

A REGULAR WORK SESSION WAS HELD BY THE NEW KENT COUNTY BOARD OF SUPERVISORS ON THE 29th DAY OF OCTOBER IN THE YEAR TWO THOUSAND FOURTEEN IN THE BOARDROOM OF THE COUNTY ADMINISTRATION BUILDING, NEW KENT, VIRGINIA, AT 9:00 A.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: RESOLUTION R-35-14 PILOT CUP

This item had been deferred from October 14, 2014. Planning Manager Kelli Le Duc and Agent for Pilot Travel Centers LLC Jack Wilson were present to answer any questions. Ms. Le Duc reported that there was no new information since the October 14<sup>th</sup> presentation.

Mr. Davis noted that Pilot had been granted a six-year CUP and asked Mr. Wilson if Pilot had done anything during that time to address traffic concerns. Mr. Wilson noted that under the existing CUP parking was capped at 30 spaces and a traffic study was conducted and submitted to the County in 2009. He indicated that current traffic concerns regarding queuing were a result of the cap on parking and that Pilot could not do anything in that regard without a CUP amendment or a renewal which would eliminate the parking cap. Mr. Davis asked what would change if the new CUP was approved. Mr. Wilson indicated that the previous owner had originally proposed 47 parking spaces and, as previously stated, the County had capped parking at 30 spaces. He produced a map of the property and noted that the area currently designated as a fire lane could be used to increase parking. He further noted the property designated as a fire lane had been designated as such as a means to deter parking in the area and allow the business to remain in compliance with the 30 space cap. This area was not actually needed as a fire lane. Mr. Wilson also noted that although conditions in the new CUP required that a site plan addressing parking be submitted to the County within six months, it would most likely be completed much sooner. Mr. Davis asked how many additional parking spaces were expected with the addition of the current fire lane area. Mr. Wilson indicated that fifteen to sixteen spaces would be added. He also noted that car and truck parking had previously been separated but would be revisited in the new site plan as well as consideration given to a reconfiguration of the traffic flow.

Mr. Evelyn noted that much of the queuing problem was occurring between 12:00 to 1:00 p.m. and that he believed additional parking would help. He also suggested that a traffic flow study and queuing analysis should be considered. Mr. Wilson noted that plans were to include additional asphalt and an additional fueling lane. He added that the addition of showers in 2008 was the zoning trigger which had resulted in the facility being considered a truck stop and thus requiring a CUP. Mr. Davis noted that the truck stop designation was based on much more than the showers and asked Ms. Le Duc for specifics contained in the

County Code. Ms. Le Duc indicated that the Code had changed since Pilot's initial CUP. Mr. Tiller asked if the Board would have the authority to rescind the CUP if Pilot failed to make the necessary improvements. County Attorney Michele Gowdy indicated that if this were to happen, the Board could hold them in violation. Mr. Tiller asked how long the Pilot had felt there was a need for additional parking. Mr. Wilson indicated that the need was evident soon after the store opened but the CUP had limited the number of spaces. Mr. Tiller noted that Pilot had previously cited the economic down turn as the reason they had not pursued a new location in the County. He added that because additional parking had been needed for some time due to business being so good at the current location, there didn't seem to be any real impact from the economic down turn. Mr. Wilson responded that the economics at the time were not to relocate. Pilot had run water to the site and this location was where Pilot wanted to be. He noted that anything new they may put in now and the previously installed showers would all have to be removed to get back to the 2008 requirements for legal operation.

Mr. Stiers asked why six months was needed to complete a site plan and suggested that three months would be more reasonable. Mr. Wilson responded that plans were to simultaneously address the site plan as required in condition 4.d. as well as the traffic circulation study required in condition 4.e. and the additional time would be necessary to assure that both were completed within the provisions of the CUP.

Mr. Evelyn expressed concerns regarding the last sentence of condition 4.f. which required that if another truck stop were to open within two miles of the Pilot, the Community Development Director would then review the area a year after occupancy and determine if a traffic impact analysis study should be completed. If such a study were conducted, Pilot would implement any recommended changes. Mr. Wilson responded that if the Community Development Director felt any identified traffic problems were attributed to Pilot, they would address those problems. Mr. Evelyn noted that any other truck stop would be required to do a traffic study and that he didn't see the need for this. County Administrator Rodney Hathaway noted that any findings of the traffic impact analysis would be implemented by Pilot and that he was not sure how to get others who had not been involved in the study to participate. Mr. Wilson noted that VDOT was not requiring a traffic study because there was no change in use for the site. If another truck stop were to open and traffic became a problem, then Pilot would have to implement the recommended changes. He noted that a look would be taken at what the problems were on the ground in a year and this provided a mechanism for Pilot to step in and correct the problems. Ms. Gowdy added this would be the point to consider negotiating. Mr. Wilson responded that until a problem actually existed, it didn't make sense to insist on a study now. If problems exist, Pilot would step up if it was determined they contributed to the problems. Mr. Davis suggested that an independent study should be done by the County. Ms. Le Duc noted that such a study was already in progress.

Mr. Evelyn stated that the Board didn't want to see the Pilot shut down by any means and they were concerned about the future of Rt. 106. Mr. Davis noted that the Board had already approved another truck stop with twice the acreage of Pilot. Mr. Wilson stated that all of the improvements noted in the CUP would be put into play and if problems continued, Pilot would step up to the plate.

Mr. Stiers moved to adopt Resolution R-35-14(R1) approving CUP-01-14, Pilot Travel Centers LLC, to allow the continuation of the existing operation located at 6721 Emmaus Church Road. The members were polled:

C. Thomas Tiller, Jr.                      Aye

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

The motion carried.

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IN RE: AMENDMENTS TO SECTION 66-82 OF THE NEW KENT COUNTY CODE TO INCREASE THE NET COMBINED FINANCIAL WORTH LIMIT IN THE TAX RELIEF FOR THE ELDERLY AND DISABLED PROGRAM

Commissioner of the Revenue Laura Ecimovic and COR Deputy Jeremy Adams presented a request to amend County Code Section 66-82 regarding increasing the net combined financial worth limit in the Tax Relief for the Elderly and Disabled program.

Ms. Ecimovic provided comparison information on current real estate tax exemption criteria in a number of neighboring localities and drew specific attention to Charles City and Powhatan Counties. She explained that many of our senior and disabled citizens were living on a fixed income and that the net worth in our current criteria was significantly lower than most other localities. Her request was to change one thing in the current County Code; the financial worth for exemption would increase from \$75,000 to \$150,000. She pointed out that this change would result in an estimated \$10,000 in additional tax exemptions but noted that there was no way to tell how many applications may come in with the new limitation.

Mr. Burrell asked for the current amount of annual tax exemptions. Ms. Ecimovic noted the figure was approximately \$90,000 and requests totaling approximately \$5,000 in exemptions had been denied this year due to exceeding the maximum net worth. She added that the criteria for exemption had not been changed since 2008 and the cost of living and land values had gone up. Mr. Burrell asked for information on the various levels of relief currently being provided. Ms. Ecimovic replied that a sliding scale was used with the lowest amount of relief being \$350 and the highest being \$800. Mr. Burrell, referring to net worth exclusions, asked why tax relief was only being given for a portion of a parcel. Ms. Ecimovic replied that relief was actually being given on the entire parcel but the home and ten acres were excluded from the calculation of total net worth.

Mr. Davis noted his support for the amendments and added that many New Kent residents were on fixed incomes and had paid their dues over the years.

Mr. Davis moved to schedule a public hearing to consider a change in the Tax Relief for the Elderly or Disabled program to increase the net combined financial worth limit. 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 public hearing was tentatively scheduled for December.

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IN RE: IMPOSITION OF ATTORNEY/COLLECTION FEES AS AUTHORIZED BY THE  
STATE CODE FOR DELINQUENT TAXES

County Attorney Michele Gowdy noted that Kevin Appel had been selected as the collections agent for the Treasurer's Office approximately a year ago and was paid through collections. Mr. Appel had reported that although the State Code allowed for the imposition of attorney/collection fees, there was no such provision in the New Kent Code. Mr. Appel proposed that the Board of Supervisors consider changes to Section 66-32 based upon changes to the State Code and the needs of the County. Ms. Gowdy asked that the Board authorize a public hearing to consider amendments to New Kent Code Section 66-32.

Mr. Evelyn asked if Mr. Appel's payment was ten percent of collected accounts. Ms. Gowdy responded that Mr. Appel's payment was closer to twenty percent when all factors were considered.

Mr. Burrell indicated that he thought the rate was ten percent plus interest. Ms. Gowdy responded that the ten percent plus interest was the delinquent tax penalty assessed by the Treasurer.

Mr. Burrell moved to authorize a public hearing to consider amending Chapter 66 Taxation, Article II Property Taxes Section 66-32 Penalties and Interest of the New Kent County Code. The members were polled:

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

The motion carried. The public hearing was tentatively scheduled for December.

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IN RE: RADIO SYSTEM PROJECT UPDATE

County Administrator Rodney Hathaway noted that the deadline for New Kent to be allowed to join partnering localities in the proposed radio system project was November 30<sup>th</sup>. He reported that all partnering localities needed to agree to allow New Kent to join and to share in the associated cost. To date the partnering localities had not come to any agreement and although a meeting was scheduled for November 7<sup>th</sup>, it was not likely any agreement would be reached by then. Mr. Hathaway also reported that he had reached out to several of the localities and that they seemed to be in support. Unfortunately, they were waiting for final numbers from Motorola and, without them, were in no position to make a decision.

Mr. Evelyn expressed his concern that New Kent had been pushed into making a decision by October 3<sup>rd</sup> and now everything was being changed at the last minute and the deadline had been moved to November 30<sup>th</sup>. He added that if a decision was not made soon, New Kent should start looking at other options. He indicated that this project would require a large amount of funding for a locality our size and unless we were close to an agreement, the Board should not spend much more time working on it. Mr. Hathaway, speaking for staff, indicated that they shared the frustrations of the Board and added that it was doubtful that the localities would be in a position to take action on November 7<sup>th</sup>.

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IN RE: RADIO SYSTEM PROJECT FUNDING

County Administrator Rodney Hathaway noted that he had been directed at the last meeting to look for financing proposals in regard to the radio system project. As a result, a RFP was put out and County Financial Advisor Ted Cole was present to discuss the responses. Mr. Cole distributed copies of "Bank Proposal Summary and Scenarios" and provided an overview of the eight bids received. Responders had been requested to provide both ten-year and eleven-year options and proposed interest rates ranged from 2.02% to 3.48%. Mr. Cole indicated that these were very good interest rates and if the County was not ready to move prior to the rate expiration dates, he didn't believe the funding commitments would go away although the rates could change. The recommendation was that the Board consider the proposals presented by US Bank, Citizens and Farmers Bank and Motorola.

Mr. Cole provided a summary of funding considerations and scenarios. Estimated capital cost for the project was \$6.7 million with an annual maintenance cost of \$211,000. Funding options included vendor financing (Motorola) or bank financing. Funding Scenarios included a ten-year level debt service option with a FY 2025 maturity or a one-year capitalized interest followed by ten years level debt service option with a FY 2026 maturity. Potential County equity contributions included \$175,000 from the eliminated school tank removal, \$48,000 from the eliminated Sheriff's Office marine patrol craft, a one cent school set aside for FY 15 and the option of \$1,000,000 to \$2,000,000 from Fund 7. Assumed debt service contributions included a one cent tax increase and repurposing the one cent school set aside both beginning in FY 16. Charts depicting the impact of the various funding levels from Fund 7 and the annual revenue needs for debt service were reviewed.

Mr. Cole indicated that the County did not need to do anything with any of the banks now, although Bank of America had provided a proposal with an October 28<sup>th</sup> rate expiration date. Mr. Evelyn noted he was pleased with the interest rates and Mr. Davis noted he was pleased to see a local bank among those being considered. Mr. Davis asked if plans for the radio system go through, would the County get better service if Motorola was the lender. Mr. Hathaway indicated that the other partnering localities were financed through Motorola but he did not believe other financing would be any real cause for concern.

Mr. Hathaway asked if the Board had any preference as to how much of Fund 7 should be considered. Mr. Evelyn indicated that it was too soon to make a final decision but recommended that staff prepare for \$1,500,000. Board members concurred.

Mr. Burrell asked if the \$6.7 million price was firm. Mr. Hathaway indicated that it was not.

Mr. Davis asked about the \$400,000 grant that the County had received for radio system improvements. Mr. Hathaway indicated that those funds and an additional \$700,000 would be used to fund New Kent's buy-in for the project. Mr. Davis asked if the grant funding had an expiration date. Chief Deputy Joe McLaughlin responded that grants typically were good for one year but this particular grant offered an extension due to the size of the project.

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IN RE: 2006 BOND REFUNDING

County Administrator Rodney Hathaway noted that County Financial Advisor Ted Cole and Bond Counsel Dan Siegel were present to discuss recommendations for a 2006 bond refunding. Mr. Cole distributed copies of "2006 Lease Revenue Bond Refunding Analysis" and provided an overview of current market refunding results. He noted that rates had

come down significantly and a refunding at this time could result in an annual savings of a little over \$200,000 through 2029. He noted that funds could be escrowed to pay bond holders through the call date which was February 1, 2017. Gross savings would be \$2,895,672. Mr. Cole noted that a three percent present value savings was the standard for considering refunding. Current conditions indicated that New Kent's savings could be almost double that amount at 5.7 percent.

The recommendation was that the Board move forward with refunding the bonds and consider participating in the Virginia Resources Authority (VRA) which issued bonds twice a year. Although New Kent would be too late to participate in the fall VRA funding, VRA had offered to consider financing with just New Kent. If the County wished to use VRA, another option would be to wait to participate in the May 2015 bond issuing pool. It was noted that many factors could impact the interest rates between now and the May 2015 issuing date.

Mr. Siegel noted that if the Board was ready to take action now, refunding could be put on the fast track with closing in 45 days. He advised if the Board were to start the process and for any reason the refunding were to fall through, the County would be responsible for legal fees in the \$50,000 to \$75,000 range.

Mr. Davis noted if the Board took action to move forward now, they would be responsible for all fees and if they waited until May, the costs would be shared. Mr. Evelyn noted that if the Board waited until May, the rates could go up.

Mr. Siegel distributed a proposed resolution for the Board to consider. He noted that the resolution included a provision to not move forward if the savings were to drop below three percent. He also noted that because the collateral would be school facilities, a New Kent School Board resolution would also be required.

Mr. Cole indicated that the schedule with VRA would need to be fine-tuned but a sale completion date of the week of December 10<sup>th</sup> would be the target.

Mr. Davis asked if we had a resolution number to assign to the document being considered. Ms. Gowdy indicated that the number could be assigned later.

Mr. Davis moved to adopt a resolution approving the lease refinancing of various public capital improvements. The members were polled:

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

The motion carried. R-43-14 was assigned to this resolution.

The Board Chair called for a brief recess at 10:28 a.m. The meeting reconvened at 10:35 a.m.

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IN RE: LEGISLATIVE UPDATE

County Administrator Rodney Hathaway distributed draft copies of the "2015 Legislative Agenda". He asked the Board to review the document and please let him know if they had

any additions or changes. He noted that the document included two sections; the first being action items and the second being position statements. He briefly reviewed action items which included funding for alternatives for groundwater, industrial residual (sludge), Interstate 64 widening, affordable Broadband high speed internet access and radio interoperability between local, regional, state and federal agencies. Position statement topics included full funding for legislative mandates, support for regional cooperation and service delivery, opposition to any legislation or regulatory moratorium on the transfer of newly constructed secondary roads to VDOT, opposition to any legislation that would require the transfer of secondary road construction and maintenance responsibilities to counties, support for legislation which would allow Colonial Downs to maximize its potential to benefit the Commonwealth and the Virginia Association of Counties (VACO) 2015 Legislative Agenda. Mr. Hathaway noted that VACO had not finalized its 2015 Legislative Agenda but had released a draft.

Mr. Hathaway indicated that the 2015 Legislative Agenda would be on the November work session agenda for action. Mr. Evelyn asked the Board to let Mr. Hathaway know if they had any changes or additions.

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IN RE: SCHEDULING A TOWN HALL MEETING

Mr. Evelyn reported that discussions at the recent Board Retreat had included interest in holding a Town Hall Meeting. He asked for suggestions as to when, where and the format for the meeting. Mr. Davis suggested that the meeting be held on a Sunday afternoon with an open house format and that it not be held in the County Administration Building. Mr. Evelyn suggested that it not be on a weekend date which would interfere with family time. Several locations including, the Forestry Center, a community center or a school facility were suggested. Deputy Clerk Connie Nalls suggested that the Board consider making a presentation followed by a question and answer session. Mr. Evelyn suggested that the high school auditorium would be a good location. Mr. Hathaway indicated that he would check on the availability of the high school and asked for guidance regarding what staff should include in a presentation. Mr. Evelyn indicated that brief updates should be sufficient. Mr. Davis suggested a date in January prior to the Board's full involvement in the budget process. He suggested that the meeting could be held the same evening as the annual reorganization meeting in January. Mr. Evelyn noted that holding the meeting the same night as a regular meeting may hamper attendance.

After some discussion, January 22, 2015 at 6:30 p.m. in the New Kent High School auditorium was set as a tentative date pending school availability.

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IN RE: DPU DEPARTMENT UPDATE

Public Utilities Director Larry Dame provided the Board with an update on Public Utilities. He reported that operations at the Parham Landing plant (currently in its fourth year of operations) were going very well and that they were currently working on permit renewal which was required every five years. He also reported that the plant was currently seeking an operator to fill a recent vacancy. He noted that waste water was running very well and the sale of reclaimed water had been down this past year. He reported that Colonial Downs had been the only purchaser of reclaimed water and that none of the golf courses had made any purchases this year. He noted that the loss of reclaimed water sales and general usage fees due to the closing of Colonial Down would have a significant impact on revenue. He reported that the thirteen water systems in the County were all operating well. Progress on

the Rt. 249 water line project was also going very well and existing water systems in several communities would be shut down once the installation was complete.

Mr. Burrell asked if plans were to sell the emergency backup generators located in these communities once they came online. Mr. Dame indicated that they would be sold.

Mr. Dame also noted that the interconnectivity of other community water systems was being studied but the locations of some communities made them cost prohibitive. He also reported that the County was studying potential future water sources as a result of recent DEQ mandates contained in its new groundwater model. The DEQ mandates would reduce groundwater withdrawals from fourteen of the largest users within the state's Groundwater Management Area (GMA). As a result, localities would need to seek alternative water sources. Under the new DEQ mandates, New Kent would be held to its current usage level; not the level at which we were permitted. Mr. Dame noted the draft Legislative Agenda included urging legislators to create an Alternative Water Supply Fund to help businesses and communities meet the new groundwater withdrawal requirements. Other DEQ mandates included a requirement for subdivisions with fifty or more homes served by private wells to go through the groundwater permitting process and well drillers to submit reports directly to DEQ.

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IN RE:           CLOSED SESSION

Mr. Stiers moved to go into Closed Session pursuant to Section 2.2-3711A.7 of the Code of Virginia for discussion with legal counsel regarding litigation and personnel in the fire department, Section 2.2-3711A.3 of the Code of Virginia for discussion or consideration of the acquisition of real property for a public purpose where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the County involving public utilities and Section 2.2-3711A.29 of the Code of Virginia for the discussion of the award of a public contract involving the expenditure of public funds, where discussion in open session would adversely affect the bargaining position or negotiating strategy of the County involving HVAC. 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. The Board went into closed session.

Mr. Burrell moved to return to open session. 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.

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:

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

The motion carried.

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IN RE: OTHER BUSINESS

There was no other business to be discussed.

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IN RE: MEETING SCHEDULE

The Chairman announced that the next regularly scheduled meeting of the Board of Supervisors would be at 6 p.m. on Wednesday, November 12, 2014 in the Boardroom of the New Kent County Administration Building.

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IN RE: ADJOURNMENT

Mr. Davis moved to adjourn the meeting. 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.

The meeting was adjourned at 11:57 a.m.