

THE REGULAR WORK SESSION OF THE NEW KENT COUNTY BOARD OF SUPERVISORS WAS HELD ON THE 23<sup>rd</sup> DAY OF JULY IN THE YEAR TWO THOUSAND SEVEN OF OUR LORD IN THE BOARDROOM OF THE COUNTY ADMINISTRATION BUILDING IN NEW KENT, VIRGINIA, AT 4:04 P.M.

---

IN RE: ROLL CALL

|                  |                               |
|------------------|-------------------------------|
| Mark E. Hill     | Present                       |
| David M. Sparks  | Absent (arrived at 5:15 p.m.) |
| James H. Burrell | Present                       |
| Stran L. Trout   | Present                       |
| W. R. Davis, Jr. | Present                       |

The Chairman called the meeting to order and announced that Mr. Sparks would be late.

---

IN RE: AUTHORIZATION FOR BANK ACCOUNT FOR AMBULANCE FEE COLLECTIONS

Before the Board for consideration was Resolution R-40-07 authorizing the opening of a bank account for the collection of ambulance fees.

County Treasurer Herbert Jones, Jr. explained that Diversified Ambulance Billing needed an account into which it could deposit the fees it was collecting for the County for ambulance transports, and that the bank that the County normally used did not have a branch in Virginia Beach. He indicated that the funds from this account would be routinely "swept" into the County's general account. He reported that no fees would be charged by Bank of America for this service.

County Administrator John Budesky clarified that these funds would be used in the Fire-Rescue budget.

Mr. Hill moved to adopt Resolution R-40-07 as presented. The members were polled:

|                  |        |
|------------------|--------|
| Mark E. Hill     | Aye    |
| David M. Sparks  | Absent |
| James H. Burrell | Aye    |
| W. R. Davis, Jr. | Aye    |
| Stran L. Trout   | Aye    |

The motion carried.

---

IN RE: PATRIOT'S LANDING

Chris Corrada, Vice President of East-West Partners of Virginia, Inc., updated the Board on the Patriot's Landing project.

Mr. Corrada advised that in the first phase of the project, 100 lots were sold to three builders and that 45 of those homes had sold. He indicated that they were anticipating beginning the next section, which would be in the interior of the development, around September 1. He reported that the homes in the next section would not be as large as those in the first section and would be priced between \$357,000 and \$600,000. He stated that there would also be some homes built adjoining two "pocket parks" which would be priced between \$450,00 and \$550,000.

He described the two-story quad-plex condominium units that were being built in the area near the interstate ramp as having 1,700 square feet, with each unit having its own private courtyard. He advised that the units should be available for sale by the end of the year and would start in the \$220,000's.

Mr. Trout expressed his concern about having sufficient room to enlarge the interstate ramp in the future. Mr. Corrada advised that an increase in the size of the ramp would not affect the buildings but would take the buffer. He indicated that if he was still involved in the project at the time that the ramp became an issue, he would lobby for a solution other than a cloverleaf.

Mr. Corrada advised that the pool had been poured and tiled, and the foundation had been poured for the pool house.

Regarding the commercial portion of the project, he reported that the site for the fitness center had been cleared and was being filled, and were anticipating that to soon be under construction. He indicated that there had been a lot of interest from "major players" in the property surrounding the former Winn-Dixie site, and he commended Mr. Budesky and Economic Development Consultant Mark Kilduff for their efforts regarding the Winn-Dixie.

He indicated that preliminary subdivision plans for the active adult section had been submitted to the County for review. He explained that this was not age restricted but an age targeted project and comprised of one-story units with 1,800 – 2,400 square feet, starting at about \$280,000.

Regarding the pace of the project, he advised that they had hoped to have sold more homes but were happy with the 45 home sales in light of the current market.

Mr. Corrada confirmed that all of the homes were connected to public water and sewer, and the entire project was served by natural gas.

---

IN RE:                    APPROPRIATIONS AND INTER-DEPARTMENTAL BUDGET TRANSFERS

Before the Board for consideration were supplemental appropriations and inter-departmental budget transfers as follows:

FY06/07 Supplemental Appropriations:

- a. Colonial Downs funds received for fire-rescue ambulance standby Jun 11 – 17, 2007, \$3,375.00
- b. Funds collected in FY07 per MOA dated Oct 9 2002 between Herbert C. Jones, Jr., Treasurer and Board of Supervisors, \$5,500.00
- c. Funds received in the Treasurer's Office for DMV collection fees, \$20.00
- d. Additional funds received for utility irrigation connection fees, \$2,400.00

|               |                    |
|---------------|--------------------|
| \$(11,295.00) | Total              |
| \$ 11,295.00  | Money In/Money Out |

FY07/08 Carry Forward Appropriations

- a. Donations received for the Sheriff's Honor Guard, \$88.00
- b. Dog and cat sterilization funds from the proceeds of the sale of animal friendly license plate by the DMV not used in previous fiscal years, \$769.47
- c. Veterinarian services from donations to the Animal Shelter not used in previous fiscal years, \$1,373.75

- d. Capital funds for the E-Board packages/Boardroom tech upgrades project not completed in FY07, \$5,003.00
  - \$(7,234.22) Total
  - \$ 2,231.22 From Fund 1 – General Fund Balance
  - \$ 5,003.00 From Fund 7 – Capital Fund Balance

FY07/08 Supplemental Appropriations

- a. Funds donated by Ukrops for Parks & Recreation, \$17.00
- b. Funds from the Chamber of Commerce for flagpole installation at the New Kent Visitors' & Commerce Center, \$2,267.00
- c. Funds for the Criminal Justice Record Systems Improvement grant awarded by the Department of Criminal Justice Services to be used by the Sheriff's Office for the continuation of the existing regional data sharing initiative, \$95,019.00
- d. Funds for a Rescue Squad Assistance Fund (RSAF) grant received from the Officer of Emergency Management in conjunction with the Virginia Department of Health to be used for two new defibrillators, \$18,686.00
- e. Funds collected in FY08 per MOA dated Oct 9 2002 between Herbert C. Jones, Jr., Treasurer and the Board of Supervisors, \$500.00
- f. Additional funds received for utility irrigation connection fees, \$300.00
  - \$(116,789.00) Total
  - \$ 116,789.00 Money In/Money Out

Inter-Departmental Budget Transfers

- a. *Sheriff's Office:* \$9,900 from Jail Space, Employee Medical Exam, and Office Supplies to Part-time Wages, Overtime, and Body Recovery
- b. *Public Utilities:* \$12,000 from Utilities Legal Professional Services and Vehicles to Legal Services Furniture & Fixtures
- c. *Fire & Emergency Management:* \$6,518.46 from Salaries & Wages, OSHA, Advertising, Paging Service, Telecommunications – Cellular and Repair Communications to Overtime, PT overtime and PT Salaries & Wages
- d. *Board of Supervisors, Clerk of the Board and Legal Services:* \$320.00 from Legal and Clerk's budget to Board's contract services
- e. *Board of Supervisors, Clerk of the Board and Legal Services:* \$2,508.00 from Legal and Clerk's budget and \$123 from Xerox copies to Board's lease/rent of equipment
- f. *Information Technologies:* \$175.00 from Printing & Binding to Overtime
- g. *Sheriff's Office:* \$9,631.00 from grant contingency to DCJS Grant-Equipment
- h. *Various personnel line items:* \$6,678.0 for end of year reconciliations
- i. *Various personnel lite items:* \$1,598.00 for end of year reconciliations
- j. *Fire & Emergency Management:* \$18,686.00 from grant contingency to VDH-OEMS Grant Defibrillators, \$18,686.00

Financial Services Director Mary Altemus advised that the items involved were some "clean up" and carry forward appropriations from last fiscal year.

Mr. Hill moved to approve the Supplemental Appropriations and Inter-departmental Budget Transfers as requested, and that they be made a part of the record. The members were polled:

|                  |        |
|------------------|--------|
| David M. Sparks  | Absent |
| James H. Burrell | Aye    |
| W. R. Davis, Jr. | Aye    |
| Mark E. Hill     | Aye    |

Stran L. Trout

Aye

The motion carried.

---

IN RE: COMMERCIAL WASTE DISPOSAL

The Board continued to review proposed changes to the New Kent County Code regarding solid waste disposal.

General Services Director James Tacosa advised that staff had added clarification regarding the definitions of construction waste and commercial waste.

There was a discussion regarding liquid waste. Staff explained that it was their intent to discourage citizens from hiding cans of paint in trash bags and encourage recycling of paint at the 618 site. It was also noted that recycling facilities for antifreeze and used motor oil were available at all of the transfer stations.

There was discussion regarding disposition of household chemicals and/or pesticides. Among the suggestions were the possibility of participating in a regional collection event and having the Clean County Commission sponsor a County collection.

There was consensus to proceed with advertising the proposed changes for public hearing at an upcoming business meeting.

---

IN RE: QUINTON COMMUNITY PARK

Staff confirmed that everything would be ready for the upcoming dedication of Quinton Community Park and that, although the restroom enclosures would be finished, the restroom facilities would not be operational for the event because of the lack of water and electricity, but that portable toilets would remain on site.

There was discussion regarding the use of the park by a local church. Staff was asked to provide Mr. Hill with information on the projected costs.

---

IN RE: ACCEPTANCE OF QUAKER WOODS DRIVE FOR STATE MAINTENANCE

Before the Board for consideration was Resolution R-39-07 requesting the Virginia Department of Transportation (VDOT) to add Quaker Woods Drive into the State system for maintenance.

Planning Manager Rodney Hathaway explained that the road had been completed for some time and that VDOT had just recently performed the final inspection and agreed to accept the road for maintenance, once the Board adopted the resolution.

Mr. Hill moved to adopt Resolution R-39-07 as presented. The members were polled:

|                  |        |
|------------------|--------|
| James H. Burrell | Aye    |
| W. R. Davis, Jr. | Aye    |
| Mark E. Hill     | Aye    |
| David M. Sparks  | Absent |
| Stran L. Trout   | Aye    |

The motion carried.

Mr. Hill asked about roads in another subdivision being built by the same developer. Mr. Hathaway advised that it was his understanding that the road in the other subdivision would remain private and not become part of the State system, although VDOT had approved the entrance and the first 100 feet of road. Mr. Hill predicted that families in that other subdivision would have school children who would need to be picked up by the school buses and would ask that the County take the road into the public system at a future date.

---

IN RE:                   CHANGES IN FAMILY SUBDIVISION APPROVAL CERTIFICATES

Before the Board for consideration was Resolution R-36-07 to initiate Planning Commission review and recommendation for an adjustment to the Subdivision Ordinance regarding family subdivision approval certificates.

Planning Manager Rodney Hathaway advised that the proposal was a result of the concerns expressed by the Circuit Court Clerk regarding the Family Subdivision Approval Statement, as well as a review by the summer legal interns of some of Community Development's policies, procedures and forms. He confirmed that the Board's adoption of the proposed resolution would forward the suggested revision to the Planning Commission for its review and recommendation to the Board. He indicated that the Circuit Court Clerk had reviewed and approved the proposed change.

County Attorney Jeff Summers advised that it was a good faith effort to address the concerns voiced to date by the Circuit Court Clerk.

Mr. Davis expressed his concerns that the proposed language changes would not be sufficient to do what the Board had intended. Mr. Summers explained that the proposed change would modify only one section of a multi-page form that some had found to be confusing. He indicated that although the Clerk had consented to and approved the proposed changes, she remained of the opinion that it was not necessary to record the document - while County staff remained convinced that it did need to be recorded. He pointed out that if the certificate were not recorded, then future purchasers would not be aware that there were restrictions on who could own the land. He added that without recordation, there could be a "third party beneficiary without notice" and that it would be difficult to enforce the restrictions. He indicated that although staff had tried to clarify the form and make it simpler to understand, there would always be someone who would interpret it differently than intended.

It was suggested that the Circuit Court Clerk be invited to attend the meetings of the Planning Commission and the Board when the changes were discussed and considered.

Mr. Burrell moved to adopt Resolution R-36-07 as presented.

Mr. Trout asked if the resolution contained the language required by the State Code. Mr. Summers advised that that language was not necessary for the initiating resolution.

The members were polled:

|                  |        |
|------------------|--------|
| W. R. Davis, Jr. | Aye    |
| Mark E. Hill     | Aye    |
| David M. Sparks  | Absent |
| James H. Burrell | Aye    |
| Stran L. Trout   | Aye    |

The motion carried.

---

IN RE:           CLOSED SESSION

Mr. Hill moved to go into closed session to discuss a personnel matter pursuant to Section 2.2-3711A.1 of the Code of Virginia involving a Board employee's contract and for consultation with legal counsel pursuant to Section 2.2-3711A.7 of the Code of Virginia pertaining to probable litigation. The members were polled:

|                  |        |
|------------------|--------|
| Mark E. Hill     | Aye    |
| David M. Sparks  | Absent |
| James H. Burrell | Aye    |
| W. R. Davis, Jr. | Aye    |
| Stran L. Trout   | Aye    |

The motion carried. The Board went into closed session. Mr. Sparks arrived at 5:15 p.m.

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

|                  |     |
|------------------|-----|
| David M. Sparks  | Aye |
| James H. Burrell | Aye |
| W. R. Davis, Jr. | Aye |
| Mark E. Hill     | Aye |
| Stran L. Trout   | Aye |

The motion carried.

Mr. Davis 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     |
| W. R. Davis, Jr. | Aye     |
| Mark E. Hill     | Aye     |
| David M. Sparks  | Abstain |
| Stran L. Trout   | Aye     |

Mr. Sparks explained that he abstained because of his late arrival but confirmed that there had been no departure from the motion during the portion of the Closed Session which he attended.

The motion carried.

---

IN RE: PERFORMANCE STANDARDS FOR BUSINESS, COMMERCIAL, SERVICE,  
MANUFACTURING, INDUSTRIAL AND STORAGE USES

Before the Board for consideration was Ordinance O-18-07(R1) amending the New Kent County Code to establish performance standards for business, commercial, service, manufacturing, industrial and storage uses. A public hearing was held on July 9, 2007, after which time the issue was deferred.

Members of the Zoning Ordinance Rewrite Committee (ZORC) who were present included ZORC Chair Julian Lipscomb, Paul Robinson, Michael Pittman, James Watts, David Adams, Laura Rose and Isabel White.

Planning Manager Rodney Hathway invited Economic Development Consultant Mark Kilduff to speak to the Board regarding the concerns expressed at the previous meeting about the negative impact the standards might have on expanding or new business development.

Mr. Kilduff commented that it was unfair to categorize the proposed standards as being detrimental to economic development and the County's goal to attract new business. He indicated that it was a legitimate effort to spell out clearly what was expected and leave less room for subjective judgment. He stated that a business wanted to know what was expected of it, wanted a firm understanding of what its neighbors could do, and what its property would be like in five or ten years after it had made its investment. He advised that businesses "didn't like surprises" and that spelling out in the beginning what was expected was a way of getting those things accepted. He added that the Comprehensive Plan was a "wonderful guide" and that the County's installing water and sewer at the interstate interchanges was a "bold stroke" – and that establishing performance standards for businesses would strengthen Comprehensive Plan and the utility system.

Mr. Hill asked how the proposed standards compared to those in surrounding localities. Mr. Kilduff advised that he had not done a detailed comparison but it was his observation and experience that a business would be much more interested in the work force, market conditions for growth, transportation, and utilities issues, and that when it came to site and building development, it was important that the expectations be clear.

Mr. Trout commented that ZORC had been working hard to make the standards more objective and that was the direction that was needed. He invited ZORC members to share their comments and ideas.

Mr. Lipscomb noted that at the last meeting Board members seemed interested in the votes by the ZORC. He advised that most votes had been unanimous, with 7:3 votes on the sections regarding Lumber Yards and Kennels. He emphasized that these performance standards would only apply to commercially-zoned properties and not land zoned A-1.

Mr. Hathaway reported that, as written, the performance standards would apply to all properties and not just those zoned business or commercial.

Mr. Lipscomb contended that the ZORC members understood that standards for businesses in agriculturally-zoned districts were to be developed at a future date, and that the subject standards would only apply to those in business or commercial zoning districts.

Mr. Hathaway indicated that language could be added to clarify that the standards applied only to business, commercial and economic opportunity zoning classifications, but that as they were written, they would apply to all properties "across the board".

Mr. Lipscomb advised that he foresaw many differences in business standards in agriculturally zoned districts.

Mr. Robinson agreed that it was the ZORC's understanding that these standards were only for those properties zoned business or commercial, noting that was always a risk when developing an ordinance in a piecemeal fashion.

Mr. Summers suggested language that could be added to clarify that issue, adding the phrase "in business and manufacturing zoning districts" in several places.

It was noted that although it would make the ordinance thicker and repetitive, one would be able to see what standards applied to a particular zoning classification without having to read through all of them.

Mr. Adams asked about the concerns raised at the last meeting regarding setback lines. Mr. Hill explained that he felt that the proposed 40-foot setback on gas pumps might be more restrictive on future businesses. Mr. Hathaway clarified that language had been added by the ZORC to the effect that if the standards in the zoning district allowed for a lesser setback, then the lesser setback would apply. Mr. Adams indicated that he remembered that discussion and that it was his understanding that standards for Providence Forge and the other villages would be developed later on an individual basis.

Mr. Hathaway reviewed the proposed changes in the ordinance that were made since the last meeting, which included adding clarification that the front setback was from the right-of-way; deletion of the paragraph relating to traffic impact statements; and clarification that the building setback for game rooms and amusement facilities was 200 feet from any residentially-zoned lot line.

He advised that staff was recommending that the section on animal grooming and boarding establishments be deleted, and those uses be added to the section regarding veterinary clinics, animal hospitals and commercial kennels, and that a phrase be included providing for approval of waste management plans by the Virginia Department of Health.

He indicated that staff was also recommending the addition of a phrase in the last paragraph that provided for renumbering of the sections after deletion of the sections on bed and breakfasts, campgrounds, day care centers and ethanol distillations in A-1.

Mr. Hathaway advised that staff had another recommended change which was not reflected in the proposed ordinance which would provide for a report from staff eighteen months from the date of approval.

Mr. Summers advised that although the proposed changes were not substantive modifications from what was advertised, and none were more restrictive, there was a possibility that someone might argue that they did not have notice. He noted that there was sufficient time to advertise for another public hearing at the August meeting if any of

the Board members were uncomfortable. None of the Board members expressed concern that another public hearing would be necessary.

It was also agreed that the phrase "in business and manufacturing zoning classifications" be added to the ordinance wherever necessary to clarify that the standards applied only to uses in those zoning districts.

The Board members complimented and thanked the ZORC members for their continued hard work and commitment to the project.

Mr. Hill moved to adopt Ordinance O-18-07(R1) with the following changes: page 2, first paragraph, adding at the end the phrase "in the business and manufacturing zoning classifications"; under Section 98-870 (a), changing the first sentence to read "The purpose of this section is to establish performance standards for business and manufacturing zoning classifications"; page 3, the heading for Section 98-871 shall read "Specific conditions applicable to business, commercial and service uses allowed in the county in business and manufacturing zoning classifications"; on page 13, deleting section (h) in its entirety and re-lettering the remaining paragraphs; on page 18, the title to section (p) shall read "Standards for veterinary clinics, animal hospitals, commercial kennels, grooming establishments and animal boarding establishments"; on page 19, the heading for Section 98-872 shall read "Specific conditions applicable to manufacturing, industrial and storage uses in business and manufacturing zoning classifications"; and on page 26, the addition of a paragraph to read "Be it further ordained that staff will give a review and formal report on this ordinance in eighteen months".

The members were polled:

|                  |     |
|------------------|-----|
| W. R. Davis, Jr. | Aye |
| Mark E. Hill     | Aye |
| David M. Sparks  | Aye |
| James H. Burrell | Aye |
| Stran L. Trout   | Aye |

The motion carried.

---

IN RE: RESIDENTIAL DRIVEWAY STANDARDS

Before the Board for consideration was Ordinance O-16-07(R1) establishing driveway standards for residential development. A public hearing was held on June 11, 2007, after which time the issue was tabled.

Planning Manager Rodney Hathaway reviewed the changes that were being recommended by staff to address those concerns and issues that were expressed at the last meeting.

He noted that staff was recommending that the standards apply to residential driveways greater than 300 feet rather than the initially recommended 75 feet. Chief Hicks explained that the original recommendation was based upon what other localities were using, but that based upon the capabilities of the County's current emergency apparatus, he would be comfortable with the 300-foot distance.

Mr. Hathaway reported that under the section on Drainage, the language had been changed to require drainage structures to comply with the Virginia Stormwater Management Handbook (VSMH) rather than to accommodate a 20-year storm as originally suggested.

He explained that this was less restrictive in that the VSMH called for accommodation of lower volume storms.

He advised that staff was also suggesting that the section on Turnarounds be deleted and that paragraph (i) be added setting forth that all residential driveways 1,000 feet or greater were required to have turnarounds that would accommodate vehicles with a minimum length of 35 feet, with circular turnarounds having a minimum diameter of 80 feet, and that T-type turnarounds were acceptable.

Mr. Burrell suggested that at the time of application for a building permit, the County could advise the property owner that if their driveways were not built to conform to the recommended standards, then there could be a problem with providing them with fire protection services. Mr. Summers advised that might not be the best mechanism with which to provide that kind of notice.

Mr. Trout asked how these standards might affect homeowners' insurance premiums or availability of coverage. Chief Hicks commented that poor access could affect a homeowner's ability to obtain coverage.

Regarding Load Carrying Capacity, Mr. Hathaway advised that staff was recommending that the entire section be stricken, but was offering an option to require that the driveway be built to accommodate 56,000 pounds, rather than the 75,000 pounds originally recommended. It was confirmed that 56,000 pounds was the weight of the heaviest equipment currently owned by the County. Chief Hicks commented that the problem encountered in many instances was a slick layer of mud on driveways.

Mr. Sparks expressed his concern about how load carrying capacity would be tested and that a driveway meeting the recommended standards might cost more than the home.

There was consensus among the Board to delete the entire section on Load Carrying Capacity.

It was confirmed that these standards would just apply to residential driveways.

Mr. Hill expressed his concerns that there were lots in a "dirt road" subdivision on Historical Path Road where driveways for future homes would be required to meet these standards and would be built to a higher standard than the road itself or the other driveways in the area, and he asked if existing subdivisions could be "grandfathered". Mr. Summers surmised that there would always likely be one or two exceptions to everything that the Board did.

Mr. Hill asked about incidents where standards in Covenants and Restrictions differed from County standards. Mr. Hathaway and Mr. Summers both confirmed that the County standards would prevail.

There was discussion regarding the recommended 8% gradient, after which time there was consensus among the Board and staff that the Gradient section be deleted.

Mr. Hill moved to adopt Ordinance O-16-07(R1) with the following changes: in Section 91-97 (h), removing the design standard for Gradient. The members were polled:

Mark E. Hill

Aye

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

The motion carried.

---

IN RE: MEETING SCHEDULE

The Chairman announced that the next meeting of the Board of Supervisors would be held at 6:00 p.m. on August 13, 2007, in the Boardroom of the County Administration Building, New Kent, Virginia.

---

IN RE: ADJOURNMENT

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

|                  |     |
|------------------|-----|
| David M. Sparks  | Aye |
| James H. Burrell | Aye |
| W. R. Davis, Jr. | Aye |
| Mark E. Hill     | Aye |
| Stran L. Trout   | Aye |

The motion carried.

The meeting was adjourned at 7:10 p.m.