

THE REGULAR WORK SESSION OF THE NEW KENT COUNTY BOARD OF SUPERVISORS WAS HELD ON THE 28TH DAY OF JULY IN THE YEAR TWO THOUSAND TEN OF OUR LORD IN THE BOARDROOM OF THE COUNTY ADMINISTRATION BUILDING IN NEW KENT, VIRGINIA, AT 3:00 P.M.

IN RE: CALL TO ORDER

Chairman Sparks called the meeting to order.

IN RE: ROLL CALL

Thomas W. Evelyn	Absent (arrived at 3:15 p.m.)
David M. Sparks	Present
James H. Burrell	Present
Stran L. Trout	Present
W. R. Davis, Jr.	Present

All members were present after Mr. Evelyn's arrival.

IN RE: SUPPLEMENTAL APPROPRIATIONS AND INTERDEPARTMENTAL

Under consideration by the Board was a request for approval of the following:

1. FY10 Supplemental Appropriations:
 - a. Funds received to date for Fire-Rescue revenue recovery for Fire-Rescue personnel, \$13,895.00
 - b. Funds donated to the New Kent Animal Shelter, \$351.75
 - c. Additional federal funds from the Dept. of Emergency Management for Fire-Rescue training grant, \$112.00
 - d. Additional funds in excess of budget from Capital Fund Balance for an Environmental vehicle, \$1,359.00
 - e. Revenue forthcoming from the Farms of New Kent CDA for FY10 administrative expenditures to date, \$14,528.0
 - f. Donations received for Fire-Rescue, \$100.00
 - g. Funds for supplemental security from the Sheriff's Office and Fire-Rescue for June, \$20,550.00
 - h. Recovered revenue for tax collection to cover legal expenditures associated with tax collections, \$2,455.00
 - i. Program income received to date for FY10 from CDBG Plum Point grant participants, \$25.00
 - j. Funds received for DMV stop fees in the Treasurer's Office, \$140.00
 - k. Charge card fees collected in excess of budget for offsetting expenditures associated with charge card fees, \$13.00
 - l. Wine sale proffer received from the Farms of New Kent for purchase of development rights, \$9,732.63

\$(63,261.38)	Total
\$ 1,359.00	From Fund 7 – Capital Fund Balance
\$ 61,902.38	Money In/Money Out

2. FY11 Carry Forward Appropriations
 - a. Capital funds for Historic School rehabilitation and stabilization, \$430,000.00
 - b. FY10 funds to FY11 for the Comprehensive Plan update, \$19,948.88

- c. FY10 Veterinarian services and dog & cat sterilization funds collected from Animal Shelter donations to be used in FY11, \$13,197.60
- d. FY10 Capital and computer funds for MIS and computer replacement projects to be completed in FY11, \$20,892.00
- e. Small Watershed National Fish and Wildlife grant to be used in FY11, \$80,000.00
- f. Scholarship program and *All Kids Are Special* playground funds for Parks & Recreation not used in FY10, \$7,870.77
- g. Funds donated to the Victim Witness Office and not used in FY10, \$264.57
- h. Capital Funds for the E-Board Packages/Boardroom Tech. upgrades project not completed in FY10, \$13,519.56
- i. Funds received from vending machine sales for employee Christmas parties and group functions in FY11, \$1,945.36
- j. Funds received in previous years for Extension programs sponsored by outside sources, \$1,172.77
- k. FY10 Capital funds to FY11 for the ISTEA/RSTP bicycle route signage grants to be completed in FY11 or later, \$36,775.24
- l. Funds for Phase II of the CDBG Plum Point grant not completed in FY10, \$323,788.09
- m. FY10 Litter Control grant funds to be used in FY11, \$336.00

\$(949,710.84)	Total
\$ 320,555.05	Money In/Money Out
\$ 161,758.61	From Fund 1-General Fund Balance
\$ 446,669.18	From Fund 7-Capital Fund Balance
\$ 336.00	From Fund 1-Litter Control Fund Balance
\$ 20,392.00	From Fund 800-Computer Fund Balance

3. FY11 Supplemental Appropriations

- a. Federal funds from the Dept. of Health for 2 Sheriff safety grants, \$2,000,00
- b. Program income received to date for FY11 from CDBG Plum Point grant participants, \$1,151.70

\$(3,151.70)	Total
\$ 3,151.70	Money In/Money Out

4. FY10 Inter-Departmental Budget Transfers

- a. *Animal Shelter*: \$50,000 from Rt. 618 Station Loader Z Wall to Animal Shelter septic system
- b. *Fire-Rescue*: \$24,475 from various line items to salary line items
- c. *Fire-Rescue*: \$3,942 from various line items to part-time salaries
- d. *Comprehensive Services*: \$5,851 from Medicaid-Local Share to Salary line items
- e. *Training*: \$3,390 from Reserved from Training contingency and other training line items to various travel/training line items in budgets of Judge Hoover, Human Resources, IT, Sheriff, Planning, Planning Commission, County Attorney, CSA, Human Services, Utilities, Sewer and Social Services

5. FY11 Inter-Departmental Budget Transfers

- a. *Sheriff's Office*: \$261 from Grant Fund Contingency to LLBG Equipment (local share)
- b. *Central Purchasing*: \$1,020 from Reserved for Contingency to Document Shredding Services

Financial Services Director Mary Altemus was available to answer questions. County Administrator Cabell Lawton noted that one of the proposed budget transfers would use money budgeted for a Z-Wall at the Main Refuse Site to replace a failing septic system at the Animal Shelter. He indicated that the nature of the shelter waste required that an engineered system be installed rather than a conventional one.

Mr. Trout moved to approve the Supplemental Appropriations, Carry Forward Appropriations and Inter-Departmental Budget Transfers, as presented. The members were polled:

Thomas W. Evelyn	Absent
James H. Burrell	Aye
Stran L. Trout	Aye
W. R. Davis, Jr.	Aye
David M. Sparks	Aye

The motion carried.

IN RE: PUBLIC SAFETY EMPLOYER-EMPLOYEE COOPERATION ACT (PART 1)

Before the Board for consideration was Resolution R-32-10 opposing the "Public Safety Employer-Employee Cooperation Act", a Congressional bill that would mandate collective bargaining for public safety officers employed by states or local governments.

Mr. Lawton confirmed that the bills had failed to pass Congress since the time the agenda packets were prepared and distributed, but were expected to be re-introduced. It was confirmed that if that or similar legislation passed, it could mandate collective bargaining for Sheriff's deputies, firefighters and EMTs. County Attorney Michele Gowdy explained that it would affect the autonomy of New Kent's elected sheriff, who needed control over his staff.

There was discussion on what changes should be made to the proposed resolution and it was suggested that the bill numbers should be eliminated and that the phrase "or similar bills" should be added. Mr. Trout moved to adopt Resolution R-32-10 with those amendments.

Mr. Burrell advised that he would oppose this legislation only if it were mandatory.

Following further discussion, there was consensus to wait until later in the meeting, after Mr. Evelyn had arrived, to poll the members on Mr. Trout's motion.

IN RE: MOORE/NATIONAL APPLICATION FOR A CONDITIONAL USE PERMIT FOR A CELL TOWER

Planner Matthew Ebinger reviewed with the Board an application for a conditional use permit filed by Wade and Kathleen Moore, property owners, and National Communication Towers LLC, agent, to install a communications tower on property located at 9501 Topeka Road, identified as tax map parcel 20-14-12. He indicated that this was the last of the active cell tower applications received by the County. He advised that the proposed site was 1,000 feet northeast of the end of Topeka Road, and that the applicants had submitted evidence of a need for coverage that would be filled with the proposed tower. He reviewed that a

balloon test had shown that the proposed tower would not be visible from New Kent Highway/Route 249 but would be visible in some areas along Tunstall Road. He reported that the proposed tower would be a self-supporting lattice tower 195 feet tall and would not be lighted.

Mr. Trout advised that, at the Planning Commission public hearing, the owners of Topeka Road had questioned the validity of the right of access, but that the builder had supplied evidence of the right of access and that was an issue between the builder and the owners and not the Board.

Mr. Ebinger advised that AT&T was the only carrier that had provided evidence of intent to locate on the proposed tower. Mr. Sparks expressed his concern about towers with single carriers and the anticipated consolidation of service providers, asking the County Attorney if New Kent could require a commitment from two or more carriers before a tower was approved. Ms. Gowdy advised that she would research the matter and report back to the Board.

IN RE: PUBLIC SAFETY EMPLOYER-EMPLOYEE COOPERATION ACT (PART 2)

The Board resumed its consideration of Resolution R-32-10 opposing the "Public Safety Employer-Employee Cooperation Act", which was deferred from earlier in the meeting.

Board members and staff brought Mr. Evelyn up to date on their earlier discussions. Mr. Burrell explained his position that he would support optional collective bargaining but would oppose it if it were mandatory.

The members were polled on Mr. Trout's earlier motion to adopt the Resolution, as amended:

James H. Burrell	Abstain
Stran L. Trout	Aye
W. R. Davis, Jr.	Aye
Thomas W. Evelyn	Aye
David M. Sparks	Aye

The motion carried.

IN RE: 2010 AGRICULTURAL AND FORESTAL DISTRICT (AFD) APPLICATIONS FOR ADDITIONS AND CREATIONS, AND DISTRICT REALIGNMENTS

Environmental Planning Manager Amy Walker reviewed AFD applications for creation of and additions to AFDs, as well as the proposed realignment of all districts.

She reported that should all applications be approved, a total of 1,772.68 acres would be brought into the AFD program. She indicated that the applications were fairly standard, with the exception of the application filed by James and Carolyn Smith. She explained that James Smith and his brother, Warren, owned four contiguous parcels along Route 249 that operated as a functioning family farm; however, one of the parcels owned by James Smith was smaller than the five acres required in the State Tax Code. She advised that the AFD Commission had forwarded a recommendation that the application be approved based on the fact that it was a functioning family farm and should be enrolled in its entirety and that use, not acreage, should be the deciding factor. She indicated that the Planning Commission had agreed, with Mr. Pollard casting the lone dissenting vote.

She reported that the Planning Commission had voted unanimously to forward the remainder of the applications to the Board with recommendations for approval.

Ms. Walker advised that there were some properties on the western end of the County that would not be able to remain in the AFD Program after August of 2011 unless there was a new application filed in 2011 that would qualify them. She indicated that once action was taken by the Board on the 2010 applications, explanatory letters would be sent to those affected property owners, as well as notices to all Program participants advising of the realignments and new district names. She explained that all participants would be required to sign and return a statement of their intent to remain in or withdraw from the Program.

IN RE: PARKS AND RECREATION

Parks & Recreation Manager Kim Turner updated the Board on Parks & Recreation issues as well as a request to become a division independent of the General Services Department and report directly to the County Administrator.

Ms. Turner recounted that her division had lost a full-time employee in FY10 and had completed the fiscal year short-staffed and she was now asking for the Board's permission to move forward and fill the position. She pointed out that funding for the position was included in the FY11 budget but wanted to make sure that the position had not been frozen. She advised that interest in the position had been expressed by a current employee and if the position was filled internally, she would then advertise for the other position. Both Mr. Lawton and Ms. Turner confirmed that both positions were needed to maintain current services and handle the additional facilities and fields that were added in FY10.

There was consensus among the Board members to fill the position as requested.

Ms. Turner next addressed her request that Parks & Recreation become a separate division independent of General Services, reporting directly to the County Administrator, and relocate their offices to the Historic School in the same building as Cooperative Extension. She explained that there was some uncertainty as to how to handle the division of duties of the General Services Administrative Assistant who also provided support to Parks & Recreation, but that they would work it out through FY11 and address the position in the FY12 budget. She indicated that having a presence in the Historic School, where many of their programs were held, would be an advantage from both visibility and security. She explained that she was not asking for any additional funding.

Mr. Lawton indicated that he did not have any objection to the requests but spoke about possible problems expected with having two points of service. Ms. Turner agreed that there might be some confusion about where to submit registrations, but anticipated that they could still be submitted to General Services, and she expected online registration to continue increasing.

Board members were in agreement that these were decisions best made by the County Administrator, and they expressed no objections.

IN RE: WHITMORE REZONING APPLICATIONS

Planner Kelli Le Duc reviewed two applications filed by Mr. Tommy Whitmore on behalf of TJW Enterprises and Whitmore Chevrolet, to rezone three parcels of property fronting on Eltham Road from *R-1, Residential* to *Business*.

She explained that Mr. Whitmore had filed two applications covering three different parcels, and because one parcel was under a different name than the others, staff felt two separate applications were needed, but that the same issues pertained to all three parcels.

She advised that Mr. Whitmore had been unable to attend the Planning Commission's public hearing but had submitted additional written information regarding the reason for the rezoning requests, copies of which she distributed to the Board members. It was explained that General Motors did not want any other businesses on dealership property and Mr. Whitmore planned to move his retail boat business to the other parcels, which were currently zoned *R-1, Residential*.

She reported that the Planning Commission had voted 8:1:1 in favor of approval and that staff was also recommending that the applications be approved. She advised that the parcels were designated as *Village* in the Comprehensive Plan and there were some empty rental houses in the area, also owned by Mr. Whitmore.

Mr. Trout advised that there was concern expressed by one of the neighbors about the business moving closer to existing residential on that side of the highway.

IN RE: COMPREHENSIVE PLAN UPDATE

Planner Kelli Le Duc reviewed the current draft of the Comprehensive Plan (Plan) update in order to receive Board comments prior to beginning the public participation portion of the process.

She advised that, in accordance with the direction from the Board to perform only a minor update to the Plan, staff had incorporated those things that had changed since the Plan was adopted in 2003 as well as changes made by the General Assembly, additional data and new maps. She indicated that there were no substantial changes and that staff was suggesting it be titled "Vision 2040".

She reviewed each section as to changes made and changes needed, that included updates generated by the Green Infrastructure Project, requirements for dams and dam safety, climate change, economic development changes, new County facilities, transportation, changes in the Chesapeake Bay Act, "Cool County" initiatives, public utilities (service areas and reclaimed water project), requirement for Urban Development Areas, workforce housing, Visitability, and Smart Growth.

There was discussion regarding responsibility for repairing failed dams that had resulted in roads being washed out. It was confirmed that if it was a road in the state or federal primary system, then state or federal money would be available to repair it, but that localities would be responsible for repairs of any secondary roads, since they belonged to the locality.

Community Development Director George Homewood pointed out that Public Service Standards had been added to the draft Plan in anticipation of the State's moving away from

cash proffers towards impact fees. He explained that having those standards in place was a prerequisite for an impact fee system.

Staff reported that it was not proposing to change any land use designations or uses except for the *Hamlet* designation which was proposed to be changed to *Rural Crossroads*.

There was review of the numerous maps, which included maps from the Green Infrastructure Project, the 2009 Flood Plain maps, a dam inundation map for the Diascund Reservoir, transportation maps, and sewer service maps for 2020, 2030 and 2040. The Board was asked to give particular attention to the proposed Future Land Use Map.

Following discussion regarding the process and the importance of public input, it was agreed that the Board would communicate any initial concerns or changes to staff by the end of August, and that staff could proceed to schedule and advertise "public listening sessions" from mid-September through October. Staff explained that it was their intention to schedule a minimum of three sessions in various locations and at varying times, as well as be available to speak to civic and community associations when requested, and schedule more listening sessions as warranted by community interest.

Mr. Homewood predicted that it would be sometime in 2011 before the Plan was ready for adoption. He also reminded the Board that the Planning Commission "had a role to play" in the process and would be the hosts of the public sessions.

Mr. Trout requested that every Board member receive an updated copy of the draft Plan just before the public process began.

Some of the initial comments from the Board included requests that the Plan contain sections on water supply and demand, as well as future service areas for natural gas. There was also a recommendation that County staff look into the PACE program.

Board members complimented staff on their work to date on the draft Update.

IN RE: ECONOMIC DEVELOPMENT UPDATE

Economic Development and Tourism Director Rodney Hathaway updated the Board on economic development projects.

He advised that a company that provided environmental engineering and industrial services was negotiating with the owner of the former seed orchard property on Route 33 for a field service operation, and that another new business that installed breathalyzers in vehicles was locating at the Parham Landing Commerce Park. He indicated that Vision Specialties, who opened in 2009 with thirteen employees, had hired an additional ten workers and was considering expanding its leased space.

He announced that Woodfin, who owned the Exxon on Route 33, was negotiating a sale to 7/Eleven, and had plans to subdivide some adjacent property for a restaurant and hotel.

He indicated that a rezoning application had been received from Chesapeake Auto Parts to develop an automobile recycling facility on property at the interchange of I-64 and Route 33.

Mr. Hathaway advised that he had contacted the principals of DragonsRidge, who indicated they were waiting for the economy to improve before moving forward with any construction.

He spoke about a pewter manufacturer who was considering relocating its operations to Preservation Park in the Courthouse area and had submitted incentive applications to the Economic Development Authority for consideration.

He advised that New Kent Insurance Agency had relocated to new office space, and that Active Life Fitness and a home health care company had both recently opened and were doing better than anticipated. He noted that a veterinary clinic was scheduled to open in Maidstone in the fall of 2010.

He announced that the owner of the former Blue's Coffee House on New Kent Highway was working with a restaurant owner interested in leasing that property for a seafood buffet restaurant.

He spoke about New Kent Gymnastics that was opening for business in August on Route 106. Regarding Business Park Road, Mr. Hathaway advised that the County was still waiting on a commitment from the owner to bond construction before proceeding with an application for industrial access road funding.

He indicated that the Mirbeau Inn and Spa had a strong potential for financing and hoped to make an announcement by the end of the year. He advised that builder K. Hovnanian had maintained its presence in the New Kent Vineyards and was reported to begin some work in the fall that would be concentrated in Land Bay V.

He spoke about New Kent Optical, who had opened a few weeks earlier, next to the Valero gas station.

He indicated that he had been working with a company that performed environmental mediation that was interested in a site across from Quinton Community Center, starting off as a home occupation with six employees.

He announced that Choice I LLC had submitted a site plan for property on Route 60 beside the Shell station for a Jiffy Lube, coin Laundry and car wash. He indicated that the builder of the Star Convenience and Wendy's Restaurant had submitted a site plan for its location at the intersection of Dispatch Road and New Kent Highway, and was anticipating opening at the beginning of 2011.

He indicated that Results Fitness (Phase I) at Patriots Landing was under construction with build-out anticipated by the end of September.

He advised that a medical billing company was considering office space at Rock Creek.

He reviewed plans for upcoming seminars for small businesses on how to procure government contracts, working with Virginia State University, as well as monthly counseling sessions for small businesses through the Virginia Department of Business Assistance, to be held at the New Kent Visitors Center.

He spoke about a partnership with Charles City County to secure broadband grant funding, indicating that they had decided to initially pursue a planning grant to cover the cost of a technical consultant for the project.

Board members inquired as to whether the County's business incentives and fee waivers had contributed to the recent business activity. Mr. Hathaway responded that he felt that the business-friendly message sent by the County's program had definitely had an effect.

The Board took a short break and then resumed its meeting.

IN RE: HISTORIC SCHOOL

The Board considered a request to release a Request for Proposals (RFP) for design and facilitation services for the Historic School. Mr. Lawton explained that although the Board had previously allocated space between the School Board and the County, there were likely many other uses that the County hadn't thought of and that having an outside consultant to facilitate some community input processes (charrettes) would provide the important public "buy in" for the project. He indicated it would be helpful to have someone who could provide some recommendations that would consider the entire space and what options were available, including any exterior space, as well as how it related to nearby structures in a sensible manner.

He clarified that he was not looking for a floor plan design, recognizing that the Library and School Board were to design their own space. He reviewed previously-mentioned possible uses of the buildings, including a food bank, furniture rehab, technical education, and community college. He emphasized that it was important to "have a big picture" before moving forward and it would not in any way conflict with the rehabilitation and stabilization work that was authorized by the Board.

Mr. Sparks inquired who was anticipated to respond to the RFP. Mr. Lawton advised that he felt that those firms with architectural design staff would be interested, but pointed out that it was important to "have someone with a fresh perspective who was not beholden to any one group".

Mr. Davis stated that he felt it would be "putting the cart before the horse" and asked why the County should spend money on a consultant when there was a PPEA proposal that might include design services. Mr. Lawton explained that the PPEA pertained to the structure and not its uses.

Mr. Davis spoke about possibly using some of the space at the Historic School for a college credit program that would be available to all incoming freshmen at New Kent High School in 2011 that might require classroom space away from the high school. Mr. Lawton advised that he had approached the School Board about his suggestion for the RFP and they were supportive of the plan but had not offered to share in its cost.

It was confirmed that the Schools were allocated the science building in the Space Allocation Agreement but no use had been defined.

Mr. Lawton indicated that the cost of the process would depend on how much facilitation was provided but he hoped it would be less than \$10,000. He projected that public input sessions could be held in September and October, with a report submitted no later than the end of the year. He explained that the RFP would not be a competitive sealed process but one of competitive negotiation, so the County could obtain the best skill set.

There was discussion regarding the unsolicited PPEA proposal received from Marengo Management Corp. Mr. Lawton reminded that the PPEA process was a negotiable procurement method, and that the next step was to advertise the proposal and invite

competitive proposals and, after 45 days, evaluate the bids and then make a decision, which could include rejecting all proposals.

Mr. Sparks asked how someone could bid on the project if there wasn't a plan in place.

Mr. Trout reminded that unsolicited PPEA proposals were designed to be vague and, as competing proposals were submitted, a more definitive plan would develop. Ms. Gowdy agreed, stating that if the Board liked a particular concept, then it would move forward with negotiations.

Mr. Evelyn indicated that he felt the Board should consult with its Financial Advisor and also felt he needed some more education on PPEAs.

Neither Mr. Sparks nor Mr. Davis was supportive of the RFP for design and facilitation services. Mr. Trout asked if that could be done by staff.

There was discussion whether the design for the space should come from potential contractors or from the County.

Mr. Sparks stated that it was his feeling that the Library had spent money on design work and what was needed was a plan for the rest of the building, and he wanted a "solid proposal and set of plans" before anything was sent out. Mr. Lawton advised that was the traditional process rather than PPEA.

Sarah Barber, who performed some design work for the Library, stated that she had dealt with PPEAs and, although she was not an expert, the Library's design work could be incorporated as a part of any PPEA project.

There was discussion as to whether the PPEA proposal should be accepted and advertised for competitive proposals. Ms. Gowdy advised that there were some updates that were needed to the County's PPEA guidelines in order to comply with recent legislative changes that could be done at the August 9 meeting, and that the County had nothing to lose by advertising and could reject all proposals if it wanted to. However, the County had only 30 days to decide whether to accept the unsolicited proposal.

After further discussion, there was consensus among the Board to defer action until its August 9 meeting. In the interim, Mr. Lawton would consider whether the design and facilitation work could be done in-house.

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 August 9, 2010, in the Boardroom of the County Administration Building, New Kent, Virginia.

IN RE: ADJOURNMENT

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

Stran L. Trout	Aye
W. R. Davis, Jr.	Aye
Thomas W. Evelyn	Aye
James H. Burrell	Aye

David M. Sparks

Aye

The motion carried.

The meeting was adjourned at 5:39 p.m.