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The Carroll County Board of Supervisors held an Adjourned Meeting jointly with the Carroll County Planning Commission and the Carroll County Industrial Development Authority on Wednesday, April 19, 2006, in the Board Meeting Room of the Carroll County Governmental Center.

Present were: Sharon F. Nichols, Chairman
Glenna Myers, Vice-Chairman
W. Jeff Evans
L. J. Jones
Joseph H. Early, III
Ralph J. "Bob" Martin, Jr.
Gary Larrowe, County Administrator
Ronald L. Newman, Assistant Administrator
Bradley Dalton, County Attorney

Also Present: Carroll County Planning Commission Members
Larry Chambers, Chairman
Emmett Jones
Oscar Hill
Namon Strickland

Carroll County Industrial Development Authority
Members
Richard Slate, Sr., Chairman
Clinton Willie, Vice-Chairman
Larry Chambers
Roger Wilson
Barry Hicks
Randy Webb

Mr. Evans called the Board to Order at 4:05 p.m. followed by Mr. Chambers and Mr. Slate calling the Planning Commission and the IDA to Order.

Mr. Larrowe introduced Dr. Michael Chandler and told that he was one of the leading experts in land use planning and zoning.

Dr. Chandler told that during today's workshop he would discuss the connection between zoning and comprehensive land use planning, discuss what has worked and not worked in other places in the Commonwealth, and discuss whether there might be something Carroll County would want to look at doing. Dr. Chandler told that there were regulations and standards to insure the health, safety, and welfare of the public. He stated that the early settlements were planned developments but told that the German's coined the term zoning. He told that New York City adopted the first zoning ordinance in the United States.

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Dr. Chandler told that under Herbert Hoover, Secretary of Commerce, the Standard State Zoning Enabling Act of 1922 had been formed as well as the Planning Enabling Act. He stated that by 1938 all states had adopted the Enabling Acts for Zoning and Planning. He commented that if zoning goes so far as to not make sense the Courts have a problem with zoning.

Dr. Chandler commented that Virginia was the mother of local governments due to the first counties having been established here. He told about local charters where localities would petition the General Assembly to have a local government as a town or city and that this charter provides for what a town or city can do. He told that there were 325 local governments in Virginia but that the State Government reigns. He stated that an activity is enabled if the Code permits it under Virginia Code Section 15.2-2201. He told that the intent of the General Assembly was spelled out in Virginia Code Section 15.2-2000. Dr. Chandler discussed the Dillon Rule and told that 37 out of 50 states were Dillon Rule States. He then defined zoning as follows:

Zoning is a legislative process of classifying land in a locality into districts or zones, and establishing in each district or zone regulations concerning the uses of land and the placement spacing and size of permissible structures.

Zoning consists of a map(s) which define the limits of the various districts or zones and a series of regulations, called the text, which specify the uses, activities and density of development in each district or zone.

Zoning is premised on the fundamental idea that certain uses are incompatible and should be segregated.

Accordingly, the purpose of zoning is two-fold: 1) to preserve the existing character of an area by excluding prejudicial uses, and 2) to provide for the development of the several areas (in a community) in a manner consistent with the uses for which they are suited.

In the final analysis, zoning is an institutional process designed to preserve and improve the quality of life in a community by regulating and restructuring property uses.

He then told that eight counties in Virginia do not have zoning.

Dr. Chandler told that in 1975 Virginia mandated local governments having Planning Commissions, developing Comprehensive Plans, and adopting Subdivision Ordinances. He stated that if a locality had zoning they must have a Board of Zoning Appeals. He then discussed that the authority for a locality to zone was found in Virginia Code Section 15.2-2280 and discussed the purpose of zoning as defined in Virginia Code Section 15.2-2283. He told that

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Comprehensive Plans discussed items such as residential, commercial, and agriculture issues. He told that the focus of the Zoning Ordinance was defined in Virginia Code Section 15.2-2284 and stated that the Zoning Ordinance would be drawn along the lines of the Comprehensive Plan. He told that Federal and State Government properties were exempt from the local zoning ordinance.

Mr. Martin commented that nobody was in favor of zoning until something happened like putting a hog farm next to an expensive house. He stated that zoning comes with consequences but that they are miniscule compared to the public good.

Mr. Evans commented that there are other ways without zoning to regulate activities with such things as county ordinances. He discussed regulating adult businesses.

Dr. Chandler commented that commercial activity was easier to regulate with zoning.

Mr. Martin commented that with ordinances people will challenge something and that the County does not have the money to defend an expensive case to the Supreme Court.

Dr. Chandler told that the ordinance would have to be drafted to be fair and equitable to all. He told that location and hours of operation for businesses could be regulated.

Mr. Dalton asked what the County could put in an ordinance, absent of zoning, to regulate the location of an adult business in relation to schools and churches and to regulate the hours of operation.

Dr. Chandler stated that this could be done but if it looks like zoning and works like zoning then it is zoning. He told that the ordinance could be tied to the health and safety of the public but this still would be a stretch.

Mr. Early stated that Dr. Chandler had already said this would be cleaner and simpler with zoning.

Dr. Chandler replied yes and then stated that one option for zoning might be to zone near Galax or Hillsville rather than the entire County, one option might be to let Galax or Hillsville extend their zoning into the County, and another option might be to zone certain districts.

Mr. Dalton asked if the County would have to zone an entire district.

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Dr. Chandler commented that the Comprehensive Plan would be developed first and then the Zoning Ordinance adopted. He told that there could be zoning in a defined corridor to make up a zoning district and gave the example of along Route 58 from Galax to Hillsville. He stated there had to be a reason for doing what was done. He then stated that zoning was a tool and there had to be the political and community will to stand by the plan.

Mr. Dalton asked if zoning would control liquor by the drink.

Dr. Chandler stated that the question on the referendum could determine the establishments where this could be sold.

Mr. Dalton questioned if the ordinance or the referendum could establish that this would only be sold in the commercial districts.

Dr. Chandler replied yes and then reminded everyone that zoning is not permanent but is something that can be changed.

Mr. Martin commented that he was seeing large acreage tracts auctioned at estate auctions into smaller tracts which makes things more complicated.

Dr. Chandler responded that over time what is considered a community asset could be lost. He stated that with zoning a locality has a greater chance of keeping the integrity of the land. He told that a locality could have as many zoning districts as it wants as long as what is done on its face is reasonable.

Mr. Early stated that he ran on zoning and that he thinks it is necessary. He told that he was also open on liquor by the drink. He stated that he thought it was an error to say that the entire county may not need zoning and told that he thought it did.

Dr. Chandler responded that he was not a proponent of partial zoning.

Mr. Early stated that conformity was important and that people coming into the county did not care about their neighbors. He asked if the entire county could be considered agricultural/residential and then have a commercial overlay between Galax and Hillsville.

Dr. Chandler told that this was very feasible. He stated that an agriculture zone with a rural residential overlay would be best for most of Carroll County.

Mr. Early stated that this conforms to what the land is already being used for. He then asked Dr. Chandler what he would say to a county that has a Subdivision Ordinance that did not comply with State Code.

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Mr. Dalton stated that Carroll County allows for a Recreational Subdivision that does not require roads to be to VDOT standards.

Mr. Evans stated that this gives the landowner rights.

Dr. Chandler told that this was not trying to tell people what to do. He stated that every situation could not be controlled or regulated but that government can step in and help protect the rights of the citizens.

Mr. Evans told that this was trying to sell a vehicle that was not always needed.

Dr. Chandler stated that there were no guarantees in life. He told that there was not the guarantee of tomorrow but there was the hope for tomorrow so there was the need to look beyond today. He stated that there couldn't be assurance that people are going to respect their neighbor.

Responding to a question of could the Planning Commission or the Board of Supervisors circumvent through a zoning ordinance the liquor by the drink issue and allow establishments in a district to sell alcoholic beverages, Dr. Chandler responding if the use is permitted by right in the zoning ordinance but if it is not approved by the referendum they cannot.

Mr. Dalton asked what the rural residential with agriculture overlay would do to a Subdivision Ordinance that allows for ½ acre lots.

Dr. Chandler told that the potential for development would have to be looked at and the same ½ acre standard could be permitted. He told that this could be addressed in the Comprehensive Plan based on the level of service standard. He told that each development would have to show that it conforms to that service standard. He told that if it went beyond the service standard development would have to wait until the service standard is improved.

Ms. Janet Tate stated that she had been attending the Planning Commission meetings for the last year and that developers do the minimum to make their money and then they are gone and the county has to pay to improve services. She stated this is why planning is so important.

Dr. Chandler stated that a certain level of activity causes mass to bump into mass and commented that Carroll County is growing at rapid rate.

Mr. Darrell Cockerham, Carroll County Building Official, commented that Carroll County is growing rapidly and stated that there were a lot of farms being sold and developers are selling lots larger than 5 acres which are not regulated.

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Mr. Early stated that the people on the street will tell that the beauty of the county and view of the mountains is important.

Mr. Martin discussed the service impact fees being charged by Prince William County.

Dr. Chandler told that there could be conditional zoning with proffers. He stated that communities can adopt zoning that is relatively simple and then after some years look to see if it is working good or needs tweaking.

Mr. Martin told that it would take something like Stompin 76 for some people to accept zoning.

Dr. Chandler told that real leadership is making decisions before they have to be made.

Mr. Martin told that he was on a previous Board that said no to a group of investors that then went and built KimStan Landfill.

Mr. Randy Webb told that with proper education of the public people would understand zoning.

Dr. Chandler stated that the Board would not adopt zoning without working with the public.

Mr. Early asked if absent zoning was the county in jeopardy of development taking place that is unwanted.

Dr. Chandler stated that the county is experiencing a great deal of change that will only escalate. He told that absent zoning the county is in jeopardy and stated that sometimes things have to be done for own well-being.

Mr. Martin stated that the areas from Galax to Hillsville and along Route 52 through Cana were hot spots for growth. He asked what the recourse was after the fact.

Dr. Chandler commented that a locality could anticipate the future and plan accordingly or live day to day. He stated that some things may be lost that can't ever be restored. He told that models could be looked at to see the advantages.

Mr. Jones stated that if someone has 50 acres they couldn't sell it to a farmer and make any money so they have to sell it to a developer.

Dr. Chandler told that with an agriculture zone with rural residential that allowed for one house each acre this could still be sold into 50 different lots.

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He then told that the Comprehensive Plan needed to be updated and that the public needed to be informed of how zoning would help with land use.

Mr. Early commented that the process would take a long time and asked what steps the Board needed to take.

Dr. Chandler told that first was to see where the county was on the plan update and to see if the plan was fundamentally good. He told that the Board should consider holding public workshops to discuss the plan and that land use maps be created by the Board, the Planning Commission, and the public.

Mr. Early thanked Dr. Chandler for his presentation.

Dr. Chandler stated that he was glad to come and that he would help in any way he could. He told that he had put on planning workshops to educate the public on the planning process.

(Order)

ADJOURNMENT

Upon motion by Mr. Jones, seconded by Mrs. Myers, and passed unanimously, the Board adjourned at 8:13 p.m. until April 24, 2006 at 6:00 p.m.

Sharon F. Nichols, Chairman

Ronald L. Newman, Assistant Clerk