

THE REGULAR WORK SESSION OF THE NEW KENT COUNTY BOARD OF SUPERVISORS WAS HELD ON THE 27TH DAY OF NOVEMBER IN THE YEAR TWO THOUSAND SIX OF OUR LORD IN THE BOARDROOM OF THE COUNTY ADMINISTRATION BUILDING IN NEW KENT, VIRGINIA, AT 6:00 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: VIDEO CONFERENCING EQUIPMENT

Before the Board for consideration was a request for an appropriation to cover the installation and monthly costs of video conferencing equipment in the Courthouse.

Sheriff Howard explained that Judge Hoover had applied for and received a grant to cover the cost of the equipment, but that local funds were needed for installation of the cabling and telephone lines, as well as monthly line costs. He described how the equipment would be used and how it would save money in prisoner transport expenses. He also indicated that they would work out how the monthly line costs would be budgeted for next fiscal year.

Mr. Davis moved to appropriate \$2,000 from Grant Contingency Fund to cover the installation costs and monthly line charges for the rest of this fiscal year for video conference equipment for the Courthouse. The members were polled:

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: VEHICULAR COLLISIONS AND FATALITIES

Sheriff Howard shared information regarding recent collisions and fatalities in New Kent, indicating that for about one hour on the day of the meeting, Routes 33, 30 and 273 were all closed. He related that two fatality victims had not been wearing their seatbelts.

The Board members thanked the Sheriff and his staff for keeping the Board updated as to the situation.

IN RE: SECONDARY SYSTEM SIX YEAR PLAN

John Crews, Resident Administrator with the Sandston Residency of the Virginia Department of Transportation, along with Richard Wood, Assistant Resident Administrator, and Keith Rider, Resident Staff Engineer, were present to review secondary project planning with the Board.

Mr. Crews reviewed the reductions that were made in funding which, combined with rising costs, had severely impacted projects in the State. He indicated that complete financial information would not be available until January, and that the deadline for the Secondary System Six Year Plan process had been extended until March 15, 2007. It was explained that there was a requirement to break down funding between federal and state dollars (in previous years funding was lumped together), which could impact the projects as well.

New Kent's plan was reviewed. Mr. Crews reminded that the Terminal Road project (priority one) had been completed, and that the Stage Road project (priority two) would be completed at a deficit of about \$300,000. The remaining projects in order of priority were confirmed to be Mt. Pleasant Road, Henpeck Road and Cosby Mill Road. It was suggested that the Mt. Pleasant project be moved into the priority one position in that the engineering work had been done and the right of way phase was underway. Mr. Crews reported that funds would need to be re-allocated from the Mt. Pleasant project in order to fund the deficit in the Stage Road project. He attributed the deficit to construction over-runs, unforeseen conditions, and low construction estimates.

There was also a review of the remaining projects in the Rural Rustic Road program. It was reported that updated estimates were being prepared and it was suggested that the Board might want to reconsider some of those projects.

Mr. Crews distributed handouts to the Board members and indicated that he would be meeting with them again at the January work session in order to finalize the Six Year Plan prior to public hearing.

IN RE: IMPROVEMENTS TO SOUTH WATERSIDE DRIVE

Mr. Crews advised that the only funding sources identified for this potential project were the Secondary Six Year Plan and Revenue Sharing. He reviewed the new tiered approach to obtaining Revenue Sharing funds, wherein a locality must match more than \$1 million in order to participate under Tier One. It was pointed out that with a revenue sharing pool of only \$15 million, it was conceivable that 15 participating localities could exhaust the funds, leaving none for the remaining tiers. It was noted that applications must be submitted by December 22, 2006.

The Board members expressed their frustration with receiving poor estimates, the lack of funding options, ever-dwindling funding allocations, increasing project costs, and the State's failure to keep its promise to take care of the roads, and VDOT representatives were reminded that the roads in New Kent do not belong to the County but to the State.

Mr. Crews maintained that his department had spent a lot of time and effort in developing options to correct the problem on South Waterside Drive, admitting that all were costly. He advised that State funding allocations had been decreased by approximately 37% in order to fund maintenance costs. He stated that he was hopeful that the final funding estimates expected in January would be better. He also promised that they would work hard in order to make sure that better cost estimates were provided.

Some of the options were discussed. Mr. Trout acknowledged the presence of residents of Lightning Ridge Road who were not in favor of Option I which would use their drive as an alternate access.

Mr. Trout pointed out that there were three communities whose sole access was crossed by the railroad tracks and could be rendered inaccessible by a blockage of the railroad crossing.

Mr. Trout asked if VDOT would consider an unsolicited road construction bid from a private contractor if it was up to State standard. Mr. Rider advised that they would consider such bids but that they would be put through extensive reviews and that financing would have to be in place. Mr. Trout indicated that it was his information that there was someone working on a package for consideration and he would be glad to meet with him and VDOT staff to review it.

Mr. Davis asked about involvement by the Army Corps of Engineers and suggested that staff contact them to determine if they could be of assistance.

There was a discussion about access for emergency vehicles. Fire Chief Tommy Hicks advised that only small apparatus would be able access the neighborhoods in the event of a road closure.

Mr. Crews asked the Board which option they would choose, if funding were available. He also reminded that they were only initial estimates, and that substantial work needed to be done in order to finalize them.

There was consensus among the Board members to keep searching for a solution, and the County Administrator was directed to contact the Army Corps of Engineers.

IN RE: ELTHAM BRIDGE PARK

Mr. Crews reported that the old Eltham Bridge was scheduled for demolition in March or April of 2007 and that he understood that there were some issues with acquiring land that would satisfy the funding criteria for the proposed park and fishing pier. He indicated that VDOT was in negotiation with a demolition contractor and that once that contract was executed, they would not be able to breach it. He advised that the contract would provide for price adjustments if a section of the bridge remained for the pier. He confirmed that there would be no savings that could be transferred to the County because it was funded with federal dollars. He urged the Board to keep the schedule in mind.

IN RE: VDOT PROPERTY ON ROUTE 155

Mr. Crews reported that an agreement had been forwarded to transfer the VDOT property on Route 155 to the County for the sum of \$1.00. Mr. Budesky confirmed receipt of the contract and explained that the Board would have to approve execution of the agreement before the County could enter the property to begin renovations.

It was also noted that there was a second agreement relating to the underground tanks that the County wanted to retain for its use.

Mr. Burrell asked about environmental concerns. It was reported that a Phase I assessment had been completed and reflected no problems.

It was pointed out that the Agreement provided that if at any time the property was not used for government purposes, it would revert to the State. There was concern expressed as to whether leasing of the salt sheds to a road maintenance contractor would be acceptable under those conditions.

Mr. Summers advised that he would make sure that use was cleared with VDOT. Mr. Budesky suggested that the Board approve the Agreement, pending clarification of that issue, so that work could begin on the premises rather than have to wait until the next meeting.

Mr. Davis moved that the Board instruct the County Attorney to review the proposed contract and if he determined that it would allow the intended uses, that the County purchase the property for the sum of \$1.00. 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.

IN RE: EMMAUS CHURCH ROAD/ROUTE 106 IMPROVEMENTS

Pete Johns, partner in Farms of New Kent, and Charlie Riedlinger, with Resource International, were present to provide an update on the road improvement project and other portions of the Farms of New Kent development.

Mr. Johns reported that J. Sanders Construction was installing the sewer lines and that 1,000 feet of the main trunk line had been installed.

He advised that Landmark Structures, who was constructing the water tower, had cleared the site and was preparing to start the foundation.

He indicated that Barnhill Construction, who was constructing the road improvements, had been staging and would soon begin clearing.

He reported that the Visitors' Center had been framed and the installation of the trusses would begin the following day.

He advised that the roof had been installed on the service barn and that his office would be moved to the service barn area. He indicated that the old buildings near his office were not salvageable and would be razed.

Regarding the winery, he reported that framing would soon begin on the first floor.

Sketches of the road work were shared with the Board. Mr. Riedlinger pointed out that they anticipated very little impact on traffic flow in that the existing road would continue to be used during construction of the new lanes, and then traffic would be switched over to the new lanes in order to work on the old. Mr. Johns reported that they were trying to save and protect as many trees as possible. It was also explained how the road improvements at the intersection of Routes 249 and 106 would improve the safety in that area.

Time lines were discussed. Mr. Johns reported that the road contractor had one year to complete the project, would be starting at the interstate interchange near the Visitors' Center and might be bringing on a second crew. It was reported to be a \$7.5 million project that would have four lanes of traffic from I-64 to Route 249.

Copies of the sketches were distributed to the Board members.

Mr. Johns indicated that staff had recommended that updates be given to the Board every two months, and the Board was receptive to that recommendation.

IN RE: HOME OCCUPATIONS

Community Development Director George Homewood and Planning Manager Rodney Hathaway were present to provide an update on the status of the changes to the ordinance regarding home occupations. Also present was Wayne Hayden, who was congratulated by the Board members on his re-election as Chairman of the New Kent Chamber of Commerce.

Mr. Homewood reported that, as requested, staff had met with the Chamber members and others who had expressed concerns and, as a result, had "tweaked" some of the language. The Board members were provided with a copy of proposed Ordinance O-14-06 (R1) and Mr. Homewood reviewed the proposed changes.

It was reported that the first group of changes were recommended by Mr. Summers and consisted of some language and grammar changes, substituting legal definitions from *Black's Law* in place of some of the common definitions.

Regarding the concerns raised about signage size, Mr. Homewood advised that the four square foot maximum limit was in the current ordinance.

Mr. Homewood emphasized that the Home Occupation ordinance did not exist to stimulate business but to protect residential communities. He explained that its goal was to define the "line" and allow everything up to the line, and then provide a process whereby those home occupations that crossed the line could show the Board why it made sense to go beyond the line, but not allow it as a matter of right where it might create a nuisance to the neighbors.

It was reported that the restrictions on hours of operation would not apply to child care providers as that industry was covered in a separate section of the ordinance and controlled by State Code. Mr. Homewood indicated that adult day care was also governed by State Code but to a lesser degree.

There was discussion regarding what was considered direct retail sales. Mr. Homewood advised that bakers of wedding cakes, tailors, and seamstresses would not be considered direct retail sales.

Mr. Hayden reported that approximately 78% of New Kent's businesses were home occupations.

Mr. Summers clarified that the proposed changes to the ordinance would affect only new businesses and would not shut down any existing businesses, who could continue as they existed, although they would be non-conforming uses.

Mr. Sparks commented that as he understood them, the changes were meant to prevent a storefront in a home, but would not affect a person making a wedding dress.

Mr. Homewood explained that they were careful to clarify that back office operations, which were separate from the actual location where equipment and materials were stored, would

be permitted in any zoning classification. He indicated that was a special concern expressed at the recent meeting with the Chamber.

There was a question as to whether weight limits would restrict those residents who park their tractor trailers or dump trucks at their homes overnight. Mr. Homewood emphasized that the ZORC had recommended that there be no weight limits for home occupations and that was the ordinance that was before the Board. He added that if there were weight limits, they would not apply to small contracting businesses, and that other businesses that might be affected could apply for a CUP. He warned that as New Kent grew, it could expect more complaints from neighbors about large vehicles parked in subdivisions, including tractor trailers, dump trucks and school buses.

It was noted that an independent contractor who drove a tractor trailer would be governed by a different set of regulations than the driver who worked for someone else and parked his vehicle at his home each night.

Mr. Hill expressed his surprise that all of the concerns that were raised at the public hearing had been addressed with so few changes. Mr. Hayden explained that there had been many misunderstandings and that Mr. Homewood had been able to clear up many of those at the recent meeting with the Chamber and had addressed the rest with some of the minor language changes. He also commented that he had not heard any further complaints since that meeting.

Mr. Budesky reiterated that the goal of the ordinance changes was not to penalize home occupations but to protect residents, and that existing businesses would not be affected unless they wanted to expand, at which time they could apply for a CUP.

Mr. Homewood asked if the Board would consider vehicle weight limits for home occupations in residentially zoned areas only, which were the areas of real concern. Home occupations in agriculturally zoned areas would not be affected.

It was noted that the BZA recommended a minimum lot size of 10 acres based on the number of complaints about businesses in neighborhoods with smaller lots.

Mr. Summers advised that most homeowner association covenants prohibited commercial vehicles and he anticipated that future development would take this care of this problem in residentially zoned neighborhoods.

The Board thanked Mr. Hayden and the Chamber members for their assistance and efforts.

Mr. Homewood was requested to have the ZORC consider vehicle weight limits in residentially zoned areas at its next meeting and report its comments to the Board in the next Friday package.

Mr. Budesky reminded that staff was still looking for suggestions and areas of concern and asked that the Board members communicate any issues quickly.

IN RE: PROPOSED BUSINESS INCENTIVES POLICY

Economic Development Consultant Mark Kilduff reviewed his report with the Board.

Mr. Kilduff explained that staff was looking for a sense of the Board's feelings as to the proper role of incentives and how to go about the process. He emphasized that incentives

were just a small part of the economic development puzzle and would only come into play at the end of the process, when necessary.

He explained his philosophy that the goal of an incentive policy was to increase the tax base, although some consideration could be given to the number of jobs to be created. He indicated that it was also important that incentives be made available to both new businesses and existing businesses trying to expand. He described how a policy could be used to enforce the Comprehensive Plan and should make economic sense to both parties. He suggested that any policy be performance based and that a performance agreement be a requirement.

Mr. Kilduff addressed the procedure, explaining that the County would need to look at each project and see what it meant to the County as far as increases in revenues. He recommended that spin off businesses not be considered when determining incentives. He provided two simple models, manufacturing and non-manufacturing, as examples. He explained that the model would give the County its limits and show the expected amount of new revenue for a specific number of years.

Mr. Kilduff explained about thresholds, and how they often discriminated against existing businesses. He described how qualifiers for State programs worked, and how there should be a reasonable return to the County. He emphasized that incentives were not to be expected and were not "by right" but were to be negotiated, and there should only be "enough on the table to close the deal".

He suggested that New Kent should set large thresholds for new businesses, and deal with incentives for existing businesses in a different manner. He explained how it was more important that a new business provide certain quality jobs than a particular number of jobs. It was noted that "benefits" was generally used to mean health insurance, but those were conditions that could be defined by the Board. He indicated that if a business would be paying twice the average area wage and provided health and dental insurance, that would be a reason to give more incentives.

He explained the importance of "time" to larger new businesses and suggested that incentives might include fast-track permitting, guaranteed inspection times, and tasking the economic development office to follow up on State programs, all of which would cost little but help the business get into operation quicker. He indicated that minimizing start-up costs was also important, and that some incentive options could include the waiver or reduction of permit fees, inspection fees and utility connections, free or below market value land, utility extension at no or shared cost, application for State assistance programs, applications for CDBG funds, or subsidized work force education. He indicated that cash grants were rarer, but when used were generally paid out over a two to five year period, enabling a locality to collect the revenue brought in by the business and then use that revenue to pay incentives.

There was discussion regarding incentives for small existing businesses. Mr. Kilduff recommended that New Kent look into what its neighboring jurisdictions were offering, and perhaps partner with one or more of them to provide a small business center or incubator. He also suggested appropriating a pool of funds for which small existing businesses could apply for work force education or other uses that the Board would define. That process could be handled through the Economic Development Authority based upon an agreement between that body and the Board. He indicated that the EDA had received and reviewed his suggestions.

There was consensus that New Kent needed to "polish" its reputation regarding businesses and establish better relationships with its existing businesses.

Mr. Kilduff indicated that as the County developed its guidelines, he would suggest that it consider ways to speed up the approval process. He recommended that there could be level established whereby one level could be approved by the County Administrator; another by the County Administrator working with an EDA member; and another that would require Board approval. He explained that it was important to be able to advise a prospect in a timely manner that an incentives package had received preliminary approval, realizing that some large projects would need Board approval. It was noted that taxes could not be forgiven as an incentive.

Mr. Hill suggested a five-member body that would include the County Administrator, the Economic Development Director, the County Attorney, as well as a representative from the Board and the EDA.

The Board members indicated that they were comfortable with the ideas that had been suggested and asked Mr. Kilduff to develop a policy with his recommendations.

Mr. Kilduff was asked if he had been in contact with a prospective large retailer who had previously shown some interest in New Kent. He indicated that he had sent them a letter but had received no response. He did report that if a large corporation structured itself so that its internet catalog corporation was totally separate from its physical plant and had no other nexus with the State, then it could be tax exempt. It was suggested that staff contact the State again as there was new staff in the Department of Taxation.

IN RE: MEETING SCHEDULE

The Chairman announced that the next regular meeting of the Board of Supervisors would be held at 6:00 p.m. on Monday, December 11, 2006, and the next work session at 4:00 p.m. on Thursday, December 7, 2006, both in the Boardroom of the County Administration Building, New Kent, Virginia.

IN RE: CLOSED SESSION

Mr. Hill moved to go into Closed Session to discuss a personnel matter pursuant to Section 2.2-3711A.1 of the Code of Virginia involving personnel; for discussion relating to real property pursuant to Section 2.2-3711A.3 of the Code of Virginia involving acquisition of real property; and for consultation with legal counsel pursuant to Section 2.2-3711A.7 of the Code of Virginia involving consultation with legal counsel. The members were polled:

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

James H. Burrell	Aye
Stran L. Trout	Aye
David M. Sparks	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:

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

Mr. Burrell 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 9:23 p.m.