

THE REGULAR WORK SESSION OF THE NEW KENT COUNTY BOARD OF SUPERVISORS WAS HELD ON THE 31ST DAY OF OCTOBER IN THE YEAR TWO THOUSAND TWELVE IN THE BOARDROOM OF THE COUNTY ADMINISTRATION BUILDING IN NEW KENT, VIRGINIA, AT 8: 30 A.M.

IN RE: CALL TO ORDER

Chairman Burrell called the meeting to order.

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. Chairman Burrell announced that he would be leaving the meeting at around 10 a.m. for a medical appointment.

IN RE: RECLAIMED WATER SYSTEM

Public Works Director Larry Dame, and Roger Hart and Kris Edelman with Arcadis Malcolm Pirnie, shared with the Board a presentation on the County's reclaimed water system given at WaterJam in Virginia Beach.

Mr. Hart advised that New Kent's reclaimed water system had been showcased around the state and nation and resulted in numerous inquiries.

Mr. Edelman explained that the objective of the presentation had been to summarize the County's wastewater treatment infrastructure prior to 2006, discuss the drivers for reclamation and reuse, review New Kent's new reclamation and reuse infrastructure plan, summarize planned and potential end users, compare actual use to plan demands, and discuss capital and operating/maintenance costs.

He reviewed that the County's Reclaimed Water Management Plan declared New Kent's intent to treat to Level 1 for bulk irrigation and dust control, which allowed for irrigation with public access. He indicated that Level 1 called for secondary treatment with filtration and high level disinfection, whereas Level 2, which was restricted to construction/industrial uses with no public access irrigation, required only standard disinfection.

He reported that the Brickshire Golf Course used less reclaimed water than planned, which he attributed to both above-average rainfall and financial considerations. He noted that Colonial Down also used less than planned but added that the water used for dust control had not been reported separately, and financial considerations had also had an impact on usage by that customer.

Mr. Edelman reviewed operational considerations, including start up and shut down and Supervisory Control and Data Acquisition (SCADA) monitoring of the system.

He reviewed that American Recovery and Reinvestment Act (ARRA) funds had covered the majority of the costs including \$2.9 million for the force main and \$1.16 million for the

upgrades for holding facilities at the former Chickahominy plant, with the County funding the distribution line to the Royal New Kent golf course in the amount of \$150,379.

He reported that revenue from sale of reclaimed water for 2012 was \$29,008 and that the County had received nutrient credits for 2011 in the sum of \$26,155.

He identified project impacts, which included the fact that the Parham wastewater treatment plant had zero discharge for nine of the past seventeen months; that discharge from the Chickahominy plant had been eliminated as of October 2010; that all discharge was now at a location with more favorable and attainable effluent limits; elimination of additional stress on groundwater resources in the Kentland area and the availability of additional nutrient credits available in the York River basin; and the highlighting of New Kent's commitment to Bay cleanup on both state and national levels.

There was discussion on the anticipated expansion of the Eastern Virginia Groundwater Management Area.

Mr. Dame advised that Viniterra golf course had some concerns about the pond it used for irrigation and had expressed interest in also becoming a reclaimed water user. He explained that once they had submitted a formal request, a preliminary report would be performed on an extension and, should some funding become available, then perhaps the line could be extended. He clarified that making the request would not obligate Viniterra. He indicated that other possible users would be the Saudé Creek Winery and the Brookwoods golf course, although neither had contacted the County in that regard.

He reported that he had talked with the Department of Environmental Quality (DEQ) about possibly storing reclaimed water during the winter months in order to become a "zero discharge" plant.

There was discussion regarding how much reclaimed water was available.

IN RE: CHESAPEAKE BAY PRESERVATION PROGRAM PHASE III COMPLIANCE

Environmental Planning Manager Amy Walker reviewed updates needed in the County Code in order for New Kent to be compliant with State Phase III mandates in the Chesapeake Bay Preservation Program.

She advised that in 2009 a checklist had been provided by the Department of Conservation Resources (DCR) of the items that needed to be implemented or corrected in the County's Chesapeake Bay ordinance and program in order to reach Phase III compliance. She explained that the original compliance review had been set for 2012 but staff had requested an extension until 2014 in order to address several changes taking place at the federal, state and local level that would affect the Program. She reported that the Waterways ordinance would require extensive revision and portions of the Environment and Zoning ordinances would also need revisions. She indicated that also to be considered was how those changes would be intertwined with the revisions to the Environmental ordinance and implementation of the new storm water (VSMP) program. She clarified that although the County would have until 2014, the "package" would have to be filed with DEQ by December 2013.

Mr. Hathaway added that staff would be looking at each item on the deficiency check list and would bring recommendations to the Board on how to address each one.

There was discussion regarding how these changes would impact economic development and Board members expressed their frustration at being forced to adopt these changes. Mr. Hathaway indicated that staff would be talking to the State about the need for flexibility and Ms. Walker added that she felt that a lot would depend on how New Kent tailored its ordinances and could justify to the State that New Kent was meeting the requirements.

Mr. Evelyn commented that some of New Kent's requirements were stricter than what the State required and spoke about how these new regulations "would kill business" in the County. Ms. Walker reminded that all localities would be under the same regulations.

Mr. Stiers remarked that this was "100 times worse" than the Comprehensive Plan process and was "nothing but government control over everything we do with land". Mr. Burrell countered that if there were no government control, the Chesapeake Bay "wouldn't have any fish". He spoke about how everything affected the Bay and how much cleaner it was now than ten years ago. He agreed that some of the requirements were overreaching, but felt that this wasn't about control but about protecting the Bay and if nothing were done, then "we could kiss the Bay goodbye".

There was additional discussion regarding some of the items on the deficiency list. Ms. Walker warned that if the County kept failing to comply, it would be running the risk of the State's "taking over" the Environmental program, but she felt that if the County could show some progress and fix the things it could, then she could talk to the State about things New Kent was already doing and those that could not be achieved. She spoke about how it was better for waterfront property owners to work with a local program, as long as they had reasonable expectations, and that it was important for the County to be able to tailor its ordinances to provide flexibility to meet its unique needs and to remain the reviewing agency. She indicated that there would be more discussion about this issue but warned that 2014 was quickly approaching.

There was discussion regarding a rumor that DCR was being absorbed by DEQ.

Mr. Hathaway advised that the new regulations had been a big part of discussion at a recent economic development conference he attended and how it would challenge communities and add to the cost of development. Ms. Walker advised that all localities, even those in the western part of the State, would be under the same rules and that New Kent would have some advantage in that it had been dealing with the issue since the mid-1980s.

IN RE: 2013 LEGISLATIVE AGENDA

Before the Board for consideration was a request to adopt the draft 2013 Legislative Agenda.

Acting County Administrator Rodney Hathaway explained that in keeping with the same format from previous years, there were only three issues on the proposed Agenda, together with a list of policy statements on other items that might arise.

The first item dealt with expansion of gaming at Colonial Downs to provide a sustained source for transportation funding, which was anticipated to be a significant issue in the upcoming General Assembly session. It was explained that also in the mix for transportation discussions would be an increase in the gasoline tax and adding tolls.

The second item on the list was a request for incentives to bring broadband to rural communities like New Kent.

The third was to ask the State to look at manufactured housing practices and policies and perhaps provide an opportunity to have input into the inspection process as well as sales and set up. He explained that there had been several significant complaints from consumers who had been misled or abused by the industry and contractors, with very little recourse. He indicated that poor workmanship by the manufacturers and little oversight by federal inspectors, left consumers with little protection. Building Inspector Clarence Jackson added that often time the units were improperly installed and the State and localities had no input into the process. He also advised that he had submitted his name for consideration for appointment by the Governor to the Manufactured Housing Board. There was discussion regarding a pending complaint of a County resident.

Mr. Hathaway indicated that an item that New Kent might want to add to its list was one that was being promoted by the member localities of the Virginia Peninsula Mayors and Chairs and was to ask the General Assembly to make the expansion of Interstate 64 a priority over the Route 460 project.

There was discussion regarding both projects. Mr. Evelyn advised that it was his information that the Route 460 project was a "done deal" and a contractor had been selected, and he didn't think there was any point in adding that item to New Kent's agenda.

Mr. Stiers objected to the item requesting state control over manufactured homes and how that would add more government regulation, increase the cost of the homes for consumers and make them less affordable. Mr. Hathaway explained that it would only ask the State to consider whether there was a better way to control the process and protect consumers.

Mr. Evelyn stated that he did agree with the manufactured housing item but not the I-64 priority item.

Mr. Davis moved to adopt the draft 2013 Legislative Agenda, with the addition of making the expansion of I-64 a priority over the Route 460 project, as suggested by Mr. Hathaway. The members were polled:

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

The motion carried.

IN RE: HISTORIC SCHOOL PPEA RENOVATION PROJECT

Mr. Hathaway and County Attorney Michele Gowdy updated the Board on the Public Private Education Act (PPEA) renovation project involving the South building of the Historic School.

Ms. Gowdy reported that staff had met with the contractor who had presented a plan for the Board's consideration. She advised that there remained a few contract issues on which she would provide some legal advice during closed session later in the meeting.

Mr. Burrell advised that he had provided Ms. Gowdy with his position on the contract issues and his position had not changed.

Ms. Gowdy indicated that the Board would need to vote on approving the plan so that it could be attached to the contract.

There was discussion regarding items that had been requested by the School Board that included additional doors, file storage areas, and demolition of some existing handcrafted cabinets, some of which had been included because of impacts on historical significance or other issues. There was also discussion regarding decorative brickwork and roof penetrations.

Mr. Hathaway indicated that staff and the contractor had tried to accommodate the requests that they could. Mr. Davis advised that he was comfortable with what had been proposed and moved to approve the Plan submitted by Marengo Management Corporation on October 30, 2012. The members were polled:

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

The motion carried.

IN RE: VIRGINIA ASSOCIATION OF COUNTIES 2012 ANNUAL CONFERENCE

Before the Board for consideration was a request to authorize the Acting County Administrator to cast New Kent's votes on any issue to come before the 2012 Annual Meeting of the Virginia Association of Counties (VACo).

Mr. Hathaway explained that each locality was required to designate a person to cast its votes and in the past that individual had been the County Administrator.

Mr. Davis moved to appoint Rodney A. Hathaway to cast New Kent's votes on any issue to come before the VACo 2012 Annual 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.

IN RE: HURRICANE SANDY

Before the Board for consideration was Resolution R-50-12 confirming the local emergency declared in New Kent County on October 27, 2012 in anticipation of Hurricane Sandy.

Mr. Hathaway explained that although the Coordinator of Emergency Management had the authority to declare a local emergency, the action had to be confirmed by the governing body.

Mr. Stiers moved to adopt Resolution R-50-12 confirming a local emergency declared on October 27, 2012. 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. Burrell departed the meeting at 10 a.m.

Board members commended and thanked staff from Fire-Rescue, Sheriff's Office, and Social Services for the preparation and response to the storm.

IN RE: CLOSED SESSION

Mr. Evelyn moved to go into Closed Session pursuant to Section 2.2-3711A.1 of the Code of Virginia regarding discussion, consideration or interviews of prospective candidates for employment and regarding assignment, promotion, performance, demotion, salaries, disciplining or resignation of specific public officers, appointees or County employees; pursuant to Section 2.2-3711A.7 of the Code of Virginia for consultation with legal counsel pertaining to actual or probable litigation or regarding specific legal matters requiring the provision of legal counsel; and pursuant to Section 2.2-3711A.29 of the Code of Virginia for discussion on the award of a public contract. The members were polled:

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

The motion carried. The Board went into Closed Session.

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

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

The motion carried.

Mr. Evelyn 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.

Vice Chairman Davis 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:

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

The motion carried.

IN RE: PARKING SPACE REQUIREMENTS

Mr. Stiers asked for the Board's support of a revision to County ordinance increasing from 20 to 75 or 100 the number of parking spaces that triggered the requirement for a paved parking lot for a business. He indicated that this change would assist a small church that was trying to comply with the code and regulations and could not afford the cost of paving its lot. He added that he felt a graveled lot would be acceptable and better for the environment and that the Building Official had indicated that he would support the change.

Mr. Hathaway advised that the previous ordinance had the threshold at 50 spaces. Ms. Gowdy advised that the 20-space trigger had been based on a parking standard that existed at the time.

There was discussion whether the threshold should be set according to zoning designation. Ms. Gowdy warned that could be interpreted as a discriminatory practice and reminded that the current parking ordinance had been debated for over a year and had been revised twice before it was adopted and, if it were changed, the Board would be reversing itself after less than one year. She suggested that staff look at what other jurisdictions were doing.

She reminded that the church could file its plan and ask for an exclusion from the zoning administrator, but that would require a parking study signed by an engineer. Mr. Hathaway concurred and advised that such a study could run between \$15,000 and \$20,000. Mr. Stiers advised that the church did not have that kind of money.

Following further discussion, there was consensus for staff to look into the issue and make some recommendations to the Board.

IN RE: VIRGINIA DEPARTMENT OF TRANSPORTATION

The Board was in agreement with a suggestion from Mr. Davis to send a letter of recommendation for the local superintendent Chad Baker. There was also discussion about the South Waterside Drive project at Fanny's Creek, which was still waiting for permits.

IN RE: ADJOURNMENT

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

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

The motion carried.

The meeting was adjourned at 11:10 a.m.