

THE REGULAR WORK SESSION OF THE NEW KENT COUNTY BOARD OF SUPERVISORS WAS HELD ON THE 30th DAY OF OCTOBER IN THE YEAR TWO THOUSAND THIRTEEN IN THE BOARDROOM OF THE COUNTY ADMINISTRATION BUILDING IN NEW KENT, VIRGINIA, AT 9:00 A.M.

IN RE: CALL TO ORDER

Chairman Davis called the meeting to order.

IN RE: ROLL CALL

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.

IN RE: VALOR AWARD

Before the Board for consideration was Resolution R-26-13 recognizing the Macon family for their unselfish acts of bravery.

Chief Deputy Joe McLaughlin, Jr. advised that the Sheriff and Fire Chief had requested a resolution to recognize this family, which included Al and Shirley Macon and their two sons, Clifton and Joshua, for risking their own safety to rescue a mother and her two young children from a burning vehicle at the scene of a collision on Old River Road on August 26, 2013. He indicated that had it not been for their actions, he felt certain that the incident would have resulted in three fatalities. He related that the adult victim supported this resolution and wanted to attend the meeting where it would be presented to the Macon family.

Mr. Burrell moved to adopt Resolution R-26-13 as presented. The members were polled:

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: CONDOLENCES ON RECENT DEATH OF NEW KENT HIGH SCHOOL STUDENT

Board members expressed their condolences to the friends and family of Jacob Vick, who recently died during high school football practice.

IN RE: OPERATIONAL MEDICAL DIRECTOR

Before the Board for consideration was a request to approve an extension of the contract agreement with Dean Williams, M.D., as the County's Operational Medical Director.

County Attorney Michelle Gowdy explained that no acceptable bid had been received in response to the County's request for proposals for this service, and the RFP had been reissued to a wider audience. She indicated that staff was requesting that the Board approve an extension through the end of November 2013 to allow time for additional bids to be received.

Mr. Tiller moved to approve the Second Amendment to the Contract Agreement with Dean C. Williams, M.D. for Operational Medical Director services. The members were polled:

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: AGRICULTURAL AND FORESTAL DISTRICT (AFD) TAXATION

Before the Board for consideration was Ordinance O-04-13 which would amend Chapter 66 of the New Kent County Code to reflect the role of the Commissioner of the Revenue in the AFD process.

Commissioner Laura Ecimovic explained that the language in the proposed amendment was identical to what was in State Code and set forth the process that she was required to follow in order to grant tax relief under the AFD program. She indicated that she felt that the amendment would make it easier for citizens to understand that there were two separate steps to the process, and she spoke about how it was her responsibility to annually audit the participating properties to make sure that they were being used as promised. She advised that the AFD program was the largest tax exemption program in New Kent and confirmed that nothing in the process was new.

There was discussion regarding land use programs in other localities, large lot subdivisions, and whether participants should have to apply for the tax exemption every year. Ms. Ecimovic advised that annual applications were what was recommended by the State and indicated that there was no annual fee. She remarked that the process should be fairly easy for the applicants, who should be able to use tax schedules or other readily-available documents for verification of agricultural or forestal uses. She acknowledged that verifying forestal uses would not be as easy as agricultural but advised that there were several options available and she welcomed comments and suggestions to improve the forms that were under development.

She reiterated that the annual auditing process would help to guarantee that "people were doing what they had promised" in return for the significant tax break they would be receiving.

Ms. Gowdy suggested that the AFD Board, which would meet in November, might have some suggestions for improvements for the forms, and Board members agreed that the information requested in the forms would be of assistance to the AFD Board as well.

It was explained that any appeal of a denial by the Commissioner would be to the Circuit Court.

Mr. Evelyn moved to adopt Ordinance O-04-13 as presented. The members were polled:

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

The motion carried.

IN RE: ENVIRONMENTAL DIVISION UPDATE

Environmental Planning Manager Matt Venable provided an overview of staffing and hours spent on various tasks, programs and processes in the Environmental Division. He explained some of the impact that the still-evolving Virginia Stormwater Management Program (VSMP) would have on their already short-staffed department.

Mr. Stiers commented on some costly processes that had been required during the construction of a home in his neighborhood which he complained "was not common sense" that included the stabilization of piles of dirt and a third-party wetlands evaluation. Mr. Venable explained that the State required that dirt piles had to be seeded and covered with straw after seven days, which was a normal common practice, and that he had felt that a wetlands confirmation of the property from a third party had been warranted. Building Official Clarence Jackson defended staff's handling of this particular construction site, explaining that the lot had become a wetland over the years and had required constant pumping during the construction process because of the amount of water on the lot. It was also explained that the landowner could have chosen free engineering services from the Army Corps of Engineers but chose instead to get their own private engineer.

IN RE: STORMWATER ORDINANCE CHANGES

Mr. Venable and Ms. Gowdy were present to answer questions on the proposed stormwater ordinance changes scheduled for public hearing on November 13, 2013.

Mr. Evelyn and Mr. Stiers expressed their frustration with the changes being mandated by the State, and each pointed out sections that did not make sense or were otherwise of some concern.

Mr. Burrell suggested that since the changes were mandated, it did not make sense for the Board to waste time on an issue over which it had no control.

Ms. Gowdy confirmed that staff had used the State's model ordinance, with some amendments to "fit New Kent" and, although it was not more stringent than what the State was requiring, it was more stringent than the program currently in place. She advised that all of the definitions, including those that were mandatory, had been grouped together in order to make them easier to find, and she also confirmed that New Kent was required to adopt the ordinance changes by the end of 2013.

There was discussion regarding what would happen if New Kent did not adopt the ordinance changes. Mr. Venable agreed to obtain additional information from the State on that issue.

It was noted that New Kent was allowed to recover the cost of the program through fees and staff felt that it was best to determine those fees during the 2015 budget process.

Mr. Venable explained that the proposed requirements were already being enforced by the State and that New Kent would have to assume management of the program by July 1, 2014. He confirmed that the Pollution Prevention Plan (PPP) was a new program.

There was discussion about the time demand that managing this program would have on the Environmental Division, as well as the provision providing "right of entry" onto private property for inspections. Mr. Jackson indicated that there was a similar provision in the Building Code that provided that inspections could be made at a "reasonable time" with any open permit, and that his department interpreted "reasonable time" to be the normal working day during daylight hours. Mr. Venable explained that a Best Management Practice (BMP) agreement would include inspections for as long as that BMP existed.

Assistant County Administrator Jonathan Stanger advised that the point of the legislation was to protect downstream property owners. Staff was asked to provide the Board with information as to the differences between what was now required and what would be required after July 1, 2014.

IN RE: SELECTIVE ENFORCEMENT GRANTS

Before the Board for consideration was a request to accept some Selective Enforcement Grants from the Department of Motor Vehicles.

Sheriff Howard and Lt. Lee Bailey explained that these were similar to Selective Enforcement grants obtained by the Sheriff's Office in past years, except for one which was actually for a trailer to operate checkpoints. Sheriff Howard confirmed that any local match would be paid from existing funds in their budget.

Mr. Stiers moved to accept the following Department of Motor Vehicle grants: Selective Enforcement-Alcohol, \$24,100; Selective Enforcement-Alcohol-Equipment (\$29,700); Selective Enforcement-Speed, \$10,500; and Selective Enforcement-Occupant Protection (\$5,250). The members were polled:

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

The motion carried.

IN RE: JACKASS FLATS CONDITIONAL USE APPLICATION

Planning Manager Kelli Le Duc reviewed a conditional use application filed by Jackass Flats LLC for a mini-storage facility.

She reported that the Planning Commission had considered the application at its last meeting and voted 9:0:1 to forward a recommendation for approval. She indicated that there had been no public comments at the Planning Commission's public hearing.

Mr. Davis commented that the proposed conditions appeared to be "stringent". Ms. Le Duc advised that the conditions were consistent with those imposed upon other mini-storage uses in New Kent and the applicant had expressed no objections. She did indicate that

there was an access issue with the Virginia Department of Transportation that would be resolved during the site plan process.

Board members remarked that the requested use would be an improvement over what was on the property at present, and the Sheriff commented on problems his office had with activities on that site in the past.

IN RE: SUBDIVISION ORDINANCE CHANGES

County Administrator Rodney Hathaway and Ms. Gowdy reviewed some proposed changes to Chapter 91 of the New Kent County Code. Mr. Hathaway advised that some of the needed changes resulted from State Code changes and others from potential Zoning Ordinance and Stormwater Ordinance changes. Ms. Gowdy pointed out that no changes had been recommended to the Cluster Subdivision Ordinance as of yet because they wanted some guidance from the Board first.

Mr. Hathaway explained that some changes were being suggested in order to streamline the process for minor and large lot subdivisions, boundary line adjustments, or any subdivision that did not require infrastructure improvements, by no longer requiring a preliminary review process.

Ms. Gowdy added that they were also proposing to delete those provisions that currently required Planning Commission review when it was not needed.

Mr. Hathaway indicated that, if the Board had no objections, he would move forward to review the proposed changes with the New Kent Chamber of Commerce at its November meeting and otherwise obtain some community feedback before scheduling the amendments for a public hearing.

Mr. Tiller suggested that the definitions section would be easier to use if it were grouped by categories rather than alphabetically.

IN RE: ZONING ORDINANCE CHANGES

Ms. Gowdy reported that staff was meeting regularly to review the Zoning Table to make it more coherent and consistent, but in the meantime there were some changes needed as a "patch" relating to truck stop standards and the addition of language that provided that any use not listed in the Table could be applied for through the conditional use permit (CUP) process.

There was discussion regarding term limits of existing CUPs. Mr. Hathaway advised that if the use was not in place at the end of the time limit, then the applicant would have to reapply and go through the entire process again.

Ms. Le Duc confirmed that every CUP was tracked, and once the business was established the use "ran forever"; however, if a use changed, then the property owner would have to reapply.

Mr. Burrell moved to ask that the Planning Commission review the proposed changes to the Zoning ordinance and send a recommendation to the Board of Supervisors after a duly advertised public hearing. The members were polled:

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: HISTORIC SCHOOL RENOVATION SUBCOMMITTEE

Mr. Hathaway requested that the Board appoint two of its members to serve on the Historic School Renovation Subcommittee created at the last meeting. It was confirmed that both the County Administrator and County Attorney would serve as members, as well as two staff from the School Board Office, which was assumed to be the Superintendent and the Executive Director of Finance and Budget.

Mr. Evelyn and Mr. Tiller volunteered to serve as the Board's representatives.

Mr. Burrell moved to appoint Mr. Evelyn and Mr. Tiller to the Subcommittee which will assist in the next phase of the Historic School project. The members were polled:

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

The motion carried.

Ms. Gowdy reminded the Board that it would need to decide what type of process it wanted to use to do the project. The Board agreed to make that decision at its November 13, 2013 meeting.

IN RE: NEW ANNUAL EVALUATION FORMS

Mr. Davis distributed new evaluation forms to be used for the County Administrator and County Attorney, and asked for feedback. There was consensus to use the new form for Mr. Hathaway's upcoming evaluation and Mr. Davis indicated he would convert the information from Ms. Gowdy's recent evaluation to the new form.

IN RE: LEGISLATIVE AGENDA

Mr. Hathaway distributed a draft 2014 Legislative Agenda for the Board to review and consider at one of its November meetings.

Action items included were the widening of I-64 from I-295 to Newport News; assistance to expand broadband in rural areas; reconsideration of the formula used for public education funding; State VRS funding for State-funded teachers; opposition to any reduction in CSA funding and a request for additional administrative funding; funding to achieve radio communications interoperability across the State; reverting to full funding by the State of the Line of Duty Act; a request for a study on the impact of expanding gaming options as a revenue source for transportation and resource protection infrastructure; support of full funding for legislative mandates, incentives for regional cooperation and projects, and the VACo 2014 Legislative Program; and opposition to any moratorium on the transfer of newly-

constructed secondary roads to VDOT as well as any legislation transferring secondary road construction and maintenance responsibilities to Counties.

IN RE: ADJOURNMENT

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

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 11:05 a.m.