

Planning Commission Meeting
July 19, 2012
Verbatim Excerpt

2232-V11-25 – FAIRFAX COUNTY PARK AUTHORITY (WESTGROVE PARK INTERIM OFF-LEASH DOG AREA)

Decision Only During Commission Matters
(Public Hearing Held on May 17, 2012)

Commissioner Flanagan: Thank you. That being the case, Mr. Chairman, on May 31st, the Commission –

Chairman Murphy: Are we going to go on verbatim now?

Commissioner Flanagan: I'm on verbatim now.

Chairman Murphy: Okay.

Commissioner Flanagan: On May 31st, the Commission moved unanimously to defer decision on this matter until a date certain of July 19 to concur a resolution of the issues raised here tonight – I'm quoting from the transcript. As a result, the Commissioners have received for the record at least 12 written emails in that regard. Most repeated, but did not provide additional testimony. One, however, from the Park Authority did respond to Commissioner Hart's request to approve something. The Park Authority letter indicates that they have reviewed the issues raised during the May 31 public hearing and provided a response to each; the most relevant being their unanimous support for an interim off-leash dog area on 10 percent of Westgrove Park. They also have approved the resumption of the master plan process previously deferred. Based on the further testimony of the Park Authority letter and overwhelming support by the adjacent Westgrove, Villamay, Belle Haven, Montebello Associations, the Mount Vernon Council, Supervisor Hyland, County staff – as has been reaffirmed tonight – and most notably the County Attorney's advice, I have concluded that the Park Authority application for interim off-leash dog area within a small 10 percent of Westgrove is substantially in accord with the Comprehensive Plan. I THEREFORE MOVE, Mr. Chairman, THAT THE PLANNING COMMISSION FIND THE SUBJECT APPLICATION 2232-V11-25 SATISFIES THE CRITERIA OF LOCATION, CHARACTER, AND EXTENT AS SPECIFIED IN VA CODE SECTION 15.2-2232, AS AMENDED.

Commissioner Donahue: Second.

Chairman Murphy: Seconded by Mr. Donahue. Is there a discussion of the motion?

Commissioner Sargeant: Mr. – go ahead.

Chairman Murphy: Mr. Hart.

Commissioner Hart: Thank you. Mr. Chairman, I think we still don't have an approved master plan from the Park Authority. I think that's where this primarily falls short. We still have this characterized as interim use, although under 15.2-2232 we cannot put in development conditions like a time limit. We're approving this up or down. The statute requires that we find it's in general conformance with the Comprehensive Plan as to general location, character, and extent. The Comprehensive Plan said the park would be developed with a mix of uses following the Park Authority's master planning process, which hasn't happened. I hope that they'll do that. I wish that they would. But the 2232 process is not a substitute for that and I still can't support this. Thank you.

Commissioner Lawrence: Mr. Chairman?

Chairman Murphy: Mr. Lawrence.

Commissioner Lawrence: Mr. Chairman, I align myself with Commissioner Hart for this reason. The Comprehensive Plan provides guidance. It does not have the force of law. That is the same in Tysons as it is in this particular case. If we choose not to follow what is very clear guidance in the Comprehensive Plan, where else will we choose not to follow that guidance? I cannot support this motion.

Chairman Murphy: Further discussion of the motion?

Commissioner Sargeant: Mr. Chairman?

Chairman Murphy: Mr. Sargeant.

Commissioner Sargeant: It is my understanding – two points – from the actions taken at the Board of Supervisors, that – is that this will go forward. This will be considered at the next Board of Supervisors meeting regardless of the outcome of our considerations tonight.

Chairman Murphy: I don't think it will go the Board of Supervisors if the motion prevails. It will more than likely go to the Board of Supervisors if the motion is defeated.

Commissioner Sargeant: I stand corrected. But the point is – if it –

Chairman Murphy: Just a point of clarification.

Commissioner Sargeant: Yes, a point of clarification. If this – if the motion fails, if we move for deferral, this will still end up going to the Board of Supervisors. My other understanding based on the guidance – and I'm referring generally to this guidance from the County Attorney's Office – is the possibility that a legislator may anticipate – may interpret that this is in substantial conformance. That is part of the challenge we face here, even though I acknowledge and concur with Commissioner Hart that the specifics of this have not been – have not been met. Either way on this vote, I plan to introduce a motion that would direct staff to report back to us on the master

planning process to provide an update to the Planning Commission regarding the master planning process, with particular detail paid to environmental concerns that have been raised during this process, as well as the issue of the proposal for a mix of uses that we have heard in our Comprehensive Plan. So either way, I'll make that motion and hopefully go forward so that we can stay on top of what has occurred during this process that has provided certainly disharmony, if not disunity, within the community. Thank you.

Chairman Murphy: Mr. Litzenberger.

Commissioner Litzenberger: Thank you, Mr. Chairman. I was not present for the 31 March hearing [sic], but since it has been almost four months, it gave me time to review all the literature and actually view the video of the hearing. I'm going to be voting in support of this because we had a similar situation out in Sully and the dog park has been very well received by the citizenry. And I think it would be an asset to the Mount Vernon District. Thank you.

Chairman Murphy: Further discussion of the motion? All – Ms. Hall.

Commissioner Hall: Yes, I was not present for the hearing. I'll be abstaining.

Chairman Murphy: Okay. All those in favor of the motion to approve 2232-V11-25, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed?

Commissioners Hart and Lawrence: No.

Commissioner Hall: Abstain.

Chairman Murphy: Motion carries. Mr. Hart and Mr. Lawrence vote no. Ms. Hall abstains.

Commissioner Migliaccio: Abstain, Mr. Chairman.

Chairman Murphy: And Mr. Migliaccio abstains.

Commissioner Sargeant: Mr. Chairman?

Chairman Murphy: Mr. Sargeant.

Commissioner Sargeant: If you would, I would like that motion now.

Chairman Murphy: Please.

Commissioner Sargeant: I WOULD LIKE TO MOVE TO DIRECT STAFF TO REPORT BACK TO THE PLANNING COMMISSION REGARDING THE FAIRFAX COUNTY PARK AUTHORITY'S MASTER PLANNING PROCESS FOR WESTGROVE PARK IN THE MOUNT VERNON DISTRICT OF FAIRFAX COUNTY. IN PARTICULAR, WE ASK STAFF TO PROVIDE DETAILED UPDATES REGARDING ENVIRONMENTAL ISSUES RAISED DURING THE MASTER PLANNING PROCESS AND CONSIDERATION OF OTHER USES OR NON-USES AT WESTGROVE PARK.

Commissioner Migliaccio: Second.

Chairman Murphy: Seconded by Mr. Migliaccio. Just a point of clarification, are you asking the Park Authority staff to do that?

Commissioner Sargeant: No, I'm asking our staff.

Chairman Murphy: Okay. All those in favor of the motion as articulated by Mr. Sargeant, say aye.

Commissioners: Aye.

Chairman Murphy: Opposed? Motion carries.

Commissioner Sargeant: Thank you, Mr. Chairman.

Chairman Murphy: I think the bottom line here is – and I identify with the issues articulated by Mr. Lawrence and Mr. Hart – it's not a very good way to do business. I mean that's the bottom line for me. So I think we need to do something about it. Hopefully by monitoring this situation and getting a good report back, we'll get a better handle on this and this won't happen again.

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(The first motion carried by a vote of 7-2-2 with Commissioners Hart and Lawrence opposed; Commissioners Hall and Migliaccio abstaining; Commissioner Alcorn absent from the meeting.)

(The second motion carried unanimously with Commissioner Alcorn absent from the meeting.)

JLC