

A REGULAR WORK SESSION WAS HELD BY THE NEW KENT COUNTY BOARD OF SUPERVISORS ON THE 29TH DAY OF APRIL IN THE YEAR TWO THOUSAND FIFTEEN IN THE BOARDROOM OF THE COUNTY ADMINISTRATION BUILDING, NEW KENT, VIRGINIA, AT 9:00 A.M.

IN RE: CALL TO ORDER

Chairman C. Thomas Tiller, Jr. called the meeting to order.

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.

IN RE: NEW KENT COUNTY PROCUREMENT MANUAL

County Attorney Michelle Gowdy pointed out a number of changes were being recommended to the County Procurement Manual in order to bring County procedures into compliance with State Code. She indicated she had not had an opportunity to fully review comments which had been received from New Kent County Financial Services. She noted that State Code allowed for the adoption and subsequent amendment of the procurement manual. She reported she had discussed moving forward with adoption with William H. Hefty with Hefty, Wiley and Gore whose firm would be considered for appointment as County Attorney later in the meeting. Ms. Gowdy indicated many of the comments from Financial Services were in regard to formatting and Mr. Hefty and she were recommending the Board move forward with adoption and address the Financial Services comments at a later date.

Mr. Davis moved to adopt the procurement manual as revised on this date. The members were polled:

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

The motion carried.

IN RE: FEDERAL ENGINEERING ON CALL SERVICES FOR PUBLIC RADIO SYSTEM

County Attorney Michelle Gowdy reminded the Board they had previously authorized staff to move forward with negotiating a "not to exceed" \$125,000 contract with Federal Engineering for on call services for the implementation phase of the Public Safety Radio System. Mrs. Gowdy pointed out the proposed contract contained a provision which would require Federal Engineering to provide written notice to New Kent when the contract reached \$100,000. She also pointed out the Board had previously worked with Chief Consultant Richard Martin during the negotiation process with Harris Communications but another Federal Engineering representative who would be billing at a much lower rate would

be fulfilling this contract agreement. Mrs. Gowdy recommended the Board take action to authorize the County Administrator to execute the proposed contract.

Mr. Davis asked if this contract would have any impact on the County's current contract with Radio Communications of Virginia. Mr. Hathaway indicated the County may continue to use Radio Communications of Virginia for the main 911 emergency system. Mrs. Gowdy indicated this contract would replace the services currently provided by Mr. Mike McGannon with Engineering Associates and when the County converted over to the Harris Communications system, the Radio Communications contract would no longer be needed.

Mr. Burrell moved to authorize the County Administrator to execute the contract with Federal Engineering for the implementation phase of the Public Safety Radio System. The members were polled:

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

The motion carried.

IN RE: FIRST AMENDMENT TO THE SYSTEM PURCHASE AGREEMENT WITH HARRIS

County Attorney Michelle Gowdy distributed copies of "First Amendment to System Purchase Agreement" containing recommended changes to the System Purchase Agreement dated March 25, 2015 for the purchase and sale of a P25 radio system. Mrs. Gowdy reviewed recommended amendments including but not limited to changes to specifications for fire speaker microphones, the County's assumption of no liability until each delivery was inspected and agreed to here in New Kent and payment milestone adjustments. She noted the County was still in the process of negotiating a CAD contract and once this was complete, Harris would be in a position to move forward with manufacturing, delivery and installation of the County's new system.

Mr. Davis noted revision number three included provisions for monthly installment payments on the radio system and he asked when the first payment would be expected. Mrs. Gowdy indicated the first payment should be due sometime in May.

Mr. Evelyn moved to authorize the County Administrator to execute the First Amendment to the System Purchase Agreement with Harris. The members were polled:

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

The motion carried.

Following the vote, Mr. Evelyn asked for an estimate of time needed to finalize negotiations on the CAD contract. Mrs. Gowdy indicated a good amount of work still remained and she did not recommend the County rush to sign a contract. She suggested the County may do better if this were to be put out as an RFP (Request for Proposals). She indicated multiple individuals had been in contact with Harris and she stressed the importance of managing

the contact person for the radio system project. County Administrator Rodney Hathaway noted the contact person should be Chris Brackett. He further noted the County should rely on Federal Engineering for technical matters and the County Attorney for legal matters.

IN RE: CONSIDERATION OF FINANCING OPTIONS FOR THE PUBLIC SAFETY RADIO SYSTEM

Before the Board for consideration was Resolution R-15-15 for Public Safety Radio System financing.

County Administrator Rodney Hathaway noted the Board had taken action at its March work session to approve financing the Public Safety Radio System with C&F (Citizens and Farmers Bank) and had asked staff to come back to the Board with final details before closing. He introduced Mr. Mitch Brigulio with Davenport & Company who indicated the closing was scheduled for 3:00 p.m. on Friday, May 1st and his firm was seeking guidance from the Board regarding the principal down payment.

For the record, Mr. Tiller announced his wife was employed in a retail branch of C&F Bank and was not associated with C&F Finance.

Mr. Brigulio distributed copies of *E-911 Discussion Materials* and provided a brief overview of the financing terms and three proposed options. He noted C&F had offered to finance up to \$5,700,000 at a rate of 2.35%. The first payment, a capitalized interest only payment, would not be due until FY16 (October 1, 2015) and annual principal and interest payments would commence on October 1, 2016 with a final maturity of October 1, 2025. C&F would not charge any fees or closing costs as part of the transaction and the expiration date on their offer would be May 8, 2015.

Mr. Brigulio also provided an overview of the current status of the County's Capital Project Reserve fund (Fund 7). He pointed out this fund could be used for one-time capital projects and was funded through annual year end general fund transfers. Over the past five years these annual transfers had averaged \$2.6 million but had declined from a high of \$4.6 million in FY10 to a low of \$1.3 million in FY14. Mr. Brigulio also noted County policy required a minimum one million dollar cash reserve in Fund 7 and the FY15 close-out transfer amount was not known at this time. Taking into consideration annual funding of CIP (Capital Improvement Plan) projects totaling \$1,376,000 and the required one million dollar reserve, \$2.5 million was currently available for other projects.

Mr. Brigulio presented three case summaries which included County cash contributions ranging from \$800,000 to \$1,770,000. He pointed out all three cases assumed one cent from the Historic School tax set aside would be repurposed for the radio project beginning in FY16 and all three would require an additional one cent tax increase beginning in FY17. Options A and B both suggested an additional one cent would be necessary in FY19.

Mr. Evelyn noted the Board had previously discussed a \$1.5 million dollar cash contribution and asked why this figure had not been used in any of the three case summaries. Mr. Hathaway indicated \$1.5 million had been considered but because it did not change the tax impact, had not been included in the final recommendations. Pointing out the interest rate was very low and because funds may be needed to pay down existing debt or for other projects, Mr. Evelyn recommended the Board go with the lower cash down payment. He asked Mr. Hathaway which of the three proposed options staff was recommending. Mr. Hathaway indicated given the current five-year CIP and potential future projects, Option A with the lowest down payment was recommended to allow the County to successfully meet as many CIP needs as possible.

Mr. Davis asked if there would be any penalties for early payment. Mr. Brigulio indicated the County would be charged a one percent pre-payment penalty on the principal amount if the loan were to be refinanced by a third party any time during the first two years. He noted, given the interest rate, this was not likely to be an issue.

Mr. Evelyn moved to adopt R-15-15 with an amendment to section 1 to include an aggregate principal component of payments in the amount of \$800,000. The members were polled:

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

The motion carried.

Mr. Dan Siegel with Sands Anderson approached the table and asked the Board to consider amending its previous motion to not only include the down payment amount but to also clearly state the total principal to be financed.

Mr. Evelyn moved to amend his previous motion and to adopt resolution R-15-15 with an amendment to section 1 to include an aggregate principal component of payments in the amount of \$800,000 and a net borrowing amount of 4.85 million dollars. The members were polled:

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

The motion carried.

IN RE: CONSIDERATION OF APPOINTMENT OF HEFTY, WILEY AND GORE AS THE
 NEW KENT COUNTY ATTORNEY

Mr. William H. Hefty with Hefty, Wiley and Gore was invited to the table to share information regarding his law firm and the services they may be able to provide New Kent County when the County Attorney position became vacant effective May 1st. Mr. Hefty introduced his son, Brendan, and noted his firm had been in practice for over forty years and noted other attorneys in the practice included Roger Wiley and Jeff Gore. He indicated almost all of his firm's work was in local government and they were currently also representing Surry and Amelia Counties.

He reported he had been in discussions with County staff regarding fee arrangements and he was recommending that charges not accrue on an hourly basis. He indicated this would be a better arrangement for both sides because it would provide the County with the services they needed, free the attorneys from the need to track hours worked, encourage phone calls for things that may be considered "small stuff" and allow the County to better budget for legal services. He noted his annual fee would be \$120,000 which was approximately the same salary currently being paid to the existing County Attorney. The County would save approximately thirty percent in fringe benefits, there would be no

charges for travel, no charges for phone calls and the budget for outside legal services should go down. Mr. Hefty also noted the County would benefit from having four attorneys available to meet their needs. He noted each of the attorneys specialized in certain areas and that Brendan and he would handle the Board of Supervisors issues while Jeff Gore would handle Planning Commission issues. He indicated his firm would focus on solving legal issues and on keeping the County on the right track without charging more. He noted this would be an open-ended agreement which could be terminated by either party at any time. He added that Mrs. Michelle Gowdy had done a wonderful job as County Attorney and he knew the Board hated to see her go.

Mr. Stiers asked if the recent litigation involving the DEQ (Department of Environmental Quality) would be taken over by Mr. Hefty and his firm. Mrs. Gowdy suggested this case should remain with Mike Lacy with Troutman Sanders until final settlement. She did note had this case arisen with Mr. Hefty and his firm on board, they most likely would have handled the case.

Mr. Davis asked if the attorneys would have an office in the County. Mr. Hefty indicated they would like to use the current County Attorney's office and would like to have Brendan Hefty have some weekly office hours in the County. Mr. Davis indicated he believed the County could get by with the described services for a while, but the position would need to eventually be filled. He asked if Mr. Hefty and his firm would also provide assistance with the search process to which Mr. Hefty indicated they would. Mr. Davis noted the Department of Social Services (DSS) also had an attorney and asked if this attorney reported to the County Attorney. Mrs. Gowdy indicated the DSS currently held a legal services contract with Andrea Erard who was reporting to the County Attorney.

Mr. Hefty indicate his firm would want to know what was going on in the County and would want to be involved in the beginning and not just called in at the end. He noted his firm had many good contacts with various State regulatory agencies upon which to draw.

Mr. Evelyn noted staff had become very comfortable going to Mrs. Gowdy with legal issues and he felt this would be a good transition and a fair price.

Mr. Stiers asked Mr. Hefty would he be expecting the County to enter into a contract for his firm's services. Mr. Hefty indicated he preferred a very informal letter of agreement which could be ended by either party at any time.

Mr. Burrell indicated given the history of Mr. Hefty's firm with local government and his current involvement with Surry and Amelia Counties, he felt this was a very good recommendation.

Mrs. Gowdy also indicated she recommended the County retain the services of Hefty, Wiley and Gore.

Mr. Burrell moved to authorize the Board Chairman to execute a letter of agreement appointing Hefty, Wiley and Gore as the New Kent County Attorney effective May 1, 2015. The members were polled:

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

The motion carried.

Mr. Tiller called for a brief recess at 9:45 a.m. The meeting reconvened at 9:53 a.m.

IN RE: OTHER BUSINESS – BOTTOMS BRIDGE CORRIDOR OVERLAY

Director of Community Development Matt Smolnik reported the Bottoms Bridge Corridor Overlay had been a focus of the Planning Commission for some time. He noted a Planning Commission subcommittee had been created to review County architectural and signage standards and had presented their recommendations to the full Planning Commission on April 20th. Mr. Smolnik also reported these recommendations had been shared with members of the Chamber of Commerce on April 21st. He indicated he had received much positive feedback and had been asked by several Chamber members how quickly these recommendations could be approved and put into use. Mr. Smolnik noted the objective had been to improve aesthetics and the value of businesses in the Corridor. He provided several handouts including comparison pictures of building facades under current ordinance as well as examples of facades under the proposed new ordinance, comparison pictures of signage permitted under current ordinance as well as examples of signage to be allowed under proposed new ordinance and draft revisions to Article VI – Bottoms Bridge Corridor Overlay Regulations. He reported businesses indicated they would build to County Code requirements and several new businesses had agreed to build better than Code requirements thanks to funding they received from the County's EDA (Economic Development Authority).

Mr. Smolnik asked the Board to consider holding a joint public hearing with the Planning Commission at 7:00 p.m. on May 18th. Mr. Stiers asked if existing businesses would be grandfathered. Mr. Smolnik indicated existing businesses would be grandfathered and any change in ownership would not impact this status. After some discussion, the general consensus was to hold a joint public hearing with the Planning Commission at 7:00 p.m. on May 18th. The May 11th meeting would be continued until May 18th.

IN RE: OTHER BUSINESS – TINY HOUSES

Director of Community Development Matt Smolnik reported it had recently come to his attention that Sections 98-411 and 98-412 of the County Code (regulations for area, frontage, yards, height, setback and building size in residential districts in the County) contained minimal final floor area requirements which were discriminatory. Mr. Smolnik indicated the County could not prohibit construction based on size alone and recommended the last column in Section 98-411 be stricken from the regulations as well as any notes contained in Section 98-412 relative to minimum final floor area. He suggested the Board consider adding this to the agenda for joint public hearings on May 18th. The general consensus was to add this item to the May 18th agenda as requested.

IN RE: RECONSIDERATION OF AMENDMENTS TO SECTION 91-127 – CLUSTER SUBDIVISION ORDINANCE

Director of Community Development Matt Smolnik reported that amendments to Section 91-127 of the County's Cluster Subdivision Ordinance had been considered by the Planning Commission on January 20, 2015 and the Commission had voted 8:0:1 to forward a favorable recommendation to the Board of Supervisors. The Board of Supervisors had considered the recommendations at the April 13, 2015 meeting and, with four members present, had voted 2:2 resulting in a failed motion. Mr. Smolnik noted all five Supervisors were present and asked the Board if they would reconsider and send this item back to the Planning Commission for a second public hearing on May 18th.

Mr. Burrell noted he would like to give Mr. Evelyn an opportunity to be heard. Mr. Evelyn indicated he would like the Board to reconsider the proposed amendments.

Mr. Evelyn moved to authorize the scheduling of joint public hearings with the New Kent County Planning Commission at 7:00 p.m. on Monday, May 18, 2015 in the County Administration Building for the purpose of reconsidering amendments to Section 91-127 of the New Kent County Code regarding Cluster Subdivisions, the Bottoms Bridge Corridor Overlay and tiny houses. The members were polled:

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

The motion carried.

IN RE: MEETING SCHEDULE

Chairman Tiller announced the next regularly scheduled meeting of the Board of Supervisors would be held at 6:00 p.m. on Monday, May 11, 2015 and the next work session would be held at 9:00 a.m. on Wednesday, May 20, 2015. The Board would also meet for joint public hearings with the New Kent County Planning Commission at 7:00 p.m. on Monday, May 18, 2015. All meetings would be held in the Boardroom of the County Administration Building.

IN RE: COX CABLE CHANNEL 48

Mr. Stiers reported Board of Supervisor and Planning Commission Meetings were once again being broadcasted on the County's cable channel.

IN RE: COUNTY ATTORNEY MICHELLE GOWDY

Mr. Evelyn thanked County Attorney Michelle Gowdy for her service over the past six years and wished her the best of luck in her future endeavors. Other Supervisors echoed those sentiments.

IN RE: ADJOURNMENT

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

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

The motion carried.

The meeting was adjourned at 10:25 a.m.