

THE REGULAR WORK SESSION OF THE NEW KENT COUNTY BOARD OF SUPERVISORS WAS HELD ON THE 25TH DAY OF JULY IN THE YEAR TWO THOUSAND TWELVE AT FIRE STATION ONE, IN PROVIDENCE FORGE, VIRGINIA, AT 8:00 A.M.

IN RE: CALL TO ORDER

Chairman Burrell called the meeting to order.

IN RE: ROLL CALL

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

All members were present.

IN RE: ADMINISTRATION APPOINTMENTS

Mr. Davis announced that the Board had accepted the resignation of G. Cabell Lawton, IV on July 23, 2012, and read aloud proposed Resolution R-39-12 appointing Rodney A. Hathaway as Acting County Administrator and Clerk of the Board, and then moved to adopt. 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.

Mr. Burrell moved to appoint Rodney A. Hathaway as Emergency Management Coordinator pursuant to Code of Virginia Section 44-146.19 and as Coordinator of Emergency Services pursuant to County Code Chapter 30-162 to replace Cabell Lawton. The members were polled:

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

The motion carried.

Mr. Davis then read aloud proposed Resolution R-40-12, affirming Mr. Hathaway's appointment of Lisa Baber as Interim Fire Chief, and made a motion to adopt. 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: NEW KENT FIRE-RESCUE

Board members met with full-time, part-time, and volunteers with New Kent Fire-Rescue to address recent "turmoil" within that department. Points covered by the Board members included

- Assurance that there would be staff input in the selection process for a new fire chief;
- That everyone's primary focus was to provide the citizens with the best service possible and that all staff were equally valued and an integral part of that focus;
- The importance of working together as a team and eliminating divisiveness in the department;
- That the County was looking at changes to improve efficiency, cohesiveness, professionalism and service, and the Board was soliciting constructive comments and suggestions in that regard;
- Members were asked to address issues through the chain of command and give their support to the Interim Fire Chief;
- That there was no plan to eliminate any jobs or cut services to the citizens; and
- The County would continue to maintain and update equipment, as needed.

Comments and questions were invited from the attendees.

Jerry Assessor, a volunteer with Station 1, indicated that often "actions were not consistent with words". Mr. Davis responded that the Board had not realized what had been happening in the department but emphasized that the Board greatly valued what he described as its "good volunteer contingent" and would welcome all comments, which could be anonymous and would be kept confidential.

Becky West, Ambulance Billing Clerk, recounted that she understood the Board's message to be that jobs were secure and it would be evaluating data as it related to work tasks and cost effectiveness.

David Pitts, a Volunteer with Station 1, thanked the Board for addressing the issues and stated he was pleased to see the interaction.

David Wood asked about having paid and volunteer staff helping with the fire chief selection process. Board members spoke about the possibility of having a representative from each group on the interview panel.

Blase Keegal from Providence Forge Volunteer Fire & Rescue asked if Mr. Lawton had given a reason for his resignation and the response was that he had not.

Joe Davis of Barhamsville indicated that although he was not associated with New Kent Fire-Rescue, he had been involved in that field for many years. He stated that he appreciated the Board's intent to move forward and he agreed that everyone was a professional, whether volunteer or paid, and as a citizen he offered his services to assist in any way he could and would like to see things improved.

Lisa Baber thanked the Board members for their confidence in confirming her appointment as Interim Fire Chief and asked everyone to put their differences aside and work together. She indicated that revisions to the Standard Operating Guidelines (SOGs) were underway and staff should see something on those coming out in the near future.

IN RE: PROSPECT READY SITES

Tim Davey of Timmons Group reviewed with the Board some of the factors involved with being "prospect ready", which included how to determine the target audience and find out what drove site searches and site selections, how to best prepare and present sites, and how to "close the deal".

He indicated that prospects were looking for the best business decision, a community that fit their needs and the needs of their employee's families, and a site or building at which their employees would enjoy working.

He shared ways to be prepared that included fast track permitting, having political process and public involvement, incentives and tax structure, non-disclosure agreements, and regulatory and funding agencies.

He reviewed that developers were looking for elimination of unknowns (risks), certainty of schedule, and control of development costs. He spoke about the importance of pre-addressing cultural resources, environmental site assessments, wetlands, geotechnical/subsurface investigations, utilities, transportation issues, zoning, ownership/property control, easements and encumbrances, emphasizing that the more due diligence that was done up front, the easier it was for a developer to assess costs and timelines.

He commented that the markets that were "great for Central Virginia were great for New Kent" and indicated that the County could not stop with just providing water and sewer infrastructure, and he pointed out that investments in sites were "never lost" but carried forward towards the next prospect. He reported that the County could expect a three to four year return on any investment in the form of increased tax revenue and jobs.

He explained the five tiers of site rankings, from Tier 1 (raw land, willing seller, no local government control) through Tier 5 (ready to construct, permits in hand), and reviewed development timelines, odds of success and prospect ready statuses for each tier.

He indicated that having an affordable housing supply was not as important as having an available workforce.

Mr. Hathaway commented that New Kent had done a good job of "making it to the list" but fell short on sites as there were very few publicly-owned parcels in the County. He asked if it would help to have a memorandum of understanding with a property owner as proof to a prospect that the County had authority to act on behalf of the property owner. Mr. Davey advised that a real estate contract would be better, as most business prospects would rather deal with the local government than a private owner.

Mr. Evelyn spoke about the perception that the County would be competing with owners of large parcels. Mr. Davey suggested that the County develop a position that supported and complemented the private property owner, with the understanding that a private owner could not "land a big business" or do the things that a public entity could do. He

recommended that the County have an acquisition strategy and find one or two strategic sites on which to concentrate.

Economic Development Consultant Mark Kilduff asked if there was any location roughly the size of New Kent that the County could look at to see how they did this. Mr. Davey suggested either Augusta or Rockingham.

He concluded in stating that logistics attracted people to Central Virginia and he felt New Kent to be logistically friendly.

Board members thanked Mr. Davey for his presentation.

IN RE: COMMISSIONER OF REVENUE OFFICE REORGANIZATION

Commissioner of Revenue Laura Ecimovic and Human Resources Manager Darla Hicks were present to review a request for Board approval of a reorganization plan for the Office of the Commissioner of Revenue.

Ms. Ecimovic explained that the September 2012 retirement of long-time employee Jenella Walls would provide an opportunity to restructure her office, which would result in some savings in her payroll budget. She indicated that the new chief deputy would oversee everything except real estate, which would be split up between other staff, resulting in more efficient operations and "setting us up for the future" when the "market starts moving again".

Ms. Hicks confirmed that the proposed reorganization included the employee upgrades authorized by the Board.

Board members commended the Commissioner and her staff for the good job they were doing with the general reassessment process.

Mr. Evelyn moved to approve the office reorganization plan as proposed by the Commissioner of Revenue effective September 1, 2012: 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: LIBERTY LANDING

Ken Merner and David Rudinger of Boyd Homes were present to review a proposed development in Bottoms Bridge.

Mr. Rudinger advised that his company felt that the "time was right" to move forward to develop the 100 acres it owned between Route 60 and the Chickahominy River, across from Patriots Landing and Five Lakes. He reviewed that his company had been in business for 30 years and had completed projects throughout eastern Virginia, and in North Carolina, Staunton, Florida, and the Virgin Islands. He indicated that they were a family-owned

operation, with diversified experience as a builder, developer, and operator of single family housing, apartments, condominiums, townhomes, offices and retail.

He reviewed the following highlights of the proposed development:

- its commercial component would be located along Route 60, with the townhomes and multi-family components in the back
- the housing units would provide "more rooftops" to attract more businesses
- was located in a growth area identified in the County's master plan
- would help fill the increased need for apartments brought on by existing conditions in the housing and mortgage markets
- amenities included pools, water features, boat ramp, clubhouses, exercise rooms, varying facades, individual driveways and attached garages
- proffers that included turn lanes and median upgrades on Route 60, sidewalks and paths, recreational and open areas, water conservation measures, a cap of 608 units, cash proffers of \$1,500 per unit, and the donation of land for a fire station
- that both the multi-family and townhome components were below the permitted density levels
- a fiscal impact analysis reflected that the project would return \$10 million to the County over the next 20 years as townhomes and apartment communities typically had smaller households and therefore lower costs to a locality in terms of services to be provided
- supported "smart growth" with a mixed use village-style community that fit the comprehensive plan
- townhomes would sell at a low of \$149,900 for 1,100 square feet with apartments starting at under \$900 per month up to \$1,200
- environmental and archeological studies had been done and development would take place around the wetlands areas and the site of some Indian village remains
- build-out was anticipated over five to ten years

He pointed out that those communities that had offered larger cash proffers had not been successful and they wanted to be able to deliver the housing that people in New Kent needed. He noted that there were currently no townhouses or apartments communities in New Kent for firefighters and teachers who needed places they could afford to live in, and higher cash proffers would make that impossible.

Ms. Le Duc advised that once final approval of their traffic impact analysis was received from the Virginia Department of Transportation, they would move forward to schedule a public hearing before the Planning Commission.

IN RE: AIRPORT TAXIWAY

Before the Board for consideration was a request to approve a contract to construct a taxiway at the New Kent Airport.

Airport Manager Bill Kelly reported that the project had been bid twice because of a technicality in the first bid, and that the low bid had come in at just under \$60,000. Ms. Gowdy indicated that the bid document with the exact price would be incorporated into the contract.

Mr. Kelly explained that the low bid on the first advertising had been around \$78,000, but the second advertising had the correct quantity of materials and had come in lower.

Mr. Stiers moved to approve the contract with Envirostruct to complete construction of the Airport Taxiway in an amount not to exceed \$60,000. 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: ROCK CREEK VILLAS PLANNED UNIT DEVELOPMENT

Planning Manager Kelli Le Duc reviewed with the Board a proposal to amend the Rock Creek Villas Planned Unit Development (PUD) scheduled for a public hearing at the Board's August 13 business meeting.

Ms. Le Duc advised that the applicant had originally asked for four amendments of its PUD but had changed its request after the public hearing before the Planning Commission in July, to just two amendments – to allow them to construct single family detached units, and to change the time that proffers were collected in order to conform to State Code changes. She confirmed that the maximum number of units (65) would not change, and the PUD would have the same footprint and same master plan.

Applicant Billy Cunningham advised that the only difference would be that the duplex would be "split in half" and put on a separate lot, but that everything else would be the same. He indicated that many prospective buyers had advised that they would be more likely to buy a detached unit rather than attached one. He stated that he and his family would not be available to attend the public hearing in August but his real estate agent would be there to answer any questions.

IN RE: PROPOSED CHANGES IN THE R-3 ZONING CLASSIFICATION

Ms. Le Duc and County Attorney Michelle Gowdy reviewed proposed changes to the R-3 Zoning Classification to address inconsistencies that had been identified in the County's subdivision code.

Ms. Gowdy explained that one of the summer interns had worked on this project and had suggested changes to simplify and correct some inconsistencies regarding the R-3 zoning classification. She advised that staff had received input from the New Kent Chamber of Commerce's political action committee and the developers of Liberty Landing. She indicated that there were additional changes that needed to be made, but the proposed changes would address the inconsistencies that affected Liberty Landing. She advised that the Board could choose to act on these changes first and give staff a chance to finish up the others and bring them back at a future date, or could opt to wait for all of the changes at one time; however, it was her recommendation to do the former.

She reported that it was also proposed to eliminate the Route 155 and Route 33 overlays that were no longer applicable, with this amendment.

Mr. Stiers asked about the reaction to the proposed changes from the Chamber's political action committee. Ms. Gowdy reported that there had been a good discussion with that group and that many of their suggestions had been incorporated into the proposed changes.

Chip Alvis, a member of the group, commented that it had been a good process where his committee had been allowed to participate and they were very appreciative of the opportunity.

Ms. Gowdy explained that one of the problems facing Liberty Landing in moving forward under the current ordinance was that "townhouse" was not defined and there were some other concerns about whether certain amenities were permitted.

There was consensus to send to the proposal, as presented, to the Planning Commission for its review and recommendation.

IN RE: INITIATING SUBDIVISION CODE CHANGES REGARDING PARENT TRACTS

Assistant County Administrator Rodney Hathaway explained that a situation had come to staff's attention regarding an instance where the State had taken a portion of a large tract of land for a public right-of-way, leaving a remnant parcel on the opposite side of the road that was smaller than the minimum lot size required for the zoning classification and was unusable by the property owner. He indicated that the owner of a parcel adjacent to the remnant parcel was interested in obtaining the remnant and having a boundary line adjustment. However, under the County's current Code, the original property owner would lose its parent tract status.

He requested that the Board consider the adoption of a resolution that would initiate action by the Planning Commission to review a proposed change to County ordinances to add language that in cases where land was acquired by either the Commonwealth of Virginia or New Kent County for public right-of-way that created a remnant parcel that was less than the minimum lot size required, then that property owner would have the ability to do a lot consolidation with a contiguous property owner without losing its parent tract status. He pointed out that no additional lots would be created and this would just allow a lot consolidation to occur with the property owner retaining its parent tract status.

Mr. Davis asked if that could also apply to easements. Mr. Hathaway explained that it would not because in the instance of a public right-of-way, the property owner no longer had any use of the right-of-way and the road became a true divide; however, with an easement, the property owner still owned and could use the property.

There was discussion regarding whether this would apply if property was obtained by a utility company or for a cell tower. Ms. Gowdy spoke about how "utility" was defined in State Code but she would look into whether there should be any changes in the proposed language. It was confirmed that it would not apply to rights-of-way for cell towers since cell tower owners did not have eminent domain powers.

Mr. Hathaway confirmed that the resolution would send the proposal to the Planning Commission for further review and comment and after a public hearing, the Planning Commission would send its recommendation back to the Board.

Mr. Evelyn moved to adopt Resolution R-38-12 to initiate a text amendment to Section 90-2 of the County's subdivision ordinance. The members were polled:

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

James H. Burrell Aye

The motion carried.

IN RE: FIRE-RESCUE FEE CHANGES FOR FY13

Mr. Hathaway asked that this item be delayed until a future meeting to give him an opportunity to review the proposals with the Interim Fire Chief.

IN RE: 2012 MEETING SCHEDULE CHANGES

Before the Board for consideration was Resolution R-37-12 canceling the August work session.

Mr. Hathaway reviewed that it had been the Board's practice not to hold a work session in August and canceling that meeting would require a resolution amending the Board's 2012 Meeting Schedule. There were concerns that there might be business that needed to be addressed that would require the meeting. In light of the fact that one or more of the Board members as well as the County Attorney were not available on August 29, there was consensus that should it be determined that there was a need to meet a second time in August, a special meeting could be scheduled.

Mr. Davis moved to adopt Resolution R-37-12 canceling the August 29, 2012 work session. 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: SIDEWALK PROJECT

Before the Board for consideration was a request to approve a contract to complete the sidewalk project, connecting the sidewalks between the Administration Building and New Kent Elementary School.

Mr. Hathaway explained that the ISTEVA village improvement grant project had been advertised for bid and the Board was being asked to approve a contract with the lowest bidder, EL-X Enterprises, at a cost of \$123,706. He indicated that the project had been estimated at \$130,000. He reported that the sidewalk project would not interfere with the regional technical school or the South building renovations, and would only take about three weeks, given good weather. He advised that Parks and Recreation programs should be not impacted, and keeping the entrance open near the Rose & Crown Tavern was required in the contract.

Mr. Davis moved to authorize the County Administrator to enter into a contract with EL-X Enterprises for construction services associated with the ISTEVA Village Improvement Grant in an amount to not exceed \$123,706. The members were polled:

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

The motion carried.

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 13, 2012 in the Boardroom of the County Administration Building, New Kent, Virginia.

IN RE: CLOSED SESSION

Mr. Stiers moved to go into Closed Session pursuant to Section 2.2-3711A.1 of the Code of Virginia involving performance and resignation of a county employee and pursuant to Section 2.2-3711A.7 of the Code of Virginia involving briefings by staff members and consultants about negotiations and actual litigation. 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. The Board went into closed session.

Mr. Evelyn moved to return to open session. The members were polled:

C. Thomas Tiller, Jr.	Aye
Ron Stiers	Aye
W. R. Davis, Jr.	Aye
Thomas W. Evelyn	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 Chairman inquired whether there was any member who believed that there was a departure from the motion. Hearing none, the members were polled on the certification:

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: PENDING LITIGATION

Mr. Stiers moved to approve a Confidential Settlement as recommended by the VML Counsel assigned to a New Kent County case. 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: ADJOURNMENT

Mr. Davis moved to adjourn the meeting. 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. The meeting was adjourned at 10:57 a.m.