

THE REGULAR WORK SESSION OF THE NEW KENT COUNTY BOARD OF SUPERVISORS WAS HELD ON THE 22ND DAY OF OCTOBER IN THE YEAR TWO THOUSAND SEVEN OF OUR LORD IN THE BOARDROOM OF THE COUNTY ADMINISTRATION BUILDING IN NEW KENT, VIRGINIA, AT 5:00 P.M.

IN RE: ROLL CALL

Mark E. Hill	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: REVIEW OF CENSUS 2010 LOCAL UPDATE OF CENSUS ADDRESSES (LUCA)

Before the Board for review and discussion were the options offered for update of local addresses (LUCA) for the 2010 Census.

Community Development Director George Homewood and Planner Kelli Le Duc explained that the Census Bureau had begun the address update process, the first step in preparing for the 2010 Census. Ms. Le Duc advised that Planning staff had attended some work shops and met with staff from IT, the Sheriff's Department, Fire-Rescue, the Schools, the Transportation Department and the Commissioner of the Revenue and was suggesting that New Kent choose Option 2.

Mr. Homewood explained that everything government did was related to census numbers, including redistricting and funding, and he emphasized that it was in the best interest of New Kent to make sure that there was as accurate a count as possible. He explained that under Option 2, the County would provide a current listing of addresses to the Census Bureau, who would update its list and return a copy to New Kent for comparison. He advised that the County would have an opportunity to appeal and submit additional information to supports its data.

He advised that providing the addresses would not be a problem for the County, as it would be able to use its GIS and 911 data. He noted that the biggest challenge would be to identify those addresses where an in-person enumeration would be required, such as group quarters like jails, motels and campgrounds. He also noted that there were some residents living in accessory dwellings and apartments who might be missed by a mailed form, and that it was important to count everyone, whether legal or illegal.

Mr. Burrell noted that in past years, forms were just sent to every known mailing address as provided by the post office. Mr. Homewood advised that the Census Bureau was now trying to engage local governments as partners to make sure addresses were as accurate as possible, and that only address information was being provided.

The Board inquired as to whether staff would be able to provide the information within the allotted 120 days. Mr. Homewood advised that providing the addresses would be the easy part, and that having to identify the places that would need hand enumeration would be more difficult.

Mr. Summers advised that given the fact that any future redistricting would be based upon census figures, he would recommend the Board take a recorded vote on whatever option was chosen.

Mr. Davis spoke about how some of the precincts were out of balance and expressed his concern about the Census 2010 taking place just one year before the 2011 election and whether the data would be back in time for redistricting prior to the election. Mr. Homewood reported that there were four states, including Virginia, that held significant elections in odd-numbered years and those states were given priority in releasing census results.

Mr. Burrell commented that the Justice Department would have to approve any redistricting plans and that it was evident that the number of districts would have to be increased in order to comply with Justice Department goals.

Mr. Trout asked why options were given when the Census Department was looking for consistency. Mr. Homewood explained that it depended on the ability of the jurisdiction to provide the information, and that he assumed that there would be some localities that would choose not to participate, which would be to their detriment.

Mr. Homewood reported that once the address list had been updated, New Kent would continue to update the information on a monthly basis as new addresses were added and others were no longer valid. He indicated that there would be no out-of-pocket costs to the County but that there would be some staff time involved which should be recovered through increased funding because of increasing numbers.

Mr. Hill moved to approve Option 2. The members were polled:

Mark E. Hill	Aye
D. M. Sparks	Aye
James H. Burrell	Aye
W. R. Davis, Jr.	Aye
Stran L. Trout	Aye

The motion carried.

IN RE: PERFORMANCE STANDARDS FOR NEW AND EXPANDED PUBLIC, SEMI-PUBLIC, INSTITUTIONAL, EDUCATIONAL AND RECREATIONAL USES AND FACILITIES

Before the Board for review and discussion were proposed amendments to the Zoning Ordinance establishing performance standards for new and expanded public, semi-public, institutional, educational and recreational uses and facilities.

It was clarified that these amendments would not come before the Board for public hearing in November as reflected on the Agenda but at a later time.

Planning Manager Rodney Hathaway referred to a recently distributed handout showing the Planning Commission's suggested revisions to the version recommended by the Zoning Ordinance Rewrite Committee (ZORC). He advised that there were no major changes, just some clarifications.

Mr. Sparks asked about the requirement that outdoor light fixtures be energy efficient and what standards would be used to make that determination. Mr. Hathaway indicated that the type of fixture would need to be listed on the site plan and would be checked at the time of inspection. He indicated that the County was not requiring a specific fixture – just that it have certain features. Mr. Davis commented that it could be that the required fixtures that did not result in upward scatter may not be energy efficient and it might not be possible to fill both requirements. Mr. Hathaway advised that staff had worked with several lighting engineers who might be willing to provide additional information and some language that would address those concerns. Mr. Sparks added that he felt that there should be some guidelines for people to use. It was noted that efficiency in lighting was continuously improving and what might be the most efficient now would not necessarily be the most energy efficient in a few years.

It was clarified that the section pertaining to animal shelters did not pertain to kennels.

Regarding the requirement that no lead bullets be used on shotgun, pistol, rifle and air gun ranges where any part of the range encompassed water, wetland or a Chesapeake Bay Resource Protection Area (RPA), Mr. Davis noted that Federal law did not require steel shot unless one was hunting migratory water fowl. He also noted that there could be such a location in New Kent. Mr. Summers advised that issue had been brought up earlier and as far as staff knew, the location in question had one target stand with a pond that wasn't in the RPA. He also confirmed that the forestry center, who hosted hunting events for the handicapped, was not considered an outdoor range and the standards would not apply. He advised that if one was simply hunting on open land, even if it had stations, it would not meet the definition of "range".

There was discussion regarding skeet, trapshooting and sporting clay ranges being prohibited from operating on Sundays, unless specifically authorized by the issuance of a conditional use permit. It was clarified that would not apply to hunt clubs or turkey shoots.

Mr. Burrell expressed his concerns regarding the requirement for evergreen screening around the base of communication and broadcast towers, commenting that such screening might provide a convenient place for vandals to hide while cutting through security fences. Mr. Summers suggested that the Board focus its thoughts on the fact that the purpose for screening was to make something visually attractive and that one could never overcome criminal intent with zoning regulations. He pointed out that the object of screening was to visually soften the security fence.

Mr. Davis commented that few people noticed towers and some of them did not have screening. Mr. Hathaway advised that the screening requirement was in the current ordinance. Mr. Homewood reported that there were some complaints regarding lack of screening around the towers located at the interstate interchanges. It was confirmed that those towers were located on property owned by the Virginia Department of Transportation, who was not required to comply with local regulations.

Mr. Burrell referred to the requirement that an attachment to an existing tower not exceed a 7.5% overhang, and suggested that camouflaged towers should be given some "allowance". Mr. Homewood advised that the language permitted an addition to an existing tower as long as it did not exceed the 7.5% overhang; however, if the addition exceeded that amount, the owner would have to apply for a conditional use permit. He noted that there were no existing camouflage towers in New Kent and that camouflage towers normally served a single user.

Mr. Davis commented on the requirement that a public cemetery be at least 20 acres, advising that he felt that 10 acres would be sufficient. He predicted that there would soon be a need for a public cemetery in New Kent and asked where the 20-acre figure was obtained. Staff reported that the 20-acre minimum was in the current ordinance.

Following further discussion, staff offered to research the requirements in other localities regarding cemetery size and report back to the Board.

There was also discussion on how to ensure that the owners of a cemetery would provide perpetual care. Mr. Summers explained that the owners would have to provide a financial plan and bonding, and that perpetual care would most likely be paid for out of an annuity.

It was noted that some of the cemeteries in New Kent that were located adjacent to churches were owned by memorial associations, organized as charitable organizations with boards of trustees.

Mr. Sparks suggested that additional items of concern could be addressed at the public hearing. Board members were asked to forward their concerns to staff members so that they could do the necessary research and provide additional information prior to the public hearing.

IN RE: ZONING ORDINANCE REWRITE UPDATE

Mr. Hathaway reported that the ZORC had finished its review of two more sets of performance standards (Transportation and Utilities) that would be reviewed by the Planning Commission in November with a public hearing in December, and then would be brought to the Board. He noted that the ZORC was currently reviewing performance standards for temporary uses, and would thereafter begin Zoning Map updates. He advised that once the Zoning Map update was accomplished, that would complete Phase I of the process, and there were three full phases after that.

IN RE: AMENDMENTS TO NEW KENT CODE CHAPTER 70 REGARDING IMPOSITION OF PERSONAL LIABILITY FOR EMERGENCY RESPONSES ON PERSONS CONVICTED OF CERTAIN MOTOR VEHICLE OFFENSES

Before the Board for consideration were proposed amendments to Chapter 70 of the New Kent County Code regarding the imposition of personal liability on persons convicted of certain motor vehicle offenses for the cost of emergency response to an associated incident or accident.

Mr. Summers reported that the Courts were not willing to enforce the cost reimbursement without the proposed language changes. He indicated that he had consulted with both the Commonwealth's Attorney and the Chief Deputy Sheriff and if the Judges wanted the language, the County should make the changes -- otherwise civil collection actions would be the only recourse.

Mr. Davis asked how this would affect plea bargains. Mr. Summer clarified that this was not a fine paid into the Literary Fund but restitution to the County and it would be to the County's benefit.

There was consensus to move forward with a public hearing in December.

IN RE: DISTRICT APPOINTMENTS

Mr. Trout moved to appoint Brandon Currence as District Four's alternate representative to the New Kent County Historic Commission to serve a term ending December 31, 2009.

The members were polled:

David M. Sparks	Aye
James H. Burrell	Aye
W. R. Davis, Jr.	Aye
Mark E. Hill	Aye
Stran L. Trout	Aye

The motion carried.

IN RE: OTHER BUSINESS

Chairman Trout recognized David Craig, VCU graduate student studying urban planning, who was present in the audience as part of a course requirement.

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 7, 2007, in the Boardroom of the County Administration Building, New Kent, Virginia.

Mr. Hill advised that he would be returning from out of town on November 7 and might be late for the meeting.

IN RE: CLOSED SESSION

Mr. Hill moved to go into Closed Session for discussions relating to real property pursuant to Section 2.2-3711A.3 of the Code of Virginia involving acquisition of real property for public purpose and for consultation with legal counsel pursuant to Section 2.2-3711A.7 of the Code of Virginia about actual or probable litigation. The members were polled:

James H. Burrell	Aye
W. R. Davis, Jr.	Aye
Mark E. Hill	Aye
David M. Sparks	Aye
Stran L. Trout	Aye

The motion carried. The Board went into closed session.

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

W. R. Davis, Jr.	Aye
Mark E. Hill	Aye
David M. Sparks	Aye
James H. Burrell	Aye
Stran L. Trout	Aye

The motion carried.

Mr. Hill 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:

Mark E. Hill	Aye
David M. Sparks	Aye
James H. Burrell	Aye
W. R. Davis, Jr.	Aye
Stran L. Trout	Aye

The motion carried.

IN RE: OTHER BUSINESS

Mr. Davis reported on an incident in an adjacent locality where a local farmer was jailed for drowning feral cats, after animal control failed to come pick them up. He also related an incident in New Kent where the owner of a pet deer shot with an arrow was jailed for spraying the trees of an adjacent parcel of land with a semi-automatic firearm.

IN RE: ADJOURNMENT

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

David M. Sparks	Aye
James H. Burrell	Aye
W. R. Davis, Jr.	Aye
Mark E. Hill	Aye
Stran L. Trout	Aye

The motion carried.

The meeting was adjourned at 6:24 p.m.