

THE REGULAR MEETING OF THE NEW KENT COUNTY BOARD OF SUPERVISORS WAS HELD ON THE 14<sup>th</sup> DAY OF OCTOBER IN THE YEAR TWO THOUSAND EIGHT OF OUR LORD IN THE BOARDROOM OF THE COUNTY ADMINISTRATION BUILDING IN NEW KENT, VIRGINIA, AT 6:00 P.M.

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IN RE:            INVOCATION AND PLEDGE OF ALLEGIANCE

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

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IN RE:            ROLL CALL

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

The Chairman called the meeting to order.

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IN RE:            CONSENT AGENDA

County Administrator John Budesky presented the Consent Agenda as follows:

1.    Approval of Minutes
  - a.   August 15, 2008 regular semi-annual meeting with senior staff
  - b.   August 26, 2008 regular work session
  - c.   September 8, 2008 regular business meeting
  
2.    Miscellaneous
  - a.   Approval of Settlement Agreement with Massey Oil for overbilling
  - b.   Acceptance of the Sewer Easement with Johnson & Sons Properties, LLC
  - c.   Approval of Agreement with between James River Solutions, New Kent County, and the New Kent County School board for purchase of fuels
  
3.    Refunds
  - a.   \$219.02 to Ryan Homes for miscalculated permit fee
  - b.   \$405.00 to Ken Pair for overpaid Map Maintenance Fee
  
4.    FY09 Supplemental Appropriations
  - a.   Funds for fire-rescue coverage at Colonial Downs Sep 3 – 28, \$12,300.00
  - b.   Funds for fire-rescue revenue recovery to cover refunds and DAB service charges, \$1,345.00
  - c.   Funds received to date for fire-rescue revenue recovery for part-time fire-rescue personnel, \$15,296.00
  - d.   Funds for extra Sheriff security at two Sep events, \$459.00
  - e.   Funds for Sheriff security at the Aug 29 and Sep 12 high school football games, \$453.00
  - f.   Funds donated to the New Kent Animal Shelter for the 1<sup>st</sup> annual Jenna Grace Birthday Bash, \$2,698.00
  - g.   Other funds donated to the New Kent Animal Shelter, \$385.00
  - h.   Funds received from various builders for reimbursement of 2006 Code books purchased by the Building Development Office, \$160.00
  - i.   Funds donated to fire-rescue for The Great Escape event, \$350.00

- j. Funds received for insurance claims, \$11,758.00
- k. Grant funds from the Department of Motor Vehicles for the *Smart, Safe and Sober* grant to be used by Sep 30, 2008, \$40,650.00
- l. Program income received to date for FY09 from CDBG Plum Point grant participants, \$2,160.66
- m. State Fire Program funds received in excess of FY09 budgeted amount, \$1,147.00
- n. Additional Social Services State funds for increased demand for services for Non-View Day Care, \$19,366.00
- o. Funds received for legal document review, \$1,500.00

Total Supplemental Appropriation:  
\$ (110,027.66) Total  
\$ 110,227.66 Money-in/Money-out

- 5. FY09 Carry Forward Appropriations
  - a. Airport projects not completed in FY09, \$212,894.00
  - b. Funds for Phase II of the CDBG Plum Point grant not completed in FY09, \$4,563,650.00
  - c. Utility projects not completed in FY08, \$367,120.00

Total Supplemental Appropriations:  
\$ (1,093,664.00) Total  
\$ 649,300.00 Money-in/Money-out  
\$ 63,850.00 From Fund 1, General Fund balance  
\$ 13,394.00 From Fund 7, Capital Fund balance  
\$ 367,120.00 From Fund 98, Utility Fund balance

- 6. FY09 Inter-Departmental Budget Transfers
  - a. *Human Resources*: \$2,389 from Advertising, Copies and Promotional Items to Computer Purchase and Lease/Rental of Equipment
  - b. *Fire-Rescue*: \$6,000 from Radio Tower Repair/Maintenance to Machinery & Equipment
- 7. Treasurer's Report: Cash in Bank as of August, 2008: \$21,898,668.45

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

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

The motion carried.

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IN RE: CITIZENS COMMENT PERIOD

Chairman Burrell opened the Citizens Comment Period.

Doug Dill read the following statement: *"venture to say none of you are really in contact with what is going on with the citizens in the county. Because if you were you would not have the spend attitude that you do. SPEND, SPEND THEN TAX. You all are employed and some drive county cars.*

*Few weeks back I came over to purchase tags for my utility trailer. I had to go to 3 windows to purchase a \$6.50 tag and still could not find out what the personal property tax would be and I was the only one in line.*

*I spent 20 years as analyst for DOD which included manpower, budget, training, and space requirements. But I look around in this county and you all must think you have a bottomless money pocket. This county has staff that can support between 50-75000 residents yet we only have around 18000 people that live in the county.*

*I have some thoughts concerning spending: put a hold on any new hires; review of all existing positions; get rid of discretionary spending; freeze capital spending except for true emergencies; reconsider those things that have plumped up recent home values; travel is always a place start (I recently heard of questionable travel on a school board trip); look at revenue sources, maybe there is room to share the burden.*

*Even the big spender for the region (James City County) realized it needed to reassess its spending. Adopted a budget lower than last years. They took a look at the unevenness of the various taxes. Decreased school board funding based on the recent financial events. James City County Board of Supervisors seems to be managing the School System while in New Kent the School System manages the Board and staff.*

*Last. New Kent Schools. In the paper the other day: Additional million dollars for upgrading the middle school. Suggestions: Fixing those things that need to be fixed now and coming back at later time to renovate. My goodness we just spent 50 + million on a new school which has unused space. Have you all considered the maintenance cost in maintaining unused space? If the county would stop hiring so many additional people, the renovation of the old middle school could be done in phases which the cost burden would not be so bad. 1.5 million for new vehicles. 75,000 for just 3 cars. That's a ridiculous amount to pay for a strip down car. I hear the new school is beautiful. And it has extra space, why can't some of those unused areas be fitted for the School Board until the economy gets back on it feet? This county's growth has slowed considerably, houses are up for sale all over the county, businesses are looking but none are moving in. It's time we took a step back and re-evaluate county spending.*

*You the Board and Managing staff may not feel the effect of this crisis but many in this county are feeling the effects of what is going on with the economy.*

*I not only blame the Board for approving some of these spending actions but also those staff that provided the information that did not calculate the indebtedness that it would place on the citizens of the county. If you elected officials cannot step up to the task of making these hard decisions to reduce spending. Then it is time that the citizens of New Kent take back our county."*

Rick Bishop spoke to the Board about the continuing problems with property assessments in The Colonies and some of the actions taken by the Board of Equalization.

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

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IN RE: RESIDENCY ADMINISTRATOR'S REPORT

Torrence Robinson, Residency Administrator with the Sandston Residency of the Virginia Department of Transportation, reported on issues regarding roads in New Kent County.

He indicated that work performed during the month included sight distance improvements, application of stone on the Mt. Pleasant project, brush cutting, vegetation control along

guardrails, grading of graveled roads, mowing and trash pick up on primary roads, and regulatory sign maintenance.

He reported that the curbs and gutters in Eltham along Rt. 33 had been swept, at Mr. Davis' request.

He noted that the ditch work along St. Peter's Church Road had been completed, at Mr. Evelyn's request.

He reported that embankments along Terminal Road had been mowed, at Mr. Trout's request.

Mr. Evelyn thanked Mr. Robinson for the work along St. Peter's Church Road.

Mr. Sparks asked about the status of leaning trees which had been reported along Terminal Road and Henpeck Road. Mr. Robinson reported that trees had been cut along Terminal but he did not have information on the status of trees being cut on Henpeck.

Mr. Sparks asked about the speed limit issue in front of the Food Lion shopping center in Quinton. Mr. Robinson indicated that he had sent another request to Traffic Engineering to reconsider the speed limit based on current conditions, but he did not know how long it would take to receive a response. Mr. Sparks expressed his concerns that the area would become even more dangerously congested with the upcoming holiday season and he felt certain that the Sheriff shared those same concerns. Mr. Robinson advised that he would relay the urgency of the situation with the hopes of a speedy response.

Mr. Sparks thanked Mr. Robinson and his staff for their preventive maintenance efforts.

Mr. Burrell concurred, noting that the Residency was working with half of the staff that it used to have. He agreed that the area in front of Food Lion was becoming more dangerous and needed attention.

Mr. Trout thanked Mr. Robinson for the recent mowing along Terminal Road and Airport Road. He inquired about work needed on the railroad crossing on South Waterside Drive. Mr. Robinson advised that they had contacted CSX but did not yet have a timetable for the work.

Mr. Trout spoke about the continuing problems along South Waterside Drive at Fannie's Creek and asked Mr. Robinson to investigate as to whether there might be some bridge funds available since a bridge had been mentioned as a solution to the problem on more than one occasion.

Mr. Davis thanked Mr. Robinson for the work performed in Eltham. He also spoke about the projects along Mt. Pleasant Road. Mr. Robinson advised that the Rural Rustic Road project was completed and that they were still waiting on funding for the remainder of the work, as well as other projects on the County's Secondary Six Year Plan .

Mr. Burrell thanked Mr. Robinson and his staff for the continuing timely attention to requests made by the Board members.

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IN RE: JAMESTOWN 4-H EDUCATIONAL CENTER

Anthony Lea, Center Director of the Jamestown 4-H Educational Center presented the Board with a Gold Award "representing a remarkable level of recognition provided for the supporters of the mission of positive youth development".

Shelley Hauerland, former 4-H Agent for New Kent, shared how a New Kent youth who participated in summer camp had grown and flourished as a result.

Mr. Lea reminded that this youth's story was just one of many where the 4-H Center had a positive impact on the County's youth and was a benefit to the County and its citizens. He again thanked the County for its continuing support.

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IN RE: LAW ENFORCEMENT CHALLENGE

Frank Kowaleski from the Highway Safety Committee presented the second place award in the State's Law Enforcement Challenge to the New Kent Sheriff's Office. He praised Sheriff Howard and his department for their efforts and accomplishments in traffic and highway safety. He explained that the Challenge was a competition between similarly sized departments in the State and then in the nation, and applicants were judged on efforts to enforce laws and educate the public about occupant protection, impaired driving and speeding. Deputy Jamie Hamby accepted the award on behalf of the Sheriff's Office.

Mr. Kowaleski advised that New Kent had also won 2<sup>nd</sup> place in the national competition and would be receiving that award in November.

He then introduced Marian Raymond, State Coordinator for Occupant Protection, who spoke about the benefits of using seatbelts, reporting that auto accidents were the number one cause of death for people under 34 and that 46% of those were unbelted. She talked about the "*Click It or Ticket*" campaign and reported that New Kent had scored the highest in seatbelt use rate compared to jurisdictions of like size, and she presented the award to Deputy Jamie Hamby.

Board members expressed their appreciation to the presenters.

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IN RE: MOTOR CARRIER ENFORCEMENT

Sheriff F. W. Howard, Jr. explained that in response to rising concerns about truck safety along Rt. 106, Rt. 60 at Bottoms Bridge, and Rt. 33, he had been working with Deputy Tom Mears, a former State Trooper involved with motor carrier safety, to form a small team in New Kent. He reported that two deputies had expressed interest, Butch Gay, and Jerry Simpson, and took time out of their already busy schedules to obtain training and their certifications through the Virginia Department of Transportation.

Deputy Mears reported that since July 1, 2008, commercial vehicle inspections in New Kent had resulted in fines totaling \$8,090 and court costs of \$7,029. He emphasized that truck safety was their goal and that of the 139 commercial vehicles inspected to date in 2008, 34 had met the criteria to be taken off the road.

There was discussion about the problems with trucks speeding and improper parking.

Sheriff Howard presented Deputy Gay and Simpson with their certificates and the Board members expressed their congratulations and appreciation.

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IN RE: INTRODUCTION OF NEW STAFF

Sheriff F. W. Howard, Jr. introduced new employees filling current vacancies, who included Deputies Scott Carnell, Cheri Washington, and Ryan Shobe, as well as Dispatchers Sherri Cox, James Thomas and Brandon West.

The Board members welcomed the new staff.

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IN RE: ELECTED OFFICIALS' REPORTS

Sheriff Howard reported that he was continuing to meet with the Chairman of the Electoral Board and would be working with election officers on security issues in the upcoming elections.

Mr. Trout announced the details of the upcoming grand opening of the new high school as well as the Greater Lanexa Studio Tour.

Mr. Sparks announced that he had attended the recent grand re-opening of the Quinton Food Lion, and also reported that the new Bloom supermarket would be opening on December 10.

Mr. Evelyn announced that he would be hosting an upcoming constituents' meeting. He also reported that the Board had, at its last meeting, adopted a resolution regarding GED Week and GED Day and advised that information about the GED program was available in the County Administration building.

Mr. Burrell spoke about a recent celebration honoring Treasurer's Office employee Norma Holmes for her 35<sup>th</sup> service anniversary.

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IN RE: STAFF REPORTS

Mr. Budesky announced that he and the Deputy Clerk had participated in a presentation on citizen engagement and New Kent University to a recent conference of the Commonwealth Land Use and Zoning Conference in Williamsburg. Mr. Trout added that both he and Community Development Director George Homewood had also made presentations at that conference.

Mr. Budesky announced that as New Kent had signed a commitment to join the new Capitol Region Workforce Partnership, all of the Board members had been invited to an upcoming reception hosted by the Governor.

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IN RE: DISTRICT APPOINTMENTS

There were none.

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IN RE: NON-DISTRICT APPOINTMENTS

Mr. Trout moved to appoint Thomas Evelyn as New Kent's Board representative to the Consortium Board of the Capital Region Workforce Partnership, to serve a term ending December 31, 2008. The members were polled:

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

The motion carried.

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IN RE: TRANSPORTATION ENHANCEMENT PROGRAM GRANTS

Before the Board for consideration was Resolution R-37-08 approving an application for two Transportation Enhancement Program grants for improvements to the Courthouse Village area, to include a continuation of the sidewalk project and construction of an historical wayside.

Planner Kelli Le Duc advised that in past years, the Board had approved resolutions to endorse and submit similar grants in order to construct improvements in the Courthouse area, which included sidewalks, lighting and landscaping.

She indicated that with the help of the Richmond Regional Planning District Commission, two grant applications had been prepared for submittal. The first was for Phase V of the sidewalk development project to connect existing sidewalks in front of the former middle school and to install lighting and landscaping to match existing features. She indicated that staff felt that this would increase public safety and aesthetic appeal in the Courthouse area and would also provide for a pedestrian-friendly network to be completed from the Post Office to the high school. She advised that the total cost of the project was estimated at \$255,438, with the grant providing 80% of the funding and the remaining 20% to be paid by the County.

Ms. Le Duc reported that the second application would provide for the creation of a small "wayside" to the west of the Historic Courthouse in order to commemorate the County's role in the Revolutionary War and the Washington Rochambeau Trail, noting that New Kent had taken a leading role in that study of Revolutionary War roads and transportation routes. She indicated that this project would include signage, plantings, benches, flags, and fencing and would increase tourism in the Courthouse area. She noted that parking for the site currently existed. She estimated the cost for the project to be in the neighborhood of \$36,915, 80% of which would be covered by the grant and the remaining 20% to be paid by the County.

She advised that should either be approved, it could then be determined how much cash match would be required of the County and how to fund it. She noted that the grant funds would not be available until after July 1, 2009. She reported that in the past similar matching fund requests had been included as line items in the Capital Improvements Plan and that would likely be the case with these grants as well.

She reported that the application deadline was November 1 and asked that requests for any changes be relayed to staff as soon as possible.

Ms. Le Duc advised that letters of support had been received from various entities, including the school superintendent, owner and developer of New Kent Courthouse Village, the Chair of the New Kent Historic Commission, State Senator Thomas Norment, State Delegate Chris Peace, and the Chairman of the New Kent Planning Commission.

It was acknowledged that similar applications had been submitted in 2007 but had not been granted. Ms. Le Duc advised that the program was very competitive. She noted that the County still had some leftover funds from the last grant which were insufficient to complete the sidewalk project, which was initially started in 2003.

The Chairman opened the Public Hearing.

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

Mr. Trout commented that it was his understanding that wording for the historical signs would be taken from the Revolutionary War study that was recently completed. Ms. Le Duc confirmed that information and advised that staff was still waiting for a copy of the study.

Mr. Davis moved to adopt Resolution R-37-08, as presented. The members were polled:

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| Stran L. Trout   | Aye |
| W. R. Davis, Jr. | Aye |
| Thomas W. Evelyn | Aye |
| David M. Sparks  | 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 Wednesday, November 12, 2008, in the Boardroom of the County Administration Building, New Kent, Virginia. He indicated that the Board would meet for a retreat on Friday, October 17, 2008, at 5 p.m. at 11805 Whitehouse Road, New Kent, Virginia; for an extra work session on Tuesday, October 21, 2008, at 3:00 p.m. in the Historic Courthouse; and for its regular work session on Tuesday, October 28, 2008, at 8:30 a.m. in the Boardroom.

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IN RE: CLOSED SESSION

Mr. Sparks moved to go into Closed Session for consultation with legal counsel pursuant to Section 2.2-3711A.7 of the Code of Virginia concerning actual or probable litigation. The members were polled:

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

The motion carried. The Board went into closed session.

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

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

The motion carried.

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

The motion carried.

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IN RE: ADJOURNMENT

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

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

The motion carried.

The meeting was adjourned at 7:29 p.m.