

THE REGULAR MEETING OF THE NEW KENT COUNTY BOARD OF SUPERVISORS WAS HELD ON THE 12th DAY OF MARCH IN THE YEAR TWO THOUSAND TWELVE IN THE BOARDROOM OF THE COUNTY ADMINISTRATION BUILDING IN NEW KENT, VIRGINIA, AT 6:00 P.M.

IN RE: CALL TO ORDER

Chairman Burrell called the meeting to order.

IN RE: INVOCATION AND PLEDGE OF ALLEGIANCE

Mr. Stiers gave the invocation and led the Pledge of Allegiance.

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.

IN RE: ARTS ALIVE

Beth Dandridge, Coordinator for Arts Alive, reviewed programs from the past year and provided the Board with a copy of their current budget. She noted that Arts Alive was operated with one part-time coordinator, a 14-member Board consisting of representatives from the service areas of West Point, New Kent, King William and King and Queen, and approximately 100 volunteers. She explained that contributions from the localities (West Point, King William, and New Kent) were matched dollar-for-dollar up to \$5,000 through a grant from the Virginia Commission for the Arts. She reported a total of 319 subscribers for the 2011/2012 year, with 106 being from New Kent. She reviewed their programs, which included five performances, lectures/demonstrations by the Richmond ballet to all elementary schools, two \$1,000 scholarships, as well as children's programs that included visual art workshops (half of the attendees were from New Kent), a children's summer arts camp (66 of 160 campers were from New Kent and 5 of the 14 teachers), and a drama camp (20 of the 60 were from New Kent).

Mr. Davis commented that the two newest Board members might not be familiar with the program and suggested they attend one of the performances. Ms. Dandridge agreed and offered complimentary tickets if they were interested. Mr. Burrell explained that early season subscribers received a discount.

IN RE: CONSENT AGENDA

The Consent Agenda was presented as follows:

1. Approval of Minutes
 - a. Work session minutes from January 25, 2012
 - b. Business Meeting of February 13, 2012
2. Miscellaneous
 - a. Resolution R-14-12, adopting the Multi-Regional Hazard Mitigation Plan

- ~~b. Acceptance of the FY13 PSAP Grant for dispatch mapping replacement~~
 - c. Abstract of votes from the August 23, 2011 Republican Primary for recording in the Board of Supervisors Order Book
 - d. Abstracts of votes from the November 8, 2011 General Election for recording in the Board of Supervisors Order Book
 - e. Authorization for the County Administrator to execute a Client Agreement with Troy & Banks to conduct a utility and telecommunications audit
 - f. Award of contract for emergency generator maintenance services to Equipment & Machinery Services of Virginia, LLC
 - g. Renewal of contract with Coyne Chemical for purchase of Sodium Polyphosphate and other chemicals as needed
 - h. Renewal of contract with Dominion Chemical for purchase of Sodium Hypochlorite and other chemicals as needed
 - i. Renewal of contract with Suffolk Sales & Service Corporation for purchase of BioCarb DN and other chemicals as needed
 - j. Renewal of contract with Univar for purchase of Aluminum Sulfate, Micro C Glycerin, and other chemicals as needed
 - k. Renewal of contract with Arrowhead Environmental for industrial services
3. Refunds
- a. \$340 to Gary Caricofe for permit fees for storm damage repair
4. FY12 Supplemental Appropriations
- a. Security at New Kent High School (Feb 1, 2012 basketball game \$96.89 & invoice #1.12 basketball game \$484.43), \$581.32
 - b. Funds received for gifts & donations, \$690.00
 - c. Animal Shelter donations, \$879.54
 - d. Vending machine sales for employee Christmas parties, \$239.17
 - e. Program income received for FY12 CDBG Plum Point grant, \$571.54
 - f. Funds from insurance proceeds, \$582.40
 - g. Extension program sponsorship revenue, \$75.00
 - h. Additional State funds for Social Services, \$26,580.00
 - i. Technology Trust Fund funds received from the Commonwealth, \$15,414.29
- \$ 45,613.26 Total
\$(45,031.94) Total In/Out
\$(581.32) From Gen Fun fund balance
5. FY12 Interdepartmental Budget Transfers
- a. *Community Development*: \$1,000 between Admin and Planning Telecommunications Cellular
 - b. *Schools*: \$3,051.44 between NKHS Reg Ed Sec and NKHS Voc Ed for Textbooks - Replacement
6. Treasurer's Report: Cash as of January 2012: \$40,588,426.80

County Administrator Cabell Lawton advised that he had some questions about Item 2.b. and asked that it be removed from the Consent Agenda before the vote.

Mr. Burrell questioned why neither a prior ice storm nor Hurricane Isabel was included as "Significant Historical Events" in the Hazard Mitigation Plan. Fire Chief E. Thomas Hicks explained that the examples in Plan were "snapshots" and not an inclusive list.

Mr. Evelyn moved to approve the Consent Agenda, with Item 2.b. removed, and that it be made a part of the record. The members were polled:

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

The motion carried.

IN RE: BRICKSHIRE SOCIAL COMMITTEE

Members of the Brickshire Social Committee were present to receive a framed copy of Resolution R-03-12 adopted by the Board at its January 2012 meeting, commending and thanking the group for its efforts and donations to the New Kent Department of Social Services. Chairman Burrell read the resolution aloud and Mr. Lawton participated in the presentation to the group.

IN RE: CITIZENS COMMENT PERIOD

Chairman Burrell opened the Citizens Comment Period.

Denise Brown-Leverett of 8211 N. Henpeck Road asked for assistance regarding a cat problem at her home. She advised that a neighbor was involved with cat rescue and despite her attempts to restrict access to her yard and to repel the cats, they were negatively affecting her family's enjoyment of their yard and landscaping activities, and the cats were chasing away other wildlife such as rabbits and squirrels. She noted that there was nothing in New Kent's Code to address the problem and she asked if something could be adopted to limit the number of cats someone could have or require leashes. She advised that the problem had been reported to Animal Control and it was her understanding that there was no recourse under the current ordinance.

Ms. Gowdy indicated that Virginia Code did not allow for a leash law for cats but licenses could be required, which might help, and she agreed to bring back a proposal for the Board's consideration.

W. Robinson Worth of 5670 Hogan Bridge Drive remarked that as a former county administrator, he was familiar with comprehensive plans and he was concerned about some of the attitudes and discussions regarding New Kent's draft Plan, notably the idea that it had to be approved by a certain date. He commented that obtaining citizen involvement was "more important than the Plan itself" and the process should continue until the community understood it and had a chance to comment and provide input. He spoke about the attitude of Planning Commission members when he tried to comment at its public hearing on the Plan.

Douglas Schuler of 1350 Mountain Laurel Grove spoke against the Board's adoption of the current draft Plan because of its many inconsistencies, flaws, and errors. He gave examples of some of those items and suggested that it would "behoove us to get a better product".

Sharon Phelps of 5570 Tyshire Parkway also spoke against adoption of the draft Plan, and pointed out more examples of errors and inconsistencies, and how those examples "gave reason to question the creditability of the entire document".

Richard Dawes of 11221 Carriage Road commented that the decision made by the Board at this meeting "might be the most important decision you ever make as supervisors" and could affect the future development of the County. He read aloud an email regarding how Florida communities were repealing smart growth laws because it had slowed growth.

Alease Christian of 2530 N. Waterside Drive recognized the work of Virginia Department of Transportation (VDOT) staff in removing limbs from trees knocked over in a recent storm, and also congratulated St. Peters Church for having been recently designated as a National Historic Landmark.

Taber Finstad of 2737 East West Lane spoke about the draft Comprehensive Plan, and about the outcome in another municipality that had a similar plan and was now suffering with increased traffic congestion, worsening air quality, and a surplus housing market, and he suggested that the Board take those things under advisement.

Jerry Benson of 3902 Homestead Road remarked that he understood that the County needed a planning structure to guide development and protect the environment, but he felt that the current draft Plan was ambiguous, inconsistent, and limited planning options. He commented that other localities had adopted similar plans without realizing the full impacts and he urged delay of the Plan's adoption until there was more opportunity for community input and comment.

James Poole of 11332 Carriage Road spoke about the Urban Development Areas (UDAs) in the draft Plan, how they would no longer be mandatory after July 1, 2012, and it would make more sense to delay action until after that date. He indicated that the County had two years from the date that the new Census information was released to take action.

Joann Lankford of 9210 Minitree Glen Lane commented that based on what she had heard, she was requesting that the Board delay its decision and not rush to pass a plan because it thought it had to.

George Pinelli of 3411 Ridge Road asked why there was such a rush to adopt the Plan and he did not understand why the Board would want to adopt the Plan before July 1, when it could wait and adopt it without the mandated UDAs. He suggested that it would be better to continue to obtain community input and make improvements to the Plan because it was not ready.

David Moniz of 10437 Virginia Rail Terrace thanked the Board members for "the work you do for the County" and asked them to consider all of the comments that had been made and not "rush to judgment" on the Comprehensive Plan.

Richard Agans of 11414 Winding River Road remarked that the Board members were "elected to be good stewards of our county", read some quotes made by George Washington, and commented that the Board needed to "act wisely on our concerns".

Edward W. Pollard of 7924 Vermont Road complained about the condition of the roads in his neighborhood, noting that some five years earlier drainage and scraping work had been done and VDOT was supposed to return to hard-surface the roads, but nothing further had been done. He asked for the Board's help in providing information and assistance.

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

IN RE: COMPREHENSIVE PLAN

Mr. Davis suggested that in light of the many comments made during Citizens Comment, the item on the draft Comprehensive Plan be moved ahead in the agenda, to which there were no objections.

Planning Manager Kelli Le Duc reviewed that New Kent had obtained a grant to hire a consultant to help it write the UDA language and in light of the upcoming changes in UDA legislation, she had inquired what impact it would have if New Kent did not have this section in its Plan, but she had not yet received a response. She explained that the grant included adopting changes to the zoning ordinance to make the UDA requirements more enforceable, and also two Small Area Plans, and that four of the five steps required in the grant had been completed, with the exception of the adoption in the Comprehensive Plan.

Ms. Gowdy advised that it was her understanding that VDOT was taking the position that the County was contractually obligated to include the UDA, but there was a question whether New Kent would be obligated to repay the entire amount of the grant or just a portion.

It was confirmed that the full amount of the grant had been paid to the consultant. Mr. Stiers remarked about the fact that those funds were paid to someone outside of New Kent and stated that if reimbursement were requested, he would suggest asking for assistance from New Kent's legislators.

Mr. Davis spoke about how the previous Board did not want to include UDAs but did it because it was required and he questioned whether there would be an obligation for the grant since at the time it was required. Mr. Evelyn added that the County applied for the grant so that the cost would not be a burden on the taxpayers.

There was discussion regarding the likelihood that other localities had the same dilemma. Ms. Le Duc indicated she suspected that New Kent was not the only locality asking this question and she felt that was the reason for the delay in receiving a response. She advised that she would continue to follow up on the issue.

Mr. Davis apologized to other Board members and citizens regarding some misinformation. He explained that he felt the current draft was too long and "filled with stuff we don't have to have in there". He indicated that he was okay with the goals and objectives, but thought that the strategies could be eliminated, but has recently learned that the State Code required strategies in comprehensive plans. He went on to say that he appreciated all the work that the Planning Commission did on the Plan but it was now the Board's job to make it "more palatable" to the citizens and easier to understand, and he felt that there was still a lot of work to do.

Mr. Evelyn advised that he had made recommendations for changes to the sections he found most objectionable, and he agreed that the Plan needed more work.

Mr. Davis noted that the last Plan took two years to adopt and he felt that it was not necessary that it be adopted tonight, and he agreed that more community input should be accepted; however, he asked that citizens indicate what they wanted in the Plan, not just what they didn't want.

Mr. Burrell asked Ms. Le Duc about the timeline on the Plan. She reviewed that the Board, in August of 2009, asked staff to use the existing Plan as a "backbone" for the new Plan, updating it with pertinent new State legislative actions, existing conditions, and the financial impact analysis. She indicated that staff worked on the update for about a year and in the fall of 2010 held three informational meetings around the County, and thereafter brought it back to the Planning Commission who held three or four work sessions and, after a public hearing in June of 2011, voted to send it to the Board for adoption. She indicated that it was brought to the Board in July of 2011.

Mr. Burrell remarked that there had been diligent and ongoing efforts to inform and engage the public in the process, and spoke about how there had been little turnout at the informational meetings and low participation.

Mr. Stiers expressed his appreciation for the work that staff had performed on the Plan, but suggested that more input was needed from citizens instead of from outside consultants.

Mr. Tiller spoke about the many meetings spent on the process and pointed out that only around sixty people total had attended all meetings combined, and that the public hearings would have been the appropriate times to provide comment and input rather than waiting until the time of voting.

There was additional discussion regarding what changes should be made to the Plan. It was suggested that all Board members submit a list of changes they would like or concerns that they had, similar to what had been done by Mr. Evelyn. Citizens were also asked to submit their concerns and recommendations to either the Planning staff or to one of the Board members.

Following discussion as to when this item should be next discussed by the Board, Mr. Davis moved to defer action on the Comprehensive Plan until the April 25 work session. The members were polled:

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

The motion carried.

Board members commended Ms. Le Duc and the Planning staff for all of their work on the Plan and assured her that their concerns were not a reflection on staff.

IN RE: ELECTRONICS RECYCLING

Mr. Lawton advised that Maintenance Supervisor David Bednarczyk was out sick but had provided updated information the Board had requested on electronics recycling. He advised that Goodwill would be conducting an electronics recycling event as part of the upcoming Envirothon, and would be willing to leave a container at the main refuse site but would not accept any tube televisions. He added that, unfortunately, the majority of items brought to the County's current electronics recycling container were tube televisions and the Board would need to decide if it wanted to continue accepting them.

Mr. Burrell advised that he would bring up the matter at an upcoming meeting of the Central Virginia Waste Management Authority.

Mr. Davis commented that it was important for citizens to know what was and was not being accepted. Mr. Lawton advised that he would bring a proposal back to the Board for consideration.

IN RE: FY13 BUDGET PRESENTATION

Mr. Lawton reviewed some "raw numbers" and recommendations in the draft FY13 budget. He noted that the draft budget was balanced at \$54,804,523, based on a real estate tax rate of \$0.86 and departmental budget cuts totaling \$694,797.

He reviewed the methodology, which included a balanced approach of addressing major revenue reductions and expenditure increases; maintaining fees at FY12 levels except for utility fees which would increase 4% rather than the historical rate of 8%; using existing utility system cash reserves for capital projects and short-term capital financing (except for the proposed Vehicle Replacement Plan for Fire-Rescue); maintaining education financing at current levels; and maintaining public safety and social services during a period of increasing demand for services.

He noted a 1% increase in the General Fund from FY12, and that the draft budget included a reserve contingency of \$1.35 million that the Board could use to restore cuts in funding, lower the proposed real estate tax rate, or expand services.

He reviewed real estate revenues and recent reassessment, pointing out that the reduction in assessment values between 2011 and 2012 resulted in decreased revenue of \$3,236,483. He advised that he felt comfortable with a 2% projected growth and revenues based on a 97% collection rate. He indicated that the revenue-neutral 86-cent tax rate was based on the same impact as the FY10 Board of Equalization appeals, but added that it appeared that the number and nature of the 2012 appeals process was significantly different and he felt that the revenue-neutral tax rate could be reduced to as low as 83 cents, but he would know more as the equalization process progressed.

He projected some increases in personal property tax revenue, and modest increases in other revenues as well, and decreases in revenues from bank stock taxes, permits & other licenses, interest revenue, rental income, off track betting facilities, and various State grants. He indicated that there was pending General Assembly action regarding revenues from fines and forfeitures, which could have a significant negative impact on the budget.

He noted that the FY13 value of a penny on the real estate tax rate (based on an 86-cent rate and 2% growth) was \$217,504 with a 100% collection rate, and \$210,979 at 97%. He indicated that a penny on the personal property tax rate was \$15,328, based on a 94% collection rate. There was discussion regarding current collections. Mr. Lawton advised that the collection for real estate taxes was at 95% but was anticipated to increase after delinquent letters were sent out, and that the personal property collection rate was ahead of last year's collections at almost 94%.

He reviewed some impacts on expenditures, which included increases in Virginia Retirement System (VRS) payments, group term life premiums, and health insurance rates. He indicated that the General Assembly had recently approved some VRS changes which would require all employees to pay a 5% contribution and localities to give those employees 5%

raises. He pointed out that this would not be revenue neutral for either the employees or the County and if this bill was finalized, there would have to be some additional cuts made.

Mr. Lawton noted that the Debt Service fund balance would be sustained with annual \$300,000 transfers from the General Fund only until 2016, after which time debt service would have to be absorbed by the General Fund. He reported that after the FY13 transfer, the Debt Service fund balance would contain \$900,000.

He reminded that capital projects would be funded with existing cash reserves on deposit in the CIP fund, and that local funding for the proposed FY13 CIP totaled \$2,525,939. Another item of note was a decrease for the Comprehensive Services Act budget which he indicated was justified based on historical spending in the last few years but warned that "could be blown" with just one new case. He pointed out increases in transfers to Social Services but a decrease for the Airport. He described how the Reserve for Contingency budget had been separated into two components, \$350,000 for continuing operations and \$1,350,000 for the Board to spend at its discretion. He reviewed that proposed increases in water and sewer rates would be only 4%, with no increases in connection or availability fees, all of which would comply with bond covenants and allow the utility system to remain self-supporting.

He reviewed a timeline of upcoming meetings and public hearings, with proposed adoption of the budget at the May work session. He reminded that staff was willing to hold district informational meetings on the budget if anyone was interested.

Mr. Davis commended staff on the budget handout format, and commented that the "biggest chance of saving some money" appeared to depend on the results of the appeals process with the Board of Equalization. Mr. Lawton advised that he hoped to have more information by the work session and that suspension of the Agricultural and Forestal District program would also improve the likelihood of reducing the revenue-neutral tax rate.

IN RE: HISTORIC SCHOOL PROJECT

Mr. Lawton advised that there was no additional information since the last meeting and the Board needed to decide if it wanted to proceed, if it wanted to phase the project, and if it wanted to continue with the Public Private Education Act (PPEA) process.

Mr. Evelyn moved to go into Closed Session for consultation with legal counsel pursuant to Section 2.2-3711A.30 of the Code of Virginia involving an award of a public contract where discussions would adversely affect the bargaining position of the County. The members were polled:

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

The motion carried. The Board went into Closed Session.

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

W. R. Davis, Jr.	Aye
Thomas W. Evelyn	Aye
C. Thomas Tiller, Jr.	Aye

Ron Stiers	Aye
James H. Burrell	Aye

The motion carried.

Mr. Davis made the following certification:

Whereas, the New Kent County Board of Supervisors has convened in a Closed Session on this date pursuant to an affirmative recorded vote and in accordance with the provisions of the Virginia Freedom of Information Act; and

Whereas, Section 2.2-3712 of the Code of Virginia requires a certification by the Board that such Closed Session was conducted in conformity with Virginia law;

Now there be it resolved that the Board hereby certifies that to the best of each member's knowledge (i) only public business matters lawfully exempted from Open Session requirements by Virginia law were discussed in Closed Session to which this certification resolution applies and (ii) only such public business matters as were identified in the motion convening the Closed Session were heard, discussed or considered by the Board.

The members were polled on the certification:

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

The motion carried.

Mr. Davis moved that, due to the economy and revenue shortfall, the Board direct the County Administrator to present a phasing plan, with bids, at its March 28 work session, to include the South building and courtyard improvements as Phase I. The members were polled:

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

The motion carried.

IN RE: CLAIM OF SUZANNE GARDNER

Ms. Gowdy provided an update on the claim of Ms. Gardner and reminded that the Board had heard from Ms. Gardner's attorney at its last meeting and he was waiting for the Board's decision on the claim. She advised that she expected that if the Board denied the claim, a suit would be filed against the County, similar to the one filed earlier against the Treasurer's Office, and at that time she would contact the County's insurance carriers. It was confirmed that the only part the County played in the matter was the approval of using James Elliott as the collection attorney for the Treasurer's Office. Ms. Gowdy advised that

the Treasurer's Office had already given Mr. Elliott the required 30-day notice to terminate his services, and he would no longer be working for New Kent.

Mr. Evelyn moved to deny the claim. 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: ELECTED OFFICIALS' REPORTS

Mr. Davis spoke about the recent recognition of St. Peters Church as a national historic landmark and asked what restrictions resulted from that designation. Mr. Evelyn provided some information regarding restrictions on any new nearby developments, and Mr. Lawton shared that should the Church receive federal funding to perform any alterations, it would have to go through a review process.

Mr. Stiers announced that he had spent some time with the Fire Chief visiting all of the fire stations and listening to concerns of some of the firefighters as well as citizens, and he would like to make a presentation on that at the March 28 work session. He also advised that he had been in talks with DirectTV to broadcast the County's government cable channel. It was noted that there were more satellite television customers than cable customers in New Kent and a similar conversation should be held with other satellite companies.

Mr. Tiller conveyed birthday wishes to Mr. Davis and Mr. Stiers, and it was noted that they and Mr. Tiller all shared the same birthday.

IN RE: STAFF REPORTS

Mr. Lawton reported that interviews of potential clerk of the works firms would be held the following day, and he again asked the Board members to contact him if they had any questions about the draft budget.

IN RE: DISTRICT APPOINTMENTS

Mr. Tiller nominated Mike Salmon for Circuit Court appointment as District Two's representative to the Board of Zoning Appeals to complete a five year term ending December 31, 2015.

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.

IN RE: NON-DISTRICT APPOINTMENTS

There were none.

IN RE: MEETING SCHEDULE

The Chairman announced that the next meeting of the Board of Supervisors would be held at 6:00 p.m. on Wednesday, April 18, 2012, and the next work session at 8:30 a.m. on March 28, 2012, both in the Boardroom of the County Administration Building, New Kent, Virginia.

IN RE: ADJOURNMENT

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

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

The motion carried.

The meeting was adjourned at 8:28 p.m.