

THE REGULAR MEETING OF THE NEW KENT COUNTY BOARD OF SUPERVISORS WAS HELD ON THE 11th DAY OF MARCH IN THE YEAR TWO THOUSAND THIRTEEN IN THE BOARDROOM OF THE COUNTY ADMINISTRATION BUILDING IN NEW KENT, VIRGINIA, AT 6:00 P.M.

IN RE: CALL TO ORDER

Chairman Davis called the meeting to order.

IN RE: INVOCATION AND PLEDGE OF ALLEGIANCE

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

IN RE: ROLL CALL

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| 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. Recognized and welcomed were members of Boy Scout Troop 562 that included Jacob DiLandro, Tyler Isgett, Blake Forsythe, Christopher Wade, Sam DiLandro, Felix Ramirez, Jr., and Evan Morehead. Mr. Evelyn shared that he had recently worked with this "good group of kids" and he and other Board members encouraged and congratulated them on trying to learn about local government.

IN RE: CONSENT AGENDA

The Consent Agenda was presented as follows:

1. Approval of Minutes
 - a. January 28, 2013 work session
 - b. February 11, 2013 business meeting
 - c. February 19, 2013 special joint meeting
2. Miscellaneous
 - a. Consideration of Resolution R-04-13 recognizing April 2013 as National County Government Month
 - b. Acceptance of utility easement in The Oaks, Section 2
 - c. Special Project Service Agreement with Central Virginia Waste Management for solid waste transporting and disposal services
3. Refunds
 - a. \$1,982.35 to James C. Wall III for erroneous assessment
 - b. \$2,972.30 to John E. Hallinan for erroneous assessment
 - c. \$49.50 to Michael & son Services, Inc. for canceled permit
4. FY13 Supplemental Appropriations
 - a. Program income received for FY13 for CDBG Plum Point grant, \$967.36
 - b. Funds received from insurance proceeds, \$3,766.94
 - c. Miscellaneous recovered costs, \$2,982.77
 - d. Donations for the Animal Shelter, \$602.80
 - e. Funds received by Extension from outside sources for sponsorship of programs, \$423.00
 - f. Funds received from vending machine sales for Employee holiday parties, \$426.98

g. Honor Guard donations, \$150.00

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| \$ 9,319.85 | Total |
| \$(9,319.85) | Total In/Out |

5. Interdepartmental Budget Transfers
 - a. *Circuit Court Clerk*: \$6,197.00 from Permanent Records, Professional Services and Books to Overtime, Copy Expenditures, Postage, and Office Supplies
 - b. *General Services*: \$3,500 from Electric Service to Salaries & Wages
6. Treasurer's Report: Cash as of January 2013: \$42,154,745.58

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

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

The motion carried.

IN RE: VIRGINIA DEPARTMENT OF TRANSPORTATION (VDOT) – RESIDENCY
ADMINISTRATOR'S REPORT

David Christoph from VDOT reported on road issues in New Kent on behalf of Mike Cade, Residency Administrator.

He reviewed maintenance activities during the past month that included asphalt patching, routine sign maintenance, maintaining non-hard surface roads, litter pickup, tree removals, ditch cleaning operations, and snow removal. He advised that maintenance during the next month would include continuing pothole repairs, monitoring of non-hard surfaced roads, shoulder repairs/improvements, sign maintenance, tree and debris removal, and inmate crew litter pickup. He indicated that weather had slowed down work on South Waterside Drive/Route 627 at Fanny's Creek, but noted that the footings were in place, and reported that bridge work at the Interstate 64/Route 33 interchange had been completed.

Mr. Burrell expressed his appreciation for the consistently prompt responses to his requests, and talked about the number of potholes around the County.

Mr. Tiller advised that he had called VDOT to report complaints he'd received about the timing of the traffic signal at Route 60/Route 106.

Mr. Evelyn remarked about the condition of some of the non-hard surfaced roads and how they needed attention once the weather permitted.

Mr. Stiers commended VDOT staff for its response to the recent snowstorm.

Mr. Davis spoke about problems on Stage Road near its intersection with Homestead Road. Mr. Burrell reminded that the Board had asked Mr. Cade to provide an estimate on surfacing the remainder of Stage Road under the Rural Rustic Road program. There was discussion regarding whether or not any of those funds were available and Mr. Christoph advised he would check with Mr. Cade on the status of that request.

Mr. Davis reported that he and Mr. Burrell had joined New Kent's representative on the Commonwealth Transportation Board for a recent tour of roads in the County.

IN RE: CITIZENS COMMENT PERIOD

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

IN RE: GOVERNMENT FINANCE OFFICERS ASSOCIATION AWARDS

Clarence Daniel, Henrico County Accounting Division Director and Past President of the State Government Finance Officers Association (GFOA) was in attendance to present to New Kent County the GFOA Distinguished Budget Presentation award for FY13 and Certificate of Achievement for Excellence in Reporting for FY11.

Mr. Daniel noted that this was New Kent's first Distinguished Budget Presentation award and the eighth consecutive Certificate of Achievement for Excellence in Reporting, and referred to both as being very prestigious. He explained that applications for these awards were rigorously reviewed by a panel of government accounting officials, and how receiving these awards reflected professionalism, a good knowledge of accounting, hard work and good financial statements. He remarked that New Kent had created an example for other localities in the State of Virginia and the nation. He then presented the awards to Finance Director Mary Altemus and Assistant Finance Director Larry Clark.

Board members voiced their congratulations to staff and expressed their appreciation for these accomplishments.

Ms. Altemus remarked that she was honored to accept the awards on behalf of New Kent and credited her staff. She thanked Mr. Clark for his hard work in making the budget award "a reality" for the County.

IN RE: NEW KENT SHERIFF'S OFFICE

Suzanne Robinson, Director of Finance for the Virginia Chiefs of Police Association, presented Law Enforcement Challenge awards to the New Kent Sheriff's Office, which included first place in the State and second place in the nation, as well as the Community Outreach Award for Child Passenger Safety from the Virginia Department of Health.

Sheriff F. W. Howard, Jr. and Sgt. Lee Bailey were present to accept the awards. Sgt. Bailey commented that these awards were the result of a group effort, with "exceptional leadership from the top" and he thanked Sheriff Howard for his support. Sheriff Howard remarked that Sgt. Bailey headed up their highway safety program and if not for his leadership, the Sheriff's Office would not be so fortunate.

Sheriff Howard then introduced new part time communications officers, Stephanie Mays and Ryan Hargan, and two new patrol officers, Stewart Meredith and Michael DiSanto.

Sheriff Howard then presented his Annual Report, elaborating on some of the 2012 statistics. He noted an increase of 28.3% in the number of criminal warrants served, a 45.8% increase in the number of jury summons served, and a 33.3% increase in levies served.

He advised that although the number of instances of residential breaking and entering had increased, his office had solved 88% of those cases, which he attributed to staff's hard work and new technology in the collection of physical evidence. He also credited the Neighborhood Watch programs, advising that several crimes had been solved because residents had reported suspicious activities.

Mr. Davis asked how many of the 33,786 calls for service fielded by the Sheriff's dispatchers originated from Interstate 64. Sheriff Howard did not have that information with him but advised that he would obtain and provide it.

Mr. Stiers commented about the recent lack of inmates available for litter pickup and asked about the possibility of requesting Judge Hoover to include that as a part of sentencing. Sheriff Howard advised that he could ask the Judge about it, but explained that inmates had to meet stringent criteria in able to participate, and although his office was asked to weigh in on proposed participants, the final decision was made by the Henrico County Sheriff and his staff.

IN RE: LEASE REVENUE BONDS, SERIES 2006 REFINANCING OPPORTUNITY

David Gagliardi, Assistant Vice President with Davenport Public Finance, reviewed with the Board an opportunity to participate in an anticipated refunding involving Economic Development Authority's Lease Revenue Bonds, Series 2006 through the Virginia Resources Authority (VRA).

He recounted that the Series 2006 bonds were issued through the Economic Development Authority for some school and government projects, and based on current market conditions, some of those bonds could be refunded for a savings of approximately 4.1%, which was above the 3% rule-of-thumb threshold.

He explained that because those bonds were not callable until February 1, 2017, the County would have to fund an escrow account to pay the debt service through the call date and the principal amount to be called on that date; however, because of the low yields currently available on escrow securities, the refunding would include \$1.4 million of negative arbitrage. He indicated that the County's savings could increase by waiting to call the bonds until the County could purchase a more efficient escrow or wait until the call date on the bonds. He warned that a future increase in interest rates could diminish or eliminate any debt service savings, and to help the County evaluate its options, Davenport had estimated the amount that interest rates could increase for the County to realize approximately \$1.1 million in debt service savings, equal to the amount of saving produced in the current market. Those three scenarios included closing on November 2013, May 2014, and November 2014.

He reviewed the 25-Bond Revenue Bond Index, an estimate of the yield compiled using an index of revenue bonds maturing in 30 years, but reminded that no one could predict where interest rates would go.

Regarding collateral, he advised that the Series 2006 bonds were secured by the new high school, and since that facility would continue to secure the un-refunded bonds, the refunding would require additional collateral. He reported that three properties had been identified as being able to be used in some combination – the Courthouse, the Sheriff's Annex, and George Watkins Elementary School - as none of them were currently encumbered nor were they scheduled for any needed renovations in the near future.

He indicated that he would be introducing this opportunity to the School Board at its upcoming meeting and in order to proceed would need a resolution from the Board at its March 27 work session and from the School Board at its April 8 meeting, with VRA pricing taking place on May 7 and 8, and closing on May 22.

Board members asked what happened if one Board approved the refunding and the other did not. Jesse Bausch, bond counsel from Sands Anderson, advised that if the School Board did not approve, then the refunding could not move forward since it was contingent on collateral and had to meet a certain loan-to-value ratio. However, he added that VRA was flexible and would let the County substitute collateral "down the road" if needed.

It was clarified that interest rates would not be locked in until closing. Mr. Gagliardi admitted that rates had moved up in the past week, resulting in a loss of about a quarter of the proposed savings, and that momentum could continue or could reverse. He indicated that the number of bonds to be included in the refunding could change and there would be the flexibility up until the date of closing to include only those that resulted in a 4% savings. He advised that they would work with VRA to set up a minimum threshold and the County would not be committed to the refunding unless the savings met that threshold.

He advised that he would come back to the Board after meeting with the School Board.

IN RE: APPOINTMENTS

There were none.

IN RE: ELECTED OFFICIALS' REPORTS

Mr. Burrell suggested that New Kent look at a rain garden project that one of the other localities was promoting to its residents as a way to manage storm water run-off.

Mr. Tiller reported that he had attended a recent meeting of the Metropolitan Planning Organization and he felt that Virginia residents would "see some big changes in the future" regarding gasoline and sales taxes. Other Board members commented on proposals in the General Assembly to fund transportation.

Mr. Evelyn reported that he had been holding informational meetings at churches in his district to provide information and answer questions about County issues.

Mr. Stiers reported that he had driven around his district with the New Kent VDOT Superintendent to look at areas where there were road issues.

IN RE: STAFF REPORTS

Mr. Hathaway introduced new Human Resources Manager, Jane Bahr.

The meeting was recessed until 7 p.m. when it was called back to order for public hearings.

IN RE: LAND EXCHANGE FOR PARK PROPERTY DEVELOPMENT

Before the Board for consideration was Resolution R-05-13 approving an exchange of land with Southwestern Holdings, Inc. and accepting a proffered parcel from New Kent Farms LLC, for county park development.

County Administrator Rodney Hathaway reviewed that the County currently owned a 100-acre parcel on Criss Cross Road that was deeded to New Kent for development of a park facility. He explained that the topography of the parcel along with some environmental issues had made the development of the parcel as a park an extremely costly venture.

He reported that the County had been approached by Southwestern Holdings with an offer to exchange the 100-acre parcel with a 39-acre parcel on Pine Fork Road, which was adjacent to a 15-acre parcel that was to be proffered to the County for a passive park as part of the rezoning for the Farms of New Kent Planned Unit Development. He indicated that Southwestern Holdings had also offered to pay the difference in appraised values between the two properties in the approximate amount of \$55,700.

He explained that the proposed Deed would also be signed by the Farms of New Kent and would not only convey the 15-acre parcel to the County but would also eliminate the restriction that the 100-acre parcel be developed as a park.

He pointed out that proposed Resolution R-05-13 authorized execution of the deed and also approved the acceptance of the 15-acre parcel proffered by the Farms of New Kent. He indicated that the combined park property, totaling 54 acres, would be more feasible for the development of a park because of its topography, minimal environmentally-sensitive areas, and direct road frontage on a state-maintained road.

Board members asked about the \$55,700 cash payment. Mr. Hathaway explained that an independent appraiser and an independent timber consultant had been hired to assess the values of each parcel, and those values had resulted in the cash offered by Southwestern Holdings. He indicated that those funds would be added to the funds already in the Capital Improvements Plan (CIP) for development of the park.

There was discussion regarding the 100-acre parcel. Mr. Hathaway reported that only about 60 of the 100 acres could be used, but the most significant problem was access, which would require the construction of a bridge because of swamp land.

Mr. Evelyn commented that he felt that a park could be developed on the Pine Fork Road property much quicker than on the 100-acre parcel and he felt the land exchange was a good opportunity for the County.

Mr. Burrell agreed with Mr. Evelyn that the County would be better served to have the Pine Fork Road property.

Mr. Tiller asked if the zoning of the 100-acre parcel would change. Mr. Hathaway advised that its zoning classification would remain *A-1, Agriculture*, and that it was his understanding that Southwestern Holdings had no plans to develop the property.

Mr. Davis noted that the proffered parcel was to be for a "passive park". Ms. Gowdy advised that staff had determined that there would be passive activities available on the whole site, which would satisfy that requirement.

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

Mr. Evelyn moved to adopt Resolution R-05-13 as presented. The members were polled:

C. Thomas Tiller, Jr. Aye

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

The motion carried.

IN RE: PARKING ORDINANCE CHANGES

Before the Board for consideration was Ordinance O-01-13 amending Section 98-902 of the New Kent County Code regarding new parking areas in *Agricultural* and *Conservation* zoning classification.

Mr. Hathaway reviewed that in November 2012, the Board had adopted an initiating resolution asking the Planning Commission to look at changing the standard that required a new business to hard-surface its parking lot. He advised that requirement was currently triggered by 20 or more parking spaces, and the proposal was to increase the trigger to 50 spaces.

He reported that the Planning Commission considered the issue at its January 22 meeting, and voted unanimously to send an unfavorable recommendation to the Board, but did direct staff to look at making the requested change only for agriculturally-zoned properties. He indicated that a revised proposed ordinance amendment was re-presented to the Planning Commission on February 19, and was forwarded with a unanimous favorable recommendation. He advised that proposed Ordinance O-01-13 would change the threshold for paving requirements to 50 or more spaces on properties zoned *Agriculture* or *Conservation*, and all others would remain at 20 spaces.

There were concerns by the Board that this was not what had been requested and discussion on whether the Board could legally act on the request. Ms. Gowdy advised that the Board had asked the Planning Commission to review the parking spaces threshold in the County Code and they looked at it in a more specific way and it was up to the Board to decide if it was happy with the recommendation. She confirmed that there was nothing to keep the Board from proceeding on the Planning Commission's recommendation.

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

There was discussion regarding what kind of impact this would have on new businesses as well as how existing businesses could have developed.

Mr. Stiers remarked that he felt that, in light of the economy, New Kent should do anything it could to attract new businesses and leaving the threshold at 50 for the other zoning classifications was "just one more restriction government is putting on businesses". He said that he did not think that a large business chain would choose to have a graveled lot, but he did not think that a small business should "have to spend money before it even opened" to pave its parking lot. He felt that was a "little overbearing" and he asked the Board to table any action until the next meeting. He advised that in the meantime he would work with County staff to identify businesses that would not have come to New Kent if they had had to pave their parking lots, and he would have some kind of report for the Board on that. He commented that it was everyone's goal to maintain New Kent's "rural character" and asked what was more rural than graveled parking lots.

There was discussion regarding what determined the number of parking spaces. Mr. Hathaway advised that it depended on use, some of which was square footage and the other was occupancy.

Mr. Stiers commented that the parking threshold had been at 50 spaces until 2011 when it was changed to 20 by the former Community Development Director who had "read it in some book". He indicated that there were no environmental benefits from having paved lots and all he was asking was that the Board table its decision until its next meeting as he felt the decision would "affect many businesses to come".

Mr. Stiers moved to table action on Ordinance O-01-13 to approve a text amendment to Section 98-902 of the County's zoning ordinance to allow a study of how this would affect the County.

Ms. Gowdy advised that if there was a substantive change in what had been proposed and advertised, then it would have to go back to the Planning Commission. However, no additional public hearing would be required if they voted on the ordinance changes as currently written.

There was discussion regarding some of the County's existing businesses, and areas of the County that would have been impacted.

Mr. Burrell commented that the Board needed to be careful and "forward-thinking" as graveled lots could be an aesthetic issue that "could hurt the County in the long run". He spoke about smart development and wanting commercial development to be attractive.

Mr. Hathaway reported that according to his conversations with many prospective businesses, the most important thing for them was to know up front what the requirements were so that they could analyze and plan for them before starting their projects.

Mr. Evelyn asked if the study would be done by the next work session. Mr. Hathaway advised that staff could have the information ready by then.

There was discussion regarding whether or not Mr. Stiers' motion needed a date in it. Ms. Gowdy suggested that he could add a date of April 8, but the Board could take it up earlier.

Mr. Stiers amended his motion to table action on Ordinance O-01-13 to approve a text amendment to Section 98-902 of the County's zoning ordinance, to a date no later than April 8, 2013, to allow a study of how this would affect the County. The members were polled:

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

The motion carried.

Mr. Evelyn asked that the study include a list of current businesses that would not have had to pave their lots, so that the Board "could see both sides of it".

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 April 8, 2013, and the next work session at 9:00 a.m. on March 27, 2013, both in the Boardroom of the County Administration Building.

IN RE: CLOSED SESSION

Mr. Tiller moved to go into Closed Session pursuant to Section 2.2-3711A.1 of the Code of Virginia for discussion on assignment, appointment, promotion, performance, demotion, salaries, disciplining of specific public officers, appointees or County employees, and pursuant to Section 2.2-3711A.7 of the Code of Virginia for consultation with legal counsel and briefings by staff members pertaining to actual or probable litigation. The members were polled:

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

The motion carried. Chairman Davis announced that the Board did not anticipate taking any action after the Closed Session. The Board went into Closed Session.

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

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

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

The motion carried.

IN RE: ADJOURNMENT

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

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

The motion carried.

The meeting was adjourned at 7:56 p.m.