

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 JULY IN THE YEAR TWO THOUSAND FIVE OF OUR LORD IN THE BOARDROOM OF THE COUNTY ADMINISTRATION BUILDING 6:30 P.M.

---

IN RE: CALL TO ORDER

Chairman Jay Hubbard called the meeting to order at 6:34 p.m.

---

IN RE: INVOCATION AND PLEDGE OF ALLEGIANCE

Mr. Hubbard led the invocation and Pledge of Allegiance.

---

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	Present
Tommy Tiller	Absent
Patricia Townsend	Present

Also attending:

Rodney Hathaway, Planning Manager  
George Homewood, AICP, Director of Community Development  
Phyllis Katz, County Attorney  
Pam Crosby, Recording Secretary  
Amanda Crocker, Planning Staff  
John Budesky, County Administrator

Chairman Hubbard established that there was a quorum.

---

IN RE: APPROVAL OF MINUTES

A motion was made by Mr. Gammon and second by Ms. Godsey, to approve the minutes of the 20 June 2005 – 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	Aye
Tommy Tiller	Absent
Patricia Townsend	Aye

The motion carried, 10:0:0

---

A motion was made by Ms. Townsend and second by Mr. Chalmers, to approve the minutes of the 27 June 2005 – Work Session as noting that Mr. Pollard arrived a few minutes late.

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	Absent
Patricia Townsend	Aye

The motion carried, 9:0:1

---

IN RE: CITIZEN COMMENT PERIOD

Chairman Hubbard 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. No citizens had signed up and none asked to address the Commission.

---

IN RE: UNFINISHED BUSINESS

None.

---

IN RE: PRESENTATION

Mr. J. Andrew Hagy, Economic Development Director gave a presentation on the Economic Development opportunities in New Kent County stating that the purpose of Economic Development is to create quality jobs and tax revenue to help enhance the quality of life of the citizens in New Kent County. Mr. Hagy stated that we are focusing on the Route 33 corridor where we have water and sewer and properly zoned property. The EDA recently had a reception on the eve of the Virginia Derby at Colonial Downs where we invited State Economic Development Officials and the commercial real estate community.

Mr. Hagy stated that there are some locations available on the Weir Creek property and the Talleyville interchange has 1400 acres zoned industrial. Mr. Hagy also stated that the EDA is getting involved in tourism as a result of the Jamestown 2007 celebration. We are also looking at the possibility of a visitor's center in the county.

The commission asked questions.

Ms. Snyder asked how are these projects funded. Mr. Hagy responded that this is one of our biggest challenges.

Ms. Snyder stated that in the past has the EDA provided bonds for financing, is this still a method that is used. Mr. Hagy responded yes.

Mr. Hubbard asked how long has Rte 33 had water and sewer. Mr. Hagy responded that since the Henrico East Regional Jail was built.

Mr. Forbes stated that Virginia is a conservative state which means that it is a pay as you go state.

Mr. Hill asked why wouldn't the EDA take the funds that are provided through the state. Mr. Hagy stated that we are on our way and will be discussing that at our next meeting.

The Commission asked what was in store for the former Winn Dixie location. Mr. Hagy responded that we are waiting for information from the company that currently owns that location.

---

IN RE: PUBLIC HEARINGS

None.

---

IN RE: NEW BUSINESS

***Convene joint meeting with New Kent  
Agricultural and Forestal District Advisory Committee***

Mr. Hubbard welcomed the Agricultural and Forestal District Committee and Mr. Paul Gilley Chairman of the Agricultural and Forestal District Advisory Committee. Mr. Hubbard

then turned the meeting over to Mr. Gilley who called the meeting to order at 7:26 p.m.

Mr. Hathaway called roll:

Wayne Marks	Absent
Charles Moss	Present
Paul Gilley	Present
Larry Dzula	Absent
George Tate	Present
James Talley	Present
George Fisher	Present
William Mountcastle	Present
W. R. Davis	Present
John Crump	Absent

Mr. Gilley established that there was a quorum.

Mr. Gilley stated that under consideration tonight is a request for a withdrawal from the Ashland Farm Agricultural and Forestal District.

AFD-08-05: New Kent County Economic Development Authority Withdrawal Request from the Ashland Farm AFD. The New Kent County Economic Development Authority has applied to withdraw tax map parcel 21-86 consisting of 134.43 acres from the Ashland Farm Agricultural and Forestal District (AFD).

Mr. Hathaway gave a presentation on the proposed withdrawal.

The committee asked questions.

Mr. Moss asked who currently owned the property. Mr. Hathaway responded the Economic Development Authority (EDA).

Mr. Gilley asked if the deed had been recorded and if the process was complete. Mr. Hathaway responded that the process is complete.

Mr. Gilley asked if the process was complete at the time that this application was filed or was there just an option on the property. Mr. Hathaway responded that at the time that the application was filed, the sale had closed and the EDA had ownership of the property.

Mr. Gilley stated that if the committee would like to hear from the EDA, Larry Forbes, its Chairman, was available to answer the committee's questions.

Mr. Moss stated that he thought it was a bit unusual for the request to come from the County and he always thought that it had to come from the landowner. Mr. Forbes responded that the EDA is a committee that is appointed by the County's Board of Supervisors. The EDA is similar to a corporation and is not connected to the County except by the appointment process. However unlike the County, the EDA does purchase and sell property. It became interested in the property because of interest expressed by a client and the EDA felt it would be a benefit for the County, and when the option came

to an end, the EDA members thought it would be best to go ahead and purchase the property. The EDA has not had a chance to develop a master plan for this property; however it has been given the task to do that at the request of the Board of Supervisors.

Mr. Gilley asked Mr. Talley if he had any questions. Mr. Talley responded that he did not have any questions for Mr. Forbes; however, the AFD committee has 6 criteria upon which it makes its decisions. He indicated that in his opinion, this application does not meet 3 of the 6 criteria and most of the 4th. His biggest concern was to not set a precedent and for it not to be easy.

Mr. Talley stated that as a property owner in the Ashland Farm AFD, he did not feel that he could vote on this application.

Mr. Gilley stated that there must be a time element involved since a joint meeting had been scheduled. Mr. Hathaway responded that the section of the Code to which he referred applies if the County is proposing development on the property other than AFD uses. Seeing that the County is the owner, it did not have to go through the process of providing studies for purchasing the property. Now that they are withdrawing it from the AFD, he believes that they have followed the Code. Mr. Talley was correct in his comment on the 6 criteria; however Mr. Hathaway stated that he did not agree that all 6 of the criteria needed to be met, although he did feel that the committee's job and responsibility and the planning commission's responsibility is to weigh which of those criteria have been met and to make a decision based on those findings.

Mr. Gilley questioned if the County was going to spend money on an agricultural use. Mr. Forbes stated that the use was going to be changed. Mr. Hathaway reminded the committee that the EDA is not an entity of the County. Mr. Gilley stated that he wanted to make sure that the committee was informed. If they are not, then he did not think that it could vote in good conscience.

Mr. Mountcastle stated that although the EDA is not an entity of the County, the Agricultural and Forestal District committee is. He commented that it would be in the best interest for all involved if everyone worked together, have the same mission and go in the same direction so that one committee or board does not get blind-sided by another. He stated that he felt that the AFD committee got blind-sided with this application and it was not appreciated by committee members.

Mr. Moss stated that there are procedures to be followed and he felt that the EDA should have followed procedure.

Mr. Gilley asked why the owner of the property wasn't asked to remove the property from the AFD.

Mr. Forbes apologized to Mr. Mountcastle if he felt that he was blind-sided, and that the EDA didn't know exactly what the process was. He admitted that personally he did not know that there was procedure to follow. The EDA did not ask the seller to withdraw the property from the AFD because it thought that it could do this as owners.

As a member of the Board of Supervisors, Mr. Hill stated that the Board was not as quick to respond with a decision to advise the EDA to purchase this property. It came down to a last minute decision. The Board had three new board members and may not have known the proper procedures.

Mr. Davis stated that the County did not provide funds to the EDA for this purchase. It all happened quickly and there was not a chance for Mr. Fisher to withdraw at that time. The Board members knew that it needed to be withdrawn; this is the first meeting that this could have occurred.

Mr. Davis stated that the last meeting was a scheduled meeting for withdrawals. Mr. Gilley asked if there should have been a special meeting planned. Mr. Forbes stated that when they did meet, there was not a quorum, and he agreed that everyone needed to "be on the same page".

Mr. Mountcastle stated that everything is in the best interest of the County, and asked who is going to assume the liability for the back taxes. Mr. Forbes stated that has not been discussed that and that the EDA is relying on the County to advise them.

Mr. Moss stated he believes that not following procedure is a problem.

Mr. Tate stated that it wasn't done the way it should have been done. The purchaser should have been advised that this property needed to be removed.

Ms. Snyder suggested that that Board of Supervisors could have stated that a special meeting needed to be called.

Ms. Townsend asked if there is special time frame in which this needs to be done. Mr. Davis responded that the Commissioner of the Revenue needs to have the withdrawal by a certain date.

Mr. Gilley stated that this committee does not need any more time and it should let the Planning Commission have its turn.

Mr. Fisher commented that he was not going to take the land out of the AFD if the EDA was not going to purchase it.

Mr. Davis stated that if this property has been bought by someone who wants to build a business, then they would need to go through the same process as the EDA and the process could not have gone any faster.

A motion was made by Mr. Mountcastle and seconded by Mr. Moss to forward AFD-08-05 to the Planning Commission and Board of Supervisors with an unfavorable recommendation.

Mr. Hathaway called roll:

Wayne Marks	Absent
Charles Moss	Aye

Paul Gilley	Nay
Larry Dzula	Absent
George Tate	Aye
James Talley	Abstain
George Fisher	Abstain
William Mountcastle	By Motion
W. R. Davis	Abstain
John Crump	Absent

The motion carried, 3:1:3

The AFD committee motioned to adjourn.

***Adjourn joint meeting***

The Planning Commission reconvened.

Ms. Townsend asked who is responsible for the back taxes. Mr. Hathaway responded that the district was renewed in 2002; so there will be three years of back taxes. However, the EDA would be responsible as owner.

Ms. Moss asked where the EDA received their funding. Mr. Hathaway responded that it receives a large amount of its funds from the County.

Ms. Katz stated that the EDA earns money. Mr. Hagy stated that there are bonds where they earn money; however there is an outside source.

Mr. Gammon asked Ms. Katz about the legality of this transaction. Ms. Katz stated that it was her interpretation of the Code. The Code provision states that the fact that the EDA has acquired the land does not mean that it should be removed from the AFD; however, clearly the EDA is not in the business of agriculture. Ms. Katz referred to section 15.2 4313 of the code.

*15.2-4313. Proposals as to land acquisition or construction within district.*

*A. Any agency of the Commonwealth or any political subdivision which intends to acquire land or any interest therein other than by gift, devise, bequest or grant, or any public service corporation which intends to: (i) acquire land or any interest therein for public utility facilities not subject to approval by the State Corporation Commission, provided that the proposed acquisition from any one farm or forestry operation within the district is in excess of one acre or that the total proposed acquisition within the district is in excess of ten acres or (ii) advance a grant, loan, interest subsidy or other funds within a district for the construction of dwellings, commercial or industrial facilities, or water or sewer facilities to serve nonfarm structures, shall at least ninety days prior to such action notify the local governing body and all of the owners of land within the district. Notice to landowners shall be sent by first-class or registered mail and shall state that further information on the proposed action is on file with the local governing body. Notice to the local governing body shall be filed in the form of a report containing the following information:*

The EDA never intended any construction but bought it as a developable site.

Ms. Snyder stated that it seemed to her that when the EDA purchased this property it knew that it could not leave it in an AFD. Ms. Katz responded that she could not speak for the EDA, but she believed that the option was going to expire and that the price was going up if the option was allowed to expire. By action of the Board of Supervisors there is only one time a year that property can be removed from an AFD. Therefore, even if the EDA had known before it exercised the option, it still would have not come to the Planning Commission in the required time.

Ms. Townsend asked if the property needed to be withdrawn or can the title of the ownership just be changed. Can the EDA keep it as an AFD? Mr. Hathaway responded that it could do that; however it would be difficult to market the property and it cannot be developed until it is withdrawn. Ms. Townsend asked if it is withdrawn, what can be done. Mr. Hathaway responded that if they found a purchaser then it would have to be re-zoned for that use.

Mr. Evelyn asked about the right-of-way. Mr. Hathaway responded that the right-of-way is off of Route 106 and was obtained from Chester Alvis and David Horsley.

Mr. Hubbard asked if it was fair to state that the elected officials on the Board of Supervisors authorized the purchase of the property. Mr. Hathaway responded yes.

Mr. Hubbard stated that he believed the officials have made it clear that they want this done.

Ms. Snyder said it's going to be done anyway.

Ms. Moss stated that in the future, procedures need to be followed regardless of who they are. He stated that if there is a purchase of property that is in an AFD, then it needs to be withdrawn, the back taxes paid and then it can be sold.

Mr. Hill stated that in this particular case, the EDA held an option that was due to expire before the AFD hearing was to occur. Mr. Fisher was not willing to extend the option again and it could not have been purchased at the same price.

Mr. Hubbard stated that he was sure that the Board of Supervisors felt it was acting in the best interest of the County. He indicated that he would have been more comfortable if Mr. Forbes had said that the EDA had a contract for a purchase to build economic development, and not that it had a nibble.

Ms. Townsend stated that a lot has transpired tonight and she thinks everyone has learned from their errors.

Ms. Snyder stated that she felt a precedent had been set and questioned what would prevent this from happening again.

A motion was made by Ms. Townsend and seconded by Mr. Hill to forward the proposed

AFD-08-05, New Kent County Economic Development Authority Withdrawal request from the Ashland Farm AFD, Resolution PC-22-05 to the Board of Supervisors with a favorable recommendation.

The members were polled:

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

The motion failed, 3:7:0

A motion was made by Mr. Pollard and seconded by Mr. Chalmers to forward the proposed AFD-08-05, New Kent County Economic Development Authority Withdrawal request from the Ashland Farm AFD, to the Board of Supervisors with an unfavorable recommendation.

The members were polled:

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

The motion passed, 6:4:0

---

IN RE: CHAIRMAN'S REPORT

None.

---

IN RE: RRPDC REPORT

Mr. Evelyn turned the RRPDC report over to Mr. Homewood. Mr. Homewood stated there are two issues that the planning commission should take note of, first: GRTC a transportation provider in the Richmond area conducted an experiment by extending

several bus routes into Chesterfield County providing a commuting service to downtown. When the experiment came to an end, Chesterfield County decided that they did not want to spend any money on the program. The commonwealth transportation board decided to find state money to pay for the transit program into Chesterfield, but Chesterfield still objects. Second: the high speed rail study being done on connecting Richmond to Hampton Roads, the Southside communities are pushing for high speed rail south of the James River. There are two reasons for that, first: the current route coming down the peninsula ends at the water and the cost of getting across the water is large. Second: if you go to Petersburg and connect to the system there, that will cut the travel time to Raleigh, NC by nearly 90 minutes. New Kent County is taking the position as is our neighbors that it doesn't matter to us if there is high speed travel but there needs to be a drastic improvement in high speed rail lines along the Peninsula.

---

IN RE: COMMISSIONER'S REPORT

Ms. Snyder stated that you assigned Mr. Tiller, Ms. Godsey and myself to the review the conservation easement capital region land conservancy. Ms. Godsey will hand out copies of a presentation from Bill Greenleaf. Mr. Greenleaf is willing to come and give a presentation.

---

Ms. Snyder mentioned public hearings stating that I would like to recommend that we have sign up sheets for public hearings. If we were to go to sign up sheets we would come into conformance with the other boards.

Ms. Townsend stated that we would have to clearly mark the sign-up sheets and make it convenient.

Mr. Chalmers asked if there is a real problem with the current procedure.

Mr. Pollard stated that my real concern is that the way that we have been doing it has been fine and we haven't had any problems, so I don't think that we have to change just because the board is doing it.

Ms Townsend stated that even so with our master sheet we could still give all of the citizens an opportunity to speak.

Mr. Hubbard stated that some of people's greatest fear is speaking in public. The citizens will speak if they can rise from their chair and speak.

---

Mr. Gammon stated that I would like to make a comment about the zoning committee. The zoning re-write committee has met and will be having another meeting this Thursday night. We are learning a lot and will report back when we are complete.

---

IN RE: STAFF REPORT

PROJECT UPDATES:

Mr. Hathaway introduced Amanda Crocker to the commission. Ms. Crocker stated that she looks forward to working with the commission.

Mr. Hathaway stated that The Oaks subdivision, Phase 1 a creation of 50 lots should be ready for the August 18<sup>th</sup> meeting, also, an application from the New Kent Farms, LLC to amend the Farms of New Kent PUD; we have one more item that might come before you in August, we have an application from Brickshire for the parcel of land that you know as the King property, called the Paddock at Brickshire for approval.

---

Mr. Homewood stated that the Capital Improvement Plan (CIP) will be distributed in August the County Administrator reviewed what has been submitted and is not satisfied that the request are not complete. Our plan is to distribute this to you as quickly as we can. I think that we might want to think about the scheduled work session date and possibly reschedule the work session for a later date. We are proposing to schedule blocks of time for department heads to meet with you.

Mr. Chalmers asked if when you asked for comments I recommended a block for the impact if not funded.

Staff replied that it was not added, however that is very important information. This is definitely something that can be asked at the work session.

---

Mr. Homewood stated that he had the opportunity to represent the county at the dedication of Phase I of the Virginia Capital Trail, which is a bicycle, hiking, pedestrian facility that will link Richmond's modern capital to two Colonial Capitals, Jamestown and Williamsburg. The new Kent portion is mostly funded so it will probably be completed before the Charles City portion.

---

Mr. Homewood reminded that on Tuesday we have mandatory bid meeting on the Courthouse Sidewalk project.

---

IN RE:           NEXT MEETING

The regular meeting of the Planning Commission will be on Monday, 15 August 2005 in the Boardroom of the County Administration Building at 6:30.

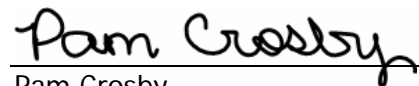
---

IN RE:           ADJOURNMENT

A motion to adjourn was made and seconded by all.

---

Respectfully submitted:



Pam Crosby  
Recording Secretary