

THE REGULAR MEETING OF THE NEW KENT COUNTY BOARD OF SUPERVISORS WAS HELD ON THE 13<sup>th</sup> DAY OF AUGUST IN THE YEAR TWO THOUSAND TWELVE IN THE BOARDROOM OF THE COUNTY ADMINISTRATION BUILDING IN NEW KENT, VIRGINIA, AT 6 P.M.

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IN RE: CALL TO ORDER

Chairman Burrell called the meeting to order.

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IN RE: INVOCATION AND PLEDGE OF ALLEGIANCE

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

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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.

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IN RE: CONSENT AGENDA

The Consent Agenda was presented as follows:

1. Approval of Minutes
  - a. June 27, 2012 work session
  - b. July 9, 2012 business meeting
  - c. July 11, 2012 special meeting
  - d. July 23, 2012 special meeting
2. Miscellaneous
  - a. Award and execution of contract with ECC, LLC for \$42,606 to provide HDPE hollow floating balls for the Parham Landing wastewater treatment plant
  - b. Award and execution of contract with Radio Communications of Virginia for maintenance, service and equipment purchase for the communications centers, 911 and radio systems
  - c. Acceptance and authority to execute Deed of Dedication from Brian & Patricia Grubbs for a right-of-way for public use
  - d. Award of contract to Shaw Construction for construction of the Kentland No. 8 Pump Station in the amount of \$422,000.00
3. Refunds
  - a. \$185.62 to Pristine Pools for cancelled permit
4. FY12 Supplemental Appropriations
  - a. Law enforcement services provided at Colonial Downs for the Strawberry Hill races – June 2, 2012 (\$12,100.46), overtime for deputies who worked at Colonial Downs in June 2012 (\$9,638.73), reimbursement for CPR class for Black Creek Vol. Fire Dept., Inc. on June 21, 2012 (\$10.00)
  - b. Animal Shelter donations, \$1.00

- c. Program income received for FY12 from CDBG Plum Point grant participants, \$25.00
- d. Funds received from insurance proceeds, \$12,178.40
- e. Funds for connection fee refunds to Best Industries, \$267,547.50
- f. Additional funds received in FY12 for Four For Life grant funds, \$11,252.92

\$ 312,754.01	Total
\$( 45,206.51)	Total In/Out
\$(267,547.50)	From Fund 98 fund balance

- 5. FY12 Supplemental Appropriations
  - a. To un-appropriate FY12 funds for grant no. 12-N1160LO11; Asset Forfeiture funds originally requested will be reduced and funds will be used to purchase different equipment in FY13, \$8,500.00

\$ (8,500.00)	Total
\$ 2,028.00	Total In/Out
\$ 6,472.00	From Fund 210 fund balance

- 6. FY13 Supplemental Appropriations
  - a. Funds to cover the local cost of issuance fees for the Financial Consultant and Bond Counsel – Interest Rate Modification of the County's 2007 Lease Revenue Bond, \$22,050.00

\$ 22,050.00	Total
\$(22,050.00)	From Fund 40 fund balance

- 7. FY13 Supplemental Appropriations
  - a. FY13 CIP proffer funds that were intended to be adopted as part of the FY13 budget, \$202,112.00
  - b. Adjust FY13 Victim Witness budget to award amount, \$1,948.00

\$ 200,164.00	Total
\$ ( 886.00)	Total In/Out
\$ 2,834.00	From General Fund fund balance
\$(202,112.00)	From Fund 7 fund balance

- 8. FY13 Supplemental Appropriations
  - a. FY13 funds for grant no. 12-N1160LO11; grant was originally requested in FY12. Now less funds requested from Asset Forfeiture and funds used to purchase different equipment in FY13

\$ 3,279.09	Total
\$(2,028.00)	Total In/Out
\$(1,251.09)	From Fund 210 fund balance

- 9. FY13 Supplemental Appropriations
  - a. Animal Shelter donations, \$565.50
  - b. Program income received for FY12 from CDBG Plum Point grant, \$1,602.35
  - c. Funds received from insurance proceeds, \$1,413.00
  - d. Extension program sponsorship revenue, \$220.00

\$ 3,800.85 Total  
\$(3,800.85) Total In/Out

10. FY12 Interdepartmental Budget Transfers  
*Fire Rescue:* \$1,900 from Communication Lines to Communications –  
Wireless for repairs & maintenance
11. Treasurer's Report: Cash as of June 2012: \$33,510,560.63

Mr. Evelyn moved to approve the Consent Agenda as presented and that it be made a part of the record. The members were polled:

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

The motion carried.

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IN RE: RESIDENCY ADMINISTRATOR REPORT

Mike Cade, Residency Administrator, Virginia Department of Transportation (VDOT), reported on road issues in New Kent.

He reviewed maintenance done in the previous month that included paving/patching, tree removals, routine sign maintenance, litter pick-up, and work on non-hard surface roads, as well as the maintenance planned for the upcoming month, which included shoulder work, pipe cleaning, ditching operations, sign maintenance, and tree/debris removal.

He reported that the traffic signal at the intersection of Routes 249/33/30 had been put on timers and warned that the County might hear some complaints that the signal was not responding to traffic flow. He confirmed that work had begun on St. Peters Road, where they planned to replace cross pipes as well as driveway pipes and were working with Verizon to relocate some of its lines.

He reported on recent plan reviews and permits, as well as bridge painting work. He indicated that paving operations along Interstate 64 was still underway, and that "no parking" signs would be erected at the interchange with Route 106 to help deal with the illegal parking problems at the truck stop.

Mr. Davis spoke about a recent vehicular collision that had occurred at the intersection of Route 273 and Route 30. Mr. Cade advised that they were still working on a traffic study of that intersection, which he hoped to be able to report on next month, but pointed out that the recent collision had resulted from one of the drivers failing to stop at the stop sign.

There was discussion regarding the use of rumble strips. Mr. Cade indicated rumble strips could be helpful where speed was an issue, and usually lasted six to seven years before needing replacement. Mr. Davis commented that the rumble strips at the intersection of Routes 249/33/30 needed to be replaced.

Mr. Cade advised that they were waiting for the contractor to install pavement markings in Eltham where some repaving work had taken place.

Regarding work on South Waterside Drive, he reported that they were still waiting on permits.

Mr. Stiers asked about a bridge that remained closed in Barhamsville. Mr. Cade explained that the damage to the dam that closed the bridge was in James City County and it was his information that the Attorney General's Office was working with James City and the Hampton Roads District Office to resolve the issue with Stonehouse, the owner of the dam. It was confirmed that the bridge, which connected New Kent and James City counties, had been out since September or October of 2011. Mr. Cade indicated that VDOT was responsible for maintenance of the bridge above the substructure and the maintenance of the bridge below the substructure was the responsibility of the dam owner. He suggested that constituents concerned about the bridge still being out should contact their legislators; however, he cautioned that there have been some instances where dams had never been repaired and bridges reopened.

Mr. Tiller reported pavement problems on Route 60 near the Henrico County line. Mr. Cade advised that he would check those problems, which he felt resulted from recent high temperatures.

Mr. Evelyn commented that he was glad to see work being done on St. Peters and Mr. Cade apologized that it had taken so long to get started.

Mr. Evelyn reported some drainage problems in the area of Routes 612 and 249, which Mr. Cade agreed to look into.

Mr. Burrell spoke about the interstate paving work and asked that when an exit was closed, motorists be given ample notice so that they could use a prior exit, noting that the closing of the West Point exit on multiple occasions had caused his constituents some detour problems. Mr. Cade advised that the Richmond District was working with the Hampton Roads District to improve the signage relating to these closures.

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IN RE: CITIZENS COMMENT PERIOD, PART 1

Chairman Burrell opened the Citizens Comment Period.

Charles Moss, Chairman of the Electoral Board, asked the Board for a "loan" of \$5,820 to purchase voting equipment. He explained that they had \$15,000 in the FY13 budget, \$10,000 of which they planned to use to purchase M100 voting machines for both precincts in District 4. He advised that would only leave the two precincts in District 2 with the old touch screen equipment. He indicated that they had \$5,000 to purchase equipment for one of the District 2 precincts but in order to have the same equipment in both precincts, they would need additional funds. He reported that they had received information from the State Board of Elections that New Kent would be reimbursed \$5,000 for this purchase, and thereafter all voting precincts would have the same equipment.

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

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IN RE: FUNDING FOR VOTING EQUIPMENT

The Board discussed the request brought up by Mr. Moss during Citizen Comment Period.

Mr. Moss explained that the County had already purchased the AutoMARK equipment for all of the precincts, and the proposed purchase would complete the upgrade of equipment at all of the voting precincts. He indicated that the equipment was available and could be installed before the November election; however, it would require approval from the Department of Justice, which required 60 days.

He indicated that he did not know how long it would take to get reimbursement from the State Board of Elections, but they did receive a similar reimbursement in FY12 that had "gone back to the County". He confirmed that should the Board provide these funds, the Electoral Board would not ask for any funds for equipment purchases in the FY14 budget.

Mr. Hathaway advised that if the Board wanted more information, he would be happy to work with Mr. Moss and have a proposal at the Board's September meeting; however, it was pointed out that a decision in September would not provide the 60-days' notice needed for the Department of Justice.

There was discussion regarding the old voting equipment. Mr. Moss advised that the equipment did have some value and could be sold for parts.

He also confirmed that, as in the past, demonstrations of the new voting equipment would be scheduled in the affected districts at any place that the Board might want them.

Mr. Davis moved to appropriate \$5,820 from General Fund contingency for the Electoral Board to purchase M100s so that the same voting machines would be in every precinct. 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.

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IN RE:           CITIZENS COMMENT PERIOD, PART 2

At Mr. Stiers' request, the Citizens Comment Period was reopened to allow for comments from one of his constituents.

Don Fowler of Oakmont Villas complained about problems with the roads in his neighborhood. He noted that the development would soon be five years old, and there were already problems with the roads in Phases 1 and 2, which were public roads, and the roads for Phases 3 and 4 had not yet been taken into the state system for maintenance. He talked about how the poor condition of the roads affected their quality of life, home values, and opportunities to sell their homes. He indicated that over the past two years, the developer, Shawn Weingast, had been requested on several occasions to begin the process to have the roads brought into the State system but had refused to do so. He reported that 85% of the development had been completed, with homes built on 162 of the 192 lots, and he felt Oakmont Villas deserved to have decent roads that were maintained by the State. He asked the Board to use its influence and authority to correct the situation.

Mr. Cade confirmed that Sections 1 and 2 had been accepted into the State system; however, the developer was responsible for maintenance for one year after acceptance. He advised that he would check their records to see how long it had been. He indicated that Sections 3 and 4 still had "punch list items" that had been discussed with the developer and needed to be addressed before the roads would be accepted. He added that there were bonds held by the State that could be used to make repairs to the roads in the sections that had been brought into the system; however, those bonds could not be used on the sections that had not yet been accepted.

Mr. Hathaway advised that the roads not yet accepted were bonded by the County and he would check on those.

It was confirmed that this was an issue between the developer and VDOT and that the Board had no authority.

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IN RE: HISTORIC SCHOOL & SOUTH BUILDING RENOVATION PROJECT, PHASE I

Before the Board for consideration was a request to proceed with the unsolicited Public Private Education Act (PPEA) proposal from Marengo Management Corporation for renovations of a portion of the Historic School campus.

Acting County Administrator Rodney Hathaway explained that, as required, notice had been posted of the receipt of the PPEA proposal and that the 45-day period had expired with no competing proposals having been received. He asked that staff be given authority to proceed to the next phase, the detailed review phase, and begin working with Marengo Management Corporation to fine-tune the drawings and work out details of a contract that would be brought back to the Board for public hearing. He reminded that a contract could not be entered into until 30 days after public hearing, and it was his goal to have a detailed plan before the Board at its next meeting.

Mr. Evelyn moved that the Board of Supervisors found that the unsolicited PPEA proposal from Marengo Management Corporation for renovations of the South Building and Courtyard on the Historic School Campus (Phase I) fulfilled a public need and benefit to be derived from the project, its cost was reasonable and it would result in timely delivery, furthermore, the proposal was likely to be fiscally advantageous because of the scope, complexity and risk sharing of the project, and the Board directed the Acting County Administrator to proceed with the detailed phase of the PPEA review process as established by the County's PPEA policy with Marengo Management Corporation. 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.

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IN RE: ELECTED OFFICIALS' REPORTS

Mr. Stiers reported that he had met with the chief pharmacist at Rite Aid in Providence Forge who had asked to partner with the County to administer flu shots to County employees at the work sites and would take care of direct billing to the insurance carrier.

Ms. Gowdy suggested that the County should check with its insurance carrier first, but she felt that it was a "nice gesture".

Mr. Davis reminded residents that they were eligible for free prescription cards through the National Association of Counties for discounts, and also spoke about the importance of preparing for the upcoming hurricane season.

Mr. Burrell advised that he was still working with staff on how to increase savings on recycling of corrugated cardboard.

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IN RE: STAFF REPORTS

Mr. Hathaway reported that the Richmond Regional Planning District Commission would begin work on the region's legislative agenda for 2013 and asked that the Board advise him of any issues that they would like included. He indicated that he would also start working on the County's legislative agenda and Board members suggested that the process be done earlier than in previous years.

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IN RE: REGIONAL TECHNICAL SCHOOL

Before the Board for consideration was a lease between the County and Bridging Communities Regional Career and Technical Center.

County Attorney Michele Gowdy explained that the proposed lease had recently been approved by the New Kent School Board and she asked that the Board authorize the Acting County Administrator to execute the document so that it would be in place prior to the opening of school.

Mr. Hathaway confirmed that the Technical Center was still scheduled to open on time.

Mr. Davis asked if the ISTE grant for the sidewalk project could be amended to allow additional parking. Mr. Hathaway advised that he had contacted VDOT about amending the scope of the grant, but there was a question as to whether it could be amended at this stage of the project.

Mr. Davis moved to authorize the Acting County Administrator to execute the necessary documents for the lease with Bridging Communities Regional Career and Technical Center. 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.

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IN RE: DISTRICT APPOINTMENTS

There were none.

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IN RE: NON-DISTRICT APPOINTMENTS

Mr. Burrell moved to appoint David Bednarczyk as New Kent's alternate representative to the Central Virginia Waste Management Authority Board of Directors, to complete a term ending December 31, 2014.

Mr. Burrell moved to appoint Kenneth Vaughan as a New Kent voting alternate to the Metropolitan Planning Organization to complete a term ending December 31, 2015.

Mr. Evelyn moved to appoint Kelli Le Duc as New Kent's representative to the STIR Advisory Board to serve a term ending December 31, 2012.

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 motions carried.

The Board took a short recess and reconvened at 7 p.m. for a public hearing.

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IN RE: ROCK CREEK VILLAS PLANNED UNIT DEVELOPMENT

Before the Board for consideration was Ordinance O-09-12, approving an application to amend the Rock Creek Villas Planned Unit Development (PUD) ordinance.

Planning Manager Kelli Le Duc explained that the application requested two amendments, the first being to allow construction of detached single family dwellings, and the second being a language change required by changes in State law regarding when cash proffers were to be paid. She confirmed that the amendments would have no impacts and had been sent with a favorable recommendation from the Planning Commission on a vote of 9:0:1.

The Chairman opened the Public Hearing. There being no one signed up to speak, the Public Hearing was closed.

Mr. Evelyn noted that the only change was to allow detached homes, with the total number of units and proffers remaining the same, but asked about a previously requested amendment regarding the recreation facilities. Ms. Le Duc advised that request had been eliminated at the time of the Planning Commission public hearing.

There was a discussion about the change in State law regarding payment of cash proffers, and Mr. Davis asked if there were any other PUDs that needed to be amended in order to comply. Ms. Gowdy reported that the Board had adopted a resolution that changed the County's policy and it was her position that the resolution was sufficient to manage when collection occurred.

Mr. Davis moved to adopt Ordinance O-09-12, which changed the Rock Creek Villas PUD. 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.

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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 September 10, 2012, in the Boardroom of the County Administration Building, New Kent, Virginia, and reminded that the August 29, 2012 work session had been canceled.

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IN RE: CLOSED SESSION

Mr. Davis moved to go into Closed Session pursuant to Section 2.2-3711A.1 of the Code of Virginia for discussions regarding prospective candidates for employment; pursuant to Section 2.2-3711A.3 of the Code of Virginia for discussion or consideration of the acquisition of real property for a public purpose; and pursuant to Section 2.2-3711A.7 of the Code of Virginia for consultation with legal counsel and briefings by staff members or consultants pertaining to actual or probable litigation where such consultation or briefing in open meeting would adversely affect the negotiating or litigating posture of the public body and consultation with legal counsel employed or retained by the Board regarding specific legal matters requiring the provision of legal advice by such counsel. 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. Tiller 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. Tiller 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:

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

The motion carried.

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IN RE:           ADJOURNMENT

Mr. Davis moved to adjourn the meeting. 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.

The meeting was adjourned at 8:06 p.m.