

THE REGULAR WORK SESSION OF THE NEW KENT COUNTY BOARD OF SUPERVISORS WAS HELD ON THE 27TH DAY OF MAY IN THE YEAR TWO THOUSAND NINE OF OUR LORD IN THE BOARDROOM OF THE COUNTY ADMINISTRATION BUILDING IN NEW KENT, VIRGINIA, AT 3:00 P.M., FOLLOWING A 2:00 P.M. DEDICATION OF THE NEW HEALTH AND HUMAN SERVICES BUILDING.

IN RE: CALL TO ORDER

Chairman Davis 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.

Mr. Trout announced that he had an item about a high speed rail project to review with the Board and Chairman Davis advised that it could be added at the end of the agenda.

IN RE: COMPREHENSIVE PLAN UPDATE

Planner Kelli Le Duc and Community Development Director George Homewood reviewed a summary of items proposed to be performed in connection with a planned "low intensity" review and update of the County's Comprehensive Plan ("Plan"), and solicited feedback from the Board as to whether it wanted a more intense review. It was explained that the Board had the authority to amend the Plan at any time, but must review and update it at least every five years.

There were questions raised about sewer service areas. Mr. Homewood explained that the sewer service areas were fairly consistent with the Plan and as developments had been approved with public water and sewer, the Plan had been updated. He indicated that there would also be updates made to the 28 maps in the Plan, some of which would result from improved base mapping abilities as well as updates in data.

Mr. Trout noted that since the Plan had been adopted, the County had established designated public utility service areas and made amendments to the zoning map, which had resulted in some residentially-zoned properties that were outside of the designated utility service areas. He expressed his concern that the designations of those properties might need to be amended.

There was discussion regarding the updated floodplain maps and those properties that should have been included but were not. Mr. Homewood advised that there were options whereby a homeowner could apply to change his property's floodplain designation; however, all of those options would require engineering studies ordered and paid for by the property owner and, in his experience, few landowners would want to pay for a study that would determine that their property was in a floodplain because it would ultimately cost them more money.

Mr. Sparks asked about a timeframe for a draft update. Mr. Homewood advised that staff had or would soon have most of the data needed and public participation was the element that determined the timeline, but he felt it was realistic to anticipate having a draft available by the end of 2009 in a form to be taken to the public. It was reported that the Green Infrastructure Project would be completed and results received by the end of July.

Mr. Davis stated that he felt that the Plan was in pretty good shape and a low intensity review was all that was needed. Mr. Sparks agreed.

It was confirmed that there would be public hearings before both the Planning Commission and the Board of Supervisors, and Mr. Homewood also suggested a community public meeting separate from the hearing process. Mr. Davis stated that with the limited level of review, he did not anticipate too much feedback from the public.

Following additional discussion regarding the timeline, Mr. Homewood advised that staff should be able to have a draft for review by the Board by October 1. There was consensus among the Board members once the draft was received and reviewed, it could be decided how much public participation would be needed.

Mr. Summers advised that zoning was how the Board implemented its Plan and he reminded that it had just adopted a major zoning change in the past year. He indicated that the Board would be receiving a recommendation from the ZORC on Urban Transportation Areas (UTAs) this summer. He stated that the Board just now had the tools in place and could see that they worked, but he wanted them to be aware that there would likely be some citizens who would want to change the Plan in order to change the zoning.

Mr. Homewood clarified that changes would include the removal of some of the implementation strategies that had been completed.

He confirmed that the issue of water availability would have the largest impact on the Plan. Mr. Budesky commented that it had to be clear that the County did not control allocation of water resources. He reminded that the County had committed to a water study to determine future resources, which had to be completed by the end of 2010, and also some revisions were needed to Chapter 38 of the County Code. He noted that some of the agreements previously entered into by the County had not anticipated the shortage of water. Mr. Homewood indicated that the updated Plan would reflect that the County was aware of the water issue.

All of the Board members were in agreement with staff's suggestions for a limited review but emphasized that they wanted to see a draft before any public hearings were scheduled. Mr. Homewood advised that drafts would be contemporaneously provided to the members of the Planning Commission and Board of Supervisors. Mr. Evelyn asked that changes be clearly marked for everyone's convenience.

IN RE: PROPOSED AMENDMENT TO THE FARMS OF NEW KENT PLANNED UNIT
 DEVELOPMENT ORDINANCE

Mr. Homewood indicated that a request had been received from the developers of the Farms of New Kent Planned Unit Development (PUD) to amend the PUD ordinance.

Developer Pete Johns advised that the owners of Mirbeau Spa & County Inn of Skaneateles, New York were planning a similar upscale resort in New Kent. He reported that the New York resort had a four-star rating for the spa, inn and restaurant. He indicated that the

planned project in New Kent would consist of a 70,000 square foot building (to be later expanded to 90,000 square feet) on ten acres near the Winery, and he briefly reviewed the plans and amenities that were anticipated, which included a spa area of 20 – 25 rooms, overnight accommodations of 62 rooms (with a later expansion up to 75 rooms), and a bar, bistro and café with general public access. He mentioned accommodations could include some cottages and boathouses on the lake.

It was noted that the current PUD ordinance permitted only 75 rooms in Land Bay I and the current request would expand that maximum to 150 rooms to allow for 75 rooms at the Mirbeau project. He indicated that the currently approved rooms were for those planned in connection with a swim & racket club and golf academy, as well as others scattered throughout the project.

Mr. Johns advised that it was the owners' plan to open the resort in 2011 as it would take around 16 to 18 months to build. He indicated that the New York resort had 45 rooms and an 86% occupancy rate, despite having 156" of snow each year. He reported that they intended to keep that resort open, and were looking in other areas as well for potential sites. He noted that the radius of the proposed New Kent site included the Washington D.C. area as well as Hampton Roads.

He advised that the owners would be making a more detailed presentation to the Board at its June 8 meeting. He confirmed that the application had received a positive recommendation from the Planning Commission and it was his information that Mirbeau owners would be working with local regional banks for financing of 60% of the project. He indicated that he was very optimistic that the project would move forward. He commented that he felt the Board would be impressed with the project and it would be a nice addition to the County and would bring in some much needed accommodations, fine dining, and revenue.

Mr. Budesky noted that there were two other proposed changes in the ordinance dealing with different matters. The first was to permit two more dwelling units in Land Bay II for a Harrison family subdivision involving property that was recently removed from the AFD program for that same purpose. The other was a request from staff to change the way that the proffers were calculated from monthly to annually so that they were consistent with proffer calculation methods in other developments.

Mr. Davis noted that the proposed change did not limit the size of the parcels for the family subdivision. Following discussion, Board members requested that the language be amended to limit the lots to five acres each. Mr. Johns advised that there should be no problem with that change.

Mr. Trout congratulated Mr. Johns on the recent Chamber of Commerce wine festival. Mr. Johns reported attendance had been around 6,200.

IN RE: PROTECTING OPEN SPACE IN CLUSTER SUBDIVISIONS

Distributing various handouts, Mr. Homewood reviewed that New Kent had a provision in its subdivision ordinance for clustering, whereby a developer would have the option to put the maximum density for the entire parcel on a smaller portion (50% or less) of the whole and preserve the remainder in permanent open space and, as a result, save infrastructure costs and receive a density bonus. He recounted that during discussions in 2003 – 2004 prior to the ordinance being adopted by the Board in 2005, there had been a decision that in agriculturally-zoned property, should a farmer want to, he would be able to continue to farm

the open space area, thereby protecting and preserving prime agricultural soils and developing on the poorer soils. He indicated that since then, the State had required localities to have cluster subdivisions, applicable to a minimum of 40% of the County's unimproved land contained in residential and agricultural zoning classifications.

He reported that in situations where there was no farming involved, then staff had been suggesting that the open space be held as common area by a homeowners association or similar entity in a perpetual conservation easement; however, a situation had recently arisen where the property owner wanted to continue to hold the open space. He indicated that the Planning Commission, for the first time, was asked to approve how the open space would be maintained. He stated that although staff suggested that there needed to be a permanent conservation easement placed on it, New Kent's ordinance did not specifically require that and the Planning Commission ended up approving an agreement for a 99-year deed restriction. He advised that as a result, staff wanted to determine what the Board wanted so that future issues could be more clearly and consistently addressed and developers would know what was required. He advised that if it was the Board's preference that it wanted to use permanent conservation easements, then staff would move forward to change the ordinance.

Mr. Summers confirmed that, at present, the County's ordinance did not require a conservation easement and although staff could continue to suggest that mechanism, it was not clear to landowners what control mechanism they were expected to use and for how long. He added that although the Planning Commission had approved the 99-year deed restriction, the problem would be enforcement and it would be up to staff to keep track.

Mr. Homewood advised that conservation easements were generally held by either a locality, a 501(c)(3) corporation, a legal land conservation group, or the Commonwealth of Virginia. He indicated that according to the Virginia Open Space and Conservation Easement Act, if someone held an easement and went out of business, then ownership of the easement would revert to the Virginia Outdoors Fund, but he did not know if that had ever happened.

He indicated that the easement holder had the responsibility to inspect the easement annually to make sure it was still being maintained as required.

Mr. Budesky clarified that staff was not asking the Board to make any decision at this time but to render some guidance as to whether conservation easements were the tools that the Board wanted to use. He indicated that State Code gave that authority to localities in 2006, but New Kent's ordinance was adopted in 2005 and was silent on the issue and staff felt that it would be better for everyone if it was clear.

Mr. Homewood distributed information regarding methods used in other localities. There was discussion regarding the tax rates for property placed in conservation easements and it was recognized that information would best come from the Commissioner of the Revenue. The Board was reminded that the issue was only open space in cluster subdivisions, which was an option open to a developer.

Mr. Davis stated that he would prefer something other than a deed restriction.

Following further discussion, it was agreed that staff would work up a recommendation to bring back to the Board for consideration at a future work session and eventual public hearing to amend the ordinance.

IN RE: MOUNT PLEASANT ROAD

Mr. Davis recounted the problems with paving the remainder of Mount Pleasant Road, which even though the project had worked its way up on the Secondary System Six Year Plan (SSSYP), it still remained unfunded. Mr. Homewood advised that the Virginia Department of Transportation (VDOT) had, in late 2008, provided an estimate to pave the remaining section under the Rural Rustic Road program and although the figures might have slightly fluctuated, the Residency Administrator had advised that the estimate was still accurate and should not exceed \$150,000.

Mr. Budesky reminded that the Board had recently used the funds that were previously in the Revenue Sharing budget to pay off debt, but there were sufficient funds in the FY09 contingency account with which to pay the one-half match that would be required. Board members were reminded that as a part of the requirements to designate a road as Rural Rustic, the Board would represent that for ten years it would not approve any development that would increase traffic volume on the road. There was discussion regarding Wingspread Partners who owned a substantial amount of property in the area and staff reported that the landowner had only talked about plans in general but had not submitted anything to the County.

There was also discussion regarding the improper use by Brickshire residents of the emergency gate that led onto Mount Pleasant Road. It was confirmed that the responsibility for the gate remained with the Brickshire homeowners association and not the County.

The Board took a break and then resumed its meeting at 4:30 p.m.

IN RE: HISTORIC DESIGNATION FOR COURTHOUSE AREA

Mr. Trout updated the Board on an application he was preparing to submit to request federal and state historical designation for property in the Courthouse area.

He explained that the process had been initiated three years earlier by property owner John Crump and Mr. Trout had thereafter assumed responsibility for the process, working with the Historic Commission. He indicated that he had completed the application and planned to submit it to the Department of Historic Resources (DHR) on the following day.

He advised that the application was from the district and not from any individual, the County, or the Historic Commission. He explained that once DHR received the application and found it acceptable, it would contact all of the owners of land in the proposed district, as well as adjacent property owners, to determine support for the application. He indicated that approval of the application would require the support of a majority of the property owners.

He advised that federal and state historic designations had no effect on any zoning designations, were honorary only, and would not require anything of the property owners or restrict them in any way. He explained that should a landowner in such a district want to restore his property, then he might be eligible for tax credits for work done and there might be some possibility of federal grant funds.

He clarified that there was no action required by the Board of Supervisors and he was merely informing them about the process.

It was confirmed that the historic school property already had an historic designation. School Board member Terri Lindsay explained that the designation was on the event and not the building itself, for both the historic school and George Watkins Elementary.

Mr. Trout advised that neither the building currently housing the Commonwealth's Attorney nor the County Administration building had been included in the application.

There was discussion regarding who the applicant was. Mr. Trout explained that it was the proposed district itself. He again clarified that the designation would be solely honorary, and the property owners would not be required to open their buildings to the public, to maintain them in any particular way, or be restricted from changing or demolishing any structures. He did report that not all of the property owners supported the application, but that it only took a majority for it to be approved.

Mr. Budesky indicated that he had asked Mr. Trout to explain this process to the Board because he felt that with Mr. Trout submitting the application, there may well be a perception that it was done with Board and County support.

Mr. Davis stated that he did not think it was a good idea if everyone affected was not in agreement, and it wasn't right to put them into a position where they had to take some kind of action in order to be excluded.

Mr. Evelyn asked why one of the property owners couldn't be the one to file the application.

Mr. Trout explained that most applications were filed by consultants hired by property owners interested in having the designation. He did agree that this was unusual but reminded that if a property owner did not support the designation, then they should file an objection with DHR.

Mr. Summers spoke about his concerns about potential conflicts. He noted that the sketch map that was being submitted with the application contained the County seal. Mr. Trout stated that he obtained the map from the County's GIS which was available to the general public, and he had printed the map from his home computer.

There was discussion regarding feedback from several of the landowners in the potential district.

Mr. Budesky stated that he did not want Mr. Trout to move forward without talking with the Board because there might be the perception that the County was putting restrictions on the affected parcels. Mr. Davis stated that his concern was for the property owners who were not "on board" and might have to spend money not to be in the District.

Mr. Evelyn agreed that there would be the perception that the County filed the application.

It was again clarified that the Board and County had no role in the process, and that Mr. Trout was filing the application on his own.

IN RE: HISTORIC SCHOOL PROPERTY

Mr. Summers updated the Board on the status of the deed conveying the historic school property from the School Board to the County. He advised that the School Board had voted to declare the school property as surplus and that the deed should be completed

within the next week or two. He confirmed that the allocation agreement had been executed and all that was left to do was to formally transfer the title.

Mr. Budesky noted that the only space in the historic school property that the County was actively using was the gym facilities. He indicated that the School System would be using the computer lab space for testing through June 5.

He pointed out that the County was now paying rent on only four spaces - - the Vaiden House for School Board offices, Judge Hoover's property for the Commonwealth's Attorney, space for the Heritage Library, and property in Providence Forge for the Cooperative Extension Office. He indicated that the lease for the Extension Office would expire in July 2009 (\$18,000 per year) and staff was proposing that those offices be relocated to the computer lab space in the historic school property. He indicated that the building, which consisted of four computer rooms, could be renovated for use as office space for Extension, as well as for other uses. He reported that New Kent had been approached by Court Services who was interested in space for a regional office for two staff members. He advised that he and General Services Jim Tacosa had been negotiating with them about their needs, and Mr. Summers had reviewed a proposed lease.

Mr. Budesky proposed that the rent to be received from Court Services and rent savings from the Cooperative Extension could be used to renovate half of the building, and there would be a break-even point within two years. He advised that this opportunity would enable the Extension Office to move back onto the County campus and would not only provide rental revenue but would also result in space for additional offices and/or meeting rooms.

There was consensus to move forward with the recommendation.

IN RE: AFFORDABLE HOUSING ADVISORY COMMITTEE CHARTER AMENDMENT

Mr. Summers advised that the deadlines set forth in the charter for the Affordable Housing Advisory Committee were fast approaching and because of the delay in making appointments, it was staff's suggestion that the Charter be amended to shift all of the deadlines forward by six months. There was consensus among the Board members to consider an amendment to the Charter as part of an upcoming Consent Agenda.

IN RE: COMMUNITY POLICY MANAGEMENT TEAM

The Board members were briefed on an upcoming consent agenda item to change its Community Policy Management Team (CPMT), the group charged with coordinating agency efforts to manage available funds from the State Pool Fund and ensure that eligible youths receive access to services under the Comprehensive Services Act.

Assistant County Administrator Bill Whitley reviewed that when the Comprehensive Services Act of 1992 was first adopted, all localities were required to administer a CPMT and at that time New Kent chose to set that up jointly with Charles City County. He advised that staff felt that it was time to dissolve that partnership and create a distinct New Kent CPMT. He added that with the relocation of the Social Services office from Providence Forge to the Courthouse area, it made more sense to split the groups and hold meetings in the Courthouse area. He reported that the change had been initiated by New Kent and Charles City County was aware of the suggestion but had not expressed any objection.

He explained that a Resolution making the change effective July 1, 2009, would be included on the Board's next Consent Agenda.

Mr. Whitley confirmed that, as required by the Code, the Board included representatives from the School Board, Health Department, Court Services, Social Services, Financial Services, Administration, and currently had 10 people from New Kent and five from Charles City. He indicated that the change would not require New Kent to increase the size of its Team, and there would be no financial impact and no change in any staff duties. He indicated that it was merely a matter of control and although there were no implications that there had been any difficulty, staff felt that a New Kent Team should be the ones responsible for the approximate \$1 million spent on New Kent cases.

Board members commented that it seemed to be a logical change and there was consensus that it be included on the next Consent Agenda.

IN RE: SEWER LINE BREAK

Mr. Whitley reported on a recent sewer line break. He advised that staff had noticed a reduction in flow and while walking the easement, found the break approximately 250 yards west of Airport Road along I-64. He indicated that the contractor was on site and repairs were expected to be completed before the end of the day. He reported that the Bottoms Bridge pump station had been shut down and staff was running pump and haul to the Talleyville pump station to minimize any damages.

He indicated that lime had been spread to control any odor and there were no nearby residences. He advised that, as required with any leak, DEQ had been notified but there were no fines expected. He confirmed that customers should not notice any change in their service.

IN RE: NON-DISTRICT APPOINTMENTS

Mr. Trout noted that the Planning Commission had recommended an individual to be appointed as the Planning Commission's representative to the Richmond Regional Planning District Commission, to fill the position of the late Brenda "Sam" Snyder, and suggested that the motion be made by Mr. Burrell.

Mr. Burrell moved to appoint Edward Pollard as New Kent's Planning Commission representative to the Richmond Regional Planning District Commission to complete a term ending December 31, 2009:

The members were polled:

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

The motion carried.

IN RE: REGIONAL HIGH SPEED RAIL PROJECT

Mr. Trout reported that the Capital Regional Collaborative had adopted an \$8 billion high speed rail project and would be asking the localities in the region for a resolution in support of the project. He explained that this would be a high speed connection between the Washington D.C. area and Richmond, and the next leg of an existing system between Boston and the Washington metro area. He indicated that the details and application process had not yet been worked out but he wanted to let the Board know that the request for support would be coming and the project would be good for the area and a boost for tourism.

There was discussion regarding a passenger rail service between Richmond and Hampton Roads that could conceivably pass through and stop in New Kent.

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 June 8, 2009, in the Boardroom of the County Administration Building, New Kent, Virginia.

IN RE: ADJOURNMENT

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

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

The motion carried.

The meeting was adjourned at 5:20 p.m.