

THE REGULAR MEETING OF THE NEW KENT COUNTY BOARD OF SUPERVISORS WAS HELD ON THE 12th DAY OF NOVEMBER 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.

IN RE: INVOCATION AND PLEDGE OF ALLEGIANCE

Dr. S. Paul Rowles, Rector of St. Peters Episcopal Church, gave the invocation, and Chairman Burrell led the Pledge of Allegiance.

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

The Chairman called the meeting to order.

IN RE: CONSENT AGENDA

County Administrator John Budesky presented the Consent Agenda as follows:

1. Approval of Minutes
 - a. September 10, 2008 special meeting
 - b. September 30, 2008 regular work session
 - c. October 14, 2008 regular meeting
 - d. October 17, 2008 retreat
 - e. October 21, 2008 special work session
2. Miscellaneous
 - a. Approval of the Water Conservation and Management Plan
 - b. Adoption of the Amended Vision Statement
 - c. Adoption of Resolution R-41-08, asking that Cherokee Pines Trail be accepted into the State secondary road system
 - d. Road Name Addition
 - i. Twin Brooks Way
3. Refunds
 - a. \$2,450.32 to Trent Sherman for building permit
 - b. \$4,685.34 to Bluegreen Prop of Virginia for overbilling on real estate taxes
4. FY09 Appropriations
 - a. Funds for Fire-Rescue coverage at Colonial Downs Sep 29 – Oct 26, \$15,150.00
 - b. Funds for Fire-Rescue special events coverage for Sep 29 – Oct 4, \$2,550.00
 - c. Funds for Fire-Rescue revenue recovery to cover Diversified Ambulance Billing service charges, \$1,904.00
 - d. Funds received to date for Fire-Rescue revenue recovery for part-time personnel, \$19,368.00
 - e. Funds donated to New Kent Animal Shelter, \$1,088.00

- f. Funds for extra Sheriff security at two events in Sep and one in Oct, \$3,852.00
- g. Funds for Sheriff security at the Oct 3 and 24 high school football games and Oct 25 homecoming dance, \$1,179.00
- h. Funds for Sheriff coverage at Colonial Downs in Sep, \$4,799.00
- i. Funds received from various builders for reimbursement of 2006 Code Books purchased by the Building Development office, \$735.00
- j. Funds donated by various organizations to Fire-Rescue, \$1,080.00
- k. Funds received for insurance claims, \$3,064.00
- l. Funds received for Fire-Rescue sale of surplus equipment, \$12,903.00
- m. Program income received to date for FY09 from CDBG Plum Point grant, \$794.50
- n. Donations to the Victim-Witness Assistance program, \$300.00
- o. Funds for CSA Parental co-payment, \$400.00
- p. Reduce appropriation to Social Services due to reduction in State funding for personnel salary increases for FY09, \$3,142.00
- q. Funds reimbursed by EDA for CBS commercial during the Virginia Derby, \$3,750.00
- r. Funds received by Fire-Rescue for reimbursement of training/safety supplies, \$390.00
- s. Funds received for dividends and interest on capital projects funded with debt service, \$71,068.31

Total Supplemental Appropriation:
\$ (141,232.81) Total
\$ 141,232.81 Money-in/Money-out

- 5. FY09 Carry Forward Appropriations
 - a. General Funds from Refuse and Buildings & Grounds operating budgets in order to complete special projects for FY09, \$345,000.00
 - b. Funds for unemployment case that continues into FY09, \$2,509.28
 - c. Unexpended School allocation funds from FY08, \$422,930.15
 - d. Funds remaining in Fund 7-Capital for Schools from FY08, \$577,382.85
 - e. Funds from the School Capital Fund for projects not completed in FY09, \$7,198,826.08
 - f. County Capital Projects not completed in FY08, \$3,482,394.81

Total Supplemental Appropriation
\$(12,029,043.17) Total
\$ 770,439.43 From Fund 1 – General fund bal
\$ 7,198,826.08 From Fund 3 – School Capital fund bal
\$ 4,059,777.66 From Fund 7 – Capital fund bal

- 6. FY09 Inter-Departmental Budget Transfers
 - a. *Unemployment compensation*: \$30 from Reserved for Contingency to Unemployment Compensation
 - b. *General Services*: \$446,678.65 from Sheriff's Annex, New Courthouse HVAC, and New Courthouse generator to New Courthouse Building Modifications
 - c. *Sheriff's Office*: \$350 from Overtime to Full-time
 - d. *Social Services*: \$2,152 from Reserved for Contingency to Non VIEW Day Care
 - e. *Schools*: \$190,131 to transfer 2008-2009 salaries

- f. *Schools*: \$10,699 from Appropriation of Funds from Prior Years to Tractor
- g. *Schools*: \$23,886 from School Buses and Appropriation of Funds from Prior Years to Vehicles
- h. *Building Development*: \$900 from Travel & Uniforms to Vehicles
- i. *Public Utilities*: \$22,500 from Utility Fund, Parham Landing Water, Parham Landing Sewer, Chickahominy Wastewater Treatment Plant and Water & Sewer Capital projects to Utility Administration
- j. *Schools*: \$683 from Instructional Salaries Sec Reg to Guidance Materials and Supplies
- k. *Sheriff's Office*: \$5,000 from Part Time Salaries to Salary Overtime
- l. *Legal*: \$112,000 from Litigation Expenses to Reserved for Contingency
- m. *Fire-Rescue*: \$16,789.00 from Salaries & Wages, Hospital/Medical Plans and FICA to Special Duty and Part-time Salaries

7. Treasurer's Report: Cash in Bank as of September, 2008: \$16,813,556.51

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

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

The motion carried.

IN RE: NEW KENT UNIVERSITY GRADUATION

County Administrator John Budesky welcomed the graduates of the second class of New Kent University (NKU) and recognized Ted Cole of Davenport & Company who provided full funding for this citizens academy program for 2008.

Class members were invited to comment on their experience. George Slemp commended Mr. Budesky and the staff, stating that the program resulted in a better understanding of local government. Norm Thomsen stated that, as a long-time resident, he was surprised at how much he had learned. Bill Geniesse spoke about the high quality of the presentations, as well as the enthusiasm and professionalism shown by staff, and commended those employees who had given up their Saturday to participate in the field trip. Brenda Melvin, a new County resident, stated that she was impressed with the program, and was glad she had been able to become familiar with and see a different side of County staff. Leo Vozel commended Mr. Budesky and staff for the consistent follow-up on inquiries, stating that he had learned more about New Kent local government in the short time that he had lived here than he knew about the government in his former locality where he had lived for over 20 years.

Mr. Budesky recognized and thanked members of the NKU staff who had been instrumental in organizing the program, including Krista Jones, Amy Stonebraker, Bill Kelly, Bill Whitley and Connie Nalls.

Certificates were then presented to graduates Richard Back, Mark Bailey, Jr., Lynne Bailey, Mary Braga, Alease Christian, Brenda Clark, Richard Davis, Anna Davis, Bill Geniesse, Houston Gray, William Hill, Marjorie Justice, Rick Logan, Bill Lupoletti, Kendra Mathis,

Brenda Melvin, Betty Nash, Roger Ries, Hilda Ries, Michael Robinson, Paul Rowles, Alyssa Salomon, Linda Slemp, George Slemp, Stella Stanley, Jean Street, Donna Thompson, Patricia Thomsen, Norm Thomsen, Leo Vozel, Myran Walker and Viola Washington.

Board members thanked the participants for their commitment and dedication to the program.

IN RE: CITIZENS COMMENT PERIOD

Chairman Burrell opened the Citizens Comment Period.

Beth Trivet spoke on behalf of New Kent County Citizens Coalition (NKCCC) and requested that the Board adopt a resolution requiring quarterly town hall meetings. The proposal included that the meetings be held at 6:30 p.m. on a weekday evening at a facility that could accommodate those attending, be one and a half to two hours in length, and that a minimum of three Board members as well as staff be present to provide an overview of issues as well as participate in a question-and-answer session. It was suggested that the meetings be well-advertised and that citizens be permitted to submit questions in advance as well as from the floor. Ms. Trivet emphasized that the proposal was offered in a spirit of cooperation and that the NKCCC would provide support in its implementation.

George Slemp added his endorsement to Ms. Trivet's request, explaining that there were a number of citizens who were distressed about the direction the County was taking and that the proposal was put forth in good faith and in a spirit of cooperation, and that he hoped that the Board would receive it in that manner.

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

IN RE: RESIDENCY ADMINISTRATOR'S REPORT

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

He reported that maintenance work performed in the past month included hazardous tree removals, ditch cleanings, pavement repairs, driveway installations, pipe cleanings, tree trimming, brush cutting and shoulder repairs.

Regarding the request to decrease the speed limit in the area of the Quinton Food Lion, he advised that they were putting together data to support a lowering of the limit, which he indicated was a different approach than what had been taken in the past. He agreed to further enlighten Mr. Sparks regarding the process.

He reported that CSX had been contacted regarding problems at the railroad crossing into The Colonies. Mr. Trout reminded that the more pressing problem was at the crossing into Chickahominy Shores, but anticipated that some work would also soon be needed on the crossing into The Colonies.

Mr. Davis advised that he was working with Residency staff on some issues and commended them for their timely response to problems brought to their attention. He reported potholes on Rt. 249 at the eastern end of Cooks Mill Road that needed repair.

Mr. Trout reported a recurring problem with a sinking and crumbling culvert along Rockahock Road. He also spoke about an issue that was reflected in recent meeting

minutes of the Transportation Safety Commission regarding speed limits on Terminal Road and South Garden Road.

Mr. Sparks thanked Mr. Robinson for the work performed in District 2 and advised that he was looking forward to a favorable resolution of the speed limit issue near the Quinton Food Lion.

Mr. Evelyn thanked Mr. Robinson for his cooperation and attention to issues in District 1. He asked about construction of the roundabout on Rt. 106 at I-64. Mr. Robinson advised that there was a revised end-of-construction date for that project. Mr. Budesky added that the contractor had asked for a winter shut down, which was under consideration. Mr. Evelyn asked if there would be stabilization of the soil in the area and Mr. Robinson assured him that there would.

Mr. Burrell thanked Mr. Robinson for the Residency's prompt attention to issues in New Kent. He noted that dirt in the roadway at the intersection of Rt. 623 and Rt. 249 might be a safety hazard. He also commented on VDOT's handling of the significant number of dead deer in the roadways.

IN RE: SITE FOR NEW LIBRARY FACILITY

It was announced that this item had been deferred to the next work session.

IN RE: PUBLIC PRIVATE EDUCATION ACT (PPEA)

County Attorney Jeff Summers explained that PPEA was an alternate method of procuring government infrastructure and advised that the guidelines previously adopted by the Board needed to be updated in order to reflect changes made by the General Assembly effective on July 1, 2008. He noted that the chief revision was the requirement to hold a public hearing before the award of a contract.

He remarked that in PPEA projects in the past, New Kent had always been the financier and he pointed out that there was the option for another party to fund the activity and receive payback through some sort of long-term lease arrangement. He clarified that he was not aware that there were any such projects "in the pipeline" but just wanted to remind the Board that there were different ways to proceed.

He asked the Board to adopt the proposed revised guidelines so that they would be in place when needed.

It was confirmed that the County's guidelines did not need to be re-adopted annually, but only when there were changes made by the General Assembly, and that this was the first time that there had been revisions since the Board originally adopted its guidelines. It was also confirmed that the Board could adopt the revised guidelines without the need for a public hearing.

There was discussion regarding solicited and unsolicited proposals.

Mr. Sparks moved to adopt the Public-Private Education Facilities and Infrastructure Act of 2002, as amended, Guidelines and Procedures, to be effective December 1, 2008. The members were polled:

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

The motion carried.

IN RE: ELECTED OFFICIALS' REPORTS

Mr. Evelyn announced that Verizon high speed internet services were going to be available in some areas in his district and credited resident Jackie Yates for her petition drive to make that possible.

Mr. Trout congratulated New Kent voters, over 83% of whom had participated in the recent election – the third highest in the State of Virginia. He also announced details of an upcoming high school theatrical production.

Mr. Davis encouraged those interested to visit with retired Judge Sowder who would be celebrating his 90th birthday.

Mr. Burrell reported on compliments received at the recent Virginia Association of Counties annual conference regarding New Kent's Assistant County Administrator Bill Whitley and Public Utilities Director Larry Dame.

IN RE: STAFF REPORTS

Mr. Budesky spoke about a recent press release regarding the economical stability of the County and again reassured the residents that the County remained financially strong, thanks to its fund balance policy and debt management practices, and that revenues continued to track well. He clarified that the County was taking a proactive approach by identifying possible ways to cut spending in order to counterbalance State funding reductions and other revenue shortfalls so that there would be minimal impact on the taxpayers. He indicated some vacant positions would remain unfilled and that cutbacks were also being considered in training and education that was not critical to County operations. He advised that the County was also considering the deferring of some capital projects and one-time purchases.

He emphasized that the Board and County staff were acutely aware of the financial struggles being experienced by the citizens and that they would continue to welcome suggestions for cost savings and feedback from the community and County employees. He emphasized that New Kent had always budgeted conservatively and staff would continue to analyze the County's financial situation on a monthly basis.

He acknowledged that the upcoming year would likely be even more difficult and that the Board and County staff would continue to look for ways to reduce costs but he warned that there could be some resulting reduction in services.

IN RE: DISTRICT APPOINTMENTS

There were none.

IN RE: NON-DISTRICT APPOINTMENTS

There were none.

Mr. Davis suggested sending a list of the vacancies to the NKU graduates to see if there was interest in serving.

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 Monday December 8, 2008, and the next work session at 8:30 a.m. on Tuesday, November 25, 2008, both in the Boardroom of the County Administration Building, New Kent, Virginia. It was also announced that the Board of Supervisors would have a joint meeting with the School Board at 6 p.m. on Tuesday, December 2, 2008, in the Boardroom.

The Board took a short recess and then resumed the meeting at 7 p.m.

IN RE: SWEET REZONING APPLICATION

Before the Board for consideration was Ordinance O-14-08 approving an application filed by Peter Sweet to rezone 1.876 acres of land from A-1, Agricultural to R-3, Multiple Family Residential, located at the intersection of Quinton Park Trail and North Henpeck Road, in order to construct a five-unit townhome or condominium project.

Chairman Burrell announced that he had a contractual relationship with the applicant and asked Vice Chairman Davis to preside over of this portion of the meeting. Mr. Burrell then relinquished control of the meeting to Mr. Davis and removed himself from discussion.

Planner Kelli Le Duc advised that Mr. Sweet, the property owner, had proffered that at least two of the five units would be handicapped-accessible. She indicated that the subject property was adjacent to Quinton Community Park.

She noted that the proposal fulfilled several goals and objectives of the Comprehensive Plan, as it was close to recreational opportunities and would also provide safe and sanitary housing opportunities by creating affordable housing and handicapped accessible units. She indicated that while the proposed project was not precisely consistent with "Suburban Housing", it was compatible with that designation because of its small scale. She indicated that the surrounding area was primarily residential, with one adjacent neighborhood being a mobile home park zoned B-1 with three units per acre, and another, Quinton Estates, zoned R-2 with one unit per one-half to one acre.

Ms. Le Duc advised that the proposed layout of the project showed one access road onto Henpeck Road, 30 feet in width, and noted the project was estimated to produce 30 vehicle trips per day, below the threshold necessitating a traffic study. She advised that VDOT had expressed no concerns and made no comments on the project.

She indicated that the units would be served by private well and septic, noting there was a letter from an Authorized Onsite Soil Evaluation (AOSE) advising that the site was suitable to support a seven-bedroom septic system.

She reported that using the countywide ratio of 0.5 children per home would result in two to three children. She added that because the total number of bedrooms would be between

seven and eight and at least two would be one-bedroom handicapped accessible units, it was unlikely that the project would generate two to three children. She noted that nonetheless, in order to mitigate any impact on the schools, the applicant had submitted a revised proffer statement, agreeing to a cash payment of \$2,500 for every certificate of occupancy issued.

She pointed out other proffered items included that no more than five units would be built, with at least two being handicapped accessible, and enforcement provisions for maintenance and upkeep in recorded restrictive covenants.

Ms. Le Duc reported that staff recommended approval of the application and that the Planning Commission had considered it at its October meeting and voted 7:1 with 1 abstention to recommend approval as well.

She then introduced the applicant, Mr. Sweet, and his legal counsel, Deborah Fourness of the firm of Parker, Pollard & Brown.

Ms. Fourness advised that she had been contacted by the applicant to discuss management issues related to the project and how an association would be formed and restrictive covenants developed once there was a plan in place. She referred to a letter from her that had been previously distributed to the Board members that proposed what would be included in covenants and restrictions.

She advised that although the term "townhouse" and "condominium" were often used interchangeably, the Federal Housing Administration (FHA) did make a distinction. She indicated that for condominiums, 51% needed to be sold before the first unit would qualify for FHA financing, and that percentage was expected to soon be increased to 66 2/3%. She advised that there was no such requirement for townhouses and attributed the requirement to the fact that there were more defaults on condominium units than on townhouses. Under the circumstances, she was recommending to Mr. Sweet that the project be developed as townhomes.

Mr. Trout asked about the number of bedrooms. Mr. Sweet explained that the AOSE was confident that the soils would support at least seven bedrooms but that he would like to get eight bedrooms if possible. Mr. Davis commented that five units would result in five washer/dryers and five garbage disposals, and questioned whether that was taken into account. Mr. Sweet indicated that the health department based its calculations on the number of bedrooms and not the number of units, and that although he never felt that made sense, those were the regulations. He added that garbage disposals should not be installed in homes served by septic drain fields. Mr. Sparks commented that he felt that the health department used the "per bedroom" calculation based upon the water needed and discharged per person and not per residence.

Mr. Trout expressed concerns about Mr. Sweet's intention to have eight bedrooms instead of seven, the number used by the County to analyze impacts on schools and County services. He suggested that if all of the units were one-bedroom, then there would be less likelihood of an impact on schools. He also noted that there was no limit on the number of bedrooms, other than what would be supported by the septic system.

Mr. Sweet reminded that he had raised his cash proffer but would be willing to proffer a limit of eight bedrooms. He indicated that he was confident that the site would support a normal gravity flow septic system for eight bedrooms but if it did not, then he did not intend to install an alternative system.

Mr. Trout stated that without knowing the exact plans and the number of bedrooms, it was unclear as to what the impact on schools and County services would be.

There was discussion regarding construction requirements for handicapped accessible units. County Building Official Clarence Jackson advised that such units would either have to be built on one level or have an elevator.

Mr. Sweet advised that he preferred a plan that would have a handicapped accessible unit on each end but had not committed to a specific plan. He again stated that he did not intend to build more than eight bedrooms and verbally added that to his proffers.

Mr. Summers advised that the suggested provisions in Ms. Fourness' letter seemed proper. Ms. Fourness reminded that the proffers called for the restrictive covenants to be in place before the plat was recorded.

Mr. Sparks remarked that the project would be in his district and there was a need for affordable and handicapped-accessible housing; however, he had a concern about maintenance and appearance over a period of time. He reported that he had held a community meeting to address some of the concerns that had been raised, and he felt that the letter from Ms. Fourness was a response to some of the comments that had been made, and although there was nothing in writing yet, the proposals "seemed to make sense".

Mr. Summers advised that until Mr. Sweet knew what he was going to build, it was impossible to craft restrictive covenants but acknowledged that the items set forth in the letter from Ms. Fourness was a fair representation of the kinds of things that the document would address and appeared to make sense.

There was a discussion regarding insurance. Ms. Fourness advised that in townhouse projects, each owner would obtain their own hazard insurance and that the restrictive covenants would require them to have insurance at replacement value. She indicated that each townhouse owner would also be required to have party wall insurance. Regarding the concerns about roof repairs or replacement, she advised that the association would budget and collect reserves in the assessments; however, if there was a casualty that was not covered by insurance, then the association would have to levy a special assessment. She advised that under Virginia law, every association was required to have certain types of insurance and a fidelity bond to make sure that funds were handled appropriately. She indicated that some townhomes were built with independent roof structures, but in this case, there would be one roof that would be the responsibility of the association.

The Vice Chairman opened the Public Hearing.

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

Mr. Evelyn reported that he had received only a couple of calls about the project and that he hoped that Mr. Sweet would build an attractive project. Mr. Sweet reminded that he would be the closest neighbor to the project, would see it every day, and intended to have it "look the same the rest of his life".

Mr. Sparks moved to adopt Ordinance O-14-08 with the following changes: Mr. Sweet has proffered that the five units will contain in total no more than 8 bedrooms. The members were polled:

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

The motion carried.

IN RE: ADJOURNMENT

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

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 meeting was adjourned at 7:30 p.m.