

THE REGULAR MEETING OF THE NEW KENT COUNTY BOARD OF SUPERVISORS WAS HELD ON THE 14<sup>th</sup> DAY OF FEBRUARY IN THE YEAR TWO THOUSAND ELEVEN OF OUR LORD IN THE BOARDROOM OF THE COUNTY ADMINISTRATION BUILDING IN NEW KENT, VIRGINIA, AT 6:00 P.M.

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IN RE: CALL TO ORDER

Chairman Evelyn called the meeting to order.

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IN RE: INVOCATION AND PLEDGE OF ALLEGIANCE

Mr. Burrell gave the invocation and led the Pledge of Allegiance.

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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.

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IN RE: CONSENT AGENDA

The Consent Agenda was presented as follows:

1. Approval of Minutes
  - a. Regular meeting of January 10, 2011
  - b. Continuation of meeting on January 19, 2011
  - c. Emergency meeting of January 21, 2011
2. Miscellaneous
  - a. Adoption of Bylaws, as amended
  - b. Resolution R-06-11, approving utility construction change orders
  - c. Deed of Dedication from Bettie R. Hazelwood
  - d. Lease for the telecommunications tower at the Courthouse complex
  - e. Road Name Additions
    - i. Walker Way
    - ii. Cooks Mill Terrace
    - iii. Cooks Mill Place
    - iv. Talley Station Way
3. FY11 Carry Forward Appropriations
  - a. Encumbered Reclaimed Water project funds, \$87,324.00
  - b. From Fire and Emergency Management for furniture purchased and received in FY10 but paid for in FY11 due to credit card charge in July causing a shortage of funds in FY11, \$621.00

Total Supplemental Appropriation:

\$(87,945.00) Total

\$ 621.00 From Fund 1 - General Fund Balance

\$ 87,324.00 From Fund 98 – Utility Fund Balance

4. FY11 Appropriations
- a. Funds for supplemental security from the Sheriff's Office and Fire-Rescue for October and correction of January appropriation, \$13,331.14
  - b. Funds donated to the New Kent Animal Shelter, \$1,180.0
  - c. Funds received from vending machine sales for employees Christmas parties, \$149.42
  - d. Funds received for gifts and donations, \$424.50
  - e. Funds received for insurance proceeds for various accidents, \$26,488.35
  - f. Grant funds for the Virginia Domestic Violence Victim grant, \$20,000.00
  - g. Additional Social Services funds, \$10,000.00
  - h. Funds received for DMV Stop Fees in the Treasurer's Office, \$720.00
  - i. Program income received to date for FY11 from CDBG Plum Point grant participants, \$721.54
  - j. Additional funds to the Parham Landing WWTP expansion project and the Reclaimed/Re-Use project, \$663,312.00
  - k. Funds received by Extension from outside sources for sponsorship of programs, \$1,018.00
  - l. Reverse appropriation of funds received from the DEQ-Water Quality Improvement WWTP grant funds were received in FY10 and carried forward to FY11, \$769,279.70

Total Supplemental Appropriation:

\$(1,506,624.65)	Total
\$ 843,205.65	Money In/Money Out
\$ 663,312.00	From Fund 98 – Utility Fund Balance

5. FY11 Inter-Departmental Budget Transfers
- a. *Schools*: \$9,973 from School Contingency fund to Misc NKHS Reg Ed Sec and Contracts & Painting Bldg
  - b. *Schools*: \$29,598.72 from Prior Year Lottery/Construction and School Contingency Funds to IT Equipment New Tech Classrooms, Arc Fees-Design Fees, and Professional Serv-Personnel
  - c. *Schools*: \$9,478.20 from Prior Year Lottery/Construction to Renovations/Improvements
  - d. *Schools*: \$875 from School Contingency Fund to Matls & Supplies NKHS
  - e. *Schools*: \$456 from Tuition Regional Programs Voc Ed to Software/Online Content
  - f. *Sheriff's Office*: \$1,550 from Jail Space to Body Recovery
  - g. *Fire Rescue*: \$11,890 from Contingency to Furn & Fixtures, Office Supplies, Main Svc Contracts and Tele Equipment
6. Treasurer's Report: Cash as of December 2010: \$45,631,115.63

Mr. Sparks moved to approve the Consent Agenda as presented and that it be made a part of the record. The members were polled:

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

The motion carried.

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IN RE: CITIZENS COMMENT PERIOD

Chairman Evelyn opened the Citizens Comment Period.

Bart Leader of 5272 Brandon Pines Drive, representing the New Kent Tea Party, remarked that he had attended the earlier joint meeting with the School Board where it had been reported that the Schools would be using one-time surplus money to fund positions, that teachers and other staff had not received raises in the last three years, with no resolution because of the uncertainty in funding, and then the conversation immediately turned to spending money to fix up the historic school buildings. He inquired whether there had been any discussion about renegotiating the leases on current spaces and what were the costs associated with "staying where they were".

Chairman Evelyn explained that any questions Mr. Leader had for the School Board about its lease needed to be directed to the School Board.

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

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IN RE: INTRODUCTION OF NEW STAFF

Financial Services Director Mary Altemus introduced the new Assistant Financial Services Director Larry Clark, a New Kent resident and CPA with extensive knowledge of local government. Mr. Clark was welcomed by the Board.

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IN RE: REPORT FROM THE VIRGINIA DEPARTMENT OF TRANSPORTATION

Scott Gagnon, Director of Transportation and Land Use, Virginia Department of Transportation (VDOT), reviewed work performed in New Kent during the past month, which included pothole repairs, debris removal, and preparation for and performing snow removal operations. He reported that six plans had been reviewed and three permits issued. He advised that changes in speed limits had been approved for Route 106 and 632 and new signs would be installed by the end of February. He indicated that a portion of Route 607 was being evaluated for the possibility of installing slow traffic advisory signs (farm vehicles), and that a speed study on Route 60, between the Star Motel and the Henrico County Line, was underway and should be completed within 45 days.

Mr. Trout asked for an update on South Waterside Drive. Mr. Gagnon reported that VDOT had determined that there was a 30-foot prescriptive easement on both sides of the road, within the railroad right of way, that created some concerns and they had surveyed the area with a goal to see what could be done within that 30 feet, and they would not have any answers until all information had been assembled.

Mr. Trout reported problems with recently repaired potholes on Route 612. He also shared information about some upcoming railroad crossing repairs by CSX and asked Mr. Gagnon to relay any information he might receive in that regard. Mr. Burrell spoke about damage he received to his vehicle while driving over the Route 155 railroad crossing.

Board members talked about the large number of dead trees posing a safety issue for users of the County roads, noting that many of them were in the VDOT right-of-way. Mr. Gagnon asked that specific locations be reported so that they could be addressed.

Mr. Davis asked if staff from the VDOT headquarters in New Kent could make regular appearances at Board meetings. Mr. Gagnon explained that VDOT had made a conscious decision "not to take the boots out of the field" but that he would do his best to see what could be arranged. He agreed that someone from the maintenance staff would be most familiar with road issues in New Kent. It was noted that VDOT and County staff did meet once a month and any issues from the Board could be communicated through that process as well.

Mr. Sparks reported that he and Sheriff Howard would be meeting with VDOT District Administrator Tom Hawthorne later in the month to review some speed and safety issues on Route 60 and Route 249.

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IN RE: ELECTED OFFICIALS' REPORTS

Mr. Sparks spoke more about his upcoming meeting with VDOT District Administrator Tom Hawthorne and his hope for some resulting action on "things he'd been working on for years".

Mr. Burrell indicated that he would be attending upcoming meetings of Smart Beginnings and the Central Virginia Waste Management Authority.

Mr. Trout again mentioned upcoming work on some of the railroad crossings. He indicated that New Kent was working with Charles City County on some activities relating to the 150<sup>th</sup> anniversary of local Civil War action in an attempt to bring in tourist dollars to the localities. He referred residents to his website for information on upcoming community events.

Mr. Trout recognized Boy Scouts George Gaston of Troop 536, and Michael Lundberg and Gil Ploppert of Troop 518, all of whom were in attendance working on their "Citizenship in the Community" merit badges.

Treasurer Herb Jones, Jr. updated the Board on tax collections, reporting that the real estate tax collection rate was at 93% and personal property at 86%. He confirmed that his office had started delinquent collection efforts and he would continue to update the Board, predicting that personal property tax collections should reach 93% by June, through the set-off program with the State Department of Taxation and the Department of Motor Vehicle DMV-stop program. He indicated that there was a Federal set-off program that had become available, which he intended to implement but would not be in effect until next year.

Mr. Davis asked about the chances of reaching last year's collection rate of 96%. Mr. Jones indicated that there was one large account for which he had just received a payment schedule that provided for a first payment on March 15 and the final payment by August 15, at which time the collection rate should be at around 96%.

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IN RE: STAFF REPORTS

Assistant County Administrator Bill Whitley reported that the County had received the Census figures which would be used for redistricting, and reflected a New Kent 2010 population of 18,430. He commended the Planning Department staff who had been "right on target" with their population estimates. He noted that the ideal population for the five new districts would be 3,686, but could deviate between 3,613 and 3,779. He advised that, as expected, District 5 had grown significantly with a current population of 5,151, and that District 4 had the least growth at 2,221. He indicated that it would be tight schedule, with elections in November and the required pre-clearance by the Department of Justice,

but that a proposed schedule to be reviewed with the Board at its next work session "would get us there". He indicated that staff would be developing options for the Board's consideration over the next two months, and it would be the Board's responsibility to choose a plan, with input from the community. He reminded that the General Assembly was in the process of changing the dates for primaries and candidate deadlines, and staff would continue to keep the Board informed as new information was received.

IT Director Jonathan Stanger explained how to view the Census information on the website.

County Administrator Cabell Lawton reported on an effort through the Richmond Chamber of Commerce to bring regional business leaders to some of the rural areas, and that a tentative date of June 16 had been set for a visit to New Kent in order to highlight the County's business recruitment efforts, history and tourism issues. He confirmed that both the New Kent Chamber of Commerce and the New Kent County Economic Development Authority were involved in the project.

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IN RE: DISTRICT APPOINTMENTS

There were none.

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IN RE: NON-DISTRICT APPOINTMENTS

Mr. Trout appointed Robert Greczek as a member of the Board of Building Code Appeals/Board of Fire Prevention Code of Appeals to serve a four-year term beginning January 1, 2011 and ending December 31, 2014.

Mr. Trout appointed James Burrell as New Kent's Board representative to the Richmond Metropolitan Convention and Visitors Bureau Board of Directors to serve a three-year term ending December 31, 2013.

Mr. Sparks appointed Dean Simmons as a member of the Board of Building Code Appeals/Board of Fire Prevention Code of Appeals to serve a four-year term beginning January 1, 2011 and ending December 31, 2014.

The members were polled:

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

The motions carried.

The Board took a break and resumed its meeting at 7 p.m. for public hearings.

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IN RE: EVELYN PILING/CLEAR SIGNAL TOWERS CONDITIONAL USE PERMIT  
APPLICATION FOR A CELL TOWER

Before the Board for consideration was Resolution R-02-11 to approve Conditional Use Permit application CUP-07-10 filed by Evelyn Piling Co. and Clear Signal Towers LLC for the purpose of installing a lighted 250-foot communications tower on property located on George Watkins Road.

Chairman Evelyn removed himself from discussion and vote because the applicants were members of his family, and relinquished the gavel to Vice Chairman Trout.

Planner Matthew Ebinger reported that the tower was proposed for a 10,000 square foot leased area on Tax Map Parcel ID 21-55, a parcel 40 acres in size and located about a quarter of a mile from Route 249/New Kent Highway. He indicated that the parcel and adjacent parcels were zoned *A-1, Agricultural*, and its Future Land Use designation in the Comprehensive Plan was *Rural Lands*. He confirmed that the applicants had submitted maps showing the current lack of coverage and the improved coverage that would result with the proposed tower. He indicated that the tower would also provide much-needed space for the County's emergency management network.

He advised that balloon tests were performed on September 23 and October 28 to determine visibility. He also confirmed that this tower and a second tower to be considered by the Board at this meeting would not be in competition with either other but would be handing off signals to each other.

He explained that the required 120% setback for the proposed site did create a 50-foot encroachment on a neighboring parcel, but the encroachment area was in a Resource Protection Area (RPA) and nowhere near the dwelling on the parcel. He indicated that a previous potential site on the parcel was found to be within the approach zone to the New Kent Airport, which resulted in choosing the subject site. He reported that the proposed tower was designed to collapse and not fall over and there was a condition in the proposed Resolution requiring confirmation from the Federal Aviation Administration and a survey showing that the site was outside of the approach zone, and that the site plan would not be approved until those items were received.

It was explained that the height of the tower needed to be 250 feet because of the needs of the County's emergency management network.

Mr. Sparks questioned the proposed five-year expiration date, asking why, if the need for the tower was so great, it would take five years to construct it. Following discussion on the subject, staff admitted that the five-year expiration date was not requested by the applicants but was a standard timeframe used by staff in receipt CUP applications.

Dorothy Brunetti from Clear Signal Towers reviewed that this tower replaced the tower that had been originally proposed on Watkins Elementary School property, and spoke about the advantages of the new site. She confirmed that they would not move forward until confirmation was received from the FAA at which time a survey would be completed. She advised that once FAA approval was received, the tower shouldn't take any longer than two years to complete.

The Vice Chairman opened the Public Hearing.

Isabel Davis White of 5711 Farmers Drive spoke about the professional job performed by the applicant tower company when it installed a tower on her property, and noted that there had been some delays that were not the fault of the tower company.

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

There was additional discussion regarding the expiration date, as well as whether an additional public hearing would be required should the FAA find that this site was also in the

Airport approach zone. County Attorney Michele Gowdy advised that the Board would be approving the construction of a tower on the parcel and not on a specific site, and that a minor relocation of the tower site on the parcel should not require an additional public hearing.

Mr. Burrell moved to adopt Resolution R-02-11 to approve Conditional Use Permit application CUP-07-10. After Board discussion, he amended his motion to amend the proposed resolution by changing the permit expiration date from five years to three years from the date of approval. The members were polled:

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

The motion carried.

Chairman Evelyn resumed his role as Chair.

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IN RE: SHIFLETT/NATIONAL COMMUNICATION TOWERS CONDITIONAL USE PERMIT  
APPLICATION FOR A CELL TOWER

Before the Board for consideration was Resolution R-03-11 to approve Conditional Use Permit application CUP-08-10 filed by James and Lottie Shiflett and National Communication Towers LLC for the purpose of installing a 195-foot communications tower on property located at 5320 New Kent Highway.

Planner Matthew Ebinger reported that the proposed lease site was .36 acre on Tax Map Parcel ID 21-3A, a vacant 32-acre parcel that was zoned *A-1, Agriculture*. He indicated that parcels to the north were zoned *A-1, Agriculture*; to the south *A-1* and *Business*; to the east *R-1, Residential*; and to the west *A-1* and *Business*. He advised that the Future Land Use designation of the parcel was predominantly *Suburban Housing Detached*. He confirmed that the applicant had submitted maps and a letter showing the need for the tower, and that balloon tests had been conducted on October 8. He indicated that the application had been forwarded to a variety of agencies and none had submitted any comments. He explained that this tower would fill a separate need from that of the previously approved tower, and that staff was recommending approval.

It was confirmed that the self-supporting lattice tower would not be lighted.

Elliott Harrigan, President of National Communication Towers, advised that the proposed tower site was 300 feet north of the site that had been approved by the Board five or six years earlier and was further from the highway. He indicated that he had a signed lease from AT&T, who was anxious for the tower to be constructed, and he predicted that if there were no delays with obtaining the building permit, the tower should be completed no later than September of 2011. He indicated that he had provided information to the other wireless carriers in the County but did not anticipate any commitment from them until the zoning was in place. He also confirmed that there would be space provided for County equipment.

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

Mr. Sparks again questioned the proposed five-year expiration date, and asked that, in the future, staff ask applicants how much time they would need. There was Board discussion regarding the importance of consistency.

Mr. Davis moved to adopt Resolution R-03-11 to approve Conditional Use Permit application CUP-08-10, changing paragraph 3 to read: "This Conditional Use Permit shall expire on the third anniversary of its approval if a building permit pertaining to the communication tower has not been issued". The members were polled:

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

The motion carried.

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IN RE: MEETING SCHEDULE

The Chairman announced that the next regularly scheduled meeting of the Board of Supervisors would be held at 6:00 p.m. on March 14, 2011, and the next work session at 3 p.m. on February 23, 2011, both in the Boardroom of the County Administration Building, New Kent, Virginia, and that the Board would hold a Retreat on February 18, 2011 at 2 p.m. at 11805 Whitehouse Road, New Kent Virginia.

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IN RE: CONTINUATION OF MEETING

Mr. Sparks moved to continue the meeting to February 18, 2011 at 2 p.m. The members were polled:

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

The motion carried.

The meeting was suspended at 7:32 p.m.