



COUNTY OF PATRICK

P.O. Box 466
STUART, VIRGINIA 24171
Telephone: (276) 694-6094
Fax: (276) 694-2160

H. Danny Foley, Sr., Chairman
Roger L. Martin, Vice Chairman
Darrell Cockerham, Member

Crystal P. Harris, Member
David G. Young, Member
Regena H. Handy, Administrator

VIRGINIA: At a regular meeting of the Board of Supervisors of the County of Patrick, held at the Patrick County Administration Building thereof on Monday, July 11, 2005 at 3:00 p.m.

PRESENT: H. Danny Foley, Sr., Chairman; Darrell Cockerham, Crystal P. Harris, and David G. Young, Board Members; Regena H. Handy, County Administrator; Michael Burnette, Assistant County Administrator; Eric Helms Monday, County Attorney; and Mary Beth Roberson, Assistant to County Administrator.

ABSENT: Roger L. Martin, Vice Chairman.

On motion made and duly seconded:

WHEREAS, The UNITED STATES CONSTITUTION is the fundamental defining document that lays out the basic legal and moral framework that comprises the essence of this great American nation. It is a legal document meant by the founding fathers to be narrowly interpreted and strictly construed, and

WHEREAS, unfortunately the Supreme Court and other elements of the judiciary have tended to treat it as a political document that has slowly evolved corrupting the meaning to fit the necessities of the moment. The substitution of public purpose for public use in the Fifth Amendment is an example, and

WHEREAS, The Fifth Amendment states "... nor shall private property be taken for public use without just compensation. Effective 5/23/2005 the Supreme Court gutted this vital protection for private ownership of real estate by changing PUBLIC USE to PUBLIC PURPOSE thereby allowing any political subdivision of government to use the power of eminent domain to take private property by condemnation and then give it to any private citizen or other private interest for any purpose whatever. The purpose may allegedly be to increase taxes, clean up an area of elderly or minority, low value housing, build a mall, etc. These people generally cannot or do not fight back. Property belonging to wealth and influence is rarely condemned.

There is no penalty if the entity getting the property converts it to its own profitable use. This change may possibly subject the taking of real estate and property rights by greedy developers, corporations and those of wealth and influence in concert with incompetent apathetic politicians in exchange for campaign contributions or other considerations, and

WHEREAS, Condemnation must not be used to acquire private property unless that property is absolutely necessary for PUBLIC USE and the need overrides the importance of established private use, and

WHEREAS, The use of condemnation to acquire the property of the elderly, working people and those of limited means usually results in considerable loss of money, causes tremendous stress and is significantly adverse to the people and the community. The property owner is at a severe disadvantage without competent legal representation in a struggle against big government with the taxpayer's money and possibly abetted by other wealth and influence. The condemner's agents emphasize the great cost and stress of such a legal battle to the property owners and often threaten the elderly and vulnerable people with limited resources. Most give in and sign away their rights for a pittance. These people can lose a significant portion of their life savings. The abuse suffered by the elderly and those not equipped to fight often amounts, in reality, to legal extortion, and

WHEREAS, in many cases trials are held off for a period of years. The condemner takes the property, deposits an inadequate amount of money in the county clerks office and then fails to finalize the taking by court action until much later. This writer has this problem at present. As a result the property owner no longer has his land and may not have the resources to replace what was taken especially in residential or business property causing often serious problems to the people, and

WHEREAS, Condemners are sometimes able to retain incompetent and dishonest appraisers to furnish low-ball market value estimates and in the case of partial or easement takes to totally ignore the value of damage caused by the take to the remainder of the property, and

NOW THEREFORE BE THE FOLLOWING RESOLVED, Neither the Board of Supervisors nor any entity or subdivision of the County government shall be permitted to take private property through the power of eminent domain for a public purpose. The Board of Supervisors or any entity or subdivision thereof shall be permitted to take private property by the power of eminent domain only for a public use, as opposed to a public purpose. Furthermore, an increase in tax revenue or an increase in the number of jobs shall not be deemed a public use that will permit the exercise of the power of eminent domain.

Private property shall under no circumstances be condemned by the county or any entity or subdivision thereof and then conveyed, loaned, rented or otherwise given or conveyed, whether permanently or temporarily, to any private interest for any purpose.

The use of the power of eminent domain shall be exercised by the county or any entity or subdivision thereof only for private property that is absolutely necessary for strictly public use and then only as a last resort and only upon the failure of all available and appropriate attempts to negotiate a purchase with written offers of up to 150% of the market value as determined by a competent accurate appraisal which is consistent with the local real estate market.

When in the case of a partial take or an easement take or any other circumstances that reduce the value or the highest and best use of the remainder of the property, the condemner shall take the entire property unless the property owner is appropriately compensated for the damages.

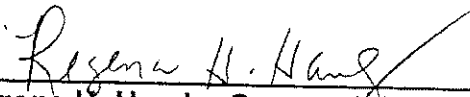
As a condition of the condemnation, the property owner shall retain possession of the subject property until just compensation has been determined, ordered and paid. If payment is not made within 60 days of the termination of the trial, interest on the amount of just compensation shall accrue at the rate of 3% (three percent) per month compounded.

The condemner shall pay all the costs arising from the condemnation for both the condemner and the condemned.

The condemner shall make a relocation assistance payment to the property owner in the take of residential, industrial, or commercial property in the amount of 10% (ten percent) of the competent estimate of market value or of the just compensation whichever is higher.

Motion carried.

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TESTE:



Regena H. Handy, County Administrator