

A SPECIAL MEETING OF THE NEW KENT COUNTY BOARD OF SUPERVISORS WAS HELD ON THE 19th DAY OF JANUARY IN THE YEAR TWO THOUSAND SIX OF OUR LORD IN THE BOARDROOM OF THE COUNTY ADMINISTRATION BUILDING AT 4:30 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: ZONING ORDINANCE REVISION PROCESS

Chairman Sparks thanked staff and citizens for attending the meeting. He indicated that he had spoken with individual Board members since the recent joint public hearing and felt that the Board needed to have a conversation so that its members could share their thoughts. He pointed out that the Board was not meeting on any specific issue but about the process and had invited Mr. Gammon as Chairman of the Planning Commission to participate.

Mr. Burrell stated that it was obvious that the County needed to better clarify the intent of the revision of the Zoning Ordinance, and dispel the concerns that the business owners have that they would not be able to continue to operate as they were presently doing. He agreed that the information was hard to understand and stated that he would like to see each article summarized. He stressed the value of public input and reminded that the process would take a long time before there was a document that was ready for adoption. The public would continue to have the opportunity to participate and their issues would be addressed. He commented that this was a document to help the County better manage growth. He stated that everyone wanted what was best for New Kent. He again emphasized the value of citizen input and asked that there be respect for each other in the process. He stated that the public hearings were to help in the development of the document and there would be many opportunities for the public to give input. He asked those concerned to be patient and understand that the proposed revisions were "not a done deal".

Mr. Davis commented that the Board members had heard the citizens "loud and clear". He agreed that the document was long and hard to understand. He indicated that some of the concerns raised at the last Public Hearing were things that he hadn't thought about, and he stressed the value of continuous public input. He stated that the current proposal needed "a lot of tweaking" and he anticipated that there would be many changes before it was finished. He indicated that he understood the concerns that the hearing schedule was too fast and the purpose of this meeting was to determine how best to proceed with the process.

Mr. Trout applauded the public for their comments, stating that many important concerns had been raised. Regarding the hearing schedule, he stated that six hearings were scheduled over two months. Once those hearings were complete, the matter would go back to the Planning Commission for changes. Thereafter there would be another public hearing and then a recommendation made to the Board of Supervisors. He emphasized that there would be no voting taking place any time soon. He pointed out that the six hearings in

January and February were actually extra hearings, outside of and before the normal process. He commented that it might take anywhere from six months to two years before something was formally adopted. He stated that the concerns of the business owners were made very clear to the Board and Planning Commission, and both bodies wanted to make sure that no existing businesses would be harmed. He commented that it was the County's intent to take the current zoning regulations (which date back to the 1960s) and revise them in order to better handle the growth pressures facing the County. He emphasized that keeping existing businesses was very important and that the underlying reason for the revision process was to be prepared for growth.

Regarding the notices that were mailed to every property owner, Mr. Trout explained that was necessitated by a recent Supreme Court case that originated in another Virginia locality. Notices for changes that are being considered needed to be strong and worded in a way to get attention, and obviously it worked in this case.

As to the concerns about the speed of the process, Mr. Trout pointed out that this began with the adoption of the current Comprehensive Plan in 2003 after one or two years of study. Thereafter the Village Activity Review Committee was formed and then the Zoning Ordinance Review Committee, both of which did a lot of work. He emphasized that the proposal was not written by one individual, but was the collective efforts of many. He stated that summaries were being prepared to help everyone understand the changes, and he acknowledged that it was difficult to look at such a large document and be able to pick out the changes. He thanked the citizens for their comments, and encouraged them to continue to send letters and e-mails and make telephone calls to point out changes that needed to be made or to share other concerns that may not have been considered. All input would be given consideration by the Planning Commission and the Board of Supervisors.

Mr. Trout emphasized that this was a process that needed to be in place in order to handle the growth pressures.

Mr. Hill commented that everyone already knew how he felt. He stated that he was still hearing concerns about the schedule and that the document was too complex. He indicated that it was his opinion that any more time spent on the document until it was revised would be a waste of time and taxpayer dollars. He stated that he did not think that the County should tell people what they can do with their property, and he did not think the proposed changes were good for New Kent. He stated that the County was asking too much of people to try to absorb the document over six weeks' time when many of them have full-time jobs and families. He stated that he did not agree with the process and it should be suspended and re-assessed.

Mr. Trout asked if Mr. Hill was suggesting that the document be amended before receiving citizen input. If that was the case, then the whole process would have to start again and it might have to be revised again after public comment.

Mr. Hill suggested that a committee of five or ten citizens be created to work with the Planning Commission and staff to develop a zoning ordinance that can be accepted by everyone. He stated that the current document was not acceptable in its current form and he did not think the next four months should be spent on it. He stated that the citizens would be better served to have a better document.

Mr. Burrell asked how a better document could be developed without citizen input. He stressed that this was not a final version and that input was needed to allow staff and the Planning Commission to develop a document that was more "in line". He stated that to ask the staff to develop another document and start the process all over again was not the thing to do. He reminded that the process was a way to get input and information to develop the document, and were not final public hearings. He emphasized that summaries would be available and the citizens were not being asked to accept the document in its current form. He stated that he believed the document would be more easily digested in pieces.

Mr. Hill indicated that under the current schedule, there was no way anyone who wasn't "retired or bedridden" would have enough time to comprehend the document and make recommendations for changes. He stated that the current document did not contain citizen input, but was created by Mr. Homewood and his staff without any recommendations. He asserted that the Village Activity Review Committee met for over a year - yet none of their recommendations were a part of the document.

Mr. Sparks admitted that he had a problem with the way that the document was written but in fairness to the hard work of the Planning Commission and staff, the Planning Commission's subcommittee was comprised of citizens who gave input. He announced that he had asked staff to develop something that would improve the process, and then asked the County Administrator for his recommendations.

County Administrator John Budesky stated that he would recommend that the Board of Supervisors remove itself from the current public hearing process and allow the currently scheduled hearings to proceed before the Planning Commission alone. He also recommended that the Board of Supervisors and Planning Commission form a committee that would include himself and the County Attorney, as well as citizens appointed by the Board and Commission, to receive and review comments, taking as much time as it needs. That committee can then come back to the Planning Commission. This will slow the process down dramatically and would allow more citizen input and a more acceptable document for consideration.

Mr. Burrell clarified that under Mr. Budesky's proposal, the currently scheduled public hearings would proceed as advertised, but without the Board of Supervisors. Mr. Budesky confirmed that they would proceed as advertised to obtain citizen input and to provide information. The change in the process would require another set of public hearings six or twelve months in the future, or however long it takes to get a more easily digestible document. He pointed out that it was important that the document be understandable to anyone – not just a planner. He admitted that the current process had its flaws, but the process needed to stay on track but at a slower pace. Having a jointly appointed committee would provide additional opportunity for public comment and more time to consider the impacts of the changes. He commented that there were some very vital things that may not have been considered and were unintended consequences, and that the comments that had been received were improving the document. The number of members on the committee can be decided by the Board and Commission and it may be advisable to have each member on each body appoint a representative.

Planning Commissioner Brenda Snyder requested and received permission to read a statement she prepared as a member of the Zoning Ordinance Review Committee, as follows:

"I served on the Planning Commission Subcommittee and worked on the new zoning ordinance for New Kent County. All of those meetings were public meetings and I asked many people to attend and/or to call me with their concerns. I am sorry to say that nobody did either.

There are many things that people perceive as controversial about this ordinance but when you look at it line by line as we did there are many things to recommend it. It is not pleasurable reading. It is a technical guide to how we develop and one of the most important tools the county has to implement its Comprehensive Plan.

One of the main complaints I heard on Tuesday was that it was too long and that it repeated itself. It was written in such a way that each section—Hamlets, Villages—contains a lot of the same information, i.e., protecting the night sky, standard signage, and so forth. The ordinance was written in this way to make it easier for those wishing to develop in the county. If one wanted to build in a Hamlet, one could just look in that section and everything was there—the same is true with Villages, E-1, etc. The charts and definitions are uniform and apply to all sections of the code so that everyone knows what is what. Much has been made of conforming and non-conforming uses and that this ordinance would create a tsar of planning. Well, change those—with the help of our citizens, most of whom are bright and well-informed, we can solve these issues.

Other concerns were that people would not be able to do what they want to do on their own land. Scenic byways were mentioned—does anyone really want to see all the trees taken down on Rt. 249 or the other highways so designated? Do we intend to protect the historic sites in New Kent? Do you want your neighbor to have the right to build anything he wants on land adjacent to you? Do we want to look like Hanover or Henrico or, heaven forbid, Virginia Beach? Do we want to so crowd our roads and highways that we have the same kind of gridlock as Hampton Roads and Northern Virginia? Do we want to strip-mall New Kent County? If you want all these things, then you definitely do not want this ordinance.

The Planning Commission and most members of the Board of Supervisors knew, or should have known, that this first and very comprehensive review of the zoning ordinance was going to cause an uproar - and an uproar is what we got. I maintain that this is exactly what we want. For many years before I became a member of the Planning Commission, I spoke at public hearings and most of the time was met with respect and what I said was taken into consideration. We should do no less for the citizens of New Kent. We should continue these public hearings, reminding everyone that no vote will be taken at the end of this preliminary process.

Rather, we will take all the suggestions back to the drawing board, have other meetings to which the public is most cordially invited, and with the help of the citizens of the county, and through due process, public input and public hearings, get it right. To just do away with or delay the process will not benefit us or the citizens of this beautiful county and is an abdication of our responsibilities as elected and appointed officials of New Kent."

Chairman Sparks thanked Ms. Snyder for her comments and pointed out that although the Board would not be accepting public comment, he had made an exception for Ms. Snyder out of respect for the work done by her committee. He stated that he felt Mr. Budesky's proposal represented a compromise and he then solicited the opinions of the other Board members.

Mr. Budesky clarified that he had recommended that the currently scheduled hearings continue before the Planning Commission only, with the Board's removing itself from the process. Thereafter, all input would go to the committee jointly appointed by the Board and Commission to re-craft the document with the help from all information received. That document would then go to the Planning Commission for review, approval and recommendation, and then to the Board for another public hearing on the new document.

Mr. Trout asked Mr. Gammon, Chairman of the Planning Commission, for his opinion on the recommendation which would add an extra step to the process by having the new committee look into the document and work on revisions.

Mr. Gammon indicated that he approved of the recommendation.

Planning Commissioner Thomas Evelyn stated that he felt that the schedule was too fast for even the Planning Commission members to absorb. He indicated that he himself still had a lot of questions.

Planning Commissioner Jack Chalmers disagreed that the schedule was too fast. He stated that their committee had implored for public input and receive none. He indicated that the only input received from the speakers at the recent public hearing was that they wanted to "trash" the proposal. He stated that work had been in progress since 2002 based on the premise that the citizens wanted to keep New Kent rural. If that was no longer the case, then the County should rewrite the Comp Plan. He asked where all the input was when that document was being developed.

Mr. Davis stated that it had been many years since the current zoning ordinance was written, and commented on how many changes had taken place since then. He warned that growth was coming and the County needed to have something in place. He stated that staff did not pull this document "out of thin air". They looked at what other counties had and he remarked that Goochland was currently going through an almost identical process. He emphasized the need to get ready for growth. He admitted that he did not like a lot of things that were in the document and that some things did not make sense and he agreed with many of the comments that were made at the recent public hearing. He indicated that he felt the Comp Plan was good but agreed that it may need some "fine tuning" as well. He stated that he did not want New Kent to look like Route 17 in Gloucester. He said he appreciated the comments of the other Board members, but the Board needed to find a compromise. The County had spent too much to "dump" the process. If the Board accepted Mr. Budesky's proposal, it could get the feedback it needed, and he stated that he felt the process would take at least a year to get back to the Board for consideration. The County needed the citizens' input but also needed a target to aim for.

Mr. Burrell stated that the citizens needed to understand the intent of the process and he again stressed that public input was vital. He made a motion to accept Mr. Budesky's proposal, allowing the Planning Commission to proceed with the hearings as scheduled, and set up a blue ribbon committee.

Mr. Hill stated that he respected the work that the Planning Commission had done on the document and respected the work of the subcommittee, but remained concerned that the public had not had enough time to review the document. He went on to say that the County had changed since the Comp Plan was adopted and some feel that the Comp Plan needed to be revised. A committee should look into that as well. He stated that he liked some of Mr. Budesky's proposal but didn't understand why the document could not be broken down and adopted article by article. He also agreed with Mr. Evelyn's statement that the schedule was too aggressive. The County had already spent \$11,000 and he stated that he didn't want to spend any more until the citizens' input had been received. He stated that he was in favor of creating a citizens committee. However, he stated that removing the Board of Supervisors from the public hearing process just because they did not want to have to listen to the comments, reflected poorly on the Board. He suggested that the County back up and come up with an alternate document.

Mr. Trout stated that it was a very comprehensive document with parts in one article tied to parts in another article, and that it was not possible to adopt it an article at a time. He pointed out that citizen input would be given at the public hearings, and the Board members would probably be there anyway. He stated that citizens have had the opportunity to give input in the past and have not done so until the recent public hearing. Their comments were very clear. The compromise suggested by Mr. Budesky was a way to continue to get more input. He pointed out that it was okay for citizens to be mad and that there was good input received at the meeting. He stated that the County needed to look at the document with an eye toward using the input. He stated that the motion made was a good way to do it. He would not agree that scrapping the document and starting all over again would be helpful.

Mr. Sparks stated that he agreed with many of the comments made tonight. In the past, the Planning Commission would first consider an issue, conduct a public hearing and then the Board would review it. He stated that he did not think it would be a detriment for the Board not to be a part of the public hearing process because he would attend when he could in order to listen. He indicated he had asked staff to come up with a presentation that was easier to understand.

Mr. Budesky stated that Mr. Homewood was in the process of drafting summaries that would be available prior to each public hearing.

Mr. Sparks stated that the proposed compromise was not what any of the Board members wanted but was an improvement.

Mr. Hill asked to whom the newly formed committee would report. Mr. Budesky stated that it would be his recommendation that the committee would share recommendations with both bodies but report directly to the Planning Commission. He and the County Attorney would be *ex officio* members to make sure all concerns were captured and addressed. He pointed out that it would permit an open floor dialogue which was difficult to have in a public hearing setting. If someone was not able to attend a public hearing, he or she could come to the committee and give their input. While the hearings would still be taking place in a relatively short period of time, it would not preclude the public from providing input to the committee.

Mr. Burrell's previous motion was read aloud for the members. Mr. Trout asked if there would be any legal problems with the advertising. Ms. Katz advised that the remaining ads should be changed to show that the hearings would take place before the Planning Commission only so that the public would not be confused, but she did not see any legal problems. The Board members would be able to attend but would not convene as a Board.

Mr. Budesky stated that there would need to be some adjustments since some of the hearings were set for regularly scheduled Board meetings. He anticipated that most of the Board's business could be concluded and then the Board would be able to adjourn before the public hearing. Any unfinished business would have to be postponed.

Mr. Hill asked for clarification that the committee would be made of 10 to 15 citizens, and not members of the Board or Commission. Mr. Sparks stated that there would be 15 members. Mr. Trout pointed out that it had not yet been decided whether any Board or Commission members would be on the committee. Mr. Sparks commented that everyone would need to determine how that would be structured.

The members were polled on Mr. Burrell's motion:

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

The motion carried.

IN RE: ADJOURNMENT

There being no further business, Mr. Davis moved to adjourn the meeting. The members were polled:

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

The motion carried.

The meeting was adjourned at 5:30 p.m.
