

A REGULAR WORK SESSION WAS HELD BY THE NEW KENT COUNTY BOARD OF SUPERVISORS ON THE 24TH DAY OF JUNE 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: CASH CONTRIBUTION – PINE FORK PARK DEVELOPMENT FUND

Mr. Tiller noted the discussions regarding a cash contribution to the Pine Fork Park Development Fund would involve Mr. Ken Pair who was a client of his, and as a result, he recused himself and turned the meeting over to Vice Chairman Stiers.

County Administrator Rodney Hathaway reported that Avery VII, LC (the developer of Greenwood Estates subdivision on Tunstall Road) was proposing to subdivide the fourth section of this development which consisted of 13.30 acres. He pointed out that subdivision ordinance required that 7.5 percent of the development property be set aside for recreational open space which in this case would equate to .9975 acres. The developer was requesting that the Board of Supervisors accept a \$25,000 cash contribution for the Pine Fork Park Development Fund in lieu of setting aside land for recreational open space. Mr. Hathaway noted that Section 91-82(4) of the New Kent County Code allowed for cash contributions in lieu of setting aside recreational open space within a subdivision. He reported a legal dispute involving property in Greenwood Estates had resulted in a portion of the acreage reverting back to the previous owner and a required 7.5% open space set aside in the remaining property being difficult to accommodate.

Mr. Ken Pair who was present on behalf of the developer joined the discussion. Mr. Pair indicated the master plan for Greenwood Estates had included an RPA (Resource Protection Area) to address the requirement to set aside 7.5 percent of the acreage for recreational open space. He indicated the previously mentioned legal dispute had resulted in approximately two-thirds of the property, which included the RPA, reverting back to the previous owner. Mr. Pair suggested the individuals living in Greenwood Estates had no expectations for the green space and the developer believed the \$25,000 cash contribution would help move the Pine Fork Park project along. He pointed out sixteen lots had already been developed and sold in Section IV and the developer was ready to move forward with developing an additional twenty-two lots.

Mr. Evelyn asked if all necessary easements were in place for the additional lots. Mr. Pair indicated they were and final documents were being prepared for submission to the Planning Department. Community Development Director Matthew Smolnik noted it was necessary for the property pending development to be transferred by plat to Mr. Pair and his group and the signature of the previous owner was need to complete this process. Mr.

Hathaway reported the previous owner was meeting with their attorney and he believed signatures would be in place by the end of the week. Mr. Evelyn asked how many acres had reverted back to the original owner. Mr. Pair indicated forty-seven acres previously rezoned to A1 had been returned to the prior owner and was currently on the market. Mr. Evelyn asked if a new developer would be required to include the green space. Mr. Smolnik indicated any development of the forty-seven acres would be considered a separate development and the requirement to set aside 7.5% of the property would apply.

Mr. Davis asked how many homes were located in Greenwood Estates. Mr. Pair indicated he was not sure of the total number of homes but pointed out Sections I, II and III had been in place for some time and Section IV, at build out, would contain thirty-eight. Mr. Pair also pointed out the potential for an additional sixty homes to be built on the forty-seven acre parcel.

Mr. Pair pointed out there was no HOA (Homeowners Association) in Greenwood Estates and if property were set aside for green space, it would be located between two residential lots and most likely would go undeveloped. Mr. Stiers expressed concerns that if this was the case, the community could potentially end up with a lot that would be left unmaintained and could become a dumping ground.

Mr. Davis asked for the lot selling price. Mr. Pair indicated the lots were assessed at \$40,000 to \$45,000 but were currently being sold for \$60,000. He indicated he realized his group was overpaying for the lots and noted they were worth roughly \$45,000. Mr. Pair suggested this current situation was a direct result of the impact of the recession on the real estate market.

Mr. Stiers asked if the \$25,000 cash contribution was accepted, would the funds be placed in the CIP (Capital Improvement Plan) budget. Mr. Hathaway indicated the funds would be placed in the CIP budget. Mr. Stiers then asked if the funds could be used toward the cost of new tennis courts. Mr. Hathaway indicated he was not sure. County Attorney Brendan Hefty noted the Code did allow the Board to accept cash in lieu of setting aside recreational open space but also required the cash had to be used toward public recreation facilities in the general vicinity of the proposed subdivision and the tennis court location would not meet that requirement.

Mr. Evelyn moved to authorize the acceptance of a cash contribution in the amount of \$25,000 for the Pine Fork Park Development Fund from Avery VII, LC in accordance with section 91-82(4) of the New Kent County Code and as an alternative to providing the required recreational open space area within the Greenwood Estates Section IV Subdivision. The acceptance of the cash contribution would be contingent upon final subdivision plat approval. The members were polled:

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

The motion carried.

Vice Chairman Stiers turned the meeting back over to Chairman Tiller.

IN RE: HOLDING PERIOD FOR FAMILY SUBDIVISIONS

Community Development Director Matthew Smolnik reported County staff had been working with Mr. John Britt for several years on a family subdivision application for property in the Piney Pointe subdivision. He noted the property to be subdivided was located near the boat ramp and contained 17.09 acres. He further noted Mr. Britt had come to the County prior to recent court proceedings which had resulted in an ownership change. The property had previously been held by an LLC (Limited Liability Company) owned by Mr. Britt and was now owned by Mr. Britt as an individual holder. Mr. Smolnik pointed out the proposed family subdivision would yield a total of four lots (three new and one retained). Subsection 91-126(a)(15) of the Subdivision Ordinance indicated the property to be divided must have been held by the grantor for a period of three years prior to the division unless an exception was granted in accordance with the provisions of Subsection 91-126(b) which vested authority for granting these exceptions in the County Zoning Administrator. Mr. Britt's attorney had requested in an April 27, 2015 letter that the County grant a waiver to the holding period. Mr. Smolnik noted although Code allowed him the authority to make this decision, he would appreciate input from the Board.

Mr. Smolnik noted the creation of four lots in the proposed family subdivision presented another issue. He pointed out current Code required that access roads within a family subdivision containing three or more lots be built to VDOT (Virginia Department of Transportation) standards although they would remain private roads. He asked the Board if there was any interest in considering changes to this portion of the ordinance.

Mr. Davis asked if the family subdivision were approved, would the owners of the four lots be required to hold them for two years after the transfer. Mr. Smolnik indicated they would be required to hold the lots for two years. Mr. Davis indicated he had no problems with waiving the holding period since Mr. Britt had held the property in one form or another for ten years.

Mr. Stiers asked why the lot owners would be required to hold the property for two years. Mr. Davis indicated this, as well as the road design standards, had been put in place a number of years ago soon after Chesapeake Corp had sold a large number of acres in the County. He indicated that at that time numerous parcels were being divided as family subdivisions with the individual lots then being sold almost immediately. Mr. Davis indicated these Code requirements had been put in place to slow this rampant development.

Mr. Evelyn suggested an amendment should be considered to the family subdivision road design standards which would give the Board the authority to grant waivers. He asked if the owners of the family subdivision lots could be required to be members of the HOA (Homeowners Association). Mr. Hathaway pointed out the HOAs were governed by private agreements and this decision would be left to the HOA. County Attorney Brendan Hefty also noted the content of the deeds should be considered in determining HOA membership.

The general consensus was the Zoning Administrator should address the request for an exception to holding periods in accordance with the provisions of Subdivision Ordinance Subsection 91-126(b).

Mr. Evelyn moved to direct staff to develop a waiver process to the family subdivision road design standards with authority for granting such waivers vesting in the Board of Supervisors. 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. Smolnik was authorized to notify the property owner that County staff would be working on proposed Code amendments to allow for waivers in regard to family subdivision road design standards. These proposed amendments would be brought to the Board for consideration at a later date.

IN RE: FAMILY SUBDIVISION/SUBDIVISION CONCERNS

Mr. Davis provided background information on some large-lot property divisions permitted in the County a number of years ago. He pointed out the County had approved the rezoning of approximately 6,000 acres of property from Conservation to A1 in 2002 for Chesapeake Corporation and Delmarva Properties. Stipulations to this rezoning included: lots located on state roads could be no smaller than fifteen acres, lots located off state roads could be no smaller than twenty-five acres and density could be no greater than one per twenty acres. He noted concerns regarding current activity on twenty-five acre lots which were originally subdivided in accordance with these stipulations. He reported these lots, which were not located on a state road, were currently being further subdivided. He asked Community Development Director Matthew Smolnik to contact him for further discussion on his concerns.

IN RE: DEFINITION OF A TRUCK REPAIR FACILITY

Community Development Director Matthew Smolnik reported staff was currently working with an existing business operating a myriad of land uses on property zoned as Economic Opportunity located on Rt. 106. He indicated that in the process of identifying all of the uses occurring on the property, it had been discovered that the County's Zoning Ordinance did not specifically identify a land use as "truck repair" unless it was part of a truck stop. Mr. Smolnik noted all land uses on the property with the exception of "truck repair" were permitted uses. The current business was not operating as a truck stop, but was also not permitted to perform minor work on large over the road trucks since there was no definition of "truck repair" in the Zoning Ordinance. Mr. Smolnik asked the Board if they would prefer that the Planning Department bring forward an amendment to the Planning Commission to allow truck repair facilities not associated with a truck stop, or to direct staff to keep the Zoning Ordinance as is and require the business owner to submit a Conditional Use Permit application in accordance with Section 98-61 of the Zoning Ordinance.

The general consensus was to keep the Zoning Ordinance as is and require the business in question to submit a Conditional Use Permit application in accordance with Section 98-61 of the Zoning Ordinance.

IN RE: 2015 AFD (AGRICULTURAL AND FORESTAL DISTRICT) APPLICATIONS
STATUS UPDATE

Environmental Planning Manager Matthew J. Venable indicated he was present to provide the Board with information regarding two AFD applications scheduled for public hearing on Monday, July 6, 2015. He pointed out these two applications did not fit the standard AFD

request and suggested preliminary discussions could make the process go more smoothly on July 6th.

The first item of discussion involved 19.5 acres of land owned by Will Wallace and currently in the Putney Creek AFD. Mr. Venable pointed out although this land did not appear to meet the minimum twenty acre requirement, it had been in the AFD for some time. He further noted that in addition to the 19.5 acres currently designated as AFD, this parcel contained a one acre home site for a total of 20.5 acres. Deputy Commissioner of Real Estate Shannon McLaughlin pointed out that for assessment purposes, one acre of the property had been considered the homesite when in fact, the homesite was much less than an acre (.37 acre). Ms. McLaughlin and Mr. Venable both noted when the actual size of the homesite was taken into consideration, the property would meet the minimum acreage requirement.

The second item of discussion involved an 84 acre parcel of land owned by Susan Harwood. Ms. Harwood had applied for this property to be added to the Wahrani Swamp AFD. For reference, Mr. Venable noted this property was located on Rt. 33 near the Circle K and was currently being marketed as though it had been subdivided into smaller industrial parcels. He pointed out Ms. Harwood's application had been received after the County established cutoff date but noted State Code allowed for applications to be received up to thirty days prior to the governing body's scheduled public hearing and action date. He pointed out this allowed individuals to make late application and go directly to the Board of Supervisors for public hearing and action and thus, bypass AFD Advisory Committee and Planning Commission review and recommendation. Mr. Venable suggested the late application was a result of Ms. Harwood receiving notice, as an adjacent landowner, that property owned by Kevin Culpepper, Jr. was being considered for addition to the Waharani Swamp AFD.

County Attorney Brendan Hefty indicated the property owner had met the State Code requirements and the application should come to the Board of Supervisors for public hearing. County Administrator Rodney Hathaway pointed out the Board could decide to take action based upon the information received at the July 6th meeting or they could choose to send the application back through the process for AFD Advisory Committee and Planning Commission review and recommendation prior to taking any action.

Mr. Burrell suggested the Board should keep in mind the purpose of the AFD Program. He went on to remind the Board that properties along this portion of Rt. 33 had previously been designated for development and asked why would the Board want to place property designated for development into a program focused on reducing development.

Mr. Tiller reported he had been contacted by a constituent who thought the requirement to have both the land owner and the farmer to certify the use of the property annually as a part of the AFD process was redundant. He asked why this was a requirement. Mr. Venable indicated properties in the AFD Program were on a ten-year renewal cycle and once a property was approved for inclusion in an AFD, the Planning Department would not see any additional information on that property until it was back for renewal. He reported these certifications were in place to assure the property continued to be used as approved and to keep the Commissioner of Revenue informed for tax purposes.

IN RE: HARRISON/MILES PROPERTY

Mr. Evelyn asked for clarification on the status of the Harrison/Miles property located on Criss Cross Road. County Administrator Rodney Hathaway indicated he had spoken with the property owner on several occasions and they had indicated the property had been rezoned about the time their mother had passed away and the family had not been aware of the

rezoning plans. The owner had also indicated the family's attorney had also passed away during that same time period and they believed these events may have contributed to the family's lack of awareness of the rezoning. Mr. Hathaway reported he had informed the owner that the only way to change the current zoning on the property would be to go through the rezoning process. Deputy Commissioner of Real Estate Shannon McLaughlin indicated she had also spoken with the property owner on several occasions and the property in question was currently in the AFD Program and was being taxed as such. She indicated because the property was currently taxed at a lower land use rate, a change in zoning would not reduce the property taxes. Mr. Hathaway suggested it may be beneficial to schedule a time for several staff to meet with the owner to discuss the current status of the property.

IN RE: ADOPTION OF RESOLUTION R-20-15 RECOGNIZING JENNIFER MURRAY,
PRESIDENT OF LaSERTOMA INTERNATIONAL

Before the Board for consideration was Resolution R-20-15 recognizing the service, contributions and dedication of Jennifer Murray, President of LaSertoma International.

Mr. Tiller reported Ms. Murray had been a member of LaSertoma since 2007 and had been very involved at both the local and international level. He noted a Resolution had been prepared recognizing Ms. Murray's LaSertoma service as well as her commitment to serving the community. He pointed out he was sponsoring the Resolution and asked if there was a motion for its approval.

Mr. Burrell moved to adopt Resolution R-20-15 as presented, recognizing the service, contributions and dedication of Jennifer Murray and congratulating her in her capacity as President of LaSertoma International. 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: TEMPORARY BUSINESS SIGNS

Mr. Tiller reported it had been brought to his attention that a number of small signs on wire racks were on display along roadways in the Bottoms Bridge area. He specifically noted the businesses at Rock Creek Villas where a large marquis sign was in place and approximately seven smaller signs advertising the same businesses were also on display. Mr. Hathaway noted, with this being an election year, there would most likely be an increase of similar signs on display for campaign purposes. He indicated, although not permitted by Code, most of the signs would most likely be located in VDOT right-of-ways. He noted VDOT would remove any campaign signs still on display sixty days after an election and would hold them for a period of time to allow the owners an opportunity to retrieve them. County Attorney Brendan Hefty suggested the Board could enter into an agreement with VDOT which would give the County the authority to enforce the Code and remove temporary signs from VDOT property. Mr. Hathaway indicated he would look into what was necessary for the County to be granted such authority.

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, July 6, 2015 and the next work session would be held at 9:00 a.m. on Wednesday, July 29, 2015. Both meetings would be held in the Boardroom of the County Administration Building.

IN RE: ADJOURNMENT

Mr. Stiers 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.