

A SPECIAL MEETING WAS HELD BY THE NEW KENT COUNTY BOARD OF SUPERVISORS ON THE 19<sup>TH</sup> DAY OF FEBRUARY IN THE YEAR TWO THOUSAND FOURTEEN IN THE BOARDROOM OF THE COUNTY ADMINISTRATION BUILDING, NEW KENT, VIRGINIA, AT 7:00 P.M.

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IN RE: CALL TO ORDER

Chairman Evelyn called the meeting to order.

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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.

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IN RE: HISTORIC SCHOOL RENOVATION PROJECT

The Board convened a special meeting to hold a public hearing on an unsolicited Public Private Education Act (PPEA) proposal from Marengo Management to renovate the Historic School Campus for use as elementary classroom space.

County Attorney Michelle Gowdy reviewed that the subject proposal was received in November of 2013 and, after review, the Board decided to advertise it, as required, for competitive bids. She confirmed that no competing bids had been received and the next step would be to enter the conceptual phase; however, at least 30 days before entering into any agreement, the Board was required to hold a public hearing. She explained that the proposal provided for completing the balance of the "South" building, to include the kitchen, cafeteria and "East wall", as well as renovating the 1930s building in full to serve as a school. She pointed out that the proposal was for classroom space for grades three through five and that the School Board had since indicated that might not be what was needed.

Chairman Evelyn opened the Public Hearing.

Ralph Westbay, former finance director for the New Kent School Board Office, spoke in opposition to the project. He remarked that because the building would hold less than 400 students, the Board would be spending twice as much per pupil in operating costs when compared to new 750-student capacity school. He called the project a "fiscal error" and spoke about how the amount budgeted for the project had been "whittled down" to an amount that could in no way finish the project. He suggested that the fact that there were no other bids reflected uncertainty about the process that was being used. He indicated that changing the project from classroom space for grades three through five to a K-5 school added another set of problems since there was not an existing single room that met the State's space requirements for kindergarten classroom size, and other rooms would have to be "cannibalized" thereby further reducing capacity. He said the County would be spending too much on a school that was not large enough and in the "wrong location". He referred to the project as a "phenomenal error in judgment" and "huge waste of money", adding that although the Board members might have their "hearts in the right place, this wasn't the solution". He suggested that the appropriate thing to do would be to revert to renovating the South building for School Board office space for the School Board, and finish the other building later for something else.

Dr. William Boshier of DecideSmart, a Richmond consulting firm, remarked that he had “watched, admired, and continued to appreciate” what the New Kent Board was doing. He confirmed that he and Lane Ramsey had joined with Taylor Moore of Marengo Management to work on this project. He advised the Board that he was a fan of PPEAs and that if New Kent could “pull this off”, it would be a model for others to look at. He indicated that Mr. Moore’s commitment and the quality of his work were “without question”, and that he and Mr. Ramsey were grateful to be partners with Mr. Moore and would do everything they could to deal with the challenges of the project and provide what was needed for the students.

Bill O’Keefe spoke about how he had been “following this saga for well over a year” and how Mr. Moore had established a “reputation for excellence and cost control”. He intimated that the objections by the School Board about the acceptability of the building as a school “came out of thin air” only after the Board “made the right decision” to retain control of the project. He remarked about varying cost estimates and student population figures, as well as an option to add wings to the existing elementary schools. He indicated that education should be the “highest priority” and urged the Board to “move ahead quickly”.

Teresa Belback, a county resident with a background in environmental issues and contracts, said that she agreed with all of the comments made so far; however, she did not think that the current proposal had enough detail. She spoke about missing costs, protection clauses, and tax credits. She suggested that the contractor manage the building for one year after completion in order to make sure that all systems were functional and issues resolved, as she did not think that the County had the money or “skill sets” to do that itself. She also asked about abatement of asbestos in the floors and walls and suggested that needed to be addressed upfront rather than as a change order.

Dennis Mountcastle, a 52-year resident of New Kent and, along with countless family members, a product of its school system, advised that he was the current Project Manager of Phases I and II and spoke about how participating in the renovation of these buildings was more than just a job to him but was an opportunity and a challenge. He indicated that he had a lot of personal interest in the project “to make it great”. He remarked that the current PPEA project was 65% complete and there had not been one change order requested by Marengo, although there were some change orders due to the change in scope from office to classroom space. He indicated that they would need input from both the Board of Supervisors and School Board and he was willing to do “whatever it takes” to make the project a success.

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

Speakers were thanked for their comments.

Mr. Davis had some questions regarding the space requirements for kindergartners. Mr. Westbay advised that kindergarten and first grade classes needed to have more space and also required a lower teacher to student ratio, which would also lower the capacity of those buildings. It was thereafter clarified that those were State guidelines and not requirements.

Chairman Evelyn suggested that these kinds of questions should be directed to the School Superintendent, Dr. Richardson, rather than to Mr. Westbay, who no longer worked for the New Kent School Board. He asked the County Attorney if the Board could “back out” of the project if they “saw something that won’t work”. Ms. Gowdy confirmed that it could, and explained that the Board was not required to take any action at this meeting but could if it

wanted. She confirmed that the proposal called for completion by the fall of 2015 and that any protection clauses would be negotiated in the Comprehensive Agreement.

Mr. Moore reported that all asbestos had been abated in the South building and had been inspected by the State.

Mr. Davis moved to accept the Unsolicited PPEA proposal from Marengo Management, to ask for a detailed phase submission, and to authorize staff to begin the negotiation of an Interim Agreement(s) to include: replacing the east wall and renovating the kitchen in full; demolition and the creation of complete plans to submit to the Department of Education for approval. The members were polled:

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

The motion carried.

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IN RE:            AGRICULTURAL AND FORESTAL DISTRICT PROGRAM

Before the Board for consideration was Ordinance O-03-14, an emergency ordinance amending County Code Section 52-33 as well as Appendix A – Fees.

Ms. Gowdy explained that it had come to her attention that there were some concerns about the process. She indicated that the proposed emergency ordinance would be effective for only 60 days and would do two things: extend the application deadline from March 1 until April 1, and change the application fee from \$500 per parcel to \$50 per parcel plus 25¢ an acre. She explained that this fee proposal resulted from a meeting of staff and Board member Davis and should generate sufficient revenue to cover advertising and staff costs. She indicated that the reason for the emergency ordinance was because the March 1 deadline was fast approaching and it seemed prudent to allow another 30 days. She advised that staff had also prepared a proposed letter to send out to AFD property owners advising them of the changes, once adopted.

Mr. Davis reviewed that the County had suspended the AFD application process two years ago and now two of the 19 districts were getting ready to expire. He explained that under the previous ordinance, this would have been a "renewal" which had no fee; however, now the participants in those two districts would have to pay a \$500 fee and complete an application just like a new applicant. He indicated that although he understood that taxpayers shouldn't be required to subsidize the cost of advertising, he felt \$500 was excessive and had worked with staff to come up with a new fee proposal, after looking at what other localities were charging.

It was explained that there were 50 total parcels in the two districts that were expiring, and it was felt that the proposed fee would be fair and sufficient, and still had a cap of \$500.

Mr. Evelyn indicated that he felt new applicants should have to pay a higher fee than those who were remaining in the AFD. It was confirmed that under the County's current ordinance, everyone was required to complete the same forms and go through the same process, and Ms. Gowdy advised that she could not see a justification for charging a different fee.

There were comments regarding whether a higher fee for new applicants might reduce the number of applications. Mr. Davis spoke about how changes in State law gave localities more control over what parcels were allowed to be added to AFDs and also about how participants had to submit annual paperwork to the Commissioner of Revenue in order to qualify for a tax break.

Ms. Gowdy suggested that the fee issue be deferred until the next work session to give staff time to look at Mr. Evelyn's suggestion.

There was consensus to vote on a motion to only extend the application deadline.

Mr. Stiers moved to adopt Ordinance O-03-14, amended to remove all references to fees. The members were polled:

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

The motion carried.

Board members confirmed that staff should send out a letter to affected parcel owners that the application deadline had been extended.

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IN RE: CLOSED SESSION

Mr. Stiers moved to go into Closed Session pursuant to §2.2-3711A.1 of the Code of Virginia for discussion, consideration, or interviews of prospective candidates for employment; assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or County employees, involving Administration and IT. The members were polled:

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

The motion carried. The Chairman announced that the Board did not expect to take any action after the closed session. The Board went into closed session.

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

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

The motion carried.

Mr. Davis 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:

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

The motion carried.

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IN RE: COLONIAL DOWNS

There was discussion regarding a dispute between Colonial Downs and the Horsemen's Association that affected wagering on thoroughbred racing at the Off Track Betting facilities (OTBs) and revenue for both the State and New Kent County.

It was explained that the disagreement seemed to center around the number of live racing days and that Colonial Downs was attempting to add amendments to pending General Assembly bills in order to bypass having to resolve these issues with the Horsemen's Association before resuming wagering at the OTBs.

There was discussion regarding the impact this would have on New Kent as well as its residents who work part-time at the track, as well as other pending General Assembly bills that affected the track.

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IN RE: ADJOURNMENT

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

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

The motion carried. The meeting was adjourned at 8:12 p.m.