

THE REGULAR MEETING OF THE NEW KENT COUNTY BOARD OF SUPERVISORS WAS HELD ON THE 18th DAY OF NOVEMBER IN THE YEAR TWO THOUSAND NINE OF OUR LORD, (FOLLOWING A CONTINUANCE FROM NOVEMBER 12, 2009) IN THE BOARDROOM OF THE COUNTY ADMINISTRATION BUILDING IN NEW KENT, VIRGINIA, AT 6:00 P.M., FOLLOWING A 5:30 P.M. RECEPTION IN HONOR OF THE 2009 CLASS OF NEW KENT UNIVERSITY HELD IN THE COURTHOUSE FOYER.

IN RE: RECONVENING THE MEETING

Chairman Davis reconvened the meeting that had been continued from November 12, 2009, because of the weather and resulting power outage. All members were present.

IN RE: MOMENT OF SILENCE FOR RECENT TRAFFIC FATALITIES

Chairman Davis asked for a moment of silence in memory of young victims of a recent fatal traffic accident.

IN RE: INVOCATION AND PLEDGE OF ALLEGIANCE

Jerry Sprouse, a member of the 2009 class of New Kent University, gave the invocation, which was followed by the Pledge of Allegiance.

IN RE: CONSENT AGENDA

The Consent Agenda was presented as follows:

1. Approval of Minutes
 - a. Regular meeting of October 13, 2009
 - b. Special meeting of October 22, 2009
2. Miscellaneous
 - a. Approval of lease renewal with Verizon for existing cell tower at Rt. 618 Collection Center
 - b. Resolution R-58-09 requesting that the roads in Brickshire, Section O, Phase I be added into the State system for maintenance
 - c. Resolution R-59-09 requesting that the roads in Brickshire, Section O, Phase II be added into the State system for maintenance
 - d. Resolution R-60-09 requesting that the roads in Brickshire, Section Q, Phase II be added into the State system for maintenance
 - ~~e. Resolution R-61-09 requesting the Virginia Department of Transportation to abandon and add sections of roadway resulting from the Stage Road project~~
 - f. Resolution R-63-09 recognizing the work of the Zoning Ordinance Rewrite Committee
 - g. Approval of the Deed of Easements and Subordination for utility easements in Land Bays I, IV and V of New Kent Farms LLC
3. Refunds
 - a. \$1,344.86 to Ranger Brecht LLC for overpayment of real estate taxes due to an inaccurate assessment
 - b. \$358.92 to Boddie-Noell Enterprises for cancelled permit #16206-2009
 - c. \$1,519.65 to Boddie-Noell Enterprises for cancelled permit #16201-2009

4. FY10 Carry Forward Appropriations
 - a. FY09 funds for School capital projects, \$927,914.00
 - b. Additional FY09 capital funds to FY10 for the second floor courthouse renovations to be completed in FY10, \$245,496.00
 - c. FY09 capital funds to FY10 or Fire-Rescue Squad 3, \$300,000.00

Total Supplemental Appropriation:
\$(1,473,410.00) Total
\$ 927,914.00 Money In/Money Out
\$ 545,496.00 Fund 7 – Capital fund balance

5. FY10 Carry Forward Appropriations
 - a. FY09 funds for Village improvements due to not receiving ISTE grant reimbursement from VDOT, \$45,370.00
 - b.

Total Supplemental Appropriation:
\$ (45,370.00) Total
\$ 45,370.00 Fund 7 – Capital fund balance

6. FY10 Appropriations
 - a. Local grant funds from the Wachovia foundation for Parks & Recreation volunteer grant, \$100.00
 - b. Funds for FY10 Fire-Rescue revenue recovery to cover bank fees, \$78.00
 - c. Funds received to date for Fire-Rescue revenue recovery for Fire-Rescue personnel, \$17,920.00
 - d. Funds for public safety coverage at Colonial Downs and various events for September and October 2009, \$22,617.00
 - e. Funds for Parks & Recreation program sponsorship revenue, \$600.00
 - f. Funds donated to Fire-Rescue, \$115.00
 - g. Funds donated to the Animal Shelter, \$390.00
 - h. Funds received for insurance for a Sheriff's vehicle that hit a deer on August 15, \$1,830.00
 - i. Funds for a van purchased for the Sheriff's Emergency Response Team with forfeited asset proceeds, \$8,500.00
 - j. Program income received to date for FY10 from CDBG Plum Point grant participants, \$742.04
 - k. Funds received for DMV stop fees in the Treasurer's Office, \$500.00

Total Supplemental Appropriation:
\$(53,392.04) Total
\$ 8,500.00 From Fund Balance
\$ 44,892.04 Money In/Money Out

7. FY10 Inter-Departmental Budget Transfers
 - a. *Extension:* \$35 from Reserved for Contingency to Workers Compensation
 - b. *Public Utilities:* \$3,000 from Machinery & Equipment and Contract Services to Generator Fuel
 - c. *Circuit Court:* \$2,000 from Mileage to Dues and Part-time Salaries
 - d. *Schools:* \$4,454 from Tuition-Other Divisions-SpEd Sec to School Contingency Fund
 - e. *Schools:* \$777 from School Contingency to Furniture & Fixtures NKES
 - f. *Commissioner of Revenue:* \$60 from Office Supplies to Travel – Convention & Education

- g. *Training*: \$6,641 from Reserved for Contingency – Training to Travel line items for Board of Supervisors, Clerk of the Board, County Attorney, Human Resources, Commissioner of Revenue, Treasurer, Financial Services, IT, Sheriff, Building Development, Dispatch, Fire-Rescue, Building & Grounds, Planning Administration, Economic Development, Extension, Social Services, CSA, Airport, Human Services, Utilities Administration and Water
- h. *Fire Rescue*: \$63,953 from Fire-Rescue Contingency to Overtime and Part-time line items

8. Treasurer's Report: Cash in Bank as of September 2009: \$24,153,447.80

Mr. Trout asked that the item pertaining to abandoning portions of Stage Road be removed from the Consent Agenda, explaining that the subject portions could be a part of the Washington-Rochambeau Route, which was currently the subject of an historical study. He advised that the study report was due before the end of the year and suggested that no action be taken until the report was received.

Mr. Trout moved to approve the Consent Agenda, with item 2.e. removed, and that the Consent Agenda be made a part of the record. 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.

Mr. Burrell pointed out that in the Consent Agenda was a joint resolution with the Planning Commission recognizing the work of the Zoning Ordinance Rewrite Committee, which included David Adams, John Crump, Mark Daniel, Tom Evelyn, Gary Green, Lisa Guthrie, John Jones, Julian Lipscomb (Chair), Michael Pitman, John Reus, Paul Robinson (Vice Chair), Laura Rose, William Taylor, James Watts, and Isabel White.

IN RE: NEW KENT UNIVERSITY 2009

The graduates of the 2009 class of New Kent University were congratulated and presented with certificates. Chairman Davis expressed thanks to Ted Cole of Davenport and Company who sponsored the program, and the Board members and the Interim County Administrator provided comments about the program and its participants.

Participants included Mary Altemus, Carlton Anderson, Sandra Blake, Kim Claytor, Jill Cruz, Verna East, Choice East, James Hobbs, Scarlette Hobbs, Katie Jarrell, Bettina Jones, Bonnie Justice, Mike Lang, Jean Macon, Patrick Murphy, Jennifer Murray, Daniel Palenski, Ned Pearson, Melissa Pulliam, Judith Scott, Jerry Sprouse, Lisa Sutherland, Beth Trivett, Jason Turner, Neal Wallace, Scarlet Wallace, Hal Wallof, Jill Wallof, Charles Williams and Helen Williams.

On behalf of the class, Kim Claytor commended the program, presenters and staff.

IN RE: H1N1 VIRUS (SWINE FLU) UPDATE

Dr. Brooke Rossheim, Acting Director of the Chickahominy Health District, and Carol Lien, Supervisor of the New Kent/Charles City Health Department, provided an update on the H1N1 pandemic.

Dr. Rossheim reported that, as in most of the country, there was widespread flu activity in Virginia. He explained that influenza tended to appear in waves, and that the current wave of H1N1 was starting on its way down. He indicated that flu activity was measured by the percentage of people presenting at emergency rooms or urgent care centers with flu-like symptoms, and that the percentage was currently at 5%, down from 15% a few weeks prior. He reminded that influenza tended to be very unpredictable and vaccines remained the first line of defense. He confirmed that there was a nationwide delay in receiving vaccine supplies in any significant amount. He reported that in New Kent vaccines had been administered at both elementary schools, as well as to individuals in the priority groups which included pregnant women, adults with chronic medical conditions, health care providers and first responders.

Ms. Lien advised that much more of the vaccine mist had been received than the vaccine injections, but was not an option for all age groups. She reported that there had been no H1N1 flu deaths in the Chickahominy Health District and hospital confinements were few. She advised that plans were to administer vaccines to middle and high school students once supplies were received, and she encouraged residents to check with the Health Department on a regular basis for updates on vaccine clinics. She reviewed that taking steps to avoid the flu remained important, which included frequent hand washing, staying home when sick, and covering coughs.

Dr. Rossheim advised that seasonal flu was more of a problem in the winter months, whereas the first wave of the H1N1 virus struck in the spring. He indicated that past pandemics have lasted twelve to eighteen months, but that with any influenza outbreak, the H1N1 outbreak remained unpredictable.

It was confirmed that residents should get vaccines for both the H1N1 and seasonal flu as they covered different virus strains. Dr. Rossheim also that medical advice for treatment changed as frequently as the Centers for Disease Control updated their recommendations. He advised that single H1N1 vaccines were sufficient for everyone except those younger than ten who should receive two doses.

There was speculation as to why the H1N1 virus was more serious for children and young adults. Dr. Rossheim advised that it could be that older residents had either been exposed to similar virus strains earlier in life or past vaccines could be providing antibodies.

He indicated that once sufficient H1N1 vaccine supplies were received, then there would be a concerted effort to inoculate everyone, and it was confirmed that the vaccine was free.

IN RE: SHERIFF'S OFFICE AWARDS AND RECOGNITIONS

Sheriff F. W. Howard, Jr. thanked the Chairman for the earlier moment of silence for the recent traffic fatalities. He advised that both he and Sgt. Bailey had been on the scene and knew the young men who were killed, and that such events reinforced their resolve to educate youth on traffic safety and making the right decisions.

He advised that the New Kent County Sheriff's Office had won first place in the State's Law Enforcement Challenge and second place in the nation. He explained that the Law Enforcement Challenge was a competition between similarly-sized and types of law enforcement agencies to recognize and reward overall safety, efforts to enforce laws, and educating the public about occupant protection, impaired driving and speed. He indicated that no single other program or strategy worked as well as law enforcement in decreasing traffic injuries and fatalities. He advised that the awards were an indication of the efforts put into these programs and he formally presented the awards to Sgt. Bailey, who was in charge of the health safety programs and prepared the applications.

Sgt. Bailey accepted the awards on behalf of the Sheriff's Office and thanked Sheriff Howard for his support.

Sheriff Howard then recognized Communications Officer Karen Johnson who was recently installed as President of the Virginia Association of Public-Safety Communications Officers (APCO). He noted that Ms. Johnson had worked for the Sheriff's Office for 23 years and had distinguished herself among her co-workers and peers in the State, and he and the Sheriff's Office were proud of her accomplishments. Ms. Johnson explained that APCO was celebrating its 50th anniversary and the State organization was working with other State agencies on interoperability measures.

She advised that, during the past year, over 7,000 land line calls and nearly 11,000 wireless calls had been received in the New Kent Sheriff's Office.

The Board joined in congratulating Ms. Johnson on her accomplishments and congratulated the Sheriff's Office on its awards.

IN RE: RECYCLING

Buildings and Grounds Supervisor David Bednarczyk reported on recycling in New Kent. He advised that New Kent ranked fifth among the jurisdictions in the Central Virginia Waste Management Authority (CVWMA). Mr. Burrell noted that New Kent had a high ranking, despite the fact that it did not have curbside pickup like some of the other localities.

Mr. Bednarczyk reported that revenue from recycling was down because of the decrease in cost of commodities, and reviewed a chart showing trends in the County between 2006 and 2009. He noted that the decrease in tonnage being taken to landfills was attributable to the County's enforcement against non-resident and commercial dumping. He also reported that tonnage per container had increased because of compacting efforts and had subsequently resulted in a decrease in the number of pulls, all of which translated to a savings of about \$78,000 per year. He noted that at some of the sites it was a challenge to keep up with the recycling pulls.

Mr. Burrell spoke about some of the trends regarding commodities and pointed out that residents were still throwing away corrugated instead of recycling it. He asked that staff come up with some suggestions on how to encourage a change in those habits.

Mr. Sparks requested, with the holidays approaching, that an additional container be placed at the Route 612 site

IN RE: CITIZENS COMMENT PERIOD

Chairman Davis confirmed that the public hearing advertised on the Dunham rezoning had been deferred but he would allow comments from anyone present who wanted to speak about the application.

Chairman Davis opened the Citizens Comment Period.

There being no one signed up to speak, the Citizens Comment Period was closed.

IN RE: RESIDENCY ADMINISTRATOR'S REPORT

Torrence Robinson, Residency Administrator with the Sandston Residency of the Virginia Department of Transportation (VDOT), reported on issues regarding roads in New Kent County.

He reviewed maintenance work that had been performed in the past month, which included pothole repair, blading of graveled roads, grading ditches, dead tree removal, litter removal/trash pickup, mowing, sight distance improvements, and pavement repair. He also confirmed that the surfacing of Mt. Pleasant Road under the Rural Rustic Roads program had been completed.

He advised that staff was preparing a scoping meeting for Dispatch Road, after which time estimates and a schedule would be finalized. He indicated that private signs in the right-of-way at the intersection of Routes 612 and 249 had been removed; the mowing cycle on the secondary roads would be finished by the end of the month; and sight distance concerns at the intersection of Rockahock Road and South Waterside Drive were being addressed, which included installation of a "stop ahead" sign for westbound traffic on Rockahock Road. He also reported that they had responded to numerous reports of downed trees and high water all around the County during and after the recent nor'easter.

Mr. Burrell reported a complaint about loose gravel on Route 628/Mount Pleasant Road. Mr. Robinson advised that there had been an earlier report about loose gravel before the last layer of tar had been applied, but he would check the area.

Mr. Trout expressed his appreciation of the efforts to improve safety at the intersection of Rockahock Road and South Waterside Drive, and noted a similar problem at Carter Road, where speeding cars had ended up in a resident's garden, as well as some sight distance complaints. He also spoke about the chronic flooding problems on South Waterside Drive and some photos taken during the recent storm. He reported that the Sheriff had been out in the area looking at some alternatives to provide access during emergency situations and suggested that the Sheriff, Fire Chief, VDOT, and County staff work together to come up with a solution. He noted that the practice of some of the residents driving along the railroad tracks was dangerous and had resulted in the railroad company blocking its access road.

Mr. Sparks thanked Mr. Robinson for the efforts in Five Lakes and asked for an update on the Star Express development referred to in Mr. Robinson's written report. Community Development Director George Homewood explained that Star Express had submitted plans for a Wendy's fast food restaurant and convenience store on property located in the southwest quadrant of the intersection of Dispatch Road and New Kent Highway, which plans were under review but had not yet received preliminary approval.

Mr. Evelyn thanked Mr. Robinson for the removal of the signs that were restricting sight distance on Route 612, and asked for an update at the next Board meeting on the roundabout project as well as the work on Route 106 at the interstate interchange.

Mr. Davis reported receipt of a thank-you note from residents on Mount Pleasant Road for the recent paving project. He also noted that the recent storm had resulted in potholes around the County as well as some unpaved roads that needed attention.

IN RE: PHILBATES REZONING

Before the Board for consideration was Ordinance O-24-09 approving an application filed by George Philbates, Jr. to rezone approximately eight acres identified as Tax Map 27-5, from A-1, B-2 and M-2 to *Economic Opportunity*.

Planner Kelli Le Duc reported that the subject property was northwest of the intersection of New Kent Highway and Eltham Road and used to be three separate parcels, each with a different zoning, that were at some point consolidated. She indicated that the Future Land Use Map showed the property as *Industrial* and *Hamlet* and the applicant had requested *Economic Opportunity* which was less intensive but within with similar intensity as *Hamlet*. She advised that during the recent comprehensive rezoning, all adjacent parcels had been rezoned to *Economic Opportunity*. She noted that the applicant had not provided a site plan or development plan nor had he submitted any proffers, so it was difficult for staff to determine whether the proposal was consistent with the Comprehensive Plan.

Regarding traffic impact and access, she stated that it was again difficult to evaluate without a development plan; however, VDOT had indicated that the entrance from Route 249 was a private entrance only and any developed use would require an entrance meeting State standards. She indicated that any use that resulted in 100 peak hour trips or 1,000 daily trips would necessitate a traffic study.

She reported that the property was in a public water and sewer service area and any development would be required to connect. She advised that it was difficult to determine impact on County services and neither the Sheriff's Office nor the Fire Chief had submitted comments.

She noted that the intersection was designated as *Economic Opportunity*, *Hamlet* and *Rural Lands*, and rezoning the subject parcel would create a variety of uses and staff was recommending approval. She added that the Planning Commission had considered the application at its October meeting and with a vote of 9:0:1 had forwarded a favorable recommendation.

It was clarified that this was not the property across from the applicant's wrecking yard on Route 249 that was the subject of a different rezoning application.

The Chairman opened the Public Hearing.

There being no one signed up to speak, the Public Hearing was closed.

Mr. Sparks remarked that the requested rezoning appeared to be consistent with the Comprehensive Plan and surrounding property.

Mr. Burrell moved to adopt Ordinance O-24-09, as presented. 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.

IN RE: CEDAR HILL REZONING

Before the Board for consideration was Ordinance O-17-09 approving an application filed by William Walsh, Jr. of Hunton & Williams, LLP to rezone approximately 2.87 acres owned by Cedar Hill, New Kent LLC, identified as a portion of Tax Map parcel 23-15 from *A-1 Agricultural* to *Business*.

Planner Kelli Le Duc advised that the 2.87 acres was part of Tax Map Parcel 23-15 which totaled 960 acres total and was currently split-zoned, with another 8.8 acre portion recently rezoned *Business* and the remainder zoned *Agriculture*. She noted that the subject property was on the north side of New Kent Highway, approximately 500 feet east of the intersection with Old River Road and was designated as *Rural Lands* in the Comprehensive Plan. She indicated that the request to rezone the property was not consistent with its future land use designation and pointed out that the owner had almost nine acres west of the intersection zoned *Business*. She advised that the subject property was zoned *B-1* prior to the recent comprehensive rezoning in January 2009. She reported that no sketch or development plan had been submitted so it was difficult to determine whether the proposal was consistent with the Comprehensive Plan.

Regarding traffic and access, she indicated that any development taking place on the property would have to use those traffic control techniques required by VDOT and the County and, if peak traffic trips exceeded 100 or daily trips exceeded 1,000, then a traffic study would be required. She advised that any trips generated by uses that involved retail, garden shop, pharmacy drive-through, or fast food restaurant drive-through generally exceeded the threshold that would require such a study.

She advised that the property was not in a public water or sewer service area and no request for services had been made, but if a request for water was made, a new groundwater withdrawal permit would be required and any connection to public sewer would require extensive infrastructure.

She indicated that there had been no comments from either the Sheriff's Office or Fire-Rescue.

Ms. Le Duc reported that one proffer had been submitted, which provided that at such time as either *Business* zoned property were developed, the entire parcel would be subdivided so that there would no longer be split-zoning.

She indicated that the property was designated as *Rural Lands* in the Comprehensive Plan and there were existing business uses in the area that were allowed by right and were in place before the Comprehensive Plan was adopted. She added that should the area be rezoned to *Hamlet*, then staff would recommend rezoning of the subject parcel but in the interim had recommended denial. She reported that the Planning Commission considered the application at its October meeting and voted 7:2:1 to forward the application with a

favorable recommendation, based on the fact that rezoning the property would be advantageous to the County and would entice future businesses to come to that intersection.

The Board members reviewed maps of the area.

Applicant William Walsh thanked the Board, commenting that in his many meetings with the Board members, Planning Commission members and staff, he had been treated more courteously than he had in other localities. He went on to explain that prior to the recent comprehensive rezoning, the subject property was zoned *Business* and they were just trying to restore that designation. He talked about the increase in activity and traffic in the area and that the Planning Commission found that having the property zoned for business was advantageous to the County because it would attract commercial uses.

The Chairman opened the Public Hearing.

There being no one signed up to speak, the Public Hearing was closed.

Mr. Trout remarked that in light of the business activity that had developed at that intersection, it might be an area for consideration during the update of the Comprehensive Plan. He indicated that the restoring the property's *Business* zoning seemed to be a "positive move".

Mr. Evelyn stated that he felt they would be good stewards of the land and he would support a rezoning of this portion of the parcel.

Mr. Sparks moved to adopt Ordinance O-17-09, as presented. 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.

IN RE: DUNHAM REZONING

Chairman Davis again inquired if there was anyone present who wanted to speak about the Dunham rezoning, which had been deferred, to which there was no response.

IN RE: ELECTED OFFICIALS' REPORTS

Mr. Trout announced details of a reassessment education session to be held by the Commissioner of the Revenue; that the State of the County video could be viewed on YouTube; and details about a rain barrel project by one of the local Cub Scout troops.

Mr. Burrell spoke about his participation in a recent Local Climate Communities event in Washington, D.C., and reported interest in New Kent's reclaimed water project. He also asked staff to determine how Federal stimulus funds for home weatherization were being utilized in New Kent.

Mr. Sparks reported on a recent meeting of the Social Services Advisory Board and advised that he had requested Social Services staff to provide an update to the Board at its January work session on the dramatic increase in case load.

Mr. Evelyn reported on a meeting he attended with the Fire Chief and staff from the Black Creek Fire-Rescue Station in Hanover, and the partnership between the two localities to provide service in the Black Creek area, as well as the possibility of a similar partnership with James City County in the eastern end of New Kent.

Mr. Davis reported that he and some of the other supervisors had attended the annual Virginia Association of Counties conference, where the economy and State budget cuts had dominated the conversation.

IN RE: STAFF REPORTS

Interim County Administrator Bill reported on an upcoming informational meeting hosted by Newport News Waterworks on the Walkers Dam project.

IN RE: APPOINTMENTS

There were none.

IN RE: MEETING SCHEDULE

The Chairman announced that the Board of Supervisors would hold its next regular business meeting at 6 p.m. on Monday, December 14, 2009, in the Boardroom of the County Administration Building.

There was discussion regarding interviews for the County Administrator's position and an agreement to schedule interviews on December 2 at 5 p.m. (following the 4 p.m. dedication of the Courthouse renovations) and at 4 p.m. on December 7, 2009.

IN RE: ADJOURNMENT

Mr. Burrell moved to adjourn the meeting. The members were polled:

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

The motion carried.

The meeting was adjourned at 7:55 p.m.