

PLANNING COMMISSION  
County of New Kent

MINUTES

THE REGULAR MEETING OF THE NEW KENT COUNTY PLANNING COMMISSION WAS HELD ON THE 18<sup>th</sup> DAY OF JANUARY IN THE YEAR TWO THOUSAND FIVE OF OUR LORD IN THE AUDITORIUM OF THE NEW KENT HIGH SCHOOL 6:30 P.M.

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IN RE: CALL TO ORDER

Chairman Edward Pollard called the meeting to order at 6:35 p.m.

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IN RE: INVOCATION AND PLEDGE OF ALLEGIANCE

Mr. Hubbard led the invocation and Pledge of Allegiance.

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IN RE: ROLL CALL

Attendance:

Jack Chalmers	Present
Thomas Evelyn	Present
Howard Gammon	Present
Sylvia Godsey	Present
Mark Hill	Present
Jay Hubbard	Present
Charna Moss	Present
Edward Pollard	Present
Sam Snyder	Absent
Tommy Tiller	Present
Patricia Townsend	Present

Also attending:

Rodney Hathaway, Planning Manager  
George Homewood, AICP, Director of Community Development  
Phyllis Katz, County Attorney  
Pam Crosby, Administrative Secretary

Chairman Pollard established that there was a quorum.

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IN RE: APPROVAL OF MINUTES

A motion was made by Mr. Gammon and second by Mr. Chalmers, to approve the minutes of the 20 December 2004 – Regular Meeting as presented.

The members were polled:

Jack Chalmers	Aye
Thomas Evelyn	Aye
Howard Gammon	Aye
Sylvia Godsey	Aye
Mark Hill	Aye
Jay Hubbard	Aye
Charna Moss	Aye
Edward Pollard	Aye
Sam Snyder	Absent
Tommy Tiller	Aye
Patricia Townsend	Aye

The motion carried, 10:0:0

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IN RE: ANNUAL ELECTIONS AND REORGANIZATION

- Mr. Jay Hubbard was elected as 2005 Chair of the New Kent County Planning Commission

[Ms. Snyder arrived approximately at this point]

- Mr. Howard Gammon was elected as 2005 Vice-Chair of the New Kent County Planning Commission
- Ms. Sam Snyder was elected as 2005 Public Hearing Chair of the New Kent County Planning Commission
- Ms. Patty Townsend was elected as 2005 Public Hearing Vice-Chair of the New Kent County Planning Commission
- Mr. Thomas Evelyn was appointed as the 2005 Representative for the Richmond Regional Planning District Commission

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A motion was made by Ms. Townsend and second by Mr. Gammon to ask Mr. Pollard to continue in the position of Chair of the Planning Commission for the remainder of this meeting.

The members were polled:

Jack Chalmers	Aye
Thomas Evelyn	Aye
Howard Gammon	Aye
Sylvia Godsey	Aye
Mark Hill	Aye

Jay Hubbard	Aye
Charna Moss	Aye
Edward Pollard	Aye
Sam Snyder	Aye
Tommy Tiller	Aye
Patricia Townsend	Aye

The motion carried, 11:0:0

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IN RE: REVIEW AND RE-ADOPT BY-LAWS

A motion was made by Mr. Hubbard and second by Mr. Gammon, to re-adopt the by-laws as presented to the New Kent County Planning Commission.

The members were polled:

Jack Chalmers	Aye
Thomas Evelyn	Aye
Howard Gammon	Aye
Sylvia Godsey	Aye
Mark Hill	Aye
Jay Hubbard	Aye
Charna Moss	Aye
Edward Pollard	Aye
Sam Snyder	Aye
Tommy Tiller	Aye
Patricia Townsend	Aye

The motion carried, 11:0:0

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IN RE: MEETING SCHEDULE

Staff presented the commission with a proposed meeting schedule and requested that the meeting times be changed from 7:00 pm to 6:30 pm with public hearings being heard at 7:00 pm or as soon thereafter as possible.

A motion was made by Mr. Hill and second by Mr. Chalmers to adopt the meeting schedule as presented.

The members were polled:

Jack Chalmers	Aye
Thomas Evelyn	Aye
Howard Gammon	Aye
Sylvia Godsey	Aye
Mark Hill	Aye
Jay Hubbard	Aye
Charna Moss	Aye

Edward Pollard	Aye
Sam Snyder	Aye
Tommy Tiller	Aye
Patricia Townsend	Aye

The motion carried, 11:0:0

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IN RE: CITIZEN COMMENT PERIOD

Chairman Pollard reminded the citizens that at this time the citizen comments would be heard and are limited to those on planning related issues that are not scheduled for a public hearing later on the agenda. Those wishing to speak should sign up on the sheet at the back of the room prior to the meeting is required.

There were no comments from citizens.

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IN RE: PRESENTATION

THE COMPREHENSIVE PLAN AS A COUNTY'S BUSINESS PLAN

Mary Heinrich, Director for Ag Prospects gave a presentation on how the County's Comprehensive Plan is a County's Business Plan.

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IN RE: UNFINISHED BUSINESS

None.

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IN RE: PUBLIC HEARINGS

Capital Improvement Program: The Board of Supervisors has referred the draft County Capital Improvement Program (CIP) to the Planning Commission for review and recommendation. The draft FY05-FY10 CIP referred to the Commission contains 77 projects with a total estimated cost of \$87.1 million.

Staff gave a presentation on the Capital Improvement Program (CIP).

The commission asked questions of staff.

The commission asked, are there any proffers that are earmarked for CIP at this time? Staff responded that all cash proffers are supposed to be earmarked for capital projects, we are not supposed to accept cash proffers except for capital projects.

The commission asked, are these figures incorporated in the CIP? Staff responded, no they are not.

Ms. Katz stated that the proffers from land dedication must be in the capital improvement plan and several other developments have land dedications.

The commission held a public hearing in which two citizens made public comment on the proposed Capital Improvement Program.

Ed Hayes of Deer Run spoke in opposition of the CIP stating that somewhere along the line we must think we won the lottery or we've hired a drunken sailor on leave to put this thing together. The planning director says that it must include priorities, but they are not there. It should only include capital improvements not outlays, but the outlays are in there and will be removed later. Clearly this process is being driven by Comprehensive Plan and Proffers and the need to put a Capital Improvement Program in place in order to support the County building. But none of that has been done it's hard to know how to interpret this. It has not been thought through and is incomplete.

Shelly Morris of New Kent Highway spoke with some concerns and agrees with Mr. Hayes on the lack of planning, however does like this plan because of the schools.

There being no one else to speak, the public hearing portion was closed.

The commissioners asked questions and stated some concerns about the CIP.

The commission stated that they had hoped to get a lot more input from the public.

The commission stated, after reviewing the facts it looks like a big wish list, is there any way to state what is needed and what is just wanted. Staff responded to some extent almost any CIP is ambitious. However, because there is no guarantee that those out years are ever going to be fully funded and brought to existence there does need to be an effort to match costs with anticipated revenues. That part has not been done yet and staff is continuing to work on it, but the revenue side of the equation is really the purview of the Board of Supervisors and not the Planning Commission.

The commission asked, if we were to adopt the CIP would the dollar figures stay as is or can they be adjusted? Staff responded the dollar figures for the first year are generally pretty set, as items are moved to the out years they are less firm. Since this becomes an annual process, in each year you will look at projects that were in the out years, department heads will re-justify the projects and improve the numbers to make sure that they are in line with current cost, and the Commission and Board determine if they are still priorities and if so, where they fall. This is done each year.

Ms. Katz added a little insight into the relationship of proffers, Comprehensive Plan and Capital Improvement Program. The Comprehensive Plan is the vehicle for shaping the future development of land within the county; much of what the Planning Commission does has to do with the Comprehensive Plan. Very often when dealing with development and the proffers, you get two types of proffers those that are cash or those that are cash equivalent – for example the donation of land. We have seen over the

course of a number of years proffers that will offer the donation of land - *if you approve this rezoning we will give you a school site of 5 acres, a library or a fire station.* The Planning Commission will never know if those 5 acres are enough until it knows what acreage may be needed for a school for example or at what location. The Comprehensive Plan will indicate where future growth will be and the CIP will provide information on the needs for such a use. In evaluating the value of the proffers, both the Comprehensive Plan and the CIP are the two tools that serve as guides. For example, what this county may not want or need are two fire stations in a particular area of the county, and yet two developments are both offering fire station sites in that area. A development proposal including the proffers, the Comprehensive Plan and the CIP are all interrelated.

The commission has some concern about the needs of the schools, the sheriff's department, etc.

For the record Mr. Hill stated that the public needs to understand the process, the department heads come to the Board of Supervisors with their request and the Board accesses and reviews each request. And what you have before you tonight is the Board of Supervisors scaled down version. That happens over a course of 2 ½ meetings, it wasn't done in just a couple of hours. Anyone who has come to a Board meeting knows that we have long meetings and we have long meetings and we work hard to come up with a plan that we can all agree on.

The commission has concern that only two citizens came out and spoke in reference to the CIP; the CIP is available on-line and at the County office for review. We need your input but 31 January 2005.

A motion was made by Mr. Chalmers and second by Mr. Gammon to continue this application to a work session scheduled for 31 January 2005 in the Old Courthouse at 6:30 pm.

The members were polled:

Jack Chalmers	Aye
Thomas Evelyn	Aye
Howard Gammon	Aye
Sylvia Godsey	Aye
Mark Hill	Aye
Jay Hubbard	Aye
Charna Moss	Aye
Edward Pollard	Aye
Sam Snyder	Aye
Tommy Tiller	Aye
Patricia Townsend	Aye

The motion carried, 11:0:0

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**PUD-03-04, Farms of New Kent:** New Kent Farms, LLC is requesting to rezone approximately 2,520 acres from A-1 (2100± acres), R-1 (135± acres), and M-2 (285± acres) to Planned Unit Development (PUD) authorizing a mixed use development. The subject property generally surrounds the intersection of SR 249 with SR 106 and 609 including along the east and west sides of SR 106 between I-64 and SR 249. North of SR 249, the subject property is generally bounded by the Southern Branch of Black Creek to the west, SR 606 and 642 to the north and Pelham Swamp to the east. The property is identified on the New Kent County tax maps as parcel numbers 10-63, 11-24, 21-88A, 21-90, 21-91, 21-92, 21-101, 21-104, 21-3-A1, 21-3-A3, 22-1, 22-2, 22-3, 22-4, 22-5, 22-5B, 22-11, 22-11A, 22-30, 22-31, 22-2A, 22-2C, 22-3C. The proposed rezoning is accompanied by proffers that set forth a series of cash contributions to the County, construction and donation of a fire station, phasing of road improvements, phasing of commercial development relative to residential development and other inducements.

Staff gave a brief presentation on the proposed Planned Unit Development.

Mr. Don Messmer, Wessex Group gave a presentation on the fiscal impact and what this project would make for the County and we find that the fiscal impact at build out would be a net positive annual fiscal impact of 6.5 million dollars a year. This is over and above the operating expenses that will be generated, the capital investment program that is in front of you. We also undertook a by-right scenario of what would happen if in fact it was simply developed by existing zoning approval we believe that under the existing zoning approval might generate about 1.5 million dollars. Finally, we also looked at a scenario based on development in accord with the county's comprehensive plan and determined that it would generate about 2.8 million dollars annually. Mr. Messmer went on to discuss in detail how they came up with these figures.

The commission had no questions of Mr. Messmer.

Mr. Dave Beardsley, VHB, Inc. presented on the roads assessment study on the capacity of the roadway network specifically route 249, route 609, route 610 and I-64.

The commission asked, how did you reach capacity? Mr. Beardsley responded we looked at daily traffic volumes on I-64, we used what VDOT counts every year.

The commission asked about the school bus scenario that was requested. Mr. Beardsley responded we haven't run any specific analysis on school buses, however we know that based on the design at the intersections, be it traffic signals or roundabouts that for the peak hour that buses would be traveling they can be accommodated.

Staff stated that in regards to the transportation impact analysis, VDOT's 2026 plan does not include any improvements to I-64 from James City County to Henrico. also if

you look at our Comprehensive Plan there are large areas within this development and south of this development designated as economic opportunity. The large amount of residential activity proposed in this PUD would take up a lot of the traffic carrying capacity that our comprehensive plan has designated for economic opportunity.

Pete Johns, Farms of New Kent LLC gave a presentation, briefly commenting on the development and referring to his display boards describing each land bay and what they are planned to contain.

John Foote, Attorney for the applicant also gave a brief presentation commenting that I don't know New Kent County like you do, but I do know land use. Mr. Foote also commented that growth is an issue everywhere in Virginia, improving and sustaining your physical health, mitigating the impact of any development, assurance of a high quality development, and concept of comprehensive planning as a guide for development.

The commission held a public hearing in which thirty-five citizens made public comment on the proposed Planned Unit Development application.

Ayars Lore, Harrison Bluff Lane spoke in opposition and thanked Mr. Johns for taking time to speak with the people, however feels that the development is much to large and has concerns about the financing for the Farms of New Kent.

Barbara Lore, Harrison Bluff Lane spoke in opposition stating that the county would no longer by rural and that is why people like the area.

Melvin Belcher, Emmaus Church Road spoke in opposition stating that the Farms of New Kent have made improvements however Land Bay IV is still to large and would like to see all promises written into the plan.

Kathleen Bailey, Old Quarter Lane spoke in opposition stating that she has watched Brandermill grow and can see the Farms of New Kent doing the same.

Lawrence Maier, Jr., Emmaus Church Road spoke in opposition stating that it is just too big.

Lisa Guthrie, Wensleydale Drive spoke in opposition commenting on the rural integrity of the county and that there are many more issues to deal with.

Chapman Harrison, Old Church Road spoke in favor of the application, Mr. Harrison owns 130 acres at Pine Fork Road and Emmaus Church Road and thinks that it is a wonderful opportunity.

Mark Daniel, Dispatch Road spoke in favor of the application stating that he is a representative for the owner of Land Bay IV and if the Farms of New Kent is not passed then something else will be done there. Land Bay IV is already zoned R1.

Ashley Moore, Ashland Farm Road spoke in favor stating that the project confirms the Comprehensive Plan, the project will produce a positive cash flow.

Mike Lamberth, Harrison Bluff Lane spoke in favor referring to the staff memo and quoting "Try as it might, staff simply cannot overcome the concern for the irrevocable loss of rural character in the very heart of the County." That has concerned everyone in this room whether they are in support or against the application.

Rodney Adkins, Harrison Bluff Lane spoke in opposition because of the amount of homes in Land Bays IV & V.

Robin Metheny, Horseshoe Drive spoke in favor stating that they own land on Route 106 in which they are planning on building their home.

Kenny Evans, Adkins Road spoke in favor stating that it will help with the tax base and has a positive cash flow, the buffers on Rte 106 show a rural setting and we want a nice high quality.

Wayne Taylor, Villa Green Drive spoke in favor stating that he will be moving to Old Church Road and has an opportunity to live in communities like this.

Herb Jones, Forest Drive spoke in favor stating that a planned development is better than an unplanned development, New Kent County is going to change, the Farms of New Kent would provide a positive cash flow, and applauds the commission for it's efforts.

David Cole, North Courthouse Road spoke in opposition stating that any gains received from this development will be short term, please vote from your head, not your heart.

Donald Moser, Harrison Bluff Lane spoke in opposition stating that traffic will be a problem, Land Bay IV is too concentrated, wineries and golf courses can be temporary and is afraid that this can lead to explosive growth.

Rob Whitehurst, Eltham Road spoke in favor stating it will be a beautiful project.

Cary Ann Whitehurst, Eltham Road spoke in favor.

Michelle Morris, New Kent Highway spoke in opposition reading from a list of items going into the application and referencing the computer simulation that was shown to the commission at the last public hearing.

Bernard Randolph, New Kent Highway spoke in favor, stating that this would be good for the county.

Doug Houston, Historical Path Road spoke in opposition stating that there are several issues referring to the Comprehensive Plan versus the quality of the development and controlled growth.

Susan Houston, Historical Path Road spoke in opposition stating that the Farms of New Kent have gone out of its way to prove it can be a good neighbor by sponsoring various activities.

Gilda Black, Talleyville Lane spoke in opposition stating that the growth in New Kent should be smart growth and has concern for the rural character.

Eugene Williams, New Kent Highway spoke in favor stating that he has lived in New Kent County all his life and remembers when I-64 and Rte 106 was not there, things are going to change.

Chester Alvis, Quinton Road spoke in favor asking the question do we think we can keep New Kent County rural. We need quality the Farms of New Kent will bring that.

Jack Schlosser, Kenleigh Road spoke in opposition questioning the traffic issues.

Larry Forbes, Pinehurst Drive spoke in favor stating that he has had the privilege to serve on the New Kent County Economic Development Authority and this is a high quality project.

Gary Green, Dispatch Road spoke in favor stating that he has worked with the Farms of New Kent before and this is what New Kent needs.

Rebecca Wagar, Courthouse Road spoke in favor stating that it is controlled growth and beneficial for the county.

Scott Wagar, Courthouse Road spoke in favor referring to the CIP and where is the money going to come from.

Charles Edmonds, Horseshoe Court spoke in reference to Quinn Rivers Agency and asked the commission to keep in play the abuse of the cash proffers.

Reverend Milton Hathaway, Crumps Mill Road commented that he favors most areas except the affordable housing part of the plan, this is a good proposal, but it can be a great proposal.

Philip Felts, Tunstall Road spoke in favor stating that the Farms of New Kent comes before us with high standards, money up front and help for our schools.

Eric Whitlow, Marsha Mae Drive spoke in favor stating that this could be a positive impact for the schools and for the county as well as a positive growth for small businesses.

The public hearing portion was closed.

Commissioners asked questions.

The commission asked what the definition of Commercial is considered. Staff responded that it is those uses that generate income such as the daily fee golf course, Country Club, Winery, etc.

The commission asked how many square feet do we have in the plan? The applicant responded that it would roughly be a million square feet most of that square footage is near the interstate.

The commission would like to see the commercial details spelled out and defined a little more in the PUD, see more affordable housing within the development

A motion was made by Mr. Chalmers and second by Mr. Gammon to forward application PUD-03-04: Farms of New Kent to the Board of Supervisors with an unfavorable recommendation.

The members were polled:

Jack Chalmers	Aye
Thomas Evelyn	Aye
Howard Gammon	Aye
Sylvia Godsey	Aye
Mark Hill	Abstain
Jay Hubbard	Aye
Charna Moss	Aye
Edward Pollard	Aye
Sam Snyder	Aye
Tommy Tiller	Aye
Patricia Townsend	Aye

The motion carried, 10:0:1

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**CUP-05-04, Dr. Karen T. Lacy:** Dr. Karen T. Lacy has requested a conditional use permit to operate an existing structure as a Kennel for the boarding of cats and dogs. The property is currently zoned A-1 (Agricultural) and kennels are permitted as a conditional use. A kennel is defined in the New Kent County zoning ordinance as “a place prepared to house, board, breed, handle or otherwise keep or care for dogs or other household pets for sale or in return for compensation. The property is located at 9400 Tunstall Road, and is identified on the New Kent County tax map as parcel 10-50B.

Staff gave a presentation on the proposed Conditional Use Permit application.

The commission asked, what is the maximum number of animals that you can currently house? Dr. Lacy answered I cannot foresee having more than 25 animals at any given time.

The commission discussed putting a limit on the applicant of 25 cats and dogs. The applicant agreed that 25 would be fine.

The commission stated the applicant has 55 acres surrounding this 3 acres parcel, correct? Staff responded, yes.

The commission asked, if all of the adjacent landowners have signed a partition in favor of the applicant? Mr. Lacy stated that he went around to all of their neighbors and they all signed the partition in support. The commission asked if there was anyone who was against the application. Mr. Lacy responded, no.

The commission asked about condition number 4. *The location of the kennel shall be a minimum of 150 feet from any residential dwelling unit exclusive of the applicant's dwelling.* That's fine for now, but what if someone comes along at a later date and wants to build? How will that be handled? Staff responded that we can't stop someone from the locating their house within 150 feet of the kennel because of the CUP, but if there is any expansion to the kennel then the kennel could not expand any closer than 150 feet to a residential dwelling. The applicant stated that we are within 950 feet from any property line, so no one will be building anywhere close to us.

The commission held a public hearing in which there were no citizens who made public comment.

A motion was made by Ms. Snyder and second by Mr. Chalmers to adopt Resolution PC-04-05 to forward CUP-05-04 to the New Kent County Board of Supervisors with a favorable recommendation. With an additional condition that the number of dogs and cats on site at any given time shall be limited to 25, excluding animals owned by the property owner.

The commission discussed that there is some concern that the applicant has a kennel license for 50 dogs and we are setting a limit of 25 dogs and cats.

The members were polled:

Jack Chalmers	Aye
Thomas Evelyn	Aye
Howard Gammon	Aye
Sylvia Godsey	Aye
Mark Hill	Abstain
Jay Hubbard	Aye
Charna Moss	Aye
Edward Pollard	Aye

Sam Snyder	Aye
Tommy Tiller	Aye
Patricia Townsend	Aye

The motion carried, 10:0:1

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IN RE: NEW BUSINESS

The Commission adopted unanimously the following Resolutions:

- PC-01-05 consideration to commend and thank David Frank for his service to the Commission and to New Kent County during his tenure as a member of the Planning Commission.
- PC-01-05 consideration to commend and thank Mark Daniel for his service to the Commission and to New Kent County during his tenure as a member of the Planning Commission.

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IN RE: CHAIRMAN'S REPORT

None.

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IN RE: RRPDC REPORT

None.

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IN RE: COMMISSIONER'S REPORT

None.

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IN RE: STAFF REPORT

Staff gave an update on the February 22, 2005 agenda items:

- Patriot's Landing preliminary approval
- Dispatch Station preliminary approval
- McClure Family Realty Re-zoning Request – Public Hearing
- The Oaks preliminary subdivision approval

Staff reported to the commission that the VAPA is having their annual conference in Airlie Conference Center in Warrenton, Virginia and the commission can elect one representative from the group to attend. The commission discussed and decided that Mr. Jack Chalmers would be the New Kent County Planning Commission Representative at this years Annual Planning Conference

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IN RE:       NEXT MEETING

The next Planning Commission meeting will be held on Tuesday, 22 February 2005 in the Boardroom of the County Administration Building at 6:30, preceded by a reception honoring Mr. David Frank and Mr. Mark Daniel at 6:00 pm.

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IN RE:       ADJOURNMENT

A motion to adjourn was made and seconded by all.

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Respectfully submitted:

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Pam Crosby  
Recording Secretary