Planning Commission Meeting
January 13, 2011
Verbatim Excerpt

2232-D10-12 – VIRGINIA ELECTRIC AND POWER COMPANY (VEPCO) D/B/A DOMINION VIRGINIA POWER
SEA 85-D-033-03 – VEPCO D/B/A DOMINION VIRGINIA POWER

Decision Only During Commission Matters
(Public Hearing held on December 9, 2010)

Commissioner Donahue: Thank you very much, Mr. Chairman. Also on December 9th, Mr. Chairman, we had a public hearing on 2232-D10-12 as well as the accompanying SEA, Virginia Electric and Power Company, i.e. the Reddfield Station. I will make a recommendation - - final recommendation on this before we're through this evening. But before making a recommendation on these applications, I'd like to engage staff in a short discussion - -

Vice Chairman Alcorn: Please.

Commissioner Donahue: - - to clarify some of the topics and conclusions in the staff report. This is an application that ultimately is about visual impact of a public use proposal on an adjacent residential neighborhood, transitional screening and barriers as well as sites, which by their very nature do not or can not accommodate the kind of degree of screening that the Zoning Ordinance suggests in Article 13. Now, a couple of things I want to talk about is as we talk about screening and barriers, both in the staff report as well as the comments coming from the applicant as well as the discussion through staff, the discussion took two tracks. Number one, why a site can't provide the 50 feet of unbroken strip of open space and screening required. And number two, when that can't happen, the special design techniques, architectural, and landscaping, and improvement screening, etcetera that might be proposed to make up for the lack of screening to mitigate the visual impact. And one of the things I want to ask staff is it's correct to say, I think that what I'm going call "elements," both these elements are required to justify waivers and modifications. In other words, the simple fact the site simply can't accommodate what the requirement calls for would not in itself be enough, certainly not in this case I think, to justify a screening waiver. Is that a correct statement?

St. Clair Williams, Zoning Evaluation Division, Department of Planning and Zoning: Commissioner Donahue, St. Clair Williams with the Department of Planning and Zoning. You are correct. It's not just the fact that for whatever reason they cannot meet the requirement. Since they can't meet the requirement, what are they doing alternatively to provide some level of screening and buffering?

Commissioner Donahue: Okay. Is the justification sufficient is the question that I saw actually in those words and also referred to throughout the staff report and the various communications. And sufficiency I think, tell me if you agree this case is established much more by those extra measures intended to replace screening that the applicant intends to do. The sufficiency is established much more by those than it is by the fact that the nature of the site simply can't accommodate the type of screening that is the requirement.

Mr. Williams: That is correct.

Commissioner Donahue: Okay. Now, there's going to be an 80-foot - - 85-foot high backbone out there. And we've discussed this a little bit. We've discussed it a little bit at the public hearing, but I'd like to go over it a little bit again. What sense do you have that the accommodation of on-site and probably more particularly off-site measures will hide or block out the view of the backbone from some or all of the homeowners in the area?

Mr. Williams: Well, of course with the - - excuse me - - the backbone structure being 85 feet in height is going to be difficult for any type of screening to block that structure. What we have looked at is working also the distance of this site to the residential properties. With that, that's good enough also help mitigate the view. There are already existing power line poles that are closer in distance to the residences than the proposed backbone, and actually with the distance the backbone will appear at a height to be the same height if not less than the existing power lines. Now the screening and barrier or wall that they're providing will help mitigate some of the other structures on the site, but again the backbone being 85 feet in height, there's not going to be much that can mitigate the view of that structure.

Commissioner Donahue: All right. The - - in both Article 13 and 9-006, which deals with this in different parts of the Ordinance, there are comments and - - and text that clearly show that ensuring we will avoid impairing real estate values and waivers and modifications that do not frustrate the purpose and intent of Article 13, one of which is to conserve properties and their values, the Code concerns itself very clearly and very much with those two aspects. Again, although this is a tricky thing to figure out, I understand that, I'm going to ask you to comment on the way this application and this proposal and this construction could affect those aspects because those are the things that those two articles concern themselves with and just so we know.

Mr. Williams: You know - - I mean I can't comment on how this proposal will affect property values. One of the things we looked at, as I mentioned earlier, there are - - there is an existing power line easement that runs between the proposed substation and the existing properties. There is existing power - - there are poles that are existing there. Based on the distance and the screen provided with this, staff felt that the impact is not going to be a significant impact compared to what's existing - - you know - - in that area already.

Commissioner Donahue: Okay. And I thank you. Unless we have some comments or questions from the Commission. Mr. Chairman, I think we do.

Commissioner Hart: Mr. Chairman?

Vice Chairman Alcorn: Mr. Hart, and then let's go to a motion.

Commissioner Hart: Yes. Thank you, Mr. Chairman. Before we go on the verbatim, I - - I did see the handout tonight and I - -

Commissioner Donahue: Excuse me. If I could say, there's one other person I'm going to want to talk to before we go on verbatim. So, go ahead.

Commissioner Hart: I did - - I was in a meeting at 7, so I didn't see it before now, but in looking at tonight's handout on new Development Condition 12 in the first sentence, I think we may be going a little further than we intended. And I thought that the point was that the applicant and the construction people not use McKay Street, not that McKay Street be closed during their activities. And I wondered if the first sentence of Development Condition 12 should be something like, "McKay Street shall not be used by the applicant and its contractors," rather than making it sound like the whole street should be shut down because I think we want the people who live there to be able to use it while they're constructing.

Mr. Williams: You're correct. The intent is not have McKay Street be closed; it's just to ensure that construction vehicles aren't using McKay Street. So, we can revise that language just to make that clear, but - -

Commissioner Hart: Yes. I think it should - - it shouldn't - - shall not be used by the applicant and its contractors or personnel, or something on that order.

Vice Chairman Alcorn: Good catch.

Commissioner Hart: Thank you.

Vice Chairman Alcorn: Good catch, Commissioner Hart. Commissioner Donahue.

Commissioner Donahue: Thank you, Mr. Chairman. Yes, counsel Lee Fifer here, if he can come on down, Mr. Chairman, and speak with him for a minute.

Lee Fifer, Esquire, with McGuire Woods LLP: Good evening. For the record, my name is Lee Fifer. I'm an attorney with McGuire Woods.

Commissioner Donahue: Thank you, Mr. Fifer. The same discussion - - little discussion that I just had with staff I have had one form or another with you on a number of occasions. Probably most recently e-mails we exchanged on 1-9 and 10, in which I asked you to comment on the type of initiatives that you will be willing and able to take, and why it is we should be able to justify modifications and waivers of requirements concerning screening. In the answer that you gave me was very similar to the things we've talked about for so long. You said that there are - - are issues with the site itself that make it very difficult to maintain some of the screening and barrier requirements. The fact that you got a 100 wide - - 100-foot wide electrical power easement where you can't put vegetation, I think you can't go anywhere in 15 feet of it or something of that type?

Mr. Fifer: Yes.

Commissioner Donahue: And the paragraph too says that a full screening procedure reasonable use, not necessarily the use but a reasonable use, and that if a particular design or landscaping or screening exercises can be taken that those waivers would be - - would probably be acceptable. I'm more interested, however, in what you can do to mitigate the problem than what we can't do because of the nature of the site. And you also indicated that the backbone will come down - - come down from 95 to 85 feet, you're going to be doing some extra landscaping. But I think most importantly what is going to be used to mitigate - - mitigate some of these problems are landscaping that is going to be done off your sites and on the sites of some of the residents that are going to have in effect this - - this structure in their backyard. Can you elaborate on those aspects a little bit to try to raise our comfort level with what's going to be happening here?

Mr. Fifer: I will - - I will be happy to try. Incidentally, we did increase the eight-foot screening wall to nine feet in addition to lowering the backbone so that - - that more solid physical screening occurs. What has been offered for the off-site landscaping is that Dominion will meet with each of the McKay Street and - - and other neighbors who have a view of this facility. And with them, Dominion's arborist will design a screening arrangement that is satisfactory to that particular landowner. It is necessarily a one-lot-at-a-time exercise. Dominion will then install that landscaping and for a five-year period guarantee its viability. You know of course that typical warranties from commercial nurseries are for one year for the health of a plant. Dominion is guaranteeing a five-year viability with the expectation of course that a landowner will do proper watering and - - and not run their lawnmowers into things and that sort of thing. But an unusual part about that if we have a severe storm that knocks down landscaping - - the screening during that time, Dominion will reconstitute it all at Dominion's expense. It - - it is true that Dominion cannot plant on its site because of the size of this parcel and the height limitations imposed by federal standards actually, any plant material underneath a high power electric line, they cannot plant trees that will grow to the normal heights that landscaped buffer would normally grow for under our standards in Fairfax County. But what they can do is - - is work with landowners off-site, and it is our expectation that if the landowner so chooses, certainly at ground level they can totally screen views, as a matter of their choice of how these screening occurs. Because the land on the far side of the high power easement - - electrical transmission line easement does slope up, it is very likely that second-story windows and that sort of thing cannot be screened, but on the ground the backyards of the people that back up to the stream that's adjacent to the transmission lines, if they so choose could have a green blanking out, if you will, of this facility, again at Dominion's expense and Dominion going the extra length of a five-year guarantee of viability.

Commissioner Donahue: Thank you. So, it is your feeling, which may be somewhat in opposition to the comments that I think we heard from staff a few minutes ago, and you and I have discussed this more than I have with them, that the majority of houses, with the exception of one or two that sit across the street and up high, actually black out or green out the backbone of this proposal completely? Do I hear you saying that correctly?

Mr. Fifer: That is possible.

Commissioner Donahue: Yes.

Mr. Fifer: Again, as a matter of the individual choice of the landowners.

Commissioner Donahue: Right.

Mr. Fifer: They may desire a more decorative appearance, but a total screen is - - is certainly possible.

Commissioner Donahue: Right. And I noticed in the latest conditions as well, you're willing to give a fairly long period of time to the landowners and residents to decide and discuss with you what type of landscaping and screening they may want.

Mr. Fifer: Yes, we are willing to do that, and that is an issue that arose after that condition was drafted. A number of things key into that. As you know, WMATA is doing certain work on the stream immediately behind the houses on McKay Street that will remove some of the existing buffer. They will be replanting their own buffer there, which will provide some benefit to the neighbors and - - and as a practical matter, when you add the 20 feet - - or, 25 feet of landscaping on the Dominion site that is being provided to the average width of the WMATA landscaping in what's called the triangle, you wound up getting the 50 feet of landscaping, but it is our expectation that won't be enough. So, the thought was that people - - homeowners will want to see what happens with WMATA and then what happens as clearing occurs on the site for Dominion, which isn't nearly as important as the clearing that WMATA must do in order to put its storm pond in. That is the most direct view of the McKay Street neighbors into the rail yard and exposes actually the substation site much more so than what Dominion will do. That's already programmed, we cannot stop that, that's going forward, you all have - - that's already been before the County. But, what Dominion is doing is absolutely everything it can do to address - - get - - get each landowner the ability to screen out the view of the backbone predominantly is what will be visible.

Commissioner Donahue: Right.

Mr. Fifer: The top of the backbone.

Commissioner Donahue: I want to encourage you very seriously to ensure that you work very closely with those - - those residents and those landowners as you have ensured me and within the conditions we seemed to have the wording required to do that because this neighborhood, quite frankly, has borne I think more than its share of the burden of getting Metro rail on the ground in Fairfax County and now out to Dulles Airport. And I think serious and significant and major concessions are due to them, not only in the landscaping and the ways we find to protect them from the views of this site, but also we've talked a little bit today about a path request that the neighbors have made. And I was very encouraged by your response with respect to that path request. I realize other things have to fall in line as well, but it would seem to me and I would

hope we would be able to give them back something for the burden they are taking on to get Metro Dulles.

Mr. Fifer: I'll be happy to say on behalf of Dominion for the record that Dominion is more than happy to work with its projected neighbors on a path to provide them pedestrian access to the West Falls Church Metro Station. We control only a part of that, but for the part that Dominion does control, they would be happy to cooperate.

Commissioner Donahue: Okay. Thank you very much.

Vice Chairman Alcorn: Okay. Any other discussion before we go on verbatim?

Commissioner Lawrence: Mr. Chairman?

Vice Chairman Alcorn: Yes, Commissioner Lawrence.

Commissioner Lawrence: Thank you, Mr. Chairman. Just - - just one question for Commissioner Donahue or - - or Attorney Fifer or whoever. As I recall it, the - - the thing we're looking at - - the - - the great big structure sits itself on an elevation as compared to many of the houses along there. Am I - - am I correct?

Mr. Fifer: Not - - not quite right. The site itself is elevated from where the houses are.

Commissioner Lawrence: Okay.

Mr. Fifer: You have the houses, you then have a stream, you have the 100-foot utility easement, and then you have a hill and this facility is at the top of that hill.

Commissioner Lawrence: All right. And here's my question then. With that in mind, the geometry of this situation is such that it's going to take vegetation of a certain height in order to be effective as a screen between the people in the backyards of those houses and the structure up on the hill. And do we know that those types of vegetation will in fact grow in that soil or will there be an arborist or other person available to help make sure that we are able to select the right kinds of vegetation?

Mr. Fifer: I would give you two comments to that. Number one, there are lovely big trees growing there now with - - with full mature heights in place, so every indication is that soil will bear that. Modern landscaping though works wonders with soil amendments, so it would be the expectation even if there were an issue that that can be addressed. I would also say that not only is height an issue, but the distance that landscaping is placed in reference to the point-of-view, a 10-foot evergreen positioned relatively close to a point-of-view screens an awful lot of the sky.

Commissioner Lawrence: I understand. The words you said about - - about enriching the soil or whatever, to help the things grow. Does our development condition - - will that development condition cover that, you think?

Commissioner Donahue: I - -

Commissioner Lawrence: If it turns out to be necessary.

Commissioner Donahue: Yes, I believe it will. The condition no matter what else happens, the condition I believe guarantees and assures that Dominion Virginia Power is on the hook for five years.

Mr. Fifer: Correct.

Commissioner Donahue: And that should be more than enough time to figure out if one particular plant doesn't grow in the particular soil or happens to plant the right plant.

Commissioner Lawrence: Okay, or give it the time to grow if that's - -?

Commissioner Donahue: Correct. Correct.

Commissioner Lawrence: Okay. Thank you very much, Mr. Chairman.

Vice Chairman Alcorn: Okay. Any other comments? Okay. We are now on verbatim. Commissioner Donahue.

Commissioner Donahue: Thank you very much, Mr. Chairman. My comments will be extremely brief. We have here a public use that is I think essential to not only Fairfax County but eventually and before too long to the areas right around this station because there are going to be needs for electrical improvements and increases that are going to affect people on McKay Street and the immediate area. And therefore, this particular installation is going to serve those folks in this immediate area. Nevertheless, I'm going to repeat my comment concerning what has happened to this neighborhood over the last 20 or 30 years all in the interest of pushing the interest of rail which the County needs, no question about it. But I - - I try - - I would not be making this recommendation if I were not convinced of what Mr. Fifer said today, which is that an awful lot can be done, particularly with off-site, on residential property landscaping to do a lot to buffer the visual impact that we are going to have to deal with, with respect to this application. I trust Dominion Virginia Power will go ahead and made every possible effort to do that, and I think ultimately the efforts will be rewarded. And therefore, Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF SEA 85-D-033-03, SUBJECT TO THE DEVELOPMENT CONDITIONS DATED JANUARY 13, 2011.

Commissioners Migliaccio and Lawrence: Second.

Vice Chairman Alcorn: Seconded by Commissioners Migliaccio and Lawrence. Any discussion on that motion? All those in favor of recommending that the Board of Supervisors approve SEA 85-D-033-03, subject to the development conditions dated January 13, 2011, please say aye.

Commissioners: Aye.

Vice Chairman Alcorn: All opposed? That motion carries.

Commissioners de la Fe and Hall: Abstain.

Vice Chairman Alcorn: Commissioners de la Fe and Hall abstain, not present for the public hearing. Commissioner Donahue.

Commissioner Donahue: Thank you, Mr. Chairman. I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF THE MODIFICATION OF THE TRANSITIONAL SCREENING AND THE WAIVER OF THE BARRIER REQUIREMENTS, IN FAVOR OF THAT SHOWN ON THE SEA PLAT.

Commissioners Migliaccio and Lawrence: Second.

Vice Chairman Alcorn: Seconded by Commissioners Migliaccio and Lawrence. Any discussion on that motion? All those in favor of recommending approval of the modification of the transitional screening and waiver of the barrier requirements, in favor of that shown on the SEA Plat, please say aye.

Commissioners: Aye.

Vice Chairman Alcorn: All opposed? That motion carries. Same abstentions. Commissioner Donahue.

Commissioner Donahue: Thank you, Mr. Chairman. I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF A WAIVER OF THE COMPREHENSIVE PLAN TRAIL REQUIREMENT ALONG IDYLWOOD ROAD.

Commissioners Migliaccio and Lawrence: Second.

Vice Chairman Alcorn: Seconded by Commissioners Migliaccio and Lawrence. Any discussion on that motion? All those in favor of recommending approval of the waiver of the Comprehensive Plan Trail Requirement along Idylwood Road, please say aye.

Commissioners: Aye.

Vice Chairman Alcorn: All opposed? That motion carries. Same abstentions. Commissioner Donahue.

Commissioner Donahue: And I MOVE THAT THE PLANNING COMMISSION RECOMMEND TO THE BOARD OF SUPERVISORS APPROVAL OF A DEVIATION OF THE TREE PRESERVATION TARGET, IN FAVOR OF THAT SHOWN ON THE GDP [sic].

Commissioners Migliaccio and Lawrence: Second.

Vice Chairman Alcorn: Seconded by Commissioners Migliaccio and Lawrence. Any discussion of that motion? All those in favor of recommending approval of a deviation of the tree preservation target, in favor of the development conditions and that shown on the SEA Plat, please say aye.

Commissioners: Aye.

Vice Chairman Alcorn: All opposed? That motion carries. Same abstentions. Commissioner Donahue.

Commissioner Donahue: Yes, I just realized I missed the 2232, but - -

Vice Chairman Alcorn: I was going to say, I think we have a 2232 as well.

Commissioner Donahue: Mr. Chairman, I MOVE THAT THE PLANNING COMMISSION FIND THAT THE FACILITY PROPOSED UNDER 2232-D10-12 SATISFIES THE CRITERIA OF LOCATION, CHARACTER, AND EXTENT AS SPECIFIED IN SECTION 15.2-2232 OF THE *CODE OF VIRGINIA*, AND IS SUBSTANTIALLY IN ACCORD WITH THE PROVISIONS OF THE COMPREHENSIVE PLAN.

Commissioners Migliaccio and Lawrence: Second.

Vice Chairman Alcorn: Seconded by Commissioners Migliaccio and Lawrence. Any discussion on that motion? All those in favor of finding that the facility proposed under 2232-D10-12 satisfies the criteria of location, character, and extent as specified in Section 15.2-2232 of the C*ode of Virginia*, and is substantially in accord with the provisions of the Comprehensive Plan, please say aye.

Commissioners: Aye.

Vice Chairman Alcorn: All opposed? That motion carries. Same abstentions.

Commissioner Donahue: Thank you, Mr. Chairman. A lot of people deserve thanks for an awful lot of hard work; the one most clearly applicable, St. Clair Williams, who did a tremendous job on this application. And many more, but we have limited time and limited

doughnuts so I can't mention them all, but I do want to thank St. Clair for his efforts and the people who supported him. Thank you very much.

Vice Chairman Alcorn: Well - - and Mr. Donahue, I wanted to thank you. This was a very, very tough case and this is one where I think you put the sweat into it to make sure that it works, so thank you for all the work that you did on that as well.

Commissioner Donahue: Appreciate it.

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Commissioner Donahue: Mr. Chairman?

Vice Chairman Alcorn: Yes, Commissioner Donahue.

Commissioner Donahue: Pardon the interruption. It's been pointed out to me by my good friend Robin that there was an error in the motion to approve the SEA that we just made - - that I just made.

Vice Chairman Alcorn: Oh. Okay.

Commissioner Donahue: I'd like to spread the blame around, but I can't.

Vice Chairman Alcorn: All right. Let's go.

Commissioner Donahue: The last portion of the motion starting out with, finally I move the Planning Commission recommend to the Board of Supervisors, and it goes down to the GDP.

Vice Chairman Alcorn: GDP?

Commissioner Hall: You're about to make another one.

Commissioner Donahue: Yes, yes. That - - that should be replaced by - - that should be replaced by the following, staff recommends approval of a preservation target, in favor - -

Vice Chairman Alcorn: Mr. Donahue, excuse me. Let me - - let me - - let me ask, which case is this? I don't see it in the last case that we did.

Commissioner Donahue: This is SEA - -

Vice Chairman Alcorn: Okay.

Commissioner Donahue: - - 85-D-033-03.

Vice Chairman Alcorn: The one that we just finished.

Commissioner Donahue: Okay. Okay.

Robin Ransom, Assistant Director, Planning Commission Office: Chairman Alcorn?

Vice Chairman Alcorn: Yes.

Ms. Ransom: The - - the confusion arises because of how you restated the motion was correct, but the actual motion that Commissioner Donahue made referred to a GDP, and it is the SEA PLAT - -

Vice Chairman Alcorn: Yes.

Ms. Ransom: - - AND THE DEVELOPMENT CONDITIONS, so that's all we're SUBSTITUTING FOR THE WORDS, "GDP."

Vice Chairman Alcorn: Okay. Well, WITHOUT OBJECTION LET THE RECORD SHOW THAT IT IS THE SEA PLAT AND NOT THE GDP.

Commissioner Donahue: That's fine.

Vice Chairman Alcorn: WITHOUT OBJECTION. And - - there it is. Okay. Thank you, Mr. Donahue.

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(The motions carried by votes of 8-0-2 with Commissioner Sargeant recused himself; Commissioners de la Fe and Hall abstaining; Commissioner Murphy not present for the votes.)

KAD