

THE REGULAR MEETING OF THE NEW KENT COUNTY BOARD OF SUPERVISORS WAS HELD ON THE 12th DAY OF DECEMBER 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.

IN RE: CALL TO ORDER

Chairman Evelyn called the meeting to order.

IN RE: INVOCATION AND PLEDGE OF ALLEGIANCE

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

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: CONSENT AGENDA

The Consent Agenda was presented as follows:

1. Approval of Minutes
 - a. Work Session of October 26, 2011
 - b. Business Meeting of November 9, 2011
2. Miscellaneous
 - a. Resolution R-43-11 setting the Board's January 2012 meeting
 - b. Resolution R-46-11 requesting "Watch for Children" signs on Virginia Avenue, Brown Avenue, Piper Avenue, and Curle Drive
 - c. Resolution R-47-11 requesting changes to New Kent's deer population management objectives
 - d. Resolution R-48-11 appointing a 2012 Legislative Liaison
 - e. Agreement for Professional Services with Mark Kilduff
 - f. Claim of Julian Lipscomb for compensation for livestock killed by dog(s)
 - g. Termination Agreement with Tidneck Corporation regarding Storm Detention Agreement dated April 24, 2007
3. Refunds
 - a. \$1,304.06 to Gerald & Jessica McNamara, Trustees, for a veteran's exemption for 2011 real estate taxes
 - b. \$1,565.20 to Steven & Wanda Molnar resulting from a correction to land valuation for 2010 and 2011
 - c. \$4,846.80 to Tabernacle Properties, Inc. resulting from correction to land valuations for 2010 for seven properties
 - d. \$402.38 to Ryan Homes-Colonial for canceled building permit
 - e. \$53.63 to Electrical Services Unlimited for canceled electrical permit
 - f. \$750 to Rising Mount Zion Baptist Church for side setback variance

4. FY12 Supplemental Appropriations
 - a. Funds for security for October 2011 Colonial Downs invoice and High School dance, \$9,057.21
 - b. Donated funds, \$130.00
 - c. Funds for Colonial Downs Invoice #FY12-09252011, Invoice #FY12-10022011, Invoice #FY12-10092011, and Invoice #FY12-101162011, \$17,233.75
 - d. Funds received for gifts and donations, \$810.00
 - e. Funds received from vending machine sales for employee Christmas parties, \$159.83
 - f. Program income received for FY12 from CDBG Plum Point grant participants, \$596.54
 - g. Funds received from insurance proceeds for various accidents, \$3,831.46
 - h. Funds received from insurance proceeds for Hurricane Irene, \$81,916.95
 - i. Extension program sponsorship revenue, \$225.00

\$ 113,960.74 Total
\$ (83,838.32) Total In/Out
\$ (30,122.42) From Gen Fun fund balance
5. FY12 Interdepartmental Budget Transfers
 - a. *Schools*: \$16,308.14 from Appropriation of funds from prior year to Elementary School renovations
 - b. *Schools*: \$1,196.41 from Appropriation of funds from prior year to Elementary School renovations
 - c. *Circuit Court*: \$50 from Permanent Records to Overtime
 - d. *Fire Rescue*: \$1,065.50 from Machinery & Equipment to Repairs & Maintenance
 - e. *Fire Rescue*: \$8,365.07 from Contingency – Special Events to Repairs & Maintenance, Repairs & Maintenance-dry hydrant, Operations Supplies-light shop, Xerox Copies, Furniture & Fixtures
6. Treasurer's Report: Cash as of October, 2011, \$ 27,992,736.96

Mr. Evelyn had some questions regarding the variance refund requested for Rising Mount Zion Church. There was also discussion regarding the proposed January 2012 meeting date.

Mr. Trout 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.

IN RE: CITIZENS COMMENT PERIOD

Chairman Evelyn opened the Citizens Comment Period.

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

IN RE: PROCLAMATION FROM DOVER, KENT COUNTY, ENGLAND

School Board Chair Leigh Quick presented to the Board a framed Proclamation of Friendship issued to New Kent County by the Dover Town Council. She reviewed the history of the long-standing relationship between the two localities and some of the joint ventures enjoyed by students at New Kent High School and students at the Astor School for the Arts.

IN RE: VIRGINIA COOPERATIVE EXTENSION – NEW AGENT

Cynthia Rowles, Unit Coordinator for the New Kent/Charles City office of the Virginia Cooperative Extension, introduced the new Agricultural and Natural Resources agent, John B. Allison, and reviewed his background and credentials. Board members welcomed Mr. Allison to his new position and indicated that they hoped he would be able to assist in the Agricultural and Forestal Districts review process.

IN RE: COMPREHENSIVE ANNUAL FINANCIAL REPORT

Chairman Evelyn announced that presentation of this report had been delayed until the January 2012 business meeting.

IN RE: HURRICANE IRENE – AFTER ACTION REPORT

Fire Chief E. Thomas Hicks reviewed the After Action Report that had been distributed earlier to the Board members.

He reported that the County's expenses resulting from Hurricane Irene totaled \$822,431 to date, and that some activities were continuing. He advised that the quoted figure did not include the value of the use of some of the County's equipment, which he hoped would fulfill the required local match. He explained that the formula for reimbursement was 75% from the Federal Emergency Management Agency (FEMA) and 15% from the Virginia Department of Emergency Management (VDEM), leaving 10% for the County to absorb. He confirmed that reimbursement documentation had been submitted for the costs incurred to date. He thanked the County's citizens and businesses, as well as the various regional partners and other localities for their assistance in New Kent's recovery.

There were comments regarding the breakdown of the 911 system during the storm and an upcoming meeting with some State legislators about that issue.

There was also discussion regarding assistance available to residents. Chief Hicks explained that because of the large percentage of insured properties, the only Irene-related damage assistance approved by FEMA for New Kent residents was low-cost loans through the Small Business Administration, and he reported that approximately 35 applications had been submitted.

Board members thanked Chief Hicks for all of his work on this event and its aftermath.

IN RE: CLOSED SESSION

Mr. Sparks moved to go into Closed Session to discuss a personnel matter pursuant to Section 2.2-3711A.1 of the Code of Virginia involving performance and compensation, and

for consultation with legal counsel pursuant to Section 2.2-3711A.7 of the Code of Virginia involving actual or probable litigation. 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 motion carried. The Board went into Closed Session.

Mr. Sparks moved to return to Open Session. The members were polled:

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

The motion carried.

Mr. Trout 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 members were polled on the certification:

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

The motion carried.

IN RE: DISTRICT APPOINTMENTS

Mr. Burrell moved to appoint James Talley as District Three's representative to the Purchase of Development Rights committee to complete a three-year term ending June 30, 2014.

Mr. Burrell moved to nominate Edward Pollard for Circuit Court appointment as a member of the Board of Equalization to serve a term ending December 31, 2012.

Mr. Burrell moved to appoint Rachel Randolph as District Three's representative to the Social Services Advisory Board to complete a four-year term ending June 30, 2015.

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 motions carried.

IN RE: NON-DISTRICT APPOINTMENTS

Mr. Davis moved to appoint Deputy Christopher Burnette as New Kent's representative to the Tri-Rivers ASAP Board to serve a three-year term beginning January 1, 2012, 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 motion carried.

IN RE: OFF-STREET PARKING, DRIVEWAYS & LOADING AREAS

Before the Board for consideration was Ordinance O-03-11(R1) amending Chapter 98, Article XXIII, *Off-Street Parking, Driveways, and Loading Areas*, of the New Kent County Code.

Planner Matthew Ebinger reviewed the history of this proposed ordinance amendment and reported that the current version addressed all of the concerns of the Board members and the Economic Development Authority. He indicated that the amendment would expand the list of categories, would provide more flexibility in parking space location, and would generally reduce the number of parking spaces required.

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

Mr. Burrell asked if the use of pervious pavers helped with storm water run-off and meeting the County's Total Daily Maximum Load (TMDL) limits. Mr. Ebinger explained that although the use of porous pavers could reduce run-off, they were still considered hard surfaces.

There were questions regarding parking requirements for existing buildings. Staff advised that the ordinance would only apply to new uses.

Mr. Ebinger did point out an inadvertent strike-through in the proposed ordinance that needed to be removed.

Mr. Sparks commended staff for their work on this amendment, and then moved to adopt Ordinance O-13-11(R1), after removing the unintentional strikeout on page 4 under Section 98-902(a)2. The members were polled:

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

The motion carried.

IN RE: HISTORIC SCHOOL RENOVATION PROJECT

Before the Board for consideration was a request to amend the FY12 budget by \$3 million for the Historic School renovation project.

County Administrator Cabell Lawton advised that the Board was being requested to appropriate \$3 million to fund the solicited Public Private Education Act (PPEA) project to renovate the historic school, south building and the grounds in between. He indicated that the funds needed to be appropriated before the County could enter a final comprehensive agreement with the contractor. It was clarified that this was separate from the \$430,000 previously appropriated by the Board for stabilization of the buildings.

The Chairman opened the Public Hearing.

Lee Tyson, Chairman of the Heritage Library Board of Trustees, expressed his appreciation of the Board's work on this project. He spoke about how "crunch time" was fast approaching for the Library with the pending end of its lease and its Board of Trustees needed to make some decision about future space. He asked for any information regarding "what amount of space" was covered by the proposed project.

Mr. Sparks commented that members of the Library Board of Trustees had reviewed the bids that had been received and should be familiar with what was being addressed.

Mr. Tyson confirmed that the bids had been reviewed but his Board was interested in what amount of space was covered by the project and if any additional information was available.

Mr. Lawton explained that the funds were being requested to pay for the renovations that were listed in the PPEA project as advertised.

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

Mr. Sparks commented that he had spoken with several of his fellow Board members and it would be his suggestion to appropriate only \$2.5 million, and if it was determined later that more funds were needed then a request for additional funding could be made.

Mr. Trout agreed, remarking that \$2.5 million was within the range of the project, based on information that had been made public. He indicated that if more were approved, it would likely be spent. He followed up on remarks made by Mr. Tyson, reminding that the leases

on the School Board offices and the Library were fast-approaching and it "didn't make sense" to rent space when the County owned space that could be used. He stated that he felt the County was "headed in the right direction" with this project and he would be in favor of a \$2.5 million appropriation.

Mr. Davis advised that he had "always been behind this project", that the space was needed, and the County "shouldn't let the buildings fall down". He reminded that the process had moved slowly because, although the County had been successful with some design-build projects, it had never built anything under PPEA.

Mr. Sparks emphasized that the County would be using funds in its fund balance for the project and would not be borrowing. Mr. Lawton added that those funds were earnings that had been made from investments of borrowed money and could not be used for anything other than capital projects.

Mr. Evelyn explained that once the funds were appropriated, the County would then negotiate a final price with one of the bidders.

There was some discussion regarding the current low interest rates and whether it would be preferable to borrow the funds and hold on to its available cash.

Mr. Sparks moved to amend the Fiscal Year 12 adopted budget in the amount of \$2.5 million to appropriate currently undesignated funds from Fund 3 to renovate portions of the Historic School campus. 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.

IN RE: ELECTED OFFICIALS' REPORTS

Mr. Davis commented on the upcoming holiday season and encouraged residents to be safe.

Mr. Trout spoke about his eight years in office and shared some concerns about the future. He indicated that he felt that moving the Heritage Library to the Courthouse area would provide an "anchor" that would attract visitors and residents. He talked about the County's efforts to attract a major retailer to New Kent and how he felt that particular business was still a "good fit" and he hoped that the County would continue to be a consideration once the economy improved. He reflected on New Kent becoming a tourist destination, with the race track, wineries, golf courses, historic routes, and bicycle trails, and how the Board should seriously reconsider creating a part-time tourism coordinator to assist with that. He encouraged New Kent to remain active in regional groups and to maintain its partnership with Kent, England. He expressed that he would miss serving on the Board and working with his fellow Board members and staff.

Mr. Burrell gave best wishes to departing members Mr. Trout and Mr. Sparks. He encouraged residents to recycle during the upcoming holiday season. He also indicated that he would like for the Board to adopt a resolution at a future meeting, recognizing the 100th

birthday of a County resident, and he would be obtaining the necessary information for that resolution to be drafted.

Mr. Sparks stated that he agreed with many of Mr. Trout's comments. He expressed his appreciation to his constituents in District Two and his thanks to current and previous fellow Board members, as well as County staff.

Mr. Evelyn commented about some problems at the brush recycling center at the main refuse site, and how it was his interpretation of County ordinance that residents were allowed to bring non-bagged leaves there. Board members agreed that non-bagged yard debris should be accepted in the brush collection area. County Attorney Michele Gowdy reminded that the County needed to enforce its ordinance regarding accepting only bagged yard debris at the container sites. Mr. Davis suggested that residents be encouraged to take their yard debris to the main refuse site when possible and Mr. Lawton indicated that he would send out a memo to staff documenting those policies.

Mr. Evelyn presented plaques of recognition and appreciation to Mr. Trout and Mr. Sparks and thanked them for their work on the Board.

IN RE: BENNETT LITIGATION

Mr. Lawton reviewed that a tentative agreement had been reached with Dr. Bennett regarding a litigation matter at the airport and asked the Board for its approval.

Mr. Sparks moved to approve the Agreement Defining "Paved Taxiway/Access Way" as it related to the Court Order, CL OB#15, Pg. 643. 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.

IN RE: STAFF REPORTS

Mr. Lawton advised that there was an opening on the Virginia Association of Counties' Board of Directors. He reported that the proposed Capital Improvements Plan would be reviewed by the Finance Committee and by the Planning Commission at upcoming meetings.

Ms. Gowdy reported on a recent court case involving another locality and its advertising of public hearings. She advised that she believed the language in the County's notices of public hearings met the law; however, the Planning Commission would be adding language to its notices that reflected that it would both accept public comment and take action.

She also indicated that there had been discussion around the State regarding *Robert's Rules of Order* and consent agendas and it was being recommended that localities define what could be included in their consent agendas. She offered to make some recommendations for changes to the Board's bylaws for its consideration in January to address those concerns.

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 January 9, 2012, in the Boardroom of the County Administration Building, New Kent, Virginia, and that there would be no December work session.

IN RE: ADJOURNMENT

Mr. Burrell moved to adjourn the meeting. 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 motion carried. The meeting was adjourned at 7:27 p.m.