

POQUOSON ECONOMIC DEVELOPMENT AUTHORITY
Board of Directors Regular Meeting
August 13, 2013, 8:00 a.m.
Poquoson City Hall-Council Conference Room

PRESENT: Manfred C. Freeman, Jr., Chairman
Donald F. Booth, Jr., Vice Chairman
Alan E. Meetze, Director
Timothy O. Trant, II, Director

Charity Gavaza, Economic Development (ED) Coordinator
D. Wayne Moore, City Attorney
Theresa Owens, Finance Director
Deborah L. Vest, Director of Community Development
Victoria H. Diggs, Secretary

ABSENT: Henry L. Freeman, Director
P. Craig Moore, Treasurer/Director
Angela Ward-Costello, Director
David Callis, Economic Development (ED) Director

Chairman Freeman called the meeting to order at approximately 8:00 a.m. in the Council Conference Room located at 500 City Hall Avenue.

APPROVAL OF THE MINUTES

The minutes of the July 9, 2013 regular meeting were approved as submitted.

PUBLIC COMMENT

There was no comment.

CLOSED SESSION

It was determined, by the City Attorney, D. Wayne Moore, that the information scheduled for Closed Session discussion could be addressed in Open Session.

UNFINISHED BUSINESS

1. Wetlands Assessment – Tax Map Parcel #27-1-94A

ED Coordinator, Charity Gavaza, presented information she received from Sandra Brinson of Integrity Environmental, Inc with regard to an EDA property, identified as Tax Map Parcel #27-1-94A. She stated that Ms. Brinson felt that the subject parcel should be dry enough to initiate an informal survey to assess the ground condition; however, should the outcome be unfavorable, she would immediately stop at no cost to the Authority.

Vice Chairman Donald Booth moved, seconded by Director Meetze to request a price quote from Integrity Environmental, Inc. for a wetlands delineation of Tax Map Parcel #27-1-94A and to authorize Chairman Freeman to execute an agreement for the same should it be deemed appropriate. Recorded vote on the motion:

YES: Directors Trant, Meetze, Booth and Chairman Freeman.

NO: None.

In conclusion, Chairman Freeman asked Ms. Gavaza to obtain a quote from Integrity Environmental, Inc. and forward to him as soon as possible.

2. HRSD Drainage Issue – North Side of Victory Boulevard

Chairman Freeman gave the Authority a brief history of the drainage problems on the EDA property located on the north side of Victory Boulevard which appears to have developed when HRSD buried the new sewer pipe along the easement. He stated that storm water is now draining poorly or not at all in this area which could result in the development of wet, low lying areas that the Army Corps could designate as “non-tidal wetlands”. Deborah L. Vest, Director of Community Development, advised the Authority that HRSD would not come back to correct this problem. She stated that she would ask the City Engineer, Ellen Roberts, when she returns from medical leave to inspect the property and to suggest how best to proceed. Chairman Freeman asked if Public Works could make the needed repairs in accordance with the specifications of the original design by Donald Davis. In response, Ms. Vest stated that she would ask the City Manager if Public Works could make the needed repairs.

NEW BUSINESS

1. Possible Bond Issuance

Theresa Owens, Finance Director, informed the Authority that George Consolvo of Kaufman and Canoles had contacted her with regard to a \$7.8 million bond issuance request from Christopher Newport University Foundation. Ms. Owens stressed that it will be imperative that a quorum be present at the September 10, 2013 EDA meeting to vote on the bond resolution. Attorney Moore advised the Authority he would be out of town from August 26th through September 12th, but would review the resolution prior to his departure.

(Because the Finance Director needed to attend another meeting, the Directors agreed that the Treasurer's Report should be considered next on the agenda.)

REPORT OF THE TREASURER

There was no July financial report as the closeout of FY13 had not yet been completed.

Chairman Freeman requested that the Finance Director institute three new accounts related to the Authority's BMP as follows: one to track Fountains of Poquoson, LLC payments on its connection agreement; the second to track BMP maintenance costs to determine the appropriate annual maintenance fee; and the third to track each additional BMP connection fee.

UNFINISHED BUSINESS – Continued

1. Fountains of Poquoson, LLC BMP Agreement

Chairman Freeman explained that he, Vice Chairman, Donald Booth, and the ED Director, Dave Callis, had recently met with the representatives of the Poquoson Fountains, LLC, Bob Moses and Alfonso Garcia. At that meeting, the developers' misconception that they were paying for the entire retention pond was appropriately addressed and resolved. During the conversation, Chairman Freeman stated that Mr. Moses requested the following: to make an initial partial BMP connection fee payment at the time the agreement is executed to be followed by equal payments over the next 18 months to cover the balance; that the City install the drainage pipe from the Poquoson Commons parcel simultaneously with their development to avoid future complications; and to install three fountains in the Authority's BMP.

In response, Chairman Freeman stated that he told Messrs. Moses and Garcia that a total cost for the BMP connection fee for Phase 1 of the development could not be calculated until the final plan for the project is submitted to the City. Deborah Vest, Community Development Director, added that the City plans to add an additional signature line on the final plan approval so that the EDA has an opportunity to review and approve the project relative to its relationship with the BMP.

Vice Chairman Booth expressed concern that the developers may be hurting themselves by only submitting plans for Phase 1 of the project as it appears that Phases 2 and 3 may not have sufficient pervious acreage.

In response to a query regarding payment bond security for the connection and maintenance fee, the City Attorney stated that the standard bond required by the City for such a development will have to be expanded to include these items as well.

In response to another concern regarding upcoming storm water regulations that could limit the BMP's capacity, Vice Chairman Booth pointed out that once the first BMP agreement is executed, the pond capacity is grandfathered and will remain under the current regulations. The

developers, as a result of this meeting, proposed in writing the following structured payment per phase:

- The availability fee per phase will be calculated by multiplying the total developed area in acres times the fee of \$32,000 per acre.
- Payments will be due: 10% at issuance of building permit and 10% at issuance of Certificate of Occupancy (CO).
- Six equal quarterly payments will be paid after the CO for the remaining 80%.
- The annual maintenance fee will be paid at issuance of the CO and cannot be raised more than 10% from the prior year's amount.

The Chairman noted that this was not the same offer that was proposed at the meeting. The EDA Directors, the Director of Community Development and the City Attorney examined the developers' request and made the following counter-proposal:

- Must have an executed agreement before the plan is approved by the City. 20% due at the signing of the agreement to be followed by 5 equal payments over the next 20 months to satisfy the balance due. Payment arrangement is to be embodied in a separate agreement and/or promissory note approved by Counsel for the EDA.
- \$1,000 annual maintenance fee (amount determined annually based upon maintenance costs) due when the agreement is signed.
- Any late payment over 10 days will add 10% penalty, interest accruing after 30 days.
- Any default on the agreement, the Fountains of Poquoson LLC will be responsible for all damages and attorney fees.
- No cap on annual maintenance fee.
- Phases 2 and 3 of the Poquoson Fountains LLC are due in full at the issuance of the building permit and signing of agreement.
- This agreement is non-transferable.
- Must provide easements so that other Big Woods' properties can buy into the BMP.
- All future participants in the pond must pay in full the connection fee and the first annual maintenance fee at the issuance of the building permit and signing of the agreement.

Director Trant moved, seconded by Director Meetze to amend the storm water agreement: to include all of the modifications in the above bulleted list; to require the initial payment at the execution of the agreement; to require a separate storm water agreement should the impervious cover exceed 75% per acre; and to allow the Fountains of Poquoson LLC to install, at its expense, three separate fountains in the Authority's BMP per a license agreement approved by Council for the EDA. Recorded vote on the motion:

YES: Directors Trant, Booth, Meetze and Chairman Freeman.

NO: None.

The City Attorney was requested to make the required modifications and forward the agreement to the EDA for their review and comment.

2. *Addition of Fountain Apparatus to BMP*

This item was discussed and addressed in the previous item.

3. *Poquoson Commons Pipe Connection*

Ms. Vest, the Director of Community Development, pointed out that the drainage pipe that Messrs. Moses and Garcia are requesting the City to install in the 20-foot easement to drain the Poquoson Commons Shopping Center may not be sized appropriately nor may the platted 20-foot easement be sufficient to install this pipe. At Ms. Vest's suggestion, it was agreed that this item should be postponed until the City Engineer, Ellen Roberts, can analyze the development and determine what is appropriate. Moreover, Ms. Vest noted that upon the City Engineer's recommendations, it will be the developers' and JDH Capital, Poquoson Commons property owners, responsibility to see that this pipe is installed accordingly.

4. *Election of New Secretary*

Vice Chairman Booth moved, seconded by Director Meetze, to regretfully accept the resignation of Victoria Diggs as Secretary to the Authority and to elect Evie Insley as the EDA Secretary effective at the adjournment of the meeting. Recorded vote on the motion:

YES: Directors Trant, Booth, Meetze and Chairman Freeman.

NO: None.

REPORT OF THE SECRETARY

Ms. Diggs thanked the Authority for the past 14 years and confided that she would miss the relationships she had developed with the Directors over the years.

STAFF ACTIVITIES

1. *Past and Future Ribbon Cutting Cermonies*

The ED Coordinator, Charity Gavaza, stated that the ribbon cutting for the Rens Road boat ramp had been a great success with representatives from the *Chesapeake Bay Magazine*, *Chesapeake Bay Anglers Magazine* and the Virginia Tourism Board in attendance. She explained that the City has received a grant from the Virginia Tourism Board which will be used to share marketing costs.

Ms. Gavaza also announced that on Friday, August 16th, several additional water related business ribbon cuttings will occur:

- Jet Ski Bryan;

- Chesapeake Bay Adventures;
- Atlantic Extreme Water Sports
- York Haven Marina's Air Boat business; and
- Marshland Expeditions.

She also told the Authority that promotional ads for Poquoson would be included in upcoming editions of *Dozier's Waterway Guide* and *Chesapeake Bay Guide*, both of which have a national circulation.

In a response to a Director's query, Ms. Gavaza stated that only one lease/purchase bid for Tax Map Parcel No. 27-01-00-0001 had been submitted to City Council at its August 12, 2013 meeting. The bid was submitted by Brad Drummond and Council voted to postpone action on the bid until its second meeting in September thereby allowing sufficient time for Mr. Drummond to secure a wetlands delineation on the property.

2. *Schedule Next Meeting*

Due to the pending bond consideration, the next meeting was firmly set for Tuesday, September 10, 2013.

ADJOURNMENT

The meeting was adjourned at approximately 10:26 a.m.


Chairman


Secretary