

THE WORK SESSION OF THE NEW KENT COUNTY BOARD OF SUPERVISORS WAS HELD ON THE 29TH DAY OF JULY IN THE YEAR TWO THOUSAND NINE OF OUR LORD IN THE BOARDROOM OF THE COUNTY ADMINISTRATION BUILDING IN NEW KENT, VIRGINIA, AT 8:00 A.M.

IN RE: CALL TO ORDER

Chairman Davis called the meeting to order.

IN RE: ROLL CALL

Thomas W. Evelyn	Present
David M. Sparks	Present
James H. Burrell	Present
Stran L. Trout	Present
W. R. Davis, Jr.	Present

All members were present.

IN RE: CLOSED SESSION

Mr. Trout moved to go into Closed Session for discussion involving business and industry development pursuant to Section 2.2-3711A.5 of the Code of Virginia, for consultation with legal counsel pursuant to Section 2.2-3711A.7 of the Code of Virginia concerning actual or probable litigation, and to discuss a personnel matter pursuant to Section 2.2-3711A.1 of the Code of Virginia involving the assignment of an employee. The members were polled:

Thomas W. Evelyn	Aye
David M. Sparks	Aye
James H. Burrell	Aye
Stran L. Trout	Aye
W.R. Davis, Jr.	Aye

The motion carried. The Board went into closed session.

Mr. Sparks moved to return to open session. The members were polled:

David M. Sparks	Aye
James H. Burrell	Aye
Stran L. Trout	Aye
Thomas W. Evelyn	Aye
W.R. Davis, Jr.	Aye

The motion carried.

Mr. Sparks made the following certification:

Whereas, the New Kent County Board of Supervisors has convened in a closed session on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

Whereas, Section 2.2-3712 of the Code of Virginia requires a certification by the Board that such closed session was conducted in conformity with Virginia law;

Now there be it resolved that the Board hereby certifies that to the best of each member's knowledge (i) only public business matters lawfully exempted from open session requirements by Virginia law were discussed in closed session to which this certification resolution applies and (ii) only such public business matters as were identified in the motion convening the closed session were heard, discussed or considered by the Board.

The Chairman inquired whether there was any member who believed that there was a departure from the motion. Hearing none, the members were polled on the certification:

James H. Burrell	Aye
Stran L. Trout	Aye
Thomas W. Evelyn	Aye
D.M. Sparks	Aye
W. R. Davis, Jr.	Aye

The motion carried.

IN RE: FOLLOW UP ON EMERGENCY OPERATIONS PLAN

Fire Chief Tommy Hicks addressed the Board concerning the Emergency Operations Plan, to be included in the Board of Supervisors August 10 meeting's consent agenda.

Chairman Davis asked if the Plan is available online and Chief Hicks affirmed that it would be after adoption and would also be available in the County Administrator's Office.

IN RE: ADDITIONAL APPROPRIATIONS AND INTER DEPARTMENTAL BUDGET TRANSFERS

Financial Services Director Mary Altemus presented appropriations and inter departmental budget transfers to the Board for Fiscal Year 2009 as follows:

1. FY08/09 Supplemental Appropriations:
 - a. Funds for revenue recovered for insurance claims, \$1,602.00
 - b. Funds received from various builders for reimbursement of 2006 Code Books purchased by the Building Development Office, \$171.00

\$(1,773.00)	Total
\$ 1,773.00	Money In/Money Out

2. FY09/10 Supplemental Appropriations:
 - a. Funds received for the "All Kids Are Special" playground project, \$100.00
 - b. Reduce appropriation for Local Emergency Management Performance Grant. Funds expected are less than budgeted, \$60.00
 - c. Funds for Fire-Rescue coverage at Colonial Downs July 1 – 12, \$9,300.00
 - d. Funds donated to Fire-Rescue, \$230.00
 - e. Funds received by Fire-Rescue for reimbursement of training supplies, \$40.00
 - f. Funds for a FY10 VML Safety Grant received by Public Utilities, \$1,000.00

- g. Funds for revenue recovered for insurance claims, \$7,975.00
- h. Funds for a National Recreation and Park Association after school archery grant, \$500.00
- i. Funds for a Fire-Rescue Department of Health, Office of Emergency Services, State Homeland Security Program federal grant for eleven (11) Panasonic ToughBook 19s, \$40,150.00
- j. Program income received to date for FY10 from CDBG Plum Point grant, \$498.71

\$(59,733.71) Total
\$ 59,733.71 Money In/Money Out

3. FY10 Carry Forward appropriations

- a. Funds for a maintenance service contract on the new Planning software, \$36,000.00
- b. FY09 funds for FY10 for the Comprehensive Plan update, \$20,000.00
- c. FY09 Capital funds to FY10 for the new Planning/Building Development software, \$39,750.00
- d. FY09 veterinarian services funds collected from Animal Shelter donations to be used in FY10, \$7,432.31
- e. Capital funds for the E-Board Packages/Boardroom technical upgrades project not completed in FY09, \$14,361.97
- f. Litigation expenditures in the Legal Services budget for ongoing cases that will continue in FY10, \$3,884.41
- g. FY09 Purchase of Development Rights Capital funds to be used in FY10, \$454,000.00
- h. Funds for unemployment cases that continue into FY10, \$1,407.85
- i. FY09 unspent Human Resources funds to purchase employee identification software and equipment in FY10, \$11,179.00
- j. Grant funds received in FY09 for a Sheriffs' Association grant for a National Highway Transportation Safety Grant to be used in FY10, \$2,338.63

\$(590,354.17) Total
\$ 150,000.00 Money In/Money Out
\$ 79,903.57 From Fund 1 – General Fund Balance
\$ 2,338.63 From Fund 6 – Grant Fund Balance
\$ 358,111.97 From Fund 7 – Capital fund Balance

4. FY08/09 Inter-Departmental Budget Transfers

- a. *Fire-Rescue*: \$1,964 between salary line items to cover payroll shortage
- b. *Fire Rescue*: \$1,877 from State Forester to Professional Services & Computer Supplies
- c. *Social Services*: \$1,971 from Lease/Rent of Office space to Salary & Wages, Postage and Office Supplies
- d. *Sheriff's Office*: \$211.00 from Part Time Wages to Overtime
- e. *Sheriff's Office*: \$1,210 from Sheriff's office Gas to SRO Gas and OSHP Compl. Exp.
- f. *Training*: \$2,649 from Training Contingency to Clerk of the Board, Human Resources, Planning Administration, Fire-Rescue, CSA and Social Services
- g. *Fire Rescue*: \$19,593.00 from OSHA, Electric, Telecommunications, Telecom Equipment, Leased WAN Lines, Repair Port Equipment, Insurance Damages,

EMS Equipment, Janitorial, Uniforms and Promotional to Part-Time, Overtime,
Bank Services Charge and Refunds

- h. *Unemployment Compensation*: \$411 from Contingency to Unemployment
Compensation

Mr. Sparks moved to approve the additional appropriations and inter departmental budget transfers as presented. The members were polled:

Thomas W. Evelyn	Aye
D.M. Sparks	Aye
James H. Burrell	Aye
Stran L. Trout	Aye
W.R. Davis, Jr.	Aye

The motion carried.

IN RE: GENERAL FUND LOAN TO UTILITY FUND

Before the Board for consideration was Resolution R-31-09 authorizing a loan from the General Fund to the Utility Fund for the lease/purchase of a dump truck.

Chairman Davis explained enterprise funds for those in attendance.

Mr. Trout moved to adopt Resolution R-31-09. The members were polled:

Stran L. Trout	Aye
Thomas W. Evelyn	Aye
D. M. Sparks	Aye
James H. Burrell	Aye
W.R. Davis, Jr.	Aye

The motion carried.

IN RE: CENTRAL VIRGINIA FOOD BANK (CVFB)

Central Virginia Food Bank's Program Coordinator Julia Galloway and Executive Vice President Richard Schultz addressed the Board. By way of background, Ms. Galloway told the Board there were currently three agencies supporting food bank operations in the County: From the Heart, New Hope Church and New Covenant Community Church.

Mr. Schultz advised that in July 2008, Meals on Wheels and CVFB had combined, making that partnership the first of its kind in the country. He also stated that deliveries increased approximately 21% for Meals on Wheels in New Kent in the last Fiscal Year.

County Administrator John Budesky asked what other localities were doing to give CVFB space for operations.

There was discussion regarding mobile pantries, which were being considered in other localities. Ms. Galloway and Mr. Schultz offered a tour of their Richmond facility to all of the Board members.

Chairman Davis stated that he felt that logistically the County would do better with one central location and that was why he had asked Ms. Galloway and Mr. Schultz to speak with the Board. He also wanted Board members to speak with their constituents about this need because he foresaw it becoming a much bigger need in the future.

The Board thanked Ms. Galloway and Mr. Schultz for their time.

IN RE: SECONDARY STREET ACCEPTANCE REQUIREMENTS

Virginia Department of Transportation (VDOT) Residency Administrator Torrence Robinson addressed the Board concerning legislation that went into effect July 1, 2009 concerning secondary street acceptance requirements. Mr. Robinson covered six major changes that would affect New Kent County including area types, connectivity, adding streets as a network instead of one at a time, pedestrian accommodations, third party inspections, and contact sensitive street design standards.

George Homewood, Director of Community Development, told the Board that due to the way the ordinance was written, the County followed the State's regulations.

Mr. Budesky stated that with these regulations there would be additional cost to developers and with some of VDOT's leaders leaving, the County would have to deal with these issues. Mr. Homewood discussed some of these issues.

Mr. Robinson said that those already in substantial development, and having an agreed upon plat with the County, would have the opportunity to abide by the old regulations. He reviewed the old regulations for acceptance.

IN RE: STATUS REPORT ON SECONDARY STREET ACCEPTANCES

Mr. Trout talked about these regulations as they related to Wingapo Road which had been intermittently maintained by VDOT but was not in the State system.

Mr. Budesky stated that there were 20+ roads in the same situation as Wingapo Road -- some without homeowners associations and not positioned to make funding decisions -- making each road a different challenge.

IN RE: SECONDARY SYSTEM SIX YEAR PLAN DEFICITS

Mr. Robinson spoke about deficits in the Secondary System Six Year Plan and proposed that the County use revenue sharing funds to help settle these deficits.

Chairman Davis expressed his concerns with VDOT's request to have the County fund these shortages.

Mr. Robinson stated that there were some projects that had been completed and did not have a County match, and that the State required that the deficits be funded before continuing with other projects.

Mr. Evelyn asked what benefit it would be to the County to pay the approximately \$98,000 that VDOT was requesting.

Chairman Davis stated that the Board was not ready to make a decision concerning this item.

Mr. Evelyn confirmed that he and Mr. Sparks had tentatively scheduled a community meeting concerning improvement options for the intersection of New Kent Highway (Route 249) and Airport Road (Route 612) for September 9 at 7 p.m.

IN RE: PROPOSED FARMS OF NEW KENT PUD AMENDMENT

Chuck Rothenberg, attorney for the Farms of New Kent, addressed the Board concerning a request for several minor changes to the Farms of New Kent PUD to be considered by the Board at a future meeting. He gave a history on the previous modifications to the PUD, and developer Pete Johns gave an update on all completed projects.

Mr. Budesky reminded the Board that the utility system *pro forma* was based on a certain number of users and, while he was not telling the Board that staff did or did not support these amendments, he wanted to remind them that if there were no houses, there wouldn't be any users to pay user fees.

Discussion centered on other developments in surrounding localities, including Newtown in Williamsburg.

Mr. Rothenberg asked for flexibility in order to move the number of units between land bays though not increasing the gross number of units in the overall project. Mr. Homewood commented that Patriots Landing and Kentland had this flexibility.

The Board thanked Mr. Rothenberg and Mr. Johns for their time.

IN RE: PROPOSED FLOODPLAIN ORDINANCE

Mr. Homewood addressed the Board concerning the proposed floodplain ordinance, forwarded by the Planning Commission with a favorable recommendation. The Planning Commission included three changes that the Board did not need to accept including requiring additional freeboard for the lowest floor, requiring new roads constructed across the floodplain be at least two feet above the 100-year floodplain elevation, and prohibiting new installation of mobile homes in the floodplain.

Chairman Davis questioned the Use Regulations and discussion centered on specific areas of New Kent that were and were not located in the floodplain.

Mr. Homewood reminded the Board that he would not be at the meeting where this item would be considered and asked that any changes to be made be submitted before his departure.

IN RE: SIGN ORDINANCE AMENDMENT AND REVISION

County Attorney Intern John Puvak and Community Development Intern Andrew Pompeii gave the history on the amendment and revisions of the sign ordinance as well as their research process. The Ordinance draft was reviewed and it was noted that much of the content was the same and the permitting process for signs was the same. Mr. Pompeii stated that the ultimate goal of the document was to make it more user-friendly.

Mr. Burrell asked about non-conforming signs such as billboards. It was noted that a conditional use permit could be obtained for those businesses not already present in New Kent that would have non-conforming signs.

County Attorney Jeffrey Summers stated that what would come before the Board at its next meeting were basic housekeeping amendments such as changes in enforcement that needed to be made and that the draft ordinance itself would need to be examined more closely.

Chairman Davis asked about the sign requirements for home occupations and suggested that the four square feet requirement be examined more closely.

The Board thanked Mr. Puvak and Mr. Pompeii for their time.

IN RE: RECONCILIATION OF CH. 98 OF THE COUNTY CODE AND THE ZONING MAP

Planner Kelli Le Duc gave the history on the discrepancies regarding the County Code and the Zoning Map.

Mr. Budesky clarified that this future item, to be voted on at a later date, was just correcting staff error and was a way to reconcile the ordinance and zoning map.

IN RE: HENRY/COOKS MILL LLC PURCHASE OF DEVELOPMENT RIGHTS APPLICATION

Ms. Le Duc distributed copies of e-mails exchanged regarding legal issues involving the Henry/Cooks Mill LLC Purchase of Development Rights (PDR) application. She explained that the County did not have a Transfer of Development Rights (TDR) provision in the ordinance so the County could buy development rights but could not transfer them.

Chairman Davis asked what could be done by-right to the property. There was further discussion on by-right allowance. Mr. Homewood indicated that by-right allowance was strictly a mathematical calculation.

Mr. Summers stated that one of his interns was working on a TDR ordinance.

Mr. Henry indicated that he would like to put one parcel in PDR now as long as the County would consider TDR in the future.

Ms. Le Duc stated that the ordinance restricted development to one house per 100 acres and asked the Board if this was something they wanted to enforce in this instance. Mr. Budesky asked Mr. Henry what he would do if the County decided not to change this provision and Mr. Henry stated that he would probably take some of the 70 acres slated for recreation and add them to another parcel to get the 100 acres for a dwelling. Three of the five Board members indicated that they would not be willing to consider changing the PDR ordinance provision from the current one dwelling per 100 acres.

Mr. Budesky suggested to the Board that they order the appraisal on the property then they could change the ordinance to specify the number of homes or give themselves the authority to specify the number of homes in the future, and at a later date they could consider TDR.

Chairman Davis stated that the appraisal could be done once the applicant decided which parcel would be used in PDR.

The Board thanked Mr. Henry for his time.

IN RE: WHITE CUP APPLICATION

Planner Matthew Ebinger briefly reviewed Isabel White's CUP application to construct a cell phone tower on 35 acres in the Barhamsville area. He referred to maps on current coverage and spoke about balloon tests that had been conducted on the property. He noted that the Planning Commission forwarded this application to the Board with a favorable recommendation.

Chairman Davis questioned requirements involving the right-of-way and reminded Ms. White to make sure the company she was doing business with paid for any improvements to the property and paid the increase in taxes.

Ms. White stated that she would like for the property to remain the same as it had been for the last 100 years and indicated that she would like the tower to be positioned "out of sight".

The Board thanked Ms. White for her time. Mr. Sparks left the meeting at 12:58 p.m.

IN RE: BASIC CONSTRUCTION

Bill Dervishian, of 10104 Pamunkey Drive in New Kent, spoke to the Board concerning his observation of sand being transported out of the Basic Construction Company site in the County.

Chairman Davis told Mr. Dervishian that the Board would research the issue.

The Board took a lunch break and resumed its meeting at 1:20 p.m. Mr. Burrell left the meeting at this time.

IN RE: AGRICULTURAL & FORESTAL DISTRICT APPLICATIONS

Amy Walker, Environmental Planning Manager, briefly reviewed the Agricultural & Forestal District applications that were scheduled to come before the Board at a future meeting.

Ms. Walker informed the Board that next year only one notice would be sent to adjacent property owners due to the cost of sending three certified mailings for each adjacent property owner this year.

IN RE: UPDATE ON STORMWATER REGULATIONS AND DCR OVERSIGHT

Ms. Walker updated the Board on stormwater regulations including the impacts to the County as well as issues such as staffing and the need for the County to maintain Best Management Practices (BMPs).

IN RE: WHITLOW REZONING & CUP APPLICATIONS

Mr. Ebinger reported that the Whitlow property was one of the parcels under the reconciliation of Chapter 98 of the County Code. He reviewed the uses of the subject property and stated that staff and the Planning Commission favorably recommended the rezoning and CUP applications.

Mr. Homewood stated that the owner of the property had a home occupation that outgrew the home occupation regulations regarding storage of company equipment. The business was moved out of the County and the owner was trying to get back into New Kent.

Mr. Ebinger said that staff considered the rezoning as part of the overall concept of the hamlet.

IN RE: ADJOURNMENT

There being no further business, Mr. Evelyn moved to adjourn the meeting. The members were polled:

David M. Sparks	Absent
James H. Burrell	Absent
Stran L. Trout	Aye
Thomas W. Evelyn	Aye
W. R. Davis, Jr.	Aye

The motion carried.

The meeting was adjourned at 1:47 p.m.
