

A SPECIAL MEETING OF THE NEW KENT COUNTY BOARD OF SUPERVISORS WITH STATE SENATOR THOMAS NORMENT WAS HELD ON THE 8<sup>TH</sup> DAY OF DECEMBER IN THE YEAR TWO THOUSAND EIGHT OF OUR LORD IN THE EXECUTIVE CONFERENCE OF THE COUNTY ADMINISTRATION BUILDING IN NEW KENT, VIRGINIA, AT 3:15 P.M.

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IN RE: ROLL CALL

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

Chairman Burrell called the meeting to order and extended a welcome to State Senator Thomas Norment. Also present were County Administrator John Budesky, County Attorney Jeff Summers, and Community Development Director George Homewood.

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IN RE: FY09 LEGISLATIVE REQUESTS

Board members and staff reviewed the items on New Kent's list. Mr. Summers explained that it had been suggested that Delegate Peace represent the County regarding the two items pertaining to tax assessments, and for Senator Norment to handle those dealing with utility system issues. It was explained that the latter requests arose out of the County's need to have legislative authority to protect its investment in its new public water and sewer systems by, among other things, being able to pursue customers for non-payment and to require connections by those property owners within the sewer service areas. Mr. Budesky reminded that the system came online in September of 2005 and involved quite a bit of self-financing, and that it was important for the County to have the ability to recoup its investment from property owners within the sewer service area, many of whom had agreed to be members of the service district. Mr. Summers pointed out that New Kent was asking to be added to a list of localities that already had that authority, but in the alternative to give that power to all localities in the State.

Another request that was a repeat of a request from previous years dealt with New Kent's ability to negotiate development agreements with owners of parcels of 1,000 acres or larger. Mr. Summers pointed out that New Kent was the only county in the State with this authority and that it was asking that the Code Section be amended to reduce the parcel size to 25 acres and to extend the authority to all counties. He explained that 25 acres was the minimum size for a planned unit development, which was the type of development that would warrant such an agreement. Mr. Trout added that development agreements were "somewhere between a proffer and an impact fee" and were negotiated rather than "pushed on someone". He added that 2009 might be a good year for this to be considered and would be beneficial to all localities. Mr. Norment commented that not all localities might agree.

Mr. Summers advised that the requests dealing with real estate tax assessments were the result of a lawsuit filed the previous summer. He explained that the statute in question removed the discretion of the prosecutor, and that New Kent's request was to add a requirement for credible evidence, as well as a sentence to clarify that the section was to be used to challenge tax levies and not assessments. He indicated that a related request would add a definition of "fair market value" currently missing from the Virginia Code, by adopting the definition from a Federal Supreme Court case and included adding a standard for assessments (using coefficient of dispersion) that would use a standard deviation rather

than a percentage, and would involve confirmation by the State Department of Taxation. Mr. Summers admitted that changes being recommended by a Commissioners of Revenue group used a different method (using the construction process) but had the same goal, and confirmed that he had not yet had a chance to discuss New Kent's request with its Commissioner. He indicated that the populace was "suspicious of the process" because it was not transparent to them. Mr. Davis advised that it was his information that the Commissioners wanted to use the Marshall & Swift index, with Mr. Homewood adding that the Index worked better for new construction. Mr. Summers commented that the problems associated with the difference between values on the assessment date and market changes could never be solved, but that New Kent's request was that there be some objective measure to instill some trustworthiness.

Staff advised that many of the remaining requests included items that had been brought up in the past, and were not specific to New Kent but merely expressed opinions or interests.

Mr. Budesky addressed an issue that had arisen since the Board met with Delegate Peace, dealing with stormwater regulations. He indicated that the Department of Conservation Resources was supposedly looking at a new set of regulations with associated fees that would be collected by localities, and that staff was concerned that the regulations would be adopted without a statewide impact study and might be an unfunded mandate that would be a challenge to the County in light of the current state of the economy. Senator Norment did not seem familiar with the issue.

Mr. Budesky indicated that there would likely be other issues that would arise during the General Assembly session and that staff and the Board hoped that they would be able to stop by to talk with him to voice any concerns. Senator Norment assured that "his door would be open".

Mr. Burrell asked if there were any items in New Kent's Legislative Requests that Senator Norment could not support. The Senator stated that he did not sit on the Local Government or General Laws Committees, so he hadn't heard any of the debates. He reminded that special legislation required a higher vote, but acknowledged the alternative of applying something statewide was not always the answer because localities throughout the State did not share the same interests.

Mr. Trout indicated that many of New Kent's requests were just a matter of adding New Kent to an existing list. He noted that one of the requests dealt with the encouragement of the use of non-potable and recycled water in industrial processes wherever possible. There was a discussion regarding the County's problem with obtaining and renewing groundwater withdrawal permits from the Department of Environmental Quality (DEQ). It was reported that two paper mills in the region were using one-half of the potable water pumped from deep-well aquifers east of I-95, and that if those plants stopped using potable groundwater in their processes, it would substantially ease the groundwater problem in eastern Virginia. Mr. Davis commented that he did not disagree with DEQ's concerns regarding the groundwater supply but he was concerned that the agency was not offering any alternatives to localities like New Kent who had no other source of water other than deep wells.

Senator Norment reported on anticipated State budget cuts and revenue shortfalls. He predicted that funds for education would be cut but not as much as other areas. He advised that although the Virginia Retirement System had some losses, it was still one of the best managed systems in the State and he was not aware of any plans regarding adjusting factors on retirement contributions. He indicated that the data from the first quarter of 2010, including unemployment figures, would be important and would "drive a lot of

things". When asked about use of the State's "rainy day fund", he reminded that only one-half of the fund could be withdrawn at a time, and that he felt it should be used only for one-time expenses and should not be put into the budget as it would create an "artificial backfill" that would still be there with the next budget. He acknowledged that there had been some discussions about reducing some services and closing some facilities, but reminded that the public had expectations on delivery of service and did not often realize the correlation between service and its costs.

There was discussion regarding the Dillon Rule. Senator Norment indicated that it was annoying to the legislators to have to deal with some of the issues that were brought before them but he did not see any momentum to substantially modify or repeal the Dillon Rule, and that any opportunity to do so would have to come out of a multi-year study, for which "no one had an appetite" at the current time.

Mr. Davis expressed his concerns that results from the 2010 Census would not be available in time for redistricting prior to the elections in November 2011, and asked if there was any way to obtain the data early. Mr. Homewood reported that Virginia and New Jersey received their data prior to any of the other states because of their odd year elections. Senator Norment explained how the General Assembly handled their redistricting process, pointing out that the Justice Department's review was focused on protection against civil rights violations but not against partisan gerrymandering, which was constitutionally permissible.

There was discussion regarding the length of the General Assembly sessions. Senator Norment advised that there were only two state legislatures who had shorter sessions than Virginia and that Virginia was "50 out of 50" in compression of items to be completed in a session.

Mr. Davis expressed his concern that the State would try to draw on taxes that farmers had imposed on themselves that was currently being held by the State Department of Taxation. Senator Norment indicated that he would be surprised to see that happen.

Mr. Trout offered the Board's help on issues that might arise during the session that would affect New Kent. There was discussion regarding measures that could raise revenue for transportation, including an increase in the gasoline tax and the expansion of gambling. Regarding the unsuccessful attempts to move forward with transportation authorities in Hampton Roads and Northern Virginia, Senator Norment advised that legislators in Northern Virginia were working on a plan and there continued to be discussion in Hampton Roads where an economist had been engaged to work on a Pro Forma. He indicated that he did not see an increase in the gasoline tax, a repeal of the car tax relief, or the increase of any taxes during an election year. He predicted that there would be no shortage of bills about additional tax relief for the elderly/handicapped but he felt it would be mostly "brochure stuff" for re-election campaigns.

Mr. Homewood asked about the Governor's Commission on Climate Change. Senator Norment advised that there would shortly be an announcement and he was certain that there would be some legislatively introduced items, but there was a question as to what they would be and they were likely to "create enormous intensity with the business community". There was discussion regarding New Kent's "green initiatives".

Senator Norment predicted some major changes in the Virginia Department of Transportation (VDOT). There was discussion regarding New Kent's inability to move forward with the projects on its secondary system six-year plan because of a lack of

funding, as well as the prediction that VDOT would attempt to turn over maintenance of secondary roads to the localities. Mr. Budesky commented that the "line was blurred" between "who was responsible for what", resulting in no one solving the problems. Mr. Trout explained about issues with South Waterside Drive and it was suggested that the Army Corps of Engineers should be involved.

Mr. Burrell asked if Senator Norment anticipated a bill to ban the use of plastic bags. The Senator indicated that he did, noting that a similar bill had been presented the previous year.

There was discussion regarding duck and goose hunting.

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IN RE:           ADJOURNMENT

There being no further business, the meeting was adjourned at 4:40 p.m.