

JOINT MEETING OF THE NEW KENT COUNTY
BOARD OF SUPERVISORS AND PLANNING COMMISSION

MINUTES

A SPECIAL JOINT MEETING OF THE NEW KENT COUNTY BOARD OF SUPERVISORS AND PLANNING COMMISSION WAS HELD ON THE 23rd DAY OF JANUARY IN THE YEAR TWO THOUSAND SIX OF OUR LORD IN THE BOARDROOM OF THE COUNTY ADMINISTRATION BUILDING AT 7:00 P.M.

IN RE: BOARD OF SUPERVISORS ROLL CALL

Mark E. Hill	Present
James H. Burrell	Present
Stran L. Trout	Present
W. R. Davis, Jr.	Present
David M. Sparks	Present

Chairman Sparks yielded chairmanship of the meeting to Howard Gammon, Chairman of the Planning Commission, who briefly explained the rules that would apply during the public hearing.

IN RE: PLANNING COMMISSION ROLL CALL

The Planning Commission joined the New Kent County Board of Supervisors for a special joint meeting.

Jack Chalmers	Present
Thomas Evelyn	Present
Howard Gammon	Present
Sylvia Godsey	Present
Charna Moss	Absent
Edward Pollard	Present
David Smith	Absent
Sam Snyder	Present
Tommy Tiller	Present
Patricia Townsend	Present
Stran Trout	Present

Chairman Gammon called the Planning Commission meeting to order at 7:10 pm.

IN RE: CUP APPLICATION FOR FARMS OF NEW KENT WATER SYSTEM

Under consideration by the Planning Commission and the Board of Supervisors was Application CUP-06-05 filed by New Kent Farms LLC to construct and operate a water system consisting of a storage tank, well, pumps and distribution system to serve the Farms of New Kent PUD and property in the nearby vicinity. A public hearing was held on January 17 after which time action was deferred.

Planning Manager Rodney Hathaway indicated that at the last meeting, there were some questions raised regarding alternate locations and designs, and that Public Utilities Director Alan Harrison was present in order to try to answer those questions.

Mr. Evelyn asked if Olivet Church Road was the best location for the system and why they couldn't find a site on the PUD property.

Mr. Harrison explained that there had been extensive discussions, pointing out that the initial site for the elevated tank had been closer to Route 249 which was not suitable. He explained that their goal was to minimize the visible impact to residents in adjacent areas as well as to those in the PUD, and that this was the best place. He explained that this was a large parcel, which gave flexibility as to where on the site the tank would be placed, and it had been agreed that the tank could be moved farther west on the parcel, which would mitigate the visible impact.

Ms. Townsend asked about the particular type of tank. Mr. Harrison explained that an elevated tank was more suitable than a ground tank because of the size of the system, the amount of fire flows that would be required, reliability, ease of maintenance and operation costs.

There were questions about danger to the residents from failure of the tank. Mr. Harrison stated that he had never seen a water tank fall, but admitted that it could happen if it was old (100 years) and not maintained, or maybe in a Category 5 tornado. He stated that the structure would be substantial and there were no requirements that it be designed to withstand being hit by an aircraft. If anything happened, the County would respond in the same way that it responded to other emergencies, but he felt the likelihood of an event was remote.

It was pointed out that in many of photographs of damage and aftermath from hurricanes, often the only things that are left standing are water towers.

Mr. Davis pointed out that Mr. Gammon had installed a used water tank at Cumberland Hospital about 25 years earlier and that it was still standing.

Mr. Pollard asked if moving the tank to the west part of the property would take it out of sight of the neighbors. Mr. Harrison pointed out that they were proposing to move the tank about 900 feet from the original site which would minimize the visual impact. It was pointed out that the curved access road would also help to minimize the visual impact.

Chuck Rothenberg, on behalf of the applicant, stated that the parcel had a total depth of 1,000 feet and the proposed new site was 900 feet from Route 618. He indicated that the tank would be more visible from the Farms of New Kent than from the homes along Olivet Church Road. It was pointed out that the new site is right on the edge of the PUD.

There was discussion regarding notice to surrounding residents. Mr. Rothenberg displayed a map showing the parcels whose owners were notified, and provided a list of the recipients. He also pointed out that they had advertised conduction of the visibility tests twice in the Tidewater Review and that the County had sent out notices as well.

Ms. Snyder moved, in order to address, protect and promote public convenience, necessity, general welfare and good zoning practices in the County, that the Planning Commission approve the adoption of CUP-06-05. Mr. Chalmers seconded the motion.

The members were polled:

Jack Chalmers	Aye
Thomas Evelyn	Aye
Howard Gammon	Aye
Sylvia Godsey	Aye
Charna Moss	Absent
Edward Pollard	Aye
David Smith	Absent
Sam Snyder	Aye
Tommy Tiller	Aye
Patricia Townsend	Aye
Stran Trout	Abstain

Mr. Burrell reported that he had talked with one of the residents who lived next to the proposed tank, and it appeared that the residents now have no problem with the placement of the tank at the newly proposed site. The neighbors seemed pleased that the proposed site of the tank had been moved back and appeared to have more visual impact upon the applicant's development than on the neighborhood.

Mr. Burrell moved to adopt Resolution R-06-06 as presented. The members were polled:

W. R. Davis, Jr.	Aye
Mark E. Hill	Aye
James H. Burrell	Aye
Stran L Trout	Aye
David. M. Sparks	Aye

The motion carried.

IN RE: BOARD OF SUPERVISORS MEETING SCHEDULE

Chairman Sparks announced the Board had moved some of its unfinished items to a special work session/retreat that would be held on Saturday, January 28 at 9:30 a.m., at Royal New Kent. The next regularly scheduled meeting of the Board of Supervisors would be held at 6:00 p.m. on Monday, February 13, 2006, in the Boardroom of the County Administration Building.

He remarked that the Board had clearly heard the citizens at the first public hearing on the proposed revisions to the Zoning Ordinance. The Board members met in a special meeting on January 19, notice of which was duly posted, to provide an opportunity to sit down and discuss the issue. He indicated that after a long discussion, with about 40 – 50 residents in attendance, the Board decided to take a more traditional approach to the process and have the Planning Commission alone hold the public hearings. He indicated that the County had much invested in the process and he felt that the public hearings would give the citizens six chances to be heard at the planning level. Once that was completed, a citizens committee would be appointed by members of the Board of Supervisors and Planning Commission, to review and revise the document before taking it back to the Planning Commission. Months down the road, the document would come to the Board for consideration and additional public hearings. He indicated

that he anticipated that there would be significant changes to the document. He stated that this change would slow down the process but continue to provide opportunity for citizen input.

Mr. Burrell commented that he wanted all to understand that it was the Board's intention that there would not be any impact on anyone who currently ran a business in New Kent as they would be grandfathered, and that if a weather event would necessitate rebuilding, that the business could be rebuilt as it was. He assured the audience that this process was not intended to put anyone out of business but simply to help the County to manage growth. All comments and input would be recorded and scrutinized, and he predicted that the final document would look different, but it was something to start with. He urged the citizens to continue with their input, and reminded that the process would take months to complete and that everyone would have ample opportunity to make comments and ask questions.

IN RE: BOARD OF SUPERVISORS - CONTINUANCE

There being no further business, Mr. Trout moved to continue the meeting until Saturday, January 28 at 9:30 a.m. The members were polled:

Mark E. Hill	Aye
James H. Burrell	Aye
Stran L. Trout	Aye
W. R. Davis, Jr.	Aye
David M. Sparks	Aye

The motion carried.

The meeting was suspended at 7:34 p.m.

IN RE: PROPOSED REVISION OF THE SUBDIVISION ORDINANCE

Chairman Gammon indicated that the Planning Commission would also like to receive comments and input from the citizens and turned the meeting over to Public Hearing Chairman Patricia Townsend, who explained the procedures for the public hearing. She indicated that the Commission members would not be providing answers during the public hearing but would take notes and later provide comments.

Ms. Snyder stated for the record *"I served on the Planning Commission Subcommittee and worked on the new zoning ordinance for New Kent County. All of those meetings were public meetings and I asked many people to attend and/or to call me with their concerns. I am sorry to say that nobody did either.*

There are many things that people perceive as controversial about this ordinance but when you look at it line by line as we did there are many things to recommend it. It is not pleasurable reading. It is a technical guide to how we develop and one of the most important tools the county has to implement it's Comprehensive Plan.

One of the main complaints I heard on Tuesday was that it was too long and that it repeated itself. It was written in such a way that each section—Hamlets, Villages—contains a lot of the same information, i.e., protecting the night sky, standard signage, and so forth. The ordinance was

written in this way to make it easier for those wishing to develop in the county. If one wanted to build in a Hamlet, one could just look in that section and everything was there—the same is true with Villages, E-1, etc. The charts and definitions are uniform, apply to all sections of the code so that everyone knows what is what. Much has been made of conforming and non-conforming uses and that this ordinance would create a tsar of planning. Well, change those—with the help of our citizens, most of whom are bright and well-informed, we can solve these issues.

Other concerns were that people would not be able to do what they want to do on their own land. Scenic byways were mentioned—does anyone really want to see all the trees taken down on Rt 249 or the other highways so designated? Do we intend to protect the historic site in New Kent? Do you want your neighbor to have the right to build anything he wants on land adjacent to you? Do we want to look like Hanover or Henrico or, heaven forbid, Virginia Beach. Do we want to so crown our roads and highways that we have the same kind of gridlock as Hampton Roads and Northern Virginia. Do we want to strip-mall New Kent County? If you want all these things, then you definitely do not want this ordinance.

The Planning Commission and most members of the Board of Supervisors knew, or should have known, that this first and very comprehensive review of the zoning ordinance, was going to cause an uproar and an uproar is what we got. I maintain that this is exactly what we want. For many years before I became a member of the Planning Commission, I spoke at public hearings and most of the time was met with respect and what I said was taken into consideration. We should do no less for the citizens of New Kent. We should continue these public hearings, reminding everyone that no vote will be taken at the end of this preliminary process.

Rather, we will take all the suggestions back to the drawing board, have other meetings to which the public is most cordially invited, and with the help of the citizens of the county, and through due process, public input and public hearings, get it right. To just do away with or delay the process will not benefit us or the citizens of this beautiful county and is an abdication of our responsibilities as elected and appointed officials of New Kent."

Planning Manager Rodney Hathaway reiterated that this was just the beginning of the public phase of the process and that decisions would not be made any time soon. He indicated that all comments and questions are welcome in writing, by e-mail, by telephone or in any manner. He recounted how the Planning Commission's subcommittee was formed and that there would be plenty more work sessions of the Planning Commission and most likely many changes to the proposals. He indicated that a summary of Article II was available, and that summaries of the remaining articles should soon be available both on the website and in paper form.

Mr. Hathaway undertook to review Article II, stating that all existing uses and structures will be allowed to perform as it does today and the citizens would not have to discontinue their use if this is approved. Mr. Hathaway stated that Article II defines and describes all of the districts and assigns a palette of uses to each of the districts. Stating that a Table of Land Uses (also known as the zoning matrix) is the key to this in a number of ways. Unlike the current zoning ordinance, the Table of Land Uses is the single method for listing uses and noting if the use is permitted within the district either as a matter of right, or with a conditional use permit.

In addition to use regulations, zoning districts have dimensional requirements—area, width, height, etc. Each district has a single matrix that specifies the area, width, setback, yard and height requirements. In the C-1, A-1, R-0, R-0A, R-1, R-1A, R-2, R-2A and R-3 districts, these

requirements are the same as in the current ordinance. One change in those districts is that many of them currently specify a minimum house size; such practices are not authorized by Virginia law and may be illegal under federal Fair Housing laws and so have been left out of the proposed draft.

Article II also contains overlay districts in which two of the overlay districts currently exist. The overlay districts consist of the Floodplain Management Overlay which covers the entire 100-year floodplain denoted on the FEMA Flood Insurance Rate Map as Zone AE or Zone A; and the Airport Safety Overlay provisions are required by the Code of Virginia and are in the current ordinance, but without any mapping to indicate where the regulations apply.

Article II also contains five new zoning districts and 2 new overlay districts. The Village and Economic Opportunity districts are the most significant new items in the entire draft ordinance and both directly implement very specific language in the Comprehensive Plan. The Commercial and Industrial districts are single category districts like those in the current ordinance. In essence, the Commercial district represents a collapsing of the current B-1, B-2, and B-3 districts into a single district while the Industrial district combines the current M-1 and M-2 districts. The five new zoning districts consist of The Hamlet District which is intended to provide for the creation of small, mixed-use communities on a "cross-roads" scale that allow housing and small business opportunities to serve a local, predominantly rural population; the Village district which is intended to create mixed-use communities where people can live, work, play and worship within pedestrian and bicycle-friendly environs. The village is to be the center of cultural and community activity while providing opportunities for appropriately-scaled commercial, office, tourist, public and private enterprises; the Commercial district which is intended to provide opportunities for larger-scale retail, office and service uses located along major thoroughfares and designed to serve the motoring public; the Economic Opportunity district which is intended to provide opportunities to create mixed-use commercial and employment centers that will provide employment for County residents and a positive fiscal impact to the community while balancing flexibility of uses with performance standards that will ensure an attractive, well-planned environment; and the Industrial district which is intended to provide opportunities where industry can thrive while maintaining a sensitive balance of aesthetic appeal and environmental protection.

The two new overlay districts consist of the Reservoir Protection Overlay which results from a contractual obligation the County Board agreed to with Newport News Waterworks to provide land use protections around Diascund Reservoir and its tributaries; and the Scenic Corridor Overlay has as its purpose in accordance with section 15.2-2306 Code of Virginia and the objectives of the comprehensive plan, the scenic corridor overlay district regulations are designed and intended to protect and enhance the aesthetic and visual character of the transportation corridors designated as Virginia Scenic Byways and those other corridors providing access to the historic and tourist resources of New Kent County. All development proposed within these corridors shall be subject to procedures and standards in addition to those in the district regulations. Primarily this overlay district is intended to provide a positive visual experience for those visitors coming into and through the county.

In summary, Mr. Hathaway asked for the public's help to make improvements, and find the errors and unintended consequences.

Mr. Evelyn asked if Talleyville Road is part of the Scenic Corridor Overlay. Mr. Hathaway responded that Talleyville Road is not part of that overlay district.

Public Hearing Chair Townsend opened the Public Hearing.

Theresa Aigner of Carriage Road stated that she appreciated the effort that has been put into this document; however she has come forward to offer solutions, not problems. Ms. Aigner stated that she owns her own business publishing the local telephone directory for the region and is pro-business. Living here allows her to have a low-stress job in a peaceful setting while contributing to my community through tax dollars. Ms. Aigner offers the following suggestions: a Goochland-style rural, farm & equestrian-friendly county, she believes that there is no need to have any horse legislation, Providence Forge should be designated as Economic Development, and the County should do more to promote manufacturing and industry to increase our tax base, instead of allowing our beautiful farms to be sold off to developers.

Chris Kuhn of Cosby Mill Road stated that the County should ask for input on the regulations for horses and asked who has a final say in the Comprehensive Plan and would like to know what is so wrong with the Ordinance that we currently have. Mr. Kuhn commented that maybe rewriting the zoning ordinance is not necessary.

Dave Ruslander of Pocahontas Trail and a member of the Bottoms Bridge Home Owners Association stated that we have spent a considerable amount of time on the water and sewer system. Mr. Ruslander stated that he moved to the County so that he could live in his style.

John Hazelwood of Pocahontas Trail, Lanexa commented on the specifications of a Village and that you don't need to change the zoning in order to work, play and worship.

Wick Stoltz of North Garden, Virginia has property in District 3 which is a substantial amount of timber property and will be affected by the terms of the agreement with Newport News, Virginia and asks why should New Kent County citizens give up their property values because of this agreement.

Al Demond of Bailey Pine Road stated that he purchased his property 18 years ago and has planned to build according to the provision at that time and I hope that the Board will continue to grandfather anyone in that situation so that they can continue to build where I plan.

Chester Alvis of Quinton Road stated that he believes in the American Dream and he is now faced with a nightmare. Mr. Alvis stated the he has put everything into buying a piece of property that would allow him to develop and he cannot continue to carry the debt on land that he may not be able to use for the intended purpose in which he purchased it. Mr. Alvis asks that the County abandon these activities and do what is feasible.

John Crump of Cooks Mill Road stated that he has had a lot of questions asked of the Commissioners office and offered to stay to answer citizen's questions regarding the taxes. Mr. Crump spoke in support of the zoning ordinance stating: "is this document perfect, No; does it need change, yes; however it is a start and commented on some of the concerns that he has seen come forward."

Jackie Black of Rose hill Stables stated please do not make me sorry for moving to New Kent County and don't make decisions for horse people.

Bill O'Keefe of Brickshire Drive stated that he had some comments prepared, however stated that after hearing the comments from the Board he has put those aside and would like to state some observations, stating that if the process of developing this document was not seriously flawed you would not be getting the kind of push back that you are, the reality is that this document gives too much authority to one person.

Wayne Hayden President of the Chamber of Commerce stated that the Chamber's main concern is that the proposed zoning rewrite is too important to rush through and is overwhelming to many. The Chamber has formed a review committee which is now working to determine the parts of this document that need to be addressed from the standpoint of impact on businesses in the County. The Chamber's concerns are as follows: we need to slow down this process and address it with the attention and focus that it requires, there is too much emphasis put on the "village" and the requirements of that designation, and there is a difference of opinion and interpretation by the public that still exists.

George Pinelli of Ridge Road and business owner in Providence Forge would like to distinguish between reality and futuristic delusions. Beginning with his business which is a real and existing business, not a figment of someone's imagination; my business, while costing the county nothing, creates a tax base for the county; the average wage paid to my employees is ~\$12.00 per hour; approximately 60% of my business is generated by citizens not living in the geographic boundaries of the defined "Village" which means that none of my customers would qualify as "Pedestrian traffic"; and stated the county needs to figure what the economic impact is and clearly define and weigh the opportunity costs.

Cathy Pope of Kenleigh Drive stated that this document is not easy to read - not clear, stating that perhaps a matrix could be created to provide clarity that demonstrates the old vs. new ordinance, with absences to legal jargon where possible; input for the proposed changes did not come from knowledgeable sources, and things such as the personal and commercial use of a horse is not addressed properly. Ms. Pope suggested that the county hold question/answer sessions. Some areas of concern are for horses, people that know horses should be questioned.

Milton Hathaway of Crumps Mill Road has concern for the process which is being followed, the document is not all bad, however there are some items that should be addressed.

Isabel White of Farmers Drive stated that she was on the Planning Commission during the creation of the Comprehensive Plan, we are tax payers and we are ruining New Kent County. We need to have input from the citizens, we don't need a dictator.

George Philbates of Rte 249 and a resident of 73 years stated that if it was left up to him he would toss the whole thing out, however it does have some good things referencing the residential areas. Mr. Philbates asked that the businesses, industrial areas and agricultural areas be left alone.

James Watts of St. Peters Lane has concerns for the Scenic Corridor Overlay and feels that the Village districts are a misrepresentation.

Floyd Philbates of Cooks Mill Road addressed the issue of right-of-ways and the Newport News Reservoir, and the Scenic Corridor Overlay on Cooks Mill Road the mileage is 6.3 miles with 300' right of way easements. Mr. Philbates stated that there is still Agricultural and Forestal property in the County.

Fred Kuester of New Kent Highway commented on the fact that horse management is not addressed properly in this document and this document is needed to restrict mining, landfills, etc.

David Adams of Adams Sports Mart stated he doesn't understand the reasoning behind metal siding, changing Route 60 from four lanes to two lanes and would like to know how much this is going to cost the county.

Mark Daniel of Dispatch Road stated that he believes that the County has seriously underestimated the citizens of this County, if you look around here tonight there have been people standing outside, some people have left, you need to have these meetings in a location that is large enough to hold everyone so that you can hear everyone's concerns.

George Simmons a businessman stated that he has a problem with some of the buffers that are mentioned.

Doug Harwood of Maiden Road in Goochland stated that there isn't anyone living here that hasn't seen timber harvested, timber re-grown, timber management is a big part of this county and is good for wildlife.

Warren Cosby of Turkey Hill Lane commented on the law and stated that he has concern for the Historical Overlay.

Lloyd Christian of Route 608 stated that he has questions about mobile homes and would like to know more, and believes we need to take a look at the document and see what needs to be done.

There being no one else voicing a wish to speak, the Public hearing was closed.

Ms. Townsend stated some concerns feeling that we are doing the citizens some unjust by not reviewing the comprehensive plan pending the rewrite of the zoning ordinance. Some citizens have not had the opportunity to read the information and I feel like we have stirred up a hornets nest and I think that this zoning ordinance needs to be revisited and have our citizen's panel review it.

Ms. Townsend made a motion to stop the proceedings and the information needs to go back through the Planning Commission with the assistance of a citizen's panel, Mr. Evelyn seconded the motion.

Mr. Pollard commented that because of all that we have gone through with advertising and conducting the public hearings, I think that we should continue forward.

Mr. Evelyn stated that we received the document on December 19th, 2005 and haven't had a lot of time to review the document, I would have to say that at least 95% of the people are against this document. Portions of this document are good but there is a lot that is bad.

Ms Snyder asked, since the Board of Supervisors created the process, can we change the process. Mr. Gammon responded that by the advice of the County Attorney, we can.

The members were polled:

Jack Chalmers	Nay
Thomas Evelyn	Aye
Howard Gammon	Nay
Sylvia Godsey	Aye
Charna Moss	Absent
Edward Pollard	Nay
David Smith	Absent
Sam Snyder	Nay
Tommy Tiller	Aye
Patricia Townsend	Aye
Stran Trout	Nay

The motion failed, 4:5:0.

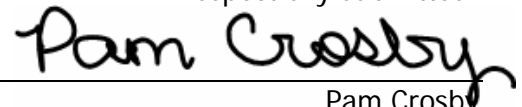
IN REF: MEETING SCHEDULE

The Planning Commission is scheduled to meet: Monday, January 30, 2006 - Zoning Map, Monday, February 13, 2006 - Article III, Performance Standards, Tuesday, February 21, 2006 - Regular Meeting and Article IV, Site Development Standards, Monday, February 27, 2006 - Article V, Nonconforming Situations and Appeals

IN RE: ADJOURNMENT

A motion to adjourn was made and seconded by all.

Respectfully submitted:


Pam Crosby
Recording Secretary