

THE REGULAR WORK SESSION OF THE NEW KENT COUNTY BOARD OF SUPERVISORS WAS HELD ON THE 18TH DAY OF NOVEMBER, 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.

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	Absent
Stran L. Trout	Present
W. R. Davis, Jr.	Present

It was reported that Mr. Burrell was participating in Local Climate Action Week in Washington, D.C. and would not be in attendance at the work session.

IN RE: EASEMENT AGREEMENT WITH VERIZON

Public Utilities Director Larry Dame apologized for the late request for consideration of an easement for Verizon to provide service across a different portion of County property at the Parham Landing Wastewater Treatment plant. He advised that the easement documents had just been received and approval of the easement was needed in order for the plant expansion work to continue.

Mr. Trout moved to approve a deed of easement on tax map parcel 27-6F to Verizon Virginia Inc. dated November 9, 2009. The members were polled:

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

The motion carried.

IN RE: MICHAEL HENRY/COOKS MILL LLC - APPLICATION FOR PURCHASE OF DEVELOPMENT RIGHTS

Planner Kelli Le Duc and the applicant, Mr. Michael Henry, were present to review the status of the application for purchase of development rights (PDR). Ms. Le Duc advised that the final appraisal report was still outstanding but she distributed some appraisal information that had been received, which included the following:

- "As is", sales approach, \$625,000 (subdivision potential assumed 5 – 12 lots)
- "As is", development approach 1 (12 lots) \$725,000
- "As is", development approach 2 (5 lots) \$625,000
- "As encumbered", sales approach, 1 lot, \$250,000

She advised that it had been suggested that a value of \$650,000 "as is" was reasonable, and taking into account the \$250,000 "as encumbered" value, the final value of the development rights easement would be \$400,000. Mr. Trout asked if the value took into consideration the cost of road construction. Ms. Le Duc confirmed that deductions were made for the conservation easement and road construction.

She explained that if the Board was still interested and felt that \$400,000 was a reasonable value, then the next step would be for staff to meet with the Appraisal Review Committee and then the Purchase of Development Rights Committee, draft the easement documents, and thereafter ask the Board to take action.

There was discussion regarding tax credits available to the applicant.

Ms. Le Duc confirmed that the County would hold the easement. She reported that there was \$304,000 in County funds and \$150,000 in State matching funds in the County's PDR program, but warned that if the easement was not finalized by mid-February 2010, then the State funds would be lost. She indicated that if \$400,000 were paid to Mr. Henry for the conservation easement, then there would be around \$50,000 remaining in the program.

Staff reported that in years past, the County had budgeted annually for the PDR program but did not budget anything for FY09, and the only other revenue would be the proffers from Farms of New Kent of \$0.25 per bottle of wine sold.

Mr. Henry indicated that once the County developed a Transfer of Development Rights program, he might be interested in participating in that program with some of his other property.

Mr. Trout stated that the decision to be made was whether or not preventing the construction of five to twelve homes was worth \$400,000 and, although the County could not use the funds from the PDR program for anything else, it could use them for land that was more sensitive or more threatened.

Ms. Le Duc advised that once staff met with the Appraisal Review Committee and the full PDR Committee, the Board would be asked to have the Administrator write a letter to Mr. Henry asking him to make an offer, and then the Board would decide whether or not to accept it.

She confirmed that the \$4,000 fee for the appraisal would be paid from PDR funds.

IN RE: PHILBATES APPLICATION FOR REZONING AND CONDITIONAL USE PERMIT
FOR MINI-STORAGE FACILITY

Planner Kelli Le Duc reviewed with the Board an application resubmitted by George Philbates, Jr. to rezone four (4) acres of property on New Kent Highway from *Agricultural* to *Business*, and an application for a Conditional Use Permit (CUP) to construct and operate a mini-storage facility.

Ms. Le Duc advised that the Planning Commission had voted 8:1 to forward the application with an unfavorable recommendation because it did not comply with the Comprehensive Plan and the property was located on a scenic highway and within a rural lands buffer. She indicated that the staff had likewise recommended against approval but did develop some draft conditions for the CUP should the Board decide to approve the applications. She reported that the conditions were basically the same ones that were contained in the

Alvis/Horsley CUP application recently approved for a mini-storage facility at the intersection of New Kent Highway and Airport Road. She advised that Mr. Philbates had agreed to the conditions and had submitted some proffers. She noted that his original application had included outdoor storage but he had proffered against it with this resubmitted application, and had also proffered that the front open wall area would be faced with stone, constructing the entrance at a 90° angle so the building and contents would not be visible from the highway, using the site for mini-storage use only, and developing the site in stages as close to the concept plan as possible.

She explained that the exact number of units would be determined during the site planning process.

There was discussion regarding the property and how the Virginia Department of Transportation (VDOT) had used the site to dump fill from the Eltham bridge project. Mr. Philbates reported that the property had been in his family for 71 years and had only been timbered one time because the soil was so poor. He indicated that the annual real estate taxes on the property were only \$33, the property wouldn't perk, and there was little else that he could do with it, and he would like to use it for something that would bring some revenue to the County but would not increase the demand for County services.

There was discussion regarding whether paving the site would trigger the need for stormwater management. Community Development Director George Homewood advised that the buildings themselves would trigger the need for stormwater management, and that such management, including consideration of some low impact development practices, would have to be a part of any development that occurred. Mr. Philbates advised that there was enough land for a retention basin at the rear of the parcel or on adjacent property that he owned.

Staff reported that this application would come to the Board for public hearing at its December meeting.

IN RE: BUSINESS INCENTIVE PROGRAM

Economic Development and Tourism Director Rodney Hathaway reviewed that some of the incentives in the Business Incentive Program (Program) approved by the Board in March 2009, would expire at the end of December 2009. He reported that since inception of the Program, fees had been waived on 117 applications totaling \$37,100 and that the fees for 54 commercial building permits could be refunded if certificates of occupancy were issued by June 30, 2011, at a cost of \$10,200, for a total Program cost to date of \$47,300. He advised that he did not think that many of these applications would have been submitted if the Program had not been in place. He reviewed that the economy had prompted the Program and, even though there were some signs of recovery, he felt that it was still a difficult climate for businesses and was recommending that the waiving of commercial planning, zoning and environmental fees continue through the end of June 2010, with the construction completion date remaining as June 30, 2011. Interim County Administrator Bill Whitley commented that the Board could reassess the program at the end of the fiscal year and decide how to move forward.

Mr. Hathaway reported that there had been a lot of interest in the Program from other localities and some had instituted similar programs.

Mr. Sparks asked for specific instances where the Program had brought in business. Mr. Hathaway gave examples of a company relocating from California, one relocating from

Charles City County, and one moving from a home-based business into commercial space, all of whom indicated that the Program was one of the reasons for their move.

Mr. Hathaway remarked that some of the aspects of the Program should become a permanent part of the way that the County did business, including the business liaison program.

There was consensus to formally consider adoption of a resolution to adopt staff's recommendations at the next business meeting.

IN RE: UPDATE ON RECENT NOR'EASTER

Fire Chief and Emergency Management Coordinator Tommy Hicks reported on the effects of the recent storm. He indicated that the event gave the County an opportunity to test and fine-tune the recently adopted Emergency Operations Plan, and to determine the storm's economic impact. He added that wiring and IT issues in the EOC had been identified and would be addressed by the Sheriff's Office and Fire-Rescue.

He reviewed that a major low pressure system produced significant rain and high sustained winds, with minor to major coastal flooding impacting localities along Virginia's east coast and middle Chesapeake Bay. He reported that the County's Emergency Operations Center was activated with limited staffing during the peak hours of the storm, and Governor Kaine declared a state of emergency because of the impacts of rain affecting most of the State, and had requested that the Federal Emergency Management Agency (FEMA) send preliminary damage assessment teams to Virginia to help determine damage levels. He confirmed that New Kent did not declare a local emergency.

He indicated that some County roads were closed because of debris, fallen trees and flooding, most of which were easily mitigated except South Waterside Drive which continued to produce challenges to emergency crews and residents in the Chickahominy Shores subdivision.

He noted that New Kent had one of the highest percentage of customers in the State who were without power, which resulted from the loss of two major feeds. He reported that the loss of sales tax figures had been estimated at \$6,500 as a result of businesses being closed.

Chief Hicks reported that 112 calls for service were received in the 911 Center during the storm, with staff working a total of 756 hours and an estimated financial impact of having to close the County offices of \$13,181, and that data would be helpful in County discussions with Dominion Virginia Power.

Mr. Sparks asked about the nature of the calls that came in during the storm. Sheriff Howard advised that they included reports about downed trees and power lines, flooding, and rescue calls. Chief Hicks added that he felt that the call volume was higher than normal because many residents were at home rather than work because of the storm.

Chief Hicks indicated that preliminary GIS analyses of high water estimates for New Kent during the storm were comparable to a 100-year flood -- the third time in the last four years.

Regarding South Waterside Drive, he spoke about continued safety concerns with residents using the access road next to the railroad tracks and indicated that County staff had used a

high-sitting tanker truck to transport residents through the flooded areas. It was confirmed that both the Sheriff's Office and Fire-Rescue had pre-located units in the Chickahominy Shores area before the storm in order to provide service if needed. Sheriff Howard reported that one vehicle became stuck while trying to drive on the railroad tracks and fortunately train traffic was able to be stopped until the vehicle could be removed. It was anticipated that CSX Railroad would take additional measures to restrict traffic from its access road. Sheriff Howard advised that CSX was usually very responsive to requests from his department but did not want citizens on its property.

Mr. Trout indicated that he had received many photographs of the flooding from residents in that area and that staff from the Sheriff's Office, Fire-Rescue, VDOT and the County needed to work together to find a safe alternate access for use in emergency situations.

IN RE: REGIONAL EMERGENCY SYSTEM GRANT

Fire Chief Hicks reported that New Kent was one of eight localities receiving a regional grant through the U. S. Homeland Security Department to complete a regional microwave system that would allow agencies to share critical information in emergency events.

He indicated that the project would bring Henrico Jail East into the system and Henrico County was serving as the lead fiscal agent and working through the Richmond Regional Planning District Commission.

IN RE: EMS RESPONSE IN CHARLES CITY COUNTY

Fire Chief Hicks reported that over the past few months, New Kent Fire-Rescue had responded to medical calls in Charles City County or had met ambulances at the County line. He explained that the current protocol was that there had to be at least three ambulances in service in order for a New Kent unit to respond to a call outside of the County that was not a major accident. He indicated that the calls to Charles City were proving to be costly, with little in the way of cost recovery and he wanted some guidance from the Board before having additional discussions with Charles City officials.

Mr. Evelyn asked how Henrico was handling calls into Charles City. EMS Captain Lisa Atkins reported that Henrico had "tightened up" its protocol and would not respond to any calls east of Route 106, and they had to have at least eight ambulances in the system, with four in the eastern part of the County, and would only respond to Advanced Life Support (ALS) calls as determined by their own dispatcher. Chief Hicks explained that New Kent did not have any Emergency Medical Dispatchers (EMDs) in its 911 Call Center to make those determinations and would not be able to use that as criteria to respond to calls outside of the County.

It was reported that Charles City had two ambulances but not enough staff and was only permitted to handle Basic Life Support (BLS) calls. Capt. Atkins added that it was her understanding that Hopewell was also restricting its calls into Charles City which was pushing even more calls to New Kent, as well as the fact that any help from James City County from the east would be from one of its busier stations. It was confirmed that Charles City did provide some fixed funding to Providence Forge Volunteer Rescue Squad.

Sheriff Howard added that the volume of all calls to the 911 Center was increasing, while the number of communications officers had not increased in five years.

It was agreed that the Fire Chief needed to have a conversation with Charles City County to see what could be worked out and, although help might be needed, each locality had to have the resources to handle its own calls. Chief Hicks advised that he would have that conversation and would keep the Board informed.

IN RE: SAFER GRANT AND FIRE STATION 4

Chief Hicks reported that there was an opportunity to apply for another Staffing for Adequate Fire and Emergency Response (SAFER) grant for funding volunteer recruitment and hiring of paid staff for a fire station in the Lanexa area, and asked for some direction from the Board as to whether an application should be submitted. He advised that should the grant be approved, it would provide funding for six paid staff to provide 24/7 coverage on an ambulance, at a cost to the County of \$15,000 per year for the first two years, a larger local match during the remaining four years, and then 100% County funded thereafter. He indicated that the Board could decide not to accept the grant if it was approved, but he felt it was better to apply and turn it down than not to apply at all. He advised that if approved, funds would not be available until next year this time.

There was discussion regarding using Cost Recovery to cover the local funding. Chief Hicks reminded that Cost Recovery revenue was being used to pay for part-time coverage at the other stations and at some point the Board may need to choose between using those funds to pay for full or part time staff.

There was consensus among the Board members to apply for the grant and if it was approved, then decide whether or not to accept it.

Chief Hicks reported donations of just over \$4,200 for a temporary station in Lanexa, with a fundraising event planned for a weekend during the first of December. He indicated that he and the County Attorney were working on an agreement with the landowner of the prospective site. He advised that a temporary location would cost about \$50,000 and he was also looking for grant opportunities to help pay for it.

IN RE: COST RECOVERY UPDATE

Chief Hicks and Capt. Atkins reviewed continuing performance problems with Diversified Ambulance Billing (DAB). They reported that DAB was waiting too long to file with insurance companies, was not notifying the County when they needed more information, and was providing poor customer service, all resulting in uncollected revenue for the County. They confirmed that DAB had a good reputation and track record when they were hired by the County but since that time, the company's performance had deteriorated and they were losing customers.

It was reported that the County could terminate its contract with DAB by sending a 90-day notice and staff was recommending that action be taken on December 1, 2009, and that ambulance billing be done in-house. Chief Hicks advised that staff had taken the required training to become certified to perform these billings and were prepared to accept those duties; however, there could be some losses in revenue of up to \$50,000 during the transition which could directly impact service delivery, and there would be costs for purchasing billing software and some subscriber fees.

There was discussion regarding how hard DAB would work to collect receivables during that 90-day period. Chief Hicks advised that DAB could keep paperwork on claims it was working on for up to 18 months.

County Attorney Jeff Summers advised that the County could sue DAB for breach of performance if it chose to do so.

Mr. Sparks moved that the County send a letter of termination of contract to DAB on December 1, 2009. The members were polled:

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

The motion carried.

IN RE: BOARD OF EQUALIZATION FOR 2010

County Attorney Jeff Summers reviewed a draft ordinance, based on the Board's guidance during a previous work session, to establish a Board of Equalization (BOE) for 2010. He indicated that the ordinance provided for a BOE that was appointed for the entire year but designed to be completed its work by June 30, 2010; however, should the deadline for the Reassessment be extended, then the other deadlines would be extended accordingly, and the BOE would have the capacity to work through the extended deadlines.

Commissioner of the Revenue Laura Ecimovic voiced her concerns regarding the "finality" section of the ordinance requiring a review by the BOE prior to applying for Court relief. Mr. Summers conceded that although there was no Attorney General opinion, courts were generally of the opinion that administrative avenues should be exhausted before judicial remedies were sought.

Mr. Summers advised that because of the lead time needed for recommendations, Court appointments and training, he was recommending that the Board hold a public hearing on the ordinance at its December meeting, with the goal of having the BOE appointed, trained and operational by March 2010.

Mr. Trout expressed his concern about how the proposed ordinance would impact situations where the BOE made changes to someone's assessment because of a neighbor's application, and whether that person would have sufficient time to appeal. Mr. Summers advised that without deadlines, there would be a repeat of 2008 when the BOE had to work all year and having the 90-day window would speed up the process.

Mr. Whitley advised that he was working on a budget for the BOE and would be bringing that to the Board in the near future. He indicated there was space for the BOE and its staff in the historic school, in the same wing as the Cooperative Extension offices. Ms. Ecimovic agreed that the BOE needed its own secured space and that her office could help train the BOE staff how to access her records to lessen the burden on her staff.

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

IN RE: SMART BEGINNINGS LEADERSHIP COUNCIL

Interim County Administrator Bill Whitley explained that the Smart Beginnings Program, a coordinated effort between government and business to promote school preparedness

planning in the region, was guided by a Leadership Council that had representation from the region's large jurisdictions. He indicated that the Capital Region Collaborative had recently requested representatives from the smaller jurisdictions as well, which included New Kent.

Mr. Whitley advised that it didn't have to be a Board member but could be. Mr. Sparks indicated he might be interested. Mr. Trout remarked that there did not appear to be any elected officials among the current members. It was noted that there was no one from education on the Council which may have been on purpose. Mr. Evelyn indicated he had no objection to Mr. Sparks serving. Mr. Trout commented that he didn't either but the Board might want to think about it some more before deciding. It was suggested that perhaps the Assistant County Attorney might want to serve and Mr. Summers advised that he would talk with her about it.

IN RE: LEGISLATIVE REQUESTS FOR 2010

Under review by the Board was a draft of Legislative Requests for 2010 prepared by Mr. Trout.

Mr. Summers confirmed that he and staff from Public Utilities had earlier met with Delegate Chris Peace who had drafted and pre-filed a request to give New Kent lien authority on utility bills.

Mr. Trout advised that the proposed requests were based on last year's and contained four items along with some issues that New Kent would support or oppose if they were brought up. He also distributed legislative requests from the Virginia Association of Counties (VACo), the Richmond Regional Planning District Commission (RRPDC), and the Virginia Chapter of the American Planning Association (VCAPA). He reminded that when things happened in the General Assembly, they happened quickly and if the Board could decide ahead of time what it was interested in supporting, then someone could timely respond on the County's behalf without having to call a Board meeting.

There was discussion regarding some of the items. Mr. Evelyn stated he didn't like the item that related to the local regulation of well construction. Mr. Homewood explained that the request would require verification that a well was producing potable water before a building permit was issued rather than afterwards, although he admitted that there hadn't really been any problems with that.

Mr. Trout suggested that the County Administrator, the County Attorney, Mr. Homewood and one or two members of the Board could meet with delegates and be poised to respond on behalf of the County when issues emerged.

IN RE: MEETING SCHEDULE

It was announced that at 6 p.m., the Board of Supervisors would reconvene its meeting that had been continued from November 12, 2009, because of a storm-related power outage, and would hold its next meeting on Monday, December 14, 2009, at 6 p.m. in the Boardroom of the County Administration Building, New Kent, Virginia.

IN RE: ADJOURNMENT

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

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

The motion carried.

The meeting was adjourned at 5:25 p.m.