

THE REGULAR MEETING OF THE NEW KENT COUNTY BOARD OF SUPERVISORS WAS HELD ON THE 7th DAY OF DECEMBER IN THE YEAR TWO THOUSAND SIX OF OUR LORD IN THE BOARDROOM OF THE COUNTY ADMINISTRATION BUILDING IN NEW KENT, VIRGINIA, AT 4:00 P.M.

IN RE: ROLL CALL

Mark E. Hill	Absent (arrived at 5:05 p.m.)
David M. Sparks	Present
James H. Burrell	Present
Stran L. Trout	Present
W. R. Davis, Jr.	Present

The Chairman called the meeting to order at 4:02 p.m. He announced that Mr. Hill would be late in arriving; that the discussion on the library would be postponed to a later date; and that Mr. Crump was running late and had asked that review of the New Kent Courthouse Village rezoning request be deferred until later in the agenda.

IN RE: CUP APPLICATION FILED BY THE DEPT. OF PUBLIC UTILITIES

Planning Manager Rodney Hathaway and Public Utilities Director Rodney Hathaway were present to review the application for a conditional use permit (CUP) for the construction of water and sewer infrastructure in the Courthouse area as well as a sewer pumping station and 53,300 feet of sewer force main to divert flow from the Chickahominy wastewater treatment plant to the Parham Landing wastewater treatment plant, scheduled for public hearing on December 11, 2006.

Mr. Burrell removed himself from the discussion advising that the project would affect property that he owned.

Mr. Hathaway explained that the existing zoning ordinance required a CUP prior to construction of utility lines, but that the proposed new zoning ordinance would not require a CUP for utility line work. He indicated that staff was recommending approval of the application because the project was consistent with the Comprehensive Plan and would support development in designated growth areas.

Mr. Harrison reported that the CUP also covered Phase II of the force main project, which consisted of construction of a force main and a new pumping station to replace the Chickahominy plant. It was reported that a CUP would not be required for the expansion of the Parham Landing plant.

There was a discussion regarding flows. Mr. Harrison explained that the system was designed to handle a peak flow of 6.2 million gallons and that pump stations were routinely designed to handle 2.5 times the average daily flow.

Flows from the interstate rest areas were discussed. Mr. Harrison advised that there were only small yearly increases in those flows and that flows from the westbound rest stop were nearly equal to those from the eastbound rest stop.

There was discussion regarding pipe sizing. Mr. Harrison indicated that the pipes were sized in order to accommodate future expansion.

There was discussion regarding the route. Mr. Harrison confirmed that sewer lines from the Courthouse area would be routed to the Chickahominy plant and then on to the Parham Landing plant. He explained that they found that running the lines directly to Parham from the Courthouse area was not feasible.

There was discussion regarding the Chickahominy plant. Mr. Harrison reported that the Chickahominy plant was anticipated to be in operation until March of 2009 when the Parham Landing plant expansion was expected to be complete. He indicated that it was not feasible to leave the plant open after that date because of the stringent limits on discharge into the Rumley Marsh/Chickahominy River. He advised that the portion of the plant that discharged to irrigation may be able to be left open, but he was not hopeful. He indicated that if the plant was closed down, the machinery and equipment might be able to be salvaged for re-use or for re-sale.

Regarding easements needed for the projects, Mr. Harrison reported that they were close to finalizing most of the easements needed for Phase II, although condemnation might be necessary on a few. He confirmed that water and sewer lines would be installed within the VDOT right-of-way in the median along Route 33, and that VDOT had not expressed any objection, although he admitted that there may be some problems with using the VDOT right-of-way on Mount Pleasant Road. He advised that the easement process for the Courthouse area might be a little more difficult because of title issues on some of the parcels.

Regarding the timetable, Mr. Harrison reported that the project was expected to be advertised in January, with a Notice To Proceed issued in February or March. He indicated that the Courthouse project was expected to take about 10 months from the Notice to Proceed date and the Phase II project about 11 months.

Capacity in the Courthouse area was discussed. It was confirmed that there was capacity for the government, court and school buildings, as well as the Oaks, Taylors Trace, and the Poe development, leaving some extra capacity for any development across Route 249.

Mr. Harrison reported that there was sufficient capacity to serve the improvements to the property proposed in connection with Mr. Crump's pending rezoning application.

Board members expressed their concern that the system was being built with capacity for the Poe development when there was no guarantee that the property would be rezoned. County Administrator John Budesky explained that Mr. Poe was looking at a 10 year build-out, at 30 homes per year, if a rezoning were approved. He advised that all three developers had agreed to sign a development agreement which would guarantee payments and reserve capacity. He advised that it was projected that revenue collected from 19 connections per year, based on the Davenport proforma, would be sufficient to pay the debt service, and that the way the system was designed, payments from the three developers would actually come close to paying for the entire system. If the Board chose not to approve a rezoning of the Poe property, then the County would be responsible for a portion of the cost, the amount of which staff agreed to provide to the Board members.

It was reported that staff expected Mr. Poe to file his rezoning application within the near future.

Mr. Sparks expressed his concern that the system was sized to serve a development that had not yet been approved. Mr. Budesky reminded that these figures had been provided to the Board at the time that the project was approved and that the borrowing had already

taken place. Mr. Harrison explained that downsizing the project would not result in much savings. Alternatively, if the system were not large enough and needed to be expanded in the future, it would be very costly.

Mr. Trout noted that the principal reason for the system was to serve the government and school facilities and that if there were enough houses to pay for it, there would be no financial obligation on the part of the County.

Mr. Sparks asked the Board members to realize that just because the system was in place, it did not have to approve rezoning requests.

IN RE: BOTTOMS BRIDGE SERVICE DISTRICT

Mr. Burrell rejoined the Board for review of the proposed changes to the Bottoms Bridge Service District ordinance scheduled for public hearing on January 8, 2007.

Public Utilities Director Alan Harrison reviewed the proposed changes, one of which was the method of calculating payments made by those who joined the district after its formation. He advised that the current ordinance provided that one of the methods available was to compute what *ad valorem* tax would have been assessed had the parcel been in the district from the beginning. He explained how difficult that would be and advised that staff was recommending that option be removed and that all new members be required to pay an Availability Fee and begin paying the *ad valorem* tax at the time they joined the district.

It was reported that the current Availability Fee was \$3,465, which figure was projected to increase by 7% per year but would be annually reviewed. Staff advised that Availability Fees were due at either rezoning or subdivision approval.

It was pointed out that if someone wanted to run water and sewer to their home and didn't require a rezoning, then the ordinance would need to be amended in order for that to occur. There was a discussion regarding failure of septic systems and it was noted that in order to run sewer to a parcel not in the district, the district would have to be expanded to take in that parcel as well as others in its path.

Mr. Budesky explained the logic behind requiring a new member to the district to pay an Availability Fee and begin paying *ad valorem* taxes.

Mr. Harrison explained that another proposed change was the increase in the offset distance from 200 to 400 feet. It was pointed out that this would affect some of the parcels in the district which were not required to connect under the current ordinance. Mr. Harrison explained that this was closer to the offset distance used in other localities and would capture more customers for the system. Staff admitted that affected customers had not been contacted although letters had been mailed advising that changes were being proposed. Mr. Budesky indicated that staff could contact the affected property owners or the Board could choose not to change the offset distances. It was noted that existing structures would have to be within 400 feet of both water and sewer lines in order to be required to connect, but that connection would be required for all new structures.

The costs of connections were discussed, which included boring costs. Mr. Harrison emphasized that property owners had been encouraged to collaborate in order to decrease individual boring costs, but pointed out that multiple borings under Route 60 would not be a problem. He advised that hardship cases would be considered on a case-by-case basis.

Mr. Sparks indicated that he would like to know who would be affected by the change and what the impact would be.

Also discussed was a change that would address how district members who exceeded their allocation would be assessed and pay for the additional allocation.

IN RE: NEW KENT COURTHOUSE VILLAGE REZONING REQUEST

John Crump, partner in New Kent Courthouse Village LLC, and his architect, John Hopke, were present to review the rezoning request scheduled for public hearing on December 11, 2006.

Mr. Budesky pointed out that the plans contained proposals for some shared uses which would be worked out in a draft agreement between the County, the School Board and the developer and then brought to the Board for approval. In exchange for letting the development use (and improve) the entranceway at the middle school, the developer would build and share parking with the County.

Mr. Crump explained that the subject property belonged to his family and was located between the Courthouse and the middle school. He advised that he was committed to developing the property in a manner consistent with the remainder of the village area and had sped up the process in order to bid on a request for proposal for human services office space. He reported that a Phase I archeological survey had been conducted on the property. He advised that the existing home would be converted to a restaurant (112 seats inside with some outside patio seating) similar to Indian Fields and that he was working with five potential operators. He indicated that he was also planning for two retail/craft spaces or small office component and well as a meeting hall and catering operation. He proposed to restore the existing log home on the property and convert the surrounding area to a park, and indicated that he was willing to consider donating the park area as a permanent conservation easement. He described the office space proposed for the rear of the lot, to consist of two 10,000 square foot sections, with approximately 162 parking spaces.

Mr. Sparks expressed his discomfort with such a large amount of pavement. Mr. Crump advised that they had not yet decided on the type of surface but would be willing to consider recommendations as well as add landscaping. He indicated that if Bay Transit were to become one of the tenants, then they would require some special configuration in the parking lot in order to accommodate their buses.

IN RE: ZONING ORDINANCE CHANGES – LANDSCAPE REQUIREMENTS

Planning Manager Rodney Hathaway reviewed the changes scheduled for public hearing on January 8, 2007. He reported that these were changes proposed by the Zoning Ordinance Rewrite Committee (ZORC) and the Planning Commission, and that staff concurred with their recommendations. He advised that the landscaping requirements would apply to all new development and that existing businesses would not be affected unless they expanded, and then only the expanding portion would have to comply with the requirements. County Attorney Jeff Summers advised that pending applications upon which some affirmative government ruling (Planning Commission vote, site plan approval, or issuance of building permit) would "grandfather" businesses from having to comply.

The buffering requirements were reviewed and a handout of the proposed transitional buffer requirements was distributed. He advised that requirements for a tree or shrub for every

500 feet did not mean that they were to be placed every 500 feet, but they could be grouped together as long as there were enough plantings to meet the requirement.

He advised that staff had worked with the Fire Chief and Sheriff and were recommending that the principles of *Crime Prevention Through Environmental Design* (CPTED) be considered.

Mr. Hathaway advised that landscape preservation, wherever possible, was one of the requirements in that it was preferred to preserve what was already in place.

Community Development Director George Homewood advised that the current ordinance required a landscape plan but provided no standards, and that the proposed changes would provide those standards.

It was pointed out that some of the terms were not defined. Mr. Homewood indicated that the terms were defined in the Definitions portion of the zoning ordinance changes and that was one of the problems when trying to piecemeal the process.

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 December 11, 2006, in the Boardroom of the County Administration Building, New Kent, Virginia.

He advised that the Board would be going into Closed Session and would not be conducting any further business.

IN RE: CLOSED SESSION

Mr. Davis moved to go into Closed Session for consultation with legal counsel pursuant to Section 2.2-3711A.7 of the Code of Virginia involving actual or probable litigation. 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. The Board went into closed session.

Mr. Davis moved to return to open session. 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.

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:

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

The motion carried.

IN RE: ADJOURNMENT

Mr. Davis moved to adjourn the meeting. 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.

The meeting was adjourned at 6:05 p.m.