

RICHMOND REGIONAL PLANNING DISTRICT COMMISSION
Minutes of Meeting
November 9, 2006

Members/Alternates Present

Malvern R. Butler (M) County of Goochland
Amy M. Cheeley (M)..... County of Hanover
Robert R. Cosby (M)..... County of Powhatan
Richard W. Glover (M)..... County of Henrico
John E. Gordon, Jr. (M) County of Hanover
Kathy C. Graziano (M) City of Richmond
John C. Grier (M)..... City of Richmond
Harvey L. Hinson (A) County of Henrico
Russell E. Holland (M), Chairman County of Powhatan
Michael L. Holmes (M), Treasurer County of Charles City
R. M. “Dickie” King, Jr. (M), Vice Chairman..... County of Chesterfield
David A. Kaechele (M)..... County of Henrico
Kelly E. Miller (M) County of Chesterfield
Elizabeth W. Moorhouse (M) County of Hanover
Patricia S. O’Bannon (M) County of Henrico
Faye O. Prichard (M) Town of Ashland
Robert R. Setliff (M)..... County of Hanover
Millard D. “Pete” Stith, Jr. (A) County of Chesterfield
Frank J. Thornton (M)..... County of Henrico
Stran L. Trout (M)..... County of New Kent
Arthur S. Warren (M) County of Chesterfield
David T. Williams (M) County of Powhatan

Members Absent

Chris W. Archer (M)..... County of Henrico
Terri C. Beirne (M)..... County of Chesterfield
James B. Donati (M) County of Henrico
Jerilynn T. “Jeri” Grigsby (M)..... County of Henrico
Frank M. Hartz (M)..... County of Goochland
Renny B. Humphrey (M) County of Chesterfield
William Russell Jones, III (M)..... City of Richmond
Sherman W. Litton (M)..... County of Chesterfield
Eugene A. Mason (M)..... City of Richmond
William J. Pantele (M), Secretary..... City of Richmond
George K. Roarty (M)..... County of Chesterfield
Ellen F. Robertson (M) City of Richmond
Brenda L. “Sam” Snyder (M) County of New Kent

Others Present

John Amos RRPDC Legal Counsel
Bill Baxter..... Retail Merchants Association
Clara Cieri.....Middle Peninsula PDC
Mark Douglas.....Thalhimer/Cushman & Wakefield

Staff Present

Paul E. Fisher Executive Director
Jo A. Evans Assistant Executive Director
Julie H. Fry..... Executive Secretary
Daniel N. Lysy Director of Transportation
Jackie S. Stewart Director of Planning/IS
Peter M. Sweetland Finance and Contracts Administrator
Patricia A. Villa Communications Coordinator
Lee Yolton Principal Planner

Call to Order

Chairman Holland called the regularly scheduled November 9, 2006 RRPDC meeting to order at approximately 1:15 p.m. in the RRPDC conference room. Chairman Holland then led the Commission in the pledge of allegiance to the flag.

I. ADMINISTRATION

A. Certification by Commission Executive Director of Meeting Quorum

Mr. Fisher certified that a quorum of 22 members/alternates was present.

B. Requests for Additions or Changes in Order of Business

Chairman Holland asked if there were any changes or additions to the order of business. There were no changes.

C. Open Public Comment Period

As there were no requests from the public to address the Commission, Chairman Holland closed the public comment period.

D. Approval of Minutes – October 12, 2006 Meeting

Mr. Fisher presented the minutes of the RRPDC meeting held on October 12, 2006 on behalf of Mr. Pantele, who was unable to attend the meeting. On motion made by Mr. Miller and seconded by Ms. Graziano, the minutes were approved as

presented. Ms. O'Bannon and Ms. Prichard abstained from the vote as they were absent from the October meeting.

F. Approval of September 2006 Financial Reports

Mr. Holmes presented the financial reports for September 2006. On motion made by Mr. Holmes and seconded by Ms. O'Bannon, the September 2006 financial reports were unanimously approved as presented and accepted for audit.

G. Chairman's Report

Chairman Holland noted that his written report had been included in the agenda under Tab 3.

H. Executive Director's Report for October 2006

Mr. Fisher presented the written staff status report, a copy having been included in the agenda, and urged the Commission members to read the report which details activities staff has undertaken in each of the localities over the past month.

II. OLD BUSINESS

A. New Office Space Proposals

Since the October Commission meeting, Chairman Holland indicated that he and the MPO Chairman, Robert Setliff, had met with staff to discuss at length both office space proposals being presented. It was the opinion of Chairman Holland that after all information was reviewed, Option A would be the most cost effective in the long term. The layout of floor space in Option B would not be conducive to efficient use by staff. He asked Mr. Setliff to add his comments.

Mr. Setliff asked that copies of the lease comparisons be distributed to Commission members. While waiting for this to be distributed, Chairman Holland suggested details of sub-lease arrangements could be discussed. The Chairman stated he had heard from some members who requested that the realtor be present during the meeting to answer questions, while other members felt it would be inappropriate to have the realtor present. Chairman Holland asked that if any member had any outstanding questions for the realtor, these should be asked at this time.

Chairman Holland asked Mr. Douglas, with Thalhimer/Cushman and Wakefield, to address the issue of sub-leasing. Mr. Douglas summarized that with the below market rate and the preferred location, there would be no trouble in finding a sub-lease tenant to occupy space that would not be used by RRPDC. As a sub-landlord, RRPDC could set all terms of the sub-lease.

Chairman Holland asked if excess space was the result of any reorganization, could that additional space be sub-let to prevent a loss being taken by RRPDC. Mr. Douglas confirmed that would be a possibility.

Mr. Butler asked why 16,000 square feet was being proposed when the direction of the Commission during the last meeting had been to renegotiate for 13,000 square feet. He wanted to know if 13,000 square feet would be available on the second floor of Stony Point II (Option A). Mr. Douglas responded this would not be allowed due to a fire code violation. Mr. Glover asked for clarification.

Mr. Douglas explained that due to the shape of the corridor on the second floor, RRPDC would be required to take either the entire 16,000 square feet or less than 13,000 square feet to comply with fire code regulations. Mr. Glover asked if the fire code violation in question was a city code or state code. Mr. Douglas responded that a company hired by the City of Richmond had completed the inspection, so he could only assume any city code would also be found in the state code. Mr. Glover asked again for an answer to the question of the violation being either a city or state code violation. Mr. Douglas replied that the representative from the city had stated it would violate a city code, and Mr. Douglas would assume it was also a state code. Mr. Glover asked if Mr. Douglas knew the name of the person who completed the inspection. Mr. Douglas replied the interior designer, from Interior Design Developments, Inc., a firm hired by the property owners, had said the city would not approve the plan.

Mr. Glover said he thought Mr. Douglas was being vague in his reasons as to why 13,000 square feet could not be leased. Mr. Douglas again stated the reason was due to a fire code regulation. To get around the fire code, RRPDC would need to lease either all 16,000 square feet or approximately 10,000 square feet. Again Mr. Glover asked if it was a city fire code or a state fire code. Mr. Douglas responded the statement from the designer who did the inspection was that it would not pass the City of Richmond fire code. Mr. Douglas stated he would imagine it was also a state fire code. Mr. Glover stated that the city cannot adopt a fire code that is different from what has been set by the state, and he asked which code was being violated. Mr. Glover said he did not understand why distance in a corridor would make any difference. Mr. Douglas stated there is what's called a 75-foot rule and a dead-end corridor rule. The back portion of a space cannot have more than 75 feet to travel to an exit in the event of a fire.

Mr. Glover asked if this location did not have a secondary door that could be used in the event of a fire. Mr. Douglas said there would be more than 75 feet to travel in the 3,000 square foot area if RRPDC leases only 13,000 square feet on the second floor.

Mr. Glover asked who had looked at the space other than the realtor. Mr. Fisher replied that the site designer, members of the Office Space Committee, and staff had all looked at the space.

Mr. Holland suggested that if discussion could continue forward, he was certain a lot of questions would be answered. He thanked Mr. Douglas for attending.

Mr. Warren asked Mr. Douglas if landlord approval was required prior to execution of a sub-lease. Mr. Douglas stated that was correct; however, the landlord cannot unreasonably withhold this option according to Virginia law. Mr. Douglas stated he thought a sub-tenant could be found prior to RRPDC taking occupancy. He also stated the space would be withdrawn from consideration today by the owners unless a decision was made. Mr. Glover asked if there was another group interested in the same space. Mr. Douglas said the owners did have someone who was very interested in the space.

There was a question on why the landlord couldn't lease the excess 3,000 square feet as opposed to RRPDC sub-letting it. Mr. Douglas stated again the fire code would prohibit this without installation of a panic door. However, the landlord would not allow this subdivision of space. Mr. Glover asked if a sub-tenant would need access through RRPDC space. Mr. Douglas said this would be only in the event of a fire.

Mr. Douglas also confirmed that the lease is a full service lease.

Mr. Warren asked for some clarification on how this space was identified. Chairman Holland verified the space had been identified by a search committee as meeting all space requirements, the Executive Committee had approved Option A by a vote of 7-1, and the chairman of the MPO has also recommended approval.

Mr. Glover asked how much square footage was currently being occupied. Mr. Fisher replied just under 10,000 square feet is being used at the current location. Mr. Glover asked why more space was required. Mr. Fisher said it was to accommodate better meeting space for the Commission, the potential for four more offices over the ten-year period, on-site storage space, better production areas, and better layout for GIS and computer systems. The improved meeting space will allow for multiple meetings to be held simultaneously. At this time, the small conference room cannot be used when the Commission is meeting. It allows improved space for operations of the Commission.

Mr. Fisher pointed out that through action at the October meeting, as summarized in the agenda packet, the Commission had directed staff to provide the original proposal for 16,000 square feet (Option A), if the property was still available, for consideration at the November meeting along with any new proposal for the reduced square footage. That reduced square footage would be approximately 13,000 square feet, Option B. Both of those proposals have been worked out with Mr. Douglas and his efforts with the space planner. Staff continues to believe that Option A will best meet the needs of the Commission, particularly since the space can be sub-leased. Mr. Douglas has been very positive in saying that he thinks

that sub-leased space can be occupied. There will be periods when a tenant might move out, but over the ten-year span, Mr. Douglas feels the space can be easily occupied.

Chairman Holland asked Mr. Douglas if a reorganization of the Commission were to occur, could space be reduced back to 10,000 square feet with the excess space being sub-let. Mr. Douglas confirmed that this should not be a problem given the type of space and its location.

Chairman Holland asked Mr. Setliff for his comments as MPO Chairman. Mr. Setliff summarized the need for a reduction of space and the subsequent identification of the second space located on the first floor of Stony Point I. A method of reducing the 16,000 square foot space to 13,000 square feet and sub-letting the additional 3,000 square feet had been completed. The space in Option B is not as flexible as that in Option A. It would not suit the needs of the Commission as well. He recommended leasing the 16,000 square feet space and sub-letting the excess space not needed by the Commission. The net cost will be a bit less under this option and will allow room for expansion should the need arise. This will also allow for space reduction with another sub-lease. Mr. Setliff indicated he believes, due to the fact that RRPDC must vacate its current space, a decision must be made and that the time for this type of discussion is past. The rate of \$16.50 has been preserved, and with the smaller space, the rate is higher.

Mr. Glover said his reasons for opposing new office space are selfish as he thinks the current space is more convenient for members. The Commission has been in this space for 18 years. He questioned why the Commission cannot stay in its current location.

Mr. Butler asked when rent would be due on the new space. Mr. Douglas indicated rent would be due upon occupancy, less the first month. Mr. Butler noted the costs would be approximately \$60,000 more per year over what is being paid currently. Mr. Hinson said he would caution against making the assumption that the excess space could be sub-let. A decision must consider that this might not be possible.

Ms. Cheeley asked why the sub-lease agreement was not in the material presented. Mr. Douglas stated this would be included in the actual lease. Mr. Douglas asked Mr. Amos if a sub-lease clause was guaranteed by law. Mr. Amos said he did not think there was a law regarding this and that any sub-lease agreement would be between the landlord and tenant as established during lease negotiations. Mr. Douglas noted that what had been presented to the Commission today was a proposal to negotiate a lease. The final lease would be presented during the next meeting.

There was a question on costs associated with construction to separate RRPDC space from a sub-tenant. Mr. Douglas indicated there is an allowance for improvements which could be used for that purpose.

Mr. Glover asked who assumes liability on the sub-let space. Mr. Douglas replied all original terms of the lease would still apply. Mr. Glover asked if that meant RRPDC would be liable for whatever happened in the sub-let space. Mr. Douglas said that would be true; however, the tenant would also be required to obtain liability insurance. If the tenant does not have insurance, the sub-lease should not be executed.

Mr. Glover again stated that he did not see the need to move RRPDC offices at this time. He asked if there was something in writing that would prohibit RRPDC from remaining in its current location.

Mr. Douglas asked the Chairman if he could address the members. Mr. Douglas continued to say that based on his lengthy experience in handling commercial real estate negotiations, he was positive the excess space could be sub-let. Mr. Glover again asked why the 16,000 square feet in Option A could not be reduced to 13,000 square feet for RRPDC to lease with the remaining 3,000 square feet being leased separately to another organization.

Mr. Douglas summarized the work that had been done with staff and the realtors to locate space as directed by the Commission last October. Mr. Glover interrupted to ask the Chairman if Mr. Douglas could be excused from the meeting to allow a vote to be taken on the proposals. Chairman Holland stated that he had attempted to do that previously; however, additional questions had been asked of Mr. Douglas.

Ms. Cheeley asked for clarification on why RRPDC could not rent 13,000 square feet with the residual 3,000 square feet being rented on its own. She asked why a fire code would prohibit this. Mr. Douglas responded the code violation had to do with how the space was divided and the need for an emergency exit for the smaller area. Ms. Cheeley asked if this meant the sub-tenant would need to be allowed to enter and exit freely through RRPDC space. Mr. Douglas responded that the sub-tenant could not enter and exit freely, but there would be need for a panic door to be installed for an emergency exit. Ms. Cheeley asked why this door couldn't be installed so the smaller space could be leased on its own. Mr. Douglas said there would be only one exit if that was done, and the fire code requires two exits.

Chairman Holland thanked Mr. Douglas for attending the meeting and indicated the Commission will contact him regarding its decision on the space. Before he left the meeting, Mr. Douglas commended RRPDC staff on their work throughout this process and reminded the members that a decision on Option A space would be needed today or the space would be withdrawn by the landlord.

Chairman Holland asked if there were any more questions before he asked for a motion. Mr. Kaechele asked with regard to the email from Mr. Pantele, which endorsed Option A, had the Executive Committee taken any action on the recommendation from Mr. Pantele. Chairman Holland indicated that the Executive Committee had voted 7-1 in favor of Option A. The chairman of the MPO also supports moving ahead with Option A.

Mr. Butler asked again for clarification on who would be liable for any injuries that occurred in the sub-let space. Mr. Butler stated he would not want RRPDC to be sued, or for any individual associated with RRPDC to be held liable for anything going wrong in the sub-let space. Chairman Holland responded that he is confident legal counsel will ensure that any sub-tenant will be required to have adequate insurance. Mr. Butler remarked that he had heard of cases where a sub-tenant falls behind on rent, does not have insurance, and cannot be easily ejected from the space. Mr. Butler indicated he did not feel comfortable with placing RRPDC in the role of sub-landlord. The point was made that RRPDC was not required to sub-lease any of the space.

Chairman Holland asked if there was a motion from the floor regarding the space proposals. Ms. Graziano moved that the Commission accept Option A as presented. The motion was seconded by Mr. Warren. The motion carried with nay votes being cast by Mr. Butler and Mr. Glover.

III. NEW BUSINESS

A. Presentation and Acceptance of Auditor Contract

Chairman Holland asked Mr. Fisher to review the Auditor Contract proposal. Mr. Fisher indicated a draft proposal was included in the agenda packet for the Committee's review. The contract being offered by Dunham, Aukamp, and Rhodes PLC is very similar to their previous contract. One difference is that the proposed contract extension has a 4% per year escalator while the previous contract had a 5% per year escalator. The proposed contract has been reviewed by Mr. Amos, RRPDC legal counsel. The Executive Committee had recommended that the proposed contract be presented to the full Commission for its approval today.

On motion made by Mr. Holmes and seconded by Mr. Setliff, the Commission approved the proposed contract extension with Dunham, Aukamp, and Rhodes PLC as presented. The motion passed unanimously.

B. Presentation by Bill Baxter, President and CEO, Retail Merchants Association

Mr. Fisher introduced Mr. Bill Baxter, President and CEO of the Retail Merchants Association, who spoke to the members on matters regarding the retail industry in

the Richmond region and the Association's efforts on behalf of the industry throughout the Commonwealth. Mr. Baxter thanked members for the recognition the Association has been receiving recently from the local jurisdictions commending the Association on its work over its 100-year history.

One item of particular interest presented by Mr. Baxter was the issue of hotel per diem rates as set by the federal government. Mr. Baxter indicated the federal government (general services administration) has changed the region-wide daily per diem from \$96.00 per day to \$102.00 per day in the City of Richmond and \$81.00 per day in Chesterfield and Henrico Counties. The average hotel costs in those counties are in excess of the new per diem allowance, which hotels will not honor as they had with the \$96.00 allowance. Mr. Baxter stated the Association is working with its partner, Greater Richmond Hotel/Motel Association, to appeal this to the federal government. The Commonwealth of Virginia typically follows guidelines as set by the federal government.

Chairman Holland thanked Mr. Baxter for his presentation and stated the Commission would be interested in receiving an update next year.

IV. OTHER BUSINESS

A. Announcements

There were no announcements.

B. Committee Reports

1. Emergency Broadcast Communications

Ms. O'Bannon referred the Committee to a summary on the status of which localities in the region had adopted a Memorandum of Understanding with WVCE-FM as part of the Emergency Broadcast Communications project. Henrico County has the issue on its agenda for a meeting next week. Ms. O'Bannon said she understands the City of Richmond and Chesterfield County have made their own arrangements with AM and other FM stations. She emphasized again that while joining this effort is not required, she would encourage all localities to participate at some level.

Ms. O'Bannon also reported that she attended an All Hazards Forum in October that focused on the problems involving interoperability between first responders in all localities. The work done in the central Virginia area is being recognized as a model for other areas. Ms. O'Bannon suggested the state coordinator for this effort should be invited to attend a Commission meeting to speak on this subject as it ties into the Emergency Broadcast Communications project.

Mr. Gordon indicated that Hanover County does not yet have full interoperability but is taking steps to achieve this.

C. For Your Information

Information was included on the following:

1. Letter from Deborah G. Mills, Hazard Mitigation Program Manager for the Commonwealth of Virginia, informing Ms. Stewart that FEMA had approved the *Richmond Regional Hazard Mitigation Plan*.
2. Article from the *Richmond Times-Dispatch* on the Captain John Smith Trail.
3. Letter from Chairman Holland commending the work done by Ms. Evans and Mr. Sweetland in support of the Office Space Sub-Committee.
4. Letter from Chairman Holland commending Ms. Fults on her work to convert data from VDOT on levels of service for selected roads into easy-to-understand maps and visuals.

V. ADJOURNMENT

There being no further business to come before the Commission, on motion duly made and seconded, Chairman Holland adjourned the meeting at approximately 2:15 p.m.

Paul E. Fisher
Executive Director

Russell E. Holland
Chairman