tonight. If we wait we show the citizens that we are thinking about this.

Mr. Lipscomb made a motion to continue PUD-01-95 to the regular July meeting so the Board can address some of the concerns. The Board requested staff to try to schedule a meeting with the constitutional officers and Delmarva before the July meeting. Mr. Burrell asked Mr. Lipscomb if he could add a friendly amendment to his motion to set up a meeting with the constitutional officers and the school board. Discussion followed among the Members on the friendly amendment. Mr. Hennaman stated that it would be incumbent upon each of the Members on an individual basis to get their specific questions answered. Mr. Lipscomb's motion was restated: He moved to defer PUD-01-95 until the July 14th board meeting. There was no further discussion. The Members were polled.

Gary L. Green	Abstain
James H. Burrell	Aye
Frederick G. Bahr	Aye
Julian T. Lipscomb	Aye
Mark A. Hennaman	Aye

The motion carried.

Mr. Hennaman called a five minute break at 8:27 p.m. The meeting resumed at 8:45 p.m.

IN RE: EXECUTIVE SESSION

Mr. Burrell made a motion to go into executive session to discuss a personnel matter pursuant to §2.1-344(a)(1) of the Code of Virginia. The Members were polled.

Gary L. Green	Aye
James H. Burrell	Aye
Frederick G. Bahr	Aye
Julian T. Lipscomb	Aye
Mark A. Hennaman	Aye

The Board returned at 9:12 p.m. Mr. Bahr stated: Whereas, the New Kent County Board of Supervisors has convened an executive meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and Whereas, Section 2.1-344.1 of the code of Virginia requires a certification by the Board that such executive meeting was conducted in conformity with Virginia law; Now, therefore, be it resolved that the Board hereby certifies that to the best of each member's knowledge (I) only public business matters lawfully exempted from open meeting requirement by Virginia law were discussed in executive meeting to which this certification resolution applies and (ii) only such public business matters as were identified in the motion convening the executive meeting were heard, discussed or considered by the Board.

IN RE: MEETING SCHEDULE

The regular meeting of the Board of Supervisors will be held Monday, July 14, 1997 at 6:00 p.m. with an executive session at 5:30 p.m. A joint meeting with the School Board, to be facilitated by Don Lacy, is tentatively scheduled for August 9th - to be confirmed by the School Board at their meeting on July 7th. Those Members wanting to attend the LGOC meeting on August 10 & 11 were told to contact the secretary to set up arrangements. The Board changed the August meeting to Wednesday, August 13th to accommodate those who wished to attend the LGOC meeting.

IN RE: ADJOURNMENT

Mr. Burrell made a motion to adjourn. There was no discussion. The Members were polled.

Gary L. Green	Aye
James H. Burrell	Aye
Frederick G. Bahr	Aye
Julian T. Lipscomb	Aye
Mark A. Hennaman	Aye

The meeting adjourned at 9:23 p.m.