

THE REGULAR MEETING OF THE NEW KENT COUNTY BOARD OF SUPERVISORS WAS HELD ON THE 13<sup>th</sup> DAY OF FEBRUARY IN THE YEAR TWO THOUSAND TWELVE 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 Burrell called the meeting to order.

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IN RE: INVOCATION AND PLEDGE OF ALLEGIANCE

Chairman Burrell expressed the County's condolences regarding the recent death of a paramedic from another locality who was killed while on duty. He then gave the invocation and led the Pledge of Allegiance.

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IN RE: ROLL CALL

Thomas W. Evelyn	Present
C. Thomas Tiller, Jr.	Present
James H. Burrell	Present
Ron Stiers	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. Business Meeting of January 9, 2012
2. Miscellaneous
  - a. Bylaws, as amended
  - b. Resolution R-11-12, amending the 2012 Meeting Schedule changing the date of the February work session
  - c. Appropriation of \$87,000 from the Utility fund to cover sludge hauling costs
  - d. Resolution R-10-12, re-adoption of the Historic Commission charter
3. Refunds
  - a. ~~\$1,783.80 to Genevieve Longerbeam for adjusted real estate taxes~~
  - b. \$157.50 to Ivan Fehrenbach for canceled building permit
4. FY12 Supplemental Appropriations
  - a. Funds for security at Colonial Downs (inv. #2011 DEC \$764.78), security at Colonial Downs (inv. #2011 NOVEMBER \$4,668.54), security at NK High School (inv. #10-28 Security – Football Game \$113.03) (inv. #10-28.1 Security – Football Game \$129.18), security at NK High School (Security/BB Games Inv. #12.11 Security \$807.38), and security at Emmaus Church (inv. #12.02 \$49.38), \$6,532.29
  - b. Funds received for gifts and donations, \$1,500.00
  - c. Animal Shelter donations, \$1,644.00

- d. Funds received from vending machine sales for employee Christmas parties, \$136.07
- e. Program income received for FY1 from CDBG Plum Point grant participants, \$671.54
- f. Funds received from insurance proceeds, \$3,885.20
- g. Extension program sponsorship revenue, \$1,364.00
- h. Station 4 donations, \$550.00

\$ 16,283.10 Total  
\$( 9,750.81) Total In/Out  
\$( 6,532.29) From Gen Fun fund balance

- 5. FY12 Interdepartmental Budget Transfers
  - a. *Fire-Rescue*: \$10,715.99 from Contingency-Special Events to Repairs & Maintenance, Operation Supplies-Light Shop, Revenue Recovery Bank Fees, Lease/rent of equipment, Computer supplies, and Operating Supplies
  - b. *Fire-Rescue*: \$12,547.63 from janitorial Supplies & Services, Contingency – Special Events, and Machinery & Equip-All Depts to Repairs & maintenance, Operating Supplies, Repair Personal Gear, and Mach & Equip-Light Shop
  - c. *Fire-Rescue*: \$7,604.52 from Contingency-Special Events to Repairs & Maintenance and Repairs & Maintenance-Extrication
  - d. *Fire-Rescue*: \$3,800.00 from Contingency-Special Events to Furniture and Fixtures
  - e. *Treasurer*: \$6,000 from Reserved for Contingency to Auditing Services
  - f. *Economic Development*: \$644 from Promotional Materials to Economic Development
- 6. Treasurer's Report: Cash as of December 2011: \$ 44,956,365.59

Mr. Evelyn advised that it was his understanding that there were some issues with the proposed refund to Genevieve Longerbeam and asked that it be removed from the Consent Agenda.

Mr. Davis moved to approve the Consent Agenda, with Refund item 3.a. removed, and that it be made a part of the record. The members were polled:

Thomas W. Evelyn	Aye
C. Thomas Tiller, Jr.	Aye
Ron Stiers	Aye
W. R. Davis, Jr.	Aye
James H. Burrell	Aye

The motion carried.

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IN RE: INTRODUCTION OF NEW STAFF

Board members welcomed new staff introduced by New Kent Treasurer Norma Holmes - Britany Tobin and Alicia Akrie-Williams - hired to fill deputy vacancies in her office.

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IN RE: JULIUS SCOTT – RECOGNITION OF 100<sup>TH</sup> BIRTHDAY

The Board presented centenarian Julius Scott with a copy of Resolution R-07-12 adopted on January 9, 2012, recognizing the occasion of his 100<sup>th</sup> birthday. Mr. Burrell read the resolution aloud and shared some of his interactions with Mr. Scott over the years. Mr. Scott was accompanied by his wife and other family members.

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IN RE: NEW KENT SHERIFF'S OFFICE

Dana Schrad, Executive Director of the Virginia Chiefs of Police Association, presented awards to the New Kent Sheriff's Office, which included the 2010 First Place Virginia Law Enforcement Challenge, 2010 Second Place National Law Enforcement Challenge, 2010 Commercial Motor Vehicle Safety Award, and the 2010 Governor's Award for Pupil Transportation. Sheriff F. W. Howard, Jr. and Sgt. Lee Bailey were present to accept the awards. Ms. Schrad commended the Sheriff's Office for sharing its best practices with other localities and advised that New Kent's program on pupil transportation safety had become a model program in the nation. Sheriff Howard credited Sgt. Bailey and his staff for the success of their programs.

Board members spoke about the Sheriff's Office continued success and achievements in their work for the County.

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IN RE: CITIZENS COMMENT PERIOD

Chairman Burrell opened the Citizens Comment Period.

Tom Richart of 3200 Magnolia Woods Place spoke on behalf of the New Kent Youth Baseball Association. He spoke about their efforts to raise money for improvements to the ball fields and about some of the intended improvements. He advised that their proposal to install fencing on Field 3 to keep players from running into a nearby access road had been rejected by the County because the resulting space between the foul line and fence would not meet "standards". He contested that argument, stating that he had determined that there were no standards in place and he felt that there was more danger to players running into the rutted access road than running into the fence.

Chairman Burrell thanked Mr. Richart for his comments and concern.

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

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IN RE: TOWER AGREEMENT AMENDMENT

Fire Chief E. Thomas Hicks asked for the Board's approval of a proposed amendment to the an existing tower agreement.

He recounted that in 2008 New Kent, as part of a regional initiative, had applied for and received a grant to build a microwave radio system and he had been in talks with SBA, the owner of the tower, to allow this equipment to be installed on the tower on Polishtown Road, which would provide radio access between the Courthouse and Henrico Jail East. He advised that SBA had just given him a proposed amendment which would allow for the installation of this equipment at a cost of \$300 per month, and that he was in negotiations with Henrico County to underwrite that cost. He explained that with the microwave network in place, the County would no longer need the Verizon T-1 line, whose battery packs had

failed in the aftermath of Hurricane Irene and which costs around \$1,000 per month, and would have a more reliable communications network. He indicated that the amendment needed to be approved by the Board quickly in order to meet some deadlines in the grant. He reported that he hoped to have the microwave equipment installed and be able to abandon the T-1 line by the early summer. He indicated that the equipment would belong to the County.

Chief Hicks was asked why the County was required to pay rent when it was entitled to space on the tower as part of the conditions of the permit. He explained that there was County equipment already on the tower at no cost and that this would be additional equipment at a different height.

County Attorney Michelle Gowdy confirmed that she had reviewed and approved the language in the proposed amendment, after clarifying some issues regarding required inspections of the structure. She also confirmed that she had been asked to draft a memorandum of understanding with Henrico County for monthly reimbursement of the rent.

There was discussion regarding future radio technology.

Mr. Evelyn moved to authorize the County Administrator to enter into an amendment to the existing antenna site agreement between New Kent County and SBA Towers II LLC, on behalf of the Board of Supervisors. The members were polled:

C. Thomas Tiller, Jr.	Aye
James H. Burrell	Aye
Ron Stiers	Aye
W. R. Davis, Jr.	Aye
Thomas W. Evelyn	Aye

The motion carried.

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IN RE: INITIAL FY13 BUDGET OVERVIEW

County Administrator G. Cabell Lawton, IV provided an initial briefing on the FY13 Budget.

He reviewed the FY12 budget and noted that revenues generated from general property taxes was around \$22.5 million, of which about \$18 million were from real estate taxes. He reported that billed assessments for calendar year 2011 were \$2.59 billion and that the assessment values as of January 1, 2012 were \$2.13 billion, a 17.82% decrease with a value of \$3.2 million in lost revenue. He also noted that the value of one penny on the real estate tax had declined from \$259,474.60 in 2011, to \$213,239.13 for 2012.

He advised that other negative financial impacts on County operations for FY13 were an anticipated decrease in off-track betting revenue, rate increases for Virginia Retirement System (VRS) benefits, and a 5% anticipated increase in health insurance rates, for total impact of \$2.958 million.

He reviewed that FY13 financial impacts on school operations included changes in the composite index, the disappearance of some one-time funds (education for jobs grant and state operation supplement), increases in VRS retirement and group term life, retiree health care credit, loss of one-time funds for textbooks, State-mandated instruction increases, for total negative education impacts of \$2.471 million, resulting in a total combined County and Schools deficiency of \$5.4 million.

He reported that maintaining the current 70-cent (per \$100 assessed value) real estate tax rate would result in a \$3.2 million deficiency; a 75-cent rate, \$2.1 million; an 80-cent rate \$1.1 million; an 85-cent rate \$37,800; and an 86-cent rate would result in excess of \$175,343. He advised that balancing the budget could not be done through increasing taxes or cost-cutting alone.

He reviewed that as of June 30, 2011, there was a cash balance in the Capital Improvements Plan (CIP) of \$12.6 million, \$6.5 million of which was obligated, leaving \$5.7 million available for FY13 projects (recommended at \$2.6 million), and he encouraged the Board not use the balance of \$3.1 million for operating expenses.

He talked about a vehicle replacement strategy of using a \$2 million lease purchase over five years, with an annual payment of \$434,000 to be paid from the CIP fund balance, to obtain four ambulances, one engine, one tanker and upgrade the brush trucks, which would cover the County's needs over the next five years.

He indicated that the proposed FY13 budget would call for a 4% increase in water and sewer rates (as opposed to the historical 8% increase in years past) which would meet bond covenant compliance, but no increase in connection or availability fees which were felt to be "where they should be", with no new debt and no support from the General Fund.

He reviewed a proposed budget timeline, which included a presentation on March 12, a joint meeting with the School Board on March 28, a budget public hearing on May 14, and adoption on May 30.

Other issues identified were the scheduling of budget work sessions in March and April; the possibility of holding district informational meetings; and impacts of actions that could be taken by the General Assembly, including VRS impacts.

There was discussion regarding district meetings. There was also discussion regarding assessment appeals being handled by the Commissioner of Revenue. It was reported that about half of the appeals that had been filed were seeking to increase assessment value.

Mr. Burrell explained to property owners that the drop in real estate assessments would not likely result in a drop in tax bills, since the rate would likely need to be adjusted to bring in the same level of revenues.

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IN RE: ELECTED OFFICIALS' REPORTS

Mr. Davis reported that he had participated in a visit to New Kent by the Undersecretary of Agriculture to tour the Parham Landing wastewater treatment plant and reclaimed water line. He also spoke about the recent death of H. Worth Davis, Jr., whom he referred to as an "iconic part of New Kent's history".

Mr. Burrell spoke about a recent letter received by the Sheriff commending his deputies for their professionalism.

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IN RE: AGRICULTURAL AND FORESTAL DISTRICT (AFD) PROCESS, PART 1 OF 2

Mr. Davis spoke about how he had served on the AFD Board for many years and how in the last few years he felt some property had been added to the program that shouldn't have been, but had been because it met the requirements. He indicated that in light of the fact

that about 22% of the County's land was in the AFD, with many applicants just looking for tax breaks, and the economy and challenging budget year ahead, he would suggest that the processing of AFD applications be temporarily suspended.

It was noted that the deadline for applications was March 1 and if the Board was going to suspend the process, it should take action as soon as possible.

Ms. Gowdy reported that it was her information that only two complete applications had been received to date. She indicated that it was her advice that the suspension be for two-years in order to coincide with the reassessment cycle.

Mr. Davis remarked that the original intent of the program had been to preserve land for food and fiber production and that although the County could not stop its Program, it could suspend the application process. It was reported that the State had been asked to rewrite the statutes and that the two-year suspension would give the County some time to evaluate the changes in the law and update its ordinance.

There was discussion regarding large lot subdivisions.

It was clarified that this suspension was only for new applications and would not affect those parcels already in the Program.

It was suggested that if the Board suspended the program, the AFD Board could spend its time helping to review changes to the Code.

It was confirmed that it was up to the Commissioner of Revenue to decide on whether an AFD parcel would qualify for any tax adjustment.

It was agreed that action on this matter would be delayed until later in the meeting to give Board members more time to consider the request.

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IN RE: CHANGE IN DISTRICT FOUR VOTING PRECINCT

Before the Board for consideration was Ordinance O-01-12 amending *Chapter 26, Elections* of the New Kent County Code to change the location and name of a voting precinct in District Four.

Electoral Board Chairman Charles Moss reviewed that their request was to establish a new polling place in District Four, a move necessitated by the County's planned change in use of space in the Airport terminal building. He indicated that Mt. Calvary Baptist Church on Mountcastle Road had signed an agreement to serve as the new location for the polling place. He reported that there were approximately 900 registered voters in the current Airport precinct, and that the proposed new name was "Mountcastle precinct", after the road and the community.

Mr. Stiers advised that he had spoken with the president of the homeowners association at Woodhaven, the community most affected by the move, and there was "no problem" with the move as long everyone received notification.

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

Mr. Stiers moved to adopt Ordinance O-01-12 amending, restating and readopting Article III of Chapter 26, Elections of the New Kent County Code to change the location of a voting precinct in District Four from the New Kent Airport to Mt. Calvary Church International and to rename the precinct "Mountcastle precinct". The members were polled:

Ron Stiers	Aye
W. R. Davis, Jr.	Aye
Thomas W. Evelyn	Aye
C. Thomas Tiller, Jr.	Aye
James H. Burrell	Aye

The motion carried.

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IN RE: TIMBERING ON COMMERCIALY-ZONED PARCELS

Before the Board for consideration was Ordinance O-02-12 amending Section 98-62 and Article XXII of the New Kent County Code to permit forestry land uses on commercially-zoned parcels.

Assistant County Administrator Rodney Hathaway advised that the amendments would add forestry as a permitted use in the Table of Land Uses for parcels classified as *Business*, *Economic Opportunity*, and *Industrial*, and would also establish performance standards to ensure protection of the aesthetic character of the property and proper management of forested tracts to limit adverse impacts. He reported that the Planning Commission had voted unanimously to forward the application to the Board with a favorable recommendation.

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

Mr. Davis commented that this action had resulted from the broad rezoning that had been done by the County reclassified a significant amount of land as *Economic Opportunity*, and because of the economy, the new owners wanted to timber their property and he felt they should be able to do that as long as it was done correctly.

There was discussion regarding the proposed buffers. Mr. Evelyn felt that owners would be losing a significant amount of money if they were required to leave a 25-foot buffer along the roadway, commenting that those trees would end up falling if they weren't cut. He added that he did not think that a landowner needed both the Department of Forestry and the County conducting inspections.

Mr. Hathaway clarified that this would only apply to that property that was being timbered and not being developed, and there would be no buffers required if the landowner was clearing the property for development, other than landscape buffers.

The County Attorney advised that she felt removal of the buffer requirement would be a substantive change and would require the proposed amendment to be re-advertised and another public hearing. She suggested that the Board could postpone its vote on the matter to give her additional time to research the matter.

Mr. Tiller moved to defer a vote on adopt Ordinance O-02-12 until the next meeting on February 28. The members were polled:

W. R. Davis, Jr.	Aye
Thomas W. Evelyn	Nay
C. Thomas Tiller, Jr.	Aye
Ron Stiers	Nay
James H. Burrell	Aye

The motion carried.

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IN RE: STAFF REPORTS

Mr. Lawton advised that staff was still following action in the General Assembly and would keep the Board informed. He thanked the Board members who had attended the recent Legislative Day.

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IN RE: DISTRICT APPOINTMENTS

Mr. Evelyn moved to appoint James Noctor as District One's representative to the Parks and Recreation Advisory Commission to serve a three-year term beginning January 1, 2012 and ending December 31, 2014.

Mr. Burrell moved to nominate Thomas Minor, Sr. for Circuit Court appointment as District Three's representative to the Board of Zoning Appeals to serve a five-year term beginning January 1, 2012 and ending December 31, 2016.

Mr. Stiers moved to appoint Leslie Smith as District Four's representative to the Parks and Recreation Advisory Commission to serve a three-year term beginning January 1, 2012 and ending December 31, 2014.

Mr. Stiers moved to appoint Bobby Weagley as District Four's representative to the Board of Road Viewers to serve a one-year term beginning January 1, 2012 and ending December 31, 2012.

Mr. Davis appointed Bill Simpson as District Five's representative to the Airport Advisory Commission to serve a four-year term beginning January 1, 2012 and ending December 31, 2015.

The members were polled:

Thomas W. Evelyn	Aye
Ron Stiers	Aye
W. R. Davis, Jr.	Aye
C. Thomas Tiller, Jr.	Aye
James H. Burrell	Aye

The motion carried.

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IN RE: NON-DISTRICT APPOINTMENTS

Mr. Tiller moved to appoint Ashley Ohlschlager as the Parent Representative to the Community Policy and Management Team to serve a one-year term beginning January 1, 2012 and ending December 31, 2012.

Mr. Davis appointed Edward Pollard as New Kent's Planning Commission representative to the Richmond Regional Planning District Commission to serve a one-year term ending December 31, 2012.

The members were polled:

C. Thomas Tiller, Jr.	Aye
James H. Burrell	Aye
Ron Stiers	Aye
W. R. Davis, Jr.	Aye
Thomas W. Evelyn	Aye

The motion carried.

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IN RE: CLOSED SESSION

Mr. Evelyn 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 discipline, for consultation with legal counsel pursuant to Section 2.2-3711A.7 of the Code of Virginia involving actual or probable litigation, and for discussion of award of public contract pursuant to Section 2.2-3711A.30 of the Code of Virginia involving potential terms and scope of a public contract. The members were polled:

Ron Stiers	Aye
W. R. Davis, Jr.	Aye
Thomas W. Evelyn	Aye
C. Thomas Tiller, Jr.	Aye
James H. Burrell	Aye

The motion carried. The Board went into Closed Session.

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

W. R. Davis, Jr.	Aye
Thomas W. Evelyn	Aye
C. Thomas Tiller, Jr.	Aye
Ron Stiers	Aye
James H. Burrell	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 members were polled on the certification:

Thomas W. Evelyn	Aye
Ron Stiers	Aye
W. R. Davis, Jr.	Aye
C. Thomas Tiller, Jr.	Aye
James H. Burrell	Aye

The motion carried.

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IN RE:            AGRICULTURAL AND FORESTAL DISTRICT PROCESS, PART 1 OF 2

The Board continued to discuss Mr. Davis' suggestion to temporarily suspend the AFD process.

Mr. Tiller spoke about his concern that the County had promoted the AFD Program in the past to curb development and if this process were to be suspended, then property owners might choose to develop their property instead, and he felt the County would be sending contradictory messages.

Mr. Burrell commented that he did not feel that such development would be likely, in light of the economy.

Mr. Evelyn conceded that there was a problem with the current AFD program and reminded that it had been set up to preserve large forestry tracts and agricultural land - not to give owners a tax break, and that owners of subdivided parcels were now applying and often added because they "met the letter of the law" but not the intent of the program.

Ms. Gowdy explained that the Board could suspend the processing of any more applications until the ordinance had been amended, and that staff planned to ask the AFD Advisory Board to help develop definitions. She advised that the two-year suspension would coincide with the reassessment cycle, since the drop in values was one of the catalysts for suspending the application process.

Mr. Davis added that the State was likely to change its statute because of the abuse in the program.

Ms. Gowdy advised that some of the other localities had already suspended their programs.

Mr. Davis moved to adopt Resolution R-12-12 suspending the processing of Agricultural and Forestal District Applications for the 2012-2013 and 2013-2014 application cycles. The members were polled:

C. Thomas Tiller, Jr.	Nay
James H. Burrell	Aye
Ron Stiers	Aye
W. R. Davis, Jr.	Aye
Thomas W. Evelyn	Aye

The motion carried.

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IN RE:           ADJOURNMENT

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

Ron Stiers	Aye
W. R. Davis, Jr.	Aye
Thomas W. Evelyn	Aye
C. Thomas Tiller, Jr.	Aye
James H. Burrell	Aye

The motion carried.

The meeting was adjourned at 9 p.m.