

VIRGINIA: AT THE SPECIAL JOINT MEETING OF THE DINWIDDIE COUNTY BOARD OF SUPERVISORS AND THE DINWIDDIE COUNTY PLANNING COMMISSION HELD AT THE EASTSIDE ENHANCEMENT CENTER, 7301 BOYDTON PLANK ROAD IN DINWIDDIE COUNTY, VIRGINIA, VIRGINIA, ON THE 27TH DAY OF SEPTEMBER 2011 AT 6:00 P.M.

BOARD OF SUPERVISORS
PRESENT:

DORETHA E. MOODY- CHAIR	ELECTION DISTRICT #4
JOHN V. TALMAGE – VICE CHAIR	ELECTION DISTRICT #3
DONALD L. HARAWAY	ELECTION DISTRICT #2
HARRISON A. MOODY	ELECTION DISTRICT #1
DANIEL D. LEE	ELECTION DISTRICT #5

PLANNING COMMISSION

PRESENT: DEAN M. McCRAY	DISTRICT #2
CALVIN W. CUNNINGHAM	DISTRICT #4
MARK E. MOORE	DISTRICT #1
SAMUEL W. HAYES	AT LARGE
ALVIN W. BLAHA	DISTRICT #3
GAYLE H. KIRKLAND	DISTRICT #5

ABSENT: THOMAS E. TUCKER AT LARGE

ADMINISTRATION

PRESENT: W. KEVIN MASSENGILL, COUNTY ADMINISTRATOR
AMANDA B. RAY, INTERIM COUNTY ATTORNEY

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The respective Chairs called the meeting to order at 6:10 p.m. Due to a technical problem with the PowerPoint presentation, the meeting was not started on time.

ROLL CALL

BOARD OF SUPERVISORS

PRESENT: Mr. Haraway
Mr. Moody
Mr. Lee
Mr. Talmage
Ms. Moody

PLANNING COMMISSION:

PRESENT: Dr. Moore
Mr. Hayes
Mr. Kirkland
Mr. Cunningham
Mr. Blaha
Mr. McCray

ABSENT: Mr. Tucker

URBAN DEVELOPMENT AREA (UDA) DISCUSSION

Mark Bassett, Director of Planning, stated that the UDA kick-off meeting was in September of 2010 when the UDA concepts were discussed and staff and the Planning Commission had been working through (1) designating one or more UDA's for the county, (2) preparing proposed Comprehensive Plan amendments for including the UDA within the Comprehensive Plan, and (3) also working on a text amendment for the zoning ordinance that would include a new zoning district that would allow mixed use by right within the zoning ordinance. He said the Planning Commission had been working on (1) the boundary areas, (2) the Comprehensive Plan amendments and (3) creating a mixed use zoning district for inclusion in the zoning ordinance. He said the Planning Commission had expressed to staff that they are at the point where they would like to have interaction with the Board of Supervisors and receive feedback at this meeting from the Board on those three items.

Mr. Blaha stated that the main reason he wanted to have this meeting with the Board was because it involves money (regarding the \$50,000 grant for a UDA consultant) and

whether it will have to be returned if the UDA is not approved. He said the Board needed to be informed.

Mr. McCray stated that the issues were complicated and he felt the Planning Commission was being asked to move it along too quickly. He said he would like the Board of Supervisors feedback.

Dr. Moore stated his concern was that once the UDA is put in place, what recourse does the county have if the State in the next legislature comes back and says it is optional. He asked whether it could be changed at that point. He said he also was concerned about the grant money.

Mr. Hayes stated that he had mixed emotions. He said he saw it as another tool in the toolbox – something that can be used, but doesn't have to be used. He said it was pretty obvious from the interaction from the public in the meetings over the last few months that this is a pretty emotional issue.

Mr. Cunningham stated there were a lot of questions and concerns from the county taxpayers. He said there were seven people who spoke at their last meeting, and he had written down their questions and concerns. He said that the Interim County Attorney, Ms. Ray, had helped answer some of those. He said this is an overlay area, and he confirmed that with Mr. Bassett. He addressed a question about eminent domain. Ms. Ray stated that there were some restrictions, and she did not know of any law which allowed the County greater eminent domain rights within a UDA. He spoke about the maps and the fact that they are possibilities and not the final maps that would be advertised for public hearing. Those final maps will be available in the Planning Department. Mr. Cunningham said a lot of people had a problem with infrastructure. He said more people in a smaller area helps your emergency response. He said he would not vote for all the infrastructure to be paid for by the county. He said the UDA would help with keeping green areas in the county. He stated that there needs to be a plan for the future.

Mr. Kirkland said that he is newly arrived on the Commission; but he felt that the county has to have a plan. He said this is something that is being worked on as a plan.

Mr. Moody said that the Planning Commission has been involved with this issue a lot longer than the Board. He asked for a review of the background of the UDA.

Mr. Bassett said that within the Virginia Code there is definition for the UDA. It has been defined as an area within the locality that is appropriate for higher density development; has a good proximity to transportation facilities; near availability of public or community water or sewer systems; its proximity to already developed areas; and to any extent feasible it would also encourage any type of infill development.

Mr. Talmage said that he doesn't agree with mandatory UDA's because he felt the state was "shoving something down the county's throat whether we want it or not". He asked why the Dinwiddie Courthouse area was designated because there was no public sewer there. He asked why McKenney was not chosen since it's a small town. He said there is double rail planned for in McKenney and he thought they should be considered.

Dr. Moore stated that McKenney was considered. He couldn't remember exactly why McKenney wasn't chosen.

Mr. Bassett said that there were concerns with McKenney's aging infrastructure and development. He said that currently there is no planned stop of the high speed rail at McKenney. Mr. Bassett said he had input on the discussion with the consultants.

Mr. Lee said that McKenney needs to be looked at for economic development, but he was not sure that the housing aspect of the plan fits McKenney. He said he thought the interchange at Rt. 1 and Rt.460 / I-85 is "dead on". He said the Courthouse area has experienced both business and residential growth in the past couple of years. He explained his responsibility for one of the maps that had been drawn (regarding a second map of the Courthouse area that shows the UDA area further north). He said after a Board workshop he had asked the Board members if they had a problem with it. He said we need to put our best effort forth to try to plan for the future. He said business growth can be expected along Rt. 1 as can already be seen.

Mr. Bassett stated that the Planning Commission had only had the "Alternate 2" proposal regarding the Courthouse area for a couple of weeks. He said input was received from one property owner related to "Alternative 2" in the Courthouse area.

Concerns expressed by the property owner were that there was more open space in the original "Alternative 1" scenario for future development. It was felt by the property owner that there was already a great deal of residential and commercial development in the "Alternative 2" area that wouldn't allow for as much future development potential. The property owner also indicated that they did not have a problem with the original, "Alternative 1", proposal.

Dr. Moore asked if any comments had been received from Pamplin Park, or from any other owners of large landholders.

Mr. Bassett answered no. He said there were two individuals who spoke during the citizen comment period who did not adjoin the UDA boundary in the northern part of the county. They expressed a concern about adding more development in that area.

Mr. Cunningham asked the County's responsibilities to the adjoining landowners.

Ms. Ray, Interim County Attorney, stated that it will depend on how the ordinance is written. The legal requirement generally is running public notices in the newspaper twice. In certain circumstances individual landowners may have to be informed. One of the times that may have to be done is when there is a change in zoning classification.

Mr. Bassett stated that currently the area would be designated on the future land use map. It would not be designated as an overlay on the existing zoning.

Mr. Moody asked Mr. Bassett to explain for everyone present at the meeting why Dinwiddie County has to have a UDA designated and other counties do not.

Mr. Bassett stated that Dinwiddie County has been designated a high growth community as defined within the statute. We have 10% growth from the 2000 census to the 2010 census so we are required to adhere to the UDA legislation as is set forth in the Code. If a locality is under 130,000 people you have to have certain densities within whatever urban development area you define within your locality that will accommodate the future growth for the next 20 years. If you have development within that area you have to have a minimum of four dwelling units per acre (single family), townhomes – six units per acre, multiple units – 12 units per acre, and commercial development - .4 area ratio.

Dr. Moore asked the minimum amount of land that had to set forth under the UDA.

Mr. Bassett presented the outline required within the Code.

- The UDA does not change the underlying zoning.
- The UDA does not require the landowner sell their property.
- The UDA does not regulate landowners within the UDA to meet the UDA requirement.
- The UDA does allow other options within the mixed use type development.
- UDA's are part of the Comprehensive Plan – the Comprehensive Plan is a guidance document, and doesn't regulate like the zoning map.
- The Board of Supervisors cannot deny a rezoning on the grounds that it is located outside of the UDA.

Mr. Bassett stated that within the current Comprehensive Plan there is the planned development area; the urban area; and that if higher density development is desired, the County would like for it to be done within the planned growth area. He said the UDA designation would be drilling it down even further by saying that if traditional neighborhood development/mixed use took place at higher density, then the County would like the area that is designated by the UDA for that type of development.

Mr. Bassett showed the projection for the 20 year population growth – a little over 8600 people by the year 2030. To meet the State requirements, Dinwiddie County will need to designate one or more UDA areas large enough to accommodate that growth for the next 20 years. Based on this analysis the county is required to have one or more UDAs totaling approximately 1200 acres to fulfill the State requirements. If someone were to develop the whole UDA area, a minimum of 869 would be needed to accommodate the development at four dwelling units per acre.

Mr. Blaha asked how many acres of land it would take to accommodate that many people under the present zoning. He said he was trying to consider the conservation of land and also urban sprawl. He said he wanted it to be considered how much would be cut down on the amount of land used in Dinwiddie County for business and residential.

Mr. Bassett replied the minimum lot size is 20,000 square feet per acre. He said that under the current zoning, you have to double the amount of required space.

Mr. Blaha said that with the option of the UDA you're looking at conservation of land. He said he also saw it as being more economical for the county in infrastructure to have the major growth confined to a UDA space. He said that he did not want to live like that, but that evidently someone did because they don't want to take care of large lots and take care of grass. He said you can see them at Short Pump toward Richmond and people are steadily moving in.

Mr. Bassett said that before the downturn in the market, there had been a request for a multi-family housing complex in the Rt. 1/Rt. 460 area. He said the Planning Commission, prior to even talking about the UDA, had wanted staff to look at where in the urban area multi-family housing would be appropriate. He said he felt they were already headed that way with the way they set up the Comprehensive Plan with the urban area, MPO area, and sanitary sewer and water. He said they also further defined their planned growth area that was already within the Comprehensive Plan (it was tailored in and brought more in the Rt. 1/ Rt. 460 area).

Mr. Blaha said that the "bitter pill in the bottle" is that the State says, "you will designate an area for UDA". He said he was not on the Planning Commission at the time, but from what Mr. Bassett says the Planning Commission was already looking at that type of development. He said if the State had not mandated it, this discussion would probably have been taking place anyway but on friendlier terms.

Mr. McCray said he didn't think it would have been to this extent – that a multi-family dwelling was a big difference from a UDA.

Mr. Bassett said they may have been talking at different densities.

Dr. Moore said that one of the other big issues that has been discussed – whether in the Planning Commission meetings or the public – is that this is not going to cost Dinwiddie County anything. He said he thought it needed to be defined because even with businesses that have come to Dinwiddie County it hasn't been free. He said he thought that needed to be addressed in this conversation. At what point will the County tell a developer what he has to do to develop that piece of land. He asked what the developer's part is, and what recourse does the County have to say, "we're not going to do that, if you're going to do it you have to pay for it".

Mr. Bassett stated that staff currently operates under that policy. He stated that they currently tell developers and property owners who are proposing developments on parcels within the county that the developer pays for development and if there are infrastructure improvements required as part of the development, the developer will bear that cost. He said it is also the policy of the Dinwiddie County Water Authority.

Dr. Moore said that when it comes to the number of children that will be added to the school system through multi-family housing there has to be some cost to the county.

Mr. Moody said that the census is saying the county is going to grow to this extent, and whether they are spread out or in a small area, the children will still have to be educated. He said the cost for transporting them to schools would be less in a UDA area.

Dr. Moore said that if a 55+ community comes in then it is entirely different.

Mr. Lee said you also have the option of saying "yea" or "nay". He said what is really being discussed at this point, is where does the county want growth in the next 20 years; and then to pick and choose the best case scenarios from the developers who wish to develop that area.

Discussion was raised regarding a committee made up of citizens, Planning Commissioners and Board members (perhaps two from each) to discuss this issue in detail and come back with recommendations. Also, the question was raised as to approaching the Attorney General regarding his feelings on the mandated versions of the UDA.

Ms. Ray, Interim County Attorney, stated that in researching an advisory opinion of the Attorney General that had been asked by Christopher McGee, a House of Delegates member in Hanover regarding the UDA, the following had been found. The question

asked whether the UDA must accommodate ten to twelve years of anticipated growth, in addition to or instead of growth plans and provisions in other areas where the developers are required to zone and develop to specific densities, or whether the Board wants to approve rezoning at specified densities solely on the basis of inadequate public facilities. She stated that the Attorney General had said it was his opinion that an urban development area must accommodate ten to twenty years anticipated growth in such area; and it was further his opinion that developers are required to zone and develop to specific densities within such areas; and that local governing bodies may not deny a zoning request solely on the basis of inadequate public facilities.

Mr. Bassett stated that the Board of Supervisors of the County of Roanoke tabled the UDA issue for a one year period. They did not receive one of the grants from VDOT, so they were not operating under one of the grant agreements. They met the threshold so they are required under current Code to have at least one defined UDA. Mr. Bassett stated that there are other localities that are struggling through defining UDA areas and working through that process. He said that currently Dinwiddie County has a grant extension through the end of November that said the county would comply with the UDA grant agreement by the end of November. He said that if the county was to go beyond that date, staff would have to request an extension in writing.

There was support from Mr. Haraway and Mr. Talmage of Mr. McCray's request for a study committee regarding the UDA.

Mr. Lee asked what the task of the committee would be.

The answer was to get input on location, whether a UDA is needed and what the cost of the UDA would be to the county.

Mr. Blaha stated that if the committee is going to try to project what it will cost to do this, then they better project what it will cost if the UDA is not done. He said that if nothing at all is done, the projection is for 8600 people to come into the county. He said if this is not done, where will those 8600 people live? He said if they move to Darvills, Old Hickory, or wherever that when they move there the first thing they are going to want is medical on call within five minutes, a fire house within five minutes because of insurance and personal property, more police, etc. He stated that those 8600 people are going to cost something whether something is done or not. He said so the consideration has to be made of what it will cost the county in infrastructure if nothing is done regarding a UDA.

Mr. Lee agreed with Mr. Blaha. He said he thought it would be foolish to just say that we're not going to do it.

Mr. Cunningham said if the 8600 people come in they could still build wherever they want as long as they have the right amount of acreage. Or, if the county has a UDA a contractor has an opportunity to come in and develop it at a much denser rate.

Mr. Kirkland asked the ramification to the county if we don't meet the deadline.

Mr. Bassett stated that we did sign an agreement stating that we would use the consultant to help us designate a UDA; amend our Comprehensive Plan; and include a mixed use zoning district within our current zoning ordinance.

Ms. Ray stated that there are two different deadlines that are being discussed. The November 30th deadline is the deadline under the UDA grant agreement. That is the deadline that if not complied with according to the terms of the agreement would mean that the grant funds would have to be paid back (\$50,000). The second deadline applies whether or not a grant was received and was for compliance with the UDA statute in the State Code. For Dinwiddie County that deadline was July 1, 2011. She said she did not know of any immediate penalty because of not meeting that deadline.

Dr. Moore asked Mr. Bassett to speak to the County creating its own mixed use ordinance compared to an UDA definition.

Mr. Bassett said that currently what was proposed at the July Planning Commission meeting was a mixed use village concept district for inclusion in the zoning ordinance. This did comply with what is being requested in the UDA.

Dr. Moore said he does not have an issue with development. His issue is where the statute says, "you **will** do this" with this amount of acreage.

Mr. Blaha asked if our traditional village concept would do basically the same thing as an UDA, and if so how would the county proceed.

Mr. Bassett answered that one problem currently is that in our zoning ordinance we do not have mixed use that allows commercial and residential development at the defined densities that are indicated in the Code. He said we do have our planned development areas, but they don't fully comply with what is required within the Code.

Dr. Moore said he thought that was reasonable – it was the magnitude of land that he is concerned about. He stated that he hoped all would be in agreement to request an extension and put the committee together to give time to look at this completely with the citizens' input.

Upon motion of Mr. Haraway, seconded by Mr. Talmage,

BE IT RESOLVED by the Board of Supervisors of Dinwiddie County, Virginia that staff request an extension until March 31, 2012, on the County's responsibilities under the UDA grant agreement and to establish a committee composed of one member each from the five electoral districts, one member from the Town of McKenney, one member from the Planning Commission, one member from the Board of Supervisors and a representative of staff to discuss the UDA requirements proposals and to report back to the Board of Supervisors with a recommendation.

Ayes: Mr. Moody, Mr. Haraway, Mr. Lee, Mr. Talmage, Ms. Moody
Nays: None

Planning Commission:

Upon motion of Mr. Cunningham, seconded by Dr. Moore, and all voting aye.

The Planning Commission appointed Mr. McCray to serve as the Planning Commission representative on the UDA Committee.

Board of Supervisors:

Upon motion of Mr. Moody, seconded by Mr. Talmage,

The Board of Supervisors appointed Mr. Lee to serve as the Board of Supervisors representative on the UDA Committee.

Ayes: Mr. Haraway, Mr. Moody, Mr. Lee, Mr. Talmage, Ms. Moody
Nays: None

The Planning Commission will appoint the six citizen representatives to the committee.

ADJOURNMENT

Planning Commission:

Upon motion of Mr. Cunningham to adjourn, seconded by Dr. Moore, all voting aye,

The Planning Commission adjourned at 8:00 p.m.

Board of Supervisors:

Upon motion of Mr. Moody to adjourn, seconded by Mr. Haraway,

Ayes: Mr. Lee, Mr. Haraway, Mr. Moody, Mr. Talmage, Ms. Moody
Nays: None

The meeting was adjourned at 8:02 p.m.

Doretha E. Moody, Chair

ATTEST: _____
W. Kevin Massengill
County Administrator
Clerk to the Board

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